

**LAWS**  
**of**  
**UTAH 2020**

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**LAWS**  
of the  
**STATE OF UTAH, 2019**

Passed at the  
**FIRST SPECIAL SESSION**  
of the  
**SIXTY-THIRD LEGISLATURE**

Convened at the State Capitol in the City of Salt Lake  
and Adjourned Sine Die  
September 16, 2019

# STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

## CERTIFICATE

**THIS IS TO CERTIFY** that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2019 First Special Session of the Sixty-third Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2019 First Special Session of the Sixty-third Legislature of the State of Utah convened at the Capitol in Salt Lake City on September 16, 2019 and adjourned on the same day.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 12<sup>th</sup> day of August, 2020.

  
\_\_\_\_\_  
Spencer J. Cox  
Lieutenant Governor

CHAPTER 1  
H.B. 1001

Passed September 16, 2019  
Approved September 23, 2019  
Effective September 23, 2019

SUPPLEMENTAL  
APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Jefferson Moss  
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ provides budget increases for the use and support of certain state agencies;
- ▶ provides funds for the bills with fiscal impact passed in the 2019 First Special Session; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$2,500,000 in operating and capital budgets for fiscal year 2020, all of which is from the General Fund.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1

To Attorney General - State  
Settlement Agreements  
From General Fund, One-Time . . . . . 1,500,000  
Schedule of Programs:  
State Settlement Agreements . . . . . 1,500,000

To implement the provisions of Joint Resolution Approving Swallow Settlement (*House Joint Resolution 101, 2019 First Special Session*).

GOVERNOR'S OFFICE

Item 2

To Governor's Office - Census Outreach  
From General Fund, One-Time . . . . . 500,000  
Schedule of Programs:  
Census Outreach . . . . . 500,000

The Legislature intends that the Division of Finance shall not release funds associated with this appropriation until the Governor's Office and Census Complete Count Committee present a detailed plan to the Executive Appropriations Committee in its November, 2019 meeting on how these funds will be used to focus Census outreach efforts on rural areas of the state, areas with limited internet access, populations of lower socioeconomic status, racial and ethnic minority communities, and aging populations. The Legislature further intends that the Governor's Office work closely in this effort with the Utah Multi-cultural Commission at the Department of Heritage and Arts; the Division of Aging and Adult Services at the Department of Human Services, the Department of Workforce Services, and other relevant state agencies; non-profit organizations; the Utah Association of Counties; the Utah League of Cities and Towns; faith-based organizations; and schools, colleges, and universities throughout the state.

SOCIAL SERVICES

DEPARTMENT OF  
WORKFORCE SERVICES

Item 3

To Department of Workforce Services - Administration  
From General Fund, One-Time . . . . . 500,000  
Schedule of Programs:  
Communications . . . . . 500,000

The Legislature intends that the funding provided by this item support Census awareness and outreach efforts statewide.

Section 2. Effective Date.

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

**CHAPTER 2**  
**H. B. 1002**

Passed September 16, 2019  
Approved September 23, 2019  
Effective September 23, 2019

**BEER TRANSITION**  
**PERIOD AMENDMENTS**

Chief Sponsor: Steve Waldrip  
Senate Sponsor: Jerry W. Stevenson

**LONG TITLE****General Description:**

This bill enacts provisions to the Alcohol Beverage Control Act regarding the transition of certain heavy beer to beer.

**Highlighted Provisions:**

This bill:

- ▶ defines newly-classified beer;
- ▶ permits a licensee to purchase, sell to another licensee, transport, or store newly-classified beer under certain conditions; and
- ▶ provides a repeal date.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

631-2-232, as last amended by Laws of Utah 2019, Chapters 12, 136, 336, 403 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 403

**ENACTS:**

32B-1-207.1, Utah Code Annotated 1953

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

**Section 1. Section 32B-1-207.1 is enacted to read:****32B-1-207.1. Newly-classified beer transition period.**

(1) As used in this section, "newly-classified beer" means heavy beer that contains up to 5% of alcohol by volume or 4% by weight.

(2) Notwithstanding any other provision of law, beginning October 24, 2019, and ending October 31, 2019, a licensee may:

(a) purchase, sell to another licensee, or transport newly-classified beer to the same extent the licensee is authorized under this title to purchase, sell to another licensee, or transport beer; or

(b) subject to Subsection (4), store newly-classified beer to the same extent the licensee is authorized under this title to store beer.

(3) Nothing in this section permits a licensee to sell, offer for sale, or furnish heavy beer to a patron beyond the extent permitted under the licensee's license.

(4) A licensee that stores newly-classified beer during the period described in Subsection (2) shall:

(a) store the newly-classified beer in a manner that separates the newly-classified beer from beer, which may include storing the newly-classified beer:

(i) on a different pallet than beer; or

(ii) in a different area of a storage room than beer in the storage room;

(b) store the newly-classified beer outside the view of patrons and the general public; and

(c) display a conspicuous sign on the newly-classified beer clearly stating that the newly-classified beer may not be sold before November 1, 2019.

**Section 2. Section 63I-2-232 is amended to read:****63I-2-232. Repeal dates -- Title 32B.**

(1) Subsection 32B-1-102(7) is repealed July 1, 2022.

(2) Section 32B-1-207.1 is repealed November 1, 2019.

~~(2)~~ (3) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

~~(3)~~ (4) Section 32B-2-211.1 is repealed November 1, 2020.

~~(4)~~ (5) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

~~(5)~~ (6) Section 32B-6-205 is repealed July 1, 2022.

~~(6)~~ (7) Subsection 32B-6-205.2(14) is repealed July 1, 2022.

~~(7)~~ (8) Section 32B-6-205.3 is repealed July 1, 2022.

~~(8)~~ (9) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

~~(9)~~ (10) Section 32B-6-305 is repealed July 1, 2022.

~~(10)~~ (11) Subsection 32B-6-305.2(14) is repealed July 1, 2022.

~~(11)~~ (12) Section 32B-6-305.3 is repealed July 1, 2022.

~~(12)~~ (13) Section 32B-6-404.1 is repealed July 1, 2022.

~~(13)~~ (14) Section 32B-6-409 is repealed July 1, 2022.

~~(14) Section 32B-6-605.1 is repealed July 1, 2019.~~

(15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

(16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

(17) Section 32B-6-905 is repealed July 1, 2022.

(18) Subsection 32B-6-905.1(15) is repealed July 1, 2022.

(19) Section 32B-6-905.2 is repealed July 1, 2022.

~~[(20) Section 32B-7-303 is repealed June 1, 2019.]~~

~~[(21) Section 32B-7-304 is repealed June 1, 2019.]~~

~~[(22)]~~ (20) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

**Section 3. Effective date.**

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

**CHAPTER 3**  
**H. B. 1003**

Passed September 16, 2019  
Approved September 23, 2019  
Effective September 23, 2019  
(Retrospective operation to January 1, 2019)

**TAX INCENTIVE**  
**OVERSIGHT AMENDMENTS**

Chief Sponsor: Kay J. Christofferson  
Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill modifies the severance tax credit for well recompletion or workover and the motion picture income tax credit.

**Highlighted Provisions:**

This bill:

- ▶ modifies the independent certified public accountant review provisions of the severance tax credit for well recompletion or workover and the motion picture income tax credit; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.  
This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-5-102, as last amended by Laws of Utah 2019, Chapter 247  
63N-8-103, as last amended by Laws of Utah 2018, Chapter 469

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

**Section 1. Section 59-5-102 is amended to read:****59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual exemption -- Tax credits -- Tax rate reduction.**

(1) As used in this section:

(a) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(b) "Office" means the Office of Energy Development created in Section 63M-4-401.

(c) "Royalty rate" means the percentage of the interests described in Subsection (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian tribe and the oil or gas producer.

(d) "Taxable value" means the total value of the oil or gas minus:

(i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders described in Subsection (2)(b)(i); and

(ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

(e) "Taxable volume" means:

(i) for oil, the total volume of barrels minus:

(A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of barrels; and

(B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

(ii) for natural gas, the total volume of MCFs minus:

(A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of MCFs; and

(B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

(f) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or gas that is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the oil or gas was produced.

(g) "Total volume" means:

(i) for oil, the number of barrels:

(A) produced; and

(B) (I) saved;

(II) sold; or

(III) transported from the field where the oil was produced; and

(ii) for natural gas, the number of MCFs:

(A) produced; and

(B) (I) saved;

(II) sold; or

(III) transported from the field where the natural gas was produced.

(h) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind multiplied by the market price for oil or gas at the location where the oil or gas was produced on the date the oil or gas was taken in kind.

(2) (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on the owner's interest in the taxable value of the oil or gas:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the substance was produced.



(b) The severance tax imposed by Subsection (2)(a) does not apply to:

(i) an interest of:

(A) the United States in oil or gas or in the proceeds of the production of oil or gas;

(B) the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; and

(C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States; and

(ii) the value of:

(A) oil or gas produced from stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;

(B) oil or gas produced in the first 12 months of production for wildcat wells started after January 1, 1990; and

(C) oil or gas produced in the first six months of production for development wells started after January 1, 1990.

(3) (a) The severance tax on oil shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(i); and

(B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);

(iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and

(iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.

(b) The severance tax on natural gas shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(i); and

(B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);

(iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and

(iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.

(c) The severance tax on natural gas liquids shall be calculated by multiplying the taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).

(4) Subject to Subsection (9):

(a) the severance tax rate for oil is as follows:

(i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil; and

(ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;

(b) the severance tax rate for natural gas is as follows:

(i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per MCF for gas; and

(ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas; and

(c) the severance tax rate for natural gas liquids is 4% of the taxable value of the natural gas liquids.

(5) If oil or gas is shipped outside the state:

(a) the shipment constitutes a sale; and

(b) the oil or gas is subject to the tax imposed by this section.

(6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:

(i) sold;

(ii) transported; or

(iii) delivered.

(b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.

(7) (a) Subject to other provisions of this Subsection (7), a taxpayer that pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to the amount stated on a tax credit certificate that the office issues to the taxpayer.

(b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:

(i) 20% of the taxpayer's payment of expenses of a well recompletion or workover during the calendar year; and

(ii) \$30,000.

(c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for the calendar year in which the taxpayer claims the tax credit.

(d) (i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the procedures and requirements of this Subsection (7)(d).

(ii) The taxpayer shall prepare a report summary of the taxpayer's expenses of a well

recompletion or [well] workover during the calendar year that the well recompletion or workover is completed.

(iii) An independent certified public accountant shall:

(A) review the ~~[report]~~ summary from the taxpayer; and

(B) ~~[attest to]~~ provide a report on the accuracy and validity of [the report, including] the amount of expenses of a well recompletion or [well] workover that the taxpayer included in the summary, in accordance with the agreed upon procedures.

(iv) The taxpayer shall submit the taxpayer's ~~[report and the attestation]~~ summary and the independent certified public accountant's report to the division to verify that the expenses certified by the independent certified public accountant are well recompletion or workover expenses.

(v) The division shall return to the taxpayer:

(A) the taxpayer's ~~[report]~~ summary;

(B) the ~~[attestation]~~ report by the independent certified public accountant; and

(C) a report by the division that includes the amount of approved well recompletion or workover expenses.

(vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written certification, on a form approved by the commission, that includes:

(A) the amount of the taxpayer's payments of expenses of a well recompletion or workover during the calendar year; and

(B) the amount of the taxpayer's tax credit.

(vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a tax credit certificate; and

(ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act<sup>[s]</sup>:

(i) the office may make rules to govern the application process for receiving a tax credit ~~[certification]~~ certificate under this Subsection (7)~~[.];~~ and

(ii) the division shall make rules to establish the agreed upon procedures described in Subsection (7)(d)(iii).

(8) (a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a tax credit

against a severance tax owing on natural gas under this section if:

(i) the taxpayer is required to pay a severance tax on natural gas under this section;

(ii) the taxpayer owns or operates a plant in the state that converts natural gas to hydrogen fuel; and

(iii) all of the natural gas for which the taxpayer owes a severance tax under this section is used for the production in the state of hydrogen fuel for use in zero emission motor vehicles.

(b) The taxpayer may claim a tax credit equal to the lesser of:

(i) the amount of tax that the taxpayer owes under this section; and

(ii) \$5,000,000.

(c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the procedures and requirements of this Subsection (8)(c).

(ii) The taxpayer shall request that the division verify that the taxpayer owns or operates a plant in this state:

(A) that converts natural gas to hydrogen fuel; and

(B) at which all natural gas is converted to hydrogen fuel for use in zero emission motor vehicles.

(d) The division shall submit to the commission an electronic list that includes the name and identifying information of each taxpayer for which the division completed the verification described in Subsection (8)(c).

(9) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.

(10) The taxes imposed by this section are:

(a) in addition to all other taxes provided by law; and

(b) delinquent, unless otherwise deferred, on June 1 following the calendar year when the oil or gas is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

(11) With respect to the tax imposed by this section on each owner of an interest in the production of oil or gas or in the proceeds of the production of oil or gas in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

(12) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of each owner entitled to

participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

(13) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

**Section 2. Section 63N-8-103 is amended to read:**

**63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.**

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with [a report] an incentive request form, provided by the office, identifying and documenting the dollars left in the state and new state revenues generated by the motion picture company or digital media company for [its] state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the [report] incentive request form submitted by the motion picture company; and

(ii) [attest to] provide a report on the accuracy and validity of the [report] incentive request form, including the amount of dollars left in the state, in accordance with the agreed upon procedures established by the office by rule.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax

Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the [report] incentive request form from the motion picture company described in Subsection (2)(b) and verify that [it] the incentive request form was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the independent certified public accountant's [attestation] report under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under [its] the motion picture company's agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state [revenue] revenues; and

(ii) based upon review of new state [revenue] revenues, determine the amount of the incentive that a digital media company is entitled to under [its] the digital media company's agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on [its] the motion picture company's or the digital

media company's tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(1) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).

(3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit certificates under this part in a fiscal year.

(b) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under Subsection (3)(a), ~~it~~ the office may carry over that amount for issuance in subsequent fiscal years.

**Section 3. Effective date.**

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

**Section 4. Retrospective operation.**

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

**CHAPTER 4**  
**S. B. 1001**

Passed September 16, 2019  
Approved September 23, 2019  
Effective September 23, 2019

**ELECTION CODE DATE CHANGES**

Chief Sponsor: Wayne A. Harper  
House Sponsor: Steve Eliason

**LONG TITLE**

**General Description:**

This bill changes the primary election to June 30, for the year 2020 only, and changes related dates accordingly.

**Highlighted Provisions:**

This bill:

- ▶ changes the primary election to June 30, for the year 2020 only, and changes related dates accordingly; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2019, Chapter 433  
20A-1-201.5, as last amended by Laws of Utah 2019, Chapter 433  
20A-1-204, as last amended by Laws of Utah 2019, Chapter 433  
20A-1-503, as last amended by Laws of Utah 2019, Chapter 255  
20A-9-201 (Superseded 01/01/20), as last amended by Laws of Utah 2019, Chapters 266, 279, and 433  
20A-9-201 (Effective 01/01/20), as last amended by Laws of Utah 2019, Chapters 258, 266, 279, and 433  
20A-9-202, as last amended by Laws of Utah 2019, Chapter 255  
20A-9-403, as last amended by Laws of Utah 2019, Chapters 210 and 433  
20A-9-407, as last amended by Laws of Utah 2019, Chapter 255  
20A-9-408, as last amended by Laws of Utah 2019, Chapters 210 and 255  
20A-9-409, as last amended by Laws of Utah 2018, Chapter 68  
63I-2-220, as last amended by Laws of Utah 2019, Chapters 136, 203, 255, and 305

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

**Section 1. Section 20A-1-102 is amended to read:**

**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that

are used by election officers and registration agents to register persons to vote.

(11) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.

(12) “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(20) “County officers” means those county officers that are required by law to be elected.

(21) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(22) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303 or Chapter [4] 1, Part 6, Election Offenses - Generally;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(23) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary

election, a municipal primary election, and a local district election.

(24) “Election Assistance Commission” means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(25) “Election cycle” means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(26) “Election judge” means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(27) “Election officer” means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(28) “Election official” means any election officer, election judge, or poll worker.

(29) “Election results” means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(30) “Election returns” includes the pollbook, the military and overseas absentee voter registration

and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(31) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(32) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(33) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(34) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

(35) "Judicial office" means the office filled by any judicial officer.

(36) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(37) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(38) "Local district officers" means those local district board members that are required by law to be elected.

(39) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(40) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(41) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(42) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(43) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(44) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(45) "Municipal office" means an elective office in a municipality.

(46) "Municipal officers" means those municipal officers that are required by law to be elected.

(47) "Municipal primary election" means an election held to nominate candidates for municipal office.

(48) "Municipality" means a city, town, or metro township.

(49) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(50) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(51) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(52) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(53) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(54) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(55) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(56) "Polling place" means the building where voting is conducted.

(57) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(58) “Presidential Primary Election” means the election established in Chapter 9, Part 8, Presidential Primary Election.

(59) “Primary convention” means the political party conventions held during the year of the regular general election.

(60) “Protective counter” means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(61) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer’s local political subdivision in accordance with Section 20A-5-400.1.

(62) “Provisional ballot” means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(63) “Provisional ballot envelope” means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person’s legal right to vote.

(64) “Qualify” or “qualified” means to take the oath of office and begin performing the duties of the position for which the person was elected.

(65) “Receiving judge” means the poll worker that checks the voter’s name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(66) “Registration form” means a book voter registration form and a by-mail voter registration form.

(67) “Regular ballot” means a ballot that is not a provisional ballot.

(68) “Regular general election” means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(69) “Regular primary election” means the election, held on the ~~fourth Tuesday of June of each even-numbered year~~ date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(70) “Resident” means a person who resides within a specific voting precinct in Utah.

(71) “Sample ballot” means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(72) “Scratch vote” means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.

(73) “Secrecy envelope” means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter’s vote.

(74) “Special election” means an election held as authorized by Section 20A-1-203.

(75) “Spoiled ballot” means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(76) “Statewide special election” means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(77) “Stub” means the detachable part of each ballot.

(78) “Substitute ballots” means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(79) “Ticket” means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(80) “Transfer case” means the sealed box used to transport voted ballots to the counting center.

(81) “Vacancy” means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(82) “Valid voter identification” means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:



(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (82)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(83) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(84) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(85) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(86) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(87) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(88) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(89) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(90) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(91) "Watcher" means an individual who complies with the requirements described in Section 20A-3-201 to become a watcher for an election.

(92) "Write-in ballot" means a ballot containing any write-in votes.

(93) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

**Section 2. Section 20A-1-201.5 is amended to read:**

**20A-1-201.5. Primary election dates.**

(1) [A] Except as provided in Subsection (4), the regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, 20A-9-407, or 20A-9-408, as applicable, to nominate persons for:

(a) national, state, school board, and county offices; and

(b) offices for a metro township, city, or town incorporated under Section 10-2a-404.

(2) A municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in August before the regular municipal election to nominate persons for municipal offices.

(3) A presidential primary election shall be held throughout the state on the first Tuesday in March in the year in which a presidential election will be held.

(4) In 2020, the regular primary election shall be held throughout the state on June 30, as provided in Section 20A-9-403, 20A-9-407, or 20A-9-408, as applicable, to nominate persons for:

(a) national, state, school board, and county offices; and

(b) offices for a metro township, city, or town incorporated under Section 10-2a-404.

**Section 3. Section 20A-1-204 is amended to read:**

**20A-1-204. Date of special election -- Legal effect.**

(1) (a) Except as provided by Subsection (1)(d), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 shall schedule the special election to be held on:

(i) in a year other than 2020, the fourth Tuesday in June; [øø]

(ii) in 2020, June 30; or

~~[(iii)]~~ (iii) in any year, the first Tuesday after the first Monday in November.

(b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) (i) Notwithstanding the requirements of Subsection (1)(b) or (1)(d), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

(A) determines and declares that there is a disaster, as defined in Section 53-2a-102, requiring that a special election be held on a date other than the ones authorized in statute;

(B) identifies specifically the nature of the disaster, as defined in Section 53-2a-102, and the reasons for holding the special election on that other date; and

(C) votes unanimously to hold the special election on that other date.

(ii) The legislative body of a local political subdivision may not hold a local special election on the same date as the presidential primary election conducted under Chapter 9, Part 8, Presidential Primary Election.

(d) The legislative body of a local political subdivision may only call a special election for a ballot proposition related to a bond, debt, leeway, levy, or tax on the first Tuesday after the first Monday in November.

(e) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a special election within a county on the same day as:

(i) another special election;

(ii) a regular general election; or

(iii) a municipal general election.

(b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

(i) polling places;

(ii) ballots;

(iii) election officials; and

(iv) other administrative and procedural matters connected with the election.

**Section 4. Section 20A-1-503 is amended to read:**

**20A-1-503. Midterm vacancies in the Legislature.**

(1) As used in this section:

(a) "Filing deadline" means the final date for filing:

(i) a declaration of candidacy as provided in Section 20A-9-202; and

(ii) a certificate of nomination as provided in Section 20A-9-503.

(b) "Party liaison" means the political party officer designated to serve as a liaison with the lieutenant governor on all matters relating to the political party's relationship with the state as required by Section 20A-8-401.

(2) When a vacancy occurs for any reason in the office of representative in the Legislature, the governor shall fill the vacancy by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior representative.

(3) (a) Except as provided by Subsection (5), when a vacancy occurs for any reason in the office of senator in the Legislature, it shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior senator.

(4) (a) If a vacancy described in Subsection (3)(a) occurs after the filing deadline but before August 31 of an even-numbered year in which the term of office does not expire, the lieutenant governor shall:

(i) establish a date and time, which is before the date for a candidate to be certified for the ballot

under Section 20A-9-701 and no later than 21 days after the day on which the vacancy occurred, by which a person intending to obtain a position on the ballot for the vacant office shall file:

- (A) a declaration of candidacy; or
- (B) a certificate of nomination; and

(ii) give notice of the vacancy and the date and time described in Subsection (4)(a)(i):

- (A) on the lieutenant governor’s website; and
- (B) to each registered political party.

(b) A person intending to obtain a position on the ballot for the vacant office shall:

(i) before the date and time specified in Subsection (4)(a)(i), file a declaration of candidacy or certificate of nomination according to the procedures and requirements of Chapter 9, Candidate Qualifications and Nominating Procedures; and

(ii) run in the regular general election if:

(A) nominated as a party candidate; or

(B) qualified as an unaffiliated candidate as provided by Chapter 9, Candidate Qualifications and Nominating Procedures.

(c) If a vacancy described in Subsection (3)(a) occurs ~~on or~~ after the ~~first Monday after the third Saturday in April~~ deadline described in Subsection 20A-9-202(1)(b)(i) or (ii) and before August 31, of an even-numbered year in which the term of office does not expire, a party liaison from each registered political party may submit a name of a person described in Subsection (4)(b) to the lieutenant governor before 5 p.m. no later than August 30 for placement on the regular general election ballot.

(5) If a vacancy described in Subsection (3)(a) occurs on or after August 31 of an even-numbered year in which a term does not expire, the governor shall fill the vacancy for the unexpired term by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior senator.

**Section 5. Section 20A-9-201 (Superseded 01/01/20) is amended to read:**

**20A-9-201 (Superseded 01/01/20).**

**Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.**

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

- (a) be a United States citizen;
- (b) meet the legal requirements of that office; and

(c) if seeking a registered political party’s nomination as a candidate for elective office, state:

(i) the registered political party of which the individual is a member; or

(ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party’s bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual’s candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets those requirements; and

(iii) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(i) that the individual filing the declaration of candidacy also makes the conflict of interest disclosure required by Section 20A-11-1603; and

(ii) until January 1, 2020, if the filing officer is not the lieutenant governor, that the individual provides the conflict of interest disclosure form to the lieutenant governor in accordance with Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is

seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of \_\_\_\_

I, \_\_\_\_\_, declare my candidacy for the office of \_\_\_\_\_, seeking the nomination of the \_\_\_\_\_ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at \_\_\_\_\_ in the City or Town of \_\_\_\_\_, Utah, Zip Code \_\_\_\_\_ Phone No. \_\_\_\_\_; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is \_\_\_\_\_.

Subscribed and sworn before me this \_\_\_\_\_(month \day \year).Notary Public (or other officer qualified to administer oath)."; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(b)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_

I, \_\_\_\_\_(name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Affiant

Subscribed and sworn to before me on \_\_\_\_\_ (month \day \year)

\_\_\_\_\_  
(signature)

Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_"

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the

final date established for filing a declaration of candidacy.

**Section 6. Section 20A-9-201 (Effective 01/01/20) is amended to read:**

**20A-9-201 (Effective 01/01/20). Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.**

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

- (a) be a United States citizen;
- (b) meet the legal requirements of that office; and
- (c) if seeking a registered political party's nomination as a candidate for elective office, state:
  - (i) the registered political party of which the individual is a member; or
  - (ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

- (i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;
- (ii) appear on the ballot as the candidate of more than one political party; or
- (iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets the requirements described in Subsection (3)(a)(i); and

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(iv) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

- (i) a United States citizen;
- (ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;
- (iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

- (i) a United States citizen;
- (ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;
- (iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

- (i) is a United States citizen;
- (ii) is a registered voter in the county in which the individual seeks office;
- (iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or  
(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(i) that the individual filing the declaration of candidacy also makes the conflict of interest disclosure required by Section 20A-11-1603; and

(ii) until January 1, 2020, if the filing officer is not the lieutenant governor, that the individual provides the conflict of interest disclosure form to the lieutenant governor in accordance with Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of \_\_\_\_\_

I, \_\_\_\_\_, declare my candidacy for the office of \_\_\_\_\_, seeking the nomination of the \_\_\_\_\_ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at \_\_\_\_\_ in the City or Town of \_\_\_\_\_, Utah, Zip Code \_\_\_\_\_ Phone No. \_\_\_\_\_; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is \_\_\_\_\_.

\_\_\_\_\_  
Subscribed and sworn before me this \_\_\_\_\_(month\day\year).

Notary Public (or other officer qualified to administer oath)."; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(b)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name

\_\_\_\_\_ Address \_\_\_\_\_

Phone Number \_\_\_\_\_

I, \_\_\_\_\_ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Affiant

Subscribed and sworn to before me on \_\_\_\_\_ (month \ day \ year)

\_\_\_\_\_ (signature)

Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_ ”

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

”Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

**Section 7. Section 20A-9-202 is amended to read:**

**20A-9-202. Declarations of candidacy for regular general elections.**

(1) (a) An individual seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) except as provided in Subsection (1)(b)(c), file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is:

(i) in a year other than 2020, 5 p.m. on the first Monday after the third Saturday in April; or

(ii) in 2020, before 5 p.m. April 27.

(b) (c) Subject to Subsection 20A-9-201(7)(b), an individual may designate an agent to file a declaration of candidacy with the filing officer if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the filing officer;

(iii) the individual communicates with the filing officer using an electronic device that allows the



individual and filing officer to see and hear each other; and

(iv) the individual provides the filing officer with an email address to which the filing officer may send the individual the copies described in Subsection 20A-9-201(5).

~~(e)~~ (d) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one business day after the candidate files the declaration of candidacy.

~~(d)~~ (e) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed a declaration of candidacy with the county clerk.

~~(e)~~ (f) Each individual seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each individual intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) ~~Before 5 p.m. no later than the first Monday after the third Saturday in April~~ the deadline described in Subsection (1)(b)(i) or (ii), each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) (i) A candidate for lieutenant governor who fails to timely file is disqualified.

(ii) If a candidate for lieutenant governor is disqualified, another candidate may file to replace the disqualified candidate.

(4) Before 5 p.m. no later than August 31, each registered political party shall:

(a) certify the names of the political party's candidates for president and vice president of the United States to the lieutenant governor; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor before 5 p.m. within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition before 5 p.m. within three days after the day on which the objection is sustained or by filing a new declaration before 5 p.m. within three days after the day on which the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7) (a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in Section 20A-9-504, before 5 p.m. no later than August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:

(i) file a declaration of candidacy, in person or via a designated agent, on a form developed by the lieutenant governor, that:

(A) contains the individual's name, address, and telephone number;

(B) states that the individual meets the qualifications for the office of vice president of the United States;

(C) names the presidential candidate, who has qualified for the general election ballot, with which the individual is running as a joint-ticket running mate;

(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection (7)(a)(i)(C); and

(E) contains any other necessary information identified by the lieutenant governor;

(ii) pay the filing fee, if applicable; and

(iii) submit a letter from the presidential candidate described in Subsection (7)(a)(i)(C) that names the individual as a joint-ticket running mate as a vice presidential candidate.

(b) A designated agent described in Subsection (7)(a)(i) may not sign the declaration of candidacy.

(c) A vice presidential candidate who fails to meet the requirements described in this Subsection (7) may not appear on the general election ballot.

**Section 8. Section 20A-9-403 is amended to read:**

**20A-9-403. Regular primary elections.**

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. ~~The [fourth Tuesday of June of each even-numbered year is designated as]~~ regular primary election [day] is held on the date specified in Section 20A-1-201.5. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members

may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner, no later than 14 days after the day on which a candidate submits the signatures to the filing officer;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than ~~[5 p.m. on the first Monday after the third Saturday in April]~~ the deadline described in Subsection 20A-9-202(1)(b)(i) or (ii);

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) [~~By 5 p.m. on the first Wednesday after the third Saturday in April~~] Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June \_\_\_\_, \_\_\_\_ (year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct \_\_\_\_ is \_\_\_\_\_. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) A candidate who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

**Section 9. Section 20A-9-407 is amended to read:**

**20A-9-407. Convention process to seek the nomination of a qualified political party.**

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention process.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) except as provided in Subsection 20A-9-202(1)(b)(c), file a declaration of candidacy in person with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the

third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, ~~on or before 5 p.m. on the first Monday after the third Saturday in April~~ before the deadline described in Subsection 20A-9-202(1)(b)(i) or (ii), file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before ~~5 p.m. on the first Monday after the third Saturday in April~~ the deadline described in Subsection 20A-9-202(1)(b)(i) or (ii).

(b) The lieutenant governor shall include, in the primary ballot certification or, for a race where a primary is not held because the candidate is unopposed, in the general election ballot certification, the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

**Section 10. Section 20A-9-408 is amended to read:**

**20A-9-408. Signature-gathering process to seek the nomination of a qualified political party.**

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending at 5 p.m. on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of

intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(b)(c), file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(b)(c), file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the

office of governor shall, before ~~5 p.m. no later than the first Monday after the third Saturday in April~~ the deadline described in Subsection 20A-9-202(1)(b)(i) or (ii), file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor, during the period beginning on January 1 of an even-numbered year and ending at 5 p.m. 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for

the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer before 5 p.m. no later than 14 days before the day on which the qualified political party holds the party's convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than the earlier of 14 days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition; and

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet.

(e) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office

to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(f) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

**Section 11. Section 20A-9-409 is amended to read:**

**20A-9-409. Primary election provisions relating to qualified political party.**

(1) The ~~fourth Tuesday of June of each even-numbered year is designated as a~~ regular primary election ~~[day]~~ is held on the date specified in Section 20A-1-201.5.

(2) (a) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and does not have a candidate qualify as a candidate for that office under Section 20A-9-408, may, but is not required to, participate in the primary election for that office.

(b) A qualified political party that has only one candidate qualify as a candidate for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407, may, but is not required to, participate in the primary election for that office.

(c) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and has one or more candidates qualify as a candidate for that office under Section 20A-9-408 shall participate in the primary election for that office.

(d) A qualified political party that has two or more candidates qualify as candidates for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407 shall participate in the primary election for that office.

(3) Notwithstanding Subsection (2), in an opt-in county, as defined in Section 17-52a-201 or 17-52a-202, a qualified political party shall participate in the primary election for a county commission office if:

(a) there is more than one:

(i) open position as defined in Section 17-52a-201; or

(ii) midterm vacancy as defined in Section 17-52a-201; and

(b) the number of candidates nominated under Section 20A-9-407 or qualified under Section 20A-9-408 for the respective open positions or midterm vacancies exceeds the number of respective open positions or midterm vacancies.

(4) (a) As used in this Subsection (4), a candidate is “unopposed” if:

(i) no individual other than the candidate receives a certification, from the appropriate filing officer, for the regular primary election ballot of the candidate’s registered political party for a particular elective office; or

(ii) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification, from the appropriate filing officer, for the regular primary election of the candidate’s registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(b) ~~[By 5 p.m. on the first Wednesday after the third Saturday in April] Before the deadline described in Subsection (4)(c), the lieutenant governor shall:~~

(i) provide to the county clerks:

(A) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications from the appropriate filing officer, along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(B) a list of unopposed candidates for elective office who have been nominated by a registered political party; and

(ii) instruct the county clerks to exclude unopposed candidates from the primary election ballot.

(c) The deadline described in Subsection (4)(b) is:

(i) in a year other than 2020, 5 p.m. on the first Wednesday after the third Saturday in April; or

(ii) in 2020, 5 p.m. April 29.

**Section 12. Section 63I-2-220 is amended to read:**

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

(1) On January 1, 2021:

(a) Subsection 20A-1-201.5(1), the language that states “Except as provided in Subsection (4),” is repealed.

(b) Subsection 20A-1-201.5(4) is repealed.

(c) Subsections 20A-1-204(1)(a)(i) through (iii) are repealed and replaced with the following:

“(i) the fourth Tuesday in June; or

(ii) the first Tuesday after the first Monday in November.”.

(d) In Subsections 20A-1-503(4)(c), 20A-9-202(3)(a), 20A-9-403(3)(d)(ii), 20A-9-407(5) and (6)(a), and 20A-9-408(5), immediately following the reference to Subsection 20A-9-202(1)(b), the language that states “(i) or (ii)” is repealed.

(e) Subsection 20A-9-202(1)(b) is repealed and replaced with the following:

“(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the third Saturday in April.”;

(f) Subsection 20A-9-409(4)(c) is repealed and replaced with the following:

”(c) The deadline described in Subsection (4)(b) is 5 p.m. on the first Wednesday after the third Saturday in April.”.

~~[(1)]~~ (2) Subsection 20A-5-803(8) is repealed July 1, 2023.

~~[(2)]~~ (3) Section 20A-5-804 is repealed July 1, 2023.

~~[(3)]~~ (4) On January 1, 2026:

(a) In Subsection 20A-1-102(22)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states “Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(c) In Section 20A-1-304, the language that states “Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(d) In Subsection 20A-3-105(1)(a), the language that states “Except as provided in Subsection (5),” is repealed.

(e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states “Except as provided in Subsections (5) and (6),” is repealed.

(f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states “Subject to Subsection (5),” is repealed.

(g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section 20A-3-105 are renumbered accordingly.

(h) In Subsection 20A-4-101(2)(c), the language that states “Except as provided in Subsection (2)(f),” is repealed.

(i) Subsection 20A-4-101(2)(f) is repealed.

(j) Subsection 20A-4-101(3) is repealed and replaced with the following:

“(3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(k) In Subsection 20A-4-102(1)(a), the language that states “or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

“(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(m) In Subsection 20A-4-102(6)(a), the language that states “, except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(n) In Subsection 20A-4-105(1)(a), the language that states “, except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(o) In Subsection 20A-4-105(2), the language that states “Subsection 20A-3-105(5), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(p) In Subsections 20A-4-105(3), (5), and (12), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(q) In Subsection 20A-4-106(1)(a)(ii), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(r) In Subsection 20A-4-304(1)(a), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(s) Subsection 20A-4-304(2)(e) is repealed and replaced with the following:

“(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;”.

(t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(v) Subsections 20A-5-400.1(1)(c) and (d), relating to contracting with a local political subdivision to conduct an election, is repealed.

(w) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in Subsection (3) are renumbered accordingly.

(x) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in Subsection (4) are renumbered accordingly.

(y) In Section 20A-5-802, relating to the certification of voting equipment:

(i) delete “Except as provided in Subsection (2)(b)(ii):” from the beginning of Subsection (2); and

(ii) Subsection (2)(b)(ii) is repealed, and the remaining subsections are renumbered accordingly.

(z) Section 20A-6-203.5 is repealed.

(aa) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states “Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(bb) In Subsection 20A-9-203(3)(a)(i), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(cc) In Subsection 20A-9-203(3)(c)(i), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(dd) In Subsection 20A-9-404(1)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(ee) In Subsection 20A-9-404(2), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

[~~(6)~~] (5) Section 20A-7-407 is repealed January 1, 2021.

### **Section 13. Effective date.**

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



**CHAPTER 5****S. B. 1002**

Passed September 16, 2019  
 Approved September 23, 2019  
 Effective September 23, 2019

**MEDICAL CANNABIS AMENDMENTS**

Chief Sponsor: Evan J. Vickers  
 House Sponsor: Brad M. Daw

**LONG TITLE****General Description:**

This bill amends provisions related to medical cannabis.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ repeals provisions related to the state central fill medical cannabis pharmacy and makes necessary resulting amendments;
- ▶ replaces a procurement requirement for future Department of Agriculture and Food (UDAF) licensing with a process that UDAF develops in rule;
- ▶ allows UDAF and the Department of Health (DoH) to waive certain proximity requirements in certain circumstances;
- ▶ clarifies the number of cannabis cultivation facility licenses that UDAF is required and allowed to issue;
- ▶ requires certain disclosures about adverse actions against applicants in any jurisdiction and allows UDAF and DoH to revoke licenses if those disclosures are not updated;
- ▶ prohibits UDAF and DoH from issuing certain licenses if a legislator has an ownership interest in the perspective licensee;
- ▶ allows licensed cannabis cultivation facilities to cultivate both indoors and outdoors under UDAF rules;
- ▶ exempts the following from a background check requirement:
  - certain agents re-applying for an agent registration card; and
  - certain guardians and designated caregivers re-applying for a medical cannabis card;
- ▶ clarifies that cannabis production establishments and medical cannabis pharmacies may use signage regardless of local prohibitions;
- ▶ amends provisions regarding local government land use control, including:
  - ensuring that cannabis production establishments and medical cannabis pharmacies are only subject to land use ordinances in effect at the time the land use rights vest;
  - requiring an approved land use permit application within a certain time after the issuance of a license rather than before; and
  - prohibiting certain proximity minimums;
- ▶ allows UDAF to license research universities to conduct academic medical cannabis research;
- ▶ adopts a nationally recognized code regarding marijuana production into the state fire code;

- ▶ provides for electronic medical cannabis cards;
- ▶ provides that use of medical cannabis may not be considered differently than lawful use of any prescribed controlled substance in certain circumstances;
- ▶ amends provisions regarding privacy in studies of cardholder data;
- ▶ requires an applicant for a medical cannabis pharmacy license to describe a strategic plan for opening, including the timing of the opening based on supply, in consultation with UDAF, and demand, in consultation with DoH;
- ▶ increases the number of licenses available for private medical cannabis pharmacies and allows DoH to issue additional licenses in certain circumstances based on market necessity;
- ▶ allows DoH to issue medical cannabis pharmacy licenses in two phases using one procurement process;
- ▶ allows for certain medical practitioners to be registered as medical cannabis pharmacy agents as long as the provider is not registered as a qualified medical provider;
- ▶ amends allowable sale and possession amount to be uniform regardless of the distance between an individual's residence and a medical cannabis pharmacy;
- ▶ directs DoH to create a state central patient portal for patient safety, education, and electronic access to home deliveries of medical cannabis shipments from home delivery medical cannabis pharmacies;
- ▶ allows DoH to designate certain private medical cannabis pharmacies as home delivery medical cannabis pharmacies that fulfill electronic orders for medical cannabis shipments:
  - that medical cannabis cardholders access through the state central patient portal; and
  - for which a payment provider that the Division of Finance approves, in consultation with the state treasurer, or a financial institution facilitates a financial transaction;
- ▶ broadens an existing requirement that DoH employ certain medical providers to consult with medical cannabis cardholders;
- ▶ provides for licensing of medical cannabis couriers and registration of medical cannabis courier agents to facilitate delivery of medical cannabis shipments from home delivery medical cannabis pharmacies;
- ▶ repeals Title 26, Chapter 65, Cannabidiol Product Act;
- ▶ prohibits considering, in a judicial context, lawful possession or use of medical cannabis differently from lawful possession or use of any prescribed controlled substance;
- ▶ prohibits certain conditions of probation or release or terms of certain agreements that require a person to abstain from medical cannabis;
- ▶ addresses a parent or guardian's use of medical cannabis in child welfare cases; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:****AMENDS:**

4-41a-102, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-103, as last amended by Laws of Utah 2019, Chapter 136

4-41a-201, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-204, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-205, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-301, as last amended by Laws of Utah 2019, Chapter 136

4-41a-302, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-403, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-404, as last amended by Laws of Utah 2019, Chapter 341

4-41a-406, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-501, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-701, as last amended by Laws of Utah 2019, Chapter 341

15A-5-103, as last amended by Laws of Utah 2019, Chapter 103

26-61a-102, as last amended by Laws of Utah 2019, Chapter 341

26-61a-103, as last amended by Laws of Utah 2019, Chapters 136 and 341

26-61a-106, as last amended by Laws of Utah 2019, Chapters 136 and 341

26-61a-107, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-109, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-111, as last amended by Laws of Utah 2019, Chapter 341

26-61a-201, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-202, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-203, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-204, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-301, Utah Code Annotated 1953

26-61a-302, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-304, as renumbered and amended by Laws

of Utah 2018, Third Special Session, Chapter 1

26-61a-305, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-401, as last amended by Laws of Utah 2019, Chapter 136

26-61a-403, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-502, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-503, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-505, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-506, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-507, as last amended by Laws of Utah 2019, Chapter 136

26-61a-605, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-606, as last amended by Laws of Utah 2019, Chapter 136

26-61a-607, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-702, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-703, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

30-3-10, as last amended by Laws of Utah 2019, Chapters 136, 188, and 341

58-17b-302, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

58-17b-310, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

58-17b-502, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

58-37-3.7, as last amended by Laws of Utah 2019, Chapter 341

58-37-3.8, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

58-37-3.9, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

58-67-304, as last amended by Laws of Utah 2019, Chapter 136

58-67-502, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

58-68-304, as last amended by Laws of Utah 2019, Chapter 136

58-68-502, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

59-12-104.10, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

78A-6-115, as last amended by Laws of Utah 2018, Chapter 359

**ENACTS:**

4-41a-901, Utah Code Annotated 1953

4-41a-902, Utah Code Annotated 1953

4-41a-903, Utah Code Annotated 1953

10-9a-528, Utah Code Annotated 1953

17-27a-525, Utah Code Annotated 1953

26-61a-115, Utah Code Annotated 1953

78A-2-231, Utah Code Annotated 1953

**REPEALS AND REENACTS:**

26-61a-601, as last amended by Laws of Utah 2019, Chapter 136

26-61a-602, as last amended by Laws of Utah 2019, Chapter 136

26-61a-603, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-604, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

**REPEALS:**

26-61a-110, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-205, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-608, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-609, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-610, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-611, as last amended by Laws of Utah 2019, Chapter 136

26-65-101, as enacted by Laws of Utah 2018, Chapter 452

26-65-102, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-65-103, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-65-201, as enacted by Laws of Utah 2018, Chapter 452

26-65-202, as enacted by Laws of Utah 2018, Chapter 452 Utah Code Sections Affected by Revisor Instructions:

4-41a-201, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

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

**Section 1. Section 4-41a-102 is amended to read:**

**4-41a-102. Definitions.**

As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(2) "Cannabis cultivation facility" means a person that:

- (a) possesses cannabis;
- (b) grows or intends to grow cannabis; and
- (c) sells or intends to sell cannabis to a cannabis cultivation facility ~~or to~~, a cannabis processing facility, or a medical cannabis research licensee.

(3) "Cannabis cultivation facility agent" means an individual who:

- (a) is an employee of a cannabis cultivation facility; and
- (b) holds a valid cannabis production establishment agent registration card.

(4) "Cannabis processing facility" means a person that:

- (a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act;
- (b) possesses cannabis with the intent to manufacture a cannabis product;
- (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
- (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or ~~the state central fill~~ a medical cannabis ~~pharmacy~~ research licensee.

(5) "Cannabis processing facility agent" means an individual who:

- (a) is an employee of a cannabis processing facility; and
- (b) holds a valid cannabis production establishment agent registration card.

(6) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(7) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(8) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(9) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

- (a) authorizes an individual to act as a cannabis production establishment agent; and
- (b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(10) "Community location" means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

(11) "Department" means the Department of Agriculture and Food.

(12) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(13) "Independent cannabis testing laboratory" means a person that:

- (a) conducts a chemical or other analysis of cannabis or a cannabis product; or
- (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a

chemical or other analysis of the cannabis or cannabis product.

(14) “Independent cannabis testing laboratory agent” means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(15) “Inventory control system” means a system described in Section 4-41a-103.

(16) “Medical cannabis” means the same as that term is defined in Section 26-61a-102.

(17) “Medical cannabis card” means the same as that term is defined in Section 26-61a-102.

(18) “Medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.

(19) “Medical cannabis pharmacy agent” means the same as that term is defined in Section 26-61a-102.

(20) “Medical cannabis research license” means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(21) “Medical cannabis research licensee” means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

~~[(20)]~~ (22) “Medical cannabis treatment” means the same as that term is defined in Section 26-61a-102.

~~[(21)]~~ (23) “Medicinal dosage form” means the same as that term is defined in Section 26-61a-102.

~~[(22)]~~ (24) “Qualified medical provider” means the same as that term is defined in Section 26-61a-102.

~~[(23)]~~ (25) “Qualified Production Enterprise Fund” means the fund created in Section 4-41a-104.

~~[(24) “State central fill agent” means the same as that term is defined in Section 26-61a-102.]~~

~~[(25) “State central fill medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.]~~

~~[(26) “State central fill shipment” means the same as that term is defined in Section 26-61a-102.]~~

(26) “Research university” means the same as that term is defined in Section 53B-7-702.

(27) “State electronic verification system” means the system described in Section 26-61a-103.

(28) “Tetrahydrocannabinol” means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(29) “Total composite tetrahydrocannabinol” means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

**Section 2. Section 4-41a-103 is amended to read:**

**4-41a-103. Inventory control system.**

(1) Each cannabis production establishment[,] and each medical cannabis pharmacy[~~], and the state central fill medical cannabis pharmacy]~~ shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment[,] and a medical cannabis pharmacy[~~], and the state central fill medical cannabis pharmacy]~~ shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

(c) includes a video recording system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(d) preserves compatibility with the state electronic verification system described in Section 26-61a-103.

(3) A cannabis production establishment[,] and a medical cannabis pharmacy[~~], and the state central fill medical cannabis pharmacy]~~ shall allow the department or the Department of Health access to the cannabis production establishment’s[~~], or the medical cannabis pharmacy’s[~~], or state central fill medical cannabis pharmacy’s]~~ inventory control system at any time.~~

(4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

**Section 3. Section 4-41a-201 is amended to read:**

**4-41a-201. Cannabis production establishment -- License.**

(1) A person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), [and] (8), and (13) and to Section 4-41a-205[.];

(A) for a licensing process that the department initiated before the effective date of this bill, the department shall[, in accordance with] use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, [issue a license to operate a cannabis production establishment] to review and rank applications for a cannabis production establishment license; and

(B) for a licensing process that the department initiates after the effective date of this bill, the department shall issue a license to operate a cannabis production establishment in accordance with the procedures described in Subsection (2)(a)(iii).

(ii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address, located in a zone described in Subsection 4-41a-406[~~(1)~~](2)(a) or (b), where the applicant will operate the cannabis production establishment [that is not within 1,000 feet of a community location or within 600 feet of an area zoned primarily for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area, unless the relevant county or municipality recommends in writing that the department waive the community location proximity limit];

(ii) the name and address of any individual who has:

(A) a financial or voting interest of 2% or greater in the proposed cannabis production establishment; or

(B) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department approves;

(iv) [evidence] a statement that the applicant [has obtained] will obtain and [maintains] maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or

(B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

[~~(v) if the municipality or county where the proposed cannabis production establishment would be located requires a local land use permit, a copy of the applicant's approved application for the local land use permit; and]~~

[~~(vi)~~] (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504[.]; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the

proximity requirements described in Subsection (2)(c)(i).

(3) If the department approves an application for a license under this section:

(a) the applicant shall pay the department an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The department may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; ~~or~~

(b) is younger than 21 years old~~[-]; or~~

(c) after the effective date of this bill until January 1, 2023, is actively serving as a legislator.

(8) If an applicant for a cannabis production establishment license under this section holds a

license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a, Utah Medical Cannabis Act, the department:

(a) shall consult with the Department of Health regarding the applicant if the license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (8).

(9) The department may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the department issues the initial license;

(b) after the cannabis production establishment makes the same violation of this chapter three times; ~~or~~

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution~~[-]; or~~

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application.

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the department may revoke the licensee's license.

~~[(10)]~~ (11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

~~[(11)]~~ (12) The department shall begin accepting applications under this part on or before January 1, 2020.

~~[(12)]~~ (13) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

**Section 4. Section 4-41a-204 is amended to read:**

**4-41a-204. Operating plan.**

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection [(2)(e) or (d)(i)] (2)(c)(i) or (d)(ii), a cannabis cultivation facility [that cultivates cannabis indoors] may not:

(i) for a facility that cultivates cannabis only indoors:

(A) use more than 100,000 square feet for cultivation; or

(B) hang, suspend, stack or otherwise position plants above other plants to cultivate more plants through use of vertical space; [and]

(ii) [a cannabis cultivation] for a facility that cultivates cannabis only outdoors [may not], use more than four acres for cultivation[-]; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may annually apply to the department for authorization to exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.

(ii) The department may, after conducting a review as described in Subsection 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

(i) the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation; and

(ii) notwithstanding Subsection (2)(b), the department may allocate the remaining difference in acreage or square footage under cultivation to another licensee.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

**Section 5. Section 4-41a-205 is amended to read:**

**4-41a-205. Number of licenses -- Cannabis cultivation facilities.**

(1) Except as provided in Subsection (2)(a), the department ~~[may not]~~ shall issue at least five but not more than ~~[10]~~ eight licenses to operate a cannabis cultivation facility.

(2) (a) The department may issue ~~[up to five]~~ a number of licenses to operate a cannabis cultivation facility that, in addition to the ~~[10]~~ licenses described in Subsection (1), does not cause the total number of licenses to exceed 15 if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for medical cannabis [in a medicinal dosage form and cannabis products in a medicinal dosage form], that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis [in a medicinal dosage form and cannabis products in a medicinal dosage form] to medical cannabis cardholders.

(b) If the recipient of one of the initial ~~[10]~~ licenses described in Subsection (1) ceases operations for any reason or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).

(3) If there are more qualified applicants than the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

(a) experience with establishing and successfully operating a business that involves:

(i) complying with a regulatory environment;

(ii) tracking inventory; and

(iii) training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can reduce the cost to patients of cannabis in a medicinal dosage form or cannabis products in a medicinal dosage form.

(4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

**Section 6. Section 4-41a-301 is amended to read:**

**4-41a-301. Cannabis production establishment agent -- Registration.**

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent.

(2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, ~~[the state central fill medical cannabis pharmacy]~~ a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the cannabis production establishment:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of a licensed cannabis production establishment where the prospective agent will act as the cannabis production establishment's agent; and

(C) the submission required under Subsection (4)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) ~~[Each]~~ Except for an applicant reapplying for a cannabis production establishment agent registration card within less than one year after the expiration of the applicant's previous cannabis



production establishment agent registration card, each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

(5) The department shall designate, on an individual's cannabis production establishment agent registration card:

(a) the name of the cannabis production establishment where the individual is registered as an agent; and

(b) the type of cannabis production establishment for which the individual is authorized to act as an agent.

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard that the department develops; or

(b) a ~~[third-party]~~ certification standard that the department ~~[designates by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ has reviewed and approved.

(7) (a) The department shall ensure that the certification standard described in Subsection (6) includes training:

~~[(a)]~~ (i) in Utah medical cannabis law;

~~[(b)]~~ (ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

~~[(c)]~~ (iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and

~~[(d)]~~ (iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.

(8) For an individual who holds or applies for a cannabis production establishment agent registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

**Section 7. Section 4-41a-302 is amended to read:**

**4-41a-302. Cannabis production establishment agent registration card -- Rebuttable presumption.**

(1) A cannabis production establishment agent whom the department registers under Section 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the agent at all times when:

(a) the agent is on the premises of a cannabis production establishment where the agent is registered;

(b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:

(i) two cannabis production establishments; or

(ii) a cannabis production establishment and ~~[(A)]~~ a medical cannabis pharmacy; ~~or~~ and

~~[(B) the state central fill medical cannabis pharmacy; and]~~

(c) if the cannabis production establishment agent is an agent of a cannabis ~~[cultivating]~~ cultivation facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.

(2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the agent possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause, based solely on the agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) (a) A cannabis production establishment agent who fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) subject to a \$100 fine; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

**Section 8. Section 4-41a-403 is amended to read:**

**4-41a-403. Advertising.**

(1) ~~[(A)]~~ Except as provided in Subsection (2), (3), or (4), a cannabis production establishment may not advertise to the general public in any medium.

(2) ~~[Notwithstanding Subsection (1), a]~~ A cannabis production establishment may advertise an employment opportunity at the cannabis production ~~[facility]~~ establishment.

(3) A cannabis production establishment may maintain a website that:

(a) contains information about the establishment and employees; and

(b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(4) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

(a) includes only:

(i) the cannabis production establishment's name and hours of operation; and

(ii) a green cross;

(b) does not exceed four feet by five feet in size; and

(c) complies with local ordinances regulating signage.

**Section 9. Section 4-41a-404 is amended to read:**

**4-41a-404. Cannabis, cannabis product, or medical cannabis device transportation.**

(1) (a) Only the following individuals may transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this chapter:

(i) a registered cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis ~~[cultivating]~~ cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis cultivation facility and:

(A) another cannabis cultivation facility; or

(B) a cannabis processing facility; and

(ii) between a cannabis processing facility and:

(A) another cannabis processing facility;

(B) an independent cannabis testing laboratory; or

(C) a medical cannabis pharmacy~~[-øø]~~.

~~[(D) the state central fill medical cannabis pharmacy.]~~

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

**Section 10. Section 4-41a-406 is amended to read:**

**4-41a-406. Local control.**

(1) As used in this section:

(a) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(b) "Land use permit" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(c) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

~~[(4)]~~ (2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone, ~~[the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of industrial zone.]~~ the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, ~~[the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of agricultural zone.]~~ the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a

cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

[(2)-(a)] (3) A municipality or county may not [deny or revoke a land use permit to operate a cannabis production facility]:

(a) on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis[-(b)]—A municipality or county may not], deny or revoke:

(i) a land use permit to operate a cannabis production facility; or

(ii) a business license to operate a cannabis production facility [on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis];

(b) require a certain distance between a cannabis production establishment and:

(i) another cannabis production establishment;

(ii) a medical cannabis pharmacy;

(iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.

(4) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

**Section 11. Section 4-41a-501 is amended to read:**

**4-41a-501. Cannabis cultivation facility -- Operating requirements.**

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the cannabis cultivation facility's inventory control system to identify:

(a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, ~~[the state central fill medical cannabis pharmacy]~~ a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

**Section 12. Section 4-41a-701 is amended to read:**

**4-41a-701. Cannabis and cannabis product testing.**

(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis processing facility unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption.

(2) A cannabis processing facility may not offer any cannabis or cannabis products for sale to a medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy]~~ and a medical cannabis pharmacy ~~[and the state central fill medical cannabis pharmacy]~~ may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine:

(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product; and

(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the label claims the cannabis or cannabis product contains;

(b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption; and

(c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that is not safe for human consumption.

(3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) may determine the amount of any substance described in Subsections (2)(b) and (c) that is safe for human consumption; and

(b) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment.

(4) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department’s inspector has reason to believe a toxin may be present based on the inspection of a facility.

(5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

(6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

**Section 13. Section 4-41a-901 is enacted to read:**

**Part 9. Academic Medical Cannabis Research**

**4-41a-901. Academic medical cannabis research -- License.**

(1) A medical cannabis research licensee may, subject to department rules described in Subsection (4), obtain from a cannabis production establishment, and possess, cannabis for academic medical cannabis research.

(2) The department shall license a research university to obtain and possess cannabis for the purpose of academic medical cannabis research if the research university submits to the department:

(a) the location where the research university intends to conduct the research;

(b) the research university’s research plan; and

(c) the name of the employee of the research university who will:

(i) supervise the obtaining of cannabis;

(ii) be responsible to possess and secure the cannabis; and

(iii) oversee the academic research.

(3) The department shall maintain a list of each medical cannabis research licensee.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish requirements for a licensee to:

(i) participate in academic medical cannabis research;

(ii) obtain from a cannabis production establishment, and possess, cannabis for academic medical cannabis research; and

(b) set sampling and testing procedures.

(5) A medical cannabis research licensee shall provide to the department written consent allowing a representative of the department and local law

enforcement to enter all premises where the licensee possesses or stores cannabis for the purpose of:

(a) conducting a physical inspection; or

(b) ensuring compliance with the requirements of this chapter.

(6) An individual who has been convicted of a drug related felony within the last 10 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis research licensee’s license under this part.

(7) The department may set a fee, in accordance with Subsection 4-2-103(2), for the application for a medical cannabis research license.

**Section 14. Section 4-41a-902 is enacted to read:**

**4-41a-902. Cannabis production establishment product for academic research.**

A cannabis production establishment may sell cannabis and cannabis products to a medical cannabis research licensee for the purpose of academic research.

**Section 15. Section 4-41a-903 is enacted to read:**

**4-41a-903. Unlawful acts.**

(1) It is unlawful for a person who is not operating under the license of a medical cannabis research licensee to obtain or possess cannabis for academic medical cannabis research.

(2) It is unlawful for a cannabis production establishment to offer, sell, or otherwise provide cannabis or cannabis products for the purpose of academic research to an entity that is not a medical cannabis research licensee.

(3) The department may seize from a medical cannabis research licensee and destroy cannabis or cannabis products that do not comply with this chapter.

**Section 16. Section 10-9a-528 is enacted to read:**

**10-9a-528. Cannabis production establishments and medical cannabis pharmacies.**

(1) As used in this section:

(a) “Cannabis production establishment” means the same as that term is defined in Section 4-41a-102.

(b) “Medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.

(2) (a) (i) A municipality may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

**Section 17. Section 15A-5-103 is amended to read:**

**15A-5-103. Nationally recognized codes incorporated by reference.**

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, 2018 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2017 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code; ~~[and]~~

(3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training Evolutions, 2012 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code~~[-];~~ and

(4) National Fire Protection Association, NFPA 1, Chapter 38, Marijuana Growing, Processing, and Extraction Facilities, 2018 edition.

**Section 18. Section 17-27a-525 is enacted to read:**

**17-27a-525. Cannabis production establishments and medical cannabis pharmacies.**

(1) As used in this section:

(a) “Cannabis production establishment” means the same as that term is defined in Section 4-41a-102.

(b) “Medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.

(2) (a) (i) A county may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A county may not regulate a medical cannabis pharmacy in conflict with:

(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

**Section 19. Section 26-61a-102 is amended to read:**

**26-61a-102. Definitions.**

As used in this chapter:

(1) “Blister” means a plastic cavity or pocket used to contain no more than a single dose of cannabis or a cannabis product in a blister pack.

(2) “Blister pack” means a plastic, paper, or foil package with multiple blisters each containing no more than a single dose of cannabis or a cannabis product.

(3) “Cannabis” means marijuana.

(4) “Cannabis cultivation facility” means the same as that term is defined in Section 4-41a-102.

(5) “Cannabis processing facility” means the same as that term is defined in Section 4-41a-102.

(6) “Cannabis product” means a product that:

- (a) is intended for human use; and
- (b) contains cannabis or tetrahydrocannabinol.

(7) “Cannabis production establishment” means the same as that term is defined in Section 4-41a-102.

[(8)] (8) “Cannabis production establishment agent” means the same as that term is defined in Section 4-41a-102.

[(8)] (9) “Cannabis production establishment agent registration card” means the same as that term is defined in Section 4-41a-102.

[(9)] (10) “Community location” means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

[(10)] (11) “Department” means the Department of Health.

[(11)] (12) “Designated caregiver” means an individual:

(a) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient’s caregiver; and

(b) who registers with the department under Section 26-61a-202.

[(12)] (13) “Dosing parameters” means quantity, routes, and frequency of administration for a recommended treatment of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(14) “Financial institution” means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(15) “Home delivery medical cannabis pharmacy” means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy’s license, to deliver medical cannabis shipments to a medical cannabis cardholder’s home address to fulfill electronic orders that the state central patient portal facilitates.

[(13)] (16) “Independent cannabis testing laboratory” means the same as that term is defined in Section 4-41a-102.

[(14)] (17) “Inventory control system” means the system described in Section 4-41a-103.

[(15)] “Local health department” means the same as that term is defined in Section 26A-1-102.]

[(16)] “Local health department distribution agent” means an agent designated and registered to

distribute state central fill shipments under Sections 26-61a-606 and 26-61a-607.]

[(17)] (18) “Marijuana” means the same as that term is defined in Section 58-37-2.

[(18)] (19) “Medical cannabis” means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[(19)] (20) “Medical cannabis card” means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.

[(20)] (21) “Medical cannabis cardholder” means a holder of a medical cannabis card.

[(21)] (22) “Medical cannabis caregiver card” means an [official] electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(23) “Medical cannabis courier” means a courier that:

(a) the department licenses in accordance with Section 26-61a-604; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

[(22)] (24) (a) “Medical cannabis device” means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) “Medical cannabis device” does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[(23)] (25) “Medical cannabis guardian card” means an [official] electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[(24)] (26) “Medical cannabis patient card” means an [official] electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[25] (27) “Medical cannabis pharmacy” means a person that:

(a) (i) acquires or intends to acquire:

(A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or

(B) a medical cannabis device; or

(ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

[26] (28) “Medical cannabis pharmacy agent” means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

[27] (29) “Medical cannabis pharmacy agent registration card” means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(30) “Medical cannabis shipment” means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder’s home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[28] (31) “Medical cannabis treatment” means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[29] (32) (a) “Medicinal dosage form” means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) for use only after the individual’s qualifying condition has failed to substantially respond to at least two other forms described in this Subsection [29] (32)(a)(i), a resin or wax;

(ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

(A) containing a specific and consistent weight that does not exceed one gram and that varies by no more than 10% from the stated weight; and

(B) after December 31, 2020, labeled with a barcode that provides information connected to an inventory control system and the individual blister’s content and weight; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) “Medicinal dosage form” includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the blister pack described in Subsection [29] (32)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [29] (32)(a)(ii).

(c) “Medicinal dosage form” does not include:

(i) any unprocessed cannabis flower outside of the blister pack, except as provided in Subsection [29] (32)(b); or

(ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

(33) “Payment provider” means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

[30] (34) “Pharmacy medical provider” means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

[31] (35) “Provisional patient card” means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a qualified medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor’s parent or legal guardian; and

(b) is connected to the electronic verification system.

[32] (36) “Qualified medical provider” means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

~~[33] “Qualified Distribution Enterprise Fund” means the enterprise fund created in Section 26-61a-110.]~~

[34] (37) “Qualified Patient Enterprise Fund” means the enterprise fund created in Section 26-61a-109.



~~[(35)] (38) “Qualifying condition” means a condition described in Section 26-61a-104.~~

~~[(36) “State central fill agent” means an employee of the state central fill medical cannabis pharmacy that the department registers in accordance with Section 26-61a-602.]~~

~~[(37) —“State central fill medical cannabis pharmacy” means the central fill pharmacy that the department creates in accordance with Section 26-61a-601.]~~

~~(39) “State central patient portal” means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.~~

~~[(38)] (40) “State central [fill medical provider] patient portal medical provider” means a physician or pharmacist that the [state central fill medical cannabis pharmacy] department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section [26-61a-601] 26-61a-602.~~

~~[(39) —“State central fill shipment” means a shipment of cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis cardholder in a local health department.]~~

~~[(40)] (41) “State electronic verification system” means the system described in Section 26-61a-103.~~

~~(42) “Valid form of photo identification” means a valid United States federal- or state-issued photo identification, including:~~

- ~~(a) a driver license;~~
- ~~(b) a United States passport;~~
- ~~(c) a United States passport card; or~~
- ~~(d) a United States military identification card.~~

**Section 20. Section 26-61a-103 is amended to read:**

**26-61a-103. Electronic verification system.**

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Department of Technology Services; and

- (c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual, with the individual’s qualified medical provider in the qualified medical provider’s office, to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, during a visit with a patient, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing parameters;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) for the qualified medical provider who originally recommended a medical cannabis treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

(B) for a qualified medical provider who did not originally recommend the medical cannabis treatment, during a face-to-face visit with a patient; and

~~[(iv) —at the request of a medical cannabis cardholder, initiate a state central fill shipment in accordance with Section 26-61a-603;]~~

~~(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;~~

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy [~~and the state central fill medical cannabis pharmacy use~~] uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

- (A) the time and date of each purchase;
- (B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;
- (C) any cannabis production establishment, any medical cannabis pharmacy, or ~~[the state central fill]~~ any medical cannabis ~~[pharmacy]~~ courier associated with the cannabis, cannabis product, or medical cannabis device; and
- (D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and
- (ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;
- (e) provides access to:
- (i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;
- (ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and
- (iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:
- (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
- (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;
- (f) provides access to and interaction with the state central ~~[fill medical cannabis pharmacy, state central fill agents, and local health department distribution agents, to facilitate the state central fill shipment process]~~ patient portal;
- (g) provides access to state or local law enforcement:
- (i) during a traffic stop for the purpose of determining if the individual subject to the traffic stop is in compliance with state medical cannabis law; or
- (ii) after obtaining a warrant; and
- (h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.
- (3) The department may release ~~[de-identified]~~ limited data that the system collects for the purpose of:
- (a) conducting medical and other department approved research; and
- (b) providing the report required by Section 26-61a-703[.]; and
- (c) other official department purposes.
- (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:
- (a) the limitations on access to the data in the state electronic verification system as described in this section; and
- (b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.
- (5) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.
- (b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.
- (6) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
- (b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.
- (7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.
- (b) Each separate violation of this Subsection (7) is:
- (i) a third degree felony; and
- (ii) subject to a civil penalty not to exceed \$5,000.
- (c) The department shall determine a civil violation of this Subsection (7) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (d) Civil penalties assessed under this Subsection (7) shall be deposited into the General Fund.
- (e) This Subsection (7) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

**Section 21. Section 26-61a-106 is amended to read:**

**26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.**

(1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii) and (iv) may recommend a medical cannabis treatment without registering under Subsection (1)(a) until January 1, 2021.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual:

(A) has the authority to write a prescription;

(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance;

(iv) provides to the department evidence that the individual is:

(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose

supervising physician is a qualified medical provider; and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider [~~or a state central-fill medical provider~~]; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment [~~or~~], a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

- (i) the provisions of this chapter;
- (ii) general information about medical cannabis under federal and state law;
- (iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;
- (iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and
- (v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may not recommend a medical cannabis treatment to more than 175 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) Except as provided in Subsection (4)(c), a qualified medical provider may recommend a medical cannabis treatment to up to 300 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

- (i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or
- (ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

(c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for authorization to exceed the limit described in Subsection (4)(b) by graduating increments of 100 patients per authorization, not to exceed three authorizations.

(ii) The Division of Occupational and Professional Licensing shall grant the authorization described in Subsection (4)(c)(i) if:

(A) the petitioning qualified medical provider pays a \$100 fee;

(B) the division performs a review that includes the qualified medical provider's medical cannabis recommendation activity in the state electronic verification system, relevant information related to patient demand, and any patient medical records

that the division determines would assist in the division's review; and

(C) after the review described in this Subsection (4)(c)(ii), the division determines that granting the authorization would not adversely affect public safety, adversely concentrate the overall patient population among too few qualified medical providers, or adversely concentrate the use of medical cannabis among the provider's patients.

(5) A qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a qualified medical provider-patient relationship after the qualifying medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not advertise that the qualified medical provider recommends medical cannabis treatment.

(b) For purposes of Subsection (6)(a), the communication of the following, through a website does not constitute advertising:

- (i) a green cross;
- (ii) a qualifying condition that the qualified medical provider treats; or
- (iii) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

- (i) applies for renewal;
- (ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);
- (iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a qualified medical provider or pharmacy medical provider.

**Section 22. Section 26-61a-107 is amended to read:**

**26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No private right of action.**

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; and

(B) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

(ii) before January 1, 2021, who:

(A) has the authority to write a prescription; and

(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider [~~or a state central fill medical provider~~]; and

(ii) who dispenses, in a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~], treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

**Section 23. Section 26-61a-109 is amended to read:**

**26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.**

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's responsibilities under this chapter [~~, except for the responsibilities described in Subsection 26-61a-110(4)].~~

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

**Section 24. Section 26-61a-111 is amended to read:**

**26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees.**

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same

way the state or political subdivision treats employee use of [~~opioids and opiates~~] any prescribed controlled substance.

(b) Subsection (2)(a) does not apply where the application of Subsection (2)(a) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Department of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer of an employee who has signed the notice described in Subsection (3)(a) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

**Section 25. Section 26-61a-115 is enacted to read:**

**26-61a-115. Analogous to prescribed controlled substances.**

When an employee, officer, or agent of the state or a political subdivision makes a finding, determination, or otherwise considers an individual's possession or use of cannabis, a cannabis product, or a medical cannabis device, the employee, officer, or agent may not consider the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance, if the individual's possession or use complies with:

(1) this chapter;

(2) Title 4, Chapter 41a, Cannabis Production Establishments; or

(3) Subsection 58-37-3.7(2) or (3).

**Section 26. Section 26-61a-201 is amended to read:**

**26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.**

(1) On or before March 1, 2020, the department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(a) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(b) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(c) issue a provisional patient card to a minor described in Subsection (2)(c); and

(d) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

- (A) is at least 18 years old;
- (B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) the minor's parent or legal guardian petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b).

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending qualified medical provider while in the recommending qualified medical provider's office; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification [~~that is a valid United States federal or state issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~];

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; and

(B) any adult who is 21 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment, including in the event of an emergency medical condition under Subsection 26-61a-204(2).

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use; and

(b) state in the qualified medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the qualified medical provider determines; or

(ii) (A) for the first issuance, 30 days; or

(B) for a renewal, six months.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending qualified medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the compassionate use board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If ~~neither~~ a licensed medical cannabis pharmacy ~~nor the state central fill medical cannabis pharmacy~~ is not operating within the state after January 1, 2021, a cardholder under this section is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah



Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(9) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(10) (a) A person may submit<sup>[,]</sup> to the department a request to conduct a ~~medical~~ research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (10)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the ~~medical~~ research study ~~[is valid]~~.

(c) ~~[If the department makes a determination under Subsection (10)(b) that the medical research study is valid,]~~ At the time an individual applies for a medical cannabis card, the department shall notify ~~[each relevant]~~ the individual:

(i) of how the individual's information will be used as a cardholder ~~[asking for]~~;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (10)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in ~~[the study]~~ external research at any time.

~~[(d)]~~ (e) The department may release, for the purposes of a study described in this Subsection (10), information about a cardholder under this section who consents to participate under Subsection (10)(c).

(f) If an individual withdraws consent under Subsection (10)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

~~[(e)]~~ (g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 27. Section 26-61a-202 is amended to read:**

**26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.**

(1) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the cardholder if a qualified medical provider notates in the electronic verification system that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

(2) An individual that the department registers as a designated caregiver under this section:

(a) may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis; and

(e) if ~~[neither]~~ a licensed medical cannabis pharmacy ~~[nor the state central fill medical cannabis pharmacy]~~ is not operating within the state after January 1, 2021, is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews

automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

- (i) renews the cardholder's card; and
- (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).
- (b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:
- (i) signify that the cardholder renews the caregiver's designation;
- (ii) remove a caregiver's designation; or
- (iii) designate a new caregiver.
- (8) The department may revoke a medical cannabis caregiver card if the designated caregiver:
- (a) violates this chapter; or
- (b) is convicted under state or federal law of:
- (i) a felony; or
- (ii) after December 3, 2018, a misdemeanor for drug distribution.

**Section 28. Section 26-61a-203 is amended to read:**

**26-61a-203. Designated caregiver -- Guardian -- Criminal background check.**

(1) ~~[Each]~~ Except for an applicant reapplying for a medical cannabis card within less than one year after the expiration of the applicant's previous medical cannabis card, each applicant for a medical cannabis guardian card under Section 26-61a-201 or a medical cannabis caregiver card under Section 26-61a-202 shall:

- (a) submit to the department, at the time of application:
- (i) a fingerprint card in a form acceptable to the Department of Public Safety; and
- (ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
- (b) consent to a fingerprint background check by:
- (i) the Bureau of Criminal Identification; and
- (ii) the Federal Bureau of Investigation.
- (2) The Bureau of Criminal Identification shall:
- (a) check the fingerprints the applicant submits under Subsection (1)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
- (b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

**Section 29. Section 26-61a-204 is amended to read:**

**26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.**

(1) (a) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the cardholder purchased under this chapter shall:

(i) carry at all times the cardholder's medical cannabis card;

(ii) carry, with the cannabis in a medicinal dosage form or cannabis product in a medicinal dosage form, a label that identifies that the cannabis or cannabis product:

(A) was sold from a licensed medical cannabis pharmacy [or the state central fill medical cannabis pharmacy]; and

(B) includes an identification number that links the cannabis or cannabis product to the inventory control system; and

(iii) possess not more than:

(A) 113 grams of unprocessed cannabis; or

(B) an amount of cannabis product that contains 20 grams of total composite tetrahydrocannabinol.

(b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) A medical cannabis cardholder who possesses between 113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40 grams of total composite tetrahydrocannabinol is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a fine of \$1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A medical cannabis cardholder who possesses more than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains more than 40 grams of total composite tetrahydrocannabinol is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder or a provisional patient cardholder may not use, in public view, cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

**Section 30. Section 26-61a-301 is amended to read:**

**26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall<sup>[,]</sup> issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code<sup>[,]</sup>.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) ~~evidence~~ a statement that the applicant ~~has obtained~~ will obtain and ~~maintains~~ maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least \$125,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304; ~~and~~

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

~~(v) if the municipality or county where the proposed medical cannabis pharmacy would be located requires a local land use permit, a copy of~~

~~the person's approved application for the local land use permit; and~~

~~(vi)~~ (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504<sup>[,]</sup>; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of ~~an area~~ a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

~~(iii)~~ (iv) An applicant for a license under this section shall provide evidence of compliance with the proximity ~~requirement~~ requirements described in Subsection (2)(c)(i).

~~(d) Except as provided in Subsection (2)(e), a medical cannabis pharmacy is a permitted use in all zoning districts within a municipality or county.~~

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department ~~determines that~~ selects an applicant ~~is eligible~~ for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; [ø]

(b) is younger than 21 years old[-]; or

(c) after the effective date of this bill until January 1, 2023, is actively serving as a legislator.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(a) shall consult with the Department of Agriculture and Food regarding the applicant; and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5).

(6) The department may revoke a license under this part if:

(a) the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis pharmacy makes the same violation of this chapter three times; [ø]

(c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution[-]; or

(d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

[7] (8) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

[8] (9) The department shall begin accepting applications under this part on or before March 1, 2020.

[9] (10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

**Section 31. Section 26-61a-302 is amended to read:**

**26-61a-302. Medical cannabis pharmacy owners and directors -- Criminal background checks.**

(1) Each applicant [f] to whom the department issues a notice of intent to award a license to operate as a medical cannabis pharmacy shall submit, [at the time of application] before the department may award the license, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

**Section 32. Section 26-61a-304 is amended to read:**

**26-61a-304. Operating plan.**

A person applying for a medical cannabis pharmacy license shall submit to the department a proposed operation plan for the medical cannabis pharmacy that complies with this section and that includes:

(1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(2) a description of the credentials and experience of:

(a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

(b) any highly skilled or experienced prospective employee;

(3) the medical cannabis pharmacy's employee training standards;

(4) a security plan;

(5) a description of the medical cannabis pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system; ~~and~~

(6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis[;]; and

(7) a description of the proposed medical cannabis pharmacy's strategic plan for opening the medical cannabis pharmacy, including gauging appropriate timing based on:

(a) the supply of medical cannabis and medical cannabis products, in consultation with the Department of Agriculture and Food; and

(b) the quantity and condition of the population of medical cannabis cardholders, in consultation with the department.

**Section 33. Section 26-61a-305 is amended to read:**

**26-61a-305. Maximum number of licenses -- Home delivery medical cannabis pharmacies.**

(1) (a) Except as provided in ~~[Subsection]~~ Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department ~~[may not]~~ shall

issue ~~[more than seven]~~ 14 medical cannabis pharmacy licenses in accordance with this section.

~~[(b) (i) In addition to the licenses described in Subsection (1)(a), the department shall issue an eighth license if the state central fill medical cannabis pharmacy:]~~

~~[(A) is not operational by January 1, 2021; or]~~

~~[(B) ceases operations after January 1, 2021.]~~

~~[(ii) In addition to the licenses described in Subsections (1)(a) and (1)(b)(i), the department shall issue a ninth license if the state central fill medical cannabis pharmacy:]~~

~~[(A) is not operational by July 1, 2021; or]~~

~~[(B) ceases operations after July 1, 2021.]~~

~~[(iii) In addition to the licenses described in Subsections (1)(a), (1)(b)(i), and (1)(b)(ii), the department shall issue a tenth license if the state central fill medical cannabis pharmacy:]~~

~~[(A) is not operational by January 1, 2022; or]~~

~~[(B) ceases operations after January 1, 2022.]~~

~~[(iv) The department shall issue the licenses described in Subsection (1)(b)(i), (ii), and (iii), if a final order of a court enjoins or invalidates the operation of the state central fill medical cannabis pharmacy.]~~

(b) If fewer than 14 qualified applicants apply for a medical cannabis pharmacy license, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in two phases in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with this Subsection (1)(c), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i);

(B) before November 30, 2020, report on the rules described in Subsection (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

(C) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients; and

(E) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients; and

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

**Section 34. Section 26-61a-401 is amended to read:**

**26-61a-401. Medical cannabis pharmacy agent -- Registration.**

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) Except as provided in Section 26-61a-403, [the following individuals, regardless of the

~~individual's status as] a qualified medical provider[,], may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy[;].~~

~~[(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;]~~

~~[(b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or]~~

~~[(c) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.]~~

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) ~~[Each] Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:~~

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of

Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.



(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

**Section 35. Section 26-61a-403 is amended to read:**

**26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective

pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a qualified medical provider or a state central [fll] patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

- (i) the provisions of this chapter;
- (ii) general information about medical cannabis under federal and state law;
- (iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;
- (iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or
- (v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

- (i) is eligible for a pharmacy medical provider registration card under this section;
- (ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;
- (iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

**Section 36. Section 26-61a-502 is amended to read:**

**26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.**

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) a medical cannabis card; and

(ii) a corresponding valid form of photo identification [~~that is a valid United States federal or state issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~].

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(2) A medical cannabis pharmacy may not dispense:

(a) to a medical cannabis cardholder in any one [~~12~~] 28-day period, more than the lesser of:

~~[(i) an amount sufficient to provide 14 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or]~~

~~[(ii) (A) 56 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or]~~

~~[(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 10 grams of total composite tetrahydrocannabinol;]~~

~~[(b) to a medical cannabis cardholder whose primary residence is located more than 100 miles from the nearest medical cannabis pharmacy or local health department, in any one 28-day period, more than the lesser of:]~~

(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

~~[(e) (b) to an individual whose qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.~~

(3) An individual with a medical cannabis card may not purchase:

(a) more cannabis or cannabis products than the amounts designated in Subsection (2) in any one [~~12-day~~] 28-day period; or

(b) if the relevant qualified medical provider did not recommend dosing parameters, until the

individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide dosing parameters:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with cannabis and cannabis products; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show dosing parameters from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) dosing parameters; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the dosing parameters determined under Subsection (5)(a) in the pertinent medical records.

[(5)] (6) A medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis products described in Subsection (2); and

(ii) if the verification in Subsection [(5)] (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the sale; and

(B) notify the qualified medical provider who made the underlying recommendation;

(b) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

(c) package any cannabis or cannabis product that is in a blister pack in a container that:

(i) complies with Subsection 4-41a-602(2);

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

(d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

[(6)] (7) (a) Except as provided in Subsection [(6)] (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

[(7)] (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).

[(8)] (9) The department may impose a uniform fee on each medical cannabis cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

**Section 37. Section 26-61a-503 is amended to read:**

**26-61a-503. Partial filling.**

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the qualified medical provider recommends, if the qualified medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the qualified medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing

parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4) or (5); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

**Section 38. Section 26-61a-505 is amended to read:**

**26-61a-505. Advertising.**

(1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy may not advertise in any medium.

(2) ~~[A]~~ Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

(a) includes only:

~~[(a)]~~ (i) the medical cannabis pharmacy's name and hours of operation; and

~~[(b)]~~ (ii) a green cross~~[-]~~;

(b) does not exceed four feet by five feet in size; and

(c) complies with local ordinances regulating signage.

(3) A medical cannabis pharmacy may maintain a website that includes information about:

(a) the location and hours of operation of the medical cannabis pharmacy;

(b) a product or service available at the medical cannabis pharmacy;

(c) personnel affiliated with the medical cannabis pharmacy;

(d) best practices that the medical cannabis pharmacy upholds; and

(e) educational material related to the medical use of cannabis.

**Section 39. Section 26-61a-506 is amended to read:**

**26-61a-506. Cannabis, cannabis product, or medical cannabis device transportation.**

(1) Only the following individuals may transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this chapter:

(a) a registered medical cannabis pharmacy agent;

~~[(b) a registered state central fill agent;]~~

~~[(c)]~~ (b) a registered medical cannabis courier ~~[for a state central fill shipment described in Section 26-61a-605]~~ agent; or

~~[(d)]~~ (c) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for cannabis, a cannabis product, or a medical cannabis device that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection ~~[(3)(a)]~~ (1)(a) is limited to transportation~~[-(i)-]~~ between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; ~~and~~ or

(ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

~~[(ii) between the state central fill medical cannabis pharmacy and:]~~

~~[(A) another state central fill medical cannabis pharmacy location; or]~~

~~[(B) a local health department.]~~

(4) (a) It is unlawful for a registered medical cannabis pharmacy agent~~[-]~~ or a registered ~~[state central fill]~~ medical cannabis courier agent~~[- or a courier described in Section 26-61a-605]~~ to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent ~~[or courier]~~ who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a

violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

**Section 40. Section 26-61a-507 is amended to read:**

**26-61a-507. Local control.**

~~[(1) (a) (i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or maintain a license under Section 26-61a-301, a person shall demonstrate that the intended medical cannabis pharmacy location is located at least:]~~

~~[(A) 600 feet from a community location's property boundary following the shortest route of ordinary pedestrian travel;]~~

~~[(B) 200 feet from the patron entrance to the community location's property boundary; and]~~

~~[(C) 600 feet from an area zoned primarily residential.]~~

~~[(ii) A municipal or county land use authority may recommend in writing that the department waive the community location proximity requirement described in Subsection (1)(a)(i).]~~

(1) The operation of a medical cannabis pharmacy:

(a) shall be a permitted use:

(i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and

(ii) on land that the municipality or county has not zoned; and

(b) is subject to the land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, that apply in the underlying zone.

~~[(b) (i) (2) A municipality or county may not deny or revoke a land use permit to operate a medical cannabis pharmacy:]~~

(a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis; (ii) A municipality or county may not deny or revoke:

(i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to operate a medical cannabis pharmacy; or

(ii) a business license to operate a medical cannabis pharmacy [on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis.];

(b) require a certain distance between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy;

(ii) a cannabis production establishment;

(iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.

~~[(2)] (3) A municipality or county may enact an ordinance that:~~

~~(a) is not in conflict with this chapter; and~~

~~(b) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.~~

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

**Section 41. Section 26-61a-601 is repealed and reenacted to read:**

**26-61a-601. State central patient portal -- Department duties.**

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201(10);

(c) if the cardholder's qualified medical provider recommended the use of medical cannabis without providing dosing parameters and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order to a home delivery medical cannabis pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection 26-61a-501(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

**Section 42. Section 26-61a-602 is repealed and reenacted to read:**

**26-61a-602. State central patient portal medical provider.**

(1) In relation to the state central patient portal:

(a) the department may only employ, as a state central patient portal medical provider:

(i) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

(ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) if the department employs a state central patient portal medical provider, ensure that a state central patient portal medical provider is available during normal business hours.

(2) A state central patient portal medical provider may:

(a) provide consultations to medical cannabis cardholders and qualified medical providers; and

(b) determine dosing parameters in accordance with Subsection 26-61a-502(5).

**Section 43. Section 26-61a-603 is repealed and reenacted to read:**

**26-61a-603. Payment provider for electronic medical cannabis transactions.**

(1) A cannabis production establishment seeking to use a payment provider, a medical cannabis

pharmacy, or a prospective home delivery medical cannabis pharmacy shall submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and

(c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

**Section 44. Section 26-61a-604 is repealed and reenacted to read:**

**26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.**

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules

regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times; or

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

**Section 45. Section 26-61a-605 is amended to read:**

**26-61a-605. Medical cannabis shipment transportation.**

(1) The ~~[state central fill medical cannabis pharmacy]~~ department shall ensure that ~~[the state central fill] each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner[, cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, and a medical cannabis device to each local health department in the state within two business days after the day on which the state central fill medical cannabis pharmacy receives a request for a state central fill shipment resulting from a recommendation of a qualified medical provider under Section 26-61a-603].~~

(2) (a) ~~[The department]~~ A home delivery medical cannabis pharmacy may contract with a ~~[private entity for the entity to serve as a courier for the state central fill medical cannabis pharmacy, delivering state central fill] licensed medical cannabis courier to deliver medical cannabis shipments to ~~[local health departments for distribution to medical cannabis cardholders]~~ fulfill electronic medical cannabis orders that the state central patient portal facilitates.~~

(b) If ~~[the department]~~ a home delivery medical cannabis pharmacy enters into a contract described

in Subsection (2)(a), the ~~[department]~~ pharmacy shall:

~~[(i) issue the contract described in Subsection (2)(a) in accordance with Title 63G, Chapter 6a, Utah Procurement Code;]~~

~~[(iii)] (i) impose security and personnel requirements on the ~~[contracted private entity] medical cannabis courier sufficient to ensure the security and safety of ~~[state central fill] medical cannabis shipments; and~~~~~~

~~[(iii)] (ii) provide regular oversight of the ~~[contracted private entity] medical cannabis courier.~~~~

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a ~~[state central fill] medical cannabis shipment unless the individual is:~~

(a) a registered ~~[state central fill] medical cannabis pharmacy agent; or~~

(b) ~~[an] a registered agent of the ~~[private] medical cannabis courier described in Subsection (2).~~~~

(4) An individual transporting a ~~[state central fill] medical cannabis shipment under Subsection (3) shall possess a transportation manifest that:~~

(a) includes a unique identifier that links the ~~[state central fill] medical cannabis shipment to a relevant inventory control system;~~

(b) includes origin and destination information for ~~[a state central fill] the medical cannabis shipment the individual is transporting; and~~

(c) indicates the departure and arrival times and locations of the individual transporting the ~~[state central fill] medical cannabis shipment.~~

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting ~~[state central fill] medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.~~

(6) (a) It is unlawful for an individual to transport a ~~[state central fill] medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).~~

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or



medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

- (i) this chapter does not apply; and
- (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

**Section 46. Section 26-61a-606 is amended to read:**

**26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.**

(1) An individual may not serve as a ~~local health department distribution~~ medical cannabis courier agent unless:

- (a) the individual is an employee of a ~~local health department~~ licensed medical cannabis courier; and
- (b) the department registers the individual as a ~~local health department distribution~~ medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a ~~local health department~~ medical cannabis courier on behalf of a ~~prospective local health department distribution~~ medical cannabis courier agent, register and issue a ~~local health department distribution~~ medical cannabis courier agent registration card to the prospective agent if the ~~local health department~~ medical cannabis courier:

- (i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and ~~location~~ address of the ~~local health department where the prospective agent seeks to act as a local health department distribution agent~~ medical cannabis courier; ~~and~~

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

~~[(C)] (D)~~ the submission required under Subsection (2)(b); ~~and~~

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution~~[-];~~ and

(iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) ~~Each~~ Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

- (i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

- (ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

- (c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

- (d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's ~~local health department distribution~~ medical cannabis courier agent registration card the name of the ~~local health department~~ medical cannabis courier where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A ~~local health department distribution~~ medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the

Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

- (i) Utah medical cannabis law;
- (ii) the ~~[state central fill]~~ medical cannabis ~~[pharmacy]~~ shipment process; and
- (iii) ~~[local health department distribution]~~ medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

- (i) is eligible for a medical cannabis courier agent registration card under this section;
- (ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and
- (iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

~~[(4)]~~ (6) The department may revoke or refuse to issue or renew the ~~[local health department distribution]~~ medical cannabis courier agent registration card of an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
  - (i) a felony; or
  - (ii) after December 3, 2018, a misdemeanor for drug distribution.

~~[(6)]~~ (7) A ~~[local health department distribution]~~ medical cannabis courier agent ~~[who]~~ whom the department has registered under this section shall carry the agent's ~~[local health department distribution]~~ medical cannabis courier agent registration card with the agent at all times when:

- (a) the agent is on the premises of the ~~[local health department]~~ medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and
- (b) the agent is handling a medical cannabis shipment ~~[of cannabis or cannabis product from the state central fill medical cannabis pharmacy]~~.

~~[(7)]~~ (8) If a ~~[local health department distribution]~~ medical cannabis courier agent handling a medical cannabis shipment ~~[of cannabis or cannabis product from the state central fill medical cannabis pharmacy]~~ possesses the shipment in compliance with Subsection ~~[(6)]~~ (7):

- (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
- (b) there is no probable cause, based solely on the agent's possession of the ~~medical cannabis shipment [containing medical cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device]~~, that the agent is engaging in illegal activity.

~~[(8)]~~ (9) (a) A ~~[local health department distribution]~~ medical cannabis courier agent who violates Subsection ~~[(6)]~~ (7) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.
- (b) An individual who is guilty of a violation described in Subsection ~~[(8)(a)]~~ (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection ~~[(8)(a)]~~ (9)(a).

**Section 47. Section 26-61a-607 is amended to read:**

**26-61a-607. Home delivery of medical cannabis shipments.**

~~[(1)]~~ Each local health department shall designate:

~~[(a)]~~ one or more of the local health department's locations as a state central fill shipment distribution location; and

~~[(b)]~~ a sufficient number of personnel to ensure that at least one individual is available at all times during business hours;

~~[(i)]~~ whom the department has registered as a local health department distribution agent; and

~~[(ii)]~~ to distribute state central fill shipments to medical cannabis cardholders in accordance with this section.

~~[(2)]~~ (1) An individual may not ~~[retrieve a]~~ receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from ~~[the state central fill]~~ a home delivery medical cannabis pharmacy ~~[at a local health department]~~ unless:

(a) the individual receiving the shipment presents:

~~[(a)]~~ (i) a valid form of photo identification ~~[that is a valid United States federal or state issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card]; and~~

~~[(b)]~~ (ii) a valid medical cannabis card under the same name that appears on the valid form of photo identification ~~[described in Subsection (2)(a)]. and~~

(b) the delivery occurs at the medical cannabis cardholder's home address that is on file in the state electronic verification system.

~~[(3)] (2) Before a [local health department distribution] medical cannabis pharmacy agent or a medical cannabis courier agent distributes a [state central fill] medical cannabis shipment to a medical cannabis cardholder, the [local health department distribution] agent shall:~~

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection ~~[(2)] (1)~~;

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in the electronic verification system.

~~[(4)] (3) The [local health department] medical cannabis courier shall:~~

(a) (i) store each ~~[state central fill] medical cannabis shipment [that the local health department receives,] in a secure manner until the recipient medical cannabis cardholder [retrieves] receives the shipment or the [local health department] medical cannabis courier returns the shipment to the [state central fill] home delivery medical cannabis pharmacy in accordance with Subsection [(5), in a single, secure, locked area that is equipped with a security system that detects and records entry into the area] (4)~~; and

(ii) ensure that only a ~~[local health department distribution] medical cannabis courier agent is able to access the [area] medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;~~

(b) return any ~~[unclaimed state central fill] undelivered medical cannabis shipment to the [state central fill] home delivery medical cannabis pharmacy, in accordance with Subsection [(5)(a)] (4), after the [local health department] medical cannabis courier has possessed the [state central fill] shipment for 10 business days; and~~

(c) return any ~~[state central fill] medical cannabis shipment to the [state central fill] home delivery medical cannabis pharmacy, in accordance with Subsection [(5)(b)] (4), if a medical cannabis cardholder [returns] refuses to accept the shipment [to the local health department after retrieving the shipment].~~

~~[(5)] (4) (a) If a [local health department] medical cannabis courier or home delivery medical cannabis pharmacy agent returns an [unclaimed state central fill] undelivered medical cannabis shipment [under Subsection (4)(b)] that remains unopened, the [state central fill] home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment [for another state central fill shipment].~~

(b) If a ~~[local health department] medical cannabis courier or home delivery medical cannabis pharmacy agent returns [a returned state central~~

~~fill] an undelivered or refused medical cannabis shipment under Subsection [(4)(c)] (3) that appears to be opened in any way, the [state central fill] home delivery medical cannabis pharmacy shall dispose of the [returned] shipment by:~~

(i) rendering the ~~[state central fill] shipment unusable and unrecognizable before transporting the shipment from the [state central fill] home delivery medical cannabis pharmacy; and~~

(ii) disposing of the ~~[state central fill] shipment in accordance with:~~

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 48. Section 26-61a-702 is amended to read:**

**26-61a-702. Enforcement -- Fine -- Citation.**

(1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter or an applicable administrative rule:

(i) revoke the medical cannabis pharmacy license;

(ii) refuse to renew the medical cannabis pharmacy license; or

(iii) assess the medical cannabis pharmacy an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or ~~[state central fill] medical cannabis courier agent's violation of this chapter:~~

(i) revoke the medical cannabis pharmacy agent or ~~[state central fill] medical cannabis courier agent registration card;~~

(ii) refuse to renew the medical cannabis pharmacy agent or ~~[state central fill] medical cannabis courier agent registration card; or~~

(iii) assess the medical cannabis pharmacy agent or ~~[state central fill] medical cannabis courier agent an administrative penalty.~~

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or a medical cannabis courier's license to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or agent registration card; or

(b) suspend, revoke, or place on probation the person's license or agent registration card.

(7) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual violates a provision of this chapter, the individual is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

**Section 49. Section 26-61a-703 is amended to read:**

**26-61a-703. Report.**

(1) By the November interim meeting each year beginning in 2020, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity [and timeliness of state central fill] of medical cannabis shipments[, including the amount of time between recommendation to] that the state central [fill medical cannabis pharmacy and arrival of a state central fill shipment at a local health department] patient portal facilitates;

~~[(k) the market share of state central fill shipments];~~

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

~~[(m) the expenses incurred and revenues generated from the state central fill medical cannabis pharmacy, including a profit and loss statement; and]~~

~~[(n)]~~ (m) an analysis of product availability[, including the price differential between comparable products,] in medical cannabis pharmacies [and the state central fill medical cannabis pharmacy].

(2) The department may not include personally identifying information in the report described in this section.

**Section 50. Section 30-3-10 is amended to read:**

**30-3-10. Custody of a child -- Custody factors.**

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

- (ii) co-parenting skills, including:
- (A) ability to appropriately communicate with the other parent;
- (B) ability to encourage the sharing of love and affection; and
- (C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and
- (iii) ability to provide personal care rather than surrogate care;
- (d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;
- (e) the emotional stability of the parent;
- (f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;
- (g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;
- (h) the parent's reasons for having relinquished custody or parent-time in the past;
- (i) duration and depth of desire for custody or parent-time;
- (j) the parent's religious compatibility with the child;
- (k) the parent's financial responsibility;
- (l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;
- (m) who has been the primary caretaker of the child;
- (n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;
- (o) the relative benefit of keeping siblings together;
- (p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;
- (q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and
- (r) any other factor the court finds relevant.
- (3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

- (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;
- (b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;
- (c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or
- (d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.
- (4) (a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.
- (b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.
- (5) (a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.
- (b) (i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.
- (ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.
- (c) (i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.
- (ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.
- (6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.
- (b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:
- (i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and
- (ii) the parent with a disability lacks sufficient human, monetary, or other resources available to

supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

(8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of [an opioid or opiate] any prescribed controlled substance; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) [state central fill] medical cannabis courier agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

**Section 51. Section 58-17b-302 is amended to read:**

**58-17b-302. License required -- License classifications for pharmacy facilities.**

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307; and

(b) for the operation of a medical cannabis pharmacy [or the state central fill medical cannabis

pharmacy] under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy;

(e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy[, including the state central fill medical cannabis pharmacy,] shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

**Section 52. Section 58-17b-310 is amended to read:**

**58-17b-310. Continuing education.**

(1) The division in collaboration with the board may establish by rule continuing education requirements for each classification of licensure under this chapter.

(2) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (1) continuing education that a pharmacist completes in accordance with [Sections] Section 26-61a-403 [and 26-61a-601].

**Section 53. Section 58-17b-502 is amended to read:**

**58-17b-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or

soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction,

government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order; and

(o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(a) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when ~~registered~~ acting as a state central ~~fill~~ patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central ~~fill~~ patient portal medical provider services ~~[in the state central fill medical cannabis pharmacy]~~.

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

**Section 54. Section 58-37-3.7 is amended to read:**

**58-37-3.7. Medical cannabis decriminalization.**

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(f) “Medicinal dosage form” means the same as that term is defined in Section 26-61a-102.

(g) “Qualified medical provider” means the same as that term is defined in Section 26-61a-102.

(h) “Qualifying condition” means the same as that term is defined in Section 26-61a-102.

(i) “Tetrahydrocannabinol” means the same as that term is defined in Section 58-37-3.9.

(2) Before January 1, 2021, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual’s illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;

(ii) for possession, was:

(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or

(B) the spouse of an individual described in Subsection (2)(a)(i); or

(iii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

(b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in one of the following amounts:

(i) no more than 56 grams by weight of unprocessed cannabis; or

(ii) an amount of cannabis products that contains, in total, no more than 10 grams of total composite tetrahydrocannabinol.

(3) An individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) at the time of the arrest or citation, the individual:

(i) was not a resident of Utah or has been a resident of Utah for less than 45 days;

(ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis card under the

laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(iii) had been diagnosed with a qualifying condition as described in Section 26-61a-104; and

(b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in ~~[a quantity described in Subsection 26-61a-502(2)]~~ one of the following amounts:

(i) no more than 113 grams by weight of unprocessed cannabis; or

(ii) an amount of cannabis products that contains, in total, no more than 20 grams of total composite tetrahydrocannabinol.

**Section 55. Section 58-37-3.8 is amended to read:**

**58-37-3.8. Enforcement.**

(1) A law enforcement officer, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources, including the officer’s time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section 26-61a-102, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

(b) enforce a law that restricts an individual’s right to acquire, own, or possess a firearm based solely on the individual’s possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section 26-61a-102, the state central ~~[fill medical cannabis pharmacy]~~ patient portal, as that term is defined in Section 26-61a-102, or a cannabis production establishment, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

**Section 56. Section 58-37-3.9 is amended to read:**

**58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.**

(1) As used in this section:

(a) “Cannabis” means marijuana.

(b) “Cannabis product” means the same as that term is defined in Section 26-61a-102.

(c) “Drug paraphernalia” means the same as that term is defined in Section 58-37a-3.



(d) “Medical cannabis cardholder” means the same as that term is defined in Section 26-61a-102.

(e) “Medical cannabis device” means the same as that term is defined in Section 26-61a-102.

(f) “Medicinal dosage form” means the same as that term is defined in Section 26-61a-102.

(g) “Tetrahydrocannabinol” means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3) (a) As used in this Subsection (3), “smoking” does not include the vaporization or heating of medical cannabis.

(b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) is subject to charges under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b).

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty or

conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

**Section 57. Section 58-67-304 is amended to read:**

**58-67-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee’s patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: “Do you perform elective abortions in Utah in a location other than a hospital?”; and

(b) immediately following the question, contain the following statement: “For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest.”

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the

physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and ~~[26-61a-601]~~ 26-61a-602.

**Section 58. Section 58-67-502 is amended to read:**

**58-67-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central ~~[fill]~~ patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central ~~[fill]~~ patient portal medical provider services ~~[in the state central fill medical cannabis pharmacy].~~

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a ~~[pharmacist]~~ physician described in Subsection (2)(b).

**Section 59. Section 58-68-304 is amended to read:**

**58-68-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and ~~[26-61a-601]~~ 26-61a-602.

**Section 60. Section 58-68-502 is amended to read:**

**58-68-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5; or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central ~~[fill]~~ patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central ~~[fill]~~ patient portal medical provider services ~~[in the state central fill medical cannabis pharmacy].~~

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define

unprofessional conduct for a ~~[pharmacist]~~ physician described in Subsection (2)(b).

**Section 61. Section 59-12-104.10 is amended to read:**

**59-12-104.10. Exemption from sales tax for cannabis.**

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(e) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

~~[(f) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.]~~

(2) In addition to the exemptions described in Section 59-12-104, the sale by a licensed medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy]~~ of the following is not subject to the taxes this chapter imposes:

(a) cannabis in a medicinal dosage form; or

(b) a cannabis product in a medicinal dosage form.

(3) The sale of a medical cannabis device by a medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy]~~ is subject to the taxes this chapter imposes.

**Section 62. Section 78A-2-231 is enacted to read:**

**78A-2-231. Consideration of lawful use or possession of medical cannabis.**

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not

consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the dosing parameters determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

**Section 63. Section 78A-6-115 is amended to read:**

**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Medical cannabis.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, a record of a proceeding made under Subsection (1)(a) shall be released by the court to any person upon a finding on the record for good cause.

(ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iii) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the request.

(iv) For purposes of this Subsection (1)(b):

(A) "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and

(B) "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the person who wrote the report or prepared the material appear as a witness if the person is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any person who participated in preparing the dispositional report to appear as a witness, if the person is reasonably available.

(5) (a) In an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the proceeding;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the proceeding.

(c) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

(d) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in its discretion, consider evidence of statements made by a child under eight years of age to a person in a trust relationship.

(7) (a) As used in this Subsection (7):

(i) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(ii) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.

(iii) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(iv) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(v) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed

controlled substance if the individual's use or possession complies with:

(i) Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the dosing parameters determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child, if:

(i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the dosing parameters determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(B) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3); and

(ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise had cannabis introduced to the child's body; or

(B) there is no evidence showing a nexus between the parent's or guardian's use of medical cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

**Section 64. Repealer.**

This bill repeals:

**Section 26-61a-110, Qualified Distribution Enterprise Fund -- Creation.**

**Section 26-61a-205, Lost or stolen medical cannabis card.**

**Section 26-61a-608, Department to set state central fill medical cannabis pharmacy prices.**

**Section 26-61a-609, Partial filling.**

**Section 26-61a-610, Records -- Inspections.**

**Section 26-61a-611, Advertising.**

**Section 26-65-101, Title.**

**Section 26-65-102, Definitions.**

**Section 26-65-103, Medicinal dosage form.**

**Section 26-65-201, Insurance coverage.**

**Section 26-65-202, Rules -- Report to the Legislature.**

**Section 65. Effective date.**

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

**Section 66. Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, in Section 4-41a-201, replace the language from "the effective date of this bill" to the bill's actual effective date.

**H.J.R. 101**

Passed September 16, 2019  
Effective September 16, 2019

**JOINT RESOLUTION APPROVING  
SWALLOW SETTLEMENT**

Chief Sponsor: Jefferson Moss  
Senate Sponsor: Jerry W. Stevenson

**LONG TITLE****General Description:**

This resolution grants the Legislature's approval for the settlement of a lawsuit and other alleged claims against the state.

**Highlighted Provisions:**

This resolution:

- ▶ gives the Legislature's approval to the settlement agreement negotiated by the parties and approved by the governor relating to the case of John E. Swallow v. State of Utah, Case No. 180901476 (Third District Court, State of Utah) and other alleged claims.

**Special Clauses:**

None

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

WHEREAS, the state of Utah was sued by John E. Swallow ("Swallow"), former attorney general of the state of Utah, in the case of John E. Swallow v. State of Utah, Case No. 180901476, in the Third District Court, State of Utah ("Swallow lawsuit");

WHEREAS, Swallow has indicated that he believes he has claims that he could assert against the state in addition to the claims he asserted or could have asserted in the Swallow lawsuit;

WHEREAS, the parties in the Swallow lawsuit have entered into a final settlement agreement providing for the state to pay Swallow \$1,500,000 and under which Swallow releases all claims against the state, including claims asserted or that could have been asserted in the Swallow lawsuit;

WHEREAS, pursuant to Utah Code Section 63G-10-302, the governor has approved the settlement agreement;

WHEREAS, Utah Code Section 63G-10-303 requires the Legislature to approve a settlement agreement that legally binds the state to take action that might cost government entities more than \$1,000,000 to implement; and

WHEREAS, the cost of implementing the settlement agreement will exceed \$1,000,000:

NOW, THEREFORE, BE IT RESOLVED that the Legislature approves the Settlement Agreement in the case of John E. Swallow v. State of Utah, relating to claims that Swallow asserted or could have asserted in the Swallow lawsuit and all other claims Swallow could assert against the state.





**LAWS**  
of the  
**STATE OF UTAH, 2019**

Passed at the  
**SECOND SPECIAL SESSION**  
of the  
**SIXTY-THIRD LEGISLATURE**

**Convened at the State Capitol in the City of Salt Lake  
and Adjourned Sine Die  
December 12, 2019**

# STATE OF UTAH



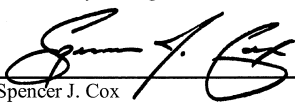
OFFICE OF THE LIEUTENANT GOVERNOR

## CERTIFICATE

**THIS IS TO CERTIFY** that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2019 Second Special Session of the Sixty-third Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2019 Second Special Session of the Sixty-third Legislature of the State of Utah convened at the Capitol in Salt Lake City on December 12, 2019 and adjourned on the same day.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 12<sup>th</sup> day of August, 2020.

  
\_\_\_\_\_  
Spencer J. Cox  
Lieutenant Governor

**CHAPTER 1  
S. B. 2001**

Passed December 12, 2019  
Approved December 18, 2019  
Effective February 11, 2020  
Exception clause

**TAX RESTRUCTURING REVISIONS**

Chief Sponsor: Lyle W. Hillyard  
House Sponsor: Francis D. Gibson

**LONG TITLE**

**General Description:**

This bill amends and enacts provisions related to state and local taxes and revenue.

**Highlighted Provisions:**

This bill:

- ▶ decreases the corporate franchise and income tax rate and the individual income tax rate;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate;
- ▶ repeals certain transfers from the General Fund into the Education Fund;
- ▶ modifies the calculation of the Utah personal exemption for purposes of the taxpayer tax credit;
- ▶ enacts a nonrefundable tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- ▶ provides that an individual who claims the tax credit for social security benefits may not also claim the retirement tax credit on the same return;
- ▶ enacts a refundable grocery tax credit;
- ▶ enacts a refundable state earned income tax credit for certain individuals who are experiencing intergenerational poverty;
- ▶ provides for apportionment of the state earned income tax credit and the grocery tax credit;
- ▶ provides a taxpayer tax credit rebate;
- ▶ creates an additional grocery tax credit;
- ▶ increases the state sales and use tax rate on food and food ingredients;
- ▶ imposes state and local sales and use tax on amounts paid or charged for certain services;
- ▶ modifies the sales and use tax dedications for the Transportation Investment Fund of 2005;
- ▶ directs a portion of growth in the amount of revenue collected from the sales and use tax on the sale of food and food ingredients be deposited into the Transit Transportation Investment Fund;
- ▶ repeals certain sales and use tax exemptions;
- ▶ provides a sales and use tax exemption for certain transactions paid for through a machine that only accepts cash;
- ▶ enacts a sales and use tax exemption for tangible personal property consumed in the performance of certain taxable services;
- ▶ establishes a repeal date for the sales and use tax exemption for construction materials used in the construction of a new or expanding life science research and development facility;
- ▶ creates a sales and use tax exemption for menstrual products;

- ▶ enacts a sales tax on motor fuel and special fuel other than diesel and an additional excise tax on diesel fuel;
- ▶ increases the state motor vehicle rental tax;
- ▶ provides a repeal date for the program that allows certain clean fuel vehicles to travel in a high occupancy vehicle lane regardless of the number of occupants;
- ▶ directs the Utah Department of Transportation to implement one or more strategies to manage congestion on state highways and to generate highway user fees;
- ▶ modifies the requirements of a certificate of emissions inspection;
- ▶ requires the Division of Motor Vehicles to share certain information from a certificate of emissions inspection with the Utah Department of Transportation;
- ▶ requires certain legislative committees to consider annually a report from the Utah Department of Transportation regarding the road usage charge program;
- ▶ requires the Utah Department of Transportation to notify certain legislative committees when revenue from the road usage charge program equals or exceeds specified amounts of revenue generated from the sales tax on motor fuel and special fuel other than diesel;
- ▶ addresses the requirements for using a high occupancy toll lane;
- ▶ modifies the permissible uses for funds in the Tollway Special Revenue Fund;
- ▶ provides funding from the Transportation Investment Fund of 2005 for improvement of class B roads located in certain counties of the fourth, fifth, and sixth class; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2020:

- ▶ To Department of Workforce Services -- Administration, as a one-time appropriation:
  - From General Fund, \$500,000.
- ▶ To the General Fund, as a one-time appropriation:
  - From the Education Fund Restricted -- Underage Drinking Prevention Program Restricted Account, One-time, \$1,750,000.

This bill appropriates in fiscal year 2021:

- ▶ To State Board of Education -- Child Nutrition, as an ongoing appropriation:
  - From Education Fund, \$55,500,000.
  - From Dedicated Credits -- Liquor Tax, (\$39,275,700).
- ▶ To State Board of Education -- State Administrative Office, as an ongoing appropriation:
  - From Education Fund, \$2,850,000.
  - From Education Fund Restricted -- Underage Drinking Prevention Program Restricted Account, (\$1,751,000).
- ▶ To University of Utah -- Education and General, as an ongoing appropriation:
  - From General Fund, \$101,608,900.
  - From Education Fund, (\$101,608,900).
- ▶ To University of Utah -- School of Medicine, as an ongoing appropriation:
  - From General Fund, \$35,899,500.

- From Education Fund, (\$35,899,500).
- ▶ To University of Utah -- University Hospital, as an ongoing appropriation:
  - From General Fund, \$1,533,000.
  - From Education Fund, (\$1,533,000).
- ▶ To University of Utah -- School of Dentistry, as an ongoing appropriation:
  - From General Fund, \$2,324,700.
  - From Education Fund, (\$2,324,700).
- ▶ To Utah State University -- Education and General, as an ongoing appropriation:
  - From General Fund, \$73,521,400.
  - From Education Fund, (\$73,521,400).
- ▶ To Utah State University -- USU-Eastern Education and General, as an ongoing appropriation:
  - From General Fund, \$12,503,400.
  - From Education Fund, (\$12,503,400).
- ▶ To Weber State University -- Education and General, as an ongoing appropriation:
  - From General Fund, \$94,098,000.
  - From Education Fund, (\$94,098,000).
- ▶ To Southern Utah University -- Education and General, as an ongoing appropriation:
  - From General Fund, \$47,444,900.
  - From Education Fund, (\$47,444,900).
- ▶ To Utah Valley University -- Education and General, as an ongoing appropriation:
  - From General Fund, \$22,092,900.
  - From Education Fund, (\$22,092,900).

#### Other Special Clauses:

This bill provides a special effective date.

This bill provides contingent retrospective operation.

#### Utah Code Sections Affected:

##### AMENDS:

- 15A-1-204, as last amended by Laws of Utah 2017, Chapter 18
- 26-36b-208, as last amended by Laws of Utah 2019, Chapters 1 and 393
- 32B-2-301, as last amended by Laws of Utah 2018, Chapter 329
- 32B-2-304, as last amended by Laws of Utah 2019, Chapter 403
- 32B-2-305, as last amended by Laws of Utah 2013, Chapter 400
- 35A-8-308, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 35A-8-309, as last amended by Laws of Utah 2019, Chapter 493
- 41-6a-409, as last amended by Laws of Utah 2017, Chapter 142
- 41-6a-505, as last amended by Laws of Utah 2019, Chapter 136
- 41-6a-1406, as last amended by Laws of Utah 2019, Chapter 373
- 41-6a-1642, as last amended by Laws of Utah 2019, Chapter 140
- 41-12a-806, as last amended by Laws of Utah 2019, Chapter 55
- 53B-8a-106, as last amended by Laws of Utah 2015, Chapter 94

- 53G-10-406, as last amended by Laws of Utah 2019, Chapter 293
- 59-1-1503, as last amended by Laws of Utah 2012, Chapter 399
- 59-7-104, as last amended by Laws of Utah 2019, Chapter 418
- 59-7-201, as last amended by Laws of Utah 2018, Chapter 456
- 59-7-610, as last amended by Laws of Utah 2019, Chapter 247
- 59-7-614.1, as last amended by Laws of Utah 2016, Chapter 375
- 59-7-618, as last amended by Laws of Utah 2017, Chapter 265
- 59-7-620, as last amended by Laws of Utah 2017, Chapter 222
- 59-10-104, as last amended by Laws of Utah 2018, Chapter 456
- 59-10-529.1, as enacted by Laws of Utah 2015, Chapter 369
- 59-10-1005, as last amended by Laws of Utah 2017, Chapter 148
- 59-10-1007, as last amended by Laws of Utah 2019, Chapter 247
- 59-10-1017, as last amended by Laws of Utah 2017, Chapter 389
- 59-10-1017.1, as enacted by Laws of Utah 2017, Chapter 389
- 59-10-1018, as last amended by Laws of Utah 2018, Second Special Session, Chapter 3
- 59-10-1019, as renumbered and amended by Laws of Utah 2008, Chapter 389
- 59-10-1022, as enacted by Laws of Utah 2008, Chapter 389
- 59-10-1023, as enacted by Laws of Utah 2008, Chapter 389
- 59-10-1028, as last amended by Laws of Utah 2012, Chapter 399
- 59-10-1033, as last amended by Laws of Utah 2017, Chapter 265
- 59-10-1035, as last amended by Laws of Utah 2017, Chapter 222
- 59-10-1036, as enacted by Laws of Utah 2016, Chapter 55
- 59-10-1105, as last amended by Laws of Utah 2016, Chapter 375
- 59-10-1403.3, as enacted by Laws of Utah 2017, Chapter 270
- 59-12-102, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
- 59-12-103, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
- 59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486
- 59-12-104.5, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 59-12-1201, as last amended by Laws of Utah 2016, Chapters 184 and 291
- 59-13-202, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 63I-2-253, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324, 325, and 444
- 63I-2-259, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 63I-2-272, as last amended by Laws of Utah 2019, Chapters 136 and 246

63M-4-702, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6  
 72-1-201, as last amended by Laws of Utah 2019, Chapter 431  
 72-1-213.1, as enacted by Laws of Utah 2019, Chapter 479  
 72-2-120, as last amended by Laws of Utah 2018, Chapter 269  
 72-2-124, as last amended by Laws of Utah 2019, Chapters 327 and 479  
 72-6-118, as last amended by Laws of Utah 2018, Chapter 269  
 72-9-603, as last amended by Laws of Utah 2019, Chapter 373

**ENACTS:**

35A-9-214, Utah Code Annotated 1953  
 59-10-1018.1, Utah Code Annotated 1953  
 59-10-1041, Utah Code Annotated 1953  
 59-10-1102.1, Utah Code Annotated 1953  
 59-10-1113, Utah Code Annotated 1953  
 59-10-1113.1, Utah Code Annotated 1953  
 59-10-1114, Utah Code Annotated 1953  
 59-13-323, Utah Code Annotated 1953  
 59-13-601, Utah Code Annotated 1953  
 63I-2-241, Utah Code Annotated 1953  
 72-1-213.2, Utah Code Annotated 1953

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

**Section 1. Section 15A-1-204 is amended to read:**

**15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.**

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

- (i) new construction is involved; and
- (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

- (i) a new State Construction Code is adopted; or
  - (ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.
- (d) A provision of the State Construction Code may be applicable:

- (i) to the entire state; or

- (ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

- (i) adopting a new State Construction Code in its entirety; or
- (ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

- (i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and
- (ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

- (i) states whether the commission recommends the Legislature adopt the update with any modifications; and
- (ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

- (i) study the recommendations; and
- (ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section

68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and

used solely for the type of sales described in Subsection 59-12-104~~(20)~~(17), is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

**Section 2. Section 26-36b-208 is amended to read:**

**26-36b-208. Medicaid Expansion Fund.**

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program as determined by the department;

(d) savings attributable to the enhancement waiver program as determined by the department;

(e) savings attributable to the Medicaid waiver expansion as determined by the department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

(g) ~~revenues~~ revenue collected from the sales tax described in Subsection 59-12-103~~(13)~~(12);

(h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(i) interest earned on money in the fund; and

(j) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) a Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

**Section 3. Section 32B-2-301 is amended to read:**

**32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.**

(1) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) ~~[Except as provided in Section 32B-2-304, the]~~ The department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title; and

(ii) money received from the markup described in Section 32B-2-304.

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

(3) (a) Notwithstanding Subsection (2)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the

extent necessary to cover the warrant, the cash resources of the General Fund may be used.

(4) (a) As used in this Subsection (4), "base budget" means the same as that term is defined in legislative rule.

(b) The department's base budget shall include as an appropriation from the Liquor Control Fund:

(i) credit card related fees paid by the department;

(ii) package agency compensation; and

(iii) the department's costs of shipping and warehousing alcoholic products.

(5) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection (5).

(b) After each fiscal year, the Division of Finance shall calculate the amount for the transfer on or before September 1 and the Division of Finance shall make the transfer on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

(6) (a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

(7) Before the Division of Finance makes the transfer described in Subsection (5), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the department may use for:

(a) capital equipment purchases;

(b) salary increases for department employees;

(c) performance awards for department employees; or

(d) information technology enhancements because of changes or trends in technology.

**Section 4. Section 32B-2-304 is amended to read:**

**32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

(2) Except as provided in Subsection (3):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:



(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.

~~[(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53E-3-510.]~~

~~[(5)]~~ (4) This section does not prohibit the department from selling discontinued items at a discount.

**Section 5. Section 32B-2-305 is amended to read:**

**32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.

(b) "Enforcement ratio" is as defined in Section 32B-1-201.

(c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3) (a) The fund consists of:

(i) deposits made under Subsection (4); and

(ii) interest earned on the fund.

(b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.

~~(4) [After the deposit made under Section 32B-2-304 for the school lunch program, the]~~ The department shall deposit 1% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be used by the Department of Public Safety as provided in Subsection (5).

(5) (a) The Department of Public Safety shall expend money from the fund to supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201.

(b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as a primary focus the enforcement of this title in relationship to restaurants.

**Section 6. Section 35A-8-308 is amended to read:**

**35A-8-308. Throughput Infrastructure Fund.**

(1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

(2) The fund consists of money generated from the following revenue sources:

(a) all amounts transferred to the fund ~~[under Subsection 59-12-103(12)]~~ by statute;

(b) any voluntary contributions received;

(c) appropriations made to the fund by the Legislature; and

(d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.

(3) The state treasurer shall:

(a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(b) deposit all interest or other earnings derived from those investments into the fund.

**Section 7. Section 35A-8-309 is amended to read:**

**35A-8-309. Throughput Infrastructure Fund administered by impact board -- Uses -- Review by board -- Annual report -- First project.**

(1) The impact board shall:

(a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;

(b) use money transferred to the Throughput Infrastructure Fund ~~[in accordance with Subsection 59-12-103(12)]~~ by statute to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act;

(c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

(d) determine provisions for repayment of loans;

(e) establish criteria for awarding loans and grants; and

(f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact

board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.

(4) To receive assistance under this section, a local political subdivision or an interlocal agency shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal agency; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal agencies that received assistance under this section.

(8) (a) The first throughput infrastructure project considered by the impact board shall be a bulk commodities ocean terminal project.

(b) Upon receipt of an application from an interlocal agency created for the sole purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean terminal project, the impact board shall:

(i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition of the throughput infrastructure project; and

(ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.

**Section 8. Section 35A-9-214 is enacted to read:**

**35A-9-214. Intergenerational poverty report to State Tax Commission.**

(1) As used in this section, "commission" means the State Tax Commission.

(2) On or before January 31 of each year, the department shall provide a notice to each individual the department identifies as experiencing intergenerational poverty that:

(a) informs the individual of the tax credit available under Section 59-10-1114; and

(b) explains the eligibility requirements and process for claiming a tax credit under Section 59-10-1114.

(3) For purposes of Subsection (2), an individual is experiencing intergenerational poverty if:

(a) the individual received public assistance during the previous calendar year;

(b) the individual received public assistance for 12 months or more since the individual reached 18 years of age; and

(c) the individual or the individual's family received public assistance for 12 months or more before the individual reached 18 years of age.

(4) (a) On or before March 1 of each year, the department shall, in accordance with applicable federal law, provide the commission an electronic report that states, for each individual to whom the department provided notice in accordance with this section during the preceding year:

(i) the individual's name; and

(ii) the individual's social security number.

(b) The department and the commission shall ensure that the information contained in each electronic report is secure and confidential.

**Section 9. Section 41-6a-409 is amended to read:**

**41-6a-409. Prohibition of flat response fee for motor vehicle accident.**

(1) As used in this section, "government entity" means the Department of Transportation, the Utah Highway Patrol Division, or a local government entity or agency.

(2) A government entity:

(a) may not impose a flat fee, or collect a flat fee, from an individual involved in a motor vehicle accident; and

(b) may only charge the individual for the actual cost or a reasonable estimate of the cost of services provided in responding to the motor vehicle accident, limited to:

(i) medical costs for transporting an individual from the scene of a motor vehicle accident or treating a person injured in a motor vehicle accident;

(ii) the cost for repair to damaged public property, if the individual is legally liable for the damage;

(iii) the cost of materials used in cleaning up the motor vehicle accident, if the individual is legally liable for the motor vehicle accident; ~~and~~

(iv) towing costs~~;~~ and

(v) applicable sales and use taxes.

(3) If a government entity imposes a charge on more than one individual for the actual cost or a reasonable estimate of the cost of responding to a motor vehicle accident, the government entity shall apportion the charges so that the government entity does not receive more for responding to the motor vehicle accident than the actual response cost or a reasonable estimate of the cost.

(4) Nothing in this section prohibits a government entity from contracting with an independent contractor to recover costs related to damage to public property.

(5) If a government entity enters into a contract with an independent contractor to recover costs related to damage to public property, the government entity may only pay the independent contractor out of any recovery received from the person who caused the damage or the responsible party.

**Section 10. Section 41-6a-505 is amended to read:**

**41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.**

(1) As part of any sentence for a first conviction of Section 41-6a-502:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 48 consecutive hours; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than \$700;

(vi) order probation for the individual in accordance with Section 41-6a-507, if there is admissible evidence that the individual had a blood alcohol level of .16 or higher;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603 and the applicable sales and use tax; or

(B) if the ~~[towing and storage fees]~~ amounts described in Subsection (1)(a)(viii)(A) were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 240 hours; or

(B) impose a jail sentence of not less than 120 hours in addition to home confinement of not fewer than 720 consecutive hours through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);

(v) impose a fine of not less than \$800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the [~~towing and storage fees~~] amounts described in Subsection (2)(a)(viii)(A) were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iii) order a combination of Subsections (2)(b)(i) and (ii).

(3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation, the court shall impose:

(a) a fine of not less than \$1,500;

(b) a jail sentence of not less than 1,500 hours; and

(c) supervised probation.

(4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:

(a) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(b) may impose an order requiring the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.

(5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.

(6) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

**Section 11. Section 41-6a-1406 is amended to read:**

**41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(c) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of:

(A) towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor; and

(B) the applicable sales and use tax;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6) (a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of \$400; and

(v) pays all towing and storage fees and applicable sales and use tax to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection [5] (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees [and], charges, and taxes incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

**Section 12. Section 41-6a-1642 is amended to read:**

**41-6a-1642. Emissions inspection -- County program.**

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

- (vi) Audi A8L, model years 2014, 2015, and 2016;
- (vii) Audi Q5, model years 2014, 2015, and 2016; and
- (viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

- (i) emissions standards;
- (ii) test procedures;
- (iii) inspections stations;
- (iv) repair requirements and dollar limits for correction of deficiencies; and
- (v) subject to Subsection (3)(e), certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(e) A certificate of emissions inspection shall contain an odometer reading.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) a motor vehicle powered solely by electric power; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) (a) The legislative body of a county described in Subsection (1) that does not require an emissions inspection for diesel-powered motor vehicles as of

December 31, 2017, shall implement a three-year pilot program as described in Subsection (7)(b).

(b) Beginning on January 1, 2019, and ending on December 31, 2021, the legislative body of a county described in Subsection (7)(a) shall require:

(i) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(A) a model year of 2007 or newer;

(B) a gross vehicle weight rating of 14,000 pounds or less; and

(C) a model year that is five years old or older; and

(ii) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(A) with a gross vehicle weight rating of 14,000 pounds or less;

(B) that has a model year of 1998 or newer; and

(C) that has a model year that is five years old or older.

(c) (i) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall prepare a report including:

(A) the total number of diesel-powered vehicles inspected as part of the pilot program using computerized technology;

(B) the passage and failure rates of the diesel-powered motor vehicles inspected as part of the pilot program using computerized technology, shown by model year;

(C) the total number of diesel-powered vehicles visually inspected as part of the pilot program;

(D) the passage and failure rates of the diesel-powered motor vehicles visually inspected as part of the pilot program, shown by model year;

(E) the total number of diesel-powered vehicles visually inspected as part of the pilot program where tampering with emissions equipment was found, shown by model year; and

(F) any other information the executive body or individual considers relevant.

(ii) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural Resources, Agriculture, and Environment Interim Committee:

(A) one time after January 1, 2020, but before August 31, 2020; and

(B) one time after January 1, 2021, but before August 31, 2021.

(d) After each report described in Subsection (7)(c), the Division of Air Quality created in Section 19-1-105 shall provide to the Natural Resources, Agriculture, and Environment Interim Committee and the legislative body of a county participating in the pilot program an estimate of the tons of

pollution emitted due to the failure rate of the diesel-powered motor vehicles in the pilot program.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in rules made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.



(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection(9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions

inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by \$2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a \$7.50 increase.

(13) (a) A county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

**Section 13. Section 41-12a-806 is amended to read:**

**41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

(c) appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(d) the department to reimburse a person for the costs, including any applicable sales and use tax, of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) The Legislature may appropriate not more than \$1,000,000 annually from the account to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use in law enforcement training, including training on the use of the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

**Section 14. Section 53B-8a-106 is amended to read:**

**53B-8a-106. Account agreements.**

The plan may enter into account agreements with account owners on behalf of beneficiaries under the following terms and agreements:

(1) (a) An account agreement may require an account owner to agree to invest a specific amount of money in the plan for a specific period of time for the benefit of a specific beneficiary, not to exceed an amount determined by the executive director.

(b) Account agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans.

(c) An account owner may make additional optional payments as long as the total payments for a specific beneficiary do not exceed the total estimated higher education costs as determined by the executive director.

(d) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified investment that a corporation that is an account owner may subtract from unadjusted income for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income Taxes, is \$1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010.

(e) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified investment that may be used as the basis for claiming a tax credit in accordance with Section 59-10-1017, is:

(i) subject to Subsection (1)(e)(iv), for a resident or nonresident estate or trust that is an account owner, \$1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010;

(ii) subject to Subsection (1)(e)(iv), for a resident or nonresident individual that is an account owner, other than a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010;

(iii) subject to Subsection (1)(e)(iv), for a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$3,420 for each individual beneficiary:

(A) for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010; and

(B) regardless of whether the plan has entered into:

(I) a separate account agreement with each spouse; or

(II) a single account agreement with both spouses jointly; or

(iv) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section ~~[59-10-1018]~~ 59-10-1017, the amount described in Subsection (1)(e)(ii); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section ~~[59-10-1018]~~ 59-10-1017, the amount described in Subsection (1)(e)(iii).

(f) (i) For taxable years beginning on or after January 1, 2011, the executive director shall annually increase the maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the increase in the consumer price index for the preceding calendar year.

(ii) After making an increase required by Subsection (1)(f)(i), the executive director shall:

(A) round the maximum amount of the qualified investments described in Subsections (1)(d) and (1)(e)(i) and (ii) increased under Subsection (1)(f)(i) to the nearest 10 dollar increment; and

(B) increase the maximum amount of the qualified investment described in Subsection (1)(e)(iii) so that the maximum amount of the qualified investment described in Subsection (1)(e)(iii) is equal to the product of:

(I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii) as rounded under Subsection (1)(f)(ii)(A); and

(II) two.

(iii) For purposes of Subsections (1)(f)(i) and (ii), the executive director shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(g) For taxable years beginning on or after January 1, 2011, the executive director shall keep the previous year's maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii) if the consumer price index for the preceding calendar year decreases.

(2) (a) Beneficiaries designated in account agreements must be designated after birth and before age 19 for an account owner to:

(i) subtract a qualified investment from income under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) use a qualified investment as the basis for claiming a tax credit in accordance with Section 59-10-1017.

(b) Account owners may designate a beneficiary age 19 or older, but investments for that beneficiary are not eligible to be:

(i) subtracted from income under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) used as the basis for claiming a tax credit in accordance with Section 59-10-1017.

(3) Each account agreement shall state clearly that there are no guarantees regarding money in the plan as to the return of principal and that losses could occur.

(4) Each account agreement shall provide that:

(a) a contributor to, or designated beneficiary under, an account agreement may not direct the investment of any contributions or earnings on contributions;

(b) any part of the money in any account may not be used as security for a loan; and

(c) an account owner may not borrow from the plan.

(5) The execution of an account agreement by the plan may not guarantee in any way that higher education costs will be equal to projections and estimates provided by the plan or that the beneficiary named in any account agreement will:

(a) be admitted to an institution of higher education;

(b) if admitted, be determined a resident for tuition purposes by the institution of higher education;

(c) be allowed to continue attendance at the institution of higher education following admission; or

(d) graduate from the institution of higher education.

(6) A beneficiary may be changed as permitted by the rules and regulations of the board upon written request of the account owner prior to the date of admission of any beneficiary under an account agreement by an institution of higher education so long as the substitute beneficiary is eligible for participation.

(7) An account agreement may be freely amended throughout the term of the account agreement in order to enable an account owner to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters as authorized by rule.

(8) Each account agreement shall provide that:

(a) the account agreement may be canceled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the board's rules and regulations; and

(b) the executive director may amend the agreement unilaterally and retroactively, if necessary, to maintain the plan as a qualified tuition program under Section 529, Internal Revenue Code.

**Section 15. Section 53G-10-406 is amended to read:**

**53G-10-406. Underage Drinking Prevention Program -- State board rules.**

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcohol;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking; and

(iv) provides practical tools to address the dangers of underage drinking.

(2) There is created the Underage Drinking Prevention Program that consists of:

(a) a school-based prevention program for students in grade 7 or 8; and

(b) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

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

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's underage drinking prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective at reducing underage drinking.

~~[(7) (a) The state board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section 53F-9-304 for the program.]~~

~~[(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.]~~

~~[(8)] (7) The state board shall make rules that:~~

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10; and

(b) establish criteria for the state board to use in selecting a provider described in Subsection (6).

**Section 16. Section 59-1-1503 is amended to read:**

**59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use tax remittance.**

(1) A nonrefundable individual income tax credit is allowed as provided in Section 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of legal tender for another form of legal tender.

(2) Sales of currency or coin are exempt from sales and use taxes as provided in Subsection 59-12-104~~(50)~~~~(43)~~.

(3) The remittance of a sales and use tax on a transaction involving specie legal tender is as provided in Section 59-12-107.

**Section 17. Section 59-7-104 is amended to read:**

**59-7-104. Tax -- Minimum tax.**

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise, as defined in Section 59-7-101, or for the privilege of doing business, as defined in Section 59-7-101, in the state.

(2) The tax shall be ~~[4.95%]~~ 4.66% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

**Section 18. Section 59-7-201 is amended to read:**

**59-7-201. Tax -- Minimum tax.**

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be ~~[4.95%]~~ 4.66% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than \$100.

**Section 19. Section 59-7-610 is amended to read:**

**59-7-610. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer's tax credit; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the taxpayer's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The taxpayer shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the taxpayer made the purchases or payments;

(b) before any other tax credits the taxpayer may claim for the taxable year; and

(c) before the taxpayer claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(8) A taxpayer may not claim or carry forward a tax credit under this section for a taxable year during which the taxpayer claims the targeted business income tax credit under Section 59-7-624.

**Section 20. Section 59-7-614.1 is amended to read:**

**59-7-614.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.**

(1) ~~[For a taxable year beginning on or after January 1, 2004, a]~~ A taxpayer may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the taxpayer pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A taxpayer:

(a) shall retain the following to establish the amount of tax the resident or nonresident individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b)~~[-(4)]~~ the commission shall make a refund to a taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter~~[- and]~~.

~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.]~~

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making~~[-(4)]~~ a refund to a taxpayer as required by Subsection (3)(a)~~[(4); or]~~.

~~[(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).]~~

**Section 21. Section 59-7-618 is amended to read:**

**59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a taxpayer that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single taxpayer.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act:

(a) in an amount equal to:

(i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during calendar year 2015 or calendar year 2016;

(ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

(iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

(iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

(v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an application for, and the director may not issue to the taxpayer, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the taxpayer for 10 qualified purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that taxpayer tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-10-1033 may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the taxpayer a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a taxpayer qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written tax credit certificate:

(A) stating that the taxpayer has qualified for a tax credit; and

(B) showing the amount of tax credit for which the taxpayer has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

~~[(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).]~~

**Section 22. Section 59-7-620 is amended to read:**

**59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.**

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a corporation that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) [5%] the percentage listed in Subsection 59-7-104(2); and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

**Section 23. Section 59-10-104 is amended to read:**

**59-10-104. Tax basis -- Tax rate -- Exemption.**

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) ~~[4.95%~~ 4.66%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

**Section 24. Section 59-10-529.1 is amended to read:**

**59-10-529.1. Time period for commission to issue a refund.**

(1) Except as provided in Subsection (2), the commission may not issue a refund before March 1.

(2) The commission may issue a refund before March 1 if, before March 1, the commission determines that:

(a) (i) an employer has filed the one or more forms in accordance with Subsection 59-10-406(8) the employer is required to file with respect to an individual; and

(ii) for a refund of a tax credit described in Section 59-10-1114, the Department of Workforce Services has submitted the electronic report required by Section 35A-9-214; and

(b) the individual has filed a return in accordance with this chapter.

**Section 25. Section 59-10-1005 is amended to read:**

**59-10-1005. Tax credit for at-home parent.**

(1) As used in this section:

(a) "At-home parent" means a parent:

(i) who provides full-time care at the parent's residence for one or more of the parent's own qualifying children;

(ii) who claims ~~[the qualifying child as a dependent on the parent's individual income tax return for the taxable year for which the parent claims the credit]~~ a tax credit with respect to the qualifying child under Section 24, Internal Revenue Code, on the parent's federal individual income tax return for the taxable year; and

(iii) if the sum of the following amounts are \$3,000 or less for the taxable year for which the parent claims the credit:

(A) the total wages, tips, and other compensation listed on all of the parent's federal Forms W-2; and

(B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or Loss From Business.

(b) "Parent" means an individual who:

(i) is the biological mother or father of a qualifying child;

(ii) is the stepfather or stepmother of a qualifying child;

(iii) (A) legally adopts a qualifying child; or

(B) has a qualifying child placed in the individual's home:

(I) by a child-placing agency, as defined in Section 62A-2-101; and

(II) for the purpose of legally adopting the child;

(iv) is a foster parent of a qualifying child; or

(v) is a legal guardian of a qualifying child.

(c) "Qualifying child" means a child who is no more than 12 months of age on the last day of the taxable year for which the tax credit is claimed.

(2) ~~[For a taxable year beginning on or after January 1, 2000, a]~~ A claimant may claim on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each qualifying child if:

(a) the claimant or another claimant filing a joint individual income tax return with the claimant is an at-home parent; and

(b) the adjusted gross income of all of the claimants filing the individual income tax return is less than or equal to \$50,000.

(3) A claimant may not carry forward or carry back a tax credit authorized by this section.

~~[(4)(a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (4)(a).]~~

**Section 26. Section 59-10-1007 is amended to read:**

**59-10-1007. Recycling market development zones tax credits.**



(1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

- (i) commercial composting; or
- (ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

- (b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah; and

- (ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;

(B) the date that the claimant, estate, or trust purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;

(E) the amount of the claimant's, estate's, or trust's tax credit; and

(F) a statement that the machinery and equipment are integral to the composting or recycling process; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the claimant, estate, or trust made to a third party;

(B) the date that the claimant, estate, or trust made the payment to a third party;

(C) the amount that the claimant, estate, or trust paid to each third party;

(D) the total amount that the claimant, estate, or trust paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the claimant's, estate's, or trust's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.

(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and

(c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(8) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

**Section 27. Section 59-10-1017 is amended to read:**

**59-10-1017. Utah Educational Savings Plan tax credit.**

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

(b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(c) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5.

(d) "Joint filing status" means:

(i) spouses who file one return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

~~(d)~~ (e) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of [5%] the percentage listed in Subsection 59-10-104(2) and:

(i) subject to Subsection (1)~~(d)~~(e)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than [husband and wife] spouse account owners who file [a single] one return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g);

(ii) subject to Subsection (1)~~(d)~~(e)(iii), for claimants who are [husband and wife] spouse account owners who file [a single] one return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(iii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); or

(iii) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)~~(d)~~(e)(i); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)~~(d)~~(e)(ii).

~~(e)~~ (f) "Owner of the grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

~~(f)~~ (g) "Qualified investment" means the same as that term is defined in Section 53B-8a-102.5.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

(a) the amount of a qualified investment made:

(i) during the taxable year; and

(ii) into an account owned by the claimant, estate, or trust; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).

(4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

(5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year.

(6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

(7) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.1.

**Section 28. Section 59-10-1017.1 is amended to read:**

**59-10-1017.1. Student Prosperity Savings Program tax credit.**

(1) As used in this section, "qualified donation" means an amount donated, in accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in Section 53B-8a-202.

(2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified donation.

(3) The tax credit equals the product of:

(a) the qualified donation; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(4) A claimant, estate, or trust may not claim a tax credit under this section with respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a federal income tax return.

(5) A claimant, estate, or trust may not carry forward or carry back the portion of the tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for the taxable year in which the claimant, estate, or trust claims the tax credit.

(6) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.

**Section 29. Section 59-10-1018 is amended to read:**

**59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

(1) As used in this section:

(a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files ~~[a single]~~ one federal individual income tax return for the taxable year.

(b) "Joint filing status" means ~~[-(i)]~~ spouses who file ~~[a single]~~ one return jointly under this chapter for a taxable year ~~[-or]~~.

~~[(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.]~~

(c) "Qualifying dependent" means an individual with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.

(d) "Qualifying widower filing status" means a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

~~[(d)]~~ (e) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

~~[(e)]~~ (f) "State or local income tax" means the lesser of:

(i) the amount of state or local income tax that the claimant:

(A) pays for the taxable year; and

(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and

(ii) \$10,000.

~~[(f)]~~ (g) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.

(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.

~~[(g)]~~ (h) "Utah personal exemption" means, subject to Subsection (6), ~~[\$565]~~ \$2,500 multiplied

by ~~[the number of the claimant's qualifying dependents.]~~:

(i) for a claimant who has a joint filing status and no qualifying dependents, one; or

(ii) for a claimant who has qualifying dependents, the number of the claimant's qualifying dependents.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction; and

(b) 6% of the claimant's Utah personal exemption.

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, ~~[\$12,000]~~ \$14,879;

(b) for a claimant who has a head of household filing status, ~~[\$18,000]~~ \$22,318; or

(c) for a claimant who has a joint filing status~~[-,~~ ~~\$24,000]~~ or a qualifying widower filing status, \$29,758.

(5) (a) For a taxable year beginning on or after January 1, ~~[2009]~~ 2021, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year ~~[2007]~~ 2019:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(6) (a) For a taxable year beginning on or after January 1, [2019] 2021, the commission shall increase annually the Utah personal exemption amount listed in Subsection (1)(~~g~~)(h) by a percentage equal to the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year [2017] 2019.

(b) After the commission increases the Utah personal exemption amount as described in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the nearest whole dollar.

(c) For purposes of Subsection (6)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

**Section 30. Section 59-10-1018.1 is enacted to read:**

**59-10-1018.1. Taxpayer tax credit rebate.**

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Qualifying dependent" means the same as that term is defined in Section 59-10-1018.

(d) "Qualifying filer" means a person who files a return under this chapter:

(i) (A) for a taxable year beginning on or after January 1, 2018, and on or before December 31, 2018; and

(B) on or before the deadline described in Section 59-10-516; or

(ii) (A) for a taxable year beginning on or after January 1, 2019, and on or before December 31, 2019; and

(B) on or before the deadline described in Section 59-10-514.

(e) "Qualifying widower filing status" means the same as that term is defined in Section 59-10-1018.

(f) "Single filing status" means the same as that term is defined in Section 59-10-1018.

(g) "Utah personal exemption rebate" means \$1,285 multiplied by the number of the claimant's qualifying dependents.

(2) Subject to the other provisions of this section, the commission shall provide a rebate to each qualifying filer equal to the lesser of:

(a) the qualifying filer's tax liability for:

(i) the taxable year beginning on or after January 1, 2018, and on or before December 31, 2018; or

(ii) if the claimant did not file a return under this chapter for the taxable year described in Subsection (2)(a), the taxable year beginning on or after January 1, 2019, and on or before December 31, 2019; and

(b) 6% of the claimant's Utah personal exemption rebate.

(3) The rebate described in Subsection (2) is reduced by \$.013 for each dollar by which the claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, \$14,879;

(b) for a claimant who has a head of household filing status, \$22,318; or

(c) for a claimant who has a joint filing status or a qualifying widower filing status, \$29,758.

(4) For each return filed under this chapter, no more than one qualifying filer may receive a rebate under this section.

(5) The commission shall provide a qualifying filer who is a nonresident individual or a part-year resident individual an apportioned amount of the rebate described in this section equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the rebate that the commission would have provided the nonresident individual but for the apportionment requirements described in this subsection; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the rebate that the commission would have provided the part-year resident individual but for the apportionment requirements described in this subsection.

(6) If the value of a qualifying filer's rebate under this section is less than \$25, the qualifying filer is not eligible to receive the rebate.

(7) The commission shall comply with Subsection (2) on or before:

(a) April 1, 2020; or

(b) if the claimant did not file a return under this chapter for the taxable year beginning on or after January 1, 2018, and on or before December 31, 2018, July 1, 2020.

**Section 31. Section 59-10-1019 is amended to read:**

**59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

(1) As used in this section:

(a) "Eligible over age 65 [or older] retiree" means a claimant, regardless of whether that claimant is

retired, who: (i) is 65 years of age or older; and (ii) was born on or before December 31, 1952.

~~[(b) (i) —“Eligible retirement income” means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:]~~

~~[(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and]~~

~~[(B) (I) paid from an annuity contract purchased by an employer under a plan that meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

~~[(II) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or]~~

~~[(III) paid by:]~~

~~[(Aa) the United States;]~~

~~[(Bb) a state or a political subdivision of a state; or]~~

~~[(Cc) the District of Columbia.]~~

~~[(ii) “Eligible retirement income” does not include amounts received by the spouse of a living eligible under age 65 retiree because of the eligible under age 65 retiree’s having been employed in a community property state.]~~

~~[(c) —“Eligible under age 65 retiree” means a claimant, regardless of whether that claimant is retired, who:]~~

~~[(i) is younger than 65 years of age;]~~

~~[(ii) was born on or before December 31, 1952; and]~~

~~[(iii) has eligible retirement income for the taxable year for which a tax credit is claimed under this section.]~~

~~[(d) (b) “Head of household filing status” [is as] means the same as that term is defined in Section 59-10-1018.~~

~~[(e) —“Joint filing status” is as defined in Section 59-10-1018.]~~

~~(c) “Joint filing status” means:~~

~~(i) spouses who file one return jointly under this chapter for a taxable year; or~~

~~(ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.~~

~~[(f) (d) “Married filing separately status” means a married individual who:~~

~~(i) does not file a single federal individual income tax return jointly with that married individual’s spouse for the taxable year; and~~

~~(ii) files a single federal individual income tax return for the taxable year.~~

~~[(g) (e) “Modified adjusted gross income” means the sum of an eligible over age 65 [or older retiree’s or eligible under age 65 retiree’s] retiree’s:~~

~~(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;~~

~~(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)[(g)(e)(i); and~~

~~(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)[(g)(e)(i).~~

~~[(h) (f) “Single filing status” means a single individual who files a single federal individual income tax return for the taxable year.~~

~~(2) Except as provided in Section 59-10-1002.2 [and subject to Subsections (3) through (5): (a)] and Subsections (3) and (4), each eligible over age 65 [or older] retiree may claim a nonrefundable tax credit of \$450 against taxes otherwise due under this part[; or].~~

~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes otherwise due under this part in an amount equal to the lesser of:]~~

~~[(i) \$288; or]~~

~~[(ii) the product of:]~~

~~[(A) the eligible under age 65 retiree’s eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

~~[(B) 6%.]~~

~~[(3) A tax credit under this section may not be carried forward or carried back.]~~

~~(3) An eligible over age 65 retiree may not:~~

~~(a) carry forward or carry back a tax credit under this section; or~~

~~(b) claim a tax credit under this section if a tax credit is claimed under Section 59-10-1041 on the same return.~~

~~(4) The [sum of the tax credits] tax credit allowed by Subsection (2) claimed on [one] a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:~~

~~(a) for a federal individual income tax return that is allowed a married filing separately status, \$16,000;~~

~~(b) for a federal individual income tax return that is allowed a single filing status, \$25,000;~~

~~(c) for a federal individual income tax return that is allowed a head of household filing status, \$32,000; or~~

~~(d) for a return under this chapter that is allowed a joint filing status, \$32,000.~~

~~[(5) For purposes of determining the ownership of items of retirement income under this section,~~

common law doctrine shall be applied in all cases even though some items of retirement income may have originated from service or investments in a community property state.]

**Section 32. Section 59-10-1022 is amended to read:**

**59-10-1022. Nonrefundable tax credit for capital gain transactions.**

(1) As used in this section:

(a) (i) “Capital gain transaction” means a transaction that results in a:

- (A) short-term capital gain; or
- (B) long-term capital gain.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “transaction.”

(b) “Commercial domicile” means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(c) “Long-term capital gain” is as defined in Section 1222, Internal Revenue Code.

(d) “Qualifying stock” means stock that is:

- (i) (A) common; or
- (B) preferred;

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, originally issued to:

(A) a claimant, estate, or trust; or

(B) a partnership if the claimant, estate, or trust that claims a tax credit under this section:

(I) was a partner on the day on which the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

- (A) by a Utah small business corporation;
- (B) on or after January 1, 2008; and
- (C) for:

(I) money; or

(II) other property, except for stock or securities.

(e) “Short-term capital gain” is as defined in Section 1222, Internal Revenue Code.

(f) (i) “Utah small business corporation” means a corporation that:

(A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

(B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and

(C) has its commercial domicile in this state.

(ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

(iii) The phrase “the date the loss on such stock was sustained” in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be “the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section.”

(2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:

(a) the total amount of the claimant’s, estate’s, or trust’s short-term capital gain or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:

(a) 70% or more of the gross proceeds of the capital gain transaction are expended:

(i) to purchase qualifying stock in a Utah small business corporation; and

(ii) within a 12-month period after the day on which the capital gain transaction occurs; and

(b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.

(4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) defining the term “gross proceeds”; and

(b) prescribing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

**Section 33. Section 59-10-1023 is amended to read:**

**59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit plan.**

(1) As used in this section:

(a) “Claimant with dependents” means a claimant:

(i) regardless of the claimant’s filing status for purposes of filing a federal individual income tax return for the taxable year; and

(ii) who claims ~~[one or more dependents under Section 151]~~ a tax credit under Section 24, Internal Revenue Code, ~~[as allowed]~~ on the claimant's federal individual income tax return for the taxable year.

(b) "Eligible insured individual" means:

(i) the claimant who is insured under a health benefit plan;

(ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant files ~~[a single]~~ one return jointly under this chapter with the claimant's spouse for the taxable year; and

(B) the spouse is insured under the health benefit plan described in Subsection (1)(b)(i); or

(iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant claims the dependent under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year; and

(B) the dependent is insured under the health benefit plan described in Subsection (1)(b)(i).

(c) "Excluded expenses" means an amount a claimant pays for insurance offered under a health benefit plan for a taxable year if:

(i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual;

(ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual; or

(iii) the claimant excludes that amount from gross income under Section 106 or 125, Internal Revenue Code, with respect to an eligible insured individual.

(d) (i) "Health benefit plan" is as defined in Section 31A-1-301.

(ii) "Health benefit plan" does not include equivalent self-insurance as defined by the Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "Joint claimant with no dependents" means ~~[a husband and wife]~~ spouses who:

(i) file ~~[a single]~~ one return jointly under this chapter for the taxable year; and

(ii) do not claim a dependent under Section 151, Internal Revenue Code, on the ~~[husband's and~~

wife's] spouses' federal individual income tax return for the taxable year.

(f) "Single claimant with no dependents" means:

(i) a single individual who:

(A) files a single federal individual income tax return for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on the single individual's federal individual income tax return for the taxable year;

(ii) a head of household:

(A) as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year; and

(B) who does not claim a dependent under Section 151, Internal Revenue Code, on the head of household's federal individual income tax return for the taxable year; or

(iii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on that married individual's federal individual income tax return for the taxable year.

(2) Subject to Subsection (3), and except as provided in Subsection (4), ~~[for taxable years beginning on or after January 1, 2009,]~~ a claimant may claim a nonrefundable tax credit equal to the product of:

(a) the difference between:

(i) the total amount the claimant pays during the taxable year for:

(A) insurance offered under a health benefit plan; and

(B) an eligible insured individual; and

(ii) excluded expenses; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim on a return for a taxable year is:

(a) for a single claimant with no dependents, \$300;

(b) for a joint claimant with no dependents, \$600; or

(c) for a claimant with dependents, \$900.

(4) A claimant may not claim a tax credit under this section if the claimant is eligible to participate in insurance offered under a health benefit plan maintained and funded in whole or in part by:

(a) the claimant's employer; or

(b) another person's employer.

(5) A claimant may not carry forward or carry back a tax credit under this section.

**Section 34. Section 59-10-1028 is amended to read:**

**59-10-1028. Nonrefundable tax credit for capital gain transactions on the exchange of one form of legal tender for another form of legal tender.**

(1) As used in this section:

(a) "Capital gain transaction" means a transaction that results in a:

- (i) short-term capital gain; or
- (ii) long-term capital gain.

(b) "Long-term capital gain" ~~is as defined~~ means the same as that term is defined in Section 1222, Internal Revenue Code.

(c) "Long-term capital loss" ~~is as defined~~ means the same as that term is defined in Section 1222, Internal Revenue Code.

(d) "Net capital gain" means the amount by which the sum of long-term capital gains and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges made for a taxable year of one form of legal tender for another form of legal tender exceeds the sum of long-term capital losses and short-term capital losses on those transactions for that taxable year.

(e) "Short-term capital loss" ~~is as defined~~ means the same as that term is defined in Section 1222, Internal Revenue Code.

(f) "Short-term capital gain" ~~is as defined~~ means the same as that term is defined in Section 1222, Internal Revenue Code.

(2) Except as provided in Section 59-10-1002.2, ~~for taxable years beginning on or after January 1, 2012;~~ a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

(a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and

(b) ~~[5%]~~ the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

**Section 35. Section 59-10-1033 is amended to read:**

**59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

- (i) has never been titled or registered and has been driven less than 7,500 miles; and
- (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a claimant, estate, or trust that:

- (i) purchases a qualified heavy duty vehicle; and
- (ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to:

(i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during calendar year 2015 or calendar year 2016;

(ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

(iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

(iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

(v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax



credit certificates to the claimant, estate, or trust for 10 qualified purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the director may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-7-618 may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the claimant, estate, or trust to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an application for a tax credit certificate.

(6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a claimant, estate, or trust qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written tax credit certificate:

(A) stating that the claimant, estate, or trust has qualified for a tax credit; and

(B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).]~~

**Section 36. Section 59-10-1035 is amended to read:**

**59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.**

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a claimant, estate, or trust that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) “Designated beneficiary” means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) “Qualified ABLE program” means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) [5%] the percentage listed in Subsection 59-10-104(2); and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

**Section 37. Section 59-10-1036 is amended to read:**

**59-10-1036. Nonrefundable tax credit for military survivor benefits.**

(1) As used in this section:

(a) “Dependent child” means the same as that term is defined in 10 U.S.C. Sec. 1447.

(b) “Reserve components” means the same as that term is described in 10 U.S.C. Sec. 10101.

(c) “Surviving spouse” means the same as that term is defined in 10 U.S.C. Sec. 1447.

(d) “Survivor benefits” means the amount paid by the federal government in accordance with 10 U.S.C. Secs. 1447 through 1455.

(2) A surviving spouse or dependent child may claim a nonrefundable tax credit for survivor benefits if the benefits are paid due to:

(a) the death of a member of the armed forces or reserve components while on active duty; or

(b) the death of a member of the reserve components that results from a service-connected cause while performing inactive duty training.

(3) The tax credit described in Subsection (2) is equal to the product of:

(a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(4) The tax credit described in Subsection (2):

(a) may not be carried forward or carried back; and

(b) applies to a taxable year beginning on or after January 1, 2017.

**Section 38. Section 59-10-1041 is enacted to read:**

**59-10-1041. Nonrefundable tax credit for social security benefits.**

(1) As used in this section:

(a) “Head of household filing status” means the same as that term is defined in Section 59-10-1018.

(b) “Joint filing status” means:

(i) spouses who file one return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(c) “Married filing separately status” means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual’s spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) “Modified adjusted gross income” means the sum of a claimant’s:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) “Single filing status” means a single individual who files a single federal individual income tax return for the taxable year.

(f) “Social security benefit” means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant’s social security benefit that is included in adjusted gross income on the claimant’s federal income tax return for the taxable year.

(3) A claimant may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim a tax credit under this section if a tax credit is claimed under Section 59-10-1019 on the same return.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a return that has a married filing separately status, \$24,000;

(b) for a return that has a single filing status, \$30,000;

(c) for a return that has a head of household filing status, \$48,000; or

(d) for a return that has a joint filing status, \$48,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming a tax credit described in this section.

**Section 39. Section 59-10-1102.1 is enacted to read:**

**59-10-1102.1. Apportionment of tax credit.**

(1) A part-year resident individual who claims the tax credit described in Section 59-10-1113 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the part-year resident individual; and

(b) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirement of this section.

(2) A nonresident individual or a part-year resident individual who claims the tax credit described in Section 59-10-1114 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident individual or the state income tax percentage for the part-year resident individual; and

(b) the amount of the tax credit that the nonresident individual or the part-year resident individual would have been allowed to claim but for the apportionment requirement of this section.

**Section 40. Section 59-10-1105 is amended to read:**

**59-10-1105. Tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.**

(1) ~~[For a taxable year beginning on or after January 1, 2004, a]~~ A claimant, estate, or trust may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A claimant, estate, or trust:

(a) shall retain the following to establish the amount of tax the claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b)[-(i)], the commission shall make a refund to a claimant, estate, or trust that claims a tax credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter[-;and].

~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into the Education Fund an amount equal to the aggregate amount of all tax credits claimed under this section.]~~

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making[-; (i)] a refund to a claimant, estate, or trust as required by Subsection (3)(a)[(i); or].

~~[(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).]~~

**Section 41. Section 59-10-1113 is enacted to read:**

**59-10-1113. Refundable grocery tax credit.**

(1) As used in this section:

(a) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(b) "Modified adjusted gross income" means the sum of a claimant's:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(b)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(b)(i).

(c) “Phaseout amount” means an amount equal to 0.0035% of the amount calculated under Subsection (2).

(d) “Qualifying dependent” means the same as that term is defined in Section 59-10-1018.

(e) “Qualifying household member” means:

(i) the qualifying individual;

(ii) the qualifying individual’s spouse, if the qualifying individual:

(A) files one return jointly under this chapter with the qualifying individual’s spouse for a taxable year; or

(B) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for a taxable year; and

(iii) a qualifying dependent.

(f) “Qualifying individual” means a resident individual who is not a qualifying dependent.

(2) Subject to Section 59-10-1102.1 and the provisions of this section, a qualifying individual may claim a refundable grocery tax credit equal to the sum of:

(a) \$125 multiplied by the number of qualifying household members, up to four; and

(b) \$50 multiplied by the number of qualifying household members that exceeds four.

(3) (a) If a qualifying household member was incarcerated for any part of the taxable year for which the qualifying individual claims the grocery tax credit, the qualifying individual’s credit for the qualifying household member is reduced by an amount proportionate to the time the qualifying household member was incarcerated during the taxable year.

(b) For purposes of calculating the proportionate amount under Subsection (3)(a), the qualifying household member who was incarcerated is considered:

(i) one of the qualifying household members described in Subsection (2)(a); or

(ii) if four other qualifying household members were incarcerated for part of the taxable year and each considered one of the four qualifying household members described in Subsection (2)(a), one of the qualifying household members described in Subsection (2)(b).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for calculating the proportionate amount described in this subsection.

(4) The tax credit described in this section is reduced by the phaseout amount for each dollar by

which the claimant’s modified adjusted gross income exceeds the lesser of:

(a) 175% of the federal poverty level for the claimant’s household size; or

(b) 175% of the federal poverty level for a household with five individuals.

(5) (a) Except as provided in Subsection (5)(b), to claim the tax credit described in this section, a qualifying individual shall file a return under this chapter.

(b) A qualifying individual who is not required to file a return under this chapter for the taxable year in which the qualifying individual claims a credit under this section, may claim the tax credit described in this section by filing a form prescribed by the commission.

(6) For each return filed under this chapter, no more than one qualifying individual may receive a credit under this section.

#### **Section 42. Section 59-10-1113.1 is enacted to read:**

##### **59-10-1113.1. Additional grocery tax credit.**

(1) As used in this section:

(a) “2019 credit amount” means the amount of a grocery tax credit an individual could have claimed for a taxable year beginning on or after January 1, 2019, and on or before December 31, 2019, if the grocery tax credit had been in effect, without applying the provisions of Subsection 59-10-1113(3).

(b) “2019 qualifying individual” means a qualifying individual as defined in Section 59-10-1113 who files a 2019 return on or before the deadline described in Section 59-10-514.

(c) “2019 return” means a return filed under this chapter for a taxable year beginning on or after January 1, 2019, and on or before December 31, 2019.

(d) “Grocery tax credit” means the refundable grocery tax credit described in Section 59-10-1113.

(2) Subject to the other provisions of this section, the commission shall provide each 2019 qualifying individual an additional grocery tax credit equal to 25% of the 2019 qualifying individual’s 2019 credit amount.

(3) For each return filed under this chapter, no more than one 2019 qualifying individual may receive a credit under this section.

(4) The commission shall provide a 2019 qualifying individual who is a part-year resident individual an apportioned amount of the additional grocery tax credit equal to the product of:

(a) the state income tax percentage for the part-year resident individual; and

(b) the amount of the additional grocery tax credit that the commission would have provided the part-year resident individual but for the apportionment requirements of this subsection.

(5) If the value of a 2019 qualifying individual's additional grocery tax credit under this section is less than \$20, the 2019 qualifying individual is not eligible to receive the credit.

(6) The commission shall comply with Subsection (2) on or before July 1, 2020.

(7) The provisions of Sections 59-10-529 and 63A-3-302 do not apply to a credit described in this section.

**Section 43. Section 59-10-1114 is enacted to read:**

**59-10-1114. Refundable state earned income tax credit.**

(1) As used in this section:

(a) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(b) "Federal earned income tax credit" means the federal earned income tax credit described in Section 32, Internal Revenue Code.

(c) "Qualifying claimant" means a resident individual or nonresident individual who:

(i) is identified by the department as experiencing intergenerational poverty in accordance with Section 35A-9-214; and

(ii) claimed the federal earned income tax credit for the previous taxable year.

(2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a refundable earned income tax credit equal to 10% of the amount of the federal earned income tax credit that the qualifying claimant was entitled to claim on a federal income tax return in the previous taxable year.

(3) (a) The commission shall use the electronic report described in Section 35A-9-214 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

(b) The commission may not use the electronic report described in Section 35A-9-214 for any other purpose.

**Section 44. Section 59-10-1403.3 is amended to read:**

**59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

(1) As used in this section:

(a) "Committee" means the Revenue and Taxation Interim Committee.

(b) "Qualifying excess withholding" means an amount that:

(i) is paid or withheld:

(A) by a pass-through entity that has a different taxable year than the pass-through entity that requests a refund under this section; and

(B) on behalf of the pass-through entity that requests the refund, if the pass-through entity that

requests the refund also is a pass-through entity taxpayer; and

(ii) is equal to the difference between:

(A) the amount paid or withheld for the taxable year on behalf of the pass-through entity that requests the refund; and

(B) the product of [5%] the percentage listed in Subsection 59-10-104(2) and the income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests the refund.

(2) ~~[For a taxable year ending on or after July 1, 2017, a] A pass-through entity may claim a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is equal to or greater than \$250,000.~~

(3) A pass-through entity that requests a refund of qualifying excess withholding under this section shall:

(a) apply to the commission for a refund on or, subject to Subsection (4), after the day on which the pass-through entity files the pass-through entity's income tax return; and

(b) provide any information that the commission may require to determine that the pass-through entity is eligible to receive the refund.

(4) A pass-through entity shall claim a refund of qualifying excess withholding under this section within 30 days after the earlier of the day on which:

(a) the pass-through entity files an income tax return; or

(b) the pass-through entity's income tax return is due, including any extension of due date authorized in statute.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing the information that a pass-through entity shall provide to the commission to obtain a refund of qualifying excess withholding under this section.

~~[(6) (a) On or before November 30, 2018, the committee shall review the \$250,000 threshold described in Subsection (2) for the purpose of assessing whether the threshold amount should be maintained, increased, or decreased.]~~

~~[(b) To assist the committee in conducting the review described in Subsection (6)(a), the commission shall provide the committee with:]~~

~~[(i) the total number of refund requests made under this section;]~~

~~[(ii) the total costs of any refunds issued under this section;]~~

~~[(iii) the costs of any audits conducted on refund requests made under this section; and]~~

~~[(iv) an estimation of:]~~

~~[(A) the number of refund requests the commission expects to receive if the Legislature increases the threshold;]~~

~~[(B) the number of refund requests the commission expects to receive if the Legislature decreases the threshold; and]~~

~~[(C) the costs of any audits the commission would conduct if the Legislature increases or decreases the threshold.]~~

**Section 45. Section 59-12-102 is amended to read:**

**59-12-102. Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218;

(x) Section 59-12-2219; or

(y) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

- (a) except for:
  - (i) an airline as defined in Section 59-2-102; or
  - (ii) an affiliated group, as defined in Section 59-7-101, except that “affiliated group” includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
- (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
  - (i) check, diagnose, overhaul, and repair:
    - (A) an onboard system of a fixed wing turbine powered aircraft; and
    - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
  - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
  - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
    - (A) an inspection;
    - (B) a repair, including a structural repair or modification;
    - (C) changing landing gear; and
    - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
  - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
  - (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft’s certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (10) “Alcoholic beverage” means a beverage that:
  - (a) is suitable for human consumption; and
  - (b) contains .5% or more alcohol by volume.
- (11) “Alternative energy” means:
  - (a) biomass energy;
  - (b) geothermal energy;
  - (c) hydroelectric energy;
  - (d) solar energy;
  - (e) wind energy; or
  - (f) energy that is derived from:
    - (i) coal-to-liquids;
    - (ii) nuclear fuel;
    - (iii) oil-impregnated diatomaceous earth;
    - (iv) oil sands;
    - (v) oil shale;

- (vi) petroleum coke; or
- (vii) waste heat from:
  - (A) an industrial facility; or
  - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (12) (a) Subject to Subsection (12)(b), “alternative energy electricity production facility” means a facility that:
  - (i) uses alternative energy to produce electricity; and
  - (ii) has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
  - (i) connected to an electric grid; or
  - (ii) located on the premises of an electricity consumer.
- (13) (a) “Ancillary service” means a service associated with, or incidental to, the provision of telecommunications service.
  - (b) “Ancillary service” includes:
    - (i) a conference bridging service;
    - (ii) a detailed communications billing service;
    - (iii) directory assistance;
    - (iv) a vertical service; or
    - (v) a voice mail service.
- (14) “Area agency on aging” means the same as that term is defined in Section 62A-3-101.
- ~~[(15) “Assisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by an individual:]~~
  - ~~[(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and]~~
  - ~~[(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.]~~
- ~~[(16)]~~ (15) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:
  - (a) who is not the purchaser of the cleaning or washing of the tangible personal property; and
  - (b) at the direction of the seller of the cleaning or washing of the tangible personal property.
- ~~[(17)]~~ (16) “Authorized carrier” means:
  - (a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

~~[(48)]~~ (17) (a) Except as provided in Subsection ~~[(48)]~~ (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

~~[(49)]~~ (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection ~~[(49)]~~ (18)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection ~~[(49)]~~ (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."



(ii) For purposes of Subsection ~~[(49)]~~ (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection ~~[(49)]~~ (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection ~~[(49)]~~ (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection ~~[(49)]~~ (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection ~~[(49)]~~ (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection ~~[(49)]~~ (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection ~~[(49)]~~ (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

~~[(20)]~~ (19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection ~~[(20)]~~ (19)(a)(i).

~~[(21)]~~ (20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

~~[(22)]~~ (21) (a) Subject to Subsection ~~[(22)]~~ (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

~~[(23)]~~ (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

~~[(24)]~~ (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection ~~[(411)]~~ (115).

~~[(25)]~~ (24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a

passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection ~~[(25)]~~ (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

~~[(26)]~~ (25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

~~[(27)]~~ (26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

~~[(28)]~~ (27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

~~[(29)]~~ (28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections ~~[(29)]~~ (28)(a) and (b).

~~[(30)]~~ (29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection ~~[(30)]~~ (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection ~~[(30)]~~ (29)(a).

~~[(31)]~~ (30) "Construction materials" means any tangible personal property that will be converted into real property.

~~[(32)]~~ (31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) "Dating referral services" means services that are primarily intended to introduce or match adults for social or romantic activities, including computer dating or video dating services.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(35) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(40) “Directory assistance” means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(41) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(42) “Drilling equipment manufacturer” means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(43) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

<p>(C) mitigation of disease;</p> <p>(D) treatment of disease; or</p> <p>(E) prevention of disease; or</p> <p>(iii) intended to affect:</p> <p>(A) the structure of the body; or</p> <p>(B) any function of the body.</p> <p>(b) “Drug” does not include:</p> <p>(i) food and food ingredients;</p> <p>(ii) a dietary supplement;</p> <p>(iii) an alcoholic beverage; or</p> <p>(iv) a prosthetic device.</p> <p>(44) (a) Except as provided in Subsection (44)(c), “durable medical equipment” means equipment that:</p> <p>(i) can withstand repeated use;</p> <p>(ii) is primarily and customarily used to serve a medical purpose;</p> <p>(iii) generally is not useful to a person in the absence of illness or injury; and</p> <p>(iv) is not worn in or on the body.</p> <p>(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).</p> <p>(c) “Durable medical equipment” does not include mobility enhancing equipment.</p> <p>(45) “Electronic” means:</p> <p>(a) relating to technology; and</p> <p>(b) having:</p> <p>(i) electrical capabilities;</p> <p>(ii) digital capabilities;</p> <p>(iii) magnetic capabilities;</p> <p>(iv) wireless capabilities;</p> <p>(v) optical capabilities;</p> <p>(vi) electromagnetic capabilities; or</p> <p>(vii) capabilities similar to Subsections (45)(b)(i) through (vi).</p> <p>(46) “Electronic financial payment service” means an establishment:</p> <p>(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and</p> <p>(b) that performs electronic financial payment services.</p> <p>(47) “Employee” means the same as that term is defined in Section 59-10-401.</p>	<p>(48) “Fixed guideway” means a public transit facility that uses and occupies:</p> <p>(a) rail for the use of public transit; or</p> <p>(b) a separate right-of-way for the use of public transit.</p> <p>(49) “Fixed wing turbine powered aircraft” means an aircraft that:</p> <p>(a) is powered by turbine engines;</p> <p>(b) operates on jet fuel; and</p> <p>(c) has wings that are permanently attached to the fuselage of the aircraft.</p> <p>(50) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.</p> <p>(51) (a) “Food and food ingredients” means substances:</p> <p>(i) regardless of whether the substances are in:</p> <p>(A) liquid form;</p> <p>(B) concentrated form;</p> <p>(C) solid form;</p> <p>(D) frozen form;</p> <p>(E) dried form; or</p> <p>(F) dehydrated form; and</p> <p>(ii) that are:</p> <p>(A) sold for:</p> <p>(I) ingestion by humans; or</p> <p>(II) chewing by humans; and</p> <p>(B) consumed for the substance’s:</p> <p>(I) taste; or</p> <p>(II) nutritional value.</p> <p>(b) “Food and food ingredients” includes an item described in Subsection <del>[(95)]</del> (99)(b)(iii).</p> <p>(c) “Food and food ingredients” does not include:</p> <p>(i) an alcoholic beverage;</p> <p>(ii) tobacco; or</p> <p>(iii) prepared food.</p> <p>(52) (a) “Fundraising sales” means sales:</p> <p>(i) (A) made by a school; or</p> <p>(B) made by a school student;</p> <p>(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and</p> <p>(iii) that are part of an officially sanctioned school activity.</p> <p>(b) For purposes of Subsection (52)(a)(iii), “officially sanctioned school activity” means a school activity:</p>
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(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(53) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(54) "Governing board of the agreement" means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(55) (a) ~~[For purposes of Subsection 59-12-104(41), "governmental"]~~ "Governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

- (i) a school;
- (ii) the State Board of Education;
- (iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(56) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

~~[(58)(a) Except as provided in Subsection (58)(b), "installation charge" means a charge for installing:]~~

~~[(i) tangible personal property; or]~~

~~[(ii) a product transferred electronically.]~~

~~[(b) "Installation charge" does not include a charge for:]~~

~~[(i) repairs or renovations of:]~~

~~[(A) tangible personal property; or]~~

~~[(B) a product transferred electronically; or]~~

~~[(ii) attaching tangible personal property or a product transferred electronically:]~~

~~(A) to other tangible personal property; and~~  
~~(B) as part of a manufacturing or fabrication process.~~

(58) (a) “Installation charge” means a charge:

(i) by a seller of:

(A) tangible personal property; or

(B) a product transferred electronically; and

(ii) for installing the tangible personal property or the product transferred electronically described in Subsection (58)(a)(i).

(b) “Installation charge” does not include a charge for:

(i) installing tangible personal property if the tangible personal property is permanently attached to real property;

(ii) converting tangible personal property to real property.

(59) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(60) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) “Lease” or “rental” does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(61) “Life science establishment” means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(62) “Life science research and development facility” means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(63) “Load and leave” means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(64) “Local taxing jurisdiction” means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(65) “Manufactured home” means the same as that term is defined in Section 15A-1-302.

(66) “Manufacturing facility” means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (66)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(67) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(68) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (68)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include a person that only provides payment processing services.

(69) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(70) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104[(20)](17)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;
- (i) person who is the spouse of a person described in Subsections (70)(a) through (g); or
- (j) person similar to a person described in Subsections (70)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(71) (a) "Menstrual products" means:

- (i) tampons;
- (ii) panty liners;
- (iii) menstrual cups;
- (iv) sanitary napkins; or
- (v) other similar tangible personal property designed for hygiene in connection with the human menstrual cycle.

(b) "Menstrual products" does not include:

- (i) soaps or cleaning solutions;
- (ii) shampoo;
- (iii) toothpaste;
- (iv) mouthwash;
- (v) antiperspirants; or
- (vi) suntan lotions or screens.

~~[(71)]~~ (72) "Mobile home" means the same as that term is defined in Section 15A-1-302.

~~[(72)]~~ (73) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

~~[(73)]~~ (74) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- (iii) the origination point described in Subsection ~~[(73)]~~ (74)(a)(i) and the termination point described in Subsection ~~[(73)]~~ (74)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

~~[(74)]~~ (75) (a) ~~[Except as provided in Subsection (74)(c), "mobility"]~~ "Mobility enhancing equipment" means equipment that is:

- (i) primarily and customarily used to provide or increase the ability to move from one place to another;
- (ii) appropriate for use in a:
  - (A) home; or
  - (B) motor vehicle; and
- (iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection ~~[(74)]~~ (75)(a).

(c) "Mobility enhancing equipment" does not include:

- (i) a motor vehicle;
- (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- (iii) durable medical equipment; or
- (iv) a prosthetic device.

~~[(75)]~~ (76) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

~~[(76)]~~ (77) "Model 2 seller" means a seller registered under the agreement that:

- (a) except as provided in Subsection ~~[(76)]~~ (77)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
- (b) retains responsibility for remitting all of the sales tax:
  - (i) collected by the seller; and
  - (ii) to the appropriate local taxing jurisdiction.

~~[(77)]~~ (78) (a) Subject to Subsection ~~[(77)]~~ (78)(b), "model 3 seller" means a seller registered under the agreement that has:

- (i) sales in at least five states that are members of the agreement;
- (ii) total annual sales ~~[revenues]~~ revenue of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
  - (A) for an agreement sales and use tax; and
  - (B) due to each local taxing jurisdiction; and
- (iv) entered into a performance agreement with the governing board of the agreement.



(b) ~~[For purposes of Subsection (77)(a), “model” “Model 3 seller” includes an affiliated group of sellers using the same proprietary system.~~

~~[(78)] (79) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.~~

~~[(79)] (80) “Modular home” means a modular unit as defined in Section 15A-1-302.~~

~~[(80)] (81) “Motor vehicle” means the same as that term is defined in Section 41-1a-102.~~

~~[(81)] (82) “Oil sands” means impregnated bituminous sands that:~~

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

~~[(82)] (83) “Oil shale” means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.~~

~~[(83)] (84) “Optional computer software maintenance contract” means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.~~

~~[(84)] (85) (a) “Other fuels” means products that burn independently to produce heat or energy.~~

(b) “Other fuels” includes oxygen when it is used in the manufacturing of tangible personal property.

~~[(85)] (86) (a) “Paging service” means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.~~

(b) For purposes of Subsection ~~[(85)] (86)(a)~~, the transmission of a coded radio signal includes a transmission by message or sound.

~~(87) “Pawn transaction” means the same as that term is defined in Section 13-32a-102.~~

~~[(86)] (88) “Pawnbroker” means the same as that term is defined in Section 13-32a-102.~~

~~[(87) “Pawn transaction” means the same as that term is defined in Section 13-32a-102.]~~

~~[(88)] (89) (a) “Permanently attached to real property” means that for tangible personal property attached to real property:~~

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) “Permanently attached to real property” includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection ~~[(88)] (89)(c)(iii)~~ or (iv).

(c) “Permanently attached to real property” does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection ~~[(88)] (89)(b)(ii)~~;

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections ~~[(89)] (89)(c)(iii)(A)~~ through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection ~~[(129)] (135)(c)~~.

~~[(89)] (90) “Person” includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality,~~

district, or other local governmental entity of the state, or any group or combination acting as a unit.

(91) (a) "Personal transportation service" means the transportation of one or more individuals by motor vehicle.

(b) "Personal transportation" includes taxicab service, limousine service, driver service, shuttle service, scenic or sightseeing transportation, and a prearranged ride as defined in Section 13-51-102.

(c) "Personal transportation service" does not include:

(i) services provided by or through a governmental entity;

(ii) transportation by ambulance as defined in Section 26-8a-102;

(iii) transportation provided in connection with a funeral; or

(iv) transportation by a low-speed vehicle, as defined in Section 41-6a-102, within a county of the first class, as classified in Section 17-50-501.

(92) (a) "Pet boarding or care" means the furnishing of:

(i) boarding for a pet; or

(ii) daytime care for a pet at a location other than the pet owner's residence where the pet is dropped off and picked up.

(b) "Pet boarding or care" does not include a service described in Subsection (92)(a):

(i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in conjunction with a veterinary medical service; or

(ii) for a working animal, livestock, or a laboratory animal.

(93) (a) "Pet grooming" means:

(i) cleaning, maintaining, or enhancing the physical appearance of a pet; or

(ii) furnishing other hygienic care for a pet.

(b) "Pet grooming" does not include a service described in Subsection (93)(a):

(i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in conjunction with a veterinary medical service; or

(ii) for a working animal, livestock, or a laboratory animal.

[~~(90)~~] (94) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(91)~~] (95) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

[~~(92)~~] (96) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104[~~(54)~~](47)(a).

[~~(93)~~] (97) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[~~(94)~~] (98) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:
  - (A) access number; or
  - (B) authorization code;
- (c) that is dialed:
  - (i) manually; or
  - (ii) electronically; and
- (d) sold in predetermined units or dollars that decline:

- (i) by a known amount; and
- (ii) with use.

[(95)] (99) (a) "Prepared food" means:

- (i) food:
  - (A) sold in a heated state; or
  - (B) heated by a seller;
  - (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
  - (iii) except as provided in Subsection [(95)] (99)(c), food sold with an eating utensil provided by the seller, including a:

- (A) plate;
- (B) knife;
- (C) fork;
- (D) spoon;
- (E) glass;
- (F) cup;
- (G) napkin; or
- (H) straw.

(b) "Prepared food" does not include:

- (i) food that a seller only:
  - (A) cuts;
  - (B) repackages; or
  - (C) pasteurizes; or
  - (ii) (A) the following:
    - (I) raw egg;
    - (II) raw fish;
    - (III) raw meat;
    - (IV) raw poultry; or
    - (V) a food containing an item described in Subsections [(95)] (99)(b)(ii)(A)(I) through (IV); and
    - (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [(95)] (99)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

- (I) by weight or volume; and
- (II) as a single item; or
- (C) a bakery item, including:
  - (I) a bagel;
  - (II) a bar;
  - (III) a biscuit;
  - (IV) bread;
  - (V) a bun;
  - (VI) a cake;
  - (VII) a cookie;
  - (VIII) a croissant;
  - (IX) a danish;
  - (X) a donut;
  - (XI) a muffin;
  - (XII) a pastry;
  - (XIII) a pie;
  - (XIV) a roll;
  - (XV) a tart;
  - (XVI) a torte; or
  - (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

[(96)] (100) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

[(97)] (101) (a) [Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten" "Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) “Prewritten computer software” includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection [(97)] (101)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection [(97)] (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) “Prewritten computer software” does not include a modification or enhancement described in Subsection [(97)] (101)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

[(98)] (102) (a) “Private communications service” means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) “Private communications service” includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

[(99)] (103) (a) [Except as provided in Subsection (99)(b), —“product] “Product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

[(100)] (104) (a) “Prosthetic device” means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) “Prosthetic device” includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) “Prosthetic device” does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

[(101)] (105) (a) “Protective equipment” means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “protective equipment”; and

(ii) that are consistent with the list of items that constitute “protective equipment” under the agreement.

[(102)] (106) (a) For purposes of Subsection 59-12-104[(41)](36), “publication” means any written or printed matter, other than a photocopy:

- (i) regardless of:
  - (A) characteristics;
  - (B) copyright;
  - (C) form;
  - (D) format;
  - (E) method of reproduction; or
  - (F) source; and
- (ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “photocopy.”

[409] (107) (a) “Purchase price” and “sales price” mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or services are:
  - (A) sold;
  - (B) leased; or
  - (C) rented.
- (b) “Purchase price” and “sales price” include:
  - (i) the seller’s cost of the tangible personal property, a product transferred electronically, or services sold;
  - (ii) expenses of the seller, including:
    - (A) the cost of materials used;
    - (B) a labor cost;
    - (C) a service cost;
    - (D) interest;
    - (E) a loss;
    - (F) the cost of transportation to the seller; or
    - (G) a tax imposed on the seller;

(iii) a delivery charge;

(iv) an installation charge;

[411] (v) a charge by the seller for any service necessary to complete the sale; or

[412] (vi) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection [(103)] (107)(b)[(413)](vi)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) “Purchase price” and “sales price” do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

~~[(B) a delivery charge;]~~

~~[(C) an installation charge;]~~

~~[(4)]~~ (B) a manufacturer rebate on a motor vehicle; or

~~[(E)]~~ (C) a tax or fee legally imposed directly on the consumer.

~~[(104)]~~ (108) “Purchaser” means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

~~[(105)]~~ (109) “Qualifying ~~[enterprise]~~ data center” means ~~[an establishment that will: (a) own and operate]~~ a data center facility that ~~[will house]~~:

(a) ~~houses~~ a group of networked server computers in one physical location in order to ~~[centralize the dissemination, management, and storage of]~~ disseminate, manage, and store data and information;

(b) ~~[be]~~ is located in the state;

(c) ~~[be]~~ is a new operation constructed on or after July 1, 2016;

(d) ~~[consist]~~ consists of one or more buildings that total 150,000 or more square feet;

(e) ~~[be]~~ is owned or leased by:

(i) the ~~[establishment]~~ operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the ~~[establishment]~~ operator of the data center facility; and

(f) ~~[be]~~ is located on one or more parcels of land that are owned or leased by:

(i) the ~~[establishment]~~ operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the ~~[establishment]~~ operator of the data center facility.

~~[(106)]~~ (110) “Regularly rented” means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

~~[(107)]~~ (111) “Rental” means the same as that term is defined in Subsection (60).

~~[(108)]~~ (112) (a) ~~[Except as provided in Subsection (108)(b), “repairs”]~~ “Repairs or renovations of tangible personal property” means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product

transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) “Repairs or renovations of tangible personal property” does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

~~[(109)]~~ (113) “Research and development” means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

~~[(110)]~~ (114) (a) “Residential telecommunications services” means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection ~~[(110)]~~ (114)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

~~[(111)]~~ (115) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(112)]~~ (116) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

~~[(113)]~~ (117) (a) “Retailer” means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection

59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

~~[(114)]~~ (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

~~[(115)]~~ (119) "Sale at retail" means the same as that term is defined in Subsection ~~[(112)]~~ (116).

~~[(116)]~~ (120) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

~~[(117)]~~ (121) "Sales price" means the same as that term is defined in Subsection ~~[(103)]~~ (107).

~~[(118)]~~ (122) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

- (A) the sale of:
  - (I) textbooks;
  - (II) textbook fees;
  - (III) laboratory fees;
  - (IV) laboratory supplies; or
  - (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection ~~[(118)]~~ (122)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

~~[(419)]~~ (123) For purposes of this section and Section 59-12-104, “school” means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(124) “Security system monitoring” means the service of monitoring signals from an alarm system, as defined in Section 58-55-102, regardless of whether the monitoring is performed electronically or by an individual.

~~[(420)]~~ (125) (a) “Seller” means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) “Seller” includes a marketplace facilitator.

(126) “Seller-hosted prewritten computer software” means prewritten computer software that is accessed through the Internet or a seller-hosted server, regardless of whether:

(a) the access is permanent; or

(b) any downloading occurs.

~~[(421)]~~ (127) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection ~~[(421)]~~ (127)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

~~[(422)]~~ (128) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(423)]~~ (129) (a) ~~[Subject to Subsections (123)(b) and (e), “short-term”~~ “Short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;



(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections ~~[(123)]~~ (129)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) “Short-term lodging consumable” does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

~~[(124)]~~ (130) “Simplified electronic return” means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

~~[(125)]~~ (131) “Solar energy” means the sun used as the sole source of energy for producing electricity.

~~[(126)]~~ (132) (a) “Sports or recreational equipment” means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “sports or recreational equipment”; and

(ii) that are consistent with the list of items that constitute “sports or recreational equipment” under the agreement.

~~[(127)]~~ (133) “State” means the state of Utah, its departments, and agencies.

~~[(128)]~~ (134) “Storage” means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(129)]~~ (135) (a) ~~[Except as provided in Subsection (129)(d) or (e), “tangible”~~ “Tangible personal property” means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) “Tangible personal property” includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) “Tangible personal property” includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections ~~[(129)]~~ (135)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) “Tangible personal property” does not include a product that is transferred electronically.

(e) “Tangible personal property” does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

~~[(430)]~~ (136) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection ~~[(430)]~~ (136)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

- (i) telecommunications switching or routing equipment, machinery, or software; or
- (ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection ~~[(430)]~~ (136)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(430)]~~ (136)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection ~~[(430)]~~ (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(430)]~~ (136)(b)(i) through (vi).

~~[(431)]~~ (137) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

~~[(432)]~~ (138) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

~~[(433)]~~ (139) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any

other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

- (A) music;
  - (B) reading material;
  - (C) a ring tone;
  - (D) software; or
  - (E) video;
- (ix) a radio and television audio and video programming service:

- (A) regardless of the medium; and
- (B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

- (x) a value-added nonvoice data service; or
- (xi) tangible personal property.

[(434)] (140) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [(434)] (140)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [(434)] (140)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

- (i) that person; or
- (ii) the telecommunications service that the person owns, controls, operates, or manages.

[(435)] (141) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [(435)] (141)(b) if that item is purchased or leased primarily for switching or routing:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection [(435)] (141)(a):

- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;
- (v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [(435)] (141)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [(435)] (141)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [(435)] (141)(b)(i) through (ix).

[(436)] (142) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [(436)] (142)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection [(436)] (142)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(136)]~~ (142)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection ~~[(136)]~~ (142)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(136)]~~ (142)(b)(i) through (xxv).

~~[(137)] (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course;~~

~~[(i) offered by an institution of higher education; and]~~

~~[(ii) that the purchaser of the textbook or other printed material attends or will attend.]~~

~~[(b) "Textbook for a higher education course" includes a textbook in electronic format.]~~

~~[(138)] (143) "Tobacco" means:~~

~~(a) a cigarette;~~

~~(b) a cigar;~~

~~(c) chewing tobacco;~~

~~(d) pipe tobacco; or~~

~~(e) any other item that contains tobacco.~~

~~[(139)] (144) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started ~~[and]~~ or stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.~~

~~[(140)] (145) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.~~

~~(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.~~

~~[(141)] (146) "Value-added nonvoice data service" means a service:~~

~~(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and~~

~~(b) with respect to which a computer processing application is used to act on data or information:~~

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

~~[(142)] (147) (a) Subject to Subsection ~~[(142)]~~ (147)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:~~

~~(i) an aircraft as defined in Section 72-10-102;~~

~~(ii) a vehicle as defined in Section 41-1a-102;~~

~~(iii) an off-highway vehicle as defined in Section 41-22-2; or~~

~~(iv) a vessel as defined in Section 41-1a-102.~~

~~(b) For purposes of Subsection 59-12-104~~[(33)]~~(30) only, "vehicle" includes:~~

~~(i) a vehicle described in Subsection ~~[(142)]~~ (147)(a); or~~

~~(ii) (A) a locomotive;~~

~~(B) a freight car;~~

~~(C) railroad work equipment; or~~

~~(D) other railroad rolling stock.~~

~~[(143)] (148) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle ~~[as defined in Subsection ~~[(142)]~~].~~~~

~~[(144)] (149) (a) "Vertical service" means an ancillary service that:~~

~~(i) is offered in connection with one or more telecommunications services; and~~

~~(ii) offers an advanced calling feature that allows a customer to:~~

~~(A) identify a caller; and~~

~~(B) manage multiple calls and call connections.~~

~~(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.~~

~~[(145)] (150) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.~~

~~(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.~~

~~[(146)] (151) (a) ~~[Except as provided in Subsection ~~[(146)]~~(b), "waste"]~~ "Waste energy facility" means a facility that generates electricity:~~

~~(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:~~

~~(A) tires;~~

~~(B) waste coal;~~

~~(C) oil shale; or~~

- (D) municipal solid waste; and
- (ii) in amounts greater than actually required for the operation of the facility.
- (b) "Waste energy facility" does not include a facility that incinerates:
  - (i) hospital waste as defined in 40 C.F.R. 60.51c; or
  - (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[~~(147)~~] (152) "Watercraft" means a vessel as defined in Section 73-18-2.

[~~(148)~~] (153) "Wind energy" means wind used as the sole source of energy to produce electricity.

[~~(149)~~] (154) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

**Section 46. Section 59-12-103 is amended to read:**

**59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.**

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service or a 900 service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; [ø]

(iii) a 900 service; or

[~~(iii)~~] (iv) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); [ø]

(B) mobile telecommunications service described in Subsection (1)(b)(ii); or

(C) 900 service;

(c) sales of the following for commercial use:

- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;

(d) sales of the following for residential use:

- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;
- (e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

- (i) the tangible personal property; and
- (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) [~~except as provided in Subsection 59-12-104(7),~~] amounts paid or charged for [~~assisted~~] cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; ~~and~~

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition[-];

(n) amounts paid or charged for access to digital audio-visual works, digital audio works, digital books, or gaming services, including the streaming of or subscription for access to digital audio-visual works, digital audio works, digital books, or gaming services regardless of:

(i) the delivery method; or

(ii) whether the amount paid or charged for access provides a right to:

(A) single-use access to the digital audio-visual works, digital audio works, digital books, or gaming services; or

(B) access the digital audio-visual works, digital audio works, digital books, or gaming services through a subscription, including a right that terminates upon the occurrence of a condition;

(o) amounts paid or charged for the storage, use, or other consumption of:

(i) prewritten computer software delivered electronically or by load and leave; or

(ii) seller-hosted prewritten computer software; and

(p) amounts paid or charged for the following services:

(i) security system monitoring;

(ii) personal transportation that originates in the state and terminates in the state;

(iii) parking or garaging a motor vehicle at a location that:

(A) is designed and used for parking or garaging one or more motor vehicles, regardless of whether the location is sometimes used for other purposes; and

(B) is not residential property;

(iv) tow truck service as defined in Section 72-9-102, including any related fees;

(v) pet boarding or care;

(vi) pet grooming;

(vii) dating referral services; and

(viii) identity theft protection.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

~~[(A) (I) through March 31, 2019, 4.70%; and]~~

~~[(II) (A) [beginning on April 1, 2019,] 4.70% plus the rate specified in Subsection [(13) (12)(a); and~~

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of ~~[1.75%] 4.85%; and~~

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the

seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the

seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated



credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and

Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water

Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, [2012] 2020, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the ~~revenues~~ revenue collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax ~~revenues~~ revenue generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed [17%] 14.31% of the ~~revenues~~ revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit [17%] 14.31% of the ~~revenues~~ revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which [17%] 14.31% of the ~~revenues~~ revenue

collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit [17%] 14.31% of the [revenues] revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

~~[(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(e)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:]~~

~~[(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;]~~

~~[(B) the tax imposed by Subsection (2)(b)(i);]~~

~~[(C) the tax imposed by Subsection (2)(e)(i); and]~~

~~[(D) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

~~[(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.]~~

~~[(iii) (8) The commission shall deposit annually [deposit the amount described in Subsection (8)(e)(ii)] an amount equal to 50% of the growth in the amount of revenue collected in the current fiscal year from the tax imposed under Subsection (2)(c)(i) that exceeds the amount collected from the tax imposed under Subsection (2)(c)(i) in the 2020-2021 fiscal year into the Transit [and] Transportation Investment Fund created in Section 72-2-124.~~

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section

35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, [annually] deposit annually \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

~~[(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated~~

by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]

[~~(43)~~ (12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall: ~~(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and (ii) for a fiscal year beginning on or after July 1, 2019, [annually] transfer annually the amount of revenue collected from the rate described in Subsection [(43)] (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.~~

**Section 47. Section 59-12-104 is amended to read:**

**59-12-104. Exemptions.**

[Exemptions from the taxes imposed by this chapter are as follows] Except as provided in Subsection 59-12-103(2)(d), the purchase price of the following are exempt from the taxes imposed by this chapter:

(1) (a) sales of aviation fuel[, motor fuel, and special] or diesel fuel subject to a [Utah] state excise tax under Chapter 13, Motor and Special Fuel Tax Act; or

(b) sales of motor fuel or nondiesel special fuel, as defined in Section 59-13-601, that are subject to a sales tax under Chapter 13, Part 6, Sales Tax on Motor Fuel and Special Fuel, Other than Diesel Fuel;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

[~~(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if;~~

~~(i) the proceeds of each sale do not exceed \$1; and]~~

~~(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and]~~

~~(b) Subsection (3)(a) applies to:~~

~~(i) food and food ingredients; or]~~

~~(ii) prepared food;]~~

[~~(4)~~ (3) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection [(4)] (3)(a) or (b);

[~~(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:]~~

~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and]~~

~~[(II) for:]~~

~~[(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;]~~

~~[(Bb) renovation of an aircraft; or]~~

~~[(Cc) repair of an aircraft; or]~~

~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or]~~

~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and]~~

~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:]~~

~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;]~~

~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

~~[(v) in accordance with Section 59-1-1410; and]~~

~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;]~~

(4) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

~~[(6) (5) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;~~

~~[(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;]~~

~~[(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and]~~

~~[(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules;]~~

~~[(i) governing the circumstances under which sales are at the same business location; and]~~

~~[(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;]~~

[(8) (6) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

[(9) (7) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

~~[(10) (a) (8) amounts paid for [an item described in Subsection (10)(b) if]:~~

~~(a) menstrual products; or~~

~~(b) a drug, syringe, or stoma supply if:~~

~~(i) the item is intended for human use; and~~

~~(ii) (A) a prescription was issued for the item; or~~

~~(B) the item was purchased by a hospital or other medical facility; [and]~~

~~[(b) (i) Subsection (10)(a) applies to:]~~

~~[(A) a drug;]~~

~~[(B) a syringe; or]~~

~~[(C) a stoma supply; and]~~

~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:]~~

~~[(A) "syringe"; or]~~

~~[(B) "stoma supply";]~~

~~[(11) (9) purchases or leases exempt under Section 19-12-201;~~

~~[(12) (10) (a) sales of an item described in Subsection [(12) (10)(c) served by:~~

~~(i) the following if the item described in Subsection [(12) (10)(c) is not available to the general public:~~

~~(A) a church; or~~

~~(B) a charitable institution; or~~

~~(ii) an institution of higher education if:~~

~~(A) the item described in Subsection [(12) (10)(c) is not available to the general public; or~~

~~(B) the item described in Subsection [(12) (10)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or~~

~~(b) sales of an item described in Subsection [(12) (10)(c) provided for a patient by:~~

~~(i) a medical facility; or~~

~~(ii) a nursing facility; and~~

~~(c) Subsections [(12) (10)(a) and (b) apply to:~~

~~(i) food and food ingredients;~~

~~(ii) prepared food; or~~

~~(iii) alcoholic beverages;~~

~~[(13) (11) (a) except as provided in Subsection [(13) (11)(b), the sale of tangible personal property or a product transferred electronically by a person:~~

~~(i) regardless of the number of transactions involving the sale of that tangible personal property~~

or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection [(43)] (11) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection [(25)] (22); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

[(44)] (12) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance

with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

[(45)] (13) (a) sales of the following if the requirements of Subsection [(45)] (13)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection ~~[(15)]~~ (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

~~[(16)] sales of newspapers or newspaper subscriptions;~~

~~[(17)]~~ (14) (a) except as provided in Subsection ~~[(17)]~~ (14)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection ~~[(17)]~~ (14)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

- (i) money;
- (ii) electricity;
- (iii) water;
- (iv) gas; or
- (v) steam;

~~[(18)]~~ (15) (a) (i) except as provided in Subsection ~~[(18)]~~ (15)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

- (A) becomes part of real estate; or
- (B) is installed by a ~~[:]~~ farmer, contractor, or subcontractor; or

~~[(1) farmer];~~

~~[(11) contractor; or]~~

~~[(11) subcontractor; or]~~

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection ~~[(18)]~~ (15)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection ~~[(18)]~~ (15)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection ~~[(18)]~~ (15)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

~~[(19)]~~ (16) sales of hay;

~~[(20)]~~ (17) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection ~~[(20)]~~ (17)(a); or

(c) a member of the immediate family of the producer described in Subsection ~~[(20)]~~ (17)(a);

~~[(21)]~~ (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

~~[(22)]~~ (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or

retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

~~[(23)]~~ (20) a product stored in the state for resale;

~~[(24)]~~ (21) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection ~~[(24)]~~ (21)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection ~~[(24)]~~ (21)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection ~~[(24)]~~ (21)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection ~~[(24)]~~ (21)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection ~~[(33)]~~ (30); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection ~~[(24)]~~ (21)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection ~~[(24)]~~ (21) as in Subsection ~~[(63)]~~ (55);

(ii) the first use of a product if that phrase has the same meaning in this Subsection ~~[(24)]~~ (21) as in Subsection ~~[(63)]~~ (55); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection ~~[(24)]~~ (21) as in Subsection ~~[(63)]~~ (55);

~~[(25)]~~ (22) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

~~[(26)]~~ (23) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed

by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

~~[(27)]~~ (24) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

~~[(28)]~~ (25) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

~~[(29)]~~ (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

~~[(30)]~~ (27) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

~~[(31)]~~ (28) sales of aircraft manufactured in Utah;

~~[(32)]~~ (29) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

~~[(33)]~~ (30) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

~~[(34)]~~ (31) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

~~[(35)]~~ (32) sales relating to schools and fundraising sales;



~~[(36)] (33) sales or rentals of durable medical equipment if:~~

~~(a) a person presents a prescription for the durable medical equipment; and~~

~~(b) the durable medical equipment is used for home use only;~~

~~[(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and]~~

~~[(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~

~~[(38)] (34) sales to a ski resort of:~~

~~(a) snowmaking equipment;~~

~~(b) ski slope grooming equipment;~~

~~(c) passenger ropeways as defined in Section 72-11-102; or~~

~~(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections ~~[(38)] (34)~~ through (c);~~

~~[(39)] (35) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;~~

~~[(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;]~~

~~[(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and]~~

~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:]~~

~~[(i) governing the circumstances under which sales are at the same business location; and]~~

~~[(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;]~~

~~[(41)] (36) (a) sales of photocopies by:~~

~~(i) a governmental entity; or~~

~~(ii) an entity within the state system of public education, including:~~

~~(A) a school; or~~

~~(B) the State Board of Education; or~~

~~(b) sales of publications by a governmental entity;~~

~~[(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq;]~~

~~[(43)] (37) (a) sales made to or by:~~

~~(i) an area agency on aging; or~~

~~(ii) a senior citizen center owned by a county, city, or town; or~~

~~(b) sales made by a senior citizen center that contracts with an area agency on aging;~~

~~[(44)] (38) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:~~

~~(a) actually come into contact with a semiconductor; or~~

~~(b) ultimately become incorporated into real property;~~

~~[(45)] (39) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;~~

~~[(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;]~~

~~[(47)] (40) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and~~

~~(b) for a residential use customer only, the exemption under Subsection [(47)] (40)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection [(47)] (40)(a) that exceeds the tariff rate under the tariff described in Subsection [(47)] (40)(a) that the customer would have paid absent the tariff;~~

~~[(48)] (41) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;~~

~~[(49)] (42) sales of water in a:~~

~~(a) pipe;~~

~~(b) conduit;~~

~~(c) ditch; or~~

~~(d) reservoir;~~

~~[(50)] (43) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;~~

~~[(51)] (44) (a) sales of an item described in Subsection ~~[(51)] (44)~~(b) if the item:~~

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection ~~[(51)]~~ (44)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

~~[(52)]~~ (45) amounts paid on a sale-leaseback transaction;

~~[(53)]~~ (46) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

~~[(54)]~~ (47) (a) except as provided in Subsection ~~[(54)]~~ (47)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection ~~[(54)]~~ (47)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections ~~[(54)]~~ (47)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection ~~[(54)]~~ (47)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection ~~[(54)]~~ (47)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections ~~[(54)]~~ (47)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections ~~[(54)]~~ (47)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”; or

(D) “live sporting event”;

~~[(55)]~~ (48) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection ~~[(55)]~~ (48)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection ~~[(55)]~~ (48) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection ~~[(55)]~~ (48)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection [(55)] (48)(a)(i) is operational as described in Subsection [(55)] (48)(a)(iii); or

(B) the increased capacity described in Subsection [(55)] (48)(a)(i) is operational as described in Subsection [(55)] (48)(a)(iii);

[(56)] (49) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection [(56)] (49)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection [(56)] (49) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection [(56)] (49)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection [(56)] (49)(a)(i) is operational as described in Subsection [(56)] (49)(a)(iii); or

(B) the increased capacity described in Subsection [(56)] (49)(a)(i) is operational as described in Subsection [(56)] (49)(a)(iii);

[(57)] (50) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection [(57)] (50)(a)(i);

(b) this Subsection [(57)] (50) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection [(57)] (50)(a)(i); or

(B) the increase in capacity of the facility described in Subsection [(57)] (50)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection [(57)] (50)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection [(57)] (50)(a)(i) is operational; or

(B) the increased capacity described in Subsection [(57)] (50)(a)(i) is operational;

[(58)] (51) (a) subject to Subsection [(58)(b) or (c)] (51)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection [(58)] (51)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; [and]

[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund.]

~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;]~~

~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;]~~

~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

~~[(v) in accordance with Section 59-1-1410; and]~~

~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;]~~

~~[(59) purchases:]~~

~~[(a) of one or more of the following items in printed or electronic format:]~~

~~[(i) a list containing information that includes one or more:]~~

~~[(A) names; or]~~

~~[(B) addresses; or]~~

~~[(ii) a database containing information that includes one or more:]~~

~~[(A) names; or]~~

~~[(B) addresses; and]~~

~~[(b) used to send direct mail;]~~

~~[(60)] (52) redemptions or repurchases of a product by a person if that product was:~~

~~(a) delivered to a pawnbroker as part of a pawn transaction; and~~

~~(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;~~

~~[(61)] (53) (a) purchases or leases of an item described in Subsection [(61)] (53)(b) if the item:~~

~~(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and~~

~~(ii) has a useful economic life of one or more years; and~~

~~(b) the following apply to Subsection [(61)] (53)(a):~~

~~(i) telecommunications enabling or facilitating equipment, machinery, or software;~~

~~(ii) telecommunications equipment, machinery, or software required for 911 service;~~

~~(iii) telecommunications maintenance or repair equipment, machinery, or software;~~

~~(iv) telecommunications switching or routing equipment, machinery, or software; or~~

~~(v) telecommunications transmission equipment, machinery, or software;~~

~~[(62)] (54) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and~~

~~(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection [(62)] (54)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;~~

~~[(63)] (55) (a) purchases of tangible personal property or a product transferred electronically if:~~

~~(i) the tangible personal property or product transferred electronically is:~~

~~(A) purchased outside of this state;~~

~~(B) brought into this state at any time after the purchase described in Subsection [(63)] (55)(a)(i)(A); and~~

~~(C) used in conducting business in this state; and~~

~~(ii) for:~~

~~(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection [(63)] (55)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or~~

~~(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;~~

~~(b) the exemption provided for in Subsection [(63)] (55)(a) does not apply to:~~

~~(i) a lease or rental of tangible personal property or a product transferred electronically; or~~

~~(ii) a sale of a vehicle exempt under Subsection [(63)] (30); and~~

~~(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection [(63)] (55)(a), the commission may by rule define what constitutes the following:~~

~~(i) conducting business in this state if that phrase has the same meaning in this Subsection [(63)] (55) as in Subsection [(24)] (21);~~

~~(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection [(63)] (55) as in Subsection [(24)] (21); or~~

~~(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection [(63)] (55) as in Subsection [(24)] (21);~~

~~[(64)] (56) sales of disposable home medical equipment or supplies if:~~

~~(a) a person presents a prescription for the disposable home medical equipment or supplies;~~

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection [(64)] (56)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

- (i) Title XVIII, federal Social Security Act; or
- (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

~~[(65) sales;]~~

~~[(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or]~~

~~[(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:]~~

~~[(i) clearly identified; and]~~

~~[(ii) installed or converted to real property owned by the public transit district;]~~

[(66)] (57) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

- (i) located within a county of the first class; and
- (ii) that has a United States customs office on its premises; and
- (c) if the construction materials are:
  - (i) clearly identified;
  - (ii) segregated; and
  - (iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection [(66)] (57)(b); and

(B) located at the international airport described in Subsection [(66)] (57)(b);

[(67)] (58) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

- (i) located within a county of the second class; and
- (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

- (i) clearly identified;
- (ii) segregated; and
- (iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection [(67)] (58)(b);

(B) located at the new airport described in Subsection [(67)] (58)(b); and

(C) as part of the construction of the new airport described in Subsection [(67)] (58)(b);

~~[(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;]~~

[(69)] (59) purchases and sales described in Section 63H-4-111;

[(70)] (60) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

~~[(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course;]~~

~~[(a) to a person admitted to an institution of higher education; and]~~

~~[(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;]~~

[(72)] (61) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

[(73)] (62) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

[(74)] (63) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

- (i) are used in performing qualified research:
  - (A) as defined in Section 41(d), Internal Revenue Code; and
  - (B) in the state; and
- (ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:
 

- (i) for the machinery and equipment described in Subsection [(74)] (63)(a); and

(ii) that have an economic life of three or more years;

~~[(75)]~~ (64) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

~~[(76)]~~ (65) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

~~[(77)]~~ (66) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

~~[(78) amounts paid or charged to access a database:]~~

~~[(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and]~~

~~[(b) not including amounts paid or charged for a:]~~

~~[(i) digital audiowork;]~~

~~[(ii) digital audio-visual work; or]~~

~~[(iii) digital book;]~~

~~[(79)]~~ (67) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

~~[(80)]~~ (68) ~~[beginning on April 1, 2013,]~~ sales of a fuel cell as defined in Section 54-15-102;

~~[(81)]~~ (69) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

~~[(82)]~~ (70) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

~~[(83)]~~ (71) amounts paid or charged for a purchase or lease of molten magnesium;

~~[(84)]~~ (72) amounts paid or charged for a purchase or lease made by a qualifying ~~[enterprise]~~ data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in ~~[the operation of the establishment; and]~~

~~[(i) the operation of the qualifying data center; or~~  
~~[(ii) the occupant's operations in the qualifying data center; and]~~

(b) have an economic life of one or more years;

~~[(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that~~

includes cleaning or washing of the interior of the vehicle;]

~~[(86)]~~ (73) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2);

~~[(87)]~~ (74) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

~~[(88)]~~ (75) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; ~~and~~

~~[(89)]~~ (76) amounts paid or charged for an item exempt under Section 59-12-104.10[-];

(77) if paid for through a machine that accepts only cash for payment and if the machine is the only method by which to pay:

(a) sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) sales of food and food ingredients or prepared food from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the food and food ingredients or prepared food as goods consumed;

(c) sales or rentals of the right to use or operate an unassisted amusement device for amusement, entertainment, or recreation; and

(78) amounts paid or charged for tangible personal property that:

(a) is not electricity, gas, machinery, equipment, vehicles, parts, office equipment, or office supplies; and

(b) is consumed as part of a service described in Subsection 59-12-103(1)(g), (h), or (j).

**Section 48. Section 59-12-104.5 is amended to read:**

**59-12-104.5. Revenue and Taxation Interim Committee review of sales and use taxes.**

The Revenue and Taxation Interim Committee shall:

(1) review Subsection 59-12-104~~[(28)]~~(25) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program; and

(2) review Subsection 59-12-104~~[(21)]~~(18) before October 1 of the year after the year in which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102, even if state or local sales taxes are collected within the state on purchases of food under that program.

**Section 49. Section 59-12-1201 is amended to read:**

**59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.**

(1) (a) Except as provided in Subsection (3), there is imposed a tax of ~~[2.5%]~~ 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(4) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the [revenues] revenue the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

**Section 50. Section 59-13-202 is amended to read:**

**59-13-202. Refund of tax for agricultural uses on individual income and corporate franchise and income tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties --**

**Revenue and Taxation Interim Committee study.**

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or nonresident person.

(ii) "Claimant" does not include an estate or trust.

(b) "Estate" means a nonresident estate or a resident estate.

(c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:

(i) as provided by statute; and

(ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(A) Chapter 7, Corporate Franchise and Income Taxes; or

(B) Chapter 10, Individual Income Tax Act.

(d) "Trust" means a nonresident trust or a resident trust.

(2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state for the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

(3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate, or trust files under:

(i) Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Chapter 10, Individual Income Tax Act.

(b) A claimant, estate, or trust not subject to filing a tax return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year basis.

(c) Any claimant, estate, or trust claiming a refundable tax credit under this section is required to furnish any or all of the information outlined in this section upon request of the commission.

(d) A refundable tax credit under this section is allowed only on purchases on which tax is paid during the taxable year covered by the tax return.

(4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

(a) the name of the claimant, estate, or trust;

(b) the claimant's, estate's, or trust's address;

(c) location and number of acres owned and operated, location and number of acres rented and



operated, the latter of which shall be verified by a signed statement from the legal owner;

(d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, and type of fuel used and power rating of each piece of equipment using fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm machinery with which the claimant, estate, or trust works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The claimant, estate, or trust shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with the commission in the name of the claimant, estate, or trust.

(5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the claimant, estate, or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

(6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

(7) The commission may refuse to accept as evidence of purchase or payment any instruments that show alteration or that fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that the motor fuel is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, the commission may reject the claim or require additional evidence.

(8) A claimant, estate, or trust aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

(9) A claimant, estate, or trust that makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the claimant, estate, or trust may not receive any refund as a

claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

~~[(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund into the Education Fund an amount equal to the amount of the refund claimed under this section.]~~

~~[(b)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for:

(i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

~~[(ii) making a transfer from the Transportation Fund into the Education Fund as required by Subsection (10)(a); or]~~

~~[(iii)]~~ (ii) enforcing this part.

(11) (a) On or before November 30, 2017, and every three years after 2017, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

**Section 51. Section 59-13-323 is enacted to read:**

**59-13-323. Additional special fuel tax on diesel fuel.**

(1) A supplier shall pay an additional special fuel tax on diesel fuel that is subject to the special fuel tax imposed under Section 59-13-301 in an amount equal to:

(a) beginning on April 1, 2020, and ending on December 31, 2021, six cents per gallon; and

(b) beginning on January 1, 2022, 10 cents per gallon.

(2) (a) The commission shall deposit daily the revenue that the commission collects under this section with the state treasurer.

(b) Notwithstanding Section 59-13-301, the state treasurer shall credit the revenue deposited in accordance with Subsection (2)(a) to the Transportation Investment Fund of 2005 created in Section 72-2-124.

(3) (a) A person entitled to a refund of a special fuel tax under this part may receive a refund of the additional special fuel tax due under this section for the same gallons that the person is entitled to a refund of a special fuel tax.

(b) Notwithstanding Section 59-13-318, the total amount of claims for refunds under Subsection (3)(a) shall be paid from the Transportation Investment Fund of 2005.

(4) Beginning in 2021, the commission shall submit annually on or before October 1, an electronic report to a legislative committee designated by the Legislative Management Committee that:

(a) states the amount of revenue collected from the tax imposed under Section 59-13-323 during the preceding fiscal year; and

(b) provides an estimate of the revenue that will be collected from the tax imposed under Section 59-13-323 during the current fiscal year.

**Section 52. Section 59-13-601 is enacted to read:**

**Part 6. Sales Tax on Motor Fuel and Special Fuel, Other than Diesel Fuel**

**59-13-601. Sales tax on motor fuel and special fuel, other than diesel fuel.**

(1) (a) As used in this part, "nondiesel special fuel" means special fuel, other than diesel fuel.

(b) For purposes of this part, the definitions in Section 59-13-102 that contain the words special fuel in the definition shall be read as though the words special fuel were replaced with nondiesel special fuel.

(2) (a) Beginning on April 1, 2020, and subject to the other provisions of this Subsection (2), a sales tax is imposed on motor fuel and nondiesel special fuel at an amount equal to the product of:

(i) the rate described in Subsection 59-12-103(2)(a)(i)(A);

(ii) the average daily rack price, calculated in accordance with Subsection (3) or (4); and

(iii) (A) the number of gallons of motor fuel;

(B) the number of diesel gallon equivalent for liquified natural gas;

(C) the number of gasoline gallon equivalent for compressed natural gas or hydrogen; or

(D) the number of units sold of nondiesel special fuel that is not liquified natural gas, compressed natural gas, or hydrogen.

(b) (i) The distributor shall pay the tax on motor fuel.

(ii) The supplier shall pay the tax on nondiesel special fuel.

(c) (i) Except as provided in Subsection (2)(c)(iii), the provisions of Part 2, Motor Fuel, apply to the sales tax imposed by this section on motor fuel.

(ii) Except as provided in Subsection (2)(c)(iii), the provisions of Part 3, Special Fuel, apply to the sales tax imposed by this section on nondiesel special fuel.

(iii) (A) The sales tax rate on motor fuel and nondiesel special fuel is as provided in this Subsection (2).

(B) The treasurer shall deposit the revenue collected from the sales tax imposed under this section into the Transportation Investment Fund of 2005 created in Section 72-2-124.

(C) The commission shall pay any refunds from the Transportation Investment Fund of 2005 created in Section 72-2-124.

(3) (a) The commission shall determine annually the average daily rack price for motor fuel.

(b) For the 2020 calendar year, the commission shall make the determination required by Subsection (3)(a) by:

(i) calculating the previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as published by an oil pricing service; and

(ii) rounding to the nearest one-hundredth of a cent.

(c) For the 2021 calendar year, the commission shall make the determination required by Subsection (3)(a) by:

(i) calculating the previous two fiscal years' statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 24 months ending on the previous June 30 as published by an oil pricing service.

(d) Beginning on January 1, 2022, the commission shall make the determination required by Subsection (3)(a) by:

(i) calculating the previous three fiscal years' statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending on the previous June 30 as published by an oil pricing service; and

(ii) rounding to the nearest one-hundredth of a cent.

(e) If the average daily rack price of a gallon of motor fuel determined under Subsection (3)(c) or (d) is less than the average daily rack price of a gallon of motor fuel calculated in accordance with Subsection (3)(b), the average daily rack price shall be the average daily rack price calculated in accordance with Subsection (3)(b).

(4) The average daily rack price for nondiesel special fuel is the product of:

(a) the average daily rack price calculated in accordance with Subsection (3); and

(b) the percentage calculated by dividing the rate calculated in accordance with Subsection 59-13-301(12) by the rate calculated in accordance with Subsection 59-13-201(1).

(5) (a) The commission shall annually:

(i) publish the average daily rack prices calculated in accordance with Subsections (3) and (4); and

(ii) post or otherwise make public the average daily rack prices no later than 60 days prior to the annual effective date under Subsection (5)(b).

(b) The average daily rack price described in Subsection (2) and calculated in accordance with Subsections (3) and (4) shall take effect:

(i) for the 2020 calendar year, on April 1; and

(ii) beginning with the 2021 calendar year, on January 1 of each year.

**Section 53. Section 63I-2-241 is enacted to read:**

**63I-2-241. Repeal dates -- Title 41.**

Subsection 41-6a-702(5), which allows a vehicle with a clean fuel vehicle decal to travel in a lane designated for the use of high occupancy vehicles regardless of the number of occupants, is repealed September 30, 2025.

**Section 54. Section 63I-2-253 is amended to read:**

**63I-2-253. Repeal dates -- Titles 53 through 53G.**

(1) (a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech Board of Trustees and the transition to that composition, are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of directors, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) Section 53B-6-105.7 is repealed July 1, 2024.

(4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(5) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(6) Section 53B-8-112 is repealed July 1, 2024.

(7) Section 53B-8-114 is repealed July 1, 2024.

(8) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(9) Section 53B-10-101 is repealed on July 1, 2027.

(10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(11) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

(12) Section 53E-3-520 is repealed July 1, 2021.

(13) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

(14) Section 53E-5-307 is repealed July 1, 2020.

(15) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(16) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(17) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(18) Section 53F-4-204 is repealed July 1, 2019.

(19) In Subsection 53F-9-302(3), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(20) Section 53F-9-304 is repealed July 1, 2020.

~~[(20)]~~ (21) In Subsection 53F-9-305(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(21)]~~ (22) In Subsection 53F-9-306(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(22)]~~ (23) In Subsection 53G-3-304(1)(c)(i), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(23)]~~ (24) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent.

**Section 55. Section 63I-2-259 is amended to read:**

**63I-2-259. Repeal dates -- Title 59.**

~~[(1) Section 59-1-102 is repealed on May 14, 2019.]~~

~~[(2)]~~ (1) In Section 59-2-926, the language that states “applicable” and “or 53F-2-301.5” is repealed July 1, 2023.

~~[(3) Subsection 59-2-1007(15) is repealed on December 31, 2018.]~~

(2) Section 59-10-1018.1 is repealed January 1, 2021.

(3) Section 59-10-1113.1 is repealed January 1, 2021.

(4) Subsections 59-12-102(61) and (62), which define “life science establishment” and “life science research and development facility,” are repealed January 1, 2027.

(5) Subsection 59-12-104(62), which provides a sales and use tax exemption related to amounts paid or charged for construction materials used in the construction of a life science research and development facility, is repealed January 1, 2027.

(6) Section 59-12-104.4 is repealed April 1, 2020.

**Section 56. Section 63I-2-272 is amended to read:**

**63I-2-272. Repeal dates -- Title 72.**

(1) Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.

~~[(2) On July 1, 2018:]~~

~~[(a) in Subsection 72-2-108(2), the language that states “and except as provided in Subsection (10)” is repealed; and]~~

~~[(b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states “, excluding any amounts appropriated as additional support for class B and class C roads under Subsection (10),” is repealed.]~~

~~[(3)]~~ (2) Section 72-3-113 is repealed January 1, 2020.

(3) Section 72-6-121 is repealed September 30, 2025.

**Section 57. Section 63M-4-702 is amended to read:**

**63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development certification of sales and use tax exemption eligibility.**

(1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(73) shall annually report to the office whether the refiner’s facility that is located within the state will have an average gasoline sulfur level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616.

(b) Fuels for which a final destination outside Utah can be demonstrated or that are not subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R. Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

(2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is eligible for the sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(73):

(i) on a form provided by the State Tax Commission that shall be retained by the refiner claiming the sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(73);

(ii) if the refiner’s refinery that is located within the state had an average sulfur level of 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar year; and

(iii) before a taxpayer is allowed the sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(73).

(b) The certification provided by the office under Subsection (2)(a) shall be renewed annually.

(c) The office:

(i) shall accept a copy of a report submitted by a refiner to the Environmental Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner’s average gasoline sulfur level; or

(ii) may establish another reporting mechanism through rules made under Subsection (3).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

**Section 58. Section 72-1-201 is amended to read:**

**72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.**

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim Committee, by November 30 of each year, as to the operation, maintenance, condition, mobility, and safety needs for state transportation systems;

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; ~~and~~

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state~~[-]; and~~

(l) implement one or more strategies to manage congestion on state highways and generate highway user fees, including the use of one or more high occupancy toll lanes as defined in Section

72-6-118 and implementation of the technology described in Subsection 72-6-118(2)(e).

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

**Section 59. Section 72-1-213.1 is amended to read:**

**72-1-213.1. Road usage charge program.**

(1) As used in this section:

(a) "Account manager" means an entity under contract with the department to administer and manage the road usage charge program.

(b) "Alternative fuel vehicle" means the same as that term is defined in Section 41-1a-102.

(c) "Payment period" means the interval during which an owner is required to report mileage and pay the appropriate road usage charge according to the terms of the program.

(d) "Program" means the road usage charge program established and described in this section.

(2) There is established a road usage charge program as described in this section.

(3) (a) The department shall implement and oversee the administration of the program, which shall begin on January 1, 2020.

(b) To implement and administer the program, the department may contract with an account manager.

(4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of the alternative fuel vehicle in the program.

(b) If an application for enrollment into the program is approved by the department, the owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department:

(i) shall make rules to establish:

(A) processes and terms for enrollment into and withdrawal or removal from the program;

(B) payment periods and other payment methods and procedures for the program;

(C) standards for mileage reporting mechanisms for an owner or lessee of an alternative fuel vehicle to report mileage as part of participation in the program;

(D) standards for program functions for mileage recording, payment processing, account

management, and other similar aspects of the program;

(E) contractual terms between an owner or lessee of an alternative fuel vehicle owner and an account manager for participation in the program;

(F) contractual terms between the department and an account manager, including authority for an account manager to enforce the terms of the program;

(G) procedures to provide security and protection of personal information and data connected to the program, and penalties for account managers for violating privacy protection rules;

(H) penalty procedures for a program participant's failure to pay a road usage charge or tampering with a device necessary for the program; and

(I) department oversight of an account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the program; and

(ii) may make rules to establish:

(A) an enrollment cap for certain alternative fuel vehicle types to participate in the program;

(B) a process for collection of an unpaid road usage charge or penalty; or

(C) integration of the program with other similar programs, such as tolling.

(b) The department shall make recommendations to and consult with the commission regarding road usage mileage rates for each type of alternative fuel vehicle.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the commission shall, after consultation with the department, make rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

(7) (a) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Transportation Fund.

(b) The department may use revenue generated by the program to cover the costs of administering the program.

(8) (a) The department may:

(i) (A) impose a penalty for failure to timely pay a road usage charge according to the terms of the program or tampering with a device necessary for the program; and

(B) request that the Division of Motor Vehicles place a hold on the registration of the owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to the terms of the program;

(ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner or lessee of:

(A) the road usage charge program, implementation, and procedures;

(B) an unpaid road usage charge and the amount of the road usage charge to be paid to the department;

(C) the penalty for failure to pay a road usage charge within the time period described in Subsection (8)(a)(iii); and

(D) a hold being placed on the owner's or lessee's registration for the alternative fuel vehicle, if the road usage charge and penalty are not paid within the time period described in Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's registration; and

(iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage charge to the department within 30 days of the date when the department sends written notice of the road usage charge to the owner or lessee.

(b) The department shall send the correspondence and notice described in Subsection (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

(9) (a) The Division of Motor Vehicles and the department shall share and provide access to:

(i) information pertaining to an alternative fuel vehicle and participation in the program including:

~~(i)~~ (A) registration and ownership information pertaining to an alternative fuel vehicle;

~~(ii)~~ (B) information regarding the failure of an alternative fuel vehicle owner or lessee to pay a road usage charge or penalty imposed under this section within the time period described in Subsection (8)(a)(iii); and

~~(iii)~~ (C) the status of a request for a hold on the registration of an alternative fuel vehicle[-]; and

(ii) the following information, in a format that does not allow the department to identify the vehicle owner, from each certificate of emissions inspection provided in accordance with Section 41-6a-1642:

(A) the odometer reading; and

(B) the date of the odometer reading.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

(10) The owner of an alternative fuel vehicle may apply for enrollment in the program or withdraw from the program according to the terms established by the department pursuant to rules made under Subsection (5).

(11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

(a) report mileage driven as required by the department pursuant to Subsection (5);

(b) pay the road usage fee for each payment period as set by the department and the commission pursuant to Subsections (5) and (6); and

(c) comply with all other provisions of this section and other requirements of the program.

(12) On or before October 1 of each year, the department shall submit an electronic report to a legislative committee designated by the Legislative Management Committee that:

(a) describes the amount of revenue generated by the program during the preceding fiscal year; and

(b) recommends strategies for expanding enrollment in the program.

**Section 60. Section 72-1-213.2 is enacted to read:**

**72-1-213.2. Reports on revenue from road usage charge program.**

(1) As used in this section:

(a) "Committees" means the Transportation Interim Committee and the Infrastructure and General Government Appropriations Subcommittee.

(b) "Program" means the same as that term is defined in Section 72-1-213.1.

(2) On or before October 1, 2020, the department shall submit to the committees a plan to enroll all vehicles registered in the state in the program by December 31, 2020.

(3) Beginning in 2021, the committees shall receive and consider annually, on or before October 1, an electronic report from the department that:

(a) provides the participation rate in the program;

(b) states for the preceding fiscal year:

(i) the amount of revenue collected from the program; and

(ii) the department's cost to administer the program;

(c) provides for the current fiscal year, an estimate of:

(i) the revenue that will be collected from the program; and

(ii) the department's cost to administer the program; and

(d) recommends strategies to expand enrollment in the program to meet the deadline provided in Subsection (2).

(4) In a year in which the revenue generated under the program, minus the cost to administer the program, equals or exceeds 25%, 50%, 75%, or 100% of the revenue collected under Section 59-13-601, the department shall include that

information in the report required under Subsection (3).

**Section 61. Section 72-2-120 is amended to read:**

**72-2-120. Tollway Special Revenue Fund -- Revenue.**

(1) There is created a special revenue fund within the Transportation Fund known as the "Tollway Special Revenue Fund."

(2) The fund shall be funded from the following sources:

(a) tolls collected by the department under Section 72-6-118;

(b) funds received by the department through a tollway development agreement under Section 72-6-203;

(c) appropriations made to the fund by the Legislature;

(d) contributions from other public and private sources for deposit into the fund;

(e) interest earnings on cash balances; and

(f) money collected for repayments and interest on fund money.

(3) The Division of Finance may create a subaccount for each tollway as defined in Section 72-6-118.

(4) The commission may authorize the money deposited into the fund to be spent by the department ~~[to establish and operate tollways and related facilities and state transportation systems, including design, construction, reconstruction, operation, maintenance, enforcement, impacts from tollways, and the acquisition of right-of-way]~~ for any state transportation purpose.

**Section 62. Section 72-2-124 is amended to read:**

**72-2-124. Transportation Investment Fund of 2005.**

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with ~~[Section 59-12-103; and]~~ Sections 59-12-103 and 59-13-601;

(e) the additional special fuel tax revenues deposited into the fund in accordance with Section 59-13-323; and

~~(e)~~ (f) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

~~(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121; and~~

~~(viii)~~ (vii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304[.]; and

(viii) for a fiscal year beginning on or after July 1, 2020, to annually transfer an equal portion of \$5,000,000 to each county with a population of less than 14,000, as determined by the lieutenant

governor in accordance with Subsection 17-50-502(2), for expenses related to the improvement of class B roads located within the county.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).



(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

**Section 63. Section 72-6-118 is amended to read:**

**72-6-118. Definitions -- Establishment and operation of tollways -- Imposition and collection of tolls -- Amount of tolls -- Rulemaking.**

(1) As used in this section:

(a) (i) [~~“High”~~] Before January 1, 2025, “high occupancy toll lane” means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee.

(ii) On or after January 1, 2025, “high occupancy toll lane” means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle only if:

(A) the vehicle is carrying three or more occupants; or

(B) the operator pays a toll or fee.

(b) “Toll” means any tax, fee, or charge assessed for the specific use of a tollway.

(c) “Toll lane” means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use.

(d) (i) “Tollway” means a highway, highway lane, bridge, path, tunnel, or right-of-way designed and used as a transportation route that is constructed, operated, or maintained through the use of toll revenues.

(ii) “Tollway” includes a high occupancy toll lane and a toll lane.

(e) "Tollway development agreement" has the same meaning as defined in Section 72-6-202.

(2) Subject to the provisions of Subsection (3), the department may:

(a) establish, expand, and operate tollways and related facilities for the purpose of funding in whole or in part the acquisition of right-of-way and the design, construction, reconstruction, operation, enforcement, and maintenance of or impacts from a transportation route for use by the public;

(b) enter into contracts, agreements, licenses, franchises, tollway development agreements, or other arrangements to implement this section;

(c) impose and collect tolls on any tollway established under this section, including collection of past due payment of a toll or penalty;

(d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls pursuant to the terms and conditions of a tollway development agreement;

(e) use technology to automatically monitor a tollway and collect payment of a toll, including:

(i) license plate reading technology; and

(ii) photographic or video recording technology; and

(f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll or penalty imposed for usage of a tollway involving the motor vehicle for which registration renewal has been requested.

(3) (a) The department may establish or operate a tollway on an existing highway if approved by the commission in accordance with the terms of this section.

(b) To establish a tollway on an existing highway, the department shall submit a proposal to the commission including:

(i) a description of the tollway project;

(ii) projected traffic on the tollway;

(iii) the anticipated amount of the toll to be charged; and

(iv) projected toll revenue.

(4) (a) For a tollway established under this section, the department may:

(i) according to the terms of each tollway, impose the toll upon the owner of a motor vehicle using the tollway according to the terms of the tollway;

(ii) send correspondence to the owner of the motor vehicle to inform the owner of:

(A) an unpaid toll and the amount of the toll to be paid to the department;

(B) the penalty for failure to pay the toll timely; and

(C) a hold being placed on the owner's registration for the motor vehicle if the toll and penalty are not paid timely, which would prevent the renewal of the motor vehicle's registration;

(iii) require that the owner of the motor vehicle pay the toll to the department within 30 days of the date when the department sends written notice of the toll to the owner; and

(iv) impose a penalty for failure to pay a toll timely.

(b) The department shall mail the correspondence and notice described in Subsection (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

(5) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to a motor vehicle and tollway enforcement including:

(i) registration and ownership information pertaining to a motor vehicle;

(ii) information regarding the failure of a motor vehicle owner to timely pay a toll or penalty imposed under this section; and

(iii) the status of a request for a hold on the registration of a motor vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or penalty imposed under this section for usage of a tollway involving the motor vehicle for which registration renewal has been requested until the department withdraws the hold request.

(6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall:

(i) set the amount of any toll imposed or collected on a tollway on a state highway; and

(ii) for tolls established under Subsection (6)(b), set:

(A) an increase in a toll rate or user fee above an increase specified in a tollway development agreement; or

(B) an increase in a toll rate or user fee above a maximum toll rate specified in a tollway development agreement.

(b) A toll or user fee and an increase to a toll or user fee imposed or collected on a tollway on a state highway that is the subject of a tollway development agreement shall be set in the tollway development agreement.

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(i) necessary to establish and operate tollways on state highways;

(ii) that establish standards and specifications for automatic tolling systems and automatic tollway monitoring technology; and

(iii) to set the amount of a penalty for failure to pay a toll under this section.

(b) The rules shall:

(i) include minimum criteria for having a tollway; and

(ii) conform to regional and national standards for automatic tolling.

(8) (a) The commission may provide funds for public or private tollway pilot projects or high occupancy toll lanes from General Fund money appropriated by the Legislature to the commission for that purpose.

(b) The commission may determine priorities and funding levels for tollways designated under this section.

(9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway on a state highway shall be deposited into the Tollway Special Revenue Fund created in Section 72-2-120 and used for ~~[acquisition of right-of-way and the design, construction, reconstruction, operation, maintenance, enforcement of state transportation systems and facilities, including operating improvements to the tollway, and other facilities used exclusively for the operation of a tollway facility within the corridor served by the tollway]~~ any state transportation purpose.

(b) Revenue generated from a tollway that is the subject of a tollway development agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance with Subsection (9)(a) unless:

(i) the revenue is to a private entity through the tollway development agreement; or

(ii) the revenue is identified for a different purpose under the tollway development agreement.

(10) Data described in Subsection (2)(e) obtained for the purposes of this section:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the photographic or video data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in this section;

(c) may only be preserved:

(i) so long as necessary to collect the payment of a toll or penalty imposed in accordance with this section; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(11) (a) The department may not sell for any purpose photographic or video data captured under Subsection (2)(e)(ii).

(b) The department may not share captured photographic or video data for a purpose not authorized under this section.

~~[(12) Before November 1, 2018, the Driver License Division, the Division of Motor Vehicles, and the department shall jointly study and report findings and recommendations to the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers' License Compact, and other methods to collect a toll or penalty under this section from:]~~

~~[(a) an owner of a motor vehicle registered outside this state; or]~~

~~[(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.]~~

**Section 64. Section 72-9-603 is amended to read:**

**72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.**

(1) Except for a tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) description, including the identification number, license number, or other identification

number issued by a state agency, of the vehicle, vessel, or outboard motor;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the current address, notifying the party of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (7)(e).

(2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

(i) collect any fee associated with the removal; or

(ii) begin charging storage fees.

(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):

(A) a mobile home park as defined in Section 57-16-3; or

(B) a multifamily dwelling of more than eight units.

(ii) Signage under Subsection (2)(b)(i) shall display:

(A) where parking is subject to towing; and

(B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or

(II) one of the following:

(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a

tow truck service for the locations listed under Subsection (2)(b)(i); or

(Bb) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.

(c) Signage is not required under Subsection (2)(b) for parking in a location:

(i) that is prohibited by law; or

(ii) if it is reasonably apparent that the location is not open to parking.

(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.

(3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (7); ~~and~~

(b) the administrative impound fee set in Section 41-6a-1406, if applicable~~[-];~~ and

(c) the applicable sales and use tax.

(4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

(b) The tow truck operator or tow truck motor carrier shall securely store the vehicle, vessel, or outboard motor and items described in Subsection (4)(a) in an approved state impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor:

(i) pays the ~~[fees]~~ amounts described in Subsection (3); and

(ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

(5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice has been sent under Subsection (1)(b):

(i) pay the ~~[fees]~~ amounts described in Subsection (3); and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) A person may not request a transfer of title to an abandoned vehicle, vessel, or outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

(6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all

its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall:

(a) subject to the restriction in Subsection (8), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

- (A) a peace officer dispatch call;
- (B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (7)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the

vehicle, vessel, or outboard motor has not consented to the removal.

(8) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by the department in rules made under Subsection (7).

(ii) In addition to the maximum rates established under Subsection (7) ~~and when receiving payment by credit card~~, a tow truck operator, a tow truck motor carrier, or an impound yard:

(A) shall collect the sales and use tax due; and

(B) when receiving payment by credit card, may charge a credit card processing fee of 3% of the transaction total.

(b) A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in rules made pursuant to Subsection (7).

(10) When a tow truck motor carrier or impound lot is in possession of a vehicle, vessel, or outboard motor as a result of a tow service that was performed without the consent of the owner, and that was not ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck motor carrier or impound yard shall make personnel available:

(a) by phone 24 hours a day, seven days a week; and

(b) to release the impounded vehicle, vessel, or outboard motor to the owner within one hour of when the owner calls the tow truck motor carrier or impound yard.

**Section 65. Appropriations -- Operating and Capital Budgets.**

**Subsection 65 (a)(i). Fiscal Year 2020 Appropriation -- Operating and Capital Budgets.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Workforce Services — Administration

From General Fund, One-time \$500,000

<u>Schedule of Programs:</u>	<u>Child Nutrition</u>	<u>\$16,224,300</u>
<u>Communications</u>		<u>\$500,000</u>
The Legislature intends that the Department of Workforce Services use this appropriation for outreach to inform eligible individuals, particularly low income individuals, of available income tax credits, exemptions, and rebates and how to claim them.		
<b>Subsection 65 (a)(ii). Fiscal Year 2020</b>		
<b>Appropriation -- Transfers to Unrestricted Funds.</b>		
The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.		
The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.		
<u>ITEM 2</u>		
<u>To General Fund, One-time</u>		
<u>From Education Fund Restricted --</u>		
<u>Underage Drinking Prevention</u>		
<u>Program Restricted Account</u>		<u>\$1,750,000</u>
<u>Schedule of Programs:</u>		
<u>General Fund, One-time</u>		
		<u>\$1,750,000</u>
The Legislature intends that, after satisfying all prior appropriations from the Underage Drinking Prevention Program Restricted Account, the State Division of Finance transfer all remaining balances in the Underage Drinking Prevention Program Restricted Account to the General Fund at the close of fiscal year 2020 and close the account.		
<b>Subsection 65 (b). Fiscal Year 2021</b>		
<b>Appropriations -- Operating and Capital Budgets.</b>		
The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.		
<u>ITEM 3</u>		
<u>To State Board of Education -- Child Nutrition</u>		
<u>From Education Fund</u>		<u>\$55,500,000</u>
<u>From Dedicated Credits --</u>		
<u>Liquor Tax</u>		<u>(\$39,275,700)</u>
<u>Schedule of Programs:</u>		
	<u>Child Nutrition</u>	<u>\$16,224,300</u>
<u>ITEM 4</u>		
<u>To State Board of Education --</u>		
<u>State Administrative Office</u>		
<u>From Education Fund</u>		<u>\$2,850,000</u>
<u>From Education Fund Restricted --</u>		
<u>Underage Drinking Prevention</u>		
<u>Program Restricted Account</u>		<u>(\$1,751,000)</u>
<u>Schedule of Programs:</u>		
<u>Student Advocacy Services</u>		
		<u>\$1,099,000</u>
<u>ITEM 5</u>		
<u>To University of Utah -- Education and General</u>		
<u>From General Fund</u>		<u>\$101,608,900</u>
<u>From Education Fund</u>		<u>(\$101,608,900)</u>
<u>ITEM 6</u>		
<u>To University of Utah -- School of Medicine</u>		
<u>From General Fund</u>		<u>\$35,899,500</u>
<u>From Education Fund</u>		<u>(\$35,899,500)</u>
<u>ITEM 7</u>		
<u>To University of Utah -- University Hospital</u>		
<u>From General Fund</u>		<u>\$1,533,000</u>
<u>From Education Fund</u>		<u>(\$1,533,000)</u>
<u>ITEM 8</u>		
<u>To University of Utah -- School of Dentistry</u>		
<u>From General Fund</u>		<u>\$2,324,700</u>
<u>From Education Fund</u>		<u>(\$2,324,700)</u>
<u>ITEM 9</u>		
<u>To Utah State University -- Education</u>		
<u>and General</u>		
<u>From General Fund</u>		<u>\$73,521,400</u>
<u>From Education Fund</u>		<u>(\$73,521,400)</u>
<u>ITEM 10</u>		
<u>To Utah State University --</u>		
<u>USU-Eastern Education and General</u>		
<u>From General Fund</u>		<u>\$12,503,400</u>
<u>From Education Fund</u>		<u>(\$12,503,400)</u>
<u>ITEM 11</u>		
<u>To Weber State University -- Education</u>		
<u>and General</u>		
<u>From General Fund</u>		<u>\$94,098,000</u>
<u>From Education Fund</u>		<u>(\$94,098,000)</u>
<u>ITEM 12</u>		
<u>To Southern Utah University -- Education</u>		
<u>and General</u>		
<u>From General Fund</u>		<u>\$47,444,900</u>

<u>From Education Fund</u>	<u>(\$47,444,900)</u>
<u>ITEM 13</u>	
<u>To Utah Valley University -- Education and General</u>	
<u>From General Fund</u>	<u>\$22,092,900</u>
<u>From Education Fund</u>	<u>(\$22,092,900)</u>

- (14) Section 59-10-1018;
- (15) Section 59-10-1019;
- (16) Section 59-10-1022;
- (17) Section 59-10-1023;
- (18) Section 59-10-1028;
- (19) Section 59-10-1033;
- (20) Section 59-10-1035;
- (21) Section 59-10-1036;
- (22) Section 59-10-1041;
- (23) Section 59-10-1102.1;
- (24) Section 59-10-1105;
- (25) Section 59-10-1113;
- (26) Section 59-10-1114;
- (27) Section 59-10-1403.3; and
- (28) Section 59-13-202.

**Section 66. Effective date.**

(1) The following sections take effect on April 1, 2020:

- (a) Section 15A-1-204;
- (b) Section 26-36b-208;
- (c) Section 59-1-1503;
- (d) Section 59-12-102;
- (e) Section 59-12-103;
- (f) Section 59-12-104;
- (g) Section 59-12-104.5;
- (h) Section 59-12-1201;
- (i) Section 59-13-323;
- (j) Section 63I-2-259;
- (k) Section 63M-4-702; and
- (l) Section 72-2-124.

(2) Subsection 65(b) of this bill takes effect on July 1, 2020.

(3) The following sections take effect on January 1, 2021:

- (a) Section 41-6a-1642; and
- (b) Section 72-1-213.2.

**Section 67. Contingent retrospective operation.**

If this bill is approved by less than two-thirds of all the members elected to each house, the following sections have retrospective operation for a taxable year beginning on or after January 1, 2020:

- (1) Section 35A-9-214;
- (2) Section 59-7-104;
- (3) Section 59-7-201;
- (4) Section 59-7-610;
- (5) Section 59-7-614.1;
- (6) Section 59-7-618;
- (7) Section 59-7-620;
- (8) Section 59-10-104;
- (9) Section 59-10-529.1;
- (10) Section 59-10-1005;
- (11) Section 59-10-1007;
- (12) Section 59-10-1017;
- (13) Section 59-10-1017.1;

**CHAPTER 2  
S.B. 2002**

Passed December 12, 2019  
Approved December 18, 2019  
Effective December 18, 2019

**ONE-TIME APPROPRIATION  
FOR BEHAVIORAL HEALTH**

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

**LONG TITLE**

**General Description:**

This bill supplements appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

**Highlighted Provisions:**

This bill:

- ▶ provides budget increases for Behavioral Health Services;
- ▶ reduces unused appropriations for Medicaid Expansion;
- ▶ provides one-time appropriation for Washington County Court Support Services; and
- ▶ provides intent language.

**Money Appropriated in this Bill:**

This bill appropriates \$3,900,000 in operating and capital budgets for fiscal year 2020, all of which is from the General Fund.

This bill appropriates (\$3,900,000) in restricted fund and account transfers for fiscal year 2020, all of which is from the General Fund.

**Other Special Clauses:**

This bill takes effect immediately.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**SOCIAL SERVICES**

**DEPARTMENT OF HUMAN SERVICES**

**Item 1**

To Department of Human Services - Division of Substance Abuse and Mental Health  
 From General Fund, One-Time . . . . . 3,900,000  
 Schedule of Programs:  
   Local Substance Abuse Services . . . . . 3,501,200  
   State Substance Abuse Services . . . . . 398,800

The Legislature intends that the Department of Human Services issue \$398,800 to Washington County in order to restore funding to the Washington County Court Support Services program.

**Subsection 1(b). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**SOCIAL SERVICES**

**Item 2**

To Medicaid Expansion Fund  
 From General Fund, One-Time . . . . . (3,900,000)  
 Schedule of Programs:  
   Medicaid Expansion Fund . . . . . (3,900,000)

**Section 2. Effective Date.**

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



**LAWS**  
**of the**  
**STATE OF UTAH, 2020**

**Passed at the**  
**GENERAL SESSION**  
**of the**  
**SIXTY-THIRD LEGISLATURE**

**Convened at the State Capitol in the City of Salt Lake**  
**January 27, 2020**  
**and Adjourned Sine Die on**  
**March 12, 2020**

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

**THIS IS TO CERTIFY** that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2020 General Session of the Sixty-third Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2020 General Session of the Sixty-third Legislature of the State of Utah convened at the Capitol in Salt Lake City on January 27, 2020 and adjourned on March 12, 2020.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 12<sup>th</sup> day of August, 2020.

  
Spencer J. Cox  
Lieutenant Governor

**CHAPTER 1****H. B. 185**

Passed January 28, 2020  
 Approved January 29, 2020  
 Effective January 29, 2020  
 (Exception clause in Section 1)

**TAX RESTRUCTURING  
 REVISIONS - REPEAL**

Chief Sponsor: Francis D. Gibson  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill repeals S.B. 2001, Chapter 1, Laws of Utah 2019, Second Special Session.

**Highlighted Provisions:**

This bill:

- ▶ repeals S.B. 2001, Tax Restructuring Revisions, which the Legislature passed during the 2019 Second Special Session.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Uncodified Material Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. Repeal.**

S.B. 2001, Chapter 1, Laws of Utah 2019, Second Special Session is repealed.

**Section 2. Effective date.**

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

**CHAPTER 2****H. B. 1**

Passed February 5, 2020  
Approved February 24, 2020  
Effective July 1, 2020

**PUBLIC EDUCATION BASE  
BUDGET AMENDMENTS**

Chief Sponsor: Steve Eliason  
Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2019, and ending June 30, 2020, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2020, and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2019, and ending June 30, 2020, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2020, and ending June 30, 2021.

**Monies Appropriated in this Bill:**

This bill appropriates (\$131,491,100) in operating and capital budgets for fiscal year 2020, including:

- ▶ \$6,680,900 from the Education Fund; and
- ▶ (\$138,172,000) from various sources as detailed in this bill.

This bill appropriates \$80,100 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$5,536,284,700 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$7,364,100 from the General Fund;
- ▶ \$32,500,000 from the Uniform School Fund;
- ▶ \$3,520,678,700 from the Education Fund; and
- ▶ \$1,975,741,900 from various sources as detailed in this bill.

This bill appropriates \$3,327,000 in expendable funds and accounts for fiscal year 2021.

This bill appropriates \$229,485,200 in restricted funds and account transfers for fiscal year 2021, all of which is from the Education Fund.

This bill appropriates \$122,600 in fiduciary funds for fiscal year 2021.

**Other Special Clauses:**

This bill provides a special effective date.

**Uncodified Material Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. Fiscal Year 2020 appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Public EducationState Board of Education - Minimum School ProgramItem 1 To State Board of Education - Minimum School Program -Basic School ProgramFrom Beginning Nonlapsing

Balances 4,986,700

From Closing Nonlapsing

Balances (4,986,700)

Item 2 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-Time 4,680,900

From Beginning Nonlapsing

Balances 9,094,600

From Closing Nonlapsing Balances (9,094,600)

Schedule of Programs:

Educator Salary Adjustments 4,680,900

State Board of EducationItem 3 To State Board of Education - Child Nutrition

From Federal Funds, One-Time (405,200)

From Dedicated Credits

Revenue, One-Time 6,200

From Dedicated Credit -

Liquor Tax, One-Time 8,646,500

From Revenue Transfers, One-Time (65,900)

From Beginning Nonlapsing

Balances 3,982,700

From Closing Nonlapsing Balances (3,984,700)

Schedule of Programs:

Child Nutrition 8,179,600

Item 4 To State Board of Education - Education Contracts

From Revenue Transfers, One-Time (2,300)

From Beginning Nonlapsing Balances 12,900

Schedule of Programs:

Corrections Institutions 10,600

<u>Item 5 To State Board of Education - Educator Licensing</u>	
<u>From Dedicated Credits Revenue, One-Time</u>	(34,800)
<u>From Revenue Transfers, One-Time</u>	(49,700)
<u>From Beginning Nonlapsing Balances</u>	(430,700)
<u>From Closing Nonlapsing Balances</u>	495,000
<u>Schedule of Programs:</u>	
<u>Educator Licensing</u>	(20,200)
<u>Item 6 To State Board of Education - Fine Arts Outreach</u>	
<u>From Beginning Nonlapsing Balances</u>	128,700
<u>From Closing Nonlapsing Balances</u>	(128,700)
<u>Item 7 To State Board of Education - Initiative Programs</u>	
<u>From Revenue Transfers, One-Time</u>	(131,300)
<u>From Beginning Nonlapsing Balances</u>	8,259,700
<u>From Closing Nonlapsing Balances</u>	56,400
<u>Schedule of Programs:</u>	
<u>Carson Smith Scholarships</u>	50,400
<u>Computer Science Initiatives</u>	127,000
<u>Contracts and Grants</u>	3,537,900
<u>CTE Online Assessments</u>	52,100
<u>Early Intervention Reading Software</u>	404,300
<u>Early Warning Pilot Program</u>	125,000
<u>Electronic Elementary Reading Tool</u>	400,000
<u>General Financial Literacy</u>	89,100
<u>Intergenerational Poverty Interventions</u>	43,800
<u>Interventions for Reading Difficulties</u>	59,400
<u>IT Academy</u>	100
<u>Kindergarten Supplement Enrichment Program</u>	43,600
<u>Paraeducator to Teacher Scholarships</u>	10,000
<u>Partnerships for Student Success</u>	247,300
<u>ProStart Culinary Arts Program</u>	165,000
<u>School Turnaround and Leadership Development Act</u>	752,300
<u>UPSTART</u>	11,200
<u>ULEAD</u>	24,700
<u>Educational Improvement Opportunities Outside of the Regular School Day Grant Program</u>	41,600
<u>Item 8 To State Board of Education - MSP Categorical Program Administration</u>	
<u>From Revenue Transfers, One-Time</u>	(136,700)
<u>From Beginning Nonlapsing Balances</u>	524,100
<u>From Closing Nonlapsing Balances</u>	164,000
<u>Schedule of Programs:</u>	
<u>Adult Education</u>	42,200

<u>Beverly Taylor Sorenson Elementary</u>	
<u>Arts Learning Program</u>	46,900
<u>CTE Comprehensive Guidance</u>	63,900
<u>Digital Teaching and Learning</u>	306,000
<u>Dual Immersion</u>	89,000
<u>Enhancement for At-Risk Students</u>	(4,300)
<u>Special Education State Programs</u>	72,400
<u>Youth-in-Custody</u>	46,600
<u>Early Literacy Program</u>	11,000
<u>State Safety and Support Program</u>	(122,300)
<u>Item 9 To State Board of Education - Science Outreach</u>	
<u>From Beginning Nonlapsing Balances</u>	49,500
<u>From Closing Nonlapsing Balances</u>	(49,500)
<u>Item 10 To State Board of Education - State Administrative Office</u>	
<u>From Education Fund, One-Time</u>	2,000,000
<u>From Federal Funds, One-Time</u>	(141,921,700)
<u>From Dedicated Credits Revenue, One-Time</u>	64,300
<u>From Revenue Transfers, One-Time</u>	(302,400)
<u>From Beginning Nonlapsing Balances</u>	12,990,500
<u>From Closing Nonlapsing Balances</u>	(16,899,200)
<u>Schedule of Programs:</u>	
<u>Board and Administration</u>	(780,000)
<u>Data and Statistics</u>	64,300
<u>Financial Operations</u>	1,259,600
<u>Indirect Cost Pool</u>	2,508,400
<u>Information Technology</u>	(11,099,200)
<u>Law and Legislation</u>	(100)
<u>Math Teacher Training</u>	316,900
<u>Policy and Communication</u>	478,200
<u>School Trust</u>	(7,400)
<u>Special Education</u>	(99,469,200)
<u>Statewide Online Education Program</u>	2,482,800
<u>Student Support Services</u>	(39,822,800)
<u>Item 11 To State Board of Education - General System Support</u>	
<u>From Federal Funds, One-Time</u>	(11,323,000)
<u>From Dedicated Credits Revenue, One-Time</u>	968,300
<u>From Expendable Receipts, One-Time</u>	446,000
<u>From Revenue Transfers, One-Time</u>	116,000
<u>From Beginning Nonlapsing Balances</u>	12,143,900
<u>From Closing Nonlapsing Balances</u>	(2,858,900)
<u>Schedule of Programs:</u>	
<u>Student Achievement Teaching and Learning</u>	50,600
<u>Assessment and Accountability</u>	(1,221,900)
<u>Career and Technical Education</u>	2,484,000
<u>Pilot Teacher Retention Grant Program</u>	(1,857,900)
	37,500

<u>Item 12 To State Board of Education - State Charter School Board</u>	
<u>From Revenue Transfers, One-Time</u>	<u>(36,900)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>2,369,300</u>
<u>From Closing Nonlapsing Balances</u>	<u>(2,072,400)</u>
<u>Schedule of Programs:</u>	
<u>State Charter School Board</u>	<u>260,000</u>
<u>Item 13 To State Board of Education - Teaching and Learning</u>	
<u>From Revenue Transfers, One-Time</u>	<u>(8,999,400)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>51,600</u>
<u>From Closing Nonlapsing Balances</u>	<u>(20,800)</u>
<u>Schedule of Programs:</u>	
<u>Student Access to High Quality School Readiness Programs</u>	<u>(8,968,600)</u>
<u>Item 14 To State Board of Education - Utah Schools for the Deaf and the Blind</u>	
<u>From Beginning Nonlapsing Balances</u>	<u>1,524,000</u>
<u>From Closing Nonlapsing Balances</u>	<u>(1,317,400)</u>
<u>Schedule of Programs:</u>	
<u>Educational Services</u>	<u>(390,800)</u>
<u>Support Services</u>	<u>(387,000)</u>
<u>Administration</u>	<u>1,553,100</u>
<u>Transportation and Support Services</u>	<u>7,399,600</u>
<u>Utah State Instructional Materials Access Center</u>	<u>258,800</u>
<u>School for the Deaf</u>	<u>(4,590,400)</u>
<u>School for the Blind</u>	<u>(3,636,700)</u>

**Subsection 1(b). Expendable Funds and Accounts.**

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

Public Education

State Board of Education

Item 15 To State Board of Education - Charter School Revolving Account

<u>From Dedicated Credits Revenue, One-Time</u>	<u>4,600</u>
<u>From Interest Income, One-Time</u>	<u>76,000</u>
<u>From Beginning Fund Balance</u>	<u>37,400</u>

<u>From Closing Fund Balance</u>	<u>(118,000)</u>
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Item 16 To State Board of Education - Hospitality and Tourism Management Education Account

<u>From Dedicated Credits Revenue, One-Time</u>	<u>30,100</u>
<u>From Interest Income, One-Time</u>	<u>5,200</u>
<u>From Beginning Fund Balance</u>	<u>305,200</u>
<u>From Closing Fund Balance</u>	<u>(260,400)</u>

Schedule of Programs:

<u>Hospitality and Tourism Management Education Account</u>	<u>80,100</u>
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Item 17 To State Board of Education - School Building Revolving Account

<u>From Dedicated Credits Revenue, One-Time</u>	<u>500</u>
<u>From Interest Income, One-Time</u>	<u>28,900</u>
<u>From Beginning Fund Balance</u>	<u>102,400</u>
<u>From Closing Fund Balance</u>	<u>(131,800)</u>

**Subsection 1(c). Fiduciary Funds.**

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

Public Education

State Board of Education

Item 18 To State Board of Education - Education Tax Check-off Lease Refunding

<u>From Beginning Fund Balance</u>	<u>6,300</u>
<u>From Closing Fund Balance</u>	<u>(6,300)</u>

Item 19 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

<u>From Beginning Fund Balance</u>	<u>533,900</u>
<u>From Closing Fund Balance</u>	<u>(533,900)</u>

**Section 2. Fiscal Year 2021 appropriations.**

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

(2) The value of the weighted pupil unit for fiscal year 2021 is initially set at \$3,532.

**Subsection 2(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Public Education

State Board of Education - Minimum School Program

Item 20 To State Board of Education - Minimum School Program - Basic School Program

<u>From Education Fund</u>	<u>2,556,510,800</u>
<u>From Uniform School Fund</u>	<u>32,500,000</u>
<u>From Local Revenue</u>	<u>547,952,600</u>
<u>From Beginning Nonlapsing Balances</u>	<u>29,570,900</u>
<u>From Closing Nonlapsing Balances</u>	<u>(29,570,900)</u>

Schedule of Programs:

<u>Kindergarten (27,308 WPU's)</u>	<u>96,451,900</u>
<u>Grades 1 - 12 (606,016 WPU's)</u>	<u>2,140,448,500</u>
<u>Foreign Exchange (328 WPU's)</u>	<u>1,158,500</u>
<u>Necessarily Existent Small Schools (9,730 WPU's)</u>	<u>34,366,300</u>
<u>Professional Staff (56,572 WPU's)</u>	<u>199,812,300</u>
<u>Administrative Costs (1,515 WPU's)</u>	<u>5,351,000</u>
<u>Special Education - Add-on (86,450 WPU's)</u>	<u>305,341,400</u>
<u>Special Education - Self-Contained (13,229 WPU's)</u>	<u>46,724,800</u>
<u>Special Education - Preschool (11,311 WPU's)</u>	<u>39,950,500</u>
<u>Special Education - Extended School Year (457 WPU's)</u>	<u>1,614,100</u>
<u>Special Education - Impact Aid (2,060 WPU's)</u>	<u>7,275,900</u>
<u>Special Education - Intensive Services (795 WPU's)</u>	<u>2,807,900</u>
<u>Special Education - Extended Year for Special Educators (909 WPU's)</u>	<u>3,210,600</u>
<u>Career and Technical Education - Add-on (29,100 WPU's)</u>	<u>102,781,200</u>
<u>Class Size Reduction (42,375 WPU's)</u>	<u>149,668,500</u>

(1) The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the Basic School Program line item:

- (a) school readiness, as measured by:
  - (i) the percentage of students who are ready for kindergarten (target = 64% in literacy and 76% in numeracy); and
  - (ii) the percentage of students who demonstrate proficiency on a kindergarten exit assessment (fiscal year 2020 will establish a baseline, no target determined);
- (b) early indicator of academic success, as measured by the percentage of students who are proficient in English language arts and mathematics at the end of grade 3 (target = 67%);
- (c) proficiency in core academic subjects, as measured by:
  - (i) proficiency on a statewide assessment, including:

(A) the percentage of students who are proficient in English language arts, on average, across grades 3 through 8 (target = 64%);

(B) the percentage of students who are proficient in mathematics, on average, across grades 3 through 8 (target = 66%); and

(C) the percentage of students who are proficient in science, on average, across grades 4 through 8 (target = 67%); and

(ii) proficiency on a nationally administered assessment, including:

(A) the percentage of grade 4 students who are proficient in English language arts (target = 41%);

(B) the percentage of grade 4 students who are proficient in mathematics (target = 46%);

(C) the percentage of grade 4 students who are proficient in science (target = 45%);

(D) the percentage of grade 8 students who are proficient in English language arts (target = 38%);

(E) the percentage of grade 8 students who are proficient in mathematics (target = 39%); and

(F) the percentage of grade 8 students who are proficient in science (target = 50%);

(d) post-secondary access, as measured by the percentage of students who score at least 18 on the ACT (target = 77%);

(e) high school completion, as measured by the percentage of students who graduate from high school in four years (target = 90%); and

(f) preparation for college, as measured by the percentage of students who have earned a concentration in or completed a certificate in career and technical education or have earned credit in an Advanced Placement, a concurrent enrollment, or an International Baccalaureate course (target = 87%).

(2) The Legislature further intends that the State Board of Education include in the report described in Subsection (1) any recommended changes to the performance measures.

Item 21 To State Board of Education - Minimum School Program - Related to Basic School Programs

<u>From Education Fund</u>	<u>616,045,000</u>
<u>From Education Fund Restricted - Charter School Levy Account</u>	<u>30,428,500</u>
<u>From Teacher and Student Success Account</u>	<u>83,950,000</u>
<u>From Uniform School Fund Restricted - Trust Distribution Account</u>	<u>82,663,100</u>
<u>From Beginning Nonlapsing Balances</u>	<u>22,523,800</u>
<u>From Closing Nonlapsing Balances</u>	<u>(22,523,800)</u>

Schedule of Programs:

<u>Pupil Transportation To &amp; From School</u>	<u>99,627,700</u>
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<u>Flexible Allocation -</u>	
<u>WPU Distribution</u>	7,788,000
<u>School LAND Trust Program</u>	82,663,100
<u>Charter School Local</u>	
<u>Replacement</u>	223,757,600
<u>Charter School Administration</u>	8,014,500
<u>Early Literacy Program</u>	14,550,000
<u>Educator Salary Adjustments</u>	182,626,400
<u>Teacher Salary Supplement</u>	18,928,600
<u>School Library Books and Electronic</u>	
<u>Resources</u>	850,000
<u>Matching Fund for School Nurses</u>	1,002,000
<u>Teacher Supplies and Materials</u>	5,500,000
<u>Beverly Taylor Sorenson Elementary</u>	
<u>Arts Learning Program</u>	10,880,000
<u>Early Intervention</u>	7,500,000
<u>Digital Teaching and</u>	
<u>Learning Program</u>	19,852,400
<u>Effective Teachers in High Poverty</u>	
<u>Schools Incentive Program</u>	250,000
<u>Elementary School</u>	
<u>Counselor Program</u>	2,100,000
<u>Pupil Transportation Rural</u>	
<u>School Reimbursement</u>	500,000
<u>Pupil Transportation - Rural</u>	
<u>School Grants</u>	1,000,000
<u>Teacher and Student</u>	
<u>Success Program</u>	98,950,000
<u>Student Health and Counseling</u>	
<u>Support Program</u>	26,000,000
<u>Grants for Educators in High-Need</u>	
<u>Schools</u>	500,000
<u>National Board Certified Teacher</u>	
<u>Program</u>	246,300
<u>Item 22 To State Board of Education - Minimum</u>	
<u>School Program - Voted and Board Local Levy</u>	
<u>Programs</u>	
<u>From Education Fund</u>	128,740,500
<u>From Education Fund, One-Time</u>	(33,690,000)
<u>From Local Levy Growth Account</u>	70,135,200
<u>From Local Revenue</u>	636,607,000
<u>From Education Fund Restricted -</u>	
<u>Minimum Basic Growth Account</u>	56,250,000
<u>Schedule of Programs:</u>	
<u>Voted Local Levy Program</u>	538,548,500
<u>Board Local Levy Program</u>	304,494,200
<u>Board Local Levy Program - Early</u>	
<u>Literacy Program</u>	15,000,000
<u>Public Education</u>	
<u>State Board of Education</u>	
<u>Item 23 To State Board of Education -</u>	
<u>Child Nutrition</u>	
<u>From Education Fund</u>	144,400
<u>From Federal Funds</u>	159,371,700
<u>From Dedicated Credits Revenue</u>	6,200
<u>From Dedicated Credit -</u>	
<u>Liquor Tax</u>	39,275,700
<u>From Revenue Transfers</u>	(395,900)

<u>From Beginning Nonlapsing</u>	
<u>Balances</u>	3,984,700
<u>From Closing Nonlapsing</u>	
<u>Balances</u>	(3,984,700)
<u>Schedule of Programs:</u>	
<u>Child Nutrition</u>	198,402,100
<u>The Legislature intends that the State Board of</u>	
<u>Education report on or before September 30, 2020,</u>	
<u>to the Public Education Appropriations</u>	
<u>Subcommittee on the following performance</u>	
<u>measures for the Child Nutrition line item:</u>	
(1) school districts and charter schools served	
(target = 100% districts and 50% charters);	
(2) administrative reviews completed (target =	
20% annually/100% over five-year cycle); and	
(3) reimbursement claims paid within 30 days of	
claim submission for payment with an error rate of	
1% or less (target = 100%).	
<u>Item 24 To State Board of Education -</u>	
<u>Child Nutrition - Federal Commodities</u>	
<u>From Federal Funds</u>	19,159,300
<u>Schedule of Programs:</u>	
<u>Child Nutrition -</u>	
<u>Federal Commodities</u>	19,159,300
<u>Item 25 To State Board of Education -</u>	
<u>Educator Licensing</u>	
<u>From Education Fund</u>	7,654,600
<u>From Revenue Transfers</u>	(375,100)
<u>From Beginning Nonlapsing Balances</u>	5,000
<u>Schedule of Programs:</u>	
<u>Educator Licensing</u>	2,284,500
<u>STEM Endorsement Incentives</u>	5,000,000
<u>The Legislature intends that the State Board of</u>	
<u>Education report on or before September 30, 2020,</u>	
<u>to the Public Education Appropriations</u>	
<u>Subcommittee on the following performance</u>	
<u>measures for the Educator Licensing line item:</u>	
(1) background check response and notification of	
local education agency within 72 hours (target =	
100%);	
(2) teachers in a Utah local education agency who	
hold a standard level 1, 2, or 3 license (target = 95%);	
and	
(3) teachers in a Utah local education agency who	
have demonstrated preparation in assigned subject	
area (target = 95%).	
<u>Item 26 To State Board of Education - Fine Arts</u>	
<u>Outreach</u>	
<u>From Education Fund</u>	4,960,000
<u>From Beginning Nonlapsing Balances</u>	128,700
<u>From Closing Nonlapsing Balances</u>	(128,700)
<u>Schedule of Programs:</u>	
<u>Professional Outreach Programs in</u>	
<u>the Schools</u>	4,906,000



Subsidy Program 54,000

The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the Fine Arts Outreach line item:

(1) local education agencies served in a three-year period (target = 100% of districts and 90% of charters);

(2) number of students and educators receiving services (target = 500,000 students and 26,000 educators); and

(3) efficacy of education programming as determined by peer review (target = 90%).

Item 27 To State Board of Education - Initiative Programs

From General Fund 7,004,100

From Education Fund 29,740,400

From General Fund Restricted - Autism Awareness Account 50,700

From Revenue Transfers 2,795,100

From Beginning Nonlapsing Balances 1,698,800

From Closing Nonlapsing Balances (1,612,900)

Schedule of Programs:

Autism Awareness 50,700

Carson Smith Scholarships 7,013,900

Computer Science Initiatives 134,900

Contracts and Grants 95,000

Early Intervention Reading Software 10,600,000

Early Warning Pilot Program 250,000

Electronic Elementary Reading Tool 3,109,100

IT Academy 500,000

Kindergarten Supplement

Enrichment Program 1,653,300

Paraeducator to Teacher

Scholarships 21,900

ProStart Culinary Arts Program 403,100

UPSTART 15,263,900

ULEAD 580,400

The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the Initiative Programs line item:

(1) Carson Smith Scholarship annual compliance reporting (target = 100%);

(2) number of students served by UPSTART (target = 11,711);

(3) School Turnaround and Leadership Development Act schools meeting the exit criteria or qualifying for an extension (target = 100%); and

(4) Partnerships for Student Success Program average number of partners forming a partnership

with a lead grant applicant within a school feeder pattern (target = 15 partners).

Item 28 To State Board of Education - MSP Categorical Program Administration

From Education Fund 3,578,200

From Revenue Transfers (200,400)

From Beginning Nonlapsing Balances 675,000

From Closing Nonlapsing Balances (1,095,700)

Schedule of Programs:

Beverly Taylor Sorenson Elementary

Arts Learning Program 120,000

CTE Comprehensive Guidance 119,000

Digital Teaching and Learning (200)

Special Education State Programs 263,300

Early Literacy Program 500,000

CTE Online Assessments 625,500

CTE Student Organizations 969,300

State Safety and Support Program 360,200

The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the MSP Categorical Program Administration line item:

(1) number of schools engaged in Digital Teaching and Learning (target = 630 schools);

(2) professional learning for Dual Immersion educators (target = 1,800 educators);

(3) support for guest Dual Immersion educators (target = 150 educators);

(4) Beverly Taylor Sorenson Elementary Arts Learning Program fidelity of implementation (target = 50 site visits); and

(5) Beverly Taylor Sorenson Elementary Arts Learning Program survey completion for schools with intervention when responses show concern for implementation (target = 100%).

Item 29 To State Board of Education - Regional Service Centers

From Education Fund 2,000,000

Schedule of Programs:

Regional Service Centers 2,000,000

The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the Regional Service Centers line item:

(1) professional learning services (target = 3,200 educator training hours and 20,000 participation hours);

(2) technical support services (target = 7,500 support hours); and

(3) higher education services (target = 1,500 graduate level credit hours).

Item 30 To State Board of Education - Science Outreach

<u>From Education Fund</u>	5,290,000
<u>From Beginning Nonlapsing Balances</u>	49,500
<u>From Closing Nonlapsing Balances</u>	(49,500)

Schedule of Programs:

<u>Informal Science Education Enhancement</u>	5,065,000
<u>Provisional Program</u>	225,000

The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the Science Outreach line item:

(1) student science experiences (target = 380,000);

(2) student field trips (target = 375,000); and

(3) educator professional learning (target = 2,000 educators).

Item 31 To State Board of Education - State Administrative Office

<u>From General Fund</u>	23,500
<u>From Education Fund</u>	14,942,400
<u>From Federal Funds</u>	83,906,000
<u>From General Fund Restricted - Mineral Lease</u>	1,139,300
<u>From General Fund Restricted - Land Exchange Distribution Account</u>	16,100
<u>From General Fund Restricted - School Readiness Account</u>	65,200
<u>From Revenue Transfers</u>	3,613,500
<u>From Uniform School Fund Restricted - Trust Distribution Account</u>	580,300
<u>From Beginning Nonlapsing Balances</u>	26,028,200
<u>From Closing Nonlapsing Balances</u>	(15,114,600)

Schedule of Programs:

<u>Board and Administration</u>	3,266,300
<u>Data and Statistics</u>	2,357,100
<u>Financial Operations</u>	3,026,300
<u>Indirect Cost Pool</u>	4,243,300
<u>Information Technology</u>	16,222,200
<u>Math Teacher Training</u>	426,500
<u>Policy and Communication</u>	2,222,200
<u>School Trust</u>	524,900
<u>Special Education</u>	81,866,000
<u>Statewide Online Education Program</u>	1,045,100

The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the State Administrative Office line item:

(1) educators participating in trauma-informed practices training (target = 6,000); and

(2) local education agency Individuals with Disabilities Education Act noncompliance correction (target = 100%).

Item 32 To State Board of Education - General System Support

<u>From General Fund</u>	202,200
<u>From Education Fund</u>	23,748,800
<u>From Federal Funds</u>	31,083,200
<u>From Dedicated Credits Revenue</u>	6,951,100
<u>From Expendable Receipts</u>	446,000
<u>From General Fund Restricted - Mineral Lease</u>	403,900
<u>From Revenue Transfers</u>	(1,540,700)
<u>From Beginning Nonlapsing Balances</u>	16,141,500
<u>From Closing Nonlapsing Balances</u>	(12,149,200)

Schedule of Programs:

<u>Teaching and Learning</u>	25,292,400
<u>Assessment and Accountability</u>	23,624,600
<u>Career and Technical Education</u>	15,849,800
<u>Pilot Teacher Retention Grant Program</u>	520,000

The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the General System Support line item:

(1) local education agencies served by Teaching and Learning (target = 100%);

(2) career and technical education professional development (target = 5,500 educators);

(3) Readiness Improvement Success Empowerment (RISE) summative assessments delivered to the field on schedule (target = March 17, 2020); and

(4) Utah Aspire Plus summative assessments delivered to the field on schedule (target = March 23, 2020).

Item 33 To State Board of Education - State Charter School Board

<u>From Education Fund</u>	3,933,100
<u>From Revenue Transfers</u>	(223,200)
<u>From Beginning Nonlapsing Balances</u>	3,642,400
<u>From Closing Nonlapsing Balances</u>	(3,130,400)

Schedule of Programs:

<u>State Charter School Board</u>	4,221,900
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The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations

Subcommittee on the following performance measures for the State Charter School Board line item:

(1) percentage of substantive motions passed by the State Charter School Board that, in the discussion, mention consideration of the impact on students and track that impact where data are available (target = 100%);

(2) percentage of charter schools authorized by the State Charter School Board that meet the School Achievement metrics in the Charter School Accountability Framework (CSAF) under the annual review and latest comprehensive review (target = greater than 59.1% until reach 90%); and

(3) percentage of charter schools authorized by the State Charter School Board that fully implemented all key elements in their charter agreement and have no reported compliance issues (target = greater than 27.3% until reach 90%).

Item 34 To State Board of Education - Teaching and Learning

<u>From Education Fund</u>	<u>126,700</u>
<u>From Revenue Transfers</u>	<u>(21,200)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>20,800</u>

Schedule of Programs:

<u>Student Access to High Quality School Readiness Programs</u>	<u>126,300</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the Teaching and Learning line item:

(1) in literacy, the percentage of students who participate in High Quality School Readiness who are proficient (earn Proficiency Level 3) on the KEEP Entry compared to students who participate in non-High Quality School Readiness programs tracked by the state (target to be determined by USBE by September 30, 2020);

(2) in numeracy, the percentage of students who participate in High Quality School Readiness who are proficient (earn Proficiency Level 3) on the KEEP Entry compared to students who participate in non-High Quality School readiness programs tracked by the state (target to be determined by USBE by September 30, 2020); and

(3) significant differences in literacy and numeracy achievement as measured by the Kindergarten Entry and Exit Profile (KEEP) and grade 3 Readiness Improvement Success Empowerment (RISE) proficiency (target to be determined by USBE by September 30, 2020).

Item 35 To State Board of Education - Utah Charter School Finance Authority

<u>From Education Fund Restricted - Charter School Reserve Account</u>	<u>50,000</u>
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Schedule of Programs:

<u>Utah Charter School Finance Authority</u>	<u>50,000</u>
<u>Item 36 To State Board of Education - Utah Schools for the Deaf and the Blind</u>	

<u>From Education Fund</u>	<u>32,911,300</u>
<u>From Federal Funds</u>	<u>105,000</u>
<u>From Dedicated Credits Revenue</u>	<u>1,671,800</u>
<u>From Revenue Transfers</u>	<u>5,978,300</u>
<u>From Beginning Nonlapsing Balances</u>	<u>2,217,700</u>
<u>From Closing Nonlapsing Balances</u>	<u>(2,671,300)</u>

Schedule of Programs:

<u>Administration</u>	<u>5,744,700</u>
<u>Transportation and Support Services</u>	<u>11,092,900</u>
<u>Utah State Instructional Materials Access Center</u>	<u>2,135,000</u>
<u>School for the Deaf</u>	<u>12,237,900</u>
<u>School for the Blind</u>	<u>9,002,300</u>

The Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the Utah Schools for the Deaf and the Blind line item:

(1) average growth on vocabulary assessments for the deaf and hard of hearing campus students (target = greater than 2 standard score points);

(2) outreach educational services - provide contracted outreach services (target = 100%);

(3) deaf-blind educational services - improve communication matrix scores (target = 2.5%); and

(4) average percentage of growth for blind and visually impaired students attending campus programs (target = 51%).

School and Institutional Trust Fund Office

Item 37 To School and Institutional Trust Fund Office

<u>From School and Institutional Trust Fund Management Account</u>	<u>1,242,900</u>
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Schedule of Programs:

<u>School and Institutional Trust Fund Office</u>	<u>1,242,900</u>
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**Subsection 2(b). Expendable Funds and Accounts.**

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

<u>Public Education</u>
<u>State Board of Education</u>

<u>Item 38 To State Board of Education - Charter School Revolving Account</u>	
<u>From Dedicated Credits Revenue</u>	4,600
<u>From Interest Income</u>	132,200
<u>From Repayments</u>	1,511,400
<u>From Beginning Fund Balance</u>	7,163,500
<u>From Closing Fund Balance</u>	(7,300,300)

## Schedule of Programs:

<u>Charter School Revolving Account</u>	1,511,400
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Item 39 To State Board of Education - Hospitality and Tourism Management Education Account

<u>From Dedicated Credits Revenue</u>	300,000
<u>From Interest Income</u>	5,200
<u>From Beginning Fund Balance</u>	260,400
<u>From Closing Fund Balance</u>	(215,600)

## Schedule of Programs:

<u>Hospitality and Tourism Management Education Account</u>	350,000
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Item 40 To State Board of Education - School Building Revolving Account

<u>From Dedicated Credits Revenue</u>	500
<u>From Interest Income</u>	112,800
<u>From Repayments</u>	1,465,600
<u>From Beginning Fund Balance</u>	10,049,300
<u>From Closing Fund Balance</u>	(10,162,600)

## Schedule of Programs:

<u>School Building Revolving Account</u>	1,465,600
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**Subsection 2(c). Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Public EducationItem 41 To Uniform School Fund Restricted - Growth in Student Population Account

<u>From Education Fund</u>	400,000
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## Schedule of Programs:

<u>Growth in Student Population Account</u>	400,000
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Item 42 To Education Fund Restricted - Minimum Basic Growth Account

<u>From Education Fund</u>	75,000,000
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## Schedule of Programs:

<u>Education Fund Restricted - Minimum Basic Growth Account</u>	75,000,000
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Item 43 To Local Levy Growth Account

<u>From Education Fund</u>	70,135,200
<u>From Beginning Fund Balance</u>	2,747,400
<u>From Closing Fund Balance</u>	(2,747,400)

## Schedule of Programs:

<u>Local Levy Growth Account</u>	70,135,200
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Item 44 To Teacher and Student Success Account

<u>From Education Fund</u>	83,950,000
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## Schedule of Programs:

<u>Teacher and Student Success Account</u>	83,950,000
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**Subsection 2(d). Fiduciary Funds.**

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

Public EducationState Board of EducationItem 45 To State Board of Education - Education Tax Check-off Lease Refunding

<u>From Beginning Fund Balance</u>	39,800
<u>From Closing Fund Balance</u>	(37,600)

## Schedule of Programs:

<u>Education Tax Check-off Lease Refunding</u>	2,200
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Item 46 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

<u>From Dedicated Credits Revenue</u>	115,000
<u>From Interest Income</u>	5,400
<u>From Beginning Fund Balance</u>	1,221,700
<u>From Closing Fund Balance</u>	(1,221,700)

## Schedule of Programs:

<u>Schools for the Deaf and the Blind Donation Fund</u>	120,400
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**Section 3. Fiscal Year 2021 Accountable Process Budget.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021, for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 3(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Public EducationState Board of Education - Minimum School ProgramItem 47 To State Board of Education - Minimum School Program - Related to Basic School Programs

<u>From Education Fund</u>	<u>91,289,500</u>
<u>From Beginning Nonlapsing Balances</u>	<u>5,137,100</u>
<u>From Closing Nonlapsing Balances</u>	<u>(5,137,100)</u>
Schedule of Programs:	
<u>Enhancement for At-Risk Students</u>	<u>47,351,300</u>
<u>Youth in Custody</u>	<u>298,600</u>
<u>Adult Education</u>	<u>14,343,200</u>
<u>Enhancement for Accelerated Students</u>	<u>5,548,200</u>
<u>Centennial Scholarship Program</u>	<u>272,500</u>
<u>Concurrent Enrollment</u>	<u>11,890,000</u>
<u>Title I Schools Paraeducators Program</u>	<u>300,000</u>
<u>Dual Immersion</u>	<u>5,030,000</u>
<u>USTAR Centers (Year-Round Math and Science)</u>	<u>6,200,000</u>
<u>Early Graduation from Competency-Based Education</u>	<u>55,700</u>
<u>Public Education</u>	
<u>State Board of Education - School Building Programs</u>	
<u>Item 48 To State Board of Education - School Building Programs - Capital Outlay Programs</u>	
<u>From Education Fund</u>	<u>14,499,700</u>
<u>From Education Fund Restricted - Minimum Basic Growth Account</u>	<u>18,750,000</u>
Schedule of Programs:	
<u>Foundation Program</u>	<u>27,610,900</u>
<u>Enrollment Growth Program</u>	<u>5,638,800</u>
<u>Public Education</u>	
<u>State Board of Education</u>	
<u>Item 49 To State Board of Education - Initiative Programs</u>	
<u>From General Fund</u>	<u>126,200</u>
<u>From Education Fund</u>	<u>13,046,300</u>
<u>From Revenue Transfers</u>	<u>(87,100)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>12,784,500</u>
<u>From Closing Nonlapsing Balances</u>	<u>(10,918,000)</u>
Schedule of Programs:	
<u>ELL Software Licenses</u>	<u>3,000,000</u>
<u>General Financial Literacy</u>	<u>521,700</u>
<u>Interventions for Reading Difficulties</u>	<u>350,000</u>
<u>Partnerships for Student Success</u>	<u>(19,600)</u>
<u>School Turnaround and Leadership Development Act</u>	<u>8,647,000</u>
<u>Educational Improvement Opportunities Outside of the Regular School Day Grant Program</u>	<u>152,800</u>
<u>Competency-Based Education Grants</u>	<u>2,300,000</u>

<u>Item 50 To State Board of Education - MSP Categorical Program Administration</u>	
<u>From Education Fund</u>	<u>2,497,500</u>
<u>From Revenue Transfers</u>	<u>(196,400)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>918,000</u>
<u>From Closing Nonlapsing Balances</u>	<u>(676,300)</u>
Schedule of Programs:	
<u>Adult Education</u>	<u>347,500</u>
<u>Dual Immersion</u>	<u>514,900</u>
<u>Enhancement for At-Risk Students</u>	<u>463,300</u>
<u>Youth-in-Custody</u>	<u>1,217,100</u>
<u>Item 51 To State Board of Education - State Administrative Office</u>	
<u>From General Fund</u>	<u>8,100</u>
<u>From Education Fund</u>	<u>2,709,500</u>
<u>From Federal Funds</u>	<u>73,360,500</u>
<u>From Dedicated Credits Revenue</u>	<u>64,300</u>
<u>From General Fund Restricted - Mineral Lease</u>	<u>167,000</u>
<u>From General Fund Restricted - Substance Abuse Prevention</u>	<u>512,600</u>
<u>From Revenue Transfers</u>	<u>(500,700)</u>
<u>From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account</u>	<u>1,751,000</u>
<u>From Beginning Nonlapsing Balances</u>	<u>2,662,900</u>
<u>From Closing Nonlapsing Balances</u>	<u>(646,900)</u>
Schedule of Programs:	
<u>Student Support Services</u>	<u>80,088,300</u>

**Section 4. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2020.

(2) If approved by two-thirds of all the members elected to each house, Section 1, Fiscal year 2020 appropriations, takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.



**CHAPTER 3**

**H. B. 5**

Passed February 5, 2020  
 Approved February 24, 2020  
 Effective February 24, 2020  
 Exception clause

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

Chief Sponsor: Stewart E. Barlow  
 Senate Sponsor: David P. Hinkins

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for the use and support of programs reviewed under the accountable budget process; and
- ▶ provides appropriations for other purposes as described.

**Money Appropriated in this Bill:**

This bill appropriates (\$19,952,200) in operating and capital budgets for fiscal year 2020.

This bill appropriates \$5,160,100 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$7,354,000 in business-like activities for fiscal year 2020.

This bill appropriates \$3,387,500 in restricted fund and account transfers for fiscal year 2020.

This bill appropriates \$407,021,400 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$81,342,800 from the General Fund; and
- ▶ \$325,678,600 from various sources as detailed in this bill.

This bill appropriates \$5,108,100 in expendable funds and accounts for fiscal year 2021.

This bill appropriates \$73,477,900 in business-like activities for fiscal year 2021.

This bill appropriates \$7,493,800 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$6,409,800 from the General Fund; and
- ▶ \$1,084,000 from various sources as detailed in this bill.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF  
 AGRICULTURE AND FOOD**

**Item 1**

To Department of Agriculture and Food - Administration

From Beginning Nonlapsing Balances . . . 630,900  
 From Closing Nonlapsing Balances . . . (547,100)  
 Schedule of Programs:

Chemistry Laboratory . . . . . (106,500)  
 General Administration . . . . . 190,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 44, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures from General Fund are limited to: Computer Equipment/Software \$200,000; Employee Training/Incentives \$100,000; Equipment/Supplies \$55,000; Special Projects/Studies \$84,600; Furnishings/Equipment \$107,500. Expenditures from Dedicated Credits are limited to: \$200,000 to continue development of a department-wide computer system to manage regulatory programs.

**Item 2**

To Department of Agriculture and Food - Animal Health

From Beginning Nonlapsing Balances . . . (3,100)  
 From Closing Nonlapsing Balances . . . . . 93,900  
 Schedule of Programs:

Animal Health . . . . . 332,100  
 Auction Market Veterinarians . . . . . 700  
 Brand Inspection . . . . . (156,500)  
 Meat Inspection . . . . . (85,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Animal Health line item in Item 45, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures from General Fund are limited to: Computer Equipment/Software \$150,000 Employee Training/Incentives \$139,100; Special Projects/Studies \$267,100.

**Item 3**

To Department of Agriculture and Food - Invasive Species Mitigation

From Beginning Nonlapsing Balances . . . 750,000  
 From Closing Nonlapsing Balances . . . (750,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that

appropriations provided for Invasive Species Mitigation in Item 47, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to invasive species mitigation projects \$750,000.

**Item 4**

To Department of Agriculture and Food -  
Marketing and Development  
From Beginning Nonlapsing  
Balances ..... (20,800)  
From Closing Nonlapsing Balances ..... 20,900  
Schedule of Programs:  
Marketing and Development ..... 100

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Marketing and Development line item in Item 48, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of General Fund are limited to: Employee Training/Incentives \$13,500; Equipment/Supplies \$16,900; Special Projects/Studies \$16,200.

**Item 5**

To Department of Agriculture and Food -  
Plant Industry  
From Beginning Nonlapsing Balances ... (8,000)  
From Closing Nonlapsing Balances ..... 636,000  
Schedule of Programs:  
Environmental Quality ..... (11,400)  
Grain Inspection ..... (112,300)  
Grazing Improvement Program ..... 17,100  
Insect Infestation ..... 184,200  
Plant Industry ..... 550,400

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Plant Industry line item in Item 49, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of General Fund are limited to: Capital Equipment or Improvements \$305,800; Computer Equipment/Software \$224,700; Employee Training/Incentives \$63,300; Equipment/Supplies \$105,500; Special Projects/Studies 172,600. Expenditures of Dedicated Credits are limited to: \$500,000 to continue development of a department-wide computer system to manage regulatory programs, purchase of equipment necessary for inspectors and the chemistry laboratory, and special projects.

**Item 6**

To Department of Agriculture and Food -  
Predatory Animal Control  
From Beginning Nonlapsing Balances ..... 5,000  
Schedule of Programs:  
Predatory Animal Control ..... 5,000

**Item 7**

To Department of Agriculture and Food -  
Rangeland Improvement  
From Beginning Nonlapsing Balances ... 500,000  
From Closing Nonlapsing Balances .... (500,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Rangeland Improvement in Item 51, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to rangeland improvement projects \$500,000.

**Item 8**

To Department of Agriculture and Food -  
Regulatory Services  
From Beginning Nonlapsing  
Balances ..... 1,002,700  
From Closing Nonlapsing Balances .... (702,600)  
Schedule of Programs:  
Regulatory Services ..... 300,100

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Regulatory Services line item in Item 52, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of General Fund are limited to: Computer Equipment/Software \$292,100; Employee Training/Incentives \$51,700; Equipment/Supplies \$162,600; Special Projects/Studies \$235,700. Expenditures of Dedicated Credits are limited to: \$400,000 to continue development of a department-wide computer system to manage regulatory programs and large-scale truck repair and replacement.

**Item 9**

To Department of Agriculture and Food -  
Resource Conservation  
From Beginning Nonlapsing  
Balances ..... (313,600)  
From Closing Nonlapsing Balances ... (2,540,200)  
Schedule of Programs:  
Conservation Commission ..... 5,500  
Resource Conservation ..... (3,392,100)  
Resource Conservation Administration 532,800

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Resource Conservation in Item 53, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to: Water Efficiency and Optimization projects, \$3,000,000.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Item 10**

To Department of Environmental Quality -  
Air Quality  
From Beginning Nonlapsing  
Balances ..... 4,810,500  
From Closing Nonlapsing  
Balances ..... (12,342,000)  
Schedule of Programs:  
Air Quality ..... (7,531,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Air Quality in Item 55, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to



reducing future operating permit fees \$100,000; air monitoring equipment \$200,000; air quality research \$380,000; mobile monitoring data collection \$12,000; electric vehicle charging equipment \$4,400,000; replace wood-fired stoves and fireplaces with gas appliances \$7,000,000; air quality messaging campaigns \$250,000.

**Item 11**

To Department of Environmental Quality - Drinking Water  
 From Beginning Nonlapsing Balances ..... (51,600)  
 From Closing Nonlapsing Balances .... (388,400)  
 Schedule of Programs:  
 Drinking Water ..... (440,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Drinking Water in Item 56, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to drinking water use study activities and improvements to the Division's Source Sizing program \$388,400.

**Item 12**

To Department of Environmental Quality - Environmental Response and Remediation  
 From Closing Nonlapsing Balances ..... (78,000)  
 Schedule of Programs:  
 Environmental Response and Remediation ..... (78,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Environmental Response and Remediation, Item 157, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to upgrading office equipment and software \$25,000; developing and maintaining databases \$53,000.

**Item 13**

To Department of Environmental Quality - Executive Director's Office  
 From Closing Nonlapsing Balances .... (610,000)  
 Schedule of Programs:  
 Executive Director's Office ..... (610,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Director's Office in Item 58, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to high level nuclear waste opposition \$10,000; capital improvements/maintenance, DP Software, and equipment \$450,000; administrative law judge \$150,000.

**Item 14**

To Department of Environmental Quality - Waste Management and Radiation Control  
 From Closing Nonlapsing Balances .... (650,000)  
 Schedule of Programs:

Waste Management and Radiation Control ..... (650,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Waste Management and Radiation Control in Item 59, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to community outreach and public education \$100,000; research and creation of new programming/databases \$500,000; Capital improvements/maintenance, DP software, and equipment \$50,000.

**Item 15**

To Department of Environmental Quality - Water Quality  
 From Beginning Nonlapsing Balances ..... (310,100)  
 From Closing Nonlapsing Balances .... (505,400)  
 Schedule of Programs:  
 Water Quality ..... (815,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Water Quality in Item 60, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to environmental monitoring equipment \$50,000; independent scientific reviews \$95,400; Inland Port monitoring \$110,000; Utah Lake algal bloom and research projects \$250,000.

**Item 16**

To Department of Environmental Quality - Trip Reduction Program  
 From Closing Nonlapsing Balances .... (500,000)  
 Schedule of Programs:  
 Trip Reduction Program ..... (500,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Trip Reduction Program in Item 18, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to reduction of trips - fare days \$500,000.

**GOVERNOR'S OFFICE**

**Item 17**

To Governor's Office - Office of Energy Development  
 From Beginning Nonlapsing Balances ..... 1,866,500  
 Schedule of Programs:  
 Office of Energy Development ..... 1,866,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations for the Office of Energy Development in Laws of Utah 2019, Chapter 8, Item 61, shall not lapse at the close of FY2020. Expenditures of these funds are limited to special projects \$117,300; and administration \$138,900.

**DEPARTMENT OF NATURAL RESOURCES****Item 18**

To Department of Natural Resources -  
Administration

From Closing Nonlapsing Balances . . . . (225,000)

Schedule of Programs:

Administrative Services . . . . . 80,100  
Executive Director . . . . . (320,600)  
Lake Commissions . . . . . (700)  
Law Enforcement . . . . . 8,900  
Public Information Office . . . . . 7,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Administration in Item 62, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to Operating Budget Items: \$225,000.

The Legislature intends that the Department of Natural Resources transfer \$100,000 to the Bear Lake Commission to be expended only as a one-to-one match with funds from the State of Idaho. The unexpended funding shall not lapse at the close of FY 2020.

**Item 19**

To Department of Natural Resources -  
DNR Pass Through

From Beginning Nonlapsing

Balances . . . . . 3,000,000

From Closing Nonlapsing Balances . . . (4,900,000)

Schedule of Programs:

DNR Pass Through . . . . . (1,900,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Pass Through in Item 66 Chapter 8 Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to projects that have been obligated by contract but unexpended at the end of FY2020: up to \$4,900,000.

**Item 20**

To Department of Natural Resources -  
Forestry, Fire and State Lands

From Beginning Nonlapsing

Balances . . . . . 6,709,600

From Closing Nonlapsing

Balances . . . . . (10,400,000)

Schedule of Programs:

Division Administration . . . . . 108,900  
Fire Management . . . . . 566,800  
Fire Suppression Emergencies . . . . . 5,720,900  
Forest Management . . . . . 929,300  
Lone Peak Center . . . . . (250,800)  
Program Delivery . . . . . 16,800  
Project Management . . . . . (10,782,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Forestry, Fire, and State Lands in Item 67, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to: Sovereign Lands Related

Projects \$5,382,200; Little Willow Water Line \$17,800; Shared Stewardship \$2,000,000; and Aspen Regeneration \$2,000,000.

**Item 21**

To Department of Natural Resources -  
Oil, Gas and Mining

From Beginning Nonlapsing Balances . . . 450,500

From Closing Nonlapsing Balances . . . (3,600,000)

Schedule of Programs:

Abandoned Mine . . . . . (17,100)  
Administration . . . . . (13,500)  
Coal Program . . . . . (43,100)  
Minerals Reclamation . . . . . (20,500)  
OGM Misc. Nonlapsing . . . . . (3,100,000)  
Oil and Gas Program . . . . . 44,700

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Oil, Gas, and Mining in Item 68, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to: Mining Special Projects/Studies \$250,000; Computer Equipment/Software \$50,000; Employee Training/Incentives \$50,000; Equipment/Supplies \$50,000.

**Item 22**

To Department of Natural Resources - Parks and  
Recreation

From Dedicated Credits Revenue,

One-Time . . . . . (1,000)

From Revenue Transfers, One-Time . . . . . (100)

From Beginning Nonlapsing Balances . . . 307,300

Schedule of Programs:

Executive Management . . . . . (200)  
Park Operation Management . . . . . 307,300  
Planning and Design . . . . . (100)  
Recreation Services . . . . . (800)

**Item 23**

To Department of Natural Resources -  
Parks and Recreation Capital Budget

From Beginning Nonlapsing

Balances . . . . . 7,874,500

Schedule of Programs:

Boat Access Grants . . . . . 713,400  
Donated Capital Projects . . . . . 282,000  
Land Acquisition . . . . . 1,304,200  
Major Renovation . . . . . 910,300  
Off-highway Vehicle Grants . . . . . 872,200  
Region Renovation . . . . . 174,800  
Renovation and Development . . . . . 3,526,500  
Trails Program . . . . . 91,100

**Item 24**

To Department of Natural Resources -  
Species Protection

From Closing Nonlapsing Balances . . . . (200,000)

Schedule of Programs:

Species Protection . . . . . (200,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Species Protection program in Item 72, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to projects started in FY 2020: \$200,000.

**Item 25**

To Department of Natural Resources -  
 Utah Geological Survey  
 From Dedicated Credits Revenue,  
 One-Time ..... (318,000)  
 From Revenue Transfers, One-Time ... 318,000  
 From Beginning Nonlapsing  
 Balances ..... 5,000,000  
 From Closing Nonlapsing Balances .... (200,000)  
 Schedule of Programs:  
 Administration ..... (43,100)  
 Energy and Minerals ..... (414,400)  
 Geologic Hazards ..... 88,800  
 Geologic Information and Outreach .... 126,500  
 Geologic Mapping ..... 23,000  
 Ground Water ..... 19,200  
 Technical Services ..... 5,000,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Geological Survey in Item 73, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to Operating Budget Items: \$200,000.

**Item 26**

To Department of Natural Resources -  
 Water Resources  
 From Beginning Nonlapsing  
 Balances ..... 2,884,400  
 From Closing Nonlapsing  
 Balances ..... (10,850,000)  
 Schedule of Programs:  
 Administration ..... (122,000)  
 Construction ..... (5,908,600)  
 Interstate Streams ..... 91,100  
 Planning ..... (2,562,300)  
 Funding Projects and Research ..... 536,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 74, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to: Operating Budget Items \$200,000; Water Conservation Funding \$300,000; Water Banking \$350,000; Dam Safety Construction Project \$6,500,000; Water Infrastructure \$700,000; Agricultural Water Optimization \$700,000; and Transparent Water Billing \$2,100,000.

**Item 27**

To Department of Natural Resources -  
 Water Rights  
 From Closing Nonlapsing Balances .... (500,000)  
 Schedule of Programs:  
 Adjudication ..... (100)  
 Administration ..... (350,000)  
 Applications and Records ..... (149,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Rights in Item 17, Chapter 75, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to: Computer Equipment/Software \$40,000;

Adjudication \$50,000, Special  
 Projects/Studies \$150,000; Employee  
 Incentive/Training \$30,000, Equipment/  
 Supplies \$50,000, Current Expense \$30,000.

**Item 28**

To Department of Natural Resources - Watershed  
 From Beginning Nonlapsing Balances ... (4,900)  
 From Closing Nonlapsing Balances ... (3,000,000)  
 Schedule of Programs:  
 Watershed ..... (3,004,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed program in Item 76, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to projects obligated by contract in FY2020 up to \$3,000,000.

**Item 29**

To Department of Natural Resources -  
 Wildlife Resources  
 From Beginning Nonlapsing  
 Balances ..... (694,200)  
 From Closing Nonlapsing Balances ... (1,100,000)  
 Schedule of Programs:  
 Aquatic Section ..... 66,000  
 Wildlife Section ..... (1,860,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources line item in Item 77, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to: projects funded from the Mule Deer Protection Restricted Account \$200,000; projects funded from the Predator Control Restricted Account \$200,000.

The Legislature intends that up to \$700,000 of Wildlife Resources budget be used for big game depredation expenses shall not lapse at the close of FY 2020. The Legislature further intends that half of these funds be from the General Fund Restricted - Wildlife Resources account and the other half from the General Fund.

The legislature intends the Division of Wildlife Resources spend up to \$400,000 on livestock damage.

**Item 30**

To Department of Natural Resources -  
 Wildlife Resources Capital Budget  
 From Beginning Nonlapsing  
 Balances ..... (649,400)  
 From Closing Nonlapsing Balances .... (649,400)  
 Schedule of Programs:  
 Fisheries ..... (1,298,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in Item 78, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems in the state: \$649,400.

**PUBLIC LANDS POLICY  
COORDINATING OFFICE**

**Item 31**

To Public Lands Policy Coordinating Office  
From Beginning Nonlapsing  
Balances ..... 1,289,200  
From Closing Nonlapsing Balances ..... 10,800  
Schedule of Programs:  
Public Lands Policy Coordinating  
Office ..... 1,300,000

Under the terms of 63J-1-603 of the Utah Code, the legislature intends that appropriations provided for the Public Lands Policy Coordinating Office, in Item 79, Chapter 8, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditure of these funds are limited to: costs associated with reacting to current and future litigation, pursuing a Utah-specific roadless rule, and county, state, and federal agency coordination \$1,300,000; RS2477 litigation \$500,000; Online RMP database maintenance \$400,000; and to offset future volatility of the Constitutional Defense Restricted Account \$129,900.

**SCHOOL AND INSTITUTIONAL  
TRUST LANDS ADMINISTRATION**

**Item 32**

To School and Institutional Trust  
Lands Administration  
From Land Grant Management Fund,  
One-Time ..... 346,300  
From Trust and Agency Funds,  
One-Time ..... (346,300)

**Item 33**

To School and Institutional Trust  
Lands Administration - Land Stewardship  
and Restoration  
From Land Grant Management Fund,  
One-Time ..... (346,300)  
From Trust and Agency Funds,  
One-Time ..... 346,300

**Item 34**

To School and Institutional Trust Lands  
Administration - School and Institutional Trust  
Lands Administration Capital  
From Land Grant Management Fund,  
One-Time ..... 4,000,000  
From Trust and Agency Funds,  
One-Time ..... (4,000,000)

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further

legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF  
AGRICULTURE AND FOOD**

**Item 35**

To Department of Agriculture and Food -  
Salinity Offset Fund  
From Revenue Transfers,  
One-Time ..... (1,145,000)  
From Beginning Fund Balance ..... (710,200)  
From Closing Fund Balance ..... 40,200  
Schedule of Programs:  
Salinity Offset Fund ..... (1,815,000)

**DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

**Item 36**

To Department of Environmental Quality -  
Hazardous Substance Mitigation Fund  
From Dedicated Credits Revenue,  
One-Time ..... 50,000  
From Beginning Fund Balance ..... 65,900  
From Closing Fund Balance ..... (101,800)  
Schedule of Programs:  
Hazardous Substance Mitigation  
Fund ..... 14,100

**Item 37**

To Department of Environmental Quality -  
Waste Tire Recycling Fund  
From Dedicated Credits Revenue,  
One-Time ..... (258,900)  
From Beginning Fund Balance ..... (829,400)  
From Closing Fund Balance ..... 1,209,700  
Schedule of Programs:  
Waste Tire Recycling Fund ..... 121,400

**DEPARTMENT OF NATURAL RESOURCES**

**Item 38**

To Department of Natural Resources -  
UGS Sample Library Fund  
From Beginning Fund Balance ..... 300  
From Closing Fund Balance ..... (300)

**Item 39**

To Department of Natural Resources -  
Wildland Fire Suppression Fund  
From Interest Income, One-Time ..... 50,000  
From Revenue Transfers, One-Time ..... 99,300  
From Beginning Fund Balance ..... 6,690,300  
Schedule of Programs:  
Wildland Fire Suppression Fund .... 6,839,600

**Subsection 1(c). Business-like Activities.**

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

the State Division of Finance to transfer amounts between funds and accounts as indicated.

**DEPARTMENT OF AGRICULTURE AND FOOD**

**Item 40**

To Department of Agriculture and Food - Qualified Production Enterprise Fund  
 From Dedicated Credits Revenue,  
     One-Time ..... 800,000  
 From Beginning Fund Balance ..... 951,200  
 From Closing Fund Balance ..... (741,900)  
 Schedule of Programs:  
     Qualified Production Enterprise  
     Fund ..... 1,009,300

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Item 41**

To Department of Environmental Quality - Water Development Security Fund - Drinking Water  
 From Federal Funds, One-Time ..... 800,000  
 From Dedicated Credits Revenue,  
     One-Time ..... 4,396,000  
 From Designated Sales Tax,  
     One-Time ..... (3,886,000)  
 From Repayments, One-Time ..... 749,500  
 Schedule of Programs:  
     Drinking Water ..... 2,059,500

**Item 42**

To Department of Environmental Quality - Water Development Security Fund - Water Quality  
 From Federal Funds, One-Time ..... 1,300,000  
 From Dedicated Credits Revenue,  
     One-Time ..... 2,299,200  
 From Revenue Transfers, One-Time .. 1,700,000  
 From Repayments, One-Time ..... (1,014,000)  
 Schedule of Programs:  
     Water Quality ..... 4,285,200

**Subsection 1(d). Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 43**

To General Fund Restricted - Environmental Quality  
 From Beginning Fund Balance ..... 3,387,500  
 Schedule of Programs:  
     GFR - Environmental Quality ..... 3,387,500

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

**DEPARTMENT OF AGRICULTURE AND FOOD**

**Item 44**

To Department of Agriculture and Food - Administration  
 From General Fund ..... 3,018,300  
 From Federal Funds ..... 524,300  
 From Dedicated Credits Revenue ..... 841,300  
 From General Fund Restricted -  
     Cat and Dog Community Spay and  
     Neuter Program Restricted Account .... 35,900  
 From General Fund Restricted -  
     Horse Racing ..... 21,700  
 From Revenue Transfers ..... 67,500  
 From Gen. Fund Rest. - Agriculture  
     and Wildlife Damage Prevention ..... 30,000  
 From Beginning Nonlapsing Balances ... 547,100  
 Schedule of Programs:  
     Chemistry Laboratory ..... 506,700  
     General Administration ..... 4,425,400  
     Sheep Promotion ..... 30,000  
     Utah Horse Commission ..... 124,000

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Administration line item, whose mission is "Promote the healthy growth of Utah agriculture, conserve our natural resources and protect our food supply": (1) Sample turnaround time (Target = 12 days), (2) Cost per sample (Target = \$175), (3) Cost per test (Target = \$50), and (4) Implementation of Cannabis testing program (Target = 100% complete) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 45**

To Department of Agriculture and Food - Animal Health  
 From General Fund ..... 3,431,200  
 From Federal Funds ..... 1,917,900  
 From Dedicated Credits Revenue ..... 172,300  
 From General Fund Restricted -  
     Livestock Brand ..... 1,992,100  
 From Revenue Transfers ..... 3,900  
 From Beginning Nonlapsing Balances ... 556,200  
 From Closing Nonlapsing Balances ... (1,194,600)  
 Schedule of Programs:  
     Animal Health ..... 2,505,000  
     Auction Market Veterinarians ..... 72,700  
     Brand Inspection ..... 1,931,400  
     Meat Inspection ..... 2,369,900

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Animal Health line item, Livestock Inspection Program, whose mission is "to deny a market to potential thieves & to detect the true owners of livestock. It is the mission of the Livestock Inspection Bureau to provide quality, timely, and courteous service to the livestock men and women of the state, in an effort to protect the cattle and horse industry": (1) Educate the industry and public

on correct practices to verify and record changes of ownership when selling or buying livestock in the State of Utah (Target = Increase head of livestock inspected by 2%); (2) Operate the livestock identification program with a fiscally responsible, balanced budget while providing the industry with efficient and prompt service (Target = operate with a 2% surplus in budget and reinvest into process improvement); (3) Increase number of animal traces completed in under one hour (Target = Increase by 5%); (4) Increase total attendance at animal health outreach events (Target = 10% increase) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 46**

To Department of Agriculture and Food - Building Operations

From General Fund .....	356,600
Schedule of Programs:	
Building Operations .....	356,600

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Building Operations line item, whose mission is “to promote the healthy growth of the Utah agriculture, conserve our natural resources and protect our food supply:” (1) With an aging primary facility the goal is to work with DFCM to maintain the DFCM rates at the current rate of \$7.98 per square foot (Target = 100%), (2) With the Chemistry Lab moving to the Unified Lab #2, the Department will optimize square foot usage by moving individuals currently located in halls and corridors to established work areas (Target 100%), and (3) According to a Tier 1 Seismic evaluation conducted in August of 2015, the William Spry Building does not meet the Life Safety Performance Level for the hazard level. When a structure does not meet this level, the structure may experience failure and/or collapse, risking the lives of those working in the facility. The department will work with DFCM and the Programming Services contractor to complete specifications and justification for a new facility (Target = 100% participation) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 47**

To Department of Agriculture and Food - Invasive Species Mitigation

From General Fund Restricted - Invasive Species Mitigation Account .....	2,008,600
From Beginning Nonlapsing Balances ...	750,000
Schedule of Programs:	
Invasive Species Mitigation .....	2,758,600

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Invasive Species Mitigation line item,

whose mission is “to help government and private entities control noxious weeds in the state through providing project funding and help those entities meet the requirements of the Noxious Weed Act”: (1) Treated Acres (Target = 30,000), (2) Number of Private, Government, and Other Groups Cooperated (Target = 120), and (3) Number of Utah Watersheds Impacted by Projects (Target = 30), (4) SUCCESS QT (Target = 25%), (5) EDRR Points treated (Target = 40% increase), (6) Monitoring results for 1 and 5 years after treatment (Target = 100%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 48**

To Department of Agriculture and Food - Marketing and Development

From General Fund .....	795,400
From Dedicated Credits Revenue .....	22,100
From Beginning Nonlapsing Balances ....	46,600
Schedule of Programs:	
Marketing and Development .....	864,100

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Marketing line item, whose mission is “Promoting the healthy growth of Utah agriculture”: (1) UDAF website session duration (Target = 2 minutes 45 seconds), (2) UDAF social media follower increase (Target = 5%), (3) Utahs Own website session duration (Target = 1 minute 45 seconds), (4) Utahs Own social media follower increase (Target = 10%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 49**

To Department of Agriculture and Food - Plant Industry

From General Fund .....	1,089,000
From Federal Funds .....	3,938,100
From Dedicated Credits Revenue .....	3,626,400
From Agriculture Resource Development Fund .....	202,000
From Revenue Transfers .....	391,300
From Pass-through .....	180,700
From Beginning Nonlapsing Balances ...	809,900
Schedule of Programs:	
Environmental Quality .....	1,554,100
Grain Inspection .....	487,700
Grazing Improvement Program .....	2,018,600
Insect Infestation .....	754,800
Plant Industry .....	5,422,200

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Plant Industry line item, whose mission is “ensuring consumers of disease free and pest free plants, grains, seeds, as well as properly labeled agricultural commodities, and the safe application of pesticides and farm chemicals”: (1) Pesticide Compound Enforcement Action Rate (Target = 20%), (2)

Fertilizer Compliance Violation Rate (Target = 5%), and (3) Seed Compliance Violation Rate (Target = 10%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that the Department of Agriculture and Food utilize Dedicated Credits revenue to purchase two additional vehicles for inspectors in the Plant Industry Division and two vehicles for the Industrial Hemp/Cannabinoid Program (total of four vehicles).

**Item 50**

To Department of Agriculture and Food -  
Predatory Animal Control

From General Fund .....	1,068,600
From Revenue Transfers .....	735,600
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention .....	686,400
Schedule of Programs:	
Predatory Animal Control .....	2,490,600

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Predatory Animal Control line item, whose mission is “protecting Utah’s agriculture including protecting livestock, with the majority of the programs efforts directed at protecting adult sheep, lambs and calves from predation”: (1) Decrease the amount of predation from bears, by increasing count of animals and decreasing staff hours (Target = 68 hours per bear), (2) Decrease the amount of predation from lions, by increasing count of animals and decreasing staff hours (Target = 92 hours per lion), (3) Decrease the amount of predation from coyotes, by increasing count of animals and decreasing staff hours (Target = 24 hours per 10 coyotes). Results will be presented by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that the Department of Agriculture and Food utilize General Fund to purchase two vehicles for the Predatory Animal Control program.

**Item 51**

To Department of Agriculture and Food -  
Rangeland Improvement

From Gen. Fund Rest. - Rangeland Improvement Account .....	2,009,300
From Beginning Nonlapsing Balances ...	500,000
Schedule of Programs:	
Rangeland Improvement .....	2,509,300

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Rangeland Improvement line item, whose mission is “to improve the productivity, health and sustainability of our rangelands and watersheds”: (1) Number of Animal Unit Months Affected by GIP Projects per Year (Target = 150,000), (2) Number of Projects

with Water Systems Installed Per Year (Target =40/year), and (3) Number of GIP Projects that Time, Timing, and Intensity Grazing Management to Improve Grazing Operations (Target = 15/year) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that the Department of Agriculture and Food utilize funding from the Rangeland Improvement Fund the purchase a truck for use within the Rangeland Improvement program.

**Item 52**

To Department of Agriculture and Food -  
Regulatory Services

From General Fund .....	2,690,100
From Federal Funds .....	1,169,100
From Dedicated Credits Revenue .....	2,458,500
From Revenue Transfers .....	1,300
From Pass-through .....	60,100
From Beginning Nonlapsing Balances ...	742,100
Schedule of Programs:	
Regulatory Services .....	7,121,200

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Regulatory Services line item, whose mission is “Through continuous improvement, become a world class leader in regulatory excellence through our commitment to food safety, public health and fair and equitable trade of agricultural and industrial commodities”: (1) Reduce the number of “two in a row” violations observed on dairy farms and thereby reduce the number of follow up inspections required (Target =25% of current), (2) Reduce the number of retail fuel station follow up inspections by our weights and measures program (Target = increase to 85% compliance), and (3) Reduce the number of observed Temperature Control violations observed by our food program inspectors at retail (Target = 25% improvement) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that the Department of Agriculture and Food utilize Dedicated Credit revenue to purchase two additional vehicles in the Regulatory Services division for the Domesticated Game Slaughter program.

**Item 53**

To Department of Agriculture and Food -  
Resource Conservation

From General Fund .....	1,363,300
From Federal Funds .....	774,800
From Dedicated Credits Revenue .....	10,000
From Agriculture Resource Development Fund .....	924,700
From Revenue Transfers .....	371,800
From Utah Rural Rehabilitation Loan State Fund .....	138,100

From Beginning Nonlapsing Balances .....	3,000,000
Schedule of Programs:	
Conservation Commission .....	8,500
Resource Conservation .....	5,978,900
Resource Conservation Administration .....	595,300

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Resource Conservation line item, whose mission is “to assist Utah’s agricultural producers in caring for and enhancing our states vast natural resources”: (1) Number of Utah conservation commission projects completed (Target = 5), (2) Reduction in water usage after Water Optimization project completion (Target = 10%), and (3) Real time measurement of water for each of Water Optimization project (Target = 100%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 54**

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

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the State Fair line item, whose mission is “maximize revenue opportunities by establishing strategic partnerships to develop the Fairpark”: (1) Develop new projects on the fair grounds and adjacent properties, create new revenue stream for the Fair Corporation (Target = \$150,000 dollars in new incremental revenue), (2) Annual Fair attendance (Target = 5% increase in annual attendance), (3) Increase Fairpark net revenue (Target = 5% increase in net revenue over FY 2020) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

### DEPARTMENT OF ENVIRONMENTAL QUALITY

**Item 55**

To Department of Environmental Quality - Air Quality	
From General Fund .....	7,216,900
From Federal Funds .....	7,169,900
From Dedicated Credits Revenue .....	5,508,800
From Clean Fuel Conversion Fund .....	119,500
From Revenue Transfers .....	(1,122,900)
From Beginning Nonlapsing Balances .....	
Balances .....	12,342,000
Schedule of Programs:	
Air Quality .....	31,234,200

The Legislature intends that the Division of Air Quality report on the following performance measures for the division, whose

mission is “to protect public health and the environment from the harmful effects of air pollution”: (1) Percent of facilities inspected that are in compliance with permit requirements (Target = 100%), (2) Percent of approval orders that are issued within 180-days after the receipt of a complete application (Target = 95%), (3) Percent of data availability from the established network of air monitoring samplers for criteria air pollutants (Target = 100%), (4) Per Capita Rate of State-Wide Air Emissions (Target = 0.63), by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 56**

To Department of Environmental Quality - Drinking Water	
From General Fund .....	1,379,000
From Federal Funds .....	4,100,900
From Dedicated Credits Revenue .....	304,400
From Revenue Transfers .....	(316,800)
From Water Dev. Security Fund - Drinking Water Loan Prog. ....	
1,008,100	
From Water Dev. Security Fund - Drinking Water Orig. Fee .....	
225,800	
From Beginning Nonlapsing Balances ...	388,400
Schedule of Programs:	
Drinking Water .....	7,089,800

The Legislature intends that the Division of Drinking Water report on the following performance measures for the division, whose mission is “to cooperatively work with drinking water professionals and the public to ensure a safe and reliable supply of drinking water”: (1) Percent of population served by Approved public water systems (Target = 99%), (2) Percent of water systems with an Approved rating (Target = 95%), and (3) Number of water borne disease outbreaks (Target = 0), by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 57**

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund .....	928,700
From Federal Funds .....	5,085,700
From Dedicated Credits Revenue .....	756,000
From General Fund Restricted - Petroleum Storage Tank .....	
52,800	
From Petroleum Storage Tank Cleanup Fund .....	
614,700	
From Petroleum Storage Tank Trust Fund .....	
1,900,900	
From Revenue Transfers .....	(636,200)
From General Fund Restricted - Voluntary Cleanup .....	
708,700	
From Beginning Nonlapsing Balances ...	78,000
Schedule of Programs:	
Environmental Response and Remediation .....	9,489,300

The Legislature intends that the Division of Environmental Response and Remediation report on the following performance measures for the division, whose mission is



“to protect public health and Utah’s environment by cleaning up contaminated sites, helping to return contaminated properties to a state of beneficial reuse, ensuring underground storage tanks are managed and used properly, and providing chemical usage and emission data to the public and local response agencies”: (1) Percent of UST facilities in Significant Operational Compliance at time of inspection (Target = 60%), (2) Leaking Underground Storage Tank (LUST) site release closures, (Target = 85), (3) Issued brownfields tools facilitating cleanup and redevelopment of impaired properties, (Target = 20), by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 58**

To Department of Environmental Quality - Executive Director’s Office

From General Fund .....	2,305,500
From Federal Funds .....	270,400
From General Fund Restricted -	
Environmental Quality .....	858,700
From Revenue Transfers .....	2,725,500
From Beginning Nonlapsing Balances ...	610,000
Schedule of Programs:	
Executive Director’s Office .....	6,770,100

The Legislature intends that the Department of Environmental Quality, Executive Directors Office report on the following performance measures for the division, whose mission is “safeguarding and improving Utah’s air, land and water through balanced regulation”: (1) Percent of systems within the Department involved in a continuous improvement project in the last year (Target = 100%), (2) Percent of customers surveyed that reported good or exceptional customer service (Target = 90%), and (3) Number of state audit findings/Percent of state audit findings resolved within 30 days (Target = 0 and 100%), by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 59**

To Department of Environmental Quality - Waste Management and Radiation Control

From General Fund .....	858,100
From Federal Funds .....	1,406,800
From Dedicated Credits Revenue .....	2,571,500
From General Fund Restricted -	
Environmental Quality .....	6,055,200
From Revenue Transfers .....	(198,800)
From Gen. Fund Rest. - Used Oil	
Collection Administration .....	833,600
From Waste Tire Recycling Fund .....	151,800
From Beginning Nonlapsing Balances ...	650,000
Schedule of Programs:	
Waste Management and Radiation	
Control .....	12,328,200

The Legislature intends that the Department of Environmental Quality report on the following performance measures for the Division of Waste Management and Radiation Control, whose mission is “to protect human health and the environment by ensuring proper management of solid wastes, hazardous wastes and used oil, and to protect the general public and occupationally exposed employees from sources of radiation that constitute a health hazard”: (1) Percent of x-ray machines in compliance (Target = 90%), (2) Percent of permits and licenses issued/modified within set timeframes (Target = 90%), (3) Compliance Assistance for Small Businesses (Target = 60 businesses), by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 60**

To Department of Environmental Quality - Water Quality

From General Fund .....	3,634,200
From Federal Funds .....	5,126,600
From Dedicated Credits Revenue .....	2,063,700
From Revenue Transfers .....	326,900
From Gen. Fund Rest. - Underground	
Wastewater System .....	80,500
From Water Dev. Security Fund -	
Utah Wastewater Loan Prog. ....	1,616,000
From Water Dev. Security Fund -	
Water Quality Orig. Fee .....	105,600
From Beginning Nonlapsing Balances ...	505,400
Schedule of Programs:	
Water Quality .....	13,458,900

The Legislature intends that the Department of Environmental Quality report on the following performance measures for the Division of Water Quality, whose mission is “to protect, maintain and enhance the quality of Utah’s surface and underground waters for appropriate beneficial uses; and protect the public health through eliminating and preventing water related health hazards which can occur as a result of improper disposal of human, animal or industrial wastes while giving reasonable consideration to the economic impact”: (1) Percent of permits renewed “On-time” (Target = 98%), (2) Percent of permit holders in compliance (Target = 85%), (3) Municipal wastewater effluent quality measured as mg/L oxygen consumption potential (Target = state average attainment of 331 mg/L oxygen consumption potential by 2025), by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 61**

To Department of Environmental Quality - Trip Reduction Program

From Beginning Nonlapsing Balances ...	500,000
Schedule of Programs:	
Trip Reduction Program .....	500,000

**GOVERNOR'S OFFICE**

**Item 62**

To Governor's Office - Office of Energy Development  
 From General Fund ..... 1,679,300  
 From Federal Funds ..... 829,900  
 From Dedicated Credits Revenue ..... 228,600  
 From Ut. S. Energy Program Rev. Loan Fund (ARRA) ..... 219,700  
 Schedule of Programs:  
 Office of Energy Development ..... 2,957,500

The Legislature intends that the Office of Energy Development, whose mission is "to advance Utah's energy and minerals economy through energy policy; energy infrastructure and business development; energy efficiency and renewable energy programs; and energy research, education and workforce development," report on the following performance measures: (1) Private Investment Leveraged (Target = 39), (2) Constituents Directly Educated (Target = 18,686), (3) State Energy Program (Target = 14) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**DEPARTMENT OF NATURAL RESOURCES**

**Item 63**

To Department of Natural Resources - Contributed Research  
 From Dedicated Credits Revenue ..... 1,510,800  
 Schedule of Programs:  
 Contributed Research ..... 1,510,800

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Contributed Research line item, whose mission is "To serve the people of Utah as trustee and guardian of states wildlife:" (1) Percentage of mule deer units at or exceeding 90% of their population objective (Target = 50%), (2) Percentage of elk units at or exceeding 90% of their population objective (Target = 75%), and (3) Maintain positive hunter satisfaction index for general season deer hunt (Target = 3.3 ) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 64**

To Department of Natural Resources - Cooperative Agreements  
 From Federal Funds ..... 12,553,400  
 From Dedicated Credits Revenue ..... 1,120,100  
 From Revenue Transfers ..... 5,684,000  
 Schedule of Programs:  
 Cooperative Agreements ..... 19,357,500

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Cooperative Studies line item, whose mission is "To serve the people of Utah as trustee and guardian of states

wildlife:" (1) Aquatic Invasive Species containment - number of public contacts and boat decontaminations (Targets = 175,000 contacts and 2,000 decontaminations), (2) Number of new wildlife species listed under the Endangered Species Act (Target = 0), and (3) Number of habitat acres restored annually (Target = 100,000 ) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 65**

To Department of Natural Resources - Parks and Recreation  
 From General Fund ..... 4,628,400  
 From Federal Funds ..... 1,573,100  
 From Dedicated Credits Revenue ..... 1,080,500  
 From General Fund Restricted - Boating ..... 4,854,400  
 From Gen. Fund Rest. - Off-highway Access and Education ..... 18,600  
 From General Fund Restricted - Off-highway Vehicle ..... 6,386,200  
 From General Fund Restricted - State Park Fees ..... 22,607,700  
 From Revenue Transfers ..... 36,500  
 From General Fund Restricted - Zion National Park Support Programs ..... 4,000  
 Schedule of Programs:  
 Executive Management ..... 878,700  
 Park Management Contracts ..... 954,000  
 Park Operation Management ..... 34,181,600  
 Planning and Design ..... 908,500  
 Recreation Services ..... 2,112,200  
 Support Services ..... 2,154,400

The Legislature intends that the Division of Parks and Recreation report on the following performance measures for the Operations line item, whose mission is "To enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations:" (1) Total Revenue Collections (Target = \$41,500,000), (2) Gate Revenue (Target = \$28,500,000), and (3) Expenditures (Target = \$40,000,000) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 66**

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

Off-highway Vehicle Grants .....	175,000
Region Renovation .....	100,000
Renovation and Development .....	546,700
Trails Program .....	2,489,600

The Legislature intends that the Division of Parks and Recreation report on the following performance measures for the Capital line item, whose mission is “To enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations:” (1) Donations Revenue (Target = \$125,000), (2) Capital renovation projects completed (Target = 10), and (3) Boating projects completed (Target = 2) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 67**

To Department of Natural Resources -  
Water Rights

From General Fund .....	9,167,300
From Federal Funds .....	125,400
From Dedicated Credits Revenue .....	4,328,400
From Beginning Nonlapsing Balances .....	500,000

Schedule of Programs:

Adjudication .....	3,497,900
Administration .....	1,126,200
Applications and Records .....	4,765,800
Canal Safety .....	143,600
Dam Safety .....	1,125,200
Field Services .....	1,351,000
Technical Services .....	2,111,400

The Legislature intends that the Division of Water Rights report on the following performance measures for the Division of Water Rights line item, whose mission is “to promote order and certainty in the beneficial use of public water:” (1) Timely Application processing (Target = 80 days for uncontested applications), (2) Use of technology to provide information (Target = 1500 unique web users per month), and (3) Parties that have been noticed in comprehensive adjudication (Target = 20,000) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 68**

To Department of Natural Resources -  
Wildlife Resources

From General Fund .....	7,744,900
From Federal Funds .....	27,141,000
From Dedicated Credits Revenue .....	110,800
From General Fund Restricted - Boating .....	1,138,900
From General Fund Restricted - Mule Deer Protection Account .....	513,300
From General Fund Restricted - Predator Control Account .....	822,300
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account .....	25,800
From Revenue Transfers .....	112,500

From General Fund Restricted - Wildlife Conservation Easement Account .....	15,300
From General Fund Restricted - Wildlife Habitat .....	2,937,700
From General Fund Restricted - Wildlife Resources .....	38,158,700
From Beginning Nonlapsing Balances .....	1,100,000
Schedule of Programs:	
Administrative Services .....	9,008,900
Aquatic Section .....	20,078,500
Conservation Outreach .....	5,922,100
Director’s Office .....	2,616,500
Habitat Council .....	2,937,700
Habitat Section .....	9,305,900
Law Enforcement .....	10,470,700
Wildlife Section .....	19,480,900

The legislature intends the Division of Wildlife Resources spend up to \$400,000 on livestock damage.

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Operations line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife:” (1) Number of people participating in hunting and fishing in Utah (Target = 700,000 anglers and 350,000 hunters), (2) Percentage of law enforcement contacts without a violation (Target = 90%), and (3) Number of participants at DWR shooting ranges (Target = 90,000) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 69**

To Department of Natural Resources -  
Wildlife Resources Capital Budget

From General Fund .....	649,400
From Federal Funds .....	1,350,000
From General Fund Restricted - State Fish Hatchery Maintenance .....	1,205,000
From Beginning Nonlapsing Balances .....	649,400
Schedule of Programs:	
Fisheries .....	3,853,800

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Capital Facilities line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife:” (1) Average score from annual DFCM facility audits (Target = 90%), (2) New Motor Boat Access projects (Target = 10), and (3) Number of hatcheries in operation (Target = 12) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**PUBLIC LANDS POLICY  
COORDINATING OFFICE**

**Item 70**

To Public Lands Policy Coordinating Office From General Fund .....	2,912,700
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From General Fund Restricted -  
 Constitutional Defense ..... 1,217,500  
 From Beginning Nonlapsing  
 Balances ..... 2,329,900  
 From Closing Nonlapsing Balances ... (1,959,900)

Schedule of Programs:

Public Lands Policy Coordinating  
 Office ..... 4,500,200

The Legislature intends that the Public Lands Policy Coordinating Office report on the following performance measures for the PLPCO line item, whose mission is “to preserve and defend rights to access, use and benefit from public lands within the State”: (1) Percentage of Utah Counties which reported PLPCOs work as “very good” (Target = 70%), (2) Percentage of State Natural Resource Agencies working with PLPCOs which reported PLPCOs work as “good” (Target = 70%), (3) Percentage of Administrative comments and legal filings prepared and submitted in a timely manner (Target = 70%), by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION**

**Item 71**

To School and Institutional Trust Lands Administration  
 From Land Grant Management  
 Fund ..... 11,540,500  
 Schedule of Programs:

Accounting ..... 487,500  
 Administration ..... 1,061,400  
 Auditing ..... 369,600  
 Board ..... 98,000  
 Development – Operating ..... 1,631,000  
 Director ..... 1,173,100  
 External Relations ..... 184,900  
 Grazing and Forestry ..... 614,300  
 Information Technology Group ..... 1,367,600  
 Legal/Contracts ..... 932,600  
 Mining ..... 685,500  
 Oil and Gas ..... 763,700  
 Surface ..... 2,171,300

The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Operations line item, whose mission is “to generate revenue in the following areas by leasing and administering trust parcels”: (1) Oil and Gas gross revenue (Target = \$40,000,000), (2) Mining gross revenue (Target = \$8,750,000), and (3) Surface gross revenue (Target = \$16,705,000) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 72**

To School and Institutional Trust Lands Administration - Land Stewardship and Restoration

From Land Grant Management Fund . . . . 852,400  
 Schedule of Programs:

Land Stewardship and Restoration . . . . 852,400

The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Stewardship line item, whose purpose is “to mitigate damages to trust parcels or preserve the value of the asset by preventing degradation”: (1) Mitigation, facilitation of de-listing or preventing the listing of sensitive species such as Sage Grouse, Penstemon and the Utah Prairie Dog (Target = \$200,000), (2) Fire rehabilitation on trust parcels (Target = up to \$400,000), (3) Rehabilitation of trust parcels near Beaver Mountain, i.e, planting seedlings and other activities related to forest management (Target = \$40,000) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 73**

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

The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Development Capital line item, whose mission is “Administering trust lands prudently and profitably for Utah’s schoolchildren and other trust beneficiaries”: (1) Expend capital for infrastructure for the Saratoga Springs project in Utah County (Target = \$2,700,000), (2) Produce higher revenues than the historical Planning and Development group average (Target => \$15,800,000), (3) Begin planning and infrastructure expenditures for the Inland Port (Target = \$500,000) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Subsection 2(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF AGRICULTURE AND FOOD**

**Item 74**

To Department of Agriculture and Food - Salinity Offset Fund  
 From Beginning Fund Balance ..... 773,900  
 Schedule of Programs:

Salinity Offset Fund ..... 773,900

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Colorado River Basin Salinity Control Program, whose mission is to “reduce salinity in the Colorado River and its tributaries and encourage improved irrigation practices”: (1) Salinity meeting attendance (Target = 100%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Item 75**

To Department of Environmental Quality - Hazardous Substance Mitigation Fund  
 From Dedicated Credits Revenue ..... 145,000  
 From General Fund Restricted - Environmental Quality ..... 200,000  
 From Beginning Fund Balance ..... 5,318,600  
 From Closing Fund Balance ..... (5,209,100)  
 Schedule of Programs:  
 Hazardous Substance Mitigation Fund ..... 454,500

**Item 76**

To Department of Environmental Quality - Waste Tire Recycling Fund  
 From Dedicated Credits Revenue ..... 3,586,700  
 From Beginning Fund Balance ..... 4,684,300  
 From Closing Fund Balance ..... (4,909,000)  
 Schedule of Programs:  
 Waste Tire Recycling Fund ..... 3,362,000

The Legislature intends that the Department of Environmental Quality report on the following performance measure for the Waste Tire Recycling fund, whose funding shall be used “for partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires and payment of administrative costs of local health departments or costs of the Department of Environmental Quality in administering and enforcing this fund”: (1) Number of Waste Tires Cleaned-Up (Target = 40,000), by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 77**

To Department of Environmental Quality - Conversion to Alternative Fuel Grant Program Fund  
 From Dedicated Credits Revenue ..... 800  
 From Beginning Fund Balance ..... 70,600  
 From Closing Fund Balance ..... (48,900)  
 Schedule of Programs:  
 Conversion to Alternative Fuel Grant Program Fund ..... 22,500

**DEPARTMENT OF NATURAL RESOURCES**

**Item 78**

To Department of Natural Resources - UGS Sample Library Fund

From Dedicated Credits Revenue ..... 2,800  
 From Beginning Fund Balance ..... 83,100  
 From Closing Fund Balance ..... (85,900)

**Item 79**

To Department of Natural Resources - Wildland Fire Suppression Fund  
 From Interest Income ..... 50,000  
 From General Fund Restricted - Mineral Bonus ..... 345,900  
 Schedule of Programs:  
 Wildland Fire Suppression Fund ..... 395,900

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildland Fire Suppression Fund line item managed by the Division of Forestry, Fire, and State Lands, whose mission is “to manage, sustain, and strengthen Utah’s forests, range lands, sovereign lands and watersheds for its citizens and visitors.” (1) Non-federal wildland fire acres burned (Target = 35,532), (2) Human-caused wildfire rate (Target = 50%), and (3) Number of counties and municipalities participating with the Utah Cooperative Wildfire system (Target = all 29 counties, and an annual year-over increase in the number of participating municipalities) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 80**

To Department of Natural Resources - Wildland Fire Preparedness Grants Fund  
 From Wildland Fire Suppression Fund ... 99,300  
 Schedule of Programs:  
 Wildland Fire Preparedness Grants Fund ..... 99,300

**Subsection 2(c). Business-like Activities.**

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

**DEPARTMENT OF AGRICULTURE AND FOOD**

**Item 81**

To Department of Agriculture and Food - Agriculture Loan Programs  
 From Agriculture Resource Development Fund ..... 293,600  
 From Utah Rural Rehabilitation Loan State Fund ..... 158,000  
 Schedule of Programs:  
 Agriculture Loan Program ..... 451,600

The Legislature intends that the Department of Agriculture and Food report

on the following performance measures for the Agriculture Loan Programs line item, whose mission is “To serve and deliver financial services to our agricultural clients and partners through delivery of effective customer service and efficiency with good ethics and fiscal responsibility:” (1) Keep UDAF Agriculture Loan default rate lower than average bank default rates of 3% per fiscal year (Target = 2% or less), (2) Receive unanimous commission approval for every approved loan (Target = 100%), and (3) Receive commission approval within 3 weeks of application completion (Target = 100%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 82**

To Department of Agriculture and Food - Qualified Production Enterprise Fund  
 From Dedicated Credits Revenue ..... 800,000  
 From Beginning Fund Balance ..... 741,900  
 Schedule of Programs:

Qualified Production Enterprise Fund ..... 1,541,900

The Legislature intends that the Department of Agriculture and Food utilize revenue generated in the Qualified Production Enterprise Fund to purchase two new vehicles for use by the Cannabis Inspection staff.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Item 83**

To Department of Environmental Quality - Water Development Security Fund - Drinking Water  
 From Federal Funds ..... 9,000,000  
 From Dedicated Credits Revenue ..... 4,326,000  
 From Designated Sales Tax ..... 3,587,500  
 From Revenue Transfers ..... 2,221,400  
 From Repayments ..... 10,090,000  
 Schedule of Programs:  
 Drinking Water ..... 29,224,900

**Item 84**

To Department of Environmental Quality - Water Development Security Fund - Water Quality  
 From Federal Funds ..... 8,500,000  
 From Dedicated Credits Revenue ..... 7,837,000  
 From Designated Sales Tax ..... 3,587,500  
 From Revenue Transfers ..... 1,700,000  
 From Repayments ..... 16,348,000  
 Schedule of Programs:  
 Water Quality ..... 37,972,500

**DEPARTMENT OF NATURAL RESOURCES**

**Item 85**

To Department of Natural Resources - Internal Service Fund  
 From Dedicated Credits Revenue ..... 487,000  
 Schedule of Programs:  
 ISF - DNR Warehouse ..... 487,000  
 Budgeted FTE ..... 2.0

The Legislature intends that the Department of Natural Resources report on the following performance measures for the DNR ISF line item, whose mission is “to provide a convenient and efficient low cost source of uniforms and supplies for DNR employees and programs:” (1) The number of complaints received by the director overseeing warehouse operations (Target = zero with a trend showing an annual year-over-year reduction in complaints), (2) The number of uniform items sold (Target = 10,000), (3) To adjust rates such that retained earnings are within plus or minus 5% of annual revenues (Target = plus or minus 5% of revenues) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 86**

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

**Item 87**

To General Fund Restricted - Invasive Species Mitigation Account  
 From General Fund ..... 2,000,000  
 Schedule of Programs:  
 General Fund Restricted - Invasive Species Mitigation Account ..... 2,000,000

**Item 88**

To General Fund Restricted - Rangeland Improvement Account  
 From General Fund ..... 1,846,300  
 Schedule of Programs:  
 General Fund Restricted - Rangeland Improvement Account .. 1,846,300

**Item 89**

To General Fund Restricted - Environmental Quality  
 From General Fund ..... 1,724,200  
 Schedule of Programs:  
 GFR - Environmental Quality ..... 1,724,200

**Item 90**

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

**Item 91**

To General Fund Restricted - Wildlife Resources

From General Fund .....	89,300
Schedule of Programs:	
General Fund Restricted - Wildlife	
Resources .....	89,300

**Item 92**

To General Fund Restricted -	
Constitutional Defense Restricted Account	
From Gen. Fund Rest. - Land	
Exchange Distribution Account .....	1,084,000
Schedule of Programs:	
General Fund Restricted -	
Constitutional Defense Restricted	
Account .....	1,084,000

**Item 93**

To General Fund Restricted - Public	
Lands Litigation Restricted Account	
From Beginning Fund Balance .....	4,500,000
From Closing Fund Balance .....	(4,500,000)

**Section 3. FY 2021 Accountable Process**

**Budget.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 3(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF NATURAL RESOURCES**

**Item 94**

To Department of Natural Resources -	
Administration	
From General Fund .....	4,420,100
From General Fund Restricted -	
Sovereign Lands Management .....	81,300
From Beginning Nonlapsing	
Balances .....	225,000
Schedule of Programs:	
Administrative Services .....	1,151,800
Executive Director .....	2,956,500
Lake Commissions .....	131,300
Law Enforcement .....	238,800
Public Information Office .....	248,000

The Legislature intends that the Department of Natural Resources transfer \$100,000 to the Bear Lake Commission to be expended only as a one-to-one match with funds from the State of Idaho.

The Legislature intends that the Department of Natural Resources report on the following performance measures for the DNR Administration line item, whose mission is "to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah:" (1) To keep the ratio of total employees in DNR in proportion to the employees in DNR administration at greater than or equal to 55:1 (Target = 55:1), (2) To continue to grow

non-general fund revenue sources in order to maintain a total DNR non-general fund ratio to total funds at 80% or higher (Target = 80%), (3) To perform proper and competent financial support according to State guidelines and policies for DNR Administration by reducing the number of adverse audit findings in our quarterly State Finance audit reviews (Target = zero with a trend showing an annual year-over-year reduction in findings) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that all entities occupying the DNR Cedar City Office Complex and the DNR Richfield Office Complex pay annually their proportionate share of leased space based on the construction costs amortized over a 30-year period and deposit the funds into the Sovereign Lands Management Account.

**Item 95**

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

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Building Operations line item, whose mission is "to properly pay for all building costs of the DNR headquarters located in Salt Lake City:" (1) Despite two aging facilities, we have a goal to request DFCM keep our O&M rates at the current cost of \$4.25 (Target = \$4.25), (2) To have the DFCM O&M rate remain at least 32% more cost competitive than the private sector rate (Target = 32%), (3) To improve building services customer satisfaction with DFCM facility operations by 10% (Target = 10%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 96**

To Department of Natural Resources -	
DNR Pass Through	
From General Fund .....	1,108,400
From General Fund, One-Time .....	1,650,000
From Beginning Nonlapsing	
Balances .....	4,900,000
Schedule of Programs:	
DNR Pass Through .....	7,658,400

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Pass Through line item, whose mission is "to carry out pass through requests as directed by the legislature:" (1) To pass funding from legislative appropriations to other entities, such as zoos, counties, and other public and non-public entities. The goal is to complete these transactions in accordance with legislative direction (Target = 100%), (2) To provide structure and framework to ensure

funds are properly spent and keep the costs of auditing and administering these funds at 8% or less of the funding appropriated for pass through (Target = 8%), (3) To complete the project(s) within the established timeframe(s) and budget (Target = 100%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 97**

To Department of Natural Resources - Forestry, Fire and State Lands

From General Fund .....	3,020,000
From Federal Funds .....	6,668,500
From Dedicated Credits Revenue .....	6,797,000
From General Fund Restricted - Sovereign Lands Management .....	7,519,900
From Beginning Nonlapsing Balances .....	10,400,000

Schedule of Programs:

Division Administration .....	1,251,100
Fire Management .....	1,817,400
Fire Suppression Emergencies .....	2,361,100
Forest Management .....	3,300,800
Lands Management .....	1,077,600
Lone Peak Center .....	4,659,400
Program Delivery .....	7,906,400
Project Management .....	12,031,600

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Forestry, Fire, and State Lands line item, whose mission is “to manage, sustain, and strengthen Utah’s forests, range lands, sovereign lands and watersheds for its citizens and visitors:” (1) Fuel Reduction Treatment Acres (Target = 4,681), (2) Fire Fighters Trained to Meet Standards (Target = 2,363), and (3) Communities With Tree City USA Status (Target = 89) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 98**

To Department of Natural Resources - Oil, Gas and Mining

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Oil, Gas, and Mining line item, whose mission is “The Division of Oil, Gas and Mining regulates and ensures industry compliance and site restoration while facilitating oil, gas and mining activities:” (1) Timing of Issuing Coal Permits (Target = 100%), (2) Customer Satisfaction from Survey (Target = 4.2), and (3) Well Drilling Inspections without Violations (Target = 100%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 99**

To Department of Natural Resources - Predator Control

From General Fund .....	59,600
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Schedule of Programs:

Predator Control .....	59,600
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**Item 100**

To Department of Natural Resources - Species Protection

From Dedicated Credits Revenue .....	2,450,000
From General Fund Restricted - Species Protection .....	817,800
From Beginning Nonlapsing Balances .....	200,000

Schedule of Programs:

Species Protection .....	3,467,800
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The Legislature intends that the Department of Natural Resources report on the following performance measures for the Species Protection line item, whose mission is “To eliminate the need in Utah for federal regulatory intervention and oversight associated with the Endangered Species Act:”

- (1) Delisting or Downlisting (Target = one delisting or downlisting proposed or final rule published in the Federal Register per year),
- (2) Red Shiner Eradication (Target = Eliminate 100% of Red Shiner from 37 miles of the Virgin River in Utah), and
- (3) June Sucker Population Enhancement (Target = 5,000 adult spawning June Sucker) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 101**

To Department of Natural Resources - Utah Geological Survey

From General Fund .....	4,544,100
From Federal Funds .....	696,800
From Dedicated Credits Revenue .....	585,500
From General Fund Restricted - Mineral Lease .....	1,100,000
From Gen. Fund Rest. - Land Exchange Distribution Account .....	21,600
From Revenue Transfers .....	318,000
From Beginning Nonlapsing Balances .....	200,000

Schedule of Programs:

Administration .....	285,100
Board .....	2,800
Energy and Minerals .....	1,334,400
Geologic Hazards .....	1,339,300
Geologic Information and Outreach .....	1,907,300
Geologic Mapping .....	1,568,600
Ground Water .....	1,028,500

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Utah Geological Survey line item, whose mission is “to provide timely, scientific information about Utah’s geologic environment, resources, and hazards:” (1) Total number of individual item views in the UGS GeoData Archive (Target = 1,00,000), (2) Total number of website user requests/queries to UGS interactive map layers (Target = 7,500,000), and (3) The number of workshops held at the Utah Core Research Center (Target = 15) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.



**Item 102**

To Department of Natural Resources -  
 Water Resources

From General Fund .....	4,083,900
From Federal Funds .....	1,025,300
From Dedicated Credits Revenue .....	150,000
From Water Resources Conservation and Development Fund .....	3,333,200
From Beginning Nonlapsing Balances .....	10,850,000
Schedule of Programs:	
Administration .....	1,671,700
Board .....	34,000
Cloudseeding .....	300,000
Construction .....	9,875,200
Interstate Streams .....	497,200
Planning .....	6,359,300
West Desert Operations .....	5,000
Funding Projects and Research .....	700,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Water Resources line item, whose mission is to “plan, conserve, develop and protect Utah’s water resources:” (1) Water conservation and development projects funded (Target = 15), (2) Reduction of per capita M&I water use (Target = 25%), and (3) Percentage of precipitation increase due to cloud seeding efforts (Target = 7%) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Item 103**

To Department of Natural Resources - Watershed

From General Fund .....	3,711,300
From Dedicated Credits Revenue .....	500,000
From General Fund Restricted - Sovereign Lands Management .....	2,000,000
From Beginning Nonlapsing Balances .....	3,000,000
Schedule of Programs:	
Watershed .....	9,211,300

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Watershed line item, whose mission is the “rehabilitation or restoration of priority watershed areas in order to address the needs of water quality and yield, wildlife, agriculture and human needs.” Performance measures will exclude fire rehabilitation projects and funding. (1) Number of acres treated (Target = 100,000 acres per year), (2) Ratio of DNR funds to partner contributions (Target = 9), and (3) Miles of stream and riparian areas restored (Target = 150 miles) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Subsection 3(b). Business-like Activities.**

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

positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**DEPARTMENT OF NATURAL RESOURCES**

**Item 104**

To Department of Natural Resources - Water  
 Resources Revolving Construction Fund

From Water Resources Conservation and Development Fund .....	3,800,000
Schedule of Programs:	
Construction Fund .....	3,800,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Water Resources Revolving Construction Fund line item, whose mission is to “plan, conserve, develop and protect Utah’s water resources:” (1) Dam Safety minimum standards upgrade projects funded per fiscal year (Target = 2), (2) Percent of appropriated funding to be spent on Dam Safety projects (Target = 100%), and (3) Timeframe by which all state monitored high hazard dams will be brought up to minimum safety standards (Target = year 2084) by October 31, 2021 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**Section 4. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor’s signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**CHAPTER 4**

**H. B. 6**

Passed February 5, 2020  
 Approved February 24, 2020  
 Effective February 24, 2020  
 Exception clause

**EXECUTIVE OFFICES AND  
 CRIMINAL JUSTICE BASE BUDGET**

Chief Sponsor: Eric K. Hutchings  
 Senate Sponsor: Jacob L. Anderegg

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for the use and support of programs reviewed under the accountable budget process; and
- ▶ provides appropriations for other purposes as described.

**Money Appropriated in this Bill:**

This bill appropriates \$49,352,000 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$562,100 from the General Fund; and
- ▶ \$48,789,900 from various sources as detailed in this bill.

This bill appropriates \$1,640,300 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$83,400 in business-like activities for fiscal year 2020.

This bill appropriates \$12,300 in restricted fund and account transfers for fiscal year 2020.

This bill appropriates \$310,100 in fiduciary funds for fiscal year 2020.

This bill appropriates \$997,342,600 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$737,704,300 from the General Fund;
- ▶ \$49,000 from the Education Fund; and
- ▶ \$259,589,300 from various sources as detailed in this bill.

This bill appropriates \$18,953,400 in expendable funds and accounts for fiscal year 2021, including:

- ▶ \$6,500 from the General Fund; and
- ▶ \$18,946,900 from various sources as detailed in this bill.

This bill appropriates \$69,220,100 in business-like activities for fiscal year 2021, including:

- ▶ \$2,124,600 from the General Fund; and
- ▶ \$67,095,500 from various sources as detailed in this bill.

This bill appropriates \$4,716,000 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$9,867,500 from the General Fund; and
- ▶ (\$5,151,500) from various sources as detailed in this bill.

This bill appropriates \$3,607,200 in fiduciary funds for fiscal year 2021.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ATTORNEY GENERAL**

**Item 1**

To Attorney General

From General Fund, One-Time . . . . .	(4,600)
From Dedicated Credits Revenue,	
One-Time . . . . .	(276,500)
From Revenue Transfers, One-Time . . . .	(3,500)
From Other Financing Sources,	
One-Time . . . . .	(2,700)
From Beginning Nonlapsing	
Balances . . . . .	2,464,600
Schedule of Programs:	
Administration . . . . .	1,663,000
Child Protection . . . . .	92,300
Civil . . . . .	709,300
Criminal Prosecution . . . . .	(287,300)

**Item 2**

To Attorney General - Children's Justice Centers

From Beginning Nonlapsing Balances . . .	381,500
Schedule of Programs:	
Children's Justice Centers . . . . .	381,500

**Item 3**

To Attorney General - Prosecution Council

From Beginning Nonlapsing Balances . . . .	32,200
Schedule of Programs:	
Prosecution Council . . . . .	32,200

**Item 4**

To Attorney General - State Settlement Agreements

From General Fund, One-Time . . . . .	900,000
Schedule of Programs:	
State Settlement Agreements . . . . .	900,000

**BOARD OF PARDONS AND PAROLE**

**Item 5**

To Board of Pardons and Parole

From General Fund, One-Time . . . . . 273,500  
 From Beginning Nonlapsing Balances . . . 500,000  
 Schedule of Programs:  
     Board of Pardons and Parole . . . . . 773,500

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 6**

To Utah Department of Corrections -  
     Programs and Operations  
 From Beginning Nonlapsing  
     Balances . . . . . 6,902,200  
 Schedule of Programs:  
     Adult Probation and Parole  
         Administration . . . . . (9,500)  
     Adult Probation and Parole  
         Programs . . . . . 1,370,000  
     Department Administrative  
         Services . . . . . 136,700  
     Department Executive Director . . . . . 4,027,800  
     Department Training . . . . . 158,000  
     Prison Operations Administration . . . 1,451,400  
     Prison Operations Central  
         Utah/Gunnison . . . . . (364,400)  
     Prison Operations Draper Facility . . . . 335,000  
     Prison Operations Inmate Placement . . . 63,800  
     Programming Administration . . . . . (23,200)  
     Programming Education . . . . . 67,800  
     Programming Skill Enhancement . . . (422,300)  
     Programming Treatment . . . . . 111,100

**Item 7**

To Utah Department of Corrections -  
     Department Medical Services  
 From Beginning Nonlapsing  
     Balances . . . . . 1,530,000  
 Schedule of Programs:  
     Medical Services . . . . . 1,530,000

**Item 8**

To Utah Department of Corrections -  
     Jail Contracting  
 From General Fund, One-Time . . . . . (360,300)  
 From Beginning Nonlapsing  
     Balances . . . . . 1,747,200  
 Schedule of Programs:  
     Jail Contracting . . . . . 1,386,900

**JUDICIAL COUNCIL/  
 STATE COURT ADMINISTRATOR**

**Item 9**

To Judicial Council/State Court Administrator -  
     Administration  
 From General Fund, One-Time . . . . . (165,000)  
 From Beginning Nonlapsing  
     Balances . . . . . 2,852,800  
 Schedule of Programs:  
     Administrative Office . . . . . 365,800  
     Court of Appeals . . . . . 12,900  
     Data Processing . . . . . 1,489,900  
     District Courts . . . . . 229,000  
     Judicial Education . . . . . 24,000  
     Juvenile Courts . . . . . 360,000  
     Law Library . . . . . 204,200  
     Supreme Court . . . . . 2,000

**Item 10**

To Judicial Council/State Court Administrator -  
     Contracts and Leases  
 From Beginning Nonlapsing Balances . . . 450,000  
 Schedule of Programs:  
     Contracts and Leases . . . . . 450,000

**Item 11**

To Judicial Council/State Court Administrator -  
     Guardian ad Litem  
 From Beginning Nonlapsing Balances . . . . 92,800  
 Schedule of Programs:  
     Guardian ad Litem . . . . . 92,800

**Item 12**

To Judicial Council/State Court Administrator -  
     Jury and Witness Fees  
 From Beginning Nonlapsing Balances . . . 280,300  
 Schedule of Programs:  
     Jury, Witness, and Interpreter . . . . . 280,300

**GOVERNOR'S OFFICE**

**Item 13**

To Governor's Office - CCJJ -  
     Child Welfare Parental Defense  
 From Beginning Nonlapsing  
     Balances . . . . . (59,300)  
 From Closing Nonlapsing Balances . . . . . 86,300  
 Schedule of Programs:  
     Child Welfare Parental Defense . . . . . 27,000

**Item 14**

To Governor's Office - CCJJ Factual  
     Innocence Payments  
 From Beginning Nonlapsing  
     Balances . . . . . (11,400)  
 From Closing Nonlapsing Balances . . . . . 11,400

**Item 15**

To Governor's Office - CCJJ Salt Lake County Jail  
     Bed Housing  
 From Beginning Nonlapsing Balances . . . 272,900  
 Schedule of Programs:  
     Salt Lake County Jail Bed Housing . . . . 272,900

**Item 16**

To Governor's Office - Character Education  
 From Beginning Nonlapsing Balances . . . . 72,100  
 Schedule of Programs:  
     Character Education . . . . . 72,100

**Item 17**

To Governor's Office - Commission on Criminal  
     and Juvenile Justice  
 From Beginning Nonlapsing Balances . . . 520,600  
 Schedule of Programs:  
     CCJJ Commission . . . . . 362,600  
     County Incentive Grant Program . . . . . 104,700  
     Extraditions . . . . . (52,300)  
     Judicial Performance Evaluation  
         Commission . . . . . (106,400)  
     Sentencing Commission . . . . . 9,000  
     State Asset Forfeiture Grant  
         Program . . . . . (295,800)  
     State Task Force Grants . . . . . 162,100  
     Substance Use and Mental Health  
         Advisory Council . . . . . 1,100  
     Utah Office for Victims of Crime . . . . . 335,600

**Item 18**

To Governor's Office - Constitutional  
     Defense Council

From Beginning Nonlapsing Balances . . . . 13,300  
 Schedule of Programs:  
 Constitutional Defense Council . . . . . 13,300

**Item 19**

To Governor's Office - Employability to Careers  
 From Beginning Nonlapsing  
 Balances . . . . . (4,141,100)  
 Schedule of Programs:  
 Employability to Careers  
 Program . . . . . (4,141,100)

**Item 20**

To Governor's Office  
 From General Fund, One-Time . . . . . (3,500)  
 From Beginning Nonlapsing  
 Balances . . . . . 3,198,300  
 From Closing Nonlapsing Balances . . . . (390,000)  
 Schedule of Programs:  
 Administration . . . . . 355,200  
 Governor's Residence . . . . . 7,300  
 Literacy Projects . . . . . 1,600  
 Lt. Governor's Office . . . . . 2,421,400  
 Washington Funding . . . . . 19,300

**Item 21**

To Governor's Office - Governor's Office  
 of Management and Budget  
 From General Fund, One-Time . . . . . (5,700)  
 From Beginning Nonlapsing  
 Balances . . . . . 1,726,200  
 From Closing Nonlapsing Balances . . . . (500,000)  
 Schedule of Programs:  
 Administration . . . . . 966,100  
 Operational Excellence . . . . . 194,400  
 State and Local Planning . . . . . 60,000

**Item 22**

To Governor's Office - Indigent  
 Defense Commission  
 From Beginning Nonlapsing  
 Balances . . . . . 1,846,600  
 From Closing Nonlapsing Balances . . . . (502,500)  
 Schedule of Programs:  
 Indigent Defense Commission . . . . . 1,344,100

**Item 23**

To Governor's Office - Quality Growth  
 Commission - LeRay McAllister Program  
 From Beginning Nonlapsing Balances . . . 437,600  
 Schedule of Programs:  
 LeRay McAllister Critical Land  
 Conservation Program . . . . . 437,600

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

**Item 24**

To Department of Human Services - Division of  
 Juvenile Justice Services - Programs  
 and Operations  
 From Beginning Nonlapsing  
 Balances . . . . . 5,000,000  
 Schedule of Programs:  
 Administration . . . . . 5,683,500  
 Community Programs . . . . . (27,400)  
 Correctional Facilities . . . . . 1,127,500  
 Early Intervention Services . . . . . 71,600  
 Rural Programs . . . . . (649,700)

Youth Parole Authority . . . . . (16,000)  
 Case Management . . . . . (1,189,500)

**Item 25**

To Department of Human Services - Division of  
 Juvenile Justice Services - Community Providers  
 From Beginning Nonlapsing  
 Balances . . . . . 2,000,000  
 Schedule of Programs:  
 Provider Payments . . . . . 2,000,000

**OFFICE OF THE STATE AUDITOR**

**Item 26**

To Office of the State Auditor - State Auditor  
 From Beginning Nonlapsing  
 Balances . . . . . (83,700)  
 Schedule of Programs:  
 State Auditor . . . . . (83,700)

**DEPARTMENT OF PUBLIC SAFETY**

**Item 27**

To Department of Public Safety - Division of  
 Homeland Security - Emergency and Disaster  
 Management  
 From Beginning Nonlapsing  
 Balances . . . . . 2,718,300  
 From Closing Nonlapsing Balances . . . (2,718,300)

**Item 28**

To Department of Public Safety - Driver License  
 From Beginning Nonlapsing  
 Balances . . . . . 6,976,300  
 From Closing Nonlapsing Balances . . . . (44,600)  
 Schedule of Programs:  
 Driver License Administration . . . . . 2,994,900  
 Driver Records . . . . . 3,814,900  
 Driver Services . . . . . 165,400  
 Motorcycle Safety . . . . . 52,600  
 Uninsured Motorist . . . . . (96,100)

**Item 29**

To Department of Public Safety -  
 Emergency Management  
 From Beginning Nonlapsing Balances . . . . . 300  
 Schedule of Programs:  
 Emergency Management . . . . . 300

**Item 30**

To Department of Public Safety - Highway Safety  
 From Federal Funds, One-Time . . . . . (7,300)  
 From Beginning Nonlapsing Balances . . . 718,600  
 Schedule of Programs:  
 Highway Safety . . . . . 711,300

**Item 31**

To Department of Public Safety - Peace  
 Officers' Standards and Training  
 From Dedicated Credits Revenue,  
 One-Time . . . . . (100)  
 From Beginning Nonlapsing Balances . . . 285,800  
 Schedule of Programs:  
 Basic Training . . . . . 235,400  
 POST Administration . . . . . 50,300

**Item 32**

To Department of Public Safety -  
 Programs & Operations  
 From General Fund, One-Time . . . . . (72,300)  
 From Dedicated Credits Revenue,  
 One-Time . . . . . (2,900)

From Revenue Transfers, One-Time . . . . . (500)  
 From Beginning Nonlapsing Balances . . . . . 12,223,300  
 Schedule of Programs:  
   Aero Bureau . . . . . 3,900  
   CITS Communications . . . . . 1,774,700  
   CITS State Crime Labs . . . . . 377,800  
   Department Commissioner's Office . . . . . 6,087,900  
   Department Grants . . . . . 100  
   Department Intelligence Center . . . . . (23,800)  
   Fire Marshall - Fire Fighter Training . . . . . 100  
   Fire Marshall - Fire Operations . . . . . 1,353,200  
   Highway Patrol - Commercial Vehicle . . . . . 100  
   Highway Patrol - Federal/State Projects . . . . . 128,300  
   Highway Patrol - Field Operations . . . . . 1,162,900  
   Highway Patrol - Protective Services . . . . . 1,207,600  
   Highway Patrol - Safety Inspections . . . . . (400)  
   Highway Patrol - Special Enforcement . . . . . 75,200  
   Highway Patrol - Special Services . . . . . (100)  
   Highway Patrol - Technology Services . . . . . 100

**Item 33**

To Department of Public Safety - Bureau of Criminal Identification  
 From Revenue Transfers, One-Time . . . . . (200)  
 From Pass-through, One-Time . . . . . (300)  
 From Beginning Nonlapsing Balances . . . . . 2,000,000  
 Schedule of Programs:  
   Law Enforcement/Criminal Justice Services . . . . . 366,800  
   Non-Government/Other Services . . . . . 1,632,700

**STATE TREASURER**

**Item 34**

To State Treasurer  
 From Beginning Nonlapsing Balances . . . 193,300  
 Schedule of Programs:  
   Money Management Council . . . . . 1,500  
   Treasury and Investment . . . . . 41,800  
   Unclaimed Property . . . . . 150,000

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**ATTORNEY GENERAL**

**Item 35**

To Attorney General - Crime and Violence Prevention Fund  
 From Beginning Fund Balance . . . . . 372,100  
 From Closing Fund Balance . . . . . (222,100)  
 Schedule of Programs:

Crime and Violence Prevention Fund . . . . . 150,000

**Item 36**

To Attorney General - Litigation Fund  
 From Dedicated Credits Revenue, One-Time . . . . . 500,000  
 From Beginning Fund Balance . . . . . (569,200)  
 From Closing Fund Balance . . . . . 74,200  
 Schedule of Programs:  
   Litigation Fund . . . . . 5,000

**GOVERNOR'S OFFICE**

**Item 37**

To Governor's Office - Crime Victim Reparations Fund  
 From Federal Funds, One-Time . . . . . (686,000)  
 From Dedicated Credits Revenue, One-Time . . . . . (24,800)  
 From Interest Income, One-Time . . . . . 74,800  
 From Beginning Fund Balance . . . . . 822,400  
 From Closing Fund Balance . . . . . (186,400)

**Item 38**

To Governor's Office - Justice Assistance Grant Fund  
 From Federal Funds, One-Time . . . . . (1,531,000)  
 From Beginning Fund Balance . . . . . 5,829,500  
 From Closing Fund Balance . . . . . (3,077,000)  
 Schedule of Programs:  
   Justice Assistance Grant Fund . . . . . 1,221,500

**Item 39**

To Governor's Office - CCJJ - Child Welfare Parental Defense Fund  
 From Dedicated Credits Revenue, One-Time . . . . . (1,000)  
 From Beginning Fund Balance . . . . . 12,000  
 From Closing Fund Balance . . . . . (22,900)  
 Schedule of Programs:  
   Child Welfare Parental Defense Fund . . . . . (11,900)

**DEPARTMENT OF PUBLIC SAFETY**

**Item 40**

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund  
 From Dedicated Credits Revenue, One-Time . . . . . 747,900  
 From Interest Income, One-Time . . . . . 50,000  
 From Beginning Fund Balance . . . . . 1,378,400  
 From Closing Fund Balance . . . . . (1,900,600)  
 Schedule of Programs:  
   Alcoholic Beverage Control Act Enforcement Fund . . . . . 275,700

**Subsection 1(c). Business-like Activities.**

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

amounts between funds and accounts as indicated.

**ATTORNEY GENERAL**

**Item 41**

To Attorney General - ISF - Attorney General  
 From Beginning Fund Balance ..... 148,600  
 Schedule of Programs:  
     ISF - Attorney General ..... 148,600  
     Budgeted FTE ..... (48.9)

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 42**

To Utah Department of Corrections -  
     Utah Correctional Industries  
 From Dedicated Credits Revenue,  
     One-Time ..... (229,900)  
 From Beginning Fund Balance ..... (1,131,700)  
 From Closing Fund Balance ..... 1,296,400  
 Schedule of Programs:  
     Utah Correctional Industries ..... (65,200)

**DEPARTMENT OF PUBLIC SAFETY**

**Item 43**

To Department of Public Safety - Local  
     Government Emergency Response Loan Fund  
 From Beginning Fund Balance ..... 4,100  
 From Closing Fund Balance ..... (4,100)

**Subsection 1(d). Restricted Fund and**

**Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 44**

To General Fund Restricted - Indigent  
     Defense Resources Account  
 From Revenue Transfers, One-Time ..... 12,300  
 Schedule of Programs:  
     General Fund Restricted - Indigent  
     Defense Resources Account ..... 12,300

**Subsection 1(e). Fiduciary Funds.** The

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

**ATTORNEY GENERAL**

**Item 45**

To Attorney General - Financial Crimes  
     Trust Fund  
 From Beginning Fund Balance ..... 227,500  
 Schedule of Programs:  
     Financial Crimes Trust Fund ..... 227,500

**STATE TREASURER**

**Item 46**

To State Treasurer - Navajo Trust Fund  
 From Beginning Fund Balance ..... (285,500)  
 From Closing Fund Balance ..... 368,100  
 Schedule of Programs:

Navajo Trust Fund ..... 82,600

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ATTORNEY GENERAL**

**Item 47**

To Attorney General  
 From General Fund ..... 28,197,200  
 From Federal Funds ..... 3,179,200  
 From Dedicated Credits Revenue ..... 6,711,900  
 From Attorney General Litigation Fund ... 8,800  
 From Revenue Transfers ..... 970,300  
 Schedule of Programs:  
     Administration ..... 8,899,300  
     Child Protection ..... 8,056,400  
     Criminal Prosecution ..... 22,111,700

**Item 48**

To Attorney General - Contract Attorneys  
 From Dedicated Credits Revenue ..... 1,500,000  
 Schedule of Programs:  
     Contract Attorneys ..... 1,500,000

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 49**

To Utah Department of Corrections -  
     Programs and Operations  
 From General Fund ..... 261,717,700  
 From Education Fund ..... 49,000  
 From Federal Funds ..... 1,409,900  
 From Dedicated Credits Revenue ..... 4,302,400  
 From G.F.R. - Interstate Compact  
     for Adult Offender Supervision ..... 29,600  
 From General Fund Restricted - Prison  
     Telephone Surcharge Account ..... 1,800,000  
 From Revenue Transfers ..... 7,100  
 Schedule of Programs:  
     Adult Probation and Parole  
         Administration ..... 3,392,600  
     Adult Probation and Parole  
         Programs ..... 75,982,800  
     Department Administrative  
         Services ..... 27,365,800  
     Department Executive Director .... 10,070,300  
     Department Training ..... 2,136,400  
     Prison Operations Administration ... 4,564,600  
     Prison Operations Central  
         Utah/Gunnison ..... 42,057,600  
     Prison Operations Draper  
         Facility ..... 80,145,500  
     Prison Operations Inmate  
         Placement ..... 3,805,000  
     Programming Administration ..... 603,500  
     Programming Education ..... 2,298,700  
     Programming Skill Enhancement .. 11,241,400  
     Programming Treatment ..... 5,651,500

**Item 50**

To Utah Department of Corrections -  
 Department Medical Services  
 From General Fund ..... 31,768,700  
 From Dedicated Credits Revenue ..... 629,100  
 Schedule of Programs:  
 Medical Services ..... 32,397,800

**Item 51**

To Utah Department of Corrections -  
 Jail Contracting  
 From General Fund ..... 33,082,300  
 From Federal Funds ..... 50,000  
 Schedule of Programs:  
 Jail Contracting ..... 33,132,300

**JUDICIAL COUNCIL/  
 STATE COURT ADMINISTRATOR**

**Item 52**

To Judicial Council/State Court Administrator -  
 Administration  
 From General Fund ..... 12,246,300  
 From Dedicated Credits Revenue ..... 1,009,100  
 From General Fund Restricted -  
 Children's Legal Defense ..... 54,000  
 From General Fund Restricted -  
 Court Security Account ..... 11,175,400  
 From General Fund Restricted -  
 Court Trust Interest ..... 258,300  
 From General Fund Rest. - Justice  
 Court Tech., Security & Training ..... 75,100  
 From General Fund Restricted -  
 Online Court Assistance Account ..... 237,300  
 From Revenue Transfers ..... 197,500  
 Schedule of Programs:  
 Administrative Office ..... 6,027,500  
 Courts Security ..... 11,678,000  
 Data Processing ..... 7,547,500

**Item 53**

To Judicial Council/State Court Administrator -  
 Contracts and Leases  
 From General Fund ..... 16,792,900  
 From Dedicated Credits Revenue ..... 253,300  
 From General Fund Restricted -  
 State Court Complex Account ..... 4,340,600  
 Schedule of Programs:  
 Contracts and Leases ..... 21,386,800

**Item 54**

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

**Item 55**

To Judicial Council/State Court Administrator -  
 Guardian ad Litem  
 From General Fund ..... 8,039,600  
 From Dedicated Credits Revenue ..... 68,900  
 From General Fund Restricted -  
 Children's Legal Defense ..... 516,500  
 From General Fund Restricted -  
 Guardian Ad Litem Services ..... 397,500  
 From Revenue Transfers ..... 10,000  
 Schedule of Programs:  
 Guardian ad Litem ..... 9,032,500

**GOVERNOR'S OFFICE**

**Item 56**

To Governor's Office - CCJJ Jail Reimbursement  
 From General Fund ..... 14,967,100  
 Schedule of Programs:  
 Jail Reimbursement ..... 14,967,100

**Item 57**

To Governor's Office - CCJJ Salt Lake  
 County Jail Bed Housing  
 From General Fund ..... 2,420,000  
 Schedule of Programs:  
 Salt Lake County Jail Bed  
 Housing ..... 2,420,000

**Item 58**

To Governor's Office - Commission on Criminal and  
 Juvenile Justice  
 From General Fund ..... 3,459,400  
 From Federal Funds ..... 8,297,000  
 From Dedicated Credits Revenue ..... 36,300  
 From General Fund Restricted -  
 Criminal Forfeiture Restricted  
 Account ..... 2,095,000  
 From General Fund Restricted -  
 Law Enforcement Operations ..... 1,531,300  
 From General Fund Restricted -  
 Law Enforcement Services ..... 617,900  
 Schedule of Programs:  
 CCJJ Commission ..... 11,304,500  
 Extraditions ..... 319,600  
 Law Enforcement Services Grants ..... 617,900  
 State Asset Forfeiture Grant  
 Program ..... 2,095,000  
 State Task Force Grants ..... 1,531,300  
 Substance Use and Mental  
 Health Advisory Council ..... 168,600

**Item 59**

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

**Item 60**

To Governor's Office  
 From General Fund ..... 7,513,000  
 From Dedicated Credits Revenue ..... 1,464,500  
 From Expendable Receipts ..... 15,000  
 From Beginning Nonlapsing Balances ... 490,000  
 Schedule of Programs:  
 Administration ..... 4,288,500  
 Governor's Residence ..... 344,600  
 Literacy Projects ..... 145,100  
 Lt. Governor's Office ..... 4,436,000  
 Washington Funding ..... 268,300

**Item 61**

To Governor's Office - Governor's  
 Office of Management and Budget  
 From General Fund ..... 4,741,500  
 From Dedicated Credits Revenue ..... 26,500  
 From Beginning Nonlapsing Balances ... 500,000  
 Schedule of Programs:  
 Administration ..... 1,726,900  
 Operational Excellence ..... 1,132,900  
 Planning and Budget Analysis ..... 2,065,300  
 State and Local Planning ..... 342,900

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

**Item 62**

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

From General Fund . . . . . 28,274,900  
From Federal Funds . . . . . 1,776,200  
From Dedicated Credits Revenue . . . . . 226,500  
From Revenue Transfers . . . . . (21,500)  
Schedule of Programs:  
Administration . . . . . 7,431,200  
Correctional Facilities . . . . . 16,477,000  
Case Management . . . . . 6,347,900

**Item 63**

To Department of Human Services - Division of  
Juvenile Justice Services - Community  
Providers

From General Fund . . . . . 3,105,000  
Schedule of Programs:  
Administration . . . . . 3,105,000

**OFFICE OF THE STATE AUDITOR**

**Item 64**

To Office of the State Auditor - State Auditor

From General Fund . . . . . 3,692,200  
From Dedicated Credits Revenue . . . . . 2,986,000  
Schedule of Programs:  
State Auditor . . . . . 6,678,200

**DEPARTMENT OF PUBLIC SAFETY**

**Item 65**

To Department of Public Safety - Division of  
Homeland Security - Emergency and Disaster  
Management

From Beginning Nonlapsing  
Balances . . . . . 7,718,300  
From Closing Nonlapsing Balances . . . (7,718,300)

**Item 66**

To Department of Public Safety - Driver License

From General Fund . . . . . 203,700  
From Federal Funds . . . . . 200,000  
From Dedicated Credits Revenue . . . . . 26,200  
From Department of Public Safety  
Restricted Account . . . . . 31,453,300  
From Public Safety Motorcycle  
Education Fund . . . . . 339,800  
From Uninsured Motorist Identification  
Restricted Account . . . . . 2,123,100  
From Pass-through . . . . . 58,100  
From Beginning Nonlapsing Balances . . . . . 44,600  
Schedule of Programs:  
DL Federal Grants . . . . . 200,000  
Driver License Administration . . . . . 2,309,200  
Driver Records . . . . . 9,048,300  
Driver Services . . . . . 20,381,900  
Motorcycle Safety . . . . . 386,300  
Uninsured Motorist . . . . . 2,123,100

**Item 67**

To Department of Public Safety -  
Emergency Management

From General Fund . . . . . 1,548,400  
From Federal Funds . . . . . 22,949,000

From Dedicated Credits Revenue . . . . . 540,500  
From General Fund Restricted -  
Post Disaster Recovery and  
Mitigation Rest Account . . . . . 300,000  
Schedule of Programs:  
Emergency Management . . . . . 25,337,900

**Item 68**

To Department of Public Safety - Emergency  
Management - National Guard Response

From Beginning Nonlapsing Balances . . . 150,000  
From Closing Nonlapsing Balances . . . (150,000)

**Item 69**

To Department of Public Safety - Highway Safety

From General Fund . . . . . 57,800  
From Federal Funds . . . . . 6,384,100  
From Dedicated Credits Revenue . . . . . 16,200  
From Department of Public Safety  
Restricted Account . . . . . 1,323,800  
Schedule of Programs:  
Highway Safety . . . . . 7,781,900

**Item 70**

To Department of Public Safety - Peace  
Officers' Standards and Training

From General Fund . . . . . 174,600  
From Dedicated Credits Revenue . . . . . 73,400  
From General Fund Restricted -  
Public Safety Support . . . . . 4,111,600  
From Uninsured Motorist Identification  
Restricted Account . . . . . 500,000  
Schedule of Programs:  
Basic Training . . . . . 2,359,400  
POST Administration . . . . . 1,681,900  
Regional/Inservice Training . . . . . 818,300

**Item 71**

To Department of Public Safety -  
Programs & Operations

From General Fund . . . . . 87,828,000  
From Transportation Fund . . . . . 5,495,500  
From Federal Funds . . . . . 2,163,800  
From Dedicated Credits Revenue . . . . . 11,997,600  
From General Fund Restricted -  
Canine Body Armor . . . . . 25,000  
From Department of Public  
Safety Restricted Account . . . . . 3,928,500  
From General Fund Restricted -  
DNA Specimen Account . . . . . 1,533,200  
From General Fund Restricted -  
Fire Academy Support . . . . . 7,199,600  
From General Fund Restricted -  
Firefighter Support Account . . . . . 132,000  
From Gen. Fund Rest. - Motor  
Vehicle Safety Impact Acct. . . . . 2,706,700  
From General Fund Restricted - Public  
Safety Honoring Heroes Account . . . . . 200,000  
From General Fund Restricted - Reduced  
Cigarette Ignition Propensity &  
Firefighter Protection Account . . . . . 81,000  
From Revenue Transfers . . . . . 1,034,800  
From Gen. Fund Rest. - Utah Highway  
Patrol Aero Bureau . . . . . 216,400  
From General Fund Restricted -  
Utah Law Enforcement Memorial  
Support Restricted Account . . . . . 17,500  
From Pass-through . . . . . 15,000  
Schedule of Programs:  
Aero Bureau . . . . . 1,026,900



CITS Administration	546,300
CITS Communications	11,576,600
CITS State Bureau of	
Investigation	4,604,100
CITS State Crime Labs	8,459,500
Department Commissioner's	
Office	5,582,900
Department Fleet Management	510,200
Department Grants	2,632,300
Department Intelligence Center	1,579,500
Fire Marshall - Fire Fighter	
Training	4,520,500
Fire Marshall - Fire Operations	3,821,300
Highway Patrol - Administration	1,400,900
Highway Patrol - Commercial	
Vehicle	4,233,200
Highway Patrol - Federal/State	
Projects	4,075,700
Highway Patrol - Field	
Operations	53,469,000
Highway Patrol - Protective	
Services	8,251,200
Highway Patrol - Safety Inspections	572,300
Highway Patrol - Special	
Enforcement	737,200
Highway Patrol - Special Services	4,034,500
Highway Patrol - Technology	
Services	1,645,100
Information Management -	
Operations	1,295,400

**Item 72**

To Department of Public Safety -	
Bureau of Criminal Identification	
From General Fund	2,886,100
From Dedicated Credits Revenue	6,031,200
From General Fund Restricted -	
Concealed Weapons Account	3,524,700
From General Fund Restricted -	
Statewide Warrant Operations	596,300
From Revenue Transfers	27,100
Schedule of Programs:	
Law Enforcement/Criminal Justice	
Services	3,200,700
Non-Government/Other Services	9,864,700

**STATE TREASURER**

**Item 73**

To State Treasurer	
From General Fund	1,078,900
From Dedicated Credits Revenue	870,400
From Land Trusts Protection and	
Advocacy Account	397,900
From Unclaimed Property Trust	2,025,100
Schedule of Programs:	
Advocacy Office	397,900
Money Management Council	110,900
Treasury and Investment	1,845,900
Unclaimed Property	2,017,600

**UTAH COMMUNICATIONS AUTHORITY**

**Item 74**

To Utah Communications Authority -	
Administrative Services Division	
From Gen. Fund Rest. - Statewide	
Unified E-911 Emerg. Acct.	11,413,600

From General Fund Restricted - Utah	
Statewide Radio System Acct.	20,000,500
Schedule of Programs:	
911 Division	11,413,600
Administrative Services Division	20,000,500

**Subsection 2(b). Expendable Funds and**

**Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**ATTORNEY GENERAL**

**Item 75**

To Attorney General - Crime and	
Violence Prevention Fund	
From Beginning Fund Balance	222,100
Schedule of Programs:	
Crime and Violence Prevention	
Fund	222,100

**Item 76**

To Attorney General - Litigation Fund	
From Dedicated Credits Revenue	2,000,000
From Beginning Fund Balance	662,800
Schedule of Programs:	
Litigation Fund	2,662,800

**GOVERNOR'S OFFICE**

**Item 77**

To Governor's Office - Justice Assistance	
Grant Fund	
From Federal Funds	52,000
From Beginning Fund Balance	4,397,100
From Closing Fund Balance	(2,341,000)
Schedule of Programs:	
Justice Assistance Grant Fund	2,108,100

**Item 78**

To Governor's Office - State Elections Grant Fund	
From Federal Funds	214,400
From Interest Income	5,500
Schedule of Programs:	
State Elections Grant Fund	219,900

**DEPARTMENT OF PUBLIC SAFETY**

**Item 79**

To Department of Public Safety - Alcoholic	
Beverage Control Act Enforcement Fund	
From Dedicated Credits Revenue	4,027,100
From Beginning Fund Balance	5,674,700
From Closing Fund Balance	(5,674,700)
Schedule of Programs:	
Alcoholic Beverage Control Act Enforcement	
Fund	4,027,100

**Subsection 2(c). Business-like Activities.**

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

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

#### UTAH DEPARTMENT OF CORRECTIONS

##### Item 80

To Utah Department of Corrections -  
Utah Correctional Industries  
From Dedicated Credits Revenue . . . . . 29,000,000  
From Beginning Fund Balance . . . . . 6,700,700  
Schedule of Programs:  
Utah Correctional Industries . . . . . 35,700,700

#### DEPARTMENT OF PUBLIC SAFETY

##### Item 81

To Department of Public Safety - Local  
Government Emergency Response Loan Fund  
From Beginning Fund Balance . . . . . 241,900  
From Closing Fund Balance . . . . . (241,900)

**Subsection 2(d). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

##### Item 82

To General Fund Restricted - Fire  
Academy Support Account  
From General Fund . . . . . 4,200,000  
Schedule of Programs:  
General Fund Restricted - Fire  
Academy Support Account . . . . . 4,200,000

##### Item 83

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

##### Item 84

To Post Disaster Recovery and  
Mitigation Rest Account  
From General Fund . . . . . 300,000  
Schedule of Programs:  
Post Disaster Recovery and  
Mitigation Rest Account . . . . . 300,000

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

#### ATTORNEY GENERAL

##### Item 85

To Attorney General - Financial Crimes  
Trust Fund  
From Trust and Agency Funds . . . . . 1,225,000  
Schedule of Programs:

Financial Crimes Trust Fund . . . . . 1,225,000

#### STATE TREASURER

##### Item 86

To State Treasurer - Navajo Trust Fund  
From Trust and Agency Funds . . . . . 682,600  
From Other Financing Sources . . . . . 3,318,800  
From Beginning Fund Balance . . . . . 77,939,500  
From Closing Fund Balance . . . . . (79,558,700)  
Schedule of Programs:  
Navajo Trust Fund . . . . . 2,382,200

#### Section 3. FY 2021 Accountable Process

**Budget.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2021.

#### Subsection 3(a). Operating and Capital

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ATTORNEY GENERAL

##### Item 87

To Attorney General  
From General Fund . . . . . 3,050,600  
From General Fund Restricted -  
Tobacco Settlement Account . . . . . 66,000  
Schedule of Programs:  
Civil . . . . . 3,116,600

##### Item 88

To Attorney General - Children's Justice Centers  
From General Fund . . . . . 4,361,900  
From Federal Funds . . . . . 242,500  
From Dedicated Credits Revenue . . . . . 444,200  
Schedule of Programs:  
Children's Justice Centers . . . . . 5,048,600

##### Item 89

To Attorney General - Prosecution Council  
From General Fund . . . . . 202,500  
From Federal Funds . . . . . 35,300  
From Dedicated Credits Revenue . . . . . 309,900  
From General Fund Restricted -  
Public Safety Support . . . . . 551,500  
From Revenue Transfers . . . . . 286,900  
Schedule of Programs:  
Prosecution Council . . . . . 1,386,100

#### BOARD OF PARDONS AND PAROLE

##### Item 90

To Board of Pardons and Parole  
From General Fund . . . . . 6,051,900  
From Dedicated Credits Revenue . . . . . 2,300  
Schedule of Programs:  
Board of Pardons and Parole . . . . . 6,054,200

The Legislature intends that, upon completion of the electronic records system project, the Board report on results including desired outcomes, efficiencies gained and other related benefits.

**JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR**

**Item 91**

To Judicial Council/State Court Administrator - Administration

From General Fund . . . . .	104,740,300
From General Fund, One-Time . . . . .	(101,400)
From Federal Funds . . . . .	734,900
From Dedicated Credits Revenue . . . . .	2,035,000
From General Fund Restricted - Children's Legal Defense . . . . .	426,800
From General Fund Restricted - Dispute Resolution Account . . . . .	565,100
From General Fund Restricted - DNA Specimen Account . . . . .	269,600
From General Fund Rest. - Justice Court Tech., Security & Training . . . . .	1,144,700
From General Fund Restricted - Nonjudicial Adjustment Account . . . . .	1,056,200
From General Fund Restricted - State Court Complex Account . . . . .	322,100
From General Fund Restricted - Substance Abuse Prevention . . . . .	571,700
From General Fund Restricted - Tobacco Settlement Account . . . . .	193,700
From Revenue Transfers . . . . .	898,000

Schedule of Programs:

Court of Appeals . . . . .	4,585,400
District Courts . . . . .	54,636,900
Grants Program . . . . .	1,497,700
Judicial Education . . . . .	740,400
Justice Courts . . . . .	1,426,100
Juvenile Courts . . . . .	45,373,700
Law Library . . . . .	1,125,800
Supreme Court . . . . .	3,470,700

The Legislature intends that the Administrative Office of the Courts report on impacts of Senate Bill 19, "Driving Under the Influence Modifications" during the 2020 interim.

The Legislature intends that the Administrative Office of the Courts report on impacts of Senate Bill 27, "Domestic Violence, Dating Violence, and Stalking Amendments" during the 2020 interim.

**Item 92**

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

From General Fund . . . . .	2,628,300
From Dedicated Credits Revenue . . . . .	10,000

Schedule of Programs:

Jury, Witness, and Interpreter . . . . .	2,638,300
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**GOVERNOR'S OFFICE**

**Item 93**

To Governor's Office - CCJJ - Child Welfare Parental Defense

From General Fund . . . . .	95,200
From Dedicated Credits Revenue . . . . .	45,000
From Revenue Transfers . . . . .	9,000

Schedule of Programs:

Child Welfare Parental Defense . . . . .	149,200
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**Item 94**

To Governor's Office - CCJJ Factual Innocence Payments

From Beginning Nonlapsing Balances . . .	171,200
From Closing Nonlapsing Balances . . . .	(125,500)

Schedule of Programs:

Factual Innocence Payments . . . . .	45,700
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**Item 95**

To Governor's Office - Commission on Criminal and Juvenile Justice

From General Fund . . . . .	908,500
From Federal Funds . . . . .	28,641,800
From Dedicated Credits Revenue . . . . .	68,800
From Crime Victim Reparations Fund . . . . .	1,971,100

Schedule of Programs:

Judicial Performance Evaluation Commission . . . . .	571,500
Sentencing Commission . . . . .	190,000
Utah Office for Victims of Crime . . .	30,828,700

**Item 96**

To Governor's Office - Indigent Defense Commission

From General Fund Restricted - Indigent Defense Resources . . . . . 5,155,500

From Beginning Nonlapsing Balances . . . 502,500

Schedule of Programs:

Indigent Defense Commission . . . . .	5,658,000
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**DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES**

**Item 97**

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

From General Fund . . . . .	46,980,500
From Federal Funds . . . . .	267,100
From Dedicated Credits Revenue . . . . .	45,000
From Expendable Receipts . . . . .	63,300
From Revenue Transfers . . . . .	312,400

Schedule of Programs:

Community Programs . . . . .	5,383,700
Early Intervention Services . . . . .	19,502,600
Rural Programs . . . . .	22,407,000
Youth Parole Authority . . . . .	375,000

**Item 98**

To Department of Human Services - Division of Juvenile Justice Services - Community Providers

From General Fund . . . . .	14,989,900
From Federal Funds . . . . .	1,438,400
From Dedicated Credits Revenue . . . . .	652,000
From Revenue Transfers . . . . .	(1,204,400)

Schedule of Programs:

Provider Payments . . . . .	15,875,900
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**Subsection 3(b). Expendable Funds and**

**Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further

legislative action, in accordance with statutory provisions relating to the funds or accounts.

Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**GOVERNOR'S OFFICE**

**Item 99**

To Governor's Office - Crime Victim

Reparations Fund

From Federal Funds .....	2,500,000
From Dedicated Credits Revenue .....	6,501,300
From Interest Income .....	82,000
From Beginning Fund Balance .....	5,538,200
From Closing Fund Balance .....	(4,960,800)
Schedule of Programs:	
Crime Victim Reparations Fund .....	9,660,700

**Item 100**

To Governor's Office - CCJJ - Child

Welfare Parental Defense Fund

From General Fund .....	6,500
From Interest Income .....	1,000
From Beginning Fund Balance .....	45,200
Schedule of Programs:	
Child Welfare Parental Defense Fund ...	52,700

**Subsection 3(c). Business-like Activities.**

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

**ATTORNEY GENERAL**

**Item 101**

To Attorney General - ISF - Attorney General

From General Fund .....	2,124,600
From Dedicated Credits Revenue .....	31,394,800
Schedule of Programs:	
ISF - Attorney General .....	33,519,400
Budgeted FTE .....	248.1

**Subsection 3(d). Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 102**

To General Fund Restricted - Indigent Defense

Resources Account

From General Fund .....	5,151,500
From Revenue Transfers .....	(5,151,500)

**Section 4. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the

**CHAPTER 5**

**H. B. 7**

Passed February 5, 2020  
 Approved February 24, 2020  
 Effective February 24, 2020  
 Exception clause

**SOCIAL SERVICES BASE BUDGET**

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

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for the use and support of programs reviewed under the accountable budget process; and
- ▶ provides appropriations for other purposes as described.
- ▶ provides intent language.

**Money Appropriated in this Bill:**

This bill appropriates \$8,414,600 in operating and capital budgets for fiscal year 2020, including:

- ▶ (\$25,000,000) from the General Fund; and
- ▶ \$33,414,600 from various sources as detailed in this bill.

This bill appropriates \$48,934,400 in expendable funds and accounts for fiscal year 2020.

This bill appropriates (\$14,020,200) in business-like activities for fiscal year 2020.

This bill appropriates (\$41,136,000) in restricted fund and account transfers for fiscal year 2020, including:

- ▶ (\$31,000,000) from the General Fund; and
- ▶ (\$10,136,000) from various sources as detailed in this bill.

This bill appropriates \$1,167,200 in fiduciary funds for fiscal year 2020.

This bill appropriates \$6,449,956,300 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$1,079,442,300 from the General Fund; and
- ▶ \$5,370,514,000 from various sources as detailed in this bill.

This bill appropriates \$62,928,000 in expendable funds and accounts for fiscal year 2021, including:

- ▶ \$2,442,900 from the General Fund; and
- ▶ \$60,485,100 from various sources as detailed in this bill.

This bill appropriates \$168,283,100 in business-like activities for fiscal year 2021.

This bill appropriates \$222,676,200 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$16,774,000 from the General Fund; and
- ▶ \$205,902,200 from various sources as detailed in this bill.

This bill appropriates \$221,249,400 in fiduciary funds for fiscal year 2021.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF HEALTH**

**Item 1**

To Department of Health - Children's Health Insurance Program  
 From General Fund Restricted - Tobacco Settlement Account,  
 One-Time ..... (1,100,000)  
 From Beginning Nonlapsing Balances ... 726,500  
 From Closing Nonlapsing Balances .... (735,900)  
 Schedule of Programs:  
 Children's Health Insurance Program ..... (1,109,400)

**Item 2**

To Department of Health - Disease Control and Prevention  
 From Beginning Nonlapsing Balances ..... 1,405,600  
 Schedule of Programs:  
 Epidemiology ..... 190,000  
 General Administration ..... 371,000  
 Health Promotion ..... 242,000  
 Utah Public Health Laboratory ..... 218,000  
 Office of the Medical Examiner ..... 384,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$2,025,000 of Item 58 of Chapter 10, Laws of Utah 2019 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to: (1) \$500,000 to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs; (2) \$500,000 to maintenance or replacement of computer equipment and software, equipment, building improvements or other purchases or

services that improve or expand services provided by the Office of the Medical Examiner; (3) \$500,000 to laboratory equipment, computer equipment, software, and building improvements for the Unified State Laboratory; (4) \$250,000 to replacement, upgrading, maintenance, or purchase of laboratory or computer equipment and software for the Newborn Screening Program; (5) \$175,000 to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand services provided by the Bureau of Epidemiology; (6) \$75,000 for use of the Traumatic Brain Injury Fund; and (7) \$25,000 to local health departments expenses in responding to a local health emergency.

Under Section 63J-1-603 of the Utah Code Item 184 of Chapter 407, Laws of Utah 2019, the Legislature intends up to \$250,000 General Fund provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to Alzheimer's programs and outreach.

Under Section 63J-1-603 of the Utah Code Item 175 of Chapter 508, Laws of Utah 2019, the Legislature intends up to \$250,000 General Fund provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to efforts to prevent sexual assault.

**Item 3**

To Department of Health - Executive  
 Director's Operations  
 From Revenue Transfers, One-Time .. (861,600)  
 From Beginning Nonlapsing  
 Balances ..... 1,197,200  
 Schedule of Programs:  
 Adoption Records Access ..... 73,700  
 Center for Health Data and  
 Informatics ..... (556,900)  
 Executive Director ..... 640,800  
 Office of Internal Audit ..... 100,500  
 Program Operations ..... 77,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$850,000 of Item 59 of Chapter 10, Laws of Utah 2019 for the Department of Health's Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to (1) \$300,000 for general operations of the Executive Director's Office, (2) \$300,000 in programming and information technology projects, replacement of computers and other information technology equipment, and a time-limited deputy to the Department of Technology Services director that helps coordinate information technology projects, (3) \$200,000 ongoing development and maintenance of the vital records application portal, and (4) \$50,000 ongoing maintenance and upgrades

of the database in the Office of Medical Examiner and the Electronic Death Entry Network or replacement of personal computers and information technology equipment in the Center for Health Data and Information.

**Item 4**

To Department of Health - Family  
 Health and Preparedness  
 From Beginning Nonlapsing  
 Balances ..... 1,558,600  
 From Closing Nonlapsing Balances ..... 345,100  
 Schedule of Programs:  
 Child Development ..... (636,600)  
 Children with Special Health  
 Care Needs ..... (499,300)  
 Director's Office ..... 342,000  
 Emergency Medical Services and  
 Preparedness ..... 475,800  
 Health Facility Licensing and  
 Certification ..... 72,900  
 Maternal and Child Health ..... 520,300  
 Primary Care ..... 610,300  
 Public Health and Health Care  
 Preparedness ..... 1,020,500  
 Nurse Home Visiting Pay-for-  
 Success Program ..... (2,200)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$1,275,000 of Item 60 of Chapter 10, Laws of Utah 2019 for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to (1) \$50,000 to the services of eligible clients in the Assistance for People with Bleeding Disorders Program, (2) \$200,000 to testing, certifications, background screenings, replacement of testing equipment and supplies in the Emergency Medical Services program, (3) \$210,000 to health facility plan review activities in Health Facility Licensing and Certification, (4) \$150,000 to health facility licensure and certification activities in Health Facility Licensing and Certification, (5) \$145,000 to Emergency Medical Services and Health Facility Licensing background screening for replacement of live scan machines, and enhancements and maintenance of the Direct Access Clearing System, and (6) \$520,000 to evidence-based nurse home visiting services for at-risk individuals with a priority focus on first-time mothers.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of Item 60 of Chapter 10, Laws of Utah 2019 for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2020. Civil money penalties collected in the Bureau of Licensing for Child Care Licensing and Health Facility Licensing programs. The use of any nonlapsing funds is limited to upgrades to databases, training for providers and staff, or assistance of individuals during a facility shutdown.

Under Section 63J-1-603 of the Utah Code Item 186 of Chapter 407, Laws of Utah 2019, the Legislature intends up to \$300,000 General Fund provided for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to building costs for Roads to Independence.

**Item 5**

To Department of Health - Medicaid and Health Financing  
 From Beginning Nonlapsing Balances ... 975,000  
 Schedule of Programs:  
 Authorization and Community  
     Based Services ..... 657,300  
     Contracts ..... 300,300  
 Coverage and Reimbursement  
     Policy ..... 1,010,300  
 Director's Office ..... 631,700  
 Eligibility Policy ..... 466,200  
 Financial Services ..... 3,342,100  
 Managed Health Care ..... 2,990,800  
 Medicaid Operations ..... (9,003,500)  
 Other Seeded Services ..... 579,800

Under Section 63J-1-603 of the Utah Code Item 62 of Chapter 10, Laws of Utah 2019, the Legislature intends that up to \$975,000 provided for the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to: (1) \$500,000 for providing application level security and redundancy for core Medicaid applications and (2) \$475,000 for compliance with unfunded mandates and the purchase of computer equipment and software.

**Item 6**

To Department of Health - Medicaid Services  
 From General Fund, One-Time .... (25,000,000)  
 From Federal Funds, One-Time .... 17,006,000  
 From Expendable Receipts,  
     One-Time ..... (6,084,000)  
 From General Fund Restricted -  
     Tobacco Settlement Account,  
     One-Time ..... 1,100,000  
 From Beginning Nonlapsing  
     Balances ..... 8,766,500  
 Schedule of Programs:  
 Accountable Care  
     Organizations ..... (23,565,700)  
 Dental Services ..... 1,922,400  
 Intermediate Care Facilities for  
     the Intellectually Disabled ..... 14,800  
 Medicaid Expansion ..... 10,922,000  
 Medicare Part D Clawback  
     Payments ..... 752,700  
 Outpatient Hospital ..... 886,600  
 Provider Reimbursement Information  
     System for Medicaid ..... 4,069,800  
 School Based Skills Development ..... 785,900

Under Section 63J-1-603 of the Utah Code Item 64 of Chapter 10, Laws of Utah 2019, the Legislature intends up to \$10,650,000 provided for the Department of Health's Medicaid Services line item shall not lapse at

the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to (1) \$500,000 for providing application level security and redundancy for core Medicaid applications and (2) \$10,150,000 for the redesign and replacement of the Medicaid Management Information System.

Under Section 63J-1-603 of the Utah Code Item 188 of Chapter 407, Laws of Utah 2019, the Legislature intends up to \$4,000,000 General Fund provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to dental provider reimbursement rates.

**Item 7**

To Department of Health - Primary Care Workforce Financial Assistance  
 From Beginning Nonlapsing  
     Balances ..... (21,100)  
 Schedule of Programs:  
     Primary Care Workforce Financial  
     Assistance ..... (21,100)

**Item 8**

To Department of Health - Rural Physicians  
 Loan Repayment Assistance  
 From Beginning Nonlapsing Balances ... 160,600  
 From Closing Nonlapsing Balances .... (155,200)  
 Schedule of Programs:  
     Rural Physicians Loan Repayment  
     Program ..... 5,400

**DEPARTMENT OF HUMAN SERVICES**

**Item 9**

To Department of Human Services - Division of Aging and Adult Services  
 From Beginning Nonlapsing Balances ... 250,000  
 Schedule of Programs:  
     Adult Protective Services ..... 50,000  
     Aging Waiver Services ..... 200,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$300,000 of appropriations provided in Item 68, Chapter 10, Laws of Utah 2019 for the Department of Human Services - Division of Aging and Adult Services not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; special projects or studies; and client services for Adult Protective Services and the Aging Waiver consistent with the requirements found at UCA 63J-1-603(3).

**Item 10**

To Department of Human Services -  
 Division of Child and Family Services  
 From Beginning Nonlapsing  
     Balances ..... 1,548,500  
 Schedule of Programs:  
     Administration - DCFS ..... (36,900)  
     Adoption Assistance ..... 1,059,400  
     Child Welfare Management Information  
     System ..... 210,600  
     Domestic Violence ..... (634,200)

Facility-Based Services .....	444,000
In-Home Services .....	1,540,600
Minor Grants .....	(348,700)
Out-of-Home Care .....	(3,636,300)
Service Delivery .....	2,950,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$4,500,000 of appropriations provided in Item 69, Chapter 10, Laws of Utah 2019 for the Department of Human Services - Division of Child and Family Services not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to facility repair, maintenance, and improvements; Adoption Assistance; Out of Home Care; Service Delivery; In-Home Services; Special Needs; Domestic Violence Programs; Utah County Domestic Violence Shelter; SAFE Management Information System development and operations consistent with the requirements found at UCA 63J-1-603(3)(b).

The Legislature intends the Department of Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Out of Home Care to enhance Service Delivery or In-Home Services consistent with the requirements found at UCA 63J-1-603(3)(b). The purpose of this reinvestment of funds is to increase capacity to keep children safely at home and reduce the need for foster care, in accordance with Utah's Child Welfare Demonstration Project authorized under Section 1130 of the Social Security Act (Act) (42 U.S.C. 1320a-9), which grants a waiver for certain foster care funding requirements under Title IV-E of the Act. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Act.

The Legislature intends the Department of Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-Title-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b).

**Item 11**

To Department of Human Services - Executive Director Operations  
 From Beginning Nonlapsing Balances ..... 9,900  
 Schedule of Programs:

Executive Director's Office .....	(8,100)
Fiscal Operations .....	(29,200)
Information Technology .....	96,600
Legal Affairs .....	56,300
Office of Licensing .....	(30,000)

Office of Quality and Design .....	(75,700)
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Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$75,000 of appropriations provided in Item 70, Chapter 10, Laws of Utah 2019 for the Department of Human Services - Executive Director Operations not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement.

**Item 12**

To Department of Human Services - Office of Public Guardian  
 From Beginning Nonlapsing Balances .... 16,900  
 Schedule of Programs:

Office of Public Guardian .....	16,900
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Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of appropriations provided in Item 71, Chapter 10, Laws of Utah 2019 for the Department of Human Services - Office of Public Guardian not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; and special projects or studies.

**Item 13**

To Department of Human Services - Division of Services for People with Disabilities  
 From Beginning Nonlapsing Balances ... 172,700  
 Schedule of Programs:

Acquired Brain Injury Waiver .....	850,000
Administration - DSPD .....	140,000
Community Supports Waiver .....	(1,077,300)
Service Delivery .....	260,000

**Item 14**

To Department of Human Services - Division of Substance Abuse and Mental Health  
 From Beginning Nonlapsing Balances .....

.....	1,271,500
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Schedule of Programs:

Administration - DSAMH .....	269,800
Community Mental Health Services ...	925,800
Drug Courts .....	(655,100)
Drug Offender Reform Act (DORA) .....	(2,747,100)
Local Substance Abuse Services .....	3,948,500
Mental Health Centers .....	(1,399,100)
State Hospital .....	85,900
State Substance Abuse Services .....	842,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$3,000,000 of appropriations provided in Item 74, Chapter 10, Laws of Utah 2019 for the Department of Human Services - Division of Substance Abuse and Mental Health not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements;



other charges and pass through expenditures; short-term projects and studies that promote efficiency and service improvement; and appropriated one-time projects.

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 15**

To Department of Workforce Services -  
Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$200,000 of general fund appropriations provided in Item 75 of Chapter 10 Laws of Utah 2019, for the Department of Workforce Services' Administration line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, and one-time projects.

**Item 16**

To Department of Workforce Services -  
General Assistance

From Beginning Nonlapsing

Balances .....	1,626,600
Schedule of Programs:	
General Assistance .....	1,626,600

**Item 17**

To Department of Workforce Services -  
Housing and Community Development

From Gen. Fund Rest. - Homeless  
Housing Reform Rest. Acct,  
One-Time .....

	(88,500)
From General Fund Restricted - Youth Character Organization, One-Time ...	(10,000)
From General Fund Restricted - Youth Development Organization, One-Time .....	(10,000)
From Beginning Nonlapsing	
Balances .....	2,343,200
Schedule of Programs:	
Community Development .....	562,000
Community Development Administration .....	(622,300)
Community Services .....	(207,600)
Homeless Committee .....	2,807,400
Housing Development .....	(367,900)
Weatherization Assistance .....	63,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$300,000 of general fund appropriations provided in Item 211 of Chapter 463 Laws of Utah 2018, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to one-time projects or programs which provide health and wellness services for homeless individuals and families.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$1,000,000 of general fund appropriations provided in Item 198 of Chapter 407 Laws of Utah 2019,

for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to weatherization assistance projects.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$300,000 of dedicated credits revenue appropriations provided in Item 78 of Chapter 10 Laws of Utah 2019, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to one-time projects to develop a web-based application for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$2,500,000 of general fund restricted appropriations provided in Item 78 of Chapter 10 Laws of Utah 2019, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to use by the Housing and Community Development Division and the State Homeless Coordinating Committee for designing, building, creating, renovating, or operating a facility.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of expendable receipts appropriations provided in Item 78 of Chapter 10 Laws of Utah 2019, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to weatherization assistance projects, including the pass-through of utility rebates by the Department of Workforce Services for weatherization assistance projects completed by local governments.

**Item 18**

To Department of Workforce Services -  
Operation Rio Grande

From Beginning Nonlapsing

Balances .....	2,000,000
Schedule of Programs:	
Operation Rio Grande .....	2,000,000

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$1,600,000 of appropriations provided in Item 66 of Chapter 397 Laws of Utah 2018, for the Department of Workforce Services' Operation Rio Grande line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families.

**Item 19**

To Department of Workforce Services -  
Operations and Policy

From Beginning Nonlapsing Balances .....	1,193,200
Schedule of Programs:	
Information Technology .....	1,106,700
Other Assistance .....	216,300
Utah Data Research Center .....	442,400
Workforce Development .....	534,500
Workforce Research and Analysis ..	(1,106,700)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$1,000,000 of Special Administrative Expense Account appropriations provided in Item 200 of Chapter 407 Laws of Utah 2019, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to programs that reinvest in the workforce and support employer initiatives, and one-time studies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$450,000 of general fund appropriations provided in Item 200 of Chapter 407 Laws of Utah 2019, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to intergenerational poverty plan implementation.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$3,100,000 of general fund appropriations provided in Item 81 of Chapter 10 Laws of Utah 2019, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, one-time projects, and one-time training.

Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$32,200 of General Fund appropriations provided in Item 215 of Chapter 508 Laws of Utah 2019 for the Department of Workforce Service's Operations and Policy line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to apprenticeship opportunity awareness activities.

**Item 20**

To Department of Workforce Services - State Office of Rehabilitation

From Beginning Nonlapsing Balances .....	(410,300)
From Closing Nonlapsing Balances ....	(782,400)
Schedule of Programs:	
Deaf and Hard of Hearing .....	(97,600)
Disability Determination .....	(8,300)
Executive Director .....	82,300
Rehabilitation Services .....	(1,169,100)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$9,000,000 of general fund appropriations provided in

Item 83 of Chapter 10 Laws of Utah 2019, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the purchase of equipment and software, including assistive technology devices and items for the low vision store; one-time studies; one-time projects; one-time projects associated with client services; and one-time projects to enhance or maintain State Office of Rehabilitation facilities and to facilitate co-location of personnel.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$10,000 of dedicated credits revenue appropriations provided in Item 83 of Chapter 10 Laws of Utah 2019, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the purchase of items and devices for the low vision store.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of general fund appropriations provided in Item 201 of Chapter 407 Laws of Utah 2019, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the purchase of assistive technology devices and equipment.

**Item 21**

To Department of Workforce Services - Unemployment Insurance

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$60,000 of general fund appropriations provided in Item 84 of Chapter 10 Laws of Utah 2019, for the Department of Workforce Services' Unemployment Insurance line item, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the purchase of equipment and software and one-time projects associated with client services.

**Subsection 1(b). Expendable Funds and**

**Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF HEALTH**

**Item 22**

To Department of Health - Organ Donation Contribution Fund

From Dedicated Credits Revenue, One-Time .....	(3,900)
From Interest Income, One-Time .....	6,500
From Beginning Fund Balance .....	2,600

From Closing Fund Balance ..... (5,200)

**Item 23**

To Department of Health - Spinal Cord  
and Brain Injury Rehabilitation Fund  
From Dedicated Credits Revenue,  
One-Time ..... 118,200  
From Beginning Fund Balance ..... 228,400  
From Closing Fund Balance ..... (396,600)  
Schedule of Programs:  
Spinal Cord and Brain Injury  
Rehabilitation Fund ..... (50,000)

**Item 24**

To Department of Health - Traumatic  
Brain Injury Fund  
From Beginning Fund Balance ..... 339,500  
From Closing Fund Balance ..... (336,600)  
Schedule of Programs:  
Traumatic Brain Injury Fund ..... 2,900

**DEPARTMENT OF HUMAN SERVICES**

**Item 25**

To Department of Human Services - Out and About  
Homebound Transportation Assistance Fund  
From Dedicated Credits Revenue,  
One-Time ..... (1,900)  
From Interest Income, One-Time ..... (1,100)  
From Beginning Fund Balance ..... (2,900)  
From Closing Fund Balance ..... 92,400  
Schedule of Programs:  
Out and About Homebound  
Transportation Assistance Fund ..... 86,500

**Item 26**

To Department of Human Services -  
Utah State Developmental Center  
Long-Term Sustainability Fund  
From Dedicated Credits Revenue,  
One-Time ..... (28,200)  
From Interest Income, One-Time ..... 7,900  
From Beginning Fund Balance ..... (20,000)  
From Closing Fund Balance ..... 40,300

**Item 27**

To Department of Human Services - Utah State  
Developmental Center Miscellaneous Donation  
Fund  
From Dedicated Credits Revenue,  
One-Time ..... (17,300)  
From Interest Income, One-Time ..... 5,600  
From Beginning Fund Balance ..... 8,100  
From Closing Fund Balance ..... (8,100)  
Schedule of Programs:  
Utah State Developmental Center  
Miscellaneous Donation Fund ..... (11,700)

**Item 28**

To Department of Human Services - Utah State  
Developmental Center Workshop Fund  
From Dedicated Credits Revenue,  
One-Time ..... (13,700)  
From Beginning Fund Balance ..... (61,000)  
From Closing Fund Balance ..... 125,000  
Schedule of Programs:  
Utah State Developmental Center  
Workshop Fund ..... 50,300

**Item 29**

To Department of Human Services -  
Utah State Hospital Unit Fund  
From Dedicated Credits Revenue,  
One-Time ..... 8,200  
From Interest Income, One-Time ..... 700  
From Beginning Fund Balance ..... 102,600  
From Closing Fund Balance ..... (102,600)  
Schedule of Programs:  
Utah State Hospital Unit Fund ..... 8,900

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 30**

To Department of Workforce Services -  
Individuals with Visual Impairment Fund  
From Dedicated Credits Revenue,  
One-Time ..... (18,500)  
From Interest Income, One-Time ..... 18,500  
From Beginning Fund Balance ..... 33,600  
From Closing Fund Balance ..... (33,600)

**Item 31**

To Department of Workforce Services -  
Navajo Revitalization Fund  
From Beginning Fund Balance ..... 3,267,300  
From Closing Fund Balance ..... (5,573,500)  
Schedule of Programs:  
Navajo Revitalization Fund ..... (2,306,200)

**Item 32**

To Department of Workforce Services -  
Olene Walker Housing Loan Fund  
From General Fund, One-Time ..... (2,242,900)  
From Federal Funds, One-Time ..... (4,776,400)  
From Dedicated Credits Revenue,  
One-Time ..... (24,800)  
From Interest Income, One-Time ..... (2,345,500)  
From Beginning Fund Balance ..... (153,188,100)  
From Closing Fund Balance ..... 158,682,900  
Schedule of Programs:  
Olene Walker Housing Loan  
Fund ..... (3,894,800)

**Item 33**

To Department of Workforce Services -  
Permanent Community Impact Bonus Fund  
From Restricted Revenue, One-Time ... (30,000)  
From Beginning Fund Balance ..... 6,590,300  
From Closing Fund Balance ..... (6,557,900)  
Schedule of Programs:  
Permanent Community Impact  
Bonus Fund ..... 2,400

**Item 34**

To Department of Workforce Services -  
Permanent Community Impact Fund  
From Dedicated Credits Revenue,  
One-Time ..... (4,712,600)  
From Interest Income, One-Time ..... 1,989,200  
From Restricted Revenue, One-Time ... 200,000  
From Beginning Fund Balance ..... (65,728,300)  
From Closing Fund Balance ..... 117,663,900  
Schedule of Programs:  
Permanent Community Impact  
Fund ..... 49,412,200

**Item 35**

To Department of Workforce Services -  
Qualified Emergency Food Agencies Fund

From Restricted Revenue, One-Time . . . . 540,000  
 From Designated Sales Tax,  
   One-Time . . . . . (540,000)  
 From Beginning Fund Balance . . . . . (84,000)  
 From Closing Fund Balance . . . . . (31,000)  
 Schedule of Programs:  
   Emergency Food Agencies Fund . . . . . (115,000)

**Item 36**

To Department of Workforce Services -  
   Utah Basin Revitalization Fund  
 From Dedicated Credits Revenue,  
   One-Time . . . . . (200,000)  
 From Interest Income, One-Time . . . . . 200,000  
 From Other Financing Sources,  
   One-Time . . . . . 2,750,000  
 From Beginning Fund Balance . . . . . 846,900  
 From Closing Fund Balance . . . . . (2,966,400)  
 Schedule of Programs:  
   Utah Basin Revitalization Fund . . . . . 630,500

**Item 37**

To Department of Workforce Services -  
   Utah Community Center for the Deaf Fund  
 From Dedicated Credits Revenue,  
   One-Time . . . . . (2,000)  
 From Interest Income, One-Time . . . . . 2,000  
 From Beginning Fund Balance . . . . . (200)  
 From Closing Fund Balance . . . . . 200

**Item 38**

To Department of Workforce Services -  
   Olene Walker Low Income Housing  
 From General Fund, One-Time . . . . . 2,242,900  
 From Federal Funds, One-Time . . . . . 4,776,400  
 From Dedicated Credits Revenue,  
   One-Time . . . . . 24,800  
 From Interest Income, One-Time . . . . . 2,345,500  
 From Beginning Fund Balance . . . . . 153,188,100  
 From Closing Fund Balance . . . . . (157,459,300)  
 Schedule of Programs:  
   Olene Walker Low Income  
     Housing . . . . . 5,118,400

**Subsection 1(c). Business-like Activities.**

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

**DEPARTMENT OF HEALTH****Item 39**

To Department of Health - Qualified  
   Patient Enterprise Fund  
 From Dedicated Credits Revenue,  
   One-Time . . . . . 1,389,300  
 From Beginning Fund Balance . . . . . 4,180,500  
 From Closing Fund Balance . . . . . (3,102,100)  
 Schedule of Programs:  
   Qualified Patient Enterprise Fund . . . . . 2,467,700

**DEPARTMENT OF  
 WORKFORCE SERVICES****Item 40**

To Department of Workforce Services - Economic  
   Revitalization and Investment Fund  
 From Interest Income, One-Time . . . . . 100,000  
 From Closing Fund Balance . . . . . (100,000)

**Item 41**

To Department of Workforce Services - State Small  
   Business Credit Initiative Program Fund  
 From Beginning Fund Balance . . . . . 33,000  
 From Closing Fund Balance . . . . . (33,000)

**Item 42**

To Department of Workforce Services -  
   Unemployment Compensation Fund  
 From Federal Funds, One-Time . . . . . (1,120,000)  
 From Dedicated Credits Revenue,  
   One-Time . . . . . (363,600)  
 From Restricted Revenue, One-Time . . . . . 363,600  
 From Beginning Fund Balance . . . . . 3,221,100  
 From Closing Fund Balance . . . . . (18,589,000)  
 Schedule of Programs:  
   Unemployment Compensation  
     Fund . . . . . (16,487,900)

**Subsection 1(d). Restricted Fund and  
 Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 43**

To Ambulance Service Provider  
   Assessment Expendable Revenue Fund  
 From Beginning Fund Balance . . . . . 250,600  
 From Closing Fund Balance . . . . . (250,600)

**Item 44**

To Hospital Provider Assessment Fund  
 From Beginning Fund Balance . . . . . (839,300)  
 From Closing Fund Balance . . . . . 839,300

**Item 45**

To Medicaid Expansion Fund  
 From General Fund, One-Time . . . . . (31,000,000)  
 From Beginning Fund Balance . . . . . 61,942,900  
 From Closing Fund Balance . . . . . (62,722,000)  
 Schedule of Programs:  
   Medicaid Expansion Fund . . . . . (31,779,100)

**Item 46**

To Nursing Care Facilities Provider  
   Assessment Fund  
 From Dedicated Credits Revenue,  
   One-Time . . . . . 2,707,700  
 Schedule of Programs:  
   Nursing Care Facilities Provider  
     Assessment Fund . . . . . 2,707,700

**Item 47**

To General Fund Restricted - Homeless Account  
 From Closing Fund Balance . . . . . (714,600)  
 Schedule of Programs:  
   General Fund Restricted - Pamela  
     Atkinson Homeless Account . . . . . (714,600)

**Item 48**

To General Fund Restricted - Homeless to Housing Reform Account  
 From Revenue Transfers,  
 One-Time ..... (11,350,000)  
 Schedule of Programs:  
 General Fund Restricted - Homeless to Housing Reform Restricted Account ..... (11,350,000)

**Subsection 1(e). Fiduciary Funds.** The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**DEPARTMENT OF HUMAN SERVICES**

**Item 49**

To Department of Human Services - Human Services Client Trust Fund  
 From Interest Income, One-Time ..... 24,100  
 From Trust and Agency Funds,  
 One-Time ..... (152,700)  
 From Beginning Fund Balance ..... 129,600  
 From Closing Fund Balance ..... (129,600)  
 Schedule of Programs:  
 Human Services Client Trust Fund ..... (128,600)

**Item 50**

To Department of Human Services - Human Services ORS Support Collections  
 From Trust and Agency Funds,  
 One-Time ..... 496,000  
 Schedule of Programs:  
 Human Services ORS Support Collections ..... 496,000

**Item 51**

To Department of Human Services - Maurice N. Warshaw Trust Fund  
 From Interest Income, One-Time ..... (3,700)  
 From Beginning Fund Balance ..... (150,100)  
 From Closing Fund Balance ..... 150,100  
 Schedule of Programs:  
 Maurice N. Warshaw Trust Fund ..... (3,700)

**Item 52**

To Department of Human Services - Utah State Developmental Center Patient Account  
 From Interest Income, One-Time ..... 300  
 From Trust and Agency Funds,  
 One-Time ..... 207,600  
 From Beginning Fund Balance ..... 1,300  
 From Closing Fund Balance ..... (18,200)  
 Schedule of Programs:  
 Utah State Developmental Center Patient Account ..... 191,000

**Item 53**

To Department of Human Services - Utah State Hospital Patient Trust Fund  
 From Trust and Agency Funds,  
 One-Time ..... 648,500  
 From Beginning Fund Balance ..... 68,900  
 From Closing Fund Balance ..... (68,900)  
 Schedule of Programs:  
 Utah State Hospital Patient Trust Fund ..... 648,500

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 54**

To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund  
 From Beginning Fund Balance ..... 46,900  
 From Closing Fund Balance ..... (82,900)  
 Schedule of Programs:  
 Individuals with Visual Disabilities Vendor Fund ..... (36,000)

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF HEALTH**

**Item 55**

To Department of Health - Children's Health Insurance Program  
 From General Fund ..... 18,225,700  
 From Federal Funds ..... 119,027,900  
 From Dedicated Credits Revenue ..... 2,176,500  
 From Expendable Receipts - Rebates ..... 5,301,900  
 From General Fund Restricted - Tobacco Settlement Account ..... 10,452,900  
 From Beginning Nonlapsing Balances ... 735,900  
 From Closing Nonlapsing Balances .... (735,900)  
 Schedule of Programs:  
 Children's Health Insurance Program ..... 155,184,900

The Legislature intends that the Department of Health report on the following performance measures for the Children's Health Insurance Program line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percent of children less than 15 months old that received at least six or more well-child visits (Target = 70% or more), (2) Children (3-17 years of age) who had an outpatient visit with a primary care practitioner or obstetrics/gynecologist and who had evidence of Body Mass Index percentile documentation (Target = 70% or more), and (3) percent of adolescents who received one meningococcal vaccine and one TDAP (tetanus, diphtheria, and pertussis) between the members 10th and 13th birthdays (Target = 80%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 56**

To Department of Health - Disease Control and Prevention  
 From General Fund ..... 17,209,400  
 From Federal Funds ..... 43,881,800  
 From Dedicated Credits Revenue .... 10,256,500

From Expendable Receipts .....	872,400
From Expendable Receipts - Rebates .....	5,400,000
From General Fund Restricted - Cancer Research Account .....	20,000
From General Fund Restricted - Children with Cancer Support Restricted Account .....	10,500
From General Fund Restricted - Children with Heart Disease Support Restr Acct .....	10,500
From General Fund Restricted - Cigarette Tax Restricted Account ....	3,159,700
From Department of Public Safety Restricted Account .....	105,900
From Gen. Fund Rest. - State Lab Drug Testing Account .....	730,500
From General Fund Restricted - Tobacco Settlement Account .....	3,847,100
From Revenue Transfers .....	1,745,400
Schedule of Programs:	
Clinical and Environmental Lab Certification Programs .....	698,900
Epidemiology .....	27,874,200
General Administration .....	2,736,200
Health Promotion .....	34,789,800
Utah Public Health Laboratory ....	13,707,700
Office of the Medical Examiner .....	7,442,900

The Legislature intends that the Department of Health report on the following performance measures for the Disease Control and Prevention line item, whose mission is to “prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease.”: (1) gonorrhea cases per 100,000 population (Target = 89 people or less), (2) percentage of adults who are current smokers (Target = 7.5% or less), and (3) percentage of toxicology cases completed within 20 day goal (Target = 95%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

#### Item 57

To Department of Health - Family Health and Preparedness	
From General Fund .....	24,505,200
From Federal Funds .....	73,525,900
From Dedicated Credits Revenue .....	5,585,600
From Expendable Receipts - Rebates .....	8,900,000
From Gen. Fund Rest. - Children’s Hearing Aid Pilot Program Account ....	291,600
From Gen. Fund Rest. - K. Oscarson Children’s Organ Transp. ....	106,600
From General Fund Restricted - Home Visiting Restricted Account .....	2,000
From Revenue Transfers .....	7,119,500
From Beginning Nonlapsing Balances .....	1,949,200
From Closing Nonlapsing Balances ...	(1,767,400)
Schedule of Programs:	
Children with Special Health Care Needs .....	31,597,700
Director’s Office .....	3,595,800

Emergency Medical Services and Preparedness .....	4,019,900
Health Facility Licensing and Certification .....	8,628,600
Maternal and Child Health .....	58,667,400
Primary Care .....	4,358,400
Public Health and Health Care Preparedness .....	9,350,400

The Legislature intends that the Department of Health report on the following performance measures for the Family Health and Preparedness line item, whose mission is to “Assure care for many of Utah’s most vulnerable citizens. The division accomplishes this through programs designed to provide direct services, and to be prepared to serve all populations that may suffer the adverse health impacts of a disaster, be it man-made or natural.”: (1) the percent of children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 69% or more), (2) annually perform on-site survey inspections of health care facilities (Goal = 80%), and (3) the percent of ambulance providers receiving enough but not more than 10% of gross revenue (Goal = 80%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

#### Item 58

To Department of Health - Local Health Departments	
From General Fund .....	2,137,500
Schedule of Programs:	
Local Health Department Funding ..	2,137,500

The Legislature intends that the Department of Health report on the following performance measures for the Local Health Departments line item, whose mission is to “To prevent sickness and death from infectious diseases and environmental hazards; to monitor diseases to reduce spread; and to monitor and respond to potential bioterrorism threats or events, communicable disease outbreaks, epidemics and other unusual occurrences of illness.”: (1) number of local health departments that maintain a board of health that annually adopts a budget, appoints a local health officer, conducts an annual performance review for the local health officer, and reports to county commissioners on health issues (Target = 13 or 100%), (2) number of local health departments that provide communicable disease epidemiology and control services including disease reporting, response to outbreaks, and measures to control tuberculosis (Target = 13 or 100%), (3) number of local health departments that maintain a program of environmental sanitation which provides oversight of restaurants food safety, swimming pools, and the indoor clean air act (Target = 13 or 100%), (4) achieve and maintain an effective coverage rate for universally recommended vaccinations among young children up to 35 months of age (Target = 90%), (5) reduce the

number of cases of pertussis among children under 1 year of age, and among adolescents aged 11 to 18 years (Target = 73 or less for infants and 322 cases or less for youth), and (6) local health departments will increase the number of health and safety related school buildings and premises inspections by 10% (from 80% to 90%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 59**

To Department of Health - Medicaid and Health Financing

From General Fund .....	5,091,900
From Federal Funds .....	96,237,200
From Dedicated Credits Revenue .....	(349,700)
From Expendable Receipts .....	12,842,800
From Medicaid Expansion Fund .....	2,097,300
From Nursing Care Facilities Provider Assessment Fund .....	1,126,600
From Revenue Transfers .....	30,890,500

Schedule of Programs:

Authorization and Community Based Services .....

Services .....	4,271,900
Contracts .....	1,484,300

Coverage and Reimbursement Policy .....

Policy .....	3,808,300
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Department of Workforce Services' Seeded Services .....

Director's Office .....	3,061,900
Eligibility Policy .....	3,177,600
Financial Services .....	27,322,600
Managed Health Care .....	8,205,100
Medicaid Operations .....	5,474,700
Other Seeded Services .....	42,876,100

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid and Health Financing line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) average decision time on pharmacy prior authorizations (Target = 24 hours or less), (2) percent of clean claims adjudicated within 30 days of submission (Target = 98%), and (3) total count of Medicaid and Children's Health Insurance Program clients educated on proper benefit use and plan selection (Target = 125,000 or more) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 60**

To Department of Health - Medicaid Sanctions From Beginning Nonlapsing Balances .....

Balances .....	1,979,000
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From Closing Nonlapsing Balances ... (1,979,000)

The Legislature intends that the Department of Health report on how expenditures from the Medicaid Sanctions line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans," met federal requirements which constrain its use by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 61**

To Department of Health - Medicaid Services

From General Fund .....	492,323,300
From Federal Funds .....	2,969,506,200
From Dedicated Credits Revenue .....	13,715,300
From Expendable Receipts .....	124,740,900
From Expendable Receipts - Rebates .....	146,426,000
From Ambulance Service Provider Assess Exp Rev Fund .....	3,217,400
From Hospital Provider Assessment Fund .....	56,045,500
From Medicaid Expansion Fund .....	111,773,500
From Nursing Care Facilities Provider Assessment Fund .....	36,098,500
From Revenue Transfers .....	133,615,600
From Pass-through .....	1,800,000

Schedule of Programs:

Accountable Care Organizations .....

Organizations .....	1,112,409,500
Dental Services .....	87,734,700

Expenditure Offsets from Collections .....

Collections .....	(27,469,500)
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Home and Community Based Waivers .....

Waivers .....	378,684,800
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Home Health and Hospice .....

Home Health and Hospice .....	23,963,400
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Inpatient Hospital .....

Inpatient Hospital .....	244,240,200
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Intermediate Care Facilities for the Intellectually Disabled .....

the Intellectually Disabled .....	80,380,400
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Medicaid Expansion .....

Medicaid Expansion .....	1,139,263,400
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Medical Transportation .....

Medical Transportation .....	26,020,400
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Medicare Buy-In .....

Medicare Buy-In .....	64,035,500
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Medicare Part D Clawback Payments .....

Payments .....	43,512,400
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Mental Health and Substance Abuse .....

Abuse .....	210,056,400
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Nursing Home .....

Nursing Home .....	264,574,500
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Other Services .....

Other Services .....	89,892,000
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Outpatient Hospital .....

Outpatient Hospital .....	80,268,500
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Pharmacy .....

Pharmacy .....	141,899,400
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Physician and Osteopath .....

Physician and Osteopath .....	75,198,300
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Provider Reimbursement Information System for Medicaid .....

System for Medicaid .....	20,338,300
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School Based Skills Development ...

School Based Skills Development ...	34,259,600
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The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Services line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percentage of children 3-17 years of age who had an outpatient visit with a primary care practitioner or obstetrics/gynecologist and who had evidence of Body Mass Index percentile documentation (Target = 70%), (2) the percentage of adults 18-85 years of age who had a diagnosis of hypertension and whose blood pressure was adequately controlled, (Target = 65%), and (3) annual state general funds saved through preferred drug list (Target = 16,000,000) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 62**

To Department of Health - Primary Care Workforce Financial Assistance From General Fund .....

From General Fund .....	9,600
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From Federal Funds .....	202,500
Schedule of Programs:	
Primary Care Workforce Financial	
Assistance .....	212,100

The Legislature intends that the Department of Health report on the following performance measures for the Primary Care Workforce Financial Assistance line item, whose mission is to “As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations.”: (1) percentage of available funding awarded (Target = 100%), (2) total individuals served (Target = 20,000), (3) total uninsured individuals served (Target = 5,000), and (4) total underserved individuals served (Target = 7,000) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 63**

To Department of Health - Rural Physicians	
Loan Repayment Assistance	
From General Fund .....	309,300
From Beginning Nonlapsing Balances ...	155,200
Schedule of Programs:	
Rural Physicians Loan Repayment	
Program .....	464,500

The Legislature intends that the Department of Health report on the following performance measures for the Rural Physicians Loan Repayment Assistance line item, whose mission is to “As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations.”: (1) percentage of available funding awarded (Target = 100%), (2) total individuals served (Target = 10,000), (3) total uninsured individuals served (Target = 1,000), and (4) total underserved individuals served (Target = 3,000) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 64**

To Department of Health - Vaccine Commodities	
From Federal Funds .....	27,277,100
Schedule of Programs:	
Vaccine Commodities .....	27,277,100

The Legislature intends that the Department of Health report on the following performance measures for the Vaccine Commodities line item, “The mission of the Utah Department of Health Immunization Program is to improve the health of Utah’s citizens through vaccinations to reduce illness, disability, and death from vaccine-preventable infections. We seek to promote a healthy lifestyle that emphasizes immunizations across the lifespan by partnering with the 13 local health

departments throughout the state and other community partners. From providing educational materials for the general public and healthcare providers to assessing clinic immunization records to collecting immunization data through online reporting systems, the Utah Immunization Program recognizes the importance of immunizations as part of a well-balanced healthcare approach.”: (1) ensure that Utah children, adolescents and adults can receive vaccine in accordance with state and federal guidelines (Target = done), (2) validate that Vaccines for Children-enrolled providers comply with Vaccines for Children program requirements as defined by Centers for Disease Control Operations Guide (Target = 100%), and (3) continue to improve and sustain immunization coverage levels among children, adolescents and adults (Target = done) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF HUMAN SERVICES**

**Item 65**

To Department of Human Services -	
Division of Aging and Adult Services	
From General Fund .....	15,659,400
From Federal Funds .....	12,438,400
From Dedicated Credits Revenue .....	100
From Revenue Transfers .....	(1,161,900)
Schedule of Programs:	
Administration - DAAS .....	1,650,500
Adult Protective Services .....	3,423,200
Aging Alternatives .....	4,312,200
Aging Waiver Services .....	1,219,800
Local Government Grants -	
Formula Funds .....	15,143,500
Non-Formula Funds .....	1,186,800

The Legislature intends that the Department of Human Services report on the following performance measures for the Aging and Adult Services line item, whose mission is “To provide leadership and advocacy in addressing issues that impact older Utahans, and serve elder and disabled adults needing protection from abuse, neglect or exploitation”: (1) Medicaid Aging Waiver: Average cost of client at 15% or less of nursing home cost (Target = 15%), (2) Adult Protective Services: Protective needs resolved positively (Target = 95%), and (3) Meals on Wheels: Total meals served (Target = 9,200) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 66**

To Department of Human Services - Division	
of Child and Family Services	
From General Fund .....	122,782,500
From Federal Funds .....	63,030,900
From Dedicated Credits Revenue .....	1,987,300
From Expendable Receipts .....	266,400
From General Fund Restricted -	
Children’s Account .....	340,000
From General Fund Restricted - Choose	
Life Adoption Support Account .....	100



From Gen. Fund Rest. - Victims of Domestic Violence Services Acct . . . . . 732,100

From General Fund Restricted - National Professional Men's Basketball Team Support of Women and Children Issues . . . . . 100,000

From Revenue Transfers . . . . . (10,902,100)

Schedule of Programs:

Administration - DCFS . . . . . 4,621,500

Adoption Assistance . . . . . 19,289,900

Child Welfare Management Information System . . . . . 6,968,100

Children's Account . . . . . 340,000

Domestic Violence . . . . . 6,761,700

Facility-Based Services . . . . . 4,427,700

In-Home Services . . . . . 1,248,900

Minor Grants . . . . . 5,049,500

Out-of-Home Care . . . . . 34,937,100

Selected Programs . . . . . 4,552,900

Service Delivery . . . . . 87,872,000

Special Needs . . . . . 2,267,900

The Legislature intends that the Department of Human Services report on the following performance measures for the Child and Family Services line item, whose mission is "To keep children safe from abuse and neglect and provide domestic violence services by working with communities and strengthening families": (1) Administrative Performance: Percent satisfactory outcomes on qualitative case reviews/system performance (Target = 85%/85%), (2) Child Protective Services: Absence of maltreatment recurrence within 6 months (Target = 94.6%), and (3) Out of home services: Percent of cases closed to permanency outcome/median months closed to permanency (Target = 90%/12 months) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 67**

To Department of Human Services - Office of Recovery Services

From General Fund . . . . . 14,296,600

From Federal Funds . . . . . 26,260,300

From Dedicated Credits Revenue . . . . . 8,146,700

From Medicaid Expansion Fund . . . . . 50,000

From Revenue Transfers . . . . . 3,110,200

Schedule of Programs:

Administration - ORS . . . . . 1,231,600

Attorney General Contract . . . . . 4,560,700

Child Support Services . . . . . 25,962,200

Children in Care Collections . . . . . 843,100

Electronic Technology . . . . . 13,384,300

Financial Services . . . . . 2,594,400

Medical Collections . . . . . 3,287,500

The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Recovery Services (ORS) line item, whose mission is "To serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents,

establishing paternity and support obligations, and enforcing those obligations when necessary": (1) Statewide Paternity Establishment Percentage (PEP Score) (Target = 90%), (2) Child Support Services Collections (Target = \$225 million), and (3) Ratio: ORS Collections to Cost (Target = > \$5.65 to \$1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 68**

To Department of Human Services - Division of Services for People with Disabilities

From General Fund . . . . . 127,570,700

From Federal Funds . . . . . 1,549,600

From Dedicated Credits Revenue . . . . . 1,831,000

From Expendable Receipts . . . . . 975,000

From Revenue Transfers . . . . . 288,080,300

Schedule of Programs:

Acquired Brain Injury Waiver . . . . . 7,766,200

Administration - DSPD . . . . . 5,504,300

Community Supports Waiver . . . . . 350,975,900

Non-waiver Services . . . . . 2,965,500

Physical Disabilities Waiver . . . . . 2,758,900

Service Delivery . . . . . 7,405,500

Utah State Developmental Center . . . . . 42,630,300

Under Subsection 62A-5-102(7)(a) of the Utah Code, the Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2021 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family Services and Juvenile Justice Services, individuals court ordered into DSPD services, to provide increases to providers for direct care staff salaries, and for facility repairs, maintenance, and improvements. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst by October 15, 2021 on the use of these nonlapsing funds.

The Legislature intends that the Department of Human Services report on the following performance measures for the Services for People with Disabilities line item, whose mission is "To promote opportunities and provide supports for persons with disabilities to lead self-determined lives": (1) Community Supports, Brain Injury, Physical Disability Waivers, Non-Waiver Services - Percent of providers meeting fiscal requirements of contract (Target = 100%), (2) Community Supports, Brain Injury, Physical Disability Waivers, Non-Waiver Services - Percent of providers meeting non-fiscal requirements of contract (Target = 100%), and (3) Percent of individuals who report that their supports and services help them lead a good life (National Core Indicators In-Person Survey) (Target=100%) by October 1, 2020 to the

Social Services Appropriations  
Subcommittee.

**Item 69**

To Department of Human Services - Division of Substance Abuse and Mental Health  
From General Fund ..... 125,366,200  
From Federal Funds ..... 36,719,000  
From Dedicated Credits Revenue ..... 3,510,300  
From Expendable Receipts ..... 183,900  
From General Fund Restricted - Survivors of Suicide Loss Account ..... 40,000  
From General Fund Restricted - Psychiatric Consultation Program Account ..... 275,000  
From General Fund Restricted - Intoxicated Driver Rehabilitation Account ..... 1,500,000  
From General Fund Restricted - Tobacco Settlement Account ..... 1,121,200  
From Revenue Transfers ..... 19,433,800  
Schedule of Programs:  
Administration - DSAMH ..... 3,758,500  
Community Mental Health Services ..... 21,551,800  
Driving Under the Influence (DUI) Fines ..... 1,500,000  
Drug Courts ..... 3,977,700  
Local Substance Abuse Services ..... 26,911,600  
Mental Health Centers ..... 39,280,800  
Residential Mental Health Services ..... 221,900  
State Hospital ..... 74,278,500  
State Substance Abuse Services ..... 16,668,600

The Legislature intends that the Department of Human Services report on the following performance measures for the Substance Abuse and Mental Health line item, whose mission is “To promote hope, health and healing, by reducing the impact of substance abuse and mental illness to Utah citizens, families and communities”: (1) Local Substance Abuse Services - Successful completion rate (Target = 60%), (2) Mental Health Centers - Adult Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 84%), and (3) Mental Health Centers - Youth Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 84%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 70**

To Department of Workforce Services - Community Development Capital Budget  
From Permanent Community Impact Loan Fund ..... 93,060,000  
Schedule of Programs:  
Community Impact Board ..... 93,060,000

**Item 71**

To Department of Workforce Services - General Assistance  
From General Fund ..... 4,752,200

From Revenue Transfers ..... 250,900  
Schedule of Programs:  
General Assistance ..... 5,003,100

The Legislature intends that the Department of Workforce Services report on the following performance measures for the General Assistance line item, whose mission is to “provide temporary financial assistance to disabled adults without dependent children to support basic living needs as they seek longer term financial benefits through SSI/SSDI or employment”: (1) positive closure rate (SSI achievement or closed with earnings) (Target = 58%), (2) General Assistance average monthly customers served (Target = 730), and (3) internal review compliance accuracy (Target = 90%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 72**

To Department of Workforce Services - Housing and Community Development  
From General Fund ..... 4,281,100  
From Federal Funds ..... 39,905,300  
From Dedicated Credits Revenue ..... 826,400  
From Expendable Receipts ..... 777,500  
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account ..... 5,301,800  
From Gen. Fund Rest. - Pamela Atkinson Homeless Account ..... 1,995,700  
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct ..... 11,290,500  
From Housing Opportunities for Low Income Households ..... 500,000  
From Navajo Revitalization Fund ..... 60,500  
From Olene Walker Housing Loan Fund ..... 500,000  
From OWHT-Fed Home ..... 500,000  
From OWHTF-Low Income Housing ..... 500,000  
From Permanent Community Impact Loan Fund ..... 1,316,300  
From Qualified Emergency Food Agencies Fund ..... 37,000  
From Revenue Transfers ..... 53,600  
From Uintah Basin Revitalization Fund ..... 23,500  
Schedule of Programs:  
Community Development ..... 6,836,600  
Community Development Administration ..... 1,143,200  
Community Services ..... 3,812,800  
HEAT ..... 16,851,200  
Homeless Committee ..... 25,328,100  
Housing Development ..... 3,581,500  
Weatherization Assistance ..... 10,315,800

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Housing and Community Development line item, whose mission is to “actively partner with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) utilities assistance for low-income

households - number of eligible households assisted with home energy costs (Target = 28,000 households), (2) Weatherization Assistance - number of low income households assisted by installing permanent energy conservation measures in their homes (Target = 530 homes), and (3) Homelessness Programs - reduce the average length of stay in Emergency Shelters (Target 10%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 73**

To Department of Workforce Services -  
 Nutrition Assistance - SNAP  
 From Federal Funds ..... 270,000,000  
 Schedule of Programs:  
 Nutrition Assistance - SNAP ..... 270,000,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Nutrition Assistance line item, whose mission is to “provide accurate and timely Supplemental Nutrition Assistance Program (SNAP) benefits to eligible low-income individuals and families”: (1) Federal SNAP Quality Control Accuracy - Actives (Target= 97%), (2) Food Stamps - Certification Timeliness (Target = 95%), and (3) Food Stamps - Certification Days to Decision (Target = 12 days) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 74**

To Department of Workforce Services -  
 Operations and Policy  
 From General Fund ..... 57,691,500  
 From Federal Funds ..... 242,552,800  
 From Dedicated Credits Revenue ..... 1,400,800  
 From Expendable Receipts ..... 1,100,000  
 From Gen. Fund Rest. - Homeless  
 Housing Reform Rest. Acct ..... 38,000  
 From Housing Opportunities for  
 Low Income Households ..... 2,000  
 From Medicaid Expansion Fund ..... 3,267,200  
 From Navajo Revitalization Fund ..... 3,500  
 From Olene Walker Housing Loan Fund ... 2,000  
 From OWHT-Fed Home ..... 2,000  
 From OWHT-Fed Home Income ..... 13,500  
 From OWHTF-Low Income Housing ..... 2,000  
 From OWHTF-Low Income Housing-PI ... 13,000  
 From Permanent Community Impact  
 Loan Fund ..... 250,500  
 From Qualified Emergency Food  
 Agencies Fund ..... 2,500  
 From General Fund Restricted -  
 School Readiness Account ..... 5,971,400  
 From Revenue Transfers ..... 39,936,400  
 From Uintah Basin Revitalization Fund ... 1,000  
 Schedule of Programs:  
 Child Care Assistance ..... 62,000,000  
 Eligibility Services ..... 63,539,100  
 Facilities and Pass-Through ..... 7,844,300  
 Information Technology ..... 39,890,200  
 Nutrition Assistance ..... 96,000  
 Other Assistance ..... 294,600  
 Refugee Assistance ..... 7,400,000

Temporary Assistance for  
 Needy Families ..... 70,088,100  
 Trade Adjustment Act Assistance ... 1,500,000  
 Utah Data Research Center ..... 1,392,500  
 Workforce Development ..... 90,952,500  
 Workforce Investment Act  
 Assistance ..... 4,530,000  
 Workforce Research and Analysis ... 2,722,800

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Operations and Policy line item, whose mission is to “meet the needs of our customers with responsive, respectful and accurate service”: (1) labor exchange - total job placements (Target = 30,000 placements per calendar quarter), (2) TANF recipients - positive closure rate (Target = 72% per calendar month), (3) Eligibility Services - internal review compliance accuracy (Target = 95%), and (4) Utah Data Research Center-provision of statutory reports related to the center’s research priorities for the year, research completed the previous year, and ongoing research priority list by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 75**

To Department of Workforce Services -  
 Special Service Districts  
 From General Fund Restricted -  
 Mineral Lease ..... 3,841,400  
 Schedule of Programs:  
 Special Service Districts ..... 3,841,400

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Special Service Districts line item, whose mission is to “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: the total pass through of funds to qualifying special service districts in counties of the 5th, 6th, and 7th class (that this is completed quarterly) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 76**

To Department of Workforce Services -  
 State Office of Rehabilitation  
 From General Fund ..... 21,936,300  
 From Federal Funds ..... 58,073,800  
 From Dedicated Credits Revenue ..... 543,500  
 From Expendable Receipts ..... 401,100  
 From Gen. Fund Rest. - Homeless  
 Housing Reform Rest. Acct ..... 500  
 From Housing Opportunities for  
 Low Income Households ..... 1,000  
 From Navajo Revitalization Fund ..... 500  
 From Olene Walker Housing Loan Fund ... 1,000  
 From OWHT-Fed Home ..... 1,000  
 From OWHT-Fed Home Income ..... 500  
 From OWHTF-Low Income Housing ..... 1,000  
 From OWHTF-Low Income Housing-PI ..... 500

From Permanent Community Impact	
Loan Fund .....	1,300
From Qualified Emergency Food	
Agencies Fund .....	500
From Revenue Transfers .....	34,300
From Uintah Basin Revitalization Fund ....	500
From Beginning Nonlapsing	
Balances .....	7,000,000
From Closing Nonlapsing Balances ...	(7,000,000)
Schedule of Programs:	
Aspire Grant .....	7,793,000
Blind and Visually Impaired .....	3,795,600
Deaf and Hard of Hearing .....	3,112,100
Disability Determination .....	15,780,500
Executive Director .....	1,047,000
Rehabilitation Services .....	49,469,100

The Legislature intends that the Department of Workforce Services report on the following performance measures for its Utah State Office of Rehabilitation line item, whose mission is to “empower clients and provide high quality services that promote independence and self-fulfillment through its programs”: (1) Vocational Rehabilitation - Percentage of all VR clients receiving services who are eligible or potentially eligible youth (ages 14–24) (Target >=39.8%), (2) Vocational Rehabilitation - maintain or increase a successful rehabilitation closure rate (Target = 55%), and (3) Deaf and Hard of Hearing - Increase in the number of individuals served by DSDHH programs (Target = 8,000) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Subsection 2(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF HEALTH**

**Item 77**

To Department of Health - Organ Donation Contribution Fund

From Dedicated Credits Revenue .....	112,300
From Interest Income .....	6,500
From Beginning Fund Balance .....	106,000
From Closing Fund Balance .....	(34,800)

Schedule of Programs:  
Organ Donation Contribution Fund .... 190,000

The Legislature intends that the Department of Health report on the following performance measures for the Organ Donation Contribution Fund, “The mission of the Division of Family Health and Preparedness is to assure care for many of Utah’s most vulnerable citizens. The division accomplishes this through programs designed to provide direct services, and to be prepared to serve all populations that may suffer the adverse health impacts of a

disaster, be it man-made or natural.”: (1) increase Division of Motor Vehicles/Drivers License Division donations from a base of \$90,000 (Target = 3%), (2) increase donor registrants from a base of 1.5 million (Target = 2%), and (3) increase donor awareness education by obtaining one new audience (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 78**

To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund

From Dedicated Credits Revenue .....	352,500
From Beginning Fund Balance .....	714,600
From Closing Fund Balance .....	(767,100)

Schedule of Programs:  
Spinal Cord and Brain Injury Rehabilitation Fund .....

300,000  
The Legislature intends that the Department of Health report on the following performance measures for the Spinal Cord and Brain Injury Rehabilitation Fund, whose mission is to “The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health.”: (1) number of clients that received an intake assessment (Target = 101), (2) number of physical, speech or occupational therapy services provided (Target = 1,900), and (3) percent of clients that returned to work and/or school (Target = 50%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 79**

To Department of Health - Traumatic Brain Injury Fund

From General Fund .....	200,000
From Beginning Fund Balance .....	766,700
From Closing Fund Balance .....	(600,500)

Schedule of Programs:  
Traumatic Brain Injury Fund .....

366,200  
The Legislature intends that the Department of Health report on the following performance measures for the Traumatic Brain Injury Fund, whose mission is to “The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health.”: (1) number of individuals with traumatic brain injury that received resource facilitation services through the Traumatic Brain Injury Fund contractors (Target = 300), (2) number of Traumatic Brain Injury Fund clients referred for a neuro-psych exam or MRI (Magnetic Resonance Imaging) that receive an exam (Target = 40), and (3) number of community and professional education presentations and trainings (Target = 60) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF HUMAN SERVICES**

**Item 80**

To Department of Human Services - Out and About Homebound Transportation Assistance Fund  
 From Dedicated Credits Revenue ..... 36,500  
 From Interest Income ..... 2,800  
 From Beginning Fund Balance ..... 57,600  
 From Closing Fund Balance ..... (96,900)

The Legislature intends that the Department of Human Services report on the following performance measure for the Out and About Homebound Transportation Assistance Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 81**

To Department of Human Services - Utah State Developmental Center Long-Term Sustainability Fund  
 From Interest Income ..... 14,500  
 From Revenue Transfers ..... 38,700  
 From Beginning Fund Balance ..... 656,700  
 From Closing Fund Balance ..... (709,900)

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Long-Term Sustainability Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 82**

To Department of Human Services - Utah State Developmental Center Miscellaneous Donation Fund  
 From Dedicated Credits Revenue ..... 102,700  
 From Interest Income ..... 15,600  
 From Beginning Fund Balance ..... 588,800  
 From Closing Fund Balance ..... (588,800)

Schedule of Programs:

Utah State Developmental Center  
 Miscellaneous Donation Fund ..... 118,300

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Miscellaneous Donation Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 83**

To Department of Human Services - Utah State Developmental Center Workshop Fund  
 From Dedicated Credits Revenue ..... 123,300  
 From Beginning Fund Balance ..... 19,200  
 From Closing Fund Balance ..... (19,200)

Schedule of Programs:

Utah State Developmental Center  
 Workshop Fund ..... 123,300

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Workshop Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 84**

To Department of Human Services - Utah State Hospital Unit Fund  
 From Dedicated Credits Revenue ..... 63,200  
 From Interest Income ..... 4,000  
 From Beginning Fund Balance ..... 277,500  
 From Closing Fund Balance ..... (277,500)

Schedule of Programs:

Utah State Hospital Unit Fund ..... 67,200

The Legislature intends that the Department of Human Services report on the following performance measure for the State Hospital Unit Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 85**

To Department of Workforce Services - Individuals with Visual Impairment Fund  
 From Dedicated Credits Revenue ..... 10,000  
 From Interest Income ..... 18,500  
 From Beginning Fund Balance ..... 1,219,200  
 From Closing Fund Balance ..... (1,222,700)

Schedule of Programs:

Individuals with Visual Impairment  
 Fund ..... 25,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Individuals with Visual Impairment Fund, whose mission is to “assist blind and visually impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities”: (1) the total of funds expended compiled by category of use, (2) the year end fund balance, and (3) the yearly results/profit from the investment of the fund by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 86**

To Department of Workforce Services - Intermountain Weatherization Training Fund  
 From Dedicated Credits Revenue ..... 9,800  
 From Beginning Fund Balance ..... 3,500  
 From Closing Fund Balance ..... (3,500)

Schedule of Programs:

Intermountain Weatherization  
 Training Fund ..... 9,800

The Legislature intends that the Department of Workforce Services report on

the following performance measures for the Intermountain Weatherization Training Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: number of individuals trained each year (Target => 6) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 87**

To Department of Workforce Services - Navajo Revitalization Fund  
 From Interest Income ..... 150,000  
 From Other Financing Sources ..... 1,000,000  
 From Beginning Fund Balance ..... 8,734,800  
 From Closing Fund Balance ..... (8,284,800)  
 Schedule of Programs:  
 Navajo Revitalization Fund ..... 1,600,000

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Navajo Revitalization Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: provide support to Navajo Revitalization Board with resources and data to enable allocation of new and re-allocated funds to improve quality of life for those living on the Utah portion of the Navajo Reservation (Target = allocate annual allocation from tax revenues within one year) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 88**

To Department of Workforce Services - Permanent Community Impact Bonus Fund  
 From Interest Income ..... 8,032,100  
 From Restricted Revenue ..... (30,000)  
 From Gen. Fund Rest. - Land Exchange Distribution Account ..... 100  
 From General Fund Restricted - Mineral Bonus ..... 2,581,700  
 From Beginning Fund Balance ..... 403,968,000  
 From Closing Fund Balance ..... (414,516,900)  
 Schedule of Programs:  
 Permanent Community Impact Bonus Fund ..... 35,000

**Item 89**

To Department of Workforce Services - Permanent Community Impact Fund  
 From Dedicated Credits Revenue ..... 1,000,000  
 From Interest Income ..... 4,275,000  
 From Restricted Revenue ..... 200,000  
 From General Fund Restricted - Mineral Lease ..... 33,713,000

From Gen. Fund Rest. - Land Exchange Distribution Account ..... 22,900  
 From Beginning Fund Balance ..... 239,091,300  
 From Closing Fund Balance ..... (228,261,200)  
 Schedule of Programs:  
 Permanent Community Impact Fund ..... 50,041,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Permanent Community Impact Fund, whose mission is to “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) new receipts invested in communities annually (Target = 100%), (2) The Community Impact Board funds the Regional Planning Program and community development specialists, who provide technical assistance, prepare tools, guides, and resources to ensure communities meet compliance with land use planning regulations (Target = 24 communities assisted), and (3) Maintain a minimum ratio of loan-to-grant funding for CIB projects (Target: At least 45% of loans to 55% grants) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 90**

To Department of Workforce Services - Qualified Emergency Food Agencies Fund  
 From Restricted Revenue ..... 540,000  
 From Revenue Transfers ..... 375,000  
 From Beginning Fund Balance ..... 31,000  
 Schedule of Programs:  
 Emergency Food Agencies Fund ..... 946,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Qualified Emergency Food Agencies Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) The number of households served by QEFAF agencies (Target: 50,000) and (2) Percent of QEFAF program funds obligated to QEFAF agencies (Target: 100% of funds obligated) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 91**

To Department of Workforce Services - Uintah Basin Revitalization Fund  
 From Interest Income ..... 200,000  
 From Other Financing Sources ..... 7,000,000  
 From Beginning Fund Balance ..... 14,128,800  
 From Closing Fund Balance ..... (13,928,800)  
 Schedule of Programs:

Uintah Basin Revitalization Fund . . . 7,400,000

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Uintah Basin Revitalization Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: provide Revitalization Board with support, resources and data to allocate new and re-allocated funds to improve the quality of life for those living in the Uintah Basin (Target = allocate annual allocation from tax revenues within one year) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 92**

To Department of Workforce Services -

Utah Community Center for the Deaf Fund  
 From Dedicated Credits Revenue . . . . . 5,000  
 From Interest Income . . . . . 2,000  
 From Beginning Fund Balance . . . . . 21,500  
 From Closing Fund Balance . . . . . (22,300)

Schedule of Programs:

Utah Community Center for the Deaf Fund . . . . . 6,200

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Utah Community Center for the Deaf Fund, whose mission is to “provide services in support of creating a safe place, with full communication where every Deaf, Hard of Hearing and Deafblind person is embraced by their community and supported to grow to their full potential”: (1) the total of funds expended compiled by category of use, (2) the year end Fund balance, and (3) the yearly results/profit from the investment of the fund by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 93**

To Department of Workforce Services -

Olene Walker Low Income Housing  
 From General Fund . . . . . 2,242,900  
 From Federal Funds . . . . . 4,776,400  
 From Dedicated Credits Revenue . . . . . 20,000  
 From Interest Income . . . . . 3,000,000  
 From Restricted Revenue . . . . . 80,000  
 From Revenue Transfers . . . . . (800,000)  
 From Beginning Fund Balance . . . . . 162,599,600  
 From Closing Fund Balance . . . . . (170,218,900)

Schedule of Programs:

Olene Walker Low Income Housing . . . . . 1,700,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Olene Walker Housing Loan Fund, whose mission is to “aligned with the Housing and Community Development Division, which actively partners with other state agencies,

local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) housing units preserved or created (Target = 882), (2) construction jobs preserved or created (Target = 2,293), and (3) leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 15:1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Subsection 2(c). Business-like Activities.**

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

**DEPARTMENT OF HEALTH**

**Item 94**

To Department of Health - Qualified

Patient Enterprise Fund  
 From Dedicated Credits Revenue . . . . . 2,187,000  
 From Revenue Transfers . . . . . (1,500,000)  
 From Beginning Fund Balance . . . . . 3,102,100  
 From Closing Fund Balance . . . . . (2,474,100)

Schedule of Programs:

Qualified Patient Enterprise Fund .. 1,315,000

The Legislature intends that the Department of Health report on the following performance measures for the Qualified Patient Enterprise Fund, whose mission is to “cover expenses related to carrying out the departments duties under the Utah Medical Cannabis Act. Duties include establishing a medical cannabis verification and inventory control system, drafting rules required for implementation of the new law, educating stakeholders and the public, and processing applications”: (1) Have an electronic verification system and inventory control system in production by March 1, 2020 (Target = completed), (2) License medical cannabis pharmacies by March 1, 2020 (Target = eight), and (3) File and publish all administrative rules required for the departments implementation of the Utah Medical Cannabis Act (26-61a) by March 1, 2020 (Target = completed), by October 1, 2020 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 95**

To Department of Workforce Services - Economic Revitalization and Investment Fund

From Interest Income . . . . . 100,000  
 From Beginning Fund Balance . . . . . 2,161,000

From Closing Fund Balance ..... (2,261,000)

**Item 96**

To Department of Workforce Services - State Small Business Credit Initiative Program Fund

From Interest Income ..... 70,000  
From Beginning Fund Balance ..... 4,070,900  
From Closing Fund Balance ..... (4,140,900)

The Legislature intends that the Department of Workforce Services report on the following performance measures for the State Small Business Credit Initiative Program Fund, whose mission is to “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: Minimize loan losses (Target <3%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 97**

To Ambulance Service Provider Assessment Expendable Revenue Fund

From Dedicated Credits Revenue ..... 3,217,400  
From Beginning Fund Balance ..... 250,600  
From Closing Fund Balance ..... (250,600)  
Schedule of Programs:

Ambulance Service Provider Assessment Expendable Revenue Fund ..... 3,217,400

The Legislature intends that the Department of Health report on the following performance measures for the Ambulance Service Provider Assessment Fund, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) percentage of providers invoiced (Target = 100%), (2) percentage of providers who have paid by the due date (Target => 80%), and (3) percentage of providers who have paid within 30 days after the due date (Target => 90%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 98**

To Hospital Provider Assessment Fund

From Dedicated Credits Revenue .... 56,045,500  
From Beginning Fund Balance ..... 4,038,600  
From Closing Fund Balance ..... (4,038,600)  
Schedule of Programs:

Hospital Provider Assessment Expendable Special Revenue Fund ..... 56,045,500

The Legislature intends that the Department of Health report on the following performance measures for the Hospital Provider Assessment Expendable Revenue Fund, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) percentage of hospitals invoiced (Target = 100%), (2) percentage of hospitals who have paid by the due date (Target => 85%), and (3) percentage of hospitals who have paid within 30 days after the due date (Target => 97%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 99**

To Medicaid Expansion Fund

From Dedicated Credits Revenue ... 119,600,000  
From Expendable Receipts ..... 298,000  
From Beginning Fund Balance ..... 62,722,000  
From Closing Fund Balance ..... (61,934,100)  
Schedule of Programs:

Medicaid Expansion Fund ..... 120,685,900

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Expansion Fund, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) percentage of hospitals invoiced (Target = 100%), (2) percentage of hospitals who have paid by the due date (Target => 85%), and (3) percentage of hospitals who have paid within 30 days after the due date (Target => 97%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 100**

To Nursing Care Facilities Provider Assessment Fund

From Dedicated Credits Revenue .... 37,225,100  
Schedule of Programs:  
Nursing Care Facilities Provider Assessment Fund ..... 37,225,100

The Legislature intends that the Department of Health report on the following performance measures for the Nursing Care Facilities Provider Assessment Fund, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) percentage of nursing facilities reporting by the due date (Target = 80%), (2) percentage of nursing facilities who have paid by the due date (Target = 80%), and (3) percentage of nursing facilities who have paid within 30 days after the due date (Target = 90%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 101**

To General Fund Restricted - Children’s Hearing Aid Program Account

From General Fund ..... 291,600  
Schedule of Programs:  
General Fund Restricted - Children’s Hearing Aid Account ..... 291,600

**Item 102**

To Psychiatric Consultation Program Account



From General Fund . . . . . 275,000  
 Schedule of Programs:  
     Psychiatric Consultation Program  
         Account . . . . . 275,000

**Item 103**

To Survivors of Suicide Loss Account  
 From General Fund . . . . . 40,000  
 Schedule of Programs:  
     Survivors of Suicide Loss Account . . . . . 40,000

**Item 104**

To General Fund Restricted - Homeless Account  
 From General Fund . . . . . 1,817,400  
 From Beginning Fund Balance . . . . . 714,600  
 From Closing Fund Balance . . . . . (636,300)  
 Schedule of Programs:  
     General Fund Restricted - Pamela  
         Atkinson Homeless Account . . . . . 1,895,700

**Item 105**

To General Fund Restricted - Homeless to  
 Housing Reform Account  
 From General Fund . . . . . 11,350,000  
 From Revenue Transfers . . . . . (11,350,000)

**Item 106**

To General Fund Restricted - School  
 Readiness Account  
 From General Fund . . . . . 3,000,000  
 Schedule of Programs:  
     General Fund Restricted - School  
         Readiness Account . . . . . 3,000,000

**Subsection 2(e). Fiduciary Funds.** The

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

**DEPARTMENT OF HUMAN SERVICES**

**Item 107**

To Department of Human Services -  
 Human Services ORS Support Collections  
 From Trust and Agency Funds . . . . . 212,842,300  
 Schedule of Programs:  
     Human Services ORS Support  
         Collections . . . . . 212,842,300

The Legislature intends that the Department of Human Services report on the following performance measure for the Human Services Office of Recovery Services (ORS) Support Collections fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 108**

To Department of Human Services -  
 Maurice N. Warshaw Trust Fund  
 From Interest Income . . . . . 4,300  
 From Beginning Fund Balance . . . . . 154,400  
 From Closing Fund Balance . . . . . (154,400)  
 Schedule of Programs:  
     Maurice N. Warshaw Trust Fund . . . . . 4,300

The Legislature intends that the Department of Human Services report on the following performance measure for the

Maurice N. Warshaw Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 109**

To Department of Human Services - Utah  
 State Developmental Center Patient Account  
 From Interest Income . . . . . 3,800  
 From Trust and Agency Funds . . . . . 1,915,300  
 From Beginning Fund Balance . . . . . 616,300  
 From Closing Fund Balance . . . . . (616,300)  
 Schedule of Programs:

Utah State Developmental  
 Center Patient Account . . . . . 1,919,100

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Patient Account: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 110**

To Department of Human Services - Utah  
 State Hospital Patient Trust Fund  
 From Trust and Agency Funds . . . . . 1,410,800  
 From Beginning Fund Balance . . . . . 184,700  
 From Closing Fund Balance . . . . . (184,700)  
 Schedule of Programs:

Utah State Hospital Patient  
 Trust Fund . . . . . 1,410,800

The Legislature intends that the Department of Human Services report on the following performance measure for the State Hospital Patient Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF  
 WORKFORCE SERVICES**

**Item 111**

To Department of Workforce Services - Individuals  
 with Visual Impairment Vendor Fund  
 From Trust and Agency Funds . . . . . 157,100  
 From Beginning Fund Balance . . . . . 162,300  
 From Closing Fund Balance . . . . . (200,400)  
 Schedule of Programs:

Individuals with Visual Disabilities  
 Vendor Fund . . . . . 119,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Individuals with Visual Impairment Vendor Fund, whose mission is to “assist Blind and Visually Impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities”: (1) Fund will be

used to assist different business locations with purchasing upgraded equipment (Target = 12), (2) Fund will be used to assist different business locations with repairing and maintaining of equipment (Target = 32), and (3) Maintain or increase total yearly contributions to the Business Enterprise Program Owner Set Aside Fund (part of the Visual Impairment Vendor fund) (Target = \$70,000 yearly contribution amount) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Section 3. FY 2021 Accountable Process**

**Budget.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 3(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF HEALTH**

**Item 112**

To Department of Health - Executive Director's Operations

From General Fund .....	7,258,500
From Federal Funds .....	5,787,000
From Dedicated Credits Revenue .....	2,831,500
From General Fund Restricted - Children with Cancer Support Restricted Account .....	2,000
From General Fund Restricted - Children with Heart Disease Support Restr Act .....	2,000
From Revenue Transfers .....	2,671,800
From Lapsing Balance .....	(4,000)
Schedule of Programs:	
Adoption Records Access .....	58,100
Center for Health Data and Informatics .....	6,934,900
Executive Director .....	4,768,900
Office of Internal Audit .....	729,500
Program Operations .....	6,057,400

The Legislature intends that the Department of Health report on the following performance measures for the Executive Director's Operations line item, whose mission is to "protect the public's health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles by providing services and oversight of services which are applicable throughout all divisions and bureaus of the Department.": (1) percent of known restricted applications/systems that have reviewed, planned for, or mitigated identified risks according to procedure (Goal 100%), (2) births occurring in a hospital are

entered accurately by hospital staff into the electronic birth registration system within 10 calendar days (Target = 99%), (3) percentage of all deaths registered certified using the electronic death registration system (Target = 90% or more), and (4) number of requests for data products produced by the Office of Health Care Statistics (Target = 139) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF HUMAN SERVICES**

**Item 113**

To Department of Human Services - Executive Director Operations

From General Fund .....	11,912,900
From General Fund, One-Time .....	550,000
From Federal Funds .....	8,530,200
From Dedicated Credits Revenue .....	1,029,000
From Dedicated Credits Revenue, One-Time .....	(550,000)
From Revenue Transfers .....	3,304,800
Schedule of Programs:	
Executive Director's Office .....	8,388,900
Fiscal Operations .....	2,560,400
Human Resources .....	34,400
Information Technology .....	1,610,400
Legal Affairs .....	1,294,900
Local Discretionary Pass-Through ..	1,140,700
Office of Licensing .....	4,813,200
Office of Quality and Design .....	4,008,000
Utah Developmental Disabilities Council .....	626,000
Utah Marriage Commission .....	300,000

The Legislature intends that the Department of Human Services - Office of Licensing provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2020 describing: 1) the feasibility of funding the office directly through fee collections, 2) the pros and cons of a dedicated credit model versus a restricted account model, 3) fees that should be exempted from matching the cost to provide the service and why, 4) estimated changes to current fees to align them more closely with costs, 5) an estimate of how much General Fund would still be required, and 6) any other concerns or considerations.

**Item 114**

To Department of Human Services - Office of Public Guardian

From General Fund .....	693,500
From Federal Funds .....	40,700
From Revenue Transfers .....	462,300
Schedule of Programs:	
Office of Public Guardian .....	1,196,500

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 115**

To Department of Workforce Services - Administration

From General Fund .....	4,018,200
From Federal Funds .....	9,036,900
From Dedicated Credits Revenue .....	139,300
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct .....	20,000

From Housing Opportunities for  
 Low Income Households ..... 5,000  
 From Navajo Revitalization Fund ..... 10,300  
 From Olene Walker Housing Loan Fund ... 5,000  
 From OWHT-Fed Home ..... 5,000  
 From OWHT-Fed Home Income ..... 7,000  
 From OWHTF-Low Income Housing ..... 5,000  
 From OWHT-Low Income Housing-PI .... 6,700  
 From Permanent Community Impact  
 Loan Fund ..... 147,200  
 From Qualified Emergency Food  
 Agencies Fund ..... 4,000  
 From Revenue Transfers ..... 2,414,900  
 From Uintah Basin Revitalization Fund ... 3,500  
 Schedule of Programs:  
 Administrative Support ..... 10,333,900  
 Communications ..... 1,376,900  
 Executive Director's Office ..... 1,068,300  
 Human Resources ..... 1,654,800  
 Internal Audit ..... 1,394,100

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Administration line item, whose mission is to “be the best-managed State Agency in Utah”:

- 1) provide accurate and timely department-wide fiscal administration (Target: manage, account and reconcile all funds within State Finance close out time lines and with zero audit findings);
- 2) percent of DWS programs/systems that have reviewed, planned for, or mitigated identified risks (target: 100%); and
- 3) percent of DWS facilities for which an annual facilities risk assessment is completed using the Division of Risk Management guidelines and checklist (target: 98%) by December 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 116**

To Department of Workforce Services -  
 Unemployment Insurance  
 From General Fund ..... 860,800  
 From Federal Funds ..... 19,828,300  
 From Dedicated Credits Revenue ..... 503,900  
 From Expendable Receipts ..... 22,000  
 From Gen. Fund Rest. - Homeless  
 Housing Reform Rest. Acct ..... 1,000  
 From Housing Opportunities for  
 Low Income Households ..... 1,000  
 From Navajo Revitalization Fund ..... 500  
 From Olene Walker Housing Loan Fund ... 1,000  
 From OWHT-Fed Home ..... 1,000  
 From OWHT-Fed Home Income ..... 700  
 From OWHTF-Low Income Housing ..... 1,000  
 From OWHT-Low Income Housing-PI .... 700  
 From Permanent Community Impact  
 Loan Fund ..... 3,500  
 From Qualified Emergency Food  
 Agencies Fund ..... 500  
 From Revenue Transfers ..... 122,800  
 From Uintah Basin Revitalization Fund .... 500  
 Schedule of Programs:  
 Adjudication ..... 3,751,800  
 Unemployment Insurance  
 Administration ..... 17,597,400

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Insurance line item, whose mission is to “accurately assess eligibility for unemployment benefits and liability for employers in a timely manner”:

- (1) percentage of new employer status determinations made within 90 days of the last day in the quarter in which the business became liable (Target => 95.5%),
- (2) percentage of Unemployment Insurance separation determinations with quality scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from all determinations (Target => 90%), and
- (3) percentage of Unemployment Insurance benefits payments made within 14 days after the week ending date of the first compensable week in the benefit year (Target => 95%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Subsection 3(b). Business-like Activities.**

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

**DEPARTMENT OF  
 WORKFORCE SERVICES**

**Item 117**

To Department of Workforce Services -  
 Unemployment Compensation Fund  
 From Federal Funds ..... 114,500  
 From Dedicated Credits Revenue .... 17,824,500  
 From Restricted Revenue ..... 381,700  
 From Trust and Agency Funds ..... 193,677,500  
 From Beginning Fund Balance .... 1,242,510,900  
 From Closing Fund Balance ..... (1,287,541,000)  
 Schedule of Programs:  
 Unemployment Compensation  
 Fund ..... 166,968,100

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Compensation Fund, whose mission is to “monitor the health of the Utah Unemployment Trust Fund within the context of statute and promote a fair and even playing field for employers”:

- (1) Unemployment Insurance Trust Fund balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount per the annual calculations defined in Utah Code,
- (2) the average high cost multiple is the Unemployment Insurance Trust Fund balance as a percentage of total

Unemployment Insurance wages divided by the average high cost rate (Target => 1), and (3) contributory employers Unemployment Insurance contributions due paid timely (Target => 95%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Subsection 3(c). Fiduciary Funds.** The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**DEPARTMENT OF HUMAN SERVICES**

**Item 118**

To Department of Human Services -  
Human Services Client Trust Fund

From Interest Income . . . . .	47,000
From Trust and Agency Funds . . . . .	4,906,900
From Beginning Fund Balance . . . . .	1,934,100
From Closing Fund Balance . . . . .	(1,934,100)

Schedule of Programs:

Human Services Client	
Trust Fund . . . . .	4,953,900

The Legislature intends that the Department of Human Services report on the following performance measure for the Human Services Client Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Section 4. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**CHAPTER 6****H. B. 191**

Passed February 13, 2020  
 Approved February 24, 2020  
 Effective February 24, 2020

**DAIRY COMMISSION AMENDMENTS**

Chief Sponsor: Casey Snider  
 Senate Sponsor: Scott D. Sandall

**LONG TITLE****General Description:**

This bill modifies provisions related to the Dairy Commission.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to membership on the Dairy Commission;
- ▶ addresses the Dairy Commission's powers, duties, and functions, including selection of an administrator;
- ▶ addresses collection of certain assessments if not paid on time;
- ▶ clarifies how money may be withdrawn from accounts of the commission; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 4-22-103, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-22-106, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-22-201, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-22-202, as renumbered and amended by Laws of Utah 2017, Chapter 345

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

**Section 1. Section 4-22-103 is amended to read:****4-22-103. Utah Dairy Commission created.**

(1) There is created an independent state agency known as the Utah Dairy Commission.

(2) [The] Subject to Subsection (5), the Utah Dairy Commission consists of [~~13~~] 11 members as follows:

[~~(a) the commissioner of agriculture and food, or the commissioner's representative;~~]

[~~(b) the dean of the College of Agriculture at Utah State University, or the dean's representative;~~]

[~~(c) the president of the Utah Dairy Women's Association or the president of the Utah Dairy Women's Association's representative;~~]

[~~(d) a member from District 1, northern Cache County, which member shall have a Cornish,~~

~~Lewiston, Richmond/Cove, or Trenton mailing address;~~]

[~~(e) a member from District 2, central Cache County and Rich County, which member shall have a Newton, Clarkston, Amalga, Smithfield, Benson, Hyde Park, Mendon, or Petersboro mailing address;~~]

[~~(f) a member from District 3, southern Cache County, which member shall have a Logan, Providence, Nibley, Hyrum, Paradise, Wellsville, College Ward, Young Ward, or Millville mailing address;~~]

[~~(g) a member from District 4, Box Elder County;~~]

[~~(h) a member from District 5, Weber and Morgan Counties;~~]

[~~(i) a member from District 6, Salt Lake, Davis, Utah, and Tooele Counties;~~]

[~~(j) a member from District 7, Wasatch, Summit, Duchesne, Uintah, and Daggett Counties;~~]

[~~(k) a member from District 8, Millard, Beaver, Iron, and Washington Counties;~~]

[~~(l) a member from District 9, Sanpete, Carbon, Emery, Grand, Juab, and San Juan Counties; and~~]

[~~(m) a member from District 10, Piute, Wayne, Kane, Garfield, and Sevier Counties.~~]

[~~(3) The ex officio members listed in Subsections (2)(a) and (b) shall serve without a vote.~~]

(a) nine voting members as follows:

(i) two from District 1, which consists of Cache and Rich Counties;

(ii) four members from District 2, which consists of Box Elder, Weber, Morgan, Salt Lake, Davis, Utah, and Tooele Counties; and

(iii) three members from District 3, which consists of Millard, Beaver, Iron, Washington, Sanpete, Carbon, Emery, Grand, Juab, San Juan, Piute, Wayne, Kane, Garfield, and Sevier Counties; and

(b) two nonvoting members as follows:

(i) the commissioner or the commissioner's designee; and

(ii) the dean of the College of Agriculture at Utah State University, or the dean's designee.

[~~(4)~~] (3) The voting members listed in [Subsections (2)(d) through (m)] Subsection (2)(a) shall be elected to four-year terms of office as provided in Section 4-22-105.

[~~(5) Members~~] (4) A voting member shall enter office on July 1 of the year in which [they are] the member is elected. The commission shall stagger the voting members' terms so that no more than three voting members' terms expire in a given year.

[~~(6) The commission, by two-thirds vote, may alter the boundaries comprising the districts established in this section to maintain equitable~~

~~representation of active milk producers on the commission.]~~

(5) (a) To maintain equitable representation of active milk producers on the commission, the commission may, by a two-thirds vote:

(i) alter the boundaries comprising the districts established in Subsection (2)(a); or

(ii) increase or decrease the number of voting members in each district without altering the total number of commission members.

(b) If the commission increases the number of voting members in a district under this Subsection (5), a new member will be elected as provided in Section 4-22-105.

(c) If the commission decreases the number of voting members in a district under this Subsection (5), each member representing the district will continue in office through the end of the member's term and the member whose term expires first will not be replaced or reelected upon expiration of the member's term.

(d) If the commission acts under this Subsection (5), it shall report the changes to the Natural Resources, Agriculture, and Environment Interim Committee.

~~[(7) Each] (6) A member shall be:~~

(a) a citizen of the United States;

(b) ~~[26]~~ 21 years of age or older;

(c) an active milk producer with five consecutive years of experience in milk production within this state immediately preceding election; and

(d) a resident of Utah and the district represented.

**Section 2. Section 4-22-106 is amended to read:**

**4-22-106. Commission powers, duties, and functions.**

The commission has and shall exercise the following functions, powers, and duties:

~~(1) to [employ and fix the salary of a full-time administrator, not a member of the commission,] use one of the following means to administer the policies adopted, and perform the duties assigned, by the commission:~~

(a) employ and fix the compensation of one or more individuals who are not members of the commission; or

(b) retain and fix the compensation of an entity, including an entity engaged in activities similar to the commission;

(2) to conduct a campaign of research, nutritional education, and publicity, showing the value of milk, cream, and dairy products;

(3) to encourage local, national, and international use of Utah dairy products and by-products, through ~~[advertising]~~ marketing or otherwise;

(4) to investigate and participate in studies of problems peculiar to producers in Utah and to take ~~[all]~~ the actions consistent with this chapter in an effort to promote, protect, and stabilize the state dairy industry;

(5) to sue and be sued, prosecute actions in the name of the state for the collection of the assessment imposed by Section 4-22-201, enter into contracts, and incur indebtedness in furtherance of the commission's business activities;

(6) to cooperate with any local, state, or national organization engaged in activities similar to those of the commission;

(7) to accept grants, donations, or gifts for use consistent with this chapter; and

(8) to do ~~[all]~~ other things necessary for the efficient and effective management and operation of the commission's business.

**Section 3. Section 4-22-201 is amended to read:**

**4-22-201. Assessment imposed on sale of milk or cream produced, sold, or contracted for sale in state -- Time of assessment -- Collection by dealer or producer-handler -- Penalty for delinquent payment or collection -- Statement to be given to producer.**

(1) An assessment of 10 cents is imposed upon each 100 pounds of milk or cream produced and sold, or contracted for sale, through commercial channels in this state.

(2) The assessment shall be:

(a) based upon daily or monthly settlements; and

(b) due at a time set by the commission, which may not be later than the last day of the month next succeeding the month of sale.

(3) (a) The assessment shall be:

(i) assessed against the producer at the time the milk or milk fat is delivered for sale;

(ii) deducted from the sales price; and

(iii) collected by the dealer or producer-handler.

(b) The proceeds of the assessment shall be paid directly to the commission who shall issue a receipt to the dealer or producer-handler.

(c) If a dealer or producer-handler fails to remit the proceeds of the assessment or deduct the assessment on time~~[-]~~:

(i) a penalty equal to 10% of the amount due ~~[shall]~~ is to be added to the assessment~~[-]~~; and

(ii) the commission may bring an action against the dealer or producer-handler for:

(A) injunctive relief compelling payment of the assessment and penalty;

(B) damages, including interest at the statutory prejudgment rate from the date the payment was due;

(C) costs of collection, including reasonable attorney fees, whether incurred in litigation or otherwise; and

(D) other relief to which the commission may be entitled at law or in equity.

(4) (a) At the time of payment of the assessment, the dealer or producer-handler shall deliver a statement to the producer calculating the assessment.

(b) The commission may require other relevant information to be included in the statement.

(5) If the mandatory assessment required by the Dairy and Tobacco Adjustment Act of 1983, Pub. L. No. 98-180, 97 Stat. 1128 (1150.152), is abolished, a producer who objects to payment of the assessment imposed under this section may, by January 31, submit a written request to the commission for a refund of the amount of the assessment the producer paid during the previous year.

**Section 4. Section 4-22-202 is amended to read:**

**4-22-202. Revenue from assessment used to promote dairy industry -- Deposit of money -- Annual audit of books, records, and accounts -- Annual financial report to producers.**

(1) The revenue derived from the assessment imposed by Section 4-22-201 shall be used exclusively for the:

- (a) administration of this chapter; and
- (b) promotion of the state's dairy industry.

(2) The commission may deposit the proceeds of the assessment in one or more accounts in one or more banks approved by the state as depositories.

~~[(2)] (3) (a) [A] The commission shall keep a voucher, receipt, or other written record for each withdrawal from the [Utah Dairy Commission Fund shall be kept by the] commission accounts.~~

(b) ~~[No funds shall]~~ Money may not be withdrawn from the [fund] commission accounts except:

- (i) upon order of the commission[-]; or
- (ii) pursuant to a procedure adopted by the commission if the withdrawal is subsequently ratified by the commission.

~~[(3) The commission may deposit the proceeds of the assessment in one or more accounts in one or more banks approved by the state as depositories.]~~

(4) The books, records, and accounts of the commission's activities are public records.

(5) (a) The accounts of the commission shall be audited once annually by a licensed accountant

selected by the commission and approved by the state auditor.

(b) The results of the audit shall be submitted to the:

- (i) commissioner;
- (ii) commission; and
- (iii) Division of Finance.

(c) ~~[It is the responsibility of the]~~ The commission [te] shall send annually a financial report to each producer.

**Section 5. Effective date.**

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

**CHAPTER 7  
S. B. 1**

Passed February 5, 2020  
Approved February 24, 2020  
Effective February 24, 2020

**HIGHER EDUCATION BASE BUDGET**

Chief Sponsor: Keith Grover  
House Sponsor: Michael K. McKell

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of higher education agencies and institutions;
- ▶ provides appropriations for the use and support of programs reviewed under the accountable budget process; and
- ▶ provides appropriations for other purposes as described.

**Money Appropriated in this Bill:**

This bill appropriates \$426,300 in operating and capital budgets for fiscal year 2020.

This bill appropriates \$2,127,468,600 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$312,689,700 from the General Fund;
- ▶ \$888,443,100 from the Education Fund; and
- ▶ \$926,335,800 from various sources as detailed in this bill.

This bill appropriates \$16,500,000 in restricted fund and account transfers for fiscal year 2021, all of which is from the Education Fund.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

**UNIVERSITY OF UTAH**

**Item 1**

To University of Utah - Education and General  
From General Fund, One-Time . . . . . 125,102,900  
From Education Fund,  
One-Time . . . . . (125,102,900)

**Item 2**

To University of Utah -  
Educationally Disadvantaged  
From General Fund, One-Time . . . . . (612,100)  
From Education Fund, One-Time . . . . . 612,100

**Item 3**

To University of Utah - School of Medicine  
From General Fund, One-Time . . . . . (2,406,100)  
From Education Fund, One-Time . . . . . 2,406,100

**Item 4**

To University of Utah - Cancer Research  
and Treatment  
From General Fund, One-Time . . . . . (13,002,100)  
From Education Fund, One-Time . . . . . 13,002,100

**Item 5**

To University of Utah - University Hospital  
From General Fund, One-Time . . . . . (4,366,400)  
From Education Fund, One-Time . . . . . 4,366,400

**Item 6**

To University of Utah - School of Dentistry  
From General Fund, One-Time . . . . . (481,000)  
From Education Fund, One-Time . . . . . 481,000

**Item 7**

To University of Utah - Public Service  
From General Fund, One-Time . . . . . (155,800)  
From Education Fund, One-Time . . . . . 155,800

**Item 8**

To University of Utah - Statewide  
TV Administration  
From General Fund, One-Time . . . . . (2,095,300)  
From Education Fund, One-Time . . . . . 2,095,300

**Item 9**

To University of Utah - Poison Control Center  
From General Fund, One-Time . . . . . (2,916,400)  
From Education Fund, One-Time . . . . . 2,916,400

**Item 10**

To University of Utah - Center on Aging  
From General Fund, One-Time . . . . . (114,500)  
From Education Fund, One-Time . . . . . 114,500

**UTAH STATE UNIVERSITY**

**Item 11**

To Utah State University - Education and General  
From General Fund, One-Time . . . . . (37,760,000)  
From Education Fund, One-Time . . . . . 37,760,000

**Item 12**

To Utah State University - USU -  
Eastern Education and General  
From General Fund, One-Time . . . . . (41,000)  
From Education Fund, One-Time . . . . . 41,000

**Item 13**

To Utah State University -  
Educationally Disadvantaged



From General Fund, One-Time . . . . . (100,300)  
 From Education Fund, One-Time . . . . . 100,300

**Item 14**

To Utah State University - USU -  
 Eastern Educationally Disadvantaged  
 From General Fund, One-Time . . . . . (103,100)  
 From Education Fund, One-Time . . . . . 103,100

**Item 15**

To Utah State University - USU - Eastern  
 Career and Technical Education  
 From General Fund, One-Time . . . . . (170,100)  
 From Education Fund, One-Time . . . . . 170,100

**Item 16**

To Utah State University - Regional Campuses  
 From General Fund, One-Time . . . . . (4,480,000)  
 From Education Fund, One-Time . . . . . 4,480,000

**Item 17**

To Utah State University - Water  
 Research Laboratory  
 From General Fund, One-Time . . . . . (1,323,900)  
 From Education Fund, One-Time . . . . . 1,323,900

**Item 18**

To Utah State University - Agriculture Experiment  
 Station  
 From General Fund, One-Time . . . . . (958,200)  
 From Education Fund, One-Time . . . . . 958,200

**Item 19**

To Utah State University - Cooperative Extension  
 From General Fund, One-Time . . . . . (2,280,200)  
 From Education Fund, One-Time . . . . . 2,280,200

**Item 20**

To Utah State University - Prehistoric Museum  
 From General Fund, One-Time . . . . . (145,100)  
 From Education Fund, One-Time . . . . . 145,100

**Item 21**

To Utah State University - Blanding Campus  
 From General Fund, One-Time . . . . . (1,635,700)  
 From Education Fund, One-Time . . . . . 1,635,700

**WEBER STATE UNIVERSITY**

**Item 22**

To Weber State University - Education  
 and General  
 From General Fund, One-Time . . . . . (686,200)  
 From Education Fund, One-Time . . . . . 686,200

**Item 23**

To Weber State University -  
 Educationally Disadvantaged  
 From General Fund, One-Time . . . . . (296,700)  
 From Education Fund, One-Time . . . . . 296,700

**SOUTHERN UTAH UNIVERSITY**

**Item 24**

To Southern Utah University - Education  
 and General  
 From General Fund, One-Time . . . . . (342,800)  
 From Education Fund, One-Time . . . . . 342,800

**Item 25**

To Southern Utah University -  
 Educationally Disadvantaged  
 From General Fund, One-Time . . . . . (81,400)  
 From Education Fund, One-Time . . . . . 81,400

**Item 26**

To Southern Utah University -  
 Shakespeare Festival  
 From General Fund, One-Time . . . . . (9,100)  
 From Education Fund, One-Time . . . . . 9,100

**Item 27**

To Southern Utah University - Rural Development  
 From General Fund, One-Time . . . . . (82,700)  
 From Education Fund, One-Time . . . . . 82,700

**UTAH VALLEY UNIVERSITY**

**Item 28**

To Utah Valley University - Education and General  
 From General Fund, One-Time . . . . . (518,700)  
 From Education Fund, One-Time . . . . . 518,700

**Item 29**

To Utah Valley University -  
 Educationally Disadvantaged  
 From General Fund, One-Time . . . . . (138,900)  
 From Education Fund, One-Time . . . . . 138,900

**SNOW COLLEGE**

**Item 30**

To Snow College - Education and General  
 From General Fund, One-Time . . . . . (1,786,400)  
 From Education Fund, One-Time . . . . . 1,786,400

**Item 31**

To Snow College - Educationally Disadvantaged  
 From General Fund, One-Time . . . . . (32,000)  
 From Education Fund, One-Time . . . . . 32,000

**Item 32**

To Snow College - Career and Technical Education  
 From General Fund, One-Time . . . . . (1,256,200)  
 From Education Fund, One-Time . . . . . 1,256,200

**DIXIE STATE UNIVERSITY**

**Item 33**

To Dixie State University - Education and General  
 From General Fund, One-Time . . . . . (2,896,700)  
 From Education Fund, One-Time . . . . . 2,896,700

**Item 34**

To Dixie State University -  
 Educationally Disadvantaged  
 From General Fund, One-Time . . . . . (25,500)  
 From Education Fund, One-Time . . . . . 25,500

**Item 35**

To Dixie State University -  
 Zion Park Amphitheater  
 From General Fund, One-Time . . . . . (47,000)  
 From Education Fund, One-Time . . . . . 47,000

**SALT LAKE COMMUNITY COLLEGE**

**Item 36**

To Salt Lake Community College - Education  
 and General

From General Fund, One-Time . . . . . (805,500)  
 From Education Fund, One-Time . . . . . 805,500

**Item 37**

To Salt Lake Community College -  
 Educationally Disadvantaged  
 From General Fund, One-Time . . . . . (178,400)  
 From Education Fund, One-Time . . . . . 178,400

**Item 38**

To Salt Lake Community College - School  
 of Applied Technology  
 From General Fund, One-Time . . . . . (4,140,200)  
 From Education Fund, One-Time . . . . . 4,140,200

**STATE BOARD OF REGENTS**

**Item 39**

To State Board of Regents - Administration  
 From General Fund, One-Time . . . . . (3,192,200)  
 From Education Fund, One-Time . . . . . 3,192,200

**Item 40**

To State Board of Regents - Student Assistance  
 From General Fund, One-Time . . . . . (7,624,500)  
 From Education Fund, One-Time . . . . . 7,624,500

**Item 41**

To State Board of Regents - Student Support  
 From General Fund, One-Time . . . . . (688,200)  
 From Education Fund, One-Time . . . . . 688,200

**Item 42**

To State Board of Regents - Technology  
 From General Fund, One-Time . . . . . (3,997,200)  
 From Education Fund, One-Time . . . . . 3,997,200

**Item 43**

To State Board of Regents - Economic Development  
 From General Fund, One-Time . . . . . (352,300)  
 From Education Fund, One-Time . . . . . 352,300

**Item 44**

To State Board of Regents - Medical  
 Education Council  
 From General Fund, One-Time . . . . . (1,837,900)  
 From Education Fund, One-Time . . . . . 1,837,900

**UTAH SYSTEM OF TECHNICAL COLLEGES**

**Item 45**

To Utah System of Technical Colleges -  
 Bridgerland Technical College  
 From General Fund, One-Time . . . . . (4,222,200)  
 From Education Fund, One-Time . . . . . 4,222,200  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 78,200  
 From Beginning Nonlapsing Balances . . . 235,600  
 From Closing Nonlapsing Balances . . . . (235,600)  
 Schedule of Programs:  
 Bridgerland Technical College . . . . . 78,200

**Item 46**

To Utah System of Technical Colleges -  
 Davis Technical College  
 From General Fund, One-Time . . . . . (4,263,200)  
 From Education Fund, One-Time . . . . . 4,263,200  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 152,800  
 From Beginning Nonlapsing  
 Balances . . . . . (249,200)

From Closing Nonlapsing Balances . . . . . 33,400  
 Schedule of Programs:  
 Davis Technical College . . . . . (63,000)

**Item 47**

To Utah System of Technical Colleges -  
 Dixie Technical College  
 From General Fund, One-Time . . . . . (84,300)  
 From Education Fund, One-Time . . . . . 84,300  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 384,500  
 Schedule of Programs:  
 Dixie Technical College . . . . . 384,500

**Item 48**

To Utah System of Technical Colleges -  
 Mountainland Technical College  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 283,500  
 Schedule of Programs:  
 Mountainland Technical College . . . . . 283,500

**Item 49**

To Utah System of Technical Colleges -  
 Ogden-Weber Technical College  
 From General Fund, One-Time . . . . . (5,159,800)  
 From Education Fund, One-Time . . . . . 5,159,800  
 From Dedicated Credits Revenue,  
 One-Time . . . . . (2,500)  
 Schedule of Programs:  
 Ogden-Weber Technical College . . . . . (2,500)

**Item 50**

To Utah System of Technical Colleges -  
 Southwest Technical College  
 From General Fund, One-Time . . . . . (164,600)  
 From Education Fund, One-Time . . . . . 164,600  
 From Dedicated Credits Revenue,  
 One-Time . . . . . (212,800)  
 From Closing Nonlapsing Balances . . . . (27,000)  
 Schedule of Programs:  
 Southwest Technical College . . . . . (239,800)

**Item 51**

To Utah System of Technical Colleges -  
 Tooele Technical College  
 From General Fund, One-Time . . . . . (862,100)  
 From Education Fund, One-Time . . . . . 862,100

**Item 52**

To Utah System of Technical Colleges -  
 Uintah Basin Technical College  
 From General Fund, One-Time . . . . . (1,304,600)  
 From Education Fund, One-Time . . . . . 1,304,600  
 From Dedicated Credits Revenue,  
 One-Time . . . . . (24,600)  
 From Beginning Nonlapsing Balances . . . . 10,000  
 Schedule of Programs:  
 Uintah Basin Technical College . . . . . (14,600)

**Item 53**

To Utah System of Technical Colleges -  
 USTC Administration  
 From General Fund, One-Time . . . . . (2,878,100)  
 From Education Fund, One-Time . . . . . 2,878,100  
 From Beginning Nonlapsing Balances . . . . 13,200  
 From Closing Nonlapsing Balances . . . . (13,200)

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to

amounts otherwise appropriated for fiscal year 2021.

**Subsection 2(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**UNIVERSITY OF UTAH**

**Item 54**

To University of Utah - School of Medicine  
 From Education Fund ..... 39,105,600  
 From Dedicated Credits Revenue .... 30,621,100  
 From General Fund Restricted -  
     Cigarette Tax Restricted Account .... 2,800,000  
 From Beginning Nonlapsing  
     Balances ..... 9,506,200  
 From Closing Nonlapsing Balances ... (9,506,200)  
 Schedule of Programs:  
     School of Medicine ..... 72,526,700

**Item 55**

To University of Utah - Cancer Research  
 and Treatment  
 From Education Fund ..... 8,002,100  
 From General Fund Restricted -  
     Cigarette Tax Restricted Account .... 2,000,000  
 From Beginning Nonlapsing Balances ... 188,700  
 From Closing Nonlapsing Balances .... (188,700)  
 Schedule of Programs:  
     Cancer Research and Treatment ... 10,002,100

**Item 56**

To University of Utah - University Hospital  
 From Education Fund ..... 5,399,400  
 From Dedicated Credits Revenue ..... 455,800  
 From Beginning Nonlapsing Balances ... 428,800  
 From Closing Nonlapsing Balances .... (428,800)  
 Schedule of Programs:  
     University Hospital ..... 5,256,300  
     Miners' Hospital ..... 598,900

**Item 57**

To University of Utah - School of Dentistry  
 From Education Fund ..... 2,805,700  
 From Dedicated Credits Revenue ..... 4,100,000  
 From Beginning Nonlapsing Balances ... 107,900  
 From Closing Nonlapsing Balances .... (107,900)  
 Schedule of Programs:  
     School of Dentistry ..... 6,905,700

**Item 58**

To University of Utah - Public Service  
 From Education Fund ..... 2,277,600  
 From Beginning Nonlapsing Balances ... 454,684  
 From Closing Nonlapsing Balances .... (454,684)  
 Schedule of Programs:  
     Seismograph Stations ..... 777,300  
     Natural History Museum of Utah ... 1,370,100  
     State Arboretum ..... 130,200

**Item 59**

To University of Utah - Statewide  
 TV Administration  
 From Education Fund ..... 2,734,700  
 From Beginning Nonlapsing Balances ... 123,000  
 From Closing Nonlapsing Balances .... (123,000)

Schedule of Programs:

Public Broadcasting ..... 2,734,700

**Item 60**

To University of Utah - Poison Control Center  
 From Education Fund ..... 2,916,400  
 From Beginning Nonlapsing Balances ... 227,300  
 From Closing Nonlapsing Balances .... (227,300)  
 Schedule of Programs:  
     Poison Control Center ..... 2,916,400

**Item 61**

To University of Utah - Center on Aging  
 From Education Fund ..... 114,500  
 From Beginning Nonlapsing Balances .... 3,700  
 From Closing Nonlapsing Balances .... (3,700)  
 Schedule of Programs:  
     Center on Aging ..... 114,500

**Item 62**

To University of Utah - Rocky Mountain Center for  
 Occupational and Environmental Health  
 From General Fund Restricted -  
     Workplace Safety Account ..... 174,000  
 From Beginning Nonlapsing Balances .... 5,500  
 From Closing Nonlapsing Balances .... (5,500)  
 Schedule of Programs:  
     Center for Occupational and  
         Environmental Health ..... 174,000

**Item 63**

To University of Utah - SafeUT Crisis  
 Text and Tip  
 From Education Fund ..... 1,770,000  
 Schedule of Programs:  
     SafeUT Operations ..... 1,770,000

**UTAH STATE UNIVERSITY**

**Item 64**

To Utah State University - Education and General  
 From Education Fund ..... 3,483,600  
 From Dedicated Credits Revenue ..... 1,996,000  
 From Beginning Nonlapsing  
     Balances ..... 2,811,400  
 From Closing Nonlapsing Balances ... (2,811,400)  
 Schedule of Programs:  
     USU - School of Veterinary  
         Medicine ..... 5,479,600

**Item 65**

To Utah State University - USU - Eastern  
 Career and Technical Education  
 From Education Fund ..... 3,510,100  
 From Revenue Transfers ..... 5,500  
 From Beginning Nonlapsing Balances ... 163,800  
 From Closing Nonlapsing Balances .... (163,800)  
 Schedule of Programs:  
     USU - Eastern Career and Technical  
         Education ..... 3,515,600

**Item 66**

To Utah State University - Regional Campuses  
 From Education Fund ..... 14,943,200  
 From Dedicated Credits Revenue .... 27,951,000  
 From General Fund Restricted -  
     Infrastructure and Economic  
         Diversification Investment Account .... 250,000  
 From Revenue Transfers ..... 324,200  
 From Beginning Nonlapsing  
     Balances ..... 2,913,600

From Closing Nonlapsing Balances . . . (2,913,600)  
 Schedule of Programs:  
 Administration . . . . . 5,385,500  
 Uintah Basin Regional Campus . . . . 10,768,000  
 Brigham City Regional Campus . . . . 15,057,600  
 Tooele Regional Campus . . . . . 12,257,300

**Item 67**

To Utah State University - Water  
 Research Laboratory  
 From Education Fund . . . . . 2,263,500  
 From General Fund Restricted -  
 Mineral Lease . . . . . 1,745,800  
 From Gen. Fund Rest. - Land  
 Exchange Distribution Account . . . . . 66,400  
 From Beginning Nonlapsing  
 Balances . . . . . 2,344,700  
 From Closing Nonlapsing Balances . . . (2,344,700)  
 Schedule of Programs:  
 Water Research Laboratory . . . . . 4,075,700

**Item 68**

To Utah State University - Agriculture  
 Experiment Station  
 From Education Fund . . . . . 14,404,700  
 From Federal Funds . . . . . 1,813,800  
 From Beginning Nonlapsing Balances . . . 411,200  
 From Closing Nonlapsing Balances . . . (411,200)  
 Schedule of Programs:  
 Agriculture Experiment Station . . . . 16,218,500

**Item 69**

To Utah State University - Cooperative Extension  
 From Education Fund . . . . . 17,212,400  
 From Federal Funds . . . . . 2,088,500  
 From Revenue Transfers . . . . . 69,600  
 From Beginning Nonlapsing  
 Balances . . . . . 1,387,400  
 From Closing Nonlapsing Balances . . . (1,387,400)  
 Schedule of Programs:  
 Cooperative Extension . . . . . 19,370,500

**Item 70**

To Utah State University - Prehistoric Museum  
 From Education Fund . . . . . 481,500  
 From Beginning Nonlapsing Balances . . . 10,600  
 From Closing Nonlapsing Balances . . . . (10,600)  
 Schedule of Programs:  
 Prehistoric Museum . . . . . 481,500

**Item 71**

To Utah State University - Blanding Campus  
 From Education Fund . . . . . 3,044,300  
 From Dedicated Credits Revenue . . . . 1,048,000  
 From Revenue Transfers . . . . . 117,300  
 From Beginning Nonlapsing Balances . . . 105,900  
 From Closing Nonlapsing Balances . . . (105,900)  
 Schedule of Programs:  
 Blanding Campus . . . . . 4,209,600

**SOUTHERN UTAH UNIVERSITY****Item 72**

To Southern Utah University -  
 Shakespeare Festival  
 From Education Fund . . . . . 21,600  
 Schedule of Programs:  
 Shakespeare Festival . . . . . 21,600

**Item 73**

To Southern Utah University - Rural Development  
 From Education Fund . . . . . 110,000  
 From Beginning Nonlapsing Balances . . . . 40,500  
 From Closing Nonlapsing Balances . . . . (40,500)  
 Schedule of Programs:  
 Rural Development . . . . . 110,000

**SNOW COLLEGE****Item 74**

To Snow College - Career and Technical Education  
 From Education Fund . . . . . 1,462,100  
 Schedule of Programs:  
 Career and Technical Education . . . . 1,462,100

**DIXIE STATE UNIVERSITY****Item 75**

To Dixie State University - Zion  
 Park Amphitheater  
 From Education Fund . . . . . 57,900  
 From Dedicated Credits Revenue . . . . . 34,600  
 From Beginning Nonlapsing Balances . . . . 2,400  
 From Closing Nonlapsing Balances . . . . (2,400)  
 Schedule of Programs:  
 Zion Park Amphitheater . . . . . 92,500

**SALT LAKE COMMUNITY COLLEGE****Item 76**

To Salt Lake Community College -  
 School of Applied Technology  
 From Education Fund . . . . . 7,028,800  
 From Dedicated Credits Revenue . . . . 1,028,600  
 From Beginning Nonlapsing Balances . . . 261,681  
 From Closing Nonlapsing Balances . . . (261,681)  
 Schedule of Programs:  
 School of Applied Technology . . . . . 8,057,400

**STATE BOARD OF REGENTS****Item 77**

To State Board of Regents - Administration  
 From Education Fund . . . . . 4,022,300  
 From Revenue Transfers . . . . . 371,600  
 From Beginning Nonlapsing  
 Balances . . . . . 2,178,100  
 From Closing Nonlapsing Balances . . . (2,178,100)  
 Schedule of Programs:  
 Administration . . . . . 4,393,900

The Legislature intends that the Board of Regents report to the Higher Education Appropriations Subcommittee, no later than October 15th, 2020 on a system-wide definition for Educationally Disadvantaged students and a listing of approved expenditure categories for said students.

**Item 78**

To State Board of Regents - Student Assistance  
 From Education Fund . . . . . 30,556,600  
 From Beginning Nonlapsing Balances . . . 331,900  
 From Closing Nonlapsing Balances . . . (331,900)  
 Schedule of Programs:  
 Regents' Scholarship . . . . . 16,070,500  
 Student Financial Aid . . . . . 3,252,800  
 Minority Scholarships . . . . . 36,200  
 New Century Scholarships . . . . . 1,983,900

Success Stipend .....	1,391,200
Western Interstate Commission for Higher Education .....	840,200
T.H. Bell Teaching Incentive Loans Program .....	1,781,800
Veterans Tuition Gap Program .....	125,000
Public Safety Officer Career Advancement Reimbursement .....	200,000
Student Prosperity Savings Program ...	50,000
Talent Development Incentive Loan Program .....	2,525,000
Access Utah Promise Scholarship Program .....	2,000,000
Career and Technical Education Scholarships .....	300,000

**Item 79**

To State Board of Regents - Student Support	
From Education Fund .....	1,584,600
From Revenue Transfers .....	100
From Beginning Nonlapsing Balances ...	26,200
From Closing Nonlapsing Balances .....	(26,200)
Schedule of Programs:	
Services for Hearing Impaired	
Students .....	796,300
Concurrent Enrollment .....	486,700
Articulation Support .....	301,700

**Item 80**

To State Board of Regents - Technology	
From Education Fund .....	7,983,500
From Education Fund, One-Time .....	862,100
From Education Fund Restricted - Performance Funding Rest. Acct., One-Time .....	143,700
From Beginning Nonlapsing Balances .....	700
From Closing Nonlapsing Balances .....	(700)
Schedule of Programs:	
Higher Education Technology Initiative .....	5,579,300
Utah Academic Library Consortium .....	3,410,000

**Item 81**

To State Board of Regents - Economic Development	
From Education Fund .....	5,386,400
From Beginning Nonlapsing Balances ...	127,400
From Closing Nonlapsing Balances .....	(127,400)
Schedule of Programs:	
Engineering Initiative .....	5,000,000
Engineering Loan Repayment .....	38,400
Economic Development Initiatives .....	348,000

**Item 82**

To State Board of Regents - Education Excellence	
From Education Fund .....	935,900
From Education Fund Restricted - Performance Funding Rest. Acct. ....	143,700
From Education Fund Restricted - Performance Funding Rest. Acct., One-Time .....	(143,700)
From Revenue Transfers .....	106,200
From Beginning Nonlapsing Balances ...	214,000
From Closing Nonlapsing Balances .....	(214,000)
Schedule of Programs:	
Education Excellence .....	1,042,100

**Item 83**

To State Board of Regents - Math Competency Initiative	
From Education Fund .....	1,926,200
From Beginning Nonlapsing Balances .....	1,677,800
From Closing Nonlapsing Balances ...	(1,677,800)
Schedule of Programs:	
Math Competency Initiative .....	1,926,200

**Item 84**

To State Board of Regents - Medical Education Council	
From Education Fund .....	1,837,900
From Dedicated Credits Revenue .....	215,000
From Revenue Transfers .....	190,500
From Beginning Nonlapsing Balances ...	485,400
From Closing Nonlapsing Balances .....	(485,400)
Schedule of Programs:	
Medical Education Council .....	2,243,400

**UTAH SYSTEM OF TECHNICAL COLLEGES**

**Item 85**

To Utah System of Technical Colleges - Bridgerland Technical College	
From Education Fund .....	15,804,500
From Dedicated Credits Revenue .....	1,450,600
From Education Fund Restricted - Performance Funding Rest. Acct. ....	261,400
From Beginning Nonlapsing Balances ...	242,800
From Closing Nonlapsing Balances .....	(242,800)
Schedule of Programs:	
Bridgerland Tech Equipment .....	877,400
Bridgerland Technical College .....	16,639,100

**Item 86**

To Utah System of Technical Colleges - Davis Technical College	
From Education Fund .....	19,484,100
From Dedicated Credits Revenue .....	2,005,400
From Education Fund Restricted - Performance Funding Rest. Acct. ....	355,600
Schedule of Programs:	
Davis Tech Equipment .....	1,030,900
Davis Technical College .....	20,814,200

**Item 87**

To Utah System of Technical Colleges - Dixie Technical College	
From Education Fund .....	8,875,700
From Dedicated Credits Revenue .....	736,000
From Education Fund Restricted - Performance Funding Rest. Acct. ....	94,700
Schedule of Programs:	
Dixie Tech Equipment .....	461,300
Dixie Technical College .....	9,245,100

**Item 88**

To Utah System of Technical Colleges - Mountainland Technical College	
From Education Fund .....	15,287,200
From Dedicated Credits Revenue .....	1,425,000
From Education Fund Restricted - Performance Funding Rest. Acct. ....	205,300
Schedule of Programs:	
Mountainland Tech Equipment .....	816,800
Mountainland Technical College ...	16,100,700

**Item 89**

To Utah System of Technical Colleges - Ogden-Weber Technical College	
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From Education Fund . . . . . 17,539,300  
 From Dedicated Credits Revenue . . . . . 1,695,700  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. . . . . 238,900  
 Schedule of Programs:  
 Ogden-Weber Tech Equipment . . . . . 922,300  
 Ogden-Weber Technical College . . . . . 18,551,600

**Item 90**

To Utah System of Technical Colleges -  
 Southwest Technical College  
 From Education Fund . . . . . 6,274,000  
 From Dedicated Credits Revenue . . . . . 336,000  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. . . . . 104,700  
 From Beginning Nonlapsing Balances . . . . . 27,000  
 From Closing Nonlapsing Balances . . . . . (27,000)  
 Schedule of Programs:  
 Southwest Tech Equipment . . . . . 434,800  
 Southwest Technical College . . . . . 6,279,900

**Item 91**

To Utah System of Technical Colleges -  
 Tooele Technical College  
 From Education Fund . . . . . 5,033,100  
 From Dedicated Credits Revenue . . . . . 248,400  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. . . . . 60,800  
 Schedule of Programs:  
 Tooele Tech Equipment . . . . . 410,200  
 Tooele Technical College . . . . . 4,932,100

**Item 92**

To Utah System of Technical Colleges -  
 Uintah Basin Technical College  
 From Education Fund . . . . . 9,711,300  
 From Dedicated Credits Revenue . . . . . 410,000  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. . . . . 91,200  
 Schedule of Programs:  
 Uintah Basin Tech Equipment . . . . . 589,700  
 Uintah Basin Technical College . . . . . 9,622,800

**Item 93**

To Utah System of Technical Colleges -  
 USTC Administration  
 From Education Fund . . . . . 7,154,800  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. . . . . 237,400  
 From Beginning Nonlapsing Balances . . . . . 13,200  
 From Closing Nonlapsing Balances . . . . . (13,200)  
 Schedule of Programs:  
 Administration . . . . . 2,577,900  
 Custom Fit . . . . . 4,559,200  
 Equipment . . . . . 17,700  
 Performance Funding . . . . . 237,400

**Subsection 2(b). Restricted Fund and**

**Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 94**

To Performance Funding Restricted Account  
 From Education Fund . . . . . 16,500,000  
 Schedule of Programs:

Performance Funding Restricted  
 Account . . . . . 16,500,000

**Section 3. FY 2021 Accountable Process**

**Budget.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 3(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**UNIVERSITY OF UTAH****Item 95**

To University of Utah - Education and General  
 From General Fund . . . . . 271,065,500  
 From Education Fund . . . . . 14,609,500  
 From Dedicated Credits Revenue . . . . . 307,000,000  
 From Land Grant Management Fund . . . . . 502,100  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. . . . . 4,479,700  
 From Beginning Nonlapsing  
 Balances . . . . . 8,388,900  
 From Closing Nonlapsing Balances . . . . . (8,388,900)  
 Schedule of Programs:  
 Education and General . . . . . 526,359,900  
 Operations and Maintenance . . . . . 71,296,900

**Item 96**

To University of Utah -  
 Educationally Disadvantaged  
 From Education Fund . . . . . 726,600  
 From Revenue Transfers . . . . . 34,500  
 From Beginning Nonlapsing Balances . . . . . 298,800  
 From Closing Nonlapsing Balances . . . . . (298,800)  
 Schedule of Programs:  
 Educationally Disadvantaged . . . . . 761,100

The Legislature intends that each institution that receives Educationally Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**UTAH STATE UNIVERSITY****Item 97**

To Utah State University - Education and General  
 From General Fund . . . . . 41,624,200  
 From Education Fund . . . . . 117,416,100  
 From Dedicated Credits Revenue . . . . . 125,945,000  
 From Land Grant Management Fund . . . . . 150,600  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. . . . . 3,146,000  
 From Revenue Transfers . . . . . 634,800  
 From Beginning Nonlapsing  
 Balances . . . . . 16,538,900  
 From Closing Nonlapsing  
 Balances . . . . . (16,538,900)  
 Schedule of Programs:

Education and General . . . . . 253,321,400  
 Operations and Maintenance . . . . . 35,595,300

**Item 98**

To Utah State University - USU -  
 Eastern Education and General  
 From Education Fund . . . . . 12,544,400  
 From Dedicated Credits Revenue . . . . . 3,031,000  
 From Beginning Nonlapsing  
 Balances . . . . . 1,595,000  
 From Closing Nonlapsing Balances . . . (1,595,000)  
 Schedule of Programs:  
 USU - Eastern Education and  
 General . . . . . 15,575,400

**Item 99**

To Utah State University -  
 Educationally Disadvantaged  
 From Education Fund . . . . . 100,300  
 From Beginning Nonlapsing Balances . . . . . 34,000  
 From Closing Nonlapsing Balances . . . . . (34,000)  
 Schedule of Programs:  
 Educationally Disadvantaged . . . . . 100,300

The Legislature intends that each institution that receives Educationally Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**Item 100**

To Utah State University - USU -  
 Eastern Educationally Disadvantaged  
 From Education Fund . . . . . 105,000  
 From Beginning Nonlapsing Balances . . . . . 64,600  
 From Closing Nonlapsing Balances . . . . . (64,600)  
 Schedule of Programs:  
 USU - Eastern Educationally  
 Disadvantaged . . . . . 105,000

The Legislature intends that each institution that receives Educationally Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**WEBER STATE UNIVERSITY**

**Item 101**

To Weber State University - Education  
 and General  
 From Education Fund . . . . . 97,646,300  
 From Dedicated Credits Revenue . . . . . 77,785,500  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. . . . . 1,673,200  
 From Revenue Transfers . . . . . 1,786,500  
 From Beginning Nonlapsing  
 Balances . . . . . 3,605,900  
 From Closing Nonlapsing Balances . . . (3,605,900)  
 Schedule of Programs:  
 Education and General . . . . . 162,034,100  
 Operations and Maintenance . . . . . 16,857,400

**Item 102**

To Weber State University - Educationally  
 Disadvantaged  
 From Education Fund . . . . . 396,400  
 From Beginning Nonlapsing Balances . . . 128,500  
 From Closing Nonlapsing Balances . . . . (128,500)  
 Schedule of Programs:  
 Educationally Disadvantaged . . . . . 396,400

The Legislature intends that each institution that receives Educationally Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**SOUTHERN UTAH UNIVERSITY**

**Item 103**

To Southern Utah University - Education and  
 General  
 From Education Fund . . . . . 49,197,100  
 From Dedicated Credits Revenue . . . . . 50,400,800  
 From Education Fund Restricted - Performance  
 Funding Rest. Acct. . . . . 790,400  
 From Beginning Nonlapsing Balances . . 6,598,800  
 From Closing Nonlapsing Balances . . . (6,598,800)  
 Schedule of Programs:  
 Education and General . . . . . 91,199,000  
 Operations and Maintenance . . . . . 9,189,300

**Item 104**

To Southern Utah University - Educationally  
 Disadvantaged  
 From Education Fund . . . . . 97,300  
 From Beginning Nonlapsing Balances . . . . 26,400  
 From Closing Nonlapsing Balances . . . . (26,400)  
 Schedule of Programs:  
 Educationally Disadvantaged . . . . . 97,300

The Legislature intends that each institution that receives Educationally Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**UTAH VALLEY UNIVERSITY**

**Item 105**

To Utah Valley University - Education and General  
 From Education Fund . . . . . 128,517,400  
 From Dedicated Credits Revenue . . . 144,606,800  
 From Education Fund Restricted - Performance  
 Funding Rest. Acct. . . . . 2,014,900  
 From Other Financing Sources . . . . . 135,000  
 From Beginning Nonlapsing Balances . . 18,238,700  
 From Closing Nonlapsing Balances . . (18,238,700)  
 Schedule of Programs:  
 Education and General . . . . . 253,490,100  
 Operations and Maintenance . . . . . 21,784,000

**Item 106**

To Utah Valley University - Educationally  
 Disadvantaged  
 From Education Fund . . . . . 184,100  
 From Beginning Nonlapsing Balances . . . . 10,000

From Closing Nonlapsing Balances . . . . . (10,000)  
Schedule of Programs:

Educationally Disadvantaged . . . . . 184,100

The Legislature intends that each institution that receives Educationally Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**SNOW COLLEGE**

**Item 107**

To Snow College - Education and General

From Education Fund . . . . . 28,136,400

From Dedicated Credits Revenue . . . . . 11,952,200

From Education Fund Restricted -

Performance Funding Rest. Acct. . . . . 401,600

From Revenue Transfers . . . . . 753,400

From Beginning Nonlapsing

Balances . . . . . 2,103,200

From Closing Nonlapsing Balances . . . (2,103,200)

Schedule of Programs:

Education and General . . . . . 35,589,600

Operations and Maintenance . . . . . 5,654,000

**Item 108**

To Snow College - Educationally Disadvantaged

From Education Fund . . . . . 32,000

Schedule of Programs:

Educationally Disadvantaged . . . . . 32,000

The Legislature intends that each institution that receives Educationally Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**DIXIE STATE UNIVERSITY**

**Item 109**

To Dixie State University - Education and General

From Education Fund . . . . . 44,193,000

From Dedicated Credits Revenue . . . . . 34,535,000

From Education Fund Restricted -

Performance Funding Rest. Acct. . . . . 492,500

From Revenue Transfers . . . . . 150,000

From Other Financing Sources . . . . . 555,000

From Beginning Nonlapsing

Balances . . . . . 3,599,000

From Closing Nonlapsing Balances . . . (3,599,000)

Schedule of Programs:

Education and General . . . . . 71,330,100

Operations and Maintenance . . . . . 8,595,400

**Item 110**

To Dixie State University -

Educationally Disadvantaged

From Education Fund . . . . . 25,500

From Beginning Nonlapsing Balances . . . . . 500

From Closing Nonlapsing Balances . . . . . (500)

Schedule of Programs:

Educationally Disadvantaged . . . . . 25,500

The Legislature intends that each institution that receives Educationally

Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**SALT LAKE COMMUNITY COLLEGE**

**Item 111**

To Salt Lake Community College - Education and General

From Education Fund . . . . . 100,928,100

From Dedicated Credits Revenue . . . . . 58,308,600

From Education Fund Restricted -

Performance Funding Rest. Acct. . . . . 1,708,000

From Revenue Transfers . . . . . 3,688,300

From Beginning Nonlapsing

Balances . . . . . 3,054,900

From Closing Nonlapsing Balances . . . (3,054,900)

Schedule of Programs:

Education and General . . . . . 143,582,300

Operations and Maintenance . . . . . 21,050,700

**Item 112**

To Salt Lake Community College -

Educationally Disadvantaged

From Education Fund . . . . . 178,400

From Beginning Nonlapsing Balances . . . (1,500)

From Closing Nonlapsing Balances . . . . . 1,500

Schedule of Programs:

Educationally Disadvantaged . . . . . 178,400

The Legislature intends that each institution that receives Educationally Disadvantaged funding report to the Higher Education Appropriations Subcommittee by August 14, 2020 on the all sources of revenue and categories of expenditure for Educationally Disadvantaged services for the past five fiscal years.

**Section 4. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2020.



**CHAPTER 8  
S. B. 4**

Passed February 5, 2020  
Approved February 24, 2020  
Effective February 24, 2020

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

Chief Sponsor: Scott D. Sandall  
House Sponsor: Val K. Potter

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for the use and support of programs reviewed under the accountable budget process; and
- ▶ provides appropriations for other purposes as described.

**Money Appropriated in this Bill:**

This bill appropriates \$24,858,400 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$904,000 from the General Fund; and
- ▶ \$23,954,400 from various sources as detailed in this bill.

This bill appropriates \$7,077,500 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$5,000,000 in business-like activities for fiscal year 2020.

This bill appropriates \$224,900 in restricted fund and account transfers for fiscal year 2020.

This bill appropriates \$317,466,100 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$92,818,800 from the General Fund;
- ▶ \$23,009,400 from the Education Fund; and
- ▶ \$201,637,900 from various sources as detailed in this bill.

This bill appropriates \$23,993,200 in expendable funds and accounts for fiscal year 2021.

This bill appropriates \$265,000 in business-like activities for fiscal year 2021.

This bill appropriates \$18,725,800 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$16,625,800 from the General Fund; and
- ▶ \$2,100,000 from various sources as detailed in this bill.

This bill appropriates \$28,647,800 in fiduciary funds for fiscal year 2021.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF ALCOHOLIC  
BEVERAGE CONTROL**

**Item 1**

To Department of Alcoholic Beverage Control - DABC Operations

From Beginning Nonlapsing Balances . . . 500,000  
Schedule of Programs:  
Operations . . . . . 500,000

**Item 2**

To Department of Alcoholic Beverage Control - Parents Empowered

From Beginning Nonlapsing Balances . . . 76,800  
Schedule of Programs:  
Parents Empowered . . . . . 76,800

**DEPARTMENT OF COMMERCE**

**Item 3**

To Department of Commerce - Building Inspector Training

From Beginning Nonlapsing Balances . . . 529,200  
From Closing Nonlapsing Balances . . . (496,400)  
Schedule of Programs:  
Building Inspector Training . . . . . 32,800

**Item 4**

To Department of Commerce - Commerce General Regulation

From Revenue Transfers, One-Time . . . 130,000  
From Other Financing Sources,  
One-Time . . . . . (130,000)  
From Beginning Nonlapsing  
Balances . . . . . 3,215,600  
From Closing Nonlapsing Balances . . . (800,000)  
Schedule of Programs:  
Administration . . . . . 500,000  
Occupational and Professional  
Licensing . . . . . 475,400  
Office of Consumer Services . . . . . 617,600  
Public Utilities . . . . . 822,600

**Item 5**

To Department of Commerce - Office of Consumer Services Professional and Technical Services

From Beginning Nonlapsing  
Balances . . . . . 4,358,800  
From Closing Nonlapsing Balances . . . (2,358,800)  
Schedule of Programs:  
Professional and Technical  
Services . . . . . 2,000,000

**Item 6**

To Department of Commerce - Public Utilities  
Professional and Technical Services  
From Beginning Nonlapsing  
Balances ..... 3,857,500  
From Closing Nonlapsing Balances ... (2,000,000)  
Schedule of Programs:  
Professional and Technical  
Services ..... 1,857,500

**GOVERNOR'S OFFICE OF  
ECONOMIC DEVELOPMENT**

**Item 7**

To Governor's Office of Economic Development -  
Administration  
From General Fund, One-Time ..... 4,000  
From Beginning Nonlapsing  
Balances ..... 1,835,400  
From Closing Nonlapsing Balances ... (1,516,700)  
Schedule of Programs:  
Administration ..... 322,700

**Item 8**

To Governor's Office of Economic Development -  
Business Development  
From Beginning Nonlapsing  
Balances ..... 3,460,400  
From Closing Nonlapsing Balances ... (834,600)  
Schedule of Programs:  
Corporate Recruitment and Business  
Services ..... (124,900)  
Outreach and International Trade ... 2,750,700

**Item 9**

To Governor's Office of Economic Development -  
Office of Tourism  
From Beginning Nonlapsing  
Balances ..... 6,548,100  
From Closing Nonlapsing Balances ... (4,220,800)  
Schedule of Programs:  
Administration ..... 166,400  
Film Commission ..... 1,670,500  
Operations and Fulfillment ..... 490,400

**Item 10**

To Governor's Office of Economic Development -  
Pass-Through  
From General Fund, One-Time ..... (500,000)  
From Beginning Nonlapsing  
Balances ..... 1,345,000  
Schedule of Programs:  
Pass-Through ..... 845,000

**Item 11**

To Governor's Office of Economic Development -  
Pete Suazo Utah Athletics Commission  
From Beginning Nonlapsing Balances .... 83,400  
Schedule of Programs:  
Pete Suazo Utah Athletics  
Commission ..... 83,400

**Item 12**

To Governor's Office of Economic Development -  
Rural Employment Expansion Program  
From Beginning Nonlapsing  
Balances ..... (1,500,000)  
From Closing Nonlapsing Balances .... 1,500,000

**Item 13**

To Governor's Office of Economic Development -  
Talent Ready Utah Center  
From Beginning Nonlapsing Balances .... 49,900  
Schedule of Programs:  
Talent Ready Utah Center ..... 49,900

**Item 14**

To Governor's Office of Economic Development -  
Inland Port Authority  
From General Fund, One-Time ..... 500,000  
From Pass-through, One-Time ..... (500,000)

**Item 15**

To Governor's Office of Economic Development -  
Point of the Mountain Authority  
From General Fund, One-Time ..... 900,000  
From Pass-through, One-Time ..... (900,000)

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 16**

To Department of Heritage and Arts -  
Administration  
From Beginning Nonlapsing Balances ... 375,200  
From Closing Nonlapsing Balances .... (329,100)  
Schedule of Programs:  
Administrative Services ..... 197,000  
Executive Director's Office ..... 15,900  
Information Technology ..... (180,500)  
Utah Multicultural Affairs Office ..... 13,700

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$537,800 of the General Fund provided by Item 77, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2020. These funds are to be used for digital, IT, and innovation purposes.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$350,000 of the General Fund provided by Item 77, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2020. These funds are to be used for special projects, building maintenance, renovation, security, and planning efforts for a new collections center.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$280,000 of the General Fund and \$50,000 Dedicated Credits provided by Item 77, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2020.

**Item 17**

To Department of Heritage and Arts -  
Division of Arts and Museums  
From Beginning Nonlapsing Balances .... 19,100  
From Closing Nonlapsing Balances .... (391,500)  
Schedule of Programs:  
Community Arts Outreach ..... (200)  
Grants to Non-profits ..... 60,000  
One Percent for Arts ..... (432,200)

Under section 63J-1-603 of the Utah Code, Legislature intends that up to \$300,000 of the General Fund provided by Item 77, Chapter

3, Laws of Utah 2019 for the Department of Heritage and Arts - Division of Arts and Museums not lapse at the close of Fiscal Year 2020. These funds will be used as intended as the "Milk Money" appropriated during the 2018 General Session.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$275,000 of the General Fund provided by Item 77, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Division of Arts and Museums not lapse at the close of Fiscal Year 2020. These funds are to be used for cultural outreach, community programming, and the purchase of art.

The Legislature intends that the Arts and Museums be allowed to purchase one new vehicle in FY 2020.

**Item 18**

To Department of Heritage and Arts - Division of Arts and Museums - Office of Museum Services  
From Beginning Nonlapsing Balances . . . . 10,000  
Schedule of Programs:  
Office of Museum Services . . . . . 10,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$10,000 of the General Fund provided by Item 78, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Division of Museum Services not lapse at the close of Fiscal Year 2020. These funds are to be used for cultural outreach and community programming.

**Item 19**

To Department of Heritage and Arts - Historical Society  
From Beginning Nonlapsing Balances . . . (4,200)  
From Closing Nonlapsing Balances . . . . . 16,400  
Schedule of Programs:  
State Historical Society . . . . . 12,200

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$124,900 of the General Fund provided by Item 80, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Historical Society Division not lapse at the close of Fiscal Year 2020. These funds are to be used for publishing and promoting the Historical Quarterly magazine.

**Item 20**

To Department of Heritage and Arts - Indian Affairs  
From Beginning Nonlapsing  
Balances . . . . . (35,400)  
From Closing Nonlapsing Balances . . . . . 4,300  
Schedule of Programs:  
Indian Affairs . . . . . (31,100)

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$100,000 of the General Fund and \$50,000 Dedicated Credits provided by Item 81, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Indian Affairs Division not lapse at the close of Fiscal Year 2020.

**Item 21**

To Department of Heritage and Arts - Pass-Through  
From Beginning Nonlapsing  
Balances . . . . . 1,785,000  
Schedule of Programs:  
Pass-Through . . . . . 1,785,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Department of Heritage and Arts - Pass Through line shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to contractual obligations and support.

**Item 22**

To Department of Heritage and Arts - State History  
From Beginning Nonlapsing Balances . . . . (100)  
From Closing Nonlapsing Balances . . . . (275,500)  
Schedule of Programs:  
Historic Preservation and Antiquities . . . . . (275,600)

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$60,000 of the General Fund and \$500,000 Dedicated Credits provided by Item 83, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - State History Division not lapse at the close of Fiscal Year 2020. These funds are to be used for operations, application maintenance, projects, and community outreach.

**Item 23**

To Department of Heritage and Arts - State Library  
From Beginning Nonlapsing Balances . . . 239,700  
From Closing Nonlapsing Balances . . . . (527,900)  
Schedule of Programs:  
Administration . . . . . (254,000)  
Blind and Disabled . . . . . (240,400)  
Library Development . . . . . 338,500  
Library Resources . . . . . (132,300)

The Legislature intends that the Department of Heritage and Arts - Division of State Library evaluate the bookmobile program services and billing formula and report with recommendations to the Business, Economic Development, and Labor (BEDL) Subcommittee by August 31, 2020.

Under section 63J1-1-603 of the Utah Code, the Legislature intends that up to \$230,000 of the General Fund provided by Item 84, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Division of State Library not lapse at the close of Fiscal Year 2020. These funds are to be used for CLEF (Community Library Enhancement Fund) grants, operations, and community outreach.

Under section 63J-1-603 of the Utah Code, Legislature intends that up to \$500,000 of the General Fund provided by Item 84, Chapter 3, Laws of Utah 2019 for the Department of Heritage and Arts - Division of State Library not lapse at the close of Fiscal Year 2020. These funds will be used for building remodel and furnishings and library grants.

The Legislature intends that the State Library be allowed to purchase one new vehicle in FY 2020.

**Item 24**

To Department of Heritage and Arts - Stem Action Center  
 Schedule of Programs:  
 STEM Action Center . . . . . (581,500)  
 STEM Action Center - Grades 6-8 . . . . 581,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$4,600,000 of General Fund provided by Item 168, Chapter 508, Laws or Utah 2019 for the Department of Heritage and Arts - STEM Action Center not lapse at the close of Fiscal Year 2020. These funds will be used for contractual obligations and support.

The Legislature intends that the STEM Action Center be allowed to purchase one new vehicle in FY 2020.

**INSURANCE DEPARTMENT**

**Item 25**

To Insurance Department - Health Insurance Actuary  
 From Beginning Nonlapsing Balances . . . . 54,400  
 From Closing Nonlapsing Balances . . . . (70,800)  
 Schedule of Programs:  
 Health Insurance Actuary . . . . . (16,400)

**Item 26**

To Insurance Department - Insurance Department Administration  
 From Beginning Nonlapsing Balances . . . . . 1,376,000  
 From Closing Nonlapsing Balances . . . (1,185,900)  
 Schedule of Programs:  
 Administration . . . . . (400,000)  
 Captive Insurers . . . . . 36,100  
 Criminal Background Checks . . . . . 6,100  
 Electronic Commerce Fee . . . . . 242,400  
 Insurance Fraud Program . . . . . 305,500

**Item 27**

To Insurance Department - Title Insurance Program  
 From Beginning Nonlapsing Balances . . . . 4,800  
 From Closing Nonlapsing Balances . . . . . 5,400  
 Schedule of Programs:  
 Title Insurance Program . . . . . 10,200

**PUBLIC SERVICE COMMISSION**

**Item 28**

To Public Service Commission  
 From Beginning Nonlapsing Balances . . . 223,100  
 From Closing Nonlapsing Balances . . . . (223,100)

**UTAH STATE TAX COMMISSION**

**Item 29**

To Utah State Tax Commission - License Plates Production  
 From Beginning Nonlapsing Balances . . . 531,400  
 From Closing Nonlapsing Balances . . . . (220,800)  
 Schedule of Programs:  
 License Plates Production . . . . . 310,600

**Item 30**

To Utah State Tax Commission - Tax Administration  
 From Closing Nonlapsing Balances . . . (1,000,000)  
 Schedule of Programs:  
 Administration Division . . . . . (1,000,000)

**UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY**

**Item 31**

To Utah Science Technology and Research Governing Authority - Grant Programs  
 From Beginning Nonlapsing Balances . . . . . 9,134,000  
 Schedule of Programs:  
 Energy Research Triangle . . . . . 486,800  
 Industry Partnership Program . . . . . 6,084,100  
 Science and Technology Initiation Grants . . . . . 158,900  
 Technology Acceleration Program . . . 1,268,500  
 University Technology Acceleration Grant . . . . . 1,135,700

**Item 32**

To Utah Science Technology and Research Governing Authority - Support Programs  
 From Dedicated Credits Revenue, One-Time . . . . . (500)  
 From Beginning Nonlapsing Balances . . . . . 2,108,500  
 Schedule of Programs:  
 Incubation Programs . . . . . 1,634,400  
 Regional Outreach . . . . . 474,100  
 SBIR/STTR Assistance Center . . . . . (500)

**Item 33**

To Utah Science Technology and Research Governing Authority - USTAR Administration  
 From Dedicated Credits Revenue, One-Time . . . . . (1,200)  
 From Beginning Nonlapsing Balances . . . 100,300  
 Schedule of Programs:  
 Administration . . . . . 249,700  
 Project Management & Compliance . . . . . (150,600)

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF COMMERCE**

**Item 34**

To Department of Commerce - Architecture Education and Enforcement Fund  
 From Beginning Fund Balance . . . . . (3,600)  
 From Closing Fund Balance . . . . . 3,600

**Item 35**

To Department of Commerce - Consumer Protection Education and Training Fund  
 From Beginning Fund Balance . . . . . 100,000  
 From Closing Fund Balance . . . . . (100,000)

**Item 36**

To Department of Commerce -  
 Cosmetologist/Barber, Esthetician,  
 Electrologist Fund  
 From Beginning Fund Balance ..... 41,900  
 From Closing Fund Balance ..... (41,900)

**Item 37**

To Department of Commerce -  
 Land Surveyor/Engineer Education  
 and Enforcement Fund  
 From Beginning Fund Balance ..... 900  
 From Closing Fund Balance ..... 29,100  
 Schedule of Programs:  
 Land Surveyor/Engineer Education  
 and Enforcement Fund ..... 30,000

**Item 38**

To Department of Commerce - Landscapes  
 Architects Education and Enforcement Fund  
 From Beginning Fund Balance ..... 2,000  
 From Closing Fund Balance ..... (2,000)

**Item 39**

To Department of Commerce -  
 Physicians Education Fund  
 From Beginning Fund Balance ..... 3,000  
 From Closing Fund Balance ..... (3,000)

**Item 40**

To Department of Commerce - Real Estate  
 Education, Research, and Recovery Fund  
 From Beginning Fund Balance ..... 205,100  
 From Closing Fund Balance ..... (55,100)  
 Schedule of Programs:  
 Real Estate Education, Research, and  
 Recovery Fund ..... 150,000

**Item 41**

To Department of Commerce - Residence  
 Lien Recovery Fund  
 From Beginning Fund Balance ..... (157,300)  
 From Closing Fund Balance ..... 157,300

**Item 42**

To Department of Commerce - Residential  
 Mortgage Loan Education, Research, and  
 Recovery Fund  
 From Beginning Fund Balance ..... (7,500)  
 From Closing Fund Balance ..... 7,500

**Item 43**

To Department of Commerce - Securities Investor  
 Education/Training/Enforcement Fund  
 From Licenses/Fees, One-Time ..... 45,300  
 From Beginning Fund Balance ..... 296,400  
 From Closing Fund Balance ..... (241,400)  
 Schedule of Programs:  
 Securities Investor Education/  
 Training/ Enforcement Fund ..... 100,300

**GOVERNOR'S OFFICE  
 OF ECONOMIC DEVELOPMENT**

**Item 44**

To Governor's Office of Economic Development -  
 Outdoor Recreation Infrastructure Account  
 From Dedicated Credits Revenue,  
 One-Time ..... 31,300  
 From Interest Income, One-Time ..... 200,000  
 From Beginning Fund Balance ..... 6,624,400

Schedule of Programs:

Outdoor Recreation Infrastructure  
 Account ..... 6,855,700

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 45**

To Department of Heritage and Arts -  
 History Donation Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... (4,500)  
 From Interest Income, One-Time ..... 8,400  
 From Beginning Fund Balance ..... 5,100  
 From Closing Fund Balance ..... (10,200)  
 Schedule of Programs:  
 History Donation Fund ..... (1,200)

**Item 46**

To Department of Heritage and Arts -  
 State Arts Endowment Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... 9,900  
 From Interest Income, One-Time ..... 8,200  
 From Beginning Fund Balance ..... 13,100  
 From Closing Fund Balance ..... (26,200)  
 Schedule of Programs:  
 State Arts Endowment Fund ..... 5,000

**Item 47**

To Department of Heritage and Arts - State  
 Library Donation Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... (10,400)  
 From Interest Income, One-Time ..... 29,000  
 From Beginning Fund Balance ..... 219,000  
 From Closing Fund Balance ..... (237,600)

**INSURANCE DEPARTMENT**

**Item 48**

To Insurance Department - Insurance  
 Fraud Victim Restitution Fund  
 From Licenses/Fees, One-Time ..... (425,000)  
 From Restricted Revenue, One-Time .... 350,000  
 From Beginning Fund Balance ..... 91,800  
 Schedule of Programs:  
 Insurance Fraud Victim Restitution  
 Fund ..... 16,800

**Item 49**

To Insurance Department - Title Insurance  
 Recovery Education and Research Fund  
 From Beginning Fund Balance ..... 25,400  
 From Closing Fund Balance ..... (104,500)  
 Schedule of Programs:  
 Title Insurance Recovery Education  
 and Research Fund ..... (79,100)

**PUBLIC SERVICE COMMISSION**

**Item 50**

To Public Service Commission - Universal  
 Public Telecom Service  
 From Beginning Fund Balance ..... (1,902,600)  
 From Closing Fund Balance ..... 1,902,600

**Subsection 1(c). Business-like Activities.**

The Legislature has reviewed the following  
 proprietary funds. Under the terms and  
 conditions of Utah Code 63J-1-410, for any  
 included Internal Service Fund, the Legislature

approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

**Item 51**

To Department of Alcoholic Beverage Control - State Store Land Acquisition Fund  
 From Beginning Fund Balance . . . . . 5,000,000  
 Schedule of Programs:  
 State Store Land Acquisition Fund . . 5,000,000

**Subsection 1(d). Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 52**

To General Fund Restricted - Industrial Assistance Account  
 From Interest Income, One-Time . . . . . (86,000)  
 From Revenue Transfers, One-Time . . . 256,000  
 From Beginning Fund Balance . . . . . (1,525,300)  
 From Closing Fund Balance . . . . . 1,580,200  
 Schedule of Programs:  
 General Fund Restricted - Industrial Assistance Account . . . . . 224,900

**Subsection 1(e). Fiduciary Funds.** The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**LABOR COMMISSION**

**Item 53**

To Labor Commission - Employers Reinsurance Fund  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 2,350,000  
 From Interest Income, One-Time . . . . 1,466,000  
 From Premium Tax Collections,  
 One-Time . . . . . 707,000  
 From Beginning Fund Balance . . . . . 3,336,200  
 From Closing Fund Balance . . . . . (7,859,200)

**Item 54**

To Labor Commission - Uninsured Employers Fund  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 1,542,900  
 From Interest Income, One-Time . . . . (938,200)  
 From Premium Tax Collections,  
 One-Time . . . . . (604,700)  
 From Beginning Fund Balance . . . . . (3,279,600)  
 From Closing Fund Balance . . . . . 3,279,600

**Item 55**

To Labor Commission - Wage Claim Agency Fund

From Dedicated Credits Revenue,  
 One-Time . . . . . (874,000)  
 From Beginning Fund Balance . . . . . (787,500)  
 From Closing Fund Balance . . . . . 1,661,500

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

**Item 56**

To Department of Alcoholic Beverage Control - DABC Operations  
 From Liquor Control Fund . . . . . 57,744,600  
 Schedule of Programs:  
 Administration . . . . . 922,400  
 Executive Director . . . . . 3,348,700  
 Operations . . . . . 3,501,900  
 Stores and Agencies . . . . . 44,826,300  
 Warehouse and Distribution . . . . . 5,145,300

The Legislature intends that the Department of Alcoholic Beverage Control report on the following performance measures for the Department of Alcoholic Beverage Control, whose mission is to “Conduct, license, and regulated the sale of alcoholic products in a manner and at prices that: Reasonably satisfy the public demand and protect the public interest, including the rights of citizens who do not wish to be involved with alcoholic products.” 1) On Premise licensee audits conducted (Target = 85%); 2) Percentage of net profit to sales (Target = 23%); Supply chain (Target = 97% in stock); 4) Liquor payments processed within 30 days of invoices received (Target = 97%).

**Item 57**

To Department of Alcoholic Beverage Control - Parents Empowered  
 From General Fund Restricted - Underage Drinking Prevention Media and Education Campaign  
 Restricted Account . . . . . 2,722,100  
 Schedule of Programs:  
 Parents Empowered . . . . . 2,722,100

The Legislature intends that the Department of Alcoholic Beverage Control report on the following performance measures for the Parents Empowered line item, whose mission is to “pursue a leadership role in the prevention of underage alcohol consumption and other forms of alcohol misuse and abuse. Serve as a resource and provider of alcohol educational, awareness, and prevention programs and materials. Partner with other government authorities, advocacy groups, legislators, parents, communities, schools, law enforcement,

business and community leaders, youth, local municipalities, state and national organizations, alcohol industry members, alcohol licensees, etc., to work collaboratively to serve in the interest of public health, safety, and social well-being, for the benefit of every one in our communities.” 1) Ad awareness of the dangers of underage drinking and prevention tips (Target =82%); 2) Ad awareness of ”Parents Empowered”(Target =70%); 3) Percentage of students who used alcohol during their lifetime (Target = 17%).

**DEPARTMENT OF COMMERCE**

**Item 58**

To Department of Commerce - Building

Inspector Training

From Dedicated Credits Revenue ..... 651,400  
 From Beginning Nonlapsing Balances ... 922,900  
 From Closing Nonlapsing Balances .... (903,500)  
 Schedule of Programs:

Building Inspector Training ..... 670,800

The Legislature intends that the Utah Department of Commerce report on the following performance measures for the Uniform Building Code line item whose mission is “to protect the public and to enhance commerce through licensing and regulation”: 1) facilitate and approve vendors to provide building code education to building inspectors and construction trade licensees, with a goal focused on improving (Target = 50% ratio of courses approved for contractors or inspectors vs. land use courses); 2) Provide an average of at least one hour of CE annually to construction trade licensees through course approvals (Target = 34,000 hours); and 3) Ensure that program administrative expenses for employees are minimized by focusing on disbursements of fund revenue for qualified courses with minimal staff (Target = maximum of 20% of expenses will be employee related).

**Item 59**

To Department of Commerce - Commerce

General Regulation

From General Fund ..... 71,200  
 From Federal Funds ..... 422,700  
 From Dedicated Credits Revenue ..... 1,975,200  
 From General Fund Restricted -  
     Commerce Service Account ..... 24,422,200  
 From General Fund Restricted -  
     Factory Built Housing Fees ..... 105,100  
 From Gen. Fund Rest. - Geologist  
     Education and Enforcement ..... 20,700  
 From Gen. Fund Rest. - Nurse  
     Education & Enforcement Acct. .... 50,400  
 From General Fund Restricted -  
     Pawnbroker Operations ..... 141,700  
 From General Fund Restricted -  
     Public Utility Restricted Acct. .... 6,007,000  
 From Revenue Transfers ..... 130,000  
 From General Fund Restricted -  
     Utah Housing Opportunity Restricted .. 20,400  
 From Other Financing Sources ..... (130,000)

From Pass-through ..... 134,300  
 From Beginning Nonlapsing Balances ... 800,000  
 From Closing Nonlapsing Balances .... (650,000)  
 Schedule of Programs:  
     Administration ..... 4,877,200  
     Building Operations and  
         Maintenance ..... 298,900  
     Consumer Protection ..... 2,377,500  
     Corporations and Commercial  
         Code ..... 2,759,200  
     Occupational and Professional  
         Licensing ..... 11,608,900  
     Office of Consumer Services ..... 1,461,700  
     Public Utilities ..... 5,152,100  
     Real Estate ..... 2,559,200  
     Securities ..... 2,426,200

The Legislature intends that the Utah Department of Commerce report on the following performance measures for the Commerce General Regulation Line Item, whose mission is to “to protect the public and to enhance commerce through licensing and regulation” : 1) Increase the percentage of all available licensing renewals to be performed online by licensees in the Division of Occupational and Professional Licensing. (Target = Ratio of potential online renewal licensees who actually complete their license renewal online instead of in person on paper to be greater than 94%) 2) Increase the utility of and overall searches within the Controlled Substance Database by enhancing the functionality of the database and providing outreach. (Target = 5% increase in the number of controlled substance database searches by providers and enforcement through increased outreach) 3) Achieve and maintain corporation annual business online filings vs. paper filings above to or above (Target = 97% of the total filings managed to mitigate costs to the division and filer in submitting filing information).

**Item 60**

To Department of Commerce - Office of Consumer Services Professional and Technical Services

From General Fund Restricted -

    Public Utility Restricted Acct. .... 503,100  
 From Beginning Nonlapsing  
     Balances ..... 2,461,900  
 From Closing Nonlapsing Balances .... (503,100)  
 Schedule of Programs:  
     Professional and Technical Services . 2,461,900

The Legislature intends that the Utah Department of Commerce report on the following performance measures for the Office of Consumer Services Professional and Technical Line item, whose mission is to: “Assess the impact of utility regulatory actions and advocate positions advantageous to residential, small commercial, and irrigation consumers of natural gas, electric and telephone public utility service”: (see UCA 54-10a-301 (1)(a) and .) 1) Evaluate total ”dollars at stake” in the individual rate cases or other utility regulatory actions to ensure that this fund is hiring contract experts in cases that overall have high

potential dollar impact on customers. (Target = 10%, i.e. total dollars spent on contract experts will not exceed 10% of the annual potential dollar impact of the utility actions.), 2) The premise of having a state agency advocate for small utility customers is that for each individual customer the impact of a utility action might be small, but in aggregate the impact is large. To ensure that contract experts are used in cases that impact large numbers of small customers, consistent with the vision for this line item, the dollars spent per each instance of customer impact could be measured. (Target = less than ten cents per customer impact.)

**Item 61**

To Department of Commerce – Public Utilities Professional and Technical Services  
 From General Fund Restricted –  
 Public Utility Restricted Acct. . . . . 150,000  
 From Beginning Nonlapsing  
 Balances . . . . . 2,000,000  
 From Closing Nonlapsing Balances . . . (150,000)  
 Schedule of Programs:  
 Professional and Technical  
 Services . . . . . 2,000,000

The legislature intends that the Utah Department of Commerce report on the following performance measures for the Division of Public Utilities Professional and Technical line item, whose mission is to “retain professional and technical consultants to augment division staff expertise in energy rate cases”; 1) contract with industry professional consultants who possess expertise that the Division of Public Utilities requires for rate and revenue discussion and analysis of regulated utilities (Target = A fraction of consultant dollars spent vs. the projected cost of having full time employees with the extensive expertise needed on staff to complete the consultant work target of 40% average savings.)

**GOVERNOR’S OFFICE  
 OF ECONOMIC DEVELOPMENT**

**Item 62**

To Governor’s Office of Economic Development – Administration  
 From General Fund . . . . . 2,729,000  
 From Beginning Nonlapsing  
 Balances . . . . . 1,516,700  
 Schedule of Programs:  
 Administration . . . . . 4,245,700

The Legislature intends that the Governor’s Office of Economic Development report on the following performance measures for the Administrative line item, whose mission is to “Enhance quality of life by increasing and diversifying Utah’s revenue base and improving employment opportunities”. 1) Finance processing: invoices and reimbursements will be processed and remitted for payment within five days (Target = 90%), 2) Contract

processing efficiency: all contracts will be drafted within 14 days and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 3) Public and Community Relations – Increase development, dissemination, facilitation and support of media releases, media advisories, interviews, cultivated articles and executive presentations. (Target = 10%)

**Item 63**

To Governor’s Office of Economic Development – Business Development  
 From General Fund . . . . . 7,188,800  
 From Federal Funds . . . . . 484,700  
 From Dedicated Credits Revenue . . . . . 186,300  
 From General Fund Restricted –  
 Industrial Assistance Account . . . . . 257,700  
 From Beginning Nonlapsing Balances . . . 834,600  
 Schedule of Programs:  
 Corporate Recruitment and  
 Business Services . . . . . 5,632,300  
 Outreach and International Trade . . . 3,319,800

The Legislature intends that Governor’s Office of Economic Development report on the following performance measures for the line item CMAA – Corporate Recruitment & Business Services whose mission is to “grow the economy by identifying, nurturing, and closing proactive corporate recruitment opportunities and by providing robust business services to organizations throughout the state.” 1) Corporate Recruitment: increase year over year average wage by 2%. 2) Business services: increase the total number of businesses served by 4% per year. 3) Compliance: perform assessments on 60% of active contracts with follow up to each.

**Item 64**

To Governor’s Office of Economic Development – Office of Tourism  
 From General Fund . . . . . 4,354,100  
 From Transportation Fund . . . . . 118,000  
 From Dedicated Credits Revenue . . . . . 341,700  
 From General Fund Rest. –  
 Motion Picture Incentive Acct. . . . . 1,509,300  
 From Beginning Nonlapsing  
 Balances . . . . . 4,220,800  
 Schedule of Programs:  
 Administration . . . . . 1,174,400  
 Film Commission . . . . . 2,332,300  
 Marketing and Advertising . . . . . 4,220,800  
 Operations and Fulfillment . . . . . 2,816,400

The Legislature intends that the Utah Office of Tourism, Film and Global Branding report on the following performance measures for the line item CLAA – Tourism and Film, whose mission is to “promote Utah as a vacation destination to out-of-state travelers, generating state and local tax revenues to strengthen Utah’s economy and to market the entire State Of Utah for film, television and commercial production by promoting the use of local professional cast & crew, support services, locations and the Motion Picture Incentive Program.” 1)



Tourism Marketing Performance Account - Increase state sales tax revenues in weighted travel-related NAICS categories as outlined in Utah Code 63N-7-301 (Target = Revenue Growth over 3% or Consumer Price Index - whichever baseline is higher). 2) Tourism SUCCESS Metric - increase number of engaged visitors to VisitUtah.com website (engaged website visitors are those who meet specific thresholds for time on site and page views) (Target = 20% increase annually). 3) Film Commission Metric - Increase film production spending in Utah (Target = 5% annually)

**Item 65**

To Governor’s Office of Economic Development - Pass-Through  
 From General Fund . . . . . 9,619,400  
 From Dedicated Credits Revenue . . . . . 16,100  
 Schedule of Programs:  
 Pass-Through . . . . . 9,635,500

The Legislature intends that the Governor’s Office of Economic Development report on the following performance measures for the Pass-through line item, whose mission is to “Enhance quality of life by increasing and diversifying Utah’s revenue base and improving employment opportunities”. 1) Contract processing efficiency: all contracts will be drafted within 14 days following proper legislative intent and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 2) Assessment: Completed contracts will be assessed against scope of work, budget, and contract, (Target = 100%) 3) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

**Item 66**

To Governor’s Office of Economic Development - Pete Suazo Utah Athletics Commission  
 From General Fund . . . . . 173,600  
 From Dedicated Credits Revenue . . . . . 69,000  
 Schedule of Programs:  
 Pete Suazo Utah Athletics  
 Commission . . . . . 242,600

The Legislature intends that the Pete Suazo Utah Athletic Commission report on the following performance measures for the Pete Suazo Athletic Commission line item, whose mission is “Maintaining the health, safety, and welfare of the participants and the public as they are involved in the professional unarmed combat sports. Promoters, managers, contestants, seconds, referees and judges will be held to the highest standard which will ensure economic growth and the development of athletics in the State of Utah” 1) High Profile Events - The Pete Suazo Utah Athletic Commission (PSUAC) averages 37 “Combat Sports” events and one “high profile event” per year. PSUAC will target one

additional “high profile event” next year. 2) Licensure Efficiency -The PSUAC has averaged 991 licenses issued annually over the last 3 years, with less than 5% of those licenses issued in advance of the events. Implementation of an online registration will improve efficiency (Target = 90%). 3) Increase revenue - Annual average revenue of nearly \$30,000 over the last 3 years. (Target = 12%)

**Item 67**

To Governor’s Office of Economic Development - Rural Employment Expansion Program  
 From General Fund . . . . . 1,500,000  
 Schedule of Programs:  
 Rural Employment Expansion  
 Program . . . . . 1,500,000

The Legislature intends that the Governor’s Office of Economic Development report on the following performance measures for the Rural Employment Expansion Program line item whose mission is to “partner growing companies statewide with a quality workforce in rural Utah.” (1) Business development: Increase state-wide business participation in program (Target = 5%). (2) Workforce: Increase REDI-qualified position participation (Target = 5%).

**Item 68**

To Governor’s Office of Economic Development - Talent Ready Utah Center  
 From General Fund . . . . . 1,421,100  
 Schedule of Programs:  
 Talent Ready Utah Center . . . . . 421,100  
 Utah Works Program . . . . . 1,000,000

The Legislature intends that Talent Ready Utah report on the following performance measure for the Talent Ready Utah line item, whose mission is to “focus and optimize the efforts businesses make to enhance education.” (1) Support new industry and education partnership each year (Target = 20%). (2) Expand current pathway programs throughout school districts in the state each year (Target = 5%). (3) Create/Support new pathway programs each year (Target = 10%).

**Item 69**

To Governor’s Office of Economic Development - Rural Coworking and Innovation Center Grant Program  
 From General Fund . . . . . 500,000  
 Schedule of Programs:  
 Rural Coworking and Innovation  
 Center Grant Program . . . . . 500,000

**Item 70**

To Governor’s Office of Economic Development - Inland Port Authority  
 From General Fund . . . . . 1,000,000  
 From Pass-through . . . . . (1,000,000)

**Item 71**

To Governor’s Office of Economic Development - Point of the Mountain Authority  
 From General Fund . . . . . 1,000,000  
 From Pass-through . . . . . (1,000,000)

FINANCIAL INSTITUTIONS

Item 72

To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions ..... 7,988,200
Schedule of Programs:
Administration ..... 7,742,200
Building Operations and Maintenance ..... 246,000

The Legislature intends that the Department of Financial Institutions continues to report on the following performance measures for the Financial Institutions Administration line item, whose mission is "to charter, regulate, and supervise persons, firms, organizations, associations, and other business entities furnishing financial services to the citizens of the state of Utah": (1) Depository Institutions not on the Departments "Watched Institutions" list (Target = 80.0%), (2) Number of Safety and Soundness Examinations (Target = Equal to the number of depository institutions chartered at the beginning of the fiscal year), and (3) Total Assets Under Supervision, Per Examiner (Target = \$3.8 billion), to the Business, Economic Development, and Labor Appropriations Subcommittee.

INSURANCE DEPARTMENT

Item 73

To Insurance Department - Bail Bond Program
From General Fund Restricted - Bail Bond Surety Administration ..... 37,000
Schedule of Programs:
Bail Bond Program ..... 37,000

The Legislature intends that the Insurance Department report on the following performance measures for the Insurance Bail Bond Program line item, whose mission is "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services": 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 74

To Insurance Department - Health Insurance Actuary
From General Fund Rest. - Health Insurance Actuarial Review ..... 204,300
From Beginning Nonlapsing Balances ... 158,100
From Closing Nonlapsing Balances .... (123,900)
Schedule of Programs:
Health Insurance Actuary ..... 238,500

The Legislature intends that the Insurance Department report on the following performance measures for the Health Insurance Actuary (Risk Adjuster) line item, whose mission is "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available,

affordable and reliable insurance products and services": timeliness of processing rate filings (Target = 95% within 45 days).

Item 75

To Insurance Department - Insurance Department Administration
From General Fund ..... 9,800
From Federal Funds ..... 324,300
From Dedicated Credits Revenue ..... 8,700
From General Fund Restricted - Captive Insurance ..... 948,100
From General Fund Restricted - Criminal Background Check ..... 165,000
From General Fund Restricted - Guaranteed Asset Protection Waiver ..... 129,100
From General Fund Restricted - Insurance Department Acct. .... 9,097,600
From General Fund Rest. - Insurance Fraud Investigation Acct. . 2,442,900
From General Fund Restricted - Relative Value Study Account ..... 119,000
From General Fund Restricted - Technology Development ..... 627,800
From Beginning Nonlapsing Balances ..... 3,482,300
From Closing Nonlapsing Balances ... (2,375,200)
Schedule of Programs:
Administration ..... 9,780,200
Captive Insurers ..... 1,060,900
Criminal Background Checks ..... 175,000
Electronic Commerce Fee ..... 1,065,000
GAP Waiver Program ..... 129,100
Insurance Fraud Program ..... 2,650,200
Relative Value Study ..... 119,000

The Legislature intends that the Insurance Department report on the following performance measures for the Insurance Administration line item, whose mission is "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services.": 1) timeliness of processing work product (Target = 95% within 45 days); 2) timeliness of resident licenses processed (Target = 75% within 15 days); 3) increase the number of certified examination and captive auditors to include Accredited Financial Examiners and Certified Financial Examiners (Target = 25% increase); 4) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 76

To Insurance Department - Title Insurance Program
From General Fund ..... 4,400
From General Fund Rest. - Title Licensee Enforcement Acct. .... 126,200
From Beginning Nonlapsing Balances ... 108,400
From Closing Nonlapsing Balances .... (88,000)
Schedule of Programs:
Title Insurance Program ..... 151,000

The Legislature intends that the Insurance Department report on the following performance measures for the Title Insurance Program line item, whose mission

is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services”: 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

**LABOR COMMISSION**

**Item 77**

To Labor Commission

From General Fund .....	6,846,200
From Federal Funds .....	2,950,900
From Dedicated Credits Revenue .....	113,300
From Employers’ Reinsurance Fund .....	83,300
From General Fund Restricted -	
Industrial Accident Account .....	3,607,400
From Trust and Agency Funds .....	2,700
From General Fund Restricted -	
Workplace Safety Account .....	1,664,300
Schedule of Programs:	
Adjudication .....	1,509,500
Administration .....	2,224,300
Antidiscrimination and Labor .....	2,349,700
Boiler, Elevator and Coal Mine	
Safety Division .....	1,679,600
Building Operations and	
Maintenance .....	174,600
Industrial Accidents .....	2,183,200
Utah Occupational Safety and	
Health .....	3,925,200
Workplace Safety .....	1,222,000

The Legislature intends that the Utah Labor Commission report by October 20, 2021, on the following performance measures for the Labor Commission line item, whose mission is to achieve safety in Utah’s workplaces and fairness in employment and housing: (1) Percentage of workers compensation decisions by the Division of Adjudication within 60 days of the date of the hearing (Target-100%), (2) Percentage of decisions issued on motions for review within 90 days of the date the motion was filed (Target-100%), (3) Percentage of UOSH citations issued within 45 days of the date of the opening conference (Target-90%) (4) Number and percentage of elevator units that are overdue for inspection (Target-0%), (5) Percentage of the improvement over baseline of the number of employers determined to be in compliance with the state requirement for workers compensation insurance coverage (Target-25%), (6) Percentage of employment discrimination cases completed within 180 days of the date the complaint was filed (Target-70%).

**PUBLIC SERVICE COMMISSION**

**Item 78**

To Public Service Commission

From Dedicated Credits Revenue .....	600
From General Fund Restricted -	
Public Utility Restricted Acct. ....	2,631,000
From Revenue Transfers .....	10,100
From Beginning Nonlapsing Balances ...	722,100

From Closing Nonlapsing Balances ....	(608,900)
Schedule of Programs:	
Administration .....	2,723,600
Building Operations and	
Maintenance .....	31,300

The Legislature intends that the Public Service Commission report by October 20, 2021, on the following performance measures for the Public Service Commission line item, whose mission is to provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service: (1) Electric or natural gas rate changes within a fiscal year not consistent or comparable with other states served by the same utility (Target = 0); (2) Number of appellate court cases within a fiscal year modifying or reversing Public Service Commission decisions (Target = 0); (3) Number, within a fiscal year, of financial sector analyses of Utah’s public utility regulatory climate resulting in an unfavorable or unbalanced assessment (Target= 0); to the Business, Economic Development, and Labor Appropriations Subcommittee.

**UTAH STATE TAX COMMISSION**

**Item 79**

To Utah State Tax Commission -

License Plates Production	
From Dedicated Credits Revenue .....	3,542,300
From Beginning Nonlapsing Balances ...	356,500
From Closing Nonlapsing Balances ....	(276,700)
Schedule of Programs:	
License Plates Production .....	3,622,100

**Item 80**

To Utah State Tax Commission -

Liquor Profit Distribution	
From General Fund Restricted -	
Alcoholic Beverage Enforcement	
and Treatment Account .....	5,577,300
Schedule of Programs:	
Liquor Profit Distribution .....	5,577,300

**Item 81**

To Utah State Tax Commission - Rural Health

Care Facilities Distribution	
From General Fund Restricted -	
Rural Healthcare Facilities Acct .....	218,900
Schedule of Programs:	
Rural Health Care Facilities	
Distribution .....	218,900

**Item 82**

To Utah State Tax Commission -

Tax Administration	
From General Fund .....	30,938,100
From Education Fund .....	23,009,400
From Transportation Fund .....	5,857,400
From Federal Funds .....	609,800
From Dedicated Credits Revenue .....	7,588,000
From General Fund Restricted -	
Electronic Payment Fee Rest. Acct ..	7,109,700
From General Fund Restricted -	
Motor Vehicle Enforcement Division	
Temporary Permit Account .....	4,218,500
From General Fund Rest. - Sales	
and Use Tax Admin Fees .....	11,579,800

From General Fund Restricted -	
Tobacco Settlement Account .....	18,500
From Revenue Transfers .....	172,000
From Uninsured Motorist Identification	
Restricted Account .....	142,800
From Beginning Nonlapsing	
Balances .....	1,000,000
From Closing Nonlapsing Balances ...	(1,000,000)
Schedule of Programs:	
Administration Division .....	10,279,000
Auditing Division .....	14,041,700
Motor Vehicle Enforcement	
Division .....	4,440,700
Motor Vehicles .....	24,742,200
Multi-State Tax Compact .....	282,200
Property Tax Division .....	6,039,200
Seasonal Employees .....	169,400
Tax Payer Services .....	12,676,600
Tax Processing Division .....	7,232,900
Technology Management .....	11,340,100

The Legislature intends that the Utah State Tax Commission report by October 20th, 2021, on the following performance measures for the Tax Administration line item, whose mission is to collect revenues for the state and local governments and to equitably administer tax and assigned motor vehicle laws: (1) Tax returns processed electronically (Target = 81%), (2) Closed Delinquent Accounts from assigned inventory (Target 5% improvement), (3) Motor Vehicle Large Office Wait Times (Target: 94% served in 20 minutes or less) to the Business, Labor, and Economic Development Appropriations Subcommittee.

#### UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

##### Item 83

To Utah Science Technology and Research Governing Authority - Support Programs	
From General Fund .....	31,600
From Dedicated Credits Revenue .....	400
Schedule of Programs:	
Incubation Programs .....	10,600
Regional Outreach .....	13,100
SBIR/STTR Assistance Center .....	8,300

##### Item 84

To Utah Science Technology and Research Governing Authority - USTAR Administration	
From General Fund .....	1,826,300
From Dedicated Credits Revenue .....	447,500
Schedule of Programs:	
Administration .....	621,000
Project Management &	
Compliance .....	1,652,800

#### Subsection 2(b). Expendable Funds and

**Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further

legislative action, in accordance with statutory provisions relating to the funds or accounts.

#### DEPARTMENT OF COMMERCE

##### Item 85

To Department of Commerce - Architecture Education and Enforcement Fund	
From Licenses/Fees .....	3,000
From Beginning Fund Balance .....	38,600
From Closing Fund Balance .....	(26,600)
Schedule of Programs:	
Architecture Education and	
Enforcement Fund .....	15,000

##### Item 86

To Department of Commerce - Consumer Protection Education and Training Fund	
From Licenses/Fees .....	260,400
From Beginning Fund Balance .....	400,000
From Closing Fund Balance .....	(400,000)
Schedule of Programs:	
Consumer Protection Education	
and Training Fund .....	260,400

##### Item 87

To Department of Commerce - Cosmetologist/Barber, Esthetician, Electrologist Fund	
From Licenses/Fees .....	51,800
From Interest Income .....	1,000
From Beginning Fund Balance .....	116,400
From Closing Fund Balance .....	(84,200)
Schedule of Programs:	
Cosmetologist/Barber, Esthetician,	
Electrologist Fund .....	85,000

##### Item 88

To Department of Commerce - Land Surveyor/Engineer Education and Enforcement Fund	
From Licenses/Fees .....	9,000
From Beginning Fund Balance .....	68,900
From Closing Fund Balance .....	(37,900)
Schedule of Programs:	
Land Surveyor/Engineer Education	
and Enforcement Fund .....	40,000

##### Item 89

To Department of Commerce - Landscapes Architects Education and Enforcement Fund	
From Licenses/Fees .....	4,100
From Beginning Fund Balance .....	11,100
From Closing Fund Balance .....	(10,200)
Schedule of Programs:	
Landscapes Architects Education	
and Enforcement Fund .....	5,000

##### Item 90

To Department of Commerce - Physicians Education Fund	
From Dedicated Credits Revenue .....	1,200
From Licenses/Fees .....	22,000
From Beginning Fund Balance .....	82,600
From Closing Fund Balance .....	(80,800)
Schedule of Programs:	
Physicians Education Fund .....	25,000

##### Item 91

To Department of Commerce - Real Estate Education, Research, and Recovery Fund	
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From Dedicated Credits Revenue ..... 129,100  
 From Beginning Fund Balance ..... 781,900  
 From Closing Fund Balance ..... (540,300)  
 Schedule of Programs:  
     Real Estate Education, Research,  
     and Recovery Fund ..... 370,700

**Item 92**

To Department of Commerce - Residence  
 Lien Recovery Fund  
 From Dedicated Credits Revenue ..... 20,000  
 From Licenses/Fees ..... 30,000  
 From Beginning Fund Balance ..... 1,552,600  
 From Closing Fund Balance ..... (1,102,600)  
 Schedule of Programs:  
     Residence Lien Recovery Fund ..... 500,000

**Item 93**

To Department of Commerce - Residential  
 Mortgage Loan Education, Research,  
 and Recovery Fund  
 From Licenses/Fees ..... 155,100  
 From Interest Income ..... 10,300  
 From Beginning Fund Balance ..... 921,300  
 From Closing Fund Balance ..... (902,700)  
 Schedule of Programs:  
     RMLERR Fund ..... 184,000

**Item 94**

To Department of Commerce - Securities Investor  
 Education/Training/Enforcement Fund  
 From Licenses/Fees ..... 200,000  
 From Beginning Fund Balance ..... 444,000  
 From Closing Fund Balance ..... (366,200)  
 Schedule of Programs:  
     Securities Investor Education/  
     Training/ Enforcement Fund ..... 277,800

**Item 95**

To Department of Commerce -  
 Electrician Education Fund  
 From Licenses/Fees ..... 28,800  
 Schedule of Programs:  
     Electrician Education Fund ..... 28,800

**Item 96**

To Department of Commerce - Plumber  
 Education Fund  
 From Licenses/Fees ..... 11,500  
 Schedule of Programs:  
     Plumber Education Fund ..... 11,500

**GOVERNOR'S OFFICE  
 OF ECONOMIC DEVELOPMENT**

**Item 97**

To Governor's Office of Economic Development -  
 Outdoor Recreation Infrastructure Account  
 From Dedicated Credits Revenue ..... 5,000,000  
 Schedule of Programs:  
     Outdoor Recreation Infrastructure  
     Account ..... 5,000,000

**Item 98**

To Governor's Office of Economic Development -  
 Transient Room Tax Fund  
 From Revenue Transfers ..... 1,384,900  
 Schedule of Programs:  
     Transient Room Tax Fund ..... 1,384,900

**INSURANCE DEPARTMENT**

**Item 99**

To Insurance Department - Insurance  
 Fraud Victim Restitution Fund  
 From Licenses/Fees ..... 425,000  
 From Beginning Fund Balance ..... 204,000  
 From Closing Fund Balance ..... (204,000)  
 Schedule of Programs:  
     Insurance Fraud Victim Restitution  
     Fund ..... 425,000

**Item 100**

To Insurance Department - Title Insurance  
 Recovery Education and Research Fund  
 From Dedicated Credits Revenue ..... 48,000  
 From Beginning Fund Balance ..... 574,700  
 Schedule of Programs:  
     Title Insurance Recovery Education  
     and Research Fund ..... 622,700

**PUBLIC SERVICE COMMISSION**

**Item 101**

To Public Service Commission - Universal  
 Public Telecom Service  
 From Dedicated Credits Revenue .... 15,331,400  
 From Beginning Fund Balance ..... 6,154,200  
 From Closing Fund Balance ..... (6,741,900)  
 Schedule of Programs:  
     Universal Public Telecommunications  
     Service Support ..... 14,743,700

The Legislature intends that the Public Service Commission report by October 20, 2021 on the following performance measures for the Universal Telecommunications Support Fund line item, whose mission is to provide balanced operation of the fund that is nondiscriminatory and competitively and technologically neutral, neither providing a competitive advantage for, nor imposing a competitive disadvantage upon, any telecommunications provider operating in Utah: (1) Number of months within a fiscal year during which the Fund did not maintain a balance equal to at least three months of fund payments (Target = 0); (2) Number of times a change to the fund surcharge occurred more than once every three fiscal years (Target = 0); (3) Total adoption and usage of Telecommunications Relay Service and Caption Telephone Service within a fiscal year (Target = 50,000); to the Business, Economic Development, and Labor Appropriations Subcommittee.

**Subsection 2(c). Business-like Activities.**

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

amounts between funds and accounts as indicated.

**INSURANCE DEPARTMENT**

**Item 102**

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

**Subsection 2(d). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 103**

To General Fund Restricted - Workforce Development Restricted Account  
 From General Fund ..... 14,636,900  
 Schedule of Programs:  
     Workforce Development Restricted Account ..... 14,636,900

**Item 104**

To General Fund Restricted - Industrial Assistance Account  
 From General Fund ..... 250,000  
 From Interest Income ..... 550,000  
 From Beginning Fund Balance ..... 16,474,700  
 From Closing Fund Balance ..... (15,024,700)  
 Schedule of Programs:  
     General Fund Restricted - Industrial Assistance Account ..... 2,250,000

**Item 105**

To General Fund Restricted - Motion Picture Incentive Fund  
 From General Fund ..... 1,500,000  
 Schedule of Programs:  
     General Fund Restricted - Motion Picture Incentive Fund .... 1,500,000

**Item 106**

To General Fund Restricted - Rural Health Care Facilities Fund  
 From General Fund ..... 218,900  
 Schedule of Programs:  
     General Fund Restricted - Rural Health Care Facilities Fund ..... 218,900

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

**LABOR COMMISSION**

**Item 107**

To Labor Commission - Employers Reinsurance Fund  
 From Dedicated Credits Revenue ..... 3,000,000  
 From Interest Income ..... 1,466,000  
 From Premium Tax Collections ..... 17,300,000

From Beginning Fund Balance ..... 10,801,100  
 From Closing Fund Balance ..... (10,801,100)  
 Schedule of Programs:  
     Employers Reinsurance Fund ..... 21,766,000

**Item 108**

To Labor Commission - Uninsured Employers Fund  
 From Dedicated Credits Revenue ..... 4,980,400  
 From Interest Income ..... 101,200  
 From Premium Tax Collections ..... 1,350,200  
 From Beginning Fund Balance ..... 7,596,300  
 From Closing Fund Balance ..... (7,596,300)  
 Schedule of Programs:  
     Uninsured Employers Fund ..... 6,431,800

**Item 109**

To Labor Commission - Wage Claim Agency Fund  
 From Dedicated Credits Revenue ..... 1,600,000  
 From Beginning Fund Balance ..... 21,161,000  
 From Closing Fund Balance ..... (22,311,000)  
 Schedule of Programs:  
     Wage Claim Agency Fund ..... 450,000

**Section 3. FY 2021 Accountable Process Budget.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 3(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 110**

To Department of Heritage and Arts - Administration  
 From General Fund ..... 3,985,400  
 From Dedicated Credits Revenue ..... 90,000  
 From General Fund Restricted - Martin Luther King Jr Civil Rights Support Restricted Account ..... 7,500  
 From Beginning Nonlapsing Balances ... 721,600  
 From Closing Nonlapsing Balances .... (576,300)  
 Schedule of Programs:  
     Administrative Services ..... 2,000,800  
     Executive Director's Office ..... 628,900  
     Information Technology ..... 1,178,300  
     Utah Multicultural Affairs Office ..... 420,200

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Administrative line item, whose mission is to "Increase value to customers through leveraged collaboration between divisions and foster a culture of continuous improvement to find operational efficiencies."

- 1) Foster collaboration across division and agency lines. Percentage of division programs that are engaged in at least one collaborative project annually. (Target = 66% annually);
- 2) Assess areas of internal risk. Complete

Internal Performance audits aligned with department-wide risk assessment. (Target = 2 annually); 3) Move organization toward outcome/impact measurement by developing at least one outcome-based performance measure per division. (Target = 33% annually); 4) Digitally share the States historical and art collections (including art, artifacts, manuscripts, maps, etc.) The percentage of collection digitized and available online. (Target = 35%); 5) Expand the reach and impact of youth engagement without disrupting the quality of programming by engaging a target number of students from a wide range of schools. (Target = 1,000 Students and 53 Schools); 6) Implement procedures to ensure that programming is available to vulnerable student populations by measuring the percentage of students attending that align with identified target audiences. (Target = 75%)

**Item 111**

To Department of Heritage and Arts - Division of Arts and Museums

From General Fund ..... 5,324,800  
 From Federal Funds ..... 735,500  
 From Dedicated Credits Revenue ..... 101,400  
 Schedule of Programs:

Administration ..... 647,300  
 Community Arts Outreach ..... 1,877,500  
 Grants to Non-profits ..... 3,371,600  
 Museum Services ..... 265,300

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Arts and Museums line item, whose mission is to “connect people and communities through arts and museums.” 1) Foster collaborative partnerships to nurture understanding of art forms and cultures in local communities through a travelling art exhibition program emphasizing services in communities lacking easy access to cultural resources. Measure the percent of counties served by Travelling Exhibitions annually (Target = 69% of counties annually); 2) Encourage teachers to develop the skills to offer art form instruction. Measure the percent of school districts served by Arts Education workshops annually. (Target = 73% of school districts annually); 3) Provide professional development to arts, museum, and culture administrators throughout Utah, emphasizing services in communities lacking easy access to cultural resources. (Target = 2)

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Museum Services line item, whose mission is to “advance the value of museums in Utah and to enable the broadest access to museums.”1) Provide professional development to museum administrators throughout Utah, emphasizing services in communities lacking easy access to cultural

resources. (Target = 2); 2) The number of museums provided in-person consultation annually (Target = 30 museums annually); 3) The number of museum professionals workshops offered and attendance at each. (Target = 12 workshops and 200 professionals).

**Item 112**

To Department of Heritage and Arts - Commission on Service and Volunteerism

From General Fund ..... 446,100  
 From Federal Funds ..... 4,686,600  
 From Dedicated Credits Revenue ..... 37,700  
 Schedule of Programs:

Commission on Service and Volunteerism ..... 5,170,400

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Commission on Service and Volunteerism line item, 1) Assist organizations in Utah to effectively use service and volunteerism as a strategy to fulfill organizational missions and address critical community needs by measuring the percent of organizations trained that are implementing effective volunteer management practices (Target = 85%); 2) Manage the AmeriCorps program for Utah to target underserved populations in the focus areas of Economic Opportunity, Education, Environmental Stewardship, Disaster Preparedness, Healthy Futures, and Veterans and Military Families by measuring the percent of AmeriCorps programs showing improved program management and compliance through training and technical assistance (Target = 90%); 3) Manage the AmeriCorps program for Utah to target underserved populations in the focus areas of Economic Opportunity, Education, Environmental Stewardship, Disaster Preparedness, Healthy Futures, and Veterans and Military Families by measuring the percent of targeted audience served through Americorps programs (Target = 88%)

**Item 113**

To Department of Heritage and Arts - Historical Society

From Dedicated Credits Revenue ..... 124,900  
 From Beginning Nonlapsing Balances ... 105,400  
 From Closing Nonlapsing Balances .... (93,200)  
 Schedule of Programs:

State Historical Society ..... 137,100

**Item 114**

To Department of Heritage and Arts - Indian Affairs

From General Fund ..... 346,400  
 From Dedicated Credits Revenue ..... 55,000  
 From General Fund Restricted -  
 Native American Repatriation ..... 61,200  
 From Beginning Nonlapsing Balances ... 95,200  
 From Closing Nonlapsing Balances .... (125,100)  
 Schedule of Programs:

Indian Affairs ..... 432,700

The Legislature intends that the Department of Heritage and Arts report on

the following performance measures for the Division of Indian Affairs line item, whose mission is: “to address the socio-cultural challenges of the eight federally-recognized Tribes residing in Utah.” 1) Assist the eight tribal nations of Utah in preserving culture and growing communities by measuring the percent of attendees participating in the Youth Track of the Governor’s Native American Summit (Target = 1,000 attendees annually); 2) Assist the eight tribal nations of Utah in preserving culture and interacting effectively with State of Utah agencies by managing an effective liaison working group as measured by the percent of mandated state agencies with designated liaisons actively participating to respond to tribal concerns (Target = 70%); 3) Represent the State of Utah by developing strong relationships with tribal members by measuring the percent of tribes personally visited on their lands annually. (Target = 80% annually).

**Item 115**

To Department of Heritage and Arts - Pass-Through  
 From General Fund ..... 1,332,300  
 From Gen. Fund Rest. - Humanitarian Service Rest. Acct ..... 6,000  
 From General Fund Restricted - National Professional Men’s Soccer Team Support of Building Communities ..... 100,000  
 Schedule of Programs:  
 Pass-Through ..... 1,438,300

**Item 116**

To Department of Heritage and Arts - State History  
 From General Fund ..... 2,559,000  
 From Federal Funds ..... 1,252,600  
 From Dedicated Credits Revenue ..... 113,000  
 From Beginning Nonlapsing Balances ... 335,500  
 From Closing Nonlapsing Balances .... (606,600)  
 Schedule of Programs:  
 Administration ..... 404,300  
 Historic Preservation and Antiquities ..... 1,918,800  
 History Projects and Grants ..... 25,000  
 Library and Collections ..... 672,400  
 Public History, Communication and Information ..... 633,000

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Division of State History line item, whose mission is: “to preserve and share the past for a better present and future.” 1) Support management and development of public lands by completing cultural compliance reviews (federal Section 106 and Utah 9-8-404) within 20 days. (Target = 90%); 2) Promote historic preservation at the community level. Measure the percent of Certified Local Governments actively involved in historic preservation by applying for a grant at least once within a four year period and successfully completing the grant-funded project (Target = 60% active

CLGs); 3) Provide public access to the states history collections. Percentage of collection prepared to move to a collections facility: Identified, Digitized, Cataloged, Packed for moving and long term storage starting 7/1/2020 (Target = 33%).

**Item 117**

To Department of Heritage and Arts - State Library  
 From General Fund ..... 3,786,900  
 From Federal Funds ..... 1,885,400  
 From Dedicated Credits Revenue ..... 2,070,700  
 From Beginning Nonlapsing Balances ... 757,700  
 From Closing Nonlapsing Balances ... (1,031,900)  
 Schedule of Programs:  
 Administration ..... 495,200  
 Blind and Disabled ..... 1,745,500  
 Bookmobile ..... 1,150,100  
 Library Development ..... 1,476,800  
 Library Resources ..... 2,601,200

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Division of State Library line item, whose mission is: “to develop, advance, promote library services and equal access to resources.” 1) Improve library service throughout Utah by supporting libraries and librarians through training, grant funding, consulting, youth services, outreach, and more. The Division measures the number of online and in-person training hours provided to librarians. (Target = 8,500 annually); 2) Provide library services to people lacking physical access to a library. Total Bookmobile circulation annually. (Target = 413,000 items annually); 3) Provide library services to people who are blind or print disabled. Total Blind and Print Disabled circulation annually (Target = 328,900 items annually); 4) Develop, advance, and promote library services and equal access to information and library resources to all Utah residents. Digital downloads from Utah’s online library annually (Target = 1.3 million items annually).

The Legislature intends that the Department of Heritage and Arts - Division of State Library evaluate the bookmobile program services and billing formula and report with recommendations to the Business, Economic Development, and Labor (BEDL) Subcommittee by August 31, 2020.

**Item 118**

To Department of Heritage and Arts - Stem Action Center  
 From General Fund ..... 5,824,300  
 From Dedicated Credits Revenue ..... 1,536,900  
 Schedule of Programs:  
 STEM Action Center ..... 2,549,500  
 STEM Action Center - Grades 6-8 .. 4,811,700

The Legislature intends that the Utah STEM Action Center report on the following performance measures for the STEM Action Center line item, whose mission is “to promote science, technology, engineering and math through best practices in education to



ensure connection with industry and Utah’s long-term economic prosperity.” 1) Prioritize STEM education to develop Utah’s workforce of the future by emphasizing services to communities off the Wasatch Front by measuring the percent of grants and dollars awarded off the Wasatch Front (Target = 40%); 2) Prioritize STEM education to develop Utah’s workforce of the future by emphasizing services to communities off the Wasatch Front by measuring percent of visits by STEM bus to schools/locations off the Wasatch Front. (Target = 40%), and 3) Prioritize STEM education to develop Utah’s workforce of the future preparing the workforce to take on meaningful and gainful STEM careers by measuring the number of students attending STEM events that include engagement with Corporate Partners (Target = 50).

**Item 119**

To Department of Heritage and Arts -  
 One Percent for Arts  
 From Pass-through ..... 1,600,000  
 From Beginning Nonlapsing  
 Balances ..... 3,228,800  
 From Closing Nonlapsing Balances ... (3,961,000)  
 Schedule of Programs:  
 One Percent for Arts ..... 867,800

**Subsection 3(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 120**

To Department of Heritage and Arts -  
 History Donation Fund  
 From Dedicated Credits Revenue ..... 2,600  
 From Interest Income ..... 8,400  
 From Beginning Fund Balance ..... 342,200  
 From Closing Fund Balance ..... (353,200)

**Item 121**

To Department of Heritage and Arts -  
 State Arts Endowment Fund  
 From Dedicated Credits Revenue ..... 20,400  
 From Interest Income ..... 9,700  
 From Beginning Fund Balance ..... 397,700  
 From Closing Fund Balance ..... (414,100)  
 Schedule of Programs:  
 State Arts Endowment Fund ..... 13,700

**Item 122**

To Department of Heritage and Arts -  
 State Library Donation Fund  
 From Interest Income ..... 29,000  
 From Beginning Fund Balance ..... 1,015,300

From Closing Fund Balance ..... (1,044,300)

**Subsection 3(c). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 123**

To General Fund Restricted - Native  
 American Repatriation Restricted Account  
 From General Fund ..... 20,000  
 Schedule of Programs:  
 General Fund Restricted - Native  
 American Repatriation Restricted  
 Account ..... 20,000

**Item 124**

To General Fund Restricted -  
 National Professional Men’s Soccer  
 Team Support of Building Communities  
 From Dedicated Credits Revenue ..... 100,000  
 Schedule of Programs:  
 General Fund Restricted - National  
 Professional Men’s Soccer Team  
 Support of Building Communities ... 100,000

**Section 4. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor’s signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**CHAPTER 9  
S. B. 5**

Passed February 5, 2020  
Approved February 24, 2020  
Effective February 24, 2020

**RETIREMENT AND INDEPENDENT  
ENTITIES BASE BUDGET**

Chief Sponsor: Wayne A. Harper  
House Sponsor: Craig Hall

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

This bill appropriates \$9,362,000 in operating and capital budgets for fiscal year 2020.

This bill appropriates \$54,717,600 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$1,168,900 from the General Fund;
- ▶ \$31,143,000 from the Education Fund; and
- ▶ \$22,405,700 from various sources as detailed in this bill.

This bill appropriates \$14,803,200 in business-like activities for fiscal year 2021.

This bill appropriates \$12,000,000 in fiduciary funds for fiscal year 2021, all of which is from the General Fund.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

**CAREER SERVICE REVIEW OFFICE**

**Item 1**

To Career Service Review Office  
From Beginning Nonlapsing  
Balances ..... (14,400)  
Schedule of Programs:  
Career Service Review Office ..... (14,400)

1) Measure: Average number of days between the filing of a grievance and dismissal (for lack of jurisdiction) after an administrative review of the file. Goal: Issue a Jurisdictional Decision within 15 days of the date a new grievance is filed.

2) Measure: Average number of days between the date jurisdiction is established and an evidentiary hearing is scheduled. Goal: Conduct an evidentiary hearing within 150 days of the date jurisdiction is established.

3) Measure: Average number of days between the end of an evidentiary hearing and the date a written decision is issued. Goal: Issue a written decision within 20 working days after an evidentiary hearing is adjourned.

4) Measure: Hiring and retaining hearing officers who meet established performance standards. Goal: Hire and maintain hearing officers who meet the performance standards set by the Department of Human Resource Management.

**DEPARTMENT OF HUMAN  
RESOURCE MANAGEMENT**

**Item 2**

To Department of Human Resource Management -  
Human Resource Management  
From Beginning Nonlapsing Balances ..... 2,600  
From Closing Nonlapsing Balances ..... (58,600)  
Schedule of Programs:  
ALJ Compliance ..... 209,200  
Statewide Management Liability  
Training ..... (265,200)

**UTAH EDUCATION AND  
TELEHEALTH NETWORK**

**Item 3**

To Utah Education and Telehealth Network -  
Digital Teaching and Learning Program  
From Beginning Nonlapsing Balances ... 526,400  
From Closing Nonlapsing Balances .... (482,600)  
Schedule of Programs:  
Digital Teaching and Learning  
Program ..... 43,800

**Item 4**

To Utah Education and Telehealth Network  
From Beginning Nonlapsing  
Balances ..... 13,123,800  
From Closing Nonlapsing Balances ... (3,735,200)  
Schedule of Programs:  
Administration ..... 1,677,700

Course Management Systems . . . . .	938,400
Instructional Support . . . . .	2,433,200
KUEN Broadcast . . . . .	194,500
Operations and Maintenance . . . . .	24,000
Public Information . . . . .	27,700
Technical Services . . . . .	5,526,200
Utah Futures . . . . .	(1,600,000)
Utah Telehealth Network . . . . .	166,900

1) Measure: Average number of concurrent students using the Canvas Learning Management System divided by the total Utah System of Higher Education universe. Target: 61%

2) Measure: Whether the school has broadband connectivity through the Utah Education and Telehealth Network. Goal: 100%

3) Measure: Number of interactive video conferencing classes (IVC) conducted on the Utah Education and Telehealth Network's IVC systems. Goal: 42,000

**Subsection 1(b). Business-like Activities.**

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

**DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

**Item 5**

To Department of Human Resource Management - Human Resources Internal Service Fund  
Budgeted FTE . . . . . (0.2)

(1) Ratio of HR staff to customer agency staff Measure: Ratio of HR staff to customer agency staff. Target: 30% better than industry average.

(2) Achieve Balanced Retained Earnings Measure: HR and Payroll retained earnings balance. Target: Retained earnings not to exceed 60 days operating expenses.

(3) Customer agency satisfaction rate Measure: Average score from customer survey Target: 85% (target from 2017 General Session)

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

**CAREER SERVICE REVIEW OFFICE**

**Item 6**

To Career Service Review Office	
From General Fund . . . . .	287,500
From Beginning Nonlapsing Balances . . . .	30,000
From Closing Nonlapsing Balances . . . .	(30,000)
Schedule of Programs:	
Career Service Review Office . . . . .	287,500

**DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

**Item 7**

To Department of Human Resource Management - Human Resource Management	
From General Fund . . . . .	42,400
From Dedicated Credits Revenue . . . . .	240,200
From Beginning Nonlapsing Balances . . . .	60,200
From Closing Nonlapsing Balances . . . .	(32,600)
Schedule of Programs:	
ALJ Compliance . . . . .	260,200
Statewide Management Liability	
Training . . . . .	50,000

**UTAH EDUCATION AND TELEHEALTH NETWORK**

**Item 8**

To Utah Education and Telehealth Network - Digital Teaching and Learning Program	
From Education Fund . . . . .	168,800
From Beginning Nonlapsing Balances . . .	482,600
From Closing Nonlapsing Balances . . . .	(191,600)
Schedule of Programs:	
Digital Teaching and Learning	
Program . . . . .	459,800

**Item 9**

To Utah Education and Telehealth Network	
From General Fund . . . . .	839,000
From Education Fund . . . . .	30,974,200
From Federal Funds . . . . .	4,061,200
From Dedicated Credits Revenue . . . .	14,598,600
From Beginning Nonlapsing	
Balances . . . . .	4,772,600
From Closing Nonlapsing Balances . . .	(1,585,500)
Schedule of Programs:	
Administration . . . . .	3,824,300
Course Management Systems . . . . .	2,593,200
Instructional Support . . . . .	5,086,200
KUEN Broadcast . . . . .	542,800
Operations and Maintenance . . . . .	482,200
Public Information . . . . .	337,500
Technical Services . . . . .	39,072,100
Utah Telehealth Network . . . . .	1,721,800

**Subsection 2(b). Business-like Activities.**

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

the State Division of Finance to transfer amounts between funds and accounts as indicated.

**DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

**Item 10**

To Department of Human Resource Management - Human Resources Internal Service Fund

From Dedicated Credits Revenue . . . . 14,803,200  
From Beginning Fund Balance . . . . . 1,802,500  
From Closing Fund Balance . . . . . (1,802,500)

Schedule of Programs:

Administration . . . . . 1,295,500  
Information Technology . . . . . 1,651,600  
ISF - Core HR Services . . . . . 243,600  
ISF - Field Services . . . . . 9,810,300  
ISF - Payroll Field Services . . . . . 716,100  
Policy . . . . . 1,086,100  
Budgeted FTE . . . . . 128.6  
Authorized Capital Outlay . . . . . 1,500,000

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

**FUND AND ACCOUNT TRANSFERS**

**Item 11**

To Fund and Account Transfers -

Firefighters Retirement Trust & Agency Fund

From General Fund . . . . . 12,000,000

Schedule of Programs:

Firefighters Retirement Trust & Agency Fund . . . . . 12,000,000

**Section 3. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2020.

**CHAPTER 10**

**S. B. 6**

Passed February 5, 2020  
 Approved February 24, 2020  
 Effective February 24, 2020

**INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET**

Chief Sponsor: Kirk A. Cullimore  
 House Sponsor: Douglas V. Sagers

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for the use and support of programs reviewed under the accountable budget process; and
- ▶ provides appropriations for other purposes as described.

**Money Appropriated in this Bill:**

This bill appropriates \$4,257,300 in operating and capital budgets for fiscal year 2020.

This bill appropriates \$704,200 in expendable funds and accounts for fiscal year 2020.

This bill appropriates (\$9,492,800) in business-like activities for fiscal year 2020.

This bill appropriates \$650,053,500 in capital project funds for fiscal year 2020.

This bill appropriates \$2,275,350,600 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$128,891,600 from the General Fund;
- ▶ \$72,235,100 from the Education Fund; and
- ▶ \$2,074,223,900 from various sources as detailed in this bill.

This bill appropriates \$2,370,500 in expendable funds and accounts for fiscal year 2021.

This bill appropriates \$292,024,300 in business-like activities for fiscal year 2021.

This bill appropriates \$2,020,030,400 in capital project funds for fiscal year 2021, including:

- ▶ \$156,000,000 from the General Fund;
- ▶ \$47,000,000 from the Education Fund; and
- ▶ \$1,817,030,400 from various sources as detailed in this bill.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 1**

To Department of Administrative Services - Administrative Rules  
 From Beginning Nonlapsing Balances . . . 125,300  
 From Closing Nonlapsing Balances . . . . . 277,200  
 Schedule of Programs:  
     DAR Administration . . . . . 402,500

**Item 2**

To Department of Administrative Services - Building Board Program  
 From Beginning Nonlapsing Balances . . . . 91,500  
 From Closing Nonlapsing Balances . . . . (192,400)  
 Schedule of Programs:  
     Building Board Program . . . . . (100,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Building Board Program in Item 40, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to facilities/infrastructure condition assessments, and O & M database program needs: \$250,000.

**Item 3**

To Department of Administrative Services - DFCM Administration  
 From Beginning Nonlapsing Balances . . . 280,900  
 From Closing Nonlapsing Balances . . . . (342,400)  
 Schedule of Programs:  
     DFCM Administration . . . . . (45,500)  
     Energy Program . . . . . (16,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DFCM Administration in Item 41, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to information technology projects, customer service, optimization efficiency projects, time-limited FTE's, and Governor's Mansion maintenance: \$1,000,000; and Energy Program operations: \$200,000.

**Item 4**

To Department of Administrative Services - Executive Director  
 From Beginning Nonlapsing Balances . . . 296,800  
 From Closing Nonlapsing Balances . . . (3,428,200)

Schedule of Programs:

Executive Director ..... (3,131,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Director in Item 43, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to Utah works, space utilization needs including alternative workplace solutions, leadership training, internal auditing, security improvements, department optimization projects, customer service, move to the Taylorsville State Office Building, and website maintenance: \$450,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Executive Director in Item 144, Chapter 407, Laws of Utah 2019, and Item 125, Chapter 508, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to statewide air quality Issues as directed by the Governor's Office: \$3,000,000.

**Item 5**

To Department of Administrative Services - Finance - Mandated

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C-3-203(4).

**Item 6**

To Department of Administrative Services - Finance - Mandated - Ethics Commissions  
 From Beginning Nonlapsing Balances .... 22,800  
 From Closing Nonlapsing Balances ..... (46,700)  
 Schedule of Programs:

Executive Branch Ethics  
 Commission ..... (16,400)  
 Political Subdivisions Ethics  
 Commission ..... (7,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Ethics Commission in Item 45, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to Ethics Commission investigations and Commission and staff expenses: \$97,000.

**Item 7**

To Department of Administrative Services - Finance Administration  
 From Dedicated Credits Revenue,  
 One-Time ..... (12,000)  
 From Beginning Nonlapsing  
 Balances ..... (150,900)  
 From Closing Nonlapsing Balances .... 1,547,700  
 Schedule of Programs:

Finance Director's Office ..... (5,400)  
 Financial Information Systems ..... 1,138,600  
 Financial Reporting ..... (65,000)  
 Payables/Disbursing ..... (88,500)

Payroll ..... 373,000  
 Technical Services ..... 32,100

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Finance Administration in Item 47, Chapter 5, Laws of Utah 2019 shall not lapse at the close of FY 2020. Expenditures of these funds are limited to maintenance and operation of statewide systems and websites, studies, training, computer replacement, and information technology systems, support and hardware, as well as costs associated with federal funds accountability: \$3,400,000.

**Item 8**

To Department of Administrative Services - Inspector General of Medicaid Services  
 From Federal Funds, One-Time ..... (900)  
 From Revenue Transfers, One-Time .... (3,400)  
 From Beginning Nonlapsing Balances .... 4,300

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Inspector General of Medicaid Services in Item 48, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to monitor compliance with State and Federal Regulations and implement measures to identify, prevent, and reduce fraud, waste, and abuse, and monitor the quality and reliability of Utah Medicaid providers service delivery and accuracy of billing: \$750,000.

**Item 9**

To Department of Administrative Services - Judicial Conduct Commission  
 From Beginning Nonlapsing Balances .... 29,600  
 From Closing Nonlapsing Balances ..... (12,600)  
 Schedule of Programs:

Judicial Conduct Commission ..... 17,000  
 Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Judicial Conduct Commission in Item 49, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to professional services for investigations: \$75,000.

**Item 10**

To Department of Administrative Services - Post Conviction Indigent Defense  
 From Beginning Nonlapsing Balances ... 102,900  
 From Closing Nonlapsing Balances .... (102,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Post Conviction Indigent Defense in Item 50, Chapter 5, laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to legal costs for death row inmates: \$170,000.

**Item 11**

To Department of Administrative Services - State Archives  
 From Beginning Nonlapsing Balances .... 77,000  
 From Closing Nonlapsing Balances ..... 800

Schedule of Programs:

Archives Administration .....	243,200
Open Records .....	(10,000)
Patron Services .....	(101,500)
Preservation Services .....	(9,500)
Records Analysis .....	(38,100)
Records Services .....	(6,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for State Archives in Item 52, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds limited to electronic records management and preservation, records repository systems improvements, and computer systems upgrades: \$250,000.

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

**Item 12**

To State Board of Bonding Commissioners - Debt Service - Debt Service

From Beginning Nonlapsing Balances .....

Balances .....	5,521,700
From Closing Nonlapsing Balances ...	(5,521,700)

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Board of Bonding Commissioners, shall reduce the appropriated transfer from Nonlapsing Balances Debt Service to the General Fund, onetime proportionally to the reduction in subsidy payment received, thus holding the Debt Service fund harmless.

**DEPARTMENT OF TECHNOLOGY SERVICES**

**Item 13**

To Department of Technology Services - Chief Information Officer

From Beginning Nonlapsing Balances ...

241,000
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Schedule of Programs:

Chief Information Officer .....	241,000
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Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Chief Information Officer in Item 56, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to costs associated with Department of Technology Services rate study and other IT initiatives and to implement the provisions of S.B. 65, "Postal Facilities and Government Services," 2017 General Session (G.S.); H.B. 395, "Technology Innovation Amendments," 2018 G.S.; and S.B. 137, "Single User Data Correlation Act," 2019 G.S.: \$550,000.

**Item 14**

To Department of Technology Services - Integrated Technology Division

From Federal Funds, One-Time .....	(200)
From Beginning Nonlapsing Balances ...	430,100

Schedule of Programs:

Automated Geographic Reference Center .....	429,900
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Under the terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Integrated Technology Division in Item 57, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to Automated Geographic Reference Center projects, Google imagery, Global Positioning System Reference Network upgrades and maintenance, and Survey Monument Restoration grant obligations to local government: \$600,000.

**TRANSPORTATION**

**Item 15**

To Transportation - Aeronautics

From Beginning Nonlapsing Balances .....

2,262,200
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Schedule of Programs:

Airport Construction .....	2,262,200
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Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that any unexpended funds from the one-time appropriation of \$5,000,000 from the Aeronautics Restricted Account to Airport Construction in Item 22, Chapter 282, Laws of Utah 2014, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to airport construction projects.

**Item 16**

To Transportation - Engineering Services

From Beginning Nonlapsing Balances ...

300,000
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Schedule of Programs:

Construction Management .....	121,300
Engineer Development Pool .....	(437,300)
Engineering Services .....	95,400
Environmental .....	(200,000)
Highway Project Management Team ...	300,000
Planning and Investment .....	567,600
Materials Lab .....	(79,700)
Program Development .....	(567,600)
Right-of-Way .....	300,300
Structures .....	200,000

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Engineering Services in Item 62, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to engineering services special projects: \$300,000.

**Item 17**

To Transportation - Operations/ Maintenance Management

From Beginning Nonlapsing Balances ...

586,900
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Schedule of Programs:

Region 2 .....	586,900
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Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for

Operations/Maintenance Management in Item 64, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to highway maintenance: \$2,000,000; and equipment purchases: \$200,000.

**Item 18**

To Transportation – Region Management  
From Beginning Nonlapsing Balances ... 200,000  
Schedule of Programs:  
Region 2 ..... 111,400  
Region 4 ..... 88,600

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Region Management in Item 65, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to region management: \$200,000.

**Item 19**

To Transportation – Safe Sidewalk Construction  
From Beginning Nonlapsing Balances ... 501,800  
Schedule of Programs:  
Sidewalk Construction ..... 501,800

**Item 20**

To Transportation – Support Services  
From Beginning Nonlapsing  
Balances ..... 1,171,100  
Schedule of Programs:  
Administrative Services ..... 415,000  
Community Relations ..... 345,000  
Comptroller ..... 117,500  
Data Processing ..... 82,500  
Ports of Entry ..... 211,100

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Support Services in Item 68, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to computer software development projects: \$300,000; and building improvements: \$500,000.

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that any unexpended funds from the one-time appropriation of \$850,000 from the Transportation Fund to Support Services in Item 138, Chapter 463, Laws of Utah 2018, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to development of rules and standards.

**Item 20A**

To Transportation – Transportation  
Investment Fund Capacity Program  
From Transportation Investment  
Fund of 2005 ..... 10,000,000  
Schedule of Programs:  
Transportation Investment Fund  
Capacity Program ..... 10,000,000

The Legislature intends that the Department of Transportation use up to \$10,000,000 in available cash balances from

the Transportation Investment Fund of 2005 for construction of the Jordanelle Parkway.

**Subsection 1(b). Expendable Funds and Accounts.**

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 21**

To Department of Administrative Services -  
State Debt Collection Fund  
From Beginning Fund Balance ..... (411,600)  
From Closing Fund Balance ..... 1,115,800  
Schedule of Programs:  
State Debt Collection Fund ..... 704,200

**Item 22**

To Department of Administrative Services -  
Wire Estate Memorial Fund  
From Beginning Fund Balance ..... 3,700  
From Closing Fund Balance ..... (3,700)

**TRANSPORTATION**

**Item 23**

To Transportation – County of the First  
Class Highway Projects Fund  
From Licenses/Fees, One-Time ..... 1,959,700  
From Interest Income, One-Time ..... 155,800  
From Revenue Transfers,  
One-Time ..... (13,563,700)  
From Beginning Fund Balance ..... (9,948,100)  
From Closing Fund Balance ..... 21,396,300

**Subsection 1(c). Business-like Activities.**

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

**DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS**

**Item 24**

To Department of Administrative Services Internal  
Service Funds - Division of Facilities  
Construction and Management - Facilities  
Management  
From Beginning Fund Balance ..... (530,500)  
From Closing Fund Balance ..... 1,196,300  
Schedule of Programs:  
ISF - Facilities Management ..... 665,800

The Legislature intends that the DFCM Internal Service Fund may add up to twelve



FTE's, up to seven vehicles, and multiple capital assets, beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTE's, vehicles, and capital assets will be reviewed and may be approved by the Legislature in the next legislative session.

**Item 25**

To Department of Administrative Services Internal Service Funds - Division of Finance  
 From Dedicated Credits Revenue,  
 One-Time ..... (177,500)  
 From Beginning Fund Balance ..... 9,600  
 From Closing Fund Balance ..... 35,200  
 Schedule of Programs:  
 ISF - Purchasing Card ..... (132,700)  
 Budgeted FTE ..... (1.0)

**Item 26**

To Department of Administrative Services Internal Service Funds - Division of Fleet Operations  
 From Dedicated Credits Revenue,  
 One-Time ..... (152,800)  
 From Other Financing Sources,  
 One-Time ..... (200,000)  
 From Beginning Fund Balance ..... (3,435,600)  
 From Closing Fund Balance ..... 2,637,300  
 Schedule of Programs:  
 ISF - Fuel Network ..... 616,300  
 ISF - Motor Pool ..... (1,718,500)  
 ISF - Travel Office ..... 80,900  
 Transactions Group ..... (129,800)  
 Budgeted FTE ..... (1.0)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations for Fleet Operations in Item 77, Chapter 5, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to capital outlay authority granted within FY 2020 for vehicles not delivered by the end of FY 2020.

**Item 27**

To Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services  
 From Other Financing Sources,  
 One-Time ..... (6,500)  
 From Beginning Fund Balance ..... (208,200)  
 From Closing Fund Balance ..... 1,582,000  
 Schedule of Programs:  
 ISF - Central Mailing ..... 781,000  
 ISF - Cooperative Contracting ..... 554,400  
 ISF - Federal Surplus Property ..... (2,900)  
 ISF - Print Services ..... (15,500)  
 ISF - State Surplus Property ..... 50,300  
 Budgeted FTE ..... (20.6)

**Item 28**

To Department of Administrative Services Internal Service Funds - Risk Management  
 From Dedicated Credits Revenue,  
 One-Time ..... 150,200  
 From Premiums, One-Time ..... (4,206,900)  
 From Interest Income, One-Time ..... 1,393,300  
 From Restricted Revenue, One-Time ..... (6,700)  
 From Other Financing Sources,  
 One-Time ..... (68,800)

From Beginning Fund Balance ..... 10,151,300  
 From Closing Fund Balance ..... (18,470,600)  
 Schedule of Programs:  
 ISF - Risk Management  
 Administration ..... 150,300  
 ISF - Workers' Compensation ..... 288,600  
 Risk Management - Auto ..... 14,800  
 Risk Management - Liability ..... (10,163,100)  
 Risk Management - Property ..... (1,348,800)

**DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS**

**Item 29**

To Department of Technology Services Internal Service Funds - Enterprise Technology Division  
 From Single Sign-On Expendable Special Revenue Fund, One-Time ..... (400)  
 From Beginning Fund Balance ..... 2,905,700  
 From Closing Fund Balance ..... (2,091,200)  
 Schedule of Programs:  
 ISF - Enterprise Technology  
 Division ..... 814,100  
 Budgeted FTE ..... (2.4)

**TRANSPORTATION**

**Item 30**

To Transportation - State Infrastructure Bank Fund  
 From Interest Income, One-Time ..... 2,568,700  
 From Revenue Transfers,  
 One-Time ..... 17,000,000  
 From Beginning Fund Balance ..... 39,999,400  
 From Closing Fund Balance ..... (59,566,100)  
 Schedule of Programs:  
 State Infrastructure Bank Fund ..... 2,000

**Subsection 1(d). Capital Project Funds.** The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**CAPITAL BUDGET**

**Item 31**

To Capital Budget - DFCM Capital Projects Fund  
 From Revenue Transfers,  
 One-Time ..... 595,650,000  
 From Other Financing Sources,  
 One-Time ..... 11,980,000  
 From Beginning Fund Balance ..... 100,807,600  
 From Closing Fund Balance ..... (463,532,000)  
 Schedule of Programs:  
 DFCM Capital Projects Fund ..... 244,905,600

**Item 32**

To Capital Budget - DFCM Prison Project Fund  
 From Revenue Transfers, One-Time ..... 535,000  
 From Beginning Fund Balance ..... 76,806,100  
 From Closing Fund Balance ..... (7,341,100)  
 Schedule of Programs:  
 DFCM Prison Project Fund ..... 70,000,000

**Item 33**

To Capital Budget - SBOA Capital Projects Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... 300,000  
 From Other Financing Sources,  
 One-Time ..... 21,500,000

From Beginning Fund Balance ..... (8,972,300)  
 From Closing Fund Balance ..... (12,827,700)

**TRANSPORTATION**

**Item 34**

To Transportation - Transportation  
 Investment Fund of 2005  
 From Transportation Fund,  
   One-Time ..... (37,600)  
 From Licenses/Fees, One-Time ..... 3,357,900  
 From Interest Income, One-Time ..... 7,205,300  
 From County of First Class Highway  
   Projects Fund, One-Time ..... (4,379,200)  
 From Designated Sales Tax,  
   One-Time ..... 14,099,800  
 From Revenue Transfers, One-Time ..... (100)  
 From Other Financing Sources,  
   One-Time ..... 150,617,500  
 From Beginning Fund Balance ..... 191,045,500  
 From Closing Fund Balance ..... (31,861,400)  
 Schedule of Programs:  
   Transportation Investment  
     Fund ..... 330,047,700

**Item 35**

To Transportation - Transit  
 Transportation Investment Fund  
 From Designated Sales Tax,  
   One-Time ..... 5,100,200  
 Schedule of Programs:  
   Transit Transportation Investment  
     Fund ..... 5,100,200

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 36**

To Department of Administrative Services -  
 Administrative Rules  
 From General Fund ..... 703,200  
 From Beginning Nonlapsing Balances ..... 5,000  
 From Closing Nonlapsing Balances ..... (5,000)  
 Schedule of Programs:  
   DAR Administration ..... 703,200

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the Office of Administrative Rules, whose mission is “to enable citizen participation in their own government by supporting agency rulemaking and ensuring agency compliance with the Utah Administrative Rulemaking

Act”: (1) average number of business days to review rule filings (target: 6 days or less); and (2) average number of days from the effective date to publish the final version of an administrative rule after the rule becomes effective (target: 20 days or less).

**Item 37**

To Department of Administrative Services -  
 Building Board Program  
 From General Fund ..... 10,700  
 From Capital Projects Fund ..... 1,227,600  
 From Beginning Nonlapsing Balances ... 192,400  
 Schedule of Programs:  
   Building Board Program ..... 1,430,700

**Item 38**

To Department of Administrative Services -  
 DFCM Administration  
 From General Fund ..... 3,478,600  
 From Education Fund ..... 684,100  
 From Dedicated Credits Revenue ..... 938,400  
 From Capital Projects Fund ..... 2,365,700  
 From Beginning Nonlapsing Balances ... 473,900  
 From Closing Nonlapsing Balances .... (263,300)  
 Schedule of Programs:  
   DFCM Administration ..... 6,982,300  
   Energy Program ..... 543,000  
   Governor’s Residence ..... 152,100

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for DFCM Administration, whose mission is to provide professional services to assist State entities in meeting their facility needs for the benefit of the public: (1) capital improvement projects completed in the fiscal year they are funded (target: at least 86%); and (2) accuracy of Capital Budget Estimates (CBE) (baseline +/- 10%; target +/- 5%).

**Item 39**

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

**Item 40**

To Department of Administrative Services -  
 Executive Director  
 From General Fund ..... 1,209,600  
 From Beginning Nonlapsing  
   Balances ..... 3,450,000  
 Schedule of Programs:  
   Executive Director ..... 4,659,600

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Executive Director, whose mission is “to create innovative solutions to transform government services”: (1) independent

evaluation/audit of divisions/key programs (target: at least four annually); and (2) coordinate with all State agencies in participation of air quality improvement activities through the position of the Coordinator of Resource Stewardship (CRS) and assistance from the Resource Stewardship Liaisons (targets: 25 activities each year).

**Item 41**

To Department of Administrative Services - Finance - Mandated  
 From General Fund ..... 8,006,000  
 From General Fund Restricted - Economic Incentive Restricted Account ..... 3,255,000  
 From Gen. Fund Rest. - Land Exchange Distribution Account ..... 611,200  
 Schedule of Programs:  
 Development Zone Partial Rebates .. 3,255,000  
 Land Exchange Distribution ..... 611,200  
 State Employee Benefits ..... 8,006,000

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C-3-203(4).

**Item 42**

To Department of Administrative Services - Finance - Mandated - Ethics Commissions  
 From General Fund ..... 17,300  
 From Beginning Nonlapsing Balances .... 87,700  
 From Closing Nonlapsing Balances .... (84,700)  
 Schedule of Programs:  
 Executive Branch Ethics Commission .... 7,700  
 Political Subdivisions Ethics Commission ..... 12,600

**Item 43**

To Department of Administrative Services - Finance Administration  
 From General Fund ..... 7,008,100  
 From Transportation Fund ..... 450,000  
 From Dedicated Credits Revenue .... 1,815,500  
 From Gen. Fund Rest. - Internal Service Fund Overhead ..... 1,347,400  
 From Beginning Nonlapsing Balances ... 178,100  
 Schedule of Programs:  
 Finance Director's Office ..... 627,200  
 Financial Information Systems ..... 4,013,300  
 Financial Reporting ..... 1,931,900  
 Payables/Disbursing ..... 2,016,500  
 Payroll ..... 1,872,200  
 Technical Services ..... 338,000

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Finance Administration, whose mission is "to serve Utah citizens and state agencies with fiscal leadership and quality financial systems, processes, and information": (1) Issue the state's Comprehensive Annual Financial

Report (CAFR) with an unqualified opinion (baseline: 158 days after June 30; target: 120 days after June 30).

**Item 44**

To Department of Administrative Services - Inspector General of Medicaid Services  
 From General Fund ..... 1,247,900  
 From Medicaid Expansion Fund ..... 35,800  
 From Revenue Transfers ..... 2,438,700  
 Schedule of Programs:  
 Inspector General of Medicaid Services ..... 3,722,400

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional \$60,000 of the states share of Medicaid collections during FY 2021 to pay the Office of the Attorney General for the state costs of the one attorney FTE that the Office of the Inspector General is using.

The Legislature intends that the Office of Inspector General of Medicaid Services, whose goal is to eliminate fraud, waste, and abuse within the Medicaid program, report by October 31, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures: (1) cost avoidance projected over one year and three years; (2) Medicaid dollars recovered through cash collections, directed re-bills, and credit adjustments; (3) the number of credible allegations of provider and/or recipient fraud received, initial investigations conducted, and referred to an outside entity (e.g. Medicaid Fraud Control Unit, Department of Workforce Services, local law enforcement, etc.); (4) the number of fraud, waste, and abuse cases identified and evaluated; and (5) the number of recommendations for improvement made to the Department of Health.

**Item 45**

To Department of Administrative Services - Judicial Conduct Commission  
 From General Fund ..... 275,800  
 From Beginning Nonlapsing Balances .... 12,600  
 Schedule of Programs:  
 Judicial Conduct Commission ..... 288,400

**Item 46**

To Department of Administrative Services - Post Conviction Indigent Defense  
 From General Fund ..... 33,900  
 From Beginning Nonlapsing Balances ... 102,900  
 From Closing Nonlapsing Balances .... (102,900)  
 Schedule of Programs:  
 Post Conviction Indigent Defense Fund ..... 33,900

**Item 47**

To Department of Administrative Services - Purchasing  
 From General Fund ..... 796,600  
 Schedule of Programs:  
 Purchasing and General Services ..... 796,600

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the

Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the Division of Purchasing and General Services, whose mission is to provide its customers best value goods and services: (1) increase the average discount on State of Utah Best Value Cooperative contracts (baseline: 32%, target: 40%); (2) increase the number of State of Utah Best Value Cooperative Contracts for public entities to use (baseline: 950, target: 1000); and (3) increase the amount of total spend on State of Utah Best Value Cooperative contracts (baseline: \$550 million, target: \$600 million).

**Item 48**

To Department of Administrative Services - State Archives

From General Fund	3,253,000
From Federal Funds	42,500
From Dedicated Credits Revenue	66,400

Schedule of Programs:

Archives Administration	1,491,100
Patron Services	436,900
Preservation Services	838,900
Records Analysis	595,000

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for State Archives, whose mission is “to assist Utah government agencies in the efficient management of their records, to preserve those records of enduring value, and to provide quality access to public information”: (1) historic records, images and metadata, posted online and free to the public, through mass digitization, volume increased per patron research reporting period (target: at least a 10% increase); and (2) government employees receiving training and certified as a records officer (target: at least a 10% increase).

**Item 49**

To Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts

From General Fund Restricted - Mineral Lease	32,756,400
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Schedule of Programs:

Mineral Lease Payments	29,504,500
Mineral Lease Payments in Lieu	3,251,900

**CAPITAL BUDGET**

**Item 50**

To Capital Budget - Capital Improvements

From General Fund	66,788,100
From Education Fund	71,551,000

Schedule of Programs:

Capital Improvements	138,339,100
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**Item 51**

To Capital Budget - Pass-Through

From General Fund	3,000,000
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Schedule of Programs:

Olympic Park Improvement	3,000,000
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The Legislature intends that appropriations for Olympic Park Improvement may be used for improvements at the Utah Olympic Park, Utah Olympic Oval, and/or Soldier Hollow Nordic Center.

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

**Item 52**

To State Board of Bonding Commissioners - Debt Service - Debt Service

From General Fund	25,534,600
From Transportation Investment Fund of 2005	308,658,100
From Federal Funds	1,578,300
From Dedicated Credits Revenue	26,131,900
From County of First Class Highway Projects Fund	12,263,200

From Beginning Nonlapsing Balances

	20,541,000
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From Closing Nonlapsing Balances

	(20,541,000)
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Schedule of Programs:

G.O. Bonds - State Govt	25,534,600
G.O. Bonds - Transportation	320,921,300
Revenue Bonds Debt Service	27,710,200

**DEPARTMENT OF TECHNOLOGY SERVICES**

**Item 53**

To Department of Technology Services - Chief Information Officer

From General Fund	811,300
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Schedule of Programs:

Chief Information Officer	811,300
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The Legislature intends that the Department of Technology Services report by October 31, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Chief Information Officer, whose mission is “to enable our partner agencies to securely leverage technology to better serve the residents of the State of Utah”: (1) data security - ongoing systematic prioritization of high-risk areas across the state (target: score below 5,000); (2) application development - satisfaction scores on application development projects from agencies (target: average at least 83%); and (3) procurement and deployment - ensure state employees receive computers in a timely manner (target: at least 75%).

**Item 54**

To Department of Technology Services - Integrated Technology Division

From General Fund	1,408,500
From Federal Funds	500,200
From Dedicated Credits Revenue	1,209,700
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct.	333,100

Schedule of Programs:

Automated Geographic Reference Center	3,451,500
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The Legislature intends that the Department of Technology Services report by October 31, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Automated Geographic Reference Center (AGRC), whose mission is “to encourage and facilitate beneficial uses of geospatial information and technology for Utah”: (1) uptime for AGRC’s portfolio of streaming geographic data web services and State Geographic Information Database connection services (target: at least 99.5%); (2) road centerline and addressing map data layer required for Next Generation 911 services is published monthly to the State Geographic Information Database (target: at least 120 county-sourced updates including 50 updates from Utah’s class I and II counties); and (3) uptime for AGRC’s TURN GPS real-time, high precision geo-positioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (target: at least 99.5%).

**TRANSPORTATION**

**Item 55**

To Transportation – Aeronautics  
 From Dedicated Credits Revenue ..... 410,800  
 From Aeronautics Restricted  
     Account ..... 7,233,300  
 Schedule of Programs:  
     Administration ..... 704,000  
     Aid to Local Airports ..... 2,240,000  
     Airplane Operations ..... 1,083,900  
     Airport Construction ..... 3,536,100  
     Civil Air Patrol ..... 80,100

**Item 56**

To Transportation – B and C Roads  
 From Transportation Fund ..... 181,658,400  
 Schedule of Programs:  
     B and C Roads ..... 181,658,400

**Item 57**

To Transportation – Cooperative Agreements  
 From Federal Funds ..... 50,323,800  
 From Expendable Receipts ..... 19,897,100  
 Schedule of Programs:  
     Cooperative Agreements ..... 70,220,900

**Item 58**

To Transportation – Engineering Services  
 From General Fund ..... 1,000,000  
 From Transportation Fund ..... 27,385,200  
 From Federal Funds ..... 30,696,800  
 From Dedicated Credits Revenue ..... 26,400  
 Schedule of Programs:  
     Civil Rights ..... 269,500  
     Construction Management ..... 1,874,200  
     Engineer Development Pool ..... 1,722,600  
     Engineering Services ..... 2,780,300  
     Environmental ..... 1,889,100  
     Highway Project Management Team ... 373,300  
     Planning and Investment ..... 567,600  
     Materials Lab ..... 4,105,700

Preconstruction Admin ..... 2,388,700  
 Program Development ..... 31,814,400  
 Research ..... 4,516,900  
 Right-of-Way ..... 3,010,400  
 Structures ..... 3,795,700

**Item 59**

To Transportation – Operations/  
 Maintenance Management  
 From Transportation Fund ..... 160,202,400  
 From Transportation Investment  
     Fund of 2005 ..... 6,901,400  
 From Federal Funds ..... 9,079,700  
 From Dedicated Credits Revenue ..... 2,816,800  
 Schedule of Programs:  
     Equipment Purchases ..... 7,598,700  
     Field Crews ..... 15,823,400  
     Lands and Buildings ..... 2,900,000  
     Maintenance Administration ..... 11,961,100  
     Maintenance Planning ..... 1,770,700  
     Region 1 ..... 23,056,600  
     Region 2 ..... 30,447,000  
     Region 3 ..... 21,542,500  
     Region 4 ..... 44,629,300  
     Seasonal Pools ..... 1,172,500  
     Shops ..... 320,300  
     Traffic Operations Center ..... 14,309,300  
     Traffic Safety/Tramway ..... 3,468,900

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Fund of 2005 to address maintenance and preservation issues on other state highways.

**Item 60**

To Transportation – Region Management  
 From Transportation Fund ..... 26,782,100  
 From Federal Funds ..... 3,070,400  
 From Dedicated Credits Revenue ..... 29,600  
 Schedule of Programs:  
     Cedar City ..... 386,200  
     Price ..... 376,700  
     Region 1 ..... 6,358,100  
     Region 2 ..... 10,422,200  
     Region 3 ..... 5,465,100  
     Region 4 ..... 6,623,700  
     Richfield ..... 250,100

**Item 61**

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

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in Section 72-8-104, Utah Code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these

funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

**Item 62**

To Transportation – Share the Road  
 From General Fund Restricted – Share the Road Bicycle Support ..... 25,000  
 Schedule of Programs:  
 Share the Road ..... 25,000

**Item 63**

To Transportation – Support Services  
 From General Fund ..... 2,570,000  
 From Transportation Fund ..... 36,666,900  
 From Federal Funds ..... 4,147,400  
 Schedule of Programs:  
 Administrative Services ..... 6,259,100  
 Building and Grounds ..... 987,500  
 Community Relations ..... 1,253,400  
 Comptroller ..... 3,049,300  
 Data Processing ..... 12,035,500  
 Human Resources Management ..... 3,091,900  
 Internal Auditor ..... 1,188,300  
 Ports of Entry ..... 10,002,700  
 Procurement ..... 1,251,400  
 Risk Management ..... 4,265,200

The Legislature intends that the Department of Transportation report by October 31, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of reducing crashes, injuries, and fatalities: (1) traffic fatalities (target: at least a 2% reduction from 3-year rolling average); (2) traffic serious injuries (target: at least a 2% reduction from 3-year rolling average); (3) traffic crashes (target: at least a 2% reduction from 3-year rolling average); (4) internal fatalities (target: zero); (5) internal injuries (target: injury rate below 6.5%); and (6) internal equipment damage (target: equipment damage rate below 7.5%). The department will use the strategies contained in the 2019 UDOT Strategic Direction Document to accomplish these targets including implementing safety infrastructure improvements, partnering with law enforcement and emergency services, improving employee safety, and public outreach and education.

The Legislature intends that the Department of Transportation report by October 31, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of preserving infrastructure: (1) pavement performance (target: at least 50% of pavements in good condition and less than 10% of pavements in poor condition); (2) maintain the health of structures (target: at least 80% in fair or good condition); (3) maintain the health of Automated Transportation Management Systems (ATMS) (target: at least 90% in good

condition); and (4) maintain the health of signals (target: at least 90% in good condition). The department will use the strategies contained in the 2019 UDOT Strategic Direction Document to accomplish these targets including pavement management, bridge management, and ATMS/Signal system management.

The Legislature intends that the Department of Transportation report by October 31, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of optimizing mobility: (1) delay along I-15 (target: overall composite annual score above 90); (2) maintain a reliable fast condition on I-15 along the Wasatch Front (target: at least 85% of segments); (3) achieve optimal use of snow and ice equipment and materials (target: at least 92% effectiveness); and (4) support increase of trips by public transit (target: at least 10%). The department will use the strategies contained in the 2019 UDOT Strategic Direction Document to accomplish these targets including; strategic capacity improvements, efficient operations, and facilitating travel choices.

**Item 64**

To Transportation – Transportation Investment Fund Capacity Program  
 From Transportation Investment Fund of 2005 ..... 578,001,400  
 Schedule of Programs:  
 Transportation Investment Fund Capacity Program ..... 578,001,400

**Item 65**

To Transportation – Motorcycle Safety Awareness  
 From General Fund Restricted – Motorcycle Safety Awareness Support Rest Account ..... 12,500  
 Schedule of Programs:  
 Motorcycle Safety Awareness ..... 12,500

**Item 66**

To Transportation – Amusement Ride Safety  
 From General Fund ..... 350,800  
 Schedule of Programs:  
 Amusement Ride Safety ..... 350,800

**Subsection 2(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 67**

To Department of Administrative Services – State Archives Fund  
 From Beginning Fund Balance ..... 2,600  
 From Closing Fund Balance ..... (2,600)

**Item 68**

To Department of Administrative Services -  
 State Debt Collection Fund  
 From Dedicated Credits Revenue . . . . . 3,474,100  
 From Other Financing Sources . . . . . 200  
 From Beginning Fund Balance . . . . . 2,016,700  
 From Closing Fund Balance . . . . . (3,120,500)  
 Schedule of Programs:  
 State Debt Collection Fund . . . . . 2,370,500

**Item 69**

To Department of Administrative Services -  
 Wire Estate Memorial Fund  
 From Beginning Fund Balance . . . . . 168,200  
 From Closing Fund Balance . . . . . (168,200)

**TRANSPORTATION**

**Item 70**

To Transportation - County of the First  
 Class Highway Projects Fund  
 From Licenses/Fees . . . . . 1,997,900  
 From Interest Income . . . . . 682,800  
 From Revenue Transfers . . . . . 27,977,500  
 From Beginning Fund Balance . . . . . 20,282,200  
 From Closing Fund Balance . . . . . (50,940,400)

**Subsection 2(c). Business-like Activities.**

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

**DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS**

**Item 71**

To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management  
 From Dedicated Credits Revenue . . . . . 35,080,400  
 From Beginning Fund Balance . . . . . 3,508,200  
 From Closing Fund Balance . . . . . (5,703,800)  
 Schedule of Programs:  
 ISF - Facilities Management . . . . . 32,884,800  
 Budgeted FTE . . . . . 162.0  
 Authorized Capital Outlay . . . . . 151,800

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for ISF - Facilities Management, whose mission is "to provide professional building maintenance services to State facilities, agency customers, and the general public": average maintenance cost per square foot compared to the private sector (target: at least 18% less than the private market).

**Item 72**

To Department of Administrative Services Internal Service Funds - Division of Finance  
 From Dedicated Credits Revenue . . . . . 621,300  
 From Beginning Fund Balance . . . . . 39,800  
 From Closing Fund Balance . . . . . (40,800)  
 Schedule of Programs:  
 ISF - Purchasing Card . . . . . 620,300  
 Budgeted FTE . . . . . 1.0

**Item 73**

To Department of Administrative Services Internal Service Funds - Division of Fleet Operations  
 From Dedicated Credits Revenue . . . . . 60,975,500  
 From Other Financing Sources . . . . . 400,000  
 From Beginning Fund Balance . . . . . 52,459,300  
 From Closing Fund Balance . . . . . (51,220,100)  
 Schedule of Programs:  
 ISF - Fuel Network . . . . . 28,157,300  
 ISF - Motor Pool . . . . . 33,224,300  
 ISF - Travel Office . . . . . 542,400  
 Transactions Group . . . . . 690,700  
 Budgeted FTE . . . . . 41.0  
 Authorized Capital Outlay . . . . . 19,300,000

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the Division of Fleet Operations, whose mission is "emphasizing customer service, provide safe, efficient, dependable, and responsible transportation options": (1) improve EPA emission standard certification level for the State's light duty fleet in non-attainment areas (target: reduce average fleet emission level by 5 points annually); (2) maintain the financial solvency of the Division of Fleet Operations (target: 30% or less of the allowable debt); and (3) audit agency customers' mobility options and develop improvement plans for audited agencies (target: at least 4 annually).

**Item 74**

To Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services  
 From Dedicated Credits Revenue . . . . . 20,191,000  
 From Other Financing Sources . . . . . 27,500  
 From Beginning Fund Balance . . . . . 8,907,900  
 From Closing Fund Balance . . . . . (9,262,400)  
 Schedule of Programs:  
 ISF - Central Mailing . . . . . 12,714,500  
 ISF - Cooperative Contracting . . . . . 3,920,800  
 ISF - Federal Surplus Property . . . . . 76,700  
 ISF - Print Services . . . . . 2,487,600  
 ISF - State Surplus Property . . . . . 664,400  
 Budgeted FTE . . . . . 72.5  
 Authorized Capital Outlay . . . . . 4,070,000

**Item 75**

To Department of Administrative Services Internal Service Funds - Risk Management  
 From Dedicated Credits Revenue . . . . . 404,900  
 From Premiums . . . . . 52,650,500  
 From Interest Income . . . . . 1,853,100  
 From Other Financing Sources . . . . . 415,700

From Beginning Fund Balance .....	6,864,800
From Closing Fund Balance .....	(9,161,600)
Schedule of Programs:	
ISF - Risk Management	
Administration .....	404,900
ISF - Workers' Compensation .....	7,319,900
Risk Management - Auto .....	1,911,700
Risk Management - Liability .....	23,347,500
Risk Management - Property .....	20,043,400
Budgeted FTE .....	32.0

The Legislature intends that the Department of Administrative Services report by October 30, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the Division of Risk Management, whose mission is "to insure, restore and protect State resources through innovation and collaboration": (1) follow up on life safety findings on onsite inspections (target: 100%); (2) annual independent claims management audit (target: at least 96%); and (3) ensure liability fund reserves are actuarially and economically sound (baseline: 90.57%; target: 100% of the actuary's recommendation).

**DEPARTMENT OF TECHNOLOGY  
SERVICES INTERNAL SERVICE FUNDS**

**Item 76**

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

From Dedicated Credits Revenue ...	122,719,300
From Beginning Fund Balance .....	22,980,200
From Closing Fund Balance .....	(22,688,500)
Schedule of Programs:	
ISF - Enterprise Technology	
Division .....	123,011,000
Budgeted FTE .....	730.6
Authorized Capital Outlay .....	6,000,000

The Legislature intends that the Department of Technology Services report by October 31, 2020 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Enterprise Technology, whose mission is "to enable our partner agencies to securely leverage technology to better serve the residents of the State of Utah": (1) customer satisfaction - measure customers' experiences and satisfaction with IT services (target: an average of at least 4.5 out of 5); (2) application availability - monitor DTS performance and availability of key agency business applications/systems (target: at least 99%); and (3) competitive rates - ensure all DTS rates are market competitive or better (target: 100%).

**TRANSPORTATION**

**Item 77**

To Transportation - State Infrastructure Bank Fund

From Interest Income .....	3,194,000
From Beginning Fund Balance .....	86,402,500
From Closing Fund Balance .....	(89,594,400)

Schedule of Programs:

State Infrastructure Bank Fund .....	2,100
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**Subsection 2(d). Capital Project Funds.** The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**CAPITAL BUDGET**

**Item 78**

To Capital Budget - Capital Development Fund

From General Fund, One-Time .....	20,000,000
From Education Fund, One-Time ....	23,500,000
Schedule of Programs:	
Capital Development Fund .....	43,500,000

**Item 79**

To Capital Budget - DFCM Capital Projects Fund

From Revenue Transfers .....	874,069,400
From Other Financing Sources .....	10,220,000
From Beginning Fund Balance .....	625,919,400
From Closing Fund Balance .....	(972,058,800)
Schedule of Programs:	
DFCM Capital Projects Fund .....	538,150,000

**Item 80**

To Capital Budget - DFCM Prison Project Fund

From General Fund .....	110,000,000
From Interest Income .....	833,000
From Beginning Fund Balance .....	229,378,500
From Closing Fund Balance .....	(46,000,000)
Schedule of Programs:	
DFCM Prison Project Fund .....	294,211,500

**Item 81**

To Capital Budget - SBOA Capital Projects Fund

From Dedicated Credits Revenue .....	450,000
From Other Financing Sources .....	10,200,000
From Beginning Fund Balance .....	12,827,700
From Closing Fund Balance .....	(3,477,700)
Schedule of Programs:	
SBOA Capital Projects Fund .....	20,000,000

**Item 82**

To Capital Budget - Higher Education Capital Projects Fund

From General Fund .....	26,000,000
From General Fund, One-Time ....	(13,000,000)
From Education Fund .....	47,000,000
From Education Fund, One-Time ..	(23,500,000)
Schedule of Programs:	
Higher Education Capital Projects Fund .....	36,500,000

**Item 83**

To Capital Budget - Technical Colleges Capital Projects Fund

From General Fund .....	14,000,000
From General Fund, One-Time .....	(7,000,000)
Schedule of Programs:	
Technical Colleges Capital Projects Fund .....	7,000,000

**TRANSPORTATION**

**Item 84**

To Transportation - Transportation Investment Fund of 2005

From Transportation Fund .....	32,037,400
From Licenses/Fees .....	93,691,100



From Interest Income . . . . .	8,141,000
From Designated Sales Tax . . . . .	644,107,000
From Revenue Transfers . . . . .	2,665,900
From Other Financing Sources . . . . .	175,824,000
From Beginning Fund Balance . . . . .	387,463,900
From Closing Fund Balance . . . . .	(269,261,400)
Schedule of Programs:	
Transportation Investment	
Fund . . . . .	1,074,668,900

**Item 85**

To Transportation - Transit	
Transportation Investment Fund	
From General Fund, One-Time . . . . .	6,000,000
Schedule of Programs:	
Transit Transportation Investment	
Fund . . . . .	6,000,000

**Section 3. FY 2021 Accountable Process**

**Budget.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 3(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**TRANSPORTATION**

**Item 86**

To Transportation - Highway System Construction	
From Transportation Fund . . . . .	166,044,000
From Federal Funds . . . . .	358,690,700
From Expendable Receipts . . . . .	1,550,000
Schedule of Programs:	
Federal Construction . . . . .	452,559,400
Rehabilitation/Preservation . . . . .	73,725,300

**Section 4. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**CHAPTER 11  
S. B. 7**

Passed February 5, 2020  
Approved February 24, 2020  
Effective February 24, 2020

**NATIONAL GUARD, VETERANS' AFFAIRS,  
AND LEGISLATURE BASE BUDGET**

Chief Sponsor: Jerry W. Stevenson  
House Sponsor: Bradley G. Last

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for the use and support of programs reviewed under the accountable budget process; and
- ▶ provides appropriations for other purposes as described.

**Money Appropriated in this Bill:**

This bill appropriates \$48,695,500 in operating and capital budgets for fiscal year 2020, including:

- ▶ (\$125,000) from the General Fund; and
- ▶ \$48,820,500 from various sources as detailed in this bill.

This bill appropriates (\$61,600) in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$157,727,000 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$94,106,700 from the General Fund; and
- ▶ \$63,620,300 from various sources as detailed in this bill.

This bill appropriates \$42,558,400 in expendable funds and accounts for fiscal year 2021.

This bill appropriates \$9,500 in restricted fund and account transfers for fiscal year 2021, all of which is from the General Fund.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to

amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**CAPITOL PRESERVATION BOARD**

**Item 1**

To Capitol Preservation Board  
From Beginning Nonlapsing  
Balances ..... 53,598,700  
Schedule of Programs:  
Capitol Preservation Board ..... 53,598,700

**LEGISLATURE**

**Item 2**

To Legislature - Senate  
From Beginning Nonlapsing  
Balances ..... (274,900)  
From Closing Nonlapsing Balances ..... 274,900

**Item 3**

To Legislature - House of Representatives  
From Beginning Nonlapsing Balances ... 214,600  
From Closing Nonlapsing Balances .... (214,600)

**Item 4**

To Legislature - Office of Legislative Research  
and General Counsel  
From Beginning Nonlapsing  
Balances ..... 1,482,000  
From Closing Nonlapsing Balances ... (2,497,000)  
Schedule of Programs:  
Administration ..... (1,015,000)

**Item 5**

To Legislature - Office of the Legislative  
Fiscal Analyst  
From Beginning Nonlapsing  
Balances ..... (155,800)  
From Closing Nonlapsing Balances ..... 155,800

**Item 6**

To Legislature - Office of the Legislative  
Auditor General  
From Beginning Nonlapsing  
Balances ..... (81,600)  
From Closing Nonlapsing Balances ..... 81,600

**Item 7**

To Legislature - Legislative Support  
From Beginning Nonlapsing Balances .... 31,600  
From Closing Nonlapsing Balances .... (31,600)

**Item 8**

To Legislature - Legislative Services  
From General Fund, One-Time ..... (125,000)  
From Beginning Nonlapsing Balances ... 602,300  
From Closing Nonlapsing Balances .... (602,300)  
Schedule of Programs:  
Administration ..... (125,000)

**UTAH NATIONAL GUARD**

**Item 9**

To Utah National Guard

From General Fund Restricted -  
 West Traverse Sentinel  
 Landscape Fund, One-Time ..... 1,000,000  
 From Beginning Nonlapsing Balances ... 153,900  
 From Closing Nonlapsing Balances ... (5,464,300)  
 Schedule of Programs:  
 Administration ..... (5,700)  
 Operations and Maintenance ..... (5,335,600)  
 Tuition Assistance ..... 30,900  
 West Traverse Sentinel Landscape .. 1,000,000

**DEPARTMENT OF VETERANS  
 AND MILITARY AFFAIRS**

**Item 10**

To Department of Veterans and Military  
 Affairs - Veterans and Military Affairs  
 From Beginning Nonlapsing Balances ... 547,200  
 Schedule of Programs:  
 Cemetery ..... 250,000  
 Outreach Services ..... 284,700  
 Transportation of Veterans to Memorials 12,500

**Subsection 1(b). Expendable Funds and  
 Accounts.** The Legislature has reviewed the  
 following expendable funds. The Legislature  
 authorizes the State Division of Finance to  
 transfer amounts between funds and accounts  
 as indicated. Outlays and expenditures from the  
 funds or accounts to which the money is  
 transferred may be made without further  
 legislative action, in accordance with statutory  
 provisions relating to the funds or accounts.

**CAPITOL PRESERVATION BOARD**

**Item 11**

To Capitol Preservation Board - State Capitol Fund  
 From Beginning Fund Balance ..... 656,500  
 From Closing Fund Balance ..... (718,100)  
 Schedule of Programs:  
 State Capitol Fund ..... (61,600)

**DEPARTMENT OF VETERANS  
 AND MILITARY AFFAIRS**

**Item 12**

To Department of Veterans and Military Affairs -  
 Utah Veterans Nursing Home Fund  
 From Beginning Fund Balance ..... 1,960,500  
 From Closing Fund Balance ..... (1,960,500)

**Section 2. FY 2021 Appropriations.** The  
 following sums of money are appropriated for  
 the fiscal year beginning July 1, 2020 and  
 ending June 30, 2021.

**Subsection 2(a). Operating and Capital  
 Budgets.** Under the terms and conditions of  
 Title 63J, Chapter 1, Budgetary Procedures Act,  
 the Legislature appropriates the following sums  
 of money from the funds or accounts indicated  
 for the use and support of the government of the  
 state of Utah.

**CAPITOL PRESERVATION BOARD**

**Item 13**

To Capitol Preservation Board

From General Fund ..... 50,741,000  
 Schedule of Programs:  
 Capitol Preservation Board ..... 50,741,000

**LEGISLATURE**

**Item 14**

To Legislature - Senate  
 From General Fund ..... 3,208,500  
 From General Fund, One-Time ..... 150,000  
 From Beginning Nonlapsing  
 Balances ..... 1,838,300  
 From Closing Nonlapsing Balances ... (1,838,300)  
 Schedule of Programs:  
 Administration ..... 3,358,500

**Item 15**

To Legislature - House of Representatives  
 From General Fund ..... 5,354,600  
 From Beginning Nonlapsing  
 Balances ..... 3,789,700  
 From Closing Nonlapsing Balances ... (3,789,700)  
 Schedule of Programs:  
 Administration ..... 5,354,600

**Item 16**

To Legislature - Office of Legislative Research  
 and General Counsel  
 From General Fund ..... 12,112,400  
 From Beginning Nonlapsing  
 Balances ..... 6,076,900  
 From Closing Nonlapsing Balances ... (4,448,900)  
 Schedule of Programs:  
 Administration ..... 13,740,400

**Item 17**

To Legislature - Office of the Legislative  
 Fiscal Analyst  
 From General Fund ..... 3,724,200  
 From Beginning Nonlapsing  
 Balances ..... 1,405,600  
 From Closing Nonlapsing Balances ... (1,405,600)  
 Schedule of Programs:  
 Administration and Research ..... 3,724,200

**Item 18**

To Legislature - Office of the Legislative  
 Auditor General  
 From General Fund ..... 4,858,300  
 From Beginning Nonlapsing  
 Balances ..... 1,048,600  
 From Closing Nonlapsing Balances ... (1,048,600)  
 Schedule of Programs:  
 Administration ..... 4,858,300

**UTAH NATIONAL GUARD**

**Item 19**

To Utah National Guard  
 From General Fund ..... 7,471,000  
 From Federal Funds ..... 58,232,600  
 From Dedicated Credits Revenue ..... 45,100  
 From Beginning Nonlapsing  
 Balances ..... 5,464,300  
 From Closing Nonlapsing Balances ... (3,000,000)  
 Schedule of Programs:  
 Administration ..... 1,321,800  
 Operations and Maintenance ..... 65,691,200  
 Tuition Assistance ..... 1,200,000

**DEPARTMENT OF VETERANS  
AND MILITARY AFFAIRS**

**Item 20**

To Department of Veterans and Military Affairs -  
Veterans and Military Affairs  
From General Fund ..... 3,680,500  
From Federal Funds ..... 669,200  
From Dedicated Credits Revenue ..... 306,200  
From General Fund Restricted -  
Transportation of Veterans to  
Memorials Supp Rest Acct ..... 12,500  
Schedule of Programs:  
Administration ..... 860,700  
Cemetery ..... 809,900  
Military Affairs ..... 804,100  
Outreach Services ..... 1,921,900  
State Approving Agency ..... 259,300  
Transportation of Veterans to  
Memorials ..... 12,500

**Subsection 2(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**CAPITOL PRESERVATION BOARD**

**Item 21**

To Capitol Preservation Board - State Capitol Fund  
From Dedicated Credits Revenue ..... 498,900  
From Beginning Fund Balance ..... 1,469,200  
From Closing Fund Balance ..... (1,310,700)  
Schedule of Programs:  
State Capitol Fund ..... 657,400

**UTAH NATIONAL GUARD**

**Item 22**

To Utah National Guard - National  
Guard MWR Fund  
From Dedicated Credits Revenue ..... 1,207,900  
From Beginning Fund Balance ..... 133,800  
From Closing Fund Balance ..... (133,800)  
Schedule of Programs:  
National Guard MWR Fund ..... 1,207,900

**DEPARTMENT OF VETERANS  
AND MILITARY AFFAIRS**

**Item 23**

To Department of Veterans and Military Affairs -  
Utah Veterans Nursing Home Fund  
From Federal Funds ..... 40,461,100  
From Dedicated Credits Revenue ..... 232,000  
From Beginning Fund Balance ..... 8,960,500  
From Closing Fund Balance ..... (8,960,500)  
Schedule of Programs:  
Veterans Nursing Home Fund ..... 40,693,100

**Subsection 2(c). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the

following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**Item 24**

To General Fund Restricted - National  
Guard Death Benefits Account  
From General Fund ..... 9,500  
Schedule of Programs:  
National Guard Death Benefit Account .. 9,500

**Section 3. FY 2021 Accountable Process**

**Budget.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 3(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**LEGISLATURE**

**Item 25**

To Legislature - Legislative Support  
From General Fund ..... 413,200  
From Beginning Nonlapsing Balances ... 306,100  
From Closing Nonlapsing Balances .... (306,100)  
Schedule of Programs:  
Administration ..... 413,200

**Item 26**

To Legislature - Legislative Services  
From General Fund ..... 2,393,000  
From Dedicated Credits Revenue ..... 262,400  
From Beginning Nonlapsing  
Balances ..... 1,615,400  
From Closing Nonlapsing Balances ... (1,615,400)  
Schedule of Programs:  
Human Resources ..... 347,800  
Administration ..... 1,418,700  
Legislative Printing ..... 888,900

**Section 4. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**CHAPTER 12****S. B. 121**

Passed February 27, 2020  
 Approved February 28, 2020  
 Effective February 28, 2020

**MEDICAL CANNABIS AMENDMENTS**

Chief Sponsor: Evan J. Vickers  
 House Sponsor: Brad M. Daw

**LONG TITLE****General Description:**

This bill amends provisions related to medical cannabis.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends certain dosage form requirements for cannabinoid products;
- ▶ allows for the use of cannabidiol from outside the state in certain circumstances;
- ▶ provides for cannabis cultivation facilities rather than cannabis processing facilities to acquire industrial hemp waste from industrial hemp cultivators and processors;
- ▶ requires licensing agencies to give preference to certain abilities among license applicants;
- ▶ allows certain medical providers to access the electronic verification system regarding a patient the provider treats;
- ▶ amends proximity requirements regarding community locations;
- ▶ amends provisions regarding access to an inventory control system by certain financial institutions that the Division of Finance validates;
- ▶ allows the Utah Department of Agriculture and Food (UDAF) to grant a partial-year limited license to operate as a cannabis processing facility in certain circumstances;
- ▶ increases the ability of UDAF to revoke a cannabis production establishment license;
- ▶ allows for UDAF to operate an independent cannabis testing laboratory;
- ▶ clarifies provisions regarding license renewal;
- ▶ allows a cannabis cultivation facility to operate using up to two locations;
- ▶ allows for the use of stacking plants within allotted square footage limitations;
- ▶ allows for a cannabis production establishment to hold educational events under certain circumstances and in accordance with UDAF rules;
- ▶ allows an individual without a state cannabis-related license to transport medical cannabis devices in certain circumstances;
- ▶ amends provisions regarding flavoring of cannabis products;
- ▶ allows the Cannabinoid Product Board to review a broader category of scientific research;
- ▶ clarifies legal dosage limits;
- ▶ amends the directions of use and dosing guidelines that may be associated with a medical cannabis recommendation;
- ▶ amends the medicinal dosage form for unprocessed cannabis flower;

- ▶ amends provisions regarding access to the electronic verification system by law enforcement and certain medical staff;
- ▶ amends provisions regarding the obtaining and renewing of medical cannabis cards;
- ▶ reduces the degree required for the professional who diagnoses or confirms post-traumatic stress disorder as a qualifying condition;
- ▶ requires the Compassionate Use Board to review recommendations for the use of medical cannabis devices by patients under a certain age to vaporize medical cannabis;
- ▶ provides for an expedited petition process from the Compassionate Use Board to the Department of Health (DoH);
- ▶ exempts the Compassionate Use Board from certain compensation restrictions;
- ▶ amends the patient limits on qualified medical providers and the specializations which allow qualified medical providers to recommend medical cannabis to a larger patient population;
- ▶ amends provisions regarding medical professionals advertising regarding medical cannabis;
- ▶ provides certain immunity from liability for employees and agents of healthcare facilities in certain circumstances;
- ▶ provides protections for state or political subdivisions employees using medical cannabis;
- ▶ provides that private employers are not required to accommodate the use of medical cannabis;
- ▶ amends provisions regarding designated caregivers for certain minors and patients in certain health care facilities;
- ▶ directs DoH to establish a registration process that would allow out-of-state patients visiting the state to purchase medical cannabis within the state under certain conditions;
- ▶ amends certain criminal penalties, including for certain nonresident patients, to be infractions on a first offense;
- ▶ increases the ability of DoH to revoke a medical cannabis pharmacy license;
- ▶ amends requirements for pharmacist counseling or consultation based on the directions of use and dosing guidelines that may accompany a medical cannabis recommendation;
- ▶ allows a medical cannabis pharmacy to purchase medical cannabis devices from a seller that does not have a state cannabis-related license;
- ▶ allow UDAF to conduct random sampling of medical cannabis in medical cannabis pharmacies;
- ▶ amends provisions regarding medical cannabis pharmacy advertising, including allowing a medical cannabis pharmacy to hold educational events under certain circumstances and in accordance with DoH rules;
- ▶ amends provisions regarding the transportation of medical cannabis and medical cannabis devices;
- ▶ prohibits a municipality or county that imposes certain restrictions on a medical cannabis pharmacy from restricting operations within certain hours;
- ▶ allows for the state central patient portal to facilitate electronic medical cannabis orders for an individual to obtain in person at a medical cannabis pharmacy;
- ▶ allows a pharmacy medical provider to transport medical cannabis in certain circumstances;

- ▶ provides that meetings of the Compassionate Use Board are closed meetings;
- ▶ amends the definition of marijuana;
- ▶ creates a rebuttable presumption for cannabidiol use in certain circumstances;
- ▶ exempts cannabis metabolite from a driving-related crime in certain circumstances;
- ▶ adds a cannabis-based drug to the Controlled Substances Act;
- ▶ amends the level of negligence required for certain marijuana-related vehicular injuries to constitute a felony;
- ▶ distinguishes medical cannabis devices from electronic cigarettes;
- ▶ exempts a lawful medical cannabis user from a weapons restriction;
- ▶ provides for expungement of cannabis-related convictions in certain circumstances; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 4-41-102, as last amended by Laws of Utah 2019, Chapter 23
- 4-41-402, as last amended by Laws of Utah 2019, Chapter 23
- 4-41a-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-103, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-201, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-203, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 4-41a-204, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-205, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-403, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-404, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-602, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 4-41a-603, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61-202, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-103, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-104, as last amended by Laws of Utah 2019, Chapter 136
- 26-61a-105, as last amended by Laws of Utah 2019, Chapter 341
- 26-61a-106, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-107, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

- 26-61a-111, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-113, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-201, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-202, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-204, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-301, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-303, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-305, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-501, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-502, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-504, as last amended by Laws of Utah 2019, Chapter 136
- 26-61a-505, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-506, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-507, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-601, as repealed and reenacted by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-603, as repealed and reenacted by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-605, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 41-6a-517, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 52-4-205, as last amended by Laws of Utah 2019, Chapter 417
- 58-37-2, as last amended by Laws of Utah 2015, Chapter 258
- 58-37-3.7, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 58-37-3.9, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 58-37-4, as last amended by Laws of Utah 2019, Chapters 59 and 343
- 58-37-8, as last amended by Laws of Utah 2019, Chapter 58
- 58-67-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 58-68-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 76-10-101, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 132
- 76-10-528, as last amended by Laws of Utah 2019, Chapter 458
- 77-40-103 (Superseded 05/01/20), as last amended by Laws of Utah 2014, Chapter 263
- 77-40-103 (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448

77-40-107 (Superseded 05/01/20), as last amended by Laws of Utah 2018, Chapter 266  
 77-40-107 (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448  
 78A-2-231, as enacted by Laws of Utah 2019, First Special Session, Chapter 5  
 78A-6-115, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

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

**Section 1. Section 4-41-102 is amended to read:**

**4-41-102. Definitions.**

As used in this chapter:

(1) "Cannabinoid product" means a chemical compound extracted from a hemp product that:

- (a) is processed into a medicinal dosage form; and
- (b) contains less than 0.3% tetrahydrocannabinol by dry weight.

(2) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

(3) "Industrial hemp certificate" means a certificate that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

(4) "Industrial hemp license" means a license that the department issues to a person for the purpose of growing, cultivating, processing, or marketing industrial hemp or an industrial hemp product.

(5) "Industrial hemp product" means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(6) "Licensee" means an individual or business entity possessing a license that the department issues under this chapter to grow, cultivate, process, or market industrial hemp or an industrial hemp product.

(7) "Medicinal dosage form" means:

- (a) a tablet;
- (b) a capsule;
- (c) a concentrated oil;
- (d) a liquid suspension;

~~[(d)]~~ (e) a sublingual preparation;

~~[(e)]~~ (f) a topical preparation;

~~[(f)]~~ (g) a transdermal preparation;

~~[(g)]~~ (h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

~~[(h)]~~ (i) other preparations that the department approves.

(8) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

(9) "Research pilot program" means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

**Section 2. Section 4-41-402 is amended to read:**

**4-41-402. Cannabinoid sales and use authorized.**

(1) The sale or use of a cannabinoid product is prohibited:

- (a) except as provided in this chapter; or
- (b) unless the United States Food and Drug Administration approves the product.

(2) The department shall keep a list of registered cannabinoid products that the department has determined, in accordance with Section 4-41-403, are safe for human consumption.

(3) (a) A person may sell or use a cannabinoid product that is in the list of registered ~~[cannabinoid]~~ cannabinoid products described in Subsection (2).

(b) An individual may use cannabidiol or a cannabidiol product that is not in the list of registered cannabinoid products described in Subsection (2) if:

(i) the individual purchased the product outside the state; and

(ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled Substances Act.

**Section 3. Section 4-41a-102 is amended to read:**

**4-41a-102. Definitions.**

As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(2) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) (i) grows or intends to grow cannabis; [and] or

(ii) acquires or intends to acquire industrial hemp waste from a holder of an industrial hemp cultivator, licensed under Title 4, Chapter 41, Hemp and Cannabinoid Act, or an industrial hemp processor; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(3) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

(4) “Cannabis processing facility” means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment ~~or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act~~;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(5) “Cannabis processing facility agent” means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

(6) “Cannabis product” means the same as that term is defined in Section 26-61a-102.

(7) “Cannabis production establishment” means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(8) “Cannabis production establishment agent” means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(9) “Cannabis production establishment agent registration card” means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(10) “Community location” means a public or private elementary or secondary school, ~~a licensed child-care facility or preschool,~~ a church, a public library, a public playground, or a public park.

(11) “Cultivation space” means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

[414] (12) “Department” means the Department of Agriculture and Food.

[412] (13) “Family member” means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,

sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

[413] (14) (a) “Independent cannabis testing laboratory” means a person that:

~~(a)~~ (i) conducts a chemical or other analysis of cannabis or a cannabis product; or

~~(b)~~ (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) “Independent cannabis testing laboratory” includes a laboratory that the department operates in accordance with Subsection 4-41a-201(14).

[414] (15) “Independent cannabis testing laboratory agent” means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

[415] (16) “Inventory control system” means a system described in Section 4-41a-103.

[416] (17) “Medical cannabis” means the same as that term is defined in Section 26-61a-102.

[417] (18) “Medical cannabis card” means the same as that term is defined in Section 26-61a-102.

[418] (19) “Medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.

[419] (20) “Medical cannabis pharmacy agent” means the same as that term is defined in Section 26-61a-102.

[420] (21) “Medical cannabis research license” means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

[421] (22) “Medical cannabis research licensee” means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

[422] (23) “Medical cannabis treatment” means the same as that term is defined in Section 26-61a-102.

[423] (24) “Medicinal dosage form” means the same as that term is defined in Section 26-61a-102.

[424] (25) “Qualified medical provider” means the same as that term is defined in Section 26-61a-102.

[425] (26) “Qualified Production Enterprise Fund” means the fund created in Section 4-41a-104.

[426] (27) “Research university” means the same as that term is defined in Section 53B-7-702.

[427] (28) “State electronic verification system” means the system described in Section 26-61a-103.

[428] (29) “Tetrahydrocannabinol” means a substance derived from cannabis or a synthetic



equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

~~[(29)]~~ (30) “Total composite tetrahydrocannabinol” means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

**Section 4. Section 4-41a-103 is amended to read:**

**4-41a-103. Inventory control system.**

(1) Each cannabis production establishment and each medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment and a medical cannabis pharmacy shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

(c) includes a video recording system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(d) preserves compatibility with the state electronic verification system described in Section 26-61a-103.

(3) A cannabis production establishment and a medical cannabis pharmacy shall allow the ~~[department or the Department of Health]~~ following to access ~~[tø]~~ the cannabis production establishment’s or the medical cannabis pharmacy’s inventory control system at any time~~[-]~~:

(a) the department;

(b) the Department of Health; and

(c) a financial institution that the Division of Finance validates, in accordance with Subsection (6).

(4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

(6) (a) The Division of Finance shall, in consultation with the state treasurer:

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

(A) establish a process for validating financial institutions for access to an inventory control system in accordance with Subsections (3)(c) and (6)(b); and

(B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);

(ii) review applications the Division of Finance receives in accordance with the process established under Subsection (6)(a)(i);

(iii) validate a financial institution that meets the qualifications described in Subsection (6)(a)(i); and

(iv) provide a list of validated financial institutions to the department and the Department of Health.

(b) A financial institution that the Division of Finance validates under Subsection (6)(a):

(i) may only access an inventory control system for the purpose of reconciling transactions and other financial activity of cannabis production establishments, medical cannabis pharmacies, and medical cannabis couriers that use financial services that the financial institution provides;

(ii) may only access information related to financial transactions; and

(iii) may not access any identifying patient information.

**Section 5. Section 4-41a-201 is amended to read:**

**4-41a-201. Cannabis production establishment -- License.**

(1) ~~[A]~~ Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205:

(A) for a licensing process that the department initiated before September 23, 2019, the department shall use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, to review and rank applications for a cannabis production establishment license; and

(B) for a licensing process that the department initiates after September 23, 2019, the department shall issue a license to operate a cannabis production establishment in accordance with the procedures described in Subsection (2)(a)(iii).

(ii) The department may not issue a license to operate a cannabis production establishment to an

applicant who is not eligible for a license under this section.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) a financial or voting interest of 2% or greater in the proposed cannabis production establishment; or

(B) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department approves;

(iv) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or

(B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) (a) If the department approves an application for a license under this section:

~~(a)~~ (i) the applicant shall pay the department:

(A) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; ~~and~~ or

(B) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i)(A).

~~(b)~~ (ii) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(b) (i) (A) Before July 1, 2020, the department may issue a 120-day limited license to operate as a cannabis processing facility to an eligible applicant.

(B) Except as provided in Subsection (3)(b)(i)(C), the department may not renew the 120-day limited license.

(C) At the termination of the 120-day limited license, the department may issue a full-year license in accordance with Section 4-41a-203.

(ii) An applicant is eligible for the 120-day limited license described in Subsection (3)(b)(i) if the applicant:

(A) is eligible for a full-year license under this section; and

(B) has submitted an application for a full-year license under this section.

(4) (a) Except as provided in Subsection (4)(b), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The department may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

(8) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a, Utah Medical Cannabis Act, the department:

(a) shall consult with the Department of Health regarding the applicant if the license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; ~~and~~

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (8)[-]; and

(c) shall give preference to applicants that demonstrate an ability to increase efficiency and decrease costs to patients.

(9) The department may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the department issues the initial license;

~~(b) after the [cannabis production establishment makes] third of the same violation of this chapter [three times] in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;~~

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; ~~or~~

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application[-] within 14 calendar days after the licensee receives notice of the investigation or adverse action; or

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter.

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the department may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) Notwithstanding this section, the department:

(a) may operate an independent cannabis testing laboratory;

(b) if the department operates an independent cannabis testing laboratory, may not cease operating the independent cannabis testing laboratory unless:

(i) the department issues at least two licenses to independent cannabis testing laboratories; and

(ii) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

(c) after ceasing operations under Subsection (14)(b)(ii) shall resume independent cannabis testing laboratory operations at any time if:

(i) fewer than two licensed independent cannabis testing laboratories are operating; or

(ii) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

**Section 6. Section 4-41a-203 is amended to read:**

**4-41a-203. Renewal.**

The department shall renew a license issued under Section 4-41a-201 every year without opening a process described in Subsection 4-41a-201(2)(a) or convert a 120-day limited license described in Subsection 4-41a-201(3)(b) into a full-year license if, at the time of renewal:

(1) the licensee meets the requirements of Section 4-41a-201;

(2) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(3) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department approved under Subsection 4-41a-201(2)(b)(iii), the department approves the new operating plan.

**Section 7. Section 4-41a-204 is amended to read:**

**4-41a-204. Operating plan.**

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c)(i) or (d)(ii), a cannabis cultivation facility may not:

(i) for a facility that cultivates cannabis only indoors[~~:(A)~~], use more than 100,000 total square feet [~~for~~] of cultivation space[~~;-or (B) hang, suspend, stack or otherwise position plants above other plants to cultivate more plants through use of vertical space~~];

(ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may annually apply to the department for authorization to exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.

(ii) The department may, after conducting a review as described in Subsection 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

(i) the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation; and

(ii) notwithstanding Subsection (2)(b), the department may allocate the remaining difference in acreage or square footage under cultivation to another licensee.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.

(ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).

~~[(f) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.]~~

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

- (a) offered variety of cannabis product;
- (b) cannabinoid extraction method;
- (c) cannabinoid extraction equipment;
- (d) processing equipment;
- (e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

- (a) cannabis and cannabis product testing capability;
- (b) cannabis and cannabis product testing equipment; and
- (c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

(5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

**Section 8. Section 4-41a-205 is amended to read:**

**4-41a-205. Number of licenses -- Cannabis cultivation facilities.**

(1) Except as provided in Subsection (2)(a), the department shall issue at least five but not more than eight licenses to operate a cannabis cultivation facility.

(2) (a) The department may issue a number of licenses to operate a cannabis cultivation facility that, in addition to the licenses described in Subsection (1), does not cause the total number of licenses to exceed 15 if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(b) If the recipient of one of the initial licenses described in Subsection (1) ceases operations for any reason or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).

(3) If there are more qualified applicants than the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

(a) experience with establishing and successfully operating a business that involves:

- (i) complying with a regulatory environment;
- (ii) tracking inventory; and
- (iii) training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can increase efficiency and reduce the cost to patients of medical cannabis ~~[in a medicinal dosage form or cannabis products in a medicinal dosage form].~~

(4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

**Section 9. Section 4-41a-403 is amended to read:**

**4-41a-403. Advertising.**

(1) Except as provided in ~~[Subsection (2), (3), or (4)]~~ this section, a cannabis production

establishment may not advertise to the general public in any medium.

(2) A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.

(3) A cannabis production establishment may maintain a website that:

(a) contains information about the establishment and employees; and

(b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(4) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

(a) includes only:

(i) the cannabis production establishment's name and hours of operation; and

(ii) a green cross;

(b) does not exceed four feet by five feet in size; and

(c) complies with local ordinances regulating signage.

(5) (a) A cannabis production establishment may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A cannabis production establishment may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or Title 26, Chapter 61a, Utah Medical Cannabis Act;

(ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(iii) any marketing for a specific product from the cannabis production establishment or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a cannabis production establishment agent;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) a state employee.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

**Section 10. Section 4-41a-404 is amended to read:**

**4-41a-404. Medical cannabis transportation.**

(1) (a) Only the following individuals may transport cannabis [in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device] or a cannabis product under this chapter:

(i) a registered cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis[;] or cannabis product[, or medical cannabis device] to a relevant inventory control system;

(b) includes origin and destination information for any cannabis[;] or cannabis product[, or medical cannabis device] that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis[;] or cannabis product[, or medical cannabis device].

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis [in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device] or cannabis product to ensure that the cannabis[;] or cannabis product[, or medical cannabis device] remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis [cultivation facility] production establishment and [:(A)] another cannabis [cultivation facility; or (B) a cannabis processing facility] production establishment; and

(ii) between a cannabis processing facility and ~~[(A) another cannabis processing facility; (B) an independent cannabis testing laboratory; or (C)] a medical cannabis pharmacy.~~

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis~~[,] or cannabis product[, or medical cannabis devices]~~ than the manifest identifies, except for a de minimis administrative error:

- (i) the penalty described in Subsection (4)(b) does not apply; and
- (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

(6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

**Section 11. Section 4-41a-602 is amended to read:**

**4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

(1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:

- (a) label the cannabis or cannabis product with a label that:
  - (i) clearly and unambiguously states that the cannabis product or package contains cannabis;
  - (ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the labeled container;
  - (iii) has a unique identification number that:
    - (A) is connected to the inventory control system; and

(B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;

(iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and

(vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and

(b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:

- (i) ~~[except for a blister pack,]~~ is tamper evident and tamper resistant;
- (ii) does not appeal to children;
- (iii) does not mimic a candy container;
- (iv) ~~[except for a blister pack,]~~ is opaque;
- (v) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes; and

(vi) includes a warning label that states: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."

(2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:

- (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and
  - (b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.
- (3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~[-establishing]~~ to establish:

- (a) a standard labeling format that:
  - ~~[(a)]~~ (i) complies with the requirements of this section; and
  - ~~[(b)]~~ (ii) ensures inclusion of a pharmacy label~~[-];~~ and
  - (b) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality.

**Section 12. Section 4-41a-603 is amended to read:**

**4-41a-603. Cannabis product -- Product quality.**

(1) A cannabis processing facility:

(a) may not produce a cannabis product in a physical form that:

~~[(a)]~~ (i) the facility knows or should know appeals to children;

~~[(b)]~~ (ii) is designed to mimic or could be mistaken for a candy product; or

~~[(c)]~~ (iii) for a cannabis product used in vaporization, includes a candy-like flavor or another flavor that the facility knows or should know appeals to children[-]; and

(b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor that the department approves to facilitate minimizing the taste or odor of cannabis.

(2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

(3) The department shall adopt by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for the manufacturing of cannabis products that are consistent with best practices for the use of cannabis.

**Section 13. Section 26-61-202 is amended to read:**

**26-61-202. Cannabinoid Product Board -- Duties.**

(1) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

(a) was conducted under a study approved by an IRB; ~~[(a)]~~

(b) was conducted or approved by the federal government[-]; or

(c) (i) was conducted in another country; and

(ii) demonstrates, as determined by the board, a sufficient level of scientific reliability and significance to merit the board's review.

(2) Based on the research described in Subsection (1), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms;

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products with other treatments; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis,

cannabinoid products, and expanded cannabinoid products.

(3) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

(a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product;

(b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products; ~~and~~

(c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products[-]; and

(d) any other guideline the board determines appropriate.

(4) The board shall submit the guidelines described in Subsection (3) to:

(a) the director of the Division of Occupational and Professional Licensing; and

(b) the Health and Human Services Interim Committee.

(5) The board shall report the board's findings before November 1 of each year to the Health and Human Services Interim Committee.

(6) Guidelines that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act.

**Section 14. Section 26-61a-102 is amended to read:**

**26-61a-102. Definitions.**

As used in this chapter:

~~[(1) "Blister" means a plastic cavity or pocket used to contain no more than a single dose of cannabis or a cannabis product in a blister pack.]~~

~~[(2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each containing no more than a single dose of cannabis or a cannabis product.]~~

~~[(3)]~~ (1) "Cannabis" means marijuana.

~~[(4)]~~ (2) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

~~[(5)]~~ (3) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

~~[(6)]~~ (4) "Cannabis product" means a product that:

(a) is intended for human use; and



(b) contains cannabis or tetrahydrocannabinol.

~~[(7)]~~ (5) “Cannabis production establishment” means the same as that term is defined in Section 4-41a-102.

~~[(8)]~~ (6) “Cannabis production establishment agent” means the same as that term is defined in Section 4-41a-102.

~~[(9)]~~ (7) “Cannabis production establishment agent registration card” means the same as that term is defined in Section 4-41a-102.

~~[(10)]~~ (8) “Community location” means a public or private elementary or secondary school, ~~[a licensed child-care facility or preschool,]~~ a church, a public library, a public playground, or a public park.

~~[(11)]~~ (9) “Department” means the Department of Health.

~~[(12)]~~ (10) “Designated caregiver” means:

(a) an individual:

~~[(a)]~~ (i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient’s caregiver; and

~~[(b)]~~ (ii) who registers with the department under Section 26-61a-202[-]; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26-61a-202(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26-61a-202(1)(b)(ii).

(11) “Directions of use” means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

~~[(13)]~~ (12) “Dosing ~~[parameters]~~ guidelines” means a quantity~~[-, routes,]~~ range and frequency of administration for a recommended treatment of ~~[cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form]~~ medical cannabis.

~~[(14)]~~ (13) “Financial institution” means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

~~[(15)]~~ (14) “Home delivery medical cannabis pharmacy” means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy’s license, to deliver medical cannabis shipments to a medical cannabis cardholder’s home address to fulfill electronic orders that the state central patient portal facilitates.

~~[(16)]~~ “Independent cannabis testing laboratory” means the same as that term is defined in Section 4-41a-102.]

~~[(17)]~~ (15) “Inventory control system” means the system described in Section 4-41a-103.

(16) “Legal dosage limit” means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant qualified medical provider or the pharmacy medical provider, in accordance with Subsection 26-61a-201(4) or (5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol.

(17) “Legal use termination date” means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

(18) “Marijuana” means the same as that term is defined in Section 58-37-2.

(19) “Medical cannabis” means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(20) “Medical cannabis card” means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.

(21) “Medical cannabis cardholder” means:

(a) a holder of a medical cannabis card[-]; or

(b) a facility or assigned employee, described in Subsection (10)(b), only:

(i) within the scope of the facility’s or assigned employee’s performance of the role of a medical cannabis patient cardholder’s caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26-61a-202(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

(22) “Medical cannabis caregiver card” means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(23) “Medical cannabis courier” means a courier that:

(a) the department licenses in accordance with Section 26-61a-604; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

(24) (a) “Medical cannabis device” means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) “Medical cannabis device” does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

(25) “Medical cannabis guardian card” means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

(26) “Medical cannabis patient card” means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

(27) “Medical cannabis pharmacy” means a person that:

(a) (i) acquires or intends to acquire:

(A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or

(B) a medical cannabis device; or

(ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

(28) “Medical cannabis pharmacy agent” means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

(29) “Medical cannabis pharmacy agent registration card” means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(30) “Medical cannabis shipment” means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder’s home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

(31) “Medical cannabis treatment” means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(32) (a) “Medicinal dosage form” means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) ~~[for use only after the individual’s qualifying condition has failed to substantially respond to at least two other forms described in this Subsection (32)(a)(i)-]~~ a resin or wax;

(ii) for unprocessed cannabis flower, ~~[a blister pack, with each individual blister]~~ a container described in Section 4-41a-602 that:

(A) ~~[containing a specific and consistent weight that does not exceed one gram and]~~ contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging; [and]

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque, child-resistant bag that the medical cannabis pharmacy provides; and

~~[(B)]~~ (C) ~~[after December 31, 2020,]~~ is labeled with the container’s content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system ~~[and the individual blister’s content and weight]; and~~

(iii) a form measured in grams, milligrams, or milliliters.

(b) “Medicinal dosage form” includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the blister pack container described in Subsection (32)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (32)(a)(ii).

(c) “Medicinal dosage form” does not include:

(i) any unprocessed cannabis flower outside of the blister pack container described in Subsection (32)(a)(ii), except as provided in Subsection (32)(b); ~~or~~

(ii) any unprocessed cannabis flower in a container described in Subsection (32)(a)(ii) after the legal use termination date; or

~~(iii)~~ (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

(33) “Nonresident patient” means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

~~(33)~~ (34) “Payment provider” means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

~~(34)~~ (35) “Pharmacy medical provider” means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

~~(35)~~ (36) “Provisional patient card” means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a qualified medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor’s parent or legal guardian; and

(b) is connected to the electronic verification system.

~~(36)~~ (37) “Qualified medical provider” means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

~~(37)~~ (38) “Qualified Patient Enterprise Fund” means the enterprise fund created in Section 26-61a-109.

~~(38)~~ (39) “Qualifying condition” means a condition described in Section 26-61a-104.

(40) “Recommend” or “recommendation” means, for a qualified medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient’s eligibility for a medical cannabis card; and

(b) may include, at the qualified medical provider’s discretion, directions of use, with or without dosing guidelines.

~~(39)~~ (41) “State central patient portal” means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

~~(40)~~ (42) “State central patient portal medical provider” means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.

~~(41)~~ (43) “State electronic verification system” means the system described in Section 26-61a-103.

~~(42)~~ (44) “Valid form of photo identification” means a valid United States federal- or state-issued photo identification, including:

(a) a driver license;

(b) a United States passport;

(c) a United States passport card; or

(d) a United States military identification card.

**Section 15. Section 26-61a-103 is amended to read:**

**26-61a-103. Electronic verification system.**

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Department of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and

the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual ~~[, with the individual's qualified medical provider in the qualified medical provider's office,]~~ to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until the relevant qualified medical provider completes the associated medical cannabis recommendation;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, ~~[during a]~~ after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing [parameters] guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment ~~[, as that term is defined in Section 26-61a-102, using telehealth services]~~ during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment ~~[,]~~ during a face-to-face visit ~~[with a patient];~~ and

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(e) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(f) provides access to and interaction with the state central patient portal;

(g) provides access to state or local law enforcement:

(i) during a ~~[traffic stop]~~ law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the [traffic stop is in compliance with state medical cannabis law] law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

[~~3~~](5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

[~~4~~](6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

[~~5~~](7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

[~~6~~](8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

[~~7~~](9) (a) Except as provided in Subsection [~~7~~](9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection [~~7~~](9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection [~~7~~](9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection [~~7~~](9) shall be deposited into the General Fund.

(e) This Subsection [~~7~~](9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

**Section 16. Section 26-61a-104 is amended to read:**

**26-61a-104. Qualifying condition.**

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this chapter, each of the following conditions is a qualifying condition:

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

(f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

(A) a licensed board-eligible or board-certified psychiatrist;

(B) a licensed psychologist with a [~~doctorate~~] master's-level degree;

(C) a licensed clinical social worker with a [~~doctorate~~] master's-level degree; or

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing speciality and who has completed the clinical practice requirements in

psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(4)(g);

(k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

(n) a rare condition or disease that:

(i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

(o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) conventional medications other than opioids or opiates; or

(ii) physical interventions; and

(p) a condition that the [~~compassionate use board~~] Compassionate Use Board approves under Section 26-61a-105, on an individual, case-by-case basis.

**Section 17. Section 26-61a-105 is amended to read:**

**26-61a-105. Compassionate Use Board.**

(1) (a) The department shall establish a [~~compassionate use board~~] Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) whom the appropriate board certifies in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology; and

(ii) as a nonvoting member and the chair of the [~~board~~] Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) Of the members of the ~~[board]~~ Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (2)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the ~~[board]~~ Compassionate Use Board may serve until a successor is appointed.

(3) Four members constitute a quorum of the ~~[compassionate use board]~~ Compassionate Use Board.

(4) A member of the ~~[board]~~ Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) ~~[per diem and]~~ travel expenses in accordance with ~~[Section 63A-3-106,]~~ Section 63A-3-107<sup>[,]</sup> and rules made by the Division of Finance ~~[pursuant to Sections 63A-3-106 and]~~ in accordance with Section 63A-3-107.

(5) The ~~[compassionate use board]~~ Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the ~~[board]~~ Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) review and approve or deny the use of a medical cannabis device for an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

~~[(b)]~~ (c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

~~[(e)]~~ (d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition; [and]

(e) consult with the department regarding the criteria described in Subsection (6); and

~~[(d)]~~ (f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board ~~[approved]~~ recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

~~[(6)]~~ (7) (a) (i) The department shall review:

(A) any compassionate use for which the ~~[board]~~ Compassionate Use Board recommends approval under Subsection (5)~~[(e)]~~(d) to determine whether the board properly exercised the board's discretion under this section~~[-]~~; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the ~~board~~ Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(~~e~~)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the ~~board~~ Compassionate Use Board recommends denial under Subsection (5)(~~e~~)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the ~~board's~~ Compassionate Use Board's recommendation for denial under Subsection (5)(~~e~~)(d) was arbitrary or capricious:

(A) the department shall notify the ~~board~~ Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the ~~board's~~ Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the ~~board's~~ Compassionate Use Board's recommendation for approval or denial under Subsection (5)(~~e~~)(d) in accordance with this Subsection ~~(6)~~ (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

~~(7)~~ (8) Any individually identifiable health information contained in a petition that the ~~board~~ Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

~~(8)~~ (9) The ~~compassionate use board~~ Compassionate Use Board shall annually report the board's activity to the Cannabinoid Product Board created in Section 26-61-201.

**Section 18. Section 26-61a-106 is amended to read:**

**26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.**

(1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii) and (iv) may recommend a medical cannabis treatment without registering under Subsection (1)(a) until January 1, 2021.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual:

(A) has the authority to write a prescription;

(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance;

(iv) provides to the department evidence that the individual is:

(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:



- (i) complete continuing education:
- (A) regarding the topics described in Subsection (3)(d); and
- (B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and
- (ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:
- (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;
- (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;
- (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and
- (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.
- (c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).
- (d) The continuing education described in this Subsection (3) may discuss:
- (i) the provisions of this chapter;
- (ii) general information about medical cannabis under federal and state law;
- (iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;
- (iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and
- (v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.
- (4) (a) Except as provided in Subsection (4)(b) ~~or (e)~~, a qualified medical provider may not recommend a medical cannabis treatment to more than ~~[175]~~ 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.
- (b) ~~[Except as provided in Subsection (4)(e), a]~~ A qualified medical provider may recommend a

medical cannabis treatment to up to ~~[300]~~ 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

- (i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or
- (ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

~~[(e) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for authorization to exceed the limit described in Subsection (4)(b) by graduating increments of 100 patients per authorization, not to exceed three authorizations.]~~

~~[(ii) The Division of Occupational and Professional Licensing shall grant the authorization described in Subsection (4)(e)(i) if:]~~

~~[(A) the petitioning qualified medical provider pays a \$100 fee;]~~

~~[(B) the division performs a review that includes the qualified medical provider's medical cannabis recommendation activity in the state electronic verification system, relevant information related to patient demand, and any patient medical records that the division determines would assist in the division's review; and]~~

~~[(C) after the review described in this Subsection (4)(e)(ii), the division determines that granting the authorization would not adversely affect public safety, adversely concentrate the overall patient population among too few qualified medical providers, or adversely concentrate the use of medical cannabis among the provider's patients.]~~

(5) A qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a qualified medical provider-patient relationship after the qualifying medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), ~~[a qualified medical provider]~~ an individual may not advertise that the ~~[qualified medical provider]~~ individual recommends medical cannabis treatment in accordance with this chapter.

(b) For purposes of Subsection (6)(a), the communication of the following, through a website, ~~by an individual described in Subsection (6)(c),~~ does not constitute advertising:

- (i) a green cross;
- (ii) a qualifying condition that the qualified medical provider treats; or

(iii) a scientific study regarding medical cannabis use.

(c) The following are subject to Subsection (6)(b):

(i) before the department begins registering qualified medical providers:

(A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);

(B) a physician described in Subsection (2)(a)(iv)(B); or

(C) a physician assistant described in Subsection (2)(a)(iv)(C); and

(ii) after the department begins registering qualified medical providers, a qualified medical provider.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a qualified medical provider or pharmacy medical provider.

**Section 19. Section 26-61a-107 is amended to read:**

**26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No private right of action.**

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; and

(B) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

(ii) before January 1, 2021, who:

(A) has the authority to write a prescription; and

(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider; and

(ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

(4) (a) As used in this Subsection (4), "healthcare facility" means the same as that term is defined in Section 26-21-2.

(b) A healthcare facility may adopt restrictions on the possession, use, and storage of medical cannabis

on the premises of the healthcare facility by a medical cannabis cardholder who resides at or is actively receiving treatment or care at the healthcare facility.

(c) The restrictions described in Subsection (4)(b) may include provisions stating:

(i) whether the healthcare facility will store or maintain the medical cannabis cardholder's supply of medical cannabis;

(ii) that the facility is not responsible for providing medical cannabis to the medical cannabis cardholder; or

(iii) where medical cannabis may be used on the premises of the healthcare facility if the facility provides for the on-premises use of medical cannabis.

(d) An employee or agent of a healthcare facility that adopts restrictions described in Subsection (4)(b) is not subject to civil or criminal liability for carrying out employment duties, including:

(i) providing or supervising care to a medical cannabis cardholder; or

(ii) in accordance with a caregiver designation under Section 26-61a-201 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing, medical cannabis for the relevant patient and in accordance with the designation.

(e) Nothing in this section requires a healthcare facility to adopt a restriction under Subsection (4)(b).

**Section 20. Section 26-61a-111 is amended to read:**

**26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.**

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance.

(b) A state or political subdivision employee who has a valid medical cannabis card is not subject to adverse action, as that term is defined in Section 67-21-2, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.

~~(b)~~ (c) [Subsection] Subsections (2)(a) [does] and (b) do not apply where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position, or if the employee's position is dependent on a license that is subject to federal regulations.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Department of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer ~~[of an employee who has signed the notice described in Subsection (3)(a)]~~ may not take retaliatory action as defined in Section

67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

(4) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

**Section 21. Section 26-61a-113 is amended to read:**

**26-61a-113. No effect on use of hemp extract -- Cannabinoid product -- Approved drugs.**

(1) Nothing in this chapter prohibits an individual:

(a) ~~[with a valid hemp extract registration card that the department issues under Section 26-56-103]~~ from possessing, administering, or using hemp extract in accordance with Section 58-37-4.3; or

(b) from purchasing, selling, possessing, or using a ~~[cannabinoid]~~ cannabinoid product in accordance with Section 4-41-402.

(2) Nothing in this chapter restricts or otherwise affects the prescription, distribution, or dispensing of a product that the United States Food and Drug Administration has approved.

**Section 22. Section 26-61a-201 is amended to read:**

**26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.**

(1) On or before March 1, 2020, the department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(a) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(b) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(c) issue a provisional patient card to a minor described in Subsection (2)(c); and

(d) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the ~~[compassionate use board]~~ Compassionate Use Board under Section 26-61a-105, and the ~~[compassionate use board]~~ Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the ~~[compassionate use board]~~ Compassionate Use Board under Section 26-61a-105, and the ~~[compassionate use board]~~ Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) the minor's parent or legal guardian petitions the ~~[compassionate use board]~~ Compassionate Use Board under Section 26-61a-105, and the ~~[compassionate use board]~~ Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending qualified medical provider [~~while in the recommending qualified medical provider's office~~]; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; and

(B) any adult who is [24] 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated

medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment, including in the event of an emergency medical condition under Subsection 26-61a-204(2).

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the qualified medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the qualified medical provider determines; or

(ii) (A) for the first issuance, 30 days; or

(B) for a renewal, six months.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending qualified medical provider may revoke a recommendation that the

provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the ~~[compassionate use board]~~ Compassionate Use Board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section ~~[is not subject to prosecution for the possession of]~~:

(i) may possess:

~~[(i) no more than 113 grams of marijuana]~~

(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

~~[(ii) an amount of]~~

(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form [that contains no more than 20 grams of tetrahydrocannabinol; or]; and

~~[(iii)]~~ (C) marijuana drug paraphernalia[-]; and

(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(9) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(10) (a) On or before January 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the Department of Health in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (10)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

~~[(40)]~~ (11) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection ~~[(40)]~~ (11)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection ~~[(40)]~~ (11)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection ~~[(40)]~~ (11), information about a cardholder under this section who consents to participate under Subsection ~~[(40)]~~ (11)(c).

(f) If an individual withdraws consent under Subsection ~~[(40)]~~ (11)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 23. Section 26-61a-202 is amended to read:**

**26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.**

(1) (a) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver

for the cardholder if a qualified medical provider notates in the electronic verification system that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

(b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 who is a patient in one of the following types of facilities may designate the facility as one of the caregivers described in Subsection (1)(a):

(A) an assisted living facility, as that term is defined in Section 26-21-2;

(B) a nursing care facility, as that term is defined in Section 26-21-2; or

(C) a general acute hospital, as that term is defined in Section 26-21-2.

(ii) A facility may assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b).

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26-61a-201.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis; and

(e) if a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, is

not subject to prosecution for the possession of: (i) no more than 113 grams of marijuana];

(i) may possess up to the legal dosage limit of:

(A) unprocessed medical cannabis in a medicinal dosage form;

~~[(ii) an amount of]~~

(B) a cannabis product in a medicinal dosage form ~~[that contains no more than 20 grams of tetrahydrocannabinol; or]; and~~

~~[(iii)]~~ (ii) may possess marijuana drug paraphernalia[-]; and

(iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

**Section 24. Section 26-61a-204 is amended to read:**

**26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.**

(1) (a) A medical cannabis cardholder who possesses medical cannabis ~~[in a medicinal dosage form or a cannabis product in a medicinal dosage form]~~ that the cardholder purchased under this chapter ~~[shall: (i) carry]:~~



(i) shall carry:

(A) at all times the cardholder's medical cannabis card; and

~~[(ii) carry,] (B) after the earlier of January 1, 2021, or the day on which the individual purchases any medical cannabis from a medical cannabis pharmacy, with the medical cannabis [in a medicinal dosage form or cannabis product in a medicinal dosage form], a label that identifies that the medical cannabis [or cannabis product: (A)] was sold from a licensed medical cannabis pharmacy; and (B) and includes an identification number that links the medical cannabis [or cannabis product] to the inventory control system; and~~

~~[(iii) possess not more than]~~

(ii) may possess up to the legal dosage limit of:

(A) ~~[113 grams of] unprocessed cannabis in medicinal dosage form; [or (B) an amount of cannabis product that contains 20 grams of total composite tetrahydrocannabinol.] and~~

(B) a cannabis product in medicinal dosage form; and

(iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii).

(b) [A] Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who possesses medical cannabis ~~[in a medicinal dosage form or a cannabis product in a medicinal dosage form]~~ in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) A medical cannabis cardholder or a nonresident patient who possesses ~~[between 113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40 grams of total composite tetrahydrocannabinol]~~ medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal dosage limit is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to \$100; and

(ii) for a second or subsequent offense:

~~[(4)] (A) guilty of a class B misdemeanor; and~~

~~[(4)] (B) subject to a fine of \$1,000.~~

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A nonresident patient who possesses medical cannabis that is not in a medicinal dosage form is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to \$100; and

(ii) for a second or subsequent offense, is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

~~[(e)] (f) A medical cannabis cardholder or a nonresident patient who possesses [more than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains more than 40 grams of total composite tetrahydrocannabinol] medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.~~

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder ~~[or], a provisional patient cardholder, or a nonresident patient may not use, in public view, medical cannabis or a cannabis product.~~

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to \$100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of \$1,000.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the

time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

**Section 25. Section 26-61a-301 is amended to read:**

**26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least \$125,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

- (i) a felony; or
- (ii) after December 3, 2018, a misdemeanor for drug distribution;
- (b) is younger than 21 years old; or
- (c) after the effective date of this bill until January 1, 2023, is actively serving as a legislator.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(a) shall consult with the Department of Agriculture and Food regarding the applicant; ~~and~~

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5); ~~and~~

(c) shall give preference to applicants that demonstrate an ability to increase efficiency and decrease costs to patients.

(6) The department may revoke a license under this part ~~if~~:

(a) ~~if~~ the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;

~~(b) after the [medical cannabis pharmacy makes] third of the same violation of this chapter [three times] in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;~~

(c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

- (i) a felony; or
- (ii) after December 3, 2018, a misdemeanor for drug distribution; ~~or~~

~~(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application[-] within 14 calendar days after the licensee receives notice of the investigation or adverse action; or~~

(e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

- (i) Title 63G, Chapter 6a, Part 16, Protests; or
- (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

**Section 26. Section 26-61a-303 is amended to read:**

**26-61a-303. Renewal.**

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section 26-61a-301; ~~and~~

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504[-]; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63F-1-701.

(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

**Section 27. Section 26-61a-305 is amended to read:**

**26-61a-305. Maximum number of licenses -- Home delivery medical cannabis pharmacies.**

(1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue 14 medical cannabis pharmacy licenses in accordance with this section.

(b) If fewer than 14 qualified applicants apply for a medical cannabis pharmacy license, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in two phases in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with this Subsection (1)(c), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i);

(B) before November 30, 2020, report on the rules described in Subsection (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

(C) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis [~~or cannabis products~~] for patients; and

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information

relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

**Section 28. Section 26-61a-501 is amended to read:**

**26-61a-501. Operating requirements -- General.**

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old; and

(b) except as provided in Subsection (5), possesses a valid:

(i) medical cannabis pharmacy agent registration card; ~~or~~

(ii) pharmacy medical provider registration card; or

~~(iii)~~ (iii) medical cannabis card.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.

(5) Notwithstanding Subsection (2), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(6) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

(8) A medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the qualified medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) ~~[dosing parameters]~~ directions of use and dosing guidelines or an indication that the qualified medical provider did not recommend specific directions of use or dosing [parameters] guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) ~~[The]~~ Except as provided in Subsection (10)(b)(ii), a medical cannabis pharmacy may not sell medical cannabis [or a cannabis product] unless the medical cannabis [or cannabis product] has a label securely affixed to the container indicating the following minimum information:

~~(4)~~ (A) the name, address, and telephone number of the medical cannabis pharmacy;

~~(iii)~~ (B) the unique identification number that the medical cannabis pharmacy assigns;

~~(iii)~~ (C) the date of the sale;

~~(iv)~~ (D) the name of the patient;

~~(v)~~ (E) the name of the qualified medical provider who recommended the medical cannabis treatment;

~~(vi)~~ (F) directions for use and cautionary statements, if any;

~~(vii)~~ (G) the amount dispensed and the cannabinoid content;

~~(viii)~~ (H) the ~~beyond~~ suggested use date; ~~and~~

(I) for unprocessed cannabis flower, the legal use termination date; and

~~(ix)~~ (J) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection 10(b)(i).

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal~~ly~~, ~~face-to-face~~ counseling with the pharmacy medical provider ~~[who is a pharmacist]~~; and

(b) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

**Section 29. Section 26-61a-502 is amended to read:**

**26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.**

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card; ~~and~~ or

(B) a department registration described in Subsection 26-61a-202(10); and

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy ~~[may not dispense: (a)]~~:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, [more than the lesser] up to the legal dosage limit of:

~~[(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or (ii) (A) 113 grams by weight of]~~

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and [that]

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; [or] and

~~[(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or]~~

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

~~[(b) (ii) to an individual whose qualified medical provider did not recommend [dosing parameters] directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.~~

(3) An individual with a medical cannabis card [may not purchase: (a) more]:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis [or] in a medicinal dosage form; and

(ii) a cannabis [products than the amounts designated in Subsection (2) in any one 28-day period; or] product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

~~[(b) (ii) if the relevant qualified medical provider did not recommend [dosing parameters] directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products[-]; and~~

(c) may not use a route of administration that the relevant qualified medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide [dosing parameters] directions of use and dosing guidelines:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with cannabis and cannabis products; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show [dosing parameters] directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) [dosing parameters] directions of use and dosing guidelines; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the [dosing parameters] directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.

(6) A medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis products described in Subsection (2); and

(ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the sale; and

(B) notify the qualified medical provider who made the underlying recommendation;

(b) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

(c) package any cannabis or cannabis product that is in a [blister pack in a] container that:

(i) complies with Subsection 4-41a-602(2) or, if applicable, 26-61a-102(31)(a)(ii);

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

(d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(8) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).

(9) The department may impose a uniform fee on each medical cannabis cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

**Section 30. Section 26-61a-504 is amended to read:**

**26-61a-504. Inspections.**

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) The department or the Department of Agriculture and Food may inspect the records [and], facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter and Title 4, Chapter 41a, Cannabis Production Establishments.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;

(b) questioning of any relevant individual; ~~or~~

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label[-];

(d) random sampling of medical cannabis by the Department of Agriculture and Food to make the determinations described in Subsection 4-41a-701(2) in accordance with rules described in Section 4-41a-701; or

(e) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.

(4) In making an inspection under this section, the department or the Department of Agriculture and Food may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department [~~or the department's~~], the Department of Agriculture and Food, or the authorized agents of the department or the Department of Agriculture and Food immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

(6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection (3)(e) until the department:

(a) determines that sufficient compliance justifies the return of the seized items; or

(b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

**Section 31. Section 26-61a-505 is amended to read:**

**26-61a-505. Advertising.**

(1) Except as provided in [~~Subsections (2) and (3)~~] this section, a medical cannabis pharmacy may not advertise in any medium.

(2) A medical cannabis pharmacy may advertise an employment opportunity at the medical cannabis pharmacy.

~~(2)~~ (3) Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

(a) includes only:

(i) the medical cannabis pharmacy's name and hours of operation; and

(ii) a green cross;



(b) does not exceed four feet by five feet in size; and

(c) complies with local ordinances regulating signage.

~~[(3)]~~ (4) (a) A medical cannabis pharmacy may maintain a website that includes information about:

~~[(a)]~~ (i) the location and hours of operation of the medical cannabis pharmacy;

~~[(b)]~~ (ii) a product or service available at the medical cannabis pharmacy;

~~[(c)]~~ (iii) personnel affiliated with the medical cannabis pharmacy;

~~[(d)]~~ (iv) best practices that the medical cannabis pharmacy upholds; and

~~[(e)]~~ (v) educational material related to the medical use of cannabis, as defined by the department.

(b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the educational material described in Subsection (4)(a).

(5) (a) A medical cannabis pharmacy may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A medical cannabis pharmacy may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(iii) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(E) a state employee.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the

elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

**Section 32. Section 26-61a-506 is amended to read:**

**26-61a-506. Medical cannabis transportation.**

(1) Only the following individuals may transport medical cannabis [~~in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device~~] under this chapter:

(a) a registered medical cannabis pharmacy agent;

(b) a registered medical cannabis courier agent; ~~or~~

(c) a registered pharmacy medical provider; or

~~[(e)]~~ (d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis[, or cannabis product[, or ~~medical cannabis device~~]] to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis[, a cannabis product, or a ~~medical cannabis device~~] that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the medical cannabis[, cannabis product, or ~~medical cannabis device~~].

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting [~~cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device~~] medical cannabis to ensure that the medical cannabis[, cannabis product, or ~~medical cannabis device~~] remains safe for human consumption.

(b) The transportation described in Subsection (1)(a) is limited to transportation between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; or

(ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

(4) (a) It is unlawful for [~~a registered medical cannabis pharmacy agent or a registered medical cannabis courier agent~~] an individual described in Subsection (1) to make a transport described in this

section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an ~~agent~~ individual who violates Subsection (4)(a) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more medical cannabis~~[-cannabis product, or medical cannabis devices]~~ than the manifest identifies, except for a de minimis administrative error:

- (i) this chapter does not apply; and
- (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

**Section 33. Section 26-61a-507 is amended to read:**

**26-61a-507. Local control.**

(1) The operation of a medical cannabis pharmacy:

- (a) shall be a permitted use:
  - (i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and
  - (ii) on land that the municipality or county has not zoned; and
  - (b) is subject to the land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, that apply in the underlying zone.

(2) A municipality or county may not:

- (a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis, deny or revoke:
  - (i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to operate a medical cannabis pharmacy; or
  - (ii) a business license to operate a medical cannabis pharmacy;
  - (b) require a certain distance between a medical cannabis pharmacy and:
    - (i) another medical cannabis pharmacy;
    - (ii) a cannabis production establishment;
    - (iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.

(3) (a) A municipality or county may enact an ordinance that:

- ~~[(a)]~~ (i) is not in conflict with this chapter; and
- ~~[(b)]~~ (ii) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

(b) An ordinance that a municipality or county enacts under Subsection (3)(a) may not restrict the hours of operation from 7 a.m. to 10 p.m.

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:

- (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and
- (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

**Section 34. Section 26-61a-601 is amended to read:**

**26-61a-601. State central patient portal -- Department duties.**

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

- (a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;
- (b) allow a medical cannabis patient cardholder to:
  - (i) obtain and download the cardholder's medical cannabis card;
  - (ii) review the cardholder's medical cannabis purchase history; and
  - (iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201~~(40)~~(11);
  - (c) if the cardholder's qualified medical provider recommended the use of medical cannabis without providing directions of use and dosing ~~[parameters]~~ guidelines and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):
    - (i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order;

(i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

(ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection ~~[26-61a-501]~~ 26-61a-502(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

**Section 35. Section 26-61a-603 is amended to read:**

**26-61a-603. Payment provider for electronic medical cannabis transactions.**

(1) A cannabis production establishment ~~[seeking to use a payment provider]~~, a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy seeking to use a payment provider shall submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and

(c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment

providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

**Section 36. Section 26-61a-605 is amended to read:**

**26-61a-605. Medical cannabis shipment transportation.**

(1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a medical cannabis shipment unless the individual is:

(a) a registered pharmacy medical provider;

~~{a}~~ (b) a registered medical cannabis pharmacy agent; or

~~(4b)~~ (c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall possess a transportation manifest that:

(a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the medical cannabis shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

- (i) this chapter does not apply; and
- (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

**Section 37. Section 41-6a-517 is amended to read:**

**41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.**

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

~~(2) In~~ (2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

- (a) involuntarily ingested by the accused;
- (b) prescribed by a practitioner for use by the accused;
- (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or
- (d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under

Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

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

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

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License

Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

**Section 38. Section 52-4-205 is amended to read:**

**52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.**

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); ~~and~~

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law~~[-]~~; and

(d) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

**Section 39. Section 58-37-2 is amended to read:**

**58-37-2. Definitions.**

(1) As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a motor carrier, public warehouseman, or employee of any of them.

(c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.

(e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f) (i) "Controlled substance" means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) "Controlled substance" does not include:

(A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:

(I) are not otherwise regulated by law; and

(II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in

rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g) (i) “Controlled substance analog” means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ii) “Controlled substance analog” does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) (i) “Conviction” means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act; or

(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act.

(i) “Counterfeit substance” means:

(i) any controlled substance or container or labeling of any controlled substance that:

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(A) or the appearance of the container of that controlled substance; or

(ii) any substance other than under Subsection (1)(i)(i) that:

(A) is falsely represented to be any legally or illegally manufactured controlled substance; and

(B) a reasonable person would believe to be a legal or illegal controlled substance.

(j) “Deliver” or “delivery” means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) “Department” means the Department of Commerce.

(l) “Depressant or stimulant substance” means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:



- (A) amphetamine or any of its optical isomers;  
 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

(iii) lysergic acid diethylamide; or

(iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

(n) "Dispenser" means a pharmacist who dispenses a controlled substance.

(o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

(p) "Distributor" means a person who distributes controlled substances.

(q) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(r) (i) "Drug" means:

(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).

(ii) "Drug" does not include dietary supplements.

(s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost

the power of self-control with reference to the individual's dependency.

(t) "Food" means:

(i) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(ii) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including but not limited to the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food. Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means any religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) which is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa) (i) "Marijuana" means all species of the genus *cannabis* and all parts of the genus, whether growing or not~~;~~the, including:

(A) seeds ~~[of it; the]~~;

(B) resin extracted from any part of the plant~~;~~and, including the resin extracted from the mature stalks;

(C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, ~~its~~ seeds, or resin~~[-The term]; and~~

(D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active.

(ii) "Marijuana" does not include:

(A) the mature stalks of the plant~~[-];~~

(B) fiber produced from the stalks~~[-];~~

(C) oil or cake made from the seeds of the plant~~[-];~~

(D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, ~~except the resin extracted from them,~~ fiber, oil or cake~~[-, or];~~

(E) the sterilized seed of the plant which is incapable of germination~~[-. Any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active are also included.]; or~~

(F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section 58-27-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513.

(bb) "Money" means officially issued coin and currency of the United States or any foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(iii) opium poppy and poppy straw; or

(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

(ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having

addiction-forming or addiction-sustaining liability.

(ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the seeds of the plant.

(gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription:

(i) orally or in writing; or

(ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(ll) "Prescription" means an order issued:

(i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an

animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

**Section 40. Section 58-37-3.7 is amended to read:**

**58-37-3.7. Medical cannabis decriminalization.**

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Legal dosage limit" means the same as that term is defined in Section 26-61a-102.

~~[(e)]~~ (d) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

~~[(d)]~~ (e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

~~[(e) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.]~~

(f) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Nonresident patient" means the same as that term is defined in Section 26-61a-102.

~~[(g) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.]~~

(h) "Qualifying condition" means the same as that term is defined in Section 26-61a-102.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before January 1, 2021, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;

(ii) for possession, was:

(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or

(B) the spouse of an individual described in Subsection (2)(a)(i); or

(iii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

~~(b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol [was in a medicinal dosage form in one of the following amounts: (i) no more than 56 grams by weight of unprocessed cannabis; or (ii) an amount of cannabis products that contains, in total, no more than 10 grams of total composite tetrahydrocannabinol.] is one of the following in an amount that does not exceed the legal dosage limit:~~

(A) unprocessed cannabis in a medicinal dosage form; or

(B) a cannabis product in a medicinal dosage form; and

(ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

~~(3) [An individual] A nonresident patient is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if: [(a) at the time of the arrest or citation, the individual: (i) was not a resident of Utah or has been a resident of Utah for less than 45 days; (ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and (iii) had been diagnosed with a qualifying condition as described in Section 26-61a-104; and (b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in one of the following amounts:]~~

~~[(i) no more than 113 grams by weight of unprocessed cannabis; or]~~

~~[(ii) an amount of cannabis products that contains, in total, no more than 20 grams of total composite tetrahydrocannabinol.]~~

(a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(i) unprocessed cannabis in a medicinal dosage form; or

(ii) a cannabis product in a medicinal dosage form; and

(b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(4) (a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:

(i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the sample; and

(ii) the individual provides evidence that the individual possessed or used cannabidiol or a cannabidiol product.

(b) The presumption described in Subsection (4)(a) may be rebutted with evidence that the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized under:

(i) Section 4-41-402; or

(ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

**Section 41. Section 58-37-3.9 is amended to read:**

**58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.**

(1) As used in this section:

(a) “Cannabis” means marijuana.

(b) “Cannabis product” means the same as that term is defined in Section 26-61a-102.

(c) “Drug paraphernalia” means the same as that term is defined in Section 58-37a-3.

(d) “Medical cannabis cardholder” means the same as that term is defined in Section 26-61a-102.

(e) “Medical cannabis device” means the same as that term is defined in Section 26-61a-102.

(f) “Medicinal dosage form” means the same as that term is defined in Section 26-61a-102.

(g) “Tetrahydrocannabinol” means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3) (a) As used in this Subsection (3), “smoking” does not include the vaporization or heating of medical cannabis.

(b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) is [~~subject to charges under this chapter~~], for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b)[-]:

(A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

(B) for a second or subsequent offense, subject to charges under this chapter.

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

**Section 42. Section 58-37-4 is amended to read:**

**58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules.**

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl- $\alpha$ -methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide);

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

(E) Allylprodine;

(F) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(G) Alphameprodine;

(H) Alphamethadol;

(I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(K) Benzylpiperazine;

(L) Benzethidine;

(M) Betacetylmethadol;

(N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(P) Betameprodine;

(Q) Betamethadol;

(R) Betaprodine;

(S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

(T) Clonitazene;

(U) Cyclopropyl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);

(V) Dextromoramide;

(W) Diampromide;

(X) Diethylthiambutene;

(Y) Difenoazin;

(Z) Dimenoxadol;

(AA) Dimepheptanol;

(BB) Dimethylthiambutene;

(CC) Dioxaphetyl butyrate;

(DD) Dipipanone;

(EE) Ethylmethylthiambutene;

(FF) Etizolam (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);

(GG) Etonitazene;

(HH) Etoxidine;

(II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide);

(JJ) Furethidine;

(KK) Hydroxypethidine;

(LL) Ketobemidone;

(MM) Levomoramide;

(NN) Levophenacymorphan;

(OO) Methoxyacetyl fentanyl (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);

(PP) Morpheridine;

(QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(RR) Noracymethadol;

(SS) Norlevorphanol;

(TT) Normethadone;

(UU) Norpipanone;

(VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide);

(WW) Para-fluoroisobutyryl fentanyl (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);

(XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(YY) Phenadoxone;

(ZZ) Phenampromide;

(AAA) Phenomorphan;

(BBB) Phenoperidine;

(CCC) Piritramide;

(DDD) Proheptazine;

(EEE) Properidine;

(FFF) Propiram;

(GGG) Racemoramide;

(HHH) Tetrahydrofuran fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);

(III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

(JJJ) Tilidine;

(KKK) Trimeperidine;

(LLL) 3-methylfentanyl, including the optical and geometric isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(MMM) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide];

(NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700; and

(OOO) 4-cyano CUMYL-BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Acetorphine;
- (B) Acetyldihydrocodeine;
- (C) Benzylmorphine;
- (D) Codeine methylbromide;
- (E) Codeine-N-Oxide;
- (F) Cyprenorphine;
- (G) Desomorphine;
- (H) Dihydromorphine;
- (I) Drotebanol;
- (J) Etorphine (except hydrochloride salt);
- (K) Heroin;
- (L) Hydromorphanol;
- (M) Methyldesorphine;
- (N) Methylhydromorphine;
- (O) Morphine methylbromide;
- (P) Morphine methylsulfonate;
- (Q) Morphine-N-Oxide;
- (R) Myrophine;
- (S) Nicocodeine;
- (T) Nicomorphine;
- (U) Normorphine;
- (V) Pholcodine; and
- (W) Thebacon.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

(A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase; ã-ethyl-1 H-indole-3-ethanamine; 3-(2-aminobutyl) indole; ã-ET; and AET;

(B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy-ã-methylphenethylamine; 4-bromo-2,5-DMA;

(C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

(D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy-ã-methylphenethylamine; 2,5-DMA;

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy-ã-methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

(H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names: 4-methyl-2,5-dimethoxy-ã-methylphenethylamine; "DOM"; and "STP";

(I) 3,4-methylenedioxy amphetamine;

(J) 3,4-methylenedioxymethamphetamine (MDMA);

(K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl- alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(M) 3,4,5-trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3-( -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names: 7-Ethyl-6,6,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepero [5,4-b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as Lophophora

williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

(W) N-ethyl-3-piperidyl benzilate;

(X) N-methyl-3-piperidyl benzilate;

(Y) Psilocybin;

(Z) Psilocyn;

(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers 6 cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and

(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(C) Fenethylamine;

(D) Methcathinone, some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) (ñ)cis-4-methylaminorex ((ñ)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(F) N-ethylamphetamine; and

(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

(B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

(I) Raw opium;

(II) Opium extracts;

(III) Opium fluid;

(IV) Powdered opium;

(V) Granulated opium;

(VI) Tincture of opium;

- (VII) Codeine;
- (VIII) Ethylmorphine;
- (IX) Etorphine hydrochloride;
- (X) Hydrocodone;
- (XI) Hydromorphone;
- (XII) Metopon;
- (XIII) Morphine;
- (XIV) Oxycodone;
- (XV) Oxymorphone; and
- (XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

- (C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:

- (A) Alfentanil;
- (B) Alphaprodine;
- (C) Anileridine;
- (D) Bezitramide;
- (E) Bulk dextropropoxyphene (nondosage forms);
- (F) Carfentanil;
- (G) Dihydrocodeine;
- (H) Diphenoxylate;
- (I) Fentanyl;
- (J) Isomethadone;

(K) Levo- $\alpha$ -phacetylmethadol, some other names: levo- $\alpha$ -acetylmethadol, levomethadyl acetate, or LAAM;

- (L) Levomethorphan;
- (M) Levorphanol;
- (N) Metazocine;
- (O) Methadone;
- (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (R) Pethidine (meperidine);
- (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (V) Phenazocine;
- (W) Piminodine;
- (X) Racemethorphan;
- (Y) Racemorphan;
- (Z) Remifentanil; and
- (AA) Sufentanil.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- (C) Phenmetrazine and its salts; and
- (D) Methylphenidate.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Amobarbital;
- (B) Glutethimide;
- (C) Pentobarbital;
- (D) Phencyclidine;
- (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and
- (F) Secobarbital.

(v) (A) Unless specifically excepted or unless listed in another schedule, any material, compound,



mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: (̄n)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(vii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

(D) Chlorhexadol;

(E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: ̄n-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylp yrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyzapone.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more

than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

- (A) Boldenone;
- (B) Chlorotestosterone (4-chlortestosterone);
- (C) Clostebol;
- (D) Dehydrochlormethyltestosterone;
- (E) Dihydrotestosterone (4-dihydrotestosterone);
- (F) Drostanolone;
- (G) Ethylestrenol;
- (H) Fluoxymesterone;
- (I) Formebolone (formebolone);
- (J) Mesterolone;
- (K) Methandienone;
- (L) Methandranone;
- (M) Methandriol;
- (N) Methandrostenolone;
- (O) Methenolone;
- (P) Methyltestosterone;
- (Q) Mibolerone;
- (R) Nandrolone;
- (S) Norethandrolone;
- (T) Oxandrolone;
- (U) Oxymesterone;
- (V) Oxymetholone;
- (W) Stanolone;

- (X) Stanozolol;
- (Y) Testolactone;
- (Z) Testosterone; and
- (AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(viii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule III of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ix) Nabiximols.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Alprazolam;
- (B) Barbital;
- (C) Bromazepam;
- (D) Butorphanol;
- (E) Camazepam;
- (F) Carisoprodol;
- (G) Chloral betaine;
- (H) Chloral hydrate;
- (I) Chlordiazepoxide;
- (J) Clobazam;
- (K) Clonazepam;
- (L) Clorazepate;
- (M) Clotiazepam;
- (N) Cloxazolam;
- (O) Delorazepam;
- (P) Diazepam;
- (Q) Dichloralphenazone;
- (R) Estazolam;
- (S) Ethchlorvynol;
- (T) Ethinamate;

(U) Ethyl loflazepam;  
 (V) Fludiazepam;  
 (W) Flunitrazepam;  
 (X) Flurazepam;  
 (Y) Halazepam;  
 (Z) Haloxazolam;  
 (AA) Ketazolam;  
 (BB) Loprazolam;  
 (CC) Lorazepam;  
 (DD) Lormetazepam;  
 (EE) Mebutamate;  
 (FF) Medazepam;  
 (GG) Meprobamate;  
 (HH) Methohexital;  
 (II) Methyphenobarbital (mephobarbital);  
 (JJ) Midazolam;  
 (KK) Nimetazepam;  
 (LL) Nitrazepam;  
 (MM) Nordiazepam;  
 (NN) Oxazepam;  
 (OO) Oxazolam;  
 (PP) Paraldehyde;  
 (QQ) Pentazocine;  
 (RR) Petrichloral;  
 (SS) Phenobarbital;  
 (TT) Pinazepam;  
 (UU) Prazepam;  
 (VV) Quazepam;  
 (WW) Temazepam;  
 (XX) Tetrazepam;  
 (YY) Tramadol;  
 (ZZ) Triazolam;  
 (AAA) Zaleplon; and  
 (BBB) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system,

including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Cathine ((+)-norpseudoephedrine);
- (B) Diethylpropion;
- (C) Fencamfamine;
- (D) Fenproporex;
- (E) Mazindol;
- (F) Mefenorex;
- (G) Modafinil;
- (H) Pemoline, including organometallic complexes and chelates thereof;
- (I) Phentermine;
- (J) Pipradrol;
- (K) Sibutramine; and
- (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(vi) A drug product or preparation that contains any component of marijuana and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II, P.L. 91-513.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

(G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

(ii) A drug product or preparation that contains any component of marijuana, including cannabidiol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled Substances Act, Title II, P.L. 91-513.

**Section 43. Section 58-37-8 is amended to read:**

**58-37-8. Prohibited acts -- Penalties.**

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a

third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under

Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance, except for 11-nor-9-carboxy-tetrahydrocannabinol; and

(ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another[-]; or

(B) if the controlled substance is marijuana, operates a motor vehicle as defined in Section

76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection (2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one

degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another

state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, “good faith” does not include seeking medical assistance under this section during the course of a law enforcement agency’s execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years of age is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

**Section 44. Section 58-67-304 is amended to read:**

**58-67-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee’s patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: “Do you perform elective abortions in Utah in a location other than a hospital?”; and

(b) immediately following the question, contain the following statement: “For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest.”

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician’s license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106[;] and 26-61a-403[; and 26-61a-602].

**Section 45. Section 58-68-304 is amended to read:**

**58-68-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee’s patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).



(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: “Do you perform elective abortions in Utah in a location other than a hospital?”; and

(b) immediately following the question, contain the following statement: “For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest.”

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician’s license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106[;] and 26-61a-403[, and 26-61a-602].

**Section 46. Section 76-10-101 is amended to read:**

**76-10-101. Definitions.**

As used in this part:

(1) “Cigar” means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette as described in Subsection (2).

(2) “Cigarette” means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to,

or purchased by, consumers as a cigarette described in Subsection (2)(a).

(3) (a) “Electronic cigarette” means an electronic cigarette product, as defined in Section 59-14-802.

(b) “Electronic cigarette” does not mean a medical cannabis device, as that term is defined in Section 26-61a-102.

(4) “Place of business” includes:

(a) a shop;

(b) a store;

(c) a factory;

(d) a public garage;

(e) an office;

(f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a café;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(5) “Smoking” means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

**Section 47. Section 76-10-528 is amended to read:**

**76-10-528. Carrying a dangerous weapon while under influence of alcohol or drugs unlawful.**

(1) It is a class B misdemeanor for any person to carry a dangerous weapon while under the influence of:

(a) alcohol as determined by the person’s blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

(b) a controlled substance as defined in Section 58-37-2.

(2) This section does not apply to:

(a) a person carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person;

(b) any person who uses or threatens to use force in compliance with Section 76-2-402; ~~or~~

(c) any person carrying a dangerous weapon in the person's residence or the residence of another with the consent of the individual who is lawfully in possession~~[-]; or~~

(d) a person under the influence of cannabis or a cannabis product, as those terms are defined in Section 26-61a-102, if the person's use of the cannabis or cannabis product complies with Title 26, Chapter 61a, Utah Medical Cannabis Act.

(3) It is not a defense to prosecution under this section that the person:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

**Section 48. Section 77-40-103 (Superseded 05/01/20) is amended to read:**

**77-40-103 (Superseded 05/01/20).**

**Expungement procedure overview.**

The process for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction of a petitioner is as follows:

(1) The petitioner shall apply to the bureau for a certificate of eligibility for expungement and pay the application fee established by the department.

(2) Once the eligibility process is complete, the bureau shall notify the petitioner.

(3) If the petitioner is qualified to receive a certificate of eligibility for expungement, the petitioner shall pay the issuance fee established by the department.

(4) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred. If there were no court proceedings, or the court no longer exists, the petition may be filed in the district court where the arrest occurred. If a certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk or the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(5) Notwithstanding Subsections (3) and (4), if the petitioner is not qualified to receive a certificate of eligibility for expungement, the petitioner may file a petition without a certificate to obtain expungement for a record of conviction related to cannabis possession if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (5)(a).

~~[(5)]~~ (6) The petitioner shall deliver a copy of the petition and certificate to the prosecutorial office that handled the court proceedings. If there were no court proceedings, the copy of the petition and certificate shall be delivered to the county attorney's office in the jurisdiction where the arrest occurred.

~~[(6)]~~ (7) If an objection to the petition is filed by the prosecutor or victim, a hearing shall be set by the court and the prosecutor and victim notified of the date.

~~[(7)]~~ (8) If the court requests a response from Adult Probation and Parole and a response is received, the petitioner may file a written reply to the response within 15 days of receipt of the response.

~~[(8)]~~ (9) An expungement may be granted without a hearing if no objection is received.

~~[(9)]~~ (10) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.

**Section 49. Section 77-40-103 (Effective 05/01/20) is amended to read:**

**77-40-103 (Effective 05/01/20). Petition for expungement procedure overview.**

The process for a petition for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction of a petitioner is as follows:

(1) The petitioner shall apply to the bureau for a certificate of eligibility for expungement and pay the application fee established by the department.

(2) Once the eligibility process is complete, the bureau shall notify the petitioner.

(3) If the petitioner is qualified to receive a certificate of eligibility for expungement, the petitioner shall pay the issuance fee established by the department.

(4) (a) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred.

(b) If there were no court proceedings, or the court no longer exists, the petitioner may file the petition in the district court where the arrest occurred.

(c) If a petitioner files a certificate of eligibility electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded.

(d) If the petitioner files the original certificate of eligibility with the petition, the clerk or the court shall scan and return the original certificate to the petitioner or the petitioner's attorney, who shall keep the original certificate until the proceedings are concluded.

(5) Notwithstanding Subsections (3) and (4), if the petitioner is not qualified to receive a certificate of eligibility for expungement, the petitioner may file a petition without a certificate to obtain expungement for a record of conviction related to cannabis possession if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (5)(a).

[45] (6) (a) The petitioner shall deliver a copy of the petition and certificate of eligibility to the prosecutorial office that handled the court proceedings.

(b) If there were no court proceedings, the petitioner shall deliver the copy of the petition and certificate to the county attorney's office in the jurisdiction where the arrest occurred.

[46] (7) If the prosecutor or the victim files an objection to the petition, the court shall set a hearing and notify the prosecutor and the victim of the date set for the hearing.

[47] (8) If the court requests a response from Adult Probation and Parole and a response is received, the petitioner may file a written reply to the response within 15 days of receipt of the response.

[48] (9) A court may grant an expungement without a hearing if no objection is received.

[49] (10) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.

**Section 50. Section 77-40-107 (Superseded 05/01/20) is amended to read:**

**77-40-107 (Superseded 05/01/20). Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.**

(1) The petitioner shall file a petition for expungement and, except as provided in Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting attorney shall provide notice of the expungement request by

first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if the court finds by clear and convincing evidence that:

(a) the petition and, except as provided under Subsection 77-40-103(5), certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without

condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction; ~~and~~

(e) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (8)(e)(i); and

~~(e)~~ (f) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the person seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

(10) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

**Section 51. Section 77-40-107 (Effective 05/01/20) is amended to read:**

**77-40-107 (Effective 05/01/20). Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.**

(1) (a) The petitioner shall file a petition for expungement and, except as provided in Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency.

(b) If the petitioner files the certificate of eligibility electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded.

(c) If the petitioner files the original certificate of eligibility with the petition, the clerk of the court

shall scan and return the original certificate to the petitioner or the petitioner's attorney, who shall keep the original certificate until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) (i) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(ii) The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other individual who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if the court finds by clear and convincing evidence that:

(a) the petition and, except as provided in Subsection 77-40-103(5), certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction; ~~and~~

(e) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (8)(e)(i); and

~~(e)~~ (f) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the individual seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

(10) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

**Section 52. Section 78A-2-231 is amended to read:**

**78A-2-231. Consideration of lawful use or possession of medical cannabis.**

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

~~(b)~~ (c) "Dosing ~~[parameters]~~ guidelines" means the same as that term is defined in Section 26-61a-102.

~~(e)~~ (d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

~~(d)~~ (e) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

~~(e)~~ (f) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

~~(f)~~ (g) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing ~~[parameters]~~ guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

**Section 53. Section 78A-6-115 is amended to read:**

**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Medical cannabis.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In

all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, a record of a proceeding made under Subsection (1)(a) shall be released by the court to any person upon a finding on the record for good cause.

(ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iii) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the request.

(iv) For purposes of this Subsection (1)(b):

(A) "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and

(B) "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the person who wrote the report or prepared the material appear as a witness if the person is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any person who participated in preparing the dispositional report to appear as a witness, if the person is reasonably available.

(5) (a) In an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the proceeding;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the proceeding.

(c) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

(d) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in its discretion, consider evidence of statements made by a child under eight years of age to a person in a trust relationship.

(7) (a) As used in this Subsection (7):

(i) “Cannabis product” means the same as that term is defined in Section 26-61a-102.

(ii) “Directions of use” means the same as that term is defined in Section 26-61a-102.

~~(iii)~~ (iii) “Dosing [~~parameters~~] guidelines” means the same as that term is defined in Section 26-61a-102.

~~(iii)~~ (iv) “Medical cannabis” means the same as that term is defined in Section 26-61a-102.

~~(iv)~~ (v) “Medical cannabis cardholder” means the same as that term is defined in Section 26-61a-102.

~~(v)~~ (vi) “Qualified medical provider” means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual’s possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual’s possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(i) the individual’s use or possession complies with ~~[(i)]~~ Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual’s possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual’s possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the directions of use and dosing [~~parameters~~] guidelines determined by the individual’s qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) A parent’s or guardian’s use of medical cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child, if:

(i) (A) for a medical cannabis cardholder after January 1, 2021, the parent’s or guardian’s possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent’s or guardian’s use of medical cannabis unreasonably deviates from the directions of use and dosing [~~parameters~~] guidelines determined by the parent’s or guardian’s qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(B) before January 1, 2021, the parent’s or guardian’s possession or use complies with Subsection 58-37-3.7(2) or (3); and

(ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise had cannabis introduced to the child’s body; or

(B) there is no evidence showing a nexus between the parent’s or guardian’s use of medical cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

#### **Section 54. Effective date.**

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

**CHAPTER 13****H. B. 17**

Passed February 20, 2020

Approved March 2, 2020

Effective March 2, 2020

**CONGRESSIONAL  
VACANCIES AMENDMENTS**Chief Sponsor: Merrill F. Nelson  
Senate Sponsor: Daniel W. Thatcher**LONG TITLE****General Description:**

This bill modifies the Election Code in relation to filling a vacancy in Congress.

**Highlighted Provisions:**

This bill:

- ▶ modifies a provision relating to a temporary appointment to fill a vacancy in the office of United States senator, pending a special election to fill the office;
- ▶ describes requirements and procedures relating to a special election to fill a vacancy in the office of United States senator or United States representative;
- ▶ describes when a vacancy occurs in a congressional office;
- ▶ grants authority to the governor to establish, consistent with the requirements of this bill, the dates, deadlines, time frames, and procedures relating to a special election described in this bill; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

20A-1-502, as enacted by Laws of Utah 1993, Chapter 1

**ENACTS:**

20-1-502.5, Utah Code Annotated 1953

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

**Section 1. Section 20A-1-502 is amended to read:****20A-1-502. Midterm vacancy in office of United States senator.**

~~[(1) When a vacancy occurs for any reason in the office of a representative in Congress, the governor shall issue a proclamation calling an election to fill the vacancy.]~~

~~[(2) (a) (1) [When] Except as provided in Subsections (2) and (3), when a vacancy occurs in the office of [U.S. senator, it shall be filled for the unexpired term at the next regular general election.] United States senator, the governor shall, within seven days after the day on which the vacancy occurs, issue a proclamation calling a special congressional election to fill the vacancy that:~~

(a) sets a date for a primary congressional special election, and a later date for a general congressional special election, on the same day as one of the following elections:

- (i) a municipal general election;
- (ii) a presidential primary election;
- (iii) a regular primary election; or
- (iv) a regular general election;

(b) sets the date of the primary congressional special election on the same day as the next election described in Subsections (1)(a)(i) through (iv) that is more than 90 days after the day on which the governor issues the proclamation;

(c) sets the date of the general special congressional election on the same day as the next election described in Subsection (1)(a) that is more than 90 days after the primary special congressional election described in Subsection (1)(b);

(d) provides each registered political party that is not a qualified political party at least 21 days, but no more than 28 days, to select one candidate, in a manner determined by the registered political party, as a candidate for the registered political party;

(e) for each qualified political party, provides at least 21 days, but no more than 28 days:

(i) for the qualified political party to select one candidate, using the convention process described in Section 20A-9-407, as a candidate for the qualified political party; and

(ii) for a member of the qualified political party to submit signatures to qualify as a candidate for the qualified political party using the signature-gathering process described in Section 20A-9-408;

(f) consistent with the requirements of this section, establishes the deadlines, time frames, and procedures for filing a declaration of candidacy, giving notice of an election, and other election requirements; and

(g) requires an election officer to comply with the requirements of Chapter 16, Uniform Military and Overseas Voters Act.

(2) (a) The governor may set a date for a primary special congressional election or a general special congressional election on a date other than a date described in Subsection (1)(a) if:

(i) on the same day on which the governor issues the proclamation described in Subsection (1) the governor calls a special session for the Legislature to appropriate money to hold the election on a different day; or

(ii) if the governor issues the proclamation described in Subsection (1) on or after January 1, but before the end of the general session of the Legislature, and requests in the proclamation described in Subsection (1) that the Legislature appropriate money to hold the election on a different day.



(b) If the Legislature does not, under Subsection (2)(a), appropriate money to hold the election on a different day, the proclamation described in Subsection (1) is void and the governor shall, within seven days after the day on which the Legislature declines to appropriate money to hold the election on a different day, issue a proclamation, in accordance with Subsection (1), that sets the special congressional primary and general elections on dates described in Subsections (1)(a)(i) through (iv).

(3) A special congressional election to fill a vacancy in the office of United States senator will not be held if:

(a) the next regular general election that occurs after the day on which the vacancy occurs is the regular general election that occurs immediately before the six-year term for the senate office ends; and

(b) the vacancy occurs after August 1 of the year before the regular general election described in Subsection (3)(a).

~~(b) The governor shall appoint a person to serve as U.S. senator until the vacancy is filled by election from one of three persons nominated by the state central committee of the same political party as the prior officeholder.~~

(4) (a) The governor shall appoint an individual to temporarily fill a vacancy in the office of United States senator from one of three individuals nominated by the Legislature, each of whom is a member of the political party of which the prior officeholder was a member at the time the prior officeholder was elected.

(b) The individual appointed under Subsection (4)(a) shall serve as United States senator until the earlier of the day on which:

(i) the vacancy is filled by election under Subsection (1) or (2); or

(ii) the six-year term for the senate office ends.

(5) An individual elected to fill a vacancy under this section shall serve until the end of the current term in which the vacancy filled by the election occurs.

(6) A vacancy in the office of United States senator does not occur unless the senator:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the governor or to the president of the United States Senate.

**Section 2. Section 20-1-502.5 is enacted to read:**

**20-1-502.5. Midterm vacancy in office of United States representative.**

(1) Except as provided in Subsections (2) and (4), when a vacancy occurs in the office of United States representative, the governor shall, within seven days after the day on which the vacancy occurs, issue a proclamation calling a special congressional election to fill the vacancy that:

(a) sets a date for a primary congressional special election, and a later date for a general congressional special election, on the same day as one of the following elections:

(i) a municipal general election;

(ii) a presidential primary election;

(iii) a regular primary election; or

(iv) a regular general election;

(b) sets the date of the primary congressional special election on the same day as the next election described in Subsections (1)(a)(i) through (iv) that is more than 90 days after the day on which the governor issues the proclamation;

(c) sets the date of the general special congressional election on the same day as the next election described in Subsection (1)(a) that is more than 90 days after the primary special congressional election described in Subsection (1)(b);

(d) provides each registered political party that is not a qualified political party at least 21 days, but no more than 28 days, to select one candidate, in a manner determined by the registered political party, as a candidate for the registered political party;

(e) for each qualified political party, provides at least 21 days, but no more than 28 days:

(i) for the qualified political party to select one candidate, using the convention process described in Section 20A-9-407, as a candidate for the qualified political party; and

(ii) for a member of the qualified political party to submit signatures to qualify as a candidate for the qualified political party using the signature-gathering process described in Section 20A-9-408;

(f) consistent with the requirements of this section, establishes the deadlines, time frames, and procedures for filing a declaration of candidacy, giving notice of an election, and other election requirements; and

(g) requires an election officer to comply with the requirements of Chapter 16, Uniform Military and Overseas Voters Act.

(2) The governor may set a date for a primary special congressional election or a general special congressional election on a date other than a date described in Subsection (1)(a) if:

(a) on the same day on which the governor issues the proclamation described in Subsection (1) the governor calls a special session for the Legislature to appropriate money to hold the election on a different day; or

(b) if the governor issues the proclamation described in Subsection (1) on or after January 1, but before the end of the general session of the Legislature, and requests in the proclamation described in Subsection (1) that the Legislature appropriate money to hold the election on a different day.

(3) If the Legislature does not, under Subsection (2), appropriate money to hold the election on a different day, the proclamation described in Subsection (1) is void and the governor shall, within seven days after the day on which the Legislature declines to appropriate money to hold the election on a different day, issue a proclamation, in accordance with Subsection (1), that sets the special congressional primary and general elections on dates described in Subsections (1)(a)(i) through (iv).

(4) A special congressional election to fill a vacancy in the office of United States representative will not be held if the vacancy occurs fewer than 180 days before the next regular general election.

(5) An individual who fills a vacancy under this section shall serve until the end of the current term in which the vacancy occurs.

(6) A vacancy in the office of United States representative does not occur unless the representative:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the governor or to the speaker of the United States House of Representatives.

**Section 3. Effective date.**

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

**CHAPTER 14****H. B. 18**

Passed February 21, 2020

Approved March 2, 2020

Effective March 2, 2020

**INDUSTRIAL HEMP  
PROGRAM AMENDMENTS**Chief Sponsor: Brad M. Daw  
Senate Sponsor: Scott D. Sandall**LONG TITLE****General Description:**

This bill makes amendments to the industrial hemp program.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ directs the Department of Agriculture and Food to develop a state industrial hemp production plan;
- ▶ makes changes to the industrial hemp producer license;
- ▶ establishes requirements for:
  - an industrial hemp retail permit; and
  - an industrial hemp laboratory permit;
- ▶ establishes a process for enforcement of legal provisions relating to industrial hemp; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 4-41-101, as last amended by Laws of Utah 2019, Chapter 23  
 4-41-102, as last amended by Laws of Utah 2019, Chapter 23  
 4-41-103, as last amended by Laws of Utah 2019, Chapter 23  
 4-41-105, as enacted by Laws of Utah 2018, Chapter 227

**ENACTS:**

- 4-41-103.1, Utah Code Annotated 1953  
 4-41-103.2, Utah Code Annotated 1953  
 4-41-103.3, Utah Code Annotated 1953  
 4-41-103.4, Utah Code Annotated 1953  
 4-41-106, Utah Code Annotated 1953

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

**Section 1. Section 4-41-101 is amended to read:****Part 1. Industrial Hemp****4-41-101. Title.**

(1) This chapter is known as the “Hemp and Cannabinoid Act.”

(2) This part is known as “Industrial Hemp [Research].”

**Section 2. Section 4-41-102 is amended to read:****4-41-102. Definitions.**

As used in this chapter:

(1) “Cannabinoid product” means a chemical compound extracted from a hemp product that:

- (a) is processed into a medicinal dosage form; and
- (b) contains less than 0.3% tetrahydrocannabinol by dry weight.

(2) “Industrial hemp” means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

(3) “Industrial hemp certificate” means a certificate that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

(4) “Industrial hemp certificate holder” means a person possessing an industrial hemp certificate that the department issues under this chapter.

(5) “Industrial hemp laboratory permit” means a permit that the department issues to a laboratory qualified to test industrial hemp under the state hemp production plan.

(6) “Industrial hemp producer license” means a license that the department issues to a person for the purpose of ~~growing, cultivating, processing, or marketing~~ cultivating or processing industrial hemp or an industrial hemp product.

(7) “Industrial hemp retailer permit” means a permit that the department issues to a retailer who sells any industrial hemp product.

(8) “Industrial hemp product” means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(9) “Laboratory permittee” means a person possessing an industrial hemp laboratory permit that the department issues under this chapter.

(10) “Licensee” means ~~an individual or business entity~~ a person possessing ~~a~~ an industrial hemp producer license that the department issues under this chapter ~~to grow, cultivate, process, or market industrial hemp or an industrial hemp product~~.

(11) “Medicinal dosage form” means:

- (a) a tablet;
- (b) a capsule;
- (c) a concentrated oil;
- (d) a sublingual preparation;
- (e) a topical preparation;
- (f) a transdermal preparation;
- (g) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or
- (h) other preparations that the department approves.

(12) “Non-compliant material” means a hemp plant or hemp product that does not comply with this chapter, including a cannabis plant or product that contains a concentration of 0.3% tetrahydrocannabinol or greater by dry weight.

(13) “Permittee” means a person possessing a permit that the department issues under this chapter.

[~~(8)~~] (14) “Person” means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

[~~(9)~~] (15) “Research pilot program” means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

(16) “Retailer permittee” means a person possessing an industrial hemp retailer permit that the department issues under this chapter.

(17) “State hemp production plan” means a plan submitted by the state to, and approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter 990.

### Section 3. Section 4-41-103 is amended to read:

#### 4-41-103. Industrial hemp -- Agricultural and academic research.

(1) The department [~~and its licensee may grow, cultivate, or process~~] or a certified higher education institution may cultivate or process industrial hemp for agricultural and academic research.

(2) The department shall [~~certify~~] issue an industrial hemp certificate to a higher education institution to [~~grow or~~] cultivate or process industrial hemp for the purpose of agricultural or academic research if the higher education institution submits to the department:

(a) the location where the higher education institution intends to [~~grow or~~] cultivate or process industrial hemp;

(b) the higher education institution’s research plan; and

(c) the name of an employee of the higher education institution who will supervise the industrial hemp [~~growth,~~] cultivation, processing, and research.

(3) The department shall maintain a list of each industrial hemp certificate holder [~~and licensee~~].

(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to [~~(a) ensure any~~] ensure that an industrial hemp project or research pilot project meets the standards of an agricultural pilot project, as defined by Section

7606 of the United States Agricultural Act of 2014[~~5~~].

[~~(b) establish requirements for a license to participate in an industrial hemp research pilot program;~~]

[~~(c) establish requirements for a license to grow, cultivate, process, or market industrial hemp;~~]

[~~(d) set sampling and testing procedures for industrial hemp; and~~]

[~~(e) define a class or category of an industrial hemp product that is eligible for sale, transfer, or distribution to a member of the public.~~]

[~~(5) A person seeking to cultivate industrial hemp shall provide to the department:~~]

[~~(a) the legal description and global positioning coordinates sufficient for locating any field or greenhouse the person uses to grow industrial hemp; and~~]

[~~(b) written consent allowing a representative of the department and local law enforcement to enter all premises where the person cultivates, processes, or stores industrial hemp for the purpose of:~~]

[~~(i) conducting a physical inspection; or~~]

[~~(ii) ensuring compliance with the requirements of this chapter.~~]

[~~(6) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain a license under this chapter.~~]

[~~(7)~~] (5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp certificate [~~and the application for an industrial hemp license~~].

### Section 4. Section 4-41-103.1 is enacted to read:

#### 4-41-103.1. Industrial hemp state production plan -- Authority to regulate production, sale, and testing of industrial hemp.

(1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) create a state hemp production plan that meets the standards of the Domestic Hemp Production Program, 7 C.F.R. Chapter 990;

(b) establish requirements for an industrial hemp producer license to cultivate or process industrial hemp;

(c) establish requirements for an industrial hemp retailer permit to market or sell industrial hemp products; and

(d) establish the standards, methods, practices, and procedures a laboratory must use to qualify for a permit to test industrial hemp and industrial hemp products and to dispose of non-compliant material.

(2) The department shall maintain a list of each licensee and permittee.

**Section 5. Section 4-41-103.2 is enacted to read:**

**4-41-103.2. Industrial hemp producer license.**

(1) The department or a licensee of the department may cultivate or process industrial hemp.

(2) A person seeking an industrial hemp producer license shall provide to the department:

(a) the legal description and global positioning coordinates sufficient for locating the fields or greenhouses the person uses to grow industrial hemp; and

(b) written consent allowing a representative of the department and local law enforcement to enter all premises where the person cultivates, processes, or stores industrial hemp for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain an industrial hemp producer license.

(4) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp producer license.

(5) A licensee may only market industrial hemp that the licensee cultivates or processes.

**Section 6. Section 4-41-103.3 is enacted to read:**

**4-41-103.3. Industrial hemp retailer permit.**

(1) A retailer permittee of the department may market or sell industrial hemp products.

(2) A person seeking an industrial hemp retailer permit shall provide to the department:

(a) the name of the person that is seeking to market or sell an industrial hemp product;

(b) the address of each location where the industrial hemp product will be sold; and

(c) written consent allowing a representative of the department to enter all premises where the person is selling an industrial hemp product for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp retailer permit.

**Section 7. Section 4-41-103.4 is enacted to read:**

**4-41-103.4. Industrial hemp laboratory permit.**

(1) The department or a laboratory permittee of the department may test industrial hemp and industrial hemp products.

(2) The department or a laboratory permittee of the department may dispose of non-compliant material.

(3) A laboratory seeking an industrial hemp laboratory permit shall:

(a) demonstrate to the department that:

(i) the laboratory and laboratory staff possess the professional certifications required by department rule;

(ii) the laboratory has the ability to test industrial hemp and industrial hemp products using the standards, methods, practices, and procedures required by department rule;

(iii) the laboratory has the ability to meet the department's minimum standards of performance for detecting delta-9 tetrahydrocannabinol (THC) concentration levels; and

(iv) the laboratory has a plan that complies with the department's rule for the safe disposal of non-compliant material; and

(b) provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the laboratory tests, processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(4) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain a license under this chapter.

(5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp laboratory permit.

**Section 8. Section 4-41-105 is amended to read:**

**4-41-105. Unlawful acts.**

(1) It is unlawful for a person [~~who is not a licensee~~] to cultivate, handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter.

(2) It is unlawful for any person to distribute, sell, or market an industrial hemp product that is not registered with the department pursuant to Section 4-41-104.

(3) The department may seize and destroy [~~hemp plants or products that do not comply with this chapter, including cannabis plants or products that contain a concentration of 0.3% tetrahydrocannabinol or greater by weight]~~ non-compliant material.

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

**Section 9. Section 4-41-106 is enacted to read:**

**4-41-106. Enforcement -- Fine -- Citation.**

(1) If a person violates this part, the department may:

(a) revoke the person's license or permit;

(b) decline to renew the person's license or permit; or

(c) assess the person a civil penalty that the department establishes in accordance with Section 4-2-304.

(2) The department shall deposit a penalty imposed under this section into the General Fund.

(3) The department may take an action described in Subsection (4) if the department concludes, upon investigation, that a person has violated this chapter, a rule made under this chapter, or an order issued under this chapter.

(4) If the department makes the conclusion described in Subsection (3), the department shall:

(a) issue the person a written administrative citation;

(b) attempt to negotiate a stipulated settlement;

(c) seize, embargo, or destroy the industrial hemp batch or unregistered product;

(d) order the person to cease the violation; and

(e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(5) The department may, for a person, other than an individual, that is subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department may not revoke an industrial hemp producer's license, an industrial hemp retailer's permit, or an industrial hemp laboratory permit without first giving the person the opportunity to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(7) If, within 30 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(8) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's producer license, retailer permit, or laboratory permit; or

(b) suspend, revoke, or place on probation the person's producer license, retailer permit, or laboratory permit.

**Section 10. Effective date.**

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

**CHAPTER 15****H. B. 125**

Passed February 27, 2020

Approved March 2, 2020

Effective May 12, 2020

**DIVISION OF WILDLIFE  
RESOURCES AMENDMENTS**Chief Sponsor: Carl R. Albrecht  
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill addresses activities overseen by the director of the Division of Wildlife Resources.

**Highlighted Provisions:**

This bill:

- ▶ provides a policy statement;
- ▶ defines terms;
- ▶ directs the director to take immediate action under certain circumstances when a big game population is under the established herd size objective for a management unit;
- ▶ describes what is immediate action; and
- ▶ requires reporting.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

23-16-10, Utah Code Annotated 1953

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

**Section 1. Section 23-16-10 is enacted to read:****23-16-10. Big game protection -- Director authority.**

(1) It is the policy of the state that big game animals are of great importance to the citizens of the state, the citizen's quality of life, and the long term sustainability of the herds for future generations.

(2) As used in this section:

(a) "Big game" includes deer, elk, big horn sheep, moose, mountain goats, pronghorn, and bison.

(b) "Director" means the director of the Division of Wildlife Resources.

(c) "Management unit" means a prescribed area of contiguous land designated by the Division of Wildlife Resources for the purpose of managing a species of big game animal.

(d) "Predator" means a cougar, bear, and coyote.

(3) (a) Unless the condition described in Subsection (3)(b) is determined, the director shall take immediate action to reduce the number of predators within a management unit when the big game population is under the established herd size objective for that management unit.

(b) Subsection (3)(a) does not apply if the Division of Wildlife Resources determines that predators are not significantly contributing to the big game population being under the herd size objective for the management unit.

(4) Immediate action under Subsection (3) includes any of the following management tools:

(a) increasing take permits or tags for cougar and bear until the herd size objective is met;

(b) allowing big game hunters to harvest predators with the appropriate permit during a big game hunting season, including issuing over-the-counter predator permits;

(c) professional trapping and predator control by the United States Department of Agriculture Wildlife Services, private contracts, and the general public, including aerial control measures; and

(d) other management tools as determined by the director.

(5) The director shall annually give a status report on predator control measures implemented pursuant to this chapter to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Natural Resources, Agriculture, and Environment Interim Committee.

**CHAPTER 16****H. B. 129**

Passed February 21, 2020

Approved March 2, 2020

Effective March 2, 2020

**NATURAL GAS AMENDMENTS**

Chief Sponsor: Christine F. Watkins

Senate Sponsor: David P. Hinkins

Cosponsors: Carl R. Albrecht

Brady Brammer

Kay J. Christofferson

Joel Ferry

Dan N. Johnson

Calvin R. Musselman

Derrin R. Owens

Val K. Potter

Douglas V. Sagers

Rex P. Shipp

V. Lowry Snow

Mike Winder

**LONG TITLE****General Description:**

This bill modifies the Energy Resource Procurement Act by amending provisions relating to natural gas infrastructure.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of rural gas infrastructure development to include the acquisition, extension, or expansion of natural gas utility facilities to serve previously unserved rural areas of the state; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

54-17-401, as last amended by Laws of Utah 2018, Chapter 449

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

**Section 1. Section 54-17-401 is amended to read:****54-17-401. Definitions -- Rules.**

(1) As used in this part:

(a) "Energy utility" means one of the following with 200,000 retail customers in the state:

- (i) an electrical corporation; or
- (ii) a gas corporation.

(b) "Resource decision" means a decision, other than a decision to construct or acquire a significant energy resource, involving:

- (i) an energy utility's acquisition, management, or operation of energy production, processing,

transmission, or distribution facilities or processes including:

(A) a facility or process for the efficient, reliable, or safe provision of energy to retail customers;

(B) an energy efficiency and conservation program; or

(C) rural gas infrastructure development; or

(ii) a decision determined by the commission to be appropriate for review under this part.

(c) "Rural gas infrastructure development" means the acquisition, planning, development, extension, expansion, and construction of [an extension or expansion of] natural gas [main lines] utility facilities to serve previously unserved rural areas of the state.

(2) The commission may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to specify the nature of resource decisions subject to approval under Section 54-17-402.

**Section 2. Effective date.**

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



**CHAPTER 17****S. B. 66**

Passed February 26, 2020

Approved March 6, 2020

Effective March 6, 2020

**COURT RESOURCES  
REALLOCATION AMENDMENTS**Chief Sponsor: Todd Weiler  
House Sponsor: V. Lowry Snow**LONG TITLE****General Description:**

This bill reallocates the number of judges for district and juvenile courts.

**Highlighted Provisions:**

This bill:

- ▶ decreases the number of juvenile court judges for the Third Juvenile District upon the retirement, resignation, or death of a juvenile judge;
- ▶ increases the number of district court judges for the Fifth District when the number of juvenile court judges for the Third Juvenile District decreases; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

78A-1-103, as last amended by Laws of Utah 2019, Chapter 425

78A-1-104, as last amended by Laws of Utah 2016, Chapter 17

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

**Section 1. Section 78A-1-103 is amended to read:****78A-1-103. Number of district judges.**

- (1) The number of district court judges shall be:
- [41] (a) four district judges in the First District;
- [42] (b) 14 district judges in the Second District;
- [43] (c) 31 district judges in the Third District;
- [44] (d) 13 district judges in the Fourth District;
- [45] (e) except as provided in Subsection (2), six district judges in the Fifth District;
- [46] (f) two district judges in the Sixth District;
- [47] (g) three district judges in the Seventh District; and
- [48] (h) three district judges in the Eighth District.

(2) If the number of juvenile court judges in the Third Juvenile District, as described in Section 78A-1-104, is decreased to nine, the number of district court judges in the Fifth District is increased to seven.

**Section 2. Section 78A-1-104 is amended to read:****78A-1-104. Number of juvenile judges and jurisdictions.**

- (1) The number of juvenile court judges shall be:
- [41] (a) two juvenile judges in the First Juvenile District;
- [42] (b) six juvenile judges in the Second Juvenile District;
- [43] (c) except as provided in Subsection (2), 10 juvenile judges in the Third Juvenile District;
- [44] (d) five juvenile judges in the Fourth Juvenile District;
- [45] (e) three juvenile judges in the Fifth Juvenile District;
- [46] (f) one juvenile judge in the Sixth Juvenile District;
- [47] (g) two juvenile judges in the Seventh Juvenile District; and
- [48] (h) two juvenile judges in the Eighth Juvenile District.

(2) (a) If there is a vacancy for a juvenile court judge in the Third Juvenile District, the number of juvenile judges in the Third Juvenile District is decreased to nine.

(b) If a vacancy in the Third Juvenile District occurs and the number of juvenile judges in the Third Juvenile District is decreased to nine, the governor shall fill the vacancy created in Subsection 78A-1-103(2) for the Fifth District in accordance with Section 78A-10-104.

**Section 3. Effective date.**

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

**CHAPTER 18****H. B. 11**

Passed February 7, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**BLOOD ALCOHOL LIMIT AMENDMENTS**

Chief Sponsor: James A. Dunnigan  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends provisions of the Workers' Compensation Act regarding an employee's blood or breath alcohol concentration.

**Highlighted Provisions:**

This bill:

- ▶ in relation to certain workers' compensation claims, reduces the blood or breath alcohol concentration threshold at which:
  - an employer's permitting, encouraging, or having actual knowledge of an employee's intoxication from alcohol may affect compensation provided under the Workers' Compensation Act;
  - it is presumed that the major contributing cause of an employee's injury is the employee's intoxication from alcohol; and
  - the termination of an employee from reemployment for the employee's use of alcohol may affect the employee's disability compensation for a disability claim.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

34A-2-302, as last amended by Laws of Utah 2014, Chapter 182  
 34A-2-410.5, as enacted by Laws of Utah 2008, Chapter 349

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

**Section 1. Section 34A-2-302 is amended to read:****34A-2-302. Employee's willful misconduct -- Penalty.**

(1) For purposes of this section:

- (a) "Controlled substance" is as defined in Section 58-37-2.
- (b) "Local government employee" is as defined in Section 34-41-101.
- (c) "Local governmental entity" is as defined in Section 34-41-101.
- (d) "State institution of higher education" is as defined in Section 34-41-101.
- (e) "Valid prescription" is a prescription, as defined in Section 58-37-2, that:

(i) is prescribed for a controlled substance for use by the employee for whom it was prescribed; and

(ii) has not been altered or forged.

(2) An employee may not:

(a) remove, displace, damage, destroy, or carry away any safety device or safeguard provided for use in any employment or place of employment;

(b) interfere in any way with the use of a safety device or safeguard described in Subsection (2)(a) by any other person;

(c) interfere with the use of any method or process adopted for the protection of any employee in the employer's employment or place of employment; or

(d) fail or neglect to follow and obey orders and to do every other thing reasonably necessary to protect the life, health, and safety of employees.

(3) Except in case of injury resulting in death:

(a) compensation provided for by this chapter shall be reduced 15% when injury is caused by the willful failure of the employee:

(i) to use safety devices when provided by the employer; or

(ii) to obey any order or reasonable rule adopted by the employer for the safety of the employee; and

(b) except when the employer permitted, encouraged, or had actual knowledge of the conduct described in Subsection (4):

(i) disability compensation may not be awarded under this chapter or Chapter 3, Utah Occupational Disease Act, to an employee when the major contributing cause of the employee's injury is the employee's conduct described in Subsection (4); or

(ii) disability compensation to an employee under this chapter or Chapter 3, Utah Occupational Disease Act, shall be reduced by 15% when the employee's conduct is a contributing cause of the employee's injury but not the major contributing cause.

(4) The conduct described in Subsection (3)(b) is the employee's:

(a) knowing use of a controlled substance that the employee did not obtain under a valid prescription;

(b) intentional abuse of a controlled substance that the employee obtained under a valid prescription if the employee uses the controlled substance intentionally:

(i) in excess of prescribed therapeutic amounts; or

(ii) in an otherwise abusive manner; or

(c) intoxication from alcohol with a blood or breath alcohol concentration of [~~.08~~] .05 grams or greater as shown by a chemical test.

(5) (a) For purposes of Subsections (3) and (4), as shown by a chemical test that conforms to scientifically accepted analytical methods and procedures and includes verification or confirmation of any positive test result by gas

chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical method, before the result of the test may be used as a basis for the presumption, it is presumed that the major contributing cause of the employee's injury is the employee's conduct described in Subsection (4) if at the time of the injury:

(i) the employee has in the employee's system:

(A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled substance under a valid prescription; or

(B) a controlled substance the employee obtained under a valid prescription or the metabolites of the controlled substance if the amount in the employee's system is consistent with the employee using the controlled substance intentionally:

(I) in excess of prescribed therapeutic amounts; or

(II) in an otherwise abusive manner; or

(ii) the employee has a blood or breath alcohol concentration of ~~[-.08]~~ .05 grams or greater.

(b) The presumption created under Subsection (5)(a) may be rebutted by a preponderance of the evidence showing that:

(i) the chemical test creating the presumption is inaccurate because the employer failed to comply with:

(A) Sections 34-38-4 through 34-38-6; or

(B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104 and Subsection 34-41-103(5);

(ii) the employee did not engage in the conduct described in Subsection (4);

(iii) the test results do not exclude the possibility of passive inhalation of marijuana because the concentration of total urinary cannabinoids is less than 50 nanograms/ml as determined by a test conducted in accordance with:

(A) Sections 34-38-4 through 34-38-6; or

(B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104 and Subsection 34-41-103(5);

(iv) a competent medical opinion from a physician verifies that the amount of controlled substances, metabolites, or alcohol in the employee's system does not support a finding that the conduct described in Subsection (4) was the major contributing cause of the employee's injury or a contributing cause of the employee's injury; or

(v) (A) the conduct described in Subsection (4) was not a contributing cause of the employee's injury; or

(B) the employee's mental and physical condition were not impaired at the time of the injury.

(c) (i) Except as provided in Subsections (5)(c)(ii) and (iii), if a chemical test that creates the

presumption under Subsection (5)(a) is taken at the request of the employer, the employer shall comply with:

(A) Title 34, Chapter 38, Drug and Alcohol Testing; or

(B) if the employee is a local governmental employee or an employee of a state institution of higher education, Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies.

(ii) Notwithstanding Section 34-38-13, the results of a test taken under Title 34, Chapter 38, Drug and Alcohol Testing, may be disclosed to the extent necessary to establish or rebut the presumption created under Subsection (5)(a).

(iii) Notwithstanding Section 34-41-103, the results of a test taken under Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies, may be disclosed to the extent necessary to establish or rebut the presumption created under Subsection (5)(a).

(6) (a) A test sample taken pursuant to this section shall be taken as a split sample.

(b) One part of the sample is to be used by the employer for testing pursuant to Subsection (5)(a):

(i) at a testing facility selected by the employer; and

(ii) at the employer's or the employer's workers' compensation carrier's expense.

(c) The testing facility selected under Subsection (6)(b) shall hold the part of the sample not used under Subsection (6)(b) until the sooner of:

(i) six months from the date of the original test; or

(ii) when the employee requests that the sample be tested.

(d) The employee has only six months from the date of the original test to have the remaining sample tested:

(i) at the employee's expense; and

(ii) at the testing facility selected by the employee, except that the test shall meet the requirements of Subsection (5)(a).

(7) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

**Section 2. Section 34A-2-410.5 is amended to read:**

**34A-2-410.5. Employee cooperation with reemployment.**

(1) As used in this section:

(a) "Controlled substance" is as defined in Section 58-37-2.

(b) "Correctional facility" means:

(i) a correctional facility as defined in Section 76-8-311.3; or

(ii) a facility operated by or contracting with the federal government to house a criminal offender in either a secure or nonsecure setting.

(c) “Disability claim” means a claim for compensation for:

- (i) a temporary total disability benefit; or
- (ii) a temporary partial disability benefit.

(d) “Local governmental entity” is as defined in Section 34-41-101.

(e) “Reemployment” means employment that:

(i) is after an accident or occupational disease that is the basis for a disability claim; and

(ii) in a manner consistent with Subsection (2)(b), offers to an employee an opportunity for earnings, considering the employee’s:

- (A) education;
- (B) experience; and
- (C) physical and mental impairment or condition.

(f) “State institution of higher education” means an institution listed in Section 53B-3-102.

(g) “Valid prescription” is a prescription, as defined in Section 58-37-2, that is:

(i) prescribed for a controlled substance for use by the employee for whom it is prescribed; and

(ii) not altered or forged.

(2) In accordance with this section, the commission may reduce or terminate an employee’s disability compensation for a disability claim for good cause shown by the employer including if:

(a) the employer terminates the employee from the reemployment and the termination is:

- (i) reasonable;
- (ii) for cause; and
- (iii) as a result, in whole or in part, of:

- (A) criminal conduct;
- (B) violent conduct; or

(C) a violation of a reasonable, written workplace health, safety, licensure, or nondiscrimination rule that is applied in a manner that is reasonable and nondiscriminatory;

(b) the employee is incarcerated in a correctional facility for a period of time that would result in the termination of the employee’s reemployment in accordance with a reasonable, written workplace rule that is applied in a manner that is reasonable and nondiscriminatory; or

(c) subject to Subsection (6), the employee is terminated from the reemployment:

(i) (A) for use of a controlled substance that the employee did not obtain under a valid prescription;

(B) for intentional abuse of a controlled substance that the employee obtained under a valid

prescription, if the employee uses the controlled substance intentionally:

(I) in excess of a prescribed therapeutic amount; or

(II) in an otherwise abusive manner; or

(C) for the use of alcohol that results in intoxication from alcohol with a blood or breath alcohol concentration of ~~[-08]~~ .05 grams or greater; and

(ii) in accordance with a reasonable, written workplace rule that is applied in a manner that is reasonable and nondiscriminatory.

(3) Notwithstanding the other provisions of this section, the employee described in Subsection (2) is eligible for medical benefits to the extent otherwise allowed under this title.

(4) (a) An employer or the employer’s insurance carrier may file an application for a hearing with the Division of Adjudication to request that an employee’s disability compensation for a disability claim be reduced or terminated under this section.

(b) An action under this Subsection (4) is barred if an application for a hearing is not filed within one year from the day on which the employer terminates the employee from reemployment as described in Subsection (2).

(c) An employer or the employer’s insurance carrier shall notify the employee that the employer or employer’s insurance carrier has filed a request for a hearing under this section within three business days of the day on which the filing is made.

(5) (a) The commission may reduce or terminate the disability compensation of an employee for a disability claim if after a hearing requested under Subsection (4), the commission determines that the conditions of Subsection (2) are met.

(b) The commission shall issue an order as to whether or not an employee’s disability compensation is reduced or terminated under this section by no later than 45 days from the day on which an application for a hearing is filed.

(c) A reduction or termination of disability compensation under this Subsection (5) takes effect on the day determined by the commission.

(d) If the disability compensation is ordered terminated or reduced, the employer or employer’s insurance carrier shall treat a resulting overpayment as an offset against the employer’s or employer’s insurance carrier’s future obligations to pay disability compensation to the employee.

(6) (a) For purposes of Subsection (2)(c), the commission may consider a chemical test that conforms to scientifically accepted analytical methods and procedures and includes verification or confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical method showing that the employee has:

(i) in the employee’s system during employment:

(A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled substance under a valid prescription; or

(B) a controlled substance the employee obtained under a valid prescription or the metabolites of the controlled substance if the amount in the employee's system is consistent with the employee using the controlled substance intentionally:

(I) in excess of prescribed therapeutic amounts;  
or

(II) in an otherwise abusive manner; or

(ii) a blood or breath alcohol concentration of ~~[-.08]~~ .05 grams or greater during employment.

(b) A local governmental entity or state institution of higher education shall comply with Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies, in engaging in a test for a controlled substance that is the basis of a presumption under this section.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) describing factors to be considered under Subsection (2); and

(b) related to the procedures for a request for a hearing under this section.

(8) The adjudication of a dispute arising under this section is governed by Part 8, Adjudication.

(9) An issue related to an employee's cooperation with regard to a claim for compensation for permanent total disability benefits is governed by Section 34A-2-413.

**CHAPTER 19****H. B. 13**

Passed February 20, 2020

Approved March 24, 2020

Effective May 12, 2020

**CHILDREN'S HEARING  
AID PROGRAM AMENDMENTS**

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: Jani Iwamoto

**LONG TITLE****General Description:**

This bill addresses the Children's Hearing Aid Program.

**Highlighted Provisions:**

This bill:

- ▶ extends the repeal date for the Children's Hearing Aid Program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

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

**Section 1. Section 63I-1-226 is amended to read:****63I-1-226. Repeal dates, Title 26.**

- (1) Section 26-1-40 is repealed July 1, 2022.
- (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.
- (3) Section 26-10-11 is repealed July 1, [2020] 2025.
- (4) Subsection 26-18-417(3) is repealed July 1, 2020.
- (5) Subsection 26-18-418(2), the language that states "and the Mental Health Crisis Line Commission created in Section 63C-18-202" is repealed July 1, 2023.
- [~~(6) Section 26-18-419.1 is repealed December 31, 2019.~~]
- [~~(7)~~] (6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- [~~(8)~~] (7) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.
- [~~(9)~~] (8) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.
- [~~(10)~~] (9) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.
- [~~(11)~~] (10) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric

Neuro-Rehabilitation Fund, is repealed January 1, 2023.

[~~(12)~~] (11) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

[~~(13)~~] (12) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

**CHAPTER 20****H. B. 14**

Passed March 2, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**SCHOOL ABSENTEEISM  
AND TRUANCY AMENDMENTS**

Chief Sponsor: V. Lowry Snow  
Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill amends provisions related to truancy.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes which absences from school are considered in determining if a minor is truant;
- ▶ replaces ages to which certain provisions related to truancy apply with grade levels to which the provisions apply;
- ▶ limits the conditions under which a school district or charter school may impose administrative penalties on a school-age child who is truant;
- ▶ requires local education agencies to report certain data to the State Board of Education; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 53G-6-201, as last amended by Laws of Utah 2019, Chapter 293  
53G-6-202, as last amended by Laws of Utah 2019, Chapter 293  
53G-6-203, as last amended by Laws of Utah 2019, Chapter 293  
53G-6-204, as last amended by Laws of Utah 2019, Chapter 293  
53G-6-205, as last amended by Laws of Utah 2019, Chapter 293  
53G-6-206, as last amended by Laws of Utah 2019, Chapter 293  
53G-6-208, as last amended by Laws of Utah 2019, Chapter 293  
53G-8-210, as last amended by Laws of Utah 2019, Chapter 293  
53G-8-211, as last amended by Laws of Utah 2019, Chapter 293

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

**Section 1. Section 53G-6-201 is amended to read:****53G-6-201. Definitions.**

[For purposes of] As used in this part:

(1) (a) "Absence" or "absent" means ~~[, consistent with Subsection (1)(b),]~~ the failure of a school-age

~~[minor] child assigned to a class or class period to attend [the entire] a class or class period.~~

~~[(b) A school-age minor may not be considered absent under this part more than one time during one day.]~~

~~(b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.~~

~~[(2) "Habitual truant" means a school-age minor who:]~~

~~[(a) is at least 12 years old;]~~

~~[(b) is subject to the requirements of Section 53G-6-202; and]~~

~~[(c) (i) is truant at least 10 times during one school year; or]~~

~~[(ii) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53G-6-206.]~~

~~[(3)] (2) "Minor" means a person under the age of 18 years.~~

~~[(4)] (3) "Parent" includes:~~

~~(a) a custodial parent of the minor;~~

~~(b) a legally appointed guardian of a minor; or~~

~~(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection [(4)(a)] (3)(a) or (b).~~

~~(4) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.~~

~~[(5) "School-age minor" means a minor who:]~~

~~[(a) is at least six years old, but younger than 18 years old; and]~~

~~[(b) is not emancipated.]~~

~~[(6)] (5) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age [minor] child:~~

~~(a) is enrolled; or~~

~~(b) should be enrolled, if the school-age [minor] child is not enrolled in school.~~

~~(6) "School-age child" means a minor who:~~

~~(a) is at least six years old but younger than 18 years old; and~~

~~(b) is not emancipated.~~

~~(7) (a) "Truant" means [absent without a valid excuse.] a condition in which a school-age child, without a valid excuse, and subject to Subsection (7)(b), is absent for at least:~~

~~(i) half of the school day; or~~

~~(ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the~~

state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.

(b) A school-age child may not be considered truant under this part more than one time during one day.

(8) "Truant minor" means a school-age ~~minor~~ child who:

(a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

(b) is truant.

(9) (a) "Valid excuse" means:

~~(a)~~ (i) an illness, which may be either mental or physical;

~~(b)~~ (ii) a family death;

~~(c)~~ (iii) an approved school activity;

~~(d)~~ (iv) an absence permitted by a school-age ~~minor's~~ child's:

~~(i)~~ (A) individualized education program[, developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended]; or

~~(ii)~~ (B) Section 504 accommodation plan[, developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended; or];

(v) an absence permitted in accordance with Subsection 53G-6-803(5); or

~~(e)~~ (vi) any other excuse established as valid by a local school board, charter school governing board, or school district.

(b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other than a reason described in Subsections (9)(a)(i) through (vi), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection (9)(a)(vi).

## Section 2. Section 53G-6-202 is amended to read:

### 53G-6-202. Compulsory education.

(1) For purposes of this section:

(a) "Intentionally" ~~is as~~ means the same as that term is defined in Section 76-2-103.

~~(b) "Recklessly" is as defined in Section 76-2-103.]~~

(b) "Notice of compulsory education violation" means a notice issued in accordance with Subsections (3) and (4).

(c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which ~~the~~ a notice of compulsory education violation ~~[described in Subsection (3)]~~ is served and ending on the last day of the school year.

~~(d) "School-age child" means a school-age minor under the age of 14.]~~

(2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age ~~minor~~ child shall enroll and send the school-age ~~minor~~ child to a public or regularly established private school.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may only issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is:

(a) in grade 1 through 6; and

(b) ~~[absent without a valid excuse]~~ truant at least five times during the school year.

(4) ~~[The]~~ A notice of compulsory education violation~~[, described in Subsection (3)]~~ issued to a parent:

(a) shall direct the parent ~~[of the school-age child]~~ to:

(i) meet with school authorities to discuss the school-age child's school attendance problems; and

(ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child;

(b) shall designate the school authorities with whom the parent is required to meet;

(c) shall state that it is a class B misdemeanor for the parent ~~[of the school-age child]~~ to intentionally or ~~recklessly~~ without good cause:

(i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or

(ii) fail to prevent the school-age child from being ~~[absent without a valid excuse]~~ truant five or more times during the remainder of the school year;

(d) shall be served on the ~~[school-age child's]~~ parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) It is a class B misdemeanor for a parent of a school-age ~~minor~~ child to intentionally or ~~recklessly~~ without good cause fail to enroll the school-age ~~minor~~ child in school, unless the school-age ~~minor~~ child is exempt from enrollment under Section 53G-6-204 or 53G-6-702.

(6) It is a class B misdemeanor for a parent of a school-age child who is in grade 1 through 6 to, after being served with a notice of compulsory education violation ~~[in accordance with Subsections (3) and (4)]~~, intentionally or ~~recklessly~~ without good cause:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being ~~[absent without a valid excuse]~~ truant five or more times during the remainder of the school year.



(7) A local school board, charter school governing board, or school district shall report violations of this section to the appropriate county or district attorney.

(8) If school personnel have reason to believe that, after a notice of compulsory education violation is issued, the parent has failed to make a good faith effort to ensure that the school-age child receives an appropriate education, the issuer of the compulsory education violation shall report to the Division of Child and Family Services:

(a) identifying information of the school-age child and the [child's] parent who received the notice of compulsory education violation;

(b) information regarding the longest number of consecutive school days the school-age [minor] child has been absent or truant from school and the percentage of school days the school-age child has been absent or truant during each relevant school term;

(c) whether the school-age child has made adequate educational progress;

(d) whether the requirements of Section 53G-6-206 have been met;

(e) whether the school-age child is two or more years behind the local public school's age group expectations in one or more basic skills; and

(f) whether the school-age child is receiving special education services or systematic remediation efforts.

**Section 3. Section 53G-6-203 is amended to read:**

**53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school authorities.**

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age [minor] child who is enrolled in a public school shall attend the public school in which the school-age [minor] child is enrolled.

(2) [A] In accordance with Section 53G-8-211, a local school board, charter school governing board, or school district may impose administrative penalties on a school-age [minor in accordance with Section 53G-8-211] child who is:

(a) in grade 7 or above, unless the school-age child is less than 12 years old; and

(b) truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue [notices] a notice of truancy [to school-age minors who are at least 12 years old] in accordance with Subsection (4); and

(b) shall establish a procedure for a school-age [minor] child, or the school-age [minor's] child's parents, to contest a notice of truancy.

(4) [The] A notice of truancy described in Subsection (3):

(a) may not be issued until [the] a school-age [minor] child has been truant at least five times during the school year;

(b) may not be issued to a school-age [minor] child who is less than 12 years old or in a grade below grade 7;

(c) may not be issued to a [minor] school-age child exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age [minor] child who receives the notice of truancy and the parent of the school-age [minor] child to:

(i) meet with school authorities to discuss the school-age [minor's] child's trancies; and

(ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age [minor] child; and

(e) shall be mailed to, or served on, the school-age [minor's] child's parent.

(5) Nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age [minor] child who has been truant [less] fewer than five times, provided that the action does not conflict with the requirements of this part.

**Section 4. Section 53G-6-204 is amended to read:**

**53G-6-204. School-age children exempt from school attendance.**

(1) (a) A local school board or charter school governing board may excuse a school-age [minor] child from attendance for any of the following reasons:

(i) a school-age [minor] child over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age [minor] child has completed grade 8; or

(ii) on an annual basis, a school-age [minor] child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age [minor] child has already completed the work required for graduation from high school, or has demonstrated mastery of required skills and competencies in accordance with Subsection 53F-2-501(1);

(B) the school-age [minor] child is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age [minor's] child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age [minor] child over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age [minor] child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age [minor] child from attendance as provided by this Subsection (1) shall issue a certificate that the [minor] child is excused from attendance during the time specified on the certificate.

(2) (a) A local school board shall excuse a school-age [minor] child from attendance, if the school-age [minor's] child's parent files a signed and notarized affidavit with the school-age [minor's] child's school district of residence, as defined in Section 53G-6-302, that:

(i) the school-age [minor] child will attend a home school; and

(ii) the parent assumes sole responsibility for the education of the school-age [minor] child, except to the extent the school-age [minor] child is dual enrolled in a public school as provided in Section 53G-6-702.

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age [minor] child attends a home school; and

(ii) the school district where the affidavit was filed remains the school-age [minor's] child's district of residence.

(c) A parent of a school-age [minor] child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age [minor] child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age [minor] child from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age [minor] child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age [minor] child from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age [minor's] child's parent pursuant to this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age [minor] child enrolls in a school within the school district;

(B) the school-age [minor's] child's parent notifies the school district that the school-age [minor] child no longer attends a home school; or

(C) the school-age [minor's] child's parent notifies the school district that the school-age [minor's] child's school district of residence has changed.

(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent of a [minor] child attending a home school.

**Section 5. Section 53G-6-205 is amended to read:**

**53G-6-205. Preapproval of extended absence.**

In determining whether to preapprove an extended absence of a school-age [minor] child as a valid excuse [under Subsection 53G-6-201(9)(e)], a local school board, charter school governing board, or school district shall approve the absence if the local school board, charter school governing board, or school district determines that the extended absence will not adversely impact the school-age [minor's] child's education.

**Section 6. Section 53G-6-206 is amended to read:**

**53G-6-206. Duties of a local school board, charter school governing board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed -- Report to state board.**

(1) (a) ~~[Except as provided in]~~ Subject to Subsection (1)(b), a local school board, charter school governing board, or school district shall make efforts to resolve the school attendance problems of each school-age ~~[minor]~~ child who is, or should be, enrolled in the school district.

(b) A ~~[minor]~~ school-age child exempt from school attendance under Section 53G-6-204 or 53G-6-702 is not considered to be a ~~[minor]~~ school-age child who is or should be enrolled in a school district or charter school under Subsection (1)(a).

(2) The efforts described in Subsection (1) shall include, as reasonably feasible:

(a) counseling of the ~~[minor]~~ school-age child by school authorities;

(b) (i) issuing a notice of truancy to ~~[a] the school-age [minor who is at least 12 years old,] child~~ in accordance with Section 53G-6-203; or

(e) (ii) issuing a notice of compulsory education violation to ~~[a] the school-age child's parent [of a school-age child,]~~ in accordance with Section 53G-6-202;

(d) (c) making any necessary adjustment to the curriculum and schedule to meet special needs of the ~~[minor]~~ school-age child;

(e) (d) considering alternatives proposed by ~~[a] the school-age child's parent;~~

(f) (e) monitoring school attendance of the ~~[minor]~~ school-age child;

(g) (f) voluntary participation in truancy mediation, if available; and

(h) (g) providing ~~[a] the school-age [minor's] child's parent,~~ upon request, with a list of resources available to assist the parent in resolving the school-age ~~[minor's] child's~~ attendance problems.

(3) In addition to the efforts described in Subsection (2), the local school board, charter school governing board, or school district may enlist the assistance of community and law enforcement agencies as appropriate and reasonably feasible in accordance with Section 53G-8-211.

(4) This section does not impose civil liability on boards of education, local school boards, charter school governing boards, school districts, or their employees.

(5) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 78A-6-319.

(6) Each LEA shall annually report the following data separately to the state board:

(a) absences with a valid excuse; and

(b) absences without a valid excuse.

**Section 7. Section 53G-6-208 is amended to read:**

**53G-6-208. Taking custody of a person believed to be a truant minor -- Disposition -- Reports -- Immunity from liability.**

(1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a ~~[school-age]~~ presumed truant minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or charter school governing board to receive and return the minor to school; or

(c) a truancy center established under Subsection (5).

(3) If the minor refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.

(5) (a) (i) A local school board or charter school governing board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors.

(ii) Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) (i) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services.

(ii) A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) (a) Action taken under this section shall be reported to the appropriate school district.

(b) The district shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

**Section 8. Section 53G-8-210 is amended to read:**

**53G-8-210. Disruptive student behavior.**

(1) As used in this section:

(a) “Disruptive student behavior” includes:

(i) the grounds for suspension or expulsion described in Section 53G-8-205; and

(ii) the conduct described in Subsection 53G-8-209(2)(b).

(b) “Parent” includes:

(i) a custodial parent of a school-age ~~minor~~ child;

(ii) a legally appointed guardian of a school-age ~~minor~~ child; or

(iii) any other person purporting to exercise any authority over the ~~minor~~ child which could be exercised by a person described in Subsection (1)(b)(i) or (ii).

(c) “Qualifying minor” means a school-age ~~minor~~ child who:

(i) is at least nine years old; or

(ii) turns nine years old at any time during the school year.

(d) “School year” means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age ~~minor~~ child is enrolled.

(e) “School-age child” means the same as that term is defined in Section 53G-6-201.

(2) A local school board, school district, charter school governing board, or charter school may impose administrative penalties in accordance with Section 53G-8-211 on a school-age ~~minor~~ child who violates this part.

(3) (a) A local school board or charter school governing board shall:

(i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and

(ii) establish a procedure for a qualifying minor, or a qualifying minor’s parent, to contest a notice of disruptive student behavior.

(b) A school representative shall provide to a parent of a school-age ~~minor~~ child, a list of resources available to assist the parent in resolving the school-age minor’s disruptive student behavior problem.

(c) A local school board or charter school governing board shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor’s disruptive student behavior problems.

(4) The notice of disruptive student behavior described in Subsection (3)(a):

(a) shall be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or

(ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;

(b) shall require that the qualifying minor and a parent of the qualifying minor:

(i) meet with school authorities to discuss the qualifying minor’s disruptive student behavior; and

(ii) cooperate with the local school board or charter school governing board in correcting the ~~school-age~~ qualifying minor’s disruptive student behavior; and

(c) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

(5) A habitual disruptive student behavior notice:

(a) may only be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and

(b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or charter school governing board to issue a habitual disruptive student behavior notice.

(6) (a) A qualifying minor to whom a habitual disruptive student behavior notice is issued under Subsection (5) may not be referred to the juvenile court.

(b) Within five days after the day on which a habitual disruptive student behavior notice is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the notice, of the efforts made by a school counselor or representative under Subsection (3)(c).

**Section 9. Section 53G-8-211 is amended to read:**

**53G-8-211. Responses to school-based behavior.**

(1) As used in this section:

(a) “Evidence-based” means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) “Habitual truant” means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is less than 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii) (A) is truant at least 10 times during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child’s attendance problem as required under Section 53G-6-206.

~~(4b)~~ (c) “Mobile crisis outreach team” means the same as that term is defined in Section 78A-6-105.

~~(4e)~~ (d) “Restorative justice program” means a school-based program or a program used or adopted by a local education agency that is designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.

~~(4d)~~ (e) “School administrator” means a principal of a school.

~~(4e)~~ (f) “School is in session” means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

~~(4f)~~ (g) “School resource officer” means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(h) “School-age child” means the same as that term is defined in Section 53G-6-201.

~~(4g)~~ (i) (i) “School-sponsored activity” means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency or public school’s facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school’s activity funds or Minimum School Program dollars.

(ii) “School-sponsored activity” includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

~~(4h)~~ (j) (i) “Status offense” means a violation of the law that would not be a violation but for the age of the offender.

(ii) Notwithstanding Subsection (1)~~(4h)~~(j)(i), a status offense does not include a violation that by statute is made a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:

(a) on school property where the student is enrolled:

(i) when school is in session; or

(ii) during a school-sponsored activity; or

(b) that is truancy.

(3) (a) If the alleged offense is a class C misdemeanor, an infraction, a status offense on school property, or truancy, the minor may not be referred to law enforcement or court but may be referred to evidence-based alternative interventions, including:

(i) a mobile crisis outreach team, as defined in Section 78A-6-105;

(ii) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;

(iii) a youth court or comparable restorative justice program;

(iv) evidence-based interventions created and developed by the school or school district; and

(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.

(b) Notwithstanding Subsection (3)(a), a school resource officer may:

(i) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(ii) consult with school administration about the conduct of a minor enrolled in a school;

(iii) transport a minor enrolled in a school to a location if the location is permitted by law;

(iv) take temporary custody of a minor pursuant to Subsection 78A-6-112(1); or

(v) protect the safety of students and the school community, including the use of reasonable and

necessary physical force when appropriate based on the totality of the circumstances.

(c) Notwithstanding other provisions of this section, a law enforcement officer who has cause to believe a minor has committed an offense on school property when school is not in session nor during a school-sponsored activity, the law enforcement officer may refer the minor to court or may refer the minor to evidence-based alternative interventions at the discretion of the law enforcement officer.

(4) (a) Notwithstanding Subsection (3)(a) and subject to the requirements of this Subsection (4), a school district or school may refer a minor to court for a class C misdemeanor committed on school property or for being a habitual truant~~[, as defined in Section 53G-6-201,]~~ if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(b) (i) When a minor is referred to court under Subsection (4)(a), the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(ii) A school representative appointed under this Subsection (4)(b) may not be a school resource officer.

(c) A school district or school shall include the following in its referral to the court:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family; and

(iv) any other information the school district or school considers relevant.

(d) A minor referred to court under this Subsection (4), may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-1101 when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.

(e) If a minor is referred to court under this Subsection (4), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

(5) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the minor may be referred directly to the juvenile court by the school administrator, the school administrator's designee, or a school resource officer, or the minor may be referred to the evidence-based alternative interventions in Subsection (3)(a).

**CHAPTER 21****H. B. 16**

Passed February 14, 2020

Approved March 24, 2020

Effective May 12, 2020

**SCHOOL MEALS  
PROGRAM AMENDMENTS**Chief Sponsor: Dan N. Johnson  
Senate Sponsor: Lyle W. Hillyard**LONG TITLE****General Description:**

This bill amends provisions related to funding regarding school meals.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions to broaden the use of school lunch revenues to school meals; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

32B-2-304, as last amended by Laws of Utah 2019, Chapter 403

53E-3-510, as last amended by Laws of Utah 2019, Chapter 186

53G-9-205, as last amended by Laws of Utah 2019, Chapter 293

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

**Section 1. Section 32B-2-304 is amended to read:****32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

(2) Except as provided in Subsection (3):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.

(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state

treasurer to be credited to the Uniform School Fund and used to support the school ~~[lunch]~~ meals program administered by the State Board of Education under Section 53E-3-510.

(5) This section does not prohibit the department from selling discontinued items at a discount.

**Section 2. Section 53E-3-510 is amended to read:**

**53E-3-510. Control of school meals program revenues -- Apportionment -- Costs.**

(1) (a) School ~~[lunch]~~ meals program revenues shall be under the control of the state board and may only be disbursed, transferred, or drawn upon by ~~[its]~~ the state board's order.

(b) The ~~[revenue]~~ school meals program revenues may only be used to provide school ~~[lunches]~~ meals and a school ~~[lunch]~~ meals program in the state's ~~[school—districts]~~ LEAs in accordance with standards established by the state board.

(2) (a) The state board shall apportion the ~~[revenue]~~ school meals program revenues according to the number of school children receiving school ~~[lunches]~~ meals in each ~~[school-district]~~ LEA.

(b) The state board and ~~[local-school]~~ LEA governing boards shall employ staff to administer and supervise the school ~~[lunch]~~ meals program and purchase supplies and equipment.

(3) The costs of the school ~~[lunch]~~ meals program shall be included in the state board's annual budget.

**Section 3. Section 53G-9-205 is amended to read:**

**53G-9-205. School Breakfast Program -- Review of nonparticipants -- Reporting.**

(1) (a) ~~[Each local school]~~ Beginning with the 2020-21 academic year, each LEA governing board shall, ~~[at least once every three years,]~~ annually review each ~~[elementary]~~ school in ~~[its district]~~ the LEA governing board's authority that does not participate in the School Breakfast Program as to the school's reasons for nonparticipation.

~~[(b) (i) If the local school board determines that there are valid reasons for the school's nonparticipation, no further action is needed.]~~

~~[(ii)]~~ (b) Reasons for nonparticipation may include a recommendation from the respective school community council authorized under Section 53G-7-1202 or ~~[a similar group of parents and school employees that the school should not participate in the program]~~ charter trust land council established under Section 53G-7-1205.

~~[(2) (a) After two nonparticipation reviews, a local school board may, by majority vote, waive any further reviews of the nonparticipatory school.]~~

~~[(b) A waiver of the review process under Subsection (2)(a) does not prohibit subsequent consideration by the local school board of an~~

~~individual school's nonparticipation in the School Breakfast Program.]~~

~~[(3)]~~ (2) The requirements of this section shall be nullified by the termination of the entitlement status of the School Breakfast Program by the federal government.



**CHAPTER 22****H. B. 19**

Passed February 20, 2020

Approved March 24, 2020

Effective May 12, 2020

**ELECTION AND  
CAMPAIGN AMENDMENTS**

Chief Sponsor: Jon Hawkins

Senate Sponsor: Daniel W. Thatcher

**LONG TITLE****General Description:**

This bill amends provisions relating to elections and campaigns.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends notice requirements in the Utah Municipal Code;
- ▶ addresses provisions relating to a ballot voted by a voter who moves within a county;
- ▶ corrects an error relating to the deadline to file a request to prepare a written argument for or against a special local ballot proposition;
- ▶ modifies the filing fee for a vice presidential candidate;
- ▶ provides signature and form requirements for a nomination petition for municipal office;
- ▶ amends provisions relating to an address reported under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
- ▶ expands campaign coordination provisions to a political action committee and a political issues committee;
- ▶ extends the deadline for the lieutenant governor to review certain campaign disclosures;
- ▶ amends provisions relating to the use of public email for a political purpose;
- ▶ establishes a procedure for the selection of presidential electors for unaffiliated or write-in candidates; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 10-2-415, as last amended by Laws of Utah 2019, Chapter 255
- 10-2-708, as last amended by Laws of Utah 2019, Chapter 255
- 10-2a-210, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165
- 10-2a-213, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165
- 10-2a-214, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165

- 10-2a-215, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165
- 20A-2-307, as last amended by Laws of Utah 2018, Chapter 206
- 20A-7-402, as last amended by Laws of Utah 2019, Chapters 203, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 203
- 20A-9-201, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
- 20A-9-202, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
- 20A-9-203, as last amended by Laws of Utah 2019, Chapters 142, 255, 258, and 305
- 20A-9-403, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
- 20A-9-406, as last amended by Laws of Utah 2018, Chapter 274
- 20A-9-503, as last amended by Laws of Utah 2018, Chapter 11
- 20A-11-101, as last amended by Laws of Utah 2019, Chapters 155 and 165
- 20A-11-206, as last amended by Laws of Utah 2019, Chapter 74
- 20A-11-305, as last amended by Laws of Utah 2016, Chapter 16
- 20A-11-403, as last amended by Laws of Utah 2019, Chapter 74
- 20A-11-508, as last amended by Laws of Utah 2015, Chapter 204
- 20A-11-512, as last amended by Laws of Utah 2019, Chapter 74
- 20A-11-601, as last amended by Laws of Utah 2019, Chapters 176, 255, 284 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 176
- 20A-11-603, as last amended by Laws of Utah 2019, Chapters 74 and 116
- 20A-11-703, as last amended by Laws of Utah 2013, Chapter 420
- 20A-11-801, as last amended by Laws of Utah 2019, Chapters 116, 255, and 284
- 20A-11-803, as last amended by Laws of Utah 2019, Chapter 74
- 20A-11-1205, as last amended by Laws of Utah 2019, Chapter 203
- 20A-11-1305, as last amended by Laws of Utah 2018, Chapter 19
- 20A-11-1503, as last amended by Laws of Utah 2013, Chapter 420
- 20A-11-1605, as last amended by Laws of Utah 2019, Chapter 266
- 20A-13-301, as last amended by Laws of Utah 2019, Chapter 255
- 20A-13-302, as last amended by Laws of Utah 2001, Chapter 78
- 20A-13-303, as last amended by Laws of Utah 2001, Chapter 78
- 20A-13-304, as enacted by Laws of Utah 1995, Chapter 1
- 36-11-103, as last amended by Laws of Utah 2019, Chapter 339

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

**Section 1. Section 10-2-415 is amended to read:**

**10-2-415. Public hearing -- Notice.**

(1) (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.

(b) At the public hearing described in Subsection (1)(a), the commission shall:

(i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(ii) allow those present to ask questions of the feasibility consultant regarding the study results; and

(iii) allow those present to speak to the issue of annexation.

(2) The commission shall publish notice of the public hearing described in Subsection (1)(a):

(a) (i) at least once a week for two successive weeks before the public hearing in a newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality;

(ii) if there is no newspaper of general circulation within the combined area described in Subsection (2)(a)(i), at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area; or

(iii) by mailing notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (2)(a)(i);

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for two weeks before the day of the public hearing;

(d) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person; ~~and~~

(e) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing~~;~~; and

(f) on the county's website for two weeks before the day of the public hearing.

(3) The notice described in Subsection (2) shall:

(a) be entitled, "notice of annexation hearing";

(b) state the name of the annexing municipality;

(c) describe the area proposed for annexation; and

(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:

(i) if the municipality has a website, the municipality's website;

(ii) a municipality's physical address; and

(iii) a mailing address and telephone number.

(4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(5) At least 14 days before the date of a hearing described in Subsection(4), the commission chair shall publish notice of the hearing:

(a) (i) in a newspaper of general circulation within the area proposed for annexation;

(ii) if there is no newspaper of general circulation within the area proposed for annexation, by posting one notice, and at least one additional notice per 2,000 population within the area in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of real property located within, the area; or

(iii) mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for 14 days before the day of the hearing;

(c) in accordance with Section 45-1-101, for 14 days before the day of the hearing; ~~and~~

~~(d)~~ (d) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing; and

~~(e)~~ (e) on the county's website for two weeks before the day of the public hearing.

(6) Each notice described in Subsection (5) shall state the date, time, and place of the hearing;

(a) briefly summarize the nature of the protest; and

(b) state that a copy of the protest is on file at the commission's office.

(7) The commission may continue a hearing under Subsection (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(8) In considering protests, the commission shall consider whether the proposed annexation:

(a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(b) conflicts with the annexation policy plan of another municipality; and

(c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(9) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (9)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

**Section 2. Section 10-2-708 is amended to read:**

**10-2-708. Notice of disincorporation -- Publication and filing.**

When a municipality has been dissolved, the clerk of the court shall publish notice of the dissolution:

(1) (a) in a newspaper of general circulation in the county in which the municipality is located at least once a week for four consecutive weeks;

(b) if there is no newspaper of general circulation in the county in which the municipality is located, by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the residents and owners within the municipality that is dissolved; or

(c) by mailing notice to each residence within, and each owner of real property located within, the county;

(2) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks;

(3) in accordance with Section 45-1-101, for four weeks; ~~and~~

(4) if the municipality has a website, on the municipality's website for four weeks; and

~~[(4)]~~ (5) on the county's website for four weeks.

**Section 3. Section 10-2a-210 is amended to read:**

**10-2a-210. Incorporation election.**

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b)(i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election

on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall publish notice of the election:

(a) (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;

(ii) if there is no newspaper of general circulation in the area proposed to be incorporated, at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election;

(c) in accordance with Section 45-1-101, for three weeks before the day of the election; ~~and~~

(d) if the proposed municipality has a website, on the proposed municipality's website for three weeks before the day of the election; and

~~[(d)]~~ (e) on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(c), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) The last notice required to be published under Subsection (2)(a)(i) shall be published at least one day, but no more than seven days, before the day of the election.

(c) Instead of publishing the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in area proposed to be incorporated may view or obtain a copy the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(5) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

**Section 4. Section 10-2a-213 is amended to read:**

**10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.**

(1) If the incorporation proposal passes, the petition sponsors shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the petition sponsors shall hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) The petition sponsors shall publish notice of the public hearing described in Subsection (3):

(a) (i) in a newspaper of general circulation within the future municipality at least once a week for two successive weeks before the public hearing;

(ii) if there is no newspaper of general circulation in the future municipality, at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality; or

(iii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for at least two weeks before the day of the public hearing; ~~and~~

(d) if the future municipality has a website, for two weeks before the day of the public hearing; and

~~[(d)]~~ (e) on the county's website for two weeks before the day of the public hearing.

(5) The last notice required to be published under Subsection (4)(a)(i) shall be published at least three days before the day of the public hearing described in Subsection (3).

**Section 5. Section 10-2a-214 is amended to read:**

**10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.**

(1) Within 20 days after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)(b)(ii), the county clerk shall publish, in accordance with Subsection (2), notice containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall publish the notice described in Subsection (1):

(a) (i) in a newspaper of general circulation within the future municipality at least once a week for two consecutive weeks;

(ii) if there is no newspaper of general circulation in the future municipality, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents in the future municipality; or

(iii) by mailing notice to each residence in the future municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks;

(c) in accordance with Section 45-1-101, for two weeks; ~~and~~

(d) if the future municipality has a website, on the future municipality's website for two weeks; and

~~[(d)]~~ (e) on the county's website for two weeks.

(3) Instead of publishing the district boundaries described in Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy the district:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

**Section 6. Section 10-2a-215 is amended to read:**

**10-2a-215. Election of officers of new municipality -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.**

(1) For the election of municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

(i) appropriate to the form of government chosen by the voters at the incorporation election;

(ii) consistent with the voters' decision about whether to elect city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(iii) consistent with the sponsors' determination of the number of city council members to be elected.

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election described in Subsection (1)(a) shall be held at the earliest of the next:

(i) regular primary election described in Subsection 20A-1-201.5(1); or

(ii) municipal primary election described in Section 20A-9-404.

(b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

(ii) a regular general election described in Section 20A-1-201; or

(iii) a regular municipal general election under Section 20A-1-202.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) The county clerk shall publish notice of an election under this section:

(a) (i) in accordance with Subsection (6), at least once a week for two consecutive weeks before the election in a newspaper of general circulation within the future municipality;

(ii) if there is no newspaper of general circulation in the future municipality, at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future

municipality that are most likely to give notice to the voters within the future municipality; or

(iii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the election;

(c) in accordance with Section 45-1-101, for two weeks before the day of the election; ~~and~~

(d) if the future municipality has a website, on the future municipality's website for two weeks before the day of the election; and

~~[(d)]~~ (e) on the county's website for two weeks before the day of the election.

(6) The last notice required to be published under Subsection (5)(a)(i) shall be published at least one day but no more than seven days before the day of the election.

(7) Until the municipality is incorporated, the county clerk:

(a) is the election officer for all purposes related to the election of municipal officers;

(b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;

(c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and

(d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.

(8) An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements described in Section 10-3-208; and

(b) the requirements and deadlines established by the county clerk under this section.

(9) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(4)(b).

**Section 7. Section 20A-2-307 is amended to read:**

**20A-2-307. County clerks' instructions to election judges.**

(1) Each county clerk shall instruct election judges to allow a voter to vote a regular ballot if:

(a) the voter has moved from one address within a ~~[voting precinct]~~ county to another address within the same ~~[voting precinct]~~ county; and

(b) the voter affirms the change of address orally or in writing before the election judges.

(2) Each county clerk shall instruct election judges to allow an individual to vote a provisional ballot if:

(a) the individual is not registered to vote, but is otherwise legally entitled to vote under Section 20A-2-207;

(b) the voter's name does not appear on the official register; or

(c) the voter is challenged as provided in Section 20A-3-202.

**Section 8. Section 20A-7-402 is amended to read:**

**20A-7-402. Local voter information pamphlet -- Contents -- Limitations -- Preparation -- Statement on front cover.**

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that complies with the requirements of this part.

(2) (a) Within the time requirements described in Subsection (2)(c)(i), a municipality that is subject to a special local ballot proposition shall provide a notice that complies with the requirements of Subsection (2)(c)(ii) to the municipality's residents by:

(i) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including the notice with a newsletter, utility bill, or other material;

(ii) posting the notice, until after the deadline described in Subsection (2)(d) has passed, on:

(A) the Utah Public Notice Website created in Section 63F-1-701; and

(B) the home page of the municipality's website, if the municipality has a website; and

(iii) sending the notice electronically to each individual in the municipality for whom the municipality has an email address.

(b) A county that is subject to a special local ballot proposition shall:

(i) send an electronic notice that complies with the requirements of Subsection (2)(c)(ii) to each individual in the county for whom the county has an email address; or

(ii) until after the deadline described in Subsection (2)(d) has passed, post a notice that complies with the requirements of Subsection (2)(c)(ii) on:

(A) the Utah Public Notice Website created in Section 63F-1-701; and

(B) the home page of the county's website.

(c) A municipality or county that mails, sends, or posts a notice under Subsection (2)(a) or (b) shall:

- (i) mail, send, or post the notice:
- (A) not less than 90 days before the date of the election at which a special local ballot proposition will be voted upon; or
- (B) if the requirements of Subsection (2)(c)(i)(A) cannot be met, as soon as practicable after the special local ballot proposition is approved to be voted upon in an election; and
- (ii) ensure that the notice contains:
- (A) the ballot title for the special local ballot proposition;
- (B) instructions on how to file a request under Subsection (2)(d); and
- (C) the deadline described in Subsection (2)(d).
- (d) To prepare a written argument for or against a special local ballot proposition, an eligible voter shall file a request with the election officer before 5 p.m. no later than [55] 64 days before the day of the election at which the special local ballot proposition is to be voted on.
- (e) If more than one eligible voter requests the opportunity to prepare a written argument for or against a special local ballot proposition, the election officer shall make the final designation in accordance with the following order of priority:
- (i) sponsors have priority in preparing an argument regarding a special local ballot proposition; and
- (ii) members of the local legislative body have priority over others if a majority of the local legislative body supports the written argument.
- (f) The election officer shall grant a request described in Subsection (2)(d) or (e) no later than [67] 60 days before the day of the election at which the ballot proposition is to be voted on.
- (g) (i) A sponsor of a special local ballot proposition may prepare a written argument in favor of the special local ballot proposition.
- (ii) Subject to Subsection (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection (2)(d) may prepare a written argument against the special local ballot proposition.
- (h) An eligible voter who submits a written argument under this section in relation to a special local ballot proposition shall:
- (i) ensure that the written argument does not exceed 500 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv);
- (ii) list, at the end of the argument, at least one, but no more than five, names as sponsors;
- (iii) submit the written argument to the election officer before 5 p.m. no later than [60] 55 days before the election day on which the ballot proposition will be submitted to the voters;
- (iv) list in the argument, immediately after the eligible voter's name, the eligible voter's residential address; and
- (v) submit with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.
- (i) An election officer shall refuse to accept and publish an argument submitted after the deadline described in Subsection (2)(h)(iii).
- (3) (a) An election officer who timely receives the written arguments in favor of and against a special local ballot proposition shall, within one business day after the day on which the election office receives both written arguments, send, via mail or email:
- (i) a copy of the written argument in favor of the special local ballot proposition to the eligible voter who submitted the written argument against the special local ballot proposition; and
- (ii) a copy of the written argument against the special local ballot proposition to the eligible voter who submitted the written argument in favor of the special local ballot proposition.
- (b) The eligible voter who submitted a timely written argument in favor of the special local ballot proposition:
- (i) may submit to the election officer a written rebuttal argument of the written argument against the special local ballot proposition;
- (ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (3)(h)(ii) or (iv); and
- (iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.
- (c) The eligible voter who submitted a timely written argument against the special local ballot proposition:
- (i) may submit to the election officer a written rebuttal argument of the written argument in favor of the special local ballot proposition;
- (ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (3)(h)(ii) or (iv); and
- (iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.
- (d) An election officer shall refuse to accept and publish a written rebuttal argument in relation to a special local ballot proposition that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).
- (4) (a) Except as provided in Subsection (4)(b), in relation to a special local ballot proposition:
- (i) an eligible voter may not modify a written argument or a written rebuttal argument after the

eligible voter submits the written argument or written rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify a written argument or a written rebuttal argument.

(b) The election officer, and the eligible voter who submits a written argument or written rebuttal argument in relation to a special local ballot proposition, may jointly agree to modify a written argument or written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written argument or written rebuttal argument in relation to a special local ballot proposition if the eligible voter who submits the written argument or written rebuttal argument fails to negotiate, in good faith, to modify the written argument or written rebuttal argument in accordance with Subsection (4)(b).

(5) In relation to a special local ballot proposition, an election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) Sponsors whose written argument in favor of a standard local ballot proposition is included in a proposition information pamphlet under Section 20A-7-401.5:

(a) may, if a written argument against the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(b) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(c) shall submit the written rebuttal argument no later than 45 days before the election day on which the standard local ballot proposition will be submitted to the voters.

(7) (a) A county or municipality that submitted a written argument against a standard local ballot proposition that is included in a proposition information pamphlet under Section 20A-7-401.5:

(i) may, if a written argument in favor of the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(b) If a county or municipality submits more than one written rebuttal argument under Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments, giving preference to a written rebuttal argument submitted by a member of a local legislative body.

(8) (a) An election officer shall refuse to accept and publish a written rebuttal argument that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

(b) Before an election officer publishes a local voter information pamphlet under this section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An election officer who receives a written rebuttal argument described in this section may not, before publishing the local voter information pamphlet described in this section, disclose the written rebuttal argument, or any information contained in the written rebuttal argument, to any person who may in any way be involved in preparing an opposing rebuttal argument.

(9) (a) Except as provided in Subsection (9)(b), a person may not modify a written rebuttal argument after the written rebuttal argument is submitted to the election officer.

(b) The election officer, and the person who submits a written rebuttal argument, may jointly agree to modify a written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written rebuttal argument if the person who submits the written rebuttal argument:

(i) fails to negotiate, in good faith, to modify the written rebuttal argument in accordance with Subsection (9)(b); or

(ii) does not timely submit the written rebuttal argument to the election officer.

(d) An election officer shall make a good faith effort to negotiate a modification described in Subsection (9)(b) in an expedited manner.

(10) An election officer may designate another person to take the place of a person who submits a written rebuttal argument in relation to a standard local ballot proposition if the person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the person's duties.

(11) (a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate and the legal impact statement prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

**"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax**



percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(12) (a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the written arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed written arguments:

“The arguments for or against a ballot proposition are the opinions of the authors.”;

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 days before, but not more than 45 days before, the election at which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered voter entitled to vote on the ballot proposition:

(A) a voter information pamphlet; or

(B) the notice described in Subsection (12)(c).

(b) (i) If the language of the ballot proposition exceeds 500 words in length, the election officer may summarize the ballot proposition in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection (12)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

**Section 9. Section 20A-9-201 is amended to read:**

**20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.**

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the individual is a member; or

(ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets the requirements described in Subsection (3)(a)(i); and

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(iv) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(i) that the individual filing the declaration of candidacy also makes the conflict of interest disclosure required by Section 20A-11-1603; and

(ii) until January 1, 2020, if the filing officer is not the lieutenant governor, that the individual provides the conflict of interest disclosure form to the lieutenant governor in accordance with Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to

the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

“State of Utah, County of \_\_\_\_\_

I, \_\_\_\_\_, declare my candidacy for the office of \_\_\_\_\_, seeking the nomination of the \_\_\_\_\_ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at \_\_\_\_\_ in the City or Town of \_\_\_\_\_, Utah, Zip Code \_\_\_\_\_ Phone No. \_\_\_\_\_; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is \_\_\_\_\_.

Subscribed and sworn before me this \_\_\_\_\_ (month \day \year).  
Notary Public (or other officer qualified to administer oath).”; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for ~~[presidential candidates]~~ a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_

I, \_\_\_\_\_ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Affiant

Subscribed and sworn to before me on

\_\_\_\_\_ (month \day \year) \_\_\_\_\_

(signature)

Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_”:

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

”Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this

Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

**Section 10. Section 20A-9-202 is amended to read:**

**20A-9-202. Declarations of candidacy for regular general elections.**

(1) (a) An individual seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) except as provided in Subsection (1)(c), file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is:

(i) in a year other than 2020, 5 p.m. on the first Monday after the third Saturday in April; or

(ii) in 2020, before 5 p.m. April 27.

(c) Subject to Subsection 20A-9-201(7)(b), an individual may designate an agent to file a declaration of candidacy with the filing officer if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the filing officer;

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other; and

(iv) the individual provides the filing officer with an email address to which the filing officer may send the individual the copies described in Subsection 20A-9-201(5).

(d) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one business day after the candidate files the declaration of candidacy.

(e) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who

have filed a declaration of candidacy with the county clerk.

(f) Each individual seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each individual intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) Before the deadline described in Subsection (1)(b)(i) or (ii), each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) (i) A candidate for lieutenant governor who fails to timely file is disqualified.

(ii) If a candidate for lieutenant governor is disqualified, another candidate may file to replace the disqualified candidate.

(4) Before 5 p.m. no later than August 31, each registered political party shall:

(a) certify the names of the political party's candidates for president and vice president of the United States to the lieutenant governor; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor before 5 p.m. within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition before 5 p.m. within three days after the day on which the objection is sustained or by filing a new declaration before 5 p.m. within three days after the day on which the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7) (a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in Section 20A-9-504, before 5 p.m. no later than August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:

(i) file a declaration of candidacy, in person or via a designated agent, on a form developed by the lieutenant governor, that:

(A) contains the individual's name, address, and telephone number;

(B) states that the individual meets the qualifications for the office of vice president of the United States;

(C) names the presidential candidate, who has qualified for the general election ballot, with which the individual is running as a joint-ticket running mate;

(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection (7)(a)(i)(C); and

(E) contains any other necessary information identified by the lieutenant governor;

(ii) pay the filing fee~~[, if applicable]~~; and

(iii) submit a letter from the presidential candidate described in Subsection (7)(a)(i)(C) that names the individual as a joint-ticket running mate as a vice presidential candidate.

(b) A designated agent described in Subsection (7)(a)(i) may not sign the declaration of candidacy.

(c) A vice presidential candidate who fails to meet the requirements described in this Subsection (7) may not appear on the general election ballot.

(8) An individual filing a declaration of candidacy for president or vice president of the United States shall pay a filing fee of \$500.

**Section 11. Section 20A-9-203 is amended to read:**

**20A-9-203. Declarations of candidacy -- Municipal general elections.**

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year[~~;~~and] that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) \_\_\_\_\_, being first sworn, say that I reside at \_\_\_\_\_ Street, City of \_\_\_\_\_, County of \_\_\_\_\_, state of Utah, Zip Code \_\_\_\_\_, Telephone Number (if any) \_\_\_\_\_; that I am a registered voter; and that I am a candidate for the office of \_\_\_\_\_ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.  
(Signed) \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me by \_\_\_\_\_ on this \_\_\_\_\_ (month \ day \ year).

(Signed) \_\_\_\_\_ (Clerk or other officer qualified to administer oath)".

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publish a list of the names of the candidates as they will appear on the ballot:

(i) (A) in at least two successive publications of a newspaper of general circulation in the municipality;

(B) if there is no newspaper of general circulation in the municipality, by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(C) by mailing notice to each registered voter in the municipality;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for seven days;

(iii) in accordance with Section 45-1-101, for seven days; and

(iv) if the municipality has a website, on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within five days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

**Section 12. Section 20A-9-403 is amended to read:**

**20A-9-403. Regular primary elections.**

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The regular primary election is held on the date specified in Section 20A-1-201.5. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) or 20A-9-408(8) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner, no later than 14 days after the day on which a candidate submits the signatures to the filing officer;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than the deadline described in Subsection 20A-9-202(1)(b)(i) or (ii);

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a

registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June \_\_\_\_, \_\_\_\_ (year), to nominate party candidates for the parties and



candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct \_\_\_\_ is \_\_\_\_\_. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk.”

(5) (a) A candidate who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate’s registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates’ party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is “unopposed” if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate’s registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate’s registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party’s bylaws.

**Section 13. Section 20A-9-406 is amended to read:**

**20A-9-406. Qualified political party -- Requirements and exemptions.**

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on November 30 of each odd-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party’s candidates and whether unaffiliated voters may vote for the qualified political party’s candidates;

(2) the following provisions [~~of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405~~] do not apply to a nomination for the qualified political party[~~s~~]:

(a) Subsections 20A-9-403(1) through (3)(b) and (3)(d) through (4)(a);

(b) Subsection 20A-9-403(5)(c); and

(c) Section 20A-9-405;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(f), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each individual nominated by a qualified political party:

(a) under the qualified political party’s name, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(d), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate’s name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(e), each election officer shall ensure that the party

designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

**Section 14. Section 20A-9-503 is amended to read:**

**20A-9-503. Certificate of nomination -- Filing -- Fees.**

(1) (a) Except as provided in Subsection (1)(b), after the certificate of nomination has been certified, executed, and acknowledged by the county clerk, the candidate shall:

(i) between the second Friday in March and the close of normal office hours on the third Thursday in March of the year in which the regular general election will be held:

(A) file the petition in person with the lieutenant governor, if the office the candidate seeks is a constitutional office or a federal office, or the county

clerk, if the office the candidate seeks is a county office; and

(B) pay the filing fee; or

(ii) not later than the close of normal office hours on June 15 of any odd-numbered year:

(A) file the petition in person with the municipal clerk, if the candidate seeks an office in a city or town, or the local district clerk, if the candidate seeks an office in a local district; and

(B) pay the filing fee.

(b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the United States.

(ii) Subject to Subsections (3)(c) and 20A-9-502(2), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(A) the individual is located outside of the state during the entire filing period;

(B) the designated agent appears in person before the filing officer; and

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(2) (a) At the time of filing, and before accepting the petition, the filing officer shall read the constitutional and statutory requirements for candidacy to the candidate.

(b) If the candidate states that he does not meet the requirements, the filing officer may not accept the petition.

(3) (a) [Persons] An individual filing a certificate of nomination for president or vice president of the United States under this section shall pay a filing fee of \$500.

(b) Notwithstanding Subsection (1), a person filing a certificate of nomination for president or vice president of the United States:

(i) may file the certificate of nomination between the second Friday in March and the close of normal office hours on August 15 of the year in which the regular general election will be held; and

(ii) may use a designated agent to file the certificate of nomination.

(c) An agent designated under Subsection (1)(b)(ii) or described in Subsection (3)(b)(ii) may not sign the certificate of nomination form.

**Section 15. Section 20A-11-101 is amended to read:**

**20A-11-101. Definitions.**

As used in this chapter:

(1) (a) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(b) "Address" does not include a post office box.

- (2) “Agent of a reporting entity” means:
- (a) a person acting on behalf of a reporting entity at the direction of the reporting entity;
  - (b) a person employed by a reporting entity in the reporting entity’s capacity as a reporting entity;
  - (c) the personal campaign committee of a candidate or officeholder;
  - (d) a member of the personal campaign committee of a candidate or officeholder in the member’s capacity as a member of the personal campaign committee of the candidate or officeholder; or
  - (e) a political consultant of a reporting entity.
- (3) “Ballot proposition” includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.
- (4) “Candidate” means any person who:
- (a) files a declaration of candidacy for a public office; or
  - (b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination or election to a public office.
- (5) “Chief election officer” means:
- (a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and
  - (b) the county clerk for local school board candidates.
- (6) (a) “Contribution” means any of the following when done for political purposes:
- (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;
  - (ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;
  - (iii) any transfer of funds from another reporting entity to the filing entity;
  - (iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;
  - (v) remuneration from:
- (A) any organization or its directly affiliated organization that has a registered lobbyist; or

- (B) any agency or subdivision of the state, including school districts;
- (vi) a loan made by a candidate deposited to the candidate’s own campaign; and
  - (vii) in-kind contributions.
- (b) “Contribution” does not include:
- (i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;
  - (ii) money lent to the filing entity by a financial institution in the ordinary course of business; or
  - (iii) goods or services provided for the benefit of a ~~[candidate or political party]~~ political entity at less than fair market value that are not authorized by or coordinated with the ~~[candidate or political party]~~ political entity.
- (7) “Coordinated with” means that goods or services provided for the benefit of a ~~[candidate or political party]~~ political entity are provided:
- (a) with the ~~[candidate’s or political party’s]~~ political entity’s prior knowledge, if the ~~[candidate or political party]~~ political entity does not object;
  - (b) by agreement with the ~~[candidate or political party]~~ political entity;
  - (c) in coordination with the ~~[candidate or political party]~~ political entity; or
  - (d) using official logos, slogans, and similar elements belonging to a ~~[candidate or political party]~~ political entity.
- (8) (a) “Corporation” means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:
- (i) the purpose of expressly advocating for political purposes; or
  - (ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.
- (b) “Corporation” does not mean:
- (i) a business organization’s political action committee or political issues committee; or
  - (ii) a business entity organized as a partnership or a sole proprietorship.
- (9) “County political party” means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.
- (10) “County political party officer” means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.
- (11) “Detailed listing” means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city, town, or metro township.

(21) "Incorporation election" means the election conducted under Section 10-2a-210 or 10-2a-404.

(22) "Incorporation petition" means a petition described in Section 10-2a-208.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Loan" means any of the following provided by a person that benefits a filing entity if the person expects repayment or reimbursement:

(a) an expenditure made using any form of payment;

(b) money or funds received by the filing entity;

(c) the provision of a good or service with an agreement or understanding that payment or reimbursement will be delayed; or

(d) use of any line of credit.

(29) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(30) "Officeholder" means a person who holds a public office.

(31) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(32) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(33) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(34) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(35) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive

contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(36) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (36)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(37) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(38) "Political entity" means a candidate, a political party, a political action committee, or a political issues committee.

~~[(38)]~~ (39) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, local district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection ~~[(38)]~~ (39)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than \$5,000 for the purpose described in Subsection ~~[(38)]~~ (39)(b)(vi)(A).

~~[(39)]~~ (40) (a) “Political issues contribution” means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) “Political issues contribution” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

~~[(40)]~~ (41) (a) “Political issues expenditure” means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) “Political issues expenditure” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

~~[(41)]~~ (42) “Political purposes” means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

~~[(42)]~~ (43) (a) “Poll” means the survey of a person regarding the person’s opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) “Poll” does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

[443] (44) "Primary election" means any regular primary election held under the election laws.

[444] (45) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

[445] (46) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

[446] (47) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

[447] (48) "Receipts" means contributions and public service assistance.

[448] (49) "Registered lobbyist" means a person [registered] licensed under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

[449] (50) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

[450] (51) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

[451] (52) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

[452] (53) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

[453] (54) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

[454] (55) "School board office" means the office of state school board.

[455] (56) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

[456] (57) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

[457] (58) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive

contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

[458] (59) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

[459] (60) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

**Section 16. Section 20A-11-206 is amended to read:**

**20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

(1) A state office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b) through (d), the lieutenant governor may send an electronic notice to the state office candidate and the political party of which the state office candidate is a member, if any, that states:

(a) that the state office candidate failed to timely file the report; and

(b) that, if the state office candidate fails to file the report within 24 hours after the deadline for filing the report, the state office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a state office candidate and inform the county clerk and other appropriate election officials that the state office candidate is disqualified if the state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b) through (d) within 24 hours after the deadline for filing the report.

(b) The political party of a state office candidate who is disqualified under Subsection (3)(a) may not replace the state office candidate.

(4) (a) If a state office candidate is disqualified under Subsection (3)(a), the election official shall:

(i) remove the state office candidate's name from the ballot; or

(ii) if removing the state office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the state office candidate has been disqualified and that votes cast for the state office candidate will not be counted.

(b) An election official may fulfill the requirement described in Subsection (4)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A state office candidate is not disqualified if:

(a) the state office candidate timely files the reports described in Subsections 20A-11-204(1)(b) through (d) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within [30] 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state office candidate of the violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a state office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection (6).

(ii) Each state office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a state office candidate who violates Subsection (6)(c)(i).

**Section 17. Section 20A-11-305 is amended to read:**

**20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

(1) A legislative office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a legislative office candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv), the lieutenant governor may send an electronic notice to the legislative office candidate and the political party of which the legislative office candidate is a member, if any, that states:



(a) that the legislative office candidate failed to timely file the report; and

(b) that, if the legislative office candidate fails to file the report within 24 hours after the deadline for filing the report, the legislative office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a legislative office candidate and inform the county clerk and other appropriate election officials that the legislative office candidate is disqualified if the legislative office candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a legislative office candidate who is disqualified under Subsection (3)(a) may not replace the legislative office candidate.

(4) (a) If a legislative office candidate is disqualified under Subsection (3)(a), the election officer shall:

(i) remove the legislative office candidate's name from the ballot; or

(ii) if removing the legislative office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the legislative office candidate has been disqualified and that votes cast for the legislative office candidate will not be counted.

(b) An election official may fulfill the requirement described in Subsection (4)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A legislative office candidate is not disqualified if:

(a) the legislative office candidate files the reports described in Subsections 20A-11-303(1)(b)(ii) through (iv) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within [30] 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each legislative office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any legislative office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a legislative office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection (6).

(ii) Each legislative office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a legislative office candidate who violates Subsection (6)(c)(i).

**Section 18. Section 20A-11-403 is amended to read:**

**20A-11-403. Failure to file -- Penalties.**

(1) Within [30] 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(a) each officeholder that is required to file a summary report has filed one; and

(b) each summary report contains the information required by this part.

(2) If it appears that any officeholder has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) within five days of discovery of a violation or receipt of a written complaint, notify the officeholder of the violation or written complaint and direct the officeholder to file a summary report correcting the problem.

(3) (a) It is unlawful for any officeholder to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of \$100 against an officeholder who violates Subsection (3)(a).

(4) Within [30] 60 days after a deadline for the filing of an interim report by an officeholder under Subsection 20A-11-204(2), 20A-11-303(1)(c), or 20A-11-1303(1)(d), the lieutenant governor shall review each filed interim report to ensure that each interim report contains the information required for the report.

(5) If it appears that any officeholder has failed to file an interim report required by law, if it appears that a filed interim report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any interim report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) within five days after the day on which the violation is discovered or a written complaint is received, notify the officeholder of the violation or written complaint and direct the officeholder to file an interim report correcting the problem.

(6) (a) It is unlawful for any officeholder to fail to file or amend an interim report within seven days after the day on which the officeholder receives notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (6)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (6)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (6)(b), the lieutenant governor shall impose a civil fine of \$100 against an officeholder who violates Subsection (6)(a).

**Section 19. Section 20A-11-508 is amended to read:**

**20A-11-508. Political party reporting requirements -- Criminal penalties -- Fines.**

(1) (a) Each registered political party that fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) Each registered political party that fails to file an interim report described in Subsections 20A-11-507(1)(b) through (d) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (1)(b) to the attorney general.

(2) Within [30] 60 days after a deadline for the filing of a summary report required by this part, the lieutenant governor shall review each filed report to ensure that:

(a) each political party that is required to file a report has filed one; and

(b) each report contains the information required by this part.

(3) If it appears that any political party has failed to file a report required by law, if it appears that a filed report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the political party of the violation or written complaint and direct the political party to file a summary report correcting the problem.

(4) (a) It is unlawful for any political party to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(b) Each political party who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political party that violates Subsection (4)(a).

**Section 20. Section 20A-11-512 is amended to read:**

**20A-11-512. County political party -- Criminal penalties -- Fines.**

(1) A county political party that fails to file an interim report described in Subsections 20A-11-511(1)(a)(i) through (iv) before the deadline is subject to a fine in accordance with Section 20A-11-1005, which the chief election officer shall deposit in the General Fund.

(2) Within [30] 60 days after a deadline for the filing of the January 10 statement required by Section 20A-11-510, the lieutenant governor shall review each filed statement to ensure that:

(a) a county political party officer who is required to file a statement has filed one; and

(b) each statement contains the information required by Section 20A-11-510.

(3) If it appears that any county political party officer has failed to file a financial statement before the deadline, if it appears that a filed financial statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the

falsity of any financial statement, the lieutenant governor shall, within five days after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the county political party officer of the violation or written complaint and direct the county political party officer to file a financial statement correcting the problem.

(4) (a) A county political party that fails to file or amend a financial statement within seven days after the day on which the county political party receives notice from the lieutenant governor under this section is subject to a fine of the lesser of:

(i) 10% of the total contributions received, and the total expenditures made, by the county political party during the reporting period for the financial statement that the county political party failed to file or amend; or

(ii) \$1,000.

(b) The chief election officer shall deposit a fine collected under Subsection (4)(a) into the General Fund.

**Section 21. Section 20A-11-601 is amended to read:**

**20A-11-601. Political action committees -- Registration -- Name or acronym used by political action committee -- Criminal penalty for providing false information or accepting unlawful contribution.**

(1) (a) A political action committee shall file an initial statement of organization with the lieutenant governor's office no later than 5 p.m. seven days after the day on which the political action committee:

(i) receives contributions totaling at least \$750; or

(ii) distributes expenditures for political purposes totaling at least \$750.

(b) Unless the political action committee has filed a notice of dissolution under Subsection (7), after filing an initial statement of organization, a political action committee shall file an updated statement of organization with the lieutenant governor's office each year after the year in which the political action committee files an initial statement of organization:

(i) before 5 p.m. on January 10; or

(ii) electronically, before midnight on January 10.

(c) After filing an initial statement of organization, a political action committee shall, before January 10 each year after the year in which the political action committee files an initial statement of organization, file an updated statement of organization with the lieutenant governor's office.

(2) A statement of organization described in Subsection (1) shall include:

(a) the full name of the political action committee, a second name, if any, and an acronym, if any;

(b) the address and phone number of the political action committee;

(c) the name, address, telephone number, title, and occupation of:

(i) the two officers described in Subsection (5) and the treasurer of the political action committee;

(ii) all other officers, advisory members, and governing board members of the political action committee; and

(iii) each individual or entity represented by, or affiliated with, the political action committee; and

(d) other relevant information requested by the lieutenant governor.

(3) (a) A political action committee may not use a name or acronym:

(i) other than a name or acronym disclosed in the political action committee's latest statement of organization;

(ii) that is the same, or deceptively similar to, the name or acronym of another political action committee; or

(iii) that is likely to mislead a potential donor regarding the individuals or entities represented by, or affiliated with, the political action committee.

(b) Within seven days after the day on which a political action committee files an initial statement of organization, the lieutenant governor's office shall:

(i) review the statement and determine whether a name or acronym used by the political action committee violates Subsection (3)(a)(ii) or (iii); and

(ii) if the lieutenant governor's office determines that a name or acronym used by the political action committee violates Subsection (3)(a)(ii) or (iii), order, in writing, that the political action committee:

(A) immediately cease and desist use of the name or acronym; and

(B) within seven days after the day of the order, file an updated statement of organization with a name and acronym that does not violate Subsection (3)(a)(ii) or (iii).

(c) If, beginning on May 14, 2019, a political action committee is using a name or acronym that is the same, or deceptively similar to, the name or acronym of another political action committee, the lieutenant governor shall determine which political action committee has been using the name the longest and shall order, in writing, any other political action committee using the same, or a deceptively similar, name or acronym to:

(i) immediately cease and desist use of the name or acronym; and

(ii) within seven days after the day of the order, file an updated statement of organization with a name and acronym that does not violate Subsection (3)(a)(ii) or (iii).

(d) If a political action committee uses a name or acronym other than a name or acronym disclosed in

the political action committee's latest statement of organization:

(i) the lieutenant governor shall order, in writing, that the political action committee cease and desist use of the name or acronym; and

(ii) the political action committee shall immediately comply with the order described in Subsection (3)(d)(i).

(4) (a) The lieutenant governor may, in addition to any other penalty provided by law, impose a \$100 fine against a political action committee that:

(i) fails to timely file a complete and accurate statement of organization or subsequent statement of organization; or

(ii) fails to comply with an order described in Subsection (3).

(b) The attorney general, or a political action committee that is harmed by the action of a political action committee in violation of this section, may bring an action for an injunction against the violating political action committee, or an officer of the violating political action committee, to enforce the provisions of this section.

(c) A political action committee may bring an action for damages against another political action committee that uses a name or acronym that is the same, or deceptively similar to, the name or acronym of the political action committee bringing the action.

(5) (a) Each political action committee shall designate two officers who have primary decision-making authority for the political action committee.

(b) An individual may not exercise primary decision-making authority for a political action committee if the individual is not designated under Subsection (5)(a).

(6) A political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(7) (a) A registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the lieutenant governor's office.

(b) A notice of dissolution filed by a political action committee does not exempt the political action committee from complying with the financial reporting requirements described in this chapter in relation to all contributions received, and all expenditures made, before, at, or after dissolution.

(c) A political action committee shall, before filing a notice of dissolution, dispose of any money remaining in an account described in Subsection (1)(c) by:

(i) returning the money to the donors;

(ii) donating the money to the campaign account of a candidate or officeholder;

(iii) donating the money to another political action committee;

(iv) donating the money to a political party;

(v) donating the money to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(vi) making another lawful expenditure of the money for a political purpose.

(d) A political action committee shall report all money donated or expended under Subsection (4)(c) in a financial report to the lieutenant governor, in accordance with the financial reporting requirements described in this chapter.

(8) (a) Unless the political action committee has filed a notice of dissolution under Subsection (7), a political action committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (5)(a).

(b) A political action committee may not accept a contribution from a political issues committee, but may donate money to a political issues committee.

(c) A political action committee shall:

(i) file a notice of a change of a primary officer described in Subsection (5)(a) before 5 p.m. within 10 days after the day on which the change occurs; and

(ii) include in the notice of change the name and title of the officer being replaced, and the name, [street] address, occupation, and title of the new officer.

(9) (a) A person is guilty of providing false information in relation to a political action committee if the person intentionally or knowingly gives false or misleading material information in a statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (5)(a) or (8)(c) is guilty of accepting an unlawful contribution if the political action committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political action committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (9) is a third degree felony.

**Section 22. Section 20A-11-603 is amended to read:**

**20A-11-603. Criminal penalties -- Fines.**

(1) (a) As used in this Subsection (1), "completed" means that:

(i) the financial statement accurately and completely details the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the political action committee corrects the omissions, errors, or inaccuracies described in Subsection (1)(a) in an amended report or the next scheduled report.

(b) Each political action committee that fails to file a completed financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(c) Each political action committee that fails to file a completed financial statement described in Subsections 20A-11-602(1)(a)(iv) through (vi) is guilty of a class B misdemeanor.

(d) The lieutenant governor shall report all violations of Subsection (1)(c) to the attorney general.

(2) Within [30] 60 days after a deadline for the filing of the January 10 statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each political action committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political action committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, within five days after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the political action committee of the violation or written complaint and direct the political action committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political action committee to fail to file or amend a statement within seven days after the day on which the political action committee receives notice from the lieutenant governor under this section.

(b) Each political action committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political action committee that violates Subsection (4)(a).

**Section 23. Section 20A-11-703 is amended to read:**

**20A-11-703. Criminal penalties -- Fines.**

(1) Within [30] 60 days after a deadline for the filing of any statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each corporation that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(2) If it appears that any corporation has failed to file any statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall:

(a) impose a fine against the corporation in accordance with Section 20A-11-1005; and

(b) within five days of discovery of a violation or receipt of a written complaint, notify the corporation of the violation or written complaint and direct the corporation to file a statement correcting the problem.

(3) (a) It is unlawful for any corporation to fail to file or amend a statement within seven days after receiving notice from the lieutenant governor under this section.

(b) Each corporation that violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a corporation that violates Subsection (3)(a).

**Section 24. Section 20A-11-801 is amended to read:**

**20A-11-801. Political issues committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.**

(1) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), each political issues committee shall file a statement of organization with the lieutenant governor's office:

(i) before 5 p.m. on January 10 of each year; or

(ii) electronically, before midnight on January 10 of each year.

(b) If a political issues committee is organized after the filing deadline described in Subsection (1)(a), the political issues committee shall file an initial statement of organization no later than seven days after the day on which the political issues committee:

(i) receives political issues contributions totaling at least \$750; or

(ii) distributes political issues expenditures totaling at least \$750.

(c) Each political issues committee shall deposit each contribution received into one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) (a) Each political issues committee shall designate two officers that have primary

decision-making authority for the political issues committee.

(b) An individual may not exercise primary decision-making authority for a political issues committee if the individual is not designated under Subsection (2)(a).

(3) The statement of organization shall include:

(a) the name and [street] address of the political issues committee;

(b) the name, [street] address, phone number, occupation, and title of the two primary officers designated under Subsection (2);

(c) the name, [street] address, occupation, and title of all other officers of the political issues committee;

(d) the name and [street] address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

(e) the name and [street] address of all affiliated or connected organizations and their relationships to the political issues committee;

(f) the name, [street] residential address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;

(g) the name, [street] address, and occupation of each member of the supervisory and advisory boards, if any; and

(h) the ballot proposition whose outcome they wish to affect, and whether they support or oppose it.

(4) (a) A registered political issues committee that intends to permanently cease operations during a calendar year shall:

(i) dispose of all remaining funds by returning the funds to donors or donating the funds to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) after complying with Subsection (4)(a)(i), file a notice of dissolution with the lieutenant governor's office.

(b) A political issues committee may not donate money to a political action committee, but may accept a contribution from a political action committee.

(c) Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter in relation to all contributions received, and all expenditures made, before, at, or after dissolution.

(d) A political issues committee shall report all money donated or expended under Subsection (4)(a) in a financial report to the lieutenant governor, in accordance with the financial reporting requirements described in this chapter.

(5) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), a political issues committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2).

(b) A political issues committee shall:

(i) file a notice of a change of a primary officer described in Subsection (2)(a) before 5 p.m. within 10 days after the day on which the change occurs; and

(ii) include in the notice of change the name and title of the officer being replaced and the name, [street] address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political issues committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2)(a) or (5)(b) is guilty of accepting an unlawful contribution if the political issues committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political issues committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

(7) (a) As used in this Subsection (7), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) Each political issues committee shall report to the lieutenant governor each contribution received by the political issues committee within three business days after the day on which the contribution is received if the contribution is received within 30 days before the last day on which the sponsors of the initiative or referendum described in Subsection 20A-11-801(3)(h) may submit signatures to qualify the initiative or referendum for the ballot.

(c) For each contribution that a political issues committee fails to report within the period described in Subsection (7)(b), the lieutenant governor shall impose a fine against the political issues committee in an amount equal to:

(i) 10% of the amount of the contribution, if the political issues committee reports the contribution

within 60 days after the last day on which the political issues committee should have reported the contribution under Subsection (7)(b); or

(ii) 20% of the amount of the contribution, if the political issues committee fails to report the contribution within 60 days after the last day on which the political issues committee should have reported the contribution under Subsection (7)(b).

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (7)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each political issues committee are available for public access:

(A) each fine imposed by the lieutenant governor against the political issues committee;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

**Section 25. Section 20A-11-803 is amended to read:**

**20A-11-803. Criminal penalties -- Fines.**

(1) (a) As used in this Subsection (1), "completed" means that:

(i) the financial statement accurately and completely details the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the political issues committee corrects the omissions, errors, or inaccuracies described in Subsection (1)(a) in an amended report or the next scheduled report.

(b) Each political issues committee that fails to file a completed financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(c) Each political issues committee that fails to file a completed financial statement described in Subsection 20A-11-802(1)(a)(vii) or (viii) is guilty of a class B misdemeanor.

(d) The lieutenant governor shall report all violations of Subsection (1)(c) to the attorney general.

(2) Within [30] 60 days after a deadline for the filing of the January 10 statement, the lieutenant governor shall review each filed statement to ensure that:

(a) each political issues committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political issues committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor

has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, within five days after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the political issues committee of the violation or written complaint and direct the political issues committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political issues committee to fail to file or amend a statement within seven days after the day on which the political issues committee receives notice from the lieutenant governor under this section.

(b) Each political issues committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political issues committee that violates Subsection (4)(a).

**Section 26. Section 20A-11-1205 is amended to read:**

**20A-11-1205. Use of public email for a political purpose.**

(1) Except as provided in Subsection (5), a person may not send an email using the email of a public entity:

(a) for a political purpose;

(b) to advocate for or against a proposed initiative, initiative, proposed referendum, [or] referendum, a proposed bond, a bond, or any ballot proposition; or

(c) to solicit a campaign contribution.

(2) (a) The lieutenant governor shall, after giving the person and the complainant notice and an opportunity to be heard, impose a civil fine against a person who violates Subsection (1) as follows:

(i) up to \$250 for a first violation; and

(ii) except as provided in Subsection (3), for each subsequent violation committed after the lieutenant governor imposes a fine against the person for a first violation, \$1,000 multiplied by the number of violations committed by the person.

(b) A person may, within 30 days after the day on which the lieutenant governor imposes a fine against the person under this Subsection (2), appeal the fine to a district court.

(3) The lieutenant governor shall consider a violation of this section as a first violation if the violation is committed more than seven years after the day on which the person last committed a violation of this section.

(4) For purposes of this section, one violation means one act of sending an email, regardless of the number of recipients of the email.

(5) A person does not violate this section if:

(a) the lieutenant governor finds that the email described in Subsection (1) was inadvertently sent by the person using the email of a public entity;

(b) the person is directly providing information solely to another person or a group of people in response to a question asked by the other person or group of people;

(c) the information the person emails is an argument or rebuttal argument prepared under Section 20A-7-401.5 or 20A-7-402, and the email includes each opposing argument and rebuttal argument that:

(i) relates to the same proposed initiative, initiative, proposed referendum, or referendum; and

(ii) complies with the requirements of Section 20A-7-401.5 or 20A-7-402; or

(d) the person is engaging in:

(i) an internal communication solely within the public entity;

(ii) a communication solely with another public entity;

(iii) a communication solely with legal counsel;

(iv) a communication solely with the sponsors of an initiative or referendum;

(v) a communication solely with a land developer for a project permitted by a local land use law that is challenged by a proposed referendum or a referendum; or

(vi) a communication solely with a person involved in a business transaction directly relating to a project described in Subsection (5)(d)(v).

(6) A violation of this section does not invalidate an otherwise valid election.

(7) An email sent in violation of Subsection (1), as determined by the records officer, constitutes a record, as defined in Section 63G-2-103, that is subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, notwithstanding any applicability of Subsection 63G-2-103(22)(b)(i).

**Section 27. Section 20A-11-1305 is amended to read:**

**20A-11-1305. School board office candidate -- Failure to file statement -- Penalties.**

(1) A school board office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv), the lieutenant governor may send an electronic notice to the school board office candidate and the political party of which the school board office candidate is a member, if any, that states:

(a) that the school board office candidate failed to timely file the report; and

(b) that, if the school board office candidate fails to file the report within 24 hours after the deadline for filing the report, the school board office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a school board office candidate and inform the county clerk and other appropriate election officials that the school board office candidate is disqualified if the school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a school board office candidate who is disqualified under Subsection (3)(a) may not replace the school board office candidate.

(4) (a) If a school board office candidate is disqualified under Subsection (3)(a), the election officer shall:

(i) remove the school board office candidate's name from the ballot; or

(ii) if removing the school board office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the school board office candidate has been disqualified and that votes cast for the school board office candidate will not be counted.

(b) An election officer may fulfill the requirement described in Subsection (4)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A school board office candidate is not disqualified if:

(a) the school board office candidate files the reports described in Subsections 20A-11-1303(1)(c)(i) through (iv) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within [30] 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each school board office candidate who is required to file a summary report has filed the report; and

(ii) each summary report contains the information required by this part.



(b) If it appears that a school board office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the school board office candidate of the violation or written complaint and direct the school board office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a school board office candidate to fail to file or amend a summary report within seven days after receiving the notice described in Subsection (6)(b) from the lieutenant governor.

(ii) Each school board office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a school board office candidate who violates Subsection (6)(c)(i).

**Section 28. Section 20A-11-1503 is amended to read:**

**20A-11-1503. Criminal penalties -- Fines.**

(1) Within [30] 60 days after a deadline for the filing of a financial statement required by this part, the lieutenant governor shall review each filed financial statement to ensure that:

(a) each labor organization that is required to file a financial statement has filed one; and

(b) each financial statement contains the information required by this part.

(2) If it appears that any labor organization has failed to file a financial statement, if it appears that a filed financial statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of a financial statement, the lieutenant governor shall:

(a) impose a fine against the labor organization in accordance with Section 20A-11-1005; and

(b) within five days of discovery of a violation or receipt of a written complaint, notify the labor organization of the violation or written complaint and direct the labor organization to file a financial statement correcting the problem.

(3) (a) It is unlawful for any labor organization to fail to file or amend a financial statement within seven days after receiving notice from the lieutenant governor under this section.

(b) Each labor organization that violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a labor organization that violates Subsection (3)(a).

**Section 29. Section 20A-11-1605 is amended to read:**

**20A-11-1605. Failure to file -- Penalties.**

(1) Within [30] 60 days after the day on which a regulated officeholder is required to file a conflict of interest disclosure under Subsection 20A-11-1604(3)(a)(i), (b)(i), (c)(i), (d)(i), (e)(i), or (f)(i), the lieutenant governor shall review each filed conflict of interest disclosure to ensure that:

(a) each regulated officeholder who is required to file a conflict of interest disclosure has filed one; and

(b) each conflict of interest disclosure contains the information required under Section 20A-11-1604.

(2) The lieutenant governor shall take the action described in Subsection (3) if:

(a) a regulated officeholder has failed to timely file a conflict of interest disclosure;

(b) a filed conflict of interest disclosure does not comply with the requirements of Section 20A-11-1604; or

(c) the lieutenant governor receives a written complaint alleging a violation of Section 20A-11-1604, other than Subsection 20A-11-1604(1), and after receiving the complaint and giving the regulated officeholder notice and an opportunity to be heard, the lieutenant governor determines that a violation occurred.

(3) If a circumstance described in Subsection (2) occurs, the lieutenant governor shall, within five days after the day on which the lieutenant governor determines that a violation occurred, notify the regulated officeholder of the violation and direct the regulated officeholder to file an amended report correcting the problem.

(4) (a) It is unlawful for a regulated officeholder to fail to file or amend a conflict of interest disclosure within seven days after the day on which the regulated officeholder receives the notice described in Subsection (3).

(b) A regulated officeholder who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$100 against a regulated officeholder who violates Subsection (4)(a).

(5) The lieutenant governor shall deposit a fine collected under this part into the General Fund as a dedicated credit to pay for the costs of administering the provisions of this part.

**Section 30. Section 20A-13-301 is amended to read:**

**20A-13-301. Presidential elections -- Effect of vote.**

(1) (a) Each registered political party shall choose [persons] individuals to act as presidential electors and to fill vacancies in the office of presidential electors for their party's candidates for [President and Vice President] president and vice president of the United States according to the procedures established in their bylaws.

(b) Each registered political party shall certify to the lieutenant governor the names and addresses of the [persons] individuals selected by the political party as the party's presidential electors before 5 p.m. no later than August 31.

~~(2) The highest number of votes cast for a political party's president and vice president candidates elects the presidential electors selected by that political party.]~~

(c) An unaffiliated candidate or write-in candidate for the office of president of the United States shall, no later than 5 p.m. ten days after the day on which the candidate files a declaration of candidacy, certify to the lieutenant governor the names and addresses of each individual selected by the candidate as a presidential elector for the candidate and each individual selected by the candidate to fill a vacancy in the office of presidential elector for the candidate.

(2) The highest number of votes cast for candidates for president and vice president of the United States elects the presidential electors for:

(a) except as provided in Subsection (2)(b), the political party of those candidates; or

(b) if the candidates receiving the highest number of votes are unaffiliated candidates or write-in candidates, the presidential electors selected for those candidates under Subsection (1)(c).

**Section 31. Section 20A-13-302 is amended to read:**

**20A-13-302. Certificate of election.**

(1) The lieutenant governor shall transmit certificates of election to each of the electors selected under Section 20A-13-301:

(a) if the candidates for president and vice president of the United States who receive the highest number of votes in the state are unaffiliated candidates or write-in candidates, by the candidate for president; or

(b) if the candidates for president and vice president of the United States who receive the highest number of votes in the state are the nominees of a registered political party, by the registered political party [whose candidates for

~~president and vice president received the highest number of votes in Utah].~~

(2) Presidential electors may not receive compensation for their services.

**Section 32. Section 20A-13-303 is amended to read:**

**20A-13-303. Filling vacancies.**

If there is a vacancy in the office of presidential elector because of death, refusal to act, failure to attend, ineligibility, or any other cause, the individual or political party represented by the elector who caused the vacancy shall immediately fill the vacancy.

**Section 33. Section 20A-13-304 is amended to read:**

**20A-13-304. Meeting to ballot -- Casting ballot for individual not nominated by elector's candidate or party.**

(1) The electors shall meet at the office of the lieutenant governor at the state capitol at noon of the first Wednesday of the January after their election, or at noon of any other day designated by the Congress of the United States of America.

(2) After convening, the electors shall perform their duties in conformity with the United States Constitution and laws.

(3) Any elector who casts an electoral ballot for [a person] an individual not nominated by the individual, or by the party of which [he] the elector is an elector, except in the cases of death or felony conviction of a candidate, is considered to have resigned from the office of elector, [his] the elector's vote may not be recorded, and the remaining electors shall appoint another [person] individual to fill the vacancy.

**Section 34. Section 36-11-103 is amended to read:**

**36-11-103. Licensing requirements.**

(1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the lieutenant governor by completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a Lobbyist License Application Form that includes:

(i) a place for the lobbyist's name and business address;

(ii) a place for the following information for each principal for whom the lobbyist works or is hired as an independent contractor:

(A) the principal's name;

(B) the principal's business address;

(C) the name of each public official that the principal employs and the nature of the employment with the public official; and

(D) the general purposes, interests, and nature of the principal;

(iii) a place for the name and address of the person who paid or will pay the lobbyist's ~~registration~~ licensing fee, if the fee is not paid by the lobbyist;

(iv) a place for the lobbyist to disclose:

(A) any elected or appointed position that the lobbyist holds in state or local government, if any; and

(B) the name of each public official that the lobbyist employs and the nature of the employment with the public official, if any;

(v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; and

(vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

(2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section;

(ii) completes the training required by Section 36-11-307; and

(iii) pays a \$60 ~~fil~~ licensing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 each year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

(iii) during the term of any suspension imposed under Section 36-11-401;

(iv) if the applicant has not complied with Subsection 36-11-307(6);

(v) during the term of a suspension imposed under Subsection 36-11-501(3);

(vi) if the lobbyist fails to pay a fine imposed under Subsection 36-11-501(3);

(vii) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information; or

(viii) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24, Lobbying Restrictions Act.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63G, Chapter 4, Administrative Procedures Act.

(5) The lieutenant governor shall deposit each ~~license~~ licensing fee into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program described in this section.

(6) A principal need not obtain a license under this section, but if the principal makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

(7) Government officers need not obtain a license under this section, but shall disclose any expenditures made to benefit public officials as required by Section 36-11-201.

(8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the reports by Section 36-11-201.

**CHAPTER 23****H. B. 20**

Passed February 13, 2020

Approved March 24, 2020

Effective May 12, 2020

**PUBLIC SERVICE COMMISSION  
HEARING AMENDMENTS**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill modifies the Public Utilities code by amending provisions relating to the Public Service Commission's review or rehearing procedures.

**Highlighted Provisions:**

This bill:

- ▶ extends the deadline for the Public Service Commission to act on an application for review or rehearing of an order or decision of the commission; and
- ▶ extends the deadline for the Public Service Commission to issue its decision on rehearing.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

54-7-15, as last amended by Laws of Utah 2009, Chapter 347

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

**Section 1. Section 54-7-15 is amended to read:****54-7-15. Review or rehearing by commission -- Application -- Procedure -- Prerequisite to court action -- Effect of commission decisions.**

(1) Before seeking judicial review of the commission's action, any party, stockholder, bondholder, or other person pecuniarily interested in the public utility who is dissatisfied with an order of the commission shall meet the requirements of this section.

(2) (a) After any order or decision has been made by the commission, any party to the action or proceeding, any stockholder, bondholder, or other party pecuniarily interested in the public utility affected may apply for rehearing of any matters determined in the action or proceeding.

(b) An applicant may not urge or rely on any ground not set forth in the application in an appeal to any court.

(c) Any application for rehearing not granted by the commission within [20] 30 days is denied.

(d) (i) If the commission grants any application for rehearing without suspending the order involved, the commission shall issue its decision on rehearing within [20] 30 days after final submission.

(ii) If the commission fails to render its decision on rehearing within [20] 30 days, the order involved is affirmed.

(e) Unless an order of the commission directs that an order is stayed or postponed, an application for review or rehearing does not excuse any corporation or person from complying with and obeying any order or decision of the commission.

(3) Any order or decision on rehearing that abrogates, changes, or modifies an original order or decision has the same effect as an original order or decision, but does not affect any right, or the enforcement of any right, arising from the original order or decision unless ordered by the commission.

(4) An order of the commission, including a decision on rehearing:

(a) has effect only with respect to a public utility that is an actual party to the proceeding in which the order is rendered; and

(b) does not determine any right, privilege, obligation, duty, constraint, burden, or responsibility with respect to a public utility that is not a party to the proceeding in which the order is rendered unless, in accordance with Subsection 63G-3-201(6), the commission makes a rule that incorporates the one or more principles of law that:

(i) are established by the order;

(ii) are not in commission rules at the time of the order; and

(iii) affect the right, privilege, obligation, duty, constraint, burden, or responsibility with respect to the public utility.

**CHAPTER 24****H. B. 22**

Passed March 5, 2020  
Approved March 24, 2020  
Effective July 1, 2020

**UTAH RETIREMENT  
SYSTEMS AMENDMENTS**

Chief Sponsor: Craig Hall  
Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement and insurance provisions.

**Highlighted Provisions:**

This bill:

- ▶ provides that certain employee exclusions, exemptions, participation, or elections are subject to requirements under federal law and rules made by the Utah State Retirement Board;
- ▶ amends the type of plans that an employer may contribute to for an employer related contribution for certain reemployed retirees;
- ▶ amends the application process for payments to certain survivors based on an affidavit if there are no designated beneficiaries for the deceased member;
- ▶ authorizes premium payments for eligible retired firefighters and public safety officers to be made from a defined contribution plan;
- ▶ clarifies that a retiree may be eligible to earn additional service credit in a reemployed position, regardless of whether the retirement allowance was cancelled by the Utah State Retirement Office or at the retiree's election;
- ▶ modifies provisions relating to the forfeiture of retirement benefits to:
  - clarify that reduced charges in accordance with all plea agreements may be considered convictions; and
  - establish procedures to be used for an employee appeal of the employer's determination if the Administrative Procedures Act is not applicable to that employer;
- ▶ authorizes, but does not require, an employer to elect to make all of its exchange employees eligible for retirement participation;
- ▶ modifies provisions to provide notice of the available death benefits for public safety and firefighter members of the Tier II Defined Contribution Plan; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 49-11-406, as last amended by Laws of Utah 2013, Chapter 310
- 49-11-504, as last amended by Laws of Utah 2016, Chapter 310
- 49-11-609, as last amended by Laws of Utah 2018, Chapter 281
- 49-11-612, as last amended by Laws of Utah 2018, Chapter 10
- 49-11-1204, as last amended by Laws of Utah 2018, Chapter 10
- 49-11-1401, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 49-12-203, as last amended by Laws of Utah 2018, Chapter 10 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-12-204, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-13-203, as last amended by Laws of Utah 2018, Chapter 10 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-13-204, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-14-203, as last amended by Laws of Utah 2012, Chapter 298
- 49-15-203, as last amended by Laws of Utah 2012, Chapter 298
- 49-16-203, as last amended by Laws of Utah 2016, Chapter 310
- 49-19-403, as enacted by Laws of Utah 2002, Chapter 250
- 49-22-201, as last amended by Laws of Utah 2016, Chapter 227
- 49-22-203, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-22-204, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-22-205, as last amended by Laws of Utah 2018, Chapter 10
- 49-23-203, as enacted by Laws of Utah 2015, Chapter 315
- 49-23-501, as last amended by Laws of Utah 2013, Chapter 316

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

**Section 1. Section 49-11-406 is amended to read:**

**49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.**

(1) As used in this section:

(a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.

(b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the House, or the president of the Senate and filed with

the Department of Human Resource Management and the Utah State Retirement Office.

(2) In accordance with this section and subject to requirements under federal law and rules made by the board, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is:

- (a) the state auditor;
- (b) the state treasurer;
- (c) an appointed executive under Subsection 67-22-2(1)(a);
- (d) an employee in the Governor's Office;
- (e) senior staff in the Governor's Office of Management and Budget;
- (f) senior staff in the Governor's Office of Economic Development;
- (g) senior staff in the Commission on Criminal and Juvenile Justice;
- (h) a legislative employee appointed under Subsection 36-12-7(3)(a);
- (i) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority leader; or
- (j) senior staff of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(3) An election made under Subsection (2):

- (a) is final, and no right exists to make any further election;
  - (b) is considered a request to be exempt from coverage under a defined benefits system; and
  - (c) shall be made on forms provided by the office.
- (4) The board shall adopt rules to implement and administer this section.

**Section 2. Section 49-11-504 is amended to read:**

**49-11-504. Reemployment of a retiree -- Restrictions.**

- (1) As used in this section:
  - (a) "full-time" means:
    - (i) employment requiring 20 or more hours of work per week; or
    - (ii) at least a half-time teaching contract.
  - (b) "Reemployed," "reemploy," or "reemployment" means the same as those terms are defined in Section 49-11-1202.

(2) (a) Except for the provisions of Subsection (3), the provisions of this section do not apply to a person who is subject to the provisions of Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

(b) This section does not apply to employment as an elected official.

(3) A person who is not a retiree under this title is not subject to any postretirement restrictions under this title.

(4) A retiree of an agency who is reemployed may not earn additional service credit, if the retiree is reemployed by:

- (a) a different agency; or
- (b) the same agency after six months from the retirement date.

(5) A retiree of an agency who is reemployed on a full-time basis by the same agency within six months of the date of retirement is subject to the following:

- (a) the agency shall immediately notify the office;
- (b) the office shall cancel the retiree's allowance and reinstate the retiree to active member status;
- (c) the allowance cancellation and reinstatement to active member status is effective on the first day of the month following the date of reemployment;
- (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year period from the date of cancellation of the original allowance, and if the retiree retires again within the two-year period, the original allowance shall be resumed; and

(e) a reinstated retiree retiring after the two-year period shall be credited with the service credit in the retiree's account at the time of the first retirement and from that time shall be treated as a member of a system, including the accrual of additional service credit, but subject to recalculation of the allowance under Subsection (9).

(6) A retiree of an agency who is reemployed by the same agency within six months of retirement on a less than full-time basis by the same agency is subject to the following:

- (a) the retiree may earn, without penalty, compensation from that position which is not in excess of the exempt earnings permitted by Social Security;
- (b) if a retiree receives compensation in a calendar year in excess of the Social Security limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;

(c) the effective date of a suspension and reinstatement of an allowance shall be set by the office; and

(d) any suspension of a retiree's allowance under this Subsection (6) shall be applied on a calendar year basis.

(7) For six months immediately following retirement, the retiree and participating employer who are subject to Subsection (6) shall:

(a) maintain an accurate record of gross earnings in employment;

(b) report the gross earnings at least monthly to the office;

(c) immediately notify the office in writing of any postretirement earnings under Subsection (6); and

(d) immediately notify the office in writing whether postretirement earnings equal or exceed the exempt earnings under Subsection (6).

(8) (a) If a participating employer hires a retiree, the participating employer may not make a retirement related contribution in an amount that exceeds the normal cost rate as defined under Section 49-11-102 on behalf of the retiree under ~~[Subsections]~~ Subsection (8)(b) ~~[and (e)]~~.

(b) The contributions under Subsection (8)(a) are not required, but if paid, shall be paid to a ~~[retiree-designated]~~:

(i) ~~[qualified]~~ defined contribution plan administered by the board~~[- if the participating employer participates in a qualified defined contribution plan administered by the board];~~ or

~~[(ii) qualified defined contribution plan offered by the participating employer if the participating employer does not participate in a qualified defined contribution plan administered by the board.]~~

~~[(e) Notwithstanding the provisions of Subsection (8)(b), if an employer is not participating in a qualified defined contribution plan administered by the board, the employer may elect to pay the contributions under Subsection (8)(a) to a deferred compensation plan administered by the board.]~~

~~(ii) deferred compensation plan administered by the board.~~

(9) A retiree who has returned to work, accrued additional service credit, and again retires shall have the retiree's allowance recalculated using:

(a) the formula in effect at the date of the retiree's original retirement for all service credit accrued prior to that date; and

(b) the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(10) The board may make rules to implement this section.

### **Section 3. Section 49-11-609 is amended to read:**

#### **49-11-609. Beneficiary designations -- Revocation of beneficiary designation -- Procedure -- Beneficiary not designated -- Payment to survivors in order established under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased's expenses.**

(1) As used in this section, "member" includes a member, retiree, participant, covered individual, a spouse of a retiree participating in the insurance

benefits created by Sections 49-12-404, 49-13-404, 49-22-307, and 49-23-306, or an alternate payee under a domestic relations order dividing a defined contribution account.

(2) (a) Except as provided under Subsection (2)(b) or (c), the most recent beneficiary designations signed by the member and filed with the office, including electronic records, at the time of the member's death are binding in the payment of any benefits due under this title.

(b) (i) The divorce or annulment of a member's marriage shall revoke the member's former spouse as a beneficiary from any of the member's beneficiary designations.

(ii) A revocation of a former spouse as a beneficiary in accordance with Subsection (2)(b)(i) does not revoke any other beneficiaries named on the member's beneficiary designations.

(c) A former spouse whose beneficiary designation is revoked solely under Subsection (2)(b) shall be revived on the member's beneficiary designations by:

(i) the member's remarriage to the former spouse; or

(ii) a nullification of the divorce or annulment.

(d) A revocation under Subsection (2)(b) does not apply to a former spouse named as a beneficiary in a beneficiary designation signed by the member and filed with the office after the date of the divorce or annulment.

(e) The office is not liable for having made a payment of any benefits to a beneficiary designated in a beneficiary designation affected by a divorce, annulment, or remarriage before the office received written notice of the divorce, annulment, or remarriage.

(3) (a) Except where an optional continuing benefit is chosen, or the law makes a specific benefit designation to a dependent spouse, a member may revoke a beneficiary designation at any time and may execute and file a different beneficiary designation with the office.

(b) A beneficiary designation or change of beneficiary designation shall be completed on forms provided by the office.

(4) (a) All benefits payable by the office may be paid or applied to the benefit of the decedent's heirs in the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills, if:

(i) no beneficiary is designated or if all designated beneficiaries have predeceased the member;

(ii) the location of the beneficiary or secondary beneficiaries cannot be ascertained by the office within 12 months of the date a reasonable attempt is made by the office to locate the beneficiaries; or

(iii) the beneficiary has not completed the forms necessary to pay the benefits within six months of the date that beneficiary forms are sent to the beneficiary's last-known address.

(b) (i) A payment may not be made to a person included in any of the groups referred to in Subsection (4)(a) if at the date of payment there is a living person in any of the groups preceding it.

(ii) Payment to a person in any group may be based upon receipt ~~from the person~~ of an affidavit in a form satisfactory to the office that:

(A) there are no living individuals in the group preceding it;

(B) the probate of the estate of the deceased has not been commenced; and

(C) more than 30 days have elapsed since the date of death of the decedent.

(5) Benefits paid under this section shall be:

(a) a full satisfaction and discharge of all claims for benefits under this title; and

(b) payable by reason of the death of the decedent.

**Section 4. Section 49-11-612 is amended to read:**

**49-11-612. Domestic relations order benefits -- Nonassignability of benefits or payments -- Exemption from legal process.**

(1) As used in this section, "domestic relations order benefits" means:

(a) an allowance;

(b) a defined contribution account established under:

(i) Part 8, Defined Contribution Plans;

(ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act;

(c) a continuing monthly death benefit established under:

(i) Chapter 14, Part 5, Death Benefit;

(ii) Chapter 15, Part 5, Death Benefit;

(iii) Chapter 16, Part 5, Death Benefit;

(iv) Chapter 17, Part 5, Death Benefit;

(v) Chapter 18, Part 5, Death Benefit; or

(vi) Chapter 19, Part 5, Death Benefit;

(d) a lump sum death benefit provided under:

(i) Chapter 12, Part 5, Death Benefit;

(ii) Chapter 13, Part 5, Death Benefit;

(iii) Chapter 22, Part 5, Death Benefit; or

(iv) Chapter 23, Part 5, Death Benefit; or

(e) a refund of member contributions upon termination.

(2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree, participant, covered individual, or beneficiary to any retirement

benefit, retirement payment, or any other retirement right accrued or accruing under this title and the assets of the funds created by this title are not subject to alienation or assignment by the member, retiree, participant, or their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal or equitable process.

(3) (a) The office may, upon the request of the retiree, deduct from the retiree's allowance, insurance premiums or other dues payable on behalf of the retiree, but only to those entities that have received the deductions prior to February 1, 2002.

(b) The office may, upon the request of a retiree of a public safety or firefighter system, deduct insurance premiums from the retiree's allowance or defined contribution plan administered by the board.

(4) (a) The office shall provide for the division of domestic relations order benefits with former spouses and family members under an order of a court of competent jurisdiction with respect to domestic relations matters on file with the office.

(b) The court order shall specify the manner in which the domestic relations order benefits shall be partitioned, whether as a fixed amount or as a percentage of the benefit.

(c) Domestic relations order benefits split under a domestic relations order are subject to the following:

(i) the amount to be paid or the period for which payments shall be made under the original domestic relations order may not be altered if the alteration affects the actuarial calculation of the allowance;

(ii) payments to an alternate payee shall begin at the time the member or beneficiary begins receiving payments; and

(iii) the alternate payee shall receive payments in the same form as allowances received by the member or beneficiary.

(d) (i) Except as provided under Subsection (4)(d)(ii), to be valid, a court order under this section must be on file with the office before the member's date of death.

(ii) A court order under this section received by the office after the member's date of death shall be considered valid if it is received in good order before benefits relating to the member's death are paid or settled.

(e) A court order under this section may not require and may not be interpreted in any way to require the office to provide any type of benefit or any option not otherwise provided under this title.

(5) In accordance with federal law, the board may deduct the required amount from any benefit, payment, or other right accrued or accruing to any member or beneficiary of a system, plan, or program under this title to offset any amount that member or beneficiary owes to a system, plan, or program administered by the board.



(6) The board shall make rules to implement this section.

**Section 5. Section 49-11-1204 is amended to read:**

**49-11-1204. General restrictions -- Election following one-year separation -- Amortization rate.**

(1) A retiree may not for the same period of reemployment:

- (a) (i) earn additional service credit; or
- (ii) receive any retirement related contribution from a participating employer; and
- (b) receive a retirement allowance.

(2) (a) Except as provided under Section 49-11-1205, the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the retiree may be eligible to earn additional service credit in the reemployed position and receive an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

(3) If a reemployed retiree ~~has completed~~, in accordance with Subsection (2)(a), is exempt from ~~having the allowance cancelled, including for completing the one-year separation from employment with a participating employer [required under Subsection (2)],~~ the retiree may elect to:

(a) cancel the retiree's retirement allowance and instead earn additional service credit in the reemployed position and receive an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title; or

(b) continue to receive the retiree's retirement allowance, forfeit earning additional service credit, and forfeit any retirement-related contribution from the participating employer that reemployed the retiree.

(4) (a) If a retiree's retirement allowance is cancelled and the retiree is eligible for retirement coverage in a reemployed position, the office shall reinstate the retiree to active member status on the first day of the month following the date of the employee's eligible reemployment.

(b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible for retirement coverage in the reemployed position, the participating employer that reemploys the retiree shall contribute the amortization rate to the office on behalf of the retiree.

(c) A participating employer that reemploys a retiree in accordance with Subsection 49-11-1205(1) is not required to contribute the amortization rate to the office.

(5) (a) For a retiree reinstated to active member status under Subsection (4)(a) who retires within two years from the date of reemployment, the office:

- (i) may not recalculate a retirement benefit for the retiree; and
- (ii) shall resume the allowance that was being paid to the retiree at the time of the cancellation.

(b) Subject to Subsection (1), for a retiree who is reinstated to active membership under Subsection (4)(a) and retires two or more years after the date of reinstatement to active membership, the office shall:

- (i) resume the allowance that was being paid at the time of cancellation; and
- (ii) calculate an additional allowance for the retiree based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

**Section 6. Section 49-11-1401 is amended to read:**

**49-11-1401. Forfeiture of retirement benefits for employees for employment related offense convictions -- Notifications -- Investigations -- Appeals.**

(1) As used in this section:

(a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced in accordance with the plea agreement or reduced or dismissed in accordance with the plea in abeyance agreement.

(b) "Employee" means a member of a system or plan administered by the board.

(c) (i) "Employment related offense" means a felony committed during employment or the term of an elected or appointed office with a participating employer that is:

- (A) during the performance of the employee's duties;
- (B) within the scope of the employee's employment; or
- (C) under color of the employee's authority.

(ii) "Employment related offense" does not include any federal offense for conduct that is lawful under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) (a) Notwithstanding any other provision of this title, an employee shall forfeit accrual of service credit, employer retirement related contributions, including employer contributions to the employer sponsored defined contribution plans, or other retirement related benefits from a system or plan under this title in accordance with this section.

(b) The forfeiture of retirement related benefits under Subsection (2)(a) does not include the

employee's contribution to a defined contribution plan.

(3) An employee shall forfeit the benefits described under Subsection (2)(a):

(a) if the employee is convicted of an employment related offense;

(b) beginning on the day on which the employment related offense occurred; and

(c) until the employee is either:

(i) re-elected or reappointed to office; or

(ii) (A) terminated from the position for which the employee was found to have committed an employment related offense; and

(B) rehired or hired as an employee who is eligible to be a member of a Utah state retirement system or plan.

(4) The employee's participating employer shall:

(a) immediately notify the office:

(i) if an employee is charged with an offense that is or may be an employment related offense under this section; and

(ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is or may be an employment related offense under this section; and

(b) if the employee is convicted of an offense that may be an employment related offense:

(i) conduct an investigation, which may rely on the conviction, to determine:

(A) whether the conviction is for an employment related offense; and

(B) the date on which the employment related offense was initially committed; and

(ii) after the period of time for an appeal by an employee under Subsection (5), immediately notify the office of the employer's determination under this Subsection (4)(b).

(5) An employee may appeal the employee's participating employer's determination under Subsection (4)(b) in accordance with the participating employer's procedures for appealing agency action, including Title 63G, Chapter 4, Administrative Procedures Act, if applicable.

(6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the attorney general's office, or the state auditor may notify the office and the employee's participating employer if an employee is charged with an offense that is or may be an employment related offense under this section.

(b) If the employee's participating employer receives a notification under Subsection (6)(a), the participating employer shall immediately report to the entity that provided the notification under Subsection (6)(a):

(i) if the employee is acquitted of the offense;

(ii) if the employee is convicted of an offense that may be an employment related offense; and

(iii) when the participating employer has concluded its duties under this section if the employee is convicted, including conducting an investigation, making a determination under Subsection (4)(b) that the conviction was for an employment related offense, and notifying the office under Subsection (7).

(c) The notifying entity under Subsection (6)(a) may assist the employee's participating employer with the investigation and determination described under Subsection (4)(b).

(7) Upon receiving a notification from a participating employer that the participating employer has made a determination under Subsection (4)(b) that the conviction was for an employment related offense, the office shall immediately forfeit any service credit, employer retirement related contributions, including employer contributions to the employer sponsored contribution plans, or other retirement related benefits accrued by or made for the benefit of the employee, beginning on the date of the initial employment related offense determined under Subsection (4)(b).

(8) This section applies to an employee who is convicted on or after the effective date of this act for an employment related offense.

(9) The board may make rules to implement this section.

(10) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

**Section 7. Section 49-12-203 is amended to read:**

**49-12-203. Exclusions from membership in system.**

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents, or the Board of Directors of each technical college for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); or

(i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an

employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; ~~and~~

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members[-]; and

(m) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

- (a) maintain a list of employee exemptions; and
  - (b) update the employee exemptions in the event of any change.
- (8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 8. Section 49-12-204 is amended to read:**

**49-12-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.**

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or a public or private retirement system, organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(c) Except as provided in Subsection (1)(d), the Board of Regents shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

(d) The Board of Directors of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).

(2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Board of Regents, or the Board of Directors of each technical college for each technical college, so that each classification is assigned with either:

- (i) this system; or
- (ii) a public or private system, organization, or company designated by:

(A) except as provided in Subsection (2)(b)(ii)(B), the Board of Regents; or

(B) the Board of Directors of each technical college for regular full-time employees of each technical college.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education shall have a one-time irrevocable election to participate in this system if the employee:

- (i) was hired after January 1, 1979;
- (ii) whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system; and
- (iii) has service credit in a system under this title.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a), may purchase periods of employment while covered under another retirement program sponsored by the institution of higher education by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

(8) An employee's participation or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 9. Section 49-13-203 is amended to read:**

**49-13-203. Exclusions from membership in system.**

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents, or the Board of Directors of each technical college for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5);

(g) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); or

(h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through

membership in a labor organization that provides retirement benefits to its members; ~~and~~

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act[-]; and

(n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 10. Section 49-13-204 is amended to read:**

**49-13-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.**

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement system with a public or private retirement system, organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1)(a).

(b) The election is final, and no right exists to make any further election.

(c) Except as provided in Subsection (1)(d), the Board of Regents shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

(d) The Board of Directors of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).

(2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Board of Regents, or the Board of Directors of each technical college for regular full-time employees of each technical college, so that each classification is assigned with either:

(i) this system; or

(ii) a public or private system, organization, or company designated by:

(A) except as provided in Subsection (2)(b)(ii)(B), the Board of Regents; or

(B) the Board of Directors of each technical college for regular full-time employees of each technical college.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system shall have a one-time irrevocable election to participate in this system.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a) may purchase periods of employment while covered under another retirement program by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

(8) An employee's participation or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 11. Section 49-14-203 is amended to read:**

**49-14-203. Exemption of certain employees from coverage.**

(1) A public safety service employee is excluded from coverage under this system if the employee:

(a) is serving:

(i) as the Commissioner of Public Safety;

(ii) as the executive director of the Department of Corrections; or

(iii) as the elected or appointed sheriff or chief of police of a public safety organization; and

(b) files a formal written request seeking the exemption.

(2) Except as provided in Subsection (3), the public safety service employee may not continue employment with the same participating employer and receive an allowance from the office based on public safety service at the same time.

(3) (a) The Commissioner of Public Safety or an elected sheriff who is eligible to retire under Section 49-14-401 may until July 1, 2010:

(i) retire from this system and receive an allowance;

(ii) continue in the elected or appointed position; and

(iii) file for the exemption under Subsection (1).

(b) A person who makes an election under Subsection (3)(a) may continue under the terms of the election.

(4) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 12. Section 49-15-203 is amended to read:**

**49-15-203. Exemption of certain employees from coverage.**

(1) A public safety service employee is excluded from coverage under this system if the employee:

(a) is serving:

(i) as the Commissioner of Public Safety;

(ii) as the executive director of the Department of Corrections; or

(iii) as the elected or appointed sheriff or chief of police of a public safety organization; and

(b) files a formal written request seeking the exemption.

(2) Except as provided in Subsection (3), the public safety service employee may not continue employment with the same participating employer and receive an allowance from the office based on public safety service at the same time.

(3) (a) The Commissioner of Public Safety, an elected sheriff, or an appointed chief of police who is eligible to retire under Section 49-15-401 may until July 1, 2010:

(i) retire from this system and receive an allowance;

(ii) continue in the elected or appointed position; and

(iii) file for the exemption under Subsection (1).

(b) A person who makes an election under Subsection (3)(a) may continue under the terms of the election.

(4) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 13. Section 49-16-203 is amended to read:**

**49-16-203. Exemption of certain employees from coverage -- Exception.**

(1) A firefighter service employee serving as the chief of any fire department or district is excluded from coverage under this system if that firefighter service employee files a formal written request seeking exemption.

(2) The chief of any fire department or district who retires from that position shall comply with the provisions of Section 49-11-504 and Chapter 11, Part 12, Postretirement Reemployment Restrictions Act, upon reemployment by the participating employer.

(3) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 14. Section 49-19-403 is amended to read:**

**49-19-403. Retirement option.**

(1) A governor or legislator may elect to forfeit the allowance provided by this chapter and in lieu thereof participate, on the same basis as other state elected and appointed officers under Title 67, Chapter 22, State Officer Compensation, in a defined contribution plan administered by the office, in accordance with Section 49-11-801 and in accordance with federal law.

(2) A governor's or legislator's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 15. Section 49-22-201 is amended to read:**

**49-22-201. System membership -- Eligibility.**

(1) Beginning July 1, 2011, a participating employer shall participate in this system.

(2) (a) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan.

(b) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan

established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a person initially entering regular full-time employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the person shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) Notwithstanding the provisions of this section and except as provided in Subsection (4), an elected official initially entering office on or after July 1, 2011:

(a) is only eligible to participate in the Tier II defined contribution plan established under Part 4, Tier II Defined Contribution Plan;

(b) is not eligible to participate in the Tier II hybrid retirement system established under Part 3, Tier II Hybrid Retirement System; and

(c) is vested immediately in the elected official's benefit and the benefit is nonforfeitable, including the total amount contributed by the participating employer and the total amount contributed by the member in the Tier II defined contribution plan.

(4) Notwithstanding the provisions of Subsection (3), a legislator or full-time elected official initially entering office on or after July 1, 2011, who has previously accrued service credit [~~accrued before July 1, 2011~~]:

(a) in a Tier I retirement system or plan administered by the board shall continue in the Tier I system or plan for which the legislator or full-time elected official is eligible; or

(b) in a Tier II hybrid retirement system shall continue in the Tier II system for which the legislator or full-time elected official is eligible.

**Section 16. Section 49-22-203 is amended to read:**

**49-22-203. Exclusions from membership in system.**

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents, or the Board of Directors of each technical college for an employee of each technical college, during



any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(e) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(f) a person who files a written request for exemption with the office under Section 49-22-205; or

(g) an employee described in Subsection (1)(g)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(4) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 17. Section 49-22-204 is amended to read:**

**49-22-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems.**

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement annuity contract with a public or private system, organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(c) Except as provided in Subsection (1)(d), the Board of Regents shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

(d) The Board of Directors of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).

(2) (a) A regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Board of Regents, or the Board of Directors of each technical college for each technical college, so that each classification is assigned with either:

(i) this system; or

(ii) a public or private system, organization, or company designated by:

(A) except as provided under Subsection (2)(b)(ii)(B), the Board of Regents; or

(B) the Board of Directors of each technical college for regular full-time employees of each technical college.

(3) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system may elect to continue participation in this system upon change to an employment classification which requires participation in a public or private system, organization, or company designated by:

(a) except as provided in Subsection (3)(b), the Board of Regents; or

(b) the Board of Directors of each technical college for regular full-time employees of each technical college.

(4) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system shall participate in this system.

(5) An employee's participation or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 18. Section 49-22-205 is amended to read:**

**49-22-205. Exemptions from participation in system.**

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:

(a) an executive department head of the state;

(b) a member of the State Tax Commission;

(c) a member of the Public Service Commission;

(d) a member of a full-time or part-time board or commission;

(e) an employee of the Governor's Office of Management and Budget;

(f) an employee of the Governor's Office of Economic Development;

(g) an employee of the Commission on Criminal and Juvenile Justice;

(h) an employee of the Governor's Office;

(i) an employee of the State Auditor's Office;

(j) an employee of the State Treasurer's Office;

(k) any other member who is permitted to make an election under Section 49-11-406;

(l) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;

(m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; ~~and~~

(n) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act[-]; and

(o) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(2) (a) A participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(4) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update an employee exemption in the event of any change.

(5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a); and

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the system.

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(7) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election period under Subsection 49-22-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c).

(8) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (8) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

(9) An employee's exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 19. Section 49-23-203 is amended to read:**

**49-23-203. Exemptions from participation in system.**

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section if the employee is a public safety service employee and is:

(a) an executive department head of the state;

(b) an elected or appointed sheriff of a county; or

(c) an elected or appointed chief of police of a municipality.

(2) (a) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) Each participating employer shall:

(a) file each employee exemption annually with the office; and

(b) update an employee exemption in the event of any change.

(4) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a); and

(ii) the member may make voluntary deferrals as provided in Section 49-23-401; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-23-401; and

(iii) the member is not eligible for additional service credit in the system.

(5) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (4)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(6) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-23-302(3)(a) or 49-23-401(4)(a) until the one-year election period under Subsection 49-23-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-23-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-23-201(2)(c).

(7) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (7) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

(8) An employee's exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

**Section 20. Section 49-23-501 is amended to read:**

**49-23-501. Death benefit -- Eligibility for death benefit -- Benefit calculation -- Payment of claim.**

(1) The office shall provide a death benefit for members of this system.

(2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:

- (a) benefit levels;
  - (b) classes of members; and
  - (c) a living benefit option.
- (3) This death benefit is payable when:

(a) the member dies prior to the member's retirement date or dies under circumstances which Subsection 49-23-304(4) requires to be treated as the death of a member before retirement;

(b) the office receives acceptable proof of death; and

(c) benefits are not payable under Section 49-23-306.

(4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:

(a) the return of any member contributions under this chapter; plus

(b) a percentage of the final average salary of the member to be determined by the board.

(5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.

(6) The cost of the death benefit shall be paid by the participating employer in addition to the contribution rate established under Section 49-23-301 or 49-23-401.

(7) The portion of the death benefit provided under Subsection (4)(b) may not be paid to the beneficiary of an inactive member unless the death of the member occurs either:

(a) within a period of 120 days after the last day of work for which the person received compensation; or

(b) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.

(8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.

(10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office and the office is not liable for any further or additional claims or assessments on behalf of the member.

(11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills.

(12) A death benefit under this section may not be paid on behalf of a retiree under this system.

(13) Except for the death benefit described in Subsection (4), a member of the Tier II defined contribution plan is not eligible for death benefits under this section or Section 49-23-502 or 49-23-503.

**Section 21. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 25****H. B. 24**

Passed February 7, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**HEALTH CARE PROFESSIONAL  
 LICENSING AMENDMENTS**

Chief Sponsor: Brad M. Daw  
 Senate Sponsor: Allen M. Christensen

**LONG TITLE****General Description:**

This bill amends the definition of unprofessional conduct for prescribing health care professionals and pharmacists.

**Highlighted Provisions:**

This bill:

- ▶ adds a provision to each health care profession's definition of unprofessional conduct to include:
  - knowingly entering false or misleading information on a medical record; or
  - knowingly altering a medical record for the purpose of concealing any circumstance related to the health care provided to a patient.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-5a-102, as last amended by Laws of Utah 2015, Chapter 230  
 58-16a-502, as last amended by Laws of Utah 2012, Chapter 234  
 58-17b-502, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
 58-31b-502, as last amended by Laws of Utah 2019, Chapter 233  
 58-44a-502, as last amended by Laws of Utah 2012, Chapter 285  
 58-67-502, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
 58-68-502, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
 58-69-502, as last amended by Laws of Utah 2006, Chapter 158  
 58-70a-503, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
 58-71-502, as enacted by Laws of Utah 1996, Chapter 282  
 58-83-502, as last amended by Laws of Utah 2015, Chapter 321

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

**Section 1. Section 58-5a-102 is amended to read:**

**58-5a-102. Definitions.**

In addition to the definitions under Section 58-1-102, as used in this chapter:

(1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

(2) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

(4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to Section 58-5a-103.

(5) "Unlawful conduct" includes:

(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

(b) for an individual who is not licensed under this chapter:

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

(6) "Unprofessional conduct" includes, for an individual licensed under this chapter:

(a) the conduct that constitutes unprofessional conduct under Section 58-1-501;

(b) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

(c) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

(d) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

(e) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

(f) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

(g) gross incompetency in the practice of podiatry;

(h) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

(i) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

(j) willfully using false or fraudulent advertising; ~~and~~

(k) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[.]; or

(l) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (6)(a) through (k) or Subsection 58-1-501(1).

**Section 2. Section 58-16a-502 is amended to read:**

**58-16a-502. Unprofessional conduct.**

“Unprofessional conduct” includes, in addition to the definition in Section 58-1-501:

(1) using or employing the services of an optometric assistant to assist a licensee in any manner not in accordance with:

(a) the generally recognized practices and standards of ethics of the profession; or

(b) applicable state law or division rule;

(2) failure to refer a patient to an appropriate licensed practitioner when:

(a) the patient’s condition does not respond to treatment; or

(b) the treatment is not within the scope of competence or licensure of the licensee;

(3) providing confidential information regarding a patient to any third party who does not have a legal and professional ground for obtaining the information;

(4) knowingly prescribing, selling, giving away, or administering any prescription drug unless:

(a) for a legitimate medical purpose;

(b) upon a proper diagnosis indicating the use of the drug in the amount prescribed or provided; and

(c) in compliance with Section 58-17b-309;

(5) giving or receiving directly or indirectly any fee, commission, rebate, or other compensation for professional services not actually and personally rendered, except as part of a legal relationship within a lawful professional partnership, corporation, or association;

(6) failure to transfer pertinent and necessary information from a patient’s medical records to another optometrist or physician when so requested by the patient or his representative, as designated in writing; ~~or~~

(7) failure to provide a contact lens prescription to a person who sells contact lenses in accordance with Section 58-16a-306[.]; or

(8) falsely making an entry in, or altering, a medical record with the intent to conceal:

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).

**Section 3. Section 58-17b-502 is amended to read:**

**58-17b-502. Unprofessional conduct.**

(1) “Unprofessional conduct” includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription “sample” or “not for resale” or similar words or phrases;

(e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer’s sealed container, as defined in rule;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person’s professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

- (i) administering:
- (i) without appropriate training, as defined by rule;
- (ii) without a physician's order, when one is required by law; and
- (iii) in conflict with a practitioner's written guidelines or written protocol for administering;
- (j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;
- (k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;
- (l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;
- (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;
- (n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order; ~~and~~
- (o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act~~[-];~~ or
- (p) falsely making an entry in, or altering, a medical record with the intent to conceal:
- (i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or
- (ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).
- (2) Subsection (1)(b) does not apply to:
- (a) giving or receiving a price discount based on purchase volume;
- (b) passing along a pharmaceutical manufacturer's rebate; or
- (c) providing compensation for services to a veterinarian.
- (3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(a) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when acting as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

**Section 4. Section 58-31b-502 is amended to read:**

**58-31b-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

~~(h) knowingly entering into any medical record any false or misleading information or altering a medical record in any way for the purpose of concealing an act, omission, or record of events,~~

medical condition, or any other circumstance related to the patient and the medical or nursing care provided;]

~~(4)~~ (h) unlawful or inappropriate delegation of nursing care;

~~(4)~~ (i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

~~(4)~~ (j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

~~(4)~~ (k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

~~(4)~~ (l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

~~(4)~~ (m) failure to pay a penalty imposed by the division;

~~(4)~~ (n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

~~(4)~~ (o) violating Section 58-31b-801;

~~(4)~~ (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; and

~~(4)~~ (q) establishing or operating a pain clinic without a consultation and referral plan for Schedule II or III controlled substances[-]; or

(r) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (q) or Subsection 58-1-501(1).

(2) “Unprofessional conduct” does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

**Section 5. Section 58-44a-502 is amended to read:**

**58-44a-502. Unprofessional conduct.**

“Unprofessional conduct” includes:

(1) disregard for a patient’s dignity or right to privacy as to ~~his~~ the patient’s person, condition, possessions, or medical record;

(2) engaging in an act, practice, or omission which when considered with the duties and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or welfare of a patient or the public;

(3) failure to confine one’s practice as a certified nurse midwife to those acts or practices permitted by law;

(4) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(5) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by the court;

(6) failure to pay a penalty imposed by the division;

(7) prescribing a schedule II-III controlled substance without a consulting physician; ~~and~~

(8) (a) failure to have and maintain a safe mechanism for obtaining medical consultation, collaboration, and referral with a consulting physician, including failure to identify one or more consulting physicians in the written documents required by Subsection 58-44a-102(9)(b)(iii); or

(b) representing that the certified nurse midwife is in compliance with Subsection (8)(a) when the certified nurse midwife is not in compliance with Subsection (8)(a)[-]; or

(9) falsely making an entry in, or altering, a medical record with the intent to conceal:

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through (8) or Subsection 58-1-501(1).

**Section 6. Section 58-67-502 is amended to read:**

**58-67-502. Unprofessional conduct.**

(1) “Unprofessional conduct” includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical



Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [œ]

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act[-]; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) “Unprofessional conduct” does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

**Section 7. Section 58-68-502 is amended to read:**

**58-68-502. Unprofessional conduct.**

(1) “Unprofessional conduct” includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5; [œ]

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act[-]; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) “Unprofessional conduct” does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

**Section 8. Section 58-69-502 is amended to read:**

**58-69-502. Unprofessional conduct.**

(1) “Unprofessional conduct” includes, in addition to the definition in Section 58-1-501:

(a) sharing professional fees with an unlicensed person or paying any person for sending or referring a patient;

(b) making an unsubstantiated claim of superiority in training or skill as a dentist or dental hygienist or in the performance of professional services;

(c) refusing authorized agents of the division or state or local health authorities access to the facilities related to the practice of dentistry or

dental hygiene during normal business hours for the purpose of inspection; ~~and~~

(d) failing to maintain facilities, instruments, equipment, supplies, appliances, or other property or conditions related to the practice of dentistry in a sanitary condition consistent with the standards and ethics of the professions of dentistry or dental hygiene[-]; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) For purposes of Subsection (1)(b), an unsubstantiated claim of superiority:

(a) includes for the practice of dentistry:

(i) advertising or otherwise holding oneself out to the public as practicing a dental specialty in which the dentist has not successfully completed the education specified for the dental specialty as defined by the American Dental Association; and

(ii) using the following words in advertising “Endodontist,” “Orthodontist,” “Oral and Maxillofacial Surgeon,” “Specialist,” “Board Certified,” “Diplomat,” “Practice Limited to,” “Pediatric Dentist,” “Periodontist,” or “Limited to Specialty of” when the dentist has not successfully completed the education specified for the dental specialty as defined by the American Dental Association; and

(b) does not include a dentist who advertises as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent disclaimer that the dentist is licensed as a general dentist or that the specialty services will be provided by a general dentist.

**Section 9. Section 58-70a-503 is amended to read:**

**58-70a-503. Unprofessional conduct.**

(1) “Unprofessional conduct” includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the

physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;

(e) failure to make the delegation of services agreement available to the division for review upon request;

(f) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule; ~~and~~

(g) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable[-]; or

(h) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (g) or Subsection 58-1-501(1).

(2) “Unprofessional conduct” does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2).

**Section 10. Section 58-71-502 is amended to read:**

**58-71-502. Unprofessional conduct.**

“Unprofessional conduct” includes:

(1) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule[-]; or

(2) falsely making an entry in, or altering, a medical record with the intent to conceal:

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsection (1) or Subsection 58-1-501(1).

**Section 11. Section 58-83-502 is amended to read:**

**58-83-502. Unprofessional conduct.**

“Unprofessional conduct” includes, in addition to the definition in Section 58-1-501 and as may be further defined by administrative rule:

(1) except as provided in Section 58-83-306, online prescribing, dispensing, or facilitation with respect to a person under the age of 18 years;

(2) using the name or official seal of the state, the Utah Department of Commerce, or the Utah Division of Occupational and Professional Licensing, or their boards, in an unauthorized manner;

(3) failing to respond promptly to a request by the division for information including:

(a) an audit of the website; or

(b) records of the online prescriber, the Internet facilitator, or the online contract pharmacy;

(4) using an online prescriber, online contract pharmacy, or Internet facilitator without approval of the division;

(5) failing to inform a patient of the patient’s freedom of choice in selecting who will dispense a prescription in accordance with Subsection 58-83-305(1)(n);

(6) failing to keep the division informed of the name and contact information of the Internet facilitator or online contract pharmacy; ~~and~~

(7) violating the dispensing and labeling requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy[-]; or

(8) falsely making an entry in, or altering, a medical record with the intent to conceal:

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).

**CHAPTER 26****H. B. 25**

Passed February 7, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**CONTROLLED SUBSTANCES REVISIONS**

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

**LONG TITLE****General Description:**

This bill amends the list of controlled substances and the composition of the Controlled Substances Advisory Committee.

**Highlighted Provisions:**

This bill:

- ▶ adds a substance to the listed controlled substances in the Utah Controlled Substances Act;
- ▶ amends the composition of the Controlled Substances Advisory Committee; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 58-37-4.2, as last amended by Laws of Utah 2018, Chapter 146  
 58-38a-201, as last amended by Laws of Utah 2011, Chapter 60  
 58-38a-202, as last amended by Laws of Utah 2011, Chapter 60

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

**Section 1. Section 58-37-4.2 is amended to read:****58-37-4.2. Listed controlled substances.**

The following substances, their analogs, homologs, and synthetic equivalents are listed controlled substances:

- (1) AB-001;
- (2) AB-PINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole-3-carboxamide;
- (3) AB-FUBINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide;
- (4) AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide);
- (5) ADB-CHMINACA (N-[(2S)-1-amino-3,3-dimethyl-1-oxobutan-2-yl]-1-(cyclohexylmethyl)indazole-3-carboxamide);
- (6) ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide);

- (7) AKB48;
- (8) alpha-Pyrrolidinohexanophenone (alpha-PHP)  
(1-Phenyl-2-(pyrrolidin-1-yl)hexan-1-one);
- (9) alpha-Pyrrolidinovalerophenone (alpha-PVP);
- (10) AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone);
- (11) AM-1248;
- (12) AM-2201 (1-(5-fluoropentyl)-3-(1-naphthoyl)indole);
- (13) AM-2233;
- (14) AM-679;
- (15) A796,260;
- (16) Butylone;
- (17) CP 47,497 and its C6, C8, and C9 homologs (2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol);
- (18) Diisopropyltryptamine (DiPT);
- (19) Ethylone;
- (20) Ethylphenidate;
- (21) Fluoroisocathinone;
- (22) Fluoromethamphetamine;
- (23) Fluoromethcathinone;
- (24) FUB-AMB; methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)valinate;
- (25) HU-210; (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
- (26) HU-211; Dexanabinol,(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
- (27) JWH-015; (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;
- (28) JWH-018; Naphthalen-1-yl-(pentylindol-3-yl)methanone {also known as 1-Pentyl-3-(1-naphthoyl)indole};
- (29) JWH-019; 1-hexyl-3-(1-naphthoyl)indole;
- (30) JWH-073; Naphthalen-1-yl (1-butylindol-3-yl)methanone {also known as 1-Butyl-3-(1-naphthoyl)indole};
- (31) JWH-081; 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;
- (32) JWH-122; CAS#619294-47-2; (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);
- (33) JWH-200; 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;
- (34) JWH-203; 1-pentyl-3-(2-chlorophenylacetyl)indole;
- (35) JWH-210; 4-ethyl-1-naphthalenyl (1-pentyl-1H-indol-3-yl)-methanone;

(36) JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;

(37) JWH-251; 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone;

(38) JWH-398; 1-pentyl-3-(4-chloro-1-naphthoyl)indole;

(39) MAM-2201;

(40) MAM-2201; (1-(5-fluoropentyl)-1H-indol-3-yl)(4-ethyl-1-naphthalenyl)-methanone;

(41) Methoxetamine;

(42) Naphyrone;

(43) PB-22; 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester;

(44) Pentedrone;

(45) Pentylone;

(46) RCS-4; 1-pentyl-3-(4-methoxybenzoyl)indole;

(47) RCS-8; 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole {also known as BTW-8 and SR-18};

(48) STS-135;

(49) UR-144;

(50) UR-144 N-(5-chloropentyl) analog;

(51) XLR11;

(52) 2C-C;

(53) 2C-D;

(54) 2C-E;

(55) 2C-H;

(56) 2C-I;

(57) 2C-N;

(58) 2C-P;

(59) 2C-T-2;

(60) 2C-T-4;

(61) 2NE1;

(62) 25I-NBOMe;

(63) 2,5-Dimethoxy-4-chloroamphetamine (DOC);

(64) 4-Fluoro MDMB-BUTINACA (Methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate);

[(64)] (65) 4-methylmethcathinone {also known as mephedrone};

[(65)] (66) 3,4-methylenedioxypropylvalerone {also known as MDPV};

[(66)] (67) 3,4-Methylenedioxymethcathinone {also known as methylone};

[(67)] (68) 4-methoxymethcathinone;

[(68)] (69) 4-Methyl-alpha-pyrrolidinopropiophenone;

[(69)] (70) 4-Methylethcathinone;

[(70)] (71) 5F-AKB48; 1-(5-fluoropentyl)-N-tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-1H-indazole-3-carboxamide;

[(71)] (72) 5-Fluoro ADB (Methyl N-([1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl)-3-methyl-valinate);

[(72)] (73) 5-Fluoro AMB (Methyl N-([1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl)valinate);

[(73)] (74) 5-fluoro-PB-22; 1-(5-fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester;

[(74)] (75) 5-Iodo-2-aminoindane (5-IAI);

[(75)] (76) 5-MeO-DALT;

[(76)] (77) 25B-NBOMe; 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine;

[(77)] (78) 25C-NBOMe; 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine; and

[(78)] (79) 25H-NBOMe; 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine.

**Section 2. Section 58-38a-201 is amended to read:**

**58-38a-201. Controlled Substances Advisory Committee.**

There is created within the Division of Occupational and Professional Licensing the Controlled Substances Advisory Committee. The committee consists of:

- (1) the director of the Department of Health or the director's designee;
- (2) the State Medical Examiner or the examiner's designee;
- (3) the commissioner of the Department of Public Safety or the commissioner's designee;
- (4) the director of the Bureau of Forensic Services created in Section 53-10-401, or the director's designee;
- (5) the director of the Utah Poison Control Center or the director's designee;

[(4)] (6) one physician who is a member of the Physicians Licensing Board and is designated by that board;

[(5)] (7) one pharmacist who is a member of the Utah State Board of Pharmacy and is designated by that board;

[(6)] (8) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board and is designated by that board;

[(7)] (9) one physician who is currently licensed and practicing in the state, to be appointed by the governor;

~~[(8)]~~ (10) one psychiatrist who is currently licensed and practicing in the state, to be appointed by the governor;

~~[(9)]~~ (11) one individual with expertise in substance abuse addiction, to be appointed by the governor;

~~[(10)]~~ (12) one representative from the Statewide Association of Prosecutors, to be designated by that association;

~~[(11)]~~ (13) one naturopathic physician who is currently licensed and practicing in the state, to be appointed by the governor;

~~[(12)]~~ (14) one advanced practice registered nurse who is currently licensed and practicing in this state, to be appointed by the governor; and

~~[(13)]~~ (15) one member of the public, to be appointed by the governor.

**Section 3. Section 58-38a-202 is amended to read:**

**58-38a-202. Terms of committee service.**

(1) (a) Members of the advisory committee shall serve terms of four years, except that the members under Subsections 58-38a-201(1), (2), ~~and~~ (3), and (4) shall serve during their terms as appointed officials.

(b) Vacancies in the committee occurring otherwise than by the expiration of a term shall be filled for the unexpired term in the same manner as original appointments.

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

(a) Section 63A-3-106;

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

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

(3) (a) The director of the Department of Health, or the director's designee, is the chair of the committee.

(b) The advisory committee meets at the call of the chair or at the call of a majority of the committee members.

(c) The advisory committee meets annually and more often as required to carry out its duties under this chapter.

(d) Seven members of the advisory committee constitute a quorum.

(e) Action by the committee requires a majority vote of a quorum.

**CHAPTER 27****H. B. 27**

Passed February 20, 2020

Approved March 24, 2020

Effective May 12, 2020

**WASTE TIRE RECYCLING  
ACT AMENDMENTS**Chief Sponsor: Scott H. Chew  
Senate Sponsor: Scott D. Sandall**LONG TITLE****General Description:**

This bill addresses waste tires.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions related to waste tire piles;
- ▶ increases the number of whole waste tires a person may transfer at one time to a landfill or any other location in the state authorized by the director to receive waste tires;
- ▶ addresses storage of whole waste tires;
- ▶ extends the relevant sunset date; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

19-6-803, as last amended by Laws of Utah 2019, Chapter 114

19-6-804, as last amended by Laws of Utah 2012, Chapters 263 and 360

63I-1-219, as last amended by Laws of Utah 2019, Chapters 62, 63, 64, 65, 246, 469, and 477

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 19-6-803 is amended to read:****19-6-803. Definitions.**

As used in this part:

(1) "Abandoned waste tire pile" means a waste tire pile regarding which the local department of health has not been able to:

(a) locate the persons responsible for the tire pile; or

(b) cause the persons responsible for the tire pile to remove the tire pile.

(2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling, storage, or disposal, but that serves as a replacement for another product or material for specific purposes.

(b) "Beneficial use" includes the use of chipped tires:

(i) as daily landfill cover;

(ii) for civil engineering purposes;

(iii) as low-density, light-weight aggregate fill; or

(iv) for septic or drain field construction.

(c) "Beneficial use" does not include the use of waste tires or material derived from waste tires:

(i) in the construction of fences; or

(ii) as fill, other than low-density, light-weight aggregate fill.

(3) "Board" means the Waste Management and Radiation Control Board created under Section 19-1-106.

(4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.

(5) "Commission" means the Utah State Tax Commission.

(6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need, rather than for resale.

(b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be rented or leased.

(7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise reduced in size such that the particles are less than or equal to 3/4 inch in diameter and are 98% wire free by weight.

(8) "Director" means the director of the Division of Waste Management and Radiation Control.

(9) "Disposal" means the deposit, dumping, or permanent placement of waste tire in or on land or in water in the state.

(10) "Dispose of" means to deposit, dump, or permanently place waste tire in or on land or in water in the state.

(11) "Division" means the Division of Waste Management and Radiation Control created in Section 19-1-105.

(12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.

(13) "Landfill waste tire pile" means a waste tire pile:

(a) located within the permitted boundary of a landfill operated by a governmental entity; and

(b) consisting solely of waste tires brought to a landfill for disposal and diverted from the landfill waste stream to the waste tire pile.

(14) "Local health department" means the local health department, as defined in Section 26A-1-102, with jurisdiction over the recycler.

(15) "Materials derived from waste tires" means tire sections, tire chips, tire shreadings, rubber, steel, fabric, or other similar materials derived from waste tires.

(16) "Mobile facility" means a mobile facility capable of cutting waste tires on site so the waste tires may be effectively disposed of by burial, such as in a landfill.

(17) "New motor vehicle" means a motor vehicle that has never been titled or registered.

(18) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25 pounds of whole tires or material derived from waste tires is equal to one waste tire.

(19) "Proceeds of the fee" means the money collected by the commission from payment of the recycling fee including interest and penalties on delinquent payments.

(20) "Recycler" means a person who:

(a) annually uses, or can reasonably be expected within the next year to use, a minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate product; and

(b) is registered as a recycler in accordance with Section 19-6-806.

(21) "Recycling fee" means the fee provided for in Section 19-6-805.

(22) "Shredded waste tires" means waste tires or material derived from waste tires that has been reduced to a six inch square or smaller.

(23) (a) "Storage" means the placement of waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Storage" does not include:

(i) the use of waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site;

(ii) the storage for five or fewer days of waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use; or

(iii) the storage of a waste tire before the tire is:

(A) resold wholesale or retail; or

(B) recapped.

(24) (a) "Store" means to place waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Store" does not include:

(i) to use waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site; or

(ii) to store for five or fewer days waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use.

(25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a vehicle in which a person or property is or may be transported or drawn upon a highway.

(26) "Tire retailer" means a person engaged in the business of selling new tires either as replacement tires or as part of a new vehicle sale.

(27) (a) "Ultimate product" means a product that has as a component materials derived from waste tires and that the director finds has a demonstrated market.

(b) "Ultimate product" includes pyrolyzed materials derived from:

(i) waste tires; or

(ii) chipped tires.

(c) "Ultimate product" does not include a product regarding which a waste tire remains after the product is disposed of or disassembled.

(28) "Waste tire" means:

(a) a tire that is no longer suitable for the tire's original intended purpose because of wear, damage, or defect; or

(b) a tire that a tire retailer removes from a vehicle for replacement with a new or used tire.

(29) "Waste tire pile" means a pile of [~~1,000~~] 200 or more waste tires at one location.

(30) (a) "Waste tire transporter" means a person engaged in picking up or transporting at one time more than 10 whole waste tires, or the equivalent amount of material derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

(b) "Waste tire transporter" includes a person engaged in the business of collecting, hauling, or transporting waste tires or who performs these functions for another person, except as provided in Subsection (30)(c).

(c) "Waste tire transporter" does not include:

(i) a person transporting waste tires generated solely by:

(A) that person's personal vehicles;

(B) a commercial vehicle fleet owned or operated by that person or that person's employer;

(C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated by that person or that person's employer; or

(D) a retail tire business owned or operated by that person or that person's employer;

(ii) a solid waste collector operating under a license issued by a unit of local government as defined in Section 63M-5-103, or a local health department;

(iii) a recycler of waste tires;

(iv) a person transporting tires by rail as a common carrier subject to federal regulation; or

(v) a person transporting processed or chipped tires.

**Section 2. Section 19-6-804 is amended to read:**

**19-6-804. Restrictions on disposal and transfer of tires -- Penalties.**



(1) (a) An individual, including a waste tire transporter, may not ~~dispose of~~ transfer for temporary storage more than ~~four~~ 12 whole tires at one time ~~in~~ to a landfill or ~~any~~ other location in the state authorized by the director to receive waste tires, except for purposes authorized by board rule.

(b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter greater than 24.5 inches.

(c) ~~[Nø]~~ A person, including a waste tire transporter, may not dispose of waste tires or store waste tires in any manner not allowed under this part or rules made under this part.

(2) The operator of the landfill or other authorized location shall direct that the waste tires be ~~disposed~~ stored in a designated area to facilitate retrieval if a market becomes available for the disposed waste tires or material derived from waste tires.

(3) An individual, including a waste tire transporter, may dispose of shredded waste tires in a landfill in accordance with Section 19-6-812, and may also, without reimbursement, dispose in a landfill materials derived from waste tires that do not qualify for reimbursement under Section 19-6-812, but the landfill shall dispose of the material in accordance with Section 19-6-812.

(4) A tire retailer may only transfer ownership of a waste tire described in Subsection 19-6-803(28)(b) to:

(a) a person who purchases it for the person's own use and not for resale; or

(b) a waste tire transporter that:

(i) is registered in accordance with Section 19-6-806; and

(ii) agrees to transport the tire to:

(A) a tire retailer that sells the tire wholesale or retail; or

(B) a recycler.

(5) (a) An individual, including a waste tire transporter, violating this section is subject to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or per passenger tire equivalent disposed of in violation of this section. A warning notice may be issued ~~prior to~~ before taking further enforcement action under this Subsection (5).

(b) A civil proceeding to enforce this section and collect penalties under this section may be brought in the district court where the violation occurred by the director, the local health department, or the county attorney having jurisdiction over the location where the tires were disposed in violation of this section.

(c) Penalties collected under this section shall be deposited in the fund.

**Section 3. Section 63I-1-219 is amended to read:**

**63I-1-219. Repeal dates, Title 19.**

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2) Section 19-2a-102 is repealed July 1, 2021.

(3) Section 19-2a-104 is repealed July 1, 2022.

(4) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.

(5) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

(6) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

(7) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(8) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(9) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(10) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

(11) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, ~~2020~~ 2030.

(12) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

**CHAPTER 28****H. B. 28**

Passed February 27, 2020

Approved March 24, 2020

Effective May 12, 2020

**LEGISLATIVE WATER DEVELOPMENT  
COMMISSION SUNSET AMENDMENTS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Ralph Okerlund

**LONG TITLE****General Description:**

This bill addresses the Legislative Water Development Commission.

**Highlighted Provisions:**

This bill:

- ▶ extends the sunset date of the Legislative Water Development Commission;
- ▶ corrects references to the name of the commission to be the Legislative Water Development Commission;
- ▶ addresses appointment of nonvoting members of the commission;
- ▶ addresses duties of the commission;
- ▶ repeals reference to river districts and a 2016 report; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-273, as last amended by Laws of Utah 2019, Chapters 96 and 246

73-10g-105, as last amended by Laws of Utah 2019, Chapter 246

73-27-102, as last amended by Laws of Utah 2017, Chapter 477

73-27-103, as last amended by Laws of Utah 2018, Chapter 418

**REPEALS:**

73-27-101, as enacted by Laws of Utah 2000, Chapter 124

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

**Section 1. Section 63I-1-273 is amended to read:****63I-1-273. Repeal dates, Title 73.**

In relation to the Legislative Water Development Commission, on January 1, [2021] 2031:

(1) in Subsection 73-10g-105(3), the language that states “and in consultation with the [State] Legislative Water Development Commission created in Section 73-27-102” is repealed;

(2) Subsection 73-10g-203(4)(a) is repealed; and

(3) Title 73, Chapter 27, [State] Legislative Water Development Commission, is repealed.

**Section 2. Section 73-10g-105 is amended to read:****73-10g-105. Loans -- Rulemaking.**

(1) (a) The division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available funds to repair, replace, or improve underfunded federal water infrastructure projects.

(b) Subject to Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act, the division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available funds to develop the state’s undeveloped share of the Bear and Colorado rivers.

(2) The rules described in Subsection (1) shall:

(a) specify the amount of money that may be loaned;

(b) specify the criteria the division and the board shall consider in prioritizing and awarding loans;

(c) specify the minimum qualifications for ~~an individual who, or entity that, receives~~ a person to receive a loan, including the amount of cost-sharing to be the responsibility of the ~~individual or entity~~ person applying for a loan;

(d) specify the terms of the loan, including the terms of repayment; and

(e) require ~~all applicants~~ an applicant for a loan to apply on forms provided by the division and in a manner required by the division.

(3) The division and the board shall, in making the rules described in Subsection (1) and in consultation with the [State] Legislative Water Development Commission created in Section 73-27-102:

(a) establish criteria for better water data and data reporting;

(b) establish new conservation targets based on the data described in Subsection (3)(a);

(c) institute a process for the independent verification of the data described in Subsection (3)(a);

(d) establish a plan for an independent review of:

(i) the proposed construction plan for an applicant’s qualifying water infrastructure project; and

(ii) the applicant’s plan to repay the loan for the construction of the proposed water infrastructure project;

(e) invite and recommend public involvement; and

(f) set appropriate financing and repayment terms.

(4) The division and the board shall provide regular updates to the Legislative Management

Committee on the progress made under this section, including whether the division and board intend to issue a request for proposals.

**Section 3. Section 73-27-102 is amended to read:**

**73-27-102. Legislative Water Development Commission created.**

(1) The Legislative Water Development Commission is created to determine the state's role in the protection, conservation, and development of the state's water resources.

(2) (a) The commission membership shall include:

~~[(a)]~~ (i) five members of the Senate, appointed by the president of the Senate, no more than four of whom may be from the same political party;

~~[(b)]~~ (ii) eight members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than six of whom may be from the same political party; and

~~[(c)]~~ (iii) subject to Subsections (2)(b) and (c), nonvoting members, appointed by the Legislative Management Committee, [upon recommendation] from a list recommended by the cochairs of the commission described in Subsection (5).

(b) If the Legislative Management Committee chooses to not appoint an individual on the list described in Subsection (2)(a)(iii), the Legislative Management Committee may ask the cochairs of the commission to submit an additional list of recommendations.

(c) The Legislative Management Committee may not appoint an individual who is not recommended by the cochairs of the commission.

(3) (a) The members appointed by the Legislative Management Committee under Subsection (2)~~[(c)]~~(a)(iii) shall be appointed or reappointed to a two-year term.

(b) When a vacancy occurs in the membership for any reason, the Legislative Management Committee, in consultation with the cochairs of the commission, shall appoint a replacement for the unexpired term.

(4) The president of the Senate and the speaker of the House of Representatives shall, to the extent possible, appoint members under Subsections (2)(a)(i) and ~~[(b)]~~ (ii) that represent both rural and urban areas of the state.

(5) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a)(i) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)~~[(b)]~~(a)(ii) as a cochair of the commission.

(6) Attendance by at least 50% of one legislative house and more than 50% of the other legislative house constitutes a quorum.

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

(b) Commission members who are employees of the state shall receive no additional compensation.

(c) Other commission members shall receive no compensation or expenses for their service on the commission.

(8) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

**Section 4. Section 73-27-103 is amended to read:**

**73-27-103. Duties of commission.**

(1) The commission shall consider and make recommendations to the Legislature and governor on the following issues:

(a) how the water needs of the state's growing agricultural, municipal, and industrial sectors will be met;

(b) what the impact of federal regulations and legislation will be on the ability of the state to manage and develop its compacted water rights;

(c) how the state will fund water projects;

(d) whether the state should become an owner and operator of water projects;

(e) how the state will encourage the implementation of water conservation programs; and

(f) other water issues of statewide importance.

(2) The commission shall~~[-(a)]~~ consult with the Division of Water Resources and the Board of Water Resources regarding:

~~[(4)]~~ (a) recommendations for rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3); and

~~[(4)]~~ (b) the scope of any request for proposals that may be issued by the Division of Water Resources and Board of Water Resources to assist in creating the rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3)~~[-and].~~

~~[(b) report the recommendations described in Subsection (2)(a) to the Natural Resources, Agriculture, and Environment Interim Committee and the Legislative Management Committee by October 30, 2016.]~~

(3) The commission may:

(a) form one or more working groups from the membership of the commission to consider and study the issues described in this section; and

(b) meet up to six times per calendar year without approval from the Legislative Management Committee.

**Section 5. Repealer.**

This bill repeals:

**Section 73-27-101, River districts.**

**CHAPTER 29****H. B. 30**

Passed February 14, 2020

Approved March 24, 2020

Effective May 12, 2020

**WORKFORCE SERVICES AMENDMENTS**

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill modifies provisions of the Utah Workforce Services Code and the Substance Abuse and Mental Health Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies civil penalty provisions related to obtaining overpayments for certain public assistance;
- ▶ moves the Safety Net Initiative from the Department of Workforce Services to the Division of Substance Abuse and Mental Health; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

35A-1-104, as last amended by Laws of Utah 2018, Chapter 200

35A-3-603, as last amended by Laws of Utah 2015, Chapter 221

**RENUMBERS AND AMENDS:**

62A-15-118, (Renumbered from 35A-3-802, as renumbered and amended by Laws of Utah 2016, Chapter 133)

**REPEALS:**

35A-3-801, as enacted by Laws of Utah 2016, Chapter 133

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

**Section 1. Section 35A-1-104 is amended to read:****35A-1-104. Department authority.**

Within all other authority or responsibility granted to it by law, the department may:

(1) adopt rules when authorized by this title, in accordance with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(3) conduct adjudicative proceedings in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(4) establish eligibility standards for [its] department programs, not inconsistent with state or federal law or regulations;

(5) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and the production of books, accounts, documents, and other records necessary as evidence;

(7) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(8) receive gifts, grants, devises, and donations or their proceeds, crediting the program designated by the donor, and using the gift, grant, devise, or donation for the purposes requested by the donor, as long as the request conforms to state and federal policy;

(9) accept and employ volunteer labor or services;

(10) reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(11) carry out the responsibility assigned by the State Workforce Services Plan developed by the State Workforce Development Board;

(12) (a) provide training and educational opportunities for the department's staff; and

(b) ensure that any training or educational opportunity described in Subsection (12)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(13) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(14) accept and administer grants from the federal government and from other sources, public or private;

(15) employ and determine the compensation of clerical, legal, technical, investigative, and other employees necessary to carry out [its] the department's policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title;

(16) establish and conduct free employment agencies, and bring together employers seeking employees and working people seeking employment, and make known the opportunities for employment in this state;

(17) collect, collate, and publish statistical and other information relating to employees, employers, employments, and places of employment, and other statistics as [it] the department considers proper;

(18) encourage the expansion and use of apprenticeship programs meeting state or federal standards for apprenticeship programs;

(19) develop processes to ensure that the department responds to the full range of employee and employer clients; and

(20) carry out the responsibilities assigned to ~~[it]~~ the department by statute~~;~~ and.

~~[(21) administer the Safety Net Initiative as described in Section 35A-3-802.]~~

**Section 2. Section 35A-3-603 is amended to read:**

**35A-3-603. Civil liability for overpayment.**

(1) A provider, recipient, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:

(a) upon receiving written notice of the overpayment from the department; or

(b) upon discovering the overpayment, if that occurs before receiving notice.

(2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.

(b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.

(c) In accordance with federal law and rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be recovered through deductions from cash assistance, General Assistance, SNAP benefits, other cash-related assistance provided to a recipient under this chapter, or other means provided by federal law.

(3) A person who knowingly assists a recipient, provider, or other person in obtaining an overpayment is jointly and severally liable for the overpayment.

(4) (a) In proving civil liability for overpayment under this section, or Section 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly as “intentionally, knowingly, and recklessly” are defined in Section 76-2-103, by false statement, misrepresentation, impersonation, or other fraudulent means, including committing any of the acts or omissions described in Sections 76-8-1203, 76-8-1204, or 76-8-1205.

(b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an overpayment is subject to:

(i) a civil penalty of 10% of the amount of the overpayment, except for overpayments related to assistance for child care services; ~~and~~

(ii) a civil penalty of 50% of the amount of the overpayment for overpayments related to assistance for child care services;

~~[(iii)]~~ (iii) disqualification from receiving cash assistance from the Family Employment Program created in Section 35A-3-302 and the General Assistance program under Section 35A-3-401, if the overpayment was obtained from either of those programs, for the period described in Subsection (4)(c); ~~or~~ and

~~[(iii)]~~ (iv) disqualification from SNAP, if the overpayment was received from SNAP, for the period described in Subsection (4)(c).

(c) Unless otherwise provided by federal law, the period of a disqualification under Subsection (4)(b)~~[(iii)]~~(iii) and ~~[(iii)]~~ (iv) is for:

(i) 12 months for a first offense;

(ii) 24 months for a second offense; and

(iii) permanently for a third offense.

(5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

(b) If the repayment obligation arose from an administrative error by the department, the department may not recover attorney fees and costs.

(6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered appropriate as punitive damages up to the amount of repayment being sought.

(7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(8) Jurisdiction over benefits is continuous.

(9) This chapter does not preclude the Department of Health from carrying out its responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20, Utah False Claims Act.

**Section 3. Section 62A-15-118, which is renumbered from Section 35A-3-802 is renumbered and amended to read:**

**[35A-3-802]. 62A-15-118. Safety Net Initiative.**

(1) As used in this section, “individuals in underserved communities” means individuals living in culturally isolated communities in the state who may lack access to public assistance and other government services.

(2) There is created within the ~~[department]~~ division the Safety Net Initiative to:

(a) implement strategies to increase awareness and reduce risk factors in order to improve the safety and well-being of individuals in underserved communities;

(b) coordinate with government agencies, nonprofit organizations, and interested individuals to provide open communication with individuals in underserved communities; and

(c) coordinate efforts to give individuals in underserved communities needed access to public assistance and other government services.

(3) The ~~[department]~~ division may employ or contract with individuals, entities, and support staff as necessary to administer the duties required by this section.

**Section 4. Repealer.**

This bill repeals:

**Section 35A-3-801, Title.**

**CHAPTER 30****H. B. 31**

Passed February 13, 2020

Approved March 24, 2020

Effective May 12, 2020

**LOCAL GOVERNMENT AND  
LIMITED PURPOSE ENTITY  
REGISTRY AMENDMENTS**Chief Sponsor: Stephen G. Handy  
Senate Sponsor: Jacob L. Anderegg**LONG TITLE****General Description:**

This bill amends provisions governing the local government and limited purpose entity registry.

**Highlighted Provisions:**

This bill:

- ▶ requires the municipal recorder to register on behalf of the municipality;
- ▶ requires the county clerk to register on behalf of the county;
- ▶ requires certain nonprofit corporations to register within six months of the end of the nonprofit corporation's fiscal year;
- ▶ enacts registration requirements for an operating charter school with affiliated satellite charter schools;
- ▶ clarifies the time frame in which a local government entity or limited purpose entity is required to send notification of a change;
- ▶ requires a local government entity or limited purpose entity to register certain contact information and term information for each governing board or commission member;
- ▶ enacts language relevant to the registration of an entity that dissolves; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

10-1-204, as enacted by Laws of Utah 2018, Chapter 256  
 17-15-31, as enacted by Laws of Utah 2018, Chapter 256  
 51-2a-201.5, as last amended by Laws of Utah 2018, Chapters 256 and 415  
 53G-5-404, as last amended by Laws of Utah 2019, Chapters 83 and 293  
 67-1a-15, as last amended by Laws of Utah 2019, Chapter 416

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

**Section 1. Section 10-1-204 is amended to read:****10-1-204. Registration as a local government entity.**

(1) (a) Each municipality shall register and maintain the municipality's registration as a local

government entity, in accordance with Section 67-1a-15.

(b) The municipal recorder shall register and maintain the registration on behalf of the municipality.

(2) A municipality that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

**Section 2. Section 17-15-31 is amended to read:****17-15-31. Registration as a local government entity.**

(1) (a) Each county shall register and maintain the county's registration as a local government entity, in accordance with Section 67-1a-15.

(b) The county clerk shall register and maintain the county's registration.

(2) A county that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

**Section 3. Section 51-2a-201.5 is amended to read:****51-2a-201.5. Accounting reports required -- Reporting to state auditor -- Registration as a limited purpose entity.**

(1) As used in this section:

(a) (i) "Federal pass through money" means federal money received by a nonprofit corporation through a subaward or contract from the state or a political subdivision.

(ii) "Federal pass through money" does not include federal money received by a nonprofit corporation as payment for goods or services purchased by the state or political subdivision from the nonprofit corporation.

(b) (i) "Local money" means money that is owned, held, or administered by a political subdivision of the state that is derived from fee or tax revenues.

(ii) "Local money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the political subdivision.

(c) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fee or tax revenues.

(ii) "State money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the state agency.

(2) (a) The governing board of a nonprofit corporation whose revenues or expenditures of

federal pass through money, state money, and local money is \$1,000,000 or more shall cause an audit to be made of its accounts by an independent certified public accountant.

(b) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$350,000 but less than \$1,000,000 shall cause a review to be made of its accounts by an independent certified public accountant.

(c) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$100,000 but less than \$350,000 shall cause a compilation to be made of its accounts by an independent certified public accountant.

(d) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is less than \$100,000 but greater than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

(3) A nonprofit corporation described in Section 51-2a-102 shall provide the state auditor a copy of an accounting report prepared under this section within six months of the end of the nonprofit corporation's fiscal year.

(4) (a) A state agency that disburses federal pass through money or state money to a nonprofit corporation shall enter into a written agreement with the nonprofit corporation that requires the nonprofit corporation to annually disclose whether:

(i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection (2) in the previous fiscal year of the nonprofit corporation; or

(ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed in Subsection (2) in the fiscal year the money is disbursed.

(b) If the nonprofit corporation discloses to the state agency that the nonprofit corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state agency shall notify the state auditor.

(5) This section does not apply to a nonprofit corporation that is a charter school created under Title 53G, Chapter 5, Charter Schools. A charter school is subject to the requirements of Section 53G-5-404.

(6) A nonprofit corporation is exempt from Section 51-2a-201.

(7) (a) Each nonprofit corporation that receives an amount of money requiring an accounting report under this section shall register in accordance with Section 67-1a-15 within six months of the end of the nonprofit corporation's fiscal year and maintain the nonprofit corporation's registration as a limited purpose entity~~[, in accordance with Section 67-1a-15]~~ each year that the nonprofit corporation

is required to prepare an account report under this section.

(b) A nonprofit corporation described in Subsection (7)(a) that fails to comply with Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

**Section 4. Section 53G-5-404 is amended to read:**

**53G-5-404. Requirements for charter schools.**

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall:

(i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report; and

(ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501.

(b) A charter school shall file the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter agreement.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter agreement.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.



(9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the state board under Section 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(c) If a charter school is an operating charter school with affiliated satellite charter schools, as defined in Section 53G-5-303:

(i) the operating charter school shall register as a limited purpose entity as defined in Section 67-1a-15;

(ii) each affiliated satellite charter school is not required to register separately from the operating charter school; and

(iii) the operating charter school shall:

(A) register on behalf of each affiliated satellite charter school; and

(B) when submitting entity registry information under Section 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry information for each affiliated satellite, including the address of each affiliated satellite charter school and the name and contact information of a primary contact for each affiliated satellite charter school.

**Section 5. Section 67-1a-15 is amended to read:**

**67-1a-15. Local government and limited purpose entity registry.**

(1) As used in this section:

(a) "Entity" means a limited purpose entity or a local government entity.

(b) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 62A-3-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) local districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) local mental health authorities, as that term is defined in Section 62A-15-102;

(M) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(N) school districts under Title 53G, Chapter 3, School District Creation and Change;

(O) special service districts, as that term is defined in Section 17D-1-102; and

(P) substance abuse authorities, as that term is defined in Section 62A-15-102.

(c) "Local government and limited purpose entity registry" or "registry" means the registry of local government entities and limited purpose entities created under this section.

(d) "Local government entity" means:

(i) a county, as that term is defined in Section 17-50-101; and

(ii) a municipality, as that term is defined in Section 10-1-104.

(e) "Notice of failure to register" means the notice the lieutenant governor sends, in accordance with Subsection (7)(a), to an entity that does not register.

(f) "Notice of failure to renew" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (7)(b).

(g) "Notice of noncompliance" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (6)(c).

(h) "Notice of non-registration" means the notice the lieutenant governor sends to an entity and the state auditor, in accordance with Subsection (9).

(i) "Notice of registration or renewal" means the notice the lieutenant governor sends, in accordance with Subsection (6)(b)(i).

(j) "Registered entity" means an entity with a valid registration as described in Subsection (8).

(2) The lieutenant governor shall:

(a) create a registry of each local government entity and limited purpose entity within the state that:

(i) contains the information described in Subsection (4); and

(ii) is accessible on the lieutenant governor's website or otherwise publicly available; and

(b) establish fees for registration and renewal, in accordance with Section 63J-1-504, based on and to directly offset the cost of creating, administering, and maintaining the registry.

(3) Each local government entity and limited purpose entity shall:

(a) on or before July 1, 2019, register with the lieutenant governor as described in Subsection (4);

(b) on or before one year after the day on which the lieutenant governor issues the notice of registration or renewal, annually renew the entity's registration in accordance with Subsection (5); and

(c) ~~within~~ on or before 30 days after the day on which any of the information described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

(4) Each entity shall include the following information in the entity's registration submission:

(a) the resolution or other legal or formal document creating the entity or, if the resolution or other legal or formal document creating the entity cannot be located, conclusive proof of the entity's lawful creation;

(b) if the entity has geographic boundaries, a map or plat ~~establishing~~ identifying the current geographic boundaries of the entity, or if it is impossible or unreasonably expensive to create a map or plat, a metes and bounds description, or another legal description that identifies the current boundaries of the entity ~~reasonable proof of the entity's geographic boundaries~~;

(c) the entity's name;

(d) the entity's type of local government entity or limited purpose entity;

(e) the entity's governmental function;

(f) the entity's website, physical address, and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(g) (i) names, email addresses, and phone numbers of the members of the entity's governing board or commission, managing officers, or other similar managers and the method by which the members or officers are appointed, elected, or otherwise designated;

(ii) the date of the most recent appointment or election of each entity governing board or commission member; and

(iii) the date of the anticipated end of each entity governing board or commission member's term;

(h) the entity's sources of revenue; and

(i) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

(5) Each entity shall include the following information in the entity's renewal submission:

(a) identify and update any incorrect or outdated information the entity previously submitted during registration under Subsection (4); or

(b) certify that the information the entity previously submitted during registration under Subsection (4) is correct without change.

(6) Within 30 days of receiving an entity's registration or renewal submission, the lieutenant governor shall:

(a) review the submission to determine compliance with Subsection (4) or (5);

(b) if the lieutenant governor determines that the entity's submission complies with Subsection (4) or (5):

(i) send a notice of registration or renewal that includes the information that the entity submitted under Subsection (4) or (5) to:

(A) the registering or renewing entity;

(B) each county in which the entity operates, either in whole or in part, or where the entity's geographic boundaries overlap or are contained within the boundaries of the county;

(C) the Division of Archives and Records Service; and

(D) the Office of the Utah State Auditor; and

(ii) publish the information from the submission on the registry, except any email address or phone number that is personal information as defined in Section 63G-2-303; and

(c) if the lieutenant governor determines that the entity's submission does not comply with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of noncompliance to the registering or renewing entity that:

(i) identifies each deficiency in the entity's submission with the corresponding statutory requirement;

(ii) establishes a deadline to cure the entity's noncompliance that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of noncompliance; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (6)(c)(ii) will result in the lieutenant

governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(7) (a) If the lieutenant governor identifies an entity that does not make a registration submission in accordance with Subsection (4) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to register to the registered entity that:

(i) identifies the statutorily required registration deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to register that is the first business day that is at least 10 calendar days after the day on which the lieutenant governor sends the notice of failure to register; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(b) If a registered entity does not make a renewal submission in accordance with Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to renew to the registered entity that:

(i) identifies the renewal deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to renew that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of failure to renew; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(8) An entity's registration is valid:

(a) if the entity makes a registration or renewal submission in accordance with the deadlines described in Subsection (3);

(b) during the period the lieutenant governor establishes in the notice of noncompliance or notice of failure to renew during which the entity may cure the identified registration deficiencies; and

(c) for one year beginning on the day the lieutenant governor issues the notice of registration or renewal.

(9) (a) The lieutenant governor shall send a notice of non-registration to the Office of the Utah State Auditor if an entity fails to:

(i) cure the entity's noncompliance by the deadline the lieutenant governor establishes in the notice of noncompliance;

(ii) register by the deadline the lieutenant governor establishes in the notice of failure to register; or

(iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes in the notice of failure to renew.

(b) The lieutenant governor shall ensure that the notice of non-registration:

(i) includes a copy of the notice of noncompliance, the notice of failure to register, or the notice of failure to renew; and

(ii) requests that the state auditor withhold state allocated funds or the disbursement of property taxes and prohibit the entity from accessing money held by the state or money held in an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and 67-3-1(10).

(10) The lieutenant governor may extend a deadline under this section if an entity notifies the lieutenant governor, before the deadline to be extended, of the existence of an extenuating circumstance that is outside the control of the entity.

(11) (a) An entity is not required to renew submission of a registration under this section if an entity provides a record of dissolution.

(b) The lieutenant governor shall include in the registry an entity's record of dissolution and indicate on the registry that the entity is dissolved.

**CHAPTER 31****H. B. 36**

Passed February 11, 2020

Approved March 24, 2020

Effective May 12, 2020

**ELECTION AMENDMENTS**

Chief Sponsor: Suzanne Harrison

Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill modifies the Election Code to reflect current practices and technology in elections.

**Highlighted Provisions:**

This bill:

- ▶ modifies and defines terms;
- ▶ addresses types, forms, disposition, and counting of ballots;
- ▶ addresses the completion, security, verification, handling, and storage of ballots, forms, and other items used in elections;
- ▶ replaces state absentee ballots with mailed ballots;
- ▶ provides for emergency ballots;
- ▶ modifies the duties of election officers, other government officers, and governing bodies in relation to elections;
- ▶ modifies criminal provisions relating to elections;
- ▶ modifies and standardizes voter registration deadlines;
- ▶ modifies voter registration forms, requirements, and procedures;
- ▶ recodifies and amends voting requirements and procedures;
- ▶ modifies electioneering restrictions;
- ▶ modifies provisions relating to appointing poll workers and the functions of poll workers;
- ▶ modifies voter eligibility challenge provisions;
- ▶ amends provisions relating to a board of canvassers;
- ▶ addresses ballot drop boxes;
- ▶ repeals outdated provisions; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 11-14-202, as last amended by Laws of Utah 2019, Chapter 255
- 11-14-203, as last amended by Laws of Utah 2019, Chapter 433
- 11-14-204, as renumbered and amended by Laws of Utah 2005, Chapter 105
- 11-14-206, as last amended by Laws of Utah 2017, Chapter 157
- 17B-1-306, as last amended by Laws of Utah 2019, Chapter 255
- 20A-1-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 4

- 20A-1-308, as enacted by Laws of Utah 2013, Chapters 182, 219 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 182
- 20A-1-403, as enacted by Laws of Utah 1993, Chapter 1
- 20A-1-601, as last amended by Laws of Utah 2018, Chapter 19
- 20A-1-602, as last amended by Laws of Utah 2018, Chapter 19
- 20A-1-603, as last amended by Laws of Utah 2018, Chapter 19
- 20A-1-604, as last amended by Laws of Utah 2018, Chapter 19
- 20A-1-605, as last amended by Laws of Utah 2018, Chapter 19
- 20A-1-607, as last amended by Laws of Utah 2018, Chapter 274
- 20A-1-609, as last amended by Laws of Utah 2019, Chapter 210
- 20A-2-102.5, as last amended by Laws of Utah 2018, Chapter 206
- 20A-2-108, as last amended by Laws of Utah 2018, Chapters 206 and 270
- 20A-2-201, as last amended by Laws of Utah 2018, Chapters 206 and 281
- 20A-2-202, as last amended by Laws of Utah 2019, Chapter 255
- 20A-2-204, as last amended by Laws of Utah 2019, Chapters 136 and 255
- 20A-2-205, as last amended by Laws of Utah 2019, Chapter 255
- 20A-2-206, as last amended by Laws of Utah 2018, Chapter 206
- 20A-2-207, as enacted by Laws of Utah 2018, Chapter 206
- 20A-2-300.5, as enacted by Laws of Utah 1994, Chapter 311
- 20A-2-301, as last amended by Laws of Utah 2019, Chapter 255
- 20A-2-302, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-304, as last amended by Laws of Utah 2018, Chapter 206
- 20A-2-307, as last amended by Laws of Utah 2018, Chapter 206
- 20A-4-101, as last amended by Laws of Utah 2018, Chapters 187 and 274
- 20A-4-102, as last amended by Laws of Utah 2018, Chapters 187 and 274
- 20A-4-103, as last amended by Laws of Utah 2018, Chapter 281
- 20A-4-104, as last amended by Laws of Utah 2019, Chapter 255
- 20A-4-105, as last amended by Laws of Utah 2018, Chapter 187
- 20A-4-106, as last amended by Laws of Utah 2018, Chapter 187
- 20A-4-107, as last amended by Laws of Utah 2019, Chapter 255
- 20A-4-201, as last amended by Laws of Utah 2019, Chapter 255
- 20A-4-202, as last amended by Laws of Utah 2019, Chapter 255
- 20A-4-303, as last amended by Laws of Utah 2002, Chapter 133

20A-4-401, as last amended by Laws of Utah 2019, Chapter 255	20A-7-702, as last amended by Laws of Utah 2018, Chapter 80 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 403
20A-5-102, as last amended by Laws of Utah 2019, Chapter 433	20A-7-801, as last amended by Laws of Utah 2019, Chapter 255
20A-5-205, as last amended by Laws of Utah 2006, Chapter 326	20A-9-406, as last amended by Laws of Utah 2018, Chapter 274
20A-5-206, as last amended by Laws of Utah 2012, Chapter 251	20A-9-806, as last amended by Laws of Utah 2019, Chapter 433
20A-5-302, as last amended by Laws of Utah 2018, Chapter 274	20A-9-808, as last amended by Laws of Utah 2019, Chapter 433
20A-5-401, as last amended by Laws of Utah 2019, Chapter 433	20A-11-206, as last amended by Laws of Utah 2019, Chapter 74
20A-5-403, as last amended by Laws of Utah 2017, Chapter 108	20A-11-305, as last amended by Laws of Utah 2016, Chapter 16
20A-5-404, as last amended by Laws of Utah 2018, Chapter 187	20A-11-1305, as last amended by Laws of Utah 2018, Chapter 19
20A-5-405, as last amended by Laws of Utah 2019, Chapter 255	20A-16-202, as renumbered and amended by Laws of Utah 2011, Chapter 327
20A-5-406, as last amended by Laws of Utah 2018, Chapter 274	20A-16-401, as last amended by Laws of Utah 2013, Chapter 198
20A-5-407, as last amended by Laws of Utah 2007, Chapter 329	20A-16-406, as last amended by Laws of Utah 2012, Chapter 369
20A-5-408, as enacted by Laws of Utah 1993, Chapter 1	20A-16-407, as last amended by Laws of Utah 2011, Chapter 366 and renumbered and amended by Laws of Utah 2011, Chapter 327
20A-5-601, as last amended by Laws of Utah 2019, Chapter 433	63I-2-220, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
20A-5-602, as last amended by Laws of Utah 2014, Chapters 31, 391 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 31	<b>ENACTS:</b>
20A-5-603, as last amended by Laws of Utah 2007, Chapter 75	20A-3a-101, Utah Code Annotated 1953
20A-5-605, as last amended by Laws of Utah 2019, Chapter 255	20A-3a-201, Utah Code Annotated 1953
20A-5-801, as enacted by Laws of Utah 2017, Chapter 32	20A-3a-204, Utah Code Annotated 1953
20A-5-804, as enacted by Laws of Utah 2017, Chapter 32	20A-3a-502, Utah Code Annotated 1953
20A-6-101, as last amended by Laws of Utah 2016, Chapter 66	20A-5-403.5, Utah Code Annotated 1953
20A-6-102, as last amended by Laws of Utah 2018, Chapter 274	<b>RENUMBERS AND AMENDS:</b>
20A-6-105, as last amended by Laws of Utah 2018, Chapters 206 and 270	20A-3a-102, (Renumbered from 20A-3-101, as last amended by Laws of Utah 2019, Chapter 433)
20A-6-203, as last amended by Laws of Utah 2006, Chapter 326	20A-3a-103, (Renumbered from 20A-3-101.5, as last amended by Laws of Utah 2019, Chapter 433)
20A-6-301, as last amended by Laws of Utah 2018, Chapter 274	20A-3a-104, (Renumbered from 20A-3-102, as last amended by Laws of Utah 2007, Chapter 329)
20A-6-302, as last amended by Laws of Utah 2019, Chapter 255	20A-3a-105, (Renumbered from 20A-3-103, as enacted by Laws of Utah 1993, Chapter 1)
20A-6-304, as last amended by Laws of Utah 2016, Chapter 66	20A-3a-202, (Renumbered from 20A-3-302, as last amended by Laws of Utah 2019, Chapter 255)
20A-6-401, as last amended by Laws of Utah 2018, Chapter 274	20A-3a-203, (Renumbered from 20A-3-104, as last amended by Laws of Utah 2010, Chapter 197)
20A-6-401.1, as last amended by Laws of Utah 2018, Chapter 274	20A-3a-205, (Renumbered from 20A-3-105.5, as last amended by Laws of Utah 2013, Chapter 390)
20A-6-402, as last amended by Laws of Utah 2018, Chapters 187 and 274	20A-3a-206, (Renumbered from 20A-3-106, as last amended by Laws of Utah 2019, Chapter 142)
20A-7-607, as last amended by Laws of Utah 2019, Chapter 203	20A-3a-207, (Renumbered from 20A-3-107, as last amended by Laws of Utah 2007, Chapter 75)
20A-7-609.5, as last amended by Laws of Utah 2019, Chapter 203	
20A-7-613, as last amended by Laws of Utah 2019, Chapters 203 and 255	

20A-3a-208, (Renumbered from 20A-3-108, as last amended by Laws of Utah 2011, Chapter 366)

20A-3a-209, (Renumbered from 20A-3-109, as last amended by Laws of Utah 2007, Chapter 75)

20A-3a-301, (Renumbered from 20A-3-306.5, as last amended by Laws of Utah 2019, Chapter 255)

20A-3a-401, (Renumbered from 20A-3-308, as last amended by Laws of Utah 2018, Chapter 274 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 464)

20A-3a-402, (Renumbered from 20A-3-309, as last amended by Laws of Utah 2016, Chapter 37)

20A-3a-403, (Renumbered from 20A-3-310, as enacted by Laws of Utah 1993, Chapter 1)

20A-3a-501, (Renumbered from 20A-3-501, as last amended by Laws of Utah 2007, Chapters 75 and 329)

20A-3a-503, (Renumbered from 20A-3-503, as enacted by Laws of Utah 1993, Chapter 1)

20A-3a-504, (Renumbered from 20A-3-504, as last amended by Laws of Utah 2015, Chapter 55)

20A-3a-505, (Renumbered from 20A-3-505, as last amended by Laws of Utah 2008, Chapter 276)

20A-3a-506, (Renumbered from 20A-3-506, as enacted by Laws of Utah 2006, Chapter 15)

20A-3a-601, (Renumbered from 20A-3-601, as last amended by Laws of Utah 2018, Chapters 195, 206, and 281)

20A-3a-602, (Renumbered from 20A-3-602, as last amended by Laws of Utah 2019, Chapter 73)

20A-3a-603, (Renumbered from 20A-3-603, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 403)

20A-3a-604, (Renumbered from 20A-3-604, as last amended by Laws of Utah 2019, Chapter 255)

20A-3a-605, (Renumbered from 20A-3-605, as last amended by Laws of Utah 2018, Chapter 206)

20A-3a-701, (Renumbered from 20A-3-701, as enacted by Laws of Utah 2011, Chapter 291)

20A-3a-702, (Renumbered from 20A-3-702, as last amended by Laws of Utah 2018, Chapter 274)

20A-3a-703, (Renumbered from 20A-3-703, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 403)

20A-3a-801, (Renumbered from 20A-3-201, as repealed and reenacted by Laws of Utah 2018, Chapter 274)

20A-3a-802, (Renumbered from 20A-3-201.5, as enacted by Laws of Utah 2010 Chapter 83)

20A-3a-803, (Renumbered from 20A-3-202, as last amended by Laws of Utah 2019, Chapter 433)

20A-3a-804, (Renumbered from 20A-3-202.3, as last amended by Laws of Utah 2018, Chapters 195 and 274)

20A-3a-805, (Renumbered from 20A-3-202.5, as last amended by Laws of Utah 2018, Chapter 274)

20A-3a-806, (Renumbered from 20A-3-203, as last amended by Laws of Utah 2018, Chapter 274)

20A-5-410, (Renumbered from 20A-3-304.1, as last amended by Laws of Utah 2008, Chapter 382)

**REPEALS:**

20A-3-104.5, as last amended by Laws of Utah 2019, Chapter 433

20A-3-105, as last amended by Laws of Utah 2019, Chapter 142

20A-3-301, as last amended by Laws of Utah 2013, Chapter 198

20A-3-303, as last amended by Laws of Utah 2008, Chapter 193

20A-3-304, as last amended by Laws of Utah 2019, Chapters 255 and 433

20A-3-305, as last amended by Laws of Utah 2019, Chapter 255

20A-3-306, as last amended by Laws of Utah 2019, Chapter 255

20A-3-307, as last amended by Laws of Utah 2012, Chapter 309

20A-3-502, as enacted by Laws of Utah 1993, Chapter 1

20A-5-604, as last amended by Laws of Utah 2019, Chapter 255

20A-6-303, as last amended by Laws of Utah 2016, Chapter 66

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

**Section 1. Section 11-14-202 is amended to read:****11-14-202. Notice of election -- Contents -- Publication -- Mailing.**

(1) The governing body shall publish notice of the election:

(a) (i) once per week for three consecutive weeks before the election in a newspaper of general circulation in the local political subdivision, in accordance with Section 11-14-316, the first publication occurring not less than 21, nor more than 35, days before the day of the election;

(ii) if there is no newspaper of general circulation in the local political subdivision, at least 21 days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the local political subdivision, in places within the local political subdivision that are most likely to give notice to the voters in the local political subdivision; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the local political subdivision;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election;

(c) in accordance with Section 45-1-101, for three weeks before the day of the election; and

(d) if the local political subdivision has a website, on the local political subdivision's website for at least three weeks before the day of the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to \$15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days, but not more than 45 days, before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection [20A-3-603] 20A-3a-603(2); or

(c) election day voting center, in accordance with Subsection [20A-3-703] 20A-3a-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be

based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

**Section 2. Section 11-14-203 is amended to read:**

**11-14-203. Time for election -- Equipment -- Election officials -- Combining precincts.**

(1) (a) The local political subdivision shall ensure that bond elections are conducted and administered according to the procedures set forth in this chapter and the sections of the Election Code specifically referenced by this chapter.

(b) When a local political subdivision complies with those procedures, there is a presumption that the bond election was properly administered.

(2) (a) A bond election may be held, and the proposition for the issuance of bonds may be submitted, on the same date as the regular general election, the municipal general election held in the local political subdivision calling the bond election, or at a special election called for the purpose on a date authorized by Section 20A-1-204.

(b) A bond election may not be held, nor a proposition for issuance of bonds be submitted, at the presidential primary election held under Title 20A, Chapter 9, Part 8, Presidential Primary Election.

(3) (a) The bond election shall be conducted and administered by the election officer designated in Sections 20A-1-102 and 20A-5-400.5.

(b) (i) The duties of the election officer shall be governed by Title 20A, Chapter 5, Part 4, Election Officer's Duties.

(ii) The publishing requirement under Subsection 20A-5-405(1)(j)(h)(iii) does not apply when notice of a bond election has been provided according to the requirements of Section 11-14-202.

(c) The hours during which the polls are to be open shall be consistent with Section 20A-1-302.

(d) The appointment and duties of election judges shall be governed by Title 20A, Chapter 5, Part 6, Poll Workers.

(e) General voting procedures shall be conducted according to the requirements of Title 20A, Chapter 3, Voting.

(f) The designation of election crimes and offenses, and the requirements for the prosecution and adjudication of those crimes and offenses are set forth in Title 20A, Election Code.

(4) When a bond election is being held on a day when no other election is being held in the local political subdivision calling the bond election, voting precincts may be combined for purposes of bond elections so long as no voter is required to vote outside the county in which the voter resides.

(5) When a bond election is being held on the same day as any other election held in a local political subdivision calling the bond election, or in some part of that local political subdivision, the polling places and election officials serving for the other

election may also serve as the polling places and election officials for the bond election, so long as no voter is required to vote outside the county in which the voter resides.

**Section 3. Section 11-14-204 is amended to read:**

**11-14-204. Challenges to voter qualifications.**

(1) Any person's qualifications to vote at a bond election may be challenged according to the procedures and requirements of Sections [20A-3-105.5 and 20A-3-202] 20A-3a-205 and 20A-3a-803.

(2) A bond election may not be invalidated on the grounds that ineligible voters voted unless:

(a) it is shown by clear and convincing evidence that ineligible voters voted in sufficient numbers to change the result of the bond election; and

(b) the complaint is filed before the expiration of the time period permitted for contests in Subsection 20A-4-403(3).

(3) The votes cast by the voters shall be accepted as having been legally cast for purposes of determining the outcome of the election, unless the court in a bond election contest finds otherwise.

**Section 4. Section 11-14-206 is amended to read:**

**11-14-206. Ballots -- Submission of ballot language -- Form and contents.**

(1) At least 75 days before the election, the governing body shall prepare and submit to the election officer:

(a) a ballot title for the bond proposition that includes the name of the local political subdivision issuing the bonds and the word "bond"; and

(b) a ballot proposition that meets the requirements of Subsection (2).

(2) (a) The governing body shall ensure that the ballot proposition includes:

(i) the maximum principal amount of the bonds;

(ii) the maximum number of years from the issuance of the bonds to final maturity;

(iii) the general purpose for which the bonds are to be issued; and

(iv) if issuance of the bonds will require the increase of the property tax imposed upon the average value of a residence by an amount that is greater than or equal to \$15 per year, the following information in substantially the following form and in the following order:

**"PROPERTY TAX COST OF BONDS:**

If the bonds are issued as planned, [if applicable: without regard to the taxes currently levied for outstanding bonds that will reduce over time,] an annual property tax to pay debt service on the bonds will be required over a period of \_\_\_ years in the estimated amount of \$\_\_\_ (insert the average



value of a residence in the taxing entity rounded to the nearest thousand dollars) on a residence and in the estimated amount of \$\_\_\_ on a business property having the same value.

[If applicable] If there are other outstanding bonds, an otherwise scheduled tax decrease may not occur if these bonds are issued.

The foregoing information is only an estimate and is not a limit on the amount of taxes that the governing body may be required to levy in order to pay debt service on the bonds. The governing body is obligated to levy taxes to the extent provided by law in order to pay the bonds.”

(b) The governing body may state the purpose of the bonds in general terms and need not specify the particular projects for which the governing body intends to issue the bonds or the specific amount of bond proceeds that the governing body intends to expend for each project.

(c) If the governing body intends that the bonds be payable in part from tax proceeds and in part from the operating revenues of the local political subdivision, or from any combination of tax proceeds and operating revenues, the governing body may indicate those payment sources on the bond proposition, but need not specify how the governing body intends to divide the bonds between those sources of payment.

(d) (i) The governing body shall ensure that the bond proposition is followed by the words, “For the issuance of bonds” and “Against the issuance of bonds,” with appropriate boxes in which the voter may indicate the voter’s choice.

(ii) Nothing in Subsection (2)(d)(i) prohibits the addition of descriptive information about the bonds.

(3) If a bond proposition is submitted to a vote on the same day as any other election held in the local political subdivision calling the bond election, the governing body or an election officer may combine the bond proposition with the candidate ballot in a manner consistent with Section 20A-6-301[, 20A-6-303,] or 20A-6-402.

(4) The governing body shall ensure that the ballot form complies with the requirements of Title 20A, Chapter 6, Ballot Form.

**Section 5. Section 17B-1-306 is amended to read:**

**17B-1-306. Local district board -- Election procedures.**

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk

for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section 63F-1-701, for 10 days before the first day for filing a declaration of candidacy; and

(b) (i) by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) publishing the notice:

(A) in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy;

(B) in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy; and

(c) if the local district has a website, on the local district’s website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall

be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) \_\_\_\_\_, being first duly sworn, say that I reside at (Street) \_\_\_\_\_, City of \_\_\_\_\_, County of \_\_\_\_\_, state of Utah, (Zip Code) \_\_\_\_\_; (Telephone Number, if any) \_\_\_\_\_; that I meet the qualifications for the office of board of trustees member for \_\_\_\_\_ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

Subscribed and sworn to (or affirmed) before me by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Signed) \_\_\_\_\_

(Clerk or Notary Public)"

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection ~~[20A-3-605]~~ 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor

concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

**Section 6. Section 20A-1-102 is amended to read:**

**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ~~[paper ballots or ballot sheets]~~ ballots and tabulates the results.

(3) (a) "Ballot" means the storage medium, ~~[whether]~~ including a paper, mechanical, or electronic storage medium, ~~[upon which a voter records the voter's votes]~~ that records an individual voter's vote.

~~[(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.]~~

~~(b) "Ballot" does not include a record to tally multiple votes.~~

~~[(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:]~~

~~[(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and]~~

~~[(b) are used in conjunction with ballot sheets that do not display that information.]~~

~~[(5)]~~ (4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

<p><del>[(6)]</del> “Ballot sheet”;</p> <p><del>[(a)]</del> means a ballot that:</p> <p><del>[(i)]</del> consists of paper or a card where the voter’s votes are marked or recorded; and</p> <p><del>[(ii)]</del> can be counted using automatic tabulating equipment; and</p> <p><del>[(b)]</del> includes punch card ballots and other ballots that are machine-countable.</p> <p><del>[(7)]</del> (5) “Bind,” “binding,” or “bound” means securing more than one piece of paper together <del>[with a staple or stitch]</del> using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.</p> <p><del>[(8)]</del> (6) “Board of canvassers” means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.</p> <p><del>[(9)]</del> (7) “Bond election” means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.</p> <p><del>[(10)]</del> “Book voter registration form” means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.</p> <p><del>[(11)]</del> (8) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.</p> <p><del>[(12)]</del> “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.</p> <p><del>[(13)]</del> (9) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.</p> <p><del>[(14)]</del> (10) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.</p> <p><del>[(15)]</del> (11) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.</p> <p><del>[(16)]</del> (12) “Convention” means the political party convention at which party officers and delegates are selected.</p> <p><del>[(17)]</del> (13) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.</p> <p><del>[(18)]</del> (14) “Counting judge” means a poll worker designated to count the ballots during election day.</p> <p><del>[(19)]</del> (15) “Counting room” means a suitable and convenient private place or room, <del>immediately adjoining the place where the election is being held,</del> for use by the poll workers and counting judges to count ballots <del>[during election day]</del>.</p> <p><del>[(20)]</del> (16) “County officers” means those county officers that are required by law to be elected.</p>	<p><del>[(21)]</del> (17) “Date of the election” or “election day” or “day of the election”:</p> <p>(a) means the day that is specified in the calendar year as the day that the election occurs; and</p> <p>(b) does not include:</p> <p>(i) deadlines established for <del>[absentee]</del> voting by mail, military-overseas voting, or emergency voting; or</p> <p>(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.</p> <p><del>[(22)]</del> (18) “Elected official” means:</p> <p>(a) a person elected to an office under Section 20A-1-303 or <del>[Chapter 1-4, Part 6, Election Offenses – Generally]</del> Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;</p> <p>(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or</p> <p>(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).</p> <p><del>[(23)]</del> (19) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.</p> <p><del>[(24)]</del> (20) “Election Assistance Commission” means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.</p> <p><del>[(25)]</del> (21) “Election cycle” means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.</p> <p><del>[(26)]</del> (22) “Election judge” means a poll worker that is assigned to:</p> <p>(a) preside over other poll workers at a polling place;</p> <p>(b) act as the presiding election judge; or</p> <p>(c) serve as a canvassing judge, counting judge, or receiving judge.</p> <p><del>[(27)]</del> (23) “Election officer” means:</p> <p>(a) the lieutenant governor, for all statewide ballots and elections;</p> <p>(b) the county clerk for:</p> <p>(i) a county ballot and election; and</p> <p>(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;</p> <p>(c) the municipal clerk for:</p> <p>(i) a municipal ballot and election; and</p> <p>(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;</p>
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(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

~~[(28)]~~ (24) "Election official" means any election officer, election judge, or poll worker.

~~[(29)]~~ (25) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

~~[(30)]~~ (26) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ~~[absentee]~~ ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

~~[(31)]~~ "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.]

~~[(32)]~~ (27) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

~~[(33)]~~ (a) "Electronic voting device" means a voting device that uses electronic ballots.]

~~[(b)]~~ "Electronic voting device" includes a direct recording electronic voting device.]

~~[(34)]~~ (28) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

~~[(35)]~~ (29) "Judicial office" means the office filled by any judicial officer.

~~[(36)]~~ (30) "Judicial officer" means any justice or judge of a court of record or any county court judge.

~~[(37)]~~ (31) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

~~[(38)]~~ (32) "Local district officers" means those local district board members that are required by law to be elected.

~~[(39)]~~ (33) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

~~[(40)]~~ (34) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

~~[(41)]~~ (35) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(36) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

(37) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

~~[(42)]~~ (38) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

~~[(43)]~~ (39) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

~~[(44)]~~ (40) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

~~[(45)]~~ (41) "Municipal office" means an elective office in a municipality.

~~[(46)]~~ (42) "Municipal officers" means those municipal officers that are required by law to be elected.

~~[(47)]~~ (43) "Municipal primary election" means an election held to nominate candidates for municipal office.

~~[(48)]~~ (44) "Municipality" means a city, town, or metro township.

~~[(49)]~~ (45) "Official ballot" means the ballots distributed by the election officer ~~to the poll~~

~~workers to be given to] for voters to record their votes.~~

~~[(50)] (46) “Official endorsement” means~~ ~~[(a)]~~ the information on the ballot that identifies:

~~[(i)] (a) the ballot as an official ballot;~~

~~[(ii)] (b) the date of the election; and~~

~~[(iii)] (A) (c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or~~

~~[(B)] (ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii); and]~~

~~[(b) the information on the ballot stub that identifies:]~~

~~[(i) the poll worker’s initials; and]~~

~~[(ii) the ballot number.]~~

~~[(51)] (47) “Official register” means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.~~

~~[(52) “Paper ballot” means a paper that contains:]~~

~~[(a) the names of offices and candidates and statements of ballot propositions to be voted on; and]~~

~~[(b) spaces for the voter to record the voter’s vote for each office and for or against each ballot proposition.]~~

~~[(53)] (48) “Political party” means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.~~

~~[(54)] (49) (a) “Poll worker” means a person assigned by an election official to assist with an election, voting, or counting votes.~~

~~(b) “Poll worker” includes election judges.~~

~~(c) “Poll worker” does not include a watcher.~~

~~[(55)] (50) “Pollbook” means a record of the names of voters in the order that they appear to cast votes.~~

~~[(56)] (51) “Polling place” means [the] a building where voting is conducted.~~

~~[(57)] (52) “Position” means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter’s choice.~~

~~[(58)] (53) “Presidential Primary Election” means the election established in Chapter 9, Part 8, Presidential Primary Election.~~

~~[(59)] (54) “Primary convention” means the political party conventions held during the year of the regular general election.~~

~~[(60)] (55) “Protective counter” means a separate counter, which cannot be reset, that:~~

~~(a) is built into a voting machine; and~~

(b) records the total number of movements of the operating lever.

~~[(61)] (56) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer’s local political subdivision in accordance with Section 20A-5-400.1.~~

~~[(62)] (57) “Provisional ballot” means a ballot voted provisionally by a person:~~

~~(a) whose name is not listed on the official register at the polling place;~~

~~(b) whose legal right to vote is challenged as provided in this title; or~~

~~(c) whose identity was not sufficiently established by a poll worker.~~

~~[(63)] (58) “Provisional ballot envelope” means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person’s legal right to vote.~~

~~[(64)] (59) “Qualify” or “qualified” means to take the oath of office and begin performing the duties of the position for which the [person] individual was elected.~~

~~[(65)] (60) “Receiving judge” means the poll worker that checks the voter’s name in the official register[,] at a polling location and provides the voter with a ballot[, and removes the ballot stub from the ballot after the voter has voted].~~

~~[(66)] (61) “Registration form” means a [book voter registration form and a by-mail voter registration] form by which an individual may register to vote under this title.~~

~~[(67)] (62) “Regular ballot” means a ballot that is not a provisional ballot.~~

~~[(68)] (63) “Regular general election” means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.~~

~~[(69)] (64) “Regular primary election” means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.~~

~~[(70)] (65) “Resident” means a person who resides within a specific voting precinct in Utah.~~

~~(66) “Return envelope” means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:~~

~~(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter’s vote; and~~

~~(b) that includes the voter affidavit and a place for the voter’s signature.~~

~~[(71)] (67) “Sample ballot” means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.~~

~~[(72)] (68) “Scratch vote” means to mark [or punch] the straight party ticket and then mark [or punch] the ballot for one or more candidates who are members of different political parties or who are unaffiliated.~~

~~[(73)] “Secrecy envelope” means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter’s vote.]~~

[(74)] (69) “Special election” means an election held as authorized by Section 20A-1-203.

[(75)] (70) “Spoiled ballot” means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

~~[(76)] (71) “Statewide special election” means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.~~

~~[(77)] “Stub” means the detachable part of each ballot.]~~

~~[(78)] “Substitute ballots” means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.]~~

(72) “Tabulation system” means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

[(79)] (73) “Ticket” means a list of:

- (a) political parties;
- (b) candidates for an office; or
- (c) ballot propositions.

[(80)] (74) “Transfer case” means the sealed box used to transport voted ballots to the counting center.

~~[(81)] (75) “Vacancy” means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.~~

[(82)] (76) “Valid voter identification” means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection [(82)] (76)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter’s employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter’s adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

~~[(83)] (77) “Valid write-in candidate” means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.~~

(78) “Vote by mail” means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

~~[(84)] (79) “Voter” means [a person] an individual who:~~

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

~~[(85)]~~ (80) “Voter registration deadline” means the registration deadline provided in Section 20A-2-102.5.

~~[(86)]~~ (81) “Voting area” means the area within six feet of the voting booths, voting machines, and ballot box.

~~[(87)]~~ (82) “Voting booth” means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting ~~[machine]~~ enclosure or curtain; or

(b) a voting device that is free standing.

~~[(88) “Voting device” means:]~~

~~[(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;]~~

~~[(b) a device for marking the ballots with ink or another substance;]~~

~~[(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;]~~

~~[(d) an automated voting system under Section 20A-5-302; or]~~

~~[(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.]~~

~~[(89) “Voting machine” means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.]~~

(83) “Voting device” means any device provided by an election officer for a voter to vote a mechanical ballot.

~~[(90)]~~ (84) “Voting precinct” means the smallest geographical voting unit, established ~~[as provided by law within which qualified voters vote at one polling place]~~ under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

~~[(91)]~~ (85) “Watcher” means an individual who complies with the requirements described in Section ~~[20A-3-201]~~ 20A-3a-801 to become a watcher for an election.

~~[(92)]~~ (86) “Write-in ballot” means a ballot containing any write-in votes.

~~[(93)]~~ (87) “Write-in vote” means a vote cast for ~~[a person]~~ an individual, whose name is not printed on the ballot ~~[according to]~~, in accordance with the procedures established in this title.

**Section 7. Section 20A-1-308 is amended to read:**

**20A-1-308. Elections during declared emergencies.**

(1) As used in this section, “declared emergency” means a state of emergency that:

(a) is declared by:

(i) the president of the United States;

(ii) the governor in an executive order under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(iii) the chief executive officer of a political subdivision in a proclamation under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; and

(b) affects an election in the state, including:

(i) voting on election day;

(ii) early voting;

(iii) the transmittal or voting of ~~[an absentee ballot or military-overseas]~~ a ballot;

(iv) the counting of ~~[an absentee ballot or military-overseas]~~ a ballot; or

(v) the canvassing of election returns.

(2) During a declared emergency, the lieutenant governor may designate a method, time, or location for, or relating to, an event described in Subsection (1)(b) that is different than the method, time, or location described in this title.

(3) The lieutenant governor shall notify a voter or potential voter of a different method, time, or location designated under Subsection (2) by:

(a) posting a notice on the Statewide Electronic Voter Information Website established under Section 20A-7-801;

(b) notifying each election officer affected by the designation; and

(c) notifying a newspaper of general circulation within the state or a local media correspondent.

**Section 8. Section 20A-1-403 is amended to read:**

**20A-1-403. Errors or omissions in ballots.**

(1) The election officer shall, without delay, correct any errors in ~~[paper]~~ ballots ~~[or ballot labels that he]~~ that the election officer discovers, or that are brought to ~~[his]~~ the election officer’s attention, if those errors can be corrected without interfering with the timely distribution of the ~~[paper]~~ ballots ~~[or ballot labels]~~.

(2) (a) (i) If an error or omission has occurred in the publication of the names or description of the candidates nominated for office, or in the printing of sample or official ballots, a candidate or ~~[his]~~ the candidate’s agent may file, without paying any fee, a petition for ballot correction with the district court.

(ii) If a petition is filed, the petitioner shall serve a copy of the petition on the respondents on the same day that the petition is filed with the court.

(b) The petition shall contain:

(i) an affidavit signed by the candidate or ~~[his]~~ the candidate’s agent identifying the error or omission; and



(ii) a request that the court issue an order to the election officer responsible for the ballot error or omission to correct the ballot error or omission.

(3) (a) After reviewing the petition, the court shall:

(i) issue an order commanding the respondent named in the petition to appear before the court to answer, under oath, to the petition;

(ii) summarily hear and dispose of any issues raised by the petition to obtain substantial compliance with the provisions of this title by the parties to the controversy; and

(iii) ~~[make and enter orders and judgments, and issue the process of the court to enforce all of those orders and judgments]~~ enter appropriate orders.

(b) The court may assess costs, including [a] reasonable ~~[attorney's fee]~~ attorney fees, against either party.

**Section 9. Section 20A-1-601 is amended to read:**

**20A-1-601. Bribery in elections -- Paying for votes -- Penalties.**

(1) A person may not, directly ~~[or]~~, indirectly, ~~[by himself]~~ or through any other person:

(a) pay, loan, or contribute, or offer or promise to pay, loan, or contribute any money or other valuable consideration to or for any voter or to or for any other person:

(i) to induce the voter to vote or refrain from voting at any election provided by law;

(ii) to induce any voter to vote or refrain from voting at an election for any particular person or measure;

(iii) to induce a voter to go to the polls or remain away from the polls at any election;

(iv) because a voter voted or refrained from voting for any particular person, or went to the polls or remained away from the polls; or

(v) to obtain the political support or aid of any person at an election;

(b) give, offer, or promise any office, place, or employment, or to promise or procure, or endeavor to procure, any office, place, or employment, to or for any voter, or to or for any other person, in order to:

(i) induce a voter to vote or refrain from voting at any election;

(ii) induce any voter to vote or refrain from voting at an election for any particular person or measure; or

(iii) obtain the political support or aid of any person;

(c) advance or pay, or cause to be paid, any money or other valuable thing to, or for the use of, any other person with the intent that the money or other valuable thing be used in bribery at any election provided by law; or

(d) knowingly pay, or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money expended wholly or in part in bribery at any election.

(2) In addition to the penalties established in Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a third degree felony.

**Section 10. Section 20A-1-602 is amended to read:**

**20A-1-602. Receiving bribe -- Receiving payments for votes -- Penalties.**

(1) A person may not, for ~~[himself]~~ the person or for any other person, directly or indirectly, ~~[by himself]~~ or through any person, before, during, or after any election:

(a) receive, agree to receive, or contract for any money, gift, loan, or other valuable consideration, office, place, or employment for:

(i) voting or agreeing to vote;

(ii) going or agreeing to go to the polls;

(iii) remaining or agreeing to remain away from the polls; or

(iv) refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting, for any particular person or measure at any election provided by law; or

(b) receive any money or other valuable thing because the person induced any other person to:

(i) vote or refrain from voting; or

(ii) vote or refrain from voting for any particular person or measure at any election provided by law.

(2) In addition to the penalties established in Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a third degree felony.

**Section 11. Section 20A-1-603 is amended to read:**

**20A-1-603. Fraud, interference, disturbance -- Tampering with ballots or records -- Penalties.**

(1) (a) ~~[A person]~~ An individual may not fraudulently vote on the individual's behalf ~~[of himself]~~ or on behalf of another, by:

(i) voting more than once at any one election;

(ii) knowingly handing in two or more ballots folded together;

(iii) changing any ballot after ~~[it has been]~~ the ballot is cast or deposited in the ballot box, or ballot drop box, or mailed;

(iv) adding or attempting to add any ballot or vote to those legally polled at any election by fraudulently introducing the ballot or vote into the ballot box or vote tally, either before or after the ballots have been counted;

(v) adding to or mixing or attempting to add or mix, other ballots with the ballots lawfully polled while those ballots are being counted or canvassed, or at any other time; or

(vi) voting in a voting district or precinct when the ~~[person]~~ individual knew or should have known that the ~~[person]~~ individual was not eligible for voter registration in that district or precinct, unless the ~~[person]~~ individual is legally entitled to vote the ballot under Section 20A-4-107 or another provision of this title.

(b) A person may not fraudulently interfere with an election by:

(i) willfully tampering with, detaining, mutilating, or destroying any election returns;

(ii) in any manner, interfering with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, so as to prevent the election or canvass from being fairly held or lawfully conducted;

(iii) engaging in riotous conduct at any election, or interfering in any manner with any election official in the discharge of the election official's duties;

(iv) inducing any election officer, or officer whose duty it is to ascertain, announce, or declare the result of any election or to give or make any certificate, document, or evidence in relation to any election, to violate or refuse to comply with the election officer's duty or any law regulating the election officer's duty;

(v) taking, carrying away, concealing, removing, or destroying any ballot, pollbook, or other thing from a polling place, or from the possession of the person authorized by law to have the custody of that thing; ~~[or]~~

(vi) taking, carrying away, concealing, removing, or destroying a ballot drop box or the contents of a ballot drop box; or

~~[(vi)]~~ (vii) aiding, counseling, providing, procuring, advising, or assisting any person to do any of the acts ~~[specified]~~ described in this section.

(2) In addition to the penalties established in Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a class A misdemeanor.

**Section 12. Section 20A-1-604 is amended to read:**

**20A-1-604. Destroying voter instructions, sample ballots, or election paraphernalia -- Penalties.**

(1) A person may not:

(a) willfully deface or destroy any list of candidates posted in accordance with the provisions of this title;

(b) willfully deface, tear down, remove or destroy any ~~[card of instruction]~~ voter instructions or

sample ballot, printed or posted for the instruction of voters during an election;

(c) willfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare the voter's ballot during an election; or

(d) willfully hinder the voting of others.

(2) In addition to the penalties established in Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of an infraction.

**Section 13. Section 20A-1-605 is amended to read:**

**20A-1-605. Mutilating certificate of nomination -- Forging declination or resignation -- Tampering with ballots.**

(1) It is unlawful for any person to:

(a) falsely mark or willfully deface or destroy:

(i) any certificate of nomination or any part of a certificate of nomination; or

(ii) any letter of declination or resignation;

(b) file any certificate of nomination or letter of declination or resignation knowing it, or any part of it, to be falsely made;

(c) suppress any certificate of nomination, or letter of declination or resignation, or any part of a certificate of nomination or letter of declination or resignation that has been legally filed;

(d) forge any letter of declination or resignation;

(e) falsely make the official endorsement on any ballot;

(f) willfully destroy or deface any ballot;

(g) willfully delay the delivery of any ballots;

(h) examine any ballot offered or cast at the polls or found in any ballot box or ballot drop box for any purpose other than to determine which candidate was elected; and

(i) make or place any mark or device on any ballot in order to determine the name of any person for whom the elector has voted.

(2) In addition to the penalties established in Subsections 20A-1-609(2) and (3), any person convicted of any of the offenses established by this section is guilty of a class A misdemeanor.

**Section 14. Section 20A-1-607 is amended to read:**

**20A-1-607. Inducing attendance at polls -- Payment of workers.**

(1) (a) It is unlawful for a person to pay another for a loss incurred because an individual voted or registered to vote.

(b) Subsection (1)(a) does not permit an employer to make a deduction from the usual salary or wages of an employee who takes a leave of absence as authorized under Section ~~[20A-3-103]~~ 20A-3a-105 for the purpose of voting.

(2) (a) A person may not pay for personal services performed or to be performed on the day of a caucus, primary, convention, or election, or for any purpose connected with a caucus, primary, convention, or election that directly or indirectly affect the result of the caucus, primary, convention, or election.

(b) Subsection (2)(a) does not prohibit a person from hiring a person to act as a watcher.

**Section 15. Section 20A-1-609 is amended to read:**

**20A-1-609. Omnibus penalties.**

(1) (a) Except as provided in Subsection (1)(b), a person who violates any provision of this title is guilty of a class B misdemeanor.

(b) Subsection (1)(a) does not apply to a provision of this title for which another penalty is expressly stated.

(c) An individual is not guilty of a crime for, by signing a petition for an initiative or referendum, falsely making the statement described in Subsection 20A-7-203(2)(e)(ii), 20A-7-303(2)(h)(ii), 20A-7-503(2)(e), or 20A-7-603(2)(h).

(2) Except as provided by Section 20A-2-101.3 or 20A-2-101.5, an individual convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office during the election cycle in which the violation occurred;

(b) take or hold the office to which the individual was elected; and

(c) receive the emoluments of the office to which the individual was elected.

(3) (a) Any individual convicted of any offense under this title forfeits the right to vote at any election unless the right to vote is restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(b) Any person may challenge the right to vote of a person described in Subsection (3)(a) by following the procedures and requirements of Section ~~[20A-3-202]~~ 20A-3a-803.

**Section 16. Section 20A-2-102.5 is amended to read:**

**20A-2-102.5. Voter registration deadline.**

(1) Except as otherwise provided in ~~[Section 20A-2-201, 20A-2-204, 20A-2-206, 20A-2-207, or 20A-4-107, or]~~ Chapter 16, Uniform Military and Overseas Voters Act, ~~[a person]~~ an individual who fails to timely submit a correctly completed voter registration form ~~[on or before the voter registration deadline]~~ may not vote in the election.

(2) The voter registration deadline is ~~[30 calendar days before the date of the election.]~~ as follows:

(a) the voter registration must be received by the county clerk no later than 5 p.m. 11 calendar days before the date of the election, if the individual registers to vote:

(i) at the office of the county clerk, in accordance with Section 20A-2-201;

(ii) by mail, in accordance with Section 20A-2-202;

(iii) via an application for a driver license, in accordance with Section 20A-2-204;

(iv) via a public assistance agency or a discretionary voter registration agency, in accordance with Section 20A-2-205; or

(v) via electronic registration, in accordance with Section 20A-2-206;

(b) before the polls close on the last day of early voting, described in Section 20A-3a-601, if the individual registers by casting a provisional ballot at an early voting location in accordance with Section 20A-2-207; or

(c) before polls close on the date of the election, if the individual registers to vote on the date of the election by casting a provisional ballot, in accordance with Section 20A-2-207.

**Section 17. Section 20A-2-108 is amended to read:**

**20A-2-108. Driver license or state identification card registration form -- Transmittal of information.**

(1) As used in this section, "qualifying form" means:

(a) a driver license application form; or

(b) a state identification card application form.

(2) The lieutenant governor and the Driver License Division shall design each qualifying form to include:

(a) the following question, which an applicant is required to answer: "Do you authorize the use of information in this form for voter registration purposes? YES \_\_\_ NO \_\_\_"; and

~~[(b) the following question, which an applicant is required to answer if the applicant answers "yes" to the question described in Subsection (2)(a): "Any voter may register as an absentee voter to receive ballots by mail. A voter may change this designation at any time. Would you like to be registered as an absentee voter to receive your ballots by mail? YES \_\_\_ NO \_\_\_"; and]~~

~~[(e)]~~ (b) the following statement: "You may request that your voter registration record be classified as a private record by indicating here: \_\_\_ Yes, I would like to request that my voter registration record be classified as a private record."

(3) The lieutenant governor and the Driver License Division shall ensure that a qualifying form contains:

(a) a place for an individual to affirm the individual's citizenship, voting eligibility, and Utah residency, and that the information provided in the form is true;

(b) a records disclosure that is similar to the records disclosure on a voter registration form described in Section 20A-2-104;

(c) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;

(d) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(e) if the applicant answers "yes" to the question described in Subsection (2)(a), a space where an individual may, if desired:

(i) indicate the individual's desired political affiliation from a listing of each registered political party, as defined in Section 20A-8-101;

(ii) specify a political party that is not listed under Subsection (3)(e)(i) with which the individual desires to affiliate; or

(iii) indicate that the individual does not wish to affiliate with a political party.

**Section 18. Section 20A-2-201 is amended to read:**

**20A-2-201. Registering to vote at office of county clerk.**

(1) Except as provided in Subsection (3), the county clerk shall register to vote each individual who registers in person at the county clerk's office during designated office hours if the individual will, on the date of the election, be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

(2) If an individual who is registering to vote submits a registration form in person at the office of the county clerk ~~during designated office hours, during the period beginning on the date after the voter registration deadline and ending on the date that is 15~~ no later than 5 p.m. 11 calendar days before the date of the election, the county clerk shall:

(a) accept ~~the form if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county~~ and process the voter registration form; ~~and~~

~~(b) inform the individual that the individual will be registered to vote in the pending election.~~

~~(b) unless the individual named in the form is preregistering to vote:~~

~~(i) enter the individual's name on the list of registered voters for the voting precinct in which the individual resides; and~~

~~(ii) notify the individual that the individual is registered to vote in the upcoming election; and~~

~~(c) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.~~

(3) If an individual who is registering to vote and who will be legally qualified and entitled to vote in a

voting precinct in the county on the date of an election appears in person, during designated office hours, and submits a registration form ~~on the date of the election or during the 14 calendar days before an election~~ after the deadline described in Subsection (2), the county clerk shall ~~[-(a)]~~ accept the registration form~~;~~ and inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

~~[(b) (i) if the individual submits the registration form seven or more calendar days before the date of an election, inform the individual that:]~~

~~[(A) the individual is registered to vote in the pending election; and]~~

~~[(B) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601, because the individual registered late; or]~~

~~[(ii) if the individual submits the registration form on the date of an election or during the six calendar days before an election, inform the individual:]~~

~~[(A) of each manner still available to the individual to timely register to vote in the current election; and]~~

~~[(B) that, if the individual does not timely register in a manner described in Subsection (3)(b)(ii)(A), the individual will be registered to vote but may not vote in the pending election because the individual registered late.]~~

**Section 19. Section 20A-2-202 is amended to read:**

**20A-2-202. Registration by mail.**

(1) (a) ~~[A citizen]~~ An individual who will be qualified to vote at the next election may register by mail.

(b) To register by mail, ~~[a citizen]~~ an individual shall complete and sign the ~~[by-mail]~~ registration form and mail or deliver ~~[it]~~ the form to the county clerk of the county in which the citizen resides.

(c) In order to register to vote in a particular election, the citizen shall:

(i) address the ~~[by-mail]~~ voter registration form to the county clerk; and

(ii) ensure that the ~~[by-mail]~~ voter registration form is ~~[postmarked on or before the voter registration deadline or is otherwise marked by the post office as received by the post office on or before the voter registration deadline]~~ received by the county clerk no later than 5 p.m. 11 calendar days before the date of the election.

(d) The citizen has effectively registered to vote under this section only when the county clerk's office has received a correctly completed ~~[by-mail]~~ voter registration form.

(2) Upon receipt of a timely, correctly completed ~~[by-mail]~~ voter registration form, the county clerk

shall[, unless the individual named in the form is preregistering to vote]:

(a) accept and process the voter registration form;

~~[(a)] (b) unless the individual named in the form is preregistering to vote:~~

~~(i) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and~~

~~[(b) mail confirmation of registration to the newly registered voter after entering the applicant's voting precinct number on that copy.]~~

~~(ii) notify the individual that the individual is registered to vote in the upcoming election; and~~

~~(c) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.~~

~~(3) If the county clerk receives a correctly completed [by-mail] voter registration form [that is postmarked after the voter registration deadline, and is not otherwise marked by the post office as received by the post office before the voter registration deadline] after the deadline described in Subsection (1)(c), the county clerk shall, unless the individual is preregistering to vote:~~

~~[(a) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1; or]~~

~~[(b) (i) unless the individual timely registers to vote in the current election in a manner that permits registration after the voter registration deadline, register the individual after the next election; and]~~

~~(a) accept the application for registration; and~~

~~[(ii) (b) if possible, promptly mail a notice to, or otherwise notify, the individual before the election, informing the individual[:] that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.~~

~~[(A) of each manner still available to the individual to timely register to vote in the current election; and]~~

~~[(B) that, if the individual does not timely register in a manner described in Subsection (3)(b)(ii)(A), the individual's registration will not be effective until after the election.]~~

~~[(4) When the county clerk receives a correctly completed by-mail voter registration form before 5 p.m. no later than seven days before an election that is postmarked on or before the date of the voter registration deadline, or is otherwise marked by the post office as received by the post office on or before the voter registration deadline, the county clerk shall:]~~

~~[(a) process the by-mail voter registration form; and]~~

~~[(b) record the new voter in the official register.]~~

~~[(5)] (4) If the county clerk determines that a registration form received by mail or otherwise is incorrect because of an error or because [it] the registration form is incomplete, the county clerk shall mail notice to the [person] individual attempting to register or preregister, stating that the [person] individual has not been registered or preregistered because of an error or because the registration form is incomplete.~~

**Section 20. Section 20A-2-204 is amended to read:**

**20A-2-204. Registering to vote when applying for or renewing a driver license.**

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) A citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated; and

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)[(e)](b).

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section ~~[during the period beginning on the date after the voter registration deadline and ending at 5 p.m. on the date that is 15]~~ no later than 5 p.m. or, if submitting the form electronically, midnight, 11 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, ~~inform the individual that the individual is registered to vote in the pending election.];~~

(A) enter the individual's name on the list of registered voters for the voting precinct in which the individual resides; and

(B) notify the individual that the individual is registered to vote in the upcoming election; and

(iii) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

~~[(c) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date that is 14 calendar days before the election and ending at 5 p.m. on the date that is seven calendar days before the election, the county clerk shall:]~~

~~[(i) accept the voter registration form; and]~~

~~[(ii) unless the individual is preregistering to vote, inform the individual that:]~~

~~[(A) the individual is registered to vote in the pending election; and]~~

~~[(B) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.]~~

~~[(d)] (c) If the county clerk receives a correctly completed voter registration form under this section [during the six calendar days before an election] after the deadline described in Subsection (6)(b), the county clerk shall, unless the individual named in the form is preregistering to vote:~~

~~(i) accept the application for registration of the individual;~~

~~(ii) process the voter registration form; and~~

~~[(iii)] (iii) unless the individual is preregistering to vote, inform the individual[:] that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.~~

~~[(A) of each manner still available to the individual to timely register to vote in the current election; and]~~

~~[(B) that, if the individual does not timely register in a manner described in Subsection (6)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.]~~

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the registration form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

## **Section 21. Section 20A-2-205 is amended to read:**

### **20A-2-205. Registration at voter registration agencies.**

(1) As used in this section:

(a) "Discretionary voter registration agency" means the same as that term is defined in Section 20A-2-300.5.

(b) "Public assistance agency" means ~~[each office in Utah that provides: (i) public assistance; or (ii) state funded programs primarily engaged in~~

~~providing services to people with disabilities] the same as that term is defined in Section 20A-2-300.5.~~

(2) An individual may obtain and complete a ~~[by-mail]~~ registration form at a public assistance agency or discretionary voter registration agency.

(3) Each public assistance agency and discretionary voter registration agency shall provide, either as part of existing forms or on a separate form, the following information in substantially the following form:

“REGISTERING TO VOTE

If you are not registered to vote where you live now, would you like to apply to register or preregister to vote here today? (The decision of whether to register or preregister to vote will not affect the amount of assistance that you will be provided by this agency.) Yes \_\_\_ No \_\_\_ IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER OR PREREGISTER TO VOTE AT THIS TIME. If you would like help in filling out the voter registration form, we will help you. The decision about whether to seek or accept help is yours. You may fill out the application form in private. If you believe that someone has interfered with your right to register or preregister or to decline to register or preregister to vote, your right to privacy in deciding whether to register or preregister, or in applying to register or preregister to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah 84114. (The phone number of the Office of the Lieutenant Governor).”

(4) Unless ~~[a person]~~ an individual applying for service or assistance from a public assistance agency or discretionary voter registration agency declines, in writing, to register or preregister to vote, each public assistance agency and discretionary voter registration agency shall:

(a) distribute a ~~[by-mail]~~ voter registration form with each application for service or assistance provided by the agency or office;

(b) assist applicants in completing the voter registration form unless the applicant refuses assistance;

(c) accept completed forms for transmittal to the appropriate election official; and

(d) transmit a copy of each voter registration form to the appropriate election official within five days after ~~[it is received by the division]~~ the division receives the voter registration form.

(5) ~~[A person]~~ An individual in a public assistance agency or a discretionary voter registration agency that helps ~~[a person]~~ an applicant complete the voter registration form may not:

(a) seek to influence an applicant’s political preference or party registration;

(b) display any political preference or party allegiance;

(c) make any statement to an applicant or take any action that has the purpose or effect of discouraging the applicant from registering to vote; or

(d) make any statement to an applicant or take any action that has the purpose or effect of leading the applicant to believe that a decision of whether to register or preregister has any bearing upon the availability of services or benefits.

~~(6) [Upon receipt of a correctly completed voter registration form]~~ If the county clerk receives a correctly completed voter registration form under this section no later than 5 p.m. 11 calendar days before the date of an election, the county clerk shall[;]

(a) accept and process the voter registration form;

(b) unless the individual named in the form is preregistering to vote:

~~[(a)]~~ (i) enter the applicant’s name on the list of registered voters for the voting precinct in which the applicant resides; and

~~[(b)]~~ (ii) notify the applicant [of registration.] that the applicant is registered to vote in the upcoming election; and

(c) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1

(7) If the county clerk receives a correctly completed voter registration form ~~[that is dated after the voter registration deadline]~~ after the deadline described in Subsection (6), the county clerk shall:

(a) accept the application for registration of the individual; and

(b) if possible, promptly inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

~~[(a) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1; or]~~

~~[(b) (i) unless the individual timely registers to vote in the current election in a manner that permits registration after the voter registration deadline, register the individual after the next election; and]~~

~~[(ii) if possible, promptly phone or mail a notice to the individual before the election, informing the individual:]~~

~~[(A) of each manner still available to the individual to timely register to vote in the current election; and]~~

~~[(B) that, if the individual does not timely register in a manner described in Subsection (7)(b)(ii)(A), the individual’s registration will not be effective until after the election.]~~

~~[(8) When the county clerk receives a correctly completed voter registration form before 5 p.m. at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall:]~~

~~[(a) process the voter registration form; and]~~

~~[(b) record the new voter in the official register.]~~

~~[(9)] (8) If the county clerk determines that a voter registration form received from a public assistance agency or discretionary voter registration agency is incorrect because of an error or because [it] the voter registration form is incomplete, the county clerk shall mail notice to the individual attempting to register or preregister to vote, stating that the individual has not been registered or preregistered to vote because of an error or because the voter registration form is incomplete.~~

**Section 22. Section 20A-2-206 is amended to read:**

**20A-2-206. Electronic registration.**

(1) The lieutenant governor ~~[may]~~ shall create and maintain an electronic system that is publicly available on the Internet for an individual to apply for voter registration or preregistration ~~[and for an individual to request an absentee ballot].~~

(2) An electronic system for voter registration or preregistration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the applicant's current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (4);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's:

(i) driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes; or

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration or preregistration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall:

(a) obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division; or

(b) ensure that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(6) The lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304 after:

(a) receiving all information from an applicant; and

(b) (i) receiving all information from the Driver License Division; or

(ii) ensuring that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) If an individual applies to register under this section ~~[during the period beginning on the date after the voter registration deadline and ending on the date that is 15] no later than 11~~ calendar days before the date of an election, the county clerk shall~~[, unless the individual is preregistering to vote]:~~

(a) accept and process the voter registration form;

(b) unless the individual named in the form is preregistering to vote:

(i) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(ii) notify the individual that the individual is registered to vote in the upcoming election; and

(c) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

~~[(a) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and]~~

~~[(b) inform the individual that the individual is registered to vote in the pending election.]~~

(9) If an individual applies to register under this section ~~[during the period beginning on the date that is 14 calendar days before the election and ending on the date that is seven calendar days before the election] after the deadline described in Subsection (8), the county clerk shall, unless the individual is preregistering to vote:~~

(a) accept the application for registration ~~[if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state]; and~~



~~(b) if possible, promptly inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.~~

~~[(b) inform the individual that:]~~

~~[(i) the individual is registered to vote in the pending election; and]~~

~~[(ii) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.]~~

~~[(10) If an individual applies to register under this section during the six calendar days before an election, the county clerk shall:]~~

~~[(a) if the individual is preregistering to vote, comply with Section 20A-2-101.1; or]~~

~~[(b) (i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and]~~

~~[(ii) unless the individual timely registers to vote in the current election in a manner that permits registration after the voter registration deadline, inform the individual:]~~

~~[(A) of each manner still available to the individual to timely register to vote in the current election; and]~~

~~[(B) that, if the individual does not timely register in a manner described in Subsection (10)(b)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.]~~

~~[(11)(a) A registered voter may file an application for an absentee ballot in accordance with Section 20A-3-304 on the electronic system for voter registration established under this section.]~~

~~[(b)] (10) The lieutenant governor shall provide a means by which a registered voter shall sign the application form as provided in Section 20A-3-304.~~

**Section 23. Section 20A-2-207 is amended to read:**

**20A-2-207. Registration by provisional ballot.**

(1) An individual who is not registered to vote may register to vote, and vote, on election day or during the early voting period described in Section ~~[20A-3-601]~~ 20A-3a-601, by voting a provisional ballot, if:

(a) the individual is otherwise legally entitled to vote the ballot;

(b) the ballot is identical to the ballot for the precinct in which the individual resides;

(c) the information on the provisional ballot form is complete; and

(d) the individual provides valid voter identification and proof of residence to the poll worker.

(2) If a provisional ballot and the individual who voted the ballot comply with the requirements described in Subsection (1), the election officer shall:

(a) consider the provisional ballot a voter registration form;

(b) place the ballot with the ~~[absentee]~~ other ballots, to be counted with those ballots at the canvass; and

(c) as soon as reasonably possible, register the individual to vote.

(3) Except as provided in Subsection (4), the election officer shall retain a provisional ballot form, uncounted, for the period specified in Section 20A-4-202, if the election officer determines that the individual who voted the ballot:

(a) is not registered to vote and is not eligible for registration under this section; or

(b) is not legally entitled to vote the ballot that the individual voted.

(4) Subsection (3) does not apply if a court orders the election officer to produce or count the provisional ballot.

(5) The lieutenant governor shall report to the Government Operations Interim Committee on or before ~~[October 31, 2018, and on or before]~~ October 31, 2020, regarding:

(a) implementation of registration by provisional ballot, as described in this section, on a statewide basis;

(b) any difficulties resulting from the implementation described in Subsection (5)(a);

(c) the effect of registration by provisional ballot on voter participation in Utah;

(d) the number of ballots cast by voters who registered by provisional ballot:

(i) during the early voting period described in Section ~~[20A-3-601]~~ 20A-3a-601; and

(ii) on election day; and

(e) suggested changes in the law relating to registration by provisional ballot.

**Section 24. Section 20A-2-300.5 is amended to read:**

**20A-2-300.5. Definitions.**

As used in this part:

(1) "Discretionary voter registration agency" means each office designated by the county clerk to provide ~~[by-mail]~~ voter registration forms to the public.

(2) "Public assistance agency" means each office in Utah that provides:

(a) public assistance; and

(b) state funded programs primarily engaged in providing services to people with disabilities.

**Section 25. Section 20A-2-301 is amended to read:**

**20A-2-301. County clerk responsibilities -- Voter registration forms.**

(1) Each county clerk shall provide ~~[book voter registration forms and by-mail]~~ voter registration forms for use in the voter registration process.

(2) (a) Each county clerk shall ~~[(i) designate certain offices within the county to provide by-mail voter registration forms to the public; and (ii) provide by-mail voter registration forms]~~ provide a copy of the voter registration form to each public assistance agency and discretionary voter registration agency.

(b) Each county clerk may provide ~~[copies of by-mail voter registration forms]~~ a copy of the voter registration form to public school districts and nonpublic schools as provided in Section 20A-2-302.

~~[(3) Each regular general election year, the county clerk shall provide by-mail voter registration forms to the political parties in a quantity requested by the political parties, as needed.]~~

~~[(4) Candidates, parties, organizations, and interested persons may purchase by-mail voter registration forms from the county clerk or from the printer.]~~

~~[(5) (3) (a) The clerk shall make [book voter registration forms available to interested organizations in lots of 250, to be replaced when each lot of 200 is returned to the county clerk.] a copy of the voter registration form available to any person upon request.~~

~~(b) A person may make multiple copies of the voter registration form at the person's own expense.~~

~~[(b) Interested organizations that receive book voter registration forms from the county clerk shall return the forms]~~

(c) A person shall provide all completed voter registration forms in the person's possession to the county clerk at or before 5 p.m. on the day of the voter registration deadline.

~~[(6) (4) The county clerk may not refuse to register [any person] an individual to vote for failing to provide a telephone number on the voter registration form.~~

~~[(7) (5) (a) It is unlawful for any person in possession of a completed voter registration form, other than the person's own completed voter registration form, to willfully fail or refuse to timely deliver the completed voter registration [forms, obtained as provided in this section,] form to the county clerk.~~

(b) A person who violates this Subsection ~~[(7) (5)]~~ is guilty of a class B misdemeanor.

**Section 26. Section 20A-2-302 is amended to read:**

**20A-2-302. Voter registration forms for high school students.**

(1) (a) A county clerk may:

(i) contact each high school and each accredited nonpublic high school in the county;

(ii) determine the number of high school seniors; and

(iii) distribute ~~[by-mail]~~ voter registration forms to each accredited public or private high school in an amount sufficient for distribution to each high school senior.

(b) The county clerk shall process a voter registration form received from an individual under this section in accordance with Section 20A-2-101.1.

(2) Each public school and accredited nonpublic school may:

(a) include the ~~[by-mail]~~ voter registration form in the senior registration packet; and

(b) collect and forward completed ~~[by-mail]~~ voter registration forms to the county clerk.

**Section 27. Section 20A-2-304 is amended to read:**

**20A-2-304. County clerk's responsibilities -- Notice of disposition.**

Each county clerk shall:

(1) register to vote each individual who meets the requirements for registration and who:

(a) submits a completed voter registration form to the county clerk;

(b) submits a completed voter registration form, as defined in Section 20A-2-204, to the Driver License Division;

(c) submits a completed voter registration form to a public assistance agency or a discretionary voter registration agency; or

(d) mails a completed ~~[by-mail]~~ voter registration form to the county clerk; and

(2) within 30 days after the day on which the county clerk processes a voter registration form, send a notice to the individual who submits the form that:

(a) (i) informs the individual that the individual's voter registration form has been accepted and that the individual is registered to vote;

(ii) informs the individual of the procedure for designating or changing the individual's political affiliation; and

(iii) informs the individual of the procedure to cancel a voter registration;

(b) informs the individual that the individual's voter registration form has been rejected and the reason for the rejection; or

(c) (i) informs the individual that the individual's voter registration form is being returned to the individual for further action because the form is incomplete; and

(ii) gives instructions to the individual on how to properly complete the form.

**Section 28. Section 20A-2-307 is amended to read:**

**20A-2-307. County clerks' instructions to election judges.**

(1) Each county clerk shall instruct election judges to allow a voter to vote a regular ballot if:

(a) the voter has moved from one address within a voting precinct to another address within the same voting precinct; and

(b) the voter affirms the change of address orally or in writing before the election judges.

(2) Each county clerk shall instruct election judges to allow an individual to vote a provisional ballot if:

(a) the individual is not registered to vote, but is otherwise legally entitled to vote under Section 20A-2-207;

(b) the voter's name does not appear on the official register; or

(c) the voter is challenged as provided in Section [20A-3-202] 20A-3a-803.

**Section 29. Section 20A-3a-101 is enacted to read:**

### CHAPTER 3a. VOTING

#### Part 1. General Voting Provisions

##### **20A-3a-101. Title.**

This chapter is known as "Voting."

**Section 30. Section 20A-3a-102, which is renumbered from Section 20A-3-101 is renumbered and amended to read:**

**[20A-3-101]. 20A-3a-102. Residency and age requirements of voters.**

(1) An individual may vote in any regular general election or statewide special election if that individual has registered to vote in accordance with Chapter 2, Voter Registration.

(2) An individual may vote in the presidential primary election or a regular primary election if:

(a) that individual has registered to vote in accordance with Chapter 2, Voter Registration; and

(b) that individual's political party affiliation, or unaffiliated status, allows the person to vote in the election.

(3) An individual may vote in a municipal general election, municipal primary election, local special election, local district election, and bond election if that individual:

(a) has registered to vote in accordance with Chapter 2, Voter Registration; and

(b) is a resident of a voting district or precinct within the local entity that is holding the election.

**Section 31. Section 20A-3a-103, which is renumbered from Section 20A-3-101.5 is renumbered and amended to read:**

**[20A-3-101.5]. 20A-3a-103. Age requirements for primary elections -- 17-year-olds may vote.**

An individual who is 17 years of age may vote in a regular primary election, a municipal primary election, or a presidential primary election, if:

(1) the individual will be 18 years of age on or before the day of the general election that immediately follows the regular primary election, municipal primary election, or presidential primary election;

(2) the individual is registered to vote in accordance with Chapter 2, Voter Registration;

(3) the individual's political party affiliation, or unaffiliated status, allows the individual to vote in the election; and

(4) the individual otherwise complies with the requirements to vote in the primary election.

**Section 32. Section 20A-3a-104, which is renumbered from Section 20A-3-102 is renumbered and amended to read:**

**[20A-3-102]. 20A-3a-104. Voting by secret ballot.**

All voting at each regular and municipal general election, at each statewide or local special election, at each primary election, at each local district election, and at each bond election shall be by secret ballot.

**Section 33. Section 20A-3a-105, which is renumbered from Section 20A-3-103 is renumbered and amended to read:**

**[20A-3-103]. 20A-3a-105. Employee's right to time off for election.**

(1) (a) Each employer shall allow any voter to be absent from service or employment on election day for not more than two hours between the time the polls open and close.

(b) The voter shall apply for a leave of absence before election day.

(c) (i) The employer may specify the hours during which the employee may be absent.

(ii) If the employee requests the leave of absence at the beginning or end of the work shift, the employer shall grant that request.

(d) The employer may not deduct from an employee's usual salary or wages because of the absence.

(2) This section does not apply to an employee who has three or more hours between the time polls open and close during which the employee is not employed on the job.

(3) Any employer who violates this section is guilty of a class B misdemeanor.

**Section 34. Section 20A-3a-201 is enacted to read:**

**Part 2. Voting Procedures**

**20A-3a-201. Voting methods.**

(1) Except for an election conducted entirely by mail under Section 20A-7-609.5, a voter may vote as follows:

- (a) by mail;
- (b) at a polling location during early voting hours;
- (c) at a polling location on election day when the polls are open;
- (d) if the voter is an individual with a disability, by voting remotely, via a mechanical ballot or via electronic means if approved by the election officer;
- (e) electronically or via a federal write-in absentee ballot if the voter is a covered voter, as defined in Section 20A-16-102; or
- (f) by emergency ballot, in accordance with Part 3, Emergency Ballots.

(2) A voter may not vote at a polling place if the voter voted by mail or in a manner described in Subsections (2)(d) through (f).

**Section 35. Section 20A-3a-202, which is renumbered from Section 20A-3-302 is renumbered and amended to read:**

**[20A-3-302]. 20A-3a-202. Conducting election by mail.**

(1) ~~[(a) Notwithstanding Section 17B-1-306, an] Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer [may] shall administer an election [by absentee ballot under] primarily by mail, in accordance with this section.~~

~~[(b) An election officer who administers an election by absentee ballot, except for an election conducted under Section 20A-7-609.5, shall, before the following dates, notify the lieutenant governor that the election will be administered by absentee ballot:]~~

~~[(i) February 1 of an even-numbered year if the election is a regular general election; or]~~

~~[(ii) May 1 of an odd-numbered year if the election is a municipal general election.]~~

(2) An election officer who administers an election [by absentee ballot]:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to each active voter within a voting precinct:

- (i) ~~[an absentee] a manual ballot;~~
- (ii) a return envelope;

~~[(ii) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote;]~~

~~[(iii) a courtesy reply mail envelope;]~~

~~[(iv)] (iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted; [and]~~

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information; and

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the [absentee] ballot, the voter will be unable to vote in that election because there will be no polling place [in] for the voting precinct on the day of the election; and

(b) may not mail ~~[an absentee] a~~ ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending ~~[an absentee] a~~ ballot under Subsection [(8)] (10)(c)(ii).

~~[(3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.]~~

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

“County of \_\_\_ State of \_\_\_

I, \_\_\_, solemnly swear that: I am a qualified resident voter of the \_\_\_ voting precinct in \_\_\_ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

\_\_\_\_\_  
Signature of Voter”; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter; and

(b) instruct the voter to include a copy of the voter’s valid voter identification with the return ballot.

[4] (6) An election officer who administers an election ~~by absentee ballot~~ shall:

(a) (i) before the election, obtain~~[in person,] the signatures of each voter [within that voting precinct before]~~ qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer’s office.

[4] (7) Upon receipt of a returned ~~[absentee] ballot~~, the election officer shall review and process the ballot under Section ~~[20A-3-308] 20A-3a-401~~.

[4] (8) A county that administers an election ~~by absentee ballot~~:

(a) shall provide at least one election day voting center in accordance with Chapter 3, Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who ~~[will not receive an absentee ballot, but not fewer than one election day voting center]~~ have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section ~~[20A-6-301] 20A-3a-601~~, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section ~~[20A-3-604] 20A-3a-604~~;

(d) is not required to pay return postage for ~~[an absentee] a~~ ballot; and

(e) is subject to an audit conducted under Subsection ~~[(7)] (9)~~.

~~[(7)] (9)~~ (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection ~~[(7)] (9)~~(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection ~~[(7)] (9)~~ on the lieutenant governor’s website.

~~[(8)] (10)~~ (a) An individual ~~[in a jurisdiction that conducts an election by absentee ballot]~~ may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection ~~[(8)] (10)~~(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive ~~[an absentee] a~~ ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection ~~[(8)] (10)~~(a):

(i) shall remove the individual’s name from the list of voters who will receive ~~[an absentee] a~~ ballot by mail; and

(ii) may not send the individual ~~[an absentee] a~~ ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection ~~[(8)] (10)~~(a) before the deadline described in Subsection ~~[(8)] (10)~~(b); or

(B) an election after the election described in Subsection ~~[(8)] (10)~~(c)(ii)(A).

(d) An individual who submits a request under Subsection ~~[(8)] (10)~~(a) may resume the individual’s receipt of ~~[an absentee ballot in an election conducted under this section by filing an absentee ballot request under Section 20A-3-304]~~ a ballot by mail by submitting a written request to the election officer.

**Section 36. Section 20A-3a-203, which is renumbered from Section 20A-3-104 is renumbered and amended to read:**

**[20A-3-104]. 20A-3a-203. Voting at a polling place.**

(1) Except as provided in Section 20A-7-609.5, a registered voter may vote at a polling place in an election in accordance with this section.

~~[(4)] (2)~~ (a) ~~[Any registered voter desiring to vote]~~ The voter shall give the voter’s name, and, if

requested, the voter's residence, to one of the poll workers.

(b) The voter shall present valid voter identification to one of the poll workers.

(c) If the poll worker is not satisfied that the voter has presented valid voter identification, the poll worker shall:

(i) indicate on the official register that the voter was not properly identified;

(ii) issue the voter a provisional ballot;

(iii) notify the voter that the voter will have until the close of normal office hours on Monday after the day of the election to present valid voter identification:

(A) to the county clerk at the county clerk's office; or

(B) to an election officer who is administering the election; and

(iv) follow the procedures and requirements of Section ~~[20A-3-105.5]~~ 20A-3a-205.

(d) If the person's right to vote is challenged as provided in Section ~~[20A-3-202]~~ 20A-3a-803, the poll worker shall follow the procedures and requirements of Section ~~[20A-3-105.5]~~ 20A-3a-205.

~~[(2) (a) The poll worker in charge of the official register shall check the official register to determine whether or not a person is registered to vote.]~~

~~[(b) If the voter's name is not found on the official register, the poll worker shall follow the procedures and requirements of Section 20A-3-105.5.]~~

~~[(3) If the poll worker determines that the voter is registered and:]~~

~~[(a) if the ballot is a paper ballot or a ballot sheet;]~~

~~[(i) the poll worker in charge of the official register shall:]~~

~~[(A) write the ballot number opposite the name of the voter in the official register; and]~~

~~[(B) direct the voter to sign the voter's name in the election column in the official register;]~~

~~[(ii) another poll worker shall list the ballot number and voter's name in the pollbook; and]~~

~~[(iii) the poll worker having charge of the ballots shall:]~~

~~[(A) endorse the poll worker's initials on the stub;]~~

~~[(B) check the name of the voter on the pollbook list with the number of the stub;]~~

~~[(C) hand the voter a ballot; and]~~

~~[(D) allow the voter to enter the voting booth; or]~~

~~[(b) if the ballot is an electronic ballot:]~~

~~[(i) the poll worker in charge of the official register shall direct the voter to sign the voter's name in the official register;]~~

~~[(ii) another poll worker shall list the voter's name in the pollbook; and]~~

~~[(iii) the poll worker having charge of the ballots shall:]~~

~~[(A) provide the voter access to the electronic ballot; and]~~

~~[(B) allow the voter to vote the electronic ballot.]~~

~~[(4) Whenever the election officer is required to furnish more than one kind of official ballot to the voting precinct, the poll workers of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.]~~

~~(3) A poll worker shall check the official register to determine whether:~~

~~(a) a voter is registered to vote; and~~

~~(b) if the election is a regular primary election or a presidential primary election, whether a voter's party affiliation designation in the official register allows the voter to vote the ballot that the voter requests.~~

~~(4) (a) Except as provided in Subsection (5), if the voter's name is not found on the official register, the poll worker shall follow the procedures and requirements of Section 20A-3a-205.~~

~~(b) If, in a regular primary election or a presidential primary election, the official register does not affirmatively identify the voter as being affiliated with a registered political party or if the official register identifies the voter as being "unaffiliated," the voter shall be considered to be "unaffiliated."~~

~~(5) In a regular primary election or a presidential primary election:~~

~~(a) if a voter's name is not found on the official register, and if it is not unduly disruptive to the election process, the poll worker may attempt to contact the county clerk's office to request oral verification of the voter's registration;~~

~~(b) if oral verification is received from the county clerk's office, the poll worker shall:~~

~~(i) record the verification on the official register;~~

~~(ii) determine the voter's party affiliation and the ballot that the voter is qualified to vote; and~~

~~(iii) except as provided in Subsection (6), comply with Subsection (3).~~

~~(6) (a) Except as provided in Subsection (6)(b), if, in a regular primary election or a presidential primary election, the voter's political party affiliation listed in the official register does not allow the voter to vote the ballot that the voter requested, the poll worker shall inform the voter of that fact and inform the voter of the ballot or ballots that the voter's party affiliation does allow the voter to vote.~~

(b) If, in a regular primary election or a presidential primary election, the voter is listed in the official register as unaffiliated, or if the official register does not affirmatively identify the voter as either unaffiliated or affiliated with a registered political party, and the voter, as an unaffiliated voter, is not authorized to vote the ballot that the voter requests, the poll worker shall:

(i) ask the voter if the voter wishes to vote another registered political party ballot that the voter, as unaffiliated, is authorized to vote, or remain unaffiliated; and

(ii) (A) if the voter wishes to vote another registered political party ballot that the unaffiliated voter is authorized to vote, the poll worker shall proceed as required by Subsection (3); or

(B) if the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the voter may not vote.

(7) Except as provided in Subsection (6)(b)(ii)(B), and subject to the other provisions of Subsection (6), if the poll worker determines that the voter is registered, a poll worker shall:

(a) direct the voter to sign the voter's name in the official register;

(b) provide to the voter the ballot that the voter is qualified to vote; and

(c) allow the voter to enter the voting booth.

**Section 37. Section 20A-3a-204 is enacted to read:**

**20A-3a-204. Marking and depositing ballots.**

(1) To vote by mail:

(a) except as provided in Subsection (6), the voter shall prepare the voter's manual ballot by marking the appropriate space with a mark opposite the name of each candidate of the voter's choice for each office to be filled;

(b) if a ballot proposition is submitted to a vote of the people, the voter shall mark the appropriate space with a mark opposite the answer the voter intends to make;

(c) except as provided in Subsection (6), the voter shall record a write-in vote in accordance with Subsection 20A-3a-206(4);

(d) except as provided in Subsection (6), a mark is not required opposite the name of a write-in candidate; and

(e) the voter shall:

(i) complete and sign the affidavit on the return envelope;

(ii) place the voted ballot in the return envelope;

(iii) securely seal the return envelope; and

(iv) (A) attach postage, if necessary, and deposit the return envelope in the mail; or

(B) place the return envelope in a ballot drop box, designated by the election officer, for the precinct where the voter resides.

(2) (a) Except as otherwise provided in Section 20A-16-404, to be valid, a ballot that is mailed must be:

(i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and

(ii) received in the office of the election officer before noon on the day of the official canvass following the election.

(b) Except as provided in Subsection (2)(c), to be valid, a ballot shall, before the polls close on election day, be deposited in:

(i) a ballot box at a polling place; or

(ii) a ballot drop box designated by an election officer for the jurisdiction to which the ballot relates.

(c) An election officer may, but is not required to, forward a ballot deposited in a ballot drop box in the wrong jurisdiction to the correct jurisdiction.

(d) An election officer shall ensure that a voter who is, at or before 8 p.m., in line at a ballot drop box, with a sealed return envelope containing a ballot in the voter's possession, to deposit the ballot in the ballot drop box.

(3) Except as provided in Subsection (4), to vote at a polling place the voter shall, after complying with Subsections (1)(a) through (d):

(a) sign the official register or pollbook; and

(b) (i) place the ballot in the ballot box; or

(ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot envelope, complete the information printed on the provisional ballot envelope, and deposit the provisional ballot envelope in the provisional ballot box.

(4) (a) An individual with a disability may vote a mechanical ballot at a polling place.

(b) An individual other than an individual with a disability may vote a mechanical ballot at a polling place if permitted by the election officer.

(5) To vote a mechanical ballot, the voter shall:

(a) make the selections according to the instructions provided for the voting device; and

(b) subject to Subsection (6), record a write-in vote by:

(i) selecting the appropriate position for entering a write-in candidate; and

(ii) using the voting device to enter the name of the valid write-in candidate for whom the voter wishes to vote.

(6) To vote in an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a voter:

(a) shall indicate, as directed on the ballot, the name of the candidate who is the voter's first preference for the office; and

(b) may indicate, as directed on the ballot, the names of the remaining candidates in order of the voter's preference.

(7) A voter who votes at a polling place:

(a) shall mark and cast or deposit the ballot without delay and shall leave the voting area after voting; and

(b) may not:

(i) occupy a voting booth occupied by another, except as provided in Section 20A-3a-208;

(ii) remain within the voting area more than 10 minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy a voting booth.

(8) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

(9) A poll worker may not, at a polling place, allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are:

(a) election officials;

(b) watchers; or

(c) assisting voters with a disability.

**Section 38. Section 20A-3a-205, which is renumbered from Section 20A-3-105.5 is renumbered and amended to read:**

**[20A-3-105.5]. 20A-3a-205. Manner of voting -- Provisional ballot.**

(1) The poll workers shall follow the procedures and requirements of this section when:

(a) the [person's] individual's right to vote is challenged as provided in Section [20A-3-202 or 20A-3-202.5] 20A-3a-803 or 20A-3a-805;

(b) the [person's] individual's name is not found on the official register; or

(c) the poll worker is not satisfied that the voter has provided valid voter identification.

(2) When faced with one of the circumstances [outlined] described in Subsection (1)(a) or (b), the poll worker shall:

(a) request that the [person] individual provide valid voter identification; and

(b) review the identification provided by the [person] individual.

(3) If the poll worker is satisfied that the [person] individual has provided valid voter identification that establishes the [person's] individual's identity

and residence in the voting precinct [or within the county]:

(a) the poll worker in charge of the official register shall:

(i) record in the official register the type of identification that established the [person's] individual's identity and place of residence;

(ii) [write] record the provisional ballot envelope number [opposite] in association with the name of the [voter in the official register] individual; and

(iii) direct the [voter] individual to sign [his] the individual's name in the [election column in the] official register or pollbook; and

[(b) another poll worker shall list the ballot number and voter's name in the pollbook; and]

[(e) (b) the poll worker having charge of the ballots shall:

[(i) endorse his initials on the stub;]

[(ii) check the name of the voter on the pollbook list with the number of the stub;]

[(iii) (i) give the [voter a ballot and] individual a provisional ballot [envelope]; and

[(iv) (ii) allow the [voter] individual to enter the voting booth.

(4) If the poll worker is not satisfied that the [voter] individual has provided valid voter identification that establishes the [person's] individual's identity and residence in the voting precinct [or within the county]:

(a) the poll worker in charge of the official register shall:

(i) record in the official register that the voter did not provide valid voter identification;

(ii) record in the official register the type of identification that was provided by the [voter] individual, if any;

(iii) [write] record the provisional ballot envelope number [opposite] in association with the name of the [voter in the official register] individual; and

(iv) direct the [voter] individual to sign [his] the individual's name in the [election column in the] official register or pollbook; and

[(b) another poll worker shall list the ballot number and voter's name in the pollbook; and]

[(e) (b) the poll worker having charge of the ballots shall:

[(i) endorse his initials on the stub;]

[(ii) check the name of the voter on the pollbook list with the number of the stub;]

[(iii) (i) give the [voter a ballot and] individual a provisional ballot [envelope]; and

[(iv) (ii) allow the [voter] individual to enter the voting booth.

(5) [Whenever] When, at a polling place, the election officer is required to furnish more than one



~~[kind of official] version of a ballot [to a voting precinct], the poll workers [of that voting precinct] at that polling place shall give the registered voter the [kind of] version of the ballot that the voter is qualified to vote.~~

**Section 39. Section 20A-3a-206, which is renumbered from Section 20A-3-106 is renumbered and amended to read:**

**[20A-3-106]. 20A-3a-206. Voting straight ticket -- Splitting ballot -- Writing in names -- Effect of unnecessary marking.**

(1) When voting a ~~[paper]~~ manual ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:

(a) mark in the ~~[circle or position above]~~ space next to that political party;

(b) mark in the ~~[squares or position]~~ space opposite the names of all candidates for that party ticket; or

(c) make both markings.

~~[(2) (a) When voting a ballot sheet, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:]~~

~~[(i) mark the selected party on the straight party page or section; or]~~

~~[(ii) mark the name of each candidate from that party:]~~

~~[(b) To vote for candidates from two or more political parties, the voter may:]~~

~~[(i) mark in the squares or positions opposite the names of the candidates for whom the voter wishes to vote without marking in any circle; or]~~

~~[(ii) indicate the voter's choice by:]~~

~~[(A) marking in the circle or position above one political party; and]~~

~~[(B) marking in the squares or positions opposite the names of desired candidates who are members of any party, are unaffiliated, or are listed without party name.]~~

~~[(3) (a) (2) When voting [an electronic] a mechanical ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:~~

~~[(i) (a) select that party on the straight party selection area; or~~

~~[(ii) (b) select the name of each candidate from that party.~~

~~[(b) To vote for candidates from two or more political parties, the voter may:]~~

~~[(i) select the names of the candidates for whom the voter wishes to vote without selecting a political party in the straight party selection area; or]~~

~~[(ii) (A) select a political party in the straight party selection area; and]~~

~~[(B) select the names of the candidates for whom the voter wishes to vote who are members of any party, are unaffiliated, or are listed without party name.]~~

~~[(4) (3) In any election other than a primary election, if a voter voting a ballot has selected or placed a mark next to a party name in order to vote a straight party ticket and wishes to vote for a person on another party ticket for an office, or for an unaffiliated candidate, the voter shall select or mark the ballot next to the name of the candidate for whom the voter wishes to vote.~~

~~[(5) (4) (a) The voter may cast a write-in vote on a [paper ballot or ballot sheet] manual ballot by writing the name of a valid write-in candidate in the blank write-in section of the ballot.~~

~~(b) A voter may not cast a write-in vote on a [paper ballot or ballot sheet] manual ballot by affixing a sticker or label with the name of a write-in candidate in the blank write-in section of the ballot.~~

~~[(6) (5) The voter may cast a write-in vote on [an electronic] a mechanical ballot by:~~

~~(a) marking the appropriate position opposite the area for entering a write-in candidate for the office sought by the candidate for whom the voter wishes to vote; and~~

~~(b) entering the name of a valid write-in candidate in the write-in selection area.~~

**Section 40. Section 20A-3a-207, which is renumbered from Section 20A-3-107 is renumbered and amended to read:**

**[20A-3-107]. 20A-3a-207. No ballots may be taken away -- Spoiled ballots.**

~~[(1) A person may not take or remove any ballot from the polling place before the close of the polls.]~~

~~[(2) (1) If any voter spoils a ballot, [he] the voter may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one.~~

~~[(3) (2) If any ballot is spoiled by the printer or a poll worker, the poll worker shall give the voter a new ballot.~~

~~[(4) (3) The poll worker shall:~~

~~(a) immediately write the word "spoiled" across the face of the ballot; and~~

~~(b) place the ballot in the envelope for spoiled ballots.~~

**Section 41. Section 20A-3a-208, which is renumbered from Section 20A-3-108 is renumbered and amended to read:**

**[20A-3-108]. 20A-3a-208. Assisting disabled, illiterate, or blind voters.**

(1) Any voter who has a disability, or is blind, unable to read or write, unable to read or write the

English language, or is physically unable to enter a polling place, may be given assistance by ~~a person~~ an individual of the voter's choice.

(2) The ~~person~~ individual providing assistance may not be:

- (a) the voter's employer;
- (b) an agent of the employer;
- (c) an officer or agent of the voter's union; or
- (d) a candidate.

(3) The person providing assistance may not request, persuade, or otherwise induce the voter to vote for or vote against any particular candidate or issue or release any information regarding the voter's selection.

~~[(4) Each time a voter is assisted, the poll worker shall note that fact in the official register and the pollbook.]~~

**Section 42. Section 20A-3a-209, which is renumbered from Section 20A-3-109 is renumbered and amended to read:**

**[20A-3-109]. 20A-3a-209. Instructions to voters.**

(1) If any voter, after entering ~~the~~ a voting booth, asks for further instructions concerning the manner of voting, two poll workers, each from a different political party, shall instruct the voter.

(2) After instructing the voter, and before the voter ~~has cast his~~ casts a vote, the poll worker shall leave the voting booth so that the voter may vote in secret.

(3) A poll worker instructing a voter about the voting process may not request, suggest, or seek to persuade or induce the voter to vote for or against any particular ticket, any particular candidate, or for or against any ballot proposition.

**Section 43. Section 20A-3a-301, which is renumbered from Section 20A-3-306.5 is renumbered and amended to read:**

**Part 3. Emergency Ballots**

**[20A-3-306.5]. 20A-3a-301. Emergency ballots.**

(1) As used in this section, "hospitalized voter" means a registered voter who:

(a) is hospitalized or otherwise confined to a medical or long-term care institution ~~after the deadline for filing an application for an absentee ballot established in Section 20A-3-304.];~~

(b) does not have a manual ballot in the voter's immediate possession;

(c) is able to vote a manual ballot; and

(d) is not able to acquire a manual ballot without the assistance of another individual.

(2) ~~[Notwithstanding any other provision of this part, a]~~ A hospitalized voter may, in accordance with this section, obtain ~~[an absentee ballot and~~

~~vote] a manual ballot to use as an emergency ballot and vote at any time after the election officer mails manual ballots to the majority of voters and before the close of polls on election day [by following the procedures and requirements of this section].~~

(3) (a) Any individual may obtain an ~~[absentee]~~ emergency ballot application, ~~[an absentee]~~ a manual ballot, and ~~[an absentee]~~ a manual ballot envelope from the election officer on behalf of a hospitalized voter by requesting a ballot and application in person at the election officer's office during business hours.

(b) The election officer shall require the individual to sign a statement identifying the individual and the hospitalized voter.

(4) To vote, the hospitalized voter shall complete the ~~[absentee]~~ emergency ballot application, complete and sign the ~~[application]~~ affidavit on the ~~[absentee]~~ manual ballot envelope, mark the voter's votes on the ~~[absentee]~~ manual ballot, place the ~~[absentee]~~ manual ballot into the envelope, and seal the envelope unless a different method is authorized under Section 20A-1-308.

(5) To be counted, the ~~[absentee]~~ emergency voter application and the sealed ~~[absentee]~~ manual ballot envelope must be returned to the election officer's office ~~[before the polls close on election day unless a different time is authorized under Section 20A-1-308]~~ in accordance with the requirements of this chapter.

**Section 44. Section 20A-3a-401, which is renumbered from Section 20A-3-308 is renumbered and amended to read:**

**Part 4. Disposition of Ballots**

**[20A-3-308]. 20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice.**

(1) This section governs ballots returned by mail or via a ballot drop box.

~~[(1)]~~ (2) (a) ~~[Voting precinct poll]~~ Poll workers shall open return envelopes containing ~~[absentee]~~ manual ballots that are in ~~[their]~~ the custody of the poll workers ~~[on election day at the polling places during the time the polls are open as provided in this]~~ in accordance with Subsection ~~[(1)]~~ (2)(b).

(b) The poll workers shall ~~[(i) first, open the outer envelope only; and (ii)], first,~~ compare the signature of the voter on the ~~[application with]~~ affidavit of the return envelope to the signature ~~[on the affidavit]~~ of the voter in the voter registration records.

~~[(2) (a) The poll workers shall carefully open and remove the absentee voter envelope so as not to destroy the affidavit on the envelope if they find that:]~~

~~[(i) the affidavit is sufficient;]~~

~~[(ii) the signatures correspond; and]~~

~~[(iii) the applicant is registered to vote in that voting precinct and has not voted in that election.]~~

~~[(b) If, after opening the absentee voter envelope, the poll worker finds that a provisional ballot envelope is enclosed, the poll worker shall:]~~

~~[(i) record, in the official register, whether:]~~

~~[(A) the voter included valid voter identification; or]~~

~~[(B) a covered voter, as defined in Section 20A-16-102, did not provide valid voter identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;]~~

~~[(ii) if any type of identification was included, record the type of identification provided by the voter in the appropriate space in the official register;]~~

~~[(iii) record the provisional ballot number on the official register; and]~~

~~[(iv) place the provisional ballot envelope with the other provisional ballot envelopes to be transmitted to the county clerk.]~~

~~[(c) If the absentee ballot is not a provisional ballot, the poll workers shall:]~~

~~[(i) remove the absentee ballot from the envelope without unfolding it or permitting it to be opened or examined;]~~

~~[(ii) initial the stub in the same manner as for other ballots;]~~

~~[(iii) remove the stub from the ballot;]~~

~~[(iv) deposit the ballot in the ballot box; and]~~

~~[(v) mark the official register and pollbook to show that the voter has voted.]~~

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine that:

(i) the signatures correspond;

(ii) the affidavit is sufficient;

(iii) the voter is registered to vote in the correct precinct;

(iv) the voter's right to vote the ballot has not been challenged;

(v) the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

~~[(3)] (c) If the poll workers [determine that the affidavit is insufficient, or that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, they] do not make all of the findings described in Subsection (4)(a), the poll workers shall:~~

~~[(a)] (i) disallow the vote; [and]~~

~~[(b)] (ii) without opening the [absentee voter] return envelope, mark across the face of the return envelope:~~

~~[(i)] (A) "Rejected as defective"; or~~

~~[(ii)] (B) "Rejected as not a registered voter[.]" ; and~~

~~[(4) The poll workers shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent vote is rejected, in the ballot box containing the ballots.]~~

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5) (a) If the [election officer rejects] poll workers reject an individual's [absentee] ballot because the [election officer determines] poll workers determine that the signature on the [ballot] return envelope does not match the individual's signature [that is maintained on file] in the voter registration records, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue;

(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

(i) an attestation that the individual voted the [absentee] ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; and

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes.

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; and

(ii) if the election officer receives the affidavit no later than 5 p.m. the day before the canvass, count the individual's ballot.

(6) ~~[An election officer who rejects]~~ If the poll workers reject an individual's ~~[absentee]~~ ballot for any reason, other than the reason described in Subsection (5)(a), the election officer shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

(a) if the election officer rejects the ~~[absentee]~~ ballot before election day:

(i) one business day after the day on which the election officer rejects the ~~[absentee]~~ ballot, if the election officer gives the notice by email or text message; or

(ii) two business days after the day on which the election officer rejects the ~~[absentee]~~ ballot, if the election officer gives the notice by postal mail or phone;

(b) seven days after election day if the election officer rejects the ~~[absentee]~~ ballot on election day; or

(c) seven days after the canvass if the election officer rejects the ~~[absentee]~~ ballot after election day and before the end of the canvass.

(8) An election officer may not count the ~~[absentee]~~ ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity.

(9) The election officer shall retain and preserve the ~~[absentee voter]~~ return envelopes in the manner provided by law for the retention and preservation of ~~[official]~~ ballots voted at that election.

**Section 45. Section 20A-3a-402, which is renumbered from Section 20A-3-309 is renumbered and amended to read:**

**[20A-3-309]. 20A-3a-402. Custody of ballots voted at a polling place -- Disposition -- Counting -- Release of number of ballots cast.**

(1) This section governs ballots voted at a polling place.

~~[(4)]~~ (2) (a) The election officer shall deliver all return envelopes containing valid [absentee] ballots and valid provisional ballots that are in the election officer's custody to the [place of the official canvass of the election by] counting center before noon on the day of the official canvass following the election.

~~[(2)-(a)]~~ (b) Valid [absentee] ballots [and], including valid provisional ballots, may be processed and counted:

(i) by the election officer, or poll workers acting under the supervision of the election officer, before the date of the canvass; and

(ii) at the canvass, by the election officer or poll workers, acting under the supervision of the official canvassers of the election.

~~[(b)]~~ (c) When processing ballots, the election officer and poll workers shall comply with the procedures and requirements of Section [20A-3-308] 20A-3a-401 in opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing [them in a ballot box] ballots in preparation for counting.

(3) (a) After all valid [absentee] ballots [and], including valid provisional ballots have been deposited, the ballots shall be counted in the usual manner.

(b) After the polls close on the date of the election, the election officer shall publicly release the results of those [absentee] ballots [and], including provisional ballots, that have been counted on or before the date of the election.

(c) Except as provided in Subsection (3)(d), on each day, beginning on the day after the date of the election and ending on the day before the date of the canvass, the election officer shall publicly release the results of all [absentee] ballots [and], including provisional ballots, counted on that day.

(d) (i) If complying with Subsection (3)(c) on a particular day will likely result in disclosing a vote cast by an individual voter, the election officer shall request permission from the lieutenant governor to delay compliance for the minimum number of days necessary to protect against disclosure of the voter's vote.

(ii) The lieutenant governor shall grant a request made under Subsection (3)(d)(i) if the lieutenant governor finds that the delay is necessary to protect against disclosure of a voter's vote.

(e) On the date of the canvass, the election officer shall provide a tally of all [absentee] ballots [and], including provisional ballots, counted, and the

resulting tally shall be added to the official canvass of the election.

(4) (a) On the day after the date of the election, the election officer shall determine the number of ~~absentee~~ ballots received by the election officer at that time and shall make that number available to the public.

(b) The election officer may elect to publicly release updated totals for the number of ~~absentee~~ ballots received by the election officer up through the date of the canvass.

**Section 46. Section 20A-3a-403, which is renumbered from Section 20A-3-310 is renumbered and amended to read:**

**[20A-3-310]. 20A-3a-403. Frauds and malfeasance in voting -- Penalty.**

(1) (a) It is unlawful for any person to willfully falsify the ~~absentee~~ voter affidavits required by this part.

(b) Any person violating this ~~subsection~~ Subsection (1) is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.

(2) (a) It is unlawful for any election officer to:

(i) refuse or neglect to perform any of the duties required by this part; or

(ii) violate any of the provisions of this part.

(b) Any person who violates this ~~subsection~~ Subsection (2) is guilty of a class B misdemeanor.

**Section 47. Section 20A-3a-501, which is renumbered from Section 20A-3-501 is renumbered and amended to read:**

**Part 5. Voting Offenses**

**[20A-3-501]. 20A-3a-501. Polling place -- Prohibited activities.**

(1) As used in this section:

(a) "electioneering" includes any oral, printed, or written attempt to persuade persons to refrain from voting or to vote for or vote against any candidate or issue; and

(b) "polling place" means the physical place where ballots ~~and absentee ballots~~ are cast and includes ~~the county clerk's office or city hall during the period in which absentee ballots may be cast there~~ the physical place where a ballot drop box is located.

(2) (a) ~~A person~~ An individual may not, within a polling place or in any public area within 150 feet of the building where a polling place is located:

(i) do any electioneering;

(ii) circulate cards or handbills of any kind;

(iii) solicit signatures to any kind of petition; or

(iv) engage in any practice that interferes with the freedom of voters to vote or disrupts the administration of the polling place.

(b) A county, municipality, school district, or local district may not prohibit electioneering that occurs more than 150 feet from the building where a polling place is located, but may regulate the place and manner of that electioneering to protect the public safety.

(3) (a) ~~A person~~ An individual may not obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

(b) A sheriff, deputy sheriff, or municipal law enforcement officer shall prevent the obstruction of the entrance to a polling place and may arrest ~~any person~~ an individual creating an obstruction.

(4) ~~A person~~ An individual may not ~~(a) remove any ballot from the polling place before the closing of the polls, except as provided in Section 20A-4-101; or (b)~~ solicit any voter to show ~~his~~ the voter's ballot.

(5) ~~A person~~ An individual may not receive a voted ballot from any voter or deliver an unused ballot to a voter unless that ~~person~~ individual is a poll worker.

(6) ~~Any person~~ An individual who violates any provision of this section is guilty of a class A misdemeanor.

(7) A political subdivision may not prohibit political signs that are located more than 150 feet away from a polling place, but may regulate their placement to protect public safety.

**Section 48. Section 20A-3a-502 is enacted to read:**

**20A-3a-502. Intimidation -- Undue influence.**

(1) It is unlawful for a person to induce or compel an individual to vote or refrain from voting at an election provided by law or to vote or refrain from voting for a particular individual or measure at an election provided by law, directly or indirectly, by:

(a) using force, violence, or restraint;

(b) inflicting or threatening to inflict injury, damage, harm, or loss; or

(c) by intimidation.

(2) It is unlawful for a person to, by abduction, force, or fraud, impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any voter, either in voting at any election provided by law or voting or refraining from voting for a particular individual or measure at an election provided by law.

(3) It is unlawful for a person to:

(a) enclose in the salary or wage envelopes of an employee of the person, political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinion, views, or action of the employee; or

(b) within 90 days before the day of an election provided by law, post or otherwise exhibit, in a location where the person's employees may be

working or may be present in the course of employment, any handbill, notice, or placard containing any threat, notice, or information, that if any particular ticket or candidate is or is not elected:

(i) work performed by the person's employees will cease in whole or in part;

(ii) the workplace will close;

(iii) wages of workforce will be reduced; or

(iv) other adverse consequences, under the control of the person, will result.

(4) Violation of this section is a class B misdemeanor.

**Section 49. Section 20A-3a-503, which is renumbered from Section 20A-3-503 is renumbered and amended to read:**

**[20A-3-503]. 20A-3a-503. Influencing employee's vote.**

(1) It is unlawful for any corporation, or any officer or agent of any corporation, to influence, or attempt to influence, induce, or compel by force, violence, or restraint, or by inflicting or threatening to inflict any injury, damage, harm, or loss, or by discharging from employment or promoting in employment, or by intimidation, or in any manner whatever, any employee to vote or refrain from voting at any election provided by law, or to vote or refrain from voting for any particular person or measure at that election.

(2) (a) Any corporation or any officer or agent of that corporation who violates any of the provisions of this section is guilty of a class B misdemeanor.

(b) Any corporation violating any of the provisions of this section shall forfeit its charter and right to do business in this state in addition to any other penalties imposed by law.

**Section 50. Section 20A-3a-504, which is renumbered from Section 20A-3-504 is renumbered and amended to read:**

**[20A-3-504]. 20A-3a-504. Violations -- Penalties.**

(1) Except as [allowed by] provided in Subsection (3) or Section [20A-3-108] 20A-3a-208, an individual is guilty of a class C misdemeanor if the individual:

(a) allows the individual's ballot to be seen by another with the intent to reveal how the individual is about to vote;

(b) states falsely that the individual is unable to mark the individual's ballot;

(c) interferes or attempts to interfere with any individual who is inside the voting booth or who is marking a ballot;

(d) induces or attempts to induce any voter who is inside a voting booth or who is marking a ballot to vote to show how the voter marked the voter's ballot; or

(e) takes a photograph of a ballot, other than the individual's own ballot, at a polling place.

(2) The election judges and clerks shall report any individual who violates this section to the county attorney or district attorney having state criminal jurisdiction for prosecution.

(3) Subsection (1) does not prohibit an individual from transferring a photograph of the individual's own ballot in a manner that allows the photograph to be viewed by the individual or another.

**Section 51. Section 20A-3a-505, which is renumbered from Section 20A-3-505 is renumbered and amended to read:**

**[20A-3-505]. 20A-3a-505. False impersonation -- Double voting.**

(1) (a) [A person] An individual may not [apply for a ballot]:

(i) apply for a ballot in the name of [some other person] another individual, regardless of whether [it is that of a person] the other individual is living or dead, or [of] is a fictitious person; [of]

(ii) after having voted once at an election, apply again at the same election for a ballot in the [person's] individual's own name or any other name[-]; or

(iii) sign the affidavit on a return envelope for another individual.

(b) [Any person] An individual who violates Subsection (1)(a) is guilty of a third degree felony.

(2) (a) [A person] An individual may not aid, assist, counsel, or procure another [person] individual to commit the felony [prohibited] described in Subsection (1)(a).

(b) [Any person] An individual who violates Subsection (2)(a) is guilty of a class A misdemeanor.

**Section 52. Section 20A-3a-506, which is renumbered from Section 20A-3-506 is renumbered and amended to read:**

**[20A-3-506]. 20A-3a-506. False information on provisional ballot envelope.**

(1) [A person] An individual may not wilfully falsify information on a provisional ballot envelope.

(2) [A person] An individual who violates this section is guilty of a class B misdemeanor.

**Section 53. Section 20A-3a-601, which is renumbered from Section 20A-3-601 is renumbered and amended to read:**

#### Part 6. Early Voting

**[20A-3-601]. 20A-3a-601. Early voting.**

(1) Except as provided in Section 20A-7-609.5:

(a) [An] an individual who is registered to vote may vote at a polling place before the election date in accordance with this section[-]; and

(b) [An] an individual who is not registered to vote may register to vote and vote at a polling place before the election date in accordance with this section if the individual:

(i) is otherwise legally entitled to vote the ballot; and

(ii) casts a provisional ballot in accordance with Section 20A-2-207.

(2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period ~~shall~~:

(a) ~~begin~~ begins on the date that is 14 days before the date of the election; and

(b) ~~continue~~ continues through the Friday before the election if the election date is a Tuesday.

(3) (a) An election officer may extend the end of the early voting period to the day before the election date if the election officer provides notice of the extension in accordance with Section ~~[20A-3-604]~~ 20A-3a-604.

(b) For a municipal election, the municipal clerk may reduce the early voting period described in this section if:

(i) the municipal clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the municipal clerk provides notice of the reduced early voting period in accordance with Section ~~[20A-3-604]~~ 20A-3a-604.

(c) For a county election ~~[that is conducted entirely by mail]~~, the county clerk may reduce the early voting period described in this section if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section ~~[20A-3-604]~~ 20A-3a-604.

(4) Except as provided in Section 20A-1-308, during the early voting period, the election officer:

(a) for a local special election, a municipal primary election, and a municipal general election:

(i) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(ii) shall conduct early voting on the last day of the early voting period; and

(b) for all other elections:

(i) shall conduct early voting on each weekday; and

(ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

(5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early voting

shall be administered ~~[according to]~~ in accordance with the requirements of this title.

**Section 54. Section 20A-3a-602, which is renumbered from Section 20A-3-602 is renumbered and amended to read:**

**[20A-3-602]. 20A-3a-602. Hours for early voting.**

(1) Except as provided in Section 20A-1-308, the election officer shall determine the times for opening and closing the polls for each day of early voting provided that voting is open for a minimum of four hours during each day that polls are open during the early voting period.

(2) Except as provided in Section 20A-1-308, each registered voter who arrives at the polls before the time scheduled for closing of the polls shall be allowed to vote.

**Section 55. Section 20A-3a-603, which is renumbered from Section 20A-3-603 is renumbered and amended to read:**

**[20A-3-603]. 20A-3a-603. Early voting polling places.**

(1) Except as provided in Section 20A-1-308 or 20A-7-609.5, the election officer shall designate one or more polling places for early voting, ~~[provided that]~~ as follows:

(a) at least one polling place ~~[is]~~ shall be open on each day that polls are open during the early voting period;

(b) each polling place ~~[meets]~~ shall comply with the requirements for polling places under Chapter 5, Election Administration;

(c) for all elections other than local special elections, municipal primary elections, and municipal general elections, at least 10% of the voting devices at a polling place ~~[are]~~ shall be accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002; and

(d) each polling place ~~[is]~~ shall be located in a government building or office, unless the election officer determines that, in the area designated by the election officer, there is no government building or office available that:

(i) can be scheduled for use during early voting hours;

(ii) has the physical facilities necessary to accommodate early voting requirements;

(iii) has adequate space for voting equipment, poll workers, and voters; and

(iv) has adequate security, public accessibility, and parking.

(2) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Section ~~[20A-3-604]~~ 20A-3a-604:

(i) if necessary, change the location of an early voting place; or

(ii) if the election officer determines that the number of early voting polling places is insufficient

due to the number of registered voters who are voting, designate additional polling places during the early voting period.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of an early voting polling place or designates an additional early voting polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of the changed early voting polling place or the additional early voting polling place:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of an early voting polling place, at the new location and, if possible, the old location; and

(B) for an additional early voting polling place, at the additional early voting polling place.

(3) Except as provided in Section 20A-1-308, for each regular general election and regular primary election, counties of the first class shall ensure that the early voting polling places are approximately proportionately distributed based on population within the county.

**Section 56. Section 20A-3a-604, which is renumbered from Section 20A-3-604 is renumbered and amended to read:**

**[20A-3-604]. 20A-3a-604. Notice of time and place of early voting.**

(1) Except as provided in Section 20A-1-308 or Subsection [20A-3-603] 20A-3a-603(2), the election officer shall, at least 19 days before the date of the election, publish notice of the dates, times, and locations of early voting:

(a) (i) in one issue of a newspaper of general circulation in the county;

(ii) if there is no newspaper of general circulation in the county, in addition to posting the notice described in Subsection (1)(b), by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county; or

(iii) by mailing notice to each registered voter in the county;

(b) by posting the notice at each early voting polling place;

(c) on the Utah Public Notice Website created in Section 63F-1-701, for 19 days before the day of the election;

(d) in accordance with Section 45-1-101, for 19 days before the date of the election; and

(e) on the county's website for 19 days before the day of the election.

(2) Instead of publishing all dates, times, and locations of early voting under Subsection (1), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

**Section 57. Section 20A-3a-605, which is renumbered from Section 20A-3-605 is renumbered and amended to read:**

**[20A-3-605]. 20A-3a-605. Exemptions from early voting.**

(1) (a) This part does not apply to an election of a board member of a local district.

(b) Notwithstanding Subsection (1)(a), a local district may, [at its] in the local district's discretion, provide early voting in accordance with this part for [an] election of a board member.

(2) Notwithstanding the requirements of Section 20A-3-601, a municipality of the fifth class or a town as described in Section 10-2-301 may provide early voting as provided under this part for:

(a) a municipal primary election; or

(b) a municipal general election.

(3) A municipality [that administers an election entirely by absentee ballot, in accordance with Section 20A-3-302,] is not required to conduct early voting for the election.

**Section 58. Section 20A-3a-701, which is renumbered from Section 20A-3-701 is renumbered and amended to read:**

**Part 7. Election Day Voting Center**

**[20A-3-701]. 20A-3a-701. Definitions.**

As used in this part:

(1) "Election day voting center" means a polling place designated by an election officer to provide for voting on election day for [a person] an individual who:

(a) is eligible to vote; and

(b) resides within the political subdivision holding the election.



(2) "Voting center ballot" means a regular ballot that:

(a) is provided at an election day voting center; and

(b) may be retrieved by the election official during the canvass if the voter cast a ballot at another location or before election day.

**Section 59. Section 20A-3a-702, which is renumbered from Section 20A-3-702 is renumbered and amended to read:**

**[20A-3-702]. 20A-3a-702. Election day voting center -- Hours of operation -- Compliance with Election Code.**

(1) ~~[Aa]~~ Except as provided in Section 20A-7-609.5, an election officer may operate an election day voting center in one or more locations designated under Section ~~[20A-3-703]~~ 20A-3a-703.

(2) An election officer shall provide for voting at an election day voting center by:

(a) regular ballot if:

(i) (A) the election day voting center is designated under Section 20A-5-403 as the polling place for the voting precinct in which the voter resides; and

(B) the voter is eligible to vote ~~[using]~~ a regular ballot at the election day voting center in accordance with this title; or

(ii) (A) the voter resides within the political subdivision holding the election;

(B) the voter is otherwise eligible to vote ~~[using]~~ a regular ballot in accordance with this title; and

(C) the jurisdiction holding the election uses a method that confirms that the voter has not voted previously in the election;

(b) voting center ballot if:

(i) the election day voting center is not designated under Section 20A-5-403 as the polling place for the voting precinct in which the voter resides;

(ii) the voter resides within the political subdivision holding the election; and

(iii) the voter is otherwise eligible to vote ~~[using]~~ a regular ballot in accordance with this title; or

(c) provisional ballot if the voter is only eligible to vote using a provisional ballot in accordance with this title.

(3) An election officer shall ensure that an election day voting center:

(a) is open on election day during the time period specified under Section 20A-1-302;

(b) allows an eligible voter to vote if the voter:

(i) resides within the political subdivision holding an election; and

(ii) arrives at the election day voting center by the designated closing time in accordance with Section 20A-1-302; and

(c) is administered according to the requirements of this title.

(4) ~~[A person]~~ An individual may submit a completed ~~[absentee]~~ manual ballot at an election day voting center for the political subdivision in which the ~~[person]~~ individual resides.

~~[(5) A person may submit an incomplete absentee ballot at an election day voting center for the political subdivision in which the person resides, request that the ballot be declared spoiled, and vote in person.]~~

**Section 60. Section 20A-3a-703, which is renumbered from Section 20A-3-703 is renumbered and amended to read:**

**[20A-3-703]. 20A-3a-703. Election day voting centers as polling places -- Location -- Notification.**

(1) The election officer may designate one or more polling places as an election day voting center if:

(a) except as provided in Subsection (2), the election officer notifies the lieutenant governor of the designation and location of the election day voting center at least 15 days before the election;

(b) ~~[a]~~ the polling place meets the requirements for a polling place under Chapter 5, Election Administration; and

(c) ~~[a]~~ the polling place is located in a government building or office, unless the election officer determines that there is no government building or office available, in the area designated by the election officer, that:

(i) can be scheduled for use during election day voting hours;

(ii) has the physical facilities necessary to accommodate election day voting requirements;

(iii) has adequate space for voting equipment, poll workers, and voters; and

(iv) has adequate security, public accessibility, and parking.

(2) (a) The election officer may, after the deadline described in Subsection (1)(a):

(i) if necessary, change the location of an election day voting center; or

(ii) if the election officer determines that the number of election day voting centers is insufficient due to the number of registered voters who are voting, designate additional election day voting centers.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of an election day voting center or designates an additional election day voting center, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of the changed election day voting center or the additional election day voting center:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of an election day voting center, at the new location and, if possible, the old location; and

(B) of an additional election day voting center, at the additional election day voting center.

**Section 61. Section 20A-3a-801, which is renumbered from Section 20A-3-201 is renumbered and amended to read:**

**Part 8. Watchers**

**[20A-3-201]. 20A-3a-801. Watchers.**

(1) As used in this section, “administering election officer” means:

(a) the election officer; or

(b) if the election officer is the lieutenant governor, the county clerk of the county in which an individual will act as a watcher.

(2) (a) Any individual may become a watcher in an election at any time by registering as a watcher with the administering election officer.

(b) An individual who registers under Subsection (2)(a) is not required to be certified by a person under Subsection (3) in order to act as a watcher.

(c) An individual who registers as a watcher shall notify the administering election officer of the dates, times, and locations that the individual intends to act as a watcher.

(d) An election official may not prohibit a watcher from performing a function described in Subsection (4) because the watcher did not provide the notice described in Subsection (2)(c).

(e) An administering election officer shall provide a copy of this section, or instructions on how to access an electronic copy of this section, to a watcher at the time the watcher registers under this Subsection (2).

(3) (a) A person that is a candidate whose name will appear on the ballot, a qualified write-in candidate for the election, a registered political party, or a political issues committee may certify an individual as an official watcher for the person:

(i) by filing an affidavit with the administering election officer responsible to designate an individual as an official watcher for the certifying person; and

(ii) if the individual registers as a watcher under Subsection (2)(a).

(b) A watcher who is certified by a person under Subsection (3)(a) may not perform the same function described in Subsection (4) at the same time and in the same location as another watcher who is certified by that person.

(c) A watcher who is certified by a person under Subsection (3)(a) may designate another individual to serve in the watcher’s stead during the watcher’s temporary absence by filing with a poll worker an affidavit that designates the individual as a temporary replacement.

(4) A watcher may:

(a) observe the setup or takedown of a polling location;

(b) observe a voter checking in at a polling location;

(c) observe the collection, receipt, and processing of a ballot, including a provisional ballot or a ballot cast by a covered voter as defined in Section 20A-16-102;

(d) observe the transport or transmission of a ballot that is in an election official’s custody;

(e) observe the opening and inspection of a ~~[by-mail]~~ manual ballot;

(f) observe ballot duplication;

(g) observe the conduct of logic and accuracy testing described in Section 20A-5-802;

(h) observe ballot tabulation;

(i) observe the process of storing and securing a ballot;

(j) observe a post-election audit;

(k) observe a canvassing board meeting described in Title 20A, Chapter 4, Part 3, Canvassing Returns;

(l) observe the certification of the results of an election; or

(m) observe a recount.

(5) (a) A watcher may not:

(i) electronically record an activity described in Subsection (4) if the recording would reveal a vote or otherwise violate a voter’s privacy or a voter’s right to cast a secret ballot;

(ii) interfere with an activity described in Subsection (4), except to challenge an individual’s eligibility to vote under Section ~~[20A-3-202]~~ 20A-3a-803; or

(iii) divulge information related to the number of votes counted, tabulated, or cast for a candidate or ballot proposition until after the election officer makes the information public.

(b) A person who violates Subsection (5)(a)(iii) is guilty of a third degree felony.

(6) (a) Notwithstanding Subsection (2)(a) or (4), in order to maintain a safe working environment for an election official or to protect the safety or security of a ballot, an administering election officer may take reasonable action to:

(i) limit the number of watchers at a single location;

(ii) remove a watcher for violating a provision of this section;

(iii) remove a watcher for interfering with an activity described in Subsection (4);

(iv) designate areas for a watcher to reasonably observe the activities described in Subsection (4); or

(v) ensure that a voter's ballot secrecy is protected throughout the watching process.

(b) If an administering election officer limits the number of watchers at a single location under Subsection (6)(a)(i), the administering election officer shall give preferential access to the location to a watcher designated under Subsection (3).

(c) An administering election officer may provide a watcher a badge that identifies the watcher and require the watcher to wear the badge while acting as a watcher.

**Section 62. Section 20A-3a-802, which is renumbered from Section 20A-3-201.5 is renumbered and amended to read:**

**[20A-3-201.5]. 20A-3a-802. Definitions.**

As used in this part:

(1) "Challenged voter" means ~~[a person]~~ an individual whose right to vote is challenged as provided in this part.

(2) "Filer" means ~~[a person]~~ an individual who files a written statement challenging another ~~[person's]~~ individual's right to vote as provided in Section ~~[20A-3-202.3]~~ 20A-3a-804.

**Section 63. Section 20A-3a-803, which is renumbered from Section 20A-3-202 is renumbered and amended to read:**

**[20A-3-202]. 20A-3a-803. Challenges to a voter's eligibility -- Basis for challenge -- Procedures.**

(1) ~~[A person]~~ An individual may challenge ~~[an]~~ another individual's eligibility to vote on any of the following grounds:

(a) the individual is not the individual in whose name the individual tries to vote;

(b) the individual is not a resident of Utah;

(c) the individual is not a citizen of the United States;

(d) the individual has not or will not have resided in Utah for 30 days immediately before the date of the election;

(e) the individual's principal place of residence is not in the voting precinct that the individual claims;

(f) the individual's principal place of residence is not in the geographic boundaries of the election area;

(g) the individual has already voted in the election;

(h) the individual is not at least ~~[18 years of age]~~ the minimum age required to vote in the election;

(i) the individual has been convicted of a misdemeanor for an offense under this title and the

individual's right to vote in an election has not been restored under Section 20A-2-101.3;

(j) the individual is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or

(k) in a regular primary election or presidential primary election, the individual does not meet the political party affiliation requirements for the ballot the individual seeks to vote.

(2) ~~[A person]~~ An individual who challenges ~~[an]~~ another individual's right to vote in an election shall make the challenge in accordance with:

(a) Section ~~[20A-3-202.3]~~ 20A-3a-804, for a challenge that is not made in person at the time an individual votes; or

(b) Section ~~[20A-3-202.5]~~ 20A-3a-805, for challenges made in person at the time an individual votes.

**Section 64. Section 20A-3a-804, which is renumbered from Section 20A-3-202.3 is renumbered and amended to read:**

**[20A-3-202.3]. 20A-3a-804. Pre-election challenges to a voter's eligibility in writing -- Procedure -- Form of challenge.**

(1) (a) ~~[A person]~~ An individual may challenge an individual's eligibility to vote by filing a written statement with the election officer in accordance with Subsection (1)(b) that:

(i) lists the name and address of the ~~[person]~~ individual filing the challenge;

(ii) for each individual who is challenged:

(A) identifies the name of the challenged individual;

(B) lists the last known address or telephone number of the challenged individual;

(C) provides the basis for the challenge, as provided under Section ~~[20A-3-202]~~ 20A-3a-803;

(D) provides facts and circumstances supporting the basis provided; and

(E) may include supporting documents, affidavits, or other evidence; and

(iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:

(A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and

(B) according to the filer's personal knowledge and belief, the basis for the challenge under Section ~~[20A-3-202]~~ 20A-3a-803 for each challenged individual is valid.

(b) ~~[A person that]~~ An individual who files a written statement under Subsection (1)(a) shall file the written statement during the election officer's regular business hours:

(i) at least 45 days before the day of the election; or

(ii) if the challenge is to an individual who registered to vote between the day that is 45 days before the election and the day of the election:

(A) on or before the day of the election; and

(B) before the individual's ballot is removed from a ballot envelope or otherwise separated from any information that could be used to identify the ballot as the individual's ballot.

(c) The challenge may not be based on unsupported allegations or allegations by an anonymous ~~person~~ individual.

(d) An election officer may require ~~a person that~~ an individual who files a challenge under this section to file the challenge on a form provided by the election officer that meets the requirements of this section.

(2) If the challenge is not in the proper form, is incomplete, or if the basis for the challenge does not meet the requirements of this part, the election officer shall dismiss the challenge and notify the filer in writing of the reasons for the dismissal.

(3) (a) Upon receipt of a challenge that meets the requirements for filing under this section, the election officer shall attempt to notify each challenged individual in accordance with Subsection (3)(b):

(i) at least 28 days before the date of the election, if the election officer receives the challenge under Subsection (1)(b)(i); or

(ii) within one business day, if the election officer receives the challenge under Subsection (1)(b)(ii).

(b) The election officer shall attempt to notify each challenged individual:

(i) that a challenge has been filed against the challenged individual;

(ii) that the challenged individual may be required to cast a provisional ballot at the time the individual votes if the individual votes in person;

(iii) ~~[if the election is being conducted entirely by absentee ballot or if the individual is otherwise registered to vote by absentee ballot,]~~ that if the individual votes by ~~absentee ballot~~ mail, the individual's ballot will be treated as a provisional ballot unless the challenge is resolved;

(iv) of the basis for the challenge, which may include providing a copy of the challenge the filer filed with the election officer; and

(v) that the challenged individual may submit information, a sworn statement, supporting documents, affidavits, or other evidence supporting the challenged individual's eligibility to vote in the election to the election officer no later than:

(A) 21 days before the date of the election, if the election officer receives the challenge under Subsection (1)(b)(i); or

(B) five days before the day on which the canvass is held, if the election officer receives the challenge under Subsection (1)(b)(ii).

(4) (a) The election officer shall determine whether each challenged individual is eligible to vote before the day on which:

(i) early voting commences, if the election officer receives the challenge under Subsection (1)(b)(i); or

(ii) the canvass is held, if the election officer receives the challenge under Subsection (1)(b)(ii).

(b) (i) The filer has the burden to prove, by clear and convincing evidence, that the basis for challenging the individual's eligibility to vote is valid.

(ii) The election officer shall resolve the challenge based on the available facts and information submitted, which may include voter registration records and other documents or information available to the election officer.

(5) ~~[A person]~~ An individual who files a challenge in accordance with the requirements of this section is subject to criminal penalties for false statements as provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(6) (a) A challenged individual may appeal an election officer's decision regarding the individual's eligibility to vote to the district court having jurisdiction over the location where the challenge was filed.

(b) The district court shall uphold the decision of the election officer unless the district court determines that the decision was arbitrary, capricious, or unlawful.

(c) In making the district court's determination, the district court's review is limited to:

(i) the information filed under Subsection (1)(a) by the filer;

(ii) the information submitted under Subsection (3)(b)(v) by the challenged individual; and

(iii) any additional facts and information used by the election official to determine whether the challenged individual is eligible to vote, as indicated by the election official.

(7) A challenged individual may register to vote or change the location of the individual's voter registration if otherwise permitted by law.

(8) A document pertaining to a challenge filed under this section is a public record.

**Section 65. Section 20A-3a-805, which is renumbered from Section 20A-3-202.5 is renumbered and amended to read:**

**20A-3-202.5. 20A-3a-805. Challenges to a voter's eligibility at polling place -- Procedure.**

(1) (a) A poll worker, a watcher, or an individual who ~~[lives in the voting precinct]~~ resides in the jurisdiction to which the election relates may, at a polling place, challenge an individual's eligibility to vote ~~[in that voting precinct or]~~ a particular ballot or to vote in that election if:

(i) the individual making the challenge and the challenged individual are both present at the polling place at the time the challenge is made; and

(i) the challenge is made ~~when~~ before the challenged individual applies for a ballot.

(b) An individual may make a challenge by orally stating the challenged individual's name and the basis for the challenge, as provided under Section ~~[20A-3-202]~~ 20A-3a-803.

(2) The poll worker shall record a challenge in the official register ~~and~~ or on the challenge sheets in the pollbook, including:

- (a) the name of the challenged individual;
- (b) the name of the individual making the challenge; and
- (c) the basis upon which the challenge is made.

(3) If an individual's eligibility to vote is challenged under this section, the poll worker shall follow the procedures and requirements of Section ~~[20A-3-105.5]~~ 20A-3a-205.

**Section 66. Section 20A-3a-806, which is renumbered from Section 20A-3-203 is renumbered and amended to read:**

**[20A-3-203]. 20A-3a-806. Election official or watcher revealing vote.**

(1) It is unlawful for an election official or watcher to reveal to another person the name of a candidate or ballot proposition for whom a voter has voted or to communicate to another person the election official or watcher's opinion, belief, or impression regarding for whom or what a voter has voted.

(2) A person who violates this section is guilty of a class A misdemeanor.

**Section 67. Section 20A-4-101 is amended to read:**

**20A-4-101. Manual ballots cast at a polling place -- Counting manual ballots at polling place on day of election before polls close.**

(1) Each county legislative body ~~[or]~~, municipal legislative body ~~[that has voting precincts that use paper ballots]~~, and each poll worker ~~[in those voting precincts]~~ shall comply with the requirements of this section when counting manual ballots on the day of an election, if:

- (a) the ballots are cast at a polling place; and
- (b) the ballots are counted at the polling place before the polls close.

(2) (a) Each county legislative body or municipal legislative body shall provide:

(i) two sets of ballot boxes for all voting precincts where both receiving and counting judges have been appointed; and

(ii) a counting room for the use of the poll workers counting the ballots during the day.

(b) At any election in any voting precinct in which both receiving and counting judges have been appointed, when at least 20 votes have been cast, the receiving judges shall:

(i) close the first ballot box and deliver it to the counting judges; and

(ii) prepare and use another ballot box to receive voted ballots.

(c) Except as provided in Subsection (2)(f), upon receipt of the ballot box, the counting judges shall:

- (i) take the ballot box to the counting room;
- (ii) count the votes on the regular ballots in the ballot box;
- (iii) place the provisional ballot envelopes in the envelope or container provided for them for return to the election officer; and
- (iv) when they have finished counting the votes in the ballot box, return the emptied box to the receiving judges.

(d) (i) During the course of election day, whenever there are at least 20 ballots contained in a ballot box, the receiving judges shall deliver that ballot box to the counting judges for counting; and

(ii) the counting judges shall immediately count the regular ballots and segregate the provisional ballots contained in that box.

(e) The counting judges shall continue to exchange the ballot boxes and count ballots until the polls close.

(f) (i) The director of elections within the Office of the Lieutenant Governor shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, describing the procedures that a counting judge is required to follow for counting ballots in an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(ii) When counting ballots in an instant runoff voting race described in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a counting judge shall comply with the procedures established under Subsection (2)(f)(i) and Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:

(a) to the extent applicable, Section 20A-4-105; and

(b) as applicable, for an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, Subsection 20A-4-603(3).

**Section 68. Section 20A-4-102 is amended to read:**

**20A-4-102. Manual ballots cast at a polling place -- Counting manual ballots at polling place on day of election after polls close.**

(1) (a) This section governs counting manual ballots on the day of an election, if:

- (i) the ballots are cast at a polling place; and

(ii) the ballots are counted at the polling place after the polls close.

~~(a)~~ (b) Except as provided in Subsection (2) or a rule made under Subsection 20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

~~(b)~~ (c) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:

(i) to the extent applicable, Section 20A-4-105; and

(ii) as applicable, for an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, Subsection 20A-4-603(3).

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall, except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i):

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

(ii) count one vote for each candidate on the ticket beneath a marked circle, excluding any candidate for an office for which a vote has been cast for a candidate for the same office upon another ticket by the placing of a mark in the square opposite the name of that candidate on the other ticket;

(iii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;

(iv) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

(v) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

(vi) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

(vii) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.

(7) Only an election judge and a watcher may be present at the place where counting is conducted until the count is completed.

**Section 69. Section 20A-4-103 is amended to read:**

**20A-4-103. Preparing ballots cast at a polling place for the counting center.**

(1) This section governs the preparation of ballots for the counting center when the ballots are cast at a polling place.

~~(1)~~(2) (a) ~~In voting precincts using ballot sheets, as~~ As soon as the polls have been closed and the last qualified voter has voted, the poll workers shall prepare the ~~ballot sheets~~ ballots for delivery to the counting center as provided in this section.

(b) The poll workers, election officers, and other persons may not manually count any votes before delivering the ballots to the counting center.

[~~(2)~~] (3) The poll workers shall:

(a) complete the statement of disposition of ballots and all other forms required by the election officer;

(b) place a copy of the forms described in Subsection (3)(a) and the voted ballots in a sealed container;

[~~(a)~~] (c) place all [of the] provisional [ballot envelopes in the envelope or] ballots in the container provided for [them for return] returning provisional ballots to the counting center[; and (b) seal that envelope or] and seal the container[.]; and

(d) deliver to the counting center:

(i) the items described in Subsections (3)(a) through (c); and

(ii) any other items required by the election officer.

[~~(3) (a) The poll workers shall check each secrecy envelope to see if the envelope contains any write-in votes.~~]

[~~(b) If a secrecy envelope does not contain any write-in votes, the poll workers shall remove the ballot sheet from the secrecy envelope.~~]

[~~(c) If a secrecy envelope contains any write-in votes, the poll workers may not separate the ballot sheet from the secrecy envelope.~~]

[~~(4) The poll workers shall place:~~]

[~~(a) the voted ballot sheets and one copy of the statement of disposition of ballots in the transfer case;~~]

[~~(b) the other copy of the statement of disposition of ballots, the pollbook, any unprocessed absentee ballots, the poll workers' pay vouchers, the official register, and the spoiled ballot envelope in the carrier envelope provided; and]~~

[~~(c) the other election materials in the election supply box.~~]

**Section 70. Section 20A-4-104 is amended to read:**

**20A-4-104. Counting ballots electronically.**

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test:

(i) (A) at least 48 hours before the test in one or more daily or weekly newspapers of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) if there is no daily or weekly newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used, at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the test;

(iii) in accordance with Section 45-1-101, for at least 10 days before the day of the test; and

(iv) if the county, municipality, or jurisdiction has a website, on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more [ballot sheets] ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic

tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) ~~[create a true duplicate copy]~~ make a true replication of the ballot with an identifying serial number;

(b) substitute the ~~[duplicate]~~ replicated ballot for the damaged or defective ballot;

(c) label the ~~[duplicate]~~ replicated ballot [~~“duplicate”~~] “replicated”; and

(d) record the ~~[duplicate]~~ replicated ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(6) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(7) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(8) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

**Section 71. Section 20A-4-105 is amended to read:**

**20A-4-105. Standards and requirements for evaluating voter's ballot choices.**

(1) (a) An election officer shall ensure that when a question arises regarding a vote recorded on a

~~[paper]~~ manual ballot, two counting judges jointly adjudicate the ballot, except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, in accordance with the requirements of this section.

(b) If the counting judges disagree on the disposition of a vote recorded on a ballot that is adjudicated under this section, the counting judges may not count the vote.

(2) Except as provided in Subsection (1), Subsection ~~[20A-3-105(5)]~~ 20A-3a-204(6), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if a voter marks more names than there are individuals to be elected to an office, or if the counting judges cannot determine a voter's choice for an office, the counting judges may not count the voter's vote for that office.

(3) Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges shall count a defective or incomplete mark on a ~~[paper]~~ manual ballot if:

(a) the defective or incomplete mark is in the proper place; and

(b) there is no other mark or cross on the ballot indicating the voter's intent to vote other than as indicated by the incomplete or defective mark.

(4) (a) When a voter has marked a ballot so that it appears that the voter has voted more than one straight ticket, the counting judges may not count any votes on the ballot for party candidates.

(b) The counting judges shall count the remainder of the ballot if the remainder of the ballot is voted correctly.

(5) Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot show an intent by an individual to mark the individual's ballot so that the individual's ballot can be identified.

(6) (a) In counting the ballots, the counting judges shall give full consideration to the intent of the voter.

(b) The counting judges may not invalidate a ballot because of mechanical or technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3, Voting.

(7) The counting judges may not reject a ballot because of an error in:

(a) stamping or writing an official endorsement; or

(b) delivering the wrong ballots to a polling place.

(8) The counting judges may not count a ~~[paper]~~ manual ballot that does not have the official endorsement by an election officer.

(9) The counting judges may not count a ballot proposition vote or candidate vote for which the



voter is not legally entitled to vote, as defined in Section 20A-4-107.

(10) If the counting judges discover that the name of a candidate is misspelled on a ballot, or that the initial letters of a candidate's given name are transposed or omitted in whole or in part on a ballot, the counting judges shall count a voter's vote for the candidate if it is apparent that the voter intended to vote for the candidate.

(11) The counting judges shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.

(12) Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, in counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the counting judges shall count the valid write-in vote as being the obvious intent of the voter.

**Section 72. Section 20A-4-106 is amended to read:**

**20A-4-106. Manual ballots -- Sealing.**

~~[(1)(a)(i) At all elections using paper ballots, as soon as the counting judges have read and tallied the ballots, they shall string the counted, excess, and spoiled ballots on separate strings.]~~

(1) After the official canvass of an election, the election officer shall store all election returns in containers that identify the containers' contents.

[(iii)] (2) After the ballots are [strung, they] stored under Subsection (1), the ballots may not be examined by anyone, except when examined during a recount conducted under the authority of Section 20A-4-401 or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

~~[(b) The judges shall carefully seal all of the strung ballots in a strong envelope.]~~

~~[(2)(a) For regular primary elections, after all the ballots have been counted, certified to, and strung by the judges, they shall seal the ballots cast for each of the parties in separate envelopes.]~~

~~[(b) The judges shall:]~~

~~[(i) seal each of the envelopes containing the votes of each of the political parties in one large envelope; and]~~

~~[(ii) return that envelope to the county clerk.]~~

~~[(c) The judges shall:]~~

~~[(i) destroy the ballots in the blank ballot box; or]~~

~~[(ii) if directed to do so by the election officer, return them to the election officer for destruction.]~~

~~[(3) As soon as the judges have counted all the votes and sealed the ballots they shall sign and certify the pollbooks.]~~

~~[(4)(a) The judges, before they adjourn, shall:]~~

~~[(i) enclose and seal the official register, the posting book, the pollbook, the ballot disposition form, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, and any unprocessed absentee ballots in a strong envelope or pouch;]~~

~~[(ii) ensure that all counted ballots, all excess ballots, and all spoiled ballots have been strung and placed in a separate envelope or pouch as required by Subsection (1);]~~

~~[(iii) place all unused ballots, all spoiled ballots, one tally list, and a copy of the ballot disposition form in a separate envelope or pouch;]~~

~~[(iv) place all provisional ballots in a separate envelope or pouch; and]~~

~~[(v) place the total votes cast form and the judges' vouchers requesting compensation for services rendered in a separate pouch.]~~

~~[(b) Before enclosing the official register in the envelope or pouch, the election judges shall certify it substantially as follows:]~~

~~["We, the undersigned, judges of election for precinct \_\_\_\_\_, (jurisdiction) \_\_\_\_\_, Utah, certify that the required entries have been made for the election held \_\_\_\_\_(month\day\year), including:]~~

~~[a list of the ballot numbers for each voter;]~~

~~[the voters' signatures, except where a judge has signed for the absentee voters;]~~

~~[a list of information surrounding a voter who is challenged,]~~

~~[including any affidavits; and]~~

~~[a notation for each time a voter was assisted with a ballot.]"~~

~~[(5) Each judge shall:]~~

~~[(a) write the judge's name across the seal of each envelope or pouch;]~~

~~[(b) mark on the exterior of the envelope or pouch:]~~

~~[(i) the word "ballots" or "returns" or "unused ballots," or "provisional ballots" or other words plainly indicating the contents of the packages; and]~~

~~[(ii) the number of the voting precinct.]~~

**Section 73. Section 20A-4-107 is amended to read:**

**20A-4-107. Review and disposition of provisional ballot envelopes.**

(1) As used in this section, [a person] an individual is "legally entitled to vote" if:

(a) the [person] individual:

(i) is registered to vote in the state;

(ii) votes the ballot for the voting precinct in which the [person] individual resides; and

(iii) provides valid voter identification to the poll worker;

(b) the [person] individual:

(i) is registered to vote in the state;

(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the [person's] individual's identity and residence through some other means; and

(iii) did not vote in the [person's] individual's precinct of residence, but the ballot that the [person] individual voted was from the [person's] individual's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the [person's] individual's precinct of residence; or

(c) the [person] individual:

(i) is registered to vote in the state;

(ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the [person's] individual's identity and residence through some other means as reliable as photo identification; or

(B) the [person] individual provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of a provisional ballot form, the election officer shall review the affirmation on the provisional ballot form and determine if the [person] individual signing the affirmation is:

(i) registered to vote in this state; and

(ii) legally entitled to vote:

(A) the ballot that the [person] individual voted; or

(B) if the ballot is from the [person's] individual's county of residence, for at least one ballot proposition or candidate on the ballot that the [person] individual voted.

(b) Except as provided in Section 20A-2-207, if the election officer determines that the [person] individual is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the [person] individual voted, the election officer shall retain the ballot form, uncounted, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the [person] individual is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on

the ballot that the [person] individual voted, the election officer shall place the provisional ballot with the [absentee] regular ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the [person's] individual's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the [person] individual is registered to vote in this state, or if the voter registers to vote in accordance with Section 20A-2-207, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot form.

(4) Except as provided in Section 20A-2-207, if the election officer determines that the [person] individual is not registered to vote in this state and the information on the provisional ballot form is complete, the election officer shall:

(a) consider the provisional ballot form a voter registration form for the [person's] individual's county of residence; and

(b) (i) register the [person] individual if the [voter's] individual's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the [person's] individual's county of residence, which election officer shall register the [person] individual.

(5) Notwithstanding any provision of this section, the election officer shall place a provisional ballot with the [absentee] regular ballots to be counted with those ballots at the canvass, if:

(a) (i) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than [seven] 11 days before the election;

(ii) [seven] 11 or more days before the election, the individual who cast the provisional ballot:

(A) completed and signed the voter registration; and

(B) provided the voter registration to another person to file;

(iii) the late filing was made due to the [person] individual described in Subsection (5)(a)(ii)(B) filing the voter registration late; and

(iv) the election officer receives the voter registration before 5 p.m. no later than one day before the day of the election; or

(b) the provisional ballot is cast on or before election day and is not otherwise prohibited from being counted under the provisions of this chapter.

**Section 74. Section 20A-4-201 is amended to read:**

**20A-4-201. Delivery of election returns.**

(1) At least two poll workers shall deliver the [ballot box, the lock, and the key] ballots and other items described in Subsection 20A-4-103(3)(d) to:

- (a) the election officer; or
  - (b) the location directed by the election officer.
- (2) (a) Before they adjourn, the poll workers shall choose two or more of their number to deliver the election returns to the election officer.
- (b) The poll workers shall:
- (i) deliver the unopened envelopes [~~or pouches~~] to the election officer or counting center immediately but no later than 24 hours after the polls close; or
  - (ii) if the polling place is 15 miles or more from the county seat, mail the election returns to the election officer by registered mail from the post office most convenient to the polling place within 24 hours after the polls close.
- (3) The election officer shall pay each poll worker reasonable compensation for travel that is necessary to deliver the election returns and to return to the polling place.
- (4) The requirements of this section do not prohibit transmission of the unofficial vote count to the counting center via electronic means, provided that reasonable security measures are taken to preserve the integrity and privacy of the transmission.

**Section 75. Section 20A-4-202 is amended to read:**

**20A-4-202. Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.**

- (1) Upon receipt of the election returns from the poll workers, the election officer shall:
- (a) ensure that the poll workers have provided all of the ballots and election returns;
  - (b) inspect the ballots and election returns to ensure that they are sealed;
  - (c) ~~(4)~~ (i) for ~~[paper]~~ manual ballots, deposit and lock the ballots and election returns in a safe and secure place~~;~~;
  - ~~(ii)~~ (d) ~~[for punch-card]~~ for mechanical ballots:
  - ~~(A)~~ (i) count the ballots; and
  - ~~(B)~~ (ii) deposit and lock the ballots and election returns in a safe and secure place; and
  - ~~(4)~~ (e) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.
- (2) Each election officer shall:
- (a) before 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;
  - (b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;

~~(c) package and seal a true copy of the ballot label used in each voting precinct;~~

~~(4)~~ (c) preserve all other official election returns for at least 22 months after an election; and

~~(e)~~ (d) after that time, destroy them without opening or examining them.

(3) (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

(i) may access these tabulating cards and other materials;

(ii) may make copies of these materials and make changes to the copies;

(iii) may not alter or make changes to the materials themselves; and

(iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.

(4) (a) If an election contest is begun within 12 months, the election officer shall:

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) When all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in the election officer's custody without opening or examining them if the time for preserving them under this section has run.

**Section 76. Section 20A-4-303 is amended to read:**

**20A-4-303. Duties of the board of canvassers -- Canvassing the returns.**

(1) (a) Before the board of canvassers convenes, the election officer shall:

(i) count the ballots;

(ii) prepare a certified summary of:

(A) all ballots counted; and

(B) all ballots not counted, with an explanation regarding the reason the ballots were not counted; and

(iii) make available to the board of canvassers for inspection, all ballots, registers, books, and forms related to the election.

~~(4)~~ (b) The board of canvassers shall canvass the election returns by publicly ~~opening the returns~~

and determining from them the votes of each voting precinct for]:

(i) reviewing the summary reports prepared by the election officer and any ballots, registers, books, or forms requested by the board of canvassers; and

(ii) certifying the votes cast:

~~(i)~~ (A) each person voted for; and

~~(ii)~~ (B) for and against each ballot proposition voted upon at the election.

~~(iii)~~ (c) The board of canvassers shall, once having begun the canvass, continue until it is completed.

(2) In canvassing returns, the board of canvassers may not:

(a) reject any election returns if the board can determine the number of votes cast for each person from it;

(b) reject any election returns if the election returns:

(i) do not show who administered the oath to the judges of election;

(ii) show that the election judges failed to fill out all the certificates in the pollbooks; or

(iii) show that the election judges failed to do or perform any other act in preparing the returns that is not essential to determine for whom the votes were cast; or

(c) reject any returns from any voting precinct that do not conform with the requirements for making, certifying, and returning the returns if those returns are sufficiently explicit to enable the board of canvassers to determine the number of votes cast for each person and for and against each ballot proposition.

(3) (a) If it clearly appears to the election officer and board of canvassers that certain matters are omitted or that clerical mistakes exist in election returns received, ~~[they shall transmit the election returns to the election judges for correction] the election officer shall correct the omissions and mistakes.~~

~~[(b) Upon receipt of the election returns for correction from the board of canvassers, the election judges shall correct the election returns as required by the facts.]~~

~~[(e)]~~ (b) The clerk and the board of canvassers may adjourn from day to day to await receipt of corrected election material.

(4) If a recount is conducted as authorized by Section 20A-4-401, the board of canvassers shall canvass the results of that recount as provided in this section and Section 20A-4-401.

**Section 77. Section 20A-4-401 is amended to read:**

**20A-4-401. Recounts -- Procedure.**

(1) (a) This section does not apply to a race conducted by instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(b) Except as provided in Subsection (1)(c), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, that losing candidate may file a request for a recount in accordance with Subsection (1)(d).

(c) For a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, that losing candidate may file a request for a recount in accordance with Subsection (1)(d).

(d) A candidate who files a request for a recount under Subsection (1) (b) or (c) shall file the request:

(i) for a municipal primary election, with the municipal clerk, before 5 p.m. within three days after the canvass; or

(ii) for all other elections, before 5 p.m. within seven days after the canvass with:

(A) the municipal clerk, if the election is a municipal general election;

(B) the local district clerk, if the election is a local district election;

(C) the county clerk, for races voted on entirely within a single county; or

(D) the lieutenant governor, for statewide races and multicounty races.

(e) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that race;

(iii) reexamine all ~~[unopened absentee] uncounted ballots to ensure compliance with Chapter 3, Part [3, Absentee Voting] 4, Disposition of Ballots;~~

(iv) for a race where only one candidate may win, declare elected the candidate who receives the highest number of votes on the recount; and

(v) for a race where multiple candidates may win, declare elected the applicable number of candidates who receive the highest number of votes on the recount.

(2) (a) Except as provided in Subsection (2)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days after the day of the canvass with the person described in Subsection (2)(c).

(b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the

proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days after the day of the canvass with the person described in Subsection (2)(c).

(c) The 10 voters who file a request for a recount under Subsection (2)(a) or (b) shall file the request with:

(i) the municipal clerk, if the election is a municipal election;

(ii) the local district clerk, if the election is a local district election;

(iii) the county clerk, for propositions voted on entirely within a single county; or

(iv) the lieutenant governor, for statewide propositions and multicounty propositions.

(d) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that ballot proposition or bond proposition;

(iii) reexamine all ~~[unopened—absentee]~~ uncounted ballots to ensure compliance with Chapter 3, Part ~~[3, Absentee Voting]~~ 4, Disposition of Ballots; and

(iv) declare the ballot proposition or bond proposition to have “passed” or “failed” based upon the results of the recount.

(e) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.

(f) The voters requesting the recount shall pay the costs of the recount.

(3) Costs incurred by recount under Subsection (1) may not be assessed against the person requesting the recount.

(4) (a) Upon completion of the recount, the election officer shall immediately convene the board of canvassers.

(b) The board of canvassers shall:

(i) canvass the election returns for the race or proposition that was the subject of the recount; and

(ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or 20A-4-306.

(c) If the recount is for a statewide or multicounty race or for a statewide proposition, the board of county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection 20A-4-304 (7).

(d) The canvassers’ report prepared as provided in this Subsection (4) is the official result of the race or proposition that is the subject of the recount.

**Section 78. Section 20A-5-102 is amended to read:**

**20A-5-102. Voting instructions.**

(1) Each election officer shall:

(a) print ~~[instruction cards]~~ instructions for voters;

(b) ensure that the ~~[cards]~~ instructions are printed in English, and any other language required under the Voting Rights Act of 1965, as amended, in large clear type; and

(c) ensure that the ~~[cards instruct]~~ instructions inform voters:

(i) about how to obtain ballots for voting;

(ii) about special political party affiliation requirements for voting in a regular primary election or presidential primary election;

(iii) about how to prepare ballots for deposit in the ballot box;

(iv) about how to record write-in votes;

(v) about how to obtain a new ballot in the place of one spoiled by accident or mistake;

(vi) about how to obtain assistance in marking ballots;

(vii) about obtaining a new ballot if the voter’s ballot is defaced;

(viii) that identification marks or the spoiling or defacing of a ballot will make it invalid;

(ix) about how to obtain and vote a provisional ballot;

(x) about whom to contact to report election fraud;

(xi) about applicable federal and state laws regarding:

(A) voting rights and the appropriate official to contact if the voter alleges his rights have been violated; and

(B) prohibitions on acts of fraud and misrepresentation;

(xii) about procedures governing mail-in registrants and first-time voters; and

(xiii) about the date of the election and the hours that the polls are open on election day.

(2) Each election officer shall:

(a) provide the election judges of each voting precinct with sufficient instruction cards to instruct voters in the preparation of their ballots;

(b) direct the election judges to post:

(i) general voting instructions in each voting booth; and

(ii) at least three instruction cards and at least one sample ballot elsewhere in and about the polling place.

**Section 79. Section 20A-5-205 is amended to read:**

**20A-5-205. Delivery of official register.**

(1) Before delivering the official register to the poll workers, the county clerk shall ~~attach the certificate required by law to the book~~ verify the accuracy and completeness of the official register.

(2) The county clerk shall ~~deliver the official register, its accuracy verified by the county clerk's signature, to a poll worker in each voting precinct by noon on the day before the election.~~, before the polls open at an early voting center or any other polling place:

(a) deliver the official register to each polling place; and

(b) provide verification of the official register's accuracy and completeness.

(3) This section does not prohibit a county clerk from updating an official register as necessary.

**Section 80. Section 20A-5-206 is amended to read:**

**20A-5-206. Change of precinct boundaries -- Revising list.**

(1) Whenever the boundaries of any voting precinct are changed, or a new voting precinct is created, the county clerk shall ensure that the names of all voters residing within the territory affected by the change are ~~transferred from one updated in the official register [to the other]~~.

(2) Any registered voter whose name has been erroneously ~~transferred from one~~ updated in the official register ~~[to another]~~, or erroneously ~~allowed to remain on any~~ not updated in the official register, may vote in the voting precinct in which the voter resides if the voter uses a provisional ballot.

**Section 81. Section 20A-5-302 is amended to read:**

**20A-5-302. Automated voting system.**

(1) (a) Any county or municipal legislative body or local district board may:

(i) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any automated voting system that meets the requirements of this section; and

(ii) use that system in any election, in all or a part of the voting precincts within its boundaries, or in combination with ~~paper~~ manual ballots.

(b) Nothing in this title shall be construed to require the use of electronic voting devices in local special elections, municipal primary elections, or municipal general elections.

(2) (a) Each automated voting system shall:

(i) provide for voting in secrecy, except in the case of voters who have received assistance as authorized by Section ~~[20A-3-108]~~ 20A-3a-108;

(ii) permit each voter at any election to:

(A) vote for all persons and offices for whom and for which that voter is lawfully entitled to vote;

(B) vote for as many persons for an office as that voter is entitled to vote; and

(C) vote for or against any ballot proposition upon which that voter is entitled to vote;

(iii) permit each voter, at presidential elections, by one mark ~~or punch~~, to vote for the candidates of that party for president, vice president, and for their presidential electors;

(iv) permit each voter, at any regular general election, to vote for all the candidates of one registered political party by making one mark ~~or punch~~;

(v) permit each voter to scratch vote;

(vi) at elections other than primary elections, permit each voter to vote for the nominees of one or more parties and for independent candidates;

(vii) at primary elections:

(A) permit each voter to vote for candidates of the political party of the voter's choice; and

(B) reject any votes cast for candidates of another party;

(viii) prevent the voter from voting for the same person more than once for the same office;

(ix) provide the opportunity for each voter to change the ballot and to correct any error before the voter casts the ballot in compliance with the Help America Vote Act of 2002, Pub. L. No. 107-252;

(x) include automatic tabulating equipment that rejects choices recorded on a voter's ballot if the number of the voter's recorded choices is greater than the number which the voter is entitled to vote for the office or on the measure;

(xi) be of durable construction, suitably designed so that it may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;

(xii) when properly operated, record correctly and count accurately each vote cast;

(xiii) for voting equipment certified after January 1, 2005, produce a permanent paper record that:

(A) shall be available as an official record for any recount or election contest conducted with respect to an election where the voting equipment is used;

(B) (I) shall be available for the voter's inspection prior to the voter leaving the polling place; and

(II) shall permit the voter to inspect the record of the voter's selections independently only if reasonably practicable commercial methods permitting independent inspection are available at the time of certification of the voting equipment by the lieutenant governor;

(C) shall include, at a minimum, human readable printing that shows a record of the voter's selections;

(D) may also include machine readable printing which may be the same as the human readable printing; and

(E) allows a watcher to observe the election process to ensure the integrity of the election process; and

(xiv) meet the requirements of Section 20A-5-802.

(b) For the purposes of a recount or an election contest, if the permanent paper record contains a conflict or inconsistency between the human readable printing and the machine readable printing, the human readable printing shall supercede the machine readable printing when determining the intent of the voter.

(c) Notwithstanding any other provisions of this section, the election officers shall ensure that the ballots to be counted by means of electronic or electromechanical devices are of a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

**Section 82. Section 20A-5-401 is amended to read:**

**20A-5-401. Official register -- Preparation -- Contents.**

(1) (a) Before the registration days for each regular general, municipal general, regular primary, municipal primary, or presidential primary election, each county clerk shall prepare an official register of all voters [~~for each voting precinct~~] that will participate in the election.

(b) The county clerk shall ensure that the official register is prepared [~~for the alphabetical entry of names~~] and contains [~~entry fields to provide for~~] the following [~~information~~] for each registered voter:

(i) [~~registered voter's~~] name;

(ii) party affiliation;

(iii) an entry field for a voter challenge, including the name of the individual making the challenge and the grounds for the challenge;

[~~(iv) name of person challenging a voter;~~]

[~~(v) primary, November, special;~~]

(iv) election name and date;

[~~(vi)~~] (v) date of birth;

[~~(vii)~~] place of birth;

[~~(viii)~~] (vi) place of current residence;

[~~(ix)~~] (vii) street address of current residence;

[~~(x)~~] (viii) zip code;

[~~(xi)~~] (ix) identification and provisional ballot information as required under Subsection (1)(d); and

[~~(xii)~~] (x) space for the voter to sign [~~his~~] the voter's name for [~~each~~] the election.

(c) When preparing the official register for the presidential primary election, the county clerk shall include:

(i) an entry field to record the name of the political party whose ballot the voter voted; and

(ii) an entry field for the poll worker to record changes in the voter's party affiliation.

(d) When preparing the official register for any regular general election, municipal general election, statewide special election, local special election, regular primary election, municipal primary election, local district election, or election for federal office, the county clerk shall include:

(i) an entry field for the poll worker to record the type of identification provided by the voter;

(ii) a [~~column~~] space for the poll worker to record the provisional envelope ballot number for voters who receive a provisional ballot; and

(iii) a space for the poll worker to record the type of identification that was provided by voters who receive a provisional ballot.

(2) (a) (i) For regular and municipal elections, primary elections, regular municipal elections, local district elections, and bond elections, the county clerk shall make an official register only for voting precincts affected by the primary, municipal, local district, or bond election.

(ii) If a polling place to be used in a bond election serves both voters residing in the local political subdivision calling the bond election and voters residing outside of that local political subdivision, the official register shall designate whether each voter resides in or outside of the local political subdivision.

(iii) Each county clerk, with the assistance of the clerk of each affected local district, shall provide a detailed map or an indication on the registration list or other means to enable a poll worker to determine the voters entitled to vote at an election of local district officers.

(b) Municipalities shall pay the costs of making the official register for municipal elections.

**Section 83. Section 20A-5-403 is amended to read:**

**20A-5-403. Polling places -- Booths -- Ballot boxes -- Inspections -- Arrangements.**

(1) [~~Each~~] Except as provided in Section 20A-7-609.5, each election officer shall:

(a) designate polling places for each voting precinct in the jurisdiction; and

(b) obtain the approval of the county or municipal legislative body or local district governing board for those polling places.

(2) (a) For each polling place, the election officer shall provide:

(i) an American flag;

(ii) a sufficient number of voting booths or compartments;

(iii) the voting devices, voting booths, ballots, ballot boxes, [~~ballot labels, ballot sheets, write-in~~

ballots,] and any other records and supplies necessary to enable a voter to vote;

(iv) the constitutional amendment cards required by Part 1, Election Notices and Instructions;

(v) voter information pamphlets required by Chapter 7, Part 7, Voter Information Pamphlet;

(vi) the [instruction cards] instructions required by Section 20A-5-102; and

(vii) a sign, to be prominently displayed in the polling place, indicating that valid voter identification is required for every voter before the voter may vote and listing the forms of identification that constitute valid voter identification.

(b) Each election officer shall ensure that:

(i) each voting booth is at a convenient height for writing, and is arranged so that the voter can prepare the voter's ballot screened from observation;

(ii) there are a sufficient number of voting booths or voting devices to accommodate the voters at that polling place; and

(iii) there is at least one voting booth or voting device that is configured to accommodate persons with disabilities.

(c) Each county clerk shall provide a ballot box for each polling place that is large enough to properly receive and hold the ballots to be cast.

(3) (a) All polling places shall be physically inspected by each county clerk to ensure access by a person with a disability.

(b) Any issues concerning inaccessibility to polling places by a person with a disability discovered during the inspections referred to in Subsection (3)(a) or reported to the county clerk shall be:

(i) forwarded to the Office of the Lieutenant Governor; and

(ii) within six months of the time of the complaint, the issue of inaccessibility shall be either:

(A) remedied at the particular location by the county clerk;

(B) the county clerk shall designate an alternative accessible location for the particular precinct; or

(C) if no practical solution can be identified, file with the Office of the Lieutenant Governor a written explanation identifying the reasons compliance cannot reasonably be met.

(4) (a) The municipality in which the election is held shall pay the cost of conducting each municipal election, including the cost of printing and supplies.

(b) (i) Costs assessed by a county clerk to a municipality under this section may not exceed the actual costs incurred by the county clerk.

(ii) The actual costs shall include:

(A) costs of or rental fees associated with the use of election equipment and supplies; and

(B) reasonable and necessary administrative costs.

(5) The county clerk shall make detailed entries of all proceedings had under this chapter.

(6) (a) Each county clerk shall, to the extent possible, ensure that the amount of time that an individual waits in line before the individual can vote at a polling location in the county does not exceed 30 minutes.

(b) The lieutenant governor may require a county clerk to submit a line management plan before the next election if an individual waits in line at a polling location in the county longer than 30 minutes before the individual can vote.

(c) The lieutenant governor may consider extenuating circumstances in deciding whether to require the county clerk to submit a plan described in Subsection (6)(b).

(d) The lieutenant governor shall review each plan submitted under Subsection (6)(b) and consult with the county clerk submitting the plan to ensure, to the extent possible, that the amount of time an individual waits in line before the individual can vote at a polling location in the county does not exceed 30 minutes.

**Section 84. Section 20A-5-403.5 is enacted to read:**

**20A-5-403.5. Ballot drop boxes.**

(1) An election officer:

(a) may designate ballot drop boxes for the election officer's jurisdiction; and

(b) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 19 days before the date of the election, publish notice of the location of each ballot drop box designated under Subsection (1):

(a) (i) in one issue of a newspaper of general circulation in the jurisdiction holding the election;

(ii) if there is no newspaper of general circulation in the jurisdiction holding the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction; or

(iii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for 19 days before the day of the election;

(c) in accordance with Section 45-1-101, for 19 days before the date of the election; and

(d) on the jurisdiction's website for 19 days before the day of the election.



(3) Instead of publishing the location of ballot drop boxes under Subsection (2), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all ballot drop box locations:

- (a) the jurisdiction’s website;
- (b) the physical address of the jurisdiction’s offices; and
- (c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer’s website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

- (i) if necessary, change the location of a ballot drop box; or
- (ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

- (i) to the lieutenant governor, for posting on the Statewide Voter Information Website;
- (ii) by posting the information on the website of the election officer, if available; and
- (iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

**Section 85. Section 20A-5-404 is amended to read:**

**20A-5-404. Election forms -- Preparation and contents.**

(1) (a) For each election, the election officer shall prepare, for each ~~[voting precinct, a (i) ballot disposition form; (ii) total votes cast form; (iii) tally sheet form; and (iv) pollbook.]~~ polling place:

- (i) forms for poll workers to record and verify security seals, ballots cast, and the number of voters who voted; and
- (ii) an official register or pollbook.
- (b) For each election, the election officer shall:

- (i) provide a copy of each form to each of those precincts using paper ballots; and
- (ii) provide a copy of the ballot disposition form and a pollbook to each of those voting precincts using an automated voting system.

(2) The election officer shall ensure that the [ballot disposition form contains] forms described in Subsection (1)(a)(i) include:

- (a) a space for the judges to identify:
  - ~~[(a)]~~ (i) the number of ballots voted;
  - ~~[(b)]~~ the number of substitute ballots voted, if any;
  - ~~[(c)]~~ the number of ballots delivered to the voters;
  - ~~[(d)]~~ the number of spoiled ballots;
  - ~~[(e)]~~ (ii) the number of registered voters listed in the official register or pollbook; and
  - ~~[(f)]~~ (iii) the total number of voters voting according to the official register or pollbook; and

(b) a certification, in substantially the following form:

“We, the undersigned, judges of an election held at \_\_\_\_\_ voting precinct, in \_\_\_\_\_ County, state of Utah, on \_\_\_\_\_ (month \ day \ year), having first been sworn according to law, certify that the information in this form is a true statement of the number and names of the individuals voting in the voting precinct at the election, and that the total number of individuals voting at the election was \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Judges of Election”.

~~[(g)]~~ the number of unused ballots.]

~~[(3)]~~ The election officer shall ensure that the total votes cast form contains:]

~~[(a)]~~ the name of each candidate appearing on the ballot, the office for which the candidate is running, and a blank space for the election judges to record the number of votes that the candidate received;

~~[(b)]~~ for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the name of each candidate appearing on the ballot, the office for which the candidate is running, and blank

spaces for the election judges to record the number of votes counted for each potential phase of the canvass;]

[~~(c) for each office, blank spaces for the election judges to record the names of write-in candidates, if any, and a blank space for the election judges to record the number of votes that the write-in candidate received;~~]

[~~(d) a heading identifying each ballot proposition and blank spaces for the election judges to record the number of votes for and against each proposition; and]~~

[~~(e) a certification, in substantially the following form, to be signed by the judges when they have completed the total votes cast form:]~~

[~~“TOTAL VOTES CAST~~

[~~At an election held at \_\_\_\_\_ in \_\_\_\_\_ voting precinct in \_\_\_\_\_ (name of entity holding the election) and \_\_\_\_\_ State of Utah, \_\_\_\_\_ on \_\_\_\_\_ (month \ day \ year), the following named persons received the number of votes annexed to their respective names for the following described offices: Total number of votes cast were as follows:]~~

[~~Certified by us \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Judges of Election.”]~~

[~~(4) The election officer shall ensure that the tally sheet form contains:]~~

[~~(a) for each office, the names of the candidates for that office, and blank spaces to tally the votes that each candidate receives;]~~

[~~(b) for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the name of each candidate for office and blank spaces to tally the number of valid votes counted for each candidate for each potential phase of the canvass;]~~

[~~(c) for each office, blank spaces for the election judges to record the names of write-in candidates, if any, and a blank space for the election judges to tally the votes for each write-in candidate;]~~

[~~(d) for each ballot proposition, a heading identifying the ballot proposition and the words “Yes” and “No” or “For” and “Against” on separate lines with blank spaces after each of them for the election judges to tally the ballot proposition votes; and]~~

[~~(e) a certification, in substantially the following form, to be signed by the judges when they have completed the tally sheet form:]~~

[~~“Tally Sheet~~

[~~We the undersigned election judges for voting precinct \_\_\_\_\_ # \_\_\_\_\_, \_\_\_\_\_ (entity holding the election) certify that this is a true and correct list of all persons voted for and ballot propositions voted on at the election held in that \_\_\_\_\_ voting precinct on \_\_\_\_\_ (date of election) and is a~~

~~tally of the votes cast for each of those persons. Certified by us \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Judges of Election.”]~~

[~~(5) (3) The election officer shall ensure that the official register or pollbook:~~

~~(a) identifies the voting precinct number on [its] the face of the official register or pollbook; and~~

~~(b) contains:~~

~~(i) a section to record [persons] individuals voting on election day[, with columns entitled “Ballot Number” and “Voter’s Name”]; and~~

~~(ii) another section in which to record absentee ballots;]~~

[~~(iii) (ii) a section in which to record voters who are challenged[; and].~~

[~~(iv) a certification, in substantially the following form:]~~

[~~“We, the undersigned, judges of an election held at \_\_\_\_\_ voting precinct, in \_\_\_\_\_ County, state of Utah, on \_\_\_\_\_ (month \ day \ year), having first been sworn according to law, certify that the information listed in this book is a true statement of the number and names of the persons voting in the voting precinct at the election, and that the total number of persons voting at the election was \_\_\_\_\_.”]~~

[~~\_\_\_\_\_~~

[~~\_\_\_\_\_~~

[~~\_\_\_\_\_~~

[~~Judges of Election]~~

**Section 86. Section 20A-5-405 is amended to read:**

**20A-5-405. Election officer to provide ballots.**

(1) [In jurisdictions using paper ballots, each] An election officer shall:

(a) provide [~~printed official paper~~] ballots [~~and absentee ballots~~] for every election of public officers in which the voters, or any of the voters, within the election officer’s jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be [~~printed on each official paper ballot and absentee~~] included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be [~~printed on each official paper ballot and absentee~~] included on each ballot;

(d) ensure that the [~~official paper~~] ballots are [~~printed~~] prepared and in the possession of the election officer before commencement of voting;

[~~(e) ensure that the absentee ballots are printed and in the possession of the election officer with sufficient time before commencement of voting;]~~

[~~(f) cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official paper ballot and absentee ballot;]~~

~~[(g)]~~ (e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ~~[official paper ballots and absentee]~~ ballots;

~~[(h)]~~ (f) cause sample ballots to be printed that are in the same form as official ~~[paper]~~ ballots and that contain the same information as official ~~[paper]~~ ballots but that are printed on different colored paper than official ~~[paper]~~ ballots or are identified by a watermark;

~~[(i)]~~ (g) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

~~[(j)]~~ (h) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor;

(iii) publishing a copy of the sample ballot:

(A) except as provided in Subsection ~~[(5)]~~ (2), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election;

(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;

(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and

(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;

~~[(k)]~~ (i) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

~~[(4)]~~ (j) print and deliver, at the expense of the jurisdiction conducting the election, enough ~~[official paper ballots, absentee]~~ ballots, sample ballots, and ~~[instruction cards]~~ instructions to meet the voting demands of the qualified voters in each voting precinct.

~~[(2)]~~ In jurisdictions using a punch card ballot, each election officer shall:

~~[(a)]~~ provide official ballot sheets, absentee ballot sheets, and printed official ballot labels for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

~~[(b)]~~ cause the name of every candidate who filed with the election officer in the manner provided by law or whose nomination has been certified to the election officer to be printed on each official ballot label;

~~[(c)]~~ cause each ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot label;

~~[(d)]~~ ensure that the official ballot labels are printed and in the possession of the election officer before the commencement of voting;

~~[(e)]~~ ensure that the absentee ballots are printed and in the possession of the election officer with sufficient time before commencement of voting;

~~[(f)]~~ cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot label and absentee ballot;

~~[(g)]~~ allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official sample ballot to inspect the official sample ballot;

~~[(h)]~~ cause sample ballots to be printed that contain the same information as official ballot labels but that are distinguishable from official ballot labels;

~~[(i)]~~ ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

~~[(j)]~~ make the sample ballots available for public inspection by:

~~[(i)]~~ posting a copy of the sample ballot in his office at least seven days before commencement of voting;

~~[(ii)]~~ mailing a copy of the sample ballot to:

~~[(A)]~~ each candidate listed on the ballot; and

~~[(B)]~~ the lieutenant governor;

~~[(iii)]~~ publishing a copy of the sample ballot;

~~[(A)]~~ except as provided in Subsection (5), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election;

~~[(B)]~~ if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

~~[(C)]~~ at least 10 days before the day of the election, by mailing a copy of the sample ballot to each

registered voter who resides in the jurisdiction holding the election;]

~~[(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;]~~

~~[(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and]~~

~~[(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;]~~

~~[(k) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and]~~

~~[(l) print and deliver official ballot sheets, official ballot labels, sample ballots, and instruction cards at the expense of the jurisdiction conducting the election.]~~

~~[(3) In jurisdictions using a ballot sheet other than a punch card, each election officer shall:]~~

~~[(a) provide official ballot sheets and absentee ballot sheets for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;]~~

~~[(b) cause the name of every candidate who filed with the election officer in the manner provided by law or whose nomination has been certified to or filed with the election officer to be printed on each official ballot and absentee ballot;]~~

~~[(c) cause each ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot and absentee ballot;]~~

~~[(d) ensure that the official ballots are printed and in the possession of the election officer before commencement of voting;]~~

~~[(e) ensure that the absentee ballots are printed and in the possession of the election officer with sufficient time before commencement of voting;]~~

~~[(f) cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot and absentee ballot;]~~

~~[(g) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official sample ballot to inspect the official sample ballot;]~~

~~[(h) cause sample ballots to be printed that contain the same information as official ballots but that are distinguishable from the official ballots;]~~

~~[(i) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;]~~

~~[(j) make the sample ballots available for public inspection by;]~~

~~[(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;]~~

~~[(ii) mailing a copy of the sample ballot to;]~~

~~[(A) each candidate listed on the ballot; and]~~

~~[(B) the lieutenant governor;]~~

~~[(iii) publishing a copy of the sample ballot;]~~

~~[(A) except as provided in Subsection (5), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election;]~~

~~[(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or]~~

~~[(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;]~~

~~[(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;]~~

~~[(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and]~~

~~[(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;]~~

~~[(k) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and]~~

~~[(l) print and deliver, at the expense of the jurisdiction conducting the election, enough official ballots, absentee ballots, sample ballots, and instruction cards to meet the voting demands of the qualified voters in each voting precinct.]~~

~~[(4) In jurisdictions using electronic ballots, each election officer shall:]~~

~~[(a) provide official ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;]~~

~~[(b) cause the name of every candidate who filed with the election officer in the manner provided by law or whose nomination has been certified to the election officer to be displayed on each official ballot;]~~

~~[(c) cause each ballot proposition that has qualified for the ballot as provided by law to be displayed on each official ballot;]~~

~~[(d) ensure that the official ballots are prepared and in the possession of the election officer before commencement of voting;]~~

~~[(c) ensure that the absentee ballots are prepared and in the possession of the election officer with sufficient time before commencement of voting;]~~

~~[(f) cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot and absentee ballot;]~~

~~[(g) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official sample ballot to inspect the official sample ballot;]~~

~~[(h) cause sample ballots to be printed that contain the same information as official ballots but that are distinguishable from official ballots;]~~

~~[(i) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;]~~

~~[(j) make the sample ballots available for public inspection by:]~~

~~[(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;]~~

~~[(ii) mailing a copy of the sample ballot to:]~~

~~[(A) each candidate listed on the ballot; and]~~

~~[(B) the lieutenant governor;]~~

~~[(iii) publishing a copy of the sample ballot immediately before the election;]~~

~~[(A) except as provided in Subsection (5), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election;]~~

~~[(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or]~~

~~[(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;]~~

~~[(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;]~~

~~[(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and]~~

~~[(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;]~~

~~[(k) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and]~~

~~[(4) prepare and deliver official ballots, sample ballots, and instruction cards at the expense of the jurisdiction conducting the election.]~~

~~[(5) (2) Instead of publishing the entire sample ballot under Subsection [(1)(j)(iii)(A), (2)(j)(iii)(A), (3)(j)(iii)(A), or (4)(j)(iii)(A);] (1)(h)(iii)(A), the election officer may publish a statement that:~~

~~(a) is entitled, "sample ballot";~~

~~(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and~~

~~(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:~~

~~(i) if the jurisdiction has a website, the jurisdiction's website;~~

~~(ii) the physical address of the jurisdiction's offices; and~~

~~(iii) a mailing address and telephone number.~~

~~[(6) (3) (a) Each election officer shall, without delay, correct any error discovered in any [official paper ballot, ballot label, ballot sheet, electronic ballot, or sample] ballot, if the correction can be made without interfering with the timely distribution of the [paper ballots, ballot labels, ballot sheets, or electronic] ballots.~~

~~(b) (i) If the election officer discovers an error or omission in a [paper] manual ballot, [ballot label, or ballot sheet,] and it is not possible to correct the error or omission [by reprinting the paper ballots, ballot labels, or ballot sheets], the election officer shall direct the poll workers to make the necessary corrections on the [official paper] manual ballots[, ballot labels, or ballot sheets] before [they] the ballots are distributed [at the polls].~~

~~(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.~~

~~(c) (i) If the election officer refuses or fails to correct an error or omission in [the paper ballots, ballot labels, ballot sheets, or electronic ballots,] a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:~~

~~(A) an error or omission has occurred in:~~

~~(I) the publication of the name or description of a candidate;~~

~~(II) the preparation or display of an electronic ballot; or~~

~~(III) in the printing of sample or official [paper] manual ballots[, ballot labels, or ballot sheets]; and~~

~~(B) the election officer has failed to correct or provide for the correction of the error or omission.~~

(ii) The district court shall issue an order requiring correction of any error in a [paper ballot, ballot label, ballot sheet, or electronic] ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct [it or failed to provide for its correction] or provide for the correction of the error or omission.

(iii) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the [decision of] day on which the district court enters the decision.

**Section 87. Section 20A-5-406 is amended to read:**

**20A-5-406. Delivery of ballots.**

[1] ~~In elections using paper ballots or ballot sheets;]~~

[~~(a) Each~~] (1) An election officer shall deliver manual ballots to the poll workers of each voting precinct in [his] the election officer's jurisdiction in an amount sufficient to meet voting needs during the voting period.

[~~(b) The election officer shall;]~~

[~~(i) package and deliver the ballots to the election judges;]~~

[~~(ii) clearly mark the outside of the package with;]~~

[~~(A) the voting precinct and polling place for which it is intended; and]~~

[~~(B) the number of each type of ballots enclosed;]~~

[~~(iii) ensure that each package is delivered before commencement of voting to a poll worker in each precinct; and]~~

[~~(iv) obtain a receipt for the ballots from the poll worker to whom they were delivered that identifies the date and time when, and the manner in which, each ballot package was sent and delivered.]~~

[~~(c) The election officer shall prepare substitute ballots in the form required by this Subsection (1) if any poll worker reports that;]~~

[~~(i) the ballots were not delivered on time; or]~~

[~~(ii) after delivery, they were destroyed or stolen.]~~

[~~(d) The election officer shall;]~~

[~~(i) prepare the substitute ballots as nearly in the form prescribed for official ballots as practicable;]~~

[~~(ii) cause the word "substitute" to be printed in brackets;]~~

[~~(A) for a ballot prepared by an election officer other than a county clerk, immediately under the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or]~~

[~~(B) for a ballot prepared by a county clerk, immediately under the words required by Subsection 20A-6-301(1)(b)(iii);]~~

[~~(iii) place the ballots in two separate packages, each package containing 1/2 the ballots sent to that voting precinct; and]~~

[~~(iv) place a signed statement in each package certifying that the substitute ballots found in the package were prepared and furnished by the election officer, and that the original ballots were not received, were destroyed, or were stolen.]~~

(2) [In elections using electronic] For mechanical ballots[; ~~(a) Each~~], an election officer shall:

[~~(i)~~] (a) deliver the voting devices and [electronic] mechanical ballots [prior to the commencement of] before voting commences at the polling place;

[~~(ii)~~] (b) ensure that the voting devices, equipment, and [electronic] mechanical ballots are properly secured before commencement of voting; [and]

[~~(iii)~~] (c) when [electronic] mechanical ballots or voting devices containing [electronic] mechanical ballots are delivered to a [poll worker, obtain a receipt from the poll worker to whom they were delivered that identifies: (A) the name of the poll worker receiving delivery; and (B) the date and time when the ballots or voting devices containing the electronic ballots were delivered. (b) The election officer shall] polling location, ensure that security procedures, developed by the election officer, are followed to document chain of custody and to prevent unauthorized access; and

(d) repair or provide substitute voting devices, equipment, or electronic ballots, if available, if any poll worker reports that:

(i) the voting devices or equipment were not delivered on time;

(ii) the voting devices or equipment do not contain the appropriate electronic ballot information;

(iii) the safety devices on the voting devices, equipment, or electronic ballots appear to have been tampered with;

(iv) the voting devices or equipment do not appear to be functioning properly; or

(v) after delivery, the voting devices, equipment, or electronic ballots were destroyed or stolen.

[~~(c) If the election officer is unable to prepare and provide substitute voting devices, equipment, or electronic ballots, the election officer may elect to provide paper ballots or ballot sheets according to the requirements of Subsection (1).]~~

**Section 88. Section 20A-5-407 is amended to read:**

**20A-5-407. Election officer to provide ballot boxes.**

(1) Except as provided in Subsection (3), [each] an election officer shall:

(a) provide one ballot box with a lock and key for each polling place; and

(b) deliver the ballot boxes, locks, and keys to the polling place [or the election judges of each voting

~~precinct no later than noon on the day before the election] before the polls open.~~

(2) ~~[Election officers for municipalities and local districts] An election officer for a municipality or local district may obtain ballot boxes from the county clerk's office.~~

(3) If locks and keys are unavailable, the election officer shall ensure that the ballot box lid ~~[shall be]~~ is secured by tape.

**Section 89. Section 20A-5-408 is amended to read:**

**20A-5-408. Disposition of election returns.**

(1) Each election officer shall produce the packages containing the election returns before the board of canvassers.

(2) As soon as the returns are canvassed, the election officer shall file the ~~[pollbook, lists,]~~ election returns and papers produced before the board as required by Section 20A-4-202.

**Section 90. Section 20A-5-410, which is renumbered from Section 20A-3-304.1 is renumbered and amended to read:**

**[20A-3-304.1]. 20A-5-410. Election officer to provide voting history information and status.**

(1) As used in this section~~:-~~ (a) ~~“Qualified absentee ballot application” means an absentee ballot application filed under Section 20A-3-304 from a voter who the election officer determines is eligible to receive an absentee ballot.~~ (b) ~~“Voting,” “voting history record” means the information about the existence and status of absentee ballot requests required by this section.~~

(2) (a) Each election officer shall maintain, in the election officer's office, a voting history record of those voters ~~[that have cast a vote by:]~~ registered to vote in the election officer's jurisdiction.

~~[(i) absentee ballot; and]~~

~~[(ii) early voting.]~~

(b) ~~[The]~~ Except as it relates to a voter whose voter registration record is classified as private under Subsection 63G-2-302(1)(k), the voting history record is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

(3) The election officer shall ensure that the voting history record for each voting precinct contains:

(a) for ~~[absentee]~~ voting by mail:

~~[(i) the name and address of each person who has filed a qualified absentee ballot application;]~~

~~[(ii) the date that the application was received; and]~~

~~[(iii) the current status of each qualified absentee ballot application including specifically:]~~

~~[(A)]~~ (i) the date that the ~~[absentee]~~ manual ballot was mailed to the voter; and

~~[(B)]~~ (ii) the date that the voted ~~[absentee]~~ manual ballot was received by the election officer; ~~[and]~~

(b) for early voting:

(i) the name and address of each ~~[person who has voted during the early voting period]~~ individual who participated in early voting; and

(ii) the date the ~~[person's vote was cast.]~~ individual voted; and

(c) for voting on election day, the name and address of each individual who voted on election day.

(4) (a) Notwithstanding the time limits for response to a request for records under Section 63G-2-204 or the time limits for a request for records established in any ordinance, the election officer shall ensure that the information required by this section is recorded and made available to the public no later than one business day after its receipt in the election officer's office.

(b) Notwithstanding the fee requirements of Section 63G-2-203 or the fee requirements established in any ordinance, the election officer shall make copies of the voting history record available to the public for the actual cost of production or copying.

**Section 91. Section 20A-5-601 is amended to read:**

**20A-5-601. Appointment of poll workers in elections where candidates are distinguished by registered political parties.**

(1) (a) ~~[By]~~ This section governs appointment of poll workers in elections where candidates are distinguished by registered political parties.

(b) On or before March 1 of each even-numbered year, [each county clerk] an election officer shall provide to the county chair of each registered political party a list of the number of poll workers that the party must nominate for each [voting precinct] polling place.

~~[(b) (i)]~~ (c) ~~[By]~~ On or before April 1 of each even-numbered year, the county chair and secretary of each registered political party shall file a list with the [county clerk containing, for each voting precinct,] election officer containing the names of individuals in the county who are willing to serve as poll workers, who are qualified to serve as poll workers in accordance with this section, and who are competent and trustworthy.

~~[(ii)]~~ (d) The county chair and secretary shall submit~~[,] for each voting precinct,~~ names equal in number to the number required by the ~~[county clerk]~~ election officer, plus one.

(2) Each ~~[county legislative body]~~ election officer shall provide for the appointment of individuals to serve as poll workers at ~~[the regular primary~~

election, the regular general election, the presidential primary election, and a statewide or countywide special] each election.

(3) (a) For [regular general elections and statewide or countywide special elections] each election, each [county legislative body] election officer shall provide for the appointment of [~~(a) (i)~~] at least three registered voters, or one individual who is 16 or 17 years of age and two registered voters, one of whom is at least 21 years of age, from the list to serve as poll workers [receiving judges for each voting precinct when ballots will be counted after the polls close; or].

(b) An election officer may appoint additional poll workers, as needed.

[(ii) three registered voters, or one individual who is 16 or 17 years of age and two registered voters, one of whom is at least 21 years of age, from the list to serve as receiving judges in each voting precinct and three registered voters from the list to serve as counting judges in each voting precinct when ballots will be counted throughout election day; and]

[(b) three registered voters from the list for each 100 absentee ballots to be counted to serve as canvassing judges.]

[(4) For each precinct in which ballots are counted after the polls close in a regular primary election or presidential primary election, each county legislative body shall provide for the appointment of two or three individuals from the list to serve as receiving judges:]

[(a) each of whom is a registered voter; or]

[(b) (i) the first of whom is a registered voter and is at least 21 years of age;]

[(ii) the second of whom is 16 or 17 years of age; and]

[(iii) if three individuals are appointed, the third of whom is a registered voter.]

[(5) For each precinct in which ballots are counted throughout election day in a regular primary election or presidential primary election, each county legislative body shall provide for the appointment of:]

[(a) two or three individuals from the list to serve as receiving judges:]

[(i) each of whom is a registered voter; or]

[(ii) (A) the first of whom is a registered voter and is at least 21 years of age;]

[(B) the second of whom is 16 or 17 years of age; and]

[(C) if three individuals are appointed, the third of whom is a registered voter; and]

[(b) two or three individuals from the list to serve as counting judges:]

[(i) each of whom is a registered voter; or]

[(ii) (A) one of whom is 17 years of age and will be 18 years of age by the date of the next regular general election; and]

[(B) each of the rest of whom is a registered voter; and]

[(c) two or three registered voters, or one or two registered voters and one individual 17 years of age who will be 18 years of age by the date of the next regular general election, from the list for each 100 absentee ballots to be counted to serve as canvassing judges.]

[(6) Each county legislative body may provide for the appointment of:]

[(a) three registered voters from the list to serve as inspecting judges at the regular general election, or a statewide or countywide special election, to observe the clerk's receipt and deposit of the ballots for safekeeping; and]

[(b) two or three registered voters, or one or two registered voters and one individual 17 years of age who will be 18 years of age by the date of the next regular general election, from the list to serve as inspecting judges at the regular primary election to observe the clerk's receipt and deposit of the ballots for safekeeping.]

[(7) (a) (4) For each set of three [counting or receiving judges to be appointed for each voting precinct for the regular primary election, the regular general election, the presidential primary election, or a statewide or countywide special] poll workers appointed for a polling place for an election, the [county legislative body] election officer shall ensure that:

[(i) (a) two [judges] poll workers are appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the [voting precinct] jurisdiction holding the election at the last regular general election before the appointment of the [election judges] poll workers; and

[(ii) (b) one [judge] poll worker is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the [voting precinct] county, city, or local district, as applicable, at the last regular general election before the appointment of the [election judges] poll workers.

[(b) For each set of two counting or receiving judges to be appointed for each voting precinct for the regular primary election and the presidential primary election, the county legislative body shall ensure that:]

[(i) one judge is appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the



~~last regular general election before the appointment of the election judges; and]~~

~~[(ii) one judge is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for opposing candidates, in the voting precinct at the last regular general election before the appointment of the election judges.]~~

~~[(8) When the voting precinct boundaries have been changed since the last regular general election, the county legislative body shall ensure that:]~~

~~[(a) for the regular primary election and the presidential primary election, when the county legislative body is using three receiving, counting, and canvassing judges, and regular general election, not more than two of the judges are selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment; and]~~

~~[(b) for the regular primary election and the presidential primary election, when the county legislative body is using two receiving, counting, and canvassing judges, not more than one of the judges is selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment.]~~

~~[(9)] (5) The [county legislative body] election officer shall provide for the appointment of any qualified county voter as [an election judge] a poll worker when:~~

~~(a) a political party fails to file the poll worker list by the filing deadline; or~~

~~(b) the list is incomplete.~~

~~[(10)] (6) A registered voter of the county may serve as a poll worker [in any voting precinct of] at any polling location in the county, municipality, or district, as applicable.~~

~~[(11)] (7) [A county legislative body] An election officer may not appoint a candidate's parent, sibling, spouse, child, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker in a [precinct] polling place where the candidate appears on the ballot.~~

~~[(12) If an individual serves as a poll worker outside the voting precinct where the individual is registered, that individual may vote an absentee voter ballot.]~~

~~[(13)] (8) The [county clerk] election officer shall fill all poll worker vacancies.~~

~~[(14)] (9) If a conflict arises over the right to certify the poll worker lists for any political party, the [county legislative body] election officer may decide between conflicting lists, but may only select names from a properly submitted list.~~

~~[(15)] (10) The [county legislative body] clerk shall establish compensation for poll workers.~~

~~[(16)] (11) The [county clerk] election officer may appoint additional poll workers to serve in the polling place as needed.~~

**Section 92. Section 20A-5-602 is amended to read:**

**20A-5-602. Appointment of poll workers in elections where candidates are not distinguished by registered political parties.**

~~(1) (a) This section governs appointment of poll workers in elections where candidates are not distinguished by registered political parties.~~

~~[(1)] (b) [A county legislative body, a municipal legislative body, or a local district board appointing, or providing for the appointment of, a poll worker for a local election under this section] An election officer shall appoint the poll worker at least 15 days before the date of the local election.~~

~~(2) (a) [For each precinct that uses a paper ballot, and where the ballots are counted after the polls close, the county legislative body, the municipal legislative body, or the local district board] The election officer shall appoint, or provide for the appointment of, [three individuals who reside within the county to serve as poll workers] at least three poll workers as follows:~~

~~(i) three registered voters; or~~

~~(ii) two registered voters, one of whom is at least 21 years old, and one individual who is 16 or 17 years old.~~

~~(b) The election officer may appoint additional poll workers to serve in the polling place as needed.~~

~~[(a) each of whom is a registered voter; or]~~

~~[(b) (i) the first of whom is a registered voter;]~~

~~[(ii) the second of whom is a registered voter and is at least 21 years of age; and]~~

~~[(iii) the third of whom is 16 or 17 years of age.]~~

~~[(3) For each precinct that uses a paper ballot, and where the ballots are counted throughout the day, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of:]~~

~~[(a) three individuals who reside within the county to serve as receiving judges:]~~

~~(i) each of whom is a registered voter; or]~~

~~[(ii) (A) the first of whom is a registered voter;]~~

~~[(B) the second of whom is a registered voter and is at least 21 years of age; and]~~

~~[(C) the third of whom is 16 or 17 years of age; and]~~

~~[(b) three individuals who reside within the county to serve as counting judges;]~~

~~[(i) each of whom is a registered voter; or]~~

~~[(ii) (A) one of whom is 17 years of age and will be 18 years of age by the date of the next local election; and]~~

~~[(B) each of the rest of whom is a registered voter.]~~

~~[(4) For each precinct using automated tabulating equipment, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of, three individuals who reside within the county to serve as poll workers:]~~

~~[(a) each of whom is a registered voter; or]~~

~~[(b) (i) the first of whom is a registered voter;]~~

~~[(ii) the second of whom is a registered voter and is at least 21 years of age; and]~~

~~[(iii) the third of whom is 16 or 17 years of age.]~~

~~[(5) For each precinct using voting machines, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of, four individuals who reside within the county to serve as poll workers:]~~

~~[(a) each of whom is a registered voter; or]~~

~~[(b) (i) the first of whom is a registered voter and is at least 21 years of age;]~~

~~[(ii) the second of whom is 16 or 17 years of age; and]~~

~~[(iii) each of the rest of whom is a registered voter.]~~

~~[(6) In all jurisdictions, the county legislative body, the municipal legislative body, or the local district board shall appoint, or provide for the appointment of:]~~

~~[(a) at least one registered voter who resides within the county to serve as canvassing judge, if necessary; and]~~

~~[(b) as many alternate poll workers as needed to replace appointed poll workers who are unable to serve.]~~

~~[(7) (3) The [county legislative body, the municipal legislative body, and the local district board] election officer may not appoint any candidate's parent, sibling, spouse, child, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker [in a precinct] at a polling place where the candidate appears on the ballot.~~

~~[(8) The clerk shall:]~~

~~[(a) prepare and file a list containing the name, address, voting precinct, and telephone number of each individual appointed; and]~~

~~[(b) make the list available in the clerk's office for inspection, examination, and copying during business hours.]~~

~~[(9) (4) (a) The [county legislative body, the municipal legislative body, and the local district board] clerk shall compensate poll workers for their services.~~

~~(b) The [municipal legislative body and local district board] clerk of a municipality or local district may not compensate [their] poll workers at a rate higher than that paid by the county to [its] the county's poll workers.~~

**Section 93. Section 20A-5-603 is amended to read:**

**20A-5-603. Vacancies -- Removal of poll workers.**

(1) (a) If a poll worker or alternate is unable to serve, that poll worker or alternate shall immediately notify the election officer, who shall fill the vacancy as provided in this section.

(b) The election officer may fill a vacancy occurring under this section by appointing the alternate to serve or, if that is impossible, by appointing some other qualified person to fill the vacancy.

(2) The election officer shall summarily remove any poll worker who:

(a) neglects [his] the poll worker's duty;

(b) commits or encourages fraud in connection with any election;

(c) violates any election law;

(d) knowingly permits any person to violate any election law;

(e) has been convicted of a felony;

(f) commits any act that interferes or tends to interfere with a fair and honest election; or

(g) is incapable of performing the duties of a poll worker.

**Section 94. Section 20A-5-605 is amended to read:**

**20A-5-605. Duties of poll workers.**

(1) Poll workers shall:

(a) arrive at the polling place at a time determined by the election officer; and

(b) remain until the official election returns are prepared for delivery.

(2) The election officer may designate [:] the title and duties of each poll worker.

~~[(a) certain poll workers to act as election judges;]~~

~~[(b) an election judge to act as the presiding election judge; and]~~

~~[(c) certain poll workers to act as clerks.]~~

(3) Upon [their arrival] arriving to open the polls, the poll workers shall:

~~[(a) if the election officer has not designated which poll workers at a polling place are assigned to act as election judges, as presiding election judge, or as clerks;]~~

~~[(i) designate two poll workers to act as election judges as necessary;]~~

~~[(ii) determine which election judge shall preside as necessary; and]~~

~~[(iii) determine which poll workers shall act as clerks as necessary;]~~

~~[(b) select two or more of their number to deliver the election returns to the election officer or to the place that the election officer designates;]~~

~~[(e)] (a) display the United States flag;~~

~~[(d)] (b) examine the voting devices to see that they are in proper working order and that security devices have not been tampered with;~~

~~[(e)] (c) place the voting devices, voting booths, and the ballot box in plain view of those poll workers and watchers that are present;~~

~~[(f) for paper ballots and ballot sheets, open the ballot packages in the presence of all the poll workers;]~~

~~[(g)] (d) check the ballots, supplies, records, and forms;~~

~~[(h)] (e) if directed ~~[to do so]~~ by the election officer:~~

~~(i) make any necessary corrections to the official ballots before ~~[they]~~ the ballots are distributed at the polls; and~~

~~(ii) post any necessary notice of errors in ~~[electronic]~~ ballots before voting commences;~~

~~[(i)] (iii) post the sample ballots, instructions to voters, and constitutional amendments, if any; ~~[and]~~~~

~~[(j)] (f) open the ballot box in the presence of those assembled, turn ~~[it]~~ the ballot box upside down to empty ~~[it]~~ the ballot box of anything~~[, and then,];~~ and~~

~~(g) immediately before the polls open, lock ~~[it,]~~ the ballot box or, if locks and keys are not available, tape ~~[it]~~ the ballot box securely.~~

~~(4) (a) If any poll worker fails to appear on the morning of the election, or fails or refuses to act:~~

~~(i) at least six qualified electors ~~[from the voting precinct]~~ who are present at the polling place at the hour designated by law for the opening of the polls shall fill the vacancy by appointing another qualified ~~[person]~~ individual from the voting precinct who is a member of the same political party as the poll worker who is being replaced to act as a poll worker; or~~

~~(ii) the election officer shall appoint a qualified ~~[person]~~ individual to act as a poll worker.~~

(b) If a majority of the poll workers are present, ~~[they]~~ the poll workers shall open the polls, even though a poll worker has not arrived.

(5) (a) If it is impossible or inconvenient to hold an election at the polling place designated, the poll workers, after having assembled at or as near as practicable to the designated place, and before receiving any vote, may move to the nearest convenient place for holding the election.

(b) If the poll workers move to a new polling place, ~~[they]~~ the poll workers shall display a proclamation of the change and station a peace officer or some other proper ~~[person]~~ individual at the original polling place to notify voters of the location of the new polling place.

~~[(6) If the poll workers who receive delivery of the ballots produce packages of substitute ballots accompanied by a written and sworn statement of the election officer that the ballots are substitute ballots because the original ballots were not received, were destroyed, or were stolen, the poll workers shall use those substitute ballots as the official election ballots.]~~

~~[(7)] (6) If, for any reason, ~~[none of]~~ the official ~~[or substitute]~~ ballots are not ready for distribution at a polling place or, if the supply of ballots is exhausted before the polls are closed, the poll workers may use unofficial ballots, made as nearly as possible in the form of the official ballot, until ~~[substitutes prepared by the election officer are printed and delivered]~~ the election officer provides additional ballots.~~

~~[(8)] (7) When it is time to open the polls, one of the poll workers shall announce that the polls are open as required by Section 20A-1-302, or in the case of early voting, Section ~~[20A-3-602]~~ 20A-3a-602.~~

~~[(9)] (8) (a) The poll workers shall comply with the voting procedures and requirements of Chapter 3, Voting, in allowing people to vote.~~

(b) The poll workers may not allow ~~[any person]~~ an individual, other than election officials and those admitted to vote, within six feet of voting devices, voting booths, ~~[and]~~ or the ballot box.

(c) Besides the poll workers and watchers, the poll workers may not allow more than four voters in excess of the number of voting booths provided within six feet of voting devices, voting booths, ~~[and]~~ or the ballot box.

(d) If necessary, the poll workers shall instruct each voter ~~[about]~~ permitted to use a voting device how to operate the voting device before the voter enters the voting booth.

(e) (i) If the voter requests additional instructions after entering the voting booth, two poll workers may, if necessary, enter the booth and give the voter additional instructions.

(ii) In regular general elections and regular primary elections, the two poll workers who enter the voting booth to assist the voter shall be of different political parties.

**Section 95. Section 20A-5-801 is amended to read:**

**20A-5-801. Definitions.**

As used in this part:

(1) "New voting equipment system" means voting equipment that is operated in a materially different way or that functions in a materially different way than the equipment being replaced.

(2) "Voting equipment" means the following equipment used for an election:

(a) automatic tabulating equipment;

~~[(b) an electronic voting system;]~~

~~[(e)]~~ (b) a voting device; or

~~[(d)]~~ (c) a voting machine.

**Section 96. Section 20A-5-804 is amended to read:**

**20A-5-804. Voting Equipment Grant Program -- Qualifications for receipt -- Matching funds -- Acceptable uses.**

(1) As used in this section:

(a) "Program" means the Voting Equipment Grant Program created in this section.

(b) "Proportional reimbursement rate" means the dollar amount equal to the product of:

(i) the total amount of funds appropriated by the Legislature to the program; and

(ii) the quotient of:

(A) the total number of active voters in a county; and

(B) the total number of registered voters in the state.

(2) (a) There is created the Voting Equipment Grant Program as a grant program to assist counties in purchasing new voting equipment systems.

(b) The lieutenant governor shall administer the program using funds appropriated by the Legislature for the purpose of administering the program.

(3) (a) After January 1, 2018, a county may submit a proposal to the Office of the Lieutenant Governor to participate in and receive funds from the program.

(b) A proposal described in Subsection (3)(a) shall:

(i) describe the current condition of the voting equipment used by the county;

(ii) describe the county's need for a new voting equipment system;

(iii) describe how the county plans to comply with the requirements described in Subsection (4), including:

(A) a description of how the county plans to provide the matching funds described in Subsection (4)(b) if the proposal is accepted; and

(B) a schedule by which the requirements will be met; and

(iv) contain a detailed estimate of the gross cost of procuring a new voting equipment system.

(4) A county that receives funds through a program grant:

(a) shall use the funds to purchase a new voting equipment system that:

(i) meets the requirements of Section 20A-5-802;

(ii) creates a secure and auditable paper record of each vote; and

(iii) complies with any additional binding requirement made under Subsection 20A-5-803(8) by the Voting Equipment Selection Committee;

(b) shall, for the purpose of purchasing a new voting equipment system, appropriate matching funds equal to or greater than the difference of:

(i) the amount described in Subsection (3)(b)(iv) in the proposal that the lieutenant governor accepts under Subsection (6)(b); and

(ii) the amount the lieutenant governor is required to disburse to the county under Subsection (7)(a);

(c) may not use funds disbursed under Subsection (6)(b)(i)(D) or appropriated under Subsection (4)(b) for a purpose or in a manner that is not authorized by this section;

(d) except as provided in Subsection (5), may not, after using a new voting equipment system in an election that was purchased under this section, use voting equipment that does not meet the requirements described in Subsection (4)(a); and

(e) shall purchase a new voting equipment system described under Subsection (4)(a) that provides the best value to the county with consideration for the new voting equipment system's:

(i) cost of maintenance;

(ii) estimated operational lifetime; and

(iii) cost of replacement.

(5) A county that receives funds through the program may use voting equipment that does not comply with the requirements described in Subsection (4)(a)(ii) or (iii):

(a) to the extent that using the voting equipment is necessary to accommodate a person with a disability in accordance with the requirements described in Subsection ~~[20A-3-302(6)(b),~~ ~~20A-3-603(1)(e)]~~ ~~20A-3a-202(8)(b),~~ ~~20A-3a-603(1)(c),~~ ~~20A-5-303(8),~~ or ~~20A-5-403(2)(b)(iii);~~ or

(b) if the county purchased the voting equipment before receiving grant funds under Subsection (7)(a).

(6) Upon receipt of a proposal described in Subsection (3), the lieutenant governor shall:

(a) review the proposal to ensure that:

(i) the proposal complies with the requirements described in Subsection (3); and

(ii) the cost estimate described in Subsection (3)(b)(iv) appears to be reasonable; and

(b) (i) if the proposal complies with the requirements described in Subsection (3), the cost estimate appears to be reasonably accurate, and sufficient program funds are available:

(A) accept the proposal;

(B) notify the county clerk of the county that submitted the proposal that the proposal is accepted;

(C) notify the county clerk of the requirements described in Subsection (7); and

(D) disburse the funds described in Subsection (7)(a), in accordance with the requirements described in Subsection (7)(b), to the county that submitted the proposal; or

(ii) if the proposal does not comply with the requirements described in Subsection (3), the cost estimate does not appear to be reasonable, or sufficient program funds are not available:

(A) reject the proposal; and

(B) notify the county clerk of the county that submitted the proposal that the proposal is rejected, indicating the reason that the proposal is rejected.

(7) The lieutenant governor:

(a) shall disburse funds under Subsection (6)(b)(i)(D) equal to the lesser of:

(i) 50% of the amount described in Subsection (3)(b)(iv) in the proposal that the lieutenant governor accepts under Subsection (6)(b); or

(ii) the proportional reimbursement rate; and

(b) may not disburse funds under Subsection (6)(b)(i)(D):

(i) until the county appropriates the matching funds described in Subsection (4)(b); or

(ii) if the disbursement would cause the county's total receipt of funds from the program to exceed the proportional reimbursement rate.

**Section 97. Section 20A-6-101 is amended to read:**

**20A-6-101. General requirements for manual ballots.**

(1) ~~[Each]~~ An election officer shall ensure that ~~[paper]~~ manual ballots:

(a) are printed using precisely the same quality and tint of plain white paper through which the printing or writing cannot be seen;

(b) are printed using precisely the same quality and kind of type;

(c) are printed using precisely the same quality and tint of plain black ink;

(d) are uniform in size for all the voting precincts within the election officer's jurisdiction; and

(e) include, on a ticket for a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601, a space for a write-in candidate immediately following the last candidate listed on that ticket.

(2) Whenever the vote for candidates is to be limited to the voters of a particular political division, the election officer shall ensure that the names of those candidates are printed only upon those ballots provided to that political division.

**Section 98. Section 20A-6-102 is amended to read:**

**20A-6-102. General requirements for machine counted ballots.**

(1) ~~[Each]~~ An election officer shall ensure that ballots ~~[and ballot labels]~~ are printed:

(a) to a size and arrangement that fits the construction of the ~~[voting]~~ ballot counting device; and

(b) in plain, clear type in black ink on clear white stock; or

(c) in plain, clear type in black ink on stock of different colors if it is necessary to:

(i) identify different ballots or parts of the ballot; or

(ii) differentiate between political parties.

~~[(2) Each election officer shall ensure that ballot sheets are of a size, design, and stock suitable for processing by automatic data processing machines.]~~

~~[(3)]~~ (2) For a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601, the election officer shall include a space on the ticket for a write-in candidate immediately following the last candidate listed on that ticket.

~~[(4)]~~ (3) Notwithstanding any other provisions of this section, the election officer may authorize any ballots that are to be counted by means of electronic or electromechanical devices to be printed to a size, layout, texture, and in any type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

**Section 99. Section 20A-6-105 is amended to read:**

**20A-6-105. Provisional ballot envelopes.**

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

“AFFIRMATION

Are you a citizen of the United States of America?  
Yes No

Will you be 18 years old on or before election day?  
Yes No

If you checked “no” in response to either of the two above questions, do not complete this form.

Name of Voter  
\_\_\_\_\_  
First Middle Last

Driver License or Identification Card Number  
\_\_\_\_\_

State of Issuance of Driver License or Identification Card Number \_\_\_\_\_

Date of Birth \_\_\_\_\_

Street Address of Principal Place of Residence  
\_\_\_\_\_

City County State Zip Code

Telephone Number (optional) \_\_\_\_\_

Last four digits of Social Security Number  
\_\_\_\_\_

Last former address at which I was registered to vote (if known)  
\_\_\_\_\_

City County State Zip Code

Voting Precinct (if known)

I, (please print your full name) \_\_\_\_\_ do solemnly swear or affirm:

That I am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed \_\_\_\_\_

Dated \_\_\_\_\_

In accordance with Section [20A-3-506] 20A-3a-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine.”

“The portion of your voter registration form that lists your driver license or identification card number, social security number, and email address, and the day of your month of birth, is a private record. The portion of your voter registration form

that lists your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.”

“CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500.”

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

**Section 100. Section 20A-6-203 is amended to read:**

**20A-6-203. Ballots for regular primary elections.**

(1) The lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties, shall:

(a) develop [~~paper ballots, ballot labels, ballot sheets, and electronic~~] ballots to be used in Utah’s regular primary election;

(b) ensure that the [~~paper ballots, ballot labels, ballot sheets, and electronic~~] ballots comply generally, where applicable, with the requirements of Title 20A, Chapter 6, Part 1, General Requirements for All Ballots, and this section; and

(c) provide voting booths, election records and supplies, ballot boxes, and as applicable, voting devices, for each voting precinct as required by Section 20A-5-403.

(2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), Title 20A, Chapter 6, Part 1, General Requirements for All Ballots, and

Sections 20A-5-403, 20A-6-401, and 20A-6-401.1, the lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties shall ensure that the [~~paper ballots, ballot labels, ballot sheets, electronic~~] ballots, [~~and~~] voting booths, election records and supplies, and ballot boxes:

(i) facilitate the distribution, voting, and tallying of ballots in a primary where not all voters are authorized to vote for a party's candidate;

(ii) simplify the task of poll workers, particularly in determining a voter's party affiliation;

(iii) minimize the possibility of spoiled ballots due to voter confusion; and

(iv) protect against fraud.

(b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties shall:

(i) mark [~~pre-punch, or otherwise identify~~] ballots [~~and ballot sheets~~] as being for a particular registered political party; and

(ii) instruct [~~persons~~] individuals counting the ballots to count only those votes for candidates from the registered political party whose ballot the voter received.

**Section 101. Section 20A-6-301 is amended to read:**

**20A-6-301. Manual ballots -- Regular general election.**

(1) Each election officer shall ensure that:

(a) all [~~paper~~] manual ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5).

(b) [~~immediately below the perforated ballot stub~~] at the top of the ballot, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for \_\_\_ County, Utah";

(ii) the date of the election; and

(iii) the words "certified by the Clerk of \_\_\_\_\_ County" or, as applicable, the name of a combined office that includes the duties of a county clerk;

(c) the party name or title is printed in capital letters not less than one-fourth of an inch high;

(d) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed with the other candidates for the same office in accordance with Section 20A-6-305, without a party name or title, and with a mark referencing the following statement at the bottom of the ticket: "This candidate is not affiliated with, or does not qualify to be listed on the ballot as affiliated with, a political party.";

(e) each ticket containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(f) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(g) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart; and

(h) on a ticket for a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601:

(i) the ballot includes a space for a write-in candidate immediately following the last candidate listed on that ticket; or

(ii) for the offices of president and vice president and governor and lieutenant governor, the ballot includes two spaces for write-in candidates immediately following the last candidates on that ticket, one placed above the other, to enable the entry of two valid write-in candidates.

(2) [~~Each~~] An election officer shall ensure that:

(a) each [~~person~~] individual nominated by any registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other [~~person~~] individual, is placed on the ballot:

(i) under the registered political party's name, if any; or

(ii) under the title of the registered political party as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to \_\_\_\_\_ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to \_\_\_\_\_ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

**Section 102. Section 20A-6-302 is amended to read:**

**20A-6-302. Manual ballots -- Placement of candidates' names.**

(1) ~~[Each]~~ An election officer shall ensure, for ~~[paper]~~ manual ballots in regular general elections, that:

(a) each candidate is listed by party, if nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office; and

(c) the names of candidates are placed on the ballot in the order specified under Section 20A-6-305.

(2) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall

(name of candidate) be elected to the office of county attorney? Yes \_\_\_ No \_\_\_."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (2), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified ~~[person]~~ individual files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (2)(f), be placed on the ballot under Subsection (2)(a) has been elected on a ballot under Subsection (2)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (2)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before 5 p.m. no later than one day before that year's primary election that:

(i) requests the procedure set forth in Subsection (2)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

(3) (a) When there is only one candidate for district attorney at the regular general election in a prosecution district that has three or fewer registered voters of the district who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of district attorney? Yes \_\_\_ No \_\_\_."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of district attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for district attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of district attorney.



(e) If no qualified ~~[person]~~ individual files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before 5 p.m. no later than one day before that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

**Section 103. Section 20A-6-304 is amended to read:**

**20A-6-304. Regular general election -- Mechanical ballots.**

(1) Each election officer shall ensure that:

(a) the format and content of ~~[the electronic]~~ a mechanical ballot is arranged in approximately the same order as ~~[paper]~~ manual ballots;

(b) the titles of offices and the names of candidates are displayed in vertical columns or in a series of separate ~~[display screens]~~ displays;

(c) the ~~[electronic]~~ mechanical ballot is of sufficient length to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

(d) the office titles are displayed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

(e) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is displayed adjacent to the candidate's name; and

(f) if possible, all candidates for one office are grouped in one column or upon one display screen.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are displayed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are displayed in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are displayed under the title assigned to each bond proposition under Section 11-14-206.

**Section 104. Section 20A-6-401 is amended to read:**

**20A-6-401. Ballots for municipal primary elections.**

(1) Each election officer shall ensure that:

(a) the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for \_\_\_\_ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

(b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, ~~[place a cross (X) in the square]~~ mark the space following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(d) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to \_\_\_\_ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and

(g) the candidate groups are separated from each other by one light and one heavy line or rule.

(2) A municipal primary ballot may not contain any space for write-in votes.

**Section 105. Section 20A-6-401.1 is amended to read:**

**20A-6-401.1. Ballots for partisan municipal primary elections.**

~~[(1) If a municipality is using paper ballots, each]~~

(1) An election officer shall ensure that:

(a) all ~~[paper]~~ manual ballots furnished for use at the regular primary election:

(i) separate the candidates of one political party from those of the other political parties; and

(ii) contain no captions or other endorsements except as provided in this section;

(b) the names of all candidates from each party are listed on the same ballot in one or more columns under their party name and emblem;

(c) the political parties are printed on the ballot in the order specified under Section 20A-6-305;

(d) the following endorsements are printed in 18-point bold type:

(i) “Official Primary Ballot for \_\_\_\_ (name of municipality), Utah”;

(ii) the date of the election; and

(iii) a facsimile of the signature of the [municipal clerk or recorder and the words “municipal clerk” or “municipal recorder”] election officer and the election officer’s title in eight point type;

(e) after the facsimile signature, the political party emblem and the name of the political party are printed;

(f) after the party name and emblem, the ballot contains the following printed in not smaller than 10-point bold face, double leaded type: “Instructions to Voters: To vote for a candidate, [place a cross (X) in the square immediately adjacent to] mark the space following the name of the person for whom you wish to vote and in no other place. Do not vote for any candidate listed under more than one party or group designation.”, followed by two one-point parallel horizontal rules;

(g) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, “Vote for one” or “Vote for up to \_\_\_\_ (the number of candidates for which the voter may vote)” are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(h) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(i) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;

(j) the candidate groups are separated from each other by one light and one heavy line or rule; and

(k) the nonpartisan candidates are listed as follows:

(i) immediately below the listing of the party candidates, the word “NONPARTISAN” is printed in reverse type in an 18 point solid rule that extends the full width of the type copy of the party listing above; and

(ii) below “NONPARTISAN,” the office, the number of candidates to vote for, the candidate’s name, the voting square, and any other necessary information is printed in the same style and manner as for party candidates.

(2) ~~[(a) If a municipality is using ballot sheets or electronic]~~ For mechanical ballots, the election officer may require that:

~~[(i)]~~ (a) the ballot ~~[, or ballot label in the case of a punch card ballot,]~~ for a regular primary election consist of several groups of pages or display screens, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups used to list candidates for other nonpartisan offices;

~~[(ii)]~~ (b) the separate groups of pages or display screens are identified by color or other suitable means; and

~~[(iii)]~~ (c) the ballot ~~[or ballot label contain]~~ instructions that direct the voter how to vote the ballot.

~~[(b) If a municipality is using ballot sheets or electronic ballots, each election officer shall:]~~

~~[(i) for municipalities using punch card ballots, ensure that the ballot label provides a means for the voter to designate the political party in whose primary the voter is voting; and]~~

~~[(ii) determine the order for printing the names of the political parties on the ballot label in accordance with Section 20A-6-305.]~~

**Section 106. Section 20A-6-402 is amended to read:**

**20A-6-402. Ballots for municipal general elections.**

(1) Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, ~~[when using a paper ballot]~~ for a manual ballot at a municipal general ~~[elections, each]~~ election, an election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

(d) the names of the candidates are placed on the ballot in the order specified under Section 20A-6-305;

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter's vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

(g) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

~~[(2) Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using a punch card ballot at municipal general elections, each election officer shall ensure that:]~~

~~[(a) the following endorsements are printed in 18 point bold type:]~~

~~[(i) "Official Ballot for \_\_\_\_ (City, Town, or Metro Township), Utah";]~~

~~[(ii) the date of the election; and]~~

~~[(iii) a facsimile of the signature of the election officer and the election officer's title in eight-point type;]~~

~~[(b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;]~~

~~[(c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;]~~

~~[(d) after the rules, the designation of the office for which the candidates seek election is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to \_\_\_\_ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;]~~

~~[(e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;]~~

~~[(f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;]~~

~~[(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:]~~

~~[(i) a write-in space for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and]~~

~~[(ii) a square printed immediately adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and]~~

~~[(h) the candidate groups are separated from each other by one light and one heavy line or rule.]~~

~~[(3) Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using a ballot sheet other than a punch card ballot at municipal general elections, each election officer shall ensure that:]~~

~~[(a) the following endorsements are printed:]~~

~~[(i) "Official Ballot for \_\_\_\_ (City, Town, or Metro Township), Utah";]~~

~~[(ii) the date of the election; and]~~

~~[(iii) a facsimile of the signature of the election officer and the election officer's title;]~~

~~[(b) immediately below the election officer's title, a distinct border or line separates endorsements from the rest of the ballot;]~~

~~[(c) immediately below the border or line, an "Instructions to Voters" section is printed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;]~~

~~[(d) after the border or line, the designation of the office for which the candidates seek election is printed and the words, "Vote for one" or "Vote for up to \_\_\_\_ (the number of candidates for which the voter may vote)" are printed, followed by a line or border;]~~

~~[(e) after the line or border, the names of the candidates are printed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;]~~

~~[(f) an oval is printed adjacent to the names of the candidates;]~~

~~[(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:]~~

~~[(i) a write-in space or blank line for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and]~~

~~[(ii) an oval printed adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and]~~

~~[(h) the candidate groups are separated from each other by a line or border.]~~

~~[(4)] (2) Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using ~~[an electronic]~~ a mechanical ballot at municipal general elections, each election officer shall ensure that:~~

~~(a) the following endorsements are displayed on the first ~~[screen]~~ portion of the ballot:~~

~~(i) "Official Ballot for \_\_\_\_ (City, Town, or Metro Township), Utah";~~

~~(ii) the date of the election; and~~

~~(iii) a facsimile of the signature of the election officer and the election officer's title;~~

~~(b) immediately below the election officer's title, a distinct border or line separates the endorsements from the rest of the ballot;~~

~~(c) immediately below the border or line, an "Instructions to Voters" section is displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;~~

~~(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, "Vote for one" or "Vote for up to \_\_\_\_ (the number of candidates for which the voter may vote)" are displayed, followed by a line or border;~~

~~(e) after the line or border, the names of the candidates are displayed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;~~

~~(f) a voting square or position is located adjacent to the name of each candidate;~~

~~(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and~~

~~(h) the candidate groups are separated from each other by a line or border.~~

~~[(5)] (3) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate's name on the ballot.~~

**Section 107. Section 20A-7-607 is amended to read:**

**20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.**

(1) When each referendum packet is received from a county clerk, the local clerk shall check off from the local clerk's record the number of each referendum packet filed.

(2) Within two days after the day on which the local clerk receives each referendum packet from a county clerk, the local clerk shall:

(a) count the number of the names certified by the county clerks that appear on each verified signature sheet;

(b) if the total number of certified names from each verified signature sheet equals or exceeds the number of names required by Section 20A-7-601 and the requirements of this part are met, mark upon the front of the petition the word "sufficient";

(c) if the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by Section 20A-7-601 or a requirement of this part is not met, mark upon the front of the petition the word "insufficient"; and

(d) notify any one of the sponsors of the local clerk's finding.

(3) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the referendum petition in the presence of any sponsor.

(4) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to a court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If a court determines that the referendum petition is legally sufficient, the local clerk shall file ~~[(i)]~~ the petition, with a verified copy of the judgment attached to ~~[(i)]~~ the petition, as of the date on which it was originally offered for filing in the local clerk's office.

(c) If a court determines that any petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by ~~[absentee ballot]~~ mail, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

(6) (a) If a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or

exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for the next general election.

**Section 108. Section 20A-7-609.5 is amended to read:**

**20A-7-609.5. Election on referendum challenging local tax law conducted entirely by mail.**

(1) An election officer may administer an election on a referendum challenging a local tax law entirely by ~~[absentee ballot]~~ mail.

(2) For purposes of an election conducted under this section, the election officer shall:

(a) designate as the election day the day that is 30 days after the day on which the election officer complies with Subsection (2)(b); and

(b) within 30 days after the day on which the referendum described in Subsection (1) qualifies for the ballot, mail to each registered voter within the voting precincts to which the local tax law applies:

(i) ~~[an absentee]~~ a manual ballot;

(ii) a statement that there will be no polling place ~~[in the voting precinct]~~ for the election;

(iii) a statement specifying the election day described in Subsection (2)(a);

(iv) a business reply mail envelope;

(v) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(vi) a warning, on a separate page of colored paper in boldface print, indicating that if the voter fails to follow the instructions included with the ~~[absentee]~~ manual ballot, the voter will be unable to vote in that election because there will be no polling place ~~[in the voting precinct on the day of]~~ for the election; and

(vii) (A) a copy of the proposition information pamphlet relating to the referendum if a proposition information pamphlet relating to the referendum was published under Section 20A-7-401.5; or

(B) a website address where an individual may view a copy of the proposition information pamphlet described in Subsection (2)(b)(vii)(A).

~~[(3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.]~~

~~[(4)]~~ (3) An election officer who administers an election under this section shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

~~[(5)]~~ (4) (a) Upon receiving ~~[the]~~ a returned ~~[absentee ballots]~~ manual ballot under this section, the election officer shall compare the signature on each ~~[absentee ballot]~~ return envelope with the voter's signature that is maintained on file and verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the ~~[absentee ballot]~~ return envelope, the election officer shall immediately contact the voter to verify the signature.

(c) If there is not a signature on the return envelope or if the election officer determines that the signature on the ~~[absentee ballot]~~ return envelope does not match the voter's signature that is maintained on file, the election officer shall:

~~[(i) unless the absentee ballot application deadline described in Section 20A-3-304 has passed, immediately send another absentee ballot and other voting materials as required by this section to the voter; and]~~

~~[(ii)]~~ (i) disqualify the ~~[initial absentee ballot.]~~ ballot; and

(ii) notify the voter of the disqualification and the reason for the disqualification.

**Section 109. Section 20A-7-613 is amended to read:**

**20A-7-613. Property tax referendum petition.**

(1) As used in this section, "certified tax rate" means the same as that term is defined in Section 59-2-924.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than 40 days after the day on which the local clerk complies with Subsection 20A-7-604(2).

(4) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (3).

(5) The local clerk shall take the actions required by Section 20A-7-607 within two working days after the day on which the local clerk receives the referendum packets from the county clerk.

(6) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(7) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

~~[(8) Notwithstanding the requirements related to absentee ballots under this title:]~~

~~[(a) the election officer shall prepare absentee ballots for those voters who have requested an absentee ballot as soon as possible after the ballot title is prepared as described in Subsection (6); and]~~

~~[(b)] (8) [the] The election officer shall mail [absentee] manual ballots on a referendum under this section the later of:~~

~~[(4)] (a) the time provided in Section [20A-3-305] 20A-3a-202 or 20A-16-403; or~~

~~[(4)] (b) the time that [absentee] ballots are prepared for mailing under this section.~~

(9) Section 20A-7-402 does not apply to a referendum described in this section.

(10) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection 10(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the taxing entity's legislative body, the certified tax rate for the taxing entity is the taxing entity's most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection 10(a)(ii), a taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(11) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity]".

(12) A taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(13) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection 13(a), the ballot title shall comply with Subsection 11).

(c) If an election officer includes on a ballot a referendum described in Subsection 13(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

**Section 110. Section 20A-7-702 is amended to read:**

**20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.**

(1) The lieutenant governor shall ensure that all information submitted for publication in the voter information pamphlet is:

(a) printed and bound in a single pamphlet;

(b) printed in clear readable type, no less than 10 point, except that the text of any measure may be set forth in eight-point type; and

(c) printed on a quality and weight of paper that best serves the voters.

(2) The voter information pamphlet shall contain the following items in this order:

(a) a cover title page;

(b) an introduction to the pamphlet by the lieutenant governor;

(c) a table of contents;

(d) a list of all candidates for constitutional offices;

(e) a list of candidates for each legislative district;

(f) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before 5 p.m. on the first business day in August before the date of the election;

(g) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:

(i) a copy of the number and ballot title of the measure;

(ii) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;

(iii) the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel;

(iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;

(v) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets;

(vi) for each initiative qualified for the ballot:

(A) a copy of the measure as certified by the lieutenant governor and a copy of the fiscal impact estimate prepared according to Section 20A-7-202.5; and

(B) if the initiative proposes a tax increase, the following statement in bold type:

“This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”; and

(vii) for each referendum qualified for the ballot, a complete copy of the text of the law being submitted to the voters for their approval or rejection, with all new language underlined and all deleted language placed within brackets, as applicable;

(h) a description provided by the Judicial Performance Evaluation Commission of the selection and retention process for judges, including, in the following order:

(i) a description of the judicial selection process;

(ii) a description of the judicial performance evaluation process;

(iii) a description of the judicial retention election process;

(iv) a list of the criteria of the judicial performance evaluation and the minimum performance standards;

(v) the names of the judges standing for retention election; and

(vi) for each judge:

(A) a list of the counties in which the judge is subject to retention election;

(B) a short biography of professional qualifications and a recent photograph;

(C) a narrative concerning the judge’s performance;

(D) for each standard of performance, a statement identifying whether or not the judge met

the standard and, if not, the manner in which the judge failed to meet the standard;

(E) a statement identifying whether or not the Judicial Performance Evaluation Commission recommends the judge be retained or declines to make a recommendation and the number of votes for and against the commission’s recommendation;

(F) any statement provided by a judge who is not recommended for retention by the Judicial Performance Evaluation Commission under Section 78A-12-203;

(G) in a bar graph, the average of responses to each survey category, displayed with an identification of the minimum acceptable score as set by Section 78A-12-205 and the average score of all judges of the same court level; and

(H) a website address that contains the Judicial Performance Evaluation Commission’s report on the judge’s performance evaluation;

(i) for each judge, a statement provided by the Utah Supreme Court identifying the cumulative number of informal reprimands, when consented to by the judge in accordance with Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders of censure and suspension issued by the Utah Supreme Court under Utah Constitution, Article VIII, Section 13, during the judge’s current term and the immediately preceding term, and a detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct that the judge has received;

(j) an explanation of ballot marking procedures prepared by the lieutenant governor, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

(k) voter registration information, including information on how to obtain ~~[an absentee]~~ a ballot;

(l) a list of all county clerks’ offices and phone numbers;

(m) the address of the Statewide Electronic Voter Information Website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(n) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(o) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

“I, \_\_\_\_\_ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout the state on \_\_\_\_ (date of election), and that this pamphlet is complete and correct according to law.

SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this \_\_\_\_ day of \_\_\_\_ (month), \_\_\_\_ (year)

(signed) \_\_\_\_\_  
Lieutenant Governor”

(3) No earlier than 75 days, and no later than 15 days, before the day on which voting commences, the lieutenant governor shall:

(a) (i) distribute one copy of the voter information pamphlet to each household within the state;

(ii) distribute to each household within the state a notice:

(A) printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail;

(B) that states the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(C) that states the phone number a voter may call to request delivery of a voter information pamphlet by mail; or

(iii) ensure that one copy of the voter information pamphlet is placed in one issue of every newspaper of general circulation in the state;

(b) ensure that a sufficient number of printed voter information pamphlets are available for distribution as required by this section;

(c) provide voter information pamphlets to each county clerk for free distribution upon request and for placement at polling places; and

(d) ensure that the distribution of the voter information pamphlets is completed 15 days before the election.

(4) The lieutenant governor may distribute a voter information pamphlet at a location frequented by a person who cannot easily access the Statewide Electronic Voter Information Website authorized by Section 20A-7-801.

**Section 111. Section 20A-7-801 is amended to read:**

**20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of the lieutenant governor -- Content -- Duties of local election officials -- Deadlines -- Frequently asked voter questions -- Other elections.**

(1) There is established the Statewide Electronic Voter Information Website Program administered by the lieutenant governor in cooperation with the county clerks for general elections and municipal authorities for municipal elections.

(2) In accordance with this section, and as resources become available, the lieutenant governor, in cooperation with county clerks, shall develop, establish, and maintain a state-provided Internet website designed to help inform the voters of the state of:

(a) the offices and candidates up for election; and

(b) the content, effect, operation, fiscal impact, and supporting and opposing arguments of ballot propositions submitted to the voters.

(3) Except as provided under Subsection (6), the website shall include:

(a) all information currently provided in the Utah voter information pamphlet under Chapter 7, Part 7, Voter Information Pamphlet, including a section prepared, analyzed, and submitted by the Judicial Council describing the judicial selection and retention process;

(b) all information submitted by election officers under Subsection (4) on local office races, local office candidates, and local ballot propositions;

(c) a list that contains the name of a political subdivision that operates an election day voting center under Section ~~20A-3-703~~ 20A-3a-703 and the location of the election day voting center;

(d) other information determined appropriate by the lieutenant governor that is currently being provided by law, rule, or ordinance in relation to candidates and ballot questions; and

(e) any differences in voting method, time, or location designated by the lieutenant governor under Subsection 20A-1-308(2).

(4) (a) An election official shall submit the following information for each ballot [label] under the election official's direct responsibility under this title:

(i) a list of all candidates for each office;

(ii) if submitted by the candidate to the election official's office before 5 p.m. no later than 45 days before the primary election or before 5 p.m. no later than 60 days before the general election:

(A) a statement of qualifications, not exceeding 200 words in length, for each candidate;

(B) the following current biographical information if desired by the candidate, current:

(I) age;

(II) occupation;

(III) city of residence;

(IV) years of residence in current city; and

(V) email address; and

(C) a single web address where voters may access more information about the candidate and the candidate's views; and

(iii) factual information pertaining to all ballot propositions submitted to the voters, including:

(A) a copy of the number and ballot title of each ballot proposition;

(B) the final vote cast for each ballot proposition, if any, by a legislative body if the vote was required to place the ballot proposition on the ballot;

(C) a complete copy of the text of each ballot proposition, with all new language underlined and all deleted language placed within brackets; and



(D) other factual information determined helpful by the election official.

(b) The information under Subsection (4)(a) shall be submitted to the lieutenant governor no later than one business day after the deadline under Subsection (4)(a) for each general election year and each municipal election year.

(c) The lieutenant governor shall:

(i) review the information submitted under this section, to determine compliance under this section, prior to placing it on the website;

(ii) refuse to post information submitted under this section on the website if it is not in compliance with the provisions of this section; and

(iii) organize, format, and arrange the information submitted under this section for the website.

(d) The lieutenant governor may refuse to include information the lieutenant governor determines is not in keeping with:

(i) Utah voter needs;

(ii) public decency; or

(iii) the purposes, organization, or uniformity of the website.

(e) A refusal under Subsection (4)(d) is subject to appeal in accordance with Subsection (5).

(5) (a) A person whose information is refused under Subsection (4), and who is aggrieved by the determination, may appeal by submitting a written notice of appeal to the lieutenant governor before 5 p.m. within 10 business days after the date of the determination. A notice of appeal submitted under this Subsection (5)(a) shall contain:

(i) a listing of each objection to the lieutenant governor's determination; and

(ii) the basis for each objection.

(b) The lieutenant governor shall review the notice of appeal and shall issue a written response within 10 business days after the day on which the notice of appeal is submitted.

(c) An appeal of the response of the lieutenant governor shall be made to the district court, which shall review the matter de novo.

(6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently enter the voter's address information on the website to retrieve information on which offices, candidates, and ballot propositions will be on the voter's ballot at the next general election or municipal election.

(b) The information on the website will anticipate and answer frequent voter questions including the following:

(i) what offices are up in the current year for which the voter may cast a vote;

(ii) who is running for what office and who is the incumbent, if any;

(iii) what address each candidate may be reached at and how the candidate may be contacted;

(iv) for partisan races only, what, if any, is each candidate's party affiliation;

(v) what qualifications have been submitted by each candidate;

(vi) where additional information on each candidate may be obtained;

(vii) what ballot propositions will be on the ballot; and

(viii) what judges are up for retention election.

(7) As resources are made available and in cooperation with the county clerks, the lieutenant governor may expand the electronic voter information website program to include the same information as provided under this section for special elections and primary elections.

**Section 112. Section 20A-9-406 is amended to read:**

**20A-9-406. Qualified political party -- Requirements and exemptions.**

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on November 30 of each odd-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates and whether unaffiliated voters may vote for the qualified political party's candidates;

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(f), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each individual nominated by a qualified political party:

(a) under the qualified political party's name, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for

[paper] ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

[(7)] ~~notwithstanding~~ Subsection 20A-6-303(1)(d), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

[(8)] (7) notwithstanding Subsection 20A-6-304(1)(e), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on ~~an electronic~~ a mechanical ballot;

[(9)] (8) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

[(10)] (9) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

[(11)] (10) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

[(12)] (11) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

[(13)] (12) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

[(14)] (13) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

**Section 113. Section 20A-9-806 is amended to read:**

**20A-9-806. Ballots.**

(1) The lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties, shall:

(a) develop ~~[paper] manual ballots, [ballot labels, ballot sheets, electronic] mechanical ballots, return envelopes and provisional ballot envelopes to be used in a presidential primary election;~~

(b) ensure that the ~~[paper ballots, ballot labels, ballot sheets, electronic ballots, and provisional ballots, return envelopes, and provisional ballot envelopes comply generally with the requirements of Chapter 6, Part 1, General Requirements for All Ballots; and~~

(c) provide voting booths, election records and supplies, and ballot boxes for each voting precinct as required by Section 20A-5-403.

(2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), Chapter 6, Part 1, General Requirements for All Ballots, and Section 20A-5-403, the lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties shall ensure that the ~~[paper ballots, ballot labels, ballot sheets, electronic ballots, provisional ballots, return envelopes, provisional ballot envelopes, and] voting booths, election records and supplies, and ballot boxes:~~

(i) facilitate the distribution, voting, and tallying of ballots in a closed primary;

(ii) simplify the task of poll workers, particularly in determining a voter's party affiliation;

(iii) minimize the possibility of spoiled ballots due to voter confusion; and

(iv) protect against fraud.

(b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties shall:

(i) mark ~~[, prepunch, or otherwise identify ballot sheets] ballots as being for a particular registered political party; and~~

(ii) instruct persons counting the ballots to count only those votes for candidates from the registered political party whose ballot the voter received.

(c) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties may:

(i) notwithstanding the requirements of Sections 20A-6-101 and 20A-6-102, use different colored ~~[ballot sheets] ballots~~ for each registered political party;

(ii) place ~~[ballot labels or] ballots~~ for each registered political party in different voting booths and direct voters to the particular voting booth for the political party whose ballot they are voting; or

(iii) consider other means of accomplishing the objectives ~~[outlined] described in Subsection (2)(a).~~

**Section 114. Section 20A-9-808 is amended to read:**

**20A-9-808. Voting.**

Voting in a presidential primary election shall be conducted in accordance with the procedures of Section [20A-3-104.5] 20A-3a-203.

**Section 115. Section 20A-11-206 is amended to read:**

**20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

(1) A state office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b) through (d), the lieutenant governor may send an electronic notice to the state office candidate and the political party of which the state office candidate is a member, if any, that states:

(a) that the state office candidate failed to timely file the report; and

(b) that, if the state office candidate fails to file the report within 24 hours after the deadline for filing the report, the state office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a state office candidate and inform the county clerk and other appropriate election officials that the state office candidate is disqualified if the state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b) through (d) within 24 hours after the deadline for filing the report.

(b) The political party of a state office candidate who is disqualified under Subsection (3)(a) may not replace the state office candidate.

(4) (a) If a state office candidate is disqualified under Subsection (3)(a), the election official shall:

(i) remove the state office candidate's name from the ballot; or

(ii) if removing the state office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the state office candidate has been disqualified and that votes cast for the state office candidate will not be counted.

(b) An election official may fulfill the requirement described in Subsection (4)(a) in relation to ~~an absentee voter~~ a mailed ballot, including a military or overseas ~~absentee voter~~ ballot, by including with the ~~absentee~~ ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A state office candidate is not disqualified if:

(a) the state office candidate timely files the reports described in Subsections 20A-11-204(1)(b) through (d) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state office candidate of the violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a state office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection (6).

(ii) Each state office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a state office candidate who violates Subsection (6)(c)(i).

**Section 116. Section 20A-11-305 is amended to read:**

**20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

(1) A legislative office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a legislative office candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv), the lieutenant governor may send an electronic notice to the legislative office candidate and the political party of which the legislative office candidate is a member, if any, that states:

(a) that the legislative office candidate failed to timely file the report; and

(b) that, if the legislative office candidate fails to file the report within 24 hours after the deadline for

filing the report, the legislative office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a legislative office candidate and inform the county clerk and other appropriate election officials that the legislative office candidate is disqualified if the legislative office candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a legislative office candidate who is disqualified under Subsection (3)(a) may not replace the legislative office candidate.

(4) (a) If a legislative office candidate is disqualified under Subsection (3)(a), the election officer shall:

(i) remove the legislative office candidate's name from the ballot; or

(ii) if removing the legislative office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the legislative office candidate has been disqualified and that votes cast for the legislative office candidate will not be counted.

(b) An election official may fulfill the requirement described in Subsection (4)(a) in relation to [an absentee voter] a mailed ballot, including a military or overseas [absentee voter] ballot, by including with the [absentee] ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A legislative office candidate is not disqualified if:

(a) the legislative office candidate files the reports described in Subsections 20A-11-303(1)(b)(ii) through (iv) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each legislative office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any legislative office candidate has failed to file the summary report

required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a legislative office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection (6).

(ii) Each legislative office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a legislative office candidate who violates Subsection (6)(c)(i).

**Section 117. Section 20A-11-1305 is amended to read:**

**20A-11-1305. School board office candidate -- Failure to file statement -- Penalties.**

(1) A school board office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv), the lieutenant governor may send an electronic notice to the school board office candidate and the political party of which the school board office candidate is a member, if any, that states:

(a) that the school board office candidate failed to timely file the report; and

(b) that, if the school board office candidate fails to file the report within 24 hours after the deadline for filing the report, the school board office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a school board office candidate and inform the county clerk and other appropriate election officials that the school board office candidate is disqualified if the school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a school board office candidate who is disqualified under Subsection (3)(a) may not replace the school board office candidate.

(4) (a) If a school board office candidate is disqualified under Subsection (3)(a), the election officer shall:

(i) remove the school board office candidate's name from the ballot; or

(ii) if removing the school board office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the school board office candidate has been disqualified and that votes cast for the school board office candidate will not be counted.

(b) An election officer may fulfill the requirement described in Subsection (4)(a) in relation to ~~an absentee voter~~ a mailed ballot, including a military or overseas ~~absentee voter~~ ballot, by including with the ~~absentee~~ ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A school board office candidate is not disqualified if:

(a) the school board office candidate files the reports described in Subsections 20A-11-1303(1)(c)(i) through (iv) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each school board office candidate who is required to file a summary report has filed the report; and

(ii) each summary report contains the information required by this part.

(b) If it appears that a school board office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the school board office candidate of the violation or written complaint and direct the school board office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a school board office candidate to fail to file or amend a summary report within seven days after receiving the notice described in Subsection (6)(b) from the lieutenant governor.

(ii) Each school board office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a school board office candidate who violates Subsection (6)(c)(i).

**Section 118. Section 20A-16-202 is amended to read:**

**20A-16-202. Report on ballots.**

(1) ~~Not~~ No later than 60 days after each regular general election date, each county clerk shall submit a report to the lieutenant governor indicating:

(a) the number of ballots sent to covered voters; and

(b) the number of ballots returned by covered voters that were counted.

(2) ~~Not~~ No later than 90 days after each regular general election date, the lieutenant governor shall submit a statewide report to the Election Assistance Commission that includes the information required by Subsection (1).

**Section 119. Section 20A-16-401 is amended to read:**

**20A-16-401. Methods of applying for military-overseas ballots.**

(1) A covered voter who is registered to vote in the state may apply for a military-overseas ballot ~~using~~:

~~[(a) an absentee ballot application under Section 20A-3-304; or]~~

~~[(b) (i)]~~ (a) via the federal postcard application; ~~or~~

~~[(ii)]~~ (b) via the federal postcard application's electronic equivalent~~[-]; or~~

(c) by otherwise making a request in writing.

(2) A covered voter who is not registered to vote in this state may use a federal postcard application or the federal postcard application's electronic equivalent to apply simultaneously to register to vote under Section 20A-16-302 and for a military-overseas ballot.

(3) (a) The lieutenant governor shall ensure that the electronic transmission system described in Subsection 20A-16-201(3) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official.

(b) The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

(4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the Thursday immediately before the election.

(5) To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter by:

(a) the use of a federal postcard application or federal write-in absentee ballot;

(b) the use of an overseas address on an approved voter registration application or ballot application; or

(c) the inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

(6) This chapter does not preclude a covered voter from voting ~~[under Chapter 3, Part 3, Absentee Voting]~~ via a manual ballot by mail.

**Section 120. Section 20A-16-406 is amended to read:**

**20A-16-406. Disposition of ballot by county clerk.**

(1) Upon receipt by the county clerk of the envelope containing a military-overseas ballot, the county clerk shall:

(a) enclose the unopened envelope containing the ballot and the written application of the covered voter in a larger envelope;

(b) securely seal and endorse it with:

(i) the name or number of the proper voting precinct;

(ii) the name and official title of the clerk; and

(iii) the words: "This envelope contains an absentee voter's official Utah election ballot to be voted at \_\_\_\_ (Insert Name and Number) precinct, in \_\_\_\_ (Insert Name) county, and may be opened on election day at the polls while the polls are open."; and

(c) safely keep the envelope in the county clerk's office until the envelope is delivered by the county clerk to the proper election judges.

(2) (a) When reasonably possible, the county clerk shall deliver or mail all military-overseas voter ballot envelopes to the appropriate voting precinct election judges so that the ballots may be processed on election day.

(b) If the clerk is unable to determine the voting precinct to which the ballot should be sent or when valid ballots are received too late to deliver to the election judges on election day, the clerk shall keep them in a safe place until delivery can be made as required by Section ~~[20A-3-309]~~ 20A-3a-402.

**Section 121. Section 20A-16-407 is amended to read:**

**20A-16-407. Duty of election judges.**

(1) (a) Voting precinct election judges shall open envelopes containing military-overseas ballots that are in the judges' custody on election day at the polling places during the time the polls are open as provided in this subsection.

(b) The election judges shall:

(i) first, open the outer envelope only; and

(ii) compare the signature of the covered voter on the application with the signature on the registration and voting certificate.

(2) (a) The judges shall register the covered voter to vote if the voter is not already registered if the judges find that:

(i) the registration and voting certificate appears to be executed in proper form and contains information qualifying the covered voter to be registered as a voter; and

(ii) the signatures on the certificate and the application correspond, where a comparison is required.

(b) If the election judges determine that the registration and voting certificate is insufficient or that the signatures do not correspond, they shall:

(i) disallow the registration; and

(ii) without opening the ballot envelope, mark across the face of the envelope "Rejected as defective because of \_\_\_\_\_" with the reason for the rejection placed in the blank.

(c) When a covered voter's name is entered upon the registration books, the voter is considered to be registered and the registration and voting certificate, signed and sworn to by the covered voter on the back of the ballot envelope, together with the covered voter's name upon the registration books, constitute the covered voter's registration record.

(d) Nothing in this title may abridge the right of the covered voter to be registered as provided in this section.

(3) (a) After registering the voter, the judges shall carefully open the ballot envelope so as not to destroy the information printed on it if they find that:

(i) the registration and voting certificate is sufficient; and

(ii) the signatures on the certificate and the application correspond, where a comparison is required.

(b) The election judges shall:

(i) remove the ballot from the envelope without unfolding it or permitting it to be opened or examined;

~~[(ii) initial the stub in the same manner as for other ballots;]~~

~~[(iii)]~~ (ii) deposit the ballot in the proper ballot box; and

~~[(iv)]~~ (iii) mark the official register and pollbook to show that the voter has voted.

(c) If the election judges determine that the registration and voting certificate is insufficient or that the signatures do not correspond, they shall:

(i) disallow the vote; and

(ii) without opening the ballot envelope, mark across the face of the envelope "Rejected as defective because of \_\_\_\_\_." with the reason for the rejection placed in the blank.

(4) The election judges shall deposit the envelope, when the ballot is voted, and the envelope with its contents unopened, when the absent vote is rejected, in the ballot box containing the ballots.

(5) The county clerk shall retain and preserve the envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

**Section 122. Section 63I-2-220 is amended to read:**

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

(1) On January 1, 2021:

(a) Subsection 20A-1-201.5(1), the language that states "Except as provided in Subsection (4)," is repealed.

(b) Subsection 20A-1-201.5(4) is repealed.

(c) Subsections 20A-1-204(1)(a)(i) through (iii) are repealed and replaced with the following:

"(i) the fourth Tuesday in June; or

(ii) the first Tuesday after the first Monday in November."

(d) In Subsections 20A-1-503(4)(c), 20A-9-202(3)(a), 20A-9-403(3)(d)(ii), 20A-9-407(5) and (6)(a), and 20A-9-408(5), immediately following the reference to Subsection 20A-9-202(1)(b), the language that states "(i) or (ii)" is repealed.

(e) Subsection 20A-9-202(1)(b) is repealed and replaced with the following:

"(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the third Saturday in April.;"

(f) Subsection 20A-9-409(4)(c) is repealed and replaced with the following:

"(c) The deadline described in Subsection (4)(b) is 5 p.m. on the first Wednesday after the third Saturday in April."

(2) Subsection 20A-5-803(8) is repealed July 1, 2023.

(3) Section 20A-5-804 is repealed July 1, 2023.

(4) On January 1, 2026:

(a) In Subsection 20A-1-102~~[(22)]~~(18)(a), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states "Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(c) In Section 20A-1-304, the language that states "Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(d) In Subsection ~~[20A-3-105]~~ 20A-3a-204(1)(a), (c), or (d), the language that states ~~["Except"]~~ "except as provided in Subsection ~~[(5)]~~ (6)," is repealed.

~~[(e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states "Except as provided in Subsections (5) and (6)," is repealed.]~~

~~[(f) (e) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a) Subsection 20A-3a-204 (5)(b), the language that states ["Subject"] "subject to Subsection [(5)] (6)," is repealed.~~

~~[(g) (f) Subsection [20A-3-105(5)] 20A-3a-204(6) is repealed and the remaining subsections in Section [20A-3-105] 20A-3a-204 are renumbered accordingly.~~

~~[(h) (g) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in Subsection (2)(f)," is repealed.~~

~~[(i) (h) Subsection 20A-4-101(2)(f) is repealed.~~

~~[(j) (i) Subsection 20A-4-101(3) is repealed and replaced with the following:~~

~~"(3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105."~~

~~[(k) (j) In Subsection 20A-4-102(1)~~[(a)]~~(b), the language that states "or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.~~

~~[(l) (k) Subsection 20A-4-102(1)~~[(b)]~~(c) is repealed and replaced with the following:~~

~~"(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105."~~

~~[(m) (l) In Subsection 20A-4-102(6)(a), the language that states ", except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.~~

~~[(n) (m) In Subsection 20A-4-105(1)(a), the language that states ", except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~

~~[(o) (n) In Subsection 20A-4-105(2), the language that states "Subsection [20A-3-105(5)]~~

20A-3a-204(6), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

~~[(p)]~~ (o) In Subsections 20A-4-105(3), (5), and (12), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

~~[(q)]~~ (p) In Subsection 20A-4-106~~[(1)(a)(ii)]~~(2), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

~~[(r)]~~ (q) In Subsection 20A-4-304(1)(a), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

~~[(s)]~~ (r) Subsection 20A-4-304(2)(e) is repealed and replaced with the following:

“(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition.”

~~[(t)]~~ (s) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

~~[(u)]~~ (t) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

~~[(v)]~~ (u) Subsections 20A-5-400.1(1)(c) and (d), relating to contracting with a local political subdivision to conduct an election, is repealed.

~~[(w)]~~ Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in Subsection (3) are renumbered accordingly.]

~~[(x)]~~ Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in Subsection (4) are renumbered accordingly.]

~~[(y)]~~ (v) In Section 20A-5-802, relating to the certification of voting equipment:

(i) delete “Except as provided in Subsection (2)(b)(ii):” from the beginning of Subsection (2); and

(ii) Subsection (2)(b)(ii) is repealed, and the remaining subsections are renumbered accordingly.

~~[(z)]~~ (w) Section 20A-6-203.5 is repealed.

~~[(aa)]~~ (x) In Subsections 20A-6-402(1)~~[,] and (2), [(3), and (4),]~~ the language that states “Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

~~[(bb)]~~ (y) In Subsection 20A-9-203(3)(a)(i), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

~~[(ee)]~~ (z) In Subsection 20A-9-203(3)(c)(i), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

~~[(dd)]~~ (aa) In Subsection 20A-9-404(1)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

~~[(ee)]~~ (bb) In Subsection 20A-9-404(2), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(5) Section 20A-7-407 is repealed January 1, 2021.

### **Section 123. Repealer.**

This bill repeals:

**Section 20A-3-104.5, Voting -- Regular primary election and presidential primary election.**

**Section 20A-3-105, Marking and depositing ballots.**

**Section 20A-3-301, Voting by absentee ballot.**

**Section 20A-3-303, Form of absentee ballot.**

**Section 20A-3-304, Application for absentee ballot -- Time for filing and voting.**

**Section 20A-3-305, Mailing of ballot to voter -- Enclose self-addressed envelope -- Affidavit.**

**Section 20A-3-306, Voting ballot -- Returning ballot.**

**Section 20A-3-307, Receipt and processing of absentee ballot.**

**Section 20A-3-502, Intimidation -- Undue influence.**

**Section 20A-5-604, Receipt of ballots by poll workers.**

**Section 20A-6-303, Regular general election -- Ballot sheets.**



**CHAPTER 32****H. B. 37**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020  
 Exception clause

**INSURANCE AMENDMENTS**

Chief Sponsor: James A. Dunnigan  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends and enacts provisions under the Insurance Code and related to certain health benefit plans and the Health Reform Task Force.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions related to certain contractors and subcontractors and health benefit plans;
- ▶ amends the scope and applicability of the Insurance Code;
- ▶ removes the requirement that the Insurance Department employ a chief examiner;
- ▶ permits a signature of the insurance commissioner to be in a format that affixes an exact copy of the signature;
- ▶ prohibits more than two members of the Title and Escrow Commission to be employees of an entity operating under an affiliated business arrangement;
- ▶ amends requirements for doing business in relation to service contract providers and warrantors;
- ▶ amends provisions regarding required disclosures for a service contract or a vehicle protection product warranty;
- ▶ permits the insurance commissioner to exempt a health maintenance organization from certain deposit requirements without a hearing;
- ▶ amends the date before which a health insurer shall submit a written report regarding coverage for opioids;
- ▶ amends provisions regarding credit allowed a domestic ceding insurer against reserves for reinsurance, including:
  - establishing eligibility for credit;
  - requiring the insurance commissioner to create and publish a list of reciprocal jurisdictions;
  - requiring the insurance commissioner to create and publish a list of qualified assuming insurers;
  - requiring rulemaking;
  - establishing conditions for suspension of an assuming insurer's eligibility; and
  - addressing the reduction or elimination of credit;
- ▶ amends requirements for the loss and loss adjustment expense factors included in rates filed in relation to workers' compensation;
- ▶ amends certain filing requirements to reflect current practice;
- ▶ amends the forms that the insurance commissioner may prohibit;

- ▶ amends limitations of actions for an accident and health insurance policy;
- ▶ enacts provisions regarding the Restatement of the Law of Liability Insurance;
- ▶ outlines requirements for a notice of assignment related to a debt;
- ▶ amends requirements related to the shared common purposes of association groups;
- ▶ amends provisions regarding dependent coverage for accident and health insurance;
- ▶ enacts the Limited Long-Term Care Insurance Act, which:
  - defines terms;
  - establishes disclosure and performance standards for limited long-term care insurance;
  - establishes parameters of a limited long-term care insurance policy offering a nonforfeiture benefit; and
  - requires the insurance commissioner to make rules;
- ▶ amends provisions regarding the licensing of administrators;
- ▶ amends jurisdictional provisions under the Insurance Receivership Act;
- ▶ amends provisions related to health care claims practices;
- ▶ enacts provisions related to the designation of a third party to receive notification of lapse or cancellation of a policyholder's policy for nonpayment of premium;
- ▶ permits a captive insurance company to provide reinsurance by another insurer with prior approval of the commissioner;
- ▶ amends the issues regarding which the Health Reform Task Force is required to review and make recommendations; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 17B-2a-818.5, as last amended by Laws of Utah 2018, Chapter 319
- 19-1-206, as last amended by Laws of Utah 2018, Chapter 319
- 26-40-115, as last amended by Laws of Utah 2019, Chapter 393
- 31A-1-103, as last amended by Laws of Utah 2017, Chapter 27
- 31A-1-301, as last amended by Laws of Utah 2019, Chapter 193
- 31A-2-104, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 31A-2-110, as last amended by Laws of Utah 1986, Chapter 204
- 31A-2-212, as last amended by Laws of Utah 2016, Chapter 138
- 31A-2-218, as last amended by Laws of Utah 2015, Chapter 283
- 31A-2-309, as last amended by Laws of Utah 2016, Chapter 138
- 31A-2-403, as last amended by Laws of Utah 2019, Chapter 193
- 31A-6a-101, as last amended by Laws of Utah 2018, Chapter 319

31A-6a-103, as last amended by Laws of Utah 2015, Chapter 244

31A-6a-104, as last amended by Laws of Utah 2018, Chapter 319

31A-8-211, as last amended by Laws of Utah 2002, Chapter 308

31A-17-404, as last amended by Laws of Utah 2017, Chapter 168

31A-17-404.3, as last amended by Laws of Utah 2016, Chapter 138

31A-17-601, as last amended by Laws of Utah 2001, Chapter 116

31A-19a-404, as renumbered and amended by Laws of Utah 1999, Chapter 130

31A-19a-405, as renumbered and amended by Laws of Utah 1999, Chapter 130

31A-19a-406, as renumbered and amended by Laws of Utah 1999, Chapter 130

31A-21-201, as last amended by Laws of Utah 2019, Chapter 193

31A-21-301, as last amended by Laws of Utah 2010, Chapter 10

31A-21-313, as last amended by Laws of Utah 2015, Chapter 244

31A-22-412, as last amended by Laws of Utah 1986, Chapter 204

31A-22-413, as last amended by Laws of Utah 2013, Chapter 264

31A-22-505, as last amended by Laws of Utah 2017, Chapter 168

31A-22-610.5, as last amended by Laws of Utah 2018, Chapter 443

31A-22-615.5, as enacted by Laws of Utah 2017, Chapter 53

31A-23a-111, as last amended by Laws of Utah 2019, Chapter 193

31A-23a-205, as renumbered and amended by Laws of Utah 2003, Chapter 298

31A-23a-415, as last amended by Laws of Utah 2019, Chapter 193

31A-23b-401, as last amended by Laws of Utah 2019, Chapter 193

31A-25-208, as last amended by Laws of Utah 2019, Chapter 193

31A-26-206, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-26-213, as last amended by Laws of Utah 2019, Chapter 193

31A-26-301.6, as last amended by Laws of Utah 2009, Chapter 11

31A-27a-105, as enacted by Laws of Utah 2007, Chapter 309

31A-27a-501, as enacted by Laws of Utah 2007, Chapter 309

31A-30-117, as last amended by Laws of Utah 2015, Chapter 283

31A-30-118, as last amended by Laws of Utah 2019, Chapter 193

31A-35-402, as last amended by Laws of Utah 2016, Chapter 234

31A-37-303, as last amended by Laws of Utah 2017, Chapter 168

31A-37-701, as enacted by Laws of Utah 2019, Chapter 193

34A-2-202, as last amended by Laws of Utah 2009, Chapter 212

36-29-106, as enacted by Laws of Utah 2019, Chapter 193

63A-5-205.5, as enacted by Laws of Utah 2018, Chapter 319

63C-9-403, as last amended by Laws of Utah 2018, Chapter 319

72-6-107.5, as last amended by Laws of Utah 2018, Chapter 319

79-2-404, as last amended by Laws of Utah 2018, Chapter 319

**ENACTS:**

31A-22-205, Utah Code Annotated 1953

31A-22-430, Utah Code Annotated 1953

31A-22-2001, Utah Code Annotated 1953

31A-22-2002, Utah Code Annotated 1953

31A-22-2003, Utah Code Annotated 1953

31A-22-2004, Utah Code Annotated 1953

31A-22-2005, Utah Code Annotated 1953

31A-22-2006, Utah Code Annotated 1953

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

**Section 1. Section 17B-2a-818.5 is amended to read:****17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301[-]; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health [insurance] coverage" means the same as that term is defined in Section 26-40-115.

(f) “Subcontractor” means the same as that term is defined in Section 63A-5-208.

(g) “Third party administrator” or “administrator” means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health ~~[insurance]~~ coverage for the contractor’s employees and the employee’s dependents during the duration of the contract by submitting to the public transit district a written statement that:

(i) the contractor offers qualified health ~~[insurance]~~ coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor’s insurer; ~~[or]~~

(B) an underwriter who is responsible for developing the employer group’s premium rates; ~~[and]~~ or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor’s contribution to the health

benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor’s contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the public transit district.

~~[(b)]~~ (c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor’s subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health ~~[insurance]~~ coverage for the subcontractor’s employees and the employees’ dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health ~~[insurance]~~ coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor’s insurer, ~~[or]~~ an underwriter who is responsible for developing the employer group’s premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

~~[(e)]~~ (d) (i) (A) A contractor that fails to maintain an offer of qualified health ~~[insurance]~~ coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)~~[(b)]~~(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)~~[(b)]~~(c)(i) during the duration of the subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health [insurance] coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health [insurance] coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health [insurance] coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health [insurance] coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(ii); or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health [insurance] coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

**Section 2. Section 19-1-206 is amended to read:**

**19-1-206. Contracting powers of department -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301[-]; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health ~~[insurance]~~ coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health ~~[insurance]~~ coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health ~~[insurance]~~ coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; ~~[or]~~

(B) an underwriter who is responsible for developing the employer group's premium rates; ~~[and]~~ or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

~~[(b)]~~ (c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to

the requirements of this section shall obtain and maintain an offer of qualified health [insurance] coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health [insurance] coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, [or] an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

[~~(e)~~] (d) (i) (A) A contractor that fails to maintain an offer of qualified health [insurance] coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health [insurance] coverage described in Subsection (5)(~~(b)~~)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health [insurance] coverage described in Subsection (5)(~~(b)~~)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health [insurance] coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(~~(b)~~)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health [insurance] coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health [insurance] coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health [insurance] coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health [insurance] coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(~~(b)~~)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health [insurance] coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

**Section 3. Section 26-40-115 is amended to read:**

**26-40-115. State contractor -- Employee and dependent health benefit plan coverage.**

(1) For purposes of Sections 17B-2a-818.5, 19-1-206, 63A-5-205.5, 63C-9-403, 72-6-107.5, and 79-2-404, "qualified health [insurance] coverage" means, at the time the contract is entered into or renewed:

(a) a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of:

(i) the benchmark plan determined by the program under Subsection 26-40-106(1)(a)[,]; and

(ii) a contribution level at which the employer pays at least 50% of the premium or contribution amounts for the employee and the dependents of the employee who reside or work in the state; or

(b) a federally qualified high deductible health plan that, at a minimum:

(i) has a deductible that is:

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) provides that the employer pays 60% of the premium or contribution amounts for the employee and the dependents of the employee who work or reside in the state.

(2) The department shall:

(a) on or before July 1, 2016:

(i) determine the commercial equivalent of the benchmark plan described in Subsection (1)(a); and

(ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i) on the department's website, noting the date posted; and

(b) update the posted commercially equivalent benchmark plan annually and at the time of any change in the benchmark.

**Section 4. Section 31A-1-103 is amended to read:**

**31A-1-103. Scope and applicability of title.**

(1) This title does not apply to:

(a) a retainer contract made by an attorney-at-law:

(i) with an individual client; and

(ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;

(b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;

(c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;

(d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;

(e) legal assistance by employee organizations to their members in matters relating to employment;

(f) death, accident, health, or disability benefits provided to a person by an organization or its affiliate if:

(i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had

its principal place of business in Utah for at least five years;

(ii) the person is not an employee of the organization; and

(iii) (A) substantially all the person's time in the organization is spent providing voluntary services:

(I) in furtherance of the organization's purposes;

(II) for a designated period of time; and

(III) for which no compensation, other than expenses, is paid; or

(B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months; or

(g) a prepaid contract of limited duration that provides for scheduled maintenance only.

(2) (a) This title restricts otherwise legitimate business activity.

(b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law.

(3) Except as otherwise expressly provided, this title does not apply to:

(a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended;

(b) ocean marine insurance;

(c) death, accident, health, or disability benefits provided by an organization if the organization:

(i) has as [its] the organization's principal purpose to achieve charitable, educational, social, or religious objectives rather than to provide death, accident, health, or disability benefits;

(ii) does not incur a legal obligation to pay a specified amount; and

(iii) does not create reasonable expectations of receiving a specified amount on the part of an insured person;

(d) other business specified in rules adopted by the commissioner on a finding that:

(i) the transaction of the business in this state does not require regulation for the protection of the interests of the residents of this state; or

(ii) it would be impracticable to require compliance with this title;

(e) except as provided in Subsection (4), a transaction independently procured through negotiations under Section 31A-15-104;

(f) self-insurance;

(g) reinsurance;

(h) subject to Subsection (5), employee and labor union group or blanket insurance covering risks in this state if:

(i) the policyholder exists primarily for purposes other than to procure insurance;

(ii) the policyholder:

(A) is not a resident of this state;

(B) is not a domestic corporation; or

(C) does not have [its] the policyholder's principal office in this state;

(iii) no more than 25% of the certificate holders or insureds are residents of this state;

(iv) on request of the commissioner, the insurer files with the department a copy of the policy and a copy of each form or certificate; and

(v) (A) the insurer agrees to pay premium taxes on the Utah portion of [its] the insurer's business, as if [it] the insurer were authorized to do business in this state; and

(B) the insurer provides the commissioner with the security the commissioner considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;

(i) to the extent provided in Subsection (6):

(i) a manufacturer's or seller's warranty; and

(ii) a manufacturer's or seller's service contract;

(j) except to the extent provided in Subsection (7), a public agency insurance mutual; or

(k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset protection waiver.

(4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.

(5) (a) After a hearing, the commissioner may order an insurer of certain group or blanket contracts to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.

(b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:

(i) the insurer to be authorized to do business in this state; or

(ii) that any of the insurer's transactions be subject to this title.

(c) Subsection (3)(h) does not apply to blanket accident and health insurance.

(6) (a) As used in Subsection (3)(i) and this Subsection (6):

(i) "manufacturer's or seller's service contract" means a service contract:

(A) made available by:

(I) a manufacturer of a product;

(II) a seller of a product; or



(III) an affiliate of a manufacturer or seller of a product;

(B) made available:

(I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to be provided under the service contract including, if the manufacturer's or seller's service contract designates, providing parts and labor;

(ii) "manufacturer's or seller's warranty" means the guaranty of:

(A) (I) the manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B) (I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services to be provided under the warranty, including, if the manufacturer's or seller's warranty designates, providing parts and labor; and

(iii) "service contract" means the same as that term is defined in Section 31A-6a-101.

(b) A manufacturer's or seller's warranty may be designated as:

(i) a warranty;

(ii) a guaranty; or

(iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).

(c) This title does not apply to:

(i) a manufacturer's or seller's warranty;

(ii) a manufacturer's or seller's service contract paid for with consideration that is in addition to the consideration paid for the product itself; and

(iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's or seller's service contract if:

(A) the service contract is paid for with consideration that is in addition to the consideration paid for the product itself;

(B) the service contract is for the repair or maintenance of goods;

(C) the ~~cost~~ purchase price of the product is ~~equal to an amount determined in accordance with Subsection (6)(e); and~~ \$3,700 or less;

(D) the product is not a motor vehicle~~;~~; and

(E) the product is not the subject of a home warranty service contract.

(d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:

(i) at the time of the purchase of the product; or

(ii) at a time other than the time of the purchase of the product.

~~[(e) (i) For fiscal year 2001-02, the amount described in Subsection (6)(e)(iii)(C) shall be equal to \$3,700 or less.]~~

~~[(ii) For each fiscal year after fiscal year 2001-02, the commissioner shall annually determine whether the amount described in Subsection (6)(e)(iii)(C) should be adjusted in accordance with changes in the Consumer Price Index published by the United States Bureau of Labor Statistics selected by the commissioner by rule, between:]~~

~~[(A) the Consumer Price Index for the February immediately preceding the adjustment; and]~~

~~[(B) the Consumer Price Index for February 2001.]~~

~~[(iii) If under Subsection (6)(e)(ii) the commissioner determines that an adjustment should be made, the commissioner shall make the adjustment by rule.]~~

(7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an entity formed by two or more political subdivisions or public agencies of the state:

(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) for the purpose of providing for the political subdivisions or public agencies:

(A) subject to Subsection (7)(b), insurance coverage; or

(B) risk management.

(b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may not provide health insurance unless the public agency insurance mutual provides the health insurance using:

(i) a third party administrator licensed under Chapter 25, Third Party Administrators;

(ii) an admitted insurer; or

(iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(c) Except for this Subsection (7), a public agency insurance mutual is exempt from this title.

(d) A public agency insurance mutual is considered to be a governmental entity and political subdivision of the state with all of the rights, privileges, and immunities of a governmental entity or political subdivision of the state including all the rights and benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

**Section 5. Section 31A-1-301 is amended to read:**

**31A-1-301. Definitions.**

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) an expense reimbursement contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(d) For purposes of a national licensing registry, "accident and health insurance" is the same as "accident and health or sickness insurance."

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" means the same as that term is defined in Subsection [~~(478)~~] (179).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-7(1), as a condition to the release of that person from confinement.

(13) "Binder" means the same as that term is defined in Section 31A-21-102.

(14) "Blanket insurance policy" means a group policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" means the same as that term is defined in Subsection (94).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-8-205; or

(b) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by another organization; and

(ii) whose exclusive purpose is to insure risks of the parent organization and an affiliated company; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose exclusive purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) “Controlled insurer” means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) “Controlling person” means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) “Controlling producer” means a producer who directly or indirectly controls an insurer.

(33) “Corporate governance annual disclosure” means a report an insurer or insurance group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.

(34) (a) “Corporation” means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) “Mutual” or “mutual corporation” means a mutual insurance corporation.

(c) “Stock corporation” means a stock insurance corporation.

(35) (a) “Creditable coverage” has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) “Creditable coverage” includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children’s Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(36) “Credit accident and health insurance” means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(37) (a) “Credit insurance” means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) “Credit insurance” includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(38) “Credit life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(39) “Creditor” means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(40) “Credit property insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(41) “Credit unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

- (i) specific loan; or
- (ii) credit transaction.

(42) (a) “Crop insurance” means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

- (i) provided by the private insurance market; or
- (ii) subsidized by the Federal Crop Insurance Corporation.

(b) “Crop insurance” includes multiperil crop insurance.

(43) (a) “Customer service representative” means a person that provides an insurance service and insurance product information:

- (i) for the customer service representative’s:
  - (A) producer;
  - (B) surplus lines producer; or
  - (C) consultant employer; and
- (ii) to the customer service representative’s employer’s:
  - (A) customer;
  - (B) client; or
  - (C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative’s producer, surplus lines producer, or consultant employer.

(44) “Deadline” means a final date or time:

- (a) imposed by:
  - (i) statute;
  - (ii) rule; or
  - (iii) order; and
- (b) by which a required filing or payment must be received by the department.

(45) “Deemer clause” means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner’s failure to take a specific action.

(46) “Degree of relationship” means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(47) “Department” means the Insurance Department.

(48) “Director” means a member of the board of directors of a corporation.

(49) “Disability” means a physiological or psychological condition that partially or totally limits an individual’s ability to:

- (a) perform the duties of:
  - (i) that individual’s occupation; or
  - (ii) an occupation for which the individual is reasonably suited by education, training, or experience; or
- (b) perform two or more of the following basic activities of daily living:

- (i) eating;
- (ii) toileting;
- (iii) transferring;
- (iv) bathing; or
- (v) dressing.

(50) “Disability income insurance” means the same as that term is defined in Subsection (85).

(51) “Domestic insurer” means an insurer organized under the laws of this state.

(52) “Domiciliary state” means the state in which an insurer:

- (a) is incorporated;
- (b) is organized; or
- (c) in the case of an alien insurer, enters into the United States.

(53) (a) “Eligible employee” means:

- (i) an employee who:
  - (A) works on a full-time basis; and
  - (B) has a normal work week of 30 or more hours; or
- (ii) a person described in Subsection (53)(b).
- (b) “Eligible employee” includes:
  - (i) an owner who:
    - (A) works on a full-time basis; ~~and~~
    - (B) has a normal work week of 30 or more hours; and
  - (C) employs at least one common employee; and

(ii) if the individual is included under a health benefit plan of a small employer:

- (A) a sole proprietor;
- (B) a partner in a partnership; or
- (C) an independent contractor.

(c) “Eligible employee” does not include, unless eligible under Subsection (53)(b):

- (i) an individual who works on a temporary or substitute basis for a small employer;
- (ii) an employer’s spouse who does not meet the requirements of Subsection (53)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection (53)(a)(i).

(54) “Employee” means:

(a) an individual employed by an employer; and  
 (b) an owner who meets the requirements of Subsection (53)(b)(i).

(55) “Employee benefits” means one or more benefits or services provided to:

(a) an employee; or  
 (b) a dependent of an employee.

(56) (a) “Employee welfare fund” means a fund:

(i) established or maintained, whether directly or through a trustee, by:

(A) one or more employers;  
 (B) one or more labor organizations; or  
 (C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) “Employee welfare fund” includes a plan funded or subsidized by a user fee or tax revenues.

(57) “Endorsement” means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

(58) (a) “Enrollee” means:

(i) a policyholder;  
 (ii) a certificate holder;  
 (iii) a subscriber; or  
 (iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) “Enrollee” includes an insured.

(59) “Enrollment date,” with respect to a health benefit plan, means:

(a) the first day of coverage; or  
 (b) if there is a waiting period, the first day of the waiting period.

(60) “Enterprise risk” means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding

company system as a whole, including anything that would cause:

(a) the insurer’s risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

(61) (a) “Escrow” means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) “Escrow” does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

(62) “Escrow agent” means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(63) (a) “Excludes” is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term “excludes” are representative examples for use in interpretation of this title.

(64) “Exclusion” means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

- (c) a specific disease or disorder; or
- (d) a specific prescription drug or class of prescription drugs.
- (65) “Expense reimbursement insurance” means insurance:
- (a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and
- (b) written:
- (i) as a daily limit for a specific number of days in a hospital; and
- (ii) to have a one or two day waiting period following a hospitalization.
- (66) “Fidelity insurance” means insurance guaranteeing the fidelity of a person holding a position of public or private trust.
- (67) (a) “Filed” means that a filing is:
- (i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;
- (ii) received by the department within the time period provided in applicable statute, rule, or filing order; and
- (iii) accompanied by the appropriate fee in accordance with:
- (A) Section 31A-3-103; or
- (B) rule.
- (b) “Filed” does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (67)(a).
- (68) “Filing,” when used as a noun, means an item required to be filed with the department including:
- (a) a policy;
- (b) a rate;
- (c) a form;
- (d) a document;
- (e) a plan;
- (f) a manual;
- (g) an application;
- (h) a report;
- (i) a certificate;
- (j) an endorsement;
- (k) an actuarial certification;
- (l) a licensee annual statement;
- (m) a licensee renewal application;
- (n) an advertisement;
- (o) a binder; or
- (p) an outline of coverage.

- (69) “First party insurance” means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured’s losses.
- (70) “Foreign insurer” means an insurer domiciled outside of this state, including an alien insurer.
- (71) (a) “Form” means one of the following prepared for general use:
- (i) a policy;
- (ii) a certificate;
- (iii) an application;
- (iv) an outline of coverage; or
- (v) an endorsement.
- (b) “Form” does not include a document specially prepared for use in an individual case.
- (72) “Franchise insurance” means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.
- (73) “General lines of authority” include:
- (a) the general lines of insurance in Subsection (74);
- (b) title insurance under one of the following sublines of authority:
- (i) title examination, including authority to act as a title marketing representative;
- (ii) escrow, including authority to act as a title marketing representative; and
- (iii) title marketing representative only;
- (c) surplus lines;
- (d) workers’ compensation; and
- (e) another line of insurance that the commissioner considers necessary to recognize in the public interest.
- (74) “General lines of insurance” include:
- (a) accident and health;
- (b) casualty;
- (c) life;
- (d) personal lines;
- (e) property; and
- (f) variable contracts, including variable life and annuity.
- (75) “Group health plan” means an employee welfare benefit plan to the extent that the plan provides medical care:
- (a) (i) to an employee; or
- (ii) to a dependent of an employee; and
- (b) (i) directly;
- (ii) through insurance reimbursement; or

(iii) through another method.

(76) (a) “Group insurance policy” means a policy covering a group of persons that is issued:

- (i) to a policyholder on behalf of the group; and
- (ii) for the benefit of a member of the group who is selected under a procedure defined in:

- (A) the policy; or
  - (B) an agreement that is collateral to the policy.
- (b) A group insurance policy may include a member of the policyholder’s family or a dependent.

(77) “Group-wide supervisor” means the commissioner or other regulatory official designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.

(78) “Guaranteed automobile protection insurance” means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(79) (a) “Health benefit plan” means, except as provided in Subsection (79)(b), a policy, contract, certificate, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care.

(b) “Health benefit plan” does not include:

- (i) coverage only for accident or disability income insurance, or any combination thereof;
- (ii) coverage issued as a supplement to liability insurance;
- (iii) liability insurance, including general liability insurance and automobile liability insurance;
- (iv) workers’ compensation or similar insurance;
- (v) automobile medical payment insurance;
- (vi) credit-only insurance;
- (vii) coverage for on-site medical clinics;
- (viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

- (A) limited scope dental or vision benefits;
- (B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or
- (C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

- (A) coverage only for specified disease or illness; or
- (B) hospital indemnity or other fixed indemnity insurance; ~~and~~

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan[-];

(xii) short-term, limited-duration insurance; and

(xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.

(80) “Health care” means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

- (a) a professional service;
- (b) a personal service;
- (c) a facility;
- (d) equipment;
- (e) a device;
- (f) supplies; or
- (g) medicine.

(81) (a) “Health care insurance” or “health insurance” means insurance providing:

- (i) a health care benefit; or
- (ii) payment of an incurred health care expense.

(b) “Health care insurance” or “health insurance” does not include accident and health insurance providing a benefit for:

- (i) replacement of income;
- (ii) short-term accident;
- (iii) fixed indemnity;
- (iv) credit accident and health;
- (v) supplements to liability;
- (vi) workers’ compensation;
- (vii) automobile medical payment;



- (viii) no-fault automobile;
- (ix) equivalent self-insurance; or
- (x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(82) “Health care provider” means the same as that term is defined in Section 78B-3-403.

(83) “Health insurance exchange” means an exchange as defined in 45 C.F.R. Sec. 155.20.

(84) “Health Insurance Portability and Accountability Act” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(85) “Income replacement insurance” or “disability income insurance” means insurance written to provide payments to replace income lost from accident or sickness.

(86) “Indemnity” means the payment of an amount to offset all or part of an insured loss.

(87) “Independent adjuster” means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(88) “Independently procured insurance” means insurance procured under Section 31A-15-104.

(89) “Individual” means a natural person.

(90) “Inland marine insurance” includes insurance covering:

- (a) property in transit on or over land;
- (b) property in transit over water by means other than boat or ship;
- (c) bailee liability;
- (d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and
- (e) personal and commercial property floaters.

(91) “Insolvency” or “insolvent” means that:

- (a) an insurer is unable to pay the insurer’s obligations as the obligations are due;
- (b) an insurer’s total adjusted capital is less than the insurer’s mandatory control level RBC under Subsection 31A-17-601(8)(c); or
- (c) an insurer’s admitted assets are less than the insurer’s liabilities.

(92) (a) “Insurance” means:

- (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or
- (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person’s risk.

(b) “Insurance” includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(93) “Insurance adjuster” means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(94) “Insurance business” or “business of insurance” includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection (125);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (94)(a) through (h) in a manner designed to evade this title.

(95) “Insurance consultant” or “consultant” means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(96) “Insurance group” means the persons that comprise an insurance holding company system.

(97) “Insurance holding company system” means a group of two or more affiliated persons, at least one of whom is an insurer.

(98) (a) “Insurance producer” or “producer” means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) “Producer for the insurer” means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) “Producer for the insurer” may be referred to as an “agent.”

(c) (i) “Producer for the insured” means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) “Producer for the insured” may be referred to as a “broker.”

(99) (a) “Insured” means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

- (i) a policyholder;
- (ii) a subscriber;
- (iii) a member; and
- (iv) a beneficiary.

(b) The definition in Subsection (99)(a):

- (i) applies only to this title;
- (ii) does not define the meaning of “insured” as used in an insurance policy or certificate; and
- (iii) includes an enrollee.

(100) (a) “Insurer” means a person doing an insurance business as a principal including:

- (i) a fraternal benefit society;
- (ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan;

(v) a person purporting or intending to do an insurance business as a principal on that person’s own account; and

(vi) a health maintenance organization.

(b) “Insurer” does not include a governmental entity.

(101) “Interinsurance exchange” means the same as that term is defined in Subsection (160).

(102) “Internationally active insurance group” means an insurance holding company system:

(a) that includes an insurer registered under Section 31A-16-105;

(b) that has premiums written in at least three countries;

(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and

(d) that, based on a three-year rolling average, has:

(i) total assets of at least \$50,000,000,000; or

(ii) total gross written premiums of at least \$10,000,000,000.

(103) “Involuntary unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(104) ~~[(a)]~~ “Large employer,” in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

~~[(i)]~~ (a) employed an average of at least 51 employees on business days during the preceding calendar year; and

~~[(ii)]~~ (b) employs at least one employee on the first day of the plan year.

~~[(b)]~~ The number of employees shall be determined using the method set forth in 26 U.S.C. Sec. 4980H(e)(2).]

(105) “Late enrollee,” with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

(106) “Late enrollment,” with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

(107) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, “legal expense insurance” means insurance written to indemnify or pay for a specified legal expense.

(b) “Legal expense insurance” includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) “Legal expense insurance” does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

(108) (a) “Liability insurance” means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

- (A) medical malpractice insurance;
- (B) professional liability insurance; and
- (C) workers’ compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

- (A) medical malpractice insurance;
- (B) professional liability insurance; and
- (C) workers’ compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) “Liability insurance” includes:

- (i) vehicle liability insurance;
- (ii) residential dwelling liability insurance; and
- (iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

(109) (a) “License” means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) “License” includes a certificate of authority issued to an insurer.

(110) (a) “Life insurance” means:

- (i) insurance on a human life; and
- (ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

- (i) granting a death benefit;
- (ii) granting an annuity benefit;
- (iii) granting an endowment benefit;
- (iv) granting an additional benefit in the event of death by accident;
- (v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

(111) “Limited license” means a license that:

- (a) is issued for a specific product of insurance; and
- (b) limits an individual or agency to transact only for that product or insurance.

(112) “Limited line credit insurance” includes the following forms of insurance:

- (a) credit life;
- (b) credit accident and health;
- (c) credit property;
- (d) credit unemployment;
- (e) involuntary unemployment;
- (f) mortgage life;
- (g) mortgage guaranty;
- (h) mortgage accident and health;
- (i) guaranteed automobile protection; and
- (j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(113) “Limited line credit insurance producer” means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(114) “Limited line insurance” includes:

- (a) bail bond;
- (b) limited line credit insurance;
- (c) legal expense insurance;
- (d) motor club insurance;
- (e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(115) "Limited lines authority" includes the lines of insurance listed in Subsection (114).

(116) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(117) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or

(D) another method;

(iii) for one or more necessary or medically necessary services that are:

(A) diagnostic;

(B) preventative;

(C) therapeutic;

(D) rehabilitative;

(E) maintenance; or

(F) personal care; and

(iv) that may be issued by:

(A) an insurer;

(B) a fraternal benefit society;

(C) (I) a nonprofit health hospital; and

(II) a medical service corporation;

(D) a prepaid health plan;

(E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (117)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

(A) a group or individual annuity or rider; or

(B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

(A) cognitive impairment; or

(B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

(A) disease; or

(B) accident;

(ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement.

(118) "Managed care organization" means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b) (i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

(119) "Medical malpractice insurance" means insurance against legal liability incident to the

practice and provision of a medical service other than the practice and provision of a dental service.

(120) “Member” means a person having membership rights in an insurance corporation.

(121) “Minimum capital” or “minimum required capital” means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

(122) “Mortgage accident and health insurance” means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

(123) “Mortgage guaranty insurance” means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

(124) “Mortgage life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

(125) “Motor club” means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections (125)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

(126) “Mutual” means a mutual insurance corporation.

(127) “Network plan” means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

(128) “Network provider” means a health care provider who has an agreement with a managed

care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

(129) “Nonparticipating” means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

(130) “Ocean marine insurance” means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

(131) “Order” means an order of the commissioner.

(132) “ORSA guidance manual” means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.

(133) “ORSA summary report” means a confidential high-level summary of an insurer or insurance group’s own risk and solvency assessment.

(134) “Outline of coverage” means a summary that explains an accident and health insurance policy.

(135) “Own risk and solvency assessment” means an insurer or insurance group’s confidential internal assessment:

(a) (i) of each material and relevant risk associated with the insurer or insurance group;

(ii) of the insurer or insurance group’s current business plan to support each risk described in Subsection (135)(a)(i); and

(iii) of the sufficiency of capital resources to support each risk described in Subsection (135)(a)(i); and

(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.

(136) “Participating” means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

(137) “Participation,” as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

(138) “Person” includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

(139) “Personal lines insurance” means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

(140) “Plan sponsor” means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

(141) “Plan year” means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer’s taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (141)(a) or (b), the calendar year.

(142) (a) “Policy” means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) “Policy” includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) “Policy” does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(143) “Policyholder” means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(144) “Policy illustration” means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years.

(145) “Policy summary” means a synopsis describing the elements of a life insurance policy.

(146) “PPACA” means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(147) “Preexisting condition,” with respect to health care insurance:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(148) (a) “Premium” means the monetary consideration for an insurance policy.

(b) “Premium” includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) “Premium” does not include consideration paid to a third party administrator for the third party administrator’s services.

(ii) “Premium” includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(149) “Principal officers” for a corporation means the officers designated under Subsection 31A-5-203(3).

(150) “Proceeding” includes an action or special statutory proceeding.

(151) “Professional liability insurance” means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(152) (a) Except as provided in Subsection (152)(b), “property insurance” means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) “Property insurance” does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

(153) “Qualified long-term care insurance contract” or “federally tax qualified long-term care insurance contract” means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(154) “Qualified United States financial institution” means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(155) (a) “Rate” means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) “Rate” does not include a minimum premium.

(156) (a) Except as provided in Subsection (156)(b), “rate service organization” means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) “Rate service organization” does not mean:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

(157) “Rating manual” means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(158) (a) “Rebate” means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

(159) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

(160) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

(161) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

(i) "assuming insurer"; or

(ii) "assuming reinsurer."

(162) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

(163) "Residential dwelling liability insurance" means insurance against liability resulting from or

incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

(164) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

(165) "Rider" means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

(166) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

(167) (a) "Security" means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections (167)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

(168) "Securityholder" means a specified person who owns a security of a person, including:



- (a) common stock;
- (b) preferred stock;
- (c) debt obligations; and
- (d) any other security convertible into or evidencing the right of any of the items listed in this Subsection (168).

(169) (a) “Self-insurance” means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection (169), “self-insurance” does not include an arrangement under which a number of persons spread their risks among themselves.

(c) “Self-insurance” includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee’s employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) “Self-insurance” does not include an arrangement with an independent contractor.

(170) “Sell” means to exchange a contract of insurance:

- (a) by any means;
- (b) for money or its equivalent; and
- (c) on behalf of an insurance company.

(171) “Short-term care insurance” means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.

(172) “Short-term ~~limited-duration health~~, limited-duration insurance” means a health benefit product that:

(a) after taking into account any renewals or extensions, has a total duration of no more than 36 months; and

(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.

(173) “Significant break in coverage” means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

(174) (a) “Small employer” means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i) (A) employed at least one but not more than 50 eligible employees on business days during the preceding calendar year; or

(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;

(ii) employs at least one employee on the first day of the plan year; and

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

(b) “Small employer” does not include a sole proprietor that does not employ at least one employee.

(175) “Special enrollment period,” in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(176) (a) “Subsidiary” of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) “Wholly owned subsidiary” of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary’s domicile requires to be owned by directors or others.

(177) Subject to Subsection (91)(b), “surety insurance” includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal’s obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

(178) (a) “Surplus” means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) “Permanent surplus” means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) “Excess surplus” means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

(179) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternal; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

(180) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

(181) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

(182) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

(183) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

(184) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

(185) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection (152).

(186) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

(187) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

(188) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

- (i) a compensable accidental injury; and
- (ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

**Section 6. Section 31A-2-104 is amended to read:**

**31A-2-104. Other employees -- Insurance fraud investigators.**

(1) The department shall employ [~~a chief examiner and such other~~] professional, technical, and clerical employees as necessary to carry out the duties of the department.

(2) An insurance fraud investigator employed [~~pursuant to~~] in accordance with Subsection (1) may as [~~approved by~~] the commissioner approves:

(a) be designated a law enforcement officer, as defined in Section 53-13-103; and

(b) be eligible for retirement benefits under the Public Safety Employee's Retirement System.

**Section 7. Section 31A-2-110 is amended to read:**

**31A-2-110. Official seal and signature.**

(1) (a) Any statutory or common-law requirement that an official seal be affixed is satisfied by the signature of the commissioner.

(b) However, the commissioner may adopt and use a seal bearing the words "Commissioner of Insurance for Utah," an impression of which shall be filed with the Division of Archives.

(2) Any signature of the commissioner may be in [~~facsimile~~] a format that affixes an exact copy of the signature, unless specifically required to be handwritten.

**Section 8. Section 31A-2-212 is amended to read:**

**31A-2-212. Miscellaneous duties.**

(1) Upon issuance of an order limiting, suspending, or revoking a person's authority to do business in Utah, and when the commissioner begins a proceeding against an insurer under Chapter 27a, Insurer Receivership Act, the commissioner:

(a) shall notify by mail the producers of the person or insurer of whom the commissioner has record; and

(b) may publish notice of the order or proceeding in any manner the commissioner considers necessary to protect the rights of the public.

(2) (a) When required for evidence in a legal proceeding, the commissioner shall furnish a certificate of authority of a licensee to transact the business of insurance in Utah on any particular date.

(b) The court or other officer shall receive [~~the~~] a certificate of authority described in this Subsection (2) in lieu of the commissioner's testimony.

(3) (a) On the request of an insurer authorized to do a surety business, the commissioner shall furnish a copy of the insurer's certificate of authority to a designated public officer in this state who requires that certificate of authority before accepting a bond.

(b) The public officer described in Subsection (3)(a) shall file the certificate of authority furnished under Subsection (3)(a).

(c) After a certified copy of a certificate of authority is furnished to a public officer, it is not necessary, while the certificate of authority remains effective, to attach a copy of it to any instrument of suretyship filed with that public officer.

(d) Whenever the commissioner revokes the certificate of authority or begins a proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a surety business, the commissioner shall immediately give notice of that action to each public officer who is sent a certified copy under this Subsection (3).

(4) (a) The commissioner shall immediately notify every judge and clerk of the courts of record in the state when:

(i) an authorized insurer doing a surety business:

- (A) files a petition for receivership; or
- (B) is in receivership; or

(ii) the commissioner has reason to believe that the authorized insurer doing surety business:

- (A) is in financial difficulty; or

(B) has unreasonably failed to carry out any of [its] the authorized insurer's contracts.

(b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the judges and clerks to notify and require a person that files with the court a bond on which the authorized insurer doing surety business is surety to immediately file a new bond with a new surety.

~~[(5) (a) The commissioner shall report to the Legislature in accordance with Section 63N-11-106 before adopting a rule authorized by Subsection (5)(b).]~~

~~[(b)]~~ (5) (a) The commissioner shall require an insurer that issues, sells, renews, or offers health insurance coverage in this state to comply with PPACA and administrative rules adopted by the commissioner related to regulation of health benefit plans, including:

- (i) lifetime and annual limits;
- (ii) prohibition of rescissions;
- (iii) coverage of preventive health services;
- (iv) coverage for a child or dependent;
- (v) pre-existing condition limitations;
- (vi) insurer transparency of consumer information including plan disclosures, uniform coverage documents, and standard definitions;
- (vii) premium rate reviews;
- (viii) essential health benefits;
- (ix) provider choice;
- (x) waiting periods;
- (xi) appeals processes;
- (xii) rating restrictions;
- (xiii) uniform applications and notice provisions;
- (xiv) certification and regulation of qualified health plans; and
- (xv) network adequacy standards.

~~[(e)]~~ (b) The commissioner shall preserve state control over:

- (i) the health insurance market in the state;
- (ii) qualified health plans offered in the state; and
- (iii) the conduct of navigators, producers, and in-person assisters operating in the state.

~~[(d) If the state enters into an agreement with the United States Department of Health and Human Services in which the state operates health insurance plan management, the commissioner may:]~~

~~[(i) for fiscal year 2014, hire one temporary and two permanent full-time employees to be funded through the department's existing budget; and]~~

~~[(ii) for fiscal year 2015, hire two permanent full-time employees funded through the Insurance~~

~~Department Restricted Account, subject to appropriations from the Legislature and approval by the governor.]~~

**Section 9. Section 31A-2-218 is amended to read:**

**31A-2-218. Strategic plan for health system reform.**

The commissioner and the department shall:

~~[(1) work with the Governor's Office of Economic Development, the Department of Health, the Department of Workforce Services, and the Legislature to develop health system reform in accordance with the strategic plan described in Title 63N, Chapter 11, Health System Reform Act;]~~

~~[(2) work with health insurers in accordance with Section 31A-22-635 to develop standards for health insurance applications and compatible electronic systems;]~~

~~[(3)]~~ (1) facilitate a private sector method for the collection of health insurance premium payments made for a single policy by multiple payers, including the policyholder, one or more employers of one or more individuals covered by the policy, government programs, and others by educating employers and insurers about collection services available through private vendors, including financial institutions;

~~[(4)]~~ (2) encourage health insurers to develop products that:

(a) encourage health care providers to follow best practice protocols;

(b) incorporate other health care quality improvement mechanisms; and

(c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted by the Health Insurance Portability and Accountability Act;

~~[(5)]~~ (3) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as necessary, to accomplish the requirements of this section; and

~~[(6)]~~ (4) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as necessary, to implement Subsections (1) and (2), (3), and (4).

**Section 10. Section 31A-2-309 is amended to read:**

**31A-2-309. Service of process through state officer.**

(1) The commissioner, or the lieutenant governor when the subject proceeding is brought by the state, is the agent for receipt of service of a summons, notice, order, pleading, or other legal process relating to a Utah court or administrative agency upon the following:

(a) an insurer authorized to do business in this state, while authorized to do business in this state, and thereafter in a proceeding arising from or

related to a transaction having a connection with this state;

(b) a surplus lines insurer for a proceeding arising out of a contract of insurance that is subject to the surplus lines law, or out of a certificate, cover note, or other confirmation of that type of insurance;

(c) an unauthorized insurer or other person assisting an unauthorized insurer under Subsection 31A-15-102(1) by doing an act specified in Subsection 31A-15-102(2), for a proceeding arising out of a transaction that is subject to the unauthorized insurance law;

(d) a nonresident producer, consultant, adjuster, or third party administrator, while authorized to do business in this state, and thereafter in a proceeding arising from or related to a transaction having a connection with this state; and

(e) a reinsurer submitting to the commissioner's jurisdiction under Subsection 31A-17-404~~(9)~~(11).

(2) The following is considered to have irrevocably appointed the commissioner and lieutenant governor as that person's agents in accordance with Subsection (1):

(a) a licensed insurer by applying for and receiving a certificate of authority;

(b) a surplus lines insurer by entering into a contract subject to the surplus lines law;

(c) an unauthorized insurer by doing in this state an act prohibited by Section 31A-15-103; and

(d) a nonresident producer, consultant, adjuster, and third party administrator.

(3) The commissioner and lieutenant governor are also agents for an executor, administrator, personal representative, receiver, trustee, or other successor in interest of a person specified under Subsection (1).

(4) A litigant serving process on the commissioner or lieutenant governor under this section shall pay the fee applicable under Section 31A-3-103.

(5) The right to substituted service under this section does not limit the right to serve a summons, notice, order, pleading, demand, or other process upon a person in another manner provided by law.

**Section 11. Section 31A-2-403 is amended to read:**

**31A-2-403. Title and Escrow Commission created.**

(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members appointed by the governor with the consent of the Senate as follows:

(i) except as provided in Subsection ~~[(4)(e)]~~ (1)(d), two members shall be employees of a title insurer;

(ii) two members shall:

(A) be employees of a Utah agency title insurance producer;

(B) be or have been licensed under the title insurance line of authority;

(C) as of the day on which the member is appointed, be or have been licensed with the title examination or escrow subline of authority for at least five years; and

(D) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(ii); and

(iii) one member shall be a member of the general public from any county in the state.

(b) No more than one commission member may be appointed from a single company or an affiliate or subsidiary of the company.

(c) No more than two commission members may be employees of an entity operating under an affiliated business arrangement, as defined in Section 31A-23a-1001.

~~[(e)]~~ (d) If the governor is unable to identify more than one individual who is an employee of a title insurer and willing to serve as a member of the commission, the commission shall include the following members in lieu of the members described in Subsection (1)(a)(i):

(i) one member who is an employee of a title insurer; and

(ii) one member who is an employee of a Utah agency title insurance producer.

(2) (a) Subject to Subsection (2)(c), a commission member shall file with the commissioner a disclosure of any position of employment or ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.

(b) The disclosure statement required by this Subsection (2) shall be:

(i) filed by no later than the day on which the person begins that person's appointment; and

(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).

(c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is in a publicly traded company or held as part of a mutual fund, trust, or similar investment.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the

members appointed under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are appointed every two years.

(c) A commission member may not serve more than one consecutive term.

(d) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the consent of the Senate.

(4) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) Members of the commission shall annually select one commission member to serve as chair.

(6) (a) (i) Except as provided in Subsection (6)(b), the commission shall meet at least monthly.

(ii) (A) The commissioner shall, with the concurrence of the chair of the commission, designate at least one monthly meeting per quarter as an in-person meeting.

(B) Notwithstanding Section 52-4-207, a commission member shall physically attend a meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A) and may not attend through electronic means. A commission member may attend any other commission meeting, subcommittee meeting, or emergency meeting by electronic means in accordance with Section 52-4-207.

(b) (i) Except as provided in Subsection (6)(b)(ii), the commissioner may, with the concurrence of the chair of the commission, cancel a monthly meeting of the commission if, due to the number or nature of pending title insurance matters, the monthly meeting is not necessary.

(ii) The commissioner may not cancel a monthly meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A).

(c) The commissioner may call additional meetings:

(i) at the commissioner's discretion;

(ii) upon the request of the chair of the commission; or

(iii) upon the written request of three or more commission members.

(d) (i) Three commission members constitute a quorum for the transaction of business.

(ii) The action of a majority of the commission members when a quorum is present is the action of the commission.

(7) The commissioner shall staff the commission.

**Section 12. Section 31A-6a-101 is amended to read:**

**31A-6a-101. Definitions.**

As used in this chapter:

(1) "Home warranty service contract" means a service contract that requires a person to repair or replace a component, system, or appliance of a home or make indemnification to the contract holder for the repair or replacement of a component, system, or appliance of the home:

(a) upon mechanical or operational failure of the component, system, or appliance;

(b) for a predetermined fee; and

(c) if:

(i) the person is not the builder, seller, or lessor of the home that is the subject of the contract; and

(ii) the failure described in Subsection (1)(a) occurs within a specified period of time.

~~[(4)]~~ (2) (a) "Incidental cost" means a cost, incurred by a warranty holder in relation to a vehicle protection product warranty, that is in addition to the cost of purchasing the warranty.

(b) "Incidental cost" includes an insurance policy deductible, a rental vehicle charge, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales tax, a registration fee, a transaction fee, a mechanical inspection fee, or damage a theft causes to a vehicle.

~~[(2)]~~ (3) "Mechanical breakdown insurance" means a policy, contract, or agreement issued by an insurance company that has complied with either Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, that undertakes to perform or provide repair or replacement service on goods or property, or indemnification for repair or replacement service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear.

~~[(3)]~~ (4) "Nonmanufacturers' parts" means replacement parts not made for or by the original manufacturer of the goods commonly referred to as "after market parts."

~~[(4)]~~ (5) (a) "Road hazard" means a hazard that is encountered while driving a motor vehicle.

(b) "Road hazard" includes potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

~~[(5)]~~ (6) (a) "Service contract" means a contract or agreement to perform or reimburse for the repair or maintenance of goods or property, for their operational or structural failure due to a defect in materials, workmanship, normal wear and tear,

power surge or interruption, or accidental damage from handling, with or without additional provision for incidental payment of indemnity under limited circumstances, including towing, providing a rental car, providing emergency road service, and covering food spoilage.

(b) "Service contract" does not include:

(i) mechanical breakdown insurance; or

(ii) a prepaid contract of limited duration that provides for scheduled maintenance only, regardless of whether the contract is executed before, on, or after May 9, 2017.

(c) "Service contract" includes any contract or agreement to perform or reimburse the service contract holder for any one or more of the following services:

(i) the repair or replacement of tires, wheels, or both on a motor vehicle damaged as a result of coming into contact with a road hazard;

(ii) the removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(iii) the repair of chips or cracks in or the replacement of a motor vehicle windshield as a result of damage caused by a road hazard, that is primary to the coverage offered by the motor vehicle owner's motor vehicle insurance policy; or

(iv) the replacement of a motor vehicle key or key-fob if the key or key-fob becomes inoperable, lost, or stolen, except that the replacement of lost or stolen property is limited to only the replacement of a lost or stolen motor vehicle key or key-fob.

[~~(6)~~] (7) "Service contract holder" or "contract holder" means a person who purchases a service contract.

[~~(7)~~] (8) "Service contract provider" means a person who issues, makes, provides, administers, sells or offers to sell a service contract, or who is contractually obligated to provide service under a service contract.

[~~(8)~~] (9) "Service contract reimbursement policy" or "reimbursement insurance policy" means a policy of insurance providing coverage for all obligations and liabilities incurred by the service contract provider or warrantor under the terms of the service contract or vehicle protection product warranty issued by the provider or warrantor.

[~~(9)~~] (10) (a) "Vehicle protection product" means a device or system that is:

(i) installed on or applied to a motor vehicle; and

(ii) designed to:

(A) prevent the theft of the vehicle; or

(B) if the vehicle is stolen, aid in the recovery of the vehicle.

(b) "Vehicle protection product" includes:

(i) a vehicle protection product warranty;

(ii) an alarm system;

(iii) a body part marking product;

(iv) a steering lock;

(v) a window etch product;

(vi) a pedal and ignition lock;

(vii) a fuel and ignition kill switch; and

(viii) an electronic, radio, or satellite tracking device.

[~~(10)~~] (11) "Vehicle protection product warranty" means a written agreement by a warrantor that provides that if the vehicle protection product fails to prevent the theft of the motor vehicle, or aid in the recovery of the motor vehicle within a time period specified in the warranty, not exceeding 30 days after the day on which the motor vehicle is reported stolen, the warrantor will reimburse the warranty holder for incidental costs specified in the warranty, not exceeding \$5,000, or in a specified fixed amount not exceeding \$5,000.

(12) "Vehicle service contract" means a service contract for the repair or maintenance of a vehicle:

(a) for operational or structural failure because of a defect in materials, workmanship, normal wear and tear, or accidental damage from handling; and

(b) with or without additional provision for incidental payment of indemnity under limited circumstances, including towing, providing a rental car, or providing emergency road service.

[~~(11)~~] (13) "Warrantor" means a person who is contractually obligated to the warranty holder under the terms of a vehicle protection product warranty.

[~~(12)~~] (14) "Warranty holder" means the person who purchases a vehicle protection product, any authorized transferee or assignee of the purchaser, or any other person legally assuming the purchaser's rights under the vehicle protection product warranty.

**Section 13. Section 31A-6a-103 is amended to read:**

**31A-6a-103. Requirements for doing business.**

(1) A service contract or vehicle protection product warranty may not be issued, sold, or offered for sale in this state unless the service contract or vehicle protection product warranty is insured under a reimbursement insurance policy issued by:

(a) an insurer authorized to do business in this state; or

(b) a recognized surplus lines carrier.

(2) (a) A service contract or vehicle protection product warranty may not be issued, sold, or offered for sale unless the service contract provider or warrantor completes the registration process described in this Subsection (2).

(b) To register, a service contract provider or warrantor shall submit to the department the following:

- (i) an application for registration;
  - (ii) a fee established in accordance with Section 31A-3-103;
  - (iii) a copy of any service contract or vehicle protection product warranty that the service contract provider or warrantor offers in this state; and
  - (iv) a copy of the service contract provider's or warrantor's reimbursement insurance policy.
- (c) A service provider or warrantor shall submit the information described in Subsection (2)(b) no less than 30 days before the day on which the service provider or warrantor issues, sells, offers for sale, or uses a service contract, vehicle protection product warranty, or reimbursement insurance policy in this state.
- (d) A service provider or warrantor shall file any modification of the terms of a service contract, vehicle protection product warranty, or reimbursement insurance policy 30 days before the day on which it is used in this state.
- (e) A person complying with this chapter is not required to comply with:
- (i) Subsections 31A-21-201(1) and 31A-23a-402(3); or
  - (ii) Chapter 19a, Utah Rate Regulation Act.
- (f) (i) Each year before March 1, a service provider shall pay an annual registration fee established in accordance with Section 31A-3-103.
- (ii) If a service provider does not pay the annual registration fee described in this Subsection (2)(f) before March 1:
- (A) the service provider's registration is expired; and
  - (B) the service provider may apply for registration in accordance with this Subsection (2).
- (3) (a) Premiums collected on a service contract are not subject to premium taxes.
- (b) Premiums collected by an issuer of a reimbursement insurance policy are subject to premium taxes.
- (4) A person marketing, selling, or offering to sell a service contract or vehicle protection product warranty for a service contract provider or warrantor that complies with this chapter is exempt from the licensing requirements of this title.
- (5) A service contract provider or warrantor complying with this chapter is not required to comply with:
- (a) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
  - (b) Chapter 7, Nonprofit Health Service Insurance Corporations;

- (c) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- (d) Chapter 9, Insurance Fraternalists;
- (e) Chapter 10, Annuities;
- (f) Chapter 11, Motor Clubs;
- (g) Chapter 12, State Risk Management Fund;
- (h) Chapter 14, Foreign Insurers;
- (i) Chapter 19a, Utah Rate Regulation Act;
- (j) Chapter 25, Third Party Administrators; and
- (k) Chapter 28, Guaranty Associations.

**Section 14. Section 31A-6a-104 is amended to read:**

**31A-6a-104. Required disclosures.**

- (1) A reimbursement insurance policy insuring a service contract or a vehicle protection product warranty that is issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the service contract provider or warrantor to perform under the contract, the issuer of the policy shall:
- (a) pay on behalf of the service contract provider or warrantor any sums the service contract provider or warrantor is legally obligated to pay according to the service contract provider's or warrantor's contractual obligations under the service contract or a vehicle protection product warranty issued or sold by the service contract provider or warrantor; or
  - (b) provide the service which the service contract provider is legally obligated to perform, according to the service contract provider's contractual obligations under the service contract issued or sold by the service contract provider.
- (2) (a) A service contract may not be issued, sold, or offered for sale in this state unless the service contract contains the following statements in substantially the following form:
- (i) "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. Should the provider fail to pay or provide service on any claim within 60 days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the Insurance Company.";
  - (ii) "This service contract or warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department."; and
  - (iii) A service contract or reimbursement insurance policy may not be issued, sold, or offered for sale in this state unless the contract contains a statement in substantially the following form, "Coverage afforded under this contract is not guaranteed by the Property and Casualty Guaranty Association."
- (b) A vehicle protection product warranty may not be issued, sold, or offered for sale in this state



unless the vehicle protection product warranty contains the following statements in substantially the following form:

(i) "Obligations of the warrantor under this vehicle protection product warranty are guaranteed under a reimbursement insurance policy. Should the warrantor fail to pay on any claim within 60 days after proof of loss has been filed, the warranty holder is entitled to make a claim directly against the Insurance Company.;"

(ii) "This vehicle protection product warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department.;" and

(iii) as applicable:

(A) "The warrantor under this vehicle protection product warranty will reimburse the warranty holder as specified in the warranty upon the theft of the vehicle.;" or

(B) "The warrantor under this vehicle protection product warranty will reimburse the warranty holder as specified in the warranty and at the end of the time period specified in the warranty if, following the theft of the vehicle, the stolen vehicle is not recovered within a time period specified in the warranty, not to exceed 30 days after the day on which the vehicle is reported stolen."

(c) A vehicle protection product warranty, or reimbursement insurance policy, may not be issued, sold, or offered for sale in this state unless the warranty contains a statement in substantially the following form, "Coverage afforded under this warranty is not guaranteed by the Property and Casualty Guaranty Association."

(3) (a) A service contract and a vehicle protection product warranty shall:

~~[(a)]~~ (i) conspicuously state the name, address, and a toll free claims service telephone number of the reimbursement insurer;

~~[(b)-(i)]~~ (ii) (A) identify the service contract provider, the seller, and the service contract holder; or

~~[(ii)]~~ (B) identify the warrantor, the seller, and the warranty holder;

~~[(e)]~~ (iii) conspicuously state the total purchase price and the terms under which the service contract or warranty is to be paid;

~~[(d)]~~ (iv) conspicuously state the existence of any deductible amount;

~~[(e)]~~ (v) specify the merchandise, service to be provided, and any limitation, exception, or exclusion;

~~[(f)]~~ (vi) state a term, restriction, or condition governing the transferability of the service contract or warranty; and

~~[(g)]~~ (vii) state a term, restriction, or condition that governs cancellation of the service contract as provided in Sections 31A-21-303 through

31A-21-305 by either the contract holder or service contract provider.

(b) Beginning January 1, 2021, a service contract shall contain a conspicuous statement in substantially the following form: "Purchase of this product is optional and is not required in order to finance, lease, or purchase a motor vehicle."

(4) If prior approval of repair work is required[,-a service] under a home protection service contract or a vehicle service contract, the contract shall conspicuously state the procedure for obtaining prior approval and for making a claim, including:

(a) a toll free telephone number for claim service; and

(b) a procedure for obtaining reimbursement for emergency repairs performed outside of normal business hours.

(5) A preexisting condition clause in a service contract shall specifically state which preexisting condition is excluded from coverage.

(6) (a) Except as provided in Subsection (6)(c), a service contract shall state the conditions upon which the use of a nonmanufacturers' part is allowed.

(b) A condition described in Subsection (6)(a) shall comply with applicable state and federal laws.

(c) This Subsection (6) does not apply to:

(i) a home warranty service contract[-]; or

(ii) a service contract that does not impose an obligation to provide parts.

(7) This section applies to a vehicle protection product warranty, except for the requirements of Subsections (3)(d) and (g), (4), (5), and (6). The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application of this section to a vehicle protection product warranty.

(8) (a) As used in this Subsection (8), "conspicuous statement" means a disclosure that:

(i) appears in all-caps, bold, and 14-point font; and

(ii) provides a space to be initialed by the consumer:

(A) immediately below the printed disclosure; and

(B) at or before the time the consumer purchases the vehicle protection product.

(b) A vehicle protection product warranty shall contain a conspicuous statement in substantially the following form: "Purchase of this product is optional and is not required in order to finance, lease, or purchase a motor vehicle."

(9) If a vehicle protection product warranty states that the warrantor will reimburse the warranty holder for incidental costs, the vehicle protection product warranty shall state how incidental costs paid under the warranty are calculated.

(10) If a vehicle protection product warranty states that the warrantor will reimburse the warranty holder in a fixed amount, the vehicle protection product warranty shall state the fixed amount.

**Section 15. Section 31A-8-211 is amended to read:**

**31A-8-211. Deposit.**

(1) Except as provided in Subsection (2), each health maintenance organization authorized in this state shall maintain a deposit with the commissioner under Section 31A-2-206 in an amount equal to the sum of:

(a) \$100,000; and

(b) 50% of the greater of:

(i) \$900,000;

(ii) 2% of the annual premium revenues as reported on the most recent annual financial statement filed with the commissioner; or

(iii) an amount equal to the sum of three months uncovered health care expenditures as reported on the most recent financial statement filed with the commissioner.

(2) (a) ~~[After a hearing the]~~ The commissioner may exempt a health maintenance organization from the deposit requirement of Subsection (1) if:

(i) the commissioner determines that the enrollees' interests are adequately protected;

(ii) the health maintenance organization has been continuously authorized to do business in this state for at least five years; and

(iii) the health maintenance organization has \$5,000,000 surplus in excess of the health maintenance organization's company action level RBC as defined in Subsection 31A-17-601(8)(b).

(b) The commissioner may rescind an exemption given under Subsection (2)(a).

(3) (a) Each limited health plan authorized in this state shall maintain a deposit with the commissioner under Section 31A-2-206 in an amount equal to the minimum capital or permanent surplus plus 50% of the greater of:

(i) .5 times minimum required capital or minimum permanent surplus; or

(ii) (A) during the first year of operation, 10% of the limited health plan's projected uncovered expenditures for the first year of operation;

(B) during the second year of operation, 12% of the limited health plan's projected uncovered expenditures for the second year of operation;

(C) during the third year of operation, 14% of the limited health plan's projected uncovered expenditures for the third year of operation;

(D) during the fourth year of operation, 18% of the limited health plan's projected uncovered expenditures during the fourth year of operation; or

(E) during the fifth year of operation, and during all subsequent years, 20% of the limited health plan's projected uncovered expenditures for the previous 12 months.

(b) Projections of future uncovered expenditures shall be established in a manner that is approved by the commissioner.

(4) A deposit required by this section may be counted toward the minimum capital or minimum permanent surplus required under Section 31A-8-209.

**Section 16. Section 31A-17-404 is amended to read:**

**31A-17-404. Credit allowed a domestic ceding insurer against reserves for reinsurance.**

(1) A domestic ceding insurer is allowed credit for reinsurance as either an asset or a reduction from liability for reinsurance ceded only if the reinsurer meets the requirements of Subsection (3), (4), (5), (6), (7), ~~or~~ (8), or (9) subject to the following:

(a) Credit is allowed under Subsection (3), (4), or (5) only with respect to a cession of a kind or class of business that the assuming insurer is licensed or otherwise permitted to write or assume:

(i) in its state of domicile; or

(ii) in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance.

(b) Credit is allowed under Subsection (5) or (6) only if the applicable requirements of Subsection ~~[(9)]~~ (11) are met.

(2) A domestic ceding insurer is allowed credit for reinsurance ceded:

(a) only if the reinsurance is payable in a manner consistent with Section 31A-22-1201;

(b) only to the extent that the accounting:

(i) is consistent with the terms of the reinsurance contract; and

(ii) clearly reflects:

(A) the amount and nature of risk transferred; and

(B) liability, including contingent liability, of the ceding insurer;

(c) only to the extent the reinsurance contract shifts insurance policy risk from the ceding insurer to the assuming reinsurer in fact and not merely in form; and

(d) only if the reinsurance contract contains a provision placing on the reinsurer the credit risk of all dealings with intermediaries regarding the reinsurance contract.

(3) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(4) (a) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state.

(b) An insurer is accredited as a reinsurer if the insurer:

(i) files with the commissioner evidence of the insurer's submission to this state's jurisdiction;

(ii) submits to the commissioner's authority to examine the insurer's books and records;

(iii) (A) is licensed to transact insurance or reinsurance in at least one state; or

(B) in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(iv) files annually with the commissioner a copy of the insurer's:

(A) annual statement filed with the insurance department of its state of domicile; and

(B) most recent audited financial statement; and

(v) (A) (I) has not had its accreditation denied by the commissioner within 90 days [øf] after the day on which the insurer submits the information required by this Subsection (4); and

(II) maintains a surplus with regard to policyholders in an amount not less than \$20,000,000; or

(B) (I) has its accreditation approved by the commissioner; and

(II) maintains a surplus with regard to policyholders in an amount less than \$20,000,000.

(c) Credit may not be allowed a domestic ceding insurer if the assuming insurer's accreditation is revoked by the commissioner after a notice and hearing.

(5) (a) A domestic ceding insurer is allowed a credit if:

(i) the reinsurance is ceded to an assuming insurer that is:

(A) domiciled in a state meeting the requirements of Subsection (5)(a)(ii); or

(B) in the case of a United States branch of an alien assuming insurer, is entered through a state meeting the requirements of Subsection (5)(a)(ii);

(ii) the state described in Subsection (5)(a)(i) employs standards regarding credit for reinsurance substantially similar to those applicable under this section; and

(iii) the assuming insurer or United States branch of an alien assuming insurer:

(A) maintains a surplus with regard to policyholders in an amount not less than \$20,000,000; and

(B) submits to the authority of the commissioner to examine its books and records.

(b) The requirements of Subsections (5)(a)(i) and (ii) do not apply to reinsurance ceded and assumed pursuant to a pooling arrangement among insurers in the same holding company system.

(6) (a) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that maintains a trust fund:

(i) created in accordance with rules made by the commissioner pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) in a qualified United States financial institution for the payment of a valid claim of:

(A) a United States ceding insurer of the assuming insurer;

(B) an assign of the United States ceding insurer; and

(C) a successor in interest to the United States ceding insurer.

(b) To enable the commissioner to determine the sufficiency of the trust fund described in Subsection (6)(a), the assuming insurer shall:

(i) report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by a licensed insurer; and

(ii) (A) submit to examination of its books and records by the commissioner; and

(B) pay the cost of an examination.

(c) (i) Credit for reinsurance may not be granted under this Subsection (6) unless the form of the trust and any amendment to the trust is approved by:

(A) the commissioner of the state where the trust is domiciled; or

(B) the commissioner of another state who, pursuant to the terms of the trust instrument, accepts principal regulatory oversight of the trust.

(ii) The form of the trust and an amendment to the trust shall be filed with the commissioner of every state in which a ceding insurer beneficiary of the trust is domiciled.

(iii) The trust instrument shall provide that a contested claim is valid and enforceable upon the final order of a court of competent jurisdiction in the United States.

(iv) The trust shall vest legal title to its assets in its one or more trustees for the benefit of:

(A) a United States ceding insurer of the assuming insurer;

(B) an assign of the United States ceding insurer; or

(C) a successor in interest to the United States ceding insurer.

(v) The trust and the assuming insurer are subject to examination as determined by the commissioner.

(vi) The trust shall remain in effect for as long as the assuming insurer has an outstanding obligation due under a reinsurance agreement subject to the trust.

(vii) No later than February 28 of each year, the trustee of the trust shall:

(A) report to the commissioner in writing the balance of the trust;

(B) list the trust's investments at the end of the preceding calendar year; and

(C) (I) certify the date of termination of the trust, if so planned; or

(II) certify that the trust will not expire ~~prior to~~ before the following December 31.

(d) The following requirements apply to the following categories of assuming insurer:

(i) For a single assuming insurer:

(A) the trust fund shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers; and

(B) the assuming insurer shall maintain a trusteed surplus of not less than \$20,000,000, except as provided in Subsection (6)(d)(ii).

(ii) (A) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development.

(B) The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency.

(C) The minimum required trusteed surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(iii) For a group acting as assuming insurer, including incorporated and individual unincorporated underwriters:

(A) for reinsurance ceded under a reinsurance agreement with an inception, amendment, or

renewal date on or after August 1, 1995, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by the one or more United States domiciled ceding insurers to an underwriter of the group;

(B) for reinsurance ceded under a reinsurance agreement with an inception date on or before July 31, 1995, and not amended or renewed after July 31, 1995, notwithstanding the other provisions of this chapter, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States;

(C) in addition to a trust described in Subsection (6)(d)(iii)(A) or (B), the group shall maintain in trust a trusteed surplus of which \$100,000,000 is held jointly for the benefit of the one or more United States domiciled ceding insurers of a member of the group for all years of account;

(D) the incorporated members of the group:

(I) may not be engaged in a business other than underwriting as a member of the group; and

(II) are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members; and

(E) within 90 days after the day on which the group's financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner:

(I) an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or

(II) if a certification is unavailable, a financial statement, prepared by an independent public accountant, of each underwriter member of the group.

(iv) For a group of incorporated underwriters under common administration, the group shall:

(A) have continuously transacted an insurance business outside the United States for at least three years immediately preceding the day on which the group makes application for accreditation;

(B) maintain aggregate policyholders' surplus of at least \$10,000,000,000;

(C) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by the one or more United States domiciled ceding insurers to a member of the group pursuant to a reinsurance contract issued in the name of the group;

(D) in addition to complying with the other provisions of this Subsection (6)(d)(iv), maintain a joint trusteed surplus of which \$100,000,000 is held jointly for the benefit of the one or more United States domiciled ceding insurers of a member of the group as additional security for these liabilities; and

(E) within 90 days after the day on which the group's financial statements are due to be filed with

the group's domiciliary regulator, make available to the commissioner:

(I) an annual certification of each underwriter member's solvency by the member's domiciliary regulator; and

(II) a financial statement of each underwriter member of the group prepared by an independent public accountant.

~~[(7) If reinsurance is ceded to an assuming insurer not meeting the requirements of Subsection (3), (4), (5), or (6), a domestic ceding insurer is allowed credit only as to the insurance of a risk located in a jurisdiction where the reinsurance is required by applicable law or regulation of that jurisdiction.]~~

~~[(8)] (7) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that secures its obligations in accordance with this Subsection [(8)] (7):~~

(a) The insurer shall be certified by the commissioner as a reinsurer in this state.

(b) To be eligible for certification, the assuming insurer shall:

(i) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to Subsection [(8)] (7)(d);

(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) maintain financial strength ratings from two or more rating agencies considered acceptable by the commissioner pursuant to rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iv) agree to:

(A) submit to the jurisdiction of this state;

(B) appoint the commissioner as its agent for service of process in this state;

(C) provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

(D) agree to meet applicable information filing requirements as determined by the commissioner including an application for certification, a renewal and on an ongoing basis; and

(E) any other requirements for certification considered relevant by the commissioner.

(c) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. To be eligible for certification, in addition to satisfying requirements of Subsections [(8)] (7)(a) and (b), the association:

(i) shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members in an amount determined by the commissioner to provide adequate protection;

(ii) may not have incorporated members of the association engaged in any business other than underwriting as a member of the association;

(iii) shall be subject to the same level of regulation and solvency control of the incorporated members of the association by the association's domiciliary regulator as are the unincorporated members; and

(iv) within 90 days after its financial statements are due to be filed with the association's domiciliary regulator provide:

(A) to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or

(B) if a certification is unavailable, financial statements prepared by independent public accountants, of each underwriter member of the association.

(d) The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in the jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(i) To determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner:

(A) shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis;

(B) shall consider the rights, the benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States;

(C) shall require the qualified jurisdiction to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction; and

(D) may not recognize a jurisdiction as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards.

(ii) The commissioner may consider additional factors in determining a qualified jurisdiction.

(iii) A list of qualified jurisdictions shall be published through the National Association of Insurance Commissioners' Committee Process and the commissioner shall:

(A) consider this list in determining qualified jurisdictions; and

(B) if the commissioner approves a jurisdiction as qualified that does not appear on the National Association of Insurance Commissioner's list of qualified jurisdictions, provide thoroughly documented justification in accordance with criteria to be developed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iv) United States jurisdictions that meet the requirement for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program shall be recognized as qualified jurisdictions.

(v) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(e) The commissioner shall:

(i) assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies considered acceptable to the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) publish a list of all certified reinsurers and their ratings.

(f) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this Subsection [(8)] (7) at a level consistent with its rating, as specified in rules made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(i) For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with Section 31A-17-404.1, or in a multibeneficiary trust in accordance with Subsections (5), (6), and [(7)] (9), except as otherwise provided in this Subsection [(8)] (7).

(ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to Subsections (5), (6), and [(7)] (9), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this Subsection [(8)] (7) or comparable laws of other United States jurisdictions and for its obligations subject to Subsections (5), (6), and [(7)] (9).

(iii) It shall be a condition to the grant of certification under this Subsection [(8)] (7) that the certified reinsurer shall have bound itself:

(A) by the language of the trust and agreement with the commissioner with principal regulatory oversight of the trust account; and

(B) upon termination of the trust account, to fund, out of the remaining surplus of the trust, any deficiency of any other trust account.

(iv) The minimum trustee surplus requirements provided in Subsections (5), (6), and [(7)] (9) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this Subsection [(8)] (7), except that the trust shall maintain a minimum trustee surplus of \$10,000,000.

(v) With respect to obligations incurred by a certified reinsurer under this Subsection [(8)] (7), if the security is insufficient, the commissioner:

(A) shall reduce the allowable credit by an amount proportionate to the deficiency; and

(B) may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(vi) For purposes of this Subsection [(8)] (7), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100% of its obligations.

(A) As used in this Subsection [(8)] (7), the term "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.

(B) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, the requirement under this Subsection [(8)] (7)(f)(vi) does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(g) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners' accredited jurisdiction, the commissioner may:

(i) defer to that jurisdiction's certification;

(ii) defer to the rating assigned by that jurisdiction; and

(iii) consider such reinsurer to be a certified reinsurer in this state.

(h) (i) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business.

(ii) An inactive certified reinsurer shall continue to comply with all applicable requirements of this Subsection [(8)] (7).

(iii) The commissioner shall assign a rating to a reinsurer that qualifies under this Subsection [(8)] (7)(h), that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(8) (a) As used in this Subsection (8):

(i) "Covered agreement" means an agreement entered into pursuant to Dodd-Frank Wall Street

Reform and Consumer Protection Act, 31 U.S.C. Sections 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(ii) "Reciprocal jurisdiction" means a jurisdiction that is:

(A) a non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union;

(B) a United States jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program; or

(C) a qualified jurisdiction, as determined by the commissioner in accordance with Subsection (7)(d), that is not otherwise described in this Subsection (8)(a)(ii) and meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth in this Subsection (8)(b).

(ii) The assuming insurer must have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction.

(iii) (A) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in regulation.

(B) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in regulation.

(iv) (A) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, which will be set forth in regulation.

(B) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(v) The assuming insurer must agree and provide adequate assurance to the commissioner, in a form specified by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(A) the assuming insurer must provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in Subsections (8)(c) or (d), or if any regulatory action is taken against it for serious noncompliance with applicable law;

(B) the assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process, however the commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement and nothing in this provision shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(C) the assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(D) each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(E) the assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involved this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security:

(I) in an amount equal to 100% of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement; and

(II) in a form consistent with the provisions of Subsections (7) and (10) and as specified by the commissioner in regulation.

(vi) The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, certain documentation to the commissioner, as specified by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(vii) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(viii) The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in Subsections (8)(c) and (d).

(ix) Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(c) (i) The commissioner shall timely create and publish a list of reciprocal jurisdictions.

(ii) (A) A list of reciprocal jurisdictions is published through the National Association of Insurance Commissioners' Committee Process.

(B) The commissioner's list of reciprocal jurisdictions shall include any reciprocal jurisdiction as defined in this Subsection (8), and shall consider any other reciprocal jurisdictions in accordance with the criteria developed under rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) (A) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the commissioner shall not remove from the list a reciprocal jurisdiction.

(B) Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed under this chapter.

(d) (i) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this Subsection (8).

(ii) The commissioner may add an assuming insurer to such list if a National Association of Insurance Commissioners accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under this Subsection (8) and complies with any additional requirements that the commissioner may impose by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except to the extent that they conflict with an applicable covered agreement.

(e) (i) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this Subsection (8), the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this Subsection (8) in accordance with procedures established in rule made in accordance with Title

63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) (A) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit to the extent that the assuming insurer's obligations under the contract are secured in accordance with Subsection (10).

(B) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of Subsection (10).

(f) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(g) Nothing in this Subsection (8) limits or in any way alters the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this chapter or other applicable law or regulation.

(h) (i) Credit may be taken under this Subsection (8) only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this Subsection (8), and only with respect to losses incurred and reserves reported on or after the later of:

(A) the date on which the assuming insurer has met all eligibility requirements pursuant to Subsection (8)(b); and

(B) the effective date of the new reinsurance agreement, amendment or renewal.

(ii) This Subsection (8) does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this Subsection (8), as long as the reinsurance qualifies for credit under any other applicable provision of this chapter.

(iii) Nothing in this Subsection (8) authorizes an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(iv) Nothing in this Subsection (8) limits, or in any way alters, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(9) If reinsurance is ceded to an assuming insurer not meeting the requirements of Subsection (3), (4), (5), (6), (7), or (8), a domestic ceding insurer is allowed credit only as to the insurance of a risk



located in a jurisdiction where the reinsurance is required by applicable law or regulation of that jurisdiction.

(10) (a) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Subsection (3), (4), (5), (6), (7), or (8) shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer.

(b) The commissioner may adopt by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specific additional requirements relating to or setting forth:

- (i) the valuation of assets or reserve credits;
- (ii) the amount and forms of security supporting reinsurance arrangements; and
- (iii) the circumstances pursuant to which credit will be reduced or eliminated.

(c) (i) The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is:

(A) held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or

(B) in the case of a trust, held in a qualified United States financial institution.

(ii) The security described in this Subsection (10)(c) may be in the form of:

(A) cash;

(B) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(C) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution effective no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement;

(D) letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(E) any other form of security acceptable to the commissioner.

[~~(9)~~] (11) Reinsurance credit may not be allowed a domestic ceding insurer unless the assuming

insurer under the reinsurance contract submits to the jurisdiction of Utah courts by:

(a) (i) being an admitted insurer; and

(ii) submitting to jurisdiction under Section 31A-2-309;

(b) having irrevocably appointed the commissioner as the domestic ceding insurer's agent for service of process in an action arising out of or in connection with the reinsurance, which appointment is made under Section 31A-2-309; or

(c) agreeing in the reinsurance contract:

(i) that if the assuming insurer fails to perform its obligations under the terms of the reinsurance contract, the assuming insurer, at the request of the ceding insurer, shall:

(A) submit to the jurisdiction of a court of competent jurisdiction in a state of the United States;

(B) comply with all requirements necessary to give the court jurisdiction; and

(C) abide by the final decision of the court or of an appellate court in the event of an appeal; and

(ii) to designate the commissioner or a specific attorney licensed to practice law in this state as its attorney upon whom may be served lawful process in an action, suit, or proceeding instituted by or on behalf of the ceding company.

[~~(10)~~] (12) Submitting to the jurisdiction of Utah courts under Subsection [~~(9)~~] (11) does not override a duty or right of a party under the reinsurance contract, including a requirement that the parties arbitrate their disputes.

[~~(11)~~] (13) If an assuming insurer does not meet the requirements of Subsection (3), (4), [~~(5)~~] (5), or (8), the credit permitted by Subsection (6) or [~~(8)~~] (7) may not be allowed unless the assuming insurer agrees in the trust instrument to the following conditions:

(a) (i) Notwithstanding any other provision in the trust instrument, if an event described in Subsection [~~(11)~~] (13)(a)(ii) occurs the trustee shall comply with:

(A) an order of the commissioner with regulatory oversight over the trust; or

(B) an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(ii) This Subsection [~~(11)~~] (13)(a) applies if:

(A) the trust fund is inadequate because the trust contains an amount less than the amount required by Subsection (6)(d); or

(B) the grantor of the trust is:

(I) declared insolvent; or

(II) placed into receivership, rehabilitation, liquidation, or similar proceeding under the laws of its state or country of domicile.

(b) The assets of a trust fund described in Subsection ~~[(41)]~~ (13)(a) shall be distributed by and a claim shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of a domestic insurance company.

(c) If the commissioner with regulatory oversight determines that the assets of the trust fund, or any part of the assets, are not necessary to satisfy the claims of the one or more United States ceding insurers of the grantor of the trust, the assets, or a part of the assets, shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust instrument.

(d) A grantor shall waive any right otherwise available to it under United States law that is inconsistent with this Subsection ~~[(41)]~~ (13).

~~[(12)]~~ (14) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

(a) The commissioner shall give the reinsurer notice and opportunity for hearing.

(b) The suspension or revocation may not take effect until after the commissioner's order after a hearing, unless:

- (i) the reinsurer waives its right to hearing;
- (ii) the commissioner's order is based on:

(A) regulatory action by the reinsurer's domiciliary jurisdiction; or

(B) the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or primary certifying state under Subsection ~~[(8)]~~ (7)(g); or

(iii) the commissioner's finding that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(c) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 31A-17-404.1.

(d) If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Subsection ~~[(8)]~~ (7)(f) or Section 31A-17-404.1.

~~[(13)]~~ (15) (a) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business.

(b) (i) A domestic ceding insurer shall notify the commissioner within 30 days after reinsurance

recoverables from any single assuming insurer, or group of affiliated assuming insurers:

(A) exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders; or

(B) after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed 50% of the domestic ceding insurer's last reported surplus to policyholders.

(ii) The notification required by Subsection ~~[(13)]~~ (15)(b)(i) shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(c) A ceding insurer shall take steps to diversify its reinsurance program.

(d) (i) A domestic ceding insurer shall notify the commissioner within 30 days after ceding or being likely to cede more than 20% of the ceding insurer's gross written premium in the prior calendar year to any:

(A) single assuming insurer; or

(B) group of affiliated assuming insurers.

(ii) The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

**Section 17. Section 31A-17-404.3 is amended to read:**

**31A-17-404.3. Rules.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, the commissioner may make rules prescribing:

(a) the form of a letter of credit required under this chapter;

(b) the requirements for a trust or trust instrument required by this chapter;

(c) the procedures for licensing and accrediting;

(d) minimum capital and surplus requirements;

(e) additional requirements relating to calculation of credit allowed a domestic ceding insurer against reserves for reinsurance under Section 31A-17-404; and

(f) additional requirements relating to calculation of asset reduction from liability for reinsurance ceded by a domestic insurer to other ceding insurers under Section 31A-17-404.1.

(2) A rule made pursuant to Subsection (1)(e) or (f) may apply to reinsurance relating to:

(a) a life insurance policy with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(b) a universal life insurance policy with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) a variable annuity with guaranteed death or living benefits;

(d) a long-term care insurance policy; or

(e) such other life and health insurance or annuity product as to which the National Association of Insurance Commissioners adopts model regulatory requirements with respect for credit for reinsurance.

(3) A rule adopted pursuant to Subsection (1)(e) or (f) may apply to a treaty containing:

(a) a policy issued on or after January 1, 2015; and

(b) a policy issued before January 1, 2015, if risk pertaining to the policy is ceded in connection with the treaty, either in whole or in part, on or after January 1, 2015.

(4) A rule adopted pursuant to Subsection (1)(e) or (f) may require the ceding insurer, in calculating the amounts or forms of security required to be held under rules made under this section, to use the Valuation Manual adopted by the National Association of Insurance Commissioners under Section 11B(1) of the National Association of Insurance Commissioners Standard Valuation Law, including all amendments adopted by the National Association of Insurance Commissioners and in effect on the date as of which the calculation is made, to the extent applicable.

(5) A rule adopted pursuant to Subsection (1)(e) or (f) may not apply to cessions to an assuming insurer that:

(a) meets the conditions established in Subsection 31A-17-404(8);

~~[(a)] (b) is certified in this state [or, if this state has not adopted provisions substantially equivalent to Section 2E of the Credit for Reinsurance Model Law, certified in a minimum of five other states]; or~~

~~[(b)] (c) maintains at least \$250,000,000 in capital and surplus when determined in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, including all amendments thereto adopted by the National Association of Insurance Commissioners, excluding the impact of any permitted or prescribed practices and is:~~

~~(i) licensed in at least 26 states; or~~

~~(ii) licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.~~

(6) The authority to adopt rules pursuant to Subsection (1)(e) or (f) does not otherwise limit the commissioner's general authority to make rules pursuant to Subsection (1).

**Section 18. Section 31A-17-601 is amended to read:**

**31A-17-601. Definitions.**

As used in this part:

(1) "Adjusted RBC report" means an RBC report that has been adjusted by the commissioner in accordance with Subsection 31A-17-602(5).

(2) "Corrective order" means an order issued by the commissioner specifying corrective action that the commissioner determines is required.

(3) "Health organization" means:

(a) an entity that is authorized under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(b) that is:

(i) a health maintenance organization;

(ii) a limited health service organization;

(iii) a dental or vision plan;

(iv) a hospital, medical, and dental indemnity or service corporation; or

(v) other managed care organization.

(4) "Life or accident and health insurer" means:

(a) an insurance company licensed to write life insurance, disability insurance, or both; or

(b) a licensed property casualty insurer writing only disability insurance.

(5) "Property and casualty insurer" means any insurance company licensed to write lines of insurance other than life but does not include a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer.

(6) "RBC" means risk-based capital.

(7) "RBC instructions" means the RBC report including the National Association of Insurance Commissioner's risk-based capital instructions ~~[adopted by the department by rule]~~ that govern the year for which an RBC report is prepared.

(8) "RBC level" means an insurer's or health organization's authorized control level RBC, company action level RBC, mandatory control level RBC, or regulatory action level RBC.

(a) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

(b) "Company action level RBC" means the product of 2.0 and its authorized control level RBC;

(c) "Mandatory control level RBC" means the product of .70 and the authorized control level RBC; and

(d) "Regulatory action level RBC" means the product of 1.5 and its authorized control level RBC.

(9) (a) "RBC plan" means a comprehensive financial plan containing the elements specified in Subsection 31A-17-603(2).

(b) Notwithstanding Subsection (9)(a), the plan is a "revised RBC plan" if:

(i) the commissioner rejects the RBC plan; and

(ii) the plan is revised by the insurer or health organization, with or without the commissioner's recommendation.

(10) "RBC report" means the report required in Section 31A-17-602.

**Section 19. Section 31A-19a-404 is amended to read:**

**31A-19a-404. Designated rate service organization.**

(1) For purposes of workers' compensation insurance, the commissioner shall designate one rate service organization to:

(a) develop and administer the uniform statistical plan, uniform classification plan, and uniform experience rating plan filed with and approved by the commissioner;

(b) assist the commissioner in gathering, compiling, and reporting relevant statistical information on an aggregate basis;

(c) develop and file manual rules, subject to the approval of the commissioner, that are reasonably related to the recording and reporting of data pursuant to the uniform statistical plan, uniform experience rating plan, and the uniform classification plan; and

(d) develop and file the ~~[prospective]~~ advisory loss costs pursuant to Section 31A-19a-406.

(2) The uniform experience rating plan shall:

(a) contain reasonable eligibility standards;

(b) provide adequate incentives for loss prevention; and

(c) provide for sufficient premium differentials so as to encourage safety.

(3) Each workers' compensation insurer, directly or through its selected rate service organization, shall:

(a) record and report its workers' compensation experience to the designated rate service organization as set forth in the uniform statistical plan approved by the commissioner; and

(b) adhere to a uniform classification plan and uniform experience rating plan filed with the commissioner by the rate service organization designated by the commissioner; ~~and~~.

~~[(c) adhere to the prospective loss costs filed by the designated rate service organization.]~~

(4) The commissioner may adopt rules for:

(a) the development and administration by the designated rate service organization of the:

(i) uniform statistical plan;

(ii) uniform experience rating plan; and

(iii) uniform classification plan;

(b) the recording and reporting of statistical data and experience rating data by the various insurers writing workers' compensation insurance;

(c) the selection, retention, and termination of the designated rate service organization; and

(d) providing for the equitable sharing and recovery of the expense of the designated rate service organization to develop, maintain, and provide the plans, services, and filings that are used by the various insurers writing workers' compensation insurance.

(5) (a) Notwithstanding Subsection (3), an insurer may develop directly or through its selected rate service organization subclassifications of the uniform classification system upon which a rate may be made.

(b) A subclassification shall be filed with the commissioner 30 days before its use.

(c) The commissioner shall disapprove subclassifications if the insurer fails to demonstrate that the data produced by the subclassifications can be reported consistently with the uniform statistical plan and uniform classification plan.

(6) Notwithstanding Subsection (3), an insurer may, directly or through its selected rate service organization, develop its own experience modifications based on the uniform statistical plan, uniform classification plan, and uniform rating plan filed by the rate service organization designated by the commissioner under Subsection (1).

**Section 20. Section 31A-19a-405 is amended to read:**

**31A-19a-405. Filing of rates and other rating information.**

(1) (a) All workers' compensation rates, supplementary rate information, and supporting information shall be filed at least 30 days before the effective date of the rate or information.

(b) Notwithstanding Subsection (1)(a), on application by the filer, the commissioner may authorize an earlier effective date.

(2) The loss and loss adjustment expense factors included in the rates filed under Subsection (1) shall be:

(a) the ~~[prospective]~~ advisory loss costs filed by the designated rate service organization under Section 31A-19a-406~~[-]; or~~

(b) a percent modification of the advisory loss costs filed by the designated rate service organization under Section 31A-19a-406.

(3) A modification filed under Subsection (2)(b) shall be accompanied by adequate support as required by Part 2, General Rate Regulation.

**Section 21. Section 31A-19a-406 is amended to read:**

**31A-19a-406. Filing requirements for designated rate service organization.**

(1) The rate service organization designated under Section 31A-19a-404 shall file with the commissioner the following items proposed for use in this state at least 30 calendar days before the ~~[date they]~~ day on which the items are distributed to members, subscribers, or others:

(a) each ~~[prospective]~~ advisory loss cost with its supporting information;

(b) the uniform classification plan and rating manual;

(c) the uniform experience rating plan manual;

- (d) the uniform statistical plan manual; and
- (e) each change, amendment, or modification of any of the items listed in Subsections (1)(a) through (d).

(2) (a) If the commissioner believes that [prospective] advisory loss costs filed violate the excessive, inadequate, or unfair discriminatory standard in Section 31A-19a-201 or any other applicable requirement of this part, the commissioner may require that the rate service organization file additional supporting information.

(b) If, after reviewing the supporting information, the commissioner determines that the [prospective] advisory loss costs violate these requirements, the commissioner may:

- (i) require that adjustments to the [prospective] advisory loss costs be made; or
- (ii) call a hearing for any purpose regarding the filing.

**Section 22. Section 31A-21-201 is amended to read:**

**31A-21-201. Filing of forms.**

(1) (a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may not be used, sold, or offered for sale until the form is filed with the commissioner.

(b) A form is considered filed with the commissioner when the commissioner receives:

- (i) the form;
- (ii) the applicable filing fee as prescribed under Section 31A-3-103; and
- (iii) the applicable transmittal forms as required by the commissioner.

(2) In filing a form for use in this state the insurer is responsible for assuring that the form is in compliance with this title and rules adopted by the commissioner.

(3) (a) The commissioner may prohibit the use of a form at any time upon a finding that:

- (i) the form:
  - (A) is inequitable;
  - (B) is unfairly discriminatory;
  - (C) is misleading;
  - (D) is deceptive;
  - (E) is obscure;
  - (F) is unfair;
  - (G) encourages misrepresentation; or
  - (H) is not in the public interest;
- (ii) the form provides benefits or contains another provision that endangers the solidity of the insurer;
- (iii) except for a life or accident and health insurance policy form, the form is an insurance

policy or application for an insurance policy, that fails to conspicuously, as defined by rule, provide:

policy or application for an insurance policy, that fails to conspicuously, as defined by rule, provide:

- (A) the exact name of the insurer; and
- (B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy;

~~(iii)~~ (iv) except an application required by Section 31A-22-635, [the form is an insurance policy or application for an insurance policy] the form is a life or accident and health insurance policy form that fails to conspicuously, as defined by rule, provide:

- (A) the exact name of the insurer;
- (B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy; and
- (C) for a life insurance ~~[and annuity insurance]~~ policy only, the address of the administrative office of the insurer filing the ~~[insurance policy or application for the insurance policy]~~ form;

~~(iv)~~ (v) the form violates a statute or a rule adopted by the commissioner; or

~~(v)~~ (vi) the form is otherwise contrary to law.

(b) (i) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days after the order, the use of the form be discontinued.

(ii) Once use of a form is prohibited, the form may not be used until appropriate changes are filed with and reviewed by the commissioner.

(iii) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the existing policyholders.

(c) If the commissioner prohibits use of a form under this Subsection (3), the prohibition shall:

- (i) be in writing;
- (ii) constitute an order; and
- (iii) state the reasons for the prohibition.

(4) (a) If, after a hearing, the commissioner determines that it is in the public interest, the commissioner may require by rule or order that a form be subject to the commissioner's approval before its use.

(b) The rule or order described in Subsection (4)(a) shall prescribe the filing procedures for a form if the procedures are different from the procedures stated in this section.

(c) The type of form that under Subsection (4)(a) the commissioner may require approval of before use includes:

- (i) a form for a particular class of insurance;
- (ii) a form for a specific line of insurance;
- (iii) a specific type of form; or

(iv) a form for a specific market segment.

(5) (a) An insurer shall maintain a complete and accurate record of the following for the time period described in Subsection (5)(b):

(i) a form:

(A) filed under this section for use; or

(B) that is in use; and

(ii) a document filed under this section with a form described in Subsection (5)(a)(i).

(b) The insurer shall maintain a record required under Subsection (5)(a) for the balance of the current year, plus five years from:

(i) the last day on which the form is used; or

(ii) the last day an insurance policy that is issued using the form is in effect.

**Section 23. Section 31A-21-301 is amended to read:**

**31A-21-301. Clauses required to be in a prominent position.**

(1) The following portions of insurance policies shall appear conspicuously in the policy:

(a) as required by ~~[Subsection]~~ Subsections 31A-21-201(3)(a)(iii) and (iv):

(i) the exact name of the insurer;

(ii) the state of domicile of the insurer; and

(iii) for life insurance and annuity policies only, the address of the administrative office of the insurer;

(b) information that two or more insurers under Subsection (1)(a) undertake only several liability, as required by Section 31A-21-306;

(c) if a policy is assessable, a statement of that;

(d) a statement that benefits are variable, as required by Section 31A-22-411; however, the methods of calculation need not be in a prominent position;

(e) the right to return a life or accident and health insurance policy under Sections 31A-22-423 and 31A-22-606; and

(f) the beginning and ending dates of insurance protection.

(2) Each clause listed in Subsection (1) shall be displayed conspicuously and separately from any other clause.

**Section 24. Section 31A-21-313 is amended to read:**

**31A-21-313. Limitation of actions.**

(1) (a) An action on a written policy or contract of first party insurance shall be commenced within three years after the inception of the loss.

(b) The inception of the loss on a fidelity bond is the date the insurer first denies all or part of a claim made under the fidelity bond.

(2) Except as provided in Subsection (1) or elsewhere in this title, the law applicable to limitation of actions in Title 78B, Chapter 2, Statutes of Limitations, applies to actions on insurance policies.

(3) An insurance policy may not:

(a) limit the time for beginning an action on the policy to a time less than that authorized by statute;

(b) prescribe in what court an action may be brought on the policy; or

(c) provide that no action may be brought, subject to permissible arbitration provisions in contracts.

(4) (a) Unless by verified complaint it is alleged that prejudice to the complainant will arise from a delay in bringing suit against an insurer, which prejudice is other than the delay itself, no action may be brought against an insurer on an insurance policy to compel payment under the policy until the earlier of:

~~[(a)]~~ (i) 60 days after proof of loss has been furnished as required under the policy;

~~[(b)]~~ (ii) waiver by the insurer of proof of loss; or

~~[(c)]~~ (iii) (A) the insurer's denial of full payment[-]; or

(B) for an accident and health insurance policy, the insurer's denial of payment.

(b) Under an accident and health insurance policy, an insurer may not require the completion of an appeals process that exceeds the provisions in 29 C.F.R. Sec. 2560.503-1 to bring suit under this Subsection (4).

(5) The period of limitation is tolled during the period in which the parties conduct an appraisal or arbitration procedure prescribed by the insurance policy, by law, or as agreed to by the parties.

**Section 25. Section 31A-22-205 is enacted to read:**

**31A-22-205. Applicability of restatement of law.**

(1) A restatement of the law of liability insurance is not the law or public policy of this state if the statement of law is inconsistent or in conflict with:

(a) the Constitution of the United States;

(b) the Utah Constitution;

(c) a state statute;

(d) state case law; or

(e) state-adopted common law.

(2) Nothing in this section precludes a court from referencing or considering a restatement or other legal treatise.

**Section 26. Section 31A-22-412 is amended to read:**

**31A-22-412. Assignment of life insurance rights.**

(1) As used in this section, "final termination of a policy" means the day after which an insurer will not reinstate a policy without requiring:

(a) evidence of insurability; or

(b) written application.

~~[(4)] (2) (a)~~ Except as provided under Subsection ~~[(3)] (4)~~, the owner of any rights in a life insurance policy or annuity contract may assign any of those rights, including any right to designate a beneficiary and the rights secured under Sections 31A-22-517 through 31A-22-521 and any other provision of this title.

(b) An assignment, valid under general contract law, vests the assigned rights in the assignee, subject, so far as reasonably necessary for the protection of the insurer, to any provisions in the insurance policy or annuity contract inserted to protect the insurer against double payment or obligation.

~~[(2)] (3)~~ The rights of a beneficiary under a life insurance policy or annuity contract are subordinate to those of an assignee, unless the beneficiary was designated as an irrevocable beneficiary prior to the assignment.

~~[(3)] (4)~~ Assignment of insurance rights may be expressly prohibited by an annuity contract which provides annuities as retirement benefits related to employment contracts.

~~[(4)] (5) (a) [When] After July 1, 1986, when a life insurance policy or annuity is [after July 1, 1986,] assigned in writing as security for an indebtedness, the insurer shall [in any case in which it has received written notice of the assignment, the name and address of the assignee, and a request for cancellation notice by the assignee,] mail to the assignee a copy of any cancellation notice sent with respect to the policy[-], if the insurer has received:~~

(i) written notice of the assignment;

(ii) the name and address of the assignee; and

(iii) a request for assignment notice from the assignee.

(b) An insurer shall mail the cancellation notice described in Subsection (5)(a):

(i) [This notice shall be sent, postage] prepaid, and addressed to the assignee's address filed with the insured[-. The notice shall be mailed];

(ii) not less than 10 days [prior to] before the final termination of the policy; and

(iii) each time the insured [has failed or refused] fails or refuses to transmit a premium payment to the insurer before the commencement of the policy's grace period.

(c) The insurer may charge the insured directly or charge against the policy the reasonable cost of complying with this section, but in no event to exceed \$5 for each notice. [As used in this section, "final termination of the policy" means the date after which the policy will not be reinstated by the insurer without requiring evidence of insurability or written application.]

~~[(5)] (6)~~ In lieu of providing notices to assignees of final termination of the policy under Subsection ~~[(4)] (5)~~, an insurer may provide an assignee with an identical copy of all notices sent to the owner of the life insurance policy, provided these notices comply with the other requirements of this title.

**Section 27. Section 31A-22-413 is amended to read:**

**31A-22-413. Designation of beneficiary.**

(1) Subject to Subsection 31A-22-412~~[(2)](3)~~, no life insurance policy or annuity contract may restrict the right of a policyholder or certificate holder:

(a) to make an irrevocable designation of beneficiary effective immediately or at some subsequent time; or

(b) if the designation of beneficiary is not explicitly irrevocable, to change the beneficiary without the consent of the previously designated beneficiary. Subsection 75-6-201(1)(c) applies to designations by will or by separate writing.

(2) (a) An insurer may prescribe formalities to be complied with for the change of beneficiaries, but those formalities may only be designed for the protection of the insurer. Notwithstanding Section 75-2-804, the insurer discharges its obligation under the insurance policy or certificate of insurance if it pays the properly designated beneficiary unless it has actual notice of either an assignment or a change in beneficiary designation made pursuant to Subsection (1)(b).

(b) The insurer has actual notice if the formalities prescribed by the policy are complied with, or if the change in beneficiary has been requested in the form prescribed by the insurer and delivered to an agent representing the insurer at least three days prior to payment to the earlier properly designated beneficiary.

**Section 28. Section 31A-22-430 is enacted to read:**

**31A-22-430. Policy notification.**

(1) (a) An insurer that delivers or issues for delivery an individual life insurance policy in this state shall notify the applicant for the policy, in writing at the time of application for the policy, of an applicant's right to designate a third party to receive notice of lapse or cancellation of the policy based on nonpayment of premium.

(b) An applicant may make a designation described in Subsection (1)(a) at the time of application for the policy, or at any time the policy is in force, by submitting a written notice to the insurer containing the name and address of the third-party designee.

(2) An insurer shall transmit a copy of a notice of lapse or cancellation of the policy based on nonpayment of premium to a third party designated in accordance with this section in addition to the transmission of the notice of lapse or cancellation of the policy to the policyholder.

(3) The designation of a third party under this section does not constitute acceptance of any

liability on the part of the third party or insurer for a service provided to the policyholder.

**Section 29. Section 31A-22-505 is amended to read:**

**31A-22-505. Association groups.**

(1) A policy is subject to the requirements of this section if the policy is issued as policyholder to an association or to the trustees of a fund established, created, or maintained for the benefit of members of one or more associations:

- (a) with a minimum membership of 100 persons;
- (b) with a constitution and bylaws;
- (c) having a shared ~~or common purpose that is not primarily a business or customer relationship; and~~ substantial common purpose that:
  - (i) is the same profession, trade, occupation, or similar; or
  - (ii) is by some common economic or representation of interest or genuine organizational relationship unrelated to the provision of benefits; and
- (d) that has been in active existence for at least two years.

(2) The policy may insure members and employees of the association, employees of the members, one or more of the preceding entities, or all of any classes of these named entities for the benefit of persons other than the employees' employer, or any officials, representatives, trustees, or agents of the employer or association.

(3) (a) The premiums shall be paid by:

- (i) the policyholder from funds contributed by the associations~~[, by]~~;
- (ii) employer members, from funds contributed by the covered persons~~[,]~~; or
- (iii) from any combination of ~~these~~ Subsections (3)(a)(i) and (ii).

(b) Except as provided under Section 31A-22-512, a policy on which no part of the premium is contributed by the covered persons, specifically for their insurance, is required to insure all eligible persons.

**Section 30. Section 31A-22-610.5 is amended to read:**

**31A-22-610.5. Dependent coverage.**

(1) As used in this section, "child" has the same meaning as defined in Section 78B-12-102.

(2) (a) Any individual or group accident and health insurance policy or managed care organization contract that provides coverage for a policyholder's or certificate holder's dependent:

- (i) may not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's 26th birthday; and

(ii) shall, upon application, provide coverage for all unmarried dependents up to age 26.

(b) The cost of coverage for unmarried dependents 19 to 26 years of age shall be included in the premium on the same basis as other dependent coverage.

(c) This section does not prohibit the employer from requiring the employee to pay all or part of the cost of coverage for unmarried dependents.

(d) An individual or group health insurance policy or managed care organization shall continue in force coverage for a dependent through the last day of the month in which the dependent ceases to be a dependent:

- (i) if premiums are paid; and
- (ii) notwithstanding Sections 31A-22-618.6 and 31A-22-618.7.

(3) (a) When a parent is required by a court or administrative order to provide health insurance coverage for a child, an accident and health insurer may not deny enrollment of a child under the accident and health insurance plan of the child's parent on the grounds the child:

- (i) was born out of wedlock and is entitled to coverage under Subsection (4);
- (ii) was born out of wedlock and the custodial parent seeks enrollment for the child under the custodial parent's policy;
- (iii) is not claimed as a dependent on the parent's federal tax return; ~~or~~
- (iv) does not reside with the parent; or
- (v) does not reside in the insurer's service area.

(b) A child enrolled as required under Subsection (3)(a)(iv) is subject to the terms of the accident and health insurance plan contract pertaining to services received outside of an insurer's service area.

(4) When a child has accident and health coverage through an insurer of a noncustodial parent, and when requested by the noncustodial or custodial parent, the insurer shall:

(a) provide information to the custodial parent as necessary for the child to obtain benefits through that coverage, but the insurer or employer, or the agents or employees of either of them, are not civilly or criminally liable for providing information in compliance with this Subsection (4)(a), whether the information is provided pursuant to a verbal or written request;

(b) permit the custodial parent or the service provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(c) make payments on claims submitted in accordance with Subsection (4)(b) directly to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid agency.

(5) When a parent is required by a court or administrative order to provide health coverage for



a child, and the parent is eligible for family health coverage, the insurer shall:

(a) permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to an enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application of the child's other parent, the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program; and

(c) (i) when the child is covered by an individual policy, not disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(A) the court or administrative order is no longer in effect; or

(B) the child is or will be enrolled in comparable accident and health coverage through another insurer which will take effect not later than the effective date of disenrollment; or

(ii) when the child is covered by a group policy, not disenroll or eliminate coverage of the child unless the employer is provided with satisfactory written evidence, which evidence is also provided to the insurer, that Subsection (8)(c)(i), (ii), or (iii) has happened.

(6) An insurer may not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for accident and health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

(7) Insurers may not reduce their coverage of pediatric vaccines below the benefit level in effect on May 1, 1993.

(8) When a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in this state, the employer shall:

(a) permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage of the child, enroll the child under family coverage upon application by the child's other parent, by the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program;

(c) not disenroll or eliminate coverage of the child unless the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect;

(ii) the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(iii) the employer has eliminated family health coverage for all of its employees; and

(d) withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and to pay this amount to the insurer.

(9) An order issued under Section 62A-11-326.1 may be considered a "qualified medical support order" for the purpose of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

(10) This section does not affect any insurer's ability to require as a precondition of any child being covered under any policy of insurance that:

(a) the parent continues to be eligible for coverage;

(b) the child shall be identified to the insurer with adequate information to comply with this section; and

(c) the premium shall be paid when due.

(11) This section applies to employee welfare benefit plans as defined in Section 26-19-102.

(12) (a) A policy that provides coverage to a child of a group member may not deny eligibility for coverage to a child solely because:

(i) the child does not reside with the insured; or

(ii) the child is solely dependent on a former spouse of the insured rather than on the insured.

(b) A child who does not reside with the insured may be excluded on the same basis as a child who resides with the insured.

**Section 31. Section 31A-22-615.5 is amended to read:**

**31A-22-615.5. Insurance coverage for opioids -- Policies -- Reports.**

(1) For purposes of this section:

(a) "Health care provider" means an individual, other than a veterinarian, who:

(i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe Schedule II controlled substances and Schedule III controlled substances that are applicable to opioids and benzodiazepines.

(b) "Health insurer" means:

(i) an insurer who offers health care insurance as that term is defined in Section 31A-1-301;

(ii) health benefits offered to state employees under Section 49-20-202; and

(iii) a workers' compensation insurer:

(A) authorized to provide workers' compensation insurance in the state; or

(B) that is a self-insured employer as [defined] described in Section 34A-2-201.

(c) "Opioid" has the same meaning as "opiate," as that term is defined in Section 58-37-2.

(d) "Prescribing policy" means a policy developed by a health insurer that includes evidence based guidelines for prescribing opioids, and may include the 2016 Center for Disease Control Guidelines for Prescribing Opioids for Chronic Pain, or the Utah Clinical Guidelines on Prescribing Opioids for the treatment of pain.

(2) A health insurer that provides prescription drug coverage may enact a policy to minimize the risk of opioid addiction and overdose from:

(a) chronic co-prescription of opioids with benzodiazapines and other sedating substances;

(b) prescription of very high dose opioids in the primary care setting; and

(c) the inadvertent transition of short-term opioids for an acute injury into long-term opioid dependence.

(3) A health insurer that provides prescription drug coverage may enact policies to facilitate:

(a) non-narcotic treatment alternatives for patients who have chronic pain; and

(b) medication-assisted treatment for patients who have opioid dependence disorder.

(4) The requirements of this section apply to insurance plans entered into or renewed on or after July 1, 2017.

(5) (a) A health insurer subject to this section shall on or before [~~September 1, 2017~~] July 15, 2020, and before each [~~September 1~~] July 15 thereafter, submit a written report to the Utah Insurance Department regarding whether the insurer has adopted a policy and a general description of the policy.

(b) The Utah Insurance Department shall, on or before October 1, 2017, and before each October 1 thereafter, submit a written summary of the information under Subsection (5)(a) to the Health and Human Services Interim Committee.

(6) A health insurer subject to this section may share the policies developed under this section with other health insurers and the public.

(7) This section sunsets in accordance with Section 63I-1-231.

**Section 32. Section 31A-22-2001 is enacted to read:**

**Part 20. Limited Long-Term Care Insurance Act**

**31A-22-2001. Title.**

This part is known as the "Limited Long-Term Care Insurance Act."

**Section 33. Section 31A-22-2002 is enacted to read:**

**31A-22-2002. Definitions.**

As used in this part:

(1) "Applicant" means:

(a) when referring to an individual limited long-term care insurance policy, the person who seeks to contract for benefits; and

(b) when referring to a group limited long-term care insurance policy, the proposed certificate holder.

(2) "Elimination period" means the length of time between meeting the eligibility for benefit payment and receiving benefit payments from an insurer.

(3) "Group limited long-term care insurance" means a limited long-term care insurance policy that is delivered or issued for delivery:

(a) in this state; and

(b) to an eligible group, as described under Subsection 31A-22-701(2).

(4) (a) "Limited long-term care insurance" means an insurance:

(i) policy, endorsement, or rider that is advertised, marketed, offered, or designed to provide coverage:

(A) for less than 12 consecutive months for each covered person;

(B) on an expense-incurred, indemnity, prepaid or other basis; and

(C) for one or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, or personal care services that is provided in a setting other than an acute care unit of a hospital; or

(ii) policy or rider that provides for payment of benefits based on cognitive impairment or the loss of functional capacity.

(b) "Limited long-term care insurance" does not include an insurance policy that is offered primarily to provide:

(i) basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical-surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) disability income or related asset-protection coverage;

(vii) accidental only coverage;

(viii) specified disease or specified accident coverage; or

(ix) limited benefit health coverage.

(5) "Preexisting condition" means a condition for which medical advice or treatment is recommended:

(a) by, or received from, a provider of health care services; and

(b) within six months before the day on which the coverage of an insured person becomes effective.

(6) “Waiting period” means the time an insured waits before some or all of the insured’s coverage becomes effective.

**Section 34. Section 31A-22-2003 is enacted to read:**

**31A-22-2003. Scope.**

(1) The requirements of this part apply to limited long-term care insurance policies and certificates marketed, delivered, or issued for delivery in this state on or after July 1, 2020.

(2) Laws and regulations designed or intended to apply to Medicare supplement insurance policies may not be applied to limited long-term care insurance.

**Section 35. Section 31A-22-2004 is enacted to read:**

**31A-22-2004. Disclosure and performance standards for limited long-term care insurance.**

(1) A limited long-term care insurance policy may not:

(a) be cancelled, nonrenewed, or otherwise terminated because of the age, gender, or the deterioration of the mental or physical health of the insured individual or certificate holder;

(b) contain a provision establishing a new waiting period if existing coverage is converted to or replaced by a new or other form within the same insurer, or the insurer’s affiliates, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(c) provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

(2) (a) A limited long-term care insurance policy or certificate may not:

(i) use a definition of “preexisting condition” that is more restrictive than the definition under this part; or

(ii) exclude coverage for a loss or confinement that is the result of a preexisting condition, unless the loss or confinement begins within six months after the day on which the coverage of the insured person becomes effective.

(b) A preexisting condition does not prohibit an insurer from:

(i) using an application form designed to elicit the complete health history of an applicant; or

(ii) on the basis of the answers on the application described in Subsection (2)(b)(i), underwriting in

accordance with the insurer’s established underwriting standards.

(c) (i) Unless otherwise provided in the policy or certificate, an insurer may exclude coverage of a preexisting condition:

(A) for a time period of six months, beginning the day on which the coverage of the insured person becomes effective; and

(B) regardless of whether the preexisting condition is disclosed on the application.

(ii) A limited long-term care insurance policy or certificate may not exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions for more than a time period of six months, beginning the day on which the coverage of the insured person becomes effective.

(3) (a) An insurer may not deliver or issue for delivery a limited long-term care insurance policy that conditions eligibility for any benefits:

(i) on a prior hospitalization requirement;

(ii) provided in an institutional care setting, on the receipt of a higher level of institutional care; or

(iii) other than waiver of premium, post-confinement, post-acute care, or recuperative benefits, on a prior institutionalization requirement.

(b) A limited long-term care insurance policy or rider may not condition eligibility for noninstitutional benefits on the prior or continuing receipt of skilled care services.

(4) (a) If, after examination of a policy, certificate, or rider, a limited long-term care insurance applicant is not satisfied for any reason, the applicant has the right to:

(i) within 30 days after the day on which the applicant receives the policy, certificate, endorsement, or rider, return the policy, certificate, endorsement, or rider to the company or a producer of the company; and

(ii) have the premium refunded.

(b) (i) Each limited long-term care insurance policy, certificate, endorsement, and rider shall:

(A) have a notice prominently printed on the first page or attached thereto detailing specific instructions to accomplish a return; and

(B) include the following free-look statement or language substantially similar: “You have 30 days from the day on which you receive this policy certificate, endorsement, or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office. Or you may return it to the producer that you bought it from. You must return it within 30 days of the day you first received it. The company will refund the full amount of any premium paid within

30 days after it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy certificate or rider will be void as if it had never been issued.”

(ii) The requirements described in Subsection (4)(b)(i) do not apply to a certificate issued to an employee under an employer group limited long-term care insurance policy.

(5) (a) (i) An insurer shall deliver an outline of coverage to a prospective applicant for limited long-term care insurance at the time of initial solicitation through means that prominently direct the attention of the recipient to the document and the document’s purpose.

(ii) In the case of an agent solicitation, the agent shall deliver the outline of coverage before the presentation of an application or enrollment form.

(iii) In the case of a direct response solicitation, the outline of coverage shall be presented in conjunction with any application or enrollment form.

(iv) (A) In the case of a policy issued to a group, the outline of coverage is not required to be delivered if the information described in Subsections (5)(b)(i) through (iii) is contained in other materials relating to enrollment, including the certificate.

(B) Upon request, an insurer shall make the other materials described in this Subsection (5)(a)(iv) available to the commissioner.

(b) An outline of coverage shall include:

(i) a description of the principal benefits and coverage provided in the policy;

(ii) a description of the eligibility triggers for benefits and how the eligibility triggers are met;

(iii) a statement of the principal exclusions, reductions, and limitations contained in the policy;

(iv) a statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change premium.

(v) a specific description of each continuation or conversion provision of group coverage;

(vi) a statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;

(vii) a description of the terms under which a person may return the policy or certificate and have the premium refunded;

(viii) a brief description of the relationship of cost of care and benefits; and

(ix) a statement that discloses to the policyholder or certificate holder that the policy is not long-term care insurance.

(6) A certificate pursuant to a group limited long-term care insurance policy that is delivered or issued for delivery in this state shall include:

(a) a description of the principal benefits and coverage provided in the policy;

(b) a statement of the principal exclusions, reductions, and limitations contained in the policy; and

(c) a statement that the group master policy determines governing contractual provisions.

(7) If an application for a limited long-term care insurance contract or certificate is approved, the issuer shall deliver the contract or certificate of insurance to the applicant no later than 30 days after the day on which the application is approved.

**Section 36. Section 31A-22-2005 is enacted to read:**

**31A-22-2005. Nonforfeiture benefits.**

(1) (a) A limited long-term care insurance policy may offer the option of purchasing a policy or certificate including a nonforfeiture benefit.

(b) The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy.

(c) In the event the policy holder or certificate holder does not purchase a nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that shall be available for a specified period of time following a substantial increase in premium rates.

(2) If an insurer issues a group limited long-term care insurance policy, the insurer shall:

(a) make any offer of a nonforfeiture benefit to the group policyholder; and

(b) make any offer to each proposed certificate holder.

**Section 37. Section 31A-22-2006 is enacted to read:**

**31A-22-2006. Rulemaking.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner:

(1) shall make rules:

(a) in the event of a substantial rate increase, promoting premium adequacy and protecting the policy holder;

(b) establishing minimum standards for limited long-term care insurance marketing practices, producer compensation, producer testing, independent review of benefit determinations, penalties, and reporting practices;

(c) prescribing a standard format, including style, arrangement, and overall appearance of an outline of coverage;

(d) prescribing the content of an outline of coverage, in accordance with the requirements described in Subsection 31A-22-2004(5)(b);

(e) specifying the type of nonforfeiture benefits offered as part of a limited long-term care insurance policy or certificate;

(f) establishing the standards of nonforfeiture benefits; and

(g) establishing the rules regarding contingent benefits upon lapse, including:

(i) a determination of the specified period of time during which a contingent benefit upon lapse will be available; and

(ii) the substantial premium rate increase that triggers a contingent benefit upon lapse as described in Subsection 31A-22-2005(1); and

(2) may make rules establishing loss-ratio standards for limited long-term care insurance policies.

**Section 38. Section 31A-23a-111 is amended to read:**

**31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-23a-113; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A line of authority issued under this chapter remains in force until:

(a) the qualifications pertaining to a line of authority are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5);

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(iii) lapses under Section 31A-23a-113; or

(iv) is voluntarily surrendered; or

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a line of authority;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a line of authority;

(iii) limit in whole or in part:

(A) a license; or

(B) a line of authority;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;

(ii) violates:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance producer's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) obtains or attempts to obtain a license through misrepresentation or fraud;

(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;

(xiii) intentionally misrepresents the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) life settlement;

(xiv) has been convicted of:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) admits or is found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere:

(A) uses fraudulent, coercive, or dishonest practices; or

(B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license or registration, or other professional or occupational license or registration:

(A) denied;

(B) suspended;

(C) revoked; or

(D) surrendered to resolve an administrative action;

(xviii) forges another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) improperly uses notes or another reference material to complete an examination for an insurance license;

(xx) knowingly accepts insurance business from an individual who is not licensed;

(xxi) fails to comply with an administrative or court order imposing a child support obligation;

(xxii) fails to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;

(xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public; or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 39. Section 31A-23a-205 is amended to read:**

**31A-23a-205. Special requirements for bail bond producers and bail bond enforcement agents.**

(1) As used in this section, "bail bond producer" and "bail enforcement agent" have the same definitions as in Section 31A-35-102.

(2) A bail bond producer may not operate in this state without an appointment from one or more authorized bail bond surety insurers or licensed bail bond [surety] companies.

(3) A bail bond enforcement agent may not operate in this state without an appointment from one or more licensed bail bond producers.

**Section 40. Section 31A-23a-415 is amended to read:**

**31A-23a-415. Assessment on agency title insurance producers or title insurers -- Account created.**

(1) For purposes of this section:

(a) "Premium" is as [defined] described in Subsection 59-9-101(3).

(b) "Title insurer" means a person:

(i) making any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety;

(ii) proposing to make any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety; or

(iii) transacting or proposing to transact any phase of title insurance, including:

(A) soliciting;

(B) negotiating preliminary to execution;

(C) executing of a contract of title insurance;

(D) insuring; and

(E) transacting matters subsequent to the execution of the contract and arising out of the contract.

(c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:

(i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or

(ii) invalidity or unenforceability of any liens or encumbrances on the property.

(2) (a) The commissioner may assess each title insurer, each individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance

producer, and each agency title insurance producer an annual assessment:

(i) determined by the Title and Escrow Commission:

- (A) after consultation with the commissioner; and
- (B) in accordance with this Subsection (2); and

(ii) to be used for the purposes described in Subsection (3).

(b) An agency title insurance producer and individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall be assessed up to:

(i) \$250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and

(ii) \$150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

(c) A title insurer shall be assessed up to:

(i) \$250 for the first office in each county in which the title insurer maintains an office;

(ii) \$150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and

(iii) an amount calculated by:

(A) aggregating the assessments imposed on:

(I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and

(II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

(B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and

(C) multiplying:

(I) the amount calculated under Subsection (2)(c)(iii)(B); and

(II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.

(d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, the Title and Escrow Commission by rule shall establish the amount of costs and expenses described under Subsection (3) that will be covered by the assessment, except the costs or expenses to be covered by the assessment may not exceed the cost of one full-time equivalent position. ~~[\$100,000 annually]~~

(e) (i) An individual licensed to practice law in Utah is exempt from the requirements of this Subsection (2) if that person issues 12 or less policies during a 12-month period.

(ii) In determining the number of policies issued by an individual licensed to practice law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to more than one party to the same closing, the individual is considered to have issued only one policy.

(3) (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."

(c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.

(d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of laws governing individual title insurance producers, agency title insurance producers, or title insurers.

(e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.

(4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

**Section 41. Section 31A-23b-401 is amended to read:**

**31A-23b-401. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.**

(1) A license as a navigator under this chapter remains in force until:

(a) revoked or suspended under Subsection (4);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under this section; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be



reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke a license;

(ii) suspend a license for a specified period of 12 months or less;

(iii) limit a license in whole or in part;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (4)(a)(i) through (iv) and Subsection (4)(a)(v).

(b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license under Section 31A-23b-204, 31A-23b-205, or 31A-23b-206;

(ii) violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) failed to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) refused:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(vi) had an officer who refused to:

(A) give information with respect to the navigator's affairs; or

(B) perform any other legal obligation as to an examination;

(vii) provided information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(viii) violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(ix) obtained or attempted to obtain a license through misrepresentation or fraud;

(x) improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xi) intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) application for public program;

(xii) has been convicted of:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xiii) admitted or is found to have committed an insurance unfair trade practice or fraud;

(xiv) in the conduct of business in this state or elsewhere:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xv) has had an insurance license, navigator license, or other professional or occupational license or registration, or an equivalent of the same denied, suspended, revoked, or surrendered to resolve an administrative action;

(xvi) forged another's name to:

(A) an application for insurance;

(B) a document related to an insurance transaction;

(C) a document related to an application for a public program; or

(D) a document related to an application for premium subsidies;

(xvii) improperly used notes or another reference material to complete an examination for a license;

(xviii) knowingly accepted insurance business from an individual who is not licensed;

(xix) failed to comply with an administrative or court order imposing a child support obligation;

(xx) failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxi) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;

(xxii) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public; or

(xxiii) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

- (i) the individual;
- (ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

- (iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

- (a) the licensee's license is:
  - (i) revoked;
  - (ii) suspended;
  - (iii) surrendered in lieu of administrative action;
  - (iv) lapsed; or
  - (v) voluntarily surrendered; and
- (b) the licensee:
  - (i) continues to act as a licensee; or
  - (ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this chapter if so ordered by a court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 42. Section 31A-25-208 is amended to read:**

**31A-25-208. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal and reinstatement.**

(1) A license type issued under this chapter remains in force until:

- (a) revoked or suspended under Subsection (4);
- (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
- (c) the licensee dies or is adjudicated incompetent as defined under:
  - (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
  - (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
- (d) lapsed under Section 31A-25-210; or
- (e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

- (a) a lapsed license; or
- (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be

reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke a license;

(ii) suspend a license for a specified period of 12 months or less;

(iii) limit a license in whole or in part; or

(iv) deny a license application.

(b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license under Section 31A-25-202, 31A-25-203, or 31A-25-204;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another third party administrator that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the third party administrator's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract; or

(B) application for insurance;

(xiv) has been convicted of:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license or registration, or an equivalent of the same, denied, suspended, revoked, or surrendered to resolve an administrative action;

(xviii) has forged another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) ~~[has violated or permitted others to violate] is convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and [therefore] has not obtained written consent to engage in the business of insurance or participate in such business as required under 18 U.S.C. Sec. 1033 [is prohibited from engaging in the business of insurance; or];~~

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public[-]; or

(xxv) has been convicted of a criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required under 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the agency license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against the person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 43. Section 31A-26-206 is amended to read:**

**31A-26-206. Continuing education requirements.**

(1) Pursuant to this section, the commissioner shall by rule prescribe continuing education requirements for each class of license under Section 31A-26-204.

(2) (a) The commissioner shall impose continuing education requirements in accordance with a two-year licensing period in which the licensee meets the requirements of this Subsection (2).

(b) (i) Except as otherwise provided in this section, the continuing education requirements shall require:

(A) that a licensee complete 24 credit hours of continuing education for every two-year licensing period;

(B) that 3 of the 24 credit hours described in Subsection (2)(b)(i)(A) be ethics courses; and

(C) that the licensee complete at least half of the required hours through classroom hours of insurance-related instruction.

(ii) A continuing education hour completed in accordance with Subsection (2)(b)(i) may be obtained through:

- (A) classroom attendance;
- (B) home study;
- (C) watching a video recording;
- (D) experience credit; or
- (E) other methods provided by rule.

(iii) Notwithstanding Subsections (2)(b)(i)(A) and (B), a title insurance adjuster is required to complete 12 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses.

(c) A licensee may obtain continuing education hours at any time during the two-year licensing period.

(d) (i) A licensee is exempt from the continuing education requirements of this section if:

(A) the licensee was first licensed before December 31, 1982;

(B) the license does not have a continuous lapse for a period of more than one year, except for a license for which the licensee has had an exemption approved before May 11, 2011;

(C) the licensee requests an exemption from the department; and

(D) the department approves the exemption.

(ii) If the department approves the exemption under Subsection (2)(d)(i), the licensee is not required to apply again for the exemption.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule:

(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (2)(b); and

(ii) authorize a professional adjuster association to:

(A) offer a qualified program for a classification of license on a geographically accessible basis; and

(B) collect a reasonable fee for funding and administration of a qualified program, subject to the review and approval of the commissioner.

(f) (i) A fee permitted under Subsection (2)(e)(ii)(B) that is charged to fund and administer a qualified program shall reasonably relate to the cost of administering the qualified program.

(ii) Nothing in this section shall prohibit a provider of a continuing education program or course from charging a fee for attendance at a course offered for continuing education credit.

(iii) A fee permitted under Subsection (2)(e)(ii)(B) that is charged for attendance at an association

program may be less for an association member, on the basis of the member's affiliation expense, but shall preserve the right of a nonmember to attend without affiliation.

(3) The continuing education requirements of this section apply only to a licensee who is an individual.

(4) The continuing education requirements of this section do not apply to a member of the Utah State Bar.

(5) The commissioner shall designate a course that satisfies the requirements of this section, including a course presented by an insurer.

(6) A nonresident adjuster is considered to have satisfied this state's continuing education requirements if:

(a) the nonresident adjuster satisfies the nonresident [~~producer's~~] home state's continuing education requirements for a licensed insurance adjuster; and

(b) on the same basis the nonresident adjuster's home state considers satisfaction of Utah's continuing education requirements for [~~a producer~~] an adjuster as satisfying the continuing education requirements of the home state.

(7) A licensee subject to this section shall keep documentation of completing the continuing education requirements of this section for two years after the end of the two-year licensing period to which the continuing education requirement applies.

**Section 44. Section 31A-26-213 is amended to read:**

**31A-26-213. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-26-214.5; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be

reinstated after the license period in which it is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A license classification issued under this chapter remains in force until:

(a) the qualifications pertaining to a license classification are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5); or

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action.

(5) (a) If the commissioner makes a finding under Subsection (5)(b) as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a license classification;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a license classification;

(iii) limit in whole or in part:

(A) a license; or

(B) a license classification;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license or license classification under Section 31A-26-202, 31A-26-203, 31A-26-204, or 31A-26-205;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance adjuster that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance adjuster's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract; or

(B) application for insurance;

(xiv) has been convicted of:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license or registration, or equivalent, denied, suspended, revoked, or surrendered to resolve an administrative action;

(xviii) has forged another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has been convicted of a violation of the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent in accordance with 18 U.S.C. Sec. 1033 to engage in the business of insurance or participate in such business;

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public; or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent in accordance with 18 U.S.C. Sec. 1033 to engage in the business of insurance or participate in such business.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for conducting an insurance business without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time not to exceed five years within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years without the express approval of the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 45. Section 31A-26-301.6 is amended to read:**

**31A-26-301.6. Health care claims practices.**

(1) As used in this section:

[~~(a) "Articulate reason" may include a determination regarding;~~]

~~(i) eligibility for coverage;~~

~~(ii) preexisting conditions;~~

~~(iii) applicability of other public or private insurance;~~

~~(iv) medical necessity; and~~

~~(v) any other reason that would justify an extension of the time to investigate a claim.]~~

~~(b)~~ (a) "Health care provider" means a person licensed to provide health care under:

(i) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; or

(ii) Title 58, Occupations and Professions.

~~(c)~~ (b) "Insurer" means an admitted or authorized insurer, as defined in Section 31A-1-301, and includes:

(i) a health maintenance organization; and

(ii) a third party administrator that is subject to this title, provided that nothing in this section may be construed as requiring a third party administrator to use its own funds to pay claims that have not been funded by the entity for which the third party administrator is paying claims.

~~(d)~~ (c) "Provider" means a health care provider to whom an insurer is obligated to pay directly in connection with a claim by virtue of:

(i) an agreement between the insurer and the provider;

(ii) a health insurance policy or contract of the insurer; or

(iii) state or federal law.

(2) An insurer shall timely pay every valid insurance claim submitted by a provider in accordance with this section.

(3) (a) Except as provided in Subsection (4), within 30 days of the day on which the insurer receives a written claim, an insurer shall:

(i) pay the claim; or

(ii) deny the claim and provide a written explanation for the denial.

(b) (i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a) may be extended by 15 days if the insurer:

(A) determines that the extension is necessary due to matters beyond the control of the insurer; and

(B) before the end of the 30-day period described in Subsection (3)(a), notifies the provider and insured in writing of:

(I) the circumstances requiring the extension of time; and

(II) the date by which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(ii) If an extension is necessary due to a failure of the provider or insured to submit the information necessary to decide the claim:

(A) the notice of extension required by this Subsection (3)(b) shall specifically describe the required information; and

(B) the insurer shall give the provider or insured at least 45 days from the day on which the provider or insured receives the notice before the insurer denies the claim for failure to provide the information requested in Subsection (3)(b)(ii)(A).

(4) (a) In the case of a claim for income replacement benefits, within 45 days of the day on which the insurer receives a written claim, an insurer shall:

(i) pay the claim; or

(ii) deny the claim and provide a written explanation of the denial.

(b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a) may be extended for 30 days if the insurer:

(i) determines that the extension is necessary due to matters beyond the control of the insurer; and

(ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies the insured of:

(A) the circumstances requiring the extension of time; and

(B) the date by which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(c) Subject to Subsections (4)(d) and (e), the time period for complying with Subsection (4)(a) may be extended for up to an additional 30 days from the day on which the 30-day extension period provided in Subsection (4)(b) ends if before the day on which the 30-day extension period ends, the insurer:

(i) determines that due to matters beyond the control of the insurer a decision cannot be rendered within the 30-day extension period; and

(ii) notifies the insured of:

(A) the circumstances requiring the extension; and

(B) the date as of which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(d) A notice of extension under this Subsection (4) shall specifically explain:

(i) the standards on which entitlement to a benefit is based; and

(ii) the unresolved issues that prevent a decision on the claim.

(e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of the insured to submit the information necessary to decide the claim:

(i) the notice of extension required by Subsection (4)(b) or (c) shall specifically describe the necessary information; and



(ii) the insurer shall give the insured at least 45 days from the day on which the insured receives the notice before the insurer denies the claim for failure to provide the information requested in Subsection (4)(b) or (c).

(5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or (4)(c), due to an insured or provider failing to submit information necessary to decide a claim, the period for making the benefit determination shall be tolled from the date on which the notification of the extension is sent to the insured or provider until the date on which the insured or provider responds to the request for additional information.

(6) An insurer shall pay all sums to the provider or insured that the insurer is obligated to pay on the claim, and provide a written explanation of the insurer's decision regarding any part of the claim that is denied within 20 days of receiving the information requested under Subsection (3)(b), (4)(b), or (4)(c).

(7) (a) Whenever an insurer makes a payment to a provider on any part of a claim under this section, the insurer shall also send to the insured an explanation of benefits paid.

(b) Whenever an insurer denies any part of a claim under this section, the insurer shall also send to the insured:

(i) a written explanation of the part of the claim that was denied; and

(ii) notice of the adverse benefit determination review process established under Section 31A-22-629.

(c) This Subsection (7) does not apply to a person receiving benefits under the state Medicaid program as defined in Section 26-18-2, unless required by the Department of Health or federal law.

(8) (a) ~~[Beginning with health care claims submitted on or after January 1, 2002, a]~~ A late fee shall be imposed on:

(i) an insurer that fails to timely pay a claim in accordance with this section; and

(ii) a provider that fails to timely provide information on a claim in accordance with this section.

(b) ~~[For the first 90 days that a claim payment or a provider response to a request for information is late, the]~~ The late fee described in Subsection (8)(a) shall be determined by multiplying together:

(i) the total amount of the claim the insurer is obliged to pay;

(ii) the total number of days the response or the payment is late; and

(iii) ~~[-1%]~~ 0.033% daily interest rate.

~~[(c) For a claim payment or a provider response to a request for information that is 91 or more days~~

~~late, the late fee shall be determined by adding together:]~~

~~[(i) the late fee for a 90-day period under Subsection (8)(b); and]~~

~~[(ii) the following multiplied together:]~~

~~[(A) the total amount of the claim;]~~

~~[(B) the total number of days the response or payment was late beyond the initial 90-day period; and]~~

~~[(C) the rate of interest set in accordance with Section 15-1-1.]~~

~~[(d)]~~ (c) Any late fee paid or collected under this ~~[section]~~ Subsection (8) shall be separately identified on the documentation used by the insurer to pay the claim.

~~[(e)]~~ (d) For purposes of this Subsection (8), "late fee" does not include an amount that is less than \$1.

(9) Each insurer shall establish a review process to resolve claims-related disputes between the insurer and providers.

(10) An insurer or person representing an insurer may not engage in any unfair claim settlement practice with respect to a provider. Unfair claim settlement practices include:

(a) knowingly misrepresenting a material fact or the contents of an insurance policy in connection with a claim;

(b) failing to acknowledge and substantively respond within 15 days to any written communication from a provider relating to a pending claim;

(c) denying or threatening to deny the payment of a claim for any reason that is not clearly described in the insured's policy;

(d) failing to maintain a payment process sufficient to comply with this section;

(e) failing to maintain claims documentation sufficient to demonstrate compliance with this section;

(f) failing, upon request, to give to the provider written information regarding the specific rate and terms under which the provider will be paid for health care services;

(g) failing to timely pay a valid claim in accordance with this section as a means of influencing, intimidating, retaliating, or gaining an advantage over the provider with respect to an unrelated claim, an undisputed part of a pending claim, or some other aspect of the contractual relationship;

(h) failing to pay the sum when required and as required under Subsection (8) when a violation has occurred;

(i) threatening to retaliate or actual retaliation against a provider for the provider applying this section;

(j) any material violation of this section; and

(k) any other unfair claim settlement practice established in rule or law.

(11) (a) The provisions of this section shall apply to each contract between an insurer and a provider for the duration of the contract.

(b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad faith insurance claim.

(c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer and a provider from including provisions in their contract that are more stringent than the provisions of this section.

(12) (a) Pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner, [~~and beginning January 1, 2002,~~] the commissioner may conduct examinations to determine an insurer's level of compliance with this section and impose sanctions for each violation.

(b) The commissioner may adopt rules only as necessary to implement this section.

(c) The commissioner may establish rules to facilitate the exchange of electronic confirmations when claims-related information has been received.

(d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules regarding the review process required by Subsection (9).

(13) Nothing in this section may be construed as limiting the collection rights of a provider under Section 31A-26-301.5.

(14) Nothing in this section may be construed as limiting the ability of an insurer to:

(a) recover any amount improperly paid to a provider or an insured:

(i) in accordance with Section 31A-31-103 or any other provision of state or federal law;

(ii) within 24 months of the amount improperly paid for a coordination of benefits error;

(iii) within 12 months of the amount improperly paid for any other reason not identified in Subsection (14)(a)(i) or (ii); or

(iv) within 36 months of the amount improperly paid when the improper payment was due to a recovery by Medicaid, Medicare, the Children's Health Insurance Program, or any other state or federal health care program;

(b) take any action against a provider that is permitted under the terms of the provider contract and not prohibited by this section;

(c) report the provider to a state or federal agency with regulatory authority over the provider for unprofessional, unlawful, or fraudulent conduct; or

(d) enter into a mutual agreement with a provider to resolve alleged violations of this section through mediation or binding arbitration.

(15) A health care provider may only seek recovery from the insurer for an amount improperly paid by the insurer within the same time frames as Subsections (14)(a) and (b).

(16) (a) An insurer may offer the remittance of payment through a credit card or other similar arrangement.

(b) (i) A health care provider may elect not to receive remittance through a credit card or other similar arrangement.

(ii) An insurer:

(A) shall permit a health care provider's election described in Subsection (16)(b)(i) to apply to the health care provider's entire practice; and

(B) may not require a health care provider's election described in Subsection (16)(b)(i) to be made on a patient-by-patient basis.

(c) An insurer may not require a health care provider or insured to accept remittance through a credit card or other similar arrangement.

**Section 46. Section 31A-27a-105 is amended to read:**

**31A-27a-105. Jurisdiction -- Venue.**

(1) (a) A delinquency proceeding under this chapter may not be commenced by a person other than the commissioner of this state.

(b) No court has jurisdiction to entertain, hear, or determine a delinquency proceeding commenced by any person other than the commissioner of this state.

(2) Other than in accordance with this chapter, a court of this state has no jurisdiction to entertain, hear, or determine any complaint:

(a) requesting the liquidation, rehabilitation, seizure, sequestration, or receivership of an insurer; or

(b) requesting a stay, an injunction, a restraining order, or other relief preliminary to, incidental to, or relating to a delinquency proceeding.

(3) (a) The receivership court, as of the commencement of a delinquency proceeding under this chapter, has exclusive jurisdiction of all property of the insurer, wherever located, including property located outside the territorial limits of the state.

(b) The receivership court has original but not exclusive jurisdiction of all civil proceedings arising:

(i) under this chapter; or

(ii) in or related to a delinquency proceeding under this chapter.

(4) In addition to other grounds for jurisdiction provided by the law of this state, a court of this state having jurisdiction of the subject matter has jurisdiction over a person served pursuant to the Utah Rules of Civil Procedure or other applicable provisions of law in an action brought by the receiver if the person served:

(a) in an action resulting from or incident to a relationship with the insurer described in this Subsection (4)(a), is or has been an agent, broker, or other person who has at any time:

(i) written a policy of insurance for an insurer against which a delinquency proceeding is instituted; or

(ii) acted in any manner whatsoever on behalf of an insurer against which a delinquency proceeding is instituted;

(b) in an action on or incident to a reinsurance contract described in this Subsection (4)(b):

(i) is or has been an insurer or reinsurer who has at any time entered into the contract of reinsurance with an insurer against which a delinquency proceeding is instituted; or

(ii) is an intermediary, agent, or broker of or for the reinsurer, or with respect to the contract;

(c) in an action resulting from or incident to a relationship with the insurer described in this Subsection (4)(c), is or has been an officer, director, manager, trustee, organizer, promoter, or other person in a position of comparable authority or influence over an insurer against which a delinquency proceeding is instituted;

(d) in an action concerning assets described in this Subsection (4)(d), is or was at the time of the institution of the delinquency proceeding against the insurer, holding assets in which the receiver claims an interest on behalf of the insurer; or

(e) in any action on or incident to the obligation described in this Subsection (4)(e), is obligated to the insurer in any way whatsoever.

(5) (a) Subject to Subsection (5)(b), service shall be made upon the person named in the petition in accordance with the Utah Rules of Civil Procedure.

(b) In lieu of service under Subsection (5)(a), upon application to the receivership court, service may be made in such a manner as the receivership court directs whenever it is satisfactorily shown by the commissioner's affidavit:

(i) in the case of a corporation, that the officers of the corporation cannot be served because they have departed from the state or have otherwise concealed themselves with intent to avoid service;

(ii) in the case of an insurer whose business is conducted, at least in part, by an attorney-in-fact, managing general agent, or other similar entity including a reciprocal, Lloyd's association, or interinsurance exchange, that the individual attorney-in-fact, managing general agent, or other entity, or its officers of the corporate attorney-in-fact cannot be served because of the individual's departure or concealment; or

(iii) in the case of a natural person, that the person cannot be served because of the person's departure or concealment.

(6) If the receivership court on motion of any party finds that an action should as a matter of

substantial justice be tried in a forum outside this state, the receivership court may enter an appropriate order to stay further proceedings on the action in this state.

(7) (a) Nothing in this chapter deprives a reinsurer of any contractual right to pursue arbitration except:

(i) as to a claim against the estate; and

(ii) in regard to a contract rejected by the receiver under Section 31A-27a-113.

(b) A party in arbitration may bring a claim or counterclaim against the estate, but the claim or counterclaim is subject to this chapter.

(8) An action authorized by this chapter shall be brought in the Third District Court for Salt Lake County.

(9) (a) At any time after an order is entered pursuant to Section 31A-27a-201, 31A-27a-301, or 31A-27a-401, the commissioner or receiver may transfer the case to the county of the principal office of the person proceeded against.

(b) In the event of a transfer under this Subsection (9), the court in which the proceeding is commenced shall, upon application of the commissioner or receiver, direct its clerk to transmit the court's file to the clerk of the court to which the case is to be transferred.

(c) After a transfer under this Subsection (9), the proceeding shall be conducted in the same manner as if it had been commenced in the court to which the matter is transferred.

(10) (a) Except as provided in Subsection (10)(c), a person may not intervene in a liquidation proceeding in this state for the purpose of seeking or obtaining payment of a judgment, lien, or other claim of any kind.

(b) Except as provided in Subsection (10)(c), the claims procedure set for this chapter constitute the exclusive means for obtaining payment of claims from the liquidation estate.

(c) (i) An affected guaranty association or the affected guaranty association's representative may intervene as a party as a matter of right and otherwise appear and participate in any court proceeding concerning a liquidation proceeding against an insurer.

(ii) Intervention by an affected guaranty association or by an affected guaranty association's designated representative conferred by this Subsection (10)(c) may not constitute grounds to establish general personal jurisdiction by the courts of this state.

(iii) An intervening affected guaranty association or the affected guaranty association's representative are subject to the receivership court's jurisdiction for the limited purpose for which the affected guaranty association intervenes.

(11) (a) Notwithstanding the other provisions of this section, this chapter does not confer jurisdiction on the receivership court to resolve

coverage disputes between an affected guaranty association and those asserting claims against the affected guaranty association resulting from the initiation of a receivership proceeding under this chapter, except to the extent that the affected guaranty association otherwise expressly consents to the jurisdiction of the receivership court pursuant to a plan of rehabilitation or liquidation that resolves its obligations to covered policyholders.

(b) The determination of a dispute with respect to the statutory coverage obligations of an affected guaranty association by a court or administrative agency or body with jurisdiction in the affected guaranty association's state of domicile is binding and conclusive as to the affected guaranty association's claim in the liquidation proceeding.

(12) Upon the request of the receiver, the receivership court or the presiding judge of the Third District Court for Salt Lake County may order that one judge hear all cases and controversies arising out of or related to the delinquency proceeding.

(13) A delinquency proceeding is exempt from any program maintained for the early closure of civil actions.

(14) In a proceeding, case, or controversy arising out of or related to a delinquency proceeding, to the extent there is a conflict between the Utah Rules of Civil Procedure and this chapter, the provisions of this chapter govern the proceeding, case, or controversy.

**Section 47. Section 31A-27a-501 is amended to read:**

**31A-27a-501. Turnover of assets.**

(1) (a) If the receiver determines that funds or property in the possession of another person are rightfully the property of the estate, the receiver shall deliver to the person a written demand for immediate delivery of the funds or property:

- (i) referencing this section by number;
- (ii) referencing the court and docket number of the receivership action; and
- (iii) notifying the person that any claim of right to the funds or property by the person shall be presented to the receivership court within 20 days of the day on which the person receives the written demand.

(b) (i) A person who holds funds or other property belonging to an entity subject to an order of receivership under this chapter shall deliver the funds or other property to the receiver on demand.

(ii) If the person described in Subsection (1)(b)(i) alleges a right to retain the funds or other property, the person shall:

(A) file ~~a pleading~~ an objection with the receivership court setting out that right within 20 days of the day on which the person receives the

demand that the funds or property be delivered to the receiver; and

(B) serve a copy of the ~~pleading~~ objection on the receiver.

(iii) The ~~pleading~~ objection described in Subsection (1)(b)(ii) shall inform the receivership court as to:

- (A) the nature of the claim to the funds or property;
- (B) the alleged value of the property or amount of funds held; and
- (C) what action has been taken by the person to preserve any funds or to preserve and protect the property pending determination of the dispute.

(c) The relinquishment of possession of funds or property by a person who receives a demand pursuant to this section is not a waiver of a right to make a claim in the receivership.

(2) (a) If requested by the receiver, the receivership court shall hold a hearing to determine where and under what conditions the funds or property shall be held by a person described in Subsection (1) pending determination of a dispute concerning the funds or property.

(b) The receivership court may impose the conditions the receivership court considers necessary or appropriate for the preservation of the funds or property until the receivership court can determine the validity of the person's claim to the funds or property.

(c) If funds or property are allowed to remain in the possession of the person after demand made by the receiver, that person is strictly liable to the estate for any waste, loss, or damage to or diminution of value of the funds or property retained.

(3) If a person files ~~a pleading~~ an objection alleging a right to retain funds or property as provided in Subsection (1), the receivership court shall hold a subsequent hearing to determine the entitlement of the person to the funds or property claimed by the receiver.

(4) If a person fails to deliver the funds or property or to file the ~~pleading~~ objection described by Subsection (1) within the 20-day period, the receivership court may issue a summary order:

- (a) upon:
  - (i) petition of the receiver; and
  - (ii) a copy of the petition being served by the petitioner to that person;
- (b) directing the immediate delivery of the funds or property to the receiver; and
- (c) finding that the person waived all claims of right to the funds or property.

(5) The liquidator shall reduce the assets to a degree of liquidity that is consistent with the effective execution of the liquidation.

**Section 48. Section 31A-30-117 is amended to read:**

**31A-30-117. Patient Protection and Affordable Care Act -- Market transition.**

(1) (a) ~~[After complying with the reporting requirements of Section 63N-11-106, the]~~ The commissioner may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that change the rating and underwriting requirements of this chapter as necessary to transition the insurance market to meet federal qualified health plan standards and rating practices under PPACA.

(b) Administrative rules adopted by the commissioner under this section may include:

(i) the regulation of health benefit plans as described in ~~[Subsections 31A-2-212(5)(a) and (b)]~~ Subsection 31A-2-212(5); and

(ii) disclosure of records and information required by PPACA and state law.

(c) (i) The commissioner shall establish by administrative rule one statewide open enrollment period that applies to the individual insurance market that is not on the PPACA certified individual exchange.

(ii) The statewide open enrollment period:

(A) may be shorter, but no longer than the open enrollment period established for the individual insurance market offered in the PPACA certified exchange; and

(B) may not be extended beyond the dates of the open enrollment period established for the individual insurance market offered in the PPACA certified exchange.

(2) A carrier that offers health benefit plans in the individual market that is not part of the individual PPACA certified exchange:

(a) shall open enrollment:

(i) during the statewide open enrollment period established in Subsection (1)(c); and

(ii) at other times, for qualifying events, as determined by administrative rule adopted by the commissioner; and

(b) may open enrollment at any time.

(3) To the extent permitted by the Centers for Medicare and Medicaid Services policy, or federal regulation, the commissioner shall allow a health insurer to choose to continue coverage and individuals and small employers to choose to re-enroll in coverage in nongrandfathered health coverage that is not in compliance with market reforms required by PPACA.

**Section 49. Section 31A-30-118 is amended to read:**

**31A-30-118. Patient Protection and Affordable Care Act -- State insurance mandates -- Cost of additional benefits.**

(1) (a) The commissioner shall identify a new mandated benefit that is in excess of the essential health benefits required by PPACA.

(b) The state shall quantify the cost attributable to each additional mandated benefit specified in Subsection (1)(a) based on a qualified health plan issuer's calculation of the cost associated with the mandated benefit, which shall be:

(i) calculated in accordance with generally accepted actuarial principles and methodologies;

(ii) conducted by a member of the American Academy of Actuaries; and

(iii) reported to the commissioner and to the individual exchange operating in the state.

(c) The commissioner may require a proponent of a new mandated benefit under Subsection (1)(a) to provide the commissioner with a cost analysis conducted in accordance with Subsection (1)(b). The commissioner may use the cost information provided under this Subsection (1)(c) to establish estimates of the cost to the state under Subsection (2).

(2) If the state is required to defray the cost of additional required benefits under the provisions of 45 C.F.R. 155.170:

(a) the state shall make the required payments:

(i) in accordance with Subsection (3); and

(ii) directly to the qualified health plan issuer in accordance with 45 C.F.R. 155.170;

(b) an issuer of a qualified health plan that receives a payment under the provisions of Subsection (1) and 45 C.F.R. 155.170 shall:

(i) reduce the premium charged to the individual on whose behalf the issuer will be paid under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); or

(ii) notwithstanding Subsection 31A-23a-402.5(5), provide a premium rebate to an individual on whose behalf the issuer received a payment under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); and

(c) a premium rebate made under this section is not a prohibited inducement under Section 31A-23a-402.5.

(3) A payment required under 45 C.F.R. 155.170(c) shall:

(a) unless otherwise required by PPACA, be based on a statewide average of the cost of the additional benefit for all issuers who are entitled to payment under the provisions of 45 C.F.R. ~~[155.70]~~ 155.170; and

(b) be submitted to an issuer through a process established ~~[and administered by the federal marketplace exchange for the state under PPACA for individual health plans]~~ by the commissioner.

(4) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) ~~[adopt rules as necessary to]~~ administer the provisions of this section and 45 C.F.R. 155.170; and

(b) establish or implement a process for submitting a payment to an issuer under Subsection (3)(b).

**Section 50. Section 31A-35-402 is amended to read:**

**31A-35-402. Authority related to bail bonds.**

(1) A bail bond agency may only sell bail bonds.

(2) In accordance with Section 31A-23a-205, a bail bond producer may not execute or issue a bail bond in this state without holding a current appointment from a surety insurer or a current designation from a bail bond agency.

(3) A bail bond ~~[surety]~~ agency or surety insurer may not allow any person who is not a bail bond producer to engage in the bail bond insurance business on the bail bond agency's or surety insurer's behalf, except for individuals:

(a) employed solely for the performance of clerical, stenographic, investigative, or other administrative duties that do not require a license as:

(i) a bail bond agency; or

(ii) a bail bond producer; and

(b) whose compensation is not related to or contingent upon the number of bail bonds written.

**Section 51. Section 31A-37-303 is amended to read:**

**31A-37-303. Reinsurance.**

(1) (a) A captive insurance company may cede risks ~~to~~ any insurance company approved by the commissioner.

(b) A captive insurance company may provide reinsurance, as authorized in this title, on risks ceded ~~[for the benefit of a parent, affiliate, or controlled unaffiliated business]~~ by any other insurer with prior approval of the commissioner.

(2) (a) A captive insurance company may take credit for reserves on risks or portions of risks ceded to reinsurers if the captive insurance company complies with Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4 or if the captive insurance company complies with other requirements as the commissioner may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Unless the reinsurer is in compliance with Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4 or a rule adopted under Subsection (2)(a), a captive insurance company may not take credit for:

(i) reserves on risks ceded to a reinsurer; or

(ii) portions of risks ceded to a reinsurer.

**Section 52. Section 31A-37-701 is amended to read:**

**31A-37-701. Certificate of dormancy.**

(1) In accordance with the provisions of this section, a captive insurance company, other than a risk retention group may apply, without fee, to the commissioner for a certificate of dormancy.

(2) (a) A captive insurance company, other than a risk retention group, is eligible for a certificate of dormancy if the captive insurance company:

(i) has ceased transacting the business of insurance, including the issuance of insurance policies; and

(ii) has no remaining insurance liabilities or obligations associated with insurance business transactions or insurance policies.

(b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or obligations for which the captive insurance company has withheld sufficient funds or that are otherwise sufficiently secured.

(3) Except as provided in Subsection (5), a captive insurance company that holds a certificate of dormancy is subject to all requirements of this chapter.

(4) A captive insurance company that holds a certificate of dormancy:

(a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company or a special purpose captive insurance company, not less than \$25,000;

(ii) in the case of an association captive insurance company, not less than \$75,000; or

(iii) in the case of a sponsored captive insurance company, not less than \$100,000, of which at least \$35,000 is provided by the sponsor; and

(b) is not required to:

(i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;

(ii) maintain an active agreement with an independent auditor or actuary; or

(iii) hold an annual meeting of the captive insurance company in the state.

(5) The commissioner may require a captive insurance company that holds a certificate of dormancy to submit an annual audit if the commissioner determines that there are concerns regarding the captive insurance company's solvency or liquidity.

(6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal fee, no later than July 1 of each year, a captive insurance company shall pay an annual dormancy renewal fee that is equal to 50% of the captive insurance company's certificate of authority renewal fee.

(7) A captive insurance company may consecutively renew a certificate ~~[of]~~ of dormancy no more than five times.

**Section 53. Section 34A-2-202 is amended to read:**

**34A-2-202. Assessment on self-insured employers including the state, counties, cities, towns, or school districts paying compensation direct.**

(1) (a) (i) A self-insured employer, including a county, city, town, or school district, shall pay annually, on or before March 31, an assessment in accordance with this section and rules made by the commission under this section.

(ii) For purposes of this section, "self-insured employer" is as defined in Section 34A-2-201.5, except it includes the state if the state self-insures under Section 34A-2-203.

(b) The assessment required by Subsection (1)(a) is:

(i) to be collected by the State Tax Commission;

(ii) paid by the State Tax Commission into the state treasury as provided in Subsection 59-9-101(2); and

(iii) subject to the offset provided in Section 34A-2-202.5.

(c) The assessment under Subsection (1)(a) shall be based on a total calculated premium multiplied by the premium assessment rate established pursuant to Subsection 59-9-101(2).

(d) The total calculated premium, for purposes of calculating the assessment under Subsection (1)(a), shall be calculated by:

(i) multiplying the total of the standard premium for each class code calculated in Subsection (1)(e) by the self-insured employer's experience modification factor; and

(ii) multiplying the total under Subsection (1)(d)(i) by a safety factor determined under Subsection (1)(g).

(e) A standard premium shall be calculated by:

(i) multiplying the [prospective] advisory loss cost for the year being considered, as filed with the insurance department pursuant to Section 31A-19a-406, for each applicable class code by 1.10 to determine the manual rate for each class code; and

(ii) multiplying the manual rate for each class code under Subsection (1)(e)(i) by each \$100 of the self-insured employer's covered payroll for each class code.

(f) (i) Each self-insured employer paying compensation direct shall annually obtain the experience modification factor required in Subsection (1)(d)(i) by using:

(A) the rate service organization designated by the insurance commissioner in Section 31A-19a-404; or

(B) for a self-insured employer that is a public agency insurance mutual, an actuary approved by the commission.

(ii) If a self-insured employer's experience modification factor under Subsection (1)(f)(i) is less than 0.50, the self-insured employer shall use an experience modification factor of 0.50 in determining the total calculated premium.

(g) To provide incentive for improved safety, the safety factor required in Subsection (1)(d)(ii) shall be determined based on the self-insured employer's experience modification factor as follows:

EXPERIENCE MODIFICATION FACTOR	SAFETY FACTOR
Less than or equal to 0.90	0.56
Greater than 0.90 but less than or equal to 1.00	0.78
Greater than 1.00 but less than or equal to 1.10	1.00
Greater than 1.10 but less than or equal to 1.20	1.22
Greater than 1.20	1.44

(h) (i) A premium or premium assessment modification other than a premium or premium assessment modification under this section may not be allowed.

(ii) If a self-insured employer paying compensation direct fails to obtain an experience modification factor as required in Subsection (1)(f)(i) within the reasonable time period established by rule by the State Tax Commission, the State Tax Commission shall use an experience modification factor of 2.00 and a safety factor of 2.00 to calculate the total calculated premium for purposes of determining the assessment.

(iii) ~~[Prior to]~~ Before calculating the total calculated premium under Subsection (1)(h)(ii), the State Tax Commission shall provide the self-insured employer with written notice that failure to obtain an experience modification factor within a reasonable time period, as established by rule by the State Tax Commission:

(A) shall result in the State Tax Commission using an experience modification factor of 2.00 and a safety factor of 2.00 in calculating the total calculated premium for purposes of determining the assessment; and

(B) may result in the division revoking the self-insured employer's right to pay compensation direct.

(i) The division may immediately revoke a self-insured employer's certificate issued under Sections 34A-2-201 and 34A-2-201.5 that permits the self-insured employer to pay compensation direct if the State Tax Commission assigns an experience modification factor and a safety factor under Subsection (1)(h) because the self-insured employer failed to obtain an experience modification factor.

(2) Notwithstanding the annual payment requirement in Subsection (1)(a), a self-insured employer whose total assessment obligation under Subsection (1)(a) for the preceding year was

\$10,000 or more shall pay the assessment in quarterly installments in the same manner provided in Section 59-9-104 and subject to the same penalty provided in Section 59-9-104 for not paying or underpaying an installment.

(3) (a) The State Tax Commission shall have access to all the records of the division for the purpose of auditing and collecting any amounts described in this section.

(b) Time periods for the State Tax Commission to allow a refund or make an assessment shall be determined in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

(4) (a) A review of appropriate use of job class assignment and calculation methodology may be conducted as directed by the division at any reasonable time as a condition of the self-insured employer's certification of paying compensation direct.

(b) The State Tax Commission shall make any records necessary for the review available to the commission.

(c) The commission shall make the results of any review available to the State Tax Commission.

**Section 54. Section 36-29-106 is amended to read:**

**36-29-106. Health Reform Task Force.**

(1) There is created the Health Reform Task Force consisting of the following 11 members:

(a) four members of the Senate appointed by the president of the Senate, no more than three of whom are from the same political party; and

(b) seven members of the House of Representatives appointed by the speaker of the House of Representatives, no more than five of whom are from the same political party.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

(3) Salaries and expenses of the members of the task force shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(5) The task force shall review and make recommendations on health system reform, including the following issues:

(a) the need for state statutory and regulatory changes in response to federal actions affecting health care;

(b) Medicaid and reforms to the Medicaid program;

(c) options for increasing state flexibility, including the use of federal waivers;

(d) the state's health insurance marketplace;

(e) health insurance code modifications;

(f) insurance network adequacy standards and balance billing; and

~~(g) health care provider workforce in the state;~~

~~(h)~~ (g) rising health care costs~~;~~ and].

~~(i) non-opiate pain management options.]~~

(6) A final report, including any proposed legislation, shall be presented to the Business and Labor Interim Committee and Health and Human Services Interim Committee before November 30, 2019, and November 30, 2020.

**Section 55. Section 63A-5-205.5 is amended to read:**

**63A-5-205.5. Health insurance requirements -- Penalties.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301~~[-];~~ or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health [insurance] coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.



(g) “Third party administrator” or “administrator” means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the division or the State Building Board on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the division or State Building Board on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor that is subject to the requirements of this section shall demonstrate to the director that the contractor has and will maintain an offer of qualified health ~~[insurance]~~ coverage for the contractor's employees and the employees' dependents by submitting to the director a written statement that:

(i) the contractor offers qualified health ~~[insurance]~~ coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; ~~[or]~~

(B) an underwriter who is responsible for developing the employer group's premium rates; ~~[and]~~ or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

~~[(b)]~~ (c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health ~~[insurance]~~ coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health ~~[insurance]~~ coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, ~~[or]~~ an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

~~[(e)]~~ (d) (i) (A) A contractor that fails to maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)~~[(b)]~~(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)~~[(b)]~~(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)(a).

(6) The division shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health [insurance] coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health [insurance] coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark for the qualified health [insurance] coverage that is provided by the Department of Health in accordance with Subsection 26-40-115(2).

(7) (a) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(b) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health [insurance] coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(c) If a contractor or subcontractor provides the documents and information described in Subsection (7)(b)(ii), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health [insurance] coverage.

(8) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor that intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health [insurance] coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (8)(a) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (8).

(9) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created by Section 26-18-402.

(10) The failure of a contractor or subcontractor to provide qualified health [insurance] coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(11) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or

subcontractor hold the administrator harmless for an action arising under this section.

**Section 56. Section 63C-9-403 is amended to read:**

**63C-9-403. Contracting power of executive director -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301[.]; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health [insurance] coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health [insurance] coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health [insurance] coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; ~~or~~

(B) an underwriter who is responsible for developing the employer group's premium rates; ~~and~~ or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the executive director.

~~(b)~~ (c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and

maintain an offer of qualified health ~~[insurance]~~ coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health ~~[insurance]~~ coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, ~~[or]~~ an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

~~[(e)]~~ (d) (i) (A) A contractor that fails to maintain an offer of qualified health ~~[insurance]~~ coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)~~[(b)]~~(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)~~[(b)]~~(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health ~~[insurance]~~ coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205.5;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)~~[(b)]~~(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health ~~[insurance]~~ coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health ~~[insurance]~~ coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health ~~[insurance]~~ coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health ~~[insurance]~~ coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)~~[(b)]~~(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health ~~[insurance]~~ coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

**Section 57. Section 72-6-107.5 is amended to read:**

**72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301[-]; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health ~~[insurance]~~ coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health ~~[insurance]~~ coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health ~~[insurance]~~ coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; ~~[or]~~

(B) an underwriter who is responsible for developing the employer group's premium rates; ~~[and]~~ or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or

underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(b) (c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health [insurance] coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health [insurance] coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, [or] an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(c) (d) (i) (A) A contractor that fails to maintain an offer of qualified health [insurance] coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health [insurance] coverage described in Subsection (5)(b)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health [insurance]

coverage described in Subsection (5)(b)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health [insurance] coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health [insurance] coverage for an employee and a dependent of the employee of the contractor or

subcontractor who was not offered qualified health ~~insurance~~ coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health ~~insurance~~ coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health ~~insurance~~ coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(~~(b)~~)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health ~~insurance~~ coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

**Section 58. Section 79-2-404 is amended to read:**

**79-2-404. Contracting powers of department -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301[-]; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health ~~insurance~~ coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the

subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health ~~insurance~~ coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health ~~insurance~~ coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; ~~or~~

(B) an underwriter who is responsible for developing the employer group's premium rates; ~~and~~ or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health

benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

~~(b)~~ (c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health ~~insurance~~ coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health ~~insurance~~ coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, ~~or~~ an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

~~(e)~~ (d) (i) (A) A contractor that fails to maintain an offer of qualified health ~~insurance~~ coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health ~~insurance~~ coverage described in Subsection (5)~~(b)~~(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health ~~insurance~~ coverage described in Subsection (5)~~(b)~~(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health ~~insurance~~ coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;



- (b) in coordination with:
- (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- (ii) a public transit district in accordance with Section 17B-2a-818.5;
- (iii) the State Building Board in accordance with Section 63A-5-205.5;
- (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- (vi) the Legislature's Administrative Rules Review Committee; and
- (c) that establish:
- (i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:
- (A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;
- (B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and
- (C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(c)(ii);
- (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
- (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;
- (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;
- (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
- (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health [insurance] coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health [insurance] coverage during the duration of the contract; and
- (iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health [insurance] coverage identified in Subsection (1)(e), provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health [insurance] coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health [insurance] coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

#### **Section 59. Effective date.**

This bill takes effect on May 12, 2020, except that Section 31A-17-404 takes effect on January 1, 2021.

**CHAPTER 33****H. B. 39**

Passed February 7, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**AGRICULTURAL WATER OPTIMIZATION  
 TASK FORCE AMENDMENTS**

Chief Sponsor: Casey Snider  
 Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill addresses the Agricultural Water Optimization Task Force.

**Highlighted Provisions:**

This bill:

- ▶ expands the membership of the task force;
- ▶ clarifies quorum requirements;
- ▶ addresses the task force recommending legislation as part of its annual report; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

73-10g-202, as enacted by Laws of Utah 2018, Chapter 143

73-10g-203, as enacted by Laws of Utah 2018, Chapter 143

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

**Section 1. Section 73-10g-202 is amended to read:**

**73-10g-202. Agricultural Water Optimization Task Force.**

(1) There is created the Agricultural Water Optimization Task Force, consisting of:

- (a) the following voting members:
  - (i) one [person] individual representing the Department of Agriculture and Food;
  - (ii) one [person] individual representing the board or division;
  - (iii) one [person] individual representing the Division of Water Rights;
  - (iv) one [person] individual representing the Division of Water Quality;
  - (v) one [person] individual representing the interests of the agriculture industry;
  - (vi) one [person] individual representing environmental interests; [and]
  - (vii) one [person] individual representing water conservancy districts; [and]

(viii) three individuals whose primary source of income comes from the production of agricultural commodities; and

(b) one nonvoting member from the higher education community with a background in research.

(2) (a) The commissioner of the Department of Agriculture and Food shall appoint the members described in Subsections (1)(a)(i), (v), ~~[and]~~ (vii)<sub>2</sub>, and (viii).

(b) The executive director of the Department of Natural Resources shall appoint the members described in Subsections (1)(a)(ii), (iii), and (vi).

(c) The governor shall appoint the members described in Subsections (1)(a)(iv) and (1)(b).

(3) The division shall provide administrative support to the task force.

(4) The task force shall select a chair from among its membership.

(5) Six voting members present constitutes a quorum of the task force. Action by a majority of voting members when a quorum is present is an action of the task force.

~~[(5)] (6) Service on the task force is voluntary and [members may not be compensated for their service on the task force but may receive per diem and travel expenses as allowed in Sections 63A-3-106 and 63A-3-107, and relevant Division of Finance rules.] a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

(a) Section 63A-3-106;

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

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

**Section 2. Section 73-10g-203 is amended to read:**

**73-10g-203. Duties of the task force.**

(1) The task force created in Section 73-10g-202 shall:

- (a) identify critical issues facing the state's long-term water supply, particularly in regard to how the state should optimize agricultural water supply and use in light of future population growth, and the future water needs of Utah agriculture;
- (b) identify current obstacles to, and constraints upon, quantification of agricultural water use, and recommend means, methods, technologies, or other opportunities to improve the quantification of agricultural water use on a basin level; and
- (c) identify means, methods, systems, or technologies with the potential to maintain or increase agricultural production while reducing the agriculture industry's water diversion and consumption.

(2) The task force shall issue requests for proposals and award grants to study the issues identified in Subsection (1), prioritizing proposals and grants as necessary.

(3) In identifying critical issues as described in Subsection (1), and prioritizing requests for proposals and grants as described in Subsection (2), the task force shall:

(a) identify, develop, and apply sound science and relevant research on optimizing agricultural water use;

(b) measure gains at the basin level;

(c) take into account the variety of agricultural products, opportunities to improve water use practices, and local needs;

(d) address and account for farm economics at the enterprise and community level;

(e) work within existing agricultural markets or encourage market behavior that financially rewards improved practices;

(f) recognize established water rights;

(g) create meaningful benefits for farmers to optimize water use and protect water quality;

(h) monitor funded research projects and evaluate the efficacy of completed research; and

(i) disseminate research findings.

(4) The task force shall report on ~~its~~ the task force's progress under this section by November 30, of each year, to:

(a) the Legislative Water Development Commission;

(b) the Natural Resources, Agriculture, and Environment Interim Committee; and

(c) the ~~Executive~~ Utah Water Task Force within the Department of Natural Resources.

(5) As part of the report required by Subsection (4), and based on the information acquired under Subsections (1) through (3), the task force shall recommend legislation, if any, that addresses the issues listed in Subsection (3).

**CHAPTER 34****H. B. 42**

Passed February 26, 2020

Approved March 24, 2020

Effective May 12, 2020

**HERITAGE AND ARTS AMENDMENTS**

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Daniel McCay

**LONG TITLE****General Description:**

This bill modifies provisions related to the Department of Heritage and Arts.

**Highlighted Provisions:**

This bill:

- ▶ modifies the requirements for a state agency to begin an undertaking on a historic property;
- ▶ modifies the requirements for receiving a distribution from the Martin Luther King, Jr. Civil Rights Support Restricted Account; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

9-8-404, as last amended by Laws of Utah 2019, Chapter 221

9-18-102, as enacted by Laws of Utah 2012, Chapter 332

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

**Section 1. Section 9-8-404 is amended to read:****9-8-404. Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.**

(1) (a) Before ~~making a final agency decision authorizing the expenditure of state funds or providing financial assistance for an undertaking,~~ approving any undertaking, an agency shall:

(i) take into account the effect of the undertaking on any historic property; and

(ii) provide the state historic preservation officer with a written evaluation of the undertaking's effect on any historic property.

(b) The state historic preservation officer shall provide to the agency a written comment on the agency's determination of effect within 30 days after the day on which the state historic preservation officer receives a written evaluation described in Subsection (1)(a)(ii).

(c) If the written evaluation described in Subsection (1)(a)(ii) demonstrates that there is an adverse effect to a historic property, the agency shall enter into a formal written agreement with

the state historic preservation officer describing how each adverse effect will be mitigated before the agency may expend state funds or provide financial assistance for the undertaking.

(d) The state historic preservation officer shall make available to the Public Lands Policy Coordinating Office a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.

(e) The Public Lands Policy Coordinating Office may request the joint analysis described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic preservation officer or Antiquities Section is providing advice or consultation.

(2) (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.

(b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d) within 30 days after the day on which the state historic preservation officer informs the Public Lands Policy Coordinating Office of the objections.

(c) If the Public Lands Policy Coordinating Office determines further analysis is necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the state historic preservation officer, analyze:

(i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;

(ii) the ownership of the land involved;

(iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and

(iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.

(d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:

(i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and

(ii) at least one plan for the identification, recovery, or excavation of historic properties that does not substantially increase the cost of the proposed undertaking.

(3) (a) (i) If the state historic preservation officer concurs with the agency's evaluation or if the Public

Lands Policy Coordinating Office determines that the joint analysis is unnecessary, the state historic preservation officer shall, no later than 30 calendar days after receiving the agency's evaluation, provide formal comments on the agency's evaluation.

(ii) If a joint analysis is conducted, the state historic preservation officer shall provide formal comments on the agency's evaluation no later than 30 calendar days after the conclusion of the joint analysis.

(b) The state historic preservation officer shall ensure that the comments include the results of any joint analysis conducted under Subsection (2).

(c) If a joint analysis is not conducted, the state historic preservation officer's comments may include advice about ways to maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered, in addition to the physical recovery of artifacts and the reporting of archaeological information at current standards of scientific rigor.

**Section 2. Section 9-18-102 is amended to read:**

**9-18-102. Martin Luther King, Jr. Civil Rights Support Restricted Account.**

(1) There is created in the General Fund a restricted account known as the "Martin Luther King, Jr. Civil Rights Support Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that ~~[(a)]~~ qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code ~~[(b) is]~~, are located within the state ~~[and is not]~~, are not affiliated with a parent organization ~~;~~, and that:

~~[(e)]~~ (a) create or support programs that promote awareness and education of constitutional and civil rights;

~~[(d)]~~ (b) provide education and training in inalienable rights as set forth in the Declaration of Independence;

~~[(e)]~~ (c) partner with educational institutions to administer underrepresented or underserved scholarships; ~~[and] or~~

~~[(f)]~~ (d) partner with government agencies within the state and the private sector to administer and facilitate an underrepresented or underserved internship program.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) facilitate, coordinate, and encourage appropriate ceremonies and activities that commemorate the federal Martin Luther King, Jr. holiday;

(ii) create or support programs that promote awareness and education of constitutional and civil rights;

(iii) provide education and training in inalienable rights as set forth in the Declaration of Independence;

(iv) partner with educational institutions to administer underrepresented or underserved scholarships;

(v) partner with government agencies within the state and the private sector to administer and facilitate an underrepresented or underserved internship program; ~~[and] or~~

(vi) pay the costs of issuing or reordering Martin Luther King, Jr. Civil Rights Support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (3).

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

## CHAPTER 35

## H. B. 43

Passed February 13, 2020

Approved March 24, 2020

Effective May 12, 2020

**PEACE OFFICER STANDARDS  
AND TRAINING AMENDMENTS**Chief Sponsor: Lee B. Perry  
Senate Sponsor: Keith Grover**LONG TITLE****General Description:**

This bill amends the responsibilities of the Peace Officer Standards and Training Council regarding disciplinary action against peace officers and dispatchers.

**Highlighted Provisions:**

This bill:

- ▶ requires the POST Council to decide on sanctions to be imposed upon peace officers and dispatchers;
- ▶ allows for the issuance of a Letter of Caution as a disciplinary measure;
- ▶ requires the POST Council to accept an administrative law judge's findings and conclusions; and
- ▶ requires the division to be notified upon the separation of a peace officer or dispatcher who is under investigation.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-6-107, as last amended by Laws of Utah 2002, Chapter 250

53-6-211, as last amended by Laws of Utah 2013, Chapters 115 and 269

53-6-309, as repealed and reenacted by Laws of Utah 2011, Chapter 258

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

**Section 1. Section 53-6-107 is amended to read:****53-6-107. General duties of council.**

- (1) The council shall:
  - (a) advise the director regarding:
    - (i) the approval, certification, or revocation of certification of any certified academy established in the state;
    - ~~(ii) the refusal, suspension, or revocation of certification of a peace officer;~~
    - ~~(iii) the minimum courses of study, attendance requirements, and the equipment and facilities to be required at a certified academy;~~
    - ~~(iv) the minimum qualifications for instructors at a certified academy;~~

~~(iv)~~ (iv) the minimum basic training requirements that peace officers shall complete before receiving certification;

~~(v)~~ (v) the minimum basic training requirements that dispatchers shall complete before receiving certification; and

~~(vi)~~ (vi) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements for the categories or classifications;

(b) recommend that studies, surveys, or reports, or all of them be made by the director concerning the implementation of the objectives and purposes of this chapter;

(c) make recommendations and reports to the commissioner and governor from time to time; ~~and~~

(d) perform other acts as necessary to carry out the duties of the council in this chapter~~[-]; and~~

(e) choose from the sanctions to be imposed against certified peace officers as provided in Section 53-6-211, and dispatchers as provided in Section 53-6-309.

(2) The council may approve special function officers for membership in the Public Safety Retirement System in accordance with Sections 49-14-201 and 49-15-201.

**Section 2. Section 53-6-211 is amended to read:****53-6-211. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting -- Judicial appeal.**

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a peace officer, if the peace officer:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the peace officer's ability to perform duties;

(c) is addicted to alcohol or any controlled substance, unless the peace officer reports the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engages in conduct ~~[which is]~~ constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning issued based on *Garrity v. New Jersey*, 385 U.S. 493 (1967);

(f) engages in sexual conduct while on duty; or

(g) is certified as a law enforcement peace officer, as defined in Section ~~[53-13-103]~~ 53-13-102, and is unable to possess a firearm under state or federal law.

(2) The council may not issue a Letter of Caution, or suspend or revoke the certification of a peace

officer for a violation of a law enforcement agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating officers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the peace officer involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a peace officer asserts an affirmative defense, the peace officer has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the officer engaged in conduct that is in violation of Subsection (1), the division shall present the finding and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the chief, sheriff, or administrative officer of the police agency which employs the involved peace officer of the investigation and shall provide any information or comments concerning the peace officer received from that agency regarding the peace officer to the council before a Letter of Caution is issued, or a peace officer's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the officer is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall ~~[review]~~:

(i) accept the administrative law judge's findings of fact and conclusions of law, and the information concerning the peace officer provided by the officer's employing agency; and [determine]

(ii) choose whether to issue a Letter of Caution, or suspend or revoke the officer's certification.

(b) Before making a decision, the council may consider aggravating and mitigating circumstances.

~~(b)~~ (c) A member of the council shall recuse him or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the officer;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same law enforcement agency as the officer whose case is before the council.

(5) (a) Termination of a peace officer, whether voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a peace officer by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(6) (a) A chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

(b) If a peace officer who is the subject of an internal or administrative investigation into allegations that include any of the conditions or circumstances outlined in Subsection (1) resigns, retires, or otherwise separates from the investigating law enforcement agency before the conclusion of the investigation, the chief, sheriff, or administrative officer of that law enforcement agency shall report the allegations and any investigation results to the division.

(7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

**Section 3. Section 53-6-309 is amended to read:**

**53-6-309. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting.**

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a dispatcher, if the dispatcher:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the dispatcher's ability to perform duties;

(c) is addicted to alcohol or any controlled substance, unless the dispatcher reports the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engages in conduct ~~[that is]~~ constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning based on *Garrity v. New Jersey*, 385 U.S. 493 (1967); or

(f) engages in sexual conduct while on duty.

(2) The council may not issue a Letter of Caution, or suspend or revoke the certification of a dispatcher for a violation of the employing agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating dispatchers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the dispatcher involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that is in violation of Subsection (1), the division shall present the findings and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the agency that employs the involved dispatcher of the investigation and shall provide any information or comments concerning the dispatcher received from that agency regarding the dispatcher to the council before a Letter of Caution is issued, or a dispatcher's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the dispatcher is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall ~~review~~:

(i) accept the administrative law judge's findings of fact and conclusions of law and the information concerning the dispatcher provided by the dispatcher's employing agency; and ~~determine~~

(ii) choose whether to issue a Letter of Caution, or suspend or revoke the dispatcher's certification.

(b) Before making a decision, the council may consider aggravating and mitigating circumstances.

~~(4b)~~ (c) A council member shall recuse himself or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the dispatcher;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same agency as the dispatcher whose case is before the council.

(5) (a) Termination of a dispatcher, whether voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a dispatcher by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(6) (a) An agency that is made aware of an allegation against a dispatcher employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

(b) If a dispatcher who is the subject of an internal or administrative investigation into allegations that include any of the conditions or circumstances outlined in Subsection (1) resigns, retires, or otherwise separates from the investigating law enforcement agency before the conclusion of the investigation, the agency shall report the allegations and any investigation results to the division.

(7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.



**CHAPTER 36****H. B. 44**

Passed February 13, 2020

Approved March 24, 2020

Effective May 12, 2020

**FORT DOUGLAS MILITARY  
MUSEUM AMENDMENTS**Chief Sponsor: Paul Ray  
Senate Sponsor: Todd Weiler**LONG TITLE****General Description:**

This bill names the Fort Douglas Military Museum as the state military museum.

**Highlighted Provisions:**

This bill:

- ▶ designates the state's military museum as the Fort Douglas Military Museum.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63G-1-601, as last amended by Laws of Utah 2019, Chapter 368

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

**Section 1. Section 63G-1-601 is amended to read:****63G-1-601. State symbols.**

- (1) Utah's state animal is the elk.
- (2) Utah's state bird is the sea gull.
- (3) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.
- (4) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.
- (5) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.
- (6) Utah's state cooking pot is the dutch oven.
- (7) Utah's state emblem is the beehive.
- (8) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:
  - (a) a red field covering the top two-thirds of the flag;

(b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

(9) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

(10) Utah's state fish is the Bonneville cutthroat trout.

(11) Utah's state flower is the sego lily.

(12) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

(13) Utah's state reptile is the Gila Monster (*Heloderma suspectum*), whose habitat includes Southwest Utah.

(14) Utah's state dinosaur is the Utahraptor.

(15) Utah's state fossil is the Allosaurus.

(16) Utah's state fruit is the cherry.

(17) Utah's state vegetable is the Spanish sweet onion.

(18) Utah's historic state vegetable is the sugar beet.

(19) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

(20) Utah's state grass is Indian rice grass.

(21) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

(22) Utah's state insect is the honeybee.

(23) Utah's state mineral is copper.

(24) Utah's state motto is "Industry."

(25) Utah's state railroad museum is Ogden Union Station.

(26) Utah's state rock is coal.

(27) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.

(28) Utah's state tree is the quaking aspen.

(29) Utah's state winter sports are skiing and snowboarding.

(30) Utah's state works of art are Native American rock art.

(31) Utah's state work of land art is the Spiral Jetty.

(32) Utah's state military museum is the Fort Douglas Military Museum.

**CHAPTER 37****H. B. 45**

Passed February 21, 2020

Approved March 24, 2020

Effective May 12, 2020

**VETERANS EDUCATION AMENDMENTS**

Chief Sponsor: Paul Ray  
Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill makes changes to statutes regarding servicemember and veteran educational benefits.

**Highlighted Provisions:**

This bill:

- ▶ revises the definition of “eligible person” to include all persons entitled to educational benefits administered by the United States Department of Veterans Affairs under Title 38, U.S.C.; and
- ▶ allows the use of grants for fees and books in addition to tuition.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53B-8-102, as last amended by Laws of Utah 2016, Chapter 57

53B-13b-104, as enacted by Laws of Utah 2014, Chapter 87

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

**Section 1. Section 53B-8-102 is amended to read:****53B-8-102. Definitions -- Resident student status -- Exceptions.**

(1) As used in this section:

(a) “Eligible person” means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C. [~~Chapter 30, Montgomery G.I. Bill – Active Duty Educational Assistance Program, or Chapter 33, Post 9/11 Educational Assistance Program~~], Veterans’ Benefits.

(b) “Immediate family member” means an individual’s spouse or dependent child.

(c) “Military servicemember” means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah;

(iii) is a member of the Utah National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah

pursuant to federal permanent change of station orders.

(d) “Military veteran” has the same meaning as veteran in Section 68-3-12.5.

(e) “Parent” means a student’s biological or adoptive parent.

(2) The meaning of “resident student” is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student’s name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student’s name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall

honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military servicemember, if the military servicemember provides:

(i) the military servicemember's current United States military identification card; and

(ii) (A) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

(B) evidence that the military servicemember is domiciled in Utah, as described in Subsection (9)(a);

(b) a military servicemember's immediate family member, if the military servicemember's immediate family member provides:

(i) (A) the military servicemember's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii) (A) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

(B) evidence that the military servicemember is domiciled in Utah, as described in Subsection (9)(a);

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge [~~within the last five years~~];

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii); or

(e) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C. [~~Chapter 30, Montgomery G.I. Bill - Active Duty Educational Assistance Program, or Chapter 33, Post 9/11 Educational Assistance Program~~], Veterans' Benefits;

(ii) a signed written declaration that the eligible person will use the G.I. Bill benefits; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

(9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military servicemember's or military servicemember's spouse's name, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military servicemember or military servicemember's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted immigrant or permanent resident status in the United States are

classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

**Section 2. Section 53B-13b-104 is amended to read:**

**53B-13b-104. Guidelines for administration of the program.**

(1) The board shall use the guidelines in this section to develop policies to implement and administer the program.

(2) (a) The board shall allocate money appropriated for the program to institutions to provide grants for qualifying military veterans.

(b) The board may not use program money for administrative costs or overhead.

(c) An institution may not use more than 3% of its program money for administrative costs or overhead.

(d) Money returned to the board under Subsection (3)(b) shall be used for future allocations to institutions.

(3) (a) An institution shall award a program grant to a qualifying military veteran on an annual basis but distribute the money one quarter or semester at a time, with continuing awards contingent upon the qualifying military veteran maintaining satisfactory academic progress as defined by the institution in published policies or rules.

(b) At the conclusion of the academic year, money distributed to an institution that was not awarded to a qualifying military veteran or used for allowed administrative purposes shall be returned to the board.

(4) A qualifying military veteran may receive a program grant until the earlier of the following occurs:

(a) the qualifying military veteran completes the requirements for a bachelor's degree; or

(b) 12 months from the time that the qualifying military veteran receives an initial program grant.

(5) A qualifying military veteran who receives a program grant may only use the grant toward tuition, fees, and books at an institution of higher education in the state.

(6) The board may accept grants, gifts, bequests, and devise of real and personal property from any source for the purpose of awarding grants to qualifying military veterans in addition to those funded by the state.

**CHAPTER 38****H. B. 48**

Passed March 12, 2020

Approved March 24, 2020

Effective May 12, 2020

**ACQUISITION COST DEFINITION**

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill defines the term “acquisition cost” for the property tax code.

**Highlighted Provisions:**

This bill:

- ▶ defines the term “acquisition cost” for the property tax code; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 59-2-102, as last amended by Laws of Utah 2018, Chapters 415 and 456
- 59-2-103, as last amended by Laws of Utah 2014, Chapter 65
- 59-2-108, as last amended by Laws of Utah 2013, Chapter 248
- 59-2-801, as last amended by Laws of Utah 2008, Chapters 283 and 382
- 59-2-804, as last amended by Laws of Utah 2014, Chapter 65
- 59-2-1101 (Superseded 07/01/20), as last amended by Laws of Utah 2019, Chapter 453
- 59-2-1101 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapters 453 and 496
- 59-2-1115, as last amended by Laws of Utah 2019, Chapter 463
- 59-7-302, as last amended by Laws of Utah 2018, Chapters 456 and 471

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

**Section 1. Section 59-2-102 is amended to read:****59-2-102. Definitions.**

As used in this chapter ~~[and title]~~:

(1) (a) “Acquisition cost” means any cost required to put an item of tangible personal property into service.

(b) “Acquisition cost” includes:

- (i) the purchase price of a new or used item;
- (ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(1) (2) “Aerial applicator” means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft’s use for agricultural and pest control purposes.

(2) (3) “Air charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) (4) “Air contract service” means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) (5) “Aircraft” means the same as that term is defined in Section 72-10-102.

(5) (6) (a) Except as provided in Subsection (5) (b), “airline” means an air carrier that:

(i) operates:

- (A) on an interstate route; and
- (B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) “Airline” does not include an:

- (i) air charter service; or
- (ii) air contract service.

(6) (7) “Assessment roll” means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (8) “Base parcel” means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(8) (9) (a) “Certified revenue levy” means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection [(8)] (9), “ad valorem property tax revenue” does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection [(8)] (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year’s assessment roll.

[(9)] (10) “County-assessed commercial vehicle” means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

[(10)(a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801, “designated tax area” means a tax area created by the overlapping boundaries of only the following taxing entities:]

[(i) a county; and]

[(ii) a school district.]

[(b) “Designated tax area” includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (10)(a) and:]

[(i) a city or town if the boundaries of the school district under Subsection (10)(a) and the boundaries of the city or town are identical; or]

[(ii) a special service district if the boundaries of the school district under Subsection (10)(a) are located entirely within the special service district.]

(11) “Eligible judgment” means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity’s share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) “Escaped property” means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) “Escaped property” does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) (a) “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

[(14) (a) “Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, seales, combines, spreaders, sprayers, haying

equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.]

~~[(b) “Farm machinery and equipment” does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.]~~

[(45)] (14) “Geothermal fluid” means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

[(46)] (15) “Geothermal resource” means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

[(47)] (16) (a) “Goodwill” means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection [(47)] (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection [(47)] (16)(b).

(b) The following factors apply to Subsection [(47)] (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections [(47)] (16)(b)(i) through (iv).

(c) “Goodwill” does not include:

(i) the intangible property described in Subsection [(24)] (19)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

[(48)] (17) “Governing body” means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district’s board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

[(19) (a) For purposes of Section 59-2-103:]

~~[(i) “household” means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and]~~

~~[(ii) “household” includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “domicile.”]~~

[(20)] (18) (a) Except as provided in Subsection [(20)] (18)(c), “improvement” means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:



(A) cause substantial damage to the item; or  
 (B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection [(20)] (18)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection [(20)] (18)(a); and

(B) installed solely to serve the operation of the item described in Subsection [(20)] (18)(a); and

(ii) an item described in Subsection [(20)] (18)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

[(24)] (19) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

[(22)] (20) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

[(23)] (21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

[(24)] (22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

[(25)] (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

[(26)] (24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

[(27)] (25) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

[(28)] (26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

[(29)] (27) "Part-year residential property" means property that is not residential property on

January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

~~[(30)]~~ (28) “Personal property” includes:

(a) every class of property as defined in Subsection ~~[(31)]~~ (29) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

~~[(31)]~~ (29) (a) “Property” means property that is subject to assessment and taxation according to its value.

(b) “Property” does not include intangible property as defined in this section.

~~[(32)]~~ (30) “Public utility” means:

(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

~~[(33)]~~ (31) (a) Subject to Subsection ~~[(33)]~~ (31)(b), “qualifying exempt primary residential rental personal property” means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of this Subsection ~~[(33)]~~ (31) and Subsection ~~[(36)]~~ (34).

~~[(34)]~~ (32) “Real estate” or “real property” includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

~~[(35)]~~ (33) (a) “Relationship with an owner of the property’s land surface rights” means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

~~[(36)]~~ (34) (a) Subject to Subsection ~~[(36)]~~ (34)(b), “residential property,” for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection ~~[(36)]~~ (34)(c), “residential property”:

(i) except as provided in Subsection ~~[(36)]~~ (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection ~~[(33)]~~ (31) and this Subsection ~~[(36)]~~ (34).

~~[(37)]~~ (35) “Split estate mineral rights owner” means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

~~[(39)] (36)~~ (a) “State-assessed commercial vehicle” means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

(b) “State-assessed commercial vehicle” does not include vehicles used for hire that are specified in Subsection ~~[(9)] (10)~~(c) as county-assessed commercial vehicles.

~~[(39)] (37)~~ “Subdivided lot” means a lot, parcel, or other division of land, that is a division of a base parcel.

~~[(40)] “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.]~~

~~[(41)] (38)~~ “Tax area” means a geographic area created by the overlapping boundaries of one or more taxing entities.

~~(39)~~ “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

~~[(42)] (40)~~ “Taxing entity” means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

~~[(43)] (41)~~ (a) “Tax roll” means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) “Tax roll” includes tax books, tax lists, and other similar materials.

**Section 2. Section 59-2-103 is amended to read:**

**59-2-103. Rate of assessment of property -- Residential property.**

(1) As used in this section:

(a) (i) “Household” means the association of individuals who live in the same dwelling, sharing the dwelling’s furnishings, facilities, accommodations, and expenses.

(ii) “Household” includes married individuals, who are not legally separated, who have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “domicile.”

~~[(4)] (2)~~ All tangible taxable property located within the state shall be assessed and taxed at a

uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

~~[(2)] (3)~~ Subject to Subsections ~~[(3)] (4)~~ through ~~[(5)] (6)~~ and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.

~~[(3)] (4)~~ Part-year residential property located within the state is allowed the residential exemption described in Subsection ~~[(2)] (3)~~ if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.

~~[(4)] (5)~~ No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection ~~[(2)] (3)~~.

~~[(5)] (6)~~ (a) Except as provided in Subsection ~~[(5)] (6)~~(b)(ii), a residential exemption described in Subsection ~~[(2)] (3)~~ is limited to one primary residence per household.

(b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection ~~[(2)] (3)~~ for:

(i) subject to Subsection ~~[(5)] (6)~~(a), the primary residence of the owner; and

(ii) each residential property that is the primary residence of a tenant.

**Section 3. Section 59-2-108 is amended to read:**

**59-2-108. Election for assessment and taxation of noncapitalized personal property according to a schedule.**

(1) As used in this section:

~~[(a)] (i)~~ “Acquisition cost” means all costs required to put an item of tangible personal property into service; and]

~~[(ii)] includes:~~

~~[(A)] the purchase price for a new or used item;]~~

~~[(B)] the cost of freight and shipping;]~~

~~[(C)] the cost of installation, engineering, erection, or assembly; and]~~

~~[(D)] sales and use taxes.]~~

~~[(b)] (a)~~ (i) “Item of taxable tangible personal property” does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “item of taxable tangible personal property.”

~~[(e)] (b)~~ “Noncapitalized personal property” means an item of tangible personal property:

(i) that has an acquisition cost of \$1,000 or less; and

(ii) with respect to which a deduction is allowed under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition, regardless of whether a deduction is actually claimed.

~~[(4)]~~ (c) “Taxable tangible personal property” means tangible personal property that is subject to taxation under this chapter.

(2) (a) A person may make an election for the noncapitalized personal property owned by the person to be assessed and taxed as provided in this section.

(b) Except as provided in Subsection (2)(c), a county may not require a person ~~[who]~~ that makes an election under this section to:

(i) itemize noncapitalized personal property on the signed statement described in Section 59-2-306; or

(ii) track noncapitalized personal property.

(c) If a person’s noncapitalized personal property for which the person makes an election under this section is examined in accordance with Section 59-2-306, the person shall provide proof of the acquisition cost of the noncapitalized personal property.

(3) (a) An election under this section may not be revoked.

(b) Except as provided in Subsection (3)(d), if a person makes an election under this section with respect to noncapitalized personal property, the person shall pay taxes on the noncapitalized personal property according to the schedule described in Subsection (4).

(c) If a person sells or otherwise disposes of an item of noncapitalized personal property for which the person makes an election under this section prior to the fourth year after acquisition, the person shall continue to pay taxes according to the schedule described in Subsection (4).

(d) If a person makes an election under this section for noncapitalized personal property acquired on or before December 31, 2012, at a time after the first year after acquisition, the person shall pay taxes according to the taxable value for the applicable one or more years after acquisition as determined by the schedule described in Subsection (4).

(e) If a person makes an election under this section, the person may not appeal the values described in Subsection (4).

(4) The taxable value of noncapitalized personal property for which a person makes an election under this section is calculated by applying the percent good factor against the acquisition cost of the noncapitalized personal property as follows:

Noncapitalized Personal Property Schedule

Year after Acquisition	Percent Good of Acquisition Cost
First year after acquisition	75%

First year after acquisition 75%

Second year after acquisition 50%

Third year after acquisition 25%

Fourth year after acquisition 0%

**Section 4. Section 59-2-801 is amended to read:**

**59-2-801. Apportionment of property assessed by commission.**

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), “designated tax area” means a tax area created by the overlapping boundaries of only the following taxing entities:

(A) a county; and

(B) a school district.

(ii) “Designated tax area” includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (1)(a)(i); and:

(A) a city or town if the boundaries of the school district under Subsection (1)(a)(i) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (1)(a)(i) are located entirely within the special service district.

(b) “Ground hours” means the total number of hours during the calendar year immediately preceding the January 1 described in Section 59-2-103 that aircraft owned or operated by the following are on the ground:

(i) an air charter service;

(ii) an air contract service; or

(iii) an airline.

~~[(4)]~~ (2) Before May 25 of each year, the commission shall apportion to each tax area the total assessment of all of the property the commission assesses as provided in Subsections ~~[(4)]~~ (2)(a) through (f).

(a) (i) The commission shall apportion the assessments of the property described in Subsection ~~[(4)]~~ (2)(a)(ii):

(A) to each tax area through which the public utility or company described in Subsection ~~[(4)]~~ (2)(a)(ii) operates; and

(B) in proportion to the property’s value in each tax area.

(ii) Subsection ~~[(4)]~~ (2)(a)(i) applies to property owned by:

(A) a public utility, except for the rolling stock of a public utility;

(B) a pipeline company;

(C) a power company;

(D) a canal company; or

(E) an irrigation company.

(b) The commission shall apportion the assessments of the rolling stock of a railroad:

(i) to the tax areas through which railroads operate; and

(ii) in the proportion that the length of the main tracks, sidetracks, passing tracks, switches, and tramways of the railroads in each tax area bears to the total length of the main tracks, sidetracks, passing tracks, switches, and tramways in the state.

(c) The commission shall apportion the assessments of the property of a car company to:

(i) each tax area in which a railroad is operated; and

(ii) in the proportion that the length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in each tax area bears to the total length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in the state.

(d) (i) The commission shall apportion the assessments of the property described in Subsection ~~[(4)]~~ ~~(2)~~(d)(ii) to each tax area in which the property is located.

(ii) Subsection ~~[(4)]~~ ~~(2)~~(d)(i) applies to the following property:

- (A) mines;
- (B) mining claims; or
- (C) mining property.

~~[(e) (i) As used in this Subsection (1)(e), "ground hours" means the total number of hours during the calendar year immediately preceding the January 1 described in Section 59-2-103 that aircraft owned or operated by the following are on the ground:]~~

- ~~[(A) an air charter service;]~~
- ~~[(B) an air contract service; or]~~
- ~~[(C) an airline.]~~

~~[(iii) (e) (i) The commission shall apportion the assessments of the property described in Subsection ~~[(4)]~~(e)(iii) ~~(2)~~(e)(ii) to:~~

(A) each designated tax area; and

(B) in the proportion that the ground hours in each designated tax area bear to the total ground hours in the state.

~~[(iii) (ii) Subsection ~~[(4)]~~(e)(ii) ~~(2)~~(e)(i) applies to the mobile flight equipment owned by an:~~

- (A) air charter service;
- (B) air contract service; or
- (C) airline.

(f) (i) The commission shall apportion the assessments of the property described in Subsection ~~[(4)]~~ ~~(2)~~(f)(ii) to each tax area in which the property is located as of January 1 of each year.

(ii) Subsection ~~[(4)]~~ ~~(2)~~(f)(i) applies to the real and tangible personal property, other than mobile flight equipment, owned by an:

- (A) air charter service;
- (B) air contract service; or
- (C) airline.

~~[(2)]~~ (3) (a) (i) (A) State-assessed commercial vehicles that weigh 12,001 pounds or more shall be taxed at a statewide average rate which is calculated from the overall county average tax rates from the preceding year, exclusive of the property subject to the statewide uniform fee, weighted by lane miles of principal routes in each county.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules to define "principal routes."

(ii) State-assessed commercial vehicles that weigh 12,000 pounds or less are subject to the uniform fee provided in Section 59-2-405.1.

(b) The combined revenue from all state-assessed commercial vehicles shall be apportioned to the counties based on:

(i) 40% by the percentage of lane miles of principal routes within each county as determined by the commission; and

(ii) 60% by the percentage of total state-assessed vehicles having business situs in each county.

(c) At least quarterly, the commission shall apportion the total taxes paid on state-assessed commercial vehicles to the counties.

(d) Each county shall apportion its share of the revenues under this Subsection ~~[(2)]~~ (3) to the taxing entities within its boundaries in the same proportion as the assessments of other:

- (i) real property;
- (ii) tangible personal property; and
- (iii) property assessed by the commission.

**Section 5. Section 59-2-804 is amended to read:**

**59-2-804. Interstate allocation of mobile flight equipment.**

(1) As used in this section:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline ground hours calculation" means an amount equal to the product of:

(i) the total number of hours aircraft owned or operated by an airline are on the ground, calculated by aircraft type; and

(ii) the cost percentage.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the calendar year that immediately precedes the January 1 described in Section 59-2-103.

(d) "Cost percentage" means a fraction, calculated by aircraft type, the numerator of which is the airline's average cost of the aircraft type and

the denominator of which is the airline's average cost of the aircraft type:

- (i) owned or operated by the airline; and
- (ii) that has the lowest average cost.
- (e) "Ground hours factor" means the product of:
  - (i) a fraction, the numerator of which is the Utah ground hours calculation and the denominator of which is the airline ground hours calculation; and
  - (ii) .50.
- (f) (i) Except as provided in Subsection (1)(f)(ii), "mobile flight equipment" is as defined in Section 59-2-102.
- (ii) "Mobile flight equipment" does not include tangible personal property described in Subsection 59-2-102(27)(25) owned by an:
  - (A) air charter service; or
  - (B) air contract service.
- (g) "Mobile flight equipment allocation factor" means the sum of:
  - (i) the ground hours factor; and
  - (ii) the revenue ton miles factor.
- (h) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.
- (i) "Revenue ton miles factor" means the product of:
  - (i) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles; and
  - (ii) .50.
- (j) "Utah ground hours calculation" means an amount equal to the product of:
  - (i) the total number of hours aircraft owned or operated by an airline are on the ground in this state, calculated by aircraft type; and
  - (ii) the cost percentage.
- (k) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:
  - (i) during the calendar year that immediately precedes the January 1 described in Section 59-2-103; and
  - (ii) from flight stages that originate or terminate in this state.
- (2) For purposes of the assessment of an airline's mobile flight equipment by the commission, a portion of the value of the airline's mobile flight equipment shall be allocated to the state by calculating the product of:
  - (a) the total value of the mobile flight equipment; and
  - (b) the mobile flight equipment allocation factor.

**Section 6. Section 59-2-1101 (Superseded 07/01/20) is amended to read:**

**59-2-1101 (Superseded 07/01/20).**

**Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.**

(1) As used in this section:

- (a) "Educational purposes" includes:
  - (i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and
  - (ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).
- (b) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.
- (c) (i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.
- (ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

[~~(e)~~] (d) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

[~~(d)~~] (e) "Nonprofit entity" includes an entity if the:

- (i) entity is treated as a disregarded entity for federal income tax purposes;
- (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and
- (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

[~~(e)~~] (f) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon

the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(7) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (6)(b), that person may appeal the decision to the commission under Section 59-2-1006.

**Section 7. Section 59-2-1101 (Effective 07/01/20) is amended to read:**

**59-2-1101 (Effective 07/01/20). Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.**

(1) As used in this section:

(a) (i) "Educational purposes" means the same as that term is used in Section 501(c)(3), Internal Revenue Code, and interpreted according to federal law.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United

States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) “Exclusive use exemption” means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) (i) “Farm machinery and equipment” means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) “Farm machinery and equipment” does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(e) (d) “Government exemption” means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(d) (e) “Nonprofit entity” includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) (f) “Tax relief” means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and



(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(7) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (6)(b), that person may appeal the decision to the commission under Section 59-2-1006.

**Section 8. Section 59-2-1115 is amended to read:**

**59-2-1115. Exemption of certain tangible personal property.**

~~[(1) For purposes of this section:]~~

~~[(a) (i) "Acquisition cost" means all costs required to put an item of tangible personal property into service; and]~~

~~[(ii) includes:]~~

~~[(A) the purchase price for a new or used item;]~~

~~[(B) the cost of freight and shipping;]~~

~~[(C) the cost of installation, engineering, erection, or assembly; and]~~

~~[(D) sales and use taxes.]~~

(1) As used in this section:

~~[(b)]~~ (a) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

~~[(e)]~~ (b) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used ~~[:]~~ on a public highway, public waterway, or public land or in the air;

~~[(I) on a public highway;]~~

~~[(II) on a public waterway;]~~

~~[(III) on public land; or]~~

~~[(IV) in the air;]~~

(B) a mobile home as defined in Section 41-1a-102; or

(C) a manufactured home as defined in Section 41-1a-102.

(2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of \$15,000 or less.

(b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible personal property, except for an item of noncapitalized personal property as defined in Section 59-2-108, is exempt from taxation if the item of taxable tangible personal property:

(i) has an acquisition cost of \$1,000 or less;

(ii) has reached a percent good of 15% or less according to a personal property schedule published by the commission pursuant to Section 59-2-107; and

(iii) is in a personal property schedule with a residual value of 15% or less.

(c) For an item of taxable tangible personal property that is not exempt under Subsection (2)(a) or (b), the item is exempt from taxation if:

(i) the item is owned by a business and is not critical to the actual business operation of the business; and

(ii) the acquisition cost of the item is less than \$150.

(3) (a) For a calendar ~~[years]~~ year beginning on or after January 1, 2015, the commission shall increase the dollar amount described in Subsection (2)(a):

(i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2013; and

(ii) up to the nearest \$100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in

Subsection (2)(a), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(a) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)(a) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)(a).

(c) If a taxpayer qualifies for an exemption described in Subsection (2)(a) for five consecutive years and files a signed statement for each of those years in accordance with Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

(d) If a taxpayer qualifies for an exemption described in Subsection (2)(b) or (c) for an item of tangible taxable personal property, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

**Section 9. Section 59-7-302 is amended to read:**

**59-7-302. Definitions -- Determination of taxpayer status.**

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(i) NAICS Code 211120, Crude Petroleum Extraction;

(ii) NAICS Industry Group 2121, Coal Mining;

(iii) NAICS Industry Group 2212, Natural Gas Distribution;

(iv) NAICS Subsector 311, Food Manufacturing;

(v) NAICS Industry Group 3121, Beverage Manufacturing;

(vi) NAICS Code 327310, Cement Manufacturing;

(vii) NAICS Subsector 482, Rail Transportation;

(viii) NAICS Code 512110, Motion Picture and Video Production;

(ix) NAICS Subsector 515, Broadcasting (except Internet); or

(x) NAICS Code 522110, Commercial Banking.

(h) (i) Except as provided in Subsection (1)(h)(ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102[(27)](25) owned by an air charter service or an air contract service.

(i) "Nonbusiness income" means all income other than business income.

(j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).

(k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:

(i) is not a sales factor weighted taxpayer;

(ii) does not meet the definition of an optional apportionment taxpayer; or

(iii) for a taxable year beginning on or after January 1, 2020:

(A) meets the definition of an optional apportionment taxpayer; and

(B) apportioned business income using the method described in Subsection 59-7-311(4) during the previous taxable year.

(l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(m) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

(n) “Sales factor weighted taxpayer” means a taxpayer described in Subsection (2).

(o) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(p) “Transportation revenue” means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(q) “Utah revenue ton miles” means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline’s tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) (a) A taxpayer is a sales factor weighted taxpayer if the taxpayer apportioned business income using the method described in Subsection 59-7-311(2) during the previous taxable year or if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer’s total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:

(i) a NAICS code within NAICS Sector 21, Mining;

(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except:

(A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;

(B) NAICS Industry Group 3333, Commercial and Service Industry Machinery Manufacturing;

(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing; and

(D) NAICS Code 336111, Automobile Manufacturing;

(iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or

(vi) a NAICS code within NAICS Sector 52, Finance and Insurance.

(b) A taxpayer shall determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for filing the taxpayer’s return under this chapter for the taxable year, including extensions.

(c) For purposes of making the determination required by Subsection (2)(a), total sales everywhere include only the total sales everywhere:

(i) as determined in accordance with this part; and

(ii) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a).

(3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (3)(b) is greater than .50.

(b) To calculate the average described in Subsection (3)(a), a taxpayer shall:

(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (3)(b)(i); and

(iii) divide the sum calculated in Subsection (3)(b)(ii):

(A) except as provided in Subsection (3)(b)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date for filing the taxpayer’s return under this chapter for the taxable year, including extensions.

(4) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term “economic activity” consistent with the use of the term “activity” in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

**CHAPTER 39****H. B. 49**

Passed February 7, 2020

Approved March 24, 2020

Effective May 12, 2020

**SALES TAX ON MOTOR VEHICLES**

Chief Sponsor: Norman K. Thurston

Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill modifies provisions of the Sales and Use Tax Act related to determining the location of certain transactions.

**Highlighted Provisions:**

This bill:

- ▶ provides that when a dealer sells an aircraft, manufactured home, mobile home, modular home, motor vehicle, or watercraft over the Internet, the location of the transaction is where the purchaser takes receipt of the property; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

59-12-213, as enacted by Laws of Utah 2008, Chapter 384

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

**Section 1. Section 59-12-213 is amended to read:**

**59-12-213. Location of a transaction involving a sale of aircraft, a manufactured home, a mobile home, a modular home, a motor vehicle, or watercraft.**

(1) (a) Except as provided in Subsection (1)(b) or (4), the location of a sale of the following tangible personal property is determined as provided in this section:

- (i) aircraft;
- (ii) a manufactured home;
- (iii) a mobile home;
- (iv) a modular home;
- (v) a motor vehicle; or
- (vi) watercraft.

(b) The location of the sale of tangible personal property described in Subsection (1)(a) is determined in accordance with Sections 59-12-211 and 59-12-212 if the tangible personal property described in Subsection (1)(a) is transportation equipment as defined in Section 59-12-211.

(2) (a) [If] Except as provided in Subsection (2)(b), if an item of tangible personal property described in Subsection (1)(a) is sold by a dealer of that tangible personal property, the location of the sale of that tangible personal property is the business location of the dealer.

(b) If an item of tangible personal property described in Subsection (1)(a) is sold by a dealer of that tangible personal property that does not have a business location in the state, the location of the sale of that tangible personal property is the location where the purchaser takes receipt of the tangible personal property.

(3) If an item of tangible personal property described in Subsection (1)(a) is sold by a person other than a dealer of that tangible personal property, the location of the sale of that tangible personal property is:

(a) if the tangible personal property is required to be registered with the state before the tangible personal property is used on a public highway, on a public waterway, on public land, or in the air, the location of the street address at which the tangible personal property is registered; or

(b) if the tangible personal property is not required to be registered as provided in Subsection (3)(a), the location of the street address at which the purchaser of the tangible personal property resides.

(4) This section does not apply to the lease or rental of tangible personal property described in Subsection (1)(a).

**CHAPTER 40**  
**H. B. 50**

Passed February 20, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**TAX EXEMPTION FOR CONSTRUCTION  
OR UNOCCUPIED PROPERTY**

Chief Sponsor: Douglas V. Sagers  
Senate Sponsor: Lincoln Fillmore

**LONG TITLE**

**General Description:**

This bill modifies provisions of the Property Tax Act related to the taxation of residential property.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of “residential property” for purposes of the Property Tax Act to include certain property that is under construction or unoccupied;
- ▶ provides that before the owner of residential property that is under construction or unoccupied may receive a residential exemption for the property, the owner shall file a declaration stating that the property will be used for residential purposes as a primary residence upon completion or occupancy; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

59-2-102, as last amended by Laws of Utah 2018, Chapters 415 and 456  
59-2-103, as last amended by Laws of Utah 2014, Chapter 65

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

**Section 1. Section 59-2-102 is amended to read:**

**59-2-102. Definitions.**

As used in this chapter [and title]:

(1) “Aerial applicator” means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft’s use for agricultural and pest control purposes.

(2) “Air charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) “Air contract service” means an air carrier operation available only to customers that engage the services of the carrier through a contractual

agreement and excess capacity on any trip and is not available to the public at large.

(4) “Aircraft” means the same as that term is defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), “airline” means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) “Airline” does not include an:

(i) air charter service; or

(ii) air contract service.

(6) “Assessment roll” means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) “Base parcel” means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(8) (a) “Certified revenue levy” means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (8), “ad valorem property tax revenue” does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (8), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(9) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) "Designated tax area" includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (10)(a) and:

(i) a city or town if the boundaries of the school district under Subsection (10)(a) and the boundaries of the city or town are identical; or

(ii) a special service district if the boundaries of the school district under Subsection (10)(a) are located entirely within the special service district.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) (a) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(b) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(15) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(16) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(17) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (17)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (17)(b).

(b) The following factors apply to Subsection (17)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (17)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (21)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(18) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(19) (a) For purposes of Section 59-2-103:

(i) "household" means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(20) (a) Except as provided in Subsection (20)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (20)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (20)(a); and

(B) installed solely to serve the operation of the item described in Subsection (20)(a); and

(ii) an item described in Subsection (20)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(21) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(22) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(23) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(26) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(27) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(29) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(30) "Personal property" includes:

(a) every class of property as defined in Subsection (31) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(31) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(32) "Public utility" means:



(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(33) (a) Subject to Subsection (33)(b), “qualifying exempt primary residential rental personal property” means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of this Subsection (33) and Subsection (36).

(34) “Real estate” or “real property” includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(35) (a) “Relationship with an owner of the property’s land surface rights” means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(36) (a) ~~[Subject to Subsection (36)(b),~~ “residential” “Residential property,” for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) ~~[Subject to Subsection (36)(c),~~ “residential” “Residential property” includes:

(i) except as provided in Subsection (36)(b)(ii), ~~[includes]~~ household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) “Residential property” does not include property used for transient residential use.

~~[(e)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection (33) and this Subsection (36).

(37) “Split estate mineral rights owner” means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(38) (a) “State-assessed commercial vehicle” means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

(b) “State-assessed commercial vehicle” does not include vehicles used for hire that are specified in Subsection (9)(c) as county-assessed commercial vehicles.

(39) “Subdivided lot” means a lot, parcel, or other division of land, that is a division of a base parcel.

(40) “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(41) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(42) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(43) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

**Section 2. Section 59-2-103 is amended to read:**

**59-2-103. Rate of assessment of property -- Residential property.**

(1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

(2) Subject to Subsections (3) through ~~[(5)]~~ (6) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.

(3) Part-year residential property located within the state is allowed the residential exemption described in Subsection (2) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.

(4) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (2).

(5) (a) Except as provided in ~~[Subsection]~~ Subsections (5)(b)(ii) and (iii), a residential exemption described in Subsection (2) is limited to one primary residence per household.

(b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (2) for:

(i) subject to Subsection (5)(a), the primary residence of the owner; ~~and~~

(ii) each residential property that is the primary residence of a tenant~~[-];~~ and

(iii) subject to Subsection (6), each residential property described in Subsection 59-2-102(36)(b)(ii).

(6) Before residential property described in Subsection 59-2-102(36)(b)(ii) is allowed a

residential exemption described in Subsection (2), an owner of the residential property shall file with the county assessor a written declaration that:

(a) states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of the residential property, the residential property will be used for residential purposes as a primary residence;

(b) is signed by each owner of the residential property; and

(c) is on a form prescribed by the commission.

**CHAPTER 41****H. B. 51**

Passed February 7, 2020

Approved March 24, 2020

Effective May 12, 2020

**PROPERTY ASSESSMENT  
PROCEDURE AMENDMENTS**Chief Sponsor: Steve Eliason  
Senate Sponsor: Curtis S. Bramble

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**LONG TITLE****General Description:**

This bill repeals provisions of the Property Tax Act related to the assessment of taxable property.

**Highlighted Provisions:**

This bill:

- ▶ repeals certain authority of the State Tax Commission to adjust and equalize the valuation of taxable property.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****REPEALS:**

59-2-212, as last amended by Laws of Utah 2000, Chapter 86

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

**Section 1. Repealer.**

This bill repeals:

**Section 59-2-212, Equalization of values --  
Hearings.**

**CHAPTER 42****H. B. 53**

Passed February 28, 2020

Approved March 24, 2020

Effective March 24, 2020

Exception clause

**TANGIBLE PERSONAL  
PROPERTY TAX REVISIONS**

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Daniel McCay

**LONG TITLE****General Description:**

This bill amends provisions related to tax exemptions for tangible personal property.

**Highlighted Provisions:**

This bill:

- ▶ modifies the requirements for qualifying for a property tax exemption for tangible personal property owned by a business; and
- ▶ modifies the calculation of the inflation adjustment that applies to the property tax exemption for tangible personal property that has an aggregate taxable value of \$15,000 or less.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-2-1115, as last amended by Laws of Utah 2019, Chapter 463

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

**Section 1. Section 59-2-1115 is amended to read:****59-2-1115. Exemption of certain tangible personal property.**

(1) For purposes of this section:

(a) (i) "Acquisition cost" means all costs required to put an item of tangible personal property into service; and

(ii) includes:

(A) the purchase price for a new or used item;

(B) the cost of freight and shipping;

(C) the cost of installation, engineering, erection, or assembly; and

(D) sales and use taxes.

(b) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(c) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used:

(I) on a public highway;

(II) on a public waterway;

(III) on public land; or

(IV) in the air;

(B) a mobile home as defined in Section 41-1a-102; or

(C) a manufactured home as defined in Section 41-1a-102.

(2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of \$15,000 or less.

(b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible personal property, except for an item of noncapitalized personal property as defined in Section 59-2-108, is exempt from taxation if the item of taxable tangible personal property:

(i) has an acquisition cost of \$1,000 or less;

(ii) has reached a percent good of 15% or less according to a personal property schedule published by the commission pursuant to Section 59-2-107; and

(iii) is in a personal property schedule with a residual value of 15% or less.

(c) For an item of taxable tangible personal property that is not exempt under Subsection (2)(a) or (b), the item is exempt from taxation if:

(i) (A) the item is owned by a business and is not critical to the actual business operation of the business; ~~and~~ or

(B) beginning January 1, 2021, the item is owned by a business; and

(ii) the acquisition cost of the item is:

(A) less than \$150[-]; or

(B) beginning January 1, 2021, less than \$500.

(3) (a) For calendar years beginning on or after January 1, ~~[2015]~~ 2021, the commission shall increase the dollar amount described in Subsection (2)(a):

(i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year ~~[2013]~~ 2019; and

(ii) up to the nearest \$100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price

index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(a), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(a) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)(a) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)(a).

(c) If a taxpayer qualifies for an exemption described in Subsection (2)(a) for five consecutive years and files a signed statement for each of those years in accordance with Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

(d) If a taxpayer qualifies for an exemption described in Subsection (2)(b) or (c) for an item of tangible taxable personal property, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

### **Section 2. Effective date.**

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

### **Section 3. Retrospective operation.**

The actions affecting Subsection 59-2-1115(3) have retrospective operation to January 1, 2020.

**CHAPTER 43****H. B. 54**

Passed February 13, 2020

Approved March 24, 2020

Effective May 12, 2020

**BUILDING CONSTRUCTION  
AMENDMENTS**Chief Sponsor: Casey Snider  
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill amends the State Construction and Fire Codes Act and enacts provisions regarding the use of mass timber products.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of the State Construction Code to include standards for the use of mass timber products;
- ▶ enacts building standards for the use of mass timber products for residential and commercial building construction; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

15A-1-102, as enacted by Laws of Utah 2011, Chapter 14

15A-2-101, as enacted by Laws of Utah 2011, Chapter 14

15A-2-102, as last amended by Laws of Utah 2016, Chapter 249

**ENACTS:**

15A-2a-101, Utah Code Annotated 1953

15A-2a-102, Utah Code Annotated 1953

15A-2a-201, Utah Code Annotated 1953

15A-2a-202, Utah Code Annotated 1953

15A-2a-203, Utah Code Annotated 1953

15A-2a-204, Utah Code Annotated 1953

15A-2a-301, Utah Code Annotated 1953

15A-2a-302, Utah Code Annotated 1953

15A-2a-401, Utah Code Annotated 1953

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

**Section 1. Section 15A-1-102 is amended to read:****15A-1-102. Definitions.**

As used in this title:

(1) "Board" means the Utah Fire Prevention Board created in Section 53-7-203.

(2) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103, except as provided in:

(a) Part 4, State Fire Code Administration Act; and

(b) Chapter 5, State Fire Code Act.

(3) "State Construction Code" means the State Construction Code adopted by:

(a) Chapter 2, Adoption of State Construction Code;

(b) Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code;

~~[(b)]~~ (c) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code; ~~[and]~~

~~[(e)]~~ (d) Chapter 4, Local Amendments Incorporated as Part of State Construction Code~~[-];~~ and

(e) Chapter 6, Additional Construction Requirements.

(4) "State Fire Code" means the State Fire Code adopted by Chapter 5, State Fire Code Act.

(5) "Utah Code" means the Utah Code Annotated (1953), as amended.

**Section 2. Section 15A-2-101 is amended to read:****15A-2-101. Title -- Adoption of code.**

(1) This chapter is known as the "Adoption of State Construction Code."

(2) In accordance with Chapter 1, Part 2, State Construction Code Administration Act, the Legislature repeals the State Construction Code in effect on July 1, 2010, and adopts the following as the State Construction Code:

(a) this chapter;

(b) Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code;

~~[(b)]~~ (c) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code; ~~[and]~~

~~[(e)]~~ (d) Chapter 4, Local Amendments Incorporated as Part of State Construction Code~~[-];~~ and

(e) Chapter 6, Additional Construction Requirements.

**Section 3. Section 15A-2-102 is amended to read:****15A-2-102. Definitions.**

As used in this chapter ~~[and]~~, Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code, Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code:

(1) "HUD Code" means the Federal Manufactured Housing Construction and Safety Standards Act, as issued by the Department of Housing and Urban Development and published in

24 C.F.R. Parts 3280 and 3282 (as revised April 1, 1990).

(2) “IBC” means the edition of the International Building Code adopted under Section 15A-2-103.

(3) “IEBC” means the edition of the International Existing Building Code adopted under Section 15A-2-103.

(4) “IECC” means the edition of the International Energy Conservation Code adopted under Section 15A-2-103.

(5) “IFGC” means the edition of the International Fuel Gas Code adopted under Section 15A-2-103.

(6) “IMC” means the edition of the International Mechanical Code adopted under Section 15A-2-103.

(7) “IPC” means the edition of the International Plumbing Code adopted under Section 15A-2-103.

(8) “IRC” means the edition of the International Residential Code adopted under Section 15A-2-103.

(9) “NEC” means the edition of the National Electrical Code adopted under Section 15A-2-103.

(10) “UWUI” means the edition of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103.

**Section 4. Section 15A-2a-101 is enacted to read:**

**CHAPTER 2a. TALL WOOD BUILDINGS OF MASS TIMBER CONSTRUCTION INCORPORATED AS PART OF STATE CONSTRUCTION CODE**

**Part 1. General Provisions**

**15A-2a-101. Title.**

(1) This chapter is known as “Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code.”

(2) This chapter establishes building standards for the use of mass timber products in residential and commercial building construction and is applicable statewide.

(3) Where this chapter replaces a section of the IBC that Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, or Chapter 4, Local Amendments Incorporated as Part of State Construction Code, amends, the amendment in Chapter 3 or 4 shall apply to the IBC replacement in this chapter.

**Section 5. Section 15A-2a-102 is enacted to read:**

**15A-2a-102. Definitions.**

As used in this chapter:

(1) “Mass timber” means a structural element of Type IV construction primarily of solid, built-up, panelized or engineered wood products that meet

minimum cross section dimensions of Type IV construction.

(2) “Non-combustible protection” (for mass timber) means non-combustible material in accordance with IBC Section 703.5, designed to increase the fire-resistance rating and delay the combustion of mass timber.

(3) “Wall, load-bearing” means any wall meeting either of the following classifications:

(a) any metal or wood stud wall that supports more than 100 pounds per linear foot (1459 N/m) of vertical load in addition to its own weight; or

(b) any masonry or concrete, or mass timber wall that supports more than 200 pounds per linear foot (2919 N/m) of vertical load in addition to its own weight.

**Section 6. Section 15A-2a-201 is enacted to read:**

**Part 2. Statewide Amendments to International Building Code**

**15A-2a-201. Amendments to Chapter 4 of IBC.**

In IBC, Section 403.3.2, is deleted and replaced with the following: “403.3.3 Water supply to required fire pumps. In all buildings that are more than 420 feet (128m) in building height, and buildings of Type IV-A and IV-B construction that are more than 120 feet in building height, required fire pumps shall be supplied by connections to not fewer than two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Each connection and the supply piping between the connection and the pumps shall be sized to supply the flow and pressure required for the pumps to operate.

Exception: Two connections to the same main shall be permitted provided that the main is valved such that an interruption can be isolated so that the water supply will continue without interruption through not fewer than one of the connections.”

**Section 7. Section 15A-2a-202 is enacted to read:**

**15A-2a-202. Amendments to Chapter 5 of IBC.**

(1) In IBC, Table 504.3, is deleted and replaced with the following: "Table 504.3

**ALLOWABLE BUILDING HEIGHT IN FEET ABOVE GRADE PLANE**

OCCUPANCY CLASSIFICATION	TYPE OF CONSTRUCTION												
	SEE FOOTNOTES	TYPE I		TYPE II		TYPE III		TYPE IV				TYPE V	
		A	B	A	B	A	B	A	B	C	HT	A	B
A, B, E, F, M, S, U	NS <sup>b</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	180	120	85	85	70	60
H-1, H-2, H-3, H-5	NS <sup>c, d</sup>	UL	160	65	55	65	55	120	90	65	65	50	40
	S	UL	160	65	55	65	55	120	90	65	65	50	40
H-4	NS <sup>c, d</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	140	100	85	85	70	60
I-1 Condition 1, I-3	NS <sup>d, e</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	180	120	85	85	70	60
I-1 Condition 2, I-2	NS <sup>d, e, f</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	180	120	85	85	70	60
I-4	NS <sup>d, g</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S	UL	180	85	75	85	75	180	120	85	85	70	60
R <sup>h</sup>	NS <sup>d</sup>	UL	160	65	55	65	55	65	65	65	65	50	40
	S13D	60	60	60	60	60	60	60	60	60	60	50	40
	S13R	60	60	60	60	60	60	60	60	60	60	60	60
	S	UL	180	85	75	85	75	180	120	85	85	70	60

For SI: 1 foot = 304.8 mm

UL = Unlimited; NS = Buildings not equipped throughout with an automatic sprinkler system; S = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; S13R = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2; S13D = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.3.

a. See Chapters 4 and 5 for specific exceptions to the allowable height in this chapter.

b. See Section 903.2 for the minimum thresholds for protection by an automatic sprinkler system for specific occupancies.

c. New Group H occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.5.

d. The NS value is only for use in evaluation of existing building area in accordance with the IEBC.

e. New Group I-1 and I-3 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6. For new Group I-1 occupancies, Condition 1, see Exception 1 of Section 903.2.6.

f. New and existing Group I-2 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6 and Section 1103.5 of the International Fire Code.

g. New Group I-4 occupancies see Exceptions 2 and 3 of Section 903.2.6.

h. New Group R occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.8."

(2) In IBC, Table 504.4, "Allowable Number of Stories Above Grade Plane<sup>a, b, h</sup>" delete Type IV and replace it with the following, in relation to the occupancy classification and footnotes as indicated:



TYPE OF CONSTRUCTION

OCCUPANCY CLASSIFICATION

SEE FOOTNOTES

TYPE IV

		<u>A</u>	<u>B</u>	<u>C</u>	<u>HT</u>
<u>A-1</u>	<u>NS</u> <u>S</u>	$\frac{3}{9}$	$\frac{3}{6}$	$\frac{3}{4}$	$\frac{3}{4}$
<u>A-2</u>	<u>NS</u> <u>S</u>	$\frac{3}{18}$	$\frac{3}{12}$	$\frac{3}{6}$	$\frac{3}{4}$
<u>A-3</u>	<u>NS</u> <u>S</u>	$\frac{3}{18}$	$\frac{3}{12}$	$\frac{3}{6}$	$\frac{3}{4}$
<u>A-4</u>	<u>NS</u> <u>S</u>	$\frac{3}{18}$	$\frac{3}{12}$	$\frac{3}{6}$	$\frac{3}{4}$
<u>A-5</u>	<u>NS</u> <u>S</u>	$\frac{1}{UL}$	$\frac{1}{UL}$	$\frac{1}{UL}$	$\frac{UL}{UL}$
<u>B</u>	<u>NS</u> <u>S</u>	$\frac{5}{18}$	$\frac{5}{12}$	$\frac{5}{9}$	$\frac{5}{6}$
<u>E</u>	<u>NS</u> <u>S</u>	$\frac{3}{9}$	$\frac{3}{6}$	$\frac{3}{4}$	$\frac{3}{4}$
<u>F-1</u>	<u>NS</u> <u>S</u>	$\frac{3}{10}$	$\frac{3}{7}$	$\frac{3}{5}$	$\frac{4}{5}$
<u>F-2</u>	<u>NS</u> <u>S</u>	$\frac{5}{12}$	$\frac{5}{8}$	$\frac{5}{6}$	$\frac{5}{6}$
<u>H-1</u>	<u>NS<sub>c,d</sub></u> <u>S</u>	$\frac{NP}{1}$	$\frac{NP}{1}$	$\frac{NP}{1}$	$\frac{1}{1}$
<u>H-2</u>	<u>NS<sub>c,d</sub></u> <u>S</u>	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{2}{2}$
<u>H-3</u>	<u>NS<sub>c,d</sub></u> <u>S</u>	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{4}{4}$
<u>H-4</u>	<u>NS<sub>c,d</sub></u> <u>S</u>	$\frac{5}{8}$	$\frac{5}{7}$	$\frac{5}{6}$	$\frac{5}{6}$
<u>H-5</u>	<u>NS<sub>c,d</sub></u> <u>S</u>	$\frac{2}{3}$	$\frac{2}{3}$	$\frac{2}{3}$	$\frac{3}{3}$
<u>I-1 Condition 1</u>	<u>NS<sub>d,e</sub></u> <u>S</u>	$\frac{4}{10}$	$\frac{4}{7}$	$\frac{4}{5}$	$\frac{4}{5}$
<u>I-1 Condition 2</u>	<u>NS<sub>d,e</sub></u> <u>S</u>	$\frac{3}{10}$	$\frac{3}{6}$	$\frac{3}{4}$	$\frac{4}{4}$
<u>1-2</u>	<u>NS<sub>d,f</sub></u> <u>S</u>	$\frac{NP}{7}$	$\frac{NP}{5}$	$\frac{NP}{1}$	$\frac{1}{1}$
<u>1-3</u>	<u>NS<sub>d,e</sub></u> <u>S</u>	$\frac{2}{7}$	$\frac{2}{5}$	$\frac{2}{3}$	$\frac{2}{3}$
<u>1-4</u>	<u>NS<sub>d,g</sub></u> <u>S</u>	$\frac{3}{9}$	$\frac{3}{6}$	$\frac{3}{4}$	$\frac{3}{4}$
<u>M</u>	<u>NS</u> <u>S</u>	$\frac{4}{12}$	$\frac{4}{8}$	$\frac{4}{6}$	$\frac{4}{5}$
<u>R-1<sup>h</sup></u>	<u>NS<sup>d</sup></u> <u>S13R</u> <u>S</u>	$\frac{4}{18}$	$\frac{4}{12}$	$\frac{4}{8}$	$\frac{4}{5}$

TYPE OF CONSTRUCTIONOCCUPANCY  
CLASSIFICATION

	<u>SEE FOOTNOTES</u>	<u>TYPE IV</u>			
		<u>A</u>	<u>B</u>	<u>C</u>	<u>HT</u>
<u>R-2<sup>h</sup></u>	<u>NS<sup>d</sup></u>				
	<u>S13R</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>
	<u>S</u>	<u>18</u>	<u>12</u>	<u>8</u>	<u>5</u>
<u>R-3<sup>h</sup></u>	<u>NS<sup>d</sup></u>				
	<u>S13D</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>
	<u>S13R</u>				
<u>R-4<sup>h</sup></u>	<u>S</u>	<u>18</u>	<u>12</u>	<u>5</u>	<u>5</u>
	<u>NS<sup>d</sup></u>				
	<u>S13D</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>
<u>S-1</u>	<u>S13R</u>				
	<u>S</u>	<u>18</u>	<u>12</u>	<u>5</u>	<u>5</u>
	<u>NS</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>
<u>S-2</u>	<u>S</u>	<u>12</u>	<u>8</u>	<u>5</u>	<u>5</u>
	<u>NS</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>
	<u>S</u>	<u>12</u>	<u>8</u>	<u>5</u>	<u>5</u>
<u>U</u>	<u>NS</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>
	<u>S</u>	<u>9</u>	<u>6</u>	<u>5</u>	<u>5</u>

UL = Unlimited; NP = Not Permitted; NS = Buildings not equipped throughout with an automatic sprinkler system; S = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1; S13R = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2; S13D = Buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.3.

a. See Chapters 4 and 5 for specific exceptions to the allowable height in this chapter.

b. See Section 903.2 for the minimum thresholds for protection by an automatic sprinkler system for specific occupancies.

c. New Group H occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.5.

d. The NS value is only for use in evaluation of existing building height in accordance with the IEBC.

e. New Group I-1 and I-3 occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.6. For new Group I-1 occupancies, Condition 1, see Exception 1 of Section 903.2.6.

f. New and existing Group I-2 occupancies are required to be protected by an automatic sprinkler system in accordance with Sections 903.2.6 and 1103.5 of the International Fire Code.

g. For new Group I-4 occupancies, see Exceptions 2 and 3 of Section 903.2.6.

h. New Group R occupancies are required to be protected by an automatic sprinkler system in accordance with Section 903.2.8.”

(3) In IBC, Table 506.2, “Allowable Area Factor (At = NS, S1, S13R, S13D or SM, as applicable) in Square Feet, b” delete Type IV and replace it with the following, in relation to the occupancy classification and footnotes as indicated:

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TYPE OF CONSTRUCTION

<u>“OCCUPANCY CLASSIFICATION</u>		<u>SEE FOOTNOTES</u>		<u>TYPE IV</u>	
		<u>A</u>	<u>B</u>	<u>C</u>	<u>HT</u>
<u>A-1</u>	<u>NS</u>	<u>45,000</u>	<u>30,000</u>	<u>18,750</u>	<u>15,000</u>
	<u>S1</u>	<u>180,000</u>	<u>120,000</u>	<u>75,000</u>	<u>60,000</u>
	<u>SM</u>	<u>135,000</u>	<u>90,000</u>	<u>56,250</u>	<u>45,000</u>
<u>A-2</u>	<u>NS</u>	<u>45,000</u>	<u>30,000</u>	<u>18,750</u>	<u>15,000</u>
	<u>S1</u>	<u>180,000</u>	<u>120,000</u>	<u>75,000</u>	<u>60,000</u>
	<u>SM</u>	<u>135,000</u>	<u>90,000</u>	<u>56,250</u>	<u>45,000</u>
<u>A-3</u>	<u>NS</u>	<u>45,000</u>	<u>30,000</u>	<u>18,750</u>	<u>15,000</u>
	<u>S1</u>	<u>180,000</u>	<u>120,000</u>	<u>75,000</u>	<u>60,000</u>
	<u>SM</u>	<u>135,000</u>	<u>90,000</u>	<u>56,250</u>	<u>45,000</u>
<u>A-4</u>	<u>NS</u>	<u>45,000</u>	<u>30,000</u>	<u>18,750</u>	<u>15,000</u>
	<u>S1</u>	<u>180,000</u>	<u>120,000</u>	<u>75,000</u>	<u>60,000</u>
	<u>SM</u>	<u>135,000</u>	<u>90,000</u>	<u>56,250</u>	<u>45,000</u>
<u>A-5</u>	<u>NS</u>	<u>UL</u>	<u>UL</u>	<u>UL</u>	<u>UL</u>
	<u>S1</u>				
	<u>SM</u>				
<u>B</u>	<u>NS</u>	<u>108,000</u>	<u>72,000</u>	<u>45,000</u>	<u>36,000</u>
	<u>S1</u>	<u>432,000</u>	<u>288,000</u>	<u>180,000</u>	<u>144,000</u>
	<u>SM</u>	<u>324,000</u>	<u>216,000</u>	<u>135,000</u>	<u>108,000</u>
<u>E</u>	<u>NS</u>	<u>76,500</u>	<u>51,000</u>	<u>31,875</u>	<u>25,500</u>
	<u>S1</u>	<u>306,000</u>	<u>204,000</u>	<u>127,500</u>	<u>102,000</u>
	<u>SM</u>	<u>229,500</u>	<u>153,000</u>	<u>95,625</u>	<u>76,500</u>
<u>F-1</u>	<u>NS</u>	<u>100,500</u>	<u>67,000</u>	<u>41,875</u>	<u>33,500</u>
	<u>S1</u>	<u>402,000</u>	<u>268,000</u>	<u>167,500</u>	<u>134,000</u>
	<u>SM</u>	<u>301,500</u>	<u>201,000</u>	<u>125,625</u>	<u>100,500</u>
<u>F-2</u>	<u>NS</u>	<u>151,500</u>	<u>101,000</u>	<u>63,125</u>	<u>50,500</u>
	<u>S1</u>	<u>606,000</u>	<u>404,000</u>	<u>252,500</u>	<u>202,000</u>
	<u>SM</u>	<u>454,500</u>	<u>303,000</u>	<u>189,375</u>	<u>151,500</u>
<u>H-1</u>	<u>NS<sup>c</sup></u>	<u>10,500</u>	<u>10,500</u>	<u>10,500</u>	<u>10,500</u>
	<u>S1</u>				
<u>H-2</u>	<u>NS<sup>c</sup></u>				
	<u>S1</u>	<u>10,500</u>	<u>10,500</u>	<u>10,500</u>	<u>10,500</u>
	<u>SM</u>				

<u>“OCCUPANCY CLASSIFICATION</u>		<u>TYPE OF CONSTRUCTION</u>			
		<u>SEE FOOTNOTES</u>	<u>A</u>	<u>B</u>	<u>C</u>
<u>H-3</u>	<u>NS<sup>c</sup></u> <u>S1</u> <u>SM</u>	<u>25,500</u>	<u>25,500</u>	<u>25,500</u>	<u>25,500</u>
<u>H-4</u>	<u>NS<sup>c,d</sup></u> <u>S1</u> <u>SM</u>	<u>72,000</u> <u>288,000</u> <u>216,000</u>	<u>54,000</u> <u>216,000</u> <u>162,000</u>	<u>40,500</u> <u>162,000</u> <u>121,500</u>	<u>36,000</u> <u>144,000</u> <u>108,000</u>
<u>H-5</u>	<u>NS<sup>c,d</sup></u> <u>S1</u> <u>SM</u>	<u>72,000</u> <u>288,000</u> <u>216,000</u>	<u>54,000</u> <u>216,000</u> <u>162,000</u>	<u>40,500</u> <u>162,000</u> <u>121,500</u>	<u>36,000</u> <u>144,000</u> <u>108,000</u>
<u>I-1</u>	<u>NS<sup>d,e</sup></u> <u>S1</u> <u>SM</u>	<u>54,000</u> <u>216,000</u> <u>162,000</u>	<u>36,000</u> <u>144,000</u> <u>108,000</u>	<u>18,000</u> <u>72,000</u> <u>54,000</u>	<u>18,000</u> <u>72,000</u> <u>54,000</u>
<u>I-2</u>	<u>NS<sup>d,f</sup></u> <u>S1</u> <u>SM</u>	<u>36,000</u> <u>144,000</u> <u>108,000</u>	<u>24,000</u> <u>96,000</u> <u>72,000</u>	<u>12,000</u> <u>48,000</u> <u>36,000</u>	<u>12,000</u> <u>48,000</u> <u>36,000</u>
<u>I-3</u>	<u>NS<sup>d,e</sup></u> <u>S1</u> <u>SM</u>	<u>36,000</u> <u>144,000</u> <u>108,000</u>	<u>24,000</u> <u>96,000</u> <u>72,000</u>	<u>12,000</u> <u>48,000</u> <u>36,000</u>	<u>12,000</u> <u>48,000</u> <u>36,000</u>
<u>I-4</u>	<u>NS<sup>d,g</sup></u> <u>S1</u> <u>SM</u>	<u>76,500</u> <u>306,000</u> <u>229,000</u>	<u>51,000</u> <u>204,000</u> <u>153,000</u>	<u>25,500</u> <u>102,000</u> <u>76,500</u>	<u>25,500</u> <u>102,000</u> <u>76,500</u>
<u>M</u>	<u>NS</u> <u>S1</u> <u>SM</u>	<u>61,500</u> <u>246,000</u> <u>184,500</u>	<u>41,000</u> <u>164,000</u> <u>123,000</u>	<u>25,625</u> <u>102,500</u> <u>76,875</u>	<u>20,500</u> <u>82,000</u> <u>61,500</u>
<u>R-1<sup>h</sup></u>	<u>NS<sup>d</sup></u> <u>S13R</u> <u>S1</u> <u>SM</u>	<u>61,500</u> <u>246,000</u> <u>184,500</u>	<u>41,000</u> <u>164,000</u> <u>123,000</u>	<u>25,625</u> <u>102,500</u> <u>76,875</u>	<u>20,500</u> <u>82,000</u> <u>61,500</u>
<u>R-2<sup>h</sup></u>	<u>NS<sup>d</sup></u> <u>S13R</u> <u>S1</u> <u>SM</u>	<u>61,500</u> <u>246,000</u> <u>184,500</u>	<u>41,000</u> <u>164,000</u> <u>123,000</u>	<u>25,625</u> <u>102,500</u> <u>76,875</u>	<u>20,500</u> <u>82,000</u> <u>61,500</u>
<u>R-3<sup>h</sup></u>	<u>NS<sup>d</sup></u> <u>S13D</u> <u>S13R</u> <u>S1</u> <u>SM</u>	<u>UL</u>	<u>UL</u>	<u>UL</u>	<u>UL</u>

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TYPE OF CONSTRUCTION

<u>“OCCUPANCY CLASSIFICATION</u>		<u>SEE FOOTNOTES</u>				<u>TYPE IV</u>
		<u>A</u>	<u>B</u>	<u>C</u>	<u>HT</u>	
<u>R-4<sup>h</sup></u>	<u>NS<sup>d</sup></u>					
	<u>S13D</u>	<u>61,500</u>	<u>41,000</u>	<u>25,625</u>	<u>20,500</u>	
	<u>S13R</u>					
	<u>S1</u>	<u>246,000</u>	<u>164,000</u>	<u>102,500</u>	<u>82,000</u>	
	<u>SM</u>	<u>184,500</u>	<u>123,000</u>	<u>76,875</u>	<u>61,500</u>	
<u>S-1</u>	<u>NS</u>	<u>76,500</u>	<u>51,000</u>	<u>31,875</u>	<u>25,500</u>	
	<u>S1</u>	<u>306,000</u>	<u>204,000</u>	<u>127,500</u>	<u>102,000</u>	
	<u>SM</u>	<u>229,500</u>	<u>153,000</u>	<u>95,625</u>	<u>76,500</u>	
<u>S-2</u>	<u>NS</u>	<u>115,500</u>	<u>77,000</u>	<u>48,125</u>	<u>38,500</u>	
	<u>S1</u>	<u>462,000</u>	<u>308,000</u>	<u>192,500</u>	<u>154,000</u>	
	<u>SM</u>	<u>346,500</u>	<u>308,000</u>	<u>144,375</u>	<u>115,500</u>	
<u>U</u>	<u>NS<sup>i</sup></u>	<u>54,000</u>	<u>36,000</u>	<u>22,500</u>	<u>18,000</u>	
	<u>S1</u>	<u>216,000</u>	<u>144,000</u>	<u>90,000</u>	<u>72,000</u>	
	<u>SM</u>	<u>162,000</u>	<u>108,000</u>	<u>67,500</u>	<u>54,000</u>	

i. The maximum allowable area for a single-story nonsprinklered Group U greenhouse is permitted to be 9,000 square feet, or the allowable area shall be permitted to comply with Table C102.1 of Appendix C.”

(4) In IBC, Section 508.4.4 is deleted and replaced with the following: “508.4.4 Separation. Individual occupancies shall be separated from adjacent occupancies in accordance with Table 508.4.”

(5) In IBC, Section 508.4.4.1 is deleted and replaced with the following: “508.4.4.1 Construction. Required separations shall be fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 711, or both, so as to completely separate adjacent occupancies. Mass timber elements serving as fire barriers or horizontal assemblies to separate occupancies in Type IV-B or IV-C construction shall be separated from the interior of the building with an approved thermal barrier consisting of a minimum of 1/2 inch (12.7 mm) gypsum board or a material that is tested in accordance with and meets the acceptance criteria of both the Temperature Transmission Fire Test and the Integrity Fire Test of NFPA 275.”

(6) In IBC, Section 509, a new section is added as follows: “509.4.1.1 Type IV-B and IV-C construction. Where Table 509 specifies a fire-resistance-rated separation, mass timber elements serving as fire barriers or a horizontal assembly in Type IV-B or IV-C construction shall be separated from the interior of the incidental use with an approved thermal barrier consisting of a minimum of 1/2 inch (12.7 mm) gypsum board or a material that is tested in accordance with and meets the acceptance criteria of both the Temperature Transmission Fire Test and the Integrity Fire Test of NFPA 275.”

**Section 8. Section 15A-2a-203 is enacted to read:**

**15A-2a-203. Amendments to Chapter 6 of IBC.**

(1) In IBC, Table 601 is deleted and replaced with the following:

"TABLE 601 FIRE-RESISTANCE RATING REQUIREMENTS FOR BUILDING ELEMENTS (HOURS)

<u>BUILDING ELEMENT</u>	<u>TYPE I</u>		<u>TYPE II</u>		<u>TYPE III</u>		<u>TYPE IV</u>				<u>TYPE V</u>		
	<u>A</u>	<u>B</u>	<u>A</u>	<u>B</u>	<u>A</u>	<u>B</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>HT</u>	<u>A</u>	<u>B</u>	
<u>Primary structural frame<sup>f</sup></u> <u>(see Section 202)</u>	<u>3<sup>a, b</sup></u>	<u>2<sup>a, b</sup></u>	<u>1b</u>	<u>0</u>	<u>1b</u>	<u>0</u>	<u>3a</u>	<u>2a</u>	<u>2a</u>	<u>HT</u>	<u>1b</u>	<u>0</u>	
<u>Bearing walls</u> <u>Exterior<sup>e, f</sup></u>	<u>3</u>	<u>2</u>	<u>1</u>	<u>0</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>1</u>	<u>0</u>	
<u>Interior</u>	<u>3<sup>a</sup></u>	<u>2<sup>a</sup></u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>3</u>	<u>2</u>	<u>2</u>	<u>1/HT</u>	<u>1</u>	<u>0</u>	
<u>Nonbearing walls and partitions Exterior</u>	<u>See Table 602</u>												
<u>Nonbearing walls and partitions Interior<sup>d</sup></u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>See Section 2304.11.2</u>	<u>0</u>	<u>0</u>
<u>Floor construction and associated secondary members (see Section 202)</u>	<u>2</u>	<u>2</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>HT</u>	<u>1</u>	<u>0</u>	
<u>Roof construction and associated secondary members (see Section 202)</u>	<u>1<sup>1/2, b</sup></u>	<u>1<sup>b, c</sup></u>	<u>1<sup>b, c</sup></u>	<u>0<sup>c</sup></u>	<u>1<sup>b, c</sup></u>	<u>0</u>	<u>1<sup>1/2</sup></u>	<u>1</u>	<u>1</u>	<u>HT</u>	<u>1<sup>b, c</sup></u>	<u>0</u>	

For SI: 1 foot = 304.8 mm.

a. Roof supports: Fire-resistance ratings of primary structural frame and bearing walls are permitted to be reduced by 1 hour where supporting a roof only.

b. Except in Group F-1, H, M and S-1 occupancies, fire protection of structural members in roof construction shall not be required, including protection of primary structural frame members, roof framing and decking where every part of the roof construction is 20 feet or more above any floor immediately below. Fire-retardant-treated wood members shall be allowed to be used for such unprotected members.

c. In all occupancies, heavy timber complying with Section 2304.11 shall be allowed where a 1-hour or less fire-resistance rating is required.

d. Not less than the fire-resistance rating required by other sections of this code.

e. Not less than the fire-resistance rating based on fire separation distance (see Table 602).

f. Not less than the fire-resistance rating as referenced in Section 704.10."

(2) In IBC, Table 602 is deleted and replaced with the following:

"TABLE 602 FIRE-RESISTANCE RATING REQUIREMENTS FOR EXTERIOR WALLS BASED ON FIRE SEPARATION DISTANCE<sup>a, d, g</sup>

<u>Fire Separation Distance = X (feet)</u>	<u>TYPE OF CONSTRUCTION</u>	<u>OCCUPANCY GROUP He</u>	<u>OCCUPANCY GROUP F-1,M, S-1f</u>	<u>OCCU- PANCY GROUP A, B, F-2, I, R<sup>1</sup>, S-2,U<sup>h</sup></u>
<u>&lt;5b</u>	<u>All</u>	<u>3</u>	<u>2</u>	<u>1</u>
<u>5 &lt; X &lt; 10</u>	<u>IA, IVA Others</u>	<u>3 2</u>	<u>2 1</u>	<u>11</u>
<u>10 &lt; X &lt; 30</u>	<u>IA, IB, IVA, IVB IIB, VB Others</u>	<u>2 1 1 -</u>	<u>1 0 1 -</u>	<u>1<sup>c</sup> 0 1<sup>c</sup></u>
<u>X &gt; 30</u>	<u>All</u>	<u>0</u>	<u>0</u>	<u>0</u>

For SI: 1 foot = 304.8 mm.

a. Load-bearing exterior walls shall also comply with the fire-resistance rating requirements of Table 601.

b. See Section 706.1.1 for party walls.

c. Open parking garages complying with Section 406 shall not be required to have a fire-resistance rating.

d. The fire-resistance rating of an exterior wall is determined based upon the fire separation distance of the exterior wall and the story in which the wall is located.

e. For special requirements for Group H occupancies, see Section 415.6.

f. For special requirements for Group S aircraft hangars, see Section 412.3.1.

g. Where Table 705.8 permits nonbearing exterior walls with unlimited area of unprotected openings, the required fire-resistance rating for the exterior walls is 0 hours.

h. For a building containing only a Group U occupancy private garage or carport, the exterior wall shall not be required to have a fire-resistance rating where the fire separation distance is 5 feet (1523 mm) or greater.

i. For a Group R-3 building of Type II-B or Type V-B construction, the exterior wall shall not be required to have a fire-resistance rating where the fire separation distance is 5 feet (1523 mm) or greater.”

(3) In IBC, Section 602.4 is deleted and replaced with the following: “602.4 Type IV. Type IV construction is that type of construction in which the building elements are mass timber or non-combustible materials and have fire-resistance ratings in accordance with Table 601. Mass timber elements shall meet the fire-resistance rating requirements of this section based on either the fire-resistance rating of the non-combustible protection, the mass timber, or a combination of both and shall be determined in accordance with Section 703.2 or 703.3. The minimum dimensions and permitted materials for building elements shall comply with the provisions of this section and Section 2304.11. Mass timber elements of Types IV-A, IV-B and IV-C construction shall be protected with non-combustible protection applied directly to the mass timber in accordance with Sections 602.4.1 through 602.4.3. The time assigned to the non-combustible protection shall be determined in accordance with Section 703.8 and comply with Section 722.7.”

Cross-laminated timber shall be labeled as conforming to PRG 320-18 as referenced in Section 2303.1.4.

Exterior load-bearing walls and nonload-bearing walls shall be mass timber construction, or shall be of non-combustible construction.

Exception: Exterior load-bearing walls and nonload-bearing walls of Type IV-HT Construction in accordance with Section 602.4.4.

The interior building elements, including nonload-bearing walls and partitions, shall be of mass timber construction or of non-combustible construction.

Exception: Interior building elements and nonload-bearing walls and partitions of Type IV-HT Construction in accordance with Section 602.4.4.

Combustible concealed spaces are not permitted except as otherwise indicated in Sections 602.4.1 through 602.4.4. Combustible stud spaces within light frame walls of Type IV-HT construction shall not be considered concealed spaces, but shall comply with Section 718.

In buildings of Type IV-A, B, and C, construction with an occupied floor located more than 75 feet above the lowest level of fire department access, up to and including 12 stories or 180 feet above grade plane, mass timber interior exit and elevator hoistway enclosures shall be protected in accordance with Section 602.4.1.2. In buildings greater than 12 stories or 180 feet above grade plane, interior exit and elevator hoistway enclosures shall be constructed of non-combustible materials.”

(4) In IBC, Section 602.4.1 is deleted and replaced with the following: “602.4.1 Type IV-A. Building elements in Type IV-A construction shall be protected in accordance with Sections 602.4.1.1 through 602.4.1.6. The required fire-resistance

rating of non-combustible elements and protected mass timber elements shall be determined in accordance with Section 703.2 or Section 703.3.”

(5) In IBC, Section 602, a new section is added as follows: “602.4.1.1 Exterior Protection. The outside face of exterior walls of mass timber construction shall be protected with non-combustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering shall be on non-combustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m<sup>2</sup>, a total heat release of less than 20 MJ/m<sup>2</sup> and an effective heat of combustion of less than 18 MJ/kg as determined in accordance with ASTM E1354 and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m<sup>2</sup>.”

(6) In IBC, Section 602, a new section is added as follows: “602.4.1.2 Interior Protection. Interior faces of all mass timber elements, including the inside faces of exterior mass timber walls and mass timber roofs, shall be protected with materials complying with Section 703.5.”

(7) In IBC, Section 602, a new section is added as follows: “602.4.1.2.1 Protection Time. Non-combustible protection shall contribute a time equal to or greater than times assigned in Table 722.7.1(1), but not less than 80 minutes. The use of materials and their respective protection contributions listed in Table 722.7.1(2) shall be permitted to be used for compliance with Section 722.7.1.”

(8) In IBC, Section 602, a new section is added as follows: “602.4.1.3 Floors. The floor assembly shall contain a non-combustible material not less than one inch in thickness above the mass timber. Floor finishes in accordance with Section 804 shall be permitted on top of the non-combustible material. The underside of floor assemblies shall be protected in accordance with Section 602.4.1.2.”

(9) In IBC, Section 602, a new section is added as follows: “602.4.1.4 Roofs. The interior surfaces of roof assemblies shall be protected in accordance with Section 602.4.1.2. Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.”

(10) In IBC, Section 602, a new section is added as follows: “602.4.1.5 Concealed spaces. Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the IMC, and shall comply with all applicable provisions of Section 718. Combustible construction forming concealed spaces shall be protected in accordance with Section 602.4.1.2.”

(11) In IBC, Section 602, a new section is added as follows: “602.4.1.6 Shafts. Shafts shall be permitted in accordance with Sections 713 and 718. Both the



shaft side and room side of mass timber elements shall be protected in accordance with Section 602.4.1.2.”

(12) In IBC, Section 602.4.2 is deleted and replaced with the following: “602.4.2 Type IV-B. Building elements in Type IV-B construction shall be protected in accordance with Sections 602.4.2.1 through 602.4.2.6. The required fire resistance rating of non-combustible elements or mass timber elements shall be determined in accordance with Section 703.2 or Section 703.3.”

(13) In IBC, Section 602, a new section is added as follows: “602.4.2.1 Exterior protection. The outside face of exterior walls of mass timber construction shall be protected with non-combustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering shall be of non-combustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m<sup>2</sup>, a total heat release of less than 20 MJ/m<sup>2</sup> and an effective heat of combustion of less than 18MJ/kg as determined in accordance with ASTM E1354, and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL 723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m<sup>2</sup>.”

(14) In IBC, Section 602, a new section is added as follows: “602.4.2.2 Interior protection. Interior faces of all mass timber elements, including the inside face of exterior mass timber walls and mass timber roofs, shall be protected, as required by this section, with materials complying with Section 703.5.”

(15) In IBC, Section 602, a new section is added as follows: “602.4.2.2.1 Protection time. Non-combustible protection shall contribute a time equal to or greater than times assigned in Table 722.7.1(1), but not less than 80 minutes. The use of materials and their respective protection contributions listed in Table 722.7.1(2) shall be permitted to be used for compliance with Section 722.7.1.”

(16) In IBC, Section 602, a new section is added as follows: “602.4.2.2.2 Protected area. All interior faces of all mass timber elements shall be protected in accordance with Section 602.4.2.2.1, including the inside face of exterior mass timber walls and mass timber roofs.

Exceptions: Unprotected portions of mass timber ceilings and walls complying with Section 602.4.2.2.4 and the following:

1. Unprotected portions of mass timber:

(a) ceilings, including attached beams, shall be permitted and shall be limited to an area equal to 20% of the floor area in any dwelling unit or fire area;

(b) walls, including attached columns, shall be permitted and shall be limited to an area equal to 40% of the floor area in any dwelling unit or fire area; or

(c) walls and ceilings, including attached columns and beams, in any dwelling unit or fire area shall be permitted in accordance with Section 602.4.2.2.3.

2. Mass timber columns and beams which are not an integral portion of walls or ceilings, respectively, shall be permitted to be unprotected without restriction of either aggregate area or separation from one another.”

(17) In IBC, Section 602, a new section is added as follows: “602.4.2.2.3 Mixed unprotected areas. In each dwelling unit or fire area, where both portions of ceilings and portions of walls are unprotected, the total allowable unprotected area shall be determined in accordance with Equation 6-1.

$(U_{tc}/U_{a\ c}) + (U_{tw}/U_{a\ w}) \leq 1$  (Equation 6-1) where:

$U_{tc}$  = Total unprotected mass timber ceiling areas

$U_{a\ c}$  = Allowable unprotected mass timber ceiling area conforming to Section 602.4.2.2.2, Exception 1

$U_{tw}$  = Total unprotected mass timber wall areas

$U_{a\ w}$  = Allowable unprotected mass timber wall area conforming to Section 602.4.2.2.2, Exception 2.”

(18) In IBC, Section 602, a new section is added as follows: “602.4.2.2.4 Separation distance between unprotected mass timber elements. In each dwelling unit or fire area, unprotected portions of mass timber walls and ceilings shall be not less than 15 feet from unprotected portions of other walls and ceilings, measured horizontally along the ceiling and from other unprotected portions of walls measured horizontally along the floor.”

(19) In IBC, Section 602, a new section is added as follows: “602.4.2.3 Floors. The floor assembly shall contain a non-combustible material not less than one inch in thickness above the mass timber. Floor finishes in accordance with Section 804 shall be permitted on top of the non-combustible material. The underside of floor assemblies shall be protected in accordance with Section 602.4.1.2.”

(20) In IBC, Section 602, a new section is added as follows: “602.4.2.4 Roofs. The interior surfaces of roof assemblies shall be protected in accordance with Section 602.4.2.2 except, in non-occupiable spaces, they shall be treated as a concealed space with no portion left unprotected. Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.”

(21) In IBC, Section 602, a new section is added as follows: “602.4.2.5 Concealed spaces. Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the IMC, and shall comply with all applicable provisions of Section 718. Combustible construction forming concealed spaces shall be protected in accordance with Section 602.4.1.2.”

(22) In IBC, Section 602, a new section is added as follows: “602.4.2.6 Shafts. Shafts shall be permitted in accordance with Section 713 and Section 718. Both the shaft side and room side of mass timber elements shall be protected in accordance with Section 602.4.1.2.”

(23) In IBC, Section 602.4.3 is deleted and replaced with the following: “602.4.3 Type IV-C. Building elements in Type IV-C construction shall be protected in accordance with Sections 602.4.3.1 through 602.4.3.6. The required fire-resistance rating of building elements shall be determined in accordance with Section 703.2 or Section 703.3.”

(24) In IBC, Section 602, a new section is added as follows: “602.4.3.1 Exterior Protection. The exterior side of walls of combustible construction shall be protected with non-combustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1. All components of the exterior wall covering shall be of non-combustible material except water resistive barriers having a peak heat release rate of less than 150 kW/m<sup>2</sup>, a total heat release of less than 20 MJ/m<sup>2</sup> and an effective heat of combustion of less than 18MJ/kg as determined in accordance with ASTM E1354 and having a flame spread index of 25 or less and a smoke-developed index of 450 or less as determined in accordance with ASTM E84 or UL723. The ASTM E1354 test shall be conducted on specimens at the thickness intended for use, in the horizontal orientation and at an incident radiant heat flux of 50 kW/m<sup>2</sup>.”

(25) In IBC, Section 602, a new section is added as follows: “602.4.3.2 Interior protection. Mass timber elements are permitted to be unprotected.”

(26) In IBC, Section 602, a new section is added as follows: “602.4.3.3 Floors. Floor finishes in accordance with Section 804 shall be permitted on top of the floor construction.”

(27) In IBC, Section 602, a new section is added as follows: “602.4.3.4 Roofs. Roof coverings in accordance with Chapter 15 shall be permitted on the outside surface of the roof assembly.”

(28) In IBC, Section 602, a new section is added as follows: “602.4.3.5 Concealed spaces. Concealed spaces shall not contain combustibles other than electrical, mechanical, fire protection, or plumbing materials and equipment permitted in plenums in accordance with Section 602 of the IMC, and shall comply with all applicable provisions of Section 718. Combustible construction forming concealed spaces shall be protected with non-combustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1.”

(29) In IBC, Section 602, a new section is added as follows: “602.4.3.6 Shafts. Shafts shall be permitted in accordance with Section 713 and Section 718. Shafts and elevator hoistway and interior exit stairway enclosures shall be protected with non-combustible protection with a minimum assigned time of 40 minutes as determined in Section 722.7.1, on both the inside of the shaft and the outside of the shaft.”

(30) In IBC, Section 602, a new section is added as follows: “602.4.4 Type IV-HT. Type IV construction (Heavy Timber, HT) is that type of construction in which the exterior walls are of non-combustible materials and the interior building elements are of solid wood, laminated heavy timber or structural composite lumber (SCL), without concealed spaces. The minimum dimensions for permitted materials including solid timber, glued-laminated timber, structural composite lumber (SCL) and cross laminated timber (CLT) and details of Type IV construction shall comply with the provisions of this section and Section 2304.11. Exterior walls complying with Section 602.4.4.1 or 602.4.4.2 shall be permitted. Interior walls and partitions not less than one-hour fire-resistance rating or heavy timber conforming with Section 2304.11.2.2 shall be permitted.”

(31) In IBC, Section 602, a new section is added as follows: “602.4.4.1 Fire-retardant-treated wood in exterior walls. Fire-retardant-treated wood framing and sheathing complying with Section 2303.2 shall be permitted within exterior wall assemblies not less than 6 inches (152 mm) in thickness with a two-hour rating or less.”

(32) In IBC, Section 602, a new section is added as follows: “602.4.4.2 Cross-laminated timber in exterior walls. Cross-laminated timber complying with Section 2303.1.4 shall be permitted within exterior wall assemblies not less than 6 inches (152 mm) in thickness with a two-hour rating or less, provided the exterior surface of the cross-laminated timber is protected by one the following:

1. fire-retardant-treated wood sheathing complying with Section 2303.2 and not less than 15/32 inch (12 mm) thick;
2. gypsum board not less than 1/2 inch (12.7 mm) thick; or
3. a non-combustible material.”

(33) In IBC, Section 602, a new section is added as follows: “602.4.4.3 Exterior structural members. Where a horizontal separation of 20 feet (6096 mm) or more is provided, wood columns and arches conforming to heavy timber sizes complying with Section 2304.11 shall be permitted to be used externally.”

**Section 9. Section 15A-2a-204 is enacted to read:**

**15A-2a-204. Amendments to Chapter 7 of IBC.**

(1) In IBC, Section 703, a new section is added as follows: “703.8 Determination of non-combustible protection time contribution. The time, in minutes, contributed to the fire-resistance rating by the non-combustible protection of mass timber building elements, components, or assemblies, shall be established through a comparison of assemblies tested using procedures set forth in ASTM E119 or UL263. The test assemblies shall be identical in construction, loading, and materials, other than the non-combustible protection. The two test assemblies shall be tested to the same criteria of structural failure.”

(a) Test Assembly 1 shall be without protection.

(b) Test Assembly 2 shall include the representative non-combustible protection. The protection shall be fully defined in terms of configuration details, attachment details, joint sealing details, accessories and all other relevant details.

The non-combustible protection time contribution shall be determined by subtracting the fire-resistance time, in minutes, of Test Assembly 1 from the fire-resistance time, in minutes, of Test Assembly 2.”

(2) In IBC, Section 703, a new section is added as follows: “703.9 Sealing of adjacent mass timber elements. In buildings of Type IV-A, IV-B, and IV-C construction, sealant or adhesive shall be provided to resist the passage of air in the following locations:

1. At abutting edges and intersections of mass timber building elements required to be fire-resistance-rated.

2. At abutting intersections of mass timber building elements and building elements of other materials where both are required to be fire-resistance-rated.

Sealants shall meet the requirements of ASTM C920. Adhesives shall meet the requirements of ASTM D3498.

Exception: Sealants or adhesives need not be provided where they are not a required component of a tested fire-resistance-rated assembly.”

(3) In IBC, Section 718.2.1 is deleted and replaced with the following: “718.2.1 Fireblocking materials. Fireblocking shall consist of the following materials:

1. Two-inch (51 mm) nominal lumber.

2. Two thicknesses of 1-inch (25 mm) nominal lumber with broken lap joints.

3. One thickness of 0.719-inch (18.3 mm) wood structural panels with joints backed by 0.719-inch (18.3 mm) wood structural panels.

4. One thickness of 0.75-inch (19.1 mm) particleboard with joints backed by 0.75-inch (19 mm) particleboard.

5. 1/2 inch (12.7 mm) gypsum board.

6. 1/4 inch (6.4 mm) cement-based millboard.

7. Batts or blankets of mineral wool, mineral fiber or other approved materials installed in such a manner as to be securely retained in place.

8. Cellulose insulation installed as tested for the specific application.

9. Mass timber complying with Section 2304.11.”

(4) In IBC, Section 722, a new section is added as follows: “722.7 Fire-Resistance rating of mass timber. The required fire resistance of mass timber elements in Section 602.4 shall be determined in accordance with Section 703.2 or Section 703.3. The

fire-resistance rating of building elements shall be as required in Tables 601 and 602 and as specified elsewhere in this code. The fire-resistance rating of the mass timber elements shall consist of the fire-resistance of the unprotected element added to the protection time of the non-combustible protection.”

(5) In IBC, Section 722, a new section is added as follows: “722.7.1 Minimum required protection. Where required by Sections 602.4.1 through 602.4.3, non-combustible protection shall be provided for mass timber building elements in accordance with Table 722.7.1(1). The rating, in minutes, contributed by the non-combustible protection of mass timber building elements, components, or assemblies, shall be established in accordance with Section 703.8. The protection contributions indicated in Table 722.7.1(2) and Section 722.7.2 shall be deemed to comply with this requirement when installed and fastened in accordance with Section 722.7.2.”

(6) In IBC, Section 722, a new table is added as follows: “TABLE 722.7.1(1)

PROTECTION REQUIRED FROM  
NON-COMBUSTIBLE COVERING MATERIAL

<u>Required Fire Resistance Rating of Building Element per Tables 601 and 602 (hours)</u>	<u>Minimum Protection Required from Non-combustible</u>
<u>Non-combustible</u>	
<u>1</u>	<u>40</u>
<u>2</u>	<u>80</u>
<u>3 or more</u>	<u>120”</u>

(7) In IBC, Section 722, a new table is added as follows: “TABLE 722.7.1(2)

PROTECTION PROVIDED BY  
NON-COMBUSTIBLE COVERING MATERIAL

<u>Non-combustible Protection</u>	<u>Protection (minutes)</u>
<u>1/2 inch Type X Gypsum</u>	<u>25</u>
<u>5/8 inch Type X Gypsum Board</u>	<u>40”</u>

(8) In IBC, Section 722, a new section is added as follows: “722.7.2 Installation of gypsum board non-combustible protection. Gypsum board complying with Table 722.7.1(2) shall be installed in accordance with this section.”

(9) In IBC, Section 722, a new section is added as follows: “722.7.2.1 Interior surfaces. Layers of Type X gypsum board serving as non-combustible protection for interior surfaces of wall and ceiling assemblies determined in accordance with Table 722.7.1(1) shall be installed in accordance with the following:

1. Each layer shall be attached with Type S drywall screws of sufficient length to penetrate the mass timber at least 1 inch when driven flush with the paper surface of the gypsum board.

Exception: The third layer, where determined necessary by Section 722.7, shall be permitted to be attached with 1 inch #6 Type S drywall screws to furring channels in accordance with ASTM C645.

2. Screws for attaching the base layer shall be 12 inches on center in both directions.

3. Screws for each layer after the base layer shall be 12 inches on center in both directions and offset from the screws of the previous layers by 4 inches in both directions.

4. All panel edges of any layer shall be offset 18 inches from those of the previous layer.

5. All panel edges shall be attached with screws sized and offset as in items 1 through 4 above and placed at least 1 inch but not more than 2 inches from the panel edge.

6. All panels installed at wall-to-ceiling intersections shall be installed such that ceiling panels are installed first and the wall panels are installed after the ceiling panel has been installed and is fitted tight to the ceiling panel. Where multiple layers are required, each layer shall repeat this process.

7. All panels installed at a wall-to-wall intersection shall be installed such that the panels covering an exterior wall or a wall with a greater fire resistance rating shall be installed first and the panels covering the other wall shall be fitted tight to the panel covering the first wall. Where multiple layers are required, each layer shall repeat this process.

8. Panel edges of the face layer shall be taped and finished with joint compound. Fastener heads shall be covered with joint compound.

9. Panel edges protecting mass timber elements adjacent to unprotected mass timber elements in accordance with Section 602.4.2.2 shall be covered with 1-1/4 inch metal corner bead and finished with joint compound."

(10) In IBC, Section 722, a new section is added as follows: "722.7.2.2 Exterior surfaces. Layers of Type X gypsum board serving as non-combustible protection for the outside of the exterior heavy timber walls determined in accordance with Table 722.7.1(1) shall be fastened 12 inches on center each way and 6 inches on center at all joints or ends. All panel edges shall be attached with fasteners located at least 1 inch but not more than 2 inches from the panel edge. Fasteners shall comply with one of the following:

1. Galvanized nails of minimum 12 gauge with a 7/16 inch head of sufficient length to penetrate the mass timber a minimum of 1 inch.

2. Screws which comply with ASTM C1002 (Type S, Type W, or Type G) of sufficient length to penetrate the mass timber a minimum of 1 inch."

(11) In IBC, Section 1705, a new section is added as follows: "1705.19 Sealing of mass timber. Periodic special inspections of sealants or adhesives shall be conducted where sealant or adhesive

required by Section 703.9 is applied to mass timber building elements as designated in the approved construction documents."

(12) In IBC, Section 3102.3 is deleted and replaced with the following: "3102.3 Type of construction. Non-combustible membrane structures shall be classified as Type IIB construction. Non-combustible frame or cable-supported structures covered by an approved membrane in accordance with Section 3102.3.1 shall be classified as Type IIB construction. Heavy timber frame-supported structures covered by an approved membrane in accordance with Section 3102.3.1 shall be classified as Type IV-HT construction. Other membrane structures shall be classified as Type V construction.

Exception: Plastic less than 30 feet (9144 mm) above any floor used in greenhouses, where occupancy by the general public is not authorized, and for aquaculture pond covers is not required to meet the fire propagation performance criteria of Test Method 1 or Test Method 2, as appropriate, of NFPA 701."

(13) In IBC, Section 3102.6.1.1 is deleted and replaced with the following: "3102.6.1.1 Membrane. A membrane meeting the fire propagation performance criteria of Test Method 1 or Test Method 2, as appropriate, of NFPA 701 shall be permitted to be used as the roof or as a skylight on buildings of Type IIB, III, IV-HT and V construction, provided that the membrane is not less than 20 feet (6096 mm) above any floor, balcony or gallery."

## **Section 10. Section 15A-2a-301 is enacted to read:**

### **Part 3. Statewide Amendments to International Fire Code**

#### **15A-2a-301. Amendments to Chapter 7 of IFC.**

In IFC, Section 701.6 is deleted and replaced with the following: "701.6 Owner's responsibility. The owner shall maintain an inventory of all required fire-resistance-rated construction, construction installed to resist the passage of smoke and the construction included in Sections 703 through 707 and Sections 602.4.1 and 602.4.2 of the International Building Code. Such construction shall be visually inspected by the owner annually and properly repaired, restored or replaced where damaged, altered, breached or penetrated. Records of inspections and repairs shall be maintained. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or similar movable entry to the space."

## **Section 11. Section 15A-2a-302 is enacted to read:**

#### **15A-2a-302. Amendments to Chapters 9 and 33 of IFC.**

(1) In IFC, Section 914.3.1.2 is deleted and replaced with the following: "914.3.1.2 Water supply to required fire pumps. In all buildings that

are more than 420 feet (128m) in building height, and buildings of Type IV-A and IV-B construction that are more than 120 feet in building height, required fire pumps shall be supplied by connections to not fewer than two water mains located in different streets. Separate supply piping shall be provided between the connection and the pumps shall be sized to supply the flow and pressure required for the pumps to operate.

Exception: Two connections to the same main shall be permitted provided that the main is valved such that an interruption can be isolated so that the water supply will continue without interruption through not fewer than one of the connections.”

(2) In IFC, Section 3308, a new section is added as follows: “3308.9 Fire safety requirements for buildings of Types IV-A, IV-B, and IV-C construction. Buildings of Types IV-A, IV-B, and IV-C construction designed to be greater than six stories above grade plane shall comply with the following requirements during construction unless otherwise approved by the fire code official:

1. Standpipes shall be provided in accordance with Section 3313.

2. A water supply for fire department operations, as approved by the fire code official and the fire chief.

3. Where building construction exceeds six stories above grade plane, at least one layer of non-combustible protection where required by Section 602.4 of the International Building Code shall be installed on all building elements more than 4 floor levels, including mezzanines, below active mass timber construction before erecting additional floor levels.

Exception: Shafts and vertical exit enclosures shall not be considered a part of the active mass timber construction.

4. Where building construction exceeds six stories above grade plane required exterior wall coverings shall be installed on all floor levels more than 4 floor levels, including mezzanines, below active mass timber construction before erecting additional floor level.

Exception: Shafts and vertical exit enclosures shall not be considered a part of the active mass timber construction.”

**Section 12. Section 15A-2a-401 is enacted to read:**

**Part 4. Reference Standards**

**15A-2a-401. Reference Standards.**

ASTM

D3498-03(2011): Standard Specification for Adhesives for Field-Gluing Plywood to Lumber Framing for Floor Systems

ASTM International

100 Barr Harbor Drive,

P.O. Box C700

West Conshohocken, PA 19428-2959

**CHAPTER 44****H. B. 56**

Passed March 3, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**FUEL SALES TAX AMENDMENTS**

Chief Sponsor: Rex P. Shipp  
 Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill modifies provisions related to the taxation of the sale of certain fuels furnished to a location through a single meter.

**Highlighted Provisions:**

This bill:

- ▶ addresses the taxable status of a sale of certain fuels where the fuel is furnished through a single meter for a combination of commercial, industrial, or residential uses; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

59-12-103, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479  
 59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486

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

**Section 1. Section 59-12-103 is amended to read:****59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) consumed; and
- (m) amounts paid or charged for a sale:
  - (i) (A) of a product transferred electronically; or
  - (B) of a repair or renovation of a product transferred electronically; and
  - (ii) regardless of whether the sale provides:
    - (A) a right of permanent use of the product; or
    - (B) a right to use the product that is less than a permanent use, including a right:
      - (I) for a definite or specified length of time; and
      - (II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

- (A) (I) through March 31, 2019, 4.70%; and
- (II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a

product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);



(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of

revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents

a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under

Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and

(ii) for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (13)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

**Section 2. Section 59-12-104 is amended to read:**

**59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are,

seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);



(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”;

(D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(iii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political

entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is

designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

- (iii) installed or converted to real property:
- (A) owned or operated by the new airport described in Subsection (67)(b);
- (B) located at the new airport described in Subsection (67)(b); and
- (C) as part of the construction of the new airport described in Subsection (67)(b);
- (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- (69) purchases and sales described in Section 63H-4-111;
- (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or
- (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;
- (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- (a) to a person admitted to an institution of higher education; and
- (b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;
- (72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;
- (73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:
- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;
- (74) amounts paid or charged for:
- (a) a purchase or lease of machinery and equipment that:
- (i) are used in performing qualified research:
- (A) as defined in Section 41(d), Internal Revenue Code; and
- (B) in the state; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts:
- (i) for the machinery and equipment described in Subsection (74)(a); and
- (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- (a) for a sale:
- (i) the ownership of the seller and the ownership of the purchaser are identical; and
- (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter; and
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter;
- (77) purchases of a short-term lodging consumable by a business that provides

accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2);

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

**CHAPTER 45****H. B. 57**

Passed February 21, 2020

Approved March 24, 2020

Effective January 1, 2021

**TOWING SIGNAGE REVISIONS**

Chief Sponsor: A. Cory Maloy  
Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill revises provisions related to towing.

**Highlighted Provisions:**

This bill:

- ▶ prohibits towing from private property unless certain requirements are met;
- ▶ allows political subdivisions and state agencies to enforce certain towing regulations;
- ▶ provides certain signage requirements where parking is enforced by towing;
- ▶ allows towing from property without signage after providing 24 hour written notice;
- ▶ establishes an affirmative defense to certain claims arising from towing; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

72-9-603, as last amended by Laws of Utah 2019, Chapter 373

72-9-604, as last amended by Laws of Utah 2019, Chapter 373

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

**Section 1. Section 72-9-603 is amended to read:****72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.**

(1) Except for a tow truck service that was ordered by a peace officer, [or] a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) description, including the identification number, license number, or other identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the current address, notifying the party of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection [47] (16)(e).

(2) [4a] Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

[4] (a) collect any fee associated with the removal; or

[4ii] (b) begin charging storage fees.

~~[(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):]~~

~~[(A) a mobile home park as defined in Section 57-16-3; or]~~

~~[(B) a multifamily dwelling of more than eight units.]~~



~~[(ii) Signage under Subsection (2)(b)(i) shall display:]~~

~~[(A) where parking is subject to towing; and]~~

~~[(B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or]~~

~~[(II) one of the following:]~~

~~[(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or]~~

~~[(Bb) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.]~~

~~[(c) Signage is not required under Subsection (2)(b) for parking in a location:]~~

~~[(i) that is prohibited by law; or]~~

~~[(ii) if it is reasonably apparent that the location is not open to parking.]~~

~~[(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.]~~

(3) (a) Except as provided in Subsection (3)(b) or (9), a tow truck operator or tow truck motor carrier may not perform a tow truck service at the request or direction of a private property owner or the property owner's agent unless:

(i) the owner or a lien holder of the vehicle, vessel, or outboard motor consents to the tow truck service; or

(ii) the property owner erects signage that meets the requirements of:

(A) Subsection (4)(b)(ii); and

(B) Subsection (7) or (8).

(b) Subsections (7) through (9) do not apply to the removal of a vehicle, vessel, or outboard motor:

(i) from a location where parking is prohibited by law, including:

(A) a designated fire lane;

(B) within 15 feet of a fire hydrant, unless the vehicle is parked in a marked parking stall or space; or

(C) a marked parking stall or space legally designated for disabled persons;

(ii) from a location where it is reasonably apparent that the location is not open to parking;

(iii) from a location where all public access points are controlled by:

(A) a permanent gate, door, or similar feature allowing the vehicle to access the facility; or

(B) a parking attendant;

(iv) from a location that materially interferes with access to private property;

(v) from the property of a detached single-family dwelling or duplex; or

(vi) pursuant to a legal repossession.

(4) (a) A private property owner may, subject to the requirements of a local ordinance, enforce parking restrictions by:

(i) authorizing a tow truck motor carrier to patrol and monitor the property and enforce parking restrictions on behalf of the property owner in accordance with Subsection (7);

(ii) enforcing parking restrictions as needed by requesting a tow from a tow truck motor carrier on a case-by-case basis in accordance with Subsection (8); or

(iii) requesting a tow from a tow truck motor carrier after providing 24-hour written notice in accordance with Subsection (9).

(b) (i) Any agreement between a private property owner and tow truck motor carrier authorizing the tow truck motor carrier to patrol and monitor the property under Subsection (4)(a)(i) shall include specific terms and conditions for the tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the property.

(ii) In addition to the signage described in Subsection (7) or (8), a private property owner who allows public parking shall erect appropriate signage on the property indicating clear instructions for parking at the property.

(iii) Where a single parking area includes abutting parcels of property owned by two or more private property owners who enforce different parking restrictions under Subsection (7) or (8), each property owner shall, in addition to the requirements under Subsection (7) or (8), erect signage as required by this section:

(A) at each entrance to the property owner's parcel from another property owner's parcel; and

(B) if there is no clearly defined entrance between one property owner's parcel and another property owner's parcel, at intervals of 40 feet or less along the line dividing the property owner's parcel from the other property owner's parcel.

(iv) Where there is no clearly defined entrance to a parking area from a highway, the property owner shall erect signage as required by this section at intervals of 40 feet or less along any portion of a property line where a vehicle, vessel, or outboard motor may enter the parking area.

(5) Nothing in Subsection (3) or (4) restricts the ability of a private property owner from, subject to the provisions of this section, instituting and enforcing regulations for parking at the property.

(6) In addition to any other powers provided by law, a political subdivision or state agency may:

(a) enforce parking restrictions in accordance with Subsections (7) through (9) on property that is:

(i) owned by the political subdivision or state agency;

(ii) located outside of the public right-of-way; and

(iii) open to public parking; and

(b) request or direct a tow truck service in order to abate a public nuisance on private property over which the political subdivision or state agency has jurisdiction.

(7) For private property where parking is enforced under Subsection (4)(a)(i), the property owner shall ensure that each entrance to the property has the following signs located on the property and clearly visible to the driver of a vehicle entering the property:

(a) a top sign that is 24 inches tall by 18 inches wide and has:

(i) a blue, reflective background with a 1/2 inch white border;

(ii) two-inch, white letters at the top of the sign with the capitalized words "Lot is Patrolled";

(iii) a white towing logo that is six inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed; and

(iv) two-inch, white letters at the bottom of the sign with the capitalized words "Towing Enforced"; and

(b) a bottom sign that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) a top half that is red background with white, reflective letters indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

(ii) a bottom half that has a white, reflective background with red letters indicating:

(A) the name and telephone number of the tow truck motor carrier that the property owner has authorized to patrol the property; and

(B) the Internet web address "tow.utah.gov".

(8) For private property where parking is enforced under Subsection (4)(a)(ii):

(a) a tow truck motor carrier may not:

(i) patrol and monitor the property;

(ii) perform a tow truck service without the written or verbal request of the property owner or the property owner's agent; or

(iii) act as the property owner's agent to request a tow truck service; and

(b) the property owner shall ensure that each entrance to the property has a clearly visible sign located on the property that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) at the top of the sign, a blue background with a white, reflective towing logo that is at least four inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed;

(ii) immediately below the towing logo described in Subsection (8)(b)(i), a blue background with white, reflective letters at least two inches tall with the capitalized words "Towing Enforced";

(iii) in the middle of the sign, a red background with white, reflective letters at least one inch tall indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

(iv) at the bottom of the sign, a white, reflective background with red letters at least one inch tall indicating:

(A) either:

(I) the name and telephone number of the property owner or the property owner's agent who is authorized to request a tow truck service; or

(II) the name and telephone number of the tow truck motor carrier that provides tow truck services for the property; and

(B) the Internet web address "tow.utah.gov".

(9) (a) For private property without signage meeting the requirements of Subsection (7) or (8), the property owner may request a tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the private property 24 hours after the property owner or the property owner's agent affixes a written notice to the vehicle, vessel, or outboard motor in accordance with this Subsection (9).

(b) The written notice described in Subsection (9)(a) shall:

(i) indicate the exact time when the written notice is affixed to the vehicle, vessel, or outboard motor;

(ii) warn the owner of the vehicle, vessel, or outboard motor that the vehicle, vessel, or outboard motor will be towed from the property if it is not removed within 24 hours after the time indicated in Subsection (9)(b)(i);

(iii) be at least four inches tall and four inches wide; and

(iv) be affixed to the vehicle, vessel, or outboard motor at a conspicuous location on the driver's side window of the vehicle, vessel, or outboard motor.

(c) A property owner may authorize a tow truck motor carrier to act as the property owner's agent for purposes of affixing the written notice described

in Subsection (9)(a) to a vehicle, vessel, or outboard motor.

(10) The department shall publish on the department Internet website the signage requirements and written notice requirements and illustrated or photographed examples of the signage and written notice requirements described in Subsections (7) through (9).

(11) It is an affirmative defense to any claim, based on the lack of notice, that arises from the towing of a vehicle, vessel, or outboard motor from private property that the property had signage meeting the requirements of:

(a) Subsection (4)(b)(ii); and

(b) Subsection (7) or (8).

[(3)] (12) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection [(7)] (16); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

[(4)] (13) (a) The fees under Subsection [(3)] (12) are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

(b) The tow truck operator or tow truck motor carrier shall securely store the vehicle, vessel, or outboard motor and items described in Subsection [(4)] (13)(a) in an approved state impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor:

(i) pays the fees described in Subsection [(3)] (12); and

(ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

[(5)] (14) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice has been sent under Subsection (1)(b):

(i) pay the fees described in Subsection [(3)] (12); and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) A person may not request a transfer of title to an abandoned vehicle, vessel, or outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

[(6)] (15) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable

forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection [(7)] (16).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

[(7)] (16) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall:

(a) subject to the restriction in Subsection [(8)] (17), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection [(7)] (16)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal.

~~[(8)]~~ (17) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

~~[(9)]~~ (18) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by the department in rules made under Subsection ~~[(7)]~~ (16).

(ii) In addition to the maximum rates established under Subsection ~~[(7)]~~ (16) and when receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an impound yard may charge a credit card processing fee of 3% of the transaction total.

(b) A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in rules made pursuant to Subsection ~~[(7)]~~ (16).

~~[(40)]~~ (19) When a tow truck motor carrier or impound lot is in possession of a vehicle, vessel, or outboard motor as a result of a tow service that was performed without the consent of the owner, and that was not ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck motor carrier or impound yard shall make personnel available:

(a) by phone 24 hours a day, seven days a week; and

(b) to release the impounded vehicle, vessel, or outboard motor to the owner within one hour of when the owner calls the tow truck motor carrier or impound yard.

**Section 2. Section 72-9-604 is amended to read:**

**72-9-604. Preemption of local authorities -- Tow trucks.**

(1) (a) Notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor carrier, tow truck operator, or tow truck that conflicts with:

(i) any provision of this part;

(ii) Section 41-6a-1401;

(iii) Section 41-6a-1407; or

(iv) rules made by the department under this part.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

(i) is holding the vehicle, vessel, or outboard motor as evidence; and

(ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(2) A tow truck motor carrier that has a county or municipal business license for a place of business located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a business location in the other county or municipality.

(3) A county or municipal legislative or governing body may not require a tow truck motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing certificate by the department, as described in Section 72-9-602, to obtain an additional towing certificate.

(4) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

(a) no fee is charged for the inspection; and

(b) the inspection complies with federal motor carrier safety regulations.

(5) A tow truck shall be subject to only one annual safety inspection under Subsection (4)(b). A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

(6) (a) Beginning on July 1, 2021, a political subdivision or state agency may not charge an applicant a fee or charge related to dispatch costs in order to be part of the towing rotation of that political subdivision or state agency.

(b) In addition to the fees set by the department in rules made in accordance with Subsection 72-9-603~~[(7)]~~(16), a tow truck motor carrier may charge a fee to cover the costs of a dispatch charge described in Subsection (6)(a).

(c) The amount of the fee described in Subsection (6)(b) may not exceed the amount charged to the tow truck motor carrier by the political subdivision or state agency for dispatch services.

(d) A political subdivision or state agency that does not charge a dispatch fee as of January 1, 2019, may not charge a dispatch fee described in Subsection (6)(a).

(7) A towing entity may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information for inclusion of the tow truck motor carrier on a rotation.

(8) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck operator that responds may not respond to the location in a

tow truck that is owned by a tow truck motor carrier that is different than the tow truck motor carrier that was dispatched.

**Section 3. Effective date.**

This bill takes effect on January 1, 2021.

**CHAPTER 46****H. B. 60**

Passed March 5, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020  
 Exception clause

**CORPORATE INCOME  
 TAX CREDIT AMENDMENTS**

Chief Sponsor: Stewart E. Barlow  
 Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill provides for the repeal of the corporate Achieving a Better Life Experience Program income tax credit.

**Highlighted Provisions:**

This bill:

- ▶ provides that a corporate contributor to an Achieving a Better Life Experience Program account may claim the income tax credit for the 2020 taxable year only; and
- ▶ schedules the repeal of the corporate Achieving a Better Life Experience Program income tax credit.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-7-620, as last amended by Laws of Utah 2017, Chapter 222  
 63I-2-259, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

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

**Section 1. Section 59-7-620 is amended to read:**

**59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.**

- (1) As used in this section:
- (a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.
- (b) "Contributor" means a corporation that:
- (i) makes a contribution to an account; and
- (ii) receives a statement from the qualified ABLE program itemizing the contribution.
- (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.
- (d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.
- (2) [A] For a taxable year beginning on or after January 1, 2020, but beginning on or before

December 31, 2020, a contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

- (a) 5%; and
- (b) the total amount of contributions:
- (i) the contributor makes for the taxable year; and
- (ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

- (a) for an amount of excess contribution to an account that is returned to the contributor; or
- (b) with respect to an amount the contributor deducts on a federal income tax return.
- (5) A tax credit under this section may not be carried forward or carried back.

**Section 2. Section 63I-2-259 is amended to read:**

**63I-2-259. Repeal dates -- Title 59.**

~~[(1) Section 59-1-102 is repealed on May 14, 2019.]~~

~~[(2) (1) In Section 59-2-926, the language that states "applicable" and "or 53F-2-301.5" is repealed July 1, 2023.~~

~~[(3) Subsection 59-2-1007(15) is repealed on December 31, 2018.]~~

(2) Section 59-7-620 is repealed December 31, 2021.

**Section 3. Retrospective operation.**

(1) Except as provided in Subsection (2), this bill has retrospective operation for a taxable year beginning on or after January 1, 2020.

(2) The amendments to Section 63I-2-259 take effect on May 12, 2020.

**CHAPTER 47****H. B. 61**

Passed March 3, 2020  
 Approved March 24, 2020  
 Effective March 24, 2020  
 Exception clause

**AMENDMENTS TO COUNTY  
 FORM OF GOVERNMENT**

Chief Sponsor: Logan Wilde  
 Senate Sponsor: Ronald Winterton

**LONG TITLE****General Description:**

This bill amends provisions related to changing a county form of government.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ provides a grandfather provision for counties that have initiated the process to change the county's form of government as of the effective date of this bill;
- ▶ authorizes, without an election, the establishment of a committee to study changing the county form of government after a successful petition or motion of a county legislative body;
- ▶ after a completed process to change the county form of government, prohibits the county legislative body or registered voters from initiating the process again until four years after the new county officers are elected;
- ▶ removes certain procedural restrictions based on county population size;
- ▶ amends the signature thresholds for a citizen petition to establish a study committee or propose an optional plan for adoption and prohibits the use of electronic signatures;
- ▶ requires petition sponsors to file financial disclosures;
- ▶ amends study committee membership and qualifications;
- ▶ limits the time frame allowed for a study committee to alter its proposed optional plan;
- ▶ prohibits a proposed optional plan from including certain provisions, including language specifying districts of county officials or compensation;
- ▶ limits the citizens or the county legislative body of a county of the fifth or sixth class to proposing either the county commission or expanded county commission form of government;
- ▶ requires the county to hold an election on a proposed optional plan at the next regular general election that is no sooner than 65 days after the county attorney submits a report on the proposed optional plan;
- ▶ requires the county clerk to prepare a voter information pamphlet on a proposed optional plan;
- ▶ after an election in which an optional plan is adopted, requires the county legislative body to adopt geographic district boundaries, compensation, and benefits for new county officers;

- ▶ repeals Title 17, Chapter 35b, Consolidation of Local Government Units and other provisions; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:****AMENDS:**

- 17-52a-102, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-103, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-104, as enacted by Laws of Utah 2018, Chapter 68
- 17-52a-301, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-302, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-303, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-305, as enacted by Laws of Utah 2018, Chapter 68
- 17-52a-402, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-403, as last amended by Laws of Utah 2019, Chapter 136
- 17-52a-404, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-405, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-406, as last amended by Laws of Utah 2019, Chapter 136
- 17-52a-501, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-502, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-503, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 20A-1-203, as last amended by Laws of Utah 2019, Chapter 165
- 63I-2-217, as last amended by Laws of Utah 2019, Chapters 136, 252, 327, 384, 510 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384

**REPEALS:**

- 17-52a-304, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-401, as renumbered and amended by Laws of Utah 2018, Chapter 68 Utah Code Sections Affected by Revisor Instructions:
- 17-52a-103, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-104, as enacted by Laws of Utah 2018, Chapter 68

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

**Section 1. Section 17-52a-102 is amended to read:****17-52a-102. Definitions.**

As used in this chapter:

~~[(1) “Appointment council” means a commission-initiated appointment council or a petition-initiated appointment council.]~~

~~[(2) “Commission-initiated appointment council” means, for a process to change a county’s form of government that is initiated by the county legislative body under Section 17-52a-302, a group of five individuals consisting of:]~~

~~[(a) a resident of the county in which the optional plan is proposed, designated by a majority of all state senators and representatives whose districts include any part of the county in which the optional plan is proposed;]~~

~~[(b) a resident of the county in which the optional plan is proposed, designated by the county legislative body; and]~~

~~[(c) (i) if registered voters qualify to select a member of an appointment council under Subsection 17-52a-303(6);]~~

~~[(A) a resident of the county in which the optional plan is proposed, designated by the petition sponsors; and]~~

~~[(B) two other residents of the county in which the optional plan is proposed, designated by majority vote of the three other members of the appointment council; or]~~

~~[(ii) if registered voters do not qualify to select a member of an appointment council under Subsection 17-52a-303(6), three other residents of the county in which the optional plan is proposed, designated individually by:]~~

~~[(A) a unanimous vote of the commission-initiated appointment council members described in Subsections (2)(a) and (b); or]~~

~~[(B) if the commission-initiated appointment council members described in Subsections (2)(a) and (b) cannot reach a unanimous vote to fill an appointment council member position, the legislators described in Subsection (2)(a), who shall, by a majority vote, designate an individual to fill the appointment council member position.]~~

~~[(3) (1) “Optional plan” means a plan establishing an alternate form of government for a county as provided in Section 17-52a-404.~~

~~[(4) “Petition-initiated appointment council” means, for a process to change a county’s form of government that registered voters initiate under Section 17-52a-303, the five sponsors described in Subsection 17-52a-303(1)(b)(i).]~~

~~[(5) (2) “Study committee” means the committee that [has seven members;] has five members appointed and charged with the duties as provided in Section 17-52a-403.~~

~~[(a) appointed under Section 17-52a-401; and]~~

~~[(b) charged with the duties provided in Section 17-52a-403.]~~

**Section 2. Section 17-52a-103 is amended to read:**

**17-52a-103. Forms of county government -- County commission form required unless another is adopted -- Restrictions on form of county government.**

(1) Subject to Subsection (2), each county shall operate under one of the following forms of county government:

(a) the county commission form under Section 17-52a-201;

(b) the expanded county commission form under Section 17-52a-202;

(c) the county executive and council form under Section 17-52a-203; or

(d) the council-manager form under Section 17-52a-204.

(2) Unless a county adopts another form of government as provided in this chapter, the county shall operate under the county commission form of government under Section 17-52a-201.

(3) (a) In a county that operates under a form of government that is not described in Subsection (2):

(i) the county’s legislative body shall, before July 1, 2018, initiate the process under Section 17-52a-302 of changing the county’s form of government;

(ii) the county shall hold a special election [described in Section 17-52a-304] on November 6, 2018;

(iii) if the voters approve the appointment of a study committee at the special election described in Subsection (3)(a)(ii):

(A) the study committee may not recommend under Section 17-52a-403 that the county retain the county’s current form of government; and

(B) the county shall hold an election described in Section 17-52a-501 before December 31, 2020, on an optional plan that the study committee creates; and

(iv) the registered voters of the county may not repeal an optional plan under Section 17-52a-505 that is adopted at an election described in Subsection (3)(a)(iii)(B).

(b) If the voters of a county described in Subsection (3)(a) do not approve a change in the county’s form of government at an election described in Subsection (3)(a)(iii)(B) before December 31, 2020:

(i) the county shall operate under the county commission form of government under Section 17-52a-201 [in the same manner that a county is required under Subsection 17-52a-102(2) to operate under that form of government if the county does not adopt another form of government]; and

(ii) the county shall transition to the form of government described in Subsection (3)(b)(i) in the same manner as if the voters of the county had



approved the change in the form of government described in Subsection (3)(b)(i) in the applicable election described in Subsection (3)(b).

(4) In a county of the fifth or sixth class, if the county legislative body under Section 17-52a-302 or the registered voters under Section 17-52a-303, after the effective date of this bill, initiate the process to adopt an optional plan, the proposed optional plan may only propose a form of government authorized under Section 17-52a-405.

**Section 3. Section 17-52a-104 is amended to read:**

**17-52a-104. Applicability of former provisions to pending process.**

(1) (a) If, on March 15, 2018, a county is under a pending process described in Subsection [(2)] (1)(b) to change the county's form of government:

[(a)] (i) except as provided in this section, the provisions of Laws of Utah 2018, Chapter 68 do not apply to that pending process; and

[(b)] (ii) that pending process is governed by:

[(4)] (A) the provisions of law that were in effect on March 14, 2018;

[(ii)] (B) Subsection 17-52a-301(3) as it was in effect on the day immediately before the day on which this bill takes effect;

[(iii)] (C) Subsections 17-52a-501(1)(a) and (3)(a) as each was in effect on the day immediately before the day on which this bill takes effect; and

[(iv)] (D) Subsection [(3)] (1)(c) as it was in effect on the day immediately before the day on which this bill takes effect.

[(2)] (b) A process of changing a county's form of government is pending under Subsection (1)(a) if, as of March 15, 2018:

[(a)] (i) (A) the county legislative body had adopted a resolution in accordance with the provisions of law that were in effect on March 14, 2018 to change the county's form of government; or

[(ii)] (B) registered voters had begun collecting signatures in accordance with the provisions of law that were in effect on March 14, 2018 for a petition to change the county's form of government; and

[(b)] (ii) the process of changing the county's form of government initiated under Subsection [(2)(a)] (1)(b)(i) has not concluded.

[(3) (a)] (c) (i) To continue a pending process described in Subsection [(2)(a)(ii)] (1)(b)(i)(B), registered voters that initiated the process shall submit a sufficient number of valid signatures to the county clerk within 180 days after March 15, 2018.

[(b)] (ii) If the registered voters fail to comply with Subsection [(3)(a)] (1)(c)(i), the pending process is concluded under Subsection 17-52a-301(3)(a)[(v)](v)(A).

(2) (a) If, on the effective date of this bill, a county is under a pending process described in Subsection (2)(b) to change the county's form of government:

(i) except as provided in this Subsection (2), the provisions of this bill do not apply to that pending process; and

(ii) that pending process is governed by:

(A) the provisions of law that were in effect on the day immediately before the day on which this bill takes effect; and

(B) Subsection (2)(c).

(b) A process of changing a county's form of government is pending under Subsection (1) if, on the effective date of this bill:

(i) (A) the county legislative body had adopted a resolution in accordance with the provisions of law that were in effect on the day immediately before the day on which this bill takes effect to change the county's form of government; or

(B) registered voters had begun collecting signatures in accordance with the provisions of law that were in effect on the day immediately before the day on which this bill takes effect for a petition to change the county's form of government; and

(ii) the process of changing the county's form of government initiated under Subsection (2)(b)(i) has not concluded.

(c) (i) To continue a pending process described in Subsection (2)(b)(i)(B), registered voters that initiated the process shall submit a sufficient number of valid signatures to the county clerk within 180 days after the effective date of this bill.

(ii) If the registered voters fail to comply with Subsection (2)(c)(i), the pending process is concluded under Subsection 17-52a-301(3)(a)(v)(A).

**Section 4. Section 17-52a-301 is amended to read:**

**17-52a-301. Procedure for initiating adoption of optional plan -- Limitations -- Pending proceedings.**

(1) An optional plan proposing an alternate form of government for a county may be adopted as provided in this chapter.

(2) The process to adopt an optional plan establishing an alternate form of county government may be initiated by:

(a) the county legislative body as provided in Section 17-52a-302; or

(b) registered voters of the county as provided in Section 17-52a-303.

(3) (a) If the process to adopt an optional plan is initiated under Laws of Utah 1973, Chapter 26, Section 3, 4, or 5, or Section 17-52a-302 or 17-52a-303, or under a provision described in Subsection 17-52a-104[(2)] (1)(b) or (2)(b), the county legislative body may not initiate the process

again under Section 17-52a-302, and registered voters may not initiate the process again under Section 17-52a-303, until:

(i) the first initiated process concludes with an election under Section 17-52a-501;

(ii) the first initiated process concludes under Subsection 17-52a-403(7) because the study committee recommended that the county's form of government not change;

~~(iii) the first initiated process has not concluded but has been pending for at least two years after the day on which the voters approved the appointment of a study committee in an election described in Section 17-52a-304;~~

~~(iv) notwithstanding Subsection (3)(a)(iii), if an election on an optional plan under the first initiated process is scheduled under Section 17-52a-501, the conclusion of that election;~~

~~(v) (iii) the first initiated process concludes because registered voters fail to submit a sufficient number of valid signatures for a petition before the deadline described in Subsection 17-52a-303(2)(c); or~~

~~(vi) (iv) for a process governed by Section 17-52a-104, the first initiated process concludes:~~

~~(A) because registered voters fail to submit a sufficient number of valid signatures for a petition before the deadline described in Subsection 17-52a-104(3)(1)(c)(i) or (2)(c)(i); or~~

~~(B) under a provision described in Subsection 17-52a-104(1)(b)(a)(ii) or (2)(a)(ii).~~

(b) A county legislative body may not initiate the process to adopt an optional plan under Section 17-52a-302 within four years of an election at which voters ~~[approved or rejected]~~ first elect elected county officials in accordance with Section 17-52a-503 and as specified in an optional plan proposed as a result of a process initiated by the county legislative body.

(c) Registered voters of a county may not initiate the process to adopt an optional plan under Section 17-52a-303 within four years of an election at which voters ~~[approved or rejected]~~ first elect elected county officials in accordance with Section 17-52a-503 and as specified in an optional plan proposed as a result of a process initiated by registered voters.

**Section 5. Section 17-52a-302 is amended to read:**

**17-52a-302. County legislative body initiation of adoption of optional plan -- Procedure.**

~~(1) A county legislative body may initiate the process of adopting an optional plan by adopting a resolution to submit to the voters the question of:~~

~~(a) whether a study committee should be established as provided in Section 17-52a-401; or~~

~~(b) in a county with a population of 500,000 or more that operates under the county commission~~

~~form of government under Section 17-52a-201, whether the county should adopt an optional plan that;~~

~~(i) the legislative body creates before adopting the resolution described in this Subsection (1); and~~

~~(ii) complies with the requirements described in Sections 17-52a-404 and 17-52a-405.]~~

~~(2) The county legislative body shall ensure that a resolution adopted under Subsection (1):~~

~~(a) requires the question described in Subsection (1)(a) to be submitted to the registered voters of the county at the next special election scheduled under Section 20A-1-204 after adoption of the resolution under Subsection (1); or~~

~~(b) requires the question described in Subsection (1)(b) to be submitted to the registered voters of the county at the next election described in Section 17-52a-501.]~~

~~(3) Within 10 days after the day on which the county legislative body adopts a resolution proposing an optional plan under Subsection (1)(b),~~

~~(1) (a) A county legislative body may only initiate the process of adopting an optional plan by:~~

~~(i) approving a motion to establish a study committee to study changing the form of government; and~~

~~(ii) adopting a resolution to submit to the voters the question of whether the county should adopt an optional plan proposed by the study committee described in Subsection (1)(a)(i).~~

~~(b) The county legislative body may not submit to the voters an optional plan unless the optional plan complies with the requirements of Sections 17-52a-404 and 17-52a-405.~~

~~(2) (a) No later than 10 days after the day on which the county legislative body approves a motion as described in Subsection (1)(a)(i), the county legislative body shall notify the county executive of the county legislative body's approval to establish a study committee.~~

~~(b) No later than 10 days after the day on which the county legislative body adopts a resolution as described in Subsection (1)(a)(ii), the legislative body shall send a copy of the optional plan that the legislative body recommends to:~~

~~(a) (i) the county clerk; and~~

~~(b) (ii) the county attorney [or, if the county does not have a county attorney, to the district attorney,] for review in accordance with Section 17-52a-406.~~

**Section 6. Section 17-52a-303 is amended to read:**

**17-52a-303. Registered voter initiation of adoption of optional plan -- Procedure.**

(1) (a) Registered voters of a county may initiate the process of adopting an optional plan by filing with the county clerk a notice of intent to gather signatures for a petition:

(i) for the establishment of a study committee described in Section ~~[17-52a-401]~~ 17-52a-403; or

(ii) ~~[in a county with a population of 500,000 or more that operates under the county commission form of government under Section 17-52a-201,] to adopt an optional plan that:~~

(A) ~~accompanies the petition [described in this Subsection (1)(a)(ii)] during the signature gathering process and accompanies the petition in the submission to the county clerk under Subsection (2)(b); and~~

(B) ~~complies with the requirements described in Sections 17-52a-404 and 17-52a-405.~~

(b) A notice of intent described in Subsection (1)(a) shall:

(i) designate five sponsors for the petition;

(ii) designate a contact sponsor to serve as the primary contact for the petition sponsors;

(iii) list the mailing address and telephone number of each of the sponsors; and

(iv) be signed by each of the petition sponsors.

(c) Registered voters of a county may not file a notice of intent to gather signatures in bad faith.

(2) (a) The sponsors of a petition may circulate the petition after filing a notice of intent to gather signatures under Subsection (1).

(b) (i) ~~[To be considered valid, the petition is required to be signed by registered voters residing in the county equal in number to at least 5% of the total number of votes cast in the county for all candidates for president of the United States at the most recent election at which a president of the United States was elected] Except as provided in Subsection (2)(b)(ii), the petition is valid if the petition contains the number of legal signatures required under Subsection 20A-7-501(2).~~

(ii) For a county of the fifth or sixth class, the petition is valid if the petition contains at least the number of legal signatures equal to 30% of the number of active voters, as defined in Section 20A-7-501, in the county.

(iii) The county clerk may not count a signature that was collected for the petition before the petition sponsors filed a notice of intent under Subsection (1)(a).

(iv) Notwithstanding any other provision of law, an individual may not sign a petition circulated under this section by electronic signature as defined in Section 20A-1-202.

(c) Except as provided in Subsection (4)(b)(ii), the sponsors of the petition shall submit the completed petition and any amended or supplemental petition described in Subsection (4) with the county clerk not more than 180 days after the day on which the sponsors file the notice described in Subsection (1).

(d) (i) Within 30 days after the day on which the sponsors submit a petition, the sponsors shall submit financial disclosures to the county clerk that include:

(A) a list of each contribution received by the sponsors and the name of the donor; and

(B) a list of each expenditure for purposes of furthering or sponsoring the petition and the recipient of each expenditure.

(ii) The county clerk shall publish the financial disclosures described in Subsection (2)(d)(i).

(iii) All sponsors of a petition shall date and sign each list described in Subsection (2)(d)(i).

(3) Within 30 days after the day on which the sponsors submit a petition under Subsection (2)(c) or an amended or supplemental petition under Subsection (4), the county clerk shall:

(a) determine whether the petition or amended or supplemental petition has been signed by the required number of registered voters;

(b) (i) if the petition was signed by a sufficient number of registered voters:

(A) certify the petition;

(B) deliver the petition to the county legislative body and county executive; and

(C) notify the contact sponsor in writing of the certification; or

(ii) if the petition was not signed by a sufficient number of registered voters:

(A) reject the petition; and

(B) notify the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection; and

(c) for a petition described in Subsection (1)(a)(ii), ~~[within] no later than 10 days after the day on which the county clerk certifies the petition under Subsection (3)(b)(i), the county clerk shall send a copy of the optional plan that accompanied the petition to the county attorney [or, if the county does not have a county attorney, to the district attorney,] for review in accordance with Section 17-52a-406.~~

(4) The sponsors of a petition circulated under this section may submit supplemental signatures for the petition:

(a) if the county clerk rejects the petition under Subsection (3)(b)(ii); and

(b) before the earlier of:

(i) the deadline described in Subsection (2)(c); or

(ii) 20 days after the day on which the county clerk rejects the petition under Subsection (3)(b)(ii).

(5) With the unanimous approval of petition sponsors, a petition filed under this section may be withdrawn at any time within 90 days after the day on which the county clerk certifies the petition under Subsection (3)(b)(i) and no later than 45 days before an election under Section 17-52a-501 if ~~[(a)]~~ the petition included a notification to petition signers, in conspicuous language and in a conspicuous location, that the petition sponsors are authorized to withdraw the petition ~~[-and]~~.

~~(b) the petition has at least three sponsors.]~~

~~[(6) (a) Notwithstanding Subsection 17-52a-301(3), registered voters of a county may circulate a petition under this section after a county legislative body initiates the process to adopt an optional plan under Subsection 17-52a-302(1)(a) in order to qualify to select a member of an appointment committee that is formed as a result of the process initiated by the county legislative body.]~~

~~[(b) Notwithstanding Subsection (2)(e), registered voters who circulate a petition described in Subsection (6)(a) may not submit the completed petition less than 30 days before the day of the election described in Section 17-52a-304.]~~

~~[(c) Notwithstanding Subsection (4), registered voters who circulate a petition described in Subsection (6)(a) may not amend or submit supplemental signatures for the petition unless:]~~

~~[(i) the county clerk makes the determination described in Subsection (3) before the deadline described in Subsection (6)(b); and]~~

~~[(ii) the registered voters submit the amended or supplemented petition before the deadline described in Subsection (6)(b).]~~

**Section 7. Section 17-52a-305 is amended to read:**

**17-52a-305. Public hearings.**

The county legislative body shall hold four public hearings on a proposed optional plan within 45 days after the day on which:

(1) the county legislative body adopts a resolution that proposes an optional plan under Subsection 17-52a-302[~~(1)(b)~~](1)(a)(ii); or

(2) the county clerk certifies, in accordance with Subsection 17-52a-303(3), a petition that proposes an optional plan under Subsection 17-52a-303(1)(a)(ii).

**Section 8. Section 17-52a-402 is amended to read:**

**17-52a-402. Convening of first meeting of study committee.**

(1) The county executive shall convene the first meeting of the study committee ~~[within] no later than 10 days after the day on which the county executive receives [the] notification [described in Subsection 17-52a-401(3)(a) of the study committee members' appointment.]:~~

(a) of the establishment of a study committee by the county legislative body as described in Section 17-52a-302; or

(b) of a certified petition from the county clerk as described in Section 17-52a-303.

(2) (a) At the study committee's first meeting, the study committee shall select a chair from among the members of the study committee.

(b) The chair of the study committee is responsible for convening each future meeting of the study committee.

**Section 9. Section 17-52a-403 is amended to read:**

**17-52a-403. Study committee -- Members -- Powers and duties -- Proposed plan and report -- Services provided by county.**

(1) (a) A study committee consists of ~~[seven members.]:~~

(i) for a study committee established by the county legislative body under Section 17-52a-302, five members appointed by the county legislative body; or

(ii) for a study committee established by the registered voters through a petition under Section 17-52a-303:

(A) two members appointed by the sponsors of the petition;

(B) two members appointed by the county legislative body; and

(C) one member appointed by the county's council of governments.

(b) A member of a study committee:

(i) may not receive compensation for service on the study committee[.];

(ii) may not hold an elected county office or have filed a current declaration of candidacy for an elected county office; and

(iii) shall be a registered voter.

(c) The county legislative body shall reimburse each member of a study committee for necessary expenses incurred in performing the member's duties on the study committee.

(2) A study committee may:

(a) adopt rules for the study committee's own organization and procedure and to fill a vacancy in its membership;

(b) establish advisory boards or committees and include on the advisory boards or committees persons who are not members of the study committee; and

(c) request the assistance and advice of any officers or employees of any agency of state or local government.

(3) (a) A study committee shall:

(i) study the form of government within the county and compare it with other forms available under this chapter;

(ii) determine whether the administration of local government in the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency by a change in the form of county government;

(iii) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions; and

(iv) file a written report of the study committee's findings and recommendations with the county executive, the county legislative body, and the county clerk no later than one year after the convening of the study committee's first meeting under Section 17-52a-402.

(b) Within 10 days after the day on which the study committee submits the study committee's report under Subsection (3)(a)(iv) [~~to the county legislative body~~], if the report recommends a change in the form of county government, the county clerk shall send to the county attorney [~~or, if the county does not have a county attorney, to the district attorney,~~] a copy of [~~each~~] the optional plan recommended in the report for review in accordance with Section 17-52a-406.

(4) Each study committee report under Subsection (3)(a)(iv) shall include:

(a) the study committee's recommendation as to whether the form of county government should be changed to another form authorized under this chapter;

(b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed optional plan to change the form of county government, including all necessary implementing provisions; and

(c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county.

(5) (a) If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(a)(iv) and, following the hearings and subject to Subsection (5)(b), alter the report or proposed optional plan.

(b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report or proposed optional plan:

(i) that would recommend the adoption of an optional form different from that recommended in the original report; or

(ii) within the [~~120-day~~] 160-day period before the election under Section 17-52a-501.

(6) Each meeting that the study committee holds shall be open to the public.

(7) If the study committee's report does not recommend a change in the form of county government, the report is final, the study committee is dissolved, and the process to change the county's form of government is concluded.

(8) The county legislative body shall provide for the study committee:

- (a) suitable meeting facilities;
- (b) necessary secretarial services;
- (c) necessary printing and photocopying services;

(d) necessary clerical and staff assistance; and

(e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.

(9) The county legislative body may not interfere with the work of the study committee.

**Section 10. Section 17-52a-404 is amended to read:**

**17-52a-404. Contents of proposed optional plan.**

(1) The study committee [~~a county legislative body that adopts a resolution described in Subsection 17-52a-302(1)(b),~~] or the sponsors of a petition described in Subsection 17-52a-303(1)(a)(ii) shall ensure that [~~each~~] an optional plan the committee [~~legislative body,~~] or registered voters propose under this chapter, respectively:

(a) proposes the adoption of one of the forms of county government [~~listed~~] authorized in Subsection 17-52a-405(1)(a);

(b) contains detailed provisions relating to the transition from the existing form of county government to the form proposed in the optional plan, including provisions relating to the:

(i) election or appointment of officers specified in the optional plan for the new form of county government;

(ii) retention, elimination, or combining of existing offices and, if an office is eliminated, the division or department of county government responsible for performing the duties of the eliminated office;

(iii) continuity of existing ordinances and regulations;

(iv) continuation of pending legislative, administrative, or judicial proceedings;

(v) making of interim and temporary appointments; and

(vi) preparation, approval, and adjustment of necessary budget appropriations;

(c) specifies the date the optional plan becomes effective if adopted, which may not be earlier than the first day of January next following the election of officers under the new plan; and

(d) notwithstanding any other provision of this title and except with respect to an optional plan that proposes the adoption of the county commission or expanded county commission form of government, with respect to the county budget provides that:

(i) the county executive's role is to prepare and present a proposed budget to the county legislative body; and

(ii) the county legislative body's role is to adopt a final budget.

(2) Subject to Subsection (3), an optional plan may include provisions that are considered

necessary or advisable to the effective operation of the proposed optional plan.

(3) An optional plan may not:

(a) include any provision that is inconsistent with or prohibited by the Utah Constitution or any statute[.];

(b) specify compensation, including benefits, for any appointed or elected county official;

(c) specify the full or part-time status of any appointed or elected county official; or

(d) if the optional plan specifies that county council or commission members are to be elected from districts, establish, divide, abolish, alter, change, or otherwise attempt to draw boundaries of election districts or impair the duties of the county legislative body as described in Section 17-52a-503.

(4) The optional plan proponent described in Subsection (1) shall ensure that ~~each~~ an optional plan proposing to change the form of government to the county executive-council form under Section 17-52a-203 or the council-manager form under Section 17-52a-204:

(a) provides for the same executive and legislative officers as are specified in the applicable section for the form of government that the optional plan proposes;

(b) provides for the election of the county council;

(c) specifies the number of county council members, which shall be an odd number from three to nine;

(d) subject to Subsection (3)(d), specifies whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;

(e) specifies county council members' qualifications and terms and whether the terms are to be staggered; and

(f) contains procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508[; and].

~~[(g) states the initial compensation, if any, of county council members and procedures for prescribing and changing compensation.]~~

(5) The optional plan proponent described in Subsection (1) shall ensure that ~~each~~ an optional plan proposing to change the form of government to the county commission form under Section 17-52a-201 or the expanded county commission form under Section 17-52a-202 specifies:

(a) (i) for the county commission form of government, that the county commission shall have three members; or

(ii) for the expanded county commission form of government, whether the county commission shall have five or seven members;

(b) the terms of office for county commission members and whether the terms are to be staggered;

(c) subject to Subsection (3)(d), whether members of the county commission are to be elected from districts, at large, or by a combination of at large and from districts;

(d) if any members of the county commission are to be elected from districts, the district residency requirements for those commission members; and

(e) if any members of the county commission are to be elected at large, whether the election of county commission members is subject to the provisions of Subsection 17-52a-201(6) or Subsection 17-52a-202(6).

#### **Section 11. Section 17-52a-405 is amended to read:**

#### **17-52a-405. Plan may propose changing forms of county government -- Partisan elections.**

(1) (a) The optional plan proponent described in Subsection 17-52a-404(1) shall ensure that each optional plan proposes changing the form of county government to:

(i) for a county of the first, second, third, or fourth class:

(A) the county commission form under Section 17-52a-201;

~~[(ii)]~~ (B) the expanded county commission form under Section 17-52a-202;

~~[(iii)]~~ (C) the county executive and council form under Section 17-52a-203; or

~~[(iv)]~~ (D) the council-manager form under Section 17-52a-204[.]; and

(ii) for a county of the fifth or sixth class:

(A) the county commission form under Section 17-52a-201; or

(B) the expanded county commission form under Section 17-52a-202.

(b) The optional plan proponent described in Subsection 17-52a-404(1) may not recommend an optional plan that:

(i) proposes changing the form of government to a form not ~~included~~ authorized in Subsection (1)(a);

(ii) provides for the nonpartisan election of elected officers;

(iii) imposes a limit on the number of terms or years that an elected officer may serve;

(iv) provides for elected officers to be subject to a recall election; or

(v) provides, in a county with a population of 225,000 or more, for a full-time county commission in an expanded county commission form of government under Section 17-52a-202.

~~[(2) In addition to proposing the adoption of any one of the optional forms of county government~~

under Subsection (1)(a), an optional plan may also propose the adoption of any one of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms of County Government.]

[~~(3)~~ (2) A county that provides for the election of the county's elected officers through a partisan election may not change to a process that provides for the election of the county's elected officers through a nonpartisan election.

**Section 12. Section 17-52a-406 is amended to read:**

**17-52a-406. County attorney review of proposed optional plan -- Conflict with statutory or constitutional provisions -- Processing of optional plan after attorney review.**

(1) As used in this section:

(a) "Proposed optional plan" means an optional plan that is submitted to the county attorney for review in accordance with a provision of this chapter.

(b) "Requesting entity" means the person who submits a proposed optional plan to the county attorney for review in accordance with a provision of this chapter.

[~~(1)~~ (2) (a) Within 45 days after the day on which the county [~~or district~~] attorney receives [~~the recommended optional plan from the county clerk under Subsection (3)(d), 17-52a-303(3)(e), or 17-52a-403(3)(b) or from the county legislative body under Subsection (3)(e) or 17-52a-302(3)] a proposed optional plan from a requesting entity, the county [~~or district~~] attorney shall review the proposed optional plan and send a written report [~~to the county clerk~~] containing the information described in Subsection [~~(2)~~] (2)(b) to:~~

(i) the requesting entity; and

(ii) (A) the petition sponsors, if the proposed optional plan was recommended under Section 17-52a-303; or

(B) the study committee, if the proposed optional plan was recommended under Section 17-52a-403.

[~~(2)~~ (b) A report from the county [~~or district~~] attorney under Subsection [~~(1)~~] (2)(a) shall:

[~~(a)~~ (i) state the county attorney's opinion as to whether implementation of the proposed optional plan [~~described in Subsection (1)~~] would result in a violation of any applicable statutory or constitutional provision;

[~~(b)~~ (ii) if the county attorney concludes that a violation would result:

[~~(1)~~ (A) identify specifically each statutory or constitutional provision that implementation of the proposed optional plan would violate;

[~~(2)~~ (B) identify specifically each provision or feature of the proposed optional plan that would result in a statutory or constitutional violation if the proposed optional plan is implemented; and

[~~(iii)~~ (C) recommend how the proposed optional plan may be modified to avoid the statutory or constitutional violation.

[~~(3) (a) Except as provided in Subsection (3)(b), (c), or (d), if the attorney determines under Subsection (2) that a violation would occur, the proposed optional plan may not be the subject of an election under Section 17-52a-501.]~~

(3) (a) The proposed optional plan may not be the subject of an election under Section 17-52a-501 if:

(i) the county attorney has not reviewed and submitted a written report in accordance with this section; or

(ii) the county attorney concludes that implementation of the proposed optional plan would result in a violation of an applicable statutory or constitutional provision.

(b) The study committee may:

(i) modify [~~an~~] a proposed optional plan that the study committee recommends in accordance with Section 17-52a-403 to avoid a violation that a county [~~or district~~] attorney's report describes under Subsection (2); and

(ii) file a new report under Subsection 17-52a-403(3)(a)(iv).

(c) A county legislative body may:

(i) modify [~~an~~] a proposed optional plan that the county legislative body proposes in accordance with [~~Subsection 17-52a-302(1)(b)] Section 17-52a-302 or 17-52a-403 to avoid a violation that a county [~~or district~~] attorney's report describes under Subsection (2); and~~

(ii) within 10 days of modifying the proposed optional plan, send the modified proposed optional plan to:

(A) the county clerk, if the proposed optional plan was proposed in accordance with Section 17-52a-302; and

(B) the county [~~or district~~] attorney for review in accordance with this section.

(d) (i) The petition sponsors may:

(A) modify [~~an~~] a proposed optional plan that the petition proposes in accordance with Subsection 17-52a-303(1)(a)(ii) to avoid a violation that a county [~~or district~~] attorney's report describes under Subsection (2); and

(B) submit the modified proposed optional plan to the county clerk.

(ii) Upon receipt of a modified proposed optional plan described in Subsection (3)(d)(i), the county clerk shall send the modified proposed optional plan to the county [~~or district~~] attorney for review in accordance with this section.

(4) The county executive, county legislative body, county [~~or district~~] attorney, and county clerk shall treat the following as an original:

(a) a new report that a study committee files under Subsection 17-52a-403(3)(a)(iv);

(b) a modified proposed optional plan that a county legislative body sends under Subsection (3)(c); and

(c) a modified proposed optional plan that petition sponsors submit to the county clerk and that the county clerk sends under Subsection (3)(d).

(5) If the county attorney's written report under Subsection (2)(b) does not identify any provisions or features of the proposed optional plan that, if implemented, would violate a statutory or constitutional provision, the proposed optional plan is subject to the provisions described in Section 17-52a-501.

**Section 13. Section 17-52a-501 is amended to read:**

**17-52a-501. Election on recommended optional plan.**

[1] If the county or district attorney finds that a proposed optional plan does not violate a statutory or constitutional provision under Section 17-52a-406 or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018:]

[a] in a county with a population of 225,000 or more or in a county in which voters approved the appointment of a study committee by a vote of at least 60%, the county legislative body shall hold an election on the optional plan under Subsection (3); or]

[b] in a county with a population of less than 225,000 in which voters did not approve the appointment of a study committee by a vote of at least 60%, an election may not be held for the optional plan under Subsection (3) until:]

(i) the county legislative body adopts a resolution to submit the optional plan to voters; or]

(ii) the county clerk certifies a petition under Subsection (2).]

[2] (a) In a county with a population of less than 225,000 in which voters did not approve the appointment of a study committee by a vote of at least 60%, to qualify the proposed optional plan described in Subsection (1) for an election described in Subsection (3), registered voters may file a petition with the county clerk that:]

(i) requests that the proposed optional plan be submitted to voters; and]

(ii) is signed by registered voters residing in the county equal in number to at least 5% of the total number of votes cast in the county for all candidates for president of the United States at the most recent election at which a president of the United States was elected.];

[b] Registered voters who file a petition under Subsection (2)(a) shall, at the time the registered voters file the petition:]

(i) designate up to five of the petition signers as sponsors;]

(ii) provide the county clerk with the mailing address and telephone number of each petition sponsor; and]

(iii) designate one of the petition sponsors as the contact sponsor.];

[c] The county clerk shall certify or reject a petition filed under this Subsection (2) in the same manner as the county clerk certifies or rejects a petition under Subsection 17-52a-303(3).]

[3] (1) [When the conditions described in Subsection (1) are met,] If the county attorney finds under Section 17-52a-406 that a proposed optional plan does not violate a statutory or constitutional provision, a county shall hold an election on the optional plan at the next regular general [or municipal general] election that is not less than [60] 65 days after[:-(a) for a county with a population of 225,000 or more or for a county in which voters approved the appointment of a study committee by a vote of at least 60%,] the day on which the county [or district] attorney submits to the county clerk the attorney's report described in [Subsection 17-52a-406(4) or, for a county under a pending process described in Section 17-52a-104, the attorney's report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018; or] Section 17-52a-406.

(b) for a county with a population of less than 225,000 in which voters did not approve the appointment of a study committee by a vote of at least 60%, the day on which:]

(i) the county legislative body adopts a resolution under Subsection (1)(b)(i); or]

(ii) the county clerk certifies a petition under Subsection (2)(b).]

[4] (2) The county clerk shall prepare the ballot for an election under this section so that the question on the ballot states substantially the following:

"Shall \_\_\_\_\_ County adopt the alternate form of government known as the (insert the proposed form of government) [that the study committee has recommended] as recommended in the proposed optional plan?"

[5] (3) The county clerk shall:

(a) publish the complete text of the proposed optional plan in a newspaper of general circulation within the county at least once during two different calendar weeks within the 30-day period immediately before the date of the election described in Subsection (1);

(b) post the complete text of the proposed optional plan in a conspicuous place on the county's website during the 45-day period that immediately precedes the election on the optional plan; and

(c) make a complete copy of the optional plan and the study committee report available free of charge to any member of the public who requests a copy.

[6] (4) A county clerk shall declare an optional plan as adopted by the voters if a majority of voters



voting on the optional plan vote in favor of the optional plan.

**Section 14. Section 17-52a-502 is amended to read:**

**17-52a-502. Voter information pamphlet.**

(1) In anticipation of an election under Section 17-52a-501, the county clerk ~~[may]~~ shall prepare a voter information pamphlet to inform the public of the proposed optional plan in accordance with the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet.

(2) In preparing a voter information pamphlet under this section, the county clerk ~~[may]~~ shall:

(a) allow proponents and opponents of the proposed optional plan to provide written statements to be included in the pamphlet; and

(b) ~~[use as a guideline the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet]~~ ensure each written statement described in Subsection (2)(a) is printed in the same font style and point size.

(3) A county clerk ~~[who prepares a voter information pamphlet under this section]~~ shall cause the publication and distribution of the pamphlet in a manner that the county clerk determines is adequate.

**Section 15. Section 17-52a-503 is amended to read:**

**17-52a-503. Adoption of optional plan -- Election of new county officers -- Effect of adoption.**

(1) If a proposed optional plan is approved at an election held under Section 17-52a-501:

(a) on or before November 1 of the year immediately following the year of the election described in Section 17-52a-501 in which the optional plan is approved, the county legislative body shall:

(i) if the proposed optional plan under Section 17-52a-404 specifies that one or more members of the county legislative body are elected from districts, adopt the geographic boundaries of each council or commission member district; and

(ii) adopt the compensation, including benefits, for each member of the county legislative body;

~~[(a)]~~ (b) the elected county officers specified in the plan shall be elected at the next regular general election following the election under Section 17-52a-501, according to the procedure and schedule established under Title 20A, Election Code, for the election of county officers;

~~[(b)]~~ (c) the proposed optional plan:

(i) becomes effective according to the optional plan's terms;

(ii) subject to Subsection 17-52a-404(1)(c), at the time specified in the optional plan, is a public record open to inspection by the public; and

(iii) is judicially noticeable by all courts;

~~[(e)]~~ (d) the county clerk shall, within 10 days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;

~~[(d)]~~ (e) all public officers and employees shall cooperate fully in making the transition between forms of county government; and

~~[(e)]~~ (f) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records, documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional plan and necessary or convenient to place it into full effect.

(2) An action by the county legislative body under Subsection (1)(a) is not an amendment for purposes of Section 17-52a-504.

~~[(2)]~~ (3) Adoption of an optional plan [changing only the form of county government without adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of County Government,] does not alter or affect the boundaries, organization, powers, duties, or functions of any:

(a) school district;

(b) justice court;

(c) local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) special service district under Title 17D, Chapter 1, Special Service District Act;

(e) city or town; or

(f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(4) (a) After adoption of the optional plan, the county legislative body may adopt a change to the geographic boundaries of a council or commission member's district.

(b) An action by the county legislative body under Subsection (4)(a) is not an amendment for purposes of Section 17-52a-504.

~~[(3)]~~ (5) After the adoption of an optional plan, the county remains vested with all powers and duties vested generally in counties by statute.

**Section 16. Section 20A-1-203 is amended to read:**

**20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.**

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

- (a) the date for the statewide special election; and
- (b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

- (a) the date for the statewide special election; and
- (b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

- (i) a vote on a bond or debt issue;
- (ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;
- (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- (v) if required or authorized by federal law, a vote to determine whether Utah's legal boundaries should be changed;
- (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53G-3-102, following the creation of a new school district under Section 53G-3-302;

(viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(ix) a vote to create a new county under Section 17-3-1;

~~(x) a vote on the creation of a study committee under Sections 17-52a-302 and 17-52a-304;~~

~~(xi)~~ (x) a vote on a special property tax under Section 53F-8-402;

~~(xii)~~ (xi) a vote on the incorporation of a municipality in accordance with Section 10-2a-210; or

~~(xiii)~~ (xii) a vote on incorporation or annexation as described in Section 10-2a-404.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

- (i) the date for the local special election as authorized by Section 20A-1-204; and
  - (ii) the purpose for the local special election.
- (c) A local political subdivision may not call a local special election unless the ordinance or resolution

calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

- (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
- (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
- (iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

**Section 17. Section 63I-2-217 is amended to read:**

**63I-2-217. Repeal dates -- Title 17.**

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

(3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

(4) (a) Subsection 17-27a-103(18)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103(42), regarding a mountainous planning district, is repealed June 1, 2021.

(5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.

(6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2021.

(7) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

(8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.

(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states “or the mountainous planning district” is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states “or mountainous planning district” is repealed June 1, 2021.

(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(13) Subsection 17-27a-602(1)(b), the language that states “or, in the case of a mountainous planning district, the mountainous planning district” is repealed June 1, 2021.

(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(15) Subsection 17-27a-605(1), the language that states “or mountainous planning district land” is repealed June 1, 2021.

(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s understanding of the Legislature’s intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

(19) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

[~~49~~] (20) On June 1, [~~2020~~] 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states “or under a provision described in Subsection 17-52a-104[~~2~~](1)(b) or (2)(b),” is repealed; and

(c) Subsection 17-52a-301(3)(a)[~~(iv)~~](iv), regarding the first initiated process, is repealed[~~3~~].

[~~(d)~~] in Subsection 17-52a-501(1), the language that states “or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018,” is repealed; and]

[~~(e)~~] in Subsection 17-52a-501(3)(a), the language that states “or, for a county under a pending process described in Section 17-52a-104, the attorney’s report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018,” is repealed.]

[~~(20)~~] (21) On January 1, 2028, Subsection [~~17-52a-102~~] 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

## Section 18. Repealer.

This bill repeals:

**Section 17-52a-304, Election to determine whether study committee should be established.**

**Section 17-52a-401, Procedure for appointing members to study committee.**

## Section 19. Effective date.

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

## Section 20. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the following references in:

(1) Subsections 17-52a-103(4), 17-52a-104(2)(a), 17-52a-104(2)(b), and 17-52a-104(2)(c)(i) from “the effective date of this bill” to the bill’s actual effective date;

(2) Subsection 17-52a-104(2)(a)(i), from “this bill” to the bill’s designated chapter number in the Laws of Utah; and

(3) Subsections 17-52a-104(1)(a)(ii)(B), (1)(a)(ii)(C), (1)(a)(ii)(D), (2)(a)(ii)(A), (2)(b)(i)(A), and (2)(b)(i)(B), from “the day immediately before the day on which this bill takes effect” to the actual date before the day that the bill takes effect.

## CHAPTER 48

## H. B. 64

Passed February 28, 2020

Approved March 24, 2020

Effective May 12, 2020

**CUSTODY AND VISITATION  
RIGHTS AMENDMENTS**Chief Sponsor: Kyle R. Andersen  
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill amends provisions related to custody and visitation rights of an individual other than a parent.

**Highlighted Provisions:**

This bill:

- ▶ addresses the Utah Supreme Court's decision in *Jones v. Jones*, 359 P.3d 603 (Utah 2015), by amending the factors that a court considers in granting visitation rights to grandparents;
- ▶ amends provisions regarding when a court may inquire, and take into account, a grandchild's desires with respect to visitation;
- ▶ amends provisions regarding custody and visitation rights for an individual other than a parent; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 30-5-1, as last amended by Laws of Utah 2002, Chapter 85
- 30-5-2, as last amended by Laws of Utah 2005, Chapter 129
- 30-5a-101, as enacted by Laws of Utah 2008, Chapter 272
- 30-5a-102, as enacted by Laws of Utah 2008, Chapter 272
- 30-5a-103, as and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 446

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

**Section 1. Section 30-5-1 is amended to read:****30-5-1. Definitions.**

As used in this act:

- (1) "District court" means the district court with proper jurisdiction over the grandchild.
- (2) "Grandchild" means the child with respect to whom a grandparent is seeking visitation rights under this chapter.
- (3) "Grandparent" means ~~a person~~ an individual whose child, either by blood, marriage, or adoption, is the parent of the grandchild.

**Section 2. Section 30-5-2 is amended to read:****30-5-2. Visitation rights of grandparents.**

(1) In accordance with the provisions and requirements of this section:

(a) ~~[Grandparents have] a grandparent has standing to bring an action requesting visitation in district court by petition[, requesting visitation in accordance with the provisions and requirements of this section. Grandparents may also]; and~~

(b) ~~a grandparent may file a petition for visitation rights in [a pending] the juvenile court or district court where a divorce proceeding or other proceeding involving custody and visitation issues is pending.~~

~~[(2) There is a rebuttable presumption that a parent's decision with regard to grandparent visitation is in the grandchild's best interests. However, the court may override the parent's decision and grant the petitioner reasonable rights of visitation if the court finds that the petitioner has rebutted the presumption based upon factors which the court considers to be relevant, such as whether:]~~

~~[(a) the petitioner is a fit and proper person to have visitation with the grandchild;]~~

~~[(b) visitation with the grandchild has been denied or unreasonably limited;]~~

~~[(c) the parent is unfit or incompetent;]~~

~~[(d) the petitioner has acted as the grandchild's custodian or caregiver, or otherwise has had a substantial relationship with the grandchild, and]~~

~~[the loss or cessation of that relationship is likely to cause harm to the grandchild;]~~

~~[(e) the petitioner's child, who is a parent of the grandchild, has died, or has become a noncustodial parent through divorce or legal separation;]~~

~~[(f) the petitioner's child, who is a parent of the grandchild, has been missing for an extended period of time; or]~~

~~[(g) visitation is in the best interest of the grandchild.]~~

(2) (a) In accordance with Section 62A-4a-201, it is the public policy of this state that a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's children.

(b) A court shall presume that a parent's decision in regard to grandparent visitation is in the best interest of the parent's child.

(3) A court may find the presumption in Subsection (2)(b) rebutted if the grandparent, by clear and convincing evidence, establishes that:

(a) the grandparent has filled the role of custodian or caregiver to the grandchild that:

(i) is in a manner akin to a parent; and

(ii) the loss of the relationship between the grandparent and the grandchild would cause substantial harm to the grandchild; or

(b) both parents are unfit or incompetent in a manner that causes potential harm to the grandchild.

(4) (a) If the court finds the presumption in Subsection (2)(b) is rebutted, the court may consider whether grandparent visitation is in the best interest of the grandchild.

(b) If the court considers whether grandparent visitation is in the best interest of the child, the court shall take into account the totality of the circumstances, including:

(i) the reasonableness of the parent's decision to deny grandparent visitation;

(ii) the age of the grandchild;

(iii) the death or unavailability of a parent; and

(iv) if the grandchild is 14 years old or older, the grandchild's desires regarding visitation after the court inquires of the grandchild.

(5) If the court finds the presumption in Subsection (2)(b) is rebutted and grandparent visitation is in the best interest of the grandchild, the court may issue an order for grandparent visitation.

[43] (6) The adoption of a grandchild by the grandchild's stepparent does not diminish or alter visitation rights previously ordered under this section.

[4] ~~Subject to the provisions of Subsections (2) and (3), the court may inquire of the grandchild and take into account the grandchild's desires regarding visitation.~~

[45] (7) On the petition of a grandparent or the legal custodian of a grandchild the court may, after a hearing, modify an order regarding grandparent visitation if:

(a) the circumstances of the grandchild, the grandparent, or the custodian have materially and substantially changed since the entry of the order to be modified, or the order has become unworkable or inappropriate under existing circumstances; and

(b) the court determines that a modification is appropriate based upon the factors set forth in [Subsection (2)] Subsections (3) and (4).

[6] (8) [Grandparents] A grandparent may petition the court to remedy a parent's wrongful noncompliance with a visitation order.

**Section 3. Section 30-5a-101 is amended to read:**

**CHAPTER 5a. CUSTODY AND VISITATION FOR INDIVIDUALS OTHER THAN PARENTS ACT**

**30-5a-101. Title.**

This chapter is known as the "Custody and Visitation for [Persons] Individuals Other than Parents Act."

**Section 4. Section 30-5a-102 is amended to read:**

**30-5a-102. Definitions.**

As used in this chapter:

[1] "Parent" means a biological or adoptive parent.]

[2] (1) "[Person] Individual other than a parent" means [a person] an individual who is not a parent and is related to the child by marriage or blood, including:

(a) siblings;

(b) aunts;

(c) uncles;

(d) grandparents; or

(e) current or former step-parents, or any of the [persons] individuals described in Subsections [2] (1)(a) through (d) in a step relationship to the child.

(2) "Parent" means a biological or adoptive parent.

**Section 5. Section 30-5a-103 is amended to read:**

**30-5a-103. Custody and visitation for individuals other than a parent.**

(1) (a) In accordance with Section 62A-4a-201, it is the public policy of this state that [parents] a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of [their] the parent's children.

(b) There is a rebuttable presumption that a parent's decisions are in the child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to [a person] an individual other than a parent who, by clear and convincing evidence, [has established all of the following] establishes that:

(a) the [person] individual has intentionally assumed the role and obligations of a parent;

(b) the [person] individual and the child have formed [an] a substantial emotional bond and created a parent-child type relationship;

(c) the [person] individual substantially contributed emotionally or financially to the child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the [person] individual and the child [would be] is in the child's best [interests] interest;

(f) the loss or cessation of the relationship between the [person] individual and the child would [be detrimental to] substantially harm the child; and

(g) the parent:

- (i) is absent; or
- (ii) is found by a court to have abused or neglected the child.
- (3) A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district court in the county ~~[in which]~~ where the child:
- (a) currently resides; or
- (b) lived with a parent or ~~[a person]~~ an individual other than a parent who acted as a parent within six months before the commencement of the action.
- (4) A proceeding under this chapter may be filed in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court~~[,]~~ involving custody of or visitation with a child.
- (5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information as set forth in Section 78B-13-209.
- (6) A proceeding under this chapter may not be filed against a parent who is actively serving outside the state in any branch of the military.
- (7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the rules of civil procedure on all of the following:
- (a) the child's biological, adopted, presumed, declarant, and adjudicated parents;
- (b) any ~~[person]~~ individual who has court-ordered custody or visitation rights;
- (c) the child's guardian;
- (d) the guardian ad litem, if one has been appointed;
- (e) ~~[a person]~~ an individual or agency that has physical custody of the child or that claims to have custody or visitation rights; and
- (f) any other ~~[person]~~ individual or agency that has previously appeared in any action regarding custody of or visitation with the child.
- (8) The court may order a custody evaluation to be conducted in any action brought under this chapter.
- (9) The court may enter temporary orders in an action brought under this chapter pending the entry of final orders.
- (10) Except as provided in Subsection (11), a court may not grant custody of a child under this section to an individual who is not the ~~[biological or adoptive]~~ parent of the child and who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:
- (a) child abuse, as described in Section 76-5-109;
- (b) child abuse homicide, as described in Section 76-5-208;
- (c) child kidnapping, as described in Section 76-5-301.1;
- (d) human trafficking of a child, as described in Section 76-5-308.5;
- (e) sexual abuse of a minor, as described in Section 76-5-401.1;
- (f) rape of a child, as described in Section 76-5-402.1;
- (g) object rape of a child, as described in Section 76-5-402.3;
- (h) sodomy on a child, as described in Section 76-5-403.1;
- (i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;
- (j) sexual exploitation of a minor, as described in Section 76-5b-201; or
- (k) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).
- (11) (a) ~~[For purpose of]~~ As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).
- (b) ~~[A person]~~ An individual described in Subsection (10) may only be considered for custody of a child if the following criteria are met by clear and convincing evidence:
- (i) the ~~[person]~~ individual is a relative, as defined in Section 78A-6-307, of the child;
- (ii) at least 10 years have elapsed from the day on which the ~~[person]~~ individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;
- (iii) during the 10 years before the day on which the ~~[person]~~ individual files a petition with the court seeking custody the ~~[person]~~ individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;
- (iv) the ~~[person]~~ individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;
- (v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 78A-6-105, or potential harm to the child currently or at any time in the future when considering all of the following:
- (A) the child's age;
- (B) the child's gender;
- (C) the child's development;
- (D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years [~~of age~~] old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the [~~person~~] individual can provide evidence of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that custody by the [~~person~~] individual who has committed the disqualifying offense ensures the best interests of the child are met;

(vii) (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the [~~person~~] individual with the disqualifying offense and the child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The [~~person~~] individual with the disqualifying offense bears the burden of proof regarding why placement with that [~~person~~] individual is in the best interest of the child over another responsible relative or equally situated [~~person~~] individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the [~~person~~] individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

**CHAPTER 49****H. B. 70**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**REPEAL OF SINGLE-MARK  
STRAIGHT TICKET VOTING**

Chief Sponsor: Patrice M. Arent  
 Senate Sponsor: Curtis S. Bramble  
 Cosponsors: Cheryl K. Acton  
 Melissa G. Ballard  
 Joel K. Briscoe  
 Walt Brooks  
 Jennifer Dailey-Provost  
 Susan Duckworth  
 Craig Hall  
 Suzanne Harrison  
 Jon Hawkins  
 Sandra Hollins  
 Eric K. Hutchings  
 Dan N. Johnson  
 Brian S. King  
 Karen Kwan  
 Carol Spackman Moss  
 Merrill F. Nelson  
 Lee B. Perry  
 Candice B. Pierucci  
 Stephanie Pitcher  
 Marie H. Poulson  
 Marc K. Roberts  
 Angela Romero  
 Rex P. Shipp  
 Lawanna Shurtliff  
 Robert M. Spendlove  
 Jeffrey D. Stenquist  
 Andrew Stoddard  
 Steve Waldrip  
 Raymond P. Ward  
 Christine F. Watkins  
 Elizabeth Weight  
 Mark A. Wheatley  
 Mike Winder

**LONG TITLE****General Description:**

This bill amends provisions of the Election Code relating to the manner by which a voter casts a vote for all candidates from one political party.

**Highlighted Provisions:**

This bill:

- ▶ removes provisions from the Election Code that allow an individual to cast a vote for all candidates from one political party without voting for the candidates individually;
- ▶ removes provisions relating to straight ticket party voting and scratch voting; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

20A-1-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 4  
 20A-3-106, as last amended by Laws of Utah 2019, Chapter 142  
 20A-4-102, as last amended by Laws of Utah 2018, Chapters 187 and 274  
 20A-4-105, as last amended by Laws of Utah 2018, Chapter 187  
 20A-5-302, as last amended by Laws of Utah 2018, Chapter 274  
 20A-6-301, as last amended by Laws of Utah 2018, Chapter 274  
 20A-6-305, as last amended by Laws of Utah 2017, Chapter 275  
 20A-9-406, as last amended by Laws of Utah 2018, Chapter 274  
 63I-2-220, as last amended by Laws of Utah 2019, First Special Session, Chapter 4  
 67-1a-2, as last amended by Laws of Utah 2019, Chapter 165

**Utah Code Sections Affected by Coordination Clause:**

20A-3a-206, Renumbered from 20A-3-106, as last amended by Laws of Utah 2019, Chapter 142

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

**Section 1. Section 20A-1-102 is amended to read:****20A-1-102. Definitions.**

As used in this title:

- (1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.
- (2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
- (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.  
 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.
- (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:
  - (a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and
  - (b) are used in conjunction with ballot sheets that do not display that information.
- (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:
  - (a) an opinion question specifically authorized by the Legislature;
  - (b) a constitutional amendment;
  - (c) an initiative;



- (d) a referendum;
- (e) a bond proposition;
- (f) a judicial retention question;
- (g) an incorporation of a city or town; or
- (h) any other ballot question specifically authorized by the Legislature.
- (6) "Ballot sheet":
- (a) means a ballot that:
- (i) consists of paper or a card where the voter's votes are marked or recorded; and
- (ii) can be counted using automatic tabulating equipment; and
- (b) includes punch card ballots and other ballots that are machine-countable.
- (7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.
- (8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.
- (9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.
- (10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.
- (11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.
- (12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.
- (13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.
- (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.
- (15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.
- (16) "Convention" means the political party convention at which party officers and delegates are selected.
- (17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.
- (18) "Counting judge" means a poll worker designated to count the ballots during election day.

(19) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(20) "County officers" means those county officers that are required by law to be elected.

(21) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(22) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 1, Part 6, ~~Election Offenses – Generally~~; Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(23) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(24) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(25) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(26) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(27) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

- (i) a municipal ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;
- (d) the local district clerk or chief executive officer for:
- (i) a local district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or
- (e) the business administrator or superintendent of a school district for:
- (i) a school district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.
- (28) "Election official" means any election officer, election judge, or poll worker.
- (29) "Election results" means:
- (a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or
- (b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.
- (30) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.
- (31) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.
- (32) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (33) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- (b) "Electronic voting device" includes a direct recording electronic voting device.
- (34) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).
- (35) "Judicial office" means the office filled by any judicial officer.
- (36) "Judicial officer" means any justice or judge of a court of record or any county court judge.
- (37) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and

includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(38) "Local district officers" means those local district board members that are required by law to be elected.

(39) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(40) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(41) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(42) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(43) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(44) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(45) "Municipal office" means an elective office in a municipality.

(46) "Municipal officers" means those municipal officers that are required by law to be elected.

(47) "Municipal primary election" means an election held to nominate candidates for municipal office.

(48) "Municipality" means a city, town, or metro township.

(49) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(50) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii); and

(b) the information on the ballot stub that identifies:

- (i) the poll worker's initials; and
- (ii) the ballot number.

(51) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(52) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(53) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(54) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(55) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(56) "Polling place" means the building where voting is conducted.

(57) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(58) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(59) "Primary convention" means the political party conventions held during the year of the regular general election.

(60) "Protective counter" means a separate counter, which cannot be reset, that:

- (a) is built into a voting machine; and
- (b) records the total number of movements of the operating lever.

(61) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(62) "Provisional ballot" means a ballot voted provisionally by a person:

- (a) whose name is not listed on the official register at the polling place;
- (b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(63) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(64) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(65) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(66) "Registration form" means a book voter registration form and a by-mail voter registration form.

(67) "Regular ballot" means a ballot that is not a provisional ballot.

(68) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(69) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(70) "Resident" means a person who resides within a specific voting precinct in Utah.

(71) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

~~[(72) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.]~~

~~[(73) (72) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.~~

~~[(74) (73) "Special election" means an election held as authorized by Section 20A-1-203.~~

~~[(75) (74) "Spoiled ballot" means each ballot that:~~

- ~~(a) is spoiled by the voter;~~
- ~~(b) is unable to be voted because it was spoiled by the printer or a poll worker; or~~
- ~~(c) lacks the official endorsement.~~

~~[(76) (75) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.~~

~~[(77) (76) "Stub" means the detachable part of each ballot.~~

~~[(78)]~~ (77) “Substitute ballots” means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

~~[(79)]~~ (78) “Ticket” means a list of:

- (a) political parties;
- (b) candidates for an office; or
- (c) ballot propositions.

~~[(80)]~~ (79) “Transfer case” means the sealed box used to transport voted ballots to the counting center.

~~[(81)]~~ (80) “Vacancy” means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

~~[(82)]~~ (81) “Valid voter identification” means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection ~~[(82)]~~ (81)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

- (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid social security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;
- (vi) a paycheck from the voter’s employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter’s adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

~~[(83)]~~ (82) “Valid write-in candidate” means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

~~[(84)]~~ (83) “Voter” means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

~~[(85)]~~ (84) “Voter registration deadline” means the registration deadline provided in Section 20A-2-102.5.

~~[(86)]~~ (85) “Voting area” means the area within six feet of the voting booths, voting machines, and ballot box.

~~[(87)]~~ (86) “Voting booth” means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

~~[(88)]~~ (87) “Voting device” means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

~~[(89)] (88) “Voting machine” means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.~~

~~[(90)] (89) “Voting precinct” means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.~~

~~[(91)] (90) “Watcher” means an individual who complies with the requirements described in Section 20A-3-201 to become a watcher for an election.~~

~~[(92)] (91) “Write-in ballot” means a ballot containing any write-in votes.~~

~~[(93)] (92) “Write-in vote” means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.~~

**Section 2. Section 20A-3-106 is amended to read:**

**20A-3-106. Writing in names -- Effect of unnecessary marking of cross.**

~~[(1) When voting a paper ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:]~~

~~[(a) mark in the circle or position above that political party;]~~

~~[(b) mark in the squares or position opposite the names of all candidates for that party ticket; or]~~

~~[(c) make both markings.]~~

~~[(2) (a) When voting a ballot sheet, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:]~~

~~[(i) mark the selected party on the straight party page or section; or]~~

~~[(ii) mark the name of each candidate from that party.]~~

~~[(b) To vote for candidates from two or more political parties, the voter may:]~~

~~[(i) mark in the squares or positions opposite the names of the candidates for whom the voter wishes to vote without marking in any circle; or]~~

~~[(ii) indicate the voter's choice by:]~~

~~[(A) marking in the circle or position above one political party; and]~~

~~[(B) marking in the squares or positions opposite the names of desired candidates who are members of any party, are unaffiliated, or are listed without party name.]~~

~~[(3) (a) When voting an electronic ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:]~~

~~[(i) select that party on the straight party selection area; or]~~

~~[(ii) select the name of each candidate from that party.]~~

~~[(b) To vote for candidates from two or more political parties, the voter may:]~~

~~[(i) select the names of the candidates for whom the voter wishes to vote without selecting a political party in the straight party selection area; or]~~

~~[(ii) (A) select a political party in the straight party selection area; and]~~

~~[(B) select the names of the candidates for whom the voter wishes to vote who are members of any party, are unaffiliated, or are listed without party name.]~~

~~[(4) In any election other than a primary election, if a voter voting a ballot has selected or placed a mark next to a party name in order to vote a straight party ticket and wishes to vote for a person on another party ticket for an office, or for an unaffiliated candidate, the voter shall select or mark the ballot next to the name of the candidate for whom the voter wishes to vote.]~~

~~[(5)] (1) (a) [The] A voter may cast a write-in vote on a paper ballot or ballot sheet by writing the name of a valid write-in candidate in the blank write-in section of the ballot.~~

~~(b) A voter may not cast a write-in vote on a paper ballot or ballot sheet by affixing a sticker or label with the name of a write-in candidate in the blank write-in section of the ballot.~~

~~[(6)] (2) [The] A voter may cast a write-in vote on an electronic ballot by:~~

~~(a) marking the appropriate position opposite the area for entering a write-in candidate for the office sought by the candidate for whom the voter wishes to vote; and~~

~~(b) entering the name of a valid write-in candidate in the write-in selection area.~~

**Section 3. Section 20A-4-102 is amended to read:**

**20A-4-102. Counting paper ballots after the polls close.**

~~(1) (a) Except as provided in Subsection (2) or a rule made under Subsection 20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.~~

~~(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:~~

~~(i) to the extent applicable, Section 20A-4-105; and~~

~~(ii) as applicable, for an instant runoff voting race under [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project, Subsection 20A-4-603(3).~~

~~(2) (a) First, the election judges shall count the number of ballots in the ballot box.~~

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall, except as provided in [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i):

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

~~(ii) count one vote for each candidate on the ticket beneath a marked circle, excluding any candidate for an office for which a vote has been cast for a candidate for the same office upon another ticket by the placing of a mark in the square opposite the name of that candidate on the other ticket;~~

~~[(iii)] (ii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;~~

~~[(iv)] (iii) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;~~

~~[(v)] (iv) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;~~

~~[(vi)] (v) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and~~

~~[(vii)] (vi) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.~~

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.

(7) Only an election judge and a watcher may be present at the place where counting is conducted until the count is completed.

**Section 4. Section 20A-4-105 is amended to read:**

**20A-4-105. Standards and requirements for evaluating voter's ballot choice.**

(1) (a) An election officer shall ensure that when a question arises regarding a vote recorded on a paper ballot, two counting judges jointly adjudicate the ballot, except as otherwise provided in [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project, in accordance with the requirements of this section.

(b) If the counting judges disagree on the disposition of a vote recorded on a ballot that is adjudicated under this section, the counting judges may not count the vote.

(2) Except as provided in Subsection [(11)] (10), Subsection 20A-3-105(5), or [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project, if a voter marks more names than there are individuals to be elected to an office, or if the counting judges cannot determine a voter's choice for an office, the counting judges may not count the voter's vote for that office.

(3) Except as otherwise provided in [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges shall count a defective or incomplete mark on a paper ballot if:

(a) the defective or incomplete mark is in the proper place; and

(b) there is no other mark or cross on the ballot indicating the voter's intent to vote other than as indicated by the incomplete or defective mark.

~~[(4) (a) When a voter has marked a ballot so that it appears that the voter has voted more than one straight ticket, the counting judges may not count any votes on the ballot for party candidates.]~~

~~[(b) The counting judges shall count the remainder of the ballot if the remainder of the ballot is voted correctly.]~~

~~[(5) (4) Except as otherwise provided in [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot show an intent by an individual to mark the individual's ballot so that the individual's ballot can be identified.~~

~~[(6) (5) (a) In counting the ballots, the counting judges shall give full consideration to the intent of the voter.~~

~~(b) The counting judges may not invalidate a ballot because of mechanical or technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3, Voting.~~

~~[(7) (6) The counting judges may not reject a ballot because of an error in:~~

~~(a) stamping or writing an official endorsement; or~~

~~(b) delivering the wrong ballots to a polling place.~~

~~[(8) (7) The counting judges may not count a paper ballot that does not have the official endorsement by an election officer.~~

~~[(9) (8) The counting judges may not count a ballot proposition vote or candidate vote for which the voter is not legally entitled to vote, as defined in Section 20A-4-107.~~

~~[(10) (9) If the counting judges discover that the name of a candidate is misspelled on a ballot, or that the initial letters of a candidate's given name are transposed or omitted in whole or in part on a ballot, the counting judges shall count a voter's vote for the candidate if it is apparent that the voter intended to vote for the candidate.~~

~~[(11) (10) The counting judges shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.~~

~~[(12) (11) Except as otherwise provided in [Title 20A, Chapter 4,] Part 6, Municipal Alternate Voting Methods Pilot Project, in counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the counting judges shall count the valid write-in vote as being the obvious intent of the voter.~~

**Section 5. Section 20A-5-302 is amended to read:**

**20A-5-302. Automated voting system.**

(1) (a) Any county or municipal legislative body or local district board may:

(i) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any automated voting system that meets the requirements of this section; and

(ii) use that system in any election, in all or a part of the voting precincts within its boundaries, or in combination with paper ballots.

(b) Nothing in this title shall be construed to require the use of electronic voting devices in local special elections, municipal primary elections, or municipal general elections.

(2) ~~[(a)]~~ Each automated voting system shall:

~~[(4)]~~ (a) provide for voting in secrecy, except in the case of voters who have received assistance as authorized by Section 20A-3-108;

~~[(ii)]~~ (b) permit each voter at any election to:

~~[(A)]~~ (i) vote for all persons and offices for whom and for which that voter is lawfully entitled to vote;

~~[(B)]~~ (ii) vote for as many persons for an office as that voter is entitled to vote; and

~~[(C)]~~ (iii) vote for or against any ballot proposition upon which that voter is entitled to vote;

~~[(iii)]~~ (c) permit each voter, at presidential elections, by one mark or punch to vote for the candidates of that party for president, vice president, and for their presidential electors;

~~[(iv) permit each voter, at any regular general election, to vote for all the candidates of one registered political party by making one mark or punch;]~~

~~[(v) permit each voter to scratch vote;]~~

~~[(vi)]~~ (d) at elections other than primary elections, permit each voter to vote for the nominees of one or more parties and for independent candidates;

~~[(vii)]~~ (e) at primary elections:

~~[(A)]~~ (i) permit each voter to vote for candidates of the political party of the voter's choice; and

~~[(B)]~~ (ii) reject any votes cast for candidates of another party;

~~[(viii)]~~ (f) prevent the voter from voting for the same person more than once for the same office;

~~[(ix)]~~ (g) provide the opportunity for each voter to change the ballot and to correct any error before the voter casts the ballot in compliance with the Help America Vote Act of 2002, Pub. L. No. 107-252;

~~[(x)]~~ (h) include automatic tabulating equipment that rejects choices recorded on a voter's ballot if the number of the voter's recorded choices is greater than the number which the voter is entitled to vote for the office or on the measure;

~~[(xi)]~~ (i) be of durable construction, suitably designed so that it may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;

~~[(xii)]~~ (j) when properly operated, record correctly and count accurately each vote cast;

~~[(xiii)]~~ (k) for voting equipment certified after January 1, 2005, produce a permanent paper record that:

~~[(A)]~~ (i) shall be available as an official record for any recount or election contest conducted with respect to an election where the voting equipment is used;

~~[(B)]~~ (ii) (A) shall be available for the voter's inspection prior to the voter leaving the polling place; and

~~[(H)]~~ (B) shall permit the voter to inspect the record of the voter's selections independently only if reasonably practicable commercial methods permitting independent inspection are available at the time of certification of the voting equipment by the lieutenant governor;

~~[(C)]~~ (iii) shall include, at a minimum, human readable printing that shows a record of the voter's selections;

~~[(D)]~~ (iv) may also include machine readable printing which may be the same as the human readable printing; and

~~[(E)]~~ (v) allows a watcher to observe the election process to ensure the integrity of the election process; and

~~[(xiv)]~~ (l) meet the requirements of Section 20A-5-802.

~~[(b)]~~ (3) For the purposes of a recount or an election contest, if the permanent paper record contains a conflict or inconsistency between the human readable printing and the machine readable printing, the human readable printing shall supercede the machine readable printing when determining the intent of the voter.

~~[(e)]~~ (4) Notwithstanding any other provisions of this section, the election officers shall ensure that the ballots to be counted by means of electronic or electromechanical devices are of a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

**Section 6. Section 20A-6-301 is amended to read:**

**20A-6-301. Paper ballots -- Regular general election.**

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for \_\_\_ County, Utah";

(ii) the date of the election; and

(iii) the words "Clerk of \_\_\_\_\_ County" or, as applicable, the name of a combined office that includes the duties of a county clerk;

~~[(c) the party name or title is printed in capital letters not less than one-fourth of an inch high;]~~

~~[(d)]~~ (c) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed with the other candidates for the same office in accordance with Section 20A-6-305, without a party name or title, and with a mark referencing the following statement at the bottom of the ticket: "This candidate is not affiliated with, or does not qualify to be listed on the ballot as affiliated with, a political party.";

~~[(e)]~~ (d) each ticket containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

~~[(f)]~~ (e) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

~~[(g)]~~ (f) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart; and

~~[(h)]~~ (g) on a ticket for a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601:

(i) the ballot includes a space for a write-in candidate immediately following the last candidate listed on that ticket; or

(ii) for the offices of president and vice president and governor and lieutenant governor, the ballot includes two spaces for write-in candidates immediately following the last candidates on that ticket, one placed above the other, to enable the entry of two valid write-in candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other person, is placed on the ballot:

(i) under the registered political party's name, if any; or



(ii) under the title of the registered political party as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in [Title 20A,] Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to \_\_\_\_ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to \_\_\_\_ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

**Section 7. Section 20A-6-305 is amended to read:**

**20A-6-305. Master ballot position list -- Random selection -- Procedures -- Publication -- Surname -- Exemptions -- Ballot order.**

(1) As used in this section, "master ballot position list" means an official list of the 26 characters in the alphabet listed in random order and numbered from one to 26 as provided under Subsection (2).

(2) The lieutenant governor shall:

(a) within 30 days after the candidate filing deadline in each even-numbered year, conduct a random selection to create a master ballot position list for all elections in accordance with procedures established under Subsection (2)(c);

(b) publish the master ballot position list on the lieutenant governor's election website no later than 15 days after creating the list; and

(c) establish written procedures for:

(i) the election official to use the master ballot position list; and

(ii) the lieutenant governor in:

(A) conducting the random selection in a fair manner; and

(B) providing a record of the random selection process used.

(3) In accordance with the written procedures established under Subsection (2)(c)(i), an election officer shall use the master ballot position list for the current year to determine the order in which to list candidates on the ballot for an election held during the year.

(4) To determine the order in which to list candidates on the ballot required under Subsection (3), the election officer shall apply the randomized alphabet using:

(a) the candidate's surname;

(b) for candidates with a surname that has the same spelling, the candidate's given name; and

(c) the surname of the president and the surname of the governor for an election for the offices of president and vice president and governor and lieutenant governor[; and].

~~[(d) if the ballot provides for a ticket or a straight party ticket, the registered political party name.]~~

(5) Subsections (1) through (4) do not apply to:

(a) an election for an office for which only one candidate is listed on the ballot; or

(b) a judicial retention election under Section 20A-12-201.

(6) Subject to Subsection (7), each ticket that appears on a ballot for an election shall appear separately, in the following order:

~~[(a) a straight party ticket, where the voter may, with one mark, vote for all candidates of one political party;]~~

~~[(b)]~~ (a) for federal office:

(i) president and vice president of the United States;

(ii) United States Senate office; and

(iii) United States House of Representatives office;

~~[(c)]~~ (b) for state office:

(i) governor and lieutenant governor;

- (ii) attorney general;
  - (iii) state auditor;
  - (iv) state treasurer;
  - (v) state Senate office;
  - (vi) state House of Representatives office; and
  - (vii) State Board of Education member;
- ~~[(d)]~~ (c) for county office:
- (i) county executive office;
  - (ii) county legislative body member;
  - (iii) county assessor;
  - (iv) county or district attorney;
  - (v) county auditor;
  - (vi) county clerk;
  - (vii) county recorder;
  - (viii) county sheriff;
  - (ix) county surveyor;
  - (x) county treasurer; and
  - (xi) local school board member;
- ~~[(e)]~~ (d) for municipal office:
- (i) mayor; and
  - (ii) city or town council member;
- ~~[(f)]~~ (e) elected planning and service district council member;
- ~~[(g)]~~ (f) judicial retention questions; and
- ~~[(h)]~~ (g) ballot propositions not described in Subsection (6)~~[(g)]~~(f).

(7) (a) A ticket for a race for a combined office shall appear on the ballot in the place of the earliest ballot ticket position that is reserved for an office that is subsumed in the combined office.

(b) Each ticket, other than a ticket described in Subsection (6)~~[(g)]~~(f), shall list:

(i) each candidate in accordance with Subsections (1) through (4); and

(ii) except as otherwise provided in this title, the party name, initials, or title following each candidate's name.

**Section 8. Section 20A-9-406 is amended to read:**

**20A-9-406. Qualified political party -- Requirements and exemptions.**

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on November 30 of each odd-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's

candidates and whether unaffiliated voters may vote for the qualified political party's candidates;

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)~~[(f)]~~(e), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each individual nominated by a qualified political party:

(a) under the qualified political party's name, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(d), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(e), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on

the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

**Section 9. Section 63I-2-220 is amended to read:**

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

(1) On January 1, 2021:

(a) Subsection 20A-1-201.5(1), the language that states "Except as provided in Subsection (4)," is repealed.

(b) Subsection 20A-1-201.5(4) is repealed.

(c) Subsections 20A-1-204(1)(a)(i) through (iii) are repealed and replaced with the following:

"(i) the fourth Tuesday in June; or

(ii) the first Tuesday after the first Monday in November."

(d) In Subsections 20A-1-503(4)(c), 20A-9-202(3)(a), 20A-9-403(3)(d)(ii), 20A-9-407(5) and (6)(a), and 20A-9-408(5), immediately following the reference to Subsection 20A-9-202(1)(b), the language that states "(i) or (ii)" is repealed.

(e) Subsection 20A-9-202(1)(b) is repealed and replaced with the following:

"(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the third Saturday in April.;"

(f) Subsection 20A-9-409(4)(c) is repealed and replaced with the following:

"(c) The deadline described in Subsection (4)(b) is 5 p.m. on the first Wednesday after the third Saturday in April."

(2) Subsection 20A-5-803(8) is repealed July 1, 2023.

(3) Section 20A-5-804 is repealed July 1, 2023.

(4) On January 1, 2026:

(a) In Subsection 20A-1-102(22)(a), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states "Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(c) In Section 20A-1-304, the language that states "Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(d) In Subsection 20A-3-105(1)(a), the language that states "Except as provided in Subsection (5)," is repealed.

(e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states "Except as provided in Subsections (5) and (6)," is repealed.

(f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states "Subject to Subsection (5)," is repealed.

(g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section 20A-3-105 are renumbered accordingly.

(h) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in Subsection (2)(f)," is repealed.

(i) Subsection 20A-4-101(2)(f) is repealed.

(j) Subsection 20A-4-101(3) is repealed and replaced with the following:

"(3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105."

(k) In Subsection 20A-4-102(1)(a), the language that states "or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.

(l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

"(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105."

(m) In Subsection 20A-4-102(6)(a), the language that states "except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.

(n) In Subsection 20A-4-105(1)(a), the language that states "except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(o) In Subsection 20A-4-105(2), the language that states “Subsection 20A-3-105(5), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(p) In Subsections 20A-4-105(3), [~~4~~] (4), and [~~11~~] (11), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(q) In Subsection 20A-4-106(1)(a)(ii), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(r) In Subsection 20A-4-304(1)(a), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(s) Subsection 20A-4-304(2)(e) is repealed and replaced with the following:

“(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition.”

(t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(v) Subsections 20A-5-400.1(1)(c) and (d), relating to contracting with a local political subdivision to conduct an election, is repealed.

(w) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in Subsection (3) are renumbered accordingly.

(x) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in Subsection (4) are renumbered accordingly.

(y) In Section 20A-5-802, relating to the certification of voting equipment:

(i) delete “Except as provided in Subsection (2)(b)(ii).” from the beginning of Subsection (2); and

(ii) Subsection (2)(b)(ii) is repealed, and the remaining subsections are renumbered accordingly.

(z) Section 20A-6-203.5 is repealed.

(aa) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states “Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(bb) In Subsection 20A-9-203(3)(a)(i), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(cc) In Subsection 20A-9-203(3)(c)(i), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(dd) In Subsection 20A-9-404(1)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(ee) In Subsection 20A-9-404(2), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(5) Section 20A-7-407 is repealed January 1, 2021.

**Section 10. Section 67-1a-2 is amended to read:**

**67-1a-2. Duties enumerated.**

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor’s programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise general supervisory authority over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) assist county clerks in unifying the election ballot;

(iv) (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor; and

(B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of those persons who have received the highest number of votes for any office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of [Subsection] Sections 20A-5-302~~(2) and Sections~~, 20A-5-802, and 20A-5-803;

(x) conduct the study described in Section 67-1a-14;

(xi) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xii) perform other election duties as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town

clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) determine a new municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a Municipality, based on the municipality's population using the population estimate from the Utah Population Committee; and

(ii) (A) prepare a certificate indicating the class in which the new municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the municipality's legislative body.

(b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

(A) each official census or census estimate of the United States Bureau of the Census; or

(B) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

(ii) (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.

(c) The lieutenant governor shall:

(i) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Committee; and

(ii) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body.

(d) The lieutenant governor shall monitor the population of each municipality using population information from:

(i) each official census or census estimate of the United States Bureau of the Census; or

(ii) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census.

(e) If the applicable population figure under Subsection (3)(b) or (d) indicates that a

municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(f) (i) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

### Section 11. Coordinating H.B. 70 with H.B. 36 -- Substantive and technical amendments.

If this H.B. 70 and H.B. 36, Election Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by renumbering and amending Section 20A-3-106 to Section 20A-3a-206, to read:

"~~20A-3-106.~~ 20A-3a-206. [~~Voting straight ticket -- Splitting ballot --~~] Writing in names -- Effect of unnecessary marking of cross.

~~[(1) When voting a paper ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:]~~

~~[(a) mark in the circle or position above that political party;]~~

~~[(b) mark in the squares or position opposite the names of all candidates for that party ticket; or]~~

~~[(c) make both markings.]~~

~~[(2) (a) When voting a ballot sheet, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:]~~

~~[(i) mark the selected party on the straight party page or section; or]~~

~~[(ii) mark the name of each candidate from that party.]~~

~~[(b) To vote for candidates from two or more political parties, the voter may:]~~

~~[(i) mark in the squares or positions opposite the names of the candidates for whom the voter wishes to vote without marking in any circle; or]~~

~~[(ii) indicate the voter's choice by:]~~

~~[(A) marking in the circle or position above one political party; and]~~

~~[(B) marking in the squares or positions opposite the names of desired candidates who are members of any party, are unaffiliated, or are listed without party name.]~~

~~[(3) (a) When voting an electronic ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:]~~

~~[(i) select that party on the straight party selection area; or]~~

~~[(ii) select the name of each candidate from that party.]~~

~~[(b) To vote for candidates from two or more political parties, the voter may:]~~

~~[(i) select the names of the candidates for whom the voter wishes to vote without selecting a political party in the straight party selection area; or]~~

~~[(ii) (A) select a political party in the straight party selection area; and]~~

~~[(B) select the names of the candidates for whom the voter wishes to vote who are members of any party, are unaffiliated, or are listed without party name.]~~

~~[(4) In any election other than a primary election, if a voter voting a ballot has selected or placed a mark next to a party name in order to vote a straight party ticket and wishes to vote for a person on another party ticket for an office, or for an unaffiliated candidate, the voter shall select or mark the ballot next to the name of the candidate for whom the voter wishes to vote.]~~

~~[(5) (1) (a) [The] A voter may cast a write-in vote on a [paper ballot or ballot sheet] manual ballot by writing the name of a valid write-in candidate in the blank write-in section of the ballot.~~

~~(b) A voter may not cast a write-in vote on a [paper ballot or ballot sheet] manual ballot by affixing a sticker or label with the name of a write-in candidate in the blank write-in section of the ballot.~~

~~[(6) (2) [The] A voter may cast a write-in vote on [an electronic] a mechanical ballot by:~~

~~(a) marking the appropriate position opposite the area for entering a write-in candidate for the office sought by the candidate for whom the voter wishes to vote; and~~

~~(b) entering the name of a valid write-in candidate in the write-in selection area."~~

**CHAPTER 50****H. B. 79**

Passed February 13, 2020

Approved March 24, 2020

Effective May 12, 2020

**PARENT-TIME AMENDMENTS**

Chief Sponsor: Susan Pulsipher  
Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill modifies requirements for the minimum parent-time schedule.

**Highlighted Provisions:**

This bill:

- ▶ modifies the minimum parent-time schedule for the fall school break; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

30-3-35, as last amended by Laws of Utah 2019, Chapter 188

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

**Section 1. Section 30-3-35 is amended to read:****30-3-35. Minimum schedule for parent-time for children 5 to 18 years old.**

(1) The parent-time schedule in this section applies to children 5 to 18 [~~years of age~~] years old.

(2) If the parties do not agree to a parent-time schedule, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled.

(a) (i) (A) One weekday evening to be specified by the noncustodial parent or the court, or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.;

(B) at the election of the noncustodial parent, one weekday from the time the child's school is regularly dismissed until 8:30 p.m., unless the court directs the application of Subsection (2)(a)(i)(A); or

(C) at the election of the noncustodial parent, if school is not in session, one weekday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 8:30 p.m. if the noncustodial parent is available to be with the child, unless the court directs the application of Subsection (2)(a)(i)(A) or (2)(a)(i)(B).

(ii) Once the election of the weekday for the weekday evening parent-time is made, it may not be changed except by mutual written agreement or court order.

(b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until [~~7 p.m. on~~] Sunday at 7 p.m., continuing each year;

(B) at the election of the noncustodial parent, from the time the child's school is regularly dismissed on Friday until [~~7 p.m. on~~] Sunday at 7 p.m., unless the court directs the application of Subsection (2)(b)(i)(A); or

(C) at the election of the noncustodial parent, if school is not in session, on Friday from approximately 9 a.m., accommodating the custodial parent's work schedule, until [~~7 p.m. on~~] Sunday at 7 p.m., if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(b)(i)(A) or (2)(b)(i)(B).

(ii) A step-parent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iii) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(iv) Weekends include any "snow" days, teacher development days, or other days when school is not scheduled and [~~which~~] that are contiguous to the weekend period.

(c) Holidays include any "snow" days, teacher development days after the children begin the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over the weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule, however:

(i) birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day; and

(ii) birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time takes the child away from that parent's residence for the uninterrupted extended parent-time.

(d) If a holiday falls on a regularly scheduled school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.

(e) (i) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.

(ii) (A) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is regularly dismissed at the beginning of the holiday weekend

until 7 p.m. on the last day of the holiday weekend; or

(B) at the election of the noncustodial parent, if school is not in session, parent-time over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the custodial parent's work schedule, the first day of the holiday weekend until 7 p.m. on the last day of the holiday weekend, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(e)(ii)(A).

(iii) A step-parent, grandparent, or other responsible individual designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iv) An election should be made by the noncustodial parent at the time of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(f) In years ending in an odd number, the noncustodial parent is entitled to the following holidays:

(i) the child's birthday on the day before or after the child's actual birthdate beginning at 3 p.m. until 9 p.m., and at the discretion of the noncustodial parent, the noncustodial parent may take other siblings along for the birthday;

(ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) subject to Subsection (2)(i), spring break beginning at 6 p.m. on the day school lets out for the holiday until 7 p.m. on the evening before school resumes;

(iv) July 4 beginning 6 p.m. on the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Labor Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

~~[(vi) the fall school break, if applicable, commonly known as U.E.A. weekend beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;]~~

(vi) subject to Subsection (2)(i), the fall school break beginning at 6 p.m. on the day that school lets out for the holiday until 7 p.m. on the evening before school resumes;

(vii) Veterans Day holiday beginning 6 p.m. on the day before the holiday until 7 p.m. on the holiday; and

(viii) the first portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b), including Christmas Eve and Christmas Day, continuing until 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period<sup>[7]</sup> or until 7 p.m. if there are an even number of days for the holiday period, so long as the entire holiday period is equally divided.

(g) In years ending in an even number, the noncustodial parent is entitled to the following holidays:

(i) the child's birthday on the child's actual birthdate beginning at 3 p.m. until 9 p.m., and at the discretion of the noncustodial parent, the noncustodial parent may take other siblings along for the birthday;

(ii) President's Day beginning at 6 p.m. on Friday until ~~[7 p.m. on]~~ Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;

(vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;

(vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

(viii) the second portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday period<sup>[7]</sup> if there are an odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for the holiday period, so long as the entire Christmas holiday period is equally divided.

(h) The custodial parent is entitled to the odd year holidays in even years and the even year holidays in odd years.

(i) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are let out for the holiday and ending the evening before any child returns to school.

(j) Father's Day shall be spent with the natural or adoptive father every year beginning at 9 a.m. until 7 p.m. on the holiday.



(k) Mother's Day shall be spent with the natural or adoptive mother every year beginning at 9 a.m. until 7 p.m. on the holiday.

(l) Extended parent-time with the noncustodial parent may be:

(i) up to four consecutive weeks when school is not in session at the option of the noncustodial parent, including weekends normally exercised by the noncustodial parent, but not holidays;

(ii) two weeks shall be uninterrupted time for the noncustodial parent; and

(iii) the remaining two weeks shall be subject to parent-time for the custodial parent for weekday parent-time but not weekends, except for a holiday to be exercised by the other parent.

(m) The custodial parent shall have an identical two-week period of uninterrupted time when school is not in session for purposes of vacation.

(n) Both parents shall provide notification of extended parent-time or vacation weeks with the child at least 30 days before the end of the child's school year to the other parent and if notification is not provided timely the complying parent may determine the schedule for extended parent-time for the noncomplying parent.

(o) Telephone contact shall be at reasonable hours and for a reasonable duration.

(p) (i) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration~~[, provided that if]~~.

(ii) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

~~(i)~~ (A) the best interests of the child;

~~(ii)~~ (B) each parent's ability to handle any additional expenses for virtual parent-time; and

~~(iii)~~ (C) any other factors the court considers material.

(3) An election required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended beyond the hours designated in Subsection (2)(g)(vi).

**CHAPTER 51****H. B. 80**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**SCHOOL FEES DATA COLLECTION**

Chief Sponsor: Adam Robertson  
 Senate Sponsor: Deidre M. Henderson

**LONG TITLE****General Description:**

This bill requires certain data collection and reporting regarding school fees.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a local education agency to:
  - measure and collect data related to certain fees the LEA charges or waives; and
  - report the data to the State Board of Education;
- ▶ requires the State Board of Education to report to the Legislature; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476
- 53G-7-501, as last amended by Laws of Utah 2019, Chapter 223
- 53G-7-503, as last amended by Laws of Utah 2019, Chapters 223 and 293

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

**Section 1. Section 53E-1-201 is amended to read:****53E-1-201. Reports to and action required of the Education Interim Committee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(b) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(c) the report described in Section 53B-1-103 by the State Board of Regents on career and technical education issues and addressing workforce needs;

(d) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;

(e) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;

(f) the reports described in Section 53B-28-401 by the State Board of Regents and the Utah System of Technical Colleges Board of Trustees regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the report described in Section 53F-5-405 by an independent evaluator of a partnership that receives a grant to improve educational outcomes for students who are low income; and

(n) the report described in Section 63N-12-208 by the STEM Action Center Board, including the information described in Section 63N-12-213 on the status of the computer science initiative and Section 63N-12-214 on the Computing Partnerships Grants Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

~~[(k)]~~ (l) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

~~[(l)]~~ (m) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

~~[(m)]~~ (n) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

~~[(n)]~~ (o) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

**Section 2. Section 53G-7-501 is amended to read:**

**53G-7-501. Definitions.**

As used in this part:

(1) "Co-curricular activity" means an activity, a course, or a program that:

(a) is an extension of a curricular activity;

(b) is included in an instructional plan and supervised or conducted by a teacher or education professional;

~~[(a)]~~ (c) is conducted outside of regular school hours;

~~[(b)]~~ (d) is provided, sponsored, or supported by an LEA; and

~~[(e)]~~ (e) includes a required regular school day activity, course, or program.

(2) "Curricular activity" means an activity, a course, or a program that is:

(a) intended to deliver instruction;

~~[(a)]~~ (b) provided, sponsored, or supported by an LEA; and

~~[(b)]~~ (c) conducted only during school hours.

(3) "Elementary school" means a school that provides instruction to students in grades kindergarten, 1, 2, 3, 4, 5, or 6.

(4) (a) "Elementary school student" means a student enrolled in an elementary school.

(b) "Elementary school student" does not include a secondary school student.

(5) (a) "Extracurricular activity" means an activity, a course, or a program that is:

(i) not directly related to delivering instruction;

(ii) not a curricular activity or co-curricular activity; and

(iii) provided, sponsored, or supported by an LEA.

(b) "Extracurricular activity" does not include a noncurricular club as defined in Section 53G-7-701.

(6) (a) "Fee" means a charge, expense, deposit, rental, or payment:

(i) regardless of how the charge, expense, deposit, rental, or payment is termed, described, requested, or required directly or indirectly;

(ii) in the form of money, goods, or services; and

(iii) that is a condition to a student's full participation in an activity, course, or program that is provided, sponsored, or supported by an LEA.

(b) "Fee" includes:

(i) money or something of monetary value raised by a student or the student's family through fundraising;

(ii) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;

(iii) payments made to a third party that provides a part of a school activity, class, or program;

(iv) charges or expenditures for classroom:

(A) textbooks;

(B) supplies; or

(C) materials;

(v) charges or expenditures for school activity clothing; and

(vi) a fine other than a fine described in Subsection (6)(c)(i).

(c) "Fee" does not include:

(i) a student fine specifically approved by an LEA for:

- (A) failing to return school property;
- (B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior, or as described in Section 53G-8-212; or
- (C) improper use of school property, including a parking violation;
- (ii) a payment for school breakfast or lunch;
- (iii) a deposit that is:
- (A) a pledge securing the return of school property; and
- (B) refunded upon the return of the school property; or
- (iv) a charge for insurance, unless the insurance is required for a student to participate in an activity, course, or program.
- (7) (a) “Fundraising” means an activity or event provided, sponsored, or supported by an LEA that uses students to generate funds or raise money to:
- (i) provide financial support to a school or a school’s class, group, team, or program; or
- (ii) benefit a particular charity or for other charitable purposes.
- (b) “Fundraising” does not include an alternative method of raising revenue without students.
- (8) (a) “School activity clothing” means special shoes or items of clothing:
- (i) (A) that meet specific requirements, including requesting a specific ~~color, style~~ brand, fabric, or imprint; and
- (B) that a school requires a student to provide; and
- (ii) that is worn by a student for a co-curricular or extracurricular activity.
- (b) “School activity clothing” does not include:
- (i) a school uniform[-]; or
- (ii) clothing that is commonly found in students’ homes.
- (9) (a) “School uniform” means special shoes or an item of clothing:
- (i) (A) that meet specific requirements, including a requested specific color, style, fabric, or imprint; and
- (B) that a school requires a student to provide; and
- (ii) that is worn by a student for a curricular activity.
- (b) “School uniform” does not include school activity clothing.
- (10) “Secondary school” means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

- (11) “Secondary school student”:
- (a) means a student enrolled in a secondary school; and
- (b) includes a student in grade 6 if the student attends a secondary school.
- (12) “Textbook” means the same as that term is defined in Section 53G-7-601.
- (13) “Waiver” means a full or partial release from a requirement to pay a fee and from any provision in lieu of fee payment.

**Section 3. Section 53G-7-503 is amended to read:**

**53G-7-503. Fees -- Prohibitions -- Voluntary supplies -- Enforcement -- Reporting.**

(1) An LEA may only charge a fee if the fee is authorized and noticed by the LEA governing board in accordance with Section 53G-7-505.

(2) (a) An LEA may not require a fee for elementary school activities that are part of the regular school day or for supplies used during the regular school day.

(b) An elementary school or elementary school teacher may compile and provide to a student’s parent a suggested list of supplies for use during the regular school day so that a parent may furnish on a voluntary basis those supplies for student use.

(c) A list provided to an elementary student’s parent in accordance with Subsection (2)(b) shall include and be preceded by the following language:

“NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL.”

(3) (a) Beginning with or after the 2021-2022 school year, if an LEA imposes a fee, the fee shall be equal to or less than the expense incurred by the LEA in providing for a student the activity, course, or program for which the LEA imposes the fee.

(b) An LEA may not impose an additional fee or increase a fee to supplant or subsidize another fee.

(4) (a) Beginning with or after the 2021-2022 school year, and notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part or Part 6, Textbook Fees, the state board shall impose corrective action against the LEA, which may include:

(i) requiring an LEA to repay improperly charged fees;

(ii) withholding state funds; and

(iii) suspending the LEA’s authority to charge fees for an amount of time specified by the state board.

(b) The state board shall make rules:

(i) that require notice and an opportunity to be heard for an LEA affected by a state board action described in Subsection (4)(a); and

(ii) to administer this Subsection (4).

(5) (a) For each fee on an LEA's fee schedule described in Section 52G-7-505, the LEA shall:

(i) by July 1, 2020, determine whether the fee is curricular, co-curricular, or extracurricular;

(ii) for the 2020-2021 school year, measure the total number of:

(A) students who pay each fee; and

(B) money received for each fee;

(iii) for the 2020-2021 school year, measure the total:

(A) number of students who receive a fee waiver; and

(B) value of each waiver for each waived fee; and

(iv) by July 1, 2021, report the separate categories of data gathered under Subsections (5)(a)(ii) and (iii) to the state board.

(b) The state board shall report on the data the board receives under Subsection (5)(a) to the Education Interim Committee on or before the date of the November interim meeting in 2021.

**CHAPTER 52****H. B. 81**

Passed February 13, 2020

Approved March 24, 2020

Effective May 12, 2020

**JUDICIAL RETENTION  
FOR JUSTICE COURT JUDGES**Chief Sponsor: V. Lowry Snow  
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill modifies provisions related to justice court judges.

**Highlighted Provisions:**

This bill:

- ▶ expands to all cities and counties authority to initiate a reduction in workforce in a justice court in certain circumstances; and
- ▶ expands to all cities and counties a requirement that a new justice court judge position requires approval from the Judicial Council.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78A-7-203, as last amended by Laws of Utah 2019, Chapter 429

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

**Section 1. Section 78A-7-203 is amended to read:****78A-7-203. Term of office for justice court judge -- Retention -- Reduction in force -- Addition of a justice court judge position.**

(1) The term of a justice court judge is six years beginning the first Monday in January following the date of election.

(2) Upon the expiration of a justice court judge's term of office, the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section 20A-12-201:

(a) in the county or counties in which the court to which the judge is appointed is located if the judge is a county justice court judge or a municipal justice court judge in a town or city of the fourth or fifth class; or

(b) in the municipality in which the court to which the judge is appointed is located if the judge is a municipal justice court judge and Subsection (2)(a) does not apply.

(3) Before each retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Chapter 12, Judicial Performance Evaluation Commission Act.

(4) A ~~political subdivision in a county of the first or second class~~ municipality or county that has more than one justice court judge and the weighted caseload per judge is lower than 0.60 as determined by the Administrative Office of the Courts may, at the ~~political subdivision's~~ municipality's or county's discretion and at the end of a judge's term of office, initiate a reduction in force and reduce, lay off, terminate, or eliminate a judge's position ~~pursuant to the political subdivision's~~ in accordance with the municipality's or county's employment policies.

(5) A ~~political subdivision in a county of the first or second class~~ municipality or county may only add a new justice court judge position if the Judicial Council, after considering the caseload of the court, approves creation of the position.

**CHAPTER 53****H. B. 82**

Passed February 21, 2020

Approved March 24, 2020

Effective May 12, 2020

**GOVERNMENTAL  
IMMUNITY MODIFICATIONS**Chief Sponsor: Brady Brammer  
Senate Sponsor: Kirk A. Cullimore**LONG TITLE****General Description:**

This bill modifies the Governmental Immunity Act of Utah.

**Highlighted Provisions:**

This bill:

- ▶ modifies a provision relating to a governmental entity's obligation to provide information to a claimant after the filing of a notice of claim.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63G-7-403, as last amended by Laws of Utah 2019, Chapter 229

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

**Section 1. Section 63G-7-403 is amended to read:****63G-7-403. Notifying of the receipt of a notice of claim -- Action in district court -- Time for commencing action -- Commencing action after time limit.**

(1) Within 60 days after the filing of a notice of claim, the governmental entity, the entity's representative, or [its] the entity's insurance carrier shall inform the claimant in writing:

- (a) that the notice of claim has been received; and
- (b) if applicable, that the governmental entity believes it is not the correct governmental entity with which the notice of claim should have been filed.

(2) (a) (i) Subject to Subsections (2)(a)(ii) and (b), a claimant may pursue an action in the district court against the governmental entity or an employee of the entity.

(ii) A claimant may not file an action before the date that is 60 days after the claimant's notice of claim is filed.

(b) Subject to Subsection (3), a claimant shall commence the action within two years after the claim arises, as provided in Subsection 63G-7-401(1), regardless of whether or not the function giving rise to the claim is characterized as governmental.

(3) (a) As used in this Subsection (3), "claimant" includes a representative of an individual:

- (i) who dies before an action is begun under this section; and
- (ii) whose cause of action survives the individual's death.

(b) A claimant may commence an action after the time limit described in Subsection (2)(b) if:

- (i) the claimant had commenced a previous action within the time limit of Subsection (2)(b);
- (ii) the previous action failed or was dismissed for a reason other than on the merits; and

(iii) the claimant commences the new action within one year after the previous action failed or was dismissed.

(c) A claimant may commence a new action under Subsection (3)(b) only once.

**CHAPTER 54****H. B. 83**

Passed February 28, 2020

Approved March 24, 2020

Effective May 1, 2020

**EXPUNGEMENT AMENDMENTS**

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill amends provisions related to the expungement of pleas in abeyance.

**Highlighted Provisions:**

This bill:

- ▶ requires a prosecutor to notify a victim of an expungement request for a charge dismissed in accordance with a plea in abeyance agreement;
- ▶ requires a court to make specific findings when granting an expungement for a plea in abeyance; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

77-38-14 as last amended by Laws of Utah 2010, Chapter 283

77-40-107 (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448

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

**Section 1. Section 77-38-14 is amended to read:****77-38-14. Notice of expungement petition -- Victim's right to object.**

(1) The Department of Corrections or the Juvenile Probation Department shall prepare a document explaining the right of a victim or a victim's representative to object to a petition for expungement under Section 77-40-107 or 78A-6-1105 and the procedures for obtaining notice of any such petition. The department or division shall also provide each trial court a copy of the document which has jurisdiction over delinquencies or criminal offenses subject to expungement.

(2) The prosecuting attorney in any case leading to a conviction [ø], a charge dismissed in accordance with a plea in abeyance agreement, or an adjudication subject to expungement shall provide a copy of the document to each person who would be entitled to notice of a petition for expungement under Sections 77-40-107 and 78A-6-1105.

**Section 2. Section 77-40-107 (Effective 05/01/20) is amended to read:****77-40-107 (Effective 05/01/20). Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.**

(1) (a) The petitioner shall file a petition for expungement and the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency.

(b) If the petitioner files the certificate of eligibility electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded.

(c) If the petitioner files the original certificate of eligibility with the petition, the clerk of the court shall scan and return the original certificate to the petitioner or the petitioner's attorney, who shall keep the original certificate until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) (i) If the court receives an objection concerning the petition from any party, the court



shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(ii) The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other individual who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if the court finds, by clear and convincing evidence, that:

(a) the petition and certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction; ~~and~~

(e) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and

~~(e)~~ (f) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the individual seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

(10) If the court grants a petition described in Subsection (8)(e), the court shall make the court's findings in a written order.

~~[(10)]~~ (11) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

### Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2020.

**CHAPTER 55****H. B. 84**

Passed February 21, 2020

Approved March 24, 2020

Effective May 12, 2020

**TRAFFIC CODE AMENDMENTS**

Chief Sponsor: Craig Hall  
Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill amends provisions in the Traffic Code regarding the penalties for passing a school bus.

**Highlighted Provisions:**

This bill:

- ▶ increases the minimum fines and penalties associated with passing a school bus displaying flashing lights.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-6a-1302, as last amended by Laws of Utah 2017, Chapter 186

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

**Section 1. Section 41-6a-1302 is amended to read:**

**41-6a-1302. School bus -- Signs and light signals -- Flashing amber lights -- Flashing red lights -- Passing school bus -- Duty to stop -- Travel in opposite direction -- Penalties.**

(1) A school bus, when operated for the transportation of school children, shall:

(a) bear on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height, which shall be removed or covered when the vehicle is not in use for the transportation of school children; and

(b) be equipped with alternating flashing amber and red light signals visible from the front and rear, of a type approved and mounted as required under Section 41-6a-1301 and prescribed by the department under Section 41-6a-1601.

(2) The operator of a vehicle on a highway, upon meeting or overtaking a school bus equipped with signals required under this section which is displaying alternating flashing:

(a) amber warning light signals, shall slow the vehicle, but may proceed past the school bus using due care and caution at a speed not greater than specified in Subsection 41-6a-601(2) for school zones for the safety of the school children that may be in the vicinity; or

(b) red light signals visible from the front or rear, shall stop immediately before reaching the bus and

may not proceed until the flashing red light signals cease operation.

(3) The operator of a vehicle need not stop upon meeting or passing a school bus displaying alternating flashing red light signals if the school bus is traveling in the opposite direction when:

- (a) traveling on a divided highway;
- (b) the bus is stopped at an intersection or other place controlled by a traffic-control signal or by a peace officer; or
- (c) on a highway of five or more lanes, which may include a left-turn lane or two-way left turn lane.

(4) (a) The operator of a school bus shall operate alternating flashing red light signals at all times when:

- (i) children are unloading from a school bus to cross a highway;
- (ii) a school bus is stopped for the purpose of loading children who must cross a highway to board the bus; or
- (iii) it would be hazardous for vehicles to proceed past the stopped school bus.

(b) The alternating flashing red light signals may not be operated except:

- (i) when the school bus is stopped for loading or unloading school children; or
- (ii) for an emergency purpose.

(5) The operator of a school bus being operated on a highway shall have the headlights of the school bus lighted.

(6) (a) A violation of Subsection (2) or (3) is a class C misdemeanor and the minimum ~~fine~~ penalty is:

- (i) ~~[\$100]~~ \$250 and 10 hours of compensatory service for a first offense;
- (ii) ~~[\$200]~~ \$500 and 20 hours of compensatory service for a second offense within three years of a previous conviction or bail forfeiture; and
- (iii) ~~[\$500]~~ \$1,000 and 40 hours of compensatory service for a third or subsequent offense within three years of a previous conviction or bail forfeiture.

(b) A violation of Subsection (5) is an infraction and the fine is \$50.

(c) The court may order the person to perform compensatory service in lieu of the fine or any portion of the fine if the court makes the reasons for the waiver part of the record.

(d) In accordance with Section 78A-5-110, 78A-6-210, or 78A-7-120, as applicable, if a photograph or video image obtained from an automated traffic enforcement safety device described in Section 41-6a-1310 was used as evidence of a violation of Subsection (2) or (3), 20% of the fine collected under Subsection (6)(a) shall be deposited with the school district or private school that owns or contracts for the operation of the bus to offset the costs of the automated traffic enforcement safety device.

(7) A violation of Subsection (1) or (4) is an infraction.

(8) The Driver License Division shall develop and implement a record system to distinguish:

(a) a conviction or bail forfeiture under this section from other convictions; and

(b) between a first and subsequent conviction or bail forfeiture under this section.

**CHAPTER 56****H. B. 87**

Passed February 28, 2020

Approved March 24, 2020

Effective May 12, 2020

**HEALTH CARE WORKFORCE FINANCIAL ASSISTANCE PROGRAM AMENDMENTS**

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill amends provisions relating to the Health Care Workforce Financial Assistance Program.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ permits the department to provide education loan repayment assistance to geriatric or health care professionals under certain circumstances; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-46-101, as last amended by Laws of Utah 2009, Chapter 97

26-46-102, as last amended by Laws of Utah 2009, Chapter 97

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

**Section 1. Section 26-46-101 is amended to read:****26-46-101. Definitions.**

(1) "Eligible professional" means a geriatric professional or a health care professional who is eligible to participate in the program.

(1) (2) "Geriatric professional" means a person who:

- (a) is a licensed:
  - (i) health care professional;
  - (ii) social worker;
  - (iii) occupational therapist;
  - (iv) pharmacist;
  - (v) physical therapist; or
  - (vi) psychologist; and

(b) is determined by the department to have adequate advanced training in geriatrics to prepare the person to provide specialized geriatric care within the scope of the person's profession.

(2) (3) "Health care professional" means:

- (a) a licensed:

- (i) physician;
  - (ii) physician assistant;
  - (iii) nurse;
  - (iv) dentist; or
  - (v) mental health therapist; or
- (b) another licensed health care professional designated by the department by rule.

(4) "Program" means the Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(5) "Underserved area" means an area designated by the department as underserved by health care professionals, based upon the results of a needs assessment developed by the department in consultation with the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26-46-103.

**Section 2. Section 26-46-102 is amended to read:****26-46-102. Creation of program -- Duties of department.**

(1) There is created within the department the Utah Health Care Workforce Financial Assistance Program to provide, within funding appropriated by the Legislature for ~~this purpose~~ the following purposes:

(a) professional education scholarships and loan repayment assistance to health care professionals who locate or continue to practice in underserved areas; and

(b) loan repayment assistance to geriatric professionals who locate or continue to practice in underserved areas.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the administration of the program, including rules that address:

- (a) application procedures;
- (b) eligibility criteria;
- (c) selection criteria;

(d) service conditions, which at a minimum shall include professional service in an underserved area for a minimum period of time by any person receiving a scholarship or loan repayment assistance;

(e) penalties for failure to comply with service conditions or other terms of a scholarship or loan repayment contract;

(f) criteria for modifying or waiving service conditions or penalties in case of extreme hardship or other good cause; and

(g) administration of contracts entered into before the effective date of this act, between the department and scholarship or loan repayment recipients, as authorized by law.

(3) The department may provide education loan repayment assistance to an eligible professional if the eligible professional:

(a) agrees to practice in an underserved area for the duration of the eligible professional's participation in the program; and

(b) submits a written commitment from the health care facility employing the eligible professional that the health care facility will provide education loan repayment assistance to the eligible professional in an amount equal to 20% of the total award amount provided to the eligible professional.

~~[(3)]~~ (4) The department shall seek and consider the recommendations of the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26-46-103 as it develops and modifies rules to administer the program.

~~[(4)]~~ (5) Funding for the program:

(a) shall be a line item within the appropriations act;

(b) shall be nonlapsing unless designated otherwise by the Legislature; and

(c) may be used to cover administrative costs of the program, including reimbursement expenses of the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26-46-103.

~~[(5) Loan repayments and payments resulting from]~~

(6) Refunds for loan repayment assistance, penalties for breach of contract, and other payments to the program are dedicated credits to the program.

~~[(6)]~~ (7) The department shall prepare an annual report on the revenues, expenditures, and outcomes of the program.

**CHAPTER 57****H. B. 92**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**FIRE AMENDMENTS**

Chief Sponsor: Casey Snider  
 Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill addresses fires.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ addresses the process of approval for certain fire events; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****RENUMBERS AND AMENDS:**

19-2a-105, (Renumbered from 19-2-107.6, as enacted by Laws of Utah 2019, Chapter 51)

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

**Section 1. Section 19-2a-105, which is renumbered from Section 19-2-107.6 is renumbered and amended to read:**

**[19-2-107.6]. 19-2a-105. Prescribed fires, pile burns, and nonfull suppression events.**

(1) As used in this section:

(a) "Board" means the Air Quality Board.

(~~(a)~~) (b) "Burn plan" means the plan required for each fire application ignited by a land manager.

(~~(b)~~) (c) "Burn window" means the period of time during which the prescribed fire is scheduled for ignition.

(d) "Director" means the director of the division.

(e) "Division" means the Division of Air Quality created in Section 19-1-105.

(f) "Exceptional event" means one or more prescribed burning or pile burning events and the resulting emissions that affect air quality in such a way that there exists a clear causal relationship between the specific event and the monitored exceedance or violation.

(~~(e)~~) (g) "Land manager" means a person who administers, directs, oversees, or controls the use of public land, including the application of fire to the land.

(~~(d)~~) (h) "Large prescribed fire" means a fire that a land manager ignites to meet a specific objective,

including a resource benefit that covers 20 acres or more per burn.

(~~(e)~~) (i) "Large prescribed pile fire" means a fire that a land manager ignites to meet a specific objective, including a resource benefit, that exceeds 30,000 cubic feet per day.

(~~(f)~~) (j) "Nonfull suppression event" means a naturally ignited wildland fire for which a land manager secures less than full suppression to accomplish a specific prestated resource management objective in a predefined geographic area.

(k) "Pile burning" means a fire or fires that a land manager ignites for fuel mitigation designed to reduce the risk of catastrophic fire, improve ecological health, and prevent dangerous wildfires by burning piled or scattered leaves, pine needles, downed trees, natural woody debris, thick vegetation, or similar organic material left behind after logging or other forest treatments.

(l) "Prescribed burning" means the planned and controlled burning of plant material in order to minimize the risk of catastrophic wildfire or to meet specific land management objectives.

(~~(g)~~) (m) "Wildland" means an area in which development is essentially nonexistent other than the existence of a pipeline, power line, road, railroad, or other transportation or conveyance facility or one or more structures that are widely scattered.

(2) (a) The division may not permit a land manager to conduct a large prescribed fire or large prescribed pile fire if the land manager does not comply with the rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) In the rules made by the board under this Subsection (2), the board shall require the land manager to:

(i) describe the use of a state, county, or municipal resource in the large prescribed fire or large prescribed pile fire;

(ii) provide the division the burn plan for a large prescribed fire or large prescribed pile fire by no later than one week before the day of the burn window; and

(iii) notify the division of a nonfull suppression event once a fire becomes a nonfull suppression event.

(3) The director shall approve a prescribed burning or pile burning in wildland areas and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index in the area of the burn is 500 or greater;

(b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director

approves a prescribed burning or pile burning after the land manager demonstrates to the director that the planned prescribed burning or pile burning will:

(i) not cause an exceedance of a national ambient air quality standard outside the wildland area;

(ii) minimize the long range transport of smoke; and

(iii) protect visibility in mandatory federal class 1 areas; or

(c) the United States National Weather Service clearing index in the burn area is less than 500 and the prescribed burning or pile burning may cause an exceedance of a national ambient air quality standard outside the wildland area if the land manager demonstrates to the director that the prescribed burning or pile burning fuel conditions are optimal to:

(i) protect safety of the public and fire staff;

(ii) minimize the risk of catastrophic fire;

(iii) achieve necessary watershed and ecological conditions; and

(iv) establish, restore, or maintain a sustainable and resilient wildland ecosystem or to preserve endangered or threatened species through a program of prescribed burning or pile burning.

(4) The director shall approve a prescribed burning or pile burning to reduce hazardous fuels for public safety in areas not defined as wildland and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index in the area of the burn is 500 or greater; or

(b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager:

(i) provides a demonstration that includes an assessment of the impact to local receptors;

(ii) implements measures to notify residents; and

(iii) minimizes residents exposure to smoke.

(5) The director shall approve a prescribed burning or pile burning for resource management purposes in areas not defined as wildland and the prescribed burning or pile burning may be conducted under the following conditions:

(a) the United States National Weather Service clearing index in the area of the burn is 500 or greater; or

(b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director

approves a prescribed burning or pile burning after the land manager demonstrates that the planned prescribed burning or pile burning will:

(i) not cause an exceedance of a national ambient air quality standard;

(ii) minimize the long range transport of smoke; and

(iii) protect visibility in mandatory federal class 1 areas.

(6) The division shall make the necessary filings with the United States Environmental Protection Agency if a prescribed burning or pile burning approved by the director results in an exceptional event.

**CHAPTER 58****H. B. 94**

Passed February 14, 2020

Approved March 24, 2020

Effective May 12, 2020

**WATER APPLICATIONS AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Ralph Okerlund

**LONG TITLE****General Description:**

This bill addresses applications for small amounts of water.

**Highlighted Provisions:**

This bill:

- ▶ allows the state engineer to issue a certificate meeting certain requirements before evaluating a claim in a general adjudication; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

73-3-5.6, as last amended by Laws of Utah 2019, Chapter 158

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

**Section 1. Section 73-3-5.6 is amended to read:****73-3-5.6. Applications to appropriate or permanently change a small amount of water -- Proof of appropriation or change.**

- (1) As used in this section:
- (a) "Application" means an application to:
- (i) appropriate a small amount of water; or
  - (ii) permanently change a small amount of water.
- (b) "Livestock water right" means a right for:
- (i) livestock to consume water:
    - (A) directly from the water source; or
    - (B) from an impoundment into which the water is diverted; and
  - (ii) associated uses of water related to the raising and care of livestock.
  - (c) "Proof" means proof of:
    - (i) appropriation; or
    - (ii) permanent change.
  - (d) "Small amount of water" means the amount of water necessary to meet the requirements of:
    - (i) one residence;
    - (ii) 1/4 acre of irrigable land; and
    - (iii) a livestock watering right for:

(A) 10 cattle; or

(B) the equivalent amount of water of Subsection (1)(d)(iii)(A) for livestock other than cattle.

(2) The state engineer may approve an application if:

(a) the state engineer undertakes a thorough investigation of the application;

(b) notice is provided in accordance with Subsection (3);

(c) the application complies with the state engineer's regional policies and restrictions and Section 73-3-3 or 73-3-8, as applicable; and

(d) the application does not conflict with a political subdivision's ordinance:

(i) for planning, zoning, or subdivision regulation; or

(ii) under Section 10-8-15.

(3) (a) Advertising of an application specified in Subsection (2) is at the discretion of the state engineer.

(b) If the state engineer finds that the uses proposed by the application may impair other rights, before approving the application, the state engineer shall give notice of the application according to Section 73-3-6.

(4) An applicant receiving approval under this section is responsible for the time limit for construction and submitting proof as required by Subsection (6).

(5) Sixty days before the end of the time limit for construction, the state engineer shall notify the applicant by mail when proof is due.

(6) (a) Notwithstanding Section 73-3-16, the state engineer shall issue a certificate under Section 73-3-17 if, as proof, the applicant files an affidavit:

(i) on a form provided by the state engineer;

(ii) that specifies the amount of:

(A) irrigated land; and

(B) livestock watered; and

(iii) that declares the residence is constructed and occupied.

(b) The form provided by the state engineer under Subsection (6)(a) may require the information the state engineer determines is necessary to maintain accurate records regarding the point of diversion and place of use.

(7) If an applicant does not file the proof required by Subsection (6) by the day on which the time limit for construction ends, the application lapses under Section 73-3-18.

(8) (a) Except as provided in Subsections (9) and (10), an applicant whose application lapses may file a request with the state engineer to reinstate the application, if the applicant demonstrates that the applicant or the applicant's predecessor in interest:



(i) constructed and occupied a residence within the time limit for construction; and

(ii) beneficially uses the water.

(b) Except as provided in Subsection (10), if an applicant meets the requirements of Subsection (8)(a) and submits an affidavit as provided by Subsection (6), the state engineer shall issue a certificate for the beneficial uses the applicant attests to in an affidavit described in Subsection (6).

(9) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending or concluded, an applicant whose application lapses may not file a request for reinstatement with the state engineer if:

(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3; and

(b) the applicant failed to timely submit a statement of claim as described in Subsection (10)(c)(ii).

(10) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending, the state engineer shall allow a reinstatement request under Subsection (8)(a) and, instead of issuing a certificate, evaluate the reinstatement request and statement of claim as part of the general adjudication for the area, if:

(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3;

(b) the applicant files the request for reinstatement no more than 90 days after the day on which the state engineer issues the notice of the time to file statements of claim in accordance with Section 73-4-3; and

(c) the applicant files:

(i) an affidavit described in Subsection (6); and

(ii) a timely statement of claim under Section 73-4-5.

(11) If an applicant fulfills the requirements in Subsection (10), the state engineer may issue a certificate before evaluating the claim in the general adjudication.

~~[(11)]~~ (12) The priority date for an application reinstated under this section is the day on which the applicant files the request for reinstatement of the application.

**CHAPTER 59****H. B. 95**

Passed February 18, 2020

Approved March 24, 2020

Effective May 12, 2020

**GENERAL ADJUDICATION  
WATER AMENDMENTS**Chief Sponsor: Casey Snider  
Senate Sponsor: Scott D. Sandall**LONG TITLE****General Description:**

This bill addresses adjudication of claims to water.

**Highlighted Provisions:**

This bill:

- ▶ addresses objections to state engineer determinations;
- ▶ prohibits claims after completion of a final summons; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**73-4-11, as last amended by Laws of Utah 2018,  
Chapter 34873-5-13, as last amended by Laws of Utah 2018,  
Chapters 346 and 348*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 73-4-11 is amended to read:****73-4-11. Proposed determination by engineer to court -- Hydrographic survey map -- Notice -- Public meeting.**

(1) After full consideration of the statements of claims, records, and files, and after an examination of the river system or water source involved, the state engineer shall for the general adjudication area, division, or subdivision:

- (a) complete a hydrographic survey map;
- (b) prepare a proposed determination of all rights to the use of the water and file it with the district court;
- (c) serve notice of completion of the proposed determination by publication and by mail, in accordance with Subsection 73-4-3(5), to each claimant of record in the state engineer's office within the general adjudication area, division, or subdivision, that includes:
  - (i) (A) a copy of the proposed determination; or
  - (B) instructions on how to obtain or access an electronic copy of the proposed determination; and
  - (ii) a statement describing the claimant's right to file an objection to the proposed determination

within 90 days after the day on which the notice of completion of the proposed determination is served; and

(d) hold a public meeting in the area, division, or subdivision covered by the proposed determination to explain the proposed determination to the claimants.

(2) A claimant who desires to object to the state engineer's proposed determination or an addendum to a proposed determination shall, within 90 days after the day on which the state engineer served the claimant with notice of completion of the proposed determination, file ~~a written objection to the proposed determination with the district court.]~~ with the district court a short and plain written:

(a) statement showing that the claimant is entitled to relief, identifying the elements of the proposed determination to which the claimant objects; and

(b) demand for relief.

(3) The state engineer shall distribute the waters from the natural streams or other natural sources:

(a) in accordance with the proposed determination or modification to the proposed determination by court order until a final decree is rendered by the court; or

(b) if the right to the use of the waters has been decreed or adjudicated, in accordance with the decree until the decree is reversed, modified, vacated, or otherwise legally set aside.

(4) Following the proposed determination, the state engineer may prepare and file one or more addenda to one or more proposed determinations, provided the state engineer:

- (a) files the addendum with the court;
- (b) in the preamble, provides an explanation of the issues addressed in the addendum;
- (c) serves the addendum, in the same manner as provided in Subsection (1)(c), on each owner of record, according to the state engineer's records, of a perfected water right authorizing the diversion of water from within the area, division, or subdivision covered by the addendum; and
- (d) holds a public meeting in the same manner as provided in Subsection (1)(d).

**Section 2. Section 73-5-13 is amended to read:****73-5-13. Claim to surface or underground water not otherwise represented -- Information required -- Corrections -- Filing -- Investigation -- Publication -- Judicial action to determine validity -- Rules.**

(1) (a) A claimant to the right to the use of water, including both surface and underground water, whose right is not represented by a certificate of appropriation issued by the state engineer, by an application filed with the state engineer, by a court decree, or by a notice of claim filed pursuant to law,

shall submit the claim to the state engineer in accordance with this section.

(b) Subsections (2) through (7) only apply to claims or corrected claims submitted to the state engineer in accordance with this section on or after May 14, 2013.

(2) (a) ~~[A] The claimant or the claimant's appointed representative shall verify under oath a claim submitted under this section [shall be verified under oath by the claimant or the claimant's duly appointed representative and submitted on forms]~~ and submit the claim on forms provided by the state engineer setting forth any information the state engineer requires, including:

(i) the name and mailing address of the person making the claim;

(ii) the quantity of water claimed in acre-feet or rate of flow in second-feet, or both, where appropriate;

(iii) the source of supply;

(iv) the priority date of the right;

(v) the location of the point of diversion with reference to a United States land survey corner;

(vi) the place of use;

(vii) the nature and extent of use;

(viii) the time during which the water has been used each year; and

(ix) the date when the water was first used.

(b) The claim shall also include the following information, prepared by a Utah licensed engineer or a Utah licensed land surveyor:

(i) measurements of the amount of water diverted;

(ii) a statement that the quantity of water claimed either in acre-feet or cubic feet per second is consistent with the beneficial use claimed and the supply that the source is capable of producing; and

(iii) a map showing the original diversion and conveyance works and where the water was placed to beneficial use, including irrigated lands, if irrigation is the claimed beneficial use.

(c) The state engineer may require additional information as necessary to evaluate any claim including:

(i) affidavits setting forth facts of which the affiant has personal knowledge;

(ii) authenticated or historic photographs, plat or survey maps, or surveyors' notes;

(iii) authenticated copies of original diaries, personal histories, or other historical documents that document the claimed use of water; and

(iv) other relevant records on file with ~~[any]~~ a county recorder's, surveyor's, or assessor's office.

(3) (a) A claimant, or a claimant's successor in interest, as shown in the records of the state engineer may file a corrected claim that:

(i) is designated as a corrected claim;

(ii) includes the information described in Subsection (2); and

(iii) bears the same number as the original claim.

(b) If a corrected claim that meets the requirements described in Subsection (3)(a) is filed before the state engineer publishes the original claim in accordance with Subsection (4)(a)(iv), the state engineer may not charge an additional fee for filing the corrected claim.

(c) The state engineer shall treat a corrected claim that is filed in accordance with Subsection (3)(a) as if the corrected claim were the original claim.

(4) (a) When a claimant submits a claim that is acceptably complete under Subsection (2) and deposits money with the state engineer sufficient to pay the expenses of conducting a field investigation and publishing a notice of the claim, the state engineer shall:

(i) file the claim;

(ii) endorse the date of ~~[its]~~ the claim's receipt;

(iii) assign the claim a water right number;

(iv) publish a notice of the claim following the same procedures as provided in Section 73-3-6; and

(v) if the claimant is the federal government or a federal agency, provide a copy of the claim to the members of the Natural Resources, Agriculture, and Environment Interim Committee.

(b) ~~[Any]~~ A claim not acceptably complete under Subsection (2) shall be returned to the claimant.

(c) The acceptance of ~~[any]~~ a claim filed under this section by the state engineer may not be considered to be an adjudication by the state engineer of the validity of the claimed water right.

(5) (a) The state engineer shall:

(i) conduct a field investigation of each claim filed; and

(ii) prepare a report of the investigation.

(b) In preparing the report of the investigation described in Subsection (5)(a), the state engineer shall:

(i) apply Section 73-1-3; and

(ii) include an evaluation of the asserted beneficial uses as ~~[they]~~ the asserted beneficial uses existed at the time of the claimed priority date, specifically identifying any portion of the claim that was not placed to beneficial use in accordance with law.

(c) The report of the investigation shall:

(i) become part of the file on the claim; and

(ii) be admissible in any administrative or judicial proceeding regarding the validity of the claim.

(6) (a) ~~[Any]~~ A person who may be damaged by a diversion and use of water as described in a claim submitted pursuant to this section may file an action in district court to determine the validity of the claim, regardless of whether the state engineer has filed the claim in accordance with Subsection (4)(a).

(b) Venue for an action brought under Subsection (6)(a) shall be in the county where the point of diversion listed in the claim is located, or in a county where the place of use, or some part of it, is located.

(c) The action shall be brought against the claimant to the use of water or the claimant's successor in interest.

(d) In ~~[any]~~ an action brought to determine the validity of a claim to the use of water under this section, the claimant ~~[shall have]~~ has the initial burden of proof as to the validity of the claimed right.

(e) (i) A person filing an action challenging the validity of a claim to the use of water under this section shall notify the state engineer of the pendency of the action in accordance with state engineer rules.

(ii) Upon receipt of the notice, the state engineer may take no action on ~~[any]~~ a change or exchange ~~[applications]~~ application founded on the claim that is the subject of the pending litigation until the court adjudicates the matter.

(f) Upon the entering of ~~[any]~~ a final order or decree in a judicial action to determine the validity of a claim under this section, the prevailing party shall file a certified copy of the order or decree with the state engineer, who shall incorporate the order into the state engineer's file on the claim.

(7) (a) In a general adjudication of water rights under Title 73, Chapter 4, Determination of Water Rights, after completion of final summons in accordance with Section 73-4-22, ~~[a district court may, by decree, prohibit future claims from being filed]~~ a claimant is prohibited from filing a claim under this section in the general adjudication area, division, or subdivision.

(b) ~~[If]~~ The state engineer shall return a claim filed under this section to a claimant without further action if:

(i) the state engineer receives a claim for an area where ~~[a court has]~~ the claimant is prohibited from filing the claim under Subsection (7)(a) or Section 73-4-9.5<sup>1</sup>; or

(ii) the claim is untimely as provided in Section ~~[73-4-5, the state engineer shall return the claim to the claimant without further action]~~ 73-4-9.

**CHAPTER 60****H. B. 96**

Passed March 11, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**WATER FORFEITURE AMENDMENTS**

Chief Sponsor: Joel Ferry  
Senate Sponsor: Ralph Okerlund

**LONG TITLE****General Description:**

This bill addresses issues related to forfeiture of water.

**Highlighted Provisions:**

This bill:

- ▶ modifies exemption related to a lease;
- ▶ modifies exemption for a water right in a surface reservoir if storage is limited by safety, regulatory, or engineering restraints;
- ▶ addresses the requirement that a public water supplier meets the reasonable future water requirement;
- ▶ requires rulemaking by the state engineer; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

73-1-4, as last amended by Laws of Utah 2017, Chapter 132  
73-2-1, as last amended by Laws of Utah 2017, Chapter 60

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

**Section 1. Section 73-1-4 is amended to read:****73-1-4. Reversion to the public by abandonment or forfeiture for nonuse within seven years -- Nonuse application.**

- (1) As used in this section:
- (a) "Public entity" means:
- (i) the United States;
  - (ii) an agency of the United States;
  - (iii) the state;
  - (iv) a state agency;
  - (v) a political subdivision of the state; or
  - (vi) an agency of a political subdivision of the state.
- (b) "Public water supplier" means an entity that:
- (i) supplies water, directly or indirectly, to the public for municipal, domestic, or industrial use; and
  - (ii) is:

- (A) a public entity;
  - (B) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission;
  - (C) a community water system:
  - (I) that:
    - (Aa) supplies water to at least 100 service connections used by year-round residents; or
    - (Bb) regularly serves at least 200 year-round residents; and
  - (II) whose voting members:
    - (Aa) own a share in the community water system;
    - (Bb) receive water from the community water system in proportion to the member's share in the community water system; and
    - (Cc) pay the rate set by the community water system based on the water the member receives; or
  - (D) a water users association:
    - (I) in which one or more public entities own at least 70% of the outstanding shares; and
    - (II) that is a local sponsor of a water project constructed by the United States Bureau of Reclamation.
- (c) "Shareholder" means the same as that term is defined in Section 73-3-3.5.
- (d) "Water company" means the same as that term is defined in Section 73-3-3.5.
- (e) "Water supply entity" means an entity that supplies water as a utility service or for irrigation purposes and is also:
- (i) a municipality, water conservancy district, metropolitan water district, irrigation district, or other public agency;
  - (ii) a water company regulated by the Public Service Commission; or
  - (iii) any other owner of a community water system.
- (2) (a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the appropriator's successor in interest abandons or ceases to beneficially use all or a portion of a water right for a period of at least seven years, the water right or the unused portion of that water right is subject to forfeiture in accordance with Subsection (2)(c).
- (b) (i) An appropriator or the appropriator's successor in interest may file an application for nonuse with the state engineer.
- (ii) A nonuse application may be filed on all or a portion of the water right, including water rights held by a water company.
- (iii) After giving written notice to the water company, a shareholder may file a nonuse application with the state engineer on the water represented by the stock.
- (iv) (A) The approval of a nonuse application excuses the requirement of beneficial use of water from the date of filing.

(B) The time during which an approved nonuse application is in effect does not count toward the seven-year period described in Subsection (2)(a).

(v) The filing or approval of a nonuse application or a series of nonuse applications under Subsection (3) does not:

(A) constitute beneficial use of a water right;

(B) protect a water right that is already subject to forfeiture under this section; or

(C) bar a water right owner from:

(I) using the water under the water right as permitted under the water right; or

(II) claiming the benefit of Subsection (2)(e) or any other forfeiture defense provided by law.

(c) (i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the water right may not be forfeited unless a judicial action to declare the right forfeited is commenced:

(A) within 15 years from the end of the latest period of nonuse of at least seven years; or

(B) within the combined time of 15 years from the end of the most recent period of nonuse of at least seven years and the time the water right was subject to one or more nonuse applications.

(ii) (A) The state engineer, in a proposed determination of rights filed with the court and prepared in accordance with Section 73-4-11, may not assert that a water right was forfeited unless the most recent period of nonuse of seven years ends or occurs:

(I) during the 15 years immediately preceding the day on which the state engineer files the proposed determination of rights with the court; or

(II) during the combined time immediately preceding the day on which the state engineer files the proposed determination of rights consisting of 15 years and the time the water right was subject to one or more approved nonuse applications.

(B) After the day on which a proposed determination of rights is filed with the court a person may not assert that a water right subject to that determination was forfeited before the issuance of the proposed determination, unless the state engineer asserts forfeiture in the proposed determination, or a person, in accordance with Section 73-4-11, makes an objection to the proposed determination that asserts forfeiture.

(iii) A water right, found to be valid in a decree entered in an action for general determination of rights under Chapter 4, Determination of Water Rights, is subject to a claim of forfeiture based on a seven-year period of nonuse that begins after the day on which the state engineer filed the related proposed determination of rights with the court, unless the decree provides otherwise.

(iv) If in a judicial action a court declares a water right forfeited, on the date on which the water right is forfeited:

(A) the right to beneficially use the water reverts to the public; and

(B) the water made available by the forfeiture:

(I) first, satisfies other water rights in the hydrologic system in order of priority date; and

(II) second, may be appropriated as provided in this title.

(d) Except as provided in Subsection (2)(e), this section applies whether the unused or abandoned water or a portion of the water is:

(i) permitted to run to waste; or

(ii) beneficially used by others without right with the knowledge of the water right holder.

(e) This section does not apply to:

(i) the beneficial use of water according to a written, terminable lease or other agreement with the appropriator or the appropriator's successor in interest;

(ii) a water right if its place of use is contracted under an approved state agreement or federal conservation following program;

(iii) those periods of time when a surface water or groundwater source fails to yield sufficient water to satisfy the water right;

(iv) a water right when water is unavailable because of the water right's priority date;

(v) a water right to store water in a surface reservoir or an aquifer, in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act, if ~~[(A)]~~ the water is stored for present or future beneficial use; ~~[(B)]~~

~~[(B) storage is limited by a safety, regulatory, or engineering restraint that the appropriator or the appropriator's successor in interest cannot reasonably correct;]~~

(vi) a water right if a water user has beneficially used substantially all of the water right within a seven-year period, provided that this exemption does not apply to the adjudication of a water right in a general determination of water rights under Chapter 4, Determination of Water Rights;

(vii) except as provided by Subsection (2)(g), a water right:

(A) (I) owned by a public water supplier;

(II) represented by a public water supplier's ownership interest in a water company; or

(III) to which a public water supplier owns the right of beneficial use; and

(B) conserved or held for the reasonable future water requirement of the public, which is determined according to Subsection (2)(f);

(viii) a supplemental water right during a period of time when another water right available to the appropriator or the appropriator's successor in interest provides sufficient water so as to not require beneficial use of the supplemental water right; ~~[(B)]~~

(ix) a period of nonuse of a water right during the time the water right is subject to an approved change application where the applicant is diligently pursuing certification[-]; or

(x) a water right to store water in a surface reservoir if:

(A) storage is limited by a safety, regulatory, or engineering restraint that the appropriator or the appropriator's successor in interest cannot reasonably correct; and

(B) not longer than seven years have elapsed since the limitation described in Subsection (2)(e)(x)(A) is imposed.

(f) (i) The reasonable future water requirement of the public is the amount of water needed in the next 40 years by:

(A) the persons within the public water supplier's reasonably anticipated service area based on reasonably anticipated population growth; or

(B) other water use demand.

(ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably anticipated service area:

(A) is the area served by the community water system's distribution facilities; and

(B) expands as the community water system expands the distribution facilities in accordance with Title 19, Chapter 4, Safe Drinking Water Act.

(iii) The state engineer shall by rule made in accordance with Subsection 73-2-1(4) establish standards for a written plan that may be presented as evidence in conformance with this Subsection (2)(f), except that before a rule establishing standards for a written plan under this Subsection (2)(f) takes effect, in addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall present the rule to:

(A) if the Legislature is not in session, the Natural Resources, Agriculture, and Environment Interim Committee; or

(B) if the Legislature is in session, the House of Representatives and Senate Natural Resources, Agriculture, and Environment standing committees.

(g) For a water right acquired by a public water supplier on or after May 5, 2008, Subsection (2)(e)(vii) applies if:

(i) the public water supplier submits a change application under Section 73-3-3; and

(ii) the state engineer approves the change application.

(3) (a) The state engineer shall furnish a nonuse application form requiring the following information:

(i) the name and address of the applicant;

(ii) a description of the water right or a portion of the water right, including the point of diversion, place of use, and priority;

(iii) the quantity of water;

(iv) the period of use;

(v) the extension of time applied for;

(vi) a statement of the reason for the nonuse of the water; and

(vii) any other information that the state engineer requires.

(b) (i) Upon receipt of the application, the state engineer shall publish a notice of the application once a week for two successive weeks:

(A) in a newspaper of general circulation in the county in which the source of the water supply is located and where the water is to be beneficially used; and

(B) as required in Section 45-1-101.

(ii) The notice shall:

(A) state that an application has been made; and

(B) specify where the interested party may obtain additional information relating to the application.

(c) ~~[Any]~~ An interested person may file a written protest with the state engineer against the granting of the application:

(i) within 20 days after the notice is published, if the adjudicative proceeding is informal; and

(ii) within 30 days after the notice is published, if the adjudicative proceeding is formal.

(d) In ~~[any proceedings]~~ a proceeding to determine whether the nonuse application should be approved or rejected, the state engineer shall follow ~~[the procedures and requirements of]~~ Title 63G, Chapter 4, Administrative Procedures Act.

(e) After further investigation, the state engineer may approve or reject the application.

(4) (a) The state engineer shall grant a nonuse application on all or a portion of a water right for a period of time not exceeding seven years if the applicant shows a reasonable cause for nonuse.

(b) A reasonable cause for nonuse includes:

(i) a demonstrable financial hardship or economic depression;

(ii) physical causes or changes that render use beyond the reasonable control of the water right owner so long as the water right owner acts with reasonable diligence to resume or restore the use;

(iii) the initiation of water conservation or efficiency practices, or the operation of a groundwater recharge recovery program approved by the state engineer;

(iv) operation of legal proceedings;

(v) the holding of a water right or stock in a mutual water company without use by ~~[any]~~ a water

supply entity to meet the reasonable future requirements of the public;

(vi) situations where, in the opinion of the state engineer, the nonuse would assist in implementing an existing, approved water management plan; or

(vii) the loss of capacity caused by deterioration of the water supply or delivery equipment if the applicant submits, with the application, a specific plan to resume full use of the water right by replacing, restoring, or improving the equipment.

(5) (a) Sixty days before the expiration of a nonuse application, the state engineer shall notify the applicant by mail or by ~~any~~ a form of electronic communication through which receipt is verifiable, of the date when the nonuse application will expire.

(b) An applicant may file a subsequent nonuse application in accordance with this section.

**Section 2. Section 73-2-1 is amended to read:**

**73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.**

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties; ~~and~~

(g) the duty of water[-]; and

(h) standards for written plans of a public water supplier that may be presented as evidence of

reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights; or

(h) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of ~~those~~ surface and underground waters;

(c) enable ~~him~~ the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of ~~all~~ the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define ~~their~~ the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.



**CHAPTER 61****H. B. 98**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**OFFENSES AGAINST  
 THE ADMINISTRATION OF  
 GOVERNMENT AMENDMENTS**

Chief Sponsor: Craig Hall  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill amends criminal provisions relating to public property and public money.

**Highlighted Provisions:**

This bill:

- ▶ provides an exception for the de minimus use of public property by a public servant;
- ▶ modifies the elements of the crime of misuse of public money;
- ▶ makes it a crime for a public servant to knowingly engage in certain misconduct in relation to public property;
- ▶ establishes criminal penalties based on the value of, or cost to repair, public property;
- ▶ addresses related penalties; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 76-8-402, as last amended by Laws of Utah 2019, Chapter 211  
 76-8-403, as last amended by Laws of Utah 1995, Chapter 232  
 76-8-404, as last amended by Laws of Utah 2019, Chapter 211

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

**Section 1. Section 76-8-402 is amended to read:****76-8-402. Misusing public money or public property.**

(1) As used in this section, "authorized personal use" means:

(a) the use of public property, for a personal matter, by a public servant if:

(i) the public servant is authorized to use or possess the public property to fulfill the public servant's duties as a public servant;

(ii) the primary purpose of the public servant using or possessing the public property is to fulfill the public servant's duties as a public servant;

(iii) at the time the public servant uses the public property for a personal matter, a written policy of the public servant's public entity is in effect that

authorizes the public servant to use or possess the public property for personal use in addition to the primary purpose of fulfilling the public servant's duties as a public servant; and

(iv) the public servant uses and possesses the public property in a lawful manner and in accordance with the policy described in Subsection (1)(a)(iii); or

(b) incidental or de minimus use of public property for a personal matter by a public servant, if:

(i) the value provided to the public servant's public entity by the public servant's use or possession of the public property for a public purpose substantially outweighs the personal benefit received by the employee from the incidental use of the public property for a personal matter; and

(ii) the incidental or de minimus use of the public property for a personal matter is not prohibited by law or by the public servant's public entity.

(2) It is unlawful for a public servant to knowingly:

(a) appropriate public money [~~or public property~~] to the public servant's own use or benefit or to the use or benefit of another without authority of law;

(b) loan or transfer public money [~~or public property~~] without authority of law;

(c) fail to keep public money [~~or public property~~] in the public servant's possession until disbursed by authority of law;

(d) [~~unlawfully~~] deposit public money in a bank or with another person in violation of the written policy of the public servant's public entity or the requirements of law;

(e) [~~knowingly~~] keep a false account or make a false entry or erasure in an account of, or relating to, public money;

(f) fraudulently alter, falsify, conceal, or destroy an account described in Subsection (2)(e);

(g) [~~willfully~~] refuse or omit to pay over, on demand, any public money in the public servant's custody or control, upon the presentation of a draft, order, or warrant drawn upon the public money by competent authority;

(h) [~~willfully~~] omit to transfer public money when the transfer is required by law; [~~or~~]

(i) [~~willfully~~] omit or refuse to pay over, to any officer or person authorized by law to receive public money, public money received by the public servant under any duty imposed on the public servant by law[-];

(j) damage or dispose of public property in violation of the written policy of the public servant's public entity or the requirements of law;

(k) obtain or exercise unauthorized control of public property with the intent to deprive the owner of possession of the public property;

(l) obtain or exercise unauthorized control of public property with the intent to temporarily appropriate, possess, use, or deprive the owner of possession of the public property;

(m) appropriate public property to the public servant's own use or benefit or to the use or benefit of another without authority of law;

(n) loan or transfer public property without authority of law; or

(o) fail to keep public property in the public servant's possession until returned to the property owner, or disposed of or relinquished, in accordance with the written policy of the public servant's public entity and the requirements of law.

(3) Except as provided in Subsection (4), a violation of ~~[Subsection (2)]~~ Subsections (2)(a) through (i) is a felony of the third degree.

(4) A violation of ~~[Subsection (2)]~~ Subsections (2)(a) through (i) is a felony of the second degree if:

(a) the value of the public money ~~[or the value of the use of the public property]~~ exceeds \$5,000;

(b) the amount of the false account exceeds \$5,000;

(c) the amount falsely entered exceeds \$5,000;

(d) the amount that is the difference between the original amount and the fraudulently altered amount exceeds \$5,000; or

(e) the amount falsely erased, fraudulently concealed, destroyed, or falsified in the account exceeds \$5,000.

(5) A violation of Subsection (2)(j) is:

(a) a class B misdemeanor, if the cost to repair or replace the public property is less than \$500;

(b) a class A misdemeanor, if the cost to repair or replace the public property is \$500 or more, but less than \$1,500;

(c) a felony of the third degree, if the cost to repair or replace the public property is \$1,500 or more, but less than \$5,000; or

(d) a felony of the second degree, if the cost to repair or replace the public property is \$5,000 or more.

(6) A violation of Subsection (2)(k), (m), (n), or (o) is:

(a) a class B misdemeanor, if the value of the public property is less than \$500;

(b) a class A misdemeanor, if the value of the public property is \$500 or more, but less than \$1,500;

(c) a felony of the third degree, if the value of the public property is \$1,500 or more, but less than \$5,000; or

(d) a felony of the second degree, if the value of the public property is \$5,000 or more.

(7) A violation of Subsection (2)(l) is:

(a) a class C misdemeanor, if the value of the public property is less than \$500;

(b) a class B misdemeanor, if the value of the public property is \$500 or more, but less than \$1,500;

(c) a class A misdemeanor, if the value of the public property is \$1,500 or more, but less than \$5,000; or

(d) a felony of the third degree, if the value of the public property is \$5,000 or more.

~~[(5)]~~ (8) In addition to the penalty described in ~~[Subsection (3) or (4)]~~ Subsections (3) through (7), a public officer who ~~[violates]~~ is convicted of a felony violation of Subsection (2):

(a) is subject to the penalties described in Section 76-8-404; and

(b) may not disburse public funds or access public accounts.

~~[(6)]~~ (9) (a) A public servant is not guilty of a violation of ~~[this section]~~ Subsections (2)(j) through (o) for authorized personal use of public property.

~~[(b) Subsection (6)(a) does not apply if:]~~

~~[(i) the public servant's personal use of the public property does not constitute authorized personal use at the time of the personal use; and]~~

~~[(ii) a public entity modifies or adopts a policy or law, or takes other action, to retroactively authorize or approve the personal use of the public property by the public servant.]~~

(10) It is not a defense to a violation of Subsection (2) that:

(a) subsequent to the violation, a public entity modifies or adopts a policy or law, or takes other action, to retroactively authorize, approve, or ratify the conduct that constitutes a violation; or

(b) a written policy of the public servant's public entity permits private use of the public property if it is proven, beyond a reasonable doubt, that the public servant did not comply with the written policy.

**Section 2. Section 76-8-403 is amended to read:**

**76-8-403. Failure to keep and pay over public money.**

~~[Every]~~ Except as otherwise provided in Subsection 76-8-402(4), a person who receives, safekeeps, transfers, or disburses public money who neglects or fails to keep and pay over the money in the manner prescribed by law is guilty of a felony of the third degree.

**Section 3. Section 76-8-404 is amended to read:**

**76-8-404. Making profit from or misusing public money or public property -- Disqualification from office -- Criminal penalty.**

A public officer, regardless of whether the public officer receives, safekeeps, transfers, disburses, or

has a fiduciary relationship with public money, who makes a profit from or out of public money or public property, or who uses public money or public property in a manner or for a purpose not authorized by law[, is guilty] and is convicted of a felony [as provided in] under Section 76-8-402 [and] is, in addition to the punishment provided by law, disqualified from holding public office.

**CHAPTER 62****H. B. 100**

Passed February 13, 2020

Approved March 24, 2020

Effective May 12, 2020

**VETERANS TREATMENT COURT ACT**

Chief Sponsor: V. Lowry Snow  
 Senate Sponsor: Lyle W. Hillyard  
 Cosponsors: Cheryl K. Acton  
 Carl R. Albrecht  
 Stewart E. Barlow  
 Walt Brooks  
 Stephen G. Handy  
 Susan Pulsipher  
 Keven J. Stratton  
 Christine F. Watkins

**LONG TITLE****General Description:**

This bill enacts the Veterans Treatment Court Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides the requirements for establishing a veteran treatment court;
- ▶ provides the requirements for creating policies and procedures for a veteran treatment court;
- ▶ addresses eligibility for participation in a veterans treatment court;
- ▶ addresses admission, modification, termination, and completion in a veterans court;
- ▶ addresses domestic violence offenses;
- ▶ states that there is no right to participate in a veterans treatment court; and
- ▶ provides a severability clause.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

78A-5-301.5, Utah Code Annotated 1953  
 78A-5-302, Utah Code Annotated 1953  
 78A-5-303, Utah Code Annotated 1953  
 78A-5-304, Utah Code Annotated 1953  
 78A-5-305, Utah Code Annotated 1953  
 78A-5-306, Utah Code Annotated 1953  
 78A-5-307, Utah Code Annotated 1953  
 78A-5-308, Utah Code Annotated 1953  
 78A-5-309, Utah Code Annotated 1953  
 78A-5-310, Utah Code Annotated 1953  
 78A-5-311, Utah Code Annotated 1953  
 78A-5-312, Utah Code Annotated 1953  
 78A-5-313, Utah Code Annotated 1953

**REPEALS:**

78A-5-301, as enacted by Laws of Utah 2015, Chapter 354

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

**Section 1. Section 78A-5-301.5 is enacted to read:**

**Part 3. Veterans Treatment Court Act**

**78A-5-301.5. Title.**

This part is known as the "Veterans Treatment Court Act."

**Section 2. Section 78A-5-302 is enacted to read:**

**78A-5-302. Definitions.**

As used in this part:

(1) "Defendant" means a veteran charged with a criminal offense.

(2) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(3) (a) "Participant agreement" means the record, required by Subsection 78A-5-304(1), of the policies and procedures of a veterans treatment court and any specific terms and conditions applicable to the defendant.

(b) "Participant agreement" includes a modification under Section 78A-5-310.

(4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(c), means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(5) "Servicemember" means:

(a) a member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard, of the United States; or

(b) a member of the National Guard of the United States.

(6) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

(7) "Veteran" means a former servicemember who qualifies for health care benefits from the Veterans Administration.

(8) "Veterans treatment court" means a veterans treatment court program administered under this part by a court of this state.

**Section 3. Section 78A-5-303 is enacted to read:**

**78A-5-303. Creation of a veterans treatment court.**

(1) The Judicial Council may create a veterans treatment court in any judicial district or geographic region that demonstrates:

(a) the need for a veterans treatment court; and

(b) the existence of a collaborative strategy between the veterans treatment court, prosecutors,

defense attorneys, substance abuse treatment services, the Department of Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach Program to work with veteran offenders.

(2) A veterans treatment court shall:

(a) establish a collaborative strategy that includes monitoring and evaluation components to measure program effectiveness; and

(b) submit a collaborative strategy, for the purpose of coordinating the disbursement of funding, to the Administrative Office of the Courts.

(3) A veterans treatment court shall include continuous judicial supervision using a cooperative approach with prosecutors, defense attorneys, substance abuse treatment services, the Department of Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach Program, as appropriate, to promote public safety, protect participants' due process rights, and integrate veteran treatment programs with the justice system case processing.

(4) Screening criteria for participation in a veterans treatment court shall include:

(a) a plea in abeyance or plea agreement for a criminal offense, or a requirement for participation in a veterans treatment court as a condition of probation;

(b) frequent alcohol and other drug testing, if appropriate;

(c) participation in veteran outreach programs, including substance abuse treatment programs where appropriate;

(d) sanctions for noncompliance with the requirements for participation in a veterans treatment court; and

(e) any additional criteria developed by a veterans treatment court.

(5) No later than October 1 each year, the Administrative Office of the Courts shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report describing:

(a) the types of policies and procedures adopted by veteran treatment courts;

(b) the number of veteran participants in the previous fiscal year;

(c) the outcomes for veteran participants in the previous fiscal year; and

(d) recommendations for future veterans treatment courts, including expansion and funding.

**Section 4. Section 78A-5-304 is enacted to read:**

**78A-5-304. Record of policies and procedures.**

(1) A veterans treatment court shall create a record of policies and procedures adopted to implement Sections 78A-5-305 through 78A-5-312.

(2) A veterans treatment court shall seek input from prosecutors, defense attorneys, and other interested persons in developing and adopting policies and procedures to implement Sections 78A-5-305 through 78A-5-312.

**Section 5. Section 78A-5-305 is enacted to read:**

**78A-5-305. Policies and procedures for a veterans treatment court.**

(1) A veterans treatment court shall adopt policies and procedures to:

(a) integrate alcohol-treatment, drug-treatment, and mental-health services with the defendant's criminal case;

(b) use a nonadversarial approach in which prosecutors and defense attorneys promote public safety while protecting due-process rights of defendants;

(c) exercise early identification of eligible defendants;

(d) provide access to a continuum of alcohol-treatment, drug-treatment, mental-health treatment, and other related treatment and rehabilitation services;

(e) monitor defendants for abstinence from alcohol and drugs by frequent testing;

(f) direct a coordinated strategy that responds to each defendant's needs;

(g) provide ongoing judicial interaction with each defendant;

(h) monitor and evaluate the achievement of goals;

(i) continue interdisciplinary education to promote effective veterans treatment court planning, implementation, and operations; and

(j) forge partnerships between the veterans treatment court and the United States Department of Veterans Affairs Veterans Justice Outreach Program, the Department of Veterans and Military Affairs, public agencies, and community-based organizations to generate local support and enhance the effectiveness of the veterans treatment court.

(2) In adopting policies and procedures under this section, the court shall consider nationally recognized best practices to implement the policies and procedures described in Subsection (1) and comply with certification standards for problem-solving courts adopted by the Judicial Council.

**Section 6. Section 78A-5-306 is enacted to read:**

**78A-5-306. Supplemental policies and procedures of veterans treatment court.**

(1) A veterans treatment court may adopt supplemental policies and procedures to:

(a) refer a defendant with a medical or medication need to an appropriate health care provider;

(b) refer a defendant to other available services, including assistance with housing, employment, nutrition, and education;

(c) provide a defendant access to a mentor who is a veteran;

(d) integrate intervention, treatment, and counseling, as part of the rehabilitative services offered to a defendant who has been a victim of domestic violence, sexual trauma, child abuse, or other trauma;

(e) confer with the victim or alleged victim of the domestic violence offense for which the defendant is charged that serves as the basis for the defendant's participation in the veterans treatment court;

(f) evaluate and assess a defendant charged with a domestic violence offense and integrate specific counseling as part of the total rehabilitative services for the defendant;

(g) monitor a defendant charged with a domestic violence offense to assure compliance with a domestic violence protection order, no-contact order, and prohibition of weapon possession; and

(h) otherwise assist the veterans treatment court.

(2) In adopting policies and procedures under this section, the veterans treatment court shall consider nationally recognized best practices related to policies and procedures described in Subsection (1) and comply with certification standards for problem-solving courts adopted by the Judicial Council.

**Section 7. Section 78A-5-307 is enacted to read:**

**78A-5-307. Eligibility.**

(1) A defendant is eligible to be screened for participation in a veterans treatment court if:

(a) the defendant is a veteran;

(b) the defendant has a mental-health condition, traumatic brain injury, or substance use disorder;

(c) the defendant agrees on the court record to voluntarily:

(i) participate in the veterans treatment court;

(ii) enter into a plea in abeyance or plea agreement, or participate in a veterans treatment court as a condition of probation; and

(iii) adhere to a participant agreement; and

(d) as determined by the court, the defendant's participation in the veterans treatment court would be in the interest of justice and of benefit to the defendant and the community.

(2) In making the determination under Subsection (1)(d), a court shall consider:

(a) the nature and circumstances of the offense charged;

(b) special characteristics or circumstances of the defendant, including the defendant's criminogenic risk and need;

(c) the defendant's criminal history and whether the defendant previously participated in a veterans treatment court or a similar program;

(d) whether the defendant's needs exceed treatment resources available to the veterans treatment court;

(e) the impact on the community of the defendant's participation and treatment in the veterans treatment court;

(f) special characteristics or circumstances of the victim or alleged victim;

(g) provision for, and the likelihood of obtaining, restitution from the defendant over the course of participation in the veterans treatment court;

(h) the recommendation of the prosecutor regarding whether the defendant should participate in a veterans treatment court;

(i) mitigating circumstances; and

(j) other circumstances reasonably related to the defendant, the defendant's case, and available resources.

(3) Section 77-37-3 applies when making the determination under Subsections (1) and (2).

**Section 8. Section 78A-5-308 is enacted to read:**

**78A-5-308. Requirement for admission.**

For a defendant to be admitted to a veterans treatment court, the defendant and prosecutor must sign, and the court must approve, a participant agreement and a plea in abeyance, plea agreement, or probation agreement.

**Section 9. Section 78A-5-309 is enacted to read:**

**78A-5-309. Victim of domestic violence.**

(1) If a victim or alleged victim of a domestic violence offense that serves as the basis for the defendant's participation in a veterans treatment court can be reasonably located, the victim or alleged victim must be offered:

(a) referrals to domestic violence service providers; and

(b) information on how to report an allegation of:

(i) an offense committed by the defendant; or

(ii) a violation by the defendant of the participant agreement.

(2) Except as expressly provided for in this part, the participation of the defendant in a veterans treatment court does not alter the rights of a victim

or alleged victim of domestic violence under the law of this state.

**Section 10. Section 78A-5-310 is enacted to read:**

**78A-5-310. Modification or termination.**

(1) (a) If a prosecutor finds that a defendant has failed to comply with the defendant's participant agreement, the prosecutor may notify the veterans treatment court and the defendant of the defendant's failure to comply with the participant agreement.

(b) Any notice by a prosecutor under Subsection (1)(a) shall include specific allegations of the defendant's non-compliant conduct with the participant agreement.

(2) Upon notice under Subsection (1), or upon any other notice that the defendant has failed to comply with the defendant's participant agreement, the veterans treatment court shall hold a hearing, after giving notice to all parties, on the defendant's failure to comply with the participant agreement.

(3) At the hearing described in Subsection (2), the veterans treatment court shall:

(a) review the defendant's conduct under the participant agreement; and

(b) hear recommendations from all parties in order to determine whether the defendant's participation in the veterans treatment court should be modified or terminated.

(4) After notice and a hearing is provided in accordance with this section, the veterans treatment court may modify or terminate a defendant's participation in a veterans treatment court.

**Section 11. Section 78A-5-311 is enacted to read:**

**78A-5-311. Completion of the participant agreement.**

If the veterans treatment court determines that a defendant has completed the requirements of the defendant's participant agreement, the court shall adjudicate the defendant's case in accordance with the defendant's participant agreement and any applicable plea in abeyance agreement, plea agreement, probation agreement, court order, or judgment.

**Section 12. Section 78A-5-312 is enacted to read:**

**78A-5-312. No right to participate.**

This part does not create a right to participation in a veterans treatment court.

**Section 13. Section 78A-5-313 is enacted to read:**

**78A-5-313. Severability.**

If any provision of this part, or the application of any provision of this part to any person or circumstance, is held invalid, the remainder of this

part shall be given effect without the invalid provision or application.

**Section 14. Repealer.**

This bill repeals:

**Section 78A-5-301, Creation of a veterans court program -- Definition of a veterans court program -- Criteria for participation in a veterans court program -- Reporting requirements.**

**CHAPTER 63****H. B. 103**

Passed February 21, 2020

Approved March 24, 2020

Effective May 12, 2020

**UTAH PROMISE SCHOLARSHIP  
PROGRAM AMENDMENTS**

Chief Sponsor: Derrin R. Owens

Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill amends provisions related to the Utah Promise Scholarship.

**Highlighted Provisions:**

This bill:

- ▶ amends the amount an institution of higher education is required to award for a Utah Promise Scholarship; and
- ▶ amends the funding sources for the scholarship.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53B-8-303, as enacted by Laws of Utah 2019, Chapter 444

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

**Section 1. Section 53B-8-303 is amended to read:****53B-8-303. Access Utah promise scholarships.**

(1) An individual may apply for a promise scholarship in accordance with the rules described in Subsection (8).

(2) An individual is eligible to receive a promise scholarship if the individual:

(a) (i) has a high school diploma or the equivalent; and

(ii) does not have an associate or higher postsecondary degree;

(b) demonstrates financial need, in accordance with the rules described in Subsection (8);

(c) is a Utah resident;

(d) enrolls in an institution; and

(e) accepts all other grants, tuition or fee waivers, and scholarships offered to the individual to attend the institution in which the individual enrolls.

(3) Subject to legislative appropriations, and in accordance with the rules described in Subsection (8), the board shall annually distribute money for promise scholarships to each institution.

(4) (a) Except as provided in Subsection (4)(d), an institution shall award a promise scholarship to an eligible individual.

(b) For a promise scholarship recipient, an institution shall:

(i) evaluate the recipient's knowledge, skills, and competencies acquired through formal or informal education outside the traditional postsecondary academic environment; and

(ii) award credit, as applicable, for the recipient's prior learning described in Subsection (4)(b)(i).

(c) An institution shall award a promise scholarship in an amount that is equal to the difference between:

(i) the total cost of tuition and fees for the program in which the recipient is enrolled; and

(ii) the total value of all other grants~~[, tuition waivers, fee waivers,]~~ and scholarships received by the recipient to attend the institution.

(d) If an institution's distribution described in Subsection (3) is insufficient to award a promise scholarship to each eligible individual in the amount described in Subsection (4)(c), the institution:

(i) shall, when possible, use other funding sources, ~~fee waivers, and tuition waivers~~ in accordance with Sections 53B-8-101 and 53B-8-103, to fully fund the amount described in Subsection (4)(c) for each eligible individual; and

(ii) may prioritize promise scholarships based on financial need in accordance with the rules described in Subsection (8).

(e) An institution may use up to 3% of the institution's distribution described in Subsection (3) for administration.

(5) An institution shall continue to award a promise scholarship to a recipient who meets the requirements established by the board in the rules described in Subsection (8) until the earliest of the following:

(a) two years after the recipient initially receives a promise scholarship;

(b) the recipient uses a promise scholarship to attend an institution for four semesters;

(c) the recipient completes the requirements for an associate degree; or

(d) if the recipient attends an institution that does not offer associate degrees, the recipient has 60 earned credit hours.

(6) A recipient may only use a promise scholarship for tuition and fees.

(7) A promise scholarship is transferable between institutions.

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Subsection (8)(b), the board shall make rules to establish:



(i) requirements related to whether an individual is eligible for a promise scholarship, including:

(A) a process for an eligible individual to defer a promise scholarship;

(B) how an individual demonstrates financial need for purposes of receiving a promise scholarship; and

(C) how to determine whether an individual is a Utah resident;

(ii) a process and requirements for an individual to apply for a promise scholarship;

(iii) a formula to determine the distributions to each institution described in Subsection (3) that takes into account:

(A) the cost of tuition and fees for programs offered by institutions; and

(B) the number of eligible individuals who attend each institution;

(iv) how an institution may prioritize awarding scholarships based on the financial needs of eligible individuals;

(v) conditions a recipient is required to meet to continue to receive a promise scholarship, including requirements related to academic achievement and enrollment status; and

(vi) a requirement that in communicating about promise scholarships to recipients and potential recipients, the board and institutions do not portray the Access Utah Promise Scholarship Program as a program that is guaranteed to be in effect indefinitely.

(b) In making the rules described in Subsection (8)(a), the board shall consult with the Utah System of Technical Colleges Board of Trustees.

(9) On or before November 1 each year, the board shall report to the Higher Education Appropriations Subcommittee regarding promise scholarships, including:

(a) the number of scholarships awarded; and

(b) whether the promise scholarship program is effective in helping underserved students access higher education.

**CHAPTER 64****H. B. 105**

Passed March 3, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**WATER FACILITIES AMENDMENTS**

Chief Sponsor: Logan Wilde  
Senate Sponsor: Jani Iwamoto

**LONG TITLE****General Description:**

This bill addresses water facilities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ outlines prohibited acts related to water facilities;
- ▶ addresses civil actions;
- ▶ creates an exception from liability;
- ▶ addresses obstruction or changes related to water facilities and rights of way; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

73-1-14, as last amended by Laws of Utah 2005, Chapter 215  
73-1-15, as last amended by Laws of Utah 2018, Chapter 349

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

**Section 1. Section 73-1-14 is amended to read:****73-1-14. Interfering with water facilities or with apportioning official -- Penalty and liability.**

~~[(1) Any person, who in any way unlawfully interferes with, injures, destroys or removes any dam, head gate, weir, casing, valve, cap or other appliance for the diversion, apportionment, measurement or regulation of water, or who interferes with any person authorized to apportion water while in the discharge of his duties, is guilty of a crime punishable under Section 73-2-27.]~~

(1) As used in this section:

(a) "Interfere," for purposes of a water facility, means damage to or modification of the water facility that results in actual blockage or diversion of water, stormwater, wastewater, or sewage.

(b) "Water facility" means a dam, pipeline, culvert, fire hydrant, flume, conduit, ditch, head gate, canal, reservoir, storage tank, spring box, well, meter, weir, valve, casing, cap, or other facility used for the diversion, transportation, distribution, measurement, collection, or storage of water, stormwater, wastewater, or sewage.

(2) A person is guilty of a crime punishable under Section 73-2-27 if the person:

(a) maliciously:

(i) interferes with a water facility;

(ii) damages a water facility;

(iii) destroys a water facility; or

(iv) removes a water facility;

(b) intentionally or knowingly makes a temporary or permanent connection to a water facility without first obtaining the written consent of the owner of the water facility; or

(c) unlawfully interferes with an individual authorized to apportion water while in the discharge of the individual's duties.

~~[(2)] (3) [Any] A person who commits an act defined as a crime under this section is also liable [in a civil action] for damages or other relief [to any] and costs in a civil action brought by a person injured by that act.~~

~~[(3)] (4) (a) A civil action under this section may be brought independent of a criminal action.~~

(b) Proof of the elements of a civil action under this section need only be made by a preponderance of the evidence.

(5) A person who complies with Title 54, Chapter 8a, Damage to Underground Utility Facilities, Section 73-1-7, or Section 73-1-15.5 may not be held criminally or civilly liable for actions allowed by those sections.

**Section 2. Section 73-1-15 is amended to read:****73-1-15. Obstructing or change of water facilities -- Penalties.**

(1) (a) ~~[Whenever any]~~ When a person has a right-of-way of ~~[any] an~~ established type or title for ~~[any canal or other watercourse it shall be]~~ a water facility, as defined in Section 73-1-14, it is unlawful for ~~[any] a~~ person to place or maintain in place any obstruction, or change of the water flow by fence or otherwise, along, ~~[or]~~ across, ~~[or in such canal or watercourse]~~ in, or to the water facility, except as where ~~[said watercourse]~~ the water facility inflicts damage to private property, without first:

(i) receiving written permission for the change or obstruction and providing gates sufficient for the passage of the owner or owners of ~~[such canal or watercourse]~~ the water facility; or

(ii) complying with the requirements of Section 73-1-15.5.

(b) That the vested rights in the established ~~[canals and watercourse]~~ water facility shall be protected against all encroachments.

(c) That indemnifying agreements may be entered as may be just and proper by governmental agencies.

(2) ~~[Any] A~~ person violating this section is guilty of a crime punishable under Section 73-2-27.

(3) ~~Any~~ A person who commits an act defined as a crime under this section is also liable for damages or other relief and costs in a civil action to ~~any~~ a person injured by that act.

(4) (a) A civil action under this section may be brought independent of a criminal action.

(b) Proof of the elements of a civil action under this section need only be made by a preponderance of the evidence.

**CHAPTER 65****H. B. 110**

Passed February 21, 2020

Approved March 24, 2020

Effective May 12, 2020

**INMATE EXPENSES AMENDMENTS**

Chief Sponsor: Kyle R. Andersen

Senate Sponsor: Karen Mayne

Cosponsors: Melissa G. Ballard

Stephanie Pitcher

and deposit the money into the inmate's commissary account.

**LONG TITLE****General Description:**

This bill creates disclosure requirements related to inmate commissary accounts.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ requires correctional facilities to disclose potential policies or practices regarding inmate commissary accounts.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

17-22-33, Utah Code Annotated 1953

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

**Section 1. Section 17-22-33 is enacted to read:****17-22-33. Commissary account disclosure requirements.**

(1) As used in this section:

(a) "Commissary account" means an account from which an inmate may withdraw money, deposited by the inmate or another individual, to purchase discretionary items for sale by a correctional facility.

(b) "Commissary purchase" means a transaction initiated by an inmate by which the inmate obtains an item or items offered for sale by the correctional facility in exchange for money withdrawn from the inmate's commissary account.

(c) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(d) "Inmate" means an individual in the custody of a correctional facility for criminal charges or a criminal conviction.

(2) A correctional facility that employs a policy or practice by which the correctional facility withdraws money from an inmate's commissary account, for any purpose other than a commissary purchase, must disclose that policy or practice to the inmate or any other individual seeking to make a deposit of money into the inmate's commissary account before the correctional facility may accept

**CHAPTER 66****H. B. 119**

Passed February 24, 2020

Approved March 24, 2020

Effective May 12, 2020

**CHILD CARE AMENDMENTS**

Chief Sponsor: Karen Kwan  
Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill modifies provisions relating to a background check of an individual associated with a child care facility, program, or provider.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions relating to the Department of Health's ability to access the Licensing Information System, maintained by the Department of Human Services, for purposes of a background check of an individual associated with a child care facility, program, or provider; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

62A-4a-1006, as last amended by Laws of Utah 2017, Chapter 195

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

**Section 1. Section 62A-4a-1006 is amended to read:****62A-4a-1006. Licensing Information System -- Contents -- Juvenile court finding -- Protected record -- Access -- Criminal penalty.**

(1) (a) The division shall maintain a sub-part of the Management Information System established pursuant to Section 62A-4a-1003, to be known as the Licensing Information System, to be used:

- (i) for licensing purposes; or
- (ii) as otherwise specifically provided for by law.

(b) The Licensing Information System shall include only the following information:

(i) the information described in Subsections 62A-4a-1005(1)(b) and (3)(b);

(ii) consented-to supported findings by alleged perpetrators under Subsection 62A-4a-1005(3)(a)(iii); and

(iii) the information in the licensing part of the division's Management Information System as of May 6, 2002.

(2) Notwithstanding Subsection (1), the department's access to information in the

Management Information System for the licensure and monitoring of foster parents is governed by Sections 62A-4a-1003 and 62A-2-121.

(3) Subject to Subsection 62A-4a-1005(3)(e), upon receipt of a finding from the juvenile court under Section 78A-6-323, the division shall:

(a) promptly amend the Licensing Information System; and

(b) enter the information in the Management Information System.

(4) (a) Information contained in the Licensing Information System is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding the disclosure provisions of Title 63G, Chapter 2, Government Records Access and Management Act, the information contained in the Licensing Information System may only be used or disclosed as specifically provided in this chapter and Section 62A-2-121.

(c) The information described in Subsection (4)(b) is accessible only to:

(i) the Office of Licensing within the department:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) the division to:

(A) screen [a person] an individual at the request of the Office of Guardian Ad Litem:

(I) at the time that [person] individual seeks a paid or voluntary position with the Office of Guardian Ad Litem; and

(II) on an annual basis, throughout the time that the [person] individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from a person whose name is listed in the Licensing Information System;

(iii) persons designated by the Department of Health and approved by the Department of Human Services, only for the following purposes:

(A) licensing a child care program or provider;

(B) determining whether [a person] an individual associated with a [covered health] child care facility, [as defined by the Department of Health by rule, who provides direct care to a child] program, or provider, who is exempt from being licensed or certified by the Department of Health under Title 26, Chapter 39, Utah Child Care Licensing Act, has a supported finding of a severe type of child abuse or neglect; or

(C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect[-];

(iv) persons designated by the Department of Workforce Services and approved by the Department of Human Services for the purpose of

qualifying child care providers under Section 35A-3-310.5; and

(v) the department, as specifically provided in this chapter.

(5) The persons designated by the Department of Health under Subsection (4)(c)(iii) and the persons designated by the Department of Workforce Services under Subsection (4)(c)(iv) shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to those persons designated by statute.

(6) All persons designated by statute as having access to information contained in the Licensing Information System shall be approved by the Department of Human Services and receive training from the department with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections 62A-4a-412 and 63G-2-801 pertaining to the improper release of information.

(7) (a) A person, except those authorized by this chapter, may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that [it] the request is a violation of this Subsection (7) [~~to do so~~] is subject to the criminal penalty described in Sections 62A-4a-412 and 63G-2-801.

**CHAPTER 67****H. B. 122**

Passed February 27, 2020

Approved March 24, 2020

Effective May 12, 2020

**COUNCIL-MANAGER FORM OF  
GOVERNMENT AMENDMENTS**

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Scott D. Sandall

**LONG TITLE****General Description:**

This bill amends provisions prohibiting county council members and county employees from participating in certain activities.

**Highlighted Provisions:**

This bill:

- ▶ clarifies that an individual member of a county council may not participate in certain activities;
- ▶ repeals language prohibiting county employees from contributing to a candidate for county office; and
- ▶ clarifies existing provisions.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

17-52a-204, as renumbered and amended by Laws of Utah 2018, Chapter 68

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

**Section 1. Section 17-52a-204 is amended to read:****17-52a-204. Council-manager form of county government.**

(1) (a) The following shall govern a county operating under the form of government known as the "council-manager" form:

- (i) an elected county council;
  - (ii) a county manager appointed by the council; and
  - (iii) other officers and employees authorized by law.
- (b) The optional plan shall provide for the qualifications, time and manner of appointment subject to Subsections (6) and (7), term of office, compensation, and removal of the county manager.

(2) The county manager is the administrative head of the county government and has the powers, functions, and duties of a county executive, except:

- (a) as the county legislative body otherwise provides by ordinance; and
- (b) that the county manager may not veto any ordinances enacted by the council.

(3) (a) [A] An individual member of the council may not directly or indirectly, by suggestion or otherwise:

- (i) attempt to influence or coerce the manager in:
  - (A) making any appointment;
  - (B) removing any officer or employee; or
  - (C) purchasing supplies;
- (ii) attempt to exact any promise relative to any appointment from any candidate for manager; or
- (iii) discuss directly or indirectly with the manager the matter of specific appointments to any county office or employment.

(b) (i) A ~~person~~ member of the county council who violates the provisions of this Subsection (3) shall forfeit the member's county council office [of the offending member of the council].

(ii) Nothing in this section shall be construed, however, as prohibiting the council ~~[while in open session]~~ from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county.

(iii) ~~[Neither manager nor any person in the employ of the county shall]~~ The county manager may not take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office.

(iv) The optional plan may provide procedures for implementing this Subsection (3).

(4) In the council-manager form of county government:

- (a) the legislative powers of the county are vested in the county council; and
- (b) the executive powers of the county are vested in the county manager.

(5) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:

- (a) the county council, with respect to legislative functions, duties, and powers; and
- (b) the county manager, with respect to executive functions, duties, and powers.

(6) (a) As used in this Subsection (6), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section 17-16-6 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) The county council may not appoint a county manager during an interim vacancy period.

(ii) Notwithstanding Subsection (6)(b)(i):

(A) the county council may appoint an interim county manager during an interim vacancy period; and

(B) the interim county manager's term shall expire once a new county manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection (6)(b) does not apply if all the county council members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the council for the following term.

(7) A county council that appoints a county manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the county manager.



**CHAPTER 68****H. B. 128**

Passed March 6, 2020

Approved March 24, 2020

Effective May 12, 2020

**LICENSE PLATE READING  
TECHNOLOGY AMENDMENTS**

Chief Sponsor: Walt Brooks

Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill allows an institution of higher education to use automatic license plate reader technology under certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ allows an institution of higher education to use automatic license plate reader technology if:
  - the technology is used for traffic or parking related enforcement; or
  - if the data collected remains anonymized, for research or educational purposes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-6a-2003, as last amended by Laws of Utah 2014, Chapters 276 and 377

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

**Section 1. Section 41-6a-2003 is amended to read:****41-6a-2003. Automatic license plate reader systems -- Restrictions.**

(1) Except as provided in Subsection (2), a governmental entity may not use an automatic license plate reader system.

(2) An automatic license plate reader system may be used:

(a) by a law enforcement agency for the purpose of protecting public safety, conducting criminal investigations, or ensuring compliance with local, state, and federal laws;

(b) by a governmental parking enforcement entity for the purpose of enforcing state and local parking laws;

(c) by a parking enforcement entity for regulating the use of a parking facility;

(d) for the purpose of controlling access to a secured area;

(e) for the purpose of collecting an electronic toll;

(f) for the purpose of enforcing motor carrier laws;

[~~or~~]

(g) by a public transit district for the purpose of assessing parking needs and conducting a travel pattern analysis[-]; or

(h) by an institution of higher education within the state system of higher education as described in Section 53B-1-102;

(i) for a purpose described in Subsections (2)(a) through (d); or

(ii) if the data collected is anonymized, for research and educational purposes.

**CHAPTER 69****H. B. 138**

Passed February 21, 2020

Approved March 24, 2020

Effective May 12, 2020

**TRANSPORTATION CORRIDOR  
PRESERVATION AMENDMENTS**

Chief Sponsor: Kyle R. Andersen

Senate Sponsor: David G. Buxton

**LONG TITLE****General Description:**

This bill modifies provisions applicable to the purchase of property for transportation corridor preservation.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ establishes certain notice requirements before the Department of Transportation, a county, or a municipality purchases property for corridor preservation on a voluntary basis.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

72-5-407, Utah Code Annotated 1953

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

**Section 1. Section 72-5-407 is enacted to read:****72-5-407. Voluntary purchase of property for corridor preservation -- Notice requirements.**

(1) As used in this section:

(a) "Greenbelt property" means land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(b) "Rollback tax" means the tax imposed under Section 59-2-506.

(2) Before purchasing greenbelt property for corridor preservation on a voluntary basis, the department, county, or municipality shall:

(a) provide written notice to the property owner that notifies the property owner that:

(i) because the property owner has agreed to sell the greenbelt property to a governmental entity on a voluntary basis, the property owner:

(A) is required to pay the rollback tax in accordance with Subsection 59-2-511(2)(b); and

(B) is not eligible to receive relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act; and

(ii) if the property owner does not sell the greenbelt property to the governmental entity on a voluntary basis and a governmental entity later acquires the greenbelt property under eminent domain or under the threat or imminence of eminent domain proceedings, the property owner:

(A) would not be required to pay the rollback tax in accordance with Subsection 59-2-511(3); and

(B) may be eligible to receive relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act; and

(b) obtain a signed statement from the property owner acknowledging that the property owner received the written notice described in Subsection (2)(a).

(3) Before purchasing any other real property not described in Subsection (2) for corridor preservation on a voluntary basis, the department, county, or municipality shall:

(a) provide written notice to the property owner that notifies the property owner that:

(i) because the property owner has agreed to sell the real property to a governmental entity on a voluntary basis, the property owner is not eligible to receive relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act; and

(ii) if the property owner does not sell the real property to the governmental entity on a voluntary basis and a governmental entity later acquires the real property under eminent domain or under the threat or imminence of eminent domain proceedings, the property owner may be eligible to receive relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act; and

(b) obtain a signed statement from the property owner acknowledging that the property owner received the written notice described in Subsection (3)(a).

(4) The department shall create and publish the form of:

(a) the notices described in Subsections (2)(a) and (3)(a); and

(b) the statements described in Subsections (2)(b) and (3)(b).

**CHAPTER 70****H. B. 142**

Passed March 3, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**CRIMINAL PROCEEDING AMENDMENTS**

Chief Sponsor: Stephanie Pitcher  
Senate Sponsor: Daniel W. Thatcher

**LONG TITLE****General Description:**

This bill creates pleading requirements for certain crimes.

**Highlighted Provisions:**

This bill:

- ▶ requires a prosecuting attorney to agree in writing before a defendant may enter a plea of guilty or no contest to:
  - a domestic violence offense; or
  - driving under the influence of drugs or alcohol.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-6a-513, as renumbered and amended by Laws of Utah 2005, Chapter 2  
77-36-1.2, as enacted by Laws of Utah 2015, Chapter 426

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

**Section 1. Section 41-6a-513 is amended to read:****41-6a-513. Acceptance of plea of guilty to DUI -- Restrictions -- Verification of prior violations -- Prosecutor to examine defendant's record.**

(1) ~~[A court may not accept a plea of guilty or no contest to a charge under Section 41-6a-502] An entry of a plea of guilty or no contest to a criminal charge under Section 41-6a-502 is invalid unless: (a) the prosecutor agrees to the plea:~~

~~[(4)] (a) in open court;~~

~~[(4)] (b) in writing; or~~

~~[(4)] (c) by another means of communication which the court finds adequate to record the prosecutor's agreement[;].~~

~~[(b) the charge is filed by information as defined under Section 77-1-3; or]~~

~~[(e) the court receives verification from a law enforcement agency that the defendant's driver license record contains no record of a conviction, arrest, or charge for:]~~

~~[(i) more than one prior violation within the previous 10 years of any offense which, if the defendant were convicted, would qualify as a~~

~~"conviction" as defined under Subsection 41-6a-501(2);]~~

~~[(ii) a felony violation of Section 41-6a-502; or]~~

~~[(iii) automobile homicide under Section 76-5-207.]~~

~~[(2) A verification under Subsection (1)(e) may be made by:]~~

~~[(a) a written indication on the citation;]~~

~~[(b) a separate written document; or]~~

~~[(e) any other means which the court finds adequate to record the law enforcement agency's verification.]~~

~~[(3)] (2) (a) Prior to agreeing to a plea of guilty or no contest [or to filing an information] under Subsection (1), the prosecutor shall examine the criminal history or driver license record of the defendant[,] to determine if the defendant's record contains a conviction, arrest, or charge for:~~

~~(i) more than one prior violation within the previous 10 years of any offense that, if the defendant were convicted, would qualify as a conviction as defined in Subsection 41-6a-501(2);~~

~~(ii) a felony violation of Section 41-6a-502; or~~

~~(iii) automobile homicide under Section 76-5-207.~~

~~(b) If the defendant's record contains a conviction or unresolved arrest or charge for an offense listed in [Subsections (1)(e)(i) through (iii)] Subsection (2)(a), a plea may only be accepted if:~~

~~(i) approved by:~~

~~(A) a district attorney;~~

~~(B) a deputy district attorney;~~

~~(C) a county attorney;~~

~~(D) a deputy county attorney;~~

~~(E) the attorney general; or~~

~~(F) an assistant attorney general; and~~

~~(ii) the attorney giving approval under Subsection (3)(b)(i) has felony jurisdiction over the case.~~

~~[(4) A plea of guilty or no contest is not made invalid by the failure of the court, prosecutor, or law enforcement agency to comply with this section.]~~

**Section 2. Section 77-36-1.2 is amended to read:****77-36-1.2. Acceptance of a plea of guilty or no contest to domestic violence -- Restrictions.**

(1) For purposes of this section, "qualifying domestic violence offense" means:

(a) a domestic violence offense in Utah; or

(b) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) For purposes of this section and Section 77-36-1.1, a plea of guilty or no contest to any domestic violence offense in Utah, which plea is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) (a) Before agreeing to a plea of guilty or no contest ~~[or to filing an information]~~, the prosecutor shall examine the criminal history of the defendant.

~~[(b) The court may not accept a plea of guilty or no contest to a domestic violence offense, unless:]~~

~~[(i)]~~ (b) An entry of a plea of guilty or no contest to a domestic violence offense is invalid unless the prosecutor agrees to the plea:

~~[(A)]~~ (i) in open court;

~~[(B)]~~ (ii) in writing; or

~~[(C)]~~ (iii) by another means of communication that the court finds adequate to record the prosecutor's agreement~~[; or]~~.

~~[(ii) (A) the domestic violence offense is filed by information;]~~

~~[(B) the court receives a copy of the defendant's criminal history; and]~~

~~[(C) the criminal history contains no record of a conviction or a pending charge of a qualifying domestic violence offense within five years before the date on which the plea is entered.]~~

~~[(c) A plea of guilty or no contest is not made invalid by the failure of a court, a prosecutor, or a law enforcement agency to comply with this section.]~~

**CHAPTER 71****H. B. 143**

Passed February 21, 2020

Approved March 24, 2020

Effective January 1, 2021

**SCHOOL BUS SAFETY  
INSPECTION AMENDMENTS**Chief Sponsor: Lee B. Perry  
Senate Sponsor: Don L. Ipson**LONG TITLE****General Description:**

This bill amends provisions related to the safety inspection of school buses.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to the safety inspection of school buses by:
  - removing some requirements of annual inspections by the Highway Patrol;
  - shifting inspection responsibilities to the relevant education entity;
  - requiring the Highway Patrol to perform random safety inspections and verify corrective measures have been taken; and
  - requiring the publication of safety inspection information; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53-8-211, as last amended by Laws of Utah 2017, Chapter 145

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

**Section 1. Section 53-8-211 is amended to read:****53-8-211. Safety inspection of school buses and other vehicles.**

(1) For purposes of this section and Section 53-8-211.5, "education entity" means:

- (a) a school district;
- (b) a charter school;
- (c) a private school; and
- (d) the Utah Schools for the Deaf and the Blind.

(2) (a) A school bus operated by an education entity in this state is required to pass a safety inspection annually [~~and the Highway Patrol shall~~].

~~[(i) perform safety inspections at least once each school year on all school buses operated by each education entity in the state for the transportation of students, except as otherwise provided in Subsection (2)(b);]~~

~~[(ii) annually, at a time during the school year other than the time of the inspection described in Subsection (2)(a)(i), perform safety inspections on 20% of the school buses operated by an education entity, selected randomly, except as otherwise provided in Subsection (2)(b); and]~~

~~[(iii) cause to be removed from the public highways any vehicle found to have mechanical or other defects under this Subsection (2)(a) endangering the safety of passengers and the public until the defects have been corrected.]~~

(b) (i) An education entity [may] shall perform the safety inspections of a school bus that it operates in accordance with rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act [~~and after consultation with the State Board of Education~~].

(ii) The rules under Subsection (2)(b)(i) shall include provisions for:

- (A) maintaining school bus drivers' hours of service records;
- (B) requiring school bus drivers to maintain vehicle condition reports;
- (C) maintaining school bus maintenance and repair records; and
- (D) validating that defects discovered during the inspection process have been corrected prior to returning a school bus to service.

(iii) (A) The division shall audit school bus safety operations of each education entity performing inspections under Subsection (2)(b)(i) to ensure compliance with the rules made under Subsection (2)(b)(i).

(B) The audit may include both a formal examination of the education entity's inspection records and a random physical inspection of buses that have been safety inspected by the education entity.

(iv) An education entity must have a comprehensive school bus maintenance plan approved by the division in order to participate in the safety inspection program.

(v) An education entity may not operate any vehicle found to have mechanical or other defects that would endanger the safety of passengers and the public until the defects have been corrected.

(3) In addition to a safety inspection required under Subsection (2)(b), the Highway Patrol shall:

(a) perform random safety inspections:

(i) annually on a minimum of 20% of the school buses operated by an education entity; and

(ii) on 100% of school buses operated by an education entity when inspections conducted pursuant to Subsection (3)(a)(i) result in an out-of-service failure rate as determined by the division;

(b) verify that defects discovered during an inspection under Subsection (3)(a) have been corrected; and

(c) make publicly available the results of inspections performed under Subsection (3)(a).

[~~(3)~~] (4) Motor vehicles operated by an education entity, and not used for the transportation of students, are subject to Section 53-8-205.

**Section 2. Effective date.**

This bill takes effect on January 1, 2021.

**CHAPTER 72****H. B. 147**

Passed February 28, 2020

Approved March 24, 2020

Effective May 12, 2020

**DIVISION OF REAL ESTATE AMENDMENTS**

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill amends provisions of Title 61, Securities Division – Real Estate Division.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ changes certain filing fees;
- ▶ amends costs related to an on-site inspection regarding an application for registration of subdivided lands;
- ▶ amends the renewal fee for the registration of subdivided lands;
- ▶ amends provisions related to prelicensing education and continuing education for a person transacting the business of residential mortgage loans;
- ▶ amends provisions related to a criminal background check for an individual applying for a license to transact the business of residential mortgage loans;
- ▶ amends provisions regarding prohibited conduct for an individual licensed under Title 61:
  - Chapter 2c, Utah Residential Mortgage Practices and Licensing;
  - Chapter 2f, Real Estate Licensing and Practices Act; or
  - Chapter 2g, Real Estate Appraiser Licensing and Certification Act;
- ▶ amends provisions regarding the removal of an appraiser from an appraiser management company's appraiser panel;
- ▶ amends provisions regarding the issuance and display of a license issued under the Real Estate Licensing and Practices Act;
- ▶ amends the amount of time following certain violations in which the Division of Real Estate may commence a disciplinary action;
- ▶ amends provision related to an appraiser trainee signing an appraisal report; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

57-11-4, as last amended by Laws of Utah 2013, Chapter 292

57-11-6, as last amended by Laws of Utah 1990, Chapter 199

57-11-10, as last amended by Laws of Utah 2008, Chapter 382

61-2c-102, as last amended by Laws of Utah 2018, Chapter 55

61-2c-202, as last amended by Laws of Utah 2015, Chapter 262

61-2c-204.1, as last amended by Laws of Utah 2017, Chapter 182

61-2c-301, as last amended by Laws of Utah 2017, Chapter 182

61-2e-306, as last amended by Laws of Utah 2016, Chapter 384

61-2f-205, as last amended by Laws of Utah 2014, Chapter 350

61-2f-401, as last amended by Laws of Utah 2019, Chapters 337 and 475

61-2f-402, as last amended by Laws of Utah 2017, Chapter 182

61-2g-401, as renumbered and amended by Laws of Utah 2011, Chapter 289

61-2g-405, as renumbered and amended by Laws of Utah 2011, Chapter 289

61-2g-502, as last amended by Laws of Utah 2016, Chapter 384

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

**Section 1. Section 57-11-4 is amended to read:****57-11-4. Exemptions.**

(1) Unless the method of disposition is adopted for the purpose of evasion of this chapter or the federal act, this chapter does not apply to an offer or disposition of an interest in land:

(a) by a purchaser of subdivided lands for the person's own account in a single or isolated transaction;

(b) (i) on a unit of which there is a residential, commercial, or industrial building; or

(ii) on a unit of which there is a legal obligation on the part of the seller to complete construction of a residential, commercial, or industrial building within two years from date of disposition;

(c) unless a person who acquires land for one of the following purposes sells that land to one or more individuals as unimproved lots with no legal obligation on the part of the seller to construct a residential, commercial, or industrial building on that lot within two years from the date of disposition:

(i) if the person acquires an interest in the land for use in the business of constructing residential, commercial, or industrial buildings; or

(ii) if the person acquires the type of land described in Subsection (1)(c)(i) for the purpose of disposition to a person engaged in the business of constructing residential, commercial, or industrial buildings;

(d) pursuant to court order;

(e) by a government or government agency;

(f) (i) if the interest lies within the boundaries of a city or a county which:

(A) has a planning and zoning board using at least one professional planner;

(B) enacts ordinances that require approval of planning, zoning, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (1)(f)(i)(B) plus telephone and electricity; and

(ii) if at the time of the offer or disposition the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (1)(f)(i)(C);

(g) in an industrial park;

(h) as cemetery lots; or

(i) if the interest is offered as part of a camp resort as defined in Section 57-19-2 or a timeshare development as defined in Section 57-19-2.

(2) Unless the method of disposition is adopted for the purpose of evasion of this chapter or the provisions of the federal act, this chapter, except as specifically designated, does not apply to an offer or disposition of:

(a) indebtedness secured by a mortgage or deed of trust on real estate;

(b) a security or unit of interest issued by a real estate investment trust regulated under any state or federal statute;

(c) subject to Subsection (5), subdivided lands registered under the federal act and which the division finds to be in the public interest to exempt from the registration requirements of this chapter;

(d) a security currently registered with the Division of Securities; or

(e) an interest in oil, gas, or other minerals or a royalty interest in these assets if the offer or disposition of the interest is regulated as a security by the federal government or by the Division of Securities.

(3) (a) Notwithstanding the exemptions in Subsections (1) and (2), a person making an offer or disposition of an interest in land that is located in Utah shall apply to the division for an exemption before the offer or disposition is made if:

(i) the person is representing, in connection with the offer or disposition, the availability of culinary water service to or on the subdivided land; and

(ii) the culinary water service is provided by a water corporation as defined in Section 54-2-1.

(b) A subdivider seeking to qualify under ~~this~~ the exemption described in Subsection (3)(a) shall file with the division a filing fee of ~~[\$50]~~ \$100 and an application containing:

(i) information ~~required by~~ the division ~~requires~~ to show that the offer or disposition is exempt under this section;

(ii) a statement as to what entity will ~~be providing~~ provide culinary water service and the nature of that entity; and

(iii) (A) a copy of the entity's certificate of convenience and necessity issued by the Public Service Commission; or

(B) evidence that the entity providing water service is exempt from the jurisdiction of the Public Service Commission.

(4) (a) The director may by rule or order exempt a person from a requirement of this chapter if the director finds that the offering of an interest in a subdivision is essentially noncommercial.

(b) For purposes of this section, the bulk sale of subdivided lands by a subdivider to another person who will become the subdivider of those lands is considered essentially noncommercial.

(5) (a) A subdivider seeking to qualify under the exemption described in Subsection (2)(c) shall file with the division:

(i) a copy of an effective statement of record filed with the Consumer Financial Protection Bureau; and

(ii) a filing fee of \$100.

(b) If a subdivider does not qualify under the exemption described in Subsection (2)(c), the division shall credit the filing fee described in Subsection (5)(a) to the filing fee required for registration under this chapter.

(c) Nothing in this Subsection (5) exempts a subdivider from:

(i) Sections 57-11-16 and 57-11-17; or

(ii) the requirement to file an annual report with the division under Section 57-11-10.

(6) Notwithstanding an exemption under this section, the division:

(a) retains jurisdiction over an offer or disposition of an interest in land to determine whether or not the exemption continues to apply; and

(b) may require compliance with this chapter if an exemption no longer applies.

**Section 2. Section 57-11-6 is amended to read:**

**57-11-6. Application for registration -- Required documents and information -- Filing fee and deposit -- Consolidation of registration of additional lands -- Reports of changes.**

(1) ~~The~~ An application for registration of subdivided lands shall be filed as prescribed by the division's rules and, unless otherwise provided by the division, shall include~~[, but is not limited to,]~~ the following documents and information:

(a) an irrevocable appointment of the division to receive service of any lawful process in any noncriminal proceeding arising under this chapter against the applicant or ~~his~~ the applicant's personal representative;

(b) a legal description of the subdivided lands offered for registration, together with a map showing the division proposed or made, the



dimensions of the units, and the relation of the subdivided lands to existing streets, roads, and other off-site improvements;

(c) the states or jurisdictions, including the United States, in which an application for registration or similar document has been filed, and a copy of any adverse order, judgment, or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

(d) the applicant's name and address, and the form, date, and jurisdiction of organization;

(e) the address of each of [its] the applicant's offices in this state; ~~and~~

(f) the name and address of the individual to whom the applicant wishes to have the division direct all communications;

~~[(e) the name, address, and principal occupation for the past five years of every]~~

(g) for each director, officer, or general partner of the applicant or person occupying a similar status or performing similar functions~~;~~];

(i) the individual's name and address;

(ii) the individual's principal occupation for the five years before the day on which the applicant files the application; and

(iii) the extent and nature of [his] the individual's interest in the applicant or the subdivided lands as of a specified date within 30 days ~~[of the filing of]~~ before the day on which the application is filed;

~~[(f)]~~ (h) a statement, in a form acceptable to the division, of the condition of the title to the subdivided lands, including encumbrances, as of a specified date within 30 days ~~[of the date of application]~~ before the day on which the application is filed, which statement:

(i) if the subdivided lands are situated in this state, shall be in the form of:

(A) a title opinion from a title insurer qualified to engage in the title insurance business in this state; or

(B) an opinion of an attorney, licensed to practice in this state and who is not a salaried employee, officer, or director of the applicant or owner;

(ii) if the subdivided lands are situated in another jurisdiction, shall be in the form of an opinion of an attorney:

(A) licensed to practice in the jurisdiction where the lands are situated; and

(B) who is not a salaried employee, officer, or director of the applicant or owner; or

(iii) may be substituted by other evidence of title acceptable to the division;

~~[(g)]~~ (i) copies of the instruments ~~[which]~~ that will be delivered to a purchaser to evidence [his] the purchaser's interest in the subdivided lands and of

the contracts and other agreements ~~[which]~~ that a purchaser will be required to agree to or sign;

~~[(h)]~~ (j) copies of the instruments by which the interest in the subdivided lands to be disposed of to the purchaser was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with recording data, but if any of these instruments contain any information relating to the consideration paid upon the prior acquisition of the subdivided lands, this information may be blocked out;

~~[(i)]~~ (k) if there is a lien or encumbrance affecting more than one unit, a statement of the consequences to a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;

~~[(j)]~~ (l) copies of instruments creating easements, restrictions, or other encumbrances affecting the subdivided lands;

~~[(k)]~~ (m) a statement of the zoning and other governmental regulations affecting the use of the subdivided lands and of any existing or proposed taxes or special assessments which affect the subdivided lands;

~~[(l)]~~ (n) (i) if the subdivided lands are situated in this state, and unless all lands to be disposed of are included on a subdivision plat map ~~[which has been]~~ that is filed and approved ~~[pursuant to]~~ in accordance with Title 17, Counties, an opinion by an attorney, licensed to practice in this state and who is not a salaried employee, officer, or director of the applicant or owner, stating that:

(A) the proposed or made land division ~~[proposed or made]~~ does not ~~[or will not]~~ violate any existing state statute or local ordinance; and

(B) all permits or approvals have been obtained from the applicable state or local authorities necessary for the subdivided lands to be put to the use for which they are offered, except for those permits or approvals ~~[which]~~ that will not be granted until the subdivided lands are registered under this chapter if this registration is the only condition precedent to the granting of the permits or approvals; or

(ii) if the subdivided lands are situated in another jurisdiction, an opinion by an attorney licensed to practice in that jurisdiction and who is not a salaried employee, officer, or director of the applicant or owner stating, that the proposed or made land division ~~[proposed or made]~~ does not violate any existing statute, ordinance, or other law;

~~[(m)]~~ (o) a statement of:

(i) the existing provisions for access, sewage disposal, water (including a supply of culinary water), and other public utilities in the subdivision; and~~;~~]

(ii) if ~~[they]~~ the provisions described in Subsection (1)(o)(i) are not presently available but are feasible, the estimated cost to the purchaser ~~[of their]~~ for procurement of the provisions;

~~(n)~~ (p) a statement of ~~any~~ all improvements to be installed, the schedule for ~~their~~ the completion of improvements, any provisions for maintenance of those improvements, and estimated costs to the purchaser for improvements;

~~(o)~~ (q) a statement declaring whether or not the applicant is or will be representing, in connection with an offer or disposition of land, that culinary water service will be available to or on the subdivided lands, and if the applicant is or will be so representing:

(i) a statement as to what entity will be providing the culinary water service and the nature of the entity; and

(ii) if the entity providing the culinary water service is not a municipal system, a certificate from the Public Service Commission that the entity providing the culinary water service ~~either~~;

(A) holds a certificate of convenience and necessity from the ~~commission,~~ Public Service Commission; or

(B) has been found by the Public Service Commission to be exempt from ~~its~~ the Public Service Commission's jurisdiction;

~~(p)~~ (r) a narrative description of the promotional plan for the disposition of the subdivided lands together with copies of all advertising material ~~which has been~~ that is prepared for public distribution by any means of communication;

~~(q)~~ (s) the proposed public offering statement;

~~(r)~~ (t) a copy of every public report or public offering statement or similar document filed with or issued by any agency of the United States or any state or jurisdiction; and

~~(s)~~ (u) any other reasonable information, including any current financial statement, ~~which~~ that the division by ~~its rules~~ rule requires for the protection of purchasers.

(2) (a) Each application for registration of subdivided lands shall be accompanied by a filing fee of \$500 for up to 30 units, plus an additional \$3 per unit for each unit over 30 units up to a maximum of \$2,500 for each application, ~~and a deposit of \$300 to cover all on-site inspection costs and expenses incurred by the division. If the \$300 deposit is insufficient to meet the estimated costs and expenses of the on-site inspection, the applicant or owner shall make an additional deposit sufficient to cover the estimated costs and expenses before the division will inspect the subdivided lands. The deposit shall be refunded to the extent it is not used, together with an itemized statement from the division of all amounts it has used.~~

(b) If the division determines that an on-site inspection of the subdivided lands proposed for registration to be offered for disposition is necessary, the applicant shall pay the division the actual amount of costs the division incurs performing the on-site inspection.

(3) In the event the subdivider registers additional subdivided lands to be offered for disposition, ~~he~~ the subdivider may consolidate the subsequent registration with any earlier registration offering subdividing lands for disposition under the same promotional plan by filing an application for consolidation:

(a) accompanied by an additional fee of \$200, plus \$3 for each additional unit, up to a maximum of \$1,250 for each application~~;~~ and

(b) if at the time the subdivider makes the application, all of the information required by Subsection (1) of this section ~~has been brought~~ is current and covers the additional subdivided lands.

(4) ~~The~~ A subdivider shall report any material change in the information contained in ~~an~~ the subdivider's application for registration or consolidation within 15 days ~~from the time~~ after the day on which that change becomes known to ~~him~~ the subdivider.

**Section 3. Section 57-11-10 is amended to read:**

**57-11-10. Renewal report -- Renewal fee -- Examination by division -- Annual reports.**

(1) (a) Within 30 days after each annual anniversary date of the division's registration of subdivided lands, the subdivider shall file a renewal report in the form ~~prescribed by the division~~ the division prescribes together with a renewal fee of ~~\$200~~ \$50.

(b) The report shall reflect ~~any~~ all material changes ~~in~~ to information contained in the original application for registration, including any change in ownership of the subdivider.

(c) The report shall also indicate the number of units in the subdivision that have been disposed of since the division registered the subdivided lands.

(2) (a) The division may, upon the filing of a renewal report, initiate a renewal examination of the kind described in Section 57-11-8.

(b) If the division determines upon inquiry and examination that the subdivider fails to meet any of the requirements of Section 57-11-8 ~~have not been met, it~~, the division shall notify the subdivider that the subdivider must correct the report, the promotional plan, or the plan of disposition ~~must be corrected~~ within 20 days, or any additional time allowed by the division, after the day on which the subdivider receives the notice.

(c) If the subdivider does not meet the requirements ~~are not met~~ within the time allowed, the division may, notwithstanding the provisions of Section 57-11-13 and without further notice, issue a cease and desist order according to the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act, barring further sale of the subdivided lands.

(3) The division may permit the filing of annual reports within 30 days after the anniversary date of the consolidated registration in lieu of the anniversary date of the original registration.

**Section 4. Section 61-2c-102 is amended to read:**

**61-2c-102. Definitions.**

- (1) As used in this chapter:
- (a) "Affiliation" means that a mortgage loan originator is associated with a principal lending manager in accordance with Section 61-2c-209.
- (b) "Applicant" means a person applying for a license under this chapter.
- (c) "Approved examination provider" means a person approved by the nationwide database or by the division as an approved test provider.
- (d) "Associate lending manager" means an individual who:
- (i) qualifies under this chapter as a principal lending manager; and
- (ii) works by or on behalf of another principal lending manager in transacting the business of residential mortgage loans.
- (e) "Balloon payment" means a required payment in a mortgage transaction that:
- (i) results in a greater reduction in the principle of the mortgage than a regular installment payment; and
- (ii) is made during or at the end of the term of the loan.
- (f) "Branch lending manager" means an individual who is:
- (i) licensed as a lending manager; and
- (ii) designated in the nationwide database by the individual's sponsoring entity as being responsible to work from a branch office and to supervise the business of residential mortgage loans that is conducted at the branch office.
- (g) "Branch office" means a licensed entity's office:
- (i) for the transaction of the business of residential mortgage loans regulated under this chapter;
- (ii) other than the main office of the licensed entity; and
- (iii) that operates under:
- (A) the same business name as the licensed entity; or
- (B) another trade name that is registered with the division under the entity license.
- (h) "Business day" means a day other than:
- (i) a Saturday;
- (ii) a Sunday; or
- (iii) a federal or state holiday.

- (i) (i) "Business of residential mortgage loans" means for compensation or in the expectation of compensation to:
- (A) engage in an act that makes an individual a mortgage loan originator;
- (B) make or originate a residential mortgage loan;
- (C) directly or indirectly solicit a residential mortgage loan for another;
- (D) unless exempt under Section 61-2c-105 or excluded under Subsection (1)(i)(ii), render services related to the origination of a residential mortgage loan including:
- (I) preparing a loan package;
- (II) communicating with the borrower or lender;
- (III) advising on a loan term;
- (IV) receiving, collecting, or distributing information common for the processing or underwriting of a loan in the mortgage industry; or
- (V) communicating with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan; or
- (E) engage in loan modification assistance.
- (ii) "Business of residential mortgage loans" does not include:
- (A) ownership of an entity that engages in the business of residential mortgage loans if the owner does not personally perform the acts listed in Subsection (1)(i)(i);
- (B) acting in one or more of the following capacities:
- (I) a loan wholesaler;
- (II) an account executive for a loan wholesaler;
- (III) a loan closer; or
- (IV) funding a loan; or
- (C) if employed by a person who owns or services an existing residential mortgage loan, the direct negotiation with the borrower for the purpose of loan modification.
- (j) "Certified education provider" means a person who is certified under Section 61-2c-204.1 to provide ~~[one or more of the following: (i) Utah-specific prelicensing education; or]~~ Utah-specific prelicensing education~~;~~.
- ~~[(ii) Utah-specific continuing education.]~~
- (k) "Closed-end" means a loan:
- (i) with a fixed amount borrowed; and
- (ii) that does not permit additional borrowing secured by the same collateral.
- (l) "Commission" means the Residential Mortgage Regulatory Commission created in Section 61-2c-104.
- (m) "Community development financial institution" means the same as that term is defined in 12 U.S.C. Sec. 4702.

(n) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to an individual or entity for or in consideration of:

- (i) services;
- (ii) personal or real property; or
- (iii) another thing of value.

(o) "Concurrence" means that entities given a concurring role must jointly agree for the action to be taken.

(p) "Continuing education" means education ~~[taken by an individual licensed under this chapter]~~ an individual takes in order to meet the education requirements imposed by Sections 61-2c-204.1 and 61-2c-205 to activate, renew, or reinstate a license under this chapter.

(q) "Control," as used in Subsection 61-2c-105(2)(f), means the power to directly or indirectly:

(i) direct or exercise a controlling interest over:

(A) the management or policies of an entity; or

(B) the election of a majority of the directors, officers, managers, or managing partners of an entity;

(ii) vote 20% or more of a class of voting securities of an entity by an individual; or

(iii) vote more than 5% of a class of voting securities of an entity by another entity.

(r) (i) "Control person" means an individual identified by an entity registered with the nationwide database as being an individual directing the management or policies of the entity.

(ii) "Control person" may include one of the following who is identified as provided in Subsection (1)(r)(i):

- (A) a manager;
- (B) a managing partner;
- (C) a director;
- (D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(r)(ii).

(s) "Depository institution" means the same as that term is defined in Section 7-1-103.

(t) "Director" means the director of the division.

(u) "Division" means the Division of Real Estate.

(v) "Dwelling" means a residential structure attached to real property that contains one to four family units including any of the following if used as a residence:

- (i) a condominium unit;
- (ii) a cooperative unit;
- (iii) a manufactured home; or

(iv) a house.

(w) "Employee":

(i) means an individual:

(A) whose manner and means of work performance are subject to the right of control of, or are controlled by, another person; and

(B) whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form issued by the controlling person; and

(ii) does not include an independent contractor who performs duties other than at the direction of, and subject to the supervision and instruction of, another person.

(x) "Entity" means:

- (i) a corporation;
- (ii) a limited liability company;
- (iii) a partnership;
- (iv) a company;
- (v) an association;
- (vi) a joint venture;
- (vii) a business trust;
- (viii) a trust; or
- (ix) another organization.

(y) "Executive director" means the executive director of the Department of Commerce.

(z) "Federal licensing requirements" means Secure and Fair Enforcement for Mortgage Licensing, 12 U.S.C. Sec. 5101 et seq.

(aa) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:

(i) engage, or offer to engage, in an act that:

(A) the person represents will assist a borrower in preventing a foreclosure; and

(B) relates to a transaction involving the transfer of title to residential real property; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)(aa)(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)(aa)(i).

(bb) "Inactive status" means a dormant status into which an unexpired license is placed when the holder of the license is not currently engaging in the business of residential mortgage loans.

(cc) "Lending manager" means an individual licensed as a lending manager under Section 61-2c-206 to transact the business of residential mortgage loans.

(dd) "Licensee" means a person licensed with the division under this chapter.

(ee) “Licensing examination” means the examination required by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

(ff) “Loan modification assistance” means, for compensation or with the expectation of receiving valuable consideration, to:

(i) act, or offer to act, on behalf of a person to:

(A) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(I) an increase or decrease in an interest rate;

(II) a change to the type of interest rate;

(III) an increase or decrease in the principal amount of the residential mortgage loan;

(IV) a change in the number of required period payments;

(V) an addition of collateral;

(VI) a change to, or addition of, a prepayment penalty;

(VII) an addition of a cosigner; or

(VIII) a change in persons obligated under the existing residential mortgage loan; or

(B) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)(ff)(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)(ff)(i).

(gg) (i) “Mortgage loan originator” means an individual who, for compensation or in expectation of compensation:

(A) (I) takes a residential mortgage loan application;

(II) offers or negotiates terms of a residential mortgage loan for the purpose of:

(Aa) a purchase;

(Bb) a refinance;

(Cc) a loan modification assistance; or

(Dd) a foreclosure rescue; or

(III) directly or indirectly solicits a residential mortgage loan for another person; and

(B) is licensed as a mortgage loan originator in accordance with this chapter.

(ii) “Mortgage loan originator” does not include a person who:

(A) is described in Subsection (1)(gg)(i), but who performs exclusively administrative or clerical tasks as described in Subsection (1)(i)(ii)(A);

(B) (I) is licensed under Chapter 2f, Real Estate Licensing and Practices Act;

(II) performs only real estate brokerage activities; and

(III) receives no compensation from:

(Aa) a lender;

(Bb) a lending manager; or

(Cc) an agent of a lender or lending manager; or

(C) is solely involved in extension of credit relating to a timeshare plan, as defined in 11 U.S.C. Sec. 101(53D).

(hh) “Nationwide database” means the Nationwide Mortgage Licensing System and Registry, authorized under federal licensing requirements.

(ii) “Nontraditional mortgage product” means a mortgage product other than a 30-year fixed rate mortgage.

(ij) “Person” means an individual or entity.

(kk) “Prelicensing education” means education taken by an individual seeking to be licensed under this chapter in order to meet the education requirements imposed by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

(ll) “Principal lending manager” means an individual:

(i) licensed as a lending manager under Section 61-2c-206; and

(ii) identified in the nationwide database by the individual’s sponsoring entity as the entity’s principal lending manager.

(mm) “Prospective borrower” means a person applying for a mortgage from a person who is required to be licensed under this chapter.

(nn) “Record” means information that is:

(i) prepared, owned, received, or retained by a person; and

(ii) (A) inscribed on a tangible medium; or

(B) (I) stored in an electronic or other medium; and

(II) in a perceivable and reproducible form.

~~[(oo) “Referral fee”:]~~

~~[(i) means any fee, kickback, other compensation, or thing of value tendered for a referral of business or a service incident to or part of a residential mortgage loan transaction; and]~~

~~[(ii) does not include:]~~

~~[(A) a payment made by a licensed entity to an individual employed by the entity under a contractual incentive program according to rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or]~~

~~[(B) a payment made for reasonable promotional and educational activities that is not conditioned on the referral of business and is not used to pay expenses that a person in a position to refer settlement services or business related to the settlement services would otherwise incur.]~~

~~[(pp)]~~ (oo) “Residential mortgage loan” means an extension of credit, if:

(i) the loan or extension of credit is secured by a:

(A) mortgage;

(B) deed of trust; or

(C) consensual security interest; and

(ii) the mortgage, deed of trust, or consensual security interest described in Subsection (1)~~[(pp)]~~(oo)(i):

(A) is on a dwelling located in the state; and

(B) is created with the consent of the owner of the residential real property.

(pp) “Section 8 of RESPA” means 12 U.S.C. Sec. 2607 and any rules made thereunder.

(qq) “Settlement” means the time at which each of the following is complete:

(i) the borrower and, if applicable, the seller sign and deliver to each other or to the escrow or closing office each document required by:

(A) the real estate purchase contract;

(B) the lender;

(C) the title insurance company;

(D) the escrow or closing office;

(E) the written escrow instructions; or

(F) applicable law;

(ii) the borrower delivers to the seller, if applicable, or to the escrow or closing office any money, except for the proceeds of any new loan, that the borrower is required to pay; and

(iii) if applicable, the seller delivers to the buyer or to the escrow or closing office any money that the seller is required to pay.

(rr) “Settlement services” means a service provided in connection with a real estate settlement, including a title search, a title examination, the provision of a title certificate, services related to title insurance, services rendered by an attorney, preparing documents, a property survey, rendering a credit report or appraisal, a pest or fungus inspection, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan, and the processing of a federally related mortgage.

(ss) “Sponsorship” means an association in accordance with Section 61-2c-209 between an individual licensed under this chapter and an entity licensed under this chapter.

(tt) “State” means:

(i) a state, territory, or possession of the United States;

(ii) the District of Columbia; or

(iii) the Commonwealth of Puerto Rico.

(uu) “Uniform state test” means the uniform state content section of the qualified written test developed by the nationwide database.

(vv) “Unique identifier” means the same as that term is defined in 12 U.S.C. Sec. 5102.

(ww) “Utah-specific” means an educational requirement under this chapter that relates specifically to Utah.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

**Section 5. Section 61-2c-202 is amended to read:**

**61-2c-202. Licensure procedures.**

(1) To apply for licensure under this chapter an applicant shall in a manner provided by the division by rule:

(a) if the applicant is an entity, submit:

(i) through the nationwide database, a licensure statement that:

(A) lists any name under which the entity will transact business in this state;

(B) lists the address of the principal business location of the entity;

(C) identifies each control person for the entity;

(D) identifies each jurisdiction in which the entity is registered, licensed, or otherwise regulated in the business of residential mortgage loans;

(E) discloses any adverse administrative action taken by an administrative agency against the entity or a control person for the entity; and

(F) discloses any history of criminal proceedings that involves a control person of the entity; and

(ii) a notarized letter to the division that:

(A) is on the entity’s letterhead;

(B) is signed by the entity’s owner, director, or president;

(C) authorizes the principal lending manager to do business under the entity’s name and under each of the entity’s licensed trade names, if any; and

(D) includes any information required by the division by rule;

(b) if the applicant is an individual:

(i) submit a licensure statement that identifies the entity with which the applicant is sponsored;

(ii) authorize periodic criminal background checks through the nationwide database, at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, accessing: ~~(A) the Utah Bureau of Criminal Identification, if the nationwide database is able to obtain information from the Utah Bureau of Criminal Identification; and (B) the Federal Bureau of Investigation;~~

(iii) submit evidence using a method approved by the division by rule of having successfully completed approved prelicensing education in accordance with Section 61-2c-204.1;

(iv) submit evidence using a method approved by the division by rule of having successfully passed any required licensing examination in accordance with Section 61-2c-204.1;

(v) submit evidence using a method approved by the division by rule of having successfully registered in the nationwide database, including paying a fee required by the nationwide database; and

(vi) authorize the division to obtain independent credit reports:

(A) through a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a; and

(B) at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) pay to the division:

(i) an application fee established by the division in accordance with Section 63J-1-504; and

(ii) the reasonable expenses incurred by the division in processing the application for licensure.

(2) (a) Upon receiving an application, the division, with the concurrence of the commission, shall determine whether the applicant:

(i) meets the qualifications for licensure; and

(ii) complies with this section.

(b) If the division, with the concurrence of the commission, determines that an applicant meets the qualifications for licensure and complies with this section, the division shall issue the applicant a license.

(c) If the division, with the concurrence of the commission, determines that the division requires more information to make a determination under Subsection (2)(a), the division may:

(i) hold the application pending further information about an applicant's criminal background or history related to adverse administrative action in any jurisdiction; or

(ii) issue a conditional license:

(A) pending the completion of a criminal background check; and

(B) subject to probation, suspension, or revocation if the criminal background check reveals that the applicant did not truthfully or accurately disclose on the licensing application a criminal history or other history related to adverse administrative action.

(3) (a) The commission may delegate to the division the authority to:

(i) review a class or category of application for an initial or renewed license;

(ii) determine whether an applicant meets the qualifications for licensure;

(iii) conduct a necessary hearing on an application; and

(iv) approve or deny a license application without concurrence by the commission.

(b) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for a de novo review of the application.

(c) An applicant who is denied licensure under Subsection (3)(b) may seek agency review by the executive director only after the commission reviews the division's denial of the applicant's application.

(d) Subject to Subsection (3)(c) and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is denied licensure under this chapter may submit a request for agency review to the executive director within 30 days following the day on which the commission order denying the licensure is issued.

**Section 6. Section 61-2c-204.1 is amended to read:**

**61-2c-204.1. Education providers -- Education requirements -- Examination requirements.**

(1) As used in this section:

(a) "Approved continuing education course" means a course of continuing education that is approved by the nationwide database ~~or by the division~~.

(b) "Approved prelicensing education course" means a course of prelicensing education that is approved by the nationwide database or by the division.

(2) (a) A person may not provide Utah-specific prelicensing education ~~[or Utah-specific continuing education]~~ if that person is not certified by the division under this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(i) certification criteria and procedures to become a certified education provider; and

(ii) standards of conduct for a certified education provider.

(c) In accordance with the rules described in Subsection (2)(b), the division shall certify a person to provide the education described in Subsection (2)(a).

(d) (i) Upon request, the division shall make available to the public a list of the names and addresses of certified education providers either directly or through a third party.

(ii) A person who requests a list under this Subsection (2)(d) shall pay the costs incurred by the division to make the list available.

(e) In certifying a person as a certified education provider, the division by rule may:

(i) distinguish between an individual instructor and an entity that provides education; or

(ii) approve[;-(A)] Utah-specific prelicensing education[;-(B)].

~~[(B) Utah-specific continuing education courses.]~~

(3) (a) The division may not:

(i) license an individual under this chapter as a mortgage loan originator who has not completed the prelicensing education required by this section:

(A) before taking the licensing examinations required by Subsection (4);

(B) in the number of hours, not to exceed 90 hours, required by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(C) that includes the prelicensing education required by federal licensing regulations;

(ii) subject to Subsection (6), renew a license of an individual who has not completed the continuing education required by this section and Section 61-2c-205:

(A) in the number of hours required by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) that includes the continuing education required by federal licensing regulations; or

(iii) license an individual under this chapter as a lending manager who has not completed the prelicensing education required by Section 61-2c-206 before taking the licensing examination required by Section 61-2c-206.

(b) Subject to Subsection (3)(a) and with the concurrence of the division, the commission shall determine:

(i) except as provided in Subsection 61-2c-206(1)(b), the appropriate number of hours of prelicensing education required to obtain a license;

(ii) the subject matters of the prelicensing education required under this section and Section

61-2c-206, including online education or distance learning options;

(iii) the appropriate number of hours of continuing education required to renew a license, including additional continuing education required for a new loan originator; and

(iv) the subject matter of courses the division may accept for continuing education purposes.

(c) The commission may appoint a committee to make recommendations to the commission concerning approval of prelicensing education and continuing education courses, except that the commission shall appoint at least one member to the committee to represent each association that represents a significant number of individuals licensed under this chapter.

(d) The division may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the calculation of continuing education credits, except that the rules shall be consistent with 12 U.S.C. Sec. 5105.

(4) (a) The division may not license an individual under this chapter unless that individual first passes the qualified written national test developed by the nationwide database that includes the uniform state test content that:

(i) meets the minimum federal licensing requirements; and

(ii) is administered by an approved examination provider.

(b) The commission, with the concurrence of the division, shall determine the requirements for the lending manager licensing examination required under Section 61-2c-206 that tests the applicant's knowledge of:

(i) fundamentals of the English language;

(ii) arithmetic;

(iii) provisions of this chapter;

(iv) advanced residential mortgage principles and practices; and

(v) other aspects of Utah law the commission, with the concurrence of the division, determines appropriate.

(c) An individual who will engage in an activity as a mortgage loan originator, is not considered to have passed a licensing examination if that individual has not met the minimum competence requirements of 12 U.S.C. Sec. 5104(d)(3).

(5) When reasonably practicable, the commission and the division shall make the Utah-specific education requirements described in this section available electronically through one or more distance education methods approved by the commission and division.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission, with the concurrence of the division, shall make rules establishing procedures under which a licensee may be exempted from a Utah-specific continuing education requirement:



- (i) for a period not to exceed four years; and
- (ii) upon a finding of reasonable cause.

(b) An individual who engages in an activity as a mortgage loan originator may not under this Subsection (6) be exempted from the minimum continuing education required under federal licensing regulations for an individual who engages in an activity as a mortgage loan originator.

**Section 7. Section 61-2c-301 is amended to read:**

**61-2c-301. Prohibited conduct -- Violations of the chapter.**

(1) A person transacting the business of residential mortgage loans in this state may not:

(a) ~~[give or receive a referral fee]~~ violate Section 8 of RESPA;

(b) charge a fee in connection with a residential mortgage loan transaction:

- (i) that is excessive; or
- (ii) without providing to the loan applicant a written statement signed by the loan applicant:

(A) stating whether or not the fee or deposit is refundable; and

(B) describing the conditions, if any, under which all or a portion of the fee or deposit will be refunded to the loan applicant;

(c) act incompetently in the transaction of the business of residential mortgage loans such that the person fails to:

- (i) safeguard the interests of the public; or
- (ii) conform to acceptable standards of the residential mortgage loan industry;

(d) do any of the following as part of a residential mortgage loan transaction, regardless of whether the residential mortgage loan closes:

- (i) make a false statement or representation;
- (ii) cause false documents to be generated; or
- (iii) knowingly permit false information to be submitted by any party;

(e) give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice;

(f) violate or not comply with:

- (i) this chapter;
- (ii) an order of the commission or division; or
- (iii) a rule made by the division;

(g) fail to respond within the required time period to:

- (i) a notice or complaint of the division; or
- (ii) a request for information from the division;
- (h) make false representations to the division, including in a licensure statement;

(i) ~~[for a residential mortgage loan transaction beginning on or after January 1, 2004,]~~ engage in the business of residential mortgage loans with respect to the transaction if the person also acts in any of the following capacities with respect to the same residential mortgage loan transaction:

- (i) appraiser;
- (ii) escrow agent;
- (iii) real estate agent;
- (iv) general contractor; or
- (v) title insurance producer;
- (j) engage in unprofessional conduct as defined by rule;
- (k) engage in an act or omission in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation;

(l) engage in false or misleading advertising;

(m) (i) fail to account for money received in connection with a residential mortgage loan;

(ii) use money for a different purpose from the purpose for which the money is received; or

(iii) except as provided in Subsection (4), retain money paid for services if the services are not performed;

(n) fail to provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling in accordance with Subsection (5);

(o) engage in an act that is performed to:

- (i) evade this chapter; or
- (ii) assist another person to evade this chapter;

(p) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;

(q) in the case of the lending manager of an entity or a branch office of an entity, fail to exercise reasonable supervision over the activities of:

- (i) unlicensed staff; or
- (ii) a mortgage loan originator who is affiliated with the lending manager;

(r) pay or offer to pay an individual who does not hold a license under this chapter for work that requires the individual to hold a license under this chapter;

(s) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(i) provide a title insurance product or service without the approval required by Section 31A-2-405; or

(ii) knowingly provide false or misleading information in the statement required by Subsection 31A-2-405(2);

(t) represent to the public that the person can or will perform any act of a mortgage loan originator if that person is not licensed under this chapter because the person is exempt under Subsection 61-2c-105(4), including through:

(i) advertising;

(ii) a business card;

(iii) stationery;

(iv) a brochure;

(v) a sign;

(vi) a rate list; or

(vii) other promotional item;

(u) (i) engage in an act of loan modification assistance without being licensed under this chapter;

(ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent or real estate broker under Chapter 2, Division of Real Estate, without being licensed under that chapter;

(iii) engage in an act of loan modification assistance without entering into a written agreement specifying which one or more acts of loan modification assistance will be completed;

(iv) request or require a person to pay a fee before obtaining:

(A) a written offer for a loan modification from the person's lender or servicer; and

(B) the person's written acceptance of the offer from the lender or servicer;

(v) induce a person seeking a loan modification to hire the licensee to engage in an act of loan modification assistance by:

(A) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(B) falsely representing or advertising that the licensee is acting on behalf of:

(I) a government agency;

(II) the person's lender or loan servicer; or

(III) a nonprofit or charitable institution;

(vi) recommend or participate in a loan modification that requires a person to:

(A) transfer title to real property to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(B) make a mortgage payment to a person other than the person's loan servicer; or

(C) refrain from contacting the person's:

(I) lender;

(II) loan servicer;

(III) attorney;

(IV) credit counselor; or

(V) housing counselor; or

(vii) for an agreement for loan modification assistance entered into on or after May 11, 2010, engage in an act of loan modification assistance without offering in writing to the person entering into the agreement for loan modification assistance a right to cancel the agreement within three business days after the day on which the person enters the agreement;

(v) sign or initial a document on behalf of another person, except for in a circumstance allowed by the division by rule, with the concurrence of the commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(w) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse Mortgage Act; or

(x) engage in any act or practice that violates appraisal independence as defined in 15 U.S.C. Sec. 1639e or in the policies and procedures of:

(i) the Federal Home Loan Mortgage Corporation; or

(ii) the Federal National Mortgage Association.

~~[(2) Whether or not the crime is related to the business of residential mortgage loans, it is a violation of this chapter for a licensee or a person who is a certified education provider to do any of the following with respect to a criminal offense that involves moral turpitude:]~~

~~[(a) be convicted;]~~

~~[(b) plead guilty or nolo contendere;]~~

~~[(c) enter a plea in abeyance; or]~~

~~[(d) be subjected to a criminal disposition similar to the ones described in Subsections (2)(a) through (c).]~~

(2) Regardless of whether the crime is related to the business of residential mortgage loans, it is a violation of this chapter for a licensee or a person who is a certified education provider to:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor; or

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor.

(3) A lending manager does not violate Subsection (1)(q) if:

(a) in contravention of the lending manager's written policies and instructions, an affiliated licensee of the lending manager violates:

(i) this chapter; or

(ii) rules made by the division under this chapter;

(b) the lending manager established and followed reasonable procedures to ensure that affiliated licensees receive adequate supervision;

(c) upon learning of a violation by an affiliated licensee, the lending manager attempted to prevent or mitigate the damage;

(d) the lending manager did not participate in or ratify the violation by an affiliated licensee; and

(e) the lending manager did not attempt to avoid learning of the violation.

(4) Notwithstanding Subsection (1)(m)(iii), a licensee may, upon compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done originating a mortgage if the mortgage is not closed.

(5) (a) Except as provided in Subsection (5)(b), a person transacting the business of residential mortgage loans in this state shall provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling on or before the earlier of:

(i) as soon as reasonably possible after the appraisal or other valuation is complete; or

(ii) three business days before the day of the settlement.

(b) Subject to Subsection (5)(c), unless otherwise prohibited by law, a prospective borrower may waive the timing requirement described in

Subsection (5)(a) and agree to receive each appraisal and any other written valuation:

(i) less than three business days before the day of the settlement; or

(ii) at the settlement.

(c) (i) Except as provided in Subsection (5)(c)(ii), a prospective borrower shall submit a waiver described in Subsection (5)(b) at least three business days before the day of the settlement.

(ii) Subsection (5)(b) does not apply if the waiver only pertains to a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation and the prospective borrower received a copy of the original appraisal or other written valuation at least three business days before the day of the settlement.

(d) If a prospective borrower submits a waiver described in Subsection (5)(b) and the transaction never completes, the person transacting the business of residential mortgage loans shall provide a copy of each appraisal or any other written valuation to the applicant no later than 30 days after the day on which the person knows the transaction will not complete.

**Section 8. Section 61-2e-306 is amended to read:**

**61-2e-306. Removal of appraiser from appraisal panel.**

(1) ~~[Except within the first 30 days after the day on which an appraiser is first added to the appraiser panel of an appraisal management company, an] An appraisal management company may not remove the appraiser from [its] the appraisal management company's appraiser panel, or otherwise refuse to assign a request for a real estate appraisal activity to the appraiser without:~~

(a) notifying the appraiser in writing of:

(i) the reason why the appraiser is being removed from the appraiser panel of the appraisal management company; and

(ii) the nature of the alleged conduct or violation if the appraiser is being removed from the appraiser panel for:

(A) illegal conduct; or

(B) a violation of the applicable appraisal standards; and

(b) providing an opportunity for the appraiser to respond to the notification under Subsection (1)(a).

(2) The board, with the concurrence of the division, may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements consistent with this section regarding the removal of an appraiser from an appraisal panel.

**Section 9. Section 61-2f-205 is amended to read:**

**61-2f-205. Form of license.**

~~(1)~~ The division shall issue to a licensee a ~~[wall]~~ license that contains:

- ~~(a)~~ (1) the name and address of the licensee;
- ~~(b)~~ (2) the seal of the state; and
- ~~(c)~~ (3) any other matter prescribed by the division.

~~(2) The division shall send, by mail or email, the license described in Subsection (1) to the licensee at the mailing address or email address furnished by the licensee.]~~

~~(3) A principal broker shall keep the license of the principal broker and the license of any associate broker or sales agent affiliated with the principal broker in the office in which the licensee works to be made available on request.]~~

**Section 10. Section 61-2f-401 is amended to read:**

**61-2f-401. Grounds for disciplinary action.**

The following acts are unlawful and grounds for disciplinary action for a person licensed or required to be licensed under this chapter:

- (1) (a) making a substantial misrepresentation, including in a licensure statement;
- (b) making an intentional misrepresentation;
- (c) pursuing a continued and flagrant course of misrepresentation;
- (d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or
- (e) making a false representation or promise of a character likely to influence, persuade, or induce;
- (2) acting for more than one party in a transaction without the informed consent of the parties;
- (3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;
- (b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or
- (c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;
- (4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;
- (b) commingling money described in Subsection (4)(a) with the person's own money; or
- (c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;
- (5) paying or offering to pay valuable consideration~~[, as defined by the commission,]~~ to a person not licensed under this chapter, except that valuable consideration may be shared:
  - (a) with a principal broker of another jurisdiction; or

(b) as provided under:

- (i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;
- (ii) Title 16, Chapter 11, Professional Corporation Act; or
- (iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;
- (6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;
- (7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;
- (8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;
- (9) failing to keep and make available for inspection by the division a record of each transaction, including:
  - (a) the names of buyers and sellers or lessees and lessors;
  - (b) the identification of real estate;
  - (c) the sale or rental price;
  - (d) money received in trust;
  - (e) agreements or instructions from buyers and sellers or lessees and lessors; and
  - (f) any other information required by rule;
- (10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;
- ~~(11) being convicted, within five years of the most recent application for licensure, of a criminal offense involving moral turpitude regardless of whether:]~~
- ~~(a) the criminal offense is related to real estate; or]~~
- ~~(b) the conviction is based upon a plea of nolo contendere;]~~
- ~~(12) having, within five years of the most recent application for a license under this chapter, entered any of the following related to a criminal offense involving moral turpitude:]~~
- ~~(a) a plea in abeyance agreement;]~~
- ~~(b) a diversion agreement;]~~
- ~~(c) a withheld judgment; or]~~
- ~~(d) an agreement in which a charge was held in suspense during a period of time when the licensee was on probation or was obligated to comply with conditions outlined by a court;]~~
- (11) regardless of whether the crime is related to the business of real estate:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

[43] (12) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

[44] (13) in the case of a principal broker or a branch broker, failing to exercise active and reasonable supervision, as the commission may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, over the activities of the principal broker's or branch broker's licensed or unlicensed staff;

[45] (14) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

[46] (15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

[47] (16) any other conduct which constitutes dishonest dealing;

[48] unprofessional conduct as defined by statute or rule;

[49] (17) having one of the following suspended, revoked, surrendered, or cancelled on the basis of

misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

[20] (18) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

[21] (19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

[22] (20) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

[23] (21) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

- (A) lender;
- (B) loan servicer;
- (C) attorney;
- (D) credit counselor; or
- (E) housing counselor;

[24] (22) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:

(a) (i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and

(ii) is related to the business of:

(A) the real estate brokerage; or

(B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or

(b) is related to the business administration of the real estate brokerage;

[25] (23) as a principal broker, placing a lien on real property, unless authorized by law;

[26] (24) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services; or

[27] (25) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in Section 31A-23a-1001, in accordance with the Federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

**Section 11. Section 61-2f-402 is amended to read:**

**61-2f-402. Investigations -- Disciplinary actions.**

(1) The division may conduct a public or private investigation within or outside of this state as the division considers necessary to determine whether a person has violated, is violating, or is about to violate this chapter or any rule or order under this chapter.

(2) To aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter, the division may require or permit a person to file a statement in writing, under oath or otherwise as to the facts and circumstances concerning the matter to be investigated.

(3) For the purpose of the investigation described in Subsection (1), the division or an employee designated by the division may:

- (a) administer an oath or affirmation;
- (b) issue a subpoena that requires:
  - (i) the attendance and testimony of a witness; or
  - (ii) the production of evidence;
- (c) take evidence;

(d) require the production of a book, paper, contract, record, other document, or information relevant to the investigation; and

(e) serve a subpoena by certified mail.

(4) (a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

(5) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.

(b) If a person fails to pay the costs described in Subsection (5)(a) when due, the person's license, certification, or registration is automatically suspended:

(i) beginning the day on which the payment of costs is due; and

(ii) ending the day on which the costs are paid.

(6) (a) Except as provided in ~~[Subsection] Subsections (6)(b) and (c)~~, the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) Except as provided in Subsection (6)(c), the division shall commence a disciplinary action within four years after the day on which a violation occurred, if the violation was of:

(i) Section 61-2f-206;

(ii) Subsection 61-2f-401(8), which prohibits failure to voluntarily furnish a copy of a document to the parties before and after the execution of a document; or

(iii) Subsection 61-2f-401(18), which prohibits failure to respond to a division request in an investigation within 10 days after the day on which the request is served.

~~[(b)] (c)~~ The division may commence a disciplinary action under this chapter after the time period described in Subsection (6)(a) or (b) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation

to extend the time period described in Subsection (6)(a) or (b).

**Section 12. Section 61-2g-401 is amended to read:**

**61-2g-401. State-certified and state-licensed appraisers -- Restrictions on use of terms -- Conduct prohibited or required -- Trainee.**

(1) (a) The terms “state-certified general appraiser,” “state-certified residential appraiser,” and “state-licensed appraiser”:

(i) may only be used to refer to an individual who is certified or licensed under this chapter; and

(ii) may not be used following, or immediately in connection with, the name or signature of a firm, partnership, corporation, or group, or in any manner that it might be interpreted as referring to a firm, partnership, corporation, group, or to anyone other than the individual who is certified or licensed under this chapter.

(b) The requirement of this Subsection (1) may not be construed to prevent a state-certified general appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice if it is clear that:

(i) only the individual is certified; and

(ii) the corporation, partnership, firm, or group practice is not certified.

(c) Except as provided in Section 61-2g-103, a certificate or license may not be issued under this chapter to a corporation, partnership, firm, or group.

(2) (a) A person other than a state-certified general appraiser or state-certified residential appraiser<sup>5</sup> may not assume or use any title, designation, or abbreviation likely to create the impression of certification in this state as a real estate appraiser.

(b) A person other than a state-licensed appraiser may not assume or use any title, designation, or abbreviation likely to create the impression of licensure in this state as a real estate appraiser.

(3) (a) Only an individual who has qualified under the certification requirements of this chapter is authorized to prepare and sign a certified appraisal report relating to real estate or real property in this state.

~~[(b) If a certified appraisal report is prepared and signed by a state-certified residential appraiser, the certified appraisal report shall state, immediately following the signature on the report, “State-Certified Residential Appraiser.”]~~

~~[(c) If a certified appraisal report is prepared and signed by a state-certified general appraiser, the certified appraisal report shall state, immediately following the signature on the report, “State-Certified General Appraiser.”]~~

~~[(d) An appraisal report prepared by a state-licensed appraiser shall state, immediately following the signature on the report, “State-Licensed Appraiser.”]~~

~~[(e) When signing a certified appraisal report, a state-certified appraiser shall also place on the report, immediately below the state-certified appraiser’s signature the state-certified appraiser’s certificate number and its expiration date.]~~

~~[(f)] (b) A state-certified residential appraiser may not prepare a certified appraisal report outside the state-certified residential appraiser’s authority as defined in Section 61-2g-312.~~

~~[(g)] (c) A state-licensed appraiser who assisted in the preparation of a certified appraisal report is authorized to cosign the certified appraisal report.~~

(4) A person who has not qualified under this chapter may not describe or refer to any appraisal or appraisal report relating to real estate or real property in this state by the terms “certified appraisal” or “certified appraisal report.”

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the concurrence of the division, the board may make rules for the administration of this section regarding:

(a) the signing of an appraisal report; or

(b) the disclosure and use of an appraiser or an appraiser trainee’s division-assigned credential, registration, license, or certification number.

~~[(5)] (6) If a trainee assists a state-certified appraiser in the preparation of an appraisal report, the appraisal report shall disclose:~~

(a) the trainee’s name; and

(b) the extent to which the trainee assists in the preparation of the appraisal report.

**Section 13. Section 61-2g-405 is amended to read:**

**61-2g-405. Recordkeeping requirements.**

(1) Subject to Subsection (2), a person licensed or certified under this chapter ~~[and a person required to be registered under this chapter before May 3, 2001,~~] shall retain for a period of five years the original or a true copy of:

(a) each written contract engaging the person’s services for real estate or real property appraisal work;

(b) each appraisal report prepared or signed by the person; and

(c) the supporting data assembled and formulated by the appraiser in preparing each appraisal report.

(2) The five-year period for retention of records is applicable to each engagement of the services of the appraiser and begins upon the date of the delivery of each appraisal report to the client unless, within the five-year period, the appraiser is notified that

the appraisal or the appraisal report is involved in litigation, in which event the records must be maintained for the longer of:

- (a) five years; or
- (b) two years following the date of the final disposition of the litigation.

(3) Upon reasonable notice, a person licensed or certified under this chapter [~~and a person required to be registered under this chapter before May 3, 2001;~~] shall make the records available to be maintained under this chapter available to the division for inspection and copying.

**Section 14. Section 61-2g-502 is amended to read:**

**61-2g-502. Disciplinary action -- Grounds.**

(1) (a) The board may order disciplinary action, with the concurrence of the division, against a person:

(i) registered, licensed, or certified under this chapter; or

(ii) required to be registered, licensed, or certified under this chapter.

(b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action may include:

(i) revoking, suspending, or placing a person's registration, license, or certification on probation;

(ii) denying a person's original registration, license, or certification;

(iii) denying a person's renewal license, certification, or registration;

(iv) in the case of denial or revocation of a registration, license, or certification, setting a waiting period for an applicant to apply for a registration, license, or certification under this chapter;

(v) ordering remedial education;

(vi) imposing a civil penalty upon a person not to exceed the greater of:

(A) \$5,000 for each violation; or

(B) the amount of any gain or economic benefit from a violation;

(vii) issuing a cease and desist order;

(viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the board, with the concurrence of the division, finds that the person complies with court ordered restitution; or

(ix) doing any combination of Subsections (1)(b)(i) through (viii).

(c) (i) If the board or division issues an order that orders a fine or educational requirements as part of the disciplinary action against a person, including a stipulation and order, the board or division shall state in the order the deadline by which the person

shall comply with the fine or educational requirements.

(ii) If a person fails to comply with a stated deadline:

(A) the person's license, certificate, or registration is automatically suspended:

(I) beginning on the day specified in the order as the deadline for compliance; and

(II) ending the day on which the person complies in full with the order; and

(B) if the person fails to pay a fine required by an order, the division may begin a collection process:

(I) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(2) The following are grounds for disciplinary action under this section:

(a) procuring or attempting to procure a registration, license, or certification under this chapter:

(i) by fraud; or

(ii) by making a false statement, submitting false information, or making a material misrepresentation in an application filed with the division;

(b) paying money or attempting to pay money other than a fee provided for by this chapter to a member or employee of the division to procure a registration, license, or certification under this chapter;

(c) an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation;

(d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;

~~(e) a guilty plea to a criminal offense involving moral turpitude that is held in abeyance, or a conviction, including a conviction based upon a plea of guilty or nolo contendere, of a criminal offense involving moral turpitude;~~

(e) regardless of whether the crime is related to the appraisal business, to:

(i) be convicted of a felony;

(ii) be convicted of any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(iii) plead guilty or nolo contendere to a felony;



(iv) plead guilty or nolo contendere to any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor:

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(v) enter into a plea in abeyance agreement involving a felony; or

(vi) enter into a plea in abeyance agreement involving any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor:

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(f) engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;

(g) paying a finder's fee or a referral fee to a person not licensed or certified under this chapter in connection with an appraisal of real estate or real property in this state;

(h) making a false or misleading statement in:

(i) that portion of a written appraisal report that deals with professional qualifications; or

(ii) testimony concerning professional qualifications;

(i) violating or disregarding:

(i) this chapter;

(ii) an order of:

(A) the board; or

(B) the division, in a case when the board delegates to the division the authority to make a decision on behalf of the board; or

(iii) a rule issued under this chapter;

(j) violating the confidential nature of governmental records to which a person registered, licensed, or certified under this chapter gained access through employment or engagement as an appraiser by a governmental agency;

(k) accepting a contingent fee for performing an appraisal if in fact the fee is or was contingent upon:

(i) the appraiser reporting a predetermined analysis, opinion, or conclusion;

(ii) the analysis, opinion, conclusion, or valuation reached; or

(iii) the consequences resulting from the appraisal assignment;

(l) unprofessional conduct as defined by statute or rule;

(m) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(i) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(ii) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2); or

(n) other conduct that constitutes dishonest dealing.

(3) A person previously licensed, certified, or registered under this chapter remains responsible for, and is subject to disciplinary action for, an act that the person committed, while the person was licensed, certified, or registered, in violation of this chapter or an administrative rule in effect at the time that the person committed the act, regardless of whether the person is currently licensed, certified, or registered.

**CHAPTER 73****H. B. 148**

Passed February 21, 2020

Approved March 24, 2020

Effective May 12, 2020

**UTAH RECOGNIZING INSPIRING  
SCHOOL EMPLOYEES AWARD PROGRAM**Chief Sponsor: Lee B. Perry  
Senate Sponsor: Lyle W. Hillyard**LONG TITLE****General Description:**

This bill creates the Utah Recognizing Inspiring School Employees Award Program.

**Highlighted Provisions:**

This bill:

- ▶ creates the Utah Recognizing Inspiring School Employees Award Program;
- ▶ requires the governor to consider the nomination of the governing board of the association that represents a majority of classified school employees employed in the state in making a nomination to the Secretary of Education for the federal Recognizing Inspiring School Employees Award Program; and
- ▶ awards the Utah Recognizing Inspiring School Employees Award to the governor's nominee for the federal Recognizing Inspiring School Employees Award Program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

53G-11-519, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 53G-11-519 is enacted to read:****53G-11-519. Utah Recognizing Inspiring School Employees Award.****(1) As used in this section:**

(a) "Association" means the governing board of the association that represents a majority of classified school employees employed in the state.

(b) "Classified school employee" means the same as that term is defined in the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6682.

(c) "Eligible individual" means a classified school employee who meets the eligibility requirements to be a nominee for the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

(2) (a) In accordance with the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq., the governor shall

annually nominate a classified school employee for the Recognizing Inspiring School Employees Award Program.

(b) The governor shall consider submissions from the association in making the nomination described in Subsection (2)(a).

(c) The association shall submit a list of eligible individuals to the governor no later than September 1 each year, beginning on September 1, 2020.

(3) (a) There is created the Utah Recognizing Inspiring School Employees Award Program to recognize excellence exhibited by public school system employees providing services to students in pre-kindergarten through grade 12.

(b) The Utah Recognizing Inspiring School Employees Award shall be awarded to the governor's nominee for the federal Recognizing Inspiring School Employees Award Program under the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

**CHAPTER 74****H. B. 151**

Passed February 20, 2020

Approved March 24, 2020

Effective May 12, 2020

**TRAFFIC SAFETY AMENDMENTS**

Chief Sponsor: Lee B. Perry  
Senate Sponsor: Don L. Ipson

**LONG TITLE****General Description:**

This bill amends provisions related to traffic and motor vehicles.

**Highlighted Provisions:**

This bill:

- ▶ removes the requirement to carry proof of motor vehicle registration in some circumstances;
- ▶ increases from \$1,500 to \$2,500 the apparent property damage value threshold at which an individual is required to file a report with the Department of Public Safety after an accident;
- ▶ allows the use of lane markings to indicate which types of vehicles are allowed to operate in certain lanes of traffic;
- ▶ amends provisions related to operation of a motor vehicle in the vicinity of an emergency or maintenance vehicle with flashing lights, whether moving or stationary, including when an operator is required to change lanes or prohibit from passing;
- ▶ amends provisions related to lane filtering and the operation of a motor vehicle between lanes of traffic; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 41-1a-1305, as renumbered and amended by Laws of Utah 1992, Chapter 1
- 41-6a-402, as last amended by Laws of Utah 2015, Chapter 412
- 41-6a-702, as last amended by Laws of Utah 2019, Chapter 431
- 41-6a-904, as last amended by Laws of Utah 2018, Chapter 417
- 41-6a-1502, as last amended by Laws of Utah 2015, Chapter 412

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

**Section 1. Section 41-1a-1305 is amended to read:****41-1a-1305. License plate and registration card violations -- Class C misdemeanor.**

It is a class C misdemeanor:

- (1) to break, injure, interfere with, or remove from any vehicle any seal, lock, or device on it for holding or displaying any license plate or

registration card attached for denoting registration and identity of the vehicle;

- (2) to remove from any registered vehicle the license plate or registration card issued or attached to it for its registration;

- (3) to place or display any license plate or registration card upon any other vehicle than the one for which it was issued by the division;

- (4) to use or permit the use or display of any license plate, registration card, or permit upon or in the operation of any vehicle other than that for which it was issued;

- (5) to operate upon any highway of this state any vehicle required by law to be registered without having the license plate or plates securely attached, ~~[and the registration card issued by the division carried in the vehicle,]~~ except that the registration card issued by the division to all trailers and semitrailers shall be carried in the towing vehicle;

- (6) for any weighmaster to knowingly make any false entry in his record of weights of vehicles subject to registration or to knowingly report to the commission or division any false information regarding the weights;

- (7) for any inspector, officer, agent, employee, or other person performing any of the functions required for the registration or operation of vehicles subject to registration, to do, permit, cause, connive at, or permit to be done any act with the intent, or knowledge that the probable effect of the act would be to injure any person, deprive him of his property, or to injure or defraud the state with respect to its revenues relating to title or registration of vehicles;

- (8) for any person to combine or conspire with another to do, attempt to do, or cause or allow any of the acts in this chapter classified as a misdemeanor;

- (9) to operate any motor vehicle with a camper mounted on it upon any highway without displaying a current decal in clear sight upon the rear of the camper, issued by the county assessor of the county in which the camper has situs for taxation;

- (10) to manufacture, use, display, or sell any facsimile or reproduction of any license plate issued by the division or any article that would appear to be a substitute for a license plate; or

- (11) to fail to return to the division any registration card, license plate or plates, decal, permit, or title that has been canceled, suspended, voided, or revoked.

**Section 2. Section 41-6a-402 is amended to read:****41-6a-402. Accident reports -- Duty of operator and investigative officer to file.**

- (1) The department may require any operator of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to the apparent extent of ~~[\$1,500]~~ \$2,500 or more to file within 10 days after the request:

(a) a report of the accident to the department in a manner specified by the department; and

(b) a supplemental report when the original report is insufficient in the opinion of the department.

(2) The department may require witnesses of accidents to file reports to the department.

(3) (a) An accident report is not required under this section from any person who is physically incapable of making a report, during the period of incapacity.

(b) If the operator is physically incapable of making an accident report under this section and the operator is not the owner of the vehicle, the owner of the vehicle involved in the accident shall within 15 days after becoming aware of the accident make the report required of the operator under this section.

(4) (a) The department shall, upon request, supply to law enforcement agencies, justice court judges, sheriffs, garages, and other appropriate agencies or individuals forms for accident reports required under this part.

(b) A request for an accident report form under Subsection (4)(a) shall be made in a manner specified by the division.

(c) The accident reports shall:

(i) provide sufficient detail to disclose the cause, conditions then existing, and the persons and vehicles involved in the accident; and

(ii) contain all of the information required that is available.

(5) (a) A person shall file an accident report if required under this section.

(b) The department shall suspend the license or permit to operate a motor vehicle and any nonresident operating privileges of any person failing to file an accident report in accordance with this section.

(c) The suspension under Subsection (5)(b) shall be in effect until the report has been filed except that the department may extend the suspension not to exceed 30 days.

(6) (a) A peace officer who, in the regular course of duty, investigates a motor vehicle accident described under Subsection (1) shall file an electronic copy of the report of the accident with the department within 10 days after completing the investigation.

(b) The accident report shall be made either at the time of and at the scene of the accident or later by interviewing participants or witnesses.

(7) The accident reports required to be filed with the department under this section and the information in them are protected and confidential and may be disclosed only as provided in Section 41-6a-404.

(8) (a) In addition to the reports required under this part, a local highway authority may, by ordinance, require that for each accident that occurs within its jurisdiction, the operator of a vehicle involved in an accident, or the owner of the vehicle involved in an accident, shall file with the local law enforcement agency a report of the accident or a copy of any report required to be filed with the department under this part.

(b) All reports are for the confidential use of the municipal department and are subject to the provisions of Section 41-6a-404.

(9) A violation of this section is an infraction.

**Section 3. Section 41-6a-702 is amended to read:**

**41-6a-702. Left lane restrictions -- Exceptions -- Other lane restrictions -- Penalties.**

(1) As used in this section and Section 41-6a-704, "general purpose lane" means a highway lane open to vehicular traffic but does not include a designated:

(a) high occupancy vehicle (HOV) lane; or

(b) auxiliary lane that begins as a freeway on-ramp and ends as part of the next freeway off-ramp.

(2) On a freeway or section of a freeway which has three or more general purpose lanes in the same direction, a person may not operate a vehicle in the left most general purpose lane if the person's vehicle or combination of vehicles has a gross vehicle weight rating of [~~12,001~~] 18,001 or more pounds.

(3) Subsection (2) does not apply to a person operating a vehicle who is:

(a) preparing to turn left or taking a different highway split or an exit on the left;

(b) responding to emergency conditions;

(c) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or

(d) following direction signs that direct use of a designated lane.

(4) (a) A highway authority may designate a specific lane or lanes of travel for any type of vehicle on a highway or portion of a highway under its jurisdiction for the:

(i) safety of the public;

(ii) efficient maintenance of a highway; or

(iii) use of high occupancy vehicles.

(b) The lane designation under Subsection (4)(a) is effective when appropriate signs or roadway markings giving notice are erected on the highway or portion of the highway.

(5) (a) Subject to Subsection (5)(b), the lane designation under Subsection (4)(a)(iii) shall allow a vehicle with a clean fuel vehicle decal issued in

accordance with Section 72-6-121 to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants as permitted by federal law or federal regulation.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to allow a vehicle with a clean fuel vehicle decal to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants as permitted by federal law or federal regulation.

(ii) Except as provided in Subsection (5)(b)(iii), the Department of Transportation may not issue more than 6,000 clean fuel vehicle decals under Section 72-6-121.

(iii) The Department of Transportation may, through rules made under Subsection (5)(b)(i), increase the number of clean fuel vehicle decals issued in accordance with Section 72-6-121 beyond the minimum described in Subsection (5)(b)(ii) if the increased issuance will allow the Department of Transportation to continue to meet its goals for operational management of the lane designated under Subsection (4)(a)(iii).

(6) A public transportation vehicle may operate in a lane designated under Subsection (4)(a)(iii) regardless of the number of occupants as permitted by federal law and regulation.

(7) A person who operates a vehicle in violation of Subsection (2) or in violation of the restrictions made under Subsection (4) is guilty of an infraction.

**Section 4. Section 41-6a-904 is amended to read:**

**41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary emergency vehicle -- Duties of respective operators.**

(1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon the immediate approach of an authorized emergency vehicle using audible or visual signals under Section 41-6a-212 or 41-6a-1625, shall:

(a) yield the right-of-way and immediately move to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway, clear of any intersection; and

(b) then stop and remain stopped until the authorized emergency vehicle has passed.

(2) (a) The operator of a vehicle, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:

(i) reduce the speed of the vehicle;

(ii) provide as much space as practical to the stationary authorized emergency vehicle; and

(iii) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if practical, with due regard to safety and traffic

conditions, make a lane change into a lane not adjacent to the authorized emergency vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, the requirements in Subsection (2)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the authorized emergency vehicle.

(3) (a) The operator of a vehicle, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall:

(i) reduce the speed of the vehicle; ~~and~~

(ii) provide as much space as practical to the stationary tow truck or highway maintenance vehicle[-]; and

(iii) if traveling in a lane adjacent to the stationary tow truck or highway maintenance vehicle, if practical and with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the tow truck or highway maintenance vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, the requirements in Subsection (3)(a) apply.

~~(b)~~ (ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the tow truck or highway maintenance vehicle.

(4) When an authorized emergency vehicle is using audible or visual signals under Section 41-6a-212 or 41-6a-1625, the operator of a vehicle may not:

(a) follow closer than 500 feet behind the authorized emergency vehicle;

(b) pass the authorized emergency vehicle, if the authorized emergency vehicle is moving; or

(c) stop the vehicle within 500 feet of a fire apparatus which has stopped in answer to a fire alarm.

~~(4)~~ (5) This section does not relieve the operator of an authorized emergency vehicle, tow truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all persons using the highway.

~~(5)~~ (6) (a) (i) In addition to the penalties prescribed under Subsection ~~(7)~~ (8), a person who

violates this section shall attend a four hour live classroom defensive driving course approved by:

- (A) the Driver License Division; or
- (B) a court in this state.

(ii) Upon completion of the four hour live classroom course under Subsection ~~[(5)]~~ (6)(a)(i), the person shall provide to the Driver License Division a certificate of attendance of the classroom course.

(b) The Driver License Division shall suspend a person's driver license for a period of 90 days if the person:

(i) violates a provision of Subsections (1) through (3); and

(ii) fails to meet the requirements of Subsection ~~[(5)]~~ (6)(a)(i) within 90 days of sentencing for or pleading guilty to a violation of this section.

(c) Notwithstanding the provisions of Subsection ~~[(5)]~~ (6)(b), the Driver License Division shall shorten the 90-day suspension period imposed under Subsection ~~[(5)]~~ (6)(b) effective immediately upon receiving a certificate of attendance of the four hour live classroom course required under Subsection ~~[(5)]~~ (6)(a)(i) if the certificate of attendance is received before the completion of the suspension period.

(d) A person whose license is suspended under Subsection ~~[(5)]~~ (6)(b) and a person whose suspension is shortened as described under Subsection ~~[(5)]~~ (6)(c) shall pay the license reinstatement fees under Subsection 53-3-105~~[(24)]~~(26).

~~[(6)]~~ (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Driver License Division shall make rules to implement the provisions of this part.

~~[(7)]~~ (8) A violation of Subsection (1), (2), or (3) is an infraction.

**Section 5. Section 41-6a-1502 is amended to read:**

**41-6a-1502. Motorcycles, motor-driven cycles, or all-terrain type I vehicles -- Operation on public highways.**

(1) (a) A motorcycle or a motor-driven cycle is entitled to full use of a lane.

(b) ~~[A person]~~ An individual may not operate a motor vehicle in a manner that deprives a motorcycle or motor-driven cycle of the full use of a lane.

(c) This Subsection (1) does not apply to motorcycles or motor-driven cycles operated two abreast in a single lane.

(2) The operator of a motorcycle or motor-driven cycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.

(3) (a) ~~[A person]~~ Except as described in Subsection (3)(b), an individual may not operate a motorcycle or motor-driven cycle between:

~~[(a)]~~ (i) lanes of traffic; or

~~[(b)]~~ (ii) adjacent lines or rows of vehicles.

(b) Subsection (3)(a) does not apply to an individual operating a motorcycle engaging in lane filtering as described in Section 41-6a-704.

(4) Motorcycles or motor-driven cycles may not be operated more than two abreast in a single lane.

(5) Subsections (2) and (3)(a) do not apply to peace officers acting in the peace officers' official capacities.

(6) The provisions of this section also apply to all-terrain type I vehicles.

(7) A violation of this section is an infraction.

**CHAPTER 75****H. B. 155**

Passed March 9, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**HOMEOWNER ASSOCIATION  
 PROVISIONS AMENDMENTS**

Chief Sponsor: Cheryl K. Acton  
 Senate Sponsor: Daniel W. Thatcher

**LONG TITLE****General Description:**

This bill amends provisions related to homeowner associations and their governing documents.

**Highlighted Provisions:**

This bill:

- ▶ imposes certain disclosure requirements before the closing of a sale of homeowner association property to an independent third party;
- ▶ requires the Department of Commerce to publish certain educational materials on its website; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

57-8-13.1, as last amended by Laws of Utah 2013, Chapter 95  
 57-8a-105, as last amended by Laws of Utah 2013, Chapter 95

**ENACTS:**

57-8-6.1, Utah Code Annotated 1953  
 57-8a-105.1, Utah Code Annotated 1953

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

**Section 1. Section 57-8-6.1 is enacted to read:****57-8-6.1. Information required before sale to independent third party.**

(1) Before the sale of any unit under the jurisdiction of an association of unit owners to an independent third party, the grantor shall provide to the independent third party:

(a) a copy of the association of unit owners' recorded governing documents; and

(b) a link or other access point to the department's educational materials described in Subsection 57-8-13.1(6).

(2) The grantor shall provide the information described in Subsection (1) before closing.

(3) The association of unit owners shall, upon request by the grantor, provide to the grantor the information described in Subsection (1).

(4) This section applies to each association of unit owners, regardless of when the association of unit owners is formed.

**Section 2. Section 57-8-13.1 is amended to read:****57-8-13.1. Registration with Department of Commerce -- Department publication of educational materials.**

(1) As used in this section, "department" means the Department of Commerce created in Section 13-1-2.

(2) ~~[(a)]~~ No later than 90 days after the recording of a declaration, an association of unit owners shall register with the department in the manner established by the department.

~~[(b) An association of unit owners existing under a declaration recorded before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner established by the department.]~~

(3) The department shall require an association of unit owners registering as required in this section to provide with each registration:

(a) the name and address of the association of unit owners;

(b) the name, address, telephone number, and, if applicable, email address of the president of the association of unit owners;

(c) the name and address of each manager or management committee member;

(d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a unit owner's financing, refinancing, or sale of the owner's unit; and

(e) a registration fee not to exceed \$37.

(4) An association of unit owners that has registered under Subsection (2) shall submit to the department an updated registration, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

(5) (a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection (4):

(i) a lien may not arise under Section 57-8-44; and

(ii) an association of unit owners may not enforce an existing lien that arose under Section 57-8-44.

(b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection (4) does not begin until after the expiration of the 90-day period specified in Subsection (2) or (4), respectively.

(c) An association of unit owners that is not in compliance with the registration requirement

described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).

(d) An association of unit owners that is not in compliance with the updated registration requirement described in Subsection (4) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection (4).

(e) Except as described in Subsection (5)(f), beginning on the date an association of unit owners ends a period of noncompliance:

(i) a lien may arise under Section 57-8-44 for any event that:

(A) occurred during the period of noncompliance; and

(B) would have given rise to a lien under Section 57-8-44 had the association of unit owners been in compliance with the registration requirements described in this section; and

(ii) an association of unit owners may enforce a lien described in Subsection (5)(e) or a lien that existed before the period of noncompliance.

(f) If an owner's unit is conveyed to an independent third party during a period of noncompliance described in this Subsection (5):

(i) a lien that arose under Section 57-8-44 before the conveyance of the unit became final is extinguished when the conveyance of the unit becomes final; and

(ii) an event that occurred before the conveyance of the unit became final, and that would have given rise to a lien under Section 57-8-44 had the association of unit owners been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8-44 if the conveyance of the unit becomes final before the association of unit owners ends the period of noncompliance.

(6) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations of unit owners, including:

(a) a description of the rights and responsibilities provided in this chapter to any party under the jurisdiction of an association of unit owners; and

(b) instructions regarding how an association of unit owners may be organized and dismantled in accordance with this chapter.

**Section 3. Section 57-8a-105 is amended to read:**

**57-8a-105. Registration with Department of Commerce -- Department publication of educational materials.**

(1) As used in this section, "department" means the Department of Commerce created in Section 13-1-2.

(2) (a) No later than 90 days after the recording of a declaration of covenants, conditions, and restrictions establishing an association, the association shall register with the department in the manner established by the department.

(b) An association existing under a declaration of covenants, conditions, and restrictions recorded before May 10, 2011, shall, no later than July 1, 2011, register with the department in the manner established by the department.

(3) The department shall require an association registering as required in this section to provide with each registration:

(a) the name and address of the association;

(b) the name, address, telephone number, and, if applicable, email address of the chair of the association board;

(c) contact information for the manager;

(d) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has association payoff information that a closing agent needs in connection with the closing of a lot owner's financing, refinancing, or sale of the owner's lot; and

(e) a registration fee not to exceed \$37.

(4) An association that has registered under Subsection (2) shall submit to the department an updated registration, in the manner established by the department, within 90 days after a change in any of the information provided under Subsection (3).

(5) (a) During any period of noncompliance with the registration requirement described in Subsection (2) or the requirement for an updated registration described in Subsection (4):

(i) a lien may not arise under Section 57-8a-301; and

(ii) an association may not enforce an existing lien that arose under Section 57-8a-301.

(b) A period of noncompliance with the registration requirement of Subsection (2) or with the updated registration requirement of Subsection (4) does not begin until after the expiration of the 90-day period specified in Subsection (2) or (4), respectively.

(c) An association that is not in compliance with the registration requirement described in Subsection (2) may end the period of noncompliance by registering with the department in the manner established by the department under Subsection (2).

(d) An association that is not in compliance with the updated registration requirement described in



Subsection (4) may end the period of noncompliance by submitting to the department an updated registration in the manner established by the department under Subsection (4).

(e) Except as described in Subsection (5)(f), beginning on the date an association ends a period of noncompliance:

(i) a lien may arise under Section 57-8a-301 for any event that:

(A) occurred during the period of noncompliance; and

(B) would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements described in this section; and

(ii) an association may enforce a lien described in Subsection (5)(e) or a lien that existed before the period of noncompliance.

(f) If an owner's residential lot is conveyed to an independent third party during a period of noncompliance described in this Subsection (5):

(i) a lien that arose under Section 57-8a-301 before the conveyance of the residential lot became final is extinguished when the conveyance of the residential lot becomes final; and

(ii) an event that occurred before the conveyance of the residential lot became final, and that would have given rise to a lien under Section 57-8a-301 had the association been in compliance with the registration requirements of this section, may not give rise to a lien under Section 57-8a-301 if the conveyance of the residential lot becomes final before the association ends the period of noncompliance.

(6) The department shall publish educational materials on the department's website providing, in simple and easy to understand language, a brief overview of state law governing associations, including:

(a) a description of the rights and responsibilities provided in this chapter to any party under the jurisdiction of an association; and

(b) instructions regarding how an association may be organized and dismantled in accordance with this chapter.

**Section 4. Section 57-8a-105.1 is enacted to read:**

**57-8a-105.1. Information required before sale to independent third party.**

(1) Before the sale of any lot under the jurisdiction of an association to an independent third party, the grantor shall provide to the independent third party:

(a) a copy of the association's recorded governing documents; and

(b) a link or other access point to the department's educational materials described in Subsection 57-8a-105(6).

(2) The grantor shall provide the information described in Subsection (1) before closing.

(3) The association shall, upon request by the grantor, provide to the grantor the information described in Subsection (1).

(4) This section applies to each association, regardless of when the association is formed.

**CHAPTER 76****H. B. 159**

Passed March 3, 2020  
 Approved March 24, 2020  
 Effective January 1, 2021

**INSURANCE COVERAGE REVISIONS**

Chief Sponsor: Michael K. McKell  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends provisions related to policy provisions limiting motor vehicle insurance coverage limits under certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to motor vehicle insurance policy limitations based on certain drivers operating while under the influence of drugs or alcohol; and
- ▶ prohibits the policy limitation's applicability to certain individuals under the age of 21.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

31A-22-303, as last amended by Laws of Utah 2010, Chapter 172

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

**Section 1. Section 31A-22-303 is amended to read:****31A-22-303. Motor vehicle liability coverage.**

(1) (a) In addition to complying with the requirements of Chapter 21, Insurance Contracts in General, and Chapter 22, Part 2, Liability Insurance in General, a policy of motor vehicle liability coverage under Subsection 31A-22-302(1)(a) shall:

(i) name the motor vehicle owner or operator in whose name the policy was purchased, state that named insured's address, the coverage afforded, the premium charged, the policy period, and the limits of liability;

(ii) (A) if it is an owner's policy, designate by appropriate reference all the motor vehicles on which coverage is granted, insure the person named in the policy, insure any other person using any named motor vehicle with the express or implied permission of the named insured, and, except as provided in Section 31A-22-302.5, insure any person included in Subsection (1)(a)(iii) against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of these motor vehicles within the United States and Canada, subject to limits exclusive of interest and costs, for each motor vehicle, in amounts not less

than the minimum limits specified under Section 31A-22-304; or

(B) if it is an operator's policy, insure the person named as insured against loss from the liability imposed upon him by law for damages arising out of the insured's use of any motor vehicle not owned by him, within the same territorial limits and with the same limits of liability as in an owner's policy under Subsection (1)(a)(ii)(A);

(iii) except as provided in Section 31A-22-302.5, insure persons related to the named insured by blood, marriage, adoption, or guardianship who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere, to the same extent as the named insured;

(iv) where a claim is brought by the named insured or a person described in Subsection (1)(a)(iii), the available coverage of the policy may not be reduced or stepped-down because:

(A) a permissive user driving a covered motor vehicle is at fault in causing an accident; or

(B) the named insured or any of the persons described in this Subsection (1)(a)(iii) driving a covered motor vehicle is at fault in causing an accident; and

(v) cover damages or injury resulting from a covered driver of a motor vehicle who is stricken by an unforeseeable paralysis, seizure, or other unconscious condition and who is not reasonably aware that paralysis, seizure, or other unconscious condition is about to occur to the extent that a person of ordinary prudence would not attempt to continue driving.

(b) The driver's liability under Subsection (1)(a)(v) is limited to the insurance coverage.

(c) (i) "Guardianship" under Subsection (1)(a)(iii) includes the relationship between a foster parent and a minor who is in the legal custody of the Division of Child and Family Services if:

(A) the minor resides in a foster home, as defined in Section 62A-2-101, with a foster parent who is the named insured; and

(B) the foster parent has signed to be jointly and severally liable for compensatory damages caused by the minor's operation of a motor vehicle in accordance with Section 53-3-211.

(ii) "Guardianship" as defined under this Subsection (1)(c) ceases to exist when a minor described in Subsection (1)(c)(i)(A) is no longer a resident of the named insured's household.

(2) (a) A policy containing motor vehicle liability coverage under Subsection 31A-22-302(1)(a) may:

(i) provide for the prorating of the insurance under that policy with other valid and collectible insurance;

(ii) grant any lawful coverage in addition to the required motor vehicle liability coverage;

(iii) if the policy is issued to a person other than a motor vehicle business, limit the coverage afforded

to a motor vehicle business or its officers, agents, or employees to the minimum limits under Section 31A-22-304, and to those instances when there is no other valid and collectible insurance with at least those limits, whether the other insurance is primary, excess, or contingent; and

(iv) if issued to a motor vehicle business, restrict coverage afforded to anyone other than the motor vehicle business or its officers, agents, or employees to the minimum limits under Section 31A-22-304, and to those instances when there is no other valid and collectible insurance with at least those limits, whether the other insurance is primary, excess, or contingent.

(b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned by a motor vehicle business shall be primary coverage.

(ii) The liability insurance coverage of a motor vehicle business shall be secondary to the liability insurance coverage of a permissive user as specified under Subsection (2)(b)(i).

(3) Motor vehicle liability coverage need not insure any liability:

(a) under any workers' compensation law under Title 34A, Utah Labor Code;

(b) resulting from bodily injury to or death of an employee of the named insured, other than a domestic employee, while engaged in the employment of the insured, or while engaged in the operation, maintenance, or repair of a designated vehicle; or

(c) resulting from damage to property owned by, rented to, bailed to, or transported by the insured.

(4) An insurance carrier providing motor vehicle liability coverage has the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount of the settlement is deductible from the limits of liability specified under Section 31A-22-304.

(5) A policy containing motor vehicle liability coverage imposes on the insurer the duty to defend, in good faith, any person insured under the policy against any claim or suit seeking damages which would be payable under the policy.

(6) (a) If a policy containing motor vehicle liability coverage provides an insurer with the defense of lack of cooperation on the part of the insured, that defense is not effective against a third person making a claim against the insurer, unless there was collusion between the third person and the insured.

(b) If the defense of lack of cooperation is not effective against the claimant, after payment, the insurer is subrogated to the injured person's claim against the insured to the extent of the payment and is entitled to reimbursement by the insured after the injured third person has been made whole with respect to the claim against the insured.

~~[(7) A policy of motor vehicle liability coverage may limit coverage to the policy minimum limits~~

~~under Section 31A-22-304 if the insured motor vehicle is operated by a person who has consumed any alcohol or any illegal drug or illegal substance if the policy or a specifically reduced premium was extended to the insured upon express written declaration executed by the insured that the insured motor vehicle would not be so operated.]~~

~~(7) (a) A policy of motor vehicle coverage may limit coverage to the policy minimum limits under Section 31A-22-304 if the policy or a specifically reduced premium was extended to the insured upon express written declaration executed by the insured that the insured motor vehicle would not be operated by a person described in Subsection (7)(c) operating in a manner described in Subsection (7)(b)(i).~~

~~(b) (i) A policy of motor vehicle liability coverage may limit coverage as described in Subsection (7)(a) if the insured motor vehicle is operated by an individual described in Subsection (7)(c) if the individual described in Subsection (7)(c) is guilty of:~~

~~(A) driving under the influence as described in Section 41-6a-502;~~

~~(B) impaired driving as described in Section 41-6a-502.5; or~~

~~(C) operating a vehicle with a measurable controlled substance in the individual's body as described in Section 41-6a-517.~~

~~(ii) An individual's refusal to submit to a chemical test as described in Section 41-6a-520 is admissible evidence, but not conclusive, that the individual is guilty of an offense described in Subsection (7)(b)(i).~~

~~(c) A reduction in coverage as described in Subsection (7)(a) applies to the following individuals:~~

~~(i) the insured;~~

~~(ii) the spouse of the insured; or~~

~~(iii) if the individual has a separate policy as a secondary source of coverage, and:~~

~~(A) the individual is over the age of 21 and resides in the household of the insured; or~~

~~(B) the individual is a permissible user of the motor vehicle.~~

~~(d) A reduction in coverage as described in Subsection (7)(a) does not apply to an individual under the age of 21 who is a relative of the insured and a resident of the insured's household.~~

~~(8) (a) When a claim is brought exclusively by a named insured or a person described in Subsection (1)(a)(iii) and asserted exclusively against a named insured or an individual described in Subsection (1)(a)(iii), the claimant may elect to resolve the claim:~~

~~(i) by submitting the claim to binding arbitration; or~~

~~(ii) through litigation.~~

~~(b) Once the claimant has elected to commence litigation under Subsection (8)(a)(ii), the claimant~~

may not elect to resolve the claim through binding arbitration under this section without the written consent of both parties and the defendant's liability insurer.

(c) (i) Unless otherwise agreed on in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a panel of three arbitrators.

(ii) Unless otherwise agreed on in writing by the parties, each party shall select an arbitrator. The arbitrators selected by the parties shall select a third arbitrator.

(d) Unless otherwise agreed on in writing by the parties, each party will pay the fees and costs of the arbitrator that party selects. Both parties shall share equally the fees and costs of the third arbitrator.

(e) Except as otherwise provided in this section, an arbitration procedure conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act, unless otherwise agreed on in writing by the parties.

(f) (i) Discovery shall be conducted in accordance with Rules 26b through 36, Utah Rules of Civil Procedure.

(ii) All issues of discovery shall be resolved by the arbitration panel.

(g) A written decision of two of the three arbitrators shall constitute a final decision of the arbitration panel.

(h) Prior to the rendering of the arbitration award:

(i) the existence of a liability insurance policy may be disclosed to the arbitration panel; and

(ii) the amount of all applicable liability insurance policy limits may not be disclosed to the arbitration panel.

(i) The amount of the arbitration award may not exceed the liability limits of all the defendant's applicable liability insurance policies, including applicable liability umbrella policies. If the initial arbitration award exceeds the liability limits of all applicable liability insurance policies, the arbitration award shall be reduced to an amount equal to the liability limits of all applicable liability insurance policies.

(j) The arbitration award is the final resolution of all claims between the parties unless the award was procured by corruption, fraud, or other undue means.

(k) If the arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitration panel may award reasonable fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(l) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(9) An at-fault driver or an insurer issuing a policy of insurance under this part that is covering an at-fault driver may not reduce compensation to an injured party based on the injured party not being covered by a policy of insurance that provides personal injury protection coverage under Sections 31A-22-306 through 31A-22-309.

## **Section 2. Effective date.**

This bill takes effect on January 1, 2021.

**CHAPTER 77****H. B. 162**

Passed February 27, 2020

Approved March 24, 2020

Effective May 12, 2020

**SECURITIES AMENDMENTS**

Chief Sponsor: Michael K. McKell

Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill amends the Utah Uniform Securities Act.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ prohibits a person from holding oneself out as or representing that the person is an investment adviser or an investment adviser representative unless the person is licensed, exempt from licensing, or a federal covered adviser;
- ▶ amends determining factors for fines imposed under the Utah Uniform Securities Act; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 61-1-3, as last amended by Laws of Utah 2016, Chapter 401
- 61-1-13, as last amended by Laws of Utah 2016, Chapter 381
- 61-1-15.5, as last amended by Laws of Utah 2016, Chapter 25
- 61-1-31, as enacted by Laws of Utah 2016, Chapter 401

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 61-1-3 is amended to read:****61-1-3. Licensing of broker-dealers, agents, investment advisers, and investment adviser representatives.**

(1) It is unlawful for a person to transact business in this state as a broker-dealer or agent unless the person is licensed under this chapter.

(2) (a) (i) It is unlawful for a broker-dealer or issuer to employ or engage an agent unless the agent is licensed.

(ii) The license of an agent is not effective during any period when the agent is not associated with:

(i) (A) a particular broker-dealer licensed under this chapter; or

(ii) (B) a particular issuer.

(b) When an agent begins or terminates an association with a broker-dealer or issuer, or begins or terminates activities as an agent, the

agent and the broker-dealer or issuer shall promptly notify the division.

(c) An agent who terminates an association with a broker-dealer or issuer is considered to be unlicensed until the day on which the division:

(i) approves the agent's association with a different broker-dealer or issuer; and

(ii) notifies the agent of the division's approval of the association.

(d) (i) It is unlawful for a broker-dealer or an issuer engaged, directly or indirectly, in offering, offering to purchase, purchasing, or selling a security in this state, to employ or associate with an individual to engage in an activity related to a securities transaction in this state if:

(A) (I) the license of the individual is suspended or revoked; or

(II) the individual is barred from employment or association with a broker-dealer, an issuer, or a state or federal covered investment adviser; and

(B) the suspension, revocation, or bar described in Subsection (2)(d)(i)(A) is by an order:

(I) under this chapter;

(II) of the Securities and Exchange Commission;

(III) of a self-regulatory organization; or

(IV) of a securities administrator of a state other than Utah.

(ii) A broker-dealer or issuer does not violate this Subsection (2)(d) if the broker-dealer or issuer did not know and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar.

(iii) An order under this chapter may modify or waive, in whole or in part, the application of Subsection (2)(d)(i) to a broker-dealer or issuer.

(3) It is unlawful for a person to transact business in this state as an investment adviser or as an investment adviser representative unless:

(a) the person is licensed under this chapter;

(b) the person's only clients in this state are:

(i) one or more of the following whether acting for itself or as a trustee with investment control:

(A) an investment company as defined in the Investment Company Act of 1940;

(B) another investment adviser;

(C) a federal covered adviser;

(D) a broker-dealer;

(E) a depository institution;

(F) a trust company;

(G) an insurance company;

(H) an employee benefit plan with assets of not less than \$1,000,000; or

(I) a governmental agency or instrumentality; or

(ii) other institutional investors as are designated by rule or order of the director; or

(c) the person:

(i) (A) is licensed in another state as an investment adviser or an investment adviser representative; or

(B) is exempt from licensing under Section 222(d) of the Investment Advisers Act of 1940;

(ii) has no place of business in this state; and

(iii) during the preceding 12-month period has had not more than five clients, other than those specified in Subsection (3)(b), who are residents of this state.

(4) It is unlawful for a person to hold oneself out as a provider of investment advice or as a provider of investment advisory services or otherwise represent that the person is a financial planner, financial adviser, financial consultant, or holds any other similar title as the division may specify in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in any way as to imply that the person is generally engaged in an investment advisory business, unless:

(a) the person is a federal covered adviser;

(b) it is lawful for the person to transact business in this state as an investment adviser or as an investment adviser representative under Subsection (3); or

(c) the person:

(i) is not an investment adviser or an investment adviser representative; and

(ii) is otherwise licensed under this chapter to transact business in the state.

[4] (5) (a) It is unlawful for:

(i) a person required to be licensed as an investment adviser under this chapter to employ an investment adviser representative unless the investment adviser representative is licensed under this chapter, except that the license of an investment adviser representative is not effective during any period when the person is not employed by an investment adviser licensed under this chapter;

(ii) a federal covered adviser to employ, supervise, or associate with an investment adviser representative having a place of business located in this state, unless the investment adviser representative is:

(A) licensed under this chapter; or

(B) exempt from licensing; or

(iii) an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to providing investment advice in this state if:

(A) (I) the license of the individual is suspended or revoked; or

(II) the individual is barred from employment or association with a state or federal covered investment adviser, broker-dealer, or issuer; and

(B) the suspension, revocation, or bar is by an order:

(I) under this chapter;

(II) of the Securities and Exchange Commission;

(III) a self-regulatory organization; or

(IV) a securities administrator of a state other than Utah.

(b) (i) An investment adviser does not violate Subsection [(4)(a)(iii)] (5)(a)(iii) if the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar.

(ii) An order under this chapter may waive, in whole or in part, the application of Subsection [(4)(a)(iii)] (5)(a)(iii) to an investment adviser.

(c) When an investment adviser representative required to be licensed under this chapter begins or terminates employment with an investment adviser, the investment adviser shall promptly notify the division.

(d) An investment adviser representative who terminates association with an investment adviser is considered unlicensed until the day on which the division:

(i) approves the investment adviser representative's association with a different investment adviser; and

(ii) notifies the investment adviser representative of the division's approval of the association.

[(5)] (6) Except with respect to an investment adviser whose only clients are those described under Subsections (3)(b) or (3)(c)(iii), it is unlawful for a federal covered adviser to conduct advisory business in this state unless the person complies with Section 61-1-4.

## **Section 2. Section 61-1-13 is amended to read:**

### **61-1-13. Definitions.**

(1) As used in this chapter:

(a) "Affiliate" means a person that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with a person specified.

(b) (i) "Agent" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.

(ii) "Agent" does not include an individual who represents:

(A) an issuer, who receives no commission or other remuneration, directly or indirectly, for effecting or attempting to effect purchases or sales of securities in this state, and who effects transactions:

(I) in securities exempted by Subsection 61-1-14(1)(a), (b), (c), or (g);

(II) exempted by Subsection 61-1-14(2);

(III) in a covered security as described in Sections 18(b)(3) and 18(b)(4)(~~D~~)(F) of the Securities Act of 1933; or

(IV) with existing employees, partners, officers, or directors of the issuer; or

(B) a broker-dealer in effecting transactions in this state limited to those transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934.

(iii) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if the partner, officer, director, or person otherwise comes within the definition of "agent."

(iv) "Agent" does not include a person described in Subsection (3).

(c) (i) "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.

(ii) "Broker-dealer" does not include:

(A) an agent;

(B) an issuer;

(C) a depository institution or trust company;

(D) a person who has no place of business in this state if:

(I) the person effects transactions in this state exclusively with or through:

(Aa) the issuers of the securities involved in the transactions;

(Bb) other broker-dealers;

(Cc) a depository institution, whether acting for itself or as a trustee;

(Dd) a trust company, whether acting for itself or as a trustee;

(Ee) an insurance company, whether acting for itself or as a trustee;

(Ff) an investment company, as defined in the Investment Company Act of 1940, whether acting for itself or as a trustee;

(Gg) a pension or profit-sharing trust, whether acting for itself or as a trustee; or

(Hh) another financial institution or institutional buyer, whether acting for itself or as a trustee; or

(II) during any period of 12 consecutive months the person does not direct more than 15 offers to sell or buy into this state in any manner to persons other than those specified in Subsection (1)(c)(ii)(D)(I), whether or not the offeror or an offeree is then present in this state;

(E) a general partner who organizes and effects transactions in securities of three or fewer limited partnerships, of which the person is the general partner, in any period of 12 consecutive months;

(F) a person whose participation in transactions in securities is confined to those transactions made by or through a broker-dealer licensed in this state;

(G) a person who is a principal broker or associate broker licensed in this state and who effects transactions in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(H) a person effecting transactions in commodity contracts or commodity options;

(I) a person described in Subsection (3); or

(J) other persons as the division, by rule or order, may designate, consistent with the public interest and protection of investors, as not within the intent of this Subsection (1)(c).

(d) "Buy" or "purchase" means a contract for purchase of, contract to buy, or acquisition of a security or interest in a security for value.

(e) "Commission" means the Securities Commission created in Section 61-1-18.5.

(f) "Commodity" means, except as otherwise specified by the division by rule:

(i) an agricultural, grain, or livestock product or byproduct, except real property or a timber, agricultural, or livestock product grown or raised on real property and offered or sold by the owner or lessee of the real property;

(ii) a metal or mineral, including a precious metal, except a numismatic coin whose fair market value is at least 15% greater than the value of the metal it contains;

(iii) a gem or gemstone, whether characterized as precious, semi-precious, or otherwise;

(iv) a fuel, whether liquid, gaseous, or otherwise;

(v) a foreign currency; and

(vi) all other goods, articles, products, or items of any kind, except a work of art offered or sold by art dealers, at public auction or offered or sold through a private sale by the owner of the work.

(g) (i) "Commodity contract" means an account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise.

(ii) A commodity contract offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purposes.

(iii) (A) A commodity contract may not include a contract or agreement that requires, and under which the purchaser receives, within 28 calendar days from the payment in good funds any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(B) A purchaser is not considered to have received physical delivery of the total amount of each commodity to be purchased under the contract or agreement when the commodity or commodities are held as collateral for a loan or are subject to a lien of any person when the loan or lien arises in connection with the purchase of each commodity or commodities.

(h) (i) "Commodity option" means an account, agreement, or contract giving a party to the option the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, or both whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty, or otherwise.

(ii) "Commodity option" does not include an option traded on a national securities exchange registered:

(A) with the Securities and Exchange Commission; or

(B) on a board of trade designated as a contract market by the Commodity Futures Trading Commission.

(i) "Depository institution" means the same as that term is defined in Section 7-1-103.

(j) "Director" means the director of the division appointed in accordance with Section 61-1-18.

(k) "Division" means the Division of Securities established by Section 61-1-18.

(l) "Executive director" means the executive director of the Department of Commerce.

(m) "Federal covered adviser" means a person who:

(i) is registered under Section 203 of the Investment Advisers Act of 1940; or

(ii) is excluded from the definition of "investment adviser" under Section 202(a)(11) of the Investment Advisers Act of 1940.

(n) "Federal covered security" means a security that is a covered security under Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated under Section 18(b) of the Securities Act of 1933.

(o) "Fraud," "deceit," and "defraud" are not limited to their common-law meanings.

(p) "Guaranteed" means guaranteed as to payment of principal or interest as to debt securities, or dividends as to equity securities.

(q) (i) "Investment adviser" means a person who:

(A) for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities; or

(B) for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

(ii) "Investment adviser" includes a financial planner or other person who:

(A) as an integral component of other financially related services, provides the investment advisory services described in Subsection (1)(q)(i) to others [~~for compensation and~~] as part of a business; [~~or~~]

(B) holds the person out as providing the investment advisory services described in Subsection (1)(q)(i) to others [~~for compensation-]; or~~

(C) holds the person out as a financial adviser, financial consultant, or any other similar title as the division may specify in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in any way as to imply that the person is generally engaged in an investment advisory business, including a person who does not hold a securities license and uses a title described in this Subsection (1)(q)(ii)(C) in any advertising or marketing material.

(iii) "Investment adviser" does not include:

(A) an investment adviser representative;

(B) a depository institution or trust company;

(C) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of the profession;

(D) a broker-dealer or its agent whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for the services;

(E) a publisher of a bona fide newspaper, news column, news letter, news magazine, or business or financial publication or service, of general, regular, and paid circulation, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(F) a person who is a federal covered adviser;

(G) a person described in Subsection (3); or

(H) such other persons not within the intent of this Subsection (1)(q) as the division may by rule or order designate.

(r) (i) "Investment adviser representative" means a partner, officer, director of, or a person occupying



a similar status or performing similar functions, or other individual, except clerical or ministerial personnel, who:

(A) (I) is employed by or associated with an investment adviser who is licensed or required to be licensed under this chapter; or

(II) has a place of business located in this state and is employed by or associated with a federal covered adviser; and

(B) does any of the following:

(I) makes a recommendation or otherwise renders advice regarding securities;

(II) manages accounts or portfolios of clients;

(III) determines which recommendation or advice regarding securities should be given;

(IV) solicits, offers, or negotiates for the sale of or sells investment advisory services; or

(V) supervises employees who perform any of the acts described in this Subsection (1)(r)(i)(B).

(ii) "Investment adviser representative" does not include a person described in Subsection (3).

(s) "Investment contract" includes:

(i) an investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor; or

(ii) an investment by which:

(A) an offeree furnishes initial value to an offerer;

(B) a portion of the initial value is subjected to the risks of the enterprise;

(C) the furnishing of the initial value is induced by the offerer's promises or representations that give rise to a reasonable understanding that a valuable benefit of some kind over and above the initial value will accrue to the offeree as a result of the operation of the enterprise; and

(D) the offeree does not receive the right to exercise practical and actual control over the managerial decisions of the enterprise.

(t) "Isolated transaction" means not more than a total of two transactions that occur anywhere during six consecutive months.

(u) (i) "Issuer" means a person who issues or proposes to issue a security or has outstanding a security that it has issued.

(ii) With respect to a preorganization certificate or subscription, "issuer" means the one or more promoters of the person to be organized.

(iii) "Issuer" means the one or more persons performing the acts and assuming duties of a depositor or manager under the provisions of the trust or other agreement or instrument under which the security is issued with respect to:

(A) interests in trusts, including collateral trust certificates, voting trust certificates, and certificates of deposit for securities; or

(B) shares in an investment company without a board of directors.

(iv) With respect to an equipment trust certificate, a conditional sales contract, or similar securities serving the same purpose, "issuer" means the person by whom the equipment or property is to be used.

(v) With respect to interests in partnerships, general or limited, "issuer" means the partnership itself and not the general partner or partners.

(vi) With respect to certificates of interest or participation in oil, gas, or mining titles or leases or in payment out of production under the titles or leases, "issuer" means the owner of the title or lease or right of production, whether whole or fractional, who creates fractional interests therein for the purpose of sale.

(v) (i) "Life settlement interest" means the entire interest or a fractional interest in any of the following that is the subject of a life settlement:

(A) a policy; or

(B) the death benefit under a policy.

(ii) "Life settlement interest" does not include the initial purchase from the owner by a life settlement provider.

(w) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(x) "Person" means:

(i) an individual;

(ii) a corporation;

(iii) a partnership;

(iv) a limited liability company;

(v) an association;

(vi) a joint-stock company;

(vii) a joint venture;

(viii) a trust where the interests of the beneficiaries are evidenced by a security;

(ix) an unincorporated organization;

(x) a government; or

(xi) a political subdivision of a government.

(y) "Precious metal" means the following, whether in coin, bullion, or other form:

(i) silver;

(ii) gold;

(iii) platinum;

(iv) palladium;

(v) copper; and

(vi) such other substances as the division may specify by rule.

(z) “Promoter” means a person who, acting alone or in concert with one or more persons, takes initiative in founding or organizing the business or enterprise of a person.

(aa) (i) Except as provided in Subsection (1)(aa)(ii), “record” means information that is:

(A) inscribed in a tangible medium; or

(B) (I) stored in an electronic or other medium; and

(II) retrievable in perceivable form.

(ii) This Subsection (1)(aa) does not apply when the context requires otherwise, including when “record” is used in the following phrases:

(A) “of record”;

(B) “official record”; or

(C) “public record.”

(bb) (i) “Sale” or “sell” includes a contract for sale of, contract to sell, or disposition of, a security or interest in a security for value.

(ii) “Offer” or “offer to sell” includes an attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(iii) The following are examples of the definitions in Subsection (1)(bb)(i) or (ii):

(A) a security given or delivered with or as a bonus on account of a purchase of a security or any other thing, is part of the subject of the purchase, and is offered and sold for value;

(B) a purported gift of assessable stock is an offer or sale as is each assessment levied on the stock;

(C) an offer or sale of a security that is convertible into, or entitles its holder to acquire or subscribe to another security of the same or another issuer is an offer or sale of that security, and also an offer of the other security, whether the right to convert or acquire is exercisable immediately or in the future;

(D) a conversion or exchange of one security for another constitutes an offer or sale of the security received in a conversion or exchange, and the offer to buy or the purchase of the security converted or exchanged;

(E) securities distributed as a dividend wherein the person receiving the dividend surrenders the right, or the alternative right, to receive a cash or property dividend is an offer or sale;

(F) a dividend of a security of another issuer is an offer or sale; or

(G) the issuance of a security under a merger, consolidation, reorganization, recapitalization, reclassification, or acquisition of assets constitutes the offer or sale of the security issued as well as the offer to buy or the purchase of a security surrendered in connection therewith, unless the sole purpose of the transaction is to change the issuer’s domicile.

(iv) The terms defined in Subsections (1)(bb)(i) and (ii) do not include:

(A) a good faith gift;

(B) a transfer by death;

(C) a transfer by termination of a trust or of a beneficial interest in a trust;

(D) a security dividend not within Subsection (1)(bb)(iii)(E) or (F); or

(E) a securities split or reverse split.

(cc) “Securities Act of 1933,” “Securities Exchange Act of 1934,” and “Investment Company Act of 1940” mean the federal statutes of those names as amended before or after the effective date of this chapter.

(dd) “Securities Exchange Commission” means the United States Securities Exchange Commission created by the Securities Exchange Act of 1934.

(ee) (i) “Security” means a:

(A) note;

(B) stock;

(C) treasury stock;

(D) bond;

(E) debenture;

(F) evidence of indebtedness;

(G) certificate of interest or participation in a profit-sharing agreement;

(H) collateral-trust certificate;

(I) preorganization certificate or subscription;

(J) transferable share;

(K) investment contract;

(L) burial certificate or burial contract;

(M) voting-trust certificate;

(N) certificate of deposit for a security;

(O) certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(P) commodity contract or commodity option;

(Q) interest in a limited liability company;

(R) life settlement interest; or

(S) in general, an interest or instrument commonly known as a “security,” or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase an item listed in Subsections (1)(ee)(i)(A) through (R).

(ii) “Security” does not include:

(A) an insurance or endowment policy or annuity contract under which an insurance company promises to pay money in a lump sum or periodically for life or some other specified period;

(B) an interest in a limited liability company in which the limited liability company is formed as part of an estate plan where all of the members are related by blood or marriage, or the person claiming this exception can prove that all of the members are actively engaged in the management of the limited liability company; or

(C) (I) a whole long-term estate in real property;

(II) an undivided fractionalized long-term estate in real property that consists of 10 or fewer owners; or

(III) an undivided fractionalized long-term estate in real property that consists of more than 10 owners if, when the real property estate is subject to a management agreement:

(Aa) the management agreement permits a simple majority of owners of the real property estate to not renew or to terminate the management agreement at the earlier of the end of the management agreement's current term, or 180 days after the day on which the owners give notice of termination to the manager; and

(Bb) the management agreement prohibits, directly or indirectly, the lending of the proceeds earned from the real property estate or the use or pledge of its assets to a person or entity affiliated with or under common control of the manager.

(iii) For purposes of Subsection (1)(ee)(ii)(B), evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company, or the right to participate in management, may not establish, without more, that all members are actively engaged in the management of the limited liability company.

(ff) "State" means a state, territory, or possession of the United States, the District of Columbia, and Puerto Rico.

(gg) (i) "Undivided fractionalized long-term estate" means the same as that term is defined in Section 57-29-102.

(ii) "Undivided fractionalized long-term estate" does not include a joint tenancy.

(hh) "Undue influence" means that a person uses a relationship or position of authority, trust, or confidence:

(i) that is unrelated to a relationship created:

(A) in the ordinary course of making investments regulated under this chapter; or

(B) by a licensee providing services under this chapter;

(ii) that results in:

(A) an investor perceiving the person as having heightened credibility, personal trustworthiness, or dependability; or

(B) the person having special access to or control of an investor's financial resources, information, or circumstances; and

(iii) to:

(A) exploit the trust, dependence, or fear of the investor;

(B) knowingly assist or cause another to exploit the trust, dependence, or fear of the investor; or

(C) gain control deceptively over the decision making of the investor.

(ii) "Vulnerable adult" means ~~[an individual whose age or mental or physical impairment substantially affects that individual's ability to: (i) manage the individual's resources; or (ii) comprehend the nature and consequences of making an investment decision]~~ the same as that term is defined in Section 62A-3-301.

(jj) "Whole long-term estate" means a person owns or persons through joint tenancy own real property through a fee estate.

(kk) "Working days" means 8 a.m. to 5 p.m., Monday through Friday, exclusive of legal holidays listed in Section 63G-1-301.

(2) A term not defined in this section shall have the meaning as established by division rule. The meaning of a term neither defined in this section nor by rule of the division shall be the meaning commonly accepted in the business community.

(3) (a) This Subsection (3) applies to the offer or sale of a real property estate exempted from the definition of security under Subsection (1)(ee)(ii)(C).

(b) A person who, directly or indirectly receives compensation in connection with the offer or sale as provided in this Subsection (3) of a real property estate is not an agent, broker-dealer, investment adviser, or investment adviser representative under this chapter if that person is licensed under Chapter 2f, Real Estate Licensing and Practices Act, as:

(i) a principal broker;

(ii) an associate broker; or

(iii) a sales agent.

**Section 3. Section 61-1-15.5 is amended to read:**

**61-1-15.5. Federal covered securities.**

(1) The division by rule or order may require the filing of any of the following documents with respect to a covered security under Section 18(b)(2) of the Securities Act of 1933:

(a) before the initial offer of federal covered security in this state, a notice form as prescribed by the division or all documents that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, together with a consent to service of process signed by the issuer and a filing fee as determined under Section 61-1-18.4;

(b) after the initial offer of such federal covered security in this state, all documents that are part of an amendment to a federal registration statement

filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933, which shall be filed concurrently with the division;

(c) a report of the value of federal covered securities offered or sold in this state, together with a filing fee as determined under Section 61-1-18.4; and

(d) a notice filing under this section shall be effective for one year and shall be renewed annually in order to continue to offer or sell the federal covered securities for which the notice was filed.

(2) With respect to a security that is a covered security under Section 18(b)(4)~~(D)~~(F) of the Securities Act of 1933, the division by rule or order may require the issuer to file a notice on SEC Form D and a consent to service of process signed by the issuer no later than 15 days after the first sale of such covered security in this state, together with a filing fee as determined under Section 61-1-18.4.

(3) The division by rule or order may require the filing of a document filed with the Securities and Exchange Commission under the Securities Act of 1933, with respect to a covered security under Securities Act of 1933, Section 18(b)(3) or (4), together with a filing fee as determined under Section 61-1-18.4.

(4) With the concurrence of the commission, the director, by means of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, may issue a stop order suspending the offer and sale of a federal covered security, except a covered security under Section 18(b)(1) of the Securities Act of 1933, if the director finds that the order is in the public interest and there is a failure to comply with any condition established under this section.

(5) The division by rule or order may waive any or all of the provisions of this section.

**Section 4. Section 61-1-31 is amended to read:**

**61-1-31. Determining amount of fine.**

For the purpose of determining the amount of a fine imposed under this chapter, the commission or court shall consider the following factors:

(1) the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation;

(2) the harm to other persons resulting either directly or indirectly from the violation;

(3) (a) the cooperation by the person in any inquiry conducted by the division concerning the violation;

(b) efforts by the person to prevent future occurrences of the violation; and

(c) efforts by the person to mitigate the harm caused by the violation, including any disgorgement or restitution made to other persons injured by the acts of the person;

(4) the history of previous violations by the person;

(5) the need to deter the person or other persons from committing the violation in the future;

(6) whether the person exercised undue influence;

(7) whether the person knew or should have known that the investor was a vulnerable adult; ~~and~~

(8) any direct or indirect compensation or economic benefit the person committing the violation received; and

~~[(8)] (9)~~ such other matters as justice may require.

**CHAPTER 78****H. B. 164**

Passed March 5, 2020

Approved March 24, 2020

Effective May 12, 2020

Exception clause

**PROPERTY TAX MODIFICATIONS**

Chief Sponsor: Jefferson Moss  
Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill modifies provisions related to property tax.

**Highlighted Provisions:**

This bill:

- ▶ provides that when an ownership interest in residential property changes the county assessor shall provide the new owner a form prescribed by statute on which the new owner may declare that the residential property qualifies for the primary residential exemption;
- ▶ requires a property tax notice to include additional information, including the taxable value of the property, the deadline to appeal the valuation or equalization of the property, information related to the residential exemption, and information related to a rate increase resulting from a change to state law; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-2-103.5, as last amended by Laws of Utah 2019, Chapter 323

59-2-919.1, as last amended by Laws of Utah 2019, Chapter 16

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

**Section 1. Section 59-2-103.5 is amended to read:**

**59-2-103.5. Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.**

(1) Subject to Subsection (8), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential

exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2) (a) The application described in Subsection (1) ~~shall~~:

(i) shall be on a form the commission prescribes by rule and makes available to the counties;

(ii) shall be signed by ~~[all of the owners]~~ the owner of the residential property; and

~~[(iii) certify that the residential property is residential property; and]~~

~~[(iv) contain other information as the commission requires by rule.]~~

(iii) may not request the sales price of the residential property.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the contents of the form described in Subsection (2)(a).

(c) For purposes of the application described in Subsection (1), a county may not request information from an owner of a residential property beyond the information provided in the form prescribed by the commission under this Subsection (2).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) An owner may not obtain a residential exemption for part-year residential property unless the owner files an application under this

Subsection (3) on or before November 30 of the calendar year for which the owner seeks to obtain the residential exemption.

(c) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee of not to exceed \$50.

(4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

(5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

(6) Subsections (2) through (5) do not apply to qualifying exempt primary residential rental personal property.

(7) (a) Subject to Subsection (8), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying

exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption under Subsection 59-2-1115(2).

(8) (a) Subject to the requirements of this Subsection (8) and except as provided in Subsection (8)(~~(e)~~)(b), on or before May 1, 2020, a county assessor shall:

(i) notify each owner of residential property that the owner is required to submit a written declaration described in Subsection (8)(~~(b)~~)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(a); and

(ii) provide each owner with a form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(~~(b)~~)(d).

~~(b) Each owner of residential property that receives a notice described in Subsection (8)(a) shall file a written declaration with the county assessor under penalty of perjury:~~

~~(i) certifying whether the property is residential property or part-year residential property;~~

~~(ii) certifying whether during any portion of the current calendar year, the property receives a residential exemption under Section 59-2-103; and~~

~~(iii) certifying whether the property owner owns other property in the state that receives a residential exemption under Section 59-2-103, and if so, listing:~~

~~(A) the parcel number of the property;~~

~~(B) the county in which the property is located; and~~

~~(C) whether the property is the primary residence of a tenant.~~

(e) (b) A county assessor is not required to provide a notice to an owner of residential property under Subsection (8)(a) if the situs address of the residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

~~(d) If an ownership interest in residential property changes, the new owner of the residential~~

property, at the time title to the property is transferred to the new owner, shall make a written declaration under penalty of perjury:]

~~[(i) certifying whether the property is residential property or part-year residential property;]~~

~~[(ii) certifying whether the property receives a residential exemption under Section 59-2-103; and]~~

~~[(iii) certifying whether the property owner owns other property in the state that receives a residential exemption under Section 59-2-103, and if so, listing:]~~

~~[(A) the parcel number of the property;]~~

~~[(B) the county in which the property is located; and]~~

~~[(C) whether the property is the primary residence of a tenant.]~~

(c) After an ownership interest in residential property changes, the county assessor shall:

(i) notify the owner of the residential property that the owner is required to submit a written declaration described in Subsection (8)(d) within 90 days after the day on which the owner receives notice under this Subsection (8)(c); and

(ii) provide the owner of the residential property with the form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(d).

(d) An owner of residential property that receives a notice described in Subsection (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury certifying the information contained in the form provided in Subsection (8)(e).

(e) The written declaration required by Subsection [(8)(b) or (d)] (8)(d) shall be:

~~[(i) be on a form the commission prescribes and makes available to the counties;]~~

~~[(ii) (i) [be] signed by [all of the owners] the owner of the residential property; and~~

~~[(iii) include the following statement:]~~

(ii) in substantially the following form:

“Residential Property Declaration

This form must be submitted to the County Assessor’s office where your new residential property is located within 90 days of receipt. Failure to do so will result in the county assessor taking action that could result in the withdrawal of the primary residential exemption from your residential property.

Residential Property Owner Information

Name(s): \_\_\_\_\_

Home Phone: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Residential Property Information

Physical Address: \_\_\_\_\_

Certification

1. Is this property used as a primary residential property or part-year residential property for you or another person?

“Part-year residential property” means owned property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

Yes            No

2. Will this primary residential property or part-year residential property be occupied for 183 or more consecutive calendar days by the owner or another person?

A part-year residential property occupied for 183 or more consecutive calendar days in a calendar year by the owner(s) or a tenant is eligible for the exemption.

Yes            No

[“If a property owner or a property owner’s spouse claims a residential exemption under Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the property owner or the property owner’s spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner’s spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner’s spouse.”]

Signature

This form must be signed by all owners of the property.

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct, and complete.

\_\_\_\_\_ (Owner signature)

\_\_\_\_\_ Date (mm/dd/yyyy)

\_\_\_\_\_ (Owner printed name)

(f) For purposes of a written declaration described in this Subsection (8), a county may not request information from a property owner beyond the information described in the form provided in Subsection (8)(e).

~~[(f) The written declaration made under Subsection (8)(d) shall be remitted to the county assessor of the county where the property described in Subsection (8)(d) is located within five business days of the title being transferred to the new owner.]~~

(g) (i) If, after receiving a written declaration filed under Subsection [(8)(b) or] (8)(d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and its reason for the redetermination.

(ii) The redetermination provided in Subsection (8)(g)(i)(A) ~~[shall be]~~ is final unless appealed within 30 days after the notice required by Subsection (8)(g)(i)(B).

(h) (i) If a residential property owner fails to file a written declaration required by Subsection ~~[(8)(b) or (d)]~~ (8)(d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection ~~[(8)(b) or (d)]~~ (8)(d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection ~~[(8)(b) or (d)]~~ (8)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection ~~[(8)(b) or (d)]~~ (8)(d) after receiving the notice described in Subsection (8)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration.

(iii) A property owner that is disqualified to receive the residential exemption under Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection (8) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

**Section 2. Section 59-2-919.1 is amended to read:**

**59-2-919.1. Notice of property valuation and tax changes.**

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection ~~[(4)]~~ (5), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

~~[(ii) the date the county board of equalization will meet to hear complaints on the valuation;]~~

(iii) (A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

~~[(iii)]~~ (v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4);

(D) for a fiscal year that begins before July 1, 2023, the combined basic rate as defined in Section 53F-2-301.5; and

(E) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as defined in Section 53F-2-301;

~~[(iv)]~~ (vii) the tax impact on the property;

~~[(v)]~~ (viii) the time and place of the required public hearing for each entity;

~~[(vi)]~~ (ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes; ~~and~~

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

~~[(vii)]~~ (x) information specifically authorized to be included in the notice under this chapter;

~~[(viii)]~~ (xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and



~~[(4)]~~ (xii) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)~~[(v)]~~(viii); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

(4) If a change to state law increases a tax rate stated on a notice described in Subsection (1), the notice described in Subsection (1) shall state in addition to the information required by Subsections (2) and (3):

(a) the difference between the dollar amount of the taxpayer's tax liability under the current tax rate and the dollar amount of the taxpayer's tax liability before the change to state law became effective; and

(b) the percentage increase that the dollar amount of the taxpayer's tax liability under the current tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the tax rate before the change to state law becomes effective.

~~[(4)]~~ (5) (a) Subject to the other provisions of this Subsection ~~[(4)]~~ (5), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection ~~[(4)]~~ (5):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection ~~[(4)]~~ (5), if:

(i) the taxpayer revokes an election in accordance with Subsection ~~[(4)]~~(5)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection ~~[(4)]~~ (5) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

### Section 3. Retrospective operation.

The actions affecting Section 59-2-919.1 have retrospective operation to January 1, 2020.

**CHAPTER 79****H. B. 165**

Passed February 24, 2020

Approved March 24, 2020

Effective May 12, 2020

**TELEPHONE AND FACSIMILE  
SOLICITATION ACT AMENDMENTS**Chief Sponsor: Michael K. McKell  
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill amends the Telephone and Facsimile Solicitation Act.

**Highlighted Provisions:**

This bill:

- ▶ permits a court in a private action under the Telephone and Facsimile Solicitation Act to award a person treble the amount of the person's pecuniary loss under certain circumstances;
- ▶ repeals provisions related to a state no-call database;
- ▶ amends prohibitions against certain unsolicited telephone calls; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

13-25a-107, as last amended by Laws of Utah 2003, Chapter 263

13-25a-108, as last amended by Laws of Utah 2004, Chapter 263

**REPEALS:**

13-25a-109, as last amended by Laws of Utah 2008, Chapter 382

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

**Section 1. Section 13-25a-107 is amended to read:****13-25a-107. Private action.**

(1) In addition to any other remedies, a person may bring an action in any state court of competent jurisdiction if:

(a) (i) the person has received two or more telephone solicitations or facsimile advertisements from the same individual or entity that:

(A) violates this chapter; or

(B) violates Title 47 U.S.C. 227; and

(ii) the person, following the first telephone solicitation or facsimile advertisement, notified the sender of the person's objection to receiving the telephone solicitation or facsimile advertisement; or

(b) the person has received one telephone solicitation or facsimile advertisement in violation of:

(i) Subsection 13-25a-103(1);

(ii) Subsection 13-25a-103(3);

(iii) Subsection 13-25a-103(5);

(iv) Subsection 13-25a-103(6); or

(v) Subsection 13-25a-104(1).

(2) In a suit brought under Subsection (1)[,];

(a) a person may:

[~~(a)~~] (i) recover the greater of \$500 or the amount of the pecuniary loss, if any;

[~~(b)~~] (ii) recover court costs and reasonable attorneys' fees as determined by the court; and

[~~(c)~~] (iii) seek to enjoin any conduct in violation of this chapter[.]; and

(b) the court may award a person treble the amount of the person's pecuniary loss, if the court finds that a violation was knowing and willful.

**Section 2. Section 13-25a-108 is amended to read:****13-25a-108. Prohibited telephone solicitations.**

(1) A person may not make or cause to be made an unsolicited telephone call [~~within Utah to a telephone number contained in the no-call database established under Section 13-25a-109.~~] to a person:

(a) located in the state; and

(b) (i) at a Utah telephone number contained in the national "do-not-call" registry established and maintained by the Federal Trade Commission under 16 C.F.R. 310.4(b)(1)(iii)(B); or

(ii) at a non-Utah telephone number contained in the national "do-not-call" registry established and maintained by the Federal Trade Commission under 16 C.F.R. 310.4(b)(1)(iii)(B), if the person making the call or causing the call to be made knows or reasonably should know that the person receiving the call is in Utah.

(2) Each unsolicited telephone call made in violation of this section is a separate violation.

**Section 3. Repealer.**

This bill repeals:

**Section 13-25a-109, No-call database.**

**CHAPTER 80****H. B. 168**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**PUBLIC WATER SUPPLIER  
 RELOCATION AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes  
 Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill amends provisions related to reimbursement of costs by the Department of Transportation for relocation of a utility to accommodate the construction of a state highway project.

**Highlighted Provisions:**

This bill:

- ▶ defines “exempt water supplier”;
- ▶ amends provisions related to reimbursement of costs by the Department of Transportation for relocation of a utility to accommodate the construction of a state highway project; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

72-6-116, as last amended by Laws of Utah 2019, Chapter 238

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

**Section 1. Section 72-6-116 is amended to read:**

**72-6-116. Regulation of utilities --  
 Relocation of utilities.**

(1) As used in this section:

(a) “Cost of relocation” includes the entire amount paid by the utility company properly attributable to the relocation of the utility after deducting any increase in the value of the new utility and any salvage value derived from the old utility.

(b) “Exempt water supplier” means an entity that directly or indirectly supplies at least a portion of the entity’s water for culinary purposes to the public for municipal, domestic, or industrial use, and is:

(i) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission; or

(ii) a community water system:

(A) that either supplies water to at least 100 service connections used by year-round residents, or regularly serves at least 200 year-round residents; and

(B) whose voting members own a share in the community water system, receive water from the community water system in proportion to the member’s share in the community water system, and pay the rate set by the community water system based on the water the member receives.

~~[(b)]~~ (c) “Utility” includes telecommunication, crude oil, petroleum products, gas, electricity, cable television, water, sewer, data, and video transmission lines, drainage and irrigation facilities, and other similar utilities whether public, private, or cooperatively owned.

~~[(e)]~~ (d) “Utility company” means a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of all utilities.

(b) If the department determines under the rules established in this section that it is necessary that any utilities should be relocated, the utility company owning or operating the utilities shall relocate the utilities in accordance with this section and the order of the department.

(3) (a) The department shall pay 100% of the cost of relocation of a utility to accommodate construction of a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway if the:

(i) utility is owned or operated by:

(A) a political subdivision of the state; or

(B) an exempt water supplier;

(ii) utility company owns the easement or fee title to the right-of-way in which the utility is located; or

(iii) utility is located in a public utility easement as defined in Section 54-3-27.

(b) Except as provided in Subsection (3)(a), (c), or (d) or Section 54-21-603, the department shall pay 50% of the cost of relocation of a utility to accommodate construction of a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway, and the utility company shall pay the remainder of the cost of relocation.

(c) If the utility described in Subsection (3)(b) is a crude oil or petroleum products pipeline, unless the utility meets the conditions described in Subsection (3)(a):

(i) the utility company shall pay the lesser of:

(A) 50% of the cost of relocation of the pipeline to accommodate construction of a proposed state highway and the improvement, widening, and modification of an existing highway; or

(B) 50% of the cost of any structure or facility necessary to avoid impinging on the pipeline, and

the department shall pay the remainder of the cost of the structure or facility; and

(ii) the department shall pay the remainder of the cost.

(d) This Subsection (3) does not affect the provisions of Subsection 72-7-108(5).

(4) If a utility is relocated, the utility company owning or operating the utility, its successors or assigns, may maintain and operate the utility, with the necessary appurtenances, in the new location.

(5) In accordance with this section, the cost of relocating a utility in connection with any project on a highway is a cost of highway construction.

(6) (a) The department shall notify affected utility companies, in accordance with Section 54-3-29, whenever the relocation of utilities is likely to be necessary because of a reconstruction project.

(b) The notification shall be made during the preliminary design of the project or as soon as practical in order to minimize the number, costs, and delays of utility relocations.

(c) A utility company notified under this Subsection (6) shall coordinate and cooperate with the department and the department's contractor on the utility relocations, including the scheduling of the utility relocations.

**CHAPTER 81****H. B. 177**

Passed February 21, 2020

Approved March 24, 2020

Effective May 12, 2020

**PRESCRIPTION REVISIONS**

Chief Sponsor: Suzanne Harrison

Senate Sponsor: Evan J. Vickers

Cosponsors: Cheryl K. Acton

Joel K. Briscoe

Marsha Judkins

Steve Waldrip

**LONG TITLE****General Description:**

This bill amends provisions relating to prescriptions for controlled substances.

**Highlighted Provisions:**

This bill:

- ▶ requires, with some exceptions, that prescriptions for controlled substances be issued electronically;
- ▶ authorizes the division to create rules for certain aspects of prescribing controlled substances;
- ▶ amends the protocol for the dispensing of drugs by practitioners in the emergency room; and
- ▶ repeals Title 58, Chapter 82, Electronic Prescribing Act.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-17b-610.5, as last amended by Laws of Utah 2016, Chapter 238

58-37-6, as last amended by Laws of Utah 2018, Chapter 318

**REPEALS:**

58-82-101, as enacted by Laws of Utah 2009, Chapter 47

58-82-102, as last amended by Laws of Utah 2010, Chapter 276

58-82-201, as last amended by Laws of Utah 2012, Chapter 160

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

**Section 1. Section 58-17b-610.5 is amended to read:****58-17b-610.5. Dispensing in emergency department -- Patient's immediate need.**

(1) As used in this section, "controlled substance" means a substance classified as a controlled substance by the federal Controlled Substances Act, Title II, Pub. L. No. 91-513 et seq., or by Chapter 37, Utah Controlled Substances Act.

[(4)] (2) The division shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with hospital pharmacies and the boards of practitioners authorized to prescribe prescription

drugs to establish guidelines under which a practitioner may dispense prescription drugs to a patient in a hospital emergency department if:

(a) the hospital pharmacy is closed;

(b) in the professional judgment of the practitioner, dispensing the drug is necessary for the patient's immediate needs; ~~and~~

(c) dispensing the prescription drug meets protocols established by the hospital pharmacy~~[-];~~ and

(d) the practitioner dispenses only a sufficient amount of the prescription drug as necessary to last until a pharmacy can fill the prescription.

~~[(2)] (3)~~ A practitioner in an emergency department may dispense a prescription drug in accordance with Subsection ~~[(4)]~~ (2).

(4) Under Subsection (2), a practitioner may not dispense more than a two-day supply of a controlled substance.

**Section 2. Section 58-37-6 is amended to read:****58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records required -- Prescriptions.**

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform

laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the ~~person's~~ agent or employee's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses ~~any~~ a controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or ~~any~~ a person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if waiving the license requirement is consistent with ~~the~~ public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) (i) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest.

(ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

(iii) In determining public interest under this Subsection (3)(a), the division shall consider whether ~~or not~~ the applicant has:

(A) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into channels other than

legitimate medical, scientific, or industrial channels;

(B) complied with applicable state and local law;

(C) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(D) past experience in the manufacture of controlled dangerous substances;

(E) established effective controls against diversion; and

(F) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this chapter in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon ~~furnishing~~ providing the division with evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license issued pursuant to Subsection (2) or (3) may be denied, suspended, placed on

probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings

under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

(5) (a) ~~[Persons]~~ A person licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) ~~[Every]~~ A physician, dentist, naturopathic physician, veterinarian, practitioner, or other ~~[person]~~ individual who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by ~~[him]~~ the individual and a record of all drugs administered, dispensed, or professionally used by ~~[him]~~ the individual otherwise than by a prescription.

(ii) ~~[A person]~~ An individual using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the ~~[person]~~ individual keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by ~~[him]~~ the individual, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) ~~[A person]~~ An individual may not write or authorize a prescription for a controlled substance unless the ~~[person]~~ individual is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) ~~[A person]~~ An individual other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, ~~[a person]~~ an individual may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(i) the ~~[person]~~ individual who writes the prescription is licensed under Subsection (2); and

(ii) the prescribed controlled substance is to be used in research.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (7)(f).

(i) A prescription for a Schedule II substance may not be refilled.

(ii) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply,

as directed on the daily dosage rate of the prescriptions.

(iii) (A) Except as provided in Subsection (7)(f)(iii)(B), a prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.

(B) Subsection (7)(f)(iii)(A) does not apply to a prescription issued for a surgery when the practitioner determined that a quantity exceeding seven days is needed, in which case the practitioner may prescribe up to a 30-day supply, with a partial fill at the discretion of the practitioner.

(C) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or chronic conditions which are documented as being complex or chronic in the medical record.

(D) A pharmacist is not required to verify that a prescription is in compliance with Subsection (7)(f)(iii).

(iv) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(v) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(vi) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(vii) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply; and

(C) a second or third prescription shall include the date of issuance and the date for dispensing.

(g) (i) Beginning January 1, 2022, each prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription unless the prescription is:

(A) for a patient residing in an assisted living facility as that term is defined in Section 26-21-2, a long-term care facility as that term is defined in Section 58-31b-102, or a correctional facility as that term is defined in Section 64-13-1;



(B) issued by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;

(C) dispensed by a Department of Veterans Affairs pharmacy;

(D) issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location; or

(E) issued in an emergency situation.

(ii) The division, in collaboration with the appropriate boards that govern the licensure of the licensees who are authorized by the division to prescribe or to dispense controlled substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act to:

(A) require that controlled substances prescribed or dispensed under Subsection (7)(g)(i)(D) indicate on the prescription that the prescribing practitioner or the pharmacy is experiencing a technical difficulty or an electronic failure;

(B) define an emergency situation for purposes of Subsection (7)(g)(i)(E);

(C) establish additional exemptions to the electronic prescription requirements established in this Subsection (7)(g);

(D) establish guidelines under which a prescribing practitioner or a pharmacy may obtain an extension of up to two additional years to comply with Subsection (7)(g)(i);

(E) establish a protocol to follow if the pharmacy that receives the electronic prescription is not able to fill the prescription; and

(F) establish requirements that comply with federal laws and regulations for software used to issue and dispense electronic prescriptions.

[(g)] (h) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the

hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

[(4)] (i) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of [this] Subsection (7)(4)(i), "child" has the same meaning as defined in Section 78A-6-105, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

[(4)] (j) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

[(4)] (k) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

[(4)] (l) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

[(4)] (m) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

[(4)] (n) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

[(4)] (o) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

[(4)] (p) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(iii) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(iv) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(v) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.

### **Section 3. Repealer.**

This bill repeals:

### **Section 58-82-101, Title.**

### **Section 58-82-102, Definitions.**

### **Section 58-82-201, Electronic prescriptions -- Restrictions -- Rulemaking authority.**

**CHAPTER 82****H. B. 179**

Passed February 28, 2020

Approved March 24, 2020

Effective May 12, 2020

Exception clause

**RECYCLING MARKET DEVELOPMENT  
ZONE TAX CREDIT AMENDMENTS**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill modifies the carry forward provisions of the recycling market development zone income tax credits.

**Highlighted Provisions:**

This bill:

- ▶ modifies the carry forward provisions of the recycling market development zone income tax credits by:
  - allowing a carry forward for the amount of the credit that the claimant did not use during the taxable year; and
  - limiting the carry forward to the credit allowed for purchases of machinery and equipment; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-7-610, as last amended by Laws of Utah 2019, Chapter 247

59-10-1002, as last amended by Laws of Utah 2006, Fourth Special Session, Chapter 2

59-10-1007, as last amended by Laws of Utah 2019, Chapter 247

63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

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

**Section 1. Section 59-7-610 is amended to read:****59-7-610. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

- (i) commercial composting; or
- (ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer's tax credit; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the taxpayer's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The taxpayer shall retain a copy of the written certification for the same period of time that a

person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the taxpayer made the purchases or payments;

(b) before any other tax credits the taxpayer may claim for the taxable year; and

(c) before the taxpayer claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three taxable years, the amount of ~~the tax credit that exceeds the taxpayer's income tax liability~~ a tax credit described in Subsection (1)(a) that the taxpayer does not use for the taxable year.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim ~~or carry forward~~ a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(8) A taxpayer may not claim or carry forward a tax credit under this section for a taxable year during which the taxpayer claims the targeted business income tax credit under Section 59-7-624.

**Section 2. Section 59-10-1002 is amended to read:**

**59-10-1002. Definitions.**

As used in this part:

(1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1003(2), "claimant" means a resident or nonresident person that has state taxable income.

(b) "Claimant" does not include an estate or trust.

(2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident estate or a resident estate that has state taxable income.

(3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may:

(a) claim:

(i) as provided by statute; and

(ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability under this chapter for a taxable year; and

(b) carry forward or carry back:

(i) if allowed by statute; and

(ii) unless otherwise provided in statute, to the extent that the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year.

(4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust or a resident trust that has state taxable income.

**Section 3. Section 59-10-1007 is amended to read:**

**59-10-1007. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;

(B) the date that the claimant, estate, or trust purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;

(E) the amount of the claimant's, estate's, or trust's tax credit; and

(F) a statement that the machinery and equipment are integral to the composting or recycling process; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the claimant, estate, or trust made to a third party;

(B) the date that the claimant, estate, or trust made the payment to a third party;

(C) the amount that the claimant, estate, or trust paid to each third party;

(D) the total amount that the claimant, estate, or trust paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the claimant's, estate's, or trust's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.

(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and

(c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information a claimant, estate, or trust shall

file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of ~~the tax credit that exceeds the taxpayer's income tax liability~~ a tax credit described in Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(8) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

**Section 4. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed ~~on~~ July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed [on] December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1[(53)](55), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1[(53)](55), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2[(23)](24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed [on] January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to [Subsection] Subsections (26)(c) and (d), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) ~~Notwithstanding Subsections (26)(b) and (c),~~ a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under [Section] Subsection 59-7-610(1)(a) or 59-10-1007(1)(a); and

(ii) ~~[(A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007,] the machinery or equipment is purchased on or before December 31, 2020[; or].~~

~~[(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.]~~

(27) Section 63N-2-512 is repealed [on] July 1, 2021.

(28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

(33) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

(34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

### Section 5. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

**CHAPTER 83****H. B. 180**

Passed February 21, 2020

Approved March 24, 2020

Effective January 1, 2021

**EMISSIONS INSPECTION REVISIONS**

Chief Sponsor: A. Cory Maloy  
Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill revises provisions related to motor vehicle emissions inspection.

**Highlighted Provisions:**

This bill:

- ▶ exempts electric motor vehicles from local emissions compliance fees; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

41-1a-1223, as last amended by Laws of Utah 2013, Chapter 113

41-6a-1642, as last amended by Laws of Utah 2019, Chapter 140

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

**Section 1. Section 41-1a-1223 is amended to read:****41-1a-1223. Local emissions compliance fee -- Exemptions -- Transfer -- County ordinance -- Notice.**

(1) (a) (i) A county legislative body of a county that is required to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard in accordance with Section 41-6a-1642 may impose a local emissions compliance fee of up to:

(A) \$3 on each motor vehicle registration within the county for a motor vehicle registration under Section 41-1a-215; or

(B) \$2.25 on each motor vehicle registration within the county for a six-month registration period under Section 41-1a-215.5.

(ii) A fee imposed under Subsection (1)(a)(i) shall be set in whole dollar increments.

(b) If imposed under Subsection (1)(a)(i), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local emissions compliance fee established by the county legislative body.

(c) The following are exempt from the fee required under Subsection (1)(a)(i):

(i) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3); ~~and~~

(ii) a commercial vehicle with an apportioned registration under Section 41-1a-301[-]; and

(iii) an electric motor vehicle.

(2) The revenue generated from the fees collected under this section shall be transferred to the county that imposed the fee.

(3) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

(a) approving the fee;

(b) setting the amount of the fee; and

(c) providing an effective date for the fee as provided in Subsection (4).

(4) (a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on January 1 if the commission receives notice meeting the requirements of Subsection (4)(b) from the county prior to October 1.

(b) The notice described in Subsection (4)(a) shall:

(i) state that the county will enact, change, or repeal a fee under this section;

(ii) include a copy of the ordinance imposing the fee; and

(iii) if the county enacts or changes the fee under this section, state the amount of the fee.

**Section 2. Section 41-6a-1642 is amended to read:****41-6a-1642. Emissions inspection -- County program.**

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the



county and owned by or being used by a department, division, instrumentality, agency, or employee of:

- (i) the federal government;
- (ii) the state and any of its agencies; or
- (iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

(vi) Audi A8L, model years 2014, 2015, and 2016;

(vii) Audi Q5, model years 2014, 2015, and 2016; and

(viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) [a] ~~an electric motor vehicle [powered solely by electric power]~~ as defined in Section 41-1a-102; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) (a) The legislative body of a county described in Subsection (1) that does not require an emissions inspection for diesel-powered motor vehicles as of December 31, 2017, shall implement a three-year pilot program as described in Subsection (7)(b).

(b) Beginning on January 1, 2019, and ending on December 31, 2021, the legislative body of a county described in Subsection (7)(a) shall require:

(i) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(A) a model year of 2007 or newer;

(B) a gross vehicle weight rating of 14,000 pounds or less; and

(C) a model year that is five years old or older; and

(ii) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(A) with a gross vehicle weight rating of 14,000 pounds or less;

(B) that has a model year of 1998 or newer; and

(C) that has a model year that is five years old or older.

(c) (i) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall prepare a report including:

(A) the total number of diesel-powered vehicles inspected as part of the pilot program using computerized technology;

(B) the passage and failure rates of the diesel-powered motor vehicles inspected as part of the pilot program using computerized technology, shown by model year;

(C) the total number of diesel-powered vehicles visually inspected as part of the pilot program;

(D) the passage and failure rates of the diesel-powered motor vehicles visually inspected as part of the pilot program, shown by model year;

(E) the total number of diesel-powered vehicles visually inspected as part of the pilot program where tampering with emissions equipment was found, shown by model year; and

(F) any other information the executive body or individual considers relevant.

(ii) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural Resources, Agriculture, and Environment Interim Committee:

(A) one time after January 1, 2020, but before August 31, 2020; and

(B) one time after January 1, 2021, but before August 31, 2021.

(d) After each report described in Subsection (7)(c), the Division of Air Quality created in Section 19-1-105 shall provide to the Natural Resources, Agriculture, and Environment Interim Committee and the legislative body of a county participating in the pilot program an estimate of the tons of pollution emitted due to the failure rate of the diesel-powered motor vehicles in the pilot program.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to

this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in rules made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection(9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by \$2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a \$7.50 increase.

(13) (a) [A] Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in

accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

**Section 3. Effective date.**

This bill takes effect on January 1, 2021.

**CHAPTER 84****H. B. 184**

Passed February 27, 2020

Approved March 24, 2020

Effective May 12, 2020

**MUNICIPAL REGULATION  
OF GOLF CARTS**

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Deidre M. Henderson

Cosponsor: Carol Spackman Moss

**LONG TITLE****General Description:**

This bill authorizes a municipality to allow a golf cart to operate on a highway under certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ defines “golf cart”;
- ▶ authorizes a municipality to enact an ordinance to allow the operation of a golf cart on a highway in specified circumstances;
- ▶ exempts a golf cart from title, registration, and other requirements applicable to other motor vehicles;
- ▶ prohibits the drinking of alcohol while operating a golf cart on a highway;
- ▶ prohibits the possession of an open container of alcohol while operating a golf cart on a highway;
- ▶ requires that a golf cart adhere to traffic laws similar to a bicycle; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-6a-102, as last amended by Laws of Utah 2019, Chapters 49, 391, 428, and 459

41-6a-526, as last amended by Laws of Utah 2019, Chapter 428

41-6a-706.5, as last amended by Laws of Utah 2019, Chapters 428 and 461

63I-1-241, as last amended by Laws of Utah 2019, Chapters 49, 55, and 246

**ENACTS:**

41-6a-1510, Utah Code Annotated 1953

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

**Section 1. Section 41-6a-102 is amended to read:****41-6a-102. Definitions.**

As used in this chapter:

(1) “Alley” means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) “All-terrain type I vehicle” means the same as that term is defined in Section 41-22-2.

(3) “Authorized emergency vehicle” includes:

- (a) fire department vehicles;
- (b) police vehicles;
- (c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) “Autocycle” means the same as that term is defined in Section 53-3-102.

(5) (a) “Bicycle” means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) “Bicycle” includes an electric assisted bicycle.

(c) “Bicycle” does not include scooters and similar devices.

(6) (a) “Bus” means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) “Bus” does not include a taxicab.

(7) (a) “Circular intersection” means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) “Circular intersection” includes:

- (i) roundabouts;
- (ii) rotaries; and
- (iii) traffic circles.

(8) “Class 1 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) “Class 2 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) “Class 3 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) “Commissioner” means the commissioner of the Department of Public Safety.

(12) “Controlled-access highway” means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by

the highway authority having jurisdiction over the highway, street, or roadway.

(13) “Crosswalk” means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) “Department” means the Department of Public Safety.

(15) “Direct supervision” means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) “Divided highway” means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) “Electric assisted bicycle” means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) “Electric personal assistive mobility device” means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) “Electric personal assistive mobility device” does not include a wheelchair.

(19) “Explosives” means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) “Farm tractor” means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) “Flammable liquid” means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) “Freeway” means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) (a) “Golf cart” means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) “Golf cart” does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[(23)] (24) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[(24)] (25) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[(25)] (26) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[(26)] (27) "Highway authority" means the same as that term is defined in Section 72-1-102.

[(27)] (28) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[(28)] (29) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[(29)] (30) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[(30)] (31) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[(31)] (32) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[(32)] (33) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[(33)] (34) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[(34)] (35) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[(35)] (36) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[(36)] (37) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [(36)(a)] (37)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

~~[(37)]~~ (38) (a) “Moped” means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) “Moped” does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

~~[(38)]~~ (39) (a) “Motor assisted scooter” means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device; ~~and~~

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) “Motor assisted scooter” does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

~~[(39)]~~ (40) (a) “Motor vehicle” means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) “Motor vehicle” does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

~~[(40)]~~ (41) “Motorcycle” means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

~~[(41)]~~ (42) (a) “Motor-driven cycle” means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) “Motor-driven cycle” does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

~~[(42)]~~ (43) “Off-highway implement of husbandry” means the same as that term is defined under Section 41-22-2.

~~[(43)]~~ (44) “Off-highway vehicle” means the same as that term is defined under Section 41-22-2.

~~[(44)]~~ (45) “Operate” means the same as that term is defined in Section 41-1a-102.

~~[(45)]~~ (46) “Operator” means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

~~[(46)]~~ (47) (a) “Park” or “parking” means the standing of a vehicle, whether the vehicle is occupied or not.

(b) “Park” or “parking” does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

~~[(47)]~~ (48) “Peace officer” means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

~~[(48)]~~ (49) “Pedestrian” means a person traveling:

(a) on foot; or

(b) in a wheelchair.

~~[(49)]~~ (50) “Pedestrian traffic-control signal” means a traffic-control signal used to regulate pedestrians.

~~[(50)]~~ (51) “Person” means a natural person, firm, copartnership, association, corporation, business



trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

~~[(51)]~~ (52) “Pole trailer” means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

~~[(52)]~~ (53) “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

~~[(53)]~~ (54) “Railroad” means a carrier of persons or property upon cars operated on stationary rails.

~~[(54)]~~ (55) “Railroad sign or signal” means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

~~[(55)]~~ (56) “Railroad train” means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

~~[(56)]~~ (57) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

~~[(57)]~~ (58) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

~~[(58)]~~ (59) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

~~[(59)]~~ (60) (a) “School bus” means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of “Minimum Standards for School Buses”; and

(ii) is used to transport school children to or from school or school activities.

(b) “School bus” does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

~~[(60)]~~ (61) (a) “Semitrailer” means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) “Semitrailer” does not include a pole trailer.

~~[(61)]~~ (62) “Shoulder area” means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved “Manual on Uniform Traffic Control Devices”; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

~~[(62)]~~ (63) “Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

~~[(63)]~~ (64) “Solid rubber tire” means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

~~[(64)]~~ (65) “Stand” or “standing” means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

~~[(65)]~~ (66) “Stop” when required means complete cessation from movement.

~~[(66)]~~ (67) “Stop” or “stopping” when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

~~[(67)]~~ (68) “Street-legal all-terrain vehicle” or “street-legal ATV” means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

~~[(68)]~~ (69) “Traffic” means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

~~[(69)]~~ (70) “Traffic signal preemption device” means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[470] (71) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[471] (72) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[472] (73) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[473] (74) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[474] (75) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[475] (76) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[476] (77) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[477] (78) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

**Section 2. Section 41-6a-526 is amended to read:**

**41-6a-526. Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions.**

(1) As used in this section:

(a) "Alcoholic beverage" has the same meaning as defined in Section 32B-1-102.

(b) "Chartered bus" has the same meaning as defined in Section 32B-1-102.

(c) "Limousine" has the same meaning as defined in Section 32B-1-102.

(d) (i) "Passenger compartment" means the area of the vehicle normally occupied by the operator and passengers.

(ii) "Passenger compartment" includes areas accessible to the operator and passengers while traveling, including a utility or glove compartment.

(iii) "Passenger compartment" does not include a separate front or rear trunk compartment or other area of the vehicle not accessible to the operator or passengers while inside the vehicle.

(e) "Waters of the state" has the same meaning as defined in Section 73-18-2.

(2) A person may not drink an alcoholic beverage while operating a golf cart, a motor vehicle, a motor assisted scooter, or a class 2 electric assisted bicycle, or while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any highway or waters of the state.

(3) A person may not keep, carry, possess, transport, or allow another to keep, carry, possess, or transport in the passenger compartment of a motor vehicle, on a golf cart, on a motor assisted scooter, or on a class 2 electric assisted bicycle, when the vehicle is on any highway or waters of the state, any container that contains an alcoholic beverage if the container has been opened, its seal broken, or the contents of the container partially consumed.

(4) Subsections (2) and (3) do not apply to a passenger:

(a) in the living quarters of a motor home or camper;

(b) who has carried an alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections 32B-4-415(4)(b) and (c); or

(c) in a motorboat on the waters of the state.

(5) Subsection (3) does not apply to passengers traveling in any licensed taxicab or bus.

(6) A violation of Subsection (2) or (3) is a class C misdemeanor.

**Section 3. Section 41-6a-706.5 is amended to read:**

**41-6a-706.5. Definitions -- Operation of motor vehicle near a vulnerable user of a highway prohibited -- Endangering a vulnerable user of a highway prohibited.**

(1) As used in this section, "vulnerable user of a highway" means:

(a) a pedestrian, including a person engaged in work upon a highway or upon utilities facilities along a highway or providing emergency services within the right-of-way of a highway;

(b) a person riding an animal; or

(c) a person operating any of the following on a highway:

(i) a farm tractor or implement of husbandry, without an enclosed shell;

- (ii) a skateboard;
- (iii) roller skates;
- (iv) in-line skates;
- (v) a bicycle;
- (vi) an electric-assisted bicycle;
- (vii) an electric personal assistive mobility device;
- (viii) a moped;
- (ix) a motor assisted scooter;
- (x) a motor-driven cycle;
- (xi) a motorcycle; [øø]
- (xii) a manual wheelchair[-]; or
- (xiii) a golf cart.

(2) An operator of a motor vehicle may not knowingly, intentionally, or recklessly:

- (a) operate a motor vehicle within three feet of a vulnerable user of a highway;
- (b) distract or attempt to distract a vulnerable user of a highway for the purpose of causing violence or injury to the vulnerable user of a highway;
- (c) force or attempt to force a vulnerable user of a highway off of the roadway for a purpose unrelated to public safety; or
- (d) cause a motor vehicle to emit an excessive amount of exhaust in a manner that distracts or endangers a vulnerable user of a highway.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is an infraction.

(b) A violation of Subsection (2) that results in bodily injury to the vulnerable user of a highway is a class C misdemeanor.

**Section 4. Section 41-6a-1510 is enacted to read:**

**41-6a-1510. Golf carts -- Operation on highways -- Registration, licensing requirements, titling, and taxes.**

(1) (a) In accordance with this section and Section 10-8-30, a municipality may, by ordinance, allow a person to operate a golf cart on specified highways under the jurisdiction of the municipality.

(b) A person may not operate a golf cart on a highway unless authorized by the municipality in which the highway is located.

(c) If a municipality allows the operation of a golf cart on a highway in the municipality's jurisdiction, the municipality shall provide sufficient parameters regarding the operation of a golf cart on a highway to ensure public safety, including specifying:

(i) on which highways a person may operate a golf cart;

(ii) who may operate a golf cart on a highway; and

(iii) hours during which a golf cart may operate on a highway.

(2) Subject to Subsection (4), a person operating a golf cart has all the rights and is subject to the provisions of this chapter applicable to the operator of any other vehicle.

(3) A golf cart is exempt from the requirements of:

(a) titling, odometer statement, vehicle identification, license plates, and registration under Title 41, Chapter 1a, Motor Vehicle Act;

(b) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(c) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(d) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(e) the uniform statewide fee described in Section 59-2-405.2.

(4) Except as described in Subsections 41-6a-526(2) and (3), a golf cart shall comply with the same requirements as a bicycle for traffic rules under Title 41, Chapter 6a, Traffic Code.

**Section 5. Section 63I-1-241 is amended to read:**

**63I-1-241. Repeal dates, Title 41.**

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2023.

(2) The following subsections addressing lane filtering are repealed on July 1, 2022:

(a) Subsection 41-6a-102[(29)](30) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(3) Subsection 41-6a-1406(6)(b)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2023.

(4) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2023.

**CHAPTER 85****H. B. 188**

Passed February 28, 2020

Approved March 24, 2020

Effective May 12, 2020

**EMERGENCY MANAGEMENT  
ACT AMENDMENTS**Chief Sponsor: Suzanne Harrison  
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill amends the duties of the Division of Emergency Management.

**Highlighted Provisions:**

This bill:

- ▶ defines “alerting authority” and “IPAWS”;
- ▶ requires coordination with municipalities and counties to ensure access to the Integrated Public Alert and Warning System;
- ▶ requires training every three years to all emergency service agencies, managers, and others;
- ▶ requires each political subdivision to have an alert plan and to provide a copy of the plan to the Division of Emergency Management;
- ▶ adds to the membership of the Emergency Management Administration Council; and
- ▶ requires an annual report of each political subdivision’s alerting authority.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-2a-102, as last amended by Laws of Utah 2017, Chapter 13

53-2a-104, as renumbered and amended by Laws of Utah 2013, Chapter 295

53-2a-105, as last amended by Laws of Utah 2015, Chapter 258

53-2a-807, as renumbered and amended by Laws of Utah 2013, Chapter 295

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

**Section 1. Section 53-2a-102 is amended to read:****53-2a-102. Definitions.**

As used in this chapter:

(1) “Alerting authority” means a political subdivision that has received access to send alerts through the Integrated Public Alert and Warning System.

(2) “Attack” means a nuclear, cyber, conventional, biological, act of terrorism, or chemical warfare action against the United States of America or this state.

~~[(2)]~~ (3) “Commissioner” means the commissioner of the Department of Public Safety or the commissioner’s designee.

~~[(3)]~~ (4) “Director” means the division director appointed under Section 53-2a-103 or the director’s designee.

~~[(4)]~~ (5) “Disaster” means an event that:

(a) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomena, or technological hazard; and

(b) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require response by government, not-for-profit, or private entities.

~~[(5)]~~ (6) “Division” means the Division of Emergency Management created in Section 53-2a-103.

~~[(6)]~~ (7) “Energy” includes the energy resources defined in this chapter.

~~[(7)]~~ (8) “Expenses” means actual labor costs of government and volunteer personnel, and materials.

~~[(8)]~~ (9) “Hazardous materials emergency” means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

~~[(9)]~~ (10) “Internal disturbance” means a riot, prison break, terrorism, or strike.

(11) “IPAWS” means the Integrated Public Alert and Warning System administered by the Federal Emergency Management Agency.

~~[(10)]~~ (12) “Municipality” means the same as that term is defined in Section 10-1-104.

~~[(11)]~~ (13) “Natural phenomena” means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, or epidemic.

~~[(12)]~~ (14) “State of emergency” means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

~~[(13)]~~ (15) “Technological hazard” means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

~~[(14)]~~ (16) “Terrorism” means activities or the threat of activities that:

- (a) involve acts dangerous to human life;

(b) are a violation of the criminal laws of the United States or of this state; and

(c) to a reasonable person, would appear to be intended to:

(i) intimidate or coerce a civilian population;

(ii) influence the policy of a government by intimidation or coercion; or

(iii) affect the conduct of a government by mass destruction, assassination, or kidnapping.

[45] (17) "Urban search and rescue" means the location, extrication, and initial medical stabilization of victims trapped in a confined space as the result of a structural collapse, transportation accident, mining accident, or collapsed trench.

**Section 2. Section 53-2a-104 is amended to read:**

**53-2a-104. Division duties -- Powers.**

(1) The division shall:

(a) respond to the policies of the governor and the Legislature;

(b) perform functions relating to emergency management as directed by the governor or by the commissioner, including:

(i) coordinating with state agencies and local governments the use of personnel and other resources of these governmental entities as agents of the state during an interstate disaster in accordance with the Emergency Management Assistance Compact described in Section 53-2a-402;

(ii) coordinating the requesting, activating, and allocating of state resources during an intrastate disaster or a local state of emergency;

(iii) receiving and disbursing federal resources provided to the state in a declared disaster;

(iv) appointing a state coordinating officer who is the governor's representative and who shall work with a federal coordinating officer during a federally declared disaster; and

(v) appointing a state recovery officer who is the governor's representative and who shall work with a federal recovery officer during a federally declared disaster;

(c) prepare, implement, and maintain programs and plans to provide for:

(i) prevention and minimization of injury and damage caused by disasters;

(ii) prompt and effective response to and recovery from disasters;

(iii) identification of areas particularly vulnerable to disasters;

(iv) coordination of hazard mitigation and other preventive and preparedness measures designed to eliminate or reduce disasters;

(v) assistance to local officials, state agencies, and the business and public sectors, in developing emergency action plans;

(vi) coordination of federal, state, and local emergency activities;

(vii) coordination of emergency operations plans with emergency plans of the federal government;

(viii) coordination of urban search and rescue activities;

(ix) coordination of rapid and efficient communications in times of emergency; and

(x) other measures necessary, incidental, or appropriate to this part;

(d) coordinate with local officials, state agencies, and the business and public sectors in developing, implementing, and maintaining a state energy emergency plan in accordance with Section 53-2a-902; ~~and~~

(e) administer Part 6, Disaster Recovery Funding Act, in accordance with that part[-];

(f) conduct outreach annually to agencies and officials who have access to IPAWS; and

(g) coordinate with counties to ensure every county has the access and ability to send, or a plan to send, IPAWS messages, including Wireless Emergency Alerts and Emergency Alert System messages.

(2) Every three years, organizations that have the ability to send IPAWS messages, including emergency service agencies, public safety answering points, and emergency managers shall send verification of Federal Emergency Management Agency training to the Division.

~~(2)~~ (3) (a) The Department of Public Safety shall designate state geographical regions and allow the political subdivisions within each region to:

(i) coordinate planning with other political subdivisions, tribal governments, and as appropriate, other entities within that region and with state agencies as appropriate, or as designated by the division;

(ii) coordinate grant management and resource purchases; and

(iii) organize joint emergency response training and exercises.

(b) The political subdivisions within a region designated in Subsection ~~(2)~~ (3)(a) may not establish the region as a new government entity in the emergency disaster declaration process under Section 53-2a-208.

~~(3)~~ (4) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish protocol for prevention, mitigation, preparedness, response, recovery, and the activities described in Subsection ~~(2)~~ (3);

(b) coordinate federal, state, and local resources in a declared disaster or local emergency; and

(c) implement provisions of the Emergency Management Assistance Compact as provided in Section 53-2a-402 and Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

[4] (5) The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist the division in preparing emergency succession plans and procedures under Title 53, Chapter 2a, Part 8, Emergency Interim Succession Act.

(6) The division shall report annually in writing not later than October 31 to the Law Enforcement and Criminal Justice, and Political Subdivisions Interim Committees regarding the status of the emergency alert system in the state. The report shall include:

(a) a status summary of the number of alerting authorities in Utah;

(b) any changes in that number;

(c) administrative actions taken; and

(d) any other information considered necessary by the division.

**Section 3. Section 53-2a-105 is amended to read:**

**53-2a-105. Emergency Management Administration Council created -- Function -- Composition -- Expenses.**

(1) There is created the Emergency Management Administration Council to provide advice and coordination for state and local government agencies on government emergency prevention, mitigation, preparedness, response, and recovery actions and activities.

(2) The council shall meet at the call of the chair, but at least semiannually.

(3) The council shall be made up of the:

(a) lieutenant governor, or the lieutenant governor's designee;

(b) attorney general, or the attorney general's designee;

(c) heads of the following state agencies, or their designees:

(i) Department of Public Safety;

(ii) Division of Emergency Management;

(iii) Department of Transportation;

(iv) Department of Health;

(v) Department of Environmental Quality;

(vi) Department of Workforce Services; ~~and~~

(vii) Department of Natural Resources;

(viii) Department of Agriculture and Food;

(ix) Department of Technology Services; and

(x) Division of Indian Affairs;

(d) adjutant general of the National Guard or the adjutant general's designee;

(e) ~~[commissioner of agriculture and food or the commissioner's designee;]~~ statewide interoperability coordinator of the Utah Communications Authority or the coordinator's designee;

(f) two representatives with expertise in emergency management appointed by the Utah League of Cities and Towns;

(g) two representatives with expertise in emergency management appointed by the Utah Association of Counties;

(h) up to four additional members with expertise in emergency management, critical infrastructure, or key resources as these terms are defined under 6 U.S. Code Section 101 appointed from the private sector, by the ~~chair~~ co-chairs of the council; ~~and~~

(i) two representatives appointed by the Utah Emergency Management Association[-];

(j) one representative from the Urban Area Working Group, appointed by the council co-chairs;

(k) one representative from education, appointed by the council co-chairs; and

(l) one representative from a volunteer or faith-based organization, appointed by the council co-chairs.

(4) The commissioner and the lieutenant governor shall serve as ~~cochairs~~ co-chairs of the council.

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

(a) Section 63A-3-106;

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

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

(6) The council shall coordinate with existing emergency management related entities including:

(a) the Emergency Management Regional Committees established by the Department of Public Safety;

(b) the Statewide Mutual Aid Committee established under Section 53-2a-303; and

(c) the Hazardous Chemical Emergency Response Commission designated under Section 53-2a-703.

(7) The council may appoint additional members or establish other committees and task forces as determined necessary by the council to carry out the duties of the council.

**Section 4. Section 53-2a-807 is amended to read:**

**53-2a-807. Emergency interim successors for local officers.**

(1) By July 1 of each year, each political subdivision ~~officer~~ shall:

(a) for each officer, designate three emergency interim successors and specify their order of succession;

~~[(b) specify their order of succession; and]~~

(b) identify the political subdivision's alerting authority and any individuals authorized to send emergency alerts;

~~[(e)]~~ (c) provide a list of those designated successors and individuals to the division[-]; and

(d) have an emergency alert plan in place and provide a copy of the plan to the division.

(2) In the event that a political subdivision does not designate emergency interim successors as required under Subsection (1), the order of succession shall be as follows:

(a) the chief executive officer of the political subdivision;

(b) the chief deputy executive officer of the political subdivision;

(c) the chair of the legislative body of the political subdivision; and

(d) the chief law enforcement officer of the political subdivision.

(3) (a) Notwithstanding any other provision of law:

(i) if any political subdivision officer or the political subdivision officer's legal deputy, if any, is unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the political subdivision officer; or

(ii) counties may provide by ordinance that one member of the county legislative body may act as the county legislative body if the other members are absent.

(b) An emergency interim successor shall exercise the powers and duties of the office only until:

(i) the vacancy is filled in accordance with the constitution or statutes; or

(ii) the political subdivision officer, the political subdivision officer's deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.

(4) The legislative bodies of each political subdivision may enact resolutions or ordinances consistent with this part and also provide for emergency interim successors to officers of the political subdivision not governed by this section.

**CHAPTER 86****H. B. 192**

Passed March 6, 2020  
Approved March 24, 2020  
Effective January 1, 2021

**PROPERTY TAX  
ASSESSMENT AMENDMENTS**

Chief Sponsor: Mark A. Strong  
Senate Sponsor: Ronald Winterton

**LONG TITLE****General Description:**

This bill modifies county assessment provisions of the property tax code.

**Highlighted Provisions:**

This bill:

- ▶ defines the term “assessment roll” to include an “assessment book”;
- ▶ defines “multi-tenant residential property”;
- ▶ authorizes a county assessor to assess real property and personal property of a multi-tenant residential property using an income approach under certain circumstances;
- ▶ provides circumstances under which a county assessor may exempt an owner from the county’s signed statement obligation on personal property located in a multi-tenant residential property;
- ▶ provides requirements for assessing, collecting, and reporting certain personal property located in a multi-tenant residential property using an income approach;
- ▶ provides the circumstances under which an owner shall submit a signed statement of personal property located in a multi-tenant residential property in an appeal; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

59-2-102, as last amended by Laws of Utah 2018, Chapters 415 and 456  
59-2-1004, as last amended by Laws of Utah 2019, Chapters 16 and 136  
59-2-1006, as last amended by Laws of Utah 2019, Chapter 453

**ENACTS:**

59-2-301.8, Utah Code Annotated 1953

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

**Section 1. Section 59-2-102 is amended to read:**

**59-2-102. Definitions.**

As used in this chapter and title:

(1) “Aerial applicator” means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation

Administration certifying the aircraft or rotorcraft’s use for agricultural and pest control purposes.

(2) “Air charter service” means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) “Air contract service” means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) “Aircraft” means the same as that term is defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), “airline” means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) “Airline” does not include an:

(i) air charter service; or

(ii) air contract service.

(6) “Assessment roll” or “assessment book” means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) “Base parcel” means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(8) (a) “Certified revenue levy” means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (8), “ad valorem property tax revenue” does not include property tax revenue received by a taxing entity from personal property that is:



(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (8), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(9) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) "Designated tax area" includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (10)(a) and:

(i) a city or town if the boundaries of the school district under Subsection (10)(a) and the boundaries of the city or town are identical; or

(ii) a special service district if the boundaries of the school district under Subsection (10)(a) are located entirely within the special service district.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) (a) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(b) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(15) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(16) “Geothermal resource” means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(17) (a) “Goodwill” means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (17)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (17)(b).

(b) The following factors apply to Subsection (17)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (17)(b)(i) through (iv).

(c) “Goodwill” does not include:

(i) the intangible property described in Subsection (21)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(18) “Governing body” means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district’s board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(19) (a) For purposes of Section 59-2-103:

(i) “household” means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) “household” includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “domicile.”

(20) (a) Except as provided in Subsection (20)(c), “improvement” means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) “Improvement” includes:

(i) an accessory to an item described in Subsection (20)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (20)(a); and

(B) installed solely to serve the operation of the item described in Subsection (20)(a); and

(ii) an item described in Subsection (20)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(21) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(22) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(23) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(26) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(27) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(29) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(30) "Personal property" includes:

(a) every class of property as defined in Subsection (31) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

- (c) bridges and ferries;
- (d) livestock; and
- (e) outdoor advertising structures as defined in Section 72-7-502.

(31) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(32) "Public utility" means:

(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally, or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (33) and Subsection (36).

(34) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(35) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25%

shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (36)(c), "residential property":

(i) except as provided in Subsection (36)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and this Subsection (36).

(37) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(38) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in

Subsection (9)(c) as county-assessed commercial vehicles.

(39) “Subdivided lot” means a lot, parcel, or other division of land, that is a division of a base parcel.

(40) “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(41) “Tax area” means a geographic area created by the overlapping boundaries of one or more taxing entities.

(42) “Taxing entity” means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(43) (a) “Tax roll” means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) “Tax roll” includes tax books, tax lists, and other similar materials.

**Section 2. Section 59-2-301.8 is enacted to read:**

**59-2-301.8. Assessment of multi-tenant residential property.**

(1) As used in this section:

(a) “Multi-tenant residential property” means real and personal property where:

(i) the real property:

(A) is rented as 10 or more separate housing units;

(B) meets the definition of residential property; and

(C) qualifies for the residential exemption described in Section 59-2-103; and

(ii) the personal property is:

(A) located within the real property; and

(B) owned by the same person as the real property.

(b) “Multi-tenant residential property” does not include a tourist home, a hotel, a motel, or a trailer court accommodation and service that is regularly rented for fewer than 30 consecutive days.

(2) (a) A county assessor may use an income approach to value multi-tenant residential properties within the county if the county assessor finds that the income approach is a valid indicator of fair market value for the multi-tenant residential property in the county.

(b) A county assessor that chooses to value a multi-tenant residential property in accordance with this section shall use the same valuation

method for all multi-tenant residential properties within the county.

(c) On or before May 1, a county assessor shall notify the commission about the county’s method for valuing multi-tenant residential properties if the county assessor:

(i) (A) chooses to value multi-tenant residential properties in accordance with this section for the current tax year; and

(B) did not choose to value multi-tenant residential properties in accordance with this section for the previous tax year; or

(ii) (A) chose to value multi-tenant residential properties in accordance with this section for the previous tax year; and

(B) is not choosing to value multi-tenant residential properties in accordance with this section for the current tax year.

(3) (a) If a county assessor chooses to use the income approach to value multi-tenant residential properties, the county assessor may relieve the owners of any obligation to file the signed statement requested by the county under Section 59-2-306 for the owners’ personal property located within the multi-tenant residential properties.

(b) On or before May 1:

(i) a county assessor that chooses to value multi-tenant residential properties in accordance with this section shall notify an owner that the owner is not required to file a signed statement if:

(A) the county requests a signed statement under Section 59-2-306;

(B) the county assessor relieves the owner of any obligation to file a signed statement in accordance with Subsection (3)(a); and

(C) the county assessor did not relieve the owner of the signed statement obligation for the previous tax year; or

(ii) a county assessor that chooses not to value multi-tenant residential properties in accordance with this section shall notify an owner of the obligation to file a signed statement if:

(A) the county requests a signed statement under Section 59-2-306; and

(B) the county assessor relieved the owner from filing a signed statement of personal property for the previous tax year.

(4) For personal property for which an owner is relieved of the obligation to file a signed statement under Subsection (3):

(a) (i) the county assessor shall assess the personal property in the same manner as real property under Part 3, County Assessment; and

(ii) the county assessor or the county treasurer shall collect the tax on the personal property in the same manner as real property under Part 13, Collection of Taxes;

(b) the county assessor is not required to list personal property separately in the assessment roll; and

(c) the county auditor is not required to identify personal property separately on the statement to the commission required by Section 59-2-322.

**Section 3. Section 59-2-1004 is amended to read:**

**59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.**

(1) As used in this section:

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with ~~[Section 59-2-1004]~~ this section, the value given to the real property by a county board of equalization after the appeal;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by the county assessor in accordance with Subsection (2)(c).

(c) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the qualified real property; and

(ii) located within the same county and within the same market area as the qualified real property.

(d) "Property value change" means the percentage change in the fair market value of real property between January 1 of the previous year and January 1 of the current year.

(e) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous

taxable year to the county board of equalization in accordance with ~~[Section 59-2-1004]~~ this section or the commission in accordance with Section 59-2-1006;

(B) as a result of the appeal described in Subsection (1)(e)(i)(A), a county board of equalization or the commission gave a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(ii) that, between January 1 of the previous taxable year and January 1 of the current taxable year, has not been improved or changed beyond the improvements in place on January 1 of the previous taxable year.

(2) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (3); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (3) if the county legislative body passes a resolution under Subsection (8) authorizing a taxpayer to make an application by telephone or other electronic means.

(b) (i) The county board of equalization shall make a rule describing the contents of the application.

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for the taxpayer to learn the inflation adjusted value of the qualified real property.

(c) (i) The county assessor shall calculate inflation adjusted value by changing the final assessed value for the previous taxable year of the real property that is the subject of the appeal by the median property value change.

(ii) (A) The county assessor shall notify the county board of equalization of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a taxpayer filed an appeal with the county board of equalization.

(B) The county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission.

(iii) A person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property.

(3) (a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), the taxpayer shall include in the application under Subsection (2)(a)(~~i~~):

(i) the taxpayer's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the taxpayer's property is improperly equalized with the assessed valuation of comparable properties[-]; and

(ii) a signed statement of the personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8 if the taxpayer:

(A) appeals the value of multi-tenant residential property assessed in accordance with Section 59-2-301.8; and

(B) intends to contest the value of the personal property located within the multi-tenant residential property.

(b) (i) For an appeal involving qualified real property:

(A) the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value; and

(B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the information described in Subsection (4)(a).

(ii) If the taxpayer seeks to prove that the fair market value of the qualified real property is below the inflation adjusted value, the taxpayer shall provide the information described in Subsection (4)(a).

(5) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(6) (a) The county board of equalization shall meet and hold public hearings as described in Section 59-2-1001.

(b) (i) For purposes of this Subsection (6)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and \$1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection (6)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection (6)(~~b~~)(c) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection (6)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (6)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection (6)(c); and

(ii) hear the appeal at the meeting described in Subsection (6)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of

equalization shall presume that the equalization issue has been met.

(h) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection (6)(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

(7) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

(8) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

**Section 4. Section 59-2-1006 is amended to read:**

**59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.**

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission by:

(a) filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board or entity with designated decision-making authority described in Section 59-2-1101[-]; and

(b) if the county assessor valued the property in accordance with Section 59-2-301.8 and the taxpayer intends to contest the value of personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8, submitting a signed statement of the personal property with the notice of appeal.

(2) The auditor shall:

(a) file one notice with the commission;

(b) certify and transmit to the commission:

(i) the minutes of the proceedings of the county board of equalization or entity with designated decision-making authority for the matter appealed;

(ii) all documentary evidence received in that proceeding; and

(iii) a transcript of any testimony taken at that proceeding that was preserved; ~~and~~

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of:

(i) the board of equalization as required by Section 59-2-1102; or

(ii) the entity with designated decision-making authority[-]; and

(d) any signed statement submitted in accordance with Subsection (1)(b).

(3) In reviewing a decision described in Subsection (1), the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the assessment or order of the county board of equalization or entity with decision-making authority.

(4) In reviewing evidence submitted to the commission to decide an appeal under this section, the commission shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) In reviewing a decision described in Subsection (1), the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:

(a) the issue of equalization of property values is raised; and

(b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

(6) The commission shall decide all appeals taken pursuant to this section not later than March 1 of the following year for real property and within 90 days for personal property, and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision, order, or assessment.

**Section 5. Effective date.**

This bill takes effect on January 1, 2021.



**CHAPTER 87****H. B. 198**

Passed February 28, 2020

Approved March 24, 2020

Effective May 12, 2020

**EMINENT DOMAIN LIMITATIONS**

Chief Sponsor: Susan Pulsipher  
Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill excludes certain uses for which the eminent domain right may be exercised.

**Highlighted Provisions:**

This bill:

- ▶ defines “century farm”;
- ▶ prohibits a person from exercising the right of eminent domain for the purpose of establishing a public park on certain century farm property; and
- ▶ consolidates uses for which the eminent domain right may not be exercised.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78B-6-501, as last amended by Laws of Utah 2014, Chapter 59

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

**Section 1. Section 78B-6-501 is amended to read:****78B-6-501. Eminent domain -- Uses for which right may be exercised.**

[Subject] (1) As used in this section, “century farm” means real property that is:

(a) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(b) owned or held by the same family for a continuous period of 100 years or more.

(2) Except as provided in Subsection (3) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

[4] (a) all public uses authorized by the federal government;

[2] (b) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;

[3] (a) (c) (i) public buildings and grounds for the use of any county, city, town, or board of education;

[4] (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;

[e] (iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

[d] (iv) bicycle paths and sidewalks adjacent to paved roads;

[e] (v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development, ~~excluding trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway~~; and

[f] (vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

[4] (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;

[5] (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals in solution;

[6] (a) (f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

[4] (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution;

[e] (iii) mill dams;

[d] (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;

[e] (v) solar evaporation ponds and other facilities for the recovery of minerals in solution; and

[f] (vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;

[7] (g) byroads leading from a highway to:

[a] (i) a residence; or

[4] (ii) a farm;

[8] (h) telecommunications, electric light and electric power lines, sites for electric light and

power plants, or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;

[~~(9)~~] (i) sewage service for:

[~~(a)~~] (i) a city, a town, or any settlement of not fewer than 10 families;

[~~(b)~~] (ii) a public building belonging to the state; or

[~~(c)~~] (iii) a college or university;

[~~(10)~~] (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;

[~~(11)~~] (k) cemeteries and public parks[~~, except for a park whose primary use is:~~]; and

[~~(a) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or~~]

[~~(b) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use;~~]

[~~(12)~~] (l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.

(3) The right of eminent domain may not be exercised on behalf of the following uses:

(a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;

(b) (i) a public park whose primary purpose is:

(A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

(B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or

(ii) a public park established on real property that is:

(A) a century farm; and

(B) located in a county of the first class.

**CHAPTER 88****H. B. 199**

Passed February 28, 2020

Approved March 24, 2020

Effective May 12, 2020

**INSURED HOMEOWNERS  
PROTECTION ACT**Chief Sponsor: Rex P. Shipp  
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill enacts the Insured Homeowners Protection Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ enacts provisions regarding a post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy;
- ▶ prohibits a residential contract from rebating or offering to rebate any portion of the insured's deductible to induce the sale of a good or service;
- ▶ requires a residential contractor to provide certain notices to an insured regarding rights and violations of law; and
- ▶ declares void an assignment of rights or benefits that violates the Insured Homeowners Protection Act.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

13-50-102, as enacted by Laws of Utah 2013, Chapter 160

**ENACTS:**

13-50-301, Utah Code Annotated 1953

13-50-302, Utah Code Annotated 1953

13-50-303, Utah Code Annotated 1953

13-50-304, Utah Code Annotated 1953

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

**Section 1. Section 13-50-102 is amended to read:****13-50-102. Definitions.**

As used in this chapter:

(1) "Rebate" means:

(a) any allowance or discount against charged fees; or

(b) payment of any form of compensation, except for an item of nominal value, to:

(i) an insured; or

(ii) a person directly or indirectly associated with a residential building.

(1) (2) "Repair work" means any work done to siding, gutters, a roof system, or a window system to repair damage caused by wind or hail.

(2) (3) "Residential building" means a single or multiple family dwelling of up to four units.

(3) (4) "Residential contractor" means a person that, for compensation, other than wages as an employee, contracts or offers to contract to:

(a) perform repair work on a residential building[-];

(b) arrange for, manage, or process repair work on a residential building; or

(c) serve as a representative, agent, or assignee of the owner or possessor of a residential building for purposes of repair work on the residential building.

(4) (5) "Roof system" includes roof coverings, roof sheathing, roof weatherproofing, roof framing, roof ventilation, and roof insulation.

**Section 2. Section 13-50-301 is enacted to read:****Part 3. Insured Homeowners Protection Act****13-50-301. Post-loss assignment of rights or benefits to a residential contractor.**

(1) A post-loss assignment of rights or benefits to a residential contractor under a property and casualty insurance policy insuring a residential building:

(a) may authorize a residential contractor to be named as a copayee for the payment of benefits under a property and casualty insurance policy covering the residential building;

(b) shall include:

(i) an itemized description of the work to be done on the insured residential building; and

(ii) the total amount the insured agreed to pay for the work described in Subsection (1)(b)(i);

(c) shall include a statement that the residential contractor has made no assurances that an insurance contract will fully cover the claimed loss;

(d) shall include a notice in substantially the following form and in capitalized 14-point type:

**"YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING.**

**THE ITEMIZED DESCRIPTION OF THE WORK TO BE DONE SHOWN IN THIS ASSIGNMENT FORM HAS NOT BEEN AGREED TO BY THE INSURER. THE INSURER HAS THE RIGHT TO PAY ONLY FOR THE COST TO REPAIR OR REPLACE DAMAGED PROPERTY CAUSED BY A COVERED PERIL."**;

(e) may not impair the interest of a mortgagee listed on the declarations page of the property and casualty insurance policy that is the subject of the assignment; and

(f) may not prevent or inhibit an insurer from communicating with a named insured listed on the

declarations page of the property and casualty insurance policy that is the subject of the assignment.

(2) A party receiving the assignment described in Subsection (1) shall:

(a) deliver the assignment to the insurer of the residential building within five business days after the earlier of the day on which:

(i) the assignment is executed; or  
(ii) repair work begins on the residential building;  
and

(b) cooperate with the insurer of the residential building in an investigation into the claimed loss by:

(i) providing each document and record the insurer requests; and

(ii) complying with each post-loss duty included in the insurance policy.

**Section 3. Section 13-50-302 is enacted to read:**

**13-50-302. Residential contractor, prohibited acts.**

A residential contractor may not rebate or offer to rebate any portion of an insurance deductible as an inducement to the sale of a good or service.

**Section 4. Section 13-50-303 is enacted to read:**

**13-50-303. Violation notice.**

(1) Any written contract, repair estimate, or work order that a residential contractor prepares to provide a good or service paid for from the proceeds of a property and casualty insurance policy shall include a notice of the prohibition described in Section 13-50-302 in substantially the following form and in capitalized 14-point type:

“IT IS A VIOLATION OF UTAH LAW FOR A RESIDENTIAL CONTRACTOR TO REBATE ANY PORTION OF AN INSURANCE DEDUCTIBLE AS AN INDUCEMENT TO THE INSURED TO ACCEPT A RESIDENTIAL CONTRACTOR’S PROPOSAL TO REPAIR DAMAGED PROPERTY. REBATE OF A DEDUCTIBLE INCLUDES GRANTING ANY ALLOWANCE OR OFFERING ANY DISCOUNT AGAINST THE FEES TO BE CHARGED FOR WORK TO BE PERFORMED OR PAYING THE INSURED POLICYHOLDER THE DEDUCTIBLE AMOUNT SET FORTH IN THE INSURANCE POLICY.

THE INSURED POLICY HOLDER IS PERSONALLY RESPONSIBLE FOR PAYMENT OF THE DEDUCTIBLE.”

(2) Under any agreement in which a residential contractor provides a good or service paid for from the proceeds of a property and casualty insurance policy, no payment may be made to the residential contractor until:

(a) the named insured signs the notice described in Subsection (1); and

(b) the residential contractor delivers the notice signed in accordance with Subsection (2)(a) to the named insured’s insurance company.

**Section 5. Section 13-50-304 is enacted to read:**

**13-50-304. Violation of part.**

A post-loss assignment of rights or benefits entered into with a residential contractor is void if the residential contractor violates a provision of this part.

**CHAPTER 89****H. B. 202**

Passed March 6, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**LOCAL GOVERNMENT  
 NUISANCE ORDINANCE REFORM**

Chief Sponsor: Jefferson Moss  
 Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill amends provisions related to municipal and county ordinances.

**Highlighted Provisions:**

This bill:

- ▶ limits the circumstances under which a municipality or county may impose a criminal penalty for a violation of an ordinance; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 10-3-703, as last amended by Laws of Utah 2018, Chapter 379  
 17-53-208, as last amended by Laws of Utah 2009, Chapter 388  
 17-53-223, as last amended by Laws of Utah 2019, Chapter 326

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

**Section 1. Section 10-3-703 is amended to read:**

**10-3-703. Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.**

(1) (a) The governing body of ~~[each]~~ a municipality may impose a criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301 ~~[or]~~, by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

(b) Notwithstanding Subsection (1)(a), a municipality may not impose a criminal penalty greater than an infraction for a violation pertaining to an individual's pet, as defined in Section 4-12-102, or an individual's use of the individual's residence unless:

(i) the violation:

(A) is a nuisance as defined in Subsection 78B-6-1101(1); and

(B) threatens the health, safety, or welfare of the individual or an identifiable third party; or

(ii) the municipality has imposed a fine on the individual for a violation that involves the same

residence or pet on three previous occasions within the past 12 months.

(c) Subsection (1)(b) does not apply to municipal enforcement of a building code or fire code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

(2) (a) Except as provided in Subsection (2)(b), the governing body may prescribe a civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301.

(b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

(3) (a) Except as provided in Subsection (3)(b) or Section 77-7-18, a municipal officer or official who is not a law enforcement officer described in Section 53-13-103 or a special function officer described in Section 53-13-105 may not issue a criminal citation for a violation that is punished as a misdemeanor.

(b) Notwithstanding Subsection (1) or (3)(a), the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:

(i) a fire officer described in Section 53-7-102; or

(ii) an animal control officer described in Section 11-46-102.

(4) A municipality may not issue more than one infraction within a 14-day time period for a violation described in Subsection (1)(b) that is ongoing.

**Section 2. Section 17-53-208 is amended to read:**

**17-53-208. Ordinances -- Effective dates -- Publication -- Adoption of ordinances printed in book form -- Review of nuisance ordinances.**

(1) The enacting clause of ~~[all ordinances of]~~ an ordinance adopted by the county legislative body shall be as follows: "The County Legislative Body of \_\_\_\_\_ County ordains as follows:"

~~[(2) Every ordinance shall be signed by the chair of the county legislative body and attested by the clerk. On the passage of all ordinances the votes of the several members of the county legislative body shall be entered on the minutes, and all ordinances shall be entered at length in the ordinance book.]~~

(2) (a) The chair of the county legislative body shall sign, and the county clerk shall attest to, each ordinance.

(b) If the county legislative body votes to adopt an ordinance, county staff shall:

(i) record the vote of each county legislative body member in attendance and enter each vote in the minutes of the meeting; and

(ii) enter the full text of the adopted ordinance in the county ordinance book.

(3) (a) No ordinance passed by the county legislative body may take effect within less than 15 days after its passage.

(b) The county legislative body ~~[of each county adopting an ordinance]~~ shall, before the ordinance may take effect:

(i) deposit a copy of the ordinance in the office of the county clerk; and

(ii) (A) publish a short summary of the ordinance, together with a statement that a complete copy of the ordinance is available at the county clerk's office and with the name of the members voting for and against the ordinance:

(I) for at least one publication in:

(Aa) a newspaper published in and having general circulation in the county, if there is one; or

(Bb) if there is none published in the county, in a newspaper of general circulation within the county; and

(II) as required in Section 45-1-101; or

(B) post a complete copy of the ordinance in nine public places within the county.

(4) Any ordinance printed by authority of the county legislative body in book form or electronic media, or any general revision of county ordinances printed in book form or electronic media, may be adopted by an ordinance making reference to the printed ordinance or revision if a copy of the ordinance or revision is filed in the office of the county clerk at the time of adoption for use and examination by the public.

(5) ~~[Ordinances establishing]~~ If the county legislative body adopts an ordinance establishing rules and regulations, printed as a code in book form or electronic media, for the construction of buildings, the installation of plumbing, the installation of electric wiring, or other related or similar work ~~[may be adopted]~~, the county legislative body may adopt the ordinance by reference to the code book if a copy of the code book is filed in the office of the county clerk at the time of the adoption of the ordinance for use and examination by the public.

(6) ~~[Ordinances that]~~ If, in the opinion of the county legislative body ~~[are]~~, an ordinance is necessary for the immediate preservation of the peace, health, or safety of the county and the county's inhabitants, the ordinance may, if ~~[so provided]~~ clearly stated in the ordinance, take effect immediately upon publication in one issue of a newspaper published in and having general circulation in the county, if there is one, and if there is none published in the county, then immediately after posting at the courthouse door.

(7) An ordinance may take effect at a later date than provided in this section, if the ordinance ~~[so provides]~~ clearly states the later effective date.

(8) An order entered in the minutes of the county legislative body that an ordinance has been duly published or posted shall be prima facie proof of the publication or posting.

**Section 3. Section 17-53-223 is amended to read:**

**17-53-223. Ordinances -- Power to enact -- Penalty for violation.**

(1) A county legislative body may:

(a) pass all ordinances and rules and make all regulations, not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by this title, and as are necessary and proper to provide for the safety, and preserve the health, promote the prosperity, improve the morals, peace, and good order, comfort, and convenience of the county and its inhabitants, and for the protection of property in the county;

(b) enforce obedience to ordinances with fines or penalties as the county legislative body considers proper; and

(c) pass ordinances to control air pollution.

(2) (a) Punishment imposed under Subsection (1)(b) shall be by fine, not to exceed the maximum fine for a class B misdemeanor under Section 76-3-301, imprisonment, or both fine and imprisonment.

(b) Notwithstanding Subsection (2)(a), a county may not impose a criminal penalty greater than an infraction for a violation pertaining to an individual's pet, as defined in Section 4-12-102, or an individual's use of the individual's residence unless:

(i) the violation:

(A) is a nuisance as defined in Subsection 78B-6-1101(1); and

(B) threatens the health, safety, or welfare of the individual or an identifiable third party; or

(ii) the county has imposed a fine on the individual for a violation that involves the same residence or pet on three previous occasions within the past 12 months.

(c) Subsection (2)(b) does not apply to county enforcement of a building code or fire code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

~~[(b)]~~ (d) When a penalty for a violation of an ordinance includes any possibility of imprisonment, the county legislative body shall include in the ordinance a statement that the county is required, under Section 78B-22-301, to provide for indigent defense services, as that term is defined in Section 78B-22-102.

(e) Notwithstanding any other provision of law, the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:

(i) a fire officer described in Section 53-7-102;

(ii) a law enforcement officer described in Section 53-13-103; or

(iii) an animal control officer described in Section 11-46-102.

(3) (a) Except as specifically authorized by statute, the county legislative body may not impose a civil penalty for the violation of a county traffic ordinance.

(b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles on a highway.

(4) A county may not issue more than one infraction within a 14-day period for a violation described in Subsection (2)(b) that is ongoing.

**CHAPTER 90****H. B. 209**

Passed March 9, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**HEALTH DATA  
 AUTHORITY AMENDMENTS**

Chief Sponsor: Raymond P. Ward  
 Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill amends provisions relating to the disclosure of identifiable health data collected by the Department of Health.

**Highlighted Provisions:**

This bill:

- ▶ allows the Health Data Committee to disclose identifiable health data to the Department of Health or a public health authority under certain circumstances; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-33a-109, as last amended by Laws of Utah 2016, Chapter 74

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

**Section 1. Section 26-33a-109 is amended to read:**

**26-33a-109. Exceptions to prohibition on disclosure of identifiable health data.**

(1) The committee may not disclose any identifiable health data unless:

(a) the individual has authorized the disclosure; ~~or~~

(b) the disclosure is to the department or a public health authority in accordance with Subsection (2); or

~~(b)~~ (c) the disclosure complies with the provisions of:

(i) ~~this section~~ Subsection (3);

(ii) insurance enrollment and coordination of benefits under Subsection 26-33a-106.1(1)(d); or

(iii) risk adjusting under Subsection 26-33a-106.1(1)(b).

(2) The committee may disclose identifiable health data to the department or a public health authority under Subsection (1)(b) if:

(a) the department or the public health authority has clear statutory authority to possess the identifiable health data; and

(b) the disclosure is solely for use in:

(i) the Utah Statewide Immunization Information System operated by the department; or

(ii) the Utah Cancer Registry operated by the University of Utah, in collaboration with the department.

~~(2)~~ (3) The committee shall consider the following when responding to a request for disclosure of information that may include identifiable health data:

(a) whether the request comes from a person after that person has received approval to do the specific research ~~and~~ or statistical work from an institutional review board; and

(b) whether the requesting entity complies with the provisions of Subsection ~~(3)~~ (4).

~~(3)~~ (4) A request for disclosure of information that may include identifiable health data shall:

(a) be for a specified period; or

(b) be solely for bona fide research ~~and~~ or statistical purposes as determined in accordance with administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall require:

(i) the requesting entity to demonstrate to the department that the data is required for the research ~~and~~ or statistical purposes proposed by the requesting entity; and

(ii) the requesting entity to enter into a written agreement satisfactory to the department to protect the data in accordance with this chapter or other applicable law.

~~(4)~~ (5) A person accessing identifiable health data pursuant to Subsection ~~(3)~~ (4) may not further disclose the identifiable health data:

(a) without prior approval of the department; and

(b) unless the identifiable health data is disclosed or identified by control number only.

(6) Identifiable health data that has been designated by a data supplier as being subject to regulation under 42 C.F.R. Part 2, Confidentiality of Substance Use Disorder Patient Records, may only be used or disclosed in accordance with applicable federal regulations.



**CHAPTER 91****H. B. 212**

Passed March 5, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**VEHICLE SALES TAX  
 EXEMPTION MODIFICATIONS**

Chief Sponsor: Bradley G. Last  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends provisions of a sales tax exemption related to vehicles to include only those vehicles not required to be registered in this state because the vehicle is used outside of the state for at least an aggregate of six months of a calendar year.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions of a sales tax exemption related to vehicles to include only those vehicles not required to be registered in this state because the vehicle is used outside of the state for at least an aggregate of six months of a calendar year.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486

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

**Section 1. Section 59-12-104 is amended to read:**

**59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by

employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any

aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

- (B) brought into this state:
- (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- (II) by a nonresident person who is not living or working in this state at the time of the purchase;
- (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- (D) not used in conducting business in this state; and
- (ii) for:
- (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
- (B) a boat, the boat is registered outside of this state; or
- (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (24)(a) does not apply to:
- (i) a lease or rental of a product; or
- (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:
- (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or
- (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- (28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
- (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:
- (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
- (I) 30 days in any calendar year; or
- (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
- (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;
- (31) sales of aircraft manufactured in Utah;
- (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
- (33) sales, leases, or uses of the following:
- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
- (i) sold or leased to or used by an authorized carrier; and
- (ii) before the vehicle is placed in service for the first time;
- (34) (a) 45% of the sales price of any new manufactured home; and
- (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
- (a) a person presents a prescription for the durable medical equipment; and
- (b) the durable medical equipment is used for home use only;
- (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”;

(D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

- (A) is a waste energy production facility;
- (B) is located in the state; and
- (C) (I) becomes operational on or after July 1, 2004; or
- (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
- (ii) has an economic life of five or more years; and
- (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
- (A) generating equipment;
- (B) a control and monitoring system;
- (C) a power line;
- (D) substation equipment;
- (E) lighting;
- (F) fencing;
- (G) pipes; or
- (H) other equipment used for locating a power line or pole; and
- (b) this Subsection (56) does not apply to:
- (i) tangible personal property used in construction of:
- (A) a new waste energy facility; or
- (B) the increase in the capacity of a waste energy facility;
- (ii) contracted services required for construction and routine maintenance activities; and
- (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- (A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or
- (B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);
- (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
- (i) is leased or purchased for or by a facility that:
- (A) is located in the state;
- (B) produces fuel from alternative energy, including:
- (I) methanol; or
- (II) ethanol; and
- (C) (I) becomes operational on or after July 1, 2004; or
- (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;
- (ii) has an economic life of five or more years; and
- (iii) is installed on the facility described in Subsection (57)(a)(i);
- (b) this Subsection (57) does not apply to:
- (i) tangible personal property used in construction of:
- (A) a new facility described in Subsection (57)(a)(i); or
- (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- (ii) contracted services required for construction and routine maintenance activities; and
- (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- (A) the facility described in Subsection (57)(a)(i) is operational; or
- (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;
- (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:
- (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;
- (iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;
- (iv) for sales and use taxes paid under this chapter on the sale;
- (v) in accordance with Section 59-1-1410; and



(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed

wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2);

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

**CHAPTER 92****H. B. 213**

Passed March 6, 2020

Approved March 24, 2020

Effective May 12, 2020

**CONSENT LANGUAGE AMENDMENTS**

Chief Sponsor: Angela Romero  
Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill clarifies when consent may be given or withdrawn for sexual activity.

**Highlighted Provisions:**

This bill:

- ▶ makes clarifying changes regarding consent to sexual activity.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-5-406, as last amended by Laws of Utah 2019, Chapters 146, 189, and 349

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

**Section 1. Section 76-5-406 is amended to read:****76-5-406. Sexual offenses against the victim without consent of victim -- Circumstances.**

(1) As used in this section:

(a) "Health professional" means an individual who is licensed or who holds the individual out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling, including an athletic trainer, physician, osteopathic physician, physician assistant, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor.

(b) "Religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

(c) "To retaliate" includes threats of physical force, kidnapping, or extortion.

(2) An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child,

aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

(a) the victim expresses lack of consent through words or conduct;

(b) the actor overcomes the victim through the actual application of physical force or violence;

(c) the actor is able to overcome the victim through concealment or by the element of surprise;

(d) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(e) the actor knows the victim is unconscious, unaware that the act is occurring, or is physically unable to resist;

(f) the actor knows or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to:

(i) appraise the nature of the act;

(ii) resist the act;

(iii) understand the possible consequences to the victim's health or safety; or

(iv) appraise the nature of the relationship between the actor and the victim;

(g) the actor knows that the victim [~~submits or~~] participates because the victim erroneously believes that the actor is [~~the victim's spouse~~] someone else;

(h) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;

(i) the victim is younger than 14 years of age;

(j) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;

(k) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2)(b) or (d); or

(l) the actor is a health professional or religious counselor, the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically

or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested.

(3) Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent may be initially given but may be withdrawn through words or conduct at any time prior to or during sexual activity.

**CHAPTER 93****H. B. 216**

Passed February 27, 2020

Approved March 24, 2020

Effective May 12, 2020

**ORGAN DONATION PREFERENCE**

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: Ralph Okerlund

**LONG TITLE****General Description:**

This bill modifies provisions of the Division of Occupational and Professional Licensing (DOPL) Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ requires DOPL to inform new licensees and licensees who are renewing licenses about the option of registering as organ donors.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

58-1-312, Utah Code Annotated 1953

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

**Section 1. Section 58-1-312 is enacted to read:****58-1-312. Organ donation notification.**

(1) As used in this section:

(a) "Donor" means the same as that term is defined in Section 26-28-102.

(b) "Donor registry" means the same as that term is defined in Section 26-28-102.

(2) At the same time the division issues a new license to a licensee in accordance with Subsection 58-1-301(4), and at the same time the division notifies a licensee that the licensee's license is due for renewal in accordance with Subsection 58-1-308(3)(a), the division shall distribute to the licensee, by email using the most recent email address furnished to the division by the licensee, a message notifying the licensee of the option to register as a donor and providing the licensee an Internet link to a website for a donor registry established under Section 26-28-120.

**CHAPTER 94****H. B. 218**

Passed February 24, 2020

Approved March 24, 2020

Effective May 12, 2020

**STATE GOVERNMENT CLOUD  
COMPUTING AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill modifies provisions relating to Department of Technology Services' responsibilities.

**Highlighted Provisions:**

This bill:

- ▶ modifies the Department of Technology Services' responsibility to consider cloud computing options when making a purchase for an information system.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63F-1-104, as last amended by Laws of Utah 2019, Chapters 61, 143, and 144

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

**Section 1. Section 63F-1-104 is amended to read:****63F-1-104. Duties of Department of Technology Services.**

The department shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:

(a) accessibility for individuals with disabilities in accordance with:

(i) the standards of 29 U.S.C. Sec. 794d; and

(ii) Section 63F-1-210;

(b) consistency with standardized government security standards;

(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

(e) full functionality and usability on common mobile devices;

(12) consider, when making a purchase for an information system, cloud computing [service] options, including any security benefits, privacy, data retention risks, and cost savings associated



with ~~[purchasing a]~~ cloud computing ~~[service option] options;~~

(13) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee in accordance with 63F-1-201 on a semiannual basis regarding the status of information technology projects;

(14) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies; and

(15) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

**CHAPTER 95****H. B. 221**

Passed March 6, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**MUNICIPAL OFFICE  
AND LOCAL ELECTIONS**

Chief Sponsor: Jon Hawkins  
Senate Sponsor: Luz Escamilla

**LONG TITLE****General Description:**

This bill amends provisions relating to municipal office and elections administered by an election officer other than a county clerk.

**Highlighted Provisions:**

This bill:

- ▶ subject to the same exceptions to requirements to reside in a municipality, requires that an elected officer of a municipality reside in the district that the elected officer represents;
- ▶ provides that a municipal elected officer who fails to comply with district residency requirements described in this bill has vacated the elected office;
- ▶ requires that an individual who fills a vacancy must comply with the district residency requirements described in this bill; and
- ▶ provides that early voting registration or same day voting registration is not permitted for an election administered by an election officer other than a county clerk if there is not a polling location for early voting or voting on election day.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

- 10-3-301, as last amended by Laws of Utah 2019, Chapters 258 and 305  
20A-2-201, as last amended by Laws of Utah 2018, Chapters 206 and 281  
20A-2-204, as last amended by Laws of Utah 2019, Chapters 136 and 255  
20A-2-206, as last amended by Laws of Utah 2018, Chapter 206  
20A-2-207, as enacted by Laws of Utah 2018, Chapter 206  
20A-3-601, as last amended by Laws of Utah 2018, Chapters 195, 206, and 281

**Utah Code Sections Affected by Coordination Clause:**

- 20A-2-201, as last amended by Laws of Utah 2018, Chapters 206 and 281  
20A-2-204, as last amended by Laws of Utah 2019, Chapters 136 and 255  
20A-2-205, as last amended by Laws of Utah 2019, Chapter 255  
20A-2-206, as last amended by Laws of Utah 2018, Chapter 206

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

**Section 1. Section 10-3-301 is amended to read:**

**10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.**

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a):

(i) on the Utah Public Notice Website established by Section 63F-1-701; and

(ii) in at least one of the following ways:

(A) at the principal office of the municipality;

(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;

(C) in a newsletter produced by the municipality;

(D) on a website operated by the municipality; or

(E) with a utility enterprise fund customer's bill.

(3) (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the

main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection ~~(2)~~(3)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality, and within the district that the elected officer represents, during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the [municipality] district that the elected officer represents;

(ii) resides at a secondary residence outside the [municipality] district that the elected officer represents for a continuous period of more than 60 days while still maintaining a principal place of residence within the [municipality] district;

(iii) is absent from the [municipality] district that the elected officer represents for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the [municipality] district that the elected officer represents while still maintaining a principal place of residence within the [municipality] district for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the [municipality] district that the elected officer represents for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

(c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

**Section 2. Section 20A-2-201 is amended to read:**

**20A-2-201. Registering to vote at office of county clerk.**

(1) Except as provided in Subsection (3), the county clerk shall register to vote each individual who registers in person at the county clerk's office during designated office hours if the individual will, on the date of the election, be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

(2) If an individual who is registering to vote submits a registration form in person at the office of the county clerk during designated office hours, during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of the election, the county clerk shall:

(a) accept the form if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform the individual that the individual will be registered to vote in the pending election.

(3) If an individual who is registering to vote and who will be legally qualified and entitled to vote in a voting precinct in the county on the date of an election appears in person, during designated office hours, and submits a registration form on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) accept the registration form; and

(b) except as provided in Subsection 20A-2-207(6):

(i) if the individual submits the registration form seven or more calendar days before the date of an election, inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601, because the individual registered late; or

(ii) if the individual submits the registration form on the date of an election or during the six calendar days before an election, inform the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (3)(b)(ii)(A), the individual will be registered to vote but may not vote in the pending election because the individual registered late.

**Section 3. Section 20A-2-204 is amended to read:**

**20A-2-204. Registering to vote when applying for or renewing a driver license.**

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) A citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated; and

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(c).

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record,

classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date after the voter registration deadline and ending at 5 p.m. on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that the individual is registered to vote in the pending election.

(c) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date that is 14 calendar days before the election and ending at 5 p.m. on the date that is seven calendar days before the election, the county clerk shall:

(i) accept the voter registration form; and

(ii) except as provided in Subsection 20A-2-207(6), and unless the individual is preregistering to vote, inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.

(d) If the county clerk receives a correctly completed voter registration form under this section during the six calendar days before an election, the county clerk shall:

(i) accept the application for registration of the individual; and

(ii) unless the individual is preregistering to vote, inform the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (6)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

**Section 4. Section 20A-2-206 is amended to read:**

**20A-2-206. Electronic registration -- Requests for absentee ballot application.**

(1) The lieutenant governor may create and maintain an electronic system that is publicly available on the Internet for an individual to apply for voter registration or preregistration and for an individual to request an absentee ballot.

(2) An electronic system for voter registration or preregistration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the applicant's current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (4);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's:

(i) driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes; or

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration or preregistration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall:

(a) obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division; or

(b) ensure that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(6) The lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304 after:

(a) receiving all information from an applicant; and

(b) (i) receiving all information from the Driver License Division; or

(ii) ensuring that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) If an individual applies to register under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall, unless the individual is preregistering to vote:

(a) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(b) inform the individual that the individual is registered to vote in the pending election.

(9) If an individual applies to register under this section during the period beginning on the date that is 14 calendar days before the election and ending on the date that is seven calendar days before the election, the county clerk shall, unless the individual is preregistering to vote:

(a) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(b) except as provided in Subsection 20A-2-207(6), inform the individual that:

(i) the individual is registered to vote in the pending election; and

(ii) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.

(10) If an individual applies to register under this section during the six calendar days before an election, the county clerk shall:

(a) if the individual is preregistering to vote, comply with Section 20A-2-101.1; or

(b) (i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) unless the individual timely registers to vote in the current election in a manner that permits registration after the voter registration deadline, inform the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (10)(b)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.

(11) (A) A registered voter may file an application for an absentee ballot in accordance with Section 20A-3-304 on the electronic system for voter registration established under this section.

(b) The lieutenant governor shall provide a means by which a registered voter shall sign the application form as provided in Section 20A-3-304.

**Section 5. Section 20A-2-207 is amended to read:**

**20A-2-207. Registration by provisional ballot.**

(1) [An] Except as provided in Subsection (6), an individual who is not registered to vote may register to vote, and vote, on election day or during the early voting period described in Section 20A-3-601, by voting a provisional ballot, if:

(a) the individual is otherwise legally entitled to vote the ballot;

(b) the ballot is identical to the ballot for the precinct in which the individual resides;

(c) the information on the provisional ballot form is complete; and

(d) the individual provides valid voter identification and proof of residence to the poll worker.

(2) If a provisional ballot and the individual who voted the ballot comply with the requirements described in Subsection (1), the election officer shall:

(a) consider the provisional ballot a voter registration form;

(b) place the ballot with the absentee ballots, to be counted with those ballots at the canvass; and

(c) as soon as reasonably possible, register the individual to vote.

(3) Except as provided in Subsection (4), the election officer shall retain a provisional ballot form, uncounted, for the period specified in Section 20A-4-202, if the election officer determines that the individual who voted the ballot:

(a) is not registered to vote and is not eligible for registration under this section; or

(b) is not legally entitled to vote the ballot that the individual voted.

(4) Subsection (3) does not apply if a court orders the election officer to produce or count the provisional ballot.

(5) The lieutenant governor shall report to the Government Operations Interim Committee on or before October 31, 2018, and on or before October 31, 2020, regarding:

(a) implementation of registration by provisional ballot, as described in this section, on a statewide basis;

(b) any difficulties resulting from the implementation described in Subsection (5)(a);

(c) the effect of registration by provisional ballot on voter participation in Utah;

(d) the number of ballots cast by voters who registered by provisional ballot:

(i) during the early voting period described in Section 20A-3-601; and

(ii) on election day; and

(e) suggested changes in the law relating to registration by provisional ballot.

(6) For an election administered by an election officer other than a county clerk:

(a) if the election officer does not operate a polling location to allow early voting, the individual may not register to vote, under this section, during an early voting period; and

(b) if the election officer does not operate a polling location on election day, the individual may not register to vote, under this section, on election day.

**Section 6. Section 20A-3-601 is amended to read:**

**20A-3-601. Early voting.**

(1) (a) An individual who is registered to vote may vote before the election date in accordance with this section.

(b) [An] Except as provided in Subsection 20A-2-207(6), an individual who is not registered to vote may register to vote and vote before the election date in accordance with this section if the individual:

(i) is otherwise legally entitled to vote the ballot; and

(ii) casts a provisional ballot in accordance with Section 20A-2-207.

(2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period shall:

(a) begin on the date that is 14 days before the date of the election; and

(b) continue through the Friday before the election if the election date is a Tuesday.

(3) (a) An election officer may extend the end of the early voting period to the day before the election date if the election officer provides notice of the extension in accordance with Section 20A-3-604.

(b) For a municipal election, the municipal clerk may reduce the early voting period described in this section if:

(i) the municipal clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the municipal clerk provides notice of the reduced early voting period in accordance with Section 20A-3-604.

(c) For a county election that is conducted entirely by mail, the county clerk may reduce the early voting period described in this section if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3-604.

(4) Except as provided in Section 20A-1-308, during the early voting period, the election officer:

(a) for a local special election, a municipal primary election, and a municipal general election:

(i) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(ii) shall conduct early voting on the last day of the early voting period; and

(b) for all other elections:

(i) shall conduct early voting on each weekday; and

(ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

(5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early voting

shall be administered according to the requirements of this title.

**Section 7. Coordinating H.B. 221 with H.B. 36 -- Substantive and technical changes.**

If this H.B. 221 and H.B. 36, Election Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) by not making the changes to Section 20A-2-201 in this H.B. 221;

(2) amend Subsection 20A-2-201(3) in H.B. 36 by inserting “, except as provided in Subsection 20A-2-207(6),” before the word “inform”;

(3) by not making the changes to Section 20A-2-204 in this H.B. 221;

(4) amend Subsection 20A-2-204(6)(c)(iii) in H.B. 36 by inserting “and except as provided in Subsection 20A-2-207(6),” before the word “inform”;

(5) amend Subsection 20A-2-205(7)(b) in H.B. 36 by inserting “except as provided in Subsection 20A-2-207(6),” before the words “if possible”;

(6) by not making the changes to Section 20A-2-206 in this H.B. 221; and

(7) amend Subsection 20A-2-206(9)(b) in H.B. 36 by inserting “except as provided in Subsection 20A-2-207(6),” before the words “if possible”.

**CHAPTER 96****H. B. 222**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**START SMART UTAH  
 BREAKFAST PROGRAM**

Chief Sponsor: Dan N. Johnson  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill creates the Start Smart Utah Program to expand access to school breakfast in public schools.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Start Smart Utah Program that:
  - requires a public school that participates in the National School Lunch Program to participate in the School Breakfast Program; and
  - requires a public school to use an alternative breakfast service model if a certain percentage of students qualify for free or reduced lunch;
- ▶ permits a public school to apply to the State Board of Education for a waiver of the requirements of the Start Smart Utah Program; and
- ▶ requires the State Board of Education to make rules for a waiver application, submission, review, and approval process.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

53G-9-205.1, Utah Code Annotated 1953

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

**Section 1. Section 53G-9-205.1 is enacted to read:****53G-9-205.1. Start Smart Utah Program.**

(1) As used in this section:

(a) “Alternative breakfast service model” means a method of serving breakfast to a student after the instructional day begins.

(b) “National School Lunch Program” means the same as that term is defined in 7 C.F.R. Sec. 210.2.

(c) “Public school” means:

(i) a school under the control of a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(d) “School Breakfast Program” means the same as that term is defined in 7 C.F.R. Sec. 220.2.

(e) “Start Smart Utah Program” or “program” means the Start Smart Utah Program created in Subsection (2).

(f) “Traditional breakfast service model” means a method of serving breakfast to a student before the instructional day begins.

(2) (a) There is created the Start Smart Utah Program.

(b) Except as provided in Subsection (3), a public school that participates in the National School Lunch Program shall participate in the School Breakfast Program.

(c) (i) Beginning with the 2020-21 school year, a public school in which 70% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.

(ii) Beginning with the 2021-22 school year, a public school in which 50% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.

(iii) Beginning with the 2022-23 school year, a public school in which 30% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.

(d) Notwithstanding Subsection (2)(c):

(i) a public school that is subject to the requirements described in Subsection (2)(c) may use a traditional breakfast service model in addition to an alternative breakfast service model; and

(ii) a public school in which 70% or more of the students who qualify for free or reduced lunch participate in the School Breakfast Program is exempt from the requirements described in Subsection (2)(c).

(3) (a) A public school may apply to the state board for a waiver of the requirements described in Subsection (2), if the requirements cause undue hardship.

(b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to create a waiver application, submission, review, and approval process.

(4) The state board shall:

(a) administer the program in accordance with this section and in conjunction with the state board’s duties as the administering agency of federal child nutrition programs;

(b) track implementation of alternative breakfast service models in public schools; and

(c) provide guidance and technical assistance to public schools related to implementing the Start Smart Utah Program in accordance with the requirements of this section, including assistance with soliciting parent feedback on the program.

(5) The requirements of this section shall be nullified by the termination of the entitlement status of the School Breakfast Program by the federal government.



**CHAPTER 97****H. B. 223**

Passed February 27, 2020

Approved March 24, 2020

Effective May 12, 2020

**STATUTES OF REPOSE  
AND LIMITATIONS AMENDMENTS**

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill amends the time limitation for actions regarding improvements on real property.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of an action and a provider for actions related to improvements in real property;
- ▶ clarifies certain time limitations for actions regarding improvements on real property;
- ▶ provides a two-year statute of limitations for certain contract or warranty actions involving improvements on real property that occur beyond the six-year statute of repose for contract and warranty actions; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78B-2-225, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

**Section 1. Section 78B-2-225 is amended to read:****78B-2-225. Actions related to improvements in real property.**

(1) As used in this section:

(a) "Abandonment" means that there has been no design or construction activity on ~~the~~ an improvement for a continuous period of at least one year.

(b) "Action" means any claim for judicial, arbitral, or administrative relief for acts, errors, omissions, or breach of duty arising out of or related to the design, construction, or installation of an improvement, ~~whether~~ regardless of whether that action is based in tort, contract, warranty, strict liability, product liability, indemnity, contribution, or other source of law.

(c) "Completion ~~[of improvement]~~" means the date of substantial completion of an improvement to real property as established by the earliest of:

(i) a Certificate of Substantial Completion;

(ii) a Certificate of Occupancy issued by a governing agency; or

(iii) the date of first use or possession of the improvement.

(d) "Improvement" means any building, structure, infrastructure, road, utility, or other similar man-made change, addition, modification, or alteration to real property.

(e) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, proprietorship, or any other legal or governmental entity.

(f) "Provider" means any person:

(i) contributing to, providing, or performing:

(A) studies, plans, specifications, drawings, designs, value engineering, cost or quantity estimates, surveys, staking, construction, [and] installation, or labor to an improvement; or

(B) the review, observation, administration, management, supervision, inspections, and tests of construction for or in relation to an improvement[-]; or

(ii) providing or contributing materials, products, or equipment that is incorporated into an improvement.

(2) The Legislature finds that:

(a) exposing a provider to suits and liability for acts, errors, omissions, or breach of duty after the possibility of injury or damage has become highly remote and unexpectedly creates costs and hardships to the provider and the citizens of the state;

(b) these costs and hardships include liability insurance costs, records storage costs, undue and unlimited liability risks during the life of both a provider and an improvement, and difficulties in defending against claims many years after completion of an improvement;

(c) these costs and hardships constitute clear social and economic evils;

(d) the possibility of injury and damage becomes highly remote and unexpected seven years following completion or abandonment; and

(e) except as provided in Subsection (7), it is in the best interests of the citizens of the state to impose the periods of limitation and repose provided in this chapter upon all causes of action by or against a provider arising out of or related to the design, construction, or installation of an improvement.

~~[(3) (a) An action by or against a provider based in contract or warranty shall be commenced within six years of the date of completion of the improvement or abandonment of construction. Where an express contract or warranty establishes a different period of limitations, the action shall be initiated within that limitations period.]~~

(3) (a) Except as provided in Subsections (3)(b) and (c), an action by or against a provider based in contract or warranty shall be commenced within six

years after the date of completion or abandonment of an improvement.

(b) If a provider is required by an express term of a contract or warranty to perform an obligation later than the six-year period described in Subsection (3)(a), and the provider fails to perform the obligation as required, an action for that breach of the contract or warranty shall be commenced within two years after the day on which the breach is discovered or should have been discovered.

(c) If a contract or warranty expressly establishes a different period of limitations than this section, the action shall be commenced within that limitations period.

~~[(b)]~~ (4) (a) All other actions by or against a provider shall be commenced within two years from the earlier of the date of discovery of a cause of action or the date upon which a cause of action should have been discovered through reasonable diligence.

(b) If the cause of action is discovered or discoverable before completion ~~[of the improvement]~~ or abandonment of ~~[construction]~~ an improvement, the two-year period begins to run upon completion or abandonment.

~~[(4)]~~ (c) Notwithstanding Subsection ~~[(3)(b)]~~ (4)(a), and except as provided in Subsection (4)(d), an action under this Subsection (4) may not be commenced against a provider more than nine years after completion ~~[of the improvement]~~ or abandonment of ~~[construction]~~ an improvement. ~~[In the event the cause of action]~~

(d) If an action under Subsection (4)(a) is discovered or discoverable in the eighth or ninth year of the nine-year period, ~~[the injured person]~~ a claimant shall have two ~~[additional]~~ years from ~~[that]~~ the date of discovery to commence an action.

(5) Subsection (4) does not apply to an action against a provider:

(a) who has fraudulently concealed ~~[his]~~ the provider's act, error, omission, or breach of duty, or the injury, damage, or other loss caused by ~~[his]~~ the provider's act, error, omission, or breach of duty; or

(b) for a willful or intentional act, error, omission, or breach of duty.

(6) If ~~[a person]~~ an individual otherwise entitled to bring an action did not commence the action within the periods prescribed by Subsections (3) and (4) solely because that ~~[person]~~ individual was a minor or mentally incompetent and without a legal guardian, that ~~[person]~~ individual shall have two years from the date the disability is removed to commence the action.

(7) This section shall not apply to an action for the death of or bodily injury to an individual while engaged in the design, installation, or construction of an improvement.

(8) ~~[The time limitation imposed by this]~~ This section does not apply to any action against any

person in actual possession or control of the improvement as owner, tenant, or otherwise, at the time any defective or unsafe condition of the improvement proximately causes the injury for which the action is brought.

(9) This section does not extend the period of limitation or repose otherwise prescribed by law or a valid and enforceable contract.

(10) This section does not create or modify any claim or cause of action.

(11) This section applies to all causes of action that accrue after May 3, 2003, notwithstanding that the improvement was completed or abandoned before May 3, 2004.

**CHAPTER 98****H. B. 225**

Passed March 5, 2020

Approved March 24, 2020

Effective January 1, 2021

**PHASED RETIREMENT AMENDMENTS**

Chief Sponsor: Val K. Potter  
Senate Sponsor: Don L. Ipson

**LONG TITLE****General Description:**

This bill modifies phased retirement provisions of the Utah State Retirement and Insurance Benefit Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions applicable to the phased retirement program;
- ▶ modifies phased retirement provisions applicable to public safety service employees and firefighter service employees;
- ▶ specifies provisions for a retiree employed on a three-quarter time basis who enters a phased retirement agreement;
- ▶ extends the repeal date for the phased retirement program; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

49-11-1301, as last amended by Laws of Utah 2017, Chapter 10

49-11-1303, as last amended by Laws of Utah 2017, Chapter 10

49-11-1306, as enacted by Laws of Utah 2016, Chapter 280 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 310

63I-1-249, as last amended by Laws of Utah 2018, Chapter 357

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

**Section 1. Section 49-11-1301 is amended to read:****49-11-1301. Definitions.**

As used in this part:

(1) "Amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's part-time position were considered to be an eligible, full-time position within that system.

(2) "Full-time" means a:

(a) regular full-time employee whose term of employment for a participating employer contemplates continued employment during a fiscal

or calendar year and whose employment normally requires an average of 40 hours or more per week and who receives benefits normally provided by the participating employer;

(b) teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches full time;

(c) firefighter service employee whose employment normally requires an average of 2,080 hours of regularly scheduled firefighter service per year; and

(d) public safety service employee whose employment normally requires an average of 2,080 hours of regularly scheduled public safety service per year.

(3) "Half-time" means [a]:

(a) a regular employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours per week and who receives benefits normally provided by the participating employer;

(b) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time;

(c) a firefighter service employee whose employment normally requires an average of 1,040 hours of regularly scheduled firefighter service per year; [~~and~~]

(d) a public safety service employee whose employment normally requires an average of 1,040 hours of regularly scheduled public safety service per year[-]; and

(e) for a retiree employed before retirement as a public safety service employee or a firefighter service employee in a position for which the participating employer established a regularly scheduled work period in excess of 2,080 hours per year, one-half of that regularly scheduled work period as long as the retiree has continuing employment in that same position.

(4) "Phased retirement" means continuing employment:

(a) on a half-time basis of a retiree with the same participating employer following the retiree's retirement date while the retiree receives a reduced retirement allowance[-]; or

(b) on a three-quarter time basis of a retiree with the same participating employer following the retiree's retirement date while the retiree receives a reduced retirement allowance if the retiree is employed as a public safety service employee or a firefighter service employee.

(5) "Three-quarter time" means:

(a) a firefighter service employee whose employment normally requires an average of 1,560

hours of regularly scheduled firefighter service per year;

(b) a public safety service employee whose employment normally requires an average of 1,560 hours of regularly scheduled public safety service per year; and

(c) for a retiree who was employed before retirement as a public safety service employee or a firefighter service employee in a position for which the participating employer established a regularly scheduled work period in excess of 2,080 hours per year, three quarters of that regularly scheduled work period as long as the retiree has continuing employment in that same position.

**Section 2. Section 49-11-1303 is amended to read:**

**49-11-1303. Phased retirement -- Eligibility -- Restrictions -- Amortization rate -- Public safety service or firefighter service employees.**

(1) A retiree is eligible for employment with only one position for only one participating employer under phased retirement following the retiree's retirement date if:

(a) the retiree:

(i) is eligible to retire and retires in accordance with this title;

(ii) has been employed full time, for not less than four years immediately before the retiree's retirement date;

(iii) for a retiree employed as a public safety service employee or a firefighter service employee, is at least 50 years old;

~~[(iii)]~~ (iv) completes and submits all required retirement forms to the office; and

~~[(iv)]~~ (v) prior to the retiree's retirement date, completes and submits all required phased retirement forms to the office; and

(b) the retiree and the participating employer enter into an agreement described under Section 49-11-1304.

(2) A retiree shall begin phased retirement employment after the retiree's retirement date but no later than 120 days after the retiree's retirement date.

(3) ~~[For]~~ Except as provided in Subsection (4), for the period of the phased retirement:

(a) the retiree receives 50% of the retiree's monthly allowance;

(b) the participating employer employs the retiree on a half-time basis;

(c) a participating employer that employs the retiree shall contribute the amortization rate to the office ~~[the amortization rate];~~

(d) the retiree or an alternate payee may not receive an annual cost-of-living adjustment to the retiree's or alternate payee's allowance;

(e) any death benefits payable to a surviving spouse or other beneficiary shall be paid based on 100% of the retiree's retirement allowance;

(f) the retiree may not receive any employer provided retirement benefits, service credit accruals, or any retirement related contributions from the participating employer; and

(g) except as specified under this section, a retiree working under phased retirement shall be treated in the same manner as any other part-time employee working a similar position and number of hours with the participating employer, including:

(i) any non-retirement related benefits;

(ii) leave benefits;

(iii) medical benefits; and

(iv) other benefits.

(4) (a) If a retiree is employed as a public safety service employee or a firefighter service employee, for the period of the phased retirement the requirements of Subsection (3) or (4)(b) are satisfied.

(b) For the period of the phased retirement:

(i) the retiree is employed as a public safety service employee or a firefighter service employee;

(ii) the retiree receives 25% of the retiree's monthly allowance;

(iii) the participating employer employs the retiree on a three-quarter time basis;

(iv) a participating employer that employs the retiree shall contribute to the office the certified contribution rate applicable to the system that would have covered the retiree if the retiree's part-time position were considered to be an eligible, full-time position within the system;

(v) the retiree or an alternate payee may not receive an annual cost-of-living adjustment to the retiree's or alternate payee's allowance;

(vi) any death benefits payable to a surviving spouse or other beneficiary shall be paid based on 100% of the retiree's retirement allowance;

(vii) the retiree may not receive any employer provided retirement benefits, service credit accruals, or any retirement related contributions from the participating employer; and

(viii) except as specified under this section, a retiree working under phased retirement shall be treated in the same manner as any other part-time employee working a similar position and number of hours with the participating employer, including:

(A) any non-retirement related benefits;

(B) leave benefits;

(C) medical benefits; and

(D) other benefits.

~~[(4)]~~ (5) The office shall begin paying 100% of the retiree's retirement allowance on the first day of the month following the month in which the office

receives written notification and any required supporting documentation that the retiree's phased retirement has been irrevocably terminated.

**Section 3. Section 49-11-1306 is amended to read:**

**49-11-1306. Reset of one year separation.**

If a retiree is employed under a phased retirement agreement under this [section] part, the termination date of the phased retirement employment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection 49-11-1204(2).

**Section 4. Section 63I-1-249 is amended to read:**

**63I-1-249. Repeal dates, Title 49.**

(1) Title 49, Chapter 11, Part 13, Phased Retirement, is repealed January 1, ~~2022~~ 2025.

(2) Section 49-20-418 is repealed January 1, 2022.

**Section 5. Effective date.**

This bill takes effect on January 1, 2021.

**CHAPTER 99****H. B. 226**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective July 1, 2020

**STORM WATER  
 PERMITTING AMENDMENTS**

Chief Sponsor: Casey Snider  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill addresses effects of storm water.

**Highlighted Provisions:**

This bill:

- ▶ addresses rulemaking by the board regarding storm water discharges and implementation by the director;
- ▶ enacts provisions related to storm water permits and certain appeals related to post-construction retention requirements; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

19-5-108, as last amended by Laws of Utah 2012, Chapter 360

**ENACTS:**

19-5-108.5, Utah Code Annotated 1953

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

**Section 1. Section 19-5-108 is amended to read:**

**19-5-108. Discharge permits -- Requirements and procedure for issuance.**

(1) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for and require the submission of plans, specifications, and other information to the director in connection with the issuance of discharge permits.

(2) ~~[Each]~~ A discharge permit shall have a fixed term not exceeding five years. Upon expiration of a discharge permit, a new permit may be issued by the director as authorized by the board after notice and an opportunity for public hearing and upon condition that the applicant meets or will meet all applicable requirements of this chapter, including the conditions of any permit granted by the board.

(3) The board may require notice to the director of the introduction of pollutants into publicly-owned treatment works and identification to the director of the character and volume of any pollutant of any significant source subject to pretreatment standards under Subsection 307(b) of the federal Clean Water Act. The director shall provide in the

permit for compliance with pretreatment standards.

(4) The director may impose as conditions in permits for the discharge of pollutants from publicly-owned treatment works appropriate measures to establish and insure compliance by industrial users with any system of user charges required under this chapter or the rules adopted under ~~[it]~~ this chapter.

(5) The director may apply and enforce against industrial users of publicly-owned treatment works, toxic effluent standards and pretreatment standards for the introduction into the treatment works of pollutants which interfere with, pass through, or otherwise are incompatible with the treatment works.

(6) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the permitting of storm water discharges into waters of the state.

(7) The director shall administer storm water permits to be consistent with rules established by the board.

**Section 2. Section 19-5-108.5 is enacted to read:**

**19-5-108.5. Storm water permits.**

(1) As used in this section:

(a) "Applicant" means a person who is conducting or proposing to conduct a use of land and who a permittee requires or allows to use low impact development.

(b) "Independent review" is a review conducted:

(i) in accordance with this section; and

(ii) by an engineer, or engineering firm, designated by the division as having technical expertise in the area of storm water calculations.

(c) "Low impact development" means structural or natural engineered systems located close to the source of storm water that use or mimic natural processes to encourage infiltration, evapotranspiration, or reuse of the storm water.

(d) "Permittee" means a municipality, metro township, or county with a storm water permit under the Utah Pollutant Discharge Elimination System.

(e) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

(f) "Storm water permit" means a permit issued to a permittee by the division for the permittee's municipal separate storm sewer system.

(g) "Utah Pollutant Discharge Elimination System" means the state-wide program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits under the Utah Water Quality Act.

(2) A permittee shall reduce any requirement for an applicant to manage or control storm water

runoff rates or storm water runoff volumes for flood control purposes to account for the reduction in storm water associated with approved low impact development practices.

(3) The director shall create and maintain a list of engineers, including engineering firms, capable of providing independent review of low impact development designs and storm water calculations for use by an applicant and a permittee pursuant to an appeal described in Subsection (4).

(4) (a) An applicant who appeals a permittee's determination regarding post-construction retention requirements under the permittee's storm water permit may request the permittee to refer the appeal to independent review for purposes of determining the technical aspects of the appeal, including:

(i) the required size of any low impact development system;

(ii) the calculations of reductions in storm water runoff rates or storm water runoff volumes for flood control due to the use of low impact development; and

(iii) the feasibility of constructing low impact development practices required by the permittee.

(b) If an applicant makes a request under Subsection (4)(a):

(i) the permittee shall:

(A) select an engineer or engineering firm from the list described in Subsection (3); and

(B) pay one-half of the cost of the independent review.

(ii) An engineer or engineering firm selected by the permittee under Subsection (4)(b)(i) may not be:

(A) associated with the application that is the subject of the appeal; or

(B) employed by the permittee.

(iii) The applicant shall pay:

(A) one-half of the cost of the independent review; and

(B) the municipality's published appeal fee.

**Section 3. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 100****H. B. 228**

Passed February 28, 2020

Approved March 24, 2020

Effective May 12, 2020

**LIVESTOCK PREDATORS  
REMOVAL AMENDMENTS**Chief Sponsor: Casey Snider  
Senate Sponsor: Scott D. Sandall**LONG TITLE****General Description:**

This bill addresses predators of livestock.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides when, how, and by whom predators may be taken for depredation of livestock;
- ▶ addresses who owns a predator;
- ▶ requires money derived from the sale of a predator to be deposited into the Wildlife Resources Account; and
- ▶ addresses relationship to other rules or statutes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

23-24-2, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 23-24-2 is enacted to read:****CHAPTER 24. WILDLIFE DAMAGE ACT****23-24-2. Livestock depredation.**

(1) As used in this section:

(a) "Depredation" means an act causing damage or death.

(b) "Director" means the director of the Division of Wildlife Resources.

(c) "Division" means the Division of Wildlife Resources.

(d) "Livestock" means cattle, sheep, goats, horses, or turkeys.

(e) "Predator" means a mountain lion or bear.

(f) "Wildlife Board" means the board created in Section 23-14-2.

(g) "Wildlife Services Program" means a program of the United States Department of Agriculture that helps resolve conflicts with wildlife to protect agriculture, other property, and natural resources, and to safeguard human health and safety.

(h) "Wildlife specialist" means a United States Department of Agriculture, Wildlife Services specialist.

(2) If a predator harasses, chases, disturbs, harms, attacks, or kills livestock, within 96 hours of the act:(a) in a depredation case, the livestock owner, an immediate family member, or an employee of the owner on a regular payroll and not specifically hired to take a predator, may take predators subject to the requirements of this section;(b) a landowner or livestock owner may notify the division of the depredation or human health and safety concerns, who may authorize a local hunter to take the offending predator or notify a wildlife specialist; or(c) the livestock owner may notify a wildlife specialist of the depredation who may take the depredating predator.(3) A depredating predator may be taken at any time by a wildlife specialist, supervised by the Wildlife Services Program, while acting in the performance of the wildlife specialist's assigned duties and in accordance with procedures approved by the division.(4) (a) A depredating predator may be taken by an individual authorized in Subsection (2)(a):(i) with a weapon authorized by the division, pursuant to rules made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for taking the predator; or(ii) only using snares:(A) with written authorization from the director;(B) subject to the conditions and restrictions set out in the written authorization; and(C) if the division verifies that there has been a chronic depredation situation when numerous livestock have been killed by a predator as described in rule made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.(b) An individual authorized in Subsection (2)(a) to take depredating predators may take no more than two bears per incident.(5) (a) In accordance with Subsection (5)(b), the division may issue a depredation permit to take a predator on specified private lands and public land grazing allotments with a chronic depredation situation when numerous livestock have been killed by predators.(b) The division may:(i) issue one or more depredation permits to an affected livestock owner or a designee of the affected livestock owner, provided that the livestock owner does not receive monetary consideration from the designee for the opportunity to use the depredation permit;(ii) determine the legal weapons and methods of taking allowed; and(iii) specify the area and season that the depredation permit is valid.



(6) (a) A predator taken under Subsection (2)(a) or (5) remains the property of the state and shall be delivered to a division office or employee with 96 hours of the take.

(b) The division may issue a predatory damage permit to a person who has taken a depredate predator under Subsection (2)(a) that authorizes the individual to keep the carcass.

(c) An individual who takes a predator under Subsection (2)(a) or (5) may acquire and use a limited entry permit or harvest objective permit in the same year.

(d) Notwithstanding Subsections (6)(b) and (c), a person may retain no more than one predator carcass annually.

(7) Money derived from the sale of a predator taken under this section shall be deposited into the Wildlife Resources Account created in Section 23-14-13.

(8) Nothing in this section prohibits the division from permitting the removal of a bear causing damage to cultivated crops on cleared and planted land pursuant to rule made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) Nothing in this section prohibits receiving compensation for livestock damage done by a bear, mountain lion, wolf, or eagle in accordance with Section 23-24-1.

**CHAPTER 101****H. B. 234**

Passed February 27, 2020

Approved March 24, 2020

Effective May 12, 2020

**GESTATIONAL  
AGREEMENT AMENDMENTS**

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill addresses a hearing before a tribunal to validate a gestational agreement.

**Highlighted Provisions:**

This bill:

- ▶ addresses the Utah Supreme Court's decision in *In re Gestational Agreement*, 2019 UT 40, 449 P.3d 69;
- ▶ repeals a requirement that a party demonstrate certain medical evidence in order to obtain a valid gestational agreement from a tribunal; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78B-15-803, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

**Section 1. Section 78B-15-803 is amended to read:****78B-15-803. Hearing to validate gestational agreement.**

(1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order validating the gestational agreement and declaring that the intended parents will be the parents of a child born during the term of the agreement.

(2) The tribunal may issue an order under Subsection (1) only on finding that:

(a) the residence requirements of Section 78B-15-802 have been satisfied and the parties have submitted to the jurisdiction of the tribunal under the jurisdictional standards of this part;

~~[(b) medical evidence shows that the intended mother is unable to bear a child or is unable to do so without unreasonable risk to her physical or mental health or to the unborn child;]~~

[(e)] (b) unless waived by the tribunal, a home study of the intended parents has been conducted in accordance with Sections 78B-6-128 through 78B-6-131, and the intended parents meet the standards of fitness applicable to adoptive parents;

~~[(d)]~~ (c) all parties have participated in counseling with a licensed mental health professional as evidenced by a certificate;

(i) signed by the licensed mental health professional ~~[which]~~ that affirms that all parties have discussed options and consequences of the agreement; and

(ii) presented to the tribunal;

~~[(e)]~~ (d) all parties have voluntarily entered into the agreement and understand ~~[its]~~ the agreement's terms;

~~[(f)]~~ (e) the prospective gestational mother has had at least one pregnancy and delivery and her bearing another child will not pose an unreasonable health risk to the unborn child or to the physical or mental health of the prospective gestational mother;

~~[(g)]~~ (f) adequate provision has been made for all reasonable health-care expense associated with the gestational agreement until the birth of the child, including responsibility for ~~[those expenses]~~ all reasonable health-care expense if the agreement is terminated;

~~[(h)]~~ (g) the consideration, if any, paid to the prospective gestational mother is reasonable;

~~[(i)]~~ (h) all the parties to the agreement are 21 years ~~[of age]~~ old or older;

~~[(j)]~~ (i) the gestational mother's eggs are not being used in the assisted reproduction procedure; and

~~[(k)]~~ (j) if the gestational mother is married, her husband's sperm is not being used in the assisted reproduction procedure.

(3) Whether to validate a gestational agreement is within the discretion of the tribunal, subject only to review for abuse of discretion.

**CHAPTER 102****H. B. 237**

Passed February 27, 2020

Approved March 24, 2020

Effective May 12, 2020

**CHANGE TO EFFECTIVE DATE OF  
WATER-RELATED AMENDMENTS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Ralph Okerlund

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**LONG TITLE****General Description:**

This bill modifies language relating to the effective date of legislation.

**Highlighted Provisions:**

This bill:

- ▶ modifies effective date language from H.B. 31, Water Supply and Surplus Water Amendments, passed during the 2019 General Session, to refer to a proposed constitutional amendment that replaces the one referred to in H.B. 31.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Uncodified Material Affected:**

AMENDS UNCODIFIED MATERIAL:

**Uncodified Section 5, Laws of Utah 2019,  
Chapter 99**

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

**Section 1. Uncodified Section 5, Laws of  
Utah 2019, Chapter 99, is amended to read:**

This bill takes effect on January 1, 2021, if the amendment to the Utah Constitution proposed by H.J.R. [1] 3, Proposal to Amend Utah Constitution - [Municipal] Water Resources[,—2019] of Municipalities, 2020 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

**CHAPTER 103****H. B. 258**

Passed March 12, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**INTERGENERATIONAL POVERTY  
INTERVENTIONS GRANT  
PROGRAM AMENDMENTS**

Chief Sponsor: Mike Winder  
Senate Sponsor: Daniel McCay

**LONG TITLE****General Description:**

This bill allows for the use of certain funds for administration of the Intergenerational Poverty Interventions Grant Program.

**Highlighted Provisions:**

This bill:

- ▶ allows for the use of certain funds for administration of the Intergenerational Poverty Interventions Grant Program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-5-207, as last amended by Laws of Utah 2019, Chapter 186

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

**Section 1. Section 53F-5-207 is amended to read:**

**53F-5-207. Intergenerational Poverty Interventions Grant Program -- Definitions -- Grant requirements -- Reporting requirements.**

(1) As used in this section:

(a) "Eligible student" means a student who is classified as a child affected by intergenerational poverty.

(b) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.

(c) "LEA governing board" means a local school board or a charter school governing board.

(d) "Local education agency" or "LEA" means a school district or charter school.

(e) "Program" means the Intergenerational Poverty Interventions Grant Program created in Subsection (2).

(2) The Intergenerational Poverty Interventions Grant Program is created to provide grants to eligible LEAs to fund additional educational opportunities at eligible LEAs, for eligible students, outside of the regular school day offerings.

(3) Subject to future budget constraints, the state board shall distribute to LEAs money appropriated for the program in accordance with this section.

(4) The state board shall:

(a) solicit proposals from LEA governing boards to receive money under the program; and

(b) award grants to an LEA governing board on behalf of an LEA based on criteria described in Subsection (5).

(5) In awarding a grant under Subsection (4), the state board shall consider:

(a) the percentage of an LEA's students that are classified as children affected by intergenerational poverty;

(b) the level of administrative support and leadership at an eligible LEA to effectively implement, monitor, and evaluate the program; and

(c) an LEA's commitment and ability to work with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts to provide services to the LEA's eligible students.

(6) To receive a grant under the program on behalf of an LEA, an LEA governing board shall submit a proposal to the state board detailing:

(a) the LEA's strategy to implement the program, including the LEA's strategy to improve the academic achievement of children affected by intergenerational poverty;

(b) the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;

(c) the number of students the LEA plans to serve, categorized by age and intergenerational poverty status;

(d) the number of students, eligible students, and schools the LEA plans to fund with the grant money; and

(e) the estimated cost per student.

(7) (a) The state board shall annually report to the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, by November 30 of each year, on:

(i) the progress of LEA programs using grant money;

(ii) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and

(iii) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts.

(b) The state board shall provide the report described in Subsection (7)(a) to the Education Interim Committee upon request.

(c) An LEA that receives grant money pursuant to this section shall provide to the state board information that is necessary for the state board's report described in Subsection (7)(a).

(8) The state board may use up to 8.5% of the money appropriated for the program in accordance with this section for administration and evaluation of the program.

**CHAPTER 104****H. B. 259**

Passed March 10, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**ELECTRIC VEHICLE  
CHARGING NETWORK**

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: David G. Buxton

Cosponsors: Carl R. Albrecht

Kyle R. Andersen

Patrice M. Arent

Melissa G. Ballard

Joel K. Briscoe

Jennifer Dailey-Provost

Susan Duckworth

James A. Dunnigan

Steve Eliason

Joel Ferry

Craig Hall

Stephen G. Handy

Suzanne Harrison

Sandra Hollins

Marsha Judkins

Brian S. King

Karen Kwan

Phil Lyman

Carol Spackman Moss

Stephanie Pitcher

Val K. Potter

Angela Romero

Mike Schultz

V. Lowry Snow

Andrew Stoddard

Mark A. Strong

Steve Waldrip

Raymond P. Ward

Christine F. Watkins

Elizabeth Weight

Mark A. Wheatley

Mike Winder

**LONG TITLE****General Description:**

This bill requires the Department of Transportation to lead in the creation of a statewide electric vehicle charging network plan.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Transportation, in consultation with relevant private entities, to lead in the creation of a statewide electric vehicle charging network plan to provide electric vehicle charging facilities along certain state highways;
- ▶ requires the department to coordinate with other relevant state and local entities; and
- ▶ requires the department to present the plan to the Transportation Interim Committee.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

72-1-215, Utah Code Annotated 1953

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

**Section 1. Section 72-1-215 is enacted to read:****72-1-215. Statewide electric vehicle charging network plan -- Report.**

(1) (a) The department, in consultation with relevant entities in the private sector, shall develop a statewide electric vehicle charging network plan.

(b) To develop the statewide electric vehicle charging network plan, the department shall consult with political subdivisions and other relevant state agencies, divisions, and entities, including:

(i) the Department of Environmental Quality created in Section 19-1-104;

(ii) the Division of Facilities Construction and Management created in Section 63A-5-201;

(iii) the Office of Energy Development created in Section 63M-4-401; and

(iv) the Department of Natural Resources created in Section 79-2-201.

(2) The statewide electric vehicle charging network plan shall provide implementation strategies to ensure that electric vehicle charging stations are available:

(a) at strategic locations as determined by the department by June 30, 2021;

(b) at incremental distances no greater than every 50 miles along the state's interstate highway system by December 31, 2025; and

(c) along other major highways within the state as the department finds appropriate.

(3) The department shall provide a report before November 30, 2020 to the Transportation Interim Committee to outline the statewide electric vehicle charging network plan.

**CHAPTER 105****H. B. 268**

Passed March 6, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**PROPERTY TAX NOTICE AMENDMENTS**

Chief Sponsor: Steve Eliason  
Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill modifies provisions related to certain tax notices.

**Highlighted Provisions:**

This bill:

- ▶ allows a person entitled to receive information or notice related to a property tax or privilege tax to designate an additional or alternative person to receive the information or notice;
- ▶ provides procedures to designate a person and to revoke a designation; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

59-4-101, as last amended by Laws of Utah 2016, Chapter 366

**ENACTS:**

59-2-110, Utah Code Annotated 1953

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

**Section 1. Section 59-2-110 is enacted to read:****59-2-110. Designation of person to receive notice.**

(1) (a) Except as provided in Subsection (1)(b), if a governmental entity is required under this chapter to send information or notice to a person, the governmental entity shall send the information or notice to:

(i) the person required under the applicable provision of this chapter; and

(ii) each person designated in accordance with Subsection (2) by the person described in Subsection (1)(a)(i).

(b) If a governmental entity is required under Section 59-2-919, 59-2-919.1, or 59-2-1317 to send information or notice to a person, the governmental entity shall send the information or notice to:

(i) the person required under the applicable section; or

(ii) one person designated in accordance with Subsection (2) by the person described in Subsection (1)(b)(i).

(2) (a) A person to whom a governmental entity is required under this chapter to send information or notice may designate a person to receive the information or notice in accordance with Subsection (1).

(b) To make a designation described in Subsection (2)(a), the person shall submit a written request to the governmental entity on a form prescribed by the commission.

(3) A person who makes a designation described in Subsection (2) may revoke the designation by submitting a written request to the governmental entity on a form prescribed by the commission.

**Section 2. Section 59-4-101 is amended to read:****59-4-101. Tax basis -- Exceptions -- Assessment and collection -- Designation of person to receive notice.**

(1) (a) Except as provided in Subsections (1)(b), (1)(c), and (3), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property that is exempt for any reason from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.

(2) (a) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property.

(b) The amount of any payments that are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

(3) A tax is not imposed under this chapter on the following:

(a) the use of property that is a concession in, or relative to, the use of a public airport, park, fairground, or similar property that is available as a matter of right to the use of the general public;

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates;

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

(4) For purposes of Subsection (3)(e):

(a) every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right permit, or easement, except from brines of the Great Salt Lake, is considered to be in possession of the premises, regardless of whether another party has a similar right to remove or extract another mineral from the same property; and

(b) a lessee, permittee, or holder of an easement still has exclusive possession of the premises if the owner has the right to enter the premises, approve leasehold improvements, or inspect the premises.

(5) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property that is subject to ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

(6) (a) (i) Except as provided in Subsection (6)(a)(ii), if a governmental entity is required under this chapter to send information or notice to a person, the governmental entity shall send the information or notice to:

(A) the person required under the applicable provision of this chapter; and

(B) each person designated in accordance with Subsection (6)(b) by the person described in Subsection (6)(a)(i)(A).

(ii) If a governmental entity is required under Section 59-2-919.1 or 59-2-1317 to send information or notice to a person, the governmental entity shall send the information or notice to:

(A) the person required under the applicable section; or

(B) one person designated in accordance with Subsection (6)(b) by the person described in Subsection (6)(a)(ii)(A).

(b) (i) A person to whom a governmental entity is required under this chapter to send information or

notice may designate a person to receive the information or notice in accordance with Subsection (6)(a).

(ii) To make a designation described in Subsection (6)(b)(i), the person shall submit a written request to the governmental entity on a form prescribed by the commission.

(c) A person who makes a designation described in Subsection (6)(b) may revoke the designation by submitting a written request to the governmental entity on a form prescribed by the commission.

~~[(6)]~~ (7) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax under this chapter.



**CHAPTER 106****H. B. 277**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**PERSONAL DELIVERY  
 DEVICES AMENDMENTS**

Chief Sponsor: Stewart E. Barlow  
 Senate Sponsor: Karen Mayne

**LONG TITLE****General Description:**

This bill amends provisions related to personal delivery devices.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ provides for operation parameters for a personal delivery device both in a pedestrian area and on a highway;
- ▶ allows certain local regulation of personal delivery devices; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-6a-1119, as last amended by Laws of Utah 2019, Chapter 391

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

**Section 1. Section 41-6a-1119 is amended to read:****41-6a-1119. Personal delivery device.**

(1) As used in this section:

(a) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in a business[.] that includes the operation of a personal delivery device.

(b) "Hazardous material" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.]

(b) "Main-traveled way" means the same as that term is defined in Section 72-7-502.

(c) "Pedestrian area" means a sidewalk, crosswalk, school crosswalk, school crossing zone, or safety zone.

(e) (d) (i) "Personal delivery device" means an electrically powered device to which all of the following apply:

(A) the device is [intended primarily to transport property on a sidewalk or crosswalk;]

manufactured for transporting cargo and goods; and

~~[(B) the device weighs less than 150 pounds excluding any property being carried in the device, except that a local highway authority may allow a device within the local highway authority's jurisdiction to exceed this weight limit through a local permit or local ordinance;]~~

~~[(C) the device has a maximum speed of 10 miles per hour; and]~~

~~[(D)]~~ (B) the device is equipped with automated driving technology, including hardware and software, that enables the operation of the device with or without active control or monitoring by a person.

(ii) A mobile carrier as defined in Section 41-6a-1120 is not a personal delivery device.

(iii) "Personal delivery device" does not include:

(A) a motor vehicle; or

(B) an ADS-dedicated vehicle as that term is defined in Section 41-26-102.1.

~~[(d)]~~ (e) (i) "Personal delivery device operator" means an employee or agent of an eligible entity who exercises active physical control over, or monitoring of, the navigation and operation of a personal delivery device.

(ii) "Personal delivery device operator" does not include:

(A) with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service; or

(B) a person who only arranges for and dispatches a personal delivery device for a delivery or other service.

(2) An eligible entity may operate a personal delivery device [on a sidewalk or crosswalk] so long as all of the following requirements are met:

~~[(a) the personal delivery device is operated in accordance with the local ordinances, if any, established by the local highway authority governing where the personal delivery device is operated;]~~

~~[(b) a personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device;]~~

(a) the personal delivery device is operated at a maximum speed of:

(i) 10 miles per hour when in a pedestrian area; or

(ii) 20 miles per hour on a highway in an area that is not a pedestrian area;

~~[(e)]~~ (b) the eligible entity maintains an insurance policy that includes general liability coverage of not less than \$100,000 for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity; and

~~[(d)]~~ (c) the personal delivery device is equipped with all of the following:

(i) a marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;

(ii) a braking system that enables the personal delivery device to come to a controlled stop; and

(iii) if the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible on all sides of the personal delivery device in clear weather from a distance of at least 500 feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.

(3) A personal delivery device operator may not allow a personal delivery device to do any of the following:

(a) fail to comply with traffic or pedestrian control devices and signals;

(b) unreasonably interfere with pedestrians or traffic; or

(c) transport hazardous material~~;~~ that is:

~~[(d) operate on a street or highway, except when crossing the street or highway within a crosswalk.]~~

(i) regulated under 49 U.S.C. Chapter 51, Transportation of Hazardous Material; and

(ii) required to be placarded under 49 C.F.R., Part 172, Subpart F, Placarding.

(4) (a) When operating on a highway, the personal delivery device:

(i) shall operate as close as practicable to the edge of the highway in the direction of authorized traffic movement; and

(ii) except as provided in Subsection (4)(b), may not travel in the main-traveled way.

(b) Notwithstanding Subsection (4)(a), a personal delivery device:

(i) if practical and with due regard for safety and traffic conditions may temporarily operate in the main-traveled way to avoid a parked car or other obstacle on the edge of the highway; and

(ii) shall return to the edge of the highway as described in Subsection (4)(a) as soon as conditions allow.

(c) Notwithstanding Subsections (4)(a) and (b), a personal delivery device may not operate on a:

(i) highway with a speed limit of 45 miles per hour or higher; or

(ii) limited access highway.

~~[(4)]~~ (5) A personal delivery device has the rights and obligations applicable to a pedestrian under the same circumstances, except that a personal

delivery device shall yield the right-of-way to a pedestrian ~~[on a sidewalk or crosswalk].~~

~~[(5)]~~ (6) A person may not operate a personal delivery device unless the person complies with this section.

~~[(6)]~~ (7) An eligible entity is responsible for both of the following:

(a) a violation of this section that is committed by a personal delivery device operator operated for the benefit of the eligible entity; and

(b) any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by Subsection (3).

(8) (a) Following discussions with and input from eligible entities, a local authority or political subdivision may reasonably regulate the operation of personal delivery devices on a highway or pedestrian area.

(b) This section does not affect the authority of a peace officer of a local authority or political subdivision to enforce the laws of this state relating to the operation of a personal delivery device.

~~[(7)]~~ (9) A violation of this section is an infraction.

**CHAPTER 107****H. B. 285**

Passed March 6, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**UTAH PROFESSIONALS  
 HEALTH PROGRAM**

Chief Sponsor: Brad M. Daw  
 Senate Sponsor: Keith Grover

**LONG TITLE****General Description:**

This bill enacts a health program for health care professionals to provide an alternative to public disciplinary action for licensees who have substance use disorders.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes the Utah Professionals Health Program;
- ▶ establishes advisory committees to advise the division;
- ▶ establishes requirements for a program contract;
- ▶ explains the effect that entering into a program contract has on other disciplinary proceedings;
- ▶ sets a procedure to follow if a licensee violates a program contract;
- ▶ enables the Division of Occupational and Professional Licensing to set fines and fees to run the program;
- ▶ establishes a reporting requirement; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-37f-301, as last amended by Laws of Utah 2018, Chapter 123

**ENACTS:**

58-4a-101, Utah Code Annotated 1953  
 58-4a-102, Utah Code Annotated 1953  
 58-4a-103, Utah Code Annotated 1953  
 58-4a-104, Utah Code Annotated 1953  
 58-4a-105, Utah Code Annotated 1953  
 58-4a-106, Utah Code Annotated 1953  
 58-4a-107, Utah Code Annotated 1953  
 58-4a-108, Utah Code Annotated 1953  
 58-4a-109, Utah Code Annotated 1953  
 58-4a-110, Utah Code Annotated 1953  
 58-4a-111, Utah Code Annotated 1953

**REPEALS:**

58-1-404, as last amended by Laws of Utah 2013, Chapter 262

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

**Section 1. Section 58-4a-101 is enacted to read:**

**CHAPTER 4a. UTAH PROFESSIONALS  
 HEALTH PROGRAM**

**58-4a-101. Title.**

This chapter is known as the "Utah Professionals Health Program."

**Section 2. Section 58-4a-102 is enacted to read:**

**58-4a-102. Definitions.**

As used in this chapter:

(1) "Diversion agreement" means a written agreement entered into by a licensee and the division that describes the requirements of the licensee's monitoring regimen and that was entered into before May 12, 2020.

(2) "Licensee" means an individual licensed to practice under:

(a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) Title 58, Chapter 17b, Pharmacy Practice Act;

(c) Title 58, Chapter 28, Veterinary Practice Act;

(d) Title 58, Chapter 31b, Nurse Practice Act;

(e) Title 58, Chapter 67, Utah Medical Practice Act;

(f) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(g) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; or

(h) Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) "Program" means the Utah Professionals Health Program.

(4) "Program contract" means a written agreement entered into by a licensee and the division that allows the licensee to participate in the program.

(5) "Substance use disorder" means the same as that term is defined in Section 62A-15-1202.

**Section 3. Section 58-4a-103 is enacted to read:**

**58-4a-103. Program established.**

(1) The division, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall establish the Utah Professionals Health Program to provide an alternative to public disciplinary action for licensees who have substance use disorders.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the criteria for:

(a) entry into and participation of licensees in the program;

- (b) successful completion of the program;
- (c) expulsion from the program; and
- (d) disqualifying a licensee from participation in the program.

(3) The division shall promote the program by:

(a) engaging in wellness education and outreach to licensees, students, and the community in order to make them aware of the existence and purpose of the program;

(b) partnering with health care organizations, universities, trade associations, and other stakeholder groups to promote professional awareness and wellness; and

(c) providing guidance to employers, colleagues, and family members on initiating conversations with licensees about substance use.

**Section 4. Section 58-4a-104 is enacted to read:**

**58-4a-104. Committees.**

(1) In accordance with Section 58-1-203, the division shall establish an executive advisory committee consisting of nine members as follows:

(a) the executive director of the Department of Commerce, or the designee of the executive director of the Department of Commerce, who shall serve as chair;

(b) the director of the Division of Substance Abuse and Mental Health or the director's designee; and

(c) the following members appointed by the director of the division:

- (i) one member of the public; and
- (ii) six licensees.

(2) The executive advisory committee shall:

(a) advise the division and make recommendations to the division on policy;

(b) serve without compensation, travel costs, or per diem for their services; and

(c) perform other duties as directed by the division.

(3) Members of the executive advisory committee are immune from civil liability for any actions or judgments made in the execution of duties performed in service of the executive committee.

(4) In accordance with Section 58-1-203, the director shall establish and appoint members of a clinical advisory committee consisting of community members who have expert knowledge in the diagnosis and treatment of substance use disorders.

(5) The clinical advisory committee shall:

(a) advise the division and make recommendations to the division on actions regarding specific program contracts;

(b) perform duties as assigned by the division; and

(c) serve without compensation, travel costs, or per diem for their services.

(6) The committees described in Subsections (1) and (4) and the division may seek input from other licensing boards.

**Section 5. Section 58-4a-105 is enacted to read:**

**58-4a-105. Program contract.**

(1) A licensee may enter into a program contract:

(a) any time before the conclusion of a hearing under Section 63G-4-206; and

(b) if the licensee who enters into the program contract has a substance use disorder.

(2) A licensee may enter into a program contract to replace a diversion agreement the licensee previously entered into with the department.

(3) A licensee who does not have a substance use disorder may not enter into a program contract with the division.

(4) The committees described in Section 58-4a-104 may assist the division in evaluating or verifying documentation showing completion of or compliance with a program contract.

(5) A decision by the program not to permit a licensee to participate in the program is not subject to appeal, agency review, or judicial review.

**Section 6. Section 58-4a-106 is enacted to read:**

**58-4a-106. Effect on other disciplinary proceedings.**

(1) Findings of fact stipulated to in a program contract are binding admissions on the licensee in any proceeding to terminate the program contract or any other division disciplinary administrative proceeding.

(2) If the program contract is entered into after an adjudicative proceeding has commenced, the adjudicative proceeding shall be stayed pending successful completion of the program contract.

(3) Acceptance of a licensee into the program does not preclude the division from investigating or taking disciplinary action against the licensee for other misconduct that:

(a) is not included in the program contract; or

(b) was committed at any time before or after the licensee entered into the program contract.

(4) The period described in Subsection 58-1-401(6) is tolled during any period during which a licensee applies to participate in the program or is operating under a program contract.

(5) In any proceedings to determine disciplinary sanctions under Title 58, Chapter 1, Part 4, License Denial, the division may consider:

(a) successful completion of the program;

- (b) failure to complete the program; or
- (c) the contents of the program contract.

(6) A licensee terminated from the program may have disciplinary action taken against the licensee for misconduct committed before, during, or after the licensee's participation in the program.

**Section 7. Section 58-4a-107 is enacted to read:**

**58-4a-107. Violation of a program contract -- Adjudicative proceedings -- Penalties.**

(1) The division shall serve an order to show cause on the licensee if the licensee:

(a) violates any term or condition of the program contract or diversion agreement;

(b) makes an intentional, material misrepresentation of fact in the program contract or diversion agreement; or

(c) violates any rule or law governing the licensee's profession.

(2) The order to show cause described in Subsection (1) shall:

(a) describe the alleged misconduct;

(b) set a time and place for a hearing before an administrative law judge to determine whether the licensee's program contract should be terminated; and

(c) contain all of the information required by a notice of agency action in Subsection 63G-4-201(2).

(3) Proceedings to terminate a program contract shall comply with the rules for a formal proceeding described in Title 63G, Chapter 4, Administrative Procedures Act, except the notice of agency action shall be in the form of the order to show cause in Subsection (2).

(4) In accordance with Subsection 63G-4-205(1), the division shall make rules for discovery adequate to permit all parties to obtain all relevant information necessary to support their claims or defenses.

(5) During a proceeding to terminate a program contract, the licensee, the licensee's legal representative, and the division shall have access to information contained in the division's program file as permitted by law.

(6) The director shall terminate the program contract and place the licensee on probation for a period of five years, with probationary terms matching the terms of the program contract, if, during the administrative proceedings described in Subsection (3), the administrative law judge finds that the licensee has:

(a) violated the program contract;

(b) made an intentional material misrepresentation of fact in the program contract; or

(c) violated a law or rule governing the licensee's profession.

(7) If, during the proceedings described in Subsection (3), the administrative law judge finds that the licensee has engaged in especially egregious misconduct, the director may revoke the licensee's license.

(8) A licensee who is terminated from the program may have disciplinary action taken under Title 58, Chapter 1, Part 4, License Denial, for misconduct committed before, during, or after the licensee's participation in the program.

**Section 8. Section 58-4a-108 is enacted to read:**

**58-4a-108. Emergency order.**

Nothing in this chapter precludes the division from issuing an emergency order pursuant to Section 63G-4-502 regarding a licensee's participation in the program.

**Section 9. Section 58-4a-109 is enacted to read:**

**58-4a-109. Public meetings.**

Program meetings and hearings are not subject to Title 52, Chapter 4, Open and Public Meetings Act.

**Section 10. Section 58-4a-110 is enacted to read:**

**58-4a-110. Fees -- Fines.**

(1) The division, in accordance with Section 63J-1-504, shall establish fees in an amount to pay the costs to the division of operating the program.

(2) The division may, for a licensee who has entered into a program contract, assess a fine for a violation of a program contract, in accordance with a fine schedule the division establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 11. Section 58-4a-111 is enacted to read:**

**58-4a-111. Reporting.**

(1) Program contracts shall allow the division to report regularly to the licensee's Utah professional licensing board regarding the licensee's progress in the program to the extent that reporting does not violate HIPAA.

(2) The executive advisory committee and the clinical advisory committee described in Section 58-4a-104 may assist Utah professional licensing boards and division staff in monitoring the compliance of a licensee who has entered into a program contract.

**Section 12. Section 58-37f-301 is amended to read:**

**58-37f-301. Access to database.**

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

~~[(d) a member of a diversion committee established in accordance with Subsection 58-1-404(2) if:]~~

(d) a person the division authorizes to obtain that information on behalf of the Utah Professionals Health Program established in Subsection 58-4a-103(1) if:

(i) the ~~[diversion committee member]~~ person the division authorizes is limited to obtaining information from the database regarding the person whose conduct is the subject of the ~~[committee's]~~ division's consideration; and

(ii) the conduct that is the subject of the ~~[committee's]~~ division's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

(e) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; ~~[and]~~

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification

number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

(l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(j)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(m) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(n) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

(o) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(p) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(p), from the database;

(q) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the

information is in fact the individual about whom the data entry was made;

(r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(s) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

(t) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment; and

(u) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities.

(3) (a) (i) A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

(ii) A pharmacist described in Subsection (2)(k) who is a pharmacist-in-charge may designate up to five employees to access information from the database under Subsection (2)(l).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database; ~~and~~

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency department of a hospital may exercise



access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

- (i) is employed in the emergency department;
- (ii) is treating an emergency department patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(n).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

### **Section 13. Repealer.**

This bill repeals:

### **Section 58-1-404, Diversion -- Procedure.**

**CHAPTER 108****H. B. 291**

Passed March 6, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**HUMAN TRAFFICKING AMENDMENTS**

Chief Sponsor: Angela Romero  
 Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill amends provisions related to human trafficking.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions and definitions related to human trafficking;
- ▶ makes human trafficking an offense subject to registration as a sex offender;
- ▶ provides for human trafficking training for law enforcement officers;
- ▶ amends and enacts provisions related to a safe harbor for children engaged in commercial sex or sexual solicitation;
- ▶ provides certain procedures for law enforcement when there is suspicion that a child may be involved in human trafficking;
- ▶ amends provisions related to vacatur of adjudication as related to a juvenile's court records; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-10-404, as last amended by Laws of Utah 2014, Chapter 331  
 62A-4a-105, as last amended by Laws of Utah 2018, Chapter 281  
 76-5-308, as last amended by Laws of Utah 2017, Chapter 447  
 76-5-308.5, as last amended by Laws of Utah 2016, Chapter 231  
 76-5-309, as last amended by Laws of Utah 2019, Chapter 26  
 76-5-310, as last amended by Laws of Utah 2015, Chapter 160  
 76-5-311, as enacted by Laws of Utah 2019, Chapter 26  
 76-5-401, as last amended by Laws of Utah 2019, Chapter 364  
 76-5-401.1, as last amended by Laws of Utah 2018, Chapters 192 and 394  
 76-5-608, as last amended by Laws of Utah 2018, Chapter 57  
 76-9-1003, as last amended by Laws of Utah 2013, Chapter 196  
 76-10-1302, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200  
 76-10-1313, as last amended by Laws of Utah 2019, Chapters 189 and 200

77-41-102, as last amended by Laws of Utah 2019, Chapters 136 and 364

77-41-105, as last amended by Laws of Utah 2019, Chapter 382

77-41-106, as last amended by Laws of Utah 2017, Chapter 434

78A-6-1114, as enacted by Laws of Utah 2019, Chapter 200

78B-7-502, as enacted by Laws of Utah 2019, Chapter 365

**ENACTS:**

76-10-1315, Utah Code Annotated 1953

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

**Section 1. Section 53-10-404 is amended to read:****53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**

(1) As used in this section, "person" refers to any person as described under Section 53-10-403.

(2) (a) A person under Section 53-10-403 or any person ~~added to the sex offender register as defined in Section 77-41-102~~ required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b) (i) (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of \$150 on the inmate's county trust fund account and may allow a negative balance in the account until the \$150 is paid in full.

(3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e) (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or a finding of jurisdiction by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5) (a) The Department of Corrections is the responsible agency whenever the person is

committed to the custody of or is under the supervision of the Department of Corrections.

(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 78A-6-117.

(c) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required;

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c); and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(d) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6) (a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under ~~[Subsections]~~ Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment,

if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

- (i) first, persons on probation;
- (ii) second, persons on parole; and
- (iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7) (a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the Division of Juvenile Justice Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 who are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the court's jurisdiction, prior to termination of the court's jurisdiction over these minors; and

(ii) second, to obtain specimens from minors who are found to be within the court's jurisdiction after July 1, 2002, within 120 days of the minor's being found to be within the court's jurisdiction, if possible, but not later than prior to termination of the court's jurisdiction over the minor.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, prior to termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but not later than prior to termination of the court's jurisdiction over the minor.

(8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b) (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

**Section 2. Section 62A-4a-105 is amended to read:**

**62A-4a-105. Division responsibilities.**

(1) The division shall:

(a) administer services to minors and families, including:

- (i) child welfare services;
- (ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, neglected, and delinquent children;

(ix) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as

defined in ~~[Section 76-10-1302]~~ Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;

(g) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(h) cooperate with the Workforce Development Division in the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(i) compile relevant information, statistics, and reports on child and family service matters in the state;

(j) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(k) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;

(l) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

(n) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; and

(o) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(g), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

**Section 3. Section 76-5-308 is amended to read:**

**76-5-308. Human trafficking -- Human smuggling.**

(1) An actor commits human trafficking for ~~[forced]~~ labor or ~~[forced]~~ sexual exploitation if the actor recruits, harbors, transports, obtains, patronizes, or solicits a person through the use of force, fraud, or coercion, which may include:

(a) threatening serious harm to, or physical restraint against, that person or a third person;

(b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document;

(c) abusing or threatening abuse of the law or legal process against the person or a third person;

(d) using a condition of a person being a debtor due to a pledge of the debtor's personal services or the personal services of a person under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

(e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in a condition of servitude, that person or a third person would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or

(f) creating or exploiting a relationship where the person is dependent on the actor.

(2) (a) Human trafficking for ~~[forced]~~ labor includes ~~[forced labor in industrial facilities, sweatshops, households, agricultural enterprises, and any other workplace]~~ any labor obtained through force, fraud, or coercion as described in Subsection (1).

(b) Human trafficking for ~~[forced]~~ sexual exploitation includes all forms of ~~[forced]~~ commercial sexual activity, which may include the following conduct when the person acts under force, fraud, or coercion as described in Subsection (1):

(i) sexually explicit performance;

(ii) prostitution;

(iii) participation in the production of pornography;

(iv) performance in strip clubs; and

(v) exotic dancing or display.

(3) A person commits human smuggling by transporting or procuring the transportation for one or more persons for a commercial purpose, knowing or having reason to know that the person or persons transported or to be transported are not:

(a) citizens of the United States;

(b) permanent resident aliens; or

(c) otherwise lawfully in this state or entitled to be in this state.

**Section 4. Section 76-5-308.5 is amended to read:**

**76-5-308.5. Human trafficking of a child -- Penalties.**

(1) "Commercial sexual activity with a child" means any sexual act with a child, on account of which anything of value is given to or received by any person.

(2) An actor commits human trafficking of a child if the actor recruits, harbors, transports, obtains, patronizes, or solicits a child for sexual exploitation or forced labor.

(3) (a) Human trafficking of a child for ~~[forced]~~ labor includes ~~[labor in industrial facilities, sweatshops, households, agricultural enterprises, or any other workplace]~~ any labor obtained through force, fraud, and coercion as described in Section 7-5-308.

(b) Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display.

(4) Human trafficking of a child in violation of this section is a first degree felony.

**Section 5. Section 76-5-309 is amended to read:**

**76-5-309. Human trafficking and human smuggling -- Penalties.**

(1) Human trafficking for ~~[forced]~~ labor and human trafficking for ~~[forced]~~ sexual exploitation are each a second degree felony, except under Section 76-5-310.

(2) Human smuggling under Section 76-5-308 of one or more persons is a third degree felony, except under Section 76-5-310.

(3) Human trafficking for ~~[forced]~~ labor or for ~~[forced]~~ sexual exploitation, human trafficking of a child, and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h), a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for ~~[forced]~~ labor or for ~~[forced]~~ sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony;

(b) human smuggling is guilty of a third degree felony; and

(c) human trafficking of a child is guilty of a first degree felony.

(5) A person commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each person who is smuggled or

trafficked under Section 76-5-308, 76-5-308.5, or 76-5-310.

**Section 6. Section 76-5-310 is amended to read:**

**76-5-310. Aggravated human trafficking and aggravated human smuggling -- Penalties.**

(1) An actor commits aggravated human trafficking for ~~[forced]~~ labor or ~~[forced]~~ sexual exploitation or aggravated human smuggling if, in the course of committing ~~[a human trafficking for forced labor or for forced sexual exploitation, a violation of Section 76-5-308, or human smuggling offense]~~ an offense under Section 76-5-308, the offense:

(a) results in the death of the trafficked or smuggled person;

(b) results in serious bodily injury of the trafficked or smuggled person;

(c) involves:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

(v) forcible sodomy under Section 76-5-403;

(vi) sodomy on a child under Section 76-5-403.1;

(vii) aggravated sexual abuse of a child under Section 76-5-404.1; or

(viii) aggravated sexual assault under 76-5-405;

(d) involves 10 or more victims in a single episode of human trafficking or human smuggling; or

(e) involves a victim ~~[who is held against the victim's will]~~ trafficked for longer than 30 consecutive days.

(2) An actor commits aggravated human smuggling if the actor commits human smuggling under Section 76-5-308 and any human being whom the person engages in smuggling is:

(a) a child; and

(b) not accompanied by a family member who is 18 years of age or older.

(3) (a) Aggravated human trafficking is a first degree felony.

(b) Aggravated human smuggling is a second degree felony.

(c) Aggravated human trafficking and aggravated human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

**Section 7. Section 76-5-311 is amended to read:**

**76-5-311. Human trafficking of a vulnerable adult -- Penalties.**

(1) As used in this section:

(a) "Commercial sexual activity with a vulnerable adult" means any sexual act with a vulnerable adult for which anything of value is given to or received by any individual.

(b) "Vulnerable adult" means the same as that term is defined in Subsection 76-5-111(1).

(2) An actor commits human trafficking of a vulnerable adult if the actor:

(a) recruits, harbors, transports, or obtains a vulnerable adult for sexual exploitation or forced labor; or

(b) patronizes or solicits a vulnerable adult for sexual exploitation or forced labor when the actor knew or should have known of the victim's vulnerability.

(3) (a) Human trafficking of a vulnerable adult for ~~[forced]~~ labor includes ~~[forced labor in:]~~ any labor obtained through force, fraud, or coercion as described in Section 76-5-308.

~~[(i) industrial facilities;]~~

~~[(ii) sweatshops;]~~

~~[(iii) households;]~~

~~[(iv) agricultural enterprises; or]~~

~~[(v) any other workplace.]~~

(b) Human trafficking of a vulnerable adult for sexual exploitation includes all forms of commercial sexual activity with a vulnerable adult involving:

(i) sexually explicit performances;

(ii) prostitution;

(iii) participation in the production of pornography;

(iv) performance in a strip club; or

(v) exotic dancing or display.

(4) Human trafficking of a vulnerable adult in violation of this section is a first degree felony.

**Section 8. Section 76-5-401 is amended to read:**

**76-5-401. Unlawful sexual activity with a minor -- Elements -- Penalties -- Evidence of age raised by defendant.**

(1) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person 18 years old or older commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of

Section 76-5-403, or aggravated sexual assault, in violation of Section 76-5-405, the actor:

(a) has sexual intercourse with the minor;

(b) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or

(c) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

(3) (a) Except under Subsection (3)(b) or (c), a violation of Subsection (2) is a third degree felony.

(b) If the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant is less than four years older than the minor at the time the sexual activity occurred, the offense is a class B misdemeanor. An offense under this Subsection (3)(b) is not subject to registration under Subsection [77-41-102(17)(a)(iii)] 77-41-102(17)(a)(vii).

(c) If the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor. An offense under this Subsection (3)(c) is not subject to registration under Subsection [77-41-102(17)(a)(iii)] 77-41-102(17)(a)(vii).

**Section 9. Section 76-5-401.1 is amended to read:**

**76-5-401.1. Sexual abuse of a minor.**

(1) For purposes of this section “minor” is an individual who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) An individual commits sexual abuse of a minor if the individual is four years or more older than the minor and, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, aggravated sexual assault, in violation of Section 76-5-405, unlawful sexual activity with a minor, in violation of Section 76-5-401, or an attempt to commit any of those offenses, the individual touches the anus, buttocks, pubic area, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual regardless of the sex of any participant.

(3) A violation of this section is a class A misdemeanor and is not subject to registration under Subsection [77-41-102(17)(a)(iv)] 77-41-102(17)(a)(viii) on a first offense if the

offender was younger than 21 years of age at the time of the offense.

**Section 10. Section 76-5-608 is amended to read:**

**76-5-608. Law enforcement -- Training -- Sexual assault, sexual abuse, and human trafficking.**

(1) The department and the Utah Prosecution Council shall develop training in trauma-informed responses and investigations of sexual assault and sexual abuse, which include, but are not limited to, the following:

(a) recognizing the symptoms of trauma;

(b) understanding the impact of trauma on a victim;

(c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;

(d) delivering services to victims of sexual assault or sexual abuse in a compassionate, sensitive, and nonjudgmental manner;

(e) understanding cultural perceptions and common myths of sexual assault and sexual abuse; and

(f) techniques of writing reports in accordance with Subsection (5).

(2) (a) The department and the Utah Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement officers in the state [of Utah by July 1, 2018].

(b) The training for all law enforcement officers may be offered through an online course, developed by the department and the Utah Prosecution Council.

(3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer [beginning July 1, 2018].

(4) (a) The department and the Utah Prosecution Council shall develop and offer an advanced training course [by July 1, 2018,] for officers who investigate cases of sexual assault or sexual abuse.

(b) The advanced training course shall include:

(i) all criteria listed in Subsection (1); and

(ii) interviewing techniques in accordance with the curriculum standards in Subsection (5).

(5) The department shall consult with the Utah Prosecution Council to develop the specific training requirements of this section, including curriculum standards for report writing and response to sexual assault and sexual abuse, including trauma-informed and victim-centered interview techniques, which have been demonstrated to minimize retraumatizing victims.

(6) The Office of the Attorney General shall develop and offer training for law enforcement officers in investigating human trafficking offenses.



(7) The training described in Subsection (6) shall be offered to all law enforcement officers in the state by July 1, 2020.

(8) The training described in Subsection (6) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer, in conjunction with the training described in Subsection (1), beginning July 1, 2021.

(9) The Office of the Attorney General, the department, and the Utah Prosecution Council shall consult with one another to provide the training described in Subsection (6) jointly with the training described in Subsection (1) as reasonably practicable.

**Section 11. Section 76-9-1003 is amended to read:**

**76-9-1003. Detention or arrest -- Determination of immigration status.**

(1) (a) Except as provided in Subsection (1)(b), (c), or (d), any law enforcement officer who, acting in the enforcement of any state law or local ordinance, conducts any lawful stop, detention, or arrest of a person as specified in Subsection (1)(a)(i) or (ii), and the person is unable to provide to the law enforcement officer a document listed in Subsection 76-9-1004(1) and the officer is otherwise unable to verify the identity of the person, the officer:

(i) shall request verification of the citizenship or the immigration status of the person under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b), (c), or (d), if the person is arrested for an alleged offense that is a class A misdemeanor or a felony; and

(ii) may attempt to verify the immigration status of the person, except as exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or C misdemeanor, except that if the person is arrested and booked for a class B or C misdemeanor, the arresting law enforcement officer or the law enforcement agency booking the person shall attempt to verify the immigration status of the person.

(b) In individual cases, the law enforcement officer may forego the verification of immigration status under Subsection (1)(a) if the determination could hinder or obstruct a criminal investigation.

(c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a school resource officer for any elementary or secondary school.

(d) Subsection (1)(a) does not apply to a county or municipality when it has only one law enforcement officer on duty and response support from another law enforcement agency is not available.

(2) When a law enforcement officer makes a lawful stop, detention, or arrest under Subsection (1) of the operator of a vehicle, and while investigating or processing the primary offense, the officer makes observations that give the officer reasonable suspicion that the operator or any of the passengers in the vehicle are violating Section

76-5-308, 76-5-310, or 76-10-2901, which concern smuggling, human trafficking, and transporting illegal aliens, the officer shall, to the extent possible within a reasonable period of time:

(a) detain the occupants of the vehicle to investigate the suspected violations; and

(b) inquire regarding the immigration status of the occupants of the vehicle.

(3) When a person under Subsection (1) is arrested or booked into a jail, juvenile detention facility, or correctional facility, the arresting officer or the booking officer shall ensure that a request for verification of immigration status of the arrested or booked person is submitted as promptly as is reasonably possible.

(4) The law enforcement agency that has custody of a person verified to be an illegal alien shall request that the United States Department of Homeland Security issue a detainer requesting transfer of the illegal alien into federal custody.

(5) A law enforcement officer may not consider race, color, or national origin in implementing this section, except to the extent permitted by the constitutions of the United States and this state.

**Section 12. Section 76-10-1302 is amended to read:**

**76-10-1302. Prostitution.**

(1) An individual except for a child under Section 76-10-1315 is guilty of prostitution when the individual:

(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

~~[(3) (a) As used in this Subsection (3):]~~

~~[(i) "Child" means the same as that term is defined in Section 76-10-1301.]~~

~~[(ii) "Child engaged in commercial sex" means a child who engages in conduct described in Subsection (1).]~~

~~[(iii) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in~~

~~any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (e).]~~

~~[(iv) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.]~~

~~[(v) "Receiving center" means the same as that term is defined in Section 62A-7-101.]~~

~~[(b) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:]~~

~~[(i) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308 and 76-5-308.5;]~~

~~[(ii) refer the child to the division;]~~

~~[(iii) bring the child to a receiving center, if available; and]~~

~~[(iv) contact the child's parent or guardian, if practicable.]~~

~~[(e) When law enforcement refers a child to the division under Subsection (3)(b)(ii) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.]~~

~~[(4) A child may not be subjected to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.]~~

~~[(5)] (3) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the individual reports the offense or attempt to law enforcement in good faith:~~

~~(a) assault, Section 76-5-102;~~

~~(b) aggravated assault, Section 76-5-103;~~

~~(c) mayhem, Section 76-5-105;~~

~~(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under Title 76, Chapter 5, Part 2, Criminal Homicide;~~

~~(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;~~

~~(f) rape, Section 76-5-402;~~

~~(g) rape of a child, Section 76-5-402.1;~~

~~(h) object rape, Section 76-5-402.2;~~

~~(i) object rape of a child, Section 76-5-402.3;~~

~~(j) forcible sodomy, Section 76-5-403;~~

~~(k) sodomy on a child, Section 76-5-403.1;~~

~~(l) forcible sexual abuse, Section 76-5-404;~~

(m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;

(n) aggravated sexual assault, Section 76-5-405;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(q) aggravated burglary or burglary of a dwelling under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(r) aggravated robbery or robbery under Title 76, Chapter 6, Part 3, Robbery; or

(s) theft by extortion under Subsection 76-6-406(2)(a) or (b).

**Section 13. Section 76-10-1313 is amended to read:**

**76-10-1313. Sexual solicitation -- Penalty.**

(1) An individual except for a child under Section 76-10-1315 is guilty of sexual solicitation when the individual:

(a) offers or agrees to commit any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another individual to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or the functional equivalent of a fee or to pay another individual to commit any sexual activity for a fee or the functional equivalent of a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

(3) Except as provided in Section 76-10-1309 and Subsections (4) and (5), an individual who is convicted of sexual solicitation under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a class A misdemeanor.

(4) An individual who is convicted a third time under this section or a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.

(5) If an individual commits an act of sexual solicitation and the individual solicited is a child,

the offense is a third degree felony if the solicitation does not amount to:

(a) a violation of Section 76-5-308, human trafficking or human smuggling; or

(b) a violation of Section 76-5-310, aggravated human trafficking or aggravated human smuggling.

(6) (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection ~~[76-10-1302(3)(b)]~~ 76-10-1315(2).

(b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

(7) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the offenses or an attempt to commit any of the offenses described in Subsection ~~[76-10-1302(5)]~~ 76-10-1302(3), and the individual reports the offense or attempt to law enforcement in good faith.

**Section 14. Section 76-10-1315 is enacted to read:**

**76-10-1315. Safe harbor for children as victims in commercial sex or sexual solicitation.**

(1) As used in this section:

(a) “Child engaged in commercial sex” means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(b) “Child engaged in sexual solicitation” means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(c) “Division” means the Division of Child and Family Services created in Section 62A-4a-103.

(d) “Receiving center” means the same as that term is defined in Section 62A-7-101.

(2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308 and 76-5-308.5;

(b) refer the child to the division;

(c) bring the child to a receiving center, if available; and

(d) contact the child’s parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sex solicitation under Section 76-10-1313.

**Section 15. Section 77-41-102 is amended to read:**

**77-41-102. Definitions.**

As used in this chapter:

(1) “Bureau” means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) “Business day” means a day on which state offices are open for regular business.

(3) “Certificate of eligibility” means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) “Department” means the Department of Corrections.

(5) “Division” means the Division of Juvenile Justice Services.

(6) “Employed” or “carries on a vocation” includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) “Indian Country” means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) “Jurisdiction” means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) “Kidnap offender” means any individual other than a natural parent of the victim who:

(a) has been convicted in this state of a violation of:

(i) Subsection 76-5-301(1)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor and human smuggling;

(v) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years of age;

(vi) Section 76-5-308.5, human trafficking of a child for labor;

~~[(iv)]~~ (vii) Section 76-5-310, aggravated human trafficking and aggravated human smuggling, on or after May 10, 2011; ~~[(v)]~~

(viii) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

~~[(v)]~~ (ix) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through ~~[(iv)]~~ (iii);

(b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) is required to register as a kidnap offender in any other jurisdiction of original conviction, who is required to register as a kidnap offender by any state, federal, or military court, or who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is required to register in the individual’s state of residence;

(e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or

(f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a) and who has been committed to the division for secure

confinement for that offense and remains in the division’s custody 30 days prior to the individual’s 21st birthday.

(10) “Natural parent” means a minor’s biological or adoptive parent, and includes the minor’s noncustodial parent.

(11) “Offender” means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (17).

(12) “Online identifier” or “Internet identifier”:

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(13) “Primary residence” means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) “Register” means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) “Registration website” means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(16) “Secondary residence” means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender’s primary residence.

(17) “Sex offender” means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;

(iii) Section 76-5-308, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

~~[(iii)]~~ (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

~~[(iv)]~~ (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

~~[(v)]~~ (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

~~[(vi)]~~ (x) Section 76-5-402, rape;

~~[(vii)]~~ (xi) Section 76-5-402.1, rape of a child;

~~[(viii)]~~ (xii) Section 76-5-402.2, object rape;

~~[(ix)]~~ (xiii) Section 76-5-402.3, object rape of a child;

~~[(x)]~~ (xiv) a felony violation of Section 76-5-403, forcible sodomy;

~~[(xi)]~~ (xv) Section 76-5-403.1, sodomy on a child;

~~[(xii)]~~ (xvi) Section 76-5-404, forcible sexual abuse;

~~[(xiii)]~~ (xvii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

~~[(xiv)]~~ (xviii) Section 76-5-405, aggravated sexual assault;

~~[(xv)]~~ (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011;

~~[(xvi)]~~ (xx) Section 76-5b-201, sexual exploitation of a minor;

~~[(xvii)]~~ (xxi) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

~~[(xviii)]~~ (xxii) Section 76-7-102, incest;

~~[(xix)]~~ (xxiii) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

~~[(xx)]~~ (xxiv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

~~[(xxi)]~~ (xxv) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

~~[(xxii)]~~ (xxvi) Section 76-9-702.5, lewdness involving a child;

~~[(xxiii)]~~ (xxvii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

~~[(xxiv)]~~ (xxviii) Section 76-10-1306, aggravated exploitation of prostitution; or

~~[(xxv)]~~ (xxix) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);

(b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) who is required to register as a sex offender in any other jurisdiction of original conviction, who

is required to register as a sex offender by any state, federal, or military court, or who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) who is a nonresident regularly employed or working in this state or who is a student in this state and was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (17)(a); or

(f) who is adjudicated delinquent based on one or more offenses listed in Subsection (17)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the individual's 21st birthday.

(18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

**Section 16. Section 77-41-105 is amended to read:**

**77-41-105. Registration of offenders -- Offender responsibilities.**

(1) (a) An offender who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(9) or (17).

(b) The offender shall register with the department within 10 days after the day on which the offender enters the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection 77-41-102(9) or (17) who is under supervision by the department shall register in person with Division of Adult Probation and Parole.

(b) An offender required to register under Subsection 77-41-102(9) or (17) who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (c), and (4), ~~[and Section 77-41-106,]~~ an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and within three business days after the day on which

there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), ~~[and Section 77-41-106,]~~ an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or (17)(a), a substantially similar offense, another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall:

(i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted or ordered to register if:

(A) that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the registration period required under Subsection (3)(a), or is more frequent than every six months; or

(B) that jurisdiction's court order requires registration for greater than the registration period required under Subsection (3)(a) or more frequently than every six months; or

(ii) register in accordance with the requirements of Subsection (3)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the registration period required under Subsection (3)(a), or is less frequent than every six months.

(c) (i) An offender convicted as an adult of an offense listed in Section 77-41-106 shall, for the offender's lifetime, register each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

(iii) If the sentencing court determines that the offense does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years of age. For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years of age shall register for the registration period required under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) (a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).

(b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the registration website.

(6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

(7) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of a vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online

identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and a change of enrollment or employment status of the offender at an educational institution;

(o) the name, the telephone number, and the address of a place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of a place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's social security number.

(8) (a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.

(9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

**Section 17. Section 77-41-106 is amended to read:**

**77-41-106. Registerable offenses.**

Offenses referred to in Subsection 77-41-105(3)(c)(i) are:

(1) any offense listed in Subsection 77-41-102(9) or (17) if, at the time of the conviction, the offender has previously been convicted of an offense listed in Subsection 77-41-102(9) or (17) or has previously

been required to register as a sex offender for an offense committed as a juvenile;

(2) a conviction for any of the following offenses, including attempting, soliciting, or conspiring to commit any felony of:

(a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of the victim;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403.1, sodomy on a child;

(g) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

(h) Section 76-5-405, aggravated sexual assault;

(3) Section 76-5-308, human trafficking for sexual exploitation;

(4) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(5) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(6) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

~~[(3)]~~ (7) Section 76-4-401, a felony violation of enticing a minor over the Internet;

~~[(4)]~~ (8) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;

~~[(5)]~~ (9) Section 76-5-403, forcible sodomy;

~~[(6)]~~ (10) Section 76-5-404.1, sexual abuse of a child;

~~[(7)]~~ (11) Section 76-5b-201, sexual exploitation of a minor;

~~[(8)]~~ (12) Subsection 76-5b-204(4), aggravated sexual extortion; or

~~[(9)]~~ (13) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.

**Section 18. Section 78A-6-1114 is amended to read:**

**78A-6-1114. Vacatur of adjudications.**

(1) (a) A person who has been adjudicated under this chapter may petition the court for vacatur of the person's juvenile court ~~record~~ records and any related records in the custody of ~~the~~ a state agency if the record relates to:

(i) ~~the petitioner was adjudicated~~ a delinquency adjudication under Section 76-10-1302, prostitution, Section 76-10-1304, aiding prostitution, or Section 76-10-1313, sex solicitation; or

(ii) ~~the~~ an adjudication that was based on delinquent conduct the petitioner engaged in while

subject to force, fraud, or coercion, as defined in Section 76-5-308.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any documents related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.

(e) (i) Upon the filing of a petition, the court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and

(C) notify the county attorney or district attorney and the agency with records the petitioner is asking the court to vacate of the date of the hearing.

(ii) The court shall provide a victim with the opportunity to request notice of a petition for vacatur. A victim shall receive notice of a petition for vacatur at least 30 days prior to the hearing if, prior to the entry of a vacatur order, the victim or, in the case of a child or a person who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered. The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(2) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(b) (i) In deciding whether to grant a petition for vacatur, the court shall consider whether the petitioner acted subject to force, fraud, or coercion, as defined in Section 76-5-308, at the time of the conduct giving rise to the adjudication.

(ii) If the court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion, as defined in Section 76-5-308 at the time of the conduct giving rise to the adjudication, the court shall grant vacatur. If the court does not find sufficient evidence, the court shall deny vacatur.

(iii) If the petition is for vacatur of any adjudication under Section 76-10-1302, prostitution, Section 76-10-1304, aiding prostitution, or Section 76-10-1313, sex solicitation, the court shall presumptively grant vacatur unless the petitioner acted as a purchaser of any sexual activity.

(c) If vacatur is granted, the court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official pertaining to the [petitioner's adjudicated juvenile court cases] incident identified in the petition, including relevant related records contained in the Management Information System created by Section 62A-4a-1003 and the Licensing Information System created by Section 62A-4a-1005.

(3) (a) The petitioner shall be responsible for service of the order of vacatur to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or entity receiving the vacatur order shall only vacate all references to the petitioner's name in the records pertaining to the [petitioner's] relevant adjudicated juvenile court [cases] incident.

(4) Upon the entry of the order granting vacatur, the proceedings in the [petitioner's case] incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of the records, and only to persons named in the petition.

(5) The court may not vacate a juvenile court record if the record contains an adjudication of:

(a) Section 76-5-202, aggravated murder; or

(b) Section 76-5-203, murder.

**Section 19. Section 78B-7-502 is amended to read:**

**78B-7-502. Definitions.**

As used in this part:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Dating partner" means the same as that term is defined in Section 78B-7-402.

(3) "Ex parte sexual violence protective order" means an order issued without notice to the respondent in accordance with the requirements of this part.

(4) "Protective order" means:

(a) a sexual violence protective order; or

(b) an ex parte sexual violence protective order.

(5) "Sexual violence" means the commission or the attempt to commit:

(a) any sexual offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Part 2, Sexual Exploitation;

(b) human trafficking for [forced] sexual exploitation under Section 76-5-308; or

(c) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.



(6) "Sexual violence protective order" means an order issued after notice and a hearing in accordance with the requirements of this part.

**CHAPTER 109****H. B. 293**

Passed March 11, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**LONGEVITY AMENDMENTS**

Chief Sponsor: Val L. Peterson  
Senate Sponsor: Ann Millner

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**LONG TITLE****General Description:**

This bill amends provisions related to longevity salary increases.

**Highlighted Provisions:**

This bill:

- ▶ exempts legislative employees from the longevity statute.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

67-19-15.6, as last amended by Laws of Utah 2017, Chapter 463

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

**Section 1. Section 67-19-15.6 is amended to read:****67-19-15.6. Longevity salary increases.**

(1) Except for those employees in [schedule] schedules AB and AN, as provided under Section 67-19-15, and employees described in Subsection 67-19-15(1)(q), an employee shall receive an increase in salary of 2.75% if that employee:

(a) holds a position under schedule A or B as provided under Section 67-19-15;

(b) has reached the maximum of the salary range in the position classification;

(c) has been employed with the state for eight years; and

(d) is rated eligible in job performance under guidelines established by the executive director.

(2) Any employee who meets the criteria under Subsection (1) is entitled to the same increase in salary for each additional three years of employment if the employee maintains the eligibility standards established by the department.

**CHAPTER 110****H. B. 294**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**MINING OPERATIONS AMENDMENTS**

Chief Sponsor: Walt Brooks  
 Senate Sponsor: Don L. Ipson

**LONG TITLE****General Description:**

This bill addresses mining.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions under the Utah Mined Land Reclamation Act; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

17-41-101, as last amended by Laws of Utah 2019, Chapter 227

40-8-4, as last amended by Laws of Utah 2011, Chapter 231

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

**Section 1. Section 17-41-101 is amended to read:****17-41-101. Definitions.**

As used in this chapter:

- (1) "Advisory board" means:
  - (a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201;
  - (b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201; and
  - (c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section 17-41-201.
- (2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.
  - (b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.
- (3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the land proposed to be included in the relevant protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in the relevant protection area is located; and

(b) with respect to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the relevant protection area is located, if the relevant protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the relevant protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

(7) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(8) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operation; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(9) "Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections contained in this chapter.

(10) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(11) “Division” means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(12) “Industrial protection area” means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(13) “Mine operator” means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, 2009:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(14) “Mineral deposit” ~~[has the same meaning as]~~ means the same as that term is defined in Section 40-8-4, but excludes:

(a) building stone, decorative rock, and landscaping rock; and

(b) consolidated rock that:

(i) is not associated with another deposit of minerals;

(ii) is or may be extracted from land; and

(iii) is put to uses similar to the uses of sand, gravel, and other aggregates.

(15) “Mining protection area” means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(16) “Mining use”:

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (16)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) any activity described in Subsection 40-8-4 [(44)] (16)(a).

(17) (a) “Municipal” means of or relating to a city or town.

(b) “Municipality” means a city or town.

(18) “New land” means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether that land or mineral estate is included in the mine operator’s large mine permit.

(19) “Off-site” ~~[has the same meaning as provided in]~~ means the same as that term is defined in Section 40-8-4.

(20) “On-site” ~~[has the same meaning as provided in]~~ means the same as that term is defined in Section 40-8-4.

(21) “Planning commission” means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within the unincorporated part of the county and not within a planning advisory area;

(b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area, industrial protection area, or

critical infrastructure materials protection area is within a city or town.

(22) “Political subdivision” means a county, city, town, school district, local district, or special service district.

(23) “Proposal sponsors” means the owners of land in agricultural production, industrial use, or critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(24) “State agency” means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(25) “Unincorporated” means not within a city or town.

(26) “Vested mining use” means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

**Section 2. Section 40-8-4 is amended to read:**

**40-8-4. Definitions.**

As used in this chapter:

(1) “Adjudicative proceeding” means:

(a) a division or board action or proceeding determining the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license; or

(b) judicial review of a division or board action or proceeding specified in Subsection (1)(a).

(2) “Applicant” means a person who has filed a notice of intent to commence mining operations, or who has applied to the board for a review of a notice or order.

(3) (a) “Approved notice of intention” means a formally filed notice of intention to commence mining operations, including revisions to it, which has been approved under Section 40-8-13.

(b) An approved notice of intention is not required for small mining operations.

(4) (a) “Basalt” means fine grained, dark-colored igneous rock associated with a lava flow or igneous intrusion composed primarily of plagioclase and pyroxene.

(b) Utah Geological Survey or the United States Geological Survey published maps that classify material as “basalt” is prima facie evidence that the material meets the requirements of Subsection (4)(a). An unmapped area can be classified by a

Utah Geological Survey Geologist or a licensed professional geologist in the state.

[4] (5) “Board” means the Board of Oil, Gas, and Mining.

[5] (6) “Conference” means an informal adjudicative proceeding conducted by the division or board.

[6] (7) (a) “Deposit” or “mineral deposit” means an accumulation of mineral matter in the form of consolidated rock, unconsolidated material, solutions, or occurring on the surface, beneath the surface, or in the waters of the land from which any product useful to man may be produced, extracted, or obtained or which is extracted by underground mining methods for underground storage.

(b) “Deposit” or “mineral deposit” excludes sand, gravel, rock aggregate, basalt, water, geothermal steam, and oil and gas as defined in Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining, but includes oil shale and bituminous sands extracted by mining operations.

[7] (8) “Development” means the work performed in relation to a deposit following [its] the deposit’s discovery but [prior to] before and in contemplation of production mining operations, aimed at, but not limited to, preparing the site for mining operations, defining further the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and other related activities.

[8] (9) “Division” means the Division of Oil, Gas, and Mining.

[9] (10) “Emergency order” means an order issued by the board in accordance with [the provisions of] Title 63G, Chapter 4, Administrative Procedures Act.

[10] (11) (a) “Exploration” means surface-disturbing activities conducted for the purpose of discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral deposit, and identifying regions or specific areas in which deposits or mineral deposits are most likely to exist.

(b) “Exploration” includes ~~[, but is not limited to]:~~

(i) sinking shafts;

(ii) tunneling;

(iii) drilling holes and digging pits or cuts;

(iv) building of roads, and other access ways; and

(v) constructing and operating other facilities related to [these] the activities described in this Subsection (11)(b).

(12) “Gravel” means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 4 millimeters and 75 millimeters, that has been deposited by sedimentary processes.

[11] (13) “Hearing” means a formal adjudicative proceeding conducted by the board under [its] the board’s procedural rules.

~~[(12)]~~ (14) (a) “Imminent danger to the health and safety of the public” means the existence of a condition or practice, or a violation of a permit requirement or other requirement of this chapter in a mining operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated.

(b) A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose ~~[himself or herself]~~ the rational person to the danger during the time necessary for abatement.

~~[(13)]~~ (15) (a) “Land affected” means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including~~[, but not limited to]:~~

- (i) on-site private ways, roads, and railroads;
- (ii) land excavations;
- (iii) exploration sites;
- (iv) drill sites or workings;
- (v) refuse banks or spoil piles;
- (vi) evaporation or settling ponds;
- (vii) stockpiles;
- (viii) leaching dumps;
- (ix) placer areas;
- (x) tailings ponds or dumps; and
- (xi) work, parking, storage, or waste discharge areas, structures, and facilities.

(b) ~~[All lands shall be]~~ Lands are excluded from ~~[the provisions of]~~ Subsection ~~[(13)]~~ (15)(a) that would:

- (i) be includable as land affected, but which have been reclaimed in accordance with an approved plan, as may be approved by the board; and
- (ii) include lands in which mining operations have ceased ~~[prior to]~~ before July 1, 1977.

~~[(14)]~~ (16) (a) “Mining operation” means activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including~~[, but not limited to,]~~ surface mining and the surface effects of underground and in situ mining, on-site transportation, concentrating, milling, evaporation, and other primary processing.

(b) “Mining operation” does not include:

- (i) the extraction of sand, gravel, and rock aggregate;
- (ii) the extraction of basalt for an area not to exceed 50 acres under active surface mining;

~~[(11)]~~ (iii) the extraction of oil and gas as defined in Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining;

~~[(11)]~~ (iv) the extraction of geothermal steam;

~~[(14)]~~ (v) smelting or refining operations;

~~[(15)]~~ (vi) off-site operations and transportation;

~~[(16)]~~ (vii) reconnaissance activities; or

~~[(17)]~~ (viii) activities ~~[which]~~ that will not cause significant surface resource disturbance or involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

~~[(15)]~~ (17) “Notice” means:

(a) notice of intention, as defined in this chapter; or

(b) written information given to an operator by the division describing compliance conditions at a mining operation.

~~[(16)]~~ (18) “Notice of intention” means a notice to commence mining operations, including revisions to the notice.

~~[(17)]~~ (19) “Off-site” means the land areas that are outside of or beyond the on-site land.

~~[(18)]~~ (20) (a) “On-site” means the surface lands on or under which surface or underground mining operations are conducted.

(b) A series of related properties under the control of a single operator, but separated by small parcels of land controlled by others, ~~[will be]~~ are considered to be a single site unless an exception is made by the division.

~~[(19)]~~ (21) “Operator” means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mining operation or proposed mining operation.

~~[(20)]~~ (22) “Order” means written information provided by the division or board to an operator or other parties, describing the compliance status of a permit or mining operation.

~~[(21)]~~ (23) “Owner” means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mineral deposit or the surface of lands employed in mining operations.

~~[(22)]~~ (24) “Permit area” means the area of land indicated on the approved map submitted by the operator with the application or notice to conduct mining operations.

~~[(23)]~~ (25) “Permit” means a permit or notice to conduct mining operations issued by the division.

~~[(24)]~~ (26) “Permittee” means a person holding, or who is required by Utah law to hold, a valid permit or notice to conduct mining operations.

~~[(25)]~~ (27) “Person” means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other governmental or business organization.

~~[(26)]~~ (28) “Reclamation” means actions performed during or after mining operations to shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable, ecological condition and use ~~[which will be]~~ that is consistent with local environmental conditions.

(29) (a) “Rock aggregate” means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit that were created by alluvial sedimentary processes.

(b) “Rock aggregate” excludes any solid rock in the form of bedrock, other than basalt, that is exposed at the surface of the earth or overlain by unconsolidated material.

(30) “Sand” means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between .004 millimeters to 4 millimeters, that has been deposited by sedimentary processes.

~~[(27)]~~ (31) “Small mining operations” means mining operations that disturb or will disturb 10 or less surface acres at any given time in an unincorporated area of a county or five or less surface acres at any given time in an incorporated area of a county.

~~[(28)]~~ (32) “Unwarranted failure to comply” means the failure of a permittee to prevent the occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

**CHAPTER 111****H. B. 297**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**YURT AMENDMENTS**

Chief Sponsor: Brady Brammer  
 Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill addresses the regulation of yurts.

**Highlighted Provisions:**

This bill:

- ▶ exempts remote yurts from the State Construction Code;
- ▶ exempts remote yurts from the State Fire Code with certain requirements;
- ▶ exempts remote yurts from water quality provisions with certain requirements;
- ▶ permits counties by ordinance to make remote yurts subject to certain regulations; and
- ▶ makes technical amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

15A-1-204, as last amended by Laws of Utah 2017, Chapter 18

**ENACTS:**

15A-5-104, Utah Code Annotated 1953  
 19-5-125, Utah Code Annotated 1953

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

**Section 1. Section 15A-1-204 is amended to read:****15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.**

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

- (i) new construction is involved; and
- (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code

in effect on July 1, 2010, until in accordance with this section:

- (i) a new State Construction Code is adopted; or
- (ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

- (i) to the entire state; or
- (ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

- (i) adopting a new State Construction Code in its entirety; or
- (ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

- (i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and
- (ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

- (i) states whether the commission recommends the Legislature adopt the update with any modifications; and
- (ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in



Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this

Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with

substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

(12) (a) As used in this Subsection (12):

(i) "Membrane-covered frame structure" means a nonpressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane that provides the weather barrier.

(ii) "Remote yurt" means a membrane-covered frame structure that:

(A) is no larger than 710 square feet;

(B) is not used as a permanent residence;

(C) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;

(D) does not have plumbing or electricity;

(E) is set back at least 300 feet from any river, stream, lake, or other body of water; and

(F) registers with the local health department.

(b) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.

(c) Notwithstanding Subsection (12)(b), a county may by ordinance require remote yurts to comply

with the State Construction Code, if the ordinance requires the remote yurts to comply with all of the following:

(i) the State Construction Code;

(ii) notwithstanding Section 15A-5-104, the State Fire Code; and

(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.

**Section 2. Section 15A-5-104 is enacted to read:**

**15A-5-104. Exemptions from State Fire Code.**

(1) As used in this section, "remote yurt" means the same as that term is defined in Subsection 15A-1-204(12).

(2) A remote yurt is exempt from the State Fire Code unless otherwise provided by ordinance in accordance with Subsection 15A-1-204(12)(c).

(3) An owner of a remote yurt shall ensure that a fire extinguisher is in the remote yurt.

**Section 3. Section 19-5-125 is enacted to read:**

**19-5-125. Yurt exemption.**

(1) As used in this section:

(a) "Backcountry waste containment and disposal system" means a pickle pail, rocket box, tube toilet, John-E partner, or similar container used to collect and carry out waste, including fecal matter.

(b) "Remote yurt" means the same as that term is defined in Subsection 15A-1-204(12).

(2) Unless otherwise provided by ordinance in accordance with Subsection 15A-1-204(12)(c), a remote yurt is exempt from this chapter, rules made under this chapter, and local health department's jurisdiction over onsite wastewater disposal, except that the owner of a remote yurt shall ensure that an individual using the remote yurt uses a backcountry waste containment and disposal system and the local health department may enforce the provisions of this section.

**CHAPTER 112****H. B. 298**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**VICTIM GUIDELINES FOR PROSECUTORS**

Chief Sponsor: Andrew Stoddard  
 Senate Sponsor: Todd Weiler  
 Cosponsor: Karen Kwan

**LONG TITLE****General Description:**

This bill enacts guidelines for prosecutors and other relevant entities interactions and protocols related to a victim cooperating with an investigation or prosecution.

**Highlighted Provisions:**

This bill:

- ▶ enacts the “Victims Guidelines for Prosecutors Act”;
- ▶ defines terms;
- ▶ designates a Form I-918 Supplement B pertaining to a crime victim as a protected record under the Government Records Access and Management Act;
- ▶ provides uniform guidelines for prosecutors and other entities regarding proper protocol related to immigration status forms of a crime victim when receiving the assistance of the crime victim;
- ▶ provides a timeline for completion of certain forms; and
- ▶ requires reports to the Judiciary Interim Committee.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63G-2-305, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277

**ENACTS:**

77-38-501, Utah Code Annotated 1953  
 77-38-502, Utah Code Annotated 1953  
 77-38-503, Utah Code Annotated 1953

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

**Section 1. Section 63G-2-305 is amended to read:****63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose

information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted,

may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section

53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

- (i) unpublished lecture notes;
- (ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law,

ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in

Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

- (a) depict the commission of an alleged crime;
  - (b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
  - (c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
  - (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or
  - (e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;
- (67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; ~~and~~

(68) an audio recording that is:

- (a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;
- (b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:
  - (i) is responding to an individual needing resuscitation or with a life-threatening condition; and
  - (ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201; ~~and~~

(73) a record described in Section 31A-37-503[-];

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); ~~and~~

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride[-]; and

(76) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors.

**Section 2. Section 77-38-501 is enacted to read:**

**Part 5. Victims Guidelines for Prosecutors Act**

**77-38-501. Title.**

This part is known as the "Victims Guidelines for Prosecutors Act."

**Section 3. Section 77-38-502 is enacted to read:**

**77-38-502. Definitions.**

As used in this part:

(1) "Certifying entity" means any of the following:

(a) a law enforcement agency, as defined in Section 77-7a-103;

(b) a prosecutor, as defined in Section 77-22-4.5;

(c) a court, as defined in Section 78A-1-101;

(d) any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; and

(e) an agency that has criminal detection or investigative jurisdiction in the agency's respective areas of expertise, including:

(i) the Division of Child and Family Services; and

(ii) the Labor Commission.

(2) "Certifying official" means:

(a) the head of the certifying entity;

(b) a person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency;

(c) a judge; or

(d) any other certifying official defined under 8 C.F.R. Sec. 214.14.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(4) (a) "Qualifying criminal activity" means the same as that term is defined in 8 C.F.R. Sec. 214.14.

(b) "Qualifying criminal activity" includes criminal offenses for which the nature and elements



of the offenses are substantially similar to the criminal activity described in Subsection (4)(a), and the attempt, conspiracy, or solicitation to commit any of those offenses.

**Section 4. Section 77-38-503 is enacted to read:**

**77-38-503. Guidelines for prosecutors.**

(1) Upon the request of the victim or victim's family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B certification, if the certifying entity determines the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity.

(2) A certifying entity shall determine helpfulness as described in Subsection (1) in a manner consistent with federal guidelines.

(3) A certifying entity shall process a Form I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request.

(4) A current investigation, the filing of charges, a prosecution, or a conviction are not required for the victim to request the Form I-918 Supplement B certification from a certifying official.

(5) A certifying official may withdraw a Form I-918 Supplement B certification if:

(a) the victim refuses to provide information and assistance when reasonably requested; or

(b) the certifying entity determines that the individual is not a victim of a qualifying criminal activity.

(6) A certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

(7) (a) Each certifying entity shall maintain records of the following information related to each request for a Form I-918 Supplement B certification:

(i) the number of victims that requested Form I-918 Supplement B certifications from the entity;

(ii) the number of those Form I-918 Supplement B certifications that were signed; and

(iii) the number of Form I-918 Supplement B certifications that were denied.

(b) Each certifying entity shall report the information described in Subsection (7)(a) to the commission before June 30, 2021, and each year thereafter.

(c) The commission shall report the information received pursuant to Subsection (7)(b) to the

Judiciary Interim Committee of the Legislature on or before November 30 of each year.

(8) (a) A certifying entity may not disclose personal identifying information, or information regarding the citizenship or immigration status of any victim of criminal activity or trafficking who is requesting a certification unless:

(i) required to do so by applicable state or federal law or court order; or

(ii) the certifying agency has written authorization from:

(A) the victim; or

(B) if the victim is a minor or is otherwise not legally competent, from the victim's parent or guardian.

(b) Subsection (8)(a) does not modify legal obligations of a prosecutor or law enforcement to disclose information and evidence to a defendant.

**CHAPTER 113****H. B. 305**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**URBAN DEVELOPMENT AMENDMENTS**

Chief Sponsor: Candice B. Pierucci  
 Senate Sponsor: Lincoln Fillmore  
 Cosponsors: Cheryl K. Acton  
 Steve R. Christiansen  
 Kim F. Coleman  
 Susan Pulsipher  
 Mark A. Strong

**LONG TITLE****General Description:**

This bill amends provisions related to urban development.

**Highlighted Provisions:**

This bill:

- ▶ defines expansion area urban development; and
- ▶ requires any county that proposes expansion area urban development to provide notice to a city or town.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

10-2-402, as last amended by Laws of Utah 2019, Chapter 498

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

**Section 1. Section 10-2-402 is amended to read:****10-2-402. Annexation -- Limitations.**

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) An unincorporated area may not be annexed to a municipality unless:

- (i) it is a contiguous area;
- (ii) it is contiguous to the municipality;
- (iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:
  - (A) except as provided in Subsection 10-2-418(3); or
  - (B) unless the county and municipality have otherwise agreed; and
  - (iv) for an area located in a specified county with respect to an annexation that occurs after December 31, 2002, the area is within the proposed annexing municipality's expansion area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated

area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) (a) As used in this subsection, "expansion area urban development" means:

(i) for a specified county, urban development within a city or town's expansion area; or

(ii) for a county of the first class, urban development within a city or town's expansion area that:

(A) consists of 50 or more acres;

(B) requires the county to change the zoning designation of the land on which the urban development is located; and

(C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.

~~[(5) (b) [The legislative body of a specified county] A county legislative body may not approve expansion area urban development [within a municipality's expansion area] unless:~~

~~[(a) (i) the county notifies the [municipality] city or town of the proposed development; and~~

~~[(b) (i) (ii) (A) the [municipality] city or town consents in writing to the development; or~~

~~[(ii) (A) (B) within 90 days after the county's notification of the proposed development, the [municipality] city or town submits to the county a written objection to the county's approval of the proposed development[, and (B)] and the county responds in writing to the [municipality's objections] city or town's objection[-]; or~~

~~(C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.~~

(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located

unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.

(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.

(7) (a) As used in this Subsection (7), “airport” means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

(8) (a) As used in this subsection, “project area” means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) A municipality may not annex an unincorporated area located within a project area without the authority’s approval.

(c) (i) Except as provided in Subsection (8)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if it was the sole private property owner within the area:

(A) an area within a project area;

(B) an area that is contiguous to a project area and within the boundaries of a military installation;

(C) an area owned by the Military Installation Development Authority; and

(D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.

(ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:

(A) the annexation process shall follow the requirements for a specified county; and

(B) the provisions of Subsection 10-2-402(6) do not apply.

**CHAPTER 114****H. B. 306**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**PLANNING COMMISSION AMENDMENTS**

Chief Sponsor: Steve Waldrip  
 Senate Sponsor: David G. Buxton

**LONG TITLE****General Description:**

This bill amends provisions relating to county planning commissions.

**Highlighted Provisions:**

This bill:

- ▶ allows certain counties with more than one planning advisory area each with a separate planning commission to dissolve each planning commission and establish a countywide planning commission by ordinance; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

17-27a-301, as last amended by Laws of Utah 2019, Chapter 510  
 63I-2-217, as last amended by Laws of Utah 2019, Chapters 136, 252, 327, 384, 510 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384

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

**Section 1. Section 17-27a-301 is amended to read:**

**17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Planning advisory area planning commission -- Compensation.**

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a planning advisory area.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

- (i) municipalities;
- (ii) planning advisory areas ~~[with their own planning commissions]~~ each with a separate planning commission; and
- (iii) mountainous planning districts.

(c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance, subject to Subsection

(1)(c)(ii), establishing a planning commission that has jurisdiction over the entire mountainous planning district, including areas of the mountainous planning district that are also located within a municipality or are unincorporated.

(ii) A planning commission described in Subsection (1)(c)(i):

(A) does not have jurisdiction over a municipality described in Subsection 10-9a-304(2)(b); and

(B) has jurisdiction subject to a local health department exercising its authority in accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising the municipality's authority in accordance with Section 10-8-15.

(iii) The ordinance shall require that:

(A) members of the planning commission represent areas located in the unincorporated and incorporated county;

(B) members of the planning commission be registered voters who reside either in the unincorporated or incorporated county;

(C) at least one member of the planning commission resides within the mountainous planning district and another member is a resident of a municipality located within the mountainous planning district; and

(D) the county designate up to four seats on the planning commission, and fill each vacancy in the designated seats in accordance with the procedure described in Subsection ~~[(7)]~~ (8).

(2) (a) Notwithstanding Subsection (1)(b), the county legislative body of a county of the first or second class that includes more than one planning advisory area each with a separate planning commission may enact an ordinance that:

(i) dissolves each planning commission within the county; and

(ii) establishes a countywide planning commission that has jurisdiction over:

(A) each planning advisory area within the county; and

(B) the unincorporated areas of the county not within a planning advisory area.

(b) A countywide planning commission established under Subsection (2)(a) shall assume the duties of each dissolved planning commission.

~~[(2)]~~ (3) (a) The ordinance described in Subsection (1)(a) or (c) or (2)(a) shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection ~~[(2)]~~ (3)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection [(2)] (3)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

[(3)] (4) (a) (i) If the county establishes a planning advisory area planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection [(3)] (4)(a)(ii), the rules of order and procedure for use by the planning advisory area planning commission in a public meeting; and

(D) details relating to the organization and procedures of each planning advisory area planning commission.

(ii) Subsection [(3)] (4)(a)(i)(C) does not affect the planning advisory area planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each planning advisory area shall consist of seven members who shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed and qualified.

(ii) Notwithstanding the provisions of Subsection [(3)] (4)(c)(i), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Each member of a planning advisory area planning commission shall be a registered voter residing within the planning advisory area.

(ii) Subsection [(3)] (4)(d)(i) does not apply to a member described in Subsection [(4)] (5)(a) if that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory area.

[(4)] (5) (a) A member of a planning commission who was elected to and served on a planning commission on May 12, 2015, shall serve out the term to which the member was elected.

(b) Upon the expiration of an elected term described in Subsection [(4)] (5)(a), the vacant seat shall be filled by appointment in accordance with this section.

[(5)] (6) Upon the appointment of all members of a planning advisory area planning commission, each planning advisory area planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or planning advisory area planning and zoning board.

[(6)] (7) The legislative body may authorize a member of a planning commission to receive per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.

[(7)] (8) (a) Subject to Subsection [(7)] (8)(f), a county shall fill a vacancy in a planning commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection [(7)] (8).

(b) If a county designates one or more planning commission seats under Subsection (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:

(i) (A) are adjacent to the mountainous planning district; and

(B) border the entrance to a canyon that is located within the boundaries of the mountainous planning district and accessed by a paved road maintained by the county or the state; or

(ii) exercise extraterritorial jurisdiction in accordance with Section 10-8-15.

(c) When there is a vacancy in a planning commission seat described in Subsection (1)(c)(iii)(D), the county shall send a written request to one of the cities described in Subsection [(7)] (8)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.

(d) The city shall respond to a written request described in Subsection [(7)] (8)(c) within 60 days after the day on which the city receives the written request.

(e) After the county receives the city's list of three individuals, the county shall submit one of the individuals on the list for appointment to the vacant planning commission seat in accordance with county ordinance.

(f) The county shall fill the vacancy in accordance with the county's standard procedure if the city fails to timely respond to the written request.

**Section 2. Section 63I-2-217 is amended to read:**

**63I-2-217. Repeal dates -- Title 17.**

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

(3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

(4) (a) Subsection 17-27a-103(18)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103(42), regarding a mountainous planning district, is repealed June 1, 2021.

(5) Subsection 17-27a-210(2)(a), the language that states “or the mountainous planning district area” is repealed June 1, 2021.

(6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301[(2)](3)(a), the language that states “[described in Subsection 17-27a-301(1)(a)] or (c)” is repealed June 1, 2021.

(7) Section 17-27a-302, the language that states “, or mountainous planning district” and “or the mountainous planning district,” is repealed June 1, 2021.

(8) Subsection 17-27a-305(1)(a), the language that states “a mountainous planning district or” and “, as applicable” is repealed June 1, 2021.

(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states “or the mountainous planning district” is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states “or mountainous planning district” is repealed June 1, 2021.

(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(13) Subsection 17-27a-602(1)(b), the language that states “or, in the case of a mountainous planning district, the mountainous planning district” is repealed June 1, 2021.

(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(15) Subsection 17-27a-605(1), the language that states “or mountainous planning district land” is repealed June 1, 2021.

(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s understanding of the Legislature’s intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

(19) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states “or under a provision described in Subsection 17-52a-104(2),” is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states “or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018,” is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states “or, for a county under a pending process described in Section 17-52a-104, the attorney’s report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018,” is repealed.

(20) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

**CHAPTER 115****H. B. 308**

Passed March 10, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**LIEN AMENDMENTS**

Chief Sponsor: Michael K. McKell  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends provisions related to a notice of release of lien.

**Highlighted Provisions:**

This bill:

- ▶ extends the number of days a person has to dispute the correctness of a preconstruction or construction lien.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

38-1a-804, as renumbered and amended by Laws of Utah 2012, Chapter 278

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

**Section 1. Section 38-1a-804 is amended to read:****38-1a-804. Notice of release of lien and substitution of alternate security.**

(1) The owner of any interest in a project property that is subject to a recorded preconstruction or construction lien, or any original contractor or subcontractor affected by the lien, who disputes the correctness or validity of the lien may submit for recording a notice of release of lien and substitution of alternate security:

- (a) that meets the requirements of Subsection (2);
  - (b) in the office of each applicable county recorder where the lien was recorded; and
  - (c) at any time before the date that is [90] 180 days after the first summons is served in an action to foreclose the preconstruction or construction lien for which the notice under this section is submitted for recording.
- (2) A notice of release of lien and substitution of alternate security recorded under Subsection (1) shall:
- (a) meet the requirements for the recording of documents in Title 57, Chapter 3, Recording of Documents;
  - (b) reference the preconstruction or construction lien sought to be released, including the applicable entry number, book number, and page number; and
  - (c) have as an attachment a surety bond or evidence of a cash deposit that:

(i) (A) if a surety bond, is executed by a surety company that is treasury listed, A-rated by AM Best Company, and authorized to issue surety bonds in this state; or

(B) if evidence of a cash deposit, meets the requirements established by rule by the Department of Commerce in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) is in an amount equal to:

(A) 150% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for \$25,000 or more;

(B) 175% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for at least \$15,000 but less than \$25,000; or

(C) 200% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for less than \$15,000;

(iii) is made payable to the claimant;

(iv) is conditioned for the payment of:

(A) the judgment that would have been rendered, or has been rendered against the project property in the action to enforce the lien; and

(B) any costs and attorney fees awarded by the court; and

(v) has as principal:

(A) the owner of the interest in the project property; or

(B) the original contractor or subcontractor affected by the lien.

(3) (a) Upon the recording of the notice of release of lien and substitution of alternate security under Subsection (1), the real property described in the notice shall be released from the preconstruction lien or construction lien to which the notice applies.

(b) A recorded notice of release of lien and substitution of alternate security is effective as to any amendment to the preconstruction or construction lien being released if the bond amount remains enough to satisfy the requirements of Subsection (2)(c)(ii).

(4) (a) Upon the recording of a notice of release of lien and substitution of alternate security under Subsection (1), the person recording the notice shall serve a copy of the notice, together with any attachments, within 30 days upon the claimant.

(b) If a suit is pending to foreclose the preconstruction or construction lien at the time the notice is served upon the claimant under Subsection (4)(a), the claimant shall, within 90 days after the receipt of the notice, institute proceedings to add the alternate security as a party to the lien foreclosure suit.

(5) The alternate security attached to a notice of release of lien shall be discharged and released upon:

(a) the failure of the claimant to commence a suit against the alternate security within the same time as an action to enforce the lien under Section 38-1a-701;

(b) the failure of the lien claimant to institute proceedings to add the alternate security as a party to a lien foreclosure suit within the time required by Subsection (4)(b);

(c) the dismissal with prejudice of the lien foreclosure suit or suit against the alternate security as to the claimant; or

(d) the entry of judgment against the claimant in:

(i) a lien foreclosure suit; or

(ii) suit against the alternate security.

(6) If a copy of the notice of release of lien and substitution of alternate security is not served upon the claimant as provided in Subsection (4)(a), the claimant has six months after the discovery of the notice to commence an action against the alternate security, except that no action may be commenced against the alternate security after two years from the date the notice was recorded.

(7) (a) The owner of any interest in a project property that is subject to a recorded preconstruction or construction lien, or an original contractor or subcontractor affected by the lien, who disputes the amount claimed under a preconstruction or construction lien may petition the district court in the county in which the notice of lien is recorded for a summary determination of the correct amount owing under the lien for the sole purpose of providing alternate security.

(b) A petition under this Subsection (7) shall:

(i) state with specificity the factual and legal bases for disputing the amount claimed under the preconstruction or construction lien; and

(ii) be supported by a sworn affidavit and any other evidence supporting the petition.

(c) A petitioner under Subsection (7)(a) shall, as provided in Utah Rules of Civil Procedure, Rule 4, serve on the claimant:

(i) a copy of the petition; and

(ii) a notice of hearing if a hearing is scheduled.

(d) If a court finds a petition under Subsection (7)(a) insufficient, the court may dismiss the petition without a hearing.

(e) If a court finds a petition under Subsection (7)(a) sufficient, the court shall schedule a hearing within 10 days to determine the correct amount claimed under the preconstruction or construction lien for the sole purpose of providing alternate security.

(f) A claimant may:

(i) attend a hearing held under this Subsection (7); and

(ii) contest the petition.

(g) A determination under this section is limited to a determination of the amount claimed under a preconstruction or construction lien for the sole purpose of providing alternate security and does not conclusively establish:

(i) the amount to which the claimant is entitled;

(ii) the validity of the claim; or

(iii) any person's right to any other legal remedy.

(h) If a court, in a proceeding under this Subsection (7), determines that the amount claimed under a preconstruction or construction lien is excessive, the court shall set the amount for the sole purpose of providing alternate security.

(i) In an order under Subsection (7)(h), the court shall include a legal description of the project property.

(j) A petitioner under this Subsection (7) may record a certified copy of any order issued under this Subsection (7) in the county in which the lien is recorded.

(k) A court may not award attorney fees for a proceeding under this Subsection (7), but shall consider those attorney fees in any award of attorney fees under any other provision of this chapter.



**CHAPTER 116****H. B. 309**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**WORLD WAR II MEMORIAL COMMISSION**

Chief Sponsor: Jennifer Dailey-Provost  
 Senate Sponsor: Jani Iwamoto

**LONG TITLE****General Description:**

This bill modifies provisions regarding the World War II Memorial Commission.

**Highlighted Provisions:**

This bill:

- ▶ extends the repeal date for the World War II Memorial Commission.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

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

**Section 1. Section 63I-2-263 is amended to read:****63I-2-263. Repeal dates, Title 63A to Title 63N.**

- (1) On July 1, 2020:
  - (a) Subsection 63A-1-203(5)(a)(i) is repealed; and
  - (b) in Subsection 63A-1-203(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.
- (2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.
- (3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.
- (4) The following sections regarding the World War II Memorial Commission are repealed on July 1, [2020] 2022:
  - (a) Section 63G-1-801;
  - (b) Section 63G-1-802;
  - (c) Section 63G-1-803; and
  - (d) Section 63G-1-804.
- (5) In relation to the State Fair Park Committee, on January 1, 2021:
  - (a) Section 63H-6-104.5 is repealed; and
  - (b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

- (a) Subsection 63J-1-602.1(52) is repealed;
- (b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and
- (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

**CHAPTER 117****H. B. 311**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**CONTROLLED SUBSTANCE  
 ENHANCEMENT AMENDMENTS**

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

**LONG TITLE****General Description:**

This bill increases the penalty for a person convicted of engaging in a criminal enterprise.

**Highlighted Provisions:**

This bill:

- ▶ increases the penalty for a person convicted of engaging in a criminal enterprise that uses minors in furtherance of the enterprise.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-37-8, as last amended by Laws of Utah 2019, Chapter 58

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

**Section 1. Section 58-37-8 is amended to read:**

**58-37-8. Prohibited acts -- Penalties.**

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance

Precursor Act, or 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life[-]; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years of age.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years of age.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate

term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the

equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for

bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years of age is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

**CHAPTER 118****H. B. 312**

Passed March 11, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**MAINTENANCE FUNDING  
PRACTICES ACT**

Chief Sponsor: James A. Dunnigan  
Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill regulates maintenance funding practices under the Division of Consumer Protection within the Commerce Department.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a maintenance funding provider to register with the Division of Consumer Protection;
- ▶ establishes operating requirements for a maintenance funding provider;
- ▶ establishes reporting requirements for a maintenance funding provider and the division;
- ▶ establishes requirements for maintenance funding agreements;
- ▶ requires a maintenance funding provider to make certain disclosures;
- ▶ grants rulemaking authority to the Division of Consumer Protection;
- ▶ requires the Division of Consumer Protection to administer and enforce the Maintenance Funding Practices Act; and
- ▶ addresses enforceability of a maintenance funding agreement.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

13-2-1, as last amended by Laws of Utah 2019, Chapters 115, 423 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 115

**ENACTS:**

13-57-101, Utah Code Annotated 1953  
13-57-102, Utah Code Annotated 1953  
13-57-201, Utah Code Annotated 1953  
13-57-202, Utah Code Annotated 1953  
13-57-203, Utah Code Annotated 1953  
13-57-301, Utah Code Annotated 1953  
13-57-302, Utah Code Annotated 1953  
13-57-401, Utah Code Annotated 1953  
13-57-402, Utah Code Annotated 1953  
13-57-501, Utah Code Annotated 1953  
13-57-502, Utah Code Annotated 1953  
13-57-503, Utah Code Annotated 1953

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

**Section 1. Section 13-2-1 is amended to read:**

**13-2-1. Consumer protection division established -- Functions.**

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 39, Child Protection Registry;
- (p) Chapter 41, Price Controls During Emergencies Act;
- (q) Chapter 42, Uniform Debt-Management Services Act;
- (r) Chapter 49, Immigration Consultants Registration Act;
- (s) Chapter 51, Transportation Network Company Registration Act;
- (t) Chapter 52, Residential Solar Energy Disclosure Act;
- (u) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (v) Chapter 54, Ticket Website Sales Act; ~~and~~
- (w) Chapter 56, Ticket Transferability Act~~[-]~~; and
- (x) Chapter 57, Maintenance Funding Practices Act.

**Section 2. Section 13-57-101 is enacted to read:**

**CHAPTER 57. MAINTENANCE FUNDING PRACTICES ACT**

**Part 1. General Provisions**

**13-57-101. Title.**

This chapter is known as the “Maintenance Funding Practices Act.”

**Section 3. Section 13-57-102 is enacted to read:**

**13-57-102. Definitions.**

As used in this chapter:

(1) “Business entity” means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(2) “Director” means the director of the Division of Consumer Protection.

(3) “Division” means the Division of Consumer Protection of the Department of Commerce established in Section 13-2-1.

(4) “Health care provider” means the same as that term is defined in Section 78B-3-403.

(5) “Individual” means a person who:

(a) resides in this state; and

(b) has or may have a pending legal action in this state.

(6) “Legal funding” means a payment of \$500,000 or less to an individual in exchange for the right to receive an amount out of the potential proceeds of any realized settlement, judgment, award, or verdict the individual may receive in a civil legal action.

(7) “Maintenance funding agreement” means an agreement between an individual and a maintenance funding provider under which the maintenance funding provider provides legal funding to the individual.

(8) (a) “Maintenance funding provider” means a business entity that engages in the business of legal funding.

(b) “Maintenance funding provider” does not include:

(i) an immediate family member of an individual;

(ii) an accountant providing accounting services to an individual; or

(iii) an attorney providing legal services to an individual.

**Section 4. Section 13-57-201 is enacted to read:**

**Part 2. Maintenance Funding Providers**

**13-57-201. Maintenance funding provider registration and registration renewal.**

(1) Except as provided in Subsection (4), a business entity may not act as a maintenance funding provider in this state without registering with the division.

(2) To register as a maintenance funding provider, a business entity shall submit to the division an application for registration:

(a) in the manner the division determines; and

(b) that includes:

(i) an application fee in an amount determined by the division in accordance with Sections 13-1-2 and 63J-1-504; and

(ii) anything else the division requires as established in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Each year a maintenance funding provider shall renew the maintenance funding provider’s registration by submitting to the division an application for registration renewal:

(a) in the manner the division determines; and

(b) that includes:

(i) an application fee in an amount determined by the division in accordance with Sections 13-1-2 and 63J-1-504; and

(ii) anything else the division requires as established in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A business entity who acts as a maintenance funding provider in the state between May 12, 2019, and May 12, 2020, is permitted to continue to act as a maintenance funding provider:

(a) if the person:

(i) applies for registration in accordance with this section; and

(ii) complies with the requirements of this chapter; and

(b) until the division makes a determination regarding the person’s application for registration under this section.

**Section 5. Section 13-57-202 is enacted to read:**

**13-57-202. Maintenance funding provider operations.**

(1) A maintenance funding provider may only provide legal funding to an individual if the maintenance funding provider and the individual enter into a maintenance funding agreement that meets the requirements of Section 13-57-301.

(2) Before executing a maintenance funding agreement, a maintenance funding provider shall file with the division a template of the maintenance funding agreement.

(3) A maintenance funding provider may not:



(a) pay or offer to pay a commission, referral fee, or any other form of consideration to the following for referring an individual to the maintenance funding provider:

(i) an attorney authorized to practice law;

(ii) a health care provider; or

(iii) an employee, independent contractor, or other person affiliated with a person described in Subsection (3)(a)(i) or (ii);

(b) accept a commission, referral fee, or any other form of consideration from a person described in Subsection (3)(a) for referring an individual to the person;

(c) refer an individual or potential individual to a person described in Subsection (3)(a), unless the referral is to a local or state bar association referral service;

(d) intentionally advertise materially false or misleading information about the maintenance funding provider's services;

(e) make or attempt to influence a decision relating to the conduct, settlement, or resolution of a legal action for which the maintenance funding provider provides legal funding; or

(f) knowingly pay or offer to pay court costs, filing fees, or attorney fees using legal funding.

(4) A maintenance funding provider shall provide an individual who enters a maintenance funding agreement a copy of the executed maintenance funding agreement.

**Section 6. Section 13-57-203 is enacted to read:**

**13-57-203. Annual reports.**

(1) On or before April 1 of each year, a maintenance funding provider registered in accordance with Section 13-57-201 shall file a report:

(a) under oath;

(b) with the director; and

(c) in a form the director prescribes.

(2) The report described in Subsection (1) shall include, for the preceding calendar year:

(a) the number of maintenance funding agreements entered into by the maintenance funding provider;

(b) the total dollar amount of legal funding the maintenance funding provider provided;

(c) the total dollar amount of charges under each maintenance funding agreement, itemized and including the annual rate of return;

(d) the total dollar amount and number of maintenance funding transactions in which the realized profit to the company was as contracted in the maintenance funding agreement;

(e) the total dollar amount and number of maintenance funding transactions in which the realized profit to the company was less than contracted; and

(f) any other information the director requires concerning the maintenance funding provider's business or operations in the state.

**Section 7. Section 13-57-301 is enacted to read:**

**Part 3. Maintenance Funding Agreements**

**13-57-301. Maintenance funding agreements.**

(1) A maintenance funding agreement shall:

(a) be in writing;

(b) contain a right of rescission permitting the individual to cancel the agreement without penalty or further obligation, if the individual returns to the maintenance funding provider the full amount of the disbursed funds:

(i) within five business days after the day on which the individual and maintenance funding provider enter the agreement; and

(ii) (A) in person by delivering the maintenance funding provider's uncashed check to the maintenance funding provider's office; or

(B) by insured, certified, or registered United States mail to the address specified in the maintenance funding agreement in the form of the maintenance funding provider's uncashed check or a registered or certified check or money order;

(c) contain the disclosures described in Section 13-57-302;

(d) include the amount of money the maintenance funding provider provides to the individual;

(e) include an itemization of one-time charges;

(f) include a payment schedule that:

(i) includes the funded amount and all charges; and

(ii) lists the total amount of any realized settlement, judgment, award, or verdict to be paid to the maintenance funding provider at the end of each six-month period, if the contract is satisfied during that period; and

(g) include a provision that the maintenance funding agreement includes no charge or fee other than the charges and fees disclosed in the maintenance funding agreement; and

(h) include a provision that:

(i) if there are no available proceeds from the legal action, the individual will owe the maintenance funding provider nothing; and

(ii) the maintenance funding provider's total charges will be paid only to the extent there are available proceeds from the legal action after the settlement of all liens, fees, and other costs.

(2) A maintenance funding agreement may not require an individual to make a payment to the

maintenance funding provider in an amount determined as a percentage of the recovery from the legal action.

**Section 8. Section 13-57-302 is enacted to read:**

**13-57-302. Required disclosures.**

A maintenance funding provider shall disclose in a maintenance funding agreement:

(1) that the maintenance funding provider may not participate in deciding whether, when, or the amount for which a legal action is settled;

(2) that the maintenance funding provider may not interfere with the independent professional judgment of the attorney handling the legal action or any settlement of the legal action;

(3) the following statement in substantially the following form, in all capital letters and at least a 12-point type: "THE FUNDED AMOUNT AND AGREED-TO CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE MAINTENANCE FUNDING PROVIDER HERE) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED A MATERIAL TERM OF THIS AGREEMENT OR YOU HAVE COMMITTED FRAUD AGAINST THE MAINTENANCE FUNDING PROVIDER.";

(4) in accordance with Section 13-57-301, the following statement in substantially the following form and at least a 12-point type: "CONSUMER'S RIGHT TO CANCELLATION: You may cancel this agreement without penalty or further obligation within five business days after the day on which you enter into this agreement with the maintenance funding provider if you either: 1. return to the maintenance funding provider the full amount of the disbursed funds by delivering the maintenance funding provider's uncashed check to the maintenance funding provider's office in person; or 2. send, by insured, certified, or registered United States mail, to the maintenance funding provider at the address specified in this agreement, a notice of cancellation and include in the mailing a return of the full amount of disbursed funds in the form of the maintenance funding provider's uncashed check or a registered or certified check or money order"; and

(5) immediately above the line for the individual's signature, the following statement in at least a 12-point type: "Do not sign this agreement before you read it completely or if it contains any blank spaces. You are entitled to a completed copy of the agreement. Before you sign this agreement, you should obtain the advice of an attorney. Depending on your circumstances, you may want to consult a tax, benefits planning, or financial professional."

**Section 9. Section 13-57-401 is enacted to read:**

**Part 4. Division Duties**

**13-57-401. Rulemaking.**

The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) establish an application process for a business entity to register with the division as a maintenance funding provider, in accordance with Section 13-57-201;

(2) establish a filing process for a maintenance funding provider to file a maintenance funding agreement with the division;

(3) establish a filing process for annual reports required under Section 13-57-203; and

(4) carry out the provisions of this chapter.

**Section 10. Section 13-57-402 is enacted to read:**

**13-57-402. Public education regarding legal funding -- Reporting to Legislature.**

(1) The director shall help educate the general public regarding legal funding in the state by:

(a) analyzing and summarizing data maintenance funding providers submit under Section 13-57-203; and

(b) publishing the analysis and summary described in Subsection (1)(a) on the division's web page.

(2) Before October 1, 2022, the director shall report to the Business and Labor Interim Committee on the status of legal funding in the state and make any recommendation the director decides is necessary to improve the regulatory framework of legal funding, including a recommendation on whether to limit charges a maintenance funding provider may impose under a maintenance funding agreement.

**Section 11. Section 13-57-501 is enacted to read:**

**Part 5. Miscellaneous**

**13-57-501. Enforceability.**

If a maintenance funding provider violates a provision of this chapter, a maintenance funding agreement associated with the violation is unenforceable by the maintenance funding provider or any successor-in-interest to the maintenance funding agreement.

**Section 12. Section 13-57-502 is enacted to read:**

**13-57-502. Penalties -- Enforcement.**

(1) After notice and an opportunity for an administrative hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division may, in addition to exercising the division's enforcement powers under Section 13-2-6, enforce the provisions of this chapter by:

(a) revoking or suspending a maintenance funding provider's registration;

(b) ordering a maintenance funding provider to cease and desist from further legal funding;

(c) imposing a penalty of up to:

(i) \$1,000 per violation; or

(ii) \$10,000 per violation that the division finds willful; or

(d) ordering the maintenance funding provider to make restitution to an individual.

(2) The division's enforcement powers under this section and Section 13-2-6 do not affect an individual's legal claim against a maintenance funding provider.

**Section 13. Section 13-57-503 is enacted to read:**

**13-57-503. Applicability.**

The requirements of this chapter for a maintenance funding provider do not apply to:

(1) a bank while in the course of conducting a banking business as described in Section 7-3-1;

(2) a deferred deposit lender, as defined in Section 7-23-102, while engaged in the business of deferred deposit lending;

(3) a title lender, as defined in Section 7-24-102, while engaged in the business of extending a title loan; or

(4) a creditor, as defined in Section 70C-1-302, subject to the provisions of Title 70C, Utah Consumer Credit Code.

**CHAPTER 119****H. B. 313**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**TELEHEALTH PARITY AMENDMENTS**

Chief Sponsor: Melissa G. Ballard  
 Senate Sponsor: Allen M. Christensen

**LONG TITLE****General Description:**

This bill amends provisions related to insurance coverage for telehealth services and telemedicine services.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of telemedicine services;
- ▶ clarifies the scope of telehealth practice; and
- ▶ requires certain health benefit plans to provide coverage parity and commercially reasonable reimbursement for telehealth services and telemedicine services.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-60-102, as enacted by Laws of Utah 2017, Chapter 241

26-60-103, as enacted by Laws of Utah 2017, Chapter 241

**ENACTS:**

31A-22-649.5, Utah Code Annotated 1953

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

**Section 1. Section 26-60-102 is amended to read:****26-60-102. Definitions.**

As used in this chapter:

(1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site.

(2) "Distant site" means the physical location of a provider delivering telemedicine services.

(3) "Originating site" means the physical location of a patient receiving telemedicine services.

(4) "Patient" means an individual seeking telemedicine services.

(5) (a) "Patient-generated medical history" means medical data about a patient that the patient creates, records, or gathers.

(b) "Patient-generated medical history" does not include a patient's medical record that a healthcare professional creates and the patient personally delivers to a different healthcare professional.

[~~(5)~~] (6) "Provider" means an individual who is:

(a) licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(b) licensed under Title 58, Occupations and Professions, to provide health care; or

(c) licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

[~~(6)~~] (7) "Synchronous interaction" means real-time communication through interactive technology that enables a provider at a distant site and a patient at an originating site to interact simultaneously through two-way audio and video transmission.

[~~(7)~~] (8) "Telehealth services" means the transmission of health-related services or information through the use of electronic communication or information technology.

[~~(8)~~] (9) "Telemedicine services" means telehealth services:

(a) including:

(i) clinical care;

(ii) health education;

(iii) health administration;

(iv) home health; ~~or~~

(v) facilitation of self-managed care and caregiver support; ~~and~~ or

(vi) remote patient monitoring occurring incidentally to general supervision; and

(b) provided by a provider to a patient through a method of communication that:

(i) (A) uses asynchronous store and forward transfer; or

(B) uses synchronous interaction; and

(ii) meets industry security and privacy standards, including compliance with:

(A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended; and

(B) the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

**Section 2. Section 26-60-103 is amended to read:****26-60-103. Scope of telehealth practice.**

(1) A provider offering telehealth services shall:

(a) at all times:

(i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and

(ii) be held to the same standards of practice as those applicable in traditional health care settings;

(b) if the provider does not already have a provider-patient relationship with the patient,

establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including providing the provider's licensure and credentials to the patient;

~~(b)~~ (c) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:

(i) obtaining from the patient or another provider the patient's relevant clinical history; and

(ii) documenting the patient's relevant clinical history and current symptoms;

~~(e)~~ (d) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;

~~(d)~~ (e) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated; ~~and~~

~~(e)~~ (f) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records~~;~~; and

(g) if the patient has a designated health care provider who is not the telemedicine provider:

(i) consult with the patient regarding whether to provide the patient's designated health care provider a medical record or other report containing an explanation of the treatment provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the patient's condition;

(ii) collect from the patient the contact information of the patient's designated health care provider; and

(iii) within two weeks after the day on which the telemedicine provider provides services to the patient, and to the extent allowed under HIPAA as that term is defined in Section 26-18-17, provide the medical record or report to the patient's designated health care provider, unless the patient indicates that the patient does not want the telemedicine provider to send the medical record or report to the patient's designated health care provider.

(2) Subsection (1)(g) does not apply to prescriptions for eyeglasses or contacts.

(3) Except as specifically provided in Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act, and unless a provider has established a provider-patient relationship with a patient, a provider offering telemedicine

services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:

(a) an online questionnaire;

(b) an email message; or

(c) a patient-generated medical history.

~~(2)~~ (4) A provider may not offer telehealth services if:

(a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or

(b) the provider's license under Title 58, Occupations and Professions, is not active and in good standing.

### Section 3. Section 31A-22-649.5 is enacted to read:

#### **31A-22-649.5. Insurance parity for telemedicine services.**

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(b) "Telemedicine services" means the same as that term is defined in Section 26-60-102.

(2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market, the small group market, or the large group market and entered into or renewed on or after January 1, 2021, shall:

(a) provide coverage for telemedicine services that are covered by Medicare; and

(b) reimburse, at a commercially reasonable rate, a network provider that provides the telemedicine services described in Subsection (2)(a).

(3) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment under Subsection (2) may not impose originating site restrictions, geographic restrictions, or distance-based restrictions.

**CHAPTER 120****H. B. 318**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective October 15, 2020

**MARTIN LUTHER KING, JR.  
 SPECIAL LICENSE PLATE**

Chief Sponsor: Sandra Hollins  
 Senate Sponsor: Luz Escamilla

**LONG TITLE****General Description:**

This bill creates a recognition special group license plate to recognize the work and life of Dr. Martin Luther King, Jr.

**Highlighted Provisions:**

This bill:

- ▶ creates a recognition special group license plate to recognize the work and life of Dr. Martin Luther King, Jr.;
- ▶ repeals the Martin Luther King, Jr. Civil Rights support special group license plate; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

9-18-102, as enacted by Laws of Utah 2012, Chapter 332  
 41-1a-418, as last amended by Laws of Utah 2019, Chapters 38, 127, 213, and 392  
 41-1a-422, as last amended by Laws of Utah 2019, Chapters 38 and 213

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

**Section 1. Section 9-18-102 is amended to read:**

**9-18-102. Martin Luther King, Jr. Civil Rights Support Restricted Account.**

(1) There is created in the General Fund a restricted account known as the "Martin Luther King, Jr. Civil Rights Support Restricted Account."

(2) The account shall be funded by:

~~[(a) contributions deposited into the account in accordance with Section 41-1a-422;]~~

~~[(b)]~~ (a) private contributions; and

~~[(e)]~~ (b) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) is located within the state and is not affiliated with a parent organization;

(c) create or support programs that promote awareness and education of constitutional and civil rights;

(d) provide education and training in inalienable rights as set forth in the Declaration of Independence;

(e) partner with educational institutions to administer underrepresented or underserved scholarships; and

(f) partner with government agencies within the state and the private sector to administer and facilitate an underrepresented or underserved internship program.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) facilitate, coordinate, and encourage appropriate ceremonies and activities that commemorate the federal Martin Luther King, Jr. holiday;

(ii) create or support programs that promote awareness and education of constitutional and civil rights;

(iii) provide education and training in inalienable rights as set forth in the Declaration of Independence;

(iv) partner with educational institutions to administer underrepresented or underserved scholarships;

(v) partner with government agencies within the state and the private sector to administer and facilitate an underrepresented or underserved internship program; and

(vi) pay the costs of issuing or reordering Dr. Martin Luther King, Jr. [Civil Rights Support] recognition special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (3).

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

**Section 2. Section 41-1a-418 is amended to read:**

**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth; ~~or~~

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

~~[(xxi) programs that create or support civil rights education and awareness;]~~

~~[(xxii)]~~ (xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

~~[(xxiii)]~~ (xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

~~[(xxiv)]~~ (xxiii) programs that support children with heart disease;

~~[(xxv)]~~ (xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

~~(xxvi)~~ (xxv) programs that provide assistance to children with cancer;

~~(xxvii)~~ (xxvi) programs that promote leadership and career development through agricultural education;

~~(xxviii)~~ (xxvii) the Utah State Historical Society;

~~(xxix)~~ (xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans; or

~~(xxx)~~ (xxix) programs that promote motorcycle safety awareness.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection

41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

**Section 3. Section 41-1a-422 is amended to read:**

**41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.**

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;



(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

~~(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;~~

~~(V)~~ (U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

~~(W)~~ (V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

~~(X)~~ (W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

~~(Y)~~ (X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

~~(Z)~~ (Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

~~(AA)~~ (Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

~~(BB)~~ (AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

~~(CC)~~ (BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

~~(DD)~~ (CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130; or

~~(EE)~~ (DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

~~[(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.]~~

~~[(G)]~~ (F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

- (i) the name of the contributor;
- (ii) the institution to which a donation was made;
- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this

section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

#### **Section 4. Effective date.**

This bill takes effect on October 15, 2020.

**CHAPTER 121****H. B. 319**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**CONSUMER LENDING AMENDMENTS**

Chief Sponsor: Brad M. Daw  
 Senate Sponsor: Curtis S. Bramble  
 Cosponsor: Melissa G. Ballard

**LONG TITLE****General Description:**

This bill amends Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, Title 12, Collection Agencies, and Title 78B, Chapter 6, Part 3, Contempt.

**Highlighted Provisions:**

This bill:

- ▶ amends registration requirements for deferred deposit lenders;
- ▶ amends reporting requirements for deferred deposit lenders;
- ▶ amends operational requirements for deferred deposit lenders;
- ▶ amends reporting requirements for the Commissioner of Financial Institutions regarding deferred deposit lenders;
- ▶ amends provisions relating to bail bonds;
- ▶ amends provisions related to damages to party aggrieved;
- ▶ permits a third party debt collection agency that accepts a financial transaction card for the transaction of business to charge a convenience fee under certain conditions; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

- 7-23-201, as last amended by Laws of Utah 2017, Chapter 37  
 7-23-401, as last amended by Laws of Utah 2017, Chapter 37  
 7-23-503, as last amended by Laws of Utah 2012, Chapter 323  
 12-1-11, as enacted by Laws of Utah 2010, Chapter 350  
 78B-6-306, as last amended by Laws of Utah 2014, Chapter 268  
 78B-6-311, as last amended by Laws of Utah 2014, Chapter 268

**Utah Code Sections Affected by Coordination Clause:**

13-38a-401, Utah Code Annotated 1953

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

**Section 1. Section 7-23-201 is amended to read:****7-23-201. Registration -- Rulemaking.**

(1) (a) It is unlawful for a person to engage in the business of cashing checks or the business of deferred deposit lending in Utah or with a Utah resident unless the person:

(i) registers with the department in accordance with this chapter; and

(ii) maintains a valid registration.

(b) It is unlawful for a person to operate a mobile facility in this state to engage in the business of:

(i) cashing checks; or

(ii) deferred deposit lending.

(c) An officer or employee of a person required to register under Subsection (1)(a) is not required to register if the person for whom the individual is an officer or employee is registered.

(2) (a) A registration and a renewal of a registration expires on December 31 of each year unless on or before that date the person renews the registration.

(b) To register under this section, a person shall:

(i) pay an original registration fee established under Subsection 7-1-401(8);

(ii) submit a registration statement containing the information described in Subsection (2)(d);

(iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, Unincorporated Business Entity Act; and

(iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database.

(c) To renew a registration under this section, a person shall:

(i) pay the annual fee established under Subsection 7-1-401(5);

(ii) submit a renewal statement containing the information described in Subsection (2)(d);

(iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, Unincorporated Business Entity Act;

(iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database; and

(v) if the person engages in the business of deferred deposit lending, submit an operations statement containing the information described in Subsection Subsections (2)(e) and (f).

(d) A registration or renewal statement shall state:

- (i) the name of the person;
- (ii) the name in which the business will be transacted if different from that required in Subsection (2)(d)(i);
- (iii) the address of the person's principal business office, which may be outside this state;
- (iv) the addresses of all offices in this state at which the person conducts the business of:
  - (A) cashing checks; or
  - (B) deferred deposit lending;
- (v) if the person conducts the business of cashing checks or the business of deferred deposit lending in this state but does not maintain an office in this state, a brief description of the manner in which the business is conducted;
- (vi) the name and address in this state of a designated agent upon whom service of process may be made;
- (vii) whether there is a conviction of a crime:
  - (A) involving an act of fraud, dishonesty, breach of trust, or money laundering; and
  - (B) with respect to that person, an officer, director, manager, operator, or principal of that person, or an employee of that person engaged in the business described in this chapter; and
- (viii) any other information required by the rules of the department.
- (e) An operations statement required for a deferred deposit lender to renew a registration shall state for the immediately preceding calendar year:
  - (i) the average principal amount of the deferred deposit loans extended by the deferred deposit lender;
  - (ii) for deferred deposit loans paid in full, the average number of days a deferred deposit loan is outstanding for the duration of time that interest is charged;
  - ~~(iii) the minimum and maximum dollar amount of interest and fees charged by the deferred deposit lender for a deferred deposit loan of \$100 with a loan term of seven days;~~
  - ~~(iv)~~ (iii) the total number of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);
  - ~~(v)~~ (iv) of the persons to whom the deferred deposit lender extended a deferred deposit loan, the percentage that entered into an extended payment plan under Section 7-23-403;
  - ~~(vi)~~ (v) the total dollar amount of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);

~~(vii)~~ (vi) the average annual percentage rate charged on deferred deposit loans;

~~(viii)~~ (vii) the range of annual percentage rates charged on deferred deposit loans;

~~(ix)~~ (viii) the average dollar amount of extended payment plans entered into under Section 7-23-403 by the deferred deposit lender;

~~(x)~~ (ix) the number of deferred deposit loans carried to the maximum 10 weeks after the day on which the deferred deposit loan is extended;

~~(xi)~~ (x) the total dollar amount of deferred deposit loans carried to the maximum 10 weeks after the day on which the deferred deposit loan is extended;

~~(xii)~~ (xi) the number of deferred deposit loans not paid in full at the end of 10 weeks after the day on which the deferred deposit loan is extended;

~~(xiii)~~ (xii) the total dollar amount of deferred deposit loans not paid in full at the end of 10 weeks after the day on which the deferred deposit loan is extended;

~~(xiv)~~ (xiii) the percentage of deferred deposit loans against which the deferred deposit lender initiates civil action to collect on the deferred deposit loan; and

~~(xv)~~ (xiv) for the civil actions described in Subsection (2)(e)(xiii), the percentage of those civil actions whose deferred deposit loans have the following payment history:

(A) no payments;

(B) one payment;

(C) two payments;

(D) three payments;

(E) four payments;

(F) five payments;

(G) six payments;

(H) seven payments;

(I) eight payments;

(J) nine payments; and

(K) 10 or more payments.

~~(xvi)~~ (f) In addition to the information in Subsection (2)(e), an operations statement required for a deferred deposit lender to renew a registration shall state for the immediately preceding calendar year:

~~(i)~~ (i) the total number of deferred deposit loans extended by the deferred deposit lender;

~~(ii)~~ (ii) the total dollar amount of deferred deposit loans extended by the deferred deposit lender;

~~(iii)~~ (iii) the total number of individuals to whom the deferred deposit lender extended a deferred deposit loan; and

~~(iv)~~ (iv) the percentage of deferred deposit loans not repaid according to the terms of the loan.

~~(v)~~ (g) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, provide for the transition of persons registering with the nationwide database.

(3) (a) Information provided by a deferred deposit lender under ~~Subsection~~ Subsections (2)(e) and (f) is:

~~(a)~~ (i) confidential in accordance with Section 7-1-802; and

~~(b)~~ (ii) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The department shall:

(i) only use information a deferred deposit lender provides to the department under Subsection (2)(f) to determine compliance with this chapter; and

(ii) delete or otherwise destroy information a deferred deposit lender provides to the department under Subsection (2)(f) within two years after the day on which the deferred deposit lender provides the information.

(4) (a) The commissioner may impose an administrative fine determined under Subsection (4)(b) on a person if:

(i) the person is required to be registered under this chapter;

(ii) the person fails to register or renew a registration in accordance with this chapter;

(iii) the department notifies the person that the person is in violation of this chapter for failure to be registered; and

(iv) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (4)(a)(iii).

(b) Subject to Subsection (4)(c), the administrative fine imposed under this section is:

(i) \$500 if the person:

(A) has no office in this state at which the person conducts the business of:

(I) cashing checks; or

(II) deferred deposit lending; or

(B) has one office in this state at which the person conducts the business of:

(I) cashing checks; or

(II) deferred deposit lending; or

(ii) if the person has two or more offices in this state at which the person conducts the business of cashing checks or the business of deferred deposit lending, \$500 for each office at which the person conducts the business of:

(A) cashing checks; or

(B) deferred deposit lending.

(c) The commissioner may reduce or waive a fine imposed under this Subsection (4) if the person shows good cause.

(5) If the information in a registration, renewal, or operations statement required under Subsection (2) becomes inaccurate after filing, a person is not required to notify the department until:

(a) that person is required to renew the registration; or

(b) the department specifically requests earlier notification.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with this section providing for:

(a) the form, content, and filing of a registration and renewal statement described in Subsection (2)(d); and

(b) the form and filing of an operations statement described in Subsection (2)(e).

(7) A deferred deposit loan that is made by a person who is required to be registered under this chapter but who is not registered is void, and the person may not collect, receive, or retain any principal or other interest or fees in connection with the deferred deposit loan.

(8) (a) At the time a person registers under this section, the person shall disclose a conviction of a crime described in Subsection (2)(d)(vii) that is:

(i) known to the person; or

(ii) included in:

(A) a Utah Bureau of Criminal Identification report; or

(B) a background check acceptable to the department that provides information similar to a Utah Bureau of Criminal Identification report.

(b) To comply with Subsection (8)(a), a person registered under this chapter shall, for each individual described in Subsection (2)(d)(vii):

(i) obtain a Utah Bureau of Criminal Identification report; or

(ii) conduct a background check acceptable to the commissioner that provides information similar to a Utah Bureau of Criminal Identification report.

(c) A person registered under this section shall keep a record of the information described in Subsection (8)(b) for the time period required by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 2. Section 7-23-401 is amended to read:**

**7-23-401. Operational requirements for deferred deposit loans.**

(1) If a deferred deposit lender extends a deferred deposit loan, the deferred deposit lender shall:

(a) post in a conspicuous location on its premises that can be viewed by a person seeking a deferred deposit loan:

(i) a complete schedule of any interest or fees charged for a deferred deposit loan that states the interest and fees using dollar amounts;

(ii) a number the person can call to make a complaint to the department regarding the deferred deposit loan; and

(iii) a list of states where the deferred deposit lender is registered or authorized to offer deferred deposit loans through the Internet or other electronic means;

(b) enter into a written contract for the deferred deposit loan;

(c) conspicuously disclose in the written contract:

(i) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;

(ii) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;

(iii) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;

(iv) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed; and

(v) (A) the name and address of a designated agent required to be provided the department under Subsection 7-23-201(2)(d)(vi); and

(B) a statement that service of process may be made to the designated agent;

(d) provide the person seeking the deferred deposit loan:

(i) a copy of the written contract described in Subsection (1)(c); and

(ii) written notice that the person seeking the deferred deposit loan is eligible to enter into an extended payment plan described in Section 7-23-403;

(e) orally review with the person seeking the deferred deposit loan the terms of the deferred deposit loan including:

(i) the amount of any interest rate or fee;

(ii) the date on which the full amount of the deferred deposit loan is due;

(iii) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;

(iv) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the

deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;

(v) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan; and

(vi) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed;

(f) comply with the following as in effect on the date the deferred deposit loan is extended:

(i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq., and its implementing federal regulations;

(ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691, and its implementing federal regulations;

(iii) Bank Secrecy Act, 12 U.S.C. Sec. 1829b, 12 U.S.C. Sec. 1951 through 1959, and 31 U.S.C. Sec. 5311 through 5332, and its implementing regulations; and

(iv) Title 70C, Utah Consumer Credit Code;

(g) in accordance with Subsection (6), make an inquiry to determine whether a person attempting to receive a deferred deposit loan has the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers or extended payment plans as allowed under this chapter;

(h) in accordance with Subsection (7), receive a signed acknowledgment from a person attempting to receive a deferred deposit loan that the person has the ability to repay the deferred deposit loan, which may include rollovers or extended payment plans as allowed by this chapter; and

(i) report the original loan amount, payment in full, or default of a deferred deposit loan to a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a, in accordance with procedures established by the consumer reporting agency.

(2) If a deferred deposit lender extends a deferred deposit loan through the Internet or other electronic means, the deferred deposit lender shall provide the information described in Subsection (1)(a) to the person receiving the deferred deposit loan:

(a) in a conspicuous manner; and

(b) prior to the person entering into the deferred deposit loan.

(3) A deferred deposit lender that engages in a deferred deposit loan shall permit a person receiving a deferred deposit loan to:

(a) make partial payments in increments of at least \$5 on the principal owed on the deferred deposit loan at any time prior to maturity without incurring additional charges above the charges provided in the written contract; and

(b) rescind the deferred deposit loan without incurring any charges by returning the deferred

deposit loan amount to the deferred deposit lender on or before 5 p.m. the next business day following the deferred deposit loan transaction.

(4) A deferred deposit lender that engages in a deferred deposit loan may not:

(a) collect additional interest on a deferred deposit loan with an outstanding principal balance 10 weeks after the day on which the deferred deposit loan is executed;

(b) roll over a deferred deposit loan without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;

(c) roll over a deferred deposit loan if the rollover requires a person to pay the amount owed by the person under a deferred deposit loan in whole or in part more than 10 weeks from the day on which the deferred deposit loan is first executed;

(d) extend a new deferred deposit loan to a person on the same business day that the person makes a payment on another deferred deposit loan if:

(i) the payment results in the principal of that deferred deposit loan being paid in full; and

(ii) the combined terms of the original deferred deposit loan and the new deferred deposit loan total more than 10 weeks of consecutive interest;

(e) avoid the limitations of Subsections (4)(a) and (4)(c) by extending a new deferred deposit loan whose proceeds are used to satisfy or refinance any portion of an existing deferred deposit loan;

(f) threaten to use or use the criminal process in any state to collect on the deferred deposit loan;

(g) in connection with the collection of money owed on a deferred deposit loan, communicate with a person who owes money on a deferred deposit loan at the person's place of employment if the person or the person's employer communicates, orally or in writing, to the deferred deposit lender that the person's employer prohibits the person from receiving these communications; [ø]

(h) modify by contract the venue provisions in Title 78B, Chapter 3, Actions and Venue[-]; or

(i) avoid the requirements of Subsection 7-23-403(1)(c) by extending an interest-bearing loan within seven calendar days before the day on which the 10-week period ends.

(5) Notwithstanding Subsections (4)(a) and (f), a deferred deposit lender that is the holder of a check used to obtain a deferred deposit loan that is dishonored may use the remedies and notice procedures provided in Chapter 15, Dishonored Instruments, except that the issuer, as defined in Section 7-15-1, of the check may not be:

(a) asked by the holder to pay the amount described in Subsection 7-15-1(6)(a)(iii) as a condition of the holder not filing a civil action; or

(b) held liable for the damages described in Subsection 7-15-1(7)(b)(vi).

(6) (a) The inquiry required by Subsection (1)(g) applies solely to the initial period of a deferred deposit loan transaction with a person and does not apply to any rollover or extended payment plan of a deferred deposit loan.

(b) Subject to Subsection (6)(c), a deferred deposit lender is in compliance with Subsection (1)(g) if the deferred deposit lender, at the time of the initial period of the deferred deposit loan transaction:

(i) obtains one of the following regarding the person seeking the deferred deposit loan:

(A) a consumer report, as defined in 15 U.S.C. Sec. 1681a, from a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a; or

(B) written proof or verification of income from the person seeking the deferred deposit loan; or

(ii) relies on the prior repayment history with the deferred deposit lender from the records of the deferred deposit lender.

(c) If a person seeking a deferred deposit loan has not previously received a deferred deposit loan from that deferred deposit lender, to be in compliance with Subsection (1)(g), the deferred deposit lender, at the time of the initial period of the deferred deposit loan transaction, shall obtain a consumer report, as defined in 15 U.S.C. Sec. 1681a, from a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a.

(7) A deferred deposit lender is in compliance with Subsection (1)(h) if the deferred deposit lender obtains from the person seeking the deferred deposit loan a signed acknowledgment that is in 14-point bold font, that the person seeking the deferred deposit loan has:

(a) reviewed the payment terms of the deferred deposit loan agreement;

(b) received a disclosure that a deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is first executed;

(c) received a disclosure explaining the extended payment plan options; and

(d) acknowledged the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers, or extended payment plans as allowed under this chapter.

(8) (a) Before initiating a civil action against a person who owes money on a deferred deposit loan, a deferred deposit lender shall provide the person at least [10] 30 days notice of default, describing that:

(i) the person must remedy the default; and

(ii) the deferred deposit lender may initiate a civil action against the person if the person fails to cure the default within the [10] 30-day period or through an extended payment plan meeting the requirements of Section 7-23-403.

(b) A deferred deposit lender may provide the notice required under this Subsection (8):

(i) by sending written notice to the address provided by the person to the deferred deposit lender;

(ii) by sending an electronic transmission to a person if electronic contact information is provided to the deferred deposit lender; or

(iii) pursuant to the Utah Rules of Civil Procedure.

(c) A notice under this Subsection (8), in addition to complying with Subsection (8)(a), shall:

(i) be in English, if the initial transaction is conducted in English;

(ii) state the date by which the person must act to enter into an extended payment plan;

(iii) explain the procedures the person must follow to enter into an extended payment plan;

(iv) subject to Subsection 7-23-403(7), if the deferred deposit lender requires the person to make an initial payment to enter into an extended payment plan:

(A) explain the requirement; and

(B) state the amount of the initial payment and the date the initial payment shall be made;

(v) state that the person has the opportunity to enter into an extended payment plan for a time period meeting the requirements of Subsection 7-23-403(2)(b); and

(vi) include the following amounts:

(A) the remaining balance on the original deferred deposit loan;

(B) the total payments made on the deferred deposit loan;

(C) any charges added to the deferred deposit loan amount allowed pursuant to this chapter; and

(D) the total amount due if the person enters into an extended payment plan.

**Section 3. Section 7-23-503 is amended to read:**

**7-23-503. Reporting by commissioner.**

(1) Subject to Subsection (2), as part of the commissioner's annual report to the governor and Legislature under Section 7-1-211, the commissioner shall report to the governor and Legislature on the operations on an aggregate basis of deferred deposit lenders operating in the state.

(2) In preparing the report required by Subsection (1), the commissioner:

(a) shall include in the report for the immediately preceding calendar year aggregate information from the one or more operations statements filed under Subsection 7-23-201(2)(e) by deferred deposit lenders for that calendar year;

(b) shall include in the report:

(i) the total number of written complaints concerning issues material to deferred deposit loan transactions received by the department in a calendar year from persons who have entered into a deferred deposit loan with a deferred deposit lender;

(ii) for deferred deposit lenders who are registered with the department:

(A) the number of the complaints described in Subsection (2)(b)(i) that the department considers resolved; and

(B) the number of the complaints described in Subsection (2)(b)(i) that the department considers unresolved; and

(iii) for deferred deposit lenders who are not registered with the department:

(A) the number of the complaints described in Subsection (2)(b)(i) that the department considers resolved; and

(B) the number of the complaints described in Subsection (2)(b)(i) that the department considers unresolved; ~~and~~

(c) may not include in the report information from an operations statement filed with the department that could identify a specific deferred deposit lender[-]; and

(d) may not include in the report information from an operations statement filed under Subsection 7-23-201(2)(f).

**Section 4. Section 12-1-11 is amended to read:**

**12-1-11. Collection fee -- Convenience fees.**

(1) As used in this section:

(a) "Creditor" is as defined in 15 U.S.C. Sec. 1692a.

(b) "Debt" means an obligation or alleged obligation to pay money arising out of a transaction for money, property, insurance, or services.

(c) "Debtor" means a person obligated or allegedly obligated to pay a debt.

(d) "Financial transaction card" means the same as that term is defined in Section 13-38a-102.

~~(d)~~ (e) "Third party debt collection agency" means:

(i) a debt collector as defined in 15 U.S.C. Sec. 1692a; or

(ii) a person who would be a debt collector under 15 U.S.C. Sec. 1692a, except that the person does not use an instrumentality of interstate commerce or the mail.

(2) (a) A creditor may require a debtor to pay a collection fee in addition to any other amount owed to the creditor for a debt if:

~~(a)~~ (i) imposing a collection fee on the debtor or in relation to the debt is not prohibited or otherwise restricted by another federal or state law;



~~[(b)]~~ (ii) the creditor contracts with a third party debt collection agency or licensed attorney to collect the debt;

~~[(e)]~~ (iii) the third party debt collection agency with which the creditor contracts is registered under this title;

~~[(d)]~~ (iv) there is a written agreement between the creditor and the debtor that:

~~[(i)]~~ (A) creates the debt; and

~~[(ii)]~~ (B) provides for the imposition of the collection fee in accordance with this section; and

~~[(e)]~~ (v) the obligation to pay the collection fee is imposed at the time of assignment of the debt to a third party debt collection agency or licensed attorney in accordance with an agreement described in Subsection (2)~~[(d)]~~ (a)(iv).

~~[(3)]~~ (b) The creditor shall establish the amount of the collection fee imposed under this ~~[section]~~ Subsection (2), except that the amount may not exceed the lesser of:

~~[(a)]~~ (i) the actual amount a creditor is required to pay a third party debt collection agency or licensed attorney, regardless of whether that amount is a specific dollar amount or a percentage of the principal amount owed to the creditor for a debt; or

~~[(b)]~~ (ii) 40% of the principal amount owed to the creditor for a debt.

~~[(4)]~~ (c) An obligation to pay a collection fee imposed under this ~~[section]~~ Subsection (2) is in addition to any obligation to pay attorney fees that may otherwise exist.

~~(3)~~ (a) Subject to Subsection (3)(b), a third party debt collection agency that accepts a financial transaction card for the transaction of business may charge a convenience fee for a transaction processed over:

~~(i)~~ the phone;

~~(ii)~~ text or similar short message service; or

~~(iii)~~ the Internet.

~~(b)~~ Before a third party debt collection agency charges a convenience fee as described in Subsection (3)(a), the third party debt collection agency shall:

~~(i)~~ clearly disclose to the debtor that the third party debt collection agency will charge the debtor a convenience fee, in a time and manner that allows the debtor to accept or reject the convenience fee;

~~(ii)~~ disclose to the debtor the amount of the convenience fee; and

~~(iii)~~ give the debtor an alternative payment method option for which a convenience fee does not apply.

**Section 5. Section 78B-6-306 is amended to read:**

**78B-6-306. Bail bond -- Form.**

~~[(4)]~~ When a direction to allow the person arrested to post bail is contained in the warrant of attachment, the person shall be released if bond is posted and the person executes a written promise to appear on the return of the warrant, and abide by the order of the court or judge.

~~[(2) Any bail posted is subject to the provisions of Section 78B-6-311.]~~

**Section 6. Section 78B-6-311 is amended to read:**

**78B-6-311. Damages to party aggrieved.**

(1) If an actual loss or injury to a party in an action or special proceeding is caused by the contempt, the court~~;~~:

(a) in lieu of or in addition to the fine or imprisonment imposed for the contempt, may order the person proceeded against to pay the party aggrieved a sum of money sufficient to indemnify and satisfy the aggrieved party's costs and expenses~~[-The court;]; and~~

(b) may order that any bail posted by the person proceeded against be used to satisfy all or part of the money ordered to be paid to the aggrieved party.

(2) The order described in Subsection (1)(b), and the acceptance of money under ~~[(it)]~~ the order, is a bar to an action by the aggrieved party for the loss and injury.

~~[(2) A judgment creditor may request that the court pay bail posted by a judgment debtor to the judgment creditor if:]~~

~~[(a) the judgment debtor owes the judgment creditor funds pursuant to a court-ordered judgment;]~~

~~[(b) the judgment creditor provides the court with a copy of the valid judgment; and]~~

~~[(c) bail was posted in cash, or by credit or debit card.]~~

~~[(3) Upon receipt of a request by a judgment creditor, the court shall require the judgment debtor to provide either proof of payment or good cause why the court should not order the forfeiture of bail to then be paid to the judgment creditor. The court shall find that good cause exists if the judgment debtor provides admissible evidence that the bail was paid by a third party.]~~

~~[(4) The court may, in its discretion, order all or a portion of the funds deposited with the court as bail to be paid to the judgment creditor towards the amount of the judgment. If the amount paid to the court exceeds the amount of the judgment, the court shall refund the excess to the judgment debtor.]~~

~~[(5) Within seven days of the receipt of funds, the judgment creditor shall provide to the judgment debtor an accounting of amounts received and the balance still due, if any.]~~

**Section 7. Coordinating H.B. 319 with H.B. 113 -- Substantive amendment.**

If this H.B. 319 and H.B. 113, Consumer Sales Practices Amendments, both pass and become law,

it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enact Section 13-38a-401 in H.B. 113.

**CHAPTER 122****H. B. 333**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**LIMITED PURPOSE LOCAL  
 GOVERNMENT ENTITY AMENDMENTS**

Chief Sponsor: Stephen G. Handy  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill amends provisions relating to certain limited purpose local government entities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ extends the time for a local district board to approve or reject a proposed annexation;
- ▶ prohibits the creation of a new basic local district;
- ▶ repeals provisions requiring certain limited purpose local government entities to provide district contact information to the local telephone directory publisher; and
- ▶ makes conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 17B-1-414, as last amended by Laws of Utah 2011, Chapter 68  
 17D-1-106, as last amended by Laws of Utah 2016, Chapter 233  
 17D-3-105, as last amended by Laws of Utah 2018, Chapter 115

**ENACTS:**

17B-1-1403, Utah Code Annotated 1953

**REPEALS:**

17B-1-112, as enacted by Laws of Utah 2007, Chapter 329

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

**Section 1. Section 17B-1-414 is amended to read:**

**17B-1-414. Resolution approving an annexation -- Filing of notice and plat with lieutenant governor -- Recording requirements -- Effective date.**

(1) (a) Subject to Subsection (1)(b), the local district board shall adopt a resolution approving the annexation of the area proposed to be annexed or rejecting the proposed annexation within [30] 90 days after:

(i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests to require an election are not filed;

(ii) for a petition that meets the requirements of Subsection 17B-1-413(1):

(A) a public hearing under Section 17B-1-409 is held, if the board chooses or is required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or

(B) expiration of the time for submitting a request for public hearing under Subsection 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public hearing.

(b) If the local district has entered into an agreement with the United States that requires the consent of the United States for an annexation of territory to the district, a resolution approving annexation under this part may not be adopted until the written consent of the United States is obtained and filed with the board of trustees.

(2) (a) (i) Within the time specified under Subsection (2)(a)(ii), the board shall file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable, Subsection (2)(b); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(ii) The board shall file the documents listed in Subsection (2)(a)(i) with the lieutenant governor:

(A) within 30 days after adoption of a resolution under Subsection (1), Subsection 17B-1-412(3)(c)(i), or Section 17B-1-415; and

(B) as soon as practicable after receiving the notice under Subsection 10-2-425(2) of a municipal annexation that causes an automatic annexation to a local district under Section 17B-1-416.

(b) For an automatic annexation to a local district under Section 17B-1-416, the notice of an impending boundary action required under Subsection (2)(a) shall state that an area outside the boundaries of the local district is being automatically annexed to the local district under Section 17B-1-416 because of a municipal annexation under Title 10, Chapter 2, Part 4, Annexation.

(c) Upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, the board shall:

(i) if the annexed area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of annexation; and

(III) approved final local entity plat; and

(B) a certified copy of the annexation resolution; or

(ii) if the annexed area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution.

(3) (a) As used in this Subsection (3), “fire district annexation” means an annexation under this part of an area located in a county of the first class to a local district:

(i) created to provide fire protection, paramedic, and emergency services; and

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d).

(b) An annexation under this part is complete and becomes effective:

(i) (A) on July 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or

(B) on January 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or

(ii) upon the lieutenant governor’s issuance of the certificate of annexation under Section 67-1a-6.5, for any other annexation.

(c) (i) The effective date of a local district annexation for purposes of assessing property within the annexed area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the recorder of each county in which the property is located, a local district may not:

(A) levy or collect a property tax on property within the annexed area;

(B) levy or collect an assessment on property within the annexed area; or

(C) charge or collect a fee for service provided to property within the annexed area.

(iii) Subsection (3)(c)(ii)(C):

(A) may not be construed to limit a local district’s ability before annexation to charge and collect a fee for service provided to property that is outside the local district’s boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the local district’s annexation, with respect to a fee that the local district was charging for service provided to property within the annexed area immediately before the area was annexed to the local district.

**Section 2. Section 17B-1-1403 is enacted to read:**

**17B-1-1403. Prohibition against creating new basic local districts.**

A person may not create a basic local district on or after May 12, 2020.

**Section 3. Section 17D-1-106 is amended to read:**

**17D-1-106. Special service districts subject to other provisions.**

(1) A special service district is, to the same extent as if it were a local district, subject to and governed by:

(a) (i) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-111, [~~17B-1-112,~~] 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, 17B-1-121, 17B-1-304, 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314; and

(ii) Sections 17B-1-305 and 17B-1-306, to the extent that a county legislative body or a municipal legislative body, as applicable, has delegated authority to an administrative control board with elected members, under Section 17D-1-301.

(b) Subsections:

(i) 17B-1-301(3) and (4); and

(ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), (7), and (9);

(c) Section 20A-1-512;

(d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

(e) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

(f) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

(g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a special service district, each reference in those provisions to the local district board of trustees means the governing body.

**Section 4. Section 17D-3-105 is amended to read:**

**17D-3-105. Conservation districts subject to other provisions.**

(1) Subject to Subsection (3), a conservation district is, to the same extent as if it were a local district, subject to and governed by:

(a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, [~~17B-1-112,~~] 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;

(b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

(c) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

(d) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

(e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a conservation district, each reference in those provisions to the local district board of trustees means the board of supervisors described in Section 17D-3-301.

(3) A conservation district may not exercise taxing authority.

**Section 5. Repealer.**

This bill repeals:

**Section 17B-1-112, Publishing district information in telephone directory.**

## CHAPTER 123

## H. B. 335

Passed March 12, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**ILLEGAL ACTIVITIES ON  
TRUST LANDS AMENDMENTS**

Chief Sponsor: Michael K. McKell  
Senate Sponsor: Scott D. Sandall

**LONG TITLE****General Description:**

This bill addresses state institutional trust lands.

**Highlighted Provisions:**

This bill:

- ▶ addresses penalties for illegal activities on trust land; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53C-2-301, as last amended by Laws of Utah 2016,  
Chapter 389

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

**Section 1. Section 53C-2-301 is amended to read:**

**53C-2-301. Illegal activities on trust lands -- Penalties.**

(1) A person is liable for the civil damages prescribed in Subsection (2) and ~~unless a greater penalty is prescribed in another part of the law, is guilty of a class B misdemeanor~~ is guilty of a criminal offense specified in Subsection (4) if the person ~~intentionally, knowingly, or recklessly, and without written authorization from the director:~~ intentionally, knowingly, or recklessly, and without written authorization from the director:

(a) removes, extracts, uses, consumes, or destroys ~~any~~ a mineral resource, gravel, sand, soil, vegetation, water resource, or improvement on trust lands;

(b) grazes livestock on trust lands;

(c) uses, occupies, or constructs improvements or structures on trust lands;

(d) uses or occupies trust lands for more than 30 days after the cancellation or expiration of written authorization;

(e) knowingly and willfully uses trust lands for commercial gain;

(f) appropriates, alters, injures, or destroys ~~any~~ an improvement or ~~any~~ historical, prehistorical, archaeological, or paleontological resource on trust lands;

(g) trespasses upon, uses, commits waste, dumps refuse, or occupies trust land;

(h) interferes with the activities of an employee or agent of the administration on trust lands; or

(i) interferes with activities of a lessee or other person that have been authorized by the administration, whether or not the trust land has been withdrawn from occupancy or use pursuant to Subsection 53C-2-105(1)(b).

(2) A person who commits ~~any~~ an act described in Subsection (1) is liable for damages in the amount of whichever of the following is greatest:

(a) three times the value at the point of sale of the mineral or other resource removed, destroyed, or extracted;

(b) three times the amount of damage committed;

(c) three times the cost to cure the damage;

(d) three times the value of any losses suffered as a result of interference with authorized activities; or

(e) three times the consideration which would have been charged by the director for use of the land during the period of trespass.

(3) In addition to the damages described in Subsection (2), a person found guilty of a criminal act under Subsection (1) is subject to the penalties provided in Title 76, Chapter 3, Punishments~~[-]~~, as specified in Subsection (4).

(4) A violation of this section is a:

(a) second degree felony if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of \$5,000 in value;

(b) third degree felony if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

(c) class A misdemeanor if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

(d) class B misdemeanor if the actor's conduct causes property injury or damage, or pecuniary loss less than \$500 in value.

~~(4)~~ (5) The director shall deposit money collected under this section in the fund in which like revenues from that land would be deposited.

~~(5)~~ (6) The director may award a portion of any of the damages collected under this section in excess of actual damages to the general fund of the county in which the trespass occurred as a reward for county assistance in the apprehension and prosecution of the trespassing party.

**CHAPTER 124****H. B. 341**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**ASSOCIATE PHYSICIAN  
 LICENSE AMENDMENTS**

Chief Sponsor: Stewart E. Barlow  
 Senate Sponsor: David G. Buxton

**LONG TITLE****General Description:**

This bill amends the licensing requirements for associate physicians.

**Highlighted Provisions:**

This bill:

- ▶ changes the areas where associate physicians can practice; and
- ▶ changes the time period for which associate physicians can be licensed.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-67-302.8, as last amended by Laws of Utah 2018, Chapter 318  
 58-67-303, as last amended by Laws of Utah 2019, Chapter 447  
 58-67-807, as enacted by Laws of Utah 2017, Chapter 299  
 58-68-302.5, as last amended by Laws of Utah 2018, Chapter 318  
 58-68-303, as last amended by Laws of Utah 2019, Chapter 447  
 58-68-807, as enacted by Laws of Utah 2017, Chapter 299

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

**Section 1. Section 58-67-302.8 is amended to read:****58-67-302.8. Restricted licensing of an associate physician.**

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-67-302(1)(a) through (d), (1)(e)(i), and (1)(h) through (k);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-67-302(1)(e)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine as described in Subsection (3), the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-67-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

(3) An associate physician's scope of practice is limited to primary care services [~~to medically underserved populations or in medically underserved areas within the state~~].

**Section 2. Section 58-67-303 is amended to read:****58-67-303. Term of license -- Expiration -- Renewal.**

(1) (a) Except as provided in Section 58-67-302.7, the division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles the division administers.

(2) At the time of renewal, the licensee shall:

(a) view a suicide prevention video described in Section 58-1-601 and submit proof in the form required by the division;

(b) show compliance with continuing education renewal requirements; and

(c) show compliance with the requirement for designation of a contact person and alternate contact person for access to medical records and notice to patients as required by Subsections 58-67-304(1)(b) and (c).

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

(4) An individual may not be licensed as an associate physician for more than a total of [~~four~~] six years.

**Section 3. Section 58-67-807 is amended to read:****58-67-807. Collaborative practice arrangement.**

(1) (a) The division, in consultation with the board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the approval of a collaborative practice arrangement.

(b) The division shall require a collaborative practice arrangement to:

(i) limit the associate physician to providing primary care services [~~to medically underserved~~]

populations or in medically underserved areas within the state];

(ii) be consistent with the skill, training, and competence of the associate physician;

(iii) specify jointly agreed-upon protocols, or standing orders for the delivery of health care services by the associate physician;

(iv) provide complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the associate physician;

(v) list all other offices or locations besides those listed in Subsection (1)(b)(iv) where the collaborating physician authorizes the associate physician to prescribe;

(vi) require at every office where the associate physician is authorized to prescribe in collaboration with a physician a prominently displayed disclosure statement informing patients that patients may be seen by an associate physician and have the right to see the collaborating physician;

(vii) specify all specialty or board certifications of the collaborating physician and all certifications of the associate physician;

(viii) specify the manner of collaboration between the collaborating physician and the associate physician, including how the collaborating physician and the associate physician shall:

(A) engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(B) maintain geographic proximity, except as provided in Subsection (1)(d); and

(C) provide oversight of the associate physician during the absence, incapacity, infirmity, or emergency of the collaborating physician;

(ix) describe the associate physician's controlled substance prescriptive authority in collaboration with the collaborating physician, including:

(A) a list of the controlled substances the collaborating physician authorizes the associate physician to prescribe; and

(B) documentation that the authorization to prescribe the controlled substances is consistent with the education, knowledge, skill, and competence of the associate physician and the collaborating physician;

(x) list all other written practice arrangements of the collaborating physician and the associate physician;

(xi) specify the duration of the written practice arrangement between the collaborating physician and the associate physician; and

(xii) describe the time and manner of the collaborating physician's review of the associate physician's delivery of health care services, including provisions that the collaborating physician, or another physician designated in the

collaborative practice arrangement, shall review every 14 days:

(A) a minimum of 10% of the charts documenting the associate physician's delivery of health care services; and

(B) a minimum of 20% of the charts in which the associate physician prescribes a controlled substance, which may be counted in the number of charts to be reviewed under Subsection (1)(b)(xii)(A).

(c) An associate physician and the collaborating physician may modify a collaborative practice arrangement, but the changes to the collaborative practice arrangement are not binding unless:

(i) the associate physician notifies the division within 10 days after the day on which the changes are made; and

(ii) the division approves the changes.

(d) If the collaborative practice arrangement provides for an associate physician to practice in a medically underserved area:

(i) the collaborating physician shall document the completion of at least a two-month period of time during which the associate physician shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present; and

(ii) the collaborating physician shall document the completion of at least 120 hours in a four-month period by the associate physician during which the associate physician shall practice with the collaborating physician on-site before prescribing a controlled substance when the collaborating physician is not on-site.

(2) An associate physician:

(a) shall clearly identify himself or herself as an associate physician;

(b) is permitted to use the title "doctor" or "Dr."; and

(c) if authorized under a collaborative practice arrangement to prescribe Schedule III through V controlled substances, shall register with the United States Drug Enforcement Administration as part of the drug enforcement administration's mid-level practitioner registry.

(3) (a) A physician or surgeon licensed and in good standing under Section 58-67-302 may enter into a collaborative practice arrangement with an associate physician licensed under Section 58-67-302.8.

(b) A physician or surgeon may not enter into a collaborative practice arrangement with more than three full-time equivalent associate physicians.

(c) (i) No contract or other agreement shall:

(A) require a physician to act as a collaborating physician for an associate physician against the physician's will;



(B) deny a collaborating physician the right to refuse to act as a collaborating physician, without penalty, for a particular associate physician; or

(C) limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any associate physician.

(ii) Subsection (3)(c)(i)(C) does not authorize a physician, in implementing protocols, standing orders, or delegation, to violate a hospital's established applicable standards for safe medical practice.

(d) A collaborating physician is responsible at all times for the oversight of the activities of, and accepts responsibility for, the primary care services rendered by the associate physician.

(4) The division shall make rules, in consultation with the board, the deans of medical schools in the state, and primary care residency program directors in the state, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing educational methods and programs that:

(a) an associate physician shall complete throughout the duration of the collaborative practice arrangement;

(b) shall facilitate the advancement of the associate physician's medical knowledge and capabilities; and

(c) may lead to credit toward a future residency program.

**Section 4. Section 58-68-302.5 is amended to read:**

**58-68-302.5. Restricted licensing of an associate physician.**

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-68-302(1)(a) through (d), (1)(e)(i), and (1)(h) through (k);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-68-302(1)(e)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine as described in Subsection (3), the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-68-807

within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

(3) An associate physician's scope of practice is limited to primary care services [~~to medically underserved populations or in medically underserved areas within the state~~].

**Section 5. Section 58-68-303 is amended to read:**

**58-68-303. Term of license -- Expiration -- Renewal.**

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles the division administers.

(2) At the time of renewal, the licensee shall:

(a) view a suicide prevention video described in Section 58-1-601 and submit proof in the form required by the division;

(b) show compliance with continuing education renewal requirements; and

(c) show compliance with the requirement for designation of a contact person and alternate contact person for access to medical records and notice to patients as required by Subsections 58-68-304(1)(b) and (c).

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

(4) An individual may not be licensed as an associate physician for more than a total of [~~four~~] six years.

**Section 6. Section 58-68-807 is amended to read:**

**58-68-807. Collaborative practice arrangement.**

(1) (a) The division, in consultation with the board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the approval of a collaborative practice arrangement.

(b) The division shall require a collaborative practice arrangement to:

(i) limit the associate physician to providing primary care services [~~to medically underserved populations or in medically underserved areas within the state~~];

(ii) be consistent with the skill, training, and competence of the associate physician;

(iii) specify jointly agreed-upon protocols, or standing orders for the delivery of health care services by the associate physician;

(iv) provide complete names, home and business addresses, zip codes, and telephone numbers of the

collaborating physician and the associate physician;

(v) list all other offices or locations besides those listed in Subsection (1)(b)(iv) where the collaborating physician authorizes the associate physician to prescribe;

(vi) require at every office where the associate physician is authorized to prescribe in collaboration with a physician a prominently displayed disclosure statement informing patients that patients may be seen by an associate physician and have the right to see the collaborating physician;

(vii) specify all specialty or board certifications of the collaborating physician and all certifications of the associate physician;

(viii) specify the manner of collaboration between the collaborating physician and the associate physician, including how the collaborating physician and the associate physician shall:

(A) engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(B) maintain geographic proximity, except as provided in Subsection (1)(d); and

(C) provide oversight of the associate physician during the absence, incapacity, infirmity, or emergency of the collaborating physician;

(ix) describe the associate physician's controlled substance prescriptive authority in collaboration with the collaborating physician, including:

(A) a list of the controlled substances the collaborating physician authorizes the associate physician to prescribe; and

(B) documentation that the authorization to prescribe the controlled substances is consistent with the education, knowledge, skill, and competence of the associate physician and the collaborating physician;

(x) list all other written practice arrangements of the collaborating physician and the associate physician;

(xi) specify the duration of the written practice arrangement between the collaborating physician and the associate physician; and

(xii) describe the time and manner of the collaborating physician's review of the associate physician's delivery of health care services, including provisions that the collaborating physician, or another physician designated in the collaborative practice arrangement, shall review every 14 days:

(A) a minimum of 10% of the charts documenting the associate physician's delivery of health care services; and

(B) a minimum of 20% of the charts in which the associate physician prescribes a controlled substance, which may be counted in the number of

charts to be reviewed under Subsection (1)(b)(xii)(A).

(c) An associate physician and the collaborating physician may modify a collaborative practice arrangement, but the changes to the collaborative practice arrangement are not binding unless:

(i) the associate physician notifies the division within 10 days after the day on which the changes are made; and

(ii) the division approves the changes.

(d) If the collaborative practice arrangement provides for an associate physician to practice in a medically underserved area:

(i) the collaborating physician shall document the completion of at least a two-month period of time during which the associate physician shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present; and

(ii) the collaborating physician shall document the completion of at least 120 hours in a four-month period by the associate physician during which the associate physician shall practice with the collaborating physician on-site before prescribing a controlled substance when the collaborating physician is not on-site.

(2) An associate physician:

(a) shall clearly identify himself or herself as an associate physician;

(b) is permitted to use the title "doctor" or "Dr."; and

(c) if authorized under a collaborative practice arrangement to prescribe Schedule III through V controlled substances, shall register with the United States Drug Enforcement Administration as part of the drug enforcement administration's mid-level practitioner registry.

(3) (a) A physician or surgeon licensed and in good standing under Section 58-68-302 may enter into a collaborative practice arrangement with an associate physician licensed under Section 58-68-302.5.

(b) A physician or surgeon may not enter into a collaborative practice arrangement with more than three full-time equivalent associate physicians.

(c) (i) No contract or other agreement shall:

(A) require a physician to act as a collaborating physician for an associate physician against the physician's will;

(B) deny a collaborating physician the right to refuse to act as a collaborating physician, without penalty, for a particular associate physician; or

(C) limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any associate physician.

(ii) Subsection (3)(c)(i)(C) does not authorize a physician, in implementing such protocols,

standing orders, or delegation, to violate a hospital's established applicable standards for safe medical practice.

(d) A collaborating physician is responsible at all times for the oversight of the activities of, and accepts responsibility for, the primary care services rendered by the associate physician.

(4) The division shall make rules, in consultation with the board, the deans of medical schools in the state, and primary care residency program directors in the state, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing educational methods and programs that:

(a) an associate physician shall complete throughout the duration of the collaborative practice arrangement;

(b) shall facilitate the advancement of the associate physician's medical knowledge and capabilities; and

(c) may lead to credit toward a future residency program.

**CHAPTER 125****H. B. 346**

Passed March 12, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**RECREATIONAL ACTIVITY  
RISKS AMENDMENTS**

Chief Sponsor: Brady Brammer  
Senate Sponsor: Jani Iwamoto

**LONG TITLE****General Description:**

This bill amends provisions regarding liability for a recreational activity.

**Highlighted Provisions:**

This bill:

- ▶ provides that scooter riding is a recreational activity for the purpose of a claim that is brought for a personal injury or property damage resulting from the inherent risks of a recreational activity; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78B-4-509, as last amended by Laws of Utah 2008, Chapter 360 and renumbered and amended by Laws of Utah 2008, Chapter 3

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

**Section 1. Section 78B-4-509 is amended to read:****78B-4-509. Inherent risks of certain recreational activities -- Claim barred against county or municipality -- No effect on duty or liability of person participating in recreational activity or other person.**

(1) As used in this section:

(a) "Inherent risks" means ~~[those dangers, conditions, and potentials for personal injury or property damage that are]~~ any danger, condition, and potential for personal injury or property damage that is an integral and natural part of participating in a recreational activity.

(b) "Municipality" ~~[has the meaning as]~~ means the same as that term is defined in Section 10-1-104.

(c) "Person" ~~[includes]~~ means:

(i) an individual, regardless of age, maturity, ability, capability, or experience[.]; and

(ii) a corporation, partnership, limited liability company, or any other form of business enterprise.

(d) "Recreational activity" includes a rodeo, an equestrian activity, skateboarding, skydiving, para gliding, hang gliding, roller skating, ice skating, fishing, hiking, walking, running, jogging, bike riding, scooter riding, or in-line skating on property:

(i) owned, leased, or rented by, or otherwise made available to:

(A) with respect to a claim against a county, the county; and

(B) with respect to a claim against a municipality, the municipality; and

(ii) intended for the specific use in question.

(2) Notwithstanding ~~[anything in]~~ Sections 78B-5-817 through 78B-5-823 ~~[to the contrary]~~, no person may make a claim against or recover from any of the following entities for personal injury or property damage resulting from any of the inherent risks of participating in a recreational activity:

(a) a county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act; or

(b) the owner of property that is leased, rented, or otherwise made available to a county, municipality, local district, or special service district for the purpose of providing or operating a recreational activity.

(3) (a) Nothing in this section may be construed to relieve a person participating in a recreational activity from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

(b) Nothing in this section may be construed to relieve any other person from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

**CHAPTER 126****H. B. 347**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective March 24, 2020

**INLAND PORT MODIFICATIONS**

Chief Sponsor: Francis D. Gibson  
 Senate Sponsor: David G. Buxton

**LONG TITLE****General Description:**

This bill modifies provisions related to the Utah Inland Port Authority.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of “publicly owned infrastructure and improvements” within the Utah Inland Port Authority Act to include energy-related facilities;
- ▶ enacts a provision allowing an owner within the authority jurisdictional land to establish a vested development right;
- ▶ enacts a severability provision;
- ▶ provides that money from legislative appropriations is nonlapsing;
- ▶ modifies inland port authority powers and duties, including power to adjust the boundary of the authority jurisdictional land;
- ▶ repeals provisions relating to appeals to the inland port authority’s appeals panel;
- ▶ modifies language relating to the policies and objectives of the inland port authority;
- ▶ authorizes the inland port authority to use funds to encourage, incentivize, or require development with reduced environmental impact and to develop and implement zero-emissions logistics;
- ▶ eliminates language relating to an agreement for a municipality to provide municipal services;
- ▶ modifies language relating to the responsibilities of the executive director;
- ▶ modifies the membership of the inland port authority board;
- ▶ modifies provisions relating to the inland port authority’s receipt and use of property tax differential;
- ▶ modifies a provision relating to a renewable energy tariff; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 10-9a-509.5, as last amended by Laws of Utah 2019, Chapter 384
- 10-9a-701, as last amended by Laws of Utah 2019, Chapter 384
- 10-9a-708, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 11-58-102, as last amended by Laws of Utah 2019, Chapter 399

- 11-58-202, as last amended by Laws of Utah 2019, Chapter 399
- 11-58-203, as last amended by Laws of Utah 2019, Chapter 399
- 11-58-205, as last amended by Laws of Utah 2019, Chapter 399
- 11-58-301, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-302, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 11-58-303, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 11-58-305, as last amended by Laws of Utah 2019, Chapter 399
- 11-58-505, as last amended by Laws of Utah 2019, Chapter 399
- 11-58-601, as last amended by Laws of Utah 2019, Chapters 376 and 399
- 11-58-602, as last amended by Laws of Utah 2019, Chapter 399
- 54-17-806, as last amended by Laws of Utah 2019, Chapter 399
- 63J-1-602.1, as last amended by Laws of Utah 2019, Chapters 89, 136, 213, 215, 244, 326, 342, and 482

**ENACTS:**

- 11-58-103, Utah Code Annotated 1953
- 11-58-104, Utah Code Annotated 1953
- 11-58-105, Utah Code Annotated 1953

**REPEALS:**

- 11-58-401, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 11-58-402, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-402.5, as enacted by Laws of Utah 2018, Second Special Session, Chapter 1
- 11-58-403, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1

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

**Section 1. Section 10-9a-509.5 is amended to read:**

**10-9a-509.5. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.**

(1) (a) Each municipality shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:

- (i) complete for the purposes of allowing subsequent, substantive land use authority review; or
- (ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence~~[- subject to the time limit under Subsection 11-58-402.5(2) for an inland port use application, as defined in Section 11-58-401].~~

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this

failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).

(3) (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.

(b) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.

(c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for the land use authority's determination.

(4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

**Section 2. Section 10-9a-701 is amended to read:**

**10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.**

(1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

(a) requests for variances from the terms of the land use ordinances;

(b) appeals from decisions applying the land use ordinances; and

(c) appeals from a fee charged in accordance with Section 10-9a-510.

(2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances, ~~except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401~~; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

**Section 3. Section 10-9a-708 is amended to read:**

**10-9a-708. Final decision.**

(1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by ordinance.

(2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection 10-9a-801(2)(a) or a final action under Subsection 10-9a-801(4), ~~except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401~~.

**Section 4. Section 11-58-102 is amended to read:**

**11-58-102. Definitions.**

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that ~~is~~ is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) ~~may be accessed via the Utah Legislature's website~~ beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Subsection 11-58-601 ~~(4)(e)~~ (5), the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including publicly owned infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

(8) "Inland port" means one or more sites that:

(a) contain multimodal transportation assets and other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (8);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (8); or

(d) that depends upon the presence of the inland port for the viability of the use.

(10) "Intermodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(11) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(6) who does not have the power to vote on matters of authority business.

(12) "Project area" means:

(a) the authority jurisdictional land; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(13) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(14) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(15) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(16) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(17) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

(18) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(19) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(20) "Taxable value" means the value of property as shown on the last equalized assessment roll [as certified by the county assessor].

(21) "Taxing entity" means a public entity that levies a tax on property within a project area.

(22) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

**Section 5. Section 11-58-103 is enacted to read:**

**11-58-103. Vested right of landowner.**



(1) As used in this section:

(a) “Municipal inland port regulations” means a municipality’s land use ordinances and regulations relating to the use of land within the authority jurisdictional land for an inland port use.

(b) “Vested development right” means a right:

(i) to use or develop land located within the authority jurisdictional land for an inland port use in accordance with municipal inland port regulations in effect on December 31, 2018; and

(ii) that may not be affected by later changes to municipal ordinances or regulations.

(c) “Vested right notice” means a notice that complies with the requirements of Subsection (3).

(2) An owner of land located within the boundary of the authority jurisdictional land may establish a vested development right on that land by causing a notice to be recorded in the office of the recorder of the county in which the land is located.

(3) A notice under Subsection (2) shall:

(a) state that the owner elects to establish a vested development right on the owner’s land to use or develop the land for an inland port use in accordance with municipal inland port regulations in effect on December 31, 2018;

(b) state that the owner’s election is made under Title 11, Chapter 58, Utah Inland Port Authority Act;

(c) describe the land in a way that complies with applicable requirements for the recording of an instrument affecting land;

(d) indicate the zoning district in which the land is located, including any overlay district;

(e) bear the signature of each owner of the land;

(f) be accompanied by the applicable recording fee; and

(g) include the following acknowledgment:

“I/we acknowledge that:

- the land identified in this notice is situated within the authority jurisdictional land of the Utah Inland Port Authority, established under Utah Code Title 11, Chapter 58, Utah Inland Port Authority Act, and is eligible for this election of a vested right;

- this vested right allows the land described in this notice to be used or developed in the manner allowed by applicable land use regulations in effect on December 31, 2018;

- all development activity must comply with those land use regulations;

- the right to use and develop the land described in this notice in accordance with those land use regulations continues for 40 years from the date this notice is recorded, unless a land use application is submitted to the applicable land use authority that proposes a use or development activity that is

not allowed under the land use regulations in effect on December 31, 2018, or all record owners of the land record a rescission of the election of a vested development right for this land.”.

(4) (a) An owner of land against which a vested right notice is recorded has a vested development right with respect to that land for 40 years from the date the vested right notice is recorded, or, if earlier, until the vested development right is rescinded by the recording of a rescission of the election of the vested development right signed by all record owners of the land.

(b) A vested development right may not be affected by changes to municipal ordinances or regulations that occur after a vested right notice is recorded.

(5) Within 10 days after the recording of a vested right notice under this section, the owner of the land shall provide a copy of the vested right notice, with recording information, to the applicable local land use authority.

(6) A vested development right may not be affected by an action under Subsection 17-27a-508(1)(a)(ii)(A) or (B) or Subsection 10-9a-509(1)(a)(ii)(A) or (B).

**Section 6. Section 11-58-104 is enacted to read:**

**11-58-104. Severability.**

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

**Section 7. Section 11-58-105 is enacted to read:**

**11-58-105. Nonlapsing funds.**

Money the authority receives from legislative appropriations is nonlapsing.

**Section 8. Section 11-58-202 is amended to read:**

**11-58-202. Port authority powers and duties.**

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the Utah Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:

(i) emissions monitoring and reporting; and

(ii) strategies that use the best available technology to mitigate environmental impacts from development and uses on the authority jurisdictional land;

(b) plan and facilitate the development of inland port uses on authority jurisdictional land and on land in other authority project areas;

(c) manage any inland port located on land owned or leased by the authority; and

(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land or land in other authority project areas.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land or that is in other authority project areas, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the policies and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of the authority jurisdictional land and land in other authority project areas, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the authority jurisdictional land;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other authority project areas;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;

~~[(q) enter into an agreement with a taxing entity to share property tax differential for services that the taxing entity provides within the authority jurisdictional land;]~~

~~[(r) (q) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land;~~

~~[(s) (r) own and operate an intermodal facility if the authority considers the authority's ownership and operation of an intermodal facility to be necessary or desirable;~~

~~[(t) (s) own and operate publicly owned infrastructure and improvements in a project area outside the authority jurisdictional land; and~~

~~[(u) (t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform.~~

(3) (a) Beginning ~~[January]~~ April 1, 2020, the authority shall:

~~[(a) (i) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to Subsection (3)(b) and any later changes to the boundary enacted by the Legislature; and~~

~~[(b) (ii) maintain an accurate digital file of the boundary that is easily accessible by the public.~~

(b) (i) As used in this Subsection (3)(b), "split property" means a piece of land:

(A) with a single tax identification number; and

(B) that is partly included within and partly excluded from the authority jurisdictional land by the boundary delineated in the shapefile described in Subsection 11-58-102(2).

(ii) With the consent of the mayor of the municipality in which the split property is located, the executive director may adjust the boundary of the authority jurisdictional land to include an excluded portion of a split property or exclude an included portion of a split property.

(iii) In adjusting the boundary under Subsection (3)(b)(ii), the executive director shall consult with the county assessor, the county surveyor, the owner of the split property, and the municipality in which the split property is located.

(iv) A boundary adjustment under this Subsection (3)(b) affecting the northwest boundary of the authority jurisdictional land shall maintain the buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land to be preserved from development.

(v) Upon completing boundary adjustments under this Subsection (3)(b), the executive director shall cause to be recorded in the county recorder's office a map or other description, sufficient for purposes of the county recorder, of the adjusted boundary of the authority jurisdictional land.

(vi) The authority shall modify the official delineation of the boundary of the authority jurisdictional land under Subsection (3)(a) to reflect a boundary adjustment under this Subsection (3)(b).

(4) An intermodal facility owned by the authority is subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

**Section 9. Section 11-58-203 is amended to read:**

**11-58-203. Policies and objectives of the port authority -- Additional duties of the port authority.**

(1) The policies and objectives of the authority are to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land and land in other authority project areas;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and within other authority project areas and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land or land in other authority project areas;

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(h) facilitate the transportation of goods;

(i) coordinate trade-related opportunities to export Utah products nationally and internationally;

(j) support and promote land uses on the authority jurisdictional land and land in other authority project areas that generate economic development, including rural economic development;

(k) establish a project of regional significance;

(l) facilitate an intermodal facility;

(m) support uses of the authority jurisdictional land for inland port uses, including warehousing, light manufacturing, and distribution facilities;

(n) facilitate an increase in trade in the region and in global commerce;

(o) promote the development of facilities that help connect local businesses to potential foreign markets for exporting or that increase foreign direct investment; ~~and~~

(p) encourage all class 5 through 8 designated truck traffic entering the authority jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and urban bus exhaust emission standards for year 2007 and later[-]; and

(q) encourage the development and use of cost-efficient renewable energy in project areas.

(2) In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land and land in other authority project areas and to achieve and implement the development policies and objectives under Subsection (1), the authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and land in other authority project areas and for an inland port;

(b) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

(i) the policies and objectives stated in Subsection (1); and

(ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land; ~~and~~

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state~~[-]; and~~

(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of development.

(3) (a) The authority may use property tax differential and other authority money to encourage, incentivize, or require development that:

(i) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(ii) mitigates traffic congestion; or

(iii) uses high efficiency building construction and operation.

(b) (i) In consultation with the municipality in which development is expected to occur, the authority shall establish minimum mitigation and environmental standards that a landowner is required to meet to qualify for the use of property tax differential in the landowner's development.

(ii) The authority may not use property tax differential for a landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.

(c) The authority may develop and implement world-class, state-of-the-art, zero-emissions logistics that support continued growth of the state's economy in order to:

(i) promote the state as the global center of efficient and sustainable supply chain logistics;

(ii) facilitate the efficient movement of goods on roads and rails and through the air;

(iii) benefit the commercial viability of developers, landowners, and tenants and users; and

(iv) attract capital and expertise in pursuit of the next generation of logistics solutions.

**Section 10. Section 11-58-205 is amended to read:**

**11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal**

**services -- Disclosure by nonauthority governing body member.**

(1) Except as otherwise provided in ~~[Part 4, Appeals to Appeals Panel]~~ this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7) (a) ~~(4)~~ A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

~~(4)(b)~~ (b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

~~(b) (i) The board shall negotiate and enter into an agreement with a municipality providing municipal services, as described in Subsection (7)(a), with respect to the appropriate amount of property tax differential the authority should share with the~~

municipality to cover the cost of providing those municipal services.]

~~[(ii) Under an agreement described in Subsection (7)(b)(i), the board and municipality shall establish a method of determining the amount of property tax differential the authority shares over time with a municipality to cover the cost of providing municipal services, taking into account:]~~

~~[(A) the cost of those services as documented in the audited financial statements under Subsection (7)(e); and]~~

~~[(B) the variable level of need for those services within the authority jurisdictional land depending on the level, amount, and location of development and other relevant factors.]~~

~~[(c) A municipality providing municipal services, as described in Subsection (7)(a), shall, as requested by the board, provide the board audited financial statements documenting the cost of the municipal services the municipality provides within the authority jurisdictional land.]~~

~~[(8) (a) The board shall negotiate and enter into an agreement with a municipality or other taxing entity in which the authority jurisdictional land is located to share some of the increase in property tax differential that occurs over time as development occurs and the amount of property tax revenue increases.]~~

~~[(b) In an agreement described in Subsection (8)(a), the board and municipality or other taxing entity shall establish a method of determining the amount of property tax differential the authority shares over time to allow the municipality or other taxing entity to share in the benefit from increasing property tax revenue.]~~

~~[(9) The board may consult with other taxing entities, in addition to a municipality under Subsection (7), for the purpose of receiving input from those taxing entities on the appropriate allocation of property tax differential, considering the needs of the authority and the needs of the other taxing entities.]~~

~~[(10) (a) The board shall review and reassess the amount of property tax differential the authority retains and the amount the authority shares with other taxing entities so that the authority retains property tax differential it reasonably needs to meet its responsibilities and purposes and adjusts the amount the authority shares with other taxing entities accordingly.]~~

~~[(b) The board shall meet with taxing entities to review and reassess, as provided in Subsection (10)(a):]~~

~~[(i) before December 31, 2020; and]~~

~~[(ii) at least every other year after 2020.]~~

~~[(11) (8) (a) As used in this Subsection [(11)] (8):~~

~~(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.~~

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, local district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection [(11)] (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection [(11)] (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection [(11)] (8), if that date is later than the period described in Subsection [(11)] (8)(d)(i).

(e) A written disclosure submitted under this Subsection [(11)] (8) is a public record.

**Section 11. Section 11-58-301 is amended to read:**

**11-58-301. Port authority board -- Delegation of power.**

(1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board or, as provided in Section 11-58-305, the executive director.

(3) The board may by resolution delegate powers to authority staff.

**Section 12. Section 11-58-302 is amended to read:**

**11-58-302. Number of board members -- Appointment -- Vacancies.**

(1) The authority's board shall consist of 11 members, as provided in Subsection (2).

(2) (a) The governor shall appoint two board members<sup>1,2</sup>:

(i) ~~one of whom shall be [an employee or officer of the Governor's Office of Economic Development, created in Section 63N-1-201] an individual engaged in statewide economic development or corporate recruitment and retention; and~~

(ii) one of whom shall be an individual engaged in statewide trade, import and export activities, or foreign direct investment.

(b) The president of the Senate shall appoint one board member.

(c) The speaker of the House of Representatives shall appoint one board member.

(d) The mayor of Salt Lake County [mayor shall appoint one], or the mayor's designee, shall serve as a board member.

(e) The chair of the Permanent Community Impact Fund Board, created in Section 35A-8-304, shall appoint one board member from among the members of the Permanent Community Impact Fund Board.

(f) ~~The [chair of the] mayor of Salt Lake [Airport Advisory Board, or the chair's] City, or the mayor's designee, shall serve as a board member.~~

(g) ~~[The] A member of the Salt Lake City council [who is elected by district and whose district includes the Salt Lake City Airport], selected by the Salt Lake City council, shall serve as a board member.~~

(h) The city manager of West Valley City, with the consent of the city council of West Valley City, shall appoint one board member.

~~[(i) The executive director of the Department of Transportation, appointed under Section 72-1-202, shall serve as a board member.]~~

~~[(j) (i) The director of the Salt Lake County office of Regional Economic Development shall serve as a board member.~~

(j) The mayor of the Magna metro township, or the mayor's designee, shall serve as a board member.

(3) An individual required under Subsection (2) to appoint a board member shall appoint each initial

board member the individual is required to appoint no later than June 1, 2018.

(4) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) A person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(5) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(6) The authority may appoint nonvoting members of the board and set terms for those nonvoting members.

(7) Upon a vote of a majority of all board members, the board may appoint a board chair and any other officer of the board.

(8) (a) An individual designated as a board member under Subsection (2)(g), (i), or (j) who would be precluded from serving as a board member because of Subsection 11-58-304(2):

(i) may serve as a board member notwithstanding Subsection 11-58-304(2); and

(ii) shall disclose in writing to the board the circumstances that would otherwise have precluded the individual from serving as a board member under Subsection 11-58-304(2).

(b) A written disclosure under Subsection (8)(a)(ii) is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The board may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations.

**Section 13. Section 11-58-303 is amended to read:**

**11-58-303. Term of board members -- Quorum -- Compensation.**

(1) The term of a board member appointed under Subsection 11-58-302(2)(a), (b), (c), ~~[(d), or] (e), (g), or (h)~~ is four years, except that the initial term of one of the two members appointed under Subsection 11-58-302(2)(a) and of the members appointed under Subsections 11-58-302(2)~~[(d)](e)~~ and ~~[(h)](g)~~ is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-58-302(2).

(4) A majority of board members constitutes a quorum, and the action of a majority of a quorum constitutes action of the board.

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

(i) Sections 63A-3-106 and 63A-3-107; and

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

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

**Section 14. Section 11-58-305 is amended to read:**

**11-58-305. Executive director.**

(1) On or before July 1, 2019, the board shall hire a full-time executive director. ~~[tø]~~

(2) (a) The executive director is the chief executive officer of the authority.

(b) The role of the executive director is to:

(i) manage and oversee the day-to-day operations of the authority;

(ii) fulfill the executive and administrative duties and responsibilities of the authority; and [tø]

(iii) perform other functions, as directed by the board.

~~[(2)]~~ (3) The executive director shall have the education, experience, and training necessary to perform the executive director's duties in a way that maximizes the potential for successfully achieving and implementing the strategies, policies, and objectives stated in Subsection 11-58-203(1).

~~[(3)]~~ (4) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.

~~[(4)]~~ (5) The board shall establish the duties, compensation, and benefits of an executive director.

**Section 15. Section 11-58-505 is amended to read:**

**11-58-505. Project area budget.**

(1) Before the authority may use the property tax differential from a project area, the board shall prepare and adopt a project area budget.

(2) A project area budget shall include:

(a) the base taxable value of property in the project area;

(b) the projected property tax differential expected to be generated within the project area;

~~[(c) the amount of the property tax differential expected to be shared with other taxing entities;]~~

~~[(d)]~~ (c) the amount of the property tax differential expected to be used to implement the project area plan, including the estimated amount of the property tax differential to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

~~[(e)]~~ (d) the property tax differential expected to be used to cover the cost of administering the project area plan; and

~~[(f)]~~ (e) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(3) The board may amend an adopted project area budget as and when the board considers it appropriate.

(4) For a project area that consists of the authority jurisdictional land, the budget requirements of this part are met by the authority complying with the budget requirements of Part 8, Port Authority Budget, Reporting, and Audits.

**Section 16. Section 11-58-601 is amended to read:**

**11-58-601. Port authority receipt and use of property tax differential -- Distribution of property tax differential.**

~~[(1)]~~ (a) The authority:]

~~[(i)]~~ subject to Subsections (1)(b), (c), and (d):]

~~[(A)]~~ shall be paid 100% of the property tax differential, as provided in Subsection (3), for a period of 25 years after a certificate of occupancy is issued with respect to improvements on a parcel, as determined by the board and as provided in this part; and]

~~[(B)]~~ may be paid up to 100% of the property tax differential, as provided in Subsection (3), for a period of 15 additional years beyond the period stated in Subsection (1)(a)(i)(A) if the board determines that the additional years of property tax differential will produce a significant benefit; and]

~~[(ii)]~~ may use the property tax differential before, during, and after the period described in Subsection (1)(a)(i).]

~~[(b)]~~ With respect to a parcel located within a project area, the period described in Subsection (1)(a)(i) begins on the day on which the authority receives the first property tax differential from that parcel.]

(1) As used in this section:

(a) "Designation resolution" means a resolution adopted by the board that designates a transition date for the parcel specified in the resolution.

(b) "Post-designation differential" means 75% of property tax differential generated from a post-designation parcel.

(c) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

(d) “Pre-designation differential” means 75% of property tax differential generated from all pre-designation parcels within a project area.

(e) “Pre-designation parcel” means a parcel within a project area before the transition date for that parcel.

(f) “Transition date” means the date after which the authority is to be paid post-designation differential for the parcel that is the subject of a designation resolution.

(2) (a) The authority shall be paid pre-designation differential generated within the authority jurisdictional land:

(i) for the period beginning November 2019 and ending November 2044; and

(ii) for a period of 15 years following the period described in Subsection (2)(a)(i) if, before the end of the period described in Subsection (2)(a)(i), the board adopts a resolution extending the period described in Subsection (2)(a)(i) for 15 years.

(b) The authority shall be paid pre-designation differential generated within a project area, other than the authority jurisdictional land:

(i) for a period of 25 years beginning the date the board adopts a project area plan under Section 11-58-502 establishing the project area; and

(ii) for a period of 15 years following the period described in Subsection (2)(b)(i) if, before the end of the period described in Subsection (2)(b)(i), the board adopts a resolution extending the period described in Subsection (2)(b)(i) for 15 years.

(3) The authority shall be paid post-designation differential generated from a post-designation parcel:

(a) for a period of 25 years beginning on the transition date for that parcel; and

(b) for a period of an additional 15 years beyond the period stated in Subsection (3)(a) if the board determines by resolution that the additional years of post-designation differential from that parcel will produce a significant benefit.

(4) (a) For purposes of this section, the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (4)(a) does not constitute a subdivision, as defined in Section 10-9a-103 or Section 17-27a-103.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (4)(a).

~~(e)~~ (5) The authority may not receive ~~[property tax differential from]~~:

~~(4)~~ (a) a taxing entity’s portion of property tax differential generated from an area included within a community reinvestment project area under a

community reinvestment project area plan, as defined in Section 17C-1-102, adopted before October 1, 2018, ~~[from a]~~ if the taxing entity ~~[that]~~ has, before October 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of its tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan; or

~~(ii)~~ (b) property tax differential from a parcel of land:

(i) that was substantially developed before December 1, 2018;

(ii) for which a certificate of occupancy was issued before December 1, 2018~~[-]; and~~

(iii) that is identified in a list that the municipality in which the land is located provides to the authority and the county assessor by April 1, 2020.

~~(4)~~ (4) (6) (a) As used in this Subsection ~~[(4)(d)]~~ (6):

~~(A)~~ (i) “Agency land” means authority jurisdictional land that is within the boundary of an eligible community reinvestment agency and from which the authority is paid property tax differential.

(ii) “Applicable differential” means the amount of property tax differential paid to the authority that is generated from agency land.

~~(B)~~ (iii) “Eligible community reinvestment agency” means the community reinvestment agency in which agency land is located.

~~(ii)~~ (b) The authority shall pay 10% of ~~[the property tax differential generated from agency land]~~ applicable differential to the eligible community reinvestment agency, to be used for affordable housing as provided in Section 17C-1-412.

~~(2)~~ (7) (a) ~~[A]~~ Subject to Subsection (7)(b), a county that collects property tax on property within a project area shall pay and distribute to the authority the property tax differential that the authority is entitled to collect under this ~~[title]~~ chapter, in the manner and at the time provided in Section 59-2-1365.

(b) For property tax differential that a county collects for tax year 2019, a county shall pay and distribute to the authority, on or before June 30, 2020, the property tax differential that the authority is entitled to collect:

(i) according to the provisions of this section; and

(ii) based on the boundary of the authority jurisdictional land as of May 31, 2020.

~~(3)~~ Until the end of the period described in Subsection ~~(1)(a)(i)~~, the county shall pay to the authority all property tax differential collected from a parcel within a project area, beginning:

~~(a)~~ for a parcel that is part of the authority jurisdictional land, November 2019; and

~~(b)~~ for a parcel in any other project area, November of the year following the year that forms the basis of the base taxable value calculation.]



**Section 17. Section 11-58-602 is amended to read:**

**11-58-602. Allowable uses of property tax differential and other funds.**

(1) The authority may use the property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)(b)(iii), and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) ~~[subject to Subsection (4),]~~ for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within a project area, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the property tax differential funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

~~[(f) to pay for municipal services that a municipality provides within the authority jurisdictional land;]~~

~~[(g) to pay for other services that a taxing entity provides within the authority jurisdictional land;]~~

~~[(h) to share growth in the amount of property tax differential over time with other taxing entities;]~~

~~[(4)]~~ (f) to pay to a community reinvestment agency for affordable housing, as provided in Subsection 11-58-601~~[(1)(d)]~~(6); and

~~[(j)]~~ (g) to pay the principal and interest on bonds issued by the authority.

(2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(e) regarding benefit to the project area is final.

~~[(4) The authority may not use more than 5% of property tax differential revenue collected during the period described in Subsection 11-58-601(1)(a)(i) to pay for authority operating expenses, including:]~~

~~[(a) administrative and overhead expenses; and]~~

~~[(b) legal expenses, except legal fees and expenses with respect to potential or pending litigation involving the authority.]~~

~~[(5)]~~ (4) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.

~~[(6)]~~ (5) Until the authority adopts a business plan under Subsection 11-58-202(1)(a), the authority may not spend property tax differential revenue collected from authority jurisdictional land.

~~[(7)]~~ (6) (a) As used in this Subsection ~~[(7)]~~ (6):

(i) "Authority sales and use tax revenue" means money distributed to the authority under Subsection 59-12-205(2)(b)(iii).

(ii) "Eligible county" means a county that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii).

(iii) "Eligible municipality" means a municipality that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii).

(iv) "Point of sale portion" means:

(A) for an eligible county, the amount of sales and use tax revenue the eligible county would have received under Subsection 59-12-205(2)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii), excluding the retail sales portion; and

(B) for an eligible municipality, the amount of sales and use tax revenue the eligible municipality would have received under Subsection 59-12-205(2)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii), excluding the retail sales portion.

(v) "Retail sales portion" means the amount of sales and use tax revenue collected under Subsection 59-12-205(2)(b)(i) from retail sales transactions that occur on authority jurisdictional land.

(b) Within 45 days after receiving authority sales and use tax revenue, the authority shall:

(i) distribute half of the point of sale portion to each eligible county and eligible municipality; and

(ii) distribute all of the retail sales portion to each eligible county and eligible municipality.

**Section 18. Section 54-17-806 is amended to read:**

**54-17-806. Qualified utility renewable energy tariff.**

(1) The commission may authorize a qualified utility to implement a renewable energy tariff in accordance with this section if the commission determines the tariff that the qualified utility proposes is reasonable and in the public interest.

(2) The commission may authorize a tariff under Subsection (1) to apply to:

(a) a qualified utility customer with an aggregated electrical load of at least five megawatts; or

(b) a combination of qualified utility customers who are separately metered if:

(i) the aggregated electrical load of the qualified utility customers is at least five megawatts; and

(ii) each of the qualified utility customers [~~and the renewable energy source are~~] is located within [~~authority jurisdictional land~~] a project area, as defined in Section 11-58-102.

(3) A customer who agrees to take service that is subject to the renewable energy tariff under this section shall pay:

(a) the customer's normal tariff rate;

(b) an incremental charge in an amount equal to the difference between the cost to the qualified utility to supply renewable generation to the renewable energy tariff customer and the qualified utility's avoided costs as defined in Subsection 54-2-1(1), or a different methodology recommended by the qualified utility; and

(c) an administrative fee in an amount approved by the commission.

(4) The commission shall allow a qualified utility to recover the qualified utility's prudently incurred cost of renewable generation procured pursuant to the tariff established in this section that is not otherwise recovered from the proceeds of the tariff paid by customers agreeing to service that is subject to the renewable energy tariff.

**Section 19. Section 63J-1-602.1 is amended to read:**

**63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

~~[(6)]~~ (7) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

~~[(7)]~~ (8) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

~~[(8)]~~ (9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

~~[(9)]~~ (10) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

~~[(10)]~~ (11) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

~~[(11)]~~ (12) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

~~[(12)]~~ (13) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

~~[(13)]~~ (14) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

~~[(14)]~~ (15) The Technology Development Restricted Account created in Section 31A-3-104.

~~[(15)]~~ (16) The Criminal Background Check Restricted Account created in Section 31A-3-105.

~~[(16)]~~ (17) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

~~[(17)]~~ (18) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

~~[(18)]~~ (19) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

~~[(19)]~~ (20) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

~~[(20)]~~ (21) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

~~[(21)]~~ (22) The School Readiness Restricted Account created in Section 35A-15-203.

~~[(22)]~~ (23) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

~~[(23)]~~ (24) The Oil and Gas Conservation Account created in Section 40-6-14.5.

~~[(24)]~~ (25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

~~[(25)]~~ (26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[(26)] (27) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[(27)] (28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[(28)] (29) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[(29)] (30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[(30)] (31) The DNA Specimen Restricted Account created in Section 53-10-407.

[(31)] (32) The Canine Body Armor Restricted Account created in Section 53-16-201.

[(32)] (33) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[(33)] (34) The Higher Education Capital Projects Fund created in Section 53B-22-202.

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

[(35)] (36) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[(36)] (37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

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

[(38)] (39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[(39)] (40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[(40)] (41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

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

[(42)] (43) The Relative Value Study Restricted Account created in Section 59-9-105.

[(43)] (44) The Cigarette Tax Restricted Account created in Section 59-14-204.

[(44)] (45) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[(45)] (46) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[(46)] (47) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

[(47)] (48) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

[(48)] (49) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

[(49)] (50) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

[(50)] (51) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[(51)] (52) The Immigration Act Restricted Account created in Section 63G-12-103.

[(52)] (53) Money received by the military installation development authority, as provided in Section 63H-1-504.

[(53)] (54) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[(54)] (55) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[(55)] (56) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[(56)] (57) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

[(57)] (58) The Motion Picture Incentive Account created in Section 63N-8-103.

[(58)] (59) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[(59)] (60) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[(60)] (61) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[(61)] (62) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

[(62)] (63) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[(63)] (64) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[(64)] (65) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

~~[(65)]~~ (66) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

~~[(66)]~~ (67) Fees for certificate of admission created under Section 78A-9-102.

~~[(67)]~~ (68) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(68)]~~ (69) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

~~[(69)]~~ (70) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

~~[(70)]~~ (71) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

#### **Section 20. Repealer.**

This bill repeals:

#### **Section 11-58-401, Definitions.**

#### **Section 11-58-402, Appeals panel.**

#### **Section 11-58-402.5, Municipal processing of an inland port use application and appeal.**

#### **Section 11-58-403, Appeals process and standards.**

#### **Section 21. Effective date.**

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

**CHAPTER 127****H. B. 348**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**BUSINESS LICENSING AMENDMENTS**

Chief Sponsor: Michael K. McKell  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends the Insurance Code regarding license fees and taxes.

**Highlighted Provisions:**

This bill:

- ▶ amends the Insurance Code regarding license fees and taxes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

31A-3-102, as last amended by Laws of Utah 2017,  
 Chapter 168

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

**Section 1. Section 31A-3-102 is amended to read:****31A-3-102. Exclusive fees and taxes.**

(1) The following are in place of any other license fee or license assessment that might otherwise be levied against a licensee by the state or a political subdivision of the state:

(a) subject to Subsection (4), taxes and fees under this chapter;

(b) the premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;

(c) the fees under Section 31A-31-108; and

(d) the examination costs under Section 31A-2-205.

(2) The following are not subject to Title 59, Chapter 7, Corporate Franchise and Income Taxes:

(a) an insurer that is subject to premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers, regardless of whether the insurance company has a tax liability under that chapter;

(b) an insurance company that engages in a transaction that is subject to taxes under Section 31A-3-301 or 31A-3-302, regardless of whether the insurance company has a tax liability under that section; and

(c) a captive insurance company as provided in Section 31A-3-304 that pays a fee imposed under Section 31A-3-304.

(3) Unless otherwise exempt, a licensee under this title is subject to real and personal property taxes.

(4) A tax or fee under this chapter is not in place of a tax or fee a municipality or county imposes in accordance with Section 10-1-203 or 17-53-216.

**CHAPTER 128****H. B. 349**

Passed March 12, 2020

Approved March 24, 2020

Effective May 12, 2020

**INSURANCE MODIFICATIONS**

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: Ralph Okerlund

Cosponsors: Patrice M. Arent

Joel K. Briscoe

Jennifer Dailey-Provost

Susan Duckworth

Eric K. Hutchings

Karen Kwan

Carol Spackman Moss

Angela Romero

Lawanna Shurtliff

**LONG TITLE****General Description:**

This bill enacts provisions related to life insurance, accident and health insurance, and long-term care insurance.

**Highlighted Provisions:**

This bill:

- ▶ prohibits an insurer from discriminating in the offering, issuance, cancellation, amount of coverage, price, or any other condition of a life insurance, accident and health insurance, or long-term care insurance policy or contract due to the status of an individual as a living organ donor; and
- ▶ defines terms.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

31A-22-430, Utah Code Annotated 1953

31A-22-653, Utah Code Annotated 1953

31A-22-1415, Utah Code Annotated 1953

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

**Section 1. Section 31A-22-430 is enacted to read:****31A-22-430. Living organ donor coverage.**

(1) For the purposes of this section, "living organ donor" means the same as that term is defined in Section 31A-22-653.

(2) An insurer may not:

(a) deny eligibility for coverage or limit coverage of a individual under a life insurance policy or contract solely due to the status of the individual as a living organ donor;

(b) preclude an individual from donating all or part of an organ as a condition of receiving or continuing to receive coverage under a life insurance policy or contract; or

(c) discriminate in the offering, issuance, cancellation, amount of coverage, price, or any other condition of a life insurance policy or contract for an individual based upon the status of the individual as a living organ donor without any additional actuarial risk.

(3) The commissioner shall make educational materials available to insurers and the public on the access of living organ donors to insurance.

(4) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this section.

**Section 2. Section 31A-22-653 is enacted to read:****31A-22-653. Living organ donor coverage.**

(1) For the purposes of this section, "living organ donor" means an individual who has donated all or part of an organ and is not deceased.

(2) An insurer may not:

(a) deny eligibility for coverage or limit coverage of a individual under an accident and health insurance policy or contract solely due to the status of the individual as a living organ donor;

(b) preclude an individual from donating all or part of an organ as a condition of receiving or continuing to receive coverage under an accident and health insurance policy or contract; or

(c) discriminate in the offering, issuance, cancellation, amount of coverage, price, or any other condition of an accident and health insurance policy or contract for an individual based upon the status of the individual as a living organ donor without any additional actuarial risk.

(3) The commissioner shall make educational materials available to insurers and the public on the access of living organ donors to insurance.

(4) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this section.

**Section 3. Section 31A-22-1415 is enacted to read:****31A-22-1415. Living organ donor coverage.**

(1) For the purposes of this section, "living organ donor" means the same as that term is defined in Section 31A-22-653.

(2) An insurer may not:

(a) deny eligibility for coverage or limit coverage of a individual under a long-term care insurance policy or contract solely due to the status of the individual as a living organ donor;

(b) preclude an individual from donating all or part of an organ as a condition of receiving or continuing to receive coverage under a long-term care insurance policy or contract; or

(c) discriminate in the offering, issuance, cancellation, amount of coverage, price, or any

other condition of a long-term care insurance policy or contract for an individual based upon the status of the individual as a living organ donor without any additional actuarial risk.

(3) The commissioner shall make educational materials available to insurers and the public on the access of living organ donors to insurance.

(4) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this section.

**CHAPTER 129****H. B. 358**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**POULTRY AMENDMENTS**

Chief Sponsor: Marc K. Roberts  
 Senate Sponsor: Ronald Winterton

**LONG TITLE****General Description:**

This bill clarifies provisions related to rulemaking for the slaughtering of poultry.

**Highlighted Provisions:**

This bill:

- ▶ provides guidance for rulemaking for the slaughtering of poultry.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

4-32-109, as renumbered and amended by Laws of Utah 2017, Chapter 345

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

**Section 1. Section 4-32-109 is amended to read:****4-32-109. Mandatory functions, powers, and duties of department prescribed.**

(1) The department shall make rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the following functions, powers, and duties, in addition to those specified in Chapter 1, General Provisions, for the administration and enforcement of this chapter.

(2) The department shall require antemortem and postmortem inspections, quarantine, segregation, and reinspections by inspectors appointed for those purposes with respect to the slaughter of animals and the preparation of meat and poultry products at official establishments, except as provided in Subsection 4-32-110(13).

(3) The department shall require that:

- (a) animals be identified for inspection purposes;
- (b) meat or poultry products, or their containers be marked or labeled as:
  - (i) "Utah Inspected and Passed" if, upon inspection, the products are found to be unadulterated; and
  - (ii) "Utah Inspected and Condemned" if, upon inspection, the products are found to be adulterated; and
- (c) condemned animal carcasses or products, which otherwise would be used for human consumption, be destroyed under the supervision of an inspector.

(4) The department shall prohibit or limit meat products, poultry products, or other materials not prepared under inspection procedures provided in this chapter, from being brought into official establishments.

(5) The department shall require that labels and containers for meat and poultry products:

(a) bear all information required by Section 4-32-115 if the product leaves the official establishment; and

(b) be approved before sale or transportation.

(6) For official establishments required to be inspected under Subsection (2), the department shall:

(a) prescribe sanitary standards;

(b) require sanitary inspections; and

(c) refuse to provide inspection service if the sanitary conditions allow adulteration of any meat or poultry product.

(7) (a) The department shall require that any person engaged in a business referred to in Subsection (7)(b):

(i) keep accurate records disclosing all pertinent business transactions;

(ii) allow inspection of the business premises at reasonable times and examination of inventory, records, and facilities; and

(iii) allow samples to be taken.

(b) Subsection (7)(a) applies to any person who:

(i) slaughters animals;

(ii) prepares, freezes, packages, labels, buys, sells, transports, or stores any meat or poultry products for human or animal consumption;

(iii) renders animals; or

(iv) buys, sells, or transports any dead, dying, disabled, or diseased animals, or parts of their carcasses that died by a method other than slaughter.

(8) (a) The department shall:

(i) adopt by reference rules under federal acts with changes that the commissioner considers appropriate to make the rules applicable to operations and transactions subject to this chapter; and

(ii) make any other rules considered necessary for the efficient execution of the provisions of this chapter, including rules of practice providing an opportunity for hearing in connection with the issuance of orders under Subsection (6) or under Subsection 4-32-110(1), (2), or (3) and prescribing procedures for proceedings in these cases.

(b) These procedures do not preclude requiring that a label or container be withheld from use, or inspection be refused under [Subsections] Subsection (2) [and] or (6), or Subsection 4-32-110(3), pending issuance of a final order in the proceeding.



(9) (a) To prevent the inhumane slaughtering of animals, inspectors shall be appointed to examine and inspect methods of handling and slaughtering animals.

(b) Inspection of slaughtering establishments may be refused or temporarily suspended if animals have been slaughtered or handled by any method not in accordance with the Humane Methods of Slaughter Act of 1978, Pub. L. No. 95-445.

(c) Before slaughtering an animal in accordance with requirements of Kosher, Halal, or a religious faith's requirements that discourage stunning of the animal, the person slaughtering the animal shall file a written request with the commissioner.

(10) (a) The department shall require an animal showing symptoms of disease during antemortem inspection, performed by an inspector appointed for that purpose, to be set apart and slaughtered separately from other livestock and poultry.

(b) When slaughtered, the carcasses of livestock and poultry are subject to careful examination and inspection in accordance with rules prescribed by the commissioner.

(11) Subject to Subsection (14), the department shall make rules for exemptions for persons who slaughter or process fewer than 20,000 poultry during the calendar year to be no more stringent than the exemptions described in 21 U.S.C. Secs. 464(c)(1)(C), 21 U.S.C. Sec. 464(c)(3), 9 C.F.R. Sec. 381.10(a)(5), and 9 C.F.R. Secs. 381.10(b)(1) and (2).

(12) Subject to Subsection (14), the department shall make rules for exemptions for persons who slaughter or process fewer than 1,000 poultry during the calendar year to be no more stringent than the exemptions described in 21 U.S.C. Sec. 464(c)(4) and 9 C.F.R. Sec. 381.10(c).

(13) The department may maintain:

(a) a registry of persons who slaughter or process fewer than 20,000 poultry during the calendar year; and

(b) a registry of persons who slaughter or process fewer than 1,000 poultry during the calendar year.

(14) The department shall make the rules described in Subsections (11) and (12) after the day on which the department receives approval from the U.S. Department of Agriculture that making the rules will preserve the state's role in meat and poultry inspections.

**CHAPTER 130****H. B. 361**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective January 1, 2021

**PERSONAL INJURY AMENDMENTS**

Chief Sponsor: Stephen G. Handy  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill amends provisions related to motor vehicle insurance.

**Highlighted Provisions:**

This bill:

- ▶ includes a bone fracture as an injury that allows a person who has or is required to have direct benefit coverage under a policy that includes personal injury protection to maintain an action for damages; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

31A-22-307, as last amended by Laws of Utah 2006, Chapter 197

31A-22-309, as last amended by Laws of Utah 2017, Chapter 363

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

**Section 1. Section 31A-22-307 is amended to read:****31A-22-307. Personal injury protection coverages and benefits.**

(1) Personal injury protection coverages and benefits include:

(a) up to the minimum amount required coverage of not less than \$3,000 per person, the reasonable value of all expenses for necessary:

- (i) medical services;
- (ii) surgical services;
- (iii) X-ray services;
- (iv) dental services;
- (v) rehabilitation services, including prosthetic devices;
- (vi) ambulance services;
- (vii) hospital services; and
- (viii) nursing services;

(b) (i) the lesser of \$250 per week or 85% of any loss of gross income and loss of earning capacity per person from inability to work, for a maximum of 52 consecutive weeks after the loss, except that this benefit need not be paid for the first three days of

disability, unless the disability continues for longer than two consecutive weeks after the date of injury; and

(ii) a special damage allowance not exceeding \$20 per day for a maximum of 365 days, for services actually rendered or expenses reasonably incurred for services that, but for the injury, the injured person would have performed for the injured person's household, except that this benefit need not be paid for the first three days after the date of injury unless the person's inability to perform these services continues for more than two consecutive weeks;

(c) funeral, burial, or cremation benefits not to exceed a total of \$1,500 per person; and

(d) compensation on account of death of a person, payable to the person's heirs, in the total of \$3,000.

(2) (a) (i) To determine the reasonable value of the medical expenses provided for in Subsection (1) and under Subsection 31A-22-309(1)(a)~~(iv)~~(vi), the commissioner shall conduct a relative value study of services and accommodations for the diagnosis, care, recovery, or rehabilitation of an injured person in the most populous county in the state to assign a unit value and determine the 75th percentile charge for each type of service and accommodation.

(ii) The relative value study shall be updated every other year.

(iii) In conducting the relative value study, the department may consult or contract with appropriate public and private medical and health agencies or other technical experts.

(iv) The costs and expenses incurred in conducting, maintaining, and administering the relative value study shall be funded by the tax created under Section 59-9-105.

(v) Upon completion of the relative value study, the department shall prepare and publish a relative value study which sets forth the unit value and the 75th percentile charge assigned to each type of service and accommodation.

(b) (i) The reasonable value of any service or accommodation is determined by applying the unit value and the 75th percentile charge assigned to the service or accommodation under the relative value study.

(ii) If a service or accommodation is not assigned a unit value or the 75th percentile charge under the relative value study, the value of the service or accommodation shall equal the reasonable cost of the same or similar service or accommodation in the most populous county of this state.

(c) This Subsection (2) does not preclude the department from adopting a schedule already established or a schedule prepared by persons outside the department, if it meets the requirements of this Subsection (2).

(d) Every insurer shall report to the commissioner any pattern of overcharging, excessive treatment, or other improper actions by a

health provider within 30 days after the day on which the insurer has knowledge of the pattern.

(e) (i) In disputed cases, a court on its own motion or on the motion of either party, may designate an impartial medical panel of not more than three licensed physicians to examine the claimant and testify on the issue of the reasonable value of the claimant's medical services or expenses.

(ii) An impartial medical panel designated under Subsection (2)(e)(i) shall consist of a majority of health care professionals within the same license classification and specialty as the provider of the claimant's medical services or expenses.

(3) Medical expenses as provided for in Subsection (1)(a) and in Subsection 31A-22-309(1)(a)(~~(v)~~)(vi) include expenses for any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing.

(4) The insured may waive for the named insured and the named insured's spouse only the loss of gross income benefits of Subsection (1)(b)(i) if the insured states in writing that:

(a) within 31 days of applying for coverage, neither the insured nor the insured's spouse received any earned income from regular employment; and

(b) for at least 180 days from the date of the writing and during the period of insurance, neither the insured nor the insured's spouse will receive earned income from regular employment.

(5) This section does not:

(a) prohibit the issuance of a policy of insurance providing coverages greater than the minimum coverage required under this chapter; or

(b) require the segregation of those minimum coverages from other coverages in the same policy.

(6) Deductibles are not permitted with respect to the insurance coverages required under this section.

**Section 2. Section 31A-22-309 is amended to read:**

**31A-22-309. Limitations, exclusions, and conditions to personal injury protection.**

(1) (a) A person who has or is required to have direct benefit coverage under a policy which includes personal injury protection may not maintain a cause of action for general damages arising out of personal injuries alleged to have been caused by an automobile accident, except where the person has sustained one or more of the following:

(i) death;

(ii) dismemberment;

(iii) permanent disability or permanent impairment based upon objective findings;

(iv) permanent disfigurement; ~~or~~

(v) a bone fracture; or

~~(v)~~ (vi) medical expenses to a person in excess of \$3,000.

(b) Subsection (1)(a) does not apply to a person making an uninsured motorist claim.

(2) (a) Any insurer issuing personal injury protection coverage under this part may only exclude from this coverage benefits:

(i) for any injury sustained by the insured while occupying another motor vehicle owned by or furnished for the regular use of the insured or a resident family member of the insured and not insured under the policy;

(ii) for any injury sustained by any person while operating the insured motor vehicle without the express or implied consent of the insured or while not in lawful possession of the insured motor vehicle;

(iii) to any injured person, if the person's conduct contributed to the person's injury:

(A) by intentionally causing injury to the person; or

(B) while committing a felony;

(iv) for any injury sustained by any person arising out of the use of any motor vehicle while located for use as a residence or premises;

(v) for any injury due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing; or

(vi) for any injury resulting from the radioactive, toxic, explosive, or other hazardous properties of nuclear materials.

(b) This Subsection (2) does not limit the exclusions that may be contained in other types of coverage.

(3) The benefits payable to any injured person under Section 31A-22-307 are reduced by:

(a) any benefits which that person receives or is entitled to receive as a result of an accident covered in this code under any workers' compensation or similar statutory plan; and

(b) any amounts which that person receives or is entitled to receive from the United States or any of its agencies because that person is on active duty in the military service.

(4) When a person injured is also an insured party under any other policy, including those policies complying with this part, primary coverage is given by the policy insuring the motor vehicle in use during the accident.

(5) (a) Payment of the benefits provided for in Section 31A-22-307 shall be made on a monthly basis as expenses are incurred.

(b) Benefits for any period are overdue if they are not paid within 30 days after the insurer receives reasonable proof of the fact and amount of expenses incurred during the period. If reasonable proof is not supplied as to the entire claim, the amount

supported by reasonable proof is overdue if not paid within 30 days after that proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is also overdue if not paid within 30 days after the proof is received by the insurer.

(c) If the insurer fails to pay the expenses when due, these expenses shall bear interest at the rate of 1-1/2% per month after the due date.

(d) The person entitled to the benefits may bring an action in contract to recover the expenses plus the applicable interest. If the insurer is required by the action to pay any overdue benefits and interest, the insurer is also required to pay a reasonable attorney's fee to the claimant.

(6) (a) Except as provided in Subsection (6)(b), every policy providing personal injury protection coverage is subject to the following:

(i) that where the insured under the policy is or would be held legally liable for the personal injuries sustained by any person to whom benefits required under personal injury protection have been paid by another insurer, the insurer of the person who would be held legally liable shall reimburse the other insurer for the payment, but not in excess of the amount of damages recoverable; and

(ii) that the issue of liability for that reimbursement and its amount shall be decided by mandatory, binding arbitration between the insurers.

(b) There shall be no right of reimbursement between insurers under Subsection (6)(a) if the insurer of the person who would be held legally liable for the personal injuries sustained has tendered its policy limit.

(c) (i) If the insurer of the person who would be held legally liable for the personal injuries sustained reimburses a no-fault insurer prior to settling a third party liability claim with an injured person and subsequently determines that some or all of the reimbursed amount is needed to settle a third party claim, the insurer of the person who would be held legally liable for the personal injuries sustained shall provide written notice to the no-fault insurer that some or all of the reimbursed amount is needed to settle a third party liability claim.

(ii) The written notice described under Subsection (6)(c)(i) shall:

(A) identify the amount of the reimbursement that is needed to settle a third party liability claim;

(B) provide notice to the no-fault insurer that the no-fault insurer has 15 days to return the amount described in Subsection (6)(c)(ii)(A); and

(C) identify the third party liability insurer that the returned amount shall be paid to.

(iii) A no-fault insurer that receives a notice under this Subsection (6)(c) shall return the portion of the reimbursement identified under Subsection (6)(c)(ii) to the third party liability insurer

identified under Subsection (6)(c)(ii)(C) within 15 business days from receipt of a notice under this Subsection (6)(c).

### Section 3. Effective date.

This bill takes effect on January 1, 2021.

**CHAPTER 131****H. B. 362**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**OVERDOSE REPORTING AMENDMENTS**

Chief Sponsor: Carol Spackman Moss  
 Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill extends who qualifies for an affirmative defense for an offense regarding a controlled substance.

**Highlighted Provisions:**

This bill:

- ▶ extends the affirmative defense for a person who reports an overdose to bystanders who remain and assist the person; and
- ▶ provides that remaining to assist a person subject to an overdose is a mitigating factor when determining the penalty for a related controlled substances violation.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-37-8, as last amended by Laws of Utah 2019, Chapter 58  
 76-3-203.11, as enacted by Laws of Utah 2014, Chapter 19

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

**Section 1. Section 58-37-8 is amended to read:****58-37-8. Prohibited acts -- Penalties.**

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance

Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under

a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the

administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this

Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical



service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years of age is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

**Section 2. Section 76-3-203.11 is amended to read:**

**76-3-203.11. Reporting an overdose -- Mitigating factor.**

It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, that the person or bystander:

(1) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(2) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this section;

(3) provides in the report under Subsection (2) a functional description of the location of the actual overdose event that facilitates responding to the person experiencing the overdose event;

(4) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(5) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(6) committed the offense in the same course of events from which the reported overdose arose.

**CHAPTER 132****H. B. 365**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**CHILD ABUSE AND  
ENDANGERMENT AMENDMENTS**

Chief Sponsor: Christine F. Watkins  
 Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill modifies provisions relating to child abuse and neglect and endangerment of a child or vulnerable adult.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ for the offense of endangerment of a child or vulnerable adult:
  - modifies the circumstances under which an individual may be found guilty of the offense; and
  - clarifies the circumstances under which an affirmative defense is applicable;
- ▶ modifies provisions relating to a finding of abuse or neglect and determining the best interests of a child in a child welfare case based on the parent's or guardian's use of cannabis; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-5-112.5, as last amended by Laws of Utah 2011, Chapter 320  
 78A-6-115, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

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

**Section 1. Section 76-5-112.5 is amended to read:****76-5-112.5. Endangerment of a child or vulnerable adult.**

- (1) As used in this section:
- (a) (i) "Chemical substance" means:
- (A) a substance intended to be used as a precursor in the manufacture of a controlled substance;
- (B) a substance intended to be used in the manufacture of a controlled substance; or
- (C) any fumes or by-product resulting from the manufacture of a controlled substance.
- (ii) Intent under this Subsection (1)(a) may be demonstrated by:

(A) the use, quantity, or manner of storage of the substance; or

(B) the proximity of the substance to other precursors or to manufacturing equipment.

(b) "Child" means ~~[a human being]~~ an individual who is under 18 years of age.

(c) "Controlled substance" ~~[is as]~~ means the same as that term is defined in Section 58-37-2.

(d) "Drug paraphernalia" ~~[is as]~~ means the same as that term is defined in Section 58-37a-3.

(e) "Exposed to" means that the child or vulnerable adult:

(i) is able to access ~~[or view]~~ an unlawfully possessed:

(A) controlled substance; or

(B) chemical substance;

(ii) has the reasonable capacity to access drug paraphernalia; or

(iii) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.

(f) "Prescription" ~~[is as]~~ means the same as that term is defined in Section 58-37-2.

(g) "Vulnerable adult" ~~[is as]~~ means the same as that term is defined in Subsection 76-5-111(1).

(2) Unless a greater penalty is otherwise provided by law:

(a) except as provided in ~~[Subsection]~~ Subsections (2)(b) ~~[or]~~, (c), ~~[a person]~~, and (3), an individual is guilty of a felony of the third degree if ~~the [person]~~ the individual knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia;

(b) except as provided in Subsection (2)(c) and (3), ~~[a person]~~ an individual is guilty of a felony of the second degree, if:

(i) the ~~[person]~~ individual engages in the conduct described in Subsection (2)(a); and

(ii) as a result of the conduct described in Subsection (2)(a) ~~[, a]~~, the child or [a] the vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury; or

(c) ~~[a person]~~ an individual is guilty of a felony of the first degree, if:

(i) the ~~[person]~~ individual engages in the conduct described in Subsection (2)(a); and

(ii) as a result of the conduct described in Subsection (2)(a) ~~[, a]~~, the child or [a] the vulnerable adult dies.

(3) Notwithstanding Subsection (2), a child may not be subjected to delinquency proceedings for a violation of Subsection (2) unless:

(a) the child is 15 years old or older; and

(b) the other child who is exposed to or inhales, ingests, or has contact with the controlled substance, chemical substance, or drug paraphernalia, is under 12 years old.

[~~(3)~~] (4) It is an affirmative defense to a violation of this section that the controlled substance:

(a) was obtained by lawful prescription or in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(b) is used or possessed by the ~~[person]~~ individual to whom ~~[it]~~ the controlled substance was lawfully prescribed or recommended to under Title 26, Chapter 61a, Utah Medical Cannabis Act.

[~~(4)~~] (5) The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.

**Section 2. Section 78A-6-115 is amended to read:**

**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Cannabis.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) For purposes of this Subsection (1)(b):

(A) "Record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a).

(B) "Subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

[~~(4)~~] (ii) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, the court shall release a record of a proceeding made under Subsection (1)(a) ~~[shall be released by the court]~~ to any person upon a finding on the record for good cause.

[~~(ii)~~] (iii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

[~~(iii)~~] (iv) A record of a proceeding may not be released under this Subsection (1)(b) if the court's

jurisdiction over the subjects of the proceeding ended more than 12 months before the day on which the request is made.

[~~(iv)~~] For purposes of this Subsection (1)(b):

[~~(A)~~] "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and

[~~(B)~~] "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.]

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the ~~[person]~~ individual who wrote the report or prepared the material appear as a witness if the ~~[person]~~ individual is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any ~~[person]~~ individual who participated in preparing the dispositional report to

appear as a witness, if the [person] individual is reasonably available.

(5) (a) In an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the proceeding;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the proceeding.

(c) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

(d) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in ~~its~~ the court's discretion, consider evidence of statements made by a child under eight years of age to ~~a person~~ an individual in a trust relationship.

(7) (a) As used in this Subsection (7):

(i) "Cannabis" means the same as that term is defined in Section 26-61a-102.

~~(4)~~ (ii) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

~~(iii)~~ (A) "Chronic" means repeated or patterned.

~~(B)~~ "Chronic" does not mean an isolated incident.

~~(iii)~~ (iv) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.

~~(iii)~~ (v) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

~~(iv)~~ (vi) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

~~(v)~~ (vii) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if the individual's use or possession complies with:

(i) Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the dosing parameters determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) In a child welfare proceeding, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105 unless there is evidence showing that:

(i) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(ii) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

~~(e)~~ (d) [A] Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (7)(c), in a child welfare proceeding a parent's or guardian's use of medical cannabis or a cannabis product is not [abuse or neglect of a child under Section 78A-6-105, nor is it] contrary to the best interests of a child[,]; if:

~~(i)~~ ~~[A]~~ for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the dosing parameters determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

~~(B)~~ (ii) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3)[; and].

~~(ii)~~ ~~(A)~~ there is no evidence showing that the child has inhaled, ingested, or otherwise had cannabis introduced to the child's body; or

~~(B)~~ there is no evidence showing a nexus between the parent's or guardian's use of medical

cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.]

(e) Subsection (7)(c) does not prohibit a finding of abuse or neglect of a child under Section 78A-6-105, and Subsection (7)(d) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

**CHAPTER 133  
H. B. 366**

Passed March 12, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**UTAH ALTERNATIVE DISPUTE PROCESS  
FOR ADA COMPLAINTS ACT**

Chief Sponsor: Norman K. Thurston  
Senate Sponsor: Todd Weiler  
Cosponsors: Sandra Hollins  
Karianne Lisonbee

**LONG TITLE**

**General Description:**

This bill enacts an alternative process for alleged violations of the Americans with Disabilities Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates a process to notify persons of alleged violations of the public accommodation protections of the Americans with Disabilities Act;
- ▶ addresses civil actions brought under the Americans with Disabilities Act; and
- ▶ provides a severability clause.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**ENACTS:**

78B-8-701, Utah Code Annotated 1953  
78B-8-702, Utah Code Annotated 1953  
78B-8-703, Utah Code Annotated 1953  
78B-8-704, Utah Code Annotated 1953  
78B-8-705, Utah Code Annotated 1953

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

**Section 1. Section 78B-8-701 is enacted to read:**

**Part 7. Utah Alternative Dispute Process for ADA Complaints Act.**

**78B-8-701. Definitions.**

As used in this part:

(1) "Americans with Disabilities Act" means the public accommodation protections of Title III of the Americans with Disabilities Act, 42 U.S.C. Secs. 12181 through 12189.

(2) "Prospective defendant" means a person that is an owner, lessor, or operator of a public accommodation, or a designated agent of the owner, lessor, or operator for service of process.

(3) "Prospective plaintiff" means an individual with a disability who may bring a cause of action under the Americans with Disabilities Act, 42 U.S.C. Sec. 12188.

(4) "Public accommodation" means the same as that term is defined in 42 U.S.C. Sec. 12181.

**Section 2. Section 78B-8-702 is enacted to read:**

**78B-8-702. Notice of a violation.**

(1) Rather than file a civil action for an alleged violation of the Americans with Disabilities Act, a prospective plaintiff may notify the prospective defendant of the alleged violation.

(2) A prospective defendant that receives notice of an alleged violation under Subsection (1) shall have a reasonable amount of time to remedy the alleged violation.

(3) If a prospective defendant receives notice of an alleged violation in accordance with Subsection (1) and fails to remedy the alleged violation within a reasonable amount of time, a prospective plaintiff may provide the prospective defendant with written notice of the alleged violation.

(4) A written notice under Subsection (3) shall include:

(a) the name and contact information of the prospective plaintiff, and if applicable, the prospective plaintiff's attorney;

(b) detailed information about the alleged violation of the Americans with Disabilities Act, including:

(i) a description of the alleged violation;

(ii) the date on which the alleged violation occurred or was encountered; and

(iii) the location of the alleged violation at the place of public accommodation;

(c) a statement that the prospective defendant has 90 days after the day on which the prospective defendant receives written notice to remedy the alleged violation;

(d) if possible, the name and contact information of an organization that can provide the prospective defendant with an inspection, reasonably priced or free of charge, to determine whether the public accommodation is in compliance with the Americans with Disabilities Act;

(e) a statement that the prospective defendant has 14 days after the day on which the prospective defendant receives the written notice to respond and indicate whether the prospective defendant will remedy the alleged violation;

(f) the amount of reasonable attorney fees and costs that the prospective defendant owes the prospective plaintiff under Subsection (7); and

(g) an unsworn declaration stating that the prospective plaintiff provided the prospective defendant with the notice described in Subsection (1).

(5) If a prospective plaintiff sends a written notice under Subsection (3), the prospective defendant shall be given 90 days after the day on which the prospective defendant receives the written notice to remedy any alleged violation in the written notice.

(6) (a) Except as provided in Subsection (6)(b), if a prospective plaintiff sends a written notice under

Subsection (3), the prospective defendant shall obtain an inspection of the public accommodation to determine whether the place of public accommodation is in compliance with the Americans with Disabilities Act.

(b) If the prospective defendant is unable to obtain an inspection under Subsection (6)(a) for a reasonable price or free of charge, the prospective defendant is not required to obtain the inspection under this section.

(c) If the prospective defendant obtains an inspection, the prospective defendant is required to provide the prospective plaintiff with proof of an inspection but is not required to provide the prospective plaintiff with the results of that inspection.

(7) A prospective plaintiff may demand no more than the cost of one hour of reasonable attorney fees from the prospective defendant in the written notice described in Subsection (4).

(8) An unsworn declaration under this section shall conform to the requirements of Chapter 18A, Uniform Unsworn Declarations Act.

**Section 3. Section 78B-8-703 is enacted to read:**

**78B-8-703. Final warning of a violation.**

(1) A prospective plaintiff may provide a prospective defendant with a final warning of an alleged violation of the Americans with Disabilities Act if the prospective plaintiff provided the prospective defendant with notice of the alleged violation in accordance with Section 78B-8-702 and the prospective defendant failed to remedy the alleged violation within the 90-day period described in Section 78B-8-702.

(2) A final warning under Subsection (1) shall include:

(a) a copy of the written notice and unsworn declaration described in Section 78A-8-702;

(b) a statement that the prospective defendant has 30 days after the day on which the final warning is received to remedy the alleged violation;

(c) a statement that the prospective defendant must provide the prospective plaintiff with proof that an inspection of the public accommodation has been conducted to determine whether the public accommodation is in compliance with the Americans with Disabilities Act and that the prospective defendant is responsible for the costs of the inspection;

(d) a statement that the prospective defendant has 14 days from the day on which the prospective defendant receives the final warning to respond and indicate whether the prospective defendant will remedy the alleged violation; and

(e) the amount of reasonable attorney fees and costs that the prospective defendant owes the prospective plaintiff under Subsection (5).

(3) If a prospective plaintiff sends a final notice under Subsection (1), the prospective defendant

shall be given 30 days after the day on which the prospective defendant receives the final warning to remedy an alleged violation.

(4) (a) If a prospective plaintiff sends a final warning under this section, the prospective defendant shall obtain an inspection, at the prospective defendant's expense, to determine whether the public accommodation is in compliance with the Americans with Disabilities Act.

(b) A prospective defendant is required to provide the prospective plaintiff with proof of the inspection described in Subsection (4)(a) but is not required to provide the prospective plaintiff with the results of that inspection.

(5) A prospective plaintiff may demand no more than the cost of one hour of reasonable attorney fees from the prospective defendant in the final warning described in Subsection (2).

**Section 4. Section 78B-8-704 is enacted to read:**

**78B-8-704. Filing a civil action.**

This part does not prevent a prospective plaintiff from seeking any available remedies for an alleged violation under the Americans with Disabilities Act.

**Section 5. Section 78B-8-705 is enacted to read:**

**78B-8-705. Severability.**

(1) If any provision of this part or the application of any part to any person or circumstance is held invalid by a court, the remainder of this part shall be given effect without the invalid provision or application.

(2) The provisions of this part are severable.

**CHAPTER 134****H. B. 370**

Passed March 9, 2020

Approved March 24, 2020

Effective May 12, 2020

**TOURISM INFORMATION AMENDMENTS**

Chief Sponsor: Eric K. Hutchings  
Senate Sponsor: Jacob L. Anderegg

**LONG TITLE****General Description:**

This bill amends provisions related to using languages other than English.

**Highlighted Provisions:**

This bill:

- ▶ allows a recreational, scenic, historic, or cultural facility, site, or area that is frequented by international tourists to use languages other than English in certain circumstances; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63G-1-201, as last amended by Laws of Utah 2011, Chapters 46 and 342

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

**Section 1. Section 63G-1-201 is amended to read:****63G-1-201. Official state language.**

(1) English is declared to be the official language of Utah.

(2) As the official language of this State, the English language is the sole language of the government, except as otherwise provided in this section.

(3) Except as provided in Subsection (4), all official documents, transactions, proceedings, meetings, or publications issued, conducted, or regulated by, on behalf of, or representing the state and its political subdivisions shall be in English.

(4) Languages other than English may be used when required:

(a) by the United States Constitution, the Utah State Constitution, federal law, or federal regulation;

(b) by law enforcement [øF] for public health and safety needs;

(c) by public and higher education systems according to rules made by the State Board of Education and the State Board of Regents to comply with Subsection (5);

(d) in judicial proceedings, when necessary to insure that justice is served;

(e) to promote and encourage tourism and economic development, including the hosting of international events such as the Olympics;

(f) by a recreational, scenic, historic, or cultural facility, site, or area that is frequented by international tourists to:

(i) inform international tourists about the facility, site, or area; and

(ii) address the health and safety of international tourists while visiting the facility, site, or area;

[~~(f)~~] (g) by libraries to:

(i) collect and promote foreign language materials; and

(ii) provide foreign language services and activities; and

[~~(g)~~] (h) by the Utah Educational Savings Plan established under Title 53B, Chapter 8a, Utah Educational Savings Plan.

(5) The State Board of Education and the State Board of Regents shall make rules governing the use of foreign languages in the public and higher education systems that promote the following principles:

(a) non-English speaking children and adults should become able to read, write, and understand English as quickly as possible;

(b) foreign language instruction should be encouraged;

(c) formal and informal programs in English as a Second Language should be initiated, continued, and expanded; and

(d) public schools should establish communication with non-English speaking parents of children within their systems, using a means designed to maximize understanding when necessary, while encouraging those parents who do not speak English to become more proficient in English.

(6) Unless exempted by Subsection (4), all state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall be returned to the General Fund.

(a) Each state agency that has state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall:

(i) notify the Division of Finance that the money exists and the amount of the money; and

(ii) return the money to the Division of Finance.

(b) The Division of Finance shall account for the money and inform the Legislature of the existence and amount of the money at the beginning of the Legislature's annual general session.

(c) The Legislature may appropriate any money received under this section to the State School



Board for use in English as a Second Language programs.

(7) Nothing in this section affects the ability of government employees, private businesses, nonprofit organizations, or private individuals to exercise their rights under:

(a) the First Amendment of the United States Constitution; and

(b) Utah Constitution, Article 1, Sections 1 and 15.

(8) If any provision of this section, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this act shall be given effect without the invalid provision or application.

**CHAPTER 135****H. B. 371**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**WILDLIFE TAGGING AMENDMENTS**

Chief Sponsor: A. Cory Maloy  
 Senate Sponsor: Jacob L. Anderegg

**LONG TITLE****General Description:**

This bill amends provisions related to tagging wildlife.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Wildlife Board to clarify rules about tagging certain species at the site of the kill.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

23-20-30, as last amended by Laws of Utah 2019, Chapter 125

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

**Section 1. Section 23-20-30 is amended to read:****23-20-30. Tagging requirements.**

(1) The Wildlife Board may make rules that require the carcass of certain species of protected wildlife to be tagged.

(2) ~~[The]~~ Except as provided by the Wildlife Board by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the carcass of any species of protected wildlife required to be tagged shall be tagged before the carcass is moved from or the hunter leaves the site of kill.

(3) To tag a carcass, a person shall:

(a) (i) completely detach the tag from the license or permit;

(ii) completely remove the appropriate notches to correspond with:

(A) the date the animal was taken; and

(B) the sex of the animal; and

(iii) attach the tag to the carcass so that the tag remains securely fastened and visible; or

(b) complete an electronic tagging certification according to standards approved by the Wildlife Board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A person may not:

(a) remove more than one notch indicating date or sex; or

(b) tag more than one carcass using the same tag.

**CHAPTER 136****H. B. 374**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020  
 Exception clause

**BUILDING REGULATION AMENDMENTS**

Chief Sponsor: Paul Ray  
 Senate Sponsor: David G. Buxton

**LONG TITLE****General Description:**

This bill amends provisions relating to building regulation.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ invites the Utah League of Cities and Towns to submit a report to the Business and Labor Interim Committee;
- ▶ allows a local planning commission to recommend the reduction of certain building design elements in a proposed general plan; and
- ▶ amends Nitrogen Oxide emission limits for natural gas-fired water heaters.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

10-9a-403, as last amended by Laws of Utah 2019, Chapters 327 and 376  
 15A-6-102, as last amended by Laws of Utah 2017, Chapter 236  
 17-27a-403, as last amended by Laws of Utah 2019, Chapters 327 and 376  
 63I-2-210, as last amended by Laws of Utah 2019, Chapters 136, 165, 255, and 510

**ENACTS:**

10-6-160.1, Utah Code Annotated 1953

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

**Section 1. Section 10-6-160.1 is enacted to read:****10-6-160.1. Report.**

(1) As used in this section, “plan review” means the same as that term is defined in Section 10-6-160.

(2) The Business and Labor Interim Committee shall invite the Utah League of Cities and Towns to submit a written report before the October 2020 interim meeting that describes:

(a) for any municipality that required a plan review between April 1, 2020, and October 1, 2020:

(i) the average number of business days from the day on which the plan review is requested to the day on which the plan review is completed;

(ii) the longest number of business days from the day on which the plan review is requested to the day on which the plan review is completed;

(iii) whether the municipality allowed nonsubstantive changes to a plan without requiring the plan to be re-submitted for review; and

(iv) reasons for any delay in completing a plan review; and

(b) for any municipality that required a building inspection between April 1, 2020, and October 1, 2020:

(i) the average number of business days from the day on which the inspection is requested to the day on which the inspection is completed;

(ii) the longest number of business days from the day on which the inspection is requested to the day on which the inspection is completed;

(iii) reasons for any delay in completing an inspection; and

(iv) the number of hours that an independent building inspector was used.

**Section 2. Section 10-9a-403 is amended to read:****10-9a-403. General plan preparation.**

(1) (a) As used in this section, “residential building design element” means for a single-family residential building:

(i) exterior building color;

(ii) type or style of exterior cladding material;

(iii) style or materials of a roof structure, roof pitch, or porch;

(iv) exterior nonstructural architectural ornamentation;

(v) location, design, placement, or architectural styling of a window or door, including a garage door;

(vi) the number or type of rooms;

(vii) the interior layout of a room; or

(viii) the minimum square footage of a structure.

(b) “Residential building design element” does not include for a single-family residential building:

(i) the height, bulk, orientation, or location of a structure on a lot; or

(ii) buffering or screening used to:

(A) minimize visual impacts;

(B) mitigate the impacts of light or noise; or

(C) protect the privacy of neighbors.

[4] (2) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

[~~(2)~~] (3) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and

(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for other municipalities, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(V) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; ~~and~~

~~(W) reduce residential building design elements; and~~

~~(X)~~ (X) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and

(iv) in addition to the recommendations required under Subsection ~~(2)~~ (3)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection ~~(2)~~ (3)(b)(iii)(G) or (H).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the municipality is within the

boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

**Section 3. Section 15A-6-102 is amended to read:**

**15A-6-102. Nitrogen Oxide emission limits for natural gas-fired water heaters.**

(1) As used in this section:

- (a) "BTU" means British Thermal Unit.
- (b) (i) "Heat input" means the heat of combustion released by fuel burned in a water heater based on the heating value of the fuel.
- (ii) "Heat input" does not include the enthalpy of a water heater's incoming combustion air.
- (c) "Heat output" means the enthalpy of a water heater's working fluid output.
- (d) "Natural gas-fired water heater" means a device that heats water:
- (i) using natural gas combustion;
  - (ii) for use external to the device at a pressure that is less than or equal to 160 pounds per square inch gage; and
  - (iii) to a thermostatically controlled temperature less than or equal to:
    - (A) 210 degrees Fahrenheit; or
    - (B) 99 degrees Celsius.
- (e) "ppm" means parts of Nitrogen Oxide per million parts of water heater air output.
- (f) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.
- (2) On and after July 1, 2018, a person may not sell or install a natural gas-fired water heater with an emission rate greater than the following limits:
- (a) except as provided in Subsection (6), for a water heater that has a heat input of less than or equal to 75,000 BTU per hour that is not installed in a mobile home, a limit of:
    - (i) 10 nanograms per Joule of heat output; or
    - (ii) 15 ppm, corrected to 3% oxygen;
  - (b) for a water heater that has a heat input of greater than 75,000 BTU per hour and less than 2,000,000 BTU per hour that is not installed in a mobile home, a limit of:
    - (i) 14 nanograms per Joule of heat output; or
    - (ii) 20 ppm, corrected to 3% oxygen;
  - (c) for a water heater installed in a mobile home, a limit of:
    - (i) 40 nanograms per Joule of heat output; or
    - (ii) 55 ppm, corrected to 3% oxygen;
  - (d) for a pool or spa water heater with a heat input that is less than or equal to 400,000 BTU per hour, a limit of:
    - (i) 40 nanograms per Joule of heat output; or
    - (ii) 55 ppm, corrected to 3% oxygen; and
  - (e) for a pool or spa water heater with a heat input of greater than 400,000 BTU per hour and less than 2,000,000 BTU per hour, a limit of:
    - (i) 14 nanograms per Joule of heat output; or
    - (ii) 20 ppm, corrected to 3% oxygen.

(3) A water heater manufacturer shall use California South Coast Air Quality Management District Method 100.1 to calculate the emissions rate of a water heater subject to this section.

(4) A water heater manufacturer shall display on a water heater subject to this section, as a permanent label, the model number and the Nitrogen Oxide emission rate of the water heater.

(5) The requirements of this section do not apply to:

- (a) a water heater using a fuel other than natural gas;
- (b) a water heater used in a recreational vehicle;
- (c) a water heater manufactured in the state for sale and shipment outside of the state; or
- (d) a water heater manufactured before July 1, 2018.

(6) A person may sell or install a natural gas-fired water heater with an emission rate greater than the limits established in Subsection (2)(a) if:

- (a) the water heater is replacing a water heater of equal BTUs per hour;
- (b) there is not available for purchase in the United States a water heater that:
  - (i) has an input of equal BTUs per hour as the water heater being replaced; and
  - (ii) meets the limits established in Subsection (2)(a); and
- (c) the purpose of the water heater is to heat water and provide space heating.

**Section 4. Section 17-27a-403 is amended to read:**

**17-27a-403. Plan preparation.**

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

- (i) the unincorporated area within the county; or
- (ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a plan for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, which may include a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the county or of an employer that provides contracted services for the county;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(T) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(U) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; ~~and~~

(V) reduce residential building design elements as defined in Section 10-9a-403; and

~~(V)~~ (W) consider any other program or strategy implemented by the county to address the housing needs of residents of the county who earn less than 80% of the area median income.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way,

easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

**Section 5. Section 63I-2-210 is amended to read:**

**63I-2-210. Repeal dates -- Title 10.**

(1) Section 10-6-160.1 is repealed January 1, 2021.

~~(1)~~ (2) Subsection 10-9a-304(2), regarding municipal authority over property located within a mountainous planning district, is repealed June 1, 2021.

~~(2)~~ (3) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

**Section 6. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

(2) The actions affecting Section 15A-6-102 take effect on July 1, 2020.



**CHAPTER 137****H. B. 376**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**DROPOUT PREVENTION AMENDMENTS**

Chief Sponsor: Dan N. Johnson  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill provides additional exceptions to the requirement for certain schools to enter into a third party contract for dropout prevention services.

**Highlighted Provisions:**

This bill:

- ▶ provides additional exceptions to the requirement for certain schools to enter into a third party contract for dropout prevention services.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53G-9-802, as last amended by Laws of Utah 2019, Chapters 293, 324, and 325

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

**Section 1. Section 53G-9-802 is amended to read:****53G-9-802. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.**

(1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:

(i) engaging with or attempting to recover a designated student;

(ii) developing a learning plan, in consultation with a designated student, to identify:

(A) barriers to regular school attendance and achievement;

(B) an attainment goal; and

(C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);

(iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and

(iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.

(b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):

(i) throughout the calendar year; and

(ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.

(c) (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:

(A) was enrolled in a charter school that does not include grade 12; and

(B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53G-5-303.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2) (a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this public education code, rules established by the state board, and policies established by the LEA; or

(ii) the Statewide Online Education Program, in accordance with Title 53F, Chapter 4, Part 5, Statewide Online Education Program.

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017-18 school year and except as provided in Subsection (4), an LEA shall

enter into a contract with a third party to provide the dropout prevention and recovery services described in Subsection (1)(a) for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b) (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) An LEA ~~[that is in the LEA's first three years of operation]~~ is not subject to the requirement described in Subsection (3)~~[-]~~ if:

(a) the LEA is in the LEA's first three years of operation;

(b) the LEA's average graduation rate for the previous three years is higher than the average statewide graduation rate for the previous three years;

(c) the LEA is a special school as that term is used in 34 C.F.R. 300.115; or

(d) the quotient of the total number of an LEA's graduating students plus 10, divided by the total number of students in an LEA's graduating class, is equal to or greater than the statewide graduation rate.

(5) An LEA described in Subsection (3) shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection (3) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

(6) An LEA shall annually submit a report to the state board on dropout prevention and recovery services provided under this section, including:

(a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);

(b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (6)(a);

(c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and

(d) funding allocated to provide dropout prevention and recovery services.

(7) The state board shall:

(a) ensure that an LEA described in Subsection (3) contracts with a third party to provide dropout prevention and recovery services in accordance with Subsections (3) and (5); and

(b) report on the provisions of this section in accordance with Section 53E-1-203, including a summary of the reports submitted under Subsection (6).

**CHAPTER 138****H. B. 391**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**SCHOOL TEXTBOOK FEE AMENDMENTS**

Chief Sponsor: Karianne Lisonbee  
 Senate Sponsor: Deidre M. Henderson

**LONG TITLE****General Description:**

This bill amends the definition of textbook and expands the costs and materials provided by a school for which a fee may not be charged to students.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of textbook;
- ▶ defines related terms; and
- ▶ expands the costs and materials provided by a school for which a fee may not be charged to students.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53G-7-601, as last amended by Laws of Utah 2019, Chapter 223  
 53G-7-602, as last amended by Laws of Utah 2019, Chapters 223 and 293

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

**Section 1. Section 53G-7-601 is amended to read:****53G-7-601. Definitions.**

As used in this part:

(1) "Fee" means the same as that term is defined in Section 53G-7-501.

(2) (a) "Instructional equipment" means an activity-related, course-related, or program-related tool or instrument that:

(i) is required for a student to use as part of an activity, course, or program in a secondary school;

(ii) typically becomes the property of the student upon exiting the activity, course, or program; and

(iii) is subject to a fee waiver.

(b) "Instructional equipment" includes:

(i) shears or styling tools;

(ii) a band instrument;

(iii) a camera;

(iv) a stethoscope; or

(v) sports equipment, including a bat, mitt, or tennis racquet.

(c) "Instructional equipment" does not include school equipment.

(3) (a) "Instructional supply" means a consumable or non-reusable supply that is necessary for a student to use as part of an activity, course, or program in a secondary school.

(b) "Instructional supply" includes:

(i) prescriptive footwear;

(ii) brushes or other art supplies, including clay, paint, or art canvas;

(iii) wood for wood shop;

(iv) Legos for Lego robotics;

(v) film; or

(vi) filament used for 3D printing.

(4) (a) "School equipment" means a durable school-owned machine, equipment, or tool used by a student as part of an activity, course, or program in a secondary school.

(b) "School equipment" includes a saw or 3D printer.

[~~(2)~~] (5) (a) "Textbook" means instructional material necessary for participation in an activity, course, or program, regardless of the format of the material.

(b) "Textbook" includes:

(i) a hardcopy book or printed pages of instructional material, including a consumable workbook; or

(ii) computer hardware, software, or digital content.

(c) "Textbook" does not include instructional equipment or instructional supplies.

**Section 2. Section 53G-7-602 is amended to read:****53G-7-602. State policy on providing free textbooks.**

(1) It is the public policy of this state that public education shall be free.

(2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.

(3) (a) Beginning with the 2022-23 school year, an LEA:

(i) except as provided in Subsection (3)(a)(ii), may not sell textbooks or otherwise charge a [textbook] fee for textbooks or the maintenance costs of school equipment; and

(ii) may only charge a fee for a textbook required for an Advanced Placement or, as described in Section 53E-10-302, a concurrent enrollment course.

(b) The LEA shall waive a fee described in Subsection (3)(a)(ii) in full or in part if a student qualifies for a waiver in accordance with Section 53G-7-504.

**CHAPTER 139****H. B. 393**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective March 24, 2020

**MUNICIPAL ANNEXATION AMENDMENTS**

Chief Sponsor: Steve Waldrip  
 Senate Sponsor: David G. Buxton

**LONG TITLE****General Description:**

This bill amends provisions relating to municipal annexation.

**Highlighted Provisions:**

This bill:

- ▶ prohibits a municipality from proposing the annexation of certain areas; and
- ▶ requires municipal consent to the annexation of an unincorporated area within the expansion area of more than one municipality.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

10-2-403, as last amended by Laws of Utah 2019, Chapter 165  
 10-2-418, as last amended by Laws of Utah 2019, Chapter 255

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

**Section 1. Section 10-2-403 is amended to read:****10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an area located in a county of the first class, the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person

filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality).”; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property as that term is defined in Section 17B-2a-1107 within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

“Notice:

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

• If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.”;

(e) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) A petition under Subsection (1) [~~proposing the annexation of an area located in a county of the first class~~] may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 if:

(a) the request [~~or petition~~] was filed before the filing of the annexation petition; and

(b) the request, or a petition under Section 10-2a-208 based on that request, is still pending on the date the annexation petition is filed.

(6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(7) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

**Section 2. Section 10-2-418 is amended to read:**

**10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.**

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

~~[(a)-(4)] (b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;~~

~~[(4)(ii)] (B) the majority of each island or peninsula consists of residential or commercial development;~~

~~[(4)(iii)] (C) the area proposed for annexation requires the delivery of municipal-type services; and~~

~~[(4)(iv)] (D) the municipality has provided most or all of the municipal-type services to the area for more than one year;~~

~~[(4)(i)-(ii)] (ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and~~

~~[(4)(ii)] (B) the municipality has provided one or more municipal-type services to the area for at least one year;~~

~~[(e)-(4)] (iii) the area consists of:~~

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; ~~and~~ or

~~[(ii) the county in which the area is located, subject to Subsection (4)(b), and the municipality agree that the area should be included within the municipality; or]~~

~~[(4)-(i)] (iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;~~

~~[(4)(ii)] (B) the area to be annexed is located in the expansion area of a municipality; and~~

~~[(4)(iii)] (C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that [the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.~~

~~[(A) the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice; and]~~

~~[(B) after the public hearing the county legislative body may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed.]~~

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)~~[(4)]~~(ii) relating to the number of residents.

(4) (a) This Subsection (4) applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is private property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least one half the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d)."

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall publish notice of a public hearing described in Subsection (5)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection (6)(a)(i), at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating its intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the property owner consent requirements of Subsection (8)(b) or the recommendation of annexation requirements of Subsection (8)(c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed that comply with Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

### Section 3. Effective date.

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



**CHAPTER 140****H. B. 400**

Passed March 11, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**NATIONAL GUARD  
 TRAINING AMENDMENTS**

Chief Sponsor: Val L. Peterson  
 Senate Sponsor: David G. Buxton

**LONG TITLE****General Description:**

This bill modifies provisions related to public officials who are deployed.

**Highlighted Provisions:**

This bill:

- ▶ sets out the requirements for a public official who is deployed with the armed forces.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

20A-1-513, as last amended by Laws of Utah 2019, Chapter 255

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

**Section 1. Section 20A-1-513 is amended to read:**

**20A-1-513. Temporary absence in elected office of a political subdivision for military service.**

- (1) As used in this section:
- (a) "Armed forces" means:
- (i) the Army of the United States;
  - (ii) the United States Navy;
  - (iii) the United States Air Force;
  - (iv) the Marine Corps;
  - (v) the Coast Guard;
  - (vi) the National Guard; or
  - (vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).
- (b) (i) "Elected official" is a person who holds an office of a political subdivision that is required by law to be filled by an election.
- (ii) "Elected official" includes a person who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).
- (c) (i) "Military leave" means the temporary absence from an office:
- (A) by an elected official called to active, full-time duty in the armed forces; and

(B) for a period of time that exceeds 30 days and does not exceed 400 days.

(ii) "Military leave" includes the time a person described in Subsection (1)(c)(i) spends for:

- (A) out processing;
  - (B) an administrative delay;
  - (C) accrued leave; and
  - (D) on rest and recuperation leave program of the armed forces.
- (d) "Political subdivision's governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a local school district, the local school board;

(iv) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body that governs the affairs of the political subdivision.

(e) "Temporary replacement" means the person appointed by the political subdivision's governing body in accordance with this section to exercise the powers and duties of the office of the elected official who takes military leave.

(2) An elected official creates a vacancy in the elected official's office if the elected official is called to active, full-time duty in the armed forces in accordance with Title 10, U.S.C.A. unless the elected official takes military leave as provided by this section.

(3) (a) An elected official who is called to active, full-time duty in the armed forces in a status other than in accordance with Title 10, U.S.C.A. shall notify the political subdivision's governing body of the elected official's orders not later than five days after receipt of orders.

(b) The elected official described in Subsection (3)(a) may:

(i) continue to carry out the official's duties if possible while on active, full-time duty; or

(ii) take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave, by the later of:

~~(a) 21 days before the military leave begins; or~~

~~[(b) the next business day after which the elected official receives an order from the armed forces calling the elected official to active, full-time duty.]~~

(4) (a) An elected official who chooses to continue to carry out the official's duties while on active, full-time duty shall, within 10 days after arrival at the official's place of deployment, confirm in writing to the political subdivision's governing body that the official has the ability to carry out the official's duties.

(b) If no confirmation is received by the political subdivision within the time period described in Subsection (4)(a), the elected official shall be placed in a military leave status and a temporary replacement appointed in accordance with Subsection (6).

~~[(4)] (5) An elected official's military leave:~~

(a) begins the later of:

(i) the day after the day on which the elected official notifies the political subdivision's governing body of the intent to take military leave;

(ii) day 11 after the elected official's deployment if no confirmation is received in accordance with Subsection (4)(a); or

(iii) the day on which the elected official begins active, full-time duty in the armed forces; and

(b) ends the sooner of:

(i) the expiration of the elected official's term of office; or

(ii) the day on which the elected official ends active, full-time duty in the armed forces.

~~[(5)] (6) A temporary replacement shall:~~

(a) meet the qualifications required to hold the office; and

(b) be appointed:

~~[(i) before the day on which the military leave begins; and]~~

~~[(ii)-(A)] (i) in the same manner as provided by this part for a midterm vacancy if a registered political party nominated the elected official who takes military leave as a candidate for the office; or~~

~~[(B)] (ii) by the political subdivision's governing body after submitting an application in accordance with Subsection [(7)] (8)(b) if a registered political party did not nominate the elected official who takes military leave as a candidate for office.~~

~~[(6)] (7) (a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected official's military leave.~~

(b) An elected official may not exercise the powers or duties of the office while on military leave.

(c) If a temporary replacement is not appointed ~~before the day on which the military leave begins~~ as required by Subsection ~~[(5)-(b)] (6)(b)~~, no person

may exercise the powers and duties of the elected official's office during the elected official's military leave.

~~[(7)] (8) The political subdivision's governing body shall establish:~~

(a) the distribution of the emoluments of the office between the elected official and the temporary replacement; and

(b) an application form and the date and time before which a person shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.

**CHAPTER 141****H. B. 402**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**REGULATORY WAIVER PROCESS**

Chief Sponsor: Adam Robertson  
 Senate Sponsor: Lincoln Fillmore  
 Cosponsors: Jon Hawkins  
 Marc K. Roberts

**LONG TITLE****General Description:**

This bill modifies provisions related to the Department of Insurance.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates an insurance regulatory sandbox program in the Department of Insurance, which allows a participant to temporarily test innovative insurance products or services on a limited basis without otherwise being licensed or authorized to act under the laws of the state;
- ▶ describes the application process and the conditions of participating in the program;
- ▶ describes the responsibilities of the Department of Insurance in administering the program; and
- ▶ describes reporting requirements for participants in the program and for the Department of Insurance.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

31A-47-101, Utah Code Annotated 1953  
 31A-47-102, Utah Code Annotated 1953  
 31A-47-103, Utah Code Annotated 1953  
 31A-47-104, Utah Code Annotated 1953  
 31A-47-105, Utah Code Annotated 1953  
 31A-47-106, Utah Code Annotated 1953  
 31A-47-107, Utah Code Annotated 1953  
 31A-47-108, Utah Code Annotated 1953

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

**Section 1. Section 31A-47-101 is enacted to read:**

**CHAPTER 47. INSURANCE REGULATORY SANDBOX PROGRAM**

**31A-47-101. Title.**

This chapter is known as the “Insurance Regulatory Sandbox Program.”

**Section 2. Section 31A-47-102 is enacted to read:**

**31A-47-102. Definitions.**

As used in this chapter:

(1) “Applicable agency” means a department or agency of the state, including the department and the Department of Commerce, that by law regulates certain types of insurance-related business activity in the state and persons engaged in such insurance-related business activity, including the issuance of licenses or other types of authorization, which the department determines would otherwise regulate an insurance sandbox participant.

(2) “Applicant” means an individual or entity that is applying to participate in the insurance regulatory sandbox.

(3) “Blockchain technology” means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

(4) “Consumer” means a person that purchases or otherwise enters into a transaction or agreement to receive an innovative insurance product or service that is being tested by an insurance sandbox participant.

(5) “Department” means the Department of Insurance.

(6) “Innovation” means the use or incorporation of a new or emerging technology or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the department to have a comparable widespread offering in the state.

(7) “Innovative insurance product or service” means an insurance product or service that includes an innovation.

(8) (a) “Insurance product or service” means an insurance product or insurance service that requires state licensure, registration, or other authorization as regulated by Title 31A, Insurance Code, including an insurance product or insurance service that includes a business model, delivery mechanism, or element that requires a license, registration, or other authorization to do an insurance business, act as an insurance producer or consultant, or engage in insurance adjusting as regulated by Title 31A, Insurance Code.

(b) “Insurance product or service” does not include a product or service that is governed by Title 61, Chapter 1, Utah Uniform Securities Act.

(9) “Insurance regulatory sandbox” means the Insurance Regulatory Sandbox Program created by Section 31A-47-103, which allows a person to temporarily test an innovative insurance product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the state.

(10) “Insurance sandbox participant” means a person whose application to participate in the insurance regulatory sandbox is approved in accordance with the provisions of this chapter.

(11) "Test" means to provide an innovative insurance product or service in accordance with the provisions of this chapter.

**Section 3. Section 31A-47-103 is enacted to read:**

**31A-47-103. Insurance Regulatory Sandbox Program -- Application requirements.**

(1) There is created in the department the Insurance Regulatory Sandbox Program.

(2) In administering the insurance regulatory sandbox, the department:

(a) shall consult with each applicable agency;

(b) shall establish a program to enable a person to obtain limited access to the market in the state to test an innovative insurance product or service without obtaining a license or other authorization that might otherwise be required;

(c) may enter into agreements with or follow the best practices of the Consumer Financial Protection Bureau or other states that are administering similar programs; and

(d) may not approve participation in the insurance regulatory sandbox program by an applicant or any other participant who has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for a crime:

(i) involving theft, fraud, or dishonesty; or

(ii) that bears a substantial relationship to the applicant's or participant's ability to safely or competently participate in the insurance regulatory sandbox program.

(3) An applicant for the insurance regulatory sandbox shall provide to the department an application in a form prescribed by the department that:

(a) includes a nonrefundable application fee of \$4,500, which fee may be waived or reduced by the department if the applicant holds a license issued by the department under the provisions of Title 31A, Insurance Code;

(b) demonstrates the applicant is subject to the jurisdiction of the state;

(c) demonstrates the applicant has established a physical or virtual location that is adequately accessible to the department, from which testing will be developed and performed and where all required records, documents, and data will be maintained;

(d) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the department;

(e) discloses criminal convictions of the applicant or other participating personnel, if any;

(f) demonstrates that the applicant has the necessary personnel, financial and technical expertise, access to capital, and developed plan to test, monitor, and assess the innovative insurance product or service;

(g) contains a description of the innovative insurance product or service to be tested, including statements regarding all of the following:

(i) how the innovative insurance product or service is subject to licensing or other authorization requirements outside of the insurance regulatory sandbox, including a specific list of all state laws, regulations, and licensing or other requirements that the applicant is seeking to have waived during the testing period;

(ii) how the innovative insurance product or service would benefit consumers;

(iii) how the innovative insurance product or service is different from other insurance products or services available in the state;

(iv) what risks may confront consumers that use or purchase the innovative insurance product or service;

(v) how participating in the insurance regulatory sandbox would enable a successful test of the innovative insurance product or service;

(vi) a description of the proposed testing plan, including estimated time periods for beginning the test, ending the test, and obtaining necessary licensure or authorizations after the testing is complete;

(vii) a description of how the applicant will perform ongoing duties after the test; and

(viii) how the applicant will end the test and protect consumers if the test fails, including providing evidence of sufficient liability coverage and financial reserves to protect consumers and to protect against insolvency by the applicant; and

(h) provides any other required information as determined by the department.

(4) An applicant shall file a separate application for each innovative insurance product or service that the applicant wants to test.

(5) After an application is filed and before approving an application, the department may seek any additional information from the applicant and from the department's own research that the department determines is necessary, including:

(a) proof of sufficient assets, accounts, liability coverage, surety bond coverage, or other preparation by the applicant to ensure that consumers are protected and that the applicant will be able to cover ongoing duties when the test ends or if the test ends early; and

(b) industry ratings and past performance of the applicant.

(6) Subject to Subsection (7), not later than 90 days after the day on which a complete application is received by the department, the department shall

inform the applicant as to whether the application is approved for entry into the insurance regulatory sandbox.

(7) The department and an applicant may mutually agree to extend the 90-day time period described in Subsection (6) for the department to determine whether an application is approved for entry into the insurance regulatory sandbox.

(8) (a) In reviewing an application under this section, the department shall consult with, and get approval from, each applicable agency before admitting an applicant into the insurance regulatory sandbox.

(b) The consultation with an applicable agency may include seeking information about whether:

(i) the applicable agency has previously issued a license or other authorization to the applicant;

(ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant;

(iii) whether the applicant could obtain a license or other authorization from the applicable agency after exiting the insurance regulatory sandbox; and

(iv) whether certain licensure or other regulations should not be waived even if the applicant is accepted into the insurance regulatory sandbox.

(9) In reviewing an application under this section, the department shall consider whether a competitor to the applicant is or has been an insurance sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become an insurance sandbox participant.

(10) If the department and each applicable agency approve admitting an applicant into the insurance regulatory sandbox an applicant may become an insurance sandbox participant.

(11) The department may deny any application submitted under this section, for any reason, at the department's discretion.

(12) If the department denies an application submitted under this section, the department shall provide to the applicant a written description of the reasons for the denial as an insurance sandbox participant.

**Section 4. Section 31A-47-104 is enacted to read:**

**31A-47-104. Scope of the insurance regulatory sandbox.**

(1) If the department approves an application under Section 31A-47-103, the insurance sandbox participant has 12 months after the day on which the application was approved to test the innovative insurance product or service described in the insurance sandbox participant's application.

(2) An insurance sandbox participant testing an innovative insurance product or service within the insurance regulatory sandbox is subject to the following:

(a) consumers shall be residents of the state;

(b) the department may, on a case by case basis, specify the maximum number of consumers that may enter into an agreement with the insurance sandbox participant to use the innovative insurance product or service;

(c) the department may, if applicable and on a case by case basis, specify the maximum number of items and the maximum coverage amount for each item that may be offered by an insurance sandbox participant during the testing of the innovative insurance product or service; and

(d) the department may, on a case by case basis, specify liability coverage requirements and minimum financial reserves requirements that the insurance sandbox participant shall meet during the testing of the innovative insurance product or service.

(3) This section does not restrict an insurance sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(4) An insurance sandbox participant is deemed to possess an appropriate license under the laws of the state for the purposes of any provision of federal law requiring state licensure or authorization.

(5) An insurance sandbox participant that is testing an innovative insurance product or service is not subject to state laws, regulations, licensing requirements, or authorization requirements that were identified by the insurance sandbox participant in the insurance sandbox participant's application and have been waived in writing by the department.

(6) Notwithstanding any other provision of this chapter, an insurance sandbox participant does not have immunity related to any criminal offense committed during the insurance sandbox participant's participation in the insurance regulatory sandbox.

(7) By written notice, the department may end an insurance sandbox participant's participation in the insurance regulatory sandbox at any time and for any reason, including if the department determines an insurance sandbox participant is not operating in good faith to bring an innovative insurance product or service to market.

(8) The department and the department's employees are not liable for any business losses or the recouping of application expenses related to the insurance regulatory sandbox, including for:

(a) denying an applicant's application to participate in the insurance regulatory sandbox for any reason; or

(b) ending an insurance sandbox participant's participation in the insurance regulatory sandbox at any time and for any reason.

(9) No guaranty association in the state may be held liable for business losses or liabilities incurred as a result of activities undertaken by a participant in the insurance sandbox.

**Section 5. Section 31A-47-105 is enacted to read:**

**31A-47-105. Consumer protection for insurance regulatory sandbox.**

(1) Before providing an innovative insurance product or service to a consumer, an insurance sandbox participant shall disclose the following to the consumer:

(a) the name and contact information of the insurance sandbox participant;

(b) that the innovative insurance product or service is authorized pursuant to the insurance regulatory sandbox and, if applicable, that the insurance sandbox participant does not have a license or other authorization to provide an insurance product or service under state laws that regulate insurance products or services outside the insurance regulatory sandbox;

(c) that the innovative insurance product or service is undergoing testing and may not function as intended and may expose the customer to financial risk;

(d) that the provider of the innovative insurance product or service is not immune from civil liability for any losses or damages caused by the innovative insurance product or service;

(e) that the state does not endorse or recommend the innovative insurance product or service;

(f) that the innovative insurance product or service is a temporary test that may be discontinued at the end of the testing period;

(g) the expected end date of the testing period; and

(h) that a consumer may contact the department to file a complaint regarding the innovative insurance product or service being tested and provide the department's telephone number and website address where a complaint may be filed.

(2) The disclosures required by Subsection (1) shall be provided to a consumer in a clear and conspicuous form and, for an Internet or application-based innovative insurance product or service, a consumer shall acknowledge receipt of the disclosure before a transaction may be completed.

(3) The department may require that an insurance sandbox participant make additional disclosures to a consumer.

**Section 6. Section 31A-47-106 is enacted to read:**

**31A-47-106. Requirements for exiting insurance regulatory sandbox.**

(1) At least 30 days before the end of the 12-month insurance regulatory sandbox testing period, an insurance sandbox participant shall:

(a) notify the department that the insurance sandbox participant will exit the insurance regulatory sandbox, discontinue the insurance

sandbox participant's test, and will stop offering any innovative insurance product or service in the insurance regulatory sandbox within 60 days after the day on which the 12-month testing period ends; or

(b) seek an extension in accordance with Section 31A-47-107.

(2) Subject to Subsection (3), if the department does not receive notification as required by Subsection (1), the insurance regulatory sandbox testing period ends at the end of the 12-month testing period and the insurance sandbox participant shall immediately stop offering each innovative insurance product or service being tested.

(3) If a test includes offering an innovative insurance product or service that requires ongoing duties, the insurance sandbox participant shall continue to fulfill those duties or arrange for another person to fulfill those duties after the date on which the insurance sandbox participant exits the insurance regulatory sandbox.

**Section 7. Section 31A-47-107 is enacted to read:**

**31A-47-107. Extensions.**

(1) Not later than 30 days before the end of the 12-month regulatory insurance sandbox testing period, an insurance sandbox participant may request an extension of the insurance regulatory sandbox testing period for the purpose of obtaining a license or other authorization required by law.

(2) The department shall grant or deny a request for an extension in accordance with Subsection (1) by the end of the 12-month insurance regulatory sandbox testing period.

(3) The department may grant an extension in accordance with this section for not more than six months after the end of the insurance regulatory sandbox testing period.

(4) An insurance sandbox participant that obtains an extension in accordance with this section shall provide the department with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any submitted applications for licensure or other authorization, rejected applications, or issued licenses or other authorization.

**Section 8. Section 31A-47-108 is enacted to read:**

**31A-47-108. Record keeping and reporting requirements.**

(1) An insurance sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an innovative insurance product or service tested in the insurance regulatory sandbox.

(2) If an innovative insurance product or service fails before the end of a testing period, the insurance sandbox participant shall notify the department and report on actions taken by the insurance

sandbox participant to ensure consumers have not been harmed as a result of the failure.

(3) The department shall establish quarterly reporting requirements for an insurance sandbox participant, including information about any customer complaints.

(4) The department may request records, documents, and data from an insurance sandbox participant and, upon the department's request, an insurance sandbox participant shall make such records, documents, and data available for inspection by the department.

(5) If the department determines that an insurance sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a state or federal criminal law, the department may remove an insurance sandbox participant from the insurance regulatory sandbox.

(6) By October 1, the department shall provide an annual written report to the Business and Labor Interim Committee that provides information regarding each insurance sandbox participant and that provides recommendations regarding the effectiveness of the Insurance Regulatory Sandbox Program.

**CHAPTER 142****H. B. 403**

Passed March 12, 2020

Approved March 24, 2020

Effective July 1, 2020

**PROTECTIVE ORDER AND  
STALKING INJUNCTION AMENDMENTS**

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill addresses protective orders and stalking injunctions.

**Highlighted Provisions:**

This bill:

- ▶ creates and modifies definitions;
- ▶ modifies provisions relating to an individual's right to bail after violation of a jail release agreement or jail release court order;
- ▶ modifies and enacts provisions relating to the Administrative Office of the Court's duty to provide forms to an individual seeking a civil or criminal protective order or civil or criminal stalking injunction;
- ▶ extends the length of time the following are effective:
  - a child protective order issued against a respondent who is not the child's parent, guardian, or custodian;
  - a dating violence protective order;
  - a sexual violence protective order; and
  - a cohabitant abuse protective order;
- ▶ modifies the circumstances under which a child protective order may be sought, issued, modified, and vacated;
- ▶ modifies the orders the court may include as part of a child protective order;
- ▶ after issuance or denial of an ex parte protective order, modifies the time period within which the petitioner is required to request a hearing for the protective order and the time period within which the court is required to set a hearing date for the petition for the protective order;
- ▶ modifies and deletes provisions relating to expiration and modification of a cohabitant abuse protective order;
- ▶ modifies the circumstances under which a sexual violence protective order may be extended;
- ▶ modifies the penalty for a violation of a sentencing protective order and a continuous protective order;
- ▶ under certain circumstances, allows the court to issue a continuous protective order against a perpetrator of an offense that is not domestic violence;
- ▶ renumbers and amends provisions relating to criminal protective orders, civil protective orders, and stalking injunctions; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

- 30-3-3, as last amended by Laws of Utah 2008, Chapter 3
- 53-10-208, as last amended by Laws of Utah 2019, Chapters 33 and 365
- 53-10-208.1, as last amended by Laws of Utah 2019, Chapters 33 and 365
- 53-10-213, as enacted by Laws of Utah 2019, Chapter 33
- 53-10-403, as last amended by Laws of Utah 2017, Chapter 289
- 57-22-5.1, as last amended by Laws of Utah 2018, Chapter 255
- 76-5-106.5, as last amended by Laws of Utah 2018, Chapter 255
- 76-5-108, as last amended by Laws of Utah 2018, Chapter 255
- 77-20-1, as last amended by Laws of Utah 2019, Chapters 184 and 397
- 77-20-10, as last amended by Laws of Utah 2016, Chapter 234
- 77-36-1, as last amended by Laws of Utah 2019, Chapters 184 and 422
- 77-36-2.1, as last amended by Laws of Utah 2018, Chapter 255
- 77-36-2.4, as last amended by Laws of Utah 2017, Chapters 289 and 332
- 77-36-2.6, as last amended by Laws of Utah 2017, Chapter 332
- 77-36-2.7, as last amended by Laws of Utah 2019, Chapter 184
- 77-36-5, as last amended by Laws of Utah 2017, Chapter 332
- 77-36-5.1, as last amended by Laws of Utah 2018, Chapter 124
- 77-36-6, as last amended by Laws of Utah 2017, Chapter 289
- 77-38-403, as enacted by Laws of Utah 2019, Chapter 361
- 78A-6-103, as last amended by Laws of Utah 2019, Chapter 300
- 78A-6-114, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-6-123, as enacted by Laws of Utah 2017, Chapter 330
- 78B-7-101, as enacted by Laws of Utah 2008, Chapter 3
- 78B-7-102, as last amended by Laws of Utah 2018, Chapter 255
- 78B-7-104, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-7-105, as last amended by Laws of Utah 2018, Chapters 124 and 255
- 78B-7-109, as last amended by Laws of Utah 2018, Chapter 255
- 78B-7-112, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-7-113, as last amended by Laws of Utah 2013, Chapter 196
- 78B-7-201, as last amended by Laws of Utah 2019, Chapter 365
- 78B-7-202, as last amended by Laws of Utah 2014, Chapter 267
- 78B-7-203, as last amended by Laws of Utah 2010, Chapter 34



78B-7-204, as last amended by Laws of Utah 2008, Chapter 115 and renumbered and amended by Laws of Utah 2008, Chapter 3

78B-7-205, as last amended by Laws of Utah 2011, Chapter 208

78B-7-402, as enacted by Laws of Utah 2013, Chapter 179

78B-7-403, as enacted by Laws of Utah 2013, Chapter 179

78B-7-404, as enacted by Laws of Utah 2013, Chapter 179

78B-7-405, as last amended by Laws of Utah 2014, Chapter 263

78B-7-407, as enacted by Laws of Utah 2013, Chapter 179

78B-7-409, as enacted by Laws of Utah 2018, Chapter 255

78B-7-502, as enacted by Laws of Utah 2019, Chapter 365

78B-7-504, as enacted by Laws of Utah 2019, Chapter 365

78B-7-505, as enacted by Laws of Utah 2019, Chapter 365

78B-7-508, as enacted by Laws of Utah 2019, Chapter 365

78B-19-107, as enacted by Laws of Utah 2010, Chapter 382

**ENACTS:**

78B-7-105.5, Utah Code Annotated 1953

78B-7-118, Utah Code Annotated 1953

78B-7-119, Utah Code Annotated 1953

78B-7-601, Utah Code Annotated 1953

78B-7-607, Utah Code Annotated 1953

78B-7-801, Utah Code Annotated 1953

78B-7-803, Utah Code Annotated 1953

78B-7-804, Utah Code Annotated 1953

78B-7-805, Utah Code Annotated 1953

78B-7-806, Utah Code Annotated 1953

78B-7-807, Utah Code Annotated 1953

78B-7-901, Utah Code Annotated 1953

78B-7-902, Utah Code Annotated 1953

78B-7-903, Utah Code Annotated 1953

78B-7-904, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

78B-7-117, (Renumbered from 77-36-5.3, as enacted by Laws of Utah 2018, Chapter 124)

78B-7-602, (Renumbered from 78B-7-103, as renumbered and amended by Laws of Utah 2008, Chapter 3)

78B-7-603, (Renumbered from 78B-7-106, as last amended by Laws of Utah 2019, Chapters 33 and 429)

78B-7-604, (Renumbered from 78B-7-107, as last amended by Laws of Utah 2019, Chapter 136)

78B-7-605, (Renumbered from 78B-7-115, as last amended by Laws of Utah 2019, Chapter 263)

78B-7-606, (Renumbered from 78B-7-115.5, as last amended by Laws of Utah 2019, Chapter 263)

78B-7-608, (Renumbered from 78B-7-110, as renumbered and amended by Laws of Utah 2008, Chapter 3)

78B-7-609, (Renumbered from 78B-7-111, as renumbered and amended by Laws of Utah 2008, Chapter 3)

78B-7-701, (Renumbered from 77-3a-101, as last amended by Laws of Utah 2012, Chapter 383)

78B-7-702, (Renumbered from 77-3a-101.1, as enacted by Laws of Utah 2018, Chapter 255)

78B-7-703, (Renumbered from 77-3a-103, as enacted by Laws of Utah 2001, Chapter 276)

78B-7-802, (Renumbered from 77-20-3.5, as last amended by Laws of Utah 2019, Chapter 184)

**REPEALS:**

77-3a-102, as enacted by Laws of Utah 2001, Chapter 276

78B-7-114, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-7-401, as enacted by Laws of Utah 2013, Chapter 179

78B-7-406, as enacted by Laws of Utah 2013, Chapter 179

78B-7-501, as enacted by Laws of Utah 2019, Chapter 365

78B-7-507, as enacted by Laws of Utah 2019, Chapter 365

**Utah Code Sections Affected by Coordination Clause:**

77-20-1, as last amended by Laws of Utah 2019, Chapters 184 and 397

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

**Section 1. Section 30-3-3 is amended to read:****30-3-3. Award of costs, attorney and witness fees -- Temporary alimony.**

(1) In any action filed under Title 30, Chapter 3, Divorce, Chapter 4, Separate Maintenance, or Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act Part 6, Cohabitant Abuse Protective Orders, and in any action to establish an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action. The order may include provision for costs of the action.

(2) In any action to enforce an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may award costs and attorney fees upon determining that the party substantially prevailed upon the claim or defense. The court, in its discretion, may award no fees or limited fees against a party if the court finds the party is impecunious or enters in the record the reason for not awarding fees.

(3) In any action listed in Subsection (1), the court may order a party to provide money, during the pendency of the action, for the separate support and maintenance of the other party and of any children in the custody of the other party.

(4) Orders entered under this section prior to entry of the final order or judgment may be

amended during the course of the action or in the final order or judgment.

**Section 2. Section 53-10-208 is amended to read:**

**53-10-208. Definition -- Offenses included on statewide warrant system -- Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.**

(1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:

(a) records of criminal warrant information; and  
(b) after notice and hearing, records of protective orders issued pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

~~[(ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act;]~~

~~[(iii)]~~ (ii) Title 78B, Chapter 7, Part 4, Dating Violence ~~[Protection Act; or]~~ Protective Orders;

~~[(iv)]~~ (iii) Title 78B, Chapter 7, Part 5, Sexual Violence ~~[Protection Act.]~~ Protective Orders; or

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

(2) (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

(b) The division shall include on the statewide warrant system all warrants issued for failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

(c) For each warrant, the division shall indicate whether the magistrate ordered under Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

(3) The division is the agency responsible for the statewide warrant system and shall:

(a) ensure quality control of all warrants of arrest or commitment and protective orders contained in the statewide warrant system by conducting regular validation checks with every clerk of a court responsible for entering the information on the system;

(b) upon the expiration of the protective orders and in the manner prescribed by the division, purge information regarding protective orders described in Subsection 53-10-208.1(1)(d) within 30 days of the time after expiration;

(c) establish system procedures and provide training to all criminal justice agencies having access to information contained on the state warrant system;

(d) provide technical support, program development, and systems maintenance for the operation of the system; and

(e) pay data processing and transaction costs for state, county, and city law enforcement agencies and criminal justice agencies having access to information contained on the state warrant system.

(4) (a) Any data processing or transaction costs not funded by legislative appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

(b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

**Section 3. Section 53-10-208.1 is amended to read:**

**53-10-208.1. Magistrates and court clerks to supply information.**

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas held in abeyance;

(vi) judgments of not guilty by reason of insanity~~[-]~~;

(vii) judgments of guilty with a mental illness;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 62A-15-631;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

~~[(ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act;]~~

~~[(iii)]~~ (ii) Title 78B, Chapter 7, Part 4, Dating Violence ~~[Protection Act; or]~~ Protective Orders;

~~[(iv)]~~ (iii) Title 78B, Chapter 7, Part 5, Sexual Violence ~~[Protection Act.]~~ Protective Orders; or

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

(2) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 62A-15-631(16).

(3) The record described in Subsection (2) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

**Section 4. Section 53-10-213 is amended to read:**

**53-10-213. Reporting requirements.**

(1) The bureau shall submit the record received from the court in accordance with Subsection [~~78B-7-106~~] 78B-7-603(5)(e) to the National Crime Information Center within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

(2) The bureau shall submit the record received from the court in accordance with Subsection 53-10-208.1(2) to the National Instant Criminal Background Check System within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

**Section 5. Section 53-10-403 is amended to read:**

**53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

(1) Sections 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through

December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;

(viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xi) sale of a child, Section 76-7-203;

(xii) aggravated escape, Subsection 76-8-309(2);

(xiii) a felony violation of assault on an elected official, Section 76-8-315;

(xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xvii) a felony violation of sexual battery, Section 76-9-702.1;

(xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

(xxvii) violation of condition for release after arrest under Section ~~[77-20-3.5]~~ 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah court has adjudicated to be within the jurisdiction of the juvenile court due to the commission of any offense described in Subsection (2), and who is:

(a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense under Subsection (2); or

(b) in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002 for an offense under Subsection (2).

**Section 6. Section 57-22-5.1 is amended to read:**

**57-22-5.1. Crime victim's right to new locks -- Domestic violence victim's right to terminate rental agreement -- Limits an owner relating to assistance from public safety agency.**

(1) As used in this section:

(a) "Crime victim" means a victim of:

(i) domestic violence, as defined in Section 77-36-1;

(ii) stalking, as defined in Section 76-5-106.5;

(iii) a crime under Title 76, Chapter 5, Part 4, Sexual Offenses;

(iv) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or

(v) dating violence, as defined in Section ~~[78B-7-402]~~ 78B-7-102.

(b) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or similar service.

(2) An acceptable form of documentation of an act listed in Subsection (1) is:

(a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, ~~[Part 1, Cohabitant Abuse Act]~~ Part 6, Cohabitant Abuse Protective Orders, subsequent to a hearing of which the petitioner and respondent have been given notice under Title 78B, Chapter 7, ~~[Part 1, Cohabitant Abuse Act]~~ Part 6, Cohabitant Abuse Protective Orders; or

(b) a copy of a police report documenting an act listed in Subsection (1).

(3) (a) A renter who is a crime victim may require the renter's owner to install a new lock to the renter's residential rental unit if the renter:

(i) provides the owner with an acceptable form of documentation of an act listed in Subsection (1); and

(ii) pays for the cost of installing the new lock.

(b) An owner may comply with Subsection (3)(a) by:

(i) rekeying the lock if the lock is in good working condition; or

(ii) changing the entire locking mechanism with a locking mechanism of equal or greater quality than the lock being replaced.

(c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the key that opens the new lock.

(d) Notwithstanding any rental agreement, an owner who installs a new lock under Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the perpetrator of the act listed in Subsection (1).

(e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit by a protective order but is a renter on the rental agreement, the perpetrator may file a petition with a court of competent jurisdiction within 30 days to:

(i) establish whether the perpetrator should be given a key and allowed access to the residential rental unit; or

(ii) whether the perpetrator should be relieved of further liability under the rental agreement because of the owner's exclusion of the perpetrator from the residential rental unit.

(f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further liability under the rental agreement if the perpetrator is found by the court to have committed the act upon which the landlord's exclusion of the perpetrator is based.

(4) A renter who is a victim of domestic violence, as defined in Section 77-36-1, may terminate a rental agreement if the renter:

(a) is in compliance with:

(i) all provisions of Section 57-22-5; and

- (ii) all obligations under the rental agreement;
- (b) provides the owner:
  - (i) written notice of termination; and
  - (ii) a protective order protecting the renter from a domestic violence perpetrator or a copy of a police report documenting that the renter is a victim of domestic violence and did not participate in the violence; and

(c) no later than the date that the renter provides a notice of termination under Subsection (4)(b)(i), pays the owner the equivalent of 45 days' rent for the period beginning on the date that the renter provides the notice of termination.

(5) An owner may not:

- (a) impose a restriction on a renter's ability to request assistance from a public safety agency; or
- (b) penalize or evict a renter because the renter makes reasonable requests for assistance from a public safety agency.

**Section 7. Section 76-5-106.5 is amended to read:**

**76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.**

(1) As used in this section:

- ~~[(a) "Conviction" means:]~~
- ~~[(i) a verdict or conviction;]~~
- ~~[(ii) a plea of guilty or guilty and mentally ill;]~~
- ~~[(iii) a plea of no contest; or]~~
- ~~[(iv) the acceptance by the court of a plea in abeyance.]~~
- ~~[(b)]~~ (a) "Course of conduct" means two or more acts directed at or toward a specific person, including:

(i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property:

(A) directly, indirectly, or through any third party; and

(B) by any action, method, device, or means; or

(ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

(A) approaches or confronts a person;

(B) appears at the person's workplace or contacts the person's employer or coworkers;

(C) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person;

(D) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the

person to a member of the person's family or household, employer, coworker, friend, or associate of the person;

(E) places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or

(F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

~~[(e)]~~ (b) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

~~[(d)]~~ (c) "Immediate family" means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who regularly resided in the household within the prior six months.

~~[(e)]~~ (d) "Reasonable person" means a reasonable person in the victim's circumstances.

~~[(f)]~~ (e) "Stalking" means an offense as described in Subsection (2) or (3).

~~[(g)]~~ (f) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.

(2) A person is guilty of stalking who intentionally or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person:

(a) to fear for the person's own safety or the safety of a third person; or

(b) to suffer other emotional distress.

(3) A person is guilty of stalking who intentionally or knowingly violates:

(a) a stalking injunction issued ~~[pursuant to Title 77, Chapter 3a, Stalking Injunctions]~~ under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

(b) a permanent criminal stalking injunction issued ~~[pursuant to this section]~~ under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(4) In any prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

(6) Stalking is a class A misdemeanor:

(a) upon the offender's first violation of Subsection (2); or

(b) if the offender violated a stalking injunction issued ~~[pursuant to Title 77, Chapter 3a, Stalking Injunctions]~~ under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(7) Stalking is a third degree felony if the offender:

(a) has been previously convicted of an offense of stalking;

(b) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

(c) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

(d) violated a permanent criminal stalking injunction issued ~~[pursuant to Subsection (9)]~~ under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or

(e) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

(8) Stalking is a second degree felony if the offender:

(a) used a dangerous weapon as defined in Section 76-1-601 or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

(b) has been previously convicted two or more times of the offense of stalking;

(c) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

(d) has been convicted two or more times, in any combination, of offenses under Subsection (7)(a), (b), or (c);

(e) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

(f) has been previously convicted of an offense under Subsection (7)(d) or (e).

~~[(9) (a) The following serve as an application for a permanent criminal stalking injunction limiting the contact between the defendant and the victim:]~~

~~[(i) a conviction for:]~~

~~[(A) stalking; or]~~

~~[(B) attempt to commit stalking; or]~~

~~[(ii) a plea to any of the offenses described in Subsection (9)(a)(i) accepted by the court and held in abeyance for a period of time.]~~

~~[(b) A permanent criminal stalking injunction shall be issued by the court at the time of the conviction. The court shall give the defendant notice of the right to request a hearing.]~~

~~[(c) If the defendant requests a hearing under Subsection (9)(b), it shall be held at the time of the conviction unless the victim requests otherwise, or for good cause.]~~

~~[(d) If the conviction was entered in a justice court, a certified copy of the judgment and conviction or a certified copy of the court's order holding the plea in abeyance shall be filed by the victim in the district court as an application and request for a hearing for a permanent criminal stalking injunction.]~~

~~[(10) A permanent criminal stalking injunction shall be issued by the district court granting the following relief where appropriate:]~~

~~[(a) an order:]~~

~~[(i) restraining the defendant from entering the residence, property, school, or place of employment of the victim; and]~~

~~[(ii) requiring the defendant to stay away from the victim, except as provided in Subsection (11), and to stay away from any specified place that is named in the order and is frequented regularly by the victim;]~~

~~[(b) an order restraining the defendant from making contact with or regarding the victim, including an order forbidding the defendant from personally or through an agent initiating any communication, except as provided in Subsection (11), likely to cause annoyance or alarm to the victim, including personal, written, or telephone contact with or regarding the victim, with the victim's employers, employees, coworkers, friends, associates, or others with whom communication would be likely to cause annoyance or alarm to the victim; and]~~

~~[(c) any other orders the court considers necessary to protect the victim and members of the victim's immediate family or household.]~~

~~[(11) If the victim and defendant have minor children together, the court may consider provisions regarding the defendant's exercise of custody and parent-time rights while ensuring the safety of the victim and any minor children. If the court issues a permanent criminal stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered and that court may modify the injunction to balance the parties' custody and parent-time rights.]~~

~~[(12) Except as provided in Subsection (11), a permanent criminal stalking injunction may be modified, dissolved, or dismissed only upon application of the victim to the court which granted the injunction.]~~

~~[(13) Notice of permanent criminal stalking injunctions issued pursuant to this section shall be sent by the court to the statewide warrants network or similar system.]~~

~~[(14) A permanent criminal stalking injunction issued pursuant to this section has effect statewide.]~~

~~[(15) (a) Violation of an injunction issued pursuant to this section constitutes a third degree felony offense of stalking under Subsection (7).]~~

~~[(b) Violations may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.]~~

(9) (a) A permanent criminal stalking injunction limiting the contact between the defendant and victim may be filed in accordance with Section 78B-7-902.

[(16) (b) This section does not preclude the filing of [a] criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued [pursuant to Title 77, Chapter 3a,] under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

[(17) (10) (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

(i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged stalking;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection [(17)] (10)(b).

(b) (i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title [77, Chapter 3a,] 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection [(17)] (10), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

**Section 8. Section 76-5-108 is amended to read:**

**76-5-108. Protective orders restraining abuse of another -- Violation.**

(1) Any person who is the respondent or defendant subject to a protective order, child protective order, ex parte protective order, or ex parte child protective order issued under the following who intentionally or knowingly violates that order after having been properly served or having been present, in person or through court video conferencing, when the order was issued, is guilty of a class A misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act:

(a) Title 78A, Chapter 6, Juvenile Court Act;

~~[(a)] (b) Title 78B, Chapter 7, [Part 1, Cohabitant Abuse Act] Part 6, Cohabitant Abuse Protective Orders;~~

~~[(b) Title 78A, Chapter 6, Juvenile Court Act;]~~

~~(c) Title [77, Chapter 36, Cohabitant Abuse Procedures Act] 78B, Chapter 7, Part 8, Criminal Protective Orders; or~~

(d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(2) Violation of an order as described in Subsection (1) is a domestic violence offense under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.

**Section 9. Section 77-20-1 is amended to read:**

**77-20-1. Right to bail -- Denial of bail -- Hearing.**

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(b) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

(c) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) felony when the court finds there is substantial evidence to support the charge and ~~(it)~~ the court finds by clear and convincing evidence that the individual violated a material condition of release while previously on bail; or

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

(3) Any individual who may be admitted to bail may be released by posting bail in the form and manner provided in Section 77-20-4, or on the individual's own recognizance, on condition that the individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

(a) ensure the appearance of the accused;

(b) ensure the integrity of the court process;

(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and

(d) ensure the safety of the public.

(4) (a) Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest.

(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.

(d) An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section ~~[77-20-3.5]~~ 78B-7-802:

~~(i) may not be released before the accused's first judicial appearance; and~~

~~(ii)~~ (i) may be denied bail by the court under Subsection (2); and

(ii) if denied bail, may not be released before the individual's initial appearance before the court.

(5) The magistrate or court may rely upon information contained in:

(a) the indictment or information;

(b) any sworn probable cause statement;

(c) information provided by any pretrial services agency; or

(d) any other reliable record or source.

(6) (a) A motion to modify the initial order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit any victim to be notified and be present.

(b) Hearing on a motion to modify may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The magistrate or court may rely on information as provided in Subsection (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

(7) Subsequent motions to modify bail orders may be made only upon a showing that there has been a material change in circumstances.

(8) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection (2).

(9) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

**Section 10. Section 77-20-10 is amended to read:**

**77-20-10. Grounds for detaining defendant while appealing the defendant's conviction -- Conditions for release while on appeal.**

(1) The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

(a) the appeal raises a substantial question of law or fact likely to result in:

(i) reversal;

(ii) an order for a new trial; or

(iii) a sentence that does not include a term of imprisonment in jail or prison;

(b) the appeal is not for the purpose of delay; and

(c) by clear and convincing evidence presented by the defendant that the defendant is not likely to flee



the jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the court shall order the release of the defendant, subject to conditions that result in the least restrictive condition or combination of conditions that the court determines will reasonably assure the appearance of the person as required and the safety of any other person and the community. The conditions may include that the defendant:

- (a) post appropriate bail;
- (b) execute a bail bond with a surety under Title 31A, Chapter 35, Bail Bond Act, in an amount necessary to assure the appearance of the defendant as required;
- (c) (i) execute a written agreement to forfeit, upon failing to appear as required, designated property, including money, as is reasonably necessary to assure the appearance of the defendant; and
  - (ii) post with the court indicia of ownership of the property or a percentage of the money as the court may specify;
- (d) not commit a federal, state, or local crime during the period of release;
- (e) remain in the custody of a designated person who agrees to assume supervision of the defendant and who agrees to report any violation of a release condition to the court, if the designated person is reasonably able to assure the court that the defendant will appear as required and will not pose a danger to the safety of any other person or the community;
- (f) maintain employment, or if unemployed, actively seek employment;
- (g) maintain or commence an educational program;
- (h) abide by specified restrictions on personal associations, place of abode, or travel;
- (i) avoid all contact with the victims of the offense and with any witnesses who testified against the defendant or potential witnesses who may testify concerning the offense if the appeal results in a reversal or an order for a new trial;
- (j) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other designated agency;
- (k) comply with a specified curfew;
- (l) not possess a firearm, destructive device, or other dangerous weapon;
- (m) not use alcohol, or any narcotic drug or other controlled substances except as prescribed by a licensed medical practitioner;
- (n) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain under the

supervision of or in a specified institution if required for that purpose;

(o) return to custody for specified hours following release for employment, schooling, or other limited purposes;

(p) satisfy any other condition that is reasonably necessary to assure the appearance of the defendant as required and to assure the safety of any other person and the community; and

(q) if convicted of committing a sexual offense or an assault or other offense involving violence against a child 17 years of age or younger, is limited or denied access to any location or occupation where children are, including but not limited to:

- (i) any residence where children are on the premises;
- (ii) activities, including organized activities, in which children are involved; and
- (iii) locations where children congregate, or where a reasonable person should know that children congregate.

(3) The court may, in its discretion, amend an order granting release to impose additional or different conditions of release.

(4) If defendant has been found guilty of an offense in a court not of record and files a timely notice of appeal pursuant to Subsection 78A-7-118(1) for a trial de novo, the court shall stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance of the evidence that the defendant poses a danger to another person or the community.

(5) If a stay is ordered, the court may order post-conviction restrictions on the defendant's conduct as appropriate, including:

- (a) continuation of any pre-trial restrictions or orders;
- (b) sentencing protective orders under Section ~~[77-36-5.1]~~ 78B-7-804;
- (c) drug and alcohol use;
- (d) use of an ignition interlock; and
- (e) posting appropriate bail.

(6) The provisions of Subsections (4) and (5) do not apply to convictions for an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(7) Any stay authorized by Subsection (4) is lifted upon the dismissal of the appeal by the district court.

**Section 11. Section 77-36-1 is amended to read:**

**77-36-1. Definitions.**

As used in this chapter:

- (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- (2) "Department" means the Department of Public Safety.

(3) “Divorced” means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) “Domestic violence” or “domestic violence offense” means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. “Domestic violence” or “domestic violence offense” includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault, as described in Section 76-5-102;

(d) criminal homicide, as described in Section 76-5-201;

(e) harassment, as described in Section 76-5-106;

(f) electronic communication harassment, as described in Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem, as described in Section 76-5-105;

(i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual exploitation of a minor -- Offenses;

(j) stalking, as described in Section 76-5-106.5;

(k) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(m) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

(o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(p) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18

U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(q) child abuse, as described in Section 76-5-109.1;

(r) threatening use of a dangerous weapon, as described in Section 76-10-506;

(s) threatening violence, as described in Section 76-5-107;

(t) tampering with a witness, as described in Section 76-8-508;

(u) retaliation against a witness or victim, as described in Section 76-8-508.3;

(v) unlawful distribution of an intimate image, as described in Section 76-5b-203;

(w) sexual battery, as described in Section 76-9-702.1;

(x) voyeurism, as described in Section 76-9-702.7;

(y) damage to or interruption of a communication device, as described in Section 76-6-108; or

(z) an offense described in [Section 77-20-3.5] Subsection 78B-7-806(1).

(5) “Jail release agreement” means the same as that term is defined in Section [77-20-3.5] 78B-7-801.

(6) “Jail release court order” means the same as that term is defined in Section [77-20-3.5] 78B-7-801.

(7) “Marital status” means married and living together, divorced, separated, or not married.

(8) “Married and living together” means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) “Not married” means any living arrangement other than married and living together, divorced, or separated.

(10) “Protective order” includes an order issued under [Subsection 77-36-5.1(6)] Subsection 78B-7-804(3).

(11) “Pretrial protective order” means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release [pursuant to Section 77-20-3.5, Subsection 77-36-2.6(3), or Section 77-36-2.7] under Sections 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) “Sentencing protective order” means a written order of the court as part of sentencing in a domestic violence case that limits the contact a person who has been convicted of a domestic

violence offense may have with a victim or other specified individuals ~~[pursuant to Sections 77-36-5 and 77-36-5.1]~~ under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

**Section 12. Section 77-36-2.1 is amended to read:**

**77-36-2.1. Duties of law enforcement officers -- Notice to victims.**

(1) A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including:

(a) taking the action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(b) confiscating the weapon or weapons involved in the alleged domestic violence;

(c) making arrangements for the victim and any child to obtain emergency housing or shelter;

(d) providing protection while the victim removes essential personal effects;

(e) arrange, facilitate, or provide for the victim and any child to obtain medical treatment; and

(f) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (2).

(2) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, ~~[Part 1, Cohabitant Abuse Act]~~ Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

(b) The written notice shall also include:

(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled;

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and

(iii) the information required to be provided to both parties in accordance with Subsections ~~[77-20-3.5(10) and (11)]~~ 78B-7-802(8) and (9).

(3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is

not issued or once the domestic violence protective order is terminated.

**Section 13. Section 77-36-2.4 is amended to read:**

**77-36-2.4. Violation of a protective order -- Mandatory arrest -- Penalties.**

(1) A law enforcement officer shall ~~[, without a warrant, arrest an alleged perpetrator whenever there is probable cause to believe that the alleged perpetrator has violated]~~ arrest an alleged perpetrator for a violation of any of the provisions of an ex parte protective order or protective order in accordance with Section 78B-7-119.

(2) A violation of a protective order is punishable in accordance with Section 76-5-108.

~~[(2) (a) Intentional or knowing violation of any ex parte protective order or protective order is a class A misdemeanor, in accordance with Section 76-5-108, except where a greater penalty is provided in this chapter, and is a domestic violence offense, pursuant to Section 77-36-1.]~~

~~[(b) Second or subsequent violations of ex parte protective orders or protective orders carry increased penalties, in accordance with Section 77-36-1.1.]~~

~~[(3) As used in this section, "ex parte protective order" or "protective order" includes:]~~

~~[(a) a protective order or ex parte protective order issued under Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act;]~~

~~[(b) a pretrial protective order, sentencing protective order, or continuous protective order issued under this chapter;]~~

~~[(c) any child protective order or ex parte child protective order issued under Title 78B, Chapter 7, Part 2, Child Protective Orders; or]~~

~~[(d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.]~~

**Section 14. Section 77-36-2.6 is amended to read:**

**77-36-2.6. Appearance of defendant required -- Considerations by court.**

(1) A defendant who has been arrested for an offense involving domestic violence shall appear in person or by video before the court or a magistrate within one judicial day after the day on which the arrest is made.

(2) A defendant who has been charged by citation, indictment, or information with an offense involving domestic violence but has not been arrested, shall appear before the court in person for arraignment or initial appearance as soon as practicable, but no later than 14 days after the next day on which court is in session following the issuance of the citation or the filing of the indictment or information.

(3) At the time of an appearance under Subsection (1) or (2), the court shall~~[-]~~ consider imposing a pretrial protective order in accordance with Section 78B-7-803.

~~[(a) determine the necessity of imposing a pretrial protective order or other condition of pretrial release, including participating in an electronic or other type of monitoring program;]~~

~~[(b) identify the individual designated by the victim to communicate between the defendant and the victim if and to the extent necessary for family related matters; and]~~

~~[(c) state its findings and determination in writing.]~~

(4) Appearances required by this section are mandatory and may not be waived.

**Section 15. Section 77-36-2.7 is amended to read:**

**77-36-2.7. Dismissal -- Diversion prohibited -- Plea in abeyance -- Pretrial protective order pending trial.**

(1) Because of the serious nature of domestic violence, the court, in domestic violence actions:

(a) may not dismiss any charge or delay disposition because of concurrent divorce or other civil proceedings;

(b) may not require proof that either party is seeking a dissolution of marriage before instigation of criminal proceedings;

(c) shall waive any requirement that the victim's location be disclosed other than to the defendant's attorney and order the defendant's attorney not to disclose the victim's location to the client;

(d) shall identify, on the docket sheets, the criminal actions arising from acts of domestic violence; and

(e) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a, Pleas in Abeyance, making treatment or any other requirement for the defendant a condition of that status.

(2) When the court holds a plea in abeyance in accordance with Subsection (1)(e), the case against a perpetrator of domestic violence may be dismissed only if the perpetrator successfully completes all conditions imposed by the court. If the defendant fails to complete any condition imposed by the court under Subsection (1)(e), the court may accept the defendant's plea.

~~[(3) (a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past and the vulnerability of victims of other qualifying offenses, as defined in Section 77-20-3.5, when any defendant is charged with a crime involving a qualifying offense, the court may, during any court hearing where the defendant is present, issue a pretrial protective order, pending trial.]~~

~~[(i) enjoining the defendant from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;]~~

~~[(ii) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;]~~

~~[(iii) removing and excluding the defendant from the victim's residence and the premises of the residence;]~~

~~[(iv) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim and any designated family member; and]~~

~~[(v) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member.]~~

~~[(b) Violation of an order issued pursuant to this section is punishable as follows:]~~

~~[(i) if the original arrest or subsequent charge filed is a felony, an offense under this section is a third-degree felony; and]~~

~~[(ii) if the original arrest or subsequent charge filed is a misdemeanor, an offense under this section is a class A misdemeanor.]~~

~~[(c) (i) The court shall provide the victim with a certified copy of any pretrial protective order that has been issued if the victim can be located with reasonable effort.]~~

~~[(ii) If the court is unable to locate the victim, the court shall provide the victim's certified copy to the prosecutor.]~~

~~[(iii) The court shall transmit the pretrial protective order to the statewide domestic violence network.]~~

~~[(d) Issuance of a pretrial or sentencing protective order supersedes a jail release agreement or jail release court order.]~~

~~[(e) If the alleged victim and the defendant share custody of one or more minor children, the court may include in a pretrial protective order provisions for indirect or limited contact to temporarily facilitate parent visitation with a minor child.]~~

~~[(f) In a pretrial protective order the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.]~~

(3) When a defendant is charged with a crime involving a qualifying offense, as defined in Section 78B-7-801, the court may, during any court hearing where the defendant is present, issue a pretrial protective order in accordance with Section 78B-7-803.

(4) (a) When a court dismisses criminal charges or a prosecutor moves to dismiss charges against a defendant accused of a domestic violence offense,

the specific reasons for dismissal shall be recorded in the court file and made a part of any related order or agreement on the statewide domestic violence network described in Section 78B-7-113.

(b) The court shall transmit the dismissal to the statewide domestic violence network.

(c) Any pretrial protective orders, including jail release court orders and jail release agreements, related to the dismissed domestic violence criminal charge shall also be dismissed.

(5) The court may not approve diversion for a perpetrator of domestic violence.

**Section 16. Section 77-36-5 is amended to read:**

**77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring -- Counseling -- Cost assessed against defendant -- Sentencing protective order -- Continuous protective order.**

(1) ~~[(a)]~~ When a defendant is found guilty of a crime involving domestic violence and a condition of the sentence restricts the defendant's contact with the victim, a sentencing protective order may be issued under ~~[Subsection 77-36-5.1(2)]~~ Section 78B-7-804 for the length of the defendant's probation or a continuous protective order may be issued under ~~[Subsection 77-36-5.1(6)]~~ Section 78B-7-804.

~~[(b) (i) The sentencing protective order or continuous protective order shall be in writing, and the prosecutor shall provide a certified copy of that order to the victim.]~~

~~[(ii) The court shall transmit the sentencing protective order or continuous protective order to the statewide domestic violence network.]~~

~~[(e) Violation of a sentencing protective order or continuous protective order issued pursuant to this Subsection (1) is a class A misdemeanor.]~~

(2) In determining ~~[its]~~ the court's sentence the court, in addition to penalties otherwise provided by law, may require the defendant to participate in an electronic or other type of monitoring program.

(3) The court may also require the defendant to pay all or part of the costs of counseling incurred by the victim and any children affected by or exposed to the domestic violence offense, as well as the costs for the defendant's own counseling.

(4) The court shall:

(a) assess against the defendant, as restitution, any costs for services or treatment provided to the victim and affected children of the victim or the defendant by the Division of Child and Family Services under Section 62A-4a-106; and

(b) order those costs to be paid directly to the division or its contracted provider.

(5) The court may order the defendant to obtain and satisfactorily complete treatment or therapy in a domestic violence treatment program, as defined

in Section 62A-2-101, that is licensed by the Department of Human Services.

**Section 17. Section 77-36-5.1 is amended to read:**

**77-36-5.1. Conditions of probation for individual convicted of domestic violence offense.**

(1) Before any perpetrator who has been convicted of a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with one or more orders of the court, which may include:

(a) a sentencing protective order[;] issued in accordance with Section 78B-7-804;

~~[(a) enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;]~~

~~[(b) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;]~~

~~[(c) requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;]~~

~~[(d) (b) prohibiting the perpetrator from possessing or consuming alcohol or controlled substances;~~

~~[(e) (c) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;~~

~~[(f) (d) directing the perpetrator to surrender any weapons the perpetrator owns or possesses;~~

~~[(g) (e) directing the perpetrator to participate in and complete, to the satisfaction of the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment;~~

~~[(h) (f) directing the perpetrator to pay restitution to the victim, enforcement of which shall be in accordance with Chapter 38a, Crime Victims Restitution Act; and~~

~~[(i) (g) imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.~~

(3) The perpetrator is responsible for the costs of any condition of probation, according to the perpetrator's ability to pay.

(4) (a) Adult Probation and Parole, or other provider, shall immediately report to the court and notify the victim of any offense involving domestic violence committed by the perpetrator, the perpetrator's failure to comply with any condition

imposed by the court, and any violation of [any] a sentencing [criminal] protective order issued by the court under Section 78B-7-804.

(b) Notification of the victim under Subsection (4)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.

~~[(5) The court shall transmit all dismissals, terminations, and expirations of pretrial and sentencing criminal protective orders issued by the court to the statewide domestic violence network.]~~

~~[(6)(a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (6) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Chapter 37, Victims' Rights, and Chapter 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.]~~

~~[(b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless the court determines by clear and convincing evidence that the victim does not have a reasonable fear of future harm or abuse.]~~

~~[(c)(i) The court shall notify the perpetrator of the right to request a hearing.]~~

~~[(ii) If the perpetrator requests a hearing under this Subsection (6)(c), the court shall hold the hearing at the time determined by the court. The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.]~~

~~[(d) A continuous protective order is permanent in accordance with this Subsection (6)(d) and may grant the following relief:]~~

~~[(i) enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;]~~

~~[(ii) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;]~~

~~[(iii) prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;]~~

~~[(iv) directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Chapter 38a, Crime Victims Restitution Act; and]~~

~~[(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.]~~

~~[(e) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of this Subsection (6) have been met and the victim does not have a reasonable fear of future harm or abuse.]~~

~~[(f) Notice of a continuous protective order issued pursuant to this section shall be sent by the court to the statewide domestic violence network.]~~

~~[(g) Violation of a continuous protective order issued pursuant to this Subsection (6) is a class A misdemeanor, is a domestic violence offense under Section 77-36-1, and is subject to increased penalties in accordance with Section 77-36-1.1.]~~

~~[(h) In addition to the process of issuing a continuous protective order described in Subsection (6)(a), a district court may issue a continuous protective order at any time if the victim files a petition with the district court, and after notice and hearing the district court finds that a continuous protective order is necessary to protect the victim.]~~

~~[(7)(a) Before release of a person who is subject to a continuous protective order issued under Subsection (6), the victim shall receive notice of the imminent release by the law enforcement agency that is releasing the person who is subject to the continuous protective order:]~~

~~[(i) if the victim has provided the law enforcement agency contact information; and]~~

~~[(ii) in accordance with Section 64-13-14.7, if applicable.]~~

~~[(b) Before release, the law enforcement agency shall notify in writing the person being released that a violation of the continuous protective order issued at the time of conviction or sentencing continues to apply, and that a violation of the continuous protective order is a class A misdemeanor, is a separate domestic violence offense under Section 77-36-1, and is subject to increased penalties in accordance with Section 77-36-1.1.]~~

~~[(8) (5) In addition to a protective order issued under this section, the court may issue a separate order relating to the transfer of a wireless telephone number in accordance with Section [77-36-5.3] 78B-7-117.~~

**Section 18. Section 77-36-6 is amended to read:**

**77-36-6. Enforcement of orders.**

(1) Each law enforcement agency in this state shall enforce all orders of the court issued [pursuant to] under the requirements and procedures described in this chapter, and shall enforce:

(a) all protective orders and ex parte protective orders issued ~~pursuant to~~ under Title 78B, Chapter 7, ~~[Part 1, Cohabitant Abuse Act]~~ Part 6, Cohabitant Abuse Protective Orders;

(b) pretrial protective orders issued under Section 78B-7-803 and sentencing protective orders and continuous protective orders issued under Section 78B-7-804; and

(c) all foreign protection orders enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(2) The requirements of this section apply statewide, regardless of the jurisdiction in which the order was issued or the location of the victim or the perpetrator.

**Section 19. Section 77-38-403 is amended to read:**

**77-38-403. Definitions.**

As used in this part:

(1) "Advocacy services" means assistance provided that supports, supplements, intervenes, or links a victim or a victim's family with appropriate resources and services to address the wide range of potential impacts of being victimized.

(2) "Advocacy services provider" means an entity that has the primary focus of providing advocacy services in general or with specialization to a specific crime type or specific type of victimization.

(3) "Confidential communication" means a communication that is intended to be confidential between a victim and a victim advocate for the purpose of obtaining advocacy services.

(4) "Criminal justice system victim advocate" means an individual who:

(a) is employed or authorized to volunteer by a government agency that possesses a role or responsibility within the criminal justice system;

(b) has as a primary responsibility addressing the mental, physical, or emotional recovery of victims;

(c) completes a minimum 40 hours of trauma-informed training:

(i) in crisis response, the effects of crime and trauma on victims, victim advocacy services and ethics, informed consent, and this part regarding privileged confidential communication; and

(ii) that have been approved or provided by the Utah Office for Victims of Crime; and

(d) is under the supervision of the director or director's designee of the government agency.

(5) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Nongovernment organization victim advocate" means an individual who:

(a) is employed or authorized to volunteer by an nongovernment organization advocacy services provider;

(b) has as a primary responsibility addressing the mental, physical, or emotional recovery of victims;

(c) has a minimum 40 hours of trauma-informed training:

(i) in assisting victims specific to the specialization or focus of the nongovernment organization advocacy services provider and includes this part regarding privileged confidential communication; and

(ii) (A) that have been approved or provided by the Utah Office for Victims of Crime; or

(B) that meets other minimally equivalent standards set forth by the nongovernment organization advocacy services provider; and

(d) is under the supervision of the director or the director's designee of the nongovernment organization advocacy services provider.

(8) "Record" means a book, letter, document, paper, map, plan, photograph, file, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics.

(9) "Victim" means:

(a) a ~~["victim of a crime"]~~ victim of a crime as defined in Section 77-38-2;

(b) an individual who is a victim of domestic violence as defined in Section 77-36-1; or

(c) an individual who is a victim of dating violence as defined in Section ~~[78B-7-402]~~ 78B-7-102.

(10) (a) "Victim advocate" means:

~~[(a)]~~ (i) a criminal justice system victim advocate;

~~[(b)]~~ (ii) a nongovernment organization victim advocate; or

~~[(c)]~~ (iii) an individual who is employed or authorized to volunteer by a public or private entity and is designated by the Utah Office for Victims of Crime as having the specific purpose of providing advocacy services to or for the clients of the public or private entity.

~~[(d)]~~ (b) "Victim advocate" does not include an employee of the Utah Office for Victims of Crime.

**Section 20. Section 78A-6-103 is amended to read:**

**78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

(a) a child who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding offenses:

(i) in Section 53G-8-211 until such time that the child is referred to the courts under Section 53G-8-211; and

(ii) in Subsection 78A-7-106(2);

(b) a child who is an abused child, neglected child, or dependent child, as those terms are defined in Section 78A-6-105;

(c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the juvenile court has entered an ex parte protective order and finds that:

(i) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(ii) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, [Part 1, Cohabitant Abuse Act] Part 6, Cohabitant Abuse Protective Orders, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(iii) the best interests of the child will be better served in the district court;

(d) appointment of a guardian of the person or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(e) the emancipation of a minor in accordance with Part 8, Emancipation;

(f) the termination of the legal parent-child relationship in accordance with Part 5, Termination of Parental Rights Act, including termination of residual parental rights and duties;

(g) the treatment or commitment of a minor who has an intellectual disability;

(h) the judicial consent to the marriage of a minor 16 or 17 years old upon a determination of voluntariness or where otherwise required by law;

(i) any parent or parents of a child committed to a secure youth facility, to order, at the discretion of the court and on the recommendation of a secure facility, the parent or parents of a child committed to a secure facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure facility therapist, who has supervision of that parent's or parents' child, or any other therapist the court may direct, for a period directed by the court as recommended by a secure facility;

(j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

(k) subject to Subsection (8), the treatment or commitment of a child with a mental illness;

(l) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(m) a minor found not competent to proceed pursuant to Section 78A-6-1301;

(n) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402; and

(o) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child.

(2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile court has exclusive jurisdiction over the following offenses committed by a child:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Section 73-18-12, reckless operation; and

(iii) class B and C misdemeanors, infractions, or violations of ordinances that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

(b) A juvenile court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(3) The juvenile court has jurisdiction over an ungovernable or runaway child who is referred to it by the Division of Child and Family Services or by public or private agencies that contract with the division to provide services to that child when, despite earnest and persistent efforts by the division or agency, the child has demonstrated that the child:

(a) is beyond the control of the child's parent, guardian, or lawful custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(b) has run away from home.

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Section 78A-6-702.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 78A-6-323.

(7) The juvenile court has jurisdiction of matters transferred to it by another trial court pursuant to Subsection 78A-7-106(5) and subject to Section 53G-8-211.

(8) The court may commit a child to the physical custody of a local mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State Hospital.



**Section 21. Section 78A-6-114 is amended to read:**

**78A-6-114. Hearings -- Public excluded, exceptions -- Victims admitted -- Minor's cases heard separately from adult cases -- Minor or parents or custodian heard separately -- Continuance of hearing -- Consolidation of proceedings involving more than one minor.**

(1) Hearings in [minor's] minors' cases shall be held before the court without a jury and may be conducted in an informal manner.

(a) (i) In abuse, neglect, and dependency cases the court shall admit any person to a hearing, including a hearing under Section 78A-6-322, unless the court makes a finding upon the record that the person's presence at the hearing would:

(A) be detrimental to the best interest of a child who is a party to the proceeding;

(B) impair the fact-finding process; or

(C) be otherwise contrary to the interests of justice.

(ii) The court may exclude a person from a hearing under Subsection (1)(a)(i) on its own motion or by motion of a party to the proceeding.

(b) In delinquency cases the court shall admit all persons who have a direct interest in the case and may admit persons requested by the parent or legal guardian to be present. The court shall exclude all other persons except as provided in Subsection (1)(c).

(c) In delinquency cases in which the minor charged is 14 years of age or older, the court shall admit any person unless the hearing is closed by the court upon findings on the record for good cause if:

(i) the minor has been charged with an offense which would be a felony if committed by an adult; or

(ii) the minor is charged with an offense that would be a class A or B misdemeanor if committed by an adult, and the minor has been previously charged with an offense which would be a misdemeanor or felony if committed by an adult.

(d) The victim of any act charged in a petition or information involving an offense committed by a minor which if committed by an adult would be a felony or a class A or class B misdemeanor shall, upon request, be afforded all rights afforded victims in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, Title 77, Chapter 37, Victims' Rights, [and] Title 77, Chapter 38, Rights of Crime Victims Act, and Title 78B, Chapter 7, Part 8, Criminal Protective Orders. The notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined in Section 77-38-2.

(e) A victim, upon request to appropriate juvenile court personnel, shall have the right to inspect and duplicate juvenile court legal records that have not been expunged concerning:

(i) the scheduling of any court hearings on the petition;

(ii) any findings made by the court; and

(iii) any sentence or decree imposed by the court.

(2) [Minor's] Minors' cases shall be heard separately from adult cases. The minor or the parents or custodian of a minor may be heard separately when considered necessary by the court. The hearing may be continued from time to time to a date specified by court order.

(3) When more than one child is involved in a home situation which may be found to constitute neglect or dependency, or when more than one minor is alleged to be involved in the same law violation, the proceedings may be consolidated, except that separate hearings may be held with respect to disposition.

**Section 22. Section 78A-6-123 is amended to read:**

**78A-6-123. Case planning and appropriate responses.**

(1) For a minor adjudicated and placed on probation or into the custody of the Division of Juvenile Justice Services under Section 78A-6-117, a case plan shall be created and shall be:

(a) developed in collaboration with the minor and the minor's family;

(b) individualized to the minor;

(c) informed by the results of a validated risk and needs assessment; and

(d) tailored to the minor's offense and history.

(2) (a) The Administrative Office of the Courts and the Division of Juvenile Justice Services shall develop a statewide system of appropriate responses to guide responses to the behaviors of minors:

(i) undergoing nonjudicial adjustments;

(ii) under the jurisdiction of the juvenile court; and

(iii) in the custody of the Division of Juvenile Justice Services.

(b) The system of responses shall include both sanctions and incentives that:

(i) are swift and certain;

(ii) include a continuum of community based responses for minors living at home;

(iii) target a minor's criminogenic risks and needs, as determined by the results of a validated risk and needs assessment, and the severity of the violation; and

(iv) authorize earned discharge credits as one incentive for compliance.

(c) After considering the guidelines established by the Sentencing Commission, pursuant to Section 63M-7-404, the system of appropriate responses under Subsections (2)(a) and (b) shall be developed.

(3) A response to a compliant or noncompliant behavior under Subsection (2) shall be documented in the minor's case plan. Documentation shall include:

- (a) positive behaviors and incentives offered;
- (b) violations and corresponding sanctions; and
- (c) whether the minor has a subsequent violation after a sanction.

(4) Before referring a minor to court for judicial review or to the Youth Parole Authority if the minor is under the jurisdiction of the Youth Parole Authority in response to a violation, either through a contempt filing under Section 78A-6-1101 or an order to show cause, pursuant to Subsections (2)(a) and (b), a pattern of appropriate responses shall be documented in the minor's case plan.

(5) Notwithstanding Subsection (4), violations of protective orders or ex parte ~~[protection orders]~~ protective orders listed in ~~[Subsection 77-36-2.7(3)]~~ Section 78B-7-803 with victims and violations that constitute new delinquency offenses may be filed directly with the court.

**Section 23. Section 78B-7-101 is amended to read:**

**CHAPTER 7. PROTECTIVE ORDERS AND STALKING INJUNCTIONS**

**Part 1. General Provisions**

**78B-7-101. Title.**

This ~~[part]~~ chapter is known and may be cited as ~~[the "Cohabitant Abuse Act. "]~~ "Protective Orders and Stalking Injunctions."

**Section 24. Section 78B-7-102 is amended to read:**

**78B-7-102. Definitions.**

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause ~~[a cohabitant physical harm or intentionally or knowingly placing a cohabitant]~~ another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

- (a) Part 2, Child Protective Orders;
- (b) Part 4, Dating Violence Protective Orders;
- (c) Part 5, Sexual Violence Protective Orders; or
- (d) Part 6, Cohabitant Abuse Protective Orders.

(3) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

~~[(2)]~~ (4) (a) "Cohabitant" means an emancipated ~~[person pursuant to]~~ individual under Section 15-2-1 or ~~[a person]~~ an individual who is 16 years of age or older who:

- ~~[(a)]~~ (i) is or was a spouse of the other party;
- ~~[(b)]~~ (ii) is or was living as if a spouse of the other party;
- ~~[(c)]~~ (iii) is related by blood or marriage to the other party as the ~~[person's]~~ individual's parent, grandparent, sibling, or any other ~~[person]~~ individual related to the ~~[person]~~ individual by consanguinity or affinity to the second degree;
- ~~[(d)]~~ (iv) has or had one or more children in common with the other party;
- ~~[(e)]~~ (v) is the biological parent of the other party's unborn child;
- ~~[(f)]~~ (vi) resides or has resided in the same residence as the other party; or
- ~~[(g)]~~ (vii) is or was in a consensual sexual relationship with the other party.

~~[(3)]~~ (b) Notwithstanding Subsection ~~[(2)]~~ (4)(a), "cohabitant" does not include:

- ~~[(a)]~~ (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
- ~~[(b)]~~ (ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.

(5) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

(6) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

~~[(4)]~~ (7) "Court clerk" means a district court clerk.

(8) (a) "Dating partner" means an individual who:

(i) (A) is an emancipated individual under Section 15-2-1 or Title 78A, Chapter 6, Part 8, Emancipation; or

(B) is 18 years of age or older; and

(ii) is, or has been, in a dating relationship with the other party.

(b) "Dating partner" does not include an intimate partner.

(9) (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:

- (i) all relevant factors shall be considered, including:

(A) whether the parties developed interpersonal bonding above a mere casual fraternization;

(B) the length of the parties' relationship;

(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;

(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;

(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and

(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and

(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (9)(c)(i) are found to support the existence of a dating relationship.

(45) (10) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(46) (11) "Ex parte civil protective order" means an order issued without notice to the respondent [in accordance with this chapter.] under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; or

(d) Part 6, Cohabitant Abuse Protective Orders.

(12) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 8, Civil Stalking Injunctions.

(47) (13) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.

(14) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

(48) (15) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

(49) (16) "Peace officer" means those [persons] individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

(10) "Protective order" means:

(a) an order issued pursuant to this chapter subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice in accordance with this chapter; or

(b) an order issued under Subsection 77-36-5.1(6).

(17) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

(18) "Respondent" means the individual against whom enforcement of a protective order is sought.

(19) "Stalking" means the same as that term is defined in Section 76-5-106.5.

**Section 25. Section 78B-7-104 is amended to read:**

**78B-7-104. Venue of action for ex parte civil protective orders and civil protective orders.**

(1) [The] Except as provided in Part 2, Child Protective Orders, the district court has jurisdiction of any action for an ex parte civil protective order or civil protective order brought under this chapter.

(2) An action for an ex parte civil protective order or civil protective order brought [pursuant to] under this chapter shall be filed in the county where either party resides or in which the action complained of took place.

**Section 26. Section 78B-7-105 is amended to read:**

**78B-7-105. Forms for petitions, civil protective orders, and civil stalking injunctions -- Assistance -- Fees.**

(1) (a) The offices of the court clerk shall provide forms [and nonlegal assistance to persons seeking to proceed] to an individual seeking any of the following under this chapter[.]:

(i) an ex parte civil protective order;

(ii) a civil protective order;

(iii) an ex parte stalking injunction; or

(iv) a civil stalking injunction.

(b) The Administrative Office of the Courts shall:

(i) develop and adopt uniform forms for petitions and [orders for protection] the protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter[. That office shall]; and

(ii) provide the forms to the clerk of each court authorized to issue [protective orders] the protective orders and stalking injunctions described in Subsection (1)(a). [The]

(2) The forms described in Subsection (1)(b) shall include:

(a) for a petition for an ex parte civil protective order or a civil protective order:

(i) a statement notifying the petitioner for an ex parte civil protective order that knowing falsification of any statement or information provided for the purpose of obtaining a civil protective order may subject the petitioner to felony prosecution;

(ii) language indicating the criminal penalty for a violation of an ex parte civil protective order or a civil protective order under this chapter and

language stating a violation of or failure to comply with a civil provision is subject to contempt proceedings;

(iii) a space for information the petitioner is able to provide to facilitate identification of the respondent, including the respondent's social security number, driver license number, date of birth, address, telephone number, and physical description;

(iv) a space for information the petitioner is able to provide related to a proceeding for a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile court, or a criminal case involving either party, including the case name, file number, the county and state of the proceeding, and the judge's name; and

(v) a space to indicate whether the party to be protected is an intimate partner to the respondent or a child of an intimate partner to the respondent; and

(b) for a petition under Part 6, Cohabitant Abuse Protective Orders:

(ii) (i) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation[, as provided in Subsection 78B-7-106(6)];

(iii) language in the criminal provision portion stating violation of any criminal provision is a class A misdemeanor, and language in the civil portion stating violation of or failure to comply with a civil provision is subject to contempt proceedings;]

(iv) a space for information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date of birth, address, telephone number, and physical description;]

(v) a space for the petitioner to request a specific period of time for the civil provisions to be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for the requested extension of the length of time beyond 150 days;]

(vi) a statement advising the petitioner that when a minor child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school where the child attends;]

(vii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance; and]

(viii) a space for information the petitioner is able to provide related to a proceeding for an order for protection, civil litigation, a proceeding in juvenile court, and a criminal case involving either party, including;]

(A) the case name;]

(B) the file number;]

(C) the county and state of the proceeding; and]

(D) the judge's name.]

(ii) a statement advising the petitioner that when a child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school that the child attends; and

(iii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance.

(2) (3) If the [person] individual seeking to proceed as a petitioner under this chapter is not represented by an attorney, [it is the responsibility of] the court clerk's office [to] shall provide nonlegal assistance, including:

(a) the forms adopted [pursuant to] under Subsection (1)(b);

(b) all other forms required to petition for [an order for protection including, but not limited to,] a protective order or stalking injunction described in Subsection (1)(a), including forms for service;

(c) clerical assistance in filling out the forms and filing the petition, [in accordance with Subsection (1)(a), except that a] or if the court clerk's office [may designate any other] designates another entity, agency, or person to provide that service, [but the court clerk's office is responsible] oversight over the entity, agency, or person to see that the service is provided;

(d) information regarding the means available for the service of process;

(e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and

(f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.

(3) (4) A court clerk, constable, or law enforcement agency may not impose a charge for:

(a) filing a petition under this chapter;

(b) obtaining an ex parte civil protective order or ex parte civil stalking injunction;

(c) obtaining copies, either certified or [not certified] uncertified, necessary for service or delivery to law enforcement officials; or

(d) fees for service of [a petition, ex parte protective order, or protective order.];

(i) a petition under this chapter;

(ii) an ex parte civil protective order;

(iii) a civil protective order;

(iv) an ex parte civil stalking injunction; or

(v) a civil stalking injunction.

~~[(4)] (5) A petition for [an order of protection] an ex parte civil protective order and a civil protective order shall be in writing and verified.~~

~~[(5)] (6) (a) [An order for protection] The protective orders and stalking injunctions described in Subsection (1)(a) shall be issued in the form adopted by the Administrative Office of the Courts [pursuant to] under Subsection (1)(b).~~

~~(b) [A protective order issued, except orders issued ex parte,] A civil protective order that is issued shall, if applicable, include the following language:~~

“Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.”

~~(c) [A protective order issued in accordance with this part, including protective orders issued ex parte and except for a continuous protective order issued under Subsection 77-36-5.1(6),] An ex parte civil protective order and a civil protective order issued under Part 6, Cohabitant Abuse Protective Orders, shall include the following language:~~

“NOTICE TO PETITIONER: The court may amend or dismiss a protective order after one year if it finds that the basis for the issuance of the protective order no longer exists and the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order, demonstrating to the court that the petitioner no longer has a reasonable fear of the respondent.”

~~(d) A child protective order issued under Part 2, Child Protective Orders, shall include:~~

~~(i) the date the order expires; and~~

~~(ii) a statement that the address provided by the petitioner will not be made available to the respondent.~~

~~(7) (a) (i) The court clerk shall provide, without charge, to the petitioner, one certified copy of a civil stalking injunction issued by the court and one certified copy of the proof of service of the civil stalking injunction on the respondent.~~

~~(ii) A charge may be imposed by the court clerk’s office for any copies in addition to the copy described in Subsection (7)(a)(i), certified or uncertified.~~

~~(b) An ex parte civil stalking injunction and civil stalking injunction shall include the following statement:~~

“Attention: This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted

for the crime of stalking and any other crime you may have committed in disobeying this order.”

**Section 27. Section 78B-7-105.5 is enacted to read:**

**78B-7-105.5. Forms for motions, criminal protective orders, and criminal stalking injunctions.**

(1) (a) The offices of the court clerk shall provide forms to an individual seeking any of the following under this chapter:

(i) a criminal protective order; or

(ii) a criminal stalking injunction.

(b) The Administrative Office of the Courts shall:

(i) develop and adopt uniform forms for motions and protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter; and

(ii) provide the forms to the clerk of each court authorized to issue the protective orders and stalking injunctions described in Subsection (1)(a).

(2) The forms described in Subsection (1)(b) shall include:

(a) language indicating the criminal penalty for a violation of a criminal protective order or criminal stalking injunction under this chapter;

(b) language indicating that a criminal protective order that is a continuous protective order may be modified or dismissed under this chapter; and

(c) a space to indicate whether the party to be protected is an intimate partner to the defendant or a child of an intimate partner to the defendant.

(3) A criminal protective order and criminal stalking injunction shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (1)(b).

(4) Except for a jail release agreement and jail release court order, a criminal protective order that is issued shall, if applicable, include the following language:

“Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.”

**Section 28. Section 78B-7-109 is amended to read:**

**78B-7-109. Continuing duty to inform court of other proceedings -- Effect of other proceedings.**

(1) Each party has a continuing duty to inform the court of each proceeding for [an order for protection] a civil protective order or a criminal protective order, any civil litigation, each proceeding in juvenile court, and each criminal case involving

either party, including the case name, the file number, and the county and state of the proceeding, if that information is known by the party.

(2) (a) ~~[An order for protection issued pursuant to]~~ A civil protective order issued under this chapter is in addition to and not in lieu of any other available civil or criminal proceeding.

(b) A petitioner is not barred from seeking a civil protective order because of other pending proceedings.

(c) A court may not delay granting ~~[relief]~~ a civil protective order under this chapter because of the existence of a pending civil action between the parties.

(3) A petitioner may omit the petitioner's address from all documents filed with the court under this chapter, but shall separately provide the court with a mailing address that is not to be made part of the public record, but that may be provided to a peace officer or entity for service of process.

**Section 29. Section 78B-7-112 is amended to read:**

**78B-7-112. Division of Child and Family Services -- Development and assistance of volunteer network.**

(1) The Division of Child and Family Services within the Department of Human Services shall, either directly or by contract:

(a) develop a statewide network of volunteers and community resources to support, assist, and advocate on behalf of victims of domestic violence;

(b) train volunteers to provide clerical assistance to ~~[persons seeking orders for protection]~~ individuals seeking a civil protective order under this chapter;

(c) coordinate the provision of volunteer services with Utah Legal Services and the Legal Aid Society; and

(d) assist local government officials in establishing community based support systems for victims of domestic violence.

(2) Volunteers shall provide additional nonlegal assistance to victims of domestic violence, including providing information on the location and availability of shelters and other community resources.

**Section 30. Section 78B-7-113 is amended to read:**

**78B-7-113. Statewide domestic violence network -- Peace officers' duties -- Prevention of abuse in absence of order -- Limitation of liability.**

(1) (a) (i) Law enforcement units, the Department of Public Safety, and the Administrative Office of the Courts shall utilize statewide procedures to ensure that ~~[peace officers]~~ a peace officer at the scene of an alleged violation of a civil protective order ~~[or pretrial criminal no contact order have]~~ or criminal protective order has immediate access to

information necessary to verify the existence and terms of that order, and other orders of the court required to be made available on the network ~~[by the provisions of]~~ under this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or Section 77-38-3. ~~[These]~~

(ii) The peace officers described in Subsection (1)(a)(i) shall use every reasonable means to enforce the court's order, in accordance with the requirements and procedures of this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.

(b) The Administrative Office of the Courts, in cooperation with the Department of Public Safety and the Criminal Investigations and Technical Services Division, established in Section 53-10-103, shall provide for a single, statewide network containing:

(i) all ~~[orders for protection]~~ civil protective orders and criminal protective orders issued by a court of this state; and

(ii) all other court orders or reports of court action that are required to be available on the network under this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.

(c) The entities described in Subsection (1)(b) may utilize the same mechanism as the statewide warrant system, described in Section 53-10-208.

(d) ~~[All]~~ (i) Except as provided in Subsection (1)(d)(ii), the Administrative Office of the Courts shall make all orders and reports required to be available on the network ~~[shall be]~~ available within 24 hours after court action.

(ii) If the court that issued ~~[the order]~~ an order that is required to be available under Subsection (1)(d)(i) is not part of the state court computer system, the ~~[orders and reports shall be]~~ Administrative Office of the Courts shall make the order and report available on the network within 72 hours after court action.

(e) The Administrative Office of the Courts and the Department of Public Safety shall make the information contained in the network ~~[shall be]~~ available to a court, law enforcement officer, or agency upon request.

(2) When any peace officer has reason to believe a cohabitant or child of a cohabitant is being abused, or that there is a substantial likelihood of immediate danger of abuse, although no civil or criminal protective order has been issued, that officer shall use all reasonable means to prevent the abuse, including:

(a) remaining on the scene as long as it reasonably appears there would otherwise be danger of abuse;

(b) making arrangements for the victim to obtain emergency medical treatment;

(c) making arrangements for the victim to obtain emergency housing or shelter care;

(d) explaining to the victim ~~[his or her]~~ the victim's rights in these matters;

(e) asking the victim to sign a written statement describing the incident of abuse; or

(f) arresting and taking into physical custody the abuser in accordance with the provisions of Title 77, Chapter 36, Cohabitant Abuse Procedures Act.

(3) No person or institution may be held criminally or civilly liable for the performance of, or failure to perform, any duty established by this chapter, so long as that person acted in good faith and without malice.

**Section 31. Section 78B-7-117, which is renumbered from Section 77-36-5.3 is renumbered and amended to read:**

**[77-36-5.3]. 78B-7-117. Court order for transfer of wireless telephone number.**

(1) As used in this section, “wireless service provider” means a provider of commercial mobile service under Section 332(d) of the Federal Telecommunications Act of 1996.

(2) At or after the time that a court issues a sentencing protective order or continuous protective order under Section [77-36-5.1 or an order of protection] 78B-7-804 or a cohabitant abuse protective order under Section [78B-7-106] 78B-7-603, the court may order the transfer of a wireless telephone number as provided in this section, if:

(a) the perpetrator is the account holder for the wireless telephone number;

(b) the number is assigned to a telephone that is primarily used by the victim or an individual who will reside with the victim during the time that the protective order or the order of protection is in effect; and

(c) the victim requests transfer of the wireless telephone number.

(3) An order transferring a wireless telephone number under this section shall:

(a) direct a wireless service provider to transfer the rights to, and the billing responsibility for, the wireless telephone number to the victim; and

(b) include the wireless telephone number to be transferred, the name of the transferee, and the name of the account holder.

(4) A wireless service provider shall comply with an order issued under this section, unless compliance is not reasonably possible due to:

(a) the account holder having already terminated the account;

(b) differences in network technology that prevent the victim’s device from functioning on the network to which the number is to be transferred;

(c) geographic or other service availability constraints; or

(d) other barriers outside the control of the wireless service provider.

(5) A wireless service provider that fails to comply with an order issued under this section shall, within four business days after the day on which the wireless service provider receives the order, provide notice to the victim stating:

(a) that the wireless service provider is not able to reasonably comply with the order; and

(b) the reason that the wireless service provider is not able to reasonably comply with the order.

(6) The victim has full financial responsibility for each wireless telephone number transferred to the victim by an order under this section, beginning on the day on which the wireless telephone number is transferred, including monthly service costs and costs for any mobile device associated with the wireless telephone number.

(7) This section does not preclude a wireless service provider from applying standard requirements for account establishment to the victim when transferring financial responsibility under Subsection (6).

(8) A wireless service provider, and any officer, employee, or agent of the wireless service provider, is not civilly liable for action taken in compliance with an order issued under this section.

**Section 32. Section 78B-7-118 is enacted to read:**

**78B-7-118. Construction with Utah Rules of Civil Procedure.**

To the extent the provisions of this part are more specific than the Utah Rules of Civil Procedure regarding a civil protective order the provisions of this chapter govern.

**Section 33. Section 78B-7-119 is enacted to read:**

**78B-7-119. Duties of law enforcement -- Enforcement.**

A law enforcement officer shall, without a warrant, arrest an alleged perpetrator whenever there is probable cause to believe that the alleged perpetrator has violated any of the provisions of any of the following that has been served on the alleged perpetrator:

(1) an ex parte civil protective order;

(2) a civil protective order;

(3) an ex parte civil stalking injunction;

(4) a civil stalking injunction;

(5) a criminal protective order;

(6) a permanent criminal stalking injunction; or

(7) a foreign protective order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protective Orders.

**Section 34. Section 78B-7-201 is amended to read:**

**78B-7-201. Definitions.**

As used in this chapter:

(1) "Abuse" means:

- (a) physical abuse;
- (b) sexual abuse;
- (c) any sexual offense described in Title 76, Chapter 5b, Part 2, Sexual Exploitation; or
- (d) human trafficking of a child for sexual exploitation under Section 76-5-308.5.

(2) "Child protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

[2] (3) "Court" means the district court or juvenile court.

(4) "Ex parte child protective order" means an order issued without notice to the respondent under this part.

(5) "Protective order" means:

- (a) a child protective order; or
- (b) an ex parte child protective order.

[3] (6) All other terms have the same meaning as defined in Section 78A-6-105.

**Section 35. Section 78B-7-202 is amended to read:**

**78B-7-202. Abuse or danger of abuse -- Child protective orders -- Ex parte child protective orders -- Guardian ad litem -- Referral to division.**

(1) (a) Any interested person may file a petition for a protective order:

(i) on behalf of a child who is being abused or is in imminent danger of being abused[.The petitioner shall first] by any individual; or

(ii) on behalf of a child who has been abused by an individual who is not the child's parent, stepparent, guardian, or custodian.

(b) Before filing a petition under Subsection (1)(a), the interested person shall make a referral to the division.

(2) Upon the filing of a petition described in Subsection (1), the clerk of the court shall:

(a) review the records of the juvenile court, the district court, and the management information system of the division to find any petitions, orders, or investigations related to the child or the parties to the case;

(b) request the records of any law enforcement agency identified by the petitioner as having investigated abuse of the child; and

(c) identify and obtain any other background information that may be of assistance to the court.

[3] Upon the filing of a petition, the court shall immediately determine, based on the evidence and information presented, whether the minor is being abused or is in imminent danger of being abused. If

so, the court shall enter an ex parte child protective order.]

(3) If it appears from a petition for a protective order filed under Subsection (1)(a)(i) that the child is being abused or is in imminent danger of being abused, or it appears from a petition for a protective order filed under Subsection (1)(a)(ii) that the child has been abused, the court may:

(a) without notice, immediately issue an ex parte child protective order against the respondent if necessary to protect the child; or

(b) upon notice to the respondent, issue a child protective order after a hearing in accordance with Subsection 78B-7-203(5).

(4) The court may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902.

(5) This section does not prohibit a protective order from being issued against a respondent who is a child.

**Section 36. Section 78B-7-203 is amended to read:**

**78B-7-203. Hearings.**

(1) If an ex parte child protective order is granted, the court shall schedule a hearing to be held within 20 days after the day on which the court makes the ex parte determination. If an ex parte child protective order is denied, the court, upon the request of the petitioner made within five days after the day on which the court makes the ex parte determination, shall schedule a hearing to be held within 20 days after the day on which the [ex parte determination] petitioner makes the request.

(2) The petition, ex parte child protective order, and notice of hearing shall be served on the respondent, the [minor's] child's parent or guardian, and, if appointed, the guardian ad litem. The notice shall contain:

(a) the name and address of the [person] individual to whom [it] the notice is directed;

(b) the date, time, and place of the hearing;

(c) the name of the [minor] child on whose behalf a petition is being brought; and

(d) a statement that [a person] an individual is entitled to have an attorney present at the hearing.

(3) The court shall provide an opportunity for any person having relevant knowledge to present evidence or information[.The court] and may hear statements by counsel.

(4) An agent of the division served with a subpoena in compliance with the Utah Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.

(5) [If] The court shall issue a child protective order if the court determines, based on a preponderance of the evidence, that [the minor is being abused or is in imminent danger of being abused, the court shall enter a child protective order.];



(a) for a petition for a child protective order filed under Subsection 78B-7-202(1)(a)(i), the child is being abused or is in imminent danger of being abused; or

(b) for a petition for a protective order filed under Subsection 78B-7-202(1)(a)(ii), the child has been abused and the child protective order is necessary to protect the child.

(6) With the exception of the provisions of Section 78A-6-323, a child protective order ~~[does not constitute]~~ is not an adjudication of abuse, neglect, or dependency under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

**Section 37. Section 78B-7-204 is amended to read:**

**78B-7-204. Content of orders -- Modification of orders -- Penalties.**

(1) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is a class A misdemeanor under Section ~~[77-36-2.4]~~ 76-5-108:

(a) enjoin the respondent from threatening to commit or committing abuse of the ~~[minor]~~ child;

(b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the ~~[minor]~~ child, directly or indirectly;

(c) prohibit the respondent from entering or remaining upon the residence, school, or place of employment of the ~~[minor]~~ child and the premises of any of these or any specified place frequented by the ~~[minor]~~ child;

(d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the ~~[minor]~~ child, prohibit the respondent from purchasing, using, or possessing a firearm or other specified weapon; and

(e) determine ownership and possession of personal property and direct the appropriate law enforcement officer to attend and supervise the petitioner's or respondent's removal of personal property.

(2) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is contempt of court:

(a) determine temporary custody of ~~[a minor]~~ the child who is the subject of the petition;

(b) determine parent-time with ~~[a minor]~~ the child who is the subject of the petition, including denial of parent-time if necessary to protect the safety of the ~~[minor]~~ child, and require supervision of parent-time by a third party;

(c) determine support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and

(d) order any further relief the court considers necessary to provide for the safety and welfare of the ~~[minor]~~ child.

~~[(3) A child protective order and an ex parte child protective order shall include:]~~

~~[(a) a statement that violation of a criminal provision is a class A misdemeanor and violation of a civil provision is contempt of court; and]~~

~~[(b) information the petitioner is able to provide to facilitate identification of the respondent, such as Social Security number, driver license number, date of birth, address, telephone number, and physical description.]~~

~~[(4) A child protective order shall include:]~~

~~[(a) the date the order expires;]~~

~~[(b) a statement that the address provided by the petitioner will not be made available to the respondent; and]~~

~~[(c) the following statement: "Respondent was afforded notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."]~~

~~(3) (a) If the child who is the subject of the child protective order attends the same school or place of worship as the respondent, or is employed at the same place of employment as the respondent, the court:~~

~~(i) may not enter an order under Subsection (1)(c) that excludes the respondent from the respondent's school, place of worship, or place of employment; and~~

~~(ii) may enter an order governing the respondent's conduct at the respondent's school, place of worship, or place of employment.~~

~~(b) A violation of an order under Subsection (3)(a) is contempt of court.~~

~~(4) (a) A respondent may petition the court to modify or vacate a child protective order after notice and a hearing.~~

~~(b) At the hearing described in Subsection (4)(a):~~

~~(i) the respondent shall have the burden of proving by clear and convincing evidence that modification or vacation of the child protective order is in the best interest of the child; and~~

~~(ii) the court shall consider:~~

~~(A) the nature and duration of the abuse;~~

~~(B) the pain and trauma inflicted on the child as a result of the abuse;~~

~~(C) if the respondent is a parent of the child, any reunification services provided in accordance with Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings; and~~

~~(D) any other evidence the court finds relevant to the determination of the child's best interests,~~

including recommendations by the other parent or a guardian of the child, or a mental health professional.

(c) The child is not required to attend the hearing described in Subsection (4)(a).

**Section 38. Section 78B-7-205 is amended to read:**

**78B-7-205. Service -- Income withholding -- Expiration.**

(1) If the court enters an ex parte child protective order or a child protective order, the court shall:

(a) make reasonable efforts to ensure that the order is understood by the petitioner and the respondent, if present;

(b) as soon as possible transmit the order to the county sheriff for service; and

(c) by the end of the next business day after the order is entered, transmit electronically a copy of the order to any law enforcement agency designated by the petitioner and to the statewide domestic violence network described in Section 78B-7-113.

(2) The county sheriff shall serve the order and transmit verification of service to the statewide domestic violence network described in Section 78B-7-113 in an expeditious manner. Any law enforcement agency may serve the order and transmit verification of service to the statewide domestic violence network if the law enforcement agency has contact with the respondent or if service by that law enforcement agency is in the best interests of the child.

(3) When an order is served on a respondent in a jail, prison, or other holding facility, the law enforcement agency managing the facility shall notify the petitioner of the respondent's release. Notice to the petitioner consists of a prompt, good faith effort to provide notice, including mailing the notice to the petitioner's last-known address.

(4) Child support orders issued as part of a child protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.

~~(5) After notice, as provided in Rule 4 of the Utah Rules of Civil Procedure, and hearing, a court may modify or vacate a child protective order with a showing of substantial and material change in circumstances.]~~

~~(6) The (5) (a) A child protective order issued against a respondent who is a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires 150 days after the [date of the order] day on which the order is issued unless a different date is set by the court.~~

(b) The court may not set a date on which a child protective order described in Subsection (5)(a) expires that is more than 150 days after the [date of the order] day on which the order is issued without a finding of good cause.

(c) The court may review and extend the expiration date of a child protective order described in Subsection (5)(a), but may not extend [it to] the expiration date more than 150 days after the [date of the order] day on which the order is issued without a finding of good cause.

~~(7) Notwithstanding Subsections (5) and (6), unless the judge orders otherwise all child protective orders expire when the subject of the order is 18 years of age, unless the judge vacates the order earlier.]~~

(d) Notwithstanding Subsections (5)(a) through (c), a child protective order is not effective after the day on which the child who is the subject of the order turns 18 years old and the court may not extend the expiration date of a child protective order to a date after the day on which the child who is the subject of the order turns 18 years old.

(6) A child protective order issued against a respondent who is not a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires on the day on which the child turns 18 years old.

**Section 39. Section 78B-7-402 is amended to read:**

**Part 4. Dating Violence Protective Orders**

**78B-7-402. Definitions.**

As used in this part:

(1) "Abuse" means intentionally or knowingly:

~~(a) causing or attempting to cause physical harm to a dating partner; or~~

~~(b) placing a dating partner in reasonable fear of imminent physical harm.]~~

(2) (a) "Dating partner" means a person who:

~~(i) (A) is an emancipated person under Section 15-2-1 or Title 78A, Chapter 6, Part 8, Emancipation; or~~

~~(B) is 18 years of age or older; and~~

~~(ii) is, or has been, in a dating relationship with the other party.]~~

~~(b) "Dating partner" does not include an intimate partner, as defined in federal law in Title 18 U.S.C. Section 921.]~~

(3) (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.]

~~(b) "Dating relationship" does not mean casual fraternization in a business, educational, or social context.]~~

~~(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:]~~

~~(i) all relevant factors shall be considered, including:~~

~~(A) whether the parties developed interpersonal bonding above a mere casual fraternization;]~~

~~[(B) the length of the parties' relationship;]~~

~~[(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;]~~

~~[(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;]~~

~~[(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and]~~

~~[(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and]~~

~~[(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (3)(c)(i) are found to support the existence of a dating relationship.]~~

~~[(4) "Dating violence" means:]~~

~~[(a) any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against a dating partner of the person; or]~~

~~[(b) any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence or physical harm against a dating partner of the person.]~~

~~[(5) (1) "Dating violence protective order" means an order issued [pursuant to] under this part [subsequent to] after a hearing on the petition, [as described in Section 78B-7-403] of which the petitioner and respondent have been given notice.~~

~~[(6) (2) "Ex parte dating violence protective order" means an order issued without notice to the respondent[, in accordance with the requirements of] under this part.~~

~~[(7) (3) "Protective order" means:~~

~~(a) a dating violence protective order; or~~

~~(b) an ex parte dating violence protective order.~~

**Section 40. Section 78B-7-403 is amended to read:**

**78B-7-403. Abuse or danger of abuse -- Dating violence protective orders.**

(1) ~~[A person]~~ An individual may seek a protective order if the ~~[person]~~ individual is subjected to, or there is a substantial likelihood the ~~[person]~~ individual will be subjected to:

(a) abuse by a dating partner of the ~~[person]~~ individual; or

(b) dating violence by a dating partner of the ~~[person]~~ individual.

(2) ~~[A person]~~ An individual may seek an order described in Subsection (1) whether or not the ~~[person]~~ individual has taken other action to end the relationship.

(3) ~~[A person]~~ An individual seeking a protective order may include another party in the petition for a protective order if:

(a) the ~~[person]~~ individual seeking the order meets the requirements of Subsection (1); and

(b) the other party:

(i) is a family or household member of the ~~[person]~~ individual seeking the protective order; and

(ii) there is a substantial likelihood the other party will be subjected to abuse by the dating partner of the ~~[person]~~ individual.

(4) ~~[A person]~~ An individual seeking a protective order under this part shall, to the extent possible, provide information to facilitate identification of the respondent, including a name, ~~[Social Security]~~ social security number, driver license number, date of birth, address, telephone number, and physical description.

(5) A petition seeking a protective order under this part may not be withdrawn without written order of the court.

(6) (a) ~~[A person]~~ An individual may not seek a protective order against an intimate partner[, as defined by federal law in Title 18 U.S.C. Section 921,] of the ~~[person]~~ individual under this part.

(b) ~~[A person]~~ An individual may seek a protective order against a cohabitant[, as defined by section 78B-7-102, or an intimate partner, as defined by federal law, of the person under Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act] or an intimate partner of the individual under Part 6, Cohabitant Abuse Protective Orders.

**Section 41. Section 78B-7-404 is amended to read:**

**78B-7-404. Dating violence protective orders -- Ex parte dating violence protective orders -- Modification of orders -- Service of process -- Duties of the court.**

(1) If it appears from a petition for a protective order or a petition to modify an existing protective order that a dating partner of the petitioner has abused or committed dating violence against the petitioner, the ~~[district]~~ court may:

(a) without notice, immediately issue an ex parte dating violence protective order against the dating partner or modify an existing dating protective order ex parte if necessary to protect the petitioner and all parties named in the petition; or

(b) upon notice to the respondent, issue a dating violence protective order or modify a dating violence protective order after a hearing, regardless of whether the respondent appears.

(2) A ~~[district]~~ court may grant the following relief without notice in a dating violence protective order or a modification issued ex parte:

(a) prohibit the respondent from threatening to commit or committing dating violence or abuse against the petitioner and any designated family or household member described in the protective order;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly;

(c) order that the respondent:

(i) is excluded and shall stay away from the petitioner's residence and its premises;

(ii) except as provided in Subsection (4), stay away from the petitioner's:

(A) school and the school's premises; and

(B) place of employment and its premises; and

(iii) stay away from any specified place frequented by the petitioner or any designated family or household member;

(d) prohibit the respondent from being within a specified distance of the petitioner; and

(e) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member.

(3) A court may grant the following relief in a dating violence protective order or a modification of a dating violence protective order, after notice and a hearing, regardless of whether the respondent appears:

(a) the relief described in Subsection (2); and

(b) except as provided in Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or any designated family or household member, prohibit the respondent from purchasing, using, or possessing a weapon specified by the court.

(4) If the petitioner or ~~designated~~ a family or household member designated in the protective order attends the same school as the respondent, or is employed at the same place of employment as the respondent, the district court:

(a) may not enter an order under Subsection (2)(c)(ii) that excludes the respondent from the respondent's school or place of employment; and

(b) may enter an order governing the respondent's conduct at the respondent's school or place of employment.

(5) The ~~district~~ court may not prohibit the respondent from possessing a firearm:

(a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and

(b) unless the petition establishes:

(i) by a preponderance of the evidence that the respondent has committed abuse or dating violence against the petitioner; and

(ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to petitioner or the designated family or household member.

~~[(6) Any protective order issued under this part shall expire 180 days after the day on which the order is issued.]~~

~~[(7)]~~ (6) After the ~~district~~ court issues a dating violence protective order, the ~~district~~ court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts at the hearing to ensure that the dating violence protective order is understood by the petitioner and the respondent, if present;

(c) transmit electronically, by the end of the business day after the day on which the order is issued, a copy of the dating violence protective order to the local law enforcement agency designated by the petitioner; and

(d) transmit a copy of the protective order issued under this part in the same manner as described in Section 78B-7-113.

~~[(8)]~~ (7) (a) The county sheriff that receives the order from the court, ~~pursuant to~~ under Subsection ~~[(7)]~~ (6)(a), shall:

(i) provide expedited service for protective orders issued in accordance with this part; and

(ii) after the order has been served, transmit verification of service of process to the statewide network described in Section ~~[78B-7-110]~~ 78B-7-113.

(b) This section does not prohibit another law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that, under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

~~[(9)]~~ (8) When a protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

~~[(10)]~~ (9) A ~~district~~ court may modify or vacate a protective order under this part after notice and hearing, if the petitioner:

(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or

(b) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

~~[(11) To the extent that the provisions of this part are more specific than the Utah Rules of Civil Procedure regarding protective orders, the provisions of this part govern.]~~

**Section 42. Section 78B-7-405 is amended to read:**

**78B-7-405. Hearings -- Expiration -- Extension.**

(1) (a) ~~[Within 20 days after the day on which the court issues an ex parte protective order, the district] The court shall set a date for a hearing on the petition to be held within 20 days after the day on which the court issues an ex parte dating violence protective order.~~

(b) If, at the hearing described in Subsection (1)(a), the [district] court does not issue a dating violence protective order, the ex parte dating protective order shall expire, unless [it] the dating violence protective order is extended by the [district] court. Extensions beyond the 20-day period may not be granted unless:

(i) the petitioner is unable to be present at the hearing;

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

(c) Under no circumstances may an ex parte dating violence protective order be extended beyond 180 days from the day on which the court issues the initial ex parte dating violence protective order.

(d) If, at the hearing described in Subsection (1)(a), the [district] court issues a dating violence protective order, the ex parte dating violence protective order shall remain in effect until service of process of the dating violence protective order is completed.

(e) A dating violence protective order issued after notice and a hearing shall remain in effect ~~[from 180 days]~~ for three years after the day on which the order is issued.

(f) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 calendar days after the day on which the recommended order is entered, and the assigned judge shall hold a hearing on the objection within 20 days after the day on which the objection is filed.

(2) Upon a hearing under this section, the [district] court may grant any of the relief permitted under Section 78B-7-404, except the [district] court shall not grant the relief described in Subsection 78B-7-404(3)(b) without providing the respondent notice and an opportunity to be heard.

(3) If a [district] court denies a petition for an ex parte dating violence protective order or a petition to modify a dating violence protective order ex parte, the [district] court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:

(a) ~~[set the matter for hearing]~~ set a hearing to be held within 20 days after the day on which the petitioner makes the request; and

(b) notify and serve the respondent.

(4) A dating violence protective order automatically expires as described in Subsection (1)(e), unless the petitioner files a motion before the day on which the dating violence protective order expires and demonstrates that:

(a) there is a substantial likelihood the petitioner will be subjected to dating violence; or

(b) the respondent committed or was convicted of a violation of the dating violence protective order that the petitioner requests be extended or dating violence after the day on which the dating violence protective order is issued.

(5) (a) If the court grants the motion under Subsection (4), the court shall set a new date on which the dating violence protective order expires.

(b) The dating violence protective order shall expire on the date set by the court unless the petitioner files a motion described in Subsection (4) to extend the dating violence protective order.

**Section 43. Section 78B-7-407 is amended to read:**

**78B-7-407. Penalties.**

~~[(1) A law enforcement officer shall, without a warrant, arrest a person if the officer has probable cause to believe that the person has intentionally or knowingly violated a protective order issued under this part, regardless of whether the violation occurred in the presence of the officer.]~~

~~[(2) A violation of a protective order issued under this part [constitutes] is a class [B] A misdemeanor.~~

**Section 44. Section 78B-7-409 is amended to read:**

**78B-7-409. Mutual dating violence protective orders.**

(1) A court may not grant a mutual order or mutual ~~[orders for protection]~~ dating violence protective orders to opposing parties, unless each party:

(a) files an independent petition against the other for a dating violence protective order, and both petitions are served;

(b) makes a showing at a due process dating violence protective order hearing of abuse or dating violence committed by the other party; and

(c) demonstrates the abuse or dating violence did not occur in self-defense.

(2) If the court issues mutual dating violence protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.

~~[(3) A court may not grant an order for protection to a civil petitioner who is the respondent or defendant subject to a protective order, child protective order, or ex parte child protective order:]~~

~~[(a) issued under:]~~

~~[(i) this chapter:]~~

~~[(ii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act:]~~

~~[(iii) Title 78A, Chapter 6, Juvenile Court Act:]~~

~~[(iv) Chapter 7, Part 1, Cohabitant Abuse Act; or]~~

~~[(v) a foreign protection order enforceable under Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act; and]~~

~~[(b) unless the court determines that the requirements of Subsection (1) are met, and;]~~

~~[(i) the same court issued the order for protection against the respondent; or]~~

~~[(ii) if the matter is before a subsequent court, the subsequent court;]~~

~~[(A) determines it would be impractical for the original court to consider the matter; or]~~

~~[(B) confers with the court that issued the order for protection;]~~

(3) (a) Except as provided in Subsection (3)(b), a court may not grant a protective order to a civil petitioner who is the respondent or defendant subject to:

(i) a civil protective order that is issued under:

(A) this part;

(B) Part 2, Child Protective Orders;

(C) Part 6, Cohabitant Abuse Protective Orders;

(D) Part 8, Criminal Protective Orders; or

(E) Title 78A, Chapter 6, Juvenile Court Act;

(ii) an ex parte civil protective order issued under Part 2, Child Protective Orders; or

(iii) a foreign protection order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(b) The court may issue a protective order to a civil petitioner described in Subsection (3)(a) if:

(i) the court determines that the requirements of Subsection (1) are met; and

(ii) (A) the same court issued the protective order against the respondent; or

(B) the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order described in Subsection (3)(a)(i) or (ii).

**Section 45. Section 78B-7-502 is amended to read:**

**Part 5. Sexual Violence Protective Orders**

**78B-7-502. Definitions.**

As used in this part:

[(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102;]

[(2) "Dating partner" means the same as that term is defined in Section 78B-7-402;]

[(3)] (1) "Ex parte sexual violence protective order" means an order issued without notice to the respondent [in accordance with the requirements of] under this part.

[(4)] (2) "Protective order" means:

(a) a sexual violence protective order; or

(b) an ex parte sexual violence protective order.

[(5)] (3) "Sexual violence" means the commission or the attempt to commit:

(a) any sexual offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Part 2, Sexual Exploitation;

(b) human trafficking for forced sexual exploitation under Section 76-5-308; or

(c) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.

[(6)] (4) "Sexual violence protective order" means an order issued [after notice and a hearing in accordance with the requirements of this part] under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

**Section 46. Section 78B-7-504 is amended to read:**

**78B-7-504. Sexual violence protective orders -- Ex parte protective orders -- Modification of orders.**

(1) If it appears from a petition for a protective order or a petition to modify an existing protective order that sexual violence has occurred, the district court may:

(a) without notice, immediately issue an ex parte sexual violence protective order against the respondent or modify an existing sexual violence protective order ex parte, if necessary to protect the petitioner or any party named in the petition; or

(b) upon notice to the respondent, issue a sexual violence protective order or modify a sexual violence protective order after a hearing, regardless of whether the respondent appears.

(2) The district court may grant the following relief with or without notice in a protective order or in a modification to a protective order:

(a) prohibit the respondent from threatening to commit or committing sexual violence against the petitioner and a family or household member designated in the protective order;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or a family or household member designated in the protective order, directly or indirectly;

(c) order that the respondent:

(i) is excluded and shall stay away from the petitioner's residence and its premises;

(ii) subject to Subsection (4), stay away from the petitioner's:

(A) school and its premises;

(B) place of employment and its premises; or

(C) place of worship and its premises; or

(iii) stay away from any specified place frequented by the petitioner or a family or

household member designated in the protective order;

(d) prohibit the respondent from being within a specified distance of the petitioner; or

(e) order any further relief that the district court considers necessary to provide for the safety and welfare of the petitioner and a family or household member designated in the protective order.

(3) The district court may grant the following relief in a sexual violence protective order or a modification of a sexual violence protective order, after notice and a hearing, regardless of whether the respondent appears:

(a) the relief described in Subsection (2); and

(b) subject to Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or a family or household member designated in the protective order, prohibit the respondent from purchasing, using, or possessing a weapon specified by the district court.

(4) If the petitioner or a family or household member designated in the protective order attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship as the respondent, the court may enter an order:

(a) that excludes the respondent from the respondent's school, place of employment, or place of worship; or

(b) governing the respondent's conduct at the respondent's school, place of employment, or place of worship.

(5) The district court may not prohibit the respondent from possessing a firearm:

(a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and

(b) unless the petition establishes:

(i) by a preponderance of the evidence that the respondent committed sexual violence against the petitioner; and

(ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to the petitioner or a family or household member designated in the protective order.

(6) After the day on which the district court issues a sexual violence protective order, the district court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts at the hearing to ensure that the petitioner and the respondent, if present, understand the sexual violence protective order;

(c) transmit electronically, by the end of the business day after the day on which the court issues the order, a copy of the sexual violence protective order to a local law enforcement agency designated by the petitioner; and

(d) transmit a copy of the sexual violence protective order in the same manner as described in Section 78B-7-113.

(7) (a) A respondent may request the court modify or vacate a protective order in accordance with Subsection (7)(b).

(b) Upon a respondent's request, the district court may modify or vacate a protective order after notice and a hearing, if the petitioner:

(i) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the district court to give specific consent to the modification or vacation of the provisions of the protective order; or

(ii) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

~~[(8) To the extent that the provisions of this part are more specific than the Utah Rules of Civil Procedure regarding a protective order, the provisions of this part govern.]~~

**Section 47. Section 78B-7-505 is amended to read:**

**78B-7-505. Hearings -- Expiration -- Extension.**

(1) (a) ~~[Within 20 days after the day on which a district court issues an ex parte sexual violence protective order, the district]~~ The court shall set a date for a hearing on the petition for a sexual violence protective order to be held within 20 days after the day on which the court issues an ex parte protective order.

(b) If, at the hearing described in Subsection (1)(a), the ~~[district]~~ court does not issue a sexual violence protective order, the ex parte sexual protective order expires, unless extended by the district court.

(c) The ~~[district]~~ court may extend the 20-day period described in Subsection (1)(a) only if:

(i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

(d) If, at the hearing described in Subsection (1)(a), the ~~[district]~~ court issues a sexual violence protective order, the ex parte sexual violence protective order remains in effect until service of process of the sexual violence protective order is completed.

(e) A sexual violence protective order remains in effect for ~~[one year]~~ three years after the day on which the ~~[district]~~ court issues the order.

(f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 10 calendar days after the day on which the commissioner enters the recommended order, and the assigned judge shall hold a hearing on the objection within 20 days after the day on which the objection is filed.

(2) If the [district] court denies a petition for an ex parte sexual violence protective order or a petition to modify a sexual violence protective order ex parte, the [district] court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:

(a) set the matter for hearing to be held within 20 days after the day on which the petitioner makes the request; and

(b) notify and serve the respondent.

(3) (a) A sexual violence protective order automatically expires under Subsection (1)(e) unless[:(i)] the petitioner files a motion before the day on which the sexual violence protective order expires requesting an extension of the sexual violence protective order[;] and demonstrates that:

(i) there is a substantial likelihood the petitioner will be subjected to sexual violence; or

(ii) the respondent committed or was convicted of a violation of the sexual violence protective order that the petitioner requests be extended or a sexual violence offense after the day on which the sexual violence protective order is issued.

~~[(ii) after notice and a hearing on the motion, the district court finds that an extension of the sexual violence protective order is necessary to protect the petitioner or any party named in the sexual violence protective order.]~~

(b) (i) If the [district] court denies the motion described in Subsection (3)(a), the sexual violence protective order expires under Subsection (1)(e).

(ii) If the [district] court grants the motion described in Subsection (3)(a), the [district] court shall set a new date on which the sexual violence protective order expires.

(iii) A sexual violence protective order that is extended under this Subsection (3), may not be extended for more than [one year] three years after the day on which the court issues the order for extension.

~~[(iv) A sexual violence protective order may not be extended more than once.]~~

(c) After the day on which the [district] court issues an extension of a sexual violence protective order, the [district] court shall take the action described in Subsection 78B-7-504(6).

(4) Nothing in this part prohibits a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

**Section 48. Section 78B-7-508 is amended to read:**

**78B-7-508. Penalties.**

~~[(1) A law enforcement officer shall, without a warrant, arrest an individual if the officer has probable cause to believe that the individual has intentionally or knowingly violated a protective order issued under this part, regardless of whether the violation occurred in the presence of the officer.]~~

~~[(2)] (1) A violation of a protective order issued under this part is a class A misdemeanor.~~

~~[(3)] (2) A petitioner may be subject to criminal prosecution under Title 76, Chapter 8, Part 5, Falsification in Official Matters, for knowingly falsifying any statement or information provided for the purpose of obtaining a protective order.~~

**Section 49. Section 78B-7-601 is enacted to read:**

**Part 6. Cohabitant Abuse Protective Orders**

**78B-7-601. Definitions.**

As used in this part:

(1) "Cohabitant abuse protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

(2) "Ex parte cohabitant abuse protective order" means an order issued without notice to the respondent under this part.

(3) "Protective order" means:

(a) a cohabitant abuse protective order; or

(b) an ex parte cohabitant abuse protective order.

**Section 50. Section 78B-7-602, which is renumbered from Section 78B-7-103 is renumbered and amended to read:**

**~~[78B-7-103]. 78B-7-602. Abuse or danger of abuse -- Cohabitant abuse protective orders.~~**

(1) Any cohabitant who has been subjected to abuse or domestic violence, or to whom there is a substantial likelihood of abuse or domestic violence, may seek ~~[an ex parte protective order or]~~ a protective order in accordance with this ~~[chapter]~~ part, whether or not ~~[that person]~~ the cohabitant has left the residence or the premises in an effort to avoid further abuse.

(2) A petition for a protective order may be filed under this ~~[chapter]~~ part regardless of whether an action for divorce between the parties is pending.

(3) A petition seeking a protective order may not be withdrawn without approval of the court.

**Section 51. Section 78B-7-603, which is renumbered from Section 78B-7-106 is renumbered and amended to read:**

**~~[78B-7-106]. 78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification of orders -- Service of process -- Duties of the court.~~**



(1) If it appears from a petition for ~~[an order for protection]~~ a protective order or a petition to modify ~~[an order for protection]~~ a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of ~~[an order for protection]~~ a protective order is required, a court may:

(a) without notice, immediately issue ~~[an order for protection]~~ an ex parte cohabitant abuse protective order or modify ~~[an order for protection]~~ a protective order ex parte as [it] the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue ~~[an order for protection]~~ a protective order or modify an order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in ~~[an order for protection]~~ a protective order or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902;

(k) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(l) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in ~~[an order for protection]~~ a cohabitant abuse protective order or a modification of an order after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section ~~[77-36-5.3]~~ 78B-7-117.

(5) Following the cohabitant abuse protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the ~~[order for protection]~~ cohabitant abuse protective order is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the ~~[order for protection]~~ cohabitant abuse protective order to the local law enforcement agency or agencies designated by the petitioner;

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) ~~[(a)]~~ Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:

~~[(i)]~~ (a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

~~[(ii)]~~ (b) civil offenses are those under Subsections (2)(h), (j), (k), and (l), and Subsection (3)(a) as it refers to Subsections (2)(h), (j), (k), and (l).

~~[(b) The criminal provision portion shall include a statement that violation of any criminal provision is a class A misdemeanor.]~~

~~[(c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.]~~

~~[(7) The protective order shall include:]~~

~~[(a) a designation of a specific date, determined by the court, when the civil portion of the protective order either expires or is scheduled for review by the court, which date may not exceed 150 days after the date the order is issued, unless the court indicates on the record the reason for setting a date beyond 150 days;]~~

~~[(b) information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date of birth, address, telephone number, and physical description; and]~~

~~[(c) a statement advising the petitioner that:]~~

~~[(i) after two years from the date of issuance of the protective order, a hearing may be held to dismiss the criminal portion of the protective order;]~~

~~[(ii) the petitioner should, within the 30 days prior to the end of the two-year period, advise the court of the petitioner's current address for notice of any hearing; and]~~

~~[(iii) the address provided by the petitioner will not be made available to the respondent.]~~

~~[(8)]~~ (7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

~~[(9)]~~ (8) (a) The county sheriff that receives the order from the court, ~~[pursuant to]~~ under Subsection (6)~~[(a)]~~, shall provide expedited service for ~~[orders for protection]~~ protective orders issued in accordance with this ~~[chapter]~~ part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

~~[(10)]~~ (9) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

~~[(11)]~~ (10) A court may modify or vacate ~~[an order of protection]~~ a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing, as provided ~~[in Rules 4 and 5,]~~ in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order.

~~[(12)]~~ (11) A protective order may be modified without a showing of substantial and material change in circumstances.

(12) A civil provision of a cohabitant abuse protective order described in Subsection (6) may be modified in a divorce proceeding that is pending between the parties to the cohabitant abuse protective order action after 150 days after the day on which the cohabitant abuse protective order is issued if:

(a) the parties stipulate in writing or on the record to dismiss a civil provision of the cohabitant abuse protective order; or

(b) the court in the divorce proceeding finds good cause to modify the civil provision.

~~[(13) Insofar as the provisions of this chapter are more specific than the Utah Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.]~~

**Section 52. Section 78B-7-604, which is renumbered from Section 78B-7-107 is renumbered and amended to read:**

**[78B-7-107]. 78B-7-604. Hearings.**

(1) (a) When a court issues an ex parte cohabitant abuse protective order the court shall set a date for a hearing on the petition to be held within 20 days after the day on which the ex parte cohabitant abuse protective order is issued.

(b) If at that hearing the court does not issue a protective order, the ex parte cohabitant abuse protective order shall expire, unless [it] the cohabitant abuse protective order is otherwise extended by the court. Extensions beyond the 20-day period may not be granted unless:

(i) the petitioner is unable to be present at the hearing;

(ii) the respondent has not been served;

(iii) the respondent has had the opportunity to present a defense at the hearing;

(iv) the respondent requests that the ex parte cohabitant abuse protective order be extended; or

(v) exigent circumstances exist.

(c) Under no circumstances may an ex parte cohabitant abuse protective order be extended beyond 180 days from the [date of initial issuance] day on which the court issues the initial ex parte cohabitant abuse protective order.

(d) If at that hearing the court issues a cohabitant abuse protective order, the ex parte cohabitant abuse protective order remains in effect until service of process of the protective order is completed.

(e) A cohabitant abuse protective order issued after notice and a hearing is effective until further order of the court.

(f) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 days [of the entry of] after the day on which the recommended order and the assigned judge shall hold a hearing within 20

days [of the filing of] after the day on which the objection is filed.

(2) Upon a hearing under this section, the court may grant any of the relief described in Section [78B-7-106] 78B-7-603.

(3) When a court denies a petition for an ex parte cohabitant abuse protective order or a petition to modify [an order for protection] a protective order ex parte, upon the request of the petitioner made within five days after the day on which the court denies the petition, the court shall:

(a) set the matter for hearing to be held within 20 days after the day on which the petitioner makes the request; and

(b) notify the petitioner and serve the respondent.

(4) A respondent who has been served with an ex parte cohabitant abuse protective order may seek to vacate the ex parte cohabitant abuse protective order [prior to the hearing scheduled pursuant to] under Subsection (1)(a) by filing a verified motion to vacate before the day on which the hearing is set. The respondent's verified motion to vacate and a notice of hearing on that motion shall be personally served on the petitioner at least two days [prior to] before the day on which the hearing on the motion to vacate is set.

**Section 53. Section 78B-7-605, which is renumbered from Section 78B-7-115 is renumbered and amended to read:**

**[78B-7-115]. 78B-7-605. Dismissal.**

~~[(1) (a) Except as provided in Subsections (6) and (8), a protective order that has been in effect for at least two years may be dismissed if the court determines that the petitioner no longer has a reasonable fear of future harm, abuse, or domestic violence.]~~

~~[(b) In determining whether the petitioner no longer has a reasonable fear of future harm, abuse, or domestic violence, the court shall consider the following factors:]~~

~~[(i) whether the respondent is compliant with treatment recommendations related to domestic violence, entered at the time the protective order was entered;]~~

~~[(ii) whether the protective order was violated during the time the protective order was in force;]~~

~~[(iii) claims of harassment, abuse, or violence by either party during the time the protective order was in force;]~~

~~[(iv) counseling or therapy undertaken by either party;]~~

~~[(v) impact on the well-being of any minor children of the parties, if relevant; and]~~

~~[(vi) any other factors the court considers relevant to the case before the court.]~~

~~[(2) Except as provided in Subsections (6) and (8), the]~~

(1) The court may amend or dismiss a protective order issued in accordance with this part that has

been in effect for at least one year if the court finds that:

(a) the basis for the issuance of the protective order no longer exists;

(b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order; and

(c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent; and

~~(d) the respondent has not been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order, and there are no unresolved charges involving violent conduct still on file with the court.~~

~~(3)~~ (2) The court shall enter sanctions against either party if the court determines that either party acted:

(a) in bad faith; or

(b) with intent to harass or intimidate the other party.

~~(4) Notice of a motion to dismiss a protective order shall be made by personal service on the petitioner in a protective order action as provided in Rules 4 and 5, Utah Rules of Civil Procedure.~~

~~(5)~~ (3) Except as provided in Subsection ~~(8)~~ (5), if a divorce proceeding is pending between parties to a protective order action, the protective order shall be dismissed when the court issues a decree of divorce for the parties if:

(a) the respondent files a motion to dismiss a protective order in both the divorce action and the protective order action and personally serves the petitioner; and

(b) (i) the parties stipulate in writing or on the record to dismiss the protective order; or

(ii) based on evidence at the divorce trial, the court determines that the petitioner no longer has a reasonable fear of future harm, abuse, or domestic violence ~~[after considering the factors listed in Subsection (1)].~~

~~(6) (a) Notwithstanding Subsection (1) or (2) and subject to Subsection (8), a protective order that is entered under this chapter concerning a petitioner and a respondent who are divorced shall automatically expire, subject to Subsection (6)(b), 10 years after the day on which the protective order is entered.~~

~~(b) The protective order shall automatically expire, as described in Subsection (6)(a), unless the petitioner files a motion before expiration of the protective order and demonstrates that:~~

~~(i) the petitioner has a reasonable fear of future harm, abuse, or domestic violence, as described in Subsection (1); or~~

~~(ii) the respondent committed or was convicted of a protective order violation or a qualifying domestic~~

~~violence offense, as defined in Section 77-36-1.1, subsequent to the issuance of the protective order.]~~

~~(c) (i) If the court grants the motion under Subsection (6)(b), the court shall set a new date on which the protective order expires.]~~

~~(ii) The protective order will expire on the date set by the court unless the petitioner files a motion described in Subsection (6)(b) to extend the protective order.]~~

~~(7)~~ (4) When the court dismisses a protective order, the court shall immediately:

(a) issue an order of dismissal to be filed in the protective order action; and

(b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.

~~(8) Notwithstanding the other provisions of this section, a continuous protective order may not be modified or dismissed except as provided in Subsection 77-36-5.1(6).]~~

**Section 54. Section 78B-7-606, which is renumbered from Section 78B-7-115.5 is renumbered and amended to read:**

**78B-7-115.5. 78B-7-606. Expiration -- Extension.**

(1) Subject to the other provisions of this section, ~~[a civil]~~ a cohabitant abuse protective order ~~[issued under this part]~~ automatically ~~[expires 10]~~ expires three years after the day on which the cohabitant abuse protective order is entered.

(2) ~~[The]~~ A cohabitant abuse protective order automatically expires as described in Subsection (1), unless the petitioner files a motion before the day on which the cohabitant abuse protective order expires and demonstrates that:

(a) the petitioner has a current reasonable fear of future harm, abuse, or domestic violence ~~[as described in Subsection 78B-7-115(1)];~~ or

(b) the respondent committed or was convicted of a cohabitant abuse protective order violation or a qualifying domestic violence offense, as defined in Section 77-36-1.1, subsequent to the issuance of the cohabitant abuse protective order.

(3) (a) If the court grants the motion under Subsection (2), the court shall set a new date on which the cohabitant abuse protective order expires.

(b) The cohabitant abuse protective order will expire on the date set by the court unless the petitioner files a motion described in Subsection (2) to extend the cohabitant abuse protective order.

**Section 55. Section 78B-7-607 is enacted to read:**

**78B-7-607. Penalties.**

(1) A violation of a criminal provision of a protective order issued under this part is a class A misdemeanor.

(2) A violation of a civil provision of a protective order issued under this part is contempt of court.

**Section 56. Section 78B-7-608, which is renumbered from Section 78B-7-110 is renumbered and amended to read:**

**[78B-7-110]. 78B-7-608. No denial of relief solely because of lapse of time.**

The court may not deny a petitioner relief requested ~~[pursuant to]~~ under this [chapter] part solely because of a lapse of time between an act of domestic violence or abuse and the filing of the petition for ~~[an order of protection]~~ a protective order.

**Section 57. Section 78B-7-609, which is renumbered from Section 78B-7-111 is renumbered and amended to read:**

**[78B-7-111]. 78B-7-609. Prohibition of court-ordered or court-referred mediation.**

In any case brought under the provisions of this ~~[chapter]~~ part, the court may not order the parties into mediation for resolution of the issues in a petition for ~~[an order for protection]~~ a protective order.

**Section 58. Section 78B-7-701, which is renumbered from Section 77-3a-101 is renumbered and amended to read:**

**Part 7. Civil Stalking Injunctions**

**[77-3a-101]. 78B-7-701. Ex parte civil stalking injunction -- Civil stalking injunction.**

~~[(1) As used in this chapter, "stalking" means the crime of stalking as defined in Section 76-5-106.5. Stalking injunctions may not be obtained against law enforcement officers, governmental investigators, or licensed private investigators, acting in their official capacity.]~~

~~[(2) Any person]~~ (1) (a) Except as provided in Subsection (1)(b), an individual who believes that ~~[he or she]~~ the individual is the victim of stalking may file a verified written petition for a civil stalking injunction against the alleged stalker with the district court in the district in which the ~~[petitioner]~~ individual or respondent resides or in which any of the events occurred. A minor with ~~[his or her]~~ the minor's parent or guardian may file a petition on ~~[his or her]~~ the minor's own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

(b) A stalking injunction may not be obtained against a law enforcement officer, governmental investigator, or licensed private investigator, who is acting in official capacity.

~~[(3) The Administrative Office of the Courts shall develop and adopt uniform forms for petitions, ex parte civil stalking injunctions, civil stalking injunctions, service and any other necessary forms in accordance with the provisions of this chapter on or before July 1, 2001. The office shall provide the forms to the clerk of each district court.]~~

~~[(a) All petitions, injunctions, ex parte injunctions, and any other necessary forms shall be~~

~~issued in the form adopted by the Administrative Office of the Courts.]~~

~~[(b) The offices of the court clerk shall provide the forms to persons seeking to proceed under this chapter.]~~

~~[(4)]~~ (2) The petition for a civil stalking injunction shall include:

(a) the name of the petitioner~~[],~~ however, the petitioner's address shall be disclosed to the court for purposes of service, but, on request of the petitioner, the address may not be listed on the petition, and shall be protected and maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown;

(b) the name and address, if known, of the respondent;

(c) specific events and dates of the actions constituting the alleged stalking;

(d) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and

(e) corroborating evidence of stalking, which may be in the form of a police report, affidavit, record, statement, item, letter, or any other evidence which tends to prove the allegation of stalking.

~~[(5)]~~ (3) (a) If the court determines that there is reason to believe that an offense of stalking has occurred, an ex parte civil stalking injunction may be issued by the court that includes any of the following:

(i) respondent may be enjoined from committing stalking;

(ii) respondent may be restrained from coming near the residence, place of employment, or school of the other party or specifically designated locations or persons;

(iii) respondent may be restrained from contacting, directly or indirectly, the other party, including personal, written or telephone contact with the other party, the other party's employers, employees, fellow workers or others with whom communication would be likely to cause annoyance or alarm to the other party; or

(iv) any other relief necessary or convenient for the protection of the petitioner and other specifically designated ~~[persons]~~ individuals under the circumstances.

(b) If the petitioner and respondent have minor children, the court shall follow the provisions of Section ~~[78B-7-106]~~ 78B-7-603 and take into consideration the respondent's custody and parent-time rights while ensuring the safety of the victim and the minor children. If the court issues a civil stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered.

~~[(6)]~~ (4) Within 10 days ~~[of service of]~~ after the day on which the ex parte civil stalking injunction is served, the respondent is entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.

(a) A hearing requested by the respondent shall be held within 10 days ~~[from the date the]~~ after the day on which the request is filed with the court unless the court finds compelling reasons to continue the hearing. The hearing shall then be held at the earliest possible time. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

(b) An ex parte civil stalking injunction issued under this section shall state on ~~[its]~~ the civil stalking injunction's face:

(i) that the respondent is entitled to a hearing, upon written request within 10 days ~~[of the service of]~~ after the day on which the order is served;

(ii) the name and address of the ~~[district]~~ court where the request may be filed;

(iii) that if the respondent fails to request a hearing within 10 days ~~[of service,]~~ after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and ~~[that]~~ the civil stalking injunction expires three years after ~~[service of]~~ the day on which the ex parte civil stalking injunction is served; and

(iv) that if the respondent requests, in writing, a hearing after the ten-day period after service, the court shall set a hearing within a reasonable time from the date requested.

~~[(7)]~~ (5) At the hearing, the court may modify, revoke, or continue the injunction. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

~~[(8) The ex parte civil stalking injunction and civil stalking injunction shall include the following statement: "Attention. This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and any other crime you may have committed in disobeying this order."]~~

~~[(9)]~~ (6) The ex parte civil stalking injunction shall be served on the respondent within 90 days ~~[from the date it]~~ after the day on which the ex parte civil stalking injunction is signed. An ex parte civil stalking injunction is effective upon service. If no hearing is requested in writing by the respondent within 10 days ~~[of service of]~~ after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction automatically becomes a civil stalking injunction without further notice to the respondent and expires three years ~~[from the date of service of]~~ after the day on which the ex parte civil stalking injunction is served.

~~[(10)]~~ (7) If the respondent requests a hearing after the ~~[ten-day]~~ 10-day period after service, the court shall set a hearing within a reasonable time from the date requested. At the hearing, the burden is on the respondent to show good cause why the civil stalking injunction should be dissolved or modified.

~~[(11)]~~ (8) Within 24 hours after the affidavit or acceptance of service has been returned, excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

(a) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction ~~[shall]~~ may not depend upon ~~[its]~~ entry of the ex parte civil stalking injunction or civil stalking injunction in the statewide system and, for enforcement purposes, a certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to be a valid existing order of the court for a period of three years ~~[from the date of service of]~~ after the day on which the ex parte civil stalking injunction is served on the respondent.

(b) Any changes or modifications of the ex parte civil stalking injunction are effective upon service on the respondent. The original ex parte civil stalking injunction continues in effect until service of the changed or modified civil stalking injunction on the respondent.

~~[(12)]~~ (9) Within 24 hours after the affidavit or acceptance of service ~~[has been]~~ is returned, excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or modified civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

~~[(13)]~~ (10) The ex parte civil stalking injunction or civil stalking injunction may be dissolved at any time upon application of the petitioner to the court ~~[which]~~ that granted ~~[it]~~ the ex parte civil stalking injunction or civil stalking injunction.

~~[(14) The court clerk shall provide, without charge, to the petitioner one certified copy of the injunction issued by the court and one certified copy of the proof of service of the injunction on the respondent. Charges may be imposed by the clerk's office for any additional copies, certified or not certified in accordance with Rule 4-202.08 of the Code of Judicial Administration.]~~

(11) An ex parte civil stalking injunction and a civil stalking injunction shall be served by a sheriff or constable in accordance with this section.

~~[(15)]~~ (12) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The ~~[district]~~ court shall hear and decide all matters arising ~~[pursuant to]~~ under this section.

~~[(16)]~~ (13) After a hearing with notice to the affected party, the court may enter an order

requiring any party to pay the costs of the action, including reasonable attorney fees.

~~[(17)] (14) This [chapter does not apply to protective orders or ex parte protective orders issued pursuant to Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, or to] section does not apply to preliminary injunctions issued [pursuant to] under an action for dissolution of marriage or legal separation.~~

**Section 59. Section 78B-7-702, which is renumbered from Section 77-3a-101.1 is renumbered and amended to read:**

**[77-3a-101.1]. 78B-7-702. Mutual civil stalking injunctions.**

(1) A court may not grant a mutual order or mutual civil stalking injunction to opposing parties, unless each party:

(a) files an independent petition against the other for a civil stalking injunction, and both petitions are served;

(b) makes a showing at an evidentiary hearing on the civil stalking injunction that stalking has occurred by the other party; and

(c) demonstrates the alleged act did not occur in self-defense.

(2) If the court issues mutual civil stalking injunctions, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court orders.

~~[(3) A court may not grant a civil stalking injunction to a civil petitioner who is the respondent or defendant subject to a civil stalking injunction, protective order, child protective order, or ex parte child protective order:]~~

~~[(a) issued under:]~~

~~[(i) Chapter 3a, Stalking Injunctions:]~~

~~[(ii) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act:]~~

~~[(iii) Chapter 36, Cohabitant Abuse Procedures Act:]~~

~~[(iv) Title 78A, Chapter 6, Juvenile Court Act; or]~~

~~[(v) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act; and]~~

~~[(b) unless the court determines that the requirements of Subsection (1) are met, and:]~~

~~[(i) the same court issued the order for protection against the respondent; or]~~

~~[(ii) if the matter is before a subsequent court, the subsequent court:]~~

~~[(A) determines it would be impractical for the original court to consider the matter; or]~~

~~[(B) confers with the court that issued the order for protection.]~~

(3) (a) Except as provided in Subsection (3)(b), a court may not grant a protective order to a civil petitioner who is the respondent or defendant subject to:

(i) a civil stalking injunction;

(ii) a civil protective order that is issued under:

(A) this part;

(B) Part 2, Child Protective Orders;

(C) Part 6, Cohabitant Abuse Protective Orders;

(D) Part 8, Criminal Protective Orders; or

(E) Title 78A, Chapter 6, Juvenile Court Act;

(iii) an ex parte civil protective order issued under Part 2, Child Protective Orders; or

(iv) a foreign protection order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(b) The court may issue a protective order to a civil petitioner described in Subsection (3)(a) if:

(i) the court determines that the requirements of Subsection (1) are met; and

(ii) (A) the same court issued the protective order against the respondent; or

(B) the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order described in Subsection (3)(a)(ii) or (iii).

**Section 60. Section 78B-7-703, which is renumbered from Section 77-3a-103 is renumbered and amended to read:**

**[77-3a-103]. 78B-7-703. Violation.**

~~[(1) A peace or law enforcement officer shall, without a warrant, arrest a person if the peace or law enforcement officer has probable cause to believe that the person has violated an ex parte civil stalking injunction or civil stalking injunction issued pursuant to this chapter or has violated a permanent criminal stalking injunction issued pursuant to Section 76-5-106.5, whether or not the violation occurred in the presence of the officer.]~~

~~[(2) (1) A violation of an ex parte civil stalking injunction or of a civil stalking injunction issued [pursuant to this chapter] under this part constitutes the criminal offense of stalking [as defined in] under Section 76-5-106.5 and is also a violation of the civil stalking injunction. [Violations]~~

~~(2) A violation of an ex parte civil stalking injunction or of a civil stalking injunction issued under this part may be enforced by a civil action initiated by the petitioner, a criminal action initiated by a prosecuting attorney, or both.~~

**Section 61. Section 78B-7-801 is enacted to read:**

**Part 8. Criminal Protective Orders**

**78B-7-801. Definitions.**

As used in this part:

(1) “Jail release agreement” means a written agreement that is entered into by an arrested individual, regardless of whether the individual is booked into jail:

(a) under which the arrested individual agrees to not engage in any of the following:

(i) have personal contact with the alleged victim;

(ii) threaten or harass the alleged victim; or

(iii) knowingly enter on the premises of the alleged victim’s residence or on premises temporarily occupied by the alleged victim; and

(b) that specifies other conditions of release from jail or arrest.

(2) “Jail release court order” means a written court order that:

(a) orders an arrested individual not to engage in any of the following:

(i) have personal contact with the alleged victim;

(ii) threaten or harass the alleged victim; or

(iii) knowingly enter on the premises of the alleged victim’s residence or on premises temporarily occupied by the alleged victim; and

(b) specifies other conditions of release from jail.

(3) “Minor” means an unemancipated individual who is younger than 18 years of age.

(4) “Offense against a child or vulnerable adult” means the commission or attempted commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, or 76-5-111.

(5) “Qualifying offense” means:

(a) domestic violence;

(b) an offense against a child or vulnerable adult; or

(c) the commission or attempted commission of an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

**Section 62. Section 78B-7-802, which is renumbered from Section 77-20-3.5 is renumbered and amended to read:**

**[77-20-3.5]. 78B-7-802. Conditions for release after arrest for domestic violence and other offenses -- Jail release agreements -- Jail release court orders.**

~~[(1) As used in this section:]~~

~~[(a) “Domestic violence” means the same as that term is defined in Section 77-36-1.]~~

~~[(b) “Jail release agreement” means a written agreement that is entered into by an arrested individual:]~~

~~[(i) under which the arrested individual agrees to not engage in any of the following:]~~

~~[(A) have personal contact with the alleged victim;]~~

~~[(B) threaten or harass the alleged victim; or]~~

~~[(C) knowingly enter on the premises of the alleged victim’s residence or on premises temporarily occupied by the alleged victim; and]~~

~~[(ii) that specifies other conditions of release from jail.]~~

~~[(e) “Jail release court order” means a written court order that:]~~

~~[(i) orders an arrested individual not to engage in any of the following:]~~

~~[(A) have personal contact with the alleged victim;]~~

~~[(B) threaten or harass the alleged victim; or]~~

~~[(C) knowingly enter on the premises of the alleged victim’s residence or on premises temporarily occupied by the alleged victim; and]~~

~~[(ii) specifies other conditions of release from jail.]~~

~~[(d) “Minor” means an unemancipated individual who is younger than 18 years of age.]~~

~~[(e) “Offense against a child or vulnerable adult” means the commission or attempted commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, or 76-5-111.]~~

~~[(f) “Qualifying offense” means:]~~

~~[(i) domestic violence;]~~

~~[(ii) an offense against a child or vulnerable adult; or]~~

~~[(iii) the commission or attempted commission of an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.]~~

~~[(2) (a)] (1) Upon arrest for a qualifying offense and before the individual is released on bail, recognizance, or otherwise, the individual may not personally contact the alleged victim.~~

~~[(b) An individual who violates Subsection (2)(a) is guilty of a class B misdemeanor.]~~

~~[(3)] (2) (a) After an individual is arrested for a qualifying offense, the individual may not be released before:~~

~~(i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or~~

~~(ii) the individual signs a jail release agreement.~~

~~(b) The arresting officer shall ensure that the information presented to the magistrate includes whether the alleged victim has made a waiver described in Subsection [(6)] (5)(a).~~

~~(c) (i) If the magistrate determines there is probable cause to support the charge or charges of one or more qualifying offenses, the magistrate shall determine whether the arrested individual may be held without bail, in accordance with Section 77-20-1.~~



(ii) If the magistrate determines that the arrested individual has the right to be admitted to bail, the magistrate shall determine:

(A) whether any release conditions, including electronic monitoring, are necessary to protect the alleged victim; and

(B) any bail that is required to guarantee the arrested ~~person's~~ individual's subsequent appearance in court.

(d) The magistrate may not release an individual arrested for a qualifying offense unless the magistrate issues a jail release court order or the arrested individual signs a jail release agreement.

[4] (3) (a) If an individual charged with a qualifying offense fails to either schedule an initial appearance or to appear at the time scheduled by the magistrate within 96 hours after the time of arrest, the individual shall comply with the release conditions of a jail release agreement or jail release court order until the individual makes an initial appearance.

(b) If the prosecutor has not filed charges against an individual who was arrested for a qualifying offense and who appears in court at the time scheduled by the magistrate under Subsection [3] (2), or by the court under Subsection [4] (3)(b)(ii), the court:

(i) may, upon the motion of the prosecutor and after allowing the individual an opportunity to be heard on the motion, extend the release conditions described in the jail release court order or the jail release agreement by no more than three court days; and

(ii) if the court grants the motion described in Subsection [4] (3)(b)(i), shall order the arrested individual to appear at a time scheduled before the end of the granted extension.

(c) (i) If the prosecutor determines that there is insufficient evidence to file charges before an initial appearance scheduled under Subsection [4] (3)(a), the prosecutor shall transmit a notice of declination to either the magistrate who signed the jail release court order or, if the releasing agency obtains a jail release agreement from the released arrestee, to the statewide domestic violence network described in Section 78B-7-113.

(ii) A prosecutor's notice of declination transmitted under this Subsection [4] (3)(c) is considered a motion to dismiss a jail release court order and a notice of expiration of a jail release agreement.

[5] (4) Except as provided in Subsection [4] (3) or otherwise ordered by a court, a jail release agreement or jail release court order expires at midnight after the earlier of:

(a) the arrested individual's initial scheduled court appearance described in Subsection [4] (3)(a);

(b) the day on which the prosecutor transmits the notice of the declination under Subsection [4] (3)(c); or

(c) 30 days after the day on which the arrested individual is arrested.

[6] (5) (a) (i) After an arrest for a qualifying offense, an alleged victim who is not a minor may waive in writing the release conditions prohibiting:

(A) personal contact with the alleged victim; or

(B) knowingly entering on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim.

(ii) Upon waiver, the release conditions described in Subsection [6] (5)(a)(i) do not apply to the arrested individual.

(b) A court or magistrate may modify a jail release agreement or a jail release court order in writing or on the record, and only for good cause shown.

[7] (6) (a) When an arrested individual is released in accordance with Subsection [3] (2), the releasing agency shall:

(i) notify the arresting law enforcement agency of the release, conditions of release, and any available information concerning the location of the alleged victim;

(ii) make a reasonable effort to notify the alleged victim of the release; and

(iii) before releasing the arrested individual, give the arrested individual a copy of the jail release agreement or the jail release court order.

(b) (i) When an individual arrested for domestic violence is released ~~pursuant to~~ under this section based on a jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.

(ii) When an individual arrested for domestic violence is released ~~pursuant to~~ under this section based upon a jail release court order or if a jail release agreement is modified ~~pursuant to~~ under Subsection [6] (5)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.

(c) This Subsection [7] (6) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

~~[(8) (a) If a law enforcement officer has probable cause to believe that an individual has violated a jail release agreement or jail release court order, the officer shall, without a warrant, arrest the individual.]~~

~~[(b) An individual who knowingly violates a jail release court order or jail release agreement executed pursuant to Subsection (3) is guilty as follows:]~~

~~[(i) if the original arrest was for a felony, an offense under this section is a third degree felony; or]~~

~~[(ii) if the original arrest was for a misdemeanor, an offense under this section is a class A misdemeanor.]~~

~~[(c) A city attorney may prosecute class A misdemeanor violations under this section.]~~

~~[(9)] (7) An individual who is arrested for a qualifying offense that is a felony and released in accordance with this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against the individual.~~

~~[(10)] (8) At the time an arrest is made for a qualifying offense, the arresting officer shall provide the alleged victim with written notice containing:~~

~~(a) the release conditions described in this section, and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:~~

~~(i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or~~

~~(ii) the magistrate issues a jail release order that specifies the release conditions;~~

~~(b) notification of the penalties for violation of any jail release agreement or jail release court order;~~

~~(c) the address of the appropriate court in the district or county in which the alleged victim resides;~~

~~(d) the availability and effect of any waiver of the release conditions; and~~

~~(e) information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.~~

~~[(11)] (9) At the time an arrest is made for a qualifying offense, the arresting officer shall provide the alleged perpetrator with written notice containing:~~

~~(a) notification that the alleged perpetrator may not contact the alleged victim before being released;~~

~~(b) the release conditions described in this section and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:~~

~~(i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or~~

~~(ii) the magistrate issues a jail release court order;~~

~~(c) notification of the penalties for violation of any jail release agreement or jail release court order; and~~

~~(d) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest.~~

~~[(12)] (10) (a) A pretrial or sentencing protective order [supersedes] issued under this part supersedes a jail release agreement or jail release court order.~~

~~(b) If a court dismisses the charges for the qualifying offense that gave rise to a jail release agreement or jail release court order, the court shall dismiss the jail release agreement or jail release court order.~~

~~[(13)] (11) This section does not apply if the individual arrested for the qualifying offense is a minor, unless the qualifying offense is domestic violence.~~

**Section 63. Section 78B-7-803 is enacted to read:**

**78B-7-803. Pretrial protective orders.**

(1) (a) When a defendant is charged with a crime involving a qualifying offense, the court shall, at the time of the defendant's court appearance under Section 77-36-2.6:

(i) determine the necessity of imposing a pretrial protective order or other condition of pretrial release; and

(ii) state the court's findings and determination in writing.

(b) In any criminal case, the court may, during any court hearing where the defendant is present, issue a pretrial protective order, pending trial.

(2) A court may include any of the following provisions in a pretrial protective order:

(a) an order enjoining the defendant from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;

(b) an order prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order removing and excluding the defendant from the victim's residence and the premises of the residence;

(d) an order requiring the defendant to stay away from the victim's residence, school, or place of employment, and the premises of any of these, or any specified place frequented by the victim and any designated family member;

(e) an order for any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member;

(f) an order identifying and requiring an individual designated by the victim to communicate between the defendant and the victim if and to the extent necessary for family related matters;

(g) an order requiring the defendant to participate in an electronic or other type of monitoring program; and

(h) if the alleged victim and the defendant share custody of one or more minor children, an order for

indirect or limited contact to temporarily facilitate parent visitation with a minor child.

(3) When issuing a pretrial protective order, the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.

**Section 64. Section 78B-7-804 is enacted to read:**

**78B-7-804. Sentencing and continuous protective orders for a domestic violence offense -- Modification.**

(1) Before a perpetrator who has been convicted of a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

(b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence of

imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless the court determines by clear and convincing evidence that the victim does not have a reasonable fear of future harm or abuse.

(c) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court. The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:

(i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.

(4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.

(5) In addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.

**Section 65. Section 78B-7-805 is enacted to read:**

**78B-7-805. Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification.**

(1) Before a perpetrator has been convicted of an offense that is not domestic violence is placed on probation, the court may consider the safety and

protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.

(b) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(c) A continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection 78B-7-804(3)(c).

(4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).

(5) In addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).

**Section 66. Section 78B-7-806 is enacted to read:**

**78B-7-806. Penalties.**

(1) (a) A violation of Subsection 78B-7-802(1) is a class B misdemeanor.

(b) An individual who knowingly violates a jail release court order or jail release agreement executed under Subsection 78B-7-802(2) is guilty of:

(i) a third degree felony, if the original arrest was for a felony; or

(ii) a class A misdemeanor, if the original arrest was for a misdemeanor.

(2) A violation of a pretrial protective order issued under this part is:

(a) a third degree felony, if the original arrest or subsequent charge filed is a felony; or

(b) a class A misdemeanor, if the original arrest or subsequent charge filed is a misdemeanor.

(3) A violation of a sentencing protective order and of a continuous protective order issued under this part is:

(a) a third degree felony, if the conviction was a felony; or

(b) a class A misdemeanor, if the conviction was a misdemeanor.

**Section 67. Section 78B-7-807 is enacted to read:**

**78B-7-807. Notice to victims.**

(1) (a) The court shall provide the victim with a certified copy of any pretrial protective order that has been issued if the victim can be located with reasonable effort.

(b) If the court is unable to locate the victim, the court shall provide the victim's certified copy to the prosecutor.

(c) A sentencing protective order or continuous protective order issued under this part shall be in writing, and the prosecutor shall provide a certified copy of that order to the victim.

(2) (a) Adult Probation and Parole, or another provider, shall immediately report to the court and notify the victim of any violation of any sentencing protective order issued under this part.

(b) Notification of the victim under Subsection (2)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.

(3) (a) Before release of an individual who is subject to a continuous protective order issued under this part, the victim shall receive notice of the imminent release by the law enforcement agency that is releasing the individual who is subject to the continuous protective order:

(i) if the victim has provided the law enforcement agency contact information; and

(ii) in accordance with Section 64-13-14.7, if applicable.

(b) Before release, the law enforcement agency shall notify in writing the individual being released that a violation of the continuous protective order issued at the time of conviction or sentencing continues to apply, and that a violation of the continuous protective order is punishable as described in Section 78B-7-806.

(4) The court shall transmit a dismissal, termination, and expiration of a pretrial protective order, sentencing protective order, or a continuous protective order to the statewide domestic violence network described in Section 78B-7-113.

**Section 68. Section 78B-7-901 is enacted to read:**

**Part 9. Criminal Stalking Injunctions**

**78B-7-901. Definitions.**

As used in this part:

(1) "Conviction" means:

(a) a verdict or conviction;

(b) a plea of guilty or guilty and mentally ill;

(c) a plea of no contest; or

(d) the acceptance by the court of a plea in abeyance.

(2) "Immediate family" means the same as that term is defined in Section 76-5-106.5.

**Section 69. Section 78B-7-902 is enacted to read:**

**78B-7-902. Permanent criminal stalking injunction -- Modification.**

(1) (a) The following serve as an application for a permanent criminal stalking injunction limiting the contact between the defendant and the victim:

(i) a conviction for:

(A) stalking; or

(B) attempt to commit stalking; or

(ii) a plea to any of the offenses described in Subsection (1)(a)(i) accepted by the court and held in abeyance for a period of time.

(b) (i) The district court shall issue a permanent criminal stalking injunction at the time of conviction.

(ii) The court shall give the defendant notice of the right to request a hearing.

(c) If the defendant requests a hearing under Subsection (1)(b), the court shall hold the hearing at the time of the conviction unless the victim requests otherwise, or for good cause.

(d) If the conviction was entered in a justice court, the victim shall file a certified copy of the judgment and conviction or a certified copy of the court's order holding the plea in abeyance with the court as an

application and request for a hearing for a permanent criminal stalking injunction.

(2) The court shall issue a permanent criminal stalking injunction granting the following relief where appropriate:

(a) an order:

(i) restraining the defendant from entering the residence, property, school, or place of employment of the victim; and

(ii) requiring the defendant to stay away from the victim, except as provided in Subsection (4), and to stay away from any specified place that is named in the order and is frequented regularly by the victim;

(b) an order restraining the defendant from making contact with or regarding the victim, including an order forbidding the defendant from personally or through an agent initiating any communication, except as provided in Subsection (3), likely to cause annoyance or alarm to the victim, including personal, written, or telephone contact with or regarding the victim, with the victim's employers, employees, coworkers, friends, associates, or others with whom communication would be likely to cause annoyance or alarm to the victim; and

(c) any other orders the court considers necessary to protect the victim and members of the victim's immediate family or household.

(3) (a) If the victim and defendant have minor children together, the court may consider provisions regarding the defendant's exercise of custody and parent-time rights while ensuring the safety of the victim and any minor children.

(b) If the court issues a permanent criminal stalking injunction, but declines to address custody and parent-time issues, a copy of the permanent criminal stalking injunction shall be filed in any action in which custody and parent-time issues are being considered and the court may modify the injunction to balance the parties' custody and parent-time rights.

(4) Except as provided in Subsection (3), a permanent criminal stalking injunction may be modified, dissolved, or dismissed only upon application of the victim to the court which granted the injunction.

**Section 70. Section 78B-7-903 is enacted to read:**

**78B-7-903. Penalties.**

(1) A violation of a permanent criminal stalking injunction issued under this part is a third degree felony in accordance with Subsection 76-5-106.5(7).

(2) A violation of a permanent criminal stalking injunction issued under this part may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.

**Section 71. Section 78B-7-904 is enacted to read:**

**78B-7-904. Notice to victims.**

(1) The court shall send notice of permanent criminal stalking injunctions issued under this part to the statewide warrants network or similar system, including the statewide domestic violence network described in Section 78B-7-113.

(2) A permanent criminal stalking injunction issued under this part has effect statewide.

**Section 72. Section 78B-19-107 is amended to read:**

**78B-19-107. Emergency orders.**

During a collaborative law process, a court may issue emergency orders, including protective orders in accordance with Title 78B, Chapter 7, Part [1, ~~Cohabitant Abuse Act~~] 6, Cohabitant Abuse Protective Orders, or Part 2, Child Protective Orders, to protect the health, safety, welfare, or interest of a party or member of a party's household.

**Section 73. Repealer.**

This bill repeals:

**Section 77-3a-102, Fees -- Service of process.**

**Section 78B-7-114, Authority to prosecute class A misdemeanor violations.**

**Section 78B-7-401, Title.**

**Section 78B-7-406, Fees -- Service of process.**

**Section 78B-7-501, Title.**

**Section 78B-7-507, Fees -- Forms.**

**Section 74. Effective date.**

This bill takes effect on July 1, 2020.

**Section 75. Coordinating H.B. 403 with H.B. 206 -- Changing terminology.**

If this H.B. 403 and H.B. 206, Bail and Pretrial Release Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the terminology in Subsection 77-20-1(4)(d)(ii) of H.B. 403 from "bail" to "pretrial release".

**CHAPTER 143****H. B. 407**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**REGULATORY SANDBOX AMENDMENTS**

Chief Sponsor: Marc K. Roberts  
 Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill modifies Title 13, Chapter 55, Regulatory Sandbox Program.

**Highlighted Provisions:**

This bill:

- ▶ modifies the requirements for an application to participate in the Regulatory Sandbox Program; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

13-55-103, as enacted by Laws of Utah 2019, Chapter 243

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

**Section 1. Section 13-55-103 is amended to read:****13-55-103. Regulatory Sandbox Program -- Application requirements.**

(1) There is created in the department the Regulatory Sandbox Program.

(2) In administering the regulatory sandbox, the department:

- (a) shall consult with each applicable agency;
- (b) shall establish a program to enable a person to obtain limited access to the market in the state to test an innovative product or service without obtaining a license or other authorization that might otherwise be required; and

(c) may enter into agreements with or follow the best practices of the Consumer Financial Protection Bureau or other states that are administering similar programs.

(3) An applicant for the regulatory sandbox shall provide to the department an application in a form prescribed by the department that:

(a) demonstrates the applicant is subject to the jurisdiction of the state through incorporation, residency, presence agreement, or otherwise;

~~(b) demonstrates the applicant has established a physical location in the state, from which testing will be developed and performed and where all required records, documents, and data will be maintained;~~

(b) demonstrates the applicant has established a physical or virtual location that is adequately accessible to the department, from which testing will be developed and performed and where all required records, documents, and data will be maintained;

(c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the department;

(d) discloses criminal convictions of the applicant or other participating personnel, if any;

(e) demonstrates that the applicant has the necessary personnel, financial and technical expertise, access to capital, and developed plan to test, monitor, and assess the innovative product or service;

(f) contains a description of the innovative product or service to be tested, including statements regarding all of the following:

(i) how the innovative product or service is subject to licensing or other authorization requirements outside of the regulatory sandbox;

(ii) how the innovative product or service would benefit consumers;

(iii) how the innovative product or service is different from other products or services available in the state;

(iv) what risks may confront consumers that use or purchase the innovative product or service;

(v) how participating in the regulatory sandbox would enable a successful test of the innovative product or service;

(vi) a description of the proposed testing plan, including estimated time periods for beginning the test, ending the test, and obtaining necessary licensure or authorizations after the testing is complete;

(vii) a description of how the applicant will perform ongoing duties after the test; and

(viii) how the applicant will end the test and protect consumers if the test fails; ~~and~~

(g) if the applicant desires to make a claim of business confidentiality with respect to any information provided to the department in the application, includes in accordance with Section 63G-2-309:

(i) a written claim of business confidentiality; and

(ii) a concise statement of reasons supporting the claim of business confidentiality; and

~~[(g)] (h) provides any other required information as determined by the department.~~

(4) The department may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.

(5) An applicant shall file a separate application for each innovative product or service that the applicant wants to test.

(6) After an application is filed, the department may seek additional information from the applicant that the department determines is necessary.

(7) Subject to Subsection (8), not later than 90 days after the day on which a complete application is received by the department, the department shall inform the applicant as to whether the application is approved for entry into the regulatory sandbox.

(8) The department and an applicant may mutually agree to extend the 90-day time period described in Subsection (7) for the department to determine whether an application is approved for entry into the regulatory sandbox.

(9) (a) In reviewing an application under this section, the department shall consult with, and get approval from, each applicable agency before admitting an applicant into the regulatory sandbox.

(b) The consultation with an applicable agency may include seeking information about whether:

(i) the applicable agency has previously issued a license or other authorization to the applicant;

(ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant;

(iii) whether the applicant could obtain a license or other authorization from the applicable agency after exiting the regulatory sandbox; and

(iv) whether certain licensure or other regulations should not be waived even if the applicant is accepted into the regulatory sandbox.

(10) In reviewing an application under this section, the department shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(11) If the department and each applicable agency approve admitting an applicant into the regulatory sandbox an applicant may become a sandbox participant.

(12) (a) The department may deny any application submitted under this section, for any reason, at the department's discretion.

(b) If the department denies an application submitted under this section, the department shall provide to the applicant a written description of the reasons for the denial as a sandbox participant.



**CHAPTER 144****H. B. 412**

Passed March 12, 2020  
Approved March 24, 2020  
Effective May 12, 2020

**CREDIT REPORTING  
NOTIFICATION AMENDMENTS**

Chief Sponsor: A. Cory Maloy  
Senate Sponsor: Jacob L. Anderegg

**LONG TITLE****General Description:**

This bill modifies provisions related to negative credit reports.

**Highlighted Provisions:**

This bill:

- ▶ allows a creditor to notify the affected individual by electronic mail when the creditor submits a negative credit report to a credit reporting agency; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

70C-7-107, as last amended by Laws of Utah 2007, Chapter 306

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

**Section 1. Section 70C-7-107 is amended to read:****70C-7-107. Notice of negative credit report required.**

(1) As used in this section:

(a) "Creditor," in addition to its definition under Section 70C-1-302, includes an agent of a creditor engaged in administering or collecting the creditor's accounts.

(b) "Credit reporting agency" means any credit bureau, consumer reporting agency, association of lending institutions, association of merchants, association of other creditors, any person, firm, partnership, cooperative, or corporation which, for a fee, dues, or on a cooperative nonprofit basis, is organized for the purpose of, or regularly engages in, the gathering or evaluating of consumer credit information or other information about consumers for the purpose of reporting to third parties on the credit rating or creditworthiness of any party.

(c) (i) "Negative credit report" means information reflecting on the credit history of a party that, because of the party's past delinquencies, late or irregular payment history, insolvency, or any form of default, would reasonably be expected to affect adversely the party's ability to obtain or maintain credit.

(ii) Negative credit report does not include information or credit histories arising from a nonconsumer transaction or any other credit transaction outside the scope of this title, nor does it include inquiries about a consumer's record.

(2) A creditor may submit a negative credit report to a credit reporting agency, only if the creditor notifies the party whose credit record is the subject of the negative report. After providing this notice, a creditor may submit additional information to a credit reporting agency respecting the same transaction or extension of credit that gave rise to the original negative credit report without providing any additional notice.

~~[(3) (a) Notice shall be in writing and shall be delivered in person or mailed first class, postage prepaid, to the party's last-known address prior to or within 30 days after the transmission of the report.]~~

(3) (a) A creditor shall provide the notice described in Subsection (2):

(i) in writing;

(ii) by:

(A) in-person delivery;

(B) first class mail, postage prepaid, to the party's last-known address; or

(C) if the party has consented to receive notices by electronic mail, by electronic mail; and

(iii) no more than 30 days after the day on which the creditor submits the negative credit report to the credit reporting agency.

(b) The notice may be part of any notice of default, billing statement, or other correspondence from the creditor to the party.

(c) The notice is sufficient if it takes substantially the following form:

"As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations."

(d) The notice may, in the creditor's discretion, be more specific than the form given in Subsection (3)(c). For example, the notice may provide particular information regarding an account or list the approximate date on which the creditor submitted or intends to submit a negative credit report.

(4) (a) A creditor who fails to provide notice as required by this section is liable to the injured party for actual damages. In any cause of action filed to determine the liability of a creditor or damages, the prevailing party in such an action is entitled to court costs and attorney's fees.

(b) If a creditor willfully violates this section, the court may award punitive damages in an amount not in excess of two times the amount of the actual damages awarded.

(c) A creditor is not liable for failure to provide notice if he establishes by a preponderance of the

evidence that, at the time of his failure to give notice, he maintained reasonable procedures to comply with this section.

(5) A creditor is not required to comply with this section in violation of 11 U.S.C. Sec. 362, as amended.

**CHAPTER 145****H. B. 413**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**UNINSURED AND UNDERINSURED  
 MOTORIST INSURANCE AMENDMENTS**

Chief Sponsor: Eric K. Hutchings  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends provisions related to uninsured and underinsured motorist insurance coverage.

**Highlighted Provisions:**

This bill:

- ▶ addresses when the limit of liability for uninsured or underinsured motorist coverage for two or more motor vehicles may be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident;
- ▶ allows a covered person injured as a pedestrian by an underinsured motor vehicle to recover underinsured motorist benefits under any one other policy under which the person is covered; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

31A-22-305, as last amended by Laws of Utah 2019, Chapter 131

31A-22-305.3, as last amended by Laws of Utah 2018, Chapter 434

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

**Section 1. Section 31A-22-305 is amended to read:****31A-22-305. Uninsured motorist coverage.**

(1) As used in this section, "covered persons" includes:

- (a) the named insured;
- (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;
- (c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;
- (d) any person occupying or using a motor vehicle:
  - (i) referred to in the policy; or
  - (ii) owned by a self-insured; and
- (e) any person who is entitled to recover damages against the owner or operator of the uninsured or

underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

- (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or
- (ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and  
 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;
- (b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;
- (c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or
- (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and  
 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

- (i) is filed with the department;
- (ii) is provided by the insurer;
- (iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits

available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier;

(iii) may not be reduced by any benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by

clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b)(ii).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

- (I) to the covered person;
- (II) to the covered person's resident parent; or
- (III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

- (i) whether the claimant is a covered person;
- (ii) whether the policy extends coverage to the loss; or
- (iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

- (i) the award was procured by corruption, fraud, or other undue means;
- (ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

- (i) was not fully disclosed in writing prior to the arbitration proceeding; or
- (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or

arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment



made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for uninsured motorist coverage shall be commenced within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

**Section 2. Section 31A-22-305.3 is amended to read:**

**31A-22-305.3. Underinsured motorist coverage.**

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2);

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an

underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's covered relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) \$10,000 for one person in any one accident; and

(ii) at least \$20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(~~(iii)~~)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

~~(iii)~~ (iii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(~~(iii)~~)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

~~(iii)~~ (iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

~~(iv)~~ (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

~~(v)~~ (vi) The primary and the secondary coverage may not be set off against the other.

~~(vi)~~ (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

~~(vii)~~ (viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

~~(viii)~~ (ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'

Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by a workers' compensation insurance carrier;

(iii) may not be reduced by benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under

which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of underinsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury

trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy

limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

**CHAPTER 146****H. B. 420**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**TURNAROUND PROGRAM AMENDMENTS**

Chief Sponsor: Bradley G. Last  
 Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill amends the criteria for a low performing school to exit the school turnaround program.

**Highlighted Provisions:**

This bill:

- ▶ amends the criteria for a low performing school to exit the school turnaround program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-5-301, as last amended by Laws of Utah 2019, Chapter 186  
 53E-5-306, as last amended by Laws of Utah 2019, Chapter 186

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

**Section 1. Section 53E-5-301 is amended to read:****53E-5-301. Definitions.**

As used in this part:

(1) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(2) "Cohort" means all district schools and charter schools identified as low performing schools based on school accountability results from the same school year.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Final remedial year" means the second or third school year following the initial remedial year, as determined by the state board.

(5) "Independent school turnaround expert" or "turnaround expert" means a person identified by the state board under Section 53E-5-305.

(6) "Initial remedial year" means the school year a district school or charter school is designated as a low performing school under Section 53E-5-302.

(7) "LEA governing board" means a local school board or charter school governing board.

(8) "Low performing school" means a district school or charter school that has been designated a low performing school by the state board because the school is:

(a) for two consecutive school years in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school accountability system; and

(b) a low performing school according to other outcome-based measures as may be defined in rules made by the state board.

(9) "School accountability system" means the school accountability system established in Part 2, School Accountability System.

(10) "School grade" or "grade" means the letter grade assigned to a school as the school's overall rating under the school accountability system.

(11) "School turnaround committee" means a committee established under:

- (a) for a district school, Section 53E-5-303; or
- (b) for a charter school, Section 53E-5-304.

(12) "School turnaround plan" means a plan described in:

- (a) for a district school, Section 53E-5-303; or
- (b) for a charter school, Section 53E-5-304.

**Section 2. Section 53E-5-306 is amended to read:****53E-5-306. Implications for failing to improve school performance.**

(1) As used in this section, "high performing charter school" means a charter school that:

- (a) satisfies all requirements of state law and state board rules;
- (b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and
- (c) has received at least a B grade under the school accountability system in the previous two school years.

(2) (a) The state board shall make rules establishing:

- (i) the final remedial year for a cohort;
- (ii) exit criteria for a low performing school;
- (iii) criteria for granting a school an extension as described in Subsection (3); and

(iv) implications for a low performing school that does not meet exit criteria after the school's final remedial year or the last school year of the extension period described in Subsection (3).

(b) In establishing exit criteria for a low performing school identified based on school accountability results from the 2018-19 school year and later, the state board shall:

- (i) determine for each low performing school the number of points awarded under the school accountability system [in the final remedial year] that represent a substantive [and statistically significant] improvement over the number of points



awarded under the school accountability system in the school year immediately preceding the initial remedial year; and

(ii) establish a method to ~~[estimate the exit criteria after a low performing school's first remedial year to]~~ provide a target for each low performing school~~]; and].~~

~~[(iii) use generally accepted statistical practices.]~~

(c) The state board shall through a competitively awarded contract engage a third party with expertise in school accountability and assessments to verify the exit criteria adopted under ~~[this Subsection]~~ Subsections (2)(a)(i) and (ii).

(3) (a) A low performing school may petition the state board for an extension to continue school improvement efforts for up to two years if the low performing school does not meet the exit criteria established by the state board as described in Subsection (2).

(b) A school that has been granted an extension under this Subsection (3) is eligible for:

(i) continued funding under Section 53E-5-305; and

(ii) (A) the school teacher recruitment and retention incentive under Section 53E-5-308; or

(B) the School Recognition and Reward Program under Section 53E-5-307.

(4) If a low performing school does not meet exit criteria after the school's final remedial year or the last school year of the extension period, the state board may intervene by:

(a) restructuring a district school, which may include:

(i) contract management;

(ii) conversion to a charter school; or

(iii) state takeover;

(b) restructuring a charter school by:

(i) terminating a school's charter agreement;

(ii) closing a charter school; or

(iii) transferring operation and control of the charter school to:

(A) a high performing charter school; or

(B) the school district in which the charter school is located; or

(c) other appropriate action as determined by the state board.

**CHAPTER 147****H. B. 423**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**CONTROLLED SUBSTANCES  
 DATABASE ACT AMENDMENTS**

Chief Sponsor: Brad M. Daw  
 Senate Sponsor: Ronald Winterton

**LONG TITLE****General Description:**

This bill adds pharmacy interns and technicians to persons with access to the Controlled Substance Database.

**Highlighted Provisions:**

This bill:

- ▶ adds pharmacy interns and technicians under the supervision of a licensed pharmacist to those allowed to access the Controlled Substance Database; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 58-37f-203, as last amended by Laws of Utah 2019, Chapter 59  
 58-37f-301, as last amended by Laws of Utah 2018, Chapter 123  
 58-37f-303, as enacted by Laws of Utah 2016, Chapter 112  
 58-37f-304, as last amended by Laws of Utah 2019, Chapter 128

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

**Section 1. Section 58-37f-203 is amended to read:**

**58-37f-203. Submission, collection, and maintenance of data.**

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) [(i)] On and after January 1, 2016, a pharmacist shall comply with either:

[(A)] (i) the submission time requirements established by the division under Subsection (1)(a)(i); or

[(B)] (ii) the submission time requirements established by the division under Subsection (1)(a)(ii).

[(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).]

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

- (i) the requirements of this section;
- (ii) the procedures established by the division;
- (iii) additional types of information or data fields established by the division; and
- (iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) (a) The pharmacist-in-charge and the pharmacist described in Subsection (2)(b) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision [other than those dispensed for an inpatient at a health care facility], submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6) regarding:

(i) each controlled substance that is dispensed by the pharmacist or under the pharmacist's supervision; and

(ii) each noncontrolled substance that is:

(A) designated by the division under Subsection (8)(a); and

(B) dispensed by the pharmacist or under the pharmacist's supervision.

(b) Subsection (3)(a) does not apply to a drug that is dispensed for [an inpatient] administration to, or use by, a patient at a health care facility.

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days,

the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

- (a) electronic format;
- (b) submission procedures; and
- (c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

- (a) the identification of each individual who requests or receives information from the database;
- (b) the information provided to each individual; and
- (c) the date and time that the information is requested or provided.

(8) (a) The division, in collaboration with the Utah Controlled Substance Advisory Committee created in Section 58-38a-201, shall designate a list of noncontrolled substances described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) To determine whether a prescription drug should be designated in the schedules of controlled substances under this chapter, the division may collect information about a prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of controlled substances under this chapter.

**Section 2. Section 58-37f-301 is amended to read:**

**58-37f-301. Access to database.**

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (a) effectively enforce the limitations on access to the database as described in this part; and
- (b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

- (a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

(d) a member of a diversion committee established in accordance with Subsection 58-1-404(2) if:

(i) the diversion committee member is limited to obtaining information from the database regarding the person whose conduct is the subject of the committee's consideration; and

(ii) the conduct that is the subject of the committee's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

(e) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; ~~and~~

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance, or a licensed pharmacy intern or pharmacy technician working under the general supervision of a licensed pharmacist, to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; [ø]r

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the [pharmacist] pharmacy, practitioner, or health care facility; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the [pharmacist] pharmacy, practitioner, or health care facility;

(iii) reporting to the controlled substance database; or

(iv) verifying the accuracy of the data submitted to the controlled substance database on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy technician is employed;

~~[(l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(j)(i) or (ii), if:]~~

~~[(i) the employee is designated by the pharmacist in charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;]~~

~~[(ii) the pharmacist in charge provides written notice to the division of the identity of the employee; and]~~

~~[(iii) the division:]~~

~~[(A) grants the employee access to the database; and]~~

~~[(B) provides the employee with a password that is unique to that employee to access the database in~~

~~order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;]~~

~~[(m)] (l) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:~~

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

~~[(n)] (m) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;~~

~~[(o)] (n) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;~~

~~[(p)] (o) a mental health therapist, if:~~

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)[(p)](o)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)[(p)](o)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)[(p)](o)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)[(p)](o), from the database;

~~[(q)] (p) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;~~

~~[(r)] (q) an individual under Subsection (2)[(q)](p) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);~~

~~(s)~~ (r) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

~~(t)~~ (s) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment; and

~~(u)~~ (t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities.

(3) (a) ~~(i)~~ A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

~~(ii) A pharmacist described in Subsection (2)(k) who is a pharmacist in charge may designate up to five employees to access information from the database under Subsection (2)(l).]~~

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency department of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed or privileged to work in the emergency department;

(ii) is treating an emergency department patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the ~~practitioner~~ hospital as an individual authorized to access the information on behalf of the emergency department practitioner;

(ii) ~~the practitioner and~~ the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database ~~in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee~~.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division

discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(~~n~~)(m).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

**Section 3. Section 58-37f-303 is amended to read:**

**58-37f-303. Access to opioid prescription information via an electronic data system.**

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "EDS user":

(i) means:

(A) a prescriber;

(B) a pharmacist; ~~or~~

(C) a pharmacist intern;

(D) a pharmacist technician; or

~~(C)~~ (E) an individual granted access to the database under Subsection 58-37f-301(3)(c); and

(ii) does not mean an individual whose access to the database has been revoked by the division pursuant to Subsection 58-37f-301(5)(~~b~~)(c).

(c) "Electronic data system" means a software product or an electronic service used by:

(i) a prescriber to manage electronic health records; or

(ii) a pharmacist, pharmacy intern, or pharmacy technician working under the general supervision of a licensed pharmacist to manage the dispensing of prescription drugs.

(d) "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is licensed under Section 58-37-6 to prescribe an opioid.

(g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division shall make opioid prescription information in the database available to an EDS user via the user's electronic data system.

(3) An electronic data system may be used to make opioid prescription information in the database available to an EDS user only if the electronic data system complies with rules established by the division under Subsection (4).

(4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(i) an electronic data system's:

(A) allowable access to and use of opioid prescription information in the database; and

(B) minimum actions that must be taken to ensure that opioid prescription information accessed from the database is protected from inappropriate disclosure or use; and

(ii) an EDS user's:

(A) allowable access to opioid prescription information in the database via an electronic data system; and

(B) allowable use of the information.

(b) The rules shall establish:

(i) minimum user identification requirements that in substance are the same as the database identification requirements in Section 58-37f-301;

(ii) user access restrictions that in substance are the same as the database identification requirements in Section 58-37f-301; and

(iii) any other requirements necessary to ensure that in substance the provisions of Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database that has been made available to an EDS user via an electronic data system.

(5) The division may not make opioid prescription information in the database available to an EDS user via the user's electronic data system if:

(a) the electronic data system does not comply with the rules established by the division under Subsection (4); or

(b) the EDS user does not comply with the rules established by the division under Subsection (4).

(6) (a) The division shall periodically audit the use of opioid prescription information made available to an EDS user via the user's electronic data system.

(b) The audit shall review compliance by:

(i) the electronic data system with rules established by the division under Subsection (4); and

(ii) the EDS user with rules established by the division under Subsection (4).

(c) (i) If the division determines by audit or other means that an electronic data system is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the electronic data system's access to opioid prescription information in the database.

(ii) If the division determines by audit or other means that an EDS user is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the EDS user's access to opioid prescription information in the database via an electronic data system.

(iii) If the division suspends or revokes access to opioid prescription information in the database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other appropriate corrective or disciplinary action authorized by this chapter or title.

**Section 4. Section 58-37f-304 is amended to read:**

**58-37f-304. Database utilization.**

(1) As used in this section:

(a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, ~~or~~ the pharmacist's licensed intern, as described in Section 58-17b-304, or licensed pharmacy technician, as described in Section 58-17b-305, working under the supervision of a licensed pharmacist who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c) that are opioids.

(2) (a) A prescriber shall check the database for information about a patient before the first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.

(b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the prescriber shall periodically review information about the patient in:

(i) the database; or

(ii) other similar records of controlled substances the patient has filled.

(c) A prescriber may assign the access and review required under Subsection (2)(a) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

(d) (i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by checking an electronic health record system if the electronic health record system:

(A) is connected to the database through a connection that has been approved by the division; and

(B) displays the information from the database in a prominent manner for the prescriber.

(ii) The division may not approve a connection to the database if the connection does not satisfy the requirements established by the division under Section 58-37f-301.

(e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the failure to comply with Subsection (2)(a) or (b):

(i) is necessary due to an emergency situation;

(ii) is caused by a suspension or disruption in the operation of the database; or

(iii) is caused by a failure in the operation or availability of the Internet.

(f) The division may not take action against the license of a prescriber for failure to comply with this Subsection (2) unless the failure occurs after the earlier of:

(i) December 31, 2018; or

(ii) the date that the division has the capability to establish a connection that meets the requirements established by the division under Section 58-37f-301 between the database and an electronic health record system.

(3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

(a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

(b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the



database, for prescribers and dispensers whose individual utilization of the database, as determined by the division, demonstrates substantial compliance with this section.

(4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

(5) (a) The division shall review the database to identify any prescriber who has a pattern of prescribing opioids not in accordance with the recommendations of:

(i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the Centers for Disease Control and Prevention;

(ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain, published by the Department of Health; or

(iii) other publications describing best practices related to prescribing opioids as identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Physicians Licensing Board.

(b) The division shall offer education to a prescriber identified under this Subsection (5) regarding best practices in the prescribing of opioids.

(c) A decision by a prescriber to accept or not accept the education offered by the division under this Subsection (5) is voluntary.

(d) The division may not use an identification the division has made under this Subsection (5) or the decision by a prescriber to accept or not accept education offered by the division under this Subsection (5) in a licensing investigation or action by the division.

(e) Any record created by the division as a result of this Subsection (5) is a protected record under Section 63G-2-305.

(6) The division may consult with a prescriber or health care system to assist the prescriber or health care system in following evidence-based guidelines regarding the prescribing of controlled substances, including the recommendations listed in Subsection (5)(a).

**CHAPTER 148****H. B. 425**

Passed March 12, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**MEDICAL CANNABIS MODIFICATIONS**

Chief Sponsor: Jennifer Dailey-Provost  
Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill amends provisions regarding medical cannabis.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ broadens the definition of a “research university” for purposes of academic medical cannabis research;
- ▶ amends a provision regarding disclosure of ownership interest for cannabis production establishments and medical cannabis pharmacies;
- ▶ amends provisions regarding licensing agencies giving consideration to existing license holders when granting additional licenses in certain circumstances;
- ▶ removes a provision limiting the size of signage for cannabis production establishments and medical cannabis pharmacies;
- ▶ identifies the material cannabis cultivation facilities may acquire from industrial hemp cultivators and processors;
- ▶ amends agency reporting requirements to include information regarding testing of cannabis and cannabis products;
- ▶ provides certain immunity from liability for employees and agents of healthcare facilities in certain circumstances;
- ▶ lengthens the validity of an initial medical cannabis card;
- ▶ allows a patient to renew a medical cannabis card for a longer period in certain circumstances;
- ▶ allows an individual physically present with a medical cannabis patient cardholder in an emergency medical condition to handle medical cannabis to assist the patient in the administration of the medical cannabis;
- ▶ allows an individual with a certain letter from a medical professional to purchase medical cannabis from a medical cannabis pharmacy during the 2020 calendar year; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

4-41a-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
4-41a-201, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

4-41a-403, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
4-41a-501, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
4-41a-802, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1  
26-61a-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-107, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-201, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-301, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-502, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-505, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

**Utah Code Sections Affected by Coordination Clause:**

4-41a-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
4-41a-201, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-107, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-301, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
26-61a-502, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

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

**Section 1. Section 4-41a-102 is amended to read:****4-41a-102. Definitions.**

As used in this chapter:

(1) “Active tetrahydrocannabinol” means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

[4] (2) “Cannabis” means the same as that term is defined in Section 26-61a-102.

[2] (3) “Cannabis cultivation facility” means a person that:

- (a) possesses cannabis;
- (b) grows or intends to grow cannabis; and
- (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

[3] (4) “Cannabis cultivation facility agent” means an individual who:

- (a) is an employee of a cannabis cultivation facility; and
- (b) holds a valid cannabis production establishment agent registration card.

[4] (5) “Cannabis processing facility” means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

~~[(5)]~~ (6) “Cannabis processing facility agent” means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

~~[(6)]~~ (7) “Cannabis product” means the same as that term is defined in Section 26-61a-102.

~~[(7)]~~ (8) “Cannabis production establishment” means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

~~[(8)]~~ (9) “Cannabis production establishment agent” means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

~~[(9)]~~ (10) “Cannabis production establishment agent registration card” means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

~~[(10)]~~ (11) “Community location” means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

~~[(11)]~~ (12) “Department” means the Department of Agriculture and Food.

~~[(12)]~~ (13) “Family member” means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

~~[(13)]~~ (14) “Independent cannabis testing laboratory” means a person that:

(a) conducts a chemical or other analysis of cannabis or a cannabis product; or

(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

~~[(14)]~~ (15) “Independent cannabis testing laboratory agent” means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

~~[(15)]~~ (16) “Inventory control system” means a system described in Section 4-41a-103.

~~[(16)]~~ (17) “Medical cannabis” means the same as that term is defined in Section 26-61a-102.

~~[(17)]~~ (18) “Medical cannabis card” means the same as that term is defined in Section 26-61a-102.

~~[(18)]~~ (19) “Medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.

~~[(19)]~~ (20) “Medical cannabis pharmacy agent” means the same as that term is defined in Section 26-61a-102.

~~[(20)]~~ (21) “Medical cannabis research license” means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

~~[(21)]~~ (22) “Medical cannabis research licensee” means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

~~[(22)]~~ (23) “Medical cannabis treatment” means the same as that term is defined in Section 26-61a-102.

~~[(23)]~~ (24) “Medicinal dosage form” means the same as that term is defined in Section 26-61a-102.

~~[(24)]~~ (25) “Qualified medical provider” means the same as that term is defined in Section 26-61a-102.

~~[(25)]~~ (26) “Qualified Production Enterprise Fund” means the fund created in Section 4-41a-104.

~~[(26)]~~ (27) “Research university” means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

~~[(27)]~~ (28) “State electronic verification system” means the system described in Section 26-61a-103.

~~[(28)]~~ (29) “Tetrahydrocannabinol” means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

~~[(29)]~~ (30) “Total composite tetrahydrocannabinol”

means ~~[delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid]~~ all detectable forms of tetrahydrocannabinol.

**Section 2. Section 4-41a-201 is amended to read:**

**4-41a-201. Cannabis production establishment -- License.**

(1) A person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205:

(A) for a licensing process that the department initiated before September 23, 2019, the department shall use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, to review and rank applications for a cannabis production establishment license; and

(B) for a licensing process that the department initiates after September 23, 2019, the department shall issue a license to operate a cannabis production establishment in accordance with the procedures described in Subsection (2)(a)(iii).

(ii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment; [æ]

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

~~(B)~~ (C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department approves;

(iv) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or

(B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the department approves an application for a license under this section:

(a) the applicant shall pay the department an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The department may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, ~~or~~ the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act, the department:

~~(a)~~ (i) shall consult with the Department of Health regarding the applicant ~~[if the license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act]; and~~

~~(b)~~ (ii) may ~~not~~ give ~~preference~~ consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license ~~[described in this Subsection (8).] if:~~

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The department may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the department issues the initial license;

(b) after the cannabis production establishment makes the same violation of this chapter three times;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; or

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application.

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the department may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a license to an applicant is not subject to:

- (i) Title 63G, Chapter 6a, Part 16, Protests; or
- (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

**Section 3. Section 4-41a-403 is amended to read:**

**4-41a-403. Advertising.**

(1) Except as provided in Subsection (2), (3), or (4), a cannabis production establishment may not advertise to the general public in any medium.

(2) A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.

(3) A cannabis production establishment may maintain a website that:

(a) contains information about the establishment and employees; and

(b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(4) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

(a) includes only:

(i) the cannabis production establishment's name and hours of operation; and

(ii) a green cross; and

~~[(b) does not exceed four feet by five feet in size; and]~~

~~[(e)]~~ (b) complies with local ordinances regulating signage.

**Section 4. Section 4-41a-501 is amended to read:**

**4-41a-501. Cannabis cultivation facility -- Operating requirements.**

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the cannabis cultivation facility's inventory control system to identify:

(a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

(3) In a cannabis cultivation facility's acquisition of material related to cannabis cultivation, a cannabis cultivation facility may acquire industrial hemp, an industrial hemp product, or industrial hemp waste from an industrial hemp cultivator or processor.

**Section 5. Section 4-41a-802 is amended to read:**

**4-41a-802. Report.**

(1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications that the department receives under this chapter;

(b) the number of each type of cannabis production facility that the department licenses in each county;

(c) the amount of cannabis that licensees grow;

(d) the amount of cannabis that licensees manufacture into cannabis products;

(e) the number of licenses the department revokes under this chapter; ~~[and]~~

(f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:

(i) the cannabis and cannabis products the department tested; and

(ii) the results of the tests the department performed; and

~~[(f)]~~ (g) the expenses incurred and revenues generated under this chapter.

(2) The department may not include personally identifying information in the report described in this section.

**Section 6. Section 26-61a-102 is amended to read:**

**26-61a-102. Definitions.**

As used in this chapter:

(1) "Blister" means a plastic cavity or pocket used to contain no more than a single dose of cannabis or a cannabis product in a blister pack.

(2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each containing no more than a single dose of cannabis or a cannabis product.

(3) "Cannabis" means marijuana.

(4) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(5) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(6) "Cannabis product" means a product that:

- (a) is intended for human use; and
- (b) contains cannabis or tetrahydrocannabinol.
- (7) “Cannabis production establishment” means the same as that term is defined in Section 4-41a-102.
- (8) “Cannabis production establishment agent” means the same as that term is defined in Section 4-41a-102.
- (9) “Cannabis production establishment agent registration card” means the same as that term is defined in Section 4-41a-102.
- (10) “Community location” means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.
- (11) “Department” means the Department of Health.
- (12) “Designated caregiver” means an individual:
- (a) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient’s caregiver; and
- (b) who registers with the department under Section 26-61a-202.
- (13) “Dosing [~~parameters,~~] guidelines” means a quantity [~~, routes,~~] range and frequency of administration for a recommended treatment of medical cannabis [~~in a medicinal dosage form or a cannabis product in a medicinal dosage form~~].
- (14) “Financial institution” means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.
- (15) “Home delivery medical cannabis pharmacy” means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy’s license, to deliver medical cannabis shipments to a medical cannabis cardholder’s home address to fulfill electronic orders that the state central patient portal facilitates.
- (16) “Independent cannabis testing laboratory” means the same as that term is defined in Section 4-41a-102.
- (17) “Inventory control system” means the system described in Section 4-41a-103.
- (18) “Legal dosage limit” means an amount that:
- (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant qualified medical provider or the pharmacy medical provider, in accordance with Subsection 26-61a-201(4) or (5), recommends; and
- (b) may not exceed:
- (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

- (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.
- [(18)] (19) “Marijuana” means the same as that term is defined in Section 58-37-2.
- [(19)] (20) “Medical cannabis” means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
- [(20)] (21) “Medical cannabis card” means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.
- [(21)] (22) “Medical cannabis cardholder” means a holder of a medical cannabis card.
- [(22)] (23) “Medical cannabis caregiver card” means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:
- (a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and
- (b) is connected to the electronic verification system.
- [(23)] (24) “Medical cannabis courier” means a courier that:
- (a) the department licenses in accordance with Section 26-61a-604; and
- (b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.
- [(24)] (25) (a) “Medical cannabis device” means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
- (b) “Medical cannabis device” does not include a device that:
- (i) facilitates cannabis combustion; or
- (ii) an individual uses to ingest substances other than cannabis.
- [(25)] (26) “Medical cannabis guardian card” means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:
- (a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and
- (b) is connected to the electronic verification system.
- [(26)] (27) “Medical cannabis patient card” means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:
- (a) the department issues to an individual with a qualifying condition; and
- (b) is connected to the electronic verification system.

~~[(27)]~~ (28) “Medical cannabis pharmacy” means a person that:

(a) (i) acquires or intends to acquire:

(A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or

(B) a medical cannabis device; or

(ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

~~[(28)]~~ (29) “Medical cannabis pharmacy agent” means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

~~[(29)]~~ (30) “Medical cannabis pharmacy agent registration card” means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

~~[(30)]~~ (31) “Medical cannabis shipment” means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder’s home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

~~[(31)]~~ (32) “Medical cannabis treatment” means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

~~[(32)]~~ (33) (a) “Medicinal dosage form” means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) for use only after the individual’s qualifying condition has failed to substantially respond to at least two other forms described in this Subsection (32)(a)(i), a resin or wax;

(ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

(A) containing a specific and consistent weight that does not exceed one gram and that varies by no more than 10% from the stated weight; and

(B) after December 31, 2020, labeled with a barcode that provides information connected to an inventory control system and the individual blister’s content and weight; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) “Medicinal dosage form” includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the blister pack described in Subsection (32)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (32)(a)(ii).

(c) “Medicinal dosage form” does not include:

(i) any unprocessed cannabis flower outside of the blister pack, except as provided in Subsection (32)(b); or

(ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

~~[(33)]~~ (34) “Payment provider” means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

~~[(34)]~~ (35) “Pharmacy medical provider” means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

~~[(35)]~~ (36) “Provisional patient card” means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a qualified medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor’s parent or legal guardian; and

(b) is connected to the electronic verification system.

~~[(36)]~~ (37) “Qualified medical provider” means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

~~[(37)]~~ (38) “Qualified Patient Enterprise Fund” means the enterprise fund created in Section 26-61a-109.

~~[(38)]~~ (39) “Qualifying condition” means a condition described in Section 26-61a-104.

~~[(39)]~~ (40) “State central patient portal” means the website the department creates, in accordance



with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

[40] (41) “State central patient portal medical provider” means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.

[41] (42) “State electronic verification system” means the system described in Section 26-61a-103.

[42] (43) “Valid form of photo identification” means a valid United States federal- or state-issued photo identification, including:

- (a) a driver license;
- (b) a United States passport;
- (c) a United States passport card; or
- (d) a United States military identification card.

**Section 7. Section 26-61a-107 is amended to read:**

**26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No private right of action.**

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

- (a) civil or criminal liability; or
- (b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; and

(B) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

(ii) before January 1, 2021, who:

(A) has the authority to write a prescription; and

(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider; and

(ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

(4) (a) As used in this Subsection (4), “healthcare facility” means the same as that term is defined in Section 26-21-2.

(b) A healthcare facility may adopt restrictions on the possession, use, and storage of medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder who resides at or is actively receiving treatment or care at the healthcare facility.

(c) An employee or agent of a healthcare facility described in this Subsection (4) is not subject to civil or criminal liability for carrying out employment duties, including:

(i) providing or supervising care to a medical cannabis cardholder; or

(ii) in accordance with a caregiver designation under Section 26-61a-201 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing medical cannabis for the relevant patient and in accordance with the designation.

(d) Nothing in this section requires a healthcare facility to adopt a restriction under Subsection (4)(b).

**Section 8. Section 26-61a-201 is amended to read:**

**26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.**

(1) On or before March 1, 2020, the department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(a) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(b) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(c) issue a provisional patient card to a minor described in Subsection (2)(c); and

(d) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) the minor's parent or legal guardian petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b).

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending qualified medical provider while in the recommending qualified medical provider's office; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; and

(B) any adult who is 21 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated

medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment, ~~including in the event of an emergency medical condition under Subsection 26-61a-204(2).~~; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use; and

(b) state in the qualified medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the qualified medical provider determines; or

(ii) (A) for the first issuance, [30] 90 days; [ø]

(B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months[.]; or

(C) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the qualified medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending qualified medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the compassionate use board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the

recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(9) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(10) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (10)(a) to determine whether an institutional review board, as that term

is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (10)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (10), information about a cardholder under this section who consents to participate under Subsection (10)(c).

(f) If an individual withdraws consent under Subsection (10)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 9. Section 26-61a-301 is amended to read:**

**26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; ~~or~~

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis ~~[production establishment]~~ pharmacy;

(iii) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least \$125,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after the effective date of this bill until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, ~~or~~ the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis Production Establishments, the department:

~~[(a)]~~ (i) shall consult with the Department of Agriculture and Food regarding the applicant; and

~~[(b)]~~ (ii) may ~~not~~ give ~~[preference]~~ consideration to the applicant based on the applicant's status as a holder of a license ~~[described in this Subsection (5)].~~ to operate a cannabis cultivation facility if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6) The department may revoke a license under this part if:

(a) the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis pharmacy makes the same violation of this chapter three times;

(c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; or

(d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy of the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

**Section 10. Section 26-61a-502 is amended to read:**

**26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.**

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card; [and] or

(B) until December 31, 2020, a letter from a medical provider in accordance with Subsection (10); and

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(2) A medical cannabis pharmacy may not dispense:

(a) to a medical cannabis cardholder or to an individual described in Subsection (10)(b) in any one 28-day period, more than the lesser of:

(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

(b) to an individual whose qualified medical provider, or for an individual described in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i), did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis [or cannabis products].

(3) An individual with a medical cannabis card or an individual described in Subsection (10)(a) may not purchase:

(a) more cannabis or cannabis products than the amounts designated in Subsection (2) in any one 28-day period; or

(b) if the relevant qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis [or cannabis products].

(4) If a qualified medical provider recommends treatment with medical cannabis [or a cannabis product] but does not provide dosing parameters:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with medical cannabis [~~and cannabis products~~]; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis [~~in a medicinal dosage form or a cannabis product in a medicinal dosage form~~], the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show dosing parameters from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) dosing parameters; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the dosing parameters determined under Subsection (5)(a) in the pertinent medical records.

(6) A medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis [~~or cannabis products~~] described in Subsection (2); and

(ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the sale; and

(B) notify the qualified medical provider who made the underlying recommendation;

(b) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis [~~or a~~

~~cannabis product~~] to a medical cannabis cardholder;

(c) package any medical cannabis [~~or cannabis product~~] that is in a blister pack in a container that:

(i) complies with Subsection 4-41a-602(2);

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

(d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(8) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).

(9) The department may impose a uniform fee on each medical cannabis [~~cardholder~~] transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(10) (a) Except as provided in Subsection (10)(b), until December 31, 2020, an individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from a licensed medical cannabis pharmacy if:

(i) the individual presents to the medical cannabis pharmacy a letter from the medical professional described in Subsection 58-37-3.7(2)(a)(i)(B) that indicates the medical professional's medical cannabis recommendation for the individual;

(ii) the medical cannabis pharmacy receives independent confirmation from the medical professional described in Subsection (10)(a)(i) or an employee of the medical professional that the letter is valid;

(iii) the medical cannabis pharmacy:

(A) scans or photocopies the individual's letter and the individual's valid form of photo identification;

(B) creates a record of the transaction, including the documents described in Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis the individual purchased; and

(C) provides information to the individual about obtaining a medical cannabis card; and

(iv) unless the medical professional recommends specific directions of using and dosing guidelines in

the letter, the pharmacy medical provider determines the best course of treatment through consultation with the individual regarding:

(A) the individual's qualifying condition underlying the recommendation from the medical professional;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

(b) (i) An individual who purchases medical cannabis from a medical cannabis pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different medical cannabis pharmacy under Subsection (10)(a).

(ii) If the department notifies a medical cannabis pharmacy, in accordance with Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a) from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an item listed in Subsection (1)(a) to the individual under Subsection (10)(a).

(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the individual is a medical cannabis cardholder.

(c) (i) Until December 31, 2020, on or before the first day of each month, each medical cannabis pharmacy shall provide to the department, in a secure manner, information identifying each individual who has purchased medical cannabis from the medical cannabis pharmacy under Subsection (10)(a).

(ii) The department shall review information the department receives under Subsection (10)(c)(i) to identify any individuals who:

(A) have purchased medical cannabis under Subsection (10)(a) from more than one pharmacy; or

(B) hold a medical cannabis card.

(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the department shall notify each medical cannabis pharmacy regarding:

(A) the identification of the individual; and

(B) the individual's ineligibility to purchase medical cannabis for a reason described in Subsection (10)(b).

### **Section 11. Section 26-61a-505 is amended to read:**

#### **26-61a-505. Advertising.**

(1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy may not advertise in any medium.

(2) Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

(a) includes only:

(i) the medical cannabis pharmacy's name and hours of operation; and

(ii) a green cross; and

~~(b) does not exceed four feet by five feet in size; and~~

~~(e) (b) complies with local ordinances regulating signage.~~

(3) A medical cannabis pharmacy may maintain a website that includes information about:

(a) the location and hours of operation of the medical cannabis pharmacy;

(b) a product or service available at the medical cannabis pharmacy;

(c) personnel affiliated with the medical cannabis pharmacy;

(d) best practices that the medical cannabis pharmacy upholds; and

(e) educational material related to the medical use of cannabis.

### **Section 12. Effective date.**

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

### **Section 13. Coordinating H.B. 425 with S.B. 121 -- Substantive and technical amendments.**

If this H.B. 425 and S.B. 121, Medical Cannabis Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) the amendments to Section 4-41a-102 regarding the definition of "cannabis cultivation facility" in this bill supersede the amendments to Section 4-41a-102 regarding the definition of "cannabis cultivation facility" in S.B. 121;

(2) the amendments to Subsection 4-41a-201(8) in this bill supersede the amendments to Subsection 4-41a-201(8) in S.B. 121;

(3) the amendments to Section 26-61a-102 regarding the definition of "legal dosage limit" in this bill supersede the amendments to Section 26-61a-102 regarding the definition of "legal dosage limit" in S.B. 121;

(4) the amendments to Section 26-61a-107 in this bill supersede the amendments to Section 26-61a-107 in S.B. 121;

(5) the amendments to Subsection 26-61a-301(5) in this bill supersede the amendments to Subsection 26-61a-301(5) in S.B. 121; and



(6) Subsection 26-61a-502(1)(b) is amended to read:

“(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card; ~~and~~

(B) a department registration described in Subsection 26-61a-202(10); or

(C) until December 31, 2020, a letter from a medical provider in accordance with Subsection (10); and”.

**CHAPTER 149****H. B. 435**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**CRIME VICTIM REPARATIONS AND ASSISTANCE BOARD AMENDMENTS**

Chief Sponsor: Brian S. King  
 Senate Sponsor: Derek L. Kitchen

**LONG TITLE****General Description:**

This bill modifies provisions relating to the Utah Office for Victims of Crime and the Crime Victim Reparations and Assistance Board.

**Highlighted Provisions:**

This bill:

- ▶ creates and modifies definitions;
- ▶ modifies the circumstances under which an individual is ineligible to receive a reparations award from the Utah Office for Victims of Crime;
- ▶ clarifies provisions relating to the total amount the Utah Office for Victims of Crime may provide to a victim as a reparations award;
- ▶ modifies provisions relating to assignment of claims and reimbursements for criminally injurious conduct made to the Utah Office for Victims of Crime;
- ▶ prohibits a medical service provider from seeking collection from a victim before a reparations award is determined by the Utah Office for Victims of Crime;
- ▶ tolls the statute of limitations for an action by a medical service provider while the Utah Office for Victims of Crime determines issuance of a reparations award; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 63M-7-502, as last amended by Laws of Utah 2019, Chapter 297
- 63M-7-503, as last amended by Laws of Utah 2015, Chapter 147
- 63M-7-505, as last amended by Laws of Utah 2011, Chapter 131
- 63M-7-506, as last amended by Laws of Utah 2011, Chapter 131
- 63M-7-507, as last amended by Laws of Utah 2011, Chapter 131
- 63M-7-508, as last amended by Laws of Utah 2011, Chapter 131
- 63M-7-509, as last amended by Laws of Utah 2008, Chapter 339 and renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-510, as last amended by Laws of Utah 2013, Chapter 118
- 63M-7-511, as last amended by Laws of Utah 2011, Chapter 342

- 63M-7-511.5, as enacted by Laws of Utah 2008, Chapter 339
- 63M-7-512, as last amended by Laws of Utah 2008, Chapter 339 and renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-513, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-514, as last amended by Laws of Utah 2011, Chapters 131 and 342
- 63M-7-515, as last amended by Laws of Utah 2011, Chapter 131
- 63M-7-516, as last amended by Laws of Utah 2011, Chapter 131
- 63M-7-517, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-518, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-519, as last amended by Laws of Utah 2008, Chapter 339 and renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-521, as last amended by Laws of Utah 2008, Chapter 339 and renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-521.5, as enacted by Laws of Utah 2008, Chapter 339
- 63M-7-522, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-523, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-524, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-7-525, as last amended by Laws of Utah 2011, Chapter 131

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

**Section 1. Section 63M-7-502 is amended to read:****63M-7-502. Definitions.**

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

(1) "Accomplice" means ~~[a person]~~ an individual who has engaged in criminal conduct as [defined] described in Section 76-2-202.

(2) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

~~[(4) "Claim" means:]~~

~~[(a) the victim's application or request for a reparations award; and]~~

~~[(b) the formal action taken by a victim to apply for reparations pursuant to this chapter.]~~

~~[(5)]~~ (4) "Claimant" means any of the following claiming a reparations award under this [chapter] part:

(a) a victim;

(b) a dependent of a deceased victim; or

~~[(c) a representative other than a collateral source; or (d) the person]~~

(c) an individual or representative who files a reparations claim on behalf of a victim.

~~[(6)]~~ (5) “Child” means an unemancipated person individual who is under 18 years of age.

~~[(7)]~~ (6) “Collateral source” means [the definition as provided in Section 63M-7-513.] any source of benefits or advantages for economic loss otherwise repairable under this part which the victim or claimant has received, or which is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers’ compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran’s benefits, including veteran’s hospitalization benefits.

~~[(8) “Contested case” means a case which the claimant contests, claiming the award was either inadequate or denied, or which a county attorney, a district attorney, a law enforcement officer, or other individual related to the criminal investigation proffers reasonable evidence of the claimant’s lack of cooperation in the prosecution of a case after an award has already been given.]~~

~~[(9)]~~ (7) (a) “Criminally injurious conduct” other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the [person] individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause

bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

(b) “Criminally injurious conduct” includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. “Terrorism” does not include an “act of war” as defined in 18 U.S.C. Sec. 2331.

(c) “Criminally injurious conduct” includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of [a person] an individual resulting from living in a setting that involves a bigamous relationship.

~~[(10)]~~ (8) “Dependent” means a natural person to whom the victim is wholly or partially legally responsible for care or support and includes a child of the victim born after the victim’s death.

~~[(11)]~~ (9) “Dependent’s economic loss” means loss after the victim’s death of contributions of things of economic value to the victim’s dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim’s death.

~~[(12)]~~ (10) “Dependent’s replacement services loss” means loss reasonably and necessarily incurred by the dependent after the victim’s death in obtaining services in lieu of those the decedent would have performed for the victim’s benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim’s death and not subtracted in calculating the dependent’s economic loss.

~~[(13)]~~ (11) “Director” means the director of the [Utah Office for Victims of Crime] office.

(12) “Disposition” means the sentencing or determination of penalty or punishment to be imposed upon [a person] an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

~~[(14)]~~ (13) (a) “Economic loss” means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent’s economic loss and dependent’s replacement service loss. [Noneconomic detriment is not loss, but]

(b) “Economic loss” includes economic detriment [is loss although] even if caused by pain and suffering or physical impairment.

(c) “Economic loss” does not include noneconomic detriment.

~~[(15)]~~ (14) “Elderly victim” means [a person] an individual 60 years of age or older who is a victim.

~~[(16)]~~ (15) “Fraudulent claim” means a [filed] reparations claim based on material

misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible ~~as provided in Section 63M-7-510~~.

[418] (16) “Fund” means the Crime Victim Reparations Fund created in Section 51-9-404.

[419] (17) “Law enforcement officer” means a law enforcement officer as defined in Section 53-13-103.

[420] (18) “Medical examination” means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.

[421] (19) “Mental health counseling” means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct ~~—The definition of mental health counseling is~~, subject to rules ~~promulgated~~ made by the board ~~pursuant to~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[422] (20) “Misconduct” as provided in Subsection 63M-7-512(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules ~~promulgated~~ made by the board ~~pursuant to~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[423] (21) “Noneconomic detriment” means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this ~~chapter~~ part.

[424] (22) “Pecuniary loss” does not include loss attributable to pain and suffering except as otherwise provided in this ~~chapter~~ part.

[425] (23) “Offender” means ~~a person~~ an individual who has violated the ~~criminal code~~ Utah Criminal Code through criminally injurious conduct regardless of whether the ~~person~~ individual is arrested, prosecuted, or convicted.

[426] (24) “Offense” means a violation of the ~~criminal code~~ Utah Criminal Code.

(25) “Office” means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

[427] (26) “Perpetrator” means the ~~person~~ individual who actually participated in the criminally injurious conduct.

(27) “Reparations award” means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

(28) “Reparations claim” means a claimant’s request or application made to the office for a reparations award.

[428] (29) “Reparations officer” means ~~a person~~ an individual employed by the office to investigate claims of victims and award reparations under this

~~chapter~~ part, and includes the director when the director is acting as a reparations officer.

[429] (30) “Replacement service loss” means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured ~~person~~ individual would have performed, not for income but the benefit of the injured ~~person~~ individual or the injured ~~person’s~~ individual’s dependents if the injured ~~person~~ individual had not been injured.

[430] (31) “Representative” means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of ~~a person~~ an individual but does not include a service ~~providers~~ provider or collateral source.

[431] (32) “Restitution” means money or services an appropriate authority orders an offender to pay or render to a victim of the offender’s conduct.

[432] (33) “Secondary victim” means ~~a person~~ an individual who is traumatically affected by the criminally injurious conduct subject to rules ~~promulgated~~ made by the board ~~pursuant to~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[433] (34) “Service provider” means ~~a person~~ an individual or agency who provides a service to crime victims for a monetary fee except attorneys as provided in Section 63M-7-524.

(35) “Serious bodily injury” means the same as that term is defined in Section 76-1-601.

(36) “Substantial bodily injury” means the same as that term is defined in Section 76-1-601.

~~[434] “Utah Office for Victims of Crime” or “office” means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this chapter.]~~

[435] (37) (a) “Victim” means ~~a person~~ an individual who suffers bodily or psychological injury or death as a direct result of criminally injurious conduct or of the production of pornography in violation of Section 76-5b-201 if the ~~person~~ individual is a minor.

(b) “Victim” does not include ~~a person~~ an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) “Victim” includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

[436] (38) “Work loss” means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

**Section 2. Section 63M-7-503 is amended to read:**

**63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment of claim for restitution judgment to Reparations Office.**

(1) A reparations award may not supplant restitution as established under Title 77, Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.

(2) The court may not reduce an order of restitution based on a reparations award.

(3) (a) (i) If, due to reparation payments to a victim, the [Utah Office for Victims of Crime] office is assigned under Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the restitution, the office may file with the sentencing court a notice of restitution listing the amounts or estimated future amounts of payments made or anticipated to be made to or on behalf of the victim.

(ii) The [Utah Office for Victims of Crime] office may provide a restitution notice to the victim or victim's representative [prior to] before or at sentencing. [The amount of restitution sought by the office may be updated at any time, subject to the right of the defendant to object. Failure to provide the notice may]

(iii) The office's failure to provide notice under Subsection (3)(a) does not invalidate the imposition of the judgment or order of restitution [provided] if the defendant is given the opportunity to object and be heard as provided in this [chapter] part.

(b) (i) Any objection by the defendant to the imposition or amount of restitution shall be made at the time of sentencing or in writing within 20 days [of the receipt of notice] after the day on which the defendant receives the notice described in Subsection (3)(a), to be filed with the court and a copy mailed to the [Utah Office for Victims of Crime] office.

(ii) Upon the filing of the objection, the court shall allow the defendant a full hearing on the issue [as provided by] in accordance with Subsection 77-38a-302(4).

(iii) The amount of restitution sought by the office may be updated at any time, subject to the right of the defendant to object.

(4) If no objection is made or filed by the defendant under Subsection (3), then upon conviction and sentencing, the court shall enter a judgment for complete restitution [pursuant to the provisions of] under Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned portion of the judgment and order of restitution.

(5) If the notice of restitution is filed after sentencing but during the term of probation or parole, the court or Board of Pardons shall modify any existing civil judgment and order of restitution to include expenses paid by the office on behalf of

the victim and identify the office as the assignee of the assigned portion of the judgment and order of restitution. If no judgment or order of restitution has been entered, the court shall enter a judgment for complete restitution and court-ordered restitution [pursuant to the provisions of] under Sections 77-38a-302 and 77-38a-401.

**Section 3. Section 63M-7-505 is amended to read:**

**63M-7-505. Board and office within Commission on Criminal and Juvenile Justice.**

(1) The [Crime Victim Reparations and Assistance Board] board and the [Utah Office for Victims of Crime] office are placed within the Commission on Criminal and Juvenile Justice for the provision by the commission of administrative and support services.

(2) The board or the director may request assistance from the Commission on Criminal and Juvenile Justice, the Department of Public Safety, and other state agencies in conducting research or monitoring victims' programs.

**Section 4. Section 63M-7-506 is amended to read:**

**63M-7-506. Functions of board.**

(1) The [Crime Victim Reparations and Assistance Board] board shall:

(a) adopt a description of the [organization] office and prescribe the general operation of the board;

(b) prescribe policy for the [Utah Office for Victims of Crime] office;

(c) adopt rules to implement and administer this [chapter pursuant to] part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this [chapter] part, and establishing of rules governing attorney fees;

(d) prescribe forms for applications for reparations;

(e) review all reparations awards made by the reparations staff, although the board may not reverse or modify reparations awards authorized by the reparations staff;

(f) render an annual report to the governor and the Legislature regarding the staff's and the board's activities;

(g) cooperate with the director and the director's staff in formulating standards for the uniform application of Section 63M-7-509, taking into consideration the rates and amounts of reparation payable for injuries and death under other laws of this state and the United States;

(h) allocate money available in the [Crime Victim Reparations Fund] fund to victims of criminally injurious conduct for reparations claims;

(i) allocate money available to other victim services as provided by administrative rule made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, once a sufficient reserve has been established for reparation claims; and

(j) approve the allocation and disbursement of funds made available to the office by the United States, the state, foundations, corporations, or other entities or individuals to subgrantees from private, non-profit, and governmental entities operating qualified statewide assistance programs.

(2) All rules, or other statements of policy, along with application forms specified by the board, are binding upon the director, the reparations officers, assistance officers, and other staff.

**Section 5. Section 63M-7-507 is amended to read:**

**63M-7-507. Director -- Appointment and functions.**

(1) The executive director of the Commission on Criminal and Juvenile Justice, after consulting with the board, shall appoint a director to carry out the provisions of this ~~chapter~~ part.

(2) The director shall:

(a) be an experienced administrator with a background in at least one of the following fields:

(i) social work~~;~~;

(ii) psychology~~;~~;

(iii) criminal justice~~;~~;

(iv) law~~, or a related field~~. The director shall; or

(v) another field related to the fields described in Subsections (2)(a)(i) through (iv);

(b) demonstrate an understanding of the needs of crime victims and of services to victims~~,—The director shall~~; and

(c) devote the director's time and capacity to the director's duties. ~~The~~

(3) In addition to the requirements under Subsection (2), the director shall:

(4) (a) hire staff, including reparations and assistance officers, as necessary;

(2) (b) act when necessary as a reparations officer in deciding an initial ~~claims~~ reparations claim;

(3) (c) possess the same investigation and decision-making authority as the reparations officers;

(4) (d) hear appeals from the decisions of the reparations officers, unless the director acted as a reparations officer on the initial reparations claim;

(5) (e) serve as a liaison between the ~~Utah Office for Victims of Crime~~ office and the board;

(6) (f) serve as the public relations representative of the office;

(7) (g) provide for payment of all administrative salaries, fees, and expenses incurred by the staff of the board, to be paid out of appropriations from the fund;

(8) (h) cooperate with the state treasurer and the state Division of Finance in causing the funds in the ~~trust~~ fund to be invested and ~~its~~ the fund's investments sold or exchanged and the proceeds and income collected;

(9) (i) apply for, receive, allocate, disburse, and account for, subject to approval and in conformance with policies adopted by the board, all grant funds made available by the United States, the state, foundations, corporations, and other businesses, agencies, or individuals;

(10) (j) obtain and utilize the services of other governmental agencies upon request; and

(11) (k) act in any other capacity or perform any other acts necessary for the office or board to successfully fulfill ~~its~~ the office's or board's statutory duties and objectives.

**Section 6. Section 63M-7-508 is amended to read:**

**63M-7-508. Reparations officers.**

The reparations officers shall in addition to any assignments made by the director ~~of the Utah Office for Victims of Crime~~:

(1) hear and determine all matters relating to ~~claims for~~ a reparations claim and reinvestigate or reopen ~~claims~~ a reparations claim without regard to statutes of limitation or periods of prescription;

(2) obtain from prosecuting attorneys, law enforcement officers, and other criminal justice agencies, investigations and data to enable the reparations officer to determine whether and to what extent a claimant qualifies for reparations;

(3) as determined necessary by the reparations officers, hold hearings, administer oaths or affirmations, examine any ~~person~~ individual under oath or affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses, require the production of any books, papers, documents, or other evidence which may contribute to the reparations officer's ability to determine particular reparation awards;

(4) determine who is a victim or dependent;

(5) award reparations or other benefits determined to be due under this ~~chapter~~ part and the rules of the board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(6) take notice of judicially recognized facts and general, technical, and scientific facts within ~~their~~ the reparations officers' specialized knowledge;

(7) advise and assist the board in developing policies recognizing the rights, needs, and interests of crime victims;

(8) render periodic reports as requested by the board concerning:

(a) the reparations officers' activities; and

(b) the manner in which the rights, needs, and interests of crime victims are being addressed by the state's criminal justice system;

(9) establish priorities for assisting elderly victims of crime or those victims facing extraordinary hardships;

(10) cooperate with the State Commission on Criminal and Juvenile Justice to develop information regarding crime victims' problems and programs; and

(11) assist the director in publicizing the provisions of the [~~Utah Office for Victims of Crime~~] office, including the procedures for obtaining reparation, and in encouraging law enforcement agencies, health providers, and other related officials to take reasonable care to ensure that victims are informed about the provisions of this [~~chapter~~] part and the procedure for applying for reparation.

**Section 7. Section 63M-7-509 is amended to read:**

**63M-7-509. Grounds for eligibility.**

[~~In order to be~~] (1) A victim is eligible for a reparations award under this [~~chapter~~] part if:

[~~(1) The claimant shall be:~~]

(a) the claimant is:

[~~(a)~~] (i) a victim of criminally injurious conduct;

[~~(b)~~] (ii) a dependent of a deceased victim of criminally injurious conduct; or

[~~(c)~~] (iii) a representative acting on behalf of one of the above[.];

[~~(2) (a) The~~] (b) (i) the criminally injurious conduct [shall have] occurred in Utah[, except as provided in Subsection (2)(b). (b) If; or

(ii) the victim is a Utah resident who suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country [which] that does not provide a crime victims' compensation program[, that person shall receive the same consideration under this chapter as if the criminally injurious conduct occurred in this state.] (3) ~~The application shall be;~~

(c) the application is made in writing in a form that conforms substantially to that prescribed by the board[. (4) The];

(d) the criminally injurious conduct [shall be] is reported to a law enforcement officer, in the law enforcement officer's capacity as a law enforcement officer, or [other] another federal or state investigative [agencies. (5) (a) The claimant or victim shall cooperate] agency;

(e) the claimant or victim cooperates with the appropriate law enforcement agencies and prosecuting attorneys in [their] efforts to apprehend or convict the perpetrator of the alleged offense[.]; and

[~~(b) An award to a victim may be made whether any person is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to the claim. (6) The]~~

(f) the criminally injurious conduct [shall have] occurred after December 31, 1986.

(2) A reparations award may be made to a victim regardless of whether any individual is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to a reparations claim.

**Section 8. Section 63M-7-510 is amended to read:**

**63M-7-510. Ineligible individuals --  
Fraudulent reparations claims --  
Penalties.**

(1) The following individuals are not eligible to receive [~~an award of~~] a reparations award:

(a) [~~persons who do~~] an individual who does not meet all of the provisions set forth in Section 63M-7-509;

(b) the offender;

(c) an accomplice of the offender;

(d) [~~any person~~] an individual whose receipt of [an] a reparations award would unjustly benefit the offender, accomplice, or [other person] another individual reasonably suspected of participating in the offense;

(e) the victim of a motor vehicle injury who was the owner or operator of the motor vehicle and was not at the time of the injury in compliance with the state motor vehicle insurance laws;

(f) [~~any~~] a convicted offender serving a sentence of imprisonment in any prison or jail or residing in any other correctional facility;

(g) [~~all persons who are~~] an individual who is on probation or parole if the circumstances surrounding the offense of which [they are victims constitute] the individual is a victim is a violation of [their parole or probation] the individual's probation or parole; [and]

(h) [~~any person~~] an individual whose injuries are the result of criminally injurious conduct that occurred in a prison, jail, or [any other] another correctional facility while the [person] individual was incarcerated[.]; and

(i) an individual who:

(i) submits a fraudulent claim; or

(ii) misrepresents a material fact in requesting a reparations award.

[~~(2) A person who knowingly submits a fraudulent claim for reparations or who knowingly misrepresents material facts in making a claim, and who receives an award based on that claim, is guilty of an offense, based on the following award amounts:~~]

[~~(a) for value under \$500, a class B misdemeanor;]~~

[~~(b) for value equal to or greater than \$500, but less than \$1,500, a class A misdemeanor;]~~

~~[(c) for value equal to or greater than \$1,500, but less than \$5,000, a third degree felony; and]~~

~~[(d) for value equal to or greater than \$5,000, a second degree felony.]~~

~~[(3) A person who submits a claim described in Subsection (2) but receives no award based on that claim is guilty of a class B misdemeanor.]~~

(2) (a) An individual may not knowingly:

(i) submit a fraudulent claim; or

(ii) misrepresent a material fact in requesting a reparations award.

(b) A violation of Subsection (2)(a) is:

(i) a class B misdemeanor if:

(A) the individual who violates Subsection (2)(a) does not receive a reparations award; or

(B) the value of the reparations award received is less than \$500;

(ii) a class A misdemeanor if the value of the reparations award received is or exceeds \$500 but is less than \$1,500;

(iii) a third degree felony if the value of the reparations award received is or exceeds \$1,500 but is less than \$5,000; and

(iv) a second degree felony if the value of the reparations award received is or exceeds \$5,000.

~~[(4)] (3) The state attorney general may prosecute violations under this section or may make arrangements with county [attorneys] or city attorneys for the prosecution of violations under this section when the attorney general cannot conveniently prosecute.~~

~~[(5) The state may also bring a civil action against a claimant who receives reparation payments that are later found to be unjustified and who does not return to the Crime Victim Reparations Fund the unjustified amount.]~~

(4) (a) A claimant who is not eligible to receive a reparations award under Subsection (1) but receives a reparations award shall reimburse the fund for the amount of the reparations award.

(b) The office may bring a civil action against a victim who does not reimburse the fund for the amount of the reparations award in accordance with Subsection (4)(a).

## **Section 9. Section 63M-7-511 is amended to read:**

### **63M-7-511. Compensable losses and amounts.**

A reparations award under this [chapter] part may be made if:

(1) the reparations officer finds the reparations claim satisfies the requirements for the reparations award under the provisions of this [chapter] part and the rules of the board;

(2) money is available in the fund;

(3) the [person] individual for whom the [award of] reparations award is to be paid is otherwise eligible under this part; and

(4) the reparations claim is for an allowable expense incurred by the victim, as follows:

(a) reasonable and necessary charges incurred for products, services, and accommodations;

(b) inpatient and outpatient medical treatment and physical therapy, subject to rules [promulgated] made by the board [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) mental health counseling [which] that:

(i) is set forth in a mental health treatment plan [which has been approved prior to] that is approved before any payment is made by a reparations officer; and

(ii) qualifies within any further rules [promulgated] made by the board [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the [person's] individual's weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;

(e) care of minor children enabling a victim or spouse of a victim, but not both [of them], to continue gainful employment at a rate per child per week as determined under rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules [promulgated] made by the board [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) loss of support to [the] a dependent [or dependents] not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66-2/3% of the [person's] individual's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;

(h) personal property necessary and essential to the health or safety of the victim as defined by rules [promulgated] made by the board [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(i) medical examinations [as defined in Section 63M-7-502], subject to rules [promulgated] made by the board [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections 63M-7-509, 63M-7-512, and 63M-7-513.



**Section 10. Section 63M-7-511.5 is amended to read:**

**63M-7-511.5. Limitation of reparations awards.**

(1) (a) Except as provided in Subsection (1)(b), ~~[an award of]~~ a reparations award may not exceed \$25,000 ~~[in the aggregate].~~

~~[(b) (i) In claims involving homicide, attempted homicide, aggravated assault, or DUI offenses, an award of reparations may not exceed \$50,000 in the aggregate.]~~

~~[(ii) Reparations for nonmedical expenses incurred as a result of the homicide, attempted homicide, aggravated assault, or DUI may not exceed \$25,000.]~~

~~[(2) (a) Awards of reparations to secondary victims shall be paid from the victims' maximum award amount provided in Subsection (1).]~~

~~[(b) When it appears that allowable expenses for the victim and secondary victims will exceed the maximum award amount provided in Subsection (1), the expenses of the victim shall be paid first unless otherwise requested by the claimant.]~~

(b) Notwithstanding Subsection (1)(a), a reparations award for medical expenses resulting from serious bodily injury or substantial bodily injury may not exceed \$50,000.

(2) (a) A reparations award under Subsection (1) includes any reparations award for a secondary victim.

(b) Unless otherwise requested by the claimant, the office shall pay a reparations award for the victim before a reparations award for a secondary victim.

(c) [Priority] The reparations officer shall determine the priority of payment among multiple secondary victims on a single reparations claim [shall be determined by the reparations officer].

**Section 11. Section 63M-7-512 is amended to read:**

**63M-7-512. Reparations reduction.**

(1) Reparations otherwise payable to a claimant may be reduced or denied as follows:

(a) the economic loss upon which the claim is based has been or could be recouped from other persons, including collateral sources;

(b) the reparations officer considers the reparations claim unreasonable because of the misconduct of the claimant ~~[or of a victim through whom the claimant claims];~~ or

(c) the victim did not use a facility or health care provider which would be covered by a collateral source.

(2) When two or more dependents are entitled to ~~[an]~~ a reparations award as a result of a victim's death, ~~the [award shall be apportioned by the]~~

reparations officer shall apportion the reparations award among the dependents.

**Section 12. Section 63M-7-513 is amended to read:**

**63M-7-513. Collateral sources.**

~~[(1) Collateral source shall include any source of benefits or advantages for economic loss otherwise reparable under this chapter which the victim or claimant has received, or which is readily available to the victim from:]~~

~~[(a) the offender;]~~

~~[(b) the insurance of the offender;]~~

~~[(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;]~~

~~[(d) social security, Medicare, and Medicaid;]~~

~~[(e) state required temporary nonoccupational income replacement insurance or disability income insurance;]~~

~~[(f) workers' compensation;]~~

~~[(g) wage continuation programs of any employer;]~~

~~[(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;]~~

~~[(i) a contract providing prepaid hospital and other health care services or benefits for disability; or]~~

~~[(j) veteran's benefits, including veteran's hospitalization benefits. (2)]~~

(1) (a) An order of restitution [shall] may not be considered readily available as a collateral source.

(b) Receipt of [an award of] a reparations award under this [chapter shall be] part is considered an assignment of the victim's rights to restitution from the offender.

~~[(3) (2) The victim [shall] may not discharge a claim against [a person] an individual or entity without the [state's] office's written permission and shall fully cooperate with the [state] office in pursuing [its] the office's right of reimbursement, including providing the [state] office with any evidence in the victim's possession.~~

~~[(4) (3) The [state's] office's right of reimbursement applies regardless of whether the victim [has been] is fully compensated for the victim's losses.~~

~~[(5) (4) Notwithstanding [the collateral source provisions in Subsection (1) and] Subsection 63M-7-512(1)(a), a victim of a sexual offense who requests testing of [himself] the victim's self may be reimbursed for the costs of the HIV test only as provided in Subsection 76-5-503(4).~~

**Section 13. Section 63M-7-514 is amended to read:**

**63M-7-514. Notification of claimant -- Suspension of proceedings.**

(1) (a) The [Utah Office for Victims of Crime] office shall immediately notify the claimant in writing of [any] a reparations award and shall forward to the Division of Finance a certified copy of the reparations award and a warrant request for the amount of the reparations award.

(b) The Division of Finance shall pay the claimant the amount submitted to the division, out of the fund.

(c) If money in the fund is temporarily depleted, the office shall place claimants approved to receive [awards shall be placed] a reparations award on a waiting list and [shall receive their awards] provide the reparations awards as funds are available in the order in which [their awards were] the reparations awards are approved.

(2) The reparations officer may suspend the proceedings pending disposition of a criminal prosecution that [has been] is commenced or is imminent.

**Section 14. Section 63M-7-515 is amended to read:**

**63M-7-515. Rules for contested reparations claims -- Exemption from Administrative Procedures Act.**

(1) Rules for procedures for contested determinations by a reparations officer shall be adopted [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The [Utah Office for Victims of Crime] office is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

**Section 15. Section 63M-7-516 is amended to read:**

**63M-7-516. Waiver of privilege.**

(1) (a) A victim [~~filing a claim under the provisions of this chapter shall be considered to have waived~~] who is a claimant waives any privilege as to communications or records relevant to an issue of the physical, mental, or emotional conditions of the victim except for the attorney-client privilege.

(b) The waiver [~~shall apply~~] described in Subsection (1)(a) applies only to reparations officers, the director, the board, and legal counsel.

(2) [The] A claimant may be required to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.

(3) (a) The reparations officer hearing a reparations claim or an appeal from a reparations claim shall make available to the claimant a copy of the report.

(b) If the victim is deceased, the director or the director's appointee, on request, shall furnish the claimant a copy of the report unless dissemination of that copy is prohibited by law.

**Section 16. Section 63M-7-517 is amended to read:**

**63M-7-517. Additional testing.**

(1) If the mental, physical, or emotional condition of a victim is material to a reparations claim, the reparations officer, director, or chair of the board who hears the reparations claim or the appeal may order the claimant to submit to a mental or physical examination by a physician or psychologist and may recommend to the court to order an autopsy of a deceased victim.

(2) [~~Any order for~~] The court may order an additional examination [~~shall be~~] for good cause shown and shall provide notice to the [person] individual to be examined and the [person's] individual's representative.

(3) All reports from additional examinations shall set out findings, including results of all tests made, diagnoses, prognoses, other conclusions, and reports of earlier examinations of the same conditions.

(4) A copy of the report shall be made available to the victim or the representative of the victim unless dissemination of that copy is prohibited by law.

**Section 17. Section 63M-7-518 is amended to read:**

**63M-7-518. Failure to comply.**

If [a person] an individual refuses to comply with an order under this [~~chapter~~] part or asserts a privilege, except privileges arising from the attorney-client relationship, to withhold or suppress evidence relevant to a reparations claim, the director or reparations officer may make any appropriate determination including denial of the reparations claim.

**Section 18. Section 63M-7-519 is amended to read:**

**63M-7-519. Assignment of recovery -- Reimbursement.**

(1) (a) By accepting [~~an~~] a reparations award [~~of reparations~~], the victim:

(i) automatically assigns to the [state, subject to the provisions of Subsection (2), all claims against any third party to the lesser of:] office any claim the victim may have relating to criminally injurious conduct in the reparations claim; and

(ii) is required to reimburse the office if the victim recovers any money relating to the criminally injurious conduct.

(b) The office's right of assignment and reimbursement under Subsection (1)(a) is limited to the lesser of:

[~~(a)~~] (i) the amount paid by the [state] office; or

[~~(b)~~] (ii) the amount recovered by the victim from the third party.

(c) The office may be reimbursed under Subsection (1)(a) regardless of whether the office exercises the office's right of assignment under Subsection (1)(a).

(2) The board, with the concurrence of the director, may reduce the [state's] office's right of reimbursement if ~~[it is determined]~~ the board determines that:

(a) the reduction will benefit the fund; or

(b) the victim has ongoing expenses related to the offense upon which the reparations claim is based and the benefit to the victim of reducing the [state's] office's right of reimbursement exceeds the benefit to the [state] office of receiving full reimbursement.

(3) The [state] office reserves the right to make a claim for reimbursement on behalf of the victim and the victim may not impair the [state's] office's claim or the [state's] office's right of reimbursement.

**Section 19. Section 63M-7-521 is amended to read:**

**63M-7-521. Reparations award -- Payment methods -- Claims against the award.**

~~[(1) The]~~ (1) (a) Except as provided in Subsection (1)(b), a reparations officer may provide for the payment of ~~[an] a reparations award~~ in a lump sum or in installments. ~~[The]~~

(b) (i) The reparations officer shall pay the part of ~~[an] a reparations award~~ equal to the amount of economic loss accrued to the date of the reparations award ~~[shall be paid]~~ in a lump sum. ~~[An award of]~~

(ii) A reparations officer may not pay allowable expense that would accrue after an initial reparations award is made ~~[may not be paid]~~ in a lump sum.

(iii) Except as provided in Subsection (2), a reparations officer shall award the part of ~~[an] a reparations award~~ that may not be paid in a lump sum ~~[shall be paid]~~ under this Subsection (1)(b) in installments.

(2) At the request of the claimant, the reparations officer may convert future economic loss installment payments, other than allowable expense, to a lump sum payment, discounted to present value, but only upon a finding by the reparations officer that the reparations award in a lump sum will promote the interests of the claimant.

~~[(3) An]~~ (3) (a) A reparations award for future economic loss payable in installments may be made only for a period for which the reparations officer can reasonably determine future economic loss.

(b) The reparations officer may reconsider and modify ~~[an] a reparations award~~ for future economic loss payable in installments, upon the reparations officer's finding that a material and substantial change of circumstances has occurred.

(4) ~~[An]~~ A reparations award is not subject to execution, attachment, or garnishment, except that

~~[an] a reparations award~~ for allowable expense is not exempt from a claim of a creditor to the extent that the creditor provided products, services, or accommodations, the costs of which are included in the reparations award.

(5) An assignment or agreement to assign ~~[an] a reparations award [of reparations]~~ for loss accruing in the future is unenforceable, except:

(a) an assignment of ~~[an] a reparations award~~ of reparations for work loss to secure payment of alimony, maintenance, or child support;

(b) an assignment of ~~[an] a reparations award [of reparations]~~ for allowable expense to the extent that the benefits are for the cost of products, services, or accommodations necessitated by the injury or death on which the reparations claim is based and are provided or to be provided by the assignee; or

(c) an assignment to repay a loan obtained to pay for the obligations or expenses described in Subsection (5)(a) or (b).

**Section 20. Section 63M-7-521.5 is amended to read:**

**63M-7-521.5. Payments to medical service providers.**

(1) (a) Except as provided in Subsection (2), a medical service provider who accepts payment from the office shall agree to accept payments as payment in full on behalf of the victim or claimant~~[-The medical service provider]~~ and may not attempt to collect further payment from the victim or the claimant for services for which the office has made payment.

~~[(2)]~~ (b) In the event the office is unable to make full payment in accordance with ~~[its]~~ the office's rules, the medical service provider may collect from the victim or claimant, but not more than the amount the provider would have received from the office.

(2) (a) When a medical service provider receives notice that a reparations claim has been filed, the medical service provider may not, before the office determines whether to issue a reparations award, engage in debt collection for the claim, including:

(i) repeatedly calling or writing to a victim and threatening to refer unpaid health care costs to a debt collection agency, attorney, or other person for collection; or

(ii) filing for or pursuing a legal remedy for payment of unpaid health care costs.

(b) The statute of limitations for collecting a debt is tolled during the time in which a request for a reparations award is being reviewed by the office.

(3) The office may:

(a) use the fee schedule utilized by the Utah Public Employees Health Plan or any other fee schedule adopted by the board; and

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

necessary to implement the fee schedule adopted in accordance with this section.

**Section 21. Section 63M-7-522 is amended to read:**

**63M-7-522. Emergency reparations award.**

(1) If the reparations officer determines that the claimant will suffer financial hardship unless an emergency reparations award is made, and it appears likely that a final reparations award will be made, an amount may be paid to the claimant, to be deducted from the final reparations award or repaid by and recoverable from the claimant to the extent that it exceeds the final reparations award.

(2) The board may limit emergency reparations awards under Subsection (1) to any amount ~~if~~ the board considers necessary.

**Section 22. Section 63M-7-523 is amended to read:**

**63M-7-523. Review of reparations award decision.**

(1) The reparations officer shall review at least annually every reparations award being paid in installments.

(2) An order on review of ~~an~~ a reparations award does not require refund of amounts previously paid unless the reparations award was obtained by fraud or a material mistake of fact.

**Section 23. Section 63M-7-524 is amended to read:**

**63M-7-524. Attorney fees.**

(1) The claims procedures shall be sufficiently simple that the assistance of an attorney is unnecessary, and no attorney fees ~~shall~~ may be paid for the assistance of an attorney or any other representative in filing the reparations claim or providing information to the reparations officer.

(2) Attorney fees may be granted in the following circumstances and shall be paid out of the reparations award not to exceed 15% of the amount of the reparations award:

(a) when ~~an~~ a reparations award ~~has been~~ is denied and, after a hearing, the decision to deny is overturned; or

(b) when minor dependents of a deceased victim require assistance in establishing a trust or determining a guardian.

(3) (a) An attorney or any other person providing assistance in a reparations claim, who contracts for or receives sums not allowed under this ~~chapter~~ part, is guilty of a class B misdemeanor. ~~This provision shall not extend~~

(b) This Subsection (3) does not apply to attorneys who assist the victim in filing a civil action against the perpetrator.

**Section 24. Section 63M-7-525 is amended to read:**

**63M-7-525. Purpose -- Not entitlement program.**

(1) (a) The purpose of the ~~Utah Office for Victims of Crime~~ office is to assist victims of criminally injurious conduct who may be eligible for assistance from the ~~Crime Victim Reparations Fund~~ fund.

(b) Reparation to a victim under this part is limited to the money available in the fund.

~~(2) This program~~ (2) (a) The assistance program described in Subsection (1) is not an entitlement program. ~~Awards~~

(b) A reparations award may be limited or denied as determined appropriate by the board.

(c) Failure to grant ~~an~~ a reparations award does not create a cause of action against the ~~Utah Office for Victims of Crime~~ office, the state, or any of its subdivisions~~, There~~ and there is no right to judicial review over the decision whether or not to grant ~~an~~ a reparations award.

(3) A cause of action based on a failure to give or receive the notice required by this ~~chapter~~ part does not accrue to any person against the state, any of its agencies or local subdivisions, any of their law enforcement officers or other agents or employees, or any health care or medical provider or its agents or employees~~, The failure does not~~ nor does it affect or alter any requirement for filing or payment of a reparations claim.

**CHAPTER 150****H. B. 438**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**BACKGROUND CHECK INFORMATION  
 RETENTION AMENDMENTS**

Chief Sponsor: Carl R. Albrecht  
 Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill addresses the retention of background check information for certain licenses.

**Highlighted Provisions:**

This bill:

- ▶ addresses the retention of background check information for emergency medical service personnel; and
- ▶ addresses the retention of background check information for certain individuals associated with child care centers.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-8a-310, as last amended by Laws of Utah 2017, Chapter 326  
 26-39-404, as last amended by Laws of Utah 2019, Chapter 160

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

**Section 1. Section 26-8a-310 is amended to read:**

**26-8a-310. Background clearance for emergency medical service personnel.**

(1) The department shall determine whether to grant background clearance for an individual seeking licensure under Section 26-8a-302 from whom it receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom it has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure under Section 26-8a-302 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years of age; or

(ii) the applicant:

(A) is over 28 years of age; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 78A-6-323;

(e) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(f) the Department of Human Services' Division of Aging and Adult Services database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information it accesses under

Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information it receives under Subsection (1) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the Department of Health; and

(b) notify the Department of Health upon receiving notice that an individual for whom personal information has been retained is the subject of:

- (i) a warrant for arrest;
- (ii) an arrest;
- (iii) a conviction, including a plea in abeyance; or
- (iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed under Section 26-8a-302 is valid until two years after the day on which the individual is no longer licensed in Utah as emergency medical service personnel.

**Section 2. Section 26-39-404 is amended to read:**

**26-39-404. Disqualified individuals -- Criminal history checks -- Payment of costs.**

(1) (a) Each exempt provider, except as provided in Subsection (1)(c), and each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

- (i) owners;
- (ii) directors;
- (iii) members of the governing body;
- (iv) employees;
- (v) providers of care;
- (vi) volunteers, except parents of children enrolled in the programs; and
- (vii) all adults residing in a residence where child care is provided.

(b) (i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to determine whether the individual has been convicted of any crime.

(ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.

(iii) A person required to submit information to the department under Subsection (1) shall pay the cost of conducting the record check described in this Subsection (1)(b).

(c) An exempt provider who provides care to a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to this Subsection (1), unless required by the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r.

(2) (a) Each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.

(b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:

(i) the person described in Subsection (1) is under the age of 28; or

(ii) the person described in Subsection (1) is:

(A) over the age of 28; and

(B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(3) Except as provided in Subsections (4) and (5), a licensee under this chapter or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated

in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

- (a) provide child care;
- (b) provide volunteer services for a child care program or an exempt provider;
- (c) reside at the premises where child care is provided; or
- (d) function as an owner, director, or member of the governing body of a child care program or an exempt provider.

(4) (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):

- (i) specific misdemeanors; and
- (ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.

(b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).

(5) The restrictions of Subsection (3) do not apply to the following:

- (a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a date 10 years or more before the date of the criminal history check described in this section; or
- (b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.

(6) The department may retain background check information submitted to the department for up to one year after the day on which the covered individual is no longer associated with a Utah child care provider.

**CHAPTER 151****H. B. 441**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020

**CRIMINAL CHARGE  
 REDUCTION AMENDMENTS**

Chief Sponsor: Eric K. Hutchings  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill amends provisions relating to the degree of a criminal offense.

**Highlighted Provisions:**

This bill:

- ▶ allows either party to request the court to enter a judgment for conviction to a lower degree of offense;
- ▶ allows a prosecutor to file or amend an information for certain offenses at one degree lower than the offense in the information;
- ▶ provides that the court may enter a conviction and impose a sentence for an offense one degree lower; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-3-402, as last amended by Laws of Utah 2017, Chapters 282 and 356

**ENACTS:**

77-2-1.2, Utah Code Annotated 1953

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

**Section 1. Section 76-3-402 is amended to read:**

**76-3-402. Conviction of lower degree of offense -- Procedure and limitations.**

~~[(1) If at the time of sentencing the court, having regard to the nature and circumstances of the offense of which the defendant was found guilty and to the history and character of the defendant, and after having given any victims present at the sentencing and the prosecuting attorney an opportunity to be heard, concludes it would be unduly harsh to record the conviction as being for that degree of offense established by statute, the court may enter a judgment of conviction for the next lower degree of offense and impose sentence accordingly.]~~

(1) As used in this section, "lower degree of offense" includes an offense for which:

(a) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(b) the court removes the statutory enhancement in accordance with this section.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

~~[(2)]~~ (3) (a) If the court suspends the execution of ~~[the]~~ a defendant's sentence and places the defendant on probation, ~~[whether or not]~~ regardless of whether the defendant is committed to jail as a condition of probation, the court may enter a judgment of conviction for ~~[the next]~~ a lower degree of offense:

(i) after the defendant has been successfully discharged from probation;

(ii) upon motion and notice to ~~[the prosecuting attorney]~~ either party;

(iii) after reasonable effort has been made by the prosecuting attorney to provide notice to any victims;

(iv) after a hearing if requested by either party ~~[described in Subsection (2)(a)(iii)]~~; and

(v) if the court finds entering a judgment of conviction for the ~~[next]~~ lower degree of offense is in the interest of justice.

(b) In making the finding in Subsection ~~[(2)]~~ (3)(a)(v), the court shall consider as a factor in favor of granting the reduction ~~[that, subsequent to]~~, after the defendant's conviction, whether the level of the offense has been reduced by law.

~~[(3)]~~ (4) (a) An offense may be reduced only one degree under this section, whether the reduction is entered under Subsection ~~[(1)]~~ (2) or ~~[(2)]~~ (3), unless the ~~[prosecutor]~~ prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) ~~[In no case may an offense]~~ An offense may not be reduced under this section by more than two degrees.

~~[(4)]~~ (5) This section does not preclude ~~[any person]~~ an individual from obtaining or being granted an expungement of ~~[his record as provided by law]~~ the individual's record in accordance with Title 77, Chapter 40, Utah Expungement Act.

~~[(5)]~~ (6) The court may not enter judgment for a conviction for a lower degree of offense if:



(a) the reduction is specifically precluded by law; or

(b) if any unpaid balance remains on court ordered restitution for the offense for which the reduction is sought.

~~[(6)]~~ (7) When the court enters judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

~~[(7)]~~ (8) (a) ~~[A person]~~ An individual may not obtain a reduction under this section of a conviction that requires the ~~[person]~~ individual to register as a sex offender until the registration requirements under Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.

(b) ~~[A person]~~ An individual required to register as a sex offender for the ~~[person's]~~ individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the ~~[person]~~ individual to register as a sex offender.

~~[(8)]~~ (9) (a) ~~[A person]~~ An individual may not obtain a reduction under this section of a conviction that requires the ~~[person]~~ individual to register as a child abuse offender until the registration requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.

(b) ~~[A person]~~ An individual required to register as a child abuse offender for the ~~[person's]~~ individual's lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the ~~[person]~~ individual to register as a child abuse offender.

~~[(9) As used in this section, "next lower degree of offense" includes an offense regarding which:]~~

~~[(a) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and]~~

~~[(b) the court removes the statutory enhancement pursuant to this section.]~~

**Section 2. Section 77-2-1.2 is enacted to read:**

**77-2-1.2. Reducing the level of an offense.**

(1) Notwithstanding any other provision of law, a prosecuting attorney may:

(a) present and file an information charging an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute if the prosecuting attorney believes that the sentence would be disproportionate to the offense because there are special circumstances relating to the offense; or

(b) subject to the approval of the court, amend an information, as part of a plea agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute.

(2) A court may:

(a) enter a judgment of conviction for an offense filed under Subsection (1) at one degree lower than classified in statute; and

(b) impose a sentence for the offense filed under Subsection (1) at one degree lower than classified in statute.

(3) A conviction of an offense at one degree lower than classified in statute under Subsection (2) does not affect the requirements for registration of the offense under Title 77, Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child Abuse Offender Registry, if the elements of the offense for which the defendant is convicted are the same as the elements of an offense described in Section 77-41-102 or 77-43-102.

(4) This section does not preclude an individual from obtaining and being granted an expungement for the individual's record in accordance with Title 77, Chapter 40, Utah Expungement Act.

**CHAPTER 152****H. B. 451**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective May 12, 2020  
 Exception clause

**AMENDMENTS RELATING TO  
 ADMINISTRATION OF STATE FACILITIES**

Chief Sponsor: Walt Brooks  
 Senate Sponsor: David G. Buxton

**LONG TITLE****General Description:**

This bill modifies provisions relating to the administration of state facilities.

**Highlighted Provisions:**

This bill:

- ▶ reorganizes and modifies provisions relating to the state building board, the Division of Facilities Construction and Management, and the administration of state facilities;
- ▶ modifies duties and responsibilities of the state building board and the director of the Division of Facilities Construction and Management;
- ▶ increases from \$100,000 to \$250,000 the value of property that is exempt from rules adopted to ensure that the value of property being bought or exchanged is congruent with the terms of the purchase or exchange;
- ▶ increases from \$100,000 to \$250,000 the value of property the disposal or lease of which is not governed by provisions relating to the disposition of property owned by the Division of Facilities and Construction Management;
- ▶ repeals obsolete or redundant language; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

11-44-201, as last amended by Laws of Utah 2018, Chapter 415  
 11-59-302, as enacted by Laws of Utah 2018, Chapter 388  
 11-59-304, as enacted by Laws of Utah 2018, Chapter 388  
 11-59-501, as enacted by Laws of Utah 2018, Chapter 388  
 17B-2a-818.5, as last amended by Laws of Utah 2018, Chapter 319  
 19-1-206, as last amended by Laws of Utah 2018, Chapter 319  
 26-18-402, as last amended by Laws of Utah 2018, Chapter 319  
 26-40-115, as last amended by Laws of Utah 2019, Chapter 393  
 51-11-102, as enacted by Laws of Utah 2018, Chapter 253  
 53B-2-109, as enacted by Laws of Utah 2005, Chapter 231

53B-2a-101, as last amended by Laws of Utah 2019, Chapter 482  
 53B-2a-117, as enacted by Laws of Utah 2019, Chapter 482  
 53B-22-201, as enacted by Laws of Utah 2019, Chapter 482  
 53B-22-204, as enacted by Laws of Utah 2019, Chapter 482  
 63A-1-112, as last amended by Laws of Utah 2015, Chapter 181  
 63B-1-304, as last amended by Laws of Utah 2010, Chapter 286  
 63B-2-301, as last amended by Laws of Utah 2013, Chapters 310 and 465  
 63B-4-201, as last amended by Laws of Utah 2016, Chapter 144  
 63B-9-103, as last amended by Laws of Utah 2014, Chapter 196  
 63B-16-201, as enacted by Laws of Utah 2007, Chapter 174  
 63B-16-202, as last amended by Laws of Utah 2012, Chapter 393  
 63B-16-301, as enacted by Laws of Utah 2007, Chapter 174  
 63B-17-201, as last amended by Laws of Utah 2009, Chapter 150  
 63B-17-202, as enacted by Laws of Utah 2008, Chapter 128  
 63B-17-301, as enacted by Laws of Utah 2008, Chapter 128  
 63B-23-101, as last amended by Laws of Utah 2019, Chapter 468  
 63B-25-101, as last amended by Laws of Utah 2019, Chapter 246  
 63C-9-403, as last amended by Laws of Utah 2018, Chapter 319  
 63G-6a-103, as last amended by Laws of Utah 2019, Chapters 136, 170, 314, and 456  
 63H-6-102, as last amended by Laws of Utah 2016, Chapter 301  
 63H-6-103, as last amended by Laws of Utah 2019, Chapters 370 and 456  
 63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246  
 63J-1-201 (Superseded 07/01/20), as last amended by Laws of Utah 2019, Chapter 136  
 63J-1-201 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapters 136 and 464  
 63J-1-206, as last amended by Laws of Utah 2019, Chapters 182 and 468  
 63J-1-602.2, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469  
 63J-3-103, as last amended by Laws of Utah 2017, Chapter 382  
 65A-4-1, as last amended by Laws of Utah 2019, Chapter 195  
 72-6-107.5, as last amended by Laws of Utah 2018, Chapter 319  
 79-2-404, as last amended by Laws of Utah 2018, Chapter 319

**ENACTS:**

63A-5b-101, Utah Code Annotated 1953  
 63A-5b-102, Utah Code Annotated 1953  
 63A-5b-201, Utah Code Annotated 1953  
 63A-5b-202, Utah Code Annotated 1953

63A-5b-203, Utah Code Annotated 1953  
 63A-5b-303, Utah Code Annotated 1953  
 63A-5b-304, Utah Code Annotated 1953  
 63A-5b-305, Utah Code Annotated 1953  
 63A-5b-401, Utah Code Annotated 1953  
 63A-5b-402, Utah Code Annotated 1953  
 63A-5b-403, Utah Code Annotated 1953  
 63A-5b-404, Utah Code Annotated 1953  
 63A-5b-406, Utah Code Annotated 1953  
 63A-5b-501, Utah Code Annotated 1953  
 63A-5b-502, Utah Code Annotated 1953  
 63A-5b-601, Utah Code Annotated 1953  
 63A-5b-602, Utah Code Annotated 1953  
 63A-5b-603, Utah Code Annotated 1953  
 63A-5b-604, Utah Code Annotated 1953  
 63A-5b-606, Utah Code Annotated 1953  
 63A-5b-701, Utah Code Annotated 1953  
 63A-5b-702, Utah Code Annotated 1953  
 63A-5b-703, Utah Code Annotated 1953  
 63A-5b-801, Utah Code Annotated 1953  
 63A-5b-1001, Utah Code Annotated 1953  
 63A-5b-1101, Utah Code Annotated 1953  
 63A-5b-1103, Utah Code Annotated 1953  
 63A-5b-1104, Utah Code Annotated 1953  
 63A-5b-1105, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

63A-5b-301, (Renumbered from 63A-5-201, as renumbered and amended by Laws of Utah 1993, Chapter 212)  
 63A-5b-302, (Renumbered from 63A-5-203, as renumbered and amended by Laws of Utah 1993, Chapter 212)  
 63A-5b-405, (Renumbered from 63A-5-228, as enacted by Laws of Utah 2019, Chapter 468)  
 63A-5b-503, (Renumbered from 63A-5-211, as last amended by Laws of Utah 2011, Chapter 303)  
 63A-5b-605, (Renumbered from 63A-5-208, as last amended by Laws of Utah 2016, Chapter 348)  
 63A-5b-607, (Renumbered from 63A-5-205.5, as enacted by Laws of Utah 2018, Chapter 319)  
 63A-5b-608, (Renumbered from 63A-5-207, as last amended by Laws of Utah 2000, Chapter 231)  
 63A-5b-609, (Renumbered from 63A-5-209, as last amended by Laws of Utah 2019, Chapter 468)  
 63A-5b-610, (Renumbered from 63A-5-219, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 20)  
 63A-5b-802, (Renumbered from 63A-5-302, as last amended by Laws of Utah 2012, Chapter 347)  
 63A-5b-803, (Renumbered from 63A-5-303, as enacted by Laws of Utah 1995, Chapter 113)  
 63A-5b-804, (Renumbered from 63A-5-304, as enacted by Laws of Utah 1995, Chapter 113)  
 63A-5b-805, (Renumbered from 63A-5-305, as last amended by Laws of Utah 2016, Chapter 240)

63A-5b-806, (Renumbered from 63A-5-401, as last amended by Laws of Utah 2019, Chapter 195)  
 63A-5b-901, (Renumbered from 63A-5a-102, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-902, (Renumbered from 63A-5a-103, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-903, (Renumbered from 63A-5a-104, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-904, (Renumbered from 63A-5a-201, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-905, (Renumbered from 63A-5a-202, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-906, (Renumbered from 63A-5a-203, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-907, (Renumbered from 63A-5a-204, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-908, (Renumbered from 63A-5a-205, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-909, (Renumbered from 63A-5a-206, as enacted by Laws of Utah 2019, Chapter 195)  
 63A-5b-910, (Renumbered from 63A-5-215, as last amended by Laws of Utah 2018, Chapter 404)  
 63A-5b-911, (Renumbered from 63A-5-224, as enacted by Laws of Utah 2009, Chapter 53)  
 63A-5b-912, (Renumbered from 63A-5-226, as enacted by Laws of Utah 2016, Chapter 298)  
 63A-5b-1002, (Renumbered from 63A-5-701, as last amended by Laws of Utah 2015, Chapter 181)  
 63A-5b-1003, (Renumbered from 63A-5-603, as last amended by Laws of Utah 2016, Chapter 322)  
 63A-5b-1102, (Renumbered from 63A-5-801, as last amended by Laws of Utah 2008, Chapter 360 and renumbered and amended by Laws of Utah 2008, Chapter 382)  
 63A-5b-1106, (Renumbered from 63A-5-222, as last amended by Laws of Utah 2009, Chapters 53 and 344)  
 63A-5b-1107, (Renumbered from 63A-5-225, as last amended by Laws of Utah 2019, Chapter 246)

**REPEALS:**

63A-5-100, as enacted by Laws of Utah 2017, Chapter 355  
 63A-5-101, as last amended by Laws of Utah 2017, Chapter 355  
 63A-5-101.5, as enacted by Laws of Utah 2017, Chapter 355  
 63A-5-102, as last amended by Laws of Utah 2012, Chapter 199

63A-5-103, as last amended by Laws of Utah 2019, Chapter 195  
 63A-5-104, as last amended by Laws of Utah 2019, Chapters 468 and 482  
 63A-5-202, as enacted by Laws of Utah 1993, Chapter 212  
 63A-5-204, as last amended by Laws of Utah 2019, Chapters 195 and 255  
 63A-5-205, as last amended by Laws of Utah 2018, Chapter 319  
 63A-5-206, as last amended by Laws of Utah 2019, Chapter 195  
 63A-5-216, as renumbered and amended by Laws of Utah 1993, Chapter 212  
 63A-5-223, as enacted by Laws of Utah 2009, Chapter 217  
 63A-5-301, as last amended by Laws of Utah 2007, Chapter 12  
 63A-5-501, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 63A-5-502, as last amended by Laws of Utah 2018, Chapter 148  
 63A-5-601, as renumbered and amended by Laws of Utah 2008, Chapters 334 and 382  
 63A-5-602, as last amended by Laws of Utah 2017, Chapter 181  
 63A-5a-101, as enacted by Laws of Utah 2019, Chapter 195

**Utah Code Sections Affected by Coordination Clause:**

63A-5-205.5, as enacted by Laws of Utah 2018, Chapter 319  
 63A-5b-607, Utah Code Annotated 1953

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

**Section 1. Section 11-44-201 is amended to read:**

**11-44-201. Political subdivision responsibilities -- State responsibilities.**

- (1) A political subdivision may:
- (a) enter into a performance efficiency agreement;
  - (b) develop and administer a performance efficiency program;
  - (c) analyze energy consumption by the political subdivision;
  - (d) designate a staff member who is responsible for a performance efficiency program; and
  - (e) provide the governing body of the political subdivision with information regarding the performance efficiency program.
- (2) The following entities may provide information, technical resources, and other assistance to a political subdivision acting under this chapter:
- (a) the Utah Geological Survey, created in Section 79-3-201;
  - (b) the State Board of Education;
  - (c) the Division of Purchasing and General Services, created in Section 63A-2-101; and

(d) the Division of Facilities Construction and Management, created in Section ~~63A-5-201~~ 63A-5b-301.

**Section 2. Section 11-59-302 is amended to read:**

**11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.**

- (1) The board shall consist of 11 members as provided in Subsection (2).
- (2) (a) The president of the Senate shall appoint two members of the Senate to serve as members of the board.
- (b) The speaker of the House of Representatives shall appoint two members of the House of Representatives to serve as members of the board.
- (c) The governor shall appoint four individuals to serve as members of the board:
- (i) one of whom shall be a member of the board of or employed by the Governor's Office of Economic Development, created in Section 63N-1-201; and
  - (ii) one of whom shall be an employee of the Division of Facilities Construction and Management, created in Section ~~63A-5-201~~ 63A-5b-301.
- (d) The Salt Lake County mayor shall appoint one board member, who shall be an elected Salt Lake County government official.

(e) The mayor of Draper, or a member of the Draper city council that the mayor designates, shall serve as a board member.

(f) The commissioner of higher education, appointed under Section 53B-1-105, or the commissioner's designee, shall serve as a board member.

(3) (a) (i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(ii) If the mayor of Draper or commissioner of higher education is removed as a board member under Subsection (5), the mayor of Draper or commissioner of higher education, as the case may be, shall designate an individual to serve as a member of the board, as provided in Subsection (2)(e) or (f), respectively.

(b) Each person appointed or designated to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(4) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) A member of the board may be removed by a vote of two-thirds of all members of the board.

(6) (a) The governor shall appoint one board member to serve as cochair of the board.

(b) The president of the Senate and speaker of the House of Representatives shall jointly appoint one legislative member of the board to serve as cochair of the board.

**Section 3. Section 11-59-304 is amended to read:**

**11-59-304. Staff and other support services -- Cooperation from state and local government entities.**

(1) As used in this section:

(a) "Division" means the Division of Facilities Construction and Management, created in Section [63A-5-201] 63A-5b-301.

(b) "Office" means the Governor's Office of Economic Development, created in Section 63N-1-201.

(2) If and as requested by the board:

(a) the division shall:

(i) provide staff support to the board; and

(ii) make available to the board existing division resources and expertise to assist the board in the development, marketing, and disposition of the point of the mountain state land; and

(b) the office shall cooperate with and provide assistance to the board in the board's:

(i) formulation of a development plan for the point of the mountain state land; and

(ii) management and implementation of a development plan, including the marketing of property and recruitment of businesses and others to locate on the point of the mountain state land.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority and the board to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

**Section 4. Section 11-59-501 is amended to read:**

**11-59-501. Dissolution of authority -- Restrictions -- Publishing notice of dissolution -- Authority records -- Dissolution expenses.**

(1) The authority may not be dissolved unless:

(a) the authority board first receives approval from the Legislative Management Committee of the Legislature to dissolve the authority; and

(b) the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) To dissolve the authority, the board shall:

(a) obtain the approval of the Legislative Management Committee of the Legislature; and

(b) adopt a resolution dissolving the authority, to become effective as provided in the resolution.

(3) Upon the dissolution of the authority:

(a) the Governor's Office of Economic Development shall publish a notice of dissolution:

(i) in a newspaper of general circulation in the county in which the dissolved authority is located; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the Division of Facilities Construction and Management, created in Section [63A-5-201] 63A-5b-301, for the benefit of the state.

(4) The board shall deposit all books, documents, records, papers, and seal of the dissolved authority with the state auditor for safekeeping and reference.

(5) The authority shall pay all expenses of the deactivation and dissolution.

**Section 5. Section 17B-2a-818.5 is amended to read:**

**17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section [63A-5-208] 63A-5b-605.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public

transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employee's dependents during the duration of the contract by submitting to the public transit district a written statement that:

(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; or

(B) an underwriter who is responsible for developing the employer group's premium rates; and

(iii) was created within one year before the day on which the statement is submitted.

(b) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and

(C) was created within one year before the day on which the contractor obtains the statement.

(c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance coverage as

described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i) during the duration of the subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section ~~[63A-5-295.5]~~ 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(ii); or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

**Section 6. Section 19-1-206 is amended to read:**

**19-1-206. Contracting powers of department -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section ~~[63A-5-208]~~ 63A-5b-605.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

- (i) a sole source contract; or
- (ii) an emergency procurement.
- (4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.
- (5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:
- (i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;
- (ii) is from:
- (A) an actuary selected by the contractor or the contractor's insurer; or
- (B) an underwriter who is responsible for developing the employer group's premium rates; and
- (iii) was created within one year before the day on which the statement is submitted.
- (b) A contractor that is subject to the requirements of this section shall:
- (i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and
- (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
- (A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;
- (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and
- (C) was created within one year before the day on which the contractor obtains the statement.
- (c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).
- (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health insurance coverage described in Subsection (5)(a).
- (6) The department shall adopt administrative rules:
- (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (b) in coordination with:
- (i) a public transit district in accordance with Section 17B-2a-818.5;
- (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- (iii) the State Building Board in accordance with Section ~~63A-5-205.5~~ 63A-5b-607;
- (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- (vi) the Legislature's Administrative Rules Review Committee; and
- (c) that establish:
- (i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:
- (A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;
- (B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and
- (C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);
- (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
- (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;
- (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;
- (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
- (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of



the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

**Section 7. Section 26-18-402 is amended to read:**

**26-18-402. Medicaid Restricted Account.**

(1) There is created a restricted account in the General Fund known as the Medicaid Restricted Account.

(2) (a) Except as provided in Subsection (3), the following shall be deposited into the Medicaid Restricted Account:

(i) any general funds appropriated to the department for the state plan for medical assistance or for the Division of Health Care

Financing that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;

(ii) any unused state funds that are associated with the Medicaid program, as defined in Section 26-18-2, from the Department of Workforce Services and the Department of Human Services; and

(iii) any penalties imposed and collected under:

(A) Section 17B-2a-818.5;

(B) Section 19-1-206;

(C) Section [63A-5-205.5] 63A-5b-607;

(D) Section 63C-9-403;

(E) Section 72-6-107.5; or

(F) Section 79-2-404.

(b) The account shall earn interest and all interest earned shall be deposited into the account.

(c) The Legislature may appropriate money in the restricted account to fund programs that expand medical assistance coverage and private health insurance plans to low income persons who have not traditionally been served by Medicaid, including the Utah Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

(3) For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 the following funds are nonlapsing:

(a) any general funds appropriated to the department for the state plan for medical assistance, or for the Division of Health Care Financing that are not expended by the department in the fiscal year in which the general funds were appropriated; and

(b) funds described in Subsection (2)(a)(ii).

**Section 8. Section 26-40-115 is amended to read:**

**26-40-115. State contractor -- Employee and dependent health benefit plan coverage.**

(1) For purposes of Sections 17B-2a-818.5, 19-1-206, [63A-5-205.5] 63A-5b-607, 63C-9-403, 72-6-107.5, and 79-2-404, "qualified health insurance coverage" means, at the time the contract is entered into or renewed:

(a) a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the program under Subsection 26-40-106(1)(a), and a contribution level at which the employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the state; or

(b) a federally qualified high deductible health plan that, at a minimum:

(i) has a deductible that is:

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) provides that the employer pays 60% of the premium for the employee and the dependents of the employee who work or reside in the state.

(2) The department shall:

(a) on or before July 1, 2016:

(i) determine the commercial equivalent of the benchmark plan described in Subsection (1)(a); and

(ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i) on the department's website, noting the date posted; and

(b) update the posted commercially equivalent benchmark plan annually and at the time of any change in the benchmark.

**Section 9. Section 51-11-102 is amended to read:**

**51-11-102. Definitions.**

As used in this chapter:

(1) "Division" means the Division of Facilities Construction and Management created in Section ~~[63A-5-201]~~ 63A-5b-301.

(2) "Fund" means the Winter Sports Venue Grant Fund.

(3) "Improve" or "improvements" means the replacement or addition to infrastructure, buildings, building components, or facility equipment.

(4) "Venue" means a facility:

(a) designed and currently approved under standards developed by a generally recognized sports federation to host world-class level, international winter sports competitions; and

(b) used for recreational, developmental, and competitive athletic training.

(5) "Venue operator" means a person who:

(a) (i) operates a venue; and

(ii) the venue is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(b) owns a venue or operates a venue under contract with the public owner of the venue.

**Section 10. Section 53B-2-109 is amended to read:**

**53B-2-109. Notice to local government when constructing student housing.**

(1) Each institution that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:

(a) the county in whose unincorporated area the privately owned residential property is located; or

(b) the municipality in whose boundaries the privately owned residential property is located.

(3) (a) (i) Within 21 days after receiving the notice required by Subsection (1), a county or municipality entitled to the notice may submit a written request to the institution for a public hearing on the proposed student housing construction.

(ii) Each county or municipality that submits a written request for a hearing under Subsection (3)(a) shall deliver a copy of the request to the Division of Facilities Construction and Management.

(b) If a county or municipality requests a hearing under Subsection (3)(a), the legislative body of the affected county or municipality and the institution shall jointly hold a public hearing to provide information to the public and to allow the institution and the county or municipality to receive input from the public about the proposed student housing construction.

(c) A public hearing held under Subsection (3)(a) satisfies the public hearing requirement of Subsection ~~[63A-5-206(1)(b)]~~ 63A-5b-1104(2) for the same proposed student housing construction.

**Section 11. Section 53B-2a-101 is amended to read:**

**53B-2a-101. Definitions.**

As used in this chapter:

(1) "Board of trustees" means the UTech Board of Trustees.

(2) "Capital ~~[developments]~~ development" means the same as ~~[that term is]~~ capital development project, as defined in Section ~~[63A-5-104]~~ 63A-5b-401.

(3) "Commissioner of technical education" means the UTech commissioner of technical education.

(4) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards

and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

(5) “Dedicated project” means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

(6) “Nondedicated project” means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

(7) “Open-entry, open-exit” means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and

(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.

(8) “State funds” means the same as that term is defined in Section [63A-5-104] 63A-5b-401.

(9) “UTech” means the Utah System of Technical Colleges described in Section 53B-1-102.

**Section 12. Section 53B-2a-117 is amended to read:**

**53B-2a-117. Legislative approval -- Capital development projects -- Prioritization.**

(1) As used in this section:

(a) “Consumer Price Index” means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) “Fund” means the Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(3) In accordance with Section 53B-2a-112, a technical college shall submit to the board of trustees a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(4) The board of trustees shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53B-2a-112;

(b) based on the results of the board of trustees’ review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and

(c) submit the lists described in Subsection (4)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the State Building Board for the State Building Board’s:

(A) recommendation, for the list described in Subsection (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(5) A dedicated project:

(a) is subject to the State Building Board’s recommendation as described in Section [63A-5-104] 63A-5b-403; and

(b) is not subject to the State Building Board’s prioritization as described in Section [63A-5-104] 63A-5b-403.

(6) (a) Subject to Subsection (7), the board of trustees shall prioritize funding requests for capital development projects described in this section based on:

(i) growth and capacity;

(ii) effectiveness and support of critical programs;

(iii) cost effectiveness;

(iv) building deficiencies and life safety concerns; and

(v) alternative funding sources.

(b) On or before August 1, 2019, the board of trustees shall establish:

(i) how the board of trustees will measure each factor described in Subsection (6)(a); and

(ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board of trustees may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$7,000,000 but less than \$14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least \$14,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in

Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

- (i) the Consumer Price Index for the 2019 calendar year; and
- (ii) the Consumer Price Index for the previous calendar year.

(8) (a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(b) The Legislature shall consider a technical college's request described in Subsection (8)(a).

**Section 13. Section 53B-22-201 is amended to read:**

**53B-22-201. Definitions.**

As used in this part:

(1) "Capital [~~developments~~] development" means the same as [~~that term is~~] capital development project, as defined in Section [63A-5-104] 63A-5b-401.

(2) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(3) "Dedicated project" means a capital development project for which state funds from an institution's allocation are requested or used.

(4) "Fund" means the Higher Education Capital Projects Fund created in Section 53B-22-202.

(5) "Institution" means a college or university that is part of the Utah System of Higher Education described in Section 53B-1-102.

(6) "Institution's allocation" means the total amount of money in the fund that an institution has been allocated in accordance with Section 53B-22-203.

(7) "Nondedicated project" means a capital development project for which state funds from a source other than an institution's allocation are requested or used.

(8) "State funds" means the same as that term is defined in Section [63A-5-104] 63A-5b-401.

**Section 14. Section 53B-22-204 is amended to read:**

**53B-22-204. Funding request for capital development project -- Legislative approval -- Board prioritization, approval, and review.**

(1) In accordance with this section, an institution is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(2) An institution shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the institution seeks legislative approval.

(3) The board shall:

(a) review each proposal submitted under Subsection (2) to ensure the proposal:

(i) is cost effective and an efficient use of resources;

(ii) is consistent with the institution's mission and master plan; and

(iii) fulfills a critical institutional facility need;

(b) based on the results of the board's review under Subsection (3)(a), create:

(i) a list of approved dedicated projects; and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (5); and

(c) submit the lists described in Subsection (3)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the State Building Board for the State Building Board's:

(A) recommendation, for the list described in Subsection (3)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

(4) A dedicated project:

(a) is subject to the State Building Board's recommendation as described in Section [63A-5-104] 63A-5b-403; and

(b) is not subject to the State Building Board's prioritization as described in Section [63A-5-104] 63A-5b-403.

(5) (a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated projects based on:

(i) capital facility need;

(ii) utilization of facilities;

(iii) maintenance and condition of facilities; and

(iv) any other factor determined by the board.

(b) On or before August 1, 2019, the board shall establish how the board will prioritize institution requests for funding for nondedicated projects, including:

(i) how the board will measure each factor described in Subsection (5)(a); and

(ii) procedures for prioritizing requests.

(6) (a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$50,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$50,000,000 but less than \$100,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least \$100,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(7) (a) An institution may request operations and maintenance funds for a capital development project approved under this section.

(b) The Legislature shall consider an institution's request described in Subsection (7)(a).

(8) After an institution completes a capital development project described in this section, the board shall review the capital development project, including the costs and design of the capital development project.

**Section 15. Section 63A-1-112 is amended to read:**

**63A-1-112. Certificates of participation -- Legislative approval required -- Definition -- Exception.**

(1) (a) Certificates of participation for either capital facilities or capital improvements may not be issued by the department, its subdivisions, or any other state agency after July 1, 1985, without prior legislative approval.

(b) Nothing in this section affects the rights and obligations surrounding certificates of participation that were issued prior to July 1, 1985.

(2) (a) As used in this section, "certificate of participation" means an instrument that acts as evidence of the certificate holder's undivided interest in property being lease-purchased, the payment on which is subject to appropriation by the Legislature.

(b) (i) As used in this Subsection (2)(b), "performance efficiency agreement" means the same as that term is defined in Section [63A-5-701] 63A-5b-1001.

(ii) "Certificate of participation" does not include a performance efficiency agreement.

**Section 16. Section 63A-5b-101 is enacted to read:**

**CHAPTER 5b. ADMINISTRATION OF STATE FACILITIES**

**Part 1. General Provisions**

**63A-5b-101. Title.**

This chapter is known as "Administration of State Facilities."

**Section 17. Section 63A-5b-102 is enacted to read:**

**63A-5b-102. Definitions.**

As used in this chapter:

(1) "Board" means the state building board created in Section 63A-5b-201.

(2) "Board of Regents" means the State Board of Regents established in Section 53B-1-103.

(3) "Capitol hill facilities" means the same as that term is defined in Section 63C-9-102.

(4) "Capitol hill grounds" means the same as that term is defined in Section 63C-9-102.

(5) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

(6) "Director" means the division director, appointed under Section 63A-5b-302.

(7) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

(8) "Institution of higher education" means an institution listed in Subsection 53B-2-101(1).

(9) "Trust lands administration" means the School and Institutional Trust Lands Administration established in Section 53C-1-201.

(10) "UTech board" means the UTech Board of Trustees created in Section 53B-2a-103.

**Section 18. Section 63A-5b-201 is enacted to read:**

**Part 2. State Building Board**

**63A-5b-201. Creation of state building board -- Composition -- Appointment -- Per diem and expenses -- Board officers.**

(1) There is created within the department the state building board.

(2) (a) The board is composed of eight members, seven of whom are voting members appointed by the governor.

(b) The executive director of the Governor's Office of Management and Budget, or the executive director's designee, is a nonvoting member of the board.

(3) The term of a voting board member is four years, except that the governor shall, at the time of a member's appointment or reappointment, adjust the length of the member's term, as necessary, to ensure that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership of the voting members of the board for any reason, the governor shall appoint a replacement for the unexpired term of the member who created the vacancy.

(5) (a) A voting board member shall hold office until a successor is appointed and qualified.

(b) A voting board member may not serve more than two consecutive terms.

(6) The governor shall designate one board member as the board chair.

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

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(8) A member of the board is not required to post a bond for the performance of the member's official duties.

(9) The executive director or the executive director's designee shall serve as secretary to the board and shall:

(a) manage scheduling for the board and the board's calendar;

(b) establish and manage the agenda for meetings of the board;

(c) keep the minutes of board meetings;

(d) assist the board in the board's obligation to comply with Title 52, Chapter 4, Utah Open and Public Meetings Act;

(e) (i) assist the board in the board's obligation to comply with Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) act as the board's records officer, as defined in Section 63G-2-103; and

(f) assist the board in the board's obligation to comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 19. Section 63A-5b-202 is enacted to read:**

**63A-5b-202. State building Board powers and duties.**

(1) The board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that are necessary to discharge the board's duties.

(2) The board shall:

(a) review and approve agency master plans of structures built or contemplated;

(b) submit capital development recommendations and priorities to the Legislature as set forth in Section 63A-5b-402;

(c) submit recommendations for dedicated projects and prioritize nondedicated projects as provided in Section 63A-5b-403;

(d) make a finding that the requirements of Section 53B-2a-112 are met before the board may consider a funding request from the UTech board pertaining to new capital facilities and land purchases; and

(e) fulfill the board's responsibilities under:

(i) Section 63A-5b-802, relating to the approval of leases with terms of more than 10 years;

(ii) Section 63A-5b-907, relating to vacant division-owned property; and

(iii) Section 63A-5b-1003, relating to the approval of loans from the state facility energy efficiency fund.

(3) The board may:

(a) authorize capital development projects without Legislative approval only as authorized in Section 63A-5b-404; and

(b) make rules relating to the categorical delegation of projects as provided in Subsection 63A-5b-604(4).

**Section 20. Section 63A-5b-203 is enacted to read:**

**63A-5b-203. Meetings of state building board -- Rules of procedure -- Quorum.**

(1) The board shall meet quarterly and at other times at the call of the executive director or at the request of the board chair.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall adopt rules of procedure for the conduct of the board's meetings.

(3) Four members of the board constitute a quorum for the transaction of business.

(4) The board shall conduct all meetings of the board in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

**Section 21. Section 63A-5b-301, which is renumbered from Section 63A-5-201 is renumbered and amended to read:**

**Part 3. Division of Facilities Construction and Management**

**[63A-5-201]. 63A-5b-301. Creation -- Administration.**

There is created within the department the Division of Facilities Construction and Management, to be administered by a director.

**Section 22. Section 63A-5b-302, which is renumbered from Section 63A-5-203 is renumbered and amended to read:**

**[63A-5-203]. 63A-5b-302. Director of division -- Appointment.**

The executive director shall appoint the director of the division with the approval of the governor.

**Section 23. Section 63A-5b-303 is enacted to read:**

**63A-5b-303. Duties and authority of division.**

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations

acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or of the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) implement the state building energy efficiency program under Section 63A-5b-1002;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 62A-5-206.6(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed \$250,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an institution of higher education or an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the trial courts area is reserved to the judiciary.

(d) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410.

**Section 24. Section 63A-5b-304 is enacted to read:**

**63A-5b-304. Agencies authorized to hold title.**

Notwithstanding Section 63A-5b-303, an agency may hold title to real property that the agency occupies for a purpose other than the agency's administrative offices, if the agency is:

- (1) the Department of Transportation;
- (2) the Department of Natural Resources;
- (3) the Department of Workforce Services;
- (4) the Division of Forestry, Fire, and State Lands;
- (5) the Utah National Guard;
- (6) an area vocational center or other institution administered by the State Board of Education;
- (7) the trust lands administration; and
- (8) an institution of higher education.

**Section 25. Section 63A-5b-305 is enacted to read:**

**63A-5b-305. Duties and authority of director.**

(1) The director shall:

(a) administer the division's duties and responsibilities;

(b) report all property acquired by the state, except property acquired by an institution of higher education or the trust lands administration, to the director of the Division of Finance for inclusion in the state's financial records;

(c) after receiving the notice required under Subsection 10-2-419(3)(d), file a written protest at or before the public hearing under Subsection 10-2-419(2)(b), if:

(i) it is in the best interest of the state to protest the boundary adjustment; or

(ii) the Legislature instructs the director to protest the boundary adjustment; and

(d) take all other action that the director is required to take under this chapter or other applicable statute.

(2) The director may:

(a) create forms and make policies necessary for the division or director to perform the division or director's duties;

(b) (i) hire or otherwise procure assistance and service, professional, skilled, or otherwise, necessary to carry out the director's duties under this chapter; and

(ii) expend funds provided for the purpose described in Subsection (2)(b)(i) through annual operation budget appropriations or from other nonlapsing project funds;

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary for the division or director to perform the division or director's duties; and

(d) take all other action necessary for carrying out the purposes of this chapter.

**Section 26. Section 63A-5b-401 is enacted to read:**

**Part 4. Development of Capital Facilities**

**63A-5b-401. Definitions.**

As used in this part:

(1) (a) "Capital development project" means:

(i) a remodeling or site or utility improvement project with a total cost of \$3,500,000 or more;

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

(iii) a purchase of real property if an appropriation is requested and made for the purchase.

(b) "Capital development project" does not include a capital improvement project.

(2) "Capital improvement project" means:

(a) a remodeling, alteration, replacement, repair, or site or utility improvement project:

(i) with a total cost of less than \$3,500,000; or

(ii) (A) with a total cost of \$3,500,000 or more; and

(B) that will be paid for with funds that are not state funds;

(b) a utility infrastructure improvement project that:

(i) has a total cost of less than \$7,000,000;

(ii) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and

(iii) the division determines is more cost effective or feasible to be completed as a single project; or

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

(3) (a) "New facility" means a new building constructed on state property regardless of the source of the funding that pays for construction of the new building.

(b) "New facility" includes:

(i) an addition to an existing building; and

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

(c) "New facility" does not include:

(i) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$3,500,000; or

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

(4) "Replacement cost" means, as determined by the Division of Risk Management:

(a) for state facilities, excluding auxiliary facilities as defined by the director, the cost to replace those facilities; and

(b) for infrastructure, as defined by the director, the cost to replace the infrastructure.

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

**Section 27. Section 63A-5b-402 is enacted to read:**

**63A-5b-402. Capital development process -- Approval requirements.**

(1) Except as provided in Section 63A-5b-404, the board shall, on behalf of all agencies, submit capital development project recommendations and priorities to the Legislature for approval and prioritization.

(2) An agency that requests an appropriation for a capital development project shall submit to the division for transmission to the board a capital development project request and a feasibility study relating to the capital development project.

(3) (a) The division shall, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards and requirements for a capital development project request and feasibility study.

(b) The rules shall include:

(i) a deadline by which an agency is required to submit a capital development project request;

(ii) conditions under which an agency may modify the agency's capital development project request after the agency submits the request, and requirements applicable to a modification; and

(iii) requirements for the contents of a feasibility study, including:



- (A) the need for the capital development project;
- (B) the appropriateness of the scope of the capital development project;
- (C) any private funding for the capital development project; and
- (D) the economic and community impacts of the capital development project.

(4) The division shall verify the completion and accuracy of a feasibility study that an agency submits under Subsection (2) prior to transmitting the feasibility study to the board.

**Section 28. Section 63A-5b-403 is enacted to read:**

**63A-5b-403. Institutions of higher education -- Capital development projects -- Dedicated and nondedicated projects -- Recommendations and prioritization.**

- (1) As used in this section:
- (a) “Dedicated project” has the same meaning as that term is defined in:
- (i) Section 53B-2a-101, for a capital development project under Title 53B, Chapter 2a, Utah System of Technical Colleges; or
- (ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22, Higher Education Capital Projects.
- (b) “Nondedicated project” has the same meaning as that term is defined in:
- (i) Section 53B-2a-101, for a capital development project under Title 53B, Chapter 2a, Utah System of Technical Colleges; or
- (ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22, Higher Education Capital Projects.
- (2) (a) The board shall submit recommendations to the Legislature in accordance with:
- (i) Section 53B-2a-117, for a dedicated project under Title 53B, Chapter 2a, Utah System of Technical Colleges; or
- (ii) Section 53B-22-204, for a dedicated project under Title 53B, Chapter 22, Higher Education Capital Projects.
- (b) A dedicated project is not subject to prioritization by the board.
- (3) (a) The board shall prioritize nondedicated projects in accordance with:
- (i) Section 63A-5b-402; and
- (ii) (A) Section 53B-2a-117, for a nondedicated project under Title 53B, Chapter 2a, Utah System of Technical Colleges; or
- (B) Section 53B-22-204, for a nondedicated project under Title 53B, Chapter 22, Higher Education Capital Projects.

(b) In the board’s scoring process for prioritizing nondedicated projects, the board shall give more weight to a request that is designated as a higher priority by the UTech board or Board of Regents than a request that is designated as a lower priority by the UTech board or Board of Regents only for determining the order of prioritization among requests submitted by the UTech board or Board of Regents, respectively.

(4) The board shall require that an institution of higher education that submits a request for a capital development project address whether and how, as a result of the project, the institution of higher education will:

- (a) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;
- (b) respond to individual skilled and technical job demand over the next three, five, and 10 years;
- (c) respond to industry demands for trained workers;
- (d) help meet commitments made by the Governor’s Office of Economic Development, including relating to training and incentives;
- (e) respond to changing needs in the economy; and
- (f) respond to demands for online or in-class instruction, based on demographics.
- (5) The division shall:
- (a) (i) assist institutions of higher education in providing the information required by Subsection (3); and
- (ii) verify the completion and accuracy of the information submitted by an institution of higher education under Subsection (3);
- (b) assist the UTech board to fulfill the requirements of Section 53B-2a-112 in connection with the finding that the board is required to make under Subsection 53B-2a-112(5)(b); and
- (c) assist the Board of Regents in submitting a list of dedicated projects to the board for approval and nondedicated projects to the board for recommendation and prioritization pursuant to Section 53B-22-204.

**Section 29. Section 63A-5b-404 is enacted to read:**

**63A-5b-404. Exceptions to requirement of legislative approval for capital development projects.**

- (1) (a) Except as provided in this section, a capital development project may not be constructed on state property without legislative approval.
- (b) The board may authorize a capital development project on state property without legislative approval only as provided in this section.
- (2) (a) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:

(i) the board determines that the requesting agency has provided adequate assurance that state funds will not be used for the design or construction of the facility;

(ii) the agency provides to the board a written document, signed by the head of the agency:

(A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance for the resulting facility or for immediate or future capital improvements; and

(B) detailing the source of the funding that will be used for the cost of operations and maintenance and for immediate and future capital improvements to the resulting facility; and

(iii) the board determines that the use of the state property:

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

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

(b) For a facility constructed without legislative approval under Subsection (2)(a), an agency may not request:

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

(ii) increased state capital improvement funding.

(3) Legislative approval is not required for:

(a) a facility:

(i) to be built with funds other than state funds and owned by an entity other than a state entity; and

(ii) that is within a research park area at the University of Utah or Utah State University;

(b) a facility to be built at This is the Place State Park by the This is the Place Foundation with funds of the This is the Place Foundation or with donated services or materials and that may include grant money from the state;

(c) a project that:

(i) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and

(ii) does not provide a new facility for an agency or institution of higher education; or

(d) a project on school and institutional trust lands that:

(i) is funded by the trust lands administration from the Land Grant Management Fund; and

(ii) does not fund construction of a new facility for an agency or institution of higher education.

(4) (a) Legislative approval is not required for a capital development project to be built for the Department of Transportation resulting from:

(i) an exchange of real property under Section 72-5-111; or

(ii) a sale or exchange of real property from a maintenance facility if the proceeds from the sale of the real property are used for, or the real property is exchanged for:

(A) real property for another maintenance facility; or

(B) another maintenance facility, including improvements for a maintenance facility.

(b) If the Department of Transportation approves a sale or exchange under Subsection (4)(a) for a capital development project subject to the board's approval, the Department of Transportation shall notify the president of the Senate, the speaker of the House of Representatives, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriations Committee about any new facilities to be built or improved.

**Section 30. Section 63A-5b-405, which is renumbered from Section 63A-5-228 is renumbered and amended to read:**

**~~63A-5-228~~. 63A-5b-405. Capital improvement projects.**

~~[(1) As used in this section:]~~

~~[(a) "Building board" means the State Building Board created under Section 63A-5-101.]~~

~~[(b) "Capital improvement" means:]~~

~~[(i) a remodeling, alteration, replacement, or repair project with a total cost of less than \$3,500,000;]~~

~~[(ii) a site or utility improvement with a total cost of less than \$3,500,000;]~~

~~[(iii) a utility infrastructure improvement project that:]~~

~~[(A) has a total cost of less than \$7,000,000;]~~

~~[(B) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and]~~

~~[(C) the division determines is more cost effective or feasible to be completed as a single project; or]~~

~~[(iv) a new facility with a total construction cost of less than \$500,000.]~~

~~[(e) "Capital improvements list" means the list that the division is required to submit to the Legislature under Subsection (2)(a).]~~

~~[(2) (a) (i)] (1) (a) On or before January 15 of each year, the division shall, on behalf of all [state] agencies, submit a list of anticipated capital improvement project requirements to the Legislature.~~

~~[(ii)] (b) The division shall ensure that the capital improvements project list identifies:~~

~~[(A) (i) each single capital improvement project that costs more than \$1,000,000;~~

~~[(B)]~~ (ii) each multiple capital improvement project within a single building or facility that collectively costs more than \$1,000,000;

~~[(C)]~~ (iii) each single capital improvement project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

~~[(D)]~~ (iv) each multiple capital improvement project within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

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

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

~~[(G)]~~ (vii) each capital improvement project described in Subsection ~~[(1)(b)(iii)]~~ 63A-5b-401(3)(c).

~~[(b)]~~ (2) (a) Unless otherwise directed by the Legislature, the division shall prioritize capital ~~[improvements]~~ improvement projects on the capital ~~[improvements]~~ improvement project list up to the level of appropriation made by the Legislature.

~~[(e)]~~ (b) In prioritizing capital ~~[improvements]~~ improvement projects, the division shall consider the results of facility evaluations completed by an architect or engineer as stipulated by the ~~[building board's]~~ division's facilities maintenance standards.

~~[(d)]~~ (c) In prioritizing capital ~~[improvements]~~ improvement projects, the division shall allocate at least 90% of the funds that the Legislature appropriates for capital ~~[improvements]~~ improvement projects to:

(i) capital improvement projects that address:

- (A) a structural issue;
- (B) fire safety;
- (C) a code violation; or
- (D) any issue that impacts health and safety;

(ii) capital improvement projects that upgrade:

- (A) an HVAC system;
- (B) an electrical system;
- (C) essential equipment;
- (D) an essential building component; or
- (E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(iii) capital improvement projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.

~~[(e)]~~ (d) In prioritizing capital ~~[improvements]~~ improvement projects, the division may not allocate more than 10% of the funds that the Legislature appropriates for capital ~~[improvements]~~ improvement projects to:

(i) remodeling and aesthetic upgrades to meet state programmatic needs; or

(ii) construct an addition to an existing building or facility.

~~[(f)]~~ (3) The division may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the capital improvement project.

~~[(g)]~~ (4) The division may provide capital improvement project funding to a single project or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$3,500,000 or more, if:

~~[(i)]~~ (a) the capital improvement project is a project described in Subsection ~~[(1)(b)(iii)]~~ 63A-5b-401(3)(c); and

~~[(ii)]~~ (b) the Legislature has not refused to fund the project with capital improvement project funds.

~~[(h)]~~ (5) In prioritizing and allocating capital improvement project funding, the division shall comply with the requirement in Subsection 63B-23-101(2)(f).

~~[(i)]~~ (6) (a) In developing the capital improvement project list and priorities, the division shall require each ~~[state]~~ agency that requests an appropriation for a capital improvement project to:

(i) submit a capital improvement project request; and

(ii) complete and submit a project scoping document.

~~[(j)]~~ (b) A project scoping document under Subsection ~~[(2)(i)(ii)]~~ (6)(a)(ii) shall address:

(i) the need for the capital improvement project; and

(ii) the appropriateness of the scope of the capital improvement project.

~~[(k)]~~ (c) The division shall verify the completion and accuracy of a project scoping document that ~~[a state]~~ an agency submits under Subsection ~~[(2)(i)(ii)]~~ (6)(a)(ii).

~~[(3) (a) Beginning July 1, 2020, the division shall implement a program to charge state agencies, except institutions included within the state system of higher education under Section 53B-1-102, lease payments for the agency's use and occupancy of space within a building.]~~

~~[(b) Before July 1, 2020, the division shall:]~~

~~[(i) conduct a market analysis of market lease rates for comparable space in buildings comparable to division-owned buildings; and]~~

~~[(ii) establish lease rates for an agency's use and occupancy of a division-owned building.]~~

~~[(e) The lease rates shall be:]~~

~~[(i) consistent with market rates for comparable space in comparable buildings;]~~

~~[(ii) calculated to cover:]~~

~~[(A) an amortized amount for capital replacement;]~~

~~[(B) an amount for capital improvements; and]~~

~~[(C) operation and maintenance costs; and]~~

~~[(iii) in proportion to legislative appropriations.]~~

~~[(d) In making appropriations to cover lease payments under this Subsection (3), the Legislature shall create a line item, as defined in Section 63J-1-102, for each agency to fund the lease payments.]~~

~~(7) Except for this Subsection (7), this section does not apply to a capital improvement project described in Subsection 63A-5b-401(2)(a)(ii).~~

**Section 31. Section 63A-5b-406 is enacted to read:**

**63A-5b-406. Limitations on new projects.**

(1) The Legislature may authorize:

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

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

(2) If construction of a new building or facility will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(3) (a) Except as provided in Subsections (3)(b) and (c), the Legislature may not fund the design or construction of any new capital development project, except to complete the funding of a project for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) If the Legislature determines that there exists an Education Fund budget deficit, as defined in Section 63J-1-312, or a General Fund budget deficit, as defined in Section 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

(c) Subsection (3)(a) does not apply to a dedicated project as defined in Section 63A-5b-403.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), the Legislature may not fund the design and construction of a new facility in phases over more than one year unless the Legislature approves the funding for both the design and construction by a vote of two-thirds of all the members elected to each house.

(ii) Subsection (4)(a)(i) does not apply to a dedicated project as defined in Section 63A-5b-403.

(b) An agency shall receive approval from the director before the agency begins programming for a new facility:

(i) that requires legislative approval; or

(ii) to be built under Subsection 63A-5b-404(2).

(c) The division or an agency may fund the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection (4)(a).

(5) (a) The director, with the approval of the Office of the Legislative Fiscal Analyst, shall develop standard forms to present capital development project and capital improvement project cost summary data.

(b) The director shall:

(i) within 30 days after the completion of each capital development project, submit cost summary data for the project on the standard form to the Office of the Legislative Fiscal Analyst; and

(ii) upon request, submit cost summary data for a capital improvement project to the Office of the Legislative Fiscal Analyst on the standard form.

(6) (a) After the Legislature approves capital development project priorities under Section 63A-5b-402 and capital improvement project priorities under Section 63A-5b-405, the director may reallocate capital development project or capital improvement project funds to address a critical need for a capital improvement project:

(i) if an emergency arises that creates an unforeseen and critical need for the capital improvement project; and

(ii) notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act.

(b) The director shall report any changes the director makes in capital development project or capital improvement project allocations approved by the Legislature to:

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

(ii) the Legislature at the Legislature's next annual general session.

**Section 32. Section 63A-5b-501 is enacted to read:**

**Part 5. Planning and Programming  
63A-5b-501. Five-year building plan.**

(1) The director shall:

(a) in cooperation with agencies, prepare a master plan of structures built or contemplated;

(b) submit to the governor and the Legislature a comprehensive five-year building plan for the state containing the information required by Subsection (2);

(c) amend and keep current the five-year building plan that complies with the requirements described in Subsection (2), for submission to the governor and subsequent legislatures; and

(d) as part of the long-range plan, recommend to the governor and Legislature any changes in the law that are necessary to ensure an effective, well-coordinated building program for all agencies.

(2) (a) The director shall ensure that the five-year building plan required by Subsection (1)(b) includes:

(i) a list that prioritizes construction of new buildings for all structures built or contemplated based upon each agency's present and future needs;

(ii) information and space use data for all state-owned and leased facilities;

(iii) substantiating data to support the adequacy of any projected plans;

(iv) a summary of all statewide contingency reserve and project reserve balances as of the end of the most recent fiscal year;

(v) a list of buildings that have completed a comprehensive facility evaluation by an architect or engineer or are scheduled to have an evaluation;

(vi) for those buildings that have completed the evaluation, the estimated costs of needed improvements; and

(vii) for projects recommended in the first two years of the five-year building plan:

(A) detailed estimates of the cost of each project;

(B) the estimated cost to operate and maintain the building or facility on an annual basis;

(C) the cost of capital improvements to the building or facility, estimated at 1.1% of the replacement cost of the building or facility, on an annual basis;

(D) the estimated number of new agency full-time employees expected to be housed in the building or facility;

(E) the estimated cost of new or expanded programs and personnel expected to be housed in the building or facility;

(F) the estimated lifespan of the building with associated costs for major component replacement over the life of the building; and

(G) the estimated cost of any required support facilities.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may make rules prescribing the format for submitting the information required by this Subsection (2).

(3) To provide adequate information to enable the director to make a recommendation described in Subsection (1), an agency requesting new full-time employees for the next fiscal year shall report those anticipated requests to the director at least 90 days before the annual general session in which the request is made.

**Section 33. Section 63A-5b-502 is enacted to read:**

**63A-5b-502. Programming.**

(1) As used in this section:

(a) "Program document" means a final document that contains programming information.

(b) "Programming" means services to define the scope and purpose of an anticipated project, and may include:

(i) researching criteria applicable to the scope and purpose of an anticipated project;

(ii) identifying the scale of the project and the type of facilities and the level of specialized functions that will be required;

(iii) identifying and prioritizing values and goals that will impact the project, including institutional purposes, growth objectives, and cultural, technological, temporal, aesthetic, symbolic, economic, environmental, safety, sustainability, and other relevant criteria;

(iv) evaluating functional efficiency, user comfort, building economics, environmental sustainability, and visual quality;

(v) identifying objectives for the project, including such elements as image, efficiencies, functionality, cost, and schedule;

(vi) identifying and evaluating the constraints that will have an impact on the project such as legal requirements, financial constraints, location, access, visibility, and building services;

(vii) developing standards such as area allowances, space allocation, travel distances, and furniture and equipment requirements;

(viii) establishing general space quality standards related to such elements as lighting levels, equipment performance, acoustical requirements, security, and aesthetics;

(ix) identifying required spaces;

(x) establishing sizes and relationships;

(xi) establishing space efficiency factors or the ratio of net square footage to gross square footage; and

(xii) documenting particular space requirements such as special HVAC, plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.

(2) A program document may:

(a) incorporate written and graphic materials; and

(b) include:

(i) an executive summary;

(ii) documentation of the methodology used to develop the programming;

(iii) value and goal statements;

(iv) relevant facts upon which the programming was based;

(v) conclusions derived from data analysis;

(vi) relationship diagrams;

(vii) flow diagrams;

(viii) matrices identifying space allocations and relationships;

(ix) space listings by function and size; and

(x) space program sheets, including standard requirements and special HVAC, plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may make rules:

(a) establishing the types of projects for which programming and a program document are required;

(b) establishing the scope of programming required for defined categories of projects;

(c) establishing the circumstances under which an agency must obtain authorization from the director to engage in programming;

(d) governing the funding of programming;

(e) relating to the administration of programming; and

(f) regarding any restrictions that may be imposed on a person involved in programming from participating in the preparation of construction documents for a project that is the subject of the programming.

**Section 34. Section 63A-5b-503, which is renumbered from Section 63A-5-211 is renumbered and amended to read:**

**[63A-5-211]. 63A-5b-503. Planning Fund expenditures authorized -- Ceiling on expenditures -- Recovery.**

(1) The Planning Fund shall be used to make payments for engineering, architectural, and other planning expenses necessary to make a meaningful cost estimate of any facility or improvement with a demonstrable or immediate need.

(2) The director may make expenditures from the Planning Fund in order to provide planning information to the [State Building Board] board, the governor, and the Legislature, up to a maximum

of \$350,000 in outstanding Planning Fund commitments.

(3) (a) The director shall authorize all payments made from the Planning Fund.

(b) [~~These payments~~] Payments from the Planning Fund shall be a charge on the project for which they were drawn.

(c) [~~The amount paid shall be credited to the Planning Fund when~~] If the Legislature appropriates money for [any] a building project for which planning costs have previously been paid from the Planning Fund, the director shall credit that amount to the Planning Fund.

(4) (a) [~~Money may also be expended~~] The director may expend money from the Planning Fund for architectural and engineering services incident to the planning and preparation of applications for funds on construction financed by other than state sources, including federal grants.

(b) [~~However, upon~~] Upon approval of [such] financing referred to in Subsection (4)(a), the director shall reimburse to the Planning Fund the money spent for architectural and engineering services [shall be returned as a reimbursement to the Planning Fund].

**Section 35. Section 63A-5b-601 is enacted to read:**

**Part 6. Design and Construction**

**63A-5b-601. Definitions.**

As used in this part:

(1) (a) "Facility" means any building, structure, or other improvement that is constructed:

(i) on property owned by the state, the state's departments, commissions, institutions, or agencies; or

(ii) by the state, the state's departments, commissions, institutions, or agencies on property not owned by the state.

(b) "Facility" does not mean an unoccupied structure that is a component of the state highway system.

(2) "Local government" means the county, municipality, or local school district that would have jurisdiction to act as the compliance agency if the division did not have jurisdiction to act as the compliance agency.

**Section 36. Section 63A-5b-602 is enacted to read:**

**63A-5b-602. Design criteria, standards, and procedures.**

(1) The director shall establish design criteria, standards, and procedures for the planning, design, and construction of a new facility and for improvements to an existing facility, including life-cycle costing, cost-effectiveness studies, and other methods and procedures that address:

(a) the need for the facility;

(b) the effectiveness of the facility's design;

(c) the efficiency of energy use; and

(d) the usefulness of the facility over the facility's lifetime.

(2) Before proceeding with construction, the director and the officials charged with the administration of the affairs of the particular agency shall approve the location, design, plans, and specifications.

(3) The director shall prepare or have prepared by one or more private persons the designs, plans, and specifications for the projects administered by the division.

(4) Before construction may begin, the director shall review the design of projects exempted from the division's administration under Section 63A-5b-604 to determine if the design:

(a) complies with any restrictions placed on the project by the director; and

(b) is appropriate for the purpose and setting of the project.

(5) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, the director may:

(a) accelerate the design of a project funded by an appropriation act passed by the Legislature in the Legislature's annual general session;

(b) use an unencumbered existing account balance to fund that design work; and

(c) reimburse the account balance from the amount funded for the project when the appropriation act funding the project becomes effective.

**Section 37. Section 63A-5b-603 is enacted to read:**

**63A-5b-603. Contracting powers of director -- Bids -- Retainage.**

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director may enter into a contract for any work or professional service that the division or board may do or have done.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may make rules establishing circumstances under which bids may be modified when all bids for a construction project exceed available funds as determined by the director.

(b) In making the rules described in Subsection (2)(a), the director shall provide for the fair and equitable treatment of bidders.

(c) The judgment of the director as to the responsibility and qualifications of a bidder is conclusive, except in case of fraud or bad faith.

(3) The division shall make all payments to the contractor for completed work in accordance with Section 15-6-2 and pay the interest specified in Section 15-6-3 on any payments that are late.

(4) If the division retains or withholds a payment on a contract with a private contractor to do work for the division, the division shall retain or withhold and release the payment as provided in Section 13-8-5.

**Section 38. Section 63A-5b-604 is enacted to read:**

**63A-5b-604. Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Compliance agency role.**

(1) (a) Except as provided in this section and Section 63A-5b-1101, the director shall exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities, if the total project construction cost, regardless of the funding source, is greater than \$100,000.

(b) A state entity may exercise direct supervision over the design and construction of all new facilities, and over all alterations, repairs, and improvements to existing facilities, if:

(i) the total project construction cost, regardless of the funding sources, is \$100,000 or less; and

(ii) the state entity assures compliance with the division's forms and contracts and the division's design, construction, alteration, repair, improvement, and code inspection standards.

(2) The director may enter into a capital improvement partnering agreement with an institution of higher education that permits the institution of higher education to exercise direct supervision for a capital improvement project with oversight from the division.

(3) (a) Subject to Subsection (3)(b), the director may delegate control over design, construction, and other aspects of any project to entities of state government on a project-by-project basis.

(b) With respect to a delegation of control under Subsection (3)(a), the director may:

(i) impose terms and conditions on the delegation that the director considers necessary or advisable to protect the interests of the state; and

(ii) revoke the delegation and assume control of the design, construction, or other aspect of a delegated project if the director considers the revocation and assumption of control to be necessary to protect the interests of the state.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may delegate control over design, construction, and all other aspects of any project to entities of state government on a categorical basis for projects within a particular dollar range and a particular project type.

(b) Rules adopted by the board under Subsection (4)(a) may:

(i) impose the terms and conditions on categorical delegation that the board considers necessary or advisable to protect the interests of the state;

(ii) provide for the revocation of the delegation on a categorical or project specific basis and for the division to assume control of the design, construction, or other aspect of a category of delegated projects or a specific delegated project if the board considers revocation of the delegation and assumption of control to be necessary to protect the interests of the state;

(iii) require that a categorical delegation be renewed by the board on an annual basis; and

(iv) require the division's oversight of delegated projects.

(5) (a) A state entity to which project control is delegated under this section shall:

(i) assume fiduciary control over project finances;

(ii) assume all responsibility for project budgets and expenditures; and

(iii) receive all funds appropriated for the project, including any contingency funds contained in the appropriated project budget.

(b) Notwithstanding a delegation of project control under this section, a state entity to which control is delegated is required to comply with the division's codes and guidelines for design and construction.

(c) A state entity to which project control is delegated under this section may not access, for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5b-609.

(d) For a facility that will be owned, operated, maintained, and repaired by an entity that is not an agency and that is located on state property, the director may authorize the facility's owner to administer the design and construction of the project relating to that facility.

(6) (a) A project for the construction of a new facility and a project for alterations, repairs, and improvements to an existing facility are not subject to Subsection (1) if the project:

(i) occurs on property under the jurisdiction of the State Capitol Preservation Board;

(ii) is within a designated research park at the University of Utah or Utah State University;

(iii) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation; or

(iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may request the director to administer the design and construction of a project within the boundaries of This is the Place State Park.

(7) (a) The role of compliance agency under Title 15A, State Construction and Fire Codes Act, shall be filled by:

(i) the director, for a project administered by the division;

(ii) the entity designated by the State Capitol Preservation Board, for a project under Subsection (6)(a)(i);

(iii) the local government, for a project that is:

(A) not subject to the division's administration under Subsection (6)(a)(ii); or

(B) administered by This is the Place Foundation under Subsection (6)(a)(iii);

(iv) the compliance agency designated by the director, for a project under Subsection (2), (3), (4), or (5)(d); and

(v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting as the compliance officer for the balance of the project for which the art is being installed.

(b) A local government acting as the compliance agency under Subsection (7)(a)(iii) may:

(i) only review plans and inspect construction to enforce the state construction code or an approved code under Title 15A, State Construction and Fire Codes Act; and

(ii) charge a building permit fee of no more than the amount the local government could have charged if the land upon which the improvements are located were not owned by the state.

(8) (a) The zoning authority of a local government under Section 10-9a-305 or 17-27a-305 does not apply to the use of state property or any improvements constructed on state property, including improvements constructed by an entity other than a state entity.

(b) A state entity controlling the use of state property shall consider any input received from a local government in determining how the property is to be used.

**Section 39. Section 63A-5b-605, which is renumbered from Section 63A-5-208 is renumbered and amended to read:**

**[63A-5-208]. 63A-5b-605. Requirement for bidders to list subcontractors -- Changing subcontractors -- Bidders as subcontractors.**

(1) As used in this section:

(a) "First-tier subcontractor" means a subcontractor who contracts directly with the prime contractor.

(b) (i) "Subcontractor" means [~~any~~ a person [~~or entity~~] under contract with a contractor or another subcontractor to provide services or labor for the construction, installation, or repair of an improvement to real property.

(ii) "Subcontractor" includes a trade contractor or specialty contractor.

(iii) "Subcontractor" does not include [~~suppliers who provide~~] a supplier that provides only materials, equipment, or supplies to a contractor or subcontractor.



(2) The director shall apply the provisions of this section to achieve fair and competitive bidding and to discourage bid-shopping by contractors.

(3) (a) (i) (A) On ~~each~~ a public construction project, the director shall, except as provided in Subsection (3)(a)(ii), require the apparent lowest three bidders to submit a list of their first-tier subcontractors indicating each first-tier each subcontractor's name, bid amount, and other information required by rule.

(B) ~~[Other bidders who are]~~ A bidder that is not one of the apparent lowest three bidders may also submit a list of ~~their~~ the bidder's first-tier subcontractors containing the information required by this Subsection (3).

(ii) A bidder is not required to list a first-tier subcontractor if:

(A) the bidder's total bid is less than \$500,000 and the first-tier subcontractor's bid is less than \$20,000; or

(B) the bidder's total bid is \$500,000 or more and the first-tier subcontractor's bid is less than \$35,000.

~~[(C) The director may not consider any bid submitted by a bidder if the bidder fails to submit a subcontractor list meeting the requirements of this section.]~~

~~[(ii) On projects where the contractor's total bid is less than \$500,000, subcontractors whose bid is less than \$20,000 need not be listed.]~~

~~[(iii) On projects where the contractor's total bid is \$500,000 or more, subcontractors whose bid is less than \$35,000 need not be listed.]~~

(b) ~~[(i) The bidders]~~ A bidder shall submit ~~[this]~~ the list required under this section within 24 hours after the bid opening time, not including ~~[Saturdays, Sundays, and state holidays]~~ Saturday, Sunday, and any state holiday.

~~[(ii) (c) [This]~~ A list submitted under this section does not limit the director's right to authorize a change in the listing of any subcontractor.

(4) The director may not consider a bid submitted by a bidder that fails to submit a list meeting the requirements of this section.

~~[(e) (5) [The bidders]~~ A bidder shall verify that all subcontractors listed as part of ~~their bids]~~ the bidder's bid are licensed as required by state law.

~~[(d) (6) (a) [Twenty-four]~~ After 24 hours after the bid opening, ~~[the contractor]~~ a bidder may change the ~~contractor's]~~ bidder's subcontractors only after:

- (i) receiving permission from the director; and
- (ii) establishing ~~[that]~~:

(A) that the change is in the best interest of the state; and

(B) the ~~[contractor establishes]~~ reasons for the change that meet the standards established by the ~~[State Building Board]~~ director.

~~[(e) (b) If the director approves [any changes] a change in subcontractors that [result] results in a net lower contract price for subcontracted work, the director may require the bidder to reduce the total of the prime contract [may be reduced] to reflect the [changes] change.~~

~~[(4) (7) (a) A bidder may list [himself] the bidder as a subcontractor [when] if:~~

~~(i) the bidder is currently licensed to perform the portion of the work for which the bidder lists [himself] the bidder as a subcontractor [and]; and~~

~~[(i) (ii) (A) the bidder intends to perform the work of a subcontractor [himself]; or~~

~~[(ii) (B) the bidder intends to obtain a subcontractor at a later date to perform the work [at a later date] because the bidder was unable to (A) obtain a bid from a qualified subcontractor [or (B) obtain a bid] or from a qualified subcontractor at a cost that the bidder considers to be reasonable.~~

(b) (i) ~~[When]~~ If the bidder intends to perform the work of a subcontractor ~~[himself]~~, the director may, by written request, require that the bidder provide the director with information indicating the bidder's:

(A) previous experience in the type of work to be performed; and

(B) qualifications for performing the work.

(ii) ~~[The bidder must]~~ A bidder shall respond in writing within five business days ~~[of]~~ after receiving the director's written request under Subsection (7)(b)(i).

(iii) If the ~~[bidder's submitted]~~ information a bidder submits under Subsection (7)(b)(ii) causes the director to reasonably believe that ~~[self performance]~~ the bidder's performance of the portion of the work ~~[by the bidder]~~ is likely to ~~[yield]~~ result in a substandard finished product, the director shall:

(A) require the bidder to use a subcontractor for the portion of the work in question and obtain the subcontractor bid under the supervision of the director; or

(B) reject the bidder's bid.

~~[(e) (i) (8) (a) [When the]~~ If a bidder intends to obtain a subcontractor ~~[to perform the work at a later date]~~ at a later date to perform work described in the bidder's bid, the bidder shall provide documentation with the subcontractor list required under this section:

(i) ~~describing (A)]~~ the bidder's efforts to obtain a bid of a qualified subcontractor at a reasonable cost; and

~~[(B)] (ii) explaining~~ why the bidder was unable to obtain a qualified subcontractor bid.

~~[(ii) (b) If [the] a bidder who intends to obtain a subcontractor at a later date to perform the work [at~~

a later date] described in a bid is awarded a contract, the director:

(i) shall supervise the bidder's efforts to obtain a qualified subcontractor bid[.]; and

(iii) (ii) [The director] may not adjust the amount of the contract awarded in order to reflect the actual amount of the subcontractor's bid.

(5) (9) The division may not disclose any subcontractor bid amounts obtained under this section until the division has awarded the project to a contractor.

(6) (a) The director shall, in consultation with the State Building Board, prepare draft rules establishing a process for resolving disputes involved with contracts under the division's procurement authority.]

(b) The director shall consider, and the rules may include:]

(i) requirements regarding preliminary resolution efforts between the parties directly involved with the dispute;]

(ii) requirements for the filing of claims, including notification, timeframes, and documentation;]

(iii) identification of the types of costs eligible for allocation and a method for allocating costs among the parties to the dispute;]

(iv) required time periods, not to exceed 60 days, for the resolution of the claim;]

(v) provision for an independent hearing officer, panel, or arbitrator to extend the time period for resolution of the claim by not to exceed 60 additional days for good cause;]

(vi) provision for the extension of required time periods if the claimant agrees;]

(vii) requirements that decisions be issued in writing;]

(viii) provisions for administrative appeals of the decision;]

(ix) provisions for the timely payment of claims after resolution of the dispute, including any appeals;]

(x) a requirement that the final determination resulting from the dispute resolution process provided for in the rules is a final agency action subject to judicial review as provided in Sections 63G-4-401 and 63G-4-402;]

(xi) a requirement that a claim or dispute that does not include a monetary claim against the division or its agents is not limited to the dispute resolution process provided for in this Subsection (6);]

(xii) requirements for claims and disputes to be eligible for this dispute resolution process;]

(xiii) the use of an independent hearing officer, panel, arbitration, or mediation; and]

[~~(xiv) the circumstances under which a subcontractor may file a claim directly with the division.~~]

[~~(e) Persons pursuing claims under the process required by this Subsection (6):]~~

[~~(i) are bound by the decision reached under this process unless the decision is properly appealed; and]~~

[~~(ii) may not pursue claims or disputes under the dispute resolution process established in Title 63G, Chapter 6a, Utah Procurement Code.]~~

(7) (10) In addition to all other reasons allowed by [law] statute or rule, the director may reject all bids if [none] all of the bidders whose [bid is] bids are within the budget of the project fail to submit a subcontractor list [that meets the requirements of] as required under this section.

(8) Any violation of this section, or any fraudulent misrepresentation by a contractor, subcontractor, or supplier, may be grounds for:]

(a) the contractor, subcontractor, or supplier to be suspended or debarred by the director; or]

(b) the contractor or subcontractor to be disciplined by the Division of Professional and Occupational Licensing.]

#### **Section 40. Section 63A-5b-606 is enacted to read:**

#### **63A-5b-606. Dispute resolution process -- Penalties for fraud or bad faith claim.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall adopt rules for the division establishing a process for resolving disputes involved with contracts under the division's procurement authority.

(2) The director shall consider, and the rules may include:

(a) requirements regarding preliminary resolution efforts between the parties directly involved with the dispute;

(b) requirements for the filing of a claim, including notification, time frames, and documentation;

(c) identification of the types of costs eligible for allocation and a method for allocating costs among the parties to the dispute;

(d) a required time period, not to exceed 60 days, for the resolution of the claim;

(e) a provision for an independent hearing officer, panel, or arbitrator to extend the time period for resolution of the claim by not to exceed 60 additional days for good cause;

(f) a provision for the extension of required time periods if the claimant agrees;

(g) requirements that decisions be issued in writing;

(h) provisions for an administrative appeal of a decision;

(i) provisions for the timely payment of claims after resolution of the dispute, including any appeals;

(j) a requirement that the final determination resulting from the dispute resolution process provided for in the rules is a final agency action subject to judicial review as provided in Sections 63G-4-401 and 63G-4-402;

(k) a requirement that a claim or dispute that does not include a monetary claim against the division or an agent of the division is not limited to the dispute resolution process provided for in this section;

(l) requirements for claims and disputes to be eligible for the dispute resolution process under this section;

(m) the use of an independent hearing officer or panel or the use of arbitration or mediation; and

(n) the circumstances under which a subcontractor may file a claim directly with the division.

(3) A person pursuing a claim under the process established as provided in this section:

(a) is bound by the decision reached under this process, subject to any modification of the decision on appeal; and

(b) may not pursue a claim, protest, or dispute under the dispute resolution process established in Title 63G, Chapter 6a, Utah Procurement Code.

(4) A fraudulent misrepresentation made by or bad faith claim pursued by a contractor, subcontractor, or supplier, may be grounds for:

(a) the director to suspend or debar the contractor, subcontractor, or supplier; or

(b) the contractor, subcontractor, or supplier to be disciplined by the Division of Professional and Occupational Licensing.

**Section 41. Section 63A-5b-607, which is renumbered from Section 63A-5-205.5 is renumbered and amended to read:**

**[63A-5-205.5]. 63A-5b-607. Health insurance requirements -- Penalties.**

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications [related to] for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) [~~"Employee"~~] "Eligible employee" means an employee, as defined in Section 34A-2-104, [an "employee," "worker," or "operative"] who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting [requirements] period for qualified health [eare] insurance, which may not exceed the first day of the

calendar month following 60 days after the day on which the individual is hired] insurance coverage provided by the employer.

~~[(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.]~~

~~[(e)] (d) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.~~

~~[(f)] (e) "Subcontractor" means the same as that term is defined in Section [63A-5-208] 63A-5b-605.~~

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract [entered into by] with the division [or the State Building Board on or after July 1, 2009,] if the prime contract is in an aggregate amount [equal to or greater than] of \$2,000,000 or more; and

(b) a subcontractor of a contractor of a design or construction contract [entered into by] with the division [or State Building Board on or after July 1, 2009,] if the subcontract is in an aggregate amount [equal to or greater than] of \$1,000,000 or more.

(3) The requirements of this section do not apply to a contractor or subcontractor [described in Subsection (2)] if:

(a) the application of this section jeopardizes the division's receipt of federal funds;

(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

(c) the contract is the result of an emergency procurement.

(4) A person [that] who intentionally uses a change [orders,] order, contract [modifications,] modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor that is subject to the requirements of this section shall [demonstrate to the director that the contractor has and will:]

(i) make and maintain an offer of qualified health insurance coverage for the contractor's eligible employees and the eligible employees' dependents [by submitting]; and

(ii) submit to the director a written statement [that:] demonstrating that the contractor is in compliance with Subsection (5)(a)(i).

~~[(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;]~~

~~[(ii) is from:]~~

(b) A statement under Subsection (5)(a)(ii):

(i) shall be from:

(A) an actuary selected by the contractor or the contractor's insurer; or

(B) an underwriter who is responsible for developing the employer group's premium rates; and

~~[(iii) was] (ii) may not be created [within] more than one year before the day on which the [statement is submitted] contractor submits the statement to the director.~~

~~[(b)] (6) (a) A contractor that is subject to the requirements of this section shall:~~

~~(i) [place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall] ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health insurance coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and~~

~~(ii) obtain from a subcontractor [that is subject to the requirements of this section] referred to in Subsection (6)(a)(i) a written statement demonstrating that [the] subcontractor offers qualified health insurance coverage to eligible employees and eligible employees' dependents.~~

~~[(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;]~~

~~[(B)] (b) [is] A statement under Subsection (6)(a)(ii):~~

~~(i) shall be from:~~

~~(A) an actuary selected by the subcontractor or the subcontractor's insurer[;]; or~~

~~(B) an underwriter who is responsible for developing the employer group's premium rates; and~~

~~[(C)] (ii) [was] may not be created [within] more than one year before the day on which the contractor obtains the statement from the subcontractor.~~

~~[(e)-(i) (A)] (7) (a) (i) A contractor that fails to maintain an offer of qualified health insurance coverage [described in Subsection (5)(a)] during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules adopted by the division under [Subsection (6)] this section.~~

~~[(B)] (ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health insurance coverage [described in Subsection (5)(b)(i)] as required in this section.~~

~~[(ii)-(A)] (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health insurance coverage [described in Subsection (5)(b)(i)] during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules adopted by the division under [Subsection (6)] this section.~~

~~[(B)] (ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health insurance coverage~~

~~[described in Subsection (5)(a)] as required in this section.~~

~~[(6)] (8) The division shall adopt administrative rules:~~

~~(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~

~~(b) in coordination with:~~

~~(i) the Department of Environmental Quality in accordance with Section 19-1-206;~~

~~(ii) the Department of Natural Resources in accordance with Section 79-2-404;~~

~~(iii) a public transit district in accordance with Section 17B-2a-818.5;~~

~~(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;~~

~~(v) the Department of Transportation in accordance with Section 72-6-107.5; and~~

~~(vi) the Legislature's Administrative Rules Review Committee; and~~

~~(c) that establish:~~

~~(i) the requirements and procedures for a contractor and a subcontractor [shall follow] to demonstrate compliance with this section, including:~~

~~(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;~~

~~(B) a provision that a contractor that is subject to the requirements of this section [shall] obtain a written statement [described in Subsection (5)(a)] as provided in Subsection (5); and~~

~~(C) a provision that a subcontractor that is subject to the requirements of this section [shall] obtain a written statement [described in Subsection (5)(b)(ii)] as provided in Subsection (6);~~

~~(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:~~

~~(A) a three-month suspension of the contractor or subcontractor from entering into a future [contracts] contract with the state upon the first violation;~~

~~(B) a six-month suspension of the contractor or subcontractor from entering into a future [contracts] contract with the state upon the second violation;~~

~~(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and~~

~~(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered~~

qualified health insurance coverage during the duration of the contract; and

(iii) a website ~~on which~~ for the department ~~shall~~ to post the commercially equivalent benchmark for the qualified health insurance coverage that is provided by the Department of Health in accordance with Subsection 26-40-115(2).

~~(7)(a)~~ (9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

~~(6)~~ (10) (a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health insurance coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

~~(e)~~ (b) If a contractor or subcontractor provides the documents and information described in Subsection ~~[(7)(b)(ii)]~~ (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health insurance coverage.

~~(8)~~ (11) (a) (i) In addition to the penalties imposed under Subsection ~~[(6)(e)(ii)]~~ (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to ~~the~~ an eligible employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection ~~(8)~~ (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection ~~[(5)(a) or (5)(b)(ii)]~~ (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action ~~only~~ against the employee's employer ~~to enforce the provisions of this Subsection (8) only as provided in this Subsection (11).~~

~~(9)~~ (12) ~~[Any penalties imposed and collected]~~ The director shall cause money collected from the imposition and collection of a penalty under this section ~~shall~~ to be deposited into the Medicaid Restricted Account created by Section 26-18-402.

~~(40)~~ (13) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health insurance coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

**Section 42. Section 63A-5b-608, which is renumbered from Section 63A-5-207 is renumbered and amended to read:**

**[63A-5-207]. 63A-5b-608. Obligations beyond authorized funding prohibited -- Exceptions.**

(1) ~~[The] Unless otherwise specifically instructed by the terms of the appropriation for a particular project, the director shall assure, unless otherwise specifically instructed by the terms of the appropriation of a particular project,~~ that no obligations beyond the authorized funding are incurred in the construction of any project authorized by the Legislature.

(2) The director may expend appropriations for statewide projects from funds provided by the Legislature for the purposes and within the guidelines established by the Legislature.

~~(2)~~ (3) The director may consent to the drafting of a plan or the awarding of a contract that will exceed in cost the funding currently available for the project ~~in question~~ only if the Legislature has specifically provided for extending construction of a building or the completion of a project into future fiscal periods.

**Section 43. Section 63A-5b-609, which is renumbered from Section 63A-5-209 is renumbered and amended to read:**

**[63A-5-209]. 63A-5b-609. Expenditure of appropriated funds supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.**

(1) The director shall:

(a) (i) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made; and

(ii) specifically allocate money appropriated ~~when~~ if more than one project is included in any single appropriation without legislative directive;

(b) (i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and

(ii) (A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section ~~[63A-5-211]~~ 63A-5b-503 in the preparation of plans, engineering, and specifications; and

(B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

(c) hold in a statewide contingency reserve the amount budgeted for contingencies:

(i) in appropriations for the construction or remodeling of facilities; and

(ii) ~~[which may be]~~ that are over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.

(2) (a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:

(i) 4-1/2% to 6-1/2% for new construction; and

(ii) 6% to 9-1/2% for remodeling projects.

(b) The director shall hold the statewide contingency funds to cover:

(i) costs of change orders; and

(ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

(c) (i) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.

(ii) The Legislature may reappropriate to other building needs, including the cost of administering building projects, any amount from the statewide contingency reserve that is in excess of the reserve required to meet future contingency needs.

(3) (a) The director shall hold in a separate project reserve ~~[those]~~ state appropriated funds accrued through bid savings and project residual ~~[as a project reserve]~~.

(b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:

(i) bid savings and project residual from a capital improvement project, as defined in Section ~~[63A-5-104]~~ 63A-5b-401; and

(ii) bid savings and project residual from a capital development project, as defined in Section ~~[63A-5-104]~~ 63A-5b-401.

(c) The ~~[State Building Board may authorize the use of]~~ director may use project reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement project:

(i) approved under Section ~~[63A-5-104]~~ 63A-5b-405; and

(ii) for which funds are not allocated.

(d) The director may:

(i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the award of contracts in excess of a project's construction budget if the use is required to meet the intent of the project;

(ii) transfer money from the account described in Subsection (3)(b)(i) to the account described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget; and

(iii) use project reserve funds for any emergency capital improvement project, whether or not the emergency capital improvement project is related to a project that has exceeded its construction budget.

(e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:

(i) an ~~[authorization]~~ expenditure under Subsection (3)(c); or

(ii) a transfer under Subsection (3)(d).

(f) The Legislature shall annually review the amount held in the project reserve for possible reallocation by the Legislature to other building needs, including the cost of administering building projects.

(4) If any part of the appropriation for a building project, other than the part set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act, remains unencumbered after the award of construction and professional service contracts and establishing a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the project reserve and does not revert to the General Fund.

(5) (a) One percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(b) The director shall release to the Division of Fine Arts any funds included in an appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art Program.

(c) Funds from appropriations for ~~[any]~~ a state building or facility ~~[of which]~~ may not be set aside:

(i) if any part of the funds is derived from the issuance of bonds~~;~~; and

(ii) to the extent ~~[it]~~ the set aside of funds would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds~~;~~ may not be set aside.

**Section 44. Section 63A-5b-610, which is renumbered from Section 63A-5-219 is renumbered and amended to read:**

**63A-5-219. 63A-5b-610. Transfer from project reserve money.**

(1) With the approval of and through an appropriation by the Legislature, the division shall transfer at least \$100,000 annually from the project reserve money to the General Fund to pay for personal service expenses associated with the management of construction projects.

(2) With the approval of and as directed by the Legislature, the division shall transfer additional

money from the project reserve money to pay administrative costs associated with the management of construction projects and other division responsibilities.

**Section 45. Section 63A-5b-701 is enacted to read:**

**Part 7. Operation and Maintenance**

**63A-5b-701. Operation and maintenance for state facilities.**

(1) As used in this section, "maintenance functions" means all programs and activities related to the operation and maintenance of a state facility, including preventive maintenance and inspection.

(2) (a) The director shall direct or delegate maintenance functions for an agency, except for:

- (i) the State Capitol Preservation Board; and
- (ii) an institution of higher education.

(b) The director may delegate responsibility for maintenance functions to an agency only if:

- (i) the agency requests the responsibility; and
- (ii) the director determines that:

(A) the agency has the necessary resources and skills to comply with maintenance functions standards approved by the director; and

(B) the delegation would result in net cost savings to the state as a whole.

(c) The State Capitol Preservation Board and an institution of higher education are exempt from division oversight of maintenance functions.

(d) An institution of higher education shall comply with the division's facility maintenance functions standards.

(3) (a) An institution of higher education shall annually report to the division, in a format required by the division, on the institution of higher education's compliance with the division's maintenance functions standards.

(b) The division shall:

(i) prescribe a standard format for reporting compliance with the division's maintenance functions standards;

(ii) report to the Legislature on the compliance or noncompliance with the standards; and

(iii) conduct periodic audits to ensure that institutions of higher education are complying with the standards and report the results of the audits to the Legislature.

**Section 46. Section 63A-5b-702 is enacted to read:**

**63A-5b-702. Standards and requirements for state facilities -- Life-cycle cost effectiveness.**

(1) As used in this section:

(a) "Life cycle cost-effective" means the most prudent cost of owning, operating, and maintaining a facility, including the initial cost, energy costs, operation and maintenance costs, repair costs, and the costs of energy conservation and renewable energy systems.

(b) "Renewable energy system" means a system designed to use solar, wind, geothermal power, wood, or other replenishable energy source to heat, cool, or provide electricity to a building.

(2) The director shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) that establish standards and requirements for determining whether a state facility project is life cycle cost-effective;

(b) for the monitoring of an agency's operation and maintenance expenditures for a state-owned facility;

(c) to establish standards and requirements for utility metering;

(d) that create an operation and maintenance program for an agency's facilities;

(e) that establish a methodology for determining reasonably anticipated inflationary costs for each operation and maintenance program described in Subsection (2)(d);

(f) that require an agency to report the amount the agency receives and expends on operation and maintenance; and

(g) that provide for determining the actual cost for operation and maintenance requests for a new facility.

(3) The director shall:

(a) ensure that state-owned facilities, except for facilities under the control of the State Capitol Preservation Board, are life cycle cost-effective;

(b) conduct ongoing facilities audits of state-owned facilities; and

(c) monitor an agency's operation and maintenance expenditures for state-owned facilities as provided in rules made under Subsection (2)(b).

(4) (a) An agency shall comply with the rules made under Subsection (2) for new facility requests submitted to the Legislature for a session of the Legislature after the 2017 General Session.

(b) The Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall, for each agency with operation and maintenance expenses, ensure that each required budget for the agency is adjusted in accordance with the rules described in Subsection (2)(e).

**Section 47. Section 63A-5b-703 is enacted to read:**

**63A-5b-703. Agency lease payments.**

(1) (a) Beginning July 1, 2020, the division shall implement a program to charge agencies, except institutions of higher education, lease payments for the agency's use and occupancy of space within a building.

(b) Before July 1, 2020, the division shall:

(i) conduct a market analysis of market lease rates for comparable space in buildings comparable to division-owned buildings; and

(ii) establish lease rates for an agency's use and occupancy of a division-owned building.

(c) The lease rates shall be:

(i) consistent with market rates for comparable space in comparable buildings;

(ii) calculated to cover:

(A) an amortized amount for capital replacement;

(B) an amount for capital improvements; and

(C) operation and maintenance costs; and

(iii) in proportion to legislative appropriations.

(2) In making appropriations to cover lease payments under this section, the Legislature shall create a line item, as defined in Section 63J-1-102, for each agency to fund the lease payments.

**Section 48. Section 63A-5b-801 is enacted to read:**

**Part 8. Acquisitions of Real Property Interests**

**63A-5b-801. Definitions.**

As used in this part:

(1) "Agency optional term" means an option that is exclusively exercisable by a leasing agency to extend the lease term.

(2) "High-cost lease" means a real property lease that:

(a) has an initial term including any agency optional term of 10 years or more; or

(b) will require lease payments of more than \$5,000,000 over the term of the lease, including any agency optional term.

(3) (a) "Leasing agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Leasing agency" does not include:

(i) the legislative branch;

(ii) the judicial branch; and

(iii) an institution of higher education.

(4) "Significant lease terms" includes the duration of the lease, the frequency of the periodic

payments, a renewal clause, a purchase option, a cancellation clause, a repair and maintenance clause, and a restriction on use of the property.

**Section 49. Section 63A-5b-802, which is renumbered from Section 63A-5-302 is renumbered and amended to read:**

**[63A-5-302]. 63A-5b-802. Leasing responsibilities of the director.**

(1) The director shall:

(a) prepare and submit a yearly request to the governor and Legislature for a designated amount of square footage by type of space to be leased by the division for that fiscal year;

~~[(a)]~~ (b) lease, in the name of the division, all real property space to be occupied by [an] a leasing agency;

~~[(b)]~~ (c) in leasing space[; comply with]:

~~[(i)]~~ Title 63G, Chapter 6a, Utah Procurement Code; and

(i) use a process consistent with the best interest of the state, the requirements of the leasing agency, and the anticipated use of the property; and

(ii) comply with any legislative mandates contained in the appropriations act or other [specifie] legislation;

~~[(e)]~~ (d) apply the criteria contained in Subsection (1)[(e)](f) to prepare a report evaluating each high-cost lease at least 12 months before [it] the lease expires;

~~[(d)]~~ (e) evaluate each lease under the division's control and apply the criteria contained in Subsection [(1)(e)], when appropriate, to evaluate those leases] (1)(f), as applicable, to evaluate the lease;

~~[(e)]~~ (f) in evaluating leases:

(i) determine whether [or not] the lease is cost-effective when the needs of the leasing agency to be housed in the leased facilities are considered;

(ii) determine whether [or not] another option such as construction, use of other state-owned space, or a lease-purchase agreement is more cost-effective than leasing;

(iii) determine whether [or not] the significant lease terms are cost-effective and provide the state with sufficient flexibility and protection from liability;

(iv) compare the proposed lease payments to the current market rates, and evaluate whether [or not] the proposed lease payments are reasonable under current market conditions;

(v) compare proposed significant lease terms to the current market, and recommend whether [or not] these proposed terms are reasonable under current market conditions; and

(vi) if applicable, recommend that the lease or modification to a lease be approved or disapproved;



~~[(f)]~~ (g) based upon the evaluation, include in the report recommendations that identify viable alternatives to:

- (i) make the lease cost-effective; or
- (ii) meet the leasing agency's needs when the lease expires; and

~~[(g)]~~ (h) upon request, provide the information included in the report to:

- (i) the leasing agency benefitted by the lease; and
- (ii) the Office of the Legislative Fiscal Analyst.

(2) The director may:

(a) subject to legislative appropriation, enter into a facility ~~[leases with terms]~~ lease with a term of up to 10 years ~~[when]~~ if the length of the lease's term is economically advantageous to the state; and

(b) with the approval of the ~~[State Building Board]~~ board and subject to legislative appropriation, enter into a facility ~~[leases with terms]~~ lease with a term of more than 10 years ~~[when]~~ if the length of the lease's term is economically advantageous to the state.

**Section 50. Section 63A-5b-803, which is renumbered from Section 63A-5-303 is renumbered and amended to read:**

**[63A-5-303]. 63A-5b-803. Reporting of leasing activity.**

(1) The director shall:

(a) prepare a standard form upon which ~~[agencies and other state institutions and entities can report their]~~ a leasing agency and another state institution or entity can report the current and proposed lease activity of the leasing agency, institution, or entity, including any lease [renewals] renewal; and

(b) develop procedures and mechanisms within the division to:

(i) obtain and share information about each leasing agency's real property needs; and

(ii) provide oversight and review of lessors and lessees during the term of each lease.

(2) Each leasing agency, the Judicial Council, and the Board of Regents, for each institution of higher education, shall report all current and proposed lease activity on the standard form prepared by the division to:

(a) the ~~[State Building Board]~~ division; and

(b) the Office of the Legislative Fiscal Analyst.

**Section 51. Section 63A-5b-804, which is renumbered from Section 63A-5-304 is renumbered and amended to read:**

**[63A-5-304]. 63A-5b-804. Leasing by the Administrative Office of the Courts -- Judicial Council approval required for high-cost lease -- Director's responsibilities.**

(1) Before executing ~~[any]~~ a high-cost lease or a modification to a lease that results in a high-cost lease, the Administrative Office of the Courts shall submit a draft of the new lease or modification to:

(a) the Judicial Council; and

(b) the director ~~[of the Division of Facilities Construction and Management].~~

(2) The director shall:

(a) review the ~~[drafts]~~ draft submitted by the Administrative Office of the Courts; and

(b) within 30 days after receiving the ~~[drafts from the office]~~ draft, submit a report on ~~[those drafts]~~ the draft to:

(i) the Judicial Council; and

(ii) the Office of the Legislative Fiscal Analyst.

(3) ~~[The]~~ A report under Subsection (2)(b) shall contain:

(a) the director's opinion about:

(i) whether ~~[or not]~~ the lease or modification is cost-effective when the needs of the entity to be housed in the leased facility are considered;

(ii) whether ~~[or not]~~ another option such as construction, use of other state-owned space, or a lease-purchase agreement is more cost-effective than leasing; and

(iii) whether ~~[or not]~~ the significant lease terms are cost-effective and provide the state with sufficient flexibility and protection from liability;

(b) a comparison of the proposed lease payments to the current market rates, and a recommendation as to whether ~~[or not]~~ the proposed lease payments are reasonable under current market conditions;

(c) a comparison of proposed significant lease terms to the current market, and a recommendation as to whether ~~[these]~~ the proposed terms are reasonable under current market conditions; and

(d) a recommendation from the director that the lease or modification to a lease be approved or disapproved.

(4) (a) The Administrative Office of the Courts may not execute ~~[any]~~ a new high-cost ~~[leases or modifications to any]~~ lease or modification to an existing lease that will result in a high-cost lease unless ~~[that lease or those modifications are]~~ the lease or modification is approved by a majority vote of the Judicial Council.

(b) The Judicial Council shall consider the recommendations of the director ~~[of the division]~~ in determining whether ~~[or not]~~ to approve a high-cost ~~[leases and modifications]~~ lease or modification resulting in a high-cost ~~[leases]~~ lease.

**Section 52. Section 63A-5b-805, which is renumbered from Section 63A-5-305 is renumbered and amended to read:**

**[63A-5-305]. 63A-5b-805. Leasing by higher education institutions.**

(1) The Board of Regents shall establish written policies and procedures governing leasing by an institution of higher education [~~institutions~~].

(2) Except as provided in Sections 53B-2a-113 and 63M-2-602, [a] an institution of higher education [~~institution~~] shall comply with the procedures and requirements of the Board of Regents' policies before signing or renewing a lease.

**Section 53. Section 63A-5b-806, which is renumbered from Section 63A-5-401 is renumbered and amended to read:**

**[63A-5-401]. 63A-5b-806. Division rules on the value of property bought or exchanged -- Exception.**

(1) [~~If the division buys, sells, or exchanges real property, the~~] The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to ensure that, if the division buys or exchanges real property, the value of the real property is congruent with the proposed price and other terms of the purchase [~~sale~~] or exchange.

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined [~~under~~] in Section 61-2g-102, demonstrates the real property's value; and

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined [~~under~~] in Section 61-2g-102.

(3) The rules adopted under Subsection (1) [does] do not apply to [~~:(a)] the purchase~~ [~~sale~~] or exchange of real property, or [~~to~~] an interest in real property, with a value of less than [~~[\$100,000] \$250,000~~], as estimated by the division [~~or~~].

[~~(b) a transfer of ownership or lease of vacant division-owned property, as defined in Section 63A-5a-102, at below fair market value under Chapter 5a, Division-Owned Real Property Act.~~]

**Section 54. Section 63A-5b-901, which is renumbered from Section 63A-5a-102 is renumbered and amended to read:**

**Part 9. Disposal of Division-Owned Property**

**[63A-5a-102]. 63A-5b-901. Definitions.**

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

(1) "Applicant" means a person who submits a timely, qualified proposal to the division.

[~~(2) "Board" means the State Building Board, created in Section 63A-5-101.~~]

[~~(3) (2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.~~]

[~~(4) (3) "Convey" means:~~

(a) to provide for a primary state agency's occupancy or use of vacant division-owned property; or

(b) to effect a transfer of ownership or lease of vacant division-owned property to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.

[~~(5) "Director" means the division director, appointed under Section 63A-5-203.~~]

[~~(6) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5-201.~~]

[~~(7) (4) "Division-owned property" means real property, including an interest in real property, to which the division holds title, regardless of who occupies or uses the real property.~~]

[~~(8) (5) "Local government entity" means a county, city, town, metro township, local district, special service district, community development and renewal agency, conservation district, school district, or other political subdivision of the state.~~]

[~~(9) (6) "Primary state agency" means a state agency for which the division holds title to real property that the state agency occupies or uses, as provided in Subsection [63A-5-204(2)(a)(iv)] 63A-5b-303(1)(a)(iv).~~]

[~~(10) (7) "Private party" means a person who is not a state agency, local government entity, or public purpose nonprofit entity.~~]

[~~(11) (8) "Public purpose nonprofit entity" means a corporation, association, organization, or entity that:~~

(a) is located within the state;

(b) is not a state agency or local government entity;

(c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(d) operates to fulfill a public purpose.

[~~(12) (9) "Qualified proposal" means a written proposal that:~~

(a) meets the criteria established by the division by rule under Section 63A-5b-903;

(b) if submitted by a local government entity or public purpose nonprofit entity, explains the public purpose for which the local government entity or public purpose nonprofit entity seeks a transfer of ownership or lease of the vacant division-owned property; and

(c) the director determines will, if accepted and implemented, provide a material benefit to the state.

[~~(13) (10) "Secondary state agency" means a state agency:~~

(a) that is authorized to hold title to real property that the state agency occupies or uses, as provided in Subsection [63A-5-204(6)] 63A-5b-303(4); and

(b) for which the division does not hold title to real property that the state agency occupies or uses.

[44] (11) "State agency" means a department, division, office, entity, agency, or other unit of state government.

[45] (12) "Transfer of ownership" includes a transfer of the ownership of vacant division-owned property that occurs as part of an exchange of the vacant division-owned property for another property.

[46] (13) "Vacant division-owned property" means division-owned property that:

(a) a primary state agency has discontinued to occupy or use; and

(b) the director has determined should be made available for:

(i) use or occupancy by a primary state agency; or

(ii) a transfer of ownership or lease to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.

[47] (14) "Written proposal" means a brief statement in writing that explains:

(a) the proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property; and

(b) how the state will benefit from the proposed use or occupancy, transfer of ownership, or lease.

**Section 55. Section 63A-5b-902, which is renumbered from Section 63A-5a-103 is renumbered and amended to read:**

**[63A-5a-103]. 63A-5b-902. Application of part.**

(1) The provisions of this [chapter] part, other than this section, do not apply to:

(a) a conveyance, lease, or disposal under Subsection [63A-5-204(2)(a)(x)] 63A-5b-303(1)(a)(x); or

(b) the division's disposal or lease of division-owned property with a value under [ \$100,000 ] \$250,000, as estimated by the division.

(2) Nothing in Subsection (1)(b) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

**Section 56. Section 63A-5b-903, which is renumbered from Section 63A-5a-104 is renumbered and amended to read:**

**[63A-5a-104]. 63A-5b-903. Rules adopted by the division.**

The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(1) establish criteria that a written proposal is required to satisfy in order to be a qualified proposal, including, if applicable, a minimum acceptable purchase price; and

(2) define criteria that the director will consider in making a determination whether a proposed use

or occupancy, transfer of ownership, or lease of vacant division-owned property provides a material benefit to the state.

**Section 57. Section 63A-5b-904, which is renumbered from Section 63A-5a-201 is renumbered and amended to read:**

**[63A-5a-201]. 63A-5b-904. Division authority with respect to vacant division-owned property -- Limitations.**

(1) Subject to Section [63A-5a-206] 63A-5b-909, the division may, as provided in this [chapter] part:

(a) provide for a primary state agency's occupancy or use of vacant division-owned property;

(b) effect a transfer of ownership or lease of vacant division-owned property to a secondary state agency, local government entity, public purpose nonprofit entity, or private party; or

(c) refer vacant division-owned property to the Department of Transportation for sale by auction, as provided in Section [63A-5a-205] 63A-5b-908.

(2) The division may not effect a transfer of ownership or lease of vacant division-owned property without receiving fair market value in return unless:

(a) the director determines that the transfer of ownership or lease is in the best interests of the state;

(b) for a proposed transfer of ownership or lease to a local government entity, public purpose nonprofit entity, or private party, the director determines that the local government entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a public purpose;

(c) the director requests and receives a recommendation on the proposed transfer of ownership or lease from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the transfer of ownership or lease.

(3) (a) If the division effects a transfer of ownership of vacant division-owned property without receiving fair market value in return, as provided in this [chapter] part, the division shall require the documents memorializing the transfer of ownership to preserve to the division:

(i) in the case of a transfer of ownership of vacant division-owned property to a secondary state agency, local government entity, or public purpose nonprofit entity for no or nominal consideration, a right of reversion, providing for the ownership of the property to revert to the division if the property ceases to be used for the public benefit; or

(ii) in the case of any other transfer of ownership of vacant division-owned property, a right of first refusal allowing the division to purchase the

property from the transferee for the same price that the transferee paid to the division if the transferee wishes to transfer ownership of the former vacant division-owned property.

(b) Subsection (3)(a) does not apply to the sale of vacant division-owned property at an auction under Section ~~[63A-5a-205]~~ 63A-5b-908.

**Section 58. Section 63A-5b-905, which is renumbered from Section 63A-5a-202 is renumbered and amended to read:**

**~~[63A-5a-202]. 63A-5b-905. Notice required before division may convey division-owned property.~~**

(1) Before the division may convey vacant division-owned property, the division shall give notice as provided in Subsection (2).

(2) A notice required under Subsection (1) shall:

(a) identify and describe the vacant division-owned property;

(b) indicate the availability of the vacant division-owned property;

(c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;

(d) indicate the deadline for submitting a written proposal;

(e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;

(f) be posted on the Utah Public Notice Website created in Section 63F-1-701 for at least 60 consecutive days before the deadline for submitting a written proposal; and

(g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

**Section 59. Section 63A-5b-906, which is renumbered from Section 63A-5a-203 is renumbered and amended to read:**

**~~[63A-5a-203]. 63A-5b-906. Submitting a written proposal for vacant division-owned property.~~**

(1) A person may submit to the division a written proposal:

(a) in response to the division's notice under Section ~~[63A-5a-202]~~ 63A-5b-905; or

(b) with respect to vacant division-owned property as to which the division has not given notice under Section ~~[63A-5a-202]~~ 63A-5b-905.

(2) The division is not required to consider a written proposal or provide notice under Section ~~[63A-5a-202]~~ 63A-5b-905 if the director determines that the written proposal is not a qualified proposal.

(3) If a person submits a qualified proposal to the division under Subsection (1)(b):

(a) the division shall:

(i) give notice as provided in Section ~~[63A-5a-202]~~ 63A-5b-905; and

(ii) treat the qualified proposal as though it were submitted in response to the notice; and

(b) the person may, within the time provided for the submission of written proposals, modify the qualified proposal to the extent necessary to address matters raised in the notice that were not addressed in the initial qualified proposal.

(4) A person who fails to submit a qualified proposal to the division within 60 days after the date of the notice under Section ~~[63A-5a-202]~~ 63A-5b-905 may not be considered for the vacant division-owned property.

**Section 60. Section 63A-5b-907, which is renumbered from Section 63A-5a-204 is renumbered and amended to read:**

**~~[63A-5a-204]. 63A-5b-907. Priorities for vacant division-owned property -- Division to convey vacant division-owned property.~~**

(1) (a) A state agency has priority for vacant division-owned property over a local government entity, a public purpose nonprofit entity, and a private party.

(b) A local government entity and a public purpose nonprofit entity have:

(i) priority for vacant division-owned property over a private party; and

(ii) between them the same priority for vacant division-owned property.

(2) If the division receives multiple timely qualified proposals from applicants with the highest and same priority, the division shall:

(a) notify the board of:

(i) the availability of the vacant division-owned property; and

(ii) the applicants with the highest and same priority that have submitted qualified proposals; and

(b) provide the board with a copy of the timely qualified proposals submitted by the applicants with the highest and same priority.

(3) Within 30 days after being notified under Subsection (2), the board shall:

(a) determine which applicant's qualified proposal is most likely to result in the highest and best public benefit; and

(b) notify the division of the board's decision under Subsection (3)(a).

(4) The division shall convey the vacant division-owned property to:

(a) the applicant with the highest priority under Subsection (1), if the division receives a timely qualified proposal from a single applicant with the highest priority; or

(b) the applicant whose qualified proposal was determined by the board under Subsection (3) to be most likely to result in the highest and best public benefit, if the division receives multiple timely qualified proposals from applicants with the highest and same priority.

(5) (a) If the division leases vacant division-owned property to a private party, the division shall, within 30 days after a lease agreement is executed, provide written notice of the lease to:

(i) the municipality in which the vacant division-owned property is located, if the vacant division-owned property is within a municipality; or

(ii) the county in whose unincorporated area the vacant division-owned property is located, if the vacant division-owned property is not located within a municipality.

(b) Nothing in this chapter may be used by a private party leasing division-owned property as a basis for not complying with applicable local land use ordinances and regulations.

**Section 61. Section 63A-5b-908, which is renumbered from Section 63A-5a-205 is renumbered and amended to read:**

**[63A-5a-205]. 63A-5b-908. Referring vacant division-owned property to the Department of Transportation for auction.**

(1) The division may refer vacant division-owned property to the Department of Transportation for a public auction if:

(a) (i) the division has provided notice under Section [~~63A-5a-202~~] 63A-5b-905 with respect to the vacant division-owned property; and

(ii) the division receives no qualified proposals in response to the notice under Section [~~63A-5a-202~~] 63A-5b-905;

(b) the director determines that:

(i) there is no reasonable likelihood that within the foreseeable future:

(A) a primary state agency will use or occupy the vacant division-owned property; or

(B) a secondary state agency, local government entity, or public purpose nonprofit entity will seek a transfer of ownership or lease of the vacant division-owned property; and

(ii) disposing of the vacant division-owned property through a public auction is in the best interests of the state;

(c) the director requests and receives a recommendation on the proposed public auction

from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the public auction.

(2) If the division refers a vacant division-owned property to the Department of Transportation for public auction, the Department of Transportation shall publicly auction the vacant division-owned property under the same law and in the same manner that apply to a public auction of Department of Transportation property.

(3) At a public auction conducted under Subsection (2), the Department of Transportation may, on behalf of the division, accept an offer to purchase the vacant division-owned property.

(4) The division and the Department of Transportation shall coordinate together to:

(a) manage the details of finalizing any sale of the vacant division-owned property at public auction; and

(b) ensure that the buyer acquires proper title and that the division receives the net proceeds of the sale.

(5) If a public auction under this section does not result in a sale of the vacant division-owned property, the Department of Transportation shall notify the division and refer the vacant division-owned property back to the division.

**Section 62. Section 63A-5b-909, which is renumbered from Section 63A-5a-206 is renumbered and amended to read:**

**[63A-5a-206]. 63A-5b-909. State real property subject to right of first refusal.**

(1) (a) If Section 78B-6-520.3 applies to vacant division-owned property, the division shall comply with Subsection 78B-6-520.3(3).

(b) If a condemnee accepts the division's offer to sell the vacant division-owned property as provided in Section 78B-6-520.3, the division shall:

(i) comply with the requirements of Section 78B-6-520.3; and

(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person not entitled to the rights and benefits of Section 78B-6-520.3.

(2) (a) If Section 78B-6-521 applies to the anticipated disposal of the vacant division-owned property, the division shall comply with the limitations and requirements of Subsection 78B-6-521(2).

(b) If the original grantor or the original grantor's assignee accepts an offer for sale as provided in Subsection 78B-6-521(2)(a)(i), the division shall:

(i) sell the vacant division-owned property to the original grantor or the original grantor's assignee, as provided in Section 78B-6-521; and

(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) An original grantor or the original grantor's assignee may waive rights afforded under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person seeking a transfer of ownership or lease of vacant division-owned property to which Section 78B-6-521 does not apply.

**Section 63. Section 63A-5b-910, which is renumbered from Section 63A-5-215 is renumbered and amended to read:**

**[63A-5-215]. 63A-5b-910. Disposition of proceeds received by division from sale of property.**

(1) (a) Except as provided in Section 62A-5-206.7, the division shall pay into the state treasury the money received ~~[by the division from the sale or other disposition of property shall be paid into the state treasury and]~~ from the transfer of ownership or lease of division-owned property.

(b) Money paid into the state treasury under Subsection (1)(a):

(i) becomes a part of the funds provided by law for carrying out the building program of the state~~, and are]; and~~

(ii) is appropriated for ~~[that]~~ the purpose described in Subsection (1)(b)(i).

(2) The proceeds from ~~[sales of]~~ the transfer of ownership or lease of division-owned property belonging to or used by a particular state agency shall, to the extent practicable, be expended for the construction of buildings or in the performance of other work for the benefit of that state agency.

**Section 64. Section 63A-5b-911, which is renumbered from Section 63A-5-224 is renumbered and amended to read:**

**[63A-5-224]. 63A-5b-911. Authority to transfer land for commuter rail station and related development.**

The division may transfer title to a parcel of land it owns in a county of the first class to a public transit district for the purpose of facilitating the development of a commuter rail transit station and associated transit oriented development if:

(1) the parcel is within one mile of the proposed commuter rail transit station and associated transit oriented development; and

(2) the division receives in return fair and adequate consideration.

**Section 65. Section 63A-5b-912, which is renumbered from Section 63A-5-226 is renumbered and amended to read:**

**[63A-5-226]. 63A-5b-912. Report to Infrastructure and General Government Appropriations Subcommittee.**

The division shall, ~~[beginning in 2016, and in every even-numbered year after 2016,]~~ on or before the third Wednesday in November of every even-numbered year, present a written report to the Infrastructure and General Government Appropriations Subcommittee that identifies state land and buildings that are no longer needed and can be sold by the state.

**Section 66. Section 63A-5b-1001 is enacted to read:**

**Part 10. Energy Conservation and Efficiency**

**63A-5b-1001. Definitions.**

As used in this part:

(1) "Energy efficiency measure" means an action taken or initiated by an agency that:

(a) reduces the agency's energy or fuel use or resource energy consumption, water or other resource consumption, operation and maintenance costs, or cost of energy, fuel, water, or other resource; or

(b) increases the agency's energy or fuel efficiency or resource consumption efficiency.

(2) "Energy efficiency program" means a program established under Section 63A-5b-1002 for the purpose of improving energy efficiency measures and reducing the energy costs for state facilities.

(3) "Fund" means the State Facility Energy Efficiency Fund created in Section 63A-5b-1003.

(4) "Performance efficiency agreement" means an agreement entered into by an agency whereby the agency implements one or more energy efficiency measures and finances the costs associated with implementation of performance efficiency measures using the stream of expected savings in costs resulting from implementation of the performance efficiency measures as a funding source for repayment.

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

(b) "State facility" does not include:

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

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

(iii) a structure that is located on land administered by the trust lands administration

under a lease, permit, or contract with the trust lands administration.

**Section 67. Section 63A-5b-1002, which is renumbered from Section 63A-5-701 is renumbered and amended to read:**

**[63A-5-701]. 63A-5b-1002. State Building Energy Efficiency Program.**

[1] For purposes of this section:

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

[(b) "Energy efficiency measure" means an action taken or initiated by a state agency that:

[(i) reduces the state agency's energy or fuel use or resource energy consumption, water or other resource consumption, operation and maintenance costs, or cost of energy, fuel, water, or other resource; or]

[(ii) increases the state agency's energy or fuel efficiency or resource consumption efficiency.]

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

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

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

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

[(ii) "State facility" does not mean:]

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

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

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

[(2)] (1) The division shall:

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

(b) provide information and assistance to [state] agencies in their efforts to improve energy efficiency;

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

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

(e) submit to the governor and to the Infrastructure and General Government Appropriations Subcommittee of the Legislature an annual report that:

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

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

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

[(3)] (2) Each [state] agency shall:

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

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

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

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

[(4)-(a)] (3) (a) [A state] An agency may enter into a performance efficiency agreement for a term of up to 20 years.

(b) Before entering into a performance efficiency agreement, the [state] agency shall:

(i) utilize the division to oversee the project unless the project is exempt from the division's oversight or the oversight is delegated to the agency under the provisions of Section [63A-5-206] 63A-5b-701;

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

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

(4) An agency may consult with the energy efficiency program manager within the division regarding:

(a) the cost effectiveness of energy efficiency measures; and

(b) ways to measure energy savings that take into account fluctuations in energy costs and temperature.

(5) (a) Except as provided under Subsection (5)(b) and subject to future budget constraints, the Legislature may not remove energy savings from an agency's appropriation.

(b) An agency shall use energy savings to:

(i) fund the cost of the energy efficiency measures; and

(ii) if funds are available after meeting the requirements of Subsection (5)(b)(i), fund and implement new energy efficiency measures.

(c) The Legislature may remove energy savings if:

(i) an agency has complied with Subsection (5)(b)(i); and

(ii) no new cost-effective energy efficiency measure is available for implementation.

**Section 68. Section 63A-5b-1003, which is renumbered from Section 63A-5-603 is renumbered and amended to read:**

**[63A-5-603]. 63A-5b-1003. State Facility Energy Efficiency Fund -- Contents -- Use of fund money.**

~~[(1) As used in this section:]~~

~~[(a) "Board" means the State Building Board.]~~

~~[(b) "Division" means the Division of Facilities Construction and Management.]~~

~~[(c) "Fund" means the State Facility Energy Efficiency Fund created by this section.]~~

~~[(2)] (1) There is created a revolving loan fund known as the "State Facility Energy Efficiency Fund."~~

~~[(3) To capitalize the fund, the Division of Finance shall, at the end of fiscal year 2007-08, transfer \$3,650,000 from the Stripper Well-Petroleum Violation Escrow Fund to the fund.]~~

~~[(4)] (2) The fund shall consist of:~~

~~(a) money transferred [under Subsection (3)] from the Stripper Well-Petroleum Violation Escrow Fund;~~

~~(b) money appropriated by the Legislature;~~

~~(c) money received for the repayment of loans made from the fund; and~~

~~(d) interest earned on the fund.~~

~~[(5)] (3) The board shall make a loan from the fund to [a state] an agency to[, wholly or in part,] finance all or part of energy efficiency measures.~~

~~[(6)] (4) (a) (i) [A state] An agency requesting a loan shall submit an application to the board in the form and containing the information that the board~~

requires, including plans and specifications for the proposed energy efficiency measures.

(ii) [A state] An agency may request a loan to fund all or part of the cost of energy efficiency measures.

(b) If the board rejects the application, the board shall notify the applicant stating the reasons for the rejection.

~~[(7)] (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:~~

~~(i) criteria to determine:~~

~~(A) loan eligibility;~~

~~(B) energy efficiency measures priority; and~~

~~(C) ways to measure energy savings that take into account fluctuations in energy costs and temperature; and~~

~~(ii) a method of monitoring actual savings resulting from energy efficiency measures implemented using loan money from the fund, using objective and verifiable post-construction measures, if available.~~

(b) In making rules that establish prioritization criteria for energy efficiency measures, the board may consider:

(i) possible additional sources of revenue;

(ii) the feasibility and practicality of the energy efficiency measures;

(iii) the energy savings attributable to eligible energy efficiency measures;

(iv) the annual energy savings;

(v) the projected energy cost payback of eligible energy efficiency measures;

(vi) other benefits to the state attributable to eligible energy efficiency measures;

(vii) the availability of federal funds for the energy efficiency measures; and

(viii) whether to require [a state] an agency to provide matching funds for the energy efficiency measures.

~~[(8)] (6) (a) In reviewing energy efficiency measures for possible funding, the board shall:~~

~~(i) review the loan application and the plans and specifications for the energy efficiency measures;~~

~~(ii) determine whether to grant the loan by applying the loan eligibility criteria; and~~

~~(iii) if the loan is granted, prioritize funding of the energy efficiency measures by applying the prioritization criteria.~~

(b) The board may condition approval of a loan application and the availability of funds on assurances from the [state] agency that the board considers necessary to ensure that the [state] agency:

(i) uses the proceeds to pay the cost of the energy efficiency measures; and



(ii) implements the energy efficiency measures.

~~[(9)] (7)~~ The division shall annually report to the Government Operations Interim Committee of the Legislature the actual savings resulting from energy efficiency measures implemented using loan money from the fund, as monitored pursuant to rules adopted under Subsection ~~[(7)]~~ (5)(a)(ii).

~~[(10)] (8)~~ The ~~[State Building Energy Efficiency Program]~~ manager of the energy efficiency program shall provide staff support when the board performs the duties established in this section.

**Section 69. Section 63A-5b-1101 is enacted to read:**

**Part 11. Miscellaneous Provisions**

**63A-5b-1101. Gifts, grants, and donations.**

(1) (a) The state or the division may receive a gift, grant, or donation to further the purposes of this part.

(b) A gift, grant, or donation described in Subsection (1)(a) may not revert to the General Fund.

(2) (a) This Subsection (2) applies if:

(i) a donor donates land to an institution of higher education and commits to construct a building or buildings on the land; and

(ii) the institution of higher education:

(A) agrees to provide funds for the operation and maintenance costs of the building or buildings from sources other than state funds; and

(B) agrees that the building or buildings will not be eligible for state capital improvement funding.

(b) Notwithstanding any other provision of this chapter, an institution of higher education that receives a donation described in Subsection (2)(a) may:

(i) oversee and manage a construction project on the donated land without involvement, oversight, or management from the division; or

(ii) arrange for oversight and management of the construction project by the division.

(c) The role of compliance agency on a construction project on the donated land shall be provided by:

(i) the institution of higher education, for a construction project that the institution of higher education oversees and manages under Subsection (2)(b); or

(ii) the director, for a construction project that the division oversees and manages under Subsection (2)(b)(ii).

**Section 70. Section 63A-5b-1102, which is renumbered from Section 63A-5-801 is renumbered and amended to read:**

**[63A-5-801]. 63A-5b-1102. Memorials by the state or state agencies.**

(1) As used in this section:

(a) ~~["State] "Authorizing agency" means [any of the following of the state] an agency that holds title to state land[.].~~

~~(i) a department;]~~

~~(ii) a division;]~~

~~(iii) a board;]~~

~~(iv) an institution of higher education; or]~~

~~(v) for the judicial branch, the state court administrator.]~~

(b) ~~["State] "Authorizing agency" does not mean a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.~~

(2) The Legislature, the governor, or ~~a state] an~~ authorizing agency may authorize the use or donation of state land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate ~~[those]~~ individuals who have:

(a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or

(b) given their lives in association with public service on behalf of the state, including firefighters, peace officers, highway patrol officers, or other public servants.

(3) The use or donation of state land in relation to a memorial described in Subsection (2) may include:

(a) using or appropriating public funds for the purchase, development, improvement, or maintenance of state land on which a memorial is located or established;

(b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;

(c) donating or selling state land for use in relation to a memorial; or

(d) authorizing the use of state land for a memorial that is funded or maintained in part or in full by another public or private entity.

(4) The Legislature, the governor, or ~~a state] an~~ authorizing agency may specify the form, placement, and design of a memorial that is subject to this section if the Legislature, the governor, or the ~~[state]~~ authorizing agency holds title to, has authority over, or donates the land on which a memorial is established.

(5) ~~[Memorials]~~ A memorial within the definition of a capital development project, as defined in Section ~~[63A-5-104 must] 63A-5b-401,~~ is required to be approved as provided for in Section ~~[63A-5-104] 63A-5b-402.~~

(6) Nothing in this section ~~[shall] may~~ be construed as a prohibition of ~~[memorials] a~~

memorial, including [those for purposes] a memorial for a purpose not covered by this section, [which have been] that:

(a) is erected within the approval requirements in effect at the time of [their] the memorial's erection; or

(b) [which] may be duly authorized through other legal means.

**Section 71. Section 63A-5b-1103 is enacted to read:**

**63A-5b-1103. Making keys to buildings of state, political subdivisions, or colleges and universities without permission prohibited.**

(1) As used in this section:

(a) "Applicable government entity" means a state agency, a political subdivision of the state, the Board of Regents, or any college or university supported in whole or in part by the state.

(b) "Government facility" means a building, laboratory, facility, room, dormitory, hall, or other structure owned, licensed as a licensee, leased as a tenant, or lawfully occupied by an applicable government entity.

(2) An individual may not knowingly make or cause to be made any key or duplicate key for a government facility without the prior written consent of the applicable government entity.

(3) A person who violates this section is guilty of a class B misdemeanor.

**Section 72. Section 63A-5b-1104 is enacted to read:**

**63A-5b-1104. Notification to local governments for construction or modification of certain facilities.**

(1) (a) The director or the director's designee shall notify in writing the elected representatives of a local government entity directly and substantively affected by any diagnostic, treatment, parole, probation, or other secured facility project exceeding \$250,000, if:

(i) the nature of the project has been significantly altered since an earlier notification;

(ii) the project would significantly change the nature of the functions presently conducted at the location; or

(iii) the project is new construction.

(b) At the request of the state entity or the local government entity, representatives from the state entity and the affected local entity shall conduct or participate in a local public hearing or hearings to discuss the issues described in Subsection (1)(a).

(2) (a) (i) Before beginning the construction of student housing on property owned by the state or an institution of higher education, the director shall provide written notice of the proposed construction, as provided in Subsection (2)(a)(ii), if any of the

proposed student housing buildings is within 300 feet of privately owned residential property.

(ii) Each notice under Subsection (2)(a)(i) shall be provided to the legislative body and, if applicable, the mayor of:

(A) the county in whose unincorporated area the privately owned residential property is located; or

(B) the municipality in whose boundary the privately owned residential property is located.

(b) (i) Within 21 days after receiving the notice required by Subsection (2)(a)(i), a county or municipality entitled to the notice may submit a written request to the director for a public hearing on the proposed student housing construction.

(ii) If a county or municipality requests a hearing under Subsection (2)(b)(i), the director and the county or municipality shall jointly hold a public hearing to provide information to the public and to allow the director and the county or municipality to receive input from the public about the proposed student housing construction.

**Section 73. Section 63A-5b-1105 is enacted to read:**

**63A-5b-1105. Testing and inspection firm requirements.**

The director shall ensure that any person performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on a public building under the director's supervision:

(1) fully complies with the American Society for Testing Materials standard specifications for an agency engaged in the testing and inspection of materials known as ASTM E-329; and

(2) carries a minimum of \$1,000,000 of errors and omissions insurance.

**Section 74. Section 63A-5b-1106, which is renumbered from Section 63A-5-222 is renumbered and amended to read:**

**[63A-5-222]. 63A-5b-1106. Critical land near state prison -- Definitions -- Preservation as open land -- Management and use of land -- Restrictions on transfer -- Wetlands development -- Conservation easement.**

(1) For purposes of this section:

(a) "Corrections" means the Department of Corrections created under Section 64-13-2.

(b) "Critical land" means:

(i) a parcel of approximately 250 acres of land owned by the division and located on the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake County, approximately the southern half of whose eastern boundary abuts the Denver and Rio Grande Western Railroad right-of-way; and

(ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a

replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as part of the transaction.

(c) (i) "Open land" means land that is:

(A) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(B) used for:

(I) wildlife habitat;

(II) cultural or recreational use;

(III) watershed protection; or

(IV) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(ii) (A) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(B) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(I) enhance the natural, scenic, or aesthetic qualities of the land; or

(II) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(2) (a) (i) The critical land shall be preserved in perpetuity as open land.

(ii) The long-term ownership and management of the critical land should eventually be turned over to the Department of Natural Resources created under Section 79-2-201 or another agency or entity that is able to accomplish the purposes and intent of this section.

(b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions should be taken on or with respect to the critical land, including:

(i) the development and implementation of a program to eliminate noxious vegetation and restore and facilitate the return of natural vegetation on the critical land;

(ii) the development of a system of trails through the critical land that is compatible with the preservation of the critical land as open land;

(iii) the development and implementation of a program to restore the natural features of and improve the flows of the Jordan River as it crosses the critical land;

(iv) the preservation of the archeological site discovered on the critical land and the development of an interpretive site in connection with the archeological discovery;

(v) in restoring features on the critical land, the adoption of methods and plans that will enhance the critical land's function as a wildlife habitat;

(vi) taking measures to reduce safety risks on the critical land; and

(vii) the elimination or rehabilitation of a prison dump site on the critical land.

(3) (a) Except as provided in Subsections (3)(b) and (c), no interest in the critical land may be sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that the critical land that is transferred will be preserved as open land in perpetuity.

(b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to resolve boundary disputes with adjacent property owners and easements may be granted for trails and other purposes consistent with Subsection (2)(b) and with the preservation of the critical land as open land.

(c) The Department of Natural Resources may transfer title to a portion of the critical land described in Subsection (1)(b)(i) in exchange for a parcel of land if:

(i) the parcel being acquired is:

(A) open land; and

(B) located within one mile of the portion of critical land being transferred; and

(ii) the purpose of the exchange is to facilitate the development of a commuter rail transit station and associated transit oriented development.

(4) The division shall use the funds remaining from the appropriation under Laws of Utah 1998, Chapter 399, for the purposes of:

(a) determining the boundaries and legal description of the critical land;

(b) determining the boundaries and legal description of the adjacent property owned by the division;

(c) fencing the critical land and adjacent land owned by the division where appropriate and needed; and

(d) assisting to carry out the intent of this section.

(5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the critical land may develop or allow a public agency or private entity to develop more wetlands on the critical land than exist naturally or existed previously.

(b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title may transfer jurisdiction of all or a portion of the critical land to a public agency or private entity to provide for the development and management of wetlands and designated wetland buffer areas.

(ii) Before transferring jurisdiction of any part of the critical land under Subsection (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to obtain approval from the appropriate federal agency to allow mitigation

credits in connection with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

(6) Notwithstanding any other provision of this section, corrections shall have access to the cooling pond located on the critical land as long as that access to and use of the cooling pond are not inconsistent with the preservation of the critical land as open land.

(7) ~~[The Department of]~~ Corrections, the division, and all other state departments, divisions, or agencies shall cooperate together to carry out the intent of this section.

(8) In order to ensure that the land referred to in this section is preserved as open land, the division shall, as soon as practicable, place the land under a perpetual conservation easement in favor of an independent party such as a reputable land conservation organization or a state or local government agency with experience in conservation easements.

**Section 75. Section 63A-5b-1107, which is renumbered from Section 63A-5-225 is renumbered and amended to read:**

**[63A-5-225]. 63A-5b-1107. Development of new correctional facilities.**

(1) As used in this section:

(a) "Committee" means the Legislative Management Committee created in Section 36-12-6.

(b) "New correctional facilities" means a new prison and related facilities to be constructed to replace the state prison located in Draper.

(c) "Prison project" means all aspects of a project for the design and construction of new correctional facilities on the selected site, including:

(i) the acquisition of land, interests in land, easements, or rights-of-way;

(ii) site improvement; and

(iii) the acquisition, construction, equipping, or furnishing of facilities, structures, infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the selected site, that are necessary, incidental, or convenient to the development of new correctional facilities on the selected site.

(d) "Selected site" means the site selected ~~[under Subsection 63C-15-203(2)]~~ as the site for new correctional facilities.

(2) In consultation with the committee, the division shall oversee the prison project, as provided in this section.

(3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section, the division shall:

(i) enter into contracts with persons providing professional and construction services for the prison project;

(ii) provide reports to the committee regarding the prison project, as requested by the ~~[commission]~~ committee; and

(iii) consider input from the committee on the prison project, subject to Subsection (3)(b).

(b) The division may not consult with or receive input from the committee regarding:

(i) the evaluation of proposals from persons seeking to provide professional and construction services for the prison project; or

(ii) the selection of persons to provide professional and construction services for the prison project.

(c) A contract with a project manager or person with a comparable position on the prison project shall include a provision that requires the project manager or other person to provide reports to the committee regarding the prison project, as requested by the committee.

(4) All contracts associated with the design or construction of new correctional facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section.

(5) The division shall coordinate with the Department of Corrections, created in Section 64-13-2, and the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, during the prison project to help ensure that the design and construction of new correctional facilities are conducive to and consistent with, and help to implement any reforms of or changes to, the state's corrections system and corrections programs.

(6) (a) There is created within the General Fund a restricted account known as the "Prison Development Restricted Account."

(b) The account created in Subsection (6)(a) is funded by legislative appropriations.

(c) (i) The account shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of account funds into the account.

(d) Upon appropriation from the Legislature, money from the account shall be used to fund the Prison Project Fund created in Subsection (7).

(7) (a) There is created a capital projects fund known as the "Prison Project Fund."

(b) The fund consists of:

(i) money appropriated to the fund by the Legislature; and

(ii) proceeds from the issuance of bonds authorized in Section 63B-25-101 to provide funding for the prison project.

(c) (i) The fund shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of fund money into the fund.

(d) Money in the fund shall be used by the division to fund the prison project.

**Section 76. Section 63B-1-304 is amended to read:**

**63B-1-304. State Building Ownership  
Authority created -- Members --  
Compensation -- Location in Department  
of Administrative Services.**

(1) There is created a body politic and corporate to be known as the State Building Ownership Authority composed of:

- (a) the governor;
- (b) the state treasurer; and
- (c) the chair of the [~~State Building Board~~] state building board created under Section [~~63A-5-101~~] 63A-5b-201.

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

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

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

(3) (a) Upon request, the division shall provide staff support to the State Building Ownership Authority.

(b) The State Building Ownership Authority may seek and obtain independent financial advice, support, and information from the state financial advisor created under Section 67-4-16.

**Section 77. Section 63B-2-301 is amended to read:**

**63B-2-301. Legislative intent -- Additional projects.**

It is the intent of the Legislature that:

(1) The Department of Employment Security use money in the special administrative fund to plan, design, and construct a Davis County facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(2) The University of Utah may use donated funds to plan, design, and construct the Nora Eccles Harrison addition under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(3) The University of Utah may use hospital funds to plan, design, and construct the West Patient Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(4) The University of Utah may use federal funds to plan, design, and construct the Computational Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(5) The Board of Regents may issue revenue bonds to provide:

(a) \$6,700,000 to plan, design, and construct single student housing at Utah State University under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604; and

(b) additional money necessary to:

(i) pay costs incident to the issuance and sale of the bonds;

(ii) pay interest on the bonds that accrues during construction and acquisition of the project and for up to one year after construction is completed; and

(iii) fund any reserve requirements for the bonds.

(6) Utah State University may use federal funds to plan, design, and construct the Natural Resources Lab addition under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(7) Utah State University may use funds derived from property sales to plan, design, and construct emergency relocation facilities for the Farmington Botanical Gardens under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(8) Utah State University may use institutional funds to plan, design, and construct an institutional residence for the president under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(9) Weber State University may use discretionary funds to construct a remodel and expansion of the stores building and mail service facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(10) Weber State University may use fees and auxiliary revenue to plan, design, and construct a remodel and expansion of the Shepherd Student Union Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [~~63A-5-206~~] 63A-5b-604.

(11) Southern Utah University may use donated funds to plan, design, and construct an alumni

house under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [63A-5-206] 63A-5b-604.

(12) Utah State University Eastern may use auxiliary revenues and other fees to:

(a) make lease or other payments;

(b) redeem revenue bonds or repay loans issued on behalf of the college; and

(c) plan, design, and construct a 200 person residence hall under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [63A-5-206] 63A-5b-604.

(13) The Sevier Valley Applied Technology Center may use private and Community Impact Board funds, if approved, to plan, design, and construct a performing arts/multi-use facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [63A-5-206] 63A-5b-604.

(14) Ogden City and Weber County may have offices and related space for their attorneys included in the Ogden Courts building if the city and county are able to provide upfront funding to cover all costs associated with the design and construction of that space. In addition, the city and county shall cover their proportionate share of all operations and maintenance costs of their facility, including future major repairs to the building.

(15) If the Legislature authorizes the Division of Facilities Construction and Management to enter into a lease purchase agreement for the Department of Human Services facility at 1385 South State Street in Salt Lake City or for the State Board of Education facility and adjacent space in Salt Lake City, or for both of those facilities, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget, may seek out the most cost effective lease purchase plans available to the state and may, pursuant to Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

(16) Salt Lake Community College may use donated funds to plan, design, and construct an amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section [63A-5-206] 63A-5b-604.

(17) For the Tax Commission building, that:

(a) All costs associated with the construction and furnishing of the Tax Commission building that are incurred before the issuance of the 1993 general obligation bonds be reimbursed by bond proceeds.

(b) The maximum amount of cost that may be reimbursed from the 1993 general obligation bond proceeds for the Tax Commission building and furnishings may not exceed \$14,230,000.

(c) This intent statement for Subsection (17) constitutes a declaration of official intent under Section 1.103-18 of the U.S. Treasury Regulations.

**Section 78. Section 63B-4-201 is amended to read:**

**63B-4-201. Legislative intent statements -- Capital facilities.**

(1) (a) It is the intent of the Legislature that the University of Utah use institutional and other funds to plan, design, and construct two campus child care centers under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(b) The university shall work with Salt Lake City and the surrounding neighborhood to ensure site compatibility for future recreational development by the city.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Union Parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the stadium renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) the Huntsman Cancer Institute under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(d) the Business Case Method Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(e) the Fine Arts Museum expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct:

(a) a student health services facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) a women's softball field under the supervision of the director of the Division of Facilities

Construction and Management unless supervisory authority is delegated by the director;

(c) an addition to the Nutrition and Food Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) a Human Resource Research Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that Weber State University use institutional funds to plan, design, and construct:

(a) a track renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) the Dee Events Center offices under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) It is the intent of the Legislature that Southern Utah University use:

(a) institutional funds to plan, design, and construct an institutional residence under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) project revenues and other funds to plan, design, and construct the Shakespearean Festival support facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(6) It is the intent of the Legislature that Dixie College use institutional funds to plan, design, and construct an institutional residence under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(7) It is the intent of the Legislature that the Division of Forestry, Fire, and State Lands use federal and other funds to plan, design, and construct a wetlands enhancement facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(8) (a) As provided in Subsection ~~[63A-5-209(2)]~~ 63A-5b-609(2), the funds appropriated to the Project Reserve Fund may only be used for the award of contracts in excess of the construction budget if these funds are required to meet the intent of the project.

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

(i) up to \$2,000,000 of the amount may be used to award the construction contract for the Ogden Court Building; and

(ii) the need for any funds remaining as of December 31, 1995 be reviewed by the 1996 Legislature.

(9) (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to \$539,700 for the purchase and demolition of the Keystone property and construction of parking facilities adjacent to the State Board of Education building in Salt Lake City, with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

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

(10) (a) It is the intent of the Legislature that the money appropriated for Phase One of the Remodeling/Life Safety Upgrades of the Browning Fine Arts Center at Weber State University is to include design of full code compliance, life safety, space necessary to maintain required programs, and seismic upgrades.

(b) The design shall identify the full scope and cost of Phase Two of the remodeling for funding consideration in the fiscal year 1997 budget cycle.

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

(a) the fiscal year 1996 appropriation for the Davis County Higher Education land purchase includes up to \$250,000 for planning purposes;

(b) the Division of Facilities Construction and Management, the Board of Regents, and the assigned institution of higher education work jointly to ensure the following elements are part of the planning process:

(i) projections of student enrollment and programmatic needs for the next 10 years;

(ii) review and make recommendations for better use of existing space, current technologies, public/private partnerships, and other alternatives as a means to reduce the need for new facilities and still accommodate the projected student needs; and

(iii) use of a master plan that includes issues of utilities, access, traffic circulation, drainage, rights of way, future developments, and other infrastructure items considered appropriate; and

(c) every effort is used to minimize expenditures for this part until a definitive decision has been made by BRACC relative to Hill Air Force Base.

(12) (a) It is the intent of the Legislature that the State Building Ownership Authority, under

authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$7,400,000 for the acquisition and improvement of the Human Services Building located at 120 North 200 West, Salt Lake City, Utah, with associated parking for the Department of Human Services together with additional amounts necessary to:

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

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

(13) (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to \$63,218,600 for the construction of a Salt Lake Courts Complex together with additional amounts necessary to:

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

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

(c) It is the intent of the Legislature that the Division of Facilities Construction and Management lease land to the State Building Ownership Authority for the construction of a Salt Lake Courts Complex.

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

(a) the Board of Regents use the higher education design project money to design no more than two higher education projects from among the following projects:

- (i) Utah State University Eastern - Student Center;
- (ii) Snow College - Noyes Building;
- (iii) University of Utah - Gardner Hall;
- (iv) Utah State University - Widtsoe Hall; or

(v) Southern Utah University - Physical Education Building; and

(b) the higher education institutions that receive approval from the Board of Regents to design projects under this chapter design those projects under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

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

(a) the Board of Regents may authorize the University of Utah to use institutional funds and donated funds to design Gardner Hall; and

(b) if authorized by the Board of Regents, the University of Utah may use institutional funds and donated funds to design Gardner Hall under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature that the Division of Facilities Construction and Management use up to \$250,000 of the capital improvement money to fund the site improvements required at the San Juan campus of the Utah State University Eastern.

**Section 79. Section 63B-9-103 is amended to read:**

**63B-9-103. Other capital facility authorizations and intent language.**

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

(a) Utah State University use institutional funds to plan, design, and construct a renovation and expansion of the Edith Bowen School under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

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

(a) the University of Utah use institutional funds to plan, design, and construct a College of Science Math Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.



- (3) It is the intent of the Legislature that:
- (a) the University of Utah use institutional funds to plan, design, and construct a Burbidge Athletics and Academics Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;
- (b) no state funds be used for any portion of this project; and
- (c) the university may not request state funds for operations and maintenance.
- (4) It is the intent of the Legislature that:
- (a) the University of Utah use institutional funds to plan, design, and construct an expansion to the bookstore under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;
- (b) no state funds be used for any portion of this project; and
- (c) the university may not request state funds for operations and maintenance.
- (5) It is the intent of the Legislature that:
- (a) the University of Utah use institutional funds to plan, design, and construct a Health Sciences/Basic Sciences Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;
- (b) no state funds be used for any portion of this project; and
- (c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.
- (6) It is the intent of the Legislature that:
- (a) Weber State University use institutional funds to plan, design, and construct an expansion to the stadium under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;
- (b) no state funds be used for any portion of this project; and
- (c) the university may not request state funds for operations and maintenance.
- (7) It is the intent of the Legislature that:
- (a) Utah Valley State College use institutional funds to plan, design, and construct a baseball stadium under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;
- (b) no state funds be used for any portion of this project; and
- (c) the college may not request state funds for operations and maintenance.
- (8) It is the intent of the Legislature that:
- (a) Southern Utah University use institutional funds to plan, design, and construct a weight training room under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;
- (b) no state funds be used for any portion of this project; and
- (c) the university may not request state funds for operations and maintenance.
- (9) It is the intent of the Legislature that:
- (a) Snow College may lease land at the Snow College Richfield campus to a private developer for the construction and operation of student housing;
- (b) the oversight and inspection of the construction comply with Section ~~[63A-5-206]~~ 63A-5b-604;
- (c) no state funds be used for any portion of this project; and
- (d) the college may not request state funds for operations and maintenance.
- (10) It is the intent of the Legislature that:
- (a) Salt Lake Community College may lease land at the Jordan campus to Jordan School District for the construction and operation of an Applied Technology Education Center;
- (b) the oversight and inspection of the construction comply with Section ~~[63A-5-206]~~ 63A-5b-604;
- (c) no state funds be used for any portion of this project; and
- (d) the college may not request state funds for operations and maintenance.
- (11) It is the intent of the Legislature that:
- (a) the Department of Transportation exchange its maintenance station at Kimball Junction for property located near Highway 40 in Summit County; and
- (b) the Department of Transportation use federal funds, rent paid by the Salt Lake Organizing Committee for the use of the maintenance station, and any net proceeds resulting from the exchange of property to construct a replacement facility under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated.
- (12) It is the intent of the Legislature that:
- (a) the Department of Transportation sell surplus property in Utah County;
- (b) the Department of Transportation use funds from that sale to remodel existing space and add an addition to the Region 3 Complex; and
- (c) the project cost not exceed the funds received through sale of property.

(13) It is the intent of the Legislature that the Department of Workforce Services use proceeds from property sales to purchase additional property adjacent to its state-owned facility in Logan.

(14) (a) It is the intent of the Legislature that, because only partial funding is provided for the Heat Plant/Infrastructure Project at Utah State University, the balance necessary to complete this project be addressed by future Legislatures, either through appropriations or through the issuance of bonds.

(b) (i) In compliance with Section ~~[63A-5-207]~~ 63A-5b-608, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(ii) Those contracts shall contain a provision for termination of the contract for the convenience of the state.

(c) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund the Heat Plant/Infrastructure Project at Utah State University.

**Section 80. Section 63B-16-201 is amended to read:**

**63B-16-201. Revenue bond authorizations -- State Building Ownership Authority.**

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

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,662,000 for the acquisition and construction of three stores for the Department of Alcoholic Beverage Control, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the stores to be addressed through this authorization are:

(i) expansion of the North Temple store in Salt Lake County;

(ii) expansion of the Taylorsville store in Salt Lake County; and

(iii) reconstruction of the Bountiful store in Davis County;

(c) increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(d) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

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

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$1,476,000 for the acquisition and construction of a production warehouse for Utah Correctional Industries, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) Utah Correctional Industries' revenues be used as the primary revenue source for repayment of any obligation created under authority of this section;

(c) Utah Correctional Industries may plan, design, and construct the production warehouse subject to requirements in Section ~~[63A-5-206]~~ 63A-5b-604; and

(d) Utah Correctional Industries may not request state funds for operation and maintenance costs or capital improvements.

**Section 81. Section 63B-16-202 is amended to read:**

**63B-16-202. Revenue bond authorizations -- Board of Regents.**

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

(a) when the University of Utah certifies to the Board of Regents that the university has obtained reliable commitments, convertible to cash, of \$10,000,000 or more in nonstate funds to construct an on-campus student life center, the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the University of Utah, other than appropriations from the Legislature, to finance the cost of constructing an on-campus student life center;

(b) student recreation fees and non-student fees be used as the primary revenue source for repayment of any obligation created under authority of this section;

(c) the University of Utah may increase student recreation fees to not more than \$60 per semester for not more than 20 years, and use those revenues, together with the \$15,000,000 collected under Subsection (1)(a), to service the student life center revenue bond debt;

(d) the bonds or other evidences of indebtedness authorized by this section may provide up to \$42,500,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(e) the University of Utah may plan, design, and construct the on-campus student life center subject to requirements in Section ~~[63A-5-206]~~ 63A-5b-604; and

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

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

(a) the Board of Regents, on behalf of Southern Utah University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Southern Utah University to borrow money on the credit, revenues, and reserves of Southern Utah University, other than appropriations of the Legislature, to finance the cost of constructing on-campus student dormitories;

(b) student housing rental fees be used as the primary revenue source for repayment of any obligation created under authority of this section;

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to \$17,500,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) Southern Utah University may plan, design, and construct the on-campus student dormitories subject to requirements in Section ~~[63A-5-206]~~ 63A-5b-604; and

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

**Section 82. Section 63B-16-301 is amended to read:**

**63B-16-301. Authorizations to construct capital facilities using institutional or agency funds.**

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

(a) Utah State University may, subject to requirements in Section ~~[63A-5-206]~~ 63A-5b-604, plan, design, and construct a classroom building funded and owned by Tooele County on the university's Tooele campus;

(b) no state funds be used for any portion of this project, including for future purchase or otherwise acquiring the building from Tooele County;

(c) the university may not request state funds for operation and maintenance costs or capital improvements while the building is not owned by the university; and

(d) the university may request state funds for operations and maintenance costs and capital improvements if the building is donated to the university and if the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

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

(a) Weber State University may, subject to requirements in Section ~~[63A-5-206]~~ 63A-5b-604, use donations and other institutional funds to plan, design, and construct a Lifelong Learning Center;

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

(c) the university may request state funds for operations and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

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

(a) Salt Lake Community College may, subject to requirements in Section ~~[63A-5-206]~~ 63A-5b-604, use institutional funds to plan, design, and construct a Facilities/Security/Parking Services Building;

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

(c) the college may request state funds for operations and maintenance costs and capital improvements to the extent that the college is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

**Section 83. Section 63B-17-201 is amended to read:**

**63B-17-201. Revenue bond authorizations -- State Building Ownership Authority.**

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$90,000,000 for the acquisition and construction of phase II-B of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the University of Utah use institutional funds as the primary revenue source for repayment of any obligation created under authority of this section;

(c) the university may plan, design, and construct phase II-B of a cancer clinical research hospital facility subject to the requirements of Section ~~[63A-5-206]~~ 63A-5b-604; and

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

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$23,700,000 for the acquisition and construction of five stores for the Department of Alcoholic Beverage Control, together with additional

amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the stores to be addressed through this authorization are:

(i) the replacement of a liquor store in Cedar City;

(ii) a new Utah County North liquor store;

(iii) a new Utah County South liquor store;

(iv) a new Washington County South liquor store; and

(v) a new Wasatch County Heber/Midway liquor store;

(c) the Department of Alcoholic Beverage Control use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this section; and

(d) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

**Section 84. Section 63B-17-202 is amended to read:**

**63B-17-202. Revenue bond authorizations -- Board of Regents.**

(1) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing a northwest campus parking structure;

(b) the University of Utah use parking fees and donations as the primary revenue source for repayment of any obligation created under authority of this section;

(c) the maximum amount of revenue bonds or other evidences of indebtedness authorized by this section is \$21,280,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the northwest campus parking structure subject to the requirements of Section [63A-5-206] 63A-5b-604; and

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

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the

cost of constructing an early childhood education research center;

(b) Utah State University use institutional funds as the primary revenue source for repayment of any obligation created under authority of this section;

(c) the maximum amount of revenue bonds or other evidences of indebtedness authorized by this section is \$15,828,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the early childhood education research center subject to the requirements of Section [63A-5-206] 63A-5b-604; and

(e) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

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

(a) the Board of Regents, on behalf of Southern Utah University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Southern Utah University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing a Shakespearean theater;

(b) Southern Utah University institutional funds be used as the primary revenue source for repayment of any obligation created under authority of this section;

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to \$5,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the theater subject to the requirements of Section [63A-5-206] 63A-5b-604; and

(e) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

**Section 85. Section 63B-17-301 is amended to read:**

**63B-17-301. Authorizations to construct capital facilities using institutional or agency funds.**

(1) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Section [63A-5-206] 63A-5b-604, use clinical fees and donations to plan, design, and construct a neuropsychiatric institute expansion;

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

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

(2) The Legislature intends that:

(a) the University of Utah may, subject to the requirements of Section [~~63A-5-206~~] 63A-5b-604, use donations to plan, design, and construct an arboretum visitor center addition;

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

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~] 63A-5b-604, use donations to plan, design, and construct a business building addition;

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

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~] 63A-5b-604, use donations to plan, design, and construct a Vernal entrepreneurship and energy research center;

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

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(5) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~] 63A-5b-604, use research grants and other institutional funds to plan, design, and construct a hydraulics laboratory addition to the water laboratory;

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

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

(6) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Section [~~63A-5-206~~] 63A-5b-604,

use insurance claim funds and other institutional funds to plan, design, and construct a structures laboratory enclosure;

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

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

(7) The Legislature intends that:

(a) Utah Valley University may, subject to the requirements of Section [~~63A-5-206~~] 63A-5b-604, use donations to plan, design, and construct a children's theater;

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

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(8) The Legislature intends that:

(a) Southern Utah University may, subject to the requirements of Section [~~63A-5-206~~] 63A-5b-604, use donations to plan and design a science center addition;

(b) this authorization and the existence of plans and designs do not guarantee nor improve the chances for legislative approval of the remainder of the building in any subsequent year; and

(c) no state funds be used for any portion of this planning and design.

**Section 86. Section 63B-23-101 is amended to read:**

**63B-23-101. Revenue bond authorizations -- Board of Regents.**

(1) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Lassonde Living Center;

(b) the University of Utah use student fees and rents as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) is \$45,238,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university shall plan, design, and construct the Lassonde Living Center subject to the requirements of Title 63A, Chapter 5, State

Building Board – Division of Facilities Construction and Management; and

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

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, except as provided in Subsection (2)(f), other than appropriations of the Legislature, to finance the cost of replacing the University of Utah's utility distribution infrastructure;

(b) the University of Utah impose a power bill surcharge as the primary revenue source for the repayment of any obligation created under authority of this Subsection (2);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) is \$32,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not mature later than 10 years after the date of issuance;

(e) the university shall plan, design, and construct the University of Utah's replacement utility distribution infrastructure subject to the requirements of Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management; and

(f) until July 1, 2024, the Division of Facilities Construction and Management annually allocate up to \$1,500,000 of the capital improvement funding allocation given to the University of Utah under Section ~~[63A-5-228]~~ 63A-5b-405 to be used to pay the debt service on the bonds authorized under this Subsection (2).

**Section 87. Section 63B-25-101 is amended to read:**

**63B-25-101. General obligation bonds for prison project -- Maximum amount -- Use of proceeds.**

(1) As used in this section:

(a) "Prison project" means the same as that term is defined in Section ~~[63A-5-225]~~ 63A-5b-1107.

(b) "Prison project fund" means the capital projects fund created in Subsection ~~[63A-5-225(7)]~~ 63A-5b-1107(7).

(2) The commission may issue general obligation bonds as provided in this section.

(3) (a) The total amount of bonds to be issued under this section may not exceed \$570,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of

issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$575,700,000.

(b) The maturity of bonds issued under this section may not exceed 10 years.

(4) The commission shall ensure that proceeds from the issuance of bonds under this section are deposited into the Prison Project Fund for use by the division to pay all or part of the cost of the prison project, including:

(a) interest estimated to accrue on the bonds authorized in this section until the completion of construction of the prison project, plus a period of 12 months after the end of construction; and

(b) all related engineering, architectural, and legal fees.

(5) (a) The division may enter into agreements related to the prison project before the receipt of proceeds of bonds issued under this section.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Prison Project Fund.

(c) The division shall reimburse the Prison Project Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The state intends to use proceeds of tax-exempt bonds to reimburse itself for expenditures for costs of the prison project.

(6) Before issuing bonds authorized under this section, the commission shall request and consider a recommendation from the Legislative Management Committee, created in Section 36-12-6, regarding the timing and amount of the issuance.

**Section 88. Section 63C-9-403 is amended to read:**

**63C-9-403. Contracting power of executive director -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section ~~[63A-5-208]~~ 63A-5b-605.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; or

(B) an underwriter who is responsible for developing the employer group's premium rates; and

(iii) was created within one year before the day on which the statement is submitted.

(b) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and

(C) was created within one year before the day on which the contractor obtains the statement.

(c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section ~~[63A-5-205.5]~~ 63A-5b-607;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

**Section 89. Section 63G-6a-103 is amended to read:**

**63G-6a-103. Definitions.**

As used in this chapter:

(1) "Applicable rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the Division of Facilities Construction and Management, created in Section ~~[63A-5-201]~~ 63A-5b-301, the building board;

(B) for the Office of the Attorney General, the attorney general; and

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education described in:

(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or

(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or



(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the board of directors of the Utah Educational Savings Plan;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(2) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(3) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(4) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(6) "Bidding process" means the procurement process described in Part 6, Bidding.

(7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) "Building board" means the State Building Board, created in Section ~~63A-5-101~~ 63A-5b-201.

(9) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(10) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(11) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(12) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

- (a) implementing the contract;
- (b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;
- (c) executing change orders;
- (d) processing contract amendments;
- (e) resolving, to the extent practicable, contract disputes;
- (f) curing contract errors and deficiencies;
- (g) terminating a contract;
- (h) measuring or evaluating completed work and contractor performance;
- (i) computing payments under the contract; and
- (j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

- (a) more than one procurement unit; or
- (b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(26) "Design professional" means:

- (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;
- (b) an individual licensed as a professional engineer or professional land surveyor under Title

58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(27) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(28) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(29) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(30) "Director" means the director of the division.

(31) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(32) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(33) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(34) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(35) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(36) “Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(37) “Grant” means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(38) “Head of a procurement unit” means:

(a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) for an executive branch procurement unit:

(i) the director of the division; or

(ii) any other person designated by the board, by rule;

(c) for a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;

(f) for a special service district, the governing body of the special service district or a designee of the governing body;

(g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) for a school district or any school or entity within a school district, the board of the school district, or the board’s designee;

(k) for a charter school, the individual or body with executive authority over the charter school, or the individual’s or body’s designee;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president’s designee;

(m) for a public transit district, the board of trustees or a designee of the board of trustees;

(n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education; or

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.

(39) “Immaterial error”:

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(40) “Indefinite quantity contract” means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(41) “Independent procurement authority” means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(42) “Invitation for bids”:

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) "Local district" means the same as that term is defined in Section 17B-1-102.

(49) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the

county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(50) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(51) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(52) "Municipality" means a city, town, or metro township.

(53) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) "Offeror" means a person who submits a proposal in response to a request for proposals.

(55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) "Procure" means to acquire a procurement item through a procurement.

(57) "Procurement":

(a) means a procurement unit's acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) "Procurement item" means a supply, a service, or construction.

(59) "Procurement officer" means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; or

(xii) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(61) "Professional service" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(62) "Protest officer" means:

(a) for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) the head of the procurement unit's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means any government entity of the state or political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other

documents that are attached to that document or incorporated in that document by reference.

(73) “Request for proposals process” means the procurement process described in Part 7, Request for Proposals.

(74) “Request for statement of qualifications” means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) “Requirements contract” means a contract:

(a) under which a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) “Responsive” means conforming in all material respects to the requirements of a solicitation.

(78) “Sealed” means manually or electronically secured to prevent disclosure.

(79) “Service”:

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) “Small purchase process” means the procurement process described in Section 63G-6a-506.

(81) “Sole source contract” means a contract resulting from a sole source procurement.

(82) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) “Solicitation” means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) “Solicitation response” means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) “Special service district” means the same as that term is defined in Section 17D-1-102.

(86) “Specification” means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(87) “Standard procurement process” means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(88) “State cooperative contract” means a contract awarded by the division for and in behalf of all public entities.

(89) “Statement of qualifications” means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) “Subcontractor”:

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person’s contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) “Supply” means a good, material, technology, piece of equipment, or any other item of personal property.

(92) “Tie bid” means that the lowest responsive bids of responsible bidders are identical in price.

(93) “Time and materials contract” means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is

not based on a percentage of the cost to the contractor.

(94) “Transitional costs”:

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(95) “Trial use contract” means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) “Vendor”:

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

**Section 90. Section 63H-6-102 is amended to read:**

**63H-6-102. Definitions.**

As used in this chapter:

(1) “Board” means the board of directors of the corporation.

(2) “Business related experience” means at least three years of professional experience in business administration, marketing, advertising, economic development, or a related field.

(3) “Capital [~~developments~~] development” means the same as [~~that term is~~] capital development project, as defined in Section [~~63A-5-104~~] 63A-5b-401.

(4) “Capital improvements” means the same as that term is defined in Section [~~63A-5-104~~] 63A-5b-401.

(5) “Corporation” means the Utah State Fair Corporation created by this chapter.

(6) “Corporation bond” means a bond issued by the corporation in accordance with Part 2, Bonding Authority.

(7) “Division” means the Division of Facilities Construction and Management created in Section [~~63A-5-201~~] 63A-5b-301.

(8) “Executive director” means the executive director hired by the board in accordance with Section 63H-6-105.

(9) (a) “State fair park” means the property owned by the state located at:

(i) 155 North 1000 West, Salt Lake City, Utah, consisting of approximately 50 acres;

(ii) 1139 West North Temple, Salt Lake City, Utah, consisting of approximately 10.5 acres; and

(iii) 1220 West North Temple, Salt Lake City, Utah, consisting of approximately two acres.

(b) “State fair park” includes each building and each improvement on the property described in Subsection (9)(a) that is owned by the state.

**Section 91. Section 63H-6-103 is amended to read:**

**63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

(1) There is created an independent public nonprofit corporation known as the “Utah State Fair Corporation.”

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

- (A) private contributions;
  - (B) public appropriations;
  - (C) admission charges; and
  - (D) other lawful means;
- (c) acquire and designate exposition sites;
- (d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;
- (e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;
- (f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;
- (g) develop and maintain a marketing program to promote expositions and the use of the state fair park;
- (h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;
- (i) prepare an economic development plan for the state fair park;
- (j) hold an annual exhibition that:
- (i) is called the state fair or a similar name;
  - (ii) promotes and highlights agriculture throughout the state;
  - (iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;
- (iv) includes the award of premiums for the best specimens of the exhibited articles and animals;
- (v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and
- (vi) is arranged according to plans approved by the board;
- (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and
- (l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.
- (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural,

mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

(v) Title 67, Chapter 19, Utah State Personnel Management Act.

(b) The board shall adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code; and



(iv) Title 63J, Chapter 1, Budgetary Procedures Act.

(c) The corporation shall comply with:

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

(ii) Title 63G, Chapter 2, Government Records Access and Management Act;

(iii) the provisions of Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(A) entertainment provided at the state fair park;

(B) judges for competitive exhibits; or

(C) sponsorship of an event at the state fair park; and

(v) the legislative approval requirements for new facilities established in ~~[Subsection 63A-5-104(3)]~~ Section 63A-5b-404.

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

(i) execute the proposed sublease; or

(ii) reject the proposed sublease.

**Section 92. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection ~~[63A-5-228(2)(b)]~~ 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section ~~[63A-5-603]~~ 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states "of whom only one may be a legislator, in accordance with Subsection (3)(e)," is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

"(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.";

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states "the president of the Senate, the speaker of the House, the governor," is repealed and replaced with "the governor"; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed on December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials

having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(27) Section 63N-2-512 is repealed on July 1, 2021.

(28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

(33) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

(34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

**Section 93. Section 63J-1-201 (Superseded 07/01/20) is amended to read:**

**63J-1-201 (Superseded 07/01/20).**

**Governor’s proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.**

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor’s proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds;

(D) 15-year trends for federal fund receipts; and

(E) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) changes to debt service;

(iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(v) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vii) deficits or anticipated deficits;

(viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the [State Building Board] director of the Division of Facilities Construction and Management as required by Subsection [63A-5-103(5)] 63A-5b-501(3);

(ix) a written description and itemized report submitted by a state agency to the Governor's Office of Management and Budget under Section 63J-1-220, including:

(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(B) a final written itemized report when all the state money is spent;

(x) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(xi) information detailing certain fee increases as required by Section 63J-1-504.

(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the Legislature

convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of agency and program objectives, effectiveness measures, and program size indicators; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

**Section 94. Section 63J-1-201 (Effective 07/01/20) is amended to read:**

**63J-1-201 (Effective 07/01/20). Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.**

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds;

(D) 15-year trends for federal fund receipts; and

(E) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) changes to debt service;

(iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(v) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vii) deficits or anticipated deficits;

(viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the [State Building Board] director of the Division of Facilities Construction and Management as required by Subsection [63A-5-103(5)] 63A-5b-501(3);

(ix) a written description and itemized report submitted by a state agency to the Governor's Office of Management and Budget under Section 63J-1-220, including:

(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(B) a final written itemized report when all the state money is spent;

(x) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(xi) information detailing certain fee increases as required by Section 63J-1-504.

(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the Legislature convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of:

(A) agency and program objectives, effectiveness measures, and program size indicators;

(B) the final status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the fiscal year ending the previous June 30; and

(C) the current status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the current fiscal year; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature

regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

**Section 95. Section 63J-1-206 is amended to read:**

**63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.**

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) Except as provided in Subsection (2)(c)(ii), an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) The state superintendent may transfer money appropriated for the Minimum School Program

between line items in accordance with Section 53F-2-205.

(iii) If the money appropriated to an agency to pay lease payments under the program established in [~~Subsection 63A-5-228(3)~~] Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

**Section 96. Section 63J-1-602.2 is amended to read:**

**63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

- (1) The Legislature and its committees.
- (2) The Percent-for-Art Program created in Section 9-6-404.
- (3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.
- (4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).
- (5) The Trip Reduction Program created in Section 19-2a-104.
- (6) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.
- (7) The primary care grant program created in Section 26-10b-102.
- (8) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(9) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(10) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(12) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a) or (b).

(13) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(14) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(15) The Utah National Guard, created in Title 39, Militia and Armories.

(16) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(17) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(19) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

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

(21) The State Board of Education, as provided in Section 53F-2-205.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N,

Chapter 4, Part 4, Rural Employment Expansion Program.

(30) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(31) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(32) The Traffic Noise Abatement Program created in Section 72-6-112.

(33) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(34) A state rehabilitative employment program, as provided in Section 78A-6-210.

(35) The Utah Geological Survey, as provided in Section 79-3-401.

(36) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(38) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(39) The program established by the Division of Facilities Construction and Management under [Subsection 63A-5-228(3)] Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

**Section 97. Section 63J-3-103 is amended to read:**

**63J-3-103. Definitions.**

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and Education Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Education Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah System of Technical Colleges expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Education Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the Wildland Fire Suppression Fund created in Section 65A-8-204 or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital [developments] development projects as defined in Section [63A-5-104] 63A-5b-401;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.



(7) “Inflation index” means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) “Maximum allowable appropriations limit” means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) “Maximum allowable appropriations limit” does not mean actual appropriations spent or actual expenditures.

(9) “Most recent fiscal year’s inflation index” means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) “Most recent fiscal year’s population” means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) “Population” means the number of residents of the state as of July 1 of each year as calculated by the Governor’s Office of Management and Budget according to the procedures and requirements of Section 63J-3-202.

(12) “Revenues” means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) “Security” means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an “indebtedness” within the meaning of any provision of the constitution or laws of this state.

**Section 98. Section 65A-4-1 is amended to read:**

**65A-4-1. Acquisition and disposition of land by state agencies.**

(1) All state agencies may acquire land by gift, devise, bequest, exchange, compensation for public resource value loss, or in satisfaction of a debt and are authorized to sell, lease, or otherwise dispose of land no longer needed for public purposes, unless otherwise provided by law.

(2) The proceeds from the sale, lease, or other disposition of land shall go to the state agency using or holding the land unless:

(a) the governor or the Legislature order its deposit in the fund from which the state agency receives its appropriations; or

(b) the use or disposition of the proceeds is specified elsewhere in law.

(3) Subsections (1) and (2) do not apply to division-owned property, as defined in Section [63A-5a-102] 63A-5b-901.

**Section 99. Section 72-6-107.5 is amended to read:**

**72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.**

(1) As used in this section:

(a) “Aggregate” means the sum of all contracts, change orders, and modifications related to a single project.

(b) “Change order” means the same as that term is defined in Section 63G-6a-103.

(c) “Employee” means, as defined in Section 34A-2-104, an “employee,” “worker,” or “operative” who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) “Health benefit plan” means the same as that term is defined in Section 31A-1-301.

(e) “Qualified health insurance coverage” means the same as that term is defined in Section 26-40-115.

(f) “Subcontractor” means the same as that term is defined in Section [63A-5-208] 63A-5b-605.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the

contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; or

(B) an underwriter who is responsible for developing the employer group's premium rates; and

(iii) was created within one year before the day on which the statement is submitted.

(b) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and

(C) was created within one year before the day on which the contractor obtains the statement.

(c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section ~~63A-5-205.5~~ 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

**Section 100. Section 79-2-404 is amended to read:**

**79-2-404. Contracting powers of department -- Health insurance coverage.**

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section ~~[63A-5-208]~~ 63A-5b-605.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; or

(B) an underwriter who is responsible for developing the employer group's premium rates; and

(iii) was created within one year before the day on which the statement is submitted.

(b) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and

(C) was created within one year before the day on which the contractor obtains the statement.

(c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the State Building Board in accordance with Section ~~63A-5-205.5~~ 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

#### **Section 101. Repealer.**

This bill repeals:

#### **Section 63A-5-100, Definitions.**

#### **Section 63A-5-101, Creation -- Composition -- Appointment -- Per diem and expenses -- Administrative services.**

#### **Section 63A-5-101.5, State Building Board composition -- Appointment -- Per diem and expenses -- Administrative services.**

#### **Section 63A-5-102, Meetings of board -- Rules of procedure -- Quorum.**

#### **Section 63A-5-103, Board -- Powers.**

#### **Section 63A-5-104, Definitions -- Capital development and capital improvement process -- Approval requirements -- Limitations on new projects -- Emergencies.**

#### **Section 63A-5-202, Definitions.**

#### **Section 63A-5-204, Specific powers and duties of director.**

#### **Section 63A-5-205, Contracting powers of director -- Retainage.**

#### **Section 63A-5-206, Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Notification to local**

#### **governments for construction or modification of certain facilities.**

#### **Section 63A-5-216, Gifts, grants, and donations to division.**

#### **Section 63A-5-223, Contracts -- Certain indemnification provisions forbidden.**

#### **Section 63A-5-301, Definitions.**

#### **Section 63A-5-501, Making keys to buildings of state, political subdivisions or colleges and universities without permission prohibited.**

#### **Section 63A-5-502, Violation -- Misdemeanor.**

#### **Section 63A-5-601, Legislative findings and policy.**

#### **Section 63A-5-602, Appropriation for energy efficiency measures.**

#### **Section 63A-5a-101, Title.**

#### **Section 102. Effective date.**

This bill takes effect on May 12, 2020, except that the amendments to Section 63J-1-201 (Effective 07/01/20) take effect on July 1, 2020.

#### **Section 103. Coordinating H.B. 451 with H.B. 37 -- Superseding substantive and technical amendments.**

If H.B. 451 and H.B. 37, Insurance Amendments, both pass and become law, it is the intent of the Legislature that when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments in H.B. 37 to Subsection 63A-5-205.5(1)(d), defining "health benefit plan," supersede the amendments in H.B. 451 to Subsection 63A-5-205.5(1)(d), renumbered in H.B. 451 to Subsection 63A-5b-607(1)(d), defining "health benefit plan";

(2) (a) the amendments in H.B. 451 to Subsections 63A-5b-607(6)(a)(ii) and (b) supersede the amendments in H.B. 37 to Subsection 63A-5-205.5(5)(c)(ii); and

(b) Subsections 63A-5b-607(6)(a)(ii) and (b) shall be amended to read:

"(ii) obtain from a subcontractor [that is subject to the requirements of this section] referred to in Subsection (6)(a)(i) a written statement demonstrating that[:] the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

[(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;]

[(B) is] (b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer[,- or];

(B) an underwriter who is responsible for developing the employer group's premium rates; [and] or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

[(C) was] (ii) may not be created [within] more than one year before the day on which the contractor obtains the statement from the subcontractor”;

(3) the amendments in H.B. 451 to Subsection 63A-5b-607(11)(a)(ii)(A) supersede the amendments in H.B. 37 to Subsection 63A-5-205.5(8)(a)(ii)(A); and

(4) the phrase “qualified health insurance coverage” in Subsection 63A-5b-607(14) shall be amended to read “qualified health coverage.”

**CHAPTER 153****H. B. 453**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective March 24, 2020

**LAW ENFORCEMENT AGENCY  
 CERTIFICATION AMENDMENTS**

Chief Sponsor: Lee B. Perry  
 Senate Sponsor: Karen Mayne

**LONG TITLE****General Description:**

This bill adds officers from the United States Department of Veterans Affairs to the list of federal officers with state law enforcement authority.

**Highlighted Provisions:**

This bill:

- ▶ adds the United States Department of Veterans Affairs and its officers to the list of federal officers with state law enforcement authority.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53-13-106, as last amended by Laws of Utah 2014, Chapter 228 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 228  
 53-13-106.1, as enacted by Laws of Utah 2014, Chapter 317

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

**Section 1. Section 53-13-106 is amended to read:****53-13-106. Federal officers -- State law enforcement authority.**

- (1) (a) "Federal agency" means:
- (i) the United States Bureau of Land Management;
  - (ii) the United States Forest Service;
  - (iii) the National Park Service;
  - (iv) the United States Fish and Wildlife Service;
  - (v) the United States Bureau of Reclamation;
  - (vi) the United States Environmental Protection Agency; ~~and~~
  - (vii) the United States Army Corps of Engineers; and
  - (viii) the Department of Veterans Affairs.
- (b) "Federal employee" means an employee of a federal agency.
- (c) "Federal officer" includes:

(i) a special agent of the Federal Bureau of Investigation;

(ii) a special agent of the United States Secret Service;

(iii) a special agent of the United States Department of Homeland Security, excluding a customs inspector or detention removal officer;

(iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;

(v) a special agent of the Drug Enforcement Administration;

(vi) a United States marshal, deputy marshal, and special deputy United States marshal; ~~and~~

(vii) a U.S. postal inspector of the United States Postal Inspection Service; and

(viii) a police officer of the Department of Veterans Affairs.

(d) (i) Federal officers listed in Subsection (1)(c) have statewide law enforcement authority relating to felony offenses under the laws of this state. This Subsection (1)(d)(i) takes precedence over Subsection (2).

(ii) Federal agencies and federal employees may exercise law enforcement authority related to misdemeanor and felony offenses under Utah law only as established by an agreement as provided in Subsection (1)(d)(iii) and as provided in Section 53-13-106.9 or pursuant to Section 53-13-106.7. This Subsection (1)(d)(ii) takes precedence over Subsection (2).

(iii) Consistent with Section 53-13-106.9, county sheriffs may enter into agreements with federal agencies that allow concurrent authority to enforce federal laws and state and local laws, provided that:

(A) the agreement is limited to a term of not more than two years; and

(B) the officers granted authority under the agreement have completed a 20-hour training course that is focused on Utah criminal law and procedure and that is approved by the director of the Peace Officer Standards and Training Division.

(e) The council may designate other federal peace officers, as necessary, if the officers:

(i) are persons employed full-time by the United States government as federally recognized law enforcement officers primarily responsible for the investigation and enforcement of the federal laws;

(ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and

(iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.

(2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only if:

(a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and

(b) except as provided in Subsection (3), each federal officer employed by the federal agency meets the waiver requirements set forth in Section 53-6-206.

(3) A federal officer working as such in the state on or before July 1, 1995, may exercise state law enforcement authority without meeting the waiver requirement.

(4) At any time, consistent with any contract with a federal agency, a state or local law enforcement authority may withdraw state law enforcement authority from any individual federal officer by sending written notice to the federal agency and to the division.

(5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing state or local agency, and may be further limited by the state or local agency to enforcing specific statutes, codes, or ordinances.

**Section 2. Section 53-13-106.1 is amended to read:**

**53-13-106.1. State and local law enforcement officers and federal employees -- Definitions.**

As used in this section and in Sections 53-13-106.2 through 53-13-106.10:

(1) "Exercise law enforcement authority" and "exercise of law enforcement authority" means:

(a) to take any action on private land, state-owned land, or federally managed land, to investigate, stop, serve process, search, arrest, cite, book, or incarcerate a person for a federal, state, or local criminal violation when the action is based on:

- (i) a federal statute, regulation, or rule;
- (ii) a state or local statute, ordinance, regulation, or rule; or
- (iii) a state or local statute, ordinance, regulation, or rule that is being enforced by a federal agency pursuant to the Assimilative Crimes Act, 18 U.S.C. Sec. 13; or

(b) to gain access to or use the correctional or communication facilities and equipment of any state or local law enforcement agency.

(2) "Federal agency" means a federal agency that manages federally managed land or regulates activities on that land, including:

- (a) the United States Bureau of Land Management;
- (b) the United States Forest Service;
- (c) the National Park Service;
- (d) the United States Fish and Wildlife Service;
- (e) the United States Bureau of Reclamation;

(f) the United States Environmental Protection Agency; ~~and~~

(g) the United States Army Corps of Engineers; and

(h) the Department of Veterans Affairs.

(3) "Federal employee" means an employee or other agent of a federal agency, but does not include:

(a) a special agent of the Federal Bureau of Investigation;

(b) a special agent of the United States Secret Service;

(c) a special agent of the United States Department of Homeland Security, unless the employee is a customs inspector or detention removal officer;

(d) a special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(e) a special agent of the United States Drug Enforcement Administration;

(f) a United States marshal, deputy marshal, or special deputy United States marshal; ~~or~~

(g) a United States postal inspector of the United States Postal Inspection Service; or

(h) a police officer of the Department of Veterans Affairs.

(4) "Federally managed land" means land managed by the following federal agencies:

- (a) the United States Bureau of Land Management;
- (b) the United States Forest Service;
- (c) the National Park Service;
- (d) the United States Fish and Wildlife Service; ~~and~~
- (e) the United States Bureau of Reclamation; and
- (f) the Department of Veterans Affairs.

(5) "Proprietary jurisdiction federally managed land" means all federally managed land as defined in this section except:

- (a) buildings, installations, and other structures under the exclusive jurisdiction of the Congress of the United States pursuant to the United States Constitution, Article I, Section 8, Clause 17; and
- (b) parcels that constitute federal enclaves subject to the concurrent jurisdiction of the United States and the state of Utah.

**Section 3. Effective date.**

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



**CHAPTER 154****H. B. 10**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**BOARDS AND COMMISSIONS AMENDMENTS**

Chief Sponsor: Marc K. Roberts  
 Senate Sponsor: Daniel W. Thatcher  
 Cosponsor: Travis M. Seegmiller

**LONG TITLE****General Description:**

This bill repeals, places sunset provisions on, and amends and enacts provisions related to certain boards and commissions.

**Highlighted Provisions:**

This bill:

- ▶ repeals the following entities and amends provisions related to the following entities:
  - the Arts and Culture Business Alliance;
  - the Deception Detection Examiners Board;
  - the Global Positioning Systems Advisory Committee;
  - the Hearing Instrument Specialist Licensing Board;
  - the Livestock Market Committee;
  - the Motorcycle Rider Education Advisory Committee;
  - the Pesticide Committee;
  - the Private Aquaculture Advisory Council;
  - the Residence Lien Recovery Fund Advisory Board;
  - the Serious Habitual Offender Comprehensive Action Program Oversight Committees;
  - the State Advisory Council on Science and Technology;
  - the State Law Library Board of Control;
  - the Survey and Excavation Permit Advisory Committee; and
  - the Veterans Memorial Park Board;
- ▶ adds sunset provisions to the following and provisions related to the following:
  - the advisory council for the Utah Schools for the Deaf and Blind;
  - the advisory council for the Division of Services for the Blind and Visually Impaired;
  - the Agricultural Advisory Board;
  - the Agricultural and Wildlife Damage Prevention Board;
  - the Agricultural Water Optimization Task Force;
  - the Alarm System Security Licensing Board;
  - the Architects Licensing Board;
  - the Board of Bank Advisors;
  - the Board of Credit Union Advisors;
  - the Board of Financial Institutions;

- the Board of Tourism Development;
- the Boating Advisory Council;
- the Charter School Revolving Account Committee;
- the Child Care Advisory Committee;
- the Child Support Guidelines Advisory Committee;
- the Coal Miner Certification Panel;
- the Committee of Consumer Services;
- the Concealed Firearms Review Board;
- the Coordinating Council for Persons with Disabilities;
- coordinating councils for youth in custody;
- the Data Security Management Council;
- the Decision and Action Committee;
- the Domesticated Elk Act advisory council;
- the Drug Utilization Review Board;
- the Early Childhood Utah Advisory Council;
- the Emergency Management Administration Council;
- the Employment Advisory Council;
- the Executive Residence Commission;
- the Federal Land Application Advisory Committee;
- the Forensic Mental Health Coordinating Council;
- the Governor's Committee on Employment of People with Disabilities;
- the Governor's Economic Development Coordinating Council;
- the Great Salt Lake Advisory Council;
- the Heritage Trees Advisory Committee;
- the Interpreter Certification Board;
- the Kurt Oscarson Children's Organ Transplant Coordinating Committee;
- the Land Use and Eminent Domain Advisory Board;
- the Livestock Brand Board;
- local advisory boards for the Children's Justice Center Program;
- market boards of control in the Department of Agriculture;
- the Medical Education Council;
- the Motor Vehicle Business Advisory Board;
- the Motor Vehicle Review Committee;
- the Museum Services Advisory Board;
- the Native American Remains Review Committee;
- the Newborn Hearing Screening Committee;
- the Off-highway Vehicle Advisory Council;
- the Pawnshop and Secondhand Merchandise Advisory Board;
- the Powersport Motor Vehicle Franchise Advisory Board;
- the Primary Care Grant Committee;
- the Purchasing from Persons with Disabilities Advisory Board;
- the Recreational Trails Advisory Council;

- regional advisory councils for the Wildlife Board;
  - the Residential Child Care Licensing Advisory Committee;
  - the Residential Mortgage Regulatory Commission;
  - the Search and Rescue Advisory Board;
  - the Snake Valley Aquifer Advisory Council;
  - the State Grazing Advisory Board;
  - the State Instructional Materials Commission;
  - the State Rehabilitation Advisory Council;
  - the State of Utah Alice Merrill Horne Art Collection Board;
  - the State Weed Committee;
  - the Technology Initiative Advisory Board;
  - transportation advisory committees;
  - the Traumatic Brain Injury Advisory Committee;
  - the Utah Children's Health Insurance Program Advisory Council;
  - the Utah Commission on Service and Volunteerism;
  - the Utah Council on Victims of Crime;
  - the Utah Electronic Recording Commission;
  - the Utah Health Advisory Council;
  - the Utah Professional Practices Advisory Commission;
  - the Utah Prosecution Council;
  - the Wildlife Board Nominating Committee; and
  - the Workers' Compensation Advisory Council;
  - ▶ reinstates the Judicial Rules Review Committee, which was previously repealed, and enacts provisions related to the Judicial Rules Review Committee;
  - ▶ provides for the Governor's Office of Economic Development to develop an incentives review process;
  - ▶ repeals sunset provisions related to the Utah State Fair Corporation Board of Directors;
  - ▶ repeals sunset provisions related to the Pete Suazo Utah Athletic Commission;
  - ▶ modifies appointments related to:
    - the Committee of Consumer Services;
    - the Health Facility Committee;
    - the Sentencing Commission; and
    - the Utah Seismic Safety Commission;
  - ▶ amends provisions related to contributions to the Martha Hughes Cannon Capitol Statue Oversight Committee;
  - ▶ adds provisions to an existing repealer for the Air Ambulance Committee;
  - ▶ modifies reporting requirements related to boards and commissions;
  - ▶ requires the Utah Public Notice Website and the governor's boards and commissions database to share certain information;
  - ▶ requires the Division of Archives and Records Service to identify and report certain information;
  - ▶ allows an individual to receive notifications regarding vacancies on certain boards and commissions;
  - ▶ provides a portal through which a member of the public may provide feedback on an appointee or sitting member of certain boards and commissions; and
  - ▶ makes technical changes.
- Monies Appropriated in this Bill:**  
None
- Other Special Clauses:**  
This bill provides coordination clauses.
- Utah Code Sections Affected:**  
**AMENDS:**  
4-14-106, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-30-105, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-30-106, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-30-107, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-37-109, as last amended by Laws of Utah 2017, Chapter 412  
9-6-201, as last amended by Laws of Utah 2017, Chapter 48  
9-6-202, as last amended by Laws of Utah 2015, Chapter 350  
9-6-305, as last amended by Laws of Utah 2018, Chapter 65  
9-6-306, as last amended by Laws of Utah 2018, Chapter 65  
9-6-806, as enacted by Laws of Utah 2015, Chapter 350  
9-7-302, as last amended by Laws of Utah 2008, Chapter 382  
9-8-305, as last amended by Laws of Utah 2008, Chapter 382  
23-14-3, as last amended by Laws of Utah 2017, Chapter 412  
26-21-3, as last amended by Laws of Utah 2011, Chapter 366  
26-39-200, as last amended by Laws of Utah 2019, Chapter 111  
26-39-201, as last amended by Laws of Utah 2014, Chapter 322  
36-12-22, as enacted by Laws of Utah 2019, Chapter 246  
36-31-104, as enacted by Laws of Utah 2018, Chapter 342  
38-11-102, as last amended by Laws of Utah 2018, Chapter 229  
38-11-201, as last amended by Laws of Utah 2018, Chapter 229  
53F-9-203, as last amended by Laws of Utah 2019, Chapter 186  
54-10a-202, as last amended by Laws of Utah 2010, Chapter 286  
58-46a-102, as last amended by Laws of Utah 2017, Chapter 43  
58-46a-302, as last amended by Laws of Utah 2013, Chapter 87  
58-46a-302.5, as last amended by Laws of Utah 2013, Chapter 87  
58-46a-303, as last amended by Laws of Utah 2001, Chapter 268

58-46a-501, as last amended by Laws of Utah 2002, Chapter 50	63I-2-226, as last amended by Laws of Utah 2019, Chapters 262, 393, 405 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
58-46a-502, as last amended by Laws of Utah 2019, Chapter 349	63M-7-402, as renumbered and amended by Laws of Utah 2008, Chapter 382
58-55-201, as last amended by Laws of Utah 2019, Chapter 215	63N-7-103, as last amended by Laws of Utah 2015, Chapter 301 and renumbered and amended by Laws of Utah 2015, Chapter 283
58-64-102, as last amended by Laws of Utah 2016, Chapter 201	63N-7-301, as last amended by Laws of Utah 2019, Chapters 136 and 237
58-64-302, as last amended by Laws of Utah 2016, Chapter 201	67-1-2.5, as last amended by Laws of Utah 2019, Chapter 246
58-64-502, as enacted by Laws of Utah 1995, Chapter 215	71-7-3, as last amended by Laws of Utah 2018, Chapter 39
58-64-601, as last amended by Laws of Utah 2016, Chapter 201	
63C-6-101, as last amended by Laws of Utah 2011, Chapter 55	<b>ENACTS:</b>
63F-1-509, as last amended by Laws of Utah 2008, Chapter 382	36-32-101, Utah Code Annotated 1953
63F-1-701, as last amended by Laws of Utah 2016, Chapter 233	36-32-102, Utah Code Annotated 1953
63I-1-204, as enacted by Laws of Utah 2019, Chapter 246	36-32-201, Utah Code Annotated 1953
63I-1-209, as last amended by Laws of Utah 2019, Chapter 246	36-32-202, Utah Code Annotated 1953
63I-1-213, as last amended by Laws of Utah 2018, Chapter 111	36-32-203, Utah Code Annotated 1953
63I-1-217, as last amended by Laws of Utah 2018, Chapters 236 and 347	36-32-204, Utah Code Annotated 1953
63I-1-223, as last amended by Laws of Utah 2019, Chapter 246	36-32-205, Utah Code Annotated 1953
63I-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246	36-32-206, Utah Code Annotated 1953
63I-1-234, as last amended by Laws of Utah 2019, Chapter 136	36-32-207, Utah Code Annotated 1953
63I-1-235, as last amended by Laws of Utah 2019, Chapters 89 and 246	63I-1-207, Utah Code Annotated 1953
63I-1-241, as last amended by Laws of Utah 2019, Chapters 49, 55, and 246	63I-1-240, Utah Code Annotated 1953
63I-1-253, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246, 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246	63I-1-265, Utah Code Annotated 1953
63I-1-254, as last amended by Laws of Utah 2019, Chapter 88	63I-1-279, Utah Code Annotated 1953
63I-1-258, as last amended by Laws of Utah 2019, Chapters 67 and 68	63N-1-205, Utah Code Annotated 1953
63I-1-261, as last amended by Laws of Utah 2011, Chapter 199	<b>REPEALS:</b>
63I-1-262, as last amended by Laws of Utah 2019, Chapters 246, 257, 440 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246	4-30-103, as last amended by Laws of Utah 2019, Chapter 156
63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246	9-6-801, as enacted by Laws of Utah 2015, Chapter 350
63I-1-267, as last amended by Laws of Utah 2019, Chapters 246 and 370	9-6-802, as enacted by Laws of Utah 2015, Chapter 350
63I-1-272, as last amended by Laws of Utah 2019, Chapter 246	9-6-803, as enacted by Laws of Utah 2015, Chapter 350
63I-1-273, as last amended by Laws of Utah 2019, Chapters 96 and 246	9-6-804, as enacted by Laws of Utah 2015, Chapter 350
63I-1-278, as last amended by Laws of Utah 2019, Chapters 66 and 136	9-6-805, as enacted by Laws of Utah 2015, Chapter 350
	9-7-301, as last amended by Laws of Utah 1997, Chapter 10
	23-14-2.8, as enacted by Laws of Utah 2017, Chapter 412
	26-39-202, as last amended by Laws of Utah 2014, Chapter 322
	38-11-104, as last amended by Laws of Utah 2018, Chapter 229
	53-3-908, as last amended by Laws of Utah 2010, Chapters 286 and 324
	58-46a-201, as enacted by Laws of Utah 1994, Chapter 28
	58-64-201, as enacted by Laws of Utah 1995, Chapter 215
	63M-3-101, as enacted by Laws of Utah 2008, Chapter 382
	63M-3-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
	63M-3-103, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-3-201, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 63M-3-202, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 63M-10-202, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 71-7-4, as last amended by Laws of Utah 2018, Chapter 39

**Utah Code Sections Affected by Coordination Clause:**

26-21-3, as last amended by Laws of Utah 2011, Chapter 366  
 63I-1-209, as last amended by Laws of Utah 2019, Chapter 246

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

**Section 1. Section 4-14-106 is amended to read:**

**4-14-106. Department authorized to make and enforce rules.**

The department may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to:

(1) declare as a pest any form of plant or animal life that is injurious to health or the environment, except:

- (a) a human being; or
- (b) a bacteria, virus, or other microorganism on or in a living person or animal;

(2) establish, in accordance with the regulations issued by the EPA under 7 U.S.C. Sec. 136w(c)(2), whether pesticides registered for special local needs under the authority of 7 U.S.C. Sec. 136v(c) are highly toxic to man;

(3) establish, consistent with EPA regulations, that certain pesticides or quantities of substances contained in these pesticides are injurious to the environment;

(4) adopt a list of "restricted use pesticides" for the state or designated areas within the state if the department determines upon substantial evidence presented at a public hearing [~~and upon recommendation of the pesticide committee~~] that restricted use is necessary to prevent damage to property or to the environment;

(5) establish qualifications for a pesticide applicator business; and

(6) adopt any rule, not inconsistent with federal regulations issued under FIFRA, considered necessary to administer and enforce this chapter, including rules relating to the sale, distribution, use, and disposition of pesticides if necessary to prevent damage and to protect the public health.

**Section 2. Section 4-30-105 is amended to read:**

**4-30-105. License required -- Application -- Fee -- Expiration -- Renewal.**

(1) (a) No person may operate a livestock market in this state without a license issued by the department.

(b) Application for a license shall be made to the department upon forms prescribed and furnished by the department, and the application shall specify:

(i) if the applicant is an individual, the name, address, and date of birth of the applicant; or

(ii) if the applicant is a partnership, corporation, or association, the name, address, and date of birth of each person who has a financial interest in the applicant and the amount of each person's interest;

(iii) a certified statement of the financial assets and liabilities of the applicant detailing:

- (A) current assets;
- (B) current liabilities;
- (C) long-term assets; and
- (D) long-term liabilities;

(iv) a legal description of the property where the market is proposed to be located, the property's street address, and a description of the facilities proposed to be used in connection with the property;

(v) a schedule of the charges or fees the applicant proposes to charge for each service rendered; and

(vi) a detailed statement of the trade area proposed to be served by the applicant, the potential benefits which will be derived by the livestock industry, and the specific services the applicant intends to render at the livestock market.

(2) (a) Upon receipt of a proper application, payment of a license fee in an amount determined by the department pursuant to Subsection 4-2-103(2), [~~and a favorable recommendation by the Livestock Market Committee,~~] the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue a license allowing the applicant to operate the livestock market proposed in the application valid through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.

(b) A livestock market license is annually renewable on or before December 31 of each year upon the payment of an annual license renewal fee in an amount determined by the department pursuant to Subsection 4-2-103(2).

(3) No livestock market original or renewal license may be issued until the applicant has provided the department with a certified copy of a surety bond filed with the United States Department of Agriculture as required by the Packers and Stockyards Act, 1921, 7 U.S.C. Section 181 et seq.

**Section 3. Section 4-30-106 is amended to read:**

**4-30-106. Hearing on license application -- Notice of hearing.**

(1) Upon the filing of an application, the [~~chairman of the Livestock Market Committee~~]

department shall set a time for hearing on the application in the city or town nearest the proposed site of the livestock market and cause notice of the time and place of the hearing together with a copy of the application to be forwarded by mail, not less than 15 days before the hearing date, to the following:

(a) each licensed livestock market operator within the state; and

(b) each livestock or other interested association or group of persons in the state that has filed written notice with the ~~[committee]~~ department requesting receipt of notice of such hearings.

(2) Notice of the hearing shall be published 14 days before the scheduled hearing date:

(a) in a daily or weekly newspaper of general circulation within the city or town where the hearing is scheduled; and

(b) on the Utah Public Notice Website created in Section 63F-1-701.

**Section 4. Section 4-30-107 is amended to read:**

**4-30-107. Guidelines delineated for decision on application.**

(1) The ~~[Livestock Market Committee]~~ department, in determining whether to ~~[recommend approval or denial of]~~ approve or deny the application, shall consider:

(a) the applicant's proven or potential ability to comply with the Packers and Stockyards Act, 7 U.S.C. Sec. 221 through 229b;

(b) the financial stability, business integrity, and fiduciary responsibility of the applicant;

(c) the livestock marketing benefits which potentially will be derived from the establishment and operation of the public livestock market proposed;

(d) the need for livestock market services in the trade area proposed;

(e) the adequacy of the livestock market location and facilities proposed in the application, including facilities for health inspection and testing;

(f) whether the operation of the proposed livestock market is likely to be permanent; and

(g) the economic feasibility of the proposed livestock market based on competent evidence.

(2) Any interested person may appear at the hearing on the application and give an opinion or present evidence either for or against granting the application.

**Section 5. Section 4-37-109 is amended to read:**

**4-37-109. Department to make rules.**

(1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) specifying procedures for the application and renewal of certificates of registration for operating an aquaculture or fee fishing facility; and

(b) governing the disposal or removal of aquatic animals from an aquaculture or fee fishing facility for which the certificate of registration has lapsed or been revoked.

(2) (a) The department may make other rules consistent with its responsibilities set forth in Section 4-37-104.

(b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) shall be consistent with the suggested procedures for the detection and identification of pathogens published by the American Fisheries Society's Fish Health Section.

~~[(3) (a) The department shall consider the recommendations of the Private Aquaculture Advisory Council established in Section 23-14-2.8 when adopting rules under Subsection (1).]~~

~~[(b) If the Private Aquaculture Advisory Council recommends a position or action to the department pursuant to Section 23-14-2.8 and the department rejects the recommendation, the department shall provide a written explanation to the council.]~~

**Section 6. Section 9-6-201 is amended to read:**

**9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.**

(1) There is created within the department the Division of Arts and Museums under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) The division shall advance the interests of the arts, in all their phases, within the state, and to that end shall:

(a) cooperate with and locally sponsor federal agencies and projects directed to similar undertakings;

(b) develop the influence of arts in education;

(c) involve the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in these endeavors;

(d) utilize broadcasting facilities and the power of the press in disseminating information; and

(e) foster, promote, encourage, and facilitate, not only a more general and lively study of the arts, but take all necessary and useful means to stimulate a more abundant production of an indigenous art in this state.

(4) The board shall set policy to guide the division in accomplishing the purposes set forth in Subsection (3).

(5) ~~[Except for arts development projects under Section 9-6-804, the]~~ The division may not grant

funds for the support of any arts project under this section unless the project has been first approved by the board.

**Section 7. Section 9-6-202 is amended to read:**

**9-6-202. Division director.**

(1) The chief administrative officer of the division shall be a director appointed by the executive director in consultation with the board and the advisory board.

(2) The director shall be a person experienced in administration and knowledgeable about the arts and museums.

(3) In addition to the division, the director is the chief administrative officer for:

(a) the Board of Directors of the Utah Arts Council created in Section 9-6-204;

(b) the Utah Arts Council created in Section 9-6-301;

(c) the Office of Museum Services created in Section 9-6-602; and

(d) the Museum Services Advisory Board created in Section 9-6-604~~;~~ and].

~~[(e) the Arts and Culture Business Alliance created in Section 9-6-803.]~~

**Section 8. Section 9-6-305 is amended to read:**

**9-6-305. Art collection committee.**

(1) ~~[(a)]~~ The board shall appoint a committee of artists or judges of art to take charge of ~~[all works of art acquired under this chapter]~~ the Utah Alice Merrill Horne Art Collection.

~~[(b) This collection shall be known as the State of Utah Alice Merrill Horne Art Collection.]~~

(2) (a) Except as required by Subsection (2)(b), as terms of current committee members expire, the board shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the board shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the board is appointed every two years.

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

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

(a) Section 63A-3-106;

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

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

**Section 9. Section 9-6-306 is amended to read:**

**9-6-306. Collection.**

(1) (a) There is created the State of Utah Alice Merrill Horne Art Collection.

(b) All works of art acquired under this part [shall become] are part of the [State of Utah Alice Merrill Horne Art Collection] art collection.

(2) The art collection shall be held as the property of the state, under control of the division, and may be loaned in whole or in part for exhibition purposes to different parts of the state according to rules prescribed by the board.

(3) The division shall take every precaution to avoid damage or destruction to the property of the institute and the art works submitted by exhibitors and shall procure ample insurance on them.

(4) All art works shipped to and from the place of exhibition shall be packed by an expert packer.

**Section 10. Section 9-6-806 is amended to read:**

**9-6-806. Arts and Culture Business Alliance Account -- Funding -- Rulemaking.**

(1) As used in this section:

(a) "Account" means the Arts and Culture Business Alliance Account created in this section.

(b) (i) "Arts" means the various branches of creative human activity.

(ii) "Arts" includes visual arts, film, performing arts, sculpture, literature, music, theater, dance, digital arts, video-game arts, and cultural vitality.

(c) "Development of the arts" means:

(i) constructing, expanding, or repairing facilities that house arts presentations;

(ii) providing for public information, preservation, or access to the arts; or

(iii) supporting the professional development of artists within the state.

~~[(1)]~~ (2) There is created within the General Fund a restricted account known as the Arts and Culture Business Alliance Account.

~~[(2)]~~ (3) The account shall be administered by the division for the purposes listed in Subsection [(5)] (6).

~~[(3)]~~ (4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

~~[(4)]~~ (5) The account shall be funded by:

(a) appropriations made to the account by the Legislature; and

(b) private donations and grants.

~~[(5)]~~ (6) Subject to appropriation, the director shall use account funds to pay for:

(a) the statewide advancement and development of the arts [~~in accordance with the recommendation of the alliance~~]; and

(b) actual administrative costs associated with administering this [~~part~~] section.

~~[(6)]~~ (7) The division shall submit an annual written report to the department that gives a complete accounting of the use of money from the account for inclusion in the annual report described in Section 9-1-208.

(8) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing processes to:

(a) accept and consider applications for projects for the development of the arts; and

(b) distribute account money under this section.

**Section 11. Section 9-7-302 is amended to read:**

**9-7-302. Public access.**

~~[(1)]~~ The public shall have access to the State Law Library.

~~[(2) The board of control may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with the provisions of this part.]~~

**Section 12. Section 9-8-305 is amended to read:**

**9-8-305. Permit required to survey or excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and make rules -- Ownership of collections and resources -- Revocation or suspension of permits -- Criminal penalties.**

(1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator who wishes to survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a survey or excavation permit from the Public Lands Policy Coordinating Office.

(b) A principal investigator who holds a valid permit under this section may allow other individuals to assist the principal investigator in a survey or excavation if the principal investigator ensures that all the individuals comply with the law, the rules, the permit, and the appropriate professional standards.

(c) A person, other than a principal investigator, may not survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration unless the person works under the direction of a principal investigator who holds a valid permit.

(d) A permit obtained before July 1, 2006 shall continue until the permit terminates on its own terms.

(2) (a) To obtain a survey permit, a principal investigator shall:

(i) submit a permit application on a form furnished by the Public Lands Policy Coordinating Office;

(ii) except as provided in Subsection (2)(b), possess a graduate degree in anthropology, archaeology, or history;

(iii) have one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management; and

(iv) have one year of supervised field and analytical experience in Utah prehistoric or historic archaeology.

(b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal investigator may submit evidence of training and experience equivalent to a graduate degree.

(c) Unless the permit is revoked or suspended, a survey permit is valid for the time period specified in the permit by the Public Lands Policy Coordinating Office, which may not exceed three years.

(3) (a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a principal investigator shall, in addition to complying with Subsection (2)(a), submit:

(i) a research design to the Public Lands Policy Coordinating Office and the Antiquities Section that:

(A) states the questions to be addressed;

(B) states the reasons for conducting the work;

(C) defines the methods to be used;

(D) describes the analysis to be performed;

(E) outlines the expected results and the plan for reporting;

(F) evaluates expected contributions of the proposed work to archaeological or anthropological science; and

(G) estimates the cost and the time of the work that the principal investigator believes is necessary to provide the maximum amount of historic, scientific, archaeological, anthropological, and educational information; and

(ii) proof of permission from the landowner to enter the property for the purposes of the permit.

(b) An excavation permit is valid for the amount of time specified in the permit, unless the permit is revoked according to Subsection (9).

(c) The Public Lands Policy Coordinating Office may delegate to an agency the authority to issue excavation permits if the agency:

- (i) requests the delegation; and
- (ii) employs or has a long-term contract with a principal investigator with a valid survey permit.

(d) The Public Lands Policy Coordinating Office shall conduct an independent review of the delegation authorized by Subsection (3)(c) every three years and may revoke the delegation at any time without cause.

(4) The Public Lands Policy Coordinating Office shall:

(a) grant a survey permit to a principal investigator who meets the requirements of this section; and

(b) grant an excavation permit to a principal investigator after approving, in consultation with the Antiquities Section, the research design for the project[; ~~and~~].

~~[(c) assemble a committee of qualified individuals to advise the Public Lands Policy Coordinating Office in its duties under this section.]~~

(5) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall, after consulting with the Antiquities Section, make rules to:

- (a) establish survey methodology;
- (b) standardize report and data preparation and submission;
- (c) require other permit application information that the Public Lands Policy Coordinating Office finds necessary, including proof of consultation with the appropriate Native American tribe;
- (d) establish what training and experience is equivalent to a graduate degree;
- (e) establish requirements for a person authorized by Subsection (1)(b) to assist the principal investigator;
- (f) establish requirements for a principal investigator's employer, if applicable; and
- (g) establish criteria that, if met, would allow the Public Lands Policy Coordinating Office to reinstate a suspended permit.

(6) Each principal investigator shall submit a summary report of the work for each project to the Antiquities Section in a form prescribed by a rule established under Subsection (5)(b), which shall include copies of all:

- (a) site forms;
- (b) data;
- (c) maps;
- (d) drawings;
- (e) photographs; and
- (f) descriptions of specimens.

(7) (a) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from lands owned or controlled by the state or its political subdivisions, other than school and institutional trust lands, without permission from the Antiquities Section, and prior consultation with the landowner and any other agencies managing other interests in the land.

(b) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the Antiquities Section.

(c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a person may remove it by following the procedures established by the repository or curation facility.

(8) (a) Collections recovered from school and institutional trust lands are owned by the respective trust.

(b) Collections recovered from lands owned or controlled by the state or its subdivisions, other than school and institutional trust lands, are owned by the state.

(c) Within a reasonable time after the completion of fieldwork, each permit holder shall deposit all collections at the museum, a curation facility, or a repository.

(d) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated according to the rules made under the authority of Section 53B-17-603.

(9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office shall investigate a principal investigator and the work conducted under a permit.

(b) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or suspend a permit if the principal investigator fails to conduct a survey or excavation according to law, the rules enacted by the Public Lands Policy Coordinating Office, or permit provisions.

(10) (a) Any person violating this section is guilty of a class B misdemeanor.

(b) A person convicted of violating this section, or found to have violated the rules authorized by this section, shall, in addition to any other penalties imposed, forfeit all archaeological resources discovered by or through the person's efforts to the state or the respective trust.

(11) The division may enter into memoranda of agreement to issue project numbers or to retain other data for federal lands or Native American lands within the state.



**Section 13. Section 23-14-3 is amended to read:**

**23-14-3. Powers of division to determine facts -- Policymaking powers of Wildlife Board.**

(1) The Division of Wildlife Resources may determine the facts relevant to the wildlife resources of this state.

(2) (a) Upon a determination of these facts, the Wildlife Board shall establish the policies best designed to accomplish the purposes and fulfill the intent of all laws pertaining to wildlife and the preservation, protection, conservation, perpetuation, introduction, and management of wildlife.

(b) In establishing policy, the Wildlife Board shall:

(i) recognize that wildlife and its habitat are an essential part of a healthy, productive environment;

(ii) recognize the impact of wildlife on ~~man, his~~ humans, human economic activities, private property rights, and local economies;

(iii) seek to balance the habitat requirements of wildlife with the social and economic activities of man;

(iv) recognize the social and economic values of wildlife, including fishing, hunting, and other uses; and

(v) seek to maintain wildlife on a sustainable basis.

(c) (i) The Wildlife Board shall consider the recommendations of the regional advisory councils established in Section 23-14-2.6 ~~[and the Private Aquaculture Advisory Council established in Section 23-14-2.8].~~

(ii) If a regional advisory council ~~[or the Private Aquaculture Advisory Council]~~ recommends a position or action to the Wildlife Board, and the Wildlife Board rejects the recommendation, the Wildlife Board shall provide a written explanation to the advisory council recommending the opposing position.

(3) No authority conferred upon the Wildlife Board by this title shall supersede the administrative authority of the executive director of the Department of Natural Resources or the director of the Division of Wildlife Resources.

**Section 14. Section 26-21-3 is amended to read:**

**26-21-3. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.**

(1) (a) The Health Facility Committee created by Section 26-1-7 consists of ~~[15]~~ 11 members appointed by the governor ~~[with the consent of the Senate]~~ in consultation with the executive director.

(b) The appointed members shall be knowledgeable about health care facilities and issues.

(2) The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;

(b) one hospital administrator;

(c) one hospital trustee;

(d) one representative of a freestanding ambulatory surgical facility;

(e) one representative of an ambulatory surgical facility that is affiliated with a hospital;

(f) ~~[two representatives]~~ one representative of the nursing care facility industry;

(g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse Practice Act;

~~[(h) one professional in the field of intellectual disabilities not affiliated with a nursing care facility;]~~

~~[(i) (h) one licensed architect or engineer with expertise in health care facilities;~~

~~[(j) (i) [two representatives] one representative of assisted living facilities licensed under this chapter;~~

~~[(k) (j) two consumers, one of whom has an interest in or expertise in geriatric care; and~~

~~[(l) (k) one representative from either a home health care provider or a hospice provider.~~

~~[(2) (3) (a) Except as required by Subsection [(2) (3)(b)], members shall be appointed for a term of four years.~~

(b) Notwithstanding the requirements of Subsection ~~[(2) (3)(a)]~~ (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, giving consideration to recommendations made by the committee, with the consent of the Senate.

(d) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less. However, a member may continue to serve as a member until ~~[he]~~ the member is replaced.

(e) The committee shall annually elect from its membership a chair and vice chair.

(f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.

(g) ~~Eight~~ Six members constitute a quorum. A vote of the majority of the members present constitutes action of the committee.

**Section 15. Section 26-39-200 is amended to read:**

**26-39-200. Child Care Center Licensing Committee.**

(1) (a) The Child Care Center Licensing Committee created in Section 26-1-7 shall be comprised of seven members appointed by the governor and approved by the Senate in accordance with this subsection.

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and

(ii) hold an active license as a child care center from the department to provide center based child care.

(c) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in center based child care;

(B) a child development expert from the state system of higher education;

(C) except as provided in Subsection (1)(e), a pediatrician licensed in the state; and

(D) an architect licensed in the state.

(ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.

(d) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

(e) For the appointment described in Subsection (1)(c)(i)(C), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection (1)(e), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(c)(i)(C); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(c)(i)(C) within 90 days after the day on which the governor sends the notice described in Subsection (1)(e)(ii)(A).

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Three members of the licensing committee constitute a quorum for the transaction of business.

(6) A member of the licensing committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

**Section 16. Section 26-39-201 is amended to read:**

**26-39-201. Residential Child Care Licensing Advisory Committee.**

(1) (a) The Residential Child Care Licensing Advisory Committee created in Section 26-1-7 shall advise the department on rules made by the department under this chapter for residential child care.

(b) The advisory committee shall be composed of the following nine members who shall be appointed by the executive director:

(i) two child care consumers;

(ii) three licensed residential child care providers;

- (iii) one certified residential child care provider;
- (iv) one individual with expertise in early childhood development; and
- (v) two health care providers.

(2) (a) Members of the advisory committee shall be appointed for four-year terms, except for those members who have been appointed to complete an unexpired term.

(b) Appointments and reappointments may be staggered so that 1/4 of the advisory committee changes each year.

(c) The advisory committee shall annually elect a ~~chairman~~ chair from its membership.

(3) The advisory committee shall meet at least quarterly, or more frequently as determined by the executive director, the ~~chairman~~ chair, or three or more members of the committee.

(4) Five members constitute a quorum and a vote of the majority of the members present constitutes an action of the advisory committee.

(5) A member of the advisory committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

**Section 17. Section 36-12-22 is amended to read:**

**36-12-22. Reports from legislative boards -- Annual reports -- Preparation of legislation.**

(1) As used in this section:

(a) "Legislative board ~~or commission~~" means a board, commission, council, committee, working group, task force, study group, advisory group, or other body created in statute or by legislative rule:

(i) with a defined, limited membership;

~~[(ii) that has a member who is required to be:]~~

~~[(A) a member of the Legislature; or]~~

~~[(B) appointed by a member of the Legislature; and]~~

~~[(iii)]~~ (ii) that has operated or is intended to operate for more than six months~~[-]; and~~

(iii) (A) that has exclusive or majority legislative membership; or

(B) that receives staff support from a legislative staff office.

(b) "Legislative board ~~or commission~~" does not include:

(i) a standing, ethics, interim, appropriations, confirmation, or rules committee of the Legislature;

(ii) the Legislative Management Committee or a subcommittee of the Legislative Management Committee; or

(iii) an organization that is prohibited from having a member that is a member of the Legislature.

(2) (a) ~~[Before September 1 of each year]~~ Before August 1, once every five years, beginning in calendar year 2024, each legislative board ~~or commission~~ shall prepare and submit to the Office of Legislative Research and General Counsel ~~[an annual]~~ a report that includes:

(i) the name of the legislative board ~~or commission~~;

(ii) a description of the legislative board's ~~or commission's~~ official function and purpose;

~~[(iii) the total number of members of the legislative board or commission;]~~

~~[(iv) the number of the legislative board's or commission's members who are legislators;]~~

~~[(v) the compensation, if any, paid to the members of the legislative board or commission;]~~

~~[(vi)]~~ (iii) a description of ~~[the actual work performed]~~ actions taken by the legislative board ~~or commission since the last report the legislative board or commission submitted to the Office of Legislative Research and General Counsel under this section;~~ in the five previous fiscal years;

~~[(vii) a description of actions taken by the legislative board or commission since the last report the legislative board or commission submitted to the Office of Legislative Research and General Counsel under this section;]~~

~~[(viii)]~~ (iv) recommendations on whether any statutory, rule, or other changes are needed to make the legislative board ~~or commission~~ more effective; and

~~[(ix)]~~ (v) ~~[an indication of]~~ a recommendation regarding whether the legislative board ~~or commission~~ should continue to exist.

(b) The Office of Legislative Research and General Counsel shall compile and post ~~[the reports]~~ each report described in Subsection (2)(a) to the Legislature's website before ~~[October]~~ September 1 of [each year] a calendar year in which the Office of Legislative Research and General Counsel receives a report described in Subsection (2)(a).

~~[(3) (a) The Office of Legislative Research and General Counsel shall prepare an annual report by October 1 of each year that includes, as of September 1 of that year:]~~

(3) (a) Before September 1 of a calendar year in which the Office of Legislative Research and General Counsel receives a report described in Subsection (2)(a), the Office of Legislative Research and General Counsel shall prepare a report that includes, as of July 1 of that year:

(i) the total number of legislative boards ~~[and commissions]~~ that exist ~~[in the state]; and~~

(ii) a summary of the reports submitted to the Office of Legislative Research and General Counsel under Subsection (2), including:

(A) a list of each legislative board ~~[or commission]~~ that submitted a report under Subsection (2);

(B) a list of each legislative board ~~[or commission]~~ that did not submit a report under Subsection (2);

(C) an indication of any recommendations made under Subsection (2)(a)~~(viii)~~(iv); and

(D) a list of any legislative boards ~~[or commissions]~~ that indicated under Subsection (2)(a)~~(ix)~~(v) that the legislative board ~~[or commission]~~ should no longer exist.

(b) The Office of Legislative Research and General Counsel shall:

~~[(i) distribute copies of the report described in Subsection (3)(a) to:]~~

(i) in accordance with Section 68-3-14, submit the report described in Subsection (3)(a) to:

(A) the president of the Senate;

(B) the speaker of the House of Representatives; and

~~[(C) the Legislative Management Committee; and]~~

~~[(D)] (C) the Government Operations Interim Committee; and~~

(ii) post the report described in Subsection (3)(a) to the Legislature's website.

~~[(c) Each year, the]~~ (4) (a) The Government Operations Interim Committee ~~[shall]~~ may prepare legislation ~~[making any changes the committee determines are suitable with respect to the report the committee receives under Subsection (3)(b), including:]~~ to address a recommendation regarding:

~~[(i) repealing a legislative board or commission that is no longer functional or necessary; and]~~

~~[(ii) making appropriate changes to make a legislative board or commission more effective.]~~

(i) an executive board, as defined in Section 67-1-2.5, included in the report described in Section 67-1-2.5; or

(ii) a legislative board included in the report described in Subsection (3)(a).

(b) If an executive board or a legislative board is assigned to an interim committee for review under Title 63I, Chapter 1, Legislative Oversight and Sunset Act, the Government Operations Interim Committee may coordinate with the interim committee to prepare legislation described in Subsection (4)(a).

**Section 18. Section 36-31-104 is amended to read:**

**36-31-104. Committee duties.**

(1) The committee shall:

(a) coordinate efforts to place a statue of Martha Hughes Cannon in the National Statuary Hall in the United States Capitol to replace the statue of Philo Farnsworth;

(b) ensure that efforts to place the statue of Martha Hughes Cannon conform with the requirements of 2 U.S.C. Chapter 30, Subchapter V, Part D, Miscellaneous;

(c) represent the state in interactions with the following in relation to the placement of the statue of Martha Hughes Cannon:

(i) the Joint Committee on the Library of Congress described in 2 U.S.C. Sec. 2132;

(ii) the architect of the capitol described in 2 U.S.C. Sec. 2132; and

(iii) any other federal entity;

(d) select a sculptor for the statue of Martha Hughes Cannon;

(e) ensure that the statue of Martha Hughes Cannon is created in marble or bronze, as required under 2 U.S.C. Sec. 2131;

(f) approve the final design of the statue of Martha Hughes Cannon;

(g) ensure that the statue of Martha Hughes Cannon is unveiled in the National Statuary Hall in August of 2020, in commemoration of the month of the 100th anniversary of the ratification of the Nineteenth Amendment to the United States Constitution; and

(h) determine, in coordination with appropriate community leaders and local elected officials, an appropriate location for placement of the statue of Philo Farnsworth that is currently on display in the National Statuary Hall in the United States Capitol.

(2) The committee shall facilitate the creation of a nonprofit entity that is exempt from federal income tax under Section 501(c), Internal Revenue Code, to:

(a) collect ~~[charitable]~~ contributions to cover ~~[all]~~ costs associated with:

(i) the creation and placement of the statue of Martha Hughes Cannon in the National Statuary Hall in the United States Capitol;

(ii) the removal of the statue of Philo Farnsworth that is currently on display in the National Statuary Hall in the United States Capitol; and

(iii) the placement of the statue described in Subsection (2)(a)(ii) for display in a location designated by the committee under Subsection (1)(h); and

(b) comply with the requirements of 2 U.S.C. Sec. 2132 regarding the cost of replacing a state's statue in the National Statuary Hall~~]; and~~.

~~[(c) ensure that no state funds are used for any cost related to an item described in Subsection (2)(a).]~~

**Section 19. Section 36-32-101 is enacted to read:**

**CHAPTER 32. JUDICIAL RULES REVIEW COMMITTEE**

**Part 1. General Provisions**

**36-32-101. Title.**

This chapter is known as "Judicial Rules Review Committee."

**Section 20. Section 36-32-102 is enacted to read:**

**36-32-102. Definitions.**

As used in this chapter:

(1) "Advisory committee" means the committee that proposes to the Supreme Court rules or changes in rules related to:

- (a) civil procedure;
- (b) criminal procedure;
- (c) juvenile procedure;
- (d) appellate procedure;
- (e) evidence; and
- (f) professional conduct.

(2) "Committee" means the Judicial Rules Review Committee created in Section 36-31-201.

(3) "Court rule" means any of the following:

(a) rules of procedure, evidence, or practice for use of the courts of this state;

(b) rules governing and managing the appellate process adopted by the Supreme Court; or

(c) rules adopted by the Judicial Council for the administration of the courts of the state.

(4) "Judicial Council" means the administrative body of the courts, established in Utah Constitution, Article VIII, Sec. 12, and Section 78A-2-104.

(5) "Proposal for court rule" means the proposed language in a court rule that is submitted to:

- (a) the Judicial Council;
- (b) the advisory committee; or
- (c) the Supreme Court.

**Section 21. Section 36-32-201 is enacted to read:**

**Part 2. Judicial Rules Review Committee**  
**36-32-201. Establishment of committee -- Membership -- Duties.**

(1) There is created a six member Judicial Rules Review Committee.

(2) (a) The committee is comprised of:

(i) three members of the Senate, no more than two from the same political party, appointed by the president of the Senate; and

(ii) three members of the House of Representatives, no more than two from the same political party, appointed by the speaker of the House of Representatives.

(b) A member shall serve for a two-year term, or until the member's successor is appointed.

(c) (i) A vacancy exists when a member:

- (A) is no longer a member of the Legislature; or
- (B) resigns from the committee.

(ii) The appointing authority shall fill a vacancy.

(iii) A member appointed to fill a vacancy shall serve out the unexpired term.

(d) The committee may meet as needed:

(i) to review:

- (A) court rules;
- (B) proposals for court rules; or

(C) conflicts between court rules or proposals for court rules and statute or the Utah Constitution; or

(ii) to recommend legislative action related to a review described in Subsection (2)(d)(i).

**Section 22. Section 36-32-202 is enacted to read:**

**36-32-202. Submission of court rules or proposals for court rules.**

(1) The Supreme Court or the Judicial Council shall submit to the committee and the governor each court rule, proposal for court rule, and any additional information related to a court rule or proposal for court rule that the Supreme Court or Judicial Council considers relevant:

(a) when the court rule or proposal for court rule is submitted:

(i) to the Judicial Council for consideration or approval for public comment; or

(ii) to the Supreme Court by the advisory committee after the advisory committee's consideration or approval; and

(b) when the approved court rule or approved proposal for court rule is made available to members of the bar and the public for public comment.

(2) At the time of submission under Subsection (1), the Supreme Court or Judicial Council shall provide the committee with the name and contact information of a Supreme Court advisory committee or Judicial Council employee whom the committee may contact about the submission.

**Section 23. Section 36-32-203 is enacted to read:**

**36-32-203. Review of rules -- Criteria.**

(1) As used in this section, "court rule" means a new court rule, a proposal for court rule, or an existing court rule.

(2) The committee:

(a) shall review and evaluate a submission of:

(i) a court rule; or

(ii) a proposal for court rule; and

(b) may review an existing court rule.

(3) The committee shall conduct a review of a court rule described in Subsection (2) based on the following criteria:

(a) whether the court rule is authorized by the state constitution or by statute;

(b) if authorized by statute, whether the court rule complies with legislative intent;

(c) whether the court rule is in conflict with existing statute or governs a policy expressed in statute;

(d) whether the court rule is primarily substantive or procedural in nature;

(e) whether the court rule infringes on the powers of the executive or legislative branch of government;

(f) the impact of the court rule on an affected person;

(g) the purpose for the court rule, and if applicable, the reason for a change to an existing court rule;

(h) the anticipated cost or savings due to the court rule to:

(i) the state budget;

(ii) local governments; and

(iii) individuals; and

(i) the cost to an affected person of complying with the court rule.

**Section 24. Section 36-32-204 is enacted to read:**

**36-32-204. Committee review -- Fiscal analyst -- Powers of committee.**

(1) To carry out the committee's duties, the committee may examine issues that the committee considers necessary in addition to the issues described in this chapter.

(2) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any court rule or proposal for court rule.

(3) The committee has the powers granted to a legislative interim committee described in Section 36-12-11.

**Section 25. Section 36-32-205 is enacted to read:**

**36-32-205. Findings -- Report -- Distribution of report.**

(1) The committee may:

(a) make an informal recommendation about a court rule or proposal for court rule; or

(b) provide written findings of the committee's review of a court rule or proposal for court rule; and

(c) if the committee identifies significant issues, provide written recommendations for:

(i) legislative action;

(ii) Supreme Court rulemaking action; or

(iii) Judicial Council rulemaking action.

(2) The committee shall provide to the Supreme Court or the Judicial Council:

(a) a copy of the committee's findings or recommendations described in Subsection (1); and

(b) a request that the Supreme Court or Judicial Council notify the committee of the Supreme Court or Judicial Council's response.

(3) The committee may prepare a report that includes:

(a) the findings and recommendations made by the committee based on the criteria described in Section 36-32-203;

(b) any action taken by the Supreme Court or Judicial Council in response to recommendations from the committee; and

(c) any recommendations described in Subsection (1).

(4) The committee shall provide a report described in Subsection (3) to:

(a) the speaker of the House of Representatives;

(b) the president of the Senate;

(c) the chair of the House Judiciary Standing Committee;

(d) the chair of the Senate Judiciary, Law Enforcement, and Criminal Justice Standing Committee;

(e) the Judiciary Interim Committee;

(f) the governor;

(g) the Executive Offices and Criminal Justice Appropriations Subcommittee;

(h) the Judicial Council; and

(i) the Supreme Court.

**Section 26. Section 36-32-206 is enacted to read:**

**36-32-206. Court rules or proposals for court rules -- Publication in bulletin.**

When the Supreme Court or Judicial Council submits a court rule or proposal for court rule for public comment, the Supreme Court or Judicial Council shall submit the court rule or proposal for court rule to publication houses that publish court rules, proposals to court rules, case law, or other relevant information for individuals engaged in the legal profession.

**Section 27. Section 36-32-207 is enacted to read:**

**36-32-207. Duties of staff.**

The Office of Legislative Research and General Counsel shall, when practicable, attend meetings of the advisory committees of the Supreme Court.

**Section 28. Section 38-11-102 is amended to read:**

**38-11-102. Definitions.**

~~[(1) "Board" means the Residence Lien Recovery Fund Advisory Board established under Section 38-11-104.]~~

[(2)] (1) "Certificate of compliance" means an order issued by the director to the owner finding that the owner is in compliance with the requirements of Subsections 38-11-204(4)(a) and (4)(b) and is entitled to protection under Section 38-11-107.

[(3)] (2) "Construction on an owner-occupied residence" means designing, engineering, constructing, altering, remodeling, improving, repairing, or maintaining a new or existing residence.

[(4)] (3) "Department" means the Department of Commerce.

[(5)] (4) "Director" means the director of the Division of Occupational and Professional Licensing.

[(6)] (5) "Division" means the Division of Occupational and Professional Licensing.

[(7)] (6) "Duplex" means a single building having two separate living units.

[(8)] (7) "Encumbered fund balance" means the aggregate amount of outstanding claims against the fund. The remainder of the money in the fund is unencumbered funds.

[(9)] (8) "Executive director" means the executive director of the Department of Commerce.

[(10)] (9) "Factory built housing" is as defined in Section 15A-1-302.

[(11)] (10) "Factory built housing retailer" means a person that sells factory built housing to consumers.

[(12)] (11) "Fund" means the Residence Lien Recovery Fund established under Section 38-11-201.

[(13)] (12) "Laborer" means a person who provides services at the site of the construction on an owner-occupied residence as an employee of an original contractor or other qualified beneficiary performing qualified services on the residence.

[(14)] (13) "Licensee" means any holder of a license issued under Title 58, Chapter 3a, Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; Chapter 53, Landscape Architects

Licensing Act; and Chapter 55, Utah Construction Trades Licensing Act.

[(15)] (14) "Nonpaying party" means the original contractor, subcontractor, or real estate developer who has failed to pay the qualified beneficiary making a claim against the fund.

[(16)] (15) "Original contractor" means a person who contracts with the owner of real property or the owner's agent to provide services, labor, or material for the construction of an owner-occupied residence.

[(17)] (16) "Owner" means a person who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an owner-occupied residence upon real property that the person:

(i) owns; or

(ii) purchases after the person enters into a contract described in this Subsection [(17)] (16)(a) and before completion of the owner-occupied residence;

(b) contracts with a real estate developer to buy a residence upon completion of the construction on the owner-occupied residence; or

(c) purchases a residence from a real estate developer after completion of the construction on the owner-occupied residence.

[(18)] (17) "Owner-occupied residence" means a residence that is, or after completion of the construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a primary or secondary residence within 180 days after the day on which the construction on the residence is complete.

[(19)] (18) "Qualified beneficiary" means a person who:

(a) provides qualified services;

(b) pays necessary fees required under this chapter; and

(c) registers with the division:

(i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks recovery from the fund as a licensed contractor; or

(ii) as a person providing qualified services other than as a licensed contractor under Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as a licensed contractor.

[(20)] (19) (a) "Qualified services" means the following performed in construction on an owner-occupied residence:

(i) contractor services provided by a contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

(ii) architectural services provided by an architect licensed under Title 58, Chapter 3a, Architects Licensing Act;

(iii) engineering and land surveying services provided by a professional engineer or land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(iv) landscape architectural services by a landscape architect licensed or exempt from licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;

(v) design and specification services of mechanical or other systems;

(vi) other services related to the design, drawing, surveying, specification, cost estimation, or other like professional services;

(vii) providing materials, supplies, components, or similar products;

(viii) renting equipment or materials;

(ix) labor at the site of the construction on the owner-occupied residence; and

(x) site preparation, set up, and installation of factory built housing.

(b) "Qualified services" does not include the construction of factory built housing in the factory.

[~~(21)~~] (20) "Real estate developer" means a person having an ownership interest in real property who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a residence that is offered for sale to the public; or

(b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act, who engages in the construction of a residence that is offered for sale to the public.

[~~(22)~~] (21) (a) "Residence" means an improvement to real property used or occupied, to be used or occupied as, or in conjunction with:

(i) a primary or secondary detached single-family dwelling; or

(ii) a multifamily dwelling up to and including duplexes.

(b) "Residence" includes factory built housing.

[~~(23)~~] (22) "Subsequent owner" means a person who purchases a residence from an owner within 180 days after the day on which the construction on the residence is completed.

**Section 29. Section 38-11-201 is amended to read:**

**38-11-201. Residence Lien Recovery Fund.**

(1) There is created an expendable special revenue fund called the "Residence Lien Recovery Fund."

(2) The fund shall earn interest.

(3) The division shall employ personnel and resources necessary to administer the fund and shall use fund money in accordance with Sections 38-11-203 and 38-11-204 and to pay the costs charged to the fund by the attorney general.

(4) Costs incurred by the division, on or after May 8, 2018, for administering the fund may be paid out of fund money in an amount that may be no more than a total of \$300,000 for the remaining existence of the fund.

(5) (a) The Division of Finance shall report annually to the Legislature[,] and the division[~~, and the board~~].

(b) The report shall state:

(i) amounts received by the fund;

(ii) disbursements from the fund;

(iii) interest earned and credited to the fund; and

(iv) the fund balance.

**Section 30. Section 53F-9-203 is amended to read:**

**53F-9-203. Charter School Revolving Account.**

(1) (a) The terms defined in Section 53G-5-102 apply to this section.

(b) As used in this section, "account" means the Charter School Revolving Account.

(2) (a) There is created within the Uniform School Fund a restricted account known as the "Charter School Revolving Account" to provide assistance to charter schools to:

(i) meet school building construction and renovation needs; and

(ii) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.

(b) The state board, in consultation with the State Charter School Board, shall administer the Charter School Revolving Account in accordance with rules adopted by the state board.

(3) The Charter School Revolving Account shall consist of:

(a) money appropriated to the account by the Legislature;

(b) money received from the repayment of loans made from the account; and

(c) interest earned on money in the account.

(4) The state superintendent shall make loans to charter schools from the account to pay for the costs of:

(a) planning expenses;

(b) constructing or renovating charter school buildings;

(c) equipment and supplies; or



(d) other start-up or expansion expenses.

(5) Loans to new charter schools or charter schools with urgent facility needs may be given priority.

(6) ~~[(a)]~~ The state board shall ~~[establish a committee to]~~:

~~[(4)]~~ (a) ~~except as provided in Subsection (7)(a), review requests by charter schools for loans under this section; and~~

~~[(ii)]~~ ~~make recommendations regarding approval or disapproval of the loan applications to the State Charter School Board and the state board.]~~

~~(b) in consultation with the State Charter School Board, approve or reject each request.~~

~~(7) (a) The state board may establish a committee to:~~

~~(i) review requests under Subsection (6)(a); and~~

~~(ii) make recommendations to the state board and the State Charter School Board regarding the approval or rejection of a request.~~

~~(b) (i) A committee established under Subsection [(6)] (7)(a) shall include individuals who have expertise or experience in finance, real estate, or charter school administration.~~

~~(ii) Of the members appointed to a committee established under Subsection [(6)] (7)(a):~~

~~(A) one member shall be nominated by the governor; and~~

~~(B) the remaining members shall be selected from a list of nominees submitted by the State Charter School Board.~~

~~(c) If the committee recommends approval of a loan application under Subsection [(6)] (7)(a)(ii), the committee's recommendation shall include:~~

~~(i) the recommended amount of the loan;~~

~~(ii) the payback schedule; and~~

~~(iii) the interest rate to be charged.~~

~~(d) A committee member may not:~~

~~(i) be a relative, as defined in Section 53G-5-409, of a loan applicant; or~~

~~(ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.~~

~~[(7)] (8) A loan under this section may not be made unless the state board, in consultation with the State Charter School Board, approves the loan.~~

~~[(8)] (9) The term of a loan to a charter school under this section may not exceed five years.~~

~~[(9)] (10) The state board may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any fiscal year.~~

~~[(10)] (11) (a) On March 16, 2011, the assets of the Charter School Building Subaccount administered~~

by the state board shall be deposited into the Charter School Revolving Account.

(b) Beginning on March 16, 2011, loan payments for loans made from the Charter School Building Subaccount shall be deposited into the Charter School Revolving Account.

**Section 31. Section 54-10a-202 is amended to read:**

**54-10a-202. Committee of Consumer Services.**

(1) (a) There is created within the office a committee known as the "Committee of Consumer Services."

(b) A member of the committee shall maintain the member's principal residence within Utah.

(2) (a) The governor shall appoint ~~[nine]~~ five members to the committee subject to Subsection (3).

(b) Except as required by Subsection (2)(c), as terms of current committee members expire, the governor shall appoint a new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term.

(3) Members of the committee shall represent the following ~~[geographic and]~~ consumer interests:

~~[(a)] one member shall be from Salt Lake City, Provo, or Ogden;~~

~~[(b)] one member shall be from a city other than Salt Lake City, Provo, or Ogden;~~

~~[(c)] one member shall be from an unincorporated area of the state;~~

~~[(d)] (a) one member shall be [a low-income resident] an individual with experience and understanding of issues affecting low-income residents;~~

~~[(e)] (b) one member shall be a retired person;~~

~~[(f)] (c) one member shall be [a small commercial consumer] an individual with experience and understanding of issues affecting small commercial consumers;~~

~~[(g)] (d) one member shall be a farmer or rancher who uses electric power to pump water in the member's farming or ranching operation; and~~

~~[(h)] (e) one member shall be a residential consumer[; and].~~

~~[(i)] one member shall be appointed to provide geographic diversity on the committee to ensure to the extent possible that all areas of the state are represented.]~~

(4) (a) No more than ~~[five]~~ three members of the committee ~~[shall]~~ may be from the same political party.

(b) Subject to Subsection (3), for a member of the committee appointed on or after May 12, 2009, the governor shall appoint, to the extent possible, an individual with expertise or experience in:

- (i) public utility matters related to consumers;
- (ii) economics;
- (iii) accounting;
- (iv) financing;
- (v) engineering; or
- (vi) public utilities law.

(5) The governor shall designate one member as chair of the committee.

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

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

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

(7) (a) The committee may hold monthly meetings.

(b) The committee may hold other meetings, at the times and places the chair and a majority of the committee determine.

(8) (a) ~~[Five]~~ Three members of the committee constitute a quorum of the committee.

(b) A majority of members voting when a quorum is present constitutes an action of the committee.

**Section 32. Section 58-46a-102 is amended to read:**

**58-46a-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) "Board" means the Hearing Instrument Specialist Licensing Board created in Section 58-46a-201.]~~

~~[(2)]~~ (1) "Direct supervision" means that the supervising hearing instrument specialist is present in the same facility as is the person being supervised and is available for immediate in person consultation.

~~[(3)]~~ (2) "Hearing instrument" or "hearing aid" means any device designed or offered to be worn on or by an individual to enhance human hearing, including the device's specialized parts, attachments, or accessories.

~~[(4)]~~ (3) "Hearing instrument intern" means a person licensed under this chapter who is obtaining education and experience in the practice of a hearing instrument specialist under the

supervision of a supervising hearing instrument specialist.

~~[(5)]~~ (4) "Indirect supervision" means that the supervising hearing instrument specialist is not required to be present in the same facility as is the person being supervised, but is available for voice to voice contact by telephone, radio, or other means at the initiation of the person being supervised.

~~[(6)]~~ (5) "Practice of a hearing instrument specialist" means:

(a) establishing a place of business to practice as a hearing instrument specialist;

(b) testing the hearing of a human patient over the age of 17 for the sole purpose of determining whether a hearing loss will be sufficiently improved by the use of a hearing instrument to justify prescribing and selling the hearing instrument and whether that hearing instrument will be in the best interest of the patient;

(c) providing the patient a written statement of prognosis regarding the need for or usefulness of a hearing instrument for the patient's condition;

(d) prescribing an appropriate hearing instrument;

(e) making impressions or earmolds for the fitting of a hearing instrument;

(f) sale and professional placement of the hearing instrument on a patient;

(g) evaluating the hearing loss overcome by the installation of the hearing instrument and evaluating the hearing recovery against the representations made to the patient by the hearing instrument specialist;

(h) necessary intervention to produce satisfactory hearing recovery results from a hearing instrument; or

(i) instructing the patient on the use and care of the hearing instrument.

~~[(7)]~~ (6) "Supervising hearing instrument specialist" means a hearing instrument specialist who:

(a) is licensed by and in good standing with the division;

(b) has practiced full-time as a hearing instrument specialist for not less than two years; and

(c) is approved as a supervisor by the division ~~[in collaboration with the board].~~

~~[(8)]~~ (7) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.

~~[(9)]~~ (8) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-46a-501.

**Section 33. Section 58-46a-302 is amended to read:**

**58-46a-302. Qualifications for licensure.**

(1) Each applicant for licensure as a hearing instrument specialist shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay a fee as determined by the division pursuant to Section 63J-1-504;

(c) be of good moral character;

(d) have qualified for and currently hold board certification by the National Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the division [~~in collaboration with the board~~];

(e) have passed the Utah Law and Rules Examination for Hearing Instrument Specialists; and

(f) if the applicant holds a hearing instrument intern license, surrender the hearing instrument intern license at the time of licensure as a hearing instrument specialist.

(2) Each applicant for licensure as a hearing instrument intern shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay a fee as determined by the division pursuant to Section 63J-1-504;

(c) be of good moral character;

(d) have passed the Utah Law and Rules Examination for Hearing Instrument Specialists; and

(e) present evidence acceptable to the division [~~and the board~~] that the applicant, when licensed, will practice as a hearing instrument intern only under the supervision of a supervising hearing instrument specialist in accordance with:

(i) Section 58-46a-302.5; and

(ii) the supervision requirements for obtaining board certification by the National Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the division [~~in collaboration with the board~~].

**Section 34. Section 58-46a-302.5 is amended to read:**

**58-46a-302.5. Supervision requirements -- Hearing instrument interns.**

(1) A hearing instrument intern shall practice as a hearing instrument intern only under the direct supervision of a licensed hearing instrument specialist, until the intern:

(a) receives a passing score on a practical examination demonstrating acceptable skills in the area of hearing testing as approved by the division [~~in collaboration with the board~~]; and

(b) completes the National Institute for Hearing instrument studies education and examination program, or an equivalent college level program as

approved by the division [~~in collaboration with the board~~].

(2) Upon satisfaction of the direct supervision requirement of Subsection (1) the intern shall:

(a) practice as a hearing instrument intern only under the indirect supervision of a licensed hearing instrument specialist; and

(b) receive a passing score on the International Licensing Examination of the hearing instrument dispenser or other tests approved by the division prior to applying for licensure as a hearing instrument specialist.

**Section 35. Section 58-46a-303 is amended to read:**

**58-46a-303. Term of license -- Expiration -- Renewal of specialist license -- Limitation on renewal of intern license.**

(1) The division shall issue each license for a hearing instrument specialist in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) Each license as a hearing instrument intern shall be issued for a term of three years and may not be renewed.

(3) At the time of renewal, the licensed hearing instrument specialist shall demonstrate satisfactory evidence of each of the following:

(a) current certification by the National Board for Certification Hearing Instrument Sciences, or other acceptable certification approved by the division [~~in collaboration with the board~~];

(b) calibration of all appropriate technical instruments used in practice; and

(c) completion of continuing professional education required in Section 58-46a-304.

(4) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with the provisions of Section 58-1-308, or unless surrendered in accordance with the provisions of Section 58-1-306.

**Section 36. Section 58-46a-501 is amended to read:**

**58-46a-501. Unprofessional conduct.**

"Unprofessional conduct" includes:

(1) testing the hearing of a patient for any purpose other than to determine whether a hearing loss will be improved by the use of a hearing instrument;

(2) failing to make an appropriate referral to a qualified health care provider with respect to a condition detected in a patient examined by a licensee under this chapter if the condition is generally recognized in the profession as one that should be referred;

(3) designating a hearing instrument for a patient whose hearing will not be sufficiently

improved to justify prescribing and selling of the hearing instrument;

(4) making false, misleading, deceptive, fraudulent, or exaggerated claims with respect to practice under this chapter and specifically with respect to the benefits of a hearing instrument or the degree to which a hearing instrument will benefit a patient;

(5) failing to exercise caution in providing a patient a prognosis to assure the patient is not led to expect results that cannot be accurately predicted;

(6) failing to provide appropriate follow-up care and consultation with respect to a patient to whom a hearing instrument has been prescribed and sold upon being informed by the patient that the hearing instrument does not produce the results represented by the licensee;

(7) failing to disclose in writing to the patient the charge for all services and hearing instruments prescribed and sold to a patient prior to providing the services or hearing instrument;

(8) failing to refund fees paid by a patient for a hearing instrument and all accessories, upon a determination by the division ~~[in collaboration with the board]~~ that the patient has not obtained the recovery of hearing represented by the licensee in writing prior to designation and sale of the hearing instrument;

(9) paying any professional person any consideration of any kind for referral of a patient;

(10) failing, when acting as a supervising hearing instrument specialist, to provide supervision and training in hearing instrument sciences in accordance with Section 58-46a-302.5;

(11) engaging in the practice as a hearing instrument intern when not under the supervision of a supervising hearing instrument specialist in accordance with Section 58-46a-302.5;

(12) failing to describe the circuitry in any advertisement, presentation, purchase, or trial agreement as being either "digital" or "analog"; or other acceptable terms as determined by the division ~~[in collaboration with the board]~~;

(13) failing to follow the guidelines or policies of the United States Federal Trade Commission in any advertisement;

(14) failing to adhere to the rules and regulations prescribed by the United States Food and Drug Administration as they pertain to the hearing instrument specialist;

(15) failing to maintain all equipment used in the practice of a hearing instrument specialist properly calibrated and in good working condition; and

(16) failing to comply with any of the requirements set forth in Section 58-46a-502 or 58-46a-503.

**Section 37. Section 58-46a-502 is amended to read:**

**58-46a-502. Additional requirements for practicing as a hearing instrument specialist.**

A person engaging in the practice of a hearing instrument specialist shall:

(1) have a regular place or places of business from which the person conducts business as a hearing instrument specialist and the place or places of business shall be represented to a patient and others with whom business is conducted by the street address at which the place of business is located;

(2) include in all advertising or other representation the street address at which the business is located and the telephone number of the business at that street address;

(3) provide as part of each transaction between a licensee and a patient related to testing for hearing loss and selling of a hearing instrument written documentation provided to the patient that includes:

(a) identification of all services and products provided to the patient by the hearing instrument specialist and the charges for each service or product;

(b) a statement whether any hearing instrument provided to a patient is "new," "used," or "reconditioned" and the terms and conditions of any warranty or guarantee that applies to each instrument; and

(c) the identity and license number of each hearing instrument specialist or hearing instrument intern who provided services or products to the patient;

(4) before providing services or products to a patient:

(a) advise the patient regarding services and products offered to the patient, including the expected results of the services and products;

(b) inform each patient who is being offered a hearing instrument about hearing instruments that work with assistive listening systems that are compliant with the ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.; and

(c) obtain written informed consent from the patient regarding offered services, products, and the expected results of the services and products in a form approved by the division ~~[in collaboration with the board]~~;

(5) refer all individuals under the age of 18 who seek testing of hearing to a physician or surgeon, osteopathic physician, physician assistant, or audiologist, licensed under the provisions of this title, and shall dispense a hearing aid to that individual only on prescription of a physician or surgeon, osteopathic physician, physician assistant, or audiologist;

(6) obtain the patient's informed consent and agreement to purchase the hearing instrument based on that informed consent either by the hearing instrument specialist or the hearing instrument intern, before designating an appropriate hearing instrument; and

(7) if a hearing instrument does not substantially enhance the patient's hearing consistent with the representations of the hearing instrument specialist at the time informed consent was given prior to the sale and fitting of the hearing instrument, provide:

(a) necessary intervention to produce satisfactory hearing recovery results consistent with representations made; or

(b) for the refund of fees paid by the patient for the hearing instrument to the hearing instrument specialist within a reasonable time after finding that the hearing instrument does not substantially enhance the patient's hearing.

**Section 38. Section 58-55-201 is amended to read:**

**58-55-201. Boards created -- Duties.**

(1) There is created [a] the Plumbers Licensing Board[, an Alarm System Security and Licensing Board, and an Electricians Licensing Board. Members of the boards shall be selected to provide representation as follows: (a) The Plumbers Licensing Board consists] consisting of five members as follows:

~~(i)~~ (a) two members shall be licensed from among the license classifications of master or journeyman plumber;

~~(ii)~~ (b) two members shall be licensed plumbing contractors; and

~~(iii)~~ (c) one member shall be from the public at large with no history of involvement in the construction trades.

~~(b)~~ (2) (a) [The] There is created the Alarm System Security and Licensing Board [consists] consisting of five members as follows:

~~(A)~~ (i) three individuals who are officers or owners of a licensed alarm business;

~~(B)~~ (ii) one individual from among nominees of the Utah Peace Officers Association; and

~~(C)~~ (iii) one individual representing the general public.

~~(ii)~~ (b) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:

~~(A)~~ (i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

~~(B)~~ (ii) advise the division in its investigation of these complaints.

~~(iii)~~ (c) A board member who has, under this Subsection [(1)(b)(iii)] (2)(c), reviewed a complaint

or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

~~(e)~~ (3) [The] There is created the Electricians Licensing Board [consists] consisting of five members as follows:

~~(i)~~ (a) two members shall be licensed from among the license classifications of master or journeyman electrician, of whom one shall represent a union organization and one shall be selected having no union affiliation;

~~(ii)~~ (b) two shall be licensed electrical contractors of whom one shall represent a union organization and one shall be selected having no union affiliation; and

~~(iii)~~ (c) one member shall be from the public at large with no history of involvement in the construction trades or union affiliation.

~~(2)~~ (4) The duties, functions, and responsibilities of each board described in Subsections (1) through (3) include the following:

(a) recommending to the commission appropriate rules;

(b) recommending to the commission policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;

(e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession [it] the board represents; and

(f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

~~(3)~~ (5) The division, in collaboration with the Plumbers Licensing Board and the Electricians Licensing Board, shall provide a preliminary report on or before October 1, 2019, and a final written report on or before June 1, 2020, to the Business and Labor Interim Committee and the Occupational and Professional Licensure Review Committee that provides recommendations for consistent educational and training standards for plumber and electrician apprentice programs in the state, including recommendations for education and training provided by all providers, including institutions of higher education and technical colleges.

**Section 39. Section 58-64-102 is amended to read:**

**58-64-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

[1] ~~“Board” means the Deception Detection Examiners Board created in Section 58-64-201.~~

[2] (1) “Deception detection examination” means the use of an instrument, or software application designed for detecting deception, on an individual for the purpose of detecting whether that individual is engaged in deception.

[3] (2) “Deception detection examination administrator” means an individual who engages in or represents that the individual is engaged in:

(a) conducting or administering a deception detection examination using a software application designed for detecting deception without intervention from the examination administrator; or

(b) the interpretation of deception detection examination results derived from a software application designed for detecting deception.

[4] (3) “Deception detection examiner” means an individual who engages in or represents that the individual is engaged in conducting or performing deception detection examinations or in the interpretation of deception detection examinations.

[5] (4) “Deception detection intern” means an individual who engages in deception detection examinations under the supervision and control of a deception detection examiner for the purpose of training and qualification as a deception detection examiner.

[6] (5) “Instrument” means a polygraph, voice stress analyzer, ocular-motor test, or any other device or software application that records the examinee’s cardiovascular patterns, respiratory patterns, galvanic skin response, cognitive response, eye behavior, memory recall, or other physiologic characteristics of the examinee for the purpose of monitoring factors relating to whether the examinee is truthful or engaged in deception.

[7] (6) “Unlawful conduct” means the same as that term is defined in Sections 58-1-501 and 58-64-501.

[8] (7) “Unprofessional conduct” means the same as that term is defined in Sections 58-1-501 and 58-64-502 and as may be further defined by rule.

**Section 40. Section 58-64-302 is amended to read:**

**58-64-302. Qualifications for licensure.**

(1) Each applicant for licensure as a deception detection examiner:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) shall be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime which when considered with the duties

and responsibilities of a deception detection examiner is considered by the division ~~and the board~~ to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor’s degree from a four year university or college meeting standards established by the division by rule ~~in collaboration with the board~~;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division ~~in collaboration with the board~~; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division ~~in collaboration with the board~~ as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule by the division ~~in collaboration with the board~~; and

(h) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.

(2) Each applicant for licensure as a deception detection intern:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) shall be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime which when considered with the duties and responsibilities of a deception detection intern is considered by the division ~~and the board~~ to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor’s degree from a four year university or college meeting standards established by the division by rule ~~in collaboration with the board~~;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division ~~in collaboration with the board~~; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division [~~in collaboration with the board~~] as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) shall have successfully completed a training program in deception meeting criteria established by rule by the division [~~in collaboration with the board~~]; and

(h) shall provide the division with an intern supervision agreement in a form prescribed by the division under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) Each applicant for licensure as a deception detection examination administrator:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) shall be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of a deception detection examination administrator is considered by the division [~~and the board~~] to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience; and

(g) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.

(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.

(5) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.

(6) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.

(7) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.

**Section 41. Section 58-64-502 is amended to read:**

**58-64-502. Unprofessional conduct.**

"Unprofessional conduct" includes:

(1) using any deception detection instrument that does not meet criteria and standards established by rule by the division [~~in collaboration with the board~~]; and

(2) using any deception detection instrument that does not make a permanent recording as required under Section 58-64-601.

**Section 42. Section 58-64-601 is amended to read:**

**58-64-601. Deception detection instruments.**

(1) Instruments or software applications used in performing deception detection examinations shall be those that are generally recognized in the profession or, if approved by the director, those with results published in peer-reviewed, scientific journals generally recognized by the scientific community.

(2) An instrument or software application used for deception detection shall have a permanent recording or written report produced by the instrument or software application for objective analysis by the examiner[;] or the division[; ~~or the board~~].

(3) A written interpretation by an examiner while conducting a deception detection examination does not satisfy the requirements of a permanent recording.

**Section 43. Section 63C-6-101 is amended to read:**

**63C-6-101. Creation of commission -- Membership -- Appointment -- Vacancies.**

(1) There is created the Utah Seismic Safety Commission consisting of 15 members, designated as follows:

(a) the director of the Division of Emergency Management or the director's designee;

(b) the director of the Utah Geological Survey or the director's designee;

(c) the director of the University of Utah Seismograph Stations or the director's designee;

(d) the executive director of the Utah League of Cities and Towns or the executive director's designee;

(e) a representative from the Structural Engineers Association of Utah biannually selected by its membership;

(f) the director of the Division of Facilities Construction and Management or the director's designee;

(g) the executive director of the Department of Transportation or the director's designee;

(h) the State Planning Coordinator or the coordinator's designee;

(i) a representative from the American Institute of Architects, Utah Section;

(j) a representative from the American Society of Civil Engineers, Utah Section;

~~[(k) a member of the House of Representatives appointed biannually by the speaker of the House;]~~

~~[(l) a member of the Senate appointed biannually by the president of the Senate;]~~

[(k) two individuals, appointed by the director of the Division of Emergency Management, from earthquake-related organizations that have an interest in reducing earthquake-related loss in the state;

~~[(m)] (l) the commissioner of the Department of Insurance or the commissioner's designee;~~

~~[(n)] (m) a representative from the Association of Contingency Planners, Utah Chapter, biannually selected by its membership; and~~

~~[(o)] (n) a representative from the American Public Works Association, Utah Chapter, biannually selected by its membership.~~

(2) The commission shall annually select one of its members to serve as chair of the commission.

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

**Section 44. Section 63F-1-509 is amended to read:**

**63F-1-509. Statewide Global Positioning Reference Network created -- Rulemaking authority.**

(1) (a) There is created the Statewide Global Positioning Reference Network to improve the quality of geographic information system data and the productivity, efficiency, and cost-effectiveness of government services.

(b) The network shall provide a system of permanently mounted, fully networked, global positioning system base stations that will provide real time radio navigation and establish a standard statewide coordinate reference system.

(c) The center shall administer the network.

~~[(2) (a) There is created the Global Positioning Systems Advisory Committee to advise the center on implementing and maintaining the network.]~~

~~[(b) The committee membership shall consist of:]~~

~~[(i) the center manager or the manager's designee;]~~

~~[(ii) a representative from the Department of Transportation created by Section 72-1-201 designated by the executive director appointed under Section 72-1-202;]~~

~~[(iii) the chief information officer or the chief information officer's designee;]~~

~~[(iv) a representative from the Utah Association of County Surveyors; and]~~

~~[(v) a representative from the Utah Council of Land Surveyors.]~~

~~[(e) The representative from the center shall be the chair of the committee.]~~

~~[(d) The committee shall meet upon the call of the chair or a majority of the committee members.]~~

~~[(e) The committee chair shall give reasonable notice to each member prior to any meeting.]~~

~~[(f) Three members shall constitute a quorum for the transaction of business.]~~

~~[(g) The center shall provide staff support to the committee.]~~

~~[(h) Committee members who are state government employees shall receive no additional compensation for their work on the committee.]~~

~~[(i) Committee members who are not state government employees shall receive no compensation or expenses for their work on the committee.]~~

~~[(j) The committee shall recommend rules to the chief information officer for adoption under Subsection (3).]~~

~~[(3)] (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the chief information officer shall make, in consultation with the committee,] rules providing for operating policies and procedures for the network.~~

(b) ~~[The rules]~~ When making rules under this section, the chief information officer shall consider:

(i) network development that serves a public purpose;



(ii) increased productivity and efficiency for state agencies; and

(iii) costs and longevity of the network.

**Section 45. Section 63F-1-701 is amended to read:**

**63F-1-701. Utah Public Notice Website -- Establishment and administration.**

(1) As used in this part:

(a) "Division" means the Division of Archives and Records Service of the Department of Administrative Services.

(b) "Executive board" means the same as that term is defined in Section 67-1-2.5.

~~[(b)]~~ (c) "Public body" ~~[has the same meaning as provided under]~~ means the same as that term is defined in Section 52-4-103.

~~[(e)]~~ (d) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.

~~[(d)]~~ (e) "Website" means the Utah Public Notice Website created under this section.

(2) There is created the Utah Public Notice Website to be administered by the Division of Archives and Records Service.

(3) The website shall consist of an Internet website provided to assist the public to find posted public information.

(4) The division, with the technical assistance of the Department of Technology Services, shall create the website ~~[which]~~ that shall:

(a) allow a public body, or other certified entity, to easily post any public information, including the contact information required under Subsections 17B-1-303(9) and 17D-1-106(1)(b)(ii);

(b) allow the public to easily search the public information by:

(i) public body name;

(ii) date of posting of the notice;

(iii) date of any meeting or deadline included as part of the public information; and

(iv) any other criteria approved by the division;

(c) allow the public to easily search and view past, archived public information;

(d) allow ~~[a person]~~ an individual to subscribe to receive updates and notices associated with a public body or a particular type of public information;

(e) be easily accessible by the public from the State of Utah home page;

(f) have a unique and simplified website address;

(g) be directly accessible via a link from the main page of the official state website; and

(h) include other links, features, or functionality that will assist the public in obtaining and reviewing public information posted on the website, as may be approved by the division.

(5) (a) Subject to Subsection (5)(b), the division and the governor's office shall coordinate to ensure that the website, the database described in Section 67-1-2.5, and the website described in Section 67-1-2.5 automatically share appropriate information in order to ensure that:

(i) an individual who subscribes to receive information under Subsection (4)(d) for an executive board automatically receives notifications of vacancies on the executive board that will be publicly filled, including a link to information regarding how an individual may apply to fill the vacancy; and

(ii) an individual who accesses an executive board's information on the website has access to the following through the website:

(A) the executive board's information in the database, except an individual's physical address, e-mail address, or phone number; and

(B) the portal described in Section 67-1-2.5 through which an individual may provide input on an appointee to, or member of, the executive board.

(b) The division and the governor's office shall comply with Subsection (5)(a) as soon as reasonably possible within existing funds appropriated to the division and the governor's office.

(6) Before August 1 of each year, the division shall:

(a) identify each executive board that is a public body that did not submit to the website a notice of a public meeting during the previous fiscal year; and

(b) report the name of each identified executive board to the governor's boards and commissions administrator.

~~[(5)]~~ (7) The division ~~[shall be]~~ is responsible for:

(a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;

(b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying public information; and

(c) maintaining an archive of all public information posted to the website.

~~[(6) The timing for posting and the content of the public information posted to the website shall be the responsibility of the public body or other entity posting the public information.]~~

(8) A public body is responsible for the content the public body is required to post to the website and the timing of posting of that information.

**Section 46. Section 63I-1-204 is amended to read:**

**63I-1-204. Repeal dates, Title 4.**

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2023.

(2) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2021.

(3) Section 4-20-103, which creates the State Grazing Advisory Board, is repealed July 1, 2022.

(4) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

(5) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

(6) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

(7) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

(8) Subsection 4-41a-105(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

**Section 47. Section 63I-1-207 is enacted to read:**

**63I-1-207. Repeal dates, Title 7.**

(1) Section 7-1-203, which creates the Board of Financial Institutions, is repealed July 1, 2021.

(2) Section 7-3-40, which creates the Board of Bank Advisors, is repealed July 1, 2022.

(3) Section 7-9-43, which creates the Board of Credit Union Advisors, is repealed July 1, 2023.

**Section 48. Section 63I-1-209 is amended to read:**

**63I-1-209. Repeal dates, Title 9.**

(1) Section 9-6-305, which creates the State of Utah Alice Merrill Horne Art Collection Committee, is repealed July 1, 2027.

(2) Sections 9-6-604 and 9-6-605, which create the Museum Services Advisory Board, are repealed July 1, 2027.

~~[(4)]~~ (3) In relation to the Native American Legislative Liaison Committee, on July 1, 2022:

(a) Subsection 9-9-104.6(2)(a) is repealed;

(b) Subsection 9-9-104.6(4)(a), the language that states "who is not a legislator" is repealed; and

(c) Subsection 9-9-104.6(4)(b), related to compensation of legislative members, is repealed.

~~[(2) In relation to the American Indian and Alaska Native Education State Plan Pilot Program, on July 1, 2022:]~~

~~[(a) Subsection 26-7-2.5(4), related to the American Indian-Alaskan Native Public Education Liaison, is repealed; and]~~

~~[(b) Subsection 9-9-104.6(2)(d) is repealed.]~~

(4) Section 9-9-405, which creates the Native American Remains Review Committee, is repealed July 1, 2025.

(5) Title 9, Chapter 20, Utah Commission on Service and Volunteerism Act, is repealed July 1, 2026.

**Section 49. Section 63I-1-213 is amended to read:**

**63I-1-213. Repeal dates, Title 13.**

(1) Section 13-32a-112, which creates the Pawnshop and Secondhand Merchandise Advisory Board, is repealed July 1, 2027.

(2) Section 13-35-103, which creates the Powersport Motor Vehicle Franchise Advisory Board, is repealed July 1, 2022.

(3) Section 13-43-202, which creates the Land Use and Eminent Domain Advisory Board, is repealed July 1, 2021.

**Section 50. Section 63I-1-217 is amended to read:**

**63I-1-217. Repeal dates, Title 17.**

(1) Subsection 17-16-21(2)(d) is repealed July 1, 2023.

(2) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah Electronic Recording Commission, is repealed July 1, 2022.

**Section 51. Section 63I-1-223 is amended to read:**

**63I-1-223. Repeal dates, Title 23.**

(1) Subsection 23-13-12.5(2)(f)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

(2) Section 23-14-2.5, which creates the Wildlife Board Nominating Committee, is repealed July 1, 2023.

(3) Section 23-14-2.6, which creates regional advisory councils for the Wildlife Board, is repealed July 1, 2023.

**Section 52. Section 63I-1-226 is amended to read:**

**63I-1-226. Repeal dates, Title 26.**

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

~~[(4)]~~ (4) Section 26-1-40 is repealed July 1, 2022.

~~[(2)]~~ (5) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(6) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[43] (7) Section 26-10-11 is repealed July 1, 2020.

(8) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(9) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[44] (10) Subsection 26-18-417(3) is repealed July 1, 2020.

[45] (11) Subsection 26-18-418(2), the language that states “and the Mental Health Crisis Line Commission created in Section 63C-18-202” is repealed July 1, 2023.

[46] (12) Section 26-18-419.1 is repealed December 31, 2019.

(13) Title 26, Chapter 18a, Kurt Oscarson Children’s Organ Transplant Coordinating Committee, is repealed July 1, 2021.

[47] (14) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[48] (15) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[49] (16) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[40] (17) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(18) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(19) Section 26-40-104, which creates the Utah Children’s Health Insurance Program Advisory Council, is repealed July 1, 2025.

(20) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[41] (21) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, [2023] 2025.

[42] (22) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

[43] (23) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

(24) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

**Section 53. Section 63I-1-234 is amended to read:**

**63I-1-234. Repeal dates, Titles 34 and 34A.**

(1) Subsection 34A-1-202(2)(c)(i), related to the Workers’ Compensation Advisory Council, is repealed July 1, 2027.

(2) Subsection 34A-1-202(2)(c)(iii), related to the Coal Miner Certification Panel, is repealed July 1, 2024.

(3) Section 34A-2-107, which creates the Workers’ Compensation Advisory Council, is repealed July 1, 2027.

(4) Section 34A-2-202.5 is repealed December 31, 2020.

**Section 54. Section 63I-1-235 is amended to read:**

**63I-1-235. Repeal dates, Title 35A.**

(1) Subsection 35A-1-109(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(2) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2021.

(3) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2021.

[42] (4) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

(5) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2022.

[43] (6) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

[44] (7) Section 35A-9-501 is repealed January 1, 2021.

[45] (8) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.

(9) Sections 35A-13-301 and 35A-13-302, which create the Governor’s Committee on Employment of People with Disabilities, are repealed July 1, 2023.

(10) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

(11) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

(12) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

**Section 55. Section 63I-1-240 is enacted to read:**

**63I-1-240. Repeal dates, Title 40.**

Section 40-2-204, which creates the Coal Miner Certification Panel, is repealed July 1, 2024.

**Section 56. Section 63I-1-241 is amended to read:**

**63I-1-241. Repeal dates, Title 41.**

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, [2023] 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

[2] (3) The following subsections addressing lane filtering are repealed on July 1, 2022:

- (a) Subsection 41-6a-102(29);
- (b) Subsection 41-6a-704(5); and
- (c) Subsection 41-6a-710(1)(c).

[3] (4) Subsection 41-6a-1406(6)(b)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, [2023] 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which create the Off-highway Vehicle Advisory Council, are repealed July 1, 2027.

[4] (6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, [2023] 2025.

**Section 57. Section 63I-1-253 is amended to read:**

**63I-1-253. Repeal dates, Titles 53 through 53G.**

[The following provisions are repealed on the following dates:]

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2021.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

[4] (4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2022.

[2] (5) Subsection 53-13-104(6), regarding being 19 years old at certification, is repealed July 1, 2022.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[3] (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[4] (9) Section 53B-18-1501 is repealed July 1, 2021.

[5] (10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[6] (11) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

[7] (12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

[8] (13) Section 53E-3-515 is repealed January 1, 2023.

[9] (14) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language [that states] "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[10] In relation to the SafeUT and School Safety Commission, on January 1, 2023:]

[a] Subsection 53B-17-1201(1) is repealed;

[b] Section 53B-17-1203 is repealed;

[c] Subsection 53B-17-1204(2) is repealed;

[d] Subsection 53B-17-1204(4)(a), the language that states "in accordance with the method described in Subsection (4)(c)" is repealed; and]

[e] Subsection 53B-17-1204(4)(c) is repealed.]

(15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(18) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

[11] (19) Section 53F-2-514 is repealed July 1, 2020.

[12] (20) Section 53F-5-203 is repealed July 1, 2024.

[13] (21) Section 53F-5-212 is repealed July 1, 2024.

[14] (22) Section 53F-5-213 is repealed July 1, 2023.

[15] (23) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

[16] (24) Section 53F-6-201 is repealed July 1, 2019.

(25) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[47] (26) Section 53F-9-501 is repealed January 1, 2023.

[48] (27) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[49] (28) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2020.

**Section 58. Section 63I-1-254 is amended to read:**

**63I-1-254. Repeal dates, Title 54.**

(1) Section 54-10a-202, which creates the Committee of Consumer Services, is repealed July 1, 2025.

(2) Title 54, Chapter 15, Net Metering of Electricity, is repealed January 1, 2036.

**Section 59. Section 63I-1-258 is amended to read:**

**63I-1-258. Repeal dates, Title 58.**

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

[4] (2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

[2] (3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

[3] (4) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

[4] (5) Section 58-37-4.3 is repealed January 1, 2020.

[5] (6) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

[6] (7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

[7] (8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

[8] (9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

[9] (10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

[40] (11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(12) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

[41] (13) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

[42] (14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

[43] (15) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

[44] (16) The following sections are repealed on July 1, 2022:

- (a) Section 58-5a-502;
- (b) Section 58-31b-502.5;
- (c) Section 58-67-502.5;
- (d) Section 58-68-502.5; and
- (e) Section 58-69-502.5.

**Section 60. Section 63I-1-261 is amended to read:**

**63I-1-261. Repeal dates, Title 61.**

Section 61-2c-104, which creates the Residential Mortgage Regulatory Commission, is repealed July 1, 2021.

**Section 61. Section 63I-1-262 is amended to read:**

**63I-1-262. Repeal dates, Title 62A.**

(1) Subsections 62A-1-120(8)(g), (h), and (i) are repealed July 1, 2023.

(2) Section 62A-3-209 is repealed July 1, 2023.

(3) Section 62A-4a-202.9 is repealed December 31, 2021.

(4) Section 62A-4a-213 is repealed July 1, 2024.

(5) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2022.

[5] (6) Section 62A-15-114 is repealed December 31, 2021.

[6] (7) Subsections 62A-15-116(1) and (4), the language that states "In consultation with the SafeUT and School Safety Commission, established in Section 53B-17-1203," is repealed January 1, 2023.

(8) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[7] (9) Subsections 62A-15-1100(1) and 62A-15-1101(8), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

[8] (10) In relation to the Mental Health Crisis Line Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(1) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "in consultation with the commission" is repealed;

(c) Section 62A-15-1303, the language that states "In consultation with the commission," is repealed; and

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed.

**Section 62. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language [that states] “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language [that states] “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language [that states] “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

[4] (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[5] (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[6] Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

[7] (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

[8] (9) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(10) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(11) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[9] (12) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

[40] (13) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

[11] In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

[a] Subsection 63H-6-104(2)(e), related to a Senate appointment, is repealed;

[b] Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

[c] in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

[d] Subsection 63H-6-104(3)(a)(i) is amended to read:

[“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”]

[e] in Subsections 63H-6-104(3)(a)(ii), (e)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and]

[f] Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.]

[42] (14) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[13] Section 63M-7-212 is repealed on December 31, 2019.]

[14] On July 1, 2025:]

[a] in Subsection 17-27a-404(3)(e)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

[b] Subsection 23-14-21(2)(e) is amended to read “(e) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

[c] in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

[d] in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

[e] in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

[f] Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

[g] Subsections 63J-4-401(5)(a) and (c) are repealed;

[h] Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

[i] Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);]

[j] Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and]

[k] Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.]

(15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2~~(23)~~(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(21) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

~~(20)~~ (22) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

~~(21)~~ (23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

~~(22)~~ (24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

~~(23)~~ (26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

~~(24)~~ (27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

~~(25)~~ (29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

~~(26)~~ (30) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~(26)~~ (30)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~(26)~~ (30)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~(27)~~ (31) Section 63N-2-512 is repealed on July 1, 2021.

~~(28)~~ (32) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~(28)~~ (32)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(29)] (33) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.~~

~~[(30)] (34) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.~~

~~(35) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.~~

~~[(31)] (36) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.~~

~~[(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:]~~

~~[(a) Subsection 63N-10-201(2)(a) is amended to read:]~~

~~[(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.];~~

~~[(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;]~~

~~[(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and]~~

~~[(d) Subsection 63N-10-201(3)(d) is amended to read:]~~

~~[(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.];~~

~~[(33) In relation to the Talent Ready Utah Board, on January 1, 2023:]~~

~~[(a) Subsection 9-22-102(16) is repealed;]~~

~~[(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and]~~

~~[(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.];~~

~~[(34)] (37) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.~~

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

**63I-1-265. Repeal dates, Title 65A.**

Section 65A-8-306, which creates the Heritage Trees Advisory Committee, is repealed July 1, 2026.

**Section 64. Section 63I-1-267 is amended to read:**

**63I-1-267. Repeal dates, Title 67.**

(1) Section 67-1-8.1, which creates the Executive Residence Commission, is repealed July 1, 2022.

~~[(4)] (2) Section 67-1-15 is repealed December 31, 2027.~~

~~[(2)] (3) Section 67-3-11 is repealed July 1, 2024.~~

~~(4) Title 67, Chapter 5a, Utah Prosecution Council, is repealed July 1, 2027.~~

~~(5) Section 67-5b-105, which creates local advisory boards for the Children’s Justice Center Program, is repealed July 1, 2021.~~

**Section 65. Section 63I-1-272 is amended to read:**

**63I-1-272. Repeal dates, Title 72.**

~~(1) Subsection 72-2-121(9), which creates transportation advisory committees, is repealed July 1, 2022.~~

~~(2) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2025.~~

**Section 66. Section 63I-1-273 is amended to read:**

**63I-1-273. Repeal dates, Title 73.**

~~(1) In relation to the Legislative Water Development Commission, on January 1, 2021:~~

~~[(4)] (a) in Subsection 73-10g-105(3), the language that states “and in consultation with the State Water Development Commission created in Section 73-27-102” is repealed;~~

~~[(2)] (b) Subsection 73-10g-203(4)(a) is repealed; and~~

~~[(3)] (c) Title 73, Chapter 27, State Water Development Commission, is repealed.~~

~~(2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2025.~~

~~(3) Section 73-18-3.5, which creates the Boating Advisory Council, is repealed July 1, 2024.~~

~~(4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.~~

**Section 67. Section 63I-1-278 is amended to read:**

**63I-1-278. Repeal dates, Title 78A and Title 78B.**

~~(1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.~~

~~(2) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.~~

~~(3) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.~~

**Section 68. Section 63I-1-279 is enacted to read:**

**63I-1-279. Repeal dates, Title 79.**

~~(1) Subsection 79-2-201(2)(n), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.~~

~~(2) Subsection 79-2-201(2)(o), related to the Recreational Trails Advisory Council, is repealed July 1, 2027.~~

~~(3) Subsection 79-2-201(2)(p), related to the Boating Advisory Council, is repealed July 1, 2024.~~



(4) Subsection 79-2-201(2)(q), related to the Wildlife Board Nominating Committee, is repealed July 1, 2023.

(5) Subsection 79-2-201(2)(r), related to regional advisory councils for the Wildlife Board, is repealed July 1, 2023.

(6) Title 79, Chapter 5, Part 2, Advisory Council, which creates the Recreational Trails Advisory Council, is repealed July 1, 2027.

**Section 69. Section 63I-2-226 is amended to read:**

**63I-2-226. Repeal dates, Title 26.**

(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.

[4] (2) Subsection 26-7-8(3) is repealed January 1, 2027.

[2] (3) Section 26-8a-107 is repealed July 1, 2024.

[3] (4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

“(a) provide the patient or the patient’s representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient’s health insurer; and”.

[4] (6) Subsection 26-18-2.3(5) is repealed January 1, 2020.

[5] (7) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

[6] (8) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

[7] (9) Subsection 26-18-604(2) is repealed January 1, 2020.

[8] (10) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

(11) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

“(a) provide the patient or the patient’s representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient’s health insurer; and”.

[9] (12) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[10] (13) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.

[11] (14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[12] ~~Subsection 26-50-202(7)(b) is repealed January 1, 2020.]~~

[13] (15) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.

[14] (16) Subsection 26-55-107(8) is repealed January 1, 2021.

[15] (17) Subsection 26-56-103(9)(d) is repealed January 1, 2020.

[16] (18) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.

[17] (19) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[18] (20) Subsection 26-61-202(5) is repealed January 1, 2022.

**Section 70. Section 63M-7-402 is amended to read:**

**63M-7-402. Terms of members -- Vacancies -- Reappointment.**

(1) (a) Except as required by Subsection (1)(b), as terms of current commission members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

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

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

[3] ~~All members of the commission, including those appointed before July 1, 1995, shall be eligible for reappointment one time.]~~

**Section 71. Section 63N-1-205 is enacted to read:**

**63N-1-205. Incentive review process.**

The Legislature intends that the Governor’s Office of Economic Development will develop an incentives review process under the direction of the speaker of the House and the president of the Senate.

**Section 72. Section 63N-7-103 is amended to read:**

**63N-7-103. Board duties.**

(1) The ~~board~~ Board of Tourism Development:

(a) has authority to approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the:

(i) Tourism Marketing Performance Account created in Section 63N-7-301; and

(ii) Stay Another Day and Bounce Back Account, created in Section 63N-2-511;

(b) shall review office programs to coordinate and integrate advertising and branding themes, which may include recreational, scenic, historic, and tourist attractions of the state, to be used in office programs;

(c) shall encourage and assist in coordinating activities of persons, firms, associations, corporations, civic groups, and governmental agencies that are engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state; and

(d) shall advise the office in establishing a cooperative program using funds from the Tourism Marketing Performance Account created in Section 63N-7-301.

(2) The board may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, public or private and shall use these funds for promoting the general interest of the state in tourism; and

(b) establish subcommittees for the purpose of assisting the board in an advisory role.

(3) The ~~board~~ Board of Tourism Development may not, except as otherwise provided in Subsection (1)(a), make policy related to the management or operation of the office.

~~[(4) (a) For each fiscal year, the office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account created in Section 63N-7-301 to the cooperative program described in Subsection (1)(d) and this Subsection (4).]~~

~~[(b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promoting sites and events in the state.]~~

~~[(c) The office, with approval from the board, shall establish:]~~

~~[(i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;]~~

~~[(ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and]~~

~~[(iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.]~~

~~[(d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.]~~

**Section 73. Section 63N-7-301 is amended to read:**

**63N-7-301. Tourism Marketing Performance Account.**

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by GOED for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The executive director of GOED's Office of Tourism shall use account money appropriated to GOED to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by GOED.

(6) (a) For each fiscal year beginning on or after July 1, 2007, GOED shall annually allocate 10% of the account money appropriated to GOED to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to GOED that gives an accounting of the use of funds the sports organization receives under this Subsection (6); and

(ii) promote the state and encourage economic growth in the state.

(c) For purposes of this Subsection (6), "sports organization" means an organization that:

(i) is exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code;

(ii) maintains its principal location in the state;

(iii) has a minimum of 15 years experience in the state hosting, fostering, and attracting major summer and winter sporting events statewide; and

(iv) was created to foster state, regional, national, and international sports competitions in the state, to drive the state's Olympic and sports legacy, including competitions related to Olympic sports,

and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting the state for the purpose of attracting sporting events in the state.

(7) Money deposited into the account shall include a legislative appropriation from the cumulative sales and use tax revenue increases described in Subsection (8), plus any additional appropriation made by the Legislature.

(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance, which shall set aside the certified amount for appropriation to the account.

(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

(i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be made, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or

(ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.

(c) The total money appropriated to the account in a fiscal year under Subsections (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal year by more than \$3,000,000.

(d) As used in this Subsection (8), “state sales and use tax revenues” are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).

(e) As used in this Subsection (8), “retail sales of tourist-oriented goods and services” are calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) 80% of the sales from each business under NAICS Codes:

(A) 532111 Passenger Car Rental;

(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;

(C) 5615 Travel Arrangement and Reservation Services;

(D) 7211 Traveler Accommodation; and

(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;

(ii) 25% of the sales from each business under NAICS Codes:

(A) 51213 Motion Picture and Video Exhibition;

(B) 532292 Recreational Goods Rental;

(C) 711 Performing Arts, Spectator Sports, and Related Industries;

(D) 712 Museums, Historical Sites, and Similar Institutions; and

(E) 713 Amusement, Gambling, and Recreation Industries;

(iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;

(iv) 18% of the sales from each business under NAICS Codes:

(A) 447 Gasoline Stations; and

(B) 81293 Parking Lots and Garages;

(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and

(vi) 5% of the sales from each business under NAICS Codes:

(A) 445 Food and Beverage Stores;

(B) 446 Health and Personal Care Stores;

(C) 448 Clothing and Clothing Accessories Stores;

(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;

(E) 452 General Merchandise Stores; and

(F) 453 Miscellaneous Store Retailers.

(9) (a) For each fiscal year, the office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account to the cooperative program described in this Subsection (9).

(b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promoting sites and events in the state.

(c) The office shall establish:

(i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;

(ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and

(iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.

(d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

**Section 74. Section 67-1-2.5 is amended to read:**

**67-1-2.5. Executive boards -- Database -- Governor's review of new boards.**

(1) As used in this section:

(a) "Administrator" means the boards and commissions administrator designated under Subsection ~~(2)~~ (3).

(b) "Executive board" means ~~any~~ an executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body:

(i) with a defined limited membership;

(ii) that is created ~~[to operate for more than six months]~~ by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government~~[-]~~; and

(iii) that is created to operate for more than six months.

(2) (a) ~~[Before September]~~ Except as provided in Subsection (2)(c), before August 1 of the calendar year following the year in which ~~[the Legislature creates]~~ a new executive board is created in statute, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to remain in statute;

(ii) in the governor's review ~~[under]~~ described in Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation ~~[and making the report]~~ described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

~~[(c) Upon receipt of a report from the governor under Subsection (2)(a)(iii), the Government Operations Interim Committee shall vote on whether to address the recommendations made by the governor in the report and prepare legislation accordingly.]~~

(c) The governor is not required to conduct the review or submit the report described in Subsection (2)(a) for an executive board that is scheduled for repeal under Title 63I, Chapter 1, Legislative Oversight and Sunset Act, or Title 63I, Chapter 2, Repeal Dates by Title Act.

(3) (a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.

(b) The administrator shall ensure that the database contains:

(i) the name of each executive board;

(ii) the current statutory or constitutional authority for the creation of the executive board;

(iii) the sunset date on which each executive board's statutory authority expires;

(iv) the state officer or department and division of state government under whose jurisdiction the

executive board operates or with which the executive board is affiliated, if any;

(v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

(vi) the title of the position held by the person who appointed each member of the executive board;

(vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

(viii) whether or not members appointed to the executive board require consent of the Senate;

(ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;

(x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

(xi) whether each executive board is a policy board or an advisory board;

(xii) whether the executive board has or exercises rulemaking authority; and

(xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

(4) The administrator shall ~~place the following on the~~ ensure the governor's website includes:

(a) the information contained in the database<sup>[;]</sup>, except for an individual's:

(i) physical address;

(ii) email address; and

(iii) telephone number;

(b) a portal, accessible on each executive board's web page within the governor's website, through which a member of the public may provide input on:

(i) an individual appointed to serve on the executive board; or

(ii) a sitting member of the executive board;

~~(4b)~~ (c) each report the administrator receives under Subsection (5); and

~~(4e)~~ (d) the summary report described in Subsection (6).

(5) (a) Before August 1 ~~[of each year]~~, once every five years, beginning in calendar year 2024, each executive board shall prepare and submit to the administrator ~~[an annual]~~ a report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the ~~[actual work performed]~~ actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

~~(iv) a description of actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);]~~

~~(v)~~ (iv) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

~~(vi)~~ (v) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of ~~[each year.]~~ a calendar year in which the administrator receives a report described in Subsection (5)(a).

~~(c) An executive board is not required to submit a report under this Subsection (5) if the executive board:]~~

~~(i) is also a legislative board under Section 36-12-22; and]~~

~~(ii) submits a report under Section 36-12-22.]~~

~~(6) (a) The administrator shall prepare, publish, and distribute an annual report by September 1 of each year that includes:]~~

~~(i) as of August 1 of that year:]~~

(6) (a) Before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a), the administrator shall prepare a report that includes:

~~(A)~~ (i) as of July 1 of that year, the total number of executive boards that exist;

~~(B) the name of each of those executive boards and the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;]~~

~~(C) for each state officer and each department and division, the total number of executive boards under the jurisdiction of or affiliated with that officer, department, and division;]~~

~~(D) the total number of members for each of those executive boards;]~~

~~(E) whether or not some or all of the members of each of those executive boards are approved by the Senate;]~~

~~(F) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and]~~

~~(G) the compensation, if any, paid to the members of each of those executive boards; and]~~

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that did not submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(~~(v)~~)(iv); and

(D) a list of any executive boards that indicated under Subsection (5)(a)(~~(v)~~)(v) that the executive board should no longer exist~~[-]; and~~

(iii) a list of each executive board, identified and reported by the Division of Archives and Record Services under Section 63F-1-701, that did not post a notice of a public meeting on the public notice website during the previous fiscal year.

~~(b) The administrator shall distribute copies of the report described in Subsection (6)(a) to:~~

~~(i) the governor;~~

(b) On or before September 1 of a calendar year in which the administrator prepares a report described in Subsection (6)(a), in accordance with Section 68-3-14, the administrator shall submit the report to:

(iii) (i) the president of the Senate;

(iii) (ii) the speaker of the House of Representatives; and

~~(iv) the Office of Legislative Research and General Counsel;~~

~~(v) (iii) the Government Operations Interim Committee; and.~~

~~(vi) any other persons who request a copy of the annual report.~~

~~(c) Each year, the Government Operations Interim Committee shall prepare legislation making any changes the committee determines are suitable with respect to the report the committee receives under Subsection (6)(b), including:~~

~~(i) repealing an executive board that is no longer functional or necessary; and~~

~~(ii) making appropriate changes to make an executive board more effective.~~

**Section 75. Section 71-7-3 is amended to read:**

**71-7-3. Development, operation, and maintenance of Utah Veterans Cemetery and Memorial Park -- Responsibilities of Department of Veterans and Military Affairs -- Costs -- Definition.**

(1) The Department of Veterans and Military Affairs~~, in consultation with the Veterans Memorial Park Board,~~ shall develop, operate, and maintain a veterans cemetery and memorial park.

(2) To help pay the costs of developing, constructing, operating, and maintaining a veterans cemetery and memorial park, the Department of Veterans and Military Affairs may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, receive federal funds, and may receive state funds, contributions from veterans organizations, and other private donations; and

(b) charge fees for at least the cost of the burial of a veteran's spouse and any other persons, whom the department ~~[and the Veterans Memorial Park Board]~~ determines are eligible to be buried in a veterans cemetery established by the state.

(3) "Veteran" has the same meaning as defined in Section 68-3-12.5.

#### **Section 76. Repealer.**

This bill repeals:

**Section 4-30-103, Livestock Market Committee created -- Composition -- Terms -- Removal -- Compensation -- Duties.**

**Section 9-6-801, Title.**

**Section 9-6-802, Definitions.**

**Section 9-6-803, Arts and Culture Business Alliance -- Creation -- Members -- Vacancies.**

**Section 9-6-804, Alliance duties.**

**Section 9-6-805, Staff support -- Rulemaking.**

**Section 9-7-301, Board of control.**

**Section 23-14-2.8, Private Aquaculture Advisory Council.**

**Section 26-39-202, Members serve without pay -- Reimbursement for expenses.**

**Section 38-11-104, Board.**

**Section 53-3-908, Advisory committee.**

**Section 58-46a-201, Board.**

**Section 58-64-201, Board.**

**Section 63M-3-101, Title.**

**Section 63M-3-102, Legislative findings -- Purpose of act.**

**Section 63M-3-103, Definitions.**

**Section 63M-3-201, Contract for pilot plant -- Contents -- Financing -- Termination of contract.**

**Section 63M-3-202, Intellectual properties discovered or developed -- Ownership -- Patenting -- Licensing.**

**Section 63M-10-202, Establishment of local oversight committees -- Interagency information sharing.**

**Section 71-7-4, Veterans Memorial Park Board -- Members -- Appointment -- Meetings -- Per diem and travel expenses.**

**Section 77. Coordinating H.B. 10 with H.B. 46 -- Substantive language.**

If this H.B. 10 and H.B. 46, Arts and Museums Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative

Research and General Counsel prepare the Utah Code database for publication by amending Subsections 63I-1-209(1) and (2) to read:

“(1) Section 9-6-303, which creates the Arts Collection Committee, is repealed July 1, 2027.

(2) Section 9-6-305, which creates the Utah Museums Advisory Board, is repealed July 1, 2027.”.

**Section 78. Coordinating H.B. 10 with S.B. 60 -- Superseding technical and substantive amendments.**

If this H.B. 10 and S.B. 60, Advice and Consent Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 26-21-3 in this bill supersede the amendments to Section 26-21-3 in S.B. 60 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

**CHAPTER 155****H. B. 12**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective July 1, 2020

**ABUSIVE CONDUCT  
 REPORTING AMENDMENTS**

Chief Sponsor: Keven J. Stratton  
 Senate Sponsor: Daniel W. Thatcher

**LONG TITLE****General Description:**

This bill addresses abusive conduct among employees in state government.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ expands the type of state employees who may file a complaint of abusive conduct;
- ▶ requires an abusive conduct investigation in relation to an abusive conduct complaint;
- ▶ requires an administrative review process for an abusive conduct complaint;
- ▶ requires the Department of Human Resource Management (department) and other state government employers to provide certain training relating to abusive conduct;
- ▶ requires certain employers to annually report to the department on implementation, numbers, and outcomes of abusive conduct complaints;
- ▶ requires the department to annually report to the Economic Development and Workforce Services Interim Committee regarding implementation and recommendations concerning the provisions of this bill;
- ▶ requires the judicial branch and an employer within the Utah System of Higher Education to provide training to their employees regarding abusive conduct, and to create a policy for reporting and resolving abusive conduct, among their employees; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

67-19a-101, as last amended by Laws of Utah 2018, Chapter 390  
 67-19a-102, as enacted by Laws of Utah 2018, Chapter 390  
 67-19a-202, as last amended by Laws of Utah 2018, Chapter 390  
 67-19a-501, as enacted by Laws of Utah 2018, Chapter 390

**ENACTS:**

67-26-101, Utah Code Annotated 1953  
 67-26-102, Utah Code Annotated 1953  
 67-26-103, Utah Code Annotated 1953  
 67-26-201, Utah Code Annotated 1953  
 67-26-202, Utah Code Annotated 1953  
 67-26-203, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

67-26-301, (Renumbered from 67-19-44, as last amended by Laws of Utah 2018, Chapter 390)

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

**Section 1. Section 67-19a-101 is amended to read:**

**67-19a-101. Definitions.**

As used in this chapter:

- (1) "Abusive conduct" means the same as that term is defined in Section [~~67-19-44~~] 67-26-102.
- (2) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.
- (3) "Career service employee" means a person employed in career service as defined in Section 67-19-3.
- (4) "Department" means the Department of Human Resource Management.
- (5) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.
- (6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.
- (7) "Grievance" means:
  - (a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;
  - (b) any dispute between a career service employee and the employer;
  - (c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee; and
  - (d) a complaint that the employer subjected the employee to conditions that a reasonable person would consider intolerable, including abusive conduct.
- (8) "Office" means the Career Service Review Office created under Section 67-19a-201.
- (9) "Public entity" means the same as that term is defined in Section 67-21-2.
- (10) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.
- (11) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:
  - (a) dismiss the employee;
  - (b) reduce the employee's compensation;
  - (c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;



(d) fail to promote the employee if the employee would have otherwise been promoted; or

(e) threaten to take an action described in Subsections (11)(a) through (d).

(12) "Supervisor" means the person:

(a) to whom an employee reports; or

(b) who assigns and oversees an employee's work.

**Section 2. Section 67-19a-102 is amended to read:**

**67-19a-102. Work environment policy.**

As recognized and provided in Section ~~[67-19-44]~~ 67-26-201, it is the policy of the state of Utah to provide and maintain a work environment free from abusive conduct.

**Section 3. Section 67-19a-202 is amended to read:**

**67-19a-202. Powers -- Scope of authority.**

(1) The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:

(a) a dismissal;

(b) a demotion;

(c) a suspension;

(d) a reduction in force;

(e) a dispute concerning abandonment of position;

(f) a wage grievance if an employee is not placed within the salary range of the employee's current position;

(g) a violation of a rule adopted under Chapter 19, Utah State Personnel Management Act; or

(h) except as provided by Subsection (4), equitable administration of the following benefits:

(i) long-term disability insurance;

(ii) medical insurance;

(iii) dental insurance;

(iv) post-retirement health insurance;

(v) post-retirement life insurance;

(vi) life insurance;

(vii) defined contribution retirement;

(viii) defined benefit retirement; and

(ix) a leave benefit.

(2) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action.

(3) The office shall serve as the final administrative body to review, without an evidentiary hearing, the findings of an abusive conduct investigation ~~[without an evidentiary~~

hearing] described in Section 67-26-202 of a state executive branch agency employee.

(4) The office may not review or take action on:

(a) a personnel matter not listed in Subsections (1) through (3);

(b) a personnel matter listed in Subsections (1) through (3) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or

(c) a personnel matter related to a claim for which an administrative review process is provided by statute and administered by:

(i) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

(5) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.

**Section 4. Section 67-19a-501 is amended to read:**

**67-19a-501. Procedural steps to be followed in an administrative review of an abusive conduct investigation.**

(1) An employee of a state executive branch agency, as defined in Section 67-26-102, may, under Subsection 67-19a-202(3), initiate an administrative review of the findings of an abusive conduct investigation within 10 days after the day on which the employee receives notification of the investigative findings.

(2) (a) An employee bringing an administrative review of the findings described in Subsection (1) may file the request for the administrative review directly with the office.

(b) The request for administrative review may ~~[set forth]~~ describe the reasons for the ~~[appeal]~~ administrative review and include any submissions the employee desires to submit.

(3) (a) When an employee initiates the review described in Subsection (2) with the office:

(i) the role of the administrative review is to review and rule upon the ~~[department's]~~ findings ~~[and decision]~~ of the abusive conduct investigation; and

(ii) an evidentiary hearing is not required.

(b) The department shall make the abusive conduct investigative file available for the ~~[administrator's]~~ office's in camera review.

(c) The ~~[administrator]~~ office may:

(i) request additional relevant documents from the department or the affected employee; and

(ii) interview the employee who initiated the administrative review and the [department's] investigators who conducted the investigation.

~~[(4) (a) If the administrator determines that the investigator's findings are not reasonable, rational, and sufficiently supported by the record, the administrator may overturn the findings and remand to the agency for appropriate action.]~~

~~[(b) The administrator may uphold the department's investigative findings if, based on the administrative review, the administrator determines that the investigator's findings are reasonable, rational, and sufficiently supported by the record.]~~

(4) (a) The office may overturn the findings of the abusive conduct investigation if the office determines that:

(i) the findings are not reasonable, rational, or sufficiently supported by the evidence; or

(ii) the facts on which the findings are based are inaccurate.

(b) The office may uphold the findings of the abusive conduct investigation if the office determines that:

(i) the findings are reasonable, rational, and sufficiently supported by the evidence; and

(ii) the facts on which the findings are based are accurate.

(5) (a) Within 30 days after the day on which an employee initiates an administrative review under this section, the [administrator] office shall issue a notice stating whether the [administrator] office upheld or overturned the investigative findings.

(b) The office's determination upon administrative review of the findings resulting from an abusive conduct investigation is final and not subject to appeal.

(c) The following are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act, and any other applicable confidentiality provisions:

(i) the request for administrative review and any accompanying documents;

(ii) documents that any party provides;

(iii) the contents of the administrative review file; and

(iv) the office's determination.

**Section 5. Section 67-26-101 is enacted to read:**

## **CHAPTER 26. UTAH PUBLIC EMPLOYEES HEALTHY WORKPLACE ACT**

### **Part 1. General Provisions**

#### **67-26-101. Title.**

This chapter is known as the "Utah Public Employees Healthy Workplace Act."

**Section 6. Section 67-26-102 is enacted to read:**

#### **67-26-102. Definitions.**

As used in this chapter:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee of the same employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:

(i) is intended to cause intimidation, humiliation, or unwarranted distress;

(ii) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or

(iii) exploits an employee's known physical or psychological disability.

(b) "Abusive conduct" does not mean a single act unless the act is an especially severe and egregious act that meets the standard described in Subsection (1)(a)(i), (ii), or (iii).

(2) "Abusive conduct complaint process" means the process described in Section 67-26-202.

(3) "Administrative review process" means a process that allows an employee, in relation to the findings of an abusive conduct investigation, to seek an administrative review that:

(a) an employer conducts in accordance with Section 67-26-202; or

(b) in relation to a state executive branch agency, the office conducts in accordance with Section 67-19a-501.

(4) "Department" means the Department of Human Resource Management.

(5) (a) "Employee" means an employee of an employer.

(b) "Employee" includes an elected or appointed official of an employer.

(6) "Employer" means:

(a) a state executive branch agency; or

(b) an independent entity, as defined in Section 63E-1-102.

(7) "Office" means the Career Service Review Office created under Section 67-19a-201.

(8) "Physical harm" means the impairment of an individual's physical health or bodily integrity, as established by competent evidence.

(9) "Psychological harm" means the impairment of an individual's mental health, as established by competent evidence.

(10) (a) "State executive branch agency" means a department, division, office, bureau, or other organization within the state executive branch.

(b) “State executive branch agency” includes an agency under the authority of the governor, lieutenant governor, state treasurer, state auditor, or attorney general.

(c) “State executive branch agency” does not include the Utah System of Higher Education or an independent entity, as defined in Section 63E-1-102.

**Section 7. Section 67-26-103 is enacted to read:**

**67-26-103. Effect of chapter.**

This chapter does not:

(1) exempt or relieve a person from a liability, duty, or penalty provided by another federal or state law;

(2) create a private right of action;

(3) expand or diminish rights or remedies available to a person before July 1, 2020; or

(4) expand or diminish grounds for discipline that existed before July 1, 2020.

**Section 8. Section 67-26-201 is enacted to read:**

**Part 2. Abusive Conduct**

**67-26-201. State policy on abusive conduct.**

It is the policy of the state to provide and maintain a work environment free from abusive conduct.

**Section 9. Section 67-26-202 is enacted to read:**

**67-26-202. Abusive conduct complaint, investigation, administrative review process.**

(1) An employee may file a written complaint of abusive conduct with the human resources department of the employee’s employer if the complaint is against an employee of the same employer as the employee filing the complaint.

(2) If an employee files a written complaint of abusive conduct under Subsection (1), the human resources department of the employee’s employer shall conduct an abusive conduct investigation.

(3) (a) Each employer that is not a state executive branch agency:

(i) shall provide the employer’s employees a process for:

(A) filing an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint; and

(B) an administrative review of the findings of an abusive conduct investigation described in Subsection (2) that is substantially similar to the administrative review process described in Section 67-19a-501; and

(ii) may request assistance from the department, at the department’s current consultant rate, or the

office, at a reasonable rate established by the office, in developing a process described in this Subsection (3)(a).

(b) The department shall provide a process for an employee of a state executive branch agency to file an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint.

(4) The complaint described in Subsection (1) and a subsequent abusive conduct investigation are subject to:

(a) in relation to an employer other than a state executive branch agency, the administrative review process described in Subsection (3)(a); and

(b) in relation to a state executive branch agency, the office’s administrative review process described in Section 67-19a-501.

**Section 10. Section 67-26-203 is enacted to read:**

**67-26-203. Abusive conduct -- Training -- Policy.**

(1) As used in this section:

(a) “Abusive conduct” means:

(i) verbal, nonverbal, or physical conduct of a covered employee to another covered employee of the same covered employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:

(A) is intended to cause intimidation, humiliation, or unwarranted distress;

(B) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or

(C) exploits a covered employee’s known physical or psychological disability.

(b) “Covered employee” means:

(i) for the judicial branch, a judge or an employee of the judicial branch; or

(ii) for a higher education entity, each governing member and each employee of the higher education entity.

(c) “Covered employer” means:

(i) the judicial branch; or

(ii) a higher education entity.

(d) “Higher education entity” means an entity within the Utah System of Higher Education, including each member institution, the Board of Regents, and the office of commissioner of higher education.

(2) The judicial branch shall, beginning on January 1, 2021:

(a) provide annual training to all covered employees on abusive conduct in the workplace; and

(b) implement a policy prohibiting, and for reporting and resolving, abusive conduct within the judicial branch.

(3) Each higher education entity shall, beginning on January 1, 2021:

(a) provide annual training to all covered employees on abusive conduct in the workplace; and

(b) implement a policy prohibiting, and for reporting and resolving, abusive conduct within the higher education entity.

(4) The judicial branch and each higher education entity shall, before May 1, 2021, submit to the Government Operations Interim Committee a copy of the policies described in Subsections (2)(b) and (3)(b).

**Section 11. Section 67-26-301, which is renumbered from Section 67-19-44 is renumbered and amended to read:**

**Part 3. Training and Reporting**

**[67-19-44]. 67-26-301. Abusive conduct training.**

[1] As used in this section:

[~~(a) (i) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine;~~

[~~(A) is intended to cause intimidation, humiliation, or unwarranted distress;~~

[~~(B) results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or~~

[~~(C) exploits an employee's known physical or psychological disability.~~

[~~(ii) A single act does not constitute abusive conduct, unless it is an especially severe and egregious act that meets the standard under Subsection (1)(a)(i)(A), (B), or (C).]~~

[~~(b) "Employee" means an employee of a state executive branch agency.]~~

[~~(c) "Physical harm" means the impairment of a person's physical health or bodily integrity, as established by competent evidence.]~~

[~~(d) "Psychological harm" means the impairment of a person's mental health, as established by competent evidence.]~~

[~~(2) It is the policy of the state of Utah to provide and maintain a work environment free from abusive conduct.]~~

[~~(3) An employee may file a written complaint of abusive conduct with the department and subject to further administrative review in accordance with Section 67-19a-501.]~~

[~~(4) By July 1, 2019, the department shall amend the department's rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~

~~consistent with the definitions in Subsection (1) and Title 67, Chapter 19a, Grievance Procedures.]~~

[~~(5) (1) (a) The department shall provide biennial training to educate all state executive branch agency employees and supervisors about how to prevent abusive workplace conduct.~~

(b) The training described in Subsection (1)(a) shall include information on:

(i) what constitutes abusive conduct and the ramifications of abusive conduct;

(ii) resources available to employees who are subject to abusive conduct; and

(iii) the ~~[grievance]~~ abusive conduct complaint process described in Section 67-26-202.

(2) (a) The department shall create a baseline training module for employers that are not state executive branch agencies to educate the employers' respective employees and supervisors about how to prevent abusive workplace conduct.

(b) The baseline training module described in Subsection (2)(a) shall include information on what constitutes abusive conduct and the ramifications of abusive conduct.

(c) Each employer that is not a state executive branch agency shall create and provide supplemental training to educate the employer's employees and supervisors that supplements the department's baseline training module with information regarding:

(i) resources available to employees who are subject to abusive conduct; and

(ii) the employer's abusive conduct complaint process described in Section 67-26-202.

(d) An employer may request assistance from the department, at the department's current consultant rate, in developing the training described in Subsection (2)(c).

[~~(6) (3) (a) Each [state agency] employer shall provide professional development training [approved by the department] to promote:~~

(i) ethical conduct;

(ii) organizational leadership practices based in principles of integrity; and

(iii) the state policy described in [Subsection (2)] Section 67-26-201.

(b) [~~A state agency~~] An employer may request assistance from the department, at the department's current consultation rate, in developing training [~~under~~] described in this Subsection [~~(6) (3)~~].

[~~(7) (4) (a) Employers shall provide and employees shall participate in the training described in [Subsections (5) and (6)] this section:~~

(i) at the time the employee is hired or within a reasonable time after the employee [~~commences~~] begins employment; and [~~in alternating years thereafter.~~]

(ii) at least every other year after the employee begins employment.

~~[(b) The requirement in Subsection (7)(a) includes notification to all employees at the time of hiring or within a reasonable time after the employee commences employment and in alternating years thereafter of the abusive conduct complaint procedures and the grievance procedures provided in Title 67, Chapter 19a, Grievance Procedures.]~~

(b) An employer shall, at the times described in Subsection (4)(a), provide notification to the employee of the abusive conduct complaint process.

~~[(8) (5) The department may use money appropriated to the department or access support from outside resources to:~~

(a) develop policies against workplace abusive conduct; and

(b) enhance professional development training on topics such as:

- (i) building trust;
- (ii) effective motivation;
- (iii) communication;
- (iv) conflict resolution;
- (v) accountability;
- (vi) coaching;
- (vii) leadership; or
- (viii) ethics.

~~[(9) This section does not:]~~

~~[(a) exempt or relieve a person from a liability, duty, or penalty provided by another federal or state law;]~~

~~[(b) create a private right of action;]~~

~~[(c) expand or diminish rights or remedies available to a person before July 1, 2015; or]~~

~~[(d) expand or diminish grounds for discipline that existed before July 1, 2015.]~~

(6) (a) Beginning in 2021, and each year after 2021, an employer that is not a state executive branch agency shall, on or before July 31, report to the department regarding:

(i) the employer's implementation of this chapter, including the requirement to provide a process under Section 67-26-202; and

(ii) the total number and outcomes of abusive conduct complaints that the employer's employees filed and that the employer investigated or reviewed.

~~[(10) (b) The department shall annually report to the Economic Development and Workforce Services Interim Committee [by], no later than the November interim meeting [regarding], the following:~~

~~[(a) the] (i) a description the department's implementation of this [section] chapter;~~

~~[(b) (ii) the department's recommendations, if any, to:~~

(A) appropriately address and reduce workplace abusive conduct; or [to]

(B) change definitions or training required by this section; [and]

~~[(e) (iii) an annual report of the total number and outcomes of abusive conduct complaints that employees filed and the department investigated[.]; and~~

(iv) a summary of the reports the department receives under Subsection (6)(a).

## **Section 12. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 156****H. B. 15**

Passed February 21, 2020

Approved March 28, 2020

Effective May 12, 2020

**LABOR COMMISSION AMENDMENTS**

Chief Sponsor: James A. Dunnigan  
Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends provisions of the Utah Labor Code regarding the Workers' Compensation Advisory Council and the Labor Commission's Appeals Board.

**Highlighted Provisions:**

This bill:

- ▶ permits the governor to appoint alternate members to the Labor Commission's Appeals Board under certain conditions;
- ▶ establishes term limits and compensation for alternate members of the Appeals Board;
- ▶ amends the membership of the Workers' Compensation Advisory Council to include the following nonvoting members:
  - one member of the Senate appointed by the president of the Senate; and
  - one member of the House of Representatives appointed by the speaker of the House of Representatives;
- ▶ provides for the compensation of council members who are legislators; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

34A-1-205, as last amended by Laws of Utah 2013, Chapter 428

34A-2-107, as last amended by Laws of Utah 2018, Chapters 268 and 319

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

**Section 1. Section 34A-1-205 is amended to read:****34A-1-205. Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.**

(1) (a) There is created the Appeals Board within the commission consisting of three members.

(b) The board may call and preside at adjudicative proceedings to review an order or decision that is subject to review by the Appeals Board under this title.

(2) (a) [~~The governor shall appoint the members with~~] With the consent of the Senate and in accordance with this section[.], the governor shall appoint:

~~(b) (i) [One] one member of the board [shall be appointed] to represent employers[, in making this appointment, the governor shall consider nominations from employer organizations.]; and~~

~~(e) (ii) [One] one member of the board [shall be appointed] to represent employees[, in making this appointment, the governor shall consider nominations from employer organizations].~~

(b) With the advice and consent of the Senate and in accordance with this section, the governor may appoint:

(i) one alternate member of the board to represent employers in the event that the member representing employers is unavailable; or

(ii) one alternate member of the board to represent employees in the event that the member representing employees is unavailable.

(c) In making the appointments described in this subsection, the governor shall:

(i) when appointing a member or alternate member to represent employers, consider nominations from employer organizations;

(ii) when appointing a member or alternate member to represent employees, consider nominations from employee organizations;

~~(d) (iii) [No] ensure that no more than two members [may] belong to the same political party[.]; and~~

(iv) ensure that an alternate member belongs to the same political party as the member for whom the alternate stands in.

~~(e) (d)~~ The governor shall, at the time of appointment or reappointment, make appointments to the board so that at least two of the members of the board are members of the Utah State Bar in good standing or resigned from the Utah State Bar in good standing.

(3) (a) The term of a member and an alternate member shall be six years beginning on March 1 of the year the member or alternate member is appointed, except that the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members and alternate members are staggered so that one member and alternate member is appointed every two years.

(b) The governor may remove a member or alternate member only for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

(c) A member or alternate member shall hold office until a successor is appointed and has qualified.

(4) A member and alternate member shall be part-time and receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

(5) (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.

(b) The governor shall appoint and may remove at will the chair from the position of chair.

(6) A majority of the board shall constitute a quorum to transact business.

(7) (a) The commission shall provide the Appeals Board necessary staff support, except as provided in Subsection (7)(b).

(b) At the request of the Appeals Board, the attorney general shall act as an impartial aid to the Appeals Board in outlining the facts and the issues.

**Section 2. Section 34A-2-107 is amended to read:**

**34A-2-107. Appointment of workers' compensation advisory council -- Composition -- Terms of members -- Duties -- Compensation.**

(1) ~~[The commissioner shall appoint a]~~ There is created a workers' compensation advisory council composed of:

(a) the following voting members whom the commissioner shall appoint:

- (i) five employer representatives; and
- (ii) five employee representatives; ~~and]~~

(b) the following nonvoting members whom the commissioner shall appoint:

(i) a representative of the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001;

(ii) a representative of a workers' compensation insurance carrier different from the workers' compensation insurance carrier listed in Subsection (1)(b)(i);

(iii) a representative of health care providers;

(iv) the Utah insurance commissioner or the insurance commissioner's designee;

(v) the commissioner or the commissioner's designee; and

(vi) a representative of hospitals~~[-]; and~~

(c) the following nonvoting members:

(i) a member of the Senate whom the president of the Senate shall appoint; and

(ii) a member of the House of Representatives whom the speaker of the House of Representatives shall appoint.

(2) Employers and employees shall consider nominating members of groups who historically may have been excluded from the council, such as women, minorities, and individuals with disabilities.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the commissioner, the president of the Senate, or the speaker of the House of Representatives shall appoint in accordance with Subsection (1) each new

member or reappointed member to a two-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

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

(b) The commissioner shall terminate the term of a council member who ceases to be representative as designated by the member's original appointment.

(5) The council shall confer at least quarterly for the purpose of advising the commission, the division, and the Legislature on:

(a) the Utah workers' compensation and occupational disease laws;

(b) the administration of the laws described in Subsection (5)(a); and

(c) rules related to the laws described in Subsection (5)(a).

(6) Regarding workers' compensation, rehabilitation, and reemployment of employees who acquire a disability because of an industrial injury or occupational disease the council shall:

(a) offer advice on issues requested by:

- (i) the commission;
- (ii) the division; and
- (iii) the Legislature; and

(b) make recommendations to:

- (i) the commission; and
- (ii) the division.

(7) (a) The council shall:

(i) study how to reduce hospital costs for purposes of medical benefits for workers' compensation;

(ii) study hospital billing and payment trends in the state;

(iii) study hospital fee schedules used in other states; and

(iv) collect information from third-party hospital bill review companies in the state or region, to identify an average reimbursement rate that represents the approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical services in the state.

(b) In accordance with Section 68-3-14, the council shall submit a written report to the Business and Labor Interim Committee no later than September 1, 2019, 2020, and 2021. Each written report shall include:

(i) recommendations on how to reduce hospital costs for purposes of medical benefits for workers' compensation;

(ii) aggregate data on hospital billing and payment trends in the state;

(iii) the results of the council's study of hospital fee schedules from other states; and

(iv) the approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical services, calculated in accordance with Subsection (7)(a)(iv).

(c) For each report described in Subsection (7)(b), the commission may contract with a third-party expert to assist with the council's duties described in Subsections (7)(a) and (b).

(8) The commissioner or the commissioner's designee shall serve as the chair of the council and call the necessary meetings.

(9) The commission shall provide staff support to the council.

(10) (a) [A] Except as provided in Subsections (10)(b) and (10)(c), a member may not receive compensation or benefits for the member's service[, but].

(b) A member who is not a legislator may receive per diem and travel expenses in accordance with:

[~~(a)~~] (i) Section 63A-3-106;

[~~(b)~~] (ii) Section 63A-3-107; and

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

(c) A member who is a legislator may receive compensation and travel expenses in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.



**CHAPTER 157****H. B. 26**

Passed February 13, 2020

Approved March 28, 2020

Effective May 12, 2020

**JORDAN RIVER RECREATION  
AREA FUNDING MANAGEMENT**

Chief Sponsor: Mike Winder

Senate Sponsor: Wayne A. Harper

Co-sponsors: Cheryl K. Acton

Karen Kwan

Andrew Stoddard

**LONG TITLE****General Description:**

This bill addresses the Jordan River Recreation Area.

**Highlighted Provisions:**

This bill:

- ▶ clarifies that the Division of Forestry, Fire, and State Lands manages the money appropriated to programs related to the Jordan River Recreation Area;
- ▶ provides that the money appropriated to programs related to the Jordan River Recreation Area are nonlapsing; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2020, as one-time appropriations:

- ▶ to Economic Development - Pass-Through
  - from the General Fund (\$500,000)
- ▶ to Department of Natural Resources - Division of Forestry, Fire, and State Lands
  - from the General Fund \$500,000

This bill appropriates in fiscal year 2021, as ongoing appropriations:

- ▶ to Economic Development - Pass-Through
  - from the General Fund (\$100,000)
- ▶ to Department of Natural Resources - Division of Forestry, Fire, and State Lands
  - from the General Fund \$100,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63J-1-602.2, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469  
65A-2-8, as last amended by Laws of Utah 2019, Chapter 113

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

**Section 1. Section 63J-1-602.2 is amended to read:****63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

- (1) The Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(5) The Trip Reduction Program created in Section 19-2a-104.

(6) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(7) The primary care grant program created in Section 26-10b-102.

(8) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(9) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(10) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(12) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a) or (b).

(13) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(14) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(15) The Utah National Guard, created in Title 39, Militia and Armories.

(16) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(17) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(19) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

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

(21) The State Board of Education, as provided in Section 53F-2-205.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

~~(30)~~ (31) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

~~(31)~~ (32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

~~(32)~~ (33) The Traffic Noise Abatement Program created in Section 72-6-112.

~~(33)~~ (34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

~~(34)~~ (35) A state rehabilitative employment program, as provided in Section 78A-6-210.

~~(35)~~ (36) The Utah Geological Survey, as provided in Section 79-3-401.

~~(36)~~ (37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

~~(37)~~ (38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~(38)~~ (39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

~~(39)~~ (40) The program established by the Division of Facilities Construction and Management under Subsection 63A-5-228(3) under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

**Section 2. Section 65A-2-8 is amended to read:**

**65A-2-8. Jordan River improvement projects.**

(1) As used in this section:

(a) "Commission" means the Jordan River Commission created by interlocal agreement.

(b) "Zone" means the Jordan River Recreation Area, the area 250 yards on each side of the Jordan River from the edge of the river between SR-201 and 4800 South.

(2) The division, subject to applicable federal, state, and local laws and ordinances and Subsections (3) and (4), may:

(a) expend money for the following purposes:

(i) enhancing safety, recreation, and conservation in the zone;

(ii) capital improvements within the zone, including:

(A) lighting along the Jordan River and within the zone;

(B) completing construction of a paved pathway on both sides of the Jordan River within the zone;

(C) building a boat launch, picnic pavilion, bench, restroom, or other amenity within the zone; and

(D) supporting Tracy Aviary, a nature area, bike or boat rental concessionaire, or other partnerships to enhance recreation in the zone;

(iii) funding programs to clean the zone, remove invasive species, and restore riparian habitat;

(iv) hiring or contracting for personnel to perform tasks as directed by the commission;

(v) partnering or contracting with an urban ranger or conservation corp operated by a state institution of higher education or similar service-oriented organizations or programs:

(A) to provide trail, river, and parkway maintenance, invasive species removal and revegetation, emergency care, and environmental education for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(B) to report to the appropriate public official all health, safety, or law enforcement concerns that the organization encounters, as directed by the commission; and

(vi) partnering or contracting with local law enforcement or a certified peace officer to provide patrol, security, and law enforcement for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(b) purchase, lease, sell, or dispose of property or an easement within the zone to achieve the goals in Subsection (2)(a).

(3) (a) Before engaging in any activity described in Subsections (2)(a)(i) through (2)(a)(iii) or Subsection (2)(b), the division shall receive the approval of:

(i) the commission;

(ii) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone, including Salt Lake County Flood Control; and

(iii) the relevant municipality within the zone.

(b) Before engaging in any activity described in Subsections (2)(a)(iv) through (2)(a)(vi), the division shall:

- (i) receive the approval of the commission; and
- (ii) consult with:

(A) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone; and

(B) the relevant municipality within the zone.

(4) (a) The programs described in this section may only be implemented as appropriations from the Legislature allow.

(b) Money appropriated to programs in this section are managed by the division in accordance with this section.

(c) Money that the Legislature appropriates to programs described in this section are nonlapsing in accordance with Section 63J-1-602.2.

**Section 3. Appropriation.**

**Subsection 3(a). Fiscal Year 2020 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Economic Development -Pass-Through

From General Fund, One-Time (\$500,000)

Schedule of Programs:

Pass-Through (\$500,000)

ITEM 2

To Department of Natural Resources - Division of Forestry, Fire, and State Lands

From General Fund, One-Time \$500,000

Schedule of Programs:

Project Management \$500,000

**Subsection 3(b). Fiscal Year 2021 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1,

Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Economic Development - Pass-Through

From General Fund (\$100,000)

Schedule of Programs:

Pass-Through (\$100,000)

ITEM 2

To Department of Natural Resources - Division of Forestry, Fire, and State Lands

From General Fund \$100,000

Schedule of Programs:

Project Management \$100,000

**CHAPTER 158****H. B. 33**

Passed February 27, 2020

Approved March 28, 2020

Effective May 12, 2020

**ABUSE, NEGLECT, AND DEPENDENCY  
PROCEEDINGS AMENDMENTS**

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill addresses proceedings in regards to the abuse, neglect, or dependency of a child and termination of parental rights.

**Highlighted Provisions:**

This bill:

- ▶ allows a party to request a hearing on reunification services if a petition for termination of parental rights is filed before a dispositional hearing;
- ▶ provides that the court find termination of parental rights is strictly necessary from the child's point of view;
- ▶ requires the court to take into account reunification and kinship preferences in determining whether to terminate parental rights; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78A-6-302, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388

78A-6-304, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-306, as last amended by Laws of Utah 2019, Chapters 136, 326, and 335

78A-6-314, as last amended by Laws of Utah 2019, Chapter 71

78A-6-503, as last amended by Laws of Utah 2013, Chapter 340

78A-6-507, as last amended by Laws of Utah 2012, Chapter 281

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

**Section 1. Section 78A-6-302 is amended to read:****78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.**

(1) When a petition is filed under Section 78A-6-304, the court shall apply, in addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections 62A-4a-201(1) and (7)(a) and Section 78A-6-503.

[4] (2) After a petition has been filed under Section 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child's home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other person known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsections 78A-6-105(39) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant has been abandoned, as defined in Section 78A-6-316;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

~~[(2)]~~ ~~(3)~~ (a) For purposes of Subsection ~~[(1)]~~ ~~(2)~~(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection ~~[(1)]~~ ~~(2)~~(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection ~~[(1)]~~ ~~(2)~~(c) or Subsection ~~[(2)]~~ ~~(3)~~(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

~~[(3)]~~ (4) (a) For purposes of Subsection ~~[(1)]~~ (2), if the division files a petition under Section 78A-6-304, the court shall consider the division's safety and risk assessments described in Section 62A-4a-203.1 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 62A-4a-203.1 to the court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 78A-6-306.

~~[(4)]~~ (5) In the absence of one of the factors described in Subsection ~~[(1)]~~ (2), a court may not

remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; or

(c) disability of the parent or guardian, as defined in Section 57-21-2.

~~[(5)]~~ (6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

~~[(6)]~~ (7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

~~[(7)]~~ (8) (a) Except as provided in Subsection ~~[(7)]~~ (8)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection ~~[(7)]~~ (8)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection ~~[(7)]~~ (8)(a) if failure to take an action described under Subsection ~~[(7)]~~ (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

**Section 2. Section 78A-6-304 is amended to read:**

**78A-6-304. Petition filed.**

(1) For purposes of this section, "petition" means a petition to commence proceedings in a juvenile court alleging that a child is:

(a) abused;

(b) neglected; or

(c) dependent.

(2) (a) Subject to Subsection (2)(b), any interested person may file a petition.

(b) A person described in Subsection (2)(a) shall make a referral with the division before the person files a petition.

(3) If the child who is the subject of a petition is removed from the child's home by the division, the petition shall be filed on or before the date of the initial shelter hearing described in Section 78A-6-306.

(4) The petition shall be verified, and contain all of the following:

(a) the name, age, and address, if any, of the child upon whose behalf the petition is brought;

(b) the names and addresses, if known to the petitioner, of both parents and any guardian of the child;

(c) a concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the petition is being brought is abused, neglected, or dependent; and

(d) a statement regarding whether the child is in protective custody, and if so, the date and precise time the child was taken into protective custody.

(5) If a petition is filed under this section, and a petition for termination of parental rights is filed under Section 78A-6-504 before a dispositional hearing, a party may request a hearing on whether reunification services are appropriate in accordance with the factors described in Subsections 78A-6-312(21) and (23).

**Section 3. Section 78A-6-306 is amended to read:**

**78A-6-306. Shelter hearing.**

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other person having relevant knowledge; ~~and~~

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify[-]; and

(iii) in accordance with Subsections 78A-6-307(18)(c) through (e), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be returned to the custody of the parent or guardian unless it finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

(A) parent or guardian;

(B) member of the parent's household or the guardian's household; or

(C) person known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the child is without any provision for the child's support;

(vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(viii) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(ix) subject to Subsections 78A-6-105(39)(b) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(x) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xi) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiii) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xiv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as defined in Section 78A-6-105, truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

**Section 4. Section 78A-6-314 is amended to read:**

**78A-6-314. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.**

(1) (a) When reunification services have been ordered in accordance with Section 78A-6-312, with regard to a minor who is in the custody of the Division of Child and Family Services, a permanency hearing shall be held by the court no later than 12 months after the day on which the minor was initially removed from the minor's home.

(b) If reunification services were not ordered at the dispositional hearing, a permanency hearing shall be held within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services were ordered by the court in accordance with Section 78A-6-312, the court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;



(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the court shall review and consider:

(a) the report prepared by the Division of Child and Family Services;

(b) any admissible evidence offered by the minor's guardian ad litem;

(c) any report submitted by the division under Subsection 78A-6-315(3)(a)(i);

(d) any evidence regarding the efforts or progress demonstrated by the parent; and

(e) the extent to which the parent cooperated and used the services provided.

(4) With regard to a case where reunification services were ordered by the court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the court pursuant to Section 78A-6-312; and

(c) establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The court may order another planned permanent living arrangement for a minor 16 years old or older upon entering the following findings:

(a) the Division of Child and Family Services has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 78A-6-306(6)(e);

(b) the Division of Child and Family Services has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Sections 62A-4a-210 through 62A-4a-212;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the court may not extend reunification services beyond 12 months after the day on which the minor was initially removed from the minor's home, in accordance with the provisions of Section 78A-6-312.

(7) (a) Subject to Subsection (7)(b), the court may extend reunification services for no more than 90 days if the court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the court may not extend any reunification services beyond 15 months after the day on which the minor was initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the court to extend services for that parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the court specifies the time period in which it is likely that reunification will occur.

(d) A court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a court shall take into consideration the status of the minor siblings of the minor.

(8) The court may, in its discretion:

(a) enter any additional order that it determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (7); or

(b) order the division to provide protective supervision or other services to a minor and the

minor's family after the division's custody of a minor has been terminated.

(9) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing.

(b) If the division opposes the plan to terminate parental rights, the court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 78A-6-316(2).

(10) (a) Any party to an action may, at any time, petition the court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the court so determines, it shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(11) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time prior to a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 62A-4a-201 and 78A-6-503.

(12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is filed prior to the date scheduled for a permanency hearing, the court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (12)(a), if the court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the court shall first make a finding regarding whether reasonable efforts have been made by the Division of Child and Family Services to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 78A-6-312.

(c) A decision on a petition for termination of parental rights shall be made within 18 months from the day on which the minor is removed from the minor's home.

(13) If a court determines that a minor will not be returned to a parent of the minor, the court shall

consider appropriate placement options inside and outside of the state.

(14) (a) If a minor 14 years of age or older desires an opportunity to address the court or testify regarding permanency or placement, the court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the court shall make findings explaining why the court's decision differs from the minor's wishes.

**Section 5. Section 78A-6-503 is amended to read:**

**78A-6-503. Judicial process for termination -- Parent unfit or incompetent -- Best interest of child.**

(1) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's child. For this reason, the termination of family ties by the state may only be done for compelling reasons.

(2) The court shall provide a fundamentally fair process to a parent if a party moves to terminate the parent's parental rights.

(3) If the party moving to terminate parental rights is a governmental entity, the court shall find that any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child are supported by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests.

(4) (a) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because:

(i) a parent may fail to be a model parent; or ~~because~~

(ii) the parent's child is placed in the temporary custody of the state.

(b) The court should give serious consideration to the fundamental right of a parent to rear the parent's child, and concomitantly, of the right of the child to be reared by the child's natural parent.

(5) At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life.

(6) Prior to an adjudication of unfitness, government action in relation to a parent and a parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest.

(7) Until parental unfitness is established and the children suffer, or are substantially likely to

suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their relationship and the court may not presume that a child and the child's parents are adversaries.

(8) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. For these reasons, the court should only transfer custody of a child from the child's natural parent for compelling reasons and when there is a jurisdictional basis to do so.

(9) The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution of this state and of the United States, and is a fundamental public policy of this state.

(10) (a) The state recognizes that:

~~(a)~~ (i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide for, and reasonably discipline the parent's ~~children~~ child; and

~~(b)~~ (ii) the state's role is secondary and supportive to the primary role of a parent.

~~(c)~~ (b) It is the public policy of this state that ~~parents~~ a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of ~~their children~~ the parent's child.

~~(d)~~ (c) The interests of the state favor preservation and not severance of natural familial bonds in situations where a positive, nurturing parent-child relationship can exist, including extended family association and support.

(11) This part provides a judicial process for voluntary and involuntary severance of the parent-child relationship, designed to safeguard the rights and interests of all parties concerned and promote their welfare and that of the state.

(12) (a) Wherever possible, family life should be strengthened and preserved, but if a parent is found, by reason of ~~his~~ the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this part, the court shall then consider the welfare and best interest of the child of paramount importance in determining whether termination of parental rights shall be ordered.

(b) In determining whether termination is in the best interest of the child, and in finding that termination of parental rights, from the child's point of view, is strictly necessary, the court shall consider, among other relevant factors, whether:

(i) sufficient efforts were dedicated to reunification in accordance with Subsection 78A-6-507(3)(a); and

(ii) the efforts to place the child with kin who have, or are willing to come forward to care for the child, were given due weight.

**Section 6. Section 78A-6-507 is amended to read:**

**78A-6-507. Grounds for termination of parental rights -- Findings regarding reasonable efforts.**

(1) Subject to the protections and requirements of Section 78A-6-503, and if the court finds termination of a parent's parental rights, from the child's point of view, is strictly necessary, the court may terminate all parental rights with respect to [a] the parent if the court finds any one of the following:

(a) that the parent has abandoned the child;

(b) that the parent has neglected or abused the child;

(c) that the parent is unfit or incompetent;

(d) (i) that the child is being cared for in an out-of-home placement under the supervision of the court or the division;

(ii) that the parent has substantially neglected, wilfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and

(iii) that there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;

(e) failure of parental adjustment, as defined in this chapter;

(f) that only token efforts have been made by the parent:

(i) to support or communicate with the child;

(ii) to prevent neglect of the child;

(iii) to eliminate the risk of serious harm to the child; or

(iv) to avoid being an unfit parent;

(g) (i) that the parent has voluntarily relinquished the parent's parental rights to the child; and

(ii) that termination is in the child's best interest;

(h) that, after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection; or

(i) the terms and conditions of safe relinquishment of a newborn child have been complied with, pursuant to Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child.

(2) The court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.

(3) (a) Except as provided in Subsection (3)(b), in any case in which the court has directed the division to provide reunification services to a parent, the court must find that the division made reasonable efforts to provide those services before the court may terminate the parent's rights under Subsection (1)(b), (c), (d), (e), (f), or (h).

(b) Notwithstanding Subsection (3)(a), the court is not required to make the finding under Subsection (3)(a) before terminating a parent's rights:

(i) under Subsection (1)(b), if the court finds that the abuse or neglect occurred subsequent to adjudication; or

(ii) if reasonable efforts to provide the services described in Subsection (3)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

**CHAPTER 159****H. B. 38**

Passed March 6, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**SUBSTANCE USE AND  
HEALTH CARE AMENDMENTS**

Chief Sponsor: Brad M. Daw  
 Senate Sponsor: Allen M. Christensen

**LONG TITLE****General Description:**

This bill modifies and enacts provisions relating to substance use treatment and health care provided in a correctional facility.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ directs the Department of Health to apply for a waiver under the state Medicaid plan to offer a program to provide Medicaid coverage to certain inmates for up to 30 days before release from a correctional facility;
- ▶ requires a county to provide matching funds to the state for Medicaid coverage, and costs relating to the Medicaid coverage, that is provided to certain inmates for up to 30 days before release from a correctional facility; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

26-18-420, Utah Code Annotated 1953

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

**Section 1. Section 26-18-420 is enacted to read:****26-18-420. Medicaid waiver for coverage of qualified inmates leaving prison or jail.**

(1) As used in this section:

(a) "Correctional facility" means:

(i) a county jail;

(ii) the Department of Corrections, created in Section 64-13-2; or

(iii) a prison, penitentiary, or other institution operated by or under contract with the Department of Corrections for the confinement of an offender, as defined in Section 64-13-1.

(b) "Qualified inmate" means an individual who:

(i) is incarcerated in a correctional facility; and

(ii) has:

(A) a chronic physical or behavioral health condition;

(B) a mental illness, as defined in Section 62A-15-602; or

(C) an opioid use disorder.

(2) Before July 1, 2020, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to offer a program to provide Medicaid coverage to a qualified inmate for up to 30 days immediately before the day on which the qualified inmate is released from a correctional facility.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall report to the Health and Human Services Interim Committee each year before November 30 while the waiver or state plan amendment is in effect regarding:

(a) the number of qualified inmates served under the program;

(b) the cost of the program; and

(c) the effectiveness of the program, including:

(i) any reduction in the number of emergency room visits or hospitalizations by inmates after release from a correctional facility;

(ii) any reduction in the number of inmates undergoing inpatient treatment after release from a correctional facility;

(iii) any reduction in overdose rates and deaths of inmates after release from a correctional facility; and

(iv) any other costs or benefits as a result of the program.

(4) If the waiver or state plan amendment described in Subsection (2) is approved, a county that is responsible for the cost of a qualified inmate's medical care shall provide the required matching funds to the state for:

(a) any costs to enroll the qualified inmate for the Medicaid coverage described in Subsection (2);

(b) any administrative fees for the Medicaid coverage described in Subsection (2); and

(c) the Medicaid coverage that is provided to the qualified inmate under Subsection (2).

**CHAPTER 160****H. B. 41**

Passed February 25, 2020

Approved March 28, 2020

Effective May 12, 2020

**STATE WATER POLICY AMENDMENTS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill addresses water policies.

**Highlighted Provisions:**

This bill:

- ▶ outlines the water policies of the state;
- ▶ encourages state agencies to follow the state policy;
- ▶ addresses suits referencing the state policy; and
- ▶ requires an annual review of the policy.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

73-1-21, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 73-1-21 is enacted to read:****73-1-21. State Water Policy.**(1) It is the policy of the state that:

(a) Utah shall pursue adequate, reliable, affordable, sustainable, and clean water resources, recognizing that Utah is one of the most arid states in the nation and as such, there is, and will continue to be, a need to ensure Utah's finite water resources are used beneficially;

(b) Utah will promote:

(i) water conservation, efficiency, and the optimal use of water resources, while identifying intended and unintended consequences to ensure appropriate choice and implementation of particular strategies;

(ii) water resource development and the creation of new water infrastructure necessary to meet the state's growing demand and promote economic development;

(iii) compliance with state statutes regarding Lake Powell pipeline development and Bear River development;

(iv) the timely replacement of aging or inefficient water resource, drinking water, wastewater, and storm water infrastructure;

(v) the optimal use of agricultural water to sustain and improve food production and the productive capacity of agricultural lands;

(vi) water quality in rivers and lakes that:

(A) complies with state clean water and safe drinking water statutes; and

(B) protects public health;(vii) water pricing and funding mechanisms that:

(A) provide revenue stability while encouraging conservation, efficiency, and optimization efforts;

(B) adequately cover infrastructure needs; and

(C) balance social, economic, public interest, and environmental values;

(viii) respect for water rights;

(ix) standards for accurate water use measurement, tracking, enforcement, and reporting;

(x) efforts to educate and engage the public in:

(A) individual actions that protect water quality, including preventing and mitigating water pollution; and

(B) conservation practices and the efficient and optimal use of water resources;

(xi) the implementation of cyber security and physical security measures for water infrastructure;

(xii) the study and consideration of mechanisms for increased flexibility in water use such as water banking and split season uses;

(xiii) continued improvements in the management of water resources through protection, restoration, and science-based evaluation of Utah watersheds, and increased reservoir capacity and aquifer storage and recovery;

(xiv) the development and beneficial use of Utah's allocated share of interstate rivers, including Utah's allocations under the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact;

(xv) the study and development of strategies and practices necessary to address declining water levels and protect the water quality and quantity of the Great Salt Lake, Utah Lake, and Bear Lake, taking into consideration natural climate change, natural weather systems and patterns, and normal cyclic water level change over time, while balancing economic, social, and environmental needs;

(xvi) regulations and practices, including voluntary practices, that maintain sufficient stream flows and lake levels to provide reasonable access to recreational activities and protect and restore water quality, quantity, and healthy ecosystems, including protecting groundwater and surface water sources from pollution;

(xvii) equitable access to safe, affordable, and reliable drinking water to protect public health;

(xviii) regulations and practices that encourage effective treatment of wastewater to maximize its availability for beneficial use and minimize

depletion and the further degradation of other waters;

(xix) the control of invasive species that threaten or degrade waters of the state;

(xx) coordination among the state, water providers, water users, local governments, government agencies, and researchers in the study of ways weather and climate will impact future water supplies, demand, and quality;

(xxi) water laws, rules, and enforcement that are consistent with this Subsection (1) and encourage transparency, order, and certainty in the use of public water;

(xxii) the support and funding of research, science, and technology necessary to achieve the provisions of this Subsection (1); and

(xxiii) the collaboration, cooperation, and engagement of stakeholders in the identification and advancement of actions that support the provisions of this Subsection (1); and

(c) Utah supports the timely and appropriate negotiated settlement of federally reserved water right claims for both Native American trust lands and other existing federal reservations, and opposes any future designation of public lands that does not quantify any associated federally reserved water rights.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1) and implement policies established by the Legislature that promote the near- and long-term stewardship of water quality and water resources.

(3) This section does not create a cause of action against the state's or a state agency's action that is inconsistent with Subsection (1) and does not waive governmental immunity under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(4) The Natural Resources, Agriculture, and Environment Interim Committee shall review the state water policy annually and recommend priority balancing and any other changes to the Legislature.

**CHAPTER 161****H. B. 58**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective March 28, 2020  
 Exception clause

**ELECTRONIC CIGARETTES  
 IN SCHOOLS AMENDMENTS**

Chief Sponsor: Susan Pulsipher  
 Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill addresses student use of alcohol, tobacco, electronic cigarette products, and other substances through education and prevention programs and discipline policies.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires local school boards to adopt discipline policies to address possession and use of electronic cigarette products on school grounds;
- ▶ renames the Underage Drinking Prevention Program the Underage Drinking and Substance Abuse Prevention Program;
- ▶ adds a requirement to teach a school-based prevention program for students in grade 4 or 5;
- ▶ adds a requirement to include education about the risks of electronic cigarette products in a school-based prevention program;
- ▶ requires schools to create a plan to address the causes of student use of tobacco, alcohol, electronic cigarette products, and controlled substances;
- ▶ creates a stipend for a specialist to administer the plan; and
- ▶ requires the state board to establish a library of best practices.

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ to State Board of Education - State Administrative Office:
  - from the Education Fund, \$5,084,200.

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

53F-9-304, as last amended by Laws of Utah 2019, Chapter 186  
 53G-1-103, as enacted by Laws of Utah 2018, Chapter 3  
 53G-7-1202, as last amended by Laws of Utah 2019, Chapters 150, 293, and 505  
 53G-7-1205, as last amended by Laws of Utah 2019, Chapters 150, 167, and 293  
 53G-8-203, as last amended by Laws of Utah 2019, Chapters 293 and 446  
 53G-8-209, as last amended by Laws of Utah 2019, Chapter 293  
 53G-8-505, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-8-508, as last amended by Laws of Utah 2019, Chapter 293

53G-10-405, as last amended by Laws of Utah 2019, Chapter 293

53G-10-406, as last amended by Laws of Utah 2019, Chapter 293

**ENACTS:**

53G-10-407, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

53G-1-103, as enacted by Laws of Utah 2018, Chapter 3

59-14-807, Utah Code Annotated 1953

**Appropriation Affected by Coordination Clause:**

Uncodified Section 12, Appropriation

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

**Section 1. Section 53F-9-304 is amended to read:**

**53F-9-304. Underage Drinking and Substance Abuse Prevention Program Restricted Account.**

(1) As used in this section, "account" means the Underage Drinking and Substance Abuse Prevention Program Restricted Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Underage Drinking and Substance Abuse Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage Control deposits any portion of the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the Department of Alcoholic Beverage Control deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year.

(b) For purposes of this Subsection (3), the Department of Alcoholic Beverage Control shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) The state board shall use money in the account for the Underage Drinking and Substance Abuse



Prevention Program described in Section 53G-10-406.

**Section 2. Section 53G-1-103 is amended to read:**

**53G-1-103. Definitions.**

[Reserved]

As used in this title, “electronic cigarette product” means “electronic cigarette” as that term is defined in Section 76-10-101.

**Section 3. Section 53G-7-1202 is amended to read:**

**53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.**

(1) As used in this section:

(a) “Digital citizenship” means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) “Educator” means the same as that term is defined in Section 53E-6-102.

(c) (i) “Parent member” means a member of a school community council who is a parent of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent’s term of office.

(ii) “Parent member” may not include an educator who is employed at the school.

(d) “Safety principles” means safety principles that, when incorporated into programs and resources, impact academic achievement by strengthening a safe and wholesome learning environment, including continual efforts for safe technology utilization and digital citizenship.

(e) “School community council” means a council established at a district school in accordance with this section.

(f) “School employee member” means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) “School LAND Trust Program money” means money allocated to a school pursuant to Section 53F-2-404.

(2) A district school, in consultation with the district school’s local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students’

education through collaboration among parents, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create the School LAND Trust Program and LAND Trust plan in accordance with Section 53G-7-1206;

(ii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section 53G-4-402;

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

(iii) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent to know how to discuss safe technology use with the parent’s child;

(iv) partner with the school’s principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3); ~~and~~

(v) in accordance with state board rule regarding school community council expenditures and funding limits:

(A) work with students, families, and educators to develop and incorporate safety principles at the school; and

(B) hold at least an annual discussion with the school’s principal and district administrators regarding safety principles at the school and district level in order to coordinate the school community council’s effort to develop and incorporate safety principles at the school[-]; and

(vi) provide input to the school’s principal on a positive behaviors plan in accordance with Section 53G-10-407.

(b) To fulfill the school community council’s duties described in Subsections (3)(a)(iii) and (iv), a school community council may:

(i) partner with one or more non-profit organizations; or

(ii) create a subcommittee.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent members of a school community council who are not educators employed by the school district shall exceed the number of parent members who are educators employed by the school district.

(ii) If, after an election, the number of parent members who are not educators employed by the school district does not exceed the number of parent members who are educators employed by the school district, the parent members of the school community council shall appoint one or more parent members to the school community council so that the number of parent members who are not educators employed by the school district exceeds the number of parent members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent of a student attending the

school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent of a student who meets the qualifications of this section may file or declare the parent's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee or parent of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent position on a school community council remains unfilled after an election is held, the other parent members of the council shall appoint a parent who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent position remains unfilled, the other parent members of the council shall appoint a parent who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent members; and

(ii) a vice chair from either its parent members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on this part.

**Section 4. Section 53G-7-1205 is amended to read:**

**53G-7-1205. Charter trust land councils.**

(1) As used in this section, "council" means a charter trust land council described in this section.

(2) To receive School LAND Trust Program funding as described in Sections 53F-2-404 and 53G-7-1206, a charter school governing board shall establish a charter trust land council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements described in Subsection 53G-7-1206(4).

(3) (a) The membership of the council shall include parents or grandparents of students enrolled at the charter school and may include other members.

(b) The number of council members who are parents or grandparents of students enrolled at the charter school shall exceed all other members combined by at least two.

(4) A charter school governing board may serve as the charter school's council if the membership of the charter school governing board meets the requirements of Subsection (3)(b).

(5) (a) Except as provided in Subsection (5)(b), council members who are parents or grandparents of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(b) Subsection (5)(a) does not apply to a charter school governing board that serves as a council.

(6) A parent or grandparents of a student enrolled at a charter school shall serve as chair or co-chair of the charter school's council.

(7) In accordance with state board rule regarding charter trust land council expenditures and funding limits, a charter trust land council shall:

(a) work with students, families, and educators to develop and incorporate safety principles, as defined in Section 53G-7-1202, at the school; and

(b) hold at least an annual discussion with charter school administrators to coordinate efforts to develop and incorporate safety principles, as defined in Section 53G-7-1202, at the school level.

(8) A charter trust land council shall provide input to the school's principal on a positive behaviors plan in accordance with Section 53G-10-407.

**Section 5. Section 53G-8-203 is amended to read:**

**53G-8-203. Conduct and discipline policies and procedures.**

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

- (i) the school;
- (ii) school property;
- (iii) a person associated with the school; or
- (iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).

(2) (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b) (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through 6.

(ii) The local school board shall receive input from teachers, school administrators, and parents of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

(3) (a) Each LEA shall adopt a policy for responding to possession or use of electronic cigarette products by a student on school property.

(b) The policy described in Subsection (3)(a) shall:

(i) prohibit students from possessing or using electronic cigarette products on school property;

(ii) include policies or procedures for the confiscation or surrender of electronic cigarette products; and

(iii) require a school administrator or school administrator's designee to dispose of or destroy a confiscated electronic cigarette product.

(c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic cigarette product to local law enforcement if:

(i) a school official has a reasonable suspicion that a confiscated electronic cigarette product contains an illegal substance; and

(ii) local law enforcement requests that the LEA release the confiscated electronic cigarette product to local law enforcement as part of an investigation or action.

**Section 6. Section 53G-8-209 is amended to read:**

**53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.**

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and standards of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.

(b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):

(i) use of foul, abusive, or profane language while engaged in school related activities;

(ii) illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette ~~[as defined in Section 76-10-101]~~ product, tobacco, or alcoholic beverages contrary to law; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

**Section 7. Section 53G-8-505 is amended to read:**

**53G-8-505. Definitions.**

For purposes of Sections 53G-8-506 through 53G-8-509:

(1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to Sections 53G-8-506 through 53G-8-509.

(2) "Prohibited act" means:

(a) an act punishable under Section 53G-8-602, Section 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b, Imitation Controlled Substances Act[-]; or

(b) possession of an electronic cigarette product by a student on school property.

(3) "School" means a public or private elementary or secondary school.

**Section 8. Section 53G-8-508 is amended to read:**

**53G-8-508. Admissibility of evidence in civil and criminal actions.**

(1) Evidence relating to a violation of Section 53G-8-505, 53G-8-506, 53G-8-507, or 53G-8-509, which is seized by school authorities acting alone, on their own authority, and not in conjunction with or at the behest of law enforcement authorities is admissible in civil and criminal actions.

(2) An LEA shall dispose of or destroy seized electronic cigarette products in accordance with the LEA's policies adopted under Subsection 53G-8-203(3).

~~[(2)]~~ (3) A search under this section must be based on at least a reasonable belief that the search will turn up evidence of a violation of this part. The measures adopted for the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the circumstances, including the age and sex of the person involved and the nature of the infraction.

**Section 9. Section 53G-10-405 is amended to read:**

**53G-10-405. Instruction on the harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances -- Rulemaking authority -- Assistance from the Division of Substance Abuse and Mental Health.**

(1) The state board shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances upon the human body and society. The rules shall require ~~[but are not limited to]~~ instruction on the following:

(a) teaching of skills needed to evaluate advertisements for, and media portrayal of, alcohol, tobacco, electronic cigarette products, and controlled substances;

(b) directing students towards healthy and productive alternatives to the use of alcohol, tobacco, electronic cigarette products, and controlled substances; and

(c) discouraging the use of alcohol, tobacco, electronic cigarette products, and controlled substances.

(2) At the request of the state board, the Division of Substance Abuse and Mental Health shall cooperate with the state board in developing programs to provide this instruction.

(3) The state board shall participate in efforts to enhance communication among community organizations and state agencies, and shall cooperate with those entities in efforts which are compatible with the purposes of this section.

(4) The state board shall establish a library of documented best practices and resources for alcohol, tobacco, and electronic cigarette product

cessation interventions for use by local school districts.

**Section 10. Section 53G-10-406 is amended to read:**

**53G-10-406. Underage Drinking and Substance Abuse Prevention Program -- State board rules.**

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking and Substance Abuse Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program [~~intended for students aged 13 and older~~] that:

(i) is aimed at preventing underage consumption of alcohol and underage use of electronic cigarette products;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking and use of electronic cigarette products; and

(iv) provides practical tools to address the dangers of underage drinking and use of electronic cigarette products.

(2) There is created the Underage Drinking and Substance Abuse Prevention Program that consists of:

(a) a school-based prevention program for students in grade 4 or 5;

~~[(a)]~~ (b) a school-based prevention program for students in grade 7 or 8; and

~~[(b)]~~ (c) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA shall offer the program each school year to each student in grade 4 or 5.

~~[(b)]~~ (c) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking and Substance Abuse Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

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

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's [~~underage drinking~~] prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective [~~at reducing underage drinking~~].

(7) (a) The state board shall use money from the Underage Drinking and Substance Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) The state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10; [~~and~~]

(b) beginning with the 2020-21 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5; and

~~[(b)]~~ (c) establish criteria for the state board to use in selecting a provider described in Subsection (6).

**Section 11. Section 53G-10-407 is enacted to read:**

**53G-10-407. Positive behaviors plan -- Positive behaviors specialist stipend -- Reports.**

(1) As used in this section:

(a) "Positive behaviors plan" means a plan to address the causes of student use of tobacco,

alcohol, electronic cigarette products, and other controlled substances through promoting positive behaviors.

(b) "Positive behaviors specialist" means an individual designated to administer a positive behaviors plan.

(2) (a) A school principal shall:

(i) create a positive behaviors plan based on the input of students, parents, and staff; and

(ii) submit the positive behaviors plan to the LEA governing board for approval.

(b) A positive behaviors plan shall address issues including peer pressure, mental health, and creating meaningful relationships.

(c) A positive behaviors plan may include programs, clubs, service opportunities, and pro-social activities.

(3) Each LEA shall designate one or more employees as a positive behaviors specialist for each school to administer the positive behaviors plan.

(4) (a) The state board shall distribute annually to each school:

(i) \$3,000 as a stipend for the positive behaviors specialists; and

(ii) \$1,000 to administer the positive behaviors plan.

(b) Notwithstanding Subsection (4)(a), if funding is insufficient to cover the costs associated with stipends, the state board may reduce the amount of the stipend.

(5) (a) A positive behaviors specialist shall annually submit a written report to the LEA governing board detailing how the positive behaviors plan was implemented in the prior year.

(b) An LEA governing board shall submit an annual report to the state board confirming that each school under the governing board's jurisdiction has an approved positive behaviors plan.

**Section 12. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -  
State Administrative Office

From Education Fund \$5,084,200

Schedule of Programs:

Student Support \$5,084,200

The Legislature intends that:

(1) the State Board of Education use up to \$4,300,000 of the appropriation under this section to distribute to local education agencies to pay for stipends for positive behaviors specialists and to administer school-level positive behaviors plans as described in Subsection 53G-10-407(4)(a); and

(2) the State Board of Education use \$784,200 for the cost of qualifying one or more providers as described in Subsection 53G-10-406(6) to add an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).

**Section 13. Effective date.**

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval of the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections take effect on May 12, 2020:

(a) the amendments to Sections 53F-9-304, 53G-7-1202, 53G-7-1205, 53G-10-405, and 53G-10-406; and

(b) the enactment of Section 53G-10-407.

**Section 14. Coordinating H.B. 58 with S.B. 37 -- Substantive and technical amendments.**

If this H.B. 58 and S.B. 37, Electronic Cigarette and Other Nicotine Product Amendments, both pass and become law, the Legislature intends that:

(1) the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Section 53G-1-103 to read:

"As used in this title, "electronic cigarette product" means the same as that term is defined in Section 76-10-101.";

(2) the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Subsections 59-14-807(3) and (4) to read:

"(3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:

(a) \$2,000,000 which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;

(b) \$2,000,000 to the Department of Health for statewide cessation programs and prevention education;

(c) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine

products, and other illegal controlled substances to minors;

(d) \$3,000,000 which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116; and

(e) \$5,084,200 to the State Board of Education for school-based prevention programs.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26-57-103;

(ii) the labeling requirement described in Section 26-57-104; and

(iii) the penalty provisions described in Section 26-62-305.

(b) The Department of Health shall use the money received in accordance with Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26-7-10.

(c) The local health departments shall use the money received in accordance with Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(e) to distribute to local education agencies to pay for:

(i) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(ii) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b)."; and

(3) Item 1 of the appropriation in H.B. 58, Uncodified Section 12, Appropriation, be modified to read:

"ITEM 1

To State Board of Education -  
State Administrative Office

From Electronic Cigarette Substance and Nicotine

Product Tax Restricted Account           \$5,084,200

Schedule of Programs:

Student Support                               \$5,084,200

The Legislature intends that:

(1) the State Board of Education use up to \$4,300,000 of the appropriation under this section to distribute to local education agencies to pay for

stipends for positive behaviors specialists and to administer school-level positive behaviors plans as described in Subsection 53G-10-407(4)(a); and

(2) the State Board of Education use \$784,200 for the cost of qualifying one or more providers as described in Subsection 53G-10-406(6) to add an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).".



**CHAPTER 162****H. B. 66**

Passed March 9, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**WILDLAND FIRE PLANNING  
AND COST RECOVERY AMENDMENTS**

Chief Sponsor: Carl R. Albrecht  
Senate Sponsor: Scott D. Sandall

**LONG TITLE****General Description:**

This bill enacts and modifies provisions relating to wildland fire planning and cost recovery.

**Highlighted Provisions:**

This bill:

- ▶ grants the Public Service Commission rulemaking authority to enact rules establishing procedures for the review and approval of a wildland fire protection plan;
- ▶ requires a qualified utility and an electric cooperative to prepare and submit for approval a wildland fire protection plan;
- ▶ specifies the information that is required to be included in a wildland fire protection plan;
- ▶ requires the Public Service Commission to review and approve a wildland fire protection plan submitted by a qualified utility;
- ▶ provides that a qualified utility may recover, through rates, the capital investments and expenses incurred to implement a wildland fire protection plan;
- ▶ requires a qualified utility to annually report certain capital investments and expenses incurred for the implementation of a wildland fire protection plan to the Public Service Commission;
- ▶ requires a governing authority of an electric cooperative to review and approve a wildland fire protection plan submitted by an electric cooperative;
- ▶ provides that a qualified utility or an electric cooperative with an electrical transmission fire protection plan are not considered to have negligently caused a wildland fire under certain circumstances;
- ▶ modifies the standard of care for a right of action for injuries to trees;
- ▶ specifies the liability provisions that apply for damages arising from a wildland fire; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

65A-3-4, as repealed and reenacted by Laws of Utah 2012, Chapter 361  
78B-6-1002, as renumbered and amended by Laws of Utah 2008, Chapter 3

**ENACTS:**

54-24-101, Utah Code Annotated 1953  
54-24-102, Utah Code Annotated 1953

54-24-103, Utah Code Annotated 1953  
54-24-201, Utah Code Annotated 1953  
54-24-202, Utah Code Annotated 1953  
54-24-203, Utah Code Annotated 1953

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

**Section 1. Section 54-24-101 is enacted to read:**

**CHAPTER 24. WILDLAND FIRE PLANNING  
AND COST RECOVERY ACT**

**Part 1. General Provisions****54-24-101. Title.**

This chapter is known as the "Wildland Fire Planning and Cost Recovery Act."

**Section 2. Section 54-24-102 is enacted to read:**

**54-24-102. Definitions.**

As used in this chapter:

(1) "Electric cooperative" means an electrical corporation that is a:

- (a) distribution electrical cooperative; or
- (b) wholesale electrical cooperative.

(2) "Governing authority" means the same as that term is defined in Section 54-15-102.

(3) "Qualified utility" means the same as that term is defined in Section 54-17-801.

(4) "Wildland fire protection plan" means a plan submitted to the commission or governing authority in accordance with the requirements of this chapter.

**Section 3. Section 54-24-103 is enacted to read:**

**54-24-103. Commission rulemaking authority.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to implement this chapter, including:

(1) rules establishing procedures for the review and approval of a wildland fire protection plan;

(2) rules establishing the procedures for the review and approval of annual expenditures for the implementation of a wildland fire protection plan; and

(3) any other rules that the commission determines are necessary to protect the public interest and implement this chapter.

**Section 4. Section 54-24-201 is enacted to read:**

**Part 2. Wildland Fire Protection Plans**

**54-24-201. Wildland fire protection plan for a qualified utility.**

(1) A qualified utility shall prepare a wildland fire protection plan in accordance with the requirements of this chapter.

(2) A wildland fire protection plan under Subsection (1) shall include:

(a) a description of areas within the service territory of the qualified utility that may be subject to a heightened risk of wildland fire;

(b) a description of the procedures, standards, and time frames that the qualified utility will use to inspect and operate its infrastructure;

(c) a description of the procedures and standards that the qualified utility will use to perform vegetation management;

(d) a description of proposed modifications or upgrades to facilities and preventative programs that the qualified utility will implement to reduce the risk of its electric facilities initiating a wildland fire;

(e) a description of procedures for de-energizing power lines and disabling reclosers to mitigate potential wildland fires taking into consideration:

(i) the ability of the qualified utility to reasonably access the proposed power line to be de-energized;

(ii) the balance of the risk of wildland fire with the need for continued supply of electricity to a community; and

(iii) any potential impact to public safety, first responders, and health and communication infrastructure;

(f) a description of the procedures the qualified utility intends to use to restore its electrical system in the event of a wildland fire;

(g) a description of the costs for the implementation of the plan, including system improvements and upgrades;

(h) a description of community outreach and public awareness efforts before and during a wildland fire season; and

(i) a description of potential participation, if applicable, with state or local wildland fire protection plans.

(3) (a) A qualified utility shall submit the wildland fire protection plan described in this section to the commission:

(i) on or before June 1, 2020; and

(ii) on or before October 1 of every third year after calendar year 2020.

(b) The commission shall:

(i) review the plan submitted under Subsection (3)(a); and

(ii) consider input from:

(A) the State Division of Forestry, Fire, and State Lands created in Section 65A-1-4;

(B) any other appropriate federal, state, or local entity that chooses to provide input; and

(C) other interested persons who choose to provide input.

(c) The commission shall approve a wildland fire protection plan submitted under Subsection (3)(a) if the plan:

(i) is reasonable and in the public interest; and

(ii) appropriately balances the costs of implementing the plan with the risk of a potential wildland fire.

(4) No later than June 1, 2021, and each year after 2021, a qualified utility shall submit to the commission a report detailing the qualified utility's compliance with the qualified utility's wildland fire protection plan.

**Section 5. Section 54-24-202 is enacted to read:**

**54-24-202. Cost recovery for wildland fire protection plan implementation.**

(1) A qualified utility shall recover in rates all prudently incurred investments and expenditures, including the costs of capital, made to implement an approved wildland fire protection plan.

(2) A qualified utility shall file an annual report to the commission identifying the actual capital investments and expenses made in the prior calendar year and a forecast of the capital investments and expenses for the present year to implement a wildland fire protection plan approved by the commission under Section 54-24-201.

(3) The commission shall authorize the deferral and collection of the incremental revenue requirement for the capital investments and expenses:

(a) to implement an approved wildland fire protection plan; and

(b) not included in base rates.

**Section 6. Section 54-24-203 is enacted to read:**

**54-24-203. Wildland fire protection plan for an electric cooperative.**

(1) An electric cooperative shall prepare a wildland fire protection plan in accordance with the requirements of this chapter.

(2) A wildland fire protection plan under Subsection (1) shall include:

(a) a description of areas within the service territory of the electric cooperative that may be subject to a heightened risk of wildland fire;

(b) a description of the procedures, standards, and time frames that the electric cooperative will use to inspect and operate its infrastructure;

(c) a description of the procedures and standards that the electric cooperative will use to perform vegetation management;

(d) a description of proposed modifications or upgrades to facilities and preventative programs

that the electric cooperative will implement to reduce the risk of its electric facilities initiating a wildland fire;

(e) a description of procedures for de-energizing power lines and disabling reclosers to mitigate potential wildland fires, taking into consideration:

(i) the ability of the electric cooperative to reasonably access the proposed power line to be de-energized;

(ii) the balance of the risk of wildland fire with the need for continued supply of electricity to a community; and

(iii) any potential impact to public safety, first responders, and health and communication infrastructure;

(f) a description of the procedures the electric cooperative intends to use to restore its electrical system in the event of a wildland fire; and

(g) a description of potential consultation, if applicable, with state or local wildland fire protection plans.

(3) (a) An electric cooperative shall submit the wildland fire protection plan described in this section to its governing authority:

(i) on or before June 1, 2020; and

(ii) on or before October 1 of every third year after calendar year 2020.

(b) The governing authority shall:

(i) review the plan submitted under Subsection (3)(a); and

(ii) consider input from:

(A) the Division of Forestry, Fire, and State Lands created in Section 65A-1-4;

(B) any other appropriate federal, state, or local entity that chooses to provide input; and

(C) other interested persons who choose to provide input.

(c) The governing authority shall approve a wildland fire protection plan submitted under Subsection (3)(a) if the plan:

(i) is reasonable and in the interest of the electric cooperative members; and

(ii) appropriately balances the costs of implementing the plan with the risk of a potential wildland fire.

(d) An electric cooperative shall file with the commission a wildland fire protection plan submitted and approved under this section.

(4) An electric cooperative shall:

(a) file with its governing authority an annual report detailing the electric cooperative's compliance with the wildland fire protection plan; and

(b) file with the commission a copy of the annual compliance report described in Subsection (4)(a).

(5) The commission shall make available for public inspection:

(a) a wildland fire protection plan filed under Subsection (3)(d); and

(b) an annual compliance report filed under Subsection (4)(b).

**Section 7. Section 65A-3-4 is amended to read:**

**65A-3-4. Liability for causing wildland fires.**

(1) As used in this section:

(a) "Electric cooperative" means the same as that term is defined in Section 54-24-102.

(b) "Electrical transmission wildland fire protection plan" means a wildland fire protection plan, as defined in Section 54-24-102, that is:

(i) prepared and submitted by a qualified utility and approved as provided in Section 54-24-201; or

(ii) prepared and submitted by an electric cooperative and approved as provided in Section 54-24-203.

(c) "Qualified utility" means the same as that term is defined in Section 54-17-801.

~~[(1) A]~~ (2) (a) Except as provided in Subsection (3), a person who negligently, recklessly, or intentionally causes or spreads a wildland fire shall be liable for the cost of suppressing that wildland fire, regardless of whether the fire begins on:

~~[(a)]~~ (i) private land;

~~[(b)]~~ (ii) land owned by the state;

~~[(c)]~~ (iii) federal land; or

~~[(d)]~~ (iv) tribal land.

~~[(2)]~~ (b) The conduct described in Subsection ~~[(1)]~~ (2)(a) includes any negligent, reckless, or intentional conduct, and is not limited to conduct described in Section 65A-3-2.

(3) In an action under this section to recover for property damage resulting from a wildland fire or to recover the cost of fire suppression resulting from a wildland fire, a qualified utility or electric cooperative may not be considered to have negligently caused a wildland fire if:

(a) (i) the electrical transmission wildland fire protection plan of the qualified utility or electric cooperative identifies and addresses the cause of the wildland fire for fire mitigation purposes; and

(ii) at the origin of the wildland fire, the qualified utility or electric cooperative has completed the fire mitigation work identified in the electrical transmission wildland fire protection plan, including:

(A) inspection, maintenance, and repair activities;

(B) modifications or upgrades to facilities or construction of new facilities;

(C) vegetation management work; and

(D) preventative programs; or

(b) (i) the qualified utility or electric cooperative is denied or delayed access to a right-of-way on land owned by the state, a federal agency, or a tribal government after the qualified utility or electric cooperative requests access to the right-of-way to perform vegetation management or fire mitigation work in accordance with an electrical transmission wildland fire protection plan; and

(ii) the electrical transmission wildland fire protection plan identifies and addresses the cause of the wildland fire for fire mitigation purposes.

~~[(3)]~~ (4) A person who incurs costs to suppress a wildland fire may bring an action under this section to recover those costs.

(5) (a) A property owner who suffers damages resulting from a wildland fire may bring an action under this section to recover those damages.

(b) An award for damages to real property resulting from a wildland fire, including the loss of vegetation, shall be the lesser of:

(i) the cost to restore the real property to its pre-wildland fire condition; or

(ii) the difference between:

(A) the fair market value of the real property before the wildland fire; and

(B) the fair market value of the real property after the wildland fire.

~~[(4)]~~ (6) A person who suffers damage from a wildland fire may pursue all other legal remedies in addition to seeking damages under Subsection ~~[(3)]~~ (4) or (5).

**Section 8. Section 78B-6-1002 is amended to read:**

**78B-6-1002. Right of action for injuries to trees -- Damage.**

~~[Any]~~ (1) Except as provided in Subsection (2), any person who, without authority, willfully or intentionally cuts down or carries off any wood or underwood, tree or timber, or girdles or otherwise willfully or intentionally injures any tree or timber on the land of another person, or on the street or highway in front of any person's house, town or city lot, or cultivated grounds, or on the commons or public grounds of any city or town, or on the street or highway in front, without lawful authority, is liable to the owner of such land, or to the city or town, for treble the amount of damages which may be assessed in a civil action.

(2) (a) The provisions of this section do not apply to injuries to a tree or timber on the land of another arising from a wildland fire.

(b) Liability for injuries to a tree or timber on the land of another arising from a wildland fire is determined in accordance with Section 65A-3-4.

**CHAPTER 163****H. B. 67**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**LOCAL EDUCATION AGENCY  
 FINANCIAL INFORMATION SYSTEMS**

Chief Sponsor: Melissa G. Ballard  
 Senate Sponsor: Jacob L. Anderegg

**LONG TITLE****General Description:**

This bill amends provisions related to the Utah school information management system.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the state board to make rules related to requirements for a local education agency (LEA) financial information system;
- ▶ amends requirements for an LEA's data systems;
- ▶ allows the state board to assist an LEA in meeting requirements for a financial management system by:
  - providing funding to the LEA; or
  - procuring a financial management system on behalf of the LEA; and
- ▶ after a certain date, allows the state board to take action against an LEA that does not comply with requirements related to information management systems.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the State Board of Education - State Administrative Office, as an ongoing appropriation:
  - from the Education Fund, \$4,000,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-3-518, as enacted by Laws of Utah 2019, Chapter 83

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

**Section 1. Section 53E-3-518 is amended to read:**

**53E-3-518. Utah school information management system -- Local education agency requirements.**

(1) As used in this section:

(a) "LEA data system" or "LEA's data system" means a data system that:

(i) is developed, selected, or relied upon by an LEA; and

(ii) the LEA uses to collect data or submit data to the state board related to:

(A) student information;

(B) educator information;

(C) financial information; or

(D) other information requested by the state board.

(b) "LEA financial information system" or "LEA's financial information system" means an LEA data system used for financial information.

~~[(b)]~~ (c) "Utah school information management system" or "information management system" means the state board's data collection and reporting system described in this section.

~~[(e)]~~ (d) "User" means an individual who has authorized access to the information management system.

(2) On or before July 1, 2023, the state board shall have in place an information management system that meets the requirements described in this section.

(3) The state board shall ensure that the information management system:

(a) interfaces with an LEA's data systems that meet the requirements described in Subsection ~~[(4)]~~ (6);

(b) serves as the mechanism for the state board to collect and report on all data that LEAs submit to the state board related to:

(i) student information;

(ii) educator information;

(iii) financial information; and

(iv) other information requested by the state board;

(c) includes a web-based user interface through which a user may:

(i) enter data;

(ii) view data; and

(iii) generate customizable reports;

(d) includes a data warehouse and other hardware or software necessary to store or process data submitted by an LEA;

(e) provides for data privacy, including by complying with Title 53E, Chapter 9, Student Privacy and Data Protection;

(f) restricts user access based on each user's role; and

(g) meets requirements related to a student achievement backpack described in Section 53E-3-511.

(4) The state board shall establish the restrictions on user access described in Subsection (3)(f).

(5) (a) The state board shall make rules that establish the required capabilities for an LEA financial information system.

(b) In establishing the required capabilities for an LEA financial information system, the state board

shall consider metrics and capabilities requested by the state treasurer or state auditor.

~~[(45)]~~ (6) (a) On or before July 1, 2023, an LEA shall ensure that:

(i) all of the LEA's data systems:

~~[(4)]~~ (A) meet the data standards established by the state board in accordance with Section 53E-3-501; ~~[and]~~

~~[(4ii)]~~ (B) are fully compatible with the state board's information management system[-]; and

(C) meet specification standards determined by the state board; and

(ii) the LEA's financial information system meets the requirements described in Subsection (5).

(b) An LEA shall ensure that an LEA data system purchased or developed on or after May 14, 2019, will be compatible with the information management system when the information management system is fully operational.

(7) (a) Subject to appropriations and Subsection (7)(b), the state board may use an appropriation under this section to help an LEA meet the requirements in the rules described in Subsection (5) by:

(i) providing to the LEA funding for implementation and sustainment of the LEA financial information system, either through:

(A) awarding a grant to the LEA; or

(B) providing a reimbursement to the LEA; or

(ii) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procuring a financial information system on behalf of an LEA for the LEA to use as the LEA's financial information system.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules describing:

(i) how an LEA may apply to the state board for the assistance described in Subsection (7)(a); and

(ii) criteria for the state board to provide the assistance to an LEA.

(8) (a) Beginning July 1, 2023, the state board may take action against an LEA that is out of compliance with a requirement described in Subsection (6) until the LEA complies with the requirement.

(b) An action described in Subsection (8)(a) may include the state board withholding funds from the LEA.

## Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the

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

### ITEM 1

To State Board of Education -  
State Administrative Office

From Education Fund \$4,000,000

Schedule of Programs:

Statewide Financial Management  
System Grants \$4,000,000

The Legislature intends that the State Board of Education use the appropriation in accordance with uses allowed under Section 53E-3-518 to assist a local education agency in complying with requirements for an LEA financial management system described in Section 53E-3-518.

**CHAPTER 164****H. B. 68**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**APPRENTICESHIP AND WORK-BASED LEARNING AMENDMENTS**

Chief Sponsor: Francis D. Gibson  
 Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill modifies provisions related to the Talent Ready Utah Center, which is part of the Governor's Office of Economic Development.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that the Talent Ready Utah Center may award funding for apprenticeship programs and work-based learning programs, subject to legislative appropriation;
- ▶ describes the entities that may partner to submit a proposal for funding for an apprentice program or work-based learning program;
- ▶ describes the requirements for receiving funding for an apprentice program or work-based learning program;
- ▶ describes the Talent Ready Utah Center's duties and reporting requirements related to administering funding for apprenticeship programs and work-based learning programs; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Governor's Office of Economic Development -- Talent Ready Utah Center, as an ongoing appropriation:
  - from the Education Fund, \$2,000,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63N-12-501, as last amended by Laws of Utah 2019, Chapter 443  
 63N-12-507, as enacted by Laws of Utah 2019, Chapter 427

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

**Section 1. Section 63N-12-501 is amended to read:**

**CHAPTER 12. PROFESSIONAL AND TECHNICAL WORKFORCE DEVELOPMENT PROGRAMS**

**63N-12-501. Definitions.**

As used in this part:

(1) "Apprenticeship program" means a program that combines paid on-the-job learning with formal

classroom instruction to prepare students for careers and that includes:

(a) structured on-the-job learning for students under the supervision of a skilled employee;

(b) classroom instruction for students related to the on-the-job learning;

(c) ongoing student assessments using established competency and skills standards; and

(d) the student receiving an industry-recognized credential or degree upon completion of the program.

(2) "Career and technical education region" means an economic service area created in Section 35A-2-101.

[4] (3) "Center" means the Talent Ready Utah Center created in Section 63N-12-502.

[4] (4) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.

(5) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.

[4] (6) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

[4] (7) "Master plan" means the computer science education master plan described in Section 63N-12-505.

(8) "Participating employer" means an employer that:

(a) partners with an educational institution on a curriculum for an apprenticeship program or work-based learning program; and

(b) provides an apprenticeship or work-based learning program for students.

(9) "Stackable credentials" means a sequence of credentials that:

(a) can be accumulated over time to build up an individual's qualifications for a better job or higher wage;

(b) are part of a career pathway system; and

(c) provide the option of culminating in an associate or bachelor's degree.

[5] (10) "State board" means the State Board of Education.

[6] (11) "Talent ready board" means the Talent Ready Utah Board created in Section 63N-12-503.

(12) "Technical college" means:

(a) a technical college described in Section 53B-2a-105;

(b) the School of Applied Technology at Salt Lake Community College established in Section 53B-16-209;

(c) Utah State University Eastern established in Section 53B-18-1201;

(d) Utah State University Blanding established in Section 53B-18-1202; or

(e) the Snow College Richfield campus established in Section 53B-16-205.

(13) (a) "Work-based learning program" means a program that combines structured and supervised learning activities with authentic work experiences and that is implemented through industry and education partnerships.

(b) "Work-based learning program" includes the following objectives:

(i) providing students an applied workplace experience using knowledge and skills attained in a program of study that includes an internship, externship, or work experience;

(ii) providing an educational institution with objective input from a participating employer regarding the education requirements of the current workforce; and

(iii) providing funding for programs that are associated with high-wage, in-demand, or emerging occupations.

[(7)] (14) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

**Section 2. Section 63N-12-507 is amended to read:**

**63N-12-507. Apprenticeships and work-based learning.**

[(1) The center in collaboration with the talent ready board shall partner with private businesses and the State Board of Education to create a pilot program for apprenticeships that begin in grade 11 and grade 12.]

[(2) The elements of an apprentice program described in this part may include:]

[(a) partnering with private businesses to offer apprentice positions to high school students;]

[(b) the center soliciting participation from businesses in various sectors, such as advanced manufacturing, information technology, financial services, business operations, and health care;]

[(c) the center in partnership with the State Board of Education soliciting the participation of local education agencies and students;]

[(d) students selected for apprentice positions spending part of the students' week learning at school and part of the week learning at a job with a private business;]

[(e) the center in partnership with the State Board of Education collaborating with private businesses to ensure that offered apprenticeships provide career competencies and stackable credentials so that the skills apprentices are developing prepare them for the job market;]

[(f) the center in partnership with the State Board of Education ensuring that apprenticeship training meets competency-based standards described in Section 53E-4-204, such that the apprentices can graduate from high school in the traditional amount of time;]

[(g) the center in partnership with the State Board of Education ensuring that students participating in an apprentice program as described in this section are counted as full-day equivalent pupils of the local education agency the student attends for purposes of state funding;]

[(h) the center providing an intermediary role between the systems of business and education, recruiting students for apprenticeships, and ensuring apprentice work and school schedules are optimized;]

[(i) participating private businesses;]

[(i) paying wages, providing meaningful work experience, and providing nationally-recognized certifications to apprentices; and]

[(ii) offering full-time positions or subsidized higher education opportunities to apprentices after successful completion of apprenticeships; and]

[(j) researching and implementing innovations and best practices from other jurisdictions.]

(1) The center in collaboration with the talent ready board may partner with one or more of the following to facilitate and encourage apprenticeship opportunities and work-based learning opportunities for Utah students:

(a) the state board;

(b) the Utah System of Technical Colleges;

(c) the Utah System of Higher Education; and

(d) a participating employer in the state.

(2) Subject to appropriations from the Legislature and in accordance with the proposal process and other provisions of this section, the talent ready board, with the concurrence of the executive director, may provide funding for approved apprenticeship opportunities and work-based learning opportunities.

(3) To receive funding under this section, an entity described in Subsection (1) seeking to partner with the center shall submit a proposal through the center, in a form approved by the center and in accordance with deadlines determined by the center, that contains the following elements:

(a) the proposal shall include:

(i) a description of the proposed apprenticeship program or work-based learning program that demonstrates the program will be:

(A) responsive to the workforce needs of a high demand industry or occupation; and

(B) a partnership between at least one participating employer and at least one public high school, technical college, or institution of higher education;



- (ii) an estimate of:
- (A) student enrollment in the program;
- (B) what school credit, credentials, certifications, or other workforce attainments will be provided by the program; and
- (C) job-placement rates for students who complete the program;
- (iii) a description of any financial contributions or in-kind contributions that will be provided by each participating employer in the program;
- (iv) if the program would require state board approval under the provisions of Section 53B-16-102, evidence that the state board has approved the program; and
- (v) the amount of funding requested for the program, including justification for the funding; and
- (b) while not required, a preference may be given to a proposal that includes:
- (i) a description of a stackable credentialing pathway for participating students that will be created by the program between at least two of the following:
- (A) a public high school;
- (B) a technical college; and
- (C) an institution of higher education; or
- (ii) the potential for participating students to obtain full-time employment with the participating employer upon completion of the program.
- (4) The talent ready board shall review and prioritize each proposal received and determine whether the proposal should be funded, using the following criteria:
- (a) the quality and completeness of the elements of the proposal described in Subsection (3)(a);
- (b) the quality of the optional elements of the proposal described in Subsection (3)(b);
- (c) to what extent the proposal would expand the capacity to meet state or regional workforce needs; and
- (d) other relevant criteria as determined by the talent ready board.
- (5) A partnership that receives funding under this section:
- (a) shall use the money to accomplish the proposed apprenticeship program or work-based learning program;
- (b) may use the money to offset a participating employer's direct operational costs associated with employing students as part of an approved apprenticeship program or work-based learning program;
- (c) except as provided in Subsection (5)(d), may not use the money for educational administration; and

- (d) may use the money to support one full-time employee within a career and technical education region if:
- (i) each participating local education agency, public high school, technical college, and institution of higher education agree on which entity will house the full-time employee;
- (ii) the full-time employee spends all of the employee's time working exclusively to develop apprentice programs or work-based learning programs; and
- (iii) the full-time employee is responsible for regular reporting to and receiving training from the director of the center.
- (6) The center shall be responsible for the administration of apprenticeship programs and work-based learning programs described in this section, including:
- (a) working with and providing technical assistance to the participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;
- (b) establishing reporting requirements for participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;
- (c) providing outreach and marketing to encourage more employers to participate; and
- (d) annually providing information to GOED regarding the activities, successes, and challenges of the center related to administering apprentice programs and work-based learning programs for inclusion in GOED's annual written report described in Section 63N-1-301, including:
- (i) specific entities that received funding under this section;
- (ii) the amount of funding provided to each entity; and
- (iii) the number of participating students in each apprentice program and work-based learning program.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the center may make rules regarding:
- (a) the method and deadlines for applying for funding under this section;
- (b) the distribution of funding under this section; and
- (c) the reporting requirements of each entity receiving funding under this section.

### **Section 3. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under

the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To Governor's Office of Economic Development -- Talent Ready Utah Center

From Education Fund   \$2,000,000

Schedule of Programs:

Apprenticeship and Work-Based Learning Opportunities Program             \$2,000,000

The Legislature intends that:

(1) the Talent Ready Utah Center expend appropriations under this item to implement the educational purposes of the apprenticeship and work-based learning opportunities program described in Section 63N-12-507;

(2) under Section 63J-1-603, appropriations provided by this item not lapse at the close of fiscal year 2021; and

(3) the Governor's Office of Economic Development and the Talent Ready Utah Center may not use money from this appropriation to pay for administrative support provided by the Governor's Office of Economic Development or the Talent Ready Utah Center related to the apprenticeship and work-based learning opportunities program described in Section 63N-12-507.

**CHAPTER 165****H. B. 73**

Passed March 2, 2020

Approved March 28, 2020

Effective May 12, 2020

**INTERFERENCE WITH PUBLIC  
SERVANTS AMENDMENTS**Chief Sponsor: A. Cory Maloy  
Senate Sponsor: Jacob L. Anderegg**LONG TITLE****General Description:**

This bill clarifies the crimes of interference with public servants and the service of process.

**Highlighted Provisions:**

This bill:

- ▶ clarifies “interference” with the service of process; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-8-301, as last amended by Laws of Utah 2016, Chapter 245

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

**Section 1. Section 76-8-301 is amended to read:****76-8-301. Interference with public servant.**

(1) An individual is guilty of interference with a public servant if the individual:

(a) uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function;

~~[(b) knowingly or intentionally interferes with the lawful service of process by a public servant; or]~~

~~(b) obstructs, hinders, conceals, or prevents the lawful service of any legal process, civil or criminal, by any sheriff, constable, deputy sheriff, deputy constable, peace officer, private investigator, or any other person authorized to serve legal process; or~~

(c) on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:

- (i) freedom of movement;
- (ii) use of the property or facilities; or
- (iii) ~~[ingress to or egress]~~ entry into or exit from the facilities.

(2) Interference with a public servant:

(a) under Subsection (1)(a) or (b) is a class B misdemeanor; and

(b) under Subsection (1)(c) is a class C misdemeanor.

(3) For purposes of this section, “public servant” does not include jurors.

**CHAPTER 166****H. B. 75**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**INITIATIVES AND  
 REFERENDA AMENDMENTS**

Chief Sponsor: Norman K. Thurston  
 Senate Sponsor: Deidre M. Henderson

**LONG TITLE****General Description:**

This bill amends provisions related to initiatives and referenda.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions regarding the publication of certain information related to an individual who signs an initiative or referendum petition;
- ▶ modifies deadlines relating to the statewide referendum process;
- ▶ modifies appeal provisions;
- ▶ provides for a temporary stay, under certain circumstances, of a proposed law to which a referendum petition applies;
- ▶ addresses the effective date of a proposed law approved by the voters;
- ▶ provides that a referendum petition is void if the Legislature repeals the proposed law; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 20A-7-206, as last amended by Laws of Utah 2019, Chapters 210, 217, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 210, and 217
- 20A-7-302, as last amended by Laws of Utah 2019, Chapter 255
- 20A-7-305, as last amended by Laws of Utah 2019, Chapters 210, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 210
- 20A-7-306, as last amended by Laws of Utah 2019, Chapters 210, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 210
- 20A-7-307, as last amended by Laws of Utah 2019, Chapter 210
- 20A-7-310, as last amended by Laws of Utah 2010, Chapter 367
- 20A-7-311, as enacted by Laws of Utah 1994, Chapter 1

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

**Section 1. Section 20A-7-206 is amended to read:**

**20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.**

(1) (a) In order to qualify an initiative petition for placement on the regular general election ballot, the sponsors shall deliver a signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

(ii) 316 days after the day on which the application for the initiative petition is filed; or

(iii) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202.

(b) A sponsor may not submit an initiative packet after the deadline described in Subsection (1)(a).

(2) For an initiative packet received by the county clerk before December 1, the county clerk shall, within 30 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) post the name and voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 90 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(3) For an initiative packet received by the county clerk on or after December 1, the county clerk shall, within 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) post the name and ~~[precinct]~~ voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 45 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(4) Within seven days after timely receipt of a statement described in Subsection 20A-7-205(3), the county clerk shall:

(a) remove the voter's ~~[signature]~~ name and voter identification number from the posting described in Subsection (2)(c) or (3)(c); and

(b) (i) remove the voter's signature from the signature packet totals; and

(ii) inform the lieutenant governor of the removal.

(5) The county clerk may not certify a signature under Subsection (2) or (3):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-205; or

(b) that does not have a date of signature next to the signature.

(6) In order to qualify an initiative petition for submission to the Legislature, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(7) The county clerk may not certify a signature under Subsection (8) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(8) No later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (6):

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; and

(c) deliver all of the verified initiative packets to the lieutenant governor.

(9) The sponsor or a sponsor's representative may not retrieve an initiative packet from a county clerk after the initiative packet is submitted to the county clerk.

**Section 2. Section 20A-7-302 is amended to read:**

**20A-7-302. Referendum process -- Application procedures.**

(1) Persons wishing to circulate a referendum petition shall file an application with the lieutenant governor before 5 p.m. within five calendar days after the ~~end of~~ day on which the legislative session at which the law passed ends.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a certification indicating that each of the sponsors:

(i) is a voter; and

(ii) has voted in a regular general election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public; and

(d) a copy of the law.

**Section 3. Section 20A-7-305 is amended to read:**

**20A-7-305. Obtaining signatures -- Verification -- Removal of signature.**

(1) A Utah voter may sign a referendum petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet; and

(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.

(b) A person may not sign the verification printed on the last page of the referendum packet if the person signed a signature sheet in the referendum packet.

(3) (a) A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 14 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-306(3)(c).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (3)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than 45 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-306(3)(c).

(e) A person may only remove a signature from a referendum petition in accordance with this Subsection (3).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section 20A-7-206.3.

**Section 4. Section 20A-7-306 is amended to read:**

**20A-7-306. Submitting the referendum petition -- Certification of signatures by**

**the county clerks -- Transfer to lieutenant governor.**

(1) (a) The sponsors shall deliver a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 14 days after the day on which the first individual signs the referendum packet; or

(ii) 40 days after the ~~end of~~ day on which the legislative session at which the law passed ends.

(b) A sponsor may not submit a referendum packet after the deadline described in Subsection (1)(a).

(2) (a) No later than 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

(i) check the name of each individual who completes the verification on the last page of each referendum packet to determine whether the individual is a resident of Utah and is at least 18 years old; and

(ii) submit the name of each individual who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3):

(i) on a referendum packet that is not verified in accordance with Section 20A-7-305; or

(ii) that does not have a date of signature next to the signature.

(3) No later than 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-306.3;

(b) certify on the referendum petition whether each name is that of a registered voter;

(c) post the name and voter identification number of each registered voter certified under Subsection (3)(b) in a conspicuous location on the county's website for at least 45 days; and

(d) deliver the verified referendum packet to the lieutenant governor.

~~[(4) Within two business days after timely receipt of a statement described in Subsection 20A-7-305(3), the county clerk shall:]~~

~~[(a) remove the voter's signature from the posting described in Subsection (3)(c); and]~~

~~[(b) inform the lieutenant governor of the removal.]~~

(4) The county clerk shall, after timely receipt of a statement requesting signature removal under Subsection 20A-7-305(3), remove the voter's name and voter identification number from the posting

described in Subsection (3)(c), and notify the lieutenant governor's office of the removal, the earlier of:

(a) within two business days after the day on which the the county clerk timely receives the statement; or

(b) 99 days after the day on which the legislative session at which the law passed ends.

(5) The sponsor or a sponsor's representative may not retrieve a referendum packet from a county clerk after the referendum packet is submitted to the county clerk.

**Section 5. Section 20A-7-307 is amended to read:**

**20A-7-307. Evaluation by the lieutenant governor.**

(1) When a referendum packet is received from a county clerk, the lieutenant governor shall check off from the record the number of the referendum packet received.

(2) (a) The lieutenant governor shall, within ~~[14]~~ seven days after the day on which the lieutenant governor receives a referendum packet from a county clerk:

(i) count the number of the names certified by the county clerks on each verified signature sheet; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(b) The lieutenant governor shall ~~[(i) within one business day after the day on which the lieutenant governor provides the notification described in Subsection 20A-7-306(4)(b);]~~ subtract the number of signatures removed from the number of signatures certified and update the number on the lieutenant governor's website accordingly ~~[- and] no later than the earlier of:~~

(i) one business day after the day on which the county clerk provides the notification described in Subsection 20A-7-306(4); or

(ii) 54 days after the day on which the legislative session at which the law passed ends.

~~[(ii)]~~ (c) The lieutenant governor:

(i) shall, except as provided in Subsection (2)(c)(ii), declare the petition to be sufficient or insufficient ~~[95]~~ 99 days after the end of the legislative session at which the law passed ~~[-]; or~~

(ii) may declare the petition to be insufficient before the day described in Subsection (2)(c)(i) if, after the county clerks have finished certifying all valid signatures on the timely and lawfully submitted signature packets, the lieutenant governor makes the determination described in Subsection (2)(e).

~~[(e)]~~ (d) If the total number of names certified under this Subsection (2) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are

met, the lieutenant governor shall mark upon the front of the petition the word “sufficient.”

~~(d)~~ (e) If the total number of names certified under this Subsection (2) does not equal or exceed the number of names required under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word “insufficient.”

(e) (f) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor’s finding.

~~(f)~~ (g) After a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the ballot.

(3) (a) If the lieutenant governor refuses to accept and file a referendum petition, any voter may, not later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the referendum petition.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall file the referendum petition, with a verified copy of the judgment attached to the referendum petition, as of the date on which the referendum petition was originally offered for filing in the lieutenant governor’s office.

(c) If the court determines that a petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(4) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

**Section 6. Section 20A-7-310 is amended to read:**

**20A-7-310. Return and canvass -- Conflicting measures.**

(1) The votes on the law proposed by the referendum petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes its canvass, the lieutenant governor shall certify to the governor the vote for and against the law proposed by the referendum petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law proposed by a referendum petition; and

(ii) declares those laws proposed by a referendum petition that were approved by majority vote to be in full force and effect as the law of Utah on the effective date described in Section 20A-7-311.

(b) When the governor believes that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, ~~[he]~~ the governor shall proclaim that measure to be law that has received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received.

(4) (a) Within 10 days after the governor’s proclamation, any qualified voter who signed the referendum petition proposing the law that is declared by the governor to be superseded by another measure approved at the same election may apply to the ~~[Supreme Court]~~ appropriate court to review the governor’s decision.

(b) The ~~[Supreme Court]~~ court shall:

(i) consider the matter and decide whether ~~or not~~ the proposed laws are in conflict; and

(ii) ~~[certify its decision to the governor]~~ enter an order consistent with the court’s decision.

(5) Within 10 days after the ~~[Supreme Court certifies its decision]~~ day on which the court enters an order described in Subsection (4)(b)(ii), the governor shall:

(a) proclaim all those measures approved by the people as law that the ~~[Supreme Court has determined]~~ court determines are not in conflict; and

(b) of all those measures approved by the people as law that the ~~[Supreme Court has determined]~~ court determines to be in conflict, proclaim as law the one that ~~[received]~~ receives the greatest number of affirmative votes, regardless of difference in majorities.

**Section 7. Section 20A-7-311 is amended to read:**

**20A-7-311. Temporary stay -- Effective date -- Effect of repeal by Legislature.**

(1) If, at the time during the counting period described in Subsection 20A-7-307(2), the lieutenant governor determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the lieutenant governor shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(2) The temporary stay described in Subsection (1) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the lieutenant governor declares the petition insufficient, five days after the day on which the lieutenant governor declares the petition insufficient; or

(b) if the lieutenant governor declares the petition sufficient, the day on which governor issues the proclamation described in Section 20A-7-310.

~~[(1) (a) Any]~~ (3) A proposed law submitted to the people by referendum petition that is approved by the voters at ~~[any]~~ an election ~~[does not take effect until at least]~~ takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the governor~~[-]~~; or

(b) the effective date specified in the proposed law.

~~[(b) Any act or law submitted to the people by referendum that is approved by the voters at any election takes effect on the date specified in the referendum petition.]~~

~~[(c) If the referendum petition does not specify an effective date, a law approved by the voters at any election takes effect five days after the date of the official proclamation of the vote by the governor.]~~

(4) If, after the lieutenant governor issues a temporary stay order under Subsection (1)(a), the lieutenant governor declares the petition insufficient, the proposed law takes effect the later of:

(a) five days after the day on which the lieutenant governor declares the petition insufficient; or

(b) the effective date specified in the proposed law.

~~[(2)]~~ (5) (a) The governor may not veto a law adopted by the people.

(b) The Legislature may amend any laws approved by the people at any legislative session after the ~~[law has taken effect]~~ people approve the law.

(6) If the Legislature repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.



**CHAPTER 167****H. B. 77**

Passed March 6, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**EDUCATION FUNDING AMENDMENTS**

Chief Sponsor: Norman K. Thurston  
 Senate Sponsor: Deidre M. Henderson

**LONG TITLE****General Description:**

This bill amends provisions regarding public education funding.

**Highlighted Provisions:**

This bill:

- ▶ establishes a limit on the amount of an increase to the value of the weighted pupil unit funded through the weighted pupil unit value tax rate; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-2-301, as last amended by Laws of Utah 2018, Chapters 6, 456 and renumbered and amended by Laws of Utah 2018, Chapter 2  
 53F-2-301.5, as last amended by Laws of Utah 2019, Chapter 408

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

**Section 1. Section 53F-2-301 is amended to read:****53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.**

(1) The provisions of this section are not in effect for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(2) As used in this section:

(a) “Basic levy increment rate” means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(b) “Combined basic rate” means a rate that is the sum of:

- (i) the minimum basic tax rate; and
- (ii) the WPU value rate.

(c) “Commission” means the State Tax Commission.

(d) “Equity pupil tax rate” means the tax rate that will generate an amount of revenue equal to the amount generated by the equity pupil tax rate as defined in Section 53F-2-301.5 in the fiscal year that begins July 1, 2022.

(e) “Minimum basic local amount” means an amount that is:

(i) equal to the sum of:

(A) the school districts’ contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate;

(C) the amount generated by the equity pupil tax rate; and

(D) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) “Minimum basic tax rate” means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) “Weighted pupil unit value” or “WPU value” means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(h) “WPU value amount” means an amount:

(i) that is equal to the product of:

(A) ~~[the total cost to the basic school program to increase the WPU value over]~~ the WPU value ~~[in the immediately preceding fiscal year]~~ increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(i) “WPU value increase limit” means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

~~(j)~~ (j) “WPU value rate” means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2018, is \$408,073,800 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, 2018, is .001498.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, 2018, is \$18,650,000 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, 2018, is .000069.

(5) (a) On or before June 22, the commission shall certify for the year:

- (i) the minimum basic tax rate; and
- (ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) (A) Except as provided in Subsection (6)(b)(ii)(B), the state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(B) For a calendar year that begins on January 1, 2018, the state is not subject to the notice and public hearing requirements of Section 59-2-926 if the state authorizes a combined basic rate that exceeds the tax rates authorized in this section.

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

- (i) the combined basic rate;
- (ii) the basic levy increment rate; and
- (iii) the equity pupil tax rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

(9) After July 1, 2022, but before November 30, 2022, the Public Education Appropriations Subcommittee:

(a) shall review the WPU value rate, the impact of revenues generated by the WPU value rate on public education funding, and whether local school boards should continue to levy the WPU value rate; and

(b) may recommend an increase, repeal, or continuance of the WPU value rate.

**Section 2. Section 53F-2-301.5 is amended to read:**

**53F-2-301.5. Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.**

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

- (i) the rate floor; and
- (ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that is:

- (i) calculated by subtracting the minimum basic tax rate from the rate floor; or
- (ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) "Minimum basic local amount" means an amount that is:

- (i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) “Minimum basic tax rate” means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) “Rate floor” means a rate that is the greater of:

(i) a .0016 tax rate; or

(ii) the minimum basic tax rate.

(h) “Weighted pupil unit value” or “WPU value” means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) “WPU value amount” means an amount that is:

(i) equal to the product of:

(A) ~~[the total cost to the basic school program to increase the WPU value over]~~ the WPU value ~~[in the prior fiscal year]~~ increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) “WPU value increase limit” means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

~~[(j)]~~ (k) “WPU value rate” means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2019, is \$490,684,600 in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, 2019, is .001588.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, 2019, is \$18,800,000 in revenue statewide.

(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, 2019, is .000061.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district’s contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district’s basic school program and the sum of the revenue generated by the school district by the following:

(i) the minimum basic tax rate;

(ii) the basic levy increment rate;

(iii) the equity pupil tax rate; and

(iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

**CHAPTER 168****H. B. 85**

Passed February 14, 2020

Approved March 28, 2020

Effective May 12, 2020

**FEDERAL DESIGNATIONS AMENDMENTS**

Chief Sponsor: Carl R. Albrecht  
Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill addresses federal designations.

**Highlighted Provisions:**

This bill:

- ▶ amends the definitions related to federal designations;
- ▶ addresses the committee to receive notification and request review; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63L-2-301, as enacted by Laws of Utah 2019, Chapter 457

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

**Section 1. Section 63L-2-301 is amended to read:****63L-2-301. Promoting or lobbying for a federal designation within the state.**

- (1) As used in this section:
- (a) "Federal designation" means the designation of a:
- (i) national monument;
  - (ii) national conservation area;
  - (iii) wilderness area or wilderness study area;
  - (iv) area of critical environmental concern;
  - (v) research natural area; or
  - (vi) national recreation area.
- (b) (i) "Governmental entity" means:
- (A) a state-funded institution of higher education or public education;
- (B) a political subdivision of the state;
- (C) an office, agency, board, bureau, committee, department, advisory board, or commission that the government funds or establishes to carry out the public's business, regardless of whether the office, agency board, bureau, committee, department, advisory board, or commission is composed entirely of public officials or employees;

(D) an interlocal entity as defined in Section 11-13-103 or a joint or cooperative undertaking as defined in Section 11-13-103;

(E) a governmental nonprofit corporation as defined in Section 11-13a-102; or

(F) an association as defined in Section 53G-7-1101.

(ii) "Governmental entity" does not mean:

(A) the School and Institutional Trust Lands Administration created in Section 53C-1-201; ~~or~~

(B) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202[-];

(C) the Office of the Governor;

(D) the Governor's Office of Management and Budget created in Section 63J-4-201;

(E) the Public Lands Policy Coordinating Office created in Section 63J-4-602;

(F) the Office of Energy Development created in Section 63M-4-401; or

(G) the Governor's Office of Economic Development created in Section 63N-1-201, including the Office of Tourism and the Utah Office of Outdoor Recreation created in Section 63N-9-104.

(2) (a) A governmental entity, or a person a governmental entity employs and designates as a representative, may investigate the possibility of a federal designation within the state.

(b) A governmental entity that intends to advocate for a federal designation within the state shall:

(i) notify the [~~Natural Resources, Agriculture, and Environment Interim Committee~~] chairs of the following committees before the introduction of federal legislation<sup>[7]</sup>:

(A) the Natural Resources, Agriculture, and Environment Interim Committee, if constituted, and the Federalism Commission; or

(B) if the notice is given during a General Session, the House and Senate Natural Resources, Agriculture, and Environment Standing Committees; and

(ii) [~~and shall~~] upon request of the chairs, meet with the [~~Natural Resources, Agriculture, and Environment Interim Committee~~] relevant committee to review the proposal [~~upon request~~].

(3) This section does not apply to a political subdivision supporting a federal designation if the federal designation:

(a) applies to 5,000 acres or less; and

(b) has an economical or historical benefit to the political subdivision.

**CHAPTER 169****H. B. 86**

Passed March 2, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**ADULT AUTISM TREATMENT PROGRAM**

Chief Sponsor: Craig Hall  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill creates the Adult Autism Treatment Program.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Adult Autism Treatment Program within the Department of Health;
- ▶ describes the operation of the program; and
- ▶ creates the Adult Autism Treatment Account.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-1-7, as last amended by Laws of Utah 2017, Chapter 419

**ENACTS:**

26-67-101, Utah Code Annotated 1953  
 26-67-102, Utah Code Annotated 1953  
 26-67-201, Utah Code Annotated 1953  
 26-67-202, Utah Code Annotated 1953  
 26-67-203, Utah Code Annotated 1953  
 26-67-204, Utah Code Annotated 1953  
 26-67-205, Utah Code Annotated 1953

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

**Section 1. Section 26-1-7 is amended to read:****26-1-7. Committees within department.**

(1) There are created within the department the following committees:

- (a) Health Facility Committee;
- (b) State Emergency Medical Services Committee;
- (c) Air Ambulance Committee;
- (d) Health Data Committee;
- (e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- (f) Residential Child Care Licensing Advisory Committee;
- (g) Child Care Center Licensing Committee; **[and]**
- (h) Primary Care Grant Committee[-]; and

(i) Adult Autism Treatment Program Advisory Committee.

(2) The department shall:

(a) consolidate advisory groups and committees with other committees or advisory groups as appropriate to create greater efficiencies and budgetary savings for the department; and

(b) create in writing, time-limited and subject-limited duties for the advisory groups or committees as necessary to carry out the responsibilities of the department.

**Section 2. Section 26-67-101 is enacted to read:****CHAPTER 67. ADULT AUTISM TREATMENT PROGRAM****Part 1. General Provisions****26-67-101. Title.**

This chapter is known as the "Adult Autism Treatment Program."

**Section 3. Section 26-67-102 is enacted to read:****26-67-102. Definitions.**

As used in this chapter:

(1) "Adult Autism Treatment Account" means the Adult Autism Treatment Account created in Section 26-67-204.

(2) "Advisory committee" means the Adult Autism Treatment Program Advisory Committee created in Section 26-1-7.

(3) "Applied behavior analysis" means the same as that term is defined in Section 31A-22-642.

(4) "Autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.

(5) "Program" means the Adult Autism Treatment Program created in Section 26-67-201.

(6) "Qualified individual" means an individual who:

- (a) is at least 22 years of age;
- (b) is a resident of the state;
- (c) has been diagnosed by a qualified professional as having:
  - (i) an autism spectrum disorder; or
  - (ii) another neurodevelopmental disorder requiring significant supports through treatment using applied behavior analysis; and
  - (d) needs significant supports for a condition described in Subsection (6)(c), as demonstrated by formal assessments of the individual's:
    - (i) cognitive ability;
    - (ii) adaptive ability;
    - (iii) behavior; and
    - (iv) communication ability.

(7) “Qualified provider” means a provider that is qualified under Section 26-67-202 to provide services for the program.

**Section 4. Section 26-67-201 is enacted to read:**

**Part 2. Program**

**26-67-201. Adult Autism Treatment Program -- Creation -- Requirements -- Reporting.**

(1) There is created within the department the Adult Autism Treatment Program.

(2) (a) The program shall be administered by the department in collaboration with the advisory committee.

(b) The program shall be funded only with money from the Adult Autism Treatment Account.

(3) (a) An individual may apply for a grant from the program by submitting to a qualified provider the information specified by the department under Subsection 26-67-204(5).

(b) As funding permits, the department shall award a grant from the program on behalf of an applicant in accordance with criteria established by the department, in collaboration with the advisory committee, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) A grant shall:

(i) be for a specific amount;

(ii) cover a specific period, not to exceed five years; and

(iii) be disbursed incrementally, if appropriate.

(d) The department shall transmit a grant awarded on behalf of an applicant to a qualified provider designated by the applicant.

(4) A qualified provider that receives a grant for the treatment of a qualified individual shall:

(a) use the grant only for treatment of the qualified individual;

(b) submit any reports that are required by the department; and

(c) notify the department within seven days if:

(i) the qualified individual:

(A) has not received treatment from the qualified provider for 10 consecutive days;

(B) is no longer receiving treatment from the qualified provider; or

(C) is no longer a qualified individual; or

(ii) the qualified provider is no longer a qualified provider.

(5) A qualified provider that receives a grant for the treatment of a qualified individual shall refund any amount to the department on a prorated basis for each day that:

(a) the qualified provider is no longer a qualified provider;

(b) the individual is no longer a qualified individual; or

(c) the qualified provider does not provide services to a qualified individual.

**Section 5. Section 26-67-202 is enacted to read:**

**26-67-202. Adult Autism Treatment Program Advisory Committee -- Membership -- Procedures -- Compensation -- Duties -- Expenses.**

(1) The Adult Autism Treatment Advisory Committee created in Section 26-1-7 shall consist of six members appointed by the governor to two-year terms as follows:

(a) one individual who:

(i) has a doctorate degree in psychology;

(ii) is a licensed behavior analyst practicing in the state; and

(iii) has treated adults with an autism spectrum disorder for at least three years;

(b) one individual who is:

(i) employed by the department; and

(ii) has professional experience with the treatment of autism spectrum disorder;

(c) three individuals who have firsthand experience with autism spectrum disorders and the effects, diagnosis, treatment, and rehabilitation of autism spectrum disorders, including:

(i) family members of an adult with an autism spectrum disorder;

(ii) representatives of an association that advocates for adults with an autism spectrum disorder; and

(iii) specialists or professionals who work with adults with an autism spectrum disorder; and

(d) one individual who is:

(i) a health insurance professional;

(ii) holds a Doctor of Medicine or Doctor of Philosophy degree, with professional experience relating to the treatment of autism spectrum disorder; and

(iii) has a knowledge of autism benefits and therapy that are typically covered by the health insurance industry.

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

(b) If a vacancy occurs in the membership of the advisory committee, the governor may appoint a replacement for the unexpired term.

(3) (a) The advisory committee shall annually elect a chair from its membership.

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

(4) The advisory committee shall meet as necessary to:

(a) advise the department regarding implementation of the program;

(b) make recommendations to the department and the Legislature for improving the program; and

(c) before October 1 each year, provide a written report of the advisory committee's activities and recommendations to:

(i) the executive director;

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

(iii) the Social Services Appropriations Subcommittee.

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

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

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

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

(a) Section 63A-3-106;

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

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

(7) (a) The department shall staff the advisory committee.

(b) Expenses of the advisory committee, including the cost of advisory committee staff if approved by the executive director, may be paid only with funds from the Adult Autism Treatment Account.

**Section 6. Section 26-67-203 is enacted to read:**

**26-67-203. Provider qualifications.**

The department shall designate a provider as a qualified provider if the provider:

(1) is able to treat a qualified individual's condition through:

(a) one or more evidence-based treatments, including applied behavior analysis;

(b) individualized, client-centered treatment;

(c) any method that engages the qualified individual's family members in the treatment process; and

(d) measured development of the qualified individual's pre-vocational, vocational, and daily-living skills; and

(2) provides treatment to a qualified individual through:

(a) a behavior analyst licensed under Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act; or

(b) a psychologist who is licensed under Title 58, Chapter 61, Psychologist Licensing Act.

**Section 7. Section 26-67-204 is enacted to read:**

**26-67-204. Department rulemaking.**

The department, in collaboration with the advisory committee, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) specify assessment tools and outcomes that a qualified provider may use to determine the types of supports that a qualified individuals needs;

(2) define evidence-based treatments that a qualified individual may pay for with grant funding;

(3) establish criteria for awarding a grant under this chapter;

(4) specify the information that an individual shall submit to demonstrate that the individual is a qualified individual;

(5) specify the information a provider shall submit to demonstrate that the provider is a qualified provider; and

(6) specify the content and timing of reports required from a qualified provider, including a report on actual and projected treatment outcomes for a qualified individual.

**Section 8. Section 26-67-205 is enacted to read:**

**26-67-205. Adult Autism Treatment Account.**

(1) There is created within the General Fund a restricted account known as the "Adult Autism Treatment Account."

(2) The account consists of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(b) interest earned on money in the account; and

(c) money appropriated to the account by the Legislature.

(3) Money from the fund shall be used only to:

(a) fund grants awarded by the department under Section 26-67-201; and

(b) pay the advisory committee's operating expenses, including the cost of advisory committee staff if approved by the executive director.

(4) The state treasurer shall invest the money in the account in accordance with Title 51, Chapter 7, State Money Management Act.



**CHAPTER 170****H. B. 97**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**NEWBORN SAFE HAVEN AMENDMENTS**

Chief Sponsor: Patrice M. Arent  
 Senate Sponsor: Scott D. Sandall  
 Cosponsors: Cheryl K. Acton  
 Carl R. Albrecht  
 Melissa G. Ballard  
 Stewart E. Barlow  
 Brady Brammer  
 Joel K. Briscoe  
 Walt Brooks  
 Steve R. Christiansen  
 Kay J. Christofferson  
 Kim F. Coleman  
 Jennifer Dailey-Provost  
 Brad M. Daw  
 Susan Duckworth  
 Steve Eliason  
 Craig Hall  
 Stephen G. Handy  
 Suzanne Harrison  
 Sandra Hollins  
 Eric K. Hutchings  
 Dan N. Johnson  
 Marsha Judkins  
 Brian S. King  
 Karen Kwan  
 Kelly B. Miles  
 Carol Spackman Moss  
 Calvin R. Musselman  
 Merrill F. Nelson  
 Lee B. Perry  
 Candice B. Pierucci  
 Stephanie Pitcher  
 Val K. Potter  
 Marie H. Poulson  
 Susan Pulsipher  
 Paul Ray  
 Adam Robertson  
 Angela Romero  
 Douglas V. Sagers  
 Rex P. Shipp  
 Lawanna Shurtliff  
 V. Lowry Snow  
 Robert M. Spendlove  
 Jeffrey D. Stenquist  
 Andrew Stoddard  
 Keven J. Stratton  
 Steve Waldrip  
 Raymond P. Ward  
 Christine F. Watkins  
 Elizabeth Weight  
 Mark A. Wheatley  
 Mike Winder

**LONG TITLE****General Description:**

This bill modifies provisions relating to the safe relinquishment of a newborn child.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of “newborn child”;
- ▶ subject to certain requirements, allows a parent or the parent’s designee to safely relinquish a newborn child within 30 days after the day on which the child is born;
- ▶ clarifies the type of information that must be provided to the Division of Child and Family Services upon safe relinquishment of a newborn child;
- ▶ clarifies provisions relating to searches for a potential father of a newborn child who is safely relinquished and notice that must be provided to the potential father;
- ▶ requires the Department of Health to make rules relating to the resolution of conflicting birth and foundling certificates; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to Department of Health -- Family Health and Preparedness, as an ongoing appropriation:
  - from General Fund, \$50,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 26-2-7, as last amended by Laws of Utah 1995, Chapter 202  
 62A-4a-801, as enacted by Laws of Utah 2001, Chapter 134  
 62A-4a-802, as last amended by Laws of Utah 2008, Chapters 3 and 299

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

**Section 1. Section 26-2-7 is amended to read:****26-2-7. Correction of errors or omissions in vital records -- Conflicting birth and foundling certificates -- Rulemaking.**

[The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules:

- (1) governing applications to correct alleged errors or omissions on any vital record[.]; and
- (2) establishing procedures to resolve conflicting birth and foundling certificates.

**Section 2. Section 62A-4a-801 is amended to read:****62A-4a-801. Definitions.**

As used in this part:

- (1) “Hospital” means a general acute hospital, as that term is defined in Section 26-21-2, that is:
  - (a) equipped with an emergency room;
  - (b) open 24 hours a day, seven days a week; and
  - (c) employs full-time health care professionals who have emergency medical services training.
- (2) “Newborn child” means a child who is approximately [~~72 hours~~] 30 days of age or younger, as determined within a reasonable degree of medical certainty.

**Section 3. Section 62A-4a-802 is amended to read:**

**62A-4a-802. Safe relinquishment of a newborn child.**

(1) (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with the provisions of this part and retain complete anonymity, so long as the newborn child has not been subject to abuse or neglect.

(b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect as defined in Section 78A-6-105, and the newborn child shall not be considered a neglected child, as defined in Section 78A-6-105, so long as the relinquishment is carried out in substantial compliance with the provisions of this part.

(2) (a) Personnel employed by a hospital shall accept a newborn child ~~[that]~~ who is relinquished pursuant to the provisions of this part, and may presume that the ~~[person]~~ individual relinquishing is the newborn child's parent or the parent's designee.

(b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the newborn child.

~~[(c) The division shall provide hospitals with medical history forms and stamped envelopes addressed to the division that a hospital may provide to a person relinquishing a child pursuant to the provisions of this part.]~~

~~(c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.~~

(d) Personnel employed by ~~[a]~~ the hospital shall:

(i) provide any necessary medical care to the newborn child ~~[and]~~;

(ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and

~~[(ii) (iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health.~~

(e) A hospital and personnel employed by a hospital are immune from any civil or criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.

(3) The division shall assume care and custody of the newborn child immediately upon notice from the hospital.

(4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:

(a) the provisions of Part 2, Child Welfare Services;

(b) the investigation provisions contained in Section 62A-4a-409; or

(c) the provisions of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(5) (a) Unless identifying information relating to the nonrelinquishing parent of the newborn child has been provided, the division shall:

~~[(a) (i) [the division shall] work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;~~

~~[(b) (ii) [the division shall] immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after [receipt of] the day on which the child is received, file a petition for termination of parental rights in accordance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act;~~

~~[(e) (iii) [the division shall] direct the Office of Vital Records and Statistics within the Department of Health to conduct a search for:~~

~~(A) a birth certificate for the newborn child; and [an Initiation of Proceedings to Establish Paternity Registry for]~~

~~(B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics [within the Department of Health] in accordance with Title 78B, Chapter 15, Part 4, Registry; and~~

~~(iv) provide notice to each potential father identified on the registry[- Notice of termination of parental rights proceedings shall be provided in the same manner as is utilized for any other termination proceeding in which the identity of the child's parents is unknown;] described in Subsection (5)(a)(iii) in accordance with Title 78B, Chapter 15, Part 4, Registry.~~

~~[(d) (b) (i) [if no person] If no individual has affirmatively identified himself or herself within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled[- and] and notice provided in accordance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights.~~

~~[(e) (ii) [if] If a nonrelinquishing parent is not identified, relinquishment of a newborn child pursuant to the provisions of this part shall be considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 78A-6-507.~~

(6) If at any time prior to the adoption, a court finds it is in the best interest of the newborn child,

the court shall deny the petition for termination of parental rights.

(7) The division shall provide for, or contract with a licensed child-placing agency to provide for expeditious adoption of the newborn child.

(8) So long as the ~~[person]~~ individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with the provisions of this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to that relinquishment.

**Section 4. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning on July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health -- Family Health and Preparedness

<u>From General Fund</u>	<u>\$50,000</u>
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Schedule of Programs:

<u>Maternal and Child Health</u>	<u>\$50,000</u>
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The Legislature intends that the appropriations under this item be used for training and education about the availability and requirements of the safe relinquishment of a newborn child program described in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child.

**CHAPTER 171****H. B. 99**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**ENHANCED  
 KINDERGARTEN AMENDMENTS**

Chief Sponsor: V. Lowry Snow  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill addresses requirements and funding for optional enhanced kindergarten.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions regarding funding for enhanced kindergarten early intervention programs to require assessment outcomes for an LEA to receive continued funding distributions;
- ▶ provides for the reporting of school readiness assessment data in circumstances outside the High Quality School Readiness Grant Program;
- ▶ moves a requirement for kindergarten entry and exit assessments between programs;
- ▶ repeals an expiring kindergarten program; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the State Board of Education - Minimum School Program - Related to Basic School Programs, as an ongoing appropriation:
  - from the Education Fund, \$9,955,000; and
- ▶ to the State Board of Education - MSP Categorical Program Administration, as an ongoing appropriation:
  - from the Education Fund, \$45,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

35A-15-102, as last amended by Laws of Utah 2019, Chapters 136, 186 and renumbered and amended by Laws of Utah 2019, Chapter 342 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 342

53E-4-314, as last amended by Laws of Utah 2019, Chapters 186 and 342

53F-2-507, as last amended by Laws of Utah 2019, Chapter 186

53F-4-406, as last amended by Laws of Utah 2019, Chapters 186 and 342

**REPEALS:**

53F-4-205, as last amended by Laws of Utah 2019, Chapter 186

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

**Section 1. Section 35A-15-102 is amended to read:**

**35A-15-102. Definitions.**

As used in this chapter:

(1) "Board" means the School Readiness Board, created in Section 35A-15-201.

(2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.

(3) "Eligible home-based educational technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.

(4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(b) "Eligible LEA" includes a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) (a) "Eligible private provider" means a child care program that:

(i) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section 26-39-403.

(b) "Eligible private provider" does not include:

(i) residential child care, as defined in Section 26-39-102; or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(6) "Eligible student" means a student:

(a) (i) who is age three, four, or five; and

(ii) is not eligible for enrollment under Subsection 53G-4-402(6); and

(b) (i) (A) who is economically disadvantaged; and

(B) whose parent or legal guardian reports that the student has experienced at least one risk factor; or

(ii) is an English learner.

(7) "Evaluation" means an evaluation conducted in accordance with Section 35A-15-303.

(8) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 35A-15-202.

(9) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 35A-15-402 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) "Kindergarten assessment" means the kindergarten entry assessment described in Section [53F-4-295] 53F-2-507.

(11) “Kindergarten transition plan” means a plan that supports the smooth transition of a preschool student to kindergarten and includes communication and alignment among the preschool, program, parents, and K-12 personnel.

(12) “Local Education Agency” or “LEA” means a school district or charter school.

(13) “Performance outcome measure” means:

(a) indicators, as determined by the board, on the school readiness assessment and the kindergarten assessment; or

(b) for a results-based contract, the indicators included in the contract.

(14) “Results-based contract” means a contract that:

(a) is entered into in accordance with Section 35A-15-402;

(b) includes a performance outcome measure; and

(c) is between the board, a provider of a high quality school readiness program, and an investor.

(15) “Risk factor” means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child’s household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child’s home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child’s home is a language other than English; or

(j) having at least one parent who has not completed high school.

(16) “School readiness assessment” means the same as that term is defined in Section 53E-4-314.

(17) “Tool” means the tool developed in accordance with Section 35A-15-303.

**Section 2. Section 53E-4-314 is amended to read:**

**53E-4-314. School readiness assessment.**

(1) As used in this section:

(a) “School readiness assessment” means a preschool entry and exit profile that measures literacy, numeracy, and lifelong learning practices developed in a student.

(b) “School readiness program” means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.

(2) The state board shall develop a school readiness assessment that aligns with the kindergarten entry and exit assessment described in Section ~~53F-4-205~~ 53F-2-507.

(3) A school readiness program shall:

(a) except as provided in Subsection (4), administer to each student who participates in the school readiness program the school readiness assessment at the beginning and end of the student’s participation in the school readiness program; and

(b) report the results of the assessments described in Subsection (3)(a) or (4) to the School Readiness Board created in Section 35A-15-201.

(4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:

(a) a validated computer adaptive pre-assessment at the beginning of the student’s participation in the school readiness program; and

(b) a validated computer adaptive post-assessment at the end of the student’s participation in the school readiness program.

(5) (a) The following may submit school readiness assessment data to the School Readiness Board created in Section 35A-15-201:

(i) a private child care provider; or

(ii) an LEA on behalf of a school that is not participating in the High Quality School Readiness Grant Program described in Section 35A-15-301.

(b) If a private child care provider or LEA submits school readiness assessment data to the School Readiness Board under Subsection (5)(a), the state board shall include the school readiness assessment data in the report described in Subsection 35A-15-303(5).

**Section 3. Section 53F-2-507 is amended to read:**

**53F-2-507. Enhanced kindergarten early intervention program.**

(1) The state board shall, as described in Subsection (4), distribute funds appropriated under this section for an enhanced kindergarten program

described in Subsection (2), to school districts and charter schools that apply for the funds.

(2) An LEA governing board shall use funds appropriated in this section for a school district or charter school to offer an early intervention program, delivered through an enhanced kindergarten program that:

(a) is an academic program focused on building age-appropriate literacy and numeracy skills;

(b) uses an evidence-based early intervention model;

(c) is targeted to at-risk students; and

(d) is delivered through additional hours or other means.

(3) An LEA governing board may not require a student to participate in an enhanced kindergarten program described in Subsection (2).

(4) [The] Subject to Subsection (6), the state board shall distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2) as follows:

(a) (i) the total allocation for charter schools shall be calculated by:

(A) dividing the number of charter school students by the total number of students in the public education system in the prior school year; and

(B) multiplying the resulting percentage by the total amount of available funds; and

(ii) the amount calculated under Subsection (4)(a) shall be distributed to charter schools with the greatest need for an enhanced kindergarten program, as determined by the state board in consultation with the State Charter School Board;

(b) each school district shall receive the amount calculated by:

(i) multiplying the value of the weighted pupil unit by 0.45; and

(ii) multiplying the result by 20; and

(c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b) are made, shall be distributed to applicant school districts by:

(i) determining the number of students eligible to receive free lunch in the prior school year for each school district; and

(ii) prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

(5) (a) The state board shall:

(i) develop and collect data from kindergarten entry and exit assessments; and

(ii) make rules regarding the administration of and reporting regarding the assessments.

(b) An LEA shall administer the entry and exit assessments described in Subsection (5)(a) to each kindergarten student.

(6) For an LEA that receives funds under Subsection (4):

(a) the LEA shall report to the state board the results of the entry and exit assessments described in Subsection (5)(a) in relation to each kindergarten student in the LEA; and

(b) the LEA is not eligible for subsequent distributions under Subsection (4) unless the results of the entry and exit assessments demonstrate successful outcomes of the LEA's enhanced kindergarten program, as determined by the board.

**Section 4. Section 53F-4-406 is amended to read:**

**53F-4-406. Audit and evaluation.**

(1) The state auditor shall every three years:

(a) conduct an audit of the contractor's use of funds for UPSTART; or

(b) contract with an independent certified public accountant to conduct an audit.

(2) The state board shall:

(a) require by contract that the contractor will open its books and records relating to its expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;

(b) reimburse the state auditor for the actual and necessary costs of the audit; and

(c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program for preschool children.

(3) The evaluator described in Subsection (2)(c) shall use, among other indicators, assessment scores from an assessment described in Section ~~53F-4-205~~ 53F-2-507 to evaluate whether the contractor has effectively prepared preschool children for academic success as described in Section 53F-4-402.

(4) Of the money appropriated by the Legislature for UPSTART, excluding funds used to provide computers, peripheral equipment, and Internet service to families, no more than 7.5% of the appropriation not to exceed \$600,000 may be used for the evaluation and administration of the program.

**Section 5. Repealer.**

This bill repeals:

**Section 53F-4-205, Kindergarten supplemental enrichment program.**

**Section 6. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts

previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

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

From Education Fund \$9,955,000

Schedule of Programs:

<u>Early Intervention</u>	<u>\$9,955,000</u>
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ITEM 2

To State Board of Education - MSP Categorical Program Administration

From Education Fund \$45,000

Schedule of Programs:

<u>High Quality School Readiness Grant Program</u>	<u>\$45,000</u>
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**CHAPTER 172****H. B. 106**

Passed March 11, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**RARE DISEASE ADVISORY COUNCIL**

Chief Sponsor: Lee B. Perry  
Senate Sponsor: Luz Escamilla

**LONG TITLE****General Description:**

This bill creates the Rare Disease Advisory Council within the Department of Health.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates a grant to convene a Rare Disease Advisory Council;
- ▶ describes the composition and duties of the council;
- ▶ establishes a review and sunset date for the grant; and
- ▶ provides an appropriation.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Health - Disease Control and Prevention, as an ongoing appropriation:
  - from the General Fund, \$9,500.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

631-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

26-1-41, Utah Code Annotated 1953

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

**Section 1. Section 26-1-41 is enacted to read:****26-1-41. Rare Disease Advisory Council Grant Program -- Creation -- Reporting.**

(1) As used in this section:

(a) "Council" means the Rare Disease Advisory Council described in Subsection (3).

(b) "Grantee" means the recipient of a grant under this section to operate the program.

(c) "Rare disease" means a disease that affects fewer than 200,000 individuals in the United States.

(2) (a) Within legislative appropriations, the department shall issue a request for proposals for a grant to administer the provisions of this section.

(b) The department may issue a grant under this section if the grantee agrees to:

(i) convene the council in accordance with Subsection (3);

(ii) provide staff and other administrative support to the council; and

(iii) in coordination with the department, report to the Legislature in accordance with Subsection (4).

(3) The Rare Disease Advisory Council convened by the grantee shall:

(a) advise the Legislature and state agencies on providing services and care to individuals with a rare disease;

(b) make recommendations to the Legislature and state agencies on improving access to treatment and services provided to individuals with a rare disease;

(c) identify best practices to improve the care and treatment of individuals in the state with a rare disease;

(d) meet at least two times in each calendar year; and

(e) be composed of members identified by the department, including at least the following individuals:

(i) a representative from the department;

(ii) researchers and physicians who specialize in rare diseases, including at least one representative from the University of Utah;

(iii) two individuals who have a rare disease or are the parent or caregiver of an individual with a rare disease; and

(iv) two representatives from one or more rare disease patient organizations that operate in the state.

(4) Before November 30, 2021, and before November 30 of every odd-numbered year thereafter, the department shall report to the Health and Human Services Interim Committee on:

(a) the activities of the grantee and the council; and

(b) recommendations and best practices regarding the ongoing needs of individuals in the state with a rare disease.

**Section 2. Section 631-1-226 is amended to read:****631-1-226. Repeal dates, Title 26.**

(1) Section 26-1-40 is repealed July 1, 2022.

(2) Section 26-1-41 is repealed July 1, 2026.

[2] (3) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

[3] (4) Section 26-10-11 is repealed July 1, 2020.

[4] (5) Subsection 26-18-417(3) is repealed July 1, 2020.

[5] (6) Subsection 26-18-418(2), the language that states "and the Mental Health Crisis Line



Commission created in Section 63C-18-202” is repealed July 1, 2023.

~~[(6) Section 26-18-419.1 is repealed December 31, 2019.]~~

(7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

(12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

(13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

**Section 3. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health - Disease Control and Prevention

From General Fund, Ongoing \$9,500

Schedule of Programs:

Rare Disease Advisory Council  
Grant Program \$9,500

The Legislature intends that the appropriations provided under this item be used to fund the Rare Disease Advisory Council Grant Program created in Section 26-1-41.

**CHAPTER 173****H. B. 113**

Passed February 25, 2020

Approved March 28, 2020

Effective May 12, 2020

**CONSUMER SALES  
PRACTICES AMENDMENTS**Chief Sponsor: Andrew Stoddard  
Senate Sponsor: Wayne A. Harper**LONG TITLE****General Description:**

This bill enacts provisions in the Utah Consumer Sales Practices Act and the Financial Transaction Card Protection Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits a supplier who is not the financial institution of an account holder from representing that the supplier is the financial institution of the account holder;
- ▶ establishes certain requirements and standards regarding the use of targeted solicitations;
- ▶ provides that a person who offers a targeted solicitation in violation of this bill commits a deceptive act or practice under the Utah Consumer Sales Practices Act, administered and enforced by the Division of Consumer Protection; and
- ▶ permits a person that accepts a financial transaction card for the transaction of business to charge a convenience fee under certain conditions.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

13-11-4.1, Utah Code Annotated 1953

13-38a-401, Utah Code Annotated 1953

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

**Section 1. Section 13-11-4.1 is enacted to read:****13-11-4.1. Targeted solicitations involving financial information -- Restrictions.**

(1) As used in this section:

(a) "Account holder" means a person for whom a personal account is held by a financial institution.

(b) "Financial institution" means:

(i) a state or federally chartered:

(A) bank;

(B) savings and loan association;

(C) savings bank;

(D) industrial bank; or

(E) credit union;

(ii) any other institution under the jurisdiction of the commissioner of Financial Institutions as described in Title 7, Financial Institutions Act; or

(iii) a person who:

(A) is subject to Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; and

(B) engages in the business of residential mortgage loans as defined in Section 61-2c-102.

(c) (i) "Specific account information" means information that is:

(A) relative to the account of an account holder, in addition to the name of the account holder; and

(B) not provided by the financial institution that holds the account holder's account to the person offering a targeted solicitation.

(ii) "Specific account information" includes:

(A) a loan number;

(B) a loan amount; or

(C) any other specific account or loan information.

(d) "Targeted solicitation" means any written or oral advertisement or solicitation for products or services that:

(i) is addressed to an account holder;

(ii) contains specific account information;

(iii) is offered by a supplier that is not sponsored by or affiliated with the financial institution that holds the account holder's account; and

(iv) is not authorized by the financial institution that holds the account holder's account.

(2) (a) A supplier who is not the financial institution of an account holder may not represent, directly or indirectly, that the supplier is the financial institution of the account holder.

(b) If a presiding officer or court determines appropriate after considering other relevant factors, the following actions by a supplier who is not the financial institution of an account holder establish a presumption that the supplier is representing that the supplier is the financial institution of the account holder in violation of Subsection (2)(a):

(i) the use or reference to the name, trade name, or trademark of the financial institution of the account holder, unless the supplier has written authorization from the financial institution;

(ii) the placement of specific account information on the outside of an envelope, visible through the envelope window, or on a postcard, when sending a target solicitation by direct mail; or

(iii) the placement of specific account information in the subject line, when sending a targeted solicitation by email.

(3) (a) A targeted solicitation, if offered in writing, shall include a clear and conspicuous statement in

bold type on the front page of the document containing:

(i) the name, address, and telephone number of the supplier offering the targeted solicitation; and

(ii) a statement indicating that the supplier offering the targeted solicitation is not sponsored by or affiliated with the financial institution that holds the account holder's account.

(b) If the targeted solicitation is offered orally, the supplier offering the targeted solicitation shall verbally communicate the statement described in Subsection (3)(a) at the time the oral solicitation is offered to the account holder.

(4) A supplier who violates this section commits a deceptive act or practice under Subsection 13-11-4(1).

**Section 2. Section 13-38a-401 is enacted to read:**

**Part 4. Convenience Fees**

**13-38a-401. Convenience Fees.**

(1) Subject to Subsection (2), a person that accepts a financial transaction card for the transaction of business may charge a convenience fee for a transaction processed over:

(a) the phone;

(b) text or similar short message service; or

(c) the internet.

(2) Before a person charges a convenience fee as described in Subsection (1), the person shall:

(a) clearly disclose to the payor that the person will charge the payor a convenience fee, in a time and manner that allows the payor to accept or reject the convenience fee;

(b) disclose to the payor the amount of the convenience fee; and

(c) give the payor an alternative payment method option, using a financial transaction card for which a convenience fee does not apply.

**CHAPTER 174****H. B. 114**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**EARLY LEARNING TRAINING  
 AND ASSESSMENT AMENDMENTS**

Chief Sponsor: Steve Waldrip  
 Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill provides programs and assessments to improve early learning in literacy and mathematics.

**Highlighted Provisions:**

This bill:

- ▶ requires the State Board of Education (the state board) to:
  - make rules regarding, and requires local education agencies (LEAs), to establish an early learning plan that includes early literacy and early mathematics components;
  - select a mathematics benchmark assessment that LEAs administer in certain grades;
  - administer a qualifying grant program for professional learning for certain elementary educators; and
  - administer a grant for license applicants taking a certain examination;
- ▶ amends provisions regarding an examination required to obtain a license to teach;
- ▶ requires certain annual reporting; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the State Board of Education - Minimum School Program - Related to Basic School Programs, as an ongoing appropriation:
  - from the Education Fund, \$3,935,000; and
- ▶ to the State Board of Education - MSP Categorical Program Administration, as an ongoing appropriation:
  - from the Education Fund, \$1,065,000.

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476  
 53E-6-301, as last amended by Laws of Utah 2019, Chapter 186  
 53F-2-503, as last amended by Laws of Utah 2019, Chapters 186 and 324  
 63I-1-253, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246, 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

53E-3-521, Utah Code Annotated 1953

53E-4-307.5, Utah Code Annotated 1953  
 53F-5-214, Utah Code Annotated 1953  
 53F-5-215, Utah Code Annotated 1953  
 53G-7-218, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

53F-5-215, Utah Code Annotated 1953

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

**Section 1. Section 53E-1-201 is amended to read:**

**53E-1-201. Reports to and action required of the Education Interim Committee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(b) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(c) the report described in Section 53B-1-103 by the State Board of Regents on career and technical education issues and addressing workforce needs;

(d) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;

(e) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;

(f) the reports described in Section 53B-28-401 by the State Board of Regents and the Utah System of Technical Colleges Board of Trustees regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

~~(4m)~~ (n) the report described in Section 53F-5-405 by an independent evaluator of a

partnership that receives a grant to improve educational outcomes for students who are low income; and

~~(n)~~ (o) the report described in Section 63N-12-208 by the STEM Action Center Board, including the information described in Section 63N-12-213 on the status of the computer science initiative and Section 63N-12-214 on the Computing Partnerships Grants Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(l) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations

related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

**Section 2. Section 53E-3-521 is enacted to read:**

**53E-3-521. Requirements for early mathematics plan.**

The state board shall make rules to:

(1) define the components of the early mathematics plan that a local school board or charter school governing board is required to submit under Section 53G-7-218 for mathematics proficiency improvement, including the following four categories:

(a) conceptual understanding;

(b) procedural fluency;

(c) strategic and adaptive mathematical thinking; and

(d) productive disposition; and

(2) establish a state-wide target using data from the mathematics benchmark assessment, described in Section 53E-4-307.5, for local growth goals described in Section 53G-7-218 regarding mathematics.

**Section 3. Section 53E-4-307.5 is enacted to read:**

**53E-4-307.5. Mathematics benchmark assessment.**

(1) As used in this section, “early mathematics benchmark assessment” or “benchmark assessment” means a standardized assessment to measure the acquisition of mathematics skills in kindergarten and grades 1 through 3 that includes predictive indicators of academic achievement based on measures of early mathematics, computation, and problem solving.

(2) The state board shall approve a benchmark assessment for use statewide by LEAs to assess the mathematics competency of students in kindergarten and grades 1 through 3.

(3) An LEA shall:

(a) administer benchmark assessments to students at the beginning, middle, and end of the school year using the mathematics benchmark assessment in:

(i) kindergarten, as an optional assessment; and

(ii) grades 1 through 3, as a required assessment; and

(b) after administering a benchmark assessment described in Subsection (3)(a) to a student, report the results to the student’s parent.

(4) In making the approval described in Subsection (2), the state board shall:

(a) prioritize the assessment's reliability, validity, speed, and efficiency; and

(b) ensure the mathematics benchmark assessment's ability to:

(i) identify students who may be at risk for mathematics difficulties; and

(ii) measure students' progress through data.

**Section 4. Section 53E-6-301 is amended to read:**

**53E-6-301. Qualifications of applicants for licenses -- Changes in qualifications.**

(1) As used in this section "literacy preparation assessment" means an examination that addresses the science of reading, related to literacy instruction for an individual who teaches preschool, elementary school, or special education.

~~(1)~~ (2) The state board shall establish by rule the scholarship, training, and experience required of license applicants.

~~(2)~~ (3) (a) The state board shall announce any increase in the requirements when made.

(b) An increase in requirements shall become effective not less than one year from the date of the announcement.

~~(3)~~ (4) The state board may determine by examination or otherwise the qualifications of license applicants.

(5) If the state board uses an examination under Subsection (4) that is a literacy preparation assessment:

(a) the state board shall make rules to allow an LEA to hire a license applicant who does not successfully pass the literacy preparation assessment for a limited duration pending successful passage; and

(b) the license applicant is not eligible for a professional educator license described in Section 53E-6-201 until the license applicant successfully passes the literacy preparation assessment.

**Section 5. Section 53F-2-503 is amended to read:**

**53F-2-503. Early Literacy Program -- Literacy proficiency plan.**

(1) As used in this section:

(a) "Program" means the Early Literacy Program.

(b) "Program money" means:

(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The Early Literacy Program consists of program money and is created to supplement other school resources for early literacy.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the Early Literacy Program.

(4) ~~(a)~~ An LEA governing board of a school district or a charter school that serves students in any of grades kindergarten through grade 3 shall submit, in accordance with Section 53G-7-218, a plan to the state board for literacy proficiency improvement that incorporates the following components:

~~(i)~~ (a) core instruction in:

~~(A)~~ (i) phonological awareness;

~~(B)~~ (ii) phonics;

~~(C)~~ (iii) fluency;

~~(D)~~ (iv) comprehension;

~~(E)~~ (v) vocabulary;

~~(F)~~ (vi) oral language; and

~~(G)~~ (vii) writing;

~~(ii)~~ (b) intervention strategies that are aligned to student needs;

~~(iii)~~ (c) professional development for classroom teachers, literacy coaches, and interventionists in kindergarten through grade 3;

~~(iv)~~ (d) assessments that support adjustments to core and intervention instruction;

~~(v)~~ (e) a growth goal for the school district or charter school that:

~~(A)~~ (i) is based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and

~~(B)~~ (ii) includes a target of at least 60% of all students in grades 1 through 3 meeting the growth goal;

~~(vi)~~ (f) at least ~~two goals that are~~ one goal that is specific to the school district or charter school that:

~~(A)~~ (i) ~~are~~ is measurable;

~~(B)~~ (ii) ~~address~~ addresses current performance gaps in student literacy based on data; and

~~(C)~~ (iii) ~~include~~ includes specific strategies for improving outcomes; and

~~(vii)~~ (g) if a school uses interactive literacy software, the use of interactive literacy software, including early interactive reading software described in Section 53F-4-203.

~~(b) An LEA governing board shall approve a plan described in Subsection (4)(a) in a public meeting before submitting the plan to the state board.]~~

~~(c) The state board shall provide model plans that an LEA governing board may use, or an LEA~~

~~governing board may develop the LEA governing board's own plan.]~~

~~[(d) A plan developed by an LEA governing board shall be approved by the state board.]~~

~~[(e) The state board shall develop uniform standards for acceptable growth goals that an LEA governing board adopts for a school district or charter school as described in this Subsection (4).]~~

(5) (a) There are created within the Early Literacy Program three funding programs:

- (i) the Base Level Program;
- (ii) the Guarantee Program; and
- (iii) the Low Income Students Program.

(b) The state board may use up to \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the state board for the Early Literacy Program and not used by the state board for computer-assisted instructional learning and assessments described in Subsection (5)(b) shall be allocated to the three funding programs as follows:

- (a) 8% to the Base Level Program;
- (b) 46% to the Guarantee Program; and
- (c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the LEA governing board shall submit a plan described in Subsection (4) and shall receive approval of the plan from the state board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the charter school governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade 3; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade 3.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds may choose to first participate in the Guarantee Program or the Low Income Students Program.

(b) A school district shall fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The state board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the state board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the state board the information the state board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 multiplied by the school district's total WPUs and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the elementary charter school's total WPUs.

(c) The state board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the state board for computer-assisted instructional learning and assessments.

(10) The state board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) An LEA governing board shall use program money for early literacy interventions and supports in kindergarten through grade 3 that have proven to significantly increase the percentage of students who are proficient in literacy, including:

(i) evidence-based intervention curriculum;

(ii) literacy assessments that identify student learning needs and monitor learning progress; or

(iii) focused literacy interventions that may include:

(A) the use of reading specialists or paraprofessionals;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) An LEA governing board may use program money for portable technology devices used to administer literacy assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) An LEA governing board shall annually submit a report to the state board accounting for the expenditure of program money in accordance with the LEA governing board's plan described in Subsection (4).

(b) If an LEA governing board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the state board for the amount of program money improperly used, up to the amount of program money received from the state board.

(14) (a) The state board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each LEA governing board to annually report progress in meeting goals described in Subsections ~~[(4)(a)(v) and (vi)]~~ (4)(e) and (f), including the strategies the school district or charter school uses to address the goals.

(ii) If a school district or charter school does not meet or exceed the school district's or charter school's goals described in ~~[Subsection (4)(a)(v) or (vi)]~~ Subsections (4)(e) or (f), the LEA governing board shall prepare a new plan that corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the state board before the LEA governing board receives an allocation for the next year.

~~[(15) (a) The state board shall:]~~

~~[(i) develop strategies to provide support for a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi); and]~~

~~[(ii) provide increasing levels of support to a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi) for two consecutive years.]~~

~~[(b) (i) The state board shall use a digital reporting platform to provide information to school~~

~~districts and charter schools about interventions that increase proficiency in literacy.]~~

~~[(ii) The digital reporting platform shall include performance information for a school district or charter school on the goals described in Subsections (4)(a)(v) and (vi).]~~

~~[(16)] (15) The state board may use up to 3% of the funds appropriated by the Legislature to carry out the provisions of this section for administration of the program.~~

~~[(17)] (16) The state board shall make an annual report in accordance with Section 53E-1-203 that:~~

(a) includes information on:

(i) student learning gains in early literacy for the past school year and the five-year trend;

(ii) the percentage of grade 3 students who are proficient in English language arts in the past school year and the five-year trend;

(iii) the progress of school districts and charter schools in meeting goals described in a plan described in Subsection (4)~~[(a)]~~; and

(iv) the specific strategies or interventions used by school districts or charter schools that have significantly improved early grade literacy proficiency; and

(b) may include recommendations on how to increase the percentage of grade 3 students who are proficient in English language arts, including how to use a strategy or intervention described in Subsection ~~[(17)]~~ (16)(a)(iv) to improve literacy proficiency for additional students.

~~[(18)] (17) The report described in Subsection [(17)] (16) shall include information provided through the digital reporting platform described in Subsection [(15)(b)] 53G-7-218(5)(a).~~

## **Section 6. Section 53F-5-214 is enacted to read:**

### **53F-5-214. Grant for professional learning.**

(1) Subject to legislative appropriations, the state board shall award grants to LEAs to provide teachers in pre-kindergarten, kindergarten, and grades 1 through 3 with professional learning opportunities in early literacy and mathematics.

(2) The state board shall award a grant described in this section to an LEA that submits to the state board a completed application, as provided by the state board, that includes a description of the evidence-based, based on assessment data, professional learning opportunities the LEA will provide that are:

(a) aligned with the professional learning standards described in Section 53G-11-303; and

(b) targeted to attaining the local and state early learning goals described in Section 53G-7-218.

(3) An LEA that receives a grant described in this section shall use the grant for the purposes described in Subsection (2).



(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish:

(a) required elements of the professional learning opportunities described in Subsection (2); and

(b) a formula to determine an LEA's grant amount under this section.

(5) The state board shall annually report to the Education Interim Committee on or before the November interim committee meeting regarding the administration and outcomes of the grant described in this section.

**Section 7. Section 53F-5-215 is enacted to read:**

**53F-5-215. Elementary teacher preparation assessment grant.**

(1) As used in this section:

(a) "License" means a license that:

(i) is described in Section 53E-6-102; and

(ii) qualifies an individual to teach elementary school.

(b) "Literacy preparation assessment" means the same as that term is defined in Section 53E-6-301.

(2) Beginning September 1, 2021, subject to legislative appropriations, the state board shall award grants to institutions of higher education for the cost of the initial attempt of the preparation assessment for license applicants graduating from the institution during the year relevant to the grant.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules to establish the license, type of license, or license concentration eligible for the grant described in this section.

(4) An institution of higher education may apply for a grant described in this section by submitting to the state board an application, as provided by the state board, including an estimate of the number and names of prospective license applicants expected to graduate in the year relevant to the grant application.

(5) Notwithstanding Subsections (2) and (4), beginning July 1, 2020, and ending August 31, 2021, the state board may award grants under this section to institutions of higher education to pilot test a literacy preparation assessment.

(6) The state board shall annually report to the Education Interim Committee on or before the November interim committee meeting regarding the administration and outcomes of the grant described in this section.

**Section 8. Section 53G-7-218 is enacted to read:**

**53G-7-218. Establishment of early learning plan -- Digital reporting platform.**

(1) A local school board of a school district or a charter school governing board of a charter school that serves students in any of kindergarten or grades 1 through 3 shall annually submit to the state board an early learning plan that includes:

(a) the early literacy plan described in Section 53F-2-503, including:

(i) the growth goal described in Subsection 53F-2-503(4)(e); and

(ii) one goal that is specific to the school district or charter school as described in Subsection 53F-2-503(4)(f);

(b) the early mathematics plan described in Section 53E-3-521, including:

(i) a growth goal for the school district or charter school that:

(A) is based upon student learning gains as measured by the mathematics benchmark assessment described in Section 53E-4-307.5; and

(B) includes the target that the state board establishes under Section 53E-3-521; and

(ii) one goal that:

(A) is specific to the school district or charter school;

(B) is measurable;

(C) addresses current performance gaps in student mathematics proficiency based on data; and

(D) includes specific strategies for improving outcomes; and

(c) one additional goal related to literacy or mathematics that:

(i) is specific to the school district or charter school;

(ii) is measurable;

(iii) addresses current performance gaps in student literacy or mathematics proficiency based on data; and

(iv) includes specific strategies for improving outcomes.

(2) A local school board or charter school governing board shall approve a plan described in Subsection (1) in a public meeting before submitting the plan to the state board.

(3) (a) The state board shall:

(i) provide model plans that a local school board or a charter school governing board may use;

(ii) develop uniform standards for acceptable growth goals that a local school board or a charter school governing board adopts for a school district or charter school under this section; and

(iii) review and approve or disapprove a plan submitted under this section.

(b) Notwithstanding Subsection (3)(a), a local school board or a charter school governing board may develop the board's own plan.

(4) The state board shall:

(a) develop strategies to provide support for a school district or charter school that fails to meet:

(i) (A) the growth goal related to the state literacy target described in Subsection (1)(a)(i); or

(B) the growth goal related to the state mathematics target described in Subsection (1)(b)(i); and

(ii) one of the goals specific to the school district or charter school described in Subsections (1)(a)(ii), (1)(b)(ii), or (1)(c); and

(b) provide increasing levels of support to a school district or charter school that fails to meet the combination of goals described in Subsection (4)(a) for two consecutive years.

(5) (a) The state board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy and mathematics.

(b) The digital reporting platform described in Subsection (5)(a) shall include performance information for a school district or charter school on the goals described in Subsection (1).

**Section 9. Section 63I-1-253 is amended to read:**

**63I-1-253. Repeal dates, Titles 53 through 53G.**

The following provisions are repealed on the following dates:

(1) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2022.

(2) Subsection 53-13-104(6), regarding being 19 years old at certification, is repealed July 1, 2022.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language that states "by a standards review committee and the recommendations of a standards review

committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

(a) Subsection 53B-17-1201(1) is repealed;

(b) Section 53B-17-1203 is repealed;

(c) Subsection 53B-17-1204(2) is repealed;

(d) Subsection 53B-17-1204(4)(a), the language that states "in accordance with the method described in Subsection (4)(c)" is repealed; and

(e) Subsection 53B-17-1204(4)(c) is repealed.

(11) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(12) Section 53F-5-215, in relation to an elementary teacher preparation grant is repealed July 1, 2025.

~~(11)~~ (13) Section 53F-2-514 is repealed July 1, 2020.

~~(12)~~ (14) Section 53F-5-203 is repealed July 1, 2024.

~~(13)~~ (15) Section 53F-5-212 is repealed July 1, 2024.

~~(14)~~ (16) Section 53F-5-213 is repealed July 1, 2023.

~~(15)~~ (17) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~(16)~~ (18) Section 53F-6-201 is repealed July 1, 2019.

~~(17)~~ (19) Section 53F-9-501 is repealed January 1, 2023.

~~(18)~~ (20) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

~~(19)~~ (21) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2020.

**Section 10. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ITEM 1**

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

From Education Fund	\$3,935,000
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**Schedule of Programs:**

Grants for Professional Learning	\$3,935,000
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The Legislature intends that the State Board of Education use money appropriated under this item for the grant program described in Section 53F-5-214.

ITEM 2

To State Board of Education - MSP Categorical Program Administration

From Education Fund \$1,065,000

Schedule of Programs:

Early Learning Training and Assessment Program \$1,065,000

The Legislature intends that the State Board of Education use funds appropriated under this item for:

(1) an early mathematics benchmark assessment in accordance with Section 53E-4-307.5;

(2) elementary teacher preparation assessment grants in accordance with Section 53F-5-215;

(3) math performance goals in the state board's early literacy digital platform;

(4) a digital reporting platform in accordance with Section 53G-7-218; and

(5) staff to:

(a) administer grants described in Section 53F-5-214; and

(b) support local early learning plans.

**Section 11. Coordinating H.B. 114 with S.B. 79 -- Superseding substantive amendments.**

If this H.B. 114 and S.B. 79, Regional Education Service Agencies, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by changing all references in Section 53F-2-215 "regional service center" to "regional education service agency".

**CHAPTER 175****H. B. 116**

Passed March 3, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020  
 Exception clause

**MURDERED AND MISSING INDIGENOUS WOMEN AND GIRLS TASK FORCE**

Chief Sponsor: Angela Romero  
 Senate Sponsor: David P. Hinkins  
 Cosponsors: Patrice M. Arent  
 Joel K. Briscoe  
 Jennifer Dailey-Provost  
 Suzanne Harrison  
 Sandra Hollins  
 Brian S. King  
 Karen Kwan  
 Phil Lyman  
 Carol Spackman Moss  
 Stephanie Pitcher  
 Marie H. Poulson  
 Douglas V. Sagers  
 Rex P. Shipp  
 Andrew Stoddard  
 Keven J. Stratton  
 Elizabeth Weight  
 Mark A. Wheatley  
 Mike Winder

**LONG TITLE****General Description:**

This bill creates the Murdered and Missing Indigenous Women and Girls Task Force.

**Highlighted Provisions:**

This bill:

- ▶ creates the task force; and
- ▶ specifies duties of the task force.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Legislature - Senate as a one-time appropriation:
  - from the General Fund, \$3,200;
- ▶ to the Legislature - House of Representatives as a one-time appropriation:
  - from the General Fund, \$3,200;
- ▶ to the Legislature - Office of Legislative Research and General Counsel as a one-time appropriation:
  - from the General Fund, \$2,800.

**Other Special Clauses:**

This bill provides a repeal date.

**Utah Code Sections Affected:****ENACTS:**

36-29-107, Utah Code Annotated 1953

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

**Section 1. Section 36-29-107 is enacted to read:**

**36-29-107. Murdered and Missing Indigenous Women and Girls Task Force -- Creation -- Membership -- Quorum --**

**Compensation -- Staff -- Vacancies -- Duties -- Interim Report.**

(1) As used in this section, "task force" means the Murdered and Missing Indigenous Women and Girls Task Force created in Subsection (2).

(2) There is created a Murdered and Missing Indigenous Women and Girls Task Force consisting of the following nine members:

(a) one member of the Senate appointed by the president of the Senate;

(b) one member of the House of Representatives appointed by the speaker of the House of Representatives;

(c) the following three members, appointed jointly by the president of the Senate and the speaker of the House of Representatives:

(i) a member of a nonprofit organization primarily serving Utah's Native American community;

(ii) a representative of a Utah Native American tribe; and

(iii) a representative of a victim advocate organization serving Utah's Native American population;

(d) the director of the Division of Indian Affairs, or the director's designee;

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

(f) the attorney general, or the attorney general's designee; and

(g) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee.

(3) A vacancy in a position appointed under Subsection (2)(a), (b), or (c) shall be filled by appointing a replacement member in the same manner as the member creating the vacancy was appointed under Subsection (2)(a), (b), or (c).

(4) (a) The senator appointed under Subsection (2)(a) is a cochair of the task force.

(b) The member of the House of Representatives appointed under Subsection (2)(b) is a cochair of the task force.

(5) (a) A quorum consists of five members.

(b) The action of a majority of a quorum constitutes an action of the task force.

(6) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation or benefits for the member's service associated with the task force; and

(ii) may receive per diem and travel expenses incurred as a member of the task force at the rates established by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(8) The task force shall:

(a) conduct appropriate consultations with tribal governments on the scope and nature of the issues regarding missing and murdered indigenous women and girls;

(b) develop model protocols and procedures to apply to new and unsolved cases of missing or murdered indigenous women and girls, including the best practices for:

(i) improving the way law enforcement investigators and prosecutors respond to the high volume of the cases, and to the investigative challenges that might be presented in cases involving female victims;

(ii) collecting and sharing data among various jurisdictions and law enforcement agencies; and

(iii) better use of existing criminal databases;

(c) seek input from multi-disciplinary and multi-jurisdictional persons, including representatives from tribal law enforcement and federal agencies, about how to review cold cases involving missing and murdered indigenous women and girls; and

(d) address the need for greater clarity concerning roles, authorities, and jurisdiction throughout the lifecycle of cases involving missing and murdered indigenous women and girls by discussing:

(i) best practices in cases involving missing and murdered indigenous women and girls, including best practices related to communication with affected families from initiation of an investigation through case resolution or closure; and

(ii) education and outreach campaigns for communities that are most affected by crime resulting in missing and murdered indigenous women and girls to identify and reduce the crime.

(9) (a) On or before November 30, 2020, the task force shall provide a report to the Law Enforcement and Criminal Justice Interim Committee.

(b) The report shall include a summary of the task force's findings under Subsection (8) and recommendations for improvements in the criminal justice and social service systems for preventing and addressing crimes involving missing and murdered indigenous women and girls in Utah.

**Section 2. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending

June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Senate

From General Fund, One-time \$3,200

Schedule of Programs:

Administration \$3,200

ITEM 2

To Legislature - House of Representatives

From General Fund, One-time \$3,200

Schedule of Programs:

Administration \$3,200

ITEM 3

To Legislature - Office of Legislative Research and General Counsel

From General Fund, One-time \$2,800

Schedule of Programs:

Administration \$2,800

The Legislature intends that an appropriation provided under these items be used for expenses relating to the Murdered and Missing Indigenous Women and Girls Task Force as described in Section 36-29-107.

**Section 3. Repeal date.**

Section 36-29-107 is repealed on November 30, 2020.

**CHAPTER 176****H. B. 137**

Passed February 14, 2020

Approved March 28, 2020

Effective May 12, 2020

**CHILD PLACEMENT  
BACKGROUND CHECK LIMITS**

Chief Sponsor: Christine F. Watkins

Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill modifies provisions relating to background checks performed and licenses issued by the Office of Licensing within the Department of Human Services.

**Highlighted Provisions:**

This bill:

- ▶ under certain circumstances, prohibits the Office of Licensing from denying a license based on certain criminal convictions that are older than 10 years;
- ▶ modifies the time frame within which the Office of Licensing is required to notify the Bureau of Criminal Identification of the status of a license;
- ▶ modifies the circumstances under which the Office of Licensing is required to conduct a comprehensive review of an applicant's background check; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

62A-2-120, as last amended by Laws of Utah 2019, Chapter 335

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

**Section 1. Section 62A-2-120 is amended to read:****62A-2-120. Background check -- Direct access to children or vulnerable adults.**

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and resides in a

home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years of age or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) a background check at the applicant's annual renewal;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant spent time outside

of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant spent outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 78A-6-323; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the

submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau [~~when the license has expired or~~] within 90 days after the day on which the license expires or the day on which the individual's direct access to a child or a vulnerable adult [~~has ceased~~] ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the office employees responsible for processing the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a program under this section that serves children, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) ~~a conviction for~~ a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has a conviction for any felony offense, not described in Subsection (5)(a), regardless of the date of the conviction;

(ii) has a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within ~~five~~ three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 78A-6-323;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years of age; or

(B) 28 years of age or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a); or

(ix) has a pending charge for an offense described in Subsection (5)(a).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;



(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical or mental harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) any other pertinent information.

(c) [A~~t~~] Except as provided in Subsection (15), at the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (13).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) Upon receiving the results of the criminal history search of national criminal background databases, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 78A-6-323; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor; and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have supervised or unsupervised direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give written notice to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of [its] the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section,

if the background check of an applicant is being conducted for the purpose of licensing a prospective foster home or approving a prospective adoptive placement of a child in state custody, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a license or a license renewal to a prospective foster parent or a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

(15) (a) Notwithstanding Subsection (6) and except as provided in Subsection (15)(b), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 years before the day on which the applicant submitted the information required under Subsection (2)(a) if the applicant has not committed another misdemeanor or felony offense since the day on which the conviction occurred.

(b) Subsection (15)(a) does not apply to an offense described in Subsection (14)(c).

## CHAPTER 177

## H. B. 139

Passed March 5, 2020  
Approved March 28, 2020  
Effective July 1, 2020

## DUI LIABILITY AMENDMENTS

Chief Sponsor: Steve Eliason  
Senate Sponsor: Curtis S. Bramble

## LONG TITLE

**General Description:**

This bill amends various provisions related to driving under the influence.

**Highlighted Provisions:**

This bill:

- ▶ criminalizes a person's refusal to submit to a chemical test for alcohol or drugs related to suspicion of driving under the influence of alcohol or drugs in certain circumstances;
- ▶ provides penalties for a person's refusal to submit to a chemical test for alcohol or drugs related to suspicion of driving under the influence of alcohol or drugs;
- ▶ clarifies that driving under the influence is a strict liability offense;
- ▶ clarifies provisions related to driving in the wrong direction while driving under the influence;
- ▶ clarifies that the determination whether an individual is in actual physical control of a vehicle includes consideration of the totality of the circumstances, and creates a safe harbor provision related to that determination; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 41-6a-501, as last amended by Laws of Utah 2018, Chapter 52  
41-6a-502, as last amended by Laws of Utah 2017, Chapter 283  
41-6a-503, as last amended by Laws of Utah 2018, Chapter 138  
41-6a-509, as last amended by Laws of Utah 2017, Chapter 446  
41-6a-518.2, as last amended by Laws of Utah 2019, Chapter 271  
41-6a-520, as last amended by Laws of Utah 2019, Chapters 77 and 349  
41-6a-529, as last amended by Laws of Utah 2018, Chapter 52  
53-3-220, as last amended by Laws of Utah 2018, Chapters 121 and 133  
53-3-223, as last amended by Laws of Utah 2019, Chapter 77  
53-3-231, as last amended by Laws of Utah 2019, Chapter 77  
77-40-105 (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448

**ENACTS:**

- 41-6a-521.1, Utah Code Annotated 1953

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

**Section 1. Section 41-6a-501 is amended to read:****41-6a-501. Definitions.**

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

~~[(a)]~~ (b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections ~~[(1)(a)(i)(A)]~~ (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

~~[(b)]~~ (c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Utah Judicial Council according to standards established by the Judicial Council.

~~[(e)]~~ (d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) any substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

~~[(d)]~~ (e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

~~[(e)]~~ (f) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

~~[(f)]~~ (g) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

~~[(g)]~~ (h) “Screening” means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

~~[(h)]~~ (i) “Serious bodily injury” means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

~~[(i)]~~ (j) “Substance abuse treatment” means treatment obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

~~[(j)]~~ (k) “Substance abuse treatment program” means a state licensed substance abuse program.

~~[(k)]~~ (l) (i) “Vehicle” or “motor vehicle” means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) “Vehicle” or “motor vehicle” includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Section 41-6a-503:

(a) “Conviction” means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under:

(I) Section 41-6a-512; and

(II) Section 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) automobile homicide under Section 76-5-207;

(vi) Subsection 58-37-8(2)(g);

(vii) a violation described in Subsections (2)(a)(i) through (vi), which judgment of conviction is reduced under Section 76-3-402; ~~or~~

(viii) refusal of a chemical test under Subsection 41-6a-520(7); or

~~[(viii)]~~ (ix) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through ~~[(viii)]~~ (ix) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under:

(A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(B) automobile homicide under Section 76-5-207; and

(ii) expungement under Title 77, Chapter 40, Utah Expungement Act.

(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

(i) this part; and

(ii) automobile homicide under Section 76-5-207.

**Section 2. Section 41-6a-502 is amended to read:**

**41-6a-502. Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.**

(1) A person may not operate or be in actual physical control of a vehicle within this state if the person:

(a) has sufficient alcohol in the person’s body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or

(c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.

(2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

(3) A violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6a-510.

(4) Beginning on July 1, 2012, a court shall, monthly, send to the Division of Occupational and Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving under the influence, in whole or in part, of a prescribed controlled substance.

(5) An offense described in this section is a strict liability offense.

(6) A guilty or no contest plea to an offense described in this section may not be held in abeyance.

**Section 3. Section 41-6a-503 is amended to read:**

**41-6a-503. Penalties for driving under the influence violations.**

(1) A person who violates for the first or second time Section 41-6a-502 is guilty of a:

- (a) class B misdemeanor; or
- (b) class A misdemeanor if the person:

(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(ii) had a passenger under 16 years of age in the vehicle at the time of the offense;

(iii) was 21 years of age or older and had a passenger under 18 years of age in the vehicle at the time of the offense; or

(iv) at the time of the violation of Section 41-6a-502, also violated Section 41-6a-712 or 41-6a-714.

(2) A person who violates Section 41-6a-502 is guilty of a third degree felony if:

(a) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(b) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(i) the current conviction under Section 41-6a-502; or

(ii) the commission of the offense upon which the current conviction is based; or

(c) the conviction under Section 41-6a-502 is at any time after a conviction of:

(i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;

(ii) a felony violation of Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or

(iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of conviction is reduced under Section 76-3-402.

(3) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of Section 76-5-207 whether or not the injuries arise from the same episode of driving.

**Section 4. Section 41-6a-509 is amended to read:**

**41-6a-509. Driver license suspension or revocation for a driving under the influence violation.**

(1) The Driver License Division shall, if the person is 21 years of age or older at the time of arrest:

(a) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 [~~of an offense committed on or after July 1, 2009~~]; or

(b) revoke for a period of two years the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current [~~driving under the influence~~] violation under Section 41-6a-502 is committed[; (A)] within a period of 10 years from the date of the prior violation[; and].

[~~(B) on or after July 1, 2009.~~]

(2) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age or for a period of one year, whichever is longer, if the person is convicted for the first time of a [~~driving under the influence~~] violation under Section 41-6a-502 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a [~~driving under the influence~~] violation under Section 41-6a-502 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current [~~driving under the influence~~] violation under Section 41-6a-502 is committed [~~on or after July 1, 2009, and~~] within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current [~~driving under the influence~~] violation under Section 41-6a-502 is committed [~~on or after July 1, 2009, and~~] within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age if the person is convicted for the first time of a [~~driving under the influence~~] violation under Section 41-6a-502 [~~of an offense that was committed on or after July 1, 2009~~];

(b) deny the person's application for a license or learner's permit until the person is 21 years of age if the person:

(i) is convicted for the first time of a [~~driving under the influence~~] violation under Section 41-6a-502 [~~of an offense committed on or after July 1, 2009~~]; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current [~~driving under the influence~~] violation under Section 41-6a-502 is committed [~~on or after July 1, 2009, and~~] within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current [~~driving under the influence~~] violation under Section 41-6a-502 is committed [~~on or after July 1, 2009, and~~] within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection [~~(10)~~] (9).

~~[(5) The Driver License Division shall:]~~

~~[(a) deny, suspend, or revoke the operator's license of a person convicted under Section 41-6a-502 of an offense that was committed prior~~

~~to July 1, 2009, for the denial, suspension, or revocation periods in effect prior to July 1, 2009; or]~~

~~[(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:]~~

~~[(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and]~~

~~[(ii) the conviction under Section 41-6a-502 is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.]~~

~~[(6)] (5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.~~

~~[(7)] (6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:~~

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

~~[(8)] (7) A court that reported a conviction of a violation of Section 41-6a-502 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:~~

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection ~~[(8)]~~ (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection ~~[(8)]~~ (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection ~~[(8)]~~ (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has

not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

~~[(9)]~~ (8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection ~~[(8)]~~ (7), the court shall forward the order shortening the person's suspension period prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

~~[(10)]~~ (9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection ~~[(49)]~~ (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502.

(b) If the court suspends or revokes the person's license under this Subsection ~~[(49)]~~ (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

~~[(11)]~~ (10) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

(E) hours of work in a compensatory-service work program; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification described in Subsection ~~[(11)]~~ (10)(a), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

~~[(12)]~~ (11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension period imposed under Subsection (1) before completion of the suspension period if the person is participating in or has successfully completed a

24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection ~~[(12)]~~ (11), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection ~~[(12)]~~ (11)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

**Section 5. Section 41-6a-518.2 is amended to read:**

**41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.**

(1) As used in this section:

(a) "Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

(b) (i) "Interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a ~~[driving under the influence]~~ violation under Section 41-6a-502 ~~[that was committed on or after July 1, 2009]~~ or Subsection 41-6a-520(7);

(C) (I) within the last three years has been convicted of an offense ~~[that occurred after May 1, 2006]~~ which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520~~[, which refusal occurred after May 1, 2006]~~;

(F) within the last three years has been convicted of a violation of Section 41-6a-502 or Subsection 41-6a-520(7) and was under the age of 21 at the time the offense was committed;



(G) within the last six years has been convicted of a felony violation of Section 41-6a-502 or Subsection 41-6a-520(7) for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of automobile homicide under Section 76-5-207 for an offense that occurred after May 1, 2006.

(ii) "Interlock restricted driver" does not include a person:

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol; or

(C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (7).

(2) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

(3) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(4) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

(5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (5)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection (5)(a) was in the scope of the interlock restricted driver's employment.

(6) The affirmative defense described in Subsection (5) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

(7) (a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.

(b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.

**Section 6. Section 41-6a-520 is amended to read:**

**41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.**

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or

administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in criminal prosecution, revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b) (i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4) (a) The person to be tested may, at the person's own expense, have a physician or a physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

(7) A person is guilty of refusing a chemical test if a peace officer has issued the warning required in Subsection (2)(a) and the person refuses to submit to a test of the person's blood under Subsection (1) after a court has issued a warrant to draw and test the blood.

(8) A person who violates Subsection (7) is guilty of:

(a) a third degree felony if:

(i) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based; or

(ii) the conviction is at any time after a conviction of:

(A) automobile homicide under Section 76-5-207;

(B) a felony violation of this section or Section 41-6a-502; or

(C) any conviction described in Subsection (8)(a)(ii) which judgment of conviction is reduced under Section 76-3-402; or

(b) a class B misdemeanor if none of the circumstances in Subsection (8)(a) applies.

(9) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction as defined by Subsection 41-6a-501(2), with the following modifications:

(a) any jail sentence shall be 24 consecutive hours more than would be required under Section 41-6a-505;

(b) any fine imposed shall be \$100 more than would be required under Section 41-6a-505; and

(c) the court shall order one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

(10) (a) The offense of refusal to submit to a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

(b) A guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

**Section 7. Section 41-6a-521.1 is enacted to read:**

**41-6a-521.1. Driver license denial or revocation for a criminal conviction for a refusal to submit to a chemical test violation.**

(1) The Driver License Division shall, if the person is 21 years of age or older at the time of arrest:

(a) revoke for a period of 18 months the operator's license of a person convicted for the first time under Subsection 41-6a-520(7); or

(b) revoke for a period of 36 months the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is under 21 years of age at the time of arrest:

(a) revoke the person's driver license until the person is 21 years of age or for a period of two years, whichever is longer; or

(b) revoke the person's driver license until the person is 21 years of age or for a period of 36 months, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation; or

(c) if the person has not been issued an operator license:

(i) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of two years, whichever is longer; or

(ii) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of 36 months, whichever is longer, if:

(A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(B) the current refusal to submit to a chemical test violation under Subsection 41-6a-520(7) is committed within a period of 10 years from the date of the prior violation.

(3) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (5).

(4) The Driver License Division shall subtract from any revocation period the number of days for which a license was previously revoked under Section 53-3-221 if the previous revocation was based on the same occurrence upon which the record of conviction under Subsection 41-6a-520(7) is based.

(5) (a) (i) In addition to any other penalties provided in this section, a court may order the driver license of a person who is convicted of a violation of Subsection 41-6a-520(7) to be revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional revocation period provided in this Subsection (5) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Subsection 41-6a-520(7).

(b) If the court suspends or revokes the person's license under this Subsection (5), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(6) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

(E) hours of work in a compensatory-service work program; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification described in Subsection (6)(a), the Driver License Division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

**Section 8. Section 41-6a-529 is amended to read:**

**41-6a-529. Definitions -- Alcohol restricted drivers.**

(1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a person who:

(a) within the last two years:

(i) has been convicted of:

(A) a misdemeanor violation of Section 41-6a-502;

(B) alcohol, any drug, or a combination of both-related reckless driving under Section 41-6a-512;

(C) impaired driving under Section 41-6a-502.5;

(D) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving adopted in compliance with Section 41-6a-510;

(E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of conviction is reduced under Section 76-3-402; or

(F) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815; or

(ii) has had the person's driving privilege suspended under Section 53-3-223 for an alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

(b) within the last three years has been convicted of a violation of this section or Section 41-6a-518.2;

(c) within the last five years:

(i) has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred on or after July 1, 2005; [œ]

(ii) has been convicted of a misdemeanor conviction for refusal to submit to a chemical test under Subsection 41-6a-520(7); or

[œ] (iii) has been convicted of a class A misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008;

(d) within the last 10 years:

(i) has been convicted of an offense described in Subsection (1)(a)(i) which offense was committed within 10 years of the commission of a prior offense described in Subsection (1)(a)(i) for which the person was convicted; [œ]

(ii) has been convicted of a felony violation of refusal to submit to a chemical test under Subsection 41-6a-520(7); or

[œ] (iii) has had the person's driving privilege revoked for refusal to submit to a chemical test and the refusal is within 10 years after:

(A) a prior refusal to submit to a chemical test under Section 41-6a-520; or

(B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not based on the same arrest as the refusal;

(e) at any time has been convicted of:

(i) automobile homicide under Section 76-5-207 for an offense that occurred on or after July 1, 2005; or

(ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July 1, 2005;

(f) at the time of operation of a vehicle is under 21 years of age; or

(g) is a novice learner driver.

(2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

**Section 9. Section 53-3-220 is amended to read:**

**53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.**

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; [øF]

(xvii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time[.]; or

(xviii) refusal of a chemical test under Subsection 41-6a-520(7).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately

suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile

Court Act of 1996, for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

**Section 10. Section 53-3-223 is amended to read:**

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

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

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

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

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

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

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

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

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

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

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

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

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

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

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

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

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

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

(iii) the test results, if any.

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

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

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

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

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

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

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

(i) if the person is 21 years of age or older at the time of arrest [~~and the arrest was made on or after~~

July 1, 2009], suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

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

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

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

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

(I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

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

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

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

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

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

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

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

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

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

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

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

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

(iii) If a person's license is reinstated under this Subsection (7)(e)(b), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

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

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

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

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

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

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

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

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

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

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

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

~~[(G) other written documentation acceptable to the division.]~~



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

~~[(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).]~~

~~[(9) (8) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.~~

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

~~[(40) (9) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.~~

(b) If a person's license is reinstated under Subsection ~~[(40) (9)(a)~~, the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

**Section 11. Section 53-3-231 is amended to read:**

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

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

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

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

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

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

(b) A person who violates Subsection (2)(a), in addition to any other applicable penalties arising out of the incident, shall have the person's operator license denied or suspended as provided in Subsection (7).

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

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

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

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the operator, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) the test results, if any.

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

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

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

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

(a) deny the person's license until the person complies with Subsection ~~[(41)]~~ (10)(b)(i) but for a period of not less than six months beginning on the 45th day after the date of arrest for a first offense under Subsection (2)(a) ~~[committed on or after May 14, 2013];~~

(b) suspend the person's license until the person complies with Subsection ~~[(41)]~~ (10)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent offense under Subsection (2)(a) ~~[committed on or after July 1, 2009, and]~~ within 10 years of a prior denial or suspension;

(c) deny the person's application for a license or learner's permit until the person complies with Subsection ~~[(41)]~~ (10)(b)(i) but for a period of not less than six months beginning on the 45th day after the date of the arrest, if:

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

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

(d) deny the person's application for a license or learner's permit until the person complies with

Subsection ~~[(41)]~~ (10)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of the arrest, if:

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

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

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

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

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

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

~~[(8) (a) Notwithstanding the provisions in Subsection (7)(e)(iii), the division shall shorten a person's one-year license suspension or denial period that is currently in effect to a six-month suspension or denial period if:]~~

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

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

~~[(iii) the suspension or denial under Subsection (7)(e)(iii) was based on the same occurrence upon which the following written verifications are based:]~~

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

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

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

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

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

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

~~[(G) other written documentation acceptable to the division.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division~~

~~may make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period under this Subsection (8).]~~

~~[(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).]~~

~~[(9)] (8) (a) (i) Following denial or suspension the division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.~~

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

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

~~[(10)] (9) After reinstatement of an operator license for a first offense under this section, a report authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the person's operator license under this section if the person has not been convicted of any other offense for which the denial or suspension may be extended.~~

~~[(11)] (10) (a) In addition to the penalties in Subsection [(9)] (8), a person who violates Subsection (2)(a) shall:~~

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

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

(b) (i) Reinstatement of the person's operator license or the right to obtain an operator license within five years of the effective date of the license sanction under Subsection (7) is contingent upon successful completion of the action recommended by the local substance abuse authority or the substance abuse program.

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

(A) a targeted education and prevention program;

(B) an early intervention program; or

(C) a substance abuse treatment program.

(iii) Successful completion of the recommended action shall be determined by standards

established by the Division of Substance Abuse and Mental Health.

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

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

(i) conducting the assessments;

(ii) making appropriate recommendations for action; and

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

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

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

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

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

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

(B) The costs and fees under Subsection ~~[(11)] (10)(e)(iii)(A)~~ shall be based on a sliding scale consistent with the local substance abuse authority's policies and practices regarding fees for services or determined by the substance abuse program.

**Section 12. Section 77-40-105 (Effective 05/01/20) is amended to read:**

**77-40-105 (Effective 05/01/20).**

**Requirements to apply for a certificate of eligibility to expunge conviction.**

(1) An individual convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) An individual is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) felony automobile homicide;

(v) a felony ~~[violation of]~~ conviction described in Subsection 41-6a-501(2);

(vi) a registerable sex offense as defined in Subsection 77-41-102(17); or

(vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

(4) The bureau may not count pending or previous infractions, traffic offenses, or minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or minor regulatory offenses, when determining expungement eligibility.

(5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection (8):

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include

two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(7) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (5) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.

(8) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (5) shall be increased by one.

(9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

### **Section 13. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 178****H. B. 157**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**WINE SERVICES AND AMENDMENTS**

Chief Sponsor: Michael K. McKell  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends the Alcoholic Beverage Control Act to establish a wine subscription program.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the Department of Alcoholic Beverage Control (department) to establish and administer a wine subscription program in which:
  - the department purchases a wine subscription on behalf of an individual;
  - an individual pays to the department the cost of the wine subscription plus, in addition to any tax or fee, an established markup;
  - wine purchased through the wine subscription program is shipped or transported to a department warehouse;
  - the department ships or transports wine purchased through the wine subscription program to a state store or package agency; and
  - an individual collects the wine from a state store or package agency;
- ▶ permits the department to charge a fee to cover costs of administering the wine subscription program;
- ▶ grants the commission rulemaking authority;
- ▶ removes the requirement that a person moving the person's residence into the state obtain department approval before bringing liquor for personal consumption into the state;
- ▶ removes the requirement that a person who inherits liquor that is located outside the state obtain department approval before bringing the liquor into the state; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

32B-2-304, as last amended by Laws of Utah 2019, Chapter 403  
 32B-4-414, as enacted by Laws of Utah 2010, Chapter 276

**ENACTS:**

32B-2-701, Utah Code Annotated 1953  
 32B-2-702, Utah Code Annotated 1953  
 32B-2-703, Utah Code Annotated 1953

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

**Section 1. Section 32B-2-304 is amended to read:****32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

(2) Except as provided in [Subsection] Subsections (3) and (4):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.

(4) Wine the department purchases on behalf of a subscriber through the wine subscription program established in Section 32B-2-702 shall be marked up not less than 88% above the cost of the subscription for the interval in which the wine is purchased.

[4] (5) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53E-3-510.

[4] (6) This section does not prohibit the department from selling discontinued items at a discount.

**Section 2. Section 32B-2-701 is enacted to read:**

**32B-2-701. Definitions.**

As used in this part:

(1) "Subscriber" means an individual who subscribes to a wine subscription as described in Subsection 32B-2-702(2).

(2) "Subscription program" means the wine subscription program established in Section 32B-2-702.

(3) "Wine subscription" means an arrangement in which a customer pays a recurring price at regular intervals for a product that involves the shipment or transportation of wine.

(4) "Wine subscription business" means a person that:

(a) sells or offers for sale a wine subscription; and

(b) contracts with the department to participate in the subscription program.

**Section 3. Section 32B-2-702 is enacted to read:**

**32B-2-702. Wine subscription program.**

(1) The department shall establish and administer a wine subscription program as described in this part.

(2) The subscription program shall permit an individual to subscribe to a wine subscription that a wine subscription business sells or offers for sale by:

(a) enrolling in the wine subscription program in a manner the department prescribes;

(b) authorizing the department to purchase the wine subscription in the individual's name;

(c) paying the department, in a manner the department prescribes:

(i) the price of the wine subscription;

(ii) in addition to any tax, the markup described in Subsection 32B-2-304(4); and

(iii) a fee the department charges in accordance with Subsection 32B-2-703(1); and

(d) designating the state store or package agency at which the individual would prefer to collect the wine.

(3) The department shall:

(a) designate by contract with a wine subscription business the department warehouse to which the wine subscription business ships or transports wine under the subscription program;

(b) deliver wine purchased through the subscription program to the appropriate state store or package agency; and

(c) notify a subscriber when wine purchased through the subscription program is ready for the subscriber to collect from the state store or package agency described in Subsection (3)(b).

**Section 4. Section 32B-2-703 is enacted to read:**

**32B-2-703. Fees -- Rulemaking.**

(1) The department may charge a fee as part of the subscription program:

(a) in accordance with Section 63J-1-504; and

(b) to cover costs to the department for administering the subscription program.

(2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of this part, including rules designating which package agencies may receive from the department wines that are purchased through the subscription program.

**Section 5. Section 32B-4-414 is amended to read:**

**32B-4-414. Unlawful possession -- Exceptions.**

~~[(1)]~~ A person may not possess liquor within this state unless authorized by this title or the rules of the commission, except that:

~~[(a)]~~ (1) a person who clears United States Customs when entering this country may possess for personal consumption and not for sale or resale, a maximum of ~~[two]~~ nine liters of liquor purchased from without the United States;

(2) a person who enters this state may possess for personal consumption and not for sale or resale, a maximum of nine liters of liquor purchased from without the state;

~~[(b)]~~ (3) a person who moves the person's residence to this state from outside of this state may possess for personal consumption and not for sale or resale, liquor previously purchased outside the state and brought into this state during the move~~[-if the person: (i) obtains department approval before moving the liquor into the state; and (ii) pays the department a reasonable administrative handling fee as determined by the commission];~~

~~[(c)]~~ (4) a person who inherits liquor as a beneficiary of an estate that is located outside the state, may possess the liquor and transport or cause the liquor to be transported into the state if the person~~[- (i) obtains department approval before moving the liquor into the state; (ii)]~~ provides sufficient documentation to the department to establish the person's legal right to the liquor as a beneficiary; ~~[and (iii)-(b)]~~ pays the department a reasonable administrative handling fee as determined by the commission;] or

~~[(d)]~~ (5) a person may transport or possess liquor if:

(a) the person transports or possesses the liquor:

~~[(A)]~~ (i) for personal household use and consumption; and

~~[(B)]~~ (ii) not for:

~~[(1)]~~ (A) sale;

~~[(11)]~~ (B) resale;

~~[(111)]~~ (C) gifting to another; or

~~[(1111)]~~ (D) consumption on premises licensed by the commission;

~~[(11111)]~~ (b) the liquor is purchased from a store or facility on a military installation; and

~~[(111111)]~~ (c) the maximum amount the person transports or possesses under this Subsection ~~[(1)(d)]~~ (5) is:

~~[(1A)]~~ (i) two liters of:

~~[(11)]~~ (A) spirituous liquor;

~~[(111)]~~ (B) wine; or

~~[(1111)]~~ (C) a combination of spirituous liquor and wine; and

~~[(11111)]~~ (ii) (A) one case of heavy beer that does not exceed 288 ounces; or

~~[(111)]~~ (B) one case of a flavored malt beverage that does not exceed 288 ounces.

~~[(2) (a)]~~ Approval under Subsection (1)(b) may be obtained by a person who:

~~[(i)]~~ is transferring the person's permanent residence to this state; or]

~~[(ii)]~~ maintains separate residences both in and out of this state.]

~~[(b)]~~ A person may not obtain approval to transfer liquor under Subsection (1)(b) more than one time.]

**CHAPTER 179****H. B. 163**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**CULTURAL STEWARDSHIP AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes  
 Senate Sponsor: Scott D. Sandall  
 Cosponsors: Cheryl K. Acton  
 Carl R. Albrecht  
 Stewart E. Barlow  
 Joel K. Briscoe  
 Steve R. Christiansen  
 Jennifer Dailey-Provost  
 Steve Eliason  
 Stephen G. Handy  
 Karianne Lisonbee  
 Phil Lyman  
 Michael K. McKell  
 Kelly B. Miles  
 Jefferson Moss  
 Merrill F. Nelson  
 Lee B. Perry  
 Candice B. Pierucci  
 Val K. Potter  
 Tim Quinn  
 Angela Romero  
 Douglas V. Sagers  
 Rex P. Shipp  
 V. Lowry Snow  
 Robert M. Spendlove  
 Jeffrey D. Stenquist  
 Christine F. Watkins  
 Elizabeth Weight

**LONG TITLE****General Description:**

This bill creates the Cultural Site Stewardship Program.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Cultural Site Stewardship Program (stewardship program) within the Division of State History (division);
- ▶ describes stewardship program objectives and activities; and
- ▶ grants rulemaking authority to the division.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

9-8-208, Utah Code Annotated 1953

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

**Section 1. Section 9-8-208 is enacted to read:****9-8-208. Cultural Site Stewardship Program -- Definitions -- Creation -- Objectives -- Administration -- Activities.**

(1) As used in this section:

(a) (i) “Cultural site” means a significant archaeological or paleontological site in the state as determined by the division.

(ii) “Cultural site” may include a:

(A) site as defined in Section 9-8-302; and

(B) site as defined in Section 79-3-102.

(b) “Stewardship program” means the Cultural Site Stewardship Program created in this section.

(c) “Vandalism” means to damage, destroy, or commit any other act that defaces or harms a cultural site without the consent of the owner or appropriate governmental agency, including inscribing, marking, etching, scratching, drawing, painting on, or affixing to the cultural resource a mark, figure, or design.

(2) There is created within the division the Cultural Site Stewardship Program.

(3) The division shall seek to accomplish the following objectives through administration of the stewardship program:

(a) protect cultural sites located in the state;

(b) increase public awareness of the significance and value of cultural sites and the damage done to cultural sites by vandalism;

(c) discourage vandalism and the unlawful sale and trade of archaeological artifacts and paleontological artifacts;

(d) support and encourage improved standards for investigating and researching cultural sites in the state;

(e) promote cooperation among governmental agencies, private landowners, Native American tribes, industry groups, and interested persons to protect cultural sites; and

(f) increase the inventory of cultural sites maintained in accordance with Subsections 9-8-304(2)(b) and 79-3-202(1)(m).

(4) The division shall:

(a) maintain a position to oversee the operation of the stewardship program; and

(b) provide administrative services to the stewardship program.

(5) The division shall select, train, and certify volunteers to participate in the stewardship program, based on rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) To accomplish the stewardship program’s objectives, the division shall:



(a) enter into agreements with the entities described in Subsection (3)(e) to promote the protection of cultural sites;

(b) establish a list of cultural sites suitable for monitoring, in cooperation with the entities described in Subsection (3)(e);

(c) schedule periodic monitoring activities by volunteers of each cultural site included on the list described in Subsection (6)(b), after obtaining approval of the landowner or manager;

(d) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for reporting vandalism of a cultural site to the appropriate authority; and

(e) establish programs for educating members of the public about the significance and value of cultural sites and the loss to members of the public resulting from vandalism of cultural sites.

(7) The division shall coordinate the activities of governmental agencies, private landowners, and Native American tribes, as necessary, to carry out the stewardship program.

(8) A volunteer participating in the stewardship program may not receive compensation, benefits, per diem allowance, or travel expenses for the volunteer's service.

(9) The division may accept gifts, grants, donations, or contributions from any source to assist the division in the administration of the stewardship program.

(10) Nothing in this section may be construed to alter or affect the division's duties under Section 9-8-404.

**CHAPTER 180****H. B. 173**

Passed March 5, 2020

Approved March 28, 2020

Effective May 12, 2020

(Exception clause in Section 3)

**FIREFIGHTER  
RETIREMENT AMENDMENTS**

Chief Sponsor: Casey Snider

Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement eligibility provisions for firefighters.

**Highlighted Provisions:**

This bill:

- ▶ provides that a person employed as a firefighter service employee on or after July 1, 2021, by the state as a participating employer is eligible to earn service credit in the New Public Safety and Firefighter Tier II Contributory Retirement System;
- ▶ requires the Retirement and Independent Entities Interim Committee to study and make recommendations on system eligibility for existing firefighter service employees who are employed by the state as a participating employer; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

49-23-102, as last amended by Laws of Utah 2016, Chapter 227

**Uncodified Material Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. Section 49-23-102 is amended to read:****49-23-102. Definitions.**

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

- (i) overtime;
- (ii) sick pay incentives;
- (iii) retirement pay incentives;
- (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;
- (v) a lump-sum payment or special payment covering accumulated leave; and
- (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(4) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), (d), and (e).

(a) Except as provided in Subsection (4)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (4)(a) may be exceeded if:

- (i) the member has transferred from another agency; or
- (ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(e) The annual compensation used to calculate final average salary shall be based on:

- (i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(5) (a) “Firefighter service” means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; ~~or~~

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal[-]; or

(iii) a firefighter service employee who is:

(A) hired on or after July 1, 2021;

(B) trained in firefighter techniques;

(C) assigned to a position of hazardous duty; and

(D) employed by the state as a participating employer.

(b) “Firefighter service” does not include secretarial staff or other similar employees.

(6) (a) “Firefighter service employee” means an employee of a participating employer who provides firefighter service under this chapter.

~~(b) [An employee of a regularly constituted fire department who does not perform firefighter service is not a firefighter.]~~ “Firefighter service employee” does not include an employee of a regularly constituted fire department who does not perform firefighter service.

(7) (a) “Line-of-duty death” means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.

(b) “Line-of-duty death” does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee’s intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee’s death; or

(iv) occurs in a manner other than as described in Subsection (7)(a).

(8) “Participating employer” means an employer which meets the participation requirements of:

(a) Sections 49-14-201 and 49-14-202;

(b) Sections 49-15-201 and 49-15-202;

(c) Sections 49-16-201 and 49-16-202; or

(d) Sections 49-23-201 and 49-23-202.

(9) (a) “Public safety service” means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

(i) law enforcement officer in accordance with Section 53-13-103;

(ii) correctional officer in accordance with Section 53-13-104;

(iii) special function officer approved in accordance with Sections 49-15-201 and 53-13-105;

(iv) dispatcher who is certified in accordance with Section 53-6-303; and

(v) full-time member of the Board of Pardons and Parole created under Section 77-27-2.

(b) Except as provided under Subsections (9)(a)(iv) and (v), “public safety service” also requires that in the course of employment the employee’s life or personal safety is at risk.

(10) “Public safety service employee” means an employee of a participating employer who performs public safety service under this chapter.

(11) (a) “Strenuous activity” means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) “Strenuous activity” includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(12) “System” means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.

(13) (a) “Volunteer firefighter” means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection (13)(a) is not a volunteer firefighter for purposes of this chapter.

(14) “Years of service credit” means:

(a) a period, consisting of 12 full months as determined by the board; or

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.

**Section 2. Study.**

(1) During the 2020 Legislative interim, the Retirement and Independent Entities Interim Committee shall study:

(a) modifications to the Firefighters' Retirement System and the New Public Safety and Firefighter Tier II Contributory Retirement System;

(b) whether existing members of the Public Employees' Noncontributory Retirement Act and the New Public Employees' Tier II Contributory Retirement Act should be covered under the Firefighters' Retirement System and the New Public Safety and Firefighter Tier II Contributory Retirement System if the members are employed as firefighter service employees who are:

(i) trained in firefighter techniques;

(ii) assigned to a position of a hazardous duty; and

(iii) employed by the state as a participating employer; and

(c) other related issues.

(2) The Retirement and Independent Entities Interim Committee may make recommendations for the 2021 Annual General Session based on the study described in Subsection (1).

**Section 3. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect May 12, 2020.

(2) The actions affecting Section 49-23-102 take effect July 1, 2021.

**CHAPTER 181****H. B. 195**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**IDENTIFYING WASTEFUL  
HEALTH CARE SPENDING**

Chief Sponsor: Suzanne Harrison  
 Senate Sponsor: Evan J. Vickers  
 Cosponsors: Patrice M. Arent  
 Brad M. Daw  
 Carol Spackman Moss  
 Travis M. Seegmiller  
 Norman K. Thurston  
 Raymond P. Ward  
 Mike Winder

**LONG TITLE****General Description:**

This bill requires the Department of Health to identify potential overuse of non-evidence-based health care.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Health to contract with an organization for an analysis to identify potential overuse of non-evidence-based health care;
- ▶ requires the Health Data Committee to:
  - review the results from the analysis;
  - review scientific literature and solicit input on duplication in health care; and
  - solicit input on instances of non-alignment in health care metrics; and
- ▶ requires the Department of Health to annually report on the findings of the Health Data Committee.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

26-33a-117, Utah Code Annotated 1953

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

**Section 1. Section 26-33a-117 is enacted to read:**

**26-33a-117. Identifying potential overuse of non-evidence-based health care.**

(1) The department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with an entity to provide a nationally-recognized health waste calculator that:

(a) uses principles such as the principles of the Choosing Wisely initiative of the American Board of Internal Medicine Foundation; and

(b) is approved by the committee.

(2) The department shall use the calculator described in Subsection (1) to:

(a) analyze the data in the state's All Payer Claims Database; and

(b) flag data entries that the calculator identifies as potential overuse of non-evidence-based health care.

(3) The department, or a third party organization that the department contracts with in accordance with Title 63G, Chapter 6a, Utah Procurement Code, shall:

(a) analyze the data described in Subsection (2)(b);

(b) review current scientific literature about medical services that are best practice;

(c) review current scientific literature about eliminating duplication in health care;

(d) solicit input from Utah health care providers, health systems, insurers, and other stakeholders regarding duplicative health care quality initiatives and instances of non-alignment in metrics used to measure health care quality that are required by different health systems;

(e) solicit input from Utah health care providers, health systems, insurers, and other stakeholders on methods to avoid overuse of non-evidence-based health care; and

(f) present the results of the analysis, research, and input described in Subsections (3)(a) through (e) to the committee.

(4) The committee shall:

(a) make recommendations for action and opportunities for improvement based on the results described in Subsection (3)(f);

(b) make recommendations on methods to bring into alignment the various health care quality metrics different entities in the state use; and

(c) identify priority issues and recommendations to include in an annual report.

(5) The department, or the third party organization described in Subsection (3) shall:

(a) compile the report described in Subsection (4)(c); and

(b) submit the report to the committee for approval.

(6) Beginning in 2021, on or before November 1 each year, the department shall submit the report approved in Subsection (5)(b) to the Health and Human Services Interim Committee.

**Section 2. Section 63I-1-226 is amended to read:**

**63I-1-226. Repeal dates, Title 26.**

- (1) Section 26-1-40 is repealed July 1, 2022.
- (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.
- (3) Section 26-10-11 is repealed July 1, 2020.
- (4) Subsection 26-18-417(3) is repealed July 1, 2020.
- (5) Subsection 26-18-418(2), the language that states “and the Mental Health Crisis Line Commission created in Section 63C-18-202” is repealed July 1, 2023.
- ~~[(6) Section 26-18-419.1 is repealed December 31, 2019.]~~
- ~~[(7)]~~ (6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- ~~(7) Section 26-33a-117 is repealed on December 31, 2023.~~
- (8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.
- (9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.
- (10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.
- (11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.
- (12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.
- (13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

**CHAPTER 182****H. B. 196**

Passed February 24, 2020

Approved March 28, 2020

Effective May 12, 2020

**DOMESTIC RELATIONS DEBT**

Chief Sponsor: Brady Brammer  
 Senate Sponsor: Daniel Hemmert  
 Cosponsors: Cheryl K. Acton  
 Karen Kwan

**LONG TITLE****General Description:**

This bill addresses collections related to domestic relations debt.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ addresses what a court shall order under certain circumstances for collection of an obligation or alleged obligation to pay past due child support or alimony.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

30-3-3.5, Utah Code Annotated 1953

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

**Section 1. Section 30-3-3.5 is enacted to read:****30-3-3.5. Collection fee for past due child support or alimony.**

(1) As used in this section:

(a) “Debtor” means a person obligated or allegedly obligated to pay a domestic relations debt.

(b) “Domestic relations debt” means an obligation or alleged obligation to pay past due child support or alimony.

(2) (a) A court shall order the amounts described in Subsection (2)(b) be paid, if:

(i) the court issues a judgment requiring the payment of a domestic relations debt by the debtor;

(ii) imposing a collection fee on the debtor or in relation to the domestic relations debt is not prohibited or otherwise restricted by another federal or state law; and

(iii) the person owed the domestic relations debt has a contingency arrangement with an attorney to collect the domestic relations debt.

(b) If the conditions of Subsection (2)(a) are met, a court shall order payment of:

(i) the principal amount due;

(ii) applicable interest;

(iii) a collection fee equal to the amount provided in the contingency agreement, except that the collection fee may not exceed the lesser of:

(A) the actual amount the person owed the domestic relations debt is required to pay for collection costs, regardless of whether that amount is a specific dollar amount or a percentage of the principal amount owed for the domestic relations debt; or

(B) 40% of the principal amount owed to the person for the domestic relations debt;

(iv) reasonable attorney fees; and

(v) costs, if any, related to obtaining the judgment described in Subsection (2)(a)(i).

(3) The obligation to pay a collection fee described in Subsection (2)(b)(iii) is incurred at the time the person owed a domestic relations debt enters into an agreement with an attorney to collect the domestic relations debt.

(4) An obligation to pay a collection fee imposed under this section is in addition to any obligation to pay reasonable attorney fees that may exist.

(5) The Office of Recovery Services may not collect an order issued pursuant to Subsection (2).

**CHAPTER 183****H. B. 197**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective July 1, 2021

**FISHING AND HUNTING RESTRICTIONS  
 FOR NONPAYMENT OF CHILD SUPPORT**

Chief Sponsor: Karianne Lisonbee  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill addresses a license, permit, or tag related to fishing and hunting.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits the issuance of a license, permit, or tag related to fishing or hunting if an individual is delinquent in child support;
- ▶ provides when a license, permit, or tag may be issued after delinquency;
- ▶ addresses responsibilities of the Division of Wildlife Resources and Office of Recovery Services;
- ▶ requires automation; and
- ▶ provides scope of the provision.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

23-19-5.5, Utah Code Annotated 1953

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

**Section 1. Section 23-19-5.5 is enacted to read:**

**23-19-5.5. Issuance of license, permit, or tag prohibited for failure to pay child support.**

(1) As used in this section:

(a) "Child support" means the same as that term is defined in Section 62A-11-401.

(b) "Delinquent on a child support obligation" means that:

(i) an individual owes at least \$2,500 on an arrearage obligation of child support based on an administrative or judicial order;

(ii) the individual has not obtained a judicial order staying enforcement of the individual's obligation on the amount in arrears; and

(iii) the office has obtained a statutory judgment lien pursuant to Section 62A-11-312.5.

(c) "Office" means the Office of Recovery Services created in Section 62A-11-102.

(d) "Wildlife license agent" means a person authorized under Section 23-19-15 to sell a license, permit, or tag in accordance with this chapter.

(2) (a) An individual who is delinquent on a child support obligation may not apply for, obtain, or attempt to obtain a license, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title.

(b) (i) An individual who applies for, obtains, or attempts to obtain a license, permit, or tag in violation of Subsection (2)(a) violates Section 23-19-5.

(ii) A license, permit, or tag obtained in violation of Subsection (2)(a) is invalid.

(iii) An individual who takes protected wildlife with an invalid license, permit, or tag violates Section 23-20-3.

(3) (a) The license, permit, and tag restrictions in Subsection (2)(a) remain effective until the office notifies the division that the individual who is delinquent on a child support obligation has:

(i) paid the delinquency in full; or

(ii) complied for at least 12 consecutive months with a payment schedule entered into with the office.

(b) A payment schedule under Subsection (3)(a) shall provide that the individual:

(i) pay the current child support obligation in full each month; and

(ii) pays an additional amount as assessed by the office pursuant to Section 62A-11-320 towards the child support arrears.

(c) If an individual fails to comply with the payment schedule described in Subsection (3)(b), the office may notify the division and the individual is considered to be an individual who is delinquent on a child support obligation and cannot obtain a new license, permit, or tag without complying with this Subsection (3).

(4) (a) The division or a wildlife license agent may not knowingly issue a license, permit, or tag under this title to an individual identified by the office as delinquent on a child support obligation until notified by the office that the individual has complied with Subsection (3).

(b) The division is not required to hold or reserve a license, permit, or tag opportunity withheld from an individual pursuant to Subsection (4)(a) for purposes of reissuance to that individual upon compliance with Subsection (3).

(c) The division may immediately reissue to another qualified person a license, permit, or tag opportunity withheld from an individual identified by the office as delinquent on a child support obligation pursuant to Subsection (4)(a).

(5) The office and division shall automate the process for the division or a wildlife license agent to



be notified whether an individual is delinquent on a child support obligation or has complied with Subsection (3).

(6) The office is responsible to provide any administrative or judicial review required incident to the division issuing or denying a license, permit, or tag to an individual under Subsection (4).

(7) The denial or withholding of a license, permit, or tag under this section is not a suspension or revocation of license and permit privileges for purposes of:

(a) Section 23-19-9;

(b) Subsection 23-20-4(1); and

(c) Section 23-25-6.

(8) This section does not modify a court action to withhold, suspend, or revoke a recreational license under Sections 62A-11-107 and 78B-6-315.

**Section 2. Effective date.**

This bill takes effect on July 1, 2021.

**CHAPTER 184****H. B. 200**

Passed March 2, 2020

Approved March 28, 2020

Effective May 12, 2020

(Retrospective operation to January 1, 2020)

**ADDITION TO INCOME REVISIONS**

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Lincoln Fillmore

**LONG TITLE****General Description:**

This bill amends the addition to income provisions of the corporate income tax code.

**Highlighted Provisions:**

This bill:

- ▶ amends an addition to income provision to provide the circumstances under which a corporation may not deduct a royalty or other expense paid to an entity related by common ownership for the use of an intangible asset.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-7-105, as last amended by Laws of Utah 2019, Chapter 466

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

**Section 1. Section 59-7-105 is amended to read:****59-7-105. Additions to unadjusted income.**

In computing adjusted income the following amounts shall be added to unadjusted income:

(1) interest from bonds, notes, and other evidences of indebtedness issued by any state of the United States, including any agency and instrumentality of a state of the United States;

(2) the amount of any deduction taken on a corporation's federal return for taxes paid by a corporation:

(a) to Utah for taxes imposed by this chapter; and

(b) to another state of the United States, a foreign country, a United States possession, or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or exercising its corporate franchise, including income, franchise, corporate stock and business and occupation taxes;

(3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and (2)(a);

(4) capital losses that have been deducted on a Utah corporate return in previous years;

(5) any deduction on the federal return that has been previously deducted on the Utah return;

(6) charitable contributions, to the extent deducted on the federal return when determining federal taxable income;

(7) the amount of gain or loss determined under Section 59-7-114 relating to a target corporation under Section 338, Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(8) the amount of gain or loss determined under Section 59-7-115 relating to corporations treated for federal purposes as having disposed of its assets under Section 336(e), Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(9) adjustments to gains, losses, depreciation expense, amortization expense, and similar items due to a difference between basis for federal purposes and basis as computed under Section 59-7-107;

(10) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a corporation that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the corporation that is the account owner:

(a) is not expended for:

(i) higher education costs as defined in Section 53B-8a-102.5; or

(ii) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(b) is subtracted by the corporation:

(i) that is the account owner; and

(ii) in accordance with Subsection 59-7-106(1)(r);

(11) the amount of the deduction for dividends paid, as defined in Section 561, Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in computing the taxable income of a captive real estate investment trust, if that captive real estate investment trust is subject to federal income taxation; and

(12) any deduction on a return filed under this chapter for a royalty or other expense ~~paid to a captive insurance company~~ that a corporation pays to an entity related by common ownership for the use of an intangible asset where the intangible asset is owned by the ~~captive insurance company and used, in exchange for a royalty or other fee, by an entity related by common ownership to the captive insurance company.~~ entity related by common ownership unless the corporation can demonstrate to the satisfaction of the commission or a court on judicial review in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, that:

(a) for the same taxable year, the entity related by common ownership is subject to income taxes on the royalty or other expense:

- (i) under this chapter;
- (ii) under the laws of another state; or
- (iii) by a foreign government that has in force an income tax treaty with the United States; or
- (b) if Subsection (12)(a) does not apply, the corporation paying the royalty or other expenses never owned the intangible asset.

**Section 2. Retrospective operation.**

This bill has retrospective operation for a taxable year beginning on or after January 1, 2020.

**CHAPTER 185****H. B. 206**

Passed March 11, 2020  
Approved March 28, 2020  
Effective October 1, 2020

**BAIL AND PRETRIAL  
RELEASE AMENDMENTS**

Chief Sponsor: Stephanie Pitcher  
Senate Sponsor: Todd Weiler  
Cosponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill makes changes to provisions relating to bail.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides procedural changes related to law enforcement issued citations;
- ▶ creates a presumption of release for individuals arrested for certain criminal offenses while the individual awaits trial;
- ▶ provides that a person who is eligible for pretrial release shall be released under the least restrictive reasonably available conditions to ensure the appearance of the accused and the safety to the public;
- ▶ provides standards and guidance for imposition of pretrial release conditions and pretrial detention;
- ▶ creates a presumption of pretrial detention for certain criminal offenses;
- ▶ specifies the conditions under which a defendant may be denied pretrial release;
- ▶ specifies pretrial release conditions that may be ordered by the court;
- ▶ provides reporting requirements related to individuals released from law enforcement custody on various conditions;
- ▶ reduces the time allowance for bond forfeiture;
- ▶ creates a special revenue fund to fund pretrial services programs with money obtained from bond forfeiture proceedings; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

77-7-19, as last amended by Laws of Utah 2009, Chapter 292  
77-7-20, as last amended by Laws of Utah 2018, Chapter 309  
77-7-21, as last amended by Laws of Utah 2009, Chapter 292  
77-17-8, as last amended by Laws of Utah 1988, Second Special Session, Chapter 4  
77-18a-1, as last amended by Laws of Utah 2016, Chapter 234  
77-20-1, as last amended by Laws of Utah 2019, Chapters 184 and 397

77-20-4, as last amended by Laws of Utah 2019, Chapter 397  
77-20-7, as last amended by Laws of Utah 2016, Chapter 234  
77-20-8, as last amended by Laws of Utah 1988, Chapter 160  
77-20-8.5, as last amended by Laws of Utah 2016, Chapter 234  
77-20-9, as last amended by Laws of Utah 2018, Chapter 281  
77-20-10, as last amended by Laws of Utah 2016, Chapter 234  
77-20b-101, as last amended by Laws of Utah 2016, Chapter 234  
77-20b-102, as last amended by Laws of Utah 2016, Chapter 234  
77-20b-104, as last amended by Laws of Utah 2016, Chapter 234  
78A-2-220, as last amended by Laws of Utah 2013, Chapter 245

**ENACTS:**

63M-7-213, Utah Code Annotated 1953  
77-20-1.1, Utah Code Annotated 1953

**REPEALS:**

77-20-3, as last amended by Laws of Utah 2016, Chapter 234

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

**Section 1. Section 63M-7-213 is enacted to read:****63M-7-213. Pretrial release programs special revenue fund -- Funding -- Uses.**

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Fund" means the Pretrial Release Programs Special Revenue Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Pretrial Release Programs Special Revenue Fund."

(3) The Division of Finance shall administer the fund in accordance with this section.

(4) The fund shall consist of:

(a) money collected and remitted to the fund under Section 77-20-9;

(b) appropriations from the Legislature;

(c) interest earned on money in the fund; and

(d) contributions from other public or private sources.

(5) The commission shall award grants from the fund to county agencies and other agencies the commission determines appropriate to assist counties with establishing and expanding pretrial services programs that serve the purpose of:

(a) assisting a court in making an informed decision regarding an individual's pretrial release; and

(b) providing supervision of an individual released from law enforcement custody on conditions pending a final determination of a criminal charge filed against the individual.

(6) The commission may retain up to 3% of the money deposited into the fund to pay for administrative costs incurred by the commission, including salary and benefits, equipment, supplies, or travel costs that are directly related to the administration of this section.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish a grant application and review process for the expenditure of money from the fund.

(8) The grant application and review process shall describe:

(a) the requirements to complete the grant application;

(b) requirements for receiving funding;

(c) criteria for the approval of a grant application; and

(d) support offered by the commission to complete a grant application.

(9) Upon receipt of a grant application, the commission shall:

(a) review the grant application for completeness;

(b) make a determination regarding the grant application;

(c) inform the grant applicant of the commission's determination regarding the grant application; and

(d) if approved, award grants from the fund to the grant applicant.

(10) Before November 30 of each year, the commission shall provide an electronic report to the Law Enforcement and Criminal Justice Interim Committee regarding the status of the fund and expenditures made from the fund.

**Section 2. Section 77-7-19 is amended to read:**

**77-7-19. Appearance required by citation -- Arrest for failure to appear -- Transfer of cases -- Disposition of fines and costs.**

(1) [A person] An individual receiving a citation issued pursuant to Section 77-7-18 shall appear [before the magistrate] in the court designated in the citation on or before the time and date specified in the citation unless [the uniform bail schedule adopted by the Judicial Council or Subsection 77-7-21(1) permits forfeiture of bail for the offense charged.];

(a) the citation states that the court will, within five to 14 days, notify the individual of when to appear; or

(b) the individual is permitted to remit the fine and other penalties without a personal appearance in accordance with a uniform fine schedule adopted

by the Judicial Council or by court order under Section 77-7-21.

(2) A citation may not require [a person] an individual to appear or contact the court sooner than five days or later than 14 days following its issuance.

~~[(3) A person who receives a citation and who fails to comply with Section 77-7-21 on or before the time and date and at the court specified is subject to arrest.]~~

~~[(b) The magistrate may issue a warrant of arrest based upon a citation that was served and filed in accordance with Section 77-7-20.]~~

~~[(4) Except where otherwise provided by law, a citation or information issued for violations of Title 41, Motor Vehicles, shall state that the person receiving the citation or information shall appear before the magistrate who has jurisdiction over the offense charged.]~~

~~[(5) Any justice court judge may, upon the motion of either the defense attorney or prosecuting attorney, based on a lack of territorial jurisdiction or the disqualification of the judge, transfer cases to a justice court with territorial jurisdiction or the district court within the county.]~~

(3) If the individual cited does not appear before the court as directed by the citation or the court, or pay the fine as allowed by Section 77-7-21, the court may issue a bench warrant for the individual's arrest.

~~[(6) (4) (a) Clerks and other administrative personnel serving the courts shall [ensure that all citations for violation of Title 41, Motor Vehicles, are filed in a court with jurisdiction and venue and shall refuse to receive citations that should be filed in another court] identify for the judge any citations over which the court may lack jurisdiction.~~

~~[(b) Fines, fees, costs, and forfeitures imposed or collected for violations of Title 41, Motor Vehicles, which are filed contrary to this section shall be paid to the entitled municipality or county by the state, county, or municipal treasurer who has received the fines, fees, costs, or forfeitures from the court which collected them.]~~

~~[(c) The accounting and remitting of sums due shall be at the close of the fiscal year of the municipality or county which has received fines, fees, costs, or forfeitures as a result of any improperly filed citations.]~~

(b) Upon determining that the court lacks jurisdiction over a citation, the court shall:

(i) transfer the case to a court with jurisdiction;

(ii) if the court cannot readily identify a court with jurisdiction, dismiss the charges contained in the citation; and

(iii) notify the prosecutor of the transfer or dismissal.

(c) Any fine, fee, or forfeiture collected by a court that lacks jurisdiction shall be:

- (i) transferred to the court receiving the case; or
- (ii) if the case is dismissed, returned to the defendant.

**Section 3. Section 77-7-20 is amended to read:**

**77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing -- Contents of citations.**

(1) Except as provided in Subsection (4), a peace officer or ~~[public]~~ other authorized official who issues a citation pursuant to Section 77-7-18 shall give the citation to the individual cited and shall, within five business days, electronically file the data from Subsections (2)(a) through (2)~~(g)~~(h) with the court specified in the citation. The data transmission shall use the court's electronic filing interface. A nonconforming filing is not effective.

(2) The citation issued under authority of this chapter shall contain the following data:

- (a) the name, address, and phone number of the court before which the individual is to appear;
- (b) the name and date of birth of the individual cited;
- (c) a brief description of the offense charged;
- (d) the date, time, and place at which the offense is alleged to have occurred;
- (e) the date on which the citation was issued;
- (f) the name of the peace officer or ~~[public]~~ official who issued the citation, and the name of the arresting individual if ~~[an arrest was made by a private party]~~ a private party made the arrest and the citation was issued in lieu of taking the arrested individual before a magistrate;
- (g) the ~~[time and]~~ date on or ~~[before and after]~~ date range during which the individual is to appear or a statement that the court will notify the individual of the time to appear;
- ~~[(h) the address of the court in which the individual is to appear;]~~
- ~~[(4)]~~ (h) whether the offense is a domestic violence offense; and
- ~~[(4)]~~ (i) a notice containing substantially the following language:

**READ CAREFULLY**

This citation is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You MUST appear in court on or before the time set in this citation or as directed by the court. IF YOU FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

(3) By electronically filing the data with the court, the peace officer or ~~[public]~~ official ~~[certifies]~~ affirms to the court that:

- (a) the citation or information, including the summons and complaint, was ~~[served upon]~~

delivered to the defendant [in accordance with the law];

(b) the defendant committed the offense set forth in the ~~[served documents]~~ citation; and

(c) the court to which the defendant was directed to appear ~~[is the proper court pursuant to Section 77-7-21]~~ has jurisdiction over the offense charged.

(4) (a) If a citing law enforcement officer is not reasonably able to access the e-filing system, the citation need not be filed electronically if being filed with a justice court.

(b) The court may accept an electronic filing received after five business days if:

- (i) the defendant consents to the filing; and
- (ii) the court finds the interests of justice would be best served by accepting the filing.

**Section 4. Section 77-7-21 is amended to read:**

**77-7-21. Proceeding on citation -- Voluntary forfeiture of bail -- Parent signature required -- Information, when required.**

(1) (a) ~~[A copy of the citation issued under Section 77-7-18 that is filed with the magistrate]~~ A citation filed with the court may [be used], with the consent of the defendant, serve in lieu of an information to which the [person cited] defendant may plead guilty or no contest to the charge or charges listed and be sentenced [or on which bail may be forfeited] accordingly.

~~[(b) With the magistrate's approval, a person may voluntarily forfeit bail without appearance being required in any case of a class B misdemeanor or less.]~~

~~[(c) Voluntary forfeiture of bail shall be entered as a conviction and treated the same as if the accused pleaded guilty.]~~

(b) If provided by the uniform fine schedule described in Section 76-3-301.5, an individual may remit the fine and other penalties without a personal appearance before the court in any case charging a class B misdemeanor or lower offense, unless the charge is:

- (i) a domestic violence offense as defined in Section 77-36-1;
- (ii) a violation of Section 41-6a-502, driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration;
- (iii) a violation of Section 41-6a-517, driving with any measurable controlled substance in the body;
- (iv) a violation of a local ordinance similar to the offenses described in Subsections (1)(b)(i) through (iii); or
- (v) a violation that appears to:
  - (A) affect a victim, as defined in Section 77-38a-102; or

(B) require restitution, as defined in Section 77-38a-102.

(c) The remittal of fines and other penalties shall be entered as a conviction and treated the same as if the accused pleaded no contest.

(d) If the person cited is under 18 years of age, [and if any of the charges allege a violation of Title 41, Motor Vehicles,] the court shall promptly mail a copy or notice of the citation [or a notice of the citation] to the address as shown on the citation, to the attention of the parent or guardian of the defendant.

(2) [An information shall be filed and] If the individual pleads not guilty to the offense charged, further proceedings shall be held in accordance with the Rules of Criminal Procedure and all other applicable provisions of this code [if the person cited pleads not guilty to the offense charged].

~~[(3) (a) The information is an original pleading.]~~

~~[(b) If a person cited waives by written agreement the filing of the information, the prosecution may proceed on the citation.]~~

**Section 5. Section 77-17-8 is amended to read:**

**77-17-8. Mistake in charging offense -- Procedure -- Witnesses.**

If, at any time before verdict or judgment, a mistake ~~[has been]~~ is made in charging the proper offense, and ~~[it appears that]~~ there is probable cause to believe that the defendant is chargeable with another offense, the court may commit ~~[him or require him to give bail under Section 77-20-1 for his appearance to answer to the proper charge when filed, and may also require witnesses to give bail for their appearance]~~ the defendant or require the defendant to comply with one or more pretrial release conditions in accordance with Section 77-20-1 to ensure the defendant's appearance in court.

**Section 6. Section 77-18a-1 is amended to read:**

**77-18a-1. Appeals -- When proper.**

(1) A defendant may, as a matter of right, appeal from:

(a) a final judgment of conviction, whether by verdict or plea;

(b) an order made after judgment that affects the substantial rights of the defendant;

(c) an order adjudicating the defendant's competency to proceed further in a pending prosecution; or

(d) an order denying bail, as provided in ~~[Subsection 77-20-1(8)]~~ Section 77-20-1.

(2) In addition to any appeal permitted by Subsection (1), a defendant may seek discretionary appellate review of any interlocutory order.

(3) The prosecution may, as a matter of right, appeal from:

(a) a final judgment of dismissal, including a dismissal of a felony information following a refusal to bind the defendant over for trial;

(b) a pretrial order dismissing a charge on the ground that the court's suppression of evidence has substantially impaired the prosecution's case;

(c) an order granting a motion to withdraw a plea of guilty or no contest;

(d) an order arresting judgment or granting a motion for merger;

(e) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(f) an order granting a new trial;

(g) an order holding a statute or any part of it invalid;

(h) an order adjudicating the defendant's competency to proceed further in a pending prosecution;

(i) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for Execution, that an inmate sentenced to death is incompetent to be executed;

(j) an order reducing the degree of offense pursuant to Section 76-3-402; or

(k) an illegal sentence.

(4) In addition to any appeal permitted by Subsection (3), the prosecution may seek discretionary appellate review of any interlocutory order entered before jeopardy attaches.

**Section 7. Section 77-20-1 is amended to read:**

**77-20-1. Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing -- Motion to modify.**

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(b) "Financial condition" or "monetary bail" means any monetary condition that may be imposed under Section 77-20-4 to secure an individual's pretrial release.

(c) "Pretrial release" or "bail" means release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges.

(d) "Pretrial status order" means an order issued by the court exercising jurisdiction over an individual charged with a criminal offense that sets the terms and conditions of the individual's pretrial release or denies pretrial release and orders that the individual be detained pending resolution of the criminal charges.

~~[(b)]~~ (e) “Surety” and “sureties” mean a surety insurer or a bail bond agency.

~~[(e)]~~ (f) “Surety insurer” means the same as that term is defined in Section 31A-35-102.

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the individual violated a material condition of release while previously on bail; or

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

~~[(3) Any individual who may be admitted to bail may be released by posting bail in the form and manner provided in Section 77-20-4, or on the individual's own recognizance, on condition that the individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:]~~

~~[(a) ensure the appearance of the accused;]~~

~~[(b) ensure the integrity of the court process;]~~

~~[(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and]~~

~~[(d) ensure the safety of the public.]~~

(3) (a) A court exercising jurisdiction over an individual charged with or arrested for a criminal offense shall issue a pretrial status order designating the conditions to be imposed upon the individual's release or ordering that the individual be detained under this section during the time the individual awaits trial or other resolution of the criminal charges.

(b) A court granting pretrial release shall impose the least restrictive reasonably available conditions of release on the individual who is the subject of the

pretrial status order that the court determines will reasonably ensure:

(i) the individual's appearance in court when required;

(ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(iii) the safety and welfare of the public; and

(iv) that the individual will not obstruct or attempt to obstruct the criminal justice process.

(c) (i) The court shall issue the pretrial status order without unnecessary delay.

(ii) If a prosecutor files a motion for detention under Subsection (6), the court may delay issuing the pretrial status order until after hearing the motion to detain if the court finds:

(A) the prosecutor's motion states a reasonable case for detention; and

(B) detaining the defendant until after the motion is heard is in the interests of justice and public safety.

(4) (a) Except as otherwise provided in this section or Section 77-20-3.5, the court shall order that an individual charged with a criminal offense be released on the individual's own recognizance, on condition that the individual appear at all required court proceedings, if the court finds that additional conditions are not necessary to reasonably ensure compliance with Subsection (3)(b).

(b) The court shall impose additional release conditions if the court finds that additional release conditions are necessary to reasonably ensure compliance with Subsection (3)(b). The conditions imposed may include that the individual:

(i) not commit a federal, state, or local offense during the period of release;

(ii) avoid contact with a victim or victims of the alleged offense;

(iii) avoid contact with a witness or witnesses who may testify concerning the alleged offense that are named in the pretrial status order;

(iv) not use or consume alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;

(v) submit to drug or alcohol testing;

(vi) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(vii) submit to electronic monitoring or location device tracking;

(viii) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(ix) maintain employment, or if unemployed, actively seek employment;

(x) maintain or commence an education program;

(xi) comply with limitations on where the individual is allowed to be located or the times the



individual shall be or may not be at a specified location;

(xii) comply with specified restrictions on personal associations, place of residence, or travel;

(xiii) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(xiv) comply with a specified curfew;

(xv) forfeit or refrain from possession of a firearm or other dangerous weapon;

(xvi) if the individual is charged with an offense against a child, is limited or denied access to any location or occupation where children are, including any residence where children are on the premises, activities including organized activities in which children are involved, locations where children congregate, or where a reasonable person should know that children congregate;

(xvii) comply with requirements for house arrest;

(xviii) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(xix) remain in the custody of one or more designated individuals who agree to supervise and report on the behavior and activities of the individual charged and to encourage compliance with all court orders and attendance at all required court proceedings;

(xx) comply with a financial condition; or

(xxi) comply with any other condition that is necessary to reasonably ensure compliance with Subsection (3)(b).

(c) If the court determines a financial condition, other than an unsecured bond, is necessary to impose on an individual as part of the individual's pretrial release, the court shall consider the individual's ability to pay when determining the amount of the financial condition.

(5) In making a determination under Subsection (3), the court may rely on the following:

(a) any form of pretrial services assessment;

(b) the nature and circumstances of the offense or offenses charged, including whether the charges include a violent offense and the vulnerability of witnesses or alleged victims;

(c) the nature and circumstances of the individual, including the individual's character, physical and mental health, family and community ties, employment status and history, financial resources, past criminal conduct, history of drug or alcohol abuse, and history of timely appearances at required court proceedings;

(d) the potential danger to another individual or individuals posed by the release of the individual;

(e) if the individual was on probation, parole, or release pending an upcoming court proceeding at

the time the individual allegedly committed the offense;

(f) the availability of other individuals who agree to assist the individual in attending court when required or other evidence relevant to the individual's opportunities for supervision in the individual's community;

(g) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(h) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(6) (a) If the criminal charges filed against the individual include one or more offenses eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the prosecution may file a motion for pretrial detention.

(b) Upon receiving a motion under Subsection (6)(a), the court shall set a hearing on the matter as soon as practicable.

(c) The individual who is the subject of the detention hearing has the right to be represented by counsel at the pretrial detention hearing and, if a court finds the individual is indigent under Section 78B-22-202, the court shall appoint counsel to represent the individual in accordance with Section 78B-22-203.

(d) The court shall give both parties the opportunity to make arguments and to present relevant evidence at the detention hearing.

(7) After hearing evidence on a motion for pretrial detention, the court may detain the individual if:

(a) the individual is accused of committing an offense that qualifies the individual for detention under Subsection (2) or Utah Constitution, Article I, Section 8;

(b) the prosecution demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection (2) or Utah Constitution, Article I, Section 8; and

(c) the court finds that no conditions that may be imposed upon granting the individual pretrial release will reasonably ensure compliance with Subsection (3)(b).

(8) (a) If an individual is charged with a criminal offense described in Subsection (8)(b), there is a rebuttable presumption that the individual be detained.

(b) Criminal charges that create a rebuttable presumption of detention under Subsection (8)(a) include:

(i) criminal homicide as defined in Section 75-5-201; and

(ii) any offense for which the term of imprisonment may include life.

(c) The individual may rebut the presumption of detention by demonstrating, by a preponderance of the evidence, that specified conditions of release

will reasonably ensure compliance with Subsection (3)(b).

~~[(4) (a)] (9) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall issue the initial pretrial status order [denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest].~~

~~[(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.]~~

~~[(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.]~~

~~[(d)] (10) (a) An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section 77-20-3.5:~~

~~(i) may not be released before the accused's first judicial appearance; and~~

~~(ii) may be denied [bail] pretrial release by the court under Subsection (2).~~

~~[(5) The magistrate or court may rely upon information contained in:]~~

~~[(a) the indictment or information;]~~

~~[(b) any sworn probable cause statement;]~~

~~[(c) information provided by any pretrial services agency; or]~~

~~[(d) any other reliable record or source.]~~

~~(b) Nothing in this section precludes or nullifies a jail release agreement or jail release order required under Section 77-20-3.5.~~

~~[(6)] (11) (a) A motion to modify the initial pretrial status order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit [any victim] each alleged victim to be notified and be present.~~

~~(b) Hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.~~

~~(c) The [magistrate or] court may rely on information as provided in Subsection (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.~~

~~[(7)] (12) Subsequent motions to modify [bail orders] a pretrial status order may be made only upon a showing that there has been a material change in circumstances.~~

~~[(8)] (13) An appeal may be taken from an order of [any] a court denying bail to the [Supreme Court] Utah Court of Appeals pursuant to the Utah Rules of Appellate Procedure, which shall review the determination under Subsection [(2)] (7).~~

~~[(9)] (14) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:~~

~~(a) the prosecutor files a notice of intent to not seek the death penalty; or~~

~~(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.~~

**Section 8. Section 77-20-1.1 is enacted to read:**

**77-20-1.1. Pretrial release data requirements.**

~~(1) The Administrative Office of the Courts shall submit the following data on individuals for whom the Administrative Office of the Courts has a state identification number broken down by judicial district to the Commission on Criminal and Juvenile Justice before July 1 of each year:~~

~~(a) for the preceding calendar year:~~

~~(i) the number of individuals charged with a criminal offense who failed to appear at a required court proceeding while on pretrial release, in accordance with Section 77-20-1, under each of the following categories of release:~~

~~(A) the individual's own recognizance;~~

~~(B) a financial condition; and~~

~~(C) a pretrial release condition other than a financial condition;~~

~~(ii) the number of offenses that carry a potential penalty of incarceration an individual committed while on pretrial release, in accordance with Section 77-20-1, under each of the following categories of release:~~

~~(A) the individual's own recognizance;~~

~~(B) a financial condition; and~~

~~(C) a pretrial release condition other than a financial condition; and~~

~~(iii) the total amount of fees and fines, including bond forfeiture, collected by the court from an individual for the individual's failure to comply with a condition of pretrial release under each of the following categories of release:~~

~~(A) an individual's own recognizance;~~

~~(B) a financial condition; and~~

~~(C) a pretrial release condition other than a financial condition; and~~

~~(b) at the end of the preceding calendar year:~~

~~(i) the total number of outstanding warrants of arrest for individuals who were released from law enforcement custody, in accordance with Section 77-20-1, under each of the following categories of release:~~

~~(A) the individual's own recognizance;~~

~~(B) a financial condition; and~~

~~(C) a pretrial release condition other than a financial condition;~~

~~(ii) for each of the categories described in Subsection (1)(b)(i), the average length of time that~~

the outstanding warrants had been outstanding; and

(iii) for each of the categories described in Subsection (1)(b)(i), the number of outstanding warrants for arrest for crimes of each of the following categories:

- (A) a first degree felony;
- (B) a second degree felony;
- (C) a third degree felony;
- (D) a class A misdemeanor;
- (E) a class B misdemeanor; and
- (F) a class C misdemeanor.

(2) Each county jail shall submit the following data, based on the preceding calendar year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:

(a) the number of individuals released upon payment of monetary bail before appearing before a court;

(b) the number of individuals released on the individual's own recognizance before appearing before a court; and

(c) the amount of monetary bail collected by the county jail.

(3) The Commission on Criminal and Juvenile Justice shall compile the data collected under this section and shall submit the compiled data in an electronic report to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

**Section 9. Section 77-20-4 is amended to read:**

**77-20-4. Bail to be posted in cash, by credit or debit card, or by written undertaking -- Specific monetary bail methods.**

(1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a single amount per case or charge.

(b) Subject to Subsection (2), a defendant may choose to post the amount described in Subsection (1)(a) by any of the following methods:

- (i) in cash;
- (ii) by written undertaking with sureties;
- (iii) by written undertaking without sureties, at the discretion of the judge or magistrate; or
- (iv) by credit or debit card, at the discretion of the judge or bail commissioner.

(2) A judge or magistrate may limit a defendant to a specific method of posting monetary bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

(a) if, after charges are filed, the defendant fails to appear in the case on a [bail] bond and the case involves a violent offense;

(b) in order to allow the defendant to voluntarily forfeit monetary bail in accordance with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(c) if the defendant has failed to respond to a citation or summons and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(d) if a warrant is issued for the defendant solely for failure to pay a criminal judgment account receivable, as defined in Section 77-32a-101, and the defendant's monetary bail is limited to the amount owed; or

(e) if a court has entered a judgment of [bail] bond forfeiture under Section 77-20b-104 in any case involving the defendant.

(3) [Bail] Monetary bail may not be accepted without receiving in writing at the time the monetary bail is posted the current mailing address, telephone number, and email address of the surety.

(4) [Bail posted] Monetary bail paid by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.

(5) [Bail] Monetary bail refunded by the court may be refunded by credit to the debit or credit card, or cash. The amount refunded shall be the full amount received by the court under Subsection (4), which may be less than the full amount of the monetary bail set by the court.

(6) Before refunding monetary bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward accounts receivable, as defined in Section 77-32a-101, that are owed by the defendant in the priority set forth in Section 77-38a-404.

**Section 10. Section 77-20-7 is amended to read:**

**77-20-7. Duration of liability on undertaking -- Notices to sureties -- Exoneration if charges not filed.**

(1) (a) Except as provided in Subsection (1)(b), the principal and the sureties on [the] a bond or other written undertaking are liable on the bond or other written undertaking during all proceedings and for all court appearances required of the defendant up to and including the surrender of the defendant for sentencing, irrespective of any contrary provision in the bond or other written undertaking. Any failure of the defendant to appear when required is a breach of the conditions of the bond or other written undertaking [or bail] and subjects [it] the bond to forfeiture, regardless of whether or not notice of appearance was given to the sureties. Upon sentencing the [bail] bond or other written undertaking shall be exonerated without motion.

(b) If the sentence includes a commitment to a jail or prison, the [bail] bond or other written undertaking shall be exonerated when the

defendant appears at the appropriate jail or prison, unless the judge does not require the defendant to begin the commitment within seven days, in which case the [bail] bond or other written undertaking is exonerated upon sentencing.

(c) For purposes of this section, an order of the court accepting a plea in abeyance agreement and holding that plea in abeyance pursuant to Title 77, Chapter 2a, Pleas in Abeyance, is considered to be the same as a sentencing upon a guilty plea.

(d) Any suspended or deferred sentencing is not the responsibility of the surety and the [bail] bond is exonerated without any motion, upon acceptance of the court and the defendant of a plea in abeyance, probation, fine payments, post sentencing reviews, or any other deferred sentencing reviews or any other deferred sentencing agreement.

(e) If a surety issues a bail bond after [the] sentencing, the surety is liable on the undertaking during all proceedings and for all court appearances required of the defendant up to and including the defendant's appearance to commence serving the sentence imposed under Subsection (1).

(2) If [no] the prosecutor does not file an information [or], indictment [charging a person with an offense is filed in court within], or request to extend time 120 days after the date [of the bail undertaking or cash receipt] on which the bond or other written undertaking is received, the court [may] shall:

(a) relieve a person from conditions of release [at the person's request, and the bail bond or undertaking is exonerated without further order of the court unless the prosecutor requests an extension of time before the end of the 120-day period by:];

[a] filing a notice for extension with the court; and]

[b] serving the notice for extension upon the sureties and the person or his attorney.];

[c] A court may extend bail and conditions of release for good cause.];

(b) refund any monetary bail, as provided in Subsection 77-20-4(5); and

(c) exonerate any bond or other written undertaking without further order of the court.

(3) (a) A request to extend time shall:

(i) be served on any surety and the defendant or the defendant's attorney; and

(ii) be granted for a period of up to 60 days.

(b) A court may grant a request to extend time for a period of up to 120 days upon a showing of good cause.

[4] Subsection (2)]

(c) An extension of time does not prohibit the proper filing of charges against a person at any time.

[5] If the court does not set on a calendar any hearings on a case within 18 months of the last court docket activity on a case, the undertaking of bail is exonerated without motion.]

**Section 11. Section 77-20-8 is amended to read:**

**77-20-8. Grounds for detaining or releasing defendant on conviction and prior to sentence.**

(1) Upon conviction, by plea or trial, the court shall order that the convicted defendant who is waiting imposition or execution of sentence be detained, unless the court finds by clear and convincing evidence presented by the defendant that the defendant is not likely to flee the jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) If the court finds the defendant does not need to be detained, the court shall order the release of the defendant on suitable conditions, which may include the conditions under Subsection [77-20-10(2)] 77-20-1(4).

**Section 12. Section 77-20-8.5 is amended to read:**

**77-20-8.5. Sureties -- Surrender of defendant -- Arrest of defendant.**

(1) (a) Sureties may at any time prior to a defendant's failure to appear surrender the defendant and obtain exonerated of monetary bail, by notifying the clerk of the court in which the monetary bail was posted of the defendant's surrender and requesting exonerated. Notification shall be made immediately following the surrender by surface mail, electronic mail, or fax.

(b) To effect surrender, a certified copy of the surety's undertaking from the court in which it was posted or a copy of the monetary bail agreement with the defendant shall be delivered to the on-duty jailer, who shall detain the defendant in the on-duty jailer's custody as upon a commitment, and shall in writing acknowledge the surrender upon the copy of the undertaking or monetary bail agreement. The certified copy of the undertaking or copy of the monetary bail agreement upon which the acknowledgment of surrender is endorsed shall be filed with the court. The court may then, upon proper application, order the undertaking exonerated and [may] shall order a refund of any paid premium, or part of a premium, as it finds just.

(2) For the purpose of surrendering the defendant, the sureties may:

(a) arrest the defendant:

(i) at any time before the defendant is finally exonerated; and

(ii) at any place within the state; and

(b) surrender the defendant to any county jail booking facility in Utah.

(3) An arrest under this section is not a basis for exoneration of the [bail] bond under Section 77-20b-101.

(4) A surety acting under this section is subject to Title 53, Chapter 11, Bail Bond Recovery Act.

**Section 13. Section 77-20-9 is amended to read:**

**77-20-9. Disposition of forfeitures.**

If by reason of the neglect of the defendant to appear, money deposited [~~instead of bail~~] as a financial condition or money paid by sureties on [bail] bond is forfeited and the forfeiture is not discharged or remitted, the clerk with whom it is deposited or paid shall, immediately after final adjournment of the court, pay over the money forfeited as follows:

[~~(1) the forfeited bail amount in cases in or appealed from district courts shall be distributed as provided in Section 78A-5-110;~~]

[~~(2) (1) the forfeited [bail] amount in cases in precinct justice courts or in municipal justice courts shall be distributed as provided in Sections 78A-7-120 and 78A-7-121; and~~]

[~~(3) the forfeited bail in cases in justice courts where the offense is not triable in that court shall be paid into the General Fund; and~~]

[~~(4) the forfeited bail in cases not provided for in this section shall be paid 50% to the state treasurer and the remaining 50% to the county treasurer in the county in which the violation occurred or the forfeited bail is collected.~~]

(2) in all other cases:

(a) 60% of the forfeited bond shall be paid to the Pretrial Release Programs Special Revenue Fund established in Section 63M-7-213;

(b) 25% of the forfeited bond shall be paid to the General Fund; and

(c) 15% of the forfeited bond shall be paid to the prosecuting agency that brings an action to collect under Section 77-20b-104.

**Section 14. Section 77-20-10 is amended to read:**

**77-20-10. Grounds for detaining defendant while appealing the defendant's conviction -- Conditions for release while on appeal.**

(1) The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

(a) the appeal raises a substantial question of law or fact likely to result in:

(i) reversal;

(ii) an order for a new trial; or

(iii) a sentence that does not include a term of imprisonment in jail or prison;

(b) the appeal is not for the purpose of delay; and

(c) by clear and convincing evidence presented by the defendant that the defendant is not likely to flee the jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the court shall order the release of the defendant, subject to conditions that result in the least restrictive [~~condition or combination of~~] reasonably available conditions that the court determines will reasonably [assure] ensure the appearance of the [person] defendant as required and the safety of any other [person] individual, property, and the community. The conditions may include [~~that the defendant;~~] the conditions described in Subsection 77-20-1(4)(b).

[~~(a) post appropriate bail;~~]

[~~(b) execute a bail bond with a surety under Title 31A, Chapter 35, Bail Bond Act, in an amount necessary to assure the appearance of the defendant as required;~~]

[~~(c) (i) execute a written agreement to forfeit, upon failing to appear as required, designated property, including money, as is reasonably necessary to assure the appearance of the defendant; and~~]

[~~(ii) post with the court indicia of ownership of the property or a percentage of the money as the court may specify;~~]

[~~(d) not commit a federal, state, or local crime during the period of release;~~]

[~~(e) remain in the custody of a designated person who agrees to assume supervision of the defendant and who agrees to report any violation of a release condition to the court, if the designated person is reasonably able to assure the court that the defendant will appear as required and will not pose a danger to the safety of any other person or the community;~~]

[~~(f) maintain employment, or if unemployed, actively seek employment;~~]

[~~(g) maintain or commence an educational program;~~]

[~~(h) abide by specified restrictions on personal associations, place of abode, or travel;~~]

[~~(i) avoid all contact with the victims of the offense and with any witnesses who testified against the defendant or potential witnesses who may testify concerning the offense if the appeal results in a reversal or an order for a new trial;~~]

[~~(j) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other designated agency;~~]

[~~(k) comply with a specified curfew;~~]

~~(l) not possess a firearm, destructive device, or other dangerous weapon;~~

~~(m) not use alcohol, or any narcotic drug or other controlled substances except as prescribed by a licensed medical practitioner;~~

~~(n) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain under the supervision of or in a specified institution if required for that purpose;~~

~~(o) return to custody for specified hours following release for employment, schooling, or other limited purposes;~~

~~(p) satisfy any other condition that is reasonably necessary to assure the appearance of the defendant as required and to assure the safety of any other person and the community; and~~

~~(q) if convicted of committing a sexual offense or an assault or other offense involving violence against a child 17 years of age or younger, is limited or denied access to any location or occupation where children are, including but not limited to:~~

~~(i) any residence where children are on the premises;~~

~~(ii) activities, including organized activities, in which children are involved; and~~

~~(iii) locations where children congregate, or where a reasonable person should know that children congregate.~~

(3) The court may, in its discretion, amend an order granting release to impose additional or different conditions of release.

(4) If the defendant ~~[has been]~~ is found guilty of an offense in a court not of record and files a timely notice of appeal pursuant to Subsection 78A-7-118(1) for a trial de novo, the court shall stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance of the evidence that the defendant poses a danger to another person or the community.

(5) If a stay is ordered, the court may order post-conviction restrictions on the defendant's conduct as appropriate, including:

(a) continuation of any pre-trial restrictions or orders;

(b) sentencing protective orders under Section 77-36-5.1;

(c) drug and alcohol use;

(d) use of an ignition interlock; and

(e) posting appropriate monetary bail.

(6) The provisions of Subsections (4) and (5) do not apply to convictions for an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(7) Any stay authorized by Subsection (4) is lifted upon the dismissal of the appeal by the district court.

**Section 15. Section 77-20b-101 is amended to read:**

**77-20b-101. Entry of nonappearance -- Notice of surety -- Release of surety on failure of timely notice.**

(1) If a defendant who has posted bail fails to appear before the appropriate court as required, the court shall within 30 days of the failure to appear issue a bench warrant that includes the original case number. The court shall also direct that the surety or surety insurer be given notice of the nonappearance. The clerk of the court shall:

(a) ~~[mail]~~ email notice of nonappearance ~~[by certified mail, return receipt requested, within 30 days]~~ to ~~[the address of]~~ the surety or surety insurer at the email address provided on the bond;

~~(b) notify the surety as listed on the bail bond of the name, address, and telephone number of the prosecutor;~~

~~(c) deliver~~ (b) email a copy of the notice sent under Subsection (1)(a) to the prosecutor's office ~~[at the same time notice is sent under Subsection (1)(a)]; and~~

~~(d) (c)~~ ensure that the name, address, business email address, and telephone number of the surety ~~[or]~~, its agent, or surety insurer as listed on the ~~[bail]~~ bond is stated on the bench warrant~~;~~ and.

~~(e) mail notice of the failure to appear to the bail bond agency and the surety insurer.~~

(2) The prosecutor may ~~[mail]~~ email notice of nonappearance ~~[by certified mail, return receipt requested,]~~ to the address of the surety or surety insurer as listed on the ~~[bail]~~ bond within 37 days after the date of the defendant's failure to appear.

(3) If notice of nonappearance is not ~~[mailed]~~ emailed to a surety or surety insurer as listed on the ~~[bail]~~ bond, other than the defendant, in accordance with Subsection (1) or (2), the surety or surety insurer and its ~~[bail]~~ bond producer are relieved of further obligation under the ~~[bail]~~ bond if the [surety's current name and address or the current name and address of the bail bond agency are on the bail bond] surety or surety insurer have listed their current name and email addresses on the bond in the court's file.

(4) (a) (i) If a defendant appears in court within ~~[seven]~~ 30 days after a missed, scheduled court appearance, the court may reinstate the ~~[bail]~~ bond without further notice to the surety or surety insurer.

(ii) If the defendant, while in custody, appears on the case for which the ~~[bail]~~ bond was posted, the court may not reinstate the ~~[bail]~~ bond without the consent of the bond company.

(b) If a defendant fails to appear within ~~[seven]~~ 30 days after a scheduled court appearance, the court may not reinstate the ~~[bail]~~ bond without the consent of the surety or surety insurer.

(c) If the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges and the court is notified of the arrest, or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of judgment of forfeiture, the court shall exonerate the [bail] bond.

(d) Unless the court makes a finding of good cause why the bond should not be exonerated, it shall exonerate the [bail] bond if:

(i) the surety or surety insurer has delivered the defendant to the county jail booking facility in the county where the original charge or charges are pending;

(ii) the defendant has been released on a bond secured from a subsequent surety or surety insurer for the original charge and the failure to appear;

(iii) after an arrest, the defendant has escaped from jail or has been released on the defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail capacity, or by a sheriff's release under Section 17-22-5.5;

(iv) the surety or surety insurer has transported or agreed to pay for the transportation of the defendant from a location outside of the county back to the county where the original charge is pending, and the payment is in an amount equal to government transportation expenses listed in Section 76-3-201; or

(v) the surety or surety insurer demonstrates by a preponderance of the evidence that:

(A) at the time the surety or surety insurer issued the [bail] bond, it had made reasonable efforts to determine that the defendant was legally present in the United States;

(B) a reasonable person would have concluded, based on the surety's or surety insurer's determination, that the defendant was legally present in the United States; and

(C) the surety or surety insurer has failed to bring the defendant before the court because the defendant is in federal custody or has been deported.

(e) Under circumstances not otherwise provided for in this section, the court may exonerate the [bail] bond if it finds that the prosecutor has been given reasonable notice of a surety's or surety insurer's motion and there is good cause for the [bail] bond to be exonerated.

(f) If a surety's [bail] or surety insurer's bond has been exonerated under this section and the surety or surety insurer remains liable for the cost of transportation of the defendant, the surety or surety insurer may take custody of the defendant for the purpose of transporting the defendant to the jurisdiction where the charge is pending.

**Section 16. Section 77-20b-102 is amended to read:**

**77-20b-102. Time for bringing defendant to court.**

(1) If notice of nonappearance [~~has been mailed~~] is emailed to a surety or surety insurer under Section 77-20b-101, the surety or surety insurer may bring the defendant before the court or surrender the defendant into the custody of a county sheriff within the state within [~~six months of~~] 90 days after the date of nonappearance, during which time a forfeiture action on the [bail] bond may not be brought.

(2) A surety or surety insurer may request an extension of the [~~six-month~~] 90-day time period in Subsection (1), if the surety or surety insurer within that time:

(a) files a motion for extension with the court; and

(b) mails the motion for extension and a notice of hearing on the motion to the prosecutor.

(3) The court may extend the [~~six-month~~] 90-day time in Subsection (1) for not more than 60 days, if the surety or surety insurer has complied with Subsection (2) and the court finds good cause.

**Section 17. Section 77-20b-104 is amended to read:**

**77-20b-104. Forfeiture of bail.**

(1) If a surety or surety insurer fails to bring the defendant before the court within the time provided in Section 77-20b-102, the prosecuting attorney may request the forfeiture of the [bail] bond by:

(a) filing a motion for [bail] bond forfeiture with the court, supported by proof of notice to the surety or surety insurer of the defendant's nonappearance; and

(b) [~~mailing~~] emailing a copy of the motion to the surety or surety insurer.

(2) A court shall enter judgment of [bail] bond forfeiture without further notice if [~~it~~] the court finds by a preponderance of the evidence:

(a) the defendant failed to appear as required;

(b) the surety or surety insurer was given notice of the defendant's nonappearance in accordance with Section 77-20b-101;

(c) the surety or surety insurer failed to bring the defendant to the court within the [~~six-month~~] 90-day period under Section 77-20b-102; and

(d) the prosecutor has complied with the notice requirements under Subsection (1).

(3) If the surety or surety insurer shows by a preponderance of the evidence that it has failed to bring the defendant before the court because the defendant is deceased through no act of the surety or surety insurer, the court may not enter judgment of [bail] bond forfeiture and the [bail] bond is exonerated.

(4) The amount of [bail] the bond forfeited is the face amount of the [bail] bond, but if the defendant is in the custody of another jurisdiction and the state extradites or intends to extradite the defendant, the court may reduce the amount forfeited to the actual or estimated costs of returning the defendant to the court's jurisdiction. A judgment under Subsection (5) shall:

(a) identify the surety or surety insurer against whom judgment is granted;

(b) specify the amount of [~~bail~~] the bond forfeited;

(c) grant the forfeiture of the [~~bail~~] bond; and

(d) be docketed by the clerk of the court in the civil judgment docket.

(5) A prosecutor may immediately commence collection proceedings to execute a judgment of [~~bail~~] bond forfeiture against the assets of the surety.

**Section 18. Section 78A-2-220 is amended to read:**

**78A-2-220. Authority of magistrate.**

(1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3 shall have the authority to:

(a) commit a person to incarceration prior to trial;

(b) set or deny bail under Section 77-20-1 and release upon the payment of monetary bail and satisfaction of any other conditions of release;

(c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;

(d) conduct an initial appearance;

(e) conduct arraignments;

(f) conduct a preliminary examination to determine probable cause;

(g) appoint attorneys and order recoupment of attorney fees;

(h) order the preparation of presentence investigations and reports;

(i) issue temporary orders as provided by rule of the Judicial Council; and

(j) perform any other act or function authorized by statute.

(2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:

(a) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment as provided by rule of the Judicial Council; and

(b) a judge of the justice court may not [~~set bail~~] perform any act or function in a capital felony [~~or deny bail in any~~] case.

**Section 19. Repealer.**

This bill repeals:

**Section 77-20-3, Release on own recognizance -- Changing amount of bail or conditions of release.**

**Section 20. Effective date.**

This bill takes effect on October 1, 2020.



**CHAPTER 186****H. B. 208**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**ALCOHOL EDUCATION AMENDMENTS**

Chief Sponsor: Jeffrey D. Stenquist  
 Senate Sponsor: Ronald Winterton

**LONG TITLE****General Description:**

This bill amends and enacts provisions regarding media and education campaigns about alcohol.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates a restricted account within the General Fund;
- ▶ outlines the duties of the Department of Health in creating and conducting a drinking while pregnant prevention campaign; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63J-1-602.1, as last amended by Laws of Utah 2019, Chapters 89, 136, 213, 215, 244, 326, 342, and 482

**ENACTS:**

26-7-10, Utah Code Annotated 1953  
 32B-2-308, Utah Code Annotated 1953

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

**Section 1. Section 26-7-10 is enacted to read:****26-7-10. Drinking while pregnant prevention media and education campaign.**

(1) As used in this section, "restricted account" means the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(2) The department shall:

(a) create guidelines for how money in the restricted account for a media and education campaign can be used;

(b) include in the guidelines established under this Subsection (2) that a media and education campaign is:

(i) carefully researched and developed; and

(ii) appropriate for target groups.

(3) (a) Subject to appropriation from the Legislature, the department shall expend money from the restricted account to direct and fund one or

more media and education campaigns designed to reduce the consumption of alcohol while pregnant.

(b) The department shall:

(i) conduct the media and education campaign in accordance with the guidelines established under Subsection (2); and

(ii) submit to the Health and Human Services Interim Committee annually by no later than October 1, a written report detailing:

(A) the use of the money for the media and education campaigns conducted under this Subsection (3); and

(B) the impact and result of the use of the money during the previous fiscal year ending June 30.

**Section 2. Section 32B-2-308 is enacted to read:****32B-2-308. Drinking while pregnant prevention media and education campaign restricted account.**

(1) As used in this section:

(a) "Department of Health" means the Department of Health created in Section 26-1-4.

(b) "Restricted account" means the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in this section.

(2) (a) There is created a restricted account within the General Fund known as the "Drinking While Pregnant Prevention Media and Education Campaign Restricted Account."

(b) The restricted account consists of:

(i) money the Legislature appropriates to the restricted account; and

(ii) interest earned on the restricted account.

**Section 3. Section 63J-1-602.1 is amended to read:****63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(7) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(8) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(9) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-15-203.

(22) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(24) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(25) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(26) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

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

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

(29) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(30) The DNA Specimen Restricted Account created in Section 53-10-407.

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

(32) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(33) The Higher Education Capital Projects Fund created in Section 53B-22-202.

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

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

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

(38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

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

(42) The Relative Value Study Restricted Account created in Section 59-9-105.

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

(44) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(45) Funds paid to the Division of Real Estate for the cost of a criminal background check for

principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(46) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(47) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(48) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(49) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(50) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(51) The Immigration Act Restricted Account created in Section 63G-12-103.

(52) Money received by the military installation development authority, as provided in Section 63H-1-504.

(53) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(54) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(55) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(56) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(57) The Motion Picture Incentive Account created in Section 63N-8-103.

(58) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(59) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(60) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(61) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(62) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(63) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(64) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(65) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(66) Fees for certificate of admission created under Section 78A-9-102.

(67) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(68) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(69) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(70) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(71) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

**CHAPTER 187****H. B. 214**

Passed March 10, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**INSURANCE COVERAGE MODIFICATIONS**

Chief Sponsor: Raymond P. Ward  
Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill enacts provisions relating to certain health care benefits.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Health to apply for a Medicaid waiver or state plan amendment to allow the program to provide coverage for in vitro fertilization and genetic testing for certain individuals;
- ▶ requires the Public Employees' Health Benefit Program to provide coverage for in vitro fertilization and genetic testing for certain individuals;
- ▶ requires certain insurers to study whether coverage of in vitro fertilization would result in cost savings to the insurer; and
- ▶ creates reporting requirements.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-2-226, as last amended by Laws of Utah 2019, Chapters 262, 393, 405 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246  
63I-2-249, as last amended by Laws of Utah 2018, Chapters 38 and 281

**ENACTS:**

26-18-420, Utah Code Annotated 1953  
31A-22-653, Utah Code Annotated 1953  
49-20-420, Utah Code Annotated 1953

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

**Section 1. Section 26-18-420 is enacted to read:****26-18-420. Coverage for in vitro fertilization and genetic testing.**

(1) As used in this section:

(a) "Qualified condition" means:

(i) cystic fibrosis;

(ii) spinal muscular atrophy;

(iii) Morquio Syndrome;

(iv) myotonic dystrophy; or

(v) sickle cell anemia.

(b) "Qualified enrollee" means an individual who:

(i) is enrolled in the Medicaid program;

(ii) has been diagnosed by a physician as having a genetic trait associated with a qualified condition; and

(iii) intends to get pregnant with a partner who is diagnosed by a physician as having a genetic trait associated with the same qualified condition as the individual.

(2) Before January 1, 2021, the department shall apply for a Medicaid waiver or a state plan amendment with the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services to implement the coverage described in Subsection (3).

(3) If the waiver described in Subsection (2) is approved, the Medicaid program shall provide coverage to a qualified enrollee for:

(a) in vitro fertilization services; and

(b) genetic testing of a qualified enrollee who receives in vitro fertilization services under Subsection (3)(a).

(4) The Medicaid program may not provide the coverage described in Subsection (3) before the later of:

(a) the day on which the waiver described in Subsection (2) is approved; and

(b) January 1, 2021.

(5) Before November 1, 2022, and before November 1 of every third year thereafter, the department shall:

(a) calculate the change in state spending attributable to the coverage under this section; and

(b) report the amount described in Subsection (4)(a) to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee.

**Section 2. Section 31A-22-653 is enacted to read:****31A-22-653. Study of coverage for in vitro fertilization and genetic testing -- Reporting -- Coverage requirements.**

(1) As used in this section:

(a) "Qualified condition" means the same as that term is defined in Section 49-20-420.

(b) "Qualified insurer" means an insurer that provides a health benefit plan described in Section 31A-22-600 to more than 25,000 enrollees in the state.

(c) "Qualified enrollee" means an enrollee of a qualified insurer who:

(i) has been diagnosed by a physician as having a genetic trait associated with a qualified condition; and

(ii) intends to get pregnant with a partner who is diagnosed by a physician as having a genetic trait associated with the same qualified condition as the enrollee.

(2) (a) A qualified insurer shall submit the information described in this Subsection (2) to the department with the qualified insurer's rate filings required under Section 31A-2-201.1 for a plan year beginning:

(i) on or after January 1, 2022, but before December 31, 2022; and

(ii) on or after January 1, 2025, but before December 31, 2025.

(b) A qualified insurer shall study whether providing the coverage for the services described in Subsections (3)(a) through (c) for qualified enrollees will result in cost savings for the qualified insurer.

(c) (i) If a qualified insurer determines that providing the coverage described in Subsection (3) for qualified enrollees will result in cost savings for the qualified insurer, the qualified insurer shall submit a summary of the results of the study described in Subsection (2)(b), and:

(A) describe how the qualified insurer intends to provide the coverage described in Subsection (3); or

(B) submit an explanation of why the insurer will not provide the coverage described in Subsection (3).

(ii) If a qualified insurer determines that providing the coverage described in Subsection (3) will not result in cost savings to the qualified insurer, the qualified insurer shall submit a summary of the results of the study described in Subsection (2)(b).

(3) A qualified insurer shall consider coverage for:

(a) in vitro fertilization services for a qualified enrollee; and

(b) genetic testing of a qualified enrollee who received in vitro fertilization services under Subsection (3)(a).

(4) The department shall report the information received under Subsection (2) to the Health and Human Services Interim Committee on or before:

(a) for information submitted under Subsection (2)(a)(i), November 1, 2022; and

(b) for information submitted under Subsection (2)(a)(ii), November 1, 2025.

**Section 3. Section 49-20-420 is enacted to read:**

**49-20-420. Coverage for in vitro fertilization and genetic testing.**

(1) As used in this section:

(a) "Qualified condition" means:

(i) cystic fibrosis;

(ii) spinal muscular atrophy;

(iii) Morquio Syndrome;

(iv) myotonic dystrophy; or

(v) sickle cell anemia.

(b) "Qualified individual" means a covered individual who:

(i) has been diagnosed by a physician as having a genetic trait associated with a qualified condition; and

(ii) intends to get pregnant with a partner who is diagnosed by a physician as having a genetic trait associated with the same qualified condition as the covered individual.

(2) For a plan year that begins on or after July 1, 2020, the program shall provide coverage for a qualified individual for:

(a) in vitro fertilization services; and

(b) genetic testing of a qualified individual who receives in vitro fertilization services under Subsection (2)(a).

(3) Before November 1, 2022, and before November 1 of every third year thereafter, the program shall:

(a) calculate the change in state spending attributable to the coverage under this section; and

(b) report the amount described in Subsection (3)(a) to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee.

**Section 4. Section 63I-2-226 is amended to read:**

**63I-2-226. Repeal dates -- Title 26.**

(1) Subsection 26-7-8(3) is repealed January 1, 2027.

(2) Section 26-8a-107 is repealed July 1, 2024.

(3) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

~~[(4) Subsection 26-18-2.3(5) is repealed January 1, 2020.]~~

~~[(5)] (4) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.~~

~~[(6)] (5) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.~~

(6) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

~~[(7) Subsection 26-18-604(2) is repealed January 1, 2020.]~~

~~[(8)] (7) Subsection 26-21-28(2)(b) is repealed January 1, 2021.~~

~~[(9)] (8) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.~~

~~[(10) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.]~~

~~[(11)] (9) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.~~

~~[(12) Subsection 26-50-202(7)(b) is repealed January 1, 2020.]~~

~~[(13) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.]~~

~~[(14) (10) Subsection 26-55-107(8) is repealed January 1, 2021.]~~

~~[(15) Subsection 26-56-103(9)(d) is repealed January 1, 2020.]~~

~~[(16) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.]~~

~~[(17) (11) Subsection 26-61-202(4)(b) is repealed January 1, 2022.]~~

~~[(18) (12) Subsection 26-61-202(5) is repealed January 1, 2022.]~~

**Section 5. Section 63I-2-249 is amended to read:**

**63I-2-249. Repeal dates -- Title 49.**

(1) Section 49-20-106 is repealed January 1, 2021.

(2) Subsection 49-20-417(5)(b) is repealed January 1, 2020.

(3) Subsection 49-20-420(3), regarding a requirement to report to the Legislature, is repealed January 1, 2030.

**CHAPTER 188****H. B. 219**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**MENTAL HEALTH AMENDMENTS**

Chief Sponsor: James A. Dunnigan  
 Senate Sponsor: Allen M. Christensen

**LONG TITLE****General Description:**

This bill addresses reimbursement for certain inpatient mental health services under Medicaid.

**Highlighted Provisions:**

This bill:

- ▶ directs the Department of Health to apply for a waiver or a state plan amendment with Medicaid to offer a program to provide reimbursement for certain inpatient mental health services.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

26-18-420, Utah Code Annotated 1953

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

**Section 1. Section 26-18-420 is enacted to read:****26-18-420. Medicaid waiver for inpatient care in an institution for mental diseases.**

(1) As used in this section, "institution for mental diseases" means the same as that term is defined in 42 C.F.R. Sec. 435.1010.

(2) Before August 1, 2020, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to offer a program that provides reimbursement for mental health services that are provided:

(a) in an institution for mental diseases that includes more than 16 beds; and

(b) to an individual who receives mental health services in an institution for mental diseases for a period of more than 15 days in a calendar month.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall:

(a) coordinate with the Department of Human Services to develop and offer the program described in Subsection (2); and

(b) submit to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee any report that the department submits to CMS that relates to the budget neutrality, independent waiver evaluation,

or performance metrics of the program described in Subsection (2), within 15 days after the day on which the report is submitted to CMS.

(4) Notwithstanding Sections 17-43-201 and 17-43-301, if the waiver or state plan amendment described in Subsection (2) is approved, a county does not have to provide matching funds to the state for the mental health services described in Subsection (2) that are provided to an individual who qualifies for Medicaid coverage under Section 26-18-3.9 or Section 26-18-411.

**CHAPTER 189****H. B. 232**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**FOOD REVISIONS**

Chief Sponsor: Marc K. Roberts  
 Senate Sponsor: Scott D. Sandall

**LONG TITLE****General Description:**

This bill creates permitting guidelines for agritourism food establishments and amends provisions relating to food handler and food safety permits.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ clarifies provisions related to the certification requirements for an individual who is a certified educator and who teaches a food program;
- ▶ clarifies provisions related to local health departments' documentation process for certified food safety managers;
- ▶ grants administrative authority to the Department of Health to make rules regarding sanitation, equipment, and maintenance requirements for microenterprise home kitchens; and
- ▶ grants administrative authority to local health departments to:
  - create and issue agritourism food establishment permits;
  - charge fees for issuing permits and inspecting premises; and
  - inspect agritourism food establishments, including inspecting the locations where food is prepared.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-15-5, as repealed and reenacted by Laws of Utah 2013, Chapter 444

26-15a-106, as last amended by Laws of Utah 2000, Chapter 86

**ENACTS:**

26-15b-101, Utah Code Annotated 1953

26-15b-102, Utah Code Annotated 1953

26-15b-103, Utah Code Annotated 1953

26-15b-104, Utah Code Annotated 1953

26-15b-105, Utah Code Annotated 1953

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

**Section 1. Section 26-15-5 is amended to read:**

**26-15-5. Requirements for food handlers -- Training program and testing requirements for permit -- Rulemaking.**

(1) As used in this section:

(a) "Approved food handler training program" means a training program described by this section and approved by the department.

(b) "Food handler" means a person who works with unpackaged food, food equipment or utensils, or food-contact surfaces for a food service establishment.

(c) "Food handler permit" means a permit issued by a local health department to allow a person to work as a food handler.

(d) "Food service establishment" has the same meaning as provided in Section 26-15a-102.

(e) "Instructor" means an individual who is qualified to instruct an approved food handler program on behalf of a provider.

[~~(e)~~] (f) "Provider" means a person or entity that provides an approved food handler training program.

(2) A person may not work as a food handler for a food service establishment unless the person:

(a) successfully completes an approved food handler training program within 14 days after the day on which the person begins employment that includes food handler services; and

(b) obtains a food handler permit within 30 days after the day on which the person begins employment that includes food handler services.

(3) An approved food handler training program shall include:

(a) at least 75 minutes of training time;

(b) an exam, which requires a passing score of 75% and, except as provided in Subsection (11), consists of:

(i) 40 multiple-choice questions developed by the department, in consultation with local health departments; and

(ii) four content sections designated by rule of the department with 10 randomly selected questions for each content section; and

(c) upon completion, the awarding of a certificate of completion that is valid with any local health department in the state for 30 days after the day on which the certificate is issued:

(i) to a student who:

(A) completes the training; and

(B) passes the exam described in this Subsection (3) or an exam approved by the department in accordance with Subsection (11); and

(ii) which certificate of completion:

(A) includes student identifying information determined by department rule; and

(B) is delivered by mail or electronic means.

(4) (a) A person may obtain a food handler permit by:



(i) providing a valid certificate of completion of an approved food handler training program and an application, approved by the local health department, to a local health department; and

(ii) paying a food handler permit fee to the local health department.

(b) (i) A local health department may charge a food handler permit fee that is reasonable and that reflects the cost of managing the food safety program.

(ii) The department shall establish by rule the maximum amount a local health department may charge for the fee described in Subsection (4)(b)(i).

(5) A person working as a food handler for a food service establishment shall obtain a food handler permit:

(a) before handling any food;

(b) within 30 days of initial employment with a food service establishment; and

(c) within seven days of the expiration of an existing food handler permit.

(6) (a) A person who holds a valid food handler permit under this section may serve as a food handler throughout the state without restriction.

(b) A food handler permit granted after June 30, 2013, is valid for three years from the date of issuance.

(7) ~~[A person]~~ An individual may not serve as an instructor [of an approved food handler training program], unless [the person is registered with a local health department as an instructor] the provider includes the individual on the provider's list of instructors.

(8) The department, in consultation with local health departments, shall:

(a) approve the content of an approved food handler training program required under Subsection (3);

(b) approve, as qualified, each provider; and

(c) in accordance with applicable rules made under Subsection (12), provide a means to authenticate:

(i) documents used in an approved food handler training program;

(ii) the identity of an approved instructor; and

(iii) an approved provider.

(9) An approved food handler training program shall:

(a) provide basic instruction on the Centers for Disease Control and Prevention's top five foodborne illness risk factors, including:

(i) improper hot and cold holding temperatures of potentially hazardous food;

(ii) improper cooking temperatures of food;

(iii) dirty or contaminated utensils and equipment;

(iv) poor employee health and hygiene; and

(v) food from unsafe sources;

(b) be offered through:

(i) a trainer-led class;

(ii) the Internet; or

(iii) a combination of a trainer-led class and the Internet;

(c) maintain a system to verify a certificate of completion of an approved food handler training program issued under Subsection (3) to the department, a local health department, and a food service establishment; and

(d) provide to the department unrestricted access to classroom training sessions and online course materials at any time for audit purposes.

(10) (a) A provider that provides an approved food handler training program may charge a reasonable fee.

(b) If a person or an entity is not approved by the department to provide an approved food handler training program, the person or entity may not represent, in connection with the person's or entity's name or business, including in advertising, that the person or entity is a provider of an approved food handler training program or otherwise represent that a program offered by the person or entity will qualify an individual to work as a food handler in the state.

(11) (a) Subject to the approval of the department every three years, a provider may use an exam that consists of questions that do not conform with the provisions of Subsection (3)(b), if:

(i) the provider complies with the provisions of this Subsection (11);

(ii) the provider pays a fee every three years to the department, which fee shall be determined by the department and shall reflect the cost of the review of the alternative test questions; and

(iii) an independent instructional design and testing expert provides a written report to the department containing a positive recommendation based on the expert's analysis as described in Subsection 11(b).

(b) (i) A provider may request approval of a different bank of test questions other than the questions developed under Subsection (3) by submitting to the department a proposed bank of at least 200 test questions organized by learning objective in accordance with Subsection (9)(a).

(ii) A provider proposing a different bank of test questions under this Subsection (11) shall contract with an independent instructional design and testing expert approved by the department at the provider's expense to analyze the provider's bank of test questions to ensure the questions:

(A) effectively measure the applicant's knowledge of the required learning objectives; and

(B) meet the appropriate testing standards for question structure.

(c) If the department provides written notice to a provider that any test question of the provider's approved exam under this Subsection (11) inadequately tests the required learning objectives, the provider shall make required changes to the question within 30 days after the day on which written notice is received by the provider.

(d) A food handler exam offered by a provider may be:

(i) a written exam;

(ii) an online exam; or

(iii) an oral exam, if circumstances require, including when an applicant's language or reading abilities interfere with taking a written or online exam.

(e) A provider shall routinely rotate test questions from the test question bank, change the order of test questions in tests, and change the order of multiple-choice answers in test questions to discourage cheating.

(12) (a) When exercising rulemaking authority under this section the department shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall, by rule, establish requirements designed to inhibit fraud for an approved food handler training program described in this section.

(c) The requirements described in Subsection (12)(b) may include requirements to ensure that:

(i) an individual does not attempt to complete the program or exam in another individual's place;

(ii) an individual taking the approved food handler training program is focused on training material and actively engaged throughout the training period;

(iii) if the individual is unable to participate online because of technical difficulties, an approved food handler training program provides technical support, such as requiring a telephone number, email, or other method of communication to allow an individual taking the online course or test to receive assistance;

(iv) an approved food handler training program provider maintains a system to reduce fraud as to who completes an approved food handler training program, such as requiring a distinct online certificate with information printed on the certificate that identifies a person taking an online course or exam, or requiring measures to inhibit duplication of a certificate of completion or of a food handler permit;

(v) the department may audit an approved food handler training program;

(vi) an individual taking an online course or certification exam has the opportunity to provide an evaluation of the online course or test;

(vii) an approved food handler training program provider track the Internet protocol address or similar electronic location of an individual who takes an online course or certification exam;

(viii) an individual who takes an online course or exam uses an electronic signature; or

(ix) if the approved food handler training program provider learns that a certificate of completion does not accurately reflect the identity of the individual who took the online course or certification exam, an approved food handler training program provider invalidates the certificate of completion.

(13) An instructor is not required to satisfy any additional training requirements if the instructor:

(a) is an educator in a public or private school; and

(b) teaches a food program that includes food safety in a public or private school in which the instructor is an educator.

**Section 2. Section 26-15a-106 is amended to read:**

**26-15a-106. Certified food safety manager.**

(1) Before a person may manage a food service establishment as a certified food safety manager, that person shall submit documentation in the format prescribed by the department to the appropriate local health department indicating a passing score on a department-approved examination.

(2) To continue to manage a food service establishment, a certified food safety manager shall:

(a) successfully complete, every three years, renewal requirements established by department rule which are consistent with original certification requirements; and

(b) submit documentation in the format prescribed by the department within 30 days of the completion of renewal requirements to the appropriate local health department.

(3) A local health department may deny, revoke, or suspend the authority of a certified food safety manager to manage a food service establishment or require the completion of additional food safety training courses for any one of the following reasons:

(a) submitting information required under Subsection (1) or (2) that is false, incomplete, or misleading;

(b) repeated violations of department or local health department food safety rules; or

(c) operating a food service establishment in a way that causes or creates a health hazard or otherwise threatens the public health, safety, or welfare.

(4) A determination of a local health department made pursuant to Subsection (3) may be appealed

by a certified food safety manager in the same manner provided for in Subsection 26-15a-104(4).

(5) No person may use the title “certified food safety manager,” or any other similar title, unless the person has satisfied the requirements of this chapter.

(6) A local health department:

(a) may not charge a fee to accept or process the documentation described in Subsections (1) and (2);

(b) shall accept photocopies or electronic copies of the documentation described in Subsections (1) and (2); and

(c) shall allow an individual to submit the documentation described in Subsections (1) and (2) by mail, email, or in person.

**Section 3. Section 26-15b-101 is enacted to read:**

#### **CHAPTER 15b. AGRITOURISM FOOD ESTABLISHMENT ACT**

**26-15b-101. Title.**

This chapter is known as the “Agritourism Food Establishment Act.”

**Section 4. Section 26-15b-102 is enacted to read:**

**26-15b-102. Definitions.**

As used in this chapter:

(1) “Agricultural tourism activity” means the same as that term is defined in Section 78B-4-512.

(2) “Agritourism” means the same as that term is defined in Section 78B-4-512.

(3) “Agritourism food establishment” means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an agricultural tourism activity.

(4) “Agritourism food establishment permit” means a permit issued by a local health department to the operator for the purposes of operating an agritourism food establishment.

(5) “Farm” means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(6) “Food” means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

(7) “Local health department” means the same as that term is defined in Section 26A-1-102.

(8) “Operator” means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.

(9) “Time/temperature control food” means food that requires time/temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

**Section 5. Section 26-15b-103 is enacted to read:**

**26-15b-103. Permitting -- Fees.**

(1) A farm may not operate an agritourism food establishment unless the farm obtains a permit from the local health department that has jurisdiction over the area in which the farm is located.

(2) In accordance with Section 26A-1-121, and subject to the restrictions of Section 26-15b-105, a local health department shall make standards and regulations relating to the permitting of an agritourism food establishment.

(3) In accordance with Section 26A-1-114, a local health department shall impose a fee for an agritourism food establishment permit in an amount that reimburses the local health department for the cost of regulating the agritourism food establishment.

**Section 6. Section 26-15b-104 is enacted to read:**

**26-15b-104. Permits.**

(1) A local health department with jurisdiction over an area in which a farm is located may grant an agritourism food establishment permit to the farm.

(2) Nothing in this section prevents a local health department from revoking an agritourism food establishment permit issued by the local health department if the operation of the agritourism food establishment violates the terms of the permit or Section 26-15b-105.

**Section 7. Section 26-15b-105 is enacted to read:**

**26-15b-105. Permit requirements -- Inspections.**

(1) A farm may qualify for an agritourism food establishment permit if:

(a) poultry products that are served at the agritourism establishment are slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

(b) meat not described in Subsection (1)(a) that is served at the agritourism food establishment is slaughtered and processed in compliance with the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

(c) a kitchen facility used to prepare food for the agritourism food establishment meets the requirements established by the department;

(d) the farm operates the agritourism food establishment for no more than 14 consecutive days at a time; and

(e) the farm complies with the requirements of this section.

(2) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for agritourism food establishments.

(3) A local health department shall:

(a) ensure compliance with the rules described in Subsection (2) when inspecting a kitchen facility;

(b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that requests an agritourism food establishment permit only:

(i) for an initial inspection, no more than one week before the agritourism food establishment is scheduled to begin operation;

(ii) for an unscheduled inspection:

(A) of an event scheduled to last no more than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation; or

(B) of an event scheduled to last longer than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation, or conducts the inspection during operating hours of the agritourism food establishment; or

(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice about an inspection; or

(B) the local health department has a valid reason to suspect that the agritourism food establishment is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and

(c) document the reason for any inspection after the permitting inspection, keep a copy of that documentation on file with the agritourism food establishment's permit, and provide a copy of that documentation to the operator.

(4) An agritourism food establishment shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles; and

(b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

(i) symptoms associated with acute gastrointestinal illness; or

(ii) a communicable disease that is transmissible through food.

(5) When making the rules described in Subsection (2), the department may not make rules regarding:

(a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located;

(b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

(c) the individuals allowed access to the food preparation areas, food storage, and washing areas, except during food preparation;

(d) display guards, covers, or containers for display foods, except to require that any food on display that is not protected from the direct line of a consumer's mouth by an effective means is not served or sold to any subsequent consumer;

(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) reuse by an individual of drinking cups and tableware for multiple portions;

(g) utensils and equipment, except to require that utensils and equipment used in the home kitchen:

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(h) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;

(i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(j) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

(k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(l) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time/temperature control food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

(m) fixed floor-mounted and table-mounted equipment except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

(n) dedicated laundry facilities, except to require that linens used for the agritourism food establishment are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;

(o) water, plumbing, drainage, and waste, except to require that sinks be supplied with hot water;

(p) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;

(q) lighting, except to require that food preparations are well lit by natural or artificial light whenever food is being prepared;

(r) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;

(s) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas during food service and food preparation;

(t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

(u) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;

(v) submission of plans and specifications before construction or remodel of a kitchen facility;

(w) the number and type of time/temperature controlled food offered for sale;

(x) approved food sources, except those required by 9 C.F.R. 303.1;

(y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

(z) food safety certification, except any individual who is involved in the preparation, storage, or service of food in the agritourism food establishment shall hold a food handler permit as defined in Section 26-15-5.

(6) An operator applying for an agritourism food establishment permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the agritourism food establishment; and

(b) written standard operating procedures that include:

(i) all food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining time/temperature controlled food at the appropriate temperatures for each time/temperature controlled food.

(7) In addition to a fee charged under Section 26-15b-103, if the local health department is required to inspect the farm as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the farm has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the farm a fee for that inspection.

(8) An agritourism food establishment permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

(c) is restricted to the location listed on the permit; and

(d) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.

(9) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

**CHAPTER 190****H. B. 233**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective July 1, 2020

**NATURAL RESOURCES  
 LEGACY FUNDING AMENDMENTS**

Chief Sponsor: Casey Snider  
 Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill addresses natural resources related activities and the funding of those activities.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Utah Natural Resources Legacy Fund Act, including:
  - defining terms;
  - addressing application to mineral estates;
  - creating the Utah Natural Resources Legacy Fund;
  - creating the Utah Natural Resources Legacy Fund Board; and
  - outlining the uses of the legacy fund; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

79-2-201, as last amended by Laws of Utah 2017, Chapter 451

**ENACTS:**

23-31-101, Utah Code Annotated 1953  
 23-31-102, Utah Code Annotated 1953  
 23-31-103, Utah Code Annotated 1953  
 23-31-104, Utah Code Annotated 1953  
 23-31-201, Utah Code Annotated 1953  
 23-31-202, Utah Code Annotated 1953  
 23-31-203, Utah Code Annotated 1953

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

**Section 1. Section 23-31-101 is enacted to read:**

**CHAPTER 31. UTAH NATURAL  
 RESOURCES LEGACY FUND ACT**

**Part 1. General Provisions**

**23-31-101. Title.**

This chapter is known as the "Utah Natural Resources Legacy Fund Act."

**Section 2. Section 23-31-102 is enacted to read:**

**23-31-102. Definitions.**

As used in this chapter:

(1) "Board" means the Utah Natural Resources Legacy Fund Board created in Section 23-31-202.

(2) "Department" means the Department of Natural Resources.

(3) "Legacy fund" means the Utah Natural Resources Legacy Fund created in Section 23-31-201.

**Section 3. Section 23-31-103 is enacted to read:**

**23-31-103. Application to mineral estates.**

This chapter does not change law regarding:

- (1) the primacy of a mineral estate;
- (2) limiting access to a mineral estate; or
- (3) limiting development of a mineral estate.

**Section 4. Section 23-31-104 is enacted to read:**

**23-31-104. Reporting.**

The division shall annually report to the governor and the Natural Resources, Agriculture, and Environment Interim Committee on or before September 1 with respect to:

(1) federal grants, state appropriations, and other contributions, grants, gifts, transfers, bequests, and donations received and credited to the legacy fund during the preceding fiscal year; and

(2) expenditures from the legacy fund under Section 23-31-203.

**Section 5. Section 23-31-201 is enacted to read:**

**Part 2. Legacy Fund and Board**

**23-31-201. Utah Natural Resources Legacy Fund.**

(1) There is created an expendable special revenue fund known as the "Utah Natural Resources Legacy Fund."

(2) The legacy fund consists of:

(a) appropriations to the legacy fund by the Legislature;

(b) federal grants accepted by the department or a division of the department and specifically directed to the legacy fund; and

(c) contributions, grants, gifts, transfers, bequests, and donations to the legacy fund accepted by the department and specifically directed to the legacy fund.

(3) (a) The account shall earn interest.

(b) The interest described in Subsection (3)(a) shall be deposited into the account.

**Section 6. Section 23-31-202 is enacted to read:**

**23-31-202. Utah Natural Resources Legacy Fund Board.**

(1) Subject to Subsection (12), there is created within the department the Utah Natural Resources Legacy Fund Board that consists of eight members as follows:

(a) the following voting members:

(i) two members representing the agriculture industry, appointed by the commissioner of the Department of Agriculture and Food;

(ii) one member representing a non-government entity that has as a primary purpose conserving non-game wildlife and habitat, appointed by the director of the Division of Wildlife Resources;

(iii) one member representing hunting, fishing, and trapping interests in Utah, appointed by the director of the Division of Wildlife Resources;

(iv) one member representing mineral extraction and development interests, appointed by the director of the Division of Oil, Gas, and Mining;

(v) one member representing water development and distribution interests, appointed by the executive director of the department; and

(vi) one at-large member, appointed by the executive director of the department; and

(b) the director of the division as a nonvoting member.

(2) A voting member of the board shall be appointed for a three-year term.

(3) Notwithstanding Subsection (2), terms of board members are staggered as follows so that approximately one-third of the board is appointed every year:

(a) the initial individuals appointed under Subsections (1)(a)(i) and (ii) shall be appointed for three-year terms;

(b) the initial individuals appointed under Subsections (1)(a)(iii) and (iv) shall be appointed for two-year terms; and

(c) the initial individuals appointed under Subsections (1)(a)(v) and (vi) shall be appointed for one-year terms.

(4) An individual may be appointed to more than one term.

(5) When a vacancy occurs in the membership for any reason, an individual shall be appointed in accordance with Subsection (1) to replace the member for the unexpired term.

(6) The board shall elect one member to serve as chair of the board.

(7) The board shall meet regularly as called by the chair.

(8) Four voting members constitute a quorum.

(9) An action by the majority of voting members present when a quorum is present is an action of the board.

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

(a) Section 63A-3-106;

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

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

(11) The division shall staff the board.

(12) The board is not created and may not begin operation until the fund described in Section 23-31-201 holds at least \$200,000.

**Section 7. Section 23-31-203 is enacted to read:**

**23-31-203. Uses of legacy fund.**

(1) Each year, when the board creates a budget, the board shall allocate:

(a) 40% of the budget:

(i) for staff and expenses to administer the fund under this chapter;

(ii) to conduct research, monitoring, and management actions that benefit non-game species; or

(iii) to otherwise reduce the likelihood of future species listings under the Endangered Species Act, 16 U.S.C. Sec. 1531 et seq.; and

(b) 60% of the budget to fund the following projects that provide the following landscape level conservation benefits:

(i) preserving open spaces, wildlife habitat, and critical agricultural lands;

(ii) providing perpetual access for hunting, fishing, or trapping;

(iii) addressing and mitigating impacts detrimental to wildlife habitat, the environment, and the multiple use of renewable natural resources attributable to residential, mineral, and industrial development; or

(iv) preserving a viable agricultural industry.

(2) (a) The board shall make recommendations to the division regarding expenditures from the legacy fund for the purposes described in Subsection (1)(b).

(b) The division shall consider the board's recommendations in approving an expenditure from the legacy fund under Subsection (1) and, if the division rejects the board's recommendation, the director of the division shall provide the board with a written explanation of the reason for the rejection.

(3) In performing the actions described in Subsection (1)(b), the division shall comply with the requirements described in Section 23-21-1.5.

(4) This section does not give the division the power of eminent domain.

(5) The division may not use assets from the legacy fund for litigation.

(6) Money in the legacy fund may not be used to develop or implement a habitat conservation plan

required under federal law unless the federal government pays for at least one-third of the habitat conservation plan costs.

**Section 8. Section 79-2-201 is amended to read:**

**79-2-201. Department of Natural Resources created.**

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Board of Parks and Recreation, created in Section 79-4-301;

(d) Wildlife Board, created in Section 23-14-2;

(e) Board of the Utah Geological Survey, created in Section 79-3-301;

(f) Water Development Coordinating Council, created in Section 73-10c-3;

(g) Division of Water Rights, created in Section 73-2-1.1;

(h) Division of Water Resources, created in Section 73-10-18;

(i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

(j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

(k) Division of Parks and Recreation, created in Section 79-4-201;

(l) Division of Wildlife Resources, created in Section 23-14-1;

(m) Utah Geological Survey, created in Section 79-3-201;

(n) Heritage Trees Advisory Committee, created in Section 65A-8-306;

(o) Recreational Trails Advisory Council, authorized by Section 79-5-201;

(p) Boating Advisory Council, authorized by Section 73-18-3.5;

(q) Wildlife Board Nominating Committee, created in Section 23-14-2.5; ~~and~~

(r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6~~[-]~~; and

(s) Utah Natural Resources Legacy Fund Board, created in Section 23-31-202.

**Section 9. Effective date.**

This bill takes effect on July 1, 2020.



**CHAPTER 191****H. B. 238**

Passed March 6, 2020

Approved March 28, 2020

Effective May 12, 2020

**CRIME ENHANCEMENT AMENDMENTS**

Chief Sponsor: Stephanie Pitcher

Senate Sponsor: Todd Weiler

Cosponsor: Melissa G. Ballard

**LONG TITLE****General Description:**

This bill changes the enhancements for possession of a controlled substance.

**Highlighted Provisions:**

This bill:

- ▶ limits the enhancement for multiple possessions of a controlled substance to within seven years of the previous conviction or commission of the offense.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-37-8, as last amended by Laws of Utah 2019, Chapter 58

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

**Section 1. Section 58-37-8 is amended to read:****58-37-8. Prohibited acts -- Penalties.**

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug

Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the current conviction or the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the current conviction or the date of the offense upon which the current conviction is based. ~~and upon~~

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years of the date of the current conviction or the date of the offense upon which the current conviction is based ~~[the person is guilty of a third degree felony]~~.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the

equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for

bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years of age is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

**CHAPTER 192****H. B. 242**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**CHARTER SCHOOL OPERATIONS AND SCHOOL ACCOUNTING AMENDMENTS**

Chief Sponsor: Jefferson Moss  
 Senate Sponsor: Daniel McCay

**LONG TITLE****General Description:**

This bill amends certain provisions related to school accounting methods, and the approval, oversight, and closure of charter schools by an authorizer.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates an initial review period before a charter school receives ongoing approval from an authorizer;
- ▶ requires a charter school to use the same accounting methods as district schools;
- ▶ requires district schools to use certain accounting methods; and
- ▶ permits authorizers to:
  - request financial documents from a charter school;
  - petition a district court to appoint a receiver for a charter school on certain grounds;
  - transfer operation and control of a charter school to a high performing charter school under certain circumstances; and
  - transfer students from a closing charter school to another charter school.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53G-4-404, as last amended by Laws of Utah 2019, Chapters 293 and 324  
 53G-5-404, as last amended by Laws of Utah 2019, Chapters 83 and 293  
 53G-5-405, as last amended by Laws of Utah 2019, Chapters 293 and 505  
 53G-5-501, as last amended by Laws of Utah 2019, Chapter 293  
 53G-5-502, as last amended by Laws of Utah 2019, Chapter 293  
 53G-5-503, as last amended by Laws of Utah 2019, Chapter 293  
 53G-5-504, as last amended by Laws of Utah 2019, Chapter 293

**ENACTS:**

53G-5-307, Utah Code Annotated 1953

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

**Section 1. Section 53G-4-404 is amended to read:****53G-4-404. Annual financial report -- Audit report.**

(1) (a) The annual financial report of each school district, containing items required by law or by the state board and attested to by independent auditors, shall be prepared as required by Section 51-2a-201.

(b) A school district shall use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:

- (i) generally accepted accounting principles;
- (ii) financial reporting requirements established by the state board under Section 53E-3-501; and
- (iii) accounting report standards established by the state auditor as described in Section 51-2a-301.

(2) If auditors are employed under Section 51-2a-201, the auditors shall complete their field work in sufficient time to allow them to verify necessary audit adjustments included in the annual financial report to the state superintendent.

(3) (a) (i) The district shall forward the annual financial report to the state superintendent not later than October 1.

(ii) The report shall include information to enable the state superintendent to complete the statement of funds required under Section 53E-1-203.

(b) The state board shall publish electronically a copy of the report on the Internet not later than January 15.

(4) The completed audit report shall be delivered to the school district local school board and the state superintendent not later than November 30 of each year.

**Section 2. Section 53G-5-307 is enacted to read:****53G-5-307. Charter school authorization -- Initial review period.**

(1) An authorizer shall grant a charter school approved under this title initial approval for a three-year review period, beginning with the first year of the charter school's operation.

(2) Beginning in the first year of the initial review period, the authorizer shall comply with the accountability and review procedures described in Section 53G-5-406.

(3) The authorizer may extend the initial review period for one year, up to two times during the initial review period.

(4) At the end of the initial review period, the authorizer shall:

- (a) grant the charter school ongoing approval; or
- (b) terminate the charter agreement, subject to the requirements of Section 53G-5-503.

(5) The authorizer shall, under the minimum standards described in Section 53G-5-205, base the decision to grant ongoing approval or terminate the charter agreement on:

(a) the charter school's compliance with the terms of the charter agreement;

(b) whether the charter school is meeting academic standards in the charter school's charter agreement;

(c) the charter school's financial viability; and

(d) the charter school's capacity to meet governance standards.

(6) A charter school that is granted initial approval under this section may not participate in the Charter School Credit Enhancement Program until the authorizer grants ongoing approval of the charter school's charter.

**Section 3. Section 53G-5-404 is amended to read:**

**53G-5-404. Requirements for charter schools.**

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall:

(i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report described in Section 53G-4-404; ~~and~~

(ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501[-]; and

(iii) use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:

(A) generally accepted accounting principles;

(B) the financial reporting requirements applicable to LEAs established by the state board under Section 53E-3-501; and

(C) accounting report standards established by the state auditor as described in Section 51-2a-301.

(b) Before, and as a condition for opening a charter school:

(i) a charter school shall:

(A) certify to the authorizer that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); or

(B) if the authorizer requires, conduct a performance demonstration to verify that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); and

(ii) the authorizer shall certify to the state board that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii).

~~(b)~~ (c) A charter school shall file the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(d) For the limited purpose of compliance with federal and state law governing use of public education funds, including restricted funds, and making annual financial audit reports under this section, a charter school is a government entity governed by the public education code.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter agreement.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter agreement.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance[-], including:

(a) general liability, errors and omissions, and directors and officers liability coverage through completion of the closure of a charter school under Section 53G-5-504; and

(b) tail coverage or closeout insurance covering at least one year after closure of the charter school.

(9) Beginning on July 1, 2014, a charter school, including a charter school that has not yet opened, shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice ~~prior to~~ before the charter school ~~entering into~~ enters the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license ~~[has been]~~ is suspended or revoked by the state board under Section 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(12) (a) As used in this Subsection (12), "contracting entity" means a person with which a charter school contracts.

(b) A charter school shall provide to the charter school's authorizer any information or documents requested by the authorizer, including documents held by a subsidiary of the charter school or a contracting entity:

(i) to confirm the charter school's compliance with state or federal law governing the charter school's finances or governance; or

(ii) to carry out the authorizer's statutory obligations, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.

(c) A charter school shall comply with a request described in Subsection (12)(b), including after an authorizer recommends closure of the charter school or terminates the charter school's contract.

(d) Documents held by a contracting entity or subsidiary of a charter school that are necessary to demonstrate the charter school's compliance with state or federal law are the property of the charter school.

(e) A charter school shall include in an agreement with a subsidiary of the charter school or a contracting entity a provision that stipulates that documents held by the subsidiary or a contracting entity, that are necessary to demonstrate the charter school's financial compliance with federal or state law, are the property of the charter school.

**Section 4. Section 53G-5-405 is amended to read:**

**53G-5-405. Application of statutes and rules to charter schools.**

(1) A charter school shall operate in accordance with its charter agreement and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.

(2) (a) Except as provided in Subsection (2)(b), state board rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:

~~[(a) Section 53G-7-1202, requiring the establishment of a school community council;]~~

~~[(b) Section 53G-4-409, requiring the use of activity disclosure statements;]~~

~~[(c) Section 53G-7-606, requiring notification of intent to dispose of textbooks;]~~

~~[(d) Section 53G-10-404, requiring annual presentations on adoption;]~~

~~[(e) Sections 53G-7-304 and 53G-7-306 pertaining to fiscal procedures of school districts and local school boards; and]~~

~~[(f) Section 53E-4-408, requiring an independent evaluation of instructional materials.]~~

(a) Section 53E-4-408, requiring an independent evaluation of instructional materials;

(b) Section 53G-4-409, requiring the use of activity disclosure statements;

(c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school districts and local school boards;

(d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;

(e) Section 53G-7-1202, requiring the establishment of a school community council; and

(f) Section 53G-10-404, requiring annual presentations on adoption.

(4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.

(5) Each charter school shall be subject to:

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

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

(6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53G-5-404.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the state board for consideration.



(ii) The state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

**Section 5. Section 53G-5-501 is amended to read:**

**53G-5-501. Noncompliance -- Rulemaking.**

(1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4):

(a) the charter school governing board; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2) (a) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

~~[(a)]~~ (i) subject to the requirements of Subsection (4), take one or more of the following actions:

~~[(i)]~~ (A) remove a charter school director or finance officer;

~~[(ii)]~~ (B) remove a charter school governing board member; ~~[(c)]~~

~~[(iii)]~~ (C) appoint an interim director ~~[(c)]~~, mentor, or finance officer to work with the charter school; or

(D) appoint a governing board member;

~~[(b)]~~ (ii) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement~~[-]~~; or

(iii) transfer operation and control of the charter school to a high performing charter school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to effectuate the transfer.

(b) The authorizer may prohibit the charter school governing board from removing an appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the appointment.

(3) The costs of an interim director ~~[(c)]~~, mentor, or finance officer appointed ~~[(pursuant to)]~~ under Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director ~~[(c)]~~, mentor, or finance officer is working.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in ~~[(Subsections)]~~ Subsection (2)(a)(i) ~~[(through (iii))] (iii)~~ if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) The state board shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter agreement.

~~[(6) (a) An authorizer may petition the district court where a charter school is located or incorporated to appoint a receiver, and the district court may appoint a receiver if the authorizer establishes that the charter school:~~

~~(i) is subject to closure under Section 53G-5-503; and~~

~~(ii) (A) has disposed, or there is a demonstrated risk that the charter school will dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or~~

~~(B) cannot, or there is a demonstrated risk that the charter school will not, make repayment of amounts owed to the federal government or the state.~~

(b) The court shall describe the powers and duties of the receiver in the court's appointing order, and may amend the order from time to time.

(c) Among other duties ordered by the court, the receiver shall:

(i) ensure the protection of the charter school's assets;

(ii) preserve money owed to creditors; and

(iii) if requested by the authorizer, carry out charter school closure procedures described in Section 53G-5-504, and state board rules, as directed by the authorizer.

(d) If the authorizer does not request, or the court does not appoint, a receiver:

(i) the authorizer may reconstitute the governing board of a charter school; or

(ii) if a new governing board cannot be reconstituted, the authorizer shall complete the closure procedures described in Section 53G-5-504, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.

(e) For a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of the Utah Charter School Finance Authority before the authorizer takes the following actions:

(i) petitions a district court to appoint a receiver, as described in Subsection (6)(a);

(ii) reconstitutes the governing board, as described in Subsection (6)(d)(i); or

(iii) carries out closure procedures, as described in Subsection (6)(d)(ii).

**Section 6. Section 53G-5-502 is amended to read:**

**53G-5-502. Voluntary school improvement process.**

(1) As used in this section<sup>[5]</sup>:

(a) “[~~high~~] High performing charter school” means a charter school that:

~~[(a)]~~ (i) satisfies all requirements of state law and state board rules;

~~[(b)]~~ (ii) has operated for at least three years meeting the terms of the school’s charter agreement; and

~~[(c)]~~ (iii) is in good standing with the charter school’s authorizer.

(b) “Low performing charter school” means a charter school that is designated a low performing school, as that term is defined in Section 53E-5-301.

(c) “School turnaround plan” means the same as that term is defined in Section 53E-5-301.

(2) (a) Subject to Subsection (2)(b), a charter school governing board may voluntarily request the charter school’s authorizer to place the charter school, including a low performing charter school that has a school turnaround plan, in a school improvement process.

(b) A charter school governing board shall provide notice and a hearing on the charter school governing board’s intent to make a request under Subsection (2)(a) to parents of students enrolled in the charter school.

(3) An authorizer may grant a charter school governing board’s request to be placed in a school improvement process if the charter school governing board has provided notice and a hearing under Subsection (2)(b).

(4) An authorizer that has entered into a school improvement process with a charter school governing board shall:

(a) enter into a contract with the charter school governing board on the terms of the school improvement process;

(b) notify the state board that the authorizer has entered into a school improvement process with the charter school governing board;

(c) make a report to a committee of the state board regarding the school improvement process; and

(d) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the charter school governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the state board shall notify charter schools and the

school district in which the charter school is located that the charter school governing board has entered into a school improvement process with the charter school’s authorizer.

(6) A high performing charter school or the school district in which the charter school is located may apply to the charter school governing board to assume operation and control of the charter school that has been placed in a school improvement process.

(7) A charter school governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school’s authorizer to:

(a) terminate the school’s charter, notwithstanding the requirements of Section 53G-5-503; and

(b) transfer operation and control of the charter school to:

(i) the school district in which the charter school is located; or

(ii) a high performing charter school.

(8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer may:

(a) approve a charter school governing board’s proposal under Subsection (7); or

(b) (i) deny a charter school governing board’s proposal under Subsection (7); and

(ii) (A) terminate the school’s charter agreement in accordance with Section 53G-5-503;

(B) allow the charter school governing board to submit a revised proposal; or

(C) take no action.

(9) An authorizer may not take an action under Subsection (8) for a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(10) (a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the state board.

(b) (i) The state board shall consider an authorizer’s request under Subsection (10)(a) within 30 days of receiving the request.

(ii) If the state board denies an authorizer’s request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).

(iii) If the state board does not take action on an authorizer’s request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

(11) If operation and control of a low performing charter school that has a school turnaround plan is transferred to a high performing charter school as described in Subsection (7)(b), the low performing charter school shall complete the requirements of the school turnaround plan and any other requirements imposed by the authorizer for school improvement.

**Section 7. Section 53G-5-503 is amended to read:**

**53G-5-503. Termination of a charter agreement.**

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter agreement for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter agreement;

(b) failure to meet generally accepted standards of fiscal management;

(c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development; and

(ii) failure to improve the school's grade under the conditions described in Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development;

(d) violation of requirements under this chapter or another law; or

(e) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the charter school governing board may request an informal hearing before the authorizer:

(i) the charter school governing board; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the charter school governing board may appeal the decision to the state board.

(d) (i) The state board shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The state board's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement

Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the charter school governing board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter agreement.

(3) An authorizer may not terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) The state board shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter agreement immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter agreement is terminated ~~[during a school year]~~, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district where the charter school is located;

(b) the charter school governing board of another charter school; ~~[or]~~

(c) a private management company~~[-]~~; or

(d) the governing board of a nonprofit corporation.

(7) (a) If a charter agreement is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 6, Part 3, School District Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

**Section 8. Section 53G-5-504 is amended to read:**

**53G-5-504. Charter school closure.**

(1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection (13)(a), to accept enrollment applications from students of a closing charter school.

[1] (2) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

[2] (3) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);

(b) when the state board takes final action described in Subsection 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

[3] (4) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the state board did not make the decision to close, the state board;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.

(b) The notice described in Subsection [3] (4)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

[4] (5) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) designate a base of operation that will be maintained throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain private insurance coverage ~~and~~ or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

[5] (6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection [4] (5).

[6] (7) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

(b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

[7] (8) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.

[8] (9) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

[9] (10) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

[10] (11) On or before January 1, 2017, the state board shall, after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

(12) (a) Upon termination of the charter school's charter agreement:

(i) notwithstanding provisions to the contrary in Title 16, Chapter 6a, Part 14, Dissolution, the nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and

(ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).

(b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection (12)(a).

(c) The effective date and time of dissolution described in Subsection (12)(b) may not exceed five years after the date of the termination of the charter agreement.

(13) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:

(a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:

(i) (A) is authorized by the same authorizer as the closing charter school; or

(B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and

(ii) agrees to accept enrollment applications from students of the closing charter school;

(b) a receiving charter school shall give new enrollment preference to applications from students of the closing charter school in the first school year in which the closing charter school is not operational; and

(c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection (13).

(14) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse himself or herself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (13).

**CHAPTER 193****H. B. 244**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**FETAL EXPOSURE REPORTING  
 AND TREATMENT AMENDMENTS**

Chief Sponsor: Merrill F. Nelson  
 Senate Sponsor: Allen M. Christensen

**LONG TITLE****General Description:**

This bill addresses fetal exposure to alcohol or drugs.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires certain health care providers to report a newborn child's exposure to alcohol or drugs, or the child's parent or caregiver's substance abuse, to the Division of Child and Family Services;
- ▶ clarifies the circumstances under which the Division of Child and Family Services is required to conduct an investigation after receiving a report relating to a newborn child's exposure to alcohol or drugs;
- ▶ allows the Division of Child and Family Services to share a report of a woman's substance abuse during pregnancy with the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority for certain purposes;
- ▶ directs the Division of Substance Abuse and Mental Health to coordinate with the Department of Health and other health care providers to develop a program designed to reduce substance abuse during pregnancy; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 62A-4a-404, as last amended by Laws of Utah 2012, Chapter 293  
 62A-4a-409, as last amended by Laws of Utah 2018, Chapters 91 and 415  
 62A-4a-412, as last amended by Laws of Utah 2019, Chapter 335  
 62A-15-103, as last amended by Laws of Utah 2019, Chapters 110, 440, and 441

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

**Section 1. Section 62A-4a-404 is amended to read:****62A-4a-404. Fetal alcohol syndrome or spectrum disorder and drug dependency -- Reporting requirements.**

[When an individual, including a licensee under the Medical Practice Act or the Nurse Practice Act,]

- (1) As used in this section:

(a) "Health care provider" means:

(i) an individual licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act;

(B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(C) Title 58, Chapter 67, Utah Medical Practice Act;

(D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

(ii) an unlicensed individual who practices midwifery.

(b) "Newborn child" means a child who is 30 days of age or younger.

(c) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(d) (i) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(ii) "Substance abuse" does not include use of drugs or other substances that are:

(A) obtained by lawful prescription and used as prescribed; or

(B) obtained in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, and used as recommended by a qualified medical provider.

(2) A health care provider who attends the birth of a newborn child or cares for a newborn child[,] and determines [~~that the child, at the time of birth, has fetal alcohol syndrome, fetal alcohol spectrum disorder, or fetal drug dependency,~~ the individual shall report that determination] any of the following, shall report the determination to the division as soon as possible[.]:

(a) the newborn child:

(i) is adversely affected by the child's mother's substance abuse during pregnancy;

(ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or

(iii) demonstrates drug or alcohol withdrawal symptoms; or

(b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.

**Section 2. Section 62A-4a-409 is amended to read:****62A-4a-409. Investigation by division -- Temporary protective custody -- Preremoval interviews of children.**

(1) (a) The division shall make a thorough preremoval investigation upon receiving either an

oral or written report of alleged abuse<sup>[,]</sup> or neglect, [~~fetal alcohol syndrome, or fetal drug dependency~~] or an oral or written report under Subsection 62A-4a-404(2), when there is reasonable cause to suspect that a situation of abuse, neglect, [~~fetal alcohol syndrome, or fetal drug dependency exists~~] or the circumstances described under Subsection 62A-4a-404(2) exist.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include members of a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services.

(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.

(6) When the division completes [its] the division's initial investigation under this part, [it] the division shall give notice of that completion to the person who made the initial report.

(7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview;

(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);

(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and

(f) the child shall be allowed to have a support person of the child's choice present, who:

(i) may include:

(A) a school teacher;

(B) an administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate; or

(G) a member of the clergy; and

(ii) may not be an individual who is alleged to be, or potentially may be, the perpetrator.

(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act, and as otherwise provided by law.

(10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate

safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) With regard to a mutual case in which a child protection unit was involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection unit before closing the case.

**Section 3. Section 62A-4a-412 is amended to read:**

**62A-4a-412. Reports, information, and referrals confidential.**

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection unit;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a school district, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130; [or]

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency[-]; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman, or the services described in Subsection 62A-15-103(2)(o).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that [it] the request is a violation of Subsection (2)(a) [~~to do so~~] is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in [its] the division's possession available under Subsection (1)(e) to a subject of the report or a



parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

- (i) identify the referent;
- (ii) impede a criminal investigation; or
- (iii) endanger a person's safety.

(4) Any person who wilfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

**Section 4. Section 62A-15-103 is amended to read:**

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

(1) (a) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

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

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

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

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a

substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

- (A) emergency department utilization;
- (B) jail and prison populations;
- (C) the homeless population; and
- (D) the child welfare system; and

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

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

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

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

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

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

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

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

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

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

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

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

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

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

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

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

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

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

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

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

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

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

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

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

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

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

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

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

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

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

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i); ~~and~~

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim

Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees[-]; and

(o) consult and coordinate with the Department of Health and the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women or pregnant minors in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution pursuant to this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a redeemable coupon program described in this Subsection (3) and Section 76-10-526 that includes:

(i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident who has filed an application for a concealed firearm permit; and

(ii) collecting the receipts described in Section 76-10-526 from the participating dealers and persons and reimbursing the dealers and persons;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the redeemable coupon program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of

substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

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

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

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

- (a) use of public funds;
- (b) oversight of public funds; and
- (c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
- (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

- (a) provide coordination between a local education agency and local mental health authority;
- (b) recommend evidence-based and evidence informed mental health screenings and

intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

**CHAPTER 194****H. B. 247**

Passed March 10, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**UNLAWFUL SEXUAL ACTIVITY  
STATUTE OF LIMITATIONS AMENDMENTS**

Chief Sponsor: Stephen G. Handy  
Senate Sponsor: Jacob L. Anderegg

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**LONG TITLE****General Description:**

This bill creates a specific statute of limitations for unlawful sexual activity with a minor.

**Highlighted Provisions:**

This bill:

- ▶ extends the statute of limitations for felony violations of unlawful sexual activity with a minor and unlawful sexual conduct with a 16- or 17-year-old to 10 years after the victim reaches 18 years of age.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

76-1-301.1, Utah Code Annotated 1953

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

**Section 1. Section 76-1-301.1 is enacted to read:**

**76-1-301.1. Statute of limitations for unlawful sexual activity with a minor.**

The statute of limitations for a felony violation of Section 76-5-401 or 76-5-401.2 is 10 years from the time the victim reaches the age of 18.

**CHAPTER 195****H. B. 255**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective July 1, 2020

**BOAT FEES AMENDMENTS**

Chief Sponsor: Steve Waldrip  
 Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill requires resident and nonresident vessel owners to pay an aquatic invasive species mitigation fee before operating a vessel on waters in Utah.

**Highlighted Provisions:**

This bill:

- ▶ creates the aquatic invasive species mitigation fee, requiring resident and nonresident owners of certain vessels to pay a fee in order to operate a boat on waters in Utah;
- ▶ requires owners of certain vessels to complete an education course;
- ▶ requires the Division of Wildlife Resources to study the feasibility of a program for automated monitoring and record keeping of the decontamination or entry of vessels into the waters of this state;
- ▶ requires the Division of Wildlife Resources to report on the study and implement a pilot program;
- ▶ creates the Aquatic Invasive Species Interdiction Account;
- ▶ grants rulemaking authority to the Wildlife Board;
- ▶ requires a person to remove all plugs and similar devices and to drain water systems on a conveyance before transporting the conveyance on a highway in the state;
- ▶ permits the division to temporarily stop, detain, and inspect a conveyance that the division reasonably believes has not complied with the draining requirements; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

23-27-102, as enacted by Laws of Utah 2008, Chapter 284  
 23-27-301, as last amended by Laws of Utah 2014, Chapter 274  
 73-18-22, as last amended by Laws of Utah 2015, Chapter 36  
 73-18-26, as enacted by Laws of Utah 2015, Chapter 36

**ENACTS:**

23-27-304, Utah Code Annotated 1953  
 23-27-305, Utah Code Annotated 1953

23-27-306, Utah Code Annotated 1953

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

**Section 1. Section 23-27-102 is amended to read:****23-27-102. Definitions.**

As used in this chapter:

(1) "Board" means the Wildlife Board.

(2) (a) "Conveyance" means a terrestrial or aquatic vehicle or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Conveyance" includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, a live well, or a bilge area.

(3) "Decontaminate" means to:

(a) drain and dry all non-treated water; and

(b) chemically or thermally treat in accordance with rule.

(4) "Director" means the director of the division.

(5) "Division" means the Division of Wildlife Resources.

(6) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel, and Conrad's false mussel.

(7) "Equipment" means an article, tool, implement, or device capable of carrying or containing:

(a) water; or

(b) a Dreissena mussel.

(8) "Executive director" means the executive director of the Department of Natural Resources.

(9) "Facility" means a structure that is located within or adjacent to a water body.

(10) "Infested water" means a geographic region, water body, facility, or water supply system within or outside the state that the board identifies in rule as carrying or containing a Dreissena mussel.

(11) "Vessel" means the same as that term is defined in Section 73-18-2.

~~(11)~~ (12) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

~~(12)~~ (13) (a) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, waste water treatment, or culinary use.

(b) "Water supply system" includes a pump, canal, ditch, or pipeline.

(c) "Water supply system" does not include a water body.

**Section 2. Section 23-27-301 is amended to read:**

**23-27-301. Division's power to prevent invasive species infestation.**

To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(1) (a) establish inspection stations located at or along:

(i) highways, as defined in Section 72-1-102;

(ii) ports of entry, if the Department of Transportation authorizes the division to use the port of entry; and

(iii) publicly accessible:

(A) boat ramps; and

(B) conveyance launch sites; and

(b) temporarily stop, detain, and inspect a conveyance or equipment that:

(i) the division reasonably believes is in violation of Section 23-27-201;

(ii) the division reasonably believes is in violation of Section 23-27-306;

~~(iii)~~ (iii) is stopped at an inspection station; or

~~(iii)~~ (iv) is stopped at an administrative checkpoint;

(2) conduct an administrative checkpoint in accordance with Section 77-23-104;

(3) detain and quarantine a conveyance or equipment as provided in Section 23-27-302;

(4) order a person to decontaminate a conveyance or equipment; and

(5) inspect the following that may contain a Dreissena mussel:

(a) a water body;

(b) a facility; and

(c) a water supply system.

**Section 3. Section 23-27-304 is enacted to read:**

**23-27-304. Aquatic invasive species fee.**

(1) (a) Except as provided in Subsection (1)(b), there is imposed an annual nonresident aquatic invasive species fee of \$20 on each vessel in order to launch or operate a vessel in waters of this state if:

(i) the vessel is owned by a nonresident; and

(ii) the vessel would otherwise be subject to registration requirements under Section 73-18-7 if the vessel were owned by a resident of this state.

(b) The provisions of Subsection (1)(a) do not apply if the vessel is owned and operated by a state or federal government agency and the vessel is used within the course and scope of the duties of the agency.

(c) The division shall administer and collect the fee described in Subsection (1)(a), and the fee shall be deposited into the Aquatic Invasive Species Interdiction Account created in Section 23-27-305.

(2) Before launching a vessel on the waters of this state, a nonresident shall pay the aquatic invasive species fee as described in Subsection (1), and the vessel owner shall successfully complete an aquatic invasive species education course offered by the division.

(3) (a) The division shall study options and feasibility of implementing an automated system capable of scanning, photographing, and providing real-time information regarding a conveyance's or equipment's:

(i) last entry into a body of water; and

(ii) last decontamination.

(b) The study described in Subsection (3)(a) shall evaluate the system's capability of:

(i) operation with or without the use or supervision of personnel;

(ii) operation 24 hours per day;

(iii) capturing a state assigned number on a vessel or conveyance as described in Section 73-18-6;

(iv) preserving photographic evidence of:

(A) a conveyance's state assigned bow number;

(B) a conveyance's or equipment's entry into a body of water, including the global positioning system location of where the conveyance is photographed; and

(C) decontamination of the conveyance or equipment;

(v) identifying a conveyance or equipment not owned by a resident that is entering a body of water in this state; and

(vi) collecting the fee described in Subsection (1).

(c) The division shall present a report of the study and findings described in Subsections (3)(a) and (b) to the Natural Resources, Agriculture, and Environment Interim Committee before November 30, 2020.

(d) Based on the findings of the study described in this Subsection (3), the division shall implement a pilot program to provide the services described in this Subsection (3) on or before May 1, 2021.

(4) The board may increase fees assessed under Subsection (1), so long as:

(a) the fee for nonresidents described in Subsection (1) is no less than the resident fee described in Section 73-18-26; and

(b) the fee is confirmed in the legislative fee schedule.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules establishing procedures for:



(a) proof of payment and other methods of verifying compliance with this section;

(b) special requirements applicable on interstate water bodies in this state; and

(c) other provisions necessary for the administration of the program.

**Section 4. Section 23-27-305 is enacted to read:**

**23-27-305. Aquatic Invasive Species Interdiction Account.**

(1) There is created within the General Fund a restricted account known as the Aquatic Invasive Species Interdiction Account.

(2) The restricted account shall consist of:

(a) nonresident aquatic invasive species fees collected under Section 23-27-304;

(b) resident aquatic invasive species fees collected under Section 73-18-26; and

(c) any other amount deposited in the restricted account from donations, appropriations, contractual agreements, and accrued interest.

(3) Upon appropriation, the division shall use the fees collected under Sections 23-27-305 and 73-18-26 and deposited in the Aquatic Invasive Species Account to fund aquatic invasive species prevention and containment efforts.

**Section 5. Section 23-27-306 is enacted to read:**

**23-27-306. Removal of drain plug or similar device during transport.**

(1) Before transporting a conveyance on a highway, as defined in Section 72-1-102, in the state, a person shall:

(a) remove the plugs and similar devices that prevent drainage of raw water systems on the conveyance; and

(b) to the extent feasible, drain all water from live wells, bilges, ballast tanks, or similar compartments on the conveyance.

(2) A person who fails to comply with Subsection (1) is guilty of a class C misdemeanor.

**Section 6. Section 73-18-22 is amended to read:**

**73-18-22. Boating Account created -- Contents -- Use of money.**

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

(2) The restricted account shall consist of~~[-(a)],~~ except as provided under Sections 73-18-24 and 73-18-25, all registration fees and related money collected by the division or an authorized agent, less the costs of collecting motorboat and sailboat registration fees by an authorized agent~~[; and].~~

~~[(b) aquatic invasive species mitigation fees collected under Section 73-18-26.]~~

(3) The amount retained by an authorized agent under Subsection (2)~~[(a)]~~ may not exceed 20% of the fees charged in Section 73-18-7.

(4) ~~[Except as provided in Subsection (5), money]~~ Money in the Boating Account may be used for:

(a) the construction, improvement, operation, and maintenance of publicly owned boating facilities;

(b) boater education; and

(c) the payment of the costs and expenses of the division in administering and enforcing this chapter.

~~[(5) Fees collected under Section 73-18-26 and deposited into the Boating Account shall be used for aquatic invasive species interdiction.]~~

**Section 7. Section 73-18-26 is amended to read:**

**73-18-26. Resident aquatic invasive species fee -- Amount -- Deposit.**

(1) In addition to the registration fee imposed under Section 73-18-7, there is imposed an annual resident aquatic invasive species ~~[mitigation]~~ fee of \$10 on a motorboat or sailboat required to be registered under Section 73-18-7.

(2) The fee imposed under Subsection (1) shall be deposited ~~[in the Boating Account created in Section 73-18-22 for the purpose of aquatic invasive species interdiction.]~~ into the Aquatic Invasive Species Interdiction Account created in Section 23-27-305.

**Section 8. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 196****H. B. 256**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**STUDENT AID AMENDMENTS**

Chief Sponsor: Karen Kwan  
 Senate Sponsor: Ann Millner  
 Cosponsors: Melissa G. Ballard  
 Jennifer Dailey-Provost  
 Derrin R. Owens  
 Val K. Potter  
 Travis M. Seegmiller

**LONG TITLE****General Description:**

This bill requires the completion of the Free Application for Federal Student Aid to be eligible for certain state financial aid for higher education.

**Highlighted Provisions:**

This bill:

- ▶ requires the completion of the Free Application for Federal Student Aid to be eligible for certain state financial aid for higher education; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 53B-8-105, as last amended by Laws of Utah 2019, Chapter 444
- 53B-8-115, as enacted by Laws of Utah 2019, Chapter 273 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 357
- 53B-8-116, as enacted by Laws of Utah 2019, Chapter 129
- 53B-13a-104, as last amended by Laws of Utah 2011, Chapter 11
- 53B-13b-104, as enacted by Laws of Utah 2014, Chapter 87

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

**Section 1. Section 53B-8-105 is amended to read:****53B-8-105. New Century scholarships -- High school requirements.**

(1) As used in this section:

(a) "Complete the requirements for an associate degree" means that a student:

(i) (A) completes all the required courses for an associate degree from a higher education institution within the state system of higher education that offers associate degrees; and

(B) applies for the associate degree from the institution; or

(ii) completes equivalent requirements described in Subsection (1)(a)(i)(A) from a higher education institution within the state system of higher education that offers baccalaureate degrees but does not offer associate degrees.

(b) "Fee" means a fee approved by the board.

(2) (a) The board shall award New Century scholarships.

(b) The board shall develop and approve the math and science curriculum described under Subsection (3)(a)(ii).

(3) (a) In order to qualify for a New Century scholarship, a student in Utah schools shall complete the requirements for an:

(i) associate degree; or

(ii) approved math and science curriculum.

(b) The requirements under Subsection (3)(a) shall be completed:

(i) by the day on which the student's class graduates from high school; and

(ii) with at least a 3.0 grade point average.

(c) In addition to the requirements in Subsection (3)(a), a student in Utah shall:

(i) complete the high school graduation requirements of:

(A) a public high school established by the State Board of Education and the student's school district or charter school; or

(B) a private high school in the state that is accredited by a regional accrediting body approved by the board; and

(ii) complete high school with at least a 3.5 cumulative high school grade point average.

(4) Notwithstanding Subsection (3), for a student who does not receive a high school grade point average, the student shall:

(a) complete the requirements for an associate degree:

(i) by June 15 of the year the student completes high school; and

(ii) with at least a 3.0 grade point average; and

(b) score a composite ACT score of 26 or higher.

(5) (a) To be eligible for the scholarship, a student:

~~[(a)]~~ (i) shall submit an application to the board with:

~~[(i)]~~ (A) an official college transcript showing college courses the student has completed to complete the requirements for an associate degree; and

~~[(ii)]~~ (A) (B) if applicable, an official high school transcript~~[-or- (B)]~~ or, if applicable, a copy of the student's ACT scores;

~~[(b)]~~ (ii) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid;

[(e)] (iii) may not have a criminal record, with the exception of a misdemeanor traffic citation; ~~and~~

[(d)] (iv) if applicable, shall meet the application deadlines as established by the board under Subsection (10)[-]; and

(v) shall demonstrate, in accordance with rules described in Subsection (5)(b), the completion of a Free Application for Federal Student Aid.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection (5)(a)(v), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(6) (a) The scholarship may be used at a:

(i) higher education institution within the state system of higher education that offers baccalaureate programs; or

(ii) if the scholarship holder applies for the scholarship on or before October 1, 2019, private, nonprofit college or university in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

(b) (i) Subject to Subsection (6)(e), the total value of the scholarship is up to \$5,000, allocated over a time period described in Subsection (6)(c), as prescribed by the board.

(ii) The board may increase the scholarship amount described in Subsection (6)(b)(i) by an amount not to exceed the average percentage tuition increase approved by the board for institutions in the state system of higher education.

(c) The scholarship is valid for the shortest of the following time periods:

(i) two years of full-time equivalent enrollment;

(ii) 60 credit hours; or

(iii) until the student meets the requirements for a baccalaureate degree.

(d) (i) A scholarship holder shall enroll full-time at a higher education institution by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(ii) The board may grant a deferral or leave of absence to a scholarship holder, but the scholarship holder may only receive scholarship money within five years of the student's high school graduation date.

(e) For a scholarship for which a student applies after October 1, 2019:

(i) the board shall reduce the amount of the scholarship holder's scholarship so that the total amount of state aid awarded to the scholarship holder, including tuition or fee waivers or the scholarship, does not exceed the cost of the scholarship holder's tuition and fees; and

(ii) the scholarship holder may only use the scholarship for tuition and fees.

(7) The board may cancel a New Century scholarship at any time if the student fails to:

(a) register for at least 15 credit hours per semester;

(b) maintain a 3.3 grade point average for two consecutive semesters; or

(c) make reasonable progress toward the completion of a baccalaureate degree.

(8) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the General Fund to the board for the costs associated with the New Century Scholarship Program authorized under this section.

(b) It is understood that the appropriation is offset in part by the state money that would otherwise be required and appropriated for these students if they were enrolled in a four-year postsecondary program at a state-operated institution.

(c) Notwithstanding Subsections (2)(a) and (6), if the appropriation under Subsection (8)(a) is insufficient to cover the costs associated with the New Century Scholarship Program, the board may reduce the scholarship amount.

(d) If money appropriated under this section is available after New Century scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302.

(9) (a) The board shall adopt policies establishing an application process and an appeal process for a New Century scholarship.

(b) The board shall disclose on all applications and related materials that the amount of the scholarship is subject to funding and may be reduced, in accordance with Subsection (8)(c).

(c) The board shall require an applicant for a New Century scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(d) The certification under this Subsection (9) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(10) The board may set deadlines for receiving New Century scholarship applications and supporting documentation.

(11) A student may not receive both a New Century scholarship and a Regents' scholarship established in Part 2, Regents' Scholarship Program.

**Section 2. Section 53B-8-115 is amended to read:**

**53B-8-115. Career and technical education scholarships.**

(1) As used in this section:

(a) "Eligible institution" means:

(i) Salt Lake Community College's School of Applied Technology established in Section 53B-16-209;

(ii) Snow College;

(iii) Utah State University Eastern established in Section 53B-18-1201;

(iv) Utah State University Blanding established in Section 53B-18-1202; or

(v) the Utah State University regional campus located at or near Moab described in Section 53B-18-301.

(b) "High demand program" means a noncredit career and technical education program that:

(i) is offered by an eligible institution;

(ii) leads to a certificate; and

(iii) is designated by the board in accordance with Subsection (6).

(c) "Scholarship" means a career and technical education scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board to be distributed to eligible institutions to award career and technical education scholarships.

(3) In accordance with the rules described in Subsection (5), an eligible institution may award a scholarship to an individual who:

(a) is enrolled in, or intends to enroll in, a high demand program~~[-];~~ and

(b) demonstrates, in accordance with rules described in Subsection (5)(b), the completion of a Free Application for Federal Student Aid.

(4) (a) An eligible institution may award a scholarship for an amount of money up to the total cost of tuition, fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(b) An eligible institution may award a scholarship to a scholarship recipient for up to two academic years.

(c) An eligible institution may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the eligible institution on at least a half time basis, as determined by the eligible institution; or

(ii) make satisfactory progress toward the completion of a certificate.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(a) that establish:

~~[(a)]~~ (i) how state funding available for scholarships is divided among eligible institutions;

~~[(b)]~~ (ii) requirements related to an eligible institution's administration of a scholarship;

~~[(c)]~~ (iii) requirements related to eligibility for a scholarship, including requiring eligible institutions to prioritize scholarships for underserved populations;

~~[(d)]~~ (iv) a process for an individual to apply to an eligible institution to receive a scholarship; and

~~[(e)]~~ (v) how to determine satisfactory progress described in Subsection (4)(c)(ii)~~[-];~~ and

(b) regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(b), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(6) Every other year, after consulting with the Department of Workforce Services, the board shall designate, as a high demand program, a noncredit career and technical education program that prepares an individual to work in a job that has, in Utah:

(a) high employer demand and high median hourly wages; or

(b) significant industry importance.

**Section 3. Section 53B-8-116 is amended to read:**

**53B-8-116. Terrel H. Bell Education Scholarship Program -- Scholarship requirements -- Rulemaking.**

(1) As used in this section:

(a) "Approved program" means a program that:

(i) is a teacher preparation program that:

(A) meets the standards described in Section 53E-6-302; and

(B) provides enhanced clinical experiences; or

(ii) prepares an individual to become:

(A) a speech-language pathologist; or

(B) another licensed professional providing services in a public school to students with disabilities.

(b) “Eligible institution” means a public or private institution of higher education in Utah that offers an approved program.

(c) “High needs area” means a subject area or field in public education that has a high need for teachers or other employees, as determined in accordance with Subsections (6) and (7).

(d) “Scholarship” means a scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board for the Terrel H. Bell Education Scholarship Program to be distributed to eligible institutions to award scholarships to incentivize students to work in public education in Utah.

(3) (a) Subject to the prioritization described in Subsection (3)(b), an eligible institution may award a scholarship to an individual who:

(i) meets the academic standards described in Subsection (6);

(ii) is enrolled in at least six credit hours at the eligible institution; ~~and~~

(iii) declares an intent to:

(A) apply to and complete an approved program at the eligible institution; and

(B) work in a Utah public school[-]; and

(iv) demonstrates, in accordance with rules described in Subsection (6)(b), the completion of a Free Application for Federal Student Aid.

(b) An eligible institution shall prioritize awarding of scholarships:

(i) first, to first generation students who intend to work in any area in a Utah public school;

(ii) second, to students who:

(A) are not first generation students; and

(B) intend to work in a high needs area in a Utah public school; and

(iii) last, to other students who meet the requirements described in Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), an eligible institution may award a scholarship to an individual for an amount up to the cost of resident tuition, fees, and books for the number of credit hours in which the individual is enrolled each semester.

(b) An eligible institution that is a private institution may not award a scholarship for an amount of money that exceeds the average scholarship amount granted by a public institution of higher education.

(5) (a) Except as provided in Subsection (5)(b), an eligible institution may award a scholarship to an individual for up to four consecutive years.

(b) An eligible institution may grant a scholarship recipient a leave of absence.

(c) An eligible institution may cancel a scholarship if:

(i) the scholarship recipient fails to make reasonable progress toward completion of the approved program, as determined by the eligible institution; or

(ii) the eligible institution determines with reasonable certainty that the scholarship recipient does not intend to work in a Utah public school.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(a) that establish:

~~[(a)]~~ (i) requirements related to an eligible institution’s administration of a scholarship;

~~[(b)]~~ (ii) a process for an individual to apply to an eligible institution to receive a scholarship;

~~[(c)]~~ (iii) in accordance with Subsection (3)(a), requirements related to eligibility for a scholarship, including required academic standards;

~~[(d)]~~ (iv) in accordance with Subsection (3)(b), requirements related to prioritization of scholarships, including determination of:

~~[(i)]~~ (A) whether a student is a first generation student; and

~~[(ii)]~~ (B) high needs areas; and

~~[(e)]~~ (v) criteria to determine whether an individual intends to work in a Utah public school[-]; and

(b) regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(a)(iv), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(7) The board shall consult with the State Board of Education to determine:

(a) whether a teacher preparation program provides enhanced clinical experiences; and

(b) which subject areas and fields are high needs areas.

(8) The board may use up to 5% of money appropriated for the purposes described in this section to promote the scholarships described in this section.

**Section 4. Section 53B-13a-104 is amended to read:**

**53B-13a-104. Guidelines for administration of the program.**

(1) The board shall use the guidelines set forth in this section to develop and administer the program.

(2) (a) The board shall allocate money appropriated for the program to institutions to provide for either need-based grants or need-based work-study stipends, giving strong emphasis to need-based work-study stipends.

(b) Need-based grants or need-based work-study stipends are the only forms of student financial assistance for which program money may be used.

(c) The board may not use program money for administrative costs or overhead.

(d) An institution may not use more than 3% of its program money for administrative costs or overhead.

(3) (a) The board shall design the program to utilize a packaging approach that ensures that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance at a postsecondary institution.

(b) (i) To be eligible for a grant or stipend under this section, a student shall demonstrate, in accordance with rules described in Subsection (3)(b)(ii), the completion of a Free Application for Federal Student Aid.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(b)(i), including:

(A) provisions for students or parents to opt out of the requirement due to financial ineligibility for any potential grant or other financial aid, personal privacy concerns, or other reasons the board specifies; and

(B) direction for applicants to financial aid advisors.

(4) The board shall:

(a) use an appropriate need analysis system to determine a student's financial need for the purpose of awarding a program grant or work-study stipend; and

(b) base the criteria for awarding program funds to an institution or eligible student on assisting only the most financially needy students.

(5) The total sum of a program grant, a work-study stipend, other financial aid from any source, and the expected family and personal contribution, may not exceed the cost of attendance for an eligible student at an institution for a fiscal year.

(6) The board shall establish annually the minimum and maximum amounts for a program grant and a work-study stipend for the fiscal year.

(7) An institution shall award a program grant or work-study stipend on an annual basis but

distribute the money one quarter or semester at a time, with continuing awards contingent upon the eligible student maintaining satisfactory academic progress as defined by the institution in published policies or rules.

(8) An institution shall award all program money without regard to an applicant's race, creed, color, religion, sex, or ancestry.

(9) Students receiving financial assistance under the program ~~[are required to]~~ shall apply the money toward the cost of attendance at the institution attended, as established pursuant to board rules.

(10) The board shall adopt policies to implement this chapter and to ensure sound fiduciary administration of program money to accomplish program objectives.

(11) The board may require a participation agreement from an eligible postsecondary institution, which shall include an agreement to:

(a) provide information needed by the board to administer the program;

(b) comply with program rules;

(c) submit annual reports as required by the board; and

(d) cooperate in program reviews and financial audits as the board may determine to be necessary.

(12) The board shall annually report program outcomes to the governor and the Legislature's Higher Education Appropriations Subcommittee, including:

(a) utilization of program money, including the:

(i) number of program recipients at each institution; and

(ii) average amount of financial assistance provided;

(b) benefits in fulfillment of the purposes established for the program; and

(c) any recommendations for program modification, including recommended funding levels.

(13) The board shall regularly provide information to students on professional training and degree programs available in the state through online career and educational exploration tools.

**Section 5. Section 53B-13b-104 is amended to read:**

**53B-13b-104. Guidelines for administration of the program.**

(1) The board shall use the guidelines in this section to develop policies to implement and administer the program.

(2) (a) The board shall allocate money appropriated for the program to institutions to provide grants for qualifying military veterans.

(b) The board may not use program money for administrative costs or overhead.

(c) An institution may not use more than 3% of its program money for administrative costs or overhead.

(d) Money returned to the board under Subsection (3)(b) shall be used for future allocations to institutions.

(3) (a) An institution shall award a program grant to a qualifying military veteran on an annual basis but distribute the money one quarter or semester at a time, with continuing awards contingent upon the qualifying military veteran maintaining satisfactory academic progress as defined by the institution in published policies or rules.

(b) At the conclusion of the academic year, money distributed to an institution that was not awarded to a qualifying military veteran or used for allowed administrative purposes shall be returned to the board.

(c) (i) To qualify for a program grant under this section, a military veteran shall demonstrate, in accordance with rules described in Subsection (3)(c)(ii), the completion of a Free Application for Federal Student Aid.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(c)(i), including:

(A) provisions for students or parents to opt out of the requirement due to financial ineligibility for any potential grant or other financial aid, personal privacy concerns, or other reasons the board specifies; and

(B) direction for applicants to financial aid advisors.

(4) A qualifying military veteran may receive a program grant until the earlier of the following occurs:

(a) the qualifying military veteran completes the requirements for a bachelor's degree; or

(b) 12 months from the time that the qualifying military veteran receives an initial program grant.

(5) A qualifying military veteran who receives a program grant may only use the grant toward tuition at an institution of higher education in the state.

(6) The board may accept grants, gifts, bequests, and devises of real and personal property from any source for the purpose of awarding grants to qualifying military veterans in addition to those funded by the state.

**CHAPTER 197****H. B. 264**

Passed March 12, 2020

Approved March 28, 2020

Effective November 2, 2020

**INFANT AT WORK PILOT PROGRAM**

Chief Sponsor: Stephanie Pitcher  
Senate Sponsor: Deidre M. Henderson

**LONG TITLE****General Description:**

This bill establishes the Infant at Work Pilot Program for eligible employees of the Department of Health.

**Highlighted Provisions:**

This bill:

- ▶ establishes definitions for the Infant at Work Pilot Program;
- ▶ creates the Infant at Work Pilot Program for eligible employees to bring their infants to work;
- ▶ establishes an application process through the Department of Human Resource Management (department) for eligible employees of the Department of Health to apply;
- ▶ creates an evaluation process for the department to determine if an eligible employee may participate in the program;
- ▶ grants rulemaking authority to the department;
- ▶ requires the department to submit a report to the Business and Labor Interim Committee; and
- ▶ establishes a repeal date for the program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

63I-2-267, as last amended by Laws of Utah 2013, Chapter 278

**ENACTS:**

67-19-45, Utah Code Annotated 1953

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

**Section 1. Section 63I-2-267 is amended to read:**

**63I-2-267. Repeal dates -- Title 67.**

Section 67-19-45 is repealed June 30, 2023.

**Section 2. Section 67-19-45 is enacted to read:**

**67-19-45. Definitions -- Infant at Work Pilot Program -- Administration -- Report.**

(1) As used in this section:

(a) "Eligible employee" means an employee who has been employed by the Department of Health for a minimum of:

(i) 12 consecutive months; and

(ii) 1,250 hours, excluding paid time off during the 12-month period immediately preceding the day on which the employee applies for participation in the program.

(b) "Infant" means a baby that is at least six weeks of age and no more than six months of age.

(c) "Parent" means:

(i) a biological or adoptive parent of an infant; or

(ii) an individual who has an infant placed in the individual's foster care by the Division of Child and Family Services.

(d) "Program" means the Infant at Work Pilot Program established in this section.

(2) There is created the Infant at Work Pilot Program for eligible employees.

(3) The program shall:

(a) allow an eligible employee to bring the eligible employee's infant to work subject to the provisions of this section;

(b) be administered by the department; and

(c) be implemented for a minimum of one year.

(4) The department shall establish an application process for eligible employees of the Department of Health to apply to the program that includes:

(a) a process for evaluating whether an eligible employee's work environment is appropriate for an infant;

(b) guidelines for infant health and safety; and

(c) guidelines regarding an eligible employee's initial and ongoing participation in the program.

(5) If the department approves the eligible employee for participation in the program, the eligible employee shall have the sole responsibility for the care and safety of the infant at the workplace.

(6) The department may not require the Department of Health to designate or set aside space for an eligible employee's infant other than the eligible employee's existing work space.

(7) The department, in consultation with the Department of Health, shall adopt rules that the department determines necessary to establish the program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) By June 30, 2022, the department, in consultation with the Department of Health, shall submit a written report to the Business and Labor Interim Committee that describes the efficacy of the program, including any recommendations for additional legislative action.

**Section 3. Effective date.**

This bill takes effect on November 2, 2020.



**CHAPTER 198**

**H. B. 272**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**PHARMACY BENEFIT AMENDMENTS**

Chief Sponsor: Paul Ray  
 Senate Sponsor: Evan J. Vickers  
 Cosponsors: Cheryl K. Acton  
 Kyle R. Andersen  
 Patrice M. Arent  
 Melissa G. Ballard  
 Brady Brammer  
 Scott H. Chew  
 Steve R. Christiansen  
 Kay J. Christofferson  
 Kim F. Coleman  
 Jennifer Dailey-Provost  
 Brad M. Daw  
 Susan Duckworth  
 Steve Eliason  
 Joel Ferry  
 Francis D. Gibson  
 Stephen G. Handy  
 Suzanne Harrison  
 Jon Hawkins  
 Sandra Hollins  
 Eric K. Hutchings  
 Dan N. Johnson  
 Karianne Lisonbee  
 Kelly B. Miles  
 Merrill F. Nelson  
 Lee B. Perry  
 Val L. Peterson  
 Candice B. Pierucci  
 Stephanie Pitcher  
 Val K. Potter  
 Marie H. Poulson  
 Tim Quinn  
 Mike Schultz  
 Lawanna Shurtliff  
 Robert M. Spendlove  
 Andrew Stoddard  
 Keven J. Stratton  
 Mark A. Strong  
 Norman K. Thurston  
 Raymond P. Ward  
 Christine F. Watkins  
 Elizabeth Weight  
 Brad R. Wilson  
 Mike Winder

- prohibiting or penalizing a pharmacist’s disclosure of certain information regarding a prescription device;
- requiring an insured customer from paying more than a specified amount for a prescription device;
- reducing a pharmacy’s total compensation for the sale of a drug, device, or other product or service unless the pharmacy benefit manager provides the pharmacy with at least 30 days notice;
- ▶ amends provisions related to a pharmacy benefit manager denying or reducing a reimbursement to a pharmacy or a pharmacist after the adjudication of a claim;
- ▶ prohibits a pharmacy benefit manager from:
  - reimbursing a network pharmacy in the aggregate less than a pharmacy benefit manager affiliate in the aggregate in the same network;
  - engaging in certain actions related to a pharmacy that mails or delivers a prescription drug to an enrollee as an ancillary service; and
  - contracting with a health insurer in certain instances unless the pharmacy benefit manager agrees to regularly report to the insurer detailed, claim-level information regarding pharmaceutical manufacturer rebates received by the pharmacy benefit manager in connection with the contract;
- ▶ amends provisions related to out-of-state mail service pharmacies;
- ▶ amends provisions related to a prescription drug or device that is not readily available in all pharmacies;
- ▶ requires manufacturers and insurers to report certain information on the cost of prescription drugs to the Insurance Department;
- ▶ requires the Insurance Department to publish prescription drug information reported to the department;
- ▶ requires the Insurance Department to make rules, as necessary, to promote comparability of information reported to the department; and
- ▶ makes certain records a protected record under the Government Records Access and Management Act.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

**AMENDS:**

- 31A-46-101, as enacted by Laws of Utah 2019, Chapter 241
- 31A-46-102, as enacted by Laws of Utah 2019, Chapter 241
- 31A-46-301, as enacted by Laws of Utah 2019, Chapter 241
- 31A-46-302, as renumbered and amended by Laws of Utah 2019, Chapter 241
- 31A-46-303, as renumbered and amended by Laws of Utah 2019, Chapter 241
- 31A-46-304, as enacted by Laws of Utah 2019, Chapter 241
- 63G-2-305, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277

**LONG TITLE**

**General Description:**

This bill amends the Insurance Code.

**Highlighted Provisions:**

This bill:

- ▶ renames the Pharmacy Benefit Manager Licensing Act as the Pharmacy Benefits Act;
- ▶ creates and amends definitions;
- ▶ amends pharmacy benefit manager reporting provisions;
- ▶ prohibits a pharmacy benefit manager from:

**ENACTS:**

31A-46-305, Utah Code Annotated 1953  
 31A-46-306, Utah Code Annotated 1953  
 31A-46-307, Utah Code Annotated 1953  
 31A-47-101, Utah Code Annotated 1953  
 31A-47-102, Utah Code Annotated 1953  
 31A-47-103, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

31A-46-308, (Renumbered from 58-17b-619, as enacted by Laws of Utah 2004, Chapter 280)

**Utah Code Sections Affected by Coordination Clause:**

31A-46-302, as renumbered and amended by Laws of Utah 2019, Chapter 241

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

**Section 1. Section 31A-46-101 is amended to read:****CHAPTER 46. PHARMACY BENEFITS ACT****31A-46-101. Title.**

This chapter is known as ~~the~~ "Pharmacy ~~Benefit Manager Licensing Act~~ Benefits Act."

**Section 2. Section 31A-46-102 is amended to read:****31A-46-102. Definitions.**

As used in this chapter:

(1) "Administrative fee" means any payment, other than a rebate, that a pharmaceutical manufacturer makes directly or indirectly to a pharmacy benefit manager.

(2) "Contracting insurer" means an insurer ~~as defined in Section 31A-22-636~~ with whom a pharmacy benefit manager contracts to provide a pharmacy benefit management service.

(3) "Device" means the same as that term is defined in Section 58-17b-102.

(4) "Dispense" means the same as that term is defined in Section 58-17b-102.

(5) "Drug" means the same as that term is defined in Section 58-17b-102.

(6) "Insurer" means the same as that term is defined in Section 31A-22-636.

(7) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(8) "Pharmaceutical facility" means the same as that term is defined in Section 58-17b-102.

(9) "Pharmaceutical manufacturer" means a pharmaceutical facility that manufactures prescription drugs.

~~(3)~~ (10) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

~~(4)~~ (11) "Pharmacy" means the same as that term is defined in Section 58-17b-102.

~~(5)~~ (12) "Pharmacy benefits management service" means any of the following services provided to a health benefit plan, or to a participant of a health benefit plan:

(a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or

(b) administering or managing a prescription drug benefit provided by the health benefit plan for the benefit of a participant of the health benefit plan, including administering or managing:

(i) ~~a~~ mail service pharmacy;

(ii) a specialty pharmacy;

(iii) claims processing;

(iv) payment of a claim;

(v) retail network management;

(vi) clinical formulary development;

(vii) clinical formulary management services;

(viii) rebate contracting;

(ix) rebate administration;

(x) a participant compliance program;

(xi) a therapeutic intervention program;

(xii) a disease management program; or

(xiii) a service that is similar to, or related to, a service described in Subsection ~~(5)~~ (12)(a) or ~~(5)~~ (12)(b)(i) through (xii).

~~(6)~~ (13) "Pharmacy benefit manager" means a person licensed under this chapter to provide a pharmacy benefits management service.

~~(7)~~ (14) "Pharmacy service" means a product, good, or service provided to an individual by a pharmacy or pharmacist.

(15) "Prescription device" means the same as that term is defined in Section 58-17b-102.

(16) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

~~(8)~~ (17) (a) "Rebate" means a refund, discount, or other price concession that is paid by a pharmaceutical manufacturer to a pharmacy benefit manager based on a prescription drug's utilization or effectiveness.

(b) "Rebate" does not include an administrative fee.

(18) "Retail pharmacy" means the same as that term is defined in Section 58-17b-102.

(19) "Wholesale acquisition cost" means the same as that term is defined in 42 U.S.C. Sec. 1395w-3a.

**Section 3. Section 31A-46-301 is amended to read:****31A-46-301. Reporting requirements.**

(1) Before April 1 of each year, a pharmacy benefit manager operating in the state shall report to the department, for the previous calendar year:

(a) any insurer, pharmacy, or pharmacist in the state with which the pharmacy benefit manager had a contract;

(b) the total value, in the aggregate, of all rebates and administrative fees that are attributable to enrollees of a contracting insurer; and

(c) if applicable, the percentage of aggregate rebates that the pharmacy benefit manager retained under the pharmacy benefit manager's agreement to provide pharmacy benefits management services to a contracting insurer.

(2) Records submitted to the commissioner under Subsections (1)(b) and (c) are a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(3) (a) The department shall publish the information provided by a pharmacy benefit manager under Subsection (1)(c) in the annual report described in Section 31A-2-201.2.

(b) The department may not publish information submitted under Subsection (1)(b) or (c) in a manner that:

(i) makes a specific submission from a contracting insurer or pharmacy benefit manager identifiable; or

(ii) is likely to disclose information that is a trade secret as defined in Section 13-24-2.

(c) At least 30 days before the day on which the department publishes the data, the department shall provide a pharmacy benefit manager that submitted data under Subsection (1)(b) or (c) with:

(i) a general description of the data that will be published by the department;

(ii) an opportunity to submit to the department, within a reasonable period of time and in a manner established by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) any correction of errors, with supporting evidence and comments; and

(B) information that demonstrates that the publication of the data will violate Subsection (3)(b), with supporting evidence and comments.

**Section 4. Section 31A-46-302 is amended to read:**

**31A-46-302. Direct or indirect remuneration by pharmacy benefit managers -- Pharmacist disclosures -- Limit on customer payment for prescription drugs and prescription devices -- 30-day notice required to reduce total compensation.**

(1) As used in this section:

(a) "Allowable claim amount" means the amount paid by an insurer under the customer's health benefit plan.

(b) "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.

(c) "Direct or indirect remuneration" means any adjustment in the total compensation:

(i) received by a pharmacy from a pharmacy benefit manager for the sale of a drug, device, or other product or service; and

(ii) that is determined after the sale of the product or service.

(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(e) "Pharmacy reimbursement" means the amount paid to a pharmacy by a pharmacy benefit manager for a dispensed prescription drug or prescription device.

(f) "Pharmacy services administration organization" means an entity that contracts with a pharmacy to assist with third-party payer interactions and administrative services related to third-party payer interactions, including:

(i) contracting with a pharmacy benefit manager on behalf of the pharmacy; and

(ii) managing a pharmacy's claims payments from third-party payers.

(g) "Pharmacy service entity" means:

(i) a pharmacy services administration organization; or

(ii) a pharmacy benefit manager.

(h) (i) "Reimbursement report" means a report on the adjustment in total compensation for a claim.

(ii) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.

(i) "Sale" means a prescription drug or prescription device claim covered by a health benefit plan.

(2) If a pharmacy service entity engages in direct or indirect remuneration with a pharmacy, the pharmacy service entity shall make a reimbursement report available to the pharmacy upon the pharmacy's request.

(3) For the reimbursement report described in Subsection (2), the pharmacy service entity shall:

(a) include the adjusted compensation amount related to a claim and the reason for the adjusted compensation; and

(b) provide the reimbursement report:

(i) in accordance with the contract between the pharmacy and the pharmacy service entity;

(ii) in an electronic format that is easily accessible; and

(iii) within 120 days after the day on which the pharmacy benefit manager receives a report of a sale of a product or service by the pharmacy.

(4) A pharmacy service entity shall, upon a pharmacy's request, provide the pharmacy with:

(a) the reasons for any adjustments contained in a reimbursement report; and

(b) an explanation of the reasons provided in Subsection (4)(a).

(5) (a) A pharmacy benefit manager may not prohibit or penalize the disclosure by a pharmacist of:

(i) an insured customer's cost share for a covered prescription drug or prescription device;

(ii) the availability of any therapeutically equivalent alternative medications or devices; or

(iii) alternative methods of paying for the prescription medication or prescription device, including paying the cash price, that are less expensive than the cost share of the prescription drug.

(b) Penalties that are prohibited under Subsection (5)(a) include increased utilization review, reduced payments, and other financial disincentives.

(6) A pharmacy benefit manager may not require an insured customer to pay, for a covered prescription drug or prescription device, more than the lesser of:

(a) the applicable cost share of the prescription drug or prescription device being dispensed;

(b) the applicable allowable claim amount of the prescription drug or prescription device being dispensed;

(c) the applicable pharmacy reimbursement of the prescription drug or prescription device being dispensed; or

(d) the retail price of the prescription drug or prescription device without prescription drug coverage.

(7) For a contract entered into or renewed on or after May 12, 2020, a pharmacy benefit manager may not engage in direct or indirect remuneration that results in a reduction in total compensation received by a pharmacy from the pharmacy benefit manager for the sale of a drug, device, or other product or service unless the pharmacy benefit manager provides the pharmacy with at least 30 days notice of the direct or indirect remuneration.

**Section 5. Section 31A-46-303 is amended to read:**

**31A-46-303. Insurer and pharmacy benefit management services -- Registration -- Maximum allowable cost -- Audit restrictions.**

(1) As used in this section:

(a) "Maximum allowable cost" means:

(i) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or

(ii) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.

(b) "Obsolete" means a product that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.

(c) "Pharmacy benefit manager" means a person or entity that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of an insurer [~~as defined in Subsection 31A-22-636(1)~~].

(2) An insurer and an insurer's pharmacy benefit manager is subject to the pharmacy audit provisions of Section 58-17b-622.

(3) A pharmacy benefit manager shall not use maximum allowable cost as a basis for reimbursement to a pharmacy unless:

(a) the drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's approved drug products with therapeutic equivalent evaluations, also known as the "Orange Book," or has an "NR" or "NA" rating or similar rating by a nationally recognized reference; and

(b) the drug is:

(i) generally available for purchase in this state from a national or regional wholesaler; and

(ii) not obsolete.

(4) The maximum allowable cost may be determined using comparable and current data on drug prices obtained from multiple nationally recognized, comprehensive data sources, including wholesalers, drug file vendors, and pharmaceutical manufacturers for drugs that are available for purchase by pharmacies in the state.

(5) For every drug for which the pharmacy benefit manager uses maximum allowable cost to reimburse a contracted pharmacy, the pharmacy benefit manager shall:

(a) include in the contract with the pharmacy information identifying the national drug pricing compendia and other data sources used to obtain the drug price data;

(b) review and make necessary adjustments to the maximum allowable cost, using the most recent data sources identified in Subsection (5)(a), at least once per week;

(c) provide a process for the contracted pharmacy to appeal the maximum allowable cost in accordance with Subsection (6); and

(d) include in each contract with a contracted pharmacy a process to obtain an update to the pharmacy product pricing files used to reimburse the pharmacy in a format that is readily available and accessible.

(6) (a) The right to appeal in Subsection (5)(c) shall be:

(i) limited to 21 days following the initial claim adjudication; and

(ii) investigated and resolved by the pharmacy benefit manager within 14 business days.

(b) If an appeal is denied, the pharmacy benefit manager shall provide the contracted pharmacy with the reason for the denial and the identification of the national drug code of the drug that may be purchased by the pharmacy at a price at or below the price determined by the pharmacy benefit manager.

(7) The contract with each pharmacy shall contain a dispute resolution mechanism in the event either party breaches the terms or conditions of the contract.

(8) This section does not apply to a pharmacy benefit manager when the pharmacy benefit manager is providing pharmacy benefit management services on behalf of the state Medicaid program.

**Section 6. Section 31A-46-304 is amended to read:**

**31A-46-304. Claims practices.**

(1) A pharmacy benefit manager shall permit a pharmacy to collect the amount of a customer's cost share from any source.

(2) A pharmacy benefit manager may not deny or reduce a reimbursement to a pharmacy or a pharmacist after the adjudication of the claim, unless:

(a) the pharmacy or pharmacist submitted the original claim fraudulently;

(b) the original reimbursement was incorrect because:

(i) the pharmacy or pharmacist had already been paid for the pharmacy service; or

(ii) an unintentional error resulted in an incorrect reimbursement; or

(c) the pharmacy service was not rendered by the pharmacy or pharmacist.

(3) Subsection (2) does not apply if:

(a) ~~[an investigative audit]~~ any form of an investigation or audit of pharmacy records for fraud, waste, abuse, or other intentional misrepresentation indicates that the pharmacy or pharmacist engaged in criminal wrongdoing, fraud, or other intentional misrepresentation; or

(b) the reimbursement is reduced as the result of the reconciliation of a reimbursement amount under a performance contract if:

(i) the performance contract lays out clear performance standards under which the reimbursement for a specific drug may be increased or decreased; and

(ii) the agreement between the pharmacy benefit manager and the pharmacy or pharmacist explicitly states, in a separate document that is signed by the pharmacy benefit manager and the

pharmacy or pharmacist, that the provisions of Subsection (2) do not apply.

**Section 7. Section 31A-46-305 is enacted to read:**

**31A-46-305. Pharmacy reimbursement.**

A pharmacy benefit manager shall reimburse a network pharmacy, in the aggregate, in an amount no less than the amount that the pharmacy benefit manager reimburses an affiliate of the pharmacy benefit manager in the same network, in the aggregate, for providing the same or equivalent pharmacy service.

**Section 8. Section 31A-46-306 is enacted to read:**

**31A-46-306. Mailing or delivering prescription drugs.**

(1) A pharmacy benefit manager or an insurer may not, directly or indirectly:

(a) prohibit an in-network retail pharmacy from:

(i) mailing or delivering a prescription drug to an enrollee as an ancillary service of the in-network retail pharmacy;

(ii) charging a shipping or handling fee to an enrollee who requests that the in-network retail pharmacy mail or deliver a prescription drug to the enrollee, as an ancillary service; or

(iii) offering or soliciting the ancillary services described in Subsection (1)(a)(i) to an enrollee; or

(b) charge an enrollee who uses an in-network retail pharmacy that offers to mail or deliver a prescription drug to an enrollee as an ancillary service a fee or copayment that is higher than the fee or copayment the enrollee would pay if the enrollee used an in-network retail pharmacy that does not offer to mail or deliver a prescription drug to an enrollee as an ancillary service.

**Section 9. Section 31A-46-307 is enacted to read:**

**31A-46-307. Pharmacy benefit manager reporting.**

(1) A pharmacy benefit manager may not enter into or renew a contract with an insurer on or after January 1, 2021, to administer or manage rebate contracting or rebate administration unless the pharmacy benefit manager agrees to regularly report to the insurer information regarding pharmaceutical manufacturer rebates received by the pharmacy benefit manager under the contract.

(2) The quality and type of information required under Subsection (1) shall be detailed, claims level information unless the pharmacy benefit manager and insurer agree to waive this requirement in a separate written agreement.

**Section 10. Section 31A-46-308, which is renumbered from Section 58-17b-619 is renumbered and amended to read:**

**~~[58-17b-619]. 31A-46-308. Out-of-state mail service pharmacies -- Drugs not readily available in all pharmacies.~~**

(1) As used in this section, “out-of-state mail service pharmacy” means the same as that term is defined in Section 58-17b-102.

~~[(1) Any] (2) Except as provided in Subsection (3), a third party payor [for] of pharmaceutical services within the state, or its agent or contractor, may not require [any] a pharmacy patient to obtain prescription drug benefits from [a specific] one or more out-of-state [pharmacy] mail service pharmacies as a condition of obtaining third party payment prescription drug benefit coverage as defined in rule.~~

~~[(2) (a) This section does not prohibit any third party payor of pharmaceutical services, who provides for reimbursement to the pharmacy patient or payment on his behalf, from exercising the right to limit the amount reimbursed for the cost of prescription drugs based upon the cost of identical prescription drugs available through a designated out-of-state pharmacy.]~~

~~[(b) Notwithstanding Subsection (2)(a), any third party payor of pharmaceutical services may restrict the type of outlet where a patient may obtain certain prescriptive drugs and devices, such as injectable medications, that are not readily available in all pharmacies. The payor may also restrict access to no more than one mail-order pharmacy.]~~

~~[(3) Each third party payor of pharmaceutical services shall identify as a part of the third party agreement or contract the designated out-of-state pharmacy which shall be used as the base line comparison.]~~

(3) For a prescription drug or device that is not readily available in all pharmacies, including an injectable medication, a third party payor of pharmaceutical services may require a pharmacy patient to obtain prescription drug benefits from certain pharmacies, including one or more out-of-state mail service pharmacies.

(4) (a) A violation of this section is a class A misdemeanor.

(b) Each violation of this section is a separate offense.

**Section 11. Section 31A-47-101 is enacted to read:**

**CHAPTER 47. PRESCRIPTION DRUG  
PRICE TRANSPARENCY ACT**

**31A-47-101. Title.**

This chapter is known as “Prescription Drug Price Transparency Act.”

**Section 12. Section 31A-47-102 is enacted to read:**

**31A-47-102. Definitions.**

As used in this chapter:

(1) “Drug” means a prescription drug, as defined in Section 58-17b-102.

(2) “Insurer” means the same as that term is defined in Section 31A-22-634.

(3) “Manufacturer” means a person that is engaged in the manufacturing of a drug that is available for purchase by residents of the state.

(4) “Rebate” means the same as that term is defined in Section 31A-46-102.

(5) “Wholesale acquisition cost” means the same as that term is defined in 42 U.S.C. Sec. 1395w-3a.

**Section 13. Section 31A-47-103 is enacted to read:**

**31A-47-103. Manufacturer reports --  
Insurer report -- Publication by  
department.**

(1) (a) A manufacturer of a drug shall report to the department the information described in Subsection (1)(b) no more than 30 days after the day on which an increase to the wholesale acquisition cost of the drug results in an increase to the wholesale acquisition cost of the drug of:

(i) greater than 16% over the preceding two calendar years; or

(ii) greater than 10% over the preceding calendar year.

(b) The manufacturer shall report:

(i) (A) the name of the drug;

(B) the dosage form of the drug; and

(C) the strength of the drug;

(ii) whether the drug is a brand name drug or a generic drug;

(iii) the effective date of the increase in the wholesale acquisition cost of the drug;

(iv) a written description, suitable for public release, of the factors that led to the increase in the wholesale acquisition cost of the drug and the significance of each factor;

(v) the manufacturer’s aggregate company-wide research and development costs for the most recent year for which final audit data is available;

(vi) the name of each of the manufacturer’s drugs approved by the United States Food and Drug Administration during the preceding three calendar years; and

(vii) the names of drugs manufactured by the manufacturer that lost patent exclusivity in the United States during the preceding three calendar years.

(c) Subsection (1)(a) applies only to a drug with a wholesale acquisition cost of at least \$100 for a 30-day supply before the effective date of the increase in the wholesale acquisition cost of the drug.

(d) A manufacturer’s obligations under this Subsection (1) are fully satisfied by submission of information and data that a manufacturer includes in the manufacturer’s annual consolidated report

on Securities and Exchange Commission Form 10-K or any other public disclosure.

(e) The department shall consult with representatives of manufacturers to establish a single, standardized format for reporting information under this section that minimizes the administrative burden of reporting for manufacturers and the state.

(f) Information provided to the department under Subsection (1)(b) may not be released in a manner that:

(i) would allow for the identification of an individual drug, therapeutic class of drugs, or manufacturer; or

(ii) is likely to compromise the financial, competitive, or proprietary nature of the information.

(2) Before August 1 of each year, an insurer shall report to the department in aggregate the following information for the preceding plan year for health benefit plans offered by the insurer:

(a) for the 25 drugs for which spending by the insurer was the greatest, after adjusting for rebates:

(i) the name of the drug;

(ii) the dosage form of the drug; and

(iii) the strength of the drug;

(b) the percentage increase over the previous year in net spending for all drugs, after adjusting for rebates; and

(c) the percentage of the increase in premiums over the previous year attributable to all drugs; and

(d) the percentage of the increase in premiums over the previous year attributable to specialty drugs.

(3) The department shall publish on the department's website:

(a) no later than 60 days after receiving the information, information reported to the department under Subsection (1); and

(b) no later than November 1 of each year, information reported to the department under Subsection (2).

(4) The department may not publish information under Subsection (3)(b) in a manner that allows the identity of an insurer to be determined.

(5) The department shall make rules, as necessary, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to promote comparability of information reported to the department under this chapter.

**Section 14. Section 63G-2-305 is amended to read:**

**63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement,

discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative



action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution

within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the

Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint

regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a

governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

- (a) a victim's application or request for benefits;
- (b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201; and

(73) a record described in Section 31A-37-503.

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); ~~and~~

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride[-]; and

(76) a record submitted to the Insurance Department under Subsection 31A-47-103(1)(b).

**Section 15. Coordinating H.B. 272 with S.B. 138 -- Superseding technical and substantive amendments.**

If this H.B. 272 and S.B. 138, Pharmacy Benefit Manager Revisions, both pass and become law, it is the intent of the Legislature that the amendments to Subsection 31A-46-302(1) in S.B. 138 supersede the amendments to Subsection 31A-46-302(1) in this bill when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

**CHAPTER 199****H. B. 283**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**OUTDOOR ADVENTURE  
 COMMISSION AMENDMENTS**

Chief Sponsor: Jeffrey D. Stenquist  
 Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill addresses the Outdoor Adventure Commission conducting strategic planning activities related to the state's outdoor recreation opportunities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Outdoor Adventure Commission;
- ▶ directs the commission to gather information on recreation assets and develop a strategic plan;
- ▶ designates what the strategic plan shall address;
- ▶ requires regional meetings;
- ▶ provides for the selection of consultants to assist in developing the strategic plan;
- ▶ addresses public-private partnerships;
- ▶ provides a sunset date; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

63C-21-101, Utah Code Annotated 1953  
 63C-21-102, Utah Code Annotated 1953  
 63C-21-201, Utah Code Annotated 1953  
 63C-21-202, Utah Code Annotated 1953  
 63C-21-203, Utah Code Annotated 1953

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

**Section 1. Section 63C-21-101 is enacted to read:**

**CHAPTER 21. OUTDOOR ADVENTURE  
 COMMISSION**

**Part 1. General Provisions**

**63C-21-101. Title.**

This chapter is known as the "Outdoor Adventure Commission."

**Section 2. Section 63C-21-102 is enacted to read:**

**63C-21-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Outdoor Adventure Commission created in Section 63C-21-201.

(2) "Strategic plan" means the strategic plan developed in Section 63C-21-202.

**Section 3. Section 63C-21-201 is enacted to read:**

**Part 2. Commission and Strategic Plan**

**63C-21-201. Outdoor Adventure  
 Commission created.**

(1) There is created the Outdoor Adventure Commission consisting of the following 14 members:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the director of the Utah Office of Outdoor Recreation, or the director's designee;

(d) the managing director of the Utah Office of Tourism, or the managing director's designee;

(e) the director of the Division of Parks and Recreation, or the director's designee;

(f) the director of the School and Institutional Trust Lands Administration, or the director's designee;

(g) the coordinator of the Off-Highway Vehicle and Recreational Trails Program within the Division of Parks and Recreation;

(h) a representative of the agriculture industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

(i) a representative of the natural resources development industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

(j) one representative of the Utah League of Cities and Towns appointed by the Utah League of Cities and Towns;

(k) one representative of the Utah Association of Counties appointed by the Utah Association of Counties;

(l) one individual appointed jointly by the Utah League of Cities and Towns and the Utah Association of Counties;

(m) a representative of conservation interests appointed jointly by the president of the Senate and the speaker of the House of Representatives; and

(n) a representative of the outdoor recreation industry appointed jointly by the president of the Senate and the speaker of the House of Representatives.

(2) (a) The senator appointed under Subsection (1)(a) is a cochair of the commission.

(b) The representative appointed under Subsection (1)(b) is a cochair of the commission.

(3) (a) If a vacancy occurs in the membership of the commission appointed under Subsection (1)(a) or (b), or Subsections (1)(h) through (n), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsections (1)(h) through (n) serves until the member's successor is appointed and qualified.

(4) (a) Eight commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(6) The Department of Transportation shall serve as a technical advisor to the commission.

(7) The Office of Legislative Research and General Counsel and the Office of the Legislative Fiscal Analyst shall provide staff support to the commission.

**Section 4. Section 63C-21-202 is enacted to read:**

**63C-21-202. Strategic plan -- Commission powers and duties -- Consultant -- Reports.**

(1) (a) The commission shall gather information on recreation assets from state and local agencies and other sources and develop a strategic plan aimed at meeting the future needs of outdoor recreation within the state in order to enhance the quality of life of Utah residents. Asset lists received from state and local agencies shall include:

(i) common data points, to be established by the Office of Outdoor Recreation that can be uniformly compared with other recreation assets within the state, such as asset type, size, unique characteristics, vegetation, land ownership, and similar items;

(ii) any specific needs, challenges, or limitations on recreation use of the assets; and

(iii) a ranking of potential enhancements to the assets related to recreation use.

(b) The strategic plan shall address:

(i) outdoor recreation as a major contributor to residents' quality of life;

(ii) the needs and impacts of residents who engage in outdoor recreation;

(iii) the impact on local communities related to outdoor recreation, including the costs associated with emergency services and infrastructure;

(iv) outdoor recreation as a means to retain and attract an exceptional workforce to provide for a sustainable economy;

(v) impacts to the environment, wildlife, and natural resources and measures to preserve the natural beauty of the state as more people engage in outdoor recreation;

(vi) identify opportunities for sustainable revenue sources to provide for maintenance and future needs;

(vii) the interface with public lands that are federally managed and private lands; and

(viii) other items determined by the commission.

(2) The commission shall:

(a) engage one or more consultants to:

(i) manage the strategic planning process in accordance with Subsection (3); and

(ii) conduct analytical work in accordance with Subsection (3);

(b) guide the analytical work of a consultant described in Subsection (2)(a) and review the results of the work;

(c) coordinate with a consultant described in Subsection (2)(a) to engage in a process and create a strategic plan;

(d) conduct regional meetings to gather stakeholder input during the strategic planning process;

(e) seek input from federal entities including the United States Department of the Interior, the United States Department of Agriculture, and Utah's congressional delegation; and

(f) produce a final report including a strategic plan and any recommendations.

(3) The commission by contract with a consultant engaged under Subsection (2)(a) shall direct the consultant to:

(a) conduct an inventory of existing outdoor recreation resources, programs, and information;

(b) conduct an analysis of what is needed to develop and implement an effective outdoor recreation strategy aimed at enhancing the quality of life of Utah residents;

(c) collect and analyze data related to the future projected conditions of the outdoor recreation resources, programs, and information, including the affordability and financing of outdoor recreation;

(d) develop alternatives to the projection described in Subsection (3)(c) by modeling potential

changes to the outdoor recreation industry and economic growth;

(e) in coordination with the commission, engage in extensive local stakeholder involvement to better understand the needs of, concerns of, and opportunities for different communities and outdoor recreation user types;

(f) recommend accountability or performance measures to assess the effectiveness of the outdoor recreation system;

(g) based on the data described in this Subsection (3), make comparisons between outdoor recreation in Utah and outdoor recreation in other states or countries;

(h) in coordination with the commission, conduct the regional meetings described in Subsection (2)(d) to share information and seek input from a range of stakeholders;

(i) recommend changes to the governance system for outdoor recreation that would facilitate implementation of the strategic plan;

(j) engage in any other data collection or analysis requested by the commission; and

(k) produce for the commission:

(i) a draft report of findings, observations, and strategic priorities, including:

(A) a statewide vision and strategy for outdoor recreation;

(B) a strategy for how to meaningfully engage stakeholders throughout the state;

(C) funding needs related to outdoor recreation; and

(D) recommendations for the steps the state should take to implement a statewide vision and strategy for outdoor recreation; and

(ii) a final report, incorporating feedback from the commission on the draft report described in Subsection (3)(k)(i), regarding the future of the outdoor recreation in the state.

**Section 5. Section 63C-21-203 is enacted to read:**

**63C-21-203. Public-private partnerships.**

The commission may facilitate or encourage public-private partnerships to provide for outdoor recreation resources, programs, or information.

**Section 6. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

~~(9)~~ (10) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

~~(10)~~ (11) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

~~(11)~~ (12) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

~~(12)~~ (13) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

~~(13)~~ (14) Section 63M-7-212 is repealed on December 31, 2019.

[~~14~~] (15) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

[~~15~~] (16) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

[~~16~~] (17) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~17~~] (18) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

[~~18~~] (19) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~19~~] (20) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~20~~] (21) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

[~~21~~] (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

[~~22~~] (23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~23~~] (24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

[~~24~~] (25) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

[~~25~~] (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~26~~] (27) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection [~~26~~] (27)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections [~~26~~] (27)(b) and (c), a person may carry forward a tax credit in



accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(27)]~~ (28) Section 63N-2-512 is repealed on July 1, 2021.

~~[(28)]~~ (29) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(28)]~~ (29)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(29)]~~ (30) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

~~[(30)]~~ (31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

~~[(31)]~~ (32) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(32)]~~ (33) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

~~[(33)]~~ (34) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

~~[(34)]~~ (35) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

**CHAPTER 200****H. B. 288**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**PROSECUTOR DATA  
 COLLECTION AMENDMENTS**

Chief Sponsor: Marsha Judkins  
 Senate Sponsor: Jacob L. Anderegg

**LONG TITLE****General Description:**

This bill requires certain agencies and jails throughout the state to provide specific data to the Commission on Criminal and Juvenile Justice.

**Highlighted Provisions:**

This bill:

- ▶ requires prosecutorial agencies, county jails, and the Administrative Office of the Courts to provide specific data to the Commission on Criminal and Juvenile Justice;
- ▶ requires that certain information and policies be made available to the public;
- ▶ provides that the commission will compile and analyze the data and include it in an annual report;
- ▶ allows the Law Enforcement and Criminal Justice Interim Committee to request data and analysis from the commission; and
- ▶ provides that the commission may provide prosecutorial agencies assistance with providing the required data.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63M-7-204, as last amended by Laws of Utah 2019, Chapter 435

**ENACTS:**

17-22-32.4, Utah Code Annotated 1953  
 63M-7-213, Utah Code Annotated 1953  
 78A-2-109.5, Utah Code Annotated 1953

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

**Section 1. Section 17-22-32.4 is enacted to read:**

**17-22-32.4. Jail demographics reporting.**

(1) As used in this section:

(a) "Booking" means an individual is detained in a jail facility for an offense requiring a subsequent court appearance.

(b) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(c) "Offense tracking number" means a number assigned to an offense that requires a mandatory court appearance and for which an individual is booked into a jail facility.

(2) Each county jail shall compile and provide the following information to the commission on all bookings into the facility:

(a) full name;

(b) offense tracking number;

(c) gender;

(d) date of birth;

(e) race;

(f) ethnicity; and

(g) zip code.

(3) The information shall be submitted within 90 days of the last day of March, June, September, and December of each year for the previous 90-day period in the form and manner selected by the commission. If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.

**Section 2. Section 63M-7-204 is amended to read:**

**63M-7-204. Duties of commission.**

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical

assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants funded from money from the Law Enforcement Operations Account created in Section 51-9-411 for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency

Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209; ~~and~~

(v) administer the Child Welfare Parental Defense Program in accordance with Sections 63M-7-211, 63M-7-211.1, and 63M-7-211.2[-]; and

(w) request, receive, and evaluate the aggregate data collected from prosecutorial agencies, jails, and the Administrative Office of the Courts, in accordance with Sections 17-22-32.4, 63M-7-213, and 78A-2-109.5.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

**Section 3. Section 63M-7-213 is enacted to read:**

**63M-7-213. Prosecutorial data collection -- Policy transparency.**

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b)(i) "Criminal case" means a case where an offender is charged with an offense for which a mandatory court appearance is required under the Uniform Bail Schedule.

(ii) "Criminal case" does not mean a case for criminal non-support under Section 76-7-201 or any proceeding involving collection or payment of child support, medical support, or child care expenses by or on behalf of the Office of Recovery Services under Section 62A-11-107 or 76-7-202.

(c) "Offense tracking number" means a distinct number applied to each criminal offense by the Bureau of Criminal Identification.

(d) "Pre-filing diversion" means an agreement between a prosecutor and an individual prior to being charged with a crime, before an information or indictment is filed, in which the individual is diverted from the traditional criminal justice system into a program of supervision and supportive services in the community.

(e) "Post-filing diversion" is as described in Section 77-2-5.

(f) "Prosecutorial agency" means the Office of the Attorney General and any city, county, or district attorney acting as a public prosecutor.

(g) "Publish" means to make aggregated data available to the general public.

(2) Beginning July 1, 2021, all prosecutorial agencies within the state shall submit the following data with regards to each criminal case referred to it from a law enforcement agency to the commission for compilation and analysis:

(a) the defendant's:

(i) full name;

(ii) offense tracking number;

(iii) date of birth; and

(iv) zip code;

(b) referring agency;

(c) whether the prosecutorial agency filed charges, declined charges, initiated a pre-filing diversion, or asked the referring agency for additional information;

(d) if charges were filed, the case number and the court in which the charges were filed;

(e) all charges brought against the defendant;

(f) whether bail was requested and, if so, the requested amount;

(g) the date of initial discovery disclosure;

(h) whether post-filing diversion was offered and, if so, whether it was entered;

(i) if post-filing diversion or other plea agreement was accepted, the date entered by the court; and

(j) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of the case.

(3) (a) The information required by Subsection (2), including information that was missing or incomplete at the time of an earlier submission but is presently available, shall be submitted within 90 days of the last day of March, June, September, and December of each year for the previous 90-day period in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.

(4) The prosecutorial agency shall maintain a record of all information collected and transmitted to the commission for 10 years.

(5) The commission shall include in the plan required by Subsection 63M-7-204(1)(k) an analysis of the data received, comparing and contrasting the practices and trends among and between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim Committee may request an in-depth analysis of the data received annually. Any request shall be in writing and specify which data points the report shall focus on.

(6) The commission may provide assistance to prosecutorial agencies in setting up a method of collecting and reporting data required by this section.

(7) Beginning January 1, 2021, all prosecutorial agencies shall publish specific office policies. If the agency does not maintain a policy on a topic in this subsection, the agency shall affirmatively disclose that fact. Policies shall be published online on the following topics:

(a) screening and filing criminal charges;

(b) plea bargains;

(c) sentencing recommendations;

(d) discovery practices;

(e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;

(f) collection of fines and fees;

(g) criminal and civil asset forfeiture practices;

(h) services available to victims of crime, both internal to the prosecutorial office and by referral to outside agencies;

(i) diversion programs;

(j) restorative justice programs; and

(8) (a) A prosecutorial agency not in compliance with this section by July 1, 2022, in accordance with the commission's guidelines may not receive grants or other funding intended to assist with bringing the agency into compliance with this section. In addition, any funds received for the purpose of bringing the agency into compliance with this section shall be returned to the source of the funding.

(b) Only funding received from the commission by a prosecutorial agency specifically intended to assist the agency with compliance with this section may be recalled.

**Section 4. Section 78A-2-109.5 is enacted to read:**

**78A-2-109.5. Court demographics reporting.**

(1) As used in this section, "commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) The Administrative Office of the Courts shall compile and provide the following information to the commission for each criminal case filed with the court:

(a) case number;

(b) the defendant's:

(i) full name;

(ii) offense tracking number; and

(iii) date of birth;

(c) charges filed;

(d) initial appearance date;

(e) bail amount set by the court, if any;

(f) whether the defendant was represented by a public defender, private counsel, or pro se; and

(g) final disposition of the charges.

(3) The information shall be submitted on the 15th day of July and January of each year for the previous six-month period ending the last day of June and December of each year in the form and manner selected by the commission. If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.

**CHAPTER 201****H. B. 295**

Passed March 10, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**FATALITY REVIEW AMENDMENTS**

Chief Sponsor: Steve Eliason  
Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill modifies and enacts provisions relating to review of fatalities and suicides in the state.

**Highlighted Provisions:**

This bill:

- ▶ defines terms and modifies definitions;
- ▶ modifies the circumstances under which a custodian of vital records may permit inspection or provide a copy of a vital record;
- ▶ modifies the circumstances under which, and to whom, the medical examiner may provide a copy of the medical examiner's final report;
- ▶ allows the Department of Health to make administrative rules regarding the ability for certain governmental entities to use or disclose a medical examiner record;
- ▶ allows the medical examiner to share a medical examiner record with a hospital system in the state for purposes of researching prevention of drug-related overdose or suicide fatalities;
- ▶ creates the position of overdose fatality examiner within the Office of the Medical Examiner;
- ▶ creates the Opioid and Overdose Fatality Review Committee within the Department of Health;
- ▶ requires the Opioid and Overdose Fatality Review Committee to close a meeting in accordance with the Open and Public Meetings Act when an individual fatality is discussed; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to Department of Health -- Disease Control and Prevention -- Disease Control and Prevention, as an ongoing appropriation:
  - from General Fund, \$60,000;
- ▶ to Department of Health -- Disease Control and Prevention -- Office of the Medical Examiner, as an ongoing appropriation:
  - from General Fund, \$115,000; and
- ▶ to Department of Health -- Disease Control and Prevention -- Office of the Medical Examiner, as a one-time appropriation:
  - from the General Fund, One-time, \$121,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-2-15, as last amended by Laws of Utah 2008, Chapter 3  
26-2-22, as last amended by Laws of Utah 2015, Chapter 137

26-4-17, as last amended by Laws of Utah 2019, Chapter 349  
52-4-205, as last amended by Laws of Utah 2019, Chapter 417  
78B-6-142, as renumbered and amended by Laws of Utah 2008, Chapter 3

**ENACTS:**

26-4-30, Utah Code Annotated 1953  
26-7-10, Utah Code Annotated 1953

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

**Section 1. Section 26-2-15 is amended to read:****26-2-15. Petition for establishment of unregistered birth or death -- Court procedure.**

(1) A person holding a direct, tangible, and legitimate interest as described in Subsection 26-2-22[(4)](3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth or death that is not registered or for which a certified copy of the registered birth or death certificate is not obtainable. The person shall verify the petition and file ~~it~~ the petition in the Utah district court for the county where:

- (a) the birth or death is alleged to have occurred;
- (b) the person resides whose birth is to be established; or
- (c) the decedent named in the petition resided at the date of death.

(2) In order for the court to have jurisdiction, the petition shall:

- (a) allege the date, time, and place of the birth or death; and
- (b) state either that no certificate of birth or death has been registered or that a copy of the registered certificate cannot be obtained.

(3) The court shall set a hearing for five to 10 days after the ~~filing of the petition~~ day on which the petition is filed.

(4) (a) If the time and place of birth or death are in question, the court shall hear available evidence and determine the time and place of the birth or death.

(b) If the time and place of birth or death are not in question, the court shall determine the time and place of birth or death to be those alleged in the petition.

(5) A court order under this section shall be made on a form prescribed and furnished by the department and is effective upon the filing of a certified copy of the order with the state registrar.

(6) (a) For purposes of this section, the birth certificate of an adopted alien child, as defined in Section 78B-6-108, is considered to be unobtainable if the child was born in a country that is not recognized by department rule as having an established vital records registration system.

(b) If the adopted child was born in a country recognized by department rule, but a person described in Subsection (1) is unable to obtain a certified copy of the birth certificate, the state registrar shall authorize the preparation of a birth certificate if [he] the state registrar receives a written statement signed by the registrar of the child's birth country stating a certified copy of the birth certificate is not available.

**Section 2. Section 26-2-22 is amended to read:**

**26-2-22. Inspection of vital records.**

(1) As used in this section:

(a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.

(b) "Drug use intervention or suicide prevention effort" means a program that studies or promotes the prevention of drug overdose deaths or suicides in the state.

(c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

[~~(1)~~] (2) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this chapter, department rules, and Sections 78B-6-141 and 78B-6-144.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this chapter, department rule, Section 78B-6-141, or Section 78B-6-144.

(c) (i) An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.

(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).

(d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

[~~(2)~~] (3) [~~A~~] Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

[~~(ii) a member of the subject's immediate family;~~]

(ii) an immediate family member of the subject;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a drug use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

[~~(3)~~] For purposes of Subsection (2):]

[~~(a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild;~~]

[~~(b) a designated legal representative means an attorney, physician, funeral service director, genealogist, or other agent of the subject or the subject's immediate family who has been delegated the authority to access vital records;~~]

[~~(e)~~] (4) (a) [~~except~~] Except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or [the] an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights pursuant to Title 78A, Chapter 6, Juvenile Court Act [~~of 1996~~], or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest[; and] under this section.

[~~(4)~~] (b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.

[~~(4)~~] (5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection [~~(4)~~] (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

[~~(5)~~] (6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

[~~(6)~~] (7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for a birth parent's election to permit identifying information about the birth parent to be made available[;] under Section 78B-6-141;

(b) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144; ~~and~~

(c) for collecting fees and donations ~~[pursuant to]~~ under Section 78B-6-144.5~~[-];~~ and

(d) for the review and approval of a request described in Subsection (3)(d).

**Section 3. Section 26-4-17 is amended to read:**

**26-4-17. Records of medical examiner -- Confidentiality.**

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;

(b) indicate the place where the body was found;

(c) indicate the date of death;

(d) indicate the cause and manner of death;

(e) indicate the occupation of the decedent, if available;

(f) include all other relevant information concerning the death; and

(g) include a full report and detailed findings of the autopsy or report of the investigation.

(2) (a) Upon written request from an individual described in Subsections (2)(a)(i) through ~~[(d)]~~ (iv), the medical examiner shall provide a copy of the medical examiner's final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to any of the following:

~~[(a)]~~ (i) a decedent's immediate relative;

~~[(b)]~~ (ii) a decedent's legal representative;

~~[(c)]~~ (iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

~~[(d) as necessary for the performance of the individual's professional duties,]~~

(iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.

(b) Upon written request from the director or a designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of the of the medical examiner's final report of examination for the decedent, including any other reports described in Subsection (2)(a), to any of the following entities as necessary for performance of the entity's official purposes:

(i) a local health department;

(ii) a local mental health authority;

(iii) a public health authority; or

(iv) another state or federal governmental agency.

(c) The medical examiner may provide a copy of the medical examiner's final report of examination, including any other reports described in Subsection (2)(a), if the final report relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

(4) The medical examiner may provide a medical examiner record to a researcher who:

(a) has an advanced degree;

(b) (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

(ii) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the Department of Health; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record



at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section 26-1-6, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.

[47] (8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

[48] (9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

**Section 4. Section 26-4-30 is enacted to read:**

**26-4-30. Overdose fatality examiner.**

(1) Within funds appropriated by the Legislature, the department shall provide compensation, at a standard rate determined by the department, to an overdose fatality examiner.

(2) The overdose fatality examiner shall:

(a) work with the medical examiner to compile data regarding overdose and opioid related deaths, including:

(i) toxicology information;

(ii) demographics; and

(iii) the source of opioids or drugs;

(b) as relatives of the deceased are willing, gather information from relatives of the deceased regarding the circumstances of the decedent's death;

(c) maintain a database of information described in Subsections (2)(a) and (b);

(d) coordinate no less than monthly with the suicide prevention coordinator described in Section 62A-15-1101; and

(e) coordinate no less than quarterly with the Opioid and Overdose Fatality Review Committee created in Section 26-7-10.

**Section 5. Section 26-7-10 is enacted to read:**

**26-7-10. Opioid and Overdose Fatality Review Committee.**

(1) As used in this section:

(a) "Committee" means the Opioid and Overdose Fatality Review Committee created in this section.

(b) "Opioid overdose death" means a death primarily caused by opioids or another substance that closely resembles an opioid.

(2) The department shall establish the Opioid and Overdose Fatality Review Committee.

(3) (a) The committee shall consist of:

(i) the attorney general, or the attorney general's designee;

(ii) a state, county, or municipal law enforcement officer;

(iii) the manager of the department's Violence Injury Program, or the manager's designee;

(iv) an emergency medical services provider;

(v) a representative from the Office of the Medical Examiner;

(vi) a representative from the Division of Substance Abuse and Mental Health;

(vii) a representative from the Office of Vital Records;

(viii) a representative from the Office of Health Care Statistics;

(ix) a representative from the Division of Occupational and Professional Licensing;

(x) a healthcare professional who specializes in the prevention, diagnosis, and treatment of substance use disorders;

(xi) a representative from a state or local jail or detention center;

(xii) a representative from the Department of Corrections;

(xiii) a representative from Juvenile Justice Services;

(xiv) a representative from the Department of Public Safety;

(xv) a representative from the Commission on Criminal and Juvenile Justice;

(xvi) a physician from a Utah-based medical center; and

(xvii) a physician from a nonprofit vertically integrated health care organization.

(b) The president of the Senate may appoint one member of the Senate, and the speaker of the House of Representatives may appoint one member of the House of Representatives, to serve on the committee.

(4) The executive director of the department shall appoint a committee coordinator.

(5) (a) The department shall give the committee access to all reports, records, and other documents that are relevant to the committee's responsibilities under Subsection (6) including reports, records, or documents that are private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) In accordance with Subsection 63G-2-206(6), the committee is subject to the same restrictions on disclosure of a report, record, or other document received under Subsection (5)(a) as the department.

(6) The committee shall:

(a) conduct a multidisciplinary review of available information regarding a decedent of an opioid overdose death, which shall include:

(i) consideration of the decedent's points of contact with health care systems, social services systems, criminal justice systems, and other systems; and

(ii) identification of specific factors that put the decedent at risk for opioid overdose;

(b) promote cooperation and coordination among government entities involved in opioid misuse, abuse, or overdose prevention;

(c) develop an understanding of the causes and incidence of opioid overdose deaths in the state;

(d) make recommendations for changes to law or policy that may prevent opioid overdose deaths;

(e) inform public health and public safety entities of emerging trends in opioid overdose deaths;

(f) monitor overdose trends on non-opioid overdose deaths; and

(g) review non-opioid overdose deaths in the manner described in Subsection (6)(a), when the committee determines that there are a substantial number of overdose deaths in the state caused by the use of a non-opioid.

(7) A committee may interview or request information from a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the review of an opioid overdose death.

(8) A majority vote of committee members present constitutes the action of the committee.

(9) The committee may meet up to eight times each year.

(10) When an individual case is discussed in a committee meeting under Subsection (6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections 52-4-204 through 52-4-206.

**Section 6. Section 52-4-205 is amended to read:**

**52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.**

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the

process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); ~~and~~

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-10, to review and discuss an individual case, as described in Subsection 26-7-10(10); and

[~~(e)~~] (d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

**Section 7. Section 78B-6-142 is amended to read:**

**78B-6-142. Adoption order from foreign country.**

(1) Except as otherwise provided by federal law, an adoption order rendered to a resident of this state that is made by a foreign country shall be recognized by the courts of this state and enforced as if the order were rendered by a court in this state.

(2) A person who adopts a child in a foreign country may register the order in this state. A petition for registration of a foreign adoption order may be combined with a petition for a name change. If the court finds that the foreign adoption order meets the requirements of Subsection (1), the court shall order the state registrar to:

(a) file the order pursuant to Section 78B-6-137; and

(b) file a certificate of birth for the child pursuant to Section 26-2-28.

(3) If a clerk of the court is unable to establish the fact, time, and place of birth from the documentation provided, a person holding a direct, tangible, and legitimate interest as described in Subsection 26-2-22[~~(2)~~](3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth pursuant to Subsection 26-2-15(1).

**Section 8. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1To Department of Health -- Disease Control and PreventionFrom General Fund \$60,000Schedule of Programs:Disease Control and Prevention \$60,000ITEM 2To Department of Health -- Disease Control and PreventionFrom General Fund \$115,000From General Fund, One-time \$121,000Schedule of Programs:Office of the Medical Examiner \$236,000

**CHAPTER 202****H. B. 323**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**SCHOOL MENTAL HEALTH  
FUNDING AMENDMENTS**

Chief Sponsor: Steve Eliason  
 Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill addresses provisions relating to school-based mental health support.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits mental health screening without parental consent;
- ▶ provides that data collected from a mental health screening may not be included in a student's Student Achievement Backpack;
- ▶ sets standards for participating local education agencies (LEAs) to implement approved mental health screening programs for participating students;
- ▶ requires the State Board of Education (state board) to:
  - in consultation with the Division of Substance Abuse and Mental Health, approve an evidence-based mental health screening program to be administered annually to students in a participating LEA; and
  - annually report on the screening programs to the State Suicide Prevention Coalition and the Education Interim Committee;
- ▶ permits an LEA to use Teacher and Student Support Program money to match money distributed to an LEA for school-based student support;
- ▶ removes the fund matching requirement for an LEA that has a school-based student support plan that is approved by the state board after a certain date; and
- ▶ permits the state board to use funds appropriated for school-based student support to pay an employee to administer the program and oversee mental health personnel in LEAs.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-9-203, as last amended by Laws of Utah 2019, Chapter 186

53F-2-415, as enacted by Laws of Utah 2019, Chapter 446

**ENACTS:**

53F-2-522, Utah Code Annotated 1953

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

**Section 1. Section 53E-9-203 is amended to read:****53E-9-203. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.**

(1) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, policies adopted by a school district or charter school under Section 53E-9-202 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

- (a) political affiliations or, except as provided under Section 53G-10-202 or rules of the state board, political philosophies;
- (b) mental or psychological problems;
- (c) sexual behavior, orientation, or attitudes;
- (d) illegal, anti-social, self-incriminating, or demeaning behavior;
- (e) critical appraisals of individuals with whom the student or family member has close family relationships;
- (f) religious affiliations or beliefs;
- (g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
- (h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.

(4) (a) Written parental consent is valid only if a parent has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

- (i) records or information, including information about relationships, that may be examined or requested;
- (ii) the means by which the records or information shall be examined or reviewed;
- (iii) the means by which the information is to be obtained;
- (iv) the purposes for which the records or information are needed;

(v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and

(vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent can view the exact survey to be administered to the parent's student.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of the student's parent, or if that notification is otherwise prohibited by state or federal law.

(7) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal

thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

(i) referring the student to appropriate prevention services; and

(ii) informing the student's parent.

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

(8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators on the implementation of this section.

(9) The state board shall provide procedures for disciplinary action for violations of this section.

(10) Data collected from a survey described in Subsection (1):

(a) is a private record as provided in Section 63G-2-302;

(b) may not be shared except in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(c) may not be included in a student's Student Achievement Backpack, as that term is defined in Section 53E-3-511.

**Section 2. Section 53F-2-415 is amended to read:**

**53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.**

(1) As used in this section[, "qualifying"]:

(a) "Qualifying personnel" means a school counselor or other counselor, school psychologist or other psychologist, school social worker or other social worker, or school nurse who:

~~(a)~~ (i) is licensed; and

~~(b)~~ (ii) collaborates with educators and a student's parent on:

~~(4)~~ (A) early identification and intervention of the student's academic and mental health needs; and

~~(iii)~~ (B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(b) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide in a school targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel; or

(ii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school culture, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3):

(a) based on the formula described in Subsection (2)(b); and

(b) if the state board approves the LEA's plan before April 1, 2020, in an amount of money that the LEA equally matches using local [øf] money, unrestricted state money, or money distributed to the LEA under Section 53G-7-1303.

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel; or

(b) enter into contracts for services provided by qualified personnel, including telehealth services.

(6) The state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position, the LEA's reason for discontinuing the position; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to 2% of an appropriation under this section for costs related to the administration of the provisions of this section.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; or

(b) youth suicide prevention programs described in Section 53G-9-702.

**Section 3. Section 53F-2-522 is enacted to read:**

**53F-2-522. Public education mental health screening.**

(1) As used in this section:

(a) "Division" means the Division of Substance Abuse and Mental Health.

(b) "Participating LEA" means an LEA that has an approved screening program described in this section.

(c) "Participating student" means a student in a participating LEA who participates in a mental health screening program.

(d) "Qualifying parent" means a parent:

(i) of a participating student who, based on the results of a screening program, would benefit from resources that cannot be provided to the participating student in the school setting; and

(ii) who qualifies for financial assistance to pay for the resources under rules made by the state board.

(e) "Screening program" means a student mental health screening program selected by a participating LEA and approved by the state board in consultation with the division.

(2) A participating LEA may implement a mental health screening for participating students using an evidence-based screening program.

(3) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) a process for a participating LEA to submit a selected screening program to the state board for approval;

(ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, who may access and use a participating student's screening data; and

(iii) a requirement and a process for appropriate LEA or school personnel to attend annual training related to administering the screening program;

(b) in consultation with the division, approve an evidence-based student mental health screening program selected by a participating LEA that:

(i) is age appropriate for each grade in which the screening program is administered;

(ii) screens for the mental health conditions determined by the state board and division; and

(iii) is an effective tool for identifying whether a student has a mental health condition that requires intervention; and

(c) on or before November 30 of each year, submit a report on the screening programs to:

(i) the State Suicide Prevention Coalition created under Subsection 62A-15-1101(2); and

(ii) the Education Interim Committee in accordance with Section 53E-1-201.

(4) A participating LEA shall:

(a) in accordance with rules made by the state board under Subsection (3)(a), submit a selected screening program to the state board for approval;

(b) administer a screening program to participating students in the participating LEA;

(c) obtain prior written consent from a student's parent, that complies with Section 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before the participating LEA administers the screening program to a participating student; and

(d) if results of a participating student's screening indicate a potential mental health condition, notify the parent of the participating student of:

(i) the participating student's results; and

(ii) resources available to the participating student, including any services that can be provided by the school mental health provider or by a partnering entity.

(5) (a) Within appropriations made by the Legislature for this purpose, the state board may distribute funds to a participating LEA to use to assist a qualifying parent to pay for resources described in Subsection (4)(d)(ii) that cannot be

provided by a school mental health professional in the school setting.

(b) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(i) determining whether a parent is eligible to receive the financial support described in Subsection (5)(a); and

(ii) applying for and distributing the financial support described in Subsection (5)(a).

(6) A school employee trained in accordance with rules made by the state board under Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with this section in good faith, is not liable in a civil action for an act taken or not taken under this section.



**CHAPTER 203****H. B. 324**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**CONVICTION INTEGRITY UNITS**

Chief Sponsor: Marsha Judkins  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill allows prosecution agencies to create conviction integrity units to review convictions.

**Highlighted Provisions:**

This bill:

- ▶ describes conviction integrity units;
- ▶ creates definitions;
- ▶ provides that a prosecution agency may create a conviction integrity unit to review convictions;
- ▶ provides that a conviction integrity unit may make recommendations for changes in convictions and sentences obtained by the prosecution agency;
- ▶ gives the prosecution agency discretion regarding the conviction integrity unit's recommendations;
- ▶ requires notice to the victim if a petition is filed by the prosecution agency; and
- ▶ gives the district court the discretion to provide relief.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

78B-9-501, Utah Code Annotated 1953  
 78B-9-502, Utah Code Annotated 1953  
 78B-9-503, Utah Code Annotated 1953

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

**Section 1. Section 78B-9-501 is enacted to read:****Part 5. Conviction Integrity Units Act****78B-9-501. Title.**

This part is known as the "Conviction Integrity Units Act."

**Section 2. Section 78B-9-502 is enacted to read:****78B-9-502. Definitions.**

As used in this part:

(1) "Bona fide and compelling evidence" means that the evidence presented by the petitioning prosecutor establishes by a preponderance of the evidence that:

(a) the convicted person is significantly likely to be factually innocent;

(b) newly discovered material evidence, if presented at or before the time of trial, judgment of conviction, or sentencing, would have resulted in a significant probability that the result would have been different; or

(c) there exists information discovered or received by the petitioning prosecution agency after a judgment of conviction and sentencing that:

(i) if disclosed to the convicted person prior to trial, judgment of conviction, or sentencing, would have resulted in a significant probability that the result would have been different; or

(ii) significantly calls into question the legitimacy of the jury verdict, judgment of conviction, or sentence.

(2) "Convicted person" means the person whose conviction or sentence is under review.

(3) "Conviction Integrity Unit" means a program established by a prosecution agency to conduct extrajudicial, fact-based reviews of criminal convictions and sentences.

(4) "Establishing office" means the prosecution agency establishing a conviction integrity unit.

(5) "Factually innocent" means the same as that term is defined in Section 78B-9-401.5.

(6) "Legitimacy" means consistent with the United States and Utah constitutions, federal and state law, and all rules and principles of a fair and just legal system.

(7) "Newly discovered material evidence" means the same as that term is defined in Section 78B-9-401.5.

(8) "Petitioning prosecutor" means the prosecutor who files a civil petition seeking relief under this part.

(9) "Prosecution agency" means a county attorney, district attorney, the Office of the Attorney General, or other prosecution agency.

(10) "Significant" or "significantly likely," for purposes of this part, means to a large degree or of a noticeably or measurably large amount.

**Section 3. Section 78B-9-503 is enacted to read:****78B-9-503. Conviction Integrity Unit.**

(1) A prosecution agency may establish a conviction integrity unit to investigate:

(a) plausible allegations of factual innocence;

(b) newly discovered material evidence; or

(c) information discovered or received by the prosecution agency after trial, judgment of conviction, or sentencing that:

(i) if disclosed to the convicted person prior to trial, judgment of conviction, or sentencing, would have resulted in a significant probability that the result would have been different; or

(ii) significantly calls into question the legitimacy of the jury verdict, judgment of conviction, or sentence.

(2) A conviction integrity unit may review a conviction or sentence if the conviction and sentence:

(a) (i) occurred within the judicial district of the establishing office; and

(ii) was prosecuted by the establishing office or another prosecution agency under the direct control and supervision of the establishing office; or

(b) (i) occurred within a different judicial district or was prosecuted by another prosecution agency not under the direct control and supervision of the establishing office;

(ii) (A) the prosecution agency that prosecuted the case has not established a conviction integrity unit; or

(B) the prosecution agency that prosecuted the case has established a conviction integrity unit but determines that review of the conviction or sentence should be conducted by a conviction integrity unit established by another prosecution agency; and

(iii) the district attorney, county attorney, attorney general, or other prosecutor that directly oversees and supervises the requesting agency requests the review.

(3) (a) An individual convicted of a crime may submit an application to a conviction integrity unit requesting review of the individual's conviction or sentence as provided in Subsection (2).

(b) If a convicted person submits an application for review of a conviction that resulted in a sentence of death, and the application is submitted to any conviction integrity unit other than a conviction integrity unit established by the Office of the Attorney General, the conviction integrity unit that receives the application shall forward copies of the application to the Office of the Attorney General and to the convicted person's current counsel of record.

(c) If a conviction integrity unit other than a conviction integrity unit established by the Office of the Attorney General discovers or receives any review of a conviction that resulted in a sentence of death, the conviction integrity unit shall send the findings and recommendations promptly upon completion to the Office of the Attorney General and to the convicted person's current counsel of record.

(d) If a conviction integrity unit other than a conviction integrity unit established by the Office of the Attorney General discovers or receives any information relevant to a conviction that resulted in a sentence of death, the conviction integrity unit that discovers or receives the information shall promptly notify the Office of the Attorney General and the convicted person's current counsel of record.

(4) The form of the application for review and its contents shall be determined by the establishing office.

(5) Once the review is complete, the conviction integrity unit shall present its findings and recommendations to:

(a) the district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the establishing office; or

(b) if the review was requested by another prosecution agency under Subsection (2)(b), the district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the prosecution agency that requested the review.

(6) The district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the establishing office, or who requested review under Subsection (2)(b), is not required to accept or follow the findings and recommendations of the conviction integrity unit.

(7) The district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the establishing office, or who requested review under Subsection (2)(b), may commence a civil proceeding by filing a petition in the district court with jurisdiction over the case seeking a court order to:

(a) vacate the conviction;

(b) vacate the conviction and order a new trial;

(c) vacate the sentence and order further proceedings; or

(d) modify the conviction or sentence.

(8) The decision to petition the district court under Subsection (7) is solely within the discretion of the district attorney, county attorney, attorney general, or other prosecutor who directly oversees and supervises the establishing office, or who requested the review under Subsection (2)(b).

(9) Except as otherwise provided in this part, a petition filed with the district court shall comply with the Utah Rules of Civil Procedure, Rule 65C, and shall include the number of the underlying criminal case that resulted in the judgment of conviction or sentence in connection with which the petitioning prosecutor seeks relief from the court.

(10) If a petition is filed under Subsection (7), the petitioning prosecutor shall promptly:

(a) notify the convicted person, in writing, that the petition has been filed and provide the convicted person with a copy of the petition and all other documents filed in support of the petition;

(b) notify the victim or the victim's representative, if any, in writing, that a petition has been filed, provide the victim or the victim's representative, if any, with a copy of the petition and all other documents filed in support, and advise the victim or the victim's representative of the victim's right to be heard by the court under Subsection (13); and

(c) if the underlying conviction was a felony offense, notify the Office of the Attorney General, in writing, that the petition has been filed and provide

the attorney general with a copy of the petition and all other documents filed in support.

(11) If a petition is filed pursuant to Subsection (7), the Office of the Attorney General has standing to intervene as of right and to participate as a party in the district court proceeding if:

(a) the convicted person submitted an application under Subsection (3)(a) requesting review of the person's conviction or sentence by the conviction integrity unit;

(b) the conviction integrity unit undertook review of the convicted person's conviction or sentence as a result of the convicted person's application; and

(c) the Office of the Attorney General reasonably believes the relief requested by the petitioning prosecutor would be barred if the petition were filed or the relief were requested directly by the convicted person under Part 1, General Provisions.

(12) Upon review of the petition, the district court may:

(a) dismiss the petition as provided in Subsection (14);

(b) require that additional evidence be submitted;

(c) conduct an evidentiary hearing; or

(d) grant the relief requested by the petitioning prosecution agency, or any other relief expressly permitted by this part, if by a preponderance of the evidence the petition presents:

(i) bona fide and compelling evidence that the convicted person is significantly likely to be factually innocent;

(ii) bona fide and compelling newly discovered material evidence; or

(iii) bona fide and compelling information discovered or received by the petitioning prosecution agency after the trial, judgment of conviction, and sentencing that:

(A) if disclosed to the convicted person prior to trial, judgment of conviction, or sentencing, would have resulted in a significant probability that the result would have been different; or

(B) significantly calls into question the legitimacy of the jury verdict, judgment of conviction, or sentence.

(13) If the court requests additional information or holds an evidentiary hearing, the convicted person, and the victim or the victim's representative, if any, and, if notice to the Office of the Attorney General was required under Subsection (10)(c), the attorney general, shall have the right to be heard by the district court, through written submissions or testimony.

(14) A district court may dismiss a petition without a hearing if the court finds by a preponderance of the evidence that the petition

fails to assert grounds on which relief may be granted.

(15) In granting relief under this part, the district court may:

(a) vacate the conviction;

(b) vacate the conviction and order a new trial;

(c) vacate the sentence and order further proceedings; or

(d) modify the conviction or sentence.

(16) The district court shall state on the record the reasons for the court's decision.

(17) (a) An appeal may be taken by the petitioning prosecutor from a final order entered under this part.

(b) If notice to the Office of the Attorney General was required under Subsection (10)(c), the petitioning prosecutor shall consult with the attorney general prior to filing an appeal and, if an appeal is filed by the petitioning prosecutor, the Office of the Attorney General has standing to intervene as of right and to participate as a party in all appellate proceedings.

(18) Attorney fees, costs, orders of restitution, or any other form of monetary relief are not available under this part.

(19) Nothing in this section:

(a) precludes a conviction integrity unit from reviewing a conviction or sentence based on information discovered or received directly by the establishing office or received from an individual other than the convicted individual;

(b) prohibits an establishing office from adopting additional written criteria for the convictions or sentences the establishing office will review or will decline to review; or

(c) requires a conviction integrity unit to review any conviction or sentence.

(20) Nothing in this part:

(a) including review by a conviction integrity unit or the filing of a petition under Subsection (7), may operate to stay any other proceeding, or to extend, toll, or otherwise alter any other deadline or limitation period under Title 78B, Chapter 9, Post-Conviction Remedies Act;

(b) may revive a claim or cause of action or implicate a defense otherwise available to the state under any other provision of Title 78B, Chapter 9, Post-Conviction Remedies Act, or any other applicable provision of law; or

(c) confers standing or creates a private right of action for a convicted person or victim of a convicted person.

(21) Relief under this part does not exclude any other available remedy.

**CHAPTER 204****H. B. 328**

Passed March 12, 2020

Approved March 28, 2020

Effective May 12, 2020

**DIVISION OF WATER  
RESOURCES STUDY UPDATE**Chief Sponsor: Joel Ferry  
Senate Sponsor: David P. Hinkins

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**LONG TITLE****General Description:**

This bill addresses updating the Green River Pipeline Cost Analysis prepared in 2002.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ directs the Division of Water Resources as to what the division should update; and
- ▶ requires reporting.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

73-10-35, Utah Code Annotated 1953

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

**Section 1. Section 73-10-35 is enacted to read:****73-10-35. Division of Water Resources to conduct certain study.**

(1) As used in this section:

(a) “2002 Study” means the Green River Pipeline Cost Analysis prepared by the Division of Water Resources in 2002, including the addendum.

(b) “Division” means the Division of Water Resources.

(2) The division shall update the 2002 Study to provide current cost estimates.

(3) The division shall present the update required by Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2020 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

**CHAPTER 205****H. B. 343**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**PROBATE NOTICE AMENDMENTS**

Chief Sponsor: Kelly B. Miles  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill modifies notice provisions in a probate proceeding.

**Highlighted Provisions:**

This bill:

- ▶ eliminates a requirement that a petitioner or a personal representative provide notice of a probate proceeding to the Office of Recovery Services;
- ▶ requires the probate court to provide notice of a probate proceeding to the Office of Recovery Services under certain circumstances; and
- ▶ removes a provision that suspends a time limitation on the state's enforcement of a medical assistance claim or lien when the Office of Recovery Services does not receive notice of a probate proceeding.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

75-3-104.5, as enacted by Laws of Utah 2018, Chapter 443

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

**Section 1. Section 75-3-104.5 is amended to read:****75-3-104.5. Notice to the Office of Recovery Services.**

[~~(1)~~ Within 30 days after the day on which a ~~petitioner or personal representative files an action~~ person files an application or a petition for probate under this chapter for a decedent who was at least 55 years old, the ~~petitioner or personal representative shall send a copy of the pleadings, by certified mail,~~ court shall provide notice of the application or petition to the Office of Recovery Services created in Section 62A-1-105 for purposes of presentation or enforcement of a lien or claim under Section 26-19-405.

~~[(2) Failure to provide notice as described in Subsection (1) tolls all limitations concerning the state's presentation or enforcement of a lien or claim under Section 26-19-405.]~~

**CHAPTER 206****H. B. 344**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**SEX OFFENDER  
 RESTRICTIONS AMENDMENTS**

Chief Sponsor: Val K. Potter  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill provides additional restrictions on individuals who must register as a sex offender.

**Highlighted Provisions:**

This bill:

- ▶ provides that a sex offender may not serve as a coach, manager, or trainer of a minor; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

77-27-21.7, as last amended by Laws of Utah 2012, Chapter 145

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

**Section 1. Section 77-27-21.7 is amended to read:**

**77-27-21.7. Sex offender restrictions.**

(1) As used in this section:

(a) "Minor" means an individual who is less than 18 years old;

~~[(a)]~~ (b) (i) "Protected area" means the premises occupied by:

~~[(i)]~~ (A) any licensed day care or preschool facility;

~~[(ii)]~~ (B) a swimming pool that is open to the public;

~~[(iii)]~~ (C) a public or private primary or secondary school that is not on the grounds of a correctional facility;

~~[(iv)]~~ (D) a community park that is open to the public; ~~and~~

~~[(v)]~~ (E) a playground that is open to the public, including those areas designed to provide children space, recreational equipment, or other amenities intended to allow children to engage in physical activity[.]; and

~~[(b) - (i) - Except under Subsection (1)(b)(ii), "protected area" also includes any]~~

(F) except as provided in Subsection (1)(b)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex ~~[offender's offense under~~

Subsection (1)(e) if:] offender if the sex offender is subject to a victim requested restriction.

~~[(A) the sex offender is on probation or parole for an offense under Subsection (1)(e);]~~

~~[(B) the victim or the victim's parent or guardian has advised the Department of Corrections that the victim desires that the sex offender be restricted from the area under this Subsection (1)(b)(i) and authorizes the Department of Corrections to advise the sex offender of the area where the victim resides for purposes of this Subsection (1)(b); and]~~

~~[(C) the Department of Corrections has notified the sex offender in writing that the sex offender is prohibited from being in the protected area under Subsection (1)(b)(i) and has also provided a description of the location of the protected area to the sex offender.]~~

~~(ii) "Protected area" [under Subsection (1)(b)(i) does not apply to] does not include the [residence and area surrounding the residence of a victim] area described in Subsection (1)(b)(i)(F) if:~~

~~(A) the victim is a member of the immediate family of the sex offender; and~~

~~(B) the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim.~~

~~(c) "Sex offender" means an adult or juvenile who is required to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to a conviction for any offense that is committed against a person younger than 18 years [of age] old.~~

~~[(2) It is a class A misdemeanor for any sex offender to be in any protected area on foot or in or on any vehicle, including vehicles that are not motorized, except for:]~~

~~[(a) those specific periods of time]~~

~~(2) For purposes of Subsection (1)(b)(i)(F), a sex offender is subject to a victim requested restriction if:~~

~~(a) the sex offender is on probation or parole for an offense that requires the offender to register in accordance with Title 77, Chapter 4, Sex and Kidnap Offender Registry;~~

~~(b) the victim or the victim's parent or guardian advises the Department of Corrections that the victim elects to restrict the sex offender from the area and authorizes the Department of Corrections to advise the sex offender of the area where the victim resides; and~~

~~(c) the Department of Corrections notifies the sex offender in writing that the sex offender is prohibited from being in the area described in Subsection (1)(b)(i)(F) and provides a description of the location of the protected area to the sex offender.~~

~~(3) A sex offender may not:~~

~~(a) be in a protected area except:~~

~~(i) when the sex offender must be [present within] in a protected area [in order to carry out necessary]~~

to perform the sex offender's parental responsibilities;

~~[(b)]~~ (ii) (A) when the protected area is a [school building; (i) under Subsection (1)(a)(iii); (ii) being opened for or being used] public or private primary or secondary school; and

(B) the school is open and being used for a public activity[; and (iii) not being used for any] other than a school-related function that involves [persons younger than 18 years of age] a minor; or

~~[(c) when]~~ (iii) (A) if the protected area is a licensed day care or preschool facility[; (i) under Subsection (1)(a)(i); and (ii)] located within a building that is open to the public for purposes[, services, or functions that are operated separately from] other than the operation of the day care or preschool facility [located in the building, except that the sex offender may not be in any part of the building]; and

(B) the sex offender does not enter a part of the building that is occupied by the day care or preschool facility[;]; or

(b) serve as an athletic coach, manager, or trainer for any sports team of which a minor who is less than 18 years old is a member.

(4) A sex offender who violates this section is guilty of a class A misdemeanor.

**CHAPTER 207****H. B. 357**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective January 1, 2021  
 Exception clause

**PUBLIC EDUCATION  
 FUNDING STABILIZATION**

Chief Sponsor: Robert M. Spendlove  
 Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill provides for growth and stabilization in public education funding.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends the allowable purposes for the capital local levy in certain circumstances;
- ▶ provides for the Minimum School Program to be funded from the Uniform School Fund;
- ▶ provides for ongoing funding, including an additional amount for enrollment growth and inflation, for the Minimum School Program;
- ▶ provides for funding to and appropriations from a restricted account to stabilize education funding in circumstances in which revenues are insufficient to fund the public education system;
- ▶ provides for certain tax revenue to be distributed to the Uniform School Fund; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53F-8-303, as last amended by Laws of Utah 2018, Chapters 281, 288, 456 and renumbered and amended by Laws of Utah 2018, Chapter 2  
 53F-9-201, as last amended by Laws of Utah 2019, Chapter 191  
 53F-9-204, as renumbered and amended by Laws of Utah 2018, Chapter 2  
 59-7-532, as last amended by Laws of Utah 2007, Chapter 122  
 59-10-544, as last amended by Laws of Utah 2009, Chapter 212

**ENACTS:**

53F-2-208, Utah Code Annotated 1953  
 53F-9-201.1, Utah Code Annotated 1953

**REPEALS:**

53F-9-202, as last amended by Laws of Utah 2019, Chapter 186

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

**Section 1. Section 53F-2-208 is enacted to read:****53F-2-208. Cost of adjustments for growth and inflation.**

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units), except for charter school administration described in Section 53F-2-306;

(iii) the Adult Education Program, described in Section 53F-2-401;

(iv) state support of pupil transportation, described in Section 53F-4-402;

(v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vi) the Concurrent Enrollment Program, described in Section 53F-2-409;

(vii) the Enhancement for At-Risk Students Program, described in Section 53F-2-410; and

(viii) Centennial Scholarships, described in Section 53F-2-501; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a), including charter school administration described in Section 53F-2-306;

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations



developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Management and Budget.

**Section 2. Section 53F-8-303 is amended to read:**

**53F-8-303. Capital local levy.**

(1) As used in this section:

(a) "Cost of the basic program" means the cost of the programs described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units) in a school district.

(b) "Low-revenue year" means a fiscal year for which the Legislature appropriates ongoing funding from the Public Education Economic Stabilization Restricted Account under Subsection 53F-9-204(3)(b).

[4] (2) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's:

(a) capital projects; [øø]

(b) technology programs or projects[-]; or

(c) subject to Subsection (4), operational expenses for a low-revenue year.

[2] (3) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(4) For a low-revenue year, a local school board may transfer an amount of revenue from the school district's capital project fund to the school district's general fund for the local school board's school district for operational expenses in an amount equal to:

(a) for a local school board in a county of the first, second, or third class, revenue generated by up to .0002 per dollar of taxable value of the capital local levy; or

(b) for a local school board in a county of the fourth, fifth, or sixth class, up to the lesser of:

(i) 10% of the cost of the basic program; or

(ii) 25% of the revenue that the school district's capital local levy generates.

(5) The state board shall notify local school boards, school district superintendents, and business administrators in the event of a low-revenue year.

**Section 3. Section 53F-9-201 is amended to read:**

**53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.**

(1) As used in this section:

(a) "Annual distribution calculation" means, for a given fiscal year, the average of:

(i) 4% of the average market value of the State School Fund for that fiscal year; and

(ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

(A) one;

(B) the percent change in student enrollment from the school year two years prior to the prior school year; and

(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.

(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 12 consecutive quarters ending in the prior fiscal year.

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:

(i) the annual distribution calculation; or

(ii) 4% of the average market value of the State School Fund.

(2) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including:

(i) appropriations for the Minimum School Program, enrollment growth, and inflation under Section 53F-9-201.1; and

(ii) revenues received by donation.

(3) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year's distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

- (i) the State Treasurer;
- (ii) the Legislative Fiscal Analyst;
- (iii) the Division of Finance;
- (iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;
- (v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;
- (vi) the State Board of Education; and
- (vii) the Governor's Office of Management and Budget.

(6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

- (a) annually review the distribution amount; and
- (b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.

(7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution Account funds for the School LAND Trust Program as described in Subsections 53F-2-404(1)(a) and (c).

**Section 4. Section 53F-9-201.1 is enacted to read:**

**53F-9-201.1. Appropriations to the Minimum School Program from the Uniform School Fund.**

(1) As used in this section:

(a) "Base budget" means the same as that term is defined in legislative rule.

(b) "Enrollment growth and inflation estimates" means the cost estimates regarding enrollment growth and inflation described in Section 53F-2-208.

(2) Except as provided in Subsection 53F-9-204(3), for a fiscal year beginning on or after July 1, 2021, when preparing the Public Education Base Budget, the Office of the Legislative Fiscal Analyst shall include appropriations to the Minimum School Program from the Uniform School Fund, and, subject to Subsection 53F-9-204(3), the Public Education Economic Stabilization Restricted Account, in an amount that is greater than or equal to the sum of:

(a) the ongoing Education Fund and Uniform School Fund appropriations to the Minimum School Program in the current fiscal year; and

(b) subject to Subsection 53F-9-204(3)(b), enrollment growth and inflation estimates.

(3) The total annual amount deposited into the Uniform School Fund, including the deposits through the distributions described in Sections 59-7-532 and 59-10-544, for a given fiscal year may not exceed the amount appropriated from the Uniform School Fund for that fiscal year.

**Section 5. Section 53F-9-204 is amended to read:**

**53F-9-204. Public Education Economic Stabilization Restricted Account.**

(1) There is created within the Uniform School Fund a restricted account known as the "~~Growth in Student Population~~ Public Education Economic Stabilization Restricted Account."

(2) (a) ~~[The]~~ Except as provided in Subsection (2)(b), the account shall be funded from the following revenue sources:

~~[(a) any voluntary contributions received to help alleviate the anticipated surge in student growth in public elementary and secondary schools during the early part of the 21st Century; and]~~

~~[(b) appropriations made to the fund by the Legislature.]~~

~~[(3) The account shall be used to help school districts meet the challenges created by anticipated significant increases in student growth in the state's public schools.]~~

(i) 15% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(A) the estimated amount of ongoing Education Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(B) the amount of ongoing appropriations from the Education Fund and Uniform School Fund in the current fiscal year; and

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure

that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

(3) Subject to the availability of ongoing appropriations to the account, in accordance with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the account shall be used to fund:

(a) except for a year described in Subsection (3)(b), one-time appropriations to the public education system; and

(b) the Minimum School Program for a year in which Education Fund revenue and Uniform School Fund revenue are insufficient to fund:

(i) ongoing appropriations to the public education system; and

(ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1.

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(5) On or before December 31, 2023, and every three years thereafter, the Office of the Legislative Fiscal Analyst shall:

(a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and

(b) recommend to the Executive Appropriations Subcommittee any changes based on the review described in Subsection (5)(a).

**Section 6. Section 59-7-532 is amended to read:**

**59-7-532. Revenue received by commission -- Deposit with state treasurer -- Distribution or crediting to Education Fund -- Refund claim payments.**

(1) (a) ~~All~~ The commission shall deposit at least quarterly all revenue collected or received by the commission under this chapter ~~shall be deposited daily~~ with the state treasurer. ~~Such revenue~~

(b) The commission shall, subject to the refund provisions of this section, ~~shall be periodically distributed or credited~~ distribute or credit, at least quarterly and based on a pro rata share of Education Fund and Uniform School Fund appropriations for the current fiscal year, the revenue described in Subsection (1)(a) to:

(i) the Education Fund[-]; and

(ii) the Uniform School Fund in accordance with Section 53F-9-201.1.

(c) The commission may credit to or draw from the Education Fund and the Uniform School Fund:

(i) annually to adjust for differences between estimates and actual amounts; or

(ii) in the proportion described in Subsection (1)(b) to issue a refund.

(2) The commission shall from time to time certify to the state auditor the amount of any refund authorized by it, the amount of interest computed on it under the provisions of Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid, and such refund claims shall be paid in order out of the funds first accruing to the Education Fund from the provisions of this section.

**Section 7. Section 59-10-544 is amended to read:**

**59-10-544. General powers and duties of the commission -- Deposit, distribution, or credit of revenues -- Refund reverts to state under certain circumstances.**

(1) (a) The commission shall administer and enforce a tax imposed under this chapter for which purpose it may divide the state into districts in each of which a branch office of the commission may be maintained.

(b) A county may not be divided in forming a district.

(2) (a) The commission shall ~~daily~~ deposit at least quarterly all revenue collected or received by the commission under this chapter with the state treasurer.

(b) Subject to Sections 59-10-529 and 59-10-531, the ~~balance of the revenue described in Subsection (2)(a)~~ commission shall ~~be periodically distributed and credited~~ distribute and credit, at least quarterly and based on a pro rata share of Education Fund and Uniform School Fund appropriations for the current fiscal year, the revenue described in Subsection (2)(a) to:

(i) the Education Fund[-]; and

(ii) the Uniform School Fund in accordance with Section 53F-9-201.1.

(c) The commission may credit to or draw from the Education Fund and the Uniform School Fund:

(i) annually to adjust for differences between estimates and actual amounts; or

(ii) in the proportion described in Subsection (2)(b) to issue a refund.

~~(e)~~ (d) If a refund the commission makes is not claimed within two years from the date the commission issues the refund:

(i) the refund reverts to the state to be credited to the Education Fund; and

(ii) no further claim may be made on the commission for the amount of the refund.

**Section 8. Repealer.**

This bill repeals:

**Section 53F-9-202, Duty of Division of Finance -- Apportionment of fund by state board -- Certification of apportionments.**

**Section 9. Effective date.**

This bill takes effect January 1, 2021, if the amendment to the Utah Constitution proposed by

S.J.R. 9, Proposal to Amend Utah Constitution - Use of Tax Revenue, 2020 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

**CHAPTER 208****H. B. 359**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**MUNICIPAL ANNEXATION REVISIONS**

Chief Sponsor: Calvin R. Musselman  
 Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill modifies provisions related to municipal annexation.

**Highlighted Provisions:**

This bill:

- ▶ allows a municipality to annex certain unincorporated areas that are not otherwise subject to annexation under specified circumstances;
- ▶ allows a municipality to annex certain unincorporated areas without an annexation petition under specified circumstances;
- ▶ provides clarification regarding certain municipal reimbursement requirements; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 10-2-402, as last amended by Laws of Utah 2019, Chapter 498  
 10-2-418, as last amended by Laws of Utah 2019, Chapter 255  
 10-2-421, as repealed and reenacted by Laws of Utah 2013, Chapter 242  
 17B-1-503, as last amended by Laws of Utah 2019, Chapter 330

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

**Section 1. Section 10-2-402 is amended to read:****10-2-402. Annexation -- Limitations.**

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) [An] Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless:

- (i) it is a contiguous area;
- (ii) it is contiguous to the municipality;
- (iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:

(A) except as provided in Subsection 10-2-418~~(3)~~(4); or

(B) unless the county and municipality have otherwise agreed; and

(iv) for an area located in a specified county with respect to an annexation that occurs after December 31, 2002, the area is within the proposed annexing municipality's expansion area.

(c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if:

(i) the area is within the annexing municipality's expansion area;

(ii) the specified county in which the area is located and the annexing municipality agree to the annexation;

(iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and

(iv) the annexation is for the purpose of providing municipal services to the area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) The legislative body of a specified county may not approve urban development within a municipality's expansion area unless:

(a) the county notifies the municipality of the proposed development; and

(b) (i) the municipality consents in writing to the development; or

(ii) (A) within 90 days after the county's notification of the proposed development, the municipality submits to the county a written objection to the county's approval of the proposed development; and

(B) the county responds in writing to the municipality's objections.

(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which

the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.

(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.

(7) (a) As used in this Subsection (7), “airport” means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

(8) (a) As used in this subsection, “project area” means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) A municipality may not annex an unincorporated area located within a project area without the authority’s approval.

(c) (i) Except as provided in Subsection (8)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if it was the sole private property owner within the area:

(A) an area within a project area;

(B) an area that is contiguous to a project area and within the boundaries of a military installation;

(C) an area owned by the Military Installation Development Authority; and

(D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.

(ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:

(A) the annexation process shall follow the requirements for a specified county; and

(B) the provisions of Subsection 10-2-402(6) do not apply.

**Section 2. Section 10-2-418 is amended to read:**

**10-2-418. Annexation without a petition -- Notice -- Hearing.**

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, “municipal-type services” does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as “political subdivision” is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) (i) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(ii) the majority of each island or peninsula consists of residential or commercial development;

(iii) the area proposed for annexation requires the delivery of municipal-type services; and

(iv) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(b) (i) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(ii) the municipality has provided one or more municipal-type services to the area for at least one year;

(c) (i) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; and

(ii) the county in which the area is located, subject to Subsection [(4)] (5)(b), and the municipality agree that the area should be included within the municipality; or

(d) (i) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(ii) the area to be annexed is located in the expansion area of a municipality; and

(iii) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that:

(A) the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice; and

(B) after the public hearing the county legislative body may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed.

(3) Notwithstanding Subsection 10-2-402(2) or (6), a municipality may annex an unincorporated area without an annexation petition or the consent of the county in which the area proposed for annexation is located, if:

(a) the area proposed for annexation:

(i) is located within a specified county;

(ii) includes private real property that is located within a county that is not the county in which the proposed annexing municipality is located;

(iii) includes real property that is:

(A) owned by a public entity; and

(B) located in the county in which the proposed annexing municipality is located; and

(iv) does not include urban development;

(b) any portion of the private real property described in Subsection (3)(a)(ii) is located within two miles of the proposed annexing municipality's boundary; and

(c) each owner of private real property within the area proposed for annexation consents in writing to the proposed annexation.

~~[(3)]~~ (4) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection ~~[(5)]~~ (6)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(i) relating to the number of residents.

~~[(4)]~~ (5) (a) This ~~[Subsection (4)]~~ subsection applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection ~~[(4)]~~ (5)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection ~~[(4)]~~ (5)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least one half the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418~~[(4)]~~(5)(d)."

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection ~~[(5)]~~ (6)(b).

~~[(5)]~~ (6) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection ~~[(5)]~~ (6)(a).

~~[(6)]~~ (7) A legislative body described in Subsection ~~[(5)]~~ (6) shall publish notice of a public hearing described in Subsection ~~[(5)]~~ (6)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection ~~[(6)]~~ (7)(a)(i), at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection ~~[(6)]~~ (7)(a)(i);

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

[~~(7)~~] (8) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection [~~(6)~~] (7):

(i) states that the municipal legislative body has adopted a resolution indicating [its] the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection [~~(5)~~] (6)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the [~~property owner consent~~] requirements of [~~Subsection (8)(b) or the recommendation of annexation requirements of Subsection (8)(e)~~] Subsection (9)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection [~~(5)~~] (6)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection [~~(6)~~] (7)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection [~~(5)~~] (6)(a).

[~~(8)~~] (9) (a) Except as provided in Subsections [~~(8)~~] (9)(b)(i) and [~~(8)~~] (9)(c)(i), upon conclusion of the public hearing described in Subsection [~~(5)~~] (6)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection [~~(8)~~] (9)(a), upon conclusion of the public hearing described in Subsection [~~(5)~~] (6)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection [~~(8)~~] (9)(a) if:

(A) the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation[-]; or

(B) the annexation meets the requirements of Subsection (3).

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection [~~(8)~~] (9)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection [~~(8)~~] (9)(a), upon conclusion of the public hearing described in Subsection [~~(5)~~] (6)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection [~~(8)~~] (9)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection [~~(8)~~] (9)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection [~~(8)~~] (9)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection [~~(8)~~] (9)(c)(i):



(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection [(8)] (9)(c)(i), the area annexed is conclusively presumed to be validly annexed.

[(9)] (10) (a) Except as provided in Subsections [(8)] (9)(b)(i) and [(8)] (9)(c)(i), if protests are timely filed ~~[that comply with]~~ under Subsection [(8)] (9)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection [(9)] (10)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection [(3)] (4) to annex some or all of the remaining portion of the unincorporated island.

**Section 3. Section 10-2-421 is amended to read:**

**10-2-421. Electric utility service in annexed area -- Reimbursement for value of facilities -- Liability -- Arbitration.**

(1) As used in this section:

(a) "Commission" means the Public Service Commission established in Section 54-1-1.

(b) "Current replacement cost" means the cost the transferring party would incur to construct the facility at the time of transfer using the transferring party's:

(i) standard estimating rates and standard construction methodologies for the facility; and

(ii) standard estimating process.

(c) "Depreciation" means an amount calculated:

(i) based on:

(A) the life and depreciation mortality curve most recently set for the type of facility in the depreciation rates set by the commission or other governing regulatory authority for the electrical corporation; or

(B) a straight-line depreciation rate that represents the expended life if agreed to by the transferring and receiving parties; and

(ii) to include the gross salvage value of the type of facility based on the latest depreciation life approved by the commission or other governing regulatory authority for the electrical corporation, with a floor at the gross salvage value of the asset and in no case less than zero.

(d) "Electrical corporation" means:

(i) an entity as defined in Section 54-2-1; and

(ii) an improvement district system described in Subsection 17B-2a-403(1)(a)(iv).

(e) "Facility" means electric equipment or infrastructure used to serve an electric customer, above ground or underground, including:

(i) a power line, transformer, switch gear, pole, wire, guy anchor, conductor, cable, or other related equipment; or

(ii) a right-of-way, easement, or any other real property interest or legal right or interest used to operate and maintain the electric equipment or infrastructure.

(f) "Facility transfer" means the transfer of a facility from a transferring party to a receiving party in accordance with Subsection (3).

(g) "Lost or stranded facility" means a facility that is currently used by a transferring party that will no longer be used, whether in whole or in part, as a result of a facility transfer.

(h) "Receiving party" means a municipality or electrical corporation to whom a facility is transferred.

(i) "Transferring party" means a municipality or electrical corporation that transfers a facility.

(2) If an electric customer in an area being annexed by a municipality receives electric service from an electrical corporation, the municipality may not, without the agreement of the electrical corporation, furnish municipal electric service to the electric customer in the annexed area until the municipality has reimbursed the electrical corporation for the value of each facility used to serve each electric customer within the annexed area, including the value of any facility owned by a wholesale electric cooperative affiliated with the electrical corporation, dedicated to provide service to the annexed area.

(3) The following procedures shall apply if a municipality transfers a facility to an electrical corporation in accordance with Section 10-8-14 or if an electrical corporation transfers a facility to a municipality in accordance with Subsection (2), Section 54-3-30, or 54-3-31:

(a) The transferring party shall provide a written estimate of the transferring party's cost of preparing the inventory required in Subsection (3)(c) to the receiving party no later than 60 days after the date of notice from the receiving party.

(b) (i) The receiving party shall pay the estimated cost of preparing the inventory to the transferring party no later than 60 days after the day that the receiving party receives the written estimate.

(ii) If the actual cost of preparing the inventory differs from the estimated cost, the transferring party shall include the difference between the actual cost and the estimated cost in the reimbursement described in Subsection (5).

(c) Except as provided in Subsection (3)(f), the transferring party shall prepare, in accordance

with Subsection (4), and deliver the inventory to the receiving party no later than 180 days after the day that the transferring party receives the payment specified in Subsection (3)(b).

(d) (i) At any time, the parties may by agreement correct or update the inventory.

(ii) If the parties are unable to reach an agreement on an updated inventory, they shall:

(A) proceed with the facility transfer and reimbursement based on the inventory as submitted in accordance with Subsection (3)(c); and

(B) resolve their dispute as provided in Subsection (6).

(e) Except as provided in Subsection (3)(f), the parties shall complete each facility transfer and reimbursement contemplated by this Subsection (3) no later than 180 days after the date that the transferring party delivers the inventory to the receiving party in accordance with Subsection (3)(c).

(f) The periods specified in Subsections (3)(c) and (e) may be extended for up to an additional 90 days by agreement of the parties.

(4) (a) The inventory prepared by a transferring party in accordance with Subsection (3)(c) shall include an identification of each facility to be transferred and the amount of reimbursement as provided in Subsection (5).

(b) The transferring party may not include in the inventory a facility that the transferring party removed from service for at least 36 consecutive months prior to the date of the inventory, unless the facility was taken out of service as a result of an action by the receiving party.

(5) (a) Unless otherwise agreed by the parties, the reimbursement for the transfer of each facility shall include:

(i) the cost of preparing the inventory as provided in Subsection (3)(b);

(ii) subject to Subsection (5)(b)(i), the value of each transferred facility calculated by the current replacement cost of the facility less depreciation based on facility age;

(iii) the cost incurred by the transferring party for:

(A) the physical separation of each facility from its system, including the cost of any facility constructed or installed that is necessary for the transferring party to continue to provide reliable electric service to its remaining customers;

(B) administrative, engineering, and record keeping expenses incurred by the transferring party for the transfer of each facility to the receiving party, including any difference between the actual cost of preparing the inventory and the estimated cost of preparing the inventory; and

(C) reimbursement for any tax consequences to the transferring party resulting from each facility transfer;

(iv) the value of each lost or stranded facility of the transferring party based on the valuation formula described in Subsection (5)(a)(ii) or as otherwise agreed by the parties;

(v) the diminished value of each transferring party facility that will not be transferred based on the percentage of the facility that will no longer be used as a result of the facility transfer; and

(vi) the transferring party's book value of a right-of-way or easement transferred with each facility.

(b) (i) (A) The receiving party may review the estimation of the current replacement costs of each facility, including the wage rates, material costs, overhead assumptions, and other pricing used to establish the estimation of the current replacement costs of the facility.

(B) Prior to reviewing the estimation, the receiving party shall enter into a nondisclosure agreement acceptable to the transferring party.

(C) The nondisclosure agreement shall restrict the use of the information provided by the transferring party solely for the purpose of reviewing the estimation of the current replacement cost and preserve the confidentiality of the information to prevent any effect on a competitive bid received by either party.

(ii) (A) If the age of a facility may be readily determined by the transferring party, the transferring party shall use that age to determine the facility's depreciation.

(B) If the age of a facility cannot be readily determined, the transferring party shall estimate the age of the facility based on the average remaining life approved for the same type of facility in the most current depreciation rates set by the commission or other governing regulatory authority for the electrical corporation.

(c) (i) (A) A transferring party that transfers a facility in accordance with this section shall, upon delivery of a document conveying title to the receiving party, transfer the facility without any express or implied warranties.

(B) A receiving party that receives a facility in accordance with this section shall, upon receipt of a document conveying title, accept the facility in its existing condition and assume any and all liability, fault, risk, or potential loss arising from or related to the facility.

(ii) Notwithstanding Subsection (5)(c)(i), if, within six months after the date that any oil filled equipment is transferred, the receiving party discovers that a transferred oil filled equipment contains polychlorinated biphenyl, the transferring party shall reimburse the receiving party for the cost of testing and disposal of that oil filled equipment.

(6) (a) If the parties cannot agree on each facility to be transferred or the respective reimbursement amount, the parties shall:

(i) proceed with the facility transfer and the reimbursement based on the inventory as submitted by the transferring party in accordance with Subsection (3)(c) and in accordance with the schedule provided in Subsection (3)(e); and

(ii) submit the dispute for mediation or arbitration.

(b) The parties shall share equally in the costs of mediation or arbitration.

(c) If the parties are unable to resolve the dispute through mediation or arbitration, either party may bring an action in the state court of jurisdiction.

(d) The arbitrator, or state court if the parties cannot agree on arbitration, shall determine each facility to be transferred and the amount to be reimbursed in accordance with Subsection (5).

(e) If the arbitrator or state court determines that:

(i) a transferring party transferred a facility that should not have been transferred, the receiving party shall return the facility;

(ii) a party did not transfer a facility that should have been transferred, the party that should have transferred the facility shall transfer the facility to the party to whom the facility should have been transferred;

(iii) the amount reimbursed by the receiving party is insufficient, the receiving party shall pay the difference to the transferring party; or

(iv) the amount reimbursed by the receiving party is more than the amount that should have been reimbursed, the transferring party shall pay the difference to the receiving party.

(7) Unless otherwise agreed upon in writing by the parties:

(a) a party shall transfer a facility to be transferred in accordance with Subsection (6)(e) no later than 60 days after the day that the arbitrator or court issues a determination unless the parties mutually agree to a longer time to complete the transfer; and

(b) a party shall:

(i) pay an amount required to be paid in accordance with Subsection (6)(e) no later than 30 days after the day that the arbitrator or court issues a determination; and

(ii) include interest in the payment at the overall rate of return on the rate base most recently authorized by the commission or other governing regulatory agency for the electrical corporation from the date the reimbursement was originally paid until the difference is paid.

(8) (a) Nothing in this section limits the availability of other damages under law arising by virtue of an agreement between the municipality and the electrical corporation.

(b) Notwithstanding Subsection (8)(a), a party described in this section is not entitled to an award for:

(i) damages that are indirect, incidental, punitive, exemplary, or consequential;

(ii) lost profits; or

(iii) other business interruption damages.

(9) Nothing in this section or Section 10-8-14, 54-3-30, or 54-3-31 applies to a transfer of facilities from an electrical corporation to a municipality in accordance with a decision by a municipality that did not previously provide electric service and seeks to commence providing electric service to a customer currently served by an electrical corporation within the municipal boundary.

(10) The provisions of this section apply to any annexation under this part.

**Section 4. Section 17B-1-503 is amended to read:**

**17B-1-503. Withdrawal or boundary adjustment with municipal approval.**

(1) A municipality and a local district whose boundaries adjoin or overlap may adjust the boundary of the local district to include more or less of the municipality, including the expansion area identified in the annexation policy plan adopted by the municipality under Section 10-2-401.5, in the local district by following the same procedural requirements as set forth in Section 17B-1-417 for boundary adjustments between adjoining local districts.

(2) (a) Notwithstanding any other provision of this title, a municipality annexing all or part of an unincorporated island or peninsula under Title 10, Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, that overlaps a municipal services district organized under Chapter 2a, Part 11, Municipal Services District Act, may petition to withdraw the area from the municipal services district in accordance with this Subsection (2).

(b) For a valid withdrawal described in Subsection (2)(a):

(i) the annexation petition under Section 10-2-403 or a separate consent, signed by owners of at least 60% of the total private land area, shall state that the signers request the area to be withdrawn from the municipal services district; and

(ii) the legislative body of the municipality shall adopt a resolution, which may be the resolution adopted in accordance with Subsection 10-2-418~~(5)~~(6)(a), stating the municipal legislative body's intent to withdraw the area from the municipal services district.

(c) The board of trustees of the municipal services district shall consider the municipality's petition to withdraw the area from the municipal services district within 90 days after the day on which the municipal services district receives the petition.

(d) The board of trustees of the municipal services district:

(i) may hold a public hearing in accordance with the notice and public hearing provisions of Section 17B-1-508;

(ii) shall consider information that includes any factual data presented by the municipality and any owner of private real property who signed a petition or other form of consent described in Subsection (2)(b)(i); and

(iii) identify in writing the information upon which the board of trustees relies in approving or rejecting the withdrawal.

(e) The board of trustees of the municipal services district shall approve the withdrawal, effective upon the annexation of the area into the municipality or, if the municipality has already annexed the area, as soon as possible in the reasonable course of events, if the board of trustees makes a finding that:

(i) (A) the loss of revenue to the municipal services district due to a withdrawal of the area will be offset by savings associated with no longer providing municipal-type services to the area; or

(B) if the loss of revenue will not be offset by savings resulting from no longer providing municipal-type services to the area, the municipality agreeing to terms and conditions, which may include terms and conditions described in Subsection 17B-1-510(5), can mitigate or eliminate the loss of revenue;

(ii) the annexation petition under Section 10-2-403, or a separate petition meeting the same signature requirements, states that the signers request the area to be withdrawn from the municipal services district; or

(iii) the following have consented in writing to the withdrawal:

(A) owners of more than 60% of the total private land area; or

(B) owners of private land equal in assessed value to more than 60% of the assessed value of all private real property within the area proposed for withdrawal have consented in writing to the withdrawal.

(f) If the board of trustees of the municipal services district does not make any of the findings described in Subsection (2)(e), the board of trustees may approve or reject the withdrawal based upon information upon which the board of trustees relies and that the board of trustees identifies in writing.

(g) (i) If a municipality annexes an island or a part of an island before May 14, 2019, the legislative body of the municipality may initiate the withdrawal of the area from the municipal services district by adopting a resolution that:

(A) requests that the area be withdrawn from the municipal services district; and

(B) a final local entity plat accompanies, identifying the area proposed to be withdrawn from the municipal services district.

(ii) (A) Upon receipt of the resolution and except as provided in Subsection (2)(g)(ii)(B), the board of trustees of the municipal services district shall approve the withdrawal.

(B) The board of trustees of the municipal services district may reject the withdrawal if the rejection is based upon a good faith finding that lost revenues due to the withdrawal will exceed expected cost savings resulting from no longer serving the area.

(h) (i) Based upon a finding described in Subsection (e) or (f):

(A) the board of trustees of the municipal services district shall adopt a resolution approving the withdrawal; and

(B) the chair of the board shall sign a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3).

(ii) The annexing municipality shall deliver the following to the lieutenant governor:

(A) the resolution and notice of impending boundary action described in Subsection (2)(g)(i);

(B) a copy of an approved final local entity plat as defined in Section 67-1a-6.5; and

(C) any other documentation required by law.

(i) (i) Once the lieutenant governor has issued an applicable certificate as defined in Section 67-1a-6.5, the municipality shall deliver the certificate, the resolution and notice of impending boundary action described in Subsection (2)(h)(i), the final local entity plat as defined in Section 67-1a-6.5, and any other document required by law, to the recorder of the county in which the area is located.

(ii) After the municipality makes the delivery described in Subsection (2)(i)(i), the area, for all purposes, is no longer part of the municipal services district.

(j) The annexing municipality and the municipal services district may enter into an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, stating:

(i) the municipality's and the district's duties and responsibilities in conducting a withdrawal under this Subsection (2); and

(ii) any other matter respecting an unincorporated island that the municipality surrounds on all sides.

(3) After a boundary adjustment under Subsection (1) or a withdrawal under Subsection (2) is complete:

(a) the local district shall, without interruption, provide the same service to any area added to the local district as provided to other areas within the local district; and

(b) the municipality shall, without interruption, provide the same service that the local district previously provided to any area withdrawn from the local district.

(4) No area within a municipality may be added to the area of a local district under this section if the area is part of a local district that provides the same wholesale or retail service as the first local district.

**CHAPTER 209****H. B. 367**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**CRIMINAL NONSUPPORT AMENDMENTS**

Chief Sponsor: Karianne Lisonbee  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill makes changes to criminal nonsupport.

**Highlighted Provisions:**

This bill:

- ▶ provides that criminal nonsupport is an ongoing offense; and
- ▶ exempts criminal nonsupport from certain probation limitations.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-7-201, as last amended by Laws of Utah 1999, Chapter 89

77-18-1, as last amended by Laws of Utah 2019, Chapters 28 and 429

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

**Section 1. Section 76-7-201 is amended to read:****76-7-201. Criminal nonsupport.**

(1) A person commits criminal nonsupport if, having a spouse, a child, or children under the age of 18 years, [hæ] the person knowingly fails to provide for the support of [the] a spouse, child, or children when any one of them:

- (a) is in needy circumstances; or
- (b) would be in needy circumstances but for support received from a source other than the defendant or paid on the defendant's behalf.

(2) Except as provided in Subsection (3), criminal nonsupport is a class A misdemeanor.

(3) Criminal nonsupport is a felony of the third degree if the [ǣtər] defendant:

(a) has been convicted one or more times of nonsupport, whether in this state, any other state, or any court of the United States;

(b) committed the offense while residing outside of Utah; or

(c) commits the crime of nonsupport in each of 18 individual months within any 24-month period, or the total arrearage is in excess of \$10,000.

(4) For purposes of this section "child" includes a child born out of wedlock whose paternity has been

admitted by the [ǣtər] defendant or has been established in a civil suit.

(5) (a) In a prosecution for criminal nonsupport under this section, it is an affirmative defense that the [ǣeused] defendant is unable to provide support. Voluntary unemployment or underemployment by the defendant does not give rise to that defense.

(b) Not less than 20 days before trial the defendant shall file and serve on the prosecuting attorney a notice, in writing, of [his] the defendant's intention to claim the affirmative defense of inability to provide support. The notice shall specifically identify the factual basis for the defense and the names and addresses of the witnesses who the defendant proposes to examine in order to establish the defense.

(c) Not more than 10 days after receipt of the notice described in Subsection (5)(b), or at such other time as the court may direct, the prosecuting attorney shall file and serve the defendant with a notice containing the names and addresses of the witnesses who the state proposes to examine in order to contradict or rebut the defendant's claim.

(d) Failure to comply with the requirements of Subsection (5)(b) or (5)(c) entitles the opposing party to a continuance to allow for preparation. If the court finds that a party's failure to comply is the result of bad faith, it may impose appropriate sanctions.

(6) Criminal nonsupport is a continuing offense.

**Section 2. Section 77-18-1 is amended to read:****77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.**

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation under the supervision of an agency of local government or with a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

- (i) the type of offense;
- (ii) the results of a risk and needs assessment;
- (iii) the demand for services;
- (iv) the availability of agency resources;
- (v) public safety; and
- (vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanor in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from

the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:

- (a) provide for the support of others for whose support the defendant is legally liable;

(b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(c) if on probation for a felony offense, serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(d) serve a term of home confinement, which may include the use of electronic monitoring;

(e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(f) pay for the costs of investigation, probation, and treatment services;

(g) make restitution or reparation to the victim or victims with interest in accordance with Chapter 38a, Crime Victims Restitution Act; and

(h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony

or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(b) (i) If, upon expiration or termination of the probation period under Subsection (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(c) Subsections (10)(a) and (b) do not apply to Section 76-7-201, criminal nonsupport.

[(e)] (d) (i) The department shall notify the court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may be modified as is consistent with the supervision length guidelines



and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Section 78B-5-705, alleging with particularity facts asserted to constitute violation of the conditions of probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(ii) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or

reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

(iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit the defendant to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household; or

(f) requested by a sex offender treatment provider who is certified to provide treatment under the program established in Subsection 64-13-25(3) and who, at the time of the request:

(i) is providing sex offender treatment to the offender who is the subject of the presentence investigation report; and

(ii) provides written assurance to the department that the report:

(A) is necessary for the treatment of the offender;

(B) will be used solely for the treatment of the offender; and

(C) will not be disclosed to an individual or entity other than the offender.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

**CHAPTER 210****H. B. 373**

Passed March 12, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**ATTORNEY GENERAL  
FUND AMENDMENTS**

Chief Sponsor: Paul Ray  
Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill amends provisions applicable to certain funds received by the attorney general or the Department of Commerce.

**Highlighted Provisions:**

This bill:

- ▶ creates the Opioid Litigation Settlement Restricted Account, to consist of:
  - money received by the attorney general or the Department of Commerce as a result of certain opioid litigation;
  - interest earned on money in the account; and
  - money appropriated by the Legislature;
- ▶ specifies the purposes for which money in the Opioid Litigation Settlement Restricted Account may be used; and
- ▶ makes the following changes applicable to the Attorney General Crime and Violence Prevention Fund:
  - allows the fund to receive appropriations by the Legislature;
  - modifies the activities for which fund money may be used;
  - allows the attorney general to establish a volunteer task force to address the activities for which fund money may be used;
  - allows the attorney general to employ necessary support staff to administer the fund and the activities of a task force established under this bill; and
  - requires the attorney general to include information related to the activities of a task force established under this bill in the attorney general's annual report to the Legislature.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Attorney General's Office -- Attorney General Crime and Violence Prevention Fund, as on ongoing appropriation:
  - from the General Fund, \$100,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

67-5-24, as last amended by Laws of Utah 2013, Chapter 400

**ENACTS:**

51-9-801, Utah Code Annotated 1953

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

**Section 1. Section 51-9-801 is enacted to read:**

**Part 8. Opioid Litigation Settlement  
Restricted Account**

**51-9-801. Opioid Litigation Settlement  
Restricted Account.**

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

(2) The account consists of:

(a) any money deposited into the account in accordance with Subsection (3);

(b) interest earned on money in the account; and

(c) money appropriated to the account by the Legislature.

(3) Notwithstanding Sections 13-2-8 and 76-10-3114, after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection (3)(a) or (b), the following shall be deposited into the account:

(a) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids from a case designated as an opioid case by the attorney general in a legal services contract; and

(b) all money received by the attorney general or the Department of Commerce as a result of any multistate judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

(4) Subject to appropriation by the Legislature, money in the account shall be used:

(a) to address the effects of alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids; or

(b) if applicable, in accordance with the terms of a settlement agreement described in Subsection (3)(a) or (b) entered into by the state.

**Section 2. Section 67-5-24 is amended to read:**

**67-5-24. Attorney General Crime and  
Violence Prevention Fund -- Use of money  
-- Restrictions -- Volunteer task force --  
Staff.**

(1) There is created an expendable special revenue fund known as the Attorney General Crime and Violence Prevention Fund.

(2) The fund shall consist of:

(a) appropriations by the Legislature; and

(b) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source[~~, made to the fund~~].

(3) (a) If the donor designates a specific purpose or use for [the] a gift, grant, devise, donation, or bequest provided under Subsection (2)(b), money from the fund shall be used solely for that purpose.

(b) [~~Gifts, grants, devises, donations, and bequests not~~] Unless designated for a specific purpose under Subsection (3)(a) [~~and that are~~], money in the fund not restricted to a specific use under federal law[.] shall be used in connection with the activities under Subsection (4).

(c) The attorney general or the attorney general's designee shall authorize the expenditure of fund money in accordance with this section.

(d) The money in the fund may not be used for administrative expenses of the Office of the Attorney General normally provided for by legislative appropriation, except for the purposes described in Subsection (8).

(4) Except as provided under Subsection (3), the fund money shall be used for any of the following activities:

- (a) the Amber Alert program;
- (b) prevention of crime against seniors;
- (c) prevention of domestic violence and dating violence;
- ~~[(d) antidrug use programs;]~~
- (d) programs designed to reduce the supply or demand of illicit or controlled substances;
- (e) preventing gangs and gang violence;
- (f) Internet safety programs, including Internet literacy for parents;
- (g) mentoring Utah partnerships;
- (h) suicide prevention programs;
- (i) underage [~~drinking~~] alcohol and substance misuse prevention programs;
- (j) antipornography programs;
- (k) victims assistance programs;
- (l) identity theft investigations and prosecutions; or
- (m) identity theft reporting system database.

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.

(6) The attorney general shall make an annual report to the Legislature regarding the status of the fund, including:

(a) a report on the contributions received, expenditures made, and programs and services funded[.]; and

(b) if the attorney general establishes a task force under Subsection (7), all activities and programs initiated through the task force.

(7) The attorney general may establish a volunteer task force consisting of representatives from public or private agencies or organizations in the state to address any of the activities described in Subsection (4).

(8) The attorney general may employ necessary support staff to implement and administer the fund and the activities of a task force established under Subsection (7).

### Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ITEM 1

To Attorney General's Office -- Attorney General Crime and Violence Prevention Fund

From General Fund	\$100,000
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#### Schedule of Programs:

Attorney General Crime and Violence Prevention Fund	\$100,000
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**CHAPTER 211****H. B. 377**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**HEALTH CARE FUNDING AMENDMENTS**

Chief Sponsor: Mark A. Strong  
 Senate Sponsor: Deidre M. Henderson

**LONG TITLE****General Description:**

This bill requires the Department of Health to request a waiver and apply for grants related to certain health care services.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Health (department) to apply for Title X grants from the United States Department of Health and Human Services;
- ▶ requires the department to request a waiver from federal restrictions on funding based partly on certain services being offered to a minor without consent from a parent or guardian; and
- ▶ if the department receives a grant, requires the department to disburse grant funds according to certain prioritization criteria.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

26-1-41, Utah Code Annotated 1953

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

**Section 1. Section 26-1-41 is enacted to read:**

**26-1-41. Health care grant requests and funding.**

(1) Any time the United States Department of Health and Human Services accepts grant applications, the department shall apply for a grant under Title X of the Public Health Service Act, 42 U.S.C. Sec. 300 et seq.

(2) (a) As part of the application described in Subsection (1), the department shall request that the United States Department of Health and Human Services waive the requirement of the department to comply with requirements found in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental consent.

(b) If the department's application described in Subsection (1) is denied, and at such time the United States Department of Health and Human Services creates a waiver application process, the department shall apply for a waiver from compliance with the requirements found in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental consent in order to be eligible for a grant under Title

X of the Public Health Service Act, 42 U.S.C. Sec. 300 et seq.

(3) If the department receives a grant under Subsection (1), the department shall prioritize disbursement of grant funds in the prioritization order described in Subsection (4).

(4) (a) (i) When disbursing grant funds, the department shall give first priority to nonpublic entities that provide family planning services as well as other comprehensive services to enable women to give birth and parent or place for adoption.

(ii) The department shall give preference to entities described in Subsection (4)(a)(i) that:

(A) expand availability of prenatal and postnatal care in low-income and under-served areas of the state;

(B) provide support for a woman to carry a baby to term;

(C) emphasize the health and viability of the fetus; and

(D) provide education and maternity support.

(iii) If the department receives applications from qualifying nonpublic entities as described in Subsection (4)(a), the department shall disburse all of the grant funds to qualifying nonpublic entities described in Subsection (4)(a).

(b) If grant funds are not exhausted under Subsection (4)(a), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a), the department shall give second priority for grant funds to nonpublic entities that provide:

(i) family planning services; and

(ii) required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

(c) If grant funds are not exhausted under Subsections (4)(a) and (b), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a) or (b), the department shall give third priority for grant funds to public entities that provide family planning services, including state, county, or local community health clinics, and community action organizations.

(d) If grant funds are not exhausted under Subsections (4)(a), (b), and (c), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a), (b), or (c), the department shall give fourth priority for grant funds to nonpublic entities that provide family planning services but do not provide required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

**CHAPTER 212****H. B. 378**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**DISABILITY ACT  
 COMPLIANCE AMENDMENTS**

Chief Sponsor: Jennifer Dailey-Provost  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill requires the Department of Human Services to identify barriers an individual with a disability experiences in obtaining services and provide a report to the Legislature.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ requires the Department of Human Services to:
  - identify barriers an individual with a disability experiences in obtaining access to services; and
  - provide a report to the Health and Human Services Interim Committee regarding a proposal for a disability ombudsman program to address the barriers.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-2-262, as last amended by Laws of Utah 2019, Chapters 136 and 440

**ENACTS:**

62A-5-111, Utah Code Annotated 1953

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

**Section 1. Section 62A-5-111 is enacted to read:**

**62A-5-111. Disability ombudsman program -- Report.**

(1) As used in this section, “rights and privileges of an individual with a disability” means the rights and privileges of an individual with a disability described in:

- (a) Subsections 62A-5b-103(1) through (3);
- (b) 42 U.S.C. 12181 through 12189 of the Americans with Disabilities Act of 1990; or
- (c) 28 C.F.R. Part 36 of the Code of Federal Regulations.

(2) The department shall:

(a) identify and evaluate barriers an individual with a disability experiences in obtaining access to services in the community that are intended to protect the rights and privileges of an individual with a disability;

(b) determine the duties and role of an ombudsman program in protecting the rights and privileges of an individual with a disability and addressing the barriers identified in Subsection (2)(a);

(c) based on the information described in Subsections (2)(a) and (b), develop a proposal for an ombudsman program to promote and advocate for the rights and privileges of an individual with a disability; and

(d) before November 30, 2021, report to the Health and Human Services Interim Committee regarding the proposal described in Subsection (2)(c) and any recommendations for implementation of the proposal.

(3) In developing the proposal described in Subsection (2)(c), the department shall:

(a) review statutes, policies, and programs in other states relating to an ombudsman who provides services to an individual with a disability; and

(b) consult with:

(i) the Department of Health; and

(ii) other stakeholders, as determined by the department.

**Section 2. Section 63I-2-262 is amended to read:**

**63I-2-262. Repeal dates -- Title 62A.**

(1) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

(2) Section 62A-5-111 is repealed January 1, 2021.

**CHAPTER 213****H. B. 382**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**PROPERTY TAX RECORDS AMENDMENTS**

Chief Sponsor: Joel Ferry  
 Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill modifies provisions of the Government Records Access and Management Act related to certain property tax records.

**Highlighted Provisions:**

This bill:

- ▶ classifies the following information as private for purposes of the Government Records Access and Management Act:
  - an individual's email address, phone number, and payment method information that is maintained by a county for purposes of administering property taxes; and
  - any record concerning an individual's eligibility for property tax relief; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63G-2-302, as last amended by Laws of Utah 2019, Chapter 293

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

**Section 1. Section 63G-2-302 is amended to read:****63G-2-302. Private records.**

- (1) The following records are private:
- (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
- (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
- (c) records of publicly funded libraries that when examined alone or with other records identify a patron;
- (d) records received by or generated by or for:
- (i) the Independent Legislative Ethics Commission, except for:
- (A) the commission's summary data report that is required under legislative rule; and
- (B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f), 20A-2-101.1(5)(a), or 20A-2-204(4)(b);

(l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

- (i) Subsection 31A-23a-115(3)(a);
- (ii) Subsection 31A-23a-302(4); or
- (iii) Subsection 31A-26-210(4);

(n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(u) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201; ~~and~~

(w) a record described in Subsection 53-5a-104(7)[-];

(x) the following portions of a record maintained by a county for the purpose of administering property taxes, an individual's:

- (i) email address;
- (ii) phone number; or

(iii) personal financial information related to a person's payment method; and

(y) a record concerning an individual's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 19, Armed Forces Exemptions.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;



(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

**CHAPTER 214****H. B. 384**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020  
 Exception clause

**JUVENILE JUSTICE AMENDMENTS**

Chief Sponsor: V. Lowry Snow  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill addresses provisions related to juvenile justice.

**Highlighted Provisions:**

This bill:

- ▶ adds and modifies definitions;
- ▶ amends provisions regarding offenses committed by minors on school property, including requiring a referral to the Division of Juvenile Justice Services if a minor refuses to participate in an evidence-based intervention;
- ▶ amends a sunset date related to offenses committed by minors on school property;
- ▶ clarifies a reporting requirement for the Division of Juvenile Justice Services;
- ▶ defines the term “defendant” in Title 77, Chapter 38a, Crime Victims Restitution Act, to exclude a minor who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter 6, Juvenile Court Act;
- ▶ amends and clarifies the jurisdiction of the juvenile court, district court, and justice court regarding offenses committed by minors;
- ▶ requires a peace officer to have probable cause in order to take a minor into custody;
- ▶ requires a probable cause determination and detention hearing within 24 hours of a minor being held for detention;
- ▶ allows a court to order secure confinement for a minor if a minor’s conduct resulted in death;
- ▶ requires a prosecutor or the court’s probation department to notify a victim of the restitution process;
- ▶ requires a victim to provide the prosecutor with certain information for restitution;
- ▶ amends the amount of time that restitution may be requested;
- ▶ exempts certain offenses committed by a minor from the presumptive timeframes for custody and supervision;
- ▶ modifies the continuing jurisdiction of the juvenile court;
- ▶ amends the exclusive jurisdiction of the district court over minors who committed certain offenses;
- ▶ amends requirements for minors who are charged in the district court for certain offenses;
- ▶ repeals the certification and transfer of minors who committed certain offenses to the district court;
- ▶ allows that a criminal information may be filed for minors who are 14 years old or older and are alleged to have committed certain offenses;
- ▶ requires a preliminary hearing before a juvenile court to determine whether a minor, for which a

criminal information or indictment has been filed, will be bound over to the district court to be held for trial;

- ▶ provides the requirements for binding a minor over to the district court;
- ▶ provides the detention requirements for a minor who has been bound over to the district court;
- ▶ allows a juvenile court to extend continuing jurisdiction over a minor to the age of 25 years old if a minor is not bound over to the district court; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides coordination clauses.

**Utah Code Sections Affected:****AMENDS:**

- 17-18a-404, as last amended by Laws of Utah 2017, Chapter 330
- 53-10-403, as last amended by Laws of Utah 2017, Chapter 289
- 53G-8-211, as last amended by Laws of Utah 2019, Chapter 293
- 62A-4a-201, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388
- 62A-7-101, as last amended by Laws of Utah 2019, Chapters 162 and 246
- 62A-7-104, as last amended by Laws of Utah 2019, Chapter 246
- 62A-7-105.5, as renumbered and amended by Laws of Utah 2005, Chapter 13
- 62A-7-107.5, as last amended by Laws of Utah 2017, Chapter 330
- 62A-7-108.5, as renumbered and amended by Laws of Utah 2005, Chapter 13
- 62A-7-109.5, as last amended by Laws of Utah 2017, Chapter 330
- 62A-7-111.5, as last amended by Laws of Utah 2007, Chapter 308
- 62A-7-113, as enacted by Laws of Utah 2019, Chapter 162
- 62A-7-201, as last amended by Laws of Utah 2019, Chapter 246
- 62A-7-401.5, as last amended by Laws of Utah 2019, Chapter 246
- 62A-7-402, as renumbered and amended by Laws of Utah 2005, Chapter 13
- 62A-7-403, as renumbered and amended by Laws of Utah 2005, Chapter 13
- 62A-7-501, as last amended by Laws of Utah 2019, Chapter 246
- 62A-7-502, as last amended by Laws of Utah 2019, Chapter 246
- 62A-7-504, as last amended by Laws of Utah 2017, Chapter 330
- 62A-7-505, as renumbered and amended by Laws of Utah 2005, Chapter 13
- 62A-7-506, as last amended by Laws of Utah 2019, Chapter 246
- 62A-7-507, as renumbered and amended by Laws of Utah 2005, Chapter 13
- 62A-7-701, as last amended by Laws of Utah 2019, Chapter 246
- 62A-7-702, as renumbered and amended by Laws of Utah 2005, Chapter 13

63I-1-253, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246, 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

76-3-406, as last amended by Laws of Utah 2019, Chapter 189

76-5-401.3, as enacted by Laws of Utah 2017, Chapter 397

76-10-105 (Superseded 07/01/20), as last amended by Laws of Utah 2018, Chapter 415

76-10-105 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232

76-10-1302, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200

77-2-9, as last amended by Laws of Utah 2017, Chapter 397

77-38a-102, as last amended by Laws of Utah 2017, Chapter 304

77-38a-302, as last amended by Laws of Utah 2019, Chapter 171

77-38a-404, as last amended by Laws of Utah 2017, Chapter 304

78A-5-102, as last amended by Laws of Utah 2010, Chapter 34

78A-6-103, as last amended by Laws of Utah 2019, Chapter 300

78A-6-104, as last amended by Laws of Utah 2019, Chapter 188

78A-6-105, as last amended by Laws of Utah 2019, Chapters 335 and 388

78A-6-108, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-112, as last amended by Laws of Utah 2018, Chapter 415

78A-6-113, as last amended by Laws of Utah 2018, Chapter 285

78A-6-116, as last amended by Laws of Utah 2010, Chapter 38

78A-6-117, as last amended by Laws of Utah 2019, Chapters 162 and 335

78A-6-118, as last amended by Laws of Utah 2017, Chapter 330

78A-6-120, as last amended by Laws of Utah 2017, Chapter 330

78A-6-306, as last amended by Laws of Utah 2019, Chapters 136, 326, and 335

78A-6-312, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388

78A-6-601, as last amended by Laws of Utah 2010, Chapter 38

78A-6-602, as last amended by Laws of Utah 2018, Chapters 117 and 415

78A-6-603, as last amended by Laws of Utah 2018, Chapters 117 and 415

78A-6-704, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-705, as enacted by Laws of Utah 2015, Chapter 338

78A-6-1107, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-1108, as last amended by Laws of Utah 2011, Chapter 208

78A-7-106, as last amended by Laws of Utah 2019, Chapter 136

78B-6-105, as last amended by Laws of Utah 2013, Chapter 458

**ENACTS:**

62A-7-404.5, Utah Code Annotated 1953

78A-6-703.1, Utah Code Annotated 1953

78A-6-703.2, Utah Code Annotated 1953

78A-6-703.3, Utah Code Annotated 1953

78A-6-703.4, Utah Code Annotated 1953

78A-6-703.5, Utah Code Annotated 1953

78A-6-703.6, Utah Code Annotated 1953

**REPEALS AND REENACTS:**

62A-7-404, as last amended by Laws of Utah 2017, Chapter 330

**REPEALS:**

78A-6-701, as last amended by Laws of Utah 2017, Chapter 330

78A-6-702, as last amended by Laws of Utah 2015, Chapter 338

78A-6-703, as last amended by Laws of Utah 2019, Chapter 326

**Utah Code Sections Affected by Coordination Clause:**

76-10-105, as last amended by Laws of Utah 2019, Chapter 232

76-10-1302, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200

78A-6-105, as last amended by Laws of Utah 2019, Chapters 335 and 388

78A-6-116, as last amended by Laws of Utah 2010, Chapter 38

78A-6-117, as last amended by Laws of Utah 2019, Chapters 162 and 335

78A-6-601, as last amended by Laws of Utah 2010, Chapter 38

78A-6-602, as last amended by Laws of Utah 2018, Chapters 117 and 415

78A-6-602.5, Utah Code Annotated 1953

78A-6-603, as last amended by Laws of Utah 2018, Chapters 117 and 415

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

**Section 1. Section 17-18a-404 is amended to read:****17-18a-404. Juvenile proceedings.**

For a proceeding involving [~~a charge of juvenile delinquency, infraction, or a status offense~~] an offense committed by a minor as defined in Section 78A-6-105, a prosecutor shall:

- (1) review cases pursuant to Section 78A-6-602; and
- (2) appear and prosecute for the state in the juvenile court of the county.

**Section 2. Section 53-10-403 is amended to read:****53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

- (1) Sections 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:
  - (a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;
  - (b) has pled guilty to or has been convicted by any other state or by the United States government of

an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;

(viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xi) sale of a child, Section 76-7-203;

(xii) aggravated escape, Subsection 76-8-309(2);

(xiii) a felony violation of assault on an elected official, Section 76-8-315;

(xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xvii) a felony violation of sexual battery, Section 76-9-702.1;

(xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

(xxvii) violation of condition for release after arrest under Section 77-20-3.5.

(3) A minor under Subsection (1) is a minor 14 years [of age] old or older [whom a Utah court has] who is adjudicated [to be within the jurisdiction of] by the juvenile court due to the commission of any offense described in Subsection (2), and who [is]:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002 [for an offense under Subsection (2)]; or

(b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002, for an offense under Subsection (2).

**Section 3. Section 53G-8-211 is amended to read:**

**53G-8-211. Responses to school-based behavior.**

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) "Minor" means the same as that term is defined in Section 78A-6-105.

~~(b)~~ (c) “Mobile crisis outreach team” means the same as that term is defined in Section 78A-6-105.

(d) “Prosecuting attorney” means the same as that term is defined in Subsections 78A-6-105(b) and (c).

~~(e)~~ (e) “Restorative justice program” means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals ~~to court, and is designed~~ to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair ~~the harm of~~ harmful behavior that occurs in school.

~~(d)~~ (f) “School administrator” means a principal of a school.

~~(e)~~ (g) “School is in session” means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

~~(f)~~ (h) “School resource officer” means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

~~(g)~~ (i) (i) “School-sponsored activity” means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education ~~agency~~ agency’s or public school’s facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school’s activity funds or Minimum School Program dollars.

(ii) “School-sponsored activity” includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

~~(h)~~ (j) (i) “Status offense” means ~~[a violation of the law]~~ an offense that would not be ~~[a violation]~~ an offense but for the age of the offender.

(ii) ~~[Notwithstanding Subsection (1)(h)(i), a status offense does not include a violation.]~~ “Status offense” does not mean an offense that by statute is ~~made~~ a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:

(a) on school property where the student is enrolled:

(i) when school is in session; or

(ii) during a school-sponsored activity; or

(b) that is truancy.

(3) (a) ~~[If the]~~ Except as provided in Subsections (3)(e) and (5), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, ~~the minor may not be referred to law enforcement or court but may be referred~~:

(i) a school district or school may not refer the minor to a law enforcement officer or agency or a court; and

(ii) a law enforcement officer or agency may not refer the minor to a prosecuting attorney or a court.

(b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, a school district, school, or law enforcement officer or agency may refer the minor to evidence-based alternative interventions, including:

(i) a mobile crisis outreach team, as defined in Section 78A-6-105;

(ii) a ~~receiving~~ youth services center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;

(iii) a youth court or comparable restorative justice program;

(iv) evidence-based interventions created and developed by the school or school district; and

(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.

~~(b)~~ (c) Notwithstanding Subsection (3)(a), a school resource officer may:

(i) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(ii) consult with school administration about the conduct of a minor enrolled in a school;

(iii) transport a minor enrolled in a school to a location if the location is permitted by law;

(iv) take temporary custody of a minor ~~pursuant to~~ in accordance with Subsection 78A-6-112(1); or

(v) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

~~(e)~~ (d) Notwithstanding other provisions of this section, if a law enforcement officer ~~who~~ has cause

to believe a minor has committed an offense on school property when school is not in session ~~[nor]~~ and not during a school-sponsored activity, the law enforcement officer may refer the minor to:

(i) a prosecuting attorney or a court; or ~~[may refer the minor to]~~

(ii) evidence-based alternative interventions at the discretion of the law enforcement officer.

(e) If a minor is alleged to have committed a traffic offense that is an infraction, a school district, a school, or a law enforcement officer or agency may refer the minor to a prosecuting attorney or a court for the traffic offense.

~~[(4) (a) Notwithstanding Subsection (3)(a) and subject to the requirements of this Subsection (4), a]~~

(4) A school district or school ~~[may]~~ shall refer a minor ~~[to court]~~ for prevention and early intervention youth services, as described in Section 62A-7-104, by the Division of Juvenile Justice Services for a class C misdemeanor committed on school property or for being a habitual truant, as defined in Section 53G-6-201, if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)~~[(a)](b)~~.

(5) A school district or school may refer a minor to a court or a law enforcement officer or agency for an alleged class C misdemeanor committed on school property or for allegedly being a habitual truant, as defined in Section 53G-6-201, if the minor:

(a) refuses to participate in an evidence-based alternative intervention under Subsection (3)~~(b)~~; and

(b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (4).

~~[(b) (i) When]~~ (6) (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection ~~[(4)(a)]~~ (5), the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

~~[(ii)]~~ (b) A school representative appointed under ~~[this]~~ Subsection ~~[(4)(b)]~~ (6)(a) may not be a school resource officer.

(c) A school district or school shall include the following in ~~[its]~~ the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family; ~~[and]~~

(iv) a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (4); and

~~[(iv)]~~ (v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under ~~[this Subsection (4),]~~ Subsection (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-1101, when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.

(e) If a minor is referred to a court under ~~[this Subsection (4)]~~ Subsection (5), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

~~[(5)]~~ (7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, ~~[the minor may be referred directly to the juvenile court by]~~ the school administrator, the school administrator's designee, or a school resource officer~~], or the minor may be referred]~~ may refer the minor directly to a juvenile court or to the evidence-based alternative interventions in Subsection (3)~~[(a)](b)~~.

#### **Section 4. Section 62A-4a-201 is amended to read:**

##### **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.**

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's children is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Prior to an adjudication of unfitness, government action in relation to parents and their children may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the

child and the child's parents share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parents are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's children; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title 78A, Chapter 6, Juvenile Court Act. Therefore, the state, as *parens patriae*, has an interest in and responsibility to protect children whose parents abuse them or do not adequately provide for their welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's children.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, it shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout its involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) When circumstances within the family pose a threat to the child's immediate safety or welfare,

the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and:

(a) when safe and appropriate, return the child to the child's parent; or

(b) as a last resort, pursue another permanency plan.

(5) In determining and making "reasonable efforts" with regard to a child, pursuant to the provisions of Section 62A-4a-203, both the division's and the court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the court.

(6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, where appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of "reasonable efforts," as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a

child is subject to Subsections 78A-6-105~~(39)~~(40)(b)(i) through (iii) and 78A-6-117(2) and Section 78A-6-301.5.

**Section 5. Section 62A-7-101 is amended to read:**

**62A-7-101. Definitions.**

As used in this chapter:

(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 62A-7-112.

(2) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include a juvenile offender.

~~(2)~~ (3) "Authority" means the Youth Parole Authority, established in accordance with Section 62A-7-501.

(4) "Child" means an individual who is under 18 years old.

(5) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

~~(3)~~ (6) "Community-based program" means a nonsecure residential or nonresidential program designated to supervise and rehabilitate youth offenders in accordance with Subsection 78A-6-117(2) that prioritizes the least restrictive nonresidential setting, consistent with public safety, and designated or operated by or under contract with the division.

~~(4)~~ (7) "Control" means the authority to detain, restrict, and supervise a youth in a manner consistent with public safety and the well being of the youth and division employees.

(8) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

~~(5)~~ (9) "Court" means the juvenile court.

~~(6)~~ (10) "Delinquent act" is an act ~~[which]~~ that would constitute a felony or a misdemeanor if committed by an adult.

~~(7)~~ (11) "Detention" means secure detention or home detention.

~~(8)~~ (12) "Detention center" means a facility established in accordance with Title 62A, Chapter 7, Part 2, Detention Facilities.

~~(9)~~ (13) "Director" means the director of the Division of Juvenile Justice Services.

~~(10)~~ (14) "Discharge" means a written order of the Youth Parole Authority that removes a ~~[youth]~~ juvenile offender from ~~[its]~~ the Youth Parole Authority's jurisdiction.

~~(11)~~ (15) "Division" means the Division of Juvenile Justice Services.

~~(12)~~ (16) "Home detention" means predispositional placement of a child in the child's home or a surrogate home with the consent of the child's parent, guardian, or custodian for conduct by a child who is alleged to have committed a delinquent act or postdispositional placement ~~[pursuant to]~~ in accordance with Subsection 78A-6-117(2)(f) or 78A-6-1101(3).

~~(13)~~ (17) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

(18) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

~~(14)~~ (19) "Parole" means a conditional release of a ~~[youth]~~ juvenile offender from residency in a secure facility to live outside that facility under the supervision of the Division of Juvenile Justice Services or other person designated by the division.

~~(15)~~ (20) "Performance-based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool pursuant to Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

~~(16)~~ (21) "Receiving center" means a nonsecure, nonresidential program established by the division, or under contract with the division, that is responsible for juveniles taken into custody by a law enforcement officer for status offenses, infractions, or delinquent acts.

~~(17)~~ (22) "Rescission" means a written order of the Youth Parole Authority that rescinds a parole date.

~~(18)~~ (23) "Revocation of parole" means a written order of the Youth Parole Authority that terminates parole supervision of a ~~[youth]~~ juvenile offender and directs return of the youth offender to the custody of a secure facility after a hearing and a determination that there has been a violation of law or of a condition of parole that warrants a return to a secure facility in accordance with Section 62A-7-504.

~~(19)~~ (24) "Runaway" means a youth who willfully leaves the residence of a parent or guardian without the permission of the parent or guardian.

~~(20)~~ (25) "Secure detention" means predisposition placement in a facility operated by or



under contract with the division, for conduct by a child who is alleged to have committed a delinquent act.

~~[(21)]~~ (26) “Secure facility” means any facility operated by or under contract with the division, that provides 24-hour supervision and confinement for ~~[youth]~~ juvenile offenders committed to the division for custody and rehabilitation.

~~(27)~~ “Serious youth offender” means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 78A-6-703.3(1) and the continuing jurisdiction of the court was extended over the individual’s case until the individual was 25 years old in accordance with Section 78A-6-703.4; and

(c) is committed or admitted by the court to the custody, care, and jurisdiction of the division for confinement in a secure facility or supervision in the community, following an adjudication for a delinquent act in accordance with Section 78A-6-117.

~~[(22)]~~ (28) “Shelter” means the temporary care of ~~[children]~~ a child in a physically unrestricted ~~[facilities]~~ facility pending court disposition or transfer to another jurisdiction.

~~[(23)]~~ (29) (a) “Temporary custody” means control and responsibility of nonadjudicated youth until the youth can be released to the parent, guardian, a responsible adult, or to an appropriate agency.

(b) “Temporary custody” does not include a placement in a secure facility, including secure detention, or a residential community-based program operated or contracted by the division, except ~~[pursuant to]~~ in accordance with Subsection 78A-6-117(2).

~~[(24)]~~ (30) “Termination” means a written order of the Youth Parole Authority that terminates a ~~[youth]~~ juvenile offender from parole.

~~[(25)]~~ (31) “Ungovernable” means a youth in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the youth, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the youth, the family, or others; or

(c) results in the situations described in ~~[both]~~ Subsections ~~[(25)]~~ (31)(a) and (b).

~~[(26)]~~ (32) “Work program” means a nonresidential public or private service work project established and administered by the division for ~~[youth]~~ juvenile offenders for the purpose of rehabilitation, education, and restitution to victims.

~~[(27)]~~ (33) “Youth offender” means ~~[a person 12 years of age or older, and who has not reached 21 years of age,]~~ an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed or admitted by the ~~[juvenile]~~ court to the custody, care, and jurisdiction of the division~~],~~ for confinement in a secure facility or supervision in the community, following an adjudication for a delinquent act ~~[which would constitute a felony or misdemeanor if committed by an adult]~~ in accordance with Section 78A-6-117.

~~[(28)]~~ (34) (a) “Youth services” means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or runaway; or

(ii) involving a minor and the minor’s parent or guardian.

(b) ~~[These services]~~ “Youth services” include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with their families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) ~~[The services]~~ “Youth services” may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time out placement; and

(iv) family counseling.

## **Section 6. Section 62A-7-104 is amended to read:**

### **62A-7-104. Division responsibilities.**

(1) The division is responsible for all ~~[youth]~~ juvenile offenders committed to the division by juvenile courts for secure confinement or supervision and treatment in the community in accordance with Section 78A-6-117.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all ~~[youth]~~ juvenile offenders committed to the division;

(b) establish and maintain all detention and secure facilities and set minimum standards for those facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated youth placed with the division; and

(d) establish observation and assessment programs necessary to serve ~~[youth]~~ juvenile offenders in a nonresidential setting under Subsection 78A-6-117(2)(e).

(3) The division shall place ~~[youth]~~ juvenile offenders committed to it in the most appropriate program for supervision and treatment.

(4) (a) In ~~[any]~~ an order committing a ~~[youth]~~ juvenile offender to the division, the ~~[juvenile]~~ court

shall find whether the [youth] juvenile offender is being committed for secure confinement under Subsection 78A-6-117(2)(c), or placement in a community-based program under Subsection 78A-6-117(2)(c), and specify the criteria under Subsection 78A-6-117(2)(c) or (d) underlying the commitment.

(b) The division shall place [the youth] a juvenile offender in the most appropriate program within the category specified by the court.

(5) The division shall employ staff necessary to:

(a) supervise and control [youth] juvenile offenders in secure facilities or in the community;

(b) supervise and coordinate treatment of [youth] juvenile offenders committed to the division for placement in community-based programs; and

(c) control and supervise adjudicated and nonadjudicated youth placed with the division for temporary services in receiving centers, youth services, and other programs established by the division.

(6) (a) Youth in the custody or temporary custody of the division are controlled or detained in a manner consistent with public safety and rules made by the division. In the event of an unauthorized leave from a secure facility, detention center, community-based program, receiving center, home, or any other designated placement, division employees have the authority and duty to locate and apprehend the youth, or to initiate action with local law enforcement agencies for assistance.

(b) A rule made by the division under this Subsection (6) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions alleged in the same criminal episode.

(7) The division shall establish and operate compensatory-service work programs for [youth] juvenile offenders committed to the division by the [juvenile] court. The compensatory-service work program may not be residential and shall:

(a) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(b) provide educational and prevocational programs in cooperation with the State Board of Education for [youth] juvenile offenders placed in the program; and

(c) provide counseling to [youth] juvenile offenders.

(8) The division shall establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to juveniles who have committed a delinquent act or infraction in this state or in any other state.

(9) The division shall provide regular training for staff of secure facilities, detention staff, case

management staff, and staff of the community-based programs.

(10) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to locate and apprehend minors who have absconded from division custody, transport minors taken into custody pursuant to division policy, investigate cases, and carry out other duties as assigned by the division.

(b) Special function officers may be employed through contract with the Department of Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.

(11) The division shall designate employees to obtain the saliva DNA specimens required under Section 53-10-403. The division shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(12) The division shall register an individual with the Department of Corrections [~~any person~~] who:

(a) [~~has been~~] is adjudicated delinquent [~~based on~~] for an offense listed in Subsection 77-41-102(17)(a) or 77-43-102(2);

(b) [~~has been~~] is committed to the division for secure confinement; and

(c) (i) if the individual is a youth offender, remains in the division's custody 30 days before the [~~person's~~] individual's 21st birthday[-]; or

(ii) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday.

(13) The division shall ensure that a program delivered to a [youth] juvenile offender under this section is evidence based in accordance with Section 63M-7-208.

**Section 7. Section 62A-7-105.5 is amended to read:**

**62A-7-105.5. Information supplied to division.**

(1) Juvenile court probation sections shall render full and complete cooperation to the division in supplying the division with all pertinent information relating to [youth] juvenile offenders who have been committed to the division.

(2) Information under Subsection (1) may include, but is not limited to, prior criminal history, social history, psychological evaluations, and identifying information specified by the division.

**Section 8. Section 62A-7-107.5 is amended to read:**

**62A-7-107.5. Contracts with private providers.**

(1) This chapter does not prohibit the division from contracting with private providers or other agencies for the construction, operation, and maintenance of juvenile facilities or the provision of care, treatment, and supervision of [youth] juvenile

offenders who have been committed to the care of the division.

(2) All programs for the care, treatment, and supervision of [youth] juvenile offenders committed to the division shall be licensed in compliance with division standards within six months after commencing operation.

(3) A contract for the care, treatment, and supervision of a [youth] juvenile offender committed to the division shall be executed in accordance with the performance-based contracting system developed under Section 63M-7-208.

**Section 9. Section 62A-7-108.5 is amended to read:**

**62A-7-108.5. Records -- Property of division.**

(1) All records maintained by programs that are under contract with the division to provide services to [youth] juvenile offenders, are the property of the division and shall be returned to [it] the division when the [youth] juvenile offender is terminated from the program.

(2) The division shall maintain an accurate audit trail of information provided to other programs or agencies regarding [youth] juvenile offenders under [its] the division's jurisdiction.

**Section 10. Section 62A-7-109.5 is amended to read:**

**62A-7-109.5. Restitution by a juvenile offender.**

(1) The division shall make reasonable efforts to ensure that restitution is made to the victim of a [youth] juvenile offender. Restitution shall be made through the employment of [youth] juvenile offenders in work programs. However, reimbursement to the victim of a [youth] juvenile offender is conditional upon [that youth] the juvenile offender's involvement in the work program.

(2) Restitution ordered by the court may be made a condition of release, placement, or parole by the division.

(3) The division shall notify the juvenile court of all restitution paid to victims through the employment of [youth] juvenile offenders in work programs.

**Section 11. Section 62A-7-111.5 is amended to read:**

**62A-7-111.5. Cost of support and maintenance of a juvenile offender -- Responsibility.**

On commitment of a [youth] juvenile offender to the division, and on recommendation of the division to the [juvenile] court, the [juvenile] court may order the [youth] juvenile offender or [his] the juvenile offender's parent, guardian, or custodian, to share in the costs of support and maintenance for the [youth] offender during [his] the juvenile offender's term of commitment.

**Section 12. Section 62A-7-113 is amended to read:**

**62A-7-113. Rulemaking authority and division responsibilities.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330 resulting from the reduction in out-of-home placements for [youth] juvenile offenders with the division.

(2) No later than December 31 of each year, the division shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report of the division's activities under this section and Section 62A-7-112, including:

(a) for the report submitted in 2019, the formula used to calculate the savings from General Fund appropriations under Subsection (1);

(b) the amount of savings from General Fund appropriations calculated by the division for the previous fiscal year;

(c) an accounting of the money expended or committed to be expended under Subsection 62A-7-112(4); and

(d) the balance of the account.

**Section 13. Section 62A-7-201 is amended to read:**

**62A-7-201. Confinement -- Facilities -- Restrictions.**

~~[(1) Children under 18 years of age, who are apprehended by any officer or brought before any court for examination under any provision of state law, may not be confined in jails, lockups, or cells used for persons 18 years of age or older who are charged with crime, or in secure postadjudication correctional facilities operated by the division, except as provided in Subsection (2) or other specific statute.]~~

~~[(2) (a) Children charged with crimes under Section 78A-6-701, as a serious youth offender under Section 78A-6-702 and bound over to the jurisdiction of the district court, or certified to stand trial as an adult pursuant to Section 78A-6-703, if detained, shall be detained as provided in these sections.]~~

~~[(b) Children detained in adult facilities under Section 78A-6-702 or 78A-6-703 before a hearing before a magistrate, or under Subsection 78A-6-113(3),]~~

~~(1) Except as provided in Subsection (2) or by another statute, if a child is apprehended by an officer, or brought before a court for examination under state law, the child may not be confined:~~

~~(a) in a jail, lockup, or cell used for an adult who is charged with a crime; or~~

~~(b) in a secure facility operated by the division.~~

(2) (a) The division shall detain a child in accordance with Sections 78A-6-703.2, 78A-6-703.5, and 78A-6-703.6 if:

(i) the child is charged with an offense under Section 78A-6-703.2 or 78A-6-703.3;

(ii) the district court has obtained jurisdiction over the offense because the child is bound over to the district court under Section 78A-6-703.5; and

(iii) the court orders the detention of the child.

(b) (i) If a child is detained before a hearing under Subsection 78A-6-113(3) or Section 78A-6-703.5, the child may only be held in certified juvenile detention accommodations in accordance with rules made by the ~~[Commission on Criminal and Juvenile Justice. Those rules]~~ commission.

(ii) The commission's rules shall include ~~[standards]~~ rules for acceptable sight and sound separation from adult inmates.

(iii) The ~~[Commission on Criminal and Juvenile Justice certifies facilities that are]~~ commission shall certify that a correctional facility is in compliance with the ~~[Commission on Criminal and Juvenile Justice's standards]~~ commission's rules.

(iv) This Subsection (2)(b) does not apply to ~~[juveniles]~~ a child held in an adult detention facility in accordance with Subsection (2)(a).

(3) (a) In ~~[areas]~~ an area of low density population, the ~~[Commission on Criminal and Juvenile Justice]~~ commission may, by rule, approve ~~[juvenile holding accommodations within adult facilities that have]~~ a juvenile detention accommodation within a correctional facility that has acceptable sight and sound separation. ~~[These facilities]~~

(b) An accommodation described in Subsection (3)(a) shall be used only:

(i) for short-term holding ~~[purposes, with a maximum confinement of six hours, for children]~~ of a child who is alleged to have committed an act ~~[which]~~ that would be a criminal offense if committed by an adult. ~~[Acceptable short-term holding purposes are:]; and~~

(ii) for a maximum confinement period of six hours.

(c) A child may only be held in an accommodation described in Subsection (3)(a) for:

(i) identification~~[,];~~

(ii) notification of a juvenile court ~~[officials,]~~ official;

(iii) processing~~[,];~~ and

(iv) allowance of adequate time for evaluation of needs and circumstances regarding the release or transfer ~~[of the child]~~ to a shelter or detention facility.

(d) This Subsection (3) does not apply to ~~[juveniles]~~ a child held in ~~[an adult detention~~

facility] a correctional facility in accordance with Subsection (2)(a).

(4) (a) ~~[Children who are]~~ If a child is alleged to have committed an act that would be a criminal offense if committed by an adult, the child may be detained in ~~[holding rooms in local law enforcement agency facilities]~~ a holding room in a local law enforcement agency facility:

(i) for a maximum of two hours~~[,];~~ and

(ii) (A) for identification or interrogation~~[,];~~ or

(B) while awaiting release to a parent or other responsible adult. ~~[These rooms]~~

(b) A holding room described in Subsection (4)(a) shall be certified by ~~[the Commission on Criminal and Juvenile Justice, according to the Commission on Criminal and Juvenile Justice's]~~ the commission in accordance with the commission's rules. ~~[These rules]~~

(c) The commission's rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.

(5) Willful failure to comply with this section is a class B misdemeanor.

(6) (a) The division is responsible for the custody and detention of ~~[children under 18 years of age who require]:~~

(i) a child who requires detention care before trial or examination, or ~~[while]~~ is awaiting assignment to a home or facility, as a dispositional placement under Subsection 78A-6-117(2)(f)(i)~~[,];~~ and ~~[of youth offenders]~~

(ii) a juvenile offender under Subsection 62A-7-504(9). ~~[This]~~

(b) Subsection (6)(a) does not apply to ~~[juveniles]~~ a child held in ~~[an adult detention facility]~~ a correctional facility in accordance with Subsection (2)(a).

~~[(b)]~~ (c) (i) The ~~[Commission on Criminal and Juvenile Justice]~~ commission shall provide standards for custody or detention under Subsections (2)(b), (3), and (4).

(ii) The division shall determine and set standards for conditions of care and confinement of children in detention facilities.

~~[(c)]~~ All other custody or detention shall be provided by the

(d) (i) The division, or ~~[by contract with]~~ a public or private agency willing to undertake temporary custody or detention upon agreed terms~~[, or]~~ in a contract with the division, shall provide all other custody or detention in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems.

(ii) This Subsection ~~[(6)(e)]~~ (6)(d) does not apply to ~~[juveniles]~~ a child held in ~~[an adult detention facility]~~ a correctional facility in accordance with Subsection (2)(a).

**Section 14. Section 62A-7-401.5 is amended to read:**

**62A-7-401.5. Secure facilities.**

(1) The division shall maintain and operate secure facilities for the custody and rehabilitation of [youth] juvenile offenders who pose a danger of serious bodily harm to others, who cannot be controlled in a less secure setting, or who have engaged in a pattern of conduct characterized by persistent and serious criminal offenses which, as demonstrated through the use of other alternatives, cannot be controlled in a less secure setting.

(2) The director shall appoint an administrator for each secure facility. An administrator of a secure facility shall have experience in social work, law, criminology, corrections, or a related field, and also in administration.

(3) (a) The division, in cooperation with the State Board of Education, shall provide instruction, or make instruction available, to [youth] juvenile offenders in secure facilities. The instruction shall be appropriate to the age, needs, and range of abilities of the [youth] juvenile offender.

(b) An assessment shall be made of each [youth] juvenile offender by the appropriate secure facility to determine the offender's abilities, possible learning disabilities, interests, attitudes, and other attributes related to appropriate educational programs.

(c) Prevocational education shall be provided to acquaint [youth] juvenile offenders with vocations, and vocational requirements and opportunities.

(4) The division shall place [youth] juvenile offenders who have been committed to the division for secure confinement and rehabilitation in a secure facility, operated by the division or by a private entity, that is appropriate to ensure that humane care and rehabilitation opportunities are afforded to the [youth] juvenile offender.

(5) The division shall adopt standards, policies, and procedures for the regulation and operation of secure facilities, consistent with state and federal law.

**Section 15. Section 62A-7-402 is amended to read:**

**62A-7-402. Aiding or concealing offender -- Trespass -- Criminal penalties.**

(1) [A person] An individual who commits any of the following offenses is guilty of a class A misdemeanor:

(a) entering, or attempting to enter, a building or enclosure appropriated to the use of [youth] juvenile offenders, without permission;

(b) entering any premises belonging to a secure facility and committing or attempting to commit a trespass or damage on those premises; or

(c) willfully annoying or disturbing the peace and quiet of a secure facility or of a [youth] juvenile offender in a secure facility.

(2) [A person] An individual is guilty of a third degree felony who:

(a) knowingly harbors or conceals a [youth] juvenile offender who has:

(i) escaped from a secure facility; or

(ii) absconded from:

(A) a facility or supervision; or

(B) supervision of the [~~Division of Juvenile Justice Services~~] division; or

(b) willfully aided or assisted a [youth] juvenile offender who has been lawfully committed to a secure facility in escaping or attempting to escape from that facility.

(3) As used in this section:

(a) a [youth] juvenile offender absconds from a facility when [he] the juvenile offender:

(i) leaves the facility without permission; or

(ii) fails to return at a prescribed time.

(b) A [youth] juvenile offender absconds from supervision when [he] the juvenile offender:

(i) changes [his] the juvenile offender's residence from the residence that [he] the juvenile offender reported to the division as [his] the juvenile offender's correct address to another residence, without notifying the [~~Division of Juvenile Justice Services~~] division or obtaining permission; or

(ii) for the purpose of avoiding supervision:

(A) hides at a different location from [his] the juvenile offender's reported residence; or

(B) leaves [his] the juvenile offender's reported residence.

**Section 16. Section 62A-7-403 is amended to read:**

**62A-7-403. Care of pregnant juvenile offender.**

(1) When a [youth] juvenile offender in a secure facility is pregnant, the division shall ensure that adequate prenatal and postnatal care is provided, and shall place [her] the juvenile offender in an accredited hospital before delivery. As soon as [her] the juvenile offender's condition after delivery will permit, the [youth] juvenile offender may be returned to the secure facility.

(2) If the division has concern regarding the [youth] juvenile offender's fitness to raise [her] the juvenile offender's child, the division shall petition the juvenile court to hold a custody hearing.

**Section 17. Section 62A-7-404 is repealed and reenacted to read:**

**62A-7-404. Commitment.**

(1) If a youth offender has been committed to a secure facility under Section 78A-6-117, the youth offender shall remain at the secure facility until the youth offender is:

(a) 21 years old;

(b) paroled; or

(c) discharged.

(2) If a serious youth offender has been committed to a secure facility under Section 78A-6-117, the serious youth offender shall remain at the secure facility until the serious youth offender is:

(a) 25 years old;

(b) paroled; or

(c) discharged.

**Section 18. Section 62A-7-404.5 is enacted to read:**

**62A-7-404.5. Review and termination of commitment.**

(1) If a juvenile offender has been committed to a secure facility, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is committed to a secure facility for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is committed to a secure facility, the authority shall set a presumptive term of commitment for the juvenile offender that does not exceed three to six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless at least one the following circumstances exists:

(i) termination would interrupt the completion of a necessary treatment program; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a program under Subsection (2)(b)(i) by considering the recommendations of the licensed service provider, the juvenile offender's consistent attendance record, and the juvenile offender's completion of the goals of the necessary treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(3) (a) If a juvenile offender is committed to a secure facility, the authority shall set a presumptive term of parole supervision that does not exceed three to four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole in the home of a qualifying relative or

guardian or at an independent living program contracted or operated by the division.

(c) The authority shall release a juvenile offender from parole and terminate jurisdiction at the end of the presumptive term of parole, unless at least one the following circumstances exists:

(i) termination would interrupt the completion of a necessary treatment program;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a program under Subsection (2)(c) by considering the recommendations of the licensed service provider, the juvenile offender's consistent attendance record, and the juvenile offender's completion of the goals of the necessary treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) In the event of an unauthorized leave lasting more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to a secure facility for a felony violation of:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery;

(i) Section 76-10-508.1, felony discharge of a firearm;

(j) an offense other than an offense listed in Subsections (4)(a) through (i) involving the use of a dangerous weapon:

(i) if the offense would be a felony had an adult committed the offense; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the

use of a dangerous weapon that would have been a felony had an adult committed the offense; or

(k) an offense other than an offense listed in Subsections (4)(a) through (j) and the minor has been previously committed to the custody of the Division of Juvenile Justice Services for secure confinement.

(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:

(i) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old; and

(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.

(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.

(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.

(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.

(e) Notwithstanding Subsection (5)(c), the division:

(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and

(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old.

(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.

**Section 19. Section 62A-7-501 is amended to read:**

**62A-7-501. Youth Parole Authority -- Expenses -- Responsibilities -- Procedures.**

(1) There is created the Youth Parole Authority within the division ~~[a Youth Parole Authority]~~.

(2) (a) The authority is composed of 10 part-time members and five pro tempore members who are residents of this state. No more than three pro tempore members may serve on the authority at any one time.

(b) Throughout this section, the term "member" refers to both part-time and pro tempore members of the Youth Parole Authority.

(3) (a) Except as required by Subsection (3)(b), members shall be appointed to four-year terms by the governor with the consent of the Senate.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.

(4) Each member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.

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

(6) During the tenure of the member's appointment, a member may not:

(a) be an employee of the department, other than in the member's capacity as a member of the authority;

(b) hold any public office;

(c) hold any position in the state's juvenile justice system; or

(d) be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or its contractor.

(7) In extraordinary circumstances or when a regular member is absent or otherwise unavailable, the chair may assign a pro tempore member to act in the absent member's place.

(8) A member may not receive compensation or benefits for the member's service~~[s]~~ but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance ~~[pursuant to]~~ in accordance with Sections 63A-3-106 and 63A-3-107.

(9) The authority shall determine appropriate parole dates for ~~[youth]~~ juvenile offenders in accordance with Section ~~[62A-7-404]~~ 62A-7-404.5.

(10) ~~[Youth offenders]~~ A juvenile offender may be paroled to ~~[their own homes]~~ the juvenile offender's home, to an independent living program contracted or operated by the division, to an approved independent living setting, or to other appropriate residences of qualifying relatives or guardians, but shall remain on parole until parole is terminated by the authority in accordance with Section ~~[62A-7-404]~~ 62A-7-404.5.

(11) The division's case management staff shall implement parole release plans and shall supervise ~~[youth]~~ juvenile offenders while on parole.

(12) The division shall permit the authority to have reasonable access to [youth] juvenile offenders in secure facilities and shall furnish all pertinent data requested by the authority in matters of parole, revocation, and termination.

**Section 20. Section 62A-7-502 is amended to read:**

**62A-7-502. Youth Parole Authority -- Parole procedures.**

(1) The authority has responsibility for parole release, rescission, revocation, and termination for [youth] juvenile offenders who have been committed to the division for secure confinement. The authority shall determine when and under what conditions [youth] juvenile offenders who have been committed to a secure facility are eligible for parole.

(2) ~~[Each youth]~~ A juvenile offender shall be served with notice of parole hearings<sup>[,]</sup> and has the right to personally appear before the authority for parole consideration.

(3) Orders and decisions of the authority shall be in writing, and ~~[each youth]~~ a juvenile offender shall be provided written notice of the authority's reasoning and decision in the [youth] juvenile offender's case.

(4) The authority shall establish policies and procedures for the authority's governance, meetings, hearings, the conduct of proceedings before ~~[it]~~ the authority, the parole of [youth] juvenile offenders, and the general conditions under which parole may be granted, rescinded, revoked, modified, and terminated.

**Section 21. Section 62A-7-504 is amended to read:**

**62A-7-504. Parole revocation -- Hearing -- Procedures.**

(1) The authority may revoke the parole of a [youth] juvenile offender only after a hearing and upon determination that there has been a violation of law or of a condition of parole by the [youth] juvenile offender that warrants the [youth] juvenile offender's return to a secure facility. The parole revocation hearing shall be held at a secure facility.

(2) (a) Before returning a [youth] juvenile offender to a secure facility for a parole revocation or rescission hearing, the division shall provide a prerevocation or prerescission hearing within the vicinity of the alleged violation, to determine whether there is probable cause to believe that the [youth] juvenile offender violated the conditions of the [youth] juvenile offender's parole.

(b) Upon a finding of probable cause, the [youth] juvenile offender may be remanded to a secure facility, pending a revocation hearing.

(3) The authority shall only proceed with the parole revocation or rescission process in accordance with the system of appropriate responses developed ~~[pursuant to]~~ in accordance with Section 78A-6-123 on ~~[and]~~ or after July 1, 2018.

(4) A paroled [youth] juvenile offender is entitled to legal representation at the parole revocation hearing, and if the [youth] juvenile offender or the [youth] juvenile offender's family has requested but cannot afford legal representation, the authority shall appoint legal counsel.

(5) The authority and the administrative officer have power to issue subpoenas, compel attendance of witnesses, compel production of books, papers and other documents, administer oaths, and take testimony under oath for the purposes of conducting the hearings.

(6) (a) A [youth] juvenile offender shall receive timely advance notice of the date, time, place, and reason for the hearing, and has the right to appear at the hearing.

(b) The authority shall provide the [youth] juvenile offender an opportunity to be heard, to present witnesses and evidence, and to confront and cross-examine adverse witnesses, unless there is good cause for disallowing that confrontation.

(7) Decisions in parole revocation or rescission hearings shall be reached by a majority vote of the present members of the authority.

(8) The administrative officer shall maintain summary records of all hearings and provide written notice to the [youth] juvenile offender of the decision and reason for the decision.

(9) (a) The authority may issue a warrant to order any peace officer or division employee to take into custody a [youth] juvenile offender alleged to be in violation of parole conditions in accordance with Section 78A-6-123 on ~~[and]~~ or after July 1, 2018.

(b) The division may issue a warrant to any peace officer or division employee to retake a [youth] juvenile offender who has escaped from a secure facility.

(c) Based upon the warrant issued under this Subsection (9), a [youth] juvenile offender may be held in a local detention facility for no longer than 48 hours, excluding weekends and legal holidays, to allow time for a prerevocation or prerescission hearing of the alleged parole violation, or in the case of an escapee, arrangement for transportation to the secure facility.

**Section 22. Section 62A-7-505 is amended to read:**

**62A-7-505. Conditions of parole.**

Conditions of parole shall be specified in writing and agreed to by the [youth] juvenile offender. That agreement shall be evidenced by the signature of the [youth] juvenile offender, which shall be affixed to the parole document.

**Section 23. Section 62A-7-506 is amended to read:**

**62A-7-506. Discharge of juvenile offender.**

(1) A [youth] juvenile offender may be discharged from the jurisdiction of the division at any time, by written order of the ~~[Youth Parole Authority]~~ authority, upon a finding that no further purpose



would be served by secure confinement or supervision in a community setting.

(2) A [youth] juvenile offender shall be discharged in accordance with Section [62A-7-404] 62A-7-404.5.

(3) Discharge of a [youth] juvenile offender is a complete release of all penalties incurred by adjudication of the offense for which the [youth] juvenile offender was committed.

**Section 24. Section 62A-7-507 is amended to read:**

**62A-7-507. Appeal regarding parole release or revocation.**

(1) A [youth] juvenile offender, or the parent or legal guardian of a [youth] juvenile offender, may appeal to the executive director or his designee any decision of the authority regarding parole release, rescission, or revocation.

(2) The executive director, or [his] the executive director's designee, may set aside or remand the authority's decision only if [it] the authority's decision is arbitrary, capricious, an abuse of discretion, or contrary to law.

**Section 25. Section 62A-7-701 is amended to read:**

**62A-7-701. Community-based programs.**

(1) (a) The division shall operate residential and nonresidential community-based programs to provide care, treatment, and supervision for [youth] juvenile offenders committed to the division by juvenile courts.

(b) The division shall operate or contract for nonresidential community-based programs and independent living programs to provide care, treatment, and supervision of paroled [youth] juvenile offenders.

(2) The division shall adopt minimum standards for the organization and operation of community-based corrections programs for [youth] juvenile offenders.

(3) The division shall place [youth] juvenile offenders committed to [it] the division for community-based programs in the most appropriate program based upon the division's evaluation of the [youth] juvenile offender's needs and the division's available resources in accordance with Sections [62A-7-404] 62A-7-404.5 and 78A-6-117.

**Section 26. Section 62A-7-702 is amended to read:**

**62A-7-702. Case management staff.**

(1) The division shall provide a sufficient number of case management staff members to provide care, treatment, and supervision for [youth] juvenile offenders on parole and for [youth] juvenile offenders committed to the division by the juvenile courts for community-based programs.

(2) (a) Case management staff shall develop treatment programs for each [youth] juvenile offender in the community, provide appropriate services, and monitor individual progress.

(b) Progress reports shall be filed every three months with the [juvenile] court for each [youth] juvenile offender committed to the division for community-based programs and with the authority for each parolee.

(c) The authority, in the case of parolees, or the [juvenile] court, in the case of youth committed to the division for placement in community programs, shall be immediately notified, in writing, of any violation of law or of conditions of parole or placement.

(3) Case management staff shall:

(a) conduct investigations and make reports requested by the courts to aid them in determining appropriate case dispositions; and

(b) conduct investigations and make reports requested by the authority to aid it in making appropriate dispositions in cases of parole, revocation, and termination.

**Section 27. Section 63I-1-253 is amended to read:**

**63I-1-253. Repeal dates, Titles 53 through 53G.**

The following provisions are repealed on the following dates:

(1) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2022.

(2) Subsection 53-13-104(6), regarding being 19 years old at certification, is repealed July 1, 2022.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language that states "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

- (a) Subsection 53B-17-1201(1) is repealed;
- (b) Section 53B-17-1203 is repealed;
- (c) Subsection 53B-17-1204(2) is repealed;

(d) Subsection 53B-17-1204(4)(a), the language that states “in accordance with the method described in Subsection (4)(c)” is repealed; and

- (e) Subsection 53B-17-1204(4)(c) is repealed.

(11) Section 53F-2-514 is repealed July 1, 2020.

(12) Section 53F-5-203 is repealed July 1, 2024.

(13) Section 53F-5-212 is repealed July 1, 2024.

(14) Section 53F-5-213 is repealed July 1, 2023.

(15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~[(16) Section 53F-6-201 is repealed July 1, 2019.]~~

~~[(17)]~~ (16) Section 53F-9-501 is repealed January 1, 2023.

~~[(18)]~~ (17) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

~~[(19)]~~ (18) Subsection 53G-8-211~~[(4)]~~(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, ~~[2020]~~ 2022.

**Section 28. Section 76-3-406 is amended to read:**

**76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.**

(1) Notwithstanding Sections 76-3-201 and 77-18-1 and Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in Section 76-5-406.5, probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

- (a) Section 76-5-202, aggravated murder;
- (b) Section 76-5-203, murder;
- (c) Section 76-5-301.1, child kidnaping;
- (d) Section 76-5-302, aggravated kidnaping;
- (e) Section 76-5-402, rape, if the individual is sentenced under Subsection 76-5-402(3)(b), (3)(c), or (4);
- (f) Section 76-5-402.1, rape of a child;
- (g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection 76-5-402.2(1)(b), (1)(c), or (2);

(h) Section 76-5-402.3, object rape of a child;

(i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection 76-5-403(3)(b), (3)(c), or (4);

(j) Section 76-5-403.1, sodomy on a child;

(k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under Subsection 76-5-404(2)(b) or (3);

(l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;

(m) Section 76-5-405, aggravated sexual assault; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) ~~[The]~~ Except for an offense before the district court in accordance with Section 78A-6-703.2 or 78A-6-703.5, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under ~~[the age of]~~ 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the ~~[Information, unless the offenses are before the court pursuant to Section 78A-6-701, 78A-6-702, or 78A-6-703]~~ information.

**Section 29. Section 76-5-401.3 is amended to read:**

**76-5-401.3. Unlawful adolescent sexual activity.**

(1) As used in this section:

(a) “Adolescent” means ~~[a person]~~ an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years ~~[of age]~~ old or older, but under 18 years ~~[of age]~~ old.

(b) “Unlawful adolescent sexual activity” means sexual activity between adolescents under circumstances not amounting to:

(i) rape, in violation of Section 76-5-402;

(ii) rape of a child, in violation of Section 76-5-402.1;

(iii) object rape, in violation of Section 76-5-402.2;

(iv) object rape of a child, in violation of Section 76-5-402.3;

(v) forcible sodomy, in violation of Section 76-5-403;

(vi) sodomy on a child, in violation of Section 76-5-403.1;

~~[(vii) aggravated sexual assault, in violation of Section 76-5-405;]~~

~~[(viii)]~~ (vii) sexual abuse of a child, in violation of Section 76-5-404; ~~[or]~~

(viii) aggravated sexual assault, in violation of Section 76-5-405; or

(ix) incest, in violation of Section 76-7-102.

(2) Unlawful adolescent sexual activity is punishable as a:

(a) third degree felony if an adolescent who is 17 years ~~[of age]~~ old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years ~~[of age]~~ old;

(b) third degree felony if an adolescent who is 16 years ~~[of age]~~ old engages in unlawful adolescent sexual activity with an adolescent who is 12 years ~~[of age]~~ old;

(c) class A misdemeanor if an adolescent who is 16 years ~~[of age]~~ old engages in unlawful adolescent sexual activity with an adolescent who is 13 years ~~[of age]~~ old;

(d) class A misdemeanor if an adolescent who is 14 or 15 years ~~[of age]~~ old engages in unlawful adolescent sexual activity with an adolescent who is 12 years ~~[of age]~~ old;

(e) class B misdemeanor if an adolescent who is 17 years ~~[of age]~~ old engages in unlawful adolescent sexual activity with an adolescent who is 14 years ~~[of age]~~ old;

(f) class B misdemeanor if an adolescent who is 15 years ~~[of age]~~ old engages in unlawful adolescent sexual activity with an adolescent who is 13 years ~~[of age]~~ old;

(g) class C misdemeanor if an adolescent who is 12 or 13 years ~~[of age]~~ old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years ~~[of age]~~ old; and

(h) class C misdemeanor if an adolescent who is 14 years ~~[of age]~~ old engages in unlawful adolescent sexual activity with an adolescent who is 13 years ~~[of age]~~ old.

(3) ~~[Offenses]~~ An offense under this section ~~[are]~~ is not eligible for a nonjudicial adjustment under Section 78A-6-602 or a referral to youth court under Section 78A-6-1203.

~~(4) [Unless the offenses are before the court pursuant to Section 78A-6-701, 78A-6-702, or 78A-6-703] Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 78A-6-703.5, the district court may enter any sentence or combination of sentences [which] that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.~~

(5) An offense under this section is not subject to registration under Subsection 77-41-102(17).

**Section 30. Section 76-10-105 (Superseded 07/01/20) is amended to read:**

**76-10-105 (Superseded 07/01/20). Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

(1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C misdemeanor and subject to:

(a) a minimum fine or penalty of \$60; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is ~~[subject to the jurisdiction of the juvenile court and]~~ subject to Section 78A-6-602, unless the violation is committed on school property under Section 53G-8-211. If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

(a) a fine or penalty, in accordance with Section 78A-6-117; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(3) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property. A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

**Section 31. Section 76-10-105 (Effective 07/01/20) is amended to read:**

**76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

(1) (a) An individual who is 18 years old or older, but younger than the age specified in Subsection (1)(b), and buys or attempts to buy, accepts, or has in the individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of an infraction and subject to:

(i) a minimum fine or penalty of \$60; and

(ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

(b) For purposes of Subsection (1)(a), the individual is younger than:

(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(ii) beginning July 1, 2021, 21 years old.

(2) (a) An individual under ~~[the age of]~~ 18 years old who buys or attempts to buy, accepts, or has in the individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is ~~[subject to the jurisdiction of the juvenile court and]~~ subject to Section 78A-6-602, unless the violation is committed on school property under Section 53G-8-211.

(b) If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

~~[(a)]~~ (i) a fine or penalty, in accordance with Section 78A-6-117; and

~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may include a participation fee.

(3) (a) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.

(b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette, electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years old or older and is:

(i) on active duty in the United States Armed Forces; or

(ii) a spouse or dependent of an individual who is on active duty in the United States Armed Forces.

(b) A valid, government-issued military identification card is required to verify proof of age under Subsection (4)(a).

**Section 32. Section 76-10-1302 is amended to read:**

**76-10-1302. Prostitution.**

(1) An individual is guilty of prostitution when the individual:

(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

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

(i) "Child" means the same as that term is defined in Section 76-10-1301.

(ii) "Child engaged in commercial sex" means a child who engages in conduct described in Subsection (1).

(iii) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(iv) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(v) "Receiving center" means the same as that term is defined in Section 62A-7-101.

(b) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

(i) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308 and 76-5-308.5;

(ii) refer the child to the division;

(iii) bring the child to a receiving center, if available; and

(iv) contact the child's parent or guardian, if practicable.

(c) When law enforcement refers a child to the division under Subsection (3)(b)(ii) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(4) A child may not be subjected to ~~[delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704]~~ a delinquency proceeding for prostitution under Title 78A, Chapter 6, Juvenile Court Act.

(5) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the individual reports the offense or attempt to law enforcement in good faith:

(a) assault, Section 76-5-102;

(b) aggravated assault, Section 76-5-103;

(c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under Title 76, Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape, Section 76-5-402;

(g) rape of a child, Section 76-5-402.1;

(h) object rape, Section 76-5-402.2;

- (i) object rape of a child, Section 76-5-402.3;
- (j) forcible sodomy, Section 76-5-403;
- (k) sodomy on a child, Section 76-5-403.1;
- (l) forcible sexual abuse, Section 76-5-404;
- (m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;
- (n) aggravated sexual assault, Section 76-5-405;
- (o) sexual exploitation of a minor, Section 76-5b-201;
- (p) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- (q) aggravated burglary or burglary of a dwelling under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- (r) aggravated robbery or robbery under Title 76, Chapter 6, Part 3, Robbery; or
- (s) theft by extortion under Subsection 76-6-406(2)(a) or (b).

**Section 33. Section 77-2-9 is amended to read:**

**77-2-9. Offenses ineligible for diversion.**

~~[(1) Except as provided in Subsection (2), diversion may not be granted by a magistrate for:]~~

- (1) A magistrate may not grant a diversion for:
  - (a) a capital felony;
  - (b) a felony in the first degree;
  - (c) any case involving a sexual offense against a victim who is under [the age of] 14 years old;
  - (d) any motor vehicle related offense involving alcohol or drugs;
  - (e) any case involving using a motor vehicle in the commission of a felony;
  - (f) driving a motor vehicle or commercial motor vehicle on a revoked or suspended license;
  - (g) any case involving operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of:
    - (i) manslaughter under Section 76-5-205; or
    - (ii) negligent homicide under Section 76-5-206; or
  - (h) a crime of domestic violence as defined in Section 77-36-1.
- (2) When ~~[a person]~~ an individual is alleged to have committed any violation of Title 76, Chapter 5, Part 4, Sexual Offenses, while under ~~[the age of]~~ 16 years old, the court may enter a diversion in the matter if the court enters on the record ~~[its]~~ the court's findings that:
  - (a) the offenses could have been adjudicated in juvenile court but for the delayed reporting or delayed filing of the information in the district court, unless the offenses are before the court

~~[pursuant to Section 78A-6-701, 78A-6-702, or 78A-6-703] in accordance with Section 78A-6-703.2 or 78A-6-703.5;~~

(b) the ~~[person]~~ individual did not use coercion or force;

(c) there is no more than three years' difference between the ages of the participants; and

(d) it would be in the best interest of the person to grant diversion.

**Section 34. Section 77-38a-102 is amended to read:**

**77-38a-102. Definitions.**

As used in this chapter:

(1) "Conviction" includes a:

- (a) judgment of guilt;
- (b) a plea of guilty; or
- (c) a plea of no contest.

(2) "Criminal activities" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.

(3) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, a criminal activity.

(b) "Defendant" does not include a minor, as defined in Section 78A-6-105, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter 6, Juvenile Court Act.

~~[(3)]~~ (4) "Department" means the Department of Corrections.

~~[(4)]~~ (5) "Diversion" means suspending criminal proceedings prior to conviction on the condition that a defendant agree to participate in a rehabilitation program, make restitution to the victim, or fulfill some other condition.

~~[(5)]~~ (6) "Party" means the prosecutor, defendant, or department involved in a prosecution.

~~[(6)]~~ (7) "Pecuniary damages" means all demonstrable economic injury, whether or not yet incurred, including those which a person could recover in a civil action arising out of the facts or events constituting the defendant's criminal activities and includes the fair market value of property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings, including those and other travel expenses reasonably incurred as a result of participation in criminal proceedings, and medical and other expenses, but excludes punitive or exemplary damages and pain and suffering.

~~[(7)]~~ (8) "Plea agreement" means an agreement entered between the prosecution and defendant

setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

[~~(8)~~] (9) “Plea disposition” means an agreement entered into between the prosecution and defendant including diversion, plea agreement, plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

[~~(9)~~] (10) “Plea in abeyance” means an order by a court, upon motion of the prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against him nor imposing sentence upon him on condition that he comply with specific conditions as set forth in a plea in abeyance agreement.

[~~(10)~~] (11) “Plea in abeyance agreement” means an agreement entered into between the prosecution and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

[~~(11)~~] (12) “Restitution” means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.

[~~(12)~~] (13) (a) “Reward” means a sum of money:

(i) offered to the public for information leading to the arrest and conviction of an offender; and

(ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

(b) “Reward” does not include any amount paid in excess of the sum offered to the public.

[~~(13)~~] (14) “Screening” means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.

[~~(14)~~] (15) (a) “Victim” means ~~any person~~ an individual or entity, including the Utah Office for Victims of Crime, ~~who~~ that the court determines has suffered pecuniary damages as a result of the defendant’s criminal activities.

(b) “Victim” may not include a codefendant or accomplice.

**Section 35. Section 77-38a-302 is amended to read:**

**77-38a-302. Restitution criteria.**

(1) When a defendant enters into a plea disposition or is convicted of criminal activity that has resulted in pecuniary damages, in addition to

any other sentence or term of a plea in abeyance [it] the court may impose, the court shall order that the defendant make restitution to ~~vietsims~~ any victim of crime as provided in this chapter, or for conduct for which the defendant has agreed to make restitution as part of a plea disposition. [~~For purposes of restitution, “victim” means the same as that term is defined in Subsection 77-38a-102(14).~~] In determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Subsections (2) through (5).

(2) In determining restitution, the court shall determine complete restitution and court-ordered restitution.

(a) “Complete restitution” means restitution necessary to compensate a victim for all losses caused by the defendant.

(b) “Court-ordered restitution” means the restitution the court having criminal jurisdiction orders the defendant to pay as a part of the criminal sentence.

(c) Complete restitution and court-ordered restitution shall be determined as provided in Subsection (5).

(3) If the court determines that restitution is appropriate or inappropriate under this part, the court shall make the reasons for the decision part of the court record.

(4) If the defendant objects to the imposition, amount, or distribution of the restitution, the court shall allow the defendant a full hearing on the issue.

(5) (a) For the purpose of determining restitution for an offense, the offense shall include any criminal conduct admitted by the defendant to the sentencing court or for which the defendant agrees to pay restitution. A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the defendant’s criminal conduct in the course of the scheme, conspiracy, or pattern.

(b) In determining the monetary sum and other conditions for complete restitution, the court shall consider all relevant facts, including:

(i) the cost of the damage or loss if the offense resulted in damage to or loss or destruction of property of a victim of the offense;

(ii) the cost of necessary medical and related professional services and devices relating to physical or mental health care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(iii) the cost of necessary physical and occupational therapy and rehabilitation;

(iv) the income lost by the victim as a result of the offense;

(v) the individual victim’s reasonable determinable wages that are lost due to theft of or damage to tools or equipment items of a trade that

were owned by the victim and were essential to the victim's current employment at the time of the offense;

(vi) the cost of necessary funeral and related services if the offense resulted in the death of a victim; and

(vii) expenses incurred by a victim in implementing reasonable security measures in response to the offense.

(c) In determining the monetary sum and other conditions for court-ordered restitution, the court shall consider:

(i) the factors listed in Subsections (5)(a) and (b);

(ii) the financial resources of the defendant, as disclosed in the financial declaration described in Section 77-38a-204;

(iii) the burden that payment of restitution will impose, with regard to the other obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and the method of payment; and

(vi) other circumstances that the court determines may make restitution inappropriate.

(d) (i) The prosecuting agency shall submit all requests for complete restitution and court-ordered restitution to the court at the time of sentencing if feasible, otherwise within one year after sentencing.

(ii) If a defendant is placed on probation pursuant to Section 77-18-1:

(A) the court shall determine complete restitution and court-ordered restitution; and

(B) the time period for determination of complete restitution and court-ordered restitution may be extended by the court upon a finding of good cause, but may not exceed the period of the probation term served by the defendant.

(iii) If the defendant is committed to prison:

(A) any pecuniary damages that have not been determined by the court within one year after sentencing may be determined by the Board of Pardons and Parole; and

(B) the Board of Pardons and Parole may, within one year after sentencing, refer an order of judgment and commitment back to the court for determination of restitution.

**Section 36. Section 77-38a-404 is amended to read:**

**77-38a-404. Priority.**

(1) Restitution payments made pursuant to a court order shall be disbursed to victims within 60

days of receipt from the defendant by the court or department provided:

(a) the victim has complied with Subsection 77-38a-203(1)(b);

(b) if the defendant has tendered a negotiable instrument, funds from the financial institution are actually received; and

(c) the payment to the victim is at least \$5, unless the payment is the final payment.

(2) If restitution to more than one person, agency, or entity is required at the same time, the department shall establish the following priorities of payment, except as provided in Subsection (4):

(a) the crime victim;

(b) the Utah Office for Victims of Crime;

(c) any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct;

(d) the person, entity, or governmental agency that has offered and paid a reward under Section 77-32a-101 [~~or 78A-6-117~~];

(e) any insurance company which has provided reimbursement to the victim as a result of the offender's criminal conduct; and

(f) any county correctional facility to which the defendant is required to pay restitution under Subsection 76-3-201(6).

(3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and surcharges are paid.

(4) If the offender is required under Section 53-10-404 to reimburse the department for the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority after restitution to the crime victim under Subsection (2)(a).

(5) All money collected for court-ordered obligations from offenders by the department will be applied:

(a) first, to victim restitution, except the current and past due amount of \$30 per month required to be collected by the department under Section 64-13-21, if applicable; and

(b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection (4).

(6) Restitution owed to more than one victim shall be disbursed to each victim according to the percentage of each victim's share of the total restitution order.

**Section 37. Section 78A-5-102 is amended to read:**

**78A-5-102. Jurisdiction -- Appeals.**

(1) As used in this section:

(a) "Qualifying offense" means an offense described in Subsection 78A-6-703.2(1)(b).

(b) "Separate offense" means any offense that is not a qualifying offense.

~~(c) “Single criminal episode” means the same as that term is defined in Section 76-1-401.~~

~~[(1) The] (2) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.~~

~~[(2) The district court judges]~~

~~(3) A district court judge may issue all extraordinary writs and other writs necessary to carry into effect [their] the district court judge’s orders, judgments, and decrees.~~

~~[(3)] (4) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.~~

~~[(4)] (5) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.~~

~~[(5)] (6) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed [pursuant to] in accordance with Section 78A-8-106.~~

~~[(6) Appeals] (7) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court [are under] is described in Sections 78A-3-102 and 78A-4-103.~~

~~[(7)] (8) The district court has jurisdiction to review:~~

~~(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in its review of agency adjudicative proceedings; and~~

~~(b) municipal administrative proceedings in accordance with Section 10-3-703.7.~~

~~[(8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:]~~

~~(9) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over:~~

~~(a) a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:~~

~~[(a)] (i) there is no justice court with territorial jurisdiction;~~

~~[(b)] (ii) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has not formed and then dissolved, a justice court; or~~

~~[(e) they are] (iii) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor[,] by an individual who is 18 years old or older; or~~

~~(b) a qualifying offense committed by an individual who is 16 or 17 years old.~~

~~[(9) If the district court has subject matter jurisdiction pursuant to Subsection (5) or (8), it also has jurisdiction over offenses listed in Section 78A-7-106 even if those offenses are committed by a person 16 years of age or older.]~~

~~(10) (a) Notwithstanding Subsection 78A-7-106(2), the district court has exclusive jurisdiction over any separate offense:~~

~~(i) committed by an individual who is 16 or 17 years old; and~~

~~(ii) arising from a single criminal episode containing a qualifying offense for which the district court has original jurisdiction under Subsection (9)(b).~~

~~(b) If an individual who is charged with a qualifying offense enters a plea to, or is found guilty of, a separate offense other than the qualifying offense, the district court shall have jurisdiction over the separate offense.~~

~~(c) If an individual who is 16 or 17 years old is charged with a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal, the exclusive jurisdiction of the district court over any separate offense is terminated.~~

~~(11) If a district court has jurisdiction in accordance with Subsection (6), (9)(a)(i), or (9)(a)(ii), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.~~

~~(12) The district court has subject matter jurisdiction over an offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section 78A-6-703.5.~~

~~[(10)] (13) The district court has subject matter jurisdiction [of actions] over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the [ease] action to the district court.~~

**Section 38. Section 78A-6-103 is amended to read:**

**78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

~~[(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:]~~

~~[(a) a child who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding offenses:]~~

~~[(i) in Section 53G-8-211 until such time that the child is referred to the courts under Section 53G-8-211; and]~~

~~[(ii) in Subsection 78A-7-106(2);]~~



(1) Except as otherwise provided by Subsections 78A-5-102(9), 78A-5-102(10), and 78A-7-106(2), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child; and

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed.

(2) The juvenile court has original jurisdiction over any proceeding concerning:

~~(4b)~~ (a) a child who is an abused child, neglected child, or dependent child, as those terms are defined in Section 78A-6-105;

~~(4e)~~ (b) a protective order for a child ~~pursuant to~~ in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the juvenile court has entered an ex parte protective order and finds that:

(i) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(ii) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(iii) the best interests of the child will be better served in the district court;

~~(4d)~~ (c) the appointment of a guardian of the ~~person~~ individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

~~(4e)~~ (d) the emancipation of a minor in accordance with Part 8, Emancipation;

~~(4f)~~ (e) the termination of the legal parent-child relationship in accordance with Part 5, Termination of Parental Rights Act, including termination of residual parental rights and duties;

~~(4g)~~ (f) the treatment or commitment of a minor who has an intellectual disability;

~~(4h)~~ (g) the judicial consent to the marriage of a minor 16 or 17 years old upon a determination of voluntariness or where otherwise required by law;

~~(4i)~~ (h) any parent ~~or parents~~ of a child committed to a secure youth facility, to order, at the discretion of the court and on the recommendation of a secure facility, the parent ~~or parents~~ of a child committed to a secure facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure facility therapist, who has

supervision of that parent's ~~or parents'~~ child, or any other therapist the court may direct, for a period directed by the court as recommended by a secure facility;

~~(4j)~~ (i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

~~(4k)~~ subject to Subsection (8);

~~(4l)~~ (j) the treatment or commitment of a child with a mental illness in accordance with Subsection (11);

~~(4m)~~ (k) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

~~(4n)~~ (l) a minor found not competent to proceed ~~pursuant to~~ in accordance with Section 78A-6-1301;

~~(4o)~~ (m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402; and

~~(4p)~~ (n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child.

~~(2)~~ (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile court has exclusive jurisdiction over the following offenses committed by a child:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Section 73-18-12, reckless operation; and

~~(iii) class B and C misdemeanors, infractions, or violations of ordinances that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.~~

~~(b) A juvenile court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.~~

(3) (a) Except as provided in Subsection (3)(c), the juvenile court has exclusive jurisdiction over a felony, misdemeanor, infraction, or violation of an ordinance:

(i) committed by a child and that arises from a single criminal episode containing an offense for which:

(A) a citation, petition, indictment, or criminal information is filed; and

(B) the court has original jurisdiction; and

(ii) committed by an individual who is under 21 years old at the time of all court proceedings, but committed before the individual was 18 years old, and that arises from a single criminal episode containing an offense for which:

(A) a citation, petition, indictment, or criminal information is filed; and

(B) the court has original jurisdiction.

(b) For purposes of this Subsection (3), the juvenile court has jurisdiction over the following offenses committed by an individual who is under 21 years old at the time of all court proceedings, but was under 18 years old at the time the offense was committed:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(ii) Section 73-18-12.

(c) If a juvenile court transfers jurisdiction of an offense to the district court under Section 78A-6-703.5, the exclusive jurisdiction of the juvenile court over that offense is terminated.

(4) (a) As used in this Subsection (4):

(i) "Qualifying offense" means an offense described in Sections 78A-3-703.2 and 78A-3-703.3.

(ii) "Separate offense" means any offense that is not a qualifying offense.

(b) The juvenile court:

(i) regains exclusive jurisdiction over any separate offense described in Subsection (3)(a) if:

(A) the individual who is alleged to have committed the separate offense is bound over to the district court for a qualifying offense under Section 78A-6-703.5; and

(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal; and

(ii) gains exclusive jurisdiction over any separate offense described in Subsection (3)(a) if:

(A) the individual who is alleged to have committed the separate offense is charged for a qualifying offense under Section 78A-6-703.2 in the district court; and

(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal in the district court.

~~(3)~~ (5) The juvenile court has jurisdiction over an ungovernable or runaway child who is referred to ~~it~~ the juvenile court by the Division of Child and Family Services or by public or private agencies that contract with the division to provide services to that child when, despite earnest and persistent efforts by the division or agency, the child has demonstrated that the child:

(a) is beyond the control of the child's parent, guardian, or lawful custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(b) has run away from home.

(6) The juvenile court has continuing jurisdiction over a minor's case for an offense that is adjudicated under Section 78A-6-117 until jurisdiction is terminated in accordance with Section 78A-6-120.

~~(4)~~ (7) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

~~(5)~~ (8) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under ~~Section 78A-6-702~~ Part 7, Transfer of Jurisdiction.

~~(6)~~ (9) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 78A-6-323.

~~(7)~~ (10) The juvenile court has subject matter jurisdiction ~~of~~ over matters transferred to ~~it~~ the juvenile court by another trial court ~~pursuant to~~ in accordance with Subsection 78A-7-106~~(5)~~(4) ~~and subject to Section 53G-8-211~~ and Section 78A-6-601.

~~(8)~~ (11) The juvenile court may commit a child to the physical custody of a local mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State Hospital.

**Section 39. Section 78A-6-104 is amended to read:**

**78A-6-104. Concurrent jurisdiction.**

(1) The district court, or any other court, has concurrent jurisdiction with the juvenile court ~~as follows: (a) when a person who is 18 years of age or older and who is under the continuing jurisdiction of the juvenile court under Section 78A-6-117 violates any federal, state, or local law or municipal ordinance; and (b) in establishing paternity and ordering testing for the purposes of establishing paternity, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, with regard to proceedings initiated under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.~~

(2) The juvenile court has jurisdiction over petitions to modify a minor's birth certificate if the court otherwise has jurisdiction over the minor.

(3) This section does not deprive the district court of jurisdiction to appoint a guardian for a child, or to determine the support, custody, and parent-time of a child upon writ of habeas corpus or when the question of support, custody, and parent-time is incidental to the determination of a cause in the district court.

(4) (a) When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile court under Section 78A-6-103.

(b) The juvenile court may, by order, change the custody, subject to Subsection 30-3-10(6), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child. The juvenile court order remains in effect so long as the jurisdiction of the juvenile court continues.

(c) If a copy of the findings and order of the juvenile court has been filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

(5) The juvenile court has jurisdiction over questions of custody, support, and parent-time of a minor who comes within the court's jurisdiction under this section or Section 78A-6-103.

**Section 40. Section 78A-6-105 is amended to read:**

**78A-6-105. Definitions.**

As used in this chapter:

- (1) (a) "Abuse" means:
- (i) (A) nonaccidental harm of a child;
  - (B) threatened harm of a child;
  - (C) sexual exploitation;
  - (D) sexual abuse; or
  - (E) human trafficking of a child in violation of Section 76-5-308.5; or
  - (ii) that a child's natural parent:
    - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
    - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
    - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
- (b) "Abuse" does not include:
- (i) reasonable discipline or management of a child, including withholding privileges;
  - (ii) conduct described in Section 76-2-401; or
  - (iii) the use of reasonable and necessary physical restraint or force on a child:
    - (A) in self-defense;
    - (B) in defense of others;
    - (C) to protect the child; or
    - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).
- (2) "Abused child" means a child who has been subjected to abuse.
- (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. [A]
- (b) "Adjudication" does not mean a finding of not competent to proceed [pursuant to] in accordance with Section 78A-6-1302 [is not an adjudication].

(4) (a) "Adult" means an individual [18 years of age or over, except that an individual 18 years or over under] who is 18 years old or older.

(b) "Adult" does not include an individual:

- (i) who is 18 years old or older; and
- (ii) whose case is under the continuing jurisdiction of the juvenile court [pursuant to] in accordance with Section 78A-6-120 [shall be referred to as a minor].

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means an individual who is under 18 years [of age] old.

(7) "Child placement agency" means:

- (a) a private agency licensed to receive a child for placement or adoption under this code; or
- (b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

- (a) with respect to a child, to transfer legal custody; and
- (b) with respect to a minor who is at least 18 years [of age] old, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.

(13) "Department" means the Department of Human Services created in Section 62A-1-102.

(14) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(15) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(16) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while the minor's case is under the continuing jurisdiction of the court.

(17) "Detention risk assessment tool" means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses

a minor's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(18) "Developmental immaturity" means incomplete development in one or more domains which manifests as a functional limitation in the minor's present ability to consult with counsel with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings.

(19) "Division" means the Division of Child and Family Services.

(20) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(21) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

~~[(21)]~~ (22) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

~~[(22)]~~ (23) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

~~[(23)]~~ (24) "Formal probation" means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

~~[(24)]~~ (25) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is, or appears to be, within the court's jurisdiction and that ~~[a case]~~ the minor's case must be reviewed by the court's probation department or a prosecuting attorney.

~~[(25)]~~ (26) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

~~[(26)]~~ (27) "Guardianship of the person" includes the authority to consent to:

- (a) marriage;
- (b) enlistment in the armed forces;
- (c) major medical, surgical, or psychiatric treatment; or
- (d) legal custody, if legal custody is not vested in another individual, agency, or institution.

~~[(27)]~~ (28) "Habitual truant" means the same as that term is defined in Section 53G-6-201.

~~[(28)]~~ (29) "Harm" means:

- (a) physical or developmental injury or damage;
- (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- (c) sexual abuse; or
- (d) sexual exploitation.

~~[(29)]~~ (30) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection ~~[(29)]~~ (30)(a) include:

- (i) blood relationships of the whole or half blood, without regard to legitimacy;
- (ii) relationships of parent and child by adoption; and
- (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

~~[(30)]~~ (31) "Intake probation" means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

~~[(31)]~~ (32) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

~~[(32)]~~ (33) "Legal custody" means a relationship embodying the following rights and duties:

- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- (d) the right to determine where and with whom the minor shall live; and
- (e) the right, in an emergency, to authorize surgery or other extraordinary care.

~~[(33)]~~ (34) "Material loss" means an uninsured:

- (a) property loss;
- (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
- (c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or
- (d) medical ~~[expenses]~~ expense.

~~[(34)]~~ (35) “Mental illness” means:

(a) a psychiatric disorder that substantially impairs an individual’s mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

~~[(35)]~~ (36) “Minor” means:

~~[(a) a child; or]~~

~~[(b) an individual who is:]~~

~~[(i) at least 18 years of age and younger than 21 years of age; and]~~

~~[(ii) under the jurisdiction of the juvenile court.]~~

(a) for the purpose of juvenile delinquency:

(i) a child; or

(ii) an individual:

(A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court; and

(b) for all other purposes in this chapter:

(i) a child; or

(ii) an individual:

(A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court.

~~[(36)]~~ (37) “Mobile crisis outreach team” means a crisis intervention service for ~~[minors or families of minors experiencing]~~ a minor or the family of a minor experiencing a behavioral health or psychiatric ~~[emergencies]~~ emergency.

~~[(37)]~~ (38) “Molestation” means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

~~[(38)]~~ (39) (a) “Natural parent” means a minor’s biological or adoptive parent~~[, and]~~.

(b) “Natural parent” includes the minor’s noncustodial parent.

~~[(39)]~~ (40) (a) “Neglect” means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child’s health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) “Neglect” does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child’s parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

~~[(40)]~~ (41) “Neglected child” means a child who has been subjected to neglect.

~~[(41)]~~ (42) “Nonjudicial adjustment” means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor’s parent, legal guardian, or custodian.

~~[(42)]~~ (43) “Not competent to proceed” means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against ~~[them]~~ the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against ~~them~~ the minor with a reasonable degree of rational understanding.

~~[(43)]~~ (44) “Physical abuse” means abuse that results in physical injury or damage to a child.

~~[(44)]~~ (45) “Probation” means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor’s home under prescribed conditions.

(46) “Prosecuting attorney” means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

~~[(45)]~~ (47) “Protective supervision” means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor’s home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

~~[(46)]~~ (48) (a) “Related condition” means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual’s ability to function in society.

(b) “Related condition” does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

~~[(47)]~~ (49) (a) “Residual parental rights and duties” means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child’s religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, “residual parental rights and duties” ~~[also include]~~ includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

~~[(48)]~~ (50) “Secure facility” means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation ~~[pursuant to]~~ in accordance with Subsection 78A-6-117(2)(d).

~~[(49)]~~ (51) “Severe abuse” means abuse that causes or threatens to cause serious harm to a child.

~~[(50)]~~ (52) “Severe neglect” means neglect that causes or threatens to cause serious harm to a child.

~~[(51)]~~ (53) “Sexual abuse” means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection ~~[(29)]~~ (30), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years ~~[of age]~~ old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

[452] (54) “Sexual exploitation” means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

[453] (55) “Shelter” means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(56) “Single criminal episode” means the same as that term is defined in Section 76-1-401.

[454] (57) “Status offense” means a violation of the law that would not be a violation but for the age of the offender.

[455] (58) “Substance abuse” means the misuse or excessive use of alcohol or other drugs or substances.

[456] (59) “Substantiated” means the same as that term is defined in Section 62A-4a-101.

[457] (60) “Supported” means the same as that term is defined in Section 62A-4a-101.

[458] (61) “Termination of parental rights” means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

[459] (62) “Therapist” means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

[460] (63) “Threatened harm” means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

[461] (64) “Unregulated custody transfer” means the placement of a child:

(a) with an individual who is not the child’s parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child’s federally recognized tribe;

(b) with the intent of severing the child’s existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

[462] (65) “Unsupported” means the same as that term is defined in Section 62A-4a-101.

[463] (66) “Unsubstantiated” means the same as that term is defined in Section 62A-4a-101.

[464] (67) “Validated risk and needs assessment” means an evidence-based tool that assesses a minor’s risk of reoffending and a minor’s criminogenic needs.

(68) (a) “Victim” means a person that the court determines has suffered a material loss as a result of a minor’s wrongful act or conduct.

(b) “Victim” includes the Utah Office for Victims of Crime.

[465] (69) “Without merit” means the same as that term is defined in Section 62A-4a-101.

**Section 41. Section 78A-6-108 is amended to read:**

**78A-6-108. Title of petition and other court documents -- Form and contents of petition -- Order for temporary custody or protective services -- Physical or psychological examination of minor, parent, or guardian -- Dismissal of petition.**

(1) The petition and all subsequent court documents in the proceeding shall be entitled:

“State of Utah, in the interest of....., [a person] an individual under 18 years [of age] old (or [a person] an individual under 21 years [of age] old).”

(2) The petition shall be verified and statements in the petition may be made upon information and belief.

(3) The petition shall be written in simple and brief language and include the facts which bring the minor within the jurisdiction of the court, as provided in Section 78A-6-103.

(4) The petition shall further state:

(a) the name, age, and residence of the minor;

(b) the names and residences of the minor’s parents;

(c) the name and residence of the guardian, if there is one;

(d) the name and address of the nearest known relative, if no parent or guardian of a minor is known; and

(e) the name and residence of the person having physical custody of the minor. If any of the facts required are not known by the petitioner, the petition shall so state.

(5) At any time after a petition is filed, the court may make an order:

(a) providing for temporary custody of the minor; or

(b) that the ~~[Division of Child and Family Services]~~ division provide protective services to the child, if the court determines that:

(i) the child is at risk of being removed from the child's home due to abuse or neglect; and

(ii) the provision of protective services may make the removal described in Subsection (5)(b)(i) unnecessary.

(6) (a) The court may order that a minor concerning whom a petition has been filed shall be examined by a physician, surgeon, psychiatrist, or psychologist and may place the minor in a hospital or other facility for examination.

(b) After notice and a hearing set for the specific purpose, the court may order a similar examination of a parent or guardian whose ability to care for a minor is at issue, if the court finds from the evidence presented at the hearing that the parent's or guardian's physical, mental, or emotional condition may be a factor in causing the neglect, dependency, or delinquency of the minor.

~~[(7) Pursuant to Rule 506(d)(3), Utah Rules of Evidence, examinations conducted pursuant to Subsection (6) are not privileged communications, but are exempt from the general rule of privilege.]~~

(7) An examination conducted in accordance with Subsection (6) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.

(8) The court may dismiss a petition at any stage of the proceedings.

(9) If the petition is filed under Section 78A-6-304 or 78A-6-505, or if the matter is referred to the court under Subsection 78A-6-104(5), the court may require the parties to participate in mediation in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

**Section 42. Section 78A-6-112 is amended to read:**

**78A-6-112. Minor taken into custody by peace officer, private citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds for peace officer to take adult into custody.**

(1) A minor may be taken into custody by a peace officer without ~~[order of the court if]~~ a court order if the officer has probable cause to believe that:

(a) ~~[in the presence of the officer]~~ the minor has ~~[violated a state law, federal law, local law, or municipal ordinance]~~ committed an offense under municipal, state, or federal law;

(b) ~~[there are reasonable grounds to believe]~~ the minor has committed an act which if committed by an adult would be a felony;

(c) the minor:

(i) (A) is seriously endangered in the minor's surroundings; or

(B) seriously endangers others; and

(ii) immediate removal appears to be necessary for the minor's protection or the protection of others;

(d) ~~[there are reasonable grounds to believe]~~ the minor has run away or escaped from the minor's parents, guardian, or custodian; or

(e) ~~[there is reason to believe]~~ that the minor is:

(i) subject to the state's compulsory education law; and

(ii) absent from school without legitimate or valid excuse, subject to Section 53G-6-208.

(2) (a) A private citizen or a probation officer may take a minor into custody if under the circumstances the private citizen or probation officer could make a citizen's arrest if the minor was an adult.

(b) A probation officer may ~~[also]~~ take a minor into custody:

(i) under the same circumstances as a peace officer in Subsection (1); ~~[or if]~~

(ii) if the minor has violated the conditions of probation~~[, if]~~;

(iii) if the minor is under the continuing jurisdiction of the juvenile court; or

(iv) in emergency situations in which a peace officer is not immediately available.

(3) (a) (i) If an officer or other person takes a minor into temporary custody under Subsection (1) or (2), the officer or person shall, without unnecessary delay, notify the parents, guardian, or custodian.

(ii) The minor shall then be released to the care of the minor's parent or other responsible adult, unless the minor's immediate welfare or the protection of the community requires the minor's detention.

(b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention under Subsection (4) for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent taking the minor into custody shall, as soon as practicable or as established under Subsection 53G-8-402(2), notify the school superintendent of the district in which the minor resides or attends school for the purposes of the minor's supervision and student safety.



(i) The notice shall disclose only:

(A) the name of the minor;

(B) the offense for which the minor was taken into custody or detention; and

(C) if available, the name of the victim, if the victim:

(I) resides in the same school district as the minor; or

(II) attends the same school as the minor.

(ii) The notice shall be classified as a protected record under Section 63G-2-305.

(iii) All other records disclosures are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the federal Family Educational Rights and Privacy Act.

(c) Employees of a governmental agency are immune from any criminal liability for providing or failing to provide the information required by this section unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(d) Before the minor is released, the parent or other person to whom the minor is released shall be required to sign a written promise on forms supplied by the court to bring the minor to the court at a time set or to be set by the court.

(4) (a) A child may not be held in temporary custody by law enforcement any longer than is reasonably necessary to obtain the child's name, age, residence, and other necessary information and to contact the child's parents, guardian, or custodian.

(b) If the minor is not released under Subsection (3), the minor shall be taken to a place of detention or shelter without unnecessary delay.

(5) (a) The person who takes a minor to a detention or shelter facility shall promptly file with the detention or shelter facility a written report on a form provided by the division stating:

(i) the details of the presently alleged offense;

(ii) the facts that bring the minor within the jurisdiction of the juvenile court;

(iii) the reason the minor was not released by law enforcement; and

(iv) the eligibility of the minor under the division guidelines for detention admissions established by the Division of Juvenile Justice Services under Section 62A-7-202 if the minor is under consideration for detention.

(b) (i) The designated facility staff person shall immediately review the form and determine, based on the guidelines for detention admissions established by the Division of Juvenile Justice Services under Section 62A-7-202, the results of the detention risk assessment, and the criteria for detention eligibility under Section 78A-6-113, whether to:

(A) admit the minor to secure detention;

(B) admit the minor to home detention;

(C) place the minor in another alternative to detention; or

(D) return the minor home upon written promise to bring the minor to the court at a time set, or without restriction.

(ii) If the designated facility staff person determines to admit the minor to home detention, that staff person shall notify the juvenile court of that determination. The court shall order that notice be provided to the designated persons in the local law enforcement agency and the school or transferee school, if applicable, which the minor attends of the home detention. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iii) Any employee of the local law enforcement agency and the school ~~[which]~~ that the minor attends who discloses the notification of home detention is not:

(A) civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.

(iv) The person who takes a minor to a detention facility or the designated facility staff person may release a minor to a less restrictive alternative even if the minor is eligible for secure detention under this Subsection (5).

(c) A minor may not be admitted to detention unless:

(i) the minor is detainable based on the guidelines; or

(ii) the minor has been brought to detention ~~[pursuant to]~~ in accordance with:

(A) a judicial order; or

(B) a division warrant ~~[pursuant to]~~ in accordance with Section 62A-7-504.

(d) If a minor taken to detention does not qualify for admission under the guidelines established by the division under Section 62A-7-104 or the eligibility criteria under Subsection (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.

(e) If a minor is taken into custody and admitted to a secure detention or shelter facility, facility staff shall:

(i) immediately notify the minor's parents, guardian, or custodian; and

(ii) promptly notify the court of the placement.

(f) If the minor is admitted to a secure detention or shelter facility outside the county of the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3) that detention

shall continue, the judge or commissioner shall direct the sheriff of the county of the minor's residence to transport the minor to a detention or shelter facility as provided in this section.

(6) ~~[A person]~~ An individual may be taken into custody by a peace officer without a court order:

(a) if the ~~[person]~~ individual is in apparent violation of a protective order; or

(b) if there is reason to believe that a child is being abused by the ~~[person]~~ individual and any of the situations ~~[outlined]~~ described in Section 77-7-2 exist.

**Section 43. Section 78A-6-113 is amended to read:**

**78A-6-113. Placement of minor in detention or shelter facility -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement for criminal proceedings -- Bail laws inapplicable -- Exception.**

(1) (a) A minor may not be placed or kept in a secure detention facility pending court proceedings, except in accordance with Section 78A-6-112.

(b) A child may not be placed or kept in a shelter facility pending court proceedings unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

(c) (i) A court may temporarily place in a detention facility, as provided in Subsection (4), a child who is taken into custody based upon a warrant issued under Subsection 78A-6-106(6), if the court finds that detention is the least restrictive placement available to ensure the immediate safety of the child.

(ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention longer than is necessary for the division to identify a less restrictive, available, and appropriate placement for the child.

(2) (a) After admission of a child to a detention facility pursuant to Section 78A-6-112 and immediate investigation by an authorized officer of the court, the judge or the officer shall order the release of the child to the child's ~~[parents]~~ parent, guardian, or custodian if ~~[it is found]~~ the judge or officer finds that the child can be safely returned to ~~[their]~~ the parent's, the guardian's, or the custodian's care, either upon written promise to bring the child to the court at a time set or without restriction.

~~[(a)]~~ (b) If a child's parent, guardian, or custodian fails to retrieve the child from a facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the facility.

~~[(b)]~~ (c) The facility shall determine the cost of care.

~~[(e)]~~ (d) Any money collected under this Subsection (2) shall be retained by the Division of Juvenile Justice Services to recover the cost of care for the time the child remains in the facility.

(3) (a) When a child is detained in a detention or shelter facility, the parents or guardian shall be informed by the person in charge of the facility that the parent's or guardian's child has the right to a prompt hearing in court to determine whether the child is to be further detained or released.

(b) When a minor is detained in a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in court to determine whether the minor is to be further detained or released.

(c) Detention hearings shall be held by the judge or by a commissioner.

(d) The court may, at any time, order the release of the minor, whether a detention hearing is held or not.

(e) If a child is released, and the child remains in the facility, because the parents, guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be responsible for the cost of care as provided in Subsections ~~[(2)(a), (b), and (e)]~~ (2)(b), (c), and (d).

~~[(4) (a) A minor may not be held in a detention facility longer than 48 hours before a detention hearing, excluding weekends and holidays, unless the court has entered an order for continued detention.]~~

(4) (a) A minor may not be held in a detention facility longer than 24 hours, unless a court determines that there is probable cause for the minor's arrest.

(b) The court shall hold a detention hearing within 48 hours of the minor's arrest, excluding weekends and holidays, to determine whether the minor should:

(i) remain in detention in accordance with Subsection (4)(f);

(ii) be released to a parent or guardian; or

(iii) be placed in any other party's custody as authorized by statute.

(c) The probable cause determination under Subsection (4)(a) and the detention hearing under Subsection (4)(b) may occur at the same time if the probable cause determination and the detention hearing occur within the time frames under Subsection (4)(a) and (4)(b).

~~[(b)]~~ (d) A child may not be held in a shelter facility longer than 48 hours before a shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has been entered by the court after notice to all parties described in Section 78A-6-306.

~~[(e)]~~ (e) A hearing for detention or shelter may not be waived. Detention staff shall provide the court with all information received from the person who brought the minor to the detention facility.

~~[(d)]~~ (f) The judge or commissioner may only order a minor to be held in the facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:

(i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;

(ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and

(iii) the minor is eligible for detention under the division guidelines for detention admissions established by the Division of Juvenile Justice Services, under Section 62A-7-202 and under Section 78A-6-112.

~~(e)~~ (g) (i) After a detention hearing has been held, only the court may release a minor from detention. If a minor remains in a detention facility, periodic reviews shall be held ~~[pursuant to the Utah State Juvenile Court Rules of Practice and Procedure]~~ in accordance with the Utah Rules of Juvenile Procedure to ensure that continued detention is necessary.

(ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that notice of ~~[its]~~ the court's decision, including any disposition, order, or no contact orders, be provided to designated persons in the appropriate local law enforcement agency and the district superintendent or the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iii) Any employee of the local law enforcement agency, the school district, and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.

(5) A minor may not be held in a detention facility, following a dispositional order of the court for nonsecure substitute care as defined in Section 62A-4a-101, or for community-based placement under Section 62A-7-101.

(6) (a) Except as otherwise provided in this section, a minor may not be held in a detention facility following a disposition order of the court for longer than 72 hours, excluding weekends and holidays.

(b) The period of detention may be extended by the court for a cumulative total of seven calendar days if:

(i) the Division of Juvenile Justice Services, or another agency responsible for placement, files a written petition with the court requesting the extension and setting forth good cause; and

(ii) the court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.

(c) The court may extend the period of detention beyond the seven calendar days if the court finds by clear and convincing evidence that:

(i) the Division of Juvenile Justice Services or another agency responsible for placement does not have space for the minor; and

(ii) the safety of the minor and community requires an extension of the period of detention.

(d) The Division of Juvenile Justice Services shall report to the court every 48 hours, excluding weekends and holidays, regarding ~~[the status of]~~ whether the Division of Juvenile Justice Services or another agency responsible for placement has space for the minor.

(7) The agency requesting an extension shall promptly notify the detention facility that a written petition has been filed.

(8) The court shall promptly notify the detention facility regarding ~~[its]~~ the court's initial disposition and any ruling on a petition for an extension, whether granted or denied.

(9) (a) (i) A child ~~[under 16 years of age]~~ who is younger than 16 years old may not be held in a jail, lockup, or other place for adult detention, except as provided by ~~[Section 62A-7-201 or unless certified as an adult pursuant to Section 78A-6-703]~~ Section 62A-7-201, 78A-6-703.5, or 78A-6-703.6.

(ii) Section 62A-7-201 regarding confinement facilities applies to this Subsection (9).

(b) (i) A child ~~[16 years of age or older]~~ who is 16 years old or older and whose conduct or condition endangers the safety or welfare of others in the detention facility for children may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including a jail or other place of confinement for adults. ~~[However, a]~~

(ii) A secure facility is not an appropriate place of confinement for detention purposes under this section.

(10) A sheriff, warden, or other official in charge of a jail or other facility for the detention of adult offenders or ~~[persons]~~ individuals charged ~~[with crime]~~ with an offense shall immediately notify the juvenile court when ~~[a person]~~ an individual who is or appears to be under 18 years ~~[of age]~~ old is received at the facility and shall make arrangements for the transfer of the ~~[person]~~ individual to a detention facility, unless otherwise ordered by the juvenile court.

(11) This section does not apply to a minor who is brought to the adult facility ~~[under charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal proceedings in the district court under Section 78A-6-702 or 78A-6-703.]~~ in accordance with Section 78A-6-703.2, 78A-6-703.5, or 78A-6-703.6.

~~[(12) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or 78A-6-703 may~~

be detained in a jail or other place of detention used for adults charged with crime.]

~~[(13) Provisions of law]~~

~~(12) A provision of law regarding bail [are] is not applicable to minors detained or taken into custody under this chapter, except that bail may be allowed:~~

~~(a) if a minor who need not be detained lives outside this state; or~~

~~(b) when a minor who need not be detained comes within one of the classes in [Subsection 78A-6-603(11)] Section 78A-6-1101.~~

~~[(14)] (13) Section 76-8-418 is applicable to a child who willfully and intentionally commits an act against a jail or other place of confinement, including a Division of Juvenile Justice Services detention, shelter, or secure confinement facility [which] that would be a third degree felony if committed by an adult.~~

**Section 44. Section 78A-6-116 is amended to read:**

**78A-6-116. Minor's cases considered civil proceedings -- Effect of adjudication of jurisdiction by juvenile court -- Minor not to be charged with crime -- Exception for a prior adjudication -- Traffic violation cases -- Abstracts to Department of Public Safety.**

(1) Except as provided in ~~[Sections 78A-6-701, 78A-6-702, and 78A-6-703]~~ Section 78A-6-703.2, 78A-6-703.5, or 78A-6-703.6, ~~[proceedings]~~ a proceeding in a minor's case ~~[shall be regarded as civil proceedings]~~ is a civil proceeding with the court exercising equitable powers.

~~(2) (a) An adjudication by a juvenile court [that a minor is within its jurisdiction under Section 78A-6-103] of a minor under Section 78A-6-117 is not considered a conviction of a crime, except in cases involving traffic violations.~~

~~(b) An adjudication may not:~~

~~(i) operate to impose any civil disabilities upon the minor [næftə]; or~~

~~(ii) disqualify the minor for any civil service or military service or appointment.~~

~~(3) (a) [A] Except in cases involving traffic violations, and as provided in Section 78A-6-703.2, 78A-6-703.3, or 78A-6-703.5, a minor may not be charged with a crime [æf] and convicted in any court [except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703, and in cases involving traffic violations. When].~~

~~(b) Except as provided in Section 78A-6-703.5, if a petition [has been] is filed in the juvenile court, the minor may not later be [subjected] subject to criminal prosecution based on the same facts [except as provided in Section 78A-6-702 or 78A-6-703].~~

~~(4) (a) An adjudication by a juvenile court [that a minor is within its jurisdiction under Section 78A-6-103] of a minor under Section 78A-6-117 is~~

considered a conviction for the purposes of determining the level of offense for which a minor may be charged and enhancing the level of an offense in the juvenile court.

~~(b) A prior adjudication may be used to enhance the level or degree of an offense committed by an adult only as otherwise specifically provided.~~

~~(5) Abstracts of court records for all adjudications of traffic violations shall be submitted to the Department of Public Safety as provided in Section 53-3-218.~~

~~(6) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing the order as provided in Section 78A-6-117.~~

**Section 45. Section 78A-6-117 is amended to read:**

**78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.**

(1) (a) Except as provided in Subsection (1)(b), when a minor is found to come within Section 78A-6-103, the court shall adjudicate the case and make findings of fact upon which the court bases the court's jurisdiction over the ~~[minor] case.~~

(b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary.

(c) If the court adjudicates a minor for ~~[a crime]~~ an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

(i) the specific offenses for which the minor was adjudicated; and

(ii) if available, whether the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(d) (i) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment.

(ii) Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including community or compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection (1)(d);

(C) if the court orders substance abuse treatment or an educational series, shall be based on a validated risk and needs assessment conducted under Subsection (1)(d); and

(D) if the court orders protective supervision, may not designate the division as the provider of protective supervision unless there is a petition regarding abuse, neglect, or dependency before the court requesting that the division provide protective supervision;

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to designated individuals in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated individuals may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable individual, with or without probation or other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:

(i) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(ii) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

(d) (i) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

(A) contempt of court except to the extent permitted under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(ii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the ~~[Division of Child and Family Services]~~ division if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the ~~[Division of Child and Family Services]~~ division.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the ~~[Division of Child and Family Services]~~ division if the minor and the minor's parent or guardian have met the requirements described in Subsections (2)(d)(ii)(B) and (C) and if the court finds, based on input from the ~~[Division of Child and Family Services]~~ division, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(d)(ii)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the ~~[Division of Child and Family Services]~~ division.

(G) Upon receiving a petition under Subsection (2)(d)(ii)(F), the court shall order the ~~[Division of Child and Family Services]~~ division to take custody of the minor based on the findings the court entered when the court originally vested custody in the ~~[Division of Child and Family Services]~~ division.

(e) The court shall only commit a minor to the Division of Juvenile Justice Services for secure confinement if the court finds that:

(i) (A) the minor poses a risk of harm to others; ~~and~~ or

(B) the minor's conduct resulted in the victim's death; and

(ii) the minor is adjudicated under this section for:

(i) (A) a felony offense;

(ii) (B) a misdemeanor if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

(iii) (C) a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.

(f) (i) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.

(ii) The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:

(A) contempt of court;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(g) The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.

(h) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the ~~minor~~ minor's case. This commitment may not be suspended upon conditions ordered by the court.

(ii) This Subsection (2)(h) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(iii) The court may not commit a minor to a place of detention for:

(A) contempt of court except to the extent allowed under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days

eligible as a disposition under Subsection (2)(h)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)(h)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c). Only the seven days under this Subsection (2)(h)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)(v), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c).

(i) The court may vest legal custody of an abused, neglected, or dependent minor in the ~~Division of Child and Family Services~~ division or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(j) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) A victim~~[, as defined in Subsection 77-38a-102(14),]~~ of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay;

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed; and

(D) the length of the presumptive term of supervision shall be taken into account in determining the minor's ability to satisfy the restitution order within the presumptive term.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(viii) Within seven days after the day on which a petition is filed under Section 78A-6-602, the prosecuting attorney or the court's probation department shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

(ix) A victim that receives notice under Subsection (2)(j)(viii) is responsible for providing the prosecutor with:

(A) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(B) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(C) if applicable, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(D) the victim's contact information, including the victim's current home and work address and telephone number.

~~[(viii) The prosecutor]~~

(x) A prosecutor or victim shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within ~~three months~~ 90 days after disposition.

~~[(ix) A financial disposition ordered shall prioritize the payment of restitution.]~~

(xi) The court shall order a financial disposition that prioritizes the payment of restitution.

(k) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

(l) (i) The court may through the court's probation department encourage the development of nonresidential employment or work programs to enable a minor to fulfill the minor's obligations under Subsection (2)(j) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor ~~[found to be within the jurisdiction of the court]~~ to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered collectively to ensure that the order:

(A) is reasonable;

(B) prioritizes restitution; and

(C) takes into account the minor's ability to satisfy the order within the presumptive term of supervision.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for ~~children under age 16~~ a minor younger than 16 years old at adjudication, the court may impose up to \$180 or up to 24 hours of service; and

(B) for ~~minors 16 and~~ a minor 16 years old or older at adjudication, the court may impose up to \$270 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)(l)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

(m) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) (A) The court may enter any other eligible disposition under Subsection (2)(m)(i) except for a disposition under Subsection (2)(c), (d), (e), or (f).  
~~However, the~~

(B) The suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(n) (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2)(l)(iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor ~~is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti~~ commits an offense involving the use of graffiti under Section 76-6-106 or 76-6-206, the court may order the minor to clean up graffiti created by the minor or

any other individual at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2)(j).

(o) (i) Subject to Subsection (2)(o)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(o)(i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(o)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18 younger than 18 years old, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The ~~[Division of Child and Family Services]~~ division shall:

(A) take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child~~, shall~~;

(B) include the parent or guardian as fully as possible in making health care decisions for the child~~, and shall~~; and

(C) defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The ~~[Division of Child and Family Services]~~ division shall notify the parent or guardian of a child within five business days after a child in the custody of the ~~[Division of Child and Family Services]~~ division receives emergency health care or treatment.

(vi) The ~~[Division of Child and Family Services]~~ division shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(o).

(p) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(q) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(r) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(s) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(s)(i).

(t) The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(u) The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c), (d), (e), and (f).

(v) The court may combine the dispositions listed in this section if it is permissible and they are compatible.



(w) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another individual, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(x) Except as provided in Subsection (2)(z)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section [62A-7-404] 62A-7-404.5. A new date shall be set upon each review.

(y) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(z) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(z)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) [~~In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction,~~] If a court adjudicates a minor for an offense, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions[~~, provided~~] described in Subsection (2) if:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the [~~minor is not under the jurisdiction of the court for any act that~~] offense:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the [~~minor~~] minor's case under conditions set by the court and

agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

(5) (a) A disposition made by the court [~~pursuant to~~] in accordance with this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection [~~(2)(e), (d), (e), or (f)~~] (2)(e), the court may suspend a custody order [~~pursuant to Subsection (2)(e), (d), (e), or (f)~~] in accordance with Subsection (2)(c) in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i):

(A) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii);

(B) if a new assessment or evaluation has been completed and recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or

(C) if, after a notice and a hearing, the court finds a new or previous evaluation recommends a higher level of treatment, and the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(iv) A suspended custody order may not be imposed without notice to the minor, notice to counsel, and a hearing.

(b) The court [~~pursuant to~~] in accordance with Subsection (5)(a) shall terminate continuing

jurisdiction over ~~[the minor]~~ a minor's case at the end of the presumptive time frame unless at least one the following circumstances exists:

(i) termination ~~[pursuant to]~~ in accordance with Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) ~~[or (d)]~~, the court shall do so for a defined period of time ~~[pursuant to]~~ in accordance with this section.

(a) ~~[For the purposes of]~~ In placing a minor on probation under Subsection (2)(a), the court shall establish a presumptive term of probation as specified in this Subsection (6):

(i) the presumptive ~~[maximum]~~ length of intake probation may not exceed three months; and

(ii) the presumptive ~~[maximum]~~ length of formal probation may not exceed four to six months.

(b) ~~[For the purposes of]~~ In vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive ~~[maximum]~~ length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive ~~[maximum]~~ length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court ~~[pursuant to]~~ in accordance with Subsections (6)(a) and (b), and the Youth Parole Authority ~~[pursuant to]~~ in accordance with Subsection (6)(b), shall terminate continuing jurisdiction over ~~[the minor]~~ a minor's case at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider or facilitator of court ordered treatment or intervention program on the

basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the court or Youth Parole Authority after considering the recommendation of a licensed service provider or facilitator of court ordered treatment or intervention program;

(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed;

(v) there is an outstanding fine; or

(vi) there is a failure to pay restitution in full.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

~~(4)~~ (j) Section 76-5-302, aggravated kidnapping;

~~(e)~~ (k) Section 76-5-405, aggravated sexual assault;

~~(4)~~ (l) a felony violation of Section 76-6-103, aggravated arson;

~~(4)~~ (m) Section 76-6-203, aggravated burglary;

~~(4)~~ (n) Section 76-6-302, aggravated robbery;

~~(4)~~ (o) Section 76-10-508.1, felony discharge of a firearm; ~~(e)~~

~~(4)~~ (p) (i) an offense other than ~~those~~ an offense listed in Subsections (7)(a) through ~~(4)~~ (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony~~;~~; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon~~;~~; or

(q) a felony offense other than an offense listed in Subsections (7)(a) through (p) and the minor has been previously committed to the custody of the Division of Juvenile Justice Services for secure confinement.

**Section 46. Section 78A-6-118 is amended to read:**

**78A-6-118. Period of effect for a judgment, decree, or order by a juvenile court.**

(1) A judgment, order, or decree of the juvenile court ~~does not operate after the minor becomes 21 years of age~~ is no longer in effect after a minor is 21 years old, except ~~for~~:

~~(1) orders~~

(a) for an order of commitment to the Utah State Developmental Center or to the custody of the Division of Substance Abuse and Mental Health;

~~(2) adoption orders~~

(b) for an adoption under Subsection 78A-6-103(1); ~~and~~

~~(3) orders~~

(c) for an order permanently terminating the rights of a parent, guardian, or custodian~~;~~ ~~and permanent orders~~;

(d) for a permanent order of custody and ~~guardianships~~; guardianship; and

(e) as provided in Subsection (2).

(2) If the juvenile court enters a judgment or order for a minor for whom the court has extended continuing jurisdiction over the minor's case until the minor is 25 years old under Section 78A-6-703.4, the juvenile court's judgment or order is no longer in effect after the minor is 25 years old.

**Section 47. Section 78A-6-120 is amended to read:**

**78A-6-120. Continuing jurisdiction of juvenile court -- Period of and termination of jurisdiction -- Notice of discharge from custody of local mental health authority or Utah State Developmental Center -- Transfer of continuing jurisdiction to other district.**

~~(1) Jurisdiction of a minor obtained by the court through adjudication under Section 78A-6-117 continues for purposes of this chapter until the minor becomes 21 years of age, unless terminated earlier in accordance with Sections 62A-7-404 and 78A-6-117.]~~

(1) Except as provided in Subsection (2), if the court retains jurisdiction over a minor's case under Section 78A-6-117, the court's jurisdiction over the minor's case continues until:

(a) the minor is 21 years old; or

(b) if the court extends jurisdiction over the minor's case until the minor is 25 years old under Section 78A-6-703.4, the minor is 25 years old.

(2) (a) The ~~continuing jurisdiction of the court~~ court's continuing jurisdiction under Subsection (1) terminates:

(i) upon order of the court;

(ii) upon commitment to a secure facility;

(iii) upon commencement of proceedings in adult cases under Section 78A-6-1001; or

(iv) in accordance with Sections 62A-7-404 and 78A-6-117.

(b) The continuing jurisdiction of the court over a minor's case is not terminated:

(i) by marriage~~;~~; or

(ii) when a minor commits an offense under municipal, state, or federal law that is under the jurisdiction of another court and the minor is at least 18 years old at the time of the offense.

(c) Notwithstanding Subsection (2)(a)(ii), the court retains jurisdiction to make and enforce orders related to restitution until the Youth Parole Authority discharges the ~~youth offender~~ minor.

(3) When a minor has been committed by the court to the physical custody of a local mental health authority or ~~its~~ the local mental health authority's designee or to the Utah State Developmental Center, the local mental health authority or ~~its~~ the local mental health authority's designee or the superintendent of the Utah State Developmental Center shall give the court written

notice of [its] the intention to discharge, release, or parole the minor not fewer than five days before the discharge, release, or parole.

(4) (a) ~~[Jurisdiction over a minor] The court may transfer a case of a minor who is on probation or under protective supervision, or of a minor who is otherwise under the continuing jurisdiction of the court, [may be transferred by the court to the] to a court of another district, if the receiving court consents, or upon direction of the chair of the Board of Juvenile Court Judges.~~

(b) The receiving court has the same powers with respect to the minor that [it] the court would have if the proceedings originated in that court.

~~[(5) On and after July 1, 2018, a minor adjudicated under Section 78A-6-117 and who underwent a validated risk and needs assessment under Subsection 78A-6-117(1)(e)]~~

(5) A minor shall undergo a validated risk and needs assessment within seven days of the day on which an order terminating jurisdiction is issued[-] if:

(a) the minor is adjudicated under Section 78A-6-117; and

(b) the minor underwent a validated risk and needs assessment under Subsection 78A-6-117(1)(d).

**Section 48. Section 78A-6-306 is amended to read:**

**78A-6-306. Shelter hearing.**

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other person having relevant knowledge; and

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be returned to the custody of the parent or guardian unless it finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

(A) parent or guardian;

(B) member of the parent's household or the guardian's household; or

(C) person known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the child is without any provision for the child's support;

(vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(viii) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(ix) subject to Subsections 78A-6-105~~(39)~~(40)(b) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(x) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xi) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiii) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xiv) the child's natural parent;

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect

as defined in Section 78A-6-105, truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

**Section 49. Section 78A-6-312 is amended to read:**

**78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.**

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b), 78A-6-105[(39)](40), and 78A-6-117(2) and Section 78A-6-301.5, medical or mental health treatment;

(iv) sibling visitation; or

(v) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency plan for the minor; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make “reasonable efforts” or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor’s health, safety, and welfare shall be the court’s paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

- (a) protect the physical safety of the minor;
- (b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor’s fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent’s failure to:

- (a) prove that the parent has not used legal or illegal substances; or
- (b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency plan, the court shall establish a concurrent permanency plan that shall include:

- (i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and
  - (ii) an explanation of the effect of abandoning or modifying the primary permanency plan.
- (b) In determining the primary permanency plan and concurrent permanency plan, the court shall consider:
- (i) the preference for kinship placement over nonkinship placement;
  - (ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and
  - (iii) the use of an individualized permanency plan, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor’s primary permanency plan.

(10) (a) The court may amend a minor’s primary permanency plan before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor’s primary permanency plan, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

- (i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or
- (ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, the court shall order that the division make reasonable efforts to provide services to the minor and the minor’s parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor’s health, safety, and welfare shall be the division’s paramount concern, and the court shall so order.

(12) (a) The court shall:

- (i) determine whether the services offered or provided by the division under the child and family plan constitute “reasonable efforts” on the part of the division;
- (ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and
- (iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program:

- (i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent’s substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and
- (ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance use disorder program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor’s home, unless the time period is extended under Subsection 78A-6-314(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) When a child is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a court may order sibling visitation, subject to the division obtaining consent from the sibling's legal guardian, according to the court's determination of the best interests of the child for whom the hearing is held.

(20) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(21) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a child; or

(B) child abuse homicide;

(iii) committed sexual abuse against the child;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;



(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (22)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the court determines should preclude reunification efforts or services.

(22) (a) The finding under Subsection (21)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (21)(k) is not warranted.

(23) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(24) (a) If reunification services are not ordered pursuant to Subsections (20) through (22), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless the court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (25)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(26) If, pursuant to Subsections (21)(b) through (l), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

**Section 50. Section 78A-6-601 is amended to read:**

**78A-6-601. Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.**

~~[(1) If, during the pendency of a criminal or quasi-criminal proceeding in another court, including a preliminary hearing, it is determined that the person charged is under 21 years of age and was less than 18 years of age at the time of committing the alleged offense, that court shall transfer the case to the juvenile court, together with all the papers, documents, and transcripts of any testimony except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.]~~

(1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense, the district or justice court shall transfer the case to the

juvenile court with all the papers, documents, and transcripts of any testimony.

(b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:

(A) filed in the district court in accordance with Section 78A-6-703.2; or

(B) transferred to the district court in accordance with Section 78A-6-703.5.

(ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).

(2) The district court or justice court making the transfer shall:

(a) order the [person] individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court[.]; or [shall]

(b) release [him] the individual to the custody of [his] the individual's parent or guardian or other person legally responsible for [him] the individual, to be brought before the juvenile court at a time designated by [it] the juvenile court.

(3) The juvenile court shall then proceed as provided in this chapter.

**Section 51. Section 78A-6-602 is amended to read:**

**78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal referral -- Citation -- Failure to appear.**

(1) A proceeding in a minor's case is commenced by petition, except as provided in [Sections 78A-6-701, 78A-6-702, and 78A-6-703] Sections 78A-6-703.2 and 78A-6-703.3.

(2) (a) A peace officer or a public official of the state, a county, city, or town charged with the enforcement of the laws of the state or local jurisdiction shall file a formal referral with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a detention facility, the formal referral shall be filed with the juvenile court within [~~72 hours, excluding weekends and holidays~~] 24 hours. A formal referral under Section 53G-8-211 may not be filed with the juvenile court on an offense unless the offense is subject to referral under Section 53G-8-211.

(b) (i) When the court is informed by a peace officer or other person that a minor is or appears to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to determine whether the minor is eligible to enter into a written consent agreement with the probation department and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2).

(ii) Except as provided in Subsection (2)(k), the court's probation department shall offer a nonjudicial adjustment if the minor:

(A) is referred with a misdemeanor, infraction, or status offense;

(B) has no more than two prior adjudications; and

(C) has no more than three prior unsuccessful nonjudicial adjustment attempts.

(iii) For purposes of this Subsection (2)(b), an adjudication or nonjudicial adjustment means an action based on a single episode of conduct that is closely related in time and is incident to an attempt or an accomplishment of a single objective.

(c) (i) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment pursuant to Subsection (2)(b), the probation department shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(ii) The victim shall be responsible to provide to the division upon request:

(A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and out-of-pocket loss;

(B) documentation and evidence of compensation or reimbursement from insurance companies or agencies of Utah, any other state, or federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(C) proof of identification, including home and work address and telephone numbers.

(iii) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available.

(d) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a validated risk and needs assessment and may request that the prosecutor review the referral pursuant to Subsection (2)(h) to determine whether to dismiss the referral or file a petition instead of offering a nonjudicial adjustment if:

(A) the results of the assessment indicate the youth is high risk; or

(B) the results of the assessment indicate the youth is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(ii) Except as provided in Subsection (2)(k), the court's probation department may offer a nonjudicial adjustment to any other minor who does not meet the criteria provided in Subsection (2)(b).

(iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an admission of guilt.

(iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to pay a financial penalty under Subsection (2)(e).

(v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than 90 days without leave of a judge of the court, who may extend the period for an additional 90 days.

(vi) A ~~prosecutor~~ prosecuting attorney may not file a petition against a minor unless:

(A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or (d)(ii);

(B) the minor declines nonjudicial adjustment;

(C) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;

(D) the minor fails to respond to the probation department's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or

(E) the ~~prosecutor~~ prosecuting attorney is acting under Subsection (2)(k).

(e) The nonjudicial adjustment of a case may include the following conditions agreed upon as part of the nonjudicial closure:

(i) payment of a financial penalty of not more than \$250 to the juvenile court subject to the terms established under Subsection (2)(f);

(ii) payment of victim restitution;

(iii) satisfactory completion of community or compensatory service;

(iv) referral to an appropriate provider for counseling or treatment;

(v) attendance at substance use disorder programs or counseling programs;

(vi) compliance with specified restrictions on activities and associations;

(vii) victim-offender mediation, if requested by the victim; and

(viii) other reasonable actions that are in the interest of the child or minor, the community, and the victim.

(f) A fee, fine, or restitution included in a nonjudicial ~~closure~~ adjustment in accordance with Subsection (2)(e) shall be based upon the ability of the minor's family to pay as determined by a statewide sliding scale developed as provided in Section 63M-7-208 on and after July 1, 2018.

(g) If a ~~prosecutor~~ prosecuting attorney learns of a referral involving an offense identified in Subsection (2)(k), if a minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial ~~closure~~ adjustment, or if a minor is not offered or declines a nonjudicial adjustment pursuant to Subsection (2)(b), (2)(d)(ii), or (2)(d)(vi), the ~~prosecutor~~ prosecuting attorney shall review the case and take one of the following actions:

(i) dismiss the case;

(ii) refer the case back to the probation department for a new attempt at nonjudicial adjustment; or

(iii) subject to Subsection (2)(i), file a petition with the court.

(h) Notwithstanding Subsection (2)(g), a petition may only be filed upon reasonable belief that:

(i) the charges are supported by probable cause;

(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice.

(i) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (2)(g)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (2)(e) or those imposed through any other court diversion program.

(j) Notwithstanding Subsection (2)(i), a violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile court may include a fine or penalty and participation in a court-approved tobacco education program, which may include a participation fee.

(k) Notwithstanding the other provisions of this section, the probation department shall request that a ~~prosecutor~~ prosecuting attorney review a referral in accordance with Subsection (2)(g) if:

(i) the referral involves a violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(C) Section 76-5-206, negligent homicide;

(D) Section 76-9-702.1, sexual battery;

(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(F) Section 76-10-509, possession of dangerous weapon by minor, but only if the dangerous weapon is a firearm; or

(ii) the minor has a current suspended order for custody under Subsection 78A-6-117(5)(a).

(l) If the ~~prosecutor~~ prosecuting attorney files a petition in court, the court may refer the case to the probation department for another offer of nonjudicial adjustment.

(m) If a minor violates Section 41-6a-502, regardless of whether a ~~prosecutor~~ prosecuting attorney reviews a referral under Subsection (2)(k)(i)(A), the minor shall be subject to a drug and alcohol screening and participate in an assessment, if found appropriate by the screening, and if warranted, follow the recommendations of the assessment.

~~[(3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor 14 years of age or older, the county attorney, district attorney, or attorney general may commence an action by filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction and certify the minor to the district court.]~~

~~[(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C misdemeanors, other infractions or misdemeanors as designated by general order of the Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the juvenile court, a petition is not required and the issuance of a citation as provided in Section 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in accordance with Subsection (2)(b)(i) is required.]~~

~~[(b) Any failure to comply with the time deadline on a formal referral may not be the basis of dismissing the formal referral.]~~

**Section 52. Section 78A-6-603 is amended to read:**

**78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to appear.**

(1) As used in this section, "citation" means an abbreviated referral ~~[and is sufficient to invoke the jurisdiction of the court in lieu of a petition].~~

(2) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the court has jurisdiction over and the offense listed in the citation is for:

- (a) a violation of a wildlife law;
- (b) a violation of a boating law;
- (c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:
  - (i) for a traffic violation; or
  - (ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;
- (d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;
- (e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or
- (f) a violation of Subsection 76-10-105(2).

~~[(2)] (3) A citation shall be submitted to the court within five days of issuance.~~

~~[(3)] (4) A copy of the citation shall contain:~~

- (a) the name and address of the juvenile court before which the minor may be required to appear;
- (b) the name of the minor cited;

(c) the statute or local ordinance that is alleged to have been violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested minor into custody as provided in Section 78A-6-112;

(i) the date and time when the minor is to appear, or a statement that the minor and parent or legal guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and the parent or legal guardian, if present, agreeing to appear at the juvenile court as designated on the citation.

~~[(4)] (5) A copy of the citation shall contain space for the following information to be entered if known:~~

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or legal guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

~~[(5)] (6) A citation received by the court beyond the time designated in Subsection [(2)](3) shall include a written explanation for the delay.~~

~~[(6) In accordance with Section 53G-8-211, the following offenses may be sent to the juvenile court as a citation:]~~

~~[(a) violations of wildlife laws;]~~

~~[(b) violations of boating laws;]~~

~~[(c) violations of curfew laws;]~~

~~[(d) any class B misdemeanor or less traffic violations where the person is under the age of 16;]~~

~~[(e) any class B or class C misdemeanor or infraction;]~~

~~[(f) any other infraction or misdemeanor as designated by general order of the Board of Juvenile Court Judges; and]~~

~~[(g) violations of Section 76-10-105 subject to the jurisdiction of the juvenile court.]~~

(7) A minor offense, as defined ~~[under]~~ in Section 78A-6-1202, alleged to have been committed by an enrolled child on school property or related to school attendance, may only be sent to the ~~[prosecutor]~~ prosecuting attorney or the ~~[juvenile]~~ court in accordance with Section 53G-8-211.

(8) An inquiry shall be conducted:

(a) by the prosecutor to determine upon reasonable belief that:

- (i) the charges are supported by probable cause;
  - (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and
  - (iii) the decision to charge is in the interests of justice; and
- (b) if appropriate, by the court under Section 78A-6-117.

~~[(9) Subsection (5) may not apply to a runaway child.]~~

~~[(10)] (9) (a) A minor receiving a citation described in this section shall appear at the juvenile court designated in the citation on the time and date specified in the citation or when notified by the juvenile court.~~

(b) A citation may not require a minor to appear sooner than five days following [its] the citation's issuance.

~~[(11)] (10) A minor who receives a citation and willfully fails to appear before the juvenile court pursuant to a citation may be found in contempt of court. The court may proceed against the minor as provided in Section 78A-6-1101.~~

~~[(12)] (11) When a citation is issued under this section, bail may be posted and forfeited under Section 78A-6-113 with the consent of:~~

- (a) the court; and
- (b) if the minor is a child, the parent or legal guardian of the child cited.

**Section 53. Section 78A-6-703.1 is enacted to read:**

**78A-6-703.1. Definitions.**

As used in this part:

(1) "Qualifying offense" means an offense described in Subsection 78A-6-703.3(1) or (2)(b).

(2) "Separate offense" means any offense that is not a qualifying offense.

**Section 54. Section 78A-6-703.2 is enacted to read:**

**78A-6-703.2. Criminal information for a minor in district court.**

(1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was the principal actor in an offense and the information alleges:

- (a) the minor was 16 or 17 years old at the time of the offense; and
- (b) the offense for which the minor is being charged is:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(3) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor shall be held in a juvenile detention facility until the district court determines where the minor will be held until the time of trial if:

- (a) the minor is 16 or 17 years old; and
- (b) the minor is arrested for aggravated murder or murder.

(4) In considering where a minor will be detained until the time of trial, the district court shall consider:

- (a) the age of the minor;
- (b) the nature, seriousness, and circumstances of the alleged offense;
- (c) the minor's history of prior criminal acts;
- (d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) the relative ability of the facility to meet the needs of the minor and protect the public;

(f) the physical maturity of the minor;

(g) the current mental state of the minor as evidenced by relevant mental health or a psychological assessment or screening that is made available to the court; and

(h) any other factors that the court considers relevant.

(5) A minor ordered to a juvenile detention facility under Subsection (4) shall remain in the facility:

- (a) until released by the district court; or
- (b) if convicted, until sentencing.

(6) If a minor is held in a juvenile detention facility under Subsection (4), the court shall:

- (a) advise the minor of the right to bail; and
- (b) set initial bail in accordance with Title 77, Chapter 20, Bail.

(7) If the minor ordered to a juvenile detention facility under Subsection (4) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until:

(a) released by the district court judge; or

(b) if convicted, sentencing.

(8) If a minor is ordered to a juvenile detention facility under Subsection (4) and the minor's conduct or condition endangers the safety or welfare of others in the juvenile detention facility, the court may find that the minor shall be detained in another place of confinement considered appropriate by the court, including a jail or an adult facility for pretrial confinement.

(9) If a minor is charged for aggravated murder or murder in the district court under this section, and all charges for aggravated murder or murder result in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court gains jurisdiction over all other offenses committed by the minor; and

(b) the Division of Juvenile Justice Services gains jurisdiction over the minor.

**Section 55. Section 78A-6-703.3 is enacted to read:**

**78A-6-703.3. Criminal information for a minor in juvenile court.**

Notwithstanding Section 78A-6-602.5, if a prosecuting attorney charges a minor with a felony, the prosecuting attorney may file a criminal information in the court if the minor was a principal actor in an offense and the information alleges:

(1) (a) the minor was 16 or 17 years old at the time of the offense; and

(b) the offense for which the minor is being charged is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, attempted aggravated murder;

(iii) Section 76-5-203, attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery;

(ix) Section 76-10-508.1, felony discharge of a firearm; or

(x) an offense other than an offense listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon:

(A) if the offense would be a felony had an adult committed the offense; and

(B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult; or

(2) (a) the minor was 14 or 15 years old at the time of the offense; and

(b) the offense for which the minor is being charged is a felony violation of:

(i) Section 76-5-202, aggravated murder or attempted aggravated murder; or

(ii) Section 76-5-203, murder or attempted murder.

**Section 56. Section 78A-6-703.4 is enacted to read:**

**78A-6-703.4. Extension of juvenile court jurisdiction -- Procedure.**

(1) At the time that a prosecuting attorney charges a minor who is 14 years old or older with a felony, either party may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old if:

(a) the minor was the principal actor in the offense; and

(b) the petition or criminal information alleges a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery;

(ix) Section 76-10-508.1, felony discharge of a firearm; or

(x) (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon that would be a felony if committed by an adult; and

(B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult.

(2) (a) Notwithstanding Subsection (1), either party may file a motion to extend the court's continuing jurisdiction after a determination by the court that the minor will not be bound over to the district court under Section 78A-6-703.5.

(3) The court shall make a determination on a motion under Subsection (1) or (2) at the time of disposition.

(4) The court shall extend the continuing jurisdiction over the minor's case until the minor is 25 years old if the court finds, by a preponderance of the evidence, that extending continuing jurisdiction is in the best interest of the minor and the public.

(5) In considering whether it is in the best interest of the minor and the public for the court to

extend jurisdiction over the minor's case until the minor is 25 years old, the court shall consider and base the court's decision on:

(a) whether the protection of the community requires an extension of jurisdiction beyond the age of 21;

(b) the extent to which the minor's actions in the offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history; and

(d) the criminal record and previous history of the minor.

(6) The amount of weight that each factor in Subsection (5) is given is in the court's discretion.

(7) (a) The court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the court shall require the person preparing the report or other material to appear and be subject to both direct and cross-examination.

(8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

**Section 57. Section 78A-6-703.5 is enacted to read:**

**78A-6-703.5. Preliminary hearing.**

(1) If a prosecuting attorney files a criminal information in accordance with Section 78A-6-703.3, the court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

(2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:

(a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and

(b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.

(3) In making a determination under Subsection (2)(b), the court shall consider and make findings on:

(a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 78A-6-117(2)(h), or beyond the age of continuing jurisdiction that the court may exercise under Section 78A-6-703.4;

(b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history;

(d) the criminal record or history of the minor; and

(e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the court.

(4) The amount of weight that each factor in Subsection (3) is given is in the court's discretion.

(5) (a) The court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.

(6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).

(7) (a) A proceeding before the court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.

(b) Title 78B, Chapter 22, Indigent Defense Act, and Section 78A-6-115 are applicable to the preliminary hearing under this section.

(8) If the court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the court shall bind the minor over to the district court to be held for trial.

(9) (a) If the court finds that a qualifying offense has been committed by a minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the court shall:

(i) proceed upon the criminal information as if the information were a petition under Section 78A-6-602.5;

(ii) release or detain the minor in accordance with Section 78A-6-113; and

(iii) proceed with an adjudication for the minor in accordance with this chapter.

(b) If the court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 78A-6-703.4.

(10) (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.

(b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):

(i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and

(ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the court binds the minor over to the district court for the qualifying offense, the court shall also bind the minor over for the separate offense to the district court.

(11) If a grand jury indicts a minor for a qualifying offense:

(a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and

(b) the court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).

(12) If a minor is bound over to the district court, the court shall:

(a) issue a criminal warrant of arrest;

(b) advise the minor of the right to bail; and

(c) set initial bail in accordance with Title 77, Chapter 20, Bail.

(13) (a) At the time that a minor is bound over to the district court, the court shall make an initial determination on where the minor is held until the time of trial.

(b) In determining where a minor is held until the time of trial, the court shall consider:

(i) the age of the minor;

(ii) the minor's history of prior criminal acts;

(iii) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(iv) the relative ability of the facility to meet the needs of the minor and protect the public;

(v) the physical maturity of the minor;

(vi) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(vii) any other factors that the court considers relevant.

(14) If the court orders a minor to be detained in a juvenile detention facility under Subsection (13), the minor shall remain in the facility:

(a) until released by a district court; or

(b) if convicted, until sentencing.

(15) If the court orders the minor to be detained in a juvenile detention facility under Subsection (13) and the minor attains the age of 18 while detained at the facility, the minor shall be transferred within 30 days to an adult jail to remain:

(a) until released by the district court; or

(b) if convicted, until sentencing.

(16) Except as provided in Subsection (17) and Section 78A-6-705, if a minor is bound over to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.

(17) If a minor is bound over to the district court for a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court regains jurisdiction over any separate offense committed by the minor; and

(b) the Division of Juvenile Justice Services regains jurisdiction over the minor.

**Section 58. Section 78A-6-703.6 is enacted to read:**

**78A-6-703.6. Criminal proceedings for a minor bound over to district court.**

(1) If the juvenile court binds a minor over to the district court in accordance with Section 78A-6-703.5, the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(2) A minor who is bound over to the district court to answer as an adult is not entitled to a preliminary hearing in the district court.

(3) (a) If a minor is bound over to the district court by the juvenile court, the district court may reconsider the juvenile court's decision under Subsection 78A-6-703.5(13) as to where the minor is being held until trial.

(b) If the district court reconsiders the juvenile court's decision as to where the minor is held, the district court shall consider and make findings on:

(i) the age of the minor;

(ii) the minor's history of prior criminal acts;

(iii) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(iv) the relative ability of the facility to meet the needs of the minor and protect the public;



(v) the physical maturity of the minor;

(vi) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(vii) any other factors the court considers relevant.

(4) A minor who is ordered to a juvenile detention facility under Subsection (3) shall remain in the facility:

(a) until released by a district court; or

(b) if convicted, until sentencing.

(5) If the district court orders the minor to be detained in a juvenile detention facility under Subsection (3) and the minor attains the age of 18 while detained at the facility, the minor shall be transferred within 30 days to an adult jail to remain:

(a) until released by the district court; or

(b) if convicted, until sentencing.

(6) If a minor is bound over to the district court and detained in a juvenile detention facility, the district court may order the minor be detained in another place of confinement that is considered appropriate by the district court, including a jail or other place of pretrial confinement for adults if the minor's conduct or condition endangers the safety and welfare of others in the facility.

(7) If the district court obtains jurisdiction over a minor under Section 78A-6-703.5, the district court is not divested of jurisdiction for a qualifying offense or a separate offense listed in the criminal information when the minor is allowed to enter a plea to, or is found guilty of, another offense in the same criminal information.

**Section 59. Section 78A-6-704 is amended to read:**

**78A-6-704. Appeals from bind over proceedings.**

(1) A minor may, as a matter of right, appeal from ~~[(a)]~~ an order of the juvenile court binding the minor over to the district court ~~[as a serious youth offender pursuant to Section 78A-6-702; or (b) an order of the juvenile court, after certification proceedings pursuant to Section 78A-6-703, directing that the minor be held for criminal proceedings in the district court.]~~ under Section 78A-6-703.5.

(2) The ~~[prosecution]~~ prosecuting attorney may, as a matter of right, appeal ~~[from (a)]~~ an order of the juvenile court that a minor charged ~~[as a serious youth offender pursuant to Section 78A-6-702 be held for trial]~~ in accordance with Section 78A-6-703.3 will be adjudicated in the juvenile court ~~;~~.

~~[(b) a refusal by the juvenile court, after certification proceedings pursuant to Section 78A-6-703, to order that a minor be held for criminal proceedings in the district court.]~~

**Section 60. Section 78A-6-705 is amended to read:**

**78A-6-705. Youth prison commitment.**

(1) (a) Before sentencing a minor, who ~~[is under the jurisdiction of the district court under Section 78A-6-701, 78A-6-702, or 78A-6-703]~~ was bound over to the district court under Section 78A-6-703.5 to be tried as an adult, to prison the district court shall request a report from the Division of Juvenile Justice Services regarding the potential risk to other ~~[juveniles]~~ minors if the minor were to be committed to the custody of the ~~[division]~~ Division of Juvenile Justice Services.

(b) The ~~[division]~~ Division of Juvenile Justice Services shall submit the requested report to the district court as part of the pre-sentence report or as a separate report.

(2) If, after receiving the report described in Subsection (1), the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence, the district court shall order the minor committed to prison and the minor shall be provisionally housed in a secure facility operated by the Division of Juvenile Justice Services until the minor reaches 18 years ~~[of age]~~ old, unless released earlier from incarceration by the Board of Pardons and Parole.

(3) The district court may order the minor committed directly to the custody of the Department of Corrections if the court finds that:

(a) the minor would present an unreasonable risk to others while in the ~~[division's]~~ custody of the Division of Juvenile Justice Services;

(b) the minor has previously been committed to a prison for adult offenders; or

(c) housing the minor in a secure facility operated by the Division of Juvenile Justice Services would be contrary to the interests of justice.

(4) (a) The Division of Juvenile Justice Services shall adopt procedures by rule, ~~[pursuant to]~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a division facility under Subsection (2) to the custody of the Department of Corrections.

(b) If, in accordance with ~~[those rules]~~ the rules adopted under Subsection (4)(a), the ~~[division]~~ Division of Juvenile Justice Services determines that housing the minor in a division facility presents an unreasonable risk to others or that it is not in the best interest of the minor, ~~[it]~~ the Division of Juvenile Justice Services shall transfer the physical custody of the minor to the Department of Corrections.

(5) (a) When a minor is committed to prison but ordered by a district court to be housed in a Division of Juvenile Justice Services facility under this section, the district court and the ~~[division]~~ Division of Juvenile Justice Services shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.

(b) If a minor who is provisionally housed in a ~~[division]~~ Division of Juvenile Justice Services facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 18 years ~~[of age, the division]~~ old, the Division of Juvenile Justice Services shall as soon as reasonably possible, but not later than when the minor reaches 18 years and 6 months ~~[of age]~~ old, transfer the minor to the physical custody of the Department of Corrections.

(6) Upon the commitment of a minor to the custody of the Division of Juvenile Justice Services or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

(7) The Youth Parole Authority may hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the Division of Juvenile Justice Services under this section and may forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

(8) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

**Section 61. Section 78A-6-1107 is amended to read:**

**78A-6-1107. Transfer of continuing jurisdiction to other district.**

(1) ~~[Jurisdiction over]~~ If a minor is on probation or under protective supervision, or ~~[of a minor who is otherwise]~~ under the continuing jurisdiction of the court, ~~[may be transferred by the court]~~ the court may transfer the minor's case to ~~[the]~~ a court of another district, if the receiving court consents, or upon direction of the chair of the Board of Juvenile Court Judges.

(2) The receiving court has the same powers with respect to the minor that it would have if the proceedings originated in that court.

**Section 62. Section 78A-6-1108 is amended to read:**

**78A-6-1108. New hearings authorized -- Grounds and procedure.**

(1) A parent, guardian, ~~[or]~~ custodian, or attorney of ~~[any]~~ a child adjudicated under this chapter, ~~[or any]~~ a minor who is at least 18 years old, or an adult affected by a decree in a proceeding under this chapter~~[,]~~ may at any time petition the court for a new hearing on the ground that new evidence ~~[which]~~ has been discovered that:

(a) was not known ~~[and]~~;

(b) could not with due diligence have been made available at the original hearing; and ~~[which]~~

(c) might affect the decree~~[, has been discovered]~~.

(2) If it appears to the court that there is new evidence ~~[which]~~ that might affect ~~[its]~~ the court's decree, ~~[it]~~ the court shall order a new hearing, enter a decree, and make any disposition of the case warranted by all the facts and circumstances and the best interests of the minor.

(3) This section does not apply to a minor's case handled under ~~[the provisions of Section 78A-6-702]~~ Part 7, Transfer of Jurisdiction.

**Section 63. Section 78A-7-106 is amended to read:**

**78A-7-106. Jurisdiction.**

(1) ~~[Justice courts have]~~ Except as otherwise provided by Subsection 78A-5-102(8), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within ~~[their]~~ the justice court's territorial jurisdiction by ~~[a person]~~ an individual who is 18 years ~~[of age]~~ old or older.

(2) ~~[Except those offenses over which the juvenile court has exclusive jurisdiction, justice courts have]~~ Except for an offense for which the juvenile court or the district court has exclusive jurisdiction under Subsection 78A-5-102(10) or 78A-6-103(3), a justice court has original jurisdiction over the following offenses committed within ~~[their]~~ the justice court's territorial jurisdiction by ~~[a person]~~ an individual who is 16 or 17 years ~~[of age]~~ old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23, Wildlife Resources Code of Utah;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-Highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

~~[(3) As used in this section, "the court's jurisdiction" means the territorial jurisdiction of a justice court.]~~

~~[(4)]~~ (3) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense

occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either ~~[a person]~~ an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(d) ~~[a person]~~ an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(e) ~~[a person]~~ an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another ~~[person]~~ individual in the planning or commission of an offense within the court's jurisdiction;

(f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(ii) (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and

(B) as used in Subsection ~~[(4)]~~ (3)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;

(iii) ~~[a person]~~ an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(iv) the offense is committed on or near the boundary of the court's jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

~~[(5)-A] (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer [a criminal matter in which the defendant is a child] the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the [minor] defendant would be served by the continuing jurisdiction of the juvenile court[, subject to Section 78A-6-602].~~

~~[(6)] (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.~~

**Section 64. Section 78B-6-105 is amended to read:**

**78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.**

(1) Adoption proceedings shall be commenced by filing a petition with the clerk of the district court either:

(a) in the district where the prospective adoptive parent resides;

(b) if the prospective adoptive parent is not a resident of this state, in the district where:

(i) the adoptee was born;

(ii) the adoptee resides on the day on which the petition is filed; or

(iii) a parent of the proposed adoptee resides on the day on which the petition is filed; or

(c) with the juvenile court as provided in Subsection 78A-6-103~~(4)~~(2).

(2) All orders, decrees, agreements, and notices in the proceedings shall be filed with the clerk of the court where the adoption proceedings were commenced under Subsection (1).

(3) A petition for adoption:

(a) may be filed before the birth of a child;

(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and

(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:

(i) the time for filing has been extended by the court; or

(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.

(4) (a) If a person whose consent for the adoption is required under Section 78B-6-120 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person, provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) a prospective adoptive parent; or

(ii) an unmarried mother without her consent.

(5) Service of notice as provided in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

(6) In the case of service outside the state, service completed not less than five days before the time set

in the notice for appearance of the person served shall be sufficient to confer jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

### Section 65. Repealer.

This bill repeals:

#### Section 78A-6-701, Jurisdiction of district court.

#### Section 78A-6-702, Serious youth offender -- Procedure.

#### Section 78A-6-703, Certification hearings -- Juvenile court to hold preliminary hearing -- Factors considered by juvenile court for waiver of jurisdiction to district court.

### Section 66. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

(2) The actions affecting Section 76-10-105 (Effective 07/01/20) take effect on July 1, 2020.

### Section 67. Coordinating H.B. 384 with H.B. 262 -- Substantive and technical amendments -- Omitting substantive changes.

If this H.B. 384 and H.B. 262, Juvenile Delinquency Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) by amending Subsection 76-10-105(2) (Superseded 07/01/20) to read:

“(2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the person’s possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject to ~~[the jurisdiction of the juvenile court and subject to Section 78A-6-602]~~ a citation under Section 78A-6-603, unless the violation is committed on school property under Section 53G-8-211. If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

(a) a fine or penalty, in accordance with Section 78A-6-117; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.”;

(2) by amending Subsection 76-10-105(2) (Effective 07/01/20) to read:

“(2) (a) An individual under the age of 18 who buys or attempts to buy, accepts, or has in the individual’s possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject to ~~[the jurisdiction of the juvenile court and subject to Section 78A-6-602]~~ a citation under Section 78A-6-603, unless the violation is committed on school property under Section 53G-8-211.

(b) If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

~~[(a)]~~ (i) a fine or penalty, in accordance with Section 78A-6-117; and

~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may include a participation fee.”;

(3) by making the amendments to Section 78A-6-105 in this bill supersede the amendments to Section 78A-6-105 in H.B. 262;

(4) by making the amendments to Section 78A-6-116 in this bill supersede the amendments to Section 78A-6-116 in H.B. 262;

(5) by changing the reference in Subsection 78A-6-117(2)(j)(viii) from Section “78A-6-602” to Section “78A-6-602.5”;

(6) by amending Section 78A-6-601 to read:

“78A-6-601. Criminal proceedings involving minors -- Transfer to juvenile court -- Exceptions.

~~[(1) If, during the pendency of a criminal or quasi-criminal proceeding in another court, including a preliminary hearing, it is determined that the person charged is under 21 years of age and was less than 18 years of age at the time of committing the alleged offense, that court shall transfer the case to the juvenile court, together with all the papers, documents, and transcripts of any testimony except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.]~~

(1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.

(b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:

(A) filed in the district court in accordance with Section 78A-6-703.2; or

(B) transferred to the district court in accordance with Section 78A-6-703.5.

(ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).

(2) (a) ~~[The]~~ Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:

(i) order the ~~[person]~~ individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court~~[-or shall];~~ or

(ii) release ~~[him]~~ the individual to the custody of ~~[his]~~ the individual’s parent or guardian, or other person legally responsible for ~~[him]~~ the individual, to be brought before the juvenile court at a time designated by ~~[it]~~ the juvenile court. ~~[The]~~

(b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:

(i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;

(ii) the juvenile court shall treat the transfer as a referral under Subsection 78A-6-602(3); and

(iii) the juvenile court's probation department shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section 78A-6-602.

(c) If the case is transferred to the juvenile court under this section, the juvenile court shall ~~then proceed as provided in~~ proceed in accordance with this chapter.

(3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with Subsections 78A-6-102(9) and 78A-7-106(2).";

(7) by amending Section 78A-6-602 to read:

"78A-6-602. Referrals -- Nonjudicial adjustments.

~~[(1) A proceeding in a minor's case is commenced by petition, except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.]~~

(1) As used in this section, "referral" means a formal referral, a referral to the court under Section 53G-8-211 or Subsection 78A-6-601(2)(b), or a citation issued to a minor for which the court receives notice under Section 78A-6-603.

(2) (a) A peace officer, or a public official of the state, a county, city, or town charged with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral with the [juvenile] court within 10 days of a minor's arrest.

(b) If the arrested minor is taken to a detention facility, ~~[the formal referral shall be filed]~~ the peace officer, or public official, shall file the formal referral with the [juvenile] court within ~~[72 hours, excluding weekends and holidays. A formal referral under Section 53G-8-211 may not be filed with the juvenile court on an offense unless the offense is subject to referral under Section 53G-8-211.]~~ 24 hours.

~~[(b) (i) When the court is informed by a peace officer or other person that a minor is or appears to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to determine whether the minor is eligible to enter into a written consent agreement with the probation department and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2).]~~

(c) A peace officer, public official, school district, or school may only make a referral to the court

under Section 53G-8-211 for an offense that is subject to referral under Section 53G-8-211.

(3) If the court receives a referral for a minor who is, or appears to be, within the court's jurisdiction, the court's probation department shall make a preliminary inquiry in accordance with Subsections (5), (6), and (7) to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(4) If a minor is referred to the court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the court's probation department shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(5) (a) The court's probation department may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Subsection (11) if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If a minor violates Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(6) Except as provided in Subsection (7)(b), the probation department shall request that a prosecuting attorney review a referral in accordance with Subsection (11) if:

(a) the referral involves:

(i) a felony offense; or

(ii) a violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(C) Section 76-5-206, negligent homicide;

(D) Section 76-9-702.1, sexual battery;

(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the dangerous weapon is a firearm;

(b) the minor has a current suspended order for custody under Subsection 78A-6-117(5)(a); or

(c) the referral involves an offense alleged to have occurred before an individual was 12 years old and the offense is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

(iii) (7) (a) Except as provided in [Subsection (2)(k) Subsections (5) and (6), the court's probation department shall offer a nonjudicial adjustment to a minor if the minor:

(A) (i) is referred [with a] for an offense that is a misdemeanor, infraction, or status offense;

(B) (ii) has no more than two prior adjudications; and

(C) (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

(b) If the court receives a referral for an offense that is alleged to have occurred before an individual was 12 years old, the court's probation department shall offer a nonjudicial adjustment to the individual, unless the referral includes an offense described in Subsection (6)(c).

(c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (7), the court's probation department shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (7), the court's probation department shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(iii) For purposes of this Subsection (2)(b), an adjudication or nonjudicial adjustment means an action based on a single episode of conduct that is closely related in time and is incident to an attempt or an accomplishment of a single objective.]

(e) (i) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment pursuant to Subsection (2)(b), the probation department shall provide an initial notice

to reasonably identifiable and locatable victims of the offense contained in the referral.]

(ii) The victim shall be responsible to provide to the division upon request:]

(A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and out-of-pocket loss;]

(B) documentation and evidence of compensation or reimbursement from insurance companies or agencies of Utah, any other state, or federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and]

(C) proof of identification, including home and work address and telephone numbers.]]

(iii) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available.]

(d) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a validated risk and needs assessment and may request that the prosecutor review the referral pursuant to Subsection (2)(h) to determine whether to dismiss the referral or file a petition instead of offering a nonjudicial adjustment if:]

(A) the results of the assessment indicate the youth is high risk; or]

(B) the results of the assessment indicate the youth is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.]]

(ii) (d) Except as provided in Subsection [(2)(k) (6), the court's probation department may offer a nonjudicial adjustment to [any other] a minor who does not meet the criteria provided in Subsection [(2)(b) (7)(a).

(iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an admission of guilt.]

(8) For a nonjudicial adjustment, the court's probation department may require a minor to:

(a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the terms established under Subsection (10)(c);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substantive abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

(9) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Subsection (7), the court's probation department shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the probation department upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available.

(10) (a) The court's probation department may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

~~(iv)~~ (b) ~~[A minor may not be denied]~~ The court's probation department may not deny a minor an offer of nonjudicial adjustment due to ~~[a]~~ a minor's inability to pay a financial penalty under Subsection ~~[(2)(e)]~~ (8).

(c) The court's probation department shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (8) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208 on or after July 1, 2018.

~~[(v) Efforts to effect a]~~ (d) A nonjudicial adjustment may not extend for ~~[a period of]~~ more than 90 days ~~[without leave of a judge of the court, who may extend the period]~~, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

(e) (i) Notwithstanding Subsection (10)(d), a juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (10)(d) for a minor who is offered a nonjudicial adjustment under Subsection (7)(b) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection (11)(b)(ii) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, if the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

(ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (10)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the treatment under this Subsection (10)(e), but the judge may only grant each extension for 90 days at a time.

(f) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

~~[(vi) A prosecutor may not file a petition against a minor unless:]~~

~~[(A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or (d)(ii);]~~

~~[(B) the minor declines nonjudicial adjustment;]~~

~~[(C) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;]~~

~~[(D) the minor fails to respond to the probation department's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or]~~

~~[(E) the prosecutor is acting under Subsection (2)(k).]~~

~~[(e) The nonjudicial adjustment of a case may include the following conditions agreed upon as part of the nonjudicial closure:]~~

~~[(i) payment of a financial penalty of not more than \$250 to the juvenile court subject to the terms established under Subsection (2)(f);]~~

~~[(ii) payment of victim restitution;]~~

~~[(iii) satisfactory completion of community or compensatory service;]~~

~~[(iv) referral to an appropriate provider for counseling or treatment;]~~

~~[(v) attendance at substance use disorder programs or counseling programs;]~~

~~[(vi) compliance with specified restrictions on activities and associations;]~~

~~[(vii) victim-offender mediation, if requested by the victim; and]~~

~~[(viii) other reasonable actions that are in the interest of the child or minor, the community, and the victim.]~~

~~[(f) A fee, fine, or restitution included in a nonjudicial closure in accordance with Subsection (2)(e) shall be based upon the ability of the minor's family to pay as determined by a statewide sliding scale developed as provided in Section 63M-7-208 on and after July 1, 2018.]~~

~~[(g) (11) If a [prosecutor learns of a referral involving an offense identified in 838 Subsection~~

~~(2)(k), if] prosecuting attorney is requested to review a referral in accordance with Subsection (5) or (6), a minor fails to substantially comply with [the conditions] a condition agreed upon as part of the nonjudicial [closure] adjustment, or [if] a minor is not offered or declines a nonjudicial adjustment [pursuant to Subsection (2)(b), (2)(d)(ii), or (2)(d)(vi), the prosecutor shall review the case and take one of the following actions:] in accordance with Subsection (7), the prosecuting attorney shall:~~

~~(a) review the case; and~~

~~(b) (i) dismiss the case;~~

~~(ii) refer the case back to the probation department for a new attempt at nonjudicial adjustment; or~~

~~(iii) [subject to Subsection (2)(i)] except as provided in Subsections (12)(b), (13), and 78A-6-602.5(2), file a petition with the court.~~

~~[(h) Notwithstanding Subsection (2)(g), a petition may only be filed]~~

~~(12) (a) A prosecuting attorney may file a petition only upon reasonable belief that:~~

~~(i) the charges are supported by probable cause;~~

~~(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and~~

~~(iii) the decision to charge is in the interests of justice.~~

~~[(4) (b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (2)(g)(iii)] (11)(b)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection [(2)(e) or those] (8) or conditions imposed through any other court diversion program.~~

~~[(j) Notwithstanding Subsection (2)(i), a violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile court may include a fine or penalty and participation in a court-approved tobacco education program, which may include a participation fee.]~~

~~[(k) Notwithstanding the other provisions of this section, the probation department shall request that a prosecutor review a referral in accordance with Subsection (2)(g) if:]~~

~~[(i) the referral involves a violation of:]~~

~~[(A) Section 41-6a-502, driving under the influence;]~~

~~[(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;]~~

~~[(C) Section 76-5-206, negligent homicide;]~~

~~[(D) Section 76-9-702.1, sexual battery;]~~

~~[(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or]~~

~~[(F) Section 76-10-509, possession of dangerous weapon by minor, but only if the dangerous weapon is a firearm; or]~~

~~[(ii) the minor has a current suspended order for custody under Subsection 78A-6-117(5)(a).]~~

~~(13) A prosecuting attorney may not file a petition against a minor unless:~~

~~(a) the prosecuting attorney has statutory authority to file the petition under Section 78A-6-602.5; and~~

~~(b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (7);~~

~~(ii) the minor declines a nonjudicial adjustment;~~

~~(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;~~

~~(iv) the minor fails to respond to the probation department's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or~~

~~(v) the prosecuting attorney is acting under Subsection (11).~~

~~[(4)] (14) If the [prosecutor] prosecuting attorney files a petition in court or a proceeding is commenced against a minor under Section 78A-6-603, the court may refer the case to the probation department for another offer of nonjudicial adjustment.~~

~~[(m) If a minor violates Section 41-6a-502, regardless of whether a prosecutor reviews a referral under Subsection (2)(k)(i)(A), the minor shall be subject to a drug and alcohol screening and participate in an assessment, if found appropriate by the screening, and if warranted, follow the recommendations of the assessment.]~~

~~[(3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor 14 years of age or older, the county attorney, district attorney, or attorney general may commence an action by filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction and certify the minor to the district court.]~~

~~[(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C misdemeanors, other infractions or misdemeanors as designated by general order of the Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the juvenile court, a petition is not required and the issuance of a citation as provided in Section 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in accordance with Subsection (2)(b)(i) is required.]~~

~~[(b) Any failure to comply with the time deadline on a formal referral may not be the basis of dismissing the formal referral.];~~

~~(8) by deleting Subsection 78A-6-602.5(3) enacted by H.B. 262; and~~

~~(9) by making the amendments to Section 78A-6-603 in H.B. 262 supersede the amendments to Section 78A-6-603 in this bill..~~



**Section 68. Coordinating H.B. 384 with  
H.B. 291 -- Substantive and technical  
amendments.**

If this H.B. 384 and H.B. 291, Human Trafficking Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 76-10-1302 in H.B. 291 supersede the amendments to Section 76-10-1302 in this bill when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

**CHAPTER 215****H. B. 389**

Passed March 10, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**EMERGENCY MEDICAL SERVICES AMENDMENTS**

Chief Sponsor: Derrin R. Owens  
Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill amends provisions relating to emergency medical services.

**Highlighted Provisions:**

This bill:

- ▶ establishes the Emergency Medical Services System Account to be administered by the Department of Health (department) for certain purposes related to emergency medical services;
- ▶ modifies the expenditure requirements for certain funds transferred to the department;
- ▶ requires the department to hire five regional emergency medical services liaisons to serve the needs of certain rural counties;
- ▶ requires the department to submit a report to the Health and Human Services Interim Committee; and
- ▶ establishes a repeal date for the reporting requirement.

**Monies Appropriated in this Bill:**

This bill appropriates in Fiscal Year 2021:

- ▶ to the Department of Health -- Family Health and Preparedness -- Emergency Medical Services and Preparedness, as an ongoing appropriation:
  - From the Emergency Medical Services System Account, \$3,000,000;
- ▶ to the Emergency Medical Services System Account -- Emergency Medical Services System Account, as an ongoing appropriation:
  - From the General Fund, \$3,000,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-8a-207, as last amended by Laws of Utah 2011, Chapters 297 and 303  
63I-2-226, as last amended by Laws of Utah 2019, Chapters 262, 393, 405 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

26-8a-108, Utah Code Annotated 1953  
26-8a-210, Utah Code Annotated 1953  
26-8a-211, Utah Code Annotated 1953

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

**Section 1. Section 26-8a-108 is enacted to read:****26-8a-108. Emergency Medical Services System Account.**

(1) There is created within the General Fund a restricted account known as the Emergency Medical Services System Account.

(2) The account consists of:

- (a) interest earned on the account; and
  - (b) appropriations made by the Legislature.
- (3) The department shall use:

(a) an amount equal to 25% of the money in the account for administrative costs related to this chapter; and

(b) an amount equal to 75% of the money in the account for grants awarded in accordance with Subsection 26-8a-207(3).

**Section 2. Section 26-8a-207 is amended to read:****26-8a-207. Emergency medical services grant program.**

(1) ~~[(a)]~~ The department shall receive as dedicated credits the amount established in Section 51-9-403. That amount shall be transferred to the department by the Division of Finance from funds generated by the surcharge imposed under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation.

~~[(b) Funds transferred to the department under this section shall be used for improvement of delivery of emergency medical services and administrative costs as described in Subsection (2)(a). Appropriations to the department for the purposes enumerated in this section shall be made from those dedicated credits.]~~

~~[(2) (a) The department may use the funds transferred to it under Subsection (1).]~~

(2) From the total amount of funds transferred to the department under Subsection (1), the department shall use:

- (a) an amount equal to 50% of the funds:
  - (i) to provide staff support; and
  - (ii) for other expenses incurred in:
    - (A) administration of grant funds; and
    - (B) other department administrative costs under this chapter[.]; and

(b) an amount equal to 50% of the funds to provide emergency medical services grants in accordance with Subsection (3).

(3) (a) A recipient of a grant under this section shall actively provide emergency medical services within the state.

(3) (a) A recipient of a grant under this section shall actively provide emergency medical services within the state.

~~[(b) After funding staff support, administrative expenses, and trauma system development, the~~

~~department and the committee shall make emergency medical services grants from the remaining funds received as dedicated credits under Subsection (1). A recipient of a grant under this Subsection (2)(b) shall actively provide emergency medical services within the state.]~~

~~[(c) The department shall distribute not less than 25% of the funds, with the percentage being authorized by a majority vote of the committee,]~~

~~(b) From the total amount of funds used to provide grants under Subsection (3), the department shall distribute an amount equal to 21% as per capita block grants for use specifically related to the provision of emergency medical services to nonprofit prehospital emergency medical services providers that are either licensed or designated and to emergency medical services that are the primary emergency medical services for a service area. The department shall determine the grant amounts by prorating available funds on a per capita basis by county as described in department rule.~~

~~[(d) The committee shall award the remaining funds as competitive grants for use specifically related to the provision of emergency medical services based upon rules established by the committee.]~~

~~(c) Subject to Subsections (3)(d) through (f), the committee shall use the remaining grant funds to award competitive grants to licensed emergency medical services providers that provide emergency medical services within counties of the third through sixth class, in accordance with rules made by the committee.~~

~~(d) A grant awarded under Subsection (3)(c) shall be used:~~

~~(i) for the purchase of equipment, subject to Subsection (3)(e); or~~

~~(ii) for the recruitment, training, or retention of licensed emergency medical services providers.~~

~~(e) A recipient of a grant under Subsection (3)(c) may not use more than \$100,000 in grant proceeds for the purchase of vehicles.~~

~~(f) A grant awarded for the purpose described in Subsection (3)(d)(ii) is ongoing for a period of up to three years.~~

~~(g) (i) If, after providing grants under Subsections (3)(c) through (f), any grant funds are unallocated at the end of the fiscal year, the committee shall distribute the unallocated grant funds as per capita block grants as described in Subsection (3)(b).~~

~~(ii) Any grant funds distributed as per capita grants under Subsection (3)(g)(i) are in addition to the amount described in Subsection (3)(b).~~

**Section 3. Section 26-8a-210 is enacted to read:**

**26-8a-210. Regional Emergency Medical Services Liaisons -- Qualifications -- Duties.**

(1) As used in this section:

(a) "Liaison" means a regional emergency medical services liaison hired under this section.

(b) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(2) The department shall hire five individuals to serve as regional emergency medical services liaisons to:

(a) serve the needs of rural counties in providing emergency medical services in accordance with this chapter;

(b) act as a liaison between the department and individuals or entities responsible for emergency medical services in rural counties, including:

(i) emergency medical services providers;

(ii) local officials; and

(iii) local health departments or agencies;

(c) provide support and training to emergency medical services providers in rural counties;

(d) assist rural counties in utilizing state and federal grant programs for financing emergency medical services; and

(e) serve as emergency medical service personnel to assist licensed providers with ambulance staffing needs within rural counties.

(3) Each liaison hired under Subsection (2):

(a) shall reside in a rural county; and

(b) shall be licensed as:

(i) an advanced emergency medical technician as defined in Section 26-8c-102; or

(ii) a paramedic as defined in Section 26-8c-102.

(4) The department shall provide each liaison with a vehicle and other equipment in accordance with rules established by the department.

**Section 4. Section 26-8a-211 is enacted to read:**

**26-8a-211. Report.**

The department shall report to the Health and Human Services Interim Committee before November 30, 2022, regarding:

(1) the activities and accomplishments of the regional medical services liaisons hired under Section 26-8a-210;

(2) the efficacy of the emergency medical services grant program established in Section 26-8a-207, including grant distribution;

(3) the condition of emergency medical services within the state, including emergency medical services provider response times and personnel numbers; and

(4) the financial condition of the department, including department operational costs under this chapter.

**Section 5. Section 63I-2-226 is amended to read:**

**63I-2-226. Repeal dates -- Title 26.**

(1) Subsection 26-7-8(3) is repealed January 1, 2027.

(2) Section 26-8a-107 is repealed July 1, 2024.

(3) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

(4) Section 26-8a-211 is repealed July 1, 2023.

(5) Subsection 26-18-2.3(5) is repealed January 1, 2020.

(6) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

(7) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

(8) Subsection 26-18-604(2) is repealed January 1, 2020.

(9) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

(10) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

(11) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.

(12) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(13) Subsection 26-50-202(7)(b) is repealed January 1, 2020.

(14) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.

(15) Subsection 26-55-107(8) is repealed January 1, 2021.

(16) Subsection 26-56-103(9)(d) is repealed January 1, 2020.

(17) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.

(18) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

(19) Subsection 26-61-202(5) is repealed January 1, 2022.

### Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.

#### ITEM 1

To Department of Health -- Family Health and Preparedness

From Emergency Medical Services System Account	\$3,000,000
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#### Schedule of Programs:

Emergency Medical Services and Preparedness	\$3,000,000
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#### ITEM 2

To Emergency Medical Services System Account

From General Fund	\$3,000,000
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#### Schedule of Programs:

Emergency Medical Services System Account	\$3,000,000
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**CHAPTER 216****H. B. 392**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**EARLY WARNING PROGRAM AMENDMENTS**

Chief Sponsor: Val L. Peterson  
 Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill reauthorizes and amends the student intervention early warning pilot program, which provides for systems to identify students in need of early intervention.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ reauthorizes the student intervention early warning pilot program;
- ▶ directs the State Board of Education (state board) to enhance the online data reporting tool and contract with a provider for a two-year pilot program;
- ▶ provides certain standards and functionality that are to be included in the enhancements to the online data reporting tool and digital program;
- ▶ directs the state board to provide a digital program to a local education agency;
- ▶ requires a local education agency to pay half the cost of a digital program;
- ▶ requires a local education agency to report to the board on the effectiveness of a digital program and recommendations for enhancement of the online data reporting tool; and
- ▶ provides a repeal date.

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ to State Board of Education -- Initiative Programs, as a one-time appropriation:
  - from the Education Fund, \$125,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-2-253, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324, 325, and 444

**ENACTS:**

53F-4-207, Utah Code Annotated 1953

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

**Section 1. Section 53F-4-207 is enacted to read:****53F-4-207. Student intervention early warning pilot program.**

(1) As used in this section:

(a) “Digital program” means a program that provides information for student early intervention as described in this section.

(b) “Online data reporting tool” means a system described in Section 53E-4-311.

(2) (a) The state board shall, subject to legislative appropriations:

(i) subject to Subsection (2)(c), enhance the online data reporting tool and provide additional formative actionable data on student outcomes; and

(ii) select through a competitive contract process a provider to provide to an LEA a digital program as described in this section.

(b) The contract described in Subsection (2)(a)(ii) shall be for a two-year pilot program.

(c) Information collected or used by the state board for purposes of enhancing the online data reporting tool in accordance with this section may not identify a student individually.

(d) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the primary exceptionalities described in Subsection (3)(e)(ii).

(3) The enhancement to the online data reporting tool and the digital program shall:

(a) be designed with a user-appropriate interface for use by teachers, school administrators, and parents;

(b) provide reports on a student’s results at the student level on:

(i) a national assessment;

(ii) a local assessment; and

(iii) a standards assessment described in Section 53E-4-303;

(c) have the ability to provide data from aggregate student reports based on a student’s:

(i) teacher;

(ii) school;

(iii) school district, if applicable; or

(iv) ethnicity;

(d) provide a viewer with the ability to view the data described in Subsection (2)(c) on a single computer screen;

(e) have the ability to compare the performance of students, for each teacher, based on a student’s:

(i) gender;

(ii) special needs, including primary exceptionality as defined by state board rule;

(iii) English proficiency;

(iv) economic status;

(v) migrant status;

(vi) ethnicity;

- (vii) response to tiered intervention;
- (viii) response to tiered intervention enrollment date;
- (ix) absence rate;
- (x) feeder school;
- (xi) type of school, including primary or secondary, public or private, Title I, or other general school-type category;
- (xii) course failures; and
- (xiii) other criteria, as determined by the state board; and
- (f) have the ability to load data from a local, national, or other assessment in the data's original format within a reasonable time.
- (4) Subject to legislative appropriations, the online data reporting tool and digital program shall:
  - (a) integrate criteria for early warning indicators, including the following criteria:
    - (i) discipline;
    - (ii) attendance;
    - (iii) behavior;
    - (iv) course failures; and
    - (v) other criteria as determined by a local school board or charter school governing board;
  - (b) provide a teacher or administrator the ability to view the early warning indicators described in Subsection (4)(a) with a student's assessment results described in Subsection (3)(b);
  - (c) provide data on response to intervention using existing assessments or measures that are manually added, including assessment and nonacademic measures;
  - (d) provide a user the ability to share interventions within a reporting environment and add comments to inform other teachers, administrators, and parents;
  - (e) save and share reports among different teachers and school administrators, subject to the student population information a teacher or administrator has the rights to access;
  - (f) automatically flag a student profile when early warning thresholds are met so that a teacher can easily identify a student who may be in need of intervention;
  - (g) incorporate a variety of algorithms to support student learning outcomes and provide student growth reporting by teacher;
  - (h) integrate response to intervention tiers and activities as filters for the reporting of individual student data and aggregated data, including by ethnicity, school, or teacher;

(i) have the ability to generate parent communication to alert the parent of academic plans or interventions; and

(j) configure alerts based upon student academic results, including a student's performance on the previous year's standards assessment described in Section 53E-4-303.

(5) (a) The state board shall, subject to legislative appropriations, select an LEA to receive access to a digital program through a provider described in Subsection (2)(a)(ii).

(b) An LEA that receives access to a digital program shall:

(i) pay for 50% of the cost of providing access to the digital program to the LEA; and

(ii) no later than one school year after accessing a digital program, report to the state board in a format required by the state board on:

(A) the effectiveness of the digital program;

(B) positive and negative attributes of the digital program;

(C) recommendations for improving the online data reporting tool; and

(D) any other information regarding a digital program requested by the state board.

(c) The state board shall consider recommendations from an LEA for changes to the online data reporting tool.

(6) Information described in this section shall be used in accordance with and provided subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(b) Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

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

**63I-2-253. Repeal dates -- Titles 53 through 53G.**

(1) (a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech Board of Trustees and the transition to that composition, are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of directors, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

- (3) Section 53B-6-105.7 is repealed July 1, 2024.
- (4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states “Except as provided in Subsection (6)(b)(ii)(B),” is repealed July 1, 2021.
- (b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college’s change in performance with the technical college’s average performance, is repealed July 1, 2021.
- (5) (a) Subsection 53B-7-707(3)(a)(ii), the language that states “Except as provided in Subsection (3)(b),” is repealed July 1, 2021.
- (b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.
- (6) Section 53B-8-112 is repealed July 1, 2024.
- (7) Section 53B-8-114 is repealed July 1, 2024.
- (8) (a) The following sections, regarding the Regents’ scholarship program, are repealed on July 1, 2023:
  - (i) Section 53B-8-202;
  - (ii) Section 53B-8-203;
  - (iii) Section 53B-8-204; and
  - (iv) Section 53B-8-205.
- (b) (i) Subsection 53B-8-201(2), regarding the Regents’ scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.
- (ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.
- (9) Section 53B-10-101 is repealed on July 1, 2027.
- (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.
- (11) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.
- (12) Section 53E-3-520 is repealed July 1, 2021.
- (13) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.
- (14) Section 53E-5-307 is repealed July 1, 2020.
- (15) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education’s duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.
- (16) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

- (17) In Subsection 53F-2-515(1), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.
- ~~(18) Section 53F-4-204 is repealed July 1, 2019.~~
- (18) Section 53F-4-207 is repealed July 1, 2022.
- (19) In Subsection 53F-9-302(3), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.
- (20) In Subsection 53F-9-305(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.
- (21) In Subsection 53F-9-306(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.
- (22) In Subsection 53G-3-304(1)(c)(i), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.
- (23) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent.

**Section 3. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Initiative Programs

<u>From Education Fund, One-time</u>	<u>\$125,000</u>
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Schedule of Programs:

<u>Early Warning Pilot Program</u>	<u>\$125,000</u>
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**CHAPTER 217****H. B. 396**

Passed March 11, 2020

Approved March 28, 2020

Effective May 12, 2020

**ELECTRIC VEHICLE CHARGING  
INFRASTRUCTURE AMENDMENTS**Chief Sponsor: V. Lowry Snow  
Senate Sponsor: Lincoln FillmoreCosponsors: Patrice M. Arent  
Stewart E. Barlow

Joel K. Briscoe

Steve R. Christiansen

Stephen G. Handy

Suzanne Harrison

Val K. Potter

Keven J. Stratton

**LONG TITLE****General Description:**

This bill modifies public utilities provisions relating to electric vehicle battery charging infrastructure and service.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definitions of “electrical corporation” and “public utility” for purposes of public utility code provisions and expands the description of entities excluded from those definitions because they are entities that sell electric vehicle battery charging service;
- ▶ enacts definitions relating to electric vehicle battery charging station infrastructure and services;
- ▶ requires the Public Service Commission to authorize a large-scale electric utility’s vehicle charging infrastructure program that allows for a \$50,000,000 investment, and provides for amendments to that program; and
- ▶ provides for a large-scale electric utility to recover the utility’s investment in vehicle charging infrastructure.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

54-2-1, as last amended by Laws of Utah 2019, Chapter 460

**ENACTS:**

54-4-41, Utah Code Annotated 1953

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

**Section 1. Section 54-2-1 is amended to read:****54-2-1. Definitions.**

As used in this title:

(1) “Avoided costs” means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power

production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) “Clean coal technology” means a technology that may be researched, developed, or used for reducing emissions or the rate of emissions from a thermal electric generation plant that uses coal as a fuel source.

(3) “Cogeneration facility”:

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(4) “Commission” means the Public Service Commission.

(5) “Commissioner” means a member of the commission.

(6) (a) “Corporation” includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) “Corporation” does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(7) “Distribution electrical cooperative” includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative’s members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative’s:

(i) members; or

(ii) patrons.

(8) (a) “Electrical corporation” includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) “Electrical corporation” does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer’s own use, or the use of the producer’s tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;



(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(c) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services<sup>[5]</sup>:

(i) if the entity obtains the electricity for the electric vehicle battery charging service, including any electricity from an electricity storage device:

(A) from an electrical corporation in whose service area the electric vehicle battery charging service is located; and

(B) under an established tariff for rates, charges, and conditions of service; and

(ii) unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

(9) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

(10) "Eligible customer" means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer's own use; or

(iii) for the use of the eligible customer's tenant or affiliate.

(11) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer's core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection (10)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

(12) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

(13) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

(14) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

(15) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

(16) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

(17) "Independent power production facility" means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(18) “Large-scale electric utility” means a public utility that provides retail electric service to more than 200,000 retail customers in the state.

(19) “Large-scale natural gas utility” means a public utility that provides retail natural gas service to more than 200,000 retail customers in the state.

(20) “Nonutility energy supplier” means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer’s own use or the use of the eligible customer’s tenant or affiliate.

(21) “Private telecommunications system” includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

(22) (a) “Public utility” includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Section 54-2-201 where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Section 54-2-201, performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Section 54-2-201, or

electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(e) (i) “Public utility” does not include any person that is otherwise considered a public utility under this Subsection (22) solely because of that person’s ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections (22)(e)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection (22)(e)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection (22)(e)(i) shall continue to be so exempt from classification following termination of the lessee’s right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(f) “Public utility” does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(g) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a “public utility,” unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a “public utility.”

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(h) “Public utility” does not include:

(i) an eligible customer who provides electricity for the eligible customer’s own use or the use of the eligible customer’s tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer’s service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer’s tenant or affiliate.

(i) “Public utility” does not include an entity that sells electric vehicle battery charging services[;];

(i) if the entity obtains the electricity for the electric vehicle battery charging service, including any electricity from an electricity storage device:

(A) from a large-scale electric utility or an electrical corporation in whose service area the electric vehicle battery charging service is located; and

(B) under an established tariff for rates, charges, and conditions of service; and

(ii) unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(j) “Public utility” does not include an independent energy producer that is not subject to regulation by the commission as a public utility under Section 54-2-201.

(23) “Purchasing utility” means any electrical corporation that is required to purchase electricity

from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Sec. 824a-3.

(24) “Qualifying power producer” means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

(25) “Qualifying power production facility” means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

(26) “Railroad” includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

(27) “Railroad corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

(28) (a) “Sewerage corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) “Sewerage corporation” does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(29) “Telegraph corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

(30) “Telegraph line” includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

(31) “Telephone cooperative” means a telephone corporation that:

(a) is a cooperative; and

(b) is organized for the purpose of providing telecommunications service to the telephone corporation’s members and the public at cost plus a reasonable rate of return.

(32) (a) “Telephone corporation” means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) “Telephone corporation” does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

(33) “Telephone line” includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

(34) “Transportation of persons” includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person’s baggage.

(35) “Transportation of property” includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

(36) “Utility-owned vehicle charging infrastructure” means all facilities, equipment, and electrical systems owned and installed by a large-scale electric utility:

(a) on the customer’s side or the large-scale electric utility’s side of the electricity metering equipment; and

(b) to facilitate utility vehicle charging service or other electric vehicle battery charging service.

(37) “Utility vehicle charging service” means the furnishing of electricity:

(a) to an electric vehicle battery charging station:

(b) by a public utility in whose service area the charging station is located; and

(c) pursuant to a duly established tariff for rates, charges, and conditions of service for the electricity.

~~(36)~~ (38) “Water corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~(37)~~ (39) (a) “Water system” includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) “Water system” does not include private irrigation companies engaged in distributing water only to their stockholders.

~~(38)~~ (40) “Wholesale electrical cooperative” includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

**Section 2. Section 54-4-41 is enacted to read:**

**54-4-41. Recovery of investment in utility-owned vehicle charging infrastructure.**

(1) As used in this section, “charging infrastructure program” means the program described in Subsection (2).

(2) The commission shall authorize a large-scale electric utility program that:

(a) allows for funding from large-scale electric utility customers for a maximum of \$50,000,000 for all costs and expenses associated with:

(i) the deployment of utility-owned vehicle charging infrastructure; and

(ii) utility vehicle charging service provided by the large-scale electric utility;

(b) creates a new customer class, with a utility vehicle charging service rate structure that:

(i) is determined by the commission to be in the public interest;

(ii) is a transitional rate structure expected to allow the large-scale electric utility to recover, through charges to utility vehicle charging service customers, the large-scale electric utility’s full cost

of service for utility-owned vehicle charging infrastructure and utility vehicle charging service over a reasonable time frame determined by the commission; and

(iii) may allow different rates for large-scale electric utility customers to reflect contributions to investment; and

(c) includes a transportation plan that promotes:

(i) the deployment of utility-owned vehicle charging infrastructure in the public interest; and

(ii) the availability of utility vehicle charging service.

(3) Before submitting a proposed charging infrastructure program to the commission for commission approval under Subsection (2), a large-scale electric utility shall seek and consider input from:

(a) the Division of Public Utilities, established in Section 54-4a-1;

(b) the Office of Consumer Services, created in Section 54-10a-201;

(c) the Division of Air Quality, created in Section 19-1-105;

(d) the Department of Transportation, created in Section 72-1-201;

(e) the Governor's Office of Economic Development, created in Section 63N-1-201;

(f) the Office of Energy Development, created in Section 63M-4-401;

(g) the board of the Utah Inland Port Authority, created in Section 11-58-201;

(h) representatives of the Point of the Mountain State Land Development Authority, created in Section 11-59-201;

(i) third-party electric vehicle battery charging service operators; and

(j) any other person who files a request for notice with the commission.

(4) The commission shall find a charging infrastructure program to be in the public interest if the commission finds that the charging infrastructure program:

(a) increases the availability of electric vehicle battery charging service in the state;

(b) enables the significant deployment of infrastructure that supports electric vehicle battery charging service and utility-owned vehicle charging infrastructure in a manner reasonably expected to increase electric vehicle adoption;

(c) includes an evaluation of investments in the areas of the authority jurisdictional land, as defined in Section 11-58-102, and the point of the mountain state land, as defined in Section 11-59-102;

(d) enables competition, innovation, and customer choice in electric vehicle battery charging

services, while promoting low-cost services for electric vehicle battery charging customers; and

(e) provides for ongoing coordination with the Department of Transportation, created in Section 72-1-201.

(5) The commission may, consistent with Subsection (2), approve an amendment to the charging infrastructure program if the large-scale electric utility demonstrates that the amendment:

(a) is prudent;

(b) will provide net benefits to customers; and

(c) is otherwise consistent with the requirements of Subsection (2).

(6) The commission shall authorize recovery of a large-scale electric utility's investment in utility-owned vehicle charging infrastructure through a balancing account or other ratemaking treatment that reflects:

(a) charging infrastructure program costs associated with prudent investment, including the large-scale electric utility's pre-tax average weighted cost of capital approved by the commission in the large-scale electric utility's most recent general rate proceeding, and associated revenue and prudently incurred expenses; and

(b) a carrying charge.

(7) A large-scale electric utility's investment in utility-owned vehicle charging infrastructure is prudently made if the large-scale electric utility demonstrates in a formal adjudicative proceeding before the commission that the investment can reasonably be anticipated to:

(a) result in one or more projects that are in the public interest of the large-scale electric utility's customers to reduce transportation sector emissions over a reasonable time period as determined by the commission;

(b) provide the large-scale electric utility's customers significant benefits that may include revenue from utility vehicle charging service that offsets the large-scale electric utility's costs and expenses; and

(c) facilitate any other measure that the commission determines:

(i) promotes deployment of utility-owned vehicle charging infrastructure and utility vehicle charging service; or

(ii) creates significant benefits in the long term for customers of the large-scale electric utility.

(8) A large-scale electric utility that establishes and implements a charging infrastructure program shall annually, on or before June 1, submit a written report to the Public Utilities, Energy, and Technology Interim Committee of the Legislature about the charging infrastructure program's activities during the previous calendar year, including information on:

(a) the charging infrastructure program's status, operation, funding, and benefits;

(b) the disposition of charging infrastructure program funds; and

(c) the charging infrastructure program's impact on rates.

**CHAPTER 218****H. B. 397**

Passed March 12, 2020  
Approved March 28, 2020  
Effective May 1, 2020

**EXPUNGEMENT CHANGES**

Chief Sponsor: Eric K. Hutchings  
Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill amends provisions related to expungement.

**Highlighted Provisions:**

This bill:

- ▶ prohibits the Bureau of Criminal Identification from considering a petitioner's clean slate eligible case that has been automatically expunged when determining whether to issue a certificate of eligibility for expungement;
- ▶ provides that an acquittal due to a defendant being found not guilty by reason of insanity does not qualify for automatic expungement;
- ▶ makes consistent the number of days that a petitioner has to respond to a response from the Division of Adult Probation and Parole;
- ▶ defines terms;
- ▶ creates the Juvenile Expungement Act;
- ▶ modifies the circumstances under which an adjudication or a nonjudicial adjustment in the juvenile court may be expunged;
- ▶ requires a state agency to send an affidavit to a petitioner indicating compliance with a juvenile expungement order;
- ▶ prohibits a court and a state agency from charging a fee for expunging a juvenile record with an exception for a court filing fee; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53-3-414, as last amended by Laws of Utah 2013, Chapter 411  
77-38-14, as last amended by Laws of Utah 2010, Chapter 283  
77-40-103 (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448  
77-40-105 (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448  
77-40-114 (Effective 05/01/20) as enacted by Laws of Utah 2019, Chapter 448  
78A-6-116, as last amended by Laws of Utah 2010, Chapter 38

**ENACTS:**

77-40-101.5, Utah Code Annotated 1953  
78A-6-1501, Utah Code Annotated 1953  
78A-6-1502, Utah Code Annotated 1953  
78A-6-1504, Utah Code Annotated 1953  
78A-6-1505, Utah Code Annotated 1953  
78A-6-1506, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

78A-6-1503, (Renumbered from 78A-6-1105, as last amended by Laws of Utah 2015, Chapter 389)

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

**Section 1. Section 53-3-414 is amended to read:****53-3-414. CDL disqualification or suspension -- Grounds and duration -- Procedure.**

(1) (a) ~~[A person]~~ An individual who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year effective seven days from the date of notice to the driver if convicted of a first offense of:

(i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled substance, or more than one of these;

(ii) driving a commercial motor vehicle while the concentration of alcohol in the person's blood, breath, or urine is .04 grams or more;

(iii) leaving the scene of an accident involving a motor vehicle the person was driving;

(iv) failing to provide reasonable assistance or identification when involved in an accident resulting in:

(A) death in accordance with Section 41-6a-401.5; or

(B) personal injury in accordance with Section 41-6a-401.3;

(v) using a motor vehicle in the commission of a felony;

(vi) refusal to submit to a test to determine the concentration of alcohol in the person's blood, breath, or urine;

(vii) driving a commercial motor vehicle while the person's commercial driver license is disqualified in accordance with the provisions of this section for violating an offense described in this section; or

(viii) operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of automobile homicide under Section 76-5-207, manslaughter under Section 76-5-205, or negligent homicide under Section 76-5-206.

(b) The division shall subtract from any disqualification period under Subsection (1)(a)(i) the number of days for which a license was previously disqualified under Subsection (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which the record of conviction is based.

(2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.

(3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a

commercial motor vehicle if convicted of or administrative action is taken for two or more of any of the offenses under Subsection (1), (5), or (14) arising from two or more separate incidents.

(b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

(4) (a) Any driver disqualified for life from driving a commercial motor vehicle under this section may apply to the division for reinstatement of the driver's CDL if the driver:

(i) has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that:

(A) meets the standards of the division; and

(B) complies with 49 C.F.R. Sec. 383.51;

(ii) has served a minimum disqualification period of 10 years; and

(iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

(b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4).

(6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) involve the use or operation of a commercial motor vehicle.

(c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (6), the subsequent disqualification

period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(7) (a) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(i) 180 days if the driver is convicted of a first violation;

(ii) two years if, during any 10 year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(iii) three years but not more than five years if, during any 10 year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;

(iv) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or

(v) three years but not more than five years if, during any 10 year period, the driver is convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver.

(b) A driver of a commercial motor vehicle who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than \$2,500.

(c) A driver of a commercial motor vehicle who is convicted of a second or subsequent violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.

(8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in its check of the driver's driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.

(9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6a-1205, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 60 days if the driver is convicted of a first violation;

(b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.



(10) (a) The division shall update its records and notify the CDLIS within 10 days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within 10 days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within 10 days after the action is taken.

(11) (a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division;

(iii) applicant cheated on any part of a CDL examination;

(iv) driver no longer meets the fitness standards required to obtain a CDL; or

(v) driver poses an imminent hazard.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

(12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

(c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (12), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no contest to a violation of a disqualifying offense described in this section which plea is held in abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend, cancel, or revoke the person's CDL for the period required under this section for a conviction of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking the action under Subsection (13)(a).

(c) A plea which is held in abeyance may not be removed from a person's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

(i) reduced or dismissed in accordance with the plea in abeyance agreement; or

(ii) expunged under ~~[Section 77-40-105]~~ Title 77, Chapter 40, Utah Expungement Act.

(14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section 41-6a-502 when administrative action is taken against the operator's driving privilege pursuant to Section 53-3-223 for a period of:

(a) one year; or

(b) three years if the violation occurred while transporting hazardous materials.

(15) The division may concurrently impose any disqualification periods that arise under this section while a driver is disqualified by the Secretary of the United States Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

**Section 2. Section 77-38-14 is amended to read:**

**77-38-14. Notice of expungement petition -- Victim's right to object.**

(1) (a) The Department of Corrections or the Juvenile Probation Department shall prepare a document explaining the right of a victim or a victim's representative to object to a petition for expungement under Section 77-40-107 or ~~[78A-6-1105]~~ 78A-6-1503 and the procedures for obtaining notice of ~~[any such]~~ the petition.

(b) The department or division shall ~~[also]~~ provide each trial court a copy of the document ~~[which]~~ that has jurisdiction over delinquencies or criminal offenses subject to expungement.

(2) The prosecuting attorney in any case leading to a conviction or an adjudication subject to expungement shall provide a copy of the document to each person who would be entitled to notice of a petition for expungement under Sections 77-40-107 and ~~[78A-6-1105]~~ 78A-6-1503.

**Section 3. Section 77-40-101.5 is enacted to read:**

**77-40-101.5. Applicability to juvenile court records.**

This chapter does not apply to an expungement of a record for an adjudication or a nonjudicial adjustment, as that term is defined in Section 78A-6-105, of an offense in the juvenile court.

**Section 4. Section 77-40-103 (Effective 05/01/20) is amended to read:**

**77-40-103 (Effective 05/01/20). Petition for expungement procedure overview.**

The process for a petition for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction of a petitioner is as follows:

(1) The petitioner shall apply to the bureau for a certificate of eligibility for expungement and pay the application fee established by the department.

(2) Once the eligibility process is complete, the bureau shall notify the petitioner.

(3) If the petitioner is qualified to receive a certificate of eligibility for expungement, the petitioner shall pay the issuance fee established by the department.

(4) (a) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred.

(b) If there were no court proceedings, or the court no longer exists, the petitioner may file the petition in the district court where the arrest occurred.

(c) If a petitioner files a certificate of eligibility electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded.

(d) If the petitioner files the original certificate of eligibility with the petition, the clerk or the court shall scan and return the original certificate to the petitioner or the petitioner's attorney, who shall keep the original certificate until the proceedings are concluded.

(5) (a) The petitioner shall deliver a copy of the petition and certificate of eligibility to the prosecutorial office that handled the court proceedings.

(b) If there were no court proceedings, the petitioner shall deliver the copy of the petition and certificate to the county attorney's office in the jurisdiction where the arrest occurred.

(6) If the prosecutor or the victim files an objection to the petition, the court shall set a hearing and notify the prosecutor and the victim of the date set for the hearing.

(7) If the court requests a response from the Division of Adult Probation and Parole and a response is received, the petitioner may file a written reply ~~[to the response within 15 days of receipt of the response]~~ in accordance with Section 77-40-107.

(8) A court may grant an expungement without a hearing if no objection is received.

(9) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.

**Section 5. Section 77-40-105 (Effective 05/01/20) is amended to read:**

**77-40-105 (Effective 05/01/20).**

**Requirements to apply for a certificate of eligibility to expunge conviction -- Requirements on bureau.**

(1) An individual convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) An individual is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) felony automobile homicide;

(v) a felony violation of Subsection 41-6a-501(2);

(vi) a registerable sex offense as defined in Subsection 77-41-102(17); or

(vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

~~[(4) The bureau may not count pending or previous infractions, traffic offenses, or minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or minor regulatory offenses, when determining expungement eligibility.]~~

(4) When determining whether to issue a certificate of eligibility, the bureau may not consider:

(a) a petitioner's pending or previous:

(i) infraction;

(ii) traffic offense;

(iii) minor regulatory offense; or

(iv) clean slate eligible case that was automatically expunged in accordance with Section 77-40-114; or

(b) a fine or fee related to an offense described in Subsection (4)(a).

(5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection (8):

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(7) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (5) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.

(8) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (5) shall be increased by one.

(9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

**Section 6. Section 77-40-114 (Effective 05/01/20) is amended to read:**

**77-40-114 (Effective 05/01/20). Automatic expungement procedure.**

(1) (a) Except as provided in Subsection (1)(b) and subject to Section 77-40-116, this section governs the process for the automatic expungement of all records in:

(i) except as provided in Subsection (2)(d), a case that resulted in an acquittal on all charges;

(ii) except as provided in Subsection (3)(d), a case that is dismissed with prejudice; or

(iii) a case that is a clean slate eligible case.

(b) This section does not govern automatic expungement of a traffic offense.

(2) (a) ~~[The]~~ Except as provided in Subsection (2)(d), the process for automatic expungement of records for a case that resulted in an acquittal on all charges is as described in Subsections (2)(b) through (c).

(b) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(c) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

(d) For purposes of this section, a case that resulted in acquittal on all charges does not include a case that resulted in an acquittal because the individual is found not guilty by reason of insanity.

(3) (a) The process for an automatic expungement of a case that is dismissed with prejudice is as described in Subsections (3)(b) through (c).

(b) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(c) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

(d) For purposes of this Subsection (3), a case that is dismissed with prejudice does not include a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b).

(4) (a) The process for the automatic expungement of a clean slate eligible case is as described in Subsections (4)(b) through (f) and in accordance with any rules made by the Judicial Council as described in Subsection (4)(g).

(b) A prosecuting agency shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be a clean slate eligible case.

(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is sent, the prosecuting agency shall provide written notice in accordance with any rules made by the Judicial Council if the prosecuting agency objects to an automatic expungement for any of the following reasons:

(i) after reviewing the agency record, the prosecuting agency believes that the case does not meet the definition of a clean slate eligible case;

(ii) the individual has not paid court-ordered restitution to the victim; or

(iii) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual with a clean slate eligible case is continuing to engage in criminal activity within or outside of the state.

(d) (i) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (4)(c) within 35 days of the day on which the notice described in Subsection (4)(b) is sent, the court may not proceed with automatic expungement.

(ii) If 35 days pass from the day on which the notice described in Subsection (4)(b) is sent without the prosecuting agency providing written notice of an objection for a reason described in Subsection (4)(c), the court may proceed with automatic expungement.

(e) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(f) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

(g) The Judicial Council shall make rules to govern the process for automatic expungement of records for a clean slate eligible case in accordance with this Subsection (4).

(5) Nothing in this section precludes an individual from filing a petition for expungement of records that are eligible for automatic expungement under this section if an automatic expungement has not occurred pursuant to this section.

(6) An automatic expungement performed under this section does not preclude a person from requesting access to expunged records in accordance with Section 77-40-109 or 77-40-110.

**Section 7. Section 78A-6-116 is amended to read:**

**78A-6-116. Minor's cases considered civil proceedings -- Adjudication of jurisdiction by juvenile court not conviction of crime -- Exceptions -- Minor not to be charged with crime -- Exception -- Traffic violation cases -- Abstracts to Department of Public Safety -- Information sharing.**

(1) Except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703, proceedings in a minor's case shall be regarded as civil proceedings with the court exercising equitable powers.

(2) An adjudication by a juvenile court that a minor is within its jurisdiction under Section 78A-6-103 is not considered a conviction of a crime, except in cases involving traffic violations. An adjudication may not operate to impose any civil disabilities upon the minor nor to disqualify the minor for any civil service or military service or appointment.

(3) A minor may not be charged with a crime or convicted in any court except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703, and in cases involving traffic violations. When a petition has been filed in the juvenile court, the minor may not later be subjected to criminal prosecution based on the same facts except as provided in Section 78A-6-702 or 78A-6-703.

(4) An adjudication by a juvenile court that a minor is within its jurisdiction under Section 78A-6-103 is considered a conviction for the purposes of determining the level of offense for which a minor may be charged and enhancing the level of an offense in the juvenile court. A prior adjudication may be used to enhance the level or degree of an offense committed by an adult only as otherwise specifically provided.

(5) Abstracts of court records for all adjudications of traffic violations shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

(6) A court or state agency with custody of an individual's record related to an offense that the individual is alleged to have committed, or an offense that the individual committed, before the individual was 18 years old may not disclose the record to a federal agency that is responsible for criminal justice research or proceedings unless the court or state agency is required to share the record under state or federal law.

~~(6)~~ (7) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing the order as provided in Section 78A-6-117.

**Section 8. Section 78A-6-1501 is enacted to read:**

**Part 15. Juvenile Expungement Act**

**78A-6-1501. Title.**

This part is known as the "Juvenile Expungement Act."

**Section 9. Section 78A-6-1502 is enacted to read:**

**78A-6-1502. Definitions.**

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to a nonjudicial adjustment or an adjudication for which expungement may be ordered under this part.

(2) "Expunge" means to seal or otherwise restrict access to an individual's record held by a court or an agency when the record relates to a nonjudicial adjustment or an adjudication of an offense in the juvenile court.

**Section 10. Section 78A-6-1503, which is renumbered from Section 78A-6-1105 is renumbered and amended to read:**

**[78A-6-1105]. 78A-6-1503. Requirements to apply to expunge an adjudication.**

(1) (a) ~~[A person]~~ An individual who has been adjudicated ~~[under this chapter]~~ by a juvenile court may petition the court for ~~[the expungement of the person's juvenile court]~~ an order to expunge the individual's juvenile court record and any related records in the custody of ~~[a state]~~ an agency~~;~~ if:

(i) the ~~[person]~~ individual has reached 18 years ~~[of age]~~ old; and

(ii) at least one year has ~~[elapsed]~~ passed from the date of:

(A) termination of the continuing jurisdiction of the juvenile court; or~~;~~ if the person was committed to a secure youth corrections facility, one year from the date of]

(B) the ~~[person's]~~ individual's unconditional release from the custody of the Division of Juvenile Justice Services if the individual was committed to a secure youth corrections facility.

(b) The court may waive the requirements in Subsection (1)(a)~~;~~ if the court finds, and states on the record, the reason why the waiver is appropriate.

(c) The petitioner shall include in the petition described in Subsection (1)(a):

(i) any ~~[agencies]~~ agency known or alleged to have any ~~[documents]~~ records related to the offense for which expungement is being sought~~;~~ and

~~(d) The petitioner shall include with the petition]~~

(ii) the original criminal history report obtained from the Bureau of Criminal Identification in accordance with ~~[the provisions of]~~ Section 53-10-108.

~~(e)~~ (d) The petitioner shall send a copy of the petition described in Subsection (1)(a) to the county attorney or, if within a prosecution district, the district attorney.

~~(f)~~ (e) (i) Upon the filing of a petition described in Subsection (1)(a), the court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney~~;~~ and the agency with custody of the records at least 30 days ~~[prior to]~~ before the day on which the hearing of the pendency of the petition is scheduled; and

(C) notify the county attorney or district attorney~~;~~ and the agency with records that the petitioner is asking the court to expunge of the date of the hearing.

(ii) (A) The court shall provide a victim with the opportunity to request notice of a petition ~~[for expungement. A]~~ described in Subsection (1)(a).

(B) Upon the victim's request under Subsection (1)(e)(ii)(A), the victim shall receive notice of ~~[a]~~ the petition ~~[for expungement]~~ at least 30 days ~~[prior to]~~ before the day on which the hearing ~~[if, prior to the entry of]~~ is scheduled if, before the day on which an expungement order~~;~~ is made, the victim or, in the case of a child or ~~[a person]~~ an individual who is incapacitated or deceased, the victim's next of kin or authorized representative~~;~~ submits a written and signed request for notice to the court in the judicial district in which the ~~[crime]~~ offense occurred or judgment ~~[was]~~ is entered.

(C) The notice described in Subsection (1)(e)(ii)(B) shall include a copy of the petition described in Subsection (1)(a) and any statutes and rules applicable to the petition.

(2) (a) At the hearing described in Subsection (1)(e)(i), the county attorney or district attorney, a victim, and any other ~~[person]~~ individual who may have relevant information about the petitioner may testify.

(b) In deciding whether to grant a petition described in Subsection (1)(a) for expungement, the court shall consider whether the rehabilitation of the petitioner has been attained to the satisfaction of the court, ~~[taking into consideration]~~ including the petitioner's response to programs and

treatment, the petitioner's behavior subsequent to the adjudication, and the nature and seriousness of the conduct.

(c) The court may order sealed all of the petitioner's records under the control of the juvenile court and [any of petitioner's records under the control of any other agency or official pertaining to the petitioner's adjudicated juvenile court cases, including relevant related records] an agency or an official, including any record contained in the Management Information System created [by] in Section 62A-4a-1003 and the Licensing Information System created [by] in Section 62A-4a-1005, if the court finds that:

(i) the petitioner has not, [since the termination of the court's jurisdiction or the petitioner's unconditional release from the Division of Juvenile Justice Services,] in the five years preceding the day on which the petition described in Subsection (1)(a) is filed, been convicted of a [v] violent felony, as defined in Section 76-3-203.5;

[~~(A) felony; or~~]

[~~(B) misdemeanor involving moral turpitude;~~]

[~~(ii) no proceeding involving a felony or misdemeanor is pending or being instituted]~~

(ii) there are no delinquency or criminal proceedings pending against the petitioner; and

(iii) a judgment for restitution entered by the court on the conviction for which the expungement is sought has been satisfied.

(3) (a) The petitioner [shall be] is responsible for service of the [order of] expungement order issued under Subsection (2) to [all affected state, county, and local entities, agencies, and officials] any affected agency or official.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or [entity] the official receiving the expungement order described in Subsection (3)(a) shall only expunge all references to the petitioner's name in the records pertaining to the petitioner's [adjudicated juvenile court cases] juvenile court record.

[~~(4) Upon the entry of the order, the proceedings in the petitioner's case shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of the records, and only to persons named in the petition.]~~

[~~(5) (4) The court may not expunge a [juvenile court] record if the record contains an adjudication of:~~

(a) Section 76-5-202, aggravated murder; or

(b) Section 76-5-203, murder.

[~~(6) (a) A person whose juvenile court record consists solely of nonjudicial adjustments as provided in Section 78A-6-602 may petition the~~

court for expungement of the person's record if the person:]

(i) has reached 18 years of age; and]

[~~(ii) has completed the conditions of the nonjudicial adjustments.]~~

[~~(b) The court shall, without a hearing, order sealed all petitioner's records under the control of the juvenile court and any of petitioner's records under the control of any other agency or official pertaining to the petitioner's nonjudicial adjustments.]~~

**Section 11. Section 78A-6-1504 is enacted to read:**

**78A-6-1504. Nonjudicial adjustment expungement.**

(1) An individual whose record consists solely of one or more nonjudicial adjustments may petition the court for an order to expunge the individual's juvenile court record if the individual:

(a) has reached 18 years old; and

(b) has completed the conditions of each nonjudicial adjustment.

(2) (a) The petitioner shall include in the petition described in Subsection (1) any agency known or alleged to have any records related to the nonjudicial adjustment for which expungement is being sought.

(b) The petitioner is not required to include in the petition described in Subsection (1) an original criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) Upon the filing of the petition described in Subsection (1), the court shall, without a hearing, order expungement of all of the petitioner's records under the control of the juvenile court, an agency, or an official.

(4) (a) The petitioner is responsible for service of the expungement order issued under Subsection (3) to any affected agency or official.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or the official receiving the expungement order shall expunge only the references to the individual's name in the records relating to the petitioner's nonjudicial adjustment.

**Section 12. Section 78A-6-1505 is enacted to read:**

**78A-6-1505. Effect of an expunged record -- Agency duties.**

(1) Upon receipt of an expungement order under this part, an agency shall expunge all records described in the expungement order that are under the control of the agency in accordance with Subsection 78A-6-1504(4)(b).

(2) Upon the entry of the expungement order under this part:

(a) an adjudication or a nonjudicial adjustment in a petitioner's case is considered to have never occurred; and

(b) the petitioner may reply to an inquiry on the matter as though there never was an adjudication or nonjudicial adjustment.

(3) The following persons may inspect an expunged record upon a petition by an individual who is the subject of the record:

(a) the individual who is the subject of the record; and

(b) a person that is named in the petition.

(4) An agency named in an expungement order under this part shall mail an affidavit to the petitioner verifying the agency has complied with the expungement order.

**Section 13. Section 78A-6-1506 is enacted to read:**

**78A-6-1506. Fees.**

(1) Except for a filing fee for a petition under this part, the court may not charge a fee for:

(a) an issuance of an expungement order under this part; or

(b) an expungement of a record under this part.

(2) An agency may not charge a fee for the expungement of a record under this part.

**Section 14. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2020.

**CHAPTER 219****H. B. 399**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**ALCOHOL AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes  
 Senate Sponsor: Jerry W. Stevenson

**LONG TITLE****General Description:**

This bill amends and enacts provisions of the Alcoholic Beverage Control Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides a grandfather clause for certain licensees regarding proximity requirements;
- ▶ prohibits advertising that promotes the intoxicating effects of alcohol or emphasizes the high alcohol content of an alcoholic product;
- ▶ enacts provisions regarding percentage lease agreements;
- ▶ consolidates provisions regarding qualifications for a resort license;
- ▶ grants the Alcoholic Beverage Control Commission (commission) plenary power to deem a license, permit, or certificate of approval forfeit;
- ▶ consolidates provisions regarding application requirements for retail licenses;
- ▶ grants the commission rulemaking authority to set standards for dispensing stations and areas;
- ▶ permits certain package agencies and an on-premise banquet licensee to provide an alcoholic product free of charge to a guest room as part of room service under certain conditions;
- ▶ amends provisions regarding the timing of reporting violations;
- ▶ grants the department power to issue an order to show cause under certain conditions;
- ▶ amends provisions regarding multiple retail licenses operating on the same premises;
- ▶ amends provisions regarding bringing an alcoholic product onto or removing an alcoholic product from licensed premises;
- ▶ amends provisions regarding a retail licensee ceasing operation;
- ▶ amends operational requirements for a full-service restaurant licensee regarding leasing a locker for a patron's storage of wine;
- ▶ amends provisions regarding minors in or on the lounge or bar areas of certain licensees;
- ▶ amends the definition of recreational amenity;
- ▶ grants the commission power to designate by rule a recreational amenity under certain conditions;
- ▶ amends the total annual gross receipts from the sale of food that a reception center licensee must maintain;
- ▶ creates a hospitality amenity license as a retail license and establishes operational requirements;
- ▶ prohibits one or more licensees from having a retail license on the same licensed premises or adjacent to an off-premise beer retailer state

- licensee's licensed premises, except under certain conditions;
- ▶ amends the Transfer of Retail License Act to:
  - govern the transfer of an off-premise beer retailer state license, a manufacturing license, and an industrial or manufacturing use permit; and
  - permit the transfer of a bar establishment license across county lines;
- ▶ creates an arena license, including licensing requirements, operational requirements, and enforcement;
- ▶ consolidates provisions regarding sublicenses, creating the Sublicense Act;
- ▶ requires a person who substantially changes an event permit application to pay a nonrefundable fee;
- ▶ repeals provisions regarding enforcement of the Nuisance Retail Licensee Act in relation to hotel and resort licensees; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 32B-1-102, as last amended by Laws of Utah 2019, Chapters 336, 403, 498 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 403
- 32B-1-202, as last amended by Laws of Utah 2018, Chapter 249
- 32B-1-206, as renumbered and amended by Laws of Utah 2011, Chapter 307
- 32B-1-304, as last amended by Laws of Utah 2019, Chapter 145
- 32B-1-305, as last amended by Laws of Utah 2019, Chapter 403
- 32B-1-607, as last amended by Laws of Utah 2019, Chapter 403
- 32B-2-202, as last amended by Laws of Utah 2019, Chapter 403
- 32B-2-605, as last amended by Laws of Utah 2019, Chapter 403
- 32B-3-202, as enacted by Laws of Utah 2010, Chapter 276
- 32B-3-204, as last amended by Laws of Utah 2012, Chapter 365
- 32B-4-415, as last amended by Laws of Utah 2018, Chapter 249
- 32B-4-422, as last amended by Laws of Utah 2011, Chapter 307
- 32B-5-201, as last amended by Laws of Utah 2017, Chapter 455
- 32B-5-202, as last amended by Laws of Utah 2018, Chapter 249
- 32B-5-203, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-204, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-207, as last amended by Laws of Utah 2019, Chapter 403
- 32B-5-301, as last amended by Laws of Utah 2019, Chapter 403
- 32B-5-307, as last amended by Laws of Utah 2018, Chapter 249



32B-5-309, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-6-205, as last amended by Laws of Utah 2019, Chapter 403

32B-6-205.2, as last amended by Laws of Utah 2019, Chapter 403

32B-6-406, as last amended by Laws of Utah 2018, Chapter 249

32B-6-603, as last amended by Laws of Utah 2019, Chapter 403

32B-6-605, as last amended by Laws of Utah 2019, Chapter 403

32B-6-702, as last amended by Laws of Utah 2019, Chapter 403

32B-6-803, as last amended by Laws of Utah 2019, Chapter 403

32B-6-805, as last amended by Laws of Utah 2019, Chapter 403

32B-8-102, as last amended by Laws of Utah 2017, Chapter 455

32B-8-201, as enacted by Laws of Utah 2010, Chapter 276

32B-8-202, as last amended by Laws of Utah 2011, Chapter 334

32B-8-401, as last amended by Laws of Utah 2011, Chapters 307 and 334

32B-8-501, as last amended by Laws of Utah 2019, Chapter 145

32B-8-502, as enacted by Laws of Utah 2010, Chapter 276

32B-8a-101, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8a-102, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8a-201, as last amended by Laws of Utah 2013, Chapter 349 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8a-202, as last amended by Laws of Utah 2018, Chapter 249

32B-8a-203, as last amended by Laws of Utah 2018, Chapter 249

32B-8a-302, as last amended by Laws of Utah 2017, Chapters 455, 471 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 471

32B-8a-303, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8a-401, as last amended by Laws of Utah 2016, Chapter 82

32B-8a-402, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8a-404, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8a-501, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8a-502, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8b-102, as last amended by Laws of Utah 2018, Chapter 249

32B-8b-201, as last amended by Laws of Utah 2017, Chapter 455

32B-8b-202, as enacted by Laws of Utah 2016, Chapter 80

32B-8b-301, as last amended by Laws of Utah 2018, Chapter 249

32B-8b-401, as enacted by Laws of Utah 2016, Chapter 80

32B-9-201, as last amended by Laws of Utah 2012, Chapter 365

32B-10-206, as enacted by Laws of Utah 2010, Chapter 276

32B-11-208, as enacted by Laws of Utah 2010, Chapter 276

32B-11-403, as last amended by Laws of Utah 2016, Chapter 266

63I-2-232, as last amended by Laws of Utah 2019, First Special Session, Chapter 2

**ENACTS:**

32B-1-208, Utah Code Annotated 1953

32B-7-409, Utah Code Annotated 1953

32B-6-1001, Utah Code Annotated 1953

32B-6-1002, Utah Code Annotated 1953

32B-6-1003, Utah Code Annotated 1953

32B-6-1004, Utah Code Annotated 1953

32B-6-1005, Utah Code Annotated 1953

32B-8c-101, Utah Code Annotated 1953

32B-8c-102, Utah Code Annotated 1953

32B-8c-201, Utah Code Annotated 1953

32B-8c-202, Utah Code Annotated 1953

32B-8c-301, Utah Code Annotated 1953

32B-8c-401, Utah Code Annotated 1953

32B-8d-101, Utah Code Annotated 1953

32B-8d-102, Utah Code Annotated 1953

32B-8d-103, Utah Code Annotated 1953

32B-8d-104, Utah Code Annotated 1953

32B-8d-105, Utah Code Annotated 1953

32B-8d-201, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

32B-8d-202, (Renumbered from 32B-8-301, as enacted by Laws of Utah 2010, Chapter 276)

32B-8d-203, (Renumbered from 32B-8-302, as enacted by Laws of Utah 2010, Chapter 276)

32B-8d-204, (Renumbered from 32B-8-303, as enacted by Laws of Utah 2010, Chapter 276)

32B-8d-205, (Renumbered from 32B-8-304, as last amended by Laws of Utah 2017, Chapter 455)

**REPEALS:**

32B-8-203, as enacted by Laws of Utah 2010, Chapter 276  
 32B-8-204, as last amended by Laws of Utah 2011, Chapter 334  
 32B-8-402, as last amended by Laws of Utah 2011, Chapter 334  
 32B-8-503, as enacted by Laws of Utah 2010, Chapter 276  
 32B-8b-203, as enacted by Laws of Utah 2016, Chapter 80  
 32B-8b-204, as enacted by Laws of Utah 2016, Chapter 80  
 32B-8b-302, as last amended by Laws of Utah 2018, Chapter 249  
 32B-8b-402, as enacted by Laws of Utah 2016, Chapter 80

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

**Section 1. Section 32B-1-102 is amended to read:**

**32B-1-102. Definitions.**

As used in this title:

- (1) "Airport lounge" means a business location:
- (a) at which an alcoholic product is sold at retail for consumption on the premises; and
  - (b) that is located at an international airport with a United States Customs office on the premises of the international airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- (3) "Alcoholic beverage" means the following:
- (a) beer; or
  - (b) liquor.
- (4) (a) "Alcoholic product" means a product that:
- (i) contains at least .5% of alcohol by volume; and
  - (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.
- (b) "Alcoholic product" includes an alcoholic beverage.
- (c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:
- (i) except as provided in Subsection (4)(d), an extract;
  - (ii) vinegar;
  - (iii) preserved nonintoxicating cider;
  - (iv) essence;
  - (v) tincture;
  - (vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

~~[(6)]~~ (8) "Banquet" means ~~[a private]~~ an event:

(a) that is a private event or a privately sponsored event;

~~[(a)]~~ (b) that is held at one or more designated locations approved by the commission in or on the premises of ~~[a]~~:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center; ~~[or]~~

(v) a performing arts facility; or

(vi) an arena;

~~[(b)]~~ (c) for which there is a contract:

(i) between a person operating a facility listed in Subsection ~~[(6)(a)]~~ (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection ~~[(6)(a)]~~ (8)(b) is required to provide an alcoholic product at the event; and

~~[(e)]~~ (d) at which food and alcoholic products may be sold, offered for sale, or furnished.

~~[(7)]~~ (9) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

<p>(a) stored; or</p> <p>(b) dispensed.</p> <p>[<del>(8)</del>] (10) (a) “Bar establishment license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.</p> <p>(b) “Bar establishment license” includes:</p> <p>(i) a dining club license;</p> <p>(ii) an equity license;</p> <p>(iii) a fraternal license; or</p> <p>(iv) a bar license.</p> <p>[<del>(9)</del>] (11) “Bar license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.</p> <p>[<del>(40)</del>] (12) (a) Subject to Subsection (10)(d), “beer” means a product that:</p> <p>(i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by volume or 4% by weight; and</p> <p>(ii) is obtained by fermentation, infusion, or decoction of malted grain.</p> <p>(b) “Beer” may or may not contain hops or other vegetable products.</p> <p>(c) “Beer” includes a product that:</p> <p>(i) contains alcohol in the percentages described in Subsection [<del>(10)</del>] (12)(a); and</p> <p>(ii) is referred to as:</p> <p>(A) beer;</p> <p>(B) ale;</p> <p>(C) porter;</p> <p>(D) stout;</p> <p>(E) lager; or</p> <p>(F) a malt or malted beverage.</p> <p>(d) “Beer” does not include a flavored malt beverage.</p> <p>[<del>(41)</del>] (13) “Beer-only restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.</p> <p>[<del>(42)</del>] (14) “Beer retailer” means a business that:</p> <p>(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and</p> <p>(b) is licensed as:</p> <p>(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or</p> <p>(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.</p>	<p>[<del>(13)</del>] (15) “Beer wholesaling license” means a license:</p> <p>(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and</p> <p>(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.</p> <p>[<del>(14)</del>] (16) “Billboard” means a public display used to advertise, including:</p> <p>(a) a light device;</p> <p>(b) a painting;</p> <p>(c) a drawing;</p> <p>(d) a poster;</p> <p>(e) a sign;</p> <p>(f) a signboard; or</p> <p>(g) a scoreboard.</p> <p>[<del>(15)</del>] (17) “Brewer” means a person engaged in manufacturing:</p> <p>(a) beer;</p> <p>(b) heavy beer; or</p> <p>(c) a flavored malt beverage.</p> <p>[<del>(16)</del>] (18) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.</p> <p>[<del>(17)</del>] (19) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.</p> <p>[<del>(18)</del>] (20) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:</p> <p>(a) under a single contract;</p> <p>(b) at a fixed charge in accordance with the bus company’s tariff; and</p> <p>(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.</p> <p>[<del>(19)</del>] (21) “Church” means a building:</p> <p>(a) set apart for worship;</p> <p>(b) in which religious services are held;</p> <p>(c) with which clergy is associated; and</p> <p>(d) that is tax exempt under the laws of this state.</p> <p>[<del>(20)</del>] (22) “Commission” means the Alcoholic Beverage Control Commission created in Section 32B-2-201.</p> <p>[<del>(21)</del>] (23) “Commissioner” means a member of the commission.</p> <p>[<del>(22)</del>] (24) “Community location” means:</p> <p>(a) a public or private school;</p> <p>(b) a church;</p>
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<p>(c) a public library;</p> <p>(d) a public playground; or</p> <p>(e) a public park.</p> <p>[(23)] (25) "Community location governing authority" means:</p> <p>(a) the governing body of the community location; or</p> <p>(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.</p> <p>[(24)] (26) "Container" means a receptacle that contains an alcoholic product, including:</p> <p>(a) a bottle;</p> <p>(b) a vessel; or</p> <p>(c) a similar item.</p> <p>[(25)] (27) "Convention center" means a facility that is:</p> <p>(a) in total at least 30,000 square feet; and</p> <p>(b) otherwise defined as a "convention center" by the commission by rule.</p> <p>[(26)] (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.</p> <p>(b) "Counter" does not include a dispensing structure.</p> <p>[(27)] (29) "Crime involving moral turpitude" is as defined by the commission by rule.</p> <p>[(28)] (30) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.</p> <p>[(29)] (31) "Department compliance officer" means an individual who is:</p> <p>(a) an auditor or inspector; and</p> <p>(b) employed by the department.</p> <p>[(30)] (32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.</p> <p>[(31)] (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.</p> <p>[(32)] (34) "Director," unless the context requires otherwise, means the director of the department.</p> <p>[(33)] (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:</p> <p>(a) against a person subject to administrative action; and</p>	<p>(b) that is brought on the basis of a violation of this title.</p> <p>[(34)] (36) (a) Subject to Subsection [(34)] (36)(b), "dispense" means:</p> <p>(i) drawing an alcoholic product; and</p> <p>(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.</p> <p>(b) The definition of "dispense" in this Subsection [(34)] (36) applies only to:</p> <p>(i) a full-service restaurant license;</p> <p>(ii) a limited-service restaurant license;</p> <p>(iii) a reception center license; and</p> <p>(iv) a beer-only restaurant license.</p> <p>[(35)] (37) "Dispensing structure" means a surface or structure on a licensed premises:</p> <p>(a) where an alcoholic product is dispensed; or</p> <p>(b) from which an alcoholic product is served.</p> <p>[(36)] (38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.</p> <p>[(37)] (39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.</p> <p>[(38)] "Educational facility" includes:</p> <p>[(a) a nursery school;]</p> <p>[(b) an infant day care center; and]</p> <p>[(c) a trade and technical school.]</p> <p>[(39)] (40) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.</p> <p>[(40)] (41) "Event permit" means:</p> <p>(a) a single event permit; or</p> <p>(b) a temporary beer event permit.</p> <p>[(41)] (42) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.</p> <p>[(42)] (43) (a) "Flavored malt beverage" means a beverage:</p> <p>(i) that contains at least .5% alcohol by volume;</p> <p>(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;</p> <p>(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and</p>
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(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) “Flavored malt beverage” is considered liquor for purposes of this title.

[443] (44) “Fraternal license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

[444] (45) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

[445] (46) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) “Furnish” includes to:

- (i) serve;
- (ii) deliver; or
- (iii) otherwise make available.

[446] (47) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).

[447] (48) “Hard cider” means the same as that term is defined in 26 U.S.C. Sec. 5041.

[448] (49) “Health care practitioner” means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

[449] (50) (a) “Heavy beer” means a product that:

- (i) contains more than 5% alcohol by volume; and
- (ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Heavy beer” is considered liquor for the purposes of this title.

(51) “Hospitality amenity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

[450] (52) “Hotel” means a commercial lodging establishment that:

(a) offers at least ~~30~~ 40 rooms as temporary sleeping accommodations for compensation;

(b) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(c) (i) has adequate kitchen or culinary facilities on the premises to provide complete meals; or

(ii) (A) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract ~~that~~ and can accommodate at least 75 individuals; or

(B) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

[451] (53) “Hotel license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

[452] (54) “Identification card” means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

[453] (55) “Industry representative” means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

[454] (56) “Industry representative sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

~~[(45)]~~ (57) “Interdicted person” means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

- (a) law; or
- (b) court order.

~~[(46)]~~ (58) “Intoxicated” means that a person:

(a) is significantly impaired as to the person’s mental or physical functions as a result of the use of:

- (i) an alcoholic product;
- (ii) a controlled substance;
- (iii) a substance having the property of releasing toxic vapors; or
- (iv) a combination of Subsections ~~[(46)]~~ (58)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

~~[(47)]~~ (59) “Investigator” means an individual who is:

- (a) a department compliance officer; or
- (b) a nondepartment enforcement officer.

~~[(48)]~~ “Invitee” means the same as that term is defined in Section 32B-8-102.]

~~[(49)]~~ (60) “License” means:

- (a) a retail license;
- (b) a sublicense;

~~[(4b)]~~ (c) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

~~[(4e)]~~ (d) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

~~[(4d)]~~ (e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

~~[(4e)]~~ (f) a license issued in accordance with Chapter 17, Liquor Transport License Act.

~~[(60)]~~ (61) “Licensee” means a person who holds a license.

~~[(61)]~~ (62) “Limited-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

~~[(62)]~~ (63) “Limousine” means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity’s tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

~~[(63)]~~ (64) (a) (i) “Liquor” means a liquid that:

- (A) is:
  - (I) alcohol;
  - (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
  - (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
  - (IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) “Liquor” includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) “Liquor” does not include beer.

~~[(64)]~~ (65) “Liquor Control Fund” means the enterprise fund created by Section 32B-2-301.

~~[(65)]~~ (66) “Liquor transport license” means a license issued in accordance with Chapter 17, Liquor Transport License Act.

~~[(66)]~~ (67) “Liquor warehousing license” means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

~~[(67)]~~ (68) “Local authority” means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section 63H-1-201 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

~~[(68)]~~ (69) “Lounge or bar area” is as defined by rule made by the commission.

~~[(69)]~~ (70) “Manufacture” means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

~~[(70)]~~ (71) “Member” means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

~~[(71)]~~ (72) (a) “Military installation” means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) “Military installation” does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

~~[(72)]~~ (73) “Minibar” means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

~~[(73)]~~ (74) “Minor” means an individual under the age of 21 years.

~~[(74)]~~ (75) “Nondepartment enforcement agency” means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

~~[(75)]~~ (76) “Nondepartment enforcement officer” means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

~~[(76)]~~ (77) (a) “Off-premise beer retailer” means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer’s premises.

(b) “Off-premise beer retailer” does not include an on-premise beer retailer.

~~[(77)]~~ (78) “Off-premise beer retailer state license” means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

~~[(78)]~~ (79) “On-premise banquet license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

~~[(79)]~~ (80) “On-premise beer retailer” means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer’s premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

~~[(80)]~~ (81) “Opaque” means impenetrable to sight.

~~[(81)]~~ (82) “Package agency” means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

~~[(82)]~~ (83) “Package agent” means a person who holds a package agency.

~~[(83)]~~ (84) “Patron” means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

~~[(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or]~~

~~[(h) an invitee.]~~

~~[(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.]~~

~~[(84)]~~ (85) (a) “Performing arts facility” means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

~~[(85)]~~ (86) "Permittee" means a person issued a permit under:

- (a) Chapter 9, Event Permit Act; or
- (b) Chapter 10, Special Use Permit Act.

~~[(86)]~~ (87) "Person subject to administrative action" means:

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:
  - (i) an out-of-state brewer;
  - (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
  - (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:
  - (i) a person listed in Subsections ~~[(86)]~~ (87)(a) through (f); or
  - (ii) a package agent.

~~[(87)]~~ (88) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

~~[(88)]~~ (89) "Prescription" means an order issued by a health care practitioner when:

- (a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;
- (b) the order is made in the course of that health care practitioner's professional practice; and
- (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(90) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(91) "Principal license" means:

- (a) a resort license;
- (b) a hotel license; or
- (c) an arena license.

~~[(89)]~~ (92) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(93) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

~~[(90)]~~ (94) (a) "Proof of age" means:

- (i) an identification card;
- (ii) an identification that:
  - (A) is substantially similar to an identification card;
  - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
  - (C) includes date of birth; and
  - (D) has a picture affixed;
- (iii) a valid driver license certificate that:
  - (A) includes date of birth;
  - (B) has a picture affixed; and
  - (C) is issued:
    - (I) under Title 53, Chapter 3, Uniform Driver License Act; or
    - (II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

- (A) includes date of birth; and
- (B) has a picture affixed; or
- (v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(95) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;



(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer license;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a resort spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

[~~91~~] (96) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

[~~92~~] (97) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

[~~93~~] (98) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection [~~93~~] (98)(a) to a third party for the third party's event.

[~~94~~] (99) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

[~~95~~] (100) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

[~~96~~] (101) "Residence" means a person's principal place of abode within Utah.

[~~97~~] (102) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

[~~98~~] (103) "Resort" means the same as that term is defined in Section 32B-8-102.

[~~99~~] (104) "Resort facility" is as defined by the commission by rule.

(105) "Resort spa sublicense" means a resort license sublicense issued in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

[~~100~~] (106) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

[~~101~~] (107) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

[~~102~~] (108) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(109) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

[~~103~~] (110) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

- (g) an on-premise banquet license;
- (h) an on-premise beer license;
- (i) a reception center license;
- (j) a beer-only restaurant license;
- (k) a hospitality amenity license;
- ~~[(k)]~~ (l) a resort license; [or]
- ~~[(l)]~~ (m) a hotel license[-]; or
- (n) an arena license.

~~[(404)]~~ (111) “Room service” means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.

~~[(105) (a) “School” means a building used primarily for the general education of minors.]~~

(112) (a) “School” means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

- (i) elementary school;
- (ii) secondary school; or
- (iii) kindergarten.

(b) “School” does not include [an educational facility].:

- (i) a nursery school;
- (ii) a day care center;
- (iii) a trade and technical school;
- (iv) a preschool; or
- (v) a home school.

(113) “Secondary flavoring ingredient” means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

~~[(406)]~~ (114) “Sell” or “offer for sale” means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~[(407)]~~ (115) “Serve” means to place an alcoholic product before an individual.

~~[(408)]~~ (116) “Sexually oriented entertainer” means a person who while in a state of seminudity appears at or performs:

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
  - (i) a bar licensee; or
  - (ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection ~~[(108)]~~ (116)(b);

- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
  - (i) an employee;
  - (ii) an independent contractor;
  - (iii) an agent of the licensee; or
  - (iv) a different type of classification.

(117) “Shared seating area” means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

~~[(409)]~~ (118) “Single event permit” means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~[(410)]~~ (119) “Small brewer” means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

~~[(411)]~~ (120) “Small or unincorporated locality” means:

- (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;
- (b) a town, as classified under Section 10-2-301; or
- (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

~~[(412)]~~ (121) “Special use permit” means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(413)]~~ (122) (a) “Spirituous liquor” means liquor that is distilled.

(b) “Spirituous liquor” includes an alcoholic product defined as a “distilled spirit” by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

~~[(414)]~~ (123) “Sports center” is as defined by the commission by rule.

~~[(415)]~~ (124) (a) “Staff” means an individual who engages in activity governed by this title:

- (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
- (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
- (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) “Staff” includes:

- (i) an officer;
- (ii) a director;
- (iii) an employee;
- (iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

[~~(116)~~] (125) “State of nudity” means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

[~~(117)~~] (126) “State of seminudity” means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

[~~(118)~~] (127) (a) “State store” means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) “State store” does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

[~~(119)~~] (128) (a) “Storage area” means an area on licensed premises where the licensee stores an alcoholic product.

(b) “Store” means to place or maintain in a location an alcoholic product.

[~~(120)~~] (129) “Sublicense” means ~~[the same as that term is defined in Section 32B-8-102 or 32B-8b-102.]~~

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a resort spa sublicense.

[~~(121)~~] (130) “Supplier” means a person who sells an alcoholic product to the department.

[~~(122)~~] (131) “Tavern” means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

[~~(123)~~] (132) “Temporary beer event permit” means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

[~~(124)~~] (133) “Temporary domicile” means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

[~~(125)~~] (134) “Translucent” means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

[~~(126)~~] (135) “Unsaleable liquor merchandise” means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

~~[(127)]~~ (136) (a) “Wine” means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) “Wine” includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) “Wine” is considered liquor for purposes of this title, except as otherwise provided in this title.

~~[(128)]~~ (137) “Winery manufacturing license” means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

**Section 2. Section 32B-1-202 is amended to read:**

**32B-1-202. Proximity to community location.**

(1) As used in this section:

(a) (i) “Outlet” means:

(A) a state store;

(B) a package agency; or

(C) a retail licensee.

(ii) “Outlet” does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

(b) “Restaurant” means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee; or

(iii) a beer-only restaurant licensee.

(2) (a) The commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

(b) The commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.

(3) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.

(b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.

(4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of whether:

(a) the outlet or restaurant changes ownership;

(b) the property on which the outlet or restaurant is located changes ownership; or

(c) there is a lapse of one year or less in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

~~[(4)]~~ (5) (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(b) The provisions of this Subsection [(4)] (5) apply regardless of when the outlet's or restaurant's license is issued.

[(5)] (6) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

**Section 3. Section 32B-1-206 is amended to read:**

**32B-1-206. Advertising prohibited -- Exceptions.**

(1) (a) The department may not advertise liquor, except:

(i) the department may provide for an appropriate sign in the window or on the front of a state store or package agency denoting that it is a state authorized liquor retail facility;

(ii) the department or a package agency may provide a printed price list to the public;

(iii) the department may authorize the use of price posting and floor stacking of liquor within a state store;

(iv) subject to Subsection (1)(b), the department may provide a listing of the address and telephone number of a state store in one or more printed or electronic directories available to the general public; and

(v) subject to Subsection (1)(b), a package agency may provide a listing of its address and telephone number in one or more printed or electronic directories available to the general public.

(b) A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a telephone directory may not be displayed in an advertisement or other promotional format.

(2) (a) The department may not advertise an alcoholic product on a billboard.

(b) A package agency may not advertise an alcoholic product on a billboard, except to the extent allowed by the commission by rule.

(3) (a) The department may not display liquor or a price list in a window or showcase visible to passersby.

(b) A package agency may not display liquor or a price list in a window or showcase visible to passersby, except to the extent allowed by the commission by rule.

(4) Advertising of an alcoholic product may not:

(a) promote the intoxicating effects of alcohol; or

(b) emphasize the high alcohol content of the alcoholic product.

[(4)] (5) Except to the extent prohibited by this title, the advertising of an alcoholic product is allowed under guidelines established by the commission by rule.

[(5)] (6) The advertising or use of any means or media to offer an alcoholic product to the general public without charge is prohibited.

**Section 4. Section 32B-1-208 is enacted to read:**

**32B-1-208. Percentage lease agreements.**

(1) As used in this section:

(a) "Percentage lease agreement" means a lease agreement in which the lessee:

(i) is a retail licensee; and

(ii) pays the lessor:

(A) a base rent; and

(B) percentage rent.

(b) "Percentage rent" means a percentage:

(i) agreed upon between a lessor and lessee; and

(ii) of the total sales revenue that:

(A) exceed a fixed dollar amount of sales revenue; and

(B) the lessee earns while doing business on the rental premises.

(2) (a) The parties to a percentage lease agreement shall submit a copy of the percentage lease agreement to the department.

(b) If there is a material change to the percentage lease agreement submitted to the department under Subsection (2)(a), the parties to the percentage lease agreement shall promptly submit a copy of the changed percentage lease agreement to the department.

(3) If a percentage lease agreement requires a retail licensee to pay the lessor a percentage rent of 6% or less, the department may not conduct any further investigation into the percentage lease agreement.

(4) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(a) the maximum percentage of revenue from alcohol sales a percentage lease agreement may require; and

(b) the procedure for submitting a percentage lease agreement under Subsection (2).

**Section 5. Section 32B-1-304 is amended to read:**

**32B-1-304. Qualifications for a package agency, license, or permit -- Minors.**

(1) (a) [The] Except as provided in Subsection (7), the commission may not issue a package agency, license, or permit to a person who has been convicted of:

(i) within seven years before the day on which the commission issues the package agency, license, or permit, a felony under a federal law or state law;

(ii) within four years before the day on which the commission issues the package agency, license, or permit:

(A) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

(B) a crime involving moral turpitude; or

(iii) on two or more occasions within the five years before the day on which the package agency, license, or permit is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

(b) If the person is a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(vii) a member who owns at least 20% of the limited liability company.

(c) ~~The~~ Except as provided in Subsection (7), the proscription under Subsection (1)(a) applies if a person who is employed to act in a supervisory or managerial capacity for a package agency, licensee, or permittee has been convicted of an offense described in Subsection (1)(a).

(2) ~~The~~ Except as described in Section 32B-8-501, the commission may immediately suspend or revoke a package agency, license, or permit, and terminate a package agency agreement, if a person described in Subsection (1):

(a) after the day on which the package agency, license, or permit is issued, is found to have been convicted of an offense described in Subsection (1)(a) before the package agency, license, or permit is issued; or

(b) on or after the day on which the package agency, license, or permit is issued:

(i) is convicted of an offense described in Subsection (1)(a)(i) or (ii); or

(ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) ~~The~~ Except as described in Section 32B-8-501, the director may take emergency action by immediately suspending the operation of

the package agency, licensee, or permittee for the period during which a criminal matter is being adjudicated if a person described in Subsection (1):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i) or (ii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not issue a package agency, license, or permit to a person who has had any type of agency, license, or permit issued under this title revoked within the last three years.

(ii) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if a partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the corporation, or member who owns at least 20% of the limited liability company is or was:

(A) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of a limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following had any type of agency, license, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) a partner or managing agent of a partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation; or

(iii) a manager or member who owns at least 20% of a limited liability company.

(c) The commission may not issue a package agency, license, or permit to a person acting in an individual capacity if that person was:

(i) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued

and outstanding stock of a corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(5) (a) The commission may not issue a package agency, license, or permit to a minor.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(iii) a manager or member who owns at least 20% of the limited liability company.

(6) ~~[(f)]~~ Except as described in Section 32B-8-501, if a package agent, licensee, or permittee no longer possesses the qualifications required by this title for obtaining a package agency, license, or permit, the commission may terminate the package agency agreement, or revoke the license or permit.

(7) If the licensee is a resort licensee:

(a) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the resort, as the commission defines in rule; and

(b) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the resort license.

**Section 6. Section 32B-1-305 is amended to read:**

**32B-1-305. Requirement for a background check.**

(1) The department shall require an individual listed in Subsection (2), in accordance with this part, to:

(a) provide a signed waiver from the individual whose fingerprints may be registered in the Federal Bureau of Investigation Rap Back system that notifies the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used;

(b) submit to a background check in a form acceptable to the department; and

(c) consent to a background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The following shall comply with Subsection (1):

(a) an individual applying for employment with the department if:

(i) the department makes the decision to offer the individual employment with the department; and

(ii) once employed, the individual will receive benefits;

(b) an individual applying to the commission to operate a package agency;

(c) an individual applying to the commission for a license, unless the license is an off-premise beer retailer state license;

(d) an individual who with regard to an entity that is applying to the commission to operate a package agency or for a license is:

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporation;

(vii) a member who owns at least 20% of a limited liability company; or

(viii) an individual employed to act in a supervisory or managerial capacity; or

(e) an individual who becomes involved with an entity that operates a package agency or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day on which the entity:

(i) is approved to operate a package agency; or

(ii) is licensed by the commission.

(3) (a) Except as provided in Subsection (3)(b), the commission may not require an individual to comply with Subsection (1) based on the individual's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the package agency or license.

(b) The commission may require an individual described in Subsection (3)(a) to comply with Subsection (1) if the individual exercises direct decision making control over the day-to-day operations of the package agency or licensee.

(4) The department shall require compliance with Subsection (2)(e) as a condition of an entity's:

(a) continued operation of a package agency; or

(b) renewal of a license.

(5) The department may require as a condition of continued employment that a department employee:

(a) submit to a background check in a form acceptable to the department; and

(b) consent to a fingerprint criminal background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

**Section 7. Section 32B-1-607 is amended to read:**

**32B-1-607. Rulemaking authority.**

(1) The commission may adopt rules necessary to implement this part.

(2) Notwithstanding Subsections 32B-1-102~~(10)~~(12) and ~~(49)~~ (50), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules that allow for a tolerance in the alcohol content of beer or heavy beer as follows:

(a) up to 0.18% above or below when measured by volume; or

(b) up to 0.15% above or below when measured by weight.

**Section 8. Section 32B-2-202 is amended to read:**

**32B-2-202. Powers and duties of the commission.**

(1) The commission shall:

(a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;

(b) adopt and issue policies, rules, and procedures;

(c) set policy by written rules that establish criteria and procedures for:

(i) issuing, denying, not renewing, suspending, or revoking a package agency, license, permit, or certificate of approval; and

(ii) determining the location of a state store, package agency, or retail licensee;

(d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;

(e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, sublicenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:

(i) a package agency;

(ii) a full-service restaurant license;

(iii) a master full-service restaurant license;

(iv) a limited-service restaurant license;

(v) a master limited-service restaurant license;

(vi) a bar establishment license;

(vii) an airport lounge license;

(viii) an on-premise banquet license;

(ix) a resort license, ~~under which at least~~ which includes four or more sublicenses ~~[may be included]~~;

(x) an on-premise beer retailer license;

(xi) a reception center license;

(xii) a beer-only restaurant license;

(xiii) a hotel license, ~~under which at least~~ which includes three or more sublicenses ~~[may be included]~~;

(xiv) an arena license, which includes three or more sublicenses;

(xv) a hospitality amenity license;

~~(xiv)~~ (xvi) subject to Subsection (4), a single event permit;

~~(xv)~~ (xvii) subject to Subsection (4), a temporary beer event permit;

~~(xvi)~~ (xviii) a special use permit;

~~(xvii)~~ (xix) a manufacturing license;

~~(xviii)~~ (xx) a liquor warehousing license;

~~(xix)~~ (xxi) a beer wholesaling license;

~~(xx)~~ (xxii) a liquor transport license;

~~(xxi)~~ (xxiii) an off-premise beer retailer state license;

~~(xxii)~~ (xxiv) a master off-premise beer retailer state license; ~~and~~

~~(xxiii)~~ (xxv) one of the following that holds a certificate of approval:

(A) an out-of-state brewer;

(B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and

(C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; and

(xxvi) a resort spa sublicense;

(f) issue, deny, suspend, or revoke the following conditional licenses:

(i) a conditional retail license as defined in Section 32B-5-205; and

(ii) a conditional off-premise beer retailer state license as defined in Section 32B-7-406;

(g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;

(h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;

(i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;



(j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;

(k) (i) require the director to follow sound management principles; and

(ii) require periodic reporting from the director to ensure that:

(A) sound management principles are being followed; and

(B) policies established by the commission are being observed;

(l) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and

(ii) do the things necessary to support the department in properly performing the department's duties;

(m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:

(i) considered expedient; and

(ii) approved by the governor;

(n) prescribe by rule the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

(o) make rules governing the credit terms of beer sales within the state to retail licensees; and

(p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take disciplinary action against a person subject to administrative action.

(2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:

(a) establish a state store;

(b) issue authority to act as a package agent or operate a package agency; and

(c) issue [øæ], deny, or deem forfeit a license, permit, or certificate of approval.

(3) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) Notwithstanding Subsections ~~[(1)(e)(xiv) and (xv)]~~ (1)(e)(xvi) and (xvii), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

**Section 9. Section 32B-2-605 is amended to read:**

**32B-2-605. Operational requirements for package agency.**

(1) (a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.

(b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.

(c) (i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

(iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.

(iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.

(v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.

(2) (a) A package agency shall be operated by an individual who is either:

(i) the package agent; or

(ii) an individual designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

(i) an employee of the package agent; and

(ii) responsible for the operation of the package agency.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

(i) inform the department of a proposed change in the individual designated to operate a package agency; and

(ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.

(3) (a) A package agent shall display in a prominent place in the package agency the record

issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5) (a) A package agency may not purchase liquor from a person except from the department.

(b) At the discretion of the department, the department may provide liquor [~~may be provided by the department~~] to a package agency for sale on consignment.

(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7) (a) [A] Except as provided in Subsection (7)(b), a package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(b) A package agency may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if:

(i) the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish an alcoholic product as part of room service;

(ii) staff of the package agency provides the alcoholic product:

(A) in person; and

(B) only to an adult guest in the guest room;

(iii) staff of the package agency does not leave the alcoholic product outside a guest room for retrieval by a guest; and

(iv) the alcoholic product:

(A) is not a spirituous liquor; and

(B) is in an unopened container not to exceed 750 milliliters.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(9) (a) A package agency may not employ a minor to handle liquor.

(b) (i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10) (a) A package agency may not close or cease operation for a period longer than 72 hours, unless:

(i) the package agency notifies the department in writing at least seven days before the [closing] day on which the package agency closes or ceases operation; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period described in Subsection (10)(c)(i) an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

(i) the dates of closure or cessation of operation;

(ii) the reason for the closure or cessation of operation; and

(iii) the date on which the package agency will reopen or resume operation.

(e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.

(f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.

(11) A package agency may not transfer [its] the package agency's operations from one location to another location without prior written approval of the commission.

(12) (a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.

(b) A package agency has no monetary value for any type of disposition.

(13) (a) Subject to the other provisions of this Subsection (13):

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday.

(ii) Sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:

(A) a full-service restaurant license;

(B) a limited-service restaurant license;

(C) a beer-only restaurant license;

(D) a dining club license; or

(E) a bar license;

(iii) the restaurant, dining club, or bar is located at the manufacturing facility;

(iv) the restaurant, dining club, or bar sells an alcoholic product produced at the manufacturing facility;

(v) the manufacturing facility:

(A) owns the restaurant, dining club, or bar; or

(B) operates the restaurant, dining club, or bar;

(vi) the package agency only sells an alcoholic product produced at the manufacturing facility; and

(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant, dining club, or bar.

(c) (i) Subsection (13)(a) does not apply to a package agency held by the following if the package agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store:

(A) a resort licensee; or

(B) a hotel licensee.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

(14) (a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:

(i) 21 years of age or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under the age of 21 and is not accompanied by a person described in Subsection (14)(a) may:

(i) ask the suspected minor for proof of age;

(ii) ask the person who accompanies the suspected minor for proof of age; and

(iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency shall require the suspected minor and the person who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).

(15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency.

(c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency providing the liquor in person only to an adult guest in the guest room;

(B) staff of the package agency not leaving the liquor outside a guest room for retrieval by a guest; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) On or after October 1, 2011, a package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

(17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.

(18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

- (a) physical facilities;
- (b) conditions of operation;
- (c) hours of operation;
- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matter considered appropriate by the commission.

(19) A package agency may not maintain a minibar.

**Section 10. Section 32B-3-202 is amended to read:**

**32B-3-202. Timing of reporting violations.**

~~[Except when the person subject to administrative action is staff.]~~

~~[(1) A disciplinary proceeding may not be initiated or maintained by the commission or department on the basis, in whole or in part, of a violation of this title unless a person subject to administrative action against whom the violation is alleged is notified by the department of the violation in accordance with this section.]~~

~~[(2) (a) A nondepartment enforcement agency or nondepartment enforcement officer may not report a violation of this title to the department more than eight business days after the day on which a~~

~~nondepartment enforcement officer or agency completes an investigation that finds a violation of this title.]~~

~~[(b) If the commission or department wants the right to initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a report described in Subsection (2)(a), the department shall notify a person subject to administrative action who is alleged by the report to have violated this title:]~~

~~[(i) by no later than eight business days of the day on which the department receives the report described in Subsection (2)(a); and]~~

~~[(ii) that the commission or department may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of the violation.]~~

~~[(3) If the commission or department wants the right to initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by a report of a department compliance officer, the department shall notify a person subject to administrative action who is alleged by the report to have violated this title:]~~

~~[(a) by no later than eight business days of the day on which the department compliance officer completes an investigation that finds a violation of this title; and]~~

~~[(b) that the commission or department may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of the violation.]~~

(1) The department or the commission may not take administrative action against a person subject to administrative action before:

(a) a nondepartment enforcement agency or enforcement officer or a department compliance officer submits to the department a report:

(i) containing facts that could support a finding that the person subject to administrative action violated this title or a commission rule; and

(ii) no more than eight business days after the day on which the nondepartment enforcement agency or officer or the compliance officer completes the investigation containing the facts described in Subsection (1)(a)(i); and

(b) subject to Subsection (5), the department notifies the person subject to administrative action, no more than eight business days after the day on which the department receives the report described in Subsection (1)(a), that the commission or department:

(i) received the report described in Subsection (1)(a); and

(ii) may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, on the facts contained in the report described in Subsection (1)(a).

[(4)] (2) (a) [A] The department may provide the notice required [by] under this section [may be done] orally, if after the oral notification the department provides written notification.

(b) The department may provide the written notification described in Subsection ~~(4)~~ (2)(a) ~~[may be sent]~~ outside the time periods required ~~[by]~~ under this section.

~~(5)~~ (3) The department shall maintain a record of a notification required ~~[by]~~ under this section that includes:

- (a) the name of the person notified; ~~and~~
- (b) the date of the notification~~[-];~~ and
- (c) the type of notification given.

(4) (a) The department may issue an order to show cause if the department receives a report described in Subsection (1)(a), containing facts that could support a finding that the person subject to administrative action violated:

(i) this title regarding necessary licensing requirements; or

(ii) a commission rule regarding necessary licensing requirements.

(b) A necessary licensing requirement described in Subsection (4)(a) includes:

- (i) maintaining an approved, licensed premise;
- (ii) maintaining insurance;
- (iii) maintaining a bond;
- (iv) following the requirements in Section 32B-1-304, regarding qualifications;
- (v) maintaining required store hours;
- (vi) failing to utilize the license issued; or
- (vii) transferring a license in violation of Chapter 8a, Transfer of Alcohol License Act.

(c) The department's issuance of an order to show cause in accordance with this Subsection (4):

- (i) does not initiate a disciplinary proceeding; and
- (ii) is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(5) The department is not required to provide notice as described in Subsection (1)(b) if the person subject to administrative action is staff.

**Section 11. Section 32B-3-204 is amended to read:**

**32B-3-204. Disciplinary proceeding procedure.**

(1) (a) Subject to Section 32B-3-202, the following may conduct an adjudicative proceeding to inquire into a matter necessary and proper for the administration of this title and rules adopted under this title:

- (i) the commission;
- (ii) a hearing examiner appointed by the commission to conduct a suspension, non-renewal, or revocation hearing required by law;
- (iii) the director; and

(iv) the department.

(b) Except as provided in this section or Section 32B-2-605, a person described in Subsection (1)(a) shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

(c) Except when otherwise provided by law, an adjudicative proceeding before the commission or a hearing examiner appointed by the commission shall be:

(i) video or audio recorded; and

(ii) subject to Subsection (3)(b), conducted in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(d) A person listed in Subsection (1)(a) shall conduct an adjudicative proceeding concerning departmental personnel in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

(e) A hearing that is informational, fact gathering, and nonadversarial in nature shall be conducted in accordance with rules, policies, and procedures made by the commission, director, or department.

(2) (a) Subject to Section 32B-3-202, a disciplinary proceeding shall be conducted under the authority of the commission, which is responsible for rendering a final decision and order on a disciplinary matter.

(b) (i) The commission may appoint a necessary officer, including a hearing examiner, from within or without the department, to administer the disciplinary proceeding process.

(ii) A hearing examiner appointed by the commission:

(A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

(B) shall submit to the commission a report including:

(I) findings of fact determined on the basis of a preponderance of the evidence presented at the hearing;

(II) conclusions of law; and

(III) recommendations.

(iii) A report of a hearing examiner under this Subsection (2)(b) may not recommend a penalty more severe than that initially sought by the department in the notice of agency action.

(iv) A copy of a hearing examiner report under this Subsection (2)(b) shall be served upon the respective parties.

(v) Before final commission action, the commission shall give a respondent and the department reasonable opportunity to file a written objection to a hearing examiner report.

(3) (a) The commission or an appointed hearing examiner shall preside over a disciplinary proceeding hearing.

(b) A disciplinary proceeding hearing may be closed only after the commission or hearing examiner makes a written finding that the public interest in an open hearing is clearly outweighed by factors enumerated in the closure order.

(c) (i) The commission or [its] an appointed hearing examiner as part of a disciplinary proceeding hearing may:

(A) administer an oath or affirmation;

(B) take evidence, including evidence provided in relation to an order to show cause the department issued in accordance with Section 32B-3-202;

(C) take a deposition within or without this state; and

(D) require by subpoena from a place within this state:

(I) the testimony of a person at a hearing; and

(II) the production of a record or other evidence considered relevant to the inquiry.

(ii) A person subpoenaed in accordance with this Subsection (3)(c) shall testify and produce a record or tangible thing as required in the subpoena.

(iii) A witness subpoenaed, called to testify, or called to produce evidence who claims a privilege against self-incrimination may not be compelled to testify, but the commission or the hearing examiner shall file a written report with the county attorney or district attorney in the jurisdiction where the privilege is claimed or where the witness resides setting forth the circumstance of the claimed privilege.

(iv) (A) A person is not excused from obeying a subpoena without just cause.

(B) A district court within the judicial district in which a person alleged to be guilty of willful contempt of court or refusal to obey a subpoena is found or resides, upon application by the party issuing the subpoena, may issue an order requiring the person to:

(I) appear before the issuing party; and

(II) (Aa) produce documentary evidence if so ordered; or

(Bb) give evidence regarding the matter in question.

(C) Failure to obey an order of the court may be punished by the court as contempt.

(d) In a case heard by the commission, the commission shall issue its final decision and order in accordance with Subsection (2).

(4) (a) The commission shall:

(i) render a final decision and order on a disciplinary action; and

(ii) cause its final order to be prepared in writing, issued, and served on all parties.

(b) An order of the commission is final on the date the order is issued.

(c) The commission, after the commission renders its final decision and order, may require the director to prepare, issue, and cause to be served on the parties the final written order on behalf of the commission.

(5) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by the commission or a hearing examiner appointed by the commission shall proceed formally in accordance with Sections 63G-4-204 through 63G-4-209 if:

(i) the alleged violation poses, or potentially poses, a grave risk to public safety, health, and welfare;

(ii) the alleged violation involves:

(A) selling or furnishing an alcoholic product to a minor;

(B) attire, conduct, or entertainment prohibited by Chapter 1, Part 5, Attire, Conduct, and Entertainment Act;

(C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf of the respondent;

(D) interfering or refusing to cooperate with:

(I) an authorized official of the department or the state in the discharge of the official's duties in relation to the enforcement of this title; or

(II) a peace officer in the discharge of the peace officer's duties in relation to the enforcement of this title;

(E) an unlawful trade practice under Chapter 4, Part 7, Trade Practices Act;

(F) unlawful importation of an alcoholic product; or

(G) unlawful supply of liquor by a liquor industry member, as defined in Section 32B-4-702, to a person other than the department or a military installation, except to the extent permitted by this title; or

(iii) the department determines to seek in a disciplinary proceeding hearing:

(A) an administrative fine exceeding \$3,000;

(B) a suspension of a license, permit, or certificate of approval of more than 10 days; or

(C) a revocation of a license, permit, or certificate of approval.

(b) If a respondent does not request a disciplinary proceeding hearing, a hearing shall proceed informally unless it is designated as a formal proceeding pursuant to rules adopted by the commission in accordance with Subsection (5)(c).

(c) The commission shall make rules to provide a procedure to implement this Subsection (5).

(6) (a) If the department recommends nonrenewal of a license, the department shall notify

the licensee of the recommendation at least 15 days before the commission takes action on the nonrenewal.

(b) Notwithstanding Subsection (2), the commission shall appoint a hearing examiner to conduct an adjudicative hearing in accordance with this section if the licensee files a request for a hearing within 10 days of receipt of the notice under Subsection (6)(a).

**Section 12. Section 32B-4-415 is amended to read:**

**32B-4-415. Unlawful bringing onto premises for consumption.**

(1) Except as provided in Subsection (4) and [~~Subsection 32B-5-307(4)~~] Section 32B-5-307, a person may not bring an alcoholic product for on-premise consumption onto the premises of:

(a) a retail licensee or person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title;

(d) an establishment open to the general public; or

(e) the capitol hill complex.

(2) Except as provided in Subsection (4) and [~~Subsection 32B-5-307(4)~~] Section 32B-5-307, the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

(a) a retail licensee or a person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) a single event permittee or temporary beer event permittee;

(d) an establishment open to the general public;

(e) the State Capitol Preservation Board created in Section 63C-9-201; or

(f) staff of a person listed in Subsections (2)(a) through (e).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at:

(a) a location from which the passenger departs in a private vehicle; or

(b) the capitol hill complex.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

(i) a full-service restaurant licensee;

(ii) a limited restaurant licensee;

(iii) a bar establishment licensee; or

(iv) a person operating under a resort spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product in the limousine if:

(i) the travel of the limousine begins and ends at:

(A) the residence of the passenger;

(B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(C) the temporary domicile of the passenger;

(ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department; and

(iii) the limousine is not located on the capitol hill complex.

(c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:

(i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger;

(ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and

(iii) if the chartered bus is not located on the capitol hill complex.

(5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.

(7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:

(a) the boundary of a resort building, as defined in Section 32B-8-102, or the boundary of a hotel, as defined in Section 32B-8b-102, in an area that is open to the public; or

(b) except as provided in Subsection (4), [~~a sublicense~~] sublicensed premises.

**Section 13. Section 32B-4-422 is amended to read:**

**32B-4-422. Unlawful dispensing.**

~~[(1) For purposes of this section:]~~

~~[(a) "Primary spirituous liquor" means the main distilled spirit in a beverage.]~~

~~[(b) "Primary spirituous liquor" does not include a secondary alcoholic product used as a flavoring in conjunction with the primary distilled spirit in a beverage.]~~

~~[(2)] (1) A retail licensee licensed under this title to sell, offer for sale, or furnish spirituous liquor for consumption on the licensed premises, or staff of the retail licensee may not:~~

~~(a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department;~~

~~(b) sell, offer for sale, or furnish more than a total of 2.5 ounces of spirituous liquor per beverage;~~

~~(c) allow a person on the licensed premises to have more than a total of 2.5 ounces of spirituous liquor at a time; or~~

~~(d) (i) except as provided in Subsection [(2)] (1)(d)(ii), allow a person to have more than two spirituous liquor beverages at a time; or~~

~~(ii) allow a person on the premises of the following to have more than one spirituous liquor beverage at a time:~~

~~(A) a full-service restaurant licensee;~~

~~(B) a person operating under a full-service restaurant sublicense;~~

~~(C) an on-premise banquet licensee;~~

~~(D) a person operating under an on-premise banquet sublicense; or~~

~~(E) a single event permittee.~~

~~[(3)] (2) A violation of this section is a class C misdemeanor.~~

**Section 14. Section 32B-5-201 is amended to read:**

**32B-5-201. Application requirements for retail license.**

(1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a retail license issued by the commission, notwithstanding whether the person holds a local license or a permit issued by a local authority.

(b) Violation of this Subsection (1) is a class B misdemeanor.

(2) To obtain a retail license under this title, a person shall submit to the department:

(a) a written application in a form prescribed by the department;

(b) a nonrefundable application fee in the amount specified in the relevant ~~[part under Chapter 6, Specific Retail License Act,]~~ chapter or part for the type of retail license for which the person is applying;

(c) an initial license fee:

(i) in the amount specified in the relevant ~~[part under Chapter 6, Specific Retail License Act,]~~ chapter or part for the type of retail license for which the person is applying; and

(ii) that is refundable if a retail license is not issued;

(d) written consent of the local authority, including, if applicable, consent for each proposed sublicense;

(e) a copy of:

(i) the person's current business license; and

(ii) if the person is applying for a principal license, the current business license for each proposed sublicense, except if the relevant political subdivision determines that the business license for a proposed sublicense is included in the person's current business license;

(f) evidence of the proposed retail licensee's proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

(g) a bond as specified by Section 32B-5-204;

(h) a floor plan, and boundary map where applicable, of the premises of the retail license and each, if any, accompanying sublicense, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;

(i) evidence that the retail licensee [is carrying] carries public liability insurance in an amount and form satisfactory to the department;

(j) evidence that the retail licensee [is carrying] carries dramshop insurance coverage of at least:

(i) \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

(ii) if the retail licensee is a hotel licensee or a resort licensee, \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both the principal license and all accompanying sublicenses; or

(iii) if the retail licensee is an arena licensee, \$10,000,000 per occurrence and \$20,000,000 in the aggregate to cover both the arena license and all accompanying sublicenses.

(k) a signed consent form stating that the retail licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter;



- (i) the premises of the retail licensee; and
- (ii) if applicable, the premises of each of the retail licensee's accompanying sublicenses;

(l) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity;

(m) a responsible alcohol service plan; and

(n) any other information the commission or department may require.

(3) The commission may not issue a retail license to a person who:

(a) is disqualified under Section 32B-1-304; or

(b) is not lawfully present in the United States.

(4) Unless otherwise provided in the relevant ~~[part under Chapter 6, Specific Retail License Act,] chapter or part for the type of retail license for which the person is applying,~~ the commission may not issue a retail license to a person if the proposed licensed premises does not meet the proximity requirements of Section 32B-1-202.

**Section 15. Section 32B-5-202 is amended to read:**

**32B-5-202. Renewal requirements.**

(1) A retail license expires each year on the day specified in the relevant ~~[part under Chapter 6, Specific Retail License Act,] chapter or part~~ for that type of retail license.

(2) (a) To renew a person's retail license, a retail licensee shall, by no later than the day specified in the relevant ~~[part under Chapter 6, Specific Retail License Act,] chapter or part~~ for the type of retail license that ~~[is being renewed]~~ the person seeks to renew, submit:

(i) a completed renewal application in a form prescribed by the department; and

(ii) a renewal fee in the amount specified in the relevant ~~[part under Chapter 6, Specific Retail License Act,] chapter or part~~ for the type of retail license that ~~[is being renewed]~~ the person seeks to renew.

(b) A retail licensee shall submit a responsible alcohol service plan as part of the retail licensee's renewal application if, since the retail licensee's most recent application or renewal, the retail licensee:

(i) made substantial changes to the retail licensee's responsible alcohol service plan; or

(ii) violated a provision of this chapter.

(c) The department may audit a retail licensee's responsible alcohol service plan.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the [date] day on which the existing retail license expires.

**Section 16. Section 32B-5-203 is amended to read:**

**32B-5-203. Commission and department duties before issuing a retail license.**

(1) (a) Before the commission may issue a retail license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a retail license and, if applicable, each accompanying sublicense should be issued.

(b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.

(2) Before issuing a retail license, the commission shall:

(a) determine that the person filed a complete application and is in compliance with:

(i) Section 32B-5-201; and

(ii) the specific licensing requirements specified in the relevant ~~[part under Chapter 6, Specific Retail License Act,] chapter or part~~ for the type of retail license for which the person is applying;

(b) determine that the person and, if applicable, each of the person's accompanying sublicenses is not disqualified under Section 32B-1-304;

(c) consider the locality within which the proposed licensed premises and, if applicable, each proposed sublicensed premises is located, including:

(i) physical characteristics such as:

(A) condition of the licensed or sublicensed premises;

(B) square footage; and

(C) parking availability; and

(ii) operational factors such as:

(A) tourist traffic;

(B) demographics;

(C) population to be served;

(D) proximity to and density of other state stores, package agencies, and retail licensees; and

(E) the extent of and proximity to any community location;

(d) consider the person's ability to manage and operate a retail license, and if applicable the ability of each individual who will act in a supervisory or managerial capacity for each accompanying sublicense to supervise or manage a sublicense, of the type for which the person is applying, including:

(i) management experience;

(ii) past retail alcoholic product experience; and

(iii) the type of management scheme to be used by the retail licensee or accompanying sublicensee;

(e) consider the nature or type of retail licensee operation, and if applicable each proposed accompanying sublicensee's operation, of the proposed retail licensee, including:

(i) the type of menu items that will be offered and emphasized;

(ii) whether the retail licensee or the retail licensee's accompanying sublicensee will emphasize service to an adult clientele or to minors;

(iii) the proposed hours of operation;

(iv) the seating capacity of the premises; and

(v) the estimated gross sales of food items; and

(f) consider any other factor the commission considers necessary.

(3) The commission shall determine whether an applicant under this section has an adequate kitchen or culinary facilities by considering:

(a) the type of retail license or sublicense for which the person is applying;

(b) the purpose of the proposed retail license or sublicense; and

(c) the locality within which the proposed licensed or sublicensed premises is located.

**Section 17. Section 32B-5-204 is amended to read:**

**32B-5-204. Bond for retail license.**

(1) (a) A retail licensee shall post a cash bond or surety bond:

(i) in the amount specified in the relevant [part under Chapter 6, Specific Retail License Act,] chapter or part for the type of retail license for which the person is applying; and

(ii) payable to the department.

(b) A retail licensee shall procure and maintain the bond required under this section for as long as the retail licensee continues to operate as a retail licensee.

(2) A bond required under this section shall be:

(a) in a form approved by the attorney general; and

(b) conditioned upon the retail licensee's faithful compliance with this title and the rules of the commission.

(3) (a) If a surety bond posted by a retail licensee under this section is canceled due to the retail licensee's negligence, the department may assess a \$300 reinstatement fee.

(b) No part of a bond posted by a retail licensee under this section may be withdrawn:

(i) during the period the retail license is in effect; or

(ii) while a revocation proceeding is pending against the retail licensee.

(4) (a) A bond posted under this section by a retail licensee may be forfeited if the retail license is revoked.

(b) Notwithstanding Subsection (4)(a), the department may make a claim against a bond posted by a retail licensee for money owed the department under this title without the commission first revoking the retail license.

**Section 18. Section 32B-5-207 is amended to read:**

**32B-5-207. Multiple retail licenses on same premises.**

(1) As used in this section, [~~"sublicense premises" means the same as that term is defined in Sections 32B-8-102 and 32B-8b-102.~~] "license" means:

(a) a retail license; or

(b) a sublicense.

(2) [~~(a) The~~] Except as provided in Subsection (3), the commission may not issue and one or more licensees may not hold more than one type of [~~retail~~] license for the same premises.

[~~(b)~~] (3) (a) [~~Notwithstanding Subsection (2)(a), the~~] The commission may issue and one or more licensees may hold more than one type of [~~retail~~] license for the same premises if:

(i) the applicant or licensee satisfies the requirements for each [~~retail~~] license;

(ii) the types of [~~retail~~] licenses issued or held are two or more of the following:

(A) a restaurant license;

(B) an on-premise beer retailer license that is not a tavern; [~~and~~]

(C) an on-premise banquet license or a reception center license; and

(D) a hospitality amenity license; and

(iii) the [~~retail~~] licenses do not operate at the same time on the same day.

(b) The commission may issue and two or more restaurant licensees may share an area of each restaurant licensee's licensed premises designated for alcoholic beverage consumption, if:

(i) the applicants or licensees satisfy the requirements for each license; and

(ii) the only shared premises between the issued or held restaurant licenses is the area for alcoholic beverage consumption.

(c) The commission may issue and two or more licensees may share a kitchen or culinary facilities located in or on one or more of the licensees' licensed premises, if:

(i) the types of licenses issued or held are two or more sublicenses of a principal licensee:

(A) one of which is an on-premise banquet sublicense; and

(B) one of which is a restaurant license that is a sublicense, an on-premise beer retailer sublicense that is not a tavern, or a bar sublicense; or

(ii) (A) the same person applies for or holds each license;

(B) the licensed premises are each owned or leased by the same person and located in the same building; and

(C) the only shared premises between the issued or held licenses is the kitchen or culinary facilities area, including any pathway necessary to transport an item to and from the area.

[(3)] (4) When one or more licensees hold more than one type of [retail] license for the same premises under Subsection [(2)(b)] (3)(a), the one or more licensees shall post in a conspicuous location at the entrance of the room a sign that:

(a) measures 8-1/2 inches by 11 inches; and

(b) states whether the premises is currently operating as:

(i) a restaurant;

(ii) an on-premise beer retailer that is not a tavern; [or]

(iii) a banquet or a reception center[-]; or

(iv) a hospitality amenity.

(5) When two or more restaurant licensees share an area of each restaurant licensee's licensed premises designated for alcoholic beverage consumption in accordance with Subsection (3)(b), each licensee shall:

(a) maintain control over the licensee's patrons; and

(b) use a visual marker to clearly identify which licensee served each patron.

[(4)] (6) (a) [The] For purposes of Subsection (3)(a), the commission may not issue and one or more licensees may not hold a bar license or a tavern license in the same room as a restaurant license.

(b) For purposes of Subsection [(4)] (6)(a), two licenses are not considered in the same room if:

(i) each shared permanent wall between the premises licensed as a bar or a tavern and the premises licensed as a restaurant measures at least eight feet high;

(ii) the premises for each license has a separate entryway that does not require a patron to pass through the premises licensed as a bar or a tavern to access the premises licensed as a restaurant; and

(iii) if a patron must pass through the premises licensed as a restaurant to access the entryway to the premises licensed as a bar or a tavern, a patron on the premises licensed as a restaurant cannot see a dispensing structure on the premises licensed as a bar or a tavern.

[(5) (a) If, on May 9, 2017, one or more licensees hold more than one type of retail license in violation of Subsection (2) or (4), the one or more licensees may operate under the different types of retail licenses through June 30, 2018.]

[(b) A licensee may not operate in violation of Subsection (2) or (4) on or after July 1, 2018.]

[(c) Before July 1, 2018, each licensee described in Subsection (5)(a) shall notify the commission of each retail license that the licensee will surrender effective July 1, 2018, to comply with the provisions of Subsection (2) or (4).]

[(6)] (7) (a) The commission may issue more than one type of sublicense to a resort licensed under Chapter 8, Resort License Act, or a hotel licensed under Chapter 8b, Hotel License Act, for the same room if the [sublicense] sublicensed premises are clearly delineated by one or more permanent physical structures, such as a wall or other architectural feature, that separate the [sublicense] sublicensed premises.

(b) A patron may not transport an alcoholic beverage between two [sublicense] sublicensed premises located in the same room in accordance with Subsection [(6)] (7)(a).

(c) Notwithstanding any provision to the contrary, a minor may momentarily pass through a [sublicense] sublicensed premises that is a bar to reach another location where a minor may lawfully be, if there is no practical alternative route to the location.

**Section 19. Section 32B-5-301 is amended to read:**

**32B-5-301. General operational requirements.**

(1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the commission, including the relevant [part under Chapter 6, Specific Retail License Act,] chapter or part for the specific type of retail license.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a retail licensee;

(ii) individual staff of a retail licensee; or

(iii) both a retail licensee and staff of the retail licensee.

(2) (a) If there is a conflict between this part and the relevant [part under Chapter 6, Specific Retail License Act,] chapter or part for the specific type of retail license, the relevant [part under Chapter 6, Specific Retail License Act,] chapter or part for the specific type of retail license governs.

(b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant [part under Chapter 6, Specific Retail License Act] chapter or part for the retail licensee's specific type of retail license.

(c) Notwithstanding that this part or the relevant [part under Chapter 6, Specific Retail License Act,] chapter or part for a specific retail licensee refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.

(3) (a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.

(b) A retail licensee shall display in a prominent place a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A retail licensee may not on the licensed premises:

(a) engage in or permit any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;

(b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) Upon the presentation of credentials, at any time during which a retail licensee is open for the

transaction of business, the retail licensee shall immediately:

(a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and

(b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:

(i) the entire premises of the retail licensee; and

(ii) the records of the retail licensee.

(7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:

(a) beginning one hour after the time of day that the period during which a retail licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and

(b) ending at the time specified in the relevant [part under Chapter 6, Specific Retail License Act,] chapter or part for the retail licensee's specific type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.

(8) ~~[(a)]~~ An employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic product to a patron shall wear an identification badge.

~~[(b)]~~ (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(a) related to the requirement described in Subsection (8) ~~[(a)]~~; and

(b) for dispensing systems and dispensing areas of restaurant licensees, bar licensees, and taverns, establishing standards:

(i) in accordance with the provisions of this title; and

(ii) prohibiting a dispensing system to remain at a patron's table.

**Section 20. Section 32B-5-307 is amended to read:**

**32B-5-307. Bringing alcoholic product onto or removing alcoholic product from premises.**

(1) Except as provided in ~~[(Subsection 3)]~~ Subsections (3) through (5):

(a) A person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption.

(b) A retail licensee may not allow a person to:

(i) bring onto licensed premises an alcoholic product for on-premise consumption; or

(ii) consume an alcoholic product brought onto the licensed premises by a person other than the retail licensee.

(c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through a window or

door to a location off the licensed premises or to a vehicular traffic area.

(2) Except as provided in Subsections (3)[, (4),] through (5) and 32B-4-415(5):

(a) a person may not carry from a licensed premises of a retail licensee an open container that:

- (i) is used primarily for drinking purposes; and
- (ii) contains an alcoholic product;

(b) a retail licensee may not permit a patron to carry from the licensed premises an open container described in Subsection (2)(a); and

(c) (i) a person may not carry from a licensed premises of a retail licensee a sealed container of liquor that has been purchased from the retail licensee; and

(ii) a retail licensee may not permit a patron to carry from the licensed premises a sealed container of liquor that has been purchased from the retail licensee.

(3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for on-premise consumption if:

- (i) permitted by the retail licensee; and
- (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

(b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the patron shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.

(c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a wine service for a bottled wine carried onto the licensed premises in accordance with this Subsection (3) or a bottled wine purchased at the licensed premises.

(d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased at the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

~~[(4) A patron may transport beer between the premises of an on-premise banquet license and an on-premise beer retailer license that is not a tavern, and consume the beer on either licensed premises, if the licensed premises are:]~~

~~[(a) immediately adjacent to one another; and]~~

~~[(b) located in a sports center that has a seating capacity of at least 6,500.]~~

(4) A patron may transport beer between the sublicensed premises of an arena licensee's accompanying sublicenses, if the patron transports the beer from and to an area of each sublicensed premises:

- (a) that is adjacent to the other; and
- (b) where the consumption of beer is permitted.

(5) Neither a patron nor a retail licensee violates this section if:

- (a) the patron is in shared seating; and
- (b) the patron purchased the patron's alcoholic beverage from a restaurant licensee whose licensed premises include the shared seating area the patron is in.

**Section 21. Section 32B-5-309 is amended to read:**

**32B-5-309. Ceasing operation.**

(1) Except as provided in Subsection (8), a retail licensee may not close or cease operation for a period longer than 240 hours, unless:

- (a) the retail licensee notifies the department in writing at least seven days before the day on which the retail licensee closes or ceases operation; and
- (b) the closure or cessation of operation is first approved by the department.

(2) Notwithstanding Subsection (1), in the case of emergency closure, a retail licensee shall immediately notify the department by telephone.

(3) (a) The department may authorize a closure or cessation of operation of a retail licensee for a period not to exceed 60 days.

(b) The department may extend the initial period an additional 30 days upon:

- (i) written request of the retail licensee; and
- (ii) a showing of good cause.

(4) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(5) A notice required under this section shall include:

- (a) the dates of closure or cessation of operation;
- (b) the reason for the closure or cessation of operation; and
- (c) the date on which the retail licensee will reopen or resume operation.

(6) Failure of a retail licensee to provide notice and to obtain department approval before closure or cessation of operation results in an automatic forfeiture of:

- (a) the retail license; and
- (b) the unused portion of the retail license fee for the remainder of the retail license year effective immediately.

(7) Failure of a retail licensee to reopen or resume operation by the approved date results in an automatic forfeiture of:

- (a) the retail license; and
- (b) the unused portion of the retail license fee for the remainder of the retail license year.

(8) This section does not apply to:

- (a) an on-premise beer retailer who is not a tavern; or

- (b) an airport lounge licensee[~~;~~]; or
- (c) a hospitality amenity licensee.

**Section 22. Section 32B-6-205 is amended to read:**

**32B-6-205. Specific operational requirements for a full-service restaurant license -- Before July 1, 2018, or July 1, 2022.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant licensee shall display in a prominent place in the restaurant a list of the types and brand names of liquor being furnished through the full-service restaurant licensee's calibrated metered dispensing system.

(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (11)(a).

(4) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a full-service restaurant licensee.

(6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after the full-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(8) (a) Subject to the other provisions of this Subsection (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (8)(a).

(9) A patron may consume an alcoholic product only:

- (a) at:
  - (i) the patron's table;
  - (ii) a counter; or
  - (iii) a seating grandfathered bar structure; and
- (b) where food is served.

(10) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years of age or older may:

- (i) sit;
- (ii) be furnished an alcoholic product; and
- (iii) consume an alcoholic product.

(c) Except as provided in Subsection (10)(d), at a seating grandfathered bar structure a full-service restaurant licensee may not permit a minor to, and a minor may not:

- (i) sit; or
- (ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a full-service restaurant licensee:

- (A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the full-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a

full-service restaurant licensee's premises in which the minor is permitted to be.

(11) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a grandfathered bar structure;

(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or

(iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

(b) the full-service restaurant licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection (11)(a); or

(ii) in an area not described in Subsection (11)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container; (B) the unopened container is taken to an area described in Subsection (11)(a) before it is opened; and (C) once opened, the container is stored in an area described in Subsection (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (11)(a).

(12) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

(14) Except as provided in Subsection 32B-6-205.2~~(15)~~(16) and Section 32B-6-205.3, the provisions of this section apply before July 1, 2018.

**Section 23. Section 32B-6-205.2 is amended to read:**

**32B-6-205.2. Specific operational requirements for a full-service restaurant license -- On and after July 1, 2018, or July 1, 2022.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

(4) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A full-service restaurant licensee may not furnish an alcoholic product except after:

(i) the patron to whom the full-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the full-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is [5] five ounces or less.

(c) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product only if the patron is seated at:

(a) a table that is located in a dining area or dispensing area;

(b) a counter that is located in a dining area or dispensing area; or

(c) a dispensing structure located in a dispensing area.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years of age and working as an employee of the full-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the full-service restaurant licensee when the full-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or



(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a full-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once each calendar year.

(15) A full-service restaurant licensee may lease to a patron of the full-service restaurant licensee a locked storage space:

(a) that the commission considers proper for the storage of wine; and

(b) for the storage of wine that:

(i) the patron purchases from the full-service restaurant licensee; and

(ii) only the full-service restaurant licensee or staff of the full-service restaurant licensee may remove from the locker for the patron's use in accordance with this title, including:

(A) service and consumption on licensed premises as described in Section 32B-5-306; or

(B) removal from the full-service retail licensee's licensed premises in accordance with Section 32B-5-307.

[45] (16) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a full-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a full-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A full-service restaurant licensee that elects to comply with the provisions of this section before

the latest applicable date described in Subsection ~~[(15)]~~ (16)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-205.

**Section 24. Section 32B-6-406 is amended to read:**

**32B-6-406. Specific operational requirements for a bar establishment license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a bar establishment licensee and staff of the bar establishment licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a bar establishment licensee;

(ii) individual staff of a bar establishment licensee; or

(iii) both a bar establishment licensee and staff of the bar establishment licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a bar licensee shall display in a conspicuous place at the entrance to the licensed premises a sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the bar licensee is a bar and that no one under 21 years of age is allowed.

(3) (a) In addition to complying with Section 32B-5-302, a bar establishment licensee shall maintain for a minimum of three years:

(i) a record required by Section 32B-5-302; and

(ii) a record maintained or used by the bar establishment licensee, as the department requires.

(b) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (3).

(c) The department shall audit the records of a bar establishment licensee at least once annually.

(4) (a) A bar establishment licensee may not sell, offer for sale, or furnish liquor on the licensed premises on any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) A bar establishment licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer license.

(c) (i) Notwithstanding Subsections (4)(a) and (b), a bar establishment licensee shall keep its licensed

premises open for one hour after the bar establishment licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the bar establishment licensee may finish consuming:

- (A) a single drink containing spirituous liquor;
- (B) a single serving of wine not exceeding five ounces;
- (C) a single serving of heavy beer;
- (D) a single serving of beer not exceeding 26 ounces; or
- (E) a single serving of a flavored malt beverage.

(ii) A bar establishment licensee is not required to remain open:

(A) after all patrons have vacated the premises; or

(B) during an emergency.

(5) (a) A minor:

(i) may not be admitted into, use, or be in [-(i)-] a lounge or bar area of the premises of: (A) an equity licensee; (B) a fraternal licensee; or (C) a dining club licensee; or (ii)-] the licensed premises of:

(A) a dining club licensee unless accompanied by an individual who is 21 years of age or older; or

(B) a bar licensee, except to the extent provided for under Section 32B-6-406.1[-];

(ii) may only be admitted into, use, or be in the lounge or bar area of an equity licensee's or fraternal licensee's licensed premises:

(A) when accompanied by an individual who is 21 years of age or older; and

(B) momentarily while en route to another area of the licensee's premises; and

(iii) may not remain or sit in the lounge or bar area of an equity licensee's or fraternal licensee's licensed premises.

(b) Notwithstanding Section 32B-5-308, a bar establishment licensee may not employ a minor to:

(i) work in a lounge or bar area of an equity licensee, fraternal licensee, or dining club licensee; or

(ii) handle an alcoholic product.

(c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed premises of a bar licensee.

(d) Nothing in this part or Section 32B-5-308 precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a bar establishment licensee.

(6) A bar establishment licensee shall have food available at all times when an alcoholic product is

sold, offered for sale, furnished, or consumed on the licensed premises.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have two spirituous liquor drinks before the bar establishment licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) A bar establishment licensee shall have available on the premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold, offered for sale, or furnished by the bar establishment licensee including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(9) Subject to Section 32B-5-309, a bar establishment licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

(a) the person to whom the bar establishment licensee rents or leases the premises agrees in writing to comply with this title as if the person is the bar establishment licensee, except for a requirement related to making or maintaining a record; and

(b) the bar establishment licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).

(10) If a bar establishment licensee is an equity licensee or fraternal licensee, the bar establishment licensee shall comply with Section 32B-6-407.

(11) If a bar establishment licensee is a dining club licensee or bar licensee, the bar establishment licensee shall comply with Section 32B-1-407.

(12) (a) A bar establishment licensee shall own or lease premises suitable for the bar establishment licensee's activities.

(b) A bar establishment licensee may not maintain licensed premises in a manner that barricades or conceals the bar establishment licensee's operation.

**Section 25. Section 32B-6-603 is amended to read:**

**32B-6-603. Commission's power to issue on-premise banquet license -- Contracts as host.**

(1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product in connection with the person's

banquet and room service activities at one of the following, the person shall first obtain an on-premise banquet license in accordance with this part:

- (i) a hotel;
- (ii) a resort facility;
- (iii) a sports center;
- (iv) a convention center; ~~[or]~~
- (v) a performing arts facility~~[,]~~; or
- (vi) an arena.

(b) This part does not prohibit an alcoholic product on the premises of a person listed in Subsection (1)(a) to the extent otherwise permitted by this title.

(c) This section does not prohibit a person who applies for an on-premise banquet license to also apply for a package agency if otherwise qualified.

(2) The commission may issue an on-premise banquet license to establish on-premise banquet licensees in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room service activities operated by an on-premise banquet licensee.

(3) Subject to Section 32B-1-201, the commission may not issue a total number of on-premise banquet licenses that at any time exceed the number determined by dividing the population of the state by 28,765.

(4) Pursuant to a contract between the host of a banquet and an on-premise banquet licensee:

(a) the host of the banquet may request an on-premise banquet licensee to provide an alcoholic product served at the banquet; and

(b) an on-premise banquet licensee may provide an alcoholic product served at the banquet.

(5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

(a) without charge to a patron at a banquet, except that the host of the banquet shall pay for an alcoholic product furnished at the banquet; or

(b) with a charge to a patron at the banquet.

(6) To be licensed as an on-premise banquet, a person shall maintain at least 50% of the person's total annual banquet gross receipts from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a charge in connection with the furnishing of an alcoholic product.

**Section 26. Section 32B-6-605 is amended to read:**

**32B-6-605. Specific operational requirements for on-premise banquet license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, convention center, or performing arts facility that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall make and maintain the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) Except as provided in ~~[Subsection]~~ Subsections 32B-5-307(4) and (5), a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding Subsection 32B-5-307(3) and except as provided in ~~[Subsection]~~ Subsections 32B-5-307(4) and (5), a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee:

(a) may provide room service in portions described in Section 32B-5-304; ~~and~~

(b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.; and

(c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if the alcoholic product:

(i) is not a spirituous liquor; and

(ii) is in an unopened container not to exceed 750 milliliters.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(11) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(12) (a) Room service of an alcoholic product to a guest room of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room.

(b) An alcoholic product may not be left outside a guest room for retrieval by a guest.

(13) An on-premise banquet licensee may not maintain a minibar.

**Section 27. Section 32B-6-702 is amended to read:**

**32B-6-702. Definitions.**

As used in this part[, "~~recreational~~]:

(1) "Commission-approved activity" means a leisure activity that:

(a) the commission approves by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) does not involve the use of a dangerous weapon.

(2) (a) "Recreational amenity" means:

~~(1)~~ (i) a billiard parlor;

~~(2)~~ (ii) a pool parlor;

~~(3)~~ (iii) a bowling facility;

~~(4)~~ (iv) a golf course;

~~(5)~~ (v) miniature golf;

~~(6)~~ (vi) a golf driving range;

~~(7)~~ (vii) a tennis club;

~~(8)~~ (viii) a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than 6,500;

~~(9)~~ (ix) a concert venue that has a seating capacity equal to or greater than 6,500;

~~(10)~~ (x) one of the following if owned by a government agency:

~~(a)~~ (A) a convention center;

~~(b)~~ (B) a fair facility;

~~(c)~~ (C) an equestrian park;

~~(d)~~ (D) a theater; or

~~(e)~~ (E) a concert venue;

~~(11)~~ (xi) an amusement park:

~~(a)~~ (A) with one or more permanent amusement rides; and

~~(b)~~ (B) located on at least 50 acres;

~~(12)~~ (xii) a ski resort;

~~(13)~~ (xiii) a venue for live entertainment if the venue:

~~(a)~~ (A) is not regularly open for more than five hours on any day;

~~(b)~~ (B) is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue; and

~~[(e)]~~ (C) is operated so that no more than 15% of its total annual receipts are from the sale of beer; ~~[(e)]~~

~~[(14)]~~ (xiv) concessions operated within the boundary of a park administered by the:

~~[(a)]~~ (A) Division of Parks and Recreation; or

~~[(b)]~~ (B) National Parks Service[-];

(xv) a facility or venue that is a recreational amenity for a person licensed under this part before May 12, 2020;

(xvi) a venue for karaoke; or

(xvii) an enterprise developed around a commission-approved activity.

(b) "Recreational amenity" does not include an item described in Subsection (2)(a), if the item is tangential to an enterprise or activity that is not included in Subsection (2)(a).

**Section 28. Section 32B-6-803 is amended to read:**

**32B-6-803. Commission's power to issue reception center license.**

(1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on ~~its~~ the person's premises as a reception center, the person shall first obtain a reception center license from the commission in accordance with this part.

(2) The commission may issue a reception center license to establish reception center licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a reception center.

(3) Subject to Section 32B-1-201, the commission may not issue a total number of reception center licenses that at any time exceeds the number determined by dividing the population of the state by 251,693.

(4) The commission may not issue a reception center license for premises that do not meet the proximity requirements of Section 32B-1-202.

(5) (a) To be licensed as a reception center, a person ~~may not maintain in excess of 30% of its total annual receipts from the sale of an alcoholic product, which includes~~ shall maintain at least 50% of the person's total annual gross receipts from the sale of food, which does not include:

(i) mix for an alcoholic product; or

(ii) a charge in connection with the furnishing of an alcoholic product.

(b) A reception center licensee shall report the information necessary to show compliance with this Subsection (5) to the department on an annual basis.

**Section 29. Section 32B-6-805 is amended to read:**

**32B-6-805. Specific operational requirements for a reception center license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a reception center licensee and staff of the reception center licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a reception center licensee;

(ii) individual staff of a reception center licensee; or

(iii) both a reception center licensee and staff of the reception center licensee.

(2) In addition to complying with Section 32B-5-303, a reception center licensee shall store an alcoholic product in a storage area described in Subsection (14)(a).

(3) (a) For the purpose described in Subsection (3)(b), a reception center licensee shall provide the following with advance notice of a scheduled event in accordance with rules made by the commission:

(i) the department; and

(ii) the local law enforcement agency responsible for the enforcement of this title in the jurisdiction where the reception center is located.

(b) Any of the following may conduct a random inspection of an event:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) Except as otherwise provided in this title, a reception center licensee may sell, offer for sale, or furnish an alcoholic product at an event only for consumption at the reception center's licensed premises.

(b) A host of an event, a patron, or a person other than the reception center licensee or staff of the reception center licensee, may not remove an alcoholic product from the reception center's licensed premises.

(c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an alcoholic product into or onto, or remove an alcoholic product from, the reception center.

(5) (a) A reception center licensee may not leave an unsold alcoholic product at an event following the conclusion of the event.

(b) At the conclusion of an event, a reception center licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the reception center licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (5)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at an event, a reception center licensee:

(i) shall store the alcoholic product in accordance with Subsection (2); and

(ii) may use the alcoholic product at more than one event.

(6) Notwithstanding Section 32B-5-308, a reception center licensee may not employ a minor in connection with an event at the reception center at which food is not made available.

(7) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a reception center licensee.

(8) A reception center licensee may not sell, offer for sale, or furnish an alcoholic product at the licensed premises on any day during the period that:

(a) begins at 1 a.m.; and

(b) ends at 9:59 a.m.

(9) A reception center licensee may not sell, offer for sale, or furnish an alcoholic product at an event at which a minor is present unless the reception center licensee makes food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed during the event.

(10) (a) Subject to the other provisions of this Subsection (10), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (10)(a).

(11) (a) A reception center licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(12) A staff person of a reception center licensee shall remain at an event at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

(13) A reception center licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure.

(14) Except as provided in Subsection (15), a reception center licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from an area that is:

(i) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

(A) not readily visible to a patron; and

(B) not accessible by a patron; and

(ii) apart from an area used:

(A) for staging; or

(B) as a lobby or waiting area;

(b) the reception center licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection (14)(a); or

(ii) in an area not described in Subsection (14)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (14)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (14)(a); and

(c) any instrument or equipment used to dispense an alcoholic product is located in an area described in Subsection (14)(a).

(15) A reception center licensee may dispense an alcoholic product from a mobile serving area that:

(a) is moved only by staff of the reception center licensee;

(b) is capable of being moved by only one individual; and

(c) is no larger than 6 feet long and 30 inches wide.

(16) (a) A reception center licensee may not have an event on the licensed premises ~~except~~ unless the event:

(i) is pursuant to a contract between a third party host of the event and the reception center licensee under which the reception center licensee provides an alcoholic product sold, offered for sale, or furnished at an event[-]; or

(ii) is a private event.

(b) At an event, a reception center licensee may furnish an alcoholic product:

(i) without charge to a patron, except that the third party host of the event shall pay for an alcoholic product furnished at the event; or

(ii) with a charge to a patron at the event.

(c) The commission may by rule define what constitutes a "third-party host" for purposes of this Subsection (16) so that a reception center licensee and the third-party host are not owned by or operated by the same persons, except that the rule

shall permit a reception center licensee to host an event for an immediate family member of the reception center licensee.

(17) A reception center licensee shall have culinary facilities that are:

- (a) adequate to prepare a full meal; and
- (b) (i) located on the licensed premises; or

(ii) under the same control as the reception center licensee.

(18) (a) Except as provided in Subsection (18)(b), a reception center licensee may not operate an event:

- (i) that is open to the general public; and
- (ii) at which an alcoholic product is sold or offered for sale.

(b) A reception center licensee may operate an event described in Subsection (18)(a) if the event is hosted:

- (i) at the reception center no more frequently than once a calendar year; and
- (ii) by a nonprofit organization that is organized and qualified under Section 501(c), Internal Revenue Code.

**Section 30. Section 32B-6-1001 is enacted to read:**

**Part 10. Hospitality Amenity License**

**32B-6-1001. Hospitality Amenity License.**

This part is known as "Hospitality Amenity License."

**Section 31. Section 32B-6-1002 is enacted to read:**

**32B-6-1002. Definitions.**

As used in this part:

- (1) "Hospitality guest" means an individual:
  - (a) (i) who is a resident of a resort;
  - (ii) for whom a resident of a resort provides lodging accommodations for compensation;
  - (iii) for whom a hotel provides lodging accommodations for compensation; or
  - (iv) for whom a resort provides lodging accommodations for compensation; and
- (b) who is at least 21 years of age.
- (2) "Boundary of a hotel" means the physical boundary of one or more contiguous parcels of real property owned or managed by the same person and on which a hotel is located.
- (3) "Boundary of a resort building" means the same as that term is defined in Section 32B-8-102.
- (4) "Hotel" means a commercial lodging establishment that offers at least 40 rooms as temporary sleeping accommodations for compensation.

**Section 32. Section 32B-6-1003 is enacted to read:**

**32B-6-1003. Commission's power to issue hospitality amenity license.**

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on the person's premises as a hospitality amenity licensee, the person shall first obtain a hospitality amenity license from the commission in accordance with this part.

(2) (a) The commission may only issue a hospitality amenity license to a hotel or a resort.

(b) Beginning November 1, 2020, the commission may issue a hospitality amenity license to establish hospitality amenity licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of alcoholic products on premises operated as a hospitality amenity licensee.

(3) The commission may authorize the sale of an alcoholic product at as many as three hospitality amenity locations within the boundary of a hotel or the boundary of a resort building under one hospitality amenity license if:

(a) the hotel or resort has a minimum of 150 rooms for temporary sleeping accommodations; and

(b) the commission determines the location, design, and construction of the hotel or resort requires more than one hospitality amenity location within the hotel or resort to serve the public convenience.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a hospitality amenity license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

**Section 33. Section 32B-6-1004 is enacted to read:**

**32B-6-1004. Specific licensing requirements for a hospitality amenity license.**

(1) To obtain a hospitality amenity license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2) (a) A hospitality amenity license expires on October 31 of each year.

(b) To renew a person's hospitality amenity license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for a hospitality amenity license is \$330.

(b) The initial license fee for a hospitality amenity license is \$2,000.

(c) The renewal fee for a hospitality amenity license is \$1,000.

(4) The bond amount required for a hospitality amenity license is the penal sum of \$10,000.

(5) Notwithstanding Subsection 32B-5-303(3), the department may approve an additional location

in or on the licensed premises of a hospitality amenity licensee from which the hospitality amenity licensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product that is not included in the person's original application only:

(a) upon proper application by a hospitality amenity licensee; and

(b) in accordance with guidelines the commission approves.

**Section 34. Section 32B-6-1005 is enacted to read:**

**32B-6-1005. Specific operational requirements for hospitality amenity license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hospitality amenity licensee and staff of the hospitality amenity licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the hospitality amenity licensee;

(ii) individual staff of the hospitality amenity licensee; or

(iii) both the hospitality amenity licensee and staff of the hospitality amenity licensee.

(2) (a) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product:

(i) to a hospitality guest; and

(ii) for consumption in or on the hospitality amenity licensee's licensed premises.

(b) (i) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product that is not spirituous liquor in or on:

(A) licensed premises physically separated from an area to which a hospitality guest or the public has access by a permanent or temporary structure or barrier; or

(B) licensed premises described in Subsection (2)(b)(ii).

(ii) A hospitality amenity licensee may sell, offer for sale, or furnish spirituous liquor in or on licensed premises that:

(A) allows access only through the use of a key or code; and

(B) fills the entirety of a physically and permanently enclosed area within the hotel or resort.

(c) Spirituous liquor may not be in or on the licensed premises described in Subsection (2)(b)(i)(A) of a hospitality amenity licensee, except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish or dessert.

(d) A hospitality amenity licensee may not allow self-service of an alcoholic product in or on the hospitality amenity licensee's licensed premises.

(3) (a) Subject to Subsections (3)(b) and (c), a hospitality guest may not have more than two alcoholic products of any kind at a time before the hospitality guest.

(b) A hospitality guest may not have more than one spirituous liquor drink at a time before the hospitality guest.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (3)(a).

(4) A hospitality amenity licensee shall make food available at all times that the licensee sells, offers for sale, furnishes, or allows the consumption of an alcoholic product on the licensed premises.

(5) (a) A hospitality amenity licensee may not sell, offer for sale, or furnish an alcoholic product any day during a period that:

(i) begins at 1:00 a.m.; and

(ii) ends at 9:59 a.m.

(b) A hospitality amenity licensee shall remain open for one hour after the licensee ceases to sell and furnish an alcoholic product, during which time a hospitality guest in or on the hospitality amenity licensee's licensed premises may finish consuming:

(i) a single drink containing spirituous liquor;

(ii) a single serving of wine not exceeding five ounces;

(iii) a single serving of heavy beer;

(iv) a single serving of beer not exceeding 26 ounces; or

(v) a single serving of a flavored malt beverage.

(c) A hospitality amenity licensee is not required to remain open:

(i) after all individuals have vacated the licensee's licensed premises; or

(ii) during an emergency.

(6) (a) Notwithstanding Section 32B-5-305, a hospitality amenity licensee may provide a hospitality guest up to two single servings of an alcoholic product free of charge or at a reduced rate, if:

(i) the alcoholic product is not a spirituous liquor; and

(ii) the hospitality amenity licensee offers the alcohol product:

(A) to all hospitality guests;

(B) during a specific time; and

(C) on the hospitality amenity licensee's licensed premises.

(b) Before a hospitality amenity licensee provides an alcoholic product free of charge or at a reduced



rate as described in Subsection (6)(a), the licensee shall provide the department with advance notice of the event, in accordance with commission rules that permit a licensee to provide a single notice for a reoccurring event or multiple events.

(7) A hospitality amenity licensee may permit a hospitality guest to purchase an alcoholic product through a charge to the hospitality guest's lodging accommodations.

(8) (a) A hospitality guest, or a person other than the hospitality amenity licensee or staff of the hospitality amenity licensee, may not remove an alcoholic product from the hospitality amenity licensee's licensed premises.

(b) Notwithstanding Subsection 32B-5-307(3), a hospitality guest may not bring an alcoholic product within the hospitality amenity licensee's licensed premises.

(9) A hospitality amenity licensee shall display at each entrance to the licensee's licensed premises a conspicuous sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that entry is limited to individuals who are hospitality guests, as defined in this title.

(10) A hospitality amenity licensee may not permit a minor to enter the licensee's licensed premises at any time during which an alcoholic product is sold, offered for sale, furnished, or consumed, unless the minor is accompanied at all times on the licensed premises by a hospitality guest.

(11) A staff person of a hospitality amenity licensee shall remain on the licensed premises at all times when an alcoholic product is sold, offered for sale, furnished, or consumed in or on the licensed premises.

(12) A hospitality amenity licensee may transfer an alcoholic product to or from another licensee within the boundary of the hotel or within the boundary of the resort building, if:

(a) the hospitality amenity licensee and each licensee involved in the transfer tracks the transfer of the alcoholic product; and

(b) the alcoholic product is in a sealed, unopened container.

(13) (a) In addition to the requirements described in Section 32B-5-302, a hospitality amenity licensee shall maintain each of the following records for at least three years:

(i) a record required under Section 32B-5-302; and

(ii) a record that the commission requires a hospitality amenity licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a hospitality amenity licensee at least once each calendar year.

**Section 35. Section 32B-7-409 is enacted to read:**

**32B-7-409. Multiple licenses on same premises.**

(1) Except as provided in Subsection (2), the commission may not issue and one or more licensees may not hold an off-premise beer retailer state license for the same licensed premises or adjacent licensed premises as a retail licensee, unless the licensed premises:

(a) are separated by a permanent, opaque, floor-to-ceiling wall;

(b) each have a separate entrance to the licensed premises; and

(c) each have separate restroom facilities on the licensed premises.

(2) The commission may issue and an off-premise beer retailer state licensee may hold more than one type of license for the same licensed premises or adjacent licensed premises, if:

(a) a manufacturing licensee is located on or adjacent to the licensed premises; and

(b) a package agency is located on or adjacent to the licensed premises.

**Section 36. Section 32B-8-102 is amended to read:**

**32B-8-102. Definitions.**

As used in this chapter:

(1) "Boundary of a resort building" means the physical boundary of the [land] real property reasonably related to a resort building and any structure or improvement to that land as determined by the commission.

(2) "Dwelling" means a portion of a resort building:

(a) owned by one or more individuals;

(b) that is used or designated for use as a residence by one or more persons; and

(c) that may be rented, loaned, leased, or hired out for a period of no longer than 30 consecutive days by a person who uses it for a residence.

(3) "Engaged in the management of the resort" may be defined by the commission by rule.

[4] "Invitee" means an individual who in accordance with Subsection 32B-8-304 (11) is authorized to use a resort spa by a host who is:]

[~~(a) a resident; or~~]

[~~(b) a public customer.~~]

[5] "Provisions applicable to a sublicense" means:]

[~~(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant License;~~]

~~[(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service Restaurant License;]~~

~~[(c) for a bar establishment sublicense, Chapter 6, Part 4, Bar Establishment License;]~~

~~[(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet License;]~~

~~[(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer Retailer License; and]~~

~~[(f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.]~~

~~[(6) "Public customer" means an individual who holds a customer card in accordance with Subsection 32B-8-304(12).]~~

~~[(7)] (4) "Resident" means an individual who:~~

~~(a) owns a dwelling located within a resort building; or~~

~~(b) rents lodging accommodations for 30 consecutive days or less from:~~

~~(i) an owner of a dwelling described in Subsection [(7)] (4)(a); or~~

~~(ii) the resort licensee.~~

~~[(8)] (5) "Resort" means a location:~~

~~(a) on which is located one resort building; and~~

~~(b) that is affiliated with a ski area that physically touches the boundary of the resort building.~~

~~[(9)] (6) "Resort building" means a building:~~

~~(a) that is primarily operated to provide dwellings or lodging accommodations;~~

~~(b) that has at least 150 units that consist of a dwelling or lodging accommodations;~~

~~(c) that consists of at least 400,000 square feet:~~

~~(i) including only the building itself; and~~

~~(ii) not including areas such as above ground surface parking; and~~

~~(d) of which at least 50% of the units described in Subsection [(9)] (6)(b) consist of dwellings owned by a person other than the resort licensee.~~

~~[(10) "Resort spa" means a spa, as defined by rule by the commission, that is within the boundary of a resort building.]~~

~~[(11) "Sublicense" means:]~~

~~[(a) a full-service restaurant sublicense;]~~

~~[(b) a limited-service restaurant sublicense;]~~

~~[(c) a bar establishment sublicense;]~~

~~[(d) an on-premise banquet sublicense;]~~

~~[(e) an on-premise beer retailer sublicense; and]~~

~~[(f) a resort spa sublicense.]~~

~~[(12) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission.]~~

**Section 37. Section 32B-8-201 is amended to read:**

**32B-8-201. Commission's power to issue a resort license.**

(1) Before a person as a resort under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicense premises, the person shall first obtain a resort license from the commission in accordance with this part.

(2) (a) The commission may issue to a person a resort license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a resort designated in the resort license if the person operates at least four sublicenses under the resort license.

(b) A resort license shall:

(i) consist of:

(A) a general resort license; and

(B) [the] four or more sublicenses; and

(ii) designate the boundary of the resort building.

(c) This chapter does not prohibit an alcoholic product in or on the boundary of the resort building to the extent otherwise permitted by this title.

~~[(d) The commission may not issue a sublicense that is separate from a resort license.]~~

(3) [(a)] The commission may not issue a total number of resort licenses that at any time totals more than four.

~~[(b) Subject to Subsection (3)(c), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.]~~

~~[(c) If a resort license issued under this chapter includes a sublicense that before the issuance of the resort license was a retail licensee under this chapter, the commission shall include the sublicense as one of the retail licenses issued under the provisions applicable to the sublicense in determining if the total number of licenses issued under the provisions applicable to the sublicense exceeds the number calculated by dividing the population of the state by the number specified in the provisions applicable to the sublicense.]~~

**Section 38. Section 32B-8-202 is amended to read:**

**32B-8-202. Specific licensing requirements for resort license.**

(1) To obtain a resort license, in addition to complying with Chapter 5, Part 2, Retail Licensing

Process, a person shall submit with the person's written application:

~~[(a) the current business license for each sublicense, if the business license is separate from the person's business license;]~~

~~[(b)]~~ (a) evidence:

(i) of proximity of the resort building to any community location~~[-with proximity requirements being governed by Section 32B-1-202];~~

(ii) that each ~~[of the four or more sublicense]~~ proposed sublicensed premises is entirely within the boundaries of the resort building; and

(iii) that the building designated in the application as the resort building qualifies as a resort building; and

~~[(e)]~~ (b) a description and boundary map of the resort building~~[-];~~

~~[(d) a description, floor plan, and boundary map of each sublicense premises designating;]~~

~~[(i) any location at which the person proposes that an alcoholic product be stored; and]~~

~~[(ii) a designated location on the sublicense premises from which the person proposes that an alcoholic product be sold, furnished, or consumed;]~~

~~[(e) evidence that the resort license person carries dramshop insurance coverage equal to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both the general resort license and each sublicense; and]~~

~~[(f) a signed consent form stating that the person will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the boundary of the resort building and each sublicense premises.]~~

(2) (a) A resort license expires on October 31 of each year.

(b) To renew a person's resort license, the person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for a resort license is \$300.

(b) The initial license fee for a resort license is calculated as follows:

(i) ~~[\$10,000]~~ if four sublicenses are being applied for under the resort license, \$10,000; or

(ii) if more than four sublicenses are being applied for under the resort license, the sum of:

(A) \$10,000; and

(B) \$2,000 for each sublicense in excess of four sublicenses for which the person is applying.

(c) The renewal fee for a resort license is \$1,000 for each sublicense under the resort license.

(4) (a) The bond amount required for a resort license is the penal sum of \$25,000.

(b) A resort licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the resort licensee shall cover each sublicense under the resort license.

(5) The commission may not issue a resort license for a resort building that does not meet the proximity requirements of Section 32B-1-202.

(6) In accordance with Subsection 32B-8d-103(4), a resort licensee may request to add a sublicense after the commission issues the resort licensee's resort license.

**Section 39. Section 32B-8-401 is amended to read:**

**32B-8-401. Specific operational requirements for resort license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee, staff of the resort licensee, and a sublicensee or a person otherwise operating under a sublicense shall comply with this section.

(b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) ~~[a]~~ the resort licensee;

(ii) individual staff of ~~[a]~~ the resort licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the resort licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the resort licensee; or

(v) any combination of the persons listed in ~~[this Subsection (1)(b)]~~ Subsections (1)(b)(i) through (iv).

(2) (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on ~~[a sublicense]~~ sublicensed premises;

(ii) pursuant to a permit issued under this title; or

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

(b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:

(i) if on a sublicense premises, in accordance with the operational requirements ~~[under the provisions applicable to the sublicense, except as provided in Section 32B-8-402]~~ described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency.

~~[(3)]~~ A resort licensee shall comply with Subsections 32B-5-301(4) and (5) within the boundary of the resort building.]

[4)] (3) A resort licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the resort license and each of [its] the resort licensee's sublicenses is from the sale of food, not including:

- (a) mix for an alcoholic product; and
- (b) a charge in connection with the service of an alcoholic product.

[5)] (4) (a) A resort licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license shall complete the alcohol training and education seminar.

[6)] (5) (a) Room service of an alcoholic product to a lodging accommodation of a resort licensee shall be provided in person by staff of [a] the resort licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

**Section 40. Section 32B-8-501 is amended to read:**

**32B-8-501. Enforcement of qualifications for resort license or sublicense.**

(1) The commission or department may not take an action described in Subsection (2) with regard to a resort license unless the person who is found not to meet the qualifications of [Section 32B-8-203] Subsection 32B-1-304(1) is one of the following who is engaged in the management of the resort:

- (a) a partner;
- (b) a managing agent;
- (c) a manager;
- (d) an officer;
- (e) a director;

(f) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation;

(g) a member who owns at least 20% of the limited liability company; or

(h) a person employed to act in a supervisory or managerial capacity for the resort licensee.

(2) Subsection (1) applies to:

(a) the commission immediately suspending or revoking a resort license, if after the day on which the resort license is issued, a person described in Subsection [32B-8-203(1)] 32B-1-304(7)(a):

(i) is found to have been convicted of an offense described in Subsection 32B-1-304(1)(a) before the commission issues the resort license [is issued]; or

(ii) on or after the day on which the commission issues the resort license [is issued]:

(A) is convicted of an offense described in Subsection 32B-1-304(1)(a)(i) or (ii); or

(B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug; and

(II) was convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A);

(b) the director taking an emergency action by immediately suspending the operation of a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection [32B-8-203(1)] 32B-1-304(7):

(i) is arrested on a charge for an offense described in Subsection 32B-1-304(1)(a)(i) or (ii); or

(ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug; and

(B) was convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug within five years before the day on which the person is arrested on a charge described in Subsection (2)(b)(ii)(A); and

(c) the commission suspending or revoking a resort license because a person to whom the commission issues a resort license [is issued] under this chapter no longer possesses the qualifications required by this title for obtaining the resort license.

(3) This section does not prevent the commission from suspending or revoking a sublicense that is part of a resort license if a person employed to act in a supervisory or managerial capacity for a sublicense no longer meets the qualification requirements in the provisions applicable to the sublicense.

**Section 41. Section 32B-8-502 is amended to read:**

**32B-8-502. Enforcement of operational requirements for resort license or sublicense.**

(1) (a) Except as provided in Subsection (2) [and in addition to Subsection (3)], failure by a person described in Subsection (1)(b) to comply with this chapter or [an operational requirement under a provision applicable to a sublicense] Chapter 8d, Sublicense Act, may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a resort licensee;
- (ii) individual staff of a resort licensee;

(iii) a sublicense or person otherwise operating under a sublicense;

(iv) individual staff of a sublicense or person otherwise operating under a sublicense; or

(v) any combination of the persons listed in ~~this Subsection (1)(a)~~ Subsections (1)(a)(i) through (iv).

(b) This Subsection (1) applies to:

(i) a resort licensee;

(ii) a sublicense or person operating under a sublicense of a resort license; or

(iii) staff of a resort licensee or sublicensee or other person operating under a sublicense of a resort license.

(2) (a) Notwithstanding the other provisions of this title, if the failure to comply with this chapter described in Subsection (1) relates to a sale, offer for sale, or furnishing of an alcoholic product on ~~a sublicense~~ sublicensed premises, a resort licensee or an individual member of the resort licensee's management personnel is subject to a sanction described in Subsection (1), only if the commission finds that:

(i) during the three years before the day on which the commission makes the finding, there are three or more disciplinary proceedings against any sublicensee or person operating under a sublicense of the resort licensee for failure to comply with an operational requirement applicable to the sublicense; and

(ii) the resort licensee has not taken reasonable steps to prevent persons operating under a sublicense of the resort licensee from failing to comply with operational requirements applicable to the sublicense.

(b) This Subsection (2) applies if the three or more disciplinary proceedings described in Subsection (2)(a) are against:

(i) the same person operating under a sublicense of the resort licensee; or

(ii) two or more different persons operating under a sublicense of the resort licensee.

~~[(3) An operational requirement applicable to a person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.]~~

**Section 42. Section 32B-8a-101 is amended to read:**

**CHAPTER 8a. TRANSFER OF ALCOHOL LICENSE ACT**

**32B-8a-101. Title.**

This chapter is known as the "Transfer of ~~Retail~~ Alcohol License Act."

**Section 43. Section 32B-8a-102 is amended to read:**

**32B-8a-102. Definitions.**

As used in this chapter:

(1) "Alcohol license" means:

(a) a retail license;

(b) an off-premise beer retailer state license;

(c) a brewery manufacturing license;

(d) a distillery manufacturing license;

(e) a winery manufacturing license; and

(f) a special use permit that is an industrial or manufacturing use permit.

~~[(4)]~~ (2) "Business entity" means a corporation, partnership, limited liability company, sole proprietorship, or similar entity.

~~[(2)]~~ (3) "Transfer fee" means a fee described in Section 32B-8a-303.

~~[(3)]~~ (4) "Transferee" means a person who intends to hold ~~a retail~~ an alcohol license after the transfer of the ~~retail~~ alcohol license if the transfer is approved by the commission under this chapter.

~~[(4)]~~ (5) "Transferor" means ~~a retail~~ an alcohol licensee who intends to transfer ~~a retail~~ an alcohol license held by the ~~retail~~ alcohol licensee if the commission approves the transfer ~~is approved by the commission~~ under this chapter.

**Section 44. Section 32B-8a-201 is amended to read:**

**32B-8a-201. Transferability of alcohol license.**

(1) (a) ~~A retail~~ An alcohol license is separate from other property of ~~a retail~~ an alcohol licensee.

(b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the existence of any type of ~~retail~~ alcohol license.

(c) Except as provided in this chapter, a person may not:

(i) transfer ~~a retail~~ an alcohol license from one location to another location; or

(ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the ~~retail~~ alcohol license to another person whether for monetary gain or not.

(d) If approved by the commission and subject to the requirements of this chapter, ~~a retail~~ an alcohol licensee may transfer ~~a retail~~ the alcohol license:

(i) from the ~~retail~~ alcohol licensee to another person, regardless of whether ~~it~~ the alcohol license is for the same premises; and

(ii) from one premises of the ~~retail~~ alcohol licensee to another premises of the ~~retail~~ alcohol licensee.

(2) (a) The commission may not approve the transfer of ~~a retail~~ an alcohol license that results in a transferee holding a different type of ~~retail~~ alcohol license than is held by the transferor.

(b) ~~The~~ Unless the alcohol license is a bar establishment license, the commission may not

approve the transfer of [~~a retail~~] an alcohol license from one location to another location, if the location of the premises to which the [~~retail~~] alcohol license would be transferred is in a different county than the location of the licensed premises of the [~~retail~~] alcohol license being transferred.

(3) The commission may not approve the transfer of [~~a retail~~] an alcohol license if the transferee:

(a) is not eligible to hold the same type of [~~retail~~] alcohol license as the [~~retail~~] alcohol license to be transferred at the premises to which the [~~retail~~] alcohol license would be transferred; or

(b) is delinquent in the payment of any of the following that arises in full or in part out of the operation of a [~~retail~~] alcohol license:

(i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or

(ii) an amount due under Title 35A, Chapter 4, Employment Security Act.

(4) This chapter does not apply to a:

(a) master full-service restaurant license; [~~or~~]

(b) master limited-service restaurant license[~~;~~];  
or

(c) master off-premise beer retailer state license.

**Section 45. Section 32B-8a-202 is amended to read:**

**32B-8a-202. Effect of transfer of ownership of business entity.**

(1) (a) When the ownership of 51% or more of the shares of stock of a corporation is acquired by or transferred to one or more persons who did not hold the ownership of 51% of those shares of stock on the date [~~a retail~~] an alcohol license is issued to the corporation, the corporation shall comply with this chapter to transfer the [~~retail~~] alcohol license to the corporation as if the corporation is newly constituted.

(b) When there is a new general partner or when the ownership of 51% or more of the capital or profits of a limited partnership is acquired by or transferred to one or more persons as general or limited partners and who did not hold ownership of 51% or more of the capital or profits of the limited partnership on the date [~~a retail~~] an alcohol license is issued to the limited partnership, the limited partnership shall comply with this chapter to transfer the [~~retail~~] alcohol license to the limited partnership as if the limited partnership is newly constituted.

(c) When the ownership of 51% or more of the interests in a limited liability company is acquired by or transferred to one or more persons as members who did not hold ownership of 51% or more of the interests in the limited liability company on the date [~~a retail~~] an alcohol license is issued to the limited liability company, the limited liability company shall comply with this chapter to transfer the [~~retail~~] alcohol license to the limited

liability company as if the limited liability company is newly constituted.

(2) A business entity shall comply with this section within 60 days after the day on which the event described in Subsection (1) occurs.

**Section 46. Section 32B-8a-203 is amended to read:**

**32B-8a-203. Operational requirements for transferee.**

(1) (a) A transferee shall begin operations of the [~~retail~~] alcohol license within 30 days [~~from~~] after the day on which a transfer is approved by the commission, except that:

(i) the department may grant an extension of this time period not to exceed 30 days; and

(ii) after the extension is authorized by the department under Subsection (1)(a)(i), the commission may grant one or more additional extensions not to exceed, in the aggregate, seven months from the day on which the commission approves the transfer, if the transferee can demonstrate to the commission that the transferee:

(A) cannot begin operations because the transferee is improving the licensed premises;

(B) has obtained a building permit for the improvements described in Subsection (1)(a)(ii)(A); and

(C) is working expeditiously to complete the improvements to the licensed premises.

(b) A transferee is considered to have begun operations of the [~~retail~~] alcohol license if the transferee:

(i) has a licensed premises that is open for business;

(ii) (A) sells, offers for sale, or furnishes alcoholic products to a patron on the licensed premises described in Subsection (1)(b)(i); [~~and~~]

(B) manufactures an alcoholic product on the licensed premises described in Subsection (1)(b)(i);  
or

(C) engages in an industrial or manufacturing pursuit containing alcohol on the licensed premises described in Subsection (1)(b)(i); and

(iii) has a valid business license.

(2) If a transferee fails to begin operations of the [~~retail~~] alcohol license within the time period required by Subsection (1), the following are automatically forfeited effective immediately:

(a) the [~~retail~~] alcohol license; and

(b) the [~~retail~~] alcohol license fee.

(3) A transferee shall begin operations of the [~~retail~~] alcohol license at the location to which the transfer applies before the transferee may seek a transfer of the [~~retail~~] alcohol license to a different location.

(4) Notwithstanding Subsection (1), the commission may not issue a conditional license

unless the requirements of Section 32B-5-205 are met, except that the time periods required by this section supersede the time period provided in Section 32B-5-205.

**Section 47. Section 32B-8a-302 is amended to read:**

**32B-8a-302. Application -- Approval process.**

(1) To obtain the transfer of [~~a retail~~] an alcohol license from [~~a retail~~] an alcohol licensee, the transferee shall file a transfer application with the department that includes:

(a) an application in the form provided by the department;

(b) a statement as to whether the consideration, if any, to be paid to the transferor includes payment for transfer of the [~~retail~~] alcohol license;

(c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and

(d) (i) an application fee of \$300; and

(ii) a transfer fee determined in accordance with Section 32B-8a-303.

(2) If the intended transfer of [~~a retail~~] an alcohol license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section 63F-1-701 that states the following:

(a) the name of the transferor;

(b) the name and address of the business currently associated with the [~~retail~~] alcohol license;

(c) instructions for filing a claim with the escrow holder; and

(d) the projected date that the commission may consider the transfer application.

(3) (a) (i) Before the commission may approve the transfer of [~~a retail~~] an alcohol license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the [~~retail~~] alcohol license should be approved.

(ii) The department shall forward the information and recommendations described in this Subsection (3)(a) to the commission to aid in the commission's determination.

(b) Before approving a transfer, the commission shall:

(i) determine that the transferee filed a complete application;

(ii) determine that the transferee is eligible to hold the type of [~~retail~~] alcohol license that is to be

transferred at the premises to which the [~~retail~~] alcohol license would be transferred;

(iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection 32B-8a-201(3);

(iv) determine that the transferee is not disqualified under Section 32B-1-304;

(v) consider the locality within which the proposed licensed premises is located, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vi) consider the transferee's ability to manage and operate the retail license to be transferred, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vii) consider the nature or type of [~~retail~~] alcohol licensee operation of the transferee, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and

(ix) consider any other factor the commission considers necessary.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not approve the transfer of [~~a retail~~] an alcohol license to premises that do not meet the proximity requirements of Subsection 32B-1-202(2), Section 32B-7-201, or Section 32B-11-210, as applicable.

**Section 48. Section 32B-8a-303 is amended to read:**

**32B-8a-303. Transfer fees.**

(1) Except as otherwise provided in this section, the department shall charge the following transfer fees:

(a) for a transfer of ~~[a retail]~~ an alcohol license from ~~[a retail]~~ an alcohol licensee to another person, the transfer fee equals the initial license fee amount specified in the relevant chapter or part ~~[under Chapter 6, Specific Retail License Act,]~~ for the type of ~~[retail]~~ alcohol license that is being transferred;

(b) for the transfer of ~~[a retail]~~ an alcohol license from one premises to another premises of the same ~~[retail]~~ alcohol licensee, the transfer fee equals the renewal fee amount specified in the relevant chapter or part ~~[under Chapter 6, Specific Retail License Act,]~~ for the type of ~~[retail]~~ alcohol license that is being transferred;

(c) subject to Subsections (1)(d) and (2), for a transfer described in Section 32B-8a-202, the transfer fee equals the renewal fee amount specified in the relevant chapter or part ~~[under Chapter 6, Specific Retail License Act,]~~ for the type of ~~[retail]~~ alcohol license that is being transferred;

(d) for a transfer of ~~[a retail]~~ an alcohol license to include the parent or adult child of ~~[a retail]~~ an alcohol licensee, when no consideration is given for the transfer, the transfer fee is one-half of the amount described in Subsection (1)(a); and

(e) for one of the following transfers, the transfer fee is one-half of the amount described in Subsection (1)(a):

(i) ~~[a retail]~~ an alcohol license of one spouse to the other spouse when the transfer application is made before the entry of a final decree of divorce;

(ii) ~~[a retail]~~ an alcohol license of a deceased ~~[retail]~~ alcohol licensee to:

(A) the one or more surviving partners of the deceased ~~[retail]~~ alcohol licensee;

(B) the executor, administrator, or conservator of the estate of the deceased ~~[retail]~~ alcohol licensee; or

(C) the surviving spouse of the deceased ~~[retail]~~ alcohol licensee, if the deceased ~~[retail]~~ alcohol licensee leaves no estate to be administered;

(iii) ~~[a retail]~~ an alcohol license of an incompetent person or conservatee by or to the conservator or guardian for the incompetent person or conservatee who is the ~~[retail]~~ alcohol licensee;

(iv) ~~[a retail]~~ an alcohol license of a debtor in a bankruptcy case by or to the trustee of a bankrupt estate of the ~~[retail]~~ alcohol licensee;

(v) ~~[a retail]~~ an alcohol license of a person for whose estate a receiver is appointed may be transferred by or to a receiver of the estate of the ~~[retail]~~ alcohol licensee;

(vi) ~~[a retail]~~ an alcohol license of an assignor for the benefit of creditors by or to an assignee for the benefit of creditors of a licensee with the consent of the assignor;

(vii) ~~[a retail]~~ an alcohol license transferred to a revocable living trust if the ~~[retail]~~ alcohol licensee is the trustee of the revocable living trust;

(viii) ~~[a retail]~~ an alcohol license transferred between partners when no new partner is being licensed;

(ix) ~~[a retail]~~ an alcohol license transferred between corporations whose outstanding shares of stock are owned by the same individuals;

(x) upon compliance with Section 32B-8a-202, ~~[a retail]~~ an alcohol license to a corporation whose entire stock is owned by:

(A) the transferor; or

(B) the spouse of the transferor;

(xi) upon compliance with Section 32B-8a-202, ~~[a retail]~~ an alcohol license to a limited liability company whose entire membership consists of:

(A) the transferor; or

(B) the spouse of the transferor; or

(xii) ~~[a retail]~~ an alcohol license transferred from a corporation to a person who owns, or whose spouse owns, the entire stock of the corporation.

(2) If there are multiple and simultaneous transfers of ~~[retail]~~ alcohol licenses under Section 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the ~~[retail]~~ alcohol licenses being transferred.

(3) (a) Except as provided in Subsection (3)(b), a transfer fee required under Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xii) if the subsequent transfer is of 51% of the stock in a corporation to which ~~[a retail]~~ an alcohol license is transferred by ~~[a retail]~~ an alcohol licensee or the spouse of ~~[a retail]~~ an alcohol licensee.

(b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's adult child or adult grandchild, the transfer fee is one-half of the amount described in Subsection (1)(a).

(4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.

**Section 49. Section 32B-8a-401 is amended to read:**

**32B-8a-401. Notification of creditors -- Escrow -- Priority of payments.**

(1) Before the filing of a transfer application with the department, if the intended transfer of ~~[a retail]~~ an alcohol license involves consideration:

(a) the transferor shall provide the transferee a list of creditors who have a claim against the transferor;

(b) the transferee shall notify each creditor on the list provided under Subsection (1)(a) of the intended transfer;



(c) the transferor and the transferee shall establish an escrow with a person who is not a party to the transfer to act as escrow holder;

(d) the transferee shall deposit with the escrow holder the full amount of the consideration; and

(e) the transferor and transferee shall enter into an agreement that:

(i) the consideration is deposited with the escrow holder;

(ii) requires the escrow holder to distribute the consideration within a reasonable time after the completion of the transfer of the ~~retail~~ alcohol license; and

(iii) directs the escrow holder to distribute the consideration in accordance with Subsection (2).

(2) Subject to the other requirements of this section, if a creditor with a claim against the transferor files the claim with the escrow holder before the escrow holder is notified by the department that the transfer is approved, the escrow holder shall distribute the consideration in the following order:

(a) to the payment of:

(i) the United States for a claim based on income or withholding taxes; and

(ii) a claim based on a tax other than specified in Subsection 32B-8a-201(3);

(b) to the payment of a claim for wages, salaries, or fringe benefits earned or accrued by an employee of the transferor before the transfer or opening of the escrow for the transfer of the ~~retail~~ alcohol license;

(c) to the payment of a claim of a secured creditor to the extent of the proceeds that arise from the sale of the security;

(d) to the payment of a claim on a mechanics lien;

(e) to the payment of:

(i) escrow fees;

(ii) a claim for prevailing brokerage fees for services rendered; and

(iii) a claim for reasonable attorney fees for services rendered;

(f) to the payment of claims:

(i) of a landlord, to the extent of proceeds on past due rent or lease requirements;

(ii) for goods sold and delivered to the ~~retail~~ alcohol licensee for resale at the transferor's licensed premises; and

(iii) for services rendered, performed, or supplied in connection with the operation of the transferor's licensed business;

(g) to the payment of other types of claims that are reduced to court-ordered judgments, including a claim for court-ordered support of a minor child; and

(h) to the payment of all other claims.

**Section 50. Section 32B-8a-402 is amended to read:**

**32B-8a-402. Duties of escrow holder.**

(1) To act as an escrow holder under Section 32B-8a-401, a person shall comply with Title 7, Chapter 22, Regulation of Independent Escrow Agents.

(2) Not more than 10 days after ~~receiving~~ the day on which the escrow holder receives a claim from a creditor, an escrow holder shall acknowledge receipt of the claim.

(3) (a) Not more than 10 days after ~~a retail~~ the day on which an alcohol license is transferred and before the distribution of the consideration held by an escrow holder, the escrow holder shall advise each creditor who files a claim against the escrow whether there is sufficient consideration in the escrow to pay all creditors in full.

(b) If the consideration in an escrow is sufficient to pay all creditors in full, the escrow holder shall advise each creditor of the date on or before which payment will be made.

(c) If there are not sufficient assets to pay all creditors in full, the escrow holder shall advise each creditor who filed a claim of the following:

(i) the total assets placed in escrow with the escrow holder;

(ii) the nature of each asset;

(iii) the name of each creditor who filed a claim against the escrow and the amount of the claim;

(iv) the amount the escrow holder proposes to pay each creditor; and

(v) the date on or before which the escrow holder will pay each creditor.

(4) An escrow holder may not release money in the escrow in exchange for:

(a) a promissory note; or

(b) any other consideration of less value to the creditors than the money exchanged.

(5) If sufficient assets are not available in the escrow for the payment of the claims in full, the escrow holder shall pay the claims pro rata.

(6) If the ~~retail~~ alcohol licensee who transfers the ~~retail~~ alcohol license disputes a claim, the escrow holder shall:

(a) notify the creditor making the claim;

(b) retain the amount to be paid to the creditor under this section for a period of 25 days; and

(c) to the extent that creditors do not successfully recover the amount described in Subsection (6)(b) in accordance with this part, pay the amount to the ~~retail~~ alcohol licensee.

(7) An escrow holder shall distribute the money in the escrow account after the payments made under Subsections 32B-8a-401(2) and this section within

a reasonable time after the completion of the transfer of the [retail] alcohol license.

**Section 51. Section 32B-8a-404 is amended to read:**

**32B-8a-404. When escrow not required.**

(1) Notwithstanding the other provisions of this part, an escrow is not required to be established in connection with the transfer of [a-retail] an alcohol license if:

(a) a business entity files with the department a guaranty of full, prompt, and faithful payment of all claims of a creditor of the [retail] alcohol licensee; and

(b) the guaranty described in Subsection (1)(a) is accepted in writing by the creditors listed in Subsection 32B-8a-401(2).

(2) A transfer of [a-retail] an alcohol license described in Subsection (1) is not considered complete until:

(a) the guarantor pays all creditors' claims in full; and

(b) the guarantor files with the department a statement executed under penalty of perjury that all conditions of the transfer have been satisfied.

(3) Payment of a claim by a guarantor shall be made in United States currency or by certified check in a manner acceptable to the creditors.

(4) This section applies only in the case of a transfer in which the guarantor business entity has a net worth on a consolidated basis, according to [its] the guarantor business entity's most recent audited financial statement, of not less than \$5,000,000.

**Section 52. Section 32B-8a-501 is amended to read:**

**32B-8a-501. License not to be pledged as security -- Prohibited transfers.**

(1) [A-retail] An alcohol licensee may not enter into any agreement under which the [retail] alcohol licensee pledges the [retail] alcohol license as security for a loan or as security for the fulfillment of any agreement.

(2) [A-retail] An alcohol licensee may not transfer [a-retail] an alcohol license if the transfer is to:

(a) satisfy a loan or to fulfill an agreement entered into more than 90 days [preceding the date] before the day on which the transfer application is filed;

(b) gain or establish a preference to or for any creditor of the transferor, except as provided by Section 32B-8a-202; or

(c) defraud or injure a creditor of the transferor.

(3) An alcohol licensee may not transfer a bar establishment license in a manner that circumvents the limitations of Subsection 32B-8d-103(3)(b) or (c).

~~[(3)] (4) [A-retail] An alcohol~~ licensee may not transfer ~~[a-retail] an alcohol~~ license except in accordance with this chapter.

**Section 53. Section 32B-8a-502 is amended to read:**

**32B-8a-502. Effect of transfer in violation of this chapter.**

(1) If [a-retail] an alcohol license is transferred in violation of this chapter, the commission may:

(a) void the transfer; and

(b) require the [retail] alcohol license to be forfeited.

(2) Subsection (1) is in addition to any other penalty under this title that is applicable to the person who violates this chapter.

**Section 54. Section 32B-8b-102 is amended to read:**

**32B-8b-102. Definitions.**

As used in this chapter:

(1) "Boundary of a hotel" means the physical boundary of one or more contiguous parcels of real [estate] property owned or managed by the same person and on which a hotel is located.

(2) "Hotel" means one or more buildings that:

(a) comprise a hotel, as defined by the commission;

(b) are owned or managed by the same person or by a person who has a majority interest in or can direct or exercise control over the management or policy of the person who owns or manages any other building under the hotel license within the boundary of the hotel;

(c) primarily operate to provide lodging accommodations;

(d) provide room service within the boundary of the hotel meeting the requirements of this title;

(e) have on-premise banquet space and provide on-premise banquet service within the boundary of the hotel meeting the requirements of this title;

(f) have a restaurant or bar establishment within the boundary of the hotel meeting the requirements of this title; and

(g) have at least 40 [guest-rooms] rooms as temporary sleeping accommodations for compensation.

~~[(3) "Provisions applicable to a sublicense" means:]~~

~~[(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant License;]~~

~~[(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service Restaurant License;]~~

~~[(c) for a bar establishment sublicense, Chapter 6, Part 4, Bar Establishment License;]~~

~~[(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet License;]~~

~~[(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer Retailer License; and]~~

~~[(f) for a beer-only restaurant sublicense, Chapter 6, Part 9, Beer-Only Restaurant License;]~~

~~[(4) "Sublicense" means:]~~

~~[(a) a full-service restaurant sublicense;]~~

~~[(b) a limited-service restaurant sublicense;]~~

~~[(c) a bar establishment sublicense;]~~

~~[(d) an on-premise banquet sublicense;]~~

~~[(e) an on-premise beer retailer sublicense; and]~~

~~[(f) a beer-only restaurant sublicense.]~~

~~[(5) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission.]~~

**Section 55. Section 32B-8b-201 is amended to read:**

**32B-8b-201. Commission's power to issue a hotel license.**

(1) Before a person as a hotel under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicense premises, the person shall first obtain a hotel license from the commission in accordance with this part.

(2) (a) The commission may issue to a person a hotel license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a hotel designated in the hotel license if the person operates at least three sublicenses under the hotel license:

(i) one of which is an on-premise banquet license; and

(ii) one of which is ~~[a sublicense for a restaurant or bar establishment.];~~

(A) a full-service restaurant sublicense;

(B) a limited-service restaurant sublicense;

(C) a beer-only restaurant sublicense; or

(D) a bar establishment sublicense.

(b) A hotel license shall:

(i) consist of:

(A) a general hotel license; and

(B) three or more sublicenses meeting the requirements of Subsection (2)(a); and

(ii) designate the boundary of the hotel and sublicenses.

(c) This chapter does not prohibit an alcoholic product on the boundary of the hotel to the extent otherwise permitted by this title.

~~[(d) The commission may not issue a sublicense that is separate from a hotel license.]~~

(3) ~~[(a)]~~ The commission may not issue a total number of hotel licenses that at any time totals more than 80.

~~[(b) Subject to Subsection (3)(c), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.]~~

~~[(e) If a hotel license issued under this chapter includes a bar establishment sublicense that before the issuance of the hotel license was a bar establishment license, the commission shall include the bar establishment sublicense as one of the bar establishment licenses in determining if the total number of licenses issued under the provisions applicable to the bar establishment license exceeds the number calculated by dividing the population of the state by the number specified in the provisions applicable to the bar establishment license.]~~

~~[(d) A person may not transfer a bar establishment license under Chapter 8a, Transfer of Retail License Act, in a manner that circumvents the limitations of Subsection (3)(e).]~~

**Section 56. Section 32B-8b-202 is amended to read:**

**32B-8b-202. Specific licensing requirements for hotel license.**

(1) To obtain a hotel license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

~~[(a) the current business license for each sublicense, if the business license is separate from the person's business license;]~~

~~[(b)]~~ (a) evidence:

(i) of proximity of each building under the hotel license to any community location~~], with proximity requirements being governed by Section 32B-1-202];~~

(ii) that each ~~[of the three or more sublicense] proposed sublicensed premises is entirely within the boundary of the hotel; and~~

(iii) that [a] each building designated in the application as a building under the hotel license qualifies to be under the hotel license; and

~~[(e)]~~ (b) a description and boundary map of the hotel~~];~~

~~[(d) a description, floor plan, and boundary map of each sublicense premises designating:]~~

~~[(i) any location at which the person proposes that an alcoholic product be stored; and]~~

~~[(ii) a designated location on the sublicense premises from which the person proposes that an alcoholic product be sold, furnished, or consumed;]~~

~~[(e) evidence that the hotel licensee carries dramshop insurance coverage equal to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both the general hotel license and each sublicense; and]~~

~~[(f) a signed consent form stating that the person will permit any authorized representative of the commission or department, or any law enforcement officer, to have unrestricted right to enter the boundary of the hotel and each sublicense premises.]~~

(2) (a) A hotel license expires on October 31 of each year.

(b) To renew a person's hotel license, the person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for a hotel license is \$500.

(b) The initial license fee for a hotel license is calculated as follows:

(i) [~~\$5,000~~] if three sublicenses are being applied for under the hotel license, \$5,000; or

(ii) if more than three sublicenses are being applied for under the hotel license, the sum of:

(A) \$5,000; and

(B) \$2,000 for each sublicense in excess of three sublicenses for which the person is applying.

(c) The renewal fee for a hotel license is \$1,000 for each sublicense under the hotel license.

(4) (a) The bond amount required for a hotel license is the penal sum of \$10,000.

(b) A hotel licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the hotel licensee shall cover each sublicense under the hotel license.

(5) The commission may not issue a hotel license that includes a building under the hotel license that does not meet the proximity requirements of Section 32B-1-202.

(6) In accordance with Subsection 32B-8d-103(4), a hotel licensee may request to add a sublicense after the commission issues the hotel licensee's hotel license.

**Section 57. Section 32B-8b-301 is amended to read:**

**32B-8b-301. Specific operational requirements for hotel license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) [a] the hotel licensee;

(ii) individual staff of [a] the hotel licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;

(iv) individual staff of a sublicense or person otherwise operating under a sublicense of the hotel licensee; or

(v) any combination of the persons listed in this Subsection (1)(b).

(2) (a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on [~~a sublicense~~] sublicensed premises;

(ii) pursuant to a permit issued under this title; or

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

(i) [~~except as provided in Section 32B-8b-302,~~] if on [~~a sublicense~~] sublicensed premises, in accordance with the operational requirements [under the provisions applicable to the sublicense] described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency.

(c) Notwithstanding the other provisions of this Subsection (2), a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.

~~[(3) A hotel licensee shall comply with Subsections 32B-5-301(4) and (5) within the boundary of the hotel.]~~

[4] (3) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

[5] (4) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of [a] the hotel licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

[6] (5) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel licensee's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

**Section 58. Section 32B-8b-401 is amended to read:**

**32B-8b-401. Enforcement of operational requirements for hotel license or sublicense.**

~~[(1) (a)]~~ (1) Failure by a person described in Subsection ~~[(1)(b)]~~ (2) to comply with this chapter or ~~[an operational requirement under a provision applicable to a sublicense]~~ Chapter 8d, Sublicense Act, may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

~~[(i)]~~ (a) ~~[a]~~ the hotel licensee;

~~[(ii)]~~ (b) individual staff of ~~[a]~~ the hotel licensee;

~~[(iii)]~~ (c) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;

~~[(iv)]~~ (d) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel licensee; or

~~[(v)]~~ (e) any combination of the persons listed in this Subsection (1)~~[(a)]~~.

~~[(b)]~~ (2) ~~[This]~~ Subsection (1) applies to:

~~[(i)]~~ (a) a hotel licensee;

~~[(ii)]~~ (b) a sublicensee or person operating under a sublicense of a hotel licensee; or

~~[(iii)]~~ (c) staff of a hotel licensee or sublicensee or other person operating under a sublicense of a hotel licensee.

~~[(2) An operational requirement applicable to a person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.]~~

**Section 59. Section 32B-8c-101 is enacted to read:**

**CHAPTER 8c. ARENA LICENSE ACT**

**32B-8c-101. Title.**

This chapter is known as the "Arena License Act."

**Section 60. Section 32B-8c-102 is enacted to read:**

**32B-8c-102. Definitions.**

Reserved

**Section 61. Section 32B-8c-201 is enacted to read:**

**32B-8c-201. Commission's power to issue an arena license.**

(1) Before a person as an arena under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicensed premises, the person shall first obtain an arena license from the commission in accordance with this part.

(2) (a) Beginning November 1, 2020, the commission may issue to a person an arena license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with the arena designated in the arena license, if the person operates at least three sublicenses under the arena license, including:

(i) one of which is an on-premise banquet sublicense;

(ii) one of which is:

(A) a full-service restaurant sublicense;

(B) a limited-service restaurant sublicense;

(C) a beer-only restaurant sublicense; or

(D) a bar establishment sublicense; and

(iii) one of which is an on-premise beer retailer sublicense that is not a tavern.

(b) An arena license shall:

(i) consist of:

(A) a general arena license; and

(B) three or more sublicenses meeting the requirements of Subsection (2)(a); and

(ii) designate the enclosed building that is the arena.

(c) This chapter does not prohibit an alcoholic product in an arena to the extent otherwise permitted by this title.

(3) The commission may not issue a total number of arena licenses that at any time totals more than 10.

**Section 62. Section 32B-8c-202 is enacted to read:**

**32B-8c-202. Specific licensing requirements for arena license.**

(1) To obtain an arena license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

(a) evidence:

(i) of proximity of the arena to any community location;

(ii) that each proposed sublicense premises is entirely within the arena; and

(iii) that the building designated in the application as the arena qualifies as an arena; and

(b) a description and map of the arena.

(2) (a) An arena license expires on October 31 of each year.

(b) To renew a person's arena license, the person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for an arena license is \$500.

(b) The initial license fee for an arena license is calculated as follows:

(i) if the person applies for three sublicenses under the arena license, \$5,000; or

(ii) if the person applies for more than three sublicenses under the arena license, the sum of:

(A) \$5,000; and

(B) \$1,000 for each sublicense in excess of three sublicenses for which the person applies.

(c) The renewal fee for an arena license is \$1,000 plus \$1,000 for each sublicense under the arena license.

(4) (a) The bond amount required for an arena license is the penal sum of \$100,000.

(b) An arena licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the arena licensee shall cover each sublicense under the arena license.

(5) In accordance with Subsection 32B-8d-103(4), an arena may request to add a sublicense after the commission issues the arena licensee's arena license.

**Section 63. Section 32B-8c-301 is enacted to read:**

**32B-8c-301. Specific operational requirements for arena license.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensing Operational Requirements, an arena licensee, staff of the arena licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

(b) Failure to comply as provided in Subjection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the arena licensee;

(ii) individual staff of the arena licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the arena licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense; or

(v) any combination of the persons listed in Subsections (1)(b)(i) through (iv).

(2) (a) An arena licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title; or

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

(b) An arena licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

(i) if on sublicensed premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency.

(3) An arena licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food and beverages for the arena license and each of the arena licensee's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

(4) An arena licensee shall, directly or indirectly, supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under an arena license.

**Section 64. Section 32B-8c-401 is enacted to read:**

**32B-8c-401. Enforcement.**

(1) Failure by a person described in Subsection (2) to comply with this chapter or Chapter 8d, Sublicense Act, may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(a) the arena licensee;

(b) individual staff of the arena licensee;

(c) a sublicensee or a person otherwise operating under a sublicense of the arena licensee;

(d) individual staff of a sublicensee or person otherwise operating under a sublicense of the arena licensee; or

(e) any combination of the persons listed in Subsections (1)(a) through (d).

(2) Subsection (1) applies to:

(a) an arena licensee;

(b) a sublicensee or person operating under a sublicense of an arena licensee;

(c) staff of an arena licensee or sublicensee or other person operating under a sublicense of the arena licensee.

**Section 65. Section 32B-8d-101 is enacted to read:**

#### CHAPTER 8d. SUBLICENSE ACT

**32B-8d-101. Title.**

This chapter is known as the "Sublicense Act."

**Section 66. Section 32B-8d-102 is enacted to read:**

**32B-8d-102. Definitions.**

As used in this chapter:

(1) “Resident” means the same as that term is defined in Section 32B-8-102.

(2) “Resort building” means the same as that term is defined in Section 32B-8-102.

(3) “Resort spa” means a spa:

(a) as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) that is within the boundary of a resort building.

**Section 67. Section 32B-8d-103 is enacted to read:**

**32B-8d-103. Commission’s power to issue a sublicense.**

(1) Before a person as a sublicensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicensed premises, the person shall first obtain a sublicense from the commission in accordance with:

- (a) this chapter;
- (b) Chapter 8, Resort License Act;
- (c) Chapter 8b, Hotel License Act; and
- (d) Chapter 8c, Arena License Act.

(2) (a) The commission may issue to a person a sublicense to allow the storage, sale, offering for sale, furnishing, or consumption of an alcoholic product on the premises of the sublicense, if the person is:

- (i) a principal licensee; or
- (ii) a person seeking a principal license, contingent on the issuance of the principal license.
- (b) The commission may not:
  - (i) issue a sublicense that is separate from a principal license; or
  - (ii) issue a single sublicense that covers more than one outlet in or on the boundaries of the principal licensee.

(3) (a) Subject to Subsections (3)(b) and (c), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to that sublicense.

(b) If a principal license includes a bar establishment sublicense that before the issuance of the principal license was a bar establishment license, the commission shall include the bar establishment sublicense as a bar establishment license in calculating the total number of licenses issued under the provisions applicable to a bar establishment license.

(c) If a resort license includes a sublicense that before the issuance of the resort license was a retail

license, the commission shall include the sublicense as a license in calculating the total number of licenses issued under the provisions applicable to the sublicense.

(4) If a principal licensee seeks to add a sublicense after the commission issues the person’s principal license, the principal licensee shall file with the department:

- (a) a nonrefundable \$300 application fee;
- (b) an initial license fee of \$2,250, which the commission shall refund if the commission does not issue the proposed sublicense;
- (c) written consent of the local authority;
- (d) a copy of:
  - (i) the principal licensee’s current business; and
  - (ii) the proposed sublicensee’s current business license, if the relevant political subdivision determines that the proposed sublicensee’s business license is separate from the principal licensee’s business license;

(e) evidence that the proposed sublicensed premises is entirely within the boundary of the principal license;

(f) a description, floor plan, and boundary map of the proposed sublicensed premises designating:

- (i) each location at which the principal licensee proposes that an alcoholic product be stored; and
- (ii) each location from which the principal licensee proposes that an alcoholic product be sold, furnished, or consumed;

(g) evidence that the principal licensee carries:

- (i) public liability insurance in an amount and form satisfactory to the department; and
- (ii) dramshop insurance coverage in the amount required by Section 32B-5-201 that covers the proposed sublicense;

(h) a signed consent form stating that the principal licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have an unrestricted right to enter the proposed sublicensed premises;

(i) if the principal licensee is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and

(j) any other information the commission or department may require.

**Section 68. Section 32B-8d-104 is enacted to read:**

**32B-8d-104. General operational requirements for a sublicense.**

(1) Except as provided in Subsections (2) and (3), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

(2) Notwithstanding a requirement in the provisions applicable to the sublicense, a person operating under the sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent that the gross receipts for the sublicense are included in calculating the percentages under Subsections 32B-8-401(3), 32B-8b-301(7), and 32B-8c-301(3).

(3) Notwithstanding Sections 32B-6-202 and 32B-6-302, a bar structure in a sublicensed premises operated under a full-service restaurant sublicense or a limited-service restaurant sublicense is considered a grandfathered bar structure if the sublicense is a sublicense to a resort license issued on or before December 31, 2010.

(4) Except as provided in Section 32B-8-502, for purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

(a) a requirement imposed on a sublicensee or person operating under a sublicense applies to the principal licensee; and

(b) a requirement imposed on staff of a sublicensee or person operating under a sublicense applies to staff of the principal licensee.

**Section 69. Section 32B-8d-105 is enacted to read:**

**32B-8d-105. Enforcement of operational requirements.**

(1) Except as provided in Subsection 32B-8-502(2) and in addition to Subsection (2), failure by a person to comply with this chapter or an operational requirement under a provision applicable to a sublicense may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(a) a principal licensee;

(b) individual staff of a principal licensee;

(c) a sublicensee or person otherwise operating under a sublicense;

(d) individual staff of a sublicensee or person otherwise operating under a sublicense; or

(e) any combination of the persons listed in Subsections (1)(a) through (d).

(2) An operational requirement applicable to a sublicensee or person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.

**Section 70. Section 32B-8d-201 is enacted to read:**

**Part 2. Resort Spa Sublicense**

**32B-8d-201. Title.**

This part is known as "Resort Spa Sublicense."

**Section 71. Section 32B-8d-202, which is renumbered from Section 32B-8-301 is renumbered and amended to read:**

**[32B-8-301]. 32B-8d-202. Commission's power to issue resort spa sublicense.**

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on [its] the person's premises as a resort spa sublicensee, a resort licensee or a person applying for a resort license shall first obtain a resort spa sublicense from the commission in accordance with this part.

(2) The commission may only issue a resort spa sublicense to [~~establish a resort spa license within the boundary of a resort building for the storage, sale, offer for sale, furnishing, and consumption of liquor on premises operated as a resort spa.~~]:

(a) a resort licensee; or

(b) a person applying for a resort license, contingent on the issuance of the resort license.

(3) The resort spa sublicense premises shall fall entirely within the boundary of a resort building that is part of the resort to which the resort spa sublicense is connected.

**Section 72. Section 32B-8d-203, which is renumbered from Section 32B-8-302 is renumbered and amended to read:**

**[32B-8-302]. 32B-8d-203. Specific licensing requirements for resort spa sublicense.**

(1) (a) [A] In accordance with Subsection 32B-8d-103(2), a person may not file a written application with the department to obtain a resort spa sublicense that is separate from the application of the resort license, unless the person seeks the resort spa sublicense [~~is being sought~~] after the [~~issuing of~~] commission issues the person a resort license.

[2] (b) If a resort licensee seeks to add a resort spa sublicense after its resort license is issued, the resort licensee shall comply with Subsection [~~32B-8-204(3)(b)~~] 32B-8d-103(4).

[3] (2) (a) A resort spa sublicense expires on October 31 of each year.

(b) A resort licensee desiring to renew the resort licensee's resort spa sublicense shall renew the resort spa sublicense as part of renewing the resort license.

(c) Failure to meet the renewal requirements for a resort license results in an automatic forfeiture of the resort spa sublicense effective on the date the resort license expires.

**Section 73. Section 32B-8d-204, which is renumbered from Section 32B-8-303 is renumbered and amended to read:**

**[32B-8-303]. 32B-8d-204. Specific qualifications for resort spa sublicense.**

(1) A person employed to act in a supervisory or managerial capacity for the resort spa sublicense is



subject to qualification requirements of Section ~~[32B-8-203]~~ 32B-1-304 for licensees.

(2) If a person no longer possesses the qualifications required by Section ~~[32B-8-203]~~ 32B-1-304 for obtaining the resort license or resort spa sublicense, the commission may suspend or revoke the resort spa sublicense that is part of the resort license.

**Section 74. Section 32B-8d-205, which is renumbered from Section 32B-8-304 is renumbered and amended to read:**

**[32B-8-304]. 32B-8d-205. Specific operational requirements for resort spa sublicense.**

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee~~[,]~~ and staff of the resort licensee~~[, or a person otherwise related to a resort spa sublicense]~~ shall comply with this section.

(b) A resort spa sublicensee or a person otherwise operating under a resort spa sublicense and staff of a resort spa sublicensee or a person otherwise operating under a resort spa sublicense shall comply with:

(i) Chapter 5, Part 3, Retail Licensee Operational Requirements as if the resort spa sublicensee is a retail licensee, unless a provision conflicts with this chapter; and

(ii) this chapter.

~~[(b)]~~ (c) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a ~~[retail]~~ resort licensee;

(ii) staff of the ~~[retail]~~ resort licensee;

(iii) a resort spa sublicensee or person otherwise [related to] operating under a resort spa sublicense; ~~[or]~~

(iv) individual staff of a resort spa sublicensee or person otherwise operating under a resort spa sublicense; or

~~[(iv)]~~ (v) any combination of the persons listed in [this Subsection (1)(b)] Subsections (1)(c)(i) through (iv).

(2) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that ~~[a record required by this title is maintained, and]~~ a record is maintained or used for the resort spa sublicense:

(i) as the department requires; and

(ii) for a minimum period of three years.

(b) A resort spa sublicensee record is subject to inspection by an authorized representative of the commission and the department.

(c) A resort licensee shall allow the department, through ~~[an auditor or examiner]~~ a compliance officer of the department, to audit the records for a

resort spa sublicense at the times the department considers advisable.

(d) The department shall audit the records for a resort spa sublicense at least once annually.

(e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (2).

(3) (a) A resort spa sublicensee or person operating under a resort spa sublicense may not sell, offer for sale, or furnish liquor at a resort spa during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) A resort spa sublicensee or person operating under a resort spa sublicense may sell, offer for sale, or furnish beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer.

(c) (i) Notwithstanding Subsections (3)(a) and (b), a resort spa shall remain open for one hour after the resort spa ceases the sale and furnishing of an alcoholic product during which time a person at the resort spa may finish consuming:

(A) a single drink containing spirituous liquor;

(B) a single serving of wine not exceeding five ounces;

(C) a single serving of heavy beer;

(D) a single serving of beer not exceeding 26 ounces; or

(E) a single serving of a flavored malt beverage.

(ii) A resort spa is not required to remain open:

(A) after all ~~[persons]~~ individuals have vacated the resort spa ~~[sublicense]~~ sublicensee's sublicensed premises; or

(B) during an emergency.

(4) (a) A minor may not be admitted into, use, or be on~~[-(a)]~~ the ~~[sublicense]~~ sublicensed premises of a resort spa sublicense unless accompanied by ~~[a person]~~ an individual 21 years of age or older~~[-or].~~

(b) A minor permitted under Subsection (4)(a) to be admitted into, use, or be on the sublicensed premises of a resort spa sublicense:

~~[(b)]~~ (i) may only be admitted into or be on a lounge or bar area of the resort spa [sublicense] sublicensee's sublicensed premises[-] momentarily while en route to another area of the resort spa; and

(ii) may not remain or sit in the lounge or bar area of the resort spa sublicensee's sublicensed premises.

(5) A resort spa sublicensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the resort spa ~~[sublicense]~~ sublicensee's sublicensed premises.

(6) (a) Subject to the other provisions of this Subsection (6), a patron may not have more than

two alcoholic products of any kind at a time before the patron.

(b) A resort spa patron may not have two spirituous liquor drinks before the resort spa patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).

(7) (a) An alcoholic product may only be consumed at a table or counter.

(b) An alcoholic product may not be served to or consumed by a patron at a dispensing structure.

(8) (a) A resort spa sublicensee or person operating under a resort spa sublicense shall have available on the resort spa [sublicensee] sublicense's sublicensed premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold or furnished by the resort spa sublicensee including:

- (i) a set-up charge;
- (ii) a service charge; or
- (iii) a chilling fee.

(b) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic product menus including:

- (i) a set-up charge;
- (ii) a service charge; or
- (iii) a chilling fee.

(9) (a) A resort licensee shall own or lease premises suitable for the resort [spa's] spa sublicense's activities.

(b) A resort licensee may not maintain premises in a manner that barricades or conceals the resort spa sublicense's operation.

(10) Subject to the other provisions of this section, a resort spa sublicensee or person operating under a resort spa sublicense may not sell an alcoholic product to or allow [a person] an individual to be admitted to or use the resort spa [sublicensee] sublicensee's sublicensed premises other than:

- (a) a resident; or
- (b) a customer.

~~[(b) a public customer who holds a valid customer card issued under Subsection (12); or]~~

~~[(c) an invitee.]~~

~~[(11) A person operating under a resort spa sublicense may allow an individual to be admitted to or use the resort spa sublicense premises as an invitee subject to the following conditions:]~~

~~[(a) the individual shall be previously authorized by one of the following who agrees to host the individual as an invitee into the resort spa:]~~

~~[(i) a resident; or]~~

~~[(ii) a public customer as described in Subsection (10);]~~

~~[(b) the individual has only those privileges derived from the individual's host for the duration of the invitee's visit to the resort spa; and]~~

~~[(c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not enter into an agreement or arrangement with a resident or public customer to indiscriminately host a member of the general public into the resort spa as an invitee.]~~

~~[(12) A person operating under a resort spa sublicense may issue a customer card to allow an individual to enter and use the resort spa sublicense premises on a temporary basis under the following conditions:]~~

~~[(a) the resort spa may not issue a customer card for a time period that exceeds three weeks;]~~

~~[(b) the resort spa shall assess a fee to a public customer for a customer card;]~~

~~[(c) the resort spa may not issue a customer card to a minor; and]~~

~~[(d) a public customer may not host more than seven invitees at one time.]~~

**Section 75. Section 32B-9-201 is amended to read:**

**32B-9-201. Application requirements for event permit.**

(1) To obtain an event permit, a person shall submit to the department:

(a) a written application in a form that the department prescribes;

(b) an event permit fee:

(i) in the amount specified in the relevant part under this chapter for the type of event permit for which the person is applying; and

(ii) that is refundable if an event permit is not issued;

(c) written consent of the local authority;

(d) a bond as specified by Section 32B-9-203;

(e) the times, dates, location, estimated attendance, nature, and purpose of the event;

(f) a description or floor plan designating:

(i) the area in which the person proposes that an alcoholic product be stored;

(ii) the site from which the person proposes that an alcoholic product be sold, offered for sale, or furnished; and

(iii) the area in which the person proposes that an alcoholic product be allowed to be consumed;

(g) a signed consent form stating that the event permittee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the premises during the event;

(h) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and

(i) any other information as the commission or department may require.

(2) If a person substantially changes the person's application under Subsection (1) after the person initially submits the application, the person shall pay to the department a fee:

(a) in an amount the department prescribes in accordance with Section 63J-1-504; and

(b) that is nonrefundable, regardless of whether the department issues an event permit.

~~[(2)]~~ (3) An entity applying for a permit need not meet the requirements of Subsections (1)(b), (c), and (d) if the entity is:

(a) a state agency; or

(b) a political subdivision of the state.

~~[(3)]~~ (4) The director may not issue an event permit to a person who is disqualified under Section 32B-1-304.

~~[(4)]~~ (5) (a) The proximity requirements of Section 32B-1-202 do not apply to an event permit.

(b) Notwithstanding Subsection ~~[(4)]~~ (5)(a), nothing in this section prevents the director, the Compliance, Licensing, and Enforcement Subcommittee, or the commission from considering the proximity of an educational, religious, or recreational facility, or any other relevant factor in deciding whether to issue an event permit.

**Section 76. Section 32B-10-206 is amended to read:**

**32B-10-206. General operational requirements for special use permit.**

(1) (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a special use permittee;

(ii) individual staff of a special use permittee; or

(iii) a special use permittee and staff of the special use permittee.

(c) The commission may suspend or revoke a special use permit with or without cause.

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer

for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.

(3) (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).

(4) (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.

(b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises.

(c) A special use permittee shall purchase liquor at prices set by the commission.

(d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.

(e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.

(5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's application.

(6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(7) A special use permittee may not employ a minor to handle an alcoholic product.

(8) (a) The location specified in a special use permit may not be transferred from one location to another location, ~~[without prior written approval of the commission]~~, except as provided in Chapter 8a, Transfer of Alcohol License Act.

(b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person

whether for monetary gain or not, except as provided in Chapter 8a, Transfer of Alcohol License Act.

(9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.

(10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:

- (a) physical facilities;
- (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;
- (c) purchase, storage, and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

**Section 77. Section 32B-11-208 is amended to read:**

**32B-11-208. General operational requirements for manufacturing license.**

(1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply with this title and the rules of the commission, including the relevant part of this chapter applicable to the type of manufacturing license held by the manufacturing licensee.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a manufacturing licensee;
- (ii) individual staff of a manufacturing licensee; or
- (iii) a manufacturing licensee and staff of the manufacturing licensee.

(2) A manufacturing licensee shall prominently display the manufacturing license on the licensed premises.

(3) (a) A manufacturing licensee shall make and maintain the records required by the department.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).

(4) A manufacturing licensee may not sell liquor within the state except to:

- (a) the department; or
- (b) a military installation.

(5) A manufacturing license may not be transferred from one location to another location, [without prior written approval of the commission] except as provided in Chapter 8a, Transfer of Alcohol License Act.

(6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not, except as provided in Chapter 8a, Transfer of Alcohol License Act.

(b) A manufacturing license has no monetary value for any type of disposition.

(7) A manufacturing licensee may not advertise [its] the manufacturing licensee's product in violation of this title or any other federal or state law, except that nothing in this title prohibits the advertising or solicitation of an order for industrial alcohol from a holder of a special use permit.

(8) A manufacturing licensee shall from time to time, on request of the department, furnish for analytical purposes a sample of the alcoholic product that the manufacturing licensee has:

- (a) for sale; or
- (b) in the course of manufacture for sale in this state.

(9) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of a manufacturing licensee relating to:

- (a) physical facilities;
- (b) conditions of storage, sale, or manufacture of an alcoholic product;
- (c) storage and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

**Section 78. Section 32B-11-403 is amended to read:**

**32B-11-403. Specific authority and operational requirements for distillery manufacturing license.**

(1) A distillery manufacturing license allows a distillery manufacturing licensee to:

- (a) store, manufacture, transport, import, or export liquor;
- (b) sell liquor to:
  - (i) the department;
  - (ii) an out-of-state customer; and
  - (iii) as provided in Subsection (2);

(c) purchase an alcoholic product for mixing and manufacturing purposes if the department is notified of:

- (i) the purchase; and
- (ii) the date of delivery; [and]
  - (d) warehouse on [its] the distillery manufacturing licensee's licensed premises an alcoholic product that the distillery manufacturing licensee manufactures or purchases for manufacturing purposes[-];

(e) if the distillery manufacturing licensee holds two or more distillery manufacturing licenses

under this chapter, transport an alcoholic product from one of the distillery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:

(i) continuing or completing the manufacturing process; or

(ii) storing a bulk container or an alcoholic product that is distilled and packaged in the state, including the transport of an alcoholic product to a package agency located at any of the distillery manufacturing licensee's licensed premises; and

(f) receive samples of an alcoholic product from a person outside the state for the sole purpose of performing tests and analysis, if the distillery manufacturing licensee:

(i) performs the tests and analysis in accordance with 27 C.F.R. Secs. 19.434(a), (c), (d), (e), and (f), Secs. 19.435 through 19.437, and Sec. 19.616;

(ii) keeps records of the samples received, including:

(A) all data required under 27 C.F.R. Sec. 19.616;

(B) a description of the sample; and

(C) the date the distillery manufacturing licensee receives the sample; and

(iii) upon request, provides the records described in Subsection (1)(f)(ii) to the department.

(2) (a) Subject to the other provisions of this Subsection (2), a distillery manufacturing licensee may directly sell an alcoholic product to a person engaged within the state in:

(i) a mechanical or industrial business that requires the use of an alcoholic product; or

(ii) scientific pursuits that require the use of an alcoholic product.

(b) A person who purchases an alcoholic product under Subsection (2)(a) shall hold a valid special use permit issued in accordance with Chapter 10, Special Use Permit Act, authorizing the use of the alcoholic product.

(c) A distillery manufacturing licensee may sell to a special use permittee described in Subsection (2)(b) an alcoholic product only in the type for which the special use permit provides.

(d) The sale of an alcoholic product under this Subsection (2) is subject to rules prescribed by the department and the federal government.

(3) The federal definitions, standards of identity and quality, and labeling requirements for distilled liquor, in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with laws of this state.

(4) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of unsuitable alcoholic product-making equipment or material;

(c) a distillery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be made available to the commission or department upon request.

(5) A distillery manufacturing licensee may not permit an alcoholic product to be consumed on [its] the distillery manufacturing licensee's premises, except that:

(a) a distillery manufacturing licensee may allow [its] the distillery manufacturing licensee's on-duty staff to taste on the licensed premises an alcoholic product that the distillery manufacturing licensee manufactures on [its] the distillery manufacturing licensee's licensed premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise;

(b) a distillery manufacturing licensee may allow a person who can lawfully purchase an alcoholic product for wholesale or retail distribution to consume a bona fide sample of the distillery manufacturing licensee's product on the licensed premises; and

(c) a distillery manufacturing licensee may conduct tastings as provided in Section 32B-11-210.

**Section 79. Section 63I-2-232 is amended to read:**

**63I-2-232. Repeal dates -- Title 32B.**

(1) Subsection 32B-1-102[(7)](9) is repealed July 1, 2022.

[(2)] Section 32B-1-207.1 is repealed -- November 1, 2019.]

[(3)] (2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

[(4)] (3) Section 32B-2-211.1 is repealed November 1, 2020.

[(5)] (4) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

[(6)] (5) Section 32B-6-205 is repealed July 1, 2022.

[(7)] (6) Subsection 32B-6-205.2[(14)](16) is repealed July 1, 2022.

[(8)] (7) Section 32B-6-205.3 is repealed July 1, 2022.

[(9)] (8) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

[(10)] (9) Section 32B-6-305 is repealed July 1, 2022.

~~[(11)]~~ (10) Subsection 32B-6-305.2~~[(14)]~~(15) is repealed July 1, 2022.

~~[(12)]~~ (11) Section 32B-6-305.3 is repealed July 1, 2022.

~~[(13)]~~ (12) Section 32B-6-404.1 is repealed July 1, 2022.

~~[(14)]~~ (13) Section 32B-6-409 is repealed July 1, 2022.

~~[(15)]~~ (14) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

~~[(16)]~~ (15) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

~~[(17)]~~ (16) Section 32B-6-905 is repealed July 1, 2022.

~~[(18)]~~ (17) Subsection 32B-6-905.1(15) is repealed July 1, 2022.

~~[(19)]~~ (18) Section 32B-6-905.2 is repealed July 1, 2022.

~~[(20) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.]~~

~~(19)~~ Subsection 32B-8d-104(3) is repealed July 1, 2022.

#### **Section 80. Repealer.**

This bill repeals:

**Section 32B-8-203, Specific qualifications for resort license.**

**Section 32B-8-204, Commission and department duties before issuing resort license.**

**Section 32B-8-402, Specific operational requirements for a sublicense.**

**Section 32B-8-503, Enforcement of Nuisance Retail Licensee Act.**

**Section 32B-8b-203, Qualifications for hotel license and sublicense.**

**Section 32B-8b-204, Commission and department duties before issuing hotel license.**

**Section 32B-8b-302, Specific operational requirements for a sublicense.**

**Section 32B-8b-402, Enforcement of Nuisance Retail Licensee Act.**

**CHAPTER 220****H. B. 409**

Passed March 10, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**CONCURRENT  
ENROLLMENT AMENDMENTS**

Chief Sponsor: Eric K. Hutchings  
Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill amends provisions related to concurrent enrollment courses and funding.

**Highlighted Provisions:**

This bill:

- ▶ requires the State Board of Regents to annually approve a prioritized list of upper division concurrent enrollment courses;
- ▶ amends provisions to include upper division concurrent enrollment courses;
- ▶ amends the formula for increasing funding for concurrent enrollment; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-10-301, as last amended by Laws of Utah 2019, Chapters 120 and 147  
53E-10-302, as last amended by Laws of Utah 2019, Chapters 120, 147, and 186  
53E-10-305, as last amended by Laws of Utah 2019, Chapters 120, 147, and 223  
53E-10-307, as last amended by Laws of Utah 2019, Chapters 120 and 147  
53F-2-409, as last amended by Laws of Utah 2019, Chapters 136 and 186

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

**Section 1. Section 53E-10-301 is amended to read:****53E-10-301. Definitions.**

As used in this part:

(1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the State Board of Regents under Section 53E-10-302.

(2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Eligible instructor" means an instructor who meets the requirements described in Subsection ~~53E-10-302(5)~~ 53E-10-302(6).

(5) "Eligible student" means a student who:

- (a) is enrolled in, and counted in average daily membership in, a public school within the state;
- (b) has on file a plan for college and career readiness as described in Section 53E-2-304; and
- (c) is in grade 9, 10, 11, or 12.

(6) "Institution of higher education" means an institution that is part of the Utah System of Higher Education described in Subsection 53B-1-102(1)(a).

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

- (i) number of years teaching in the academic field;
- (ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

(v) portfolio of work related to the academic field; or

(vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

**Section 2. Section 53E-10-302 is amended to read:****53E-10-302. Concurrent enrollment program.**

(1) The state board and the State Board of Regents shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

- (i) toward high school graduation; and
  - (ii) at an institution of higher education;
- (b) includes only a course that:

(i) leads to a degree or certificate offered by an institution of higher education; and

(ii) is one of the following:

- (A) a general education course;

- (B) a career and technical education course;
- (C) a pre-major college level course; ~~or~~
- (D) a foreign language concurrent enrollment course described in Section 53E-10-307; or
- (E) an upper divisions course that the State Board of Regents approves under Subsection (3);

(c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and

(d) is designed and implemented to take full advantage of the most current available education technology.

(2) The state board and the State Board of Regents shall coordinate to:

(a) establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for a concurrent enrollment course align with:

(A) core standards for Utah public schools adopted by the state board; and

(B) except for a foreign language concurrent enrollment course described in Section 53E-10-307 or an upper division course that the State Board of Regents approves under Subsection (3), an institution of higher education lower division course numbered at or above the 1000 level; and

(b) provide advising to an eligible student, including information on:

(i) general education requirements at institutions of higher education; and

(ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.

(3) The State Board of Regents, after consulting with the state board, shall annually approve a prioritized list of upper division courses for which an institution of higher education may use concurrent enrollment money.

~~[(3)]~~ (4) After consultation with institution of higher education concurrent enrollment directors, the State Board of Regents shall:

(a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and

(b) on or before July 1, 2019, establish a policy that:

(i) determines which concurrent enrollment courses are career and technical education courses; and

(ii) creates a process for:

(A) an LEA to appeal an institution of higher education's decision under Subsection ~~[(6)]~~ (7) if the

institution of higher education does not approve an LEA employee as an eligible instructor; and

(B) an LEA or institution of higher education to determine whether an eligible instructor who previously taught a concurrent enrollment course is no longer qualified to teach the concurrent enrollment course.

~~[(4)]~~ (5) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection ~~[(3)(a)]~~ (4)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

~~[(5)]~~ (6) (a) An institution of higher education faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an institution of higher education; and

(iii) (A) as described in Subsection ~~[(6)]~~ (7), is approved as an eligible instructor by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee;

(B) has an upper level mathematics credential issued by the state board;

(C) is approved as adjunct faculty by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee; or

(D) teaches a concurrent enrollment course that the LEA employee taught during the 2018-19 or 2019-20 school year.

~~[(6)]~~ (7) An institution of higher education shall approve an LEA employee as an eligible instructor:

(a) for a career and technical education concurrent enrollment course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the concurrent enrollment course's academic field; or

(ii) qualifying experience, as determined by the institution of higher education; or



(b) for a concurrent enrollment course other than a career and technical education course, if the LEA employee has:

(i) a master's degree or higher in the concurrent enrollment course's academic field;

(ii) (A) a master's degree or higher in any academic field; and

(B) at least 18 completed credit hours of graduate course work in an academic field that is relevant to the concurrent enrollment course; or

(iii) qualifying experience, as determined by the institution of higher education.

[~~(7)~~] (8) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

**Section 3. Section 53E-10-305 is amended to read:**

**53E-10-305. Tuition and fees.**

(1) Except as provided in this section, the State Board of Regents or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The State Board of Regents may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection [~~53E-10-302(5)(b)] 53E-10-302(6)(b); or~~

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

(5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as defined in Section 53G-7-601, that is required for a concurrent enrollment course.

**Section 4. Section 53E-10-307 is amended to read:**

**53E-10-307. Concurrent enrollment courses for accelerated foreign language students.**

(1) As used in this section:

(a) "Accelerated foreign language student" means an eligible student who has passed a world language advanced placement exam.

(b) "Blended learning delivery model" means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) "State university" means an institution of higher education that offers courses leading to a bachelor's degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students;

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor described in Subsection [~~53E-10-302(5)(a)] 53E-10-302(6)(a).~~

**Section 5. Section 53F-2-409 is amended to read:**

**53F-2-409. Concurrent enrollment funding.**

(1) The terms defined in Section 53E-10-301 apply to this section.

(2) The state board shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The state board shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken where:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the state board shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the State Board of Regents.

(c) From the money allocated under Subsection (3)(a)(~~(ii)~~), the state board shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the State Board of Regents.

(d) The state board shall make rules providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The State Board of Regents shall make rules providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) [~~kindergarten through grade 12 student~~] concurrent enrollment; and

(b) the value of the weighted pupil unit.

(5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

**CHAPTER 221****H. B. 419**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**SUBSTANCE USE AND VIOLENCE  
 PREVENTION REPORTING AMENDMENTS**

Chief Sponsor: Lee B. Perry  
 Senate Sponsor: Daniel W. Thatcher

**LONG TITLE****General Description:**

This bill requires the Department of Health to report on violent incidents and fatalities in the state that involve substance abuse.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the Department of Health to submit an annual report to the Health and Human Services Interim Committee regarding the number of violent incidents and fatalities that involved substance abuse in the state during the preceding year;
- ▶ authorizes the Department of Health to contract with a state agency, private entity, or research institution to assist with the report on violent incidents and fatalities; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

631-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

26-7-10, Utah Code Annotated 1953

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

**Section 1. Section 26-7-10 is enacted to read:**

**26-7-10. Study on violent incidents and fatalities involving substance abuse -- Report.**

(1) As used in this section:

(a) "Drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance or alcohol was combined, that results in an individual requiring medical assistance.

(b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(c) "Violent incident" means:

(i) aggravated assault as described in Section 76-5-103;

(ii) child abuse as described in Section 76-5-109;

(iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;

(vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

(vii) a domestic violence offense, as defined in Section 77-36-1; and

(viii) any other violent offense, as determined by the department.

(2) In 2021 and continuing every other year, the department shall provide a report before October 1 to the Health and Human Services Interim Committee regarding the number of:

(a) violent incidents and fatalities that occurred in the state during the preceding calendar year that, at the time of occurrence, involved substance abuse;

(b) drug overdose events in the state during the preceding calendar year; and

(c) recommendations for legislation, if any, to prevent the occurrence of the events described in Subsections (2)(a) and (b).

(3) Before October 1, 2020, the department shall:

(a) determine what information is necessary to complete the report described in Subsection (2) and from which local, state, and federal agencies the information may be obtained;

(b) determine the cost of any research or data collection that is necessary to complete the report described in Subsection (2);

(c) make recommendations for legislation, if any, that is necessary to facilitate the research or data collection described in Subsection (3)(b), including recommendations for legislation to assist with information sharing between local, state, federal, and private entities and the division; and

(d) report the findings described in Subsections (3)(a) through (c) to the Health and Human Services Interim Committee.

(4) The department may contract with another state agency, private entity, or research institution to assist the division with the report described in Subsection (2).

**Section 2. Section 631-1-226 is amended to read:**

**631-1-226. Repeal dates, Title 26.**

(1) Section 26-1-40 is repealed July 1, 2022.

(2) Section 26-7-10 is repealed December 31, 2027.

~~[(2)]~~ (3) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

~~[(3)]~~ (4) Section 26-10-11 is repealed July 1, 2020.

~~[(4)]~~ (5) Subsection 26-18-417(3) is repealed July 1, 2020.

~~[(5)]~~ (6) Subsection 26-18-418(2), the language that states “and the Mental Health Crisis Line Commission created in Section 63C-18-202” is repealed July 1, 2023.

~~[(6)]~~ Section 26-18-419.1 is repealed December 31, 2019.]

(7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

(12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

(13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

**CHAPTER 222****H. B. 428**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**BIRTHING FACILITY  
 LICENSURE AMENDMENTS**

Chief Sponsor: Francis D. Gibson  
 Senate Sponsor: Deidre M. Henderson

**LONG TITLE****General Description:**

This bill amends provisions relating to the licensure of a birthing facility.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions relating to the licensure of a birthing facility;
- ▶ allows a birthing facility that is not freestanding to be licensed as an alongside midwifery unit under certain circumstances; and
- ▶ describes the requirements for licensure as an alongside midwifery unit.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-21-2, as last amended by Laws of Utah 2011, Chapter 161  
 26-21-29, as enacted by Laws of Utah 2016, Chapter 73

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

**Section 1. Section 26-21-2 is amended to read:**

**26-21-2. Definitions.**

As used in this chapter:

- (1) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.
- (2) "Activities of daily living" means essential activities including:
  - (a) dressing;
  - (b) eating;
  - (c) grooming;
  - (d) bathing;
  - (e) toileting;
  - (f) ambulation;
  - (g) transferring; and
  - (h) self-administration of medication.
- (3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5) (a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and self sufficiency.

(6) "Birthing center" means a [~~freestanding facility, receiving~~] facility that:

(a) receives maternal clients and [providing] provides care during pregnancy, delivery, and immediately after delivery[.]; and

(b) (i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26-21-29(7).

(7) "Committee" means the Health Facility Committee created in Section 26-1-7.

(8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

(11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and

rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.

(12) “Governmental unit” means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.

(13) (a) “Health care facility” means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

(b) “Health care facility” does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.

(14) “Health maintenance organization” means an organization, organized under the laws of any state which:

(a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

(b) (i) provides or otherwise makes available to enrolled participants at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(iii) provides physicians’ services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(15) (a) “Home health agency” means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) “Home health agency” does not mean an individual who provides services under the authority of a private license.

(16) “Hospice” means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides

medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) “Nursing care facility” means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual’s habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) “Person” means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) “Resident” means a person 21 years of age or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in an assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

(20) “Small health care facility” means a four to 16 bed facility that provides licensed health care programs and services to residents.

(21) “Specialty hospital” means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(22) “Substantial compliance” means in a department survey of a licensee, the department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

(23) “Type I abortion clinic” means a facility, including a physician’s office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy; and

(b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of pregnancy.

(24) “Type II abortion clinic” means a facility, including a physician’s office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, after the first trimester of pregnancy; or

(b) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy and after the first trimester of pregnancy.

**Section 2. Section 26-21-29 is amended to read:**

**26-21-29. Birthing centers -- Regulatory restrictions.**

(1) For purposes of this section:

(a) “Alongside midwifery unit” means a birthing center that meets the requirements described in Subsection (7).

~~[(a)]~~ (b) “Certified nurse midwife” means an individual who is licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act.

~~[(b)]~~ (c) “Direct-entry midwife” means an individual who is licensed under Title 58, Chapter 77, Direct-Entry Midwife Act.

~~[(c)]~~ (d) “Licensed maternity care practitioner” includes:

- (i) a physician;
- (ii) a certified nurse midwife;
- (iii) a direct entry midwife;
- (iv) a naturopathic physician; and

(v) other individuals who are licensed under Title 58, Occupations and Professions and whose scope of practice includes midwifery or obstetric care.

~~[(d)]~~ (e) “Naturopathic physician” means an individual who is licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act.

~~[(e)]~~ (f) “Physician” means an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) The Health Facility Committee and the department may not require a birthing center or a licensed maternity care practitioner who practices at a birthing center to:

- (a) maintain admitting privileges at a general acute hospital;
- (b) maintain a written transfer agreement with one or more general acute hospitals;
- (c) maintain a collaborative practice agreement with a physician; or
- (d) have a physician or certified nurse midwife present at each birth when another licensed maternity care practitioner is present at the birth and remains until the maternal patient and newborn are stable postpartum.

(3) The Health Facility Committee and the department shall:

(a) permit all types of licensed maternity care practitioners to practice in a birthing center; and

(b) except as provided in Subsection (2)(b), require a birthing center to have a written plan for the transfer of a patient to a hospital in accordance with Subsection (4).

(4) A transfer plan under Subsection (3)(b) shall:

- (a) be signed by the patient; and
- (b) indicate that the plan is not an agreement with a hospital.

(5) If a birthing center transfers a patient to a licensed maternity care practitioner or facility, the responsibility of the licensed maternity care practitioner or facility, for the patient:

- (a) does not begin until the patient is physically within the care of the licensed maternity care practitioner or facility;
- (b) is limited to the examination and care provided after the patient is transferred to the licensed maternity care practitioner or facility; and
- (c) does not include responsibility or accountability for the patient’s decision to pursue an out-of-hospital birth and the services of a birthing center.

(6) (a) Except as provided in Subsection (6)(c), a licensed maternity care practitioner who is not practicing at a birthing center may, upon receiving a briefing from a member of a birthing center’s clinical staff, issue a medical order for the birthing center’s patient without assuming liability for the care of the patient for whom the order was issued.

(b) Regardless of the advice given or order issued under Subsection (6)(a), the responsibility and liability for caring for the patient is that of the birthing center and the birthing center’s clinical staff.

(c) The licensed maternity care practitioner giving the order under Subsection (6)(a) is responsible and liable only for the appropriateness of the order, based on the briefing received under Subsection (6)(a).

(7) (a) A birthing center that is not freestanding may be licensed as an alongside midwifery unit if the birthing center:

- (i) is accredited by the Commission on Accreditation of Birth Centers;
- (ii) is connected to a hospital facility, either through a bridge, ramp, or adjacent to the labor and delivery unit within the hospital with care provided with the midwifery model of care, where maternal patients are received and care provided during labor, delivery, and immediately after delivery; and
- (iii) is supervised by a clinical director who is licensed as a physician as defined in Section 58-67-102 or a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act.

(b) An alongside midwifery unit shall have a transfer agreement in place with the adjoining hospital:

- (i) to transfer a patient to the adjacent hospital’s labor and delivery unit if a higher level of care is needed; and

(ii) for services that are provided by the adjacent hospital's staff in collaboration with the alongside midwifery unit staff.

(c) An alongside midwifery unit may:

(i) contract with staff from the adjoining hospital to assist with newborn care or resuscitation of a patient in an emergency; and

(ii) integrate the alongside midwifery unit's medical records with the medical record system utilized by the adjoining hospital.

(d) Notwithstanding Title 58, Chapter 77, Direct-Entry Midwife Act, licensure as a direct-entry midwife under Section 58-77-301 is not sufficient to practice as a licensed maternity care practitioner in an alongside midwifery unit.

[(7)] (8) The department shall hold a public hearing under Subsection 63G-3-302(2)(a) for a proposed administrative rule, and amendment to a rule, or repeal of a rule, that relates to birthing centers.



**CHAPTER 223****H. B. 433**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**MAIL THEFT AMENDMENTS**

Chief Sponsor: Walt Brooks  
 Senate Sponsor: Don L. Ipson

**LONG TITLE****General Description:**

This bill modifies provisions related to mail theft.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ modifies the crime of mail theft.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-6-1001, as enacted by Laws of Utah 1998,  
 Chapter 87  
 76-6-1003, as last amended by Laws of Utah 2004,  
 Chapter 340

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

**Section 1. Section 76-6-1001 is amended to read:****76-6-1001. Definitions.**

As used in this part:

(1) “Common mail carrier” means a person engaged in or transacting the business of collecting, transporting, or delivering mail, other than the United States Postal Service.

(1) (2) “Key” means any instrument used by the postal service and postal customer, and which is designed to operate the lock on a mail receptacle.

(2) (3) “Mail” means any letter, card, parcel, or other material, along with its contents, that:

- (a) has postage affixed by the postal customer or postal service;
- (b) has been accepted for delivery by the postal service;
- (c) the postal customer leaves for collection by the postal service; or
- (d) the postal service delivers to the postal customer.

(3) (4) “Mail receptacle” means a mail box, post office box, rural box, or any place or area intended or used by postal customers or [the] a postal service for the collection or delivery of mail.

(5) “Personal identifying information” means the same as that term is defined in Section 76-6-1102.

[4] (6) “Postage” means a postal service stamp, permit imprint, meter strip, or other indication of either prepayment for postal service provided or authorization by the postal service for collection and delivery of mail.

[5] (7) “Postal service” means the United States Postal Service and any [motor carrier engaged in the business of collecting, transporting, and delivering mail] common mail carrier.

**Section 2. Section 76-6-1003 is amended to read:****76-6-1003. Mail theft -- Penalties.**

(1) A person commits the crime of mail theft if the person:

- (a) knowingly, and with the intent to deprive another:
  - (i) takes, destroys, hides, or embezzles mail; or
  - (ii) obtains any mail by fraud or deception; or
- (b) buys, receives, conceals, or possesses mail and knows or reasonably should have known that the mail was unlawfully taken or obtained.

(2) Mail theft is [a]:

[~~(a) felony of the second degree if the value of the mail is or exceeds \$5,000;~~]

[~~(b) felony of the third degree if the value of the mail is or exceeds \$1,000, but is less than \$5,000 in value; and~~]

[~~(c) class A misdemeanor if the value of the mail is less than \$1,000 in value or the value cannot be ascertained.~~]

(a) a third degree felony;

(b) a class A misdemeanor, if the mail has no monetary value and does not include the name of an individual; or

(c) a second degree felony, if the mail contains the personal identifying information of 10 or more individuals.

**CHAPTER 224****H. B. 434**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**FUNDING FOR NECESSARILY  
 EXISTENT SMALL SCHOOLS AND  
 RURAL SCHOOLS AMENDMENTS**

Chief Sponsor: Derrin R. Owens  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill amends provisions related to formulas for funding for necessarily existent small schools and creates a process to reimburse rural schools for expenses related to extracurricular activities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions related to formulas for funding for necessarily existent small schools;
- ▶ creates a process to reimburse rural schools for expenses related to extracurricular activities approved by the State Board of Education; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ to State Board of Education -- Minimum School Program -- Related to Basic School Programs, as an ongoing appropriation:
  - from the Education Fund, \$100,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-2-102, as last amended by Laws of Utah 2019, Chapter 186

53F-2-304, as last amended by Laws of Utah 2019, Chapter 186

**ENACTS:**

53F-5-214, Utah Code Annotated 1953

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

**Section 1. Section 53F-2-102 is amended to read:**

**53F-2-102. Definitions.**

As used in this chapter:

(1) “Basic state-supported school program,” “basic program,” or “basic school program” means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in the enacted public education budget, except as otherwise provided in this chapter.

(2) “LEA governing board” means a local school board or charter school governing board.

(3) “Pupil in average daily membership [(ADM)]” or “ADM” means a full-day equivalent pupil.

(4) (a) “Minimum School Program” means the state-supported public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (4).

(b) The Minimum School Program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the state board.

(c) (i) The state board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by an LEA governing board, shall receive full support by the state board as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) An LEA governing board may reallocate up to 32 instructional hours or four school days established under Subsection (4)(c) for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection (4)(d)(i) is subject to the approval of two-thirds of the members of an LEA governing board voting in a regularly scheduled meeting:

(A) at which a quorum of the LEA governing board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If an LEA governing board reallocates instructional hours or school days as provided by this Subsection (4)(d), the school district or charter school shall notify students’ parents of the school calendar at least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection (4)(d) is considered part of a school term referred to in Subsection (4)(b).

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

- (i) Basic School Program;
- (ii) Related to Basic Programs;
- (iii) Voted and Board Levy Programs; or
- (iv) Minimum School Program.

(5) “Weighted pupil unit or units or WPU or WPUs” means the unit of measure of factors that is computed in accordance with this chapter for the

purpose of determining the costs of a program on a uniform basis for each school district or charter school.

**Section 2. Section 53F-2-304 is amended to read:**

**53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.**

(1) As used in this section, “necessarily existent small schools funding balance” means the difference between:

(a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

~~[(4) A one or two-year secondary school that has received necessarily existent small school money under this section prior to July 1, 2000, may continue to receive such money in subsequent years.]~~

~~[(5)] (4) The state board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.~~

~~[(6)] (5) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using [regression] distribution formulas adopted by the state board.~~

(b) The [regression] distribution formulas establish the following maximum sizes for funding under the necessarily existent small school program:

- (i) an elementary school 160
- (ii) a one or two-year secondary school 300
- (iii) a three-year secondary school 450
- (iv) a four-year secondary school 500
- (v) a six-year secondary school 600

(c) [Schools] An elementary school with fewer than 10 students shall receive the same add-on weighted pupil units as [schools] an elementary school with 10 students.

(d) A secondary school with fewer than 15 students shall receive the same add-on weighted pupil units as a secondary school with 15 students.

(e) If a necessarily existent small school generates ADM in both elementary and secondary grades, the state board may divide the school’s ADM between an elementary and secondary distribution formula.

~~[(4)] (f) The state board shall prepare and distribute an allocation table based on the [regression] distribution formula to each school district.~~

~~[(7)] (6) (a) To avoid penalizing a school district financially for consolidating the school district’s small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.~~

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

~~[(8)] (7) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding an expense approved by the state board as described in Subsection 53G-6-305(3)(a).~~

~~[(9)] (8) (a) Subject to Subsection [(9)] (8)(b) and after a distribution made under Subsection [(8)] (7), the state board may distribute a portion of necessarily existent small schools funding:~~

(i) in accordance with a formula adopted by the state board that considers the tax effort of a local school board[.]; or

(ii) to isolated small schools, as identified by the state board.

(b) The amount distributed in accordance with Subsection [(9)] (8)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

~~[(10)] (9) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the state board.~~

**Section 3. Section 53F-5-214 is enacted to read:**

**53F-5-214. Rural school extracurricular activities reimbursement.**

(1) As used in this section:

(a) “Approved extracurricular activity” means an extracurricular activity as that term is defined in

Section 53G-7-501, that is approved by the state board in accordance with this section.

(b) "Eligible LEA" means an LEA in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501.

(c) "LEA governing board" means:

(i) the local school board of a school district that is an eligible LEA; or

(ii) the charter school governing board of a charter school that is an eligible LEA.

(2) (a) An LEA governing board may annually submit a request to the state board to receive reimbursement for an expense related to an approved extracurricular activity incurred by the eligible LEA, including transportation expenses.

(b) The state board may approve a request for reimbursement in accordance with criteria established by the state board under Subsection (4).

(3) (a) Subject to appropriations of the Legislature for this purpose, and except as provided in Subsection (3)(b), the state board shall reimburse an eligible LEA for expenses related to an approved extracurricular activity in accordance with this section and rules made by the state board under Subsection (4).

(b) If the appropriation of the Legislature for this section is insufficient to reimburse an expense in a request received under Subsection (2), the state board may reduce an eligible LEA's reimbursement in accordance with rules made by the state board under Subsection (4).

(4) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(a) an approved extracurricular activity;

(b) requirements for information an LEA governing board shall submit in a request described in Subsection (2);

(c) a deadline by which an LEA governing board shall submit a request described in Subsection (2);

(d) criteria for approving a request for reimbursement;

(e) a formula for reducing an eligible LEA's reimbursement under Subsection (3); and

(f) a process for distributing reimbursement to an eligible LEA.

(5) In making the rules described in Subsection (4)(a), the state board shall prioritize extracurricular activities that promote heritage, arts, and cultural education.

#### **Section 4. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under

the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ITEM 1

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

From Education Fund, Ongoing \$100,000

#### Schedule of Programs:

Rural school extracurricular activities reimbursement \$100,000

The Legislature intends that the State Board of Education use the appropriation described in this section to reimburse an eligible local education agency for expenses related to an approved extracurricular activity in accordance with Section 53F-5-214.

**CHAPTER 225****H. B. 436**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**HEALTH AND HUMAN SERVICES AMENDMENTS**

Chief Sponsor: James A. Dunnigan  
 Senate Sponsor: Allen M. Christensen

**LONG TITLE****General Description:**

This bill amends provisions related to health and human services.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions relating to Medicaid;
- ▶ amends provisions for the financing of the Utah Premium Partnership for Health Insurance program;
- ▶ updates the Drug Utilization Review reporting requirements;
- ▶ updates certain background check requirements for individuals who have direct access to children or vulnerable adults;
- ▶ allows for transportation during a temporary commitment to occur via a nonemergency secured behavioral transport in certain circumstances; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

26-18-2.3, as last amended by Laws of Utah 2019, Chapter 393  
 26-18-2.6, as last amended by Laws of Utah 2017, Chapter 22  
 26-18-3.1, as last amended by Laws of Utah 2019, Chapter 1  
 26-18-3.8, as last amended by Laws of Utah 2013, Chapter 137  
 26-18-3.9, as last amended by Laws of Utah 2019, Chapter 1  
 26-18-5, as last amended by Laws of Utah 2019, Chapter 393  
 26-18-8, as last amended by Laws of Utah 2003, Chapter 90  
 26-18-103, as last amended by Laws of Utah 2013, Chapter 167  
 26-18-408, as last amended by Laws of Utah 2019, Chapter 393  
 26-18-411, as last amended by Laws of Utah 2019, Chapter 393  
 26-18-413, as last amended by Laws of Utah 2019, Chapters 60 and 393  
 26-36b-204, as last amended by Laws of Utah 2018, Chapters 384 and 468  
 26-36b-205, as last amended by Laws of Utah 2018, Chapters 384 and 468  
 26-36c-204, as last amended by Laws of Utah 2019, Chapter 1

26-40-106, as last amended by Laws of Utah 2019, Chapter 393

62A-2-120, as last amended by Laws of Utah 2019, Chapter 335

62A-15-629, as last amended by Laws of Utah 2018, Chapter 322

**REPEALS:**

26-18-404, as last amended by Laws of Utah 2019, Chapter 393

26-40-116, as last amended by Laws of Utah 2019, Chapter 393

**Utah Code Sections Affected by Coordination Clause:**

62A-2-120, as last amended by Laws of Utah 2019, Chapter 335

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

**Section 1. Section 26-18-2.3 is amended to read:****26-18-2.3. Division responsibilities -- Emphasis -- Periodic assessment.**

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

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

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

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

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

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

(b) preadmission certification of nonemergency admissions;

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

(d) second surgical opinions;

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

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

(g) coordination of benefits; and

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

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

(4) (a) The department shall ensure Medicaid program integrity by conducting internal audits of the Medicaid program for efficiencies, best practices, and cost ~~[recovery]~~ avoidance.

(b) The department shall coordinate with the Office of the Inspector General for Medicaid Services created in Section 63A-13-201 to implement Subsection (2) and to address Medicaid fraud, waste, or abuse as described in Section 63A-13-202.

**Section 2. Section 26-18-2.6 is amended to read:**

**26-18-2.6. Dental benefits.**

(1) (a) Except as provided in Subsection (8), the division ~~[shall]~~ may establish a competitive bid process to bid out Medicaid dental benefits under this chapter.

(b) The division may bid out the Medicaid dental benefits separately from other program benefits.

(2) The division shall use the following criteria to evaluate dental bids:

- (a) ability to manage dental expenses;
- (b) proven ability to handle dental insurance;
- (c) efficiency of claim paying procedures;
- (d) provider contracting, discounts, and adequacy of network; and
- (e) other criteria established by the department.

(3) The division shall request bids for the program's benefits~~;~~ at least once every five years.

~~[(a) in 2011; and]~~

~~[(b) at least once every five years thereafter.]~~

(4) The division's contract with dental plans for the program's benefits shall include risk sharing provisions in which the dental plan must accept 100% of the risk for any difference between the division's premium payments per client and actual dental expenditures.

(5) The division may not award contracts to:

- (a) more than three responsive bidders under this section; or
- (b) an insurer that does not have a current license in the state.

(6) (a) The division may cancel the request for proposals if:

- (i) there are no responsive bidders; or
- (ii) the division determines that accepting the bids would increase the program's costs.

(b) If the division cancels ~~[the request for proposals under]~~ a request for proposal or a contract that results from a request for proposal described in Subsection (6)(a), the division shall report to the Health and Human Services Interim Committee regarding the reasons for the decision.

(7) Title 63G, Chapter 6a, Utah Procurement Code, shall apply to this section.

(8) (a) The division may:

(i) establish a dental health care delivery system and payment reform pilot program for Medicaid dental benefits to increase access to cost effective and quality dental health care by increasing the number of dentists available for Medicaid dental services; and

(ii) target specific Medicaid populations or geographic areas in the state.

(b) The pilot program shall establish compensation models for dentists and dental hygienists that:

(i) increase access to quality, cost effective dental care; and

(ii) use funds from the Division of Family Health and Preparedness that are available to reimburse dentists for educational loans in exchange for the dentist agreeing to serve Medicaid and under-served populations.

(c) The division may amend the state plan and apply to the Secretary of Health and Human Services for waivers or pilot programs if necessary to establish the new dental care delivery and payment reform model.

(d) The division shall evaluate the pilot program's effect on the cost of dental care and access to dental care for the targeted Medicaid populations.

**Section 3. Section 26-18-3.1 is amended to read:**

**26-18-3.1. Medicaid expansion.**

(1) The purpose of this section is to expand the coverage of the Medicaid program to persons who are in categories traditionally not served by that program.

(2) Within appropriations from the Legislature, the department may amend the state plan for medical assistance to provide for eligibility for Medicaid:

(a) on or after July 1, 1994, for children 12 to 17 years old who live in households below the federal poverty income guideline; and

(b) on or after July 1, 1995, for persons who have incomes below the federal poverty income guideline and who are aged, blind, or have a disability.

(3) (a) Within appropriations from the Legislature, on or after July 1, 1996, the Medicaid program may provide for eligibility for persons who have incomes below the federal poverty income guideline.

(b) In order to meet the provisions of this subsection, the department may seek approval for a

demonstration project under 42 U.S.C. Sec. 1315 from the secretary of the United States Department of Health and Human Services. ~~[This demonstration project may also provide for the voluntary participation of private firms that:]~~

~~[(i) — are newly established or marginally profitable;]~~

~~[(ii) do not provide health insurance to their employees;]~~

~~[(iii) employ predominantly low wage workers; and]~~

~~[(iv) are unable to obtain adequate and affordable health care insurance in the private market.]~~

(4) The Medicaid program shall provide for eligibility for persons as required by Subsection 26-18-3.9(2).

(5) Services available for persons described in this section shall include required Medicaid services and may include one or more optional Medicaid services if those services are funded by the Legislature. The department may also require persons described in Subsections (1) through (3) to meet an asset test.

**Section 4. Section 26-18-3.8 is amended to read:**

**26-18-3.8. Maximizing use of premium assistance programs -- Utah's Premium Partnership for Health Insurance.**

(1) (a) The department shall seek to maximize the use of Medicaid and Children's Health Insurance Program funds for assistance in the purchase of private health insurance coverage for Medicaid-eligible and non-Medicaid-eligible individuals.

(b) The department's efforts to expand the use of premium assistance shall:

(i) include, as necessary, seeking federal approval under all Medicaid and Children's Health Insurance Program premium assistance provisions of federal law, including provisions of the Patient Protection and Affordable Care Act, Public Law 111-148;

(ii) give priority to, but not be limited to, expanding the state's Utah Premium Partnership for Health Insurance Program, including as required under Subsection (2); and

(iii) encourage the enrollment of all individuals within a household in the same plan, where possible, including enrollment in a plan that allows individuals within the household transitioning out of Medicaid to retain the same network and benefits they had while enrolled in Medicaid.

~~[(e) Any increase in state costs resulting from an expansion of premium assistance may not exceed offsetting reductions in Medicaid and Children's Health Insurance Program state costs attributable to the expansion.]~~

(2) The department shall seek federal approval of an amendment to the state's Utah Premium Partnership for Health Insurance program to adjust the eligibility determination for single adults and parents who have an offer of employer sponsored insurance. The amendment shall:

(a) be within existing appropriations for the Utah Premium Partnership for Health Insurance program; and

(b) provide that adults who are up to 200% of the federal poverty level are eligible for premium subsidies in the Utah Premium Partnership for Health Insurance program.

(3) For fiscal year 2021-22, the department shall seek authority to increase the maximum premium subsidy per month for adults under the Utah Premium Partnership for Health Insurance program to \$300.

(4) Beginning with fiscal year 2021-22, and in each subsequent year, the department may increase premium subsidies for single adults and parents who have an offer of employer-sponsored insurance to keep pace with the increase in insurance premium costs subject to appropriation of additional funding.

**Section 5. Section 26-18-3.9 is amended to read:**

**26-18-3.9. Expanding the Medicaid program.**

(1) As used in this section:

(a) "CMS" means the Centers for Medicare and Medicaid Services in the United States Department of Health and Human Services.

(b) "Federal poverty level" means the same as that term is defined in Section 26-18-411.

(c) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.

(d) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section 26-36b-208.

(2) (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid program shall be expanded to cover additional low-income individuals.

(b) The department shall continue to seek approval from CMS to implement the Medicaid waiver expansion as defined in Section 26-18-415.

(c) The department may implement any provision described in Subsections 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval from CMS to implement that provision.

(3) The department shall expand the Medicaid program in accordance with this Subsection (3) if the department:

(a) receives approval from CMS to:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for enrolling an individual in the Medicaid expansion under this Subsection (3); and

(iii) permit the state to close enrollment in the Medicaid expansion under this Subsection (3) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (3);

(b) pays the state portion of costs for the Medicaid expansion under this Subsection (3) with funds from:

(i) the Medicaid Expansion Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(c) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (3) if the department projects that the cost of the Medicaid expansion under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4) (a) The department shall expand the Medicaid program in accordance with this Subsection (4) if the department:

(i) receives approval from CMS to:

(A) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid expansion under this Subsection (4); and

(C) permit the state to close enrollment in the Medicaid expansion under this Subsection (4) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (4);

(ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4) with funds from:

(A) the Medicaid Expansion Fund;

(B) county contributions to the nonfederal share of Medicaid expenditures; or

(C) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(iii) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (4) if the department projects that the cost of the Medicaid expansion under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized by the Legislature

through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(b) The department shall submit a waiver, an amendment to an existing waiver, or a state plan amendment to CMS to:

(i) administer federal funds for the Medicaid expansion under this Subsection (4) according to a per capita cap developed by the department that includes an annual inflationary adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees, and provides greater flexibility to the state than the current Medicaid payment model;

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (4);

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (4) violates certain program requirements as defined by the department;

(iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to remain in the Medicaid program for up to a 12-month certification period as defined by the department; and

(v) allow federal Medicaid funds to be used for housing support for eligible enrollees in the Medicaid expansion under this Subsection (4).

(5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop proposals to implement additional flexibilities and cost controls, including cost sharing tools, within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver or state plan amendment.

(ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i) shall include:

(A) a path to self-sufficiency for qualified adults in the Medicaid expansion that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and

(B) a requirement that an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan.

(iii) The department shall submit the request for a waiver or state plan amendment developed under Subsection (5)(a)(i) on or before March 15, 2020.

(b) Notwithstanding Sections 26-18-18 and 63J-5-204, and in accordance with this Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in the optional Medicaid expansion population under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance, on the earlier of:



(i) the day on which CMS approves a waiver to implement the provisions described in Subsections (5)(a)(ii)(A) and (B); or

(ii) July 1, 2020.

(c) The department shall seek a waiver, or an amendment to an existing waiver, from federal law to:

(i) implement each provision described in Subsections 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion under this Subsection (5);

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (5); and

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (5) violates certain program requirements as defined by the department.

(d) The eligibility criteria in this Subsection (5) shall be construed to include all individuals eligible for the health coverage improvement program under Section 26-18-411.

(e) The department shall pay the state portion of costs for a Medicaid expansion under this Subsection (5) entirely from:

(i) the Medicaid Expansion Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures.

(f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds available under Subsection (5)(e):

(i) the department may reduce or eliminate optional Medicaid services under this chapter; and

(ii) savings, as determined by the department, from the reduction or elimination of optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid Expansion Fund; and

(iii) the department may submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary to implement budget controls within the Medicaid program to address the deficiency.

(g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the department to exceed the funds available in the current fiscal year under Subsection (5)(e), including savings resulting from any action taken under Subsection (5)(f):

(i) the governor shall direct the Department of Health, Department of Human Services, and Department of Workforce Services to reduce commitments and expenditures by an amount sufficient to offset the deficiency:

(A) proportionate to the share of total current fiscal year General Fund appropriations for each of those agencies; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations; ~~and~~

(ii) the Division of Finance shall reduce allotments to the Department of Health, Department of Human Services, and Department of Workforce Services by a percentage:

(A) proportionate to the amount of the deficiency; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations; ~~and~~

(iii) the Division of Finance shall deposit the total amount from the reduced allotments described in Subsection (5)(g)(ii) into the Medicaid Expansion Fund.

(6) The department shall maximize federal financial participation in implementing this section, including by seeking to obtain any necessary federal approvals or waivers.

(7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under a Medicaid expansion.

(8) The department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that a Medicaid expansion is operational:

(a) the number of individuals who enrolled in the Medicaid expansion;

(b) costs to the state for the Medicaid expansion;

(c) estimated costs to the state for the Medicaid expansion for the current and following fiscal years; ~~and~~

(d) recommendations to control costs of the Medicaid expansion[-]; and

(e) as calculated in accordance with Subsections 26-36b-204(4) and 26-36c-204(2), the state's net cost of the qualified Medicaid expansion.

**Section 6. Section 26-18-5 is amended to read:**

**26-18-5. Contracts for provision of medical services -- Federal provisions modifying department rules -- Compliance with Social Security Act.**

(1) The department may contract with other public or private agencies to purchase or provide medical services in connection with the programs of the division. Where these programs are used by other ~~[state agencies]~~ government entities, contracts shall provide that other ~~[state agencies]~~ government entities, in compliance with state and federal law regarding intergovernmental transfers, transfer the state matching funds to the department in amounts sufficient to satisfy needs of the specified program.

(2) Contract terms shall include provisions for maintenance, administration, and service costs.

(3) If a federal legislative or executive provision requires modifications or revisions in an eligibility factor established under this chapter as a condition for participation in medical assistance, the department may modify or change its rules as necessary to qualify for participation.

(4) The provisions of this section do not apply to department rules governing abortion.

(5) The department shall comply with all pertinent requirements of the Social Security Act and all orders, rules, and regulations adopted thereunder when required as a condition of participation in benefits under the Social Security Act.

**Section 7. Section 26-18-8 is amended to read:**

**26-18-8. Enforcement of public assistance statutes.**

(1) The department shall enforce or contract for the enforcement of Sections 35A-1-503, 35A-3-108, 35A-3-110, 35A-3-111, 35A-3-112, and 35A-3-603 ~~[insofar as] to the extent that~~ these sections pertain to benefits conferred or administered by the division under this chapter, to the extent allowed under federal law or regulation.

(2) The department may contract for services covered in Section 35A-3-111 insofar as that section pertains to benefits conferred or administered by the division under this chapter.

**Section 8. Section 26-18-103 is amended to read:**

**26-18-103. DUR Board -- Responsibilities.**

The board shall:

(1) develop rules necessary to carry out its responsibilities as defined in this part;

(2) oversee the implementation of a Medicaid retrospective and prospective DUR program in accordance with this part, including responsibility for approving provisions of contractual agreements between the Medicaid program and any other entity that will process and review Medicaid drug claims and profiles for the DUR program in accordance with this part;

(3) develop and apply predetermined criteria and standards to be used in retrospective and prospective DUR, ensuring that the criteria and standards are based on the compendia, and that they are developed with professional input, in a consensus fashion, with provisions for timely revision and assessment as necessary. The DUR standards developed by the board shall reflect the local practices of physicians in order to monitor:

- (a) therapeutic appropriateness;
- (b) overutilization or underutilization;
- (c) therapeutic duplication;
- (d) drug-disease contraindications;

(e) drug-drug interactions;

(f) incorrect drug dosage or duration of drug treatment; and

(g) clinical abuse and misuse;

(4) develop, select, apply, and assess interventions and remedial strategies for physicians, pharmacists, and recipients that are educational and not punitive in nature, in order to improve the quality of care;

(5) disseminate information to physicians and pharmacists to ensure that they are aware of the board's duties and powers;

(6) provide written, oral, or electronic reminders of patient-specific or drug-specific information, designed to ensure recipient, physician, and pharmacist confidentiality, and suggest changes in prescribing or dispensing practices designed to improve the quality of care;

(7) utilize face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention;

(8) conduct intensified reviews or monitoring of selected prescribers or pharmacists;

(9) create an educational program using data provided through DUR to provide active and ongoing educational outreach programs to improve prescribing and dispensing practices, either directly or by contract with other governmental or private entities;

(10) provide a timely evaluation of intervention to determine if those interventions have improved the quality of care;

~~[(11) publish an annual report, subject to public comment prior to its issuance, and submit that report to the United States Department of Health and Human Services by December 1 of each year. That report shall also be submitted to the executive director, the president of the Utah Pharmaceutical Association, and the president of the Utah Medical Association by December 1 of each year. The report shall include:]~~

~~[(a) an overview of the activities of the board and the DUR program;]~~

~~[(b) a description of interventions used and their effectiveness, specifying whether the intervention was a result of underutilization or overutilization of drugs, without disclosing the identities of individual physicians, pharmacists, or recipients;]~~

~~[(c) the costs of administering the DUR program;]~~

~~[(d) any fiscal savings resulting from the DUR program;]~~

~~[(e) an overview of the fiscal impact of the DUR program to other areas of the Medicaid program such as hospitalization or long-term care costs;]~~

~~[(f) a quantifiable assessment of whether DUR has improved the recipient's quality of care;]~~

~~[(g) a review of the total number of prescriptions, by drug therapeutic class;]~~

~~(h) an assessment of the impact of educational programs or interventions on prescribing or dispensing practices; and]~~

~~[(i) recommendations for DUR program improvement;]~~

(11) publish the annual Drug Utilization Review report required under 42 C.F.R. Sec. 712;

(12) develop a working agreement with related boards or agencies, including the State Board of Pharmacy, Physicians' Licensing Board, and SURS staff within the division, in order to clarify areas of responsibility for each, where those areas may overlap;

(13) establish a grievance process for physicians and pharmacists under this part, in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(14) publish and disseminate educational information to physicians and pharmacists concerning the board and the DUR program, including information regarding:

(a) identification and reduction of the frequency of patterns of fraud, abuse, gross overuse, inappropriate, or medically unnecessary care among physicians, pharmacists, and recipients;

(b) potential or actual severe or adverse reactions to drugs;

(c) therapeutic appropriateness;

(d) overutilization or underutilization;

(e) appropriate use of generics;

(f) therapeutic duplication;

(g) drug-disease contraindications;

(h) drug-drug interactions;

(i) incorrect drug dosage and duration of drug treatment;

(j) drug allergy interactions; and

(k) clinical abuse and misuse;

(15) develop and publish, with the input of the State Board of Pharmacy, guidelines and standards to be used by pharmacists in counseling Medicaid recipients in accordance with this part. The guidelines shall ensure that the recipient may refuse counseling and that the refusal is to be documented by the pharmacist. Items to be discussed as part of that counseling include:

(a) the name and description of the medication;

(b) administration, form, and duration of therapy;

(c) special directions and precautions for use;

(d) common severe side effects or interactions, and therapeutic interactions, and how to avoid those occurrences;

(e) techniques for self-monitoring drug therapy;

(f) proper storage;

(g) prescription refill information; and

(h) action to be taken in the event of a missed dose; and

(16) establish procedures in cooperation with the State Board of Pharmacy for pharmacists to record information to be collected under this part. The recorded information shall include:

(a) the name, address, age, and gender of the recipient;

(b) individual history of the recipient where significant, including disease state, known allergies and drug reactions, and a comprehensive list of medications and relevant devices;

(c) the pharmacist's comments on the individual's drug therapy;

(d) name of prescriber; and

(e) name of drug, dose, duration of therapy, and directions for use.

**Section 9. Section 26-18-408 is amended to read:**

**26-18-408. Incentives to appropriately use emergency department services.**

(1) (a) This section applies to the Medicaid program and to the Utah Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

(b) ~~[For purposes of]~~ As used in this section:

(i) ~~["Accountable"]~~ "Managed care organization" means a ~~[Medicaid or Children's Health Insurance Program administrator]~~ comprehensive full risk managed care delivery system that contracts with the Medicaid program or the Children's Health Insurance Program to deliver health care through ~~[an accountable]~~ a managed care plan.

(ii) ~~["Accountable"]~~ "Managed care plan" means a ~~[risk-based]~~ risk-based delivery service model authorized by Section 26-18-405 and administered by ~~[an accountable]~~ a managed care organization.

(iii) ~~["Nonemergent"]~~ "Non-emergent care":

(A) means use of the emergency department to receive health care that is ~~[nonemergent]~~ non-emergent as defined by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the Emergency Medical Treatment and Active Labor Act; and

(B) does not mean the medical services provided to ~~[a recipient]~~ an individual required by the Emergency Medical Treatment and Active Labor Act, including services to conduct a medical screening examination to determine if the recipient has an emergent or ~~[nonemergent]~~ non-emergent condition.

(iv) "Professional compensation" means payment made for services rendered to a Medicaid recipient by an individual licensed to provide health care services.

(v) "Super-utilizer" means a Medicaid recipient who has been identified by the recipient's

[accountable] managed care organization as a person who uses the emergency department excessively, as defined by the [accountable] managed care organization.

(2) (a) [~~An~~ ~~accountable~~] A managed care organization may, in accordance with Subsections (2)(b) and (c):

(i) audit emergency department services provided to a recipient enrolled in the [accountable] managed care plan to determine if [~~nonemergent~~] non-emergent care was provided to the recipient; and

(ii) establish differential payment for emergent and [~~nonemergent~~] non-emergent care provided in an emergency department.

(b) (i) The differential payments under Subsection (2)(a)(ii) do not apply to professional compensation for services rendered in an emergency department.

(ii) Except in cases of suspected fraud, waste, and abuse, [~~an~~ ~~accountable~~] managed care organization's audit of payment under Subsection (2)(a)(i) is limited to the 18-month period of time after the date on which the medical services were provided to the recipient. If fraud, waste, or abuse is alleged, the [accountable] managed care organization's audit of payment under Subsection (2)(a)(i) is limited to three years after the date on which the medical services were provided to the recipient.

(c) The audits and differential payments under Subsections (2)(a) and (b) apply to services provided to a recipient on or after July 1, 2015.

(3) [~~An~~ ~~accountable~~] A managed care organization shall:

(a) use the savings under Subsection (2) to maintain and improve access to primary care and urgent care services for all [~~of the~~] Medicaid or CHIP recipients enrolled in the [accountable] managed care plan;

(b) provide viable alternatives for increasing primary care provider reimbursement rates to incentivize after hours primary care access for recipients; and

(c) report to the department on how the [accountable] managed care organization complied with this Subsection (3).

(4) The department [~~shall~~] may:

(a) through administrative rule adopted by the department, develop quality measurements that evaluate [~~an~~ ~~accountable~~] a managed care organization's delivery of:

(i) appropriate emergency department services to recipients enrolled in the [accountable] managed care plan;

(ii) expanded primary care and urgent care for recipients enrolled in the [accountable] managed

care plan, with consideration of the [accountable] managed care organization's:

(A) delivery of primary care, urgent care, and after hours care through means other than the emergency department;

(B) recipient access to primary care providers and community health centers including evening and weekend access; and

(C) other innovations for expanding access to primary care; and

(iii) quality of care for the [accountable] managed care plan members;

(b) compare the quality measures developed under Subsection (4)(a) for each [accountable] care organization and share the data and quality measures developed under Subsection (4)(a) with the Health Data Committee created in Chapter 33a, Utah Health Data Authority Act;] managed care organization; and

[~~(c) apply for a Medicaid waiver and a Children's Health Insurance Program waiver with CMS, to:]~~

[~~(i) allow the program to charge recipients who are enrolled in an accountable care plan a higher copayment for emergency department services; and]~~

[~~(ii) (c) develop, by administrative rule, an algorithm to determine assignment of new, unassigned recipients to specific [accountable] managed care plans based on the plan's performance in relation to the quality measures developed pursuant to Subsection (4)(a); and]~~

[~~(d) before July 1, 2015, convene representatives from the accountable care organizations, pre-paid mental health plans, an organization representing hospitals, an organization representing physicians, and a county mental health and substance abuse authority to discuss alternatives to emergency department care, including:]~~

[~~(i) creating increased access to primary care services;]~~

[~~(ii) alternative care settings for super-utilizers and individuals with behavioral health or substance abuse issues;]~~

[~~(iii) primary care medical and health homes that can be created and supported through enhanced federal match rates, a state plan amendment for integrated care models, or other Medicaid waivers;]~~

[~~(iv) case management programs that can:]~~

[~~(A) schedule prompt visits with primary care providers within 72 to 96 hours of an emergency department visit;]~~

[~~(B) help super-utilizers with behavioral health or substance abuse issues to obtain care in appropriate care settings; and]~~

[~~(C) assist with transportation to primary care visits if transportation is a barrier to appropriate care for the recipient; and]~~

~~[(v) sharing of medical records between health care providers and emergency departments for Medicaid recipients.]~~

~~[(5) The Health Data Committee may publish data in accordance with Chapter 33a, Utah Health Data Authority Act, which compares the quality measures for the accountable care plans.]~~

**Section 10. Section 26-18-411 is amended to read:**

**26-18-411. Health coverage improvement program -- Eligibility -- Annual report -- Expansion of eligibility for adults with dependent children.**

(1) For purposes of this section:

(a) "Adult in the expansion population" means an individual who:

(i) is described in 42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII); and

(ii) is not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in Section 26-18-416.

(c) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(d) "Health coverage improvement program" means the health coverage improvement program described in Subsections (3) through (10).

(e) "Homeless":

(i) means an individual who is chronically homeless, as determined by the department; and

(ii) includes someone who was chronically homeless and is currently living in supported housing for the chronically homeless.

(f) "Income eligibility ceiling" means the percent of federal poverty level:

(i) established by the state in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for Medicaid coverage in accordance with this section.

(2) Beginning July 1, 2016, the department shall amend the state Medicaid plan to allow temporary residential treatment for substance abuse, for the traditional Medicaid population, in a short term, non-institutional, 24-hour facility, without a bed capacity limit that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan, as approved by CMS and as long as the county makes the required match under Section 17-43-201.

(3) Beginning July 1, 2016, the department shall amend the state Medicaid plan to increase the income eligibility ceiling to a percentage of the federal poverty level designated by the department,

based on appropriations for the program, for an individual with a dependent child.

(4) Before July 1, 2016, the division shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal statutory and regulatory law necessary for the state to implement the health coverage improvement program in the Medicaid program in accordance with this section.

(5) (a) An adult in the expansion population is eligible for Medicaid if the adult meets the income eligibility and other criteria established under Subsection (6).

(b) An adult who qualifies under Subsection (6) shall receive Medicaid coverage:

(i) through the traditional fee for service Medicaid model in counties without Medicaid accountable care organizations or the state's Medicaid accountable care organization delivery system, where implemented;

(ii) except as provided in Subsection (5)(b)(iii), for behavioral health, through the counties in accordance with Sections 17-43-201 and 17-43-301;

(iii) that integrates behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model; and

(iv) that permits temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, as approved by CMS, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(c) Medicaid accountable care organizations and counties that elect to integrate care under Subsection (5)(b)(iii) shall collaborate on enrollment, engagement of patients, and coordination of services.

(6) (a) An individual is eligible for the health coverage improvement program under Subsection (5) if:

(i) at the time of enrollment, the individual's annual income is below the income eligibility ceiling established by the state under Subsection (1)(f); and

(ii) the individual meets the eligibility criteria established by the department under Subsection (6)(b).

(b) Based on available funding and approval from CMS, the department shall select the criteria for an individual to qualify for the Medicaid program under Subsection (6)(a)(ii), based on the following priority:

(i) a chronically homeless individual;

(ii) if funding is available, an individual:

(A) involved in the justice system through probation, parole, or court ordered treatment; and

(B) in need of substance abuse treatment or mental health treatment, as determined by the department; or

(iii) if funding is available, an individual in need of substance abuse treatment or mental health treatment, as determined by the department.

(c) An individual who qualifies for Medicaid coverage under Subsections (6)(a) and (b) may remain on the Medicaid program for a 12-month certification period as defined by the department. Eligibility changes made by the department under Subsection (1)(f) or (6)(b) shall not apply to an individual during the 12-month certification period.

(7) The state may request a modification of the income eligibility ceiling and other eligibility criteria under Subsection (6) each fiscal year based on ~~enrollment in the health coverage improvement program,~~ projected enrollment, costs to the state, and the state budget.

(8) Before September 30 of each year, the department shall report to the Health and Human Services Interim Committee and to the Executive Appropriations Committee:

(a) the number of individuals who enrolled in Medicaid under Subsection (6);

(b) the state cost of providing Medicaid to individuals enrolled under Subsection (6); and

(c) recommendations for adjusting the income eligibility ceiling under Subsection (7), and other eligibility criteria under Subsection (6), for the upcoming fiscal year.

(9) The current Medicaid program and the health coverage improvement program, when implemented, shall coordinate with a state prison or county jail to expedite Medicaid enrollment for an individual who is released from custody and was eligible for or enrolled in Medicaid before incarceration.

(10) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under the health coverage improvement program under Subsection (6).

(11) If the enhancement waiver program is implemented, the department:

(a) may not accept any new enrollees into the health coverage improvement program after the day on which the enhancement waiver program is implemented;

(b) shall transition all individuals who are enrolled in the health coverage improvement program into the enhancement waiver program;

(c) shall suspend the health coverage improvement program within one year after the day on which the enhancement waiver program is implemented;

(d) shall, within one year after the day on which the enhancement waiver program is implemented, use all appropriations for the health coverage

improvement program to implement the enhancement waiver program; and

(e) shall work with CMS to maintain any waiver for the health coverage improvement program while the health coverage improvement program is suspended under Subsection (11)(c).

(12) If, after the enhancement waiver program takes effect, the enhancement waiver program is repealed or suspended by either the state or federal government, the department shall reinstate the health coverage improvement program and continue to accept new enrollees into the health coverage improvement program in accordance with the provisions of this section.

**Section 11. Section 26-18-413 is amended to read:**

**26-18-413. Medicaid waiver for delivery of adult dental services.**

(1) (a) Before June 30, 2016, the department shall ask CMS to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2)(a).

(b) Before June 30, 2018, the department shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b)(i) and (d) through (g), to an individual described in Subsection (2)(b)(i).

(c) Before June 30, 2019, the department shall submit to the Centers for Medicare and Medicaid Services a request for waivers, or an amendment to existing waivers, from federal law necessary for the state to:

(i) provide dental services, in accordance with Subsections (2)(b)(ii) and (d) through (g) to an individual described in Subsection (2)(b)(ii); and

(ii) provide the services described in Subsection (2)(h).

(2) (a) To the extent funded, the department shall provide services to only blind or disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years old or older and eligible for the program.

(b) Notwithstanding Subsection (2)(a):

(i) if a waiver is approved under Subsection (1)(b), the department shall provide dental services to an individual who:

(A) qualifies for the health coverage improvement program described in Section 26-18-411; and

(B) is receiving treatment in a substance abuse treatment program, as defined in Section 62A-2-101, licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities; and

(ii) if a waiver is approved under Subsection (1)(c)(i), the department shall provide dental services to an individual who is an aged individual as defined in 42 U.S.C. Sec. 1382c(a)(1).

(c) To the extent possible, services to individuals described in Subsection (2)(a) shall be provided through the University of Utah School of Dentistry and the University of Utah School of Dentistry's associated statewide network.

(d) The department shall provide the services to individuals described in Subsection (2)(b):

(i) by contracting with an entity that:

(A) has demonstrated experience working with individuals who are being treated for both a substance use disorder and a major oral health disease;

(B) operates a program, targeted at the individuals described in Subsection (2)(b), that has demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental treatment to those individuals described in Subsection (2)(b);

(C) is willing to pay for an amount equal to the program's non-federal share of the cost of providing dental services to the population described in Subsection (2)(b); and

(D) is willing to pay all state costs associated with applying for the waiver described in Subsection (1)(b) and administering the program described in Subsection (2)(b); and

(ii) through a fee-for-service payment model.

(e) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state costs of the program described in Subsection (2)(b).

(f) Each fiscal year, the University of Utah School of Dentistry shall ~~transfer money~~, in compliance with state and federal regulations regarding intergovernmental transfers, transfer funds to the program in an amount equal to the program's non-federal share of the cost of providing services under this section through the school during the fiscal year.

~~[(g) During each general session of the Legislature, the department shall report to the Social Services Appropriations Subcommittee whether the University of Utah School of Dentistry will have sufficient funds to make the transfer required by Subsection (2)(f) for the current fiscal year.]~~

~~[(h) (g) If a waiver is approved under Subsection (1)(c)(ii), the department shall provide coverage for porcelain and porcelain-to-metal crowns if the services are provided:~~

~~(i) to an individual who qualifies for dental services under Subsection (2)(b); and~~

~~(ii) by an entity that covers all state costs of:~~

~~(A) providing the coverage described in this Subsection (2)(h); and~~

~~(B) applying for the waiver described in Subsection (1)(c)(ii).]~~

~~[(i) (h) Where possible, the department shall ensure that services described in Subsection (2)(a)~~

that are not provided by the University of Utah School of Dentistry or the University of Utah School of Dentistry's associated network are provided:

(i) through fee for service reimbursement until July 1, 2018; and

(ii) after July 1, 2018, through the method of reimbursement used by the division for Medicaid dental benefits.

~~[(j) (i) Subject to appropriations by the Legislature, and as determined by the department, the scope, amount, duration, and frequency of services may be limited.~~

~~[(3) The reporting requirements of Section 26-18-3 apply to the waivers requested under Subsection (1).]~~

~~[(4) (3) (a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid program shall begin providing dental services in the manner described in Subsection (2) no later than July 1, 2017.~~

~~(b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b) within 90 days from the day on which the waivers are granted.~~

~~(c) If the waivers requested under Subsection (1)(c)(i) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b)(ii) within 90 days after the day on which the waivers are granted.~~

~~[(5) (4) If the federal share of the cost of providing dental services under this section will be less than 65% during any portion of the next fiscal year, the Medicaid program shall cease providing dental services under this section no later than the end of the current fiscal year.~~

**Section 12. Section 26-36b-204 is amended to read:**

**26-36b-204. Hospital financing of health coverage improvement program Medicaid waiver expansion -- Hospital share.**

(1) The hospital share is:

(a) 45% of the state's net cost of the health coverage improvement program, including Medicaid coverage for individuals with dependent children up to the federal poverty level designated under Section 26-18-411;

(b) 45% of the state's net cost of the enhancement waiver program;

(c) if the waiver for the Medicaid waiver expansion is approved, \$11,900,000; and

(d) 45% of the state's net cost of the upper payment limit gap.

(2) (a) The hospital share is capped at no more than \$13,600,000 annually, consisting of:

(i) an \$11,900,000 cap for the programs specified in Subsections (1)(a) through (c); and

(ii) a \$1,700,000 cap for the program specified in Subsection (1)(d).

(b) The department shall prorate the cap described in Subsection (2)(a) in any year in which the programs specified in Subsections (1)(a) and (d) are not in effect for the full fiscal year.

(3) Private hospitals shall be assessed under this chapter for:

(a) 69% of the portion of the hospital share for the programs specified in Subsections (1)(a) through (c); and

(b) 100% of the portion of the hospital share specified in Subsection (1)(d).

(4) (a) ~~[The department shall, on or before October 15, 2017, and on or before October 15 of each subsequent year, produce a report that calculates]~~ In the report described in Subsection 26-18-3.9(8), the department shall calculate the state's net cost of each of the programs described in Subsections (1)(a) through (c) that are in effect for that year.

(b) If the assessment collected in the previous fiscal year is above or below the hospital share for private hospitals for the previous fiscal year, the underpayment or overpayment of the assessment by the private hospitals shall be applied to the fiscal year in which the report is issued.

(5) A Medicaid accountable care organization shall, on or before October 15 of each year, report to the department the following data from the prior state fiscal year for each private hospital, state teaching hospital, and non-state government hospital provider that the Medicaid accountable care organization contracts with:

(a) for the traditional Medicaid population:

- (i) hospital inpatient payments;
- (ii) hospital inpatient discharges;
- (iii) hospital inpatient days; and
- (iv) hospital outpatient payments; and

(b) if the Medicaid accountable care organization enrolls any individuals in the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion, for the population newly eligible for any of those programs:

- (i) hospital inpatient payments;
- (ii) hospital inpatient discharges;
- (iii) hospital inpatient days; and
- (iv) hospital outpatient payments.

(6) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide details surrounding specific content and format for the reporting by the Medicaid accountable care organization.

**Section 13. Section 26-36b-205 is amended to read:**

**26-36b-205. Calculation of assessment.**

(1) (a) Except as provided in Subsection (1)(b), an annual assessment is payable on a quarterly basis for each private hospital in an amount calculated by the division at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and 60 residents shall pay an assessment rate 2.5 times the uniform rate established under Subsection (1)(c).

(c) The division shall calculate the uniform assessment rate described in Subsection (1)(a) by dividing the hospital share for assessed private hospitals, described in ~~[Subsection 26-36b-204(1)]~~ Subsections 26-36b-204(1) and 26-36b-204(3), by the sum of:

(i) the total number of discharges for assessed private hospitals that are not a private teaching hospital; and

(ii) 2.5 times the number of discharges for a private teaching hospital, described in Subsection (1)(b).

(d) The division may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adjust the formula described in Subsection (1)(c) to address unforeseen circumstances in the administration of the assessment under this chapter.

(e) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed private hospitals.

(2) Except as provided in Subsection (3), for each state fiscal year, the division shall determine a hospital's discharges as follows:

(a) for state fiscal year 2017, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2013, and June 30, 2014; and

(b) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

(3) (a) If a hospital's fiscal year Medicare cost report is not contained in the CMS Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(b) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (3)(b)(i); and

(iii) failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.



(4) Except as provided in Subsection (5), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(5) If multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

**Section 14. Section 26-36c-204 is amended to read:**

**26-36c-204. Hospital financing.**

(1) Private hospitals shall be assessed under this chapter for the portion of the hospital share described in Section 26-36c-209.

(2) ~~[The department shall, on or before October 15, 2020, and on or before October 15 of each subsequent year, produce a report that calculates]~~ In the report described in Subsection 26-18-3.9(8), the department shall calculate the state's net cost of the qualified Medicaid expansion.

(3) If the assessment collected in the previous fiscal year is above or below the hospital share for private hospitals for the previous fiscal year, the division shall apply the underpayment or overpayment of the assessment by the private hospitals to the fiscal year in which the report is issued.

**Section 15. Section 26-40-106 is amended to read:**

**26-40-106. Program benefits.**

(1) Except as provided in Subsection (3), medical and dental program benefits shall be benchmarked, in accordance with 42 U.S.C. Sec. 1397cc, as follows:

(a) medical program benefits, including behavioral health care benefits, shall be benchmarked ~~[on]~~ effective July 1, 2019, and on July 1 every third year thereafter, to:

(i) be substantially equal to a health benefit plan with the largest insured commercial enrollment offered by a health maintenance organization in the state; and

(ii) comply with the Mental Health Parity and Addiction Equity Act, Pub. L. No. 110-343; and

(b) dental program benefits shall be benchmarked ~~[on]~~ effective July 1, 2019, and on July 1 every third year thereafter in accordance with the Children's Health Insurance Program Reauthorization Act of 2009, to be substantially equal to a dental benefit plan that has the largest insured, commercial, non-Medicaid enrollment of covered lives that is offered in the state, except that

the utilization review mechanism for orthodontia shall be based on medical necessity.

(2) On or before ~~[January 31]~~ July 1 of each year, the department shall publish the benchmark for dental program benefits established under Subsection (1)(b).

(3) The program benefits for enrollees who are at or below 100% of the federal poverty level are exempt from the benchmark requirements of Subsections (1) and (2).

**Section 16. Section 62A-2-120 is amended to read:**

**62A-2-120. Background check -- Direct access to children or vulnerable adults.**

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

- (vi) social security number;
- (vii) only for applicants who are 18 years of age or older, fingerprints, in a form specified by the office; and
- (viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:
- (i) personal identifying information;
  - (ii) a fee established by the office under Section 63J-1-504; and
  - (iii) a disclosure form, specified by the office, for consent for:
    - (A) an initial background check upon submission of the information described under this Subsection (2)(a);
    - ~~[(B) a background check at the applicant's annual renewal;]~~
    - (B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;
    - (C) a background check when the office determines that reasonable cause exists; and
    - (D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).
- (b) In addition to the requirements described in Subsection (2)(a), if an applicant ~~spent time~~ resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant ~~spent~~ resided outside of the United States or its territories.
- (3) The office:
- (a) shall perform the following duties as part of a background check of an applicant:
    - (i) check state and regional criminal background databases for the applicant's criminal history by:
      - (A) submitting personal identifying information to the bureau for a search; or
      - (B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;
    - (ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;
    - (iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;
    - (iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;
    - (v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 78A-6-323; and
    - (vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;
    - (b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);
      - (c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
        - (i) for an annual renewal; or
        - (ii) when the office determines that reasonable cause exists;
        - (d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;
        - (e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:
          - (i) more than one license;
          - (ii) direct access to a child or a vulnerable adult in more than one human services program; or
          - (iii) direct access to a child or a vulnerable adult under a contract with the department;
        - (f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau ~~when the license has expired~~ within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ~~has ceased~~ ceases;
        - (g) shall adopt measures to strictly limit access to personal identifying information solely to the ~~office employees~~ individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);
        - (h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a program under this section that serves children, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's

direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) ~~[a conviction for]~~ a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), ~~[regardless of the date of the conviction]~~ with a date of conviction that is no more than 10 years before

the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within [five] three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 78A-6-323;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years of age; or

(B) 28 years of age or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a); [or]

(ix) has a pending charge for an offense described in Subsection (5)(a)[.]; or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical [or], mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; [and]

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

[~~(viii)~~] (ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

[~~(d)~~] (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (13).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

~~(b)~~ (c) Upon receiving the results of the criminal history search of a national criminal background ~~database~~ database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 78A-6-323; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have ~~supervised or unsupervised~~ direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give ~~written~~ notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of [its] the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of [~~licensing a~~] giving clearance status to an applicant seeking a position in a congregate care facility, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home [or approving], or an applicant seeking to provide a prospective adoptive placement of a child in state custody] home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a [~~license or a license renewal to a~~] clearance to an applicant seeking a position in a congregate care facility, an applicant for a one-time adoption, an applicant to become a prospective foster parent [or a], or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

- (iii) mayhem, as described in Section 76-5-105;
- (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;
- (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

**Section 17. Section 62A-15-629 is amended to read:**

**62A-15-629. Temporary commitment -- Requirements and procedures.**

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

- (a) a written application that:
  - (i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and
  - (ii) includes a certification by a licensed physician or designated examiner stating that the physician or designated examiner has examined the adult within a three-day period immediately preceding that certification, and that the physician or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall document the change and release the patient.

(3) A patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

(a) as described in Section 62A-15-631, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 62A-15-631(4); or

(b) the patient makes a voluntary application for admission.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the individual is to be committed is present, if the individual is not transported by ambulance; [or]

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the individual is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 26-8a-102.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary

commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section. This section does not create a special duty of care.

**Section 18. Repealer.**

This bill repeals:

**Section 26-18-404, Home and community-based long-term care -- Room and board assistance.**

**Section 26-40-116, Program to encourage appropriate emergency room use -- Application for waivers.**

**Section 19. Coordinating H.B. 436 with H.B. 137 -- Superseding technical and substantive amendments.**

If this H.B. 436 and H.B. 137, Child Placement Background Check Limits, both pass and become law, it is the intent of the Legislature that the amendments to Section 62A-2-120 in this H.B. 436 supersede the amendments to Section 62A-2-120 in H.B. 137 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.



**CHAPTER 226****H. B. 440**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**HOMELESS SERVICES  
 FUNDING AMENDMENTS**

Chief Sponsor: Steve Eliason  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill modifies provisions related to the Homeless Coordinating Committee and the Homeless to Housing Reform Restricted Account.

**Highlighted Provisions:**

This bill:

- ▶ modifies how the Homeless Coordinating Committee, with the concurrence of the Housing and Community Development Division, may use money from the Homeless to Housing Reform Restricted Account;
- ▶ modifies the funding and authorized uses of the Homeless Reform Restricted Account, including the use of proceeds from the state sale of land at 210 South Rio Grande Street, Salt Lake City, which was the location of a former homeless shelter; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2020:

- ▶ to the Department of Workforce Services -- Housing and Community Development, as a one-time appropriation:
  - from the Homeless to Housing Reform Restricted Account, \$6,000,000.

This bill appropriates in fiscal year 2021:

- ▶ to the University of Utah -- Education and General, as a one-time appropriation:
  - from the General Fund, \$75,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

35A-8-604, as last amended by Laws of Utah 2019, Chapters 53, 94, and 234

35A-8-605, as last amended by Laws of Utah 2018, Chapter 251

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

**Section 1. Section 35A-8-604 is amended to read:****35A-8-604. Uses of Homeless to Housing Reform Restricted Account.**

(1) With the concurrence of the division and in accordance with this section, the Homeless Coordinating Committee members designated in Subsection 35A-8-601(2) may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-8-605.

(2) Before final approval of a grant or contract awarded under this section, the Homeless Coordinating Committee and the division shall provide written information regarding the grant or contract to, and shall consider the recommendations of, the Executive Appropriations Committee.

(3) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the division and the Homeless Coordinating Committee that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the Homeless Coordinating Committee before the awarding of the grant or contract.

(4) In determining the awarding of a grant or contract under this section, the Homeless Coordinating Committee, with the concurrence of the division, shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) consider the advice of committee members designated in Subsection 35A-8-601(3);

(c) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(d) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter;

(e) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

- (iv) decreasing the state's homeless rate;
- (v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;
- (vi) providing access to caseworkers or other individualized support for homeless individuals and families;
- (vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;
- (viii) creating additional affordable housing for state residents;
- (ix) providing services and support to prevent homelessness among at-risk individuals and adults;
- (x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults;
- (xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness; and
- (xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services; and
- (f) address the needs identified in the strategic plan described in Subsection 35A-8-602(1)(a) for inclusion in the annual written report described in Section 35A-1-109.
- (5) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, the Homeless Coordinating Committee, with the concurrence of the division, may consider whether the facility will be:
- (a) located near mass transit services;
- (b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;
- (c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and
- (d) located in an area with access to employment, job training, and positive activities.
- (6) In accordance with Subsection (5), and subject to the approval of the Homeless Coordinating Committee with the concurrence of the division, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

- (a) the county executive of a county of the first class on behalf of the county of the first class, if the

facility is or will be located in the county of the first class in a location other than Salt Lake City;

- (b) the state;
- (c) a nonprofit entity approved by the Homeless Coordinating Committee with the concurrence of the division; and
- (d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.
- (7) (a) As used in this Subsection (7) and in Subsection (8), "homeless shelter" means a facility that:

- (i) is located within a municipality; and
- (ii) provides temporary shelter year-round to homeless individuals, including an emergency shelter or medical respite facility.

(b) In addition to the other provisions of this section, the Homeless Coordinating Committee, with the concurrence of the division, may award a grant or contract:

- (i) to a municipality to improve sidewalks, pathways, or roadways near a homeless shelter to provide greater safety to homeless individuals; and
- (ii) to a municipality to hire one or more peace officers to provide greater safety to homeless individuals.

(8) (a) If a homeless shelter commits to provide matching funds equal to the total grant awarded under this Subsection (8), the Homeless Coordinating Committee, with the concurrence of the division, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (8), the Homeless Coordinating Committee, with the concurrence of the division, shall consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

(9) The division may expend money from the restricted account to offset actual division and Homeless Coordinating Committee expenses related to administering this section.

(10) In addition to other provisions of this section, the Homeless Coordinating Committee, with the concurrence of the division, may award one-time money from the state's sale of the land at 210 South Rio Grande Street, Salt Lake City, which was the location of a former emergency homeless shelter, to a nonprofit entity that owns three or more homeless shelters in a county of the first class to assist the entity in paying off a loan taken out by the entity to build a homeless shelter located in a county of the first class in a location other than Salt Lake City.

**Section 2. Section 35A-8-605 is amended to read:**

**35A-8-605. Homeless to Housing Reform Restricted Account.**

- (1) There is created a restricted account within the General Fund known as the Homeless to Housing Reform Restricted Account.

(2) The restricted account shall be administered by the division for the purposes described in Section 35A-8-604.

(3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited in the restricted account.

(4) The restricted account shall be funded by:

(a) appropriations made to the account by the Legislature; and

(b) private donations, grants, gifts, bequests, or money made available from any other source to implement this section and Section 35A-8-604.

(5) Subject to appropriation, the director shall use restricted account money as described in Section 35A-8-604.

(6) The Homeless Coordinating Committee, in cooperation with the division, shall submit an annual written report to the department that gives a complete accounting of the use of money from the restricted account for inclusion in the annual report described in Section 35A-1-109.

(7) In addition to the funding sources described in Subsection (4), the restricted account shall be funded by the one-time deposit of the proceeds of the state's sale of land located at 210 South Rio Grande Street, Salt Lake City, on or after March 1, 2020, which was the former location of an emergency homeless shelter.

**Section 3. Appropriation.**

**Subsection 3(a). Appropriation for fiscal year 2020.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Workforce Services -- Housing and Community Development

From General Fund Restricted — Homeless to Housing Reform Restricted Account, One-time	\$6,000,000
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Schedule of Programs:

Homeless to Housing Reform Program	\$6,000,000
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The Legislature intends that:

(1) under Section 63J-1-603, appropriations provided under Subsection 3(a) of this bill not lapse at the close of fiscal year 2020; and

(2) an amount equal to the lesser of the appropriation described in Item 1 or the amount of the proceeds from the sale of the land located at 210 South Rio Grande Street, Salt Lake City, be used as follows:

(a) 50% shall be used to assist a nonprofit entity that owns three or more homeless shelters in a county of the first class in paying off a loan taken out by the entity to build a homeless shelter located in a county of the first class as described in Subsection 35A-8-604(10); and

(b) 50% may be used to provide funding for the ongoing operations of one or more homeless services resource centers and for overflow costs.

**Subsection (3)(b). Appropriation for fiscal year 2021.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To University of Utah -- Education and General

From General Fund, One-time	\$75,000
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Schedule of Programs:

Kem C. Gardner Policy Institute	\$75,000
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The Legislature intends that the appropriation under Subsection (3)(b) of this bill be used by the Kem C. Gardner Policy Institute to study the current decision-making framework and governance structure for the provision of services to homeless individuals in the state and to provide a written report by October 1, 2020, to the Executive Appropriations Committee, the Health and Human Services Interim Committee, and the Homeless Coordinating Committee containing recommendations for improving the provision of services to homeless individuals in the state, including a potential realignment of the decision-making framework and governance structure related to the provision of those services.

**CHAPTER 227****H. B. 452**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**PROBATION AND PAROLE  
 VIOLATION AMENDMENTS**

Chief Sponsor: Lee B. Perry  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill clarifies that parole or probation officers that work for local law enforcement agencies may issue 72 hour holds for probation violations.

**Highlighted Provisions:**

This bill:

- ▶ clarifies that parole or probation officers that work for local law enforcement agencies may issue 72 hour holds for probation violations under certain circumstances;
- ▶ requires that local law enforcement agencies notify the proper court when a probationer has been held; and
- ▶ clarifies that a written order from a local law enforcement agency is sufficient authorization for a peace officer to incarcerate a probationer who has violated the conditions of the probationer's probation.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

64-13-29, as last amended by Laws of Utah 2015, Chapter 412

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

**Section 1. Section 64-13-29 is amended to read:****64-13-29. Violation of parole or probation -- Detention -- Hearing.**

(1) (a) The department or local law enforcement agency shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the [department's supervision,] supervision of the department, the local law enforcement agency, or the Board of Pardons and Parole in the case of parolees under the department's supervision when:

- (i) a sanction of incarceration is recommended; or
  - (ii) the department or local law enforcement agency determines that a graduated sanction is not an appropriate response to the offender's violation and recommends revocation of probation or parole.
- (b) In cases where the department desires to detain an offender alleged to have violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or court will conduct a

hearing within a reasonable time to determine if the offender has violated his conditions of parole or probation, the department shall hold an administrative hearing within a reasonable time, unless the hearing is waived by the parolee or probationer, to determine if there is probable cause to believe that a violation has occurred.

(c) If there is a conviction for a crime based on the same charges as the probation or parole violation, or a finding by a federal or state court that there is probable cause to believe that an offender has committed a crime based on the same charges as the probation or parole violation, the department need not hold an administrative hearing.

(2) The appropriate officer or officers of the department shall, as soon as practical following the department's administrative hearing, report to the court or the Board of Pardons and Parole, furnishing a summary of the hearing, and may make recommendations regarding the disposition to be made of the parolee or probationer.

(3) Pending any proceeding under this section, the department may take custody of and detain the parolee or probationer involved for a period not to exceed 72 hours excluding weekends and holidays.

(4) In cases where probationers are supervised by a local law enforcement agency, the agency may take custody of and detain the probationer involved for a period not to exceed 72 hours excluding weekends and holidays if:

(a) the probationer commits a major violation or repeated violations of probation; and

(b) it is unlikely that the court will conduct a hearing within a reasonable time to determine if the offender has violated the conditions of probation; and

(c) the law enforcement agency conducts an administrative hearing within a reasonable time to determine if there is probable cause to believe the offender has violated the conditions of probation, unless the hearing is waived by the probationer.

(5) If the requirements for Subsection (4) are met, the local law enforcement agency shall ensure the proper court is notified.

[~~(3)~~] (6) If the hearing officer determines that there is probable cause to believe that the offender has violated the conditions of his parole or probation, the department may detain the offender for a reasonable period of time after the hearing or waiver, as necessary to arrange for the incarceration of the offender. ~~[Written]~~ A written order of the department is sufficient authorization for any peace officer to incarcerate the offender. The department may promulgate rules for the implementation of this section.

(7) A written order from the local law enforcement agency is sufficient authorization for any peace officer to incarcerate the offender if:

(a) the probationers are supervised by a local law enforcement agency; and

(b) the appropriate officer or officers determine that there is probable cause to believe that the offender has violated the conditions of probation.

(8) If a probationer supervised by a local law enforcement agency commits a violation outside of the jurisdiction of the supervising agency, the arresting agency is not required to hold or transport the probationer for the supervising agency.

**CHAPTER 228****H. B. 459**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**FINANCIAL EXPLOITATION  
PREVENTION ACT**

Chief Sponsor: Kyle R. Andersen  
 Senate Sponsor: Lyle W. Hillyard  
 Cosponsors: Susan Duckworth  
 Steve Eliason  
 Suzanne Harrison  
 Marsha Judkins  
 Karen Kwan  
 Kelly B. Miles  
 Travis M. Seegmiller  
 Jeffrey D. Stenquist  
 Andrew Stoddard  
 Elizabeth Weight

**LONG TITLE****General Description:**

This bill enacts the Financial Exploitation Prevention Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ permits a covered financial institution to delay certain transactions under certain circumstances;
- ▶ permits a covered financial institution to notify a law enforcement agency or Adult Protective Services under certain circumstances;
- ▶ grants immunity to a covered financial institution, except under certain circumstances; and
- ▶ requires the Office of the Attorney General to provide certain information regarding financial exploitation on the attorney general's website.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

7-26-101, Utah Code Annotated 1953  
 7-26-102, Utah Code Annotated 1953  
 7-26-201, Utah Code Annotated 1953  
 7-26-202, Utah Code Annotated 1953  
 7-26-301, Utah Code Annotated 1953  
 7-26-302, Utah Code Annotated 1953  
 7-26-401, Utah Code Annotated 1953

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

**Section 1. Section 7-26-101 is enacted to read:****CHAPTER 26. FINANCIAL EXPLOITATION  
PREVENTION ACT****Part 1. General Provisions****7-26-101. Title.**

This chapter is known as the "Financial Exploitation Prevention Act."

**Section 2. Section 7-26-102 is enacted to read:****7-26-102. Definitions.**

As used in this chapter:

(1) "Adult Protective Services" means the same as that term is defined in Section 62A-3-301.

(2) "Covered financial institution" means any of the following that operate in the state:

(a) a state or federally chartered:

(i) bank;

(ii) savings and loan association;

(iii) savings bank;

(iv) industrial bank;

(v) credit union;

(vi) trust company; or

(vii) depository institution; or

(b) a financial institution.

(3) "Financial exploitation" means:

(a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or other property of an individual; or

(b) an act or omission, including through a power of attorney, guardianship, or conservatorship of an individual, to:

(i) obtain control, through deception, intimidation, or undue influence, over the individual's money, assets, or other property to deprive the individual of the ownership, use, benefit, or possession of the individual's money, assets, or other property; or

(ii) convert the individual's money, assets, or other property to deprive the individual of the ownership, use, benefit, or possession of the individual's money, assets, or other property.

(4) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(5) "Qualified individual" means:

(a) a branch manager of a covered financial institution; or

(b) a director, officer, employee, agent, or other representative that a covered financial institution designates.

(6) "Third party associated with a vulnerable adult" means an individual:

(a) who is a parent, spouse, adult child, sibling, or other known family member of a vulnerable adult;

(b) whom a vulnerable adult authorizes the financial institution to contact;

(c) who is a co-owner, additional authorized signatory, or beneficiary on a vulnerable adult's account; or

(d) who is an attorney, trustee, conservator, guardian or other fiduciary whom a court or a government agency selects to manage some or all of the financial affairs of the vulnerable adult.

(7) "Transaction" means any of the following services that a covered financial institution provides:

(a) a transfer or request to transfer or disburse funds or assets in an account;

(b) a request to initiate a wire transfer, initiate an automated clearinghouse transfer, or issue a money order, cashier's check, or official check;

(c) a request to negotiate a check or other negotiable instrument;

(d) a request to change the ownership of, or access to, an account;

(e) a request to sell or transfer a security or other asset, or a request to affix a medallion stamp or provide any form of guarantee or endorsement in connection with an attempt to sell or transfer a security or other asset, if the person selling or transferring the security or asset is not required to obtain a license under Section 61-1-3;

(f) a request for a loan, extension of credit, or draw on a line of credit;

(g) a request to encumber any movable or immovable property; or

(h) a request to designate or change the designation of beneficiaries to receive any property, benefit, or contract right.

(8) "Vulnerable adult" means:

(a) an individual who is 65 years of age or older; or

(b) the same as that term is defined in Section 62A-3-301.

**Section 3. Section 7-26-201 is enacted to read:**

**Part 2. General Prevention of Financial Exploitation**

**7-26-201. Permitted delay of wire transfers.**

(1) This section applies to a wire transfer that transfers money from a consumer account at a covered financial institution.

(2) If a qualified individual reasonably believes that executing a requested wire transfer will result in financial exploitation, the covered financial institution may:

(a) delay the wire transfer; and

(b) contact:

(i) a law enforcement agency;

(ii) Adult Protective Services; or

(iii) a joint co-owner on the account.

(3) The delay of a wire transfer described in Subsection (2) expires when the earlier of the following occurs:

(a) the covered financial institution reasonably determines that the wire transfer is not financial exploitation; or

(b) 15 business days pass after the day on which the covered financial institution first initiated the delay of the wire transfer.

**Section 4. Section 7-26-202 is enacted to read:**

**7-26-202. Office of the Attorney General website.**

The Office of the Attorney General shall post on the Office of the Attorney General's website up-to-date information regarding financial scams, including:

(1) the most prominent and common characteristics of financial scams;

(2) current or trending financial scams;

(3) resources for a vulnerable adult who suspects a financial scam; and

(4) resources for an individual who suspects the financial exploitation of a vulnerable adult.

**Section 5. Section 7-26-301 is enacted to read:**

**Part 3. Permitted Acts to Prevent Financial Exploitation of Vulnerable Adults**

**7-26-301. Delay of a transaction involving a vulnerable adult.**

(1) A covered financial institution may delay a transaction involving a vulnerable adult, if:

(a) a qualified individual reasonably believes that executing the requested transaction will result in financial exploitation of the vulnerable adult; or

(b) a law enforcement agency provides the covered financial institution information demonstrating that it is reasonable to believe that financial exploitation of a vulnerable adult is occurring, has or may have occurred, is being attempted, or has been or may have been attempted.

(2) (a) A covered financial institution that delays a transaction in accordance with Subsection (1):

(i) except as provided in Subsection (2)(b), shall no later than two business days after the day on which the transaction is delayed, send notice of the delay and the reason for the delay to each party:

(A) authorized to transact business on the account; and

(B) for which the covered financial institution has contact information;

(ii) may send notice of the delay, the reason for the delay, or any additional information about the transaction to:

(A) a law enforcement agency; or

(B) Adult Protective Services.

(b) A covered financial institution may:

(i) decide not to provide notice to a party described in Subsection (2)(a)(i) if a qualified individual reasonably believes the party has engaged in attempted financial exploitation of the vulnerable adult; or

(ii) send a notice described in Subsection (2)(a) electronically.

(3) (a) Except as provided in Subsection (3)(b), the delay of a transaction described in Subsection (1) expires when the earlier of the following occurs:

(i) the covered financial institution reasonably determines that the transaction will not result in financial exploitation of a vulnerable adult; or

(ii) 15 business days pass after the day on which the covered financial institution first initiated the delay of the transaction.

(b) (i) If a covered financial institution receives a request from a law enforcement agency to extend the delay of a transaction beyond the expiration date established in Subsection (3)(a), the covered financial institution may extend the delay no more than 25 business days after the day on which the covered financial institution first initiated the delay.

(ii) A court of competent jurisdiction may enter an order:

(A) extending or shortening the delay of a transaction; or

(B) providing relief based on the petition of the covered financial institution, law enforcement agency, or an interested party.

**Section 6. Section 7-26-302 is enacted to read:**

**7-26-302. Permitted notifications.**

(1) A covered financial institution may notify a law enforcement agency or Adult Protective Services if a qualified individual believes that the financial exploitation of a vulnerable adult is occurring, has or may have occurred, is being attempted, or has been or may have been attempted.

(2) A covered financial institution may notify a third party associated with a vulnerable adult if a qualified individual believes that the financial exploitation of the vulnerable adult is occurring, has or may have occurred, is being attempted, or has been or may have been attempted.

(3) A covered financial institution may choose not to notify a third party associated with a vulnerable adult as described in Subsection (2), if a qualified individual reasonably believes that the third party is, may be, or may have been engaged in the financial exploitation of the vulnerable adult.

**Section 7. Section 7-26-401 is enacted to read:**

**Part 4. Immunity**

**7-26-401. Immunity.**

(1) A covered financial institution or a director, officer, employee, attorney, accountant, agent, or other representative of the covered financial institution:

(a) has no duty to act under this chapter to protect a vulnerable adult from financial exploitation by a third person; and

(b) is immune from all criminal, civil, and administrative liability for not taking a permissive action under this chapter.

(2) A covered financial institution or a director, officer, employee, attorney, accountant, agent, or other representative of the covered financial institution who chooses to act as described in:

(a) Subsection 7-26-201(2), is immune from all criminal, civil, and administrative liability for the act, unless the act is done in bad faith; and

(b) Section 7-26-301 or 7-26-302, is immune from all criminal, civil, and administrative liability for the act, unless the act:

(i) is done in bad faith; and

(ii) causes pecuniary loss to a vulnerable adult suspected of being a victim of financial exploitation.

(3) The immunity described in this section does not extend to an individual that is a principal, a conspirator, or an accessory after the fact to a criminal offense involving the financial exploitation of a vulnerable adult.



**CHAPTER 229****H. B. 461**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**CRIMINAL JUSTICE AMENDMENTS**

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

**LONG TITLE****General Description:**

This bill directs the Office of the Attorney General and the Department of Public Safety to create a multi-agency joint strike force and the Joint Organized Retail Crime Unit to combat certain crimes.

**Highlighted Provisions:**

This bill:

- ▶ directs the Office of the Attorney General and the Department of Public Safety to create and coordinate a multi-agency joint strike force to combat crimes that may have a negative impact on the state's economy;
- ▶ directs the Office of the Attorney General and the Department of Public Safety to establish the Joint Organized Retail Crime Unit; and
- ▶ establishes reporting requirements.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

67-5-36, Utah Code Annotated 1953

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

**Section 1. Section 67-5-36 is enacted to read:****67-5-36. Multi-agency joint strike force -- Joint Organized Retail Crime Unit.**

(1) The Office of the Attorney General and the Department of Public Safety shall create and coordinate the operation of a multi-agency joint strike force to combat criminal activity that may have a negative impact on the state's economy.

(2) The attorney general and the Department of Public Safety shall invite federal, state, and local law enforcement personnel to participate in the joint strike force to more effectively utilize their combined skills, expertise, and resources.

(3) The joint strike force shall focus the joint strike force's efforts on detecting, investigating, deterring, and eradicating criminal activity, described in Subsection (1), within the state, including organized retail crime, antitrust violations, intellectual property rights violations, gambling, and the purchase of stolen goods for the purpose of reselling the stolen goods for profit.

(4) In conjunction with the joint strike force, the Office of the Attorney General and the Department of Public Safety shall establish the Joint Organized Retail Crime Unit for the purpose of:

(a) investigating, apprehending, and prosecuting individuals or entities that participate in the purchase, sale, or distribution of stolen property; and

(b) targeting individuals or entities that commit theft and other property crimes for financial gain.

(5) The joint strike force shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee before December 1 that describes the joint strike force's activities and any recommendations for modifications to this section.

**CHAPTER 230****H. B. 485**

Passed March 12, 2020  
Approved March 28, 2020  
Effective July 1, 2020

**AMENDMENTS RELATED  
TO SURCHARGE FEES**

Chief Sponsor: Joel Ferry  
Senate Sponsor: Jacob L. Anderegg

**LONG TITLE****General Description:**

This bill modifies provisions related to the allocation of funds from surcharges.

**Highlighted Provisions:**

This bill:

- ▶ reroutes the criminal conviction surcharge collections to the General Fund;
- ▶ repeals statutory language connecting the criminal conviction surcharge allocations to restricted accounts;
- ▶ repeals certain restricted accounts and addresses remaining funds in the restricted accounts;
- ▶ repeals funding and programming related to certain restricted accounts being repealed;
- ▶ raises the amounts of the certain surcharges and fees;
- ▶ revises and relocates statutory language due to the repealing of restricted accounts; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Office of the Attorney General -- Prosecution Council:
  - from the General Fund, \$492,000
  - from Public Safety Support Account (\$551,500)
- ▶ to the Courts -- Administration:
  - from the General Fund, \$410,000
  - from Substance Abuse Prevention Account (\$571,700)
- ▶ to the Courts -- Guardian Ad Litem:
  - from the General Fund, \$287,000
  - from Guardian Ad Litem Services Account (\$397,500)
- ▶ to the Department of Health -- Family Health and Preparedness:
  - from the General Fund, \$2,296,200
  - from Dedicated Credits (\$2,296,200)
- ▶ to the Department of Human Services -- Division of Child and Family Services:
  - from the General Fund, \$731,000
  - from Victims of Domestic Violence Service Account (\$732,100)
- ▶ to the Department of Human Services -- Division of Substance Abuse and Mental Health:
  - from the General Fund, \$1,230,100
  - from Intoxicated Driver Rehabilitation Account (\$1,500,000)

- ▶ to the Department of Public Safety -- Bureau of Criminal Identification:
  - from the General Fund, \$250,000
  - from Statewide Warrants Operations Account (\$596,300)
- ▶ to the Department of Public Safety -- Peace Officers Standards and Training:
  - from the General Fund, \$3,034,300
  - from Public Safety Support Account (\$4,111,600)
- ▶ to the Courts -- Administration
  - from General Fund (\$502,600)
- ▶ to the Office of the Governor -- Commission on Criminal and Juvenile Justice:
  - from the General Fund, \$1,971,000
  - from Crime Victim Reparations Fund (\$1,971,100)
- ▶ to the Office of the Governor -- Commission on Criminal and Juvenile Justice:
  - from the General Fund, \$1,360,200
  - from Law Enforcement Operations Account (\$1,531,300)
- ▶ to the Office of the Governor -- Commission on Criminal and Juvenile Justice:
  - from Law Enforcement Services Account (\$617,900)
- ▶ to the Office of the Governor -- Crime Victims Reparations:
  - from the General Fund, \$3,769,400
  - from Dedicated Credits (\$3,769,400)
- ▶ to the State Board of Education -- State Administrative Office:
  - from the General Fund, \$410,000
  - from Substance Abuse Prevention Account (\$512,600)

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 10-1-203.5, as last amended by Laws of Utah 2017, Chapter 136
- 26-8a-207, as last amended by Laws of Utah 2011, Chapters 297 and 303
- 51-9-401, as last amended by Laws of Utah 2010, Chapter 402
- 51-9-402, as last amended by Laws of Utah 2011, Chapter 342
- 51-9-412, as last amended by Laws of Utah 2016, Chapter 191
- 62A-15-503, as last amended by Laws of Utah 2010, Chapter 278
- 63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
- 63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483
- 63J-1-602.1, as last amended by Laws of Utah 2019, Chapters 89, 136, 213, 215, 244, 326, 342, and 482
- 63J-1-602.2, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469
- 63M-7-204, as last amended by Laws of Utah 2019, Chapter 435

63M-7-502, as last amended by Laws of Utah 2019, Chapter 297  
 67-5a-8, as last amended by Laws of Utah 2011, Chapter 340  
 77-38-302, as last amended by Laws of Utah 2013, Chapter 278  
 78A-2-301, as last amended by Laws of Utah 2018, Chapter 25  
 78A-2-601, as last amended by Laws of Utah 2015, Chapter 99  
 78A-6-117, as last amended by Laws of Utah 2019, Chapters 162 and 335  
 78A-7-120, as last amended by Laws of Utah 2017, Chapters 144, 150, and 186  
 78A-7-122, as last amended by Laws of Utah 2014, Chapter 168

**ENACTS:**

53E-3-521, Utah Code Annotated 1953  
 63M-7-526, Utah Code Annotated 1953  
 78A-6-903, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

63M-7-213, (Renumbered from 51-9-411, as last amended by Laws of Utah 2016, Chapter 191)

**REPEALS:**

51-9-403, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 51-9-404, as last amended by Laws of Utah 2014, Chapter 56  
 51-9-405, as last amended by Laws of Utah 2019, Chapter 335  
 51-9-406, as last amended by Laws of Utah 2018, Chapter 353  
 51-9-407, as last amended by Laws of Utah 2010, Chapter 278  
 51-9-409, as last amended by Laws of Utah 2011, Chapter 303  
 51-9-410, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 62A-15-502.5, as enacted by Laws of Utah 2010, Chapter 278

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

**Section 1. Section 10-1-203.5 is amended to read:****10-1-203.5. Disproportionate rental fee -- Good landlord training program -- Fee reduction.**

(1) As used in this section:

(a) "Business" means the rental of one or more residential units within a municipality.

(b) "Disproportionate rental fee" means a fee adopted by a municipality to recover its disproportionate costs of providing municipal services to residential rental units compared to similarly-situated owner-occupied housing.

(c) "Disproportionate rental fee reduction" means a reduction of a disproportionate rental fee as a condition of complying with the requirements of a good landlord training program.

(d) "Exempt business" means the rental of a residential unit within a single structure that contains:

- (i) no more than four residential units; and
- (ii) one unit occupied by the owner.

(e) "Exempt landlord" means a residential landlord who demonstrates to a municipality:

- (i) completion of any live good landlord training program offered by any other Utah city that offers a good landlord program;
- (ii) that the residential landlord has a current professional designation of "property manager"; or
- (iii) compliance with a requirement described in Subsection (6).

(f) "Good landlord training program" means a program offered by a municipality to encourage business practices that are designed to reduce the disproportionate cost of municipal services to residential rental units by offering a disproportionate rental fee reduction for any residential landlord who:

- (i) (A) completes a landlord training program provided by the municipality; or
- (B) is an exempt landlord;
- (ii) implements measures to reduce crime in rental housing as specified in a municipal ordinance or policy; and
- (iii) operates and manages rental housing in accordance with an applicable municipal ordinance.

(g) "Municipal services" means:

- (i) public utilities;
- (ii) police;
- (iii) fire;
- (iv) code enforcement;
- (v) storm water runoff;
- (vi) traffic control;
- (vii) parking;
- (viii) transportation;
- (ix) beautification; or
- (x) snow removal.

(h) "Municipal services study" means a study of the cost of all municipal services to rental housing that:

- (i) are reasonably attributable to the rental housing; and
- (ii) exceed the municipality's cost to serve similarly-situated, owner-occupied housing.

(i) "Residential landlord" means:

- (i) the owner of record of residential real property that is leased or rented to another; or
- (ii) a third-party provider that has an agreement with the owner of record to manage the owner's real property.

(2) The legislative body of a municipality may charge and collect a disproportionate rental fee on a business that causes disproportionate costs to municipal services if the municipality:

- (a) has performed a municipal services study; and
- (b) adopts a disproportionate rental fee that does not exceed the amount that is justified by the municipal services study on a per residential rental unit basis.

(3) A municipality may not:

(a) impose a disproportionate rental fee on an exempt business;

(b) require a residential landlord to deny tenancy to an individual based on the individual's criminal history ~~[unless a halfway house, as that term is defined in Section 51-9-412,], unless a facility that houses parolees upon release from prison or houses probationers who have violated the terms of their probation is located within the municipality;~~

(c) without cause and notice, require a residential landlord to submit to a random building inspection;

(d) unless agreed to by a residential landlord and in compliance with state and federal law, collect from a residential landlord or retain:

(i) a tenant's consumer report, as defined in 15 U.S.C. Sec. 1681a, in violation of 15 U.S.C. Sec. 1681b as amended;

(ii) a tenant's criminal history record information in violation of Section 53-10-108; or

(iii) a copy of an agreement between the residential landlord and a tenant regarding the tenant's term of occupancy, rent, or any other condition of occupancy;

(e) require that any documents required from the landlord be notarized; or

(f) prohibit a residential landlord from passing on to the tenant the license or disproportionate fee.

(4) Nothing in this section shall limit:

(a) a municipality's right to audit and inspect an exempt residential landlord's records to ensure compliance with a disproportionate rental fee reduction program; or

(b) the right of a municipality with a short-term or vacation rental ordinance to review an owner's rental agreement to verify compliance with the municipality's ordinance.

(5) Notwithstanding Section 10-11-2, a residential landlord may provide the name and address of a person to whom all correspondence regarding the property shall be sent. If the landlord provides the name and address in writing, the municipality shall provide all further correspondence regarding the property to the designated person. The municipality may also provide copies of notices to the residential landlord.

(6) In addition to a requirement or qualification described in Subsection (1)(e), a municipality may

recognize a good landlord training program described in its ordinance.

(7) (a) If a municipality adopts a good landlord program, the municipality shall provide an appeal procedure affording due process of law to a residential landlord who is denied a disproportionate rental fee reduction.

(b) A municipality may not adopt a new disproportionate rental fee unless the municipality provides a disproportionate rental fee reduction.

(8) A property manager who represents an owner of property that qualifies for a municipal disproportionate rental fee may not be restricted from simultaneously representing another owner of property that does not qualify for a municipal disproportionate rental fee.

**Section 2. Section 26-8a-207 is amended to read:**

**26-8a-207. Emergency Medical Services Grant Program.**

~~[(1)(a) The department shall receive as dedicated credits the amount established in Section 51-9-403. That amount shall be transferred to the department by the Division of Finance from funds generated by the surcharge imposed under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation.]~~

~~[(b)] (1) Funds [transferred] appropriated to the department [under this section] for the Emergency Medical Services Grant Program shall be used for improvement of delivery of emergency medical services and administrative costs as described in Subsection (2)(a). [Appropriations to the department for the purposes enumerated in this section shall be made from those dedicated credits.]~~

(2) (a) The department may use the funds ~~[transferred to it]~~ under Subsection (1):

(i) to provide staff support; and

(ii) for other expenses incurred in:

(A) administration of grant funds; and

(B) other department administrative costs under this chapter.

(b) After funding staff support, administrative expenses, and trauma system development, the department and the committee shall make emergency medical services grants from the remaining funds ~~[received as dedicated credits]~~ under Subsection (1). A recipient of a grant under this Subsection (2)(b) shall actively provide emergency medical services within the state.

(c) The department shall distribute not less than 25% of the funds appropriated for the Emergency Medical Services Grant Program, with the percentage being authorized by a majority vote of the committee, as per capita block grants for use specifically related to the provision of emergency medical services to nonprofit prehospital emergency medical services providers that are either licensed or designated and to emergency medical services that are the primary emergency

medical services for a service area. The department shall determine the grant amounts by prorating available funds on a per capita basis by county as described in department rule.

(d) The committee shall award the remaining funds as competitive grants for use specifically related to the provision of emergency medical services based upon rules established by the committee.

**Section 3. Section 51-9-401 is amended to read:**

**51-9-401. Surcharge -- Application.**

(1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures imposed by the courts.

(b) The surcharge shall be:

(i) 90% upon conviction of a:

(A) felony;

(B) class A misdemeanor;

(C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; or

(D) class B misdemeanor not classified within Title 41, Motor Vehicles, including violation of comparable county or municipal ordinances; or

(ii) 35% upon conviction of any other offense, including violation of county or municipal ordinances not subject to the 90% surcharge.

~~[(c) The Division of Finance shall allocate the collected 90% surcharge in Subsection (1)(b)(i) in the following order:]~~

~~[(i) the first \$30,000 to the General Fund;]~~

~~[(ii) the next 4.5% to the Law Enforcement Services Account established in Section 51-9-412; and]~~

~~[(iii) the remainder as prescribed in Sections 51-9-403 through 51-9-411.]~~

(c) The Division of Finance shall deposit into the General Fund an amount equal to the amount that the state retains under Section 51-9-402.

(2) The surcharge may not be imposed:

(a) upon nonmoving traffic violations;

(b) upon court orders when the offender is ordered to perform compensatory service work in lieu of paying a fine; and

(c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78A-6-602.

(3) (a) The surcharge and the exceptions under Subsections (1) and (2) ~~also~~ apply to all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if committed by an adult.

(b) ~~However~~ Notwithstanding Subsection (3)(a), the surcharge does not include amounts assessed or collected separately by juvenile courts for the Juvenile Restitution Account, which is independent of this part and does not affect the imposition or collection of the surcharge.

(4) The surcharge under this section shall be imposed in addition to the fine charged for a civil or criminal offense, and no reduction may be made in the fine charged due to the surcharge imposition.

(5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be authorized and managed by this part rather than attached to particular offenses.

**Section 4. Section 51-9-402 is amended to read:**

**51-9-402. Division of collected money retained by state treasurer and local governmental collecting entity.**

(1) The amount of the surcharge imposed under this part by courts of record shall be collected before any fine and deposited with the state treasurer.

(2) The amount of the surcharge and the amount of criminal fines, penalties, and forfeitures imposed under this part by courts not of record shall be collected concurrently.

(a) As money is collected on criminal fines, penalties, and forfeitures subject to the 90% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 53% of the collected money and the state retains 47% of the collected money.

(b) As money is collected on criminal fines, penalties, and forfeitures subject to the 35% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 74% of the collected money and the state retains 26% of the collected money.

(c) The court shall deposit with the state treasurer the surcharge portion of all money as it is collected.

(3) Courts of record, courts not of record, and administrative traffic proceedings shall collect financial information to determine:

(a) the total number of cases in which:

(i) a final judgment has been rendered;

(ii) surcharges and fines are paid by partial or installment payment; and

(iii) the judgment is fulfilled by an alternative method upon the court's order; and

(b) the total dollar amounts of surcharges owed to the state and fines owed to the state and county or municipality, including:

(i) waived surcharges;

(ii) uncollected surcharges; and

(iii) collected surcharges.

(4) The courts of record, courts not of record, and administrative traffic proceedings shall report all

collected financial information monthly to the Administrative Office of the Courts. The collected information shall be categorized by cases subject to the 90% and 35% surcharge.

~~[(5) The purpose of the surcharge is to finance the trust funds and support accounts as provided in this part.]~~

~~[(6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for the purposes described in Sections 51-9-403 through 51-9-411.]~~

~~[(b) Allocations shall be made on a fiscal year basis.]~~

~~[(7) (5) The provisions of this section and Section 51-9-401 may not impact the distribution and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13, 78A-5-110, and 78A-7-120.~~

**Section 5. Section 51-9-412 is amended to read:**

**51-9-412. Halfway house funding -- Uses.**

(1) As used in this section:

~~[(a) "Account" means the Law Enforcement Services Account.]~~

~~[(b) (a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.~~

~~[(c) (b) "Halfway house" means a facility that houses parolees upon release from prison or houses probationers who have violated the terms of their probation.~~

~~[(d) (c) "Law enforcement agency" means a local law enforcement agency.~~

~~[(e) (d) "Parole violator center" means a facility that houses parolees who have violated the conditions of their parole agreement.~~

~~[(2) There is created a restricted account within the General Fund known as the "Law Enforcement Services Account."]~~

~~[(3) (a) The Division of Finance shall allocate funds from the collected surcharge in accordance with Subsection 51-9-401(1)(c) to the account, but not to exceed the amount appropriated by the Legislature.]~~

~~[(b) Money in the account shall be appropriated to the commission to administer and distribute to law enforcement agencies providing services directly to areas with halfway houses or parole violator centers, or both.]~~

~~[(4) (2) The commission shall allocate funds [from the account] appropriated by the Legislature to local law enforcement agencies on a pro-rata basis determined by:~~

(a) the average daily number of occupied beds in a halfway house in each agency's jurisdiction for increased enforcement in areas with halfway houses;

(b) the average daily number of occupied beds in a parole violator center in each agency's jurisdiction; or

(c) both Subsections [(4)] (2)(a) and (b).

~~[(5) (3) A law enforcement agency may use funds received under this section only for the purposes stated in this section.~~

~~[(6) (4) For each fiscal year, any law enforcement agency that receives funds from the commission under this section shall prepare, and file with the commission and the state auditor, a report in a form specified by the commission. The report shall include the following:~~

(a) the agency's name;

(b) the amount received;

(c) how the funds were used, including the impact on crime reduction efforts in areas with halfway houses or parole violator centers, or both; and

(d) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel that all funds were used for law enforcement operations related to reducing criminal activity in areas with halfway houses or parole violator centers, or both.

**Section 6. Section 53E-3-521 is enacted to read:**

**53E-3-521. Substance abuse prevention in public school programs -- Funds allocated.**

The state board shall provide for:

(1) substance abuse prevention and education;

(2) substance abuse prevention training for teachers and administrators; and

(3) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

**Section 7. Section 62A-15-503 is amended to read:**

**62A-15-503. Assessments for DUI -- Use of money for rehabilitation programs, including victim impact panels -- Rulemaking power granted.**

(1) (a) Assessments imposed under Section 62A-15-502 may, pursuant to court order~~[- either]~~:

~~[(a) (i) be collected by the clerk of the court in which the person was convicted; or~~

~~[(b) (ii) be paid directly to the licensed alcohol or drug treatment program. [Those assessments]~~

(b) Assessments collected by the court ~~[shall either be: (i) forwarded to the state treasurer for credit to the Intoxicated Driver Rehabilitation Account created by Section 62A-15-502.5; or (ii)]~~ under Subsection (1)(a)(i) shall be forwarded to a special nonlapsing account created by the county treasurer of the county in which the fee is collected.

(2) ~~[Proceeds of the accounts described in]~~ Assessments under Subsection (1) shall be used exclusively for the operation of licensed alcohol or

drug rehabilitation programs and education, assessment, supervision, and other activities related to and supporting the rehabilitation of persons convicted of driving while under the influence of intoxicating liquor or drugs. A requirement of the rehabilitation program shall be participation with a victim impact panel or program providing a forum for victims of alcohol or drug related offenses and defendants to share experiences on the impact of alcohol or drug related incidents in their lives. The Division of Substance Abuse and Mental Health shall establish guidelines to implement victim impact panels where, in the judgment of the licensed alcohol or drug program, appropriate victims are available, and shall establish guidelines for other programs where such victims are not available.

(3) None of the assessments shall be maintained for administrative costs by the division.

**Section 8. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed on December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1[(13)](12), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1[(53)](52), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1[(53)](52), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2[(23)](25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(27) Section 63N-2-512 is repealed on July 1, 2021.

(28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.



(31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

(33) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

(34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

**Section 9. Section 63I-2-263 is amended to read:**

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

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1~~(452)~~(51) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

**Section 10. Section 63J-1-602.1 is amended to read:**

**63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men’s Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) The “Support for State-Owned Shooting Ranges Restricted Account” created in Section 23-14-13.5.

(7) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(8) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

~~[(9) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.]~~

~~[(10)] (9) The Children with Cancer Support Restricted Account created in Section 26-21a-304.~~

~~[(11)] (10) State funds for matching federal funds in the Children’s Health Insurance Program as provided in Section 26-40-108.~~

[42] (11) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

[43] (12) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

[44] (13) The Technology Development Restricted Account created in Section 31A-3-104.

[45] (14) The Criminal Background Check Restricted Account created in Section 31A-3-105.

[46] (15) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

[47] (16) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

[48] (17) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

[49] (18) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

[20] (19) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

[21] (20) The School Readiness Restricted Account created in Section 35A-15-203.

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

[23] (22) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[24] (23) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[25] (24) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[26] (25) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[27] (26) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[28] (27) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[29] (28) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[30] (29) The DNA Specimen Restricted Account created in Section 53-10-407.

[31] (30) The Canine Body Armor Restricted Account created in Section 53-16-201.

[32] (31) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[33] (32) The Higher Education Capital Projects Fund created in Section 53B-22-202.

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

[35] (34) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[36] (35) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

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

[38] (37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[39] (38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[40] (39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

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

[42] (41) The Relative Value Study Restricted Account created in Section 59-9-105.

[43] (42) The Cigarette Tax Restricted Account created in Section 59-14-204.

[44] (43) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[45] (44) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[46] (45) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

[47] (46) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

[48] (47) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

[449] (48) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

[450] (49) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[451] (50) The Immigration Act Restricted Account created in Section 63G-12-103.

[452] (51) Money received by the military installation development authority, as provided in Section 63H-1-504.

[453] (52) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[454] (53) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[455] (54) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[456] (55) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

[457] (56) The Motion Picture Incentive Account created in Section 63N-8-103.

[458] (57) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[459] (58) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[460] (59) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[461] (60) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

[462] (61) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[463] (62) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[464] (63) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[465] (64) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[466] (65) Fees for certificate of admission created under Section 78A-9-102.

[467] (66) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[468] (67) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[469] (68) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State

Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

[470] (69) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

**Section 11. Section 63J-1-602.2 is amended to read:**

**63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and [its] the Legislature's committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(5) The Trip Reduction Program created in Section 19-2a-104.

(6) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(7) The emergency medical services grant program in Section 26-8a-207.

[47] (8) The primary care grant program created in Section 26-10b-102.

[48] (9) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

[49] (10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

[410] (11) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

[411] (12) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

[412] (13) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a) or (b).

[413] (14) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[414] (15) A new program or agency that is designated as nonlapsing under Section 36-24-101.

[415] (16) The Utah National Guard, created in Title 39, Militia and Armories.

[416] (17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[17] (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[18] (19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[19] (20) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

[20] (21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

[21] (22) The State Board of Education, as provided in Section 53F-2-205.

[22] (23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[23] (24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[24] (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[25] (26) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

[26] (27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[27] (28) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

[28] (29) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[29] (30) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[30] (31) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

[31] (32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[32] (33) The Traffic Noise Abatement Program created in Section 72-6-112.

[33] (34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[34] (35) A state rehabilitative employment program, as provided in Section 78A-6-210.

[35] (36) The Utah Geological Survey, as provided in Section 79-3-401.

[36] (37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[37] (38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[38] (39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[39] (40) The program established by the Division of Facilities Construction and Management under Subsection 63A-5-228(3) under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

**Section 12. Section 63M-7-204 is amended to read:**

**63M-7-204. Duties of commission.**

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants ~~[funded from money from the Law Enforcement Operations Account created in Section 51-9-411]~~ for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209; and

(v) administer the Child Welfare Parental Defense Program in accordance with Sections 63M-7-211, 63M-7-211.1, and 63M-7-211.2.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

**Section 13. Section 63M-7-213, which is renumbered from Section 51-9-411 is renumbered and amended to read:**

**[51-9-411]. 63M-7-213. Commission on Criminal and Juvenile Justice -- Grants.**

(1) As used in this section:

~~[(a) "Account" means the Law Enforcement Operations Account.]~~

~~[(b) (a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.]~~

~~[(c) (b) "Law enforcement agency" means a state or local law enforcement agency.]~~

~~[(d) (c) "Other appropriate agency" means a state or local government agency, or a nonprofit organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug activity and related criminal activity by:~~

~~(i) programs, including education, prevention, treatment, and research programs; and~~

~~(ii) enforcement of laws regarding illegal drugs.~~

~~[(2) There is created a restricted account within the General Fund known as the Law Enforcement Operations Account.]~~

~~[(3) (a) The Division of Finance shall allocate the balance of the collected surcharge under Section 51-9-401 that is not allocated under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, to the account, to be appropriated by the Legislature.]~~

~~[(b) Money in the account shall be appropriated to the commission for implementing law enforcement operations and programs related to reducing illegal drug activity and related criminal activity as listed in Subsection (5).]~~

~~[(c) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.]~~

~~[(d) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.]~~

~~[(4) (a) The commission shall allocate grants of funds from the account for the purposes under Subsection (5) to state, local, or multijurisdictional law enforcement agencies and other appropriate agencies.]~~

~~[(b) The grants shall be made by an application process established by the commission in accordance with Subsection (6).]~~

(2) The commission shall implement law enforcement operations and programs related to reducing illegal drug activity as listed in Subsection (3).

~~[(5)]~~ (3) (a) The first priority of the commission is to annually allocate not more than \$2,500,000, depending upon funding available from other sources, to directly fund the operational costs of state and local law enforcement agencies' drug or crime task forces, including multijurisdictional task forces.

(b) The second priority of the commission is to allocate grants for specified law enforcement agency functions and other agency functions as the commission finds appropriate to more effectively reduce illegal drug activity and related criminal activity, including providing education, prevention, treatment, and research programs.

~~[(6)]~~ (4) (a) In allocating grants and determining the amount of the grants, the commission shall consider:

(i) the demonstrated ability of the agency to appropriately use the grant to implement the proposed functions and how this function or task force will add to the law enforcement agency's current efforts to reduce illegal drug activity and related criminal activity; and

(ii) the agency's cooperation with other state and local agencies and task forces.

(b) Agencies qualify for a grant only if they demonstrate compliance with all reporting and policy requirements applicable under this section and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.

~~[(7)]~~ (5) Recipient agencies may only use grant money after approval or appropriation by the agency's governing body, and a determination that the grant money is nonlapsing.

~~[(8)]~~ (6) A recipient law enforcement agency may use funds granted under this section only for the purposes stated by the commission in the grant.

~~[(9)]~~ (7) (a) For each fiscal year, any law enforcement agency that receives a grant from the commission under this section shall prepare<sup>[,]</sup> and file with the commission and the state auditor<sup>[,]</sup> a report in a form specified by the commission.

(b) The report shall include the following regarding each grant:

~~[(a)]~~ (i) the agency's name;

~~[(b)]~~ (ii) the amount of the grant;

~~[(c)]~~ (iii) the date of the grant;

~~[(d)]~~ (iv) how the grant has been used; and

~~[(e)]~~ (v) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that all grant funds were used for law enforcement operations and programs approved by the commission and that

relate to reducing illegal drug activity and related criminal activity, as specified in the grant.

**Section 14. Section 63M-7-502 is amended to read:**

**63M-7-502. Definitions.**

As used in this chapter:

(1) "Accomplice" means a person who has engaged in criminal conduct as defined in Section 76-2-202.

(2) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claim" means:

(a) the victim's application or request for a reparations award; and

(b) the formal action taken by a victim to apply for reparations pursuant to this chapter.

(5) "Claimant" means any of the following claiming reparations under this chapter:

(a) a victim;

(b) a dependent of a deceased victim;

(c) a representative other than a collateral source; or

(d) the person or representative who files a claim on behalf of a victim.

(6) "Child" means an unemancipated person who is under 18 years ~~[of age]~~ old.

(7) "Collateral source" means the definition as provided in Section 63M-7-513.

(8) "Contested case" means a case which the claimant contests, claiming the award was either inadequate or denied, or which a county attorney, a district attorney, a law enforcement officer, or other individual related to the criminal investigation proffers reasonable evidence of the claimant's lack of cooperation in the prosecution of a case after an award has already been given.

(9) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5,

Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

(b) “Criminally injurious conduct” includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. “Terrorism” does not include an “act of war” as defined in 18 U.S.C. Sec. 2331.

(c) “Criminally injurious conduct” includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of a person resulting from living in a setting that involves a bigamous relationship.

(10) “Dependent” means a natural person to whom the victim is wholly or partially legally responsible for care or support and includes a child of the victim born after the victim’s death.

(11) “Dependent’s economic loss” means loss after the victim’s death of contributions of things of economic value to the victim’s dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim’s death.

(12) “Dependent’s replacement services loss” means loss reasonably and necessarily incurred by the dependent after the victim’s death in obtaining services in lieu of those the decedent would have performed for the victim’s benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim’s death and not subtracted in calculating the dependent’s economic loss.

(13) “Director” means the director of the Utah Office for Victims of Crime.

(14) “Disposition” means the sentencing or determination of penalty or punishment to be imposed upon a person:

- (a) convicted of a crime;
- (b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15) “Economic loss” means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent’s economic loss and dependent’s replacement service loss. Noneconomic detriment is not loss, but economic detriment is loss although caused by pain and suffering or physical impairment.

(16) “Elderly victim” means a person 60 years [of age] old or older who is a victim.

(17) “Fraudulent claim” means a filed claim based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible as provided in Section 63M-7-510.

(18) “Fund” means the Crime Victim Reparations Fund created in Section [~~51-9-404~~] 63M-7-526.

(19) “Law enforcement officer” means a law enforcement officer as defined in Section 53-13-103.

(20) “Medical examination” means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.

(21) “Mental health counseling” means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct. The definition of mental health counseling is subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(22) “Misconduct” as provided in Subsection 63M-7-512(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(23) “Noneconomic detriment” means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this chapter.

(24) “Pecuniary loss” does not include loss attributable to pain and suffering except as otherwise provided in this chapter.

(25) “Offender” means a person who has violated the criminal code through criminally injurious conduct regardless of whether the person is arrested, prosecuted, or convicted.

(26) “Offense” means a violation of the criminal code.

(27) “Perpetrator” means the person who actually participated in the criminally injurious conduct.

(28) “Reparations officer” means a person employed by the office to investigate claims of victims and award reparations under this chapter, and includes the director when the director is acting as a reparations officer.

(29) “Replacement service loss” means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but the benefit of the injured person or the injured person’s dependents if the injured person had not been injured.

(30) “Representative” means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of a person but does not include service providers.

(31) “Restitution” means money or services an appropriate authority orders an offender to pay or render to a victim of the offender’s conduct.

(32) “Secondary victim” means a person who is traumatically affected by the criminally injurious

conduct subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(33) "Service provider" means a person or agency who provides a service to crime victims for a monetary fee except attorneys as provided in Section 63M-7-524.

(34) "Utah Office for Victims of Crime" or "office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this chapter.

(35) (a) "Victim" means a person who suffers bodily or psychological injury or death as a direct result of criminally injurious conduct or of the production of pornography in violation of Section 76-5b-201 if the person is a minor.

(b) "Victim" does not include a person who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule.

(c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

(36) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

**Section 15. Section 63M-7-526 is enacted to read:**

**63M-7-526. Crime Victims Reparations Fund.**

(1) (a) There is created an expendable special revenue fund known as the "Crime Victim Reparations Fund" to be administered and distributed as provided in this section by the office in cooperation with the Division of Finance.

(b) The fund shall consist of:

(i) appropriations by the Legislature; and

(ii) funds collected under Subsections (2) and (3).

(c) Money deposited in this fund is for victim reparations, other victim services, and, as appropriated, for administrative costs of the office.

(2) (a) A percentage of the income earned by inmates working for correctional industries in a federally certified private sector/prison industries enhancement program shall be deposited in the fund.

(b) The percentage of income deducted from inmate pay under Subsection (2)(a) shall be determined by the executive director of the Department of Corrections in accordance with the

requirements of the private sector/prison industries enhancement program.

(3) (a) Judges are encouraged to, and may in their discretion, impose additional reparations to be paid into the fund by convicted criminals.

(b) The additional discretionary reparations may not exceed the statutory maximum fine permitted by Title 76, Utah Criminal Code, for that offense.

**Section 16. Section 67-5a-8 is amended to read:**

**67-5a-8. Administration.**

~~[(1) (a) The administration costs of this chapter, including council staff compensation, shall be funded from appropriations made by the Legislature to the Office of the Attorney General for the support of the council from the Public Safety Support Account established in Section 51-9-404.]~~

~~[(b) Funds available from other sources may also be appropriated by the Legislature to the Office of the Attorney General for the administration of this chapter.]~~

~~[(2) (1) In exercising its duties in the administration of this chapter, the council shall minimize costs of administration and utilize existing training facilities and resources where possible so the greatest portion of the funds available are expended for training prosecuting attorneys.~~

~~[(3) (2) Council staff may receive per diem and travel expenses in accordance with:~~

~~(a) Section 63A-3-106;~~

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

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

**Section 17. Section 77-38-302 is amended to read:**

**77-38-302. Definitions.**

As used in this part:

(1) "Convicted person" means a person who has been convicted of a crime.

(2) "Conviction" means an adjudication by a federal or state court resulting from a trial or plea, including a plea of no contest, nolo contendere, a finding of not guilty due to insanity, or not guilty but having a mental illness regardless of whether the sentence was imposed or suspended.

(3) "Fund" means the Crime Victim Reparations Fund created in Section [51-9-404] 63M-7-526.

(4) "Memorabilia" means any tangible property of a convicted person or a representative or assignee of a convicted person, the value of which is enhanced by the notoriety gained from the criminal activity for which the person was convicted.

(5) "Notoriety of crimes contract" means a contract or other agreement with a convicted person, or a representative or assignee of a convicted person, with respect to:



(a) the reenactment of a crime in any manner including a movie, book, magazine article, Internet website, recording, phonograph record, radio or television presentation, or live entertainment of any kind;

(b) the expression of the convicted person's thoughts, feelings, opinions, or emotions regarding a crime involving or causing personal injury, death, or property loss as a direct result of the crime; or

(c) the payment or exchange of any money or other consideration or the proceeds or profits that directly or indirectly result from the notoriety of the crime.

(6) "Office" means the Utah Office for Victims of Crime.

(7) "Profit" means any income or benefit:

(a) over and above the fair market value of tangible property that is received upon the sale or transfer of memorabilia; or

(b) any money, negotiable instruments, securities, or other consideration received or contracted for gain which is traceable to a notoriety of crimes contract.

**Section 18. Section 78A-2-301 is amended to read:**

**78A-2-301. Civil fees of the courts of record -- Courts complex design.**

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is [~~\$360~~] \$375.

(b) The fee for filing a complaint or petition is:

(i) [~~\$75~~] \$90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) [~~\$185~~] \$200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) [~~\$360~~] \$375 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) [~~\$310~~] \$325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5;

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and

(vii) \$35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) [~~\$150~~] \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) [~~\$155~~] \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) [~~\$115~~] \$130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) [~~\$225~~] \$240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) [~~\$65~~] \$80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is [~~\$225~~] \$240.

(i) The fee for filing a petition for expungement is [~~\$135~~] \$150.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) ~~Fifteen~~ Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) ~~Five~~ Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the ~~Utah~~ State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the ~~Utah~~ State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is \$50.

(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits

to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110

shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

**Section 19. Section 78A-2-601 is amended to read:**

**78A-2-601. Security surcharge -- Application and exemptions -- Deposit in restricted account.**

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of [\$43] \$53 shall be assessed in all courts of record on all criminal convictions and juvenile delinquency judgments.

(2) The security surcharge may not be imposed upon:

(a) nonmoving traffic violations;

(b) community service; and

(c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78A-6-602.

(3) The security surcharge shall be collected after the surcharge under Section 51-9-401, but before any fine, and deposited with the state treasurer. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(4) The state treasurer shall deposit the collected security surcharge in the restricted account, Court Security Account, as provided in Section 78A-2-602.

**Section 20. Section 78A-6-117 is amended to read:**

**78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.**

(1) (a) Except as provided in Subsection (1)(b), when a minor is found to come within Section 78A-6-103, the court shall adjudicate the case and make findings of fact upon which the court bases the court's jurisdiction over the minor.

(b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary.

(c) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall order that notice of the adjudication be provided to the

school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

(i) the specific offenses for which the minor was adjudicated; and

(ii) if available, whether the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(d) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment. Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including community or compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection (1)(d);

(C) if the court orders treatment, shall be based on a validated risk and needs assessment conducted under Subsection (1)(d); and

(D) if the court orders protective supervision, may not designate the division as the provider of protective supervision unless there is a petition regarding abuse, neglect, or dependency before the court requesting that the division provide protective supervision;

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to designated individuals in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated individuals may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable individual, with or without probation or other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:

(i) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(ii) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

(d) (i) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

(A) contempt of court except to the extent permitted under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(ii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the Division of Child and Family Services if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the Division of Child and Family Services.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the Division of Child and Family Services

if the minor and the minor's parent or guardian have met the requirements described in Subsections (2)(d)(ii)(B) and (C) and if the court finds, based on input from the Division of Child and Family Services, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(d)(ii)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the Division of Child and Family Services.

(G) Upon receiving a petition under Subsection (2)(d)(ii)(F), the court shall order the Division of Child and Family Services to take custody of the minor based on the findings the court entered when the court originally vested custody in the Division of Child and Family Services.

(e) The court shall only commit a minor to the Division of Juvenile Justice Services for secure confinement if the court finds that the minor poses a risk of harm to others and is adjudicated under this section for:

(i) a felony offense;

(ii) a misdemeanor if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

(iii) a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.

(f) (i) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.

(ii) The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:

(A) contempt of court;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(g) The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.

(h) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the minor. This commitment may not be suspended upon conditions ordered by the court.

(ii) This Subsection (2)(h) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(iii) The court may not commit a minor to a place of detention for:

(A) contempt of court except to the extent allowed under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (2)(h)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)(h)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c). Only the seven days under this Subsection (2)(h)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)(v), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c).

(i) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(j) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) A victim, as defined in Subsection 77-38a-102(14), of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay;

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed; and

(D) the length of the presumptive term of supervision shall be taken into account in determining the minor's ability to satisfy the restitution order within the presumptive term.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(viii) The prosecutor shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within three months after disposition.

(ix) A financial disposition ordered shall prioritize the payment of restitution.

(k) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

(l) (i) The court may through the court's probation department encourage the development of nonresidential employment or work programs to enable a minor to fulfill the minor's obligations under Subsection (2)(j) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered collectively to ensure that the order:

(A) is reasonable;

(B) prioritizes restitution; and

(C) takes into account the minor's ability to satisfy the order within the presumptive term of supervision.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for children under age 16 at adjudication, the court may impose up to [~~\$180~~] \$190 or up to 24 hours of service; and

(B) for minors 16 and older at adjudication, the court may impose up to [~~\$270~~] \$280 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)(l)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

(m) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other eligible disposition under Subsection (2)(m)(i) except for a disposition under Subsection (2)(c), (d), (e), or (f). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(n) (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2)(l)(iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2)(j).

(o) (i) Subject to Subsection (2)(o)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(o)(i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(o)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child, shall include the parent or guardian as fully as possible in making health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(o).

(p) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(q) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents

or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(r) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(s) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(s)(i).

(t) The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(u) The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c), (d), (e), and (f).

(v) The court may combine the dispositions listed in this section if it is permissible and they are compatible.

(w) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another individual, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(x) Except as provided in Subsection (2)(z)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section 62A-7-404. A new date shall be set upon each review.

(y) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(z) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(z)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA

Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

(5) (a) A disposition made by the court pursuant to this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection (2)(c), (d), (e), or (f), the court may suspend a custody order pursuant to Subsection (2)(c), (d), (e), or (f) in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i):

(A) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii);

(B) if a new assessment or evaluation has been completed and recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or

(C) if, after a notice and a hearing, the court finds a new or previous evaluation recommends a higher level of treatment, and the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(iv) A suspended custody order may not be imposed without notice to the minor, notice to counsel, and a hearing.

(b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal custody of the



minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall do so for a defined period of time pursuant to this section.

(a) For the purposes of placing a minor on probation under Subsection (2)(a), the court shall establish a presumptive term of probation as specified in this Subsection (6):

(i) the presumptive maximum length of intake probation may not exceed three months; and

(ii) the presumptive maximum length of formal probation may not exceed four to six months.

(b) For the purposes of vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive maximum length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive maximum length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider or facilitator of court ordered treatment or intervention program on the basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the court or Youth Parole Authority after considering the recommendation of a licensed service provider or facilitator of court ordered treatment or intervention program;

(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed;

(v) there is an outstanding fine; or

(vi) there is a failure to pay restitution in full.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) a felony violation of Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery;

(i) Section 76-10-508.1, felony discharge of a firearm; or

(j) an offense other than those listed in Subsections (7)(a) through (i) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

**Section 21. Section 78A-6-903 is enacted to read:**

**78A-6-903. Guardian Ad Litem Services**

**Account established -- Funding -- Uses.**

(1) There is created in the General Fund a restricted account known as the Guardian Ad Litem Services Account, for the purpose of funding the Office of Guardian Ad Litem, in accordance with the provisions of Sections 78A-6-901 and 78A-6-902.

(2) The account shall be funded by the donation described in Subsection 41-1a-422(1)(a)(i)(F).

**Section 22. Section 78A-7-120 is amended to read:**

**78A-7-120. Disposition of fines.**

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.

(2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and 15% to the general fund of the city or county government responsible for the justice court.

(c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:

(i) 20% to the school district or private school that owns or contracts for the use of the school bus; and

(ii) 80% in accordance with Subsection (1).

(3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer~~[-]~~ and deposited into the General Fund.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and allocated to the Department of Transportation for class B and class C roads.

(5) Revenue allocated for class B and class C roads pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 40% in accordance with Subsection (1).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 50% in accordance with Subsection (1).

**Section 23. Section 78A-7-122 is amended to read:**

**78A-7-122. Security surcharge -- Application -- Deposit in restricted accounts.**

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of [~~\$50~~] \$60 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.

(2) The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(3) [~~Eighteen~~] Twenty-eight dollars of the security surcharge shall be remitted to the state treasurer and distributed to the Court Security Account created in Section 78A-2-602.

(4) Thirty-two dollars of the security surcharge shall be allocated as follows:

(a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and

(b) 80% shall be remitted to the state treasurer to be distributed as follows:

(i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;

(ii) 25% to the Court Security Account created in Section 78A-2-602; and

(iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.

(5) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

**Section 24. Repealer.**

This bill repeals:

**Section 51-9-403, EMS share of surcharge -- Accounting.**

**Section 51-9-404, Crime Victims Reparations Fund -- Public Safety Support Account -- Distribution of surcharge amounts.**

**Section 51-9-405, Substance Abuse Prevention Account established -- Funding -- Uses.**

**Section 51-9-406, Victims of Domestic Violence Services Account established -- Funding -- Uses.**

**Section 51-9-407, Intoxicated Driver Rehabilitation Account share of surcharge.**

**Section 51-9-409, Guardian Ad Litem Services Account established -- Funding -- Uses.**

**Section 51-9-410, Statewide Warrant Operations Account -- Share of surcharge -- Use.**

**Section 62A-15-502.5, Intoxicated Driver Rehabilitation Account -- Created.**

**Section 25. Appropriation.**

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021.

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

ITEM 1

To Office of the Attorney General -- Prosecution Council

From General Fund 492,000

From Public Safety Support Account (551,500)

Schedule of Programs:

Prosecution Council (59,500)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds remaining in the Public Safety Support Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Public Safety Support Account.

ITEM 2

To Courts -- Administration

From General Fund 410,000

From Substance Abuse Prevention Account (571,700)

Schedule of Programs:

Juvenile Courts (161,700)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds remaining in the Substance Abuse Prevention Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Substance Abuse Prevention Account.

ITEM 3

To Courts -- Guardian Ad Litem

From General Fund 287,000

From Guardian Ad Litem Services Account (287,000)

Schedule of Programs:

Guardian Ad Litem (110,500)

ITEM 4

To Department of Health -- Family Health and Preparedness

From General Fund 2,296,200

From Dedicated Credits (2,296,200)

Schedule of Programs:

Emergency Medical Services and Preparedness (2,296,200)

Emergency Medical Services Grants 2,296,200

ITEM 5

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

From General Fund 731,000

From Victims of Domestic Violence Service Account (732,100)

Schedule of Programs:

Domestic Violence (1,100)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds remaining in the Domestic Violence Services Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Domestic Violence Services Account.

ITEM 6

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund 1,230,100

From Intoxicated Driver Rehabilitation Account (1,500,000)

Schedule of Programs:

Driving Under the Influence (DUI) Fines (269,900)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds

remaining in the Intoxicated Driver Rehabilitation Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Intoxicated Driver Rehabilitation Account.

ITEM 7

To Department of Public Safety -- Bureau of Criminal Identification

From General Fund 250,000

From Statewide Warrants Operations Account (596,300)

Schedule of Programs:

Law Enforcement/Criminal Justice Services (346,300)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds remaining in the Statewide Warrants Operations Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Statewide Warrants Operations Account.

ITEM 8

To Department of Public Safety -- Peace Officers Standards and Training

From General Fund 3,034,300

From Public Safety Support Account (4,111,600)

Schedule of Programs:

Basic Training (456,800)

POST Administration (411,900)

Regional/Inservice Training (208,600)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds remaining in the Public Safety Support Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Public Safety Support Account.

ITEM 9

To Governor's Office -- Commission on Criminal and Juvenile Justice

From General Fund 1,971,100

From Crime Victim Reparations Fund (1,971,100)

ITEM 10

To Governor's Office -- Commission on Criminal and Juvenile Justice

From General Fund 1,360,200

From Law Enforcement Operations Account (1,531,300)

Schedule of Programs:

State Task Force Grants (171,100)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds remaining in the Law Enforcement Operations Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Law Enforcement Operations Account.

ITEM 11

To Governor's Office -- Commission on Criminal and Juvenile Justice

From Law Enforcement Services Account (617,900)

Schedule of Programs:

Law Enforcement Services Grants (617,900)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds remaining in the Law Enforcement Services Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Law Enforcement Services Account.

ITEM 12

To State Board of Education -- State Administrative Office

From General Fund 410,000

From Substance Abuse Prevention Account (512,600)

Schedule of Programs:

Student Support Services (102,600)

Under Sections 63J-1-602.1 and 63J-1-603, the Legislature intends that any unspent funds remaining in the Substance Abuse Prevention Account not lapse at the close of fiscal year 2020. Unused funds are to be used to supplement the costs of the program funded by the Substance Abuse Prevention Account.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 13

To Governor's Office -- Crime Victims Reparations

From General Fund 3,769,400

From Dedicated Credits (3,769,400)

**Section 26. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 231****H. B. 494**

Passed March 12, 2020  
Approved March 28, 2020  
Effective March 28, 2020

**EMERGENCY DISEASE  
RESPONSE FUNDING AMENDMENTS**

Chief Sponsor: Paul Ray  
Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill modifies the Budgetary Procedures Act by amending provisions relating to funding for a state response to the coronavirus.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Department of Administrative Services to transfer or divert money to another department, agency, institution, or division only for the purposes of providing a state response to the coronavirus;
- ▶ makes technical and corresponding changes; and
- ▶ creates a sunset date for the authorization in this bill.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483  
63J-1-206, as last amended by Laws of Utah 2019, Chapters 182 and 468

**Utah Code Sections Affected by Coordination Clause:**

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483  
63J-1-206, as last amended by Laws of Utah 2019, Chapters 182 and 468

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

**Section 1. Section 63I-2-263 is amended to read:****63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

- (a) Section 63G-1-801;
- (b) Section 63G-1-802;
- (c) Section 63G-1-803; and
- (d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

- (a) Section 63H-6-104.5 is repealed; and
- (b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) Subsection 63J-1-206(3)(b), relating to coronavirus, is repealed on July 1, 2021.

~~[(7)]~~ (8) In relation to the Employability to Careers Program Board, on July 1, 2022:

- (a) Subsection 63J-1-602.1(52) is repealed;
- (b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and
- (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

~~[(8)]~~ (9) Section 63J-4-708 is repealed January 1, 2023.

**Section 2. Section 63J-1-206 is amended to read:****63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.**

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

- (i) the legislature and its committees; and
- (ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) ~~[Except as provided in Subsection (2)(c)(ii), an] An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.~~

~~[(ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205.]~~

~~[(iii)] (ii) If the money appropriated to an agency to pay lease payments under the program established in Subsection 63A-5-228(3) exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:~~

~~(A) transfer money from the lease payments line item to other line items within the agency; and~~

~~(B) retain and use the excess money for other purposes.~~

~~(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.~~

~~(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.~~

~~(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.~~

~~(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.~~

~~(3) Notwithstanding Subsection (2)(c)(i):~~

~~(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205; and~~

~~(b) the Department of Administrative Services may transfer or divert money to another department, agency, institution, or division only for the purposes of coordinating and providing a state response to the coronavirus.~~

### Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the

constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

### Section 4. Coordinating H.B. 494 with S.B. 207 -- Substantive and technical amendments.

If this H.B. 494 and S.B. 207, Paid Leave Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) not making the changes to Subsection 63J-1-206(2)(c) in S.B. 207;

(2) replacing Subsection 63J-1-206(3) in H.B. 494 to read:

“(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205;

(b) the Department of Administrative Services may transfer money appropriated for the purpose of paying the costs of paid employee postpartum recovery leave under Section 67-19-14.7 to another department, agency, institution, or division; and

(c) the Department of Administrative Services may transfer or divert money to another department, agency, institution, or division only for the purposes of coordinating and providing a state response to the coronavirus.”; and

(3) modifying Subsection 63I-2-263(7) in H.B. 494 to read:

“(7) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed on July 1, 2021.”.

**CHAPTER 232****S. B. 13**

Passed February 26, 2020

Approved March 28, 2020

Effective May 12, 2020

**NATIVE AMERICAN LEGISLATIVE  
LIAISON COMMITTEE AMENDMENTS**

Chief Sponsor: Jani Iwamoto  
 House Sponsor: Marc K. Roberts  
 Cosponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill addresses the Native American Legislative Liaison Committee.

**Highlighted Provisions:**

This bill:

- ▶ increases the committee's membership;
- ▶ repeals sunset dates related to the committee; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 36-22-1, as last amended by Laws of Utah 2019, Chapter 246
- 63I-1-204, as enacted by Laws of Utah 2019, Chapter 246
- 63I-1-209, as last amended by Laws of Utah 2019, Chapter 246
- 63I-1-223, as last amended by Laws of Utah 2019, Chapter 246
- 63I-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
- 63I-1-236, as last amended by Laws of Utah 2019, Chapters 193 and 246
- 63I-1-251, as last amended by Laws of Utah 2019, Chapter 246

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

**Section 1. Section 36-22-1 is amended to read:****36-22-1. Native American Legislative Liaison Committee -- Creation -- Membership -- Chairs -- Salaries and expenses.**

(1) There is created the Native American Legislative Liaison Committee.

(2) The committee consists of ~~[eight]~~ 11 members:

(a) ~~[five]~~ seven members from the House of Representatives appointed by the speaker, no more than ~~[three]~~ four of whom may be members of the same political party; and

(b) ~~[three]~~ four members of the Senate appointed by the president, no more than two of whom may be members of the same political party.

(3) The speaker of the House shall select one of the members from the House of Representatives to act as cochair of the committee.

(4) The president of the Senate shall select one of the members from the Senate to act as cochair of the committee.

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

**Section 2. Section 63I-1-204 is amended to read:****63I-1-204. Repeal dates, Title 4.**

~~[Subsection 4-41a-105(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.]~~

**Section 3. Section 63I-1-209 is amended to read:****63I-1-209. Repeal dates, Title 9.**

~~[(1) In relation to the Native American Legislative Liaison Committee, on July 1, 2022:]~~

~~[(a) Subsection 9-9-104.6(2)(a) is repealed;]~~

~~[(b) Subsection 9-9-104.6(4)(a), the language that states "who is not a legislator" is repealed; and]~~

~~[(c) Subsection 9-9-104.6(4)(b), related to compensation of legislative members, is repealed.]~~

~~[(2) In relation to the American Indian and Alaska Native Education State Plan Pilot Program, on July 1, 2022:~~

~~[(a) (1) Subsection 26-7-2.5(4), related to the American Indian-Alaskan Native Public Education Liaison, is repealed; and~~

~~[(b) (2) Subsection 9-9-104.6(2)(d) is repealed.~~

**Section 4. Section 63I-1-223 is amended to read:****63I-1-223. Repeal dates, Title 23.**

~~[Subsection 23-13-12.5(2)(f)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.]~~

**Section 5. Section 63I-1-226 is amended to read:****63I-1-226. Repeal dates, Title 26.**

(1) Section 26-1-40 is repealed July 1, 2022.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-417(3) is repealed July 1, 2020.

(5) Subsection 26-18-418(2), the language that states "and the Mental Health Crisis Line Commission created in Section 63C-18-202" is repealed July 1, 2023.

(6) Section 26-18-419.1 is repealed December 31, 2019.

(7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

~~[(12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.]~~

~~[(13) (12) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.]~~

**Section 6. Section 63I-1-236 is amended to read:**

**63I-1-236. Repeal dates, Title 36.**

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2023.

(2) Section 36-12-20 is repealed June 30, 2023.

~~[(3) Title 36, Chapter 22, Native American Legislative Liaison Committee, is repealed July 1, 2022.]~~

~~[(4) (3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.]~~

~~[(5) (4) Section 36-29-105 is repealed on December 31, 2020.]~~

~~[(6) (5) Section 36-29-106 is repealed June 1, 2021.]~~

~~[(7) (6) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2021.]~~

**Section 7. Section 63I-1-251 is amended to read:**

**63I-1-251. Repeal dates, Title 51.**

~~[(1) Subsection 51-2a-202(3) is repealed on June 30, 2020.]~~

~~[(2) Subsections 51-10-201(5)(b)(iv) and 51-10-204(1)(k)(i)(C), related to the Native American Legislative Liaison Committee, are repealed July 1, 2022.]~~



**CHAPTER 233****S. B. 14**

Passed February 5, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**TRIBAL LEADERS  
 DESCRIPTION AMENDMENTS**

Chief Sponsor: Jani Iwamoto  
 House Sponsor: Douglas V. Sagers

**LONG TITLE****General Description:**

This bill addresses tribal leaders.

**Highlighted Provisions:**

This bill:

- ▶ amends the tribal leaders with which the Division of Indian Affairs is to coordinate meetings; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

9-9-104.5, as last amended by Laws of Utah 2013, Chapter 203

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

**Section 1. Section 9-9-104.5 is amended to read:**

**9-9-104.5. Meetings with Tribal Leaders and Native American Indian organizations.**

- (1) The division shall meet regularly with:
- (a) elected officials of Indian Tribal Nations located in whole or in part in the state; or
- (b) individuals designated by elected officials of the Indian Tribal Nations described in Subsection (1)(a).
- (2) (a) Subject to Section 9-9-104.6, at least six times each year, the division shall coordinate and attend a joint meeting of the representatives of tribal governments listed in Subsection (2)(b) for the purpose of coordinating the efforts of state and tribal governments in meeting the needs of the Native American Indians residing in Utah.
- (b) (i) The representatives to be included in the meeting described in Subsection (2)(a) shall be elected officials, serve as representatives for their entire elected term, and be selected as follows:

~~[(A) as a nonvoting member, an elected official of the Navajo Nation, Window Rock, Arizona, selected by the Navajo Nation, if the Navajo Nation chooses to select an elected official;]~~

~~[(B)] (A) [the] an elected Navajo Nation council delegate [that] who resides in Utah or Arizona and~~

represents [the] at least one Utah Navajo [Chapters] Chapter, as defined in Section 35A-8-1702, [if the council delegate resides in San Juan County, Utah, or if the council delegate does not reside in San Juan County, Utah, a president of a Utah Navajo Chapter selected by the presidents of the Utah Navajo Chapters] selected by the President of the Navajo Nation;

~~[(C)] (B) an elected official of the Ute Indian Tribe of the Uintah and Ouray Reservation selected by the Uintah and Ouray Tribal Business Committee;~~

~~[(D)] (C) an elected official of the Paiute Indian Tribe of Utah selected by the Paiute Indian Tribe of Utah Tribal Council;~~

~~[(E)] (D) an elected official of the Northwestern Band of the Shoshone Nation that resides in Utah or Idaho selected by the Northwestern Band of the Shoshone Nation Tribal Council;~~

~~[(F)] (E) an elected official of the Confederated Tribes of the Goshute selected by the Confederated Tribes of the Goshute Reservation Tribal Council;~~

~~[(G)] (F) an elected official of the Skull Valley Band of Goshute Indians selected by the Skull Valley Band of Goshute Indian Tribal Executive Committee;~~

~~[(H) as a nonvoting member, an elected official of the Ute Mountain Ute Tribe, Colorado, selected by the Ute Mountain Ute Tribal Nation, if the Ute Mountain Ute Tribal Nation chooses to select an elected official;]~~

~~[(I)] (G) an elected official of the Ute Mountain Ute Tribe that resides in Utah or Colorado selected by the Ute Mountain Ute Tribal Council; and~~

~~[(J)] (H) an elected official of the San Juan Southern Paiute Tribe, residing in Utah or Arizona, selected by the San Juan Southern Paiute Tribal Council.~~

(ii) Notwithstanding Subsection (2)(b)(i), if an elected official of an Indian Tribal Nation provides notice to the division, the Indian Tribal Nation may designate an individual other than the elected official selected under Subsection (2)(b)(i) to represent the Indian Tribal Nation at an individual meeting held under Subsection (2)(a).

(iii) A majority of [voting] members listed in Subsection (2)(b)(i) constitutes a quorum for purposes of a meeting held under Subsection (2)(a). An action of a majority of [voting] members present when a quorum is present constitutes action of the representatives for purposes of a meeting described in Subsection (2)(a).

(c) (i) A meeting held in accordance with Subsection (2)(a) is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(ii) A meeting of representatives listed in Subsection (2)(b) is not subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act, notwithstanding whether it is held on the same day as a meeting held in accordance with Subsection (2)(a) if:

(A) the division does not coordinate the meeting described in this Subsection (2)(c)(ii);

(B) no state agency participates in the meeting described in this Subsection (2)(c)(ii);

(C) a representative receives no per diem or expenses under this section for attending the meeting described in this Subsection (2)(c)(ii) that is in addition to any per diem or expenses the representative receives under Subsection (2)(d) for attending a meeting described in Subsection (2)(a); and

(D) the meeting described in this Subsection (2)(c)(ii) is not held:

(I) after a meeting described in Subsection (2)(a) begins; and

(II) before the meeting described in Subsection (2)(c)(ii)(D)(I) adjourns.

(d) A representative of a tribal government that attends a meeting held in accordance with Subsection (2)(a) may not receive compensation or benefits for the representative's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(e) For a meeting described in Subsection (2)(a), only the individuals described in Subsection (2)(b) may receive per diem and expenses, as provided in Subsection (2)(d).

(3) The division may meet as necessary with Native American Indian groups other than tribal governments representing the interests of Native American Indians who are citizens of the state residing on or off reservation land.

**CHAPTER 234****S. B. 19**

Passed February 6, 2020

Approved March 28, 2020

Effective May 12, 2020

**LAND EXCHANGE DISTRIBUTION  
ACCOUNT AMENDMENTS**Chief Sponsor: Ralph Okerlund  
House Sponsor: Keven J. Stratton**LONG TITLE****General Description:**

This bill addresses the Land Exchange Distribution Account.

**Highlighted Provisions:**

This bill:

- ▶ repeals language related to air quality monitoring;
- ▶ extends the repeal date for certain distributions from the Land Exchange Distribution Account; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53C-3-203, as last amended by Laws of Utah 2013, Chapter 101

63I-1-253, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246, 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

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

**Section 1. Section 53C-3-203 is amended to read:****53C-3-203. Land Exchange Distribution Account.**

(1) As used in this section, "account" means the Land Exchange Distribution Account created in Subsection (2)(a).

(2) (a) There is created within the General Fund a restricted account known as the Land Exchange Distribution Account.

(b) The account shall consist of revenue deposited in the account as required by Section 53C-3-202.

(3) (a) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(b) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(4) The Legislature shall annually appropriate from the account in the following order:

(a) \$1,000,000 to the Constitutional Defense Restricted Account created in Section 63C-4a-402; and

(b) from the deposits to the account remaining after the appropriation in Subsection (4)(a), the following amounts:

(i) 55% of the deposits to counties in amounts proportionate to the amounts of mineral revenue generated from the acquired land, exchanged land, acquired mineral interests, or exchanged mineral interests located in each county, to be used to mitigate the impacts caused by mineral development;

(ii) 25% of the deposits to counties in amounts proportionate to the total surface and mineral acreage within each county that was conveyed to the United States under the agreement or an exchange, to be used to mitigate the loss of mineral development opportunities resulting from the agreement or exchange;

(iii) 1.68% of the deposits to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah;

(iv) 1.66% of the deposits to the Geological Survey, to be used for natural resources development in the state;

(v) 1.66% of the deposits to the Water Research Laboratory at Utah State University, to be used for water development in the state;

(vi) 11% of the deposits to the Constitutional Defense Restricted Account created in Section 63C-4a-402;

(vii) 1% of the deposits to the Geological Survey, to be used for test wells[,] and other hydrologic studies[, and air quality monitoring] in the West Desert; and

(viii) 3% of the deposits to the Permanent Community Impact Fund created in Section 35A-8-303, to be used for grants to political subdivisions of the state to mitigate the impacts resulting from the development or use of school and institutional trust lands.

(5) The administration shall make recommendations to the Permanent Community Impact Fund Board for [its] the Permanent Community Impact Fund Board's consideration when awarding the grants described in Subsection (4)(b)(viii).

**Section 2. Section 63I-1-253 is amended to read:****63I-1-253. Repeal dates, Titles 53 through 53G.**

The following provisions are repealed on the following dates:

(1) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2022.

(2) Subsection 53-13-104(6), regarding being 19 years old at certification, is repealed July 1, 2022.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells[,] and other hydrologic studies[, and air quality monitoring] in the West Desert, is repealed July 1, [2020] 2030.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language that states “by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203” is repealed; and

(b) Section 53E-4-203 is repealed.

(10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

(a) Subsection 53B-17-1201(1) is repealed;

(b) Section 53B-17-1203 is repealed;

(c) Subsection 53B-17-1204(2) is repealed;

(d) Subsection 53B-17-1204(4)(a), the language that states “in accordance with the method described in Subsection (4)(c)” is repealed; and

(e) Subsection 53B-17-1204(4)(c) is repealed.

(11) Section 53F-2-514 is repealed July 1, 2020.

(12) Section 53F-5-203 is repealed July 1, 2024.

(13) Section 53F-5-212 is repealed July 1, 2024.

(14) Section 53F-5-213 is repealed July 1, 2023.

(15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

(16) Section 53F-6-201 is repealed July 1, 2019.

(17) Section 53F-9-501 is repealed January 1, 2023.

(18) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(19) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2020.

**CHAPTER 235****S. B. 20**

Passed February 6, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**HAZARDOUS SUBSTANCES  
 MITIGATION ACT SUNSET EXTENSION**

Chief Sponsor: Ralph Okerlund  
 House Sponsor: Keven J. Stratton

**LONG TITLE****General Description:**

This bill addresses the Hazardous Substances Mitigation Act.

**Highlighted Provisions:**

This bill:

- ▶ extends the repeal date for the Hazardous Substances Mitigation Act.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-219, as last amended by Laws of Utah 2019, Chapters 62, 63, 64, 65, 246, 469, and 477

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

**Section 1. Section 63I-1-219 is amended to read:****63I-1-219. Repeal dates, Title 19.**

- (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.
- (2) Section 19-2a-102 is repealed July 1, 2021.
- (3) Section 19-2a-104 is repealed July 1, 2022.
- (4) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.
- (5) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.
- (6) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.
- (7) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, [2020] 2030.
- (8) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.
- (9) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.
- (10) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.
- (11) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.
- (12) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

**CHAPTER 236****S. B. 22**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**AMERICAN INDIAN-ALASKA  
 NATIVE RELATED AMENDMENTS**

Chief Sponsor: Jani Iwamoto  
 House Sponsor: Mike Winder

**LONG TITLE****General Description:**

This bill addresses American Indian-Alaska Native issues.

**Highlighted Provisions:**

This bill:

- ▶ requires the establishment of an office on American Indian-Alaska Native health issues with the liaison as administrative head; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

9-9-104.6, as last amended by Laws of Utah 2019, Chapter 246  
 26-7-2.5, as enacted by Laws of Utah 2011, Chapter 192

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

**Section 1. Section 9-9-104.6 is amended to read:**

**9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.**

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) ~~(i)~~ the American ~~[Indian-Alaskan]~~ Indian-Alaska Native Health Liaison appointed in accordance with Section 26-7-2.5; ~~[or]~~

~~[(ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a representative of the Department of Health appointed by the executive director of the Department of Health;]~~

(d) the American ~~[Indian-Alaskan]~~ Indian-Alaska Native Public Education Liaison appointed in accordance with Section 53F-5-604; and

(e) a representative appointed by the chief administrative officer of the following:

(i) the Department of Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

(iv) the Governor's Office of Economic Development;

(v) the State Board of Education; and

(vi) the State Board of Regents.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

(i) the Department of Agriculture and Food;

(ii) the Department of Heritage and Arts;

(iii) the Department of Corrections;

(iv) the Department of Environmental Quality;

(v) the Department of Public Safety;

(vi) the Department of Transportation;

(vii) the Office of the Attorney General;

(viii) the State Tax Commission; and

(ix) any agency described in Subsections (2)(c) through (e).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

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

(i) Section 63A-3-106;

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

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

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

**Section 2. Section 26-7-2.5 is amended to read:**

**26-7-2.5. American Indian-Alaska Native Health Office -- Duties.**

(1) As used in this section:

(a) "Health care" means care, treatment, service, or a procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(b) "Liaison" means the American ~~[Indian-Alaskan]~~ Indian-Alaska Native Health Liaison appointed under this section.

(2) ~~[Subject to budget constraints, the]~~ The executive director shall:

(a) establish an office to address health care of Utah's American Indian-Alaska Native population on and off reservations; and

(b) appoint an individual as the American ~~[Indian-Alaskan]~~ Indian-Alaska Native Health Liaison who serves as the administrative head of the office under the supervision of the executive director.

(3) The ~~[liaison]~~ office shall on behalf of the executive director and the department:

(a) promote and coordinate collaborative efforts between the department and Utah's American Indian-Alaska Native population to improve the availability and accessibility of quality health care impacting Utah's American Indian-~~Alaska Native~~ populations on and off reservations;

(b) interact with the following to improve health disparities for Utah's American Indian-~~Alaska Native~~ populations:

(i) tribal health programs;

(ii) local health departments;

(iii) state agencies and officials; and

(iv) providers of health care in the private sector;

(c) facilitate education, training, and technical assistance regarding public health and medical assistance programs to Utah's American Indian-~~Alaska Native~~ populations; and

(d) staff an advisory board by which Utah's tribes may consult with state and local agencies for the development and improvement of public health programs designed to address improved health care for Utah's American Indian-~~Alaska Native~~ populations on and off the reservation.

(4) The liaison shall annually report the ~~[liaison's]~~ office's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.

**CHAPTER 237****S. B. 34**

Passed March 5, 2020

Approved March 28, 2020

Effective May 12, 2020

**SEX OFFENDER REGISTRY AMENDMENTS**

Chief Sponsor: Todd Weiler

House Sponsor: Craig Hall

**LONG TITLE****General Description:**

This bill amends the Sex and Kidnap Offender Registry.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Corrections to remove an individual from the Sex and Kidnap Offender Registry if the individual is on the registry for an offense which is no longer a registerable offense.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

77-41-109, as last amended by Laws of Utah 2015, Chapter 210

**ENACTS:**

77-41-113, Utah Code Annotated 1953

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

**Section 1. Section 77-41-109 is amended to read:****77-41-109. Miscellaneous provisions.**

(1) (a) If an offender is to be temporarily sent on any assignment outside a secure facility in which the offender is confined on any assignment, including, without limitation, firefighting or disaster control, the official who has custody of the offender shall, within a reasonable time prior to removal from the secure facility, notify the local law enforcement agencies where the assignment is to be filled.

(b) This Subsection (1) does not apply to any person temporarily released under guard from the institution in which the person is confined.

(2) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, a person convicted of any offense listed in Subsection 77-41-102(9) or (17) is not relieved from the responsibility to register as required under this section, unless the offender is removed from the registry under Section 77-41-112 or Section 77-41-113.

**Section 2. Section 77-41-113 is enacted to read:****77-41-113. Removal for offenses for which registration is no longer required.**

(1) An individual who is currently on the Sex and Kidnap Offender Registry because of a conviction for any of the following offenses may contact the department and request removal from the registry if the only offense or offenses for which the individual is on the registry is listed in Subsection (2).

(2) This section applies to a conviction for the following offenses:

(a) a class B or class C misdemeanor for enticing a minor, Section 76-4-401;

(b) kidnapping, based upon Subsection 76-5-301(1)(a) or (b);

(c) child kidnapping, Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention, Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, Section 76-5-401; or

(f) sodomy, but not forcible sodomy, Section 76-5-403.

(3) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

(4) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

(5) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

(6) Neither the department nor any employee may be civilly liable for a determination made in good faith in accordance with this section.

(7) The department shall provide a response to a request for removal within 30 days of receipt of the request and payment of the fee. If the response cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

(8) The department may charge a fee, not to exceed \$25, for a request for removal.



**CHAPTER 238****S. B. 35**

Passed March 12, 2020

Approved March 28, 2020

Effective May 12, 2020

(Retrospective operation to January 1, 2020)

**CIRCUIT BREAKER AMENDMENTS**

Chief Sponsor: Gene Davis

House Sponsor: Robert M. Spendlove

**LONG TITLE****General Description:**

This bill modifies provisions relating to the tax relief commonly known as “circuit breaker.”

**Highlighted Provisions:**

This bill:

- ▶ modifies the qualifications for circuit breaker tax relief; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-2-1202, as last amended by Laws of Utah 2019, Chapter 453

59-2-1203, as last amended by Laws of Utah 2001, Chapters 221 and 310

59-2-1206, as last amended by Laws of Utah 2001, Chapters 221 and 310

59-2-1220, as last amended by Laws of Utah 2001, Chapters 221 and 310

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

**Section 1. Section 59-2-1202 is amended to read:****59-2-1202. Definitions.**

As used in this part:

(1) (a) “Claimant” means a homeowner or renter who:

- (i) files a claim under this part for a residence;
- (ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and

(iii) on or before the December 31 of the year for which a claim for relief is filed under this part, is:

~~[(A) 65 years of age or older if the person was born on or before December 31, 1942;]~~

~~[(B) (A) 66 years of age or older if the [person was born on or after January 1, 1943, but] individual was born on or before December 31, 1959; or~~

~~[(C) (B) 67 years of age or older if the [person] individual was born on or after January 1, 1960.~~

(b) Notwithstanding Subsection (1)(a), “claimant” includes a surviving spouse:

(i) regardless of:

(A) the age of the surviving spouse; or

(B) the age of the deceased spouse at the time of death;

(ii) if the surviving spouse meets the requirements of this part except for the age requirement;

(iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and

(iv) if the surviving spouse is unmarried at the time the surviving spouse files the claim.

(c) If two or more individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be, but if they are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.

(2) (a) “Gross rent” means ~~[rental]~~ rent actually paid in cash or its equivalent solely for the right of occupancy, at arm’s-length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.

(b) If a claimant occupies two or more residences in the year and does not own the residence as of the lien date, “gross rent” means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.

(3) (a) “Homeowner” means:

(i) an individual whose name is listed on the deed of a residence; or

(ii) if a residence is owned in a qualifying trust, an individual who is a grantor, trustor, or settlor or holds another similar role in the trust.

(b) “Homeowner” does not include:

(i) if a residence is owned by any type of entity other than a qualifying trust, an individual who holds an ownership interest in that entity; or

(ii) an individual who is listed on a deed of a residence along with an entity other than a qualifying trust.

~~[(3)] (4) “Homeowner’s credit” means a credit against a claimant’s property tax liability.~~

~~[(4)] (5) “Household” means the association of [persons] individuals who live in the same dwelling, sharing [its] the dwelling’s furnishings, facilities, accommodations, and expenses.~~

~~[(5)] (6) “Household income” means all income received by all [persons—of—a] members of a claimant’s household in:~~

(a) for a claimant who owns a residence, the calendar year preceding the calendar year in which property taxes are due; or

(b) for ~~purposes of the renter's credit authorized by this part~~ a claimant who rents a residence, the year for which a claim is filed.

~~[(6)]~~ (7) (a) (i) "Income" means the sum of:

(A) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and

(B) all nontaxable income as defined in Subsection ~~[(6)]~~ (7)(b).

(ii) "Income" does not include:

(A) aid, assistance, or contributions from a tax-exempt nongovernmental source;

(B) surplus foods;

(C) relief in kind supplied by a public or private agency; or

(D) relief provided under this part or Part 18, Tax Deferral and Tax Abatement.

(b) For purposes of Subsection ~~[(6)]~~ (7)(a)(i), "nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

(i) capital gains;

(ii) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;

(iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;

(iv) support money received;

(v) nontaxable strike benefits;

(vi) cash public assistance or relief;

(vii) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

(viii) payments received under the Social Security Act;

(ix) state unemployment insurance amounts;

(x) nontaxable interest received from any source;

(xi) workers' compensation;

(xii) the gross amount of "loss of time" insurance; and

(xiii) voluntary contributions to a tax-deferred retirement plan.

~~[(7)]~~ (8) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on 35% of the fair market value, as reflected on the assessment roll, of a claimant's residence in this state.

(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.

~~[(c) (i) Beginning on January 1, 1999, for a claimant who owns a residence, "property taxes accrued" are the property taxes described in Subsection (7)(a) levied for the calendar year on 35% of the fair market value of the residence as reflected on the assessment roll.]~~

~~[(ii)]~~ (c) The ~~[amount]~~ relief described in Subsection ~~[(7)(e)(4)]~~ (8)(a) constitutes:

~~[(A)]~~ (i) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and

~~[(B)]~~ (ii) the residential exemption provided for in Section 59-2-103.

(d) (i) For purposes of this Subsection ~~[(7)]~~ (8), property taxes accrued are levied on the lien date.

(ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes levied on the lien date, even if that claimant does not own a residence for the entire year.

(e) When a household owns and occupies two or more different residences in this state in the same calendar year, property taxes accrued shall relate only to the residence occupied on the lien date by the household as ~~[(its)]~~ the household's principal place of residence.

(f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be ~~[the same percentage of the total property taxes accrued as]~~ calculated on the percentage that the value of the residence is of the total value of the unit.

(ii) For purposes of this Subsection ~~[(7)]~~ (8)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

(9) "Qualifying trust" means a trust holding title to real or tangible personal property for which an individual:

(a) makes a claim under this part;

(b) proves to the satisfaction of the county that title to the portion of the trust will revert in the individual upon the exercise of a power:

(i) by:

(A) the individual as grantor, trustor, settlor, or in another similar role of the trust;

(B) a nonadverse party; or

(C) both the individual and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

- (C) to alter;
- (D) to amend; or
- (E) to appoint; and

(c) is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the individual makes the claim.

~~[(8)]~~ (10) (a) As used in this section, “rental assistance payment” means any payment that:

- (i) is made by a:
  - (A) governmental entity; ~~or~~
  - (B) ~~[(F)]~~ charitable organization; or
  - ~~[(H)]~~ (C) religious organization; and
- (ii) is specifically designated for the payment of rent of a claimant:

(A) for the calendar year for which the claimant seeks a renter’s credit under this part; and

(B) regardless of whether the payment is made to the:

- (I) claimant; or
- (II) landlord~~;~~ and.

(b) ~~[(a)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

- (i) “governmental entity”;
- (ii) “charitable organization”; or
- (iii) “religious organization.”

~~[(9)]~~ (11) (a) (i) “Residence” means the dwelling, whether owned or rented, and so much of the land surrounding ~~[(i)]~~ [(i)] the dwelling, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home~~;~~ and may consist of.

(ii) “Residence” includes a dwelling that is:

(A) a part of a multidwelling or multipurpose building and a part of the land upon which ~~[(i)]~~ [(i)] the multidwelling or multipurpose building is built; and ~~[(includes)]~~

(B) a mobile home or houseboat.

(b) “Residence” does not include personal property such as furniture, furnishings, or appliances.

(c) For purposes of this Subsection ~~[(9)]~~ (11), “owned” includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

**Section 2. Section 59-2-1203 is amended to read:**

**59-2-1203. Right to file claim -- Death of claimant.**

(1) (a) The right to file a claim under this part is personal to the claimant.

(b) The right to file a claim does not survive the claimant’s death.

(c) The right to file a claim may be exercised on behalf of a claimant by:

- (i) a legal guardian of the claimant; or
- (ii) an attorney-in-fact of the claimant.

(2) (a) If a claimant dies after having filed a timely claim, the amount of the claim shall be disbursed to another member of the household as determined by the commission by rule.

(b) If the claimant described in Subsection (2)(a) was the only member of the household, the claim may be paid to the executor or administrator, except that if neither an executor or administrator is appointed and qualified within two years of the filing of the claim, the amount of the claim shall escheat to the state.

(3) If the claimant is the grantor ~~[(of a trust holding title to real or tangible personal property on which a credit is claimed)],~~ trustee, or settlor of or holds another similar role in a qualifying trust and the claimant meets the requirements of this part, the claimant may claim the portion of the credit and be treated as the owner of that portion of the property held in trust ~~[(for which the claimant proves to the satisfaction of the county that)].~~

~~[(a) title to the portion of the trust will revert in the claimant upon the exercise of a power:]~~

- ~~[(i) by:]~~
- ~~[(A) the claimant as grantor of the trust;]~~
- ~~[(B) a nonadverse party; or]~~
- ~~[(C) both the claimant and a nonadverse party; and]~~

~~[(ii) regardless of whether the power is a power:]~~

- ~~[(A) to revoke;]~~
- ~~[(B) to terminate;]~~
- ~~[(C) to alter;]~~
- ~~[(D) to amend; or]~~
- ~~[(E) to appoint;]~~

~~[(b) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the credit; and]~~

~~[(c) the claimant meets the requirements under this part for the credit.]~~

(4) The ~~[(amount)]~~ relief described in Subsection 59-2-1202~~[(7)(e)(i)]~~(8)(a) is in addition to any other exemption or reduction for which a homeowner may be eligible, including the homeowner’s credit provided for in Section 59-2-1206.

**Section 3. Section 59-2-1206 is amended to read:**

**59-2-1206. Application for homeowner’s credit -- Time for filing -- Payment from General Fund.**

(1) (a) A claimant applying for a homeowner's credit shall file annually [file] an application for the credit with the county before September 1.

(b) The application under this section shall:

(i) be on forms provided by:

(A) the commission; or

(B) the county in which the applicant resides; and

(ii) include a household income statement signed by the claimant stating that:

(A) the income statement is correct; and

(B) the claimant qualifies for the credit.

(c) (i) Subject to Subsection (1)(c)(ii), a county shall apply the credit in accordance with this section and Section 59-2-1207 for the year in which the claimant applies for a homeowner's credit if the claimant meets the criteria for obtaining a homeowner's credit as provided in this part.

(ii) A homeowner's credit under this part may not exceed the claimant's property tax liability for the year in which the claimant applies for a homeowner's credit under this part.

(d) A claimant may qualify for a homeowner's credit under this part regardless of whether the claimant owes delinquent property taxes.

(2) (a) (i) The county shall compile a list of claimants and the homeowner's credits granted to the claimants for purposes of obtaining payment from the General Fund for the amount of credits granted.

(ii) A county may not obtain payment from the General Fund for the amount described in Subsection 59-2-1202[(7)](8).

(b) Upon certification by the commission the payment for the credits under this Subsection (2) shall be made to the county on or before January 1 if the list of claimants and the credits granted are received by the commission on or before November 30 of the year in which the credits under this part are granted.

(c) If the commission does not receive the list under this Subsection (2) on or before November 30, payment shall be made within 30 days of receipt of the list of claimants and credits from the county.

**Section 4. Section 59-2-1220 is amended to read:**

**59-2-1220. Extension of time for filing claim -- County authority to make refunds.**

(1) The commission or a county may extend the time for filing a claim until December 31 of the year the claim is required to be filed, if the commission or county finds that good cause exists to extend the deadline.

(2) (a) For purposes of this Subsection (2):

(i) "Abatement" means the amount of property taxes accrued that constitutes a tax abatement for the poor in accordance with Subsection 59-2-1202[(7)](8).

(ii) "Credit" means a homeowner's credit or renter's credit authorized by this part.

(iii) "Property taxes due" means the taxes due on a claimant's property:

(A) for which an abatement or a credit is granted by a county or the commission; and

(B) for the calendar year for which the abatement or credit is granted.

(iv) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes [the claimant] paid for the taxable year for which the claimant is applying for the abatement or credit; and

(B) the amount of the abatement or credit the county or the commission grants.

(b) A county or the commission granting an abatement or a credit to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is \$1 or more.

**Section 5. Retrospective operation.**

This bill has retrospective operation to January 1, 2020.

**CHAPTER 239****S. B. 36**

Passed February 26, 2020

Approved March 28, 2020

Effective May 12, 2020

(Retrospective operation to January 1, 2020)

**NONRESIDENT INCOME AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
House Sponsor: Robert M. Spendlove

**LONG TITLE****General Description:**

This bill modifies income tax provisions related to income received for personal services rendered.

**Highlighted Provisions:**

This bill:

- ▶ provides that a salary, a wage, a commission, or compensation received for personal services rendered within the state is derived from Utah sources;
- ▶ excludes a salary, a wage, a commission, or compensation received for personal services rendered from business income;
- ▶ provides that an employer's exemption from the withholding requirement is not an individual's exemption from the obligation to pay income taxes; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-10-117, as last amended by Laws of Utah 2017, Chapter 318

59-10-118, as last amended by Laws of Utah 2008, Chapters 105 and 389

59-10-402, as last amended by Laws of Utah 1987, Chapter 96

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

**Section 1. Section 59-10-117 is amended to read:****59-10-117. State taxable income derived from Utah sources.**

(1) For purposes of Section 59-10-116, state taxable income derived from Utah sources includes state taxable income attributable to or resulting from:

(a) the ownership in this state of any interest in real or tangible personal property, including real property or property rights from which gross income from mining as described by Section 613(c), Internal Revenue Code, is derived;

(b) the carrying on of a business, trade, profession, or occupation in this state;

(c) an addition to adjusted gross income required by Subsection 59-10-114(1)(c), (d), or (h) to the

extent that the addition was previously subtracted from state taxable income;

(d) a subtraction from adjusted gross income required by Subsection 59-10-114(2)(c) for a refund described in Subsection 59-10-114(2)(c) to the extent that the refund subtracted is related to a tax imposed by this state; or

(e) an adjustment to adjusted gross income required by Section 59-10-115 to the extent the adjustment is related to an item described in Subsections (1)(a) through (d).

(2) For purposes of Subsection (1):

(a) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from Utah sources only to the extent that the income is from property employed in a trade, business, profession, or occupation carried on in this state;

(b) a deduction with respect to a capital loss, net long-term capital gain, or net operating loss shall be:

(i) based solely on income, gain, loss, and deduction connected with Utah sources, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) otherwise determined in the same manner as the corresponding federal deductions;

(c) a salary, wage, commission, or compensation for personal services rendered:

(i) inside this state is considered to be income derived from Utah sources; and

(ii) outside this state may not be considered to be income derived from Utah sources;

(d) a share of income, gain, loss, deduction, or credit of a nonresident pass-through entity taxpayer, as defined in Section 59-10-1402, derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118;

(e) a nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of the dealer's trade or business, may not be considered to carry on a trade, business, profession, or occupation in this state solely by reason of the purchase or sale of property for the nonresident's own account;

(f) if a trade, business, profession, or occupation is carried on partly within and partly without this state[;]

(i) an item of income, gain, loss, or a deduction derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118; and

(ii) a salary, a wage, a commission, or compensation for personal services rendered is not considered to be an item of income from the carrying on of a business, trade, profession, or occupation;

(g) the share of a nonresident estate or trust or a nonresident beneficiary of any estate or trust in income, gain, loss, or deduction derived from or connected with Utah sources shall be determined under Section 59-10-207; and

(h) any dividend, interest, or distributive share of income, gain, or loss from a real estate investment trust, as defined in Section 59-7-101, distributed or allocated to a nonresident investor in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in the trust, shall:

(i) be income from intangible personal property under Subsection (2)(a); and

(ii) constitute income derived from Utah sources only to the extent the nonresident investor is employing its beneficial interest in the trust in a trade, business, profession, or occupation carried on by the investor in this state.

**Section 2. Section 59-10-118 is amended to read:**

**59-10-118. Division of income for tax purposes.**

(1) As used in this section:

(a) ~~“Business”~~ (i) Except as provided in Subsection (1)(a)(ii), “business income” means income arising from transactions and activity in the regular course of a taxpayer’s trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer’s regular trade or business operations.

(ii) “Business income” does not include a salary, a wage, a commission, or compensation for personal services rendered.

(b) “Commercial domicile” means the principal place from which the trade or business of a taxpayer is directed or managed.

(c) “Nonbusiness income” means all income other than business income.

(d) “Sales” means all gross receipts of a taxpayer not allocated under Subsections (3) through (7).

(e) “State” means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any possession of the United States.

(2) A taxpayer having business income that is taxable both within and without this state~~[,]~~ shall allocate and apportion the taxpayer’s net income as provided in this section.

(3) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that ~~[they]~~ rents and royalties constitute nonbusiness income, shall be allocated as provided in Subsections (4) through (7).

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer’s commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) (i) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year.

(ii) If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(5) (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property has a situs in this state at the time of the sale; or

(ii) the taxpayer’s commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer’s commercial domicile is in this state.

(6) Interest and dividends are allocable to this state if the taxpayer’s commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the payer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer’s commercial domicile is in this state.

(b) (i) A patent is utilized in a state to the extent that ~~[it]~~ the patent is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state.

(ii) If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer’s commercial domicile is located.

(8) All business income shall be apportioned to this state using the same methods, procedures, and requirements of Sections 59-7-311 through 59-7-320.

**Section 3. Section 59-10-402 is amended to read:**

**59-10-402. Requirement of withholding.**

(1) Each employer making payment of wages shall deduct and withhold from wages an amount to be determined by a commission rule which will, as closely as possible, pay the income tax imposed by this chapter.

(2) (a) (i) Any ~~[such employer who]~~ employer described in Subsection (1) that is to do business within the state ~~[of Utah]~~ for a period not to exceed 60 days in the aggregate during any calendar year may be relieved from the requirement provided for under this part for such period by furnishing to the commission in advance a certificate so certifying. ~~[If that employer]~~

(ii) If an employer described in Subsection (2)(a)(i) thereafter does business within the state ~~[of Utah]~~ for a period in excess of 60 days, that employer shall be liable for all the tax ~~[which otherwise he]~~ that the employer would have been required to deduct and withhold.

(iii) Upon a showing of good cause by the employer, the commission may extend for a period of not to exceed 30 days the time during which the employer is not required to deduct and withhold the tax.

(b) The exemption described in Subsection (2)(a) is from the withholding requirement described in Subsection (1), not from an individual's obligation to pay income taxes as provided in Part 1, Determination and Reporting of Tax Liability and Information.

(3) (a) The amount withheld under this section shall be allowed to the recipient of the income as a credit against the tax imposed by this chapter. ~~[The amount so]~~

(b) Except as provided in Subsection (3)(c), the amount withheld during any calendar year shall be allowed as a credit for the taxable year ~~[beginning in such calendar year]~~ that begins in the calendar year in which the amount is withheld.

(c) If more than one taxable year begins in a calendar year, ~~[such]~~ the withheld amount shall be allowed as a credit for the last taxable year ~~[so beginning]~~ that begins in the calendar year in which the amount is withheld.

**Section 4. Retrospective operation.**

This bill has retrospective operation for a taxable year beginning on or after January 1, 2020.

**CHAPTER 240****S. B. 38**

Passed February 5, 2020

Approved March 28, 2020

Effective May 12, 2020

(Retrospective operation to January 1, 2020)

**TAX COMMISSION  
AUTHORITY AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Robert M. Spendlove

**LONG TITLE****General Description:**

This bill modifies the authority of the State Tax Commission.

**Highlighted Provisions:**

This bill:

- ▶ repeals the State Tax Commission's authority to adjust or defer taxes levied against property assessed by the State Tax Commission;
- ▶ allows a county legislative body to adjust or defer taxes levied by the State Tax Commission against property located in the county under certain circumstances; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-2-1347, as last amended by Laws of Utah 2007, Chapter 306

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

**Section 1. Section 59-2-1347 is amended to read:****59-2-1347. Redemption -- Adjustment or deferral of taxes -- Interest.**

(1) (a) If ~~[any]~~ [the] an interested person applies to ~~[the]~~ [a] county legislative body for an adjustment or deferral of taxes levied against property ~~[assessed by the county assessor,]~~ located in the county, the county legislative body may accept a sum less than the full amount due [may be accepted], or defer the full amount [may be deferred] due, where, in the judgment of the county legislative body, the best human interests and the interests of the state and the county are served.

(b) Nothing in this section prohibits ~~[the]~~ [a] county legislative body from granting a retroactive ~~[adjustments or deferrals]~~ adjustment or deferral if the criteria established in this [Subsection (1)] section are met.

~~[(b) If any interested person applies to the commission for an adjustment of taxes levied against property assessed by the commission, a sum less than the full amount due may be accepted, where, in the judgment of the commission, the best human interests and the interests of the state and the county are served.]~~

~~(2) (a) [If an application is made, the applicant shall submit] In an application for an adjustment or deferral described in Subsection (1), the applicant shall include a statement[;] setting forth the following:~~

~~[(a)] (i) a description of the property;~~

~~[(b)] (ii) the value of the property for the current year;~~

~~[(c)] (iii) the amount of delinquent taxes, interest, and penalties;~~

~~[(d)] (iv) (A) for an adjustment, the amount proposed to be paid [in settlement of]; or~~

~~(B) for a deferral, the amount proposed to be deferred; and~~

~~[(e)] (v) any other information required by the county legislative body.~~

~~(b) The commission shall prepare blank forms for an application for an adjustment or deferral under this section.~~

~~[(3) (a) Blank forms for the application shall be prepared by the commission.]~~

~~[(b)] (3) (a) A [deferral may not be granted] county legislative body may not grant a deferral without the written consent of the holder of any mortgage or trust deed outstanding on the property.~~

~~[(c)] (b) [The] Any amount deferred shall be recorded as a lien on the property and shall bear interest at a rate equal to the lesser of:~~

~~(i) 6%; or~~

~~(ii) the federal funds rate target:~~

~~(A) established by the Federal Open Markets Committee; and~~

~~(B) that exists on the January 1 immediately preceding the day on which the taxes are deferred.~~

~~[(d)] (c) The amount deferred together with accrued interest [shall be] is due and payable when the property is sold or otherwise conveyed.~~

~~(4) Within 10 days after [the consummation of any] the day on which a county legislative body grants an adjustment or deferral, the county legislative body [or the commission, as the case may be,] shall cause the adjustment or deferral to be posted in the county where the property involved is located. The publication shall contain:~~

~~(a) the name of the applicant;~~

~~(b) the parcel, serial, or account number of the property;~~

~~(c) the value of the property for the current year;~~

~~(d) the sum of the delinquent taxes, interest, and penalty due; and~~

~~(e) the adjusted amount paid or deferred.~~

~~(5) [A] No later than the last day of each calendar month, each county legislative body shall send to the commission a record of [the] any action taken by the county legislative body [shall be sent to the~~



~~commission at the end of each month for all action taken] under this section during the preceding calendar month. [A record of the action taken by the commission shall be sent to the county legislative body of the counties affected by the action.]~~

**Section 2. Retrospective operation.**

This bill has retrospective operation to January 1, 2020.

**CHAPTER 241****S. B. 39**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020  
 Exception clause

**AFFORDABLE HOUSING AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: Val K. Potter

**LONG TITLE****General Description:**

This bill modifies provisions related to affordable housing.

**Highlighted Provisions:**

This bill:

- ▶ modifies the allowable uses for a community reinvestment agency's housing allocation;
- ▶ modifies the requirements for distributing money from the Olene Walker Housing Loan Fund;
- ▶ allows low-income housing tax credits to be assigned to another taxpayer; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Workforce Services -- Olene Walker Housing Loan Fund as a one-time appropriation:
  - from the General Fund, \$10,000,000.

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 17C-1-102, as last amended by Laws of Utah 2019, Chapters 376 and 480  
 17C-1-412, as last amended by Laws of Utah 2019, Chapters 296 and 376  
 35A-8-504, as last amended by Laws of Utah 2016, Chapters 131 and 350  
 35A-8-505, as last amended by Laws of Utah 2019, Chapter 327  
 59-7-607, as last amended by Laws of Utah 2017, Chapter 279  
 59-10-1010, as last amended by Laws of Utah 2017, Chapter 279

**ENACTS:**

59-9-108, Utah Code Annotated 1953

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

**Section 1. Section 17C-1-102 is amended to read:****17C-1-102. Definitions.**

As used in this title:

- (1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.
- (2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

- (a) that is a political subdivision of the state;
- (b) that is created to undertake or promote project area development as provided in this title; and
- (c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan, or other agency purposes, including:

- (a) project area funds;
- (b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development; or

(c) a contribution, loan, grant, or other financial assistance from any public or private source.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a

community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) “Basic levy” means the portion of a school district’s tax levy constituting the minimum basic levy under Section 59-2-902.

(11) “Board” means the governing body of an agency, as described in Section 17C-1-203.

(12) “Budget hearing” means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) “Closed military base” means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) “Combined incremental value” means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency’s boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) “Community” means a county or municipality.

(16) “Community development project area plan” means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) “Community legislative body” means the legislative body of the community that created the agency.

(18) “Community reinvestment project area plan” means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) “Contest” means to file a written complaint in the district court of the county in which the agency is located.

(20) “Development impediment” means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) “Development impediment hearing” means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) “Development impediment study” means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) “Economic development project area plan” means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) “Fair share ratio” means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) “Family” means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) “Greenfield” means land not developed beyond agricultural, range, or forestry use.

(27) “Hazardous waste” means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) “Housing allocation” means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) “Housing fund” means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35) (a) "Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) "Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Major transit investment corridor" means the same as that term is defined in Section 10-9a-103.

~~[(36)]~~ (37) "Marginal value" means the difference between actual taxable value and base taxable value.

~~[(37)]~~ (38) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

~~[(38)]~~ (39) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.

~~[(39)]~~ (40) "Participant" means one or more persons that enter into a participation agreement with an agency.

~~[(40)]~~ (41) "Participation agreement" means a written agreement between a person and an agency that:

(a) includes a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the person may receive; and

(iii) the terms and conditions under which the person may receive project area funds; and

(b) is approved by resolution of the board.

~~[(41)]~~ (42) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

~~[(42)]~~ (43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

~~[(43)]~~ (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

~~[(44)]~~ (45) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

~~[(45)]~~ (46) "Project area" means the geographic area described in a project area plan within which the project area development described in the

project area plan takes place or is proposed to take place.

[(46)] (47) “Project area budget” means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

[(47)] (48) “Project area development” means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection [(47)] (48) outside of a project area that the board determines to be a benefit to the project area.

[(48)] (49) “Project area funds” means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

[(49)] (50) “Project area funds collection period” means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

[(50)] (51) “Project area plan” means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan’s effective date, guides and controls the project area development.

[(51)] (52) (a) “Property tax” means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) “Property tax” includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

[(52)] (53) “Public entity” means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state’s departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, local district, special service district, community reinvestment agency, or interlocal cooperation entity.

[(53)] (54) “Publicly owned infrastructure and improvements” means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

[(54)] (55) “Record property owner” or “record owner of property” means the owner of real property, as shown on the records of the county in which the property is located, to whom the property’s tax notice is sent.

[(55)] (56) “Sales and use tax revenue” means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

[(56)] (57) “Superfund site”:

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection

[(56)] (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

[(57)] (58) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

[(58)] (59) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

[(59)] (60) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

[(60)] (61) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

[(61)] (62) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

[(62)] (63) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

[(63)] (64) "Unincorporated" means not within a municipality.

[(64)] (65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

**Section 2. Section 17C-1-412 is amended to read:**

**17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.**

(1) (a) An agency shall use the agency's housing allocation to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection ~~[(6)]~~ (7), transfer funds to a community that created the agency; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in ~~[party]~~ part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county; ~~[or]~~

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community~~[-];~~ or

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located.

(2) (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation meets the

requirements for at least one agency that is a party to the interlocal agreement.

~~[(2)]~~ (3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

~~[(3)]~~ (4) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection ~~[(3)]~~ (4)(a) previously issued by the agency.

~~[(4)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection ~~[(4)]~~ (5)(a) does not apply in a year in which tax increment is insufficient.

~~[(5)]~~ (6) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection ~~[(5)]~~ (6)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

~~[(6)]~~ (7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

### **Section 3. Section 35A-8-504 is amended to read:**

#### **35A-8-504. Distribution of fund money.**

(1) The executive director shall:

(a) make grants and loans from the fund for any of the activities authorized by Section 35A-8-505, as directed by the board;

(b) establish the criteria with the approval of the board by which loans and grants will be made; and

(c) determine with the approval of the board the order in which projects will be funded.

(2) The executive director shall distribute, as directed by the board, any federal money contained

in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.

(3) (a) The executive director shall distribute, as directed by the board, any funds received under Section 17C-1-412 to pay the costs of providing income targeted housing within the community that created the community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

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

(i) "Community" means the same as that term is defined in Section 17C-1-102.

(ii) "Income targeted housing" means the same as that term is defined in Section 17C-1-102.

(4) Except for federal money [~~and~~], money received under Section 17C-1-412, and money appropriated for use in accordance with Section 35A-8-2105, the executive director shall distribute, as directed by the board, money in the fund according to the following requirements:

(a) the executive director shall distribute at least 30% of the money in the fund to rural areas of the state;

(b) the executive director shall distribute at least 70% of the money in the fund to benefit persons whose annual income is at or below 50% of the median family income for the state;

(c) the executive director may not use more than 3% of the revenues of the fund to offset department or board administrative expenses;

(d) the executive director shall distribute any remaining money in the fund to benefit persons whose annual income is at or below 80% of the median family income for the state; and

(e) if the executive director or the executive director's designee makes a loan in accordance with this section, the interest rate of the loan shall be based on the borrower's ability to pay.

(5) The executive director may, with the approval of the board:

(a) enact rules to establish procedures for the grant and loan process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

**Section 4. Section 35A-8-505 is amended to read:**

**35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.**

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income persons;

(d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;

(e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing;

(f) the purchase of land that will be used as the site of low-income housing units; [~~and~~]

(g) the preservation of existing affordable housing units for low-income persons; and

[~~(g)~~] (h) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons; and

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure



actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

**Section 5. Section 59-7-607 is amended to read:**

**59-7-607. Utah low-income housing tax credit.**

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the Utah Housing Corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Credit period" means the "credit period" as defined in Section 42(f)(1), Internal Revenue Code.

(d) (i) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor itself or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the Utah Housing Corporation regarding the assignment of tax credits under this section.

(ii) Before the Utah Housing Corporation may issue an allocation certificate to a housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's designated reporter to the Utah Housing Corporation.

(iii) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate to a qualified taxpayer, a designated reporter shall provide the information described in Subsection (6) to the Utah Housing Corporation.

(e) "Federal low-income housing tax credit" means the federal tax credit described in Section 42, Internal Revenue Code.

(f) "Housing sponsor" means an entity that owns a qualified development.

(g) "Qualified allocation plan" means a qualified allocation plan adopted by the Utah Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

(h) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

(i) (i) "Qualified taxpayer" means a person that:

(A) owns a direct or indirect interest in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.

(j) (i) "Special low-income housing tax credit certificate" means a certificate:

(A) in a form prescribed by the commission;

(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and

(C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section.

(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to the qualified development and issued to a housing sponsor in an allocation certificate.

(2) (a) For taxable years beginning on or after January 1, 1995, a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation may claim a nonrefundable tax credit against taxes otherwise due under this chapter [øø], Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the special low-income housing tax credit certificate that the Utah Housing Corporation issues to a qualified taxpayer under this section.

(c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

(iii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) The Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;

(ii) the level of area median income being served by a qualified development;

(iii) the need for the tax credit for the economic feasibility of a qualified development; and

(iv) the extended period for which a qualified development commits to remain as affordable housing.

(4) Any housing sponsor may apply to the Utah Housing Corporation for a tax credit allocation under this section.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall issue an allocation certificate to a housing sponsor as evidence of the allocation.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the tax credit allocated to a qualified development as determined by the Utah Housing Corporation.

(c) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit awarded to a qualified development.

(6) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation:

(a) a list of each qualified taxpayer that has been assigned a portion of the tax credit awarded in an allocation certificate;

(b) for each qualified taxpayer described in Subsection (6)(a), the amount of tax credit that has been assigned; and

(c) an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the

aggregate annual tax credit awarded in the allocation certificate.

(7) The Utah Housing Corporation shall provide a special low-income housing tax credit certificate to a qualified taxpayer if:

(a) a designated reporter has provided the information regarding the qualified taxpayer as described in Subsection (6); and

(b) the Utah Housing Corporation has verified that the aggregate tax credit amount assigned with respect to a qualified development does not exceed the total tax credit awarded in the allocation certificate.

(8) (a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a qualified development is required to recapture a portion of any federal low-income housing tax credit, then each qualified taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credit as described in this Subsection (8)(b).

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in subsequent years.

(10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) (a) A qualified taxpayer may assign a special low-income housing tax credit certificate received under Subsection (7) to another person if the qualified taxpayer provides written notice to the Utah Housing Corporation, in a form established by the Utah Housing Corporation, that includes:

(i) the qualified taxpayer's written certification or other proof that the qualified taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income housing tax credit certificate; and

(ii) contact information for the person to whom the special low-income housing tax credit certificate is to be assigned.

(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah Housing Corporation shall issue an assigned special low-income housing tax credit certificate to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's special low-income housing tax credit minus any state recapture amount under Subsection (8)(b).

(c) A person who is assigned a special low-income housing tax credit certificate in accordance with this Subsection (11) may claim the tax credit as if:

(i) the person had met the requirements of this section to claim the tax credit, if the person files a return under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers; or

(ii) the person had met the requirements of Section 59-10-1010 to claim the tax credit under Section 59-10-1010, if the person files a return under Chapter 10, Individual Income Tax Act.

(41) (12) Any tax credit taken in this section may be subject to an annual audit by the commission.

(42) (13) The Utah Housing Corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the tax credits; and

(b) the benefits of the tax credits to the state.

(43) (14) The commission may, in consultation with the Utah Housing Corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

**Section 6. Section 59-9-108 is enacted to read:**

**59-9-108. Utah low-income housing tax credit.**

(1) As used in this section:

(a) "Qualified taxpayer" means the same as that term is defined in Section 59-7-607.

(b) "Special low-income housing tax credit certificate" means the same as that term is defined in Section 59-7-607.

(2) A person may claim a nonrefundable tax credit against a tax liability under this section if:

(a) the person is a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation under Section 59-7-607, and the qualified taxpayer does not claim the tax credit under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate

Franchise or Income Tax Act, or under Title 59, Chapter 10, Individual Income Tax Act; or

(b) the person has been assigned a special low-income housing tax credit in accordance with Subsection 59-7-607(11) or Subsection 59-10-1010(11), and the person does not claim the tax credit under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or under Title 59, Chapter 10, Individual Income Tax Act.

(3) (a) If a tax credit is not claimed by a qualified taxpayer or by a person who has been assigned a special low-income housing tax credit in the year in which the credit is earned because the tax credit is more than the tax liability owed, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax liability.

(b) Carryover tax credits under Subsection (3)(a) shall be applied against tax liability:

(i) before the application of tax credits earned in the current year; and

(ii) on a first-earned, first-used basis.

(4) The commission may, in consultation with the Utah Housing Corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

**Section 7. Section 59-10-1010 is amended to read:**

**59-10-1010. Utah low-income housing tax credit.**

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the Utah Housing Corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Credit period" means the "credit period" as defined in Section 42(f)(1), Internal Revenue Code.

(d) (i) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor itself or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the Utah Housing

Corporation regarding the assignment of tax credits under this section.

(ii) Before the Utah Housing Corporation may issue an allocation certificate to a housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's designated reporter to the Utah Housing Corporation.

(iii) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate to a qualified taxpayer, a designated reporter shall provide the information described in Subsection (6) to the Utah Housing Corporation.

(e) "Federal low-income housing credit" means the federal low-income housing credit described in Section 42, Internal Revenue Code.

(f) "Housing sponsor" means an entity that owns a qualified development.

(g) "Qualified allocation plan" means a qualified allocation plan adopted by the Utah Housing Corporation in accordance with Section 42(m), Internal Revenue Code.

(h) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

(i) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

(A) owns a direct or indirect interest in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.

(j) (i) "Special low-income housing tax credit certificate" means a certificate:

(A) in a form prescribed by the commission;

(B) that the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and

(C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section.

(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to a qualified development and issued to a housing sponsor in an allocation certificate.

(2) (a) For taxable years beginning on or after January 1, 1995, a qualified taxpayer who has been

issued a special low-income housing tax credit certificate by the Utah Housing Corporation may claim a nonrefundable tax credit against taxes otherwise due under this chapter.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the special low-income housing tax credit certificate that the Utah Housing Corporation issues to a qualified taxpayer under this section.

(c) (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

(iii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) The Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;

(ii) the level of area median income being served by a qualified development;

(iii) the need for the tax credit for the economic feasibility of a qualified development; and

(iv) the extended period for which a qualified development commits to remain as affordable housing.

(4) Any housing sponsor may apply to the Utah Housing Corporation for a tax credit allocation under this section.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall issue an allocation certificate to a housing sponsor as evidence of the allocation.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the amount of the tax credit allocated to a qualified development as determined by the Utah Housing Corporation.

(c) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing credit awarded to a qualified development.

(6) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation:

(a) a list of each qualified taxpayer that has been assigned a portion of the tax credit awarded in an allocation certificate;

(b) for each qualified taxpayer described in Subsection (6)(a), the amount of tax credit that has been assigned; and

(c) an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate.

(7) The Utah Housing Corporation shall provide a special low-income housing tax credit certificate to a qualified taxpayer if:

(a) a designated reporter has provided the information regarding the qualified taxpayer as described in Subsection (6); and

(b) the Utah Housing Corporation has verified that the aggregate tax credit amount assigned with respect to a qualified development does not exceed the total tax credit awarded in the allocation certificate.

(8) (a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a qualified taxpayer is required to recapture a portion of any federal low-income housing credit, the qualified taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credits as described in this Subsection (8)(b).

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in subsequent years.

(10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) (a) A qualified taxpayer may assign a special low-income housing tax credit certificate received under Subsection (7) to another person if the qualified taxpayer provides written notice to the Utah Housing Corporation, in a form established by the Utah Housing Corporation, that includes:

(i) the qualified taxpayer's written certification or other proof that the qualified taxpayer irrevocably elects not to claim the tax credit authorized by the special low-income housing tax credit certificate; and

(ii) contact information for the person to whom the special low-income housing tax credit certificate is to be assigned.

(b) If the qualified taxpayer meets the requirements of Subsection (11)(a), the Utah Housing Corporation shall issue an assigned special low-income housing tax credit certificate to the person identified by the qualified taxpayer for an amount equal to the qualified taxpayer's special low-income housing tax credit minus any state recapture amount under Subsection (8)(b).

(c) A person who is assigned a special low-income housing tax credit certificate in accordance with this Subsection (11) may claim the tax credit as if:

(i) the person had met the requirements of this section to claim the tax credit, if the person files a return under this chapter; or

(ii) the person had met the requirements of Section 59-7-607 to claim the tax credit under Section 59-7-607, if the person files a return under Chapter 7, Corporate Franchise and Income Taxes, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.

[41] (12) Any tax credit taken in this section may be subject to an annual audit by the commission.

[42] (13) The Utah Housing Corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the tax credits; and

(b) the benefits of the tax credits to the state.

~~[(13)]~~ (14) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

### **Section 8. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ITEM 1

To Department of Workforce Services -- Olene Walker Housing Loan Fund

From General Fund, One-time	<u>\$10,000,000</u>
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#### Schedule of Programs:

<u>Olene Walker Housing Loan Fund</u>	<u>\$10,000,000</u>
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#### The Legislature intends that:

(1) up to \$5,000,000 of the appropriation be used for gap financing of private activity bond financed multi-family housing; and

(2) up to \$5,000,000 of the appropriation be used to match private dollars for the preservation or construction of affordable housing units for low-income individuals.

### **Section 9. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

(2) Section 59-9-108 takes effect on January 1, 2021.

**CHAPTER 242****S. B. 48**

Passed February 19, 2020

Approved March 28, 2020

Effective May 12, 2020

**CORRECTIONS OFFICER  
CERTIFICATION PILOT EXTENSION**Chief Sponsor: Jani Iwamoto  
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill extends the sunset date for the Corrections Officer Certification Pilot Program to 2027.

**Highlighted Provisions:**

This bill:

- ▶ extends the sunset date for the pilot program allowing 19-year-olds to become corrections officers to 2027.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-253, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246, 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

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

**Section 1. Section 63I-1-253 is amended to read:****63I-1-253. Repeal dates, Titles 53 through 53G.**

The following provisions are repealed on the following dates:

(1) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, [2022] 2027.

(2) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, [2022] 2027.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language that states “by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203” is repealed; and

(b) Section 53E-4-203 is repealed.

(10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

(a) Subsection 53B-17-1201(1) is repealed;

(b) Section 53B-17-1203 is repealed;

(c) Subsection 53B-17-1204(2) is repealed;

(d) Subsection 53B-17-1204(4)(a), the language that states “in accordance with the method described in Subsection (4)(c)” is repealed; and

(e) Subsection 53B-17-1204(4)(c) is repealed.

(11) Section 53F-2-514 is repealed July 1, 2020.

(12) Section 53F-5-203 is repealed July 1, 2024.

(13) Section 53F-5-212 is repealed July 1, 2024.

(14) Section 53F-5-213 is repealed July 1, 2023.

(15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

(16) Section 53F-6-201 is repealed July 1, 2019.

(17) Section 53F-9-501 is repealed January 1, 2023.

(18) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(19) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2020.

**CHAPTER 243****S. B. 49**

Passed February 12, 2020

Approved March 28, 2020

Effective May 12, 2020

**AVIATION AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Walt Brooks

**LONG TITLE****General Description:**

This bill modifies provisions related to aviation.

**Highlighted Provisions:**

This bill:

- ▶ incorporates statewide amendments to the International Building Code relating to certain aircraft hangars;
- ▶ provides for the Department of Transportation to regulate aerial corridor infrastructure;
- ▶ establishes a procedure for an airport operator to take possession and dispose of an abandoned aircraft; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

15A-3-103, as last amended by Laws of Utah 2019, Chapter 20

63A-2-101.5, as last amended by Laws of Utah 2019, Chapter 488

72-1-102, as last amended by Laws of Utah 2019, Chapters 431 and 479

**ENACTS:**

72-10-205.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 15A-3-103 is amended to read:****15A-3-103. Amendments to Chapters 4 through 6 of IBC.**

- (1) IBC Section 403.5.5 is deleted.
- (2) In IBC, Section 407.2.5, the words “and assisted living facility” are added in the title and first sentence after the words “nursing home.”
- (3) In IBC, Section 407.2.6, the words “and assisted living facility” are added in the title after the words “nursing home.”
- (4) In IBC, Section 407.11, a new exception is added as follows: “Exception: An essential electrical system is not required in assisted living facilities.”

(5) In IBC, Section 412.3.1, a new exception is added as follows: “Exception: Aircraft hangars of Type I or II construction that are less than 5,000 square feet (464.5 m<sup>2</sup>) in area.”

[~~(5)~~] (6) A new IBC, Section 422.2.1 is added as follows: “422.2.1 Separations: Ambulatory care

facilities licensed by the Department of Health shall be separated from adjacent tenants with a fire partition having a minimum one hour fire-resistance rating. Any level below the level of exit discharge shall be separated from the level of exit discharge by a horizontal assembly having a minimum one hour fire-resistance rating.

Exception: A fire barrier is not required to separate the level of exit discharge when:

1. Such levels are under the control of the Ambulatory Care Facility.

2. Any hazardous spaces are separated by horizontal assembly having a minimum one hour fire-resistance rating.”

[~~(6)~~] (7) A new IBC Section 429, Day Care, is added as follows: “429.1 Detailed Requirements. In addition to the occupancy and construction requirements in this code, the additional provisions of this section shall apply to all Day Care in accordance with Utah Administrative Code R710-8 Day Care Rules.

**429.2 Definitions.**

429.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority code official.

429.2.2 Day Care Facility: Any building or structure occupied by clients of any age who receive custodial care for less than 24 hours by individuals other than parents, guardians, relatives by blood, marriage or adoption.

429.2.3 Day Care Center: Providing care for five or more clients in a place other than the home of the person cared for. This would also include Child Care Centers, Out of School Time or Hourly Child Care Centers licensed by the Department of Health.

429.2.4 Family Day Care: Providing care for clients listed in the following two groups:

429.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health as Residential Certificate Child Care or licensed as Family Child Care.

429.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient staffing. This would also include a home that is licensed by the Department of Health as Family Child Care.

429.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

**429.3 Family Day Care.**

429.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

429.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

429.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five to eight



clients in a home, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section 1030.

429.3.3 Family Day Care units shall not be located above the second story.

429.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

429.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1011 or Section 1012 or Section 1027.

429.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

429.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

429.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

429.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

429.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall include the complete evacuation from the building of all clients and staff. At least annually, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

429.4 Day Care Centers.

429.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

429.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4, Section 405.

429.4.3 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

429.4.3.1 Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

429.4.4 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1030.

429.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of School Time.

429.5 Requirements for all Day Care.

429.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

429.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure."

[~~7~~] (8) In IBC, Section 504.4, a new section is added as follows: "504.4.1 Notwithstanding the exceptions to Section 504.2, Group I-2 Assisted Living Facilities shall be allowed on each level of a two-story building of Type V-A construction when all of the following apply:

1. All secured units are located at the level of exit discharge in compliance with Section 1010.1.9.3 as amended;
2. The total combined area of both stories shall not exceed the total allowable area for a one-story building; and
3. All other provisions that apply in Section 407 have been provided."

[~~8~~] (9) In IBC, Section 504.4, a new section is added as follows: "504.4.2 Group I-2 Assisted Living Facilities. Notwithstanding the allowable number of stories permitted by Table 504.4 Group I-2 Assisted Living Facilities of type VA, construction shall be allowed on each level of a two-story building when all of the following apply:

1. The total combined area of both stories does not exceed the total allowable area for a one-story, above grade plane building equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.
2. All other provisions that apply in Section 407 have been provided."

[~~9~~] (10) A new IBC, Section 504.5, is added as follows: "504.5 Group 1-2 Secured areas in Assisted Living Facilities. In Type IIIB, IV, and V construction, all areas for the use and care of residents required to be secured shall be located on the level of exit discharge with door operations in compliance with Section 1010.1.9.7, as amended."

**Section 2. Section 63A-2-101.5 is amended to read:**

**63A-2-101.5. Definitions.**

As used in this chapter:

- (1) "Division" means the Division of Purchasing and General Services created under Section 63A-2-101.

(2) “Federal surplus property” means surplus property of the federal government of the United States.

(3) “Information technology equipment” means equipment capable of downloading, accessing, manipulating, storing, or transferring electronic data, including:

- (a) a computer;
- (b) a smart phone, electronic tablet, personal digital assistant, or other portable electronic device;
- (c) a digital copier or multifunction printer;
- (d) a flash drive or other portable electronic data storage device;
- (e) a server; and
- (f) any other similar device.

(4) “Person with a disability” means a person with a severe, chronic disability that:

(a) is attributable to a mental or physical impairment or a combination of mental and physical impairments; and

(b) is likely to continue indefinitely.

(5) “Property act” means the Federal Property and Administrative Services Act of 1949, 40 U.S.C. Sec. 549.

(6) “Purchasing director” means the director of the division appointed under Section 63A-2-102.

(7) “Smart phone” means an electronic device that combines a cell phone with a hand-held computer, typically offering Internet access, data storage, and text and email capabilities.

(8) “State agency” means any executive branch department, division, or other agency of the state.

(9) “State surplus property”:

(a) means state-owned property, whether acquired by purchase, seizure, donation, or otherwise:

(i) that is no longer being used by the state or no longer usable by the state;

(ii) that is out of date;

(iii) that is damaged and cannot be repaired or cannot be repaired at a cost that is less than the property’s value;

(iv) whose useful life span has expired; or

(v) that the state agency possessing the property determines is not required to meet the needs or responsibilities of the state agency;

(b) includes:

(i) a motor vehicle;

(ii) equipment;

(iii) furniture;

(iv) information technology equipment; ~~and~~

(v) a supply; and

(vi) an aircraft; and

(c) does not include:

(i) real property;

(ii) an asset of the School and Institutional Trust Lands Administration, established in Section 53C-1-201;

(iii) a firearm or ammunition; or

(iv) an office or household item made of aluminum, paper, plastic, cardboard, or other recyclable material, without any meaningful value except for recycling purposes.

(10) “State surplus property contractor” means a person in the private sector under contract with the state to provide one or more services related to the division’s program for the management and disposition of state surplus property.

(11) “Surplus property program” means the program relating to state surplus property under Part 4, Surplus Property Service.

(12) “Surplus property program administrator” means:

(a) the purchasing director, if the purchasing director administers the surplus property program; or

(b) the state surplus property contractor, if the state surplus property contractor administers the surplus property program.

**Section 3. Section 72-1-102 is amended to read:**

**72-1-102. Definitions.**

As used in this title:

(1) “Commission” means the Transportation Commission created under Section 72-1-301.

(2) “Construction” means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(3) “Department” means the Department of Transportation created in Section 72-1-201.

(4) “Executive director” means the executive director of the department appointed under Section 72-1-202.

(5) “Farm tractor” has the meaning set forth in Section 41-1a-102.

(6) “Federal aid primary highway” means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(7) “Highway” means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

(8) “Highway authority” means the department or the legislative, executive, or governing body of a county or municipality.

(9) “Implement of husbandry” has the meaning set forth in Section 41-1a-102.

(10) “Interstate system” means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

(11) “Limited-access facility” means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(12) “Motor vehicle” has the same meaning set forth in Section 41-1a-102.

(13) “Municipality” has the same meaning set forth in Section 10-1-104.

(14) “National highway systems highways” means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(15) (a) “Port-of-entry” means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) “Port-of-entry” includes inspection and checking stations and weigh stations.

(16) “Port-of-entry agent” means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

(17) “Public transit” means the same as that term is defined in Section 17B-2a-802.

(18) “Public transit facility” means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(19) “Right-of-way” means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

(20) “Sealed” does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(21) “Semitrailer” has the meaning set forth in Section 41-1a-102.

(22) “SR” means state route and has the same meaning as state highway as defined in this section.

(23) “State highway” means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

(24) “State transportation purposes” has the meaning set forth in Section 72-5-102.

(25) “State transportation systems” means all streets, alleys, roads, highways, pathways, and thoroughfares of any kind, including connected structures, airports, aerial corridor infrastructure, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

(26) “Trailer” has the meaning set forth in Section 41-1a-102.

(27) “Truck tractor” has the meaning set forth in Section 41-1a-102.

(28) “UDOT” means the Utah Department of Transportation.

(29) “Vehicle” has the same meaning set forth in Section 41-1a-102.

**Section 4. Section 72-10-205.5 is enacted to read:**

**72-10-205.5. Abandoned aircraft on airport property -- Seizure and disposal.**

(1) (a) As used in this section, “abandoned aircraft” means an aircraft that:

(i) remains in an idle state on airport property for 45 consecutive calendar days;

(ii) is in a wrecked, inoperative, derelict, or partially dismantled condition; and

(iii) is not in the process of actively being repaired.

(b) “Abandoned aircraft” does not include an aircraft:

(i) that has current FAA registration;

(ii) that has current state registration;

(iii) for which evidence is shown indicating repairs are in process, including:

(A) receipts for parts and labor; or

(B) a statement from a mechanic making the repairs.

(2) An airport operator may take possession and dispose of an abandoned aircraft in accordance with Subsections (3) through (5).

(3) Upon determining that an aircraft located on airport property is abandoned, the airport operator shall:

(a) send, by registered mail, a notice containing the information described in Subsection (4) to the last known address of the last registered owner of the aircraft; and

(b) publish a notice containing the information described in Subsection (4) in a newspaper of general circulation in the county where the airport is located if:

(i) the owner or the address of the owner of the aircraft is unknown; or

(ii) the mailed notice is returned to the airport operator without a forwarding address.

(4) The notice described in Subsection (3) shall include:

(a) the name, if known, and the last known address, if any, of the last registered owner of the aircraft;

(b) a description of the aircraft, including the identification number, the location of the aircraft, and the date the aircraft is determined abandoned;

(c) a statement describing the specific grounds for the determination that the aircraft is abandoned;

(d) the amount of any accrued or unpaid airport charges; and

(e) a statement indicating that the airport operator intends to take possession and dispose of the aircraft if the owner of the aircraft fails to remove the aircraft from airport property, after payment in full of any charges described in Subsection (4)(d), within the later of:

(i) 30 days after the day on which the notice is sent in accordance with Subsection (3)(a); or

(ii) 30 days after the day on which the notice is published in accordance with Subsection (3)(b), if applicable.

(5) If the owner of the abandoned aircraft fails to remove the aircraft from airport property, after payment in full of any charges described in Subsection (4)(d), within the time specified in Subsection (4)(e):

(a) the abandoned aircraft becomes the property of the airport operator; and

(b) the airport operator may dispose of the abandoned aircraft:

(i) in the manner provided in Title 63A, Chapter 2, Part 4, Surplus Property Service; or

(ii) in accordance with any other lawful method or procedure established by rule or ordinance adopted by the airport operator.

(6) If an airport operator complies with the provisions of this section, the airport operator is immune from liability for the seizure and disposal of an abandoned aircraft in accordance with this section.

**CHAPTER 244****S. B. 50**

Passed February 20, 2020

Approved March 28, 2020

Effective May 12, 2020

**CLEAN ENERGY ACT AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Angela Romero

**LONG TITLE****General Description:**

This bill enacts definitions in the Commercial Property Assessed Clean Energy Act.

**Highlighted Provisions:**

This bill:

- ▶ enacts definitions; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

11-42a-102, as last amended by Laws of Utah 2019, Chapter 399

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

**Section 1. Section 11-42a-102 is amended to read:****11-42a-102. Definitions.**

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2) (a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) (3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) (4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) (5) "Bond" means an assessment bond and a refunding assessment bond.

(6) (6) (a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

- (i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

(7) (7) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

(8) (8) "C-PACE" means commercial property assessed clean energy.

(9) (9) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

(10) (10) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle[, as those terms are defined in Section 59-7-605].

(11) (11) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily

consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

[(41)] (12) “Energy assessment bond” means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

[(42)] (13) “Energy assessment lien” means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

[(43)] (14) “Energy assessment ordinance” means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

[(44)] (15) “Energy assessment resolution” means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

[(45)] (16) “Energy efficiency upgrade” means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections [(45)] (16)(b)(i) through (xv).

[(46)] (17) “Governing body” means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

[~~(17)~~] (18) "Improvement" means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

[~~(18)~~] (19) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

[~~(19)~~] (20) "Installment payment date" means the date on which an installment payment of an assessment is payable.

[~~(20)~~] (21) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

[~~(21)~~] (22) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

[~~(22)~~] (23) (a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a local district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

[~~(23)~~] (24) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

[~~(24)~~] (25) "OED" means the Office of Energy Development created in Section 63M-4-401.

(26) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

[~~(25)~~] (27) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

[~~(26)~~] (28) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

[~~(27)~~] (29) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

[~~(28)~~] (30) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(29)~~] (31) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(30)~~] (32) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[~~(31)~~] (33) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

(34) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (34)(c).

(35) “Qualifying plug-in hybrid vehicle” means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

[(32)] (36) “Reduced payment obligation” means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

[(33)] (37) “Refunding assessment bond” means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

[(34)] (38) (a) “Renewable energy system” means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

(i) produces energy from renewable resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a microhydro system;

(F) a biofuel system; or

(G) any other renewable source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or

(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection [(34)] (38)(a)(i) or (ii).

(b) “Renewable energy system” does not include a system described in Subsection [(34)] (38)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i) (A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

[(35)] (39) “Special service district” means the same as that term is defined in Section 17D-1-102.

[(36)] (40) “State interlocal entity” means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state’s population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

[(37)] (41) “Third-party lender” means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.



**CHAPTER 245****S. B. 54**

Passed February 19, 2020

Approved March 28, 2020

Effective May 12, 2020

**MOBILE HOME AMENDMENTS**

Chief Sponsor: Karen Mayne  
House Sponsor: James A. Dunnigan

**LONG TITLE****General Description:**

This bill amends provisions in the Mobile Home Park Residency Act.

**Highlighted Provisions:**

This bill:

- ▶ defines “public utility”;
- ▶ requires a mobile home park to include in a lease agreement certain information relating to the costs charged by the mobile home park for public utility services;
- ▶ requires a mobile home park to provide residents with an annual disclosure describing how the mobile home park calculated residents’ charges for public utility services during the previous 12-month billing period; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

57-16-3, as last amended by Laws of Utah 2002, Chapter 255

57-16-4, as last amended by Laws of Utah 2017, Chapter 329

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

**Section 1. Section 57-16-3 is amended to read:****57-16-3. Definitions.**

As used in this chapter:

(1) “Amenities” means the following physical, recreational or social facilities located at a mobile home park:

- (a) a club house;
- (b) a park;
- (c) a playground;
- (d) a swimming pool;
- (e) a hot tub;
- (f) a tennis court; or
- (g) a basketball court.

(2) “Change of use” means a change of the use of a mobile home park, or any part of it, for a purpose other than the rental of mobile home spaces.

(3) “Fees” means other charges incidental to a resident’s tenancy including, but not limited to, late fees, charges for pets, charges for storage of recreational vehicles, charges for the use of park facilities, and security deposits.

(4) “Mobile home” means a transportable structure in one or more sections with the plumbing, heating, and electrical systems contained within the unit, which when erected on a site, may be used with or without a permanent foundation as a family dwelling.

(5) “Mobile home park” means any tract of land on which two or more mobile home spaces are leased, or offered for lease or rent, to accommodate mobile homes for residential purposes.

(6) “Mobile home space” means a specific area of land within a mobile home park designed to accommodate one mobile home.

(7) “Public utility” means an entity that provides electrical or gas service, including a:

(a) public utility as defined in Title 54, Chapter 2, General Provisions; or

(b) municipality as defined in Title 10, Utah Municipal Code.

~~(7)~~ (8) “Rent” means charges paid for the privilege of occupying a mobile home space, and may include service charges and fees.

~~(8)~~ (9) “Resident” means an individual who leases or rents space in a mobile home park.

~~(9)~~ (10) “Service charges” means separate charges paid for the use of electrical and gas service improvements which exist at a mobile home space, or for trash removal, sewage and water, or any combination of the above.

~~(10)~~ (11) “Settlement discussion expiration” means:

(a) the resident has failed to give a written notice of dispute within the period specified in Subsection 57-16-4.1(2); or

(b) the resident and management of the mobile home park have met together under Subsection 57-16-4.1(3) but were unsuccessful in resolving the dispute in their meeting.

**Section 2. Section 57-16-4 is amended to read:****57-16-4. Termination of lease or rental agreement -- Required contents of lease -- Increases in rents or fees -- Required disclosures -- Sale of homes -- Notice regarding planned reduction or restriction of amenities.**

(1) A mobile home park or its agents may not terminate a lease or rental agreement upon any ground other than as specified in this chapter.

(2) (a) A mobile home park and a mobile home park resident that enter into an agreement for the lease of a mobile home park space shall:

- (i) enter into the lease agreement in writing; and

- (ii) sign the lease agreement.
- (b) A mobile home park shall, for each lease entered into by the mobile home park with a mobile home park resident:
- (i) maintain a written copy of the lease; and
- (ii) make a written copy of the lease available to the mobile home park resident that is a party to the lease:
- (A) no more than seven calendar days after the day on which the mobile home park receives a written request from the mobile home park resident; and
- (B) except for reasonable copying expenses, at no charge to the mobile home park resident.
- (3) Each lease shall contain at least the following information:
- (a) the name and address of the mobile home park owner and any persons authorized to act for the owner, upon whom notice and service of process may be served;
- (b) the type of the leasehold, whether it be term or periodic, and, in leases entered into on or after May 6, 2002, a conspicuous disclosure describing the protection a resident has under Subsection (1) against unilateral termination of the lease by the mobile home park except for the causes described in Section 57-16-5;
- (c) (i) a full disclosure of all rent, service charges, and other fees presently being charged on a periodic basis; ~~and~~
- (ii) a full disclosure of utility infrastructure owned by the mobile home park owner or ~~its~~ the owner's agent that is maintained through service charges and fees charged by the mobile home park owner or ~~its~~ the owner's agent, and the method used to calculate the associated service charges and fees; and
- (iii) a full disclosure of all costs charged by the mobile home park for public utility services and the method used to calculate each individual resident's public utility bill, including:
- (A) costs allocated from a master-metered bill;
- (B) costs submetered for individual usage;
- (C) costs that reflect utility infrastructure owned by the mobile home park owner or the owner's agent; and
- (D) any other costs related to public utility services;
- (d) the date or dates on which the payment of rent, fees, and service charges are due; and
- (e) all rules that pertain to the mobile home park that, if broken, may constitute grounds for eviction, including, in leases entered into on or after May 6, 2002, a conspicuous disclosure regarding:
- (i) the causes for which the mobile home park may terminate the lease as described in Section 57-16-5; and
- (ii) the resident's rights to:
- (A) terminate the lease at any time without cause, upon giving the notice specified in the resident's lease; and
- (B) advertise and sell the resident's mobile home.
- (4) (a) Increases in rent or fees for periodic tenancies are unenforceable until 60 days after notice of the increase is mailed to the resident.
- (b) If service charges are not included in the rent, the mobile home park may:
- (i) increase service charges during the leasehold period after giving notice to the resident; and
- (ii) pass through increases or decreases in electricity rates to the resident.
- (c) Annual income to the park for service charges may not exceed the actual cost to the mobile home park of providing the services on an annual basis.
- (d) In determining the costs of the services, the mobile home park may include maintenance costs related to those utilities that are part of the service charges.
- (e) The mobile home park may not alter the date on which rent, fees, and service charges are due unless the mobile home park provides a 60-day written notice to the resident before the date is altered.
- (5) (a) Beginning June 1, 2021, a mobile home park shall provide a conspicuous disclosure describing how the mobile home park calculated residents' charges for public utility services during the previous twelve-month billing period:
- (i) (A) to each resident; and
- (B) at least once each calendar year; or
- (ii) (A) in a prominent place on the premises of the mobile home park; and
- (B) that is updated when no longer accurate and at least once each calendar year.
- (b) The disclosure described in Subsection (5)(a) shall demonstrate how the charges for public utility services relate to:
- (i) the mobile home park's master-metered bill;
- (ii) utility infrastructure owned by the mobile home park owner or the owner's agent; and
- (iii) the applicable public utility's approved rates and terms of service.
- (c) Before June 1, 2021, upon written request from a resident, a mobile home park shall disclose the information described in Subsection (5)(a) for any billing period after May 12, 2020.
- ~~[(5)]~~ (6) (a) Except as provided in Subsection (3)(b), a rule or condition of a lease that purports to prevent or unreasonably limit the sale of a mobile home belonging to a resident is void and unenforceable.
- (b) The mobile home park:

(i) may reserve the right to approve the prospective purchaser of a mobile home who intends to become a resident;

(ii) may not unreasonably withhold that approval;

(iii) may require proof of ownership as a condition of approval; or

(iv) may unconditionally refuse to approve any purchaser of a mobile home who does not register before purchasing the mobile home.

~~[(6)]~~ (7) If all of the conditions of Section 41-1a-116 are met, a mobile home park may request the names and addresses of the lienholder or owner of any mobile home located in the park from the Motor Vehicle Division.

~~[(7)]~~ (8) (a) A mobile home park may not restrict a resident's right to advertise for sale or to sell a mobile home.

(b) A mobile home park may limit the size of a "for sale" sign affixed to the mobile home to not more than 144 square inches.

~~[(8)]~~ (9) A mobile home park may not compel a resident who wishes to sell a mobile home to sell it, either directly or indirectly, through an agent designated by the mobile home park.

~~[(9)]~~ (10) A mobile home park may require that a mobile home be removed from the park upon sale if:

(a) the mobile home park wishes to upgrade the quality of the mobile home park; and

(b) the mobile home either does not meet minimum size specifications or is in a rundown condition or is in disrepair.

~~[(10)]~~ (11) Within 30 days after a mobile home park proposes reducing or restricting amenities, the mobile home park shall:

(a) schedule at least one meeting for the purpose of discussing the proposed restriction or reduction of amenities with residents; and

(b) provide at least 10 days advance written notice of the date, time, location, and purposes of the meeting to each resident.

~~[(11)]~~ (12) If a mobile home park uses a single-service meter, the mobile home park owner shall include a full disclosure on a resident's utility bill of the resident's utility charges.

~~[(12)]~~ (13) The mobile home park shall have a copy of this chapter posted at all times in a conspicuous place in a common area of the mobile home park.

**CHAPTER 246****S. B. 58**

Passed February 26, 2020

Approved March 28, 2020

Effective May 12, 2020

**UNIFORM ATHLETE  
AGENTS ACT AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Craig Hall

**LONG TITLE****General Description:**

This bill modifies provisions of the Revised Uniform Athlete Agents Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to prohibited conduct for an athlete agent; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-87-401, as last amended by Laws of Utah 2019, Chapter 350

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

**Section 1. Section 58-87-401 is amended to read:****58-87-401. Prohibited conduct.**

~~[(1) Subject to Subsection (3), an athlete agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:]~~

An athlete agent may not intentionally:

~~[(a) (1) give a student athlete or, if the athlete is a minor, a parent or guardian of the athlete materially false or misleading information or make a materially false promise or representation with the intent to influence the athlete, parent, or guardian to enter into an agency contract;~~

~~[(b) (2) furnish anything of value to [the athlete before the athlete enters into the contract; or] a student athlete or another individual, if to do so may result in loss of the athlete's eligibility to participate in the athlete's sport, unless:~~

(a) the agent notifies the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll, not later than 72 hours after giving the thing of value; and

(b) the athlete or, if the athlete is a minor, a parent or guardian of the athlete acknowledges to the agent in a record that receipt of the thing of value may result in loss of the athlete's eligibility to participate in the athlete's sport;

~~[(c) furnish anything of value to an individual other than the athlete or another registered athlete agent.]~~

~~[(2) An athlete agent may not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:]~~

~~[(a) (3) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete[,] to recruit or solicit the athlete, parent, or guardian to enter into an agency contract unless registered under this chapter;~~

~~[(b) (4) fail to create [or], retain, or [to] permit inspection of the records required by Section 58-87-304;~~

~~[(e) (5) fail to register when required by Section 58-87-201;~~

~~[(d) (6) provide materially false or misleading information in an application for registration or renewal of registration;~~

~~[(e) (7) predate or postdate an agency contract; [or]~~

~~[(f) (8) fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete[,] before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may [make the athlete ineligible to participate as a student athlete in that sport.] result in loss of the athlete's eligibility to participate in the athlete's sport;~~

(9) encourage another individual to do any of the acts described in Subsections (1) through (8) on behalf of the agent; or

(10) encourage another individual to assist any other individual in doing any of the acts described in Subsections (1) through (8) on behalf of the agent.

~~[(3) An athlete agent registered under this chapter who is certified as an athlete agent in a particular sport by a national association that promotes or regulates intercollegiate athletics and establishes eligibility standards for participation by a student athlete in the sport may pay expenses incurred before the signing of an agency contract by a student athlete, a family member of the student athlete, and an individual who is a member of a class of individuals authorized to receive payment for the expenses by the national association that certified the agent if the expenses are:]~~

~~[(a) for the benefit of an athlete who is a member of a class of athletes authorized to receive the benefit by the national association that certified the agent;]~~

~~[(b) of a type authorized to be paid by a certified agent by the national association that certified the agent; and]~~

~~[(c) for a purpose authorized by the national association that certified the agent.]~~

**CHAPTER 247****S. B. 59**

Passed February 26, 2020

Approved March 28, 2020

Effective May 12, 2020

Exception clause

**DAYLIGHT SAVING TIME AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Raymond P. Ward

**LONG TITLE****General Description:**

This bill, subject to congressional authorization, places Utah on year-round mountain daylight time.

**Highlighted Provisions:**

This bill:

- ▶ subject to congressional authorization, places Utah and all political subdivisions in Utah on year-round mountain daylight time.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a contingent effective date.

**Utah Code Sections Affected:****ENACTS:**

63G-1-901, Utah Code Annotated 1953

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

**Section 1. Section 63G-1-901 is enacted to read:****63G-1-901. Year-round daylight saving time.**

(1) As used in this section:

(a) “Mountain daylight time” means the period during a year when mountain standard time is advanced one hour in accordance with 15 U.S.C. Sec. 260a.

(b) “Mountain standard time” means the observed time assigned to the mountain time zone in 15 U.S.C. Sec. 261.

(2) Utah exempts all areas of the state from standard time.

(3) The year-round observed time of the entire state and all of the state’s political subdivisions is mountain daylight time.

**Section 2. Contingent effective date.**

(1) As used in this section, “western state” means Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, or Wyoming.

(2) This bill takes effect on the first Sunday of November following the day on which both of the following have occurred:

(a) legislation, enacted by Congress, goes into effect to amend 15 U.S.C. Sec. 260a to authorize states to observe daylight saving time year-round; and

(b) at least four western states, other than Utah, pass legislation to place all or a portion of those states on year-round daylight time, regardless of the time zone.

(3) The lieutenant governor shall inform the legislative general counsel in writing of the date this bill takes effect in accordance with this section.

**CHAPTER 248****S. B. 62**

Passed March 5, 2020

Approved March 28, 2020

Effective May 1, 2020

**REAUTHORIZATION OF  
ADMINISTRATIVE RULES**

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Marc K. Roberts

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**LONG TITLE****General Description:**

This bill provides legislative action regarding administrative rules.

**Highlighted Provisions:**

This bill:

- ▶ reauthorizes all state agency administrative rules.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Uncodified Material Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. Rules reauthorized.**

All rules of Utah state agencies are reauthorized.

**Section 2. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2020.

**CHAPTER 249****S. B. 64**

Passed February 26, 2020

Approved March 28, 2020

Effective May 12, 2020

**SPECIAL DISTRICT  
COMMUNICATIONS AMENDMENTS**

Chief Sponsor: Lincoln Fillmore

House Sponsor: Susan Pulsipher

**LONG TITLE****General Description:**

This bill requires a mosquito abatement district to provide certain public notice.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a mosquito abatement district to provide public notice before commencing a ULV treatment within certain areas;
- ▶ specifies the requirements of the public notice;
- ▶ requires a mosquito abatement district to establish and maintain a website or social media platform; and
- ▶ requires a mosquito abatement district to post the public notice on the mosquito abatement district's website or social media platform.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

17B-2a-706, Utah Code Annotated 1953

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

**Section 1. Section 17B-2a-706 is enacted to read:****17B-2a-706. Definitions -- Notice of intent to commence ultra-low volume treatment -- Exceptions.**

(1) As used in this section:

(a) "Rural real property" means the same as that term is defined in Section 17B-2a-1107.

(b) "Social media platform" means a form of electronic communication that is available for public access.

(c) "Ultra-low volume treatment" or "ULV treatment" means a method of pesticide application that provides the minimum volume of liquid insecticide formulation per unit area for the efficient control of mosquitos.

(2) (a) Beginning January 1, 2021, except as provided in Subsection (2)(b), a mosquito abatement district shall provide public notice as

soon as practicable before commencing a ULV treatment in a county of the first or second class.

(b) Subsection (2)(a) does not apply to a ULV treatment on rural real property.

(c) A mosquito abatement district may provide public notice under Subsection (2)(a) before commencing a ULV treatment in a county of the third through sixth class.

(3) The public notice required under Subsection (2)(a) shall include the ULV treatment:

(a) date;

(b) time; and

(c) place.

(4) (a) A mosquito abatement district shall establish and maintain a:

(i) website; or

(ii) social media platform.

(b) A mosquito abatement district satisfies the public notice requirement under Subsection (2)(a) by posting the public notice on the mosquito abatement district's website or social media platform.



**CHAPTER 250****S. B. 65**

Passed February 26, 2020

Approved March 28, 2020

Effective May 12, 2020

**CHILD WELFARE AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Paul Ray

**LONG TITLE****General Description:**

This bill modifies provisions relating to child welfare.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ modifies provisions relating to a background check of an individual working in a congregate care program that serves children;
- ▶ deletes provisions requiring the Division of Child and Family Services to conduct certain assessments for in-home family services;
- ▶ modifies provisions relating to the circumstances under which the attorney general is required to represent the Division of Child and Family Services;
- ▶ deletes provisions requiring the Division of Child and Family Services to provide certain services to a delinquent, ungovernable, or runaway child;
- ▶ requires the Division of Juvenile Justice Services to, upon court order, conduct an assessment to determine whether provision of certain youth services to an ungovernable or runaway child is appropriate;
- ▶ modifies provisions relating to the juvenile court's jurisdiction over an ungovernable or runaway child;
- ▶ modifies the circumstances under which a child may be temporarily detained;
- ▶ requires the Division of Child and Family Services to report to the Social Services Appropriations Subcommittee regarding reimbursement rates for foster parents;
- ▶ modifies the circumstances under which the Department of Human Services is required to investigate reports of abuse or neglect;
- ▶ modifies provisions relating to the order of priority, qualifications, and considerations that apply to individuals with whom a child may be placed in an emergency placement, foster placement, or adoptive placement;
- ▶ clarifies provisions relating to who may file a legal action to prevent a person from engaging in child placing without a license;
- ▶ modifies notice requirements relating to certain information electronically filed with the court in an abuse, neglect, or dependency proceeding;
- ▶ clarifies the circumstances under which the court is required to review a placement decision for a child in a qualified residential treatment program; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 62A-2-120, as last amended by Laws of Utah 2019, Chapter 335
- 62A-4a-105, as last amended by Laws of Utah 2018, Chapter 281
- 62A-4a-113, as last amended by Laws of Utah 2018, Chapter 359
- 62A-4a-202, as last amended by Laws of Utah 2017, Chapter 330
- 62A-4a-202.6, as last amended by Laws of Utah 2019, Chapters 139 and 335
- 62A-4a-209, as last amended by Laws of Utah 2018, Chapters 235 and 285
- 62A-4a-602, as last amended by Laws of Utah 2019, Chapters 335 and 354
- 62A-4a-603, as last amended by Laws of Utah 2019, Chapter 354
- 78A-6-103, as last amended by Laws of Utah 2019, Chapter 300
- 78A-6-113, as last amended by Laws of Utah 2018, Chapter 285
- 78A-6-115, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 78A-6-117.5, as last amended by Laws of Utah 2019, Chapter 162
- 78A-6-307, as last amended by Laws of Utah 2019, Chapter 71
- 78A-6-311.5, as enacted by Laws of Utah 2019, Chapter 335
- 78B-6-117, as last amended by Laws of Utah 2019, Chapter 335

**REPEALS:**

- 62A-4a-250, as last amended by Laws of Utah 2017, Chapter 330
- 78A-6-401, as last amended by Laws of Utah 2017, Chapter 330

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

**Section 1. Section 62A-2-120 is amended to read:****62A-2-120. Background check -- Direct access to children or vulnerable adults.**

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and resides in a home, that is licensed or certified by the office, with

the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years of age or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) a background check at the applicant's annual renewal;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant spent time outside of the United States and its territories during the

five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant spent outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 78A-6-323; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

- (i) more than one license;
- (ii) direct access to a child or a vulnerable adult in more than one human services program; or
- (iii) direct access to a child or a vulnerable adult under a contract with the department;
- (f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau when the license has expired or the individual's direct access to a child or a vulnerable adult has ceased;
- (g) shall adopt measures to strictly limit access to personal identifying information solely to the office employees responsible for processing the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);
- (h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a ~~program under this section~~ congregate care setting that serves children, shall:
  - (i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and
  - (ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and
  - (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.
- (4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.
- (b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.
- (c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:
  - (i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and
  - (ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.
- (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be

retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

- (i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and
- (ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.
- (e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.
- (f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased, the bureau shall:
  - (i) discard and destroy any retained fingerprints; and
  - (ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.
- (5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:
  - (i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;
  - (ii) a violation of any pornography law, including sexual exploitation of a minor;
  - (iii) prostitution;
  - (iv) an offense included in:
    - (A) Title 76, Chapter 5, Offenses Against the Person;
    - (B) Section 76-5b-201, Sexual Exploitation of a Minor; or
    - (C) Title 76, Chapter 7, Offenses Against the Family;
  - (v) aggravated arson, as described in Section 76-6-103;
  - (vi) aggravated burglary, as described in Section 76-6-203;
  - (vii) aggravated robbery, as described in Section 76-6-302;
  - (viii) identity fraud crime, as described in Section 76-6-1102; or
  - (ix) a conviction for a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation

of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has a conviction for any felony offense, not described in Subsection (5)(a), regardless of the date of the conviction;

(ii) has a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within five years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 78A-6-323;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years of age; or

(B) 28 years of age or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a); or

(ix) has a pending charge for an offense described in Subsection (5)(a).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical or mental harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) any other pertinent information.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (13).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) Upon receiving the results of the criminal history search of national criminal background databases, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 78A-6-323; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor; and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has

used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have supervised or unsupervised direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give written notice to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of [its] the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of licensing a prospective foster home or approving a prospective adoptive placement of a child in state custody, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster

parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a license or a license renewal to a prospective foster parent or a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

**Section 2. Section 62A-4a-105 is amended to read:**

**62A-4a-105. Division responsibilities.**

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected[, and delinquent] children;

(ix) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Section 76-10-1302; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, and neglected[, and delinquent] children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(ii) approve facilities that meet the standards established under Subsection (1)(c) to provide

substitute care for dependent, abused, and neglected[, and delinquent] children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;

(g) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, and dependent[, delinquent, ungovernable, and runaway children, and status offenders] children, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(h) cooperate with the Workforce Development Division [in] within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(i) compile relevant information, statistics, and reports on child and family service matters in the state;

(j) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

~~[(k) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;]~~

~~[(4)]~~ (k) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

~~[(4m)]~~ (l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

~~[(4n)]~~ (m) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; ~~[and]~~

(n) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents in the state during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (1)(n)(i); and

(o) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(g), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(~~n~~)(m), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

**Section 3. Section 62A-4a-113 is amended to read:**

**62A-4a-113. Division's enforcement authority -- Responsibility of attorney general to represent division.**

(1) The division shall take legal action that is necessary to enforce the provisions of this chapter.

(2) (a) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of this chapter, in addition to the requirements of Title 78A, Chapter 6, Juvenile Court Act of 1996, relating to protection, custody, and parental rights termination for abused, neglected, or dependent minors.

(b) The attorney general may contract with the local county attorney to enforce the provisions of this chapter and Title 78A, Chapter 6, Juvenile Court Act of 1996.

(~~b~~) (c) It is the responsibility of the attorney general's office to:

(i) advise the division regarding decisions to remove a minor from the minor's home;

(ii) represent the division in all court and administrative proceedings related to abuse, neglect, and dependency including, but not limited to, shelter hearings, dispositional hearings, dispositional review hearings, periodic review hearings, and petitions for termination of parental rights; and

(iii) be available to and advise caseworkers on an ongoing basis.

(~~e~~) (d) (i) The attorney general shall designate no less than 16 full-time attorneys to advise and represent the division in abuse, neglect, and dependency proceedings, including petitions for termination of parental rights. [~~Those~~]

(ii) The attorneys described in Subsection (2)(d)(i) shall devote their full time and attention to [~~that~~] the representation described in Subsection (2)(d)(i) and, insofar as it is practicable, shall be housed in or near various offices of the division statewide.

(3) (a) [~~As of July 1, 1998, the~~] The attorney general's office shall represent the division with regard to actions involving minors who have not been adjudicated as abused or neglected, but who are otherwise committed to the custody of the division by the juvenile court, and who are [~~classified in the division's management information system as having been~~] placed in custody of the division primarily on the basis of delinquent behavior or a status offense.

(b) Nothing in this section may be construed to affect the responsibility of the county attorney or district attorney to represent the state in [~~those matters,~~] the matters described in Subsection (3)(a) in accordance with Section 78A-6-115.

**Section 4. Section 62A-4a-202 is amended to read:**

**62A-4a-202. In-home services for the preservation of families.**

(1) (a) Within appropriations from the Legislature and money obtained under Subsection (5), the division shall provide in-home services for the purpose of family preservation to any family with a child whose health and safety is not immediately endangered, when:

(i) (A) the child is at risk of being removed from the home; or

(B) the family is in crisis; and

(ii) the division determines that [~~it is~~] in-home services are reasonable and appropriate.

(b) In determining whether in-home services are reasonable and appropriate, in keeping with



Subsection 62A-4a-201(1), the child's health, safety, and welfare shall be the paramount concern.

(c) The division shall consider whether the services described in Subsection (1)(b):

(i) will be effective within a six-month period; and

(ii) are likely to prevent continued abuse or neglect of the child.

(2) (a) The division shall maintain a statewide inventory of in-home services available through public and private agencies or individuals for use by caseworkers.

(b) The inventory described in Subsection (2)(a) shall include:

(i) the method of accessing each service;

(ii) eligibility requirements for each service;

(iii) the geographic areas and the number of families that can be served by each service; and

(iv) information regarding waiting lists for each service.

(3) (a) As part of [its] the division's in-home services for the preservation of families, the division shall provide in-home services in varying degrees of intensity and contact that are specific to the needs of each individual family.

(b) As part of [its] the division's in-home services, the division shall:

(i) provide customized assistance;

(ii) provide support or interventions that are tailored to the needs of the family;

(iii) discuss the family's needs with the parent;

(iv) discuss an assistance plan for the family with the parent; and

(v) address:

(A) the safety of children;

(B) the needs of the family; and

(C) services necessary to aid in the preservation of the family and a child's ability to remain in the home.

(c) In-home services shall be, as practicable, provided within the region that the family resides, using existing division staff.

(4) (a) The division may use specially trained caseworkers, private providers, or other persons to provide the in-home services described in Subsection (3).

(b) The division shall allow a caseworker to be flexible in responding to the needs of each individual family, including:

(i) limiting the number of families assigned; and

(ii) being available to respond to assigned families within 24 hours.

(5) To provide, expand, and improve the delivery of in-home services to prevent the removal of children from their homes and promote the preservation of families, the division shall make substantial effort to obtain funding, including:

(a) federal grants;

(b) federal waivers; and

(c) private money.

~~[(6) The division shall provide in-home family services pursuant to an order under Section 78A-6-117.5.]~~

**Section 5. Section 62A-4a-202.6 is amended to read:**

**62A-4a-202.6. Conflict child protective services investigations -- Authority of investigators.**

(1) (a) The department, through the Office of Quality and Design, shall conduct an independent child protective service investigation to investigate reports of abuse or neglect ~~[of a child that occur]~~ if:

(i) the report occurs while the child is in the custody of the division~~];~~ or

(ii) the executive director determines that, if the division conducts the investigation, the division would have an actual or potential conflict of interest in the results of the investigation.

(b) When a report is made ~~[that a child is abused or neglected]~~ while a child is in the custody of the division that indicates the child is abused or neglected:

(i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the ~~[division]~~ department, employ a child protective services investigator to conduct a conflict investigation of the report; or

(ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the ~~[division]~~ department, conduct a conflict investigation of the report.

(c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the consent of the ~~[division]~~ department, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.

(2) The investigators described in ~~[Subsections (1)(b) and (e)]~~ Subsection (1) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) The investigators described in Subsection (1), if not law enforcement officers, shall have the same rights, duties, and authority of a child protective services investigator employed by the division to:

(a) make a thorough investigation upon receiving either an oral or written report of alleged abuse or neglect of a child, with the primary purpose of that investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the

nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of their investigation, including determination regarding whether the alleged abuse or neglect was supported, unsupported, or without merit, and forward a copy of that report to the division within the time mandates for investigations established by the division; and

(d) immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206 when a report is based upon or includes an allegation of educational neglect.

**Section 6. Section 62A-4a-209 is amended to read:**

**62A-4a-209. Emergency placement.**

(1) As used in this section:

(a) "Friend" means the same as that term is defined in Subsection 78A-6-307(1).

(b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.

(c) "Relative" means the same as that term is defined in Subsection 78A-6-307(1).

(2) The division may use an emergency placement under Subsection 62A-4a-202.1(4)(b)(ii) when:

(a) the case worker has made the determination that:

(i) the child's home is unsafe;

(ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the [person] individual that serves as the placement and not have any contact with the child until after the shelter hearing required by Section 78A-6-306;

(b) [a person] an individual, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the [person] individual described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the [person] individual meets the criteria for an emergency placement under Subsection (3);

(ii) the [person] individual agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;

(iii) the [person] individual agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the [person] individual agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the [person] individual has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;

(vi) the [person] individual is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the [person] individual.

(3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine the answer to the following questions:

(i) would the [person] individual identified as a reference place a child in the home of the emergency placement; and

(ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;

(c) (i) if the emergency placement will be with a relative, shall comply with the background check provisions described in Subsection (7); or

(ii) if the emergency placement will be with [a person] an individual other than a noncustodial parent or a relative, shall comply with the background check provisions described in Subsection (8) for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall have the emergency placement approved by a family service specialist.

(4) (a) The following order of preference shall be applied when determining the [person] individual with whom a child will be placed in an emergency placement described in this section, provided that the [person] individual is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child in accordance with Section 78A-6-307;

(ii) a relative;

(iii) subject to Subsection (4)(b), a friend designated by the custodial parent, guardian, or the child, if the child is of sufficient maturity to

articulate the child's wishes in relation to a placement; ~~and~~

(iv) a former foster placement designated by the division;

(v) a foster placement, that is not a former foster placement, designated by the division; and

~~[(iv)] (vi) a shelter facility[~~-, former foster placement, or other foster placement~~] designated by the division.~~

(b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:

(i) subject to Subsections (4)(b)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

~~[(4)] (ii) is required to consider no more than one friend designated by each parent or legal guardian of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;~~

~~[(4)] (iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and~~

~~[(4)] (iv) shall give preference to a friend designated by the child, if:~~

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the division's basis for removing the child under Section 62A-4a-202.1 is sexual abuse of the child.

(5) (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation, prior to making the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, pursuant to Subsection (7); and

(ii) inspection of the home where the emergency placement is made.

(6) After an emergency placement, the division caseworker must:

(a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;

(b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section 78A-6-306;

(c) contact the attorney general to schedule a shelter hearing;

(d) complete the placement procedures required in Section 78A-6-307; and

(e) continue to search for other relatives as a possible long-term placement, if needed.

(7) (a) The background check described in Subsection (3)(c)(i) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check; and

(ii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether ~~[a person]~~ an individual passes the background check described in this Subsection (7) pursuant to the provisions of Section 62A-2-120(14).

(c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.

(8) (a) The background check described in Subsection (3)(c)(ii) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check;

(ii) a federal name-based criminal background check; and

(iii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether ~~[a person]~~ an individual passes the background checks described in this Subsection (8) pursuant to the provisions of Section 62A-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (8)(a), and the ~~[person]~~ individual contests that denial, the ~~[person]~~ individual shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days of the name-based background checks, the division shall require ~~[a person]~~ an individual to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to

the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If ~~a person~~ an individual fails to provide the fingerprints and written permission described in Subsection (8)(d)(i), the child shall immediately be removed from the home.

**Section 7. Section 62A-4a-602 is amended to read:**

**62A-4a-602. Licensure requirements -- Prohibited acts.**

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

~~(b)~~ (c) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)~~(b)~~(c)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

~~(c) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.]~~

(2) (a) A person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the Office of Licensing, in accordance with Chapter 2, Licensure of Programs and Facilities.

(b) When a child-placing agency's license is suspended or revoked in accordance with that chapter, the care, control, or custody of any child who has been in the care, control, or custody of that agency shall be transferred to the division.

(3) (a) (i) An attorney, physician, or other person may assist a parent in identifying or locating a person interested in adopting the parent's child, or in identifying or locating a child to be adopted.

(ii) No payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the Office of Licensing within the department shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the Office of Licensing within the department.

(4) Nothing in this part:

(a) precludes payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings; or

(b) abrogates the right of procedures for independent adoption as provided by law.

(5) In accordance with federal law, only agents or employees of the division and of licensed child placing agencies may certify to the United States Immigration and Naturalization Service that a family meets the division's preadoption requirements.

(6) (a) Neither a licensed child-placing agency nor any attorney practicing in this state may place a child for adoption, either temporarily or permanently, with any individual or individuals

that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137.

(b) The division, as a licensed child-placing agency, may not place a child in foster care with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137. However, nothing in this Subsection (6)(b) limits the placement of a child in foster care with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(c) With regard to children who are in the custody of the state, the division shall establish a rule providing that priority for placement shall be provided to families in which ~~both a man and a woman are~~ a couple is legally married under the laws of this state. However, nothing in this Subsection (6)(c) limits the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

**Section 8. Section 62A-4a-603 is amended to read:**

**62A-4a-603. Injunction -- Enforcement by county attorney or attorney general.**

(1) The ~~division,~~ Office of Licensing within the department~~;~~ or any interested person may commence an action in district court to enjoin any person, agency, firm, corporation, or association violating Section 62A-4a-602.

(2) The Office of Licensing shall:

(a) solicit information from the public relating to violations of Section 62A-4a-602; and

(b) upon identifying a violation of Section 62A-4a-602:

(i) send a written notice to the person who violated Section 62A-4a-602 that describes the alleged violation; and

(ii) notify the following persons of the alleged violation:

(A) the local county attorney; and

(B) the Division of Occupational and Professional Licensing.

(3) (a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section 62A-4a-602 after being informed of an alleged violation.

(b) If a county attorney does not take action within 30 days after the day on which the county attorney is informed of an alleged violation of Section 62A-4a-602, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.

(4) (a) In addition to the remedies provided in Subsections (1) and (3), any person, agency, firm, corporation, or association found to be in violation of Section 62A-4a-602 shall forfeit all proceeds

identified as resulting from the transaction, and may also be assessed a civil penalty of not more than \$10,000 for each violation.

(b) Each act in violation of Section 62A-4a-602, including each placement or attempted placement of a child, is a separate violation.

(5) (a) All amounts recovered as penalties under Subsection (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.

(b) If two or more governmental entities are involved in the prosecution, the penalty amounts recovered shall be apportioned by the court among the entities, according to their involvement.

(6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

**Section 9. Section 78A-6-103 is amended to read:**

**78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

(a) a child who has violated any federal, state, or local law or municipal ordinance or ~~a person~~ an individual younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding offenses:

(i) in Section 53G-8-211 until such time that the child is referred to the courts under Section 53G-8-211; and

(ii) in Subsection 78A-7-106(2);

(b) a child who is an abused child, neglected child, or dependent child, as those terms are defined in Section 78A-6-105;

(c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the juvenile court has entered an ex parte protective order and finds that:

(i) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(ii) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(iii) the best interests of the child will be better served in the district court;

(d) appointment of a guardian of the person or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(e) the emancipation of a minor in accordance with Part 8, Emancipation;

(f) the termination of the legal parent-child relationship in accordance with Part 5, Termination of Parental Rights Act, including termination of residual parental rights and duties;

(g) the treatment or commitment of a minor who has an intellectual disability;

(h) the judicial consent to the marriage of a minor 16 or 17 years old upon a determination of voluntariness or where otherwise required by law;

(i) any parent or parents of a child committed to a secure youth facility, to order, at the discretion of the court and on the recommendation of a secure facility, the parent or parents of a child committed to a secure facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure facility therapist, who has supervision of that parent's or parents' child, or any other therapist the court may direct, for a period directed by the court as recommended by a secure facility;

(j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

(k) subject to Subsection (8), the treatment or commitment of a child with a mental illness;

(l) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(m) a minor found not competent to proceed pursuant to Section 78A-6-1301;

(n) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402; and

(o) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child.

(2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile court has exclusive jurisdiction over the following offenses committed by a child:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Section 73-18-12, reckless operation; and

(iii) class B and C misdemeanors, infractions, or violations of ordinances that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

(b) A juvenile court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(3) The juvenile court has jurisdiction over an ungovernable or runaway child who is referred to [it] the juvenile court by the Division of [Child and Family] Juvenile Justice Services [or by public or

private agencies that contract with the division to provide services to that child] when, despite earnest and persistent efforts by the [division or agency] Division of Juvenile Justice Services, the child has demonstrated that the child:

(a) is beyond the control of the child's parent, guardian, or lawful custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(b) has run away from home.

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Section 78A-6-702.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 78A-6-323.

(7) The juvenile court has jurisdiction of matters transferred to it by another trial court pursuant to Subsection 78A-7-106(5) and subject to Section 53G-8-211.

(8) The court may commit a child to the physical custody of a local mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State Hospital.

**Section 10. Section 78A-6-113 is amended to read:**

**78A-6-113. Placement of minor in detention or shelter facility -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement for criminal proceedings -- Bail laws inapplicable -- Exception.**

(1) (a) A minor may not be placed or kept in a secure detention facility pending court proceedings except in accordance with Section 78A-6-112.

(b) A child may not be placed or kept in a shelter facility pending court proceedings unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

~~[(c) (i) A court may temporarily place in a detention facility, as provided in Subsection (4), a child who is taken into custody based upon a warrant issued under Subsection 78A-6-106(6), if the court finds that detention is the least restrictive placement available to ensure the immediate safety of the child.]~~

~~[(ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention longer than is necessary for the division to identify a less restrictive, available, and appropriate placement for the child.]~~

(2) After admission of a child to a detention facility pursuant to Section 78A-6-112 and immediate investigation by an authorized officer of the court, the judge or the officer shall order the

release of the child to the child's parents, guardian, or custodian if it is found the child can be safely returned to their care, either upon written promise to bring the child to the court at a time set or without restriction.

(a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the facility.

(b) The facility shall determine the cost of care.

(c) Any money collected under this Subsection (2) shall be retained by the Division of Juvenile Justice Services to recover the cost of care for the time the child remains in the facility.

(3) (a) When a child is detained in a detention or shelter facility, the parents or guardian shall be informed by the person in charge of the facility that the parent's or guardian's child has the right to a prompt hearing in court to determine whether the child is to be further detained or released.

(b) When a minor is detained in a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in court to determine whether the minor is to be further detained or released.

(c) Detention hearings shall be held by the judge or by a commissioner.

(d) The court may, at any time, order the release of the minor, whether a detention hearing is held or not.

(e) If a child is released, and the child remains in the facility, because the parents, guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

(4) (a) A minor may not be held in a detention facility longer than 48 hours before a detention hearing, excluding weekends and holidays, unless the court has entered an order for continued detention.

(b) A child may not be held in a shelter facility longer than 48 hours before a shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has been entered by the court after notice to all parties described in Section 78A-6-306.

(c) A hearing for detention or shelter may not be waived. Detention staff shall provide the court with all information received from the person who brought the minor to the detention facility.

(d) The judge or commissioner may only order a minor to be held in the facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:

(i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;

(ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and

(iii) the minor is eligible for detention under the division guidelines for detention admissions established by the Division of Juvenile Justice Services, under Section 62A-7-202 and under Section 78A-6-112.

(e) (i) After a detention hearing has been held, only the court may release a minor from detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued detention is necessary.

(ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that notice of its decision, including any disposition, order, or no contact orders, be provided to designated persons in the appropriate local law enforcement agency and district superintendent or the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iii) Any employee of the local law enforcement agency, school district, and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.

(5) A minor may not be held in a detention facility, following a dispositional order of the court for nonsecure substitute care as defined in Section 62A-4a-101, or for community-based placement under Section 62A-7-101.

(6) (a) Except as otherwise provided in this section, a minor may not be held in a detention facility following a disposition order of the court for longer than 72 hours, excluding weekends and holidays.

(b) The period of detention may be extended by the court for a cumulative total of seven calendar days if:

(i) the Division of Juvenile Justice Services or another agency responsible for placement files a written petition with the court requesting the extension and setting forth good cause; and

(ii) the court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.

(c) The court may extend the period of detention beyond the seven calendar days if the court finds by clear and convincing evidence that:

(i) the Division of Juvenile Justice Services or another agency responsible for placement does not have space for the minor; and

(ii) the safety of the minor and community requires an extension of the period of detention.

(d) The Division of Juvenile Justice Services shall report to the court every 48 hours, excluding weekends and holidays, regarding the status of whether the Division of Juvenile Justice Services or another agency responsible for placement has space for the minor.

(7) The agency requesting an extension shall promptly notify the detention facility that a written petition has been filed.

(8) The court shall promptly notify the detention facility regarding its initial disposition and any ruling on a petition for an extension, whether granted or denied.

(9) (a) A child under 16 years of age may not be held in a jail, lockup, or other place for adult detention except as provided by Section 62A-7-201 or unless certified as an adult pursuant to Section 78A-6-703. Section 62A-7-201 regarding confinement facilities applies to this Subsection (9).

(b) A child 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the detention facility for children may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including a jail or other place of confinement for adults. However, a secure facility is not an appropriate place of confinement for detention purposes under this section.

(10) A sheriff, warden, or other official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall immediately notify the juvenile court when a person who is or appears to be under 18 years of age is received at the facility and shall make arrangements for the transfer of the person to a detention facility, unless otherwise ordered by the juvenile court.

(11) This section does not apply to a minor who is brought to the adult facility under charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal proceedings in the district court under Section 78A-6-702 or 78A-6-703.

(12) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or 78A-6-703 may be detained in a jail or other place of detention used for adults charged with crime.

(13) Provisions of law regarding bail are not applicable to minors detained or taken into custody under this chapter, except that bail may be allowed:

(a) if a minor who need not be detained lives outside this state; or

(b) when a minor who need not be detained comes within one of the classes in Subsection 78A-6-603(11).

(14) Section 76-8-418 is applicable to a child who willfully and intentionally commits an act against a jail or other place of confinement, including a

Division of Juvenile Justice Services detention, shelter, or secure confinement facility which would be a third degree felony if committed by an adult.

**Section 11. Section 78A-6-115 is amended to read:**

**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Medical cannabis.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) For purposes of this Subsection (1)(b):

(A) "Record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a).

(B) "Subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

~~(b)(i)~~ (ii) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, the court shall release a record of a proceeding made under Subsection (1)(a) ~~[shall be released by the court]~~ to any person upon a finding on the record for good cause.

~~(iii)~~ (iii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

~~(iii)~~ (iv) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the day on which the request is made.

(iv) For purposes of this Subsection (1)(b):

~~(A) "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and~~

~~(B) "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.]~~

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.



(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

- (i) protection or custody of an abused, neglected, or dependent child; and
- (ii) petitions for termination of parental rights.

~~[(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).]~~

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the ~~[person]~~ individual who wrote the report or prepared the material appear as a witness if the ~~[person]~~ individual is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any ~~[person]~~ individual who participated in preparing the dispositional report to appear as a witness, if the ~~[person]~~ individual is reasonably available.

(5) (a) ~~[In]~~ Except as provided in Subsections (5)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

- (i) plans to report to the court at the proceeding; or
  - (ii) could reasonably expect would be requested of the party by the court at the proceeding.
- (b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the day on which the proceeding is held;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the day on which the proceeding is held.

(c) The division is not required to provide a court report or a child and family plan to each party to the proceeding if:

- (i) the information is electronically filed with the court; and
- (ii) each party to the proceeding has access to the electronically filed information.

~~[(e) (d)]~~ If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

~~[(d)]~~ (e) Subsection (5)(a) does not apply to:

- (i) pretrial hearings; and
- (ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in ~~[its]~~ the court's discretion, consider evidence of statements made by a child under eight years of age to ~~[a person]~~ an individual in a trust relationship.

(7) (a) As used in this Subsection (7):

- (i) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- (ii) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.
- (iii) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.
- (iv) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.
- (v) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if the individual's use or possession complies with:

- (i) Title 4, Chapter 41a, Cannabis Production Establishments;
- (ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or
- (iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the dosing parameters determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child, if:

(i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the dosing parameters determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(B) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3); and

(ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise had cannabis introduced to the child's body; or

(B) there is no evidence showing a nexus between the parent's or guardian's use of medical cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

**Section 12. Section 78A-6-117.5 is amended to read:**

**78A-6-117.5. Custody in Division of Child and Family Services or in the Division of Juvenile Justice Services -- Assessment of an ungovernable or runaway youth for services.**

(1) Notwithstanding Subsections 78A-6-117(2)(c) and (d), the court may not vest custody in the Division of Child and Family Services except pursuant to Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

~~[(2) If the court finds that a child is at risk of being removed from the home or that the family is in crisis, the court may order the Division of Child and Family Services to conduct an assessment to determine if provision of in-home family preservation services is appropriate. If considered appropriate by the Division of Child and Family Services, services shall be provided pursuant to Section 62A-4a-202.]~~

~~[(3)]~~ (2) Notwithstanding Section 78A-6-117, a court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.

~~[(4)]~~ (3) Notwithstanding Section 78A-6-117, a court may not commit a minor to the temporary custody of the Division of Juvenile Justice Services for residential observation and evaluation or residential observation and assessment.

(4) (a) If the court finds that a child is ungovernable or a runaway, as those terms are defined in Section 62A-7-101, or that the family is in crisis, the court may order the Division of Juvenile Justice Services to conduct an assessment to determine if provision of prevention and early intervention youth services, as described in Section 62A-7-601, is appropriate.

(b) If the Division of Juvenile Justice Services determines that provision of prevention and early intervention youth services is appropriate under Subsection (4)(a), the Division of Juvenile Justice Services shall provide the services to the ungovernable or runaway child.

**Section 13. Section 78A-6-307 is amended to read:**

**78A-6-307. Shelter hearing -- Placement -- DCFS custody.**

(1) As used in this section:

(a) "Friend" means an adult ~~[the child knows and is comfortable with but who is not a natural parent or relative.]~~ who:

(i) has an established relationship with the child or a family member of the child; and

(ii) is not a natural parent of the child.

(b) (i) "Natural parent," notwithstanding Section 78A-6-105, means:

(A) a biological or adoptive mother of the child;

(B) an adoptive father of the child; or

(C) a biological father of the child who:

(I) was married to the child's biological mother at the time the child was conceived or born; or

(II) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.

(ii) The definition of "natural parent" described in Subsection (1)(b)(i) applies regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(c) "Relative" means:

(i) an adult who is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(ii) a first cousin of the child's parent;

(iii) an adult who is an adoptive parent of the child's sibling; or

(iv) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, "relative" also means an "extended family member" as defined by that statute.

(2) (a) At the shelter hearing, when the court orders that a child be removed from the custody of the child's parent in accordance with the

requirements of Section 78A-6-306, the court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the court's jurisdiction occurred, who desires to assume custody of the child.

(b) If another natural parent requests custody under Subsection (2)(a), the court shall place the child with that parent unless ~~it~~ the court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) This Subsection (2) is limited by Subsection (18)(b).

(d) (i) The court shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement.

(ii) The court shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 78A-6-308, and check the division's management information system for any previous reports of abuse or neglect received by the division regarding the parent at issue.

(iii) The court may order the division to conduct any further investigation regarding the safety and appropriateness of the placement.

(iv) The division shall report ~~its~~ the division's findings in writing to the court.

(v) The court may place the child in the temporary custody of the division, pending ~~its~~ the court's determination regarding that placement.

(3) If the court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the court;

(b) the court may order:

(i) that the parent assume custody subject to the supervision of the court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed in the custody of a relative, pursuant to Subsections (7) through (12); or

(d) the child should be placed in the custody of the division.

(5) The time limitations described in Section 78A-6-312 with regard to reunification efforts apply to children placed with a previously noncustodial parent in accordance with Subsection (2).

(6) Legal custody of the child is not affected by an order entered under Subsection (2) or (3). To affect a previous court order regarding legal custody, the party shall petition that court for modification of the order.

(7) If, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the court:

(a) shall, at that time, determine whether, subject to Subsections (18)(c) through (e), there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether, subject to Subsections (18)(c) through (e), there are relatives or friends who are willing and appropriate, in accordance with the requirements of this part and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to, subject to Subsections (18)(c) through (e), provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the custody of the division pending the determination under Subsection (7)(a).

(8) This section may not be construed as a guarantee that an identified relative or friend will receive custody of the child.

(9) Subject to Subsections (18)(c) through (e), preferential consideration shall be given to a relative's or a friend's request for placement of the child, if it is in the best interest of the child, and the provisions of this section are satisfied.

(10) (a) If a willing relative or friend is identified under Subsection (7)(a), the court shall make a specific finding regarding:

(i) the fitness of that relative or friend as a placement for the child; and

(ii) the safety and appropriateness of placement with that relative or friend.

(b) To be considered a "willing relative or friend" under this section, the relative or friend shall be willing to cooperate with the child's permanency goal.

(11) (a) In making the finding described in Subsection (10)(a), the court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Section 62A-4a-209, of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Section 62A-4a-209, of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 78A-6-308;

(iv) visit the relative's or friend's home;

(v) check the division's management information system for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the court; and

(vii) provide sufficient information so that the court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(b) The division may determine to conduct, or the court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement.

(c) The division shall complete and file [its] the division's assessment regarding placement with a relative or friend as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(12) (a) The court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation pursuant to Subsections (10) and (11), and the court's determination regarding the appropriateness of that placement.

(b) The court shall ultimately base [its] the court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(13) When a court places a child described in Subsection (7) in the custody of the child's relative or friend:

(a) the court:

(i) shall order the relative or friend assume custody, subject to the continuing supervision of the court; and

(ii) may order the division provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being;

(b) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the court;

(c) the court may enter any order that it considers necessary for the protection and best interest of the child;

(d) the court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and

(e) the court shall conduct a periodic review no less often than every six months, to determine whether:

(i) placement with the relative or friend continues to be in the child's best interest;

(ii) the child should be returned home; or

(iii) the child should be placed in the custody of the division.

(14) No later than 12 months after placement with a relative or friend, the court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(15) The time limitations described in Section 78A-6-312, with regard to reunification efforts, apply to children placed with a relative or friend pursuant to Subsection (7).

(16) (a) If the court awards custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 78A-6-308; and

(ii) if the results of the criminal background check described in Subsection (16)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after taking the child into physical custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all parties to the proceedings, of the division's action.

(b) Nothing in Subsection (16)(a) prohibits the division from placing a child with a relative, pending the results of the background check described in Subsection (16)(a) on the relative.

(17) When the court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

(18) (a) Any preferential consideration that a relative or friend is initially granted pursuant to Subsection (9) expires 120 days from the date of the shelter hearing. After that time period has expired, a relative or friend who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the court.

(b) When the time period described in Subsection (18)(a) has expired, the preferential consideration, which is initially granted to a natural parent in accordance with Subsection (2), is limited. After that time, the court shall base ~~its~~ the court's custody decision on the best interest of the child.

(c) Before the expiration of the 120-day period described in Subsection (18)(a), the following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (18)(d), a friend, if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) ~~(i)~~ In determining whether a friend is a willing and appropriate placement for a child, ~~neither~~ the court~~,~~ ~~nor~~ or the division~~,~~:

(i) subject to Subsections (18)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement~~[-]~~;

~~(ii) The court or the division]~~

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement~~[-]~~; and

~~(iii) The court and the division]~~

(iv) shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 78A-6-306 is sexual abuse of the child.

(e) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent:

(i) the department shall fully cooperate to expedite the licensing process for the friend; and

(ii) if the friend becomes licensed as a foster parent within the time frame described in Subsection (18)(a), the court shall determine whether it is in the best interests of the child to place the child with the friend.

(19) If, following the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a ~~man and a woman who are married to each other~~ married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(20) In determining the placement of a child, neither the court, nor the division, may take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(21) If the court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the court shall make findings explaining why the court's decision differs from the child's wishes.

**Section 14. Section 78A-6-311.5 is amended to read:**

**78A-6-311.5. Placement in a qualified residential treatment program -- Review hearings.**

(1) As used in this section:

(a) “Qualified individual” means the same as that term is defined in 42 U.S.C. Sec. 675a.

(b) “Qualified residential treatment program” means the same as that term is defined in 42 U.S.C. Sec. 672.

(2) Within 60 days of the date when a child is placed in a qualified residential treatment program, the court shall:

(a) review the assessment, determination, and documentation made by a qualified individual regarding the child;

(b) determine whether the needs of the child can be met through placement in a foster home;

(c) if the child’s needs cannot be met through placement in a foster home, determine whether:

(i) placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment; and

(ii) placement in a qualified residential treatment program is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child; and

(d) approve or disapprove of the child’s placement in a qualified residential treatment program.

(3) As long as a child remains placed in a qualified residential treatment program, the court shall review the placement decision at each subsequent review and permanency hearing held with respect to the child.

(4) When the court conducts a review described in Subsection (3), the court shall review evidence submitted by the custodial division to:

(a) demonstrate an ongoing assessment of the strengths and needs of the child such that the child’s needs cannot be met through placement in a foster home;

(b) demonstrate that placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment;

(c) demonstrate that placement in the qualified residential treatment program is consistent with the short-term and long-term goals for the child, as specified by the permanency plan for the child;

(d) document the specific treatment or service needs that will be met for the child in the placement;

(e) document the length of time the child is expected to need the treatment or services; and

(f) document the efforts made by the custodial division to prepare the child to return home or transition to another setting, such as with a relative, with a friend of the child, with a legal guardian, with an adoptive parent, a foster home, or independent living.

**Section 15. Section 78B-6-117 is amended to read:**

**78B-6-117. Who may adopt -- Adoption of minor.**

(1) A minor child may be adopted by an adult ~~[person]~~ individual, in accordance with this section and this part.

(2) A child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) subject to Subsections (3) and (4), a single adult.

(3) A child may not be adopted by ~~[a person]~~ an individual who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state unless the ~~[person]~~ individual is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a ~~[man and a woman who are married to each other]~~ married couple, unless:

(a) there are no qualified married couples who:

(i) have applied to adopt a child;

(ii) are willing to adopt the child; and

(iii) are an appropriate placement for the child;

(b) the child is placed with a relative of the child;

(c) the child is placed with ~~[a person]~~ an individual who has already developed a substantial relationship with the child;

(d) the child is placed with ~~[a person]~~ an individual who:

(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and

(ii) the parent or former parent described in Subsection (4)(d)(i):

(A) knew the ~~[person]~~ individual with whom the child is placed before the parent consented to the adoption; or

(B) became aware of the ~~[person]~~ individual with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or

(e) it is in the best interests of the child to place the child with a single adult.

(5) Except as provided in Subsection (6), an adult may not adopt a child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the following:

- (a) child abuse, as described in Section 76-5-109;
  - (b) child abuse homicide, as described in Section 76-5-208;
  - (c) child kidnapping, as described in Section 76-5-301.1;
  - (d) human trafficking of a child, as described in Section 76-5-308.5;
  - (e) sexual abuse of a minor, as described in Section 76-5-401.1;
  - (f) rape of a child, as described in Section 76-5-402.1;
  - (g) object rape of a child, as described in Section 76-5-402.3;
  - (h) sodomy on a child, as described in Section 76-5-403.1;
  - (i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;
  - (j) sexual exploitation of a minor, as described in Section 76-5b-201; or
  - (k) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (5).
- (6) (a) For purpose of this Subsection (6), “disqualifying offense” means an offense listed in Subsection (5) that prevents a court from considering ~~[a person]~~ an individual for adoption of a child except as provided in this Subsection (6).
- (b) ~~[A person]~~ An individual described in Subsection (5) may only be considered for adoption of a child if the following criteria are met by clear and convincing evidence:
- (i) at least 10 years have elapsed from the day on which the ~~[person]~~ individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;
  - (ii) during the 10 years before the day on which the ~~[person]~~ individual files a petition with the court seeking adoption, the ~~[person]~~ individual has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;
  - (iii) the ~~[person]~~ individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;
  - (iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 78A-6-105, or potential harm to the child currently or at any time in the future when considering all of the following:
    - (A) the child’s age;
    - (B) the child’s gender;
    - (C) the child’s development;
    - (D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years of age or older;

(F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(v) the ~~[person]~~ individual can provide evidence of all of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that adoption by the ~~[person]~~ individual who has committed the disqualifying offense ensures the best interests of the child are met; and

(vi) the adoption is by:

(A) a stepparent whose spouse is the adoptee’s parent and consents to the adoption; or

(B) subject to Subsection (6)(d), a relative of the child as defined in Section 78A-6-307 and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The ~~[person]~~ individual with the disqualifying offense bears the burden of proof regarding why adoption with that ~~[person]~~ individual is in the best interest of the child over another responsible relative or equally situated ~~[person]~~ individual who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition, the following applies:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the ~~[person]~~ individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

### **Section 16. Repealer.**

This bill repeals:

**Section 62A-4a-250, Attorney general responsibility.**

**Section 78A-6-401, Attorney general responsibility.**

**CHAPTER 251****S. B. 67**

Passed March 6, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**DISPOSITION OF FETAL REMAINS**

Chief Sponsor: Curtis S. Bramble  
 House Sponsor: Karianne Lisonbee

**LONG TITLE****General Description:**

This bill enacts provisions relating to the disposition of fetal remains.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a health care facility having possession of an aborted fetus or miscarried fetus to provide for the final disposition of the fetal remains;
- ▶ requires a health care facility to provide certain information to a woman regarding the disposition of an aborted fetus or miscarried fetus;
- ▶ requires a health care provider to notify a woman regarding the right to determine the final disposition of the remains of the aborted fetus before performing an abortion;
- ▶ requires a health care facility to allow a woman who has a medication-induced abortion to return the aborted fetus to the health care facility for disposition;
- ▶ requires a health care facility to maintain records that demonstrate compliance with the provisions of this bill;
- ▶ amends the Funeral Services Licensing Act to allow for the disposition of certain fetal remains;
- ▶ amends the information that must be included in the abortion information module and website; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-2-2, as last amended by Laws of Utah 2018, Chapters 49 and 153  
 26-2-17, as last amended by Laws of Utah 2007, Chapter 60  
 26-2-18, as last amended by Laws of Utah 2006, Chapter 56  
 58-9-607, as enacted by Laws of Utah 2008, Chapter 353  
 76-7-305, as last amended by Laws of Utah 2019, Chapters 124 and 189  
 76-7-305.5, as last amended by Laws of Utah 2018, Chapter 282

**ENACTS:**

26-21-33, Utah Code Annotated 1953  
 26-21-34, Utah Code Annotated 1953  
 58-9-619, Utah Code Annotated 1953

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

**Section 1. Section 26-2-2 is amended to read:****26-2-2. Definitions.**

As used in this chapter:

(1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(2) "Custodial funeral service director" means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

(3) "Dead body" or "decedent" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.

(4) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

(5) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.

(6) "Dispositioner" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i) (A) a person has not been designated as described in Subsection (6)(a); or

(B) the person described in Subsection (6)(a) is unable or unwilling to exercise the right and duty described in Subsection (6)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

(7) "Fetal remains" means:

(a) an aborted fetus as that term is defined in Section 26-21-33; or

(b) a miscarried fetus as that term is defined in Section 26-21-34.

[~~(7)~~] (8) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this chapter for registration by the state registrar or a local registrar.

[~~(8)~~] (9) "Funeral service director" means the same as that term is defined in Section 58-9-102.



~~[(9)]~~ (10) “Health care facility” means the same as that term is defined in Section 26-21-2.

~~[(10)]~~ (11) “Health care professional” means a physician, physician assistant, or nurse practitioner.

~~[(11)]~~ (12) “Licensed funeral establishment” means:

(a) if located in Utah, a funeral service establishment, as that term is defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

(b) if located in a state, district, or territory of the United States other than Utah, a funeral service establishment that complies with the licensing laws of the jurisdiction where the establishment is located.

~~[(12)]~~ (13) “Live birth” means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

~~[(13)]~~ (14) “Local registrar” means a person appointed under Subsection 26-2-3(3)(b).

~~[(14)]~~ (15) “Nurse practitioner” means an individual who:

(a) is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(15)]~~ (16) “Office” means the Office of Vital Records and Statistics within the Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.

~~[(16)]~~ (17) “Physician” means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~[(17)]~~ (18) “Physician assistant” means an individual who:

(a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(18)]~~ (19) “Presumed father” means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

~~[(19)]~~ (20) “Registration” or “register” means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

~~[(20)]~~ (21) “State registrar” means the state registrar of vital records appointed under Subsection 26-2-3(2)(e).

~~[(21)]~~ (22) “Vital records” means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection ~~[(21)]~~ (22)(a);

(c) an adoption document; and

(d) other similar documents.

~~[(22)]~~ (23) “Vital statistics” means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

**Section 2. Section 26-2-17 is amended to read:**

**26-2-17. Certificate of death -- Registration prerequisite to interment -- Burial-transit permits -- Procedure where body donated under anatomical gift law -- Permit for disinterment.**

(1) (a) A dead body or dead fetus may not be interred or otherwise disposed of or removed from the registration district in which death or fetal death occurred or the remains are found until a certificate of death is registered.

(b) Subsection (1)(a) does not apply to fetal remains for a fetus that is less than 20 weeks in gestational age.

(2) (a) For deaths or fetal deaths which occur in this state, no burial-transit permit is required for final disposition of the remains if:

~~[(a)]~~ (i) disposition occurs in the state and is performed by a funeral service director; or

~~[(b)]~~ (ii) the disposition takes place with authorization of the next of kin and in:

(A) a general acute hospital~~[,]~~ as that term is defined in Section 26-21-2, that is licensed by the department~~[,]~~; or

(B) in a pathology laboratory operated under contract with a general acute hospital licensed by the department.

(b) For an abortion or miscarriage that occurs at a health care facility, no burial-transit permit is required for final disposition of the fetal remains if:

(i) disposition occurs in the state and is performed by a funeral service director; or

(ii) the disposition takes place:

(A) with authorization of the parent of a miscarried fetus or the pregnant woman for an aborted fetus; and

(B) in a general acute hospital as that term is defined in Section 26-21-2, or a pathology

laboratory operated under contract with a general acute hospital.

(3) (a) A burial-transit permit shall be issued by the local registrar of the district where the certificate of death or fetal death is registered:

[(a)] (i) for [dead bodies or fetuses] a dead body or a dead fetus to be transported out of the state for final disposition; or

[(b)] (ii) when disposition of the dead body or dead fetus is made by a person other than a funeral service director.

(b) For fetal remains that are less than 20 weeks in gestational age, a burial-transit permit shall be issued by the local registrar of the district where the health care facility that is in possession of the fetal remains is located:

(i) for the fetal remains to be transported out of the state for final disposition; or

(ii) when disposition of the fetal remains is made by a person other than a funeral service director.

(c) A local registrar issuing a burial-transit permit issued under Subsection (3)(b):

(i) may not require an individual to designate a name for the fetal remains; and

(ii) may leave the space for a name on the burial-transit permit blank; and

(d) shall redact from any public records maintained under this chapter any information:

(i) that is submitted under Subsection (3)(c); and

(ii) that may be used to identify the parent or pregnant woman.

(4) A burial-transit permit issued under the law of another state which accompanies a dead body [ø], dead fetus, or fetal remains brought into this state is authority for final disposition of the dead body [ø], dead fetus, or fetal remains in this state.

(5) When a dead body or dead fetus or any part of the dead body or dead fetus has been donated under the Revised Uniform Anatomical Gift Act or similar laws of another state and the preservation of the gift requires the immediate transportation of the dead body, dead fetus, or any part of the body or fetus outside of the registration district in which death occurs or the remains are found, or into this state from another state, the dead body or dead fetus or any part of the body or fetus may be transported and the burial-transit permit required by this section obtained within a reasonable time after transportation.

(6) A permit for disinterment and reinterment is required prior to disinterment of a dead body [ø], dead fetus, or fetal remains, except as otherwise provided by statute or department rule.

**Section 3. Section 26-2-18 is amended to read:**

**26-2-18. Interments -- Duties of sexton or person in charge -- Record of interments -- Information filed with local registrar.**

(1) (a) A sexton or person in charge of any premises in which interments are made may not inter or permit the interment of any dead body [ø], dead fetus, or fetal remains unless the interment is made by a funeral service director or by a person holding a burial-transit permit.

(b) The right and duty to control the disposition of a deceased person shall be governed by Sections 58-9-601 through 58-9-604.

(2) (a) The sexton or the person in charge of any premises where interments are made shall keep a record of all interments made in the premises under [his] their charge, stating the name of the decedent, place of death, date of burial, and name and address of the funeral service director or other person making the interment.

(b) The record described in this Subsection (2) shall be open to public inspection.

(c) A city or county clerk may, at the clerk's option, maintain the interment records described in this Subsection (2) on behalf of the sexton or person in charge of any premises in which interments are made.

(3) (a) Not later than the tenth day of each month, the sexton, person in charge of the premises, or city or county clerk who maintains the interment records shall send to the local registrar and the department a list of all interments made in the premises during the preceding month.

(b) The list described in Subsection (3)(a) shall be in the form prescribed by the state registrar.

**Section 4. Section 26-21-33 is enacted to read:**

**26-21-33. Treatment of aborted remains.**

(1) As used in this section, "aborted fetus" means a product of human conception, regardless of gestational age, that has died from an abortion as that term is defined in Section 76-7-301.

(2) (a) A health care facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus through:

(i) cremation as that term is defined in Section 58-9-102; or

(ii) interment.

(b) A health care facility may not conduct the final disposition of an aborted fetus less than 72 hours after an abortion is performed unless:

(i) the pregnant woman authorizes the health care facility, in writing, to conduct the final disposition of the aborted fetus less than 72 hours after the abortion is performed; or

(ii) immediate disposition is required under state or federal law.

(c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102 with respect to the final disposition of an aborted fetus if:

(i) the pregnant woman provides written authorization for the health care facility to act as the authorizing agent; or

(ii) (A) more than 72 hours have passed since the abortion was performed; and

(B) the pregnant woman did not exercise her right to control the final disposition of the aborted fetus under Subsection (4)(a).

(d) Within 120 business days after the day on which an abortion is performed, a health care facility possessing an aborted fetus shall:

(i) conduct the final disposition of the aborted fetus in accordance with this section; or

(ii) ensure that the aborted fetus is preserved until final disposition.

(e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law.

(3) Before performing an abortion, a health care facility shall:

(a) provide the pregnant woman with the information described in Subsection 76-7-305(2)(d)(ix) through:

(i) a form approved by the department;

(ii) an in-person consultation with a physician; or

(iii) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and

(b) if the pregnant woman makes a decision under Subsection (4)(b), document the pregnant woman's decision under Subsection (4)(b) in the pregnant woman's medical record.

(4) A pregnant woman who has an abortion:

(a) except as provided in Subsection (6), has the right to control the final disposition of the aborted fetus;

(b) if the pregnant woman has a preference for disposition of the aborted fetus, shall inform the health care facility of the pregnant woman's decision for final disposition of the aborted fetus;

(c) is responsible for the costs related to the final disposition of the aborted fetus at the chosen location if the pregnant woman chooses a method or location for the final disposition of the aborted fetus that is different from the method or location that is usual and customary for the health care facility; and

(d) for a medication-induced abortion, shall be permitted to return the aborted fetus to the health care facility in a sealed container for disposition by the health care facility in accordance with this section.

(5) The form described in Subsection (3)(a)(i) shall include the following information:

"You have the right to decide what you would like to do with the aborted fetus. You may decide for the provider to be responsible for disposition of the fetus. If you are having a medication-induced abortion, you also have the right to bring the aborted fetus back to this provider for disposition after the fetus is expelled. The provider may dispose of the aborted fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition."

(6) If the pregnant woman is a minor, the health care facility shall obtain parental consent for the disposition of the aborted fetus unless the minor is granted a court order under Subsection 76-7-304(1)(b).

(7) (a) A health care facility may not include fetal remains with other biological, infectious, or pathological waste.

(b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section.

(c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section.

(ii) The records described in Subsection (7)(c)(i) shall be:

(A) maintained for at least two years; and

(B) made available to the department for inspection upon request by the department.

**Section 5. Section 26-21-34 is enacted to read:**

**26-21-34. Treatment of miscarried remains.**

(1) As used in this section, "miscarried fetus" means a product of human conception, regardless of gestational age, that has died from a spontaneous or accidental death before expulsion or extraction from the mother, regardless of the duration of the pregnancy.

(2) (a) A health care facility having possession of a miscarried fetus shall provide for the final disposition of the miscarried fetus through:

(i) cremation as that term is defined in Section 58-9-102; or

(ii) interment.

(b) A health care facility may not conduct the final disposition of a miscarried fetus less than 72 hours after a woman has her miscarried fetus expelled or extracted in the health care facility unless:

(i) the parent authorizes the health care facility, in writing, to conduct the final disposition of the miscarried fetus less than 72 hours after the miscarriage occurs; or

(ii) immediate disposition is required under state or federal law.

(c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102

with respect to the final disposition of a miscarried fetus if:

(i) the parent provides written authorization for the health care facility to act as the authorizing agent; or

(ii) (A) more than 72 hours have passed since the miscarriage occurs; and

(B) the parent did not exercise their right to control the final disposition of the miscarried fetus under Subsection (4)(a).

(d) Within 120 business days after the day on which a miscarriage occurs, a health care facility possessing miscarried remains shall:

(i) conduct the final disposition of the miscarried remains in accordance with this section; or

(ii) ensure that the miscarried remains are preserved until final disposition.

(e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law.

(3) (a) No more than 24 hours after a woman has her miscarried fetus expelled or extracted in a health care facility, the health care facility shall provide information to the parent or parents of the miscarried fetus regarding:

(i) the parents' right to determine the final disposition of the miscarried fetus;

(ii) the available options for disposition of the miscarried fetus; and

(iii) counseling that may be available concerning the death of the miscarried fetus.

(b) A health care facility shall:

(i) provide the information described in Subsection (3)(a) through:

(A) a form approved by the department;

(B) an in-person consultation with a physician; or

(C) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and

(ii) if the parent or parents make a decision under Subsection (4)(b), document the parent's decision under Subsection (4)(b) in the parent's medical record.

(4) The parents of a miscarried fetus:

(a) have the right to control the final disposition of the miscarried fetus;

(b) if the parents have a preference for disposition of the miscarried fetus, shall inform the health care facility of the parents' decision for final disposition of the miscarried fetus; and

(c) are responsible for the costs related to the final disposition of the miscarried fetus at the chosen location if the parents choose a method or location for the final disposition of the miscarried fetus that

is different from the method or location that is usual and customary for the health care facility.

(5) The form described in Subsection (3)(b)(i) shall include the following information:

"You have the right to decide what you would like to do with the miscarried fetus. You may decide for the provider to be responsible for disposition of the fetus. The provider may dispose of the miscarried fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition."

(6) (a) A health care facility may not include miscarried fetus with other biological, infectious, or pathological waste.

(b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section.

(c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section.

(ii) The records described in Subsection (6)(c)(i) shall be:

(A) maintained for at least two years; and

(B) made available to the department for inspection upon request by the department.

**Section 6. Section 58-9-607 is amended to read:**

**58-9-607. Authorization to cremate -- Penalties for removal of items from human remains.**

(1) Except as otherwise provided in this section and Section 58-9-619, a funeral service establishment may not cremate human remains until it has received:

(a) a cremation authorization form signed by an authorizing agent;

(b) a completed and executed burial transit permit or similar document, as provided by state law, indicating that human remains are to be cremated; and

(c) any other documentation required by the state, county, or municipality.

(2) (a) The cremation authorization form shall contain, at a minimum, the following information:

(i) the identity of the human remains and the time and date of death, including a signed declaration of visual identification of the deceased or refusal to visually identify the deceased;

(ii) the name of the funeral director and funeral service establishment that obtained the cremation authorization;

(iii) notification as to whether the death occurred from a disease declared by the department of health to be infectious, contagious, communicable, or dangerous to the public health;

(iv) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;

(v) a representation that the authorizing agent has the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person with a superior or equal priority right to that of the authorizing agent, except that if there is another living person with a superior or equal priority right, the form shall contain a representation that the authorizing agent has:

(A) made reasonable efforts to contact that person;

(B) been unable to do so; and

(C) no reason to believe that the person would object to the cremation of the decedent;

(vi) authorization for the funeral service establishment to cremate the human remains;

(vii) a representation that the human remains do not contain a pacemaker or other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation;

(viii) the name of the person authorized to receive the cremated remains from the funeral service establishment;

(ix) the manner in which the final disposition of the cremated remains is to take place, if known;

(x) a listing of each item of value to be delivered to the funeral service establishment along with the human remains, and instructions as to how each item should be handled;

(xi) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the authorization form;

(xii) if the cremation authorization form is being executed on a preneed basis, the form shall contain the disclosure required for preneed programs under this chapter; and

(xiii) except for a preneed cremation authorization, the signature of the funeral director of the funeral service establishment that obtained the cremation authorization.

(b) (i) The individual ~~referred to~~ described in Subsection (2)(a)(xiii) shall execute the funeral authorization form as a witness and is not responsible for any of the representations made by the authorizing agent.

(ii) The funeral director or the funeral service establishment shall warrant to the crematory that the human remains delivered to the funeral service establishment have been positively identified as the decedent listed on the cremation authorization form by the authorizing agent or a designated representative of the authorizing agent.

(iii) The authorizing agent or the agent's designee may make the identification referred to in Subsection (2)(b)(ii) in person or by photograph.

(3) (a) [A] Except as provided in Section 58-9-619, a funeral service establishment may not accept unidentified human remains for cremation.

(b) If a funeral service establishment takes custody of a cremation container subsequent to the human remains being placed within the container, it can rely on the identification made before the remains were placed in the container.

(c) The funeral service establishment shall place appropriate identification on the exterior of the cremation container based on the prior identification.

(4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos from human remains:

(i) with purpose to deprive another over control of the property is guilty of an offense and subject to the punishments provided in Section 76-6-412;

(ii) with purpose to exercise unauthorized control and with intent to temporarily deprive another of control over the property is guilty of an offense and subject to the punishments provided in Section 76-6-404.5; and

(iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without specific written permission of the individual who has the right to control those remains is guilty of a class B misdemeanor.

(b) The fact that residue or any unavoidable dental gold or dental silver or other precious metals remain in a cremation chamber or other equipment or a container used in a prior cremation is not a violation of Subsection (4)(a).

**Section 7. Section 58-9-619 is enacted to read:**

**58-9-619. Exception for disposition of fetal remains.**

(1) As used in this section, "fetal remains" means the same as that term is defined in Section 26-2-2.

(2) Notwithstanding any other provision in this part, a funeral service establishment:

(a) is exempt from any requirement to name the miscarried fetus or the aborted fetus:

(i) for the purpose of identifying the fetal remains;

or

(ii) for any record keeping requirements under this chapter; and

(b) is not required to obtain a death certificate or fetal death certificate for the cremation or disposition of fetal remains that are less than 20 weeks in gestational age.

**Section 8. Section 76-7-305 is amended to read:**

**76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.**

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

(v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(vi) the medical risks associated with carrying her child to term;

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the Department of Health website containing the information described in Section 26-10-14, including the information on the informational support sheet; and

(e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website; ~~and~~

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman[-]; and

(iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the disposition of the aborted fetus.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3); ~~and~~

(ii) obtain a copy of the statement described in Subsection (2)(c)(i)[-]; and

(iii) ensure that:

(A) described in Subsections 26-21-33(3) and (4), the woman has received the information; and

(B) if the woman has a preference for the disposition of the aborted fetus, the woman has informed the health care facility of the woman's decision regarding the disposition of the aborted fetus.

(4) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(5) If an ultrasound is performed on a woman before an abortion is performed, the individual who

performs the ultrasound, or another qualified individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (5)(c), if the woman requests it.

(6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

(7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(8) A physician is not guilty of violating this section for failure to furnish any of the information

described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

(9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(10) (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.

(11) A physician is not guilty of violating this section if:

(a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

**Section 9. Section 76-7-305.5 is amended to read:**

**76-7-305.5. Requirements for information module and website.**

(1) In order to ensure that a woman's consent to an abortion is truly an informed consent, the department shall, in accordance with the requirements of this section, develop an information module and maintain a public website.

(2) The information module and public website described in Subsection (1) shall:

(a) be scientifically accurate, comprehensible, and presented in a truthful, nonmisleading manner;

(b) present adoption as a preferred and positive choice and alternative to abortion;

(c) be produced in a manner that conveys the state's preference for childbirth over abortion;

(d) state that the state prefers childbirth over abortion;

(e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

(f) state that any physician who performs an abortion without obtaining the woman's informed consent or without providing her a private medical consultation in accordance with the requirements of this section, may be liable to her for damages in a civil action at law;

(g) provide a geographically indexed list of resources and public and private services available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth, and while the child is dependent, including:

(i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

(ii) services and supports available under Section 35A-3-308;

(iii) other financial aid that may be available during an adoption;

(iv) services available from public adoption agencies, private adoption agencies, and private attorneys whose practice includes adoption; and

(v) the names, addresses, and telephone numbers of each person listed under this Subsection (2)(g);

(h) describe the adoption-related expenses that may be paid under Section 76-7-203;

(i) describe the persons who may pay the adoption related expenses described in Subsection (2)(h);

(j) except as provided in Subsection (4), describe the legal responsibility of the father of a child to assist in child support, even if the father has agreed to pay for an abortion;

(k) except as provided in Subsection (4), describe the services available through the Office of Recovery Services, within the Department of Human Services, to establish and collect the support described in Subsection (2)(j);

(l) state that private adoption is legal;

(m) describe and depict, with pictures or video segments, the probable anatomical and physiological characteristics of an unborn child at two-week gestational increments from fertilization to full term, including:

(i) brain and heart function;

(ii) the presence and development of external members and internal organs; and

(iii) the dimensions of the fetus;

(n) show an ultrasound of the heartbeat of an unborn child at:

(i) four weeks from conception;

(ii) six to eight weeks from conception; and

(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;

(o) describe abortion procedures used in current medical practice at the various stages of growth of the unborn child, including:

(i) the medical risks associated with each procedure;

(ii) the risk related to subsequent childbearing that are associated with each procedure; and

(iii) the consequences of each procedure to the unborn child at various stages of fetal development;

(p) describe the possible detrimental psychological effects of abortion;

(q) describe the medical risks associated with carrying a child to term;

(r) include relevant information on the possibility of an unborn child's survival at the two-week gestational increments described in Subsection (2)(m);

(s) except as provided in Subsection (5), include:

(i) information regarding substantial medical evidence from studies concluding that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and

(ii) the measures that will be taken in accordance with Section 76-7-308.5;

(t) explain the options and consequences of aborting a medication-induced abortion;

(u) include the following statement regarding a medication-induced abortion, "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but have not yet taken the second drug and have questions regarding the health of your fetus or are questioning your decision to terminate your pregnancy, you should consult a physician immediately.";

(v) inform a pregnant woman that she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request; ~~and~~

(w) inform a pregnant woman that she has the right to:

(i) determine the final disposition of the remains of the aborted fetus;

(ii) unless the woman waives this right in writing, wait up to 72 hours after the abortion procedure is performed to make a determination regarding the



disposition of the aborted fetus before the health care facility may dispose of the fetal remains;

(iii) receive information about options for disposition of the aborted fetus, including the method of disposition that is usual and customary for a health care facility; and

(iv) for a medication-induced abortion, return the aborted fetus to the health care facility for disposition; and

(x) provide a digital copy of the form described in Subsection 26-21-33(3)(a)(i); and

~~[(w)]~~ (y) be in a typeface large enough to be clearly legible.

(3) The information module and website described in Subsection (1) may include a toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and description of services, agencies, and adoption attorneys in the locality of the caller.

(4) The department may develop a version of the information module and website that omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of rape.

(5) The department may develop a version of the information module and website that omits the information described in Subsection (2)(s) for a viewer who will have an abortion performed:

(a) on an unborn child who is less than 20 weeks gestational age at the time of the abortion; or

(b) on an unborn child who is at least 20 weeks gestational age at the time of the abortion, if:

(i) the abortion is being performed for a reason described in Subsection 76-7-302(3)(b)(i) or (ii); and

(ii) due to a serious medical emergency, time does not permit compliance with the requirement to provide the information described in Subsection (2)(s).

(6) The department and each local health department shall make the information module and the website described in Subsection (1) available at no cost to any person.

(7) The department shall make the website described in Subsection (1) available for viewing on the department's website by clicking on a conspicuous link on the home page of the website.

(8) The department shall ensure that the information module is:

(a) available to be viewed at all facilities where an abortion may be performed;

(b) interactive for the individual viewing the module, including the provision of opportunities to answer questions and manually engage with the module before the module transitions from one substantive section to the next;

(c) produced in English and may include subtitles in Spanish or another language; and

(d) capable of being viewed on a tablet or other portable device.

~~[(9) The department shall present the information module to the Health and Human Services Interim Committee for the committee's review and recommendation before November 1, 2018.]~~

~~[(10) The department shall release the information module, for the use described in Section 76-7-305, before January 1, 2019.]~~

~~[(11)]~~ (9) After the department releases the initial version of the information module, for the use described in Section 76-7-305, the department shall:

(a) update the information module, as required by law; and

(b) present an updated version of the information module to the Health and Human Services Interim Committee for the committee's review and recommendation before releasing the updated version for the use described in Section 76-7-305.

**CHAPTER 252****S. B. 68**

Passed February 28, 2020

Approved March 28, 2020

Effective May 12, 2020

**MENTAL HEALTH COUNSELOR  
LICENSING AMENDMENTS**

Chief Sponsor: Todd Weiler

House Sponsor: Joel Ferry

**LONG TITLE****General Description:**

This bill amends provisions relating to the licensure of a clinical mental health counselor.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions relating to licensure as a clinical mental health counselor;
- ▶ creates a reporting requirement;
- ▶ creates a sunset date; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-60-405, as last amended by Laws of Utah 2015, Chapter 77

63J-1-258, as last amended by Laws of Utah 2019, Chapters 67 and 68

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

**Section 1. Section 58-60-405 is amended to read:****58-60-405. Qualifications for licensure.**

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts ~~from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of: (i) an education and degree in an education program in counseling with a core curriculum defined by division rule under Section 58-1-203 preparing one to competently engage in mental health therapy; and (ii) an earned doctoral or master's degree resulting from that education program;~~ evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and

supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(d)(i);

(e) have completed a minimum of 4,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;

(iii) obtained after completion of the education requirement in Subsection (1)(d); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(d), which training may be included as part of the 4,000 hours of training in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule; and

(g) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and extends not more than one year from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of two years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

(3) (a) Notwithstanding Subsection (1)(d), an applicant satisfied the education requirement

described in Subsection (1)(d) if the applicant submits documentation verifying:

(i) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(ii) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(d)(i); and

(iii) that the applicant received a passing score that is valid and in good standing on:

(A) the National Counselor Examination; and

(B) the National Clinical Mental Health Counseling Examination.

(b) During the 2021 interim, the division shall report to the Occupational and Professional Licensure Review Committee created in Section 36-23-102 on:

(i) the number of applicants who applied for licensure under this Subsection (3);

(ii) the number of applicants who were approved for licensure under this Subsection (3);

(iii) any changes to division rule after May 12, 2020, regarding the qualifications for licensure under this section; and

(iv) recommendations for legislation or other action that the division considers necessary to carry out the provisions of this Subsection (3).

**Section 2. Section 63I-1-258 is amended to read:**

**63I-1-258. Repeal dates, Title 58.**

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(4) Section 58-37-4.3 is repealed January 1, 2020.

(5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(11) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2022.

~~[(11)]~~ (12) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

~~[(42)]~~ (13) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

~~[(43)]~~ (14) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

~~[(44)]~~ (15) The following sections are repealed on July 1, 2022:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

**CHAPTER 253****S. B. 79**

Passed February 27, 2020

Approved March 28, 2020

Effective May 12, 2020

**REGIONAL EDUCATION  
SERVICE AGENCIES**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Bradley G. Last

**LONG TITLE****General Description:**

This bill amends provisions related to regional education service agencies.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides additional specific authority for regional education service agencies;
- ▶ allows a regional education service agency to participate in the Utah Retirement System;
- ▶ directs the State Board of Education to make rules regarding regional education service agencies; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-3-401, as last amended by Laws of Utah 2019, Chapter 186

53G-4-410, as last amended by Laws of Utah 2019, Chapter 293

53G-5-412, as enacted by Laws of Utah 2018, Chapter 3

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

**Section 1. Section 53E-3-401 is amended to read:****53E-3-401. Powers of the state board --  
Adoption of rules -- Enforcement --  
Attorney.**

(1) As used in this section:

(a) "Education entity" means:

(i) an entity that receives a distribution of state funds through a grant program managed by the state board under this public education code;

(ii) an entity that enters into a contract with the state board to provide an educational good or service;

(iii) a school district; [øF]

(iv) a charter school[.]; or

(v) a regional education service agency, as that term is defined in Section 53G-4-410.

(b) "Educational good or service" means a good or service that is required or regulated under:

(i) this public education code; or

(ii) a rule authorized under this public education code.

(2) (a) The state board has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.

(3) The state board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(4) (a) The state board may make rules to execute the state board's duties and responsibilities under the Utah Constitution and state law.

(b) The state board may delegate the state board's statutory duties and responsibilities to state board employees.

(5) (a) The state board may sell any interest it holds in real property upon a finding by the state board that the property interest is surplus.

(b) The state board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the state board, the money may only be used for purposes related to the agency or institution.

(d) The state board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.

(6) The state board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.

(7) On or before December 31, 2010, the state board shall review mandates or requirements provided for in state board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

(8) (a) If an education entity violates this public education code or rules authorized under this public education code, the state board may, in accordance with the rules described in Subsection (8)(c):

(i) require the education entity to enter into a corrective action agreement with the state board;

(ii) temporarily or permanently withhold state funds from the education entity;

(iii) require the education entity to pay a penalty; or

(iv) require the education entity to reimburse specified state funds to the state board.

(b) Except for temporarily withheld funds, if the state board collects state funds under Subsection (8)(a), the state board shall pay the funds into the Uniform School Fund.

(c) The state board shall make rules:

(i) that require notice and an opportunity to be heard for an education entity affected by a state board action described in Subsection (8)(a); and

(ii) to administer this Subsection (8).

(d) (i) An individual may bring a violation of statute or state board rule to the attention of the state board in accordance with a process described in rule adopted by the state board.

(ii) If the state board identifies a violation of statute or state board rule as a result of the process described in Subsection (8)(d)(i), the state board may take action in accordance with this section.

(e) The state board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.

(9) The state board may audit the use of state funds by an education entity that receives those state funds as a distribution from the state board.

(10) The state board may require by rule that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(a) this public education code; and

(b) state board rule authorized under this public education code.

(11) (a) The state board may appoint an attorney to provide legal advice to the state board and coordinate legal affairs for the state board and the state board's employees.

(b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.

(c) An attorney described in Subsection (11)(a) may not:

(i) conduct litigation;

(ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or

(iii) issue formal legal opinions.

(12) The state board shall ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

**Section 2. Section 53G-4-410 is amended to read:**

**53G-4-410. Regional education service agencies.**

(1) ~~[For purposes of]~~ As used in this section, ~~“eligible regional service center”~~:

(a) “Eligible regional education service agency” means a regional education service ~~[center]~~ agency in existence before July 1, 2020.

(b) “Regional education service agency” means an entity formed by two or more school districts as an interlocal entity, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the authority and duties described in this section.

(2) The Legislature strongly encourages school districts to collaborate and cooperate to provide educational services in a manner that will best utilize resources for the overall operation of the public education system.

(3) ~~[An eligible]~~ A regional education service ~~[center]~~ agency formed by an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act<sup>[,]</sup>:

(a) for an eligible regional education service agency, may receive a distribution described in Subsection ~~[5]~~ (6) if the Legislature appropriates money for eligible regional education service ~~[centers.]~~ agencies;

(b) may apply directly for any grant or program in which an LEA may participate if the agency has the written consent of the LEAs that the agency serves;

(c) may receive services from or partner with any department, division, or agency of the state, including coverage by the Division of Risk Management;

(d) may recommend educators for licensing;

(e) may provide services for students as approved by the regional education service agency's board;

(f) may access as necessary LEA systems that the board provides; and

(g) does not have authority over the LEAs which the agency serves.

(4) A regional education service agency may elect to participate as an employer for retirement programs under:

(a) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(b) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(c) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

~~[4]~~ (5) (a) If local school boards enter into an interlocal agreement to confirm or formalize a regional education service ~~[center]~~ agency in operation before July 1, 2011, the interlocal agreement may not eliminate any rights or obligations of the regional education service ~~[center]~~ agency in effect before entering into the interlocal agreement.

(b) An interlocal agreement entered into to confirm or formalize an existing regional education service ~~[center]~~ agency shall have the effect of

confirming and ratifying in the regional education service ~~[center]~~ agency, the title to any property held in the name, or for the benefit of the regional education service ~~[center]~~ agency as of the effective date of the interlocal agreement.

~~[(5)]~~ (6) (a) The state board shall distribute any funding appropriated to eligible regional education service ~~[centers]~~ agencies as provided by the Legislature.

(b) The state board may provide funding to an eligible regional education service ~~[center]~~ agency in addition to legislative appropriations.

~~[(6)]~~ (7) The state board shall make rules regarding ~~[eligible]~~ regional education service ~~[centers]~~ agencies including:

(a) the authority, scope, and duties of a regional education service agency;

(b) the creation of a regional education service agency coordinating council, including:

(i) defining the council's role and authority; and

(ii) provisions for the council's membership;

~~[(a)]~~ (c) the distribution of legislative appropriations to eligible regional education service ~~[centers]~~ agencies;

~~[(b)]~~ (d) the designation of eligible regional education service ~~[centers]~~ agencies as agents to distribute Utah Education and Telehealth Network services; and

~~[(e)]~~ (e) the designation of eligible regional education service ~~[centers]~~ agencies as agents for regional coordination of public education and higher education services.

(8) The board shall annually:

(a) review the funding the Legislature appropriates to support regional education service agencies; and

(b) recommend any adjustments as part of the board's annual budget request.

**Section 3. Section 53G-5-412 is amended to read:**

**53G-5-412. Contract with regional education service agencies.**

A public school that is a charter school may enter into a contract with an eligible regional education service ~~[center]~~ agency, as defined in Section 53G-4-410, to receive education-related services from the eligible regional education service ~~[center]~~ agency.

**CHAPTER 254****S. B. 80**

Passed February 28, 2020

Approved March 28, 2020

Effective May 12, 2020

**CAMPUS SAFETY AMENDMENTS**

Chief Sponsor: Jani Iwamoto

House Sponsor: Lee B. Perry

**LONG TITLE****General Description:**

This bill requires the State Board of Regents to study and make recommendations for providing public safety services on college and university campuses.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Regents to:
  - coordinate with government and community organizations to study and make recommendations for providing public safety services on college and university campuses; and
  - present a final report of the study and recommendations to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476

**ENACTS:**

53B-28-402, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476

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

**Section 1. Section 53B-28-402 is enacted to read:****53B-28-402. Campus safety study -- Report to Legislature.**

(1) As used in this section:

(a) “Campus law enforcement” means a unit of an institution that provides public safety services.

(b) (i) “Institution” means an institution of higher education described in Section 53B-2-101.

(ii) “Institution” includes an institution’s campus law enforcement.

(c) “Local district” means the same as that term is defined in Section 17B-1-102.

(d) “Local law enforcement” means a state or local law enforcement agency other than campus law enforcement.

(e) “Public safety services” means police services, security services, dispatch services, emergency services, or other similar services.

(f) “Sexual violence” means the same as that term is defined in Section 53B-28-301.

(g) “Special service district” means the same as that term is defined in Section 17D-1-102.

(h) “Student” means the same as that term is defined in Section 53B-28-301.

(i) “Student organization” means the same as that term is defined in Section 53B-28-401.

(2) The board shall:

(a) study issues related to providing public safety services on institution campuses, including:

(i) policies and practices for hiring, supervision, and firing of campus law enforcement officers;

(ii) training of campus law enforcement in responding to incidents of sexual violence or other crimes reported by or involving a student, including training related to lethality or similar assessments;

(iii) how campus law enforcement and local law enforcement respond to reports of incidents of sexual violence or other crimes reported by or involving a student, including supportive measures for victims and disciplinary actions for perpetrators;

(iv) training provided to faculty, staff, students, and student organizations on campus safety and prevention of sexual violence;

(v) roles, responsibilities, jurisdiction, and authority of local law enforcement and campus law enforcement, including authority based on:

(A) the type of public safety services provided; or

(B) geographic boundaries;

(vi) how an institution and local law enforcement coordinate to respond to on-campus and off-campus incidents requiring public safety services, including:

(A) legal requirements or restrictions affecting coordination;

(B) agreements, practices, or procedures governing coordination between an institution and local law enforcement, including mutual support, sharing information, or dispatch management;

(C) any issues that may affect the timeliness of a response to an on-campus or off-campus incident reported by or involving a student;

(vii) infrastructure, staffing, and equipment considerations that impact the effectiveness of campus law enforcement or local law enforcement responses to an on-campus or off-campus incident reported by or involving a student;

(viii) the benefits and disadvantages of an institution employing campus law enforcement compared to local law enforcement providing public safety services on an institution campus;

(ix) an institution's compliance with federal and state crime statistic reporting requirements;

(x) how an institution informs faculty, staff, and students about a crime or emergency on campus;

(xi) national best practices for providing public safety services on institution campuses, including differences in best practices based on the size, infrastructure, location, and other relevant characteristics of a college or university; and

(xii) any other issue the board determines is relevant to the study;

(b) make recommendations for providing public safety services on institution campuses statewide;

(c) produce a final report of the study described in this section, including the recommendations described in Subsection (2)(b); and

(d) in accordance with Section 68-3-14, present the final report described in Subsection (2)(c) to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee at or before the committees' November 2021 meetings.

(3) In carrying out the board's duties under this section, the board may coordinate with individuals and organizations with knowledge, expertise, or experience related to the board's duties under this section, including:

(a) the Utah System of Technical Colleges Board of Trustees;

(b) the Utah Department of Health;

(c) the Utah Office for Victims of Crime;

(d) the Utah Council on Victims of Crime;

(e) institutions;

(f) local law enforcement;

(g) local districts or special service districts that provide 911 and emergency dispatch service; and

(h) community and other non-governmental organizations.

**Section 2. Section 53E-1-201 is amended to read:**

**53E-1-201. Reports to and action required of the Education Interim Committee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

~~[(a)] (b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;~~

~~[(b)] (c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;~~

~~[(e)] (d) the report described in Section 53B-1-103 by the State Board of Regents on career and technical education issues and addressing workforce needs;~~

~~[(d)] (e) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;~~

~~[(e)] (f) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;~~

~~[(f)] (g) the reports described in Section 53B-28-401 by the State Board of Regents and the Utah System of Technical Colleges Board of Trustees regarding activities related to campus safety;~~

~~[(g)] (h) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;~~

~~[(h)] (i) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;~~

~~[(i)] (j) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;~~

~~[(j)] (k) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;~~

~~[(k)] (l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;~~

~~[(l)] (m) the report described in Section 53F-4-407 by the state board on UPSTART; and~~

~~[(m)] (n) the report described in Section 53F-5-405 by an independent evaluator of a partnership that receives a grant to improve educational outcomes for students who are low income[; and].~~

~~[(n) the report described in Section 63N-12-208 by the STEM Action Center Board, including the information described in Section 63N-12-213 on the status of the computer science initiative and Section 63N-12-214 on the Computing Partnerships Grants Program.]~~

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;



~~(b)~~ (b) the report described in Section 53B-28-402 by the State Board of Regents on or before the Education Interim Committee's November 2021 meeting;

~~(b)~~ (c) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

~~(e)~~ (d) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

~~(d)~~ (e) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

~~(e)~~ (f) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

~~(f)~~ (g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

~~(g)~~ (h) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

~~(h)~~ (i) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

~~(i)~~ (j) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

~~(j)~~ (k) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

~~(k)~~ (l) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

~~(l)~~ (m) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

~~(m)~~ (n) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

~~(n)~~ (o) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

### Section 3. Coordinating S.B. 80 with S.B. 72 -- Technical amendment.

If this S.B. 80 and S.B. 72, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that the amendments to Section 53E-1-201 in S.B. 80 supersede the amendments to Section 53E-1-201 in S.B. 72, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

**CHAPTER 255****S. B. 83**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**VOTER REGISTRATION  
 INFORMATION AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: Brian S. King

**LONG TITLE****General Description:**

This bill amends provisions relating to voter registration information.

**Highlighted Provisions:**

This bill:

- ▶ modifies the information certain persons may obtain from a voter registration record;
- ▶ modifies privacy request provisions relating to voter registration records;
- ▶ permits a political party or a candidate for public office to obtain certain information from a voter registration record that is classified as private;
- ▶ establishes a process for a person, under certain circumstances, to prohibit a political party or candidate for public office from obtaining information from the person's voter registration record;
- ▶ modifies voter registration forms;
- ▶ makes it a crime to violate certain provisions of this bill with respect to accessing or using voter registration records and provides civil penalties;
- ▶ grants rulemaking authority to the director of elections in the Office of the Lieutenant Governor;
- ▶ classifies certain voter registration records, and related records, as private;
- ▶ grandfatheres in the privacy classification of a voter registration record classified as private before the effective date of this bill; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

20A-1-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 4  
 20A-2-104, as last amended by Laws of Utah 2018, Chapters 206 and 270  
 20A-2-108, as last amended by Laws of Utah 2018, Chapters 206 and 270  
 20A-2-204, as last amended by Laws of Utah 2019, Chapters 136 and 255  
 20A-2-306, as last amended by Laws of Utah 2019, Chapter 255  
 20A-6-105, as last amended by Laws of Utah 2018, Chapters 206 and 270  
 63G-2-202, as last amended by Laws of Utah 2019, Chapters 254 and 349  
 63G-2-301, as last amended by Laws of Utah 2018, Chapter 415

63G-2-302, as last amended by Laws of Utah 2019, Chapter 293

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

**Section 1. Section 20A-1-102 is amended to read:**

**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) “Board of canvassers” means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) “Bond election” means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) “Book voter registration form” means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.

(12) “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(20) “County officers” means those county officers that are required by law to be elected.

(21) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

- (i) deadlines established for absentee voting; or
- (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(22) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303 or Chapter [1] 4, Part 6, [~~Election Offenses – Generally~~] Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(23) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(24) “Election Assistance Commission” means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(25) “Election cycle” means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(26) “Election judge” means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(27) “Election officer” means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(28) “Election official” means any election officer, election judge, or poll worker.

(29) “Election results” means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(30) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(31) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(32) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(33) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(34) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

(35) "Judicial office" means the office filled by any judicial officer.

(36) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(37) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(38) "Local district officers" means those local district board members that are required by law to be elected.

(39) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(40) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(41) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(42) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(43) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(44) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(45) "Municipal office" means an elective office in a municipality.

(46) "Municipal officers" means those municipal officers that are required by law to be elected.

(47) "Municipal primary election" means an election held to nominate candidates for municipal office.

(48) "Municipality" means a city, town, or metro township.

(49) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(50) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(51) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(52) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(53) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(54) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(55) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(56) "Polling place" means the building where voting is conducted.

(57) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(58) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(59) "Primary convention" means the political party conventions held during the year of the regular general election.

(60) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(61) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(62) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(63) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(64) (a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

[(64)] (65) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

[(65)] (66) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

[(66)] (67) "Registration form" means a book voter registration form and a by-mail voter registration form.

[(67)] (68) "Regular ballot" means a ballot that is not a provisional ballot.

[(68)] (69) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

[(69)] (70) "Regular primary election" means the election held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

[(70)] (71) "Resident" means a person who resides within a specific voting precinct in Utah.

[(71)] (72) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

[(72)] (73) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.

[(73)] (74) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

[(74)] (75) "Special election" means an election held as authorized by Section 20A-1-203.

[(75)] (76) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

[(76)] (77) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

[(77)] (78) "Stub" means the detachable part of each ballot.

[(78)] (79) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

[(79)] (80) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

~~[(81)]~~ (81) “Transfer case” means the sealed box used to transport voted ballots to the counting center.

~~[(81)]~~ (82) “Vacancy” means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

~~[(82)]~~ (83) “Valid voter identification” means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection ~~[(82)]~~ (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter’s employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter’s adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

~~[(83)]~~ (84) “Valid write-in candidate” means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

~~[(84)]~~ (85) “Voter” means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

~~[(85)]~~ (86) “Voter registration deadline” means the registration deadline provided in Section 20A-2-102.5.

~~[(86)]~~ (87) “Voting area” means the area within six feet of the voting booths, voting machines, and ballot box.

~~[(87)]~~ (88) “Voting booth” means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

~~[(88)]~~ (89) “Voting device” means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

~~[(89)]~~ (90) “Voting machine” means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

~~[(90)]~~ (91) “Voting precinct” means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

~~[(91)]~~ (92) “Watcher” means an individual who complies with the requirements described in Section 20A-3-201 to become a watcher for an election.

[92] (93) "Write-in ballot" means a ballot containing any write-in votes.

[93] (94) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

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

(i) "Candidate for public office" means an individual:

(A) who files a declaration of candidacy for a public office;

(B) who files a notice of intent to gather signatures under Section 20A-9-408; or

(C) employed by, under contract with, or a volunteer of, an individual described in Subsection (1)(a)(i)(A) or (B) for political campaign purposes.

(ii) "Dating violence" means the same as that term is defined in Section 78B-7-402 and the federal Violence Against Women Act of 1994, as amended.

(iii) "Domestic violence" means the same as that term is defined in Section 77-36-1 and the federal Violence Against Women Act of 1994, as amended.

(b) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America? Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote? Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

First Middle Last

Utah Driver License or Utah Identification Card Number

Date of Birth

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional)

Last four digits of Social Security Number

Last former address at which I was registered to vote (if known)

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox) Unaffiliated (no political party preference) Other (Please specify)

[You may request that your voter registration record be classified as a private record by indicating here: Yes, I would like to request that my voter registration record be classified as a private record.]

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

Voter's Signature

(month/day/year).

PRIVACY INFORMATION

[The portion of your voter registration form that lists your driver license or identification card number, social security number, email address, and the day of your month of birth is a private record. The portion of your voter registration form that lists your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.]

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, and full date of birth are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL  
PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

**CITIZENSHIP AFFIDAVIT**

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

\_\_\_\_\_  
Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500.

**NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR**

**TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.**

FOR OFFICIAL USE ONLY

Type of I.D. \_\_\_\_\_

Voting Precinct \_\_\_\_\_  
Voting I.D. Number \_\_\_\_\_

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(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26-33a-102, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party; ~~or~~

(vi) a candidate for public office, or an employee, independent contractor, or volunteer of a candidate for public office; or

~~(vi)~~ (vii) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the ~~month~~ year of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)~~(vi)~~(vii)(A), to whom a ~~month~~ year of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the ~~month~~ year of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;



(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i) ~~or~~, (v), or (vi), to whom the person provides the ~~month or~~ year of birth of a registered voter that is obtained from the list of registered voters, will only use the ~~month or~~ year of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the ~~month or~~ year of birth of a registered voter that is obtained from the list of registered voters, will only use the ~~month or~~ year of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v) or (vi), to whom the person provides the ~~month or~~ year of birth of a registered voter that is obtained from the list of registered voters, will only use the ~~month or~~ year of birth for a political purpose of the political party or candidate for public office.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the ~~months and~~ years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the ~~months and~~ years of birth;

(D) a list of the purposes for which the qualified person may use the ~~month or~~ year of birth of a registered voter that is obtained from the list of registered voters;

(E) a statement that the ~~month or~~ year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the ~~month or~~ year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the ~~month or~~ year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the ~~month or~~ year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk may not disclose the ~~month or~~ year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)(j)(l); or

(ii) will provide or use the ~~month or~~ year of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(f)(h) to a person other than:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee~~[-];~~ or

(ii) except as provided in Subsection (7) and subject to Subsection (4)(e), a person described in Subsection (4)(a)(v) or (vi) for a political purpose.

(e) When disclosing a record or information under Subsection (4)(d)(ii), the lieutenant governor or county clerk shall exclude the information described in Subsection 63G-2-302(1)(j), other than the year of birth.

(f) The lieutenant governor or a county clerk may not disclose a withholding request form, described in Subsections (7) and (8), submitted by an individual, or information obtained from that form, to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

~~(e)~~ (g) A person is guilty of a class A misdemeanor if the person:

(i) obtains the ~~month or~~ year of birth of a registered voter from the list of registered voters under false pretenses; ~~or~~

(ii) uses or provides the ~~month or~~ year of birth of a registered voter that is obtained from the list of registered voters~~[;]~~ in a manner that is not permitted by law~~[-];~~

(iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k) under false pretenses;

(iv) uses or provides information obtained from a voter registration record described in Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

(v) unlawfully discloses or obtains a voter registration record withheld under Subsection (7)

or a withholding request form described in Subsections (7) and (8); or

(vi) unlawfully discloses or obtains information from a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8).

~~[(f)]~~ (h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private; ~~[or]~~

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record~~[-]; or~~

~~[(iii)]~~ (iii) submits a withholding request form described in Subsection (7) and any required verification.

(i) The lieutenant governor or a county clerk may not disclose to a person described in Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter registration record, if the record is withheld under Subsection (7).

~~[(g)]~~ (j) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who ~~[obtains the month or year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses a month or year of birth of a registered voter that is obtained from the list of registered voters in a manner that is not permitted by law]~~ violates a provision of this section, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of ~~[months or years of birth]~~;

(A) records obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(B) records from which information is obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) \$200.

~~[(h)]~~ (k) A qualified person may not obtain, provide, or use the ~~[month or]~~ year of birth of a registered voter, if the ~~[month or]~~ year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the ~~[month or]~~ year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the ~~[month or]~~ year of birth only to verify the accuracy of personal information submitted by an individual or

to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains, provides, or uses the ~~[month or]~~ year of birth for a political purpose of the political party or candidate for public office; or

(iv) is a qualified person described in Subsection (4)(a)~~[(vi)]~~(vii) and obtains, provides, or uses the ~~[month or]~~ year of birth to provide the ~~[month or]~~ year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

~~[(i)]~~ A person who is not a qualified person may not obtain, provide, or use the month or year of birth of a registered voter, if the month or year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:]

~~[(i)]~~ is a candidate for public office and uses the month or year of birth only for a political purpose; ~~or]~~

~~[(ii)]~~ obtains the month or year of birth from a political party or a candidate for public office and uses the month or year of birth only for the purpose of assisting the political party or candidate for public office to fulfill a political purpose.]

~~[(j)]~~ (l) The lieutenant governor or a county clerk may provide a ~~[month or]~~ year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose information from a voter registration record for a purpose other than a political purpose.

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks ~~[about]~~ of the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

(7) The lieutenant governor or a county clerk shall withhold from a person, other than a person described in Subsection (4)(a)(i), the voter registration record, and information obtained from the voter registration record, of an individual:

(a) who submits a withholding request form, with the voter registration record or to the lieutenant governor or a county clerk, if:

(i) the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence; or

(ii) the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is:

(A) a law enforcement officer;

(B) a member of the armed forces, as defined in Section 20A-1-513;

(C) a public figure; or

(D) protected by a protective order or protection order; or

(b) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

(8) (a) The lieutenant governor shall design and distribute the withholding request form described in Subsection (7) to each election officer and to each agency that provides a voter registration form.

(b) An individual described in Subsection (7)(a)(i) is not required to provide verification, other than the individual's attestation and signature on the withholding request form, that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence.

(c) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for providing the verification described in Subsection (7)(a)(ii).

(9) An election officer or an employee of an election officer may not encourage an individual to submit, or discourage an individual from submitting, a withholding request form.

**Section 3. Section 20A-2-108 is amended to read:**

**20A-2-108. Driver license or state identification card registration form -- Transmittal of information.**

(1) As used in this section, "qualifying form" means:

(a) a driver license application form; or

(b) a state identification card application form.

(2) The lieutenant governor and the Driver License Division shall design each qualifying form to include:

(a) the following question, which an applicant is required to answer: "Do you authorize the use of

information in this form for voter registration purposes? YES \_\_\_ NO \_\_\_";

(b) the following question, which an applicant is required to answer if the applicant answers "yes" to the question described in Subsection (2)(a): "Any voter may register as an absentee voter to receive ballots by mail. A voter may change this designation at any time. Would you like to be registered as an absentee voter to receive your ballots by mail? YES \_\_\_ NO \_\_\_"; and

~~(c) the following statement: "You may request that your voter registration record be classified as a private record by indicating here: \_\_\_ Yes, I would like to request that my voter registration record be classified as a private record."~~

(c) the following statement:

"PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, and full date of birth are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

\_\_\_ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL  
PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from

all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

(3) The lieutenant governor and the Driver License Division shall ensure that a qualifying form contains:

(a) a place for an individual to affirm the individual's citizenship, voting eligibility, and Utah residency, and that the information provided in the form is true;

(b) a records disclosure that is similar to the records disclosure on a voter registration form described in Section 20A-2-104;

(c) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;

(d) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(e) if the applicant answers "yes" to the question described in Subsection (2)(a), a space where an individual may, if desired:

(i) indicate the individual's desired political affiliation from a listing of each registered political party, as defined in Section 20A-8-101;

(ii) specify a political party that is not listed under Subsection (3)(e)(i) with which the individual desires to affiliate; or

(iii) indicate that the individual does not wish to affiliate with a political party.

**Section 4. Section 20A-2-204 is amended to read:**

**20A-2-204. Registering to vote when applying for or renewing a driver license.**

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) A citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated; ~~and~~

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(c)[-]; and

(vi) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted with the form.

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record or the individual submits a withholding request form described in Subsections 20A-2-104(7) and (8) and any required verification, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date after the voter registration deadline and ending at 5 p.m. on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that the individual is registered to vote in the pending election.

(c) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date that is 14 calendar days before the election and ending at 5 p.m. on the date that is seven calendar days before the election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.

(d) If the county clerk receives a correctly completed voter registration form under this section during the six calendar days before an election, the county clerk shall:

(i) accept the application for registration of the individual; and

(ii) unless the individual is preregistering to vote, inform the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (6)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the form is incomplete, or because

the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

**Section 5. Section 20A-2-306 is amended to read:**

**20A-2-306. Removing names from the official register -- Determining and confirming change of residence.**

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

**"VOTER REGISTRATION NOTICE**

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

---

Street City County State Zip

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to

vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

\_\_\_\_\_  
Signature of Voter<sup>[2]</sup>

PRIVACY INFORMATION

~~["The portion of your voter registration form that lists your driver license or identification card number, social security number, email address, and the day of your month of birth is a private record. The portion of your voter registration form that lists your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.]~~

~~[You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.]~~

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, and full date of birth are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL  
PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from

all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

**Section 6. Section 20A-6-105 is amended to read:**

**20A-6-105. Provisional ballot envelopes.**

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

**"AFFIRMATION**

Are you a citizen of the United States of America?  
Yes No

Will you be 18 years old on or before election day?  
Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter \_\_\_\_\_  
First Middle Last

Driver License or Identification Card Number \_\_\_\_\_

State of Issuance of Driver License or Identification Card Number \_\_\_\_\_

Date of Birth \_\_\_\_\_

Street Address of Principal Place of Residence \_\_\_\_\_

City County State Zip Code

Telephone Number (optional) \_\_\_\_\_

Last four digits of Social Security Number \_\_\_\_\_

Last former address at which I was registered to vote (if known)

City County State Zip Code

Voting Precinct (if known)

I, \_\_\_\_\_ (please print your full name) do solemnly swear or affirm:

That I am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed \_\_\_\_\_

Dated \_\_\_\_\_

In accordance with Section 20A-3-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine.[2]

PRIVACY INFORMATION

[“The portion of your voter registration form that lists your driver license or identification card number, social security number, and email address, and the day of your month of birth, is a private record. The portion of your voter registration form that lists your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.]

[You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.]

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, and full date of birth are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person’s voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person’s voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

[2]CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500.”

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

**Section 7. Section 63G-2-202 is amended to read:**

**63G-2-202. Access to private, controlled, and protected documents.**

(1) Except as provided in Subsection (11)(a), a governmental entity:

(a) shall, upon request, disclose a private record to:

(i) the subject of the record;

(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

(iv) any other individual who:

(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(v) any person to whom the record must be provided pursuant to:

(A) court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and

(b) may disclose a private record described in [Subsection] Subsections 63G-2-302(1)(j) [or (k)] through (m), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a



judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the

researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(~~(u)~~)(w).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(a)(v).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

**Section 8. Section 63G-2-301 is amended to read:**

**63G-2-301. Public records.**

(1) As used in this section:

(a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):

(a) laws;

(b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:

(i) undercover law enforcement personnel; and

(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;

(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act,

including the records of all votes of each member of the governmental entity;

(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;

(g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

(i) titles or encumbrances to real property;

(ii) restrictions on the use of real property;

(iii) the capacity of persons to take or convey title to real property; or

(iv) tax status for real and personal property;

(h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;

(i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;

(j) documentation of the compensation that a governmental entity pays to a contractor or private provider;

(k) summary data;

(l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of a voter registration record that are classified as private under ~~Subsection~~ Subsections 63G-2-302(1)(j) ~~[or (k)]~~ through (m) or withheld under Subsection 20A-2-104(7);

(m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;

(n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53G-7-1203;

(o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111; and

(p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.

(3) The following records are normally public, but to the extent that a record is expressly exempt from

disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:

(a) administrative staff manuals, instructions to staff, and statements of policy;

(b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;

(c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;

(d) contracts entered into by a governmental entity;

(e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;

(f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);

(g) chronological logs and initial contact reports;

(h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;

(i) empirical data contained in drafts if:

(i) the empirical data is not reasonably available to the requester elsewhere in similar form; and

(ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;

(j) drafts that are circulated to anyone other than:

(i) a governmental entity;

(ii) a political subdivision;

(iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;

(iv) a government-managed corporation; or

(v) a contractor or private provider;

(k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;

(l) original data in a computer program if the governmental entity chooses not to disclose the program;

(m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;

(n) search warrants after execution and filing of the return, except that a court, for good cause, may

order restricted access to search warrants prior to trial;

(o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:

(i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and

(ii) the charges on which the disciplinary action was based were sustained;

(p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;

(q) final audit reports;

(r) occupational and professional licenses;

(s) business licenses; and

(t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline.

(4) The list of public records in this section is not exhaustive and should not be used to limit access to records.

**Section 9. Section 63G-2-302 is amended to read:**

**63G-2-302. Private records.**

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics

Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(f)(h), ~~20A-2-101.1(5)(a),~~ or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(4) (n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

~~(4)~~ (o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

~~(4)~~ (p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

~~(4)~~ (q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

~~(4)~~ (r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

~~(4)~~ (s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

~~(4)~~ (t) an email address provided by a military or overseas voter under Section 20A-16-501;

~~(4)~~ (u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

~~(4)~~ (v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

~~(4)~~ (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

~~(4)~~ (x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201; and

~~(4)~~ (y) a record described in Subsection 53-5a-104(7).

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in ~~Section~~ Subsection 76-2-408(1)(~~d~~)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

**CHAPTER 256****S. B. 88**

Passed February 26, 2020

Approved March 28, 2020

Effective May 12, 2020

**ENVIRONMENTAL QUALITY REVISIONS**

Chief Sponsor: Ralph Okerlund  
House Sponsor: Suzanne Harrison

**LONG TITLE****General Description:**

This bill addresses provisions related to environmental quality.

**Highlighted Provisions:**

This bill:

- ▶ addresses fees throughout the Environmental Quality Code;
- ▶ addresses a dedicated credit;
- ▶ requires that a person that operates a source of air pollution to have a permit under certain circumstances;
- ▶ provides for authority and duties of the Waste Management and Radiation Control Board;
- ▶ provides for the powers and duties of the director of the Division of Waste Management and Radiation Control;
- ▶ amends provisions related to powers of the Drinking Water Board;
- ▶ amends provisions related to the authority of the director of the Division of Drinking Water;
- ▶ addresses violations of the Safe Drinking Water Act or rules or orders issued under that act;
- ▶ addresses source and storage minimum sizing requirements for public water systems;
- ▶ modifies definitions under the Water Quality Act;
- ▶ clarifies powers and duties of the Water Quality Board;
- ▶ provides for legislative review of total maximum daily load, rules, and standards;
- ▶ modifies rules related to a penalty imposed on an agriculture discharge;
- ▶ allows for discharge permits to be renewed;
- ▶ addresses limitations on effluent limitations standards;
- ▶ modifies definitions related to the Solid and Hazardous Waste Act;
- ▶ addresses the powers of the Waste Management and Radiation Control Board, including rulemaking;
- ▶ modifies provisions related to the director of the Division of Waste Management and Radiation Control;
- ▶ addresses proof of service;
- ▶ allows a designee of the executive director to issue enforceable written assurances;
- ▶ addresses violations related to used oil management; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 19-1-106, as last amended by Laws of Utah 2015, Chapter 451
- 19-1-201, as last amended by Laws of Utah 2019, Chapter 338
- 19-2-108, as last amended by Laws of Utah 2015, Chapters 154 and 441
- 19-2-109.1, as last amended by Laws of Utah 2015, Chapter 154
- 19-4-104, as repealed and reenacted by Laws of Utah 2018, Second Special Session, Chapter 5
- 19-4-106, as last amended by Laws of Utah 2012, Chapter 360
- 19-4-107, as last amended by Laws of Utah 2012, Chapter 360
- 19-4-109, as last amended by Laws of Utah 2012, Chapter 360
- 19-4-114, as repealed and reenacted by Laws of Utah 2018, Second Special Session, Chapter 5
- 19-5-102, as last amended by Laws of Utah 2015, Chapter 451
- 19-5-104, as last amended by Laws of Utah 2012, Chapter 360
- 19-5-104.5, as last amended by Laws of Utah 2019, Chapter 454
- 19-5-105.5, as last amended by Laws of Utah 2012, Chapter 360
- 19-5-108, as last amended by Laws of Utah 2012, Chapter 360
- 19-5-116, as last amended by Laws of Utah 2011, Chapter 297
- 19-6-102, as last amended by Laws of Utah 2019, Chapter 152
- 19-6-102.1, as last amended by Laws of Utah 2018, Chapter 281
- 19-6-104, as last amended by Laws of Utah 2019, Chapter 152
- 19-6-105, as last amended by Laws of Utah 2018, Chapter 281
- 19-6-107, as last amended by Laws of Utah 2015, Chapter 451
- 19-6-108, as last amended by Laws of Utah 2019, Chapter 152
- 19-6-114, as renumbered and amended by Laws of Utah 1991, Chapter 112
- 19-6-120, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-326, as last amended by Laws of Utah 2008, Chapter 382
- 19-6-502, as last amended by Laws of Utah 2019, Chapter 152

**ENACTS:**

- 19-3-103.1, Utah Code Annotated 1953
- 19-3-108.1, Utah Code Annotated 1953
- 19-6-721.1, Utah Code Annotated 1953

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

**Section 1. Section 19-1-106 is amended to read:****19-1-106. Boards within department.**

- (1) The following policymaking boards are created within the department:

(a) the Air Quality Board, appointed under Section 19-2-103;

(b) the Drinking Water Board, appointed under Section 19-4-103;

(c) the Water Quality Board, appointed under Section 19-5-103; and

(d) the Waste Management and Radiation Control Board, appointed under Section ~~19-6-104~~ 19-6-103.

(2) The authority of the boards created in Subsection (1) is limited to the specific authority granted them under this title.

**Section 2. Section 19-1-201 is amended to read:**

**19-1-201. Powers and duties of department -- Rulemaking authority -- Committee -- Monitoring environmental impacts of inland port.**

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually;

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

(A) board meeting attendance; and

(B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5; ~~and~~

(e) ensure that ~~any~~ training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department~~[-]~~; and

(f) subject to Subsection (2), establish annual fees that conform with Title V of the Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a source subject to the Title V program.

(2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under Subsection (6)(i) for issuance of an approval order.

(b) In establishing a fee under Subsection (1)(f), the department shall comply with Section 63J-1-504 that requires a public hearing and requires the established fee to be submitted to the Legislature for the Legislature's approval as part of the department's annual appropriations request.

(c) A fee established under this section shall cover the reasonable direct and indirect costs required to develop and administer the Title V program and the small business assistance program established under Section 19-2-109.2.

(d) A fee established under Subsection (1)(f) shall be established for all sources subject to the Title V program and for all regulated pollutants.

(e) An emission fee may not be assessed for a regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emission fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(g) An emission fee shall be based on actual emissions for a regulated pollutant unless a source elects, before the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.

(h) The fees collected by the department under Subsection (1)(f) and penalties collected under Subsection 19-2-109.1(4) shall be deposited into the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.

~~[(2)]~~ (3) The department shall establish a committee that consists of:

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

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

(c) three representatives of local health departments appointed by a group of all the local health departments in the state.

~~[(3)]~~ (4) The committee established in Subsection ~~[(2)]~~ (3) shall:

(a) review the allocation of environmental quality resources between the department and the local health departments;

(b) evaluate department policies that affect local health departments;

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

(d) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and

(e) review each department application for any grant from the federal government that affects a local health department before the department submits the application.

~~[(4)]~~ (5) The committee shall create bylaws to govern the committee's operations.

~~[(5)]~~ (6) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

~~[(i)]~~ (i) ~~establish a schedule of fees that may be assessed for actions and services of the department according to the procedures and requirements of Section 63J-1-504; and~~

~~[(ii)]~~ (ii) ~~in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect the cost of services provided;~~

(i) in accordance with Section 63J-1-504, establish a schedule of fees that may be assessed for actions and services of the department that are reasonable, fair, and reflect the cost of services provided;

(j) for an owner or operator of a source subject to a fee established by Subsection (6)(i) who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually;

~~[(j)]~~ (k) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

~~[(k)]~~ (l) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

~~[(4)]~~ (m) upon the request of [any] a board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the [funds] money available to the department for the staff and services; and

~~[(m)]~~ (n) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service [in order] to efficiently [utilize] use department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

~~[(6)]~~ (7) In providing service under Subsection ~~[(5)(m)]~~ (6)(n), the department may not provide service in a manner that impairs [any other] another person's service from the department.

~~[(7)]~~ (8) (a) As used in this Subsection ~~[(7)]~~ (8):

(i) "Environmental impacts" means:

(A) impacts on air quality, including impacts associated with air emissions; and

(B) impacts on water quality, including impacts associated with storm water runoff.

(ii) "Inland port" means the same as that term is defined in Section 11-58-102.

(iii) "Inland port area" means the area in and around the inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.

(iv) "Monitoring facilities" means:

(A) for monitoring air quality, a sensor system consisting of monitors to measure levels of research-grade particulate matter, ozone, and



oxides of nitrogen, and data logging equipment with internal data storage ~~[which]~~ that are interconnected at all times to capture air quality readings and store data; and

(B) for monitoring water quality, facilities to collect groundwater samples, including in existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to storm water.

(b) The department shall:

(i) develop and implement a sampling and analysis plan to:

(A) characterize the environmental baseline for air quality and water quality in the inland port area;

(B) characterize the environmental baseline for only air quality for the Salt Lake International Airport; and

(C) define the frequency, parameters, and locations for monitoring;

(ii) establish and maintain monitoring facilities to measure the environmental impacts in the inland port area arising from destruction, construction, development, and operational activities within the inland port;

(iii) publish the monitoring data on the department's website; and

(iv) provide at least annually before November 30 a written report summarizing the monitoring data to:

(A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part 3, Port Authority Board; and

(B) the Legislative Management Committee.

**Section 3. Section 19-2-108 is amended to read:**

**19-2-108. Notice of construction or modification of installations required -- Authority of director to prohibit construction -- Hearings -- Limitations on authority of director -- Inspections authorized.**

(1) Notice shall be given to the director by a person planning to:

(a) construct a new installation ~~[which]~~ that will or might reasonably be expected to be a source or indirect source of air pollution ~~[or to]~~;

(b) make modifications to an existing installation ~~[which]~~ that will or might reasonably be expected to increase the amount of or change the character or effect of air pollutants discharged, so that the installation may be expected to be a source or indirect source of air pollution~~;~~; or ~~[by a person planning to]~~

(c) install an air cleaning device or other equipment intended to control emission of air pollutants.

~~(2)~~ A person may not operate a source of air pollution required to have a permit by a rule adopted under Section 19-2-104 or 19-2-107 without having obtained a permit from the director under procedures the board establishes by rule.

~~[(2)]~~ (3) (a) The director may require, as a condition precedent to the construction, modification, installation, or establishment of the air pollutant source or indirect source, the submission of plans, specifications, and other information as ~~[he]~~ the director finds necessary to determine whether the proposed construction, modification, installation, or establishment will be in accord with applicable rules in force under this chapter, and the payment of a new source review fee established under Subsection 19-1-201(6)(i).

(b) If within 90 days after the receipt of plans, specifications, or other information required under this ~~[subsection]~~ Subsection (3), the director determines that the proposed construction, installation, or establishment or any part of it will not be in accord with the requirements of this chapter or applicable rules or that further time, not exceeding three extensions of 30 days each, is required by the director to adequately review the plans, specifications, or other information, ~~[he]~~ the director shall issue an order prohibiting the construction, installation, or establishment of the air pollutant source or sources in whole or in part.

~~[(3)]~~ (4) In addition to any other remedies but ~~[prior to]~~ before invoking any ~~[such]~~ other remedies, a person aggrieved by the issuance of an order either granting or denying a request for the construction of a new installation, ~~[shall,]~~ upon request, in accordance with the rules of the department, ~~[be]~~ is entitled to a special adjudicative proceeding conducted by an administrative law judge as provided by Section 19-1-301.5.

~~[(4) — Any features, machines, and devices constituting parts of]~~ (5) A feature, machine, or device constituting a part of or called for by plans, specifications, or other information submitted under Subsection (1) shall be maintained in good working order.

~~[(5)]~~ (6) This section does not authorize the director to require the use of machinery, devices, or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices, or equipment otherwise available.

~~[(6)]~~ (7) (a) An authorized officer, employee, or representative of the director may enter and inspect ~~[any]~~ a property, premise, or place on or at which an air pollutant source is located or is being constructed, modified, installed, or established at ~~[any]~~ a reasonable time for the purpose of ascertaining the state of compliance with this chapter and the rules adopted under ~~[it]~~ this chapter.

(b) (i) A person may not refuse entry or access to an authorized representative of the director who requests entry for purposes of inspection and who presents appropriate credentials.

(ii) A person may not obstruct, hamper, or interfere with an inspection.

(c) If requested, the owner or operator of the premises shall receive a report setting forth ~~[all]~~ the facts found ~~[which]~~ that relate to compliance status.

**Section 4. Section 19-2-109.1 is amended to read:**

**19-2-109.1. Operating permit required -- Fees -- Implementation.**

(1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:

(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

(b) "EPA" means the federal Environmental Protection Agency.

(c) "Operating permit" means a permit issued by the director to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.

(d) "Program" means the air pollution operating permit program established under this section to comply with Title V of the 1990 Clean Air Act.

(e) "Regulated pollutant" means the same as that term is defined in Title V of the 1990 Clean Air Act and implementing federal regulations.

(2) A person may not operate a source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the director under procedures the board establishes by rule.

(3) (a) Operating permits issued under this section shall be for a period of five years unless the director makes a written finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.

(b) The director may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.

(c) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.

(d) The director may terminate, modify, revoke, or reissue an operating permit for cause.

~~[(4) (a) The board shall establish a proposed annual emissions fee that conforms with Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources required to obtain a permit. The emissions fee established under this section is in addition to fees assessed under Section 19-2-108 for issuance of an approval order.]~~

~~[(b) In establishing the fee the board shall comply with the provisions of Section 63J-1-504 that require a public hearing and require the established fee to be submitted to the Legislature for its approval as part of the department's annual appropriations request.]~~

~~[(c) The fee shall cover all reasonable direct and indirect costs required to develop and administer the program and the small business assistance program established under Section 19-2-109.2. The director shall prepare an annual report of the emissions fees collected and the costs covered by those fees under this Subsection (4).]~~

~~[(d) The fee shall be established uniformly for all sources required to obtain an operating permit under the program and for all regulated pollutants.]~~

~~[(e) The fee may not be assessed for emissions of any regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.]~~

~~[(f) An emissions fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.]~~

~~[(5) Emissions fees shall be based on actual emissions for a regulated pollutant unless a source elects, prior to the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.]~~

~~[(6)] (4) If the owner or operator of a source subject to this section fails to timely pay ~~[an annual emissions]~~ a fee established under Subsection 19-1-201(1)(f), the director may:~~

~~(a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually; or~~

~~(b) revoke the operating permit.~~

~~[(7)] (5) The owner or operator of a source subject to this section may contest ~~[an emissions]~~ a fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection ~~[(7)]~~ (5).~~

~~(a) The owner or operator shall pay the fee under protest ~~[prior to]~~ before being entitled to a hearing. Payment of ~~[an emissions]~~ a fee or penalty under protest is not a waiver of the right to contest the fee or penalty under this section.~~

~~(b) A request for a hearing under this Subsection ~~[(7)]~~ (5) shall be made after payment of the ~~[emissions]~~ fee and within six months after the ~~[emissions]~~ fee was due.~~

~~[(8)] (6) To reinstate an operating permit revoked under Subsection ~~[(6)]~~ (4) the owner or operator shall pay ~~[all]~~ the outstanding ~~[emissions]~~ fees, a penalty of not more than 50% of ~~[all]~~ outstanding fees, and interest on the outstanding ~~[emissions]~~ fees computed at 12% annually.~~

~~[(9) All emissions fees and penalties collected by the department under this section shall be~~

~~deposited in the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.]~~

[~~(40)~~] (7) Failure of the director to act on an operating permit application or renewal is a final administrative action only for the purpose of obtaining judicial review by any of the following persons to require the director to take action on the permit or [its] the permit's renewal without additional delay:

- (a) the applicant;
- (b) a person who participated in the public comment process; or
- (c) a person who could obtain judicial review of that action under applicable law.

**Section 5. Section 19-3-103.1 is enacted to read:**

**19-3-103.1. Board authority and duties under this part.**

- (1) The board may:
- (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this part;
  - (b) (i) hold a hearing that is not an adjudicative proceeding; or
  - (ii) appoint a hearing officer to conduct a hearing that is not an adjudicative proceeding;
  - (c) accept, receive, and administer grants or other money or gifts from public and private agencies, including the federal government, for the purpose of carrying out any function of this chapter;
  - (d) order the director to impound radioactive material in accordance with Section 19-3-111; or
  - (e) advise, consult, cooperate with, or provide technical assistance to another agency of the state or federal government, another state, an interstate agency, an affected group, an affected political subdivision, an affected industry, or other person in carrying out the purposes of this part.
- (2) The board shall:
- (a) promote the planning and application of pollution prevention and radioactive waste minimization measures to prevent the unnecessary waste and depletion of natural resources;
  - (b) to ensure compliance with applicable statutes and rules:
    - (i) review a settlement negotiated by the director in accordance with Subsection 19-3-108.1(2)(c) that requires a civil penalty equal to or greater than \$25,000; and
    - (ii) approve or disapprove the settlement described in Subsection (2)(b)(i);

(c) review the qualifications of, and issue certificates of approval to, individuals who:

- (i) survey mammography equipment; or
- (ii) oversee quality assurance practices at mammography facilities.

(3) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-3-108.1:

- (a) a permit;
- (b) a license;
- (c) a registration;
- (d) a certification; or
- (e) another administrative authorization made by the director.

**Section 6. Section 19-3-108.1 is enacted to read:**

**19-3-108.1. Powers and duties of director.**

(1) The director shall, in connection with this chapter and rules of the board adopted under this part:

- (a) develop programs to promote and protect the public from radiation sources in the state;
  - (b) advise, consult, cooperate with, and provide technical assistance to another agency, a state, the federal government, a political subdivision, an industry, or another person in carrying out this part;
  - (c) receive specifications or other information relating to a licensing application for radioactive material or registration of a radiation source for review, approval, disapproval, or termination;
  - (d) issue a permit, license, registration, certification, or other administrative authorization;
  - (e) review and approve a plan;
  - (f) assess a penalty in accordance with Section 19-3-109;
  - (g) impound radioactive material under Section 19-3-111;
  - (h) issue an order necessary to enforce this part;
    - (i) enforce an order by an appropriate administrative and judicial proceeding; and
    - (j) institute a judicial proceeding to secure compliance with this part.
- (2) The director may:
- (a) cooperate with any person in studies, research, or demonstration projects regarding radioactive waste management or control of radiation sources;
  - (b) employ employees as may be reasonably necessary to carry out this part;
  - (c) subject to Subsection 19-3-103.1(2)(b), settle or compromise any administrative or civil action

initiated to compel compliance with this part and rules adopted under this part; and

(d) authorize employees or representatives of the department to enter, at reasonable times and upon reasonable notice, in and upon public or private property for the purpose of inspecting and investigating conditions and records concerning radiation sources and as otherwise authorized by this part.

**Section 7. Section 19-4-104 is amended to read:**

**19-4-104. Powers of board.**

(1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards that prescribe the maximum contaminant levels in ~~any~~ a public water system and provide for monitoring, record-keeping, and reporting of water quality related matters;

(ii) governing design, construction, operation, and maintenance of public water systems;

(iii) granting variances and exemptions to the requirements established under this chapter that are not less stringent than those allowed under federal law;

(iv) protecting watersheds and water sources used for public water systems;

(v) governing capacity development in compliance with Section 1420 of the federal Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

(vi) for a community water system failing to comply with the reporting requirements under Subsections (1)(c)(iv) and (v):

(A) establishing fines and penalties, including posting on the division's web page those community water systems that fail to comply with the reporting requirements; and

(B) allowing a community water system, in lieu of penalties established under Subsection (1)(a)(vi)(A), to enter into a corrective action agreement with the ~~division~~ director that requires compliance and establishes a compliance schedule approved by the director.

(b) The board may:

~~(i) order the director to:~~

~~[(A) issue orders necessary to enforce the provisions of this chapter;]~~

~~[(B) enforce the orders by appropriate administrative and judicial proceedings; or]~~

~~[(C) institute judicial proceedings to secure compliance with this chapter;]~~

~~[(ii) (A) (i) hold a hearing that is not an adjudicative proceeding relating to an aspect of, or matter in, the administration of this chapter; or]~~

~~[(B) (ii) appoint a hearing [officers] officer to conduct a hearing that is not an adjudicative proceeding; or]~~

(iii) recommend that the director:

(A) issue an order necessary to enforce this chapter;

(B) enforce an order by appropriate administrative and judicial proceedings;

(C) institute a judicial proceeding to secure compliance with this chapter; or

(D) advise, consult, contract, and cooperate with another agency of the state, a local government, an industry, another state, an interstate or interlocal agency, the federal government, or an interested person; or

~~[(iii) (iv) request and accept financial assistance from other public agencies, private entities, and the federal government to carry out the purposes of this chapter.~~

(c) The board shall:

(i) require the submission to the director of plans and specifications for construction of, substantial addition to, or alteration of public water systems for review and approval by the ~~board~~ director before that action begins and require any modifications or impose any conditions that may be necessary to carry out the purposes of this chapter;

(ii) advise, consult, cooperate with, provide technical assistance to, and enter into agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies, municipalities, local health departments, educational institutions, and others necessary to carry out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of local jurisdictions;

(iii) develop and implement an emergency plan to protect the public when declining drinking water quality or quantity creates a serious health risk and issue emergency orders if a health risk is imminent;

(iv) require a community water system serving a population of 500 or more to annually collect accurate water use data, described in Subsection ~~[(6)]~~(7), and annually report that data to the Division of Water Rights;

(v) require a certified operator, or a professional engineer performing the duties of a certified water operator, to verify by certification or license number the accuracy of water use data reported by a public water system, including the data required from a community water system under Subsection (1)(c)(iv); ~~and]~~

(vi) meet the requirements of federal law related or pertaining to drinking water~~[-]; and~~

(vii) to ensure compliance with applicable statutes and rules:

(A) review a settlement negotiated by the director in accordance with Subsection 19-4-109(3) that requires a civil penalty equal to or greater than \$25,000; and

(B) approve or disapprove the settlement described in Subsection (1)(c)(vii)(A).

(2) (a) The board may adopt ~~[and enforce]~~ standards and establish fees for certification of operators of ~~[any]~~ a public water system.

(b) The board may not require certification of operators for a water system serving a population of 800 or less except:

(i) to the extent required for compliance with Section 1419 of the federal Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

(ii) for a system that is required to treat its drinking water.

(c) The certification program shall be funded from certification and renewal fees.

(3) Routine extensions or repairs of existing public water systems that comply with the rules and do not alter the public water system's ability to provide an adequate supply of water are exempt from ~~[the provisions of]~~ Subsection (1)(c)(i).

(4) (a) The board may adopt ~~[and enforce]~~ standards and establish fees for certification of persons engaged in administering cross connection control programs or backflow prevention assembly training, repair, and maintenance testing.

(b) The certification program shall be funded from certification and renewal fees.

(5) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under this chapter:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certificate; or

(e) another administrative authorization made by the director.

~~[(5)]~~ (6) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

~~[(6)]~~ (7) (a) The water use data required to be collected in Subsection (1)(c)(iv) shall include peak day source demand, average annual demand, the number of equivalent residential connections for retail service, and the quantity of non-revenue water.

(b) The division may, by rule, establish:

(i) other types of water use data required to be collected in addition to that listed in Subsection ~~[(6)]~~ (7)(a); and

(ii) alternative methods for calculating the water use data listed in Subsection ~~[(6)]~~ (7)(a).

**Section 8. Section 19-4-106 is amended to read:**

**19-4-106. Director -- Appointment -- Authority.**

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) The director shall:

(a) develop programs to promote and protect the quality of the public drinking water supplies of the state;

(b) advise, consult, and cooperate with other agencies of this and other states, the federal government, and with other groups, political subdivisions, and industries in furtherance of the purpose of this chapter;

(c) review plans, specifications, and other data pertinent to proposed or expanded water supply systems to ensure proper design and construction; and

(d) subject to the provisions of this chapter, enforce rules made by the board through the issuance of orders ~~[which]~~ that may be subsequently revoked, which ~~[rules]~~ orders may require:

(i) discontinuance of use of unsatisfactory sources of drinking water;

(ii) suppliers to notify the public concerning the need to boil water; or

(iii) suppliers in accordance with existing rules, to take remedial actions necessary to protect or improve an existing water system; and

(e) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the ~~[chairman]~~ chair of the board.

(3) The director may authorize employees or agents of the department, after reasonable notice and presentation of credentials, to enter any part of a public water system at reasonable times to inspect the facilities and water quality records required by board rules, conduct sanitary surveys, take samples, and investigate the standard of operation and service delivered by public water systems.

(4) As provided in this chapter and in accordance with rules made by the board:

(a) the director may issue and enforce a notice of violation and an administrative order; and

(b) the director may assess and make a demand for payment of an administrative penalty arising from a violation of this chapter, a rule or order issued under the authority of this chapter, or the terms of a permit or other administrative authorization issued under the authority of this chapter.

**Section 9. Section 19-4-107 is amended to read:**

**19-4-107. Notice of violation -- Action by attorney general.**

(1) Upon discovery of any violation of this chapter or a rule ~~or order~~ of the board, ~~the board or~~ the director shall promptly notify the supplier of the violation, state the nature of the violation, and issue an order requiring correction of that violation or the filing of a request for variance or exemption by a specific date.

(2) The attorney general shall, upon request of the director, commence an action for an injunction or other relief relative to the order.

**Section 10. Section 19-4-109 is amended to read:**

**19-4-109. Violations -- Penalties -- Reimbursement for expenses.**

~~(1) Any person that violates any rule or order made or issued pursuant to this chapter is subject to a civil penalty of not more than \$1,000 per day for each day of violation. The board may assess and make a demand for payment of a penalty under this section by directing the director to issue a notice of agency action under Title 63G, Chapter 4, Administrative Procedures Act.]~~

(1) As used in this section, "criminal negligence" means the same as that term is defined in Section 76-2-103.

(2) (a) A person who violates this chapter, a rule or order issued under the authority of this chapter, or the terms of a permit or other administrative authorization issued under the authority of this chapter is subject to an administrative penalty:

(i) not to exceed \$1,000 per day per violation, with respect to a public water system serving a population of less than 10,000 individuals; or

(ii) exactly \$1,000 per day per violation, with respect to a public water system serving a population of more than 10,000 individuals.

(b) In all cases, each day of violation is considered a separate violation.

(3) The director may assess and make a demand for payment of an administrative penalty under this section and may compromise or settle that penalty.

(4) To make a demand for payment of an administrative penalty assessed under this section, the director shall issue a notice of agency action, specifying, in addition to the requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative Procedures Act:

(a) the date, facts, and nature of each act or omission charged;

(b) the provision of the statute, rule, order, permit, or administrative authorization that is alleged to have been violated;

(c) each penalty that the director proposes to assess, together with the amount and date of effect of that penalty; and

(d) that failure to pay the penalty or respond may result in a civil action for collection.

(5) A person notified according to Subsection (4) may request an adjudicative proceeding.

(6) Upon request by the director, the attorney general may institute a civil action to collect a penalty assessed under this section.

~~(2) (7) (a) [Any] A person [that willfully] who, with criminal negligence, violates any rule or order made or issued pursuant to this chapter, or [that willfully] with criminal negligence fails to take [any] corrective action required by [such] an order, is guilty of a class B misdemeanor and subject to a fine of not more than \$5,000 per day for each day of violation.~~

(b) In addition, the person is subject, in a civil proceeding, to a penalty of not more than \$5,000 per day for each day of violation.

(8) (a) The director may bring a civil action for appropriate relief, including a permanent or temporary injunction, for a violation for which the director is authorized to issue a compliance order under Section 19-4-107.

(b) The director shall bring an action under this Subsection (8) in the district court where the violation occurs.

(9) (a) The attorney general is the legal advisor for the board and the director and shall defend them in an action or proceeding brought against the board or director.

(b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or criminal, requested by the director, to abate a condition that exists in violation of, or to prosecute for the violation of, or to enforce the laws or the standards, orders, and rules of the board or the director issued under this chapter.

(c) The director may initiate action under this section and be represented by the attorney general.

(10) If a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled to injunctive relief to prevent further or continued violation of the order.

(11) A bond may not be required for injunctive relief under this chapter.

~~(3) (12) (a) Except as provided in Subsection [(3)] (12)(b), [all penalties] a penalty assessed and collected under the authority of this section shall be deposited [in] into the General Fund.~~

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules that define:

(i) [define] qualifying environmental enforcement activities; and

(ii) [define] qualifying extraordinary expenses.

**Section 11. Section 19-4-114 is amended to read:**

**19-4-114. Source and storage minimum sizing requirements for public water systems.**

(1) (a) Except as provided in Subsection (1)(b) [and], upon submission of plans for a substantial addition to or alteration of a community water system, the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of more than 3,300 based on at least the most recent three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of more than 3,300 shall provide the information necessary to establish the system-specific standards described in this Subsection (1) by no later than March 1, 2019.

(2) (a) By no later than October 1, 2023, and except as provided in Subsection (2)(b), the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of between 500 and no more than 3,300 based on at least the most recent three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of between 500 and no more than 3,300 shall provide the information necessary to establish system-specific standards described in this Subsection (2) by no later than March 1, 2023.

(3) The director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of fewer than 500 based on:

(a) at least the most recent three years of a community water system's actual water use data submitted to the division and accepted by the director;

(b) an engineering study submitted by the community water system and accepted by the director;

(c) standards, comparable to those of established community water systems, as determined by the director; or

(d) relevant information, as determined by the director.

(4) The director shall:

(a) for community water systems described in Subsection (3), establish a schedule to transition from statewide sizing standards to system-specific standards;

(b) establish minimum sizing standards for public water systems that are not community water systems;

(c) provide for the routine evaluation of changes to the system-specific standards; and

(d) include, as part of system-specific standards, necessary fire storage capacity in accordance with the state fire code adopted under Section 15A-1-403 and as determined by the local fire code official.

(5) The director may adjust system-specific sizing standards, established under this section for a public water system, based on information submitted by the public water system addressing the effect of any wholesale water deliveries or other system-specific conditions affecting infrastructure needs.

(6) A wholesale water supplier is exempt from this section if the wholesale water supplier serves:

(a) a total population of more than 10,000; and

(b) a wholesale population that is 75% or more of the total population served.

**Section 12. Section 19-5-102 is amended to read:**

**19-5-102. Definitions.**

As used in this chapter:

(1) "Agriculture discharge":

(a) means the release of agriculture water from the property of a farm, ranch, or feed lot that:

(i) pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, and other water conveyance system of the state;

(ii) pollutes the ground water of the state; or

(iii) constitutes a significant nuisance on urban land; and

(b) does not include:

(i) runoff from a farm, ranch, or feed lot or return flows from irrigated fields onto land that is not part of a body of water; or

(ii) a release into a normally dry water conveyance [~~to an active body of water~~], unless the release reaches the water of a lake, pond, stream, marshland, river, or other active body of a water.

(2) "Agriculture water" means:

(a) water used by a farmer, rancher, or feed lot for the production of food, fiber, or fuel;

(b) return flows from irrigated agriculture; and

(c) agricultural storm water runoff.

(3) "Board" means the Water Quality Board created in Section 19-1-106.

(4) "Commission" means the Conservation Commission, created in Section 4-18-104.

(5) "Contaminant" means [any] a physical, chemical, biological, or radiological substance or matter in water.

(6) "Director" means the director of the Division of Water Quality or, for purposes of groundwater quality at a facility licensed by and under the jurisdiction of the Division of Waste Management and Radiation Control, the director of the Division of Waste Management and Radiation Control.

(7) "Discharge" means the addition of [any] a pollutant to [any] waters of the state.

(8) "Discharge permit" means a permit issued to a person who:

(a) discharges or whose activities would probably result in a discharge of pollutants into the waters of the state; or

(b) generates or manages sewage sludge.

(9) "Disposal system" means a system for disposing of wastes and includes sewerage systems and treatment works.

(10) "Division" means the Division of Water Quality, created in Subsection 19-1-105(1)(e).

(11) "Effluent limitations" means [any] restrictions, requirements, or prohibitions, including schedules of compliance established under this chapter, [which] that apply to discharges.

(12) "Point source":

(a) means [any] discernible, confined, and discrete conveyance, including [any] a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged; and

(b) does not include return flows from irrigated agriculture.

(13) "Pollution" means [any] a man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of [any] waters of the state, unless the alteration is necessary for the public health and safety.

(14) "Publicly owned treatment works" means [any] a facility for the treatment of pollutants owned by the state, its political subdivisions, or other public entity.

(15) "Schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with this chapter.

(16) "Sewage sludge" means [any] solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage.

(17) "Sewerage system" means pipelines or conduits, pumping stations, and [all] other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to a point of ultimate disposal.

(18) "Total maximum daily load" means a calculation of the maximum amount of a pollutant that a body of water can receive and still meet water quality standards.

(19) "Treatment works" means [any] a plant, disposal field, lagoon, dam, pumping station, incinerator, or other works used for the purpose of treating, stabilizing, or holding wastes.

(20) "Underground injection" means the subsurface emplacement of fluids by well injection.

(21) "Underground wastewater disposal system" means a system for [disposing] underground disposal of domestic wastewater discharges as defined by the board and the executive director.

(22) "Waste" or "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

(23) "Waters of the state":

(a) means [all] streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, [which] that



are contained within, flow through, or border upon this state or any portion of the state; and

(b) does not include bodies of water confined to and retained within the limits of private property, and ~~which~~ that do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

**Section 13. Section 19-5-104 is amended to read:**

**19-5-104. Powers and duties of board.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules that:

(a) taking into account Subsection (6):

(i) implement the awarding of construction loans to political subdivisions and municipal authorities under Section 11-8-2, including:

(A) requirements pertaining to applications for ~~loans~~ a loan;

(B) requirements for determination of an eligible ~~projects~~ project;

(C) requirements for determination of the costs upon which ~~loans are~~ a loan is based, which costs may include engineering, financial, legal, and administrative expenses necessary for the construction, reconstruction, and improvement of a sewage treatment ~~plants~~ plant, including a major ~~interceptors, collection systems, and other facilities~~ interceptor, collection system, or other facility appurtenant to the plant;

(D) a priority schedule for awarding loans, in which the board may consider, in addition to water pollution control needs, any financial needs relevant, including per capita cost, in making a determination of priority; and

(E) requirements for determination of the amount of the loan;

(ii) implement the awarding of loans for nonpoint source projects pursuant to Section 73-10c-4.5;

(iii) set effluent limitations and standards subject to Section 19-5-116;

(iv) implement or effectuate the powers and duties of the board; and

(v) protect the public health for the design, construction, operation, and maintenance of underground wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies;

(b) govern inspection, monitoring, recordkeeping, and reporting requirements for underground injections and require permits for underground injections, to protect drinking water sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil, recognizing that underground injection endangers drinking water sources if:

(i) injection may result in the presence of ~~any~~ a contaminant in underground water that supplies or can reasonably be expected to supply ~~any~~ a public water system, as defined in Section 19-4-102; and

(ii) the presence of the contaminant may:

(A) result in the public water system not complying with any national primary drinking water standards; or

(B) otherwise adversely affect the health of persons;

(c) govern sewage sludge management, including permitting, inspecting, monitoring, recordkeeping, and reporting requirements; and

(d) notwithstanding ~~the provisions of~~ Section 19-4-112, govern design and construction of irrigation systems that:

(i) convey sewage treatment facility effluent of human origin in pipelines under pressure, unless contained in surface pipes wholly on private property and for agricultural purposes; and

(ii) are constructed after May 4, 1998.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall adopt and enforce rules and establish fees to cover the costs of:

(i) managing the certification and testing program; and

(ii) testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.

(b) In establishing certification rules under Subsection (2)(a), the board shall:

(i) base the requirements for certification on the size, treatment process type, and complexity of the treatment works and sewerage systems operated by political subdivisions;

(ii) allow operators until three years after the date of adoption of the rules to obtain initial certification;

(iii) allow a new operator one year from the date the operator is hired by a treatment plant or sewerage system or three years after the date of adoption of the rules, whichever occurs later, to obtain certification;

(iv) issue certification upon application and without testing, at a grade level comparable to the grade of current certification to operators who are currently certified under the voluntary certification plan for wastewater works operators as recognized by the board; and

(v) issue a certification upon application and without testing that is valid only at the treatment works or sewerage system where that operator is currently employed if the operator:

(A) is in charge of and responsible for the treatment works or sewerage system on March 16, 1991;

(B) has been employed at least 10 years in the operation of that treatment works or sewerage system before March 16, 1991; and

(C) demonstrates to the board the operator's capability to operate the treatment works or sewerage system at which the operator is currently employed by providing employment history and references as required by the board.

(3) The board shall:

(a) develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;

(b) adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses in the interest of the public under conditions the board may prescribe for the prevention, control, and abatement of pollution;

(c) give reasonable consideration in the exercise of its powers and duties to the economic impact of water pollution control on industry and agriculture;

(d) meet the requirements of federal law related to water pollution;

(e) establish and conduct a continuing planning process for control of water pollution, including the specification and implementation of maximum daily loads of pollutants;

(f) (i) approve, approve in part, approve with conditions, or deny, in writing, an application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and

(ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act;

(g) (i) review [all] total daily maximum load reports and recommendations for water quality end points and implementation strategies developed by the division before submission of the report, recommendation, or implementation strategy to the EPA;

(ii) disapprove, approve, or approve with conditions [all] the staff total daily maximum load recommendations; and

(iii) provide suggestions for further consideration to the Division of Water Quality in the event a total daily maximum load strategy is rejected; and

(h) to ensure compliance with applicable statutes and regulations:

(i) review a settlement negotiated by the director in accordance with Subsection 19-5-106(2)(k) that requires a civil penalty of \$25,000 or more; and

(ii) approve or disapprove the settlement described in Subsection (3)(h)(i).

(4) The board may:

(a) order the director to issue, modify, or revoke [orders] an order;

(i) prohibiting or abating discharges;

(ii) (A) requiring the construction of new treatment works or any parts of [~~them, or~~] the new treatment works;

(B) requiring the modification, extension, or alteration of existing treatment works as specified by board rule or any parts of [~~them,]~~ existing treatment works; or

(C) the adoption of other remedial measures to prevent, control, or abate pollution;

(iii) setting standards of water quality, classifying waters or evidencing any other determination by the board under this chapter; or

(iv) requiring compliance with this chapter and with rules made under this chapter;

(b) advise, consult, and cooperate with [~~other agencies]~~ another agency of the state, the federal government, [~~other states, or interstate agencies, or with affected groups, political subdivisions, or industries]~~ another state, an interstate agency, an affected group, an affected political subdivision, or affected industry to further the purposes of this chapter; or

(c) delegate the authority to issue an operating permit to a local health department.

(5) In performing the duties listed in Subsections (1) through (4), the board shall give priority to pollution that results in a hazard to the public health.

(6) The board shall take into consideration the availability of federal grants:

(a) in determining eligible project costs; and

(b) in establishing priorities pursuant to Subsection (1)(a)(i).

(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-5-106:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

**Section 14. Section 19-5-104.5 is amended to read:**

**19-5-104.5. Legislative review and approval.**

(1) Before sending a [~~board-approved report, strategy, or recommendation that will recommend a]~~ total maximum daily load [~~end-point]~~ and implementation strategy to the EPA for review and approval, the Water Quality Board shall submit the

~~[report, strategy, or recommendation]~~ total maximum daily load:

(a) for review to the Natural Resources, Agriculture, and Environment Interim Committee if the ~~[report, strategy, or recommendation]~~ total maximum daily load will require a public or private expenditure in excess of \$10,000,000 but less than \$100,000,000 for compliance; or

(b) for approval to the Legislature if the ~~[strategy]~~ total maximum daily load will require a public or private expenditure of \$100,000,000 or more.

(2) (a) As used in this Subsection (2):

(i) "Expenditure" means the act of expending funds:

(A) by an individual public facility with a Utah Pollutant Discharge Elimination System permit, or by a group of private agricultural facilities; and

(B) through an initial capital investment, or through operational costs over a three-year period.

(ii) "Utah Pollutant Discharge Elimination System" means the state permit system created in accordance with 33 U.S.C. Sec. 1342.

(b) Before the board adopts a nitrogen or phosphorus rule or standard, the board shall submit the rule or standard as directed in Subsections (2)(c) and (d).

(c) (i) If compliance with the rule or standard requires an expenditure in excess of \$250,000, but less than \$10,000,000, the board shall submit the rule or standard for review to the Natural Resources, Agriculture, and Environment Interim Committee.

(ii) (A) Except as provided in Subsection (2)(c)(ii)(B), the Natural Resources, Agriculture, and Environment Interim Committee shall review a rule or standard the board submits under Subsection (2)(c)(i) during the Natural Resources, Agriculture, and Environment Interim Committee's committee meeting immediately following the day on which the board submits the rule or standard.

(B) If the committee meeting described in Subsection (2)(c)(ii)(A) is within five days after the day on which the board submits the rule or standard for review, the Natural Resources, Agriculture, and Environment Interim Committee shall review the rule or standard during the committee meeting described in Subsection (2)(c)(ii)(A) or during the committee meeting immediately following the committee meeting described in Subsection (2)(c)(ii)(A).

(d) If compliance with the rule or standard requires an expenditure of \$10,000,000 or more, the board shall submit the rule or standard for approval to the Legislature.

(e) (i) A facility shall estimate the cost of compliance with a board-proposed rule or standard described in Subsection (2)(b) using:

(A) an independent, licensed engineer; and

(B) industry-accepted project cost estimate methods.

(ii) The board may evaluate and report on a compliance estimate described in Subsection (2)(e)(i).

(f) If there is a discrepancy in the estimated cost to comply with a rule or standard, the Office of the Legislative Fiscal Analyst shall determine the estimated cost to comply with the rule or standard.

(3) In reviewing a ~~[report, strategy, rule, standard, or recommendation]~~ rule or standard, the Natural Resources, Agriculture, and Environment Interim Committee may:

(a) consider the impact of the ~~[report, strategy, rule, standard, or recommendation]~~ rule or standard on:

(i) economic costs and benefit;

(ii) public health; and

(iii) the environment;

(b) suggest additional areas of consideration; or

(c) recommend the ~~[report, strategy, rule, standard, or recommendation]~~ rule or standard to the board for:

(i) adoption; or

(ii) re-evaluation followed by further review by the ~~[committee]~~ Natural Resources, Agriculture, and Environment Interim Committee.

(4) When the Natural Resources, Agriculture, and Environment Interim Committee sets the review of a rule or standard submitted under Subsection (2)(c)(i) as an agenda item, the committee shall:

(a) before the review, directly inform the chairs of the Administrative Rules Review Committee of the coming review, including the date, time, and place of the review; and

(b) after the review, directly inform the chairs of the Administrative Rules Review Committee of the outcome of the review, including any recommendation.

**Section 15. Section 19-5-105.5 is amended to read:**

**19-5-105.5. Agriculture water.**

(1) (a) The board shall draft any rules relating to agriculture water in cooperation with the commission.

(b) The commission shall advise the board before the board may adopt ~~[rules]~~ a rule relating to agriculture water.

(2) A program or rule adopted by the board for agriculture production or irrigation water shall:

(a) be consistent with the federal Clean Water Act; and

(b) if possible, be developed in a voluntary cooperative program with the agriculture producer associations and the commission.

(3) (a) The board's authority to regulate a discharge is subject to Subsection (3)(b) relating to an agriculture discharge.

(b) (i) A person responsible for an agriculture discharge shall mitigate the resulting damage in a reasonable manner, as approved by the director after consulting with the commission chair.

(ii) A penalty imposed on an agriculture discharge shall be ~~[proportionate to the seriousness of the resulting harm]~~ consistent with the penalty policy described in Section 19-5-115 and associated rules, as determined by the director in consultation with the commission chair.

(iii) An agriculture producer may not be held liable for an agriculture discharge resulting from a large weather event if the agriculture producer has taken reasonable measures, as the board defines by rule, to prevent an agriculture discharge.

**Section 16. Section 19-5-108 is amended to read:**

**19-5-108. Discharge permits -- Requirements and procedure for issuance.**

(1) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for and require the submission of plans, specifications, and other information to the director in connection with the issuance of discharge permits.

(2) ~~[Each]~~ A discharge permit shall have a fixed term not exceeding five years. Upon expiration of a discharge permit, ~~the permit may be renewed or a new permit may be issued by the director as authorized by the board after notice and an opportunity for public hearing and upon condition that the applicant meets or will meet [all] the applicable requirements of this chapter, including the conditions of [any] a permit granted by the board.~~

(3) The board may require notice to the director of the introduction of pollutants into publicly-owned treatment works and identification to the director of the character and volume of any pollutant of any significant source subject to pretreatment standards under Subsection 307(b) of the federal Clean Water Act. The director shall provide in the permit for compliance with pretreatment standards.

(4) The director may impose as conditions in permits for the discharge of pollutants from publicly-owned treatment works appropriate measures to establish and ~~[insure]~~ ensure compliance by industrial users with any system of user charges required under this chapter or the rules adopted under ~~[it]~~ this chapter.

(5) The director may apply and enforce against industrial users of publicly-owned treatment works, toxic effluent standards and pretreatment standards for the introduction into the treatment works of pollutants ~~[which]~~ that interfere with, pass through, or otherwise are incompatible with the treatment works.

**Section 17. Section 19-5-116 is amended to read:**

**19-5-116. Limitation on effluent limitation standards for BOD, Total Suspended Solids, Bacteria, and pH for domestic or municipal sewage.**

Unless required to meet instream water quality standards or federal requirements established under the federal ~~[Water Pollution Control Act]~~ Clean Water Act, the board may not establish, under Section 19-5-104, effluent limitation standards for Biochemical Oxygen Demand (BOD), Total Suspended Solids (SS), ~~[Coliforms]~~ Bacteria, and pH for domestic or municipal sewage ~~[which]~~ that are more stringent than the following:

(1) Biochemical Oxygen Demand (BOD): The arithmetic mean of BOD values determined on effluent samples collected during any 30-day period may not exceed 25 mg/l, nor shall the arithmetic mean exceed 35 mg/l during any seven-day period.

(2) Total Suspended Solids (SS): The arithmetic mean of SS values determined on effluent samples collected during any 30-day period may not exceed 25 mg/l, nor shall the arithmetic mean exceed 35 mg/l during any seven-day period.

(3) ~~[Coliform]~~ Bacteria:

(a) The geometric mean of total coliforms and fecal coliform bacteria in effluent samples collected during any 30-day period may not exceed either 2000/100 ml for total coliforms or 200/100 ml for fecal coliforms. The geometric mean during any seven-day period may not exceed 2500/100 ml for total coliforms or 250/100 for fecal coliforms.

(b) The geometric mean of E. coli bacteria in effluent samples collected during any 30-day period shall not exceed 126 per 100 mL nor shall the geometric mean exceed 158 per 100 mL respectively during any 7-day period.

(4) pH: The pH level shall be maintained at a level not less than 6.5 or greater than 9.0.

**Section 18. Section 19-6-102 is amended to read:**

**19-6-102. Definitions.**

As used in this part:

(1) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does not include a facility that:

- (i) receives waste for recycling;
- (ii) receives waste to be used as fuel, in compliance with federal and state requirements; or
- (iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(4) “Construction waste or demolition waste”:

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include:

- (i) asbestos;
- (ii) contaminated soils or tanks resulting from remediation or cleanup at a release or spill;
- (iii) waste paints;
- (iv) solvents;
- (v) sealers;
- (vi) adhesives; or
- (vii) hazardous or potentially hazardous materials similar to that described in Subsections (4)(b)(i) through (vi).

(5) “Director” means the director of the Division of Waste Management and Radiation Control.

(6) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or discharged into any waters, including groundwaters.

(7) “Division” means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

(8) “Generation” or “generated” means the act or process of producing nonhazardous solid or hazardous waste.

(9) (a) “Hazardous waste” means a solid waste or combination of solid wastes other than household waste that, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(b) “Hazardous waste” does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).

(10) “Health facility” means a:

- (a) hospital;

(b) psychiatric hospital;

(c) home health agency;

(d) hospice;

(e) skilled nursing facility;

(f) intermediate care facility;

(g) intermediate care facility for people with an intellectual disability;

(h) residential health care facility;

(i) maternity home or birthing center;

(j) free standing ambulatory surgical center;

(k) facility owned or operated by a health maintenance organization;

(l) state renal disease treatment center, including a free standing hemodialysis unit;

(m) the office of a private physician or dentist whether for individual or private practice;

(n) veterinary clinic; or

(o) mortuary.

(11) “Household waste” means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(12) “Infectious waste” means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(13) “Manifest” means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(14) “Mixed waste” means material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(15) “Modification [~~plan~~] request” means a [~~plan~~] request under Section 19-6-108 to modify a permitted facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

(16) “Operation plan” or “nonhazardous solid or hazardous waste operation plan” means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification [~~plan~~] request; or

(d) an approval that the director is authorized to issue.

(17) "Permit" includes an operation plan.

(17) (18) "Permittee" means a person who is obligated under an operation plan.

(18) (19) (a) "Solid waste" means [any] garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities [but].

(b) "Solid waste" does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

(18) (c) "Solid waste" does not include metal that is:

(i) purchased as a valuable commercial commodity; and

(ii) not otherwise hazardous waste or subject to conditions of the federal hazardous waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

(19) (20) "Solid waste management facility" means the same as that term is defined in Section 19-6-502.

(20) (21) "Storage" means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

(21) (22) (a) "Transfer" means the collection of nonhazardous solid waste from a permanent, fixed, supplemental collection facility for movement to a vehicle for movement to an offsite nonhazardous solid waste storage or disposal facility.

(b) "Transfer" does not mean:

(i) the act of moving nonhazardous solid waste from one location to another location on the site where the nonhazardous solid waste is generated; or

(ii) placement of nonhazardous solid waste on the site where the nonhazardous solid waste is generated in preparation for movement off that site.

(22) (23) "Transportation" means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

(23) (24) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

(24) (25) "Underground storage tank" means a tank that is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

**Section 19. Section 19-6-102.1 is amended to read:**

**19-6-102.1. Treatment or disposal -- Exclusions.**

As used in Subsections [19-6-104(3)(e)(ii)(B),] 19-6-108(3)(b), 19-6-108(3)(c)(ii)(B), and 19-6-119(1)(a), the term "treatment [and] or disposal" specifically excludes the recycling, use, reuse, or reprocessing of:

(1) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(2) waste from the extraction, beneficiation, and processing of ores and minerals; or

(3) cement kiln dust, including recycle, reuse, use, or reprocessing for road sanding, sand blasting, road construction, railway ballast, construction fill, aggregate, and other construction-related purposes.

**Section 20. Section 19-6-104 is amended to read:**

**19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

~~(1) The board may:~~

~~(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;~~

~~(b) recommend that the director:~~

~~(i) issue orders necessary to enforce the provisions of the Radiation Control Act;~~

~~(ii) enforce the orders by appropriate administrative and judicial proceedings; or~~

~~(iii) institute judicial proceedings to secure compliance with this part;~~

~~(e) (i) hold a hearing that is not an adjudicative proceeding; or~~

~~(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;~~

~~(d) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of the Radiation Control Act; or~~

~~(e) order the director to impound radioactive material in accordance with Section 19-3-111.]~~

~~(2) (a) The board shall promote the planning and application of pollution prevention and radioactive waste minimization measures to prevent the unnecessary waste and depletion of natural resources; and~~

~~(b) review the qualifications of, and issue certificates of approval to, individuals who:~~

~~[(i) survey mammography equipment; or]~~

~~[(ii) oversee quality assurance practices at mammography facilities.]~~

~~[(3)] (1) The board shall:~~

(a) survey solid and hazardous waste generation and management practices within this state and, after public hearing and after providing opportunities for comment by local governmental entities, industry, and other interested persons, prepare and revise, as necessary, a waste management plan for the state;

~~[(b) order the director to:]~~

~~[(i) issue orders necessary to effectuate the provisions of this part and rules made under this part;]~~

~~[(ii) enforce the orders by administrative and judicial proceedings; or]~~

~~[(iii) initiate judicial proceedings to secure compliance with this part;]~~

~~[(e)] (b) promote the planning and application of resource recovery systems to prevent the unnecessary waste and depletion of natural resources;~~

~~[(d)] (c) meet the requirements of federal law related to solid and hazardous wastes to [insure] ensure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste;~~

~~[(e)] (d) (i) require [any] a facility, including [those] a facility listed in Subsection [(3)(e)(ii)] (1)(d)(ii), to submit plans, specifications, and other information required by the board to the director [prior to] before construction, modification, installation, or establishment of a facility to allow the director to determine whether the proposed construction, modification, installation, or establishment of the facility will be in accordance with rules made under this part;~~

~~(ii) [facilities] consider a facility referred to in Subsection [(3)(e)(i)] (1)(d)(i) [include any] to include an incinerator that is intended for disposing of nonhazardous solid waste; [and]~~

~~(iii) consider a facility referred to in Subsection [(3)(e)(i)] (1)(d)(i) [does] to not include a commercial facility that is solely for the purpose of recycling, reuse, or reprocessing the following waste:~~

(A) fly ash waste;

(B) bottom ash waste;

(C) slag waste; or

(D) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; and

(iv) consider a facility referred to in Subsection [(3)(e)(i)] (1)(d)(i) [does] to not include a facility when the following waste is generated and the

disposal occurs at an on-site location owned and operated by the generator of the waste:

(A) waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. 261.4(b)(7)(ii); or

(B) cement kiln dust; and

~~[(f)] (e) to ensure compliance with applicable statutes and [regulations] rules:~~

(i) review a settlement negotiated by the director in accordance with Subsection 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

(ii) approve or disapprove the settlement described in Subsection (1)(e)(i).

~~[(4)] (2) The board may:~~

(a) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint a hearing [officers] officer to conduct a hearing that is not an adjudicative proceeding; or

(b) advise, consult, cooperate with, or provide technical assistance to [other agencies] another agency of the state or federal government, [other states, interstate agencies, or affected groups, political subdivisions, industries, or other persons] another state, an interstate agency, an affected group, an affected political subdivision, an affected industry, or other person in carrying out the purposes of this part.

~~[(5)] (3) (a) The board shall establish a comprehensive statewide waste management plan.~~

(b) The plan shall:

(i) incorporate the solid waste management plans submitted by the counties;

(ii) provide an estimate of solid waste capacity needed in the state for the next 20 years;

(iii) assess the state's ability to minimize waste and recycle;

(iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste needs and existing capacity;

(v) evaluate facility siting, design, and operation;

(vi) review funding alternatives for solid waste management; and

(vii) address other solid waste management concerns that the board finds appropriate for the preservation of the public health and the environment.

(c) The board shall consider the economic viability of solid waste management strategies [prior to] before incorporating [them] the solid waste management strategies into the plan and shall consider the needs of population centers.

(d) The board shall review and modify the comprehensive statewide solid waste management plan no less frequently than every five years.

~~[(6)] (4) (a) The board shall determine the type of solid waste generated in the state and tonnage of~~

solid waste disposed of in the state in developing the comprehensive statewide solid waste management plan.

(b) The board shall review and modify the inventory no less frequently than once every five years.

~~[(7)]~~ (5) Subject to the limitations contained in Subsection 19-6-102~~[(18)(b)]~~(19)(c), the board shall establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.

~~[(8)]~~ (6) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-6-107:

- (a) a permit;
- (b) a license;
- (c) a registration;
- (d) a certification; or
- (e) another administrative authorization made by the director.

~~[(9)]~~ (7) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

**Section 21. Section 19-6-105 is amended to read:**

**19-6-105. Rules of board.**

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

(a) establishing minimum standards for protection of human health and the environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites;

(b) identifying wastes ~~[which]~~ that are determined to be hazardous, including wastes designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C., Sec. 6921, et seq.;

(c) governing generators and transporters of hazardous wastes and owners and operators of hazardous waste treatment, storage, and disposal facilities, including requirements for keeping records, monitoring, submitting reports, and using a manifest, without treating high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling muds, and oil production brines in a manner more stringent than they are treated under federal standards;

(d) requiring an owner or operator of a treatment, storage, or disposal facility that is subject to a plan approval under Section 19-6-108 or ~~[which]~~ that received waste after July 26, 1982, to take

appropriate corrective action or other response measures for releases of hazardous waste or hazardous waste constituents from the facility, including releases beyond the boundaries of the facility;

(e) specifying the terms and conditions under which the director shall approve, disapprove, revoke, or review hazardous wastes operation plans;

(f) governing public hearings and participation under this part;

(g) establishing standards governing underground storage tanks, in accordance with Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

(h) relating to the collection, transportation, processing, treatment, storage, and disposal of infectious waste in health facilities in accordance with the requirements of Section 19-6-106;

(i) defining closure plans ~~[as major or minor]~~, modification requests, or both for hazardous waste, as class I, class I with prior director approval, class II, or class III;

~~[(j)]~~ ~~defining modification plans as major or minor;~~ and

~~[(k)]~~ (j) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste substance of any kind to be thrown, or remain upon or in ~~[any]~~ a street, road, ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or well.

(2) If any of the following are determined to be hazardous waste and are therefore subjected to the provisions of this part, the board shall, in the case of landfills or surface impoundments that receive the solid wastes, take into account the special characteristics of the wastes, the practical difficulties associated with applying requirements for other wastes to the wastes, and site-specific characteristics, including the climate, geology, hydrology, and soil chemistry at the site, if the modified requirements assure protection of human health and the environment and are no more stringent than federal standards applicable to waste:

(a) solid waste from the extraction, beneficiation, or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium;

(b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; and

(c) cement kiln dust waste.

(3) The board shall establish criteria for siting commercial hazardous waste treatment, storage, and disposal facilities, including commercial hazardous waste incinerators. Those criteria shall apply to any facility or incinerator for which plan approval is required under Section 19-6-108.



**Section 22. Section 19-6-107 is amended to read:**

**19-6-107. Director -- Appointment -- Powers.**

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) The director shall:

~~[(a) develop programs to promote and protect the public from radiation sources in the state;]~~

~~[(b) advise, consult, cooperate with, and provide technical assistance to other agencies, states, the federal government, political subdivisions, industries, and other persons in carrying out the provisions of the Radiation Control Act;]~~

~~[(c) receive specifications or other information relating to licensing applications for radioactive materials or registration of radiation sources for review, approval, disapproval, or termination;]~~

~~[(d) issue permits, licenses, registrations, certifications, and other administrative authorizations;]~~

~~[(e) review and approve plans;]~~

~~[(f) assess penalties in accordance with Section 19-3-109;]~~

~~[(g) impound radioactive material under Section 19-3-111;]~~

~~[(h) (a) issue [orders] an order necessary to enforce [the provisions of] this part[, to];]~~

~~[(b) enforce [the orders] an order by appropriate administrative and judicial proceedings[, or to];]~~

~~[(c) institute judicial proceedings to secure compliance with this part;]~~

~~[(i) (d) carry out inspections pursuant to Section 19-6-109;]~~

~~[(j) (e) require submittal of specifications or other information relating to hazardous waste plans for review, and approve, disapprove, revoke, or review the plans;]~~

~~[(k) (f) develop programs for solid waste and hazardous waste management and control within the state;]~~

~~[(l) (g) advise, consult, and cooperate with [other agencies] another agency of the state, the federal government, [other states and interstate agencies, and with] another state, an interstate agency, an affected [groups] group, an affected political [subdivisions, and industries] subdivision, an affected industry, or other affected person in furtherance of the purposes of this part;]~~

~~[(m) (h) subject to the provisions of this part, enforce rules made or revised by the board through the issuance of orders;]~~

~~[(n) (i) review plans, specifications or other data relative to solid waste and hazardous waste control~~

systems or any part of the systems as provided in this part;

~~[(o) (j) under the direction of the executive director, represent the state in [all] matters pertaining to interstate solid waste and hazardous waste management and control including, under the direction of the board, entering into interstate compacts and other similar agreements; and]~~

~~[(p) (k) as authorized by the board and subject to the provisions of this part, act as executive secretary of the board under the direction of the [chairman] chair of the board.]~~

(3) The director may:

(a) subject to Subsection 19-6-104~~[(3)(f)](1)(e)~~, settle or compromise any administrative or civil action initiated to compel compliance with this part and any rules adopted under this part;

(b) employ full-time employees necessary to carry out this part;

~~[(c) [as authorized by the board pursuant to the provisions of this part,] authorize any employee or representative of the department to conduct inspections as permitted in this part;]~~

(d) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to solid waste and hazardous waste management and control necessary for the discharge of duties assigned under this part;

(e) collect and disseminate information relating to solid waste and hazardous waste management control; and

(f) cooperate with any person in studies and research regarding solid waste and hazardous waste management and control~~[;]~~.

~~[(g) cooperate with any person in studies, research, or demonstration projects regarding radioactive waste management or control of radiation sources;]~~

~~[(h) settle or compromise any civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; and]~~

~~[(i) authorize employees or representatives of the department to enter, at reasonable times and upon reasonable notice, in and upon public or private property for the purpose of inspecting and investigating conditions and records concerning radiation sources.]~~

**Section 23. Section 19-6-108 is amended to read:**

**19-6-108. New nonhazardous solid or hazardous waste operation plans for facility or site -- Administrative and legislative approval required -- Exemptions from legislative and gubernatorial approval -- Time periods for review -- Information required -- Other conditions -- Automatic revocation of approval -- Periodic review.**

(1) For purposes of this section, the following items shall be treated as submission of a new operation plan:

(a) the submission of a revised operation plan specifying a different geographic site than a previously submitted plan;

(b) an application for modification of a commercial hazardous waste incinerator if the construction or the modification would increase the hazardous waste incinerator capacity above the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in the operation plan application as of January 1, 1990, if no operation plan approval has been issued as of January 1, 1990;

(c) an application for modification of a commercial nonhazardous solid waste incinerator if the construction of the modification would cost 50% or more of the cost of construction of the original incinerator or the modification would result in an increase in the capacity or throughput of the incinerator of a cumulative total of 50% above the total capacity or throughput that was approved in the operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990;

(d) an application for modification of a commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990; or

(e) a submission of an operation plan to construct a facility, if previous approvals of the operation plan to construct the facility have been revoked pursuant to Subsection (3)(c)(~~iii~~)(iv).

(2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage specified for the trial burn in the operation plan or the operation plan application if no operation plan approval has been issued as of January 1, 1990, and on annual operations of 7,000 hours.

(3) (a) (i) Except as specified in Subsection (3)(a)(ii)(C), a person may not own, construct, modify, or operate ~~any~~ a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste without first submitting and receiving the approval of the director for an operation plan for that facility or site.

(ii) (A) A permittee who is the current owner of a facility or site that is subject to an operation plan may submit to the director information, a report, a plan, or other request for approval for a proposed activity under an operation plan:

(I) after obtaining the consent of any other permittee who is a current owner of the facility or site; and

(II) without obtaining the consent of any other permittee who is not a current owner of the facility or site.

(B) The director may not:

(I) withhold an approval of an operation plan requested by a permittee who is a current owner of the facility or site on the grounds that another permittee who is not a current owner of the facility or site has not consented to the request; or

(II) give an approval of an operation plan requested by a permittee who is not a current owner before receiving consent of the current owner of the facility or site.

(C) A facility referred to in Subsection (3)(a)(i) does not include a facility when the waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is generated and the disposal occurs at an on-site location owned and operated by the generator of the waste.

(b) (i) Except for ~~[facilities that receive]~~ a facility that receives the following wastes solely for the purpose of recycling, reuse, or reprocessing, a person may not own, construct, modify, or operate any commercial facility that accepts for treatment or disposal, with the intent to make a profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and receiving the approval of the director for an operation plan for that facility site.

(ii) Wastes referred to in Subsection (3)(b)(i) are:

(A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

(C) cement kiln dust wastes.

(c) (i) A person may not construct a facility listed under Subsection (3)(c)(ii) until the person receives:

(A) local government approval and the approval described in Subsection (3)(a);

(B) approval from the Legislature; and

(C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B), approval from the governor.

(ii) A facility referred to in Subsection (3)(c)(i) is:

(A) a commercial nonhazardous solid waste disposal facility;

(B) ~~except for [facilities that receive the following wastes] a facility that receives a waste listed in Subsection (3)(c)(iii), solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, with the intent to make a profit[: fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust wastes]; or~~

(C) a commercial hazardous waste treatment, storage, or disposal facility.

(iii) Subsection (3)(c)(ii)(B) applies to the following wastes:

(A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

(C) cement kiln dust wastes.

~~(iii)~~ (iv) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

(A) the governor's approval is received on or after May 10, 2011, and the facility is not operational within five years after the day on which the governor's approval is received; or

(B) the governor's approval is received before May 10, 2011, and the facility is not operational on or before May 10, 2016.

~~(iv)~~ (v) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to another person for five years after the day on which the governor's approval is received.

(d) A person need not obtain gubernatorial or legislative approval for the construction of a hazardous waste facility for which an operating plan has been approved by or submitted for approval to the executive secretary of the board under this section before April 24, 1989, and which has been determined, on or before December 31, 1990, by the executive secretary of the board to be complete, in accordance with state and federal requirements for operating plans for hazardous waste facilities even if a different geographic site is subsequently submitted.

(e) A person need not obtain gubernatorial and legislative approval for the construction of a commercial nonhazardous solid waste disposal facility for which an operation plan has been approved by or submitted for approval to the executive secretary of the board under this section on or before January 1, 1990, and which, on or before December 31, 1990, the executive secretary of the board determines to be complete, in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.

(f) ~~Any~~ A person owning or operating a facility or site on or before November 19, 1980, who has given timely notification as required by Section 3010 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. ~~Section~~ Sec. 6921, et seq., and who has submitted a proposed hazardous waste plan under this section for that facility or site, may continue to operate that facility or site without violating this section until the plan is approved or disapproved under this section.

(g) (i) The director shall suspend acceptance of further applications for a commercial

nonhazardous solid or hazardous waste facility upon a finding that the director cannot adequately oversee existing and additional facilities for permit compliance, monitoring, and enforcement.

(ii) The director shall report any suspension to the Natural Resources, Agriculture, and Environment Interim Committee.

(4) The director shall review ~~each~~ a proposed nonhazardous solid or hazardous waste operation plan to determine whether that plan complies with ~~the provisions of~~ this part and the applicable rules of the board.

(5) (a) If the facility is a class I or class II facility, the director shall approve or disapprove that plan within 270 days from the date ~~it~~ the plan is submitted.

(b) Within 60 days after receipt of the plans, specifications, or other information required by this section for a class I or II facility, the director shall determine whether the plan is complete and contains ~~all~~ the information necessary to process the plan for approval.

(c) (i) If the plan for a class I or II facility is determined to be complete, the director shall issue a notice of completeness.

(ii) If the plan is determined by the director to be incomplete, the director shall issue a notice of deficiency, listing the additional information to be provided by the owner or operator to complete the plan.

(d) The director shall review information submitted in response to a notice of deficiency within 30 days after receipt.

(e) The following time periods may not be included in the 270 day plan review period for a class I or II facility:

(i) time awaiting response from the owner or operator to requests for information issued by the director;

(ii) time required for public participation and hearings for issuance of plan approvals; and

(iii) time for review of the permit by other federal or state government agencies.

(6) (a) If the facility is a class III or class IV facility, the director shall approve or disapprove that plan within 365 days from the date ~~it~~ the plan is submitted.

(b) The following time periods may not be included in the 365 day review period:

(i) time awaiting response from the owner or operator to requests for information issued by the director;

(ii) time required for public participation and hearings for issuance of plan approvals; and

(iii) time for review of the permit by other federal or state government agencies.

(7) If, within 365 days after receipt of a modification ~~plan~~ request or closure plan for any

facility, the director determines that the proposed plan or request, or any part of [it] the proposed plan or request, will not comply with applicable rules, the director shall issue an order prohibiting any action under the proposed plan or request for modification or closure in whole or in part.

(8) [Any] A person who owns or operates a facility or site required to have an approved hazardous waste operation plan under this section and who has pending a permit application before the United States Environmental Protection Agency shall be treated as having an approved plan until final administrative disposition of the permit application is made under this section, unless the director determines that final administrative disposition of the application has not been made because of the failure of the owner or operator to furnish any information requested, or the facility's interim status has terminated under Section 3005 (e) of the Resource Conservation and Recovery Act, 42 U.S.C. [Section] Sec. 6925 (e).

(9) The director may not approve a proposed nonhazardous solid or hazardous waste operation plan unless the plan contains the information that the board requires, including:

(a) estimates of the composition, quantities, and concentrations of any hazardous waste identified under this part and the proposed treatment, storage, or disposal of [it] the hazardous waste;

(b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of hazardous waste will not be done in a manner that may cause or significantly contribute to an increase in mortality, an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment;

(c) consistent with the degree and duration of risks associated with the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of specified hazardous waste, evidence of financial responsibility in whatever form and amount that the director determines is necessary to [insure] ensure continuity of operation and that upon abandonment, cessation, or interruption of the operation of the facility or site, [all] the reasonable measures consistent with the available knowledge will be taken to [insure] ensure that the waste subsequent to being treated, stored, or disposed of at the site or facility will not present a hazard to the public or the environment;

(d) evidence that the personnel employed at the facility or site have education and training for the safe and adequate handling of nonhazardous solid or hazardous waste;

(e) plans, specifications, and other information that the director considers relevant to determine whether the proposed nonhazardous solid or hazardous waste operation plan will comply with this part and the rules of the board;

(f) compliance schedules, [where] when applicable, including schedules for corrective action

or other response measures for releases from [any] a solid waste management unit at the facility, regardless of the time the waste was placed in the unit;

(g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or hazardous waste facility other than a water treatment facility that treats, stores, or disposes site-generated solid or hazardous waste onsite, a traffic impact study that:

(i) takes into consideration the safety, operation, and condition of roadways serving the proposed facility; and

(ii) is reviewed and approved by the Department of Transportation or a local highway authority, whichever has jurisdiction over each road serving the proposed facility, with the cost of the review paid by the person who submits the proposed operation plan; and

(h) for a proposed operation plan submitted on or after July 1, 2013, for a new nonhazardous solid waste facility owned or operated by a local government, financial information that discloses [all] the costs of establishing and operating the facility, including:

(i) land acquisition and leasing;

(ii) construction;

(iii) estimated annual operation;

(iv) equipment;

(v) ancillary structures;

(vi) roads;

(vii) transfer stations; and

(viii) using other operations that are not contiguous to the proposed facility but are necessary to support the facility's construction and operation.

(10) The director may not approve a commercial nonhazardous solid or hazardous waste operation plan that meets the requirements of Subsection (9) unless [it] the operation plan contains the information required by the board, including:

(a) evidence that the proposed commercial facility has a proven market of nonhazardous solid or hazardous waste, including:

(i) information on the source, quantity, and price charged for treating, storing, and disposing of potential nonhazardous solid or hazardous waste in the state and regionally;

(ii) a market analysis of the need for a commercial facility given existing and potential generation of nonhazardous solid or hazardous waste in the state and regionally; and

(iii) a review of other existing and proposed commercial nonhazardous solid or hazardous waste facilities regionally and nationally that would compete for the treatment, storage, or disposal of the nonhazardous solid or hazardous waste;

(b) a description of the public benefits of the proposed facility, including:

(i) the need in the state for the additional capacity for the management of nonhazardous solid or hazardous waste;

(ii) the energy and resources recoverable by the proposed facility;

(iii) the reduction of nonhazardous solid or hazardous waste management methods, ~~which~~ that are less suitable for the environment, that would be made possible by the proposed facility; and

(iv) whether any other available site or method for the management of hazardous waste would be less detrimental to the public health or safety or to the quality of the environment; and

(c) compliance history of an owner or operator of a proposed commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, ~~which~~ that may be applied by the director in a nonhazardous solid or hazardous waste operation plan decision, including any plan conditions.

(11) The director may not approve a commercial nonhazardous solid or hazardous waste facility operation plan unless based on the application, and in addition to the determination required in Subsections (9) and (10), the director determines that:

(a) the probable beneficial environmental effect of the facility to the state outweighs the probable adverse environmental effect; and

(b) there is a need for the facility to serve industry within the state.

(12) Approval of a nonhazardous solid or hazardous waste operation plan may be revoked, in whole or in part, if the person to whom approval of the plan has been given fails to comply with that plan.

(13) The director shall review ~~all~~ approved nonhazardous solid and hazardous waste operation plans at least once every five years.

(14) ~~The provisions of~~ Subsections (10) and (11) do not apply to a hazardous waste ~~facilities~~ facility in existence or to ~~applications~~ an application filed or pending in the department ~~prior to~~ before April 24, 1989, that are determined by the executive secretary of the board on or before December 31, 1990, to be complete, in accordance with state and federal requirements applicable to operation plans for hazardous waste facilities.

(15) ~~The provisions of~~ Subsections (9), (10), and (11) do not apply to a nonhazardous solid waste facility in existence or to an application filed or pending in the department ~~prior to~~ before January 1, 1990, that is determined by the director, on or before December 31, 1990, to be complete in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.

(16) Nonhazardous solid waste generated outside of this state that is defined as hazardous waste in the state where ~~it~~ the nonhazardous solid waste is generated and ~~which~~ that is received for disposal in this state may not be disposed of at a nonhazardous waste disposal facility owned and operated by local government or a facility under contract with a local government solely for disposal of nonhazardous solid waste generated within the boundaries of the local government, unless disposal is approved by the director.

(17) This section may not be construed to exempt ~~any~~ a facility from applicable regulation under the federal Atomic Energy Act, 42 U.S.C. ~~Sections~~ Sec. 2014 and 2021 through 2114.

**Section 24. Section 19-6-114 is amended to read:**

**19-6-114. Service of notice, order, or other document.**

~~Proof of~~ In accordance with procedural rules adopted by the department, service of any notice, order, or other document issued by, or under the authority of, the ~~board~~ director may be made ~~in the same manner as in the service of a summons in a civil action. Proof of service shall be filed with the board or may be made~~ by forwarding a copy of that notice, order, or other document by registered mail, directed to the ~~person at his last known~~ person's designated address~~, with an affidavit to that effect being filed with the board~~.

**Section 25. Section 19-6-120 is amended to read:**

**19-6-120. New hazardous waste operation plans -- Designation of hazardous waste facilities -- Fees for filing and plan review.**

(1) For purposes of this section, the following items shall be treated as submission of a new hazardous waste operation plan:

(a) the submission of a revised hazardous waste operation plan specifying a different geographic site than a previously submitted plan;

(b) an application for modification of a commercial hazardous waste incinerator if the construction or the modification would increase the commercial hazardous waste incinerator capacity above the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in the operation plan application as of January 1, 1990, if no operation plan approval has been issued as of January 1, 1990; or

(c) an application for modification of a commercial hazardous waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved operation plan as of January 1, 1990, or the initial approved operation plan if initial approval is subsequent to January 1, 1990.

(2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage specified for the trial burn in the operation plan or

the operation plan application if no operation plan approval has been issued as of January 1, 1990, and on annual operations of 7,000 hours.

(3) (a) ~~[Hazardous waste facilities that are]~~ A hazardous waste facility that is subject to payment of fees under this section or Section 19-1-201 for plan reviews under Section 19-6-108 shall be designated by the department as either class I, class II, class III, or class IV ~~[facilities]~~ facility.

(b) The department shall designate a commercial hazardous waste ~~[facilities]~~ facility containing either landfills, surface impoundments, land treatment units, thermal treatment units, incinerators, or underground injection wells, which primarily receive wastes generated by off-site sources not owned, controlled, or operated by the facility owner or operator, as a class I ~~[facilities]~~ facility.

(4) The maximum fee for filing and review of ~~[each]~~ a class I facility operation plan is \$200,000, and is due and payable as follows:

(a) ~~[The]~~ the owner or operator of a class I facility shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$50,000~~[-]~~;

(b) ~~[Upon]~~ upon issuance by the director of a notice of completeness under Section 19-6-108, the owner or operator of the facility shall pay to the department an additional nonrefundable sum of \$50,000~~[-]~~; and

(c) ~~[The]~~ the department shall bill the owner or operator of the facility for any additional actual costs of plan review, up to an additional \$100,000.

(5) (a) The department shall designate a hazardous waste ~~[incinerators]~~ incinerator that primarily receive wastes generated by sources owned, controlled, or operated by the facility owner or operator as a class II ~~[facilities]~~ facility.

(b) The maximum fee for filing and review of ~~[each]~~ a class II facility operation plan is \$150,000, and shall be due and payable as follows:

(i) ~~[The]~~ the owner or operator of a class II facility shall, at the time of filing for plan review under Section 19-6-108, pay to the department the nonrefundable sum of \$50,000~~[-]~~; and

(ii) ~~[The]~~ the department shall bill the owner or operator of the facility for any additional actual costs of plan review, up to an additional \$100,000.

(6) (a) The department shall designate a hazardous waste ~~[facilities]~~ facility containing either landfills, surface impoundments, land treatment units, thermal treatment units, or underground injection wells, that primarily receive wastes generated by sources owned, controlled, or operated by the facility owner or operator, as a class III ~~[facilities]~~ facility.

(b) The maximum fee for filing and review of ~~[each]~~ a class III facility operation plan is \$100,000 and is due and payable as follows:

(i) ~~[The]~~ the owner or operator shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$1,000~~[-]~~; and

(ii) ~~[The]~~ the department shall bill the owner or operator of ~~[each]~~ a class III facility for actual costs of operation plan review, up to an additional \$99,000.

(7) (a) ~~[All other hazardous waste facilities are]~~ A hazardous waste facility not described in Subsections (3) through (6) is designated as a class IV ~~[facilities]~~ facility.

(b) The maximum fee for filing and review of ~~[each]~~ a class IV facility operation plan is \$50,000 and is due and payable as follows:

(i) ~~[The]~~ the owner or operator shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$1,000~~[-]~~; and

(ii) ~~[The]~~ the department shall bill the owner or operator of ~~[each]~~ a class IV facility for actual costs of operation plan review, up to an additional \$49,000.

(8) (a) The maximum fee for filing and review of ~~[each major modification plan and major closure plan]~~ a temporary authorization request, class II or class III modification request, or for a class I, class II, or class III facility is \$50,000 and is due and payable as follows:

(i) ~~[The]~~ the owner or operator shall, at the time of filing for that review, pay to the department the nonrefundable sum of \$1,000~~[-]~~; and

(ii) ~~[The]~~ the department shall bill the owner or operator of the hazardous waste facility for actual costs of the review, up to an additional \$49,000.

(b) The maximum fee for filing and review of ~~[each minor modification and minor closure plan]~~ a class I modification request, for a class I, class II, or class III facility, and of ~~[any]~~ a modification ~~[or closure plan]~~ request for a class IV facility, is \$20,000, and is due and payable as follows:

(i) ~~[The]~~ the owner or operator shall, at the time of filing for that review, pay to the department the nonrefundable sum of \$1,000~~[-]~~; and

(ii) ~~[The]~~ the department shall bill the owner or operator of the hazardous waste facility for actual costs of review up to an additional \$19,000.

(c) The owner or operator of a thermal treatment unit shall submit a trial or test burn schedule 90 days ~~[prior]~~ before to any planned trial or test burn. At the time the schedule is submitted, the owner or operator shall pay to the department the nonrefundable fee of \$25,000. The department shall apply the fee to the costs of the review and processing of each trial or test burn plan, trial or test burn, and trial or test burn data report. The department shall bill the owner or operator of the facility for any additional actual costs of review and preparation.

(9) (a) The owner or operator of a class III facility may obtain a plan review within the time periods for a class II facility operation plan by paying, at the

time of filing for plan review, the maximum fee for a class II facility operation plan.

(b) The owner or operator of a class IV facility may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class III facility operation plan.

(c) An owner or operator of a class I, class II, or class III facility who submits a ~~[major modification plan or a major closure plan]~~ class II or class III modification request may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class II facility operation plan.

(d) An owner or operator of a class I, class II, or class III facility who submits a ~~[minor modification plan or a minor closure plan]~~ class I modification request, and an owner or operator of a class IV facility who submits a modification ~~[plan]~~ request or a closure plan, may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class III facility operation plan.

(10) ~~[All fees]~~ Fees received by the department under this section shall be deposited ~~[in]~~ into the General Fund as dedicated credits for hazardous waste plan reviews in accordance with Subsection (12) and Section 19-6-108.

(11) (a) (i) The director shall establish an accounting procedure that separately accounts for fees paid by each owner or operator who submits a hazardous waste operation plan for approval under Section 19-6-108 and pays fees for hazardous waste plan reviews under this section or Section 19-1-201.

(ii) The director shall credit ~~[all]~~ fees paid by the owner or operator to that owner or operator.

(iii) The director shall account for costs actually incurred in reviewing each operation plan and may only use the fees of each owner or operator for review of that owner or operator's plan.

(b) If the costs actually incurred by the department in reviewing a hazardous waste operation plan of any facility are less than the nonrefundable fee paid by the owner or operator under this section, the department may, upon approval or disapproval of the plan by the board or upon withdrawal of the plan by the owner or operator, use any remaining funds that have been credited to that owner or operator for the purposes of administering provisions of the hazardous waste programs and activities authorized by this part.

(12) (a) With regard to any review of a hazardous waste operation plan, modification ~~[plan]~~ request, or closure plan that is pending on April 25, 1988, the director may assess fees for that plan review.

(b) The total amount of fees paid by an owner or operator of a hazardous waste facility whose plan review is affected by this ~~[subsection]~~ Subsection (12) may not exceed the maximum fees allowable

under this section for the appropriate class of facility.

(13) (a) The department shall maintain accurate records of ~~[its]~~ the department's actual costs for each plan review under this section.

(b) ~~[Those records]~~ A record described in Subsection (13)(a) shall be available for public inspection.

**Section 26. Section 19-6-326 is amended to read:**

**19-6-326. Written assurances.**

(1) Based upon risk to human health or the environment from potential exposure to hazardous substances or materials, the executive director, or the executive director's designee, may issue enforceable written assurances to a bona fide prospective purchaser, contiguous property owner, or innocent landowner of real property that no enforcement action under this part may be initiated regarding that real property against the person to whom the assurances are issued.

(2) An assurance granted under Subsection (1) grants the person to whom the assurance is issued protection from imposition of any state law cost recovery and contribution actions under this part.

(3) The executive director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the administration of this section.

**Section 27. Section 19-6-502 is amended to read:**

**19-6-502. Definitions.**

As used in this part:

(1) "Governing body" means the governing board, commission, or council of a public entity.

(2) "Jurisdiction" means the area within the incorporated limits of:

(a) a municipality;

(b) a special service district;

(c) a municipal-type service district;

(d) a service area; or

(e) the territorial area of a county not lying within a municipality.

(3) "Long-term agreement" means an agreement or contract having a term of more than five years but less than 50 years.

(4) "Municipal residential waste" means solid waste that is:

(a) discarded or rejected at a residence within the public entity's jurisdiction; and

(b) collected at or near the residence by:

(i) a public entity; or

(ii) a person with whom the public entity has an agreement to provide solid waste management.

- (5) “Public entity” means:
- (a) a county;
  - (b) a municipality;
  - (c) a special service district under Title 17D, Chapter 1, Special Service District Act;
  - (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or
  - (e) a municipal-type service district created under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas.
- (6) “Requirement” means an ordinance, policy, rule, mandate, or other directive that imposes a legal duty on a person.
- (7) “Residence” means an improvement to real property used or occupied as a primary or secondary detached single-family dwelling.
- (8) “Resource recovery” means the separation, extraction, recycling, or recovery of usable material, energy, fuel, or heat from solid waste and the disposition of it.
- (9) “Short-term agreement” means a contract or agreement having a term of five years or less.
- (10) (a) “Solid waste” means a putrescible or nonputrescible material or substance discarded or rejected as being spent, useless, worthless, or in excess of the owner’s needs at the time of discard or rejection, including:
- (i) garbage;
  - (ii) refuse;
  - (iii) industrial and commercial waste;
  - (iv) sludge from an air or water control facility;
  - (v) rubbish;
  - (vi) ash;
  - (vii) contained gaseous material;
  - (viii) incinerator residue;
  - (ix) demolition and construction debris;
  - (x) a discarded automobile; and
  - (xi) offal.
- (b) “Solid waste” does not include sewage or another highly diluted water carried material or substance and those in gaseous form.
- (11) “Solid waste management” means the purposeful and systematic collection, transportation, storage, processing, recovery, or disposal of solid waste.
- (12) (a) “Solid waste management facility” means a facility employed for solid waste management, including:
- (i) a transfer station;
  - (ii) a transport system;
  - (iii) a baling facility;
  - (iv) a landfill; and
  - (v) a processing system, including:
    - (A) a resource recovery facility;
    - (B) a facility for reducing solid waste volume;
    - (C) a plant or facility for compacting, or composting, of solid waste;
    - (D) an incinerator;
    - (E) a solid waste disposal, reduction, pyrolyzation, or conversion facility;
    - (F) a facility for resource recovery of energy consisting of:
      - (I) a facility for the production, transmission, distribution, and sale of heat and steam;
      - (II) a facility for the generation and sale of electric energy to a public utility, municipality, or other public entity that owns and operates an electric power system on March 15, 1982; and
      - (III) a facility for the generation, sale, and transmission of electric energy on an emergency basis only to a military installation of the United States; and
    - (G) an auxiliary energy facility that is connected to a facility for resource recovery of energy as described in Subsection (12)(a)(v)(F), that:
      - (I) is fueled by natural gas, landfill gas, or both;
      - (II) consists of a facility for the production, transmission, distribution, and sale of supplemental heat and steam to meet all or a portion of the heat and steam requirements of a military installation of the United States; and
      - (III) consists of a facility for the generation, transmission, distribution, and sale of electric energy to a public utility, a municipality described in Subsection (12)(a)(v)(F)(II), or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.
- (b) “Solid waste management facility” does not mean a facility that:
- (i) accepts and processes metal, as described in Subsection 19-6-102[(18)](19)(b), by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product of prepared scrap metal for sale or use for remelting purposes provided that any byproduct or residual that would qualify as solid waste is managed at a solid waste management facility; or
  - (ii) accepts and processes paper, plastic, rubber, glass, or textiles that:
    - (A) have been source-separated or otherwise diverted from the solid waste stream before acceptance at the facility and that are not otherwise hazardous waste or subject to conditions of federal hazardous waste regulations; and
    - (B) are reused or recycled as a valuable commercial commodity by separating, shearing, sorting, shredding, compacting, baling, cutting, or



sizing to produce a principle commodity grade product, provided that any byproduct or residual that would qualify as solid waste is managed at a solid waste management facility.

**Section 28. Section 19-6-721.1 is enacted to read:**

**19-6-721.1. Notice of violations -- Order for correction -- Civil action to enforce.**

(1) Whenever the director determines that a person is in violation of an applicable approved used oil operation permit, the requirements of this part, or any of the board's rules, the director may cause written notice of that violation to be served upon the alleged violator. The notice shall specify the provisions of the permit, this part, or rule alleged to have been violated, and the facts alleged to constitute the violation.

(2) The director may:

(a) issue an order requiring that necessary corrective action be taken within a reasonable time; or

(b) request the attorney general or the county attorney in the county in which the violation is taking place to bring a civil action for injunctive relief and enforcement of this part.

**CHAPTER 257****S. B. 90**

Passed February 27, 2020

Approved March 28, 2020

Effective May 12, 2020

**PROCUREMENT CODE AMENDMENTS**

Chief Sponsor: David G. Buxton

House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill modifies the Utah Procurement Code.

**Highlighted Provisions:**

This bill:

- ▶ modifies and enacts definitions applicable to the Utah Procurement Code;
- ▶ modifies provisions relating to procurement units with independent procurement authority;
- ▶ reorganizes and modifies provisions relating to the applicability of and exemptions from the Utah Procurement Code;
- ▶ makes technical changes to eliminate a redundancy resulting from a reference to a public transit district separate from a local district, which includes a public transit district;
- ▶ modifies notice provisions;
- ▶ modifies provisions relating to correcting immaterial errors or clarifying information in a solicitation response;
- ▶ reorganizes and modifies provisions relating to procurement rules;
- ▶ enacts provisions relating to cancelling a solicitation and rejecting solicitation responses;
- ▶ modifies provisions relating to the request for statement of qualifications process;
- ▶ modifies small purchase provisions;
- ▶ modifies provisions relating to the approved vendor list process;
- ▶ modifies provisions relating to the invitation for bids process;
- ▶ modifies and enacts provisions relating to the request for proposals process;
- ▶ modifies provisions relating to trial use contracts;
- ▶ modifies provisions relating to the purchase of goods from the correctional industries division;
- ▶ authorizes a procurement unit to procure professional services by using the design professional procurement process;
- ▶ modifies records retention provisions;
- ▶ modifies provisions relating to agreements and purchases between public entities;
- ▶ repeals provisions relating to:
  - the bidding process; and
  - the request for proposals process; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63G-6a-103, as last amended by Laws of Utah 2019, Chapters 136, 170, 314, and 456

63G-6a-106, as last amended by Laws of Utah 2018, Second Special Session, Chapter 4

63G-6a-109, as last amended by Laws of Utah 2016, Chapter 355

63G-6a-112, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-114, as enacted by Laws of Utah 2016, Chapter 355

63G-6a-115, as enacted by Laws of Utah 2016, Chapter 355

63G-6a-203, as last amended by Laws of Utah 2016, Chapter 355

63G-6a-204, as last amended by Laws of Utah 2019, Chapter 454

63G-6a-302, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-303, as last amended by Laws of Utah 2018, Chapter 200

63G-6a-409, as renumbered and amended by Laws of Utah 2016, Chapter 355

63G-6a-410, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-506, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-507, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-602, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-603, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-606, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-702, as last amended by Laws of Utah 2017, Chapters 348, 376 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 348

63G-6a-703, as last amended by Laws of Utah 2017, Chapters 154, 348, and 376

63G-6a-707, as last amended by Laws of Utah 2017, Chapters 154, 348, and 376

63G-6a-707.5, as repealed and reenacted by Laws of Utah 2017, Chapter 348

63G-6a-712, as enacted by Laws of Utah 2018, Chapter 352

63G-6a-802, as last amended by Laws of Utah 2016, Chapter 355

63G-6a-802.3, as enacted by Laws of Utah 2016, Chapter 355

63G-6a-802.7, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-803, as last amended by Laws of Utah 2016, Chapter 355

63G-6a-804, as last amended by Laws of Utah 2019, Chapter 314

63G-6a-806, as last amended by Laws of Utah 2016, Chapter 355

63G-6a-902, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-903, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-904, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-1002, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-1003, as last amended by Laws of Utah 2017, Chapter 348  
 63G-6a-1102, as last amended by Laws of Utah 2013, Chapter 445  
 63G-6a-1103, as last amended by Laws of Utah 2014, Chapter 196  
 63G-6a-1105, as last amended by Laws of Utah 2014, Chapter 196  
 63G-6a-1204.5, as last amended by Laws of Utah 2017, Chapter 348  
 63G-6a-1205, as last amended by Laws of Utah 2014, Chapter 196  
 63G-6a-1206, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-1208, as enacted by Laws of Utah 2013, Chapter 445  
 63G-6a-1302, as last amended by Laws of Utah 2013, Chapter 445  
 63G-6a-1303, as last amended by Laws of Utah 2013, Chapter 445  
 63G-6a-1502, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-1503.5, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-1506, as last amended by Laws of Utah 2015, Chapter 218  
 63G-6a-1603, as last amended by Laws of Utah 2017, Chapter 348  
 63G-6a-1903, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-1911, as last amended by Laws of Utah 2013, Chapter 445  
 63G-6a-2002, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-2003, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-2102, as last amended by Laws of Utah 2013, Chapter 445  
 63G-6a-2103, as last amended by Laws of Utah 2014, Chapter 196

**ENACTS:**

63G-6a-107.2, Utah Code Annotated 1953  
 63G-6a-107.4, Utah Code Annotated 1953  
 63G-6a-107.6, Utah Code Annotated 1953  
 63G-6a-107.7, Utah Code Annotated 1953  
 63G-6a-107.8, Utah Code Annotated 1953  
 63G-6a-118, Utah Code Annotated 1953  
 63G-6a-119, Utah Code Annotated 1953  
 63G-6a-120, Utah Code Annotated 1953  
 63G-6a-704.4, Utah Code Annotated 1953  
 63G-6a-704.6, Utah Code Annotated 1953

**REPEALS AND REENACTS:**

63G-6a-604, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-608, as last amended by Laws of Utah 2017, Chapter 348  
 63G-6a-704, as last amended by Laws of Utah 2014, Chapter 196

**REPEALS:**

63G-6a-105, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-107, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-110, as renumbered and amended by Laws of Utah 2016, Chapter 355  
 63G-6a-601, as enacted by Laws of Utah 2012, Chapter 347

63G-6a-605, as repealed and reenacted by Laws of Utah 2016, Chapter 355  
 63G-6a-607, as last amended by Laws of Utah 2017, Chapter 348  
 63G-6a-609, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-610, as last amended by Laws of Utah 2013, Chapter 445  
 63G-6a-611, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-612, as last amended by Laws of Utah 2017, Chapter 348  
 63G-6a-706, as repealed and reenacted by Laws of Utah 2016, Chapter 355  
 63G-6a-708, as last amended by Laws of Utah 2016, Chapter 355  
 63G-6a-709, as last amended by Laws of Utah 2017, Chapter 348  
 63G-6a-709.5, as last amended by Laws of Utah 2014, Chapter 196  
 63G-6a-710, as last amended by Laws of Utah 2013, Chapter 445

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

**Section 1. Section 63G-6a-103 is amended to read:****63G-6a-103. Definitions.**

As used in this chapter:

~~[(1) “Applicable rulemaking authority” means:]~~

~~[(a) for a legislative procurement unit, the Legislative Management Committee;]~~

~~[(b) for a judicial procurement unit, the Judicial Council;]~~

~~[(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute;]~~

~~[(A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;]~~

~~[(B) for the Office of the Attorney General, the attorney general; and]~~

~~[(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and]~~

~~[(ii) for each other executive branch procurement unit, the board;]~~

~~[(d) for a local government procurement unit;]~~

~~[(i) the legislative body of the local government procurement unit; or]~~

~~[(ii) an individual or body designated by the legislative body of the local government procurement unit;]~~

~~[(e) for a school district or a public school, the board, except to the extent of a school district’s own nonadministrative rules that do not conflict with the provisions of this chapter;]~~

~~[(f) for a state institution of higher education described in;]~~

~~[(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or]~~

~~[(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;]~~

~~[(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;]~~

~~[(h) for a public transit district, the chief executive of the public transit district;]~~

~~[(i) for a local district other than a public transit district or for a special service district;]~~

~~[(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or]~~

~~[(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules;]~~

~~[(A) with respect to a subject addressed by board rules; or]~~

~~[(B) that are in addition to board rules;]~~

~~[(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the board of directors of the Utah Educational Savings Plan;]~~

~~[(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;]~~

~~[(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;]~~

~~[(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or]~~

~~[(n) for any other procurement unit, the board.]~~

~~[(2)] (1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.~~

~~[(3)] (2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.~~

~~[(4)] (3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.~~

~~[(5)] (4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.~~

~~[(6)] (5) "Bidding process" means the procurement process described in Part 6, Bidding.~~

~~[(7)] (6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.~~

~~[(8)] (7) "Building board" means the State Building Board, created in Section 63A-5-101.~~

~~[(9)] (8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.~~

~~[(10)] (9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.~~

~~[(11)] (10) "Chief procurement officer" means the [chief procurement officer] individual appointed under Subsection 63G-6a-302(1).~~

~~[(12)] (11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:~~

~~(a) except:~~

~~(i) reviewing a solicitation to verify that it is in proper form; and~~

~~(ii) causing the publication of a notice of a solicitation; and~~

~~(b) including:~~

~~(i) preparing any solicitation document;~~

~~(ii) appointing an evaluation committee;~~

~~(iii) conducting the evaluation process, except [as provided in Subsection 63G-6a-707(6)(b)] the process relating to scores calculated for costs of proposals;~~

~~(iv) selecting and recommending the person to be awarded a contract;~~

~~(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and~~

~~(vi) contract administration.~~

~~[(13)] (12) "Conservation district" means the same as that term is defined in Section 17D-3-102.~~

~~[(14)] (13) "Construction project":~~

~~(a) means [services, including work, and supplies for] a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and~~

~~(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.~~

~~[(15)] (14) "Construction manager/general contractor":~~

~~(a) means a contractor who enters into a contract:~~

~~(i) for the management of a construction project; and~~

~~(ii) that allows the contractor to subcontract for additional labor and materials that are not included~~

in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

[46] (15) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

[47] (16) "Contract" means an agreement for a procurement.

[48] (17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

[49] (18) "Contractor" means a person who is awarded a contract with a procurement unit.

[20] (19) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

[21] (20) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the

purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

[22] (21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

[23] (22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

[24] (23) "Days" means calendar days, unless expressly provided otherwise.

[25] (24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

[26] (25) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

[27] (26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

[28] (27) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

[29] (28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

[30] "Director" means the director of the division.

[31] (29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

[32] (30) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

- (c) the Utah Schools for the Deaf and the Blind;
- (d) the Utah Education and Telehealth Network;
- (e) an institution of higher education of the state described in Section 53B-1-102; or
- (f) the State Board of Education.

[~~33~~] (31) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

[~~34~~] (32) “Executive branch procurement unit” means a department, division, office, bureau, agency, or other organization within the state executive branch.

(33) “Facilities division” means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

[~~35~~] (34) “Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

[~~36~~] (35) “Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

[~~37~~] (36) “Grant” means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

[~~38~~] “Head of a procurement unit” means:

~~(a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;~~

~~(b) for an executive branch procurement unit;~~

~~(i) the director of the division; or~~

~~(ii) any other person designated by the board, by rule;~~

~~(c) for a judicial procurement unit;~~

~~(i) the Judicial Council; or~~

~~(ii) any other person designated by the Judicial Council, by rule;~~

~~(d) for a local government procurement unit;~~

~~(i) the legislative body of the local government procurement unit; or~~

~~(ii) any other person designated by the local government procurement unit;~~

~~(e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;~~

~~(f) for a special service district, the governing body of the special service district or a designee of the governing body;~~

~~(g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;~~

~~(h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;~~

~~(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;~~

~~(j) for a school district or any school or entity within a school district, the board of the school district, or the board’s designee;~~

~~(k) for a charter school, the individual or body with executive authority over the charter school, or the individual’s or body’s designee;~~

~~(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president’s designee;~~

~~(m) for a public transit district, the board of trustees or a designee of the board of trustees;~~

~~(n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education; or~~

~~(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.~~

[~~39~~] (37) “Immaterial error”:

(a) means an irregularity or abnormality that is:

- (i) a matter of form that does not affect substance; or

- (ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

- (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the ~~chief procurement officer or the head of a procurement unit with independent procurement authority~~ procurement official reasonably considers to be immaterial.

[(40)] (38) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

~~[(41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).]~~

(39) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a local district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the building board or the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

[(42)] (40) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection ~~[(42)]~~ (40)(a).

~~[(43)]~~ (41) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

[(44)] (42) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

[(45)] (43) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

[(46)] (44) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

[(47)] (45) "Local building authority" means the same as that term is defined in Section 17D-2-102.

[(48)] (46) "Local district" means the same as that term is defined in Section 17B-1-102.

[(49)] (47) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

[~~(50)~~] (48) “Multiple award contracts” means the award of a contract for an indefinite quantity of a procurement item to more than one person.

[~~(51)~~] (49) “Multiyear contract” means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[~~(52)~~] (50) “Municipality” means a city, town, or metro township.

[~~(53)~~] (51) “Nonadopting local government procurement unit” means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection [~~(53)~~] (51)(a).

[~~(54)~~] (52) “Offeror” means a person who submits a proposal in response to a request for proposals.

[~~(55)~~] (53) “Preferred bidder” means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[~~(56)~~] (54) “Procure” means to acquire a procurement item through a procurement.

[~~(57)~~] (55) “Procurement”[; (a) ~~means a procurement unit’s~~] means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership[;].

[~~(b) includes all functions that pertain to the acquisition of a procurement item, including:~~]

[~~(i) preparing and issuing a solicitation; and~~]

[~~(ii) (A) conducting a standard procurement process; or~~]

[~~(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and~~]

[~~(c) does not include a grant.]~~

[~~(58)~~] (56) “Procurement item” means [a supply] an item of personal property, a technology, a service, or a construction project.

[~~(59) “Procurement officer” means:~~]

[~~(a) for a procurement unit with independent procurement authority;~~]

[~~(i) the head of the procurement unit;~~]

[~~(ii) a designee of the head of the procurement unit; or~~]

[~~(iii) a person designated by rule made by the applicable rulemaking authority; or~~]

[~~(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.]~~

(57) “Procurement official” means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a local district, the board of trustees of the local district or the board of trustees’ designee;

(f) for a special service district, the governing body of the special service district or the governing body’s designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors’ designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors’ designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors’ designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board’s designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president’s designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education’s designee;

(n) for the State Board of Regents, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director’s designee; or



(p) (i) for the building board, and only to the extent of procurement activities of the building board as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building board or the director's designee;

(ii) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(iii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iv) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or

(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

~~[(60)] (58) "Procurement unit":~~

(a) means:

- (i) a legislative procurement unit;
- (ii) an executive branch procurement unit;
- (iii) a judicial procurement unit;
- (iv) an educational procurement unit;
- (v) the Utah Communications Authority, established in Section 63H-7a-201;
- (vi) a local government procurement unit;
- (vii) a local district;
- (viii) a special service district;
- (ix) a local building authority;
- (x) a conservation district;
- (xi) a public corporation; ~~or~~ and
- ~~[(xii) a public transit district; and]~~

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

~~[(61)] (59) "Professional service" means labor, effort, or work that requires [an elevated degree of] specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:~~

- (a) accounting;
- (b) administrative law judge service;
- (c) architecture;
- (d) construction design and management;
- (e) engineering;
- (f) financial services;
- (g) information technology;
- (h) the law;
- (i) medicine;
- (j) psychiatry; or
- (k) underwriting.

~~[(62)] (60) "Protest officer" means:~~

(a) for the division or ~~[a procurement unit with] an independent procurement [authority] unit:~~

- (i) the ~~[head of the] procurement [unit] official;~~
- (ii) the ~~[head of the procurement unit's] procurement official's designee who is an employee of the procurement unit; or~~

(iii) a person designated by rule made by the ~~[applicable] rulemaking authority; or~~

(b) for a procurement unit ~~[without] other than an independent procurement [authority] unit,~~ the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

~~[(63)] (61) "Public corporation" means the same as that term is defined in Section 63E-1-102.~~

~~[(64)] (62) "Public entity" means the state or any other government entity [of the state or political subdivision of the state, including:] within the state that expends public funds.~~

~~[(a) a procurement unit;]~~

~~[(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and]~~

~~[(c) any other government entity located in the state that expends public funds.]~~

~~[(65)] (63) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.~~

~~[(66)] (64) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.~~

~~[(67)] (65) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.~~

~~[(68)]~~ (66) “Public-private partnership” means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

~~[(69)]~~ (67) “Qualified vendor” means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

~~[(70)]~~ (68) “Real property” means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

~~[(71)]~~ (69) “Request for information” means a nonbinding process through which a procurement unit requests information relating to a procurement item.

~~[(72)]~~ (70) “Request for proposals” means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

~~[(73)]~~ (71) “Request for proposals process” means the procurement process described in Part 7, Request for Proposals.

~~[(74)]~~ (72) “Request for statement of qualifications” means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

~~[(75)]~~ (73) “Requirements contract” means a contract:

(a) under which a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

~~[(76)]~~ (74) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

~~[(77)]~~ (75) “Responsive” means conforming in all material respects to the requirements of a solicitation.

~~[(78)]~~ “Sealed” means manually or electronically secured to prevent disclosure.

(76) “Rule” includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(77) “Rulemaking authority” means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the facilities division, the building board;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district’s own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education described in Subsection 53B-1-102(1)(a) or (c), the State Board of Regents;

(g) for a state institution of higher education described in Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;

(h) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(i) for a public transit district, the chief executive of the public transit district;

(j) for a local district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(k) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the State Board of Regents;

(l) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(m) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(n) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(o) for any other procurement unit, the board.

[(79)] (78) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

[(80)] (79) "Small purchase process" means the procurement process described in Section 63G-6a-506.

[(81)] (80) "Sole source contract" means a contract resulting from a sole source procurement.

[(82)] (81) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

[(83)] (82) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications, or request for information.

[(84)] (83) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

[(85)] (84) "Special service district" means the same as that term is defined in Section 17D-1-102.

[(86)] (85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

[(87)] (86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

[(88)] (87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

[(89)] (88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[(90)] (89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

[(91)] ~~"Supply" means a good, material, technology, piece of equipment, or any other item of personal property.~~

(90) "Technology" means the same as "information technology," as defined in Section 63F-1-102.

[(92)] (91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

[(93)] (92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

[(94)] (93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

[~~(95) "Trial use contract" means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.~~]

[~~(96) (94) "Vendor":~~

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

**Section 2. Section 63G-6a-106 is amended to read:**

**63G-6a-106. Independent procurement units.**

[~~(1) A procurement unit with procurement authority under the following provisions has independent procurement authority to the extent of the applicable provisions and for the procurement items specified in the applicable provisions:~~]

[~~(a) Title 53B, State System of Higher Education;~~]

[~~(b) Title 63A, Chapter 5, State Building Board—Division of Facilities Construction and Management;~~]

[~~(c) Title 67, Chapter 5, Attorney General;~~]

[~~(d) Title 72, Transportation Code; and~~]

[~~(e) Title 78A, Chapter 5, District Court.~~]

[~~(2) Except as otherwise provided in Sections 63G-6a-105 and 63G-6a-107, a procurement unit shall conduct a procurement in accordance with this chapter.~~]

[~~(3) (a) The Department of Transportation may make rules governing the procurement of highway construction or improvement.~~]

[~~(b) The applicable rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.~~]

[~~(4) (a) (1) [A] An independent procurement unit [listed in Subsection (4)(b)] may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but in accordance with the requirements of this chapter:~~

[~~(i) (a) engage in a standard procurement process;~~

[~~(ii) procure an~~

[~~(b) acquire a procurement item under an exception, as provided in this chapter, to the requirement to use a standard procurement process; or~~

[~~(iii) (c) otherwise engage in an act authorized or required by this chapter.~~

[~~(b) The procurement units to which Subsection (4)(a) applies are:~~

[~~(i) a legislative procurement unit;~~]

[~~(ii) a judicial procurement unit;~~]

[~~(iii) an educational procurement unit;~~]

[~~(iv) a local government procurement unit;~~]

[~~(v) a conservation district;~~]

[~~(vi) a local building authority;~~]

[~~(vii) a local district;~~]

[~~(viii) a public corporation;~~]

[~~(ix) a special service district;~~]

[~~(x) a public transit district;~~]

[~~(xi) the Utah Communications Authority, established in Section 63H-7a-201; and~~]

[~~(xii) a procurement unit referred to in Subsection (1), to the extent authorized in Subsection (1).~~]

[~~(c) A procurement unit with independent procurement authority shall comply with the requirements of this chapter.~~]

[~~(d) (2) Notwithstanding Subsection [(4)(a), a procurement unit with] (1), an independent procurement [authority] unit may agree in writing with the division to extend the authority of the division or the chief procurement officer to the procurement unit, as provided in the agreement.~~

[~~(e) (3) With respect to a procurement or contract over which [the head of a procurement unit with] an~~

independent procurement [authority] unit's procurement official has authority, the [head of the procurement unit with independent procurement authority] procurement official may:

(4) (a) manage and supervise the procurement to ensure to the extent practicable that taxpayers receive the best value;

(4)(ii) (b) prepare and issue standard specifications for procurement items;

(4)(iii) (c) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(4)(iv) (d) delegate duties and authority to an employee of the procurement unit, as the [head of the procurement unit with independent procurement authority] unit's procurement official considers appropriate;

(4)(v) (e) for the [head] procurement official of an executive branch procurement unit [with] that is an independent procurement [authority] unit, coordinate with the Department of Technology Services, created in Section 63F-1-103, with respect to the procurement unit's procurement of information technology services;

(4)(vi) (f) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a rule adopted by the [applicable] rulemaking authority;

(4)(vii) after consultation with, as applicable, the attorney general's office or the procurement unit's legal counsel, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the head of the procurement unit with independent procurement authority determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(4)(viii) (g) attempt to resolve a contract dispute in coordination with the legal counsel of the [procurement unit with independent procurement authority] unit; and

(h) at any time during the term of a contract awarded by the independent procurement unit, correct or amend a contract to bring it into compliance or cancel the contract:

(i) if the procurement official determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(ii) after consulting with, as applicable, the attorney general's office or the procurement unit's legal counsel.

(4) The head of a procurement unit with independent procurement authority serves as the protest officer for a protest involving the procurement unit.]

(g) If, at any time during the term of a contract awarded by a procurement unit with independent procurement authority, the head of the procurement unit determines that the contract is out of compliance with this chapter or applicable rules, the head of the procurement unit may correct or amend the contract to bring it into compliance or cancel the contract.]

(i) if the head of the procurement unit determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(ii) after consulting with legal counsel.]

(5)(a) (4) The attorney general may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(4) (a) retain outside counsel, subject to Section 67-5-33 if the attorney general retains outside counsel under a contingent fee contract, as defined in that section; or

(4)(ii) (b) procure litigation support services, including retaining an expert witness.

(b) A procurement unit with

(5) An independent procurement [authority] unit that is not represented by the attorney general's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(4) (a) retain outside counsel; or

(4)(ii) (b) procure litigation support services, including retaining an expert witness.

(6) The state auditor's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure audit services.

(7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit services; and

(b) services related to issuing bonds.

### **Section 3. Section 63G-6a-107.2 is enacted to read:**

#### **63G-6a-107.2. Application of chapter in general.**

(1) Except as provided in Section 63G-6a-107.6, this chapter applies to every procurement.

(2) Notwithstanding any other provision of this chapter:

(a) a procurement unit may administer a procurement in accordance with the requirements imposed by the source of the funds used to procure the procurement item; and

(b) if a procurement involves the expenditure of federal or state assistance, federal contract funds, local matching funds, or federal financial

participation funds, the procurement unit shall comply with mandatory applicable federal or state law and regulations not reflected in this chapter.

(3) A procurement unit that is subject to this chapter may not obtain a procurement item unless:

(a) the procurement unit complies with:

(i) all applicable requirements of this chapter; and

(ii) the applicable rules that the rulemaking authority makes pursuant to this chapter; and

(b) if the procurement unit is not the division or an independent procurement unit, the procurement unit obtains the procurement item under the direction and approval of the division, unless otherwise provided by a rule made by the board.

**Section 4. Section 63G-6a-107.4 is enacted to read:**

**63G-6a-107.4. Application of chapter to counties and municipalities and the Utah Housing Corporation.**

A county or municipality or the Utah Housing Corporation:

(1) may adopt:

(a) any or all provisions of this chapter; or

(b) any or all rules adopted by the board under this chapter; and

(2) is subject to and shall comply with the provisions of this chapter and the rules that are adopted by the county or municipality or the Utah Housing Corporation, respectively.

**Section 5. Section 63G-6a-107.6 is enacted to read:**

**63G-6a-107.6. Exemptions from chapter.**

(1) Except for this Subsection (1), the provisions of this chapter do not apply to:

(a) a public entity's acquisition of a procurement item from another public entity; or

(b) a public entity that is not a procurement unit.

(2) Unless otherwise provided by statute and except for this Subsection (2), the provisions of this chapter do not apply to the acquisition or disposal of real property or an interest in real property.

(3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital through a purchasing consortium if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) supplies purchased for resale to the public; or

(f) activities related to the management of investments by a public entity granted investment authority by law.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

(5) Except for this Subsection (5), the provisions of this chapter do not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

**Section 6. Section 63G-6a-107.7 is enacted to read:**

**63G-6a-107.7. Procurement rules.**

(1) (a) Subject to Subsection (1)(b), the rulemaking authority for a procurement unit shall make rules relating to the management and control of procurements and procurement procedures by the procurement unit.

(b) Building board rules governing procurement of construction projects, design professional services, and leases apply to the procurement of construction projects, design professional services, and leases of real property, respectively, by the Division of Facilities Construction and Management.

(2) A rulemaking authority may not adopt rules, policies, or regulations that are inconsistent with this chapter.

(3) An individual or body that makes rules as required or authorized in this chapter shall make the rules:

(a) in accordance with Chapter 3, Utah Administrative Rulemaking Act, if the individual or body is subject to Chapter 3, Utah Administrative Rulemaking Act; or

(b) in accordance with the established process for making rules or their equivalent, if the individual or body is not subject to Chapter 3, Utah Administrative Rulemaking Act.

(4) The rules of the rulemaking authority for the executive branch procurement unit shall require, for each contract and request for proposals, the inclusion of a clause that requires the issuing procurement unit, for the duration of the contract,

to make available contact information of the winning contractor to the Department of Workforce Services in accordance with Section 35A-2-203. This requirement does not preclude a contractor from advertising job openings in other forums throughout the state.

(5) The Department of Transportation may make rules governing the procurement of a highway construction project or highway improvement project.

(6) The rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.

**Section 7. Section 63G-6a-107.8 is enacted to read:**

**63G-6a-107.8. Building board report to legislative interim committee.**

The building board shall make a report on or before July 1 of each year to a legislative interim committee designated by the Legislative Management Committee, created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made by the building board under this chapter.

**Section 8. Section 63G-6a-109 is amended to read:**

**63G-6a-109. Issuing procurement unit and conducting procurement unit.**

(1) With respect to a procurement by an executive branch procurement unit, except for a procurement by an executive branch procurement unit that, under Subsection 63G-6a-103(39)(b), (c), (d), or (e), is designated as an independent procurement unit:

(a) the division is the issuing procurement unit; and

(b) the executive branch procurement unit is the conducting procurement unit and is responsible to ensure that the procurement is conducted in compliance with this chapter.

(2) With respect to a procurement by any other procurement unit, the procurement unit is both the issuing procurement unit and the conducting procurement unit.

(3) A conducting procurement unit is responsible for contract administration.

**Section 9. Section 63G-6a-112 is amended to read:**

**63G-6a-112. Required public notice.**

~~(1) The division or a procurement unit with independent procurement authority that issues a solicitation required to be published in accordance with this section, shall provide public notice that includes:~~

~~(a) the name of the procurement unit acquiring the procurement item;~~

~~(b) information on how to contact the issuing procurement unit;~~

~~(c) the date of the opening and closing of the solicitation;~~

~~(d) information on how to obtain a copy of the procurement documents;~~

~~(e) a general description of the procurement items that will be obtained through the standard procurement process or procurement under Section 63G-6a-802; and]~~

~~(f) for a notice of a procurement under Section 63G-6a-802;~~

~~(i) contact information and other information relating to contesting or obtaining additional information relating to the procurement; and]~~

~~(ii) the earliest date that the procurement unit may make the procurement.]~~

~~(2) Except as provided in Subsection (4), the issuing procurement unit]~~

~~(1) A procurement unit that issues a solicitation shall publish [the] notice [described in Subsection (1)] of the solicitation:~~

~~(a) at least seven days before the day of the deadline for submission of a [bid or other] solicitation response; and~~

~~(b) (i) in a newspaper of general circulation in the state;~~

~~(ii) in a newspaper of local circulation in the area:~~

~~(A) directly impacted by the procurement; or~~

~~(B) over which the procurement unit has jurisdiction;~~

~~(iii) on the main website for the [issuing] procurement unit [or the procurement unit acquiring the procurement item]; or~~

~~(iv) on a state website that is owned, managed by, or provided under contract with, the division for posting a public procurement notice.~~

~~(3) Except as provided in Subsection (4), for a procurement under Section 63G-6a-802 for which notice is required to be published in accordance with this section, the issuing procurement unit shall publish the notice described in Subsection (1):]~~

~~(a) at least seven days before the acquisition of the procurement item; and]~~

~~(b) (i) in a newspaper of general circulation in the state;]~~

~~(ii) in a newspaper of local circulation in the area:]~~

~~(A) directly impacted by the procurement; or]~~

~~(B) over which the procurement unit has jurisdiction;]~~

~~(iii) on the main website for the procurement unit acquiring the procurement item; or]~~

~~(iv) on a state website that is owned by, managed by, or provided under contract with, the division for posting a procurement notice.]~~

~~(4) An issuing]~~

(2) A procurement unit may reduce the seven-day period described in Subsection (2) or (3) (1), if the procurement [officer or the procurement officer's designee] unit's procurement official signs a written statement that:

- (a) states that a shorter time is needed; and
- (b) determines that competition from multiple sources may be obtained within the shorter period of time.

~~[(5) (a) An issuing procurement unit shall make a copy of the solicitation documents available for public inspection at the main office of the issuing procurement unit or on the website described in Subsection (2)(b) until the award of the contract or the cancellation of the procurement.]~~

~~[(b) A procurement unit issuing a procurement under Section 63G-6a-802 shall make a copy of information related to the procurement available for public inspection at the main office of the procurement unit or on the website described in Subsection (3)(b) until the award of the contract or the cancellation of the procurement.]~~

~~[(c) A procurement unit shall maintain all records in accordance with Part 20, Records.]~~

~~[(6) A procurement unit that issues a request for statement of qualifications as part of an approved vendor list process that results in the establishment of an open-ended vendor list, as defined in Section 63G-6a-507, shall keep the request for statement of qualifications posted on a website described in Subsection (2)(b)(iii) or (iv) during the entire period of the open-ended vendor list.]~~

~~[(7) (3) (a) It is the responsibility of a person seeking information provided by a [public] notice published under this section to seek out, find, and respond to [a public] the notice [issued by a procurement unit].~~

(b) As a courtesy and in order to promote competition, a procurement unit may provide, but is not required to provide, individual notice.

**Section 10. Section 63G-6a-114 is amended to read:**

**63G-6a-114. Correcting an immaterial error in a solicitation response.**

(1) ~~[The chief procurement officer or the head of a procurement unit with independent procurement authority: (a)]~~ A procurement unit may allow a vendor to correct an immaterial error in a responsive solicitation response as provided in this section~~], and~~.

~~[(b) may not allow a vendor to:]~~

~~[(i) correct a deficiency, inaccuracy, or mistake in a responsive solicitation response that is not an immaterial error;]~~

~~[(ii) correct an incomplete submission of documents that the solicitation required to be submitted with the solicitation response;]~~

~~[(iii) correct a failure to submit a timely solicitation response;]~~

~~[(iv) substitute or alter a required form or other document specified in the solicitation;]~~

~~[(v) remedy a cause for a vendor being considered to be not responsible or a solicitation response not responsive; or]~~

~~[(vi) correct a defect or inadequacy resulting in a determination that a vendor's solicitation response does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds established in the solicitation.]~~

~~[(2) (a) The chief procurement officer or the head of a procurement unit with independent procurement authority shall establish a deadline by which a vendor is required to submit a correction under this section.]~~

~~[(b) The chief procurement officer or the head of a procurement unit with independent procurement authority may not allow a vendor to correct an immaterial error in a solicitation response if the vendor submits the correction after the deadline established under Subsection (2)(a).]~~

~~[(3) If the chief procurement officer or the head of a procurement unit with independent procurement authority allows a vendor to correct an immaterial error in a solicitation response, the chief procurement officer or head shall prepare and sign a written document supporting the reason for allowing the correction.]~~

(2) (a) A procurement unit that allows a vendor to correct an immaterial error in a responsive solicitation response shall:

(i) require the vendor to submit the correction in writing; and

(ii) establish a deadline by which the vendor is required to correct the immaterial error.

(b) A procurement unit may not allow a vendor to correct an immaterial error in a responsive solicitation response after the deadline established under Subsection (2)(a).

**Section 11. Section 63G-6a-115 is amended to read:**

**63G-6a-115. Clarifying information in a solicitation response.**

(1) A procurement unit may at any time make a written request to a vendor to:

(a) clarify information contained in a responsive solicitation response[-]; or

(b) provide additional information that the procurement unit determines the procurement unit needs to determine whether the vendor is responsible.

[(2) A procurement unit may allow a vendor to respond to a request under Subsection (1):]

[(a) in writing; or]

[(b) by submitting a printed document.]



~~[(3)] (2) (a) A procurement unit that requests a vendor to clarify or provide additional information [contained in a responsive solicitation response] under this section shall establish a deadline by which the vendor is required to submit the clarifying or additional information.~~

~~(b) A procurement unit may not allow a vendor to submit clarifying or additional information after the deadline established under Subsection [(3)] (2)(a).~~

~~[(4) A vendor's response to a request under this section:]~~

~~[(a) may only explain, illustrate, or interpret the contents of the vendor's original solicitation response;]~~

~~[(b) may not be used to address criteria or specifications not contained in the vendor's original solicitation response; and]~~

~~[(c) may not be used to:]~~

~~[(i) correct a deficiency, inaccuracy, or mistake in a solicitation response that is not an immaterial error;]~~

~~[(ii) correct an incomplete submission of documents that the solicitation required to be submitted with the solicitation response;]~~

~~[(iii) correct a failure to submit a timely solicitation response;]~~

~~[(iv) substitute or alter a required form or other document specified in the solicitation;]~~

~~[(v) remedy a cause for a vendor being considered to be not responsible or a solicitation response not responsive; or]~~

~~[(vi) correct a defect or inadequacy resulting in a determination that a vendor does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds established in the solicitation.]~~

**Section 12. Section 63G-6a-118 is enacted to read:**

**63G-6a-118. Adoption of rule relating to the procurement of design professional services.**

Each of the following shall adopt a rule relating to the procurement of design professional services, not inconsistent with the provisions of Part 15, Design Professional Services:

- (1) an educational procurement unit;
- (2) a conservation district;
- (3) a local building authority;
- (4) a local district;
- (5) a special service district; and
- (6) a public corporation.

**Section 13. Section 63G-6a-119 is enacted to read:**

**63G-6a-119. Cancelling a solicitation.**

(1) A procurement unit may cancel a solicitation if the procurement official determines that cancellation is in the best interests of the procurement unit.

(2) If a procurement unit cancels a solicitation:

(a) the procurement official shall explain in writing the reasons for the cancellation; and

(b) the procurement unit shall make the written explanation described in Subsection (2)(a) available to the public for a period of one year after the cancellation.

**Section 14. Section 63G-6a-120 is enacted to read:**

**63G-6a-120. Rejecting a solicitation response.**

(1) A procurement unit may reject a solicitation response if:

(a) the solicitation response:

(i) is not responsive;

(ii) violates a requirement of the solicitation; or

(iii) is not submitted before the deadline specified in the solicitation;

(b) the vendor who submitted the solicitation response:

(i) is not responsible;

(ii) is in violation of a provision of this chapter;

(iii) has had a previous contract with the procurement unit canceled;

(iv) has engaged in unethical conduct;

(v) is subject to an outstanding tax lien; or

(vi) fails to sign a contract awarded as a result of the solicitation response within:

(A) 90 days after the contract award, if the solicitation does not specify a deadline for the signing of the contract; or

(B) the time specified in the solicitation, if the solicitation specifies a deadline for the signing of the contract; or

(c) after the vendor submits a solicitation response there is a change in the vendor's circumstances that, if known at the time the solicitation response was submitted, would have caused the procurement unit to reject the solicitation response.

(2) A procurement unit that rejects a solicitation response under Subsection (1) shall provide the vendor who submitted the rejected solicitation response a written statement of the reasons for the rejection.

**Section 15. Section 63G-6a-203 is amended to read:**

**63G-6a-203. Powers and duties of board.**

(1) In addition to making rules in accordance with Section ~~[63G-6a-110]~~ 63G-6a-107.7 and the other provisions of this chapter, the board shall consider and decide matters of policy within the provisions of this chapter, including those referred to it by the chief procurement officer.

(2) (a) The board may:

(i) audit and monitor the implementation of its rules and the requirements of this chapter;

(ii) upon the request of a procurement unit with ~~[an applicable]~~ a rulemaking authority other than the board, review the procurement unit's proposed rules to ensure that they are not inconsistent with the provisions of this chapter or rules made by the board; and

(iii) approve the use of innovative procurement processes.

(b) Except as provided in Section 63G-6a-1702, the board may not exercise authority over:

(i) the award or administration of any particular contract; or

(ii) any dispute, claim, or litigation pertaining to any particular contract.

(3) Except as otherwise expressly provided in this chapter, the board does not have authority over a matter involving ~~[a] an independent procurement unit [with independent procurement authority].~~

**Section 16. Section 63G-6a-204 is amended to read:**

**63G-6a-204. Applicability of rules of Utah State Procurement Policy Board and State Building Board -- Report to interim committee.**

(1) Except as provided in Subsection (2), rules made by the board under this chapter shall govern all procurement units for which the board is the ~~[applicable]~~ rulemaking authority.

(2) The building board rules governing procurement of construction, design professional services, and leases apply to the procurement of construction, design professional services, and leases of real property by the ~~[Division of Facilities Construction and Management]~~ facilities division.

(3) ~~[An applicable]~~ A rulemaking authority may make its own rules, consistent with this chapter, governing procurement by a person over which the ~~[applicable]~~ rulemaking authority has rulemaking authority.

(4) The board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made under Section 63G-6a-203.

~~[(5) Notwithstanding Subsection 63G-3-301(15)(b), an applicable rulemaking authority is required to initiate rulemaking~~

~~proceedings, for rules required to be made under this chapter, on or before.]~~

~~[(a) May 13, 2014, if the applicable rulemaking authority is the board; or]~~

~~[(b) January 1, 2015, for each other applicable rulemaking authority.]~~

**Section 17. Section 63G-6a-302 is amended to read:**

**63G-6a-302. Chief procurement officer -- Appointment -- Qualifications -- Authority.**

(1) The executive director of the Department of Administrative Services, with the consent of the governor, shall appoint the chief procurement officer after considering recommendations from the board.

(2) The chief procurement officer shall:

(a) have a minimum of eight years' experience:

(i) (A) in the large-scale procurement of supplies, services, or construction; or

(B) negotiating contract terms and conditions; and

(ii) at least five years of which shall have been in public or comparable private procurement within 12 years preceding the date of appointment; and

(b) be a person with demonstrated executive and organizational ability.

(3) The chief procurement officer appointed under Subsection (1) is also the director of the Division of Purchasing and General Services.

(4) The chief procurement officer has authority over a procurement by a procurement unit, except:

(a) ~~[a] an independent procurement unit [with independent procurement authority]; or~~

(b) as otherwise expressly provided in this chapter.

**Section 18. Section 63G-6a-303 is amended to read:**

**63G-6a-303. Role, duties, and authority of chief procurement officer.**

(1) The chief procurement officer:

(a) is the director of the division;

(b) serves as the central procurement officer of the state;

(c) serves as a voting member of the board; and

(d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement ~~[unit without independent procurement authority], except an executive branch procurement unit designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an independent procurement unit, or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.~~

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations;

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter; and

(j) ensure that any training described in this Subsection (2) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:

(a) shall:

(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) in accordance with Section 63F-1-205, coordinate with the Department of Technology Services, created in Section 63F-1-103, with respect to the procurement of information technology services by an executive branch procurement unit;

(v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;

(vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and

(b) may:

(i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;

(ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;

(iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;

(iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and

(v) remove an individual from the procurement process or contract administration for:

(A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;

(B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the

chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).

(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit ~~[without independent procurement authority]~~, except to the extent that an executive branch procurement unit is designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an independent procurement unit, to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

**Section 19. Section 63G-6a-409 is amended to read:**

**63G-6a-409. Request for information.**

(1) ~~[The purpose of]~~ A procurement unit may issue a request for information ~~[is] to~~~~:(a)~~ obtain information, comments, or suggestions ~~[from potential bidders or offerors]~~ before issuing ~~[an invitation for bids or request for proposals;]~~ a solicitation.

~~[(b) determine whether to issue an invitation for bids or a request for proposals; and]~~

~~[(c) generate interest in a potential invitation for bids or request for proposals.]~~

~~[(2) A request for information may be useful in order to:]~~

~~[(a) prepare to issue an invitation for bids or request for proposals for an unfamiliar or complex procurement;]~~

~~[(b) determine the market availability of a procurement item; or]~~

~~[(c) determine best practices, industry standards, performance standards, product specifications, and innovations relating to a procurement item.]~~

~~[(3)]~~ (2) (a) A request for information is not a procurement process and may not be used to:

~~[(i) solicit cost, pricing, or rate information;]~~

~~[(ii)]~~ (i) negotiate fees;

~~[(iii)]~~ (ii) make a purchase; ~~[(or)]~~

(iii) determine whether a procurement may be made under Part 8, Exceptions to Procurement Requirements; or

(iv) enter into a contract.

(b) To make a purchase or enter into a contract, a procurement unit is required to:

(i) use a standard procurement process; or

(ii) comply with an exception to the requirement to use a standard procurement process, as described in Part 8, Exceptions to Procurement Requirements.

~~[(4)]~~ (3) A response to a request for information is not an offer and may not be accepted to form a binding contract.

~~[(5) A request for information may seek a wide range of information, including:]~~

~~[(a) availability of a procurement item;]~~

~~[(b) delivery schedules;]~~

~~[(c) industry standards and practices;]~~

~~[(d) product specifications;]~~

~~[(e) training;]~~

~~[(f) new technologies;]~~

~~[(g) capabilities of potential providers of a procurement item; and]~~

~~[(h) alternate solutions.]~~

(4) A procurement unit that receives pricing information in response to a request for information shall ensure that an individual who serves on an evaluation committee to evaluate proposals that include a proposal as to which the pricing information applies does not have access to the pricing information, except as provided in Subsection 63G-6a-707(7).

~~[(6)]~~ (5) A record containing information submitted to or by a governmental entity in response to a request for information is a protected record under Section 63G-2-305.

**Section 20. Section 63G-6a-410 is amended to read:**

**63G-6a-410. Request for statement of qualifications -- Process.**

(1) (a) A procurement unit may use the process described in this section:

(i) as one of the stages of a multiple-stage ~~[:]~~ standard procurement process; and

~~[(A) bidding process;]~~

~~[(B) request for proposals process; or]~~

~~[(C) design professional procurement process; and]~~

(ii) to identify qualified vendors to participate in other stages of the multiple-stage procurement process.

(b) A procurement unit shall use the process described in this section as part of the approved vendor list process, if the procurement unit intends to establish an approved vendor list.

(2) A procurement unit may not:

(a) award a contract based solely on the process described in this section; or

(b) solicit costs, pricing, or rates or negotiate fees through the process described in this section.

(3) The process of identifying qualified vendors in a multiple-stage standard procurement process or of establishing an approved vendor list under Section 63G-6a-507 is initiated by a procurement unit issuing a request for statement of qualifications.

(4) A request for statement of qualifications in a multiple-stage standard procurement process shall include:

(a) a statement indicating that participation in other stages of the multiple-stage standard procurement process will be limited to qualified vendors;

(b) the minimum mandatory requirements, evaluation criteria, and applicable score thresholds that will be used to identify qualified vendors, including, as applicable:

(i) experience and work history;

(ii) management and staff requirements or standards;

(iii) licenses, certifications, and other qualifications;

(iv) performance ratings or references;

(v) financial stability; and

(vi) other information pertaining to vendor qualifications that the [~~chief procurement officer or the head of a procurement unit with independent procurement authority~~] procurement official considers relevant or important; and

(c) the deadline by which a vendor is required to submit a statement of qualifications.

(5) A request for statement of qualifications in an approved vendor list process under Section 63G-6a-507 shall include:

(a) a general description of, as applicable:

(i) the procurement item that the procurement unit seeks to acquire;

(ii) the type of project or scope or category of work that will be the subject of a procurement by the procurement unit;

(iii) the procurement process the procurement unit will use to acquire the procurement item; and

(iv) the type of vendor the procurement unit seeks to provide the procurement item;

(b) the minimum mandatory requirements, evaluation criteria, and applicable score thresholds that vendors are required to meet to be included on the approved vendor list;

(c) a statement indicating that the approved vendor list will include only responsible vendors that:

(i) submit a responsive statement of qualifications; and

(ii) meet the minimum mandatory requirements, evaluation criteria, and applicable score thresholds

described in the request for statement of qualifications;

(d) a statement indicating that only vendors on the approved vendor list will be able to participate in the procurements identified in the request for statement of qualifications;

(e) a statement indicating whether the procurement unit will use a performance rating system for evaluating the performance of vendors on the approved vendor list, including whether a vendor on the approved vendor list may be disqualified and removed from the list;

(f) (i) a statement indicating whether the procurement unit uses a closed-ended approved vendor list, as defined in Section 63G-6a-507, or an open-ended approved vendor list, as defined in Section 63G-6a-507; and

(ii) (A) if the procurement unit uses a closed-ended approved vendor list, the deadline by which a vendor is required to submit a statement of qualifications and a specified period of time after which the approved vendor list will expire; or

(B) if the procurement unit uses an open-ended approved vendor list, the deadline by which a vendor is required to submit a statement of qualifications to be considered for the initial approved vendor list, a schedule indicating when a vendor not on the initial approved vendor list may submit a statement of qualifications to be considered to be added to the approved vendor list, and the specified period of time after which a vendor is required to submit a new statement of qualifications for evaluation before the vendor's status as an approved vendor on the approved vendor list may be renewed; and

(g) a description of any other criteria or requirements specific to the procurement item or scope of work that is the subject of the procurement.

(6) A procurement unit issuing a request for statement of qualifications shall publish the request as provided in Section 63G-6a-112.

(7) After the deadline for submitting a statement of qualifications, the [~~chief procurement officer or the head of a procurement unit with independent procurement authority~~] procurement official may allow a vendor to correct an immaterial error in a statement of qualifications, as provided in Section 63G-6a-114.

(8) (a) A conducting procurement unit may reject a statement of qualifications if the conducting procurement unit determines that:

(i) the vendor who submitted the statement of qualifications:

(A) is not responsible;

(B) is in violation of a provision of this chapter;

(C) has engaged in unethical conduct; or

(D) receives a performance rating below the satisfactory performance threshold specified in the request for statement of qualifications;

(ii) there has been a change in the vendor's circumstances after the vendor submits a

statement of qualifications that, if the change had been known at the time the statement of qualifications was evaluated, would have caused the statement of qualifications not to have received a qualifying score; or

(iii) the statement of qualifications:

(A) is not responsive; or

(B) does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds stated in the request for statement of qualifications.

(b) A procurement unit that rejects a statement of qualifications under Subsection (8)(a) shall:

(i) make a written finding, stating the reasons for the rejection; and

(ii) provide a copy of the written finding to the vendor that submitted the rejected statement of qualifications.

(9) (a) (i) After the issuance of a request for statement of qualifications, the conducting procurement unit shall appoint an evaluation committee consisting, subject to Subsection (9)(b), of at least three individuals with at least a general familiarity with or basic understanding of:

(A) the technical requirements relating to the type of procurement item that is the subject of the request for statement of qualifications; or

(B) the need that the procurement item is intended to address.

(ii) The conducting procurement unit shall ensure that each member of an evaluation committee and each individual participating in the evaluation committee process:

(A) does not have a conflict of interest with any vendor that submits a statement of qualifications;

(B) can fairly evaluate each statement of qualifications;

(C) does not contact or communicate with a vendor concerning the evaluation process or procurement outside the official evaluation committee process; and

(D) conducts or participates in the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

(b) A procurement unit may reduce the number of individuals appointed to an evaluation committee if the procurement official determines in writing that the evaluation criteria:

(i) consist of only objective criteria; and

(ii) do not include any subjective criterion that requires analysis, assessment, or deliberation.

~~(b)~~ (c) A conducting procurement unit may authorize an evaluation committee to receive assistance:

(i) from an expert or consultant who:

(A) is not a member of the evaluation committee; and

(B) does not participate in the evaluation scoring; and

(ii) to better understand a technical issue involved in the procurement.

~~(e)~~ (d) An evaluation committee appointed under this Subsection (9):

(i) shall evaluate and score statements of qualifications submitted in response to a request for statement of qualifications using the minimum mandatory requirements, evaluation criteria, and applicable score thresholds set forth in the request for statement of qualifications;

(ii) may not evaluate or score a statement of qualifications using criteria not included in the request for statement of qualifications; and

~~(iii) may, with the approval of the [head of the conducting procurement unit] procurement official, enter into discussions or conduct interviews with or attend presentations by vendors, for the purpose of clarifying information contained in statements of qualifications.~~

~~(d)~~ (e) In a discussion, interview, or presentation under Subsection (9)(c)(iii), a vendor:

(i) may only explain, illustrate, or interpret the contents of the vendor's original statement of qualifications; and

(ii) may not:

(A) address criteria or specifications not contained in the vendor's original statement of qualifications;

(B) correct a deficiency, inaccuracy, or mistake in a statement of qualifications that is not an immaterial error;

(C) correct an incomplete submission of documents that the request for statement of qualifications required to be submitted with the statement of qualifications;

(D) correct a failure to submit a timely statement of qualifications;

(E) substitute or alter a required form or other document specified in the statement of qualifications;

(F) remedy a cause for a vendor being considered to be not responsible or a statement of qualifications not responsive; or

(G) correct a defect or inadequacy resulting in a determination that a vendor does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds established in the statement of qualifications.

~~(e)~~ (f) After the evaluation committee completes its evaluation and scoring of the statements of qualifications, the evaluation committee shall submit the statements of qualifications and evaluation scores to the ~~[head of the procurement~~

unit procurement official for review and final determination of:

(i) qualified vendors, if the request for statement of qualifications process is used as one of the stages of a multiple-stage process; or

(ii) vendors to be included on an approved vendor list, if the request for statement of qualifications process is used as part of the approved vendor list process.

~~[(f)]~~ (g) The issuing procurement unit shall review the evaluation committee's scores and correct any errors, scoring inconsistencies, and reported noncompliance with this chapter.

~~[(g)]~~ (h) (i) The deliberations of an evaluation committee under this Subsection (9) may be held in private.

(ii) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(10) A procurement unit may at any time request a vendor to clarify information contained in a statement of qualifications, as provided in Section 63G-6a-115.

(11) A vendor may voluntarily withdraw a statement of qualifications at any time before a contract is awarded with respect to which the statement of qualifications was submitted.

(12) If only one vendor meets the minimum qualifications, evaluation criteria, and applicable score thresholds set forth in the request for statement of qualifications that the procurement unit is using as part of an approved vendor list process, the conducting procurement unit may:

(a) ~~shall~~ cancel the request for statement of qualifications; ~~and~~ or

~~[(b) may not establish an approved vendor list based on the canceled request for statement of qualifications or on statements of qualifications submitted in response to the request for statement of qualifications.]~~

(b) establish an approved vendor list that includes the one vendor if the procurement unit continues to try to identify more vendors to be included on the approved vendor list by:

(i) keeping the request for statement of qualifications open; or

(ii) immediately reissuing the request for statement of qualifications and repeating the process under this section.

(13) If a conducting procurement unit cancels a request for statement of qualifications, the conducting procurement unit shall make available for public inspection a written justification for the cancellation.

(14) After receiving and reviewing the statements of qualifications and evaluation scores submitted by the evaluation committee, the ~~head~~

procurement official of the procurement unit using the request for statement of qualifications process under this section as one of the stages of a multiple-stage procurement process shall identify those vendors meeting the minimum mandatory requirements, evaluation criteria, and applicable score thresholds as qualified vendors who are allowed to participate in the remaining stages of the multiple-stage procurement process.

(15) The ~~[applicable]~~ rulemaking authority may make rules pertaining to the request for statement of qualifications and the process described in this section.

**Section 21. Section 63G-6a-506 is amended to read:**

**63G-6a-506. Small purchases.**

(1) As used in this section:

(a) "Annual cumulative threshold" means the maximum total annual amount, established by the ~~[applicable]~~ rulemaking authority under Subsection (2), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement threshold" means the maximum amount, established by the ~~[applicable]~~ rulemaking authority under Subsection (2), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the ~~[applicable]~~ rulemaking authority under Subsection (2), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2) (a) The ~~[applicable]~~ rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.

(b) Rules under Subsection (2)(a) may include provisions:

(i) establishing expenditure thresholds, including:

(A) an annual cumulative threshold;

(B) an individual procurement threshold; and

(C) a single procurement aggregate threshold;

(ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and

(iii) providing for the use of electronic, telephone, or written quotes.

(c) If a procurement unit obtains administrative law judge service through a small purchase standard procurement process, rules made under Subsection (2)(a) shall provide that the process for the procurement of administrative law judge service include an evaluation committee described in Subsection 63G-6a-116(3).

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the [applicable] rulemaking authority, unless the [~~chief procurement officer or the head of a procurement unit with independent procurement authority~~] procurement official gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent, or emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the [head] procurement official of a procurement unit that is an executive branch procurement unit with independent procurement authority:

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the [~~cost of the procurement item~~] ability of the vendor under the state contract [~~with the~~] to match the quoted cost of the procurement item if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may

result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person knowingly to divide a single procurement into multiple smaller procurements, including by dividing an invoice or purchase order into multiple invoices or purchase orders, if:

(i) the single procurement would not have qualified as a small purchase under this section;

(ii) one or more of the multiple smaller procurements qualify as a small purchase under this section; and

(iii) the division is done with the intent to:

(A) avoid having to use a standard procurement process, other than the small purchase process, that the person would otherwise be required to use for the single procurement; or

(B) make one or more of the multiple smaller procurements fall below a small purchase expenditure threshold established by rule under Subsection (2)(b) that the single procurement would not have fallen below without the division.

(b) A violation of Subsection (8)(a) is subject to penalties as provided in Subsection 63G-6a-2404.3(2).

(9) The Division of Finance within the Department of Administrative Services may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.

(10) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the



procurement unit has satisfactorily completed training on this section and the rules made under this section.

**Section 22. Section 63G-6a-507 is amended to read:**

**63G-6a-507. Approved vendor list procurement process.**

(1) As used in this section:

(a) "Closed-ended approved vendor list" means an approved vendor list that is subject to:

(i) a short period of time, specified by the procurement unit, during which vendors may be added to the list; and

(ii) a specified period of time after which the list will expire.

(b) "Open-ended approved vendor list" means an approved vendor list that is subject to:

(i) an indeterminate period of time during which vendors may be added to the list;

(ii) the addition of vendors to the list throughout the term of the list; and

(iii) a specified period of time after which ~~[a vendor on the list is required to submit the vendor's qualifications for evaluation before the vendor may be renewed as an approved vendor]~~ the procurement unit is required to verify that vendors on the list continue to meet the minimum mandatory requirements, evaluation criteria, and applicable score thresholds.

(2) A procurement unit may not establish an approved vendor list unless the procurement unit has first completed the statement of qualifications process described in Section 63G-6a-410.

(3) (a) A procurement unit may establish an approved vendor list for:

(i) a specific, fully defined procurement item; or

(ii) a future procurement item that is not specifically and fully defined, if the request for statement of qualifications contains a general description of:

(A) the procurement item; and

(B) the type of vendor that the procurement unit seeks to provide the procurement item.

(b) A procurement unit may not award a contract to a vendor on an approved vendor list for a procurement item that is outside the scope of the general description of the procurement item contained in the request for statement of qualifications.

(4) After receiving the statements of qualifications and evaluation scores submitted by the evaluation committee under Subsection 63G-6a-410(9)(e)(f), the ~~[head of the conducting]~~ procurement official of the procurement unit using the request for statement of qualifications process under Section 63G-6a-410 as part of an approved vendor list process shall:

(a) include on an approved vendor list those vendors meeting the minimum mandatory requirements, evaluation criteria, and applicable score thresholds; and

(b) reject any vendor not meeting the minimum mandatory requirements, evaluation criteria, and applicable score thresholds as ineligible for inclusion on the approved vendor list.

(5) (a) A procurement unit shall include approved vendors on a closed-ended approved vendor list or an open-ended approved vendor list.

(b) (i) A closed-ended approved vendor list shall expire no later than 18 months after the publication of the closed-ended approved vendor list.

(ii) A procurement unit shall ~~[require a vendor on an open-ended approved vendor list, in order to remain on the approved vendor list, to submit an updated statement of qualifications for evaluation no later than 18 months after the vendor was added to the list as an approved vendor]~~ verify, no less frequently than every 18 months, by a method approved by the procurement official, that each vendor on an open-ended approved vendor list continues to meet the minimum mandatory requirements, evaluation criteria, and applicable score thresholds.

(6) A procurement unit may:

(a) (i) using a bidding process, request for proposals process, small purchase process, or design professional procurement process, award a contract to a vendor on an approved vendor list for any procurement item or type of procurement item specified by the procurement unit in the request for statement of qualifications, including procurement items that the procurement unit intends to acquire in a series of future procurements described in the request for statement of qualifications; and

(ii) limit participation in a bidding process, request for proposals process, small purchase process, or design professional procurement process to vendors on an approved vendor list; or

(b) award a contract to a vendor on an approved vendor list at a price established as provided in Section 63G-6a-113.

(7) (a) After establishing an approved vendor list as provided in this section, ~~[the]~~ a conducting procurement unit shall, before using the approved vendor list, submit the approved vendor list to the issuing procurement unit ~~[for publication by the issuing procurement unit].~~

(b) An issuing procurement unit that receives an approved vendor list under Subsection (7)(a) shall make the approved vendor list available to the public.

(8) A conducting procurement unit administering an open-ended approved vendor list shall:

(a) require a vendor seeking inclusion on the approved vendor list to submit a statement of qualifications that complies with all requirements applicable at the time of the initial request for statement of qualifications; and

(b) if modifying the requirements for inclusion on the approved vendor list, apply any new or additional requirement to all vendors equally, whether a vendor is seeking inclusion on the approved vendor list for the first time or is already included on the approved vendor list~~;~~ and~~].~~

~~[(c) keep the request for statement of qualifications posted on a website as required under Subsection 63G-6a-112(6).]~~

(9) ~~[The applicable]~~ A rulemaking authority shall make rules pertaining to an approved vendor list process, including:

(a) procedures to ensure that all vendors on an approved vendor list have a fair and equitable opportunity to compete for a contract for a procurement item; and

(b) requirements for using an approved vendor list with the small purchase process.

**Section 23. Section 63G-6a-602 is amended to read:**

**63G-6a-602. Contracts awarded by bidding.**

~~[(1) The division or a] A procurement unit [with independent procurement authority] may award a contract for a procurement item by the bidding process, in accordance with the rules of the [applicable] rulemaking authority.~~

~~[(2) The bidding standard procurement process is appropriate to use when cost is the major factor in determining the award of a procurement.]~~

**Section 24. Section 63G-6a-603 is amended to read:**

**63G-6a-603. Invitation for bids -- Requirements -- Publication.**

~~[(1) The bidding standard procurement process begins when the issuing procurement unit issues an invitation for bids.]~~

~~[(2) An invitation for bids shall:]~~

~~[(a) state the period of time during which bids will be accepted;]~~

~~[(b) describe the manner in which a bid shall be submitted;]~~

~~[(c) state the place where a bid shall be submitted; and]~~

~~[(d) include, or incorporate by reference:]~~

~~[(i) to the extent practicable, a full description of the procurement items sought and the full scope of work;]~~

~~[(ii) the objective criteria that will be used to evaluate the bids; and]~~

~~[(iii) the required contractual terms and conditions.]~~

(1) A procurement unit that intends to award a contract for a procurement item using the bidding process shall issue an invitation for bids.

(2) A procurement unit shall include in an invitation for bids:

(a) a description of the procurement item that the procurement unit seeks;

(b) instructions for submitting a bid, including the deadline for submitting a bid;

(c) the objective criteria that the procurement unit will use to evaluate bids;

(d) information about the time and manner of opening bids; and

(e) terms and conditions that the procurement unit intends to include in a contract resulting from the bidding process.

(3) ~~[An issuing] A procurement unit shall publish an invitation for bids in accordance with the requirements of Section 63G-6a-112.~~

**Section 25. Section 63G-6a-604 is repealed and reenacted to read:**

**63G-6a-604. Processing of bids -- Changes to bids not allowed.**

(1) A procurement unit:

(a) shall accept bids as provided in the invitation for bids; and

(b) may not open a bid until after the deadline for submitting bids.

(2) A person who submits a bid may not, after the deadline for submitting bids, make a change to the bid if the change is prejudicial to:

(a) the interest of the procurement unit; or

(b) fair competition.

**Section 26. Section 63G-6a-606 is amended to read:**

**63G-6a-606. Evaluation of bids -- Award -- Cancellation.**

(1) A procurement unit that conducts a procurement using a bidding process shall evaluate each bid using the objective criteria described in the invitation for bids~~;~~ which may include~~].~~

~~[(a) experience;]~~

~~[(b) performance ratings;]~~

~~[(c) inspection;]~~

~~[(d) testing;]~~

~~[(e) quality;]~~

~~[(f) workmanship;]~~

~~[(g) time and manner of delivery;]~~

~~[(h) references;]~~

~~[(i) financial stability;]~~

~~[(j) cost;]~~

~~[(k) suitability for a particular purpose;]~~

~~[(4) the contractor's work site safety program, including any requirement that the contractor~~

~~imposes on subcontractors for a work site safety program; or]~~

~~[(m) other objective criteria specified in the invitation for bids.]~~

(2) Criteria not described in the invitation for bids may not be used to evaluate a bid.

~~[(3) The conducting procurement unit shall:]~~

~~[(a) subject to the provisions of Section 63G-6a-1204.5 for multiple award contracts, award the contract as soon as practicable to:]~~

~~[(i) the responsible bidder who submits the lowest responsive bid that meets the objective criteria described in the invitation for bids; or]~~

~~[(ii) if, in accordance with Subsection (4), the procurement officer or the head of the conducting procurement unit rejects a bid described in Subsection (3)(a)(i), the responsible bidder who submits the next lowest responsive bid that meets the objective criteria described in the invitation for bids; or]~~

~~[(b) cancel the invitation for bids without awarding a contract.]~~

~~[(4) In accordance with Subsection (5), the procurement officer or the head of the conducting procurement unit may reject a bid for:]~~

~~[(a) a violation of this chapter by the bidder who submitted the bid;]~~

~~[(b) a violation of a requirement of the invitation for bids;]~~

~~[(c) unlawful or unethical conduct by the bidder who submitted the bid; or]~~

~~[(d) a change in a bidder's circumstance that, had the change been known at the time the bid was submitted, would have caused the bid to be rejected.]~~

~~[(5) A procurement officer or head of a conducting procurement unit who rejects a bid under Subsection (4) shall:]~~

~~[(a) make a written finding, stating the reasons for the rejection; and]~~

~~[(b) provide a copy of the written finding to the bidder who submitted the rejected bid.]~~

~~[(6) If a conducting procurement unit cancels an invitation for bids without awarding a contract, the conducting procurement unit shall make available for public inspection a written justification for the cancellation.]~~

(3) After evaluating bids, the procurement unit shall:

(a) (i) award a contract as soon as practicable to the responsible bidder who submits the lowest responsive bid; and

(ii) publish the name and bid amount of the bidder to whom the contract is awarded; or

(b) (i) cancel the invitation for bids without awarding a contract; and

(ii) publish a notice of the cancellation that includes an explanation of the reasons for cancelling the invitation for bids.

**Section 27. Section 63G-6a-608 is repealed and reenacted to read:**

**63G-6a-608. Tie bids.**

A procurement unit shall resolve a tie bid in a fair manner, as determined in writing by the procurement official.

**Section 28. Section 63G-6a-702 is amended to read:**

**63G-6a-702. Contracts awarded by request for proposals.**

(1) [The division or a] A procurement unit [with independent procurement authority] may award a contract for a procurement item by the request for proposals process, in accordance with [the rules of the applicable] rulemaking authority rules.

(2) (a) The request for proposals process is appropriate for a procurement unit to use in selecting the proposal that provides the best value or is the most advantageous to the procurement unit, including when:

(i) the procurement involves a contract whose terms and conditions are to be negotiated in order to achieve the result that is the most advantageous to the procurement unit;

(ii) cost is not the most important factor to be considered in making the selection that is most advantageous to the procurement unit;

(iii) factors, apart from or in addition to cost, are highly significant in making the selection that is most advantageous to the procurement unit; or]

(iv) the procurement unit anticipates entering into a public-private partnership.]

(b) The types of procurements for which it is appropriate to use the request for proposals process include:]

(i) a procurement of professional services; and]

(ii) a procurement of design-build or construction manager/general contractor services.]

(3) (2) The procurement of architect-engineer services is governed by Part 15, Design Professional Services.

**Section 29. Section 63G-6a-703 is amended to read:**

**63G-6a-703. Request for proposals -- Requirements -- Publication of request.**

(1) [The request for proposals standard procurement process begins when the division or a procurement unit with independent procurement authority issues] A procurement unit that intends to award a contract for a procurement item using the request for proposals process shall issue a request for proposals.

~~[(2) A request for proposals shall:]~~

~~[(a) state the period of time during which a proposal will be accepted;]~~

~~[(b) describe the manner in which a proposal shall be submitted;]~~

~~[(c) state the place where a proposal shall be submitted;]~~

~~[(d) include, or incorporate by reference:]~~

~~[(i) to the extent practicable, a full description of the procurement items sought and the full scope of work;]~~

~~[(ii) a description of the subjective and objective criteria that will be used to evaluate the proposal; and]~~

~~[(iii) the standard contractual terms and conditions required by the authorized purchasing entity;]~~

~~[(e) if the request for proposals is for a construction project, require each offeror to include in a proposal a description of the offeror's company safety plan and the offeror's safety plan for the specific project that is the subject of the proposal;]~~

~~[(f) state the relative weight that will be given to each score for the criteria described in Subsection (2)(d)(ii), including cost;]~~

~~[(g) state the formula that will be used to determine the score awarded for the cost of each proposal;]~~

~~[(h) if the request for proposals will be conducted in multiple stages, as described in Section 63G-6a-710, include a description of the stages and the criteria and scoring that will be used to screen offerors at each stage;]~~

~~[(i) state that best and final offers may be allowed, as provided in Section 63G-6a-707.5, from responsible offerors who submit responsive proposals that meet minimum qualifications, evaluation criteria, or applicable score thresholds identified in the request for proposals; and]~~

~~[(j) if the procurement unit anticipates the procurement process to result in a public-private partnership, state that the procurement unit anticipates entering into a public-private partnership.]~~

~~(2) A procurement unit shall include in a request for proposals:~~

~~(a) a description of the procurement item that the procurement unit seeks;~~

~~(b) instructions for submitting a proposal, including the deadline for submitting a proposal;~~

~~(c) the objective criteria, including, if applicable, cost, and subjective criteria that the procurement unit will use to evaluate proposals;~~

~~(d) information about the time and manner of opening proposals; and~~

~~(e) terms and conditions that the procurement unit intends to include in a contract resulting from the request for proposals process.~~

~~(3) [The division or a] A procurement unit [with independent procurement authority] shall publish a request for proposals in accordance with the requirements of Section 63G-6a-112.~~

**Section 30. Section 63G-6a-704 is repealed and reenacted to read:**

**63G-6a-704. Processing of proposals -- Changes to proposals not allowed.**

(1) A procurement unit:

(a) shall accept proposals as provided in the request for proposals;

(b) may not open a proposal until after the deadline for submitting proposals; and

(c) may not disclose the contents of a proposal to the public or to another offeror, except as provided in Subsection 63G-2-305(6).

(2) A person who submits a proposal may not, after the deadline for submitting proposals, make a change to the proposal if the change is prejudicial to:

(a) the interest of the procurement unit; or

(b) fair competition.

**Section 31. Section 63G-6a-704.4 is enacted to read:**

**63G-6a-704.4. Limited addenda to requests for proposals.**

After the deadline for submitting proposals, a procurement unit may, at the discretion of the procurement official, issue a request for proposals addendum that has limited application only to offerors that have submitted proposals, if the addendum does not change the request for proposals in a way that, in the opinion of the procurement official, would likely have affected the number of proposals submitted in response to the request for proposals had the addendum been included in the original request for proposals.

**Section 32. Section 63G-6a-704.6 is enacted to read:**

**63G-6a-704.6. Discussions with a person who submits a proposal.**

(1) A procurement unit may have discussions with an offeror to obtain a more complete understanding of whether the offeror is responsible or the offeror's proposal is responsive.

(2) A procurement unit may reject a proposal following discussions under Subsection (1) if the procurement unit determines that the offeror is not responsible or the proposal is not responsive.

**Section 33. Section 63G-6a-707 is amended to read:**

**63G-6a-707. Evaluation committee -- Evaluation of proposals.**

(1) A procurement unit shall appoint an evaluation committee of at least three members to

evaluate proposals received in response to a request for proposals issued by the procurement unit.

(2) The evaluation committee shall evaluate proposals in accordance with the process described in the request for proposals.

~~[(1)-(a)]~~ (3) To determine which proposal provides the best value to the procurement unit, the evaluation committee shall evaluate each responsible offeror's responsive proposal that has not been disqualified from consideration under the provisions of this chapter, using the evaluation criteria described in the request for proposals.

~~[(b) The criteria in a request for proposals may include:]~~

~~[(i) experience;]~~

~~[(ii) performance ratings;]~~

~~[(iii) inspection;]~~

~~[(iv) testing;]~~

~~[(v) quality;]~~

~~[(vi) workmanship;]~~

~~[(vii) time, manner, or schedule of delivery;]~~

~~[(viii) references;]~~

~~[(ix) financial solvency;]~~

~~[(x) suitability for a particular purpose;]~~

~~[(xi) management plans;]~~

~~[(xii) cost;]~~

~~[(xiii) if applicable, the offeror's willingness and capability to enter into a public-private partnership; or]~~

~~[(xiv) other subjective or objective criteria specified in the request for proposals.]~~

~~[(c) The criteria in a request for proposals for a construction project shall include the existence and quality of:]~~

~~[(i) an offeror's company safety plan; and]~~

~~[(ii) the offeror's safety plan for the specific project that is the subject of the proposal.]~~

~~[(2)]~~ (4) Criteria not described in the request for proposals may not be used to evaluate a proposal.

~~[(3) The conducting]~~

(5) A procurement unit shall:

(a) appoint [an] evaluation committee [consisting of at least three individuals with] members who have at least a general familiarity with or basic understanding of:

(i) the technical requirements relating to the type of procurement item that is the subject of the procurement; or

(ii) the need that the procurement item is intended to address; and

(b) ensure that the evaluation committee and each individual participating in the evaluation committee process:

(i) does not have a conflict of interest with any of the offerors;

(ii) can fairly evaluate each proposal;

(iii) does not contact or communicate with an offeror concerning the procurement outside the official evaluation committee process; and

(iv) conducts or participates in the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

~~[(4) A conducting]~~

(6) A procurement unit may authorize an evaluation committee to receive assistance[;-(a)-] from an expert or consultant [who:-(i)-is not a member of the evaluation committee; and (ii) does not participate in the evaluation scoring; and (b)-] to better understand a technical issue involved in the procurement.

~~[(5) (a) An evaluation committee may, with the approval of the head of the conducting procurement unit, enter into discussions or conduct interviews with, or attend presentations by, the offerors, for the purpose of clarifying information contained in proposals.]~~

~~[(b) In a discussion, interview, or presentation under Subsection (5)(a), an offeror:]~~

~~[(i) may only explain, illustrate, or interpret the contents of the offeror's original proposal; and]~~

~~[(ii) may not:]~~

~~[(A) address criteria or specifications not contained in the offeror's original proposal;]~~

~~[(B) correct a deficiency, inaccuracy, or mistake in a proposal that is not an immaterial error;]~~

~~[(C) correct an incomplete submission of documents that the solicitation required to be submitted with the proposal;]~~

~~[(D) correct a failure to submit a timely proposal;]~~

~~[(E) substitute or alter a required form or other document specified in the solicitation;]~~

~~[(F) remedy a cause for an offeror being considered to be not responsible or a proposal not responsive; or]~~

~~[(G) correct a defect or inadequacy resulting in a determination that an offeror does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds established in the solicitation.]~~

~~[(6) (a) Except as provided in Subsection (7)(b) relating to access to management fee information, and except as provided in Subsection (9), each member of the evaluation committee is prohibited from knowing, or having access to, any information relating to the cost, or the scoring of the cost, of a proposal until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.]~~

~~[(b) The issuing procurement unit shall:]~~

~~[(i) if applicable, assign an individual who is not a member of the evaluation committee to calculate scores for cost based on the applicable scoring formula, weighting, and other scoring procedures contained in the request for proposals;]~~

~~[(ii) review the evaluation committee's scores and correct any errors, scoring inconsistencies, and reported noncompliance with this chapter;]~~

~~[(iii) add the scores calculated for cost, if applicable, to the evaluation committee's final recommended scores on criteria other than cost to derive the total combined score for each responsive proposal from a responsible offeror; and]~~

~~[(iv) provide to the evaluation committee the total combined score calculated for each responsive proposal from a responsible offeror, including any applicable cost formula, weighting, and scoring procedures used to calculate the total combined scores.]~~

~~[(7) (a) Except as provided in Subsection (7)(b), an evaluation committee member is prohibited from knowing or having access to information relating to the cost of a proposal until after the evaluation committee submits its recommendation to the procurement unit based on the scores of all criteria other than cost.~~

~~[(b) A procurement official may waive the prohibition of Subsection (7)(a) by signing a written statement indicating why waiving the prohibition is in the best interests of the procurement unit.~~

~~[(e) The] (8) An evaluation committee may [not; (i)-] change its final recommended scores [described in Subsection (6)(a)] after the evaluation committee has submitted those scores to the [issuing] procurement unit[;ø].~~

~~[(ii) change cost scores calculated by the issuing procurement unit.]~~

~~[(7) (a) As used in this Subsection (7), "management fee" includes only the following fees of the construction manager/general contractor:]~~

~~[(i) preconstruction phase services;]~~

~~[(ii) monthly supervision fees for the construction phase; and]~~

~~[(iii) overhead and profit for the construction phase.]~~

~~[(b) When selecting a construction manager/general contractor for a construction project, the evaluation committee:]~~

~~[(i) may score a construction manager/general contractor based upon criteria contained in the solicitation, including qualifications, performance ratings, references, management plan, certifications, and other project specific criteria described in the solicitation;]~~

~~[(ii) may, as described in the solicitation, weight and score the management fee as a fixed rate or as a fixed percentage of the estimated contract value;]~~

~~[(iii) may, at any time after the opening of the responses to the request for proposals, have access to, and consider, the management fee proposed by the offerors; and]~~

~~[(iv) except as provided in Subsection (9), may not know or have access to any other information relating to the cost of construction submitted by the offerors, until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.]~~

~~[(8) (9) (a) The deliberations and other proceedings of an evaluation committee may be held in private.~~

~~[(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations and other proceedings.~~

~~[(9) An issuing procurement unit is not required to comply with Subsection (6) or (7)(b)(iv), as applicable, if the head of the issuing procurement unit or a person designated by rule made by the applicable rulemaking authority:]~~

~~[(a) signs a written statement:]~~

~~[(i) indicating that, due to the nature of the proposal or other circumstances, it is in the best interest of the procurement unit to waive compliance with Subsection (6) or (7)(b)(iv), as the case may be; and]~~

~~[(ii) describing the nature of the proposal and the other circumstances relied upon to waive compliance with Subsection (6) or (7)(b)(iv); and]~~

~~[(b) makes the written statement available to the public, upon request.]~~

~~[(10) (a) At the conclusion of the evaluation process, an evaluation committee shall prepare and submit to the procurement unit a written statement that:~~

~~[(i) recommends a proposal for an award of a contract, if the evaluation committee decides to recommend a proposal;~~

~~[(ii) contains the score awarded to the recommended proposal based on the criteria stated in the request for proposals; and]~~

~~[(iii) explains how the recommended proposal provides the best value to the procurement unit.~~

~~[(b) A procurement unit is not required to comply with Subsection (10)(a) for a contract with a construction manager/general contractor if the contract is awarded based solely on:~~

~~[(i) the qualifications of the construction manager/general contractor; and]~~

~~[(ii) the management fee to be paid to the construction manager/general contractor.~~

**Section 34. Section 63G-6a-707.5 is amended to read:**

**63G-6a-707.5. Best and final offers.**

(1) The best and final offer process described in this section:

(a) may be used only in a request for proposals process, whether the request for proposals process is used independently or after the establishment of an approved vendor list through the approved vendor list process; and

(b) may not be used in any other standard procurement process, whether the other standard procurement process is used independently or after the establishment of an approved vendor list through the approved vendor list process.

(2) Subject to Subsection (3), a conducting procurement unit may request best and final offers from responsible offerors:

(a) only with the approval of the ~~chief procurement officer or the head of the issuing procurement unit~~ procurement official; and

(b) if:

(i) no single proposal adequately addresses all the specifications stated in the request for proposals;

(ii) all proposals are unclear or deficient in one or more respects;

(iii) all cost proposals exceed the identified budget or the procurement unit's available funding; or

(iv) two or more proposals receive an identical evaluation score that is the highest score.

(3) A conducting procurement unit may request a best and final offer from, and a best and final offer may be submitted to the conducting procurement unit by, only a responsible offeror that has submitted a responsive proposal that meets the minimum mandatory criteria stated in the request for proposals required to be considered in the stage of the procurement process at which best and final offers are being requested.

(4) The best and final offer process may not be used to change:

(a) a determination that an offeror is not responsible to a determination that the offeror is responsible; or

(b) a determination that a proposal is not responsive to a determination that the proposal is responsive.

(5) (a) This Subsection (5) applies if a request for best and final offers is issued because all cost proposals exceed the identified budget or the procurement unit's available funding.

(b) (i) The conducting procurement unit may, in the request for best and final offers:

(A) specify the scope of work reductions the procurement unit is making in order to generate proposals that are within the identified budget or the procurement unit's available funding; or

(B) invite offerors submitting best and final offers to specify the scope of work reductions being made so that the reduced cost proposal is within the

identified budget or the procurement unit's available funding.

(ii) The conducting procurement unit is not required to accept a scope of work reduction that an offeror has specified in the offeror's best and final offer.

(c) A best and final offer submitted with a reduced cost proposal shall include an itemized list identifying specific reductions in the offeror's proposed scope of work that correspond to the offeror's reduced cost proposal.

(d) A reduction in the scope of work may not:

(i) eliminate a component identified in the request for proposals as a minimum mandatory requirement; or

(ii) alter the nature of the original request for proposals to the extent that a request for proposals for the reduced scope of work would have likely attracted a significantly different set of offerors submitting proposals in response to the request for proposals.

(6) If a request for best and final offers is issued because two or more proposals received an identical evaluation score that is the highest score:

(a) the request may be issued only to offerors who submitted a proposal receiving the highest score; and

(b) an offeror submitting a best and final offer may revise:

(i) the technical aspects of the offeror's proposal;

(ii) the offeror's cost proposal, as provided in Subsection (5); or

(iii) both the technical aspects of the offeror's proposal and, as provided in Subsection (5), the offeror's cost proposal.

(7) In a request for best and final offers, the conducting procurement unit shall:

(a) clearly specify:

(i) the issues that the procurement unit requests the offerors to address in their best and final offers; and

(ii) how best and final offers will be evaluated and scored in accordance with Section ~~[63G-6a-707]~~ 63G-6a-707.5;

(b) establish a deadline for an offeror to submit a best and final offer; and

(c) if applicable, establish a schedule and procedure for conducting discussions with offerors concerning the best and final offers.

(8) In conducting a best and final offer process under this section, a conducting procurement unit shall:

(a) maintain confidential the information the procurement unit receives from an offeror, including any cost information, until a contract has been awarded or the request for proposals canceled;

(b) ensure that each offeror receives fair and equal treatment; and

(c) safeguard the integrity of the scope of the original request for proposals, except as specifically provided otherwise in this section.

(9) In a best and final offer, an offeror:

(a) may address only the issues described in the request for best and final offers; and

(b) may not correct a material error or deficiency in the offeror's proposal or address any issue not described in the request for best and final offers.

(10) If an offeror fails to submit a best and final offer, the conducting procurement unit shall treat the offeror's original proposal as the offeror's best and final offer.

(11) After the deadline for submitting best and final offers has passed, the evaluation committee shall evaluate the best and final offers submitted using the criteria described in the request for proposals.

(12) An offeror may not make and a conducting procurement unit may not consider a best and final offer that the conducting procurement unit has not requested under this section.

(13) To implement the best and final offer process described in this section, ~~[an applicable]~~ a rulemaking authority may make rules consistent with this section and the other provisions of this chapter.

**Section 35. Section 63G-6a-712 is amended to read:**

**63G-6a-712. Unsolicited proposals.**

(1) As used in this section, "unsolicited proposal"~~;~~ ~~(a)~~ means a written proposal:

~~(i)~~ (a) for a public-private partnership for:

~~(A)~~ (i) an infrastructure project; or

~~(B)~~ (ii) a project to collect, analyze, and distribute health data to improve health and health care and to facilitate interaction regarding health and health care issues; and

~~(ii)~~ (b) that is not submitted in response to a solicitation~~;~~ ~~and~~.

~~(b) does not include an initial proposal, as defined in Section 63G-6a-711.~~

(2) (a) Subject to Subsection (2)(b), a person may submit an unsolicited proposal to a procurement unit at any time.

(b) An unsolicited proposal may not be used to seek a procurement unit's consideration of a proposal after the expiration of the time for submitting proposals in response to a request for proposals.

(3) An unsolicited proposal shall include:

(a) a reference to this section and a statement that the unsolicited proposal is submitted under this section;

(b) a conceptual description of the project that constitutes the procurement item that is the subject of the proposed public-private partnership;

(c) a description of the economic benefit of the project to the state and the procurement unit;

(d) information concerning the services or facilities currently being provided by the state or procurement unit that are similar to the project;

(e) an estimate of the project costs for:

(i) design;

(ii) implementation;

(iii) operation and maintenance; and

(iv) any other related project cost; and

(f) the name, address, telephone number, and email address of an individual who may be contacted for further information concerning the unsolicited proposal.

(4) A procurement unit is not required to consider an unsolicited proposal.

(5) A procurement unit may charge a person submitting an unsolicited proposal a fee to cover the actual cost of processing, considering, and evaluating the unsolicited proposal.

(6) A procurement unit that receives an unsolicited proposal may not award a contract for the procurement item described in the unsolicited proposal unless:

(a) the procurement unit first engages in a standard procurement process for proposals to provide the procurement item described in the unsolicited proposal; or

(b) awarding the contract without the procurement unit engaging in a standard procurement process is allowed under Section 63G-6a-802.

(7) If a procurement unit engages in a standard procurement process pursuant to Subsection (6)(a):

(a) the procurement unit shall treat an unsolicited proposal as though it were submitted as a proposal in response to the solicitation; and

(b) a person who has submitted an unsolicited proposal may, within the time provided in the solicitation for the submission of proposals, modify the unsolicited proposal to the extent necessary to address matters raised in the solicitation that were not addressed in the initial unsolicited proposal.

(8) ~~[An applicable]~~ A rulemaking authority may make rules to govern the submission, processing, consideration, and evaluation of an unsolicited proposal, including fees relating to the unsolicited proposal.

(9) An unsolicited proposal is subject to Chapter 2, Government Records Access and Management Act, including, if applicable, provisions relating to a written claim of business confidentiality, as provided in Section 63G-2-309, for trade secrets, commercial information, or nonindividual financial



information described in Subsection 63G-2-305(1) or (2).

**Section 36. Section 63G-6a-802 is amended to read:**

**63G-6a-802. Award of contract without engaging in a standard procurement process -- Notice -- Duty to negotiate contract terms in best interest of procurement unit.**

(1) ~~[The chief procurement officer or the head of a procurement unit with independent procurement authority]~~ A procurement unit may award a contract for a procurement item without engaging in a standard procurement process if the ~~[chief procurement officer or the head of the procurement unit with independent procurement authority]~~ procurement official determines in writing that:

(a) there is only one source for the procurement item;

(b) (i) transitional costs are a significant consideration in selecting a procurement item; and

(ii) the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without engaging in a standard procurement process is in the best interest of the procurement unit; or

(c) the award of a contract is under circumstances, described in rules adopted by the ~~[applicable]~~ rulemaking authority, that make awarding the contract through a standard procurement process impractical and not in the best interest of the procurement unit.

(2) Transitional costs associated with a trial use or testing of a procurement item under a trial use contract awarded under Section 63G-6a-802.3 may not be included in a consideration of transitional costs under Subsection (1)(b).

(3) (a) Subject to Subsection (3)(b), ~~[the applicable]~~ a rulemaking authority shall make rules regarding the publication of notice for a procurement under this section that, at a minimum, require publication of notice of the procurement, in accordance with Section 63G-6a-112, if the cost of the procurement exceeds \$50,000.

(b) Publication of notice under Section 63G-6a-112 is not required for:

(i) the procurement of public utility services pursuant to a sole source contract; or

(ii) other procurements under this section for which an applicable rule provides that notice is not required.

(4) ~~[The chief procurement officer or the head of a procurement unit with independent procurement authority]~~ A procurement official who awards a contract under this section shall negotiate with the contractor to ensure that the terms of the contract, including price and delivery, are in the best interest of the procurement unit.

**Section 37. Section 63G-6a-802.3 is amended to read:**

**63G-6a-802.3. Trial use contracts.**

(1) A procurement unit may award a trial use contract without engaging in a standard procurement process if:

(a) the purpose of the contract is to:

(i) determine whether the procurement item will benefit the procurement unit;

(ii) assess the feasibility of a procurement item that:

(A) is new or innovative; or

(B) has a proposed use or application that is novel or unproven; or

(iii) evaluate whether to conduct a standard procurement process for the procurement item being tested; and

(b) the contract is:

~~[(a)]~~ (i) awarded for a procurement item that is not already available to the procurement unit under an existing contract;

~~[(b)]~~ (ii) restricted to the procurement of a procurement item in the minimum quantity and for the minimum period of time necessary to test the procurement item;

~~[(c)]~~ (iii) the only trial use contract for that procurement unit for the same procurement item; and

~~[(d)]~~ (iv) not used to circumvent the purposes and policies of this chapter as set forth in Section 63G-6a-102.

(2) The period of trial use or testing of a procurement item under a trial use contract may not exceed ~~[18]~~ 24 months, unless the procurement ~~[efficer]~~ official provides a written exception documenting the reason for a longer period.

(3) A trial use contract shall:

(a) state that the contract is strictly for the trial use or testing of a procurement item;

(b) state that the contract terminates upon completion of the trial use or testing period;

(c) state that the procurement unit is not obligated to purchase or enter into a contract for the procurement item, regardless of the trial use or testing result;

(d) state that any purchase of the procurement item that is the subject of the trial use contract will be made in accordance with this chapter; and

(e) include, as applicable:

(i) test schedules;

(ii) deadlines and a termination date;

(iii) measures that will be used to evaluate the performance of the procurement item;

(iv) any fees and associated expenses or an explanation of the circumstances warranting a waiver of those fees and expenses;

(v) the obligations of the procurement unit and vendor;

(vi) provisions regarding the ownership of the procurement item during and after the trial use or testing period;

(vii) an explanation of the grounds upon which the contract may be terminated;

(viii) a provision relating to any required bond or security deposit; and

(ix) other requirements unique to the procurement item for trial use or testing.

(4) Publication of notice under Section 63G-6a-112 is not required for a trial use contract.

(5) ~~[The applicable]~~ A rulemaking authority may make rules pertaining to a trial use contract.

**Section 38. Section 63G-6a-802.7 is amended to read:**

**63G-6a-802.7. Extension of a contract without engaging in a standard procurement process.**

~~[The chief procurement officer or the head of a procurement unit with independent procurement authority]~~ A procurement official may extend an existing contract without engaging in a standard procurement process:

(1) for a period of time not to exceed 120 days, if:

(a) an extension of the contract is necessary to:

(i) avoid a lapse in a critical government service; or

(ii) to mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property; and

(b) (i) (A) the procurement unit is engaged in a standard procurement process for a procurement item that is the subject of the contract being extended; and

(B) the standard procurement process is delayed due to an unintentional error;

(ii) a change in an industry standard requires one or more significant changes to specifications for the procurement item; or

(iii) an extension is necessary:

(A) to prevent the loss of federal funds;

(B) to mitigate the effects of a delay of a state or federal appropriation;

(C) to enable the procurement unit to continue to receive a procurement item during a delay in the implementation of a contract awarded pursuant to a procurement that has already been conducted; or

(D) to enable the procurement unit to continue to receive a procurement item during a period of time during which negotiations with a vendor under a new contract for the procurement item are being conducted;

(2) for the period of a protest, appeal, or court action, if the protest, appeal, or court action is the reason for delaying the award of a new contract; or

(3) for a period of time exceeding 120 days, if, after consulting with the attorney general or the procurement unit's attorney, the ~~[chief procurement officer or head of a procurement unit with independent procurement authority]~~ procurement official determines in writing that the contract extension does not violate state or federal antitrust laws and is consistent with the purpose of ensuring the fair and equitable treatment of all persons who deal with the procurement system.

**Section 39. Section 63G-6a-803 is amended to read:**

**63G-6a-803. Emergency procurement.**

(1) Notwithstanding any other provision of this chapter, ~~[the chief procurement officer or the head of a procurement unit with independent procurement authority]~~ a procurement official may authorize a procurement unit to engage in an emergency procurement without using a standard procurement process if the procurement is necessary to:

(a) avoid a lapse in a critical government service;

(b) mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property; or

(c) protect the legal interests of a public entity.

(2) A procurement unit conducting an emergency procurement under Subsection (1) shall:

(a) ensure that the procurement is made with as much competition as reasonably practicable while:

(i) avoiding a lapse in a critical government service;

(ii) avoiding harm, or a risk of harm, to the public health, safety, welfare, or property; or

(iii) protecting the legal interests of a public entity; and

(b) after the emergency has abated, prepare a written document explaining the emergency condition that necessitated the emergency procurement under Subsection (1).

**Section 40. Section 63G-6a-804 is amended to read:**

**63G-6a-804. Purchase of prison industry goods.**

(1) As used in this section~~[,] "applicable"~~:

(a) "Applicable procurement unit" means a procurement unit that is not:

~~(a)~~ (i) a political subdivision of the state; or

~~(b)~~ (ii) the Utah Schools for the Deaf and the Blind.

(b) "Correctional industries division" means the Division of Correctional Industries, created in Section 64-13a-4.

(c) “Correctional industries director” means the director of the correctional industries division, appointed under Section 64-13a-4.

(2) (a) An applicable procurement unit shall purchase goods and services produced by the ~~[Utah Correctional Industries Division]~~ correctional industries division as provided in this section.

(b) A procurement unit that is not an applicable procurement unit may, and is encouraged to, purchase goods and services under this section.

(c) A procurement unit is not required to use a standard procurement process to purchase goods or services under this section.

(3) On or before July 1 of each year, the correctional industries director ~~[of the Utah Correctional Industries]~~ shall:

(a) publish and distribute to all procurement units and other interested public entities a catalog of goods and services ~~[provided]~~ produced by the ~~[Correctional Industries Division]~~ correctional industries division, including a description and price of each item offered for sale; and

(b) update and revise the catalog described in Subsection (3)(a) during the year as the correctional industries director considers necessary.

(4) (a) An applicable procurement unit may not purchase any goods or services provided by the ~~[Correctional Industries Division]~~ correctional industries division from any other source unless ~~[it has been determined in writing by the director of Correctional Industries and by the]~~ the correctional industries director and the procurement ~~[officer]~~ official or, in the case of institutions of higher education, the institutional procurement officer, determine in writing that purchase from the ~~[Correctional Industries Division]~~ correctional industries division is not feasible due to one of the following circumstances:

(i) the good or service offered by the correctional industries division does not meet the reasonable requirements of the procurement unit;

(ii) the good or service cannot be supplied within a reasonable time by the correctional industries division; or

(iii) the cost of the good or service, including basic price, transportation costs, and other expenses of acquisition, is not competitive with the cost of procuring the item from another source.

(b) In cases of disagreement under Subsection (4)(a):

(i) the decision may be appealed to a board consisting of:

(A) the director of the Department of Corrections;

(B) the director of Administrative Services; and

(C) a neutral third party agreed upon by the other two members of the board;

(ii) in the case of an institution of higher education of the state, the president of the

institution, or the president’s designee, shall make the final decision; or

(iii) in the case of any of the following entities, a person designated by the ~~[applicable]~~ rulemaking authority shall make the final decision:

(A) a legislative procurement unit;

(B) a judicial procurement unit; or

(C) a public transit district.

**Section 41. Section 63G-6a-806 is amended to read:**

**63G-6a-806. Exception for public transit district contracting with a county or municipality.**

A public transit district, organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, may, without going through a standard procurement process or another exception to a standard procurement process described in this part:

(1) contract with a county or municipality to receive money from the county or municipality; and

(2) use the money described in Subsection (1) to fund a transportation project or a transit-related program in accordance with rules made by the ~~[applicable]~~ rulemaking authority.

**Section 42. Section 63G-6a-902 is amended to read:**

**63G-6a-902. Cancellation and rejection of bids and proposals.**

(1) An issuing procurement unit may cancel an invitation for bids, a request for proposals, or other solicitation or reject any or all bids or proposal responses, in whole or in part, as may be specified in the solicitation, when it is in the best interests of the procurement unit in accordance with the rules of the ~~[applicable]~~ rulemaking authority.

(2) The reasons for a cancellation or rejection described in Subsection (1) shall be made part of the contract file.

**Section 43. Section 63G-6a-903 is amended to read:**

**63G-6a-903. Determination of nonresponsibility.**

(1) A determination of nonresponsibility of a person made by an issuing procurement unit shall be made in writing, in accordance with the rules of the ~~[applicable]~~ rulemaking authority.

(2) A person’s unreasonable failure to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to the person.

(3) Subject to Title 63G, Chapter 2, Government Records Access and Management Act, information furnished by a person pursuant to this section may not be disclosed outside of a procurement unit without the person’s prior written consent.

**Section 44. Section 63G-6a-904 is amended to read:**

**63G-6a-904. Debarment or suspension from consideration for award of contracts --**

**Process -- Causes for debarment --  
Judicial review.**

(1) (a) Subject to Subsection (1)(b), ~~[the chief procurement officer or the head of a procurement unit with independent procurement authority]~~ a procurement official may:

(i) debar a person for cause from consideration for award of contracts for a period not to exceed three years; or

(ii) suspend a person from consideration for award of contracts if there is cause to believe that the person has engaged in any activity that might lead to debarment.

(b) Before debarring or suspending a person under Subsection (1)(a), ~~[the chief procurement officer or head of a procurement unit with independent procurement authority]~~ a procurement official shall:

(i) consult with:

(A) the procurement unit involved in the matter for which debarment or suspension is sought; and

(B) the attorney general, if the procurement unit is in the state executive branch, or the procurement unit's attorney, if the procurement unit is not in the state executive branch;

(ii) give the person at least 10 days' prior written notice of:

(A) the reasons for which debarment or suspension is being considered; and

(B) the hearing under Subsection (1)(b)(iii); and

(iii) hold an informal hearing in accordance with Subsection (1)(c).

(c) (i) At an informal hearing under Subsection (1)(b)(iii), ~~[the chief procurement officer or head of a procurement unit with independent procurement authority]~~ a procurement official may:

(A) subpoena witnesses and compel their attendance at the hearing;

(B) subpoena documents for production at the hearing;

(C) obtain additional factual information; and

(D) obtain testimony from experts, the person who is the subject of the proposed debarment or suspension, representatives of the procurement unit, or others to assist the ~~[chief procurement officer or head of a procurement unit with independent procurement authority]~~ procurement official to make a decision on the proposed debarment or suspension.

(ii) The Rules of Evidence do not apply to an informal hearing under Subsection (1)(b)(iii).

~~[(iii) The chief procurement officer or head of a procurement unit with independent procurement authority]~~

(iii) A procurement official shall:

(A) record a hearing under Subsection (1)(b)(iii); and

(B) preserve all records and other evidence relied upon in reaching a decision until the decision becomes final.

(iv) The holding of an informal hearing under Subsection (1)(b)(iii) or the issuing of a decision under Subsection (1)(c)(v) does not affect a person's right to later question or challenge the jurisdiction of the ~~[chief procurement officer or head of a procurement unit with independent procurement authority]~~ procurement official to hold a hearing or issue a decision.

~~[(v) The chief procurement officer or head of a procurement unit with independent procurement authority]~~

(v) A procurement official shall:

(A) promptly issue a written decision regarding a proposed debarment or suspension, unless the matter is settled by mutual agreement; and

(B) mail, email, or otherwise immediately furnish a copy of the decision to the person who is the subject of the decision.

(vi) A written decision under Subsection (1)(c)(v) shall:

(A) state the reasons for the debarment or suspension, if debarment or suspension is ordered; and

(B) inform the person who is debarred or suspended of the right to judicial review as provided in this chapter.

(vii) A decision of debarment or suspension is final and conclusive unless the decision is overturned by a court under Subsection (4).

(2) A suspension under this section may not be for a period exceeding three months, unless an indictment has been issued for an offense which would be a cause for debarment under Subsection (3), in which case the suspension shall, at the request of the attorney general, if the procurement unit is in the state executive branch, or the procurement unit's attorney, if the procurement unit is not in the state executive branch, remain in effect until after the trial of the suspended person.

(3) The causes for debarment include the following:

(a) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of a public or private contract or subcontract;

(b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor for the procurement unit;

(c) conviction under state or federal antitrust statutes;

(d) failure without good cause to perform in accordance with the terms of the contract;

(e) a violation of this chapter; or

(f) any other cause that the ~~[chief procurement officer or the head of a procurement unit with independent procurement authority]~~ procurement official determines to be so serious and compelling as to affect responsibility as a contractor for the procurement unit, including debarment by another governmental entity.

(4) (a) A person who is debarred or suspended under this section may seek judicial review of the debarment or suspension by filing a petition for judicial review in district court.

(b) A petition under Subsection (4)(a):

(i) is a complaint governed by the Utah Rules of Civil Procedure;

(ii) shall name the procurement unit as respondent;

(iii) shall be accompanied by a copy of the written decision as to which judicial review is sought; and

(iv) is barred unless filed in district court within 30 days after the date of the issuance of the written decision of suspension or debarment under Subsection (1)(c)(v).

(c) A district court's review of a petition under Subsection (4)(a) shall be de novo.

(d) A district court shall, without a jury, determine all questions of fact and law, including any constitutional issue, presented in the pleadings.

(5) A procurement unit may consider a cause for debarment under Subsection (3) as the basis for determining that a person responding to a solicitation is not responsible:

(a) independent of any effort or proceeding under this section to debar or suspend the person; and

(b) even if the procurement unit does not choose to seek debarment or suspension.

(6) ~~[An applicable]~~ A rulemaking authority may make rules pertaining to the suspension and debarment process under this section, including rules governing an informal hearing under Subsection (1)(b)(iii).

**Section 45. Section 63G-6a-1002 is amended to read:**

**63G-6a-1002. Reciprocal preference for providers of state products.**

(1) (a) An issuing procurement unit shall, for all procurements, give a reciprocal preference to those bidders offering procurement items that are produced, manufactured, mined, grown, or performed in Utah over those bidders offering procurement items that are produced, manufactured, mined, grown, or performed in any state that gives or requires a preference to procurement items that are produced,

manufactured, mined, grown, or performed in that state.

(b) The amount of reciprocal preference shall be equal to the amount of the preference applied by the other state for that particular procurement item.

(c) In order to receive a reciprocal preference under this section, the bidder shall certify on the bid that the procurement items offered are produced, manufactured, mined, grown, or performed in Utah.

(d) The reciprocal preference is waived if the certification described in Subsection (1)(c) does not appear on the bid.

(2) (a) If the responsible bidder submitting the lowest responsive bid offers procurement items that are produced, manufactured, mined, grown, or performed in a state that gives or requires a preference, and if another responsible bidder has submitted a responsive bid offering procurement items that are produced, manufactured, mined, grown, or performed in Utah, and with the benefit of the reciprocal preference, the bid of the other bidder is equal to or less than the original lowest bid, the issuing procurement unit shall:

(i) give notice to the bidder offering procurement items that are produced, manufactured, mined, grown, or performed in Utah that the bidder qualifies as a preferred bidder; and

(ii) make the purchase from the preferred bidder if the bidder agrees, in writing, to meet the low bid within 72 hours after notification that the bidder is a preferred bidder.

(b) The issuing procurement unit shall include the exact price submitted by the lowest bidder in the notice the issuing procurement unit submits to the preferred bidder.

(c) The issuing procurement unit may not enter into a contract with any other bidder for the purchase until 72 hours have elapsed after notification to the preferred bidder.

(3) (a) If there is more than one preferred bidder, the issuing procurement unit shall award the contract to the willing preferred bidder who was the lowest preferred bidder originally.

(b) If there were two or more equally low preferred bidders, the issuing procurement unit shall comply with the rules of the ~~[applicable]~~ rulemaking authority to determine which bidder should be awarded the contract.

(4) The provisions of this section do not apply if application of this section might jeopardize the receipt of federal funds.

**Section 46. Section 63G-6a-1003 is amended to read:**

**63G-6a-1003. Preference for resident contractors.**

(1) As used in this section, "resident contractor" means a person, partnership, corporation, or other business entity that:

(a) either has its principal place of business in Utah or that employs workers who are residents of this state when available; and

(b) was transacting business on the date when bids for the public contract were first solicited.

(2) (a) When awarding contracts for construction, an issuing procurement unit shall grant a resident contractor a reciprocal preference over a nonresident contractor from any state that gives or requires a preference to contractors from that state.

(b) The amount of the reciprocal preference shall be equal to the amount of the preference applied by the state of the nonresident contractor.

(3) (a) In order to receive the reciprocal preference under this section, the bidder shall certify on the bid that the bidder qualifies as a resident contractor.

(b) The reciprocal preference is waived if the certification described in Subsection (2)(a) does not appear on the bid.

(4) (a) If the responsible contractor submitting the lowest responsive bid is not a resident contractor whose principal place of business is in a state that gives or requires a preference to contractors from that state, and if a resident responsible contractor has also submitted a responsive bid, and, with the benefit of the reciprocal preference, the resident contractor's bid is equal to or less than the original lowest bid, the issuing procurement unit shall:

(i) give notice to the resident contractor that the resident contractor qualifies as a preferred resident contractor; and

(ii) issue the contract to the resident contractor if the resident contractor agrees, in writing, to meet the low bid within 72 hours after notification that the resident contractor is a preferred resident contractor.

(b) The issuing procurement unit shall include the exact price submitted by the lowest bidder in the notice that the issuing procurement unit submits to the preferred resident contractor.

(c) The issuing procurement unit may not enter into a contract with any other bidder for the construction until 72 hours have elapsed after notification to the preferred resident contractor.

(5) (a) If there is more than one preferred resident contractor, the issuing procurement unit shall award the contract to the willing preferred resident contractor who was the lowest preferred resident contractor originally.

(b) If there were two or more equally low preferred resident contractors, the issuing procurement unit shall comply with the rules of the [applicable] rulemaking authority to determine which bidder should be awarded the contract.

(6) The provisions of this section do not apply if application of this section might jeopardize the receipt of federal funds.

**Section 47. Section 63G-6a-1102 is amended to read:**

**63G-6a-1102. Bid security requirements -- Directed suretyship prohibited -- Penalty.**

(1) Bid security in an amount equal to at least 5% of the amount of the bid shall be required for all competitive bidding for construction contracts. Bid security shall be a bond provided by a surety company authorized to do business in this state, the equivalent in cash, or any other form satisfactory to the state.

(2) When a bidder fails to comply with the requirement for bid security described in the invitation for bids, the bid shall be rejected unless, pursuant to rules of the [applicable] rulemaking authority, the issuing procurement unit determines that the failure to comply with the security requirements is nonsubstantial.

(3) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids[, except as provided in Section 63G-6a-605]. If a bidder is permitted to withdraw a bid before award, no action shall be taken against the bidder or the bid security.

(4) (a) When issuing an invitation for a bid under this chapter, the procurement [officer or the head of an issuing procurement unit] official responsible for carrying out a construction project may not require a person or entity who is bidding for a contract to obtain a bond of the type described in Subsection (1) from a specific insurance or surety company, producer, agent, or broker.

(b) A person who violates Subsection (4)(a) is guilty of an infraction.

**Section 48. Section 63G-6a-1103 is amended to read:**

**63G-6a-1103. Bonds or security necessary when contract is awarded -- Waiver -- Action -- Attorney fees.**

(1) When a construction contract is awarded under this chapter, the contractor to whom the contract is awarded shall deliver the following bonds or security to the procurement unit, which shall become binding on the parties upon the execution of the contract:

(a) a performance bond satisfactory to the procurement unit that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in the state or any other form satisfactory to the procurement unit; and

(b) a payment bond satisfactory to the procurement unit that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in the state or any other form satisfactory to the procurement unit, which is for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.

(2) (a) When a construction contract is awarded under this chapter, the procurement [officer or the

~~head of the issuing procurement unit~~ official responsible for carrying out the construction project may not require a contractor to whom a contract is awarded to obtain a bond of the types referred to in Subsection (1) from a specific insurance or surety company, producer, agent, or broker.

(b) A person who violates Subsection (2)(a) is guilty of an infraction.

(3) Rules of ~~[the applicable]~~ a rulemaking authority may provide for waiver of the requirement of a bid, performance, or payment bond for circumstances in which the procurement ~~[officer]~~ official considers any or all of the bonds to be unnecessary to protect the procurement unit.

(4) A person ~~[shall have]~~ has a right of action on a payment bond under this section for any unpaid amount due to the person if:

(a) the person has furnished labor, service, equipment, or material for the work provided for in the contract for which the payment bond is furnished under this section; and

(b) the person has not been paid in full within 90 days after the last day on which the person performed the labor or service or supplied the equipment or material for which the claim is made.

(5) An action upon a payment bond may only be brought in a court of competent jurisdiction in a county where the construction contract was to be performed. The action is barred if not commenced within one year after the last day on which the claimant performed the labor or service or supplied the equipment or material on which the claim is based. The obligee named in the bond need not be joined as a party to the action.

(6) In any suit upon a payment bond, the court shall award reasonable attorney fees to the prevailing party, which fees shall be taxed as costs in the action.

**Section 49. Section 63G-6a-1105 is amended to read:**

**63G-6a-1105. Form of bonds -- Effect of certified copy.**

(1) The form of the bonds required by this part shall be established by rule made by the ~~[applicable]~~ rulemaking authority.

(2) Any person may obtain from the procurement unit a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any.

(3) A certified copy of a bond is prima facie evidence of the contents, execution, and delivery of the original.

**Section 50. Section 63G-6a-1204.5 is amended to read:**

**63G-6a-1204.5. Multiple award contracts.**

(1) (a) Through a standard procurement process, the division or ~~[a]~~ an independent procurement unit ~~[with independent procurement authority]~~ may

enter into multiple award contracts with multiple persons.

(b) The applicable rulemaking authority may make rules, consistent with this section, regulating the use of multiple award contracts.

(2) Multiple award contracts may be in a procurement unit's best interest if award to two or more bidders or offerors for similar procurement items is needed or desired for adequate delivery, service, availability, or product compatibility.

(3) A procurement unit that enters into multiple award contracts under this section shall:

(a) exercise care to protect and promote competition among bidders or offerors when seeking to enter into multiple award contracts;

(b) name all eligible users of the multiple award contracts in the invitation for bids or request for proposals; and

(c) if the procurement unit anticipates entering into multiple award contracts before issuing the invitation for bids or request for proposals, state in the invitation for bids or request for proposals that the procurement unit may enter into multiple award contracts at the end of the procurement process.

(4) A procurement unit that enters into multiple award contracts under this section shall:

(a) obtain, under the multiple award contracts, all of its normal, recurring requirements for the procurement items that are the subject of the contracts until the contracts terminate; and

(b) reserve the right to obtain the procurement items described in Subsection (4)(a) separately from the contracts if:

(i) there is a need to obtain a quantity of the procurement items that exceeds the amount specified in the contracts; or

(ii) the procurement officer makes a written finding that the procurement items available under the contract will not effectively or efficiently meet a nonrecurring special need of a procurement unit.

(5) An applicable rulemaking authority may make rules to further regulate a procurement under this section.

**Section 51. Section 63G-6a-1205 is amended to read:**

**63G-6a-1205. Regulation of contract types -- Permitted and prohibited contract types.**

(1) Except as otherwise provided in this section, and subject to rules made under this section by the ~~[applicable]~~ rulemaking authority, a procurement unit may use any type of contract that will promote the best interests of the procurement unit.

(2) ~~[An applicable]~~ A rulemaking authority:

(a) may make rules governing, placing restrictions on, or prohibiting the use of any type of contract; and

(b) may not make rules that permit the use of a contract:

- (i) that is prohibited under this section; or
  - (ii) in a manner that is prohibited under this section.
- (3) A procurement [~~officer, the head of an issuing procurement unit, or a designee of either,~~ official] may not use a type of contract, other than a firm fixed price contract, unless the procurement [~~officer~~] official makes a written determination that:
- (a) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated;
  - (b) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles; and
  - (c) the use of a specified type of contract, other than a firm fixed price contract, is in the best interest of the procurement unit, taking into consideration the following criteria:
    - (i) the type and complexity of the procurement item;
    - (ii) the difficulty of estimating performance costs at the time the contract is entered into, due to factors that may include:
      - (A) the difficulty of determining definitive specifications;
      - (B) the difficulty of determining the risks, to the contractor, that are inherent in the nature of the work to be performed; or
      - (C) the difficulty to clearly determine other factors necessary to enter into an accurate firm fixed price contract;
    - (iii) the administrative costs to the procurement unit and the contractor;
    - (iv) the degree to which the procurement unit is required to provide technical coordination during performance of the contract;
    - (v) the impact that the choice of contract type may have upon the level of competition for award of the contract;
    - (vi) the stability of material prices, commodity prices, and wage rates in the applicable market;
    - (vii) the impact of the contract type on the level of urgency related to obtaining the procurement item;
    - (viii) the impact of any applicable governmental regulation relating to the contract; and
    - (ix) other criteria that the procurement officer determines may relate to determining the contract type that is in the best interest of the procurement unit.

(4) Contract types that, subject to the provisions of this section and rules made under this section,

may be used by a procurement unit include the following:

- (a) a fixed price contract;
- (b) a fixed price contract with price adjustment;
- (c) a time and materials contract;
- (d) a labor hour contract;
- (e) a definite quantity contract;
- (f) an indefinite quantity contract;
- (g) a requirements contract;
- (h) a contract based on a rate table in accordance with industry standards; or
- (i) a contract that includes one of the following construction delivery methods:
  - (i) design-build;
  - (ii) design-bid-build; or
  - (iii) construction manager/general contractor.
- (5) Except as it applies to a change order, a procurement unit may not enter into a cost-plus-percentage-of-cost contract, unless:
  - (a) use of a cost-plus-percentage-of-cost contract is approved by the procurement officer;
  - (b) it is standard practice in the industry to obtain the procurement item through a cost-plus-percentage-of-cost contract; and
  - (c) the percentage and the method of calculating costs in the contract are in accordance with industry standards.

(6) A procurement unit may not enter into a cost-reimbursement contract, unless the procurement [~~officer~~] official makes a written determination that:

- (a) (i) a cost-reimbursement contract is likely to cost less than any other type of permitted contract; or
- (ii) it is impracticable to obtain the procurement item under any other type of permitted contract; and
- (b) the proposed contractor's accounting system:
  - (i) will timely develop the cost data in the form necessary for the procurement unit to timely and accurately make payments under the contract; and
  - (ii) will allocate costs in accordance with generally accepted accounting principles.

**Section 52. Section 63G-6a-1206 is amended to read:**

**63G-6a-1206. Rules to determine allowable incurred costs -- Required information.**

- (1) (a) [~~The applicable~~] A rulemaking authority may, by rule, establish the cost principles to be included in a cost-reimbursement contract to determine incurred costs for the purpose of calculating a reimbursement.
- (b) The cost principles established by rule under Subsection (1)(a) may be modified, by contract, if



the procurement [~~officer or the head of the issuing procurement unit~~] official approves the modification.

(2) Except as provided in Subsection (5), a person who seeks to be, or is, a party in a cost-based contract with a procurement unit shall:

(a) submit cost or pricing data relating to determining the cost or pricing amount; and

(b) certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted is accurate and complete as of the date specified by the procurement unit.

(3) The procurement [~~officer~~] official shall ensure that the date specified under Subsection (2)(b) is before:

(a) the pricing of any contract awarded by a standard procurement process or pursuant to a sole source procurement, if the total contract price is expected to exceed an amount established by rule made by the [~~applicable~~] rulemaking authority; or

(b) the pricing of any change order that is expected to exceed an amount established by rule made by the [~~applicable~~] rulemaking authority.

(4) A contract or change order that requires a certification described in Subsection (2) shall include a provision that the price to the procurement unit, including profit or fee, shall be adjusted to exclude any significant sums by which the procurement unit finds that the price was increased because the contractor provided cost or pricing data that was inaccurate, incomplete, or not current as of the date specified by the procurement officer.

(5) A procurement unit is not required to comply with Subsection (2) if:

(a) the contract price is based on adequate price competition;

(b) the contract price is based on established catalogue prices or market prices;

(c) the contract price is set by law or rule; or

(d) the procurement states, in writing:

(i) that, in accordance with rules made by the [~~applicable~~] rulemaking authority, the requirements of Subsection (2) may be waived; and

(ii) the reasons for the waiver.

**Section 53. Section 63G-6a-1208 is amended to read:**

**63G-6a-1208. Installment payments -- Contract prepayments.**

(1) A contract entered into by a procurement unit may provide for installment payments, including interest charges, over a period of time, if the procurement [~~officer~~] official makes a written finding that:

(a) the use of installment payments are in the interest of the procurement unit;

(b) installment payments are not used as a method of avoiding budgetary constraints;

(c) the procurement unit has obtained all budgetary approvals and other approvals required for making the installment payments;

(d) all aspects of the installment payments required in the contract are in accordance with the requirements of law; and

(e) for a contract awarded through an invitation for bids or a request for proposals, the invitation for bids or request for proposals indicates that installment payments are required or permitted.

(2) (a) A procurement unit may not pay for a procurement item before the procurement unit receives the procurement item [~~is received by the procurement unit~~], unless the procurement [~~officer makes a written finding~~] official determines that it is necessary or beneficial for the procurement unit to pay for the procurement item before the procurement unit receives the procurement item[~~is received by the procurement unit~~].

(b) A procurement official's determination under Subsection (2)(a) shall be in writing, unless:

(i) the rulemaking authority has adopted a rule describing one or more circumstances under which a written determination is not necessary; and

(ii) the procurement official's determination is under one of those circumstances.

(3) Circumstances where prepayment may be necessary for, or beneficial to, the procurement unit include:

(a) when it is customary in the industry to prepay for the procurement item;

(b) if the procurement unit will receive an identifiable benefit by prepaying, including reduced costs, additional procurement items, early delivery, better service, or better contract terms; or

(c) other circumstances permitted by rule made by the [~~applicable~~] rulemaking authority.

(4) The [~~applicable~~] rulemaking authority may make rules governing prepayments.

(5) A prepaid expenditure shall be supported by documentation indicating:

(a) the amount of the prepayment;

(b) the prepayment schedule;

(c) the procurement items to which each prepayment relates;

(d) the remedies for a contractor's noncompliance with requirements relating to the provision of the procurement items; and

(e) all other terms and conditions relating to the payments and the procurement items.

(6) The procurement [~~officer~~] official or the procurement [~~officer's~~] official's designee may require a performance bond, of up to 100% of the prepayment amount, from the person to whom the prepayments are made.

**Section 54. Section 63G-6a-1302 is amended to read:**

**63G-6a-1302. Alternative methods of construction contracting management.**

(1) ~~[The applicable]~~ A rulemaking authority shall, by rule provide as many alternative methods of construction contracting management as determined to be feasible.

(2) The rules described in Subsection (1) shall:

(a) grant to the procurement ~~[officer or the head of the issuing procurement unit]~~ official responsible for carrying out the construction project the discretion to select the appropriate method of construction contracting management for a particular project; and

(b) require the procurement ~~[officer]~~ official to execute and include in the contract file a written statement describing the facts that led to the selection of a particular method of construction contracting management for each project.

(3) Before choosing a construction contracting management method, the procurement ~~[officer or the head of the issuing procurement unit]~~ official responsible for carrying out the construction project shall consider the following factors:

(a) when the project must be ready to be occupied;

(b) the type of project;

(c) the extent to which the requirements of the procurement unit, and the way they are to be met are known;

(d) the location of the project;

(e) the size, scope, complexity, and economics of the project;

(f) the source of funding and any resulting constraints necessitated by the funding source;

(g) the availability, qualification, and experience of public personnel to be assigned to the project and the amount of time that the public personnel can devote to the project; and

(h) the availability, qualifications, and experience of outside consultants and contractors to complete the project under the various methods being considered.

(4) ~~[An applicable]~~ A rulemaking authority may make rules that authorize the use of a construction manager/general contractor as one method of construction contracting management.

(5) The rules described in Subsection (2) shall require that:

(a) the construction manager/general contractor be selected using:

(i) a standard procurement process; or

(ii) an exception to the requirement to use a standard procurement process, described in Part 8, Exceptions to Procurement Requirements; and

(b) when entering into a subcontract that was not specifically included in the construction manager/general contractor's cost proposal, the construction manager/general contractor shall procure the subcontractor by using a standard procurement process, or an exception to the requirement to use a standard procurement process, described in Part 8, Exceptions to Procurement Requirements, in the same manner as if the subcontract work was procured directly by the procurement unit.

(6) Procurement rules adopted by the ~~[State Building Board]~~ building board under Subsections (1) through (3) for state building construction projects may authorize the use of a design-build provider as one method of construction contracting management.

(7) A design-build contract may include a provision for obtaining the site for the construction project.

(8) A design-build contract or a construction manager/general contractor contract may include provision by the contractor of operations, maintenance, or financing.

**Section 55. Section 63G-6a-1303 is amended to read:**

**63G-6a-1303. Drug and alcohol testing required for state construction contracts.**

(1) As used in this section:

(a) "Contractor" means a person who is or may be awarded a state construction contract.

(b) "Covered individual" means an individual who:

(i) on behalf of a contractor or subcontractor provides services directly related to design or construction under a state construction contract; and

(ii) is in a safety sensitive position, including a design position that has responsibilities that directly affect the safety of an improvement to real property that is the subject of a state construction contract.

(c) "Drug and alcohol testing policy" means a policy under which a contractor or subcontractor tests a covered individual to establish, maintain, or enforce the prohibition of:

(i) the manufacture, distribution, dispensing, possession, or use of drugs or alcohol, except the medically prescribed possession and use of a drug; or

(ii) the impairment of judgment or physical abilities due to the use of drugs or alcohol.

(d) "Random testing" means that a covered individual is subject to periodic testing for drugs and alcohol:

(i) in accordance with a drug and alcohol testing policy; and

(ii) on the basis of a random selection process.

(e) "State executive entity" means:

- (i) a state executive branch:
- (A) department;
- (B) division;
- (C) agency;
- (D) board;
- (E) commission;
- (F) council;
- (G) committee; or
- (H) institution; or
- (ii) a state institution of higher education, as defined in Section 53B-3-102.
- (f) "State construction contract" means a contract for design or construction entered into by a state executive entity.
- (2) Except as provided in Subsection (7), a state executive entity may not enter into a state construction contract unless the public construction contract requires that the contractor demonstrate to the state executive entity that the contractor:
- (a) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the contractor;
- (b) posts in one or more conspicuous places notice to covered individuals hired by the contractor that the contractor has the drug and alcohol testing policy described in Subsection (2)(a);
- (c) subjects the covered individuals to random testing under the drug and alcohol testing policy described in Subsection (2)(a) if at any time during the period of the state construction contract there are 10 or more individuals who are covered individuals hired by the contractor; and
- (d) requires that as a condition of contracting with the contractor, a subcontractor:
- (i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the subcontractor;
- (ii) posts in one or more conspicuous places notice to covered individuals hired by the subcontractor that the subcontractor has the drug and alcohol testing policy described in Subsection (2)(d)(i); and
- (iii) subjects the covered individuals hired by the subcontractor to random testing under the drug and alcohol testing policy described in Subsection (2)(d)(i) if at any time during the period of the state construction contract there are 10 or more individuals who are covered individuals hired by the subcontractor.
- (3) (a) Except as otherwise provided in this Subsection (3), if a contractor or subcontractor fails to comply with Subsection (2), the contractor or

subcontractor may be suspended or debarred in accordance with this chapter.

(b) A state executive entity shall include in a state construction contract:

(i) a reference to the rules described in Subsection (4)(b); or

(ii) if the [applicable] rulemaking authority has not made the rules described in Subsection (4)(b), a process that provides a contractor or subcontractor reasonable notice and opportunity to cure a violation of this section before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation.

(c) (i) A contractor is not subject to penalties for the failure of a subcontractor to comply with Subsection (2).

(ii) A subcontractor is not subject to penalties for the failure of a contractor to comply with Subsection (2).

(4) [An applicable] A rulemaking authority:

(a) may make rules that establish the requirements and procedures a contractor is required to follow to comply with Subsection (2); and

(b) shall make rules that establish:

(i) the penalties that may be imposed in accordance with Subsection (3); and

(ii) a process that provides a contractor or subcontractor reasonable notice and opportunity to cure a violation of this section before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation.

(5) The failure of a contractor or subcontractor to meet the requirements of Subsection (2):

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Part 17, Procurement Appeals Board, or Part 18, Appeals to Court and Court Proceedings; and

(b) may not be used by a state executive entity, a prospective bidder, an offeror, a contractor, or a subcontractor as a basis for an action that would suspend, disrupt, or terminate the design or construction under a state construction contract.

(6) (a) After a state executive entity enters into a state construction contract in compliance with this section, the state is not required to audit, monitor, or take any other action to ensure compliance with this section.

(b) The state is not liable in any action related to this section, including not being liable in relation to:

(i) a contractor or subcontractor having or not having a drug and alcohol testing policy;

(ii) failure to test for a drug or alcohol under a contractor's or subcontractor's drug and alcohol testing policy;

(iii) the requirements of a contractor's or subcontractor's drug and alcohol testing policy;

(iv) a contractor's or subcontractor's implementation of a drug and alcohol testing policy, including procedures for:

- (A) collection of a sample;
- (B) testing of a sample;
- (C) evaluation of a test; or

(D) disciplinary or rehabilitative action on the basis of a test result;

(v) an individual being under the influence of drugs or alcohol; or

(vi) an individual under the influence of drugs or alcohol harming another person or causing property damage.

(7) This section does not apply if the state executive entity determines that the application of this section would severely disrupt the operation of a procurement unit to the detriment of the procurement unit or the general public, including:

- (a) jeopardizing the receipt of federal funds;
- (b) causing the state construction contract to be a sole source contract; or
- (c) causing the state construction contract to be an emergency procurement.

(8) If a contractor or subcontractor meets the requirements of this section, this section may not be construed to restrict the contractor's or subcontractor's ability to impose or implement an otherwise lawful provision as part of a drug and alcohol testing policy.

**Section 56. Section 63G-6a-1502 is amended to read:**

**63G-6a-1502. Requirements regarding procurement of design professional services.**

(1) A procurement unit seeking to procure design professional services shall:

(a) publicly announce all requirements for those services through a request for statement of qualifications, as provided in this part; and

(b) negotiate contracts for design professional services:

(i) on the basis of demonstrated competence and qualification for the type of services required; and

(ii) at fair and reasonable prices.

(2) A procurement unit shall procure design professional services as provided in this part, except as otherwise provided in Sections 63G-6a-506, 63G-6a-802, and 63G-6a-803.

(3) A procurement unit may procure professional services, other than design professional services, as provided in this part.

~~[(3)]~~ (4) This part does not affect the authority of, and does not apply to procedures undertaken by, a procurement unit to obtain the services of architects or engineers in the capacity of employees of the procurement unit.

**Section 57. Section 63G-6a-1503.5 is amended to read:**

**63G-6a-1503.5. Evaluation of statements of qualifications.**

(1) An evaluation committee appointed under Section 63G-6a-1503 shall evaluate and score each responsive statement of qualifications that has not been eliminated from consideration under this chapter, using the criteria described in the request for statement of qualifications.

(2) Criteria not described in the request for statement of qualifications may not be used to evaluate a statement of qualifications.

(3) An evaluation committee may enter into discussions or conduct interviews with, or attend presentations by, the design professionals whose statements of qualifications are under consideration.

(4) An evaluation committee shall rank the top three highest scoring design professionals, in order of their scores, for the purpose of entering into fee negotiations as provided in Section 63G-6a-1505.

(5) If fewer than three responsible design professionals submit statements of qualifications that are determined to be responsive, the ~~chief procurement officer or head of a procurement unit with independent procurement authority~~ procurement official shall issue a written determination explaining why it is in the best interest of the procurement unit to continue the fee negotiation and the contracting process with less than three design professionals.

(6) (a) The deliberations of an evaluation committee may be held in private.

(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

**Section 58. Section 63G-6a-1506 is amended to read:**

**63G-6a-1506. Restrictions on procurement of design professional services.**

(1) Except as provided in Subsection (2), if the division or [a] an independent procurement unit ~~[with independent procurement authority]~~, in accordance with Section 63G-6a-1502, issues a request for statement of qualifications to procure design professional services and provides public notice of the request for statement of qualifications:

(a) a public entity inside or outside the state may not submit a proposal in response to the procurement unit's request for statement of qualifications; and

(b) the procurement unit may not award a contract to a public entity inside or outside the state

to perform the design professional services solicited in the request for statement of qualifications.

(2) Subsection (1) does not apply when the procurement unit is procuring design professional services for contracts related to research activities and technology transfer.

**Section 59. Section 63G-6a-1603 is amended to read:**

**63G-6a-1603. Protest officer responsibilities and authority -- Proceedings on protest -- Effect of decision.**

(1) After a protest is filed, the protest officer shall determine whether the protest is timely filed and complies fully with the requirements of Section 63G-6a-1602.

(2) If the protest officer determines that the protest is not timely filed or that the protest does not fully comply with Section 63G-6a-1602, the protest officer shall dismiss the protest without holding a hearing.

(3) If the protest officer determines that the protest is timely filed and complies fully with Section 63G-6a-1602, the protest officer shall:

(a) dismiss the protest without holding a hearing if the protest officer determines that the protest alleges facts that, if true, do not provide an adequate basis for the protest;

(b) uphold the protest without holding a hearing if the protest officer determines that the undisputed facts of the protest indicate that the protest should be upheld; or

(c) hold a hearing on the protest if there is a genuine issue of material fact or law that needs to be resolved in order to determine whether the protest should be upheld.

(4) (a) If a hearing is held on a protest, the protest officer may:

(i) subpoena witnesses and compel their attendance at the protest hearing;

(ii) subpoena documents for production at the protest hearing;

(iii) obtain additional factual information; and

(iv) obtain testimony from experts, the person filing the protest, representatives of the procurement unit, or others to assist the protest officer to make a decision on the protest.

(b) The Rules of Evidence do not apply to a protest hearing.

(c) ~~The applicable~~ A rulemaking authority shall make rules relating to intervention in a protest, including designating:

(i) who may intervene; and

(ii) the time and manner of intervention.

(d) A protest officer shall:

(i) record each hearing held on a protest under this section;

(ii) regardless of whether a hearing on a protest is held under this section, preserve all records and other evidence relied upon in reaching the protest officer's written decision until the decision, and any appeal of the decision, becomes final; and

(iii) if the protestor appeals the protest officer's decision, submit the protest appeal record to the procurement policy board chair within seven days after receiving:

(A) notice that an appeal of the protest officer's decision has been filed under Section 63G-6a-1702; or

(B) a request for the protest appeal record from the chair of the procurement policy board.

(e) A protest officer's holding a hearing, considering a protest, or issuing a written decision under this section does not affect a person's right to later question or challenge the protest officer's jurisdiction to hold the hearing, consider the protest, or issue the decision.

(5) (a) The deliberations of a protest officer may be held in private.

(b) If the protest officer is a public body, as defined in Section 52-4-103, the protest officer shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(6) (a) A protest officer shall promptly issue a written decision regarding any protest, unless the protest is settled by mutual agreement.

(b) The decision shall:

(i) state the reasons for the action taken;

(ii) inform the protestor of the right to judicial or administrative review as provided in this chapter; and

(iii) indicate the amount of the security deposit or bond required under Section 63G-6a-1703.

(c) A person who issues a decision under Subsection (6)(a) shall mail, email, or otherwise immediately furnish a copy of the decision to the protestor.

(7) A decision described in this section is effective until stayed or reversed on appeal, except to the extent provided in Section 63G-6a-1903.

(8) (a) A decision described in Subsection (6)(a) that is issued in relation to a procurement unit other than a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district is final and conclusive unless the protestor files an appeal under Section 63G-6a-1702.

(b) A decision described in Subsection (6)(a) that is issued in relation to a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district is final and conclusive unless the protestor files an appeal under Section 63G-6a-1802.

(9) If the protest officer does not issue the written decision regarding a protest within 30 calendar days after the day on which the protest was filed with the protest officer, or within a longer period as may be agreed upon by the parties, the protester may proceed as if an adverse decision had been received.

(10) A determination under this section by the protest officer regarding an issue of fact may not be overturned on appeal unless the decision is arbitrary and capricious or clearly erroneous.

(11) An individual is not precluded from acting, and may not be disqualified or required to be recused from acting, as a protest officer because the individual also acted in another capacity during the procurement process, as required or allowed in this chapter.

**Section 60. Section 63G-6a-1903 is amended to read:**

**63G-6a-1903. Effect of timely protest or appeal.**

A procurement unit, other than a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district, may not proceed further with a solicitation or with the award of a contract:

(1) during the pendency of a timely:

(a) protest under Section 63G-6a-1602;

(b) appeal of a protest under Section 63G-6a-1702; or

(c) appeal of a procurement appeals panel decision under Section 63G-6a-1802; and

(2) until:

(a) all administrative and judicial remedies are exhausted;

(b) for a protest under Section 63G-6a-1602 or an appeal under Section 63G-6a-1702:

(i) the chief procurement officer, after consultation with the attorney general's office and the head of the using agency, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state;

(ii) the ~~[head of a procurement unit with independent procurement authority]~~ procurement official of an independent procurement unit, after consultation with the procurement unit's attorney, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(iii) for a procurement unit that is not represented by the attorney general's office, the procurement ~~[unit]~~ official, after consulting with the attorney for the procurement unit, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(c) for an appeal under Section 63G-6a-1802, or an appeal to a higher court than district court:

(i) the chief procurement officer, after consultation with the attorney general's office and the head of the using agency, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state;

(ii) the ~~[head of a procurement unit with independent procurement authority]~~ procurement official of an independent procurement unit, after consultation with the procurement unit's attorney, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(iii) for a procurement unit that is not represented by the attorney general's office, the procurement ~~[unit]~~ official, after consulting with the attorney for the procurement unit, makes a written determination that award of the contract without delay is necessary to protect the best interest of the procurement unit or the state.

**Section 61. Section 63G-6a-1911 is amended to read:**

**63G-6a-1911. Determinations final except when arbitrary and capricious or clearly erroneous.**

The determinations required under the following provisions are final and conclusive unless they are arbitrary and capricious or clearly erroneous:

(1) Section ~~[63G-6a-605]~~ 63G-6a-114;

~~(2) Section 63G-6a-115;~~

~~(2)~~ (3) Section 63G-6a-702;

~~(3) Section 63G-6a-708;~~

~~(4) Subsection 63G-6a-709(1);~~

(4) Section 63G-6a-707;

(5) Section 63G-6a-803;

(6) Section 63G-6a-804;

(7) Section 63G-6a-903;

(8) Subsection 63G-6a-1204(1) or (2);

(9) Subsection 63G-6a-1204(5);

(10) Section 63G-6a-1205; or

(11) Subsection 63G-6a-1206(5).

**Section 62. Section 63G-6a-2002 is amended to read:**

**63G-6a-2002. Records -- Retention.**

(1) All procurement records shall be retained and disposed of in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(2) Written determinations required by this chapter shall be retained in the appropriate official contract file of:

(a) the division;

(b) ~~except as provided in Subsection (2)(c), the independent procurement unit [with independent procurement authority]; or~~

(c) for a legislative procurement unit or a judicial procurement unit, the person designated by rule made by the ~~[applicable]~~ rulemaking authority.

(3) A procurement unit shall keep, and make available to the public, upon request, written records of procurements for which an expenditure of ~~[\$50]~~ \$100 or more is made, for the longer of:

(a) six years;

(b) the time otherwise required by law; or

(c) the time period provided by rule made by the ~~[applicable]~~ rulemaking authority.

(4) The written record described in Subsection (3) shall include:

(a) the name of the provider from whom the procurement was made;

(b) a description of the procurement item;

(c) the date of the procurement; and

(d) the expenditure made for the procurement.

**Section 63. Section 63G-6a-2003 is amended to read:**

**63G-6a-2003. Record of contracts made.**

~~[The chief procurement officer, the procurement officer, or the head of a procurement unit with independent procurement authority]~~ A procurement official shall maintain a record of all contracts made under Section 63G-6a-506, 63G-6a-802, or 63G-6a-803, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. The record shall contain each contractor's name, the amount and type of each contract, and a listing of the procurement items to which the contract relates.

**Section 64. Section 63G-6a-2102 is amended to read:**

**63G-6a-2102. Agreements between public entities.**

A ~~[procurement unit]~~ public entity may enter into an agreement with one or more other ~~[procurement units]~~ public entities to:

(1) sponsor, conduct, or administer a cooperative agreement for:

(a) the procurement of a procurement item, in accordance with the requirements of Section 63G-6a-2105; or

(b) the disposal of a procurement item;

(2) cooperatively use a procurement item;

(3) commonly use or share warehousing facilities, capital equipment, and other facilities;

(4) provide personnel, if the receiving ~~[procurement unit]~~ public entity pays the ~~[procurement unit]~~ public entity providing the

personnel the direct and indirect cost of providing the personnel, in accordance with the agreement; or

~~[(5) make available informational, technical, and other services, if:]~~

~~[(a) the requirements of the procurement unit tendering the services have precedence over the procurement unit that receives the services; and]~~

~~[(b) the receiving procurement unit pays the expenses of the services provided, in accordance with the agreement.]~~

(5) purchase from, contribute to, or otherwise participate in a pooled governmental funds program for the purpose of acquiring or sharing information, data, reports, or other services in accordance with the terms of the agreement.

**Section 65. Section 63G-6a-2103 is amended to read:**

**63G-6a-2103. Purchases between public entities.**

~~[(1) (a) A procurement unit may, without using a standard procurement process, purchase from another procurement unit]~~

(1) (a) (i) A public entity may purchase a procurement item [that the other procurement unit itself produces or provides] from another public entity.

(ii) Subsection (1)(a)(i) may not be construed to require a public entity to sell a procurement item to another public entity.

(b) As provided in Subsection 63G-6a-107.6(1)(a), a purchase under Subsection (1)(a) is not subject to the procurement requirements of this chapter.

~~[(b)]~~ (c) (i) Subsection (1)(a) does not authorize a [procurement unit] public entity to obtain a procurement item under a contract of another [procurement unit] public entity.

(ii) Subsection (1)[(b)](c)(i) does not affect the authority of a procurement unit relating to a cooperative procurement under Subsection 63G-6a-2105(4)(b).

(2) A [procurement unit] public entity may publish a schedule of costs or fees for procurement items available for purchase by another [procurement unit] public entity.

**Section 66. Repealer.**

This bill repeals:

**Section 63G-6a-105, Application of chapter -- Ordinances or resolutions relating to procurement of design professional services -- Rules.**

**Section 63G-6a-107, Exemptions from chapter -- Compliance with other provisions.**

**Section 63G-6a-110, Procurement unit required to comply with Utah**

**Procurement Code and applicable rules --  
Rulemaking authority -- Reporting.**

**Section 63G-6a-601, Title.**

**Section 63G-6a-605, Correction or  
clarification of bids.**

**Section 63G-6a-607, Action if all bids exceed  
available funds -- Exemption.**

**Section 63G-6a-609, Multiple stage bidding  
process.**

**Section 63G-6a-610, Contracts awarded by  
reverse auction.**

**Section 63G-6a-611, Invitation for bids for  
reverse auction -- Requirements --  
Publication of invitation.**

**Section 63G-6a-612, Conduct of reverse  
auction.**

**Section 63G-6a-706, Correction or  
clarification of proposal.**

**Section 63G-6a-708, Justification statement  
-- Cost-benefit analysis.**

**Section 63G-6a-709, Award of contract --  
Cancellation -- Rejection of proposal.**

**Section 63G-6a-709.5, Publication of award  
and scores.**

**Section 63G-6a-710, Multiple stage process.**



**CHAPTER 258****S. B. 94**

Passed February 27, 2020

Approved March 28, 2020

Effective May 12, 2020

**REPORTING REQUIREMENTS  
AMENDMENTS**Chief Sponsor: Lincoln Fillmore  
House Sponsor: Karianne Lisonbee**LONG TITLE****General Description:**

This bill addresses the circumstances under which the Division of Child and Family Services may share reports related to child abuse and neglect.

**Highlighted Provisions:**

This bill:

- ▶ provides that the Division of Child and Family Services may share reports related to child abuse and neglect with a local education agency for certain purposes; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

62A-4a-412, as last amended by Laws of Utah 2019, Chapter 335

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

**Section 1. Section 62A-4a-412 is amended to read:****62A-4a-412. Reports and information confidential.**

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection unit;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a [school-district] local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130; or

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency.

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that it is a violation of Subsection (2)(a) to do so is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in its possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

- (i) identify the referent;
- (ii) impede a criminal investigation; or
- (iii) endanger a person's safety.

(4) Any person who wilfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

**CHAPTER 259****S. B. 97**

Passed February 28, 2020

Approved March 28, 2020

Effective May 12, 2020

**PERSONAL LICENSE  
PLATE AMENDMENTS**

Chief Sponsor: Luz Escamilla

House Sponsor: Marc K. Roberts

**LONG TITLE****General Description:**

This bill amends provisions related to the Motor Vehicle Division's authority to deny a personalized license plate request.

**Highlighted Provisions:**

This bill:

- ▶ allows the Motor Vehicle Division to refuse to issue a license plate if the Motor Vehicle Division determines that the combination of letters and numbers disparages a group of people based on certain protected classes; and
- ▶ prohibits the Motor Vehicle Division from denying a personalized license plate request if the requested letters, numbers, or combination of both refer to an official state symbol.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-1a-411, as last amended by Laws of Utah 2016, Chapter 49

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

**Section 1. Section 41-1a-411 is amended to read:****41-1a-411. Application for personalized plates -- Refusal authorized.**

(1) An applicant for personalized license plates or renewal of the plates shall file an application for the plates in the form and by the date the division requires, indicating the combination of letters, numbers, or both requested as a registration number.

(2) (a) Except as provided in Subsection (3), the division may refuse to issue any combination of letters, numbers, or both that:

(i) may carry connotations offensive to good taste and decency or that would be misleading[-]; or

(ii) disparages a group based on:

(A) race;

(B) color;

(C) national origin;

(D) religion;

(E) age;

(F) sex;

(G) gender identity;

(H) sexual orientation;

(I) citizenship status; or

(J) physical or mental disability.

(b) The division may refuse to issue a combination of letters, numbers, or both as a registration number if that same combination is already in use as a registration number on an existing license plate.

(3) (a) Except as provided in Subsection [(2)(b)] (2) or (3)(b), the division may not refuse a combination of letters, numbers, or both as a registration number if:

(i) the license plate is an honor special group license plate as described in Section 41-1a-421[<sup>3</sup>], and [(ii)] the combination of letters, numbers, or both refers to:

(A) a year related to military service;

(B) a military branch; or

(C) an official achievement, badge, or honor received for military service[-]; or

(ii) the combination of letters, numbers, or both as a registration number refers to an official state symbol described in Section 63G-1-601.

(b) If an applicant requests a combination containing only numbers, the division may refuse the combination if the combination includes less than four numerical digits.

**CHAPTER 260****S. B. 102**

Passed February 28, 2020

Approved March 28, 2020

Effective May 12, 2020

**BIGAMY AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: V. Lowry Snow

Cosponsors: Jacob L. Anderegg

Curtis S. Bramble

Kirk A. Cullimore

Luz Escamilla

Lincoln Fillmore

Keith Grover

Daniel Hemmert

Lyle W. Hillyard

David P. Hinkins

Don L. Ipson

Derek L. Kitchen

Daniel McCay

Ann Millner

Ralph Okerlund

Kathleen Riebe

Scott D. Sandall

Evan J. Vickers

Todd Weiler

Ronald Winterton

**LONG TITLE****General Description:**

This bill modifies provisions defining the crime of and penalties associated with bigamy.

**Highlighted Provisions:**

This bill:

- ▶ reclassifies the crime of bigamy as an infraction;
- ▶ classifies inducing involuntary bigamy as a third degree felony;
- ▶ modifies the list of crimes that, when committed in conjunction with bigamy, are a second degree felony; and
- ▶ makes conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-7-101, as last amended by Laws of Utah 2017, Chapter 442

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

**Section 1. Section 76-7-101 is amended to read:****76-7-101. Bigamy -- Penalty -- Defense.**

~~[(1) A person is guilty of bigamy when, knowing the person has a husband or wife or knowing the other person has a husband or wife, the person purports to marry and cohabitates with the other person.]~~

~~[(2) Bigamy is a third degree felony.]~~

~~[(3) Bigamy is a second degree felony if the accused is also convicted during the same prosecution of the following:]~~

~~[(a) inducing marriage or bigamy under false pretenses;]~~

~~[(b) fraud;]~~

~~[(c) domestic abuse;]~~

~~[(d) child abuse;]~~

~~[(e) sexual abuse;]~~

~~[(f) human trafficking; or]~~

~~[(g) human smuggling.]~~

(1) An individual is guilty of bigamy if:

(a) the individual purports to marry another individual; and

(b) knows or reasonably should know that one or both of the individuals described in Subsection (1)(a) are legally married to another individual.

(2) An individual who violates Subsection (1) is guilty of an infraction.

(3) An individual is guilty of a third degree felony if the individual induces bigamy:

(a) under fraudulent or false pretenses; or

(b) by threat or coercion.

(4) An individual is guilty of a second degree felony if the individual:

(a) cohabitates with another individual with whom the individual is engaged in bigamy as described in Subsection (1); and

(b) in furtherance of the conduct described in Subsection (4)(a), commits a felony offense, or for Subsection (4)(b)(vii), a misdemeanor offense, in violation of one or more of the following:

(i) Chapter 5, Part 2, Criminal Homicide;

(ii) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iii) Chapter 5, Part 4, Sexual Offenses;

(iv) Section 76-5-109, child abuse -- child abandonment;

(v) Section 76-5-111, abuse, neglect, or exploitation of a vulnerable adult;

(vi) Section 76-5-209, child abuse homicide;

(vii) Section 76-9-702.1, sexual battery;

(viii) Section 76-7-201, criminal nonsupport; or

(ix) Title 77, Chapter 36, Cohabitant Abuse Procedures Act.

[(4)] (5) It is a defense to [bigamy] prosecution under Subsection (2) that:

[(a) the accused reasonably believed the accused and the other person were legally eligible to marry;]

[(b) the accused is a person who, under reasonable fear of coercion or bodily harm, left a bigamous relationship as defined in Subsection (1);]

~~[(c) the accused is a minor who left a bigamous relationship as defined in Subsection (1); or]~~

~~[(d) the accused has taken steps to protect the safety and welfare of any minor child of a bigamous relationship.]~~

(a) the individual ceased the practice of bigamy as described in Subsection (1) under reasonable fear of coercion or bodily harm;

(b) the individual entered the practice of bigamy, as described in Subsection (1), as a minor and ceased the practice of bigamy at any time after the individual entered the practice of bigamy; or

(c) law enforcement discovers that the individual practices bigamy, as described in Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another individual.

**CHAPTER 261****S. B. 109**

Passed March 4, 2020  
 Approved March 28, 2020  
 Effective March 28, 2020

**NEW STATE CONSTRUCTION  
 SET-ASIDE FOR ART AMENDMENTS**

Chief Sponsor: Don L. Ipson  
 House Sponsor: Francis D. Gibson

**LONG TITLE****General Description:**

This bill modifies a provision relating to a new state construction set aside for art.

**Highlighted Provisions:**

This bill:

- ▶ limits the amount that may be set aside from the amount appropriated for the construction of any new state building or facility; and
- ▶ modifies a provision relating to artists the Division of Arts and Museums considers and gives preference to in the percent-for-art program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

9-6-405, as last amended by Laws of Utah 2010, Chapter 378  
 63A-5-209, as last amended by Laws of Utah 2019, Chapter 468

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

**Section 1. Section 9-6-405 is amended to read:**

**9-6-405. Procedures, guidelines, and rules.**

(1) The division shall follow these guidelines in administering the program:

(a) Works of art shall be acquired under the program for use only with respect to those buildings or facilities that the division determines have significant public use or access, especially where the design and technical construction of the building or facility lend themselves to works of art. All funds set aside and administered by the program from appropriations for any state building or facility of which any part is obtained from the issuance of bonds shall be used only to acquire works of art that will be placed in or at, and remain a part of, that building or facility, to the extent necessary to preserve the federal income tax exemption otherwise allowed for interest paid on the bonds.

(b) The goal of the division in administering the program is to fairly distribute works of art throughout the various social, economic, and geographic communities of the state.

(c) The division:

(i) shall give first preference to Utah artists<sup>[5]</sup>; and

(ii) may consider artists from other states and give preference to artists from other states <sup>[which]</sup> that have similar percent-for-art programs and demonstrate a reciprocal preference for Utah artists.

(d) The division shall involve the director of the Division of Facilities Construction and Management, or the director's designee, and the project architect in the process of screening or selecting works of art or artists to create works of art for each project and shall involve in that process representatives from the project's principal user or contracting agency, the community in which the project is located, and the art profession. The project's principal user or contracting agency shall have representation at least equal to any other entity on the selection committee, as designated by the project's president or director. Any selection and placement of art shall be by a majority decision of the user agency representatives on the committee and a majority decision of the entire committee. The selection and placement shall be approved by the president or director of the principal user.

(e) Any relocation of art placed under this program shall be done with the participation from the division and the Division of Facilities Construction and Management and with approval from the president or director of the principal user.

(f) The costs of administering the program and conserving and maintaining all works of art placed under the program are limited to 15% of the funds deposited in the Utah Percent-for-Art Account.

(2) The division shall adopt procedures, guidelines, and rules as necessary to implement this chapter and administer the program.

**Section 2. Section 63A-5-209 is amended to read:**

**63A-5-209. Building appropriations supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.**

(1) The director shall:

(a) (i) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made; and

(ii) specifically allocate money appropriated when more than one project is included in any single appropriation without legislative directive;

(b) (i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and

(ii) (A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section 63A-5-211 in the preparation of plans, engineering, and specifications; and

(B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

(c) hold in a statewide contingency reserve the amount budgeted for contingencies:

(i) in appropriations for the construction or remodeling of facilities; and

(ii) which may be over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.

(2) (a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:

(i) 4-1/2% to 6-1/2% for new construction; and

(ii) 6% to 9-1/2% for remodeling projects.

(b) The director shall hold the statewide contingency funds to cover:

(i) costs of change orders; and

(ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

(c) (i) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.

(ii) The Legislature may reappropriate to other building needs, including the cost of administering building projects, any amount from the statewide contingency reserve that is in excess of the reserve required to meet future contingency needs.

(3) (a) The director shall hold in a separate reserve those state appropriated funds accrued through bid savings and project residual as a project reserve.

(b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:

(i) bid savings and project residual from a capital improvement project, as defined in Section 63A-5-104; and

(ii) bid savings and project residual from a capital development project, as defined in Section 63A-5-104.

(c) The State Building Board may authorize the use of project reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement project:

(i) approved under Section 63A-5-104; and

(ii) for which funds are not allocated.

(d) The director may:

(i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the award of contracts in excess of a project's construction budget if the use is required to meet the intent of the project;

(ii) transfer money from the account described in Subsection (3)(b)(i) to the account described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget; and

(iii) use project reserve funds for any emergency capital improvement project, whether or not the emergency capital improvement project is related to a project that has exceeded its construction budget.

(e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:

(i) an authorization under Subsection (3)(c); or

(ii) a transfer under Subsection (3)(d).

(f) The Legislature shall annually review the amount held in the project reserve for possible reallocation by the Legislature to other building needs, including the cost of administering building projects.

(4) If any part of the appropriation for a building project, other than the part set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act, remains unencumbered after the award of construction and professional service contracts and establishing a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the project reserve and does not revert to the General Fund.

(5) (a) (i) One percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(ii) The total amount appropriated under Subsection (5)(a)(i) may not exceed \$200,000.

(b) The director shall release to the Division of Fine Arts any funds included in an appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art Program.

(c) Funds from appropriations for any state building or facility of which any part is derived from the issuance of bonds, to the extent it would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds, may not be set aside.

### **Section 3. Effective date.**

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

**CHAPTER 262****S. B. 110**

Passed March 5, 2020

Approved March 28, 2020

Effective May 12, 2020

**ELECTRONIC DRIVER  
LICENSE AMENDMENTS**

Chief Sponsor: Lincoln Fillmore

House Sponsor: Craig Hall

shall issue a standard procurement process in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

~~[(4)]~~ (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to facilitate the implementation, coordination, and administration of electronic license certificates and identification cards.

**LONG TITLE****General Description:**

This bill creates a pilot program for the development of a program to issue an electronic license certificate or identification card, and later a permanent process for obtaining an electronic license certificate or identification card.

**Highlighted Provisions:**

This bill:

- ▶ requires the Driver License Division to develop a pilot program for the issuance of an electronic license certificate or identification card;
- ▶ requires the Driver License Division to develop a permanent program for the issuance of an electronic license certificate or identification card; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-3-235, as enacted by Laws of Utah 2019, Chapter 426

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

**Section 1. Section 53-3-235 is amended to read:****53-3-235. Electronic license certificate or identification card.**

(1) (a) On or before January 1, 2021, the division shall establish a pilot program for a process and system for an individual to obtain an electronic license certificate or identification card.

(b) Based on information and results from the pilot program described in Subsection (1)(a), on or before January 1, 2022, the division shall establish a process and system for an individual to obtain an electronic license certificate or identification card.

~~[(2) The division shall issue, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a request for information to gather information from potential vendors to establish a process within the division to provide an electronic license certificate.]~~

~~[(3)]~~ (2) In order to contract with a vendor to establish a process and system to issue an electronic license certificate or identification card, the division



**CHAPTER 263****S. B. 112**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**INLAND PORT AMENDMENTS**

Chief Sponsor: Luz Escamilla  
 House Sponsor: Francis D. Gibson

**LONG TITLE****General Description:**

This bill modifies provisions of the Utah Inland Port Authority Act.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Utah Inland Port Authority to establish a community enhancement program to address the impacts of development and inland port uses on adjacent communities and to use authority money to support the program;
- ▶ exempts money designated for the program from execution and other debt collection processes; and
- ▶ requires the authority to report on the program to legislative committees.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

11-58-202, as last amended by Laws of Utah 2019, Chapter 399

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

**Section 1. Section 11-58-202 is amended to read:****11-58-202. Port authority powers and duties.**

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the Utah Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:

- (i) emissions monitoring and reporting; and
  - (ii) strategies that use the best available technology to mitigate environmental impacts from development and uses on the authority jurisdictional land;
- (b) plan and facilitate the development of inland port uses on authority jurisdictional land and on land in other authority project areas;

(c) manage any inland port located on land owned or leased by the authority; and

(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land or land in other authority project areas.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land or that is in other authority project areas, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the policies and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of the authority jurisdictional land and land in other authority project areas, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the authority jurisdictional land;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other authority project areas;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any

funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;

(q) enter into an agreement with a taxing entity to share property tax differential for services that the taxing entity provides within the authority jurisdictional land;

(r) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land;

(s) own and operate an intermodal facility if the authority considers the authority's ownership and operation of an intermodal facility to be necessary or desirable;

(t) own and operate publicly owned infrastructure and improvements in a project area outside the authority jurisdictional land; and

(u) exercise powers and perform functions that the authority is authorized by statute to exercise or perform.

(3) (a) The authority may establish a community enhancement program designed to address the impacts that development or inland port uses within project areas have on adjacent communities.

(b) (i) The authority may use authority money to support the community enhancement program and to pay for efforts to address the impacts described in Subsection (3)(a).

(ii) Authority money designated for use under Subsection (3)(b)(i) is exempt from execution or any other process in the collection of a judgment against or debt or other obligation of the authority arising out of the authority's activities with respect to the community enhancement program.

(c) On or before October 31, 2020, the authority shall report on the authority's actions under this Subsection (3) to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee of the Legislature;

(ii) the Economic Development and Workforce Services Interim Committee of the Legislature; and

(iii) the Business and Labor Interim Committee of the Legislature.

~~[(3)]~~ (4) Beginning January 1, 2020, the authority shall:

(a) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to any later changes to the boundary enacted by the Legislature; and

(b) maintain an accurate digital file of the boundary that is easily accessible by the public.

~~[(4)]~~ (5) An intermodal facility owned by the authority is subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

**CHAPTER 264****S. B. 113**

Passed March 4, 2020

Approved March 28, 2020

Effective May 12, 2020

**ARTS PROGRAM FUNDING AMENDMENTS**

Chief Sponsor: Evan J. Vickers

House Sponsor: Walt Brooks

**LONG TITLE****General Description:**

This bill provides for an annual budgetary review for the Beverley Taylor Sorenson Elementary Arts Learning Program in certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ provides for an annual budgetary review for the Beverley Taylor Sorenson Elementary Arts Learning Program in certain circumstances; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-2-506, as last amended by Laws of Utah 2019, Chapter 186

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

**Section 1. Section 53F-2-506 is amended to read:****53F-2-506. Beverley Taylor Sorenson Elementary Arts Learning Program.**

(1) As used in this section:

(a) "Endowed chair" means a person who holds an endowed position or administrator of an endowed program for the purpose of arts and integrated arts instruction at an endowed university.

(b) "Endowed university" means an institution of higher education in the state that:

(i) awards elementary education degrees in arts instruction;

(ii) has received a major philanthropic donation for the purpose of arts and integrated arts instruction; and

(iii) has created an endowed position as a result of a donation described in Subsection (1)(b)(ii).

(c) "Integrated arts advocate" means a person who:

(i) advocates for arts and integrated arts instruction in the state; and

(ii) coordinates with an endowed chair pursuant to the agreement creating the endowed chair.

(2) The Legislature finds that a strategic placement of arts in elementary education can impact the critical thinking of students in other core subject areas, including mathematics, reading, and science.

(3) The Beverley Taylor Sorenson Elementary Arts Learning Program is created to enhance the social, emotional, academic, and arts learning of students in kindergarten through grade 6 by integrating arts teaching and learning into core subject areas and providing professional development for positions that support elementary arts and integrated arts education.

(4) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, and subject to Subsection (5), the state board shall, after consulting with endowed chairs and the integrated arts advocate and receiving their recommendations, administer a grant program to enable LEAs to:

(a) hire highly qualified arts specialists, art coordinators, and other positions that support arts education and arts integration;

(b) provide up to \$10,000 in one-time funds for each new school arts specialist described under Subsection (4)(a) to purchase supplies and equipment; and

(c) engage in other activities that improve the quantity and quality of integrated arts education.

(5) (a) An LEA that receives a grant under Subsection (4) shall provide matching funds of no less than 20% of the grant amount, including no less than 20% of the grant amount for actual salary and benefit costs per full-time equivalent position funded under Subsection (4)(a).

(b) An LEA may not:

(i) include administrative, facility, or capital costs to provide the matching funds required under Subsection (5)(a); or

(ii) use funds from the Beverley Taylor Sorenson Elementary Arts Learning Program to supplant funds for existing programs.

(6) An LEA that receives a grant under this section shall partner with an endowed chair to provide professional development in integrated elementary arts education.

(7) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, the state board shall administer a grant program to fund activities within arts and the integrated arts programs at an endowed university in the college where the endowed chair resides to:

(a) provide high quality professional development in elementary integrated arts education in accordance with the professional learning standards in Section 53G-11-303 to LEAs that receive a grant under Subsection (4);

(b) design and conduct research on:

(i) elementary integrated arts education and instruction;

(ii) implementation and evaluation of the Beverley Taylor Sorenson Elementary Arts Learning Program; and

(iii) effectiveness of the professional development under Subsection (7)(a); and

(c) provide the public with integrated elementary arts education resources.

(8) The board shall annually:

(a) review the funding the Legislature appropriates for the Beverley Taylor Sorenson Elementary Arts Learning Program; and

(b) recommend any adjustments as part of the board's annual budget request.

~~[(8)]~~ (9) The state board shall make rules to administer the Beverley Taylor Sorenson Elementary Arts Learning Program.

**CHAPTER 265****S. B. 118**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**INDUSTRIAL ASSISTANCE  
 ACCOUNT AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: A. Cory Maloy

**LONG TITLE****General Description:**

This bill modifies provisions regarding the use of money from the Industrial Assistance Account.

**Highlighted Provisions:**

This bill:

- ▶ describes the requirements and post-performance requirements for an entity to qualify for money from the Industrial Assistance Account related to holding an annual conference or festival; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63N-3-109, as last amended by Laws of Utah 2019, Chapter 483

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

**Section 1. Section 63N-3-109 is amended to read:**

**63N-3-109. Financial assistance to entities offering economic opportunities.**

(1) Subject to the duties and powers of the board under Section 63N-1-402, the administrator may provide money from the Industrial Assistance Account to an entity offering an economic opportunity if that entity:

- (a) applies to the administrator in a form approved by the administrator; and
- (b) meets the qualifications of Subsection (2).

(2) As part of an application for receiving money under this section, an applicant shall:

(a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of money necessitated by the economic opportunity and the likelihood that the state's tax base, regions of the state's tax base, or specific components of the state's tax base will not be reduced but will be maintained or enlarged;

(b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) demonstrate how the funding request will act in concert with free market principles;

(d) satisfy other criteria the administrator considers appropriate;

(e) if the applicant meets the requirements of Subsection (2)(f)(i):

(i) demonstrate that the funding request will be used primarily to reimburse [the] an applicant for expenses related to a program of marketing and branding for an annual conference [for the high tech sector] or festival with at least 10,000 attendees that is held on or after January 1, 2019; and

(ii) demonstrate that [the] an annual conference or festival described in Subsection (2)(f)(i) has met post-performance requirements designated by the administrator [regarding], in coordination with the organizer of an annual conference or festival, which shall include metrics and reporting requirements related to:

~~[(A) business leads generated by the conference;]~~

~~[(B) total attendance at the conference;]~~

~~[(C) the number of out-of-state attendees at the conference;]~~

~~[(D) the number of out-of-state businesses represented at the conference; and]~~

~~[(E) documentation of marketing and advertising money spent outside of the state for the conference; and]~~

(A) attendance;

(B) revenue;

(C) expenses;

(D) economic impact to the state;

(E) sponsorships; and

(F) conference or festival objectives; and

(f) be either:

(i) an entity whose purpose is to exclusively or substantially promote, develop, or maintain the economic welfare and prosperity of the state as a whole, regions of the state, or specific components of the state, including an entity [that is a nonprofit organization engaged in publicizing, developing, and promoting the high tech sector in the state through activities that include organizing and hosting] that hosts an annual conference [for the high tech sector] or festival with at least 10,000 attendees; or

(ii) a company or individual that meets the requirements of Subsections (2)(a) through (d) but does not otherwise qualify under Section 63N-3-105.

(3) Subject to the duties and powers of the board under Section 63N-1-402, the administrator shall:

(a) make findings as to whether an applicant has satisfied each of the conditions described in Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

(c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; ~~and~~

(d) make funding decisions based upon appropriate findings and compliance~~;~~; and

(e) in cooperation with each entity that has received money from the Industrial Assistance Account in accordance with Subsection (2)(e), provide a written report on or before October 1 of each year describing the total amount of money provided by the state for each annual conference or festival during the year and the total cost from all sources of holding each annual conference or festival during the year to the:

(i) office for inclusion in the office's annual report described in Section 63N-1-301; and

(ii) Economic Development and Workforce Services Interim Committee.

**CHAPTER 266****S. B. 119**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective March 28, 2020

**SCHOOL ACCOUNTABILITY  
 AMENDMENTS**

Chief Sponsor: Deidre M. Henderson  
 House Sponsor: Lee B. Perry

**LONG TITLE****General Description:**

This bill provides that for the 2018-2019 and 2019-2020 school years, the State Board of Education is not required to assign to each school an overall rating using an A through F letter grading scale.

**Highlighted Provisions:**

This bill:

- ▶ provides that for the 2018-2019 and 2019-2020 school years, the State Board of Education is not required to assign to each school an overall rating using an A through F letter grading scale.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53E-5-204, as last amended by Laws of Utah 2019, Chapter 186

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

**Section 1. Section 53E-5-204 is amended to read:**

**53E-5-204. Rating schools.**

(1) Except as provided in Subsection (3), and in accordance with this part, the state board shall annually assign to each school an overall rating using an A through F letter grading scale where, based on the school's performance level on the indicators described in Subsection (2):

- (a) an A grade represents an exemplary school;
- (b) a B grade represents a commendable school;
- (c) a C grade represents a typical school;
- (d) a D grade represents a developing school; and
- (e) an F grade represents a critical needs school.

(2) A school's overall rating described in Subsection (1) shall be based on the school's performance on the indicators described in:

- (a) Section 53E-5-205, for an elementary school or a middle school; or
- (b) Section 53E-5-206, for a high school.

(3) (a) For a school year in which the state board determines it is necessary to establish, due to a transition to a new assessment, a new baseline to determine student growth described in Section

53E-5-210, the state board is not required to assign an overall rating described in Subsection (1) to a school to which the new baseline applies.

(b) For the 2017-2018, 2018-2019, and 2019-2020 school [year] years, the state board:

- (i) shall evaluate a school based on the school's performance level on the indicators described in Subsection (2) and in accordance with this part; and
- (ii) is not required to assign a school an overall rating described in Subsection (1).

**Section 2. Effective date.**

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

**CHAPTER 267****S. B. 120**

Passed March 11, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**VEHICLE REPAIR AND NOTIFICATION AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
 House Sponsor: James A. Dunnigan

**LONG TITLE****General Description:**

This bill amends provisions related to notification requirements regarding salvage vehicles and vehicle repair requirements.

**Highlighted Provisions:**

This bill:

- ▶ amends language required in a contract for sale or lease of a salvage or total loss vehicle regarding possible impacts of a salvage title;
- ▶ amends provisions related to title disclosures of vehicles declared a total loss due to theft;
- ▶ requires certain repair facilities that repair vehicles equipped with advanced driver assistance systems to:
  - inform the customer regarding the recalibration requirements for the advanced driver assistance system and whether the proper recalibration will be performed;
  - if the recalibration of the advanced driver assistance system will be performed, meet or exceed the original manufacturer's specifications; and
  - if the recalibration was not completed successfully, inform the customer that the vehicle should be taken to the manufacturer's certified repair shop or other repair shop capable of providing the proper recalibration and repair;
- ▶ amends provisions related to disclosure of insurance coverage related to automotive glass repair and recalibration; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-1a-1004, as last amended by Laws of Utah 2013, Chapter 463  
 41-1a-1005.3, as enacted by Laws of Utah 2012, Chapter 390

**ENACTS:**

41-6a-1645, Utah Code Annotated 1953

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

**Section 1. Section 41-1a-1004 is amended to read:**

**41-1a-1004. Certificate of title -- Salvage vehicles -- Buyer notification of salvage or total loss vehicle.**

(1) If the division is able to ascertain the fact, at the time application is made for initial registration or transfer of ownership of a salvage vehicle, the title shall be branded:

- (a) rebuilt and restored to operation;
- (b) in a flood and restored to operation; or
- (c) not restored to operation.

(2) (a) (i) Except as provided in Subsection (2)(b), before the sale of a vehicle for which a salvage certificate or branded title has been knowingly issued or knowingly declared a total loss by an insurance company, the seller shall provide the prospective purchaser with written notification that a salvage certificate or a branded title has been issued for the vehicle.

(ii) If the vehicle is a salvage vehicle or if the vehicle has been declared a total loss by an insurance company, the notification shall be as required in Section 41-1a-1005.3.

(b) The requirement to provide written notification under Subsection (2)(a) does not apply if:

(i) the prospective purchaser, motor vehicle auction, or seller is:

(i) (A) a licensed motor vehicle dealer whose primary business is auctioning salvage motor vehicles to licensed salvage vehicle buyers; or

(ii) (B) an insurance company, if the sale of the vehicle is the result of a total loss settlement[.]; or

(ii) the vehicle has been stolen, recovered, and declared a total loss by an insurance company but does not meet the definition of a salvage vehicle.

(3) (a) An advertisement for the sale of a vehicle for which a salvage certificate or branded title has been issued shall disclose that a salvage certificate or branded title has been issued for the vehicle.

(b) (i) Except as provided in Subsection (3)(b)(ii), an advertisement for a vehicle declared a total loss by an insurance company shall disclose that the vehicle has been declared a total loss by an insurance company.

(ii) A vehicle that has been stolen, recovered, and declared a total loss by an insurance company but does not meet the definition of a salvage vehicle is exempted from the advertising requirement described in Subsection (3)(b)(i).

(iii) Subsections (3)(a), (3)(b)(i), and (3)(b)(ii) do not apply to a motor vehicle auction or a consignor to a motor vehicle auction if no disclosure is required under Section 41-1a-1005.3

(4) (c) The advertisement disclosure under Subsection (3)(a) or (b)(i) shall:

(i) be displayed at least as prominently as the description of the advertised vehicle is displayed; and

(ii) use the words "salvage certificate" or "branded title" in the advertisement.]

(ii) if a salvage certificate or branded title has been issued or the vehicle has been declared a total loss by an insurance company:



(A) use the words "salvage certificate" or "branded title" in the advertisement; or

(B) use the words "insurer declared total loss."

**Section 2. Section 41-1a-1005.3 is amended to read:**

**41-1a-1005.3. Resale of salvage and total loss vehicles.**

(1) A motor vehicle may not be offered, auctioned, sold, leased, transferred, or exchanged by an owner, that is not a manufacturer, dealer, motor vehicle auction, or consignor to a motor vehicle auction with the knowledge that it is a salvage vehicle or a total loss vehicle without prior written disclosure being given to any prospective purchaser.

(2) For a disclosure required by Subsection (1), the following disclosure language shall be contained in each contract for sale or lease of a salvage vehicle to a purchaser or shall be contained in a form affixed to a contract, lease, bill of sale, or any other document that transfers title:

"THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE BUYER EVERY TIME THIS VEHICLE IS KNOWINGLY RESOLD WITH A SALVAGE CERTIFICATE OR TOTAL LOSS HISTORY

DISCLOSURE STATEMENT

Vehicle Identification Number (VIN)

Year:                      Make:                      Model:

SALVAGE OR TOTAL LOSS VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

WARNING: THIS VEHICLE HAS A SALVAGE OR TOTAL LOSS HISTORY WHICH MAY MATERIALLY AFFECT THE VALUE, SAFETY AND/OR CONDITION OF THE VEHICLE. BECAUSE OF ITS CONDITION THE MANUFACTURER'S WARRANTY OR SERVICE CONTRACT ON THIS VEHICLE MAY BE AFFECTED. THIS [SALVAGE] VEHICLE MAY NOT BE SAFE FOR OPERATION UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION BEFORE THIS VEHICLE [MAY BE] IS REGISTERED. THE STATE OF UTAH MAY REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE CERTIFICATE OF TITLE. YOU MAY ASK THE SELLER OF THE VEHICLE TO SEE A COPY OF THE NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM (NMVTIS) VEHICLE HISTORY REPORT. YOU MAY ALSO INDEPENDENTLY OBTAIN THE REPORT BY CHECKING NMVTIS ONLINE AT WWW.VEHICLEHISTORY.GOV.

Signature of Purchaser

Date"

**Section 3. Section 41-6a-1645 is enacted to read:**

**41-6a-1645. Advanced driver assistance systems -- Repair, calibration, and disclosure.**

(1) As used in this section, "advanced driver assistance system" means an electronic safety system designed to support the driver and vehicle while operating on roads and highways that is intended to increase vehicle safety and reduce losses associated with automobile crashes.

(2) If the vehicle is equipped with an advanced driver assistance system, an automotive glass company or repair facility approving or conducting glass repair, replacement, or recalibration shall:

(a) before approving or performing a vehicle glass repair or replacement, inform the consumer if a recalibration of that system is required and if such recalibration will be performed; and

(b) if performing such recalibration, meet or exceed the manufacturer's specifications.

(3) (a) The automotive glass company or repair facility shall provide the consumer:

(i) an itemized description of the work to be done on the vehicle; and

(ii) if an insurer is paying all or part of the repair, the total amount the insurer has agreed to pay for the work described in Subsection (3)(a)(i).

(b) An insurance company that makes payment for work described in Subsection (3)(a) may not be required to pay more than a fair and competitive price for the local market area.

(c) An automotive glass company or repair facility may not represent to a customer that the cost of a repair, replacement, or recalibration will be paid for entirely by the customer's insurer and at no cost to the customer unless the cost of the repair, replacement, or recalibration is fully covered and approved by the insurer.

(d) If a recalibration was not performed or not completed successfully, the automotive glass company or repair facility shall inform the consumer electronically or in writing that the recalibration was not successful or was not performed and that the vehicle should be taken to a vehicle manufacturer's certified dealership, a qualified automobile glass company, or repair facility capable of performing the recalibration of an advanced driver assistance system that meets or exceeds the manufacturer's specifications.

(4) An automotive glass company or repair facility conducting a scan or recalibration for vehicle glass repair or replacement services on a vehicle equipped with an advanced driver assistance system:

(a) is not limited to vehicle glass, tooling, or equipment dictated or recommended by the manufacturer's procedures or specifications; and

(b) shall recalibrate the advanced driver assistance system to meet or exceed the manufacturer's procedures or specifications.

(5) An automotive glass company or repair facility may only bill or charge for vehicle glass repair, replacement, or recalibration services that are performed and necessary.

(6) A person with actual knowledge that the advanced driver assistance system of a motor vehicle is inoperable or has not been repaired or recalibrated after a vehicle glass repair or replacement as described in this section may not knowingly sell, offer for sale, or display for sale, the motor vehicle without providing written notice to the purchaser that:

(a) the advanced driver assistance system has not been repaired or recalibrated to the manufacturer's specifications; or

(b) the advanced driver assistance system is inoperable.

(7) A violation described in Subsections (1) through (6) is a civil penalty of \$500.

(8) (a) In addition to any other penalties, a purchaser may bring a civil action to recover damages resulting from a seller's failure to provide notice under Subsection (6).

(b) The amount of damages that may be recovered in a civil action described in Subsection (8)(a) is the greater of:

(i) the amount of the actual damages; or

(ii) \$1,500.

**CHAPTER 268****S. B. 122**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**HOUSING LOSS  
 MITIGATION AMENDMENTS**

Chief Sponsor: Derek L. Kitchen  
 House Sponsor: Joel K. Briscoe

**LONG TITLE****General Description:**

This bill modifies the reporting requirements of the Department of Transportation (department) and the Commission on Housing Affordability (commission).

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the department to provide an annual report to the Economic Development and Workforce Services Interim Committee and to the commission regarding the number of moderate income housing units lost in the previous year because of departmental action;
- ▶ requires the commission to include in the commission's annual report recommendations regarding how to address the loss of moderate income housing units in the state; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

35A-8-2201, as enacted by Laws of Utah 2018, Chapter 392  
 35A-8-2204, as enacted by Laws of Utah 2018, Chapter 392

**ENACTS:**

72-1-215, Utah Code Annotated 1953

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

**Section 1. Section 35A-8-2201 is amended to read:**

**35A-8-2201. Definitions.**

As used in this part:

(1) "Commission" means the Commission on Housing Affordability created in Section 35A-8-2202.

(2) "Housing affordability" means the ability of a household to occupy a housing unit paying no more than 30% of the household's income for gross housing costs, including utilities.

(3) "Moderate income housing unit" means a housing unit where a household whose income is no more than 80% of the area median income is able to occupy the housing unit paying no more than 30% of

the household's income for gross housing costs, including utilities.

(4) "Replacement unit" means a moderate income housing unit that:

(a) is comparable in quality to a permanently vacated or destroyed moderate income housing unit;

(b) meets state and local health and housing codes;

(c) is comparable to the permanently vacated or destroyed moderate income housing unit in number of bedrooms and square footage; and

(d) is located, to the extent practicable, in the same political subdivision as the permanently vacated or destroyed moderate income housing unit.

**Section 2. Section 35A-8-2204 is amended to read:**

**35A-8-2204. Annual report.**

(1) The commission shall annually prepare a report for inclusion in the department's annual written report described in Section 35A-1-109.

(2) The report described in Subsection (1) shall:

(a) describe how the commission fulfilled its statutory duties during the year; ~~and~~

(b) ~~contain~~ provide recommendations on how the state should act to address issues relating to housing affordability~~[-]~~;

(c) in consultation with affected political subdivisions, provide recommendations on how the state and other stakeholders should act to address the loss of moderate income housing units in the state, including the moderate income housing units permanently vacated or destroyed as identified in the report from the Department of Transportation described in Section 72-1-215; and

(d) in consultation with affected political subdivisions, provide recommendations on how the state and other stakeholders can support and encourage the new construction or rehabilitation of replacement units.

**Section 3. Section 72-1-215 is enacted to read:**

**72-1-215. Affordable housing study.**

(1) As used in this section, "moderate income housing unit" means a housing unit that has an appraised value that would allow, as estimated by the department, a household whose income is no more than 80% of the area median income to occupy the housing unit paying no more than 30% of the household's income for gross housing costs, including utilities.

(2) On or before September 15, the department shall provide a written report to the Economic Development and Workforce Services Interim Committee and to the Commission on Housing Affordability created in Section 35A-8-2201 that describes:

(a) the total number of housing units that were permanently vacated or destroyed as a result of department action in the previous fiscal year, including separate subtotals describing the total number of housing units with one bedroom, two bedrooms, three bedrooms, and four or more bedrooms, which were permanently vacated or destroyed as a result of department action in the previous fiscal year; and

(b) the total number of moderate income housing units that were permanently vacated or destroyed as a result of department action in the previous fiscal year, including separate subtotals describing the total number of moderate income housing units with one bedroom, two bedrooms, three bedrooms, and four or more bedrooms, which were permanently vacated or destroyed as a result of department action in the previous fiscal year.

**CHAPTER 269****S. B. 124**

Passed March 10, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**AMERICAN INDIAN AND ALASKAN  
 NATIVE EDUCATION AMENDMENTS**

Chief Sponsor: David P. Hinkins  
 House Sponsor: Christine F. Watkins  
 Cosponsor: Jani Iwamoto

**LONG TITLE****General Description:**

This bill makes an ongoing program providing grants targeted to address the needs of American Indian and Alaskan Native students.

**Highlighted Provisions:**

This bill:

- ▶ replaces two pilot programs with an ongoing program administered by the State Board of Education consisting of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to State Board of Education -- General System Support, as an ongoing appropriation:
  - from Education Fund, \$250,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-5-602, as last amended by Laws of Utah 2019, Chapters 186 and 246  
 53F-5-603, as last amended by Laws of Utah 2019, Chapter 186  
 53F-5-604, as last amended by Laws of Utah 2019, Chapter 246  
 63I-1-253, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246, 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

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

**Section 1. Section 53F-5-602 is amended to read:****53F-5-602. Program created.**

(1) (a) In addition to the state plan adopted under Laws of Utah 2015, Chapter 53, Section 7, beginning with fiscal year ~~[2016-2017]~~ 2020-2021, there is created a ~~[five-year pilot]~~ program administered by the state board to provide grants targeted to address the needs of American Indian and Alaskan Native students.

(b) The ~~[pilot]~~ program shall consist of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and

professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.

~~[(2) (a) Beginning with fiscal year 2017-2018, there is created a four-year pilot program administered by the state board to provide grants targeted to address the needs of American Indian and Alaskan Native students.]~~

~~[(b) The pilot program shall consist of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.]~~

(c) In determining grant recipients ~~[under this Subsection (2)]~~ for at least two-thirds of the money appropriated to the program, the state board shall give priority to American Indian and Alaskan Native concentrated schools located in a county of the fourth, fifth, or sixth class with significant populations of American Indians and Alaskan Natives.

~~[(3) (2) Up to 3% of the money appropriated to [a] the grant program under this part may be used by the state board for costs in implementing the [pilot] program.~~

**Section 2. Section 53F-5-603 is amended to read:****53F-5-603. Grant program to school districts and charter schools.**

(1) From money appropriated to the grant program, the state board shall distribute grant money on a competitive basis to a school district or charter school that applies for a grant and:

(a) (i) has within the school district one or more American Indian and Alaskan Native concentrated schools; or

(ii) is an American Indian and Alaskan Native concentrated school; and

(b) has a program to fund stipends, recruitment, retention, and professional development of teachers who teach at American Indian and Alaskan Native concentrated schools.

(2) The grant money distributed under this section may only be expended to fund a program described in Subsection (1)(b).

(3) (a) If a school district or charter school obtains a grant under this section, by no later than two years from the date the school district or charter school obtains the grant, the state board shall review the implementation of the program described in Subsection (1)(b) to determine whether:

(i) the program is effective in addressing the need to retain teachers at American Indian and Alaskan Native concentrated schools; and

(ii) the money is being spent for a purpose not covered by the program described in Subsection (1)(b).

(b) If the state board determines that the program is not effective or that the money is being

spent for a purpose not covered by the program described in Subsection (1)(b), the state board may terminate the grant money being distributed to [the] a school district or charter school.

(4) The state board may make rules providing:

(a) criteria for evaluating grant applications; and

(b) procedures for:

(i) a school district to apply to the state board to receive grant money under this section; and

(ii) the review of the use of grant money described in Subsection (3).

(5) The grant money is intended to supplement and not replace existing money supporting American Indian and Alaskan Native concentrated schools, except that the grant money is intended to replace grants awarded under pilot programs supporting American Indian and Alaskan Native concentrated schools that have ended.

**Section 3. Section 53F-5-604 is amended to read:**

**53F-5-604. Liaison -- Reporting -- Meeting.**

(1) Subject to budget constraints, the superintendent of public instruction appointed under Section 53E-3-301 shall appoint an individual as the American Indian-Alaskan Native Public Education Liaison.

(2) The liaison shall:

(a) work under the direction of the superintendent in the development and implementation of the state plan; and

(b) annually report to the Native American Legislative Liaison Committee created under Section 36-22-1 ~~[during the term of a pilot program under this part]~~ regarding:

(i) what entities receive a grant under this part;

(ii) the effectiveness of the expenditures of grant money; and

(iii) recommendations, if any, for additional legislative action.

(3) The Native American Legislative Liaison Committee shall annually schedule at least one meeting at which education is discussed with selected stakeholders.

**Section 4. Section 63I-1-253 is amended to read:**

**63I-1-253. Repeal dates, Titles 53 through 53G.**

The following provisions are repealed on the following dates:

(1) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2022.

(2) Subsection 53-13-104(6), regarding being 19 years old at certification, is repealed July 1, 2022.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language that states "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

(a) Subsection 53B-17-1201(1) is repealed;

(b) Section 53B-17-1203 is repealed;

(c) Subsection 53B-17-1204(2) is repealed;

(d) Subsection 53B-17-1204(4)(a), the language that states "in accordance with the method described in Subsection (4)(c)" is repealed; and

(e) Subsection 53B-17-1204(4)(c) is repealed.

(11) Section 53F-2-514 is repealed July 1, 2020.

(12) Section 53F-5-203 is repealed July 1, 2024.

(13) Section 53F-5-212 is repealed July 1, 2024.

(14) Section 53F-5-213 is repealed July 1, 2023.

~~[(15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.]~~

~~[(16)]~~ (15) Section 53F-6-201 is repealed July 1, 2019.

~~[(17)]~~ (16) Section 53F-9-501 is repealed January 1, 2023.

~~[(18)]~~ (17) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

~~[(19)]~~ (18) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2020.

**Section 5. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts

previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- General System Support

<u>From Education Fund</u>	<u>\$250,000</u>
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Schedule of Programs:

<u>Teaching and Learning</u>	<u>\$250,000</u>
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It is the intent of the Legislature that the State Board of Education spend this funding on the Teacher Retention Grant Program made ongoing by this bill.

**CHAPTER 270****S. B. 125**

Passed March 5, 2020

Approved March 28, 2020

Effective May 12, 2020

**SINGLE SIGN-ON PORTAL AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Adam Robertson

**LONG TITLE****General Description:**

This bill modifies provisions related to the State Single Sign-On Business and Citizen Portals.

**Highlighted Provisions:**

This bill:

- ▶ requires the single sign-on business portal and the single sign-on citizen portal to contain links to the State Tax Commission website;
- ▶ specifies that the single sign-on business portal shall begin allowing a person doing business in the state to access, at a single point of entry, tax liability and payment information beginning December 1, 2020;
- ▶ specifies that, beginning December 1, 2020, the single sign-on citizen portal shall allow an individual, at a single point of entry, to:
  - access the individual's previous years' tax filing information from the State Tax Commission; and
  - file the individual's state income taxes under Title 59, Chapter 10, Individual Tax Act; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63F-3-103, as last amended by Laws of Utah 2019, Chapter 174

63F-3-103.5, as enacted by Laws of Utah 2019, Chapter 174

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

**Section 1. Section 63F-3-103 is amended to read:****63F-3-103. Single sign-on business portal -- Creation.**

(1) The department shall, in consultation with the entities described in Subsection (4), design and create a single sign-on business portal that is:

- (a) a web portal through which a person may access data described in Subsection (2), as agreed upon by the entities described in Subsection (4); and
- (b) secure, centralized, and interconnected.

(2) The department shall ensure that the single sign-on business portal allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:

- (a) business registration;
- (b) workers' compensation;
- (c) beginning December 1, 2020, tax liability and payment; and

(d) other information collected by the state that the department determines is relevant to a person doing business in the state.

(3) The department shall develop the single sign-on business portal:

- (a) using an open platform that:

(i) facilitates participation in the web portal by a state entity; ~~and~~

(ii) allows for optional participation by a political subdivision of the state; and

(iii) contains a link to the State Tax Commission website; and

(b) in a manner that anticipates the creation of the single sign-on citizen portal described in Section 63F-3-103.5.

(4) In developing the single sign-on business portal, the department shall consult with:

- (a) the Department of Commerce;
- (b) the State Tax Commission;
- (c) the Labor Commission;
- (d) the Department of Workforce Services;
- (e) the Governor's Office of Management and Budget;
- (f) the Utah League of Cities and Towns;
- (g) the Utah Association of Counties; and
- (h) the business community that is likely to use the single sign-on business portal.

(5) The department shall ensure that the single sign-on business portal is fully operational no later than May 1, 2021.

**Section 2. Section 63F-3-103.5 is amended to read:****63F-3-103.5. Single sign-on citizen portal -- Creation.**

(1) The department shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

- (b) secure, centralized, and interconnected.

(2) The department shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

- (a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under Title 26, Chapter 18, Medical Assistance Act, including Medicaid;



(B) the Children's Health Insurance Program under Title 26, Chapter 40, Utah Children's Health Insurance Act;

(C) the Primary Care Network as defined in Section 26-18-416; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under Title 26, Chapter 2, Utah Vital Statistics Act; and

(vii) a hunting or fishing license under Title 23, Chapter 19, Licenses, Permits, and Tags;

(b) access the individual's:

(i) transcripts from an institution of higher education described in Section 53B-2-101; and

(ii) immunization records maintained by the Utah Department of Health; ~~and~~

~~[(iii) previous years' tax filing information from the State Tax Commission;]~~

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The department shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity; ~~and~~

(b) allows for optional participation in the portal by a political subdivision of the state~~[-];~~ and

(c) contains a link to the State Tax Commission website.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that ~~administer~~ administers a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The department shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

**CHAPTER 271****S. B. 126**

Passed March 12, 2020

Approved March 28, 2020

Effective May 12, 2020

**SCHOOL BOARD VACANCY AMENDMENTS**

Chief Sponsor: Todd Weiler  
House Sponsor: Joel K. Briscoe

**LONG TITLE****General Description:**

This bill amends provisions related to filling a midterm vacancy on a local school board.

**Highlighted Provisions:**

This bill:

- ▶ extends the length of time a local school board has to fill a midterm vacancy on the local school board if the midterm vacancy is due to the death of a local school board member; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

20A-1-511, as last amended by Laws of Utah 2019, Chapter 255

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

**Section 1. Section 20A-1-511 is amended to read:****20A-1-511. Midterm vacancy on a local school board.**

(1) (a) A local school board shall fill ~~[vacancies]~~ a vacancy on the local school board by appointment, except as otherwise provided in ~~[Subsection (2)]~~ Subsections (1)(b) and (2).

(b) ~~[If the board fails to make an appointment within 30 days after a vacancy occurs, the]~~ The county legislative body, or municipal legislative body in a city district, shall fill ~~[the vacancy by appointment.]~~ a vacancy on a local school board by appointment if the local school board fails to make an appointment to fill the vacancy:

(i) except as provided in Subsection (1)(b)(ii), within 30 days after a vacancy occurs on the local school board; or

(ii) within 45 days after a vacancy occurs on the local school board due to the death of a local school board member.

(c) A member appointed and qualified under this Subsection (1) shall serve until a successor is elected or appointed and qualified.

(2) (a) A vacancy on the board shall be filled by an interim appointment, followed by an election to fill a two-year term if:

(i) the vacancy on the board occurs, or a letter of resignation is received by the board, at least 14 days before the deadline for filing a declaration of candidacy; and

(ii) two years of the vacated term will remain after the first Monday of January following the next school board election.

(b) ~~[Members]~~ A member elected under this Subsection (2) shall serve for the remaining two years of the vacated term and until a successor is elected and qualified.

(3) Before appointing an individual to fill a vacancy under this section, the local school board shall:

(a) give public notice of the vacancy at least two weeks before the local school board meets to fill the vacancy;

(b) identify, in the public notice:

(i) the date, time, and place of the meeting where the vacancy will be filled; and

(ii) the person to whom and the date and time before which an individual interested in being appointed to fill the vacancy may submit the individual's name for consideration; and

(c) in an open meeting, interview each individual whose name is submitted for consideration and who meets the qualifications for office, regarding the individual's qualifications.

(4) (a) Subject to Subsection (4)(b), a local school board may appoint an individual to fill a vacancy described in Subsection (1) or (2) before the vacancy occurs if a member of the local school board submits a letter of resignation.

(b) An individual appointed under Subsection (4)(a) may not take office until on or after the day on which the vacancy occurs for which the individual is appointed.

(c) A member of a local school board who submits a letter of resignation under Subsection (4)(a) may not rescind the resignation after the local school board makes an appointment to fill the vacancy created by the resignation.

**CHAPTER 272****S. B. 127**

Passed March 5, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**NURSING LICENSING AMENDMENTS**

Chief Sponsor: David G. Buxton  
 House Sponsor: Calvin R. Musselman

**LONG TITLE****General Description:**

This bill amends the Nurse Practice Act.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions relating to the limited approval of certain nursing education programs.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-31b-601, as last amended by Laws of Utah 2016, Chapter 26

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

**Section 1. Section 58-31b-601 is amended to read:****58-31b-601. Minimum standards for nursing programs -- Medication aide training.**

(1) Except as provided in Subsection (2), to qualify as an approved education program for the purpose of qualifying graduates for licensure under this chapter, a nursing education program shall be accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(2) (a) In accordance with Subsection (2)(b) and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, in consultation with the board, may make rules establishing requirements for a nursing education program to qualify for a limited time as an approved education program for the purpose of qualifying graduates for licensure under this chapter, if the program:

(i) (A) is in the process of obtaining the accreditation described in Subsection (1);

(B) has recently been denied accreditation after seeking to obtain the accreditation described in Subsection (1); or

(C) has recently lost the accreditation described in Subsection (1); and

(ii) is approved under Subsection (2)(a) on or before May 15, 2016.

(b) A program approved under Subsection (2)(a) may qualify graduates for licensure under Subsection (2)(a) until ~~December 31, 2020~~ June 30, 2022.

(c) Beginning November 30, 2020, a program approved under Subsection (2)(a) may not enroll any new students into the program unless:

(i) the program has a final site visit scheduled with a nursing program accreditor for the accreditation described in Subsection (1); and

(ii) the final site visit described in Subsection (2)(c)(i) is scheduled during the period beginning November 30, 2020, and ending May 30, 2021.

(d) On or after ~~January 1, 2021~~ July 1, 2022, a nursing education program that is not an approved education program under Subsection (1) may not qualify graduates for licensure under this chapter.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, the division shall make rules defining the minimum standards for a medication aide certified training program to qualify a person for certification under this chapter as a medication aide certified.

**CHAPTER 273****S. B. 135**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**DENTAL PRACTICE ACT AMENDMENTS**

Chief Sponsor: Allen M. Christensen  
 House Sponsor: Steve Eliason

**LONG TITLE****General Description:**

This bill addresses the use of teledentistry to provide dental care.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for the use of teledentistry within the state by dental professionals licensed within the state;
- ▶ provides that the standard of dental care for teledentistry is the same for in-person dental care;
- ▶ establishes the dental services a dental professional may provide using teledentistry;
- ▶ directs the Division of Occupational and Professional Licensing to make rules regarding teledentistry; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-69-102, as last amended by Laws of Utah 2015, Chapter 343  
 58-69-301, as last amended by Laws of Utah 2015, Chapter 320  
 58-69-802, as enacted by Laws of Utah 1996, Chapter 116

**ENACTS:**

58-69-807, Utah Code Annotated 1953

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

**Section 1. Section 58-69-102 is amended to read:****58-69-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Asynchronous technology" means store-and-forward technology that allows a licensed dental professional to transmit a patient's health information to a dentist for viewing at a later time.

(1) (2) "Board" means the Dentist and Dental Hygienist Licensing Board created in Section 58-69-201.

(2) (3) "Dental assistant" means an unlicensed individual who engages in, directly or indirectly,

supervised acts and duties as defined by division rule made in collaboration with the board.

(3) (4) "Direct supervision" means the supervising dentist is present and available for face-to-face communication with the person being supervised when and where professional services are being provided.

(4) (5) "General supervision" means that the supervising dentist is available for consultation regarding work the supervising dentist has authorized, without regard as to whether the supervising dentist is located on the same premises as the person being supervised.

(5) (6) "Indirect supervision" means that the supervising dentist is present within the facility in which the person being supervised is providing services and is available to provide immediate face-to-face communication with the person being supervised.

(6) (7) "Practice of dental hygiene" means, regarding humans:

(a) under the general supervision of a dentist, or under a written agreement with a dentist licensed under this chapter, as provided in Section 58-69-801, to:

(i) perform preliminary clinical examination of human teeth and gums;

(ii) make preliminary instrumental examination of patients' teeth;

(iii) expose dental radiographs;

(iv) assess dental hygiene status and collaborate with the supervising dentist regarding a dental hygiene treatment plan for a patient;

(v) remove deposits, accumulations, calculus, and concretions from the surfaces of human teeth;

(vi) remove toxins and debris from subgingival surfaces;

(vii) provide dental hygiene care in accordance with a dentist's treatment plan for a patient;

(viii) take impressions of teeth or jaws except for impressions or registrations to supply artificial teeth as substitutes for natural teeth; or

(ix) engage in other practices of dental hygiene as defined by division rule;

(b) under the indirect supervision of a dentist to administer in accordance with standards and ethics of the professions of dentistry and dental hygiene:

(i) local anesthesia; or

(ii) nitrous oxide analgesia;

(c) to represent oneself by any title, degree, or in any other way as being a dental hygienist; or

(d) to direct a dental assistant when the supervising dentist is not on the premises.

(7) (8) "Practice of dentistry" means the following, regarding humans:

(a) to offer, undertake, or represent that a person will undertake by any means or method, including teledentistry, to:

(i) examine, evaluate, diagnose, treat, operate, or prescribe therapy for any disease, pain, injury, deficiency, deformity, or any other condition of the human teeth, alveolar process, gums, jaws, or adjacent hard and soft tissues and structures in the maxillofacial region;

(ii) take an appropriate history and physical consistent with the level of professional service to be provided and the available resources in the facility in which the service is to be provided;

(iii) take impressions or registrations;

(iv) supply artificial teeth as substitutes for natural teeth;

(v) remove deposits, accumulations, calculus, and concretions from the surfaces of teeth; and

(vi) correct or attempt to correct malposition of teeth;

(b) to administer anesthetics necessary or proper in the practice of dentistry only as allowed by an anesthesia permit obtained from the division;

(c) to administer and prescribe drugs related to and appropriate in the practice of dentistry;

(d) to supervise the practice of a dental hygienist or dental assistant as established by division rule made in collaboration with the board; or

(e) to represent oneself by any title, degree, or in any other way that one is a dentist.

~~[(8)]~~ (9) "Public health setting" means:

(a) an individual's residence, if the individual is unable to leave the residence;

(b) a school, as part of a school-based program;

(c) a nursing home;

(d) an assisted living or long-term care facility;

(e) a community health center;

(f) a federally-qualified health center; or

(g) a mobile dental health program that employs a dentist who is licensed under this chapter.

~~[(9)]~~ (10) "Supervising dentist" means a licensed dentist who has agreed to provide supervision of a dental hygienist or unlicensed individual in accordance with the provisions of this chapter.

(11) "Synchronous technology" means two-way audiovisual technology that allows a licensed dental professional to see and communicate in real time with a patient who is located in a different physical location.

(12) "Teledentistry" means the practice of dentistry using synchronous or asynchronous technology.

~~[(10)]~~ (13) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-69-501.

~~[(11)]~~ (14) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-69-502 and as may be further defined by rule.

**Section 2. Section 58-69-301 is amended to read:**

**58-69-301. License required -- License classifications -- Anesthesia and analgesia permits.**

(1) A license is required to engage in the practice of dentistry, including teledentistry, or dental hygiene except as specifically provided in Section 58-69-306 or 58-1-307.

(2) The division shall issue to individuals qualified under the provisions of this chapter a license in the classification:

(a) dentist; or

(b) dental hygienist.

(3) A permit is required to engage in administration of anesthesia or analgesia in the practice of dentistry or dental hygiene.

(4) The division in collaboration with the board shall establish by rule:

(a) the classifications of anesthesia and analgesia permits and the scope of practice permitted under each permit; and

(b) the qualifications for each classification of anesthesia and analgesia permit.

**Section 3. Section 58-69-802 is amended to read:**

**58-69-802. Practice within limits of law, education, training, experience, and competency -- Standard of care.**

(1) Each individual licensed under this chapter shall confine his practice to those acts or practices:

~~[(1)]~~ (a) permitted by law; and

~~[(2)]~~ (b) in which the individual is competent by education, training, and experience.

(2) (a) The standard of dental care a licensed dental professional provides through teledentistry is the same as the standard of dental care a licensed dental professional provides in a traditional physical setting.

(b) (i) A treating dentist may use teledentistry to collaborate with a dental hygienist within the relevant applicable scopes of practice and under the appropriate level of dentist supervision, in accordance with existing supervision laws.

(ii) A dental hygienist, other dental auxiliary, or any other teledentistry provider may not carry out any duties through teledentistry that require the in-person supervision of a dentist licensed under this chapter.

(c) A dentist may not conduct a dental examination using teledentistry if the standard of

care necessitates a traditional physical dental examination.

**Section 4. Section 58-69-807 is enacted to read:**

**58-69-807. Use of teledentistry -- Informed consent -- Rulemaking.**

(1) A dentist may provide dental services using teledentistry, including the following:

(a) collaborating with a licensed dental professional in the completion of the following at a public health setting, generally with a written collaborative agreement, directly, or indirectly, in accordance with this chapter:

(i) gathering diagnostic information to be used by the dentist at a remote location to form a tentative basic treatment plan and provide appropriate preventive or urgent prescriptions;

(ii) perform preventive dental procedures;

(iii) provide oral health education; and

(iv) perform any palliative or interim treatment or caries arresting treatment outlined in the dentist's treatment plan and authorized by the dentist, in accordance with this chapter and rules made in accordance with this chapter; and

(b) at a remote location, using records and diagnostic information that a dental hygienist provides to form a tentative treatment plan for basic dental procedures.

(2) A licensed dental professional or any entity employing a licensed dental professional may not require a patient to sign an agreement that limits the patient's ability to file a complaint with the division.

(3) When a licensed dental professional uses teledentistry, the licensed dental professional shall ensure informed consent covers the following additional information:

(a) a description of the types of dental care services provided through teledentistry, including limitations on services;

(b) the name, contact information, licensure, credentials, and qualifications of all dentists and dental hygienists involved in the patient's dental care; and

(c) precautions and protocols for technological failures or emergency situations.

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish requirements and parameters regarding teledentistry to ensure the safe use of teledentistry, including additional provisions for:

(a) transparency, disclosure, and informed consent;

(b) standard of care;

(c) proper documentation;

(d) supervision and scope of practice;

(e) patient complaints; and

(f) protocols for referrals.

**CHAPTER 274****S. B. 137**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**PARTNERSHIPS FOR STUDENT  
 SUCCESS PROGRAM AMENDMENTS**

Chief Sponsor: Ann Millner  
 House Sponsor: Bradley G. Last

**LONG TITLE****General Description:**

This bill requires the State Board of Education to annually evaluate a partnership that receives a grant under the Partnerships for Student Success Program.

**Highlighted Provisions:**

This bill:

- ▶ requires the State Board of Education to annually:
  - evaluate a partnership that receives a grant under the Partnerships for Student Success Program; and
  - prepare a written report of an evaluation and submit the report to the Education Interim Committee.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476  
 53F-5-403, as last amended by Laws of Utah 2019, Chapter 186  
 53F-5-405, as last amended by Laws of Utah 2019, Chapters 186 and 324

**Utah Code Sections Affected by Coordination Clause:**

53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476

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

**Section 1. Section 53E-1-201 is amended to read:****53E-1-201. Reports to and action required of the Education Interim Committee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

~~[(a)]~~ (b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

~~[(b)]~~ (c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

~~[(c)]~~ (d) the report described in Section 53B-1-103 by the State Board of Regents on career and technical education issues and addressing workforce needs;

~~[(d)]~~ (e) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;

~~[(e)]~~ (f) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;

~~[(f)]~~ (g) the reports described in Section 53B-28-401 by the State Board of Regents and the Utah System of Technical Colleges Board of Trustees regarding activities related to campus safety;

~~[(g)]~~ (h) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

~~[(h)]~~ (i) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

~~[(i)]~~ (j) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

~~[(j)]~~ (k) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

~~[(k)]~~ (l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

~~[(l)]~~ (m) the report described in Section 53F-4-407 by the state board on UPSTART; and

~~[(m)]~~ (n) the report described in Section 53F-5-405 by ~~[an independent evaluator]~~ the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income; and].

~~[(n)]~~ the report described in Section 63N-12-208 by the STEM Action Center Board, including the information described in Section 63N-12-213 on the status of the computer science initiative and Section 63N-12-214 on the Computing Partnerships Grants Program.]

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(l) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

**Section 2. Section 53F-5-403 is amended to read:**

**53F-5-403. Matching funds -- Grantee requirements.**

(1) (a) The state board may not award a grant to an eligible partnership unless the eligible

partnership provides matching funds equal to two times the amount of the grant.

(b) The state board shall ensure that at least half of the matching funds provided under Subsection (1)(a) are provided by a local education agency.

(c) Matching funds may include cash or an in-kind contribution.

(2) A partnership that receives a grant under this part shall:

(a) select and contract with a technical assistance provider identified by the state board as described in Section 53F-5-404;

(b) continually assess progress toward reaching shared goals and outcomes;

(c) publish results of the continual assessment described in Subsection (2)(b) on an annual basis; and

(d) regularly report to the state board in accordance with rules established by the state board under Section 53F-5-406[; ~~and~~].

~~[(e) as requested, share information and data with the third party evaluator described in Section 53F-5-405, in accordance with state and federal law.]~~

(3) A partnership that receives a grant under this part may use grant funds only for the following purposes:

(a) to contract with a technical assistance provider identified by the state board as described in Section 53F-5-404; and

(b) to plan or implement a partnership, including:

(i) for project management;

(ii) for planning and adaptation of services and strategies;

(iii) to coordinate services;

(iv) to establish and implement shared measurement practices;

(v) to produce communication materials and conduct outreach activities to build public support;

(vi) to establish data privacy and sharing agreements, in accordance with state and federal law;

(vii) to purchase infrastructure, hardware, and software to collect and store data; or

(viii) to analyze data.

(4) (a) The state board shall establish interventions for a partnership that:

(i) fails to comply with the requirements described in this section; or

(ii) is not making progress toward reaching the shared goals and outcomes established by the partnership as described in Section 53F-5-402.

(b) An intervention under Subsection (4)(a) may include discontinuing or reducing funding.



**Section 3. Section 53F-5-405 is amended to read:**

**53F-5-405. Evaluation -- Reporting.**

(1) ~~[In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the]~~ The state board shall ~~[contract with an independent evaluator to]~~ annually evaluate a partnership that receives a grant under this part.

(2) The evaluation described in Subsection (1) shall:

(a) assess implementation of a partnership, including the extent to which members of a partnership:

(i) share data to align and improve efforts focused on student success; and

(ii) meet regularly and communicate authentically; and

(b) assess the impact of a partnership on student outcomes using appropriate statistical evaluation methods.

~~[(3) In identifying an independent evaluator under Subsection (1), the state board shall identify an evaluator that:]~~

~~[(a) has a credible track record of conducting evaluations as described in Subsection (2); and]~~

~~[(b) is independent of any member of the partnership and does not otherwise have a vested interest in the outcome of the evaluation.]]~~

~~[(4) Beginning in the 2017-18 school year, the state board shall ensure that the independent evaluator:]~~

(3) Beginning in the 2020-21 school year, the state board shall:

(a) ~~[prepares]~~ prepare an annual written report of an evaluation conducted under this section; and

(b) ~~[submits]~~ submit the report in accordance with Section 53E-1-201.

(4) The state board may use up to 6% of money appropriated for the purposes described in this part to pay for administrative costs incurred in implementing the Partnerships for Student Success Grant Program, including costs to conduct the evaluation described in Subsection (1).

**Section 4. Coordinating S.B. 137 with S.B. 72 -- Superseding technical and substantive amendments.**

If this S.B. 137 and S.B. 72, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that the amendments to Section 53E-1-201 in S.B. 137 supersede the amendments to Section 53E-1-201 in S.B. 72, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

**CHAPTER 275****S. B. 138**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**PHARMACY BENEFIT  
MANAGER REVISIONS**

Chief Sponsor: Evan J. Vickers  
 House Sponsor: Steve Eliason

**LONG TITLE****General Description:**

This bill amends provisions relating to pharmacy benefit managers.

**Highlighted Provisions:**

This bill:

- ▶ creates and amends definitions;
- ▶ requires pharmacy benefit managers and insurers to use unique identifiers for plans managed by a Medicaid managed care organization;
- ▶ prohibits a pharmacy benefit manager from prohibiting certain actions by an in-network pharmacy;
- ▶ prohibits a pharmacy benefit manager from charging an insured customer more for use of a pharmacy that offers to mail or deliver a prescription drug to an enrollee;
- ▶ prohibits certain actions by a pharmacy benefit manager, with respect to a 340B entity; and
- ▶ makes technical and corresponding changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

26-18-405, as last amended by Laws of Utah 2016, Chapters 168, 222, and 394

31A-46-102, as enacted by Laws of Utah 2019, Chapter 241

31A-46-302, as renumbered and amended by Laws of Utah 2019, Chapter 241

31A-46-303, as renumbered and amended by Laws of Utah 2019, Chapter 241

**ENACTS:**

31A-46-305, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

31A-46-302, as renumbered and amended by Laws of Utah 2019, Chapter 241

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

**Section 1. Section 26-18-405 is amended to read:****26-18-405. Waivers to maximize replacement of fee-for-service delivery model -- Cost of mandated program changes.**

(1) The department shall develop a waiver program in the Medicaid program to replace the

fee-for-service delivery model with one or more risk-based delivery models.

(2) The waiver program shall:

(a) restructure the program's provider payment provisions to reward health care providers for delivering the most appropriate services at the lowest cost and in ways that, compared to services delivered before implementation of the waiver program, maintain or improve recipient health status;

(b) restructure the program's cost sharing provisions and other incentives to reward recipients for personal efforts to:

(i) maintain or improve their health status; and

(ii) use providers that deliver the most appropriate services at the lowest cost;

(c) identify the evidence-based practices and measures, risk adjustment methodologies, payment systems, funding sources, and other mechanisms necessary to reward providers for delivering the most appropriate services at the lowest cost, including mechanisms that:

(i) pay providers for packages of services delivered over entire episodes of illness rather than for individual services delivered during each patient encounter; and

(ii) reward providers for delivering services that make the most positive contribution to a recipient's health status;

(d) limit total annual per-patient-per-month expenditures for services delivered through fee-for-service arrangements to total annual per-patient-per-month expenditures for services delivered through risk-based arrangements covering similar recipient populations and services; and

(e) except as provided in Subsection (4), limit the rate of growth in per-patient-per-month General Fund expenditures for the program to the rate of growth in General Fund expenditures for all other programs, when the rate of growth in the General Fund expenditures for all other programs is greater than zero.

(3) To the extent possible, the department shall operate the waiver program with the input of stakeholder groups representing those who will be affected by the waiver program.

(4) (a) For purposes of this Subsection (4), "mandated program change" shall be determined by the department in consultation with the Medicaid accountable care organizations, and may include a change to the state Medicaid program that is required by state or federal law, state or federal guidance, policy, or the state Medicaid plan.

(b) A mandated program change shall be included in the base budget for the Medicaid program for the fiscal year in which the Medicaid program adopted the mandated program change.

(c) The mandated program change is not subject to the limit on the rate of growth in

per-patient-per-month General Fund expenditures for the program established in Subsection (2)(e), until the fiscal year following the fiscal year in which the Medicaid program adopted the mandated program change.

(5) A managed care organization or a pharmacy benefit manager that provides a pharmacy benefit to an enrollee shall establish a unique group number, payment classification number, or bank identification number for each Medicaid managed care organization plan for which the managed care organization or pharmacy benefit manager provides a pharmacy benefit.

**Section 2. Section 31A-46-102 is amended to read:**

**31A-46-102. Definitions.**

As used in this chapter:

(1) “340B drug” means a drug purchased through the 340B drug discount program by a 340B entity.

(2) “340B drug discount program” means the 340B drug discount program described in 42 U.S.C. Sec. 256b.

(3) “340B entity” means:

(a) an entity participating in the 340B drug discount program;

(b) a pharmacy of an entity participating in the 340B drug discount program; or

(c) a pharmacy contracting with an entity participating in the 340B drug discount program to dispense drugs purchased through the 340B drug discount program.

~~(1)~~ (4) “Administrative fee” means any payment, other than a rebate, that a pharmaceutical manufacturer makes directly or indirectly to a pharmacy benefit manager.

(5) “Allowable claim amount” means the amount paid by an insurer under the customer’s health benefit plan.

~~(2)~~ (6) “Contracting insurer” means an insurer [as defined in Section 31A-22-636] with whom a pharmacy benefit manager contracts to provide a pharmacy benefit management service.

(7) “Cost share” means the amount paid by an insured customer under the customer’s health benefit plan.

(8) “Direct or indirect remuneration” means any adjustment in the total compensation:

(a) received by a pharmacy from a pharmacy benefit manager for the sale of a drug, device, or other product or service; and

(b) that is determined after the sale of the product or service.

(9) “Drug” means the same as that term is defined in Section 58-17b-102.

(10) “Insurer” means the same as that term is defined in Section 31A-22-636.

(11) “Maximum allowable cost” means:

(a) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or

(b) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.

(12) “Medicaid program” means the same as that term is defined in Section 26-18-2.

(13) “Obsolete” means a product that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.

~~(3)~~ (14) “Pharmacist” means the same as that term is defined in Section 58-17b-102.

~~(4)~~ (15) “Pharmacy” means the same as that term is defined in Section 58-17b-102.

~~(5)~~ (16) “Pharmacy benefits management service” means any of the following services provided to a health benefit plan, or to a participant of a health benefit plan:

(a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or

(b) administering or managing a prescription drug benefit provided by the health benefit plan for the benefit of a participant of the health benefit plan, including administering or managing:

(i) [a] an out-of-state mail service pharmacy;

(ii) a specialty pharmacy;

(iii) claims processing;

(iv) payment of a claim;

(v) retail network management;

(vi) clinical formulary development;

(vii) clinical formulary management services;

(viii) rebate contracting;

(ix) rebate administration;

(x) a participant compliance program;

(xi) a therapeutic intervention program;

(xii) a disease management program; or

(xiii) a service that is similar to, or related to, a service described in Subsection ~~(5)~~ (16)(a) or ~~(5)~~ (16)(b)(i) through (xii).

~~(6)~~ (17) “Pharmacy benefit manager” means a person licensed under this chapter to provide a pharmacy benefits management service.

~~(7)~~ (18) “Pharmacy service” means a product, good, or service provided to an individual by a pharmacy or pharmacist.

(19) “Pharmacy services administration organization” means an entity that contracts with a

pharmacy to assist with third-party payer interactions and administrative services related to third-party payer interactions, including:

(a) contracting with a pharmacy benefit manager on behalf of the pharmacy; and

(b) managing a pharmacy's claims payments from third-party payers.

(20) "Pharmacy service entity" means:

(a) a pharmacy services administration organization; or

(b) a pharmacy benefit manager.

(21) "Prescription device" means the same as that term is defined in Section 58-17b-102.

~~[(8)]~~ (22) (a) "Rebate" means a refund, discount, or other price concession that is paid by a pharmaceutical manufacturer to a pharmacy benefit manager based on a prescription drug's utilization or effectiveness.

(b) "Rebate" does not include an administrative fee.

(23) (a) "Reimbursement report" means a report on the adjustment in total compensation for a claim.

(b) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.

(24) "Sale" means a prescription drug or prescription device claim covered by a health benefit plan.

### Section 3. Section 31A-46-302 is amended to read:

#### **31A-46-302. Direct or indirect remuneration by pharmacy benefit managers -- Disclosure of customer costs -- Limit on customer payment for prescription drugs.**

~~[(1) As used in this section:]~~

~~[(a) "Allowable claim amount" means the amount paid by an insurer under the customer's health benefit plan.]~~

~~[(b) "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.]~~

~~[(c) "Direct or indirect remuneration" means any adjustment in the total compensation:]~~

~~[(i) received by a pharmacy from a pharmacy benefit manager for the sale of a drug, device, or other product or service; and]~~

~~[(ii) that is determined after the sale of the product or service.]~~

~~[(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.]~~

~~[(e) "Pharmacy reimbursement" means the amount paid to a pharmacy by a pharmacy benefit manager for a dispensed prescription drug.]~~

~~[(f) "Pharmacy services administration organization" means an entity that contracts with a pharmacy to assist with third-party payer interactions and administrative services related to third-party payer interactions, including:]~~

~~[(i) contracting with a pharmacy benefit manager on behalf of the pharmacy; and]~~

~~[(ii) managing a pharmacy's claims payments from third-party payers.]~~

~~[(g) "Pharmacy service entity" means:]~~

~~[(i) a pharmacy services administration organization; or]~~

~~[(ii) a pharmacy benefit manager.]~~

~~[(h) (i) "Reimbursement report" means a report on the adjustment in total compensation for a claim.]~~

~~[(ii) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.]~~

~~[(i) "Sale" means a prescription drug claim covered by a health benefit plan.]~~

~~[(2)]~~ (1) If a pharmacy service entity engages in direct or indirect remuneration with a pharmacy, the pharmacy service entity shall make a reimbursement report available to the pharmacy upon the pharmacy's request.

~~[(3)]~~ (2) For the reimbursement report described in Subsection ~~[(2)]~~ (1), the pharmacy service entity shall:

(a) include the adjusted compensation amount related to a claim and the reason for the adjusted compensation; and

(b) provide the reimbursement report:

(i) in accordance with the contract between the pharmacy and the pharmacy service entity;

(ii) in an electronic format that is easily accessible; and

(iii) within 120 days after the day on which the pharmacy benefit manager receives a report of a sale of a product or service by the pharmacy.

~~[(4)]~~ (3) A pharmacy service entity shall, upon a pharmacy's request, provide the pharmacy with:

(a) the reasons for any adjustments contained in a reimbursement report; and

(b) an explanation of the reasons provided in Subsection ~~[(4)]~~ (3)(a).

~~[(5)]~~ (4) (a) A pharmacy benefit manager may not prohibit or penalize the disclosure by a pharmacist of:

(i) an insured customer's cost share for a covered prescription drug;

(ii) the availability of any therapeutically equivalent alternative medications; or

(iii) alternative methods of paying for the prescription medication, including paying the cash

price, that are less expensive than the cost share of the prescription drug.

(b) Penalties that are prohibited under Subsection [(5)] (4)(a) include increased utilization review, reduced payments, and other financial disincentives.

[(6)] (5) A pharmacy benefit manager may not require an insured customer to pay, for a covered prescription drug, more than the lesser of:

(a) the applicable cost share of the prescription drug being dispensed;

(b) the applicable allowable claim amount of the prescription drug being dispensed;

(c) the applicable pharmacy reimbursement of the prescription drug being dispensed; or

(d) the retail price of the drug without prescription drug coverage.

(6) A pharmacy benefit manager or an insurer may not, directly or indirectly:

(a) prohibit an in-network retail pharmacy from:

(i) mailing or delivering a prescription drug to an enrollee as a service of the in-network retail pharmacy;

(ii) charging a shipping or handling fee to an enrollee who requests that the in-network retail pharmacy mail or deliver a prescription drug to the enrollee; or

(iii) offering the services described in Subsection (6)(a)(i) to an enrollee; or

(b) charge an enrollee who uses an in-network retail pharmacy that offers to mail or deliver a prescription drug to an enrollee a fee or copayment that is higher than the fee or copayment the enrollee would pay if the enrollee used an in-network retail pharmacy that does not offer to mail or deliver a prescription drug to an enrollee.

**Section 4. Section 31A-46-303 is amended to read:**

**31A-46-303. Insurer and pharmacy benefit management services -- Registration -- Maximum allowable cost -- Audit restrictions.**

[(1) As used in this section:]

[(a) "Maximum allowable cost" means:]

[(i) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or]

[(ii) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.]

[(b) "Obsolete" means a product that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.]

[(c) "Pharmacy benefit manager" means a person or entity that provides pharmacy benefit

management services as defined in Section 49-20-502 on behalf of an insurer as defined in Subsection 31A-22-636(1).]

[(2)] (1) An insurer and an insurer's pharmacy benefit manager is subject to the pharmacy audit provisions of Section 58-17b-622.

[(3)] (2) A pharmacy benefit manager shall not use maximum allowable cost as a basis for reimbursement to a pharmacy unless:

(a) the drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's approved drug products with therapeutic equivalent evaluations, also known as the "Orange Book," or has an "NR" or "NA" rating or similar rating by a nationally recognized reference; and

(b) the drug is:

(i) generally available for purchase in this state from a national or regional wholesaler; and

(ii) not obsolete.

[(4)] (3) The maximum allowable cost may be determined using comparable and current data on drug prices obtained from multiple nationally recognized, comprehensive data sources, including wholesalers, drug file vendors, and pharmaceutical manufacturers for drugs that are available for purchase by pharmacies in the state.

[(5)] (4) For every drug for which the pharmacy benefit manager uses maximum allowable cost to reimburse a contracted pharmacy, the pharmacy benefit manager shall:

(a) include in the contract with the pharmacy information identifying the national drug pricing compendia and other data sources used to obtain the drug price data;

(b) review and make necessary adjustments to the maximum allowable cost, using the most recent data sources identified in Subsection [(5)] (4)(a), at least once per week;

(c) provide a process for the contracted pharmacy to appeal the maximum allowable cost in accordance with Subsection [(6)] (5); and

(d) include in each contract with a contracted pharmacy a process to obtain an update to the pharmacy product pricing files used to reimburse the pharmacy in a format that is readily available and accessible.

[(6)] (5) (a) The right to appeal in Subsection [(5)] (4)(c) shall be:

(i) limited to 21 days following the initial claim adjudication; and

(ii) investigated and resolved by the pharmacy benefit manager within 14 business days.

(b) If an appeal is denied, the pharmacy benefit manager shall provide the contracted pharmacy with the reason for the denial and the identification of the national drug code of the drug that may be purchased by the pharmacy at a price at or below the price determined by the pharmacy benefit manager.

[~~(7)~~] (6) The contract with each pharmacy shall contain a dispute resolution mechanism in the event either party breaches the terms or conditions of the contract.

[~~(8)~~] (7) This section does not apply to a pharmacy benefit manager when the pharmacy benefit manager is providing pharmacy benefit management services on behalf of the [state] Medicaid program.

**Section 5. Section 31A-46-305 is enacted to read:**

**31A-46-305. Reimbursement -- Prohibitions.**

(1) This section applies to a contract entered into or renewed on or after January 1, 2021, between a pharmacy benefit manager and a pharmacy.

(2) A pharmacy benefit manager may not vary the amount it reimburses a pharmacy for a drug on the basis of whether:

- (a) the drug is a 340B drug; or
- (b) the pharmacy is a 340B entity.

(3) Subsection (2) does not apply to a drug reimbursed, directly or indirectly, by the Medicaid program.

(4) A pharmacy benefit manager may not:

(a) on the basis that a 340B entity participates, directly or indirectly, in the 340B drug discount program:

(i) assess a fee, charge-back, or other adjustment on the 340B entity;

(ii) restrict access to the pharmacy benefit manager's pharmacy network;

(iii) require the 340B entity to enter into a contract with a specific pharmacy to participate in the pharmacy benefit manager's pharmacy network;

(iv) create a restriction or an additional charge on a patient who chooses to receive drugs from a 340B entity; or

(v) create any additional requirements or restrictions on the 340B entity; or

(b) require a claim for a drug to include a modifier to indicate that the drug is a 340B drug unless the claim is for payment, directly or indirectly, by the Medicaid program.

**Section 6. Coordinating S.B. 138 with H.B. 272 -- Omitting substantive changes.**

If this S.B. 138 and H.B. 272, Pharmacy Benefit Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enact Subsection 31A-46-302(6) in S.B. 138.

**CHAPTER 276****S. B. 142**

Passed March 4, 2020

Approved March 28, 2020

Effective May 12, 2020

**DELIVERY DRIVER AGE REQUIREMENTS**

Chief Sponsor: Lincoln Fillmore

House Sponsor: Mike Winder

**LONG TITLE****General Description:**

This bill amends driver requirements for a transportation network driver.

**Highlighted Provisions:**

This bill:

- ▶ amends driver requirements for a transportation network driver.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

13-51-107, as last amended by Laws of Utah 2017, Chapter 406

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

**Section 1. Section 13-51-107 is amended to read:****13-51-107. Driver requirements.**

(1) Before a transportation network company allows an individual to use the transportation network company's software application as a transportation network driver, the transportation network company shall:

(a) require the individual to submit to the transportation network company:

- (i) the individual's name, address, and age;
- (ii) a copy of the individual's driver license, including the driver license number; and
- (iii) proof that the vehicle that the individual will use to provide transportation network services is registered with the Division of Motor Vehicles;

(b) require the individual to consent to a criminal background check of the individual by the transportation network company or the transportation network company's designee; and

(c) obtain and review a report that lists the individual's driving history.

(2) A transportation company may not allow an individual to provide transportation network services as a transportation network driver if the individual:

(a) has committed more than three moving violations in the three years before the day on which

the individual applies to become a transportation network driver;

(b) has been convicted, in the seven years before the day on which the individual applies to become a transportation network driver, of:

- (i) driving under the influence of alcohol or drugs;
- (ii) fraud;
- (iii) a sexual offense;
- (iv) a felony involving a motor vehicle;
- (v) a crime involving property damage;
- (vi) a crime involving theft;
- (vii) a crime of violence; or
- (viii) an act of terror;

(c) is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(d) does not have a valid Utah driver license; or

(e) is not at least [19] 18 years of age.

(3) A transportation network company shall prohibit a transportation network driver from accepting a request for a prearranged ride if the motor vehicle that the transportation network driver uses to provide transportation network services fails to comply with:

(a) equipment standards described in Section 41-6a-1601; and

(b) emission requirements adopted by a county under Section 41-6a-1642.

(4) A transportation network driver, while providing transportation network services, shall carry proof, in physical or electronic form, that the transportation network driver is covered by insurance that satisfies the requirements of Section 13-51-108.

## CHAPTER 277

## S. B. 143

Passed March 4, 2020

Approved March 28, 2020

Effective May 12, 2020

## FISCAL IMPACT OF INITIATIVES

Chief Sponsor: Deidre M. Henderson  
House Sponsor: Brady Brammer

## LONG TITLE

## General Description:

This bill amends provisions relating to estimating the fiscal impact of an initiative.

## Highlighted Provisions:

This bill:

- ▶ modifies the length, form, and content of a fiscal impact statement for an initiative;
- ▶ provides that a fiscal impact statement is based on the time periods that are most useful in understanding the estimated fiscal impact of a proposed law; and
- ▶ makes technical and conforming changes.

## Monies Appropriated in this Bill:

None

## Other Special Clauses:

None

## Utah Code Sections Affected:

## AMENDS:

- 20A-7-202.5, as last amended by Laws of Utah 2019, Chapters 255 and 275  
20A-7-203, as last amended by Laws of Utah 2019, Chapters 210 and 275  
20A-7-703, as last amended by Laws of Utah 2012, Chapter 334

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

**Section 1. Section 20A-7-202.5 is amended to read:**

**20A-7-202.5. Initial fiscal impact estimate -- Preparation of estimate -- Challenge to estimate.**

(1) Within three working days after the day on which the lieutenant governor receives an application for an initiative petition, the lieutenant governor shall submit a copy of the application to the Office of the Legislative Fiscal Analyst.

(2) (a) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith initial fiscal impact estimate [of the fiscal impact] of the law proposed by the initiative, not exceeding 100 words plus 100 words per revenue source created or impacted by the proposed law, that contains:

(i) a [dollar amount representing] description of the total estimated fiscal impact of the proposed law over the time period or time periods determined by the Office of the Legislative Fiscal Analyst to be most useful in understanding the estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase [or] taxes, decrease taxes, or impose a new tax, a dollar

amount representing the total estimated increase or decrease for each type of tax affected under the proposed law, a dollar amount showing the estimated amount of a new tax, and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase [taxes] a particular tax or tax rate, the tax percentage difference and the tax percentage increase for each tax or tax rate increased;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

~~[(v) a listing of all sources of funding for the estimated costs associated with the proposed law showing each source of funding and the percentage of total funding provided from each source;]~~

~~[(vi) a dollar amount representing the estimated costs or savings, if any, to state and local government entities under the proposed law;]~~

~~[(vii) a concise explanation, not exceeding 100 words, of the above information and of the estimated fiscal impact, if any, under the proposed law; and]~~

(v) a dollar amount representing the estimated cost or savings, if any, to state or local government entities under the proposed law;

(vi) if the proposed law would increase costs to state government, a listing of all sources of funding for the estimated costs; and

~~[(viii)]~~ (vii) a concise description and analysis titled "Funding Source," not to exceed [50] 100 words for each funding source, of the funding source information described in Subsection 20A-7-202(2)(d)(ii).

(b) [(4)] If the proposed law is estimated to have no fiscal impact, the Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

~~[(ii) If the proposed law is estimated to have a fiscal impact, the Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact estimate in substantially the following form:]~~

~~["The Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative would result in a total fiscal expense/savings of \$\_\_\_\_\_, which includes a (type of tax or taxes) tax increase/decrease of \$\_\_\_\_\_ and a \$\_\_\_\_\_ increase/decrease in state debt."]~~

~~[(iii) If the estimated fiscal impact of the proposed law is highly variable or is otherwise difficult to~~



reasonably express in a summary statement, the Office of the Legislative Fiscal Analyst may include in the summary statement a brief explanation that identifies those factors affecting the variability or difficulty of the estimate.]

[~~(iv) If the proposed law imposes a tax increase, the Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact estimate in substantially the following form:~~]

[~~"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."~~]

(3) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith estimate of the cost of printing and distributing information related to the initiative petition in:

(a) the voter information pamphlet as required by Chapter 7, Part 7, Voter Information Pamphlet; or

(b) the newspaper, as required by Section 20A-7-702.

(4) Within 25 calendar days after the day on which the lieutenant governor delivers a copy of the application, the Office of the Legislative Fiscal Analyst shall:

(a) deliver a copy of the initial fiscal impact estimate to the lieutenant governor's office; and

(b) mail a copy of the initial fiscal impact estimate to the first five sponsors named in the initiative application.

(5) (a) (i) Three or more of the sponsors of the petition may, within 20 calendar days after the day on which the [~~Governor's Office of Management and Budget~~] Office of the Legislative Fiscal Analyst delivers the initial fiscal impact estimate to the lieutenant governor's office, file a petition with the appropriate court, alleging that the initial fiscal impact estimate, taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the petition to:

(A) any person or group that has filed an argument with the lieutenant governor's office for or against the measure that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the initial fiscal impact estimate prepared by the Office of the Legislative Fiscal Analyst is based upon reasonable assumptions, uses reasonable data, and applies

accepted analytical methods to present the estimated fiscal impact of the initiative.

(ii) The court may not revise the contents of, or direct the revision of, the initial fiscal impact estimate unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the initial fiscal estimate, taken as a whole, is an inaccurate statement of the estimated fiscal impact of the initiative.

(iii) The court may refer an issue related to the initial fiscal impact estimate to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The court shall certify to the lieutenant governor a fiscal impact estimate for the measure that meets the requirements of this section.

**Section 2. Section 20A-7-203 is amended to read:**

**20A-7-203. Form of initiative petition and signature sheets.**

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable \_\_\_\_, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on \_\_\_\_\_ (month \ day \ year);

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.

**NOTICE TO SIGNERS:**

Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)"

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (1)(a):

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(c) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line, in at least 14–point, bold type;

(d) be vertically divided into columns as follows:

(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be .25 inch wide, and be headed, together with the second column, “For Office Use Only”;

(ii) the second column shall be .25 inch wide;

(iii) the third column shall be 2.5 inches wide, headed “Registered Voter’s Printed Name (must be legible to be counted)”;

(iv) the fourth column shall be 2.5 inches wide, headed “Signature of Registered Voter”;

(v) the fifth column shall be .75 inch wide, headed “Date Signed”;

(vi) the sixth column shall be three inches wide, headed “Street Address, City, Zip Code”; and

(vii) the seventh column shall be .75 inch wide, headed “Birth Date or Age (Optional)”;

(e) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(d), shall be .5 inch high;

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than 12–point type:

“By signing this petition, you are stating that you have read and understand the law proposed by this petition.”; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(f); and

(f) at the bottom of the sheet, contain in the following order:

(i) the title of the initiative, in at least 14–point, bold type;

(ii) except as provided in Subsection (4), the initial fiscal impact estimate’s summary statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A–7–202.5(2)(b)(a), including any update in accordance with Subsection 20A–7–204.1(5), and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A–7–202.5(3), in not less than 12–point, bold type;

(iii) the word “Warning,” followed by the following statement in not less than eight–point type:

“It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual’s own name, or to knowingly sign the individual’s name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does

not intend to become registered to vote before the certification of the petition names by the county clerk.”;

(iv) the following statement: “Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records.”; and

(v) if the initiative petition proposes a tax increase, spanning the bottom of the sheet, horizontally, in not less than 14–point, bold type, the following statement:

“This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(3) The final page of each initiative packet shall contain the following printed or typed statement:

“Verification

State of Utah, County of \_\_\_\_\_

I, \_\_\_\_\_, of \_\_\_\_\_, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual’s name on it in my presence;

I believe that each individual has printed and signed the individual’s name and written the individual’s post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Each individual who signed the packet wrote the correct date of signature next to the individual’s name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

\_\_\_\_\_  
(Name) (Residence Address) (Date)”

(4) If the initial fiscal impact estimate described in Subsection (2)(f), as updated in accordance with Subsection 20A–7–204.1(5), exceeds 200 words, the Office of the Legislative Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on a signature sheet, that does not exceed 200 words.

[4] (5) If the forms described in this section are substantially followed, the initiative petitions are

sufficient, notwithstanding clerical and merely technical errors.

[his] the director's analysis, that department, agency, or official shall assist the director.

**Section 3. Section 20A-7-703 is amended to read:**

**20A-7-703. Impartial analysis of measure -- Determination of fiscal effects.**

(1) The director of the Office of Legislative Research and General Counsel, after the approval of the legislative general counsel as to legal sufficiency, shall:

(a) prepare an impartial analysis of each measure submitted to the voters by the Legislature or by initiative or referendum petition; and

(b) submit the impartial analysis to the lieutenant governor no later than the day that falls 90 days before the date of the election in which the measure will appear on the ballot.

(2) The director shall ensure that the impartial analysis:

(a) is not more than 1,000 words long;

(b) is prepared in clear and concise language that will easily be understood by the average voter;

(c) avoids the use of technical terms as much as possible;

(d) shows the effect of the measure on existing law;

(e) identifies any potential conflicts with the United States or Utah Constitutions raised by the measure;

(f) fairly describes the operation of the measure;

(g) identifies the measure's fiscal effects ~~[for the first full year of implementation and the first year when the last provisions to be implemented are fully effective]~~ over the time period or time periods determined by the director to be most useful in understanding the estimated fiscal impact of the proposed law; and

(h) identifies the amount of any increase or decrease in revenue or cost to state or local government.

(3) The director shall analyze the measure as it is proposed to be adopted without considering any implementing legislation, unless the implementing legislation has been enacted and will become effective upon the adoption of the measure by the voters.

(4) (a) In determining the fiscal effects of a measure, the director shall confer with the legislative fiscal analyst.

(b) The director shall consider any measure that requires implementing legislation in order to take effect to have no financial effect, unless implementing legislation has been enacted that will become effective upon adoption of the measure by the voters.

(5) If the director requests the assistance of any state department, agency, or official in preparing

**CHAPTER 278****S. B. 144**

Passed March 5, 2020

Approved March 28, 2020

Effective May 12, 2020

**WATER RELATED  
PROCESS AMENDMENTS**Chief Sponsor: Ralph Okerlund  
House Sponsor: Keven J. Stratton**LONG TITLE****General Description:**

This bill addresses processes related to water rights and interference claims.

**Highlighted Provisions:**

This bill:

- ▶ provides for the effect of the filing of a proof;
- ▶ addresses certificates of appropriation;
- ▶ establishes that filing a protest or judicial review action is not required to bring a judicial interference claim; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

73-3-16, as last amended by Laws of Utah 2013, Chapter 221

73-3-17, as last amended by Laws of Utah 2011, Chapter 128

**ENACTS:**

73-3-32, Utah Code Annotated 1953

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

**Section 1. Section 73-3-16 is amended to read:****73-3-16. Proof of appropriation or permanent change -- Notice -- Manner of proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement in lieu of proof of appropriation or change.**

(1) Sixty days before the date set for the proof of appropriation or proof of change to be made, the state engineer shall notify the applicant by mail when proof of completion of the works and application of the water to a beneficial use is due.

(2) (a) On or before the date set for completing the proof in accordance with the approved application, the applicant shall file proof with the state engineer on forms furnished by the state engineer.

(b) The filing of a proof in accordance with this section is a request for agency action under Title 63G, Chapter 4, Administrative Procedures Act, only between the applicant and the state engineer.

(3) Except as provided in Subsection (4), the applicant shall submit the following information:

- (a) a description of the works constructed;
- (b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;
- (c) the method of applying the water to beneficial use; and
- (d) (i) detailed measurements of water put to beneficial use;
- (ii) the date the measurements were made; and
- (iii) the name of the person making the measurements.

(4) (a) (i) On applications filed for appropriation or permanent change of use of water to provide a water supply for state projects constructed pursuant to [Title 73,] Chapter 10, Board of Water Resources - Division of Water Resources, or for federal projects constructed by the United States Bureau of Reclamation for the use and benefit of the state, any of its agencies, its political subdivisions, public and quasi-municipal corporations, or water users' associations of which the state, its agencies, political subdivisions, or public and quasi-municipal corporations are stockholders, the proof shall include:

(A) a statement indicating construction of the project works has been completed;

(B) a description of the major features with appropriate maps, profiles, drawings, and reservoir area-capacity curves;

(C) a description of the point or points of diversion and redirection;

(D) project operation data;

(E) a map showing the place of use of water and a statement of the purpose and method of use;

(F) the project plan for beneficial use of water under the applications and the quantity of water required; and

(G) a statement indicating what type of measuring devices have been installed.

(ii) The director of the Division of Water Resources shall sign proofs for the state projects and an authorized official of the Bureau of Reclamation shall sign proofs for the federal projects specified in Subsection (4)(a).

(b) Proof on an application for appropriation or permanent change for a surface storage facility in excess of 1,000 acre-feet constructed by a public water supplier to provide a water supply for the reasonable requirements of the public shall include:

(i) a description of the completed water storage facility;

(ii) a description of the major project features and appropriate maps, profiles, drawings, and reservoir area-capacity curves as required by the state engineer;

(iii) the quantity of water stored in acre-feet;

(iv) a description of the water distribution facility for the delivery of the water; and

(v) the project plan for beneficial use of water including any existing contracts for water delivery.

(5) The proof on ~~[all applications]~~ an application shall be sworn to by the applicant or the applicant's appointed representative.

(6) (a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall submit maps, profiles, and drawings made by a Utah licensed land surveyor or Utah licensed professional engineer that show:

- (i) the location of the completed works;
- (ii) the nature and extent of the completed works;
- (iii) the natural stream or source from which and the point where the water is diverted and, in the case of a nonconsumptive use, the point where the water is returned; and
- (iv) the place of use.

(b) The state engineer may waive the filing of maps, profiles, and drawings if in the state engineer's opinion the written proof adequately describes the works and the nature and extent of beneficial use.

(7) In those areas in which general determination proceedings are pending, or have been concluded, under ~~[Title 73,]~~ Chapter 4, Determination of Water Rights, the state engineer may petition the district court for permission to:

(a) waive the requirements of this section and Section 73-3-17; and

(b) permit each owner of an application to file a verified statement to the effect that the applicant has completed the appropriation or change and elects to file a statement of water users claim in the proposed determination of water rights or any supplement to it in accordance with ~~[Title 73,]~~ Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or proof of change.

(8) This section does not apply to an instream flow water right authorized by Section 73-3-30.

**Section 2. Section 73-3-17 is amended to read:**

**73-3-17. Certificate of appropriation -- Evidence.**

(1) Upon the satisfaction of the state engineer that an appropriation, a permanent change of point of diversion, place or purpose of use, or a fixed time change authorized by Section 73-3-30 has been perfected in accordance with the application, and that the water appropriated or affected by the change has been put to a beneficial use, as required by Section 73-3-16 or 73-3-30, the state engineer shall issue a certificate, in duplicate, setting forth:

(a) the name and post-office address of the person by whom the water is used;

(b) the quantity of water in acre-feet or the flow in second-feet appropriated;

(c) the purpose for which the water is used;

(d) the time during which the water is to be used each year;

(e) the name of the stream or water source:

(i) from which the water is diverted; or

(ii) within which an instream flow is maintained;

(f) the date of the appropriation or change; and

(g) other information that defines the extent and conditions of actual application of the water to a beneficial use.

(2) A certificate issued on an application for one of the following types of projects need show no more than the facts shown in the proof submitted under Section 73-3-16:

(a) a project constructed according to ~~[Title 73,]~~ Chapter 10, Board of Water Resources - Division of Water Resources;

(b) a federal project constructed by the United States Bureau of Reclamation, referred to in Section 73-3-16; and

(c) a surface water storage facility in excess of 1,000 acre-feet constructed by a public water supplier.

(3) A certificate issued under this section does not:

(a) extend the rights described in the application~~[-]~~; or

(b) constitute a determination by the state engineer as to whether the perfected appropriation or change has or may result in interference, impairment, injury, or other harm to another water right.

(4) Failure to file proof of appropriation or proof of change of the water on or before the date set ~~[therefor]~~ for the filing causes the application to lapse.

(5) (a) One copy of a certificate issued under this section shall be filed in the office of the state engineer and the other copy shall be delivered to the appropriator or to the person making the change who may record the certificate in the office of the county recorder of the county in which the water is diverted from the natural stream or source.

(b) The state engineer is not required to deliver a copy of a certificate issued under this section to a person other than the appropriator or the person making the change.

(6) The certificate issued under this section is prima facie evidence of the owner's right to use the water in the quantity, for the purpose, at the place, and during the time specified ~~[therein]~~ in the certificate, subject to prior rights.

**Section 3. Section 73-3-32 is enacted to read:**

**73-3-32. Filing protest or judicial review action not required to bring judicial interference claim.**

The following are not a prerequisite to filing a judicial action for interference, damages,

declaratory, injunctive, or other relief, based on the use of water under an existing water right:

(1) filing a protest to a water right application filed pursuant to this chapter, or to a claim filed under Section 73-5-13; or

(2) participation as a party in a judicial review action challenging the state engineer's action on a water right application filed pursuant to this chapter.

**CHAPTER 279****S. B. 174**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020  
 Exception clause

**ABORTION PROHIBITION AMENDMENTS**

Chief Sponsor: Daniel McCay  
 House Sponsor: Karianne Lisonbee

**LONG TITLE****General Description:**

This bill prohibits a pregnant woman from receiving an abortion, with limited exceptions.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits an abortion at any stage of a pregnant woman's pregnancy, except under certain circumstances;
- ▶ provides penalties for a physician who performs an unlawful abortion; and
- ▶ provides that, upon enactment, the provisions of this bill supercede any conflicting provisions.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a contingent effective date.

**Utah Code Sections Affected:****ENACTS:**

76-7a-101, Utah Code Annotated 1953  
 76-7a-201, Utah Code Annotated 1953  
 76-7a-301, Utah Code Annotated 1953

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

**Section 1. Section 76-7a-101 is enacted to read:****CHAPTER 7a. ABORTION PROHIBITION****76-7a-101. Definitions.**

As used in this chapter:

- (1) (a) "Abortion" means:
- (i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;
  - (ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or
  - (iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

- (i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II abortion clinic licensed by the state.

(3) "Department" means the Department of Health.

(4) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

(5) "Hospital" means:

(a) a general hospital licensed by the department;  
 or

(b) a clinic or other medical facility to the extent the clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to a pregnant woman and an unborn child as would be provided for the particular medical procedure undertaken by a general hospital licensed by the department.

(6) "Incest" means the same as that term is defined in Title 78A, Chapter 6, Juvenile Court Act.

(7) "Medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

(8) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery in the state;

(b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

(c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection (8)(a) or (b).

(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.

(10) (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

**Section 2. Section 76-7a-201 is enacted to read:**

**Part 2. Prohibition**

**76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

(1) An abortion may be performed in this state only under the following circumstances:

(a) the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(b) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus:

(i) has a defect that is uniformly diagnosable and uniformly lethal; or

(ii) has a severe brain abnormality that is uniformly diagnosable; or

(c) (i) the woman is pregnant as a result of:

(A) rape;

(B) rape of a child; or

(C) incest; and

(ii) before the abortion is performed, the physician who performs the abortion:

(A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law enforcement; and

(B) if applicable, complies with requirements related to reporting suspicions of or known child abuse.

(2) An abortion may be performed only:

(a) by a physician; and

(b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

(3) A person who performs an abortion in violation of this section is guilty of a second degree felony.

(4) In addition to the penalty described in Subsection (3), the department may take appropriate corrective action against an abortion clinic, including revoking the abortion clinic's license, if a violation of this chapter occurs at the abortion clinic.

(5) The department shall report a physician's violation of any provision of this section to the state entity that regulates the licensing of a physician.

**Section 3. Section 76-7a-301 is enacted to read:**

**Part 3. Superseding Clause**

**76-7a-301. Superseding clause.**

If, at the time this chapter takes effect, any provision in the Utah Code conflicts with a provision of this chapter, the provision of this chapter supersedes the conflicting provision.

**Section 4. Contingent effective date.**

(1) As used in this section, "a court of binding authority" means:

(a) the United States Supreme Court; or

(b) after the right to appeal has been exhausted:

(i) the United States Court of Appeals for the Tenth Circuit;

(ii) the Utah Supreme Court; or

(iii) the Utah Court of Appeals.

(2) The provisions of this bill take effect on the date that the legislative general counsel certifies to the Legislative Management Committee that a court of binding authority has held that a state may prohibit the abortion of an unborn child at any time during the gestational period, subject to the exceptions enumerated in this bill.



**CHAPTER 280**  
**S. B. 180**

Passed March 9, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**FORECLOSURE SUNSET  
DATES AMENDMENTS**

Chief Sponsor: Wayne A. Harper  
House Sponsor: Jon Hawkins

**LONG TITLE**

**General Description:**

This bill modifies provisions related to foreclosure of residential property.

**Highlighted Provisions:**

This bill:

- ▶ removes references to repealed provisions related to the effect of a residential foreclosure on a tenant; and
- ▶ reinstates references to the federal law that governs certain aspects of a foreclosure of residential property occupied by a tenant.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

- 57-1-25, as last amended by Laws of Utah 2016, Chapter 325
- 78B-6-802, as last amended by Laws of Utah 2016, Chapter 325
- 78B-6-901.5, as last amended by Laws of Utah 2016, Chapter 325

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

**Section 1. Section 57-1-25 is amended to read:**

**57-1-25. Notice of trustee's sale -- Description of property -- Time and place of sale.**

(1) The trustee shall give written notice of the time and place of sale particularly describing the property to be sold:

- (a) by publication of the notice:
  - (i) (A) at least three times;
  - (B) at least once a week for three consecutive weeks;
  - (C) the last publication to be at least 10 days but not more than 30 days before the date the sale is scheduled; and
  - (D) in a newspaper having a general circulation in each county in which the property to be sold, or some part of the property to be sold, is situated; and
- (ii) in accordance with Section 45-1-101 for 30 days before the date the sale is scheduled;

- (b) by posting the notice:

- (i) at least 20 days before the date the sale is scheduled; and
- (ii) (A) in some conspicuous place on the property to be sold; and
- (B) at the office of the county recorder of each county in which the trust property, or some part of it, is located; and
- (c) if the stated purpose of the obligation for which the trust deed was given as security is to finance residential rental property:

(i) by posting the notice, including the statement required under Subsection (3)(b):

(A) on the primary door of each dwelling unit on the property to be sold, if the property to be sold has fewer than nine dwelling units; or

(B) in at least three conspicuous places on the property to be sold, in addition to the posting required under Subsection (1)(b)(ii)(A), if the property to be sold has nine or more dwelling units; or

(ii) by mailing the notice, including the statement required under Subsection (3)(b), to the occupant of each dwelling unit on the property to be sold.

(2) (a) The sale shall be held at the time and place designated in the notice of sale.

(b) The time of sale shall be between the hours of 8 a.m. and 5 p.m.

(c) The place of sale shall be clearly identified in the notice of sale under Subsection (1) and shall be at a courthouse serving the county in which the property to be sold, or some part of the property to be sold, is located.

(3) (a) The notice of sale shall be in substantially the following form:

Notice of Trustee's Sale

The following described property will be sold at public auction to the highest bidder, payable in lawful money of the United States at the time of sale, at (insert location of sale) \_\_\_\_\_ on \_\_\_\_\_(month \ day \ year), at \_\_\_\_m. of said day, for the purpose of foreclosing a trust deed originally executed by \_\_\_\_ (and \_\_\_\_, his wife,) as trustors, in favor of \_\_\_\_, covering real property located at \_\_\_\_, and more particularly described as:

(Insert legal description)

The current beneficiary of the trust deed is \_\_\_\_\_ and the record owners of the property as of the recording of the notice of default are \_\_\_\_\_ and \_\_\_\_\_.

Dated \_\_\_\_\_(month \ day \ year).

\_\_\_\_\_  
Trustee

(b) If the stated purpose of the obligation for which the trust deed was given as security is to finance residential rental property, the notice required under Subsection (1)(c) shall include a statement, in at least 14-point font, substantially as follows:

“Notice to Tenant

As stated in the accompanying Notice of Trustee’s Sale, this property is scheduled to be sold at public auction to the highest bidder unless the default in the obligation secured by this property is cured. If the property is sold, you may be allowed under ~~[Utah Code Section 57-1-25.5]~~ federal law to continue to occupy your rental unit until your rental agreement expires, or until [45] 90 days after the date you are served with a notice to vacate, whichever is later. If your rental or lease agreement expires after the [45] 90-day period, you may need to provide a copy of your rental or lease agreement to the new owner to prove your right to remain on the property longer than [45] 90 days after the sale of the property.

You must continue to pay your rent and comply with other requirements of your rental or lease agreement or you will be subject to eviction for violating your rental or lease agreement.

The new owner or the new owner’s representative will probably contact you after the property is sold with directions about where to pay rent.

The new owner of the property may or may not want to offer to enter into a new rental or lease agreement with you at the expiration of the period described above.”

(4) The failure to provide notice as required under Subsections (1)(c) and (3)(b) or a defect in that notice may not be the basis for challenging or invalidating a trustee’s sale.

(5) A trustee qualified under Subsection 57-1-21(1)(a)(i) or (iv) who exercises a power of sale has a duty to the trustor not to defraud, or conspire or scheme to defraud, the trustor.

**Section 2. Section 78B-6-802 is amended to read:**

**78B-6-802. Unlawful detainer by tenant for a term less than life.**

(1) A tenant holding real property for a term less than life, is guilty of an unlawful detainer if the tenant:

(a) except as provided in Subsection (1)(i), continues in possession, in person or by subtenant, of the property or any part of it, after the expiration of the specified term or period for which it is let to him, which specified term or period, whether established by express or implied contract, or whether written or parol, shall be terminated without notice at the expiration of the specified term or period;

(b) having leased real property for an indefinite time with monthly or other periodic rent reserved and except as provided in Subsection (1)(i):

(i) continues in possession of it in person or by subtenant after the end of any month or period, in cases where the owner, the owner’s designated agent, or any successor in estate of the owner, 15 calendar days or more prior to the end of that month or period, has served notice requiring the tenant to

quit the premises at the expiration of that month or period; or

(ii) in cases of tenancies at will, remains in possession of the premises after the expiration of a notice of not less than five calendar days;

(c) continues in possession, in person or by subtenant, after default in the payment of any rent or other amounts due and after a notice in writing requiring in the alternative the payment of the rent and other amounts due or the surrender of the detained premises, has remained uncomplied with for a period of three calendar days after service, which notice may be served at any time after the rent becomes due;

(d) assigns or sublets the leased premises contrary to the covenants of the lease, or commits or permits waste on the premises after service of a three calendar days’ notice to quit;

(e) sets up or carries on any unlawful business on or in the premises after service of a three calendar days’ notice to quit;

(f) suffers, permits, or maintains on or about the premises any nuisance, including nuisance as defined in Section 78B-6-1107 after service of a three calendar days’ notice to quit;

(g) commits a criminal act on the premises and remains in possession after service of a three calendar days’ notice to quit;

(h) continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, other than those previously mentioned, and after notice in writing requiring in the alternative the performance of the conditions or covenant or the surrender of the property, served upon the tenant and upon any subtenant in actual occupation of the premises remains uncomplied with for three calendar days after service; or

(i) (i) is a ~~[bona fide tenant of a foreclosed rental property, as defined in Section 57-1-25.5 or Section 78B-6-802.7]~~ tenant under a bona fide tenancy as described in Section 702 of the Protecting Tenants at Foreclosure Act; and

(ii) continues in possession after the effective date of a notice to vacate given in accordance with ~~[Subsection 57-1-25.5(3) or Subsection 78B-6-802.7(3)]~~ Section 702 of the Protecting Tenants at Foreclosure Act.

(2) Within three calendar days after the service of the notice, the tenant, any subtenant in actual occupation of the premises, any mortgagee of the term, or other person interested in its continuance may perform the condition or covenant and thereby save the lease from forfeiture, except that if the covenants and conditions of the lease violated by the lessee cannot afterwards be performed, or the violation cannot be brought into compliance, the notice provided for in Subsections (1)(d) through (g) may be given.

(3) Unlawful detainer by an owner resident of a mobile home is determined under Title 57, Chapter 16, Mobile Home Park Residency Act.

(4) The notice provisions for nuisance in Subsections (1)(d) through (g) do not apply to nuisance actions provided in Sections 78B-6-1107 through 78B-6-1114.

**Section 3. Section 78B-6-901.5 is amended to read:**

**78B-6-901.5. Notice to tenant on residential property to be foreclosed.**

(1) As used in this section, “residential rental property” means property on which a mortgage was given to secure an obligation the stated purpose of which is to finance residential rental property.

(2) Within 20 days after filing an action under this part to foreclose property that includes or constitutes residential rental property, the plaintiff in the action shall:

(a) post a notice:

(i) on the primary door of each dwelling unit on the property that is the subject of the foreclosure action, if the property has fewer than nine dwelling units; or

(ii) in at least three conspicuous places on the property that is the subject of the foreclosure action, if the property to be sold has nine or more dwelling units; or

(b) mail a notice to the occupant of each dwelling unit on the property that is the subject of the foreclosure action.

(3) The notice required under Subsection (2) shall:

(a) be in at least 14-point font;

(b) include the name and address of:

(i) the owner of the property;

(ii) the trustor or mortgagor, as the case may be, on the instrument creating a security interest in the property;

(iii) the trustee or mortgagee, as the case may be, on the instrument; and

(iv) the beneficiary, if the instrument is a trust deed;

(c) contain the legal description and address of the property; and

(d) include a statement in substantially the following form:

“Notice to Tenant

An action to foreclose the property described in this notice has been filed. If the foreclosure action is pursued to its conclusion, the described property will be sold at public auction to the highest bidder unless the default in the obligation secured by this property is cured.

If the property is sold, you may be allowed under [~~Utah Code Section 78B-6-802.7~~] federal law to

continue to occupy your rental unit until your rental agreement expires, or until [45] 90 days after the sale of the property at auction, whichever is later. If your rental or lease agreement expires after the [45] 90-day period, you may need to provide a copy of your rental or lease agreement to the new owner to prove your right to remain on the property longer than [45] 90 days after the sale of the property.

You must continue to pay your rent and comply with other requirements of your rental or lease agreement or you will be subject to eviction for violating your rental or lease agreement.

The new owner or the new owner’s representative will probably contact you after the property is sold with directions about where to pay rent.

The new owner of the property may or may not want to offer to enter into a new rental or lease agreement with you at the expiration of the period described above.”

(4) The failure to provide notice as required under this section or a defect in that notice may not be the basis for challenging or defending a foreclosure action or for invalidating a sale of the property pursuant to a foreclosure action.

**CHAPTER 281****S. B. 188**

Passed March 12, 2020

Approved March 28, 2020

Effective May 12, 2020

**PLEA IN ABEYANCE AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Stephanie Pitcher

**LONG TITLE****General Description:**

This bill addresses plea in abeyance agreements.

**Highlighted Provisions:**

This bill:

- ▶ enacts provisions relating to termination of a plea in abeyance agreement based on certain guidelines developed by the Sentencing Commission; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

77-2a-2, as last amended by Laws of Utah 2018, Chapter 30

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 77-2a-2 is amended to read:****77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of agreement -- Waiver of time for sentencing.**

(1) At any time after acceptance of a plea of guilty or no contest but before entry of judgment of conviction and imposition of sentence, the court may, upon motion of both the prosecuting attorney and the defendant, hold the plea in abeyance and not enter judgment of conviction against the defendant nor impose sentence upon the defendant within the time periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

(2) A defendant shall be represented by counsel during negotiations for a plea in abeyance and at the time of acknowledgment and affirmation of any plea in abeyance agreement unless the defendant knowingly and intelligently waives the defendant's right to counsel.

(3) A defendant has the right to be represented by counsel at any court hearing relating to a plea in abeyance agreement.

(4) (a) Any plea in abeyance agreement entered into between the prosecution and the defendant and approved by the court shall include a full, detailed recitation of the requirements and conditions agreed to by the defendant and the reason for requesting the court to hold the plea in abeyance.

(b) If the plea is to a felony or any combination of misdemeanors and felonies, the agreement shall be in writing and shall, before acceptance by the court, be executed by the prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

(5) (a) [A] Except as provided in Subsection (5)(b), a plea may not be held in abeyance for a period longer than 18 months if the plea [was] is to any class of misdemeanor or longer than three years if the plea [was] is to any degree of felony or to any combination of misdemeanors and felonies.

(b) (i) For a plea in abeyance agreement that Adult Probation and Parole supervises, the plea may not be held in abeyance for a period longer than the initial term of probation required under the supervision length guidelines described in Section 63M-7-404, if the initial term of probation is shorter than the period required under Subsection (5)(a).

(ii) Subsection (5)(b)(i) does not:

(A) apply to a plea that is held in abeyance in a drug court created under Title 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

(B) prohibit court supervision of a plea in abeyance agreement after the day on which the Adult Probation and Parole supervision described in Subsection (5)(b)(i) ends and before the day on which the plea in abeyance agreement ends.

(6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a condition that the defendant participate in a problem solving court approved by the Judicial Council.

(7) A plea in abeyance agreement may not be approved unless the defendant, before the court, and any written agreement, knowingly and intelligently waives time for sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure.

**CHAPTER 282****S. B. 192**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective March 28, 2020

**AMENDMENTS RELATING TO  
 THE MILITARY INSTALLATION  
 DEVELOPMENT AUTHORITY**

Chief Sponsor: Jerry W. Stevenson  
 House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill modifies provisions relating to the military installation development authority.

**Highlighted Provisions:**

This bill:

- ▶ modifies the Public Infrastructure District Act to allow the military installation development authority to create a public infrastructure district by adopting a resolution creating the district with the consent of property owners;
- ▶ provides that the number, appointment, and terms of members of the board of a public infrastructure district created by the military installation development authority are governed by the governing document;
- ▶ provides for additional powers of a public infrastructure district created by the military installation development authority;
- ▶ modifies the Assessment Area Act to:
  - allow a public infrastructure district created by the military installation development authority to designate an assessment area; and
  - modify the period for commencing an action to contest an assessment or a proceeding to designate an assessment area, and the period of allowable assessment installments, for an assessment area designated by the military installation development authority or a public infrastructure district created by the authority with the consent of all property owners;
- ▶ modifies an assessment lien foreclosure provision relating to certain assessment areas, including an assessment area created by the military installation development authority or by a public infrastructure district created by the authority;
- ▶ modifies the base year for purposes of determining the base taxable value of property added to a military installation development authority's project area by amendment;
- ▶ modifies the definitions of "military land," "publicly owned infrastructure and improvements," and "taxing entity" for purposes of the Military Installation Development Authority Act;
- ▶ adds a severability provision in the Military Installation Development Authority Act;
- ▶ modifies the powers of the military installation development authority to specify that the authority may:
  - acquire an interest in real property through a subsidiary; and

- by itself or through a subsidiary, provide expertise to another governmental entity interested in public-private partnerships;
- ▶ provides that services provided by the authority for the military are considered to be for the authority's own needs and use;
- ▶ modifies a provision relating to a property exchange for construction of a freeway interchange;
- ▶ specifies that a project area plan adopted by the authority board becomes effective on the date designated by the board;
- ▶ modifies provisions relating to an amendment to a project area plan adopted by the military installation development authority and the adoption of a budget by the authority;
- ▶ authorizes the authority to designate an improved portion of a parcel as a separate parcel for property tax allocation purposes;
- ▶ enacts language relating to the recording of a notice of the payment required of a parcel owner before improvements become subject to property tax and relating to the owner's property tax obligation and provides for the prorating of the obligation upon a transfer of title;
- ▶ enacts a provision relating to the authority assuming jurisdiction over property owned by the Department of Transportation; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 11-42-102, as last amended by Laws of Utah 2019, Chapters 230 and 399
- 11-42-106, as last amended by Laws of Utah 2015, Chapter 396
- 11-42-202, as last amended by Laws of Utah 2018, Chapter 197
- 11-42-411, as last amended by Laws of Utah 2017, Chapter 470
- 11-42-502.1, as last amended by Laws of Utah 2018, Chapter 197
- 17B-2a-1202, as enacted by Laws of Utah 2019, Chapter 490
- 17B-2a-1204, as enacted by Laws of Utah 2019, Chapter 490
- 17B-2a-1205, as enacted by Laws of Utah 2019, Chapter 490
- 17B-2a-1206, as enacted by Laws of Utah 2019, Chapter 490
- 63H-1-102, as last amended by Laws of Utah 2019, Chapter 498
- 63H-1-201, as last amended by Laws of Utah 2017, Chapter 216
- 63H-1-202, as last amended by Laws of Utah 2019, Chapter 498
- 63H-1-206, as enacted by Laws of Utah 2019, Chapter 498
- 63H-1-403, as last amended by Laws of Utah 2019, Chapter 498
- 63H-1-403.5, as enacted by Laws of Utah 2008, Chapter 120
- 63H-1-405, as last amended by Laws of Utah 2015, Chapter 377

63H-1-501, as last amended by Laws of Utah 2019, Chapter 498

63H-1-502, as last amended by Laws of Utah 2018, Chapter 442

**ENACTS:**

63H-1-103, Utah Code Annotated 1953

63H-1-207, Utah Code Annotated 1953

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

**Section 1. Section 11-42-102 is amended to read:**

**11-42-102. Definitions.**

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(i) protests relating to:

(A) property that has been deleted from a proposed assessment area; or

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

(iv) manufacturing;

(v) governmental;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and

- (ii) contains more than four rental units.
- (14) “Connection fee” means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.
- (15) “Contract price” means:
- (a) the cost of acquiring an improvement, if the improvement is acquired; or
- (b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.
- (16) “Designation ordinance” means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.
- (17) “Designation resolution” means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.
- (18) “Economic promotion activities” means activities that promote economic growth in a commercial area of a local entity, including:
- (a) sponsoring festivals and markets;
- (b) promoting business investment or activities;
- (c) helping to coordinate public and private actions; and
- (d) developing and issuing publications designed to improve the economic well-being of the commercial area.
- (19) “Environmental remediation activity” means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.
- (20) “Equivalent residential unit” means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.
- (21) “Governing body” means:
- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for a local district, the board of trustees of the local district;
- (c) for a special service district:
- (i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
- (ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

- (d) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102; and
- (e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.
- (22) “Guaranty fund” means the fund established by a local entity under Section 11-42-701.
- (23) “Improved property” means property upon which a residential, commercial, or other building has been built.
- (24) “Improvement”:
- (a) (i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:
- (A) a local entity is authorized to provide;
- (B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or
- (C) a local entity is requested to provide through an interlocal agreement in accordance with Chapter 13, Interlocal Cooperation Act; and
- (ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:
- (A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (24)(a)(i); and
- (B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or
- (b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.
- (25) “Improvement revenues”:
- (a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and
- (b) does not include revenue from assessments.
- (26) “Incidental refunding costs” means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:
- (a) legal and accounting fees;
- (b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;
- (c) underwriting discount costs, printing costs, the costs of giving notice;
- (d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(27) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(28) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(29) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

(30) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(31) "Local entity" means:

(a) a county, city, town, special service district, or local district;

(b) an interlocal entity as defined in Section 11-13-103;

(c) ~~[a]~~ the military installation development authority, created in Section 63H-1-201;

(d) a public infrastructure district created by the military installation development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act;

~~[(d)]~~ (e) the Utah Inland Port Authority, created in Section 11-58-201; or

~~[(e)]~~ (f) any other political subdivision of the state.

(32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

(33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

(34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date,

less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

(35) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

(36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

(37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(40) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

(41) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

(43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

(44) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

(45) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.



(46) “Refunding assessment bonds” means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

(47) “Reserve fund” means a fund established by a local entity under Section 11-42-702.

(48) “Service” means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

(49) (a) “Sewer assessment area” means an assessment area that has as the assessment area’s primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) “Sewer assessment area” does not include property otherwise located within the assessment area:

(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;

(ii) for which the local health department has inspected the system described in Subsection (49)(b)(i) to ensure that the system is functioning properly; and

(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection (49)(b)(i).

(50) “Special service district” means the same as that term is defined in Section 17D-1-102.

(51) “Unassessed benefitted government property” means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

(52) “Unimproved property” means property upon which no residential, commercial, or other building has been built.

(53) “Voluntary assessment area” means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

**Section 2. Section 11-42-106 is amended to read:**

**11-42-106. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.**

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy

an assessment may commence a civil action against the local entity to:

(a) set aside a proceeding to designate an assessment area; or

(b) enjoin the levy or collection of an assessment.

(2) (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b) (i) ~~Except as provided in Subsection (2)(b)(ii), an action under Subsection (1) may not be commenced against a summons relating to the action may not be served on the local entity more than 60 days after the effective date of the:~~

~~(i) (A) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;~~

~~(ii) (B) assessment resolution or ordinance, if the challenge is to an assessment; or~~

~~(iii) (C) amended resolution or ordinance, if the challenge is to an amendment.~~

(ii) The period for commencing an action and serving a summons under Subsection (2)(b)(i) is 30 days if the designation resolution, assessment resolution, or amended resolution was:

(A) adopted by the military installation development authority, created in Section 63H-1-201, or a public infrastructure district created by the military installation development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act; and

(B) all owners of property within the assessment area or proposed assessment area consent in writing to the designation resolution, assessment resolution, or amended resolution.

(3) (a) An action under Subsection (1) is the exclusive remedy of a person who:

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or

(ii) challenges a bondholder’s right to repayment.

(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.

(c) (i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.

(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not

be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment meeting the requirements of Section 11-42-409.

(5) After the expiration of the [60-day] period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

(6) (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the [60-day] period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

**Section 3. Section 11-42-202 is amended to read:**

**11-42-202. Requirements applicable to a notice of a proposed assessment area designation.**

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale; ~~and~~

(C) is binding on the property owner and all successors; and

~~[(C)] (D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;~~

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

**Section 4. Section 11-42-411 is amended to read:**

**11-42-411. Installment payment of assessments.**

(1) (a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b), provide that some or all of the assessment be paid in installments over a period:

(i) not to exceed 20 years from the effective date of the resolution or ordinance[-], except as provided in Subsection (1)(a)(ii); or

(ii) not to exceed 30 years from the effective date of the resolution, for a resolution adopted by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) a public infrastructure district created by the military installation development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance

be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal; or

(b) in substantially equal installments of principal and interest.

(3) (a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

(c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

(a) interest on assessment bonds;

(b) ongoing local entity costs incurred for administration of the assessment area; and

(c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6) (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

**Section 5. Section 11-42-502.1 is amended to read:**

**11-42-502.1. Enforcement of an assessment lien -- Post-May 10, 2016, procedure.**

(1) (a) Except as provided in Subsection (1)(b), the provisions of this section apply to any property that is:

(i) located within the boundaries of an assessment area; and

(ii) the subject of a foreclosure procedure initiated on or after May 10, 2016, for an assessment or an installment of an assessment that is not paid when due.

(b) The provisions of this chapter do not apply to property described in Subsection 11-42-502(1)(b).

(2) (a) If an assessment or an installment of an assessment is not paid when due in a given year:

(i) subject to Subsection (2)(b):

(A) by September 15, the governing body of the local entity that levies the assessment shall certify any unpaid amount calculated as of the date of the certification to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:

(A) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes;

(B) by judicial foreclosure; or

(C) in the manner described in Title 57, Chapter 1, Conveyances, if the property is in a voluntary assessment area and the owner of record of the property [~~at the time the local entity initiates the process to sell the property in accordance with Title 57, Chapter 1, Conveyances,~~] executed a property owner's consent form described in Subsection 11-42-202(1)(l) that includes a provision described in Subsection 11-42-202(1)(l)(iv).

(b) (i) The certification of the unpaid amount described in Subsection (2)(a)(i):

(A) has no effect on the amount due plus interest, penalties, and costs or other requirements of the assessment as described in the assessment resolution or ordinance; and

(B) is required to provide for the ability of the local entity to collect the delinquent assessment by the sale of property in a sale for delinquent general property taxes and tax notice charges, as that term is defined in Section 59-2-1301.5, in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes.

(ii) A local entity's failure to certify an amount in accordance with Subsection (2)(a)(i) or a county treasurer's failure to include the certified amount on the property tax notice is not a defense to and does not delay, prohibit, or diminish a local entity's lien rights or authority to pursue any enforcement remedy, other than a delay in the local entity's ability to collect the delinquent assessment as described in Subsection (2)(b)(i)(B).

(c) Nothing in Subsection (2)(a)(i) or in Title 11, Chapter 60, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (2)(a)(ii).

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a)(ii)(A) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(4) (a) The redemption of property that is the subject of a tax sale under Subsection (2)(a)(ii)(A) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a judicial foreclosure proceeding under Subsection (2)(a)(ii)(B) is governed by Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.

(c) The redemption of property that is the subject of a foreclosure proceeding under Subsection (2)(a)(ii)(C) is governed by Title 57, Chapter 1, Conveyances.

(5) (a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

(b) The use of one or more of the remedies described in this part does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

**Section 6. Section 17B-2a-1202 is amended to read:**

**17B-2a-1202. Definitions.**

As used in this part:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county [or], municipality, or development authority that

approves ~~of~~ the creation of the public infrastructure district.

(3) “Development authority” means the military installation development authority created in Section 63H-1-201.

~~[(4)]~~ (4) “District applicant” means the person proposing the creation of the public infrastructure district.

~~[(4)]~~ (5) “Division” means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

~~[(5)]~~ (6) “Governing document” means the document governing the public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Chapter 1, Provisions Applicable to All Local Districts, and this part.

~~[(6)]~~ (7) (a) “Limited tax bond” means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by the public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the mill rate limit established under Section 17B-2a-1209 for any fiscal year, except as provided in Subsection 17B-2a-1207(8).

(b) “Limited tax bond” does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

**Section 7. Section 17B-2a-1204 is amended to read:**

**17B-2a-1204. Creation.**

(1) (a) ~~[(a)]~~ [(a)] Except as provided in Subsection (1)(b) and in addition to the provisions regarding creation of a local district in Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

~~[(a)]~~ (i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

~~[(b)]~~ [(b)] (ii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(b) Notwithstanding Chapter 1, Part 2, Creation of a Local District, and any other provision of this part, the development authority may adopt a resolution creating a public infrastructure district as a subsidiary of the development authority if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(2) The election requirement of Section 17B-1-214 does not apply to a petition meeting the requirements of Subsection (1)(a).

(3) (a) Notwithstanding Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district after:

(i) adoption of resolutions of the board and the creating entity, each approving of the annexation;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area and approves of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed and consents to the annexation into the public infrastructure district.

(b) Upon meeting the requirements of Subsection (3)(a), the board shall comply with the resolution and filing requirements of Subsections 17B-1-414(1) and (2).

(c) (i) Notwithstanding Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district after:

(A) adoption of resolutions of the board and the creating entity, each approving of the annexation;

(B) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area and approves of the withdrawal from the public infrastructure district; and

(C) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn and consents to the withdrawal from the public infrastructure district.

(ii) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(d) Upon meeting the requirements of Subsection (3)(c), the board shall comply with the requirements of Section 17B-1-512.

(4) The creating entity may impose limitations on the powers of the public infrastructure district through the governing document.

(5) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (5)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity [~~or any municipality, county,~~] by the state, or [~~any~~] by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (5)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (5)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (5)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(6) The creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(7) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

**Section 8. Section 17B-2a-1205 is amended to read:**

**17B-2a-1205. Public infrastructure district board -- Governing document.**

(1) The legislative body or board of the creating entity [~~that approves the creation of a public infrastructure district~~] shall appoint the members of the board, in accordance with the governing document.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:

(i) all of the surface property owners consent to the waiver of the residency requirement;

(ii) there are no residents within the boundaries of the public infrastructure district;

(iii) no qualified candidate timely files to be considered for appointment to the board; or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(4).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(4) (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:

(i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions which, when completed, would increase or decrease the number of eligible voters within the division.

(c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) The public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) The governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable mill rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.

(b) Notwithstanding Subsection (8)(a), any amendment to a property tax mill limitation requires:

(i) before the adoption of the resolution of the creating entity described in Subsection (8)(a), the public infrastructure district to comply with the notice and public hearing requirements of Section 59-2-919, with at least one member of the governing body of the creating entity attending the public hearing required in Subsection 59-2-919(3)(a)(v) or (4)(b); or

(ii) the consent of:

(A) 100% of surface property owners within the boundaries of the public infrastructure district; and

(B) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

(10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure district created by the development authority.

**Section 9. Section 17B-2a-1206 is amended to read:**

**17B-2a-1206. Additional public infrastructure district powers.**

In addition to the powers conferred on a public infrastructure district under Section 17B-1-103, a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section ~~[11-42a-401]~~ 11-42a-102;



(c) public improvements related to the provision of housing; ~~and~~

(d) capital costs related to public transportation; and

(e) for a public infrastructure district created by the development authority, the cost of acquiring or financing publicly owned infrastructure and improvements;

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(3) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(a) the board;

(b) the creating entity, if required in the governing document; or

(c) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements; ~~and~~

(4) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity~~[-]; and~~

(5) for a public infrastructure district created by a development authority:

(a) (i) operate and maintain publicly owned infrastructure and improvements the district acquires or finances; and

(ii) use fees, assessments, or taxes to pay for the operation and maintenance of those publicly owned infrastructure and improvements; and

(b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

**Section 10. Section 63H-1-102 is amended to read:**

**63H-1-102. Definitions.**

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property

within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area[-]; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(10) “Military Installation Development Authority accommodations tax” or “MIDA accommodations tax” means the tax imposed under Section 63H-1-205.

(11) “Military Installation Development Authority energy tax” or “MIDA energy tax” means the tax levied under Section 63H-1-204.

(12) “Military land” means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(13) “Municipal energy tax” means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(14) “Municipal services revenue” means revenue that the authority:

- (a) collects from the authority’s:
  - (i) levy of a municipal energy tax;
  - (ii) levy of a MIDA energy tax;
  - (iii) levy of a telecommunications tax;
  - (iv) imposition of a transient room tax; and
  - (v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

(c) receives as dedicated tax collections.

(15) “Municipal tax” means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(16) “Project area” means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(17) “Project area budget” means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(18) “Project area plan” means a written plan that, after the plan’s effective date, guides and controls the development within a project area.

(19) (a) “Property tax” includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (19)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) “Property tax” does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(20) “Property tax allocation” means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(21) “Public entity” means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

(22) (a) “Publicly owned infrastructure and improvements” means infrastructure, improvements, facilities, or buildings that benefit the public, the authority, the military, or military-related entities and are:

(i) publicly owned by the military, the authority, a public infrastructure district under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) “Publicly owned infrastructure and improvements” includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; ~~and~~

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, ~~and~~ public transportation facilities~~[-]~~, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(23) “Remaining municipal services revenue” means municipal services revenue that the authority has not:

(a) spent during the authority’s fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(24) “Resort communities tax” means a sales and use tax imposed under Section 59-12-401.

(25) “Taxable value” means the value of property as shown on the last equalized assessment roll ~~[as certified by the county assessor]~~.

(26) “Taxing entity”:

(a) means a public entity that levies a tax on property within a project area~~[-]~~; and

(b) does not include a public infrastructure district that the authority creates under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

(27) “Telecommunications tax” means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(28) “Transient room tax” means a tax under Section 59-12-352.

**Section 11. Section 63H-1-103 is enacted to read:**

**63H-1-103. Severability.**

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

**Section 12. Section 63H-1-201 is amended to read:**

**63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.**

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) as provided in this chapter, facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority’s development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

- (i) in a project area; or
- (ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;
- (g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;
- (h) exercise powers and perform functions under a contract, as authorized in the contract;
- (i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;
- (j) receive the property tax allocation and other taxes and fees as provided in this chapter;
- (k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
- (l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;
- (m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
- (n) hire employees, including contract employees;
- (o) transact other business and exercise all other powers provided for in this chapter;
- (p) enter into a development agreement with a developer of land within a project area;
- (q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;
- (r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;
- (s) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section ~~[11-42-102]~~ 11-42a-102, in accordance with Title 11, Chapter ~~[42, Assessment Area Act]~~ 42a, Commercial Property Assessed Clean Energy Act;
- (t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform; ~~and~~
- (u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:
  - (i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state[-]; and

(v) by itself or through a subsidiary, provide expertise and knowledge to another governmental entity interested in public-private partnerships.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

(5) Because providing procurement, utility, construction, and other services for use by a military installation, including providing publicly owned infrastructure and improvements for use or occupancy by the military, are core functions of the authority and are typically provided by a local government for the local government's own needs or use, these services provided by the authority for the military under this chapter are considered to be for the authority's own needs and use.

**Section 13. Section 63H-1-202 is amended to read:**

**63H-1-202. Applicability of other law.**

(1) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(4) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(5) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (5)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

**Section 14. Section 63H-1-206 is amended to read:**

**63H-1-206. Property exchange -- Freeway interchange construction.**

(1) (a) If the authority receives title to real property from [a military installation] the Secretary of the United States Air Force, pursuant to Section 2831 of the National Defense Authorization Act for Fiscal Year 2020, for construction of an interchange by the Department of Transportation, the authority shall exchange the real property intended for the interchange with the Department of Transportation for any unused remainder of real property that the Department of Transportation does not need for the freeway after the interchange is complete.

(b) The authority or a subsidiary of the authority is the designee of the state, within the meaning of Section 2831(a) of the National Defense Authorization Act for Fiscal Year 2020.

(2) An exchange described in Subsection (1) shall occur at no cost to the authority or the Department of Transportation, regardless of the value of the real property.

(3) (a) The authority shall demolish the structures on and, as required by the Secretary of the United States Air Force and the Utah Department of Environmental Quality, environmentally mitigate the real property that the authority exchanges with the Department of Transportation under this section.

(b) The Department of Transportation shall remove unneeded freeway improvements from the real property that the Department of Transportation exchanges with the authority under this section.

(4) Upon the authority's receipt of title to real property under this section, the real property automatically becomes included within the project area adjacent to the real property.

**Section 15. Section 63H-1-207 is enacted to read:**

**63H-1-207. Authority jurisdiction over Department of Transportation property.**

(1) As used in this section:

(a) "Highway land" means land that is:

(i) owned by the Department of Transportation, created in Section 72-1-201; and

(ii) within an authority project area that was created to provide military recreation facilities and support.

(b) "Highway land" does not include:

(i) a class A state road that is in active use; and

(ii) a shoulder or appurtenance that is contiguous to a class A state road that is in active use.

(2) Notwithstanding any other provision of statute, the authority has jurisdiction and control over highway land, subject to Subsection (3).

(3) The executive director of the Department of Transportation may, in consultation with the authority, transfer, sell, trade, or lease the highway land or any interest in the highway land as provided in Section 72-5-111 and any applicable rules and regulations.

**Section 16. Section 63H-1-403 is amended to read:**

**63H-1-403. Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.**

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:

(a) in a newspaper of general circulation within or near the project area; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).

(3) The project area plan [shall become] becomes effective on the date [of publication of the notice]designated in the board resolution adopting the project area plan.

(4) The authority shall make the adopted project area plan available to the general public at its offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

- (a) the State Tax Commission;
  - (b) the Automated Geographic Reference Center created in Section 63F-1-506; and
  - (c) the assessor and recorder of each county where the project area is located.
- (6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) For a project area created before December 1, 2018, a legal action or other challenge is barred.

(c) For a project area created after December 1, 2018, and before May 14, 2019, a legal action or other challenge is barred after July 1, 2019.

**Section 17. Section 63H-1-403.5 is amended to read:**

**63H-1-403.5. Amendment to a project area plan.**

(1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.

(2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

(3) An amendment to a project area plan does not affect the base taxable value determination for property already within the project area before the amendment.

**Section 18. Section 63H-1-405 is amended to read:**

**63H-1-405. Project area budget.**

(1) Before the authority may receive or use the property tax allocation, the authority board shall prepare and adopt a project area budget.

(2) The authority board may amend an adopted project area budget as and when the authority board considers it appropriate.

(3) If the authority adopts a budget under Part 7, Authority Budget and Reports, that also meets the requirements of this part, the authority need not separately adopt a budget under this part.

**Section 19. Section 63H-1-501 is amended to read:**

**63H-1-501. Authority receipt and use of property tax allocation -- Contractual annual payment -- Distribution of property tax allocation.**

(1) (a) The authority may:

(i) subject to Subsection (1)(b):

(A) receive up to 75% of the property tax allocation for up to 25 years, as provided in this part; and

(B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to 75% of the property tax allocation for up to 15 years, if the board determines the additional years will produce significant benefit; and

(ii) use the property tax allocation before, during, and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i)(A) ~~shall begin~~ begins on the day on which the authority receives the first property tax allocation from that parcel.

(2) (a) For purposes of Subsection (1)(b), the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (2)(a) is for purposes of Subsection (1)(b) only and does not constitute a subdivision for any other purpose.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (2)(a).

~~(2)~~ (3) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

~~(3)~~ (4) (a) If the authority or an entity designated by the authority has not issued a certificate of occupancy for a private parcel within a project area, the private parcel owner shall ~~enter into a contract with the authority to~~ make an annual payment to the authority:

(i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value of the parcel; and

(ii) until the parcel becomes subject to the property tax described in Subsection ~~(2)~~ (3).

(b) The authority may use the revenue from payments described in Subsection (3)(a) for any purpose described in Subsection 63H-1-502(1).

(c) The authority may submit for recording to the office of the recorder of the county in which a private parcel described in Subsection (4)(a) is located:

(i) a copy of an agreement between the authority and the private parcel owner that memorializes the payment obligation under Subsection (4)(a); or

(ii) a notice that describes the payment obligation under Subsection (4)(a).

(d) An owner of a private parcel described in Subsection (4)(a) may not be required to make a

payment that exceeds or is in addition to the payment described in Subsection (4)(a)(i) until the private parcel becomes subject to the property tax described in Subsection (3).

(e) Upon the transfer of title of a private parcel described in Subsection (4)(a), the amount of the annual payment required under Subsection (4)(a) shall be:

(i) treated the same as a property tax; and

(ii) prorated between the previous owner and the owner who acquires title from the previous owner.

[4] (5) Each county that collects property tax on property within a project area shall pay and distribute to the authority the property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

[5] (6) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax allocation.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax allocation.

[6] (7) The following property owned by the authority is not subject to any property tax under Title 59, Chapter 2, Property Tax Act, or any privilege tax under Title 59, Chapter 4, Privilege Tax, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(a) a hotel;

(b) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(c) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

**Section 20. Section 63H-1-502 is amended to read:**

**63H-1-502. Allowable uses of property tax allocation and other funds.**

(1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the property tax allocation funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(ii) for a passenger ropeway, at least one end of the ropeway is located within the project area;

(f) to pay the principal and interest on bonds issued by the authority;

(g) to pay for a morale, welfare, and recreation program of a United States Air Force base in Utah, affiliated with the project area from which the funds were collected; or

(h) to pay for the promotion of:

(i) a development within the project area; or

(ii) amenities outside of the project area that are associated with a development within the project area.

(2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) For purposes of Subsection (1), the authority may use:

(a) tax revenue received under Subsection 59-12-205(2)(b)(ii);

(b) resort communities tax revenue;

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated;

(d) MIDA accommodations tax revenue, received under Section 63H-1-205;

(e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;

(f) municipal energy tax revenue generated from hotels located on authority-owned or other public-entity-owned property; or

(g) payments received under Subsection 63H-1-501[3](4).

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

**Section 21. Effective date.**

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



**CHAPTER 283****S. B. 193**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**STATEWIDE JAIL DATA AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher  
 House Sponsor: Paul Ray

**LONG TITLE****General Description:**

This bill modifies reporting requirements for county jails.

**Highlighted Provisions:**

This bill:

- ▶ adds certain data reporting requirements related to inmate population to current county jail reporting requirements.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

17-22-32, as last amended by Laws of Utah 2019, Chapter 311

**Utah Code Sections Affected by Coordination Clause:**

17-22-32.4, Utah Code Annotated 1953

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

**Section 1. Section 17-22-32 is amended to read:****17-22-32. County jail reporting requirements.**

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

~~[(a)]~~ (b) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

- (A) being transported for medical care; or
- (B) receiving medical care outside of a county jail.

~~[(b)]~~ (c) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.

~~[(e)]~~ (d) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) [A] Each county jail shall submit a report to the [~~Commission on Criminal and Juvenile Justice, created in Section 63M-7-201,~~] commission before June 15 of each year that includes~~[],~~ for the preceding calendar year if reasonably available:

(a) the average daily inmate population each month;

(b) the number of inmates in the county jail on the last day of each month who identify as each race or ethnicity included in the Standards for Transmitting Race and Ethnicity published by the United States Federal Bureau of Investigation;

(c) the number of inmates booked into the county jail;

(d) the number of inmates held in the county jail each month on behalf of each of the following entities:

(i) the Bureau of Indian Affairs;

(ii) a state prison;

(iii) a federal prison;

(iv) the United States Immigration and Customs Enforcement;

(v) any other entity with which a county jail has entered a contract to house inmates on the entity's behalf;

(e) the number of inmates that are denied pretrial release and held in the custody of the county jail while the inmate awaited final disposition of the inmate's criminal charges;

(f) for each inmate booked into the county jail:

(i) the name of the agency that arrested the inmate;

(ii) the date and time the inmate was booked into and released from the custody of the county jail;

(iii) if the inmate was released from the custody of the county jail, the reason the inmate was released from the custody of the county jail;

(iv) if the inmate was released from the custody of the county jail on a financial condition, whether the financial condition was set by a bail commissioner or a court;

(v) the number of days the inmate was held in the custody of the county jail before disposition of the inmate's criminal charges;

(vi) whether the inmate was released from the custody of the county jail before final disposition of the inmate's criminal charges; and

(vii) the state identification number of the inmate;

~~[(a)]~~ (g) the number of in-custody deaths that occurred [during the preceding calendar year] at the county jail;

~~[(b)]~~ (h) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)~~[(a)]~~(g);

~~[(e)]~~ (i) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;

~~[(d)]~~ (j) the county jail policies, procedures, and protocols;

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; and

~~(e)~~ (k) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) (a) Subsection (2) does not apply to a county jail if the county jail:

(i) collects and stores the data described in Subsection (2); and

(ii) enters into a memorandum of understanding with the commission that allows the commission to access the data described in Subsection (2).

(b) The memorandum of understanding described in Subsection (3)(a)(ii) shall include a provision to protect any information related to an ongoing investigation and comply with all applicable federal and state laws.

(c) If the commission accesses data from a county jail in accordance with Subsection (3)(a), the commission may not release a report prepared from that data, unless:

(i) the commission provides the report for review to:

(A) the county jail; and

(B) any arresting agency that is named in the report; and

(ii) (A) the county jail approves the report for release;

(B) the county jail reviews the report and prepares a response to the report to be published with the report; or

(C) the county jail fails to provide a response to the report within four weeks after the day on which the commission provides the report to the county jail.

~~[(3)]~~ (4) ~~The [Commission on Criminal and Juvenile Justice]~~ commission shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year.

~~[(4)]~~ (5) The Commission on Criminal and Juvenile Justice may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

**Section 2. Coordinating S.B. 193 with H.B. 288 -- Substantive amendments.**

If S.B. 193 and H.B. 288, Prosecutor Data Collection Amendments, both pass and become law, it is the intent of the Legislature that Section 17-22-32.4 enacted in H.B. 288 not take effect.

**CHAPTER 284****S. B. 194**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective July 1, 2020

**SPECIAL EVENTS  
 SALES TAX OBLIGATIONS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: A. Cory Maloy

**LONG TITLE****General Description:**

This bill modifies sales and use tax license provisions.

**Highlighted Provisions:**

This bill:

- ▶ defines “special event”;
- ▶ provides that a person that is exempt from collecting sales and use tax is not required to have a sales and use tax license if the person is selling items at a special event;
- ▶ requires a notice on an application for a temporary sales tax license and special event sales tax return that a person not regularly engaged in selling items or that sells exempt items is not required to complete the form or to collect sales and use tax;
- ▶ provides the requirements for the notice; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

59-12-106, as last amended by Laws of Utah 2011, Chapter 285

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

**Section 1. Section 59-12-106 is amended to read:**

**59-12-106. Definitions -- Sales and use tax license requirements -- Penalty -- Application process and requirements -- No fee -- Bonds -- Presumption of taxability -- Exemption certificates -- Exemption certificate license number to accompany contract bids.**

(1) As used in this section:

- (a) [“applicant”] “Applicant” means a person that:
- (i) is required by this section to obtain a license; and
  - (ii) submits an application:
    - (A) to the commission; and
    - (B) for a license under this section[;].
- (b) [“application”] “Application” means an application for a license under this section[;].

(c) [“fiduciary”] “Fiduciary of the applicant” means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[;].

(d) [“fiduciary”] “Fiduciary of the licensee” means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[;].

(e) [“license”] “License” means a license under this section[; and].

(f) [“licensee”] “Licensee” means a person that is licensed under this section by the commission.

(g) “Special event” means an event that lasts six months or less where taxable sales occur.

(2) (a) It is unlawful for any person required to collect a tax under this chapter to engage in business within the state without first having obtained a license to do so.

(b) The license described in Subsection (2)(a):

(i) shall be granted and issued by the commission;

(ii) is not assignable;

(iii) is valid only for the person in whose name the license is issued;

(iv) is valid until:

(A) the person described in Subsection (2)(b)(iii):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the license is revoked by the commission; and

(v) subject to Subsection (2)(d), shall be granted by the commission only upon an application that:

(A) states the name and address of the applicant; and

(B) provides other information the commission may require.

(c) At the time an applicant makes an application under Subsection (2)(b)(v), the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.

(d) The commission shall review an application and determine whether the applicant:

(i) meets the requirements of this section to be issued a license; and

(ii) is required to post a bond with the commission in accordance with Subsections (2)(e) and (f) before the applicant may be issued a license.

(e) (i) An applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(A) a license under this section was revoked for a delinquency under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) there is a delinquency in paying a tax under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter.

(ii) If the commission determines it is necessary to ensure compliance with this chapter, the commission may require a licensee to:

(A) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (2)(f); or

(B) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(f) (i) A bond required by Subsection (2)(e) shall be:

(A) executed by:

(I) for an applicant, the applicant as principal, with a corporate surety; or

(II) for a licensee, the licensee as principal, with a corporate surety; and

(B) payable to the commission conditioned upon the faithful performance of all of the requirements of this chapter including:

(I) the payment of any tax under this chapter;

(II) the payment of any:

(Aa) penalty as provided in Section 59-1-401; or

(Bb) interest as provided in Section 59-1-402; or

(III) any other obligation of the:

(Aa) applicant under this chapter; or

(Bb) licensee under this chapter.

(ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the amount of a bond required by Subsection (2)(e) on the basis of:

(A) commission estimates of:

(I) an applicant's tax liability under this chapter; or

(II) a licensee's tax liability under this chapter; and

(B) any amount of a delinquency described in Subsection (2)(f)(iii).

(iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection (2)(f)(ii)(B):

(A) for an applicant, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; or

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; and

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) for a licensee, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

- (Aa) the licensee;
- (Bb) a fiduciary of the licensee; or

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

- (Aa) the licensee;
- (Bb) a fiduciary of the licensee; and

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter.

(iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection (2)(e) may not:

- (A) be less than \$25,000; or
- (B) exceed \$500,000.

(g) ~~[(h)]~~ Subject to Subsection (2)(h), if business is transacted at two or more separate places by one person, a separate license for each place of business is required.

(h) A license is not required for any person that is:

(i) engaged exclusively in the business of selling commodities that are exempt from taxation under this chapter; or

(ii) exempt from collecting sales and use tax under Section 59-12-104 and the place of business is a special event.

~~[(h)]~~ (i) (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.

(ii) A license may not be issued to a licensee described in Subsection ~~[(2)(h)(i)]~~ (2)(i)(i) until the licensee has complied with the requirements of this chapter, including:

- (A) paying any:
  - (I) tax due under this chapter;
  - (II) penalty as provided in Section 59-1-401; or
  - (III) interest as provided in Section 59-1-402; and
- (B) posting a bond in accordance with Subsections (2)(e) and (f).

~~[(i)]~~ (j) Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.

~~[(j) A licensee:]~~

~~[(i) is not required for any person engaged exclusively in the business of selling commodities~~

~~that are exempt from taxation under this chapter; and]~~

~~[(ii)]~~ (k) A license shall be issued to the person by the commission without a license fee.

(l) (i) The commission shall include on an application for a temporary sales tax license and special event sales tax return the following statement:

“You are not required to complete or return this form or to collect sales and use tax if you are not regularly engaged in the business of selling the items you are offering at this event or all of the items that you are selling at this event are exempt from sales and use tax under Section 59-12-104.”

(ii) The notice described in Subsection (2)(l)(i) shall be in bold font no smaller than the font of the main content and shall appear at the top of the application form.

(3) (a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling the property, item, or service has taken from the purchaser an exemption certificate:

(i) bearing the name and address of the purchaser; and

(ii) providing that the property, item, or service was exempted under Section 59-12-104.

(b) An exemption certificate described in Subsection (3)(a):

(i) shall contain information as prescribed by the commission; and

(ii) if a paper exemption certificate is used, shall be signed by the purchaser.

(c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable to collect a tax under this chapter if the seller or certified service provider obtains within 90 days after a transaction is complete:

(A) an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) the information required by Subsections (3)(a) and (b).

(ii) A seller or certified service provider that does not obtain the exemption certificate or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120 days after the commission requests the seller or certified service provider to substantiate the exemption to:

(A) establish that the transaction is not subject to taxation under this chapter by a means other than providing an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the information required by Subsections (3)(a) and (b), taken in good faith.

(iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good faith if the exemption certificate claims an exemption that:

(A) was allowed by statute on the date of the transaction in the jurisdiction of the location of the transaction;

(B) could be applicable to that transaction; and

(C) is reasonable for the purchaser's type of business.

(d) Except as provided in Subsection (3)(e), a seller or certified service provider that takes an exemption certificate from a purchaser in accordance with this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter on that transaction.

(e) Subsection (3)(d) does not apply to a seller or certified service provider if the commission establishes through an audit that the seller or certified service provider:

(i) knew or had reason to know at the time the purchaser provided the seller or certified service provider the information described in Subsection (3)(a) or (b) that the information related to the exemption claimed was materially false; or

(ii) otherwise knowingly participated in activity intended to purposefully evade the tax due on the transaction.

(f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission may not require the seller or certified service provider to:

(A) renew an exemption certificate;

(B) update an exemption certificate; or

(C) update a data element of an exemption certificate.

(ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no more than a 12-month period elapses between transactions between a seller or certified service provider and a purchaser.

(iii) If there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission shall require an exemption certificate the seller or certified service provider takes from the purchaser to meet the requirements of Subsections (3)(a) and (b).

(4) A person filing a contract bid with the state or a political subdivision of the state for the sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1) shall include with the bid the number of the license issued to that person under Subsection (2).

## Section 2. Effective date.

This bill takes effect on July 1, 2020.

**CHAPTER 285****S. B. 195**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**BACKGROUND CHECKS  
 FOR MINOR EMPLOYEES**

Chief Sponsor: Lincoln Fillmore  
 House Sponsor: Carol Spackman Moss

**LONG TITLE****General Description:**

This bill modifies provisions related to background checks.

**Highlighted Provisions:**

This bill:

- ▶ provides an exception to certain background check requirements for an individual who is younger than 18 years old.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53G-11-402, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

**Section 1. Section 53G-11-402 is amended to read:****53G-11-402. Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.**

- (1) An LEA or qualifying private school shall:
- (a) require each of the following individuals who is 18 years old or older to submit to a nationwide criminal background check and ongoing monitoring as a condition for employment or appointment:
    - (i) a non-licensed employee;
    - (ii) a contract employee;
    - (iii) a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and
    - (iv) a charter school governing board member;
  - (b) collect the following from an individual required to submit to a background check under Subsection (1)(a):
    - (i) personal identifying information;
    - (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and
    - (iii) consent, on a form specified by the LEA or qualifying private school, for:
      - (A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404;

(c) submit the individual's personal identifying information to the bureau for:

(i) an initial fingerprint-based background check by the FBI and the bureau; and

(ii) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53G-11-405; and

(d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.

(2) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:

(a) has passed an initial review; and

(b) is one of a pool of no more than five candidates for the position.

(3) By September 1, 2018, an LEA or qualifying private school shall:

(a) collect the information described in Subsection (1)(b) from individuals:

(i) who were employed or appointed prior to July 1, 2015; and

(ii) with whom the LEA or qualifying private school currently maintains an authorizing relationship; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.

(4) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status of the licensed educator as provided in Section 53G-11-405.

(5) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

**CHAPTER 286****S. B. 196**

Passed March 12, 2020  
Approved March 28, 2020  
Effective March 28, 2020

**STATE PURCHASING AMENDMENTS**

Chief Sponsor: Todd Weiler  
House Sponsor: Steve Eliason

**LONG TITLE****General Description:**

This bill modifies procurement provisions relating to procurements for a vice presidential debate.

**Highlighted Provisions:**

This bill:

- ▶ authorizes a procurement of items intended to be used to host a vice presidential debate to be made without engaging in a standard procurement process;
- ▶ provides that publication of notice of a procurement for a vice presidential debate is not required; and
- ▶ provides for a repeal of the provisions relating to the vice presidential debate and publication of notice.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

63G-6a-802, as last amended by Laws of Utah 2016, Chapter 355

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

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

**Section 1. Section 63G-6a-802 is amended to read:****63G-6a-802. Award of contract without engaging in a standard procurement process -- Notice -- Duty to negotiate contract terms in best interest of procurement unit.**

(1) The chief procurement officer or the head of a procurement unit with independent procurement authority may award a contract for a procurement item without engaging in a standard procurement process if the chief procurement officer or the head of the procurement unit with independent procurement authority determines in writing that:

(a) there is only one source for the procurement item;

(b) (i) transitional costs are a significant consideration in selecting a procurement item; and

(ii) the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without engaging in a standard

procurement process is in the best interest of the procurement unit; [ØF]

(c) the award of a contract is under circumstances, described in rules adopted by the applicable rulemaking authority, that make awarding the contract through a standard procurement process impractical and not in the best interest of the procurement unit[-]; or

(d) the procurement item is intended to be used to host a debate of candidates for vice president of the United States held at a state institution of higher education.

(2) Transitional costs associated with a trial use or testing of a procurement item under a trial use contract may not be included in a consideration of transitional costs under Subsection (1)(b).

(3) (a) Subject to Subsection (3)(b), the applicable rulemaking authority shall make rules regarding the publication of notice for a procurement under this section that, at a minimum, require publication of notice of the procurement, in accordance with Section 63G-6a-112, if the cost of the procurement exceeds \$50,000.

(b) Publication of notice under Section 63G-6a-112 is not required for:

(i) the procurement of public utility services pursuant to a sole source contract; [ØF]

(ii) other procurements under this section for which an applicable rule provides that notice is not required[-]; or

(iii) a procurement under Subsection (1)(d).

(4) The chief procurement officer or the head of a procurement unit with independent procurement authority who awards a contract under this section shall negotiate with the contractor to ensure that the terms of the contract, including price and delivery, are in the best interest of the procurement unit.

**Section 2. Section 63I-2-263 is amended to read:****63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

~~(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.~~

~~(3) (2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.~~

~~(4) (3) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:~~

(a) Section 63G-1-801;



- (b) Section 63G-1-802;
- (c) Section 63G-1-803; and
- (d) Section 63G-1-804.

(4) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

- (a) Section 63H-6-104.5 is repealed; and
- (b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

- (a) Subsection 63J-1-602.1(52) is repealed;
- (b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and
- (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

### **Section 3. Effective date.**

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

**CHAPTER 287****S. B. 197**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**CONSANGUINITY AMENDMENTS**

Chief Sponsor: Karen Mayne  
 House Sponsor: Paul Ray

**LONG TITLE****General Description:**

This bill adds definitions of certain relationships to the Utah Criminal Code.

**Highlighted Provisions:**

This bill:

- ▶ defines consanguinity and affinity, as used in the Utah Criminal Code and the Cohabitant Abuse Act; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-1-601, as last amended by Laws of Utah 2019, Chapter 211  
 78B-7-102, as last amended by Laws of Utah 2018, Chapter 255

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

**Section 1. Section 76-1-601 is amended to read:****76-1-601. Definitions.**

Unless otherwise provided, as used in this title:

(1) "Act" means a voluntary bodily movement and includes speech.

(2) "Actor" means a person whose criminal responsibility is in issue in a criminal action.

(3) "Affinity" means a relationship by marriage.

~~[(3)]~~ (4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

~~[(4)]~~ (5) "Conduct" means an act or omission.

(6) "Consanguinity" means a relationship by blood to the first or second degree, including an individual's parent, grandparent, sibling, child, aunt, uncle, niece, or nephew.

~~[(5)]~~ (7) "Dangerous weapon" means:

(a) any item capable of causing death or serious bodily injury; or

(b) a facsimile or representation of the item, if:

(i) the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or

(ii) the actor represents to the victim verbally or in any other manner that he is in control of such an item.

~~[(6)]~~ (8) "Grievous sexual offense" means:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

(f) sodomy on a child, Section 76-5-403.1;

(g) aggravated sexual abuse of a child, Subsection 76-5-404.1(4);

(h) aggravated sexual assault, Section 76-5-405;

(i) any felony attempt to commit an offense described in Subsections ~~[(6)]~~ (8)(a) through (h); or

(j) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections ~~[(6)]~~ (8)(a) through (i).

~~[(7)]~~ (9) "Offense" means a violation of any penal statute of this state.

~~[(8)]~~ (10) "Omission" means a failure to act when there is a legal duty to act and the actor is capable of acting.

~~[(9)]~~ (11) "Person" means an individual, public or private corporation, government, partnership, or unincorporated association.

~~[(10)]~~ (12) "Possess" means to have physical possession of or to exercise dominion or control over tangible property.

~~[(11)]~~ (13) "Public entity" means:

(a) the state, or an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of the state;

(b) a political subdivision of the state, including a county, municipality, interlocal entity, local district, special service district, school district, or school board;

(c) an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of a political subdivision of the state; or

(d) another entity that:

(i) performs a public function; and

(ii) is authorized to hold, spend, transfer, disburse, use, or receive public money.

~~[(12)]~~ (14) (a) "Public money" or "public funds" means money, funds, or accounts, regardless of the source from which they are derived, that:

(i) are owned, held, or administered by an entity described in Subsections ~~[(11)]~~ (13)(a) through (c); or

(ii) are in the possession of an entity described in Subsection [(11)] (13)(d)(i) for the purpose of performing a public function.

(b) “Public money” or “public funds” includes money, funds, or accounts described in Subsection [(12)] (14)(a) after the money, funds, or accounts are transferred by a public entity to an independent contractor of the public entity.

(c) “Public money” or “public funds” remains public money or public funds while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

[(13)] (15) “Public officer” means:

(a) an elected official of a public entity;

(b) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;

(c) a judge of a court of record or not of record, including justice court judges; or

(d) a member of the Board of Pardons and Parole.

[(14)] (16) (a) “Public servant” means:

(i) a public officer;

(ii) an appointed official, employee, consultant, or independent contractor of a public entity; or

(iii) a person hired or paid by a public entity to perform a government function.

(b) Public servant includes a person described in Subsection [(14)] (16)(a) upon the person’s election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.

[(15)] (17) “Serious bodily injury” means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.

[(16)] (18) “Substantial bodily injury” means bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.

[(17)] (19) “Writing” or “written” includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.

## Section 2. Section 78B-7-102 is amended to read:

### 78B-7-102. Definitions.

As used in this chapter:

(1) “Abuse” means intentionally or knowingly causing or attempting to cause a cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear of imminent physical harm.

(2) “Affinity” means the same as that term is defined in Section 76-1-601.

[(2)] (3) (a) “Cohabitant” means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:

[(a)] (i) is or was a spouse of the other party;

[(b)] (ii) is or was living as if a spouse of the other party;

[(c)] (iii) is related by blood or marriage to the other party as the person’s parent, grandparent, sibling, or any other person related to the person by consanguinity or affinity to the second degree;

[(d)] (iv) has or had one or more children in common with the other party;

[(e)] (v) is the biological parent of the other party’s unborn child;

[(f)] (vi) resides or has resided in the same residence as the other party; or

[(g)] (vii) is or was in a consensual sexual relationship with the other party.

[(3)] ~~Notwithstanding Subsection (2), “cohabitant”~~

(b) “Cohabitant” does not include:

[(a)] (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

[(b)] (ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.

(4) “Consanguinity” means the same as that term is defined in Section 76-1-601.

[(4)] (5) “Court clerk” means a district court clerk.

[(5)] (6) “Domestic violence” means the same as that term is defined in Section 77-36-1.

[(6)] (7) “Ex parte protective order” means an order issued without notice to the respondent in accordance with this chapter.

[(7)] (8) “Foreign protection order” means the same as that term is defined in Section 78B-7-302.

[(8)] (9) “Law enforcement unit” or “law enforcement agency” means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

[(9)] (10) “Peace officer” means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.

[(10)] (11) “Protective order” means:

(a) an order issued pursuant to this chapter subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice in accordance with this chapter; or

(b) an order issued under Subsection 77-36-5.1(6).

**CHAPTER 288****S. B. 200**

Passed March 11, 2020  
Approved March 28, 2020  
Effective March 28, 2020

**REDISTRICTING AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
House Sponsor: Carol Spackman Moss

**LONG TITLE****General Description:**

This bill addresses provisions relating to the Utah Independent Redistricting Commission and redistricting.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies redistricting requirements and related provisions;
- ▶ modifies the Utah Independent Redistricting Commission;
- ▶ establishes the commission's membership and term;
- ▶ addresses commission function, action, meetings, and staffing;
- ▶ provides for acquisition and use of materials, software, and services, including legal services, by the commission;
- ▶ describes the duties of the commission;
- ▶ provides for presentation of commission maps to the Legislature's redistricting committee;
- ▶ requires the Government Operations Interim Committee to conduct a review of the commission; and
- ▶ repeals existing independent redistricting commission provisions.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Administrative Services Finance - Mandated Redistricting Commission, as a one-time appropriation:
  - from Legislature Office of Legislative Research and General Counsel, One-time, \$1,000,000.

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

63G-7-201, as last amended by Laws of Utah 2019, Chapters 229 and 248  
63G-7-301, as last amended by Laws of Utah 2019, Chapters 229 and 248

**ENACTS:**

20A-20-101, Utah Code Annotated 1953  
20A-20-102, Utah Code Annotated 1953  
20A-20-103, Utah Code Annotated 1953  
20A-20-201, Utah Code Annotated 1953  
20A-20-202, Utah Code Annotated 1953  
20A-20-203, Utah Code Annotated 1953  
20A-20-301, Utah Code Annotated 1953  
20A-20-302, Utah Code Annotated 1953  
20A-20-303, Utah Code Annotated 1953

**REPEALS:**

20A-19-101, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018  
20A-19-102, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018  
20A-19-103, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018  
20A-19-104, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018  
20A-19-201, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018  
20A-19-202, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018  
20A-19-203, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018  
20A-19-204, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018  
20A-19-301, as enacted by Statewide Initiative -- Proposition 4, Nov. 6, 2018

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

**Section 1. Section 20A-20-101 is enacted to read:****CHAPTER 20. UTAH INDEPENDENT REDISTRICTING COMMISSION****Part 1. General Provisions****20A-20-101. Title.**

This chapter is known as the "Utah Independent Redistricting Commission."

**Section 2. Section 20A-20-102 is enacted to read:****20A-20-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Utah Independent Redistricting Commission created in Section 20A-20-201.

(2) "Committee" means the Legislature's redistricting committee.

(3) "Decennial year" means a year during which the United States Bureau of Census conducts a national decennial census.

(4) "Regular decennial redistricting" means redistricting required due to a national decennial census.

(5) "Special redistricting" means redistricting that is not a regular decennial redistricting.

**Section 3. Section 20A-20-103 is enacted to read:****20A-20-103. Review by interim committee.**

During the 2022 Legislative interim, the Government Operations Interim Committee shall conduct a review of the commission and the commission's role in relation to the redistricting process.

**Section 4. Section 20A-20-201 is enacted to read:****Part 2. Commission****20A-20-201. Utah Independent Redistricting Commission -- Creation --**

**Membership -- Term -- Quorum -- Action  
-- Meetings -- Staffing -- Website.**

(1) (a) There is created the Utah Independent Redistricting Commission.

(b) The commission is housed in the Department of Administrative Services for budgetary purposes only.

(c) The commission is not under the direction or control of the Department of Administrative Services or any executive director, director, or other employee of the Department of Administrative Services or any other government entity.

(2) Except as provided in Subsection (4), the commission comprises seven members appointed as follows:

(a) one member appointed by the governor, which member shall serve as chair of the commission;

(b) one member appointed by the president of the Senate;

(c) one member appointed by the speaker of the House of Representatives;

(d) one member appointed by the legislative leader of the largest minority political party in the Senate;

(e) one member appointed by the legislative leader of the largest minority political party in the House of Representatives;

(f) one member appointed jointly by the president of the Senate and the speaker of the House of Representatives; and

(g) one member appointed jointly by the legislative leader of the largest minority political party in the Senate and the legislative leader of the largest minority political party in the House of Representatives.

(3) An appointing authority described in Subsection (2):

(a) shall make the appointments no later than:

(i) February 1 of the year immediately following a decennial year; or

(ii) if there is a change in the number of congressional, legislative, or other districts resulting from an event other than a national decennial enumeration made by the authority of the United States, the day on which the Legislature appoints a committee to draw maps in relation to the change;

(b) may remove a commission member appointed by the appointing authority, for cause; and

(c) shall, if a vacancy occurs in the position appointed by the appointing authority under Subsection (2), appoint another individual to fill the vacancy within 10 days after the day on which the vacancy occurs.

(4) (a) If the appointing authority described in Subsection (2)(a) fails to timely make the

appointment, the legislative leader of the largest political party in the House of Representatives and the Senate, of which the governor is not a member, shall jointly make the appointment.

(b) If the appointing authority described in Subsection (2)(b) fails to timely make the appointment, the appointing authority described in Subsection (2)(d) shall make the appointment.

(c) If the appointing authority described in Subsection (2)(c) fails to timely make the appointment, the appointing authority described in Subsection (2)(e) shall make the appointment.

(d) If the appointing authority described in Subsection (2)(d) fails to timely make the appointment, the appointing authority described in Subsection (2)(b) shall make the appointment.

(e) If the appointing authority described in Subsection (2)(e) fails to timely make the appointment, the appointing authority described in Subsection (2)(c) shall make the appointment.

(f) If the appointing authority described in Subsection (2)(f) fails to timely make the appointment, the appointing authority described in Subsection (2)(g) shall make the appointment.

(g) If the appointing authority described in Subsection (2)(g) fails to timely make the appointment, the appointing authority described in Subsection (2)(f) shall make the appointment.

(5) A member of the commission may not, during the member's service on the commission:

(a) be a lobbyist or principal, as those terms are defined in Section 36-11-102;

(b) be a candidate for or holder of any elective office, including federal elective office, state elective office, or local government elective office;

(c) be a candidate for or holder of any office of a political party, except for delegates to a political party's convention;

(d) be an employee of, or a paid consultant for, a political party, political party committee, personal campaign committee, or any political action committee affiliated with a political party or controlled by an elected official or candidate for elective office, including any local government office;

(e) serve in public office if the member is appointed to public office by the governor or the Legislature;

(f) be employed by the United States Congress or the Legislature; or

(g) hold any position that reports directly to an elected official, including a local elected official, or to any person appointed by the governor or Legislature to any other public office.

(6) In addition to the qualifications described in Subsection (5), a member of the commission described in Subsection (2)(f) or (g):

(a) may not have, during the two-year period immediately preceding the member's appointment to the commission:

(i) been affiliated with a political party under Section 20A-2-107;

(ii) voted in the regular primary election or municipal primary election of a political party; or

(iii) been a delegate to a political party convention; and

(b) may not, in the sole determination of the appointing authority, be an individual who is affiliated with a partisan organization or cause.

(7) Each commission member shall, upon appointment to the commission, sign and file a statement with the governor certifying that the commission member:

(a) meets the qualifications for appointment to the commission;

(b) will, during the member's service on the commission, comply with the requirements described in Subsection (5);

(c) will comply with the standards, procedures, and requirements described in this chapter that are applicable to a commission member; and

(d) will faithfully discharge the duties of a commission member in an independent, impartial, honest, and transparent manner.

(8) For a regular decennial redistricting, the commission is:

(a) formed and may begin conducting business on February 1 of the year immediately following a decennial year; and

(b) dissolved upon approval of the Legislature's redistricting maps by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(9) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(b) A member of the commission may decline to receive per diem or travel expenses.

(10) The commission shall meet upon the request of a majority of the commission members or when the chair calls a meeting.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) The commission takes official action by a majority vote of a quorum present at a meeting of the commission.

(12) Within appropriations from the Legislature, the commission may, to fulfill the duties of the commission:

(a) contract with or employ an attorney licensed in Utah, an executive director, and other staff; and

(b) purchase equipment and other resources, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to fulfill the duties of the commission.

(13) The commission shall maintain a website where the public may:

(a) access announcements and records of commission meetings and hearings;

(b) access maps presented to, or under consideration by, the commission;

(c) access evaluations described in Subsection 20A-20-302(8);

(d) submit a map to the commission; and

(e) submit comments on a map presented to, or under consideration by, the commission.

**Section 5. Section 20A-20-202 is enacted to read:**

**20A-20-202. Software and software services.**

The Office of Legislative Research and General Counsel shall, when procuring software, licenses for using the software, and software support services for redistricting by the Legislature, include in the requests for proposals and the resulting contracts that the commission may purchase the same software, licenses for using the software, and software support services, under the contracts at the same cost and under the same terms provided to the Legislature.

**Section 6. Section 20A-20-203 is enacted to read:**

**20A-20-203. Exemptions from and applicability of certain legal requirements -- Risk management -- Code of ethics.**

(1) The commission is exempt from:

(a) except as provided in Subsection (3), Title 63A, Utah Administrative Services Code;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

(c) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) (a) The commission shall adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to those from which the commission is exempt under Subsection (1).

(b) The commission is subject to:

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

(ii) Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(iii) Title 63G, Chapter 2, Government Records Access and Management Act;

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) Title 63J, Chapter 1, Budgetary Procedures Act.

(3) Subject to the requirements of Subsection 63E-1-304(2), the commission may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(4) (a) The commission may, by majority vote, adopt a code of ethics.

(b) The commission, and the commission's members and employees, shall comply with a code of ethics adopted under Subsection (4)(a).

(c) The executive director of the commission shall report a commission member's violation of a code of ethics adopted under Subsection (4)(a) to the appointing authority of the commission member.

(d) (i) A violation of a code of ethics adopted under Subsection (4)(a) constitutes cause to remove a member from the commission under Subsection 20A-20-201(3)(b).

(ii) An act or omission by a member of the commission need not constitute a violation of a code of ethics adopted under Subsection (4)(a) to be grounds to remove a member of the commission for cause.

**Section 7. Section 20A-20-301 is enacted to read:**

**Part 3. Proceedings**

**20A-20-301. Public hearings -- Private conversations.**

(1) (a) The commission shall, by majority vote, determine the number, locations, and dates of public hearings to be held by the commission, but shall hold no fewer than seven public hearings throughout the state to discuss maps, as follows:

(i) one in the Bear River region, which includes Box Elder, Cache, and Rich counties;

(ii) one in the Southwest region, which includes Beaver, Garfield, Iron, Kane, and Washington counties;

(iii) one in the Mountain region, which includes Summit, Utah, and Wasatch counties;

(iv) one in the Central region, which includes Juab, Millard, Piute, Sanpete, Sevier, and Wayne counties;

(v) one in the Southeast region, which includes Carbon, Emery, Grand, and San Juan counties;

(vi) one in the Uintah Basin region, which includes Daggett, Duchesne, and Uintah counties; and

(vii) one in the Wasatch Front region, which includes Davis, Morgan, Salt Lake, Tooele, and Weber counties.

(b) The commission shall hold at least two public hearings in a first or second class county but not in the same county.

(c) The committee and the commission may coordinate hearing times and locations to:

(i) avoid holding hearings at, or close to, the same time in the same area of the state; and

(ii) to the extent practical, hold hearings in different cities within the state.

(2) Each public hearing must provide those in attendance a reasonable opportunity to submit written and oral comments to the commission and to propose redistricting maps for the commission's consideration.

(3) The commission shall hold the public hearings described in Subsection (1) no later than August 1 of the year following a decennial year.

(4) (a) A member of the commission may not engage in any private communication with any individual other than other members of the commission or commission staff, including consultants retained by the commission, that is material to any redistricting map or element of a map pending before the commission or intended to be proposed for commission consideration, without making the communication, or a detailed and accurate description of the communication including the names of all parties to the communication and the map or element of the map, available to the commission and to the public.

(b) A member of the commission shall make the disclosure required by Subsection (4)(a) before the redistricting map or element of a map is considered by the commission.

(5) The committee chairs and the chair of the commission shall, no later than two business days after the day on which the Legislature appoints a committee, under Subsection 20A-20-201(3)(a)(ii), for a special redistricting, jointly agree on a schedule for the commission that:

(a) reasonably ensures that the commission may complete the commission's duties in a timely manner, consistent with the time frame applicable to the committee and the Legislature;

(b) establishes deadlines for the following:

(i) holding the public hearings described in Subsection (1);

(ii) preparing and recommending maps under Subsection 20A-20-302(2);

(iii) submitting the maps and written report described in Subsection 20A-20-303(1); and

(iv) holding the public meeting described in Subsection 20A-20-303(2); and

(c) provides that the commission dissolves upon approval of the Legislature's redistricting maps by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**Section 8. Section 20A-20-302 is enacted to read:**

**20A-20-302. Selection of recommended maps -- Map requirements and standards.**

(1) As used in this section:

(a) "Map type" means one of four map types, as follows:

(i) a map of all Utah congressional districts;

(ii) a map of all state Senate districts;

(iii) a map of all state House of Representatives districts; and

(iv) a map of all State School Board districts.

(b) "Total population deviation" means a percentage determined as follows:

(i) calculating the ideal district population by dividing the total population by the number of districts;

(ii) calculating the percentage difference between the population of the district with the greatest population and the ideal district population;

(iii) calculating the percentage difference between the population of the district with the lowest population and the ideal district population; and

(iv) combining the percentage differences described in Subsections (1)(b)(ii) and (iii).

(2) The commission shall, no later than 20 days after the day of the final public hearing described in Subsection 20A-20-301(1), prepare and recommend three different maps for each map type, as follows:

(a) three different maps for congressional districts, with the number of congressional districts apportioned to Utah;

(b) three different maps for state Senate districts, with 29 Senate districts;

(c) three different maps for state House of Representatives districts, with 75 House of Representative districts; and

(d) three different maps for State School Board districts, with 15 State School Board districts.

(3) (a) To the extent possible, each map recommended by the commission shall be approved by at least five members of the commission.

(b) If the commission is unable to obtain the approval of at least five members for all maps required under Subsection (2) for a particular map type, the commission shall, for that map type:

(i) if possible, recommend one map that is approved by at least five members of the commission; and

(ii) recommend two additional maps that are approved by a majority of commission members, as follows:

(A) one of the maps shall be approved by a majority that includes the commission member described in Subsection 20A-20-201(2)(f); and

(B) one of the maps shall be approved by a majority that includes the commission member described in Subsection 20A-20-201(2)(g).

(4) The commission shall ensure that:

(a) each map recommended by the commission:

(i) is drawn using the official population enumeration of the most recent decennial census;

(ii) for congressional districts, has a total population deviation that does not exceed 1%;

(iii) for Senate, House of Representatives, and State School Board districts, has a total population deviation of less than 10%;

(iv) does not use race as a predominant factor in drawing district lines; and

(v) complies with the United States Constitution and all applicable federal laws, including Section 2 of the Voting Rights Act; and

(b) each district in each map is:

(i) drawn based on total population;

(ii) a single member district; and

(iii) contiguous and reasonably compact.

(5) The commission shall define and adopt redistricting standards for use by the commission that require that maps adopted by the commission, to the extent practicable, comply with the following, as defined by the commission:

(a) preserving communities of interest;

(b) following natural, geographic, or man-made features, boundaries, or barriers;

(c) preserving cores of prior districts;

(d) minimizing the division of municipalities and counties across multiple districts;

(e) achieving boundary agreement among different types of districts; and

(f) prohibiting the purposeful or undue favoring or disfavoring of:

(i) an incumbent elected official;

(ii) a candidate or prospective candidate for elected office; or

(iii) a political party.

(6) The commission may adopt a standard that prohibits the commission from using any of the following, except for the purpose of conducting an assessment described in Subsection (8):

(a) partisan political data;

(b) political party affiliation information;

(c) voting records;

(d) partisan election results; or

(e) residential addresses of incumbents, candidates, or prospective candidates.



(7) The commission may adopt redistricting standards for use by the commission that require a smaller total population deviation than the total population deviation described in Subsection (4)(a)(iii) if the committee or the Legislature adopts a smaller total population deviation than 10% for Senate, House of Representatives, or State School Board districts.

(8) (a) Three members of the commission may, by affirmative vote, require that commission staff evaluate any map drawn by, or presented to, the commission as a possible map for recommendation by the commission to determine whether the map complies with the redistricting standards adopted by the commission.

(b) In conducting an evaluation described in Subsection (8)(a), commission staff shall use judicial standards and, as determined by the commission, the best available data and scientific methods.

**Section 9. Section 20A-20-303 is enacted to read:**

**20A-20-303. Submission of maps to Legislature -- Consideration by Legislature.**

(1) The commission shall, within 10 days after the day on which the commission complies with Subsection 20A-20-302(2), submit to the director of the Office of Legislative Research and General Counsel, for distribution to the committee, and make available to the public, the redistricting maps recommended under Section 20A-20-302 and a detailed written report describing each map's adherence to the commission's redistricting standards and requirements.

(2) The commission shall submit the maps recommended under Section 20A-20-302 to the committee in a public meeting of the committee as described in this section.

(3) The committee shall:

(a) hold the public meeting described in Subsection (2):

(i) for the sole purpose of considering each map recommended under Section 20A-20-302; and

(ii) for a year immediately following a decennial year, on or before September 15; and

(b) at the public meeting described in Subsection (2), provide reasonable time for:

(i) the commission to present and explain the maps described in Subsection (1);

(ii) the public to comment on the maps; and

(iii) the committee to discuss the maps.

(4) The Legislature may not enact a redistricting plan before complying with Subsections (2) and (3).

(5) The committee or the Legislature may, but is not required to, vote on or adopt a map submitted to the committee or the Legislature by the commission.

**Section 10. Section 63G-7-201 is amended to read:**

**63G-7-201. Immunity of governmental entities and employees from suit.**

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to:

(a) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(c) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(i) an emergency shelter;

(ii) housing;

(iii) a staging place; or

(iv) a medical facility; and

(d) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(~~(k)~~)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity; or

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road.

**Section 11. Section 63G-7-301 is amended to read:**

**63G-7-301. Waivers of immunity.**

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of [Sections] Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment; and

~~[(j) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses awarded under Section 20A-19-301(5); and]~~

~~[(k)]~~ (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G-11-402.

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

(i) "Appropriate behavior policy" means a policy that:

(A) is not less stringent than a model policy, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to an appropriate behavior policy; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the policy to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the policy.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the State Board of Regents that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

## Section 12. Repealer.

This bill repeals:

### Section 20A-19-101, Title.

### Section 20A-19-102, Permitted Times and Circumstances for Redistricting.

### Section 20A-19-103, Redistricting Standards and Requirements.

### Section 20A-19-104, Severability.

### Section 20A-19-201, Utah Independent Redistricting Commission -- Selection of Commissioners -- Qualifications -- Term -- Vacancy -- Compensation -- Commission Resources.

### Section 20A-19-202, Commission Code of Conduct -- Quorum -- Action by the Commission -- Assessment of Proposed Redistricting Plans -- Open and Public Meetings -- Public Hearings -- Ex Parte Communications.

### Section 20A-19-203, Selection of Recommended Redistricting Plan.

### Section 20A-19-204, Submission of Commission's Recommended Redistricting Plans to the Legislature -- Consideration of Redistricting Plans by the Legislature -- Report Required if Legislature Enacts Other Plan.

### Section 20A-19-301, Right of Action and Injunctive Relief.

## Section 13. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ITEM 1

To Department of Administrative Services -- Finance-Mandated

From Legislature -- Office of Legislative Research and General Counsel, One-time	\$1,000,000
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#### Schedule of Programs:

Redistricting Commission	\$1,000,000
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The Legislature intends that:

(1) appropriations provided under this section be used for the Utah Independent Redistricting Commission, for the purposes of, and in accordance with, Title 20A, Chapter 20, Utah Independent Redistricting Commission; and

(2) under Section 63J-1-603, appropriations provided under this item not lapse at the close of

fiscal year 2021 and the use of any nonlapsing funds is limited to the purposes described in Subsection (1) of this provision of legislative intent.

**Section 14. Effective date.**

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

**CHAPTER 289****S. B. 201**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**PROFESSIONAL  
 LICENSING AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill modifies provisions of Title 58, Occupations and Professions.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to the authority of the Division of Occupational and Professional Licensing (DOPL) to refuse to issue or renew a license based on an applicant's criminal history;
- ▶ modifies provisions related to an applicant requesting an agency review from DOPL for the refusal to issue or renew a license;
- ▶ modifies the definition of "unlawful conduct" related to the criminal record of an applicant or licensee; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 58-1-401, as last amended by Laws of Utah 2016, Chapter 238
- 58-1-402, as last amended by Laws of Utah 2010, Chapter 286
- 58-1-501, as last amended by Laws of Utah 2019, Chapter 198

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

**Section 1. Section 58-1-401 is amended to read:**

**58-1-401. Grounds for denial of license --  
 Disciplinary proceedings -- Time  
 limitations -- Sanctions.**

(1) The division shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this title.

(2) The division may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the license of a licensee for the following reasons:

(a) subject to the provisions of Subsection (7), the applicant or licensee has engaged in unprofessional

conduct, as defined by statute or rule under this title;

(b) the applicant or licensee has engaged in unlawful conduct as defined by statute under this title;

(c) the applicant or licensee has been determined to be mentally incompetent by a court of competent jurisdiction; or

(d) the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material, or as a result of a mental or physical condition, when the condition demonstrates a threat or potential threat to the public health, safety, or welfare.

(3) A licensee whose license to practice an occupation or profession regulated by this title has been suspended, revoked, placed on probation, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, probation, or restriction.

(4) The division may issue cease and desist orders to:

(a) a licensee or applicant who may be disciplined under Subsection (1) or (2);

(b) a person who engages in or represents that the person is engaged in an occupation or profession regulated under this title; and

(c) a person who otherwise violates this title or a rule adopted under this title.

(5) The division may impose an administrative penalty in accordance with Section 58-1-502.

(6) (a) The division may not take disciplinary action against a person for unprofessional or unlawful conduct under this title, unless the division enters into a stipulated agreement or initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the division, except under Subsection (6)(b).

(b) (i) The division may not take disciplinary action against a person for unprofessional or unlawful conduct more than 10 years after the occurrence of the conduct, unless the proceeding is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.

(ii) Notwithstanding Subsection (6)(b)(i), the division may refuse to issue a license due to unprofessional or unlawful conduct that occurred more than 10 years before a request or application for licensure is made.

(7) When the division is determining whether to refuse to issue a license to an applicant, or to refuse to renew the license of a licensee, based solely on the criminal conviction of an applicant or licensee, the division shall:

(a) provide individualized consideration to the applicant or licensee;

(b) determine whether the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely or competently practice the occupation or profession; and

(c) consider the applicant's or licensee's current circumstances, which may include any of the following:

(i) the age of the applicant or licensee when the applicant or licensee committed the offense;

(ii) the time that has elapsed since the applicant or licensee committed the offense;

(iii) whether the applicant or licensee has completed the applicant's or licensee's criminal sentence;

(iv) whether the applicant has completed or is actively participating in rehabilitative drug or alcohol treatment;

(v) any testimonials or recommendations from other individuals provided by the applicant or licensee, including a progress report from the applicant's or licensee's probation or parole officer;

(vi) other evidence of rehabilitation provided by the applicant or licensee;

(vii) the education and training of the applicant or licensee;

(viii) the employment history of the applicant or licensee; and

(ix) other relevant information provided by the applicant or licensee.

**Section 2. Section 58-1-402 is amended to read:**

**58-1-402. Administrative review -- Special appeals boards.**

(1) (a) Any applicant who has been denied a license to practice on the basis of credentials, character, a criminal record, or failure to pass a required examination, or who has been refused renewal or reinstatement of a license to practice on the basis that the applicant does not meet qualifications for continued licensure in any occupation or profession under the jurisdiction of the division may submit a request for agency review to the executive director within 30 days following notification of the denial of a license or refusal to renew or reinstate a license.

(b) The executive director shall determine whether the circumstances for denying an application for an initial license or for renewal or reinstatement of a license would justify calling a special appeals board under Subsection (2). The executive director's decision is not subject to agency review.

(2) A special appeals board shall consist of three members appointed by the executive director as follows:

(a) one member from the occupation or profession in question who is not on the board of that occupation or profession;

(b) one member from the general public who is neither an attorney nor a practitioner in an occupation or profession regulated by the division; and

(c) one member who is a resident lawyer currently licensed to practice law in this state who shall serve as chair of the special appeals board.

(3) The special appeals board shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its proceedings.

(4) (a) Within a reasonable amount of time following the conclusion of a hearing before a special appeals board, the board shall enter an order based upon the record developed at the hearing. The order shall state whether a legal basis exists for denying the application for an initial license or for renewal or reinstatement of a license that is the subject of the appeal. The order is not subject to further agency review.

(b) The division or the applicant may obtain judicial review of the decision of the special appeals board in accordance with Sections 63G-4-401 and 63G-4-403.

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

(a) Section 63A-3-106;

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

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

(6) If an applicant under Subsection (1) is not given a special appeals board, the applicant shall be given agency review under the ordinary agency review procedures specified by rule.

**Section 3. Section 58-1-501 is amended to read:**

**58-1-501. Unlawful and unprofessional conduct.**

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

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

(b) (i) impersonating another licensee or practicing an occupation or profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same occupation or profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any occupation or profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission; or

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title;

(b) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

(c) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere [which] that is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license

was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession;

(d) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession;

(f) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so;

(g) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(h) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(i) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(j) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license;

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(l) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(m) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(ii) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(n) violating a provision of Section 58-1-501.5; or



(o) violating the terms of an order governing a license.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

(4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(c):

(a) an arrest not followed by a conviction; or

(b) a conviction for which an individual's incarceration has ended more than seven years before the date of the division's consideration, unless:

(i) after the incarceration the individual has engaged in additional conduct that results in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation; or

(ii) the conviction was for:

(A) a violent felony as defined in Section 76-3-203.5;

(B) a felony related to a criminal sexual act pursuant to Title 76, Chapter 4, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

(C) a felony related to criminal fraud or embezzlement, including a felony pursuant to Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

**CHAPTER 290**  
**S. B. 205**

Passed March 12, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**EMINENT DOMAIN MODIFICATIONS**

Chief Sponsor: Kirk A. Cullimore  
House Sponsor: Brady Brammer

**LONG TITLE**

**General Description:**

This bill modifies provisions related to eminent domain.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies certain negotiation and disclosure requirements in an eminent domain proceeding; and
- ▶ modifies provisions regarding the valuation of property in certain eminent domain proceedings.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

57-12-13, as enacted by Laws of Utah 1972, Chapter 24  
78B-6-505, as last amended by Laws of Utah 2014, Chapter 59  
78B-6-510, as renumbered and amended by Laws of Utah 2008, Chapter 3  
78B-6-511, as last amended by Laws of Utah 2018, Chapter 371

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

**Section 1. Section 57-12-13 is amended to read:**

**57-12-13. Procedure for acquisition of property.**

(1) (a) As used in this section, "fee simple owner" means the owner of a fee simple interest in real property.

(b) "Fee simple owner" does not include a tenant, lienholder, or other claimant of an interest in real property.

(2) Any agency acquiring real property as to which it has the power to acquire under the eminent domain or condemnation laws of this state shall comply with the following policies:

(4) (a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation with the fee simple owner.

(2) (b) Real property shall be appraised before the initiation of negotiations, and the fee simple owner or his designated representative shall be

given an opportunity to accompany the appraiser during his inspection of the property.

(3) (c) Before the initiation of negotiations for real property, an amount shall be established which is reasonably believed to be just compensation therefor, measured by an undivided interest in the real property being acquired, and such amount shall be offered to the fee simple owner for the property. In no event shall such amount be less than the lowest approved appraisal of the fair market value of the property. Any decrease or increase of the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the fee simple owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate the just compensation for real property acquired and for damages to remaining real property shall be separately stated.

(4) (d) No owner shall be required to surrender possession of real property acquired through federal or federally assisted programs before the agreed purchase price is paid or there is deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the lowest approved appraisal of the fair market value of such property or the amount of the award of compensation in the condemnation proceeding of such property.

(5) (e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least 90 days' written notice from the date by which such move is required.

(6) (f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) (g) In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(8) (h) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

~~[(9)]~~ (i) If the acquisition of only part of the property would leave ~~[its]~~ the fee simple owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

**Section 2. Section 78B-6-505 is amended to read:**

**78B-6-505. Negotiation and disclosure required before filing an eminent domain action.**

(1) As used in this section:

(a) (i) "Claimant" means a person who is a record interest holder of real property sought to be condemned.

(ii) "Claimant" does not include:

(A) a fee simple owner; or

(B) a utility subject to Section 72-6-116.

(b) "Fee simple owner" means the same as that term is defined in Section 57-12-13.

~~[(4)]~~ (2) A political subdivision of the state that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:

(a) before the governing body, as defined in Subsection 78B-6-504(2)(a), of the political subdivision takes a final vote to approve the filing of an eminent domain action, make a reasonable effort to negotiate with the ~~[property]~~ fee simple owner for the purchase of the property; and

(b) except as provided in Subsection ~~[(4)]~~ (5), as early in the negotiation process described in Subsection ~~[(4)]~~ (2)(a) as practicable, but no later than 14 days before the day on which a final vote is taken to approve the filing of an eminent domain action:

(i) provide the ~~[property]~~ fee simple owner and each claimant a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation; ~~and~~

(ii) provide the ~~[property]~~ fee simple owner a written statement in substantially the following form:

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of political subdivision] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of political subdivision] over the amount

of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

5. If you have a dispute with [name of political subdivision] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."; and

(iii) provide each claimant a written statement in substantially the following form:

"1. Your interest in property may be impacted by a public improvement project and you may be entitled to receive just compensation.

2. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

3. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

4. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

5. Oral representations or promises made during any negotiation are not binding upon the entity seeking to acquire the property by eminent domain."

~~[(2)]~~ (3) Except as provided in Subsection ~~[(4)]~~ (5), the entity involved in the acquisition of property

may not bring a legal action to acquire the property under this chapter until 30 days after the day on which the disclosure and materials required in ~~Subsection (1)~~ Subsections (2)(b)(ii) and (iii) are provided to the property fee simple owner and each claimant.

~~(3)~~ (4) A person, other than a political subdivision of the state, that seeks to acquire property by eminent domain or that intends to use eminent domain to acquire property if the property cannot be acquired in a voluntary transaction shall:

(a) before filing an eminent domain action, make a reasonable effort to negotiate with the property owner for the purchase of the ~~property~~ fee simple; and

(b) except as provided in Subsection ~~(4)~~ (5), as early in the negotiation process described in Subsection ~~(3)~~ (4)(a) as practicable, but no later than 30 days before the day on which the person files an eminent domain action:

(i) provide the ~~property~~ fee simple owner and each claimant a complete printed copy of the materials provided on the Office of the Property Rights Ombudsman website in accordance with Section 13-43-203 regarding the acquisition of property for a public purpose and a property owner's right to just compensation; ~~and~~

(ii) provide the ~~property~~ fee simple owner a written statement in substantially the following form:

"Although this letter is provided as part of an attempt to negotiate with you for the sale of your property or an interest in your property without using the power of eminent domain, [name of entity] may use that power if it is not able to acquire the property by negotiation. Because of that potential, the person negotiating on behalf of the entity is required to provide the following disclosures to you.

1. You are entitled to receive just compensation for your property.

2. You are entitled to an opportunity to negotiate with [name of entity] over the amount of just compensation before any legal action will be filed.

a. You are entitled to an explanation of how the compensation offered for your property was calculated.

b. If an appraiser is asked to value your property, you are entitled to accompany the appraiser during an inspection of the property.

3. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

4. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask

questions and request an explanation of your legal options.

5. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

6. Oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain."; and

(iii) provide each claimant a written statement in substantially the following form:

"1. Your interest in property may be impacted by a public improvement project and you may be entitled to receive just compensation.

2. You are entitled to discuss this case with the attorneys at the Office of the Property Rights Ombudsman. The office may be reached at [provide the current contact information for the Office of the Property Rights Ombudsman].

3. The Office of the Property Rights Ombudsman is a neutral state office staffed by attorneys experienced in eminent domain. Their purpose is to assist citizens in understanding and protecting their property rights. You are entitled to ask questions and request an explanation of your legal options.

4. If you have a dispute with [name of entity] over the amount of just compensation due to you, you are entitled to request free mediation or arbitration of the dispute from the Office of the Property Rights Ombudsman. As part of mediation or arbitration, you are entitled to request a free independent valuation of the property.

5. Oral representations or promises made during any negotiation are not binding upon the entity seeking to acquire the property by eminent domain."

~~(4)~~ (5) The court may, upon a showing of exigent circumstances and for good cause, shorten the 14-day period described in Subsection ~~(1)~~ (2)(b) or the 30-day period described in Subsection ~~(2)~~ (3) or ~~(3)~~ (4)(b).

**Section 3. Section 78B-6-510 is amended to read:**

**78B-6-510. Occupancy of premises pending action -- Deposit paid into court -- Procedure for payment of compensation.**

(1) (a) At any time after the commencement of suit, and after giving notice to the defendant as provided in the Utah Rules of Civil Procedure, the plaintiff may file a motion with the court requesting an order permitting the plaintiff to:

(i) occupy the premises sought to be condemned pending the action, including appeal; and

(ii) to do whatever work on the premises that is required.

(b) Except as ordered by the court for good cause shown, a defendant may not be required to reply to a motion for immediate occupancy before expiration of the time to answer the complaint.

(2) The court shall:

(a) take proof by affidavit or otherwise of:

(i) the value of the premises sought to be condemned, measured by an undivided interest in the premises sought to be condemned;

(ii) ~~the~~ any severance damages that will accrue from the condemnation to the undivided interest in any remaining property not sought to be condemned; and

(iii) the reasons for requiring a speedy occupation; and

(b) grant or refuse the motion according to the equity of the case and the relative damages that may accrue to the parties.

(3) (a) If the motion is granted, the court shall enter its order requiring that the plaintiff, as a condition precedent to occupancy, file with the clerk of the court a sum equal to the condemning authority's appraised valuation of the property sought to be condemned as described in Subsection (2)(a)(i).

(b) That amount shall be for the purposes of the motion only and is not admissible in evidence on final hearing.

(4) (a) Upon the filing of the petition for immediate occupancy, the court shall fix the time within which, and the terms upon which, the parties in possession are required to surrender possession to the plaintiff.

(b) The court may issue orders governing encumbrances, liens, rents, assessments, insurance, and other charges, if any, as required.

(5) (a) The rights of just compensation for the land taken as authorized by this section or damaged as a result of that taking vests in the parties entitled to it.

(b) That compensation shall be ascertained and awarded as provided in Section 78B-6-511.

(c) (i) Except as provided in Subsection (5)(c)(ii), judgment shall include, as part of the just compensation awarded, interest at the rate of 8% per annum on the amount finally awarded as the value of the property and damages, from the date of taking actual possession of the property by the plaintiff or from the date of the order of occupancy, whichever is earlier, to the date of judgment.

(ii) The court may not award interest on the amount of the judgment that was paid into court.

(6) (a) Upon the application of the parties in interest, the court shall order that the money deposited in the court be paid before judgment as an advance on the just compensation to be awarded in the proceeding.

(b) This advance payment to a defendant shall be considered to be an abandonment by the defendant of all defenses except a claim for greater compensation.

(c) If the compensation finally awarded exceeds the advance, the court shall enter judgment against the plaintiff for the amount of the deficiency.

(d) If the advance received by the defendant is greater than the amount finally awarded, the court shall enter judgment against the defendant for the amount of the excess.

(7) Arbitration of a dispute under Section 13-43-204 or 78B-6-522 is not a bar or cause to stay the action for occupancy of premises authorized by this section.

**Section 4. Section 78B-6-511 is amended to read:**

**78B-6-511. Compensation and damages -- How assessed.**

(1) The court, jury, or referee shall hear any legal evidence offered by any of the parties to the proceedings, and determine and assess:

(a) (i) the value of the property sought to be condemned ~~and~~ as a whole, including all improvements pertaining to the ~~realty~~ property; and

(ii) the value of each ~~and every separate estate or~~ separate interest in the property; ~~and~~

~~[(iii) if it consists of different parcels, the value of each parcel and of each estate or interest in each shall be separately assessed;]~~

(b) if the property sought to be condemned constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned and the construction of the improvement in the manner proposed by the plaintiff;

(c) if the property, though no part of it is taken, will be damaged by the construction of the proposed improvement, and the amount of the damages;

(d) separately, how much the portion not sought to be condemned, and each estate or interest in it, will be benefitted, if at all, by the construction of the improvement proposed by the plaintiff, provided that if the benefit is equal to the damages assessed under Subsection (1)(b), the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit is less than the damages assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value of the portion taken;

(e) if the property sought to be condemned consists of water rights or part of a water delivery system or both, and the taking will cause present or future damage to or impairment of the water delivery system not being taken, including impairment of the system's carrying capacity, an amount to compensate for the damage or impairment; and

(f) if land on which crops are growing at the time of service of summons is sought to be condemned, the value that those crops would have had after being harvested, taking into account the expenses that would have been incurred cultivating and harvesting the crops.

(2) In determining the market value of the property before the taking and the market value of the property after the taking to assess damages in partial takings cases as described in Subsection (1)(b), the court, jury, or referee:

(a) may consider everything a willing buyer and a willing seller would consider in determining the market value of the property after the taking; and

(b) may not consider the assessed value on the property tax assessment for the property unless the court determines that the assessed value on the property tax assessment constitutes an admission by a party opponent.

**CHAPTER 291****S. B. 214**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective March 28, 2020

**GAMBLING MACHINE AND SWEEPSTAKES AMENDMENTS**

Chief Sponsor: Karen Mayne  
 House Sponsor: Timothy D. Hawkes  
 Cosponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill modifies provisions relating to gambling.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies the crime of gambling;
- ▶ increases criminal penalties for an individual convicted of a gambling offense;
- ▶ prohibits placing a fringe gaming machine into operation;
- ▶ authorizes a municipality and county to seize gambling debts, proceeds, or a fringe gaming device under certain circumstances;
- ▶ provides a cause of action for a person who suffers economic loss as a result of a fringe gaming device, video gaming device, or gambling device or record; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 32B-3-303, as last amended by Laws of Utah 2011, Chapter 307  
 32B-5-301, as last amended by Laws of Utah 2019, Chapter 403  
 32B-9-204, as last amended by Laws of Utah 2012, Chapter 365  
 76-10-1101, as last amended by Laws of Utah 2019, Chapter 185  
 76-10-1102, as last amended by Laws of Utah 2019, Chapter 185  
 76-10-1104, as last amended by Laws of Utah 2019, Chapter 185  
 76-10-1105, as last amended by Laws of Utah 2019, Chapter 185

**ENACTS:**

- 76-10-1101.5, Utah Code Annotated 1953  
 76-10-1110, Utah Code Annotated 1953  
 76-10-1112, Utah Code Annotated 1953  
 76-10-1113, Utah Code Annotated 1953

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

**Section 1. Section 32B-3-303 is amended to read:****32B-3-303. Acts making a person subject to this part.**

(1) One or more of the following acts constitute a nuisance activity:

(a) a single felony conviction within the last two years of:

(i) a retail licensee; or

(ii) supervisory or managerial level staff of the retail licensee;

(b) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:

(i) (A) of a retail licensee; or

(B) staff of the retail licensee;

(ii) within the last two years; and

(iii) made on the basis of an act that occurs on the licensed premises;

(c) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37, Utah Controlled Substances Act, if:

(i) the convictions are made on the basis of an act that occurs on the licensed premises; and

(ii) there is evidence that the retail licensee knew or should have known of the illegal activity;

(d) a single conviction within the last two years of a retail licensee or staff of the retail licensee that is made on the basis of:

(i) pornographic and harmful materials:

(A) that violate Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances; and

(B) if the violation occurs on the licensed premises;

(ii) prostitution;

(iii) engaging in or permitting gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling, on the licensed premises;

(iv) having any fringe gaming device, video gaming device, or gambling device or record as defined [and proscribed by Title 76, Chapter 10, Part 11, Gambling,] in Section 76-10-1101 on the licensed premises;

(v) on the licensed premises engaging in or permitting a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value;

(vi) a disturbance of the peace that occurs on the licensed premises; or

(vii) disorderly conduct that occurs on the licensed premises; or

(e) three or more adjudicated violations of this title within the last two years by a retail licensee or by staff of the retail licensee that result in a criminal

citation or an administrative referral to the department relating to:

(i) the sale, offer for sale, or furnishing of an alcoholic product to a minor;

(ii) the sale, offer for sale, or furnishing of an alcoholic product to a person actually, apparently, or obviously intoxicated;

(iii) the sale, offer for sale, or furnishing of an alcoholic product after the lawful hours for the sale or furnishing; or

(iv) acts or conduct on the licensed premises contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title.

(2) For purposes of Subsection (1), in the case of a retail licensee that is a partnership, corporation, or limited liability company, a conviction under Subsection (1)(c) includes a conviction of any of the following for an offense described in Subsection (1)(c):

(a) a partner;

(b) a managing agent;

(c) a manager;

(d) an officer;

(e) a director;

(f) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporate retail licensee; or

(g) a member who owns at least 20% of a limited liability company retail licensee.

**Section 2. Section 32B-5-301 is amended to read:**

**32B-5-301. General operational requirements.**

(1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the commission, including the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a retail licensee;

(ii) individual staff of a retail licensee; or

(iii) both a retail licensee and staff of the retail licensee.

(2) (a) If there is a conflict between this part and the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license, the relevant part under Chapter 6, Specific Retail License Act, governs.

(b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee

may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant part under Chapter 6, Specific Retail License Act.

(c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail License Act, refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.

(3) (a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.

(b) A retail licensee shall display in a prominent place a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A retail licensee may not on the licensed premises:

(a) engage in or permit any form of gambling~~[, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling], as defined in Section 76-10-1101, or fringe gambling, as defined in Section 76-10-1101;~~

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined [and proscribed by Title 76, Chapter 10, Part 11, Gambling] in Section 76-10-1101; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:



(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) Upon the presentation of credentials, at any time during which a retail licensee is open for the transaction of business, the retail licensee shall immediately:

(a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and

(b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:

- (i) the entire premises of the retail licensee; and
- (ii) the records of the retail licensee.

(7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:

(a) beginning one hour after the time of day that the period during which a retail licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and

(b) ending at the time specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.

(8) (a) An employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic product to a patron shall wear an identification badge.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules related to the requirement described in Subsection (8)(a).

**Section 3. Section 32B-9-204 is amended to read:**

**32B-9-204. General operational requirements for an event permit.**

(1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at an event for which an event permit is issued, shall comply with this title and rules of the commission.

(b) Failure to comply as provided in Subsection (1)(a):

- (i) may result in:

(A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (I) an event permittee;

(II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event; or

(III) any combination of the persons listed in this Subsection (1)(b);

(B) immediate revocation of the event permit;

(C) forfeiture of a bond; or

(D) immediate seizure of an alcoholic product present at the event; and

(ii) if the event permit is revoked, disqualifies the event permittee from applying for an event permit for a period of three years from the date of revocation of the event permit.

(c) An alcoholic product seized under this Subsection (1) shall be returned to the event permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit held by the special use permittee, the relevant part governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the relevant part under this chapter for the type of event permit that is held by the event permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of event permit held by an event permittee refers to "event permittee," a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the event permit is issued is subject to the same requirement or prohibition.

(3) An event permittee shall display a copy of the event permit in a prominent place in the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.

(4) An event permittee may not on the premises of the event:

(a) engage in or allow any form of gambling [~~as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling~~], as defined in Section 76-10-1101, or fringe gambling, as defined in Section 76-10-1101;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined [~~and proscribed by Title 76, Chapter 10, Part 11, Gambling~~] in Section 76-10-1101; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) An event permittee may not knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) An event permittee may not sell, offer for sale, or furnish beer except beer purchases from:

- (a) a beer wholesaler licensee;
- (b) a beer retailer; or
- (c) a small brewer.

(7) An event permittee may not store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product purchased for an event in a location other than that described in the application and designated on the event permit unless the event permittee first applies for and receives approval from the director, with the approval of the Compliance, Licensing, and Enforcement Subcommittee, for a change of location.

(8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or furnish beer for on-premise consumption:

- (i) in an open original container; and
- (ii) in a container on draft.

(b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to Subsection (8)(a):

- (i) in a size of container that exceeds two liters; or
- (ii) to an individual patron in a size of container that exceeds one liter.

(9) (a) An event permittee may not sell or offer for sale an alcoholic product at less than the cost of the alcoholic product to the event permittee.

(b) An event permittee may not sell an alcoholic product at a discount price on any date or at any time.

(c) An event permittee may not sell or offer for sale an alcoholic product at a price that encourages overconsumption or intoxication.

(d) An event permittee may not sell or offer for sale an alcoholic product at a special or reduced price for only certain hours of the day of an event.

(e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic product at the price of a single alcoholic product.

(f) An event permittee, or a person operating, selling, offering, or furnishing an alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or unlimited number of alcoholic products during a set period for a fixed price, unless:

- (i) the alcoholic product is served to a patron at a seated event;
- (ii) food is available whenever the alcoholic product is sold, offered for sale, or furnished; and
- (iii) no person advertises that at the event a person may be sold or furnished an indefinite or

unlimited number of alcoholic products during a set period for a fixed price.

(g) An event permittee may not engage in a public promotion involving or offering a free alcoholic product to the general public.

(10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

- (a) a minor;
- (b) a person actually, apparently, or obviously intoxicated;
- (c) a known interdicted person; or
- (d) a known habitual drunkard.

(11) (a) An alcoholic product is considered under the control of the event permittee during an event.

(b) A patron at an event may not bring an alcoholic product onto the premises of the event.

(12) An event permittee may not permit a patron to carry from the premises an open container that:

- (a) is used primarily for drinking purposes; and
- (b) contains an alcoholic product.

(13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at an event is considered under the supervision and direction of the event permittee.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at an event may not, while on duty:

- (i) consume an alcoholic product; or
- (ii) be intoxicated.

(14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an event.

(15) The location specified in an event permit may not be changed without prior written approval of the commission.

(16) An event permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the event permit to another person whether for monetary gain or not.

(17) (a) An event permittee may not sell, offer for sale, furnish, or allow the consumption of an alcoholic product during a period that:

- (i) begins at 1 a.m.; and
- (ii) ends at 9:59 a.m.

(b) This Subsection (17) does not preclude a local authority from being more restrictive with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic product at an event.

(18) A patron may have no more than one alcoholic product of any kind at a time before the patron.

(19) (a) An event permittee shall display, in a prominent place, a sign in large letters that consists of text in the following order:

- (i) a header that reads: "WARNING";

(ii) a warning statement that reads: “Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.”;

(iii) a statement in smaller font that reads: “Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.”;

(iv) a header that reads: “WARNING”; and

(v) a warning statement that reads: “Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah.”

(b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (19)(a)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (19)(a) shall be in the same font size.

(c) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

**Section 4. Section 76-10-1101 is amended to read:**

**76-10-1101. Definitions.**

As used in this part:

(1) (a) “Amusement device” means a game that:

(i) is activated by a coin, token, or other object of consideration or value; and

(ii) does not provide the opportunity to:

(A) enter into a sweepstakes, lottery, or other gambling event; or

(B) receive any form of consideration or value, except an appropriate reward.

(b) “Amusement device” includes:

(i) a video game;

(ii) a driving simulator;

(iii) an electronic game;

(iv) a claw machine;

(v) a bowling game;

(vi) a shuffleboard game;

(vii) a skee-ball game;

(viii) a pool table;

(ix) a pinball machine;

(x) a target machine; and

(xi) a baseball machine.

(2) “Amusement facility” means a facility that:

(a) is operated primarily for the purpose of providing amusement or entertainment to customers;

(b) is located on property that is open to customers for the purpose of providing customers with an opportunity to use an amusement device;

(c) receives a substantial amount of the facility’s revenue from the operation of amusement devices; and

(d) does not provide an opportunity for, or a machine or device that enables, gambling or fringe gambling.

(3) (a) “Appropriate reward” means a reward that:

(i) an individual receives as a result of the individual’s participation in or use of an amusement device; and

(ii) provides:

(A) full and adequate return for money, a token, or other consideration or value invested into the amusement device;

(B) an immediate and unrecorded ability to replay a game featured on an amusement device that is not exchangeable for value;

(C) a toy, novelty, or other non-monetary prize with a value of less than \$100 as a reward for playing; or

(D) tickets or credits that are redeemable for a toy, novelty, or non-monetary prize at an amusement facility, or at any franchise or chain of the amusement facility, where the amusement device is located.

(b) “Appropriate reward” does not include money, a gift certificate, a gift card, credit to be used in a retail store, or other form of monetary compensation or reward.

[(1)] (4) “Consumer” means the same as that term is defined in Section 76-10-1230.

(5) “Enter or entry” means an act or process by which an individual becomes eligible to receive a prize offered for participation in any form of sweepstakes, game, or contest.

[(2)] (6) (a) “Fringe gambling” means any de facto form of gambling, lottery, fringe gaming device, or video gaming device that is given, conducted, or offered for use or sale by a business in exchange for anything of value or incident to the purchase of another good or service.

(b) “Fringe gambling” does not include:

(i) a promotional activity that is clearly ancillary to the primary activity of a business[-]; or

(ii) use of an amusement device or vending machine.

[(3)] (7) (a) “Fringe gaming device” means a [device that provides the user] mechanically, electrically, or electronically operated machine or device that:

(i) is not an amusement device or a vending machine;

(ii) is capable of displaying or otherwise presenting information on a screen or through any other mechanism; and

[(i) a card, token, credit, or product in exchange for anything of value; and]

[(ii) along with the card, token, credit, or product, the opportunity to participate in a contest, game, gaming scheme, or sweepstakes with a potential return of money or something of value that is based on an element of chance and not substantially affected by a person's skill, knowledge, or dexterity.]

[(b) "Fringe gaming device" does not include a device that provides the user a card, token, credit, or product in exchange for only the user's name, birthdate, or contact information.]

(iii) provides the user with a card, token, credit, gift certificate, product, or opportunity to participate in a contest, game, gaming scheme, or sweepstakes with a potential return of money or other prize.

(b) "Fringe gaming device" includes a machine or device similar to a machine or device described in Subsection (7)(a) that seeks to avoid application or circumvent this part or Article VI, Section 27, of the Utah Constitution.

[(4)] (8) (a) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome:

(i) is based on an element of chance, regardless of:

(A) the existence of a preview or pre-reveal feature in the device, contest, or game; [and] or

(B) whether the preview or pre-reveal feature described in Subsection (8)(a)(i)(A) allows users to see individual or successive outcomes; and

(ii) is in accord with an agreement or understanding that someone will receive anything of value in the event of a certain outcome.

(b) "Gambling" includes a lottery.

(c) "Gambling" does not include:

(i) a lawful business transaction; or

(ii) [playing] use of an amusement device [that confers].

[(A) only an immediate and unrecorded right of replay not exchangeable for value; or]

[(B) as a reward for playing, a toy or novelty with a value of less than \$10.]

[(5)] (9) "Gambling bet" means money, checks, credit, or any other representation of value.

[(6)] (10) "Gambling device or record" means anything specifically designed for use in gambling or fringe gambling or used primarily for gambling or fringe gambling.

[(7)] (11) "Gambling proceeds" means anything of value used in gambling or fringe gambling.

[(8)] (12) "Internet gambling" or "online gambling" means gambling, fringe gambling, or gaming by use of:

(a) the Internet; or

(b) any mobile electronic device that allows access to data and information.

[(9)] (13) "Internet service provider" means a person engaged in the business of providing Internet access service, with the intent of making a profit, to consumers in Utah.

[(10)] (14) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.

(15) "Prize" means a gift, award, gratuity, good, service, credit, or anything else of value that may be or is transferred to an individual or placed on an account or other record with the intent to be transferred to an individual.

[(11)] (16) "Promotional activity that is clearly ancillary to the primary activity of a business" means [that the] a promotional activity that:

(a) continues for a limited period of time;

(b) is related to a good or service ordinarily provided by [the] a business or the marketing or advertisement of a good or service ordinarily provided by the business;

(c) does not require a person to purchase a good or service from the business in consideration for participation or an advantage in the promotional activity or any other contest, game, gaming scheme, sweepstakes, or promotional activity; [and]

(d) promotes [the] a good or service [being promoted for purchase by the business] described in Subsection (16)(b) on terms that are commercially reasonable[.]; and

(e) does not, through use of a machine or device:

(i) simulate a gambling environment;

(ii) require the purchase of something of value to participate in the promotional activity that is not regularly used, purchased, or redeemed by users of the machine or device;

(iii) provide a good or service described in Subsection (16)(b):

(A) in a manner in which the person acquiring the good or service is unable to immediately acquire, redeem, or otherwise use the good or service after the time of purchase; or

(B) at a value less than the full value of the good or service;

(iv) appear or operate in a manner similar to a machine or device that is normally found in a casino for the purpose of gambling;

(v) provide an entertaining display, designed to appeal to an individual's senses, that promotes actual or simulated game play that is similar in appearance or function to gambling, including:

(A) a video playing card game, including a video poker game;

(B) a video bingo game;

(C) a video craps game;

(D) a video keno game;

(E) a video lotto game;

(F) an 8-liner machine;

(G) a Pot O' Gold game;

(H) a video game involving a random or chance matching of pictures, words, numbers, or symbols; or

(I) a video game that reveals a prize as the game is played; or

(vi) otherwise create a pretextual transaction to facilitate a contest, game, gaming scheme, or sweepstakes in an attempt to circumvent the requirements of this part or Article VI, Section 27, of the Utah Constitution.

(17) "Skill-based game" means a game, played on a machine or device, the outcome of which is based, in whole or in part, on the skill of the player, regardless of whether a degree of chance is involved.

(18) "Sweepstakes" means a game, advertising scheme, marketing scheme, or other promotion:

(a) that an individual may enter with or without payment of any consideration;

(b) that qualifies the person to win a prize; and

(c) the result of which is based on chance.

(19) "Vending machine" means a device:

(a) that dispenses merchandise in exchange for money or any other item of value;

(b) that provides full and adequate return of the value deposited;

(c) through which the return of value is not conditioned on an element of chance or skill; and

(d) (i) does not include a promotional activity; or

(ii) includes a promotional activity that is clearly ancillary to the primary activity of a business.

[(12)] (20) "Video gaming device" means [any] a device that [possesses all] includes all of the following [characteristics]:

(a) a video display and computer mechanism for playing a game;

(b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;

(c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;

(d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or risking of a greater amount of money, tokens, or credits:

(i) does not significantly extend the length of play time of any single game; and

(ii) provides for a chance of greater return of credits, games, or money; and

(e) an operating mechanism that, in order to function, requires inserting money, tokens, or other valuable consideration other than [solely] entering the user's name, birthdate, or contact information.

**Section 5. Section 76-10-1101.5 is enacted to read:**

**76-10-1101.5. General culpability requirement applicable.**

Nothing in this part preempts or makes inapplicable the provisions of Title 76, Chapter 2, Part 1, Culpability Generally.

**Section 6. Section 76-10-1102 is amended to read:**

**76-10-1102. Gambling.**

(1) A person is guilty of gambling if the person:

(a) participates in gambling or fringe gambling, including any Internet or online gambling;

(b) knowingly permits [any] gambling or fringe gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or

(c) knowingly allows the use of any video gaming device that is:

(i) in any business establishment or public place; and

(ii) accessible for use by any person within the establishment or public place.

(2) Gambling is a class B misdemeanor, except that any person who is convicted two or more times under this section is guilty of a class A misdemeanor.

(3) (a) A person is guilty of a [class A misdemeanor] third degree felony who intentionally provides or offers to provide any form of Internet or online gambling to any person in this state.

(b) Subsection (3)(a) does not apply to an Internet service provider, a hosting company as defined in Section 76-10-1230, a provider of public telecommunications services as defined in Section 54-8b-2, or an Internet advertising service by reason of the fact that the Internet service provider, hosting company, Internet advertising service, or provider of public telecommunications services:

(i) transmits, routes, or provides connections for material without selecting the material; or

(ii) stores or delivers the material at the direction of a user.

(4) If any federal law ~~[is enacted that]~~ authorizes Internet gambling in the states and that federal law provides that individual states may opt out of Internet gambling, this state shall opt out of Internet gambling in the manner provided by federal law and within the time frame provided by that law.

(5) ~~[Whether or not any]~~ Regardless of whether a federal law is enacted that authorizes Internet gambling in the states, this section acts as this state's prohibition of any gambling, including Internet gambling, in this state.

**Section 7. Section 76-10-1104 is amended to read:**

**76-10-1104. Gambling promotion.**

(1) A person is guilty of gambling promotion if the person derives or intends to derive an economic benefit other than personal winnings from gambling or fringe gambling and:

(a) the person induces or aids another to engage in gambling or fringe gambling; or

(b) the person knowingly invests in, finances, owns, controls, supervises, manages, or participates in any gambling or fringe gambling.

(2) Gambling promotion is a class [B] A misdemeanor, except that any person who is twice convicted under this section is guilty of a third degree felony.

**Section 8. Section 76-10-1105 is amended to read:**

**76-10-1105. Possessing a gambling device or record.**

(1) A person is guilty of possessing a gambling device or record if the person knowingly possesses the gambling device or record with intent to use the gambling device or record in gambling or fringe gambling.

(2) Possession of a gambling device or record is a class [B] A misdemeanor, except that any person who is ~~[twice]~~ convicted two or more times under this section is ~~[guilty of a class A misdemeanor, and a person who is convicted three or more times under this section is]~~ guilty of a third degree felony.

**Section 9. Section 76-10-1110 is enacted to read:**

**76-10-1110. Fringe gaming devices.**

(1) Notwithstanding any other provision in Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals, it is unlawful for any person to derive or intend to derive an economic benefit from a fringe gaming device by:

(a) permitting a fringe gaming device to be located on or in any real or personal property owned, rented, or under the control of the person;

(b) allowing individual or public access or use of a fringe gaming device as part of any business owned or operated by the person;

(c) inducing or aiding a person to use a fringe gaming device;

(d) investing in, financing, owning, controlling, or otherwise managing a fringe gaming device; or

(e) possessing a fringe gaming device with the intent to use or allow another to use the fringe gaming device.

(2) Subsection (1) applies regardless of whether the fringe gaming device:

(a) is server-based;

(b) uses a simulated game terminal as a representation of a prize associated with the results of a sweepstakes entry;

(c) uses a simulated game to influence or determine the result of the simulated game or the value of a prize;

(d) selects the winner of a prize from a predetermined or finite pool of entries;

(e) includes a pre-reveal feature;

(f) predetermines a prize and reveals the prize at the time a sweepstakes entry result is revealed;

(g) requires deposit of any money, coin, token, or gift certificate, or the use of a credit card, debit card, prepaid card, or any other method of payment to activate the device;

(h) requires direct payment into the machine or device or remote activation of the device;

(i) requires a purchase of a related product regardless of whether the product has legitimate value;

(j) reveals the prize incrementally, regardless of whether a prize is awarded; or

(k) includes a skill-based game.

(3) Each violation of this section is a separate offense.

(4) A person who violates this section is guilty of:

(a) a class A misdemeanor for the first offense; or

(b) a third degree felony for a subsequent offense.

**Section 10. Section 76-10-1112 is enacted to read:**

**76-10-1112. Local control.**

(1) Nothing in this part preempts or otherwise limits the authority of a county or municipality to enact a local ordinance related to gambling or fringe gambling.

(2) In accordance with Title 24, Forfeiture and Disposition of Property Act, a county or municipality may seize gambling debts, gambling proceeds, or fringe gaming devices that are reasonably identifiable as being obtained or provided in violation of this part or a local ordinance.

**Section 11. Section 76-10-1113 is enacted to read:**

**76-10-1113. Cause of action.**

(1) An individual who suffers economic loss as a result of a fringe gaming device, video gaming device, or gambling device or record may bring a cause of action against a person who operates or receives revenue from the fringe gaming device, video gaming device, or gambling device or record to recover damages, costs, and attorney fees.

(2) An individual who brings suit under Subsection (1) may recover twice the amount of the economic loss described in Subsection (1).

**Section 12. Effective date.**

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

**CHAPTER 292****S. B. 223**

Passed March 12, 2020

Approved March 28, 2020

Effective July 1, 2021

**INSURANCE RENEWAL AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
House Sponsor: James A. Dunnigan

**LONG TITLE****General Description:**

This bill amends the Insurance Code regarding the cancellation of insurance policies.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions regarding cancellation of a commercial lines insurance policy for nonpayment of premium; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

31A-21-303, as last amended by Laws of Utah 2015, Chapter 385

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

**Section 1. Section 31A-21-303 is amended to read:****31A-21-303. Cancellation, issuance, renewal.**

(1) (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this section applies to all policies of insurance:

(i) except for:

- (A) life insurance;
- (B) accident and health insurance; and
- (C) annuities; and

(ii) if the policies of insurance are issued on forms that are subject to filing under Subsection 31A-21-201(1).

(b) A policy may provide terms more favorable to insureds than this section requires.

(c) The commissioner may by rule totally or partially exempt from this section classes of insurance policies in which the insureds do not need protection against arbitrary or unannounced termination.

(d) The rights provided by this section are in addition to and do not prejudice any other rights the insureds may have at common law or under other statutes.

(2) (a) As used in this Subsection (2), "grounds" means:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, unless the insurer should reasonably have foreseen the change or contemplated the risk when entering into the contract;

(iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) attainment of the age specified as the terminal age for coverage, in which case the insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional return of premium; or

(v) in the case of motor vehicle insurance, revocation or suspension of the driver's license of:

(A) the named insured; or

(B) any other person who customarily drives the motor vehicle.

(b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:

(A) the expiration of the agreed term; or

(B) one year from the effective date of the policy or renewal.

(ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the insurer for:

(A) nonpayment of a premium when due; or

(B) on grounds defined in Subsection (2)(a).

(c) (i) The cancellation provided by Subsection (2)(b), except cancellation for nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class mailing of a written notice to the policyholder.

(ii) Cancellation for nonpayment of premium of a personal lines policy is effective no sooner than 10 days after delivery or [first-class] first-class mailing of a written notice to the policyholder.

(iii) Cancellation for nonpayment of premium of a commercial lines policy is effective no sooner than 10 days after delivery or first-class mailing of a written notice to:

(A) the policyholder;

(B) each assignee of the policyholder, if the assignee is named in the policy; and

(C) each loss payee or mortgagee or lienholder under property insurance of the policyholder, if the loss payee, mortgagee, or lienholder is named in the policy.

(iv) An insurer shall deliver or send by first-class mail a copy of the notice of cancellation for nonpayment of premium described in Subsection (2)(c)(iii) to an agent of record of the policyholder on or before the day on which the insurer provides the notice to the policyholder.



(d) (i) Notice of cancellation for nonpayment of premium shall include a statement of the reason for cancellation.

(ii) Subsection (7) applies to the notice required for grounds of cancellation other than nonpayment of premium.

(e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not been previously renewed if the contract has been in effect less than 60 days ~~[when]~~ on the day on which the written notice of cancellation is mailed or delivered.

(ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10 days after the ~~[delivery to the insured of]~~ day on which a written notice of cancellation is delivered to the insured.

(iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage prepaid, to the insured at the insured's last-known address, delivery is considered accomplished after the passing, since the mailing date, of the mailing time specified in the Utah Rules of Civil Procedure.

(iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the procedures described in Subsection (7).

(3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days ~~[prior to any]~~ before an anniversary date.

(4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:

(i) on the terms then being applied by the insurer to similar risks; and

(ii) (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or

(B) for one year if the agreed term is longer than one year.

(b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:

(i) at least 30 days before the ~~[policy-expiration]~~ day on which the policy expires or completes an anniversary [date], the insurer delivers or sends by first-class mail a notice of intention not to renew the policy beyond the agreed expiration or anniversary date [is delivered or sent by first-class mail by the insurer] to the policyholder at the policyholder's last-known address;

(ii) not more than 45 nor less than 14 days before the ~~[due date of]~~ day on which the renewal premium is due, the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:

(A) the renewal premium;

(B) how the renewal premium may be paid, including the due date for payment of the renewal premium;

(C) that failure to pay the renewal premium extinguishes the policyholder's right to renewal; and

(D) subject to Subsection (4)(e), that the extinguishment of the right to renew for nonpayment of premium is effective no sooner than at least 10 days after delivery or ~~[first-class]~~ first-class mailing of a written notice to the policyholder that the policyholder has failed to pay the premium when due;

(iii) the policyholder has:

(A) accepted replacement coverage; or

(B) requested or agreed to nonrenewal; or

(iv) the policy is expressly designated as nonrenewable.

(c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to renew an insurance policy as a result of a telephone call or other inquiry that:

(i) references a policy coverage; and

(ii) does not result in the insured requesting payment of a claim.

(d) Failure to renew under this Subsection (4) is subject to Subsection (5).

(e) (i) ~~[During]~~ (A) If the policy is a personal lines policy, during the period that begins when an insurer delivers or sends by first-class mail the notice described in Subsection (4)(b)(ii)(D) [is delivered or mailed] and ends when the premium is paid, coverage exists and premiums are due.

(B) If the policy is a commercial lines policy, during the period that begins when an insurer delivers or sends by first-class mail the notice described in Subsection (2)(c)(iii) and ends when the premium is paid, coverage exists and premiums are due.

(ii) (A) If after receiving the notice required by Subsection (4)(b)(ii)(D) a personal lines policyholder fails to pay the renewal premium, the coverage is extinguished as of the date the renewal premium is originally due.

(B) If after receiving the notice required under Subsection (2)(c)(iii), a commercial lines policyholder fails to pay the renewal premium within the 10 days before the day on which cancellation for nonpayment is effective, the coverage is extinguished as of the day on which the renewal premium is originally due.

(iii) Delivery of the notice required by Subsection (2)(c)(iii), (2)(c)(iv), or (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.

(iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if ~~[it]~~:

(A) the insurer provides notice of the extinguishment of the right to renew for failure to

pay premium at least 15 days, but no longer than 45 days, before the day on which the renewal payment is due[-]; and

(B) the policy is a personal lines policy.

(v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30 days or less.

(5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:

(a) in the case of a motor vehicle insurance policy:

(i) a claim from the insured that:

(A) results from an accident in which:

(I) the insured is not at fault; and

(II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years of age or older; and

(B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;

(ii) a single traffic violation by an insured that:

(A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;

(B) is not in excess of 10 miles per hour over the speed limit;

(C) is not a traffic violation under:

(I) Section 41-6a-601;

(II) Section 41-6a-604; or

(III) Section 41-6a-605;

(D) is not a violation by an insured driver who is younger than 21 years of age; and

(E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through (D) within a 36-month period; or

(iii) a claim for damage that:

(A) results solely from:

(I) wind;

(II) hail;

(III) lightning; or

(IV) an earthquake;

(B) is not preventable by the exercise of reasonable care; and

(C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B) within a 36-month period; and

(b) in the case of a homeowner's insurance policy, a claim by the insured that is for damage that:

(i) results solely from:

(A) wind;

(B) hail; or

(C) lightning;

(ii) is not preventable by the exercise of reasonable care; and

(iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a 36-month period.

(6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the new terms or rates at least 30 days ~~[prior to the expiration date of the prior policy]~~ before the day on which the previous policy expires.

(ii) If the insurer did not give the prior notification described in Subsection (6) (a)(i) to the policyholder, the new terms or rates do not take effect until 30 days after the day on which the insurer delivers or sends by first-class mail the notice ~~[is delivered or sent by first-class mail]~~, in which case the policyholder may elect to cancel the renewal policy at any time during the 30-day period.

(iii) Return premiums or additional premium charges shall be calculated proportionately on the basis that the old rates apply.

(b) Subsection (6)(a) does not apply if the only change in terms that is adverse to the policyholder is:

(i) a rate increase generally applicable to the class of business to which the policy belongs;

(ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against; or

(iii) a policy form change made to make the form consistent with Utah law.

(7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable precision the facts on which the insurer's decision is based, the insurer shall send by first-class mail or deliver that information within 10 working days after receipt of a written request by the policyholder.

(b) A notice under Subsection (2)(c) is not effective unless it contains information about the policyholder's right to make the request.

(8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a lienholder if the insurer has been provided the name and mailing address of the lienholder.

(b) ~~[The]~~ An insurer shall provide the notice described in Subsection (8)(a) ~~[shall be provided]~~ to the lienholder by ~~[first-class]~~ first-class mail or, if agreed by the parties, any electronic means of communication.

(c) A lienholder shall provide a current physical address of notification or an electronic address of

notification to an insurer that is required to make a notification under Subsection (8)(a).

(9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless [it] the notice contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.

(10) There is no liability on the part of, and no cause of action against, any insurer, its authorized representatives, agents, employees, or any other person furnishing to the insurer information relating to the reasons for cancellation or nonrenewal or for any statement made or information given by them in complying or enabling the insurer to comply with this section unless actual malice is proved by clear and convincing evidence.

(11) This section does not alter any common law right of contract rescission for material misrepresentation.

(12) If a person is required to pay a premium in accordance with this section:

(a) the person may make the payment using:

(i) the United States Postal Service;

(ii) a delivery service the commissioner describes or designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iii) electronic means; and

(b) the payment is considered to be made:

(i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on the date on which the payment is postmarked;

(ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii), on the date on which the delivery service records or marks the payment as having been received by the delivery service; or

(iii) for a payment that is made using the method described in Subsection (12)(a)(iii), on the date on which the payment is made electronically.

**Section 2. Effective date.**

This bill takes effect on July 1, 2021.

**CHAPTER 293****S. B. 224**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**DEDICATION OF PUBLIC HIGHWAYS**

Chief Sponsor: Todd Weiler  
 House Sponsor: Merrill F. Nelson

**LONG TITLE****General Description:**

This bill modifies the Transportation Code by amending provisions relating to the dedication of public highways.

**Highlighted Provisions:**

This bill:

- ▶ modifies the requirements for an interruption of continuous use of a highway as a public thoroughfare;
- ▶ provides that a property owner's interruption of continuous use of a highway as a public thoroughfare restarts the running of the 10-year period of continuous use required for the dedication of a public highway;
- ▶ provides that a property owner's interruption of a right-of-way created after dedication has no effect on the validity of the state's or local highway authority's claim to the right-of-way;
- ▶ removes certain limitations regarding the applicability of the dedication and interruption provisions; and
- ▶ removes language providing legislative intent.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

72-5-104, as last amended by Laws of Utah 2014, Chapter 107

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

**Section 1. Section 72-5-104 is amended to read:****72-5-104. Public use constituting dedication -- Scope.**

(1) As used in this section, "highway," "street," or "road" does not include an area principally used as a parking lot.

(2) ~~[(a)]~~ A highway is dedicated and abandoned to the use of the public when it has been continuously used as a public thoroughfare for a period of 10 years.

~~[(b) Dedication to the use of the public under Subsection (2) does not require an act of dedication or implied dedication by the property owner.]~~

(3) The requirement of continuous use under Subsection (2) is satisfied if the use is as frequent as the public finds convenient or necessary and may be seasonal or follow some other pattern.

(4) Continuous use as a public thoroughfare under Subsection (2) is interrupted ~~[only]~~ when:

~~[(a) the regularly established pattern and frequency of public use for the given road has actually been interrupted for a period of no less than 24 hours to a degree that reasonably puts the traveling public on notice; or]~~

~~[(b) for interruptions by use of a barricade on or after May 10, 2011;]~~

~~[(i)]~~ (a) ~~[if]~~ the person or entity interrupting the continuous use gives not less than 72 hours advance written notice of the interruption to the highway authority having jurisdiction of the highway, street, or road; ~~[and]~~

~~[(ii) the barricade is in place for at least 24 consecutive hours, then an interruption will be deemed to have occurred.]~~

(b) the property owner undertakes an overt act which is intended to interrupt the use of the highway, street, or road as a public thoroughfare; and

(c) the overt act described in Subsection (4)(b) is reasonably calculated to interrupt the regularly established pattern and frequency of public use for the given highway, street, or road for a period of no less than 24 hours.

(5) Installation of gates and posting of no trespassing signs are relevant forms of evidence but are not solely determinative of whether an interruption under Subsection (4) has occurred.

~~[(6) If the highway authority having jurisdiction of the highway, street, or road demands that an interruption cease or that a barrier or barricade blocking public access be removed and the property owner accedes to the demand, the attempted interruption does not constitute an interruption under Subsection (4).]~~

(6) A property owner's interruption under Subsection (4) of a highway, street, or road where the requirement of continuous use under Subsection (2) is not satisfied restarts the running of the 10-year period of continuous use required for dedication under Subsection (2).

(7) (a) The burden of proving dedication under Subsection (2) is on the party asserting the dedication.

(b) The burden of proving interruption under Subsection (4) is on the party asserting the interruption.

(8) (a) The dedication and abandonment creates a right-of-way held by the state or a local highway authority in accordance with Sections 72-3-102, ~~72-3-103~~, 72-3-104, 72-3-105, and 72-5-103.

(b) A property owner's interruption under Subsection (4) of a right-of-way claimed by the state or local highway authority in accordance with Subsection (8)(a) or R.S. 2477 has no effect on the validity of the state's or local highway authority's claim to the right-of-way and does not return the right-of-way to the property owner.

(9) The scope of ~~[the]~~ a right-of-way described in Subsection (8)(a) is that which is reasonable and necessary to ensure safe travel according to the facts and circumstances.

(10) ~~[(a)]~~ The provisions of this section apply to any claim under this section for which a court of competent jurisdiction has not issued a final unappealable judgment or order.

~~[(b) The Legislature finds that the application of this section:]~~

~~[(i) does not enlarge, eliminate, or destroy vested rights; and]~~

~~[(ii) clarifies legislative intent in light of Utah Supreme Court rulings in Wasatch County v. Okelberry, 179 P.3d 768 (Utah 2008), Town of Leeds v. Prsbrey, 179 P.3d 757 (Utah 2008), and Utah County v. Butler, 179 P.3d 775 (Utah 2008).]~~

**CHAPTER 294****S. B. 225**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective January 1, 2021

**PREPAID WIRELESS  
 TELECOMMUNICATIONS  
 SERVICE AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
 House Sponsor: Francis D. Gibson

**LONG TITLE****General Description:**

This bill modifies provisions related to prepaid wireless telecommunications service.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies the charge imposed on a transaction for prepaid wireless telecommunications service to support the Universal Public Telecommunications Service Support Fund;
- ▶ provides that the seller in a transaction for prepaid wireless telecommunications service shall collect the charge and remit the revenue to the State Tax Commission;
- ▶ allows the State Tax Commission to share certain information with the Public Service Commission related to charges on prepaid wireless telecommunications service remitted to the State Tax Commission; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

54-8b-15, as last amended by Laws of Utah 2017, Chapter 423  
 59-1-306, as last amended by Laws of Utah 2019, Chapter 136  
 59-1-401, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6  
 59-1-402, as last amended by Laws of Utah 2018, Chapter 329  
 59-1-403, as last amended by Laws of Utah 2019, Chapter 61  
 59-1-1402, as last amended by Laws of Utah 2018, Chapter 329  
 59-12-107, as last amended by Laws of Utah 2019, Chapter 486  
 59-12-108, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6  
 59-12-128, as last amended by Laws of Utah 2017, Chapter 430  
 63H-7a-205, as last amended by Laws of Utah 2017, Chapter 430  
 63H-7a-304, as last amended by Laws of Utah 2019, Chapter 509  
 63H-7a-403, as last amended by Laws of Utah 2019, Chapter 509  
 69-2-101, as renumbered and amended by Laws of Utah 2017, Chapter 430

69-2-405, as last amended by Laws of Utah 2019, Chapter 509

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

**Section 1. Section 54-8b-15 is amended to read:**

**54-8b-15. Universal Public Telecommunications Service Support Fund -- Commission duties -- Charges -- Lifeline program.**

(1) For purposes of this section:

(a) "Broadband Internet access service" means the same as that term is defined in 47 C.F.R. Sec. 8.2.

(b) "Carrier of last resort" means:

(i) an incumbent telephone corporation; or

(ii) a telecommunications corporation that, under Section 54-8b-2.1:

(A) has a certificate of public convenience and necessity to provide local exchange service; and

(B) has an obligation to provide public telecommunications service to any customer or class of customers that requests service within the local exchange.

(c) "Connection" means an authorized session that uses Internet protocol or a functionally equivalent technology standard to enable an end-user to initiate or receive a call from the public switched network.

(d) "Fund" means the Universal Public Telecommunications Service Support Fund established in this section.

(e) "Non-rate-of-return regulated" means having price flexibility under Section 54-8b-2.3.

(f) "Rate-of-return regulated" means subject to regulation under Section 54-4-4.

(g) "Wholesale broadband Internet access service" means the end-user loop component of Internet access provided by a rate-of-return regulated carrier of last resort that is used to provide, at retail:

(i) combined consumer voice and broadband Internet access; or

(ii) stand-alone, consumer, broadband-only Internet access.

(2) (a) There is established an expendable special revenue fund known as the "Universal Public Telecommunications Service Support Fund."

(b) The fund shall provide a mechanism for a qualifying carrier of last resort to obtain specific, predictable, and sufficient funds to deploy and manage, for the purpose of providing service to end-users, networks capable of providing:

(i) access lines;

(ii) connections; or

(iii) wholesale broadband Internet access service.

(c) The commission shall develop, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, policies and procedures to govern the administration of the fund.

(3) Subject to this section, the commission shall use funds in the Universal Public Telecommunications Service Support Fund to:

(a) fund the hearing and speech impaired program described in Section 54-8b-10;

(b) fund a lifeline program that covers the reasonable cost to an eligible telecommunications carrier, as determined by the commission, to offer lifeline service consistent with the Federal Communications Commission's lifeline program for low-income consumers;

(c) fund, for the purpose of providing service to end-users, a rate-of-return regulated or non-rate-of-return regulated carrier of last resort's deployment and management of networks capable of providing:

(i) access lines;

(ii) connections; or

(iii) wholesale broadband Internet access service that is consistent with Federal Communications Commission rules; and

(d) fund one-time distributions from the Universal Public Telecommunications Service Support Fund for a non-rate-of-return regulated carrier of last resort's deployment and management of networks capable of providing:

(i) access lines;

(ii) connections; or

(iii) broadband Internet access service.

(4) (a) A rate-of-return regulated carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund if:

(i) the rate-of-return regulated carrier of last resort provides the services described in Subsections (3)(c)(i) through (iii); and

(ii) the rate-of-return regulated carrier of last resort's reasonable costs, as determined by the commission, to provide public telecommunications service and wholesale broadband Internet access service are greater than the sum of:

(A) the rate-of-return regulated carrier of last resort's revenue from basic residential service considered affordable by the commission;

(B) the rate-of-return regulated carrier of last resort's regulated revenue derived from providing other public telecommunications service;

(C) the rate-of-return regulated carrier of last resort's revenue from rates approved by the Federal Communications Commission for wholesale broadband Internet access service; and

(D) the amount the rate-of-return regulated carrier of last resort receives from federal universal service funds.

(b) A non-rate-of-return regulated carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund for reimbursement of reasonable costs as determined by the commission if the non-rate-of-return regulated carrier meets criteria that are:

(i) consistent with Subsections (2) and (3); and

(ii) developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) A rate-of-return regulated carrier of last resort that qualifies for funds under this section:

(a) is entitled to a rate of return equal to the weighted average cost of capital rate of return prescribed by the Federal Communications Commission for rate-of-return regulated carriers; and

(b) may use any depreciation method allowed by the Federal Communications Commission.

(6) (a) The commission shall determine if a rate-of-return regulated carrier of last resort is correctly applying a depreciation method described in Subsection (5)(b).

(b) If the commission determines under Subsection (6)(a) that a rate-of-return regulated carrier of last resort is incorrectly applying a depreciation method or that the rate-of-return regulated carrier of last resort is not using a depreciation method allowed by the Federal Communications Commission, the commission shall issue an order that provides corrections to the rate-of-return regulated carrier of last resort's method of depreciation.

(7) A carrier of last resort that receives funds from the Universal Public Telecommunications Service Support Fund may only use the funds in accordance with this section within the area for which the carrier of last resort has a carrier of last resort obligation.

(8) (a) ~~Each~~ Except as provided in Subsection (8)(b), each access line provider and each connection provider shall contribute to the Universal Public Telecommunications Service Support Fund through an explicit charge assessed by the commission on the access line provider or connection provider.

(b) The charge described in Subsection (8)(a) does not apply to a prepaid wireless telecommunications service, as defined in Section 69-2-405, that is subject to the service charge described in Subsection 69-2-405(2)(b).

(9) The commission shall calculate the amount of each explicit charge described in Subsection (8) using a method developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

- (a) does not discriminate against:
- (i) any access line or connection provider; or
- (ii) the technology used by any access line or connection provider;
- (b) is competitively neutral; and
- (c) is a function of an access line or connection provider's:
- (i) annual intrastate revenue;
- (ii) number of access lines or connections in the state; or
- (iii) a combination of an access line or connection provider's annual intrastate revenue and number of access lines or connections in the state.

(10) The commission shall develop the method described in Subsection (9) before January 1, 2018.

(11) An access line or connection provider that provides mobile telecommunications service shall contribute to the Universal Public Telecommunications Service Support Fund only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(12) Nothing in this section shall be construed to enlarge or reduce the commission's jurisdiction or authority, as provided in other provisions of this title.

(13) A person that fails to make a required contribution to the fund created by this section, or that fails to comply with a commission directive concerning the person's books, records, or other information required by the commission to administer this section, is subject to applicable penalties.

(14) Nothing in this section gives the commission the authority:

- (a) to regulate broadband Internet access service;
- (b) to require a carrier of last resort to provide broadband Internet access service; or
- (c) assess a contribution in violation of the Internet Tax Freedom Act, 47 U.S.C. Sec. 151 note.

(15) (a) A facilities-based or nonfacilities-based wireless telecommunication provider is eligible for distributions from the Universal Telecommunications Service Support Fund under the lifeline program described in Subsection (3)(b) for providing lifeline service that is consistent with the Federal Communications Commission's lifeline program for low-income consumers.

(b) Except as provided in Subsection (15)(c), the commission may impose reasonable conditions for providing a distribution to a wireless telecommunication provider under the lifeline program described in Subsection (3)(b).

(c) The commission may not require a wireless telecommunication provider to offer unlimited local calling to a lifeline customer as a condition of

receiving a distribution under the lifeline program described in Subsection (3)(b).

(16) The commission shall report to the Public Utilities, Energy, and Technology Interim Committee each year before November 1 regarding:

- (a) the contribution method described in Subsection (9);
- (b) the amount of distributions from and contributions to the Universal Public Telecommunications Service Support Fund during the last fiscal year;
- (c) the availability of services for which Subsection (3) permits Universal Public Telecommunications Service Support Fund funds to be used; and
- (d) the effectiveness and efficiency of the Universal Public Telecommunications Service Support Fund.

**Section 2. Section 59-1-306 is amended to read:**

**59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenues into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.**

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

- (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (c) Section 19-6-714;
- (d) Section 19-6-805;
- (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
- (f) Section 59-27-105;
- (g) Section 63H-1-205; or
- (h) Title 69, Chapter 2, Part 4, ~~911 Emergency~~ Prepaid Wireless Telecommunications Service Charges.

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of revenues the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:



(a) 1.5%; or

(b) an equal percentage of revenues the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

**Section 3. Section 59-1-401 is amended to read:**

**59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.**

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

(IX) Title 69, Chapter 2, Part 4, ~~911 Emergency~~ Prepaid Wireless Telecommunications Service Charges; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the

portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or

charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than \$1,000; or

(B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

(B) fails to file the form.

(14) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

**Section 4. Section 59-1-402 is amended to read:**

**59-1-402. Definitions -- Interest.**

(1) As used in this section:

(a) "Final judicial decision" means a final ruling by a court of this state or the United States for which the time for any further review or proceeding has expired.

(b) "Retroactive application of a judicial decision" means the application of a final judicial decision that:

(i) invalidates a state or federal taxation statute; and

(ii) requires the state to provide a refund for an overpayment that was made:

(A) prior to the final judicial decision; or

(B) during the 180-day period after the final judicial decision.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

(IX) Title 69, Chapter 2, Part 4, ~~911 Emergency~~ Prepaid Wireless Telecommunications Service Charges; or

(B) another amount that by statute is subject to interest imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act;

(E) Chapter 4, Privilege Tax; or

(F) Chapter 13, Part 5, Interstate Agreements.

(2) Except as otherwise provided for by law, the interest rate for a calendar year for a tax, fee, or charge administered by the commission shall be calculated based on the federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.

(3) The interest rate calculation shall be as follows:

(a) except as provided in Subsection (7), in the case of an overpayment or refund, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate; or

(b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate.

(4) Notwithstanding Subsection (2) or (3), the interest rate applicable to certain installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes, shall be determined in accordance with Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

(5) (a) Except as provided in Subsection (5)(c), interest may not be allowed on an overpayment of a tax, fee, or charge if the overpayment of the tax, fee, or charge is refunded within:

(i) 45 days after the last date prescribed for filing the return with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, if the return is filed electronically; or

(ii) 90 days after the last date prescribed for filing the return:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(b) Except as provided in Subsection (5)(c), if the return is filed after the last date prescribed for filing the return, interest may not be allowed on the overpayment if the overpayment is refunded within:

(i) 45 days after the date the return is filed:

(A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; and

(B) if the return is filed electronically; or

(ii) 90 days after the date the return is filed:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(c) (i) In the case of an amended return, interest on an overpayment shall be allowed:

(A) for a time period:

(I) that begins on the later of:

(Aa) the date the original return was filed; or

(Bb) the due date for filing the original return not including any extensions for filing the original return; and

(II) that ends on the date the commission receives the amended return; and

(B) if the commission does not make a refund of an overpayment under this Subsection (5)(c):

(I) if the amended return is with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, and is filed electronically, within a 45-day period after the date the commission receives the amended return, for a time period:

(Aa) that begins 46 days after the commission receives the amended return; and

(Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment; or

(II) if the amended return is with respect to a tax, fee, or charge except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, or is not filed electronically, within a 90-day period after the date the commission receives the amended return, for a time period:

(Aa) that begins 91 days after the commission receives the amended return; and

(Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment.

(ii) For purposes of Subsection (5)(c)(i)(B)(I)(Bb) or (5)(c)(i)(B)(II)(Bb), interest shall be calculated forward from the preparation date of the refund document to allow for processing.

(6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed from the time the original return is due, excluding any filing or payment extensions, to the date the payment is received.

(7) Interest on a refund relating to a tax, fee, or charge may not be paid on any overpayment that arises from a statute that is determined to be invalid under state or federal law or declared unconstitutional under the constitution of the United States or Utah if the basis for the refund is the retroactive application of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

**Section 5. Section 59-1-403 is amended to read:**

**59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written

statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or



(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter

7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOED, the commission shall in all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax information.

(B) Before providing other tax information to GOED, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOED may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOED under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOED received the tax information from the commission in accordance with this Subsection (3)(n).

(B) GOED may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information GOED provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, [911—Emergency] Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (1), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (1), the commission may, upon request, provide to the Department of Workforce Services any information

received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (1), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (5)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), GOED, when requesting information in accordance with Subsection (3)(n)(iii), or an individual who requests information in accordance with Subsection (3)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

**Section 6. Section 59-1-1402 is amended to read:**

**59-1-1402. Definitions.**

As used in this part:

(1) "Administrative cost" means a fee imposed to cover:

(a) the cost of filing;

(b) the cost of administering a garnishment;

(c) the amount the commission pays to a depository institution in accordance with Part 17, Depository Institution Data Match System and Levy Act; or

(d) a cost similar to Subsections (1)(a) through (c) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Books and records" means the following made available in printed or electronic format:

(a) an account;

(b) a book;

- (c) an invoice;
  - (d) a memorandum;
  - (e) a paper;
  - (f) a record; or
- (g) an item similar to Subsections (2)(a) through (f) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) “Deficiency” means:
- (a) the amount by which a tax, fee, or charge exceeds the difference between:
    - (i) the sum of:
      - (A) the amount shown as the tax, fee, or charge by a person on the person’s return; and
      - (B) any amount previously assessed, or collected without assessment, as a deficiency; and
    - (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge; or
  - (b) if a person does not show an amount as a tax, fee, or charge on the person’s return, or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:
    - (i) the amount previously assessed, or collected without assessment, as a deficiency; and
    - (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge.
- (4) “Garnishment” means any legal or equitable procedure through which one or more of the following are required to be withheld for payment of an amount a person owes:
- (a) an asset of the person held by another person; or
  - (b) the earnings of the person.
- (5) “Liability” means the following that a person is required to remit to the commission:
- (a) a tax, fee, or charge;
  - (b) an addition to a tax, fee, or charge;
  - (c) an administrative cost;
  - (d) interest that accrues in accordance with Section 59-1-402; or
  - (e) a penalty that accrues in accordance with Section 59-1-401.
- (6) (a) Subject to Subsection (6)(b), “mathematical error” is as defined in Section 6213(g)(2), Internal Revenue Code.
- (b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a) means:
- (i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable year; or

(ii) a corresponding or comparable provision of the Internal Revenue Code as amended, redesignated, or reenacted.

(7) (a) Except as provided in Subsection (7)(b), “tax, fee, or charge” means:

(i) a tax, fee, or charge the commission administers under:

- (A) this title;
- (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (D) Section 19-6-410.5;
- (E) Section 19-6-714;
- (F) Section 19-6-805;
- (G) Section 34A-2-202;
- (H) Section 40-6-14; or
- (I) Title 69, Chapter 2, Part 4, ~~911 Emergency~~ Prepaid Wireless Telecommunications Service Charges; or

(ii) another amount that by statute is administered by the commission.

(b) “Tax, fee, or charge” does not include a tax, fee, or charge imposed under:

- (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- (iii) Chapter 2, Property Tax Act;
- (iv) Chapter 3, Tax Equivalent Property Act;
- (v) Chapter 4, Privilege Tax; or
- (vi) Chapter 13, Part 5, Interstate Agreements.

(8) “Transferee” means:

- (a) a devisee;
- (b) a distributee;
- (c) a donee;
- (d) an heir;
- (e) a legatee; or

(f) a person similar to Subsections (8)(a) through (e) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 7. Section 59-12-107 is amended to read:**

**59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.**

(1) As used in this section:

(a) “Ownership” means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) “Related seller” means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) “Substantial ownership interest” means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(f), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(g), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller’s only activity in the state is:

(A) advertising; or

(B) solicitation by:

(I) direct mail;

(II) electronic mail;

(III) the Internet;

(IV) telecommunications service; or

(V) a means similar to Subsection (2)(a)(iii)(A) or (B);

(iv) regularly engages in the delivery of property in the state other than by:

(A) common carrier; or

(B) United States mail; or

(v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.

(b) A seller is considered to be engaged in the business of selling tangible personal property, a product transferred electronically, or a service for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:

(i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and

(ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or

(B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.

(c) Subject to Section 59-12-107.6, each seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax imposed by this chapter if the seller:

(i) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and

(ii) in either the previous calendar year or the current calendar year:

(A) receives gross revenue from the sale of tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state of more than \$100,000; or

(B) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in 200 or more separate transactions.

(d) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b), Subsection (2)(c), or Section 59-12-107.6 may voluntarily:

(i) collect a tax on a transaction described in Subsection 59-12-103(1); and

(ii) remit the tax to the commission as provided in this part.

(e) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by this Subsection (2) to:

(i) pay a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, [911 Emergency] Prepaid Wireless Telecommunications Service Charges; or

- (F) this title; or
- (ii) collect and remit a tax, fee, or charge under:
- (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (C) Section 19-6-714;
- (D) Section 19-6-805;
- (E) Title 69, Chapter 2, Part 4, ~~1911 Emergency~~ Prepaid Wireless Telecommunications Service Charges; or
- (F) this title.
- (f) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:
- (i) the seller did not collect a tax imposed by this chapter on the transaction; and
- (ii) the person:
- (A) stores the tangible personal property or product transferred electronically in the state;
- (B) uses the tangible personal property or product transferred electronically in the state; or
- (C) consumes the tangible personal property or product transferred electronically in the state.
- (g) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.
- (3) (a) Except as provided in Section 59-12-107.1, a seller shall collect a tax under this chapter from a purchaser.
- (b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.
- (c) (i) Each seller shall:
- (A) give the purchaser a receipt for the tax collected; or
- (B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.
- (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.
- (d) A seller is not required to maintain a separate account for the tax collected, but is considered to be

a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that, in the commission's opinion, will better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each quarterly calendar period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each quarterly calendar period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser that is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and that converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards

that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a seller that is:

- (i) registered under the agreement;
- (ii) described in Subsection (2)(d); and
- (iii) not a:

- (A) model 1 seller;
- (B) model 2 seller; or
- (C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in accordance with Subsection (2)(d) is due and payable:

- (A) to the commission;
- (B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a remote seller collects in accordance with Subsection (2)(d) be due and payable:

- (A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least \$1,000 in agreement sales and use tax.

(c) (i) If a remote seller remits a tax to the commission in accordance with Subsection (5)(b), the remote seller shall file a return:

- (A) with the commission;
- (B) with respect to the tax;
- (C) containing information prescribed by the commission; and
- (D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a remote seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the remote seller completes, including:

- (i) a cash transaction; and
- (ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a remote seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer:

(a) the wholesaler is not responsible for the collection or payment of the tax imposed on the sale; and

(b) the retailer is responsible for the collection or payment of the tax imposed on the sale if:

(i) the retailer represents that the tangible personal property, product transferred electronically, or service is purchased by the retailer for resale; and

(ii) the tangible personal property, product transferred electronically, or service is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person:

(a) the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax; and

(b) the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

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

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" means the same as that term is defined in Section 166, Internal Revenue Code.

(ii) "Bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person that fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or that fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted constitutes a separate offense.

**Section 8. Section 59-12-108 is amended to read:**

**59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain amounts allocated to local taxing jurisdictions.**

(1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of \$50,000 or more for the previous calendar year shall:

(i) file a return with the commission:

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the month for which the seller collects a tax under this chapter; and

(ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by electronic funds transfer.

(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:

(i) is required by Section 59-12-107 to file the return electronically; or



(ii) (A) is required to collect and remit a tax under Section 59-12-107; and

(B) files a simplified electronic return.

(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) a fee under Section 19-6-714;

(iii) a fee under Section 19-6-805;

(iv) a charge under Title 69, Chapter 2, Part 4, [911—Emergency] Prepaid Wireless Telecommunications Service Charges; or

(v) a tax under this chapter.

(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).

(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:

(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):

(A) Subsection 59-12-103(2)(a);

(B) Subsection 59-12-103(2)(b); and

(C) Subsection 59-12-103(2)(d); and

(ii) for an agreement sales and use tax.

(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c).

(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:

(A) 1.31% of any amounts the seller is required to remit to the commission for:

(I) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(II) the month for which the seller is filing a return in accordance with Subsection (1); and

(III) an agreement sales and use tax; and

(B) 1.31% of the difference between:

(I) the amounts the seller would have been required to remit to the commission:

(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

(Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) for an agreement sales and use tax; and

(II) the amounts the seller is required to remit to the commission for:

(Aa) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(Bb) the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) an agreement sales and use tax.

(d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1% of any amounts the seller is required to remit to the commission:

(i) for the month for which the seller is filing a return in accordance with Subsection (1); and

(ii) under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Subsection 59-12-603(1)(a)(i)(A); or

(C) Subsection 59-12-603(1)(a)(i)(B).

(3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1) may not retain any amount under Subsection (2).

(4) A seller that has a tax liability under this chapter for the previous calendar year of less than \$50,000 may:

(a) voluntarily meet the requirements of Subsection (1); and

(b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2).

(5) Penalties for late payment shall be as provided in Section 59-1-401.

(6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:

(i) the total amount retained for that month by all sellers had the percentages listed under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

(ii) the total amount retained for that month by all sellers at the percentages listed under Subsections (2)(b) and (2)(c)(ii).

(b) The commission shall each month allocate the amount calculated under Subsection (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.

(c) The amount the commission calculates under Subsection (6)(a) may not include an amount collected from a tax that:

(i) the state imposes within a county, city, or town, including the unincorporated area of a county; and

(ii) is not imposed within the entire state.

**Section 9. Section 59-12-128 is amended to read:**

**59-12-128. Amnesty.**

(1) As used in this section, "amnesty" means that a seller is not required to pay the following amounts that the seller would otherwise be required to pay:

(a) a tax, fee, or charge under:

(i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(iii) Section 19-6-714;

(iv) Section 19-6-805;

(v) Chapter 26, Multi-Channel Video or Audio Service Tax Act;

(vi) Title 69, Chapter 2, Part 4, ~~911 Emergency~~ Prepaid Wireless Telecommunications Service Charges; or

(vii) this chapter;

(b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or

(c) interest on a tax, fee, or charge described in Subsection (1)(a).

(2) (a) Except as provided in Subsections (2)(b) and (3) and subject to Subsections (4) and (5), the commission shall grant a seller amnesty if the seller:

(i) obtains a license under Section 59-12-106; and

(ii) is registered under the agreement.

(b) The commission is not required to grant a seller amnesty under this section beginning 12 months after the date the state becomes a full member under the agreement.

(3) A seller may not receive amnesty under this section for a tax, fee, or charge:

(a) the seller collects;

(b) the seller remits to the commission;

(c) that the seller is required to remit to the commission on the seller's purchase; or

(d) arising from a transaction that occurs within a time period that is under audit by the commission if:

(i) the seller receives notice of the commencement of the audit prior to obtaining a license under Section 59-12-106; and

(ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or

(B) the seller has not exhausted all administrative and judicial remedies in connection with the audit described in Subsection (3)(d)(i).

(4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a seller under this section:

(i) applies to the time period during which the seller is not licensed under Section 59-12-106; and

(ii) remains in effect if, for a period of three years, the seller:

(A) remains registered under the agreement;

(B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge described in Subsection (1)(a); and

(C) remits to the commission the taxes, fees, and charges the seller collects in accordance with Subsection (4)(a)(ii)(B).

(b) The commission may not grant a seller amnesty under this section if, with respect to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this section, the seller commits:

(i) fraud; or

(ii) an intentional misrepresentation of a material fact.

(5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission shall require the seller to pay the amounts described in Subsection (1) that the seller would have otherwise been required to pay.

(b) Notwithstanding Section 59-1-1410, for purposes of requiring a seller to pay an amount in accordance with Subsection (5)(a), the time period for the commission to make an assessment under Section 59-1-1410 is extended for a time period beginning on the date the seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that date.

**Section 10. Section 63H-7a-205 is amended to read:**

**63H-7a-205. Executive director -- Appointment -- Powers and duties.**

The executive director shall:

(1) (a) serve at the pleasure of the board; and

(b) act as the executive officer of the authority;

(2) administer the duties, programs, and functions assigned to the authority;

(3) recommend administrative rules and policies to the board;

(4) execute contracts on behalf of the authority;

(5) recommend to the board any changes in statutes affecting the authority;

(6) recommend to the board an annual administrative budget covering administration, management, and operations of the authority;

(7) with board approval, direct and control authority expenditures;

(8) within the limitations of the budget, employ personnel, consultants, a financial officer, and legal counsel to provide professional services and advice regarding the administration of the authority; and

(9) submit and make available to the public a report before December of each year to the board, the Executive Offices and Criminal Justice Appropriations Subcommittee, and the Legislative Management Committee that includes:

(a) the total aggregate surcharge collected by the state in the last fiscal year under Title 69, Chapter 2, Part 4, [911 – Emergency] Prepaid Wireless Telecommunications Service Charges;

(b) the amount of each disbursement from the restricted accounts described in:

(i) Section 63H-7a-303;

(ii) Section 63H-7a-304; and

(iii) Section 63H-7a-403;

(c) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(d) any conditions placed by the authority on the disbursements from a restricted account;

(e) the anticipated expenditures from the restricted accounts described in this chapter for the next fiscal year;

(f) the amount of any unexpended funds carried forward;

(g) the goals for implementation of the authority strategic plan and the progress report of accomplishments and updates to the plan; and

(h) other relevant justification for ongoing support from the restricted accounts created by Sections 63H-7a-303, 63H-7a-304, and 63H-7a-403.

**Section 11. Section 63H-7a-304 is amended to read:**

**63H-7a-304. Unified Statewide 911 Emergency Service Account -- Creation -- Administration -- Permitted uses.**

(1) There is created a restricted account within the General Fund known as the “Unified Statewide 911 Emergency Service Account,” consisting of:

(a) proceeds from the fee imposed in Section 69-2-403;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Except as provided in Subsection (4) and subject to Subsection (3) and appropriations by the Legislature, the authority shall disburse funds in the Unified Statewide 911 Emergency Service Account for the purpose of enhancing and maintaining the statewide public safety communications network and 911 call processing equipment in order to rapidly and efficiently deliver 911 services in the state.

(b) In expending funds in the Unified Statewide 911 Emergency Service Account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

(ii) best promotes interoperability;

(iii) impacts the largest service territory;

(iv) impacts a densely populated area; or

(v) impacts an underserved area.

(c) The authority shall expend funds in the Unified Statewide 911 Emergency Service Account in accordance with the authority strategic plan described in Section 63H-7a-206.

(d) The authority may not expend funds from the Unified Statewide 911 Emergency Service Account collected through the 911 emergency service charge imposed in Section 69-2-403 on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) the 911 emergency service defined in Section 69-2-102.

(e) The authority may not expend funds from the Unified Statewide 911 Emergency Service Account collected through the prepaid wireless 911 service charge revenue distributed in Subsection 69-2-405(9)(~~b~~)(~~ii~~)(c) on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) 911 emergency service defined in Section 69-2-102.

(f) The executive director shall recommend to the board expenditures for the authority to make from the Unified Statewide 911 Emergency Service Account in accordance with this Subsection (2).

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may use funds in the Unified Statewide 911 Emergency Service Account to cover the Administrative Services Division’s administrative costs related to the Unified Statewide 911 Emergency Service Account.

(4) (a) The authority shall reimburse from the Unified Statewide 911 Emergency Service Account

to the Automated Geographic Reference Center created in Section 63F-1-506 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge deposited into the Unified Statewide 911 Emergency Service Account under Section 69-2-403.

(b) The Automated Geographic Reference Center shall use the funds reimbursed to the Automated Geographic Reference Center under Subsection (4)(a) to:

(i) enhance and upgrade digital mapping standards; and

(ii) maintain a statewide geospatial database for unified statewide 911 emergency service.

(c) Subject to an appropriation by the Legislature, the authority may expend funds from the United Statewide 911 Emergency Service Account to reimburse a county for the costs, up to \$60,000, of each audit described in Section 69-2-203.

**Section 12. Section 63H-7a-403 is amended to read:**

**63H-7a-403. Utah Statewide Radio System Restricted Account -- Creation -- Administration.**

(1) There is created a restricted account within the General Fund known as the "Utah Statewide Radio System Restricted Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Subject to appropriations by the Legislature and subject to this Subsection (2), the authority may expend funds in the Utah Statewide Radio System Restricted Account for the purpose of acquiring, constructing, operating, maintaining, and repairing a statewide radio system public safety communications network as authorized in Section 63H-7a-202, including:

(i) public safety communications network and related facilities, real property, improvements, and equipment necessary for the acquisition, construction, and operation of services and facilities;

(ii) installation, implementation, and maintenance of the public safety communications network;

(iii) maintaining and upgrading VHF and 800 MHz radio networks; and

(iv) an operating budget to include personnel costs not otherwise covered by funds from another account.

(b) For each radio network charge that is deposited into the Utah Statewide Radio System Restricted Account under Section 69-2-404, the authority shall spend, subject to an appropriation by the Legislature and this Subsection (2):

(i) on and after July 1, 2017, 18 cents of each total radio network charge to maintain the public safety communications network, including:

(A) the 800 MHz and VHF radio networks;

(B) radio console network connectivity;

(C) funding a statewide interoperability coordinator; and

(D) supplementing costs formerly offset by public safety communications network user fees assessed by the authority before July 1, 2017; and

(ii) on and after January 1, 2018, 34 cents of each total radio network charge to acquire, construct, equip, and install property for, and to make improvements to, the 800 MHz radio system, including debt service costs.

(c) In expending funds in the Utah Statewide Radio System Restricted Account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

(ii) best promotes interoperability;

(iii) impacts the largest service territory;

(iv) impacts a densely populated area; or

(v) impacts an underserved area.

(d) The authority shall expend funds in the Utah Statewide Radio System Restricted Account in accordance with the authority strategic plan described in Section 63H-7a-206.

(e) The authority may not expend funds from the Utah Statewide Radio System Restricted Account collected through the radio network charge imposed in Section 69-2-404 on behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in the:

(i) public safety communications network; and

(ii) radio communications service defined in Section 69-2-102.

(f) The authority may not expend funds from the Utah Statewide Radio System Restricted Account collected through the prepaid wireless 911 service charge revenue distributed in Subsection 69-2-405(9)(b)(iii)(c) on behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in the:

(i) public safety communications network; and

(ii) radio communications service defined in Section 69-2-102.

(g) The executive director shall recommend to the board expenditures for the authority to make from the Utah Statewide Radio System Restricted Account in accordance with this Subsection (2).

(3) Subject to appropriations by the Legislature, the Administrative Services Division may expend funds in the Utah Statewide Radio System Restricted Account for administrative costs that the Administrative Services Division incurs related to the Utah Statewide Radio System Restricted Account.

**Section 13. Section 69-2-101 is amended to read:**

**CHAPTER 2. EMERGENCY SERVICE AND PREPAID WIRELESS TELECOMMUNICATIONS SERVICE**

**69-2-101. Title.**

This chapter is known as “[911] Emergency Service and Prepaid Wireless Telecommunications Service.”

**Section 14. Section 69-2-405 is amended to read:**

**Part 4. Prepaid Wireless Telecommunications Service Charges**

**69-2-405. Service charges -- Collection and distribution of revenue.**

(1) As used in this section:

(a) “Consumer” means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) “Prepaid wireless 911 service charge” means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) “Prepaid wireless telecommunications service” means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) “Prepaid wireless telecommunications service” does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the charges levied under Sections 69-2-402, 69-2-403, and 69-2-404, for each radio communication access line assigned to the customer.

(d) “Seller” means a person that sells prepaid wireless telecommunications service to a consumer.

(e) “Transaction” means each purchase of prepaid wireless telecommunications service from a seller.

(f) “Wireless telecommunications service” means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

~~[(2) There is imposed a prepaid wireless 911 service charge of:]~~

~~[(a) before January 1, 2018, 2.45% of the sales price per transaction;]~~

~~[(b) on January 1, 2018, and until June 30, 2019, 3.30% of the sales price per transaction; and]~~

~~(2) There is imposed:~~

~~[(e) (a) [beginning July 1, 2019,] a prepaid wireless 911 service charge of 3.7% of the sales price per transaction[-]; and]~~

~~(b) a prepaid wireless telecommunications service charge of 1.2% of the sales price per transaction.~~

~~(3) (a) [The prepaid wireless 911 service charge] Each charge described in Subsection (2) shall be collected by the seller from the consumer for each transaction occurring in this state.~~

~~(b) (i) Except as provided in Subsections (3)(b)(ii) and (iii), if a user of a service subject to a charge described in Subsection (2) is not the consumer, the seller shall collect the charge from the consumer for the service.~~

~~(ii) [The] A charge described in Subsection (2) is not imposed on a seller or a consumer of federal wireless lifeline service if the consumer does not pay the seller for the service.~~

~~(iii) A consumer of federal wireless lifeline service shall pay, and the seller of the service shall collect and remit, [the] each charge described in Subsection (2) when the consumer purchases from the seller optional services in addition to the federally funded lifeline benefit.~~

~~(4) [The prepaid wireless 911 service charge] Each charge described in Subsection (2) shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.~~

~~(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.~~

~~(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Subsection (2) shall apply to the entire non-itemized price.~~

~~(7) A seller may retain 3% of [prepaid wireless 911 service charges] the charges described in Subsection (2) that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.~~

~~(8) A person that collects a [prepaid wireless 911 service charge] charge described in Subsection (2), except as retained under Subsection (7), shall remit [the prepaid wireless 911 service] each charge to the commission at the same time that the seller remits to the commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.~~

~~(9) The commission shall distribute revenues collected under this section as follows:~~

~~[(a) for revenues collected under this section for a filing period ending on or before June 30, 2019:]~~

~~[(i) 53.8% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;]~~

~~[(ii) 6.8% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911~~

~~Emergency Service Account created in Section 63H-7a-304; and]~~

~~[(iii) 39.4% of the prepaid wireless 911 service charge revenue to the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403; and]~~

~~[(b) for revenues collected under this section for a filing period beginning July 1, 2019;]~~

~~[(iv)] (a) 47.97% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;~~

~~[(ii)] (b) 16.89% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; [and]~~

~~[(iii)] (c) 35.14% of the prepaid wireless 911 service charge revenue to the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403[-]; and]~~

~~(d) 100% of the prepaid wireless telecommunications service charge revenue to the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.~~

**Section 15. Effective date.**

This bill takes effect on January 1, 2021.

**CHAPTER 295****S. B. 228**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**INHERENT RISKS OF SKIING AMENDMENTS**

Chief Sponsor: Daniel Hemmert  
 House Sponsor: Brady Brammer

**LONG TITLE****General Description:**

This bill amends provisions of the Inherent Risks of Skiing Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ allows for an individual and a ski area operator to enter into an agreement regarding liability but does not allow an agreement on behalf of a minor;
- ▶ provides for a limitation on damages for noneconomic losses for certain claims; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 78B-4-401, as renumbered and amended by Laws of Utah 2008, Chapter 3  
 78B-4-402, as renumbered and amended by Laws of Utah 2008, Chapter 3  
 78B-4-403, as renumbered and amended by Laws of Utah 2008, Chapter 3  
 78B-4-404, as renumbered and amended by Laws of Utah 2008, Chapter 3

**ENACTS:**

- 78B-4-405, Utah Code Annotated 1953  
 78B-4-406, Utah Code Annotated 1953

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

**Section 1. Section 78B-4-401 is amended to read:****78B-4-401. Public policy.**

(1) The Legislature finds that:

(a) the sport of skiing is practiced by a large number of residents of Utah and attracts a large number of nonresidents, significantly contributing to the economy of this state~~[-It further finds that];~~

(b) few insurance carriers are willing to provide liability insurance protection to ski area operators; and ~~[that]~~

(c) the premiums charged by ~~[those]~~ insurance carriers have risen sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the sport of skiing.

(2) It is the purpose of this act~~[-therefore];~~

(a) to clarify the law in relation to skiing injuries and the risks inherent in ~~[that sport,] the sport of skiing;~~

(b) to establish as a matter of law that certain risks are inherent in ~~[that sport,] the sport of skiing;~~ and

(c) to provide that, as a matter of public policy, ~~[no person] an individual engaged in [that sport shall] the sport of skiing may not recover from a ski operator for injuries resulting from [those inherent risks] the risks that are inherent in the sport of skiing.~~

**Section 2. Section 78B-4-402 is amended to read:****78B-4-402. Definitions.**

As used in this part:

(1) "Inherent risks of skiing" means ~~[those] the dangers or conditions [which] that are an integral part of the sport of recreational, competitive, or professional skiing, including[-, but not limited to]:~~

(a) changing weather conditions;

(b) snow or ice conditions as ~~[they] the snow or ice conditions exist or may change, [such as] including hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, or machine-made snow;~~

(c) surface or subsurface conditions ~~[such as], including bare spots, forest growth, rocks, stumps, streambeds, cliffs, trees, [and] or other natural objects;~~

(d) variations or steepness in terrain, whether natural or as a result of slope design, snowmaking or grooming operations, ~~[and] or other terrain modifications [such as], including:~~

(i) terrain parks~~[-, and];~~

(ii) terrain features ~~[such as], including jumps, rails, or fun boxes[-, and]; or~~

(iii) all other constructed and natural features ~~[such as], including half pipes, quarter pipes, or freestyle-bump terrain;~~

(e) impact with lift towers ~~[and], other structures [and], or their components [such as], including signs, posts, fences or enclosures, hydrants, or water pipes;~~

(f) collisions with other skiers;

(g) participation in, or practicing or training for, competitions or special events; and

(h) the failure of a skier to ski within the skier's own ability.

(2) "Injury" means any personal injury or property damage or loss.

(3) "Minor" means an individual who is under 18 years old.

~~[(3)]~~ (4) "Skier" means ~~[any person] an individual present in a ski area for the purpose of engaging in the sport of skiing, nordic, freestyle, or other types~~

of ski jumping, or using skis, a sled, a tube, a snowboard, or any other device.

~~[(4)]~~ (5) “Ski area” means any area designated by a ski area operator to be used for skiing, nordic, freestyle[,], or other type of ski jumping, ~~and~~ or snowboarding.

~~[(5)]~~ (6) (a) “Ski area operator” means ~~those persons, and their agents, officers, employees or representatives, who operate a ski area~~ a person that operates a ski area.

(b) “Ski area operator” includes an agent, an officer, an employee, or a representative of the person that operates a ski area.

**Section 3. Section 78B-4-403 is amended to read:**

**78B-4-403. Bar against claim or recovery from operator for injury from risks inherent in sport.**

Notwithstanding ~~[anything—in]~~ Sections 78B-5-817 through 78B-5-823 ~~[to the contrary, no]~~, a skier may not make any claim against, or recover from, ~~[any]~~ a ski area operator for injury resulting from ~~[any of the]~~ inherent risks of skiing.

**Section 4. Section 78B-4-404 is amended to read:**

**78B-4-404. Trail boards listing inherent risks and limitations on liability.**

~~[Ski area operators]~~ A ski area operator shall:

(1) post trail boards at one or more prominent locations within each ski area ~~[which shall]~~; and

(2) include a list of the inherent risks of skiing[,], and the limitations on liability of ski area operators~~[-as defined in this part]~~ on the trail board.

**Section 5. Section 78B-4-405 is enacted to read:**

**78B-4-405. Liability agreements.**

(1) A skier may enter into an agreement with a ski area operator before an injury to:

(a) waive a claim that the skier is permitted to bring against a ski area operator; or

(b) release the ski area operator from a claim that the skier is permitted to bring under this part.

(2) If the skier is a minor, the skier, or the skier’s parent or guardian on behalf of the minor, may not enter into an agreement described in Subsection (1)(a).

**Section 6. Section 78B-4-406 is enacted to read:**

**78B-4-406. Limitation on damages.**

(1) In an action arising on or after May 12, 2020, against a ski area operator for a claim not prohibited under this part, in which the skier, or a person authorized to bring a claim on behalf of the

skier, recovers for an injury and is awarded noneconomic losses, the amount of the award for noneconomic losses may not exceed \$1,000,000.

(2) The limit on an award for noneconomic losses described in Subsection (1) does not apply to an award:

(a) of punitive damages; or

(b) for a wrongful death action.



**CHAPTER 296****S. B. 232**

Passed March 12, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**EXPLOITATION OF  
A MINOR AMENDMENTS**

Chief Sponsor: Todd Weiler  
House Sponsor: Steve Waldrip

**LONG TITLE****General Description:**

This bill addresses the offense of sexual exploitation of a minor.

**Highlighted Provisions:**

This bill:

- ▶ modifies the circumstances under which an affirmative defense is available to the offense of sexual exploitation of a minor; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-5b-201, as last amended by Laws of Utah 2019, Chapter 382

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

**Section 1. Section 76-5b-201 is amended to read:****76-5b-201. Sexual exploitation of a minor -- Offenses.**

(1) A person is guilty of sexual exploitation of a minor:

- (a) when the person:
  - (i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or
  - (ii) intentionally distributes or views child pornography; or
- (b) if the person is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (1)(a).
- (2) (a) Except as provided in Subsection (2)(b), sexual exploitation of a minor is a second degree felony.

(b) A violation of Subsection (1) for knowingly producing child pornography is a first degree felony if the person produces original child pornography depicting a first degree felony that involves:

- (i) the person or another person engaging in conduct with the minor that is a violation of:
  - (A) Section 76-5-402.1, rape of a child;
  - (B) Section 76-5-402.3, object rape of a child;

(C) Section 76-5-403.1, sodomy on a child; or  
(D) Section 76-5-404.1, aggravated sexual abuse of a child; or

(ii) the minor being physically abused, as defined in Section 78A-6-105.

(3) It is a separate offense under this section:

(a) for each minor depicted in the child pornography; and

(b) for each time the same minor is depicted in different child pornography.

(4) (a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(b) For a charge of violating this section for knowingly possessing or intentionally viewing child pornography, it is an affirmative defense that:

(i) the defendant:

(A) did not solicit the child pornography from the minor depicted in the child pornography;

(B) is not more than two years older than the minor depicted in the child pornography; and

(C) upon request of a law enforcement agent or the minor depicted in the child pornography, removes from an electronic device or destroys the child pornography and all copies of the child pornography in the defendant's possession; and

(ii) the child pornography does not depict an offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on tangible or intangible property, or of detecting and reporting the presence of child pornography on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child pornography during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Human Services who is required to view child pornography within the scope of the employee's employment; or

(g) an attorney who is required to view child pornography within the scope of the attorney's responsibility to represent the Department of Human Services, including the divisions and offices within the Department of Human Services.

**CHAPTER 297****S. B. 234**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**GOVERNMENT DEBT  
 COLLECTION AMENDMENTS**

Chief Sponsor: Ralph Okerlund  
 House Sponsor: Rex P. Shipp

**LONG TITLE****General Description:**

This bill addresses the collection of government entities' delinquent accounts receivable by the Division of Finance.

**Highlighted Provisions:**

This bill:

- ▶ expands accounts receivable subject to collection efforts of the Division of Finance to include an amount due as a result of a tax;
- ▶ authorizes a political subdivision to enter into an agreement with a local agency for submitting accounts receivable for collection by the Division of Finance;
- ▶ provides requirements for a political subdivision that enters into an agreement with a local agency for the collection of accounts receivable; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63A-3-301, as last amended by Laws of Utah 2019, Chapter 84  
 63A-3-302, as last amended by Laws of Utah 2019, Chapter 84  
 63A-3-307, as last amended by Laws of Utah 2019, Chapter 84  
 63A-3-310, as last amended by Laws of Utah 2019, Chapter 84

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

**Section 1. Section 63A-3-301 is amended to read:**

**63A-3-301. Definitions.**

As used in this part:

(1) "Account receivable" or "receivable" means any amount due the state or any other governmental entity within the state as a result of a judgment, citation, tax, or administrative order, or for which materials or services have been provided but for which payment has not been received by the servicing unit.

(2) "Debtor" means a party that owes, or is alleged to owe, an account receivable.

(3) "Division" means the Division of Finance, created in Section 63A-3-101.

(4) "Local agency" means a nonprofit entity organized by participating political subdivisions to act on behalf of the participating political subdivisions with respect to the office's efforts to collect accounts receivable of participating political subdivisions through administrative offsets.

~~(3)~~ (5) "Mail" means United States Postal Service first class mail to the intended recipient's last known address.

(6) "Participating political subdivision" means a political subdivision that has entered into an agreement with a local agency authorizing the local agency to act on behalf of the political subdivision with respect to the office's efforts to collect accounts receivable of the political subdivision through administrative offsets.

(7) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

**Section 2. Section 63A-3-302 is amended to read:**

**63A-3-302. Unpaid accounts receivable -- Political subdivision agreement with local agency.**

(1) If any account receivable at any point has been unpaid for 90 days or more, any agency or other authority of the state, or any political subdivision[, as defined in Section 63G-7-102, of the state] responsible for collection of the account may proceed under this part to collect the delinquent amount.

(2) (a) A political subdivision may enter into an agreement with a local agency under which the local agency, for a reasonable fee that the political subdivision and local agency agree upon, prepares and submits the political subdivision's accounts receivable for collection as provided in this part.

(b) Notwithstanding an agreement under Subsection (2)(a), a participating political subdivision shall:

(i) establish an agreement with the division for submitting delinquent accounts receivable under this part; and

(ii) with respect to the accounts receivable that the participating political subdivision submits through a local agency for collection under this part:

(A) receive and respond to an administrative hearing requested under Section 63A-3-305; and

(B) administer an adjudicative proceeding required under Section 63A-3-306.

**Section 3. Section 63A-3-307 is amended to read:**

**63A-3-307. Liens.**

(1) The following shall constitute a lien in the amount of the receivable plus interest, penalties, and collection costs allowed by law against any state income tax overpayment or refund due or to become due the debtor:

(a) a judgment, citation, tax, or administrative order issued by any agency, court, or other authority of the state, or by any political subdivision~~[-as defined in Section 63G-7-102];~~ or

(b) an amount, that has at any point been unpaid for 90 days or more, due the state or other governmental entity for which materials or services have been provided but for which payment has not been received by the servicing unit.

(2) The lien created by this section shall, for the purposes of Section 59-10-529 only, be considered a judgment.

**Section 4. Section 63A-3-310 is amended to read:**

**63A-3-310. Rules for implementing part.**

The ~~[Division of Finance]~~ division may adopt rules for the implementation of this part, including rules for the conduct of hearings, injured spouse claims, and appointment of hearing examiners.

**CHAPTER 298****S. B. 237**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective May 12, 2020

**AGGRAVATED  
 KIDNAPPING AMENDMENTS**

Chief Sponsor: Todd Weiler  
 House Sponsor: V. Lowry Snow

**LONG TITLE****General Description:**

This bill modifies a provision related to aggravated kidnapping.

**Highlighted Provisions:**

This bill:

- ▶ clarifies that aggravated kidnapping is punishable by a prison sentence of life without parole if the defendant causes serious bodily injury to the victim during the course of committing the offense.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-5-302, as last amended by Laws of Utah 2019, Chapter 106

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

**Section 1. Section 76-5-302 is amended to read:**

**76-5-302. Aggravated kidnapping.**

(1) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:

(a) uses or threatens to use a dangerous weapon as defined in Section 76-1-601; or

(b) acts with intent:

(i) to hold the victim for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;

(ii) to facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;

(iii) to hinder or delay the discovery of or reporting of a felony;

(iv) to inflict bodily injury on or to terrorize the victim or another individual;

(v) to interfere with the performance of any governmental or political function; or

(vi) to commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) As used in this section, "in the course of committing unlawful detention or kidnapping"

means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

(a) Section 76-5-301, kidnapping; or

(b) Section 76-5-304, unlawful detention.

(3) Aggravated kidnapping in the course of committing unlawful detention is a third degree felony.

(4) Aggravated kidnapping is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;

(b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to the victim or another individual; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

(5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (4)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (4)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(6) The provisions of Subsection (5) do not apply when a person is sentenced under Subsection (4)(c).

(7) Subsections (4)(b) and (c) do not apply if the defendant was younger than 18 years of age at the time of the offense.

(8) Imprisonment under Subsection (4) is mandatory in accordance with Section 76-3-406.

**CHAPTER 299****S. B. 248**

Passed March 12, 2020  
Approved March 28, 2020  
Effective May 12, 2020

**PROBATION AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher  
House Sponsor: Suzanne Harrison

**LONG TITLE****General Description:**

This bill allows the court to modify probation under certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ allows a court to modify probation to include a period of time served in a county jail.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

77-18-1, as last amended by Laws of Utah 2019, Chapters 28 and 429

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

**Section 1. Section 77-18-1 is amended to read:**

**77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.**

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation under the supervision of an agency of local government or with a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

(i) the type of offense;

(ii) the results of a risk and needs assessment;

(iii) the demand for services;

(iv) the availability of agency resources;

(v) public safety; and

(vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanor in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:

(a) provide for the support of others for whose support the defendant is legally liable;

(b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(c) if on probation for a felony offense, serve a period of time, as an initial condition of probation, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate[;];

(i) the court may modify probation to include a period of time served in a county jail immediately prior to the termination of probation as long as the terminal period of time does not exceed one year; and

(ii) jail days ordered as a sanction for probation violations do not apply to the limitation on jail days described in Subsection (8)(c) or (8)(c)(i);

(d) serve a term of home confinement, which may include the use of electronic monitoring;

(e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(f) pay for the costs of investigation, probation, and treatment services;

(g) make restitution or reparation to the victim or victims with interest in accordance with Chapter 38a, Crime Victims Restitution Act; and

(h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(b) (i) If, upon expiration or termination of the probation period under Subsection (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(c) (i) The department shall notify the court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may be modified as is consistent with the supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Section 78B-5-705, alleging with particularity facts asserted to constitute violation of the conditions of probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(ii) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.



(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

(iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit the defendant to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this

section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household; or

(f) requested by a sex offender treatment provider who is certified to provide treatment under the program established in Subsection 64-13-25(3) and who, at the time of the request:

(i) is providing sex offender treatment to the offender who is the subject of the presentence investigation report; and

(ii) provides written assurance to the department that the report:

(A) is necessary for the treatment of the offender;

(B) will be used solely for the treatment of the offender; and

(C) will not be disclosed to an individual or entity other than the offender.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

**CHAPTER 300**

**H. B. 8**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective July 1, 2020

**STATE AGENCY FEES AND  
 INTERNAL SERVICE FUND RATE  
 AUTHORIZATION AND APPROPRIATIONS**

Chief Sponsor: Jefferson Moss  
 Senate Sponsor: Don L. Ipson

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- ▶ authorizes certain state agency fees;
- ▶ authorizes internal service fund rates;
- ▶ adjusts funding for the impact of Internal Service Fund rate changes; and,
- ▶ provides budget increases and decreases for other purposes as described.

**Money Appropriated in this Bill:**

This bill appropriates \$8,293,600 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$3,350,900 from the General Fund;
- ▶ \$2,387,600 from the Education Fund; and
- ▶ \$2,555,100 from various sources as detailed in this bill.

This bill appropriates \$196,700 in expendable funds and accounts for fiscal year 2021.

This bill appropriates \$2,831,300 in business-like activities for fiscal year 2021, including:

- ▶ (\$766,200) from the General Fund; and
- ▶ \$3,597,500 from various sources as detailed in this bill.

This bill appropriates \$0 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$2,600 from the General Fund; and
- ▶ (\$2,600) from various sources as detailed in this bill.

This bill appropriates \$83,000 in fiduciary funds for fiscal year 2021.

**Other Special Clauses:**

This bill takes effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

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

**Section 1. FY 2021 Appropriations.** The following sums of money are appropriated for

the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 1(a). Operating and Capital**

**Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 1**

To Attorney General

From General Fund .....	9,400
From Federal Funds .....	(800)
From Dedicated Credits Revenue .....	(1,500)
From Revenue Transfers .....	(300)
Schedule of Programs:	
Administration .....	10,200
Child Protection .....	2,300
Criminal Prosecution .....	(5,700)

**BOARD OF PARDONS AND PAROLE**

**Item 2**

To Board of Pardons and Parole

From General Fund .....	31,000
Schedule of Programs:	
Board of Pardons and Parole .....	31,000

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 3**

To Utah Department of Corrections -  
 Programs and Operations

From General Fund .....	265,700
From Federal Funds .....	(12,900)
From Dedicated Credits Revenue .....	(5,000)
From Revenue Transfers .....	400
Schedule of Programs:	
Adult Probation and Parole	
Administration .....	155,900
Adult Probation and Parole Programs ...	25,800
Department Administrative Services ..	122,900
Department Executive Director .....	48,400
Department Training .....	500
Prison Operations Administration ...	(104,700)
Prison Operations Central	
Utah/Gunnison .....	23,000
Prison Operations Draper Facility ....	(25,600)
Prison Operations Inmate Placement ....	800
Programming Administration .....	(100)
Programming Skill Enhancement .....	1,000
Programming Treatment .....	300

**Item 4**

To Utah Department of Corrections -  
 Department Medical Services

From General Fund .....	11,900
From Dedicated Credits Revenue .....	200
Schedule of Programs:	
Medical Services .....	12,100

**JUDICIAL COUNCIL/STATE  
 COURT ADMINISTRATOR**

**Item 5**

To Judicial Council/State Court Administrator -  
 Administration

From General Fund . . . . .	(70,700)
From Dedicated Credits Revenue . . . . .	(2,800)
From General Fund Restricted - Children's Legal Defense . . . . .	(500)
From General Fund Restricted - Court Trust Interest . . . . .	(2,300)
From General Fund Restricted - Dispute Resolution Account . . . . .	(200)
From General Fund Rest. - Justice Court Tech., Security & Training . . . . .	(700)
From General Fund Restricted - Nonjudicial Adjustment Account . . . . .	(400)
From General Fund Restricted - State Court Complex Account . . . . .	(100)
From General Fund Restricted - Substance Abuse Prevention . . . . .	(200)
Schedule of Programs: Administrative Office . . . . .	(52,100)
Data Processing . . . . .	(100)
District Courts . . . . .	(9,100)
Juvenile Courts . . . . .	(16,600)

**Item 6**

To Judicial Council/State Court Administrator - Contracts and Leases	
From General Fund . . . . .	94,200
From Dedicated Credits Revenue . . . . .	1,400
From General Fund Restricted - State Court Complex Account . . . . .	24,400
Schedule of Programs: Contracts and Leases . . . . .	120,000

**Item 7**

To Judicial Council/State Court Administrator - Guardian ad Litem	
From General Fund . . . . .	(800)
From General Fund Restricted - Children's Legal Defense . . . . .	(100)
Schedule of Programs: Guardian ad Litem . . . . .	(900)

**GOVERNORS OFFICE****Item 8**

To Governors Office - Commission on Criminal and Juvenile Justice	
From General Fund . . . . .	3,200
From Federal Funds . . . . .	4,300
From Dedicated Credits Revenue . . . . .	200
From Crime Victim Reparations Fund . . . . .	3,700
Schedule of Programs: CCJJ Commission . . . . .	3,000
Extraditions . . . . .	700
Judicial Performance Evaluation Commission . . . . .	200
Utah Office for Victims of Crime . . . . .	7,500

**Item 9**

To Governors Office - Governor's Office	
From General Fund . . . . .	99,200
From Dedicated Credits Revenue . . . . .	(4,200)
Schedule of Programs: Administration . . . . .	107,200
Governor's Residence . . . . .	200
Lt. Governor's Office . . . . .	(12,400)

**Item 10**

To Governors Office - Governor's Office of Management and Budget	
From General Fund . . . . .	(7,600)

Schedule of Programs: Administration . . . . .	(7,300)
Operational Excellence . . . . .	(400)
Planning and Budget Analysis . . . . .	100

**Item 11**

To Governors Office - Indigent Defense Commission	
From General Fund Restricted - Indigent Defense Resources . . . . .	6,400
Schedule of Programs: Indigent Defense Commission . . . . .	6,400

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

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations	
From General Fund . . . . .	93,800
From Federal Funds . . . . .	9,600
From Dedicated Credits Revenue . . . . .	100
Schedule of Programs: Administration . . . . .	98,000
Community Programs . . . . .	200
Correctional Facilities . . . . .	1,400
Early Intervention Services . . . . .	2,700
Rural Programs . . . . .	1,800
Youth Parole Authority . . . . .	100
Case Management . . . . .	(700)

**OFFICE OF THE STATE AUDITOR****Item 13**

To Office of the State Auditor - State Auditor	
From General Fund . . . . .	7,300
From Dedicated Credits Revenue . . . . .	5,900
Schedule of Programs: State Auditor . . . . .	13,200

**DEPARTMENT OF PUBLIC SAFETY****Item 14**

To Department of Public Safety - Driver License	
From General Fund . . . . .	900
From Federal Funds . . . . .	(200)
From Department of Public Safety Restricted Account . . . . .	124,300
From Public Safety Motorcycle Education Fund . . . . .	(1,200)
From Pass-through . . . . .	300
Schedule of Programs: DL Federal Grants . . . . .	(200)
Driver Records . . . . .	34,700
Driver Services . . . . .	90,800
Motorcycle Safety . . . . .	(1,200)

**Item 15**

To Department of Public Safety - Emergency Management	
From General Fund . . . . .	2,000
From Dedicated Credits Revenue . . . . .	700
Schedule of Programs: Emergency Management . . . . .	2,700

**Item 16**

To Department of Public Safety - Highway Safety	
From Federal Funds . . . . .	100
Schedule of Programs:	

Highway Safety . . . . . 100

**Item 17**

To Department of Public Safety - Peace Officers' Standards and Training  
 From General Fund . . . . . 16,800  
 From Dedicated Credits Revenue . . . . . 4,900  
 Schedule of Programs:  
     Basic Training . . . . . 7,800  
     POST Administration . . . . . 14,700  
     Regional/Inservice Training . . . . . (800)

**Item 18**

To Department of Public Safety - Programs & Operations  
 From General Fund . . . . . 351,700  
 From Federal Funds . . . . . 500  
 From Dedicated Credits Revenue . . . . . 9,700  
 From Department of Public Safety Restricted Account . . . . . 1,500  
 From General Fund Restricted - Fire Academy Support . . . . . (4,800)  
 From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. . . . . 12,100  
 From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account . . . . . (100)  
 From Revenue Transfers . . . . . 600  
 From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau . . . . . (500)  
 Schedule of Programs:  
     Aero Bureau . . . . . (2,200)  
     CITS Administration . . . . . (1,600)  
     CITS Communications . . . . . 5,200  
     CITS State Bureau of Investigation . . . . . 31,300  
     CITS State Crime Labs . . . . . 1,400  
     Department Commissioner's Office . . . . . 81,600  
     Department Fleet Management . . . . . 100  
     Department Grants . . . . . 1,500  
     Department Intelligence Center . . . . . 32,900  
     Fire Marshall - Fire Fighter Training . . . . . (1,900)  
     Fire Marshall - Fire Operations . . . . . (4,300)  
     Highway Patrol - Administration . . . . . 9,400  
     Highway Patrol - Commercial Vehicle . . . . . (62,100)  
     Highway Patrol - Federal/State Projects . . . . . 100  
     Highway Patrol - Field Operations . . . . . 230,300  
     Highway Patrol - Protective Services . . . . . 12,600  
     Highway Patrol - Safety Inspections . . . . . (12,000)  
     Highway Patrol - Special Enforcement . . . . . (1,500)  
     Highway Patrol - Technology Services . . . . . (1,200)  
     Information Management - Operations . . . . . 51,100

**Item 19**

To Department of Public Safety - Bureau of Criminal Identification  
 From General Fund . . . . . 1,100  
 From Dedicated Credits Revenue . . . . . 23,700  
 From General Fund Restricted - Concealed Weapons Account . . . . . 13,900  
 From Revenue Transfers . . . . . 100  
 Schedule of Programs:  
     Non-Government/Other Services . . . . . 38,800

**STATE TREASURER**

**Item 20**

To State Treasurer  
 From General Fund . . . . . 1,600  
 From Dedicated Credits Revenue . . . . . 1,200  
 From Land Trusts Protection and Advocacy Account . . . . . 2,100  
 From Unclaimed Property Trust . . . . . 4,200  
 Schedule of Programs:  
     Advocacy Office . . . . . 2,100  
     Money Management Council . . . . . 400  
     Treasury and Investment . . . . . 2,400  
     Unclaimed Property . . . . . 4,200

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 21**

To Department of Administrative Services - Administrative Rules  
 From General Fund . . . . . 6,300  
 Schedule of Programs:  
     DAR Administration . . . . . 6,300

**Item 22**

To Department of Administrative Services - Building Board Program  
 From Capital Projects Fund . . . . . 5,800  
 Schedule of Programs:  
     Building Board Program . . . . . 5,800

**Item 23**

To Department of Administrative Services - DFCM Administration  
 From General Fund . . . . . (600)  
 From Education Fund . . . . . (6,200)  
 From Dedicated Credits Revenue . . . . . (8,000)  
 From Capital Projects Fund . . . . . (21,500)  
 Schedule of Programs:  
     DFCM Administration . . . . . (61,600)  
     Energy Program . . . . . 300  
     Governor's Residence . . . . . 25,000

**Item 24**

To Department of Administrative Services - Executive Director  
 From General Fund . . . . . (13,900)  
 Schedule of Programs:  
     Executive Director . . . . . (13,900)

**Item 25**

To Department of Administrative Services - Finance Administration  
 From General Fund . . . . . 22,900  
 From Dedicated Credits Revenue . . . . . 1,400  
 From Gen. Fund Rest. - Internal Service Fund Overhead . . . . . (5,300)  
 Schedule of Programs:  
     Finance Director's Office . . . . . 30,800  
     Financial Information Systems . . . . . (15,600)  
     Financial Reporting . . . . . 1,300  
     Payables/Disbursing . . . . . 7,700  
     Payroll . . . . . (4,000)  
     Technical Services . . . . . (1,200)

**Item 26**

To Department of Administrative Services - Inspector General of Medicaid Services

From General Fund ..... 12,000  
 From Medicaid Expansion Fund ..... 300  
 From Revenue Transfers ..... 23,700  
 Schedule of Programs:  
   Inspector General of Medicaid  
     Services ..... 36,000

**Item 27**

To Department of Administrative Services -  
   Judicial Conduct Commission  
 From General Fund ..... 1,400  
 Schedule of Programs:  
   Judicial Conduct Commission ..... 1,400

**Item 28**

To Department of Administrative Services -  
   Purchasing  
 From General Fund ..... 20,100  
 Schedule of Programs:  
   Purchasing and General Services ..... 20,100

**Item 29**

To Department of Administrative  
   Services - State Archives  
 From General Fund ..... 27,100  
 Schedule of Programs:  
   Archives Administration ..... 26,800  
   Open Records ..... 100  
   Records Services ..... 200

**CAPITAL BUDGET****Item 30**

To Capital Budget - Capital Improvements  
 From Education Fund ..... 900  
 Schedule of Programs:  
   Capital Improvements ..... 900

**DEPARTMENT OF  
TECHNOLOGY SERVICES****Item 31**

To Department of Technology Services -  
   Chief Information Officer  
 From General Fund ..... 8,300  
 Schedule of Programs:  
   Chief Information Officer ..... 8,300

**Item 32**

To Department of Technology Services -  
   Integrated Technology Division  
 From General Fund ..... 1,600  
 From Federal Funds ..... 600  
 From Dedicated Credits Revenue ..... 1,500  
 From Gen. Fund Rest. - Statewide  
   Unified E-911 Emerg. Acct. .... 400  
 Schedule of Programs:  
   Automated Geographic Reference  
     Center ..... 4,100

**TRANSPORTATION****Item 33**

To Transportation - Aeronautics  
 From Aeronautics Restricted Account ..... 100  
 Schedule of Programs:  
   Administration ..... 100

**Item 34**

To Transportation - Highway System Construction

From Transportation Fund ..... (1,300)  
 Schedule of Programs:  
   Federal Construction ..... (1,300)

**Item 35**

To Transportation - Engineering Services  
 From Transportation Fund ..... 400  
 From Federal Funds ..... (100)  
 Schedule of Programs:  
   Construction Management ..... 100  
   Engineering Services ..... 100  
   Materials Lab ..... 100  
   Preconstruction Admin ..... 100  
   Program Development ..... (200)  
   Right-of-Way ..... 100

**Item 36**

To Transportation - Operations/  
   Maintenance Management  
 From Transportation Fund ..... (886,900)  
 From Federal Funds ..... 100  
 Schedule of Programs:  
   Field Crews ..... 300  
   Maintenance Administration ..... (963,400)  
   Maintenance Planning ..... 100  
   Region 1 ..... 400  
   Region 2 ..... 400  
   Region 3 ..... 400  
   Region 4 ..... 1,000  
   Shops ..... 71,900  
   Traffic Operations Center ..... 2,000  
   Traffic Safety/Tramway ..... 100

**Item 37**

To Transportation - Region Management  
 From Transportation Fund ..... 1,200  
 Schedule of Programs:  
   Region 1 ..... 300  
   Region 2 ..... 400  
   Region 3 ..... 200  
   Region 4 ..... 300

**Item 38**

To Transportation - Support Services  
 From Transportation Fund ..... 680,000  
 From Federal Funds ..... 300  
 Schedule of Programs:  
   Administrative Services ..... 252,800  
   Comptroller ..... 200  
   Data Processing ..... 227,700  
   Ports of Entry ..... 900  
   Procurement ..... 100  
   Risk Management ..... 198,600

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR****DEPARTMENT OF  
ALCOHOLIC BEVERAGE CONTROL****Item 39**

To Department of Alcoholic Beverage Control -  
   DABC Operations  
 From Liquor Control Fund ..... 107,100  
 Schedule of Programs:  
   Administration ..... 35,300  
   Executive Director ..... 31,100  
   Operations ..... 36,600  
   Stores and Agencies ..... 1,600  
   Warehouse and Distribution ..... 2,500

**DEPARTMENT OF COMMERCE**

**Item 40**

To Department of Commerce - Commerce  
 General Regulation  
 From Federal Funds ..... 3,800  
 From Dedicated Credits Revenue ..... 1,200  
 From General Fund Restricted -  
 Commerce Service Account ..... 1,200  
 From General Fund Restricted -  
 Public Utility Restricted Acct. .... 84,400  
 Schedule of Programs:  
 Administration ..... 400  
 Corporations and Commercial Code ..... 200  
 Occupational and Professional Licensing .. 500  
 Office of Consumer Services ..... 43,800  
 Public Utilities ..... 45,500  
 Real Estate ..... 200

**GOVERNOR'S OFFICE OF  
 ECONOMIC DEVELOPMENT**

**Item 41**

To Governor's Office of Economic Development -  
 Administration  
 From General Fund ..... 26,300  
 Schedule of Programs:  
 Administration ..... 26,300

**Item 42**

To Governor's Office of Economic Development -  
 Business Development  
 From General Fund ..... (600)  
 From Federal Funds ..... 100  
 Schedule of Programs:  
 Corporate Recruitment and  
 Business Services ..... 1,000  
 Outreach and International Trade ..... (1,500)

**Item 43**

To Governor's Office of Economic Development -  
 Office of Tourism  
 From General Fund ..... 2,200  
 From Dedicated Credits Revenue ..... 100  
 From General Fund Rest. - Motion  
 Picture Incentive Acct. .... 200  
 Schedule of Programs:  
 Administration ..... 1,300  
 Film Commission ..... 300  
 Operations and Fulfillment ..... 900

**Item 44**

To Governor's Office of Economic Development -  
 Pete Suazo Utah Athletics Commission  
 From General Fund ..... 200  
 From Dedicated Credits Revenue ..... 100  
 Schedule of Programs:  
 Pete Suazo Utah Athletics Commission ... 300

**Item 45**

To Governor's Office of Economic Development -  
 Talent Ready Utah Center  
 From General Fund ..... 100  
 Schedule of Programs:  
 Talent Ready Utah Center ..... 100

**FINANCIAL INSTITUTIONS**

**Item 46**

To Financial Institutions - Financial  
 Institutions Administration  
 From General Fund Restricted -  
 Financial Institutions ..... 4,800  
 Schedule of Programs:  
 Administration ..... 4,800

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 47**

To Department of Heritage and Arts -  
 Administration  
 From General Fund ..... 54,100  
 From Dedicated Credits Revenue ..... 2,000  
 Schedule of Programs:  
 Administrative Services ..... 30,000  
 Information Technology ..... 26,100

**Item 48**

To Department of Heritage and Arts -  
 Division of Arts and Museums  
 From General Fund ..... (10,200)  
 From Dedicated Credits Revenue ..... 200  
 Schedule of Programs:  
 Administration ..... (13,100)  
 Community Arts Outreach ..... 3,100

**Item 49**

To Department of Heritage and Arts -  
 Historical Society  
 From Dedicated Credits Revenue ..... 200  
 Schedule of Programs:  
 State Historical Society ..... 200

**Item 50**

To Department of Heritage and Arts -  
 Indian Affairs  
 From General Fund ..... 13,900  
 From Dedicated Credits Revenue ..... 2,200  
 Schedule of Programs:  
 Indian Affairs ..... 16,100

**Item 51**

To Department of Heritage and Arts - State History  
 From General Fund ..... 7,100  
 From Federal Funds ..... 100  
 Schedule of Programs:  
 Administration ..... 6,800  
 Historic Preservation and Antiquities .... 200  
 Library and Collections ..... 200

**Item 52**

To Department of Heritage and Arts - State Library  
 From General Fund ..... (2,300)  
 From Dedicated Credits Revenue ..... (2,800)  
 Schedule of Programs:  
 Administration ..... (2,200)  
 Blind and Disabled ..... 600  
 Bookmobile ..... (3,500)

**INSURANCE DEPARTMENT**

**Item 53**

To Insurance Department - Insurance  
 Department Administration  
 From General Fund ..... (100)  
 From Federal Funds ..... (1,900)  
 From Dedicated Credits Revenue ..... 100

From General Fund Restricted - Captive Insurance .....	800
From General Fund Restricted - Insurance Department Acct. ....	(75,200)
From General Fund Rest. - Insurance Fraud Investigation Acct. ....	17,200
From General Fund Restricted - Technology Development .....	800
Schedule of Programs:	
Administration .....	(77,600)
Captive Insurers .....	800
Electronic Commerce Fee .....	800
Insurance Fraud Program .....	17,700

**LABOR COMMISSION****Item 54**

To Labor Commission	
From General Fund .....	103,600
From Federal Funds .....	700
From Employers' Reinsurance Fund .....	700
From General Fund Restricted - Industrial Accident Account .....	2,700
From General Fund Restricted - Workplace Safety Account .....	100
Schedule of Programs:	
Adjudication .....	1,300
Administration .....	104,900
Antidiscrimination and Labor .....	1,700
Boiler, Elevator and Coal Mine Safety Division .....	(2,000)
Industrial Accidents .....	1,400
Utah Occupational Safety and Health .....	500

**PUBLIC SERVICE COMMISSION****Item 55**

To Public Service Commission	
From General Fund Restricted - Public Utility Restricted Acct. ....	(1,300)
Schedule of Programs:	
Administration .....	(1,300)

**UTAH STATE TAX COMMISSION****Item 56**

To Utah State Tax Commission - Tax Administration	
From General Fund .....	148,800
From Education Fund .....	166,500
From Federal Funds .....	7,600
From Dedicated Credits Revenue .....	3,600
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account .....	(10,000)
From General Fund Rest. - Sales and Use Tax Admin Fees .....	68,800
From Revenue Transfers .....	2,100
Schedule of Programs:	
Administration Division .....	9,700
Auditing Division .....	170,200
Motor Vehicle Enforcement Division .....	(10,300)
Motor Vehicles .....	5,500
Property Tax Division .....	68,500
Tax Payer Services .....	32,100
Tax Processing Division .....	200
Technology Management .....	111,500

**SOCIAL SERVICES****DEPARTMENT OF HEALTH****Item 57**

To Department of Health - Children's Health Insurance Program	
From General Fund .....	(700)
From Federal Funds .....	(2,100)
Schedule of Programs:	
Children's Health Insurance Program ..	(2,800)

**Item 58**

To Department of Health - Disease Control and Prevention	
From General Fund .....	5,100
From Federal Funds .....	16,000
From Expendable Receipts .....	100
From Expendable Receipts - Rebates .....	2,200
From Gen. Fund Rest. - State Lab Drug Testing Account .....	(100)
From Revenue Transfers .....	1,100
Schedule of Programs:	
Clinical and Environmental Lab Certification Programs .....	200
Epidemiology .....	19,100
General Administration .....	300
Health Promotion .....	4,100
Utah Public Health Laboratory .....	(1,300)
Office of the Medical Examiner .....	2,000

**Item 59**

To Department of Health - Executive Director's Operations	
From General Fund .....	82,300
From Federal Funds .....	84,000
From Dedicated Credits Revenue .....	4,900
From Revenue Transfers .....	25,100
Schedule of Programs:	
Adoption Records Access .....	(100)
Center for Health Data and Informatics .....	11,700
Executive Director .....	154,700
Office of Internal Audit .....	200
Program Operations .....	29,800

**Item 60**

To Department of Health - Family Health and Preparedness	
From General Fund .....	1,400
From Federal Funds .....	(300)
From Dedicated Credits Revenue .....	600
From Revenue Transfers .....	400
Schedule of Programs:	
Children with Special Health Care Needs .....	1,700
Director's Office .....	(200)
Emergency Medical Services and Preparedness .....	500
Health Facility Licensing and Certification .....	1,100
Maternal and Child Health .....	(2,400)
Primary Care .....	600
Public Health and Health Care Preparedness .....	800

**Item 61**

To Department of Health - Medicaid and Health Financing	
From General Fund .....	10,100



From Federal Funds .....	97,600
From Expendable Receipts .....	13,200
From Medicaid Expansion Fund .....	1,900
From Nursing Care Facilities Provider	
Assessment Fund .....	2,200
From Revenue Transfers .....	5,600
Schedule of Programs:	
Authorization and Community	
Based Services .....	1,500
Contracts .....	500
Coverage and Reimbursement Policy .....	900
Director's Office .....	(400)
Eligibility Policy .....	900
Financial Services .....	126,400
Managed Health Care .....	2,400
Medicaid Operations .....	(1,600)

**Item 62**

To Department of Health - Medicaid Services	
From General Fund .....	2,000
From Federal Funds .....	10,400
Schedule of Programs:	
Other Services .....	2,000
Provider Reimbursement Information	
System for Medicaid .....	10,400

**DEPARTMENT OF HUMAN SERVICES**

**Item 63**

To Department of Human Services -	
Division of Aging and Adult Services	
From General Fund .....	2,300
From Federal Funds .....	500
Schedule of Programs:	
Administration - DAAS .....	1,000
Adult Protective Services .....	1,600
Aging Waiver Services .....	200

**Item 64**

To Department of Human Services - Division	
of Child and Family Services	
From General Fund .....	276,900
From Federal Funds .....	170,000
Schedule of Programs:	
Administration - DCFS .....	4,600
Child Welfare Management Information	
System .....	74,600
Domestic Violence .....	100
Facility-Based Services .....	(700)
Minor Grants .....	200
Selected Programs .....	321,100
Service Delivery .....	47,000

**Item 65**

To Department of Human Services -	
Executive Director Operations	
From General Fund .....	65,600
From Federal Funds .....	26,600
From Dedicated Credits Revenue .....	500
From Revenue Transfers .....	14,400
Schedule of Programs:	
Executive Director's Office .....	10,800
Fiscal Operations .....	2,400
Information Technology .....	45,900
Legal Affairs .....	42,900
Office of Licensing .....	3,500
Office of Quality and Design .....	1,400
Utah Developmental Disabilities Council ..	200

**Item 66**

To Department of Human Services -	
Office of Public Guardian	
From General Fund .....	100
From Revenue Transfers .....	100
Schedule of Programs:	
Office of Public Guardian .....	200

**Item 67**

To Department of Human Services -	
Office of Recovery Services	
From General Fund .....	32,300
From Federal Funds .....	63,100
From Dedicated Credits Revenue .....	2,100
From Revenue Transfers .....	6,300
Schedule of Programs:	
Administration - ORS .....	(100)
Attorney General Contract .....	100
Child Support Services .....	6,700
Electronic Technology .....	97,000
Financial Services .....	600
Medical Collections .....	(500)

**Item 68**

To Department of Human Services - Division	
of Services for People with Disabilities	
From General Fund .....	149,500
From Federal Funds .....	900
From Dedicated Credits Revenue .....	17,100
From Revenue Transfers .....	286,100
Schedule of Programs:	
Administration - DSPD .....	44,800
Service Delivery .....	2,600
Utah State Developmental Center .....	406,200

**Item 69**

To Department of Human Services - Division	
of Substance Abuse and Mental Health	
From General Fund .....	84,300
From Federal Funds .....	4,300
From Dedicated Credits Revenue .....	4,800
From Revenue Transfers .....	23,800
Schedule of Programs:	
Administration - DSAMH .....	6,900
Community Mental Health Services .....	5,000
State Hospital .....	104,500
State Substance Abuse Services .....	800

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 70**

To Department of Workforce Services -	
Administration	
From General Fund .....	7,700
From Federal Funds .....	14,200
From Dedicated Credits Revenue .....	200
From Permanent Community Impact	
Loan Fund .....	400
From Revenue Transfers .....	4,200
Schedule of Programs:	
Administrative Support .....	27,000
Executive Director's Office .....	(300)

**Item 71**

To Department of Workforce Services -	
Housing and Community Development	
From General Fund .....	3,000
From Federal Funds .....	10,800
From Dedicated Credits Revenue .....	900

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account .....	900
From Gen. Fund Rest. - Pamela Atkinson Homeless Account .....	400
From Housing Opportunities for Low Income Households .....	1,200
From Olene Walker Housing Loan Fund ...	1,200
From OWHT-Fed Home .....	1,200
From OWHTF-Low Income Housing .....	1,200
From Permanent Community Impact Loan Fund .....	1,100
Schedule of Programs: Community Development .....	8,700
Community Development Administration .....	600
HEAT .....	100
Homeless Committee .....	2,400
Housing Development .....	10,100

**Item 72**

To Department of Workforce Services - Operations and Policy	
From General Fund .....	56,200
From Federal Funds .....	228,100
From Dedicated Credits Revenue .....	9,600
From Expendable Receipts .....	4,300
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct .....	400
From Medicaid Expansion Fund .....	(1,200)
From OWHT-Fed Home Income .....	100
From OWHT-Low Income Housing-PI .....	100
From Permanent Community Impact Loan Fund .....	2,600
From General Fund Restricted - School Readiness Account .....	(300)
From Revenue Transfers .....	141,100
Schedule of Programs: Eligibility Services .....	(24,800)
Facilities and Pass-Through .....	74,700
Information Technology .....	399,300
Workforce Development .....	(8,300)
Workforce Research and Analysis .....	100

**Item 73**

To Department of Workforce Services - State Office of Rehabilitation	
From General Fund .....	1,100
From Federal Funds .....	4,600
From Expendable Receipts .....	(400)
Schedule of Programs: Blind and Visually Impaired .....	2,900
Deaf and Hard of Hearing .....	(2,700)
Disability Determination .....	3,200
Executive Director .....	3,100
Rehabilitation Services .....	(1,200)

**Item 74**

To Department of Workforce Services - Unemployment Insurance	
From General Fund .....	1,700
From Federal Funds .....	12,200
From Dedicated Credits Revenue .....	100
From Revenue Transfers .....	300
Schedule of Programs: Adjudication .....	7,700
Unemployment Insurance Administration .....	6,600

**HIGHER EDUCATION****UNIVERSITY OF UTAH****Item 75**

To University of Utah - Education and General From General Fund .....	28,500
From Education Fund .....	1,049,200
From Dedicated Credits Revenue .....	359,200
Schedule of Programs: Education and General .....	1,436,900

**UTAH STATE UNIVERSITY****Item 76**

To Utah State University - Education and General From General Fund .....	14,200
From Education Fund .....	294,700
From Dedicated Credits Revenue .....	102,800
Schedule of Programs: Education and General .....	411,700

**Item 77**

To Utah State University - USU - Eastern Education and General	
From Education Fund .....	(3,800)
From Dedicated Credits Revenue .....	(1,300)
Schedule of Programs: USU - Eastern Education and General .....	(5,100)

**WEBER STATE UNIVERSITY****Item 78**

To Weber State University - Education and General	
From General Fund .....	5,700
From Education Fund .....	198,200
From Dedicated Credits Revenue .....	68,000
Schedule of Programs: Education and General .....	271,900

**SOUTHERN UTAH UNIVERSITY****Item 79**

To Southern Utah University - Education and General	
From General Fund .....	14,200
From Education Fund .....	76,100
From Dedicated Credits Revenue .....	30,000
Schedule of Programs: Education and General .....	120,300

**UTAH VALLEY UNIVERSITY****Item 80**

To Utah Valley University - Education and General From General Fund .....	5,700
From Education Fund .....	131,800
From Dedicated Credits Revenue .....	45,900
Schedule of Programs: Education and General .....	183,400

**SNOW COLLEGE****Item 81**

To Snow College - Education and General From General Fund .....	8,500
From Education Fund .....	26,100
From Dedicated Credits Revenue .....	11,500

Schedule of Programs:  
 Education and General ..... 46,100

**DIXIE STATE UNIVERSITY**

**Item 82**

To Dixie State University - Education and General  
 From General Fund ..... 14,200  
 From Education Fund ..... 78,500  
 From Dedicated Credits Revenue ..... 30,900  
 Schedule of Programs:  
 Education and General ..... 123,600

**SALT LAKE COMMUNITY COLLEGE**

**Item 83**

To Salt Lake Community College - Education  
 and General  
 From Education Fund ..... 136,300  
 From Dedicated Credits Revenue ..... 45,500  
 Schedule of Programs:  
 Education and General ..... 181,800

**STATE BOARD OF REGENTS**

**Item 84**

To State Board of Regents - Administration  
 From General Fund ..... 3,000  
 From Education Fund ..... 12,300  
 Schedule of Programs:  
 Administration ..... 15,300

**UTAH SYSTEM OF TECHNICAL COLLEGES**

**Item 85**

To Utah System of Technical Colleges -  
 Bridgerland Technical College  
 From Education Fund ..... 19,600  
 From Dedicated Credits Revenue ..... 1,800  
 Schedule of Programs:  
 Bridgerland Technical College ..... 21,400

**Item 86**

To Utah System of Technical Colleges -  
 Davis Technical College  
 From Education Fund ..... 16,100  
 From Dedicated Credits Revenue ..... 1,700  
 Schedule of Programs:  
 Davis Technical College ..... 17,800

**Item 87**

To Utah System of Technical Colleges -  
 Dixie Technical College  
 From Education Fund ..... 41,700  
 From Dedicated Credits Revenue ..... 1,700  
 Schedule of Programs:  
 Dixie Technical College ..... 43,400

**Item 88**

To Utah System of Technical Colleges -  
 Mountainland Technical College  
 From Education Fund ..... 16,000  
 From Dedicated Credits Revenue ..... 1,300  
 Schedule of Programs:  
 Mountainland Technical College ..... 17,300

**Item 89**

To Utah System of Technical Colleges -  
 Ogden-Weber Technical College  
 From Education Fund ..... 16,700

From Dedicated Credits Revenue ..... 1,700  
 Schedule of Programs:  
 Ogden-Weber Technical College ..... 18,400

**Item 90**

To Utah System of Technical Colleges -  
 Southwest Technical College  
 From General Fund ..... (100)  
 From Education Fund ..... 6,700  
 From Dedicated Credits Revenue ..... 700  
 Schedule of Programs:  
 Southwest Technical College ..... 7,300

**Item 91**

To Utah System of Technical Colleges -  
 Tooele Technical College  
 From Education Fund ..... 6,300  
 From Dedicated Credits Revenue ..... 400  
 Schedule of Programs:  
 Tooele Technical College ..... 6,700

**Item 92**

To Utah System of Technical Colleges -  
 Uintah Basin Technical College  
 From Education Fund ..... 10,600  
 From Dedicated Credits Revenue ..... 500  
 Schedule of Programs:  
 Uintah Basin Technical College ..... 11,100

**Item 93**

To Utah System of Technical Colleges -  
 USTC Administration  
 From General Fund ..... 5,700  
 From Education Fund ..... 34,700  
 Schedule of Programs:  
 Administration ..... 40,400

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

**DEPARTMENT OF  
 AGRICULTURE AND FOOD**

**Item 94**

To Department of Agriculture and Food -  
 Administration  
 From General Fund ..... 50,300  
 From Federal Funds ..... 9,900  
 From Dedicated Credits Revenue ..... 11,400  
 From General Fund Restricted -  
 Cat and Dog Community Spay  
 and Neuter Program Restricted Account .. 600  
 From Revenue Transfers ..... 1,200  
 Schedule of Programs:  
 Chemistry Laboratory ..... 800  
 General Administration ..... 72,600

**Item 95**

To Department of Agriculture and Food -  
 Animal Health  
 From General Fund ..... 2,200  
 From Federal Funds ..... (900)  
 From Dedicated Credits Revenue ..... 300  
 From General Fund Restricted -  
 Livestock Brand ..... (5,000)  
 Schedule of Programs:  
 Animal Health ..... 7,100  
 Brand Inspection ..... (6,900)  
 Meat Inspection ..... (3,600)

**Item 96**

To Department of Agriculture and Food -  
 Invasive Species Mitigation

From General Fund Restricted - Invasive  
Species Mitigation Account ..... 100  
Schedule of Programs:  
Invasive Species Mitigation ..... 100

**Item 97**

To Department of Agriculture and Food -  
Marketing and Development  
From General Fund ..... (600)  
Schedule of Programs:  
Marketing and Development ..... (600)

**Item 98**

To Department of Agriculture and Food -  
Plant Industry  
From General Fund ..... 100  
From Federal Funds ..... 2,800  
From Dedicated Credits Revenue ..... 1,800  
From Revenue Transfers ..... 100  
Schedule of Programs:  
Grain Inspection ..... 100  
Insect Infestation ..... 4,600  
Plant Industry ..... 100

**Item 99**

To Department of Agriculture and Food -  
Predatory Animal Control  
From General Fund ..... (7,000)  
From Revenue Transfers ..... (4,800)  
From Gen. Fund Rest. - Agriculture  
and Wildlife Damage Prevention ..... (4,500)  
Schedule of Programs:  
Predatory Animal Control ..... (16,300)

**Item 100**

To Department of Agriculture and Food -  
Regulatory Services  
From General Fund ..... 700  
From Federal Funds ..... 300  
From Dedicated Credits Revenue ..... 600  
Schedule of Programs:  
Regulatory Services ..... 1,600

**Item 101**

To Department of Agriculture and Food -  
Resource Conservation  
From General Fund ..... (100)  
From Federal Funds ..... (100)  
Schedule of Programs:  
Resource Conservation ..... (400)  
Resource Conservation Administration ... 200

**DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

**Item 102**

To Department of Environmental Quality -  
Air Quality  
From General Fund ..... 28,100  
From Federal Funds ..... 27,900  
From Dedicated Credits Revenue ..... 21,600  
From Clean Fuel Conversion Fund ..... 500  
Schedule of Programs:  
Air Quality ..... 78,100

**Item 103**

To Department of Environmental Quality -  
Drinking Water

From General Fund ..... 4,500  
From Federal Funds ..... 13,400  
From Dedicated Credits Revenue ..... 1,100  
From Water Dev. Security Fund -  
Drinking Water Loan Prog. .... 3,400  
From Water Dev. Security Fund -  
Drinking Water Orig. Fee ..... 700  
Schedule of Programs:  
Drinking Water ..... 23,100

**Item 104**

To Department of Environmental Quality -  
Environmental Response and Remediation  
From General Fund ..... 3,600  
From Federal Funds ..... 20,300  
From Dedicated Credits Revenue ..... 2,900  
From General Fund Restricted -  
Petroleum Storage Tank ..... 300  
From Petroleum Storage Tank  
Cleanup Fund ..... 2,500  
From Petroleum Storage Tank  
Trust Fund ..... 7,600  
From General Fund Restricted -  
Voluntary Cleanup ..... 2,800  
Schedule of Programs:  
Environmental Response and  
Remediation ..... 40,000

**Item 105**

To Department of Environmental Quality -  
Executive Director's Office  
From General Fund ..... 54,800  
From Federal Funds ..... 6,500  
From General Fund Restricted -  
Environmental Quality ..... 20,400  
Schedule of Programs:  
Executive Director's Office ..... 81,700

**Item 106**

To Department of Environmental Quality -  
Waste Management and Radiation Control  
From General Fund ..... 3,600  
From Federal Funds ..... 6,000  
From Dedicated Credits Revenue ..... 11,000  
From General Fund Restricted -  
Environmental Quality ..... 25,700  
From Gen. Fund Rest. - Used  
Oil Collection Administration ..... 3,400  
From Waste Tire Recycling Fund ..... 600  
Schedule of Programs:  
Waste Management and Radiation  
Control ..... 50,300

**Item 107**

To Department of Environmental Quality -  
Water Quality  
From General Fund ..... 13,800  
From Federal Funds ..... 19,600  
From Dedicated Credits Revenue ..... 7,800  
From Revenue Transfers ..... 1,200  
From Gen. Fund Rest. - Underground  
Wastewater System ..... 300  
From Water Dev. Security Fund -  
Utah Wastewater Loan Prog. .... 6,100  
From Water Dev. Security Fund -  
Water Quality Orig. Fee ..... 500  
Schedule of Programs:  
Water Quality ..... 49,300

**GOVERNOR'S OFFICE**

**Item 108**

To Governor's Office - Office of Energy Development

From General Fund .....	4,900
From Federal Funds .....	2,500
From Dedicated Credits Revenue .....	700
From Ut. S. Energy Program Rev. Loan Fund (ARRA) .....	700
Schedule of Programs:	
Office of Energy Development .....	8,800

**DEPARTMENT OF NATURAL RESOURCES**

**Item 109**

To Department of Natural Resources - Administration

From General Fund .....	532,600
Schedule of Programs:	
Administrative Services .....	242,500
Executive Director .....	289,800
Law Enforcement .....	300

**Item 110**

To Department of Natural Resources - Forestry, Fire and State Lands

From General Fund .....	28,600
From Federal Funds .....	2,000
From Dedicated Credits Revenue .....	2,600
From General Fund Restricted - Sovereign Lands Management .....	46,300
Schedule of Programs:	
Division Administration .....	73,600
Fire Management .....	500
Fire Suppression Emergencies .....	400
Forest Management .....	200
Lands Management .....	(600)
Lone Peak Center .....	2,100
Program Delivery .....	3,300

**Item 111**

To Department of Natural Resources - Oil, Gas and Mining

From General Fund .....	5,900
From Federal Funds .....	900
From Dedicated Credits Revenue .....	100
From Gen. Fund Rest. - Oil & Gas Conservation Account .....	18,600
Schedule of Programs:	
Administration .....	6,800
Coal Program .....	(3,000)
Oil and Gas Program .....	21,700

**Item 112**

To Department of Natural Resources - Parks and Recreation

From General Fund .....	(6,400)
From Federal Funds .....	4,600
From Dedicated Credits Revenue .....	(5,900)
From General Fund Restricted - Boating .....	(29,700)
From General Fund Restricted - Off-highway Vehicle .....	(41,000)
From General Fund Restricted - State Park Fees .....	(67,600)
Schedule of Programs:	
Executive Management .....	300
Park Operation Management .....	2,100
Planning and Design .....	(500)

Recreation Services .....	6,700
Support Services .....	(154,600)

**Item 113**

To Department of Natural Resources - Species Protection

From General Fund Restricted - Species Protection .....	300
Schedule of Programs:	
Species Protection .....	300

**Item 114**

To Department of Natural Resources - Utah Geological Survey

From General Fund .....	3,800
From Federal Funds .....	100
From Dedicated Credits Revenue .....	400
From General Fund Restricted - Mineral Lease .....	600
Schedule of Programs:	
Administration .....	500
Geologic Information and Outreach .....	4,000
Geologic Mapping .....	400

**Item 115**

To Department of Natural Resources - Water Resources

From General Fund .....	1,900
From Federal Funds .....	300
From Water Resources Conservation and Development Fund .....	1,300
Schedule of Programs:	
Administration .....	500
Construction .....	1,200
Interstate Streams .....	100
Planning .....	1,700

**Item 116**

To Department of Natural Resources - Water Rights

From General Fund .....	17,700
From Dedicated Credits Revenue .....	(4,900)
Schedule of Programs:	
Adjudication .....	(9,600)
Administration .....	1,000
Applications and Records .....	2,300
Canal Safety .....	100
Dam Safety .....	400
Field Services .....	(100)
Technical Services .....	18,700

**Item 117**

To Department of Natural Resources - Wildlife Resources

From General Fund .....	3,300
From Federal Funds .....	13,700
From Dedicated Credits Revenue .....	(500)
From General Fund Restricted - Boating .....	400
From General Fund Restricted - Predator Control Account .....	200
From Revenue Transfers .....	(500)
From General Fund Restricted - Wildlife Resources .....	85,500
Schedule of Programs:	
Administrative Services .....	86,700
Aquatic Section .....	7,400
Conservation Outreach .....	3,400
Director's Office .....	(10,400)
Habitat Section .....	5,600
Law Enforcement .....	3,600
Wildlife Section .....	5,800

**PUBLIC LANDS POLICY  
COORDINATING OFFICE**

**Item 118**

To Public Lands Policy Coordinating Office  
From General Fund ..... 37,900  
From General Fund Restricted -  
Constitutional Defense ..... 16,000  
Schedule of Programs:  
Public Lands Policy Coordinating  
Office ..... 53,900

**SCHOOL AND INSTITUTIONAL  
TRUST LANDS ADMINISTRATION**

**Item 119**

To School and Institutional Trust  
Lands Administration  
From Land Grant Management Fund .... (2,400)  
Schedule of Programs:  
Administration ..... (4,500)  
Development - Operating ..... (100)  
Grazing and Forestry ..... (2,400)  
Information Technology Group ..... 2,800  
Legal/Contracts ..... (300)  
Oil and Gas ..... (300)  
Surface ..... 2,400

**PUBLIC EDUCATION**

**STATE BOARD OF EDUCATION**

**Item 120**

To State Board of Education - Child Nutrition  
From Education Fund ..... (100)  
From Federal Funds ..... (300)  
Schedule of Programs:  
Child Nutrition ..... (400)

**Item 121**

To State Board of Education - State  
Administrative Office  
From General Fund ..... 200  
From Education Fund ..... 49,400  
From General Fund Restricted -  
Mineral Lease ..... 6,900  
From Gen. Fund Rest. -  
Land Exchange Distribution Account ..... 100  
From Revenue Transfers ..... 3,900  
Schedule of Programs:  
Board and Administration ..... 56,600  
Indirect Cost Pool ..... 3,900

**Item 122**

To State Board of Education - State  
Charter School Board  
From Education Fund ..... 4,300  
Schedule of Programs:  
State Charter School Board ..... 4,300

**Item 123**

To State Board of Education - Utah  
Schools for the Deaf and the Blind  
From Education Fund ..... 4,400  
From Dedicated Credits Revenue ..... 1,200  
From Revenue Transfers ..... 3,400  
Schedule of Programs:  
Support Services ..... 16,000  
Administration ..... (7,000)

**SCHOOL AND INSTITUTIONAL  
TRUST FUND OFFICE**

**Item 124**

To School and Institutional Trust Fund Office  
From School and Institutional  
Trust Fund Management Acct. .... 5,600  
Schedule of Programs:  
School and Institutional Trust  
Fund Office ..... 5,600

**RETIREMENT AND  
INDEPENDENT ENTITIES**

**CAREER SERVICE REVIEW OFFICE**

**Item 125**

To Career Service Review Office  
From General Fund ..... (400)  
Schedule of Programs:  
Career Service Review Office ..... (400)

**UTAH EDUCATION AND  
TELEHEALTH NETWORK**

**Item 126**

To Utah Education and Telehealth Network  
From Education Fund ..... 600  
From Federal Funds ..... 600  
Schedule of Programs:  
Administration ..... 1,200

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 127**

To Capitol Preservation Board  
From General Fund ..... 280,000  
Schedule of Programs:  
Capitol Preservation Board ..... 280,000

**LEGISLATURE**

**Item 128**

To Legislature - Senate  
From General Fund ..... 800  
Schedule of Programs:  
Administration ..... 800

**Item 129**

To Legislature - House of Representatives  
From General Fund ..... 2,800  
Schedule of Programs:  
Administration ..... 2,800

**Item 130**

To Legislature - Office of Legislative  
Research and General Counsel  
From General Fund ..... 900  
Schedule of Programs:  
Administration ..... 900

**Item 131**

To Legislature - Office of the  
Legislative Fiscal Analyst  
From General Fund ..... (900)  
Schedule of Programs:  
Administration and Research ..... (900)

**Item 132**

To Legislature - Office of the Legislative  
Auditor General

From General Fund .....	200
Schedule of Programs:	
Administration .....	200

**Item 133**

To Legislature - Legislative Services	
From General Fund .....	2,500
From Dedicated Credits Revenue .....	1,000
Schedule of Programs:	
Legislative Printing .....	3,500

**UTAH NATIONAL GUARD**

**Item 134**

To Utah National Guard	
From General Fund .....	58,300
From Dedicated Credits Revenue .....	500
Schedule of Programs:	
Administration .....	500
Operations and Maintenance .....	58,300

**DEPARTMENT OF VETERANS AND MILITARY AFFAIRS**

**Item 135**

To Department of Veterans and Military Affairs - Veterans and Military Affairs	
From General Fund .....	2,800
From Federal Funds .....	1,500
From Dedicated Credits Revenue .....	200
Schedule of Programs:	
Administration .....	600
Cemetery .....	2,100
Military Affairs .....	100
Outreach Services .....	1,300
State Approving Agency .....	400

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**DEPARTMENT OF PUBLIC SAFETY**

**Item 136**

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund	
From Dedicated Credits Revenue .....	7,100
Schedule of Programs:	
Alcoholic Beverage Control Act Enforcement Fund .....	7,100

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 137**

To Department of Administrative Services - State Debt Collection Fund	
From Dedicated Credits Revenue .....	138,700
Schedule of Programs:	
State Debt Collection Fund .....	138,700

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**DEPARTMENT OF COMMERCE**

**Item 138**

To Department of Commerce - Consumer Protection Education and Training Fund	
From Licenses/Fees .....	500
Schedule of Programs:	
Consumer Protection Education and Training Fund .....	500

**Item 139**

To Department of Commerce - Real Estate Education, Research, and Recovery Fund	
From Dedicated Credits Revenue .....	100
Schedule of Programs:	
Real Estate Education, Research, and Recovery Fund .....	100

**Item 140**

To Department of Commerce - Securities Investor Education/Training/Enforcement Fund	
From Licenses/Fees .....	(100)
Schedule of Programs:	
Securities Investor Education/ Training/ Enforcement Fund .....	(100)

**GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**

**Item 141**

To Governor's Office of Economic Development - Outdoor Recreation Infrastructure Account	
From Dedicated Credits Revenue .....	100
Schedule of Programs:	
Outdoor Recreation Infrastructure Account .....	100

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 142**

To Capitol Preservation Board - State Capitol Fund	
From Dedicated Credits Revenue .....	(500)
Schedule of Programs:	
State Capitol Fund .....	(500)

**DEPARTMENT OF VETERANS AND MILITARY AFFAIRS**

**Item 143**

To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund	
From Federal Funds .....	50,600

From Dedicated Credits Revenue . . . . . 200  
 Schedule of Programs:  
     Veterans Nursing Home Fund . . . . . 50,800

**Subsection 1(c). Business-like Activities.**

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

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 144**

To Attorney General - ISF - Attorney General  
 From General Fund . . . . . (766,200)  
 From Dedicated Credits Revenue . . . . . 2,878,600  
 Schedule of Programs:  
     ISF - Attorney General . . . . . 2,112,400

**INFRASTRUCTURE AND  
 GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE  
 SERVICES INTERNAL SERVICE FUNDS**

**Item 145**

To Department of Administrative Services Internal Service Funds - Risk Management  
 From Premiums . . . . . 696,400  
 From Interest Income . . . . . 15,000  
 Schedule of Programs:  
     Risk Management - Liability . . . . . 711,400

**DEPARTMENT OF TECHNOLOGY  
 SERVICES INTERNAL SERVICE FUNDS**

**Item 146**

To Department of Technology Services Internal Service Funds - Enterprise Technology Division  
 From Dedicated Credits Revenue . . . . . 6,800  
 Schedule of Programs:  
     ISF - Enterprise Technology Division . . . . . 6,800

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 147**

To Department of Health - Qualified Patient Enterprise Fund  
 From Dedicated Credits Revenue . . . . . 700  
 Schedule of Programs:  
     Qualified Patient Enterprise Fund . . . . . 700

**Subsection 1(d). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the

following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES AND  
 CRIMINAL JUSTICE**

**Item 148**

To General Fund Restricted - Indigent Defense Resources Account  
 From General Fund . . . . . 2,600  
 From Revenue Transfers . . . . . (2,600)

**Subsection 1(e). Fiduciary Funds.** The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**BUSINESS, ECONOMIC  
 DEVELOPMENT, AND LABOR**

**LABOR COMMISSION**

**Item 149**

To Labor Commission - Uninsured Employers Fund  
 From Dedicated Credits Revenue . . . . . 64,300  
 From Interest Income . . . . . 1,300  
 From Trust and Agency Funds . . . . . 17,400  
 Schedule of Programs:  
     Uninsured Employers Fund . . . . . 83,000

**Section 2. Fees.** Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2020 and ending June 30, 2021.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

Administration  
 Government Records Access and Management Act  
     Document certification . . . . . 2.00  
     CD Duplication (per CD) . . . . . 5.00  
         Plus actual staff costs  
     DVD Duplication (per DVD) . . . . . 10.00  
         Plus actual staff costs  
 Photocopies  
     Non-color (per page) . . . . . 0.25  
     Color (per page) . . . . . 0.40  
     11 x 17 (per page) . . . . . 1.00  
     Odd size . . . . . Actual cost  
     Document faxing (per page) . . . . . 1.00  
     Long distance faxing for over 10 pages . . . . . 1.00  
     Record preparation . . . . . Actual cost  
     Record preparation . . . . . 2.00  
         Plus actual postage costs  
     Other media . . . . . Actual cost  
     Other services . . . . . Actual cost

**CHILDREN'S JUSTICE CENTERS**

CJC Conference Registrations (per Variable)  
 This represents the fee charged for the Children's Justice Center's annual



conference. Conference Registration (per unit/day) - Varies by Type.

**ISF - ATTORNEY GENERAL**

Child Protection Attorney I-II - Co-Located Rate	80.00
Child Protection Attorney I-II - Office Rate	83.00
Child Protection Attorney III-IV - Co-Located Rate	100.00
Child Protection Attorney III-IV - Office Rate	103.00
Child Protection Attorney V - Co-located Rate	124.00
Child Protection Attorney V - Office Rate	128.00
Child Protection Paralegal - Co-Located Rate	59.00
Child Protection Paralegal - Office Rate	61.00
Civil Attorney I - II - Co-Located Rate	86.00
Civil Attorney I - II - Office Rate	89.00
Civil Attorney III - IV - Co-Located Rate	106.00
Civil Attorney III - IV - Office Rate	109.00
Civil Attorney I-II - Litigation Rate	100.00
Civil Attorney III-IV - Litigation Rate	119.00
Civil Attorney V - Co-Located Rate	130.00
Civil Attorney V - Litigation Rate	143.00
Civil Attorney V - Office Rate	134.00
Civil Paralegal - Co-Located Rate	65.00
Civil Paralegal - Litigation Rate	66.00
Civil Paralegal - Office Rate	67.00
Criminal Division Attorney I-II - Co-Located	108.00
Criminal Division Attorney I-II - Office Rate	112.00
Criminal Division Attorney III-IV - Co-Located Rate	123.00
Criminal Division Attorney III-IV - Office Rate	127.00
Criminal Division Attorney V - Co-Located Rate	139.00
Criminal Division Attorney V - Office Rate	144.00
Criminal Division Investigator - Co-Located Rate	70.00
Criminal Division Investigator - Office Rate	73.00
Criminal Division Paralegal - Co-Located Rate	56.00
Criminal Division Paralegal - Office Rate	58.00
Hourly Attorney Rate in CSRO Disputes	97.00

**PROSECUTION COUNCIL**

UPC Training Registrations Private Attorney	350.00
This fee covers expenses incurred by the Utah Prosecution Council for trainings provided throughout the year.	
UPC Training Registrations Public Attorneys	125.00
This fee covers expenses incurred by the Utah Prosecution Council for trainings provided many times per year.	

**BOARD OF PARDONS AND PAROLE**

Records Copies (per page)	0.25
Government Records Access and Management Act Response	Actual cost
Copies over 100 pages	
Digital Media	10.00

**JUDICIAL COUNCIL  
/STATE COURT ADMINISTRATOR**

**ADMINISTRATION**

Administrative Office	
Email	
Email Up to 10 pages	5.00
Email Up to 10 pages	5.00
Audio tape	10.00
Video tape	15.00
CD 10.00	
Reporter Text (per half day)	25.00
Personnel time after 15 min (per 15 minutes)	Cost of Employee Time
Electronic copy of Court Proceeding (per half day)	10.00
Court Records Online	
Subscription	
Over 200 records (per search)	0.10
200 records (per month)	30.00
Online Services Setup	25.00
Fax	
Up to 10 pages	5.00
After 10 pages (per page)	0.50
Mailings	Actual cost
Preprinted Forms Cost based on number and size State Court Administrator	
Copies (per page)	0.25
Microfiche (per card)	1.00

**GOVERNORS OFFICE**

**CCJJ - CHILD WELFARE  
PARENTAL DEFENSE**

Child Welfare Parental Defense	
Continuing Legal Education (CLE)	
Fee (per CLE Hour)	25.00
Parental Defense Fund - Parental Defense Conference Fee (per Person)	150.00

**COMMISSION ON  
CRIMINAL AND JUVENILE JUSTICE**

Extraditions	
Extraditions Services-Restitution Court Ordered Utah Office for Victims of Crime	
Utah Crime Victims Conference	150.00
Utah Victim Assistance Academy	500.00

**GOVERNOR'S OFFICE**

Administration	
Government Records Access and Management Act (GRAMA) Fees for the Entire Governor's Office	
Staff time to search, compile, and otherwise prepare record	Actual Cost
Mailing	Actual Cost
Paper (per side of sheet)	0.25
Audio recording	5.00
Video Recording	15.00
Document faxing (per page)	0.50
Long distance faxing over 10 pages	1.00
Lt. Governor's Office	

Lobbyist	
Lobbyist Badge Replacement	10.00
Election Information	
Copy of Election Results	35.00
Copy of Complete Voter Information	
Database	1,050.00
Notary	
Notary Commission	95.00
Notary Test Retake Within 30 Days	40.00
Remote Notary Application	50.00
Certifications	
Apostille	20.00
Apostille for Adoption	10.00
Certificate of Authentication	20.00
Certificate of Authentication for Adoption	10.00
Special Certificate	10.00
Photocopies (per page)	0.25
International Postage	10.00
Expedited Processing	
Within two hours if presented before 3:00 p.m.	75.00
End of next business day	35.00
Local Government and Limited Purpose Entity Registry	
Local Government and Limited Purpose Entity New Registration	50.00
Local Government and Limited Purpose Entity Registration Renewal	25.00

**GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET**

Operational Excellence	
Conference Registration (per unit / day)	Varies by Type

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

**PROGRAMS AND OPERATIONS**

Administration	
Government Records Access and Management Act Paper (per side of sheet)	0.25
Audio tape (per tape)	5.00
Video tape (per tape)	15.00
Mailing	Actual cost
Compiling and reporting in another format (per hour)	25.00
Programmer/analyst assistance required (per hour)	50.00
Correctional Facilities	
Vocational Projects	5,000.00

**OFFICE OF THE STATE AUDITOR**

**STATE AUDITOR**

Training (per hour)	20.00
This fee is for an individual to take one hour of training provided either online or in person at the Office of the State Auditor.	
Event Training (per Hour)	150.00
This fee is for an individual to train for one hour at a location other than online or in the Office of the State Auditor.	
Professional Services	Actual Cost

This fee is to reimburse the State Auditor for the actual costs of audit services provided.	
Record Access Fee	Actual Cost
This fee is to reimburse the Office of the State Auditor for the actual costs of providing records under the Government Records Access and Management Act (GRAMA).	
Utah Public Finance Website Large Data Download (per Download)	1.00
Revenue kept by Utah Interactive up to \$10,000. \$1 per download.	
Financial Transparency Database	
Subscription Fee	Actual Cost
This fee is to reimburse the Office of the State Auditor for actual costs of accessing large amounts of transparency database information.	

**DEPARTMENT OF PUBLIC SAFETY**

**DRIVER LICENSE**

Driver License Administration	
Commercial Driver School License	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Instructor	30.00
Annual Instructor Renewal	20.00
Duplicate Instructor	6.00
Branch Office Original	30.00
Branch Office Annual Renewal	30.00
Branch Office Reinstatement	75.00
Instructor/Operation Reinstatement	75.00
School Reinstatement	75.00
Commercial Driver License Intra-state Medical Waiver	25.00
Certified Record	
first 15 pages	10.75
Includes Motor Vehicle Record	
16 to 30 pages	15.75
Includes Motor Vehicle Record	
31 to 45 pages	20.75
Includes Motor Vehicle Record	
46 or more pages	25.75
Includes Motor Vehicle Record	
Copy of Full Driver History	7.00
Copies of any other record	5.00
Includes tape recording, letter, medical copy, arrests	
Verification	
Driver Address Record Verification	3.00
Validate Service	0.75
Pedestrian Vehicle Permit	13.00
Citation Monitoring Verification	0.06
Ignition Interlock System License	
Provider	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Provider Branch Office Inspection	30.00
Provider Branch Office Annual Inspection	30.00
Installer	
Original	30.00
Annual Renewal	30.00

Duplicate	6.00
Provider Reinstatement	75.00
Installer	75.00
Driver Records	
Online services	3.00
Utah Interactive Convenience Fee	
Driver Services	
Commercial Driver License third party testing	
License	
Original Tester	100.00
Annual Tester Renewal	100.00
Duplicate Tester	10.00
Original Examiner	30.00
Annual Examiner Renewal	20.00
Duplicate Examiner	6.00
Examiner Reinstatement	75.00
Tester Reinstatement	75.00

**EMERGENCY MANAGEMENT**

Mobile Command Operator (per Hour)	40.00
Mobile Command Vehicle (per Hour)	65.00
PIO Conference Guest Fee	200.00
PIO Conference Late Registration Fee	250.00
PIO Conference Registration Fees	225.00
PIO Half Conference Registration Fee	100.00
Utah Certified Emergency Manager (per Application)	100.00
Utah Expo Registration Fee	5.00

**PEACE OFFICERS' STANDARDS AND TRAINING**

Basic Training	
Satellite Academy Technology Fee	25.00
Dorm Room	10.00
K-9 Training (out of state agencies)	2,175.00
Duplicate POST Certification	5.00
Duplicate Certificate, Wallet Card	5.00
Duplicate Radar or Intox Card	2.00
Law Enforcement Officials and Judges Firearms Course	1,000.00
Cadet Application	
Online Application Processing Fee	35.00
Rental	
Pursuit Interventions Technique	
Training Vehicles	100.00
Firing Range	300.00
Shoot House	150.00
Camp William Firing Range	200.00
Peace Officers' Standards and Training (POST)	
Reactivation/Waiver	75.00
Supervisor Class	50.00

**PROGRAMS & OPERATIONS**

CITS State Crime Labs	
Additional DNA Casework per sample - full analysis	894.00
DNA Casework per sample - Quantitation only	459.00
Drugs - controlled substances per item of evidence	355.00
Fingerprints per item of evidence	345.00
Serology/Biology per item of evidence	335.00
Training Course Materials Reimbursement (per Person)	250.00

Training Course Materials Reimbursement	
Department Commissioner's Office	
Fees Applicable to All Divisions In Department of Public Safety	
Courier Delivery	Actual cost
Fax (per page)	1.00
Audio/Video/Photos (per CD)	25.00
Developed photo negatives (per photo)	1.00
Printed Digital Photos (per paper)	2.00
1, 2, or 4 photos per sheet (8x11) based on request	
Miscellaneous Computer Processing (per hour)	Cost of Employee Time
Bulk/E-Data Transaction (per Record)	0.10
Copies	
Mailing	Actual cost
Color (per page)	1.00
Over 50 pages (per page)	0.50
1-10 pages	5.00
11-50 pages	25.00
Department Sponsored Conferences	
Registration (per registrant)	275.00
Late Registration (per registrant)	300.00
Vendor Fee (per Vendor)	700.00
Fire Marshall - Fire Operations	
Annual license for display operator, special effects operator, or flame effects operator (per License)	40.00
Fire and Life Safety Review (per Square Foot)	0.022
Annual license for importer and wholesaler of pyrotechnic devices (per License)	250.00
Inspection For Fire Clearance	
Re-Inspection Fee (per Re-Inspection)	250.00
Liquid Petroleum Gas	
License	
Class I	450.00
Class II	450.00
Class III	105.00
Class IV	150.00
Branch Office	338.00
Duplicate	30.00
Examination	30.00
Re-examination	30.00
Five Year Examination	30.00
Certificate	40.00
Dispenser Operator B	20.00
Plan Reviews	
More than 5000 gallons	150.00
5000 water gallons or less	75.00
Special inspections (per hour)	50.00
Re-inspection	250.00
3rd inspection or more	
Private Container Inspection	
More than one container	150.00
One container	75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems	
License	300.00
Combination	150.00
Branch Office License	150.00
Certificate of Registration	40.00
Duplicate Certificate of Registration	40.00
License Transfer	50.00
Application for exemption	150.00
Examination	30.00

Re-examination .....	30.00
Five year examination .....	30.00
Automatic Fire Sprinkler Inspection and Testing	
Certificate of Registration .....	30.00
Examination .....	20.00
Re-examination .....	20.00
Three year extension .....	20.00
Fire Alarm Inspection and Testing	
Certificate of Registration .....	40.00
Examination .....	30.00
Re-examination .....	30.00
Three year extension .....	30.00
Highway Patrol - Administration	
Online Traffic Reports Utah	
Interactive Convenience Fee .....	2.50
UHP Conference Registration Fee .....	250.00
Photogrammaty .....	100.00
Cessna (per hour) .....	155.00
Plus meals and lodging	
Helicopter (per hour) .....	1,350.00
Plus meals and lodging	
Court order requesting blood samples	
be sent to outside agency .....	40.00
Highway Patrol - Federal/State Projects	
Transportation and Security Details	
(per hour) .....	100.00
Plus mileage	
Highway Patrol - Safety Inspections	
Safety Inspection Program	
Safety Inspection Manual .....	5.50
Stickers (book of 25) .....	4.50
Sticker reports (book of 25) .....	3.00
Inspection certificates for passenger/ light truck (book of 50) .....	3.00
Inspection certificates for ATV (book of 25) .....	3.00
Inspection Station	
Permit application fee .....	100.00
Station physical address change .....	100.00
Replacement of lost permit .....	2.25
Inspector	
Certificate application fee .....	7.00
Valid for 5 years	
Certificate renewal fee .....	4.50
Replacement of lost certificate .....	1.00

**BUREAU OF CRIMINAL IDENTIFICATION**

Law Enforcement/Criminal Justice Services	
TAC Conference Registration .....	100.00
Non-Government/Other Services	
Replication Fee for Rap Back	
Enrollment (per Request) .....	10.00
Vacatur Expungement Order	
Processing Fee .....	65.00
Record Challenge Fee (per Request) .....	15.00
Paper Arrest (OTN) Fingerprint Card	
Packets (per card packet) .....	15.00
Right of Access (per Request) .....	15.00
AFIS Retain (per Request) .....	5.00
Applicant Fingerprint Card (WIN) (per Request) .....	15.00
Firearm Transaction (Brady Check) .....	7.50
Name/DOB Applicant Background Check .....	15.00
Concealed Firearm Permit Instructor Registration .....	35.00

Board of Pardons Expungement	
Processing .....	65.00
Fingerprint Services .....	15.00
Print Other State Agency Cards .....	5.00
State Agency ID set up .....	50.00
Child ID Kits .....	1.00
Extra Copies Rap Sheet .....	15.00
Extra Fingerprint Cards .....	5.00
Concealed weapons permit renewal	
Utah Interactive Convenience Fee .....	0.75
Photos .....	15.00
Application for Removal From White Collar Crime Registry .....	120.00
Private Investigator	
Original agency license application and license .....	215.00
Renewal of an agency license .....	115.00
Original registrant or apprentice license application and license .....	115.00
Renewal of a registrant or apprentice license .....	65.00
Late Fee Renewal - Agency .....	65.00
Late Fee Renewal - Registrant/ Apprentice .....	45.00
Reinstatement of any license .....	65.00
Duplicate identification card .....	25.00
Bail Enforcement	
Original bail enforcement agent license application and license .....	250.00
Renewal of a bail enforcement agent or bail bond recovery agency license ...	150.00
Original bail recovery agent license application and license .....	150.00
Renewal of each bail recovery agent license .....	100.00
Original bail recovery apprentice license application and license .....	150.00
Renewal of each bail recovery apprentice license .....	100.00
Late Fee Renewal - Enforcement Agent/Recovery Agency .....	50.00
Late Fee Renewal - Recovery Agent .....	30.00
Late Fee Renewal - Recovery Apprentice .....	30.00
Reinstatement of a bail enforcement agent or bail bond recovery agency license ...	50.00
Duplicate identification card .....	10.00
Reinstatement of an identification card .....	10.00
Sex Offender Kidnap Registry	
Application for removal from registry ...	168.00
Eligibility Certificate for removal from registry .....	25.00
Expungements	
Special certificates of eligibility. ....	65.00
Application .....	65.00
Certificate of Eligibility .....	65.00

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT****DEPARTMENT OF  
ADMINISTRATIVE SERVICES****DFCM ADMINISTRATION**

Program Management	
Non-state Funded Project Fees	

Projects \$100K (per Project) . . . . .	3.5%
Projects >= \$100K and <\$500K (per Project) .. \$3500 + 1.5% over \$100,000	
Projects >= \$500K and <\$2.5M (per Project) . . . . .	\$9500 + 0.75% over \$500,000
Projects >= \$2.5M and <\$10M (per Project) . . . . .	24,500 + 0.5% over \$2,500,000
Projects >= \$10M and <\$50M (per Project) ..	\$62,000 + .15% over \$10,000,000
Projects >= \$50M (per Project) ..	\$122,000 + 0.1% over \$50,000,000

**EXECUTIVE DIRECTOR**

Government Records Access and Management Act Photocopies, black & white (per Copy) . . . .	0.10
Photocopies, color (per Copy) . . . . .	0.25
Photocopy labor cost (per Utah Statute 63G-2-203(2)) (per page) . . . . .	Actual Cost
Certified copy of a document (per certification) . . . . .	4.00
Long distance fax within US (per fax number) . . . . .	2.00
Electronic Documents on any physical media (per USB (GB)) . . . . .	Actual Cost
Mail within US (per address) . . . . .	2.00
Mail outside US (per address) . . . . .	5.00
Research or services . . . . .	Actual cost

**FINANCE - MANDATED -  
PARENTAL DEFENSE**

Parental Defense Continuing Legal Education (CLE) fee (per CLE Hour) . . . . .	25.00
Parental Defense Fund - Parental Defense Conference Fee (per Person) . . . . .	150.00

**FINANCE ADMINISTRATION**

Financial Information Systems Custom Report and Dashboard Development and Maintenance . . . . .	Actual Costs
FINET Interface Document Clean Up (per Hour) . . . . .	45.90
FINET Interface Implementation (per Hour) . . . . .	65.44
Credit Card Payments . . . . .	Variable
Contract rebates	
Financial Reporting Loan Servicing . . . . .	125.00
ISF Accounting Services . . . . .	Actual cost
Cash Mgt Improvement Act Interest Calculation . . . . .	Actual cost
Single Audit Billing to State Auditor's Office . . . . .	Actual Cost
Payables/Disbursing Disbursements	
Tax Garnishment (3rd Party) . . . . .	10.00
Single Garnishment Collection Service . . . . .	15.00
IRS Collection Service . . . . .	25.00

**STATE ARCHIVES**

Archives Administration

Data Base Download (plus Work Setup Fee) (per Record) . . . . .	0.10
Patron Services Copy - Paper to PDF (copier use by patron) . . . . .	0.05
Digital Collection Setup Host fee . . . . .	300.00
Local Commercial License . . . . .	10.00
National Commercial License . . . . .	50.00
Copy - Paper to PDF (copier use by staff) . . .	0.25
General Certified Copy of a Document . . . . .	4.00
Photo Reproductions Digital Imaging 300 dpi or higher . . . . .	10.00
Mailing and Fax Charges Within USA Mailing in USA - 1 to 10 Pages . . . . .	3.00
Mailing in USA - Microfilm 1 to 2 Reels . . . . .	4.00
Mailing in USA - Each additional Microfilm Reel . . . . .	1.00
Mailing in USA - CD/DVD/USB . . . . .	4.00
Mailing in USA - Add Postage for each 10 pages . . . . .	1.00
International Mailing International - 1 to 10 pages . . .	5.00
Mailing International - Each additional 10 pages . . . . .	1.00
Mailing International - Microfilm 1 to 2 Reels . . . . .	6.00
Mailing International - Each additional Microfilm Reel . . . . .	2.00
Mailing International - CD/DVD/ USB . . . . .	6.00
Copy Charges Audio Copy Charges - Audio Recordings . . . . .	10.00
Price excludes cost of medium	
Documents Copy Charges - 11 x 14 and 11 x 17 by staff, limit 50 . . . . .	0.50
Copy Charges - 11 x 14 and 11 x 17 by patron . . . . .	0.25
8.5x11 Copy - 8.5 x 11 by staff, limit 50 . . . . .	0.25
Copy - 8.5 x 11 by patron . . . . .	0.10
Microfilm/Microfiche Digital Copy - Digital by staff, limit 25 . . . . .	1.00
Copy - Digital by patron . . . . .	0.15
Paper Copy Microfilm - Paper by staff, limit 25 . . . . .	1.00
Copy Microfilm - Paper by patron . . . . .	0.25
Video Copy Video - Video Recording (excludes cost of medium) . . . . .	20.00
Price excludes cost of medium	
Other Archivist Handling fee (per hr.) (per hour) . . . . .	At Cost
Special Request . . . . .	At Cost
Supplies Supplies - USB Flash Drive (per gigabyte) . . . . .	5.00
Supplies - CD (per disk) . . . . .	0.30
Supplies - DVD (per disk) . . . . .	0.40
Electronic File on-line (per File) . . . . .	2.50

Preservation Services	
Work Setup Fee (WSF) .....	17.00
Microfiche production fee per image plus (WSF) (per image) .....	0.045
General	
16mm master film .....	13.00
Digital Copies of Electronic Rolls of	
Microfilm plus medium cost .....	10.00
35mm master film .....	35.00
16mm silver duplicate copy .....	30.00
35mm silver duplicate copy .....	24.00
Frames filmed (Standard) .....	0.05
Frames filmed (Custom) .....	0.08
Books filmed (per Page) .....	0.15
Electronic image to microfilm (per Reel) .....	45.00
Microfilm to CD/DVD/USB (per reel) .....	40.00
Microfilm Lab Processing Setup Fee .....	5.00
Microfilm to digital PDF conversion .....	5.00

### STATE DEBT COLLECTION FUND

Office of State Debt Collection	
Attorney / Legal fee (per Hour) .....	\$100 per hour
Corrections Tuition	
Fee .....	10% of tuition account balance
Collection Penalty .....	6.0%
Collection Interest .....	Prime + 2%
Post Judgment Interest .....	Variable
Labor Commission Wage Claims .....	Variable
10% of partial payments; 1/3 of claim or \$500, whichever is greater for full payments	
Administrative Collection .....	15.5%
15.5% of amount collected (18.34% effective rate)	
Non sufficient Check Service Charge .....	20.00
Garnishment Request .....	Actual cost
Legal Document Service .....	Actual cost
Greater of \$20 or Actual	
Credit card processing fee charged to collection vendors .....	1.75%
Court Filing, Deposition/Transcript /Skip Tracing .....	Actual cost

### DEPARTMENT OF ADMINISTRATIVE SERVICES

### DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT - FACILITIES MANAGEMENT

DEQ Building .....	62,788.63
Garage-Groundskeeper I .....	25.00
New Provo Courts/Terrace .....	1,320,997.88
Unified Lab #2 .....	865,836.54
Cedar City DNR .....	62,790.16
Ivins VA Nursing Home .....	83,064.39
Spanish Fork Veterinary Lab .....	50,716.03
Payson VA Nursing Home .....	99,105.70
Vernal Drivers License .....	34,615.00
Ogden VA Nursing Home .....	52,945.37
Garage-Journey Boiler Operator .....	61.00
Garage-Journey Carpenter .....	58.00
Garage-Journey Plumber .....	60.00
Utah State Developmental Center .....	2,648,357.00

Lone Peak Forestry & Fire .....	45,820.65
Alcoholic Beverage Control	
Stores .....	1,879,749.50
Price Public Safety .....	90,897.00
Ogden Juvenile Court .....	444,038.00
Garage-Administrative Staff .....	49.00
Garage-Apprentice Maintenance .....	49.00
Garage-Electronics Resource Group .....	53.00
Garage-Facilities Manager / Coord II .....	69.00
Garage-Groundskeeper II .....	44.00
Garage-Grounds Manager .....	49.00
Garage-Grounds Supervisor .....	45.00
Garage-Journey Electrician .....	62.00
Garage-Journey HVAC .....	59.00
Garage-Journey Maintenance .....	54.00
Garage-Maintenance Supervisor .....	55.00
Garage-Mechanic .....	46.00
Garage-Office Specialist .....	45.00
Garage-Temp Groundskeeper .....	22.00
Wasatch Courts .....	9,577.00
Chase Home .....	17,428.00
Vernal DNR Regional .....	80,394.00
Clearfield Warehouse C6 -	
Archives .....	152,535.84
Clearfield Warehouse C7 -	
DNR/DPS .....	102,837.00
Cedar City A P & P .....	28,444.00
N UT Fire Dispatch Center .....	30,438.66
Veteran's Memorial Cemetery .....	24,464.00
Alcoholic Beverage Control	
Administration .....	805,415.00
Juab County Court .....	76,798.00
Agriculture .....	356,706.00
Adult Probation and Parole	
Freemont Office Building .....	192,375.00
Archive Building .....	121,335.00
Brigham City Court .....	169,400.00
Brigham City Regional Center .....	573,808.00
Calvin Rampton Complex .....	1,602,863.00
Cannon Health .....	860,515.00
Capitol Hill Complex .....	3,809,700.00
Cedar City Courts .....	103,520.00
Cedar City Regional Center .....	92,008.00
Department of Administrative Services Surplus Property .....	59,747.00
Department of Public Safety	
DPS Crime Lab .....	42,000.00
DPS Drivers License .....	185,577.00
DPS Farmington Public Safety .....	68,425.00
Fairpark Driver's License Division .....	61,571.00
Dixie Drivers License .....	62,928.00
Driver License West Valley .....	98,880.00
Division of Services for the Blind and Visually Impaired Training	
Housing .....	49,736.00
Farmington 2nd District Courts .....	537,465.00
Glendinning Fine Arts Center .....	45,000.00
Governor's Residence .....	177,156.00
Heber M. Wells .....	936,679.00
Highland Regional Center .....	331,766.40
Human Services	
DHS Clearfield East .....	127,306.00
DHS Ogden - Academy Square .....	299,834.00
DHS - Vernal .....	74,117.00
Layton Court .....	105,896.00
Logan 1st District Court .....	379,267.00
Medical Drive - Family Health .....	260,640.00
Moab Regional Center .....	112,533.00

Murray Highway Patrol	141,738.00
Natural Resources	745,072.00
Natural Resources Price	124,323.00
Natural Resources Richfield (Forestry)	104,508.14
Navajo Trust Fund Administration	157,640.00
Office of Rehabilitation Services	204,156.00
Ogden Court	562,740.00
Ogden Juvenile Probation	211,134.00
Ogden Regional Center	749,356.42
DCFS - OREM	120,792.00
Orem Public Safety	105,640.00
Orem Region Three Department of Transportation	141,192.00
Provo Juvenile Work Crew	16,164.77
Provo Regional Center	664,011.00
Public Safety Depot Ogden	34,822.00
Richfield Court	106,535.68
Richfield Dept. of Technology Services Center	39,000.00
Richfield Regional Center	75,499.00
Rio Grande Depot	493,565.00
Salt Lake Court	1,868,160.00
Salt Lake Government Building #1	972,934.00
Salt Lake Regional Center - 1950 West	250,492.00
St. George Courts	515,353.00
St. George DPS	49,572.00
St. George Tax Commission	64,224.00
State Library	183,714.00
State Library State Mail	156,261.00
State Library Visually Impaired	124,027.00
Taylorville Center for the Deaf	138,681.00
Taylorville BCI	185,250.00
Tooele Courts	311,351.00
Unified Lab	883,894.00
Utah Arts Collection	43,900.00
Utah State Office of Education	410,669.00
Utah State Tax Commission	970,200.00
Vernal 8th District Court	248,649.00
Vernal Division of Services for People with Disabilities	31,330.00
Vernal Juvenile Courts	20,256.00
West Jordan Courts	557,835.00
West Valley 3rd District Court	148,350.00
Work Force Services	
DWS/DHS - 1385 South State	408,430.70
DWS Administration	685,930.00
DWS Brigham City	46,304.00
DWS Call Center	200,317.00
DWS Cedar City	93,461.00
DWS Clearfield/Davis County	180,633.00
DWS Logan	140,088.00
DWS Metro Employment Center	252,776.00
DWS Midvale	135,640.00
DWS Ogden	153,748.00
DWS Provo	144,970.00
DWS Richfield	58,072.00
DWS South County Employment Center	176,196.00
DWS St. George	66,452.00
DWS Vernal	73,702.00
Ogden Division of Motor Vehicles and Drivers License	91,964.00
Ogden Radio Shop	16,434.00

**DIVISION OF FINANCE**

ISF - Purchasing Card

Purchasing Card	Variable
Contract rebates	

**DIVISION OF FLEET OPERATIONS**

ISF - Fuel Network	
State-Owned Sites Markup on Fuel (per gallon)	0.23
Retail Sites Markup on Fuel (per gallon)	0.12
Percentage of Transaction Value on Non-fuel Purchases	3.0%
Accounts receivable late fee	
Past 30 days	5% of balance
Past 60 days	10% of balance
Past 90 days	15% of balance
CNG Maintenance and Depreciation (per gallon)	1.15
ISF - Motor Pool	
Telematics GPS tracking	Actual cost
Commercial Equipment	
Rental	Cost plus \$12 Fee
Administrative Fee for Do-Not Replace Vehicles (per Month)	51.29
Service Fee (per 12)	\$12 Service Fee
General MP Info Research Fee (per 12)	\$12 Per Hour
Lost or damaged fuel/maint card replacement fee (per 2)	\$2 Fee
Vehicle Complaint Processing Fee (per 20)	\$20 Fee
Operator negligence and vehicle abuse fees (per 0)	
Varies (abuse or driver neglect cases only)	
Lease Rate (per month, per vehicle)	See formula
Contract price less salvage value divided by current life cycle.	
Mileage	See formula
Maintenance and repair costs for a particular vehicle/use type, divided by total miles for that vehicle/use type	
Fuel Pass-through	Actual cost
Equipment rate for Public	
Safety vehicles	Actual cost
Additional Management	
Daily Pool Rates - Actual Cost From Vendor Contract - Actual Cost	Actual Cost
Administrative Fee for Overhead	42.00
Management Information System (per month)	3.00
Vehicle Feature and Miscellaneous	
Equipment Upgrade	Actual cost
Vehicle Class Differential Upgrade	Actual cost
Bad Odometer Research	50.00
Operator fault	
Vehicle Detail Cleaning Service	40.00
Excessive Maintenance, Accessory Fee	Variable
Accounts receivable late fee	
Past 30-days	5% of balance
Past 60-days	10% of balance
Past 90-days	15% of balance
Accident deductible rate charged (per accident)	Actual cost
Operator negligence and vehicle abuse	Variable
Statutory Maintenance Non-Compliance	

10 days late (per vehicle per month) ..	100.00
20 days late (per vehicle per month) ..	200.00
30+ days late (per vehicle per month) .....	300.00
Seasonal Use Vehicle Lease .....	155.02
ISF - Travel Office	
Car and/or Hotel Only .....	8.00
Travel	
Travel Agency Service	
Regular .....	26.00
Online .....	16.00
State Agent .....	21.00
Group	
16-25 people .....	23.50
26-45 people .....	21.00
46+ people .....	18.50
School District Agent .....	16.00
Transactions Group	
Transactions Rate (per hour) .....	46.00

### DIVISION OF PURCHASING AND GENERAL SERVICES

ISF - Central Mailing	
State Mail	
Courier	
Courier - Zone 1 .....	2.26
Courier - Zone 2 .....	3.88
Courier - Zone 3 .....	8.04
Courier - Zone 4 .....	9.70
Courier - Zone 5 .....	14.35
Courier - Zone 6 .....	17.79
Courier - Zone 7 .....	21.73
Courier - Zone 8 .....	26.42
Courier - Zone 9 .....	28.49
Courier - Zone 10 .....	33.22
Courier - Zone 11 .....	36.02
Courier - Zone 12 .....	39.87
Production	
Incoming OCR Sort .....	0.103
Business Reply/Postage Due .....	0.54
Special Handling/Labor (per hour) .....	85.00
Auto Fold .....	0.024
Label Generate .....	0.155
Label Apply .....	0.15
Auto Tab .....	0.35
Meter/Seal .....	0.028
Optical Character Reader .....	0.028
Additional Insert .....	0.01
Accountable Mail .....	1.45
Intelligent Inserting .....	0.033
ISF - Cooperative Contracting	
Cooperative Contracts	
Administrative .....	Up to 1.0%
ISF - Federal Surplus Property	
Surplus	
Federal Shipping and handling charges .....	See formula
Not to exceed 20% of federal acquisition cost plus freight/shipping charges	
Accounts receivable late fees	
Past 30 days .....	5% of balance
Past 60 days .....	10% of balance
ISF - Print Services	
Contract Management (per impression) ....	0.005
Self Service Copy Rates .....	0.004

Cost computed by: (Depreciation + Maintenance + Supplies)/Impressions + copy multiplied impressions results	
ISF - State Surplus Property	
Surplus	
Surcharge for use of a Financial Transaction Card Up to 3%	
Surcharge applies only to the amount charged to a financial transaction card	
Online Sales Non-Vehicle .. 50% of net proceeds	
Miscellaneous Property Pick-up Process	
State Agencies	
Total Sales Proceeds .....	See formula
Less prorated rebate of retained earnings	
Handheld Devices (PDAs and wireless phones)	
Less than 1 year old .....	75% of actual cost
\$30 minimum	
1 year and older .. 50% of cost - \$30 minimum	
Unique Property	
Processing .....	Negotiated % of sales price
Electronic/Hazardous Waste	
Recycling .....	Actual cost
Vehicles and Heavy Equipment .....	6.5% of Net Sale Price plus \$100 per Vehicle
Default Auction Bids .....	10% of sales price
Labor (per hour) .....	26.00
Half hour minimum	
Copy Rates (per copy) .....	0.10
Semi Truck and Trailer Service	
(per mile) .....	1.08
Two-ton Flat Bed Service (per mile) .....	0.61
Forklift Service (per hour) .....	23.00
4-6000 lbs	
On-site sale away from Utah	
State Agency Surplus	
Property yard .....	7% of net sale price
Storage	
Building (per cubic foot per month) .....	0.43
Fenced lot (per square foot per month) ....	0.23
Accounts receivable late fees	
Past 30 days .....	5% of balance
Past 60 days .....	10% of balance

### RISK MANAGEMENT

ISF - Risk Management Administration	
Learning Management System	
Learning Management System -	
Enterprise Rate (per Hour) .....	55.00
Learning Management System -	
Garage Rate (per Hour) .....	55.00
Estimated Liability Premiums	
Administrative Services .....	360,602.00
Agriculture .....	72,138.00
Alcoholic Beverage Control .....	96,916.00
Attorney General's Office .....	196,062.00
Auditor .....	12,522.00
Capitol Preservation Board .....	9,642.00
Career Service Review Office .....	500.00
Commerce .....	60,954.00
Commission on Criminal and Juvenile Justice .....	41,928.00
Heritage and Arts .....	58,226.00
Corrections .....	912,822.00
Courts .....	257,246.00
Utah Office for Victims of Crime ...	138,082.00
Education .....	303,855.00



Environmental Quality . . . . .	122,032.00	Failure to submit Annual Risk Reduction Form - up to 5% Penalty.
Fair Park . . . . .	13,550.00	Non-Compliance Penalty - Self
Financial Institutions . . . . .	13,492.00	Inspection Survey . . . . .
Governor . . . . .	43,138.00	Failure to complete Self-Inspection Survey - up to 10% Penalty.
Governor's Office of Management and Budget . . . . .	6,062.00	Non-Compliance Penalty (K-12) Cheerleader Safety Training . . . . .
Governor's Office of Economic Development . . . . .	8,633.00	Failure to attend annual cheer clinic - up to 3% Penalty. Non-compliance penalties in total not to exceed 15% per entity.
Health . . . . .	307,569.00	Specialized Lines of Coverage . . . . .
Heber Valley Railroad . . . . .	3,853.00	Specialized lines of insurance outside of typical coverage lines. Pass through costs direct from insurance provider.
House of Representatives . . . . .	9,112.00	Estimated Property Insurance Rates
Human Resource Management . . . . .	27,926.00	Utah Office of Administrative Rules . . . . .
Human Services . . . . .	641,124.00	Utah Division of Archives and Records Service . . . . .
Labor Commission . . . . .	25,662.00	Office of State Debt Collection . . . . .
Insurance . . . . .	23,414.00	Utah Department of Administrative Services . . . . .
Legislative Fiscal Analyst . . . . .	7,006.00	Utah Division of Facilities Construction and Management . . . . .
Legislative Auditor . . . . .	8,207.00	Utah Division of Finance . . . . .
Legislative Printing . . . . .	1,573.00	Utah Division of Fleet Operations . . . . .
Legislative Research & General Counsel . . . . .	21,737.00	Utah Division of Purchasing and General Services . . . . .
Legislative Services . . . . .	7,267.00	Utah Division of Risk Management . . . . .
National Guard . . . . .	102,126.00	Utah Department of Agriculture and Food . . . . .
Natural Resources . . . . .	535,484.00	Utah Department of Alcoholic Beverage Control . . . . .
Navajo Trust Fund . . . . .	2,229.00	Utah Office of the Attorney General . . . . .
Public Lands . . . . .	7,563.00	Office of the State Auditor . . . . .
Public Safety . . . . .	689,743.00	Utah State Capitol Preservation Board . . . . .
Public Service Commission . . . . .	4,510.00	Career Service Review Board . . . . .
School and Institutional Trust Fund . . . . .	2,133.00	Utah Department of Commerce . . . . .
School and Institutional Trust Lands . . . . .	18,970.00	Utah Department of Corrections . . . . .
Senate . . . . .	5,520.00	Utah State Courts . . . . .
Tax Commission . . . . .	164,549.00	Utah State Board of Education . . . . .
Technology Services . . . . .	184,282.00	Utah Department of Environmental Quality . . . . .
Treasurer . . . . .	7,394.00	Utah Department of Financial Institutions . . . . .
Utah Communications Network . . . . .	36,138.00	Utah Governor's Office . . . . .
Utah Science and Technology and Research . . . . .	8,332.00	Utah Commission on Criminal and Juvenile Justice . . . . .
Veteran's Affairs . . . . .	11,433.00	Utah Governor's Office of Economic Development . . . . .
Workforce Services . . . . .	492,189.00	Utah Governor's Office of Management and Budget . . . . .
Transportation . . . . .	3,810,000.00	Utah Office for Victims of Crime . . . . .
Board of Regents . . . . .	94,039.00	Utah Department of Health . . . . .
Bridgerland Technical College . . . . .	45,471.00	Utah Department of Heritage and Arts . . . . .
Davis Technical College . . . . .	51,822.00	Utah Division of Arts & Museums . . . . .
Ogden-Weber Technical College . . . . .	61,526.00	Utah State Library Division . . . . .
Uintah Basin Technical College . . . . .	27,670.00	Utah Division of State History . . . . .
Tooele Technical College . . . . .	14,493.00	Utah House of Representatives . . . . .
Dixie Technical College . . . . .	55,105.00	Utah Department of Human Resource Management . . . . .
Mountainland Technical College . . . . .	40,195.00	Juvenile Justice Services . . . . .
Southwest Technical College . . . . .	18,204.00	Utah State Hospital . . . . .
Utah System of Technical Colleges . . . . .	19,652.00	Utah Department of Human Services . . . . .
Dixie State University . . . . .	349,635.00	
Salt Lake Community College . . . . .	483,321.00	
Snow College . . . . .	116,843.00	
Southern Utah University . . . . .	299,727.00	
University of Utah . . . . .	2,305,930.00	
Utah State University . . . . .	1,275,026.00	
Utah Valley University . . . . .	726,319.00	
Weber State University . . . . .	547,902.00	
School Districts . . . . .	10,543,840.00	
Charter Schools . . . . .	12.77	
	\$12.77 per Student, \$1,000 minimum	
Liability Premiums		
Charter School Pre-opening Liability Coverage (per School) . . . . .	1,000.00	
Non-Compliance Penalty - Risk Reduction Form . . . . .	5% Penalty	

Utah State Developmental Center . . .	59,172.00
Utah Insurance Department . . . . .	871.00
Judicial Conduct Commission . . . . .	38.00
Utah Labor Commission . . . . .	2,175.00
Office of the Legislative Auditor General . . . . .	438.00
Office of the Legislative Fiscal Analyst . . . . .	189.00
Legislative Printing Office . . . . .	816.00
Office of Legislative Research and General Counsel . . . . .	756.00
Utah Medical Education Council (UMEC) . . . . .	34.00
Utah National Guard . . . . .	296,006.00
Utah Division of Forestry, Fire and State Lands . . . . .	7,305.00
Utah Division of Oil, Gas and Mining . . . . .	1,325.00
Utah Division of State Parks and Recreation . . . . .	159,194.00
Utah Geological Survey . . . . .	1,673.00
Utah Division of Water Resources . . . .	1,277.00
Utah Division of Water Rights . . . . .	1,288.00
Utah Division of Wildlife Resources . . . . .	81,866.00
Department of Natural Resources . . .	19,828.00
Utah Navajo Trust Fund . . . . .	2,475.00
Board of Pardons and Parole . . . . .	849.00
Utah's Public Lands Policy Coordination Office . . . . .	363.00
State Fire Marshal Office . . . . .	401.00
Utah Department of Public Safety . . .	35,958.00
Driver License Division . . . . .	6,538.00
Division of Emergency Services . . . . .	12.00
Public Service Commission . . . . .	915.00
Utah State Board of Regents . . . . .	14,559.00
Utah Schools for the Deaf and Blind . . . . .	48,019.00
Utah State Senate . . . . .	704.00
Utah State Tax Commission . . . . .	9,285.00
Department of Technology Services . . . . .	62,584.00
Utah Department of Transportation . . . . .	314,641.00
UDOT Division of Aeronautics . . . . .	2,351.00
Equipment Management Division . . . .	8,445.00
Utah State Treasurer . . . . .	700.00
School & Institutional Trust Lands Office . . . . .	3,451.00
State School and Institutional Trust Funds . . . . .	46.00
Utah Department of Veterans' and Military Affairs . . . . .	105,038.00
Department of Workforce Services . . .	27,525.00
Heber Valley Railroad . . . . .	2,525.00
Utah Communications Authority . . . .	44,401.00
Utah State Fairpark . . . . .	42,812.00
Bridgerland Technical College . . . . .	47,400.00
Davis Technical College . . . . .	70,300.00
Dixie Technical College . . . . .	27,300.00
Mountainland Technical College . . . .	28,000.00
Ogden-Weber Technical College . . . .	75,300.00
Southwest Technical College . . . . .	16,300.00
Tooele Technical College . . . . .	8,100.00
Uintah Basin Technical College . . . . .	37,000.00
Dixie State University . . . . .	193,500.00
Salt Lake Community College . . . . .	381,700.00
Snow College . . . . .	175,400.00

Southern Utah University . . . . .	305,900.00
University of Utah . . . . .	3,575,400.00
Utah State University . . . . .	1,219,600.00
Utah State University Eastern . . . . .	107,900.00
Utah System Of Technical Colleges . . . .	100.00
Utah Valley University . . . . .	512,300.00
Weber State University . . . . .	435,800.00
School Districts . . . . .	7,777,847.00
Charter Schools . . . . .	269,026.00

## Property Premiums

## Premium for Existing Insured

Building and Contents . . . . . See formula

The value from prior year is multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code. Self-reported values may also be accepted. Building value and loss history provided to actuary, who proposes rates net of property discounts and surcharges listed below.

## Premium for newly Insured Buildings

Buildings valued in excess of \$25 million reported to broker, who obtains rate from excess insurance carrier. Initial premium cost is passed through to covered entity.

## Property Discounts

## Fire Suppression

Sprinklers . . . . . 15% discount

## Smoke alarm/Fire

detectors . . . . . 5% discount

## Flexible water/Gas

connectors . . . . . 1% discount

## Property Surcharges

## Lack of compliance with Risk

Mgt. recommendations . . . 10% surcharge

## Building built prior

to 1950 . . . . . 10% surcharge

## Property Penalties

## Non-Compliance Penalty -

Risk Reduction Form . . . . . 5% Penalty

## Failure to submit Annual Risk Reduction

Form - up to 5% Penalty.

## Non-Compliance Penalty - Self

Inspection Survey . . . . . 10% Penalty

## Failure to complete Self-Inspection

Survey - up to 10% Penalty .

## Premium for Course of Construction

Rate per \$100 of value . . . . . 0.053

Charged once per project (unless scope changes)

## Automobile/Physical Damage Premiums

## Utah Division of Purchasing and

General Services . . . . . 214.00

Utah Division of Risk Management . . . . 937.00 |

## Utah Division of Facilities

Construction and Management . . . . 22,335.00 |

Utah Division of Fleet Operations . . . . 28,667.00 |

Agriculture . . . . . 32,062.00 |

Alcoholic Beverage Control . . . . . 1,908.00 |

Attorney Generals Office . . . . . 11,236.00 |

Auditors Office . . . . . 374.00 |

Board of Pardons . . . . . 1,136.00 |

Commerce . . . . . 5,217.00 |

Utah Department of Corrections . . . . 146,063.00 |

Approp Codes: MCC - \$8,627 MCG -

\$59,830 MBA - \$73,731

2112

Utah State Courts	27,843.00
Utah State Board of Education	26,773.00
Environmental Quality	5,200.00
Governor's Office	934.00
Governor's Office - Economic Development	2,955.00
Utah Commission on Criminal and Juvenile Justice	188.00
Utah Governor's Office of Energy Development	374.00
Health	10,522.00
Heritage and Arts	1,778.00
Utah State Library Division	3,814.00
Utah Department of Human Services	105,725.00
Insurance	3,314.00
Labor Commission	7,186.00
National Guard	9,183.00
Natural Resources	160,313.00
Utah Division of Forestry, Fire and State Lands	188.00
Utah Division of Wildlife Resources	560.00
Utah Division of Oil, Gas and Mining	2,670.00
Utah Division of State Parks and Recreation	33,729.00
Navajo Trust Fund	560.00
Utah Department of Public Safety	425,335.00
Division of Emergency Services	653.00
Public Lands Policy Coordination Office	760.00
School and Institutional Trust Lands	4,021.00
State Treasurer	467.00
Tax Commission	10,924.00
Technology Services	4,364.00
Transportation	193,204.00
Utah Science and Technology Research	188.00
Veteran's Affairs	3,527.00
Workforce Services	28,729.00
Utah Communication Authority	3,356.00
Heber Valley Railroad	621.00
Utah State Fair Park	1,188.00
Bridgerland Technical College	5,846.00
Davis Technical College	2,082.00
Dixie State University	9,700.00
Dixie Technical College	3,074.00
Mountainland Technical College	2,750.00
Ogden-Weber Technical College	1,307.00
Salt Lake Community College	21,900.00
Snow College	4,644.00
Southern Utah University	13,600.00
Southwest Technical College	2,321.00
Tooele Technical College	1,113.00
Uintah Basin Technical College	3,538.00
Utah State University-Eastern	9,874.00
Utah State University	86,883.00
Utah System of Technical Colleges	225.00
Utah Valley University	22,998.00
Weber State University	22,140.00
School Districts	1,048,855.00
Charter Schools	18,989.00
Auto Deductible	
Standard Deductible (per incident)	1,500.00

(Currently applying a \$1,000.00 deductible)  
 ISF - Workers' Compensation  
 Workers Compensation Rates  
 UDOT 1.25% per \$100 wages  
 State Agencies 0.58% (except UDOT)  
 Aviation (per PILOT-YEAR) \$2,200

**DEPARTMENT OF TECHNOLOGY SERVICES**

**ENTERPRISE TECHNOLOGY DIVISION**

ISF - Enterprise Technology Division

Application Services	
Tier 1A (per Hour)	64.29
Tier 1B (per Hour)	75.41
Tier 2A (per Hour)	79.49
Tier 2B (per Hour)	91.28
Tier 3A (per Hour)	93.70
Tier 3B (per Hour)	102.85
Tier 4A (per Hour)	106.38
Tier 4B (per Hour)	115.12
Master Engineer/Consultant/ Specialized Skillset	SBA
Communication Services	
Mobile Technician Labor (per Hour)	79.87
Universal Telecom Rate (per Line/Month)	33.21
Long Distance (per Minute)	0.0603
1-800 Usage (per Minute)	0.0369
Persistent Chat (per User/Month)	5.27
Other Voice Services	Direct cost + 10%
International Long Distance	Direct cost + 10%
IP Contact Center (per Core License/Month)	20.70
Call Management Systems	SBA
Desktop Services	
Desktop Support (per Device/Month)	69.52
Adobe Pro/Sign (per Device/Month)	1.50
Mobile Support	SBA
On-Call Support (per Hour)	Actual cost
Google Enterprise (Includes Email (per Account/Month)	10.65
Software Resale	Direct cost + 6%
Virtual Applications	SBA
Hosting Services	
Oracle Database Hosting Core Model (per Core/Month)	1,041.19
Oracle Database Hosting Shared Model (per GB/Month)	15.74
SQL Database Hosting Core Model (per Core/Month)	554.56
SQL Database Hosting Shared Model (per GB/Month)	10.99
Database Consulting (per Hour)	93.70
System Administration (per OS/Month (or Cloud instance))	322.80
Processing (CPU) (per CPU/Month)	33.27
Memory (per GB/Month)	4.99
Storage (per GB/Month)	0.0704
Back-up & Archive Storage (per GB/Month)	0.0962
File-Share (per GB/month)	0.0704
Object Storage (per GB/Month)	0.0168
Shared Application Hosting on Prem (per Instance/Month)	51.92

Shared App Hosting Cloud  
 Sys Admin (per Instance/Month) . . . . . 24.79  
 Cloud Hosting . . . . . Direct cost + 25%  
 Other Hosting Services . . . . . SBA  
 Data Center Rack Space - Full  
 Rack (per Rack/Month) . . . . . 500.00  
 Data Center Rack Space - Rack U  
 (per Rack U/Month) . . . . . 16.67  
**Mainframe Services**  
 Mainframe Disk (per MB/Month) . . . . . 0.0064  
 Mainframe Tape (per MB/Month) . . . . . 0.001  
 Mainframe Consulting (per Hour) . . . . . 93.70  
 Mainframe Computing . . . . . SBA  
**Network Services**  
 Network Services (per Device/Month) . . . . . 52.93  
 Network IoT (per Connection/Month) . . . . . 9.82  
 Network Services - 10 GB  
 (per Connection/Month) . . . . . 211.72  
 Network Services (other State  
 agencies) (per Device/Month) . . . . . 57.66  
 Other Network Services . . . . . Direct cost + 10%  
**Miscellaneous Data**  
 Circuits . . . . . Direct cost + 10%  
 Security (per Device/Month) . . . . . 24.65  
 Other Security Services . . . . . SBA  
 Security Assessment and  
 Remediation (per Tier) . . . . . Table  
 Server Count: 0-3 \$12,500 4-31 \$25,000  
 32-84 \$50,000 >84 \$100,000  
**Print Services**  
 High Speed Laser Print (per Image) . . . . . 0.0465  
 Other Print Services . . . . . Direct cost + 10%  
**Miscellaneous**  
 DTS Consulting Charge (per Hour) . . . . . 93.70  
 SaaS/Cloud Hourly (per Hour) . . . . . 96.78  
 Consultant Services . . . . . Direct cost + 3%

**DEPARTMENT OF  
 TECHNOLOGY SERVICES**

**INTEGRATED TECHNOLOGY DIVISION**

Automated Geographic Reference Center  
**AGRC**  
 GPS Subscriptions (per  
 Subscription/Year) . . . . . 600.00  
 AGRC Plots (per Linear Foot) . . . . . 6.00  
 GIT Professional Labor (per Hour) . . . . . Table  
 Application Maintenance Tiered Rate: Tier  
 1A 64.29 Tier 1B 75.41 Tier 2A 79.49 Tier 2B  
 91.28 Tier 3A 93.70 Tier 3B 102.85 Tier 4A  
 106.38 Tier 4B 115.12 Master  
 Engineer/Consultant/Specialized Skillset  
 SBA

**TRANSPORTATION**

**AERONAUTICS**

Airplane Operations  
**Aircraft Rental**  
 Cessna (per hour) . . . . . 195.00  
 King Air C90B (per hour) . . . . . 935.00  
 King Air B200 (per hour) . . . . . 1,200.00

**DOT NON-BUDGETARY**

**XYD DOT MISCELLANEOUS REVENUE**  
 Event Coordination, Inspection  
 and Monitoring (Regular Hours)  
 (per Hour) . . . . . 60.00  
 Event Coordination, Inspection and  
 Monitoring (NonRegular Hours)  
 (per Hour) . . . . . 80.00  
 Special Event Application Review  
 (Single Region) (per Event) . . . . . 250.00  
 Special Event Application Review  
 (Multi-Region) (per Event) . . . . . 500.00  
 Expedited Review Fee (per Event) . . . . . 600.00  
**Outdoor Advertising**  
 New Permit . . . . . 950.00  
 Permit Renewal & Admin Services Fee . . 90.00  
 Permit Renewal Late Fee (per Sign) . . . 300.00  
 Sign Alteration Permit (per Sign) . . . . . 950.00  
 Transfer of Ownership Permit . . . . . 250.00  
 Retroactive Permit Fee Penalty  
 (per Sign) . . . . . 250.00  
 Impound and Storage Fees . . . . . 25.00

**OPERATIONS/  
 MAINTENANCE MANAGEMENT**

**Region 4**  
**Lake Powell Ferry Rates**  
 Foot passengers . . . . . 10.00  
 Motorcycles . . . . . 15.00  
 Vehicles under 20' . . . . . 25.00  
 Vehicles over 20' (per additional foot) . . . . . 1.50  
**Traffic Safety/Tramway**  
**Tramway Registration**  
 Two-car or Multicar Aerial Passenger Tramway  
 Aerial Tramway - 101 Horse  
 Power or over . . . . . 2,030.00  
 Aerial Tramway - 100 Horse  
 Power or under . . . . . 1,010.00  
 Tramway Surcharge for winter and  
 summer use . . . . . 15%  
 This is a surcharge to the registration fee  
 for passenger ropeways that are operated  
 year round. 15% will be added to the  
 registration fee for those ropeways.  
**Chair Lift**  
**Fixed Grip**  
 2 passenger . . . . . 630.00  
 3 passenger . . . . . 750.00  
 4 passenger . . . . . 875.00  
 Conveyor, Rope Tow . . . . . 260.00  
**Funicular - single or double**  
 reversible . . . . . 2,030.00  
 Rope Tow, J-bar, T-bar, or  
 platter pull . . . . . 260.00  
**Detachable Grip Chair or Gondola**  
 3 passenger . . . . . 1,510.00  
 4 passenger . . . . . 1,625.00  
 6 passenger . . . . . 1,750.00  
 8 passenger . . . . . 1,880.00  
 Gondola - cabin capacity  
 from 5 to 8 . . . . . 1,010.00  
 Gondola - cabin capacity  
 greater than 8 . . . . . 2,030.00

**SUPPORT SERVICES**

Administrative Services

Express Lane - Administrative Fee	2.50
Tow Truck Driver Certification	200.00
Access Management Application	
Type 1	75.00
Type 2	475.00
Type 3	1,000.00
Type 4	2,300.00
Access Violation Fine (per day)	100.00
Encroachment Permits	
Landscaping	30.00
Manhole Access	30.00
Inspection (per hour)	60.00
Overtime Inspection (per hour)	80.00
Utility Permits	
Low Impact	30.00
Medium Impact	135.00
High Impact	300.00
Excess Impact	500.00
Express Lanes	
Variable priced toll	Between \$0.25 - \$4.00

**AMUSEMENT RIDE SAFETY**

Annual Amusement Ride Permit	
Kiddie Ride	100.00
Non-kiddie Ride	100.00
Multi-ride Annual Amusement Ride Permit (for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year)	
Permit Fee per Ride	
Kiddie Ride	100.00
Non-kiddie Ride	100.00
Annual Inspector Registration	
Application Fee	50.00
Renewal Fee (every two years)	40.00
Citations - maximum per violation per day	500.00

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

**DABC OPERATIONS**

Administration	
Customized Reports Produced by	
Request (per hour)	50.00
Stock Location Report	25.00
Photocopies	0.15
Returned Check Fee	20.00
Application to Relocate Alcoholic Beverages Due to Change or Residence	20.00
Research (per hour)	30.00
Video/DVD	25.00
Price Lists	
Master Category	8.00
\$96 Yearly	
Alpha by Product	8.00
\$96 Yearly	
Numeric by Code	8.00
\$96 Yearly	
Military	8.00
\$96 Yearly	
Executive Director	

Compliance Licensee Lists	10.00
Label Approval Fee	30.00
Licensee Rules	20.00
Training Fee	25.00
H.B. 442 passed in the 2017 General Session requires DABC to charge a fee for required manager and violation training that will be offered by the department starting in 2018. By statute, the fee is to cover the department's cost of providing the training program. 32B-5-405(3)(e). The new training program is meant to assist licensees to remain in compliance and in business as well as provide education to prevent any future violations.	
Utah Code	30.00
Warehouse and Distribution	
Missed Appointment with Less than 24 Hour Notice (per appointment)	500.00
Missed Appointment Without Notice (per appointment)	1,000.00
Non-Compliant Labeling (per case)	25.00
PO Revisions Not Sent to Purchasing in Advance (per line item)	250.00
Product Disposal (per pallet)	500.00
Re-configuring Pallets (per pallet)	250.00
Restacking Shifted/Collapsed Loads (per load)	250.00

**DEPARTMENT OF COMMERCE**

**COMMERCE GENERAL REGULATION**

Administration	
Administration	
All Divisions	
Regulatory Sandbox Registration	500.00
Commerce Department	
All Divisions	
Administrative Expungement	
Application	200.00
Booklets	Variable
Priority Processing	75.00
List of Licensees/Business Entities	25.00
Photocopies (per copy)	0.30
Verification of Licensure/Custodian of Record	20.00
Returned Check Charge	20.00
FBI Fingerprint File Search	10.00
BCI Fingerprint File Search (\$25 With \$5 Rapback included)	20.00
Fingerprint Processing for non-department	10.00
Government Records and Management Act Staff time to search, compile and otherwise prepare record	Actual Amount
GRAMA Electronic Record	Actual Cost
Administration	
Motor Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Powersport Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Application in addition to MVFA	27.00
Renewal in addition to MVFA	27.00
Administration Late Renewal	20.00

Employer Legal Status Voluntary Certification (Bi-annual) . . . . .	3.00	Registration Review . . . . .	1% of gross revenue
Property Rights Ombudsman Filing Request for Advisory Opinion . . . . .	150.00	Miscellaneous Fees	
Land Use Seminar Continuing Education . . . . .	25.00	Late Renewal (per month) . . . . .	25.00
Books		Miscellaneous	
Citizens Guide to Land Use		Microcassette Copying (per tape) . . . . .	Variable
Single copy . . . . .	15.00	Proprietary Schools Registration	
Six or more copies . . . . .	9.00	Application . . . . .	1% of gross revenue
Case of 22 books . . . . .	132.00	\$500 min; \$2,500 max	
Administration		Proprietary Schools	
Home Owner Associations		Accredited Institution Certificate of	
HOA Registration . . . . .	37.00	Exemption Registration/	
Change in HOA Registration . . . . .	10.00	Renewal . . . . .	1% of gross revenue
Consumer Protection		Up to \$2,500 or \$1,500 min	
Miscellaneous		Non-Profit Exemption	
Residential vocational and life skills		Certificate Registration/Renewal . . . . .	1,500.00
registration . . . . .	500.00	Corporations and Commercial Code	
Transcript / Diploma Request . . . . .	30.00	Partnerships	
Charitable Solicitation Act		Limited Liability Partnerships . . . . .	27.00
Charity . . . . .	75.00	Since renewal fees are charged the \$5 single	
Transportation Network Company		sign on portal fee currently this will make	
Transportation network Company		Registrations and renewals effectively the	
Registration . . . . .	5,000.00	same price.	
Transportation Network Company		Single-Sign-On	
License Renewal . . . . .	5,000.00	Single Sign-On-Portal Fee . . . . .	5.00
Immigration Consultants		Surcharge on Business renewals for Single	
Initial Registration Fee . . . . .	200.00	Sign-On Portal.	
License Renewal Fee . . . . .	200.00	Articles of Incorporation	
Pawnshop Registry		Domestic Profit . . . . .	70.00
Pawnbroker Late Fee . . . . .	50.00	Partnerships	
Charitable Solicitation Act		General Partnerships . . . . .	27.00
Professional Fund Raiser . . . . .	250.00	5 year renewal	
Telephone Solicitation		Other	
Telemarketing Registration . . . . .	500.00	Statement Authority . . . . .	15.00
Health Spa		One time registration or as changes are	
Health Spa . . . . .	100.00	needed	
Credit Services Organization		Partnerships	
Credit Services Organization . . . . .	250.00	Limited Liability Partnership Articles	
Debt Management Services		of Incorporation . . . . .	70.00
Organizations . . . . .	250.00	Previously under Limited Partnership, now	
Business Opportunity Disclosure Register		LLP's Articles of Incorporation	
Exempt . . . . .	100.00	Other	
Approved . . . . .	200.00	Pharmacy Benefit Manager . . . . .	100.00
Child Protection Register		Articles of Incorporation	
Child Protection Registry (per email) . . . . .	0.005	Domestic Nonprofit . . . . .	30.00
Rate up to 20,000 and 40,000 units per		Foreign Profit . . . . .	70.00
calendar month, discounted thereafter.		Foreign Nonprofit . . . . .	30.00
Child Protection Registry		Reinstatement	
Step Volume 20,000-40,000 units		Profit . . . . .	70.00
in a month (\$.00485) . . . . .	Variable	Requalification/Reinstatement	
Previous fee is \$.005. 3% discount off		Nonprofit . . . . .	30.00
previous step for each additional 20,000 units		Changes of Corporate Status	
in calendar month. 3% discount for		Amend/Restate/Merge-Profit . . . . .	37.00
transactions 40-60K & each 20K step		Amend/Restate/Merge-Nonprofit . . . . .	17.00
thereafter in a calendar month.		Amendment-Foreign . . . . .	37.00
3% discount off previous step for each additional		Pre-authorization of document . . . . .	25.00
20,000 units in calendar month . . . . .	Variable	Statement of Correction . . . . .	12.00
Pawnshop Registry		Conversion . . . . .	37.00
Out of State Pawnshop Database		Annual Report	
Request . . . . .	900.00	Profit . . . . .	15.00
Pawnshop/2nd hand store		Nonprofit . . . . .	10.00
Registration . . . . .	300.00	Limited Partnership . . . . .	15.00
Law Enforcement Registration . . . . .	3.00	Limited Liability Company . . . . .	15.00
Proprietary Schools		On-line . . . . .	15.00
Initial Application . . . . .	500.00	Change Form . . . . .	15.00
Renewal Application . . . . .	1% of gross revenue	Certification	
		Corporate Standing . . . . .	12.00
		Corporate Standing-Long Form . . . . .	20.00
		Commercial Registered Agent	

Registration .....	52.00
Changes .....	52.00
Terminations .....	52.00
Corporation Search	
In House .....	10.00
Limited Partnership	
Certificate/Qualification .....	70.00
Reinstate .....	70.00
Amend/Restate/Merge .....	37.00
Statement of Correction .....	12.00
Conversion .....	37.00
DBA	
Registration .....	27.00
Renewals .....	22.00
Business/Real Estate	
Investment Trust .....	27.00
Trademark/Electronic Trademark	
Initial Application and 1st Class Code ...	50.00
Each Additional Class Code .....	25.00
Renewals .....	50.00
Assignments .....	25.00
Unincorporated Cooperative Association	
Articles of Incorporation/Qualification ...	22.00
Annual Report .....	7.00
Limited Liability Company	
Articles of Organization/Qualification ...	70.00
Reinstate .....	70.00
Amend/Merge .....	37.00
Statement of Correction .....	12.00
Conversion .....	37.00
Other	
Late Renewal .....	10.00
Out of State Motorist Summons .....	12.00
Collection Agency Bond .....	32.00
Unregistered Foreign Business .....	12.00
Foreign Name Registration .....	22.00
Statement of Certification .....	12.00
Name Reservation .....	22.00
Telecopier Transmittal .....	5.00
Telecopier Transmittal (per page) .....	1.00
Commercial Code Lien Filing	
UCC I Filings (per page) .....	12.00
UCC Addendum (per page) .....	12.00
UCC III Assignment/Amendment .....	12.00
UCC III Continuation .....	12.00
UCC III Termination .....	Variable
CFS-1 .....	12.00
CFS Addendum .....	12.00
CFS-3 .....	12.00
CFS-2 .....	12.00
CFS Registrant .....	25.00
Master List .....	25.00
Lien Search	
Search .....	12.00
Transactions Through Utah Interactive	
Registered Principal Search .....	3.00
Business Entity Search Principals .....	1.00
Certificate of Good Standing .....	12.00
Subscription .....	75.00
UCC Searches .....	12.00
List Compilation Customized .....	Variable
One Stop Business Registration .....	Variable
Occupational and Professional Licensing	
Commercial Interior Design	
Commercial Interior Design Certification	
New Application .....	70.00
Commercial Interior Design	
Certification Renewal .....	47.00

Cosmetologist/Barber	
Barber Renewal .....	52.00
Esthetician / Nail Technician	
Apprentice Cosmetology	
disciplines Registration / Renewal ...	20.00
Deception Detection	
Deception Detection Examiner	
Administrator Application .....	50.00
Deception Detection Examiner Administrator	
Renewal .....	32.00
Electrician	
Contractor Surcharge Education	
Fund (Electricians) .....	5.00
General Electrical Contractor New	
Application Filing .....	175.00
General Electrical Contractor	
Renewal .....	113.00
Residential Electrical Contractor	
New Application Filing .....	175.00
Residential Electrical Contractor	
Renewal .....	113.00
Hair Design	
Hair Designer License Renewal .....	52.00
Hair Designer New Application Filing ...	60.00
Instructor Certificate .....	60.00
School New Application Filing	
and Renewal .....	110.00
Other	
Pre-License Conviction Administrative	
Review .....	50.00
Physical Therapy	
Physical Therapy Assistant	
Compact Ne / Renewal .....	47.00
Physical Therapy Compact New /	
Renewal .....	47.00
Physician and Surgeon	
Physician Compact Interstate	
Commission service fee .....	Variable
Qualified Medical Provider	
Cannabis Fee .....	100.00
Restricted Associate Physician	
New Application Filing .....	210.00
Restricted Associate Physician	
Renewal .....	123.00
Plumber	
Contractor Surcharge Education	
Fund (Plumbers) .....	5.00
General Plumbing Contractor	
New Application Filing .....	175.00
General Plumbing Contractor	
Renewal .....	113.00
Residential Plumbing Contractor	
New Application Filing .....	175.00
Residential Plumbing Contractor	
Renewal .....	113.00
State Construction Registry	
Online	
State Construction Registry Final Lien Waiver	
State Construction Registry Intent	
To Finance .....	8.00
Acupuncturist	
New Application Filing .....	110.00
Electrician	
Apprentice Electrician tracking	
per credit hour .....	0.24
Massage	
Apprentice Renewal .....	20.00
Plumber	

Plumber CE Course approval . . . . .	40.00	License Renewal . . . . .	510.00
Plumber CE Course Attendee		Athletic Trainer	
Tracking / per hour . . . . .	1.00	New Application Filing . . . . .	70.00
Apprentice Plumber CE attendance		License Renewal . . . . .	47.00
tracking/ per hour . . . . .	0.24	Building Inspector	
Substance Use Disorder Counselor (Licensed)		New Application Filing . . . . .	85.00
Licensed Advanced New Application . . . . .	85.00	License Renewal . . . . .	63.00
Licensed Advanced Renewal . . . . .	78.00	Certified Court Reporter	
Substance Use Disorder Counselor (Certified)		New Application Filing . . . . .	45.00
Certified Advanced Counselor . . . . .	70.00	License Renewal . . . . .	42.00
Certified Advanced Counselor Intern . . . . .	70.00	Certified Dietician	
Pharmacy		New Application Filing . . . . .	60.00
Dispensing Medical Practitioner		License Renewals . . . . .	37.00
New Application Filing . . . . .	110.00	Certified Nurse Midwife	
Dispensing Medical Practitioner		New Application Filing . . . . .	100.00
License Renewal . . . . .	73.00	License Renewal . . . . .	73.00
Dispensing Medical Practitioner		Intern–New Application Filing . . . . .	35.00
Clinic Pharmacy New Application . . . . .	200.00	Certified Public Accountant	
Dispensing Medical Practitioner		Individual CPA Application Filing . . . . .	85.00
Clinic Pharmacy License Renewal . . . . .	113.00	Individual License/Certificate Renewal . . . . .	63.00
Pharmacy Technician Trainee New /		CPA Firm Application for Registration . . . . .	90.00
Renewal . . . . .	50.00	CPA Firm Registration Renewal . . . . .	52.00
Technician Trainee reduced to same \$47 as		Chiropractic Physician	
technician		New Application Filing . . . . .	200.00
Music Therapy		License Renewal . . . . .	103.00
Certified Music Therapist New		Contractor	
Application . . . . .	70.00	New Application Filing . . . . .	175.00
Certified Music Therapist Application		License Renewals . . . . .	113.00
Renewal . . . . .	47.00	New / Change Qualifier . . . . .	50.00
Physical Therapy		Corporation Conversion . . . . .	35.00
Dry Needle Registration . . . . .	50.00	Continuing Education Course Approval . . . . .	40.00
Psychologist		Continuing Education (per credit	
Behavioral Analyst New Application		hour tracking) . . . . .	1.00
Filing . . . . .	120.00	Controlled Substance	
Behavioral Analyst License Renewal . . . . .	93.00	New Application Filing . . . . .	100.00
Assistant Behavioral Analyst New		License Renewal . . . . .	78.00
Application Filing . . . . .	120.00	Controlled Substance Handler	
Assistant Behavioral Analyst License		Facility New Application Filing . . . . .	90.00
Renewal . . . . .	93.00	Facility License Renewal . . . . .	68.00
Behavioral Specialist License Renewal . . . . .	78.00	Individual New Application Filing . . . . .	90.00
Assistant Behavioral Specialist		Individual License Renewal . . . . .	68.00
License Renewal . . . . .	78.00	Controlled Substance Precursor	
Physician and Surgeon		Distributor New Application Filing . . . . .	210.00
Physician and Surgeon Compact		License Renewal . . . . .	113.00
Existing Licensee Fee . . . . .	40.00	Cosmetologist/Barber	
Interstate Compact New License		New Application Filing . . . . .	60.00
Application Filing . . . . .	200.00	License Renewal . . . . .	52.00
Interstate Compact License Renewal . . . . .	183.00	Instructor Certificate . . . . .	60.00
Acupuncturist		School New Application Filing . . . . .	110.00
License Renewal . . . . .	63.00	School License Renewal . . . . .	110.00
Alarm Company		Barber New Application . . . . .	60.00
Company Application Filing . . . . .	330.00	School License Renewal . . . . .	52.00
Company License Renewal . . . . .	203.00	Barber Instructor Certificate . . . . .	60.00
Agent Application Filing . . . . .	60.00	Deception Detection	
Agent License Renewal . . . . .	42.00	Examiner New Application Filing . . . . .	50.00
Agent Temporary Permit . . . . .	20.00	Examiner License Renewal . . . . .	32.00
Architect		Intern New Application Filing . . . . .	35.00
New Application Filing . . . . .	110.00	Intern License Renewal . . . . .	32.00
License Renewals . . . . .	63.00	Dentist	
Education and Enforcement Surcharge . . . . .	10.00	New Application Filing . . . . .	110.00
Armored Car		License Renewals . . . . .	73.00
Registration . . . . .	330.00	Anesthesia Upgrade New Application . . . . .	60.00
Renewal . . . . .	203.00	Dental Hygienist	
Security Officer Registration . . . . .	60.00	New Application Filing . . . . .	60.00
Security Officer Renewal . . . . .	42.00	License Renewal . . . . .	47.00
Education Approval . . . . .	300.00	Anesthesia Upgrade New Application . . . . .	35.00
Athletic Agents		Direct Entry Midwife	
New Application Filing . . . . .	510.00	New Application Filing . . . . .	100.00



License Renewal .....	73.00
Electrician	
New Application Filing .....	110.00
License Renewal .....	63.00
Continuing Education Course Approval ..	40.00
Continuing Education (per credit hour tracking) .....	1.00
Electrologist	
New Application Filing .....	50.00
License Renewals .....	32.00
Instructor Certificate .....	60.00
School New Application Filing .....	110.00
School License Renewal .....	110.00
Elevator Mechanic	
New Application Filing .....	110.00
License Renewal .....	63.00
Continuing Education Course Approval .....	40.00
Continuing Education (per credit hour tracking) .....	1.00
Engineer, Professional	
New Application Filing .....	110.00
Engineer License Renewal .....	63.00
Structural Engineer New Application Filing .....	110.00
Structural Engineer License Renewal ....	63.00
Engineer	
Education and Enforcement Surcharge ..	10.00
Environmental Health Scientist	
New Application Filing .....	60.00
License Renewal .....	37.00
New Application Filing .....	60.00
In training	
Esthetician	
New Application Filing .....	60.00
License Renewals .....	52.00
Instructor Certificate .....	60.00
Master Esthetician New Application Filing .....	85.00
Master Esthetician License Renewal ....	68.00
School New Application Filing .....	110.00
School License Renewal .....	110.00
Factory Built Housing	
Dealer New Application Filing .....	30.00
Dealer License Renewal .....	30.00
On-site Plant Inspection (per hour) .....	\$50 per hour plus expenses
Factory Built Housing Education and Enforcement .....	25.00
Funeral Services	
Director New Application Filing .....	160.00
Director License Renewal .....	88.00
Intern New Application Filing .....	85.00
Establishment New Application Filing .....	250.00
Establishment License Renewal .....	250.00
Genetic Counselor	
New Application Filing .....	150.00
License Renewal .....	138.00
Geologist	
New Application Filing .....	150.00
License Renewal .....	123.00
Education and Enforcement Fund .....	15.00
Handyman Affirmation	
Handyman Exemption Registration/ Renewal .....	35.00
Health Facility Administrator	

New Application Filing .....	120.00
License Renewals .....	83.00
Hearing Instrument Specialist	
New Application Filing .....	150.00
License Renewal .....	103.00
Intern New Application Filing .....	35.00
Hunting Guide	
New Application Filing .....	75.00
License Renewal .....	50.00
Landscape Architect	
New Application Filing .....	110.00
License Renewal .....	63.00
Examination Record .....	30.00
Education and Enforcement Fund .....	10.00
Land Surveyor	
New Application Filing .....	110.00
License Renewals .....	63.00
Education and Enforcement Surcharge ..	10.00
Marriage and Family Therapist	
Therapist New Application Filing .....	120.00
Therapist License Renewal .....	93.00
Associate New Application Filing .....	85.00
Externship New Application Filling .....	85.00
Massage	
Therapist New Application Filing .....	60.00
Therapist License Renewal .....	52.00
Apprentice New Application Filing .....	35.00
Medical Language Interpreter	
New Application Filing .....	50.00
Interpreter Renewal .....	25.00
Nail Technician	
New Application Filing .....	60.00
License Renewal .....	52.00
Instructor Certificate .....	60.00
School New Application Filing .....	110.00
School License Renewal .....	110.00
Naturopathic Physician	
New Application Filing .....	200.00
License Renewals .....	113.00
Nursing	
Licensed Practical Nurse New Application Filing .....	60.00
Licensed Practical Nurse License Renewal .....	68.00
Registered Nurse New Application Filing .....	60.00
Registered Nurse License Renewal .....	68.00
Advanced Practice RN New Application Filing .....	100.00
Advanced Practice RN License Renewal .....	78.00
Advanced Practice RN-Intern New Application Filing .....	35.00
Certified Nurse Anesthetist New Application Filing .....	100.00
Certified Nurse Anesthetist License Renewal .....	78.00
Educational Program Approval- Initial Visit .....	500.00
Educational Program Approval- Follow-up .....	250.00
Medication Aide Certified New Application Filing .....	50.00
Medication Aide Certified License Renewal .....	42.00
Occupational Therapist	

Occupational Therapist New Application Filing .....	70.00	Sales Agent New Application Filing .....	85.00
Occupational Therapist License Renewal .....	47.00	Sales Agent License Renewal .....	73.00
Occupational Therapist Assistant New Application Filing .....	70.00	Private Probation Provider New Application Filing .....	85.00
Occupational Therapist Assistants License Renewal .....	47.00	License Renewal .....	63.00
Online Contract Pharmacy New Application .....	200.00	Clinical Mental Health Counselor New Application Filing .....	120.00
Renewal .....	103.00	License Renewals .....	93.00
Online Internet Facilitator New Application .....	7,000.00	Professional Counselor Associate New Application Filing .....	85.00
Renewal .....	7,000.00	Associate Clinical Mental Health Extern New Application .....	85.00
Optometrist New Application Filing .....	140.00	Psychologist New Application Filing .....	200.00
License Renewal .....	93.00	License Renewal .....	128.00
Osteopathic Physician Online Prescriber New Application .....	200.00	Certified Psychology Resident New App Filing .....	85.00
License Renewal .....	193.00	Radiology Radiology Technologist New Application Filing .....	70.00
Outfitter New License Filing .....	150.00	Radiology Technologist License Renewal .....	47.00
Renewal License .....	50.00	Radiology Practical Technologist New Application Filing .....	70.00
Osteopathic Physician and Surgeon New Application Filing .....	200.00	Radiology Practical Technologist License Renewal .....	47.00
License Renewals .....	193.00	Recreation Therapy Master Therapeutic Recreational Specialist New Application Filing .....	70.00
Pharmacy Pharmacist New Application Filing .....	110.00	Master Therapeutic Recreational Specialist License Renewal .....	47.00
Pharmacist License Renewal .....	73.00	Therapeutic Recreational Specialist New Application Filing .....	70.00
Pharmacy Intern New Application Filing .....	100.00	Therapeutic Recreational Specialist License Renewal .....	47.00
Pharmacy Technician New Application Filing .....	60.00	Therapeutic Recreational Technical New License Application .....	70.00
Pharmacy Technician License Renewal .....	57.00	Therapeutic Recreational Technician License Renewal .....	47.00
Class A New Application Filing .....	200.00	Residence Lien Recovery Fund Registration Processing Fee-Voluntary Registrants .....	25.00
Class A License Renewal .....	103.00	Post-claim Laborer Assessment .....	20.00
Class B New Application .....	200.00	Beneficiary Claim .....	120.00
Class B License Renewal .....	103.00	Laborer Beneficiary Claim .....	15.00
Class C New Application .....	200.00	Reinstatement of Lapsed Registration .....	50.00
Class C License Renewal .....	103.00	Late .....	20.00
Class D New Application .....	200.00	Certificate of Compliance .....	30.00
Class D License Renewal .....	103.00	Respiratory Care Practitioner New Application Filing .....	60.00
Class E New Application .....	200.00	License Renewal .....	52.00
Class E License Renewal .....	103.00	Security Services Contract Security Company Application Filing .....	330.00
Physical Therapy New Application Filing .....	70.00	Contract Security Company Renewal .....	203.00
License Renewal .....	47.00	Replace/Change Qualifier .....	50.00
Physical Therapy Assistant New Application Filing .....	60.00	Education Program Approval .....	300.00
License Renewal .....	47.00	Education Program Approval Renewal .....	103.00
Physician/Surgeon New Application Filing .....	200.00	Armed Security Officer New Application Filing .....	60.00
License Renewal .....	193.00	Armed Security Officer New License Renewal .....	42.00
Physician Assistant New Application Filing .....	180.00	Unarmed Security Officer New Application Filing .....	60.00
License Renewals .....	133.00		
Physician Online Prescriber New Application .....	200.00		
License Renewal .....	193.00		
Plumber New Application Filing .....	110.00		
License Renewals .....	63.00		
Podiatric Physician New Application Filing .....	200.00		
License Renewal .....	113.00		
Pre-Need Funeral Arrangement			

Unarmed Security Officer New	
License Renewal	42.00
Social Worker	
Clinical Social Worker New	
Application Filing	120.00
Clinical Social Worker License	
Renewal	93.00
Certified Social Worker New	
Application Filing	120.00
Certified Social Worker License	
Renewal	93.00
Certified Social Worker Intern New	85.00
Certified Social Worker Externship	85.00
Social Service Worker New	
Application Filing	85.00
Social Service Worker License	
Renewal	78.00
Speech Language Pathologist/Audiologist	
Speech Language Pathologist New	
Application Filing	70.00
Speech Language Pathologist License	
Renewal	47.00
Audiologist New Application Filing	70.00
Audiologist License Renewal	47.00
Speech Language Pathologist / Audiologist	
Speech Language Pathologist and	
Audiologist New Application Filing	70.00
Speech Language Pathologist and	
Audiologist License Renewal	47.00
Substance Use Disorder Counselor (Licensed)	
New Application Filing	85.00
License Renewal	78.00
Substance Use Disorder Counselor (Certified)	
Certified Substance Counselor	70.00
Certified Counselor Intern	70.00
Certified Substance Extern	70.00
Veterinarian	
New Application Filing	150.00
License Renewal	83.00
Intern New Application Filing	35.00
Vocational Rehab Counselor	
New Application Filing	70.00
License Renewal	47.00
Other	
Inactive/Reactivation/Emeritus	
License	50.00
Temporary License	50.00
Late Renewal	20.00
License/Registration Reinstatement	50.00
Duplicate License	10.00
Disciplinary File Search	
(per order document)	12.00
Change Qualifier	50.00
UBC Seminar	Variable
surcharge of 1% of Building Permits in	
accordance w/ UCA-15a-1-209-5-a	
UBC Building Permit surcharge	Variable
State Construction Registry	
Online	
Notice of Commencement	7.50
Appended Notice of Commencement	
online	7.50
Preliminary Notice	1.25
Notice of Completion	7.50
Required Notifications	Variable
Requested Notifications	
No Charge	
Receipt Retrieval	

Within 2 years	1.00
Beyond 2 years	5.00
Public Search	1.00
Annual account set up	
Auto bill to credit card	60.00
Invoice	100.00
Notice of Construction Loan	8.00
Notice of Intent to Complete	8.00
Notice of Retention	1.25
Notice of Remaining to Complete	1.25
Offline	
Notice of Commencement	15.00
Appended Notice of Commencement -	
On-line	15.00
Preliminary Notice	6.00
Notice of Completion	15.00
Required Notifications	6.00
Requested Notifications	25.00
Receipt Retrieval	
Within 2 years	6.00
Beyond 2 years	12.50
Public Search	Variable
Annual account set up	
Auto bill to credit card	75.00
Invoice	125.00
Notice of Construction Loan	15.00
Notice of Intent to Complete	16.00
Notice of Retention	8.00
Notice of Remaining to Complete	6.00
Notice of Loan Default	Variable
Building Permit	Variable
Filed by city	
Withdrawal of Preliminary	
Notice	Variable
Construction Ownership	
Ownership Status Report	20.00
Ownership Listing/Change	20.00
Physician Educator	
Physician Educator I new application	200.00
Physician Educator I renewal	183.00
Physician Educator II new	
application	200.00
Physician Educator I renewal	183.00
Radiologist Assistant	
New Application Filing	70.00
License Renewal	47.00
Real Estate	
Appraisers	
AMC National Registry Fee	25.00
Appraisal Education Special	
Event (per day)	150.00
Appraisal Education Special Event	
Provider Fee	250.00
Broker/Sales Agent	
Property Management Sales Agent	
Designation	50.00
Timeshare and Camp Resort	
Late Fee	100.00
Appraisers	
Licensed and Certified	
Application	250.00
Mortgage Broker	
Mortgage Loan Originator New	
Application	100.00
Mortgage Loan Originator Renewal	30.00
Sales Agent	
New Application (2 year)	100.00
Renewal	48.00

Education		Mortgage Broker	
Real Estate Education Broker . . . . .	18.00	Mortgage Lending Manager	
Continuing Education Registration . . . . .	10.00	Application . . . . .	100.00
Real Estate Education Agent . . . . .	12.00	Renewal . . . . .	30.00
Appraisers		Mortgage Lender Entities	
Licensed and Certified		Application . . . . .	200.00
Renewal . . . . .	350.00	Renewal . . . . .	200.00
National Register . . . . .	80.00	Mortgage DBA . . . . .	200.00
Certifications		Activation . . . . .	15.00
Real Estate Prelicense School		Subdivided Land	
Certification . . . . .	100.00	Exemption	
Real Estate Prelicense Instructor		HUD . . . . .	100.00
Certification . . . . .	75.00	Water Corporation . . . . .	50.00
Appraisers		Temporary Permit . . . . .	100.00
Temporary Permit . . . . .	100.00	Application . . . . .	500.00
Appraiser Trainee Registration . . . . .	100.00	Charge over 30 . . . . .	3.00
Real Estate Education		Inspection Deposit . . . . .	300.00
Real Estate Continuing Education		Consolidation . . . . .	200.00
Course Certification . . . . .	75.00	Charge . . . . .	3.00
Real Estate Continuing Education		Renewal Report . . . . .	203.00
Instructor Certification . . . . .	50.00	Timeshare and Camp Resort	
Appraisers		Salesperson . . . . .	100.00
Appraiser expert witness . . . . .	200.00		
Appraiser Trainee Renewal . . . . .	100.00	New and renewal	
Certifications		Registration . . . . .	500.00
Real Estate Branch Schools . . . . .	100.00	Per unit charge over 100 . . . . .	3.00
Appraiser Prelicense Course		Inspection Deposit . . . . .	300.00
Certification . . . . .	70.00	Consolidation . . . . .	200.00
Appraisers		Per unit charge . . . . .	3.00
Appraiser Pre-License School		Temporary Permit . . . . .	100.00
Application . . . . .	100.00	Renewal Reports . . . . .	203.00
Appraiser Pre-License Instructor		Supplementary Filing	
Application . . . . .	75.00	Supplementary Filing . . . . .	200.00
Certifications		Securities	
Appraiser CE Instructor		Other	
Application/Renewal . . . . .	75.00	Title III Crowd Funding Notice	
Appraisers		Filing Late Fee . . . . .	500.00
Appraiser CE Course		Title III Crowd Funding Timely	
Application/Renewal . . . . .	75.00	Notice Filing . . . . .	100.00
Appraiser Temporary Permit		Securities Registration	
Extension . . . . .	100.00	Qualification Registration . . . . .	300.00
One time only		Covered Securities Notice Filings	
Appraisal Management Company		Regulation A timely Securities Filing . . .	100.00
Appraisal Management Company . . . . .	350.00	Late Fee Regulation A Filing . . . . .	500.00
Appraisal Management Company		Securities Registration	
Renewal . . . . .	350.00	Coordinated Registration . . . . .	300.00
Appraisal Management Company Late . . .	50.00	Transactional Exemptions	
Broker		Transactional Exemptions . . . . .	60.00
New Application . . . . .	100.00	No-action and Interpretative	
2 year		Opinions . . . . .	120.00
Renewal . . . . .	48.00	Licensing	
Broker/Sales Agent		Agent . . . . .	60.00
Activation . . . . .	15.00	Broker/Dealer . . . . .	200.00
New Company . . . . .	200.00	Investment Advisor	
Company Broker Change . . . . .	50.00	New and renewal . . . . .	100.00
Company Name Change . . . . .	100.00	Investment Advisor Representative	
Verification (per copy) . . . . .	20.00	New and renewal . . . . .	50.00
General Division		Certified Dealer	
Duplicate License . . . . .	10.00	New and Renewal . . . . .	500.00
Certifications/Computer Histories . . . . .	20.00	Certified Adviser	
Late Renewal . . . . .	50.00	New and Renewal . . . . .	500.00
Reinstatement . . . . .	100.00	Covered Securities Notice Filings	
Branch Office . . . . .	200.00	Investment Companies . . . . .	600.00
No Action Letter . . . . .	120.00	All Other Covered Securities . . . . .	100.00
Trust Account Seminar . . . . .	5.00	Late Fee Rule 506 Notice Filing . . . . .	500.00
Continuing Education Instructor/		Less than 15 days after sale	
Course Late . . . . .	25.00	Federal Covered Adviser	

New and Renewal .....	100.00
Securities Exemptions	
Securities Exemptions .....	60.00
Other	
Late Renewal .....	20.00
Fairness Hearing .....	1,500.00
Statute Booklet .....	Variable
Small Corp. Offering Registration (SCOR) .....	Variable
Rules and form booklet .....	Variable
Excluding SCOR	
Postage and Handling .....	Variable

**GOVERNOR'S OFFICE  
OF ECONOMIC DEVELOPMENT**

**ADMINISTRATION**

Government Records Access and Management Act (GRAMA) fees apply for the entire Department	
Odd size photocopies (per Page) ... Actual Cost	
GRAMA fees apply to the entire Department	
8.5 x 11 photocopy (per page) .....	0.25
GRAMA fees apply to the entire Department	
Document Certification .....	2.00
GRAMA fees apply to the entire Department	
Local Document Faxing (per page) .....	0.50
GRAMA fees apply to the entire Department	
Long Distance Document Faxing (per page) .....	2.00
GRAMA fees apply to the entire Department	
Staff time to search, compile and prepare records (per Hour) .....	Actual Cost
GRAMA fees apply to the entire Department	
Mail and ship preparation, plus actual postage (per Hour) .....	Actual Cost
GRAMA fees apply to the entire Department	
Media Storage Duplication (per Hour) ...	10.00
GRAMA fees apply to the entire Department	
SPONSORSHIP - LEVEL 1 (per SPONSORSHIP) .....	\$0 to \$500
From \$1 to \$500 fee applies for the entire Department	
SPONSORSHIP - LEVEL 2 (per SPONSORSHIP) .....	\$501 to \$1,000
From \$501 to \$1,000 fee applies for the entire Department	
SPONSORSHIP - LEVEL 3 (per SPONSORSHIP) .....	\$1,001 to \$5,000
From \$1,001 to \$5,000 fee applies for the entire Department	
SPONSORSHIP - LEVEL 4 (per SPONSORSHIP) .....	\$5,001 to \$10,000
From \$5,001 to \$10,000 fee applies for the entire Department	

SPONSORSHIP - LEVEL 5 (per SPONSORSHIP) .....	Over \$10,000
Over \$10,000 fee applies for the entire Department	
GOED Participation Fees (per Participant) ...	Up to \$500 per participant

**BUSINESS DEVELOPMENT**

Corporate Recruitment and Business Services	
PTAC Participation Fee (per Participant) .....	Up to \$60
Market Tax Credit Fee .....	100,000.00
Annual fee to certify a proposed equity investment or long-term debt security as a qualified equity investment.	
Outreach and International Trade	
Community Reinvestment Agency Database	
Community Reinvestment Agency Database Fee	
Actual Amount	
Actual costs to administer the Community Reinvestment Agency Database.	
Small Business Innovative Research (SBIR) / Small Business Technology Transfer (STTR)	
SBIR/STTR Assistance Center (SSAC) Search Fee (per User) .....	75.00
SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop (per User) .....	75.00
SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop: non-client (per User) .....	50.00
SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop: client (per User) .....	25.00
SBIR/STTR Assistance Center (SSAC) 2-4 hour seminar/workshop (per User) .....	25.00
SBIR/STTR Assistance Center (SSAC) 1-4 hour seminar/workshop (per User) .....	10.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event (per User) .....	225.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event (early bird) .....	150.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event (search client) (per User) .....	100.00
CommunityGrants App	
CommunityGrants App User - State of Utah Executive Branch Agencies (per User) .....	72.00
CommunityGrants App User - State of Utah Executive Branch Agencies (per User)	
CommunityGrants App User - Tier 1 (per User) .....	480.00
CommunityGrants App User - Tier 1 (per User)	
CommunityGrants App User - Tier 2 (per User) .....	420.00
CommunityGrants App User - Tier 2 (per User)	
CommunityGrants App User - Tier 3 (per User) .....	360.00
CommunityGrants App User - Tier 3 (per User)	

CommunityGrants App User -	
Tier 4 (per User) .....	300.00
CommunityGrants App User -	
Tier 4 (per User)	
CommunityGrants App User -	
Tier 5 (per User) .....	240.00
CommunityGrants App User -	
Tier 5 (per User)	
CommunityGrants Customer Portal -	
100 Members (per User) .....	3,000.00
CommunityGrants Customer Portal -	
100 Members (per 100)	
CommunityGrants Customer Community -	
Min. 100 Members (per User) .....	900.00
CommunityGrants Customer Community	
- Minimum - 100 Members (per 100	
Members)	
CommunityGrants Customer Community -	
Min. 500 Members (per User) .....	2,000.00
CommunityGrants Customer Community	
- Minimum - 500 Members (per 100)	
CommunityGrants Customer Community-Wholesale-100 Members	
(per User) .....	1,200.00
CommunityGrants Customer Community	
- Wholesale - 100 Members (per 100)	
CommunityGrants Customer Community-Wholesale-500 Members	
(per User) .....	2,400.00
CommunityGrants Customer Community	
- Wholesale - 500 Members (per 100)	
CommunityGrants Customer Community -	
Retail - 100 Members (per User) ...	1,800.00
CommunityGrants Customer Community	
- Retail - 100 Members (per 100)	
CommunityGrants Customer Community -	
Retail - 500 Members (per User) ...	3,720.00
CommunityGrants Customer Community	
- Retail - 500 Members (per 100)	

**OFFICE OF TOURISM**

Operations and Fulfillment	
Tourism/Film Participation Fees	
(per Event) .....	Actual cost up to \$70,000
Gift Store Fee (per Net Revenue) .....	3% of Net Revenue
Calendars	
Calendar sales: Individual (purchases	
of less than 30) .....	10.00
Calendar sales: Bulk (non state	
agencies) .....	8.00
Calendar sales: Bulk (state agencies) .....	6.00
Calendar sales: Office of Tourism, Film,	
and Global Branding employees .....	5.00
These fees may apply to one or more	
programs within the Office of Tourism Line	
Item.	
Calendar Envelopes .....	0.50
Posters	
Posters: Framed wall posters .....	55.00
Posters: Non framed wall posters .....	2.99
Shirts	
T-shirt sales (cost per shirt) .....	10.00
Commissions	
Tourism promotional items re-seller	
commission .....	12%
UDOT Signage Commissions .....	54,000.00

**PETE SUAZO UTAH  
ATHLETICS COMMISSION**

Boxing Events	
Boxing Event: <500 Seats .....	500.00
Boxing Event: 500 - 1,000 Seats .....	500.00
Boxing Event: 1,000 - 3,000 Seats .....	750.00
Boxing Event: 3,000 - 5,000 seats ...	1,500.00
Boxing Event: 5,000 - 10,000 Seats ...	1,500.00
Boxing Event: >10,000 Seats .....	1,500.00
Unarmed Combat Event	
Unarmed Combat Event: <500 Seats ....	500.00
Unarmed Combat Event: 500 -	
1,000 Seats .....	500.00
Unarmed Combat Event: 1,000 -	
3,000 Seats .....	750.00
Unarmed Combat Event: 3,000 -	
5,000 seats .....	1,500.00
Unarmed Combat Event: 5,000 -	
10,000 Seats .....	1,500.00
Unarmed Combat Event: >10,000	
Seats .....	1,500.00
Licenses and Badges	
Promoter (per License) .....	250.00
Official, Manager, Matchmaker	
(per License) .....	50.00
Judge, Referee, Matchmaker, Contestant	
Manager Licenses	
Contestant, Second (Corner)	
(per License) .....	40.00
Amateur, Professional, Second (Corner),	
Timekeeper Licenses	
ID Badges (per Badge) .....	10.00
Drug Tests, Fight Fax, Contestant ID	
Badge	
Additional Inspector .....	100.00
Event Registration .....	100.00
Fee to reserve a date on the Pete Suazo	
Utah Athletic Commission event calendar	
Broadcast Revenue .....	3,000.00
3% of the first \$500,000 and 1% of the next	
\$1,000,000 of the total gross receipts from the	
sale, lease or other exploitation of internet,	
broadcasting, television, and motion picture	
rights for any contest or exhibition thereof	
without any deductions for commissions,	
brokerage fees, distribution fees, advertising,	
contestants' purses or charges, except in no	
case shall the fee be more than \$25,000, nor	
less than \$100.	

**FINANCIAL INSTITUTIONS**

**FINANCIAL  
INSTITUTIONS ADMINISTRATION**

Administration	
Photocopies .....	0.25

**DEPARTMENT OF HERITAGE AND ARTS**

**ADMINISTRATION**

Administrative Services	
Conference Level 4 - Vendor/Display Table -	
registration not included (per Table) ...	300.00
Fee entitled "Conference" applies for the	
entire Department of Heritage and Arts.	

Conference Level 5 - Vendor/Display Table - registration not included (per Table) . . . . 500.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Department Merchandise  
 General Merchandise - Level 1  
 (per Item) . . . . . 5.00  
 Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 2  
 (per Item) . . . . . 10.00  
 Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 3  
 (per Item) . . . . . 15.00  
 Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 4  
 (per Item) . . . . . 20.00  
 Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 5  
 (per Item) . . . . . 50.00  
 Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 6  
 (per Item) . . . . . 100.00  
 Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

Department Conference  
 Conference Level 1 - Early Registration  
 (per Person) . . . . . 20.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 - Regular  
 Registration (per Person) . . . . . 25.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 - Late  
 Registration (per Person) . . . . . 30.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 - Vendor/Display Table - registration not included  
 (per Table) . . . . . 50.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 - Early Registration  
 (per Person) . . . . . 45.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 - Regular  
 Registration (per Person) . . . . . 50.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 - Late  
 Registration (per Person) . . . . . 55.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 - Vendor/Display Table - registration not included  
 (per Table) . . . . . 100.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Student/Group/Change Leader Registration  
 (per Person) . . . . . 70.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Early  
 Registration (per Person) . . . . . 80.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Regular  
 Registration (per Person) . . . . . 95.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Late  
 Registration (per Person) . . . . . 100.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Vendor/Display Table Fee - registration not included (per Table) . . . . . 150.00  
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Sponsorship  
 Conference Sponsorship Level 1 . . . . . 350.00  
 Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 2 . . . . . 500.00  
 Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 3 . . . . . 650.00  
 Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 4 . . . . . 1,000.00  
 Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 5 . . . . . 2,500.00  
 Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 6 . . . . . 5,000.00  
 Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 7 . . . . . 10,000.00  
 Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

General Training and Workshop  
 General Training/Workshop Participation - Level 1 (per Person) . . . . . 5.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 2 (per Person) . . . . . 10.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 3 (per Person) . . . . . 15.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 4 (per Person) . . . . . 25.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 5 (per Person) . . . . . 30.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 6 (per Person) . . . . . 40.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 7 (per Person) . . . . . 50.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 8 (per Person) . . . . . 60.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 9 (per Person) . . . . . 125.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 10 (per Person) . . . . . 300.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Materials  
 Fee (per Person) . . . . . 15.00  
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

Government Records Access and Management Act Photocopies (per page) . . . . . 0.25  
 GRAMA fees apply for the entire Department of Heritage and Arts

Information Technology  
 Preservation Pro (per unit 1-20, depending on usage) . . . . . 50.00

**DIVISION OF ARTS AND MUSEUMS**

Community Arts Outreach

Art Consultation Fee Level 1 (per Hour) . . . 80.00  
 2 Hour Minimum - consultation, site visits, and curation

Art Consultation Fee Level 2 (per Hour) . . . 60.00  
 2 Hour Minimum - condition inspection, reporting, documentation, and pulling from and returning to the vault at (this charge would also be incurred for yearly site inspections without change to loan)

Art Consultation Fee Level 3 (per Hour) . . . 45.00  
 3 Hour Minimum - packing, shipping, and installation

Change Leader Conference . . . . . 55.00  
 This is the fee that will be charged for the annual change leader conference.

Change Leader Institute Level 5 . . . . . 500.00

MWAC Registration Level 1 . . . . . 75.00

MWAC Registration Level 2 . . . . . 85.00

MWAC Registration Level 3 . . . . . 95.00

MWAC Registration Level 4 . . . . . 100.00

MWAC Registration Level 5 . . . . . 110.00

MWAC Registration Level 6 . . . . . 125.00

Community Outreach

Traveling Exhibit Fees . . . . . 125.00

Traveling Exhibit Fees Title I Schools . . 100.00

Mountain West Arts Conference Registration  
 MWAC Governor's Leadership in the Arts Luncheon . . . . . 60.00

MWAC Governor's Leadership in the Arts Luncheon Late Registrant . . . 65.00

Community/State Partnership Change Leader Registration

Change Leader Institute Level 1 . . . . . 100.00

Change Leader Institute Level 2 . . . . . 200.00

Change Leader Institute Level 3 . . . . . 300.00

Change Leader Institute Level 4 . . . . . 400.00

**DIVISION OF ARTS AND MUSEUMS - OFFICE OF MUSEUM SERVICES**

Office of Museum Services

Museum Environmental Monitoring  
 Kit Rental/Shipping (per Period) . . . . . 40.00

Museum Environmental Monitoring  
 Kit Deposit . . . . . 150.00

**HISTORICAL SOCIETY**

State Historical Society

Business/Corporate . . . . . 155.00  
 Utah State Historical Society Two Year Membership

Business/Corporate . . . . . 80.00  
 Utah Historical Society Annual Membership

History Conference - Member . . . . . 15.00  
 Annual History Conference Registration fee for Utah State Historical Society Members

History Conference - Non member . . . . . 30.00  
 Annual History Conference Registration for non historical society members

History Conference - Vendor/Exhibitor  
 Table . . . . . 50.00  
 Annual History Conference

Individual . . . . . 75.00  
 Utah State Historical Society Two Year Membership

Patron . . . . . 140.00  
 Utah State Historical Society Two Year Membership

Sponsor . . . . . 195.00  
 Utah State Historical Society Two Year Membership

Student/Adjunct/Senior . . . . . 55.00  
 Utah State Historical Society Two Year Membership



Sustaining .....	95.00
Utah State Historical Society Two Year Membership	
University of Illinois Press .....	9,600.00
Utah Historical Society Annual Membership	
UIP manages the institutional subscription agency memberships and sends the money to the State of Utah.	
Utah Historical Society Annual Membership	
Student/Adjunct/Senior .....	30.00
Individual .....	40.00
Sustaining .....	50.00
Patron .....	75.00
Sponsor .....	100.00
Lifetime .....	500.00
Utah Historical Quarterly (per issue) .....	13.00
Cost of a single issue of Utah Historical Quarterly (in addition to mailing costs, when applicable)	
Publication Royalties .....	1.00

**STATE HISTORY**

Historic Preservation and Antiquities	
Anthropological Remains Recovery (per Recovery or Analysis and reporting) . .	2,500.00
Fee is for recovery or analysis and reporting services.	
Literature Search - Self Service w/ Scans (per 1/2 Hour) .....	25.00
Literature Search - Staff Performed w/ Scans (per 1/2 Hour) .....	50.00
GIS Search - Staff Performed (per 1/4 Hour) .....	15.00
Literature Search/GIS Search - no show fee (per incident) .....	60.00
GIS Data Cut and Transfer (per Section) . . .	15.00
Library and Collections	
Surplus Photo 5x7 .....	2.50
Surplus Photo 8x10 .....	4.00
B/W Historic Photo	
4x5 B/W Historic Photo .....	7.00
5x7 B/W Historic Photo .....	10.00
8x10 B/W Historic Photo .....	15.00
Self Serve Photo .....	0.50
Digital Image 300 dpi> .....	10.00
Historic Collection Use .....	10.00
Research Center	
Self Copy 8.5x11 .....	0.10
Self Copy 11x17 .....	0.25
Staff Copy 8.5x11 .....	0.25
Staff Copy 11x17 .....	0.50
Digital Self Scan/Save (per Page) .....	0.05
Digital Staff Scan/Save (per Page) .....	0.25
Microfilm Self Copy (per page) .....	0.25
Microfilm Self Scan/Save (per Page) .....	0.15
Microfilm Staff Scan/Save or Copy (per page) .....	1.00
Audio Recording (per item) .....	10.00
Video Recording (per item) .....	20.00
Diazo print	
16 mm diazo print (per roll) .....	12.00
35 mm diazo print (per roll) .....	14.00
Microfilm Digitization .....	40.00
Digital Format Conversion .....	5.00
Surplus Photo 4x5 .....	1.00
Mailing Charges .....	1.00

**STATE LIBRARY**

Blind and Disabled	
Full Library Services to States	
With Machines .....	150.00
Basic Braille Services to States .....	85.00
Full Library Services to States	
Without Machines .....	145.00
Braille and Audio Service to LDS Church . . .	2.50
Library of Congress Contract (MSCW) (per Annual) .....	999,600.00
Library Development	
Bookmobile Services (per Annual) . . . .	684,300.00
Average fee of bookmobile services over the seven service areas.	
Library Resources	
Cataloging Services .....	7,000.00
Catalog Express Utilization .....	0.58
Catalog Express Coverage .....	1.17

**STEM ACTION CENTER**

STEM Bus - Charitable (per Day) .....	500.00
STEM Bus - Private (per Day) .....	1,000.00

**INSURANCE DEPARTMENT**

**BAIL BOND PROGRAM**

Restricted Revenue	
Bail Bond Agency	
Resident initial or renewal license if renewed prior to renewal deadline .....	250.00
Annual license period	
Reinstatement of lapsed license .....	300.00
Annual license period	

**HEALTH INSURANCE ACTUARY**

Restricted Revenue	
Health Insurance Actuarial Review Assessment	
Assessment for Actuary .....	200,000.00

**INDIVIDUAL & SMALL EMPLOYER RISK ADJUSTMENT ENTERPRISE FUND**

Individual & Small Employer Risk Adjustment Enterprise	
Risk Adjustment (per 0.96) .....	0.96

**INSURANCE DEPARTMENT ADMINISTRATION**

Administration	
Continuing Care Provider - Annual	
Registration Renewal .....	6,900.00
Continuing Care Provider - Annual	
Renewal Disclosure Statement .....	600.00
Continuing Care Provider - Disclosure Statement .....	600.00
Continuing Care Provider - Initial registration application .....	6,900.00
Continuing Care Provider - Reinstatement Fee .....	6,950.00
Initial agency license (per 40.00) .....	800.00
Initial individual license (per 35.00) . . . .	2,800.00
Insurance removal of public access to administrative actions (per 185.00) . . . .	185.00
Non-electronic payment processing fee (per 25.00) .....	25.00

Reinstatement agency license (per 65.00) .....	65.00	Initial or renewal if renewed prior to renewal deadline .....	45.00
Reinstatement individual license (per 60.00) .....	60.00	Reinstatement of lapsed license .....	95.00
Renewal agency license (per 40.00) .....	40.00	Res/non-res full line producer license or renewal per two-year license period	
Renewal individual license (per 35.00) .....	35.00	Dual Title License Form Filing .....	25.00
Global license fees for Admitted Insurers		Addition of producer classification or line of authority to individual producer license .....	25.00
Certificate of Authority		Global Full Line and Limited Line Agency License	
Independent Review - Initial		Res/non-res initial or renewal license if renewed prior to renewal deadline .....	75.00
Application .....	250.00	Reinstatement of lapsed license .....	125.00
Initial License Application .....	1,000.00	Addition of agency class or line of authority to agency license .....	25.00
Renewal .....	300.00	Resident Title initial or renewal license if renewed prior to renewal deadline .....	100.00
Late Renewal .....	350.00	Resident Title Reinstatement of Lapsed License .....	150.00
Reinstatement .....	1,000.00	Health Insurance Purchasing Alliance	
Amendment .....	250.00	Res/non-res initial or renewal license if renewed prior to renewal deadline ....	500.00
Orderly Plan of Withdrawal .....	50,000.00	Per annual license period	
Form A Filing .....	2,000.00	Late Renewal .....	550.00
Redomestication Filing .....	2,000.00	Reinstatement of lapsed license .....	550.00
Organizational Permit for Mutual		Continuing Education	
Insurer .....	1,000.00	CE provider initial or renewal license prior to renewal deadline .....	250.00
Insurer Examinations .....	72.00	CE provider reinstatement of lapsed license .....	300.00
Agency cost		CE provider post approval or \$5 per hour, whichever is more .....	25.00
Global Service Fees for Admitted Insurers		Other	
Zero premium volume .....	Insurance Rule	Photocopy (per page) .....	0.50
R590-102-5(4)(d)(i)		Copy Complete Annual Statement .....	40.00
More than \$0 to less than \$1M premium volume .....	700.00	Accepting Service of legal process .....	10.00
\$1M to less than \$3M premium volume .....	1,100.00	Returned check charge .....	20.00
\$3M to less than \$6 M premium volume .....	1,550.00	Workers' Comp schedule .....	5.00
\$6M to less than \$11M premium volume .....	2,100.00	Address Correction .....	35.00
\$11M to less than \$15M premium volume .....	2,750.00	Production of Lists	
\$15M to less than \$20M premium volume .....	3,500.00	Printed (per page) .....	1.00
\$20M or more in premium volume ....	4,350.00	Information already in list format	
Global license fees for Surplus Lines Insurers, Accredited/Trusteed Reninsurer		Electronic	
Surplus Lines Insurers, Accredited/Trusteed Reinsurers, Employee Welfare Fund		Base fee .....	50.00
Initial .....	1,000.00	1 CD and up to 30 minutes of staff time	
Annual .....	500.00	Additional fee billed by invoice .....	50.00
Late Annual .....	550.00	For each additional 30 minutes or fraction thereof	
Reinstatement .....	1,000.00	Additional CD (per CD) .....	1.00
Global license fees for Other Organizations		Restricted Special Revenue Fees	
Other Organizations		Title Insurance Recovery, Education, and Research Fund	
Initial License Application .....	250.00	Initial Title Agency License .....	1,000.00
Renewal .....	200.00	Renewal Title Agency License	
Late Renewal .....	250.00	Band A-\$0-\$1 million premium	
Reinstatement .....	250.00	volume .....	125.00
Annual Service .....	200.00	Band B->\$1-\$10 million premium	
Life Settlement Provider		volume .....	250.00
Initial license application .....	1,000.00	Band C->\$10-\$20 million premium	
Renewal .....	300.00	volume .....	375.00
Late Renewal .....	350.00	Band D->\$20 million premium	
Reinstatement .....	1,000.00	volume .....	500.00
Annual service .....	600.00	Individual Title Licensee Initial or Renewal License .....	15.00
Global Individual License		Professional Employers Organization	
Res/non-res full line producer license or renewal per two-year license period		Standard - Initial/Renewal .....	2,000.00
Initial, or renewal if renewed prior to renewal deadline .....	70.00		
Reinstatement of Lapsed License .....	120.00		
Res/non-res limited line producer license or renewal per two-year licensing period			

Standard - Late Renewal or Reinstatement	2,050.00
Certified by an Assurance Organization - Initial	2,000.00
Certified by an Assurance Organization - Renewal	1,000.00
Certified Late Renewal or Reinstatement	1,050.00
Small Operator	
Small Operator - Initial	2,000.00
Small Operator - Renewal	1,000.00
Small Operator - Late Renewal or Reinstatement	1,050.00
Captive Insurers	
Captive Cell Dormancy Certificate Annual Renewal fee (per 500.00)	500.00
Captive Cell Initial Application (per 200)	200.00
Captive Cell Initial License (per 1000)	1,000.00
Captive Cell Late Renewal (per 50)	50.00
Captive Cell License Renewal (per 1000)	1,000.00
Captive Dormancy Certificate Annual Renewal fee (per 2500.00)	2,500.00
Captive Insurer	
Initial license application	200.00
Initial license application review	Captive - Actual cost
Initial license issuance	5,000.00
Renewal	5,000.00
Late Renewal	5,050.00
Reinstatement	5,050.00
Captive Insurer Examination Reimbursements	Variable
Criminal Background Checks	
Fingerprinting	
Bureau of Criminal Investigation	15.00
Federal Bureau of Investigation	13.25
Electronic Commerce Fee	
Electronic Commerce Restricted	
E-commerce and internet technology services	
Insurer: admitted, surplus lines	75.00
Captive Insurer	250.00
Other organization and life settlement provider	50.00
CE Provider	20.00
Agency and Health Insurance	
Purchasing Alliance	10.00
Individual	5.00
Access to rate and form filing database	
Base	45.00
1 DVD and up to 30 minutes access and staff help	
Additional requests	45.00
Each additional 30 minutes or fraction thereof	
Additional DVD (per DVD)	2.00
Electronic Commerce Restricted	
Database access	3.00
Paper filing process	5.00
Paper Application Processing	25.00
GAP Waiver Program	
Restricted Revenue	
Guaranteed Asset Protection Waiver Registration/Annual	1,000.00
GAP Waiver Assessment	50.00

Insurance Fraud Program	
Restricted Revenue	
Fraud Investigation Division	
Zero to \$1M premium volume	200.00
>\$1M to less than \$2.5M premium volume	450.00
\$2.5M to less than \$5M premium volume	800.00
\$5M to less than \$10M premium volume	1,600.00
\$10M to less than \$50M premium volume	6,100.00
\$50M or more in premium volume	15,000.00
Fraud Division Investigative Recovery	Variable
Fraud division assessment late fee	50.00
Relative Value Study	
Restricted Revenue	
Relative Value Study	
Relative Value Study Book	10.00
Code Books	57.00
Cost to agency	
Mailing fee for books	3.00

**TITLE INSURANCE PROGRAM**

Restricted Revenue	
Title Insurance Regulation Assessment	100,000.00

**LABOR COMMISSION**

Administration	
Industrial Accidents Division	
Workers Compensation	
Coverage Waiver	50.00
Seminar Fee (alternate years) (per registrant)	Not to exceed 500.00
Premium Assessment	
Workplace Safety Fund (per premium)	0.25%
Employers Reinsurance Fund (per premium)	1.5%
Uninsured Employers Fund (per premium)	0.5%
Industrial Accidents Restricted Account (per premium)	0.50%
Certificate to Self-Insured	
New Self-Insured Certificate	1,200.00
Self Insured Certificate Renewal	650.00
Boiler, Elevator and Coal Mine Safety Division	
Boiler and Pressure Vessel Inspections	
Owner	
User Inspection Agency Certification	250.00
Certificate of Competency	
Original Exam	25.00
Renewal	20.00
Jacketed Kettles and Hot Water Supply	
Consultation	
Witness special inspection (per hour)	60.00
Boilers	
Existing	
<250,000 BTU	30.00

> 250,000 BTU but <4,000,000 BTU .....	60.00	Color Printing (per page) .....	0.50
> 4,000,001 BTU but <20,000,000 BTU .....	150.00	Certified Copies (per certification) .....	2.00
> 20,000,000 BTU .....	300.00	Plus search fees if applicable	
New		Electronic documents CD or DVD .....	2.00
<250,000 BTU .....	45.00	Fax, plus telephone costs .....	0.50
> 250,000 BTU but <4,000,000 BTU .....	90.00		
> 4,000,001 BTU but <20,000,000 BTU .....	225.00	<b>UTAH STATE TAX COMMISSION</b>	
> 20,000,000 BTU .....	450.00	<b>LICENSE PLATES PRODUCTION</b>	
Pressure Vessel		License Plates Production .....	
Existing .....	30.00	Decal Replacement .....	1.00
New .....	45.00	Reflectorized Plate .....	Up to \$12
Pressure Vessel Inspection by Owner-user		Plate Mailing Charge (per Plate Set) .....	4.00
25 or less on single statement (per vessel) .....	5.00		
26 through 100 on single statement (per statement) .....	100.00	<b>TAX ADMINISTRATION</b>	
101 through 500 on single statement (per statement) .....	200.00	Administration Division	
over 500 on single statement (per statement) .....	400.00	Administration	
Elevator Inspections Existing Elevators		Liquor Profit Distribution .....	6.00
Hydraulic .....	85.00	All Divisions	
Electric .....	85.00	Certified Document .....	5.00
Handicapped .....	85.00	Faxed Document Processing (per page) .....	1.00
Other Elevators .....	85.00	Record Research .....	6.50
Elevator Inspections New Elevators		Photocopies, over 10 copies (per page) ...	0.10
Hydraulic .....	300.00	Research, special requests (per hour) ...	20.00
Electric .....	700.00	Motor Vehicle Enforcement Division	
Handicapped .....	200.00	Temporary Permit Restricted Fund	
Other Elevators .....	200.00	Temporary Permit .....	Not to exceed 12.00
Consultation and Review (per hour) ...	60.00	Sold to dealers in bulk, not to exceed approved fee amount	
Escalators/Moving Walks .....	700.00	Temporary Sports Event Registration	
Remodeled Electric .....	500.00	Certificate .....	Not to exceed 12.00
Roped Hydraulic .....	500.00	MV Business Regulation	
Coal Mine Certification		Dismantler's Retitling Inspection .....	50.00
Mine Foreman .....	50.00	Salvage Vehicle Inspection .....	50.00
Temporary Mine Foreman .....	35.00	Electronic Payment	
Fire Boss .....	50.00	Temporary Permit Books (per book) .....	Not to exceed 4.00
Surface Foreman .....	50.00	Dealer Permit Penalties (per penalty) .....	Not to exceed 1.00
Temporary Surface Foreman .....	35.00	Salvage Buyer's License (per license) .....	Not to exceed 3.00
Hoistman .....	50.00	Licenses	
Electrician		Motor Vehicle Manufacturer	
Underground .....	50.00	License .....	102.00
Surface .....	50.00	Motor Vehicle Remanufacturer	
Certification Retest		License .....	102.00
Per section .....	20.00	New Motor Vehicle Dealer .....	127.00
Maximum fee charge .....	50.00	Transporter .....	51.00
Hydrocarbon Mine Certifications		Body Shop .....	112.00
Hoistman .....	50.00	Used Motor Vehicle Dealer .....	127.00
Certification Retest		Dismantler .....	102.00
Per section .....	20.00	Salesperson .....	31.00
Maximum fee charge .....	50.00	Salesperson's License Transfer Fee ...	31.00
Gilsonite		Salesperson's License Reissue .....	5.00
Mine Examiner .....	50.00	Crusher .....	102.00
Shot Firer .....	50.00	Used Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer .....	51.00
Mine Foreman		New Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer ...	51.00
Certificate .....	50.00	Representative .....	26.00
Temporary .....	35.00	Distributor or Factory Branch and Distributor Branch's .....	61.00
Photocopies, Search, Printing		Additional place of business	
Black and White no special handling .....	0.25	Temporary .....	26.00
Research, redacting, unstapling, restapling (per hour) .....	15.00	Permanent .....	Variable
More than 1 hour (per hour) .....	20.00		

Variable rate - same rate as the original license fee (based on license type)	
License Plates	
Purchase	
Manufacturer .....	10.00
Dealer .....	12.00
Dismantler .....	10.00
Transporter .....	10.00
Renewal	
Manufacturer .....	8.50
Dealer .....	10.50
Dismantler .....	8.50
Transporter .....	8.50
In-transit Permit .....	2.50
Motor Vehicles	
Administration	
All Divisions	
Custom Programming (per hour) .....	85.00
Data Processing Set-Up .....	55.00
Sample License Plates .....	5.00
Parks and Recreation	
Parks & Recreation Decal Replacement ...	4.00
Motor Vehicle	
Motor Vehicle Information .....	3.00
Motor Vehicle Information Via Internet ...	1.00
Motor Vehicle Transaction	
(per standard unit) .....	1.60
Motor Carrier	
Cab Card .....	3.00
Duplicate Registration .....	3.00
Temporary Permit	
Individual permit .....	6.00
Electronic Payment	
Authorized Motor Vehicle	
Registrations .....	Not to exceed 4.00
License Plates	
Reflectorized Plate .....	Up to \$12
Special Group Plate Programs	
Inventory ordered before July 1, 2003	
Extra Plate Costs .....	5.50
Plus standard plate fee	
New Programs or inventory reorders after July 1, 2003	
Start-up or significant program changes (per program) .....	3,900.00
Extra Plate Costs (per decal set ordered) .....	3.50
Plus standard plate fee	
Extra Handling Cost (per decal set ordered) .....	2.40
Special Group Logo Decals .....	Variable
Special Group Slogan Decals .....	Variable
Tax Payer Services	
Administration	
Lien Subordination .....	Not to exceed 300.00
Tax Clearance .....	50.00
Motor and Special Fuel	
International Fuel Tax Administration	
Decal (per set) .....	4.00
Reinstatement .....	100.00
Tax Processing Division	
Administration	
All Divisions	
Convenience Fee .....	Not to exceed 3%
Convenience fee for tax payments and other authorized transactions	

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**CHILDREN'S HEALTH INSURANCE PROGRAM**

Quarterly Premium	
Plan B .....	30.00
138%-150% of Poverty Level	
Plan C .....	75.00
150%-200% of Poverty Level	
Late .....	15.00

**DISEASE CONTROL AND PREVENTION**

Clinical and Environmental Lab Certification Programs	
Organic Wet Chemistry .....	200.00
Parameter Category Fees charge for each sample tested	
Atomic Absorption/Atomic Emission ....	300.00
Radiological chemistry - Alpha spectrometry .....	300.00
Radiological chemistry - Beta .....	300.00
Calculation of Analytical Results .....	50.00
Organic Clean Up .....	200.00
Toxicity/Synthetic Extractions	
Characteristics Procedure .....	200.00
Radiological chemistry - Gamma .....	300.00
Gas Chromatography	
Simple .....	300.00
Complex .....	600.00
Semivolatile .....	500.00
Volatile .....	500.00
Radiological chemistry - Gas	
Proportional Counter .....	300.00
Gravimetric .....	100.00
High Pressure Liquid	
Chromatography .....	300.00
Inductively Coupled Plasma	
Metals Analysis .....	400.00
Inductively Coupled Plasma	
Mass Spectrometry .....	500.00
Ion Chromatography .....	200.00
Ion Selective Electrode base methods ...	100.00
Radiological chemistry - Liquid	
Scintillation .....	300.00
Metals Digestion .....	100.00
Simple Microbiological Testing .....	100.00
Complex Microbiological Testing .....	300.00
Organic Extraction .....	200.00
Physical Properties .....	100.00
Titrimetric .....	100.00
Spectrometry .....	200.00
While Effluent Toxicity .....	600.00
Environmental Laboratory Certification	
Certification Clarification	
Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.	
Annual certification fee (chemistry and/or microbiology)	
Utah laboratories .....	1,000.00
Out-of-state laboratories .....	3,000.00
Plus reimbursement of all travel expenses	

National Environmental Accreditation Program (NELAP) recognition .....	1,000.00	Environmental Protection Agency 200.8 Digestion .....	24.20
Certification change .....	250.00	Environmental Protection Agency 200.8 Tin .....	13.20
Performance Based Method Review (per method fee) .....	250.00	Environmental Protection Agency 200.8 Cobalt .....	13.20
Primary Method Addition for Recognition Laboratories .....	500.00	Environmental Protection Agency 200.8 Vanadium .....	13.20
Epidemiology		Environmental Protection Agency Method 200.8 Zirconium ...	13.20
Utah Statewide Immunization Information System Non-Financial Contributing Partners Match on Immunization Records in Database (per record) .....	12.00	Mercury 245.1 .....	27.50
File Format Conversion (per hour) .....	30.00	may include a digestion fee Selenium by Selenium Hydride - Atomic Absorption - Standard Method 3114C .....	35.20
General Administration		may include a digestion fee Environmental Protection Agency 200.8 Aluminum .....	13.20
These fees apply for the entire Division of Disease Control and Prevention		Environmental Protection Agency 200.8 Antimony .....	13.20
Laboratory General		Environmental Protection Agency 200.8 Arsenic .....	13.20
Emergency Waiver		Environmental Protection Agency 200.8 Barium .....	13.20
Under certain conditions of public health import (e.g., disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.		Environmental Protection Agency 200.8 Beryllium .....	13.20
Handling		Environmental Protection Agency 200.8 Cadmium .....	13.20
Total cost of shipping and testing of referral samples to be rebilled to customer (per Referral lab's invoice)		Environmental Protection Agency 200.8 Chromium .....	13.20
Repeat Testing - normal fee will be charged if repeat testing is required due to poor quality sample (per sample, each reanalysis)		Environmental Protection Agency 200.8 Copper .....	13.20
Utah Public Health Laboratory		Environmental Protection Agency 200.8 Lead .....	13.20
All		Environmental Protection Agency 200.8 Manganese .....	13.20
Laboratory Testing of Public Health Significance		Environmental Protection Agency 200.8 Molybdenum .....	13.20
Actual costs up to \$200		Environmental Protection Agency 200.8 Nickel .....	13.20
The emergence of diseases and subsequent testing methods are unpredictable. This fee allows Utah Public Health Laboratory to offer a test that is vital to protecting the public as the need arises to help diagnosis and prevent illness.		Environmental Protection Agency 200.8 Selenium .....	13.20
Newborn Screening		Environmental Protection Agency 200.8 Silver .....	13.20
Newborn Screening, Laboratory Testing and Follow-up Services .....	118.00	Environmental Protection Agency 200.8 Thallium .....	13.20
Out of State Newborn Screening .....	116.00	Environmental Protection Agency 200.8 Zinc .....	13.20
Chemistry		Environmental Protection Agency 200.8 Boron .....	13.20
Admin		Environmental Protection Agency 200.8 Calcium .....	13.20
Chain of Custody Request Fee .....	20.00	Environmental Protection Agency Sodium 200.8 .....	13.20
Rush Fee .....	50.00	Hardness (Requires Calcium & Magnesium tests) .....	6.05
Metals		Organic Contaminants	
Standard Metals		Environmental Protection Agency 524.2 Trihalomethanes ...	89.93
Environmental Protection Agency 200.8 Copper and Lead ....	26.40	Haloacetic Acids Method 6251B .....	179.30
Standard Method 2330B		Environmental Protection Agency 524.2 .....	228.80
Langelier Index .....	6.05	Trihalomethanes, Maximum Potential	
Environmental Protection Agency 353.2 Nitrite .....	17.60	Inorganics	
Environmental Protection Agency 353.2 Nitrate .....	17.60	Alkalinity (Total) Standard Method 2320B .....	8.80
Environmental Protection Agency 200.8 - Magnesium .....	13.20		
Environmental Protection Agency 200.8 - Iron .....	13.20		
Environmental Protection Agency 200.8 - Potassium .....	13.20		
Environmental Protection Agency 200.8 - Strontium .....	13.20		

Bromate Environmental Protection Agency 300.1	30.25	Water Microbiology (Drinking Water and Surface Water)	
Chlorate Environmental Protection Agency 300.1	30.25	Total Coliforms/ <i>Escherichia coli</i>	20.90
Chlorite Environmental Protection Agency 300.1	30.25	(Colilert/Colisure)	
Chloride Environmental Protection Agency 300.0	19.31	Heterotrophic Plate Count by	
Environmental Protection Agency 300.0 Fluoride	20.35	9215 B Pour Plate	14.30
Environmental Protection Agency 300.1 Sulfate	17.88	Inorganic Surface Water (Lakes, Rivers, Streams) Tests	
Chromium (Hexavalent) Environmental Protection Agency 218.7	60.50	Ammonia Environmental Protection Agency 350.1	19.25
Cyanide, Total 335.4	55.00	Biochemical Oxygen Demand 5 day test Standard Method 5210B	28.60
Environmental Protection Agency 353.2 Nitrate + Nitrite	11.28	Chlorophyll A Standard Method 10200H - Chlorophyll-A	18.70
Perchlorate 314.0	60.50	Phosphorus, Total 365.1	17.05
Environmental Protection Agency 537.1 - Per- and Polyfluoroalkyl Substances	290.00	Silica 370.1	17.33
pH (Test of acidity or alkalinity) 150.1	11.00	Solids, Total Volatile, Environmental Protection Agency 160.4	18.15
Environmental Protection Agency 375.2 Sulfate	13.75	Solids, Total Suspended Standard Method 2540D	14.03
Environmental Protection Agency 180.1 Turbidity	9.35	Specific Conductance 120.1	8.53
Odor, Environmental Protection Agency 140.1	30.25	Environmental Protection Agency 376.2 Sulfide	48.40
Organic Constituents, Ultra Violet-Absorbing Standard Method 5910B	36.30	Infectious Disease	
Carboxylic Acids (Oxalate, Formate, Acetate)	46.20	Arbovirus	
Nitrogen, Total Standard Method 4500-N (Lachat)	20.90	TrioPlex Polymerase Chain Reaction	65.00
Organic Carbon, Total Standard Method 5310B	18.70	Zika Immunoglobulin M	45.00
Environmental Protection Agency 300.1 Bromide	30.25	Next Generation Sequencing	
Organics		Bacterial Sequencing	107.00
Anatoxin by Enzyme-Linked Immunosorbent Assay	98.55	Bacterial Sequencing Analysis	40.00
Chlorophyll-A by High Performance Liquid Chromatography	110.61	Bacterial Sequencing and Identification	108.00
Cyanotoxin Quantitative Polymerase Chain Reaction Method	33.00	Bacterial Sequencing, Identification, Analysis	122.00
Cylindrospermopsin by Enzyme-Linked Immunosorbent Assay	98.55	Microbial Source Tracking (via shotgun metagenomics sequencing)	194.00
Periphyton	26.40	Microbial Source Tracking (via culture based)	150.00
Water Bacteriology		Immunology	
Legionella Standard Methods 9260J	68.20	Hepatitis	
Liter of water		Anti-Hepatitis B Antibody	19.50
Solids, Total Dissolved Standard Method 2540C	14.03	Anti-Hepatitis B Antigen	19.50
Environmental Protection Agency 325.2 Chloride	7.70	C (Anti-Hepatitis C Virus) Antibody	23.00
Standard Method 5210B Carbonaceous Biochemical/Soluble Oxygen Demand	36.30	HIV (Human Immunodeficiency Virus) 1/2 and O, Antigen/Antibody Combo	27.00
Standard Method 2120B Color	13.20	Supplemental Testing (HIV-1/HIV-2 differentiation)	42.00
Total Microcystins & Nodularins by Enzyme-Linked Immunosorbent Assay	98.55	Hantavirus	40.00
Legiolert	37.22	Syphilis	
		Immunoglobulin G (IgG) Antibody (including reflex Rapid Plasma Reagin titer)	10.00
		TP-PA ( <i>Treponema Pallidum</i> - Particle Agglutination) Confirmation	22.00
		QuantIFERON	
		QuantIFERON Gold	65.00
		Virology	
		BioFire FilmArray Respiratory Panel	160.00
		Hepatitis C Virus (HCV) detection by quantitative Nucleic Acid Amplification Test	75.00

Herpesvirus (Herpes Simplex Virus-1, Herpes Simplex Virus-2, Varicella Zoster Virus) Detection and Differentiation by Polymerase Chain Reaction .....	51.00
Rabies - Not epidemiological indicated or pre-authorized .....	180.00
Influenza PCR (Polymerase Chain Reaction) .....	150.00
Chlamydia trachomatis and Neisseria gonorrhoeae detection by nucleic acid testing .....	23.00
<b>Bacteriology</b>	
BioFire FilmArray Gastrointestinal Panel .....	185.00
<b>Mycobacteriology</b>	
Culture .....	81.00
Mycobacterium tuberculosis susceptibilities (send out) .....	175.00
Identification and Susceptibility by GeneXpert .....	126.00
<b>Office of the Medical Examiner</b>	
<b>Examinations of Non-jurisdictional Cases</b>	
Autopsy, full or partial .....	2,500.00
plus cost of body transportation	
External Examination .....	500.00
plus cost of body transportation	
<b>Facilities</b>	
Use of Office of the Medical Examiner facilities by Non-Office of the Medical Examiner Pathologists	
Use of facilities and staff for autopsy .....	500.00
Use of facilities only for autopsy or examination .....	400.00
Use of facilities and staff for external examinations .....	300.00
<b>Use of Tissue Harvest Room for Acquisition</b>	
Skin Graft .....	133.00
Bone .....	266.00
Heart Valve .....	70.00
Saphenous vein .....	70.00
Eye .....	35.00
<b>Reports</b>	
Copy of Autopsy and Toxicology Report	
Copies for law enforcement, physicians and attorneys as outlined in UCA 26-4-17(2)(c)-(d) .....	No charge
Copies to immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)-(b) .....	10.00
All other requestors and additional copies .....	35.00
Copy of Miscellaneous Office of the Medical Examiner Case File Papers	
Copies for law enforcement, physicians and attorneys as outlined in UCA 26-4-17(2)(c)-(d) .....	No Charge
Copies to immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)-(b) .....	35.00
All other requestors and additional copies .....	35.00
<b>Cremation Authorization</b>	
Review and authorize .....	150.00
\$10.00 per permit payable to Vital Records for processing.	

<b>Expert Services - Forensic Pathologist Case Review, Consultation, and Testimony, Portal to Portal, up to 8 Hours/day</b>	
Criminal cases, out of state (per hour) ..	500.00
(\$4,000.00 max/day)	
Non-jurisdictional criminal and all civil cases (per hour) .....	500.00
(\$4,000.00 max/day)	
<b>Consultation on non-Medical Examiner cases (per hour) .....</b>	<b>500.00</b>
(\$4,000.00 max/day)	
<b>Photographic, Slide, and Digital Services</b>	
<b>Digital Photographic Images</b>	
Copies for law enforcement, physicians and attorneys as outlined in UCA 26-4-17(2)(c)-(d) .....	No Charge
Copies to immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)-(b) (per image) ...	10.00
All other requestors and additional copies (per image) .....	35.00
<b>Digital X-ray images from Digital Source (DICOM). .....</b>	<b>10.00</b>
DICOM (radiographic) images. Copied from color slide negatives. (per image) .....	5.00
Digital photographic images.	
<b>Body Storage</b>	
Daily charge for use of Medical Examiner Storage Facilities .....	30.00
Beginning 24 hours after notification that body is ready for release.	
<b>Biologic samples requests</b>	
Handling of requested samples for shipping to outside lab. ....	25.00
Processing of Office of the Medical Examiner samples for Non-Office of the Medical Examiner testing.	
Handling and storage of requested samples by outside sources. Annual Fee .....	25.00
Storage fee (outside normal Office of the Medical Examiner retention schedule).	
Return request by immediate relative as defined in code UCA 26-4-2(3) .....	55.00
Sample return fee.	
<b>Histology</b>	
Glass Slides (re-cuts, routine stains) ...	20.00
Immunohistochemical stains .....	50.00
Glass slides - Immunohistochemical stains.	
Histochemical stains .....	30.00

### EXECUTIVE DIRECTOR'S OPERATIONS

<b>Adoption Records Access</b>	
<b>Specialized Services</b>	
Birth Parent Information Registration ...	25.00
Adoption Records Access Fee .....	25.00
Adoption Records Amendment Fee .....	10.00
<b>Center for Health Data and Informatics</b>	
<b>Data Access Base Fees</b>	
<b>Behavioral Risk Factor Surveillance System</b>	
Standard Annual Limited Data Set ...	300.00
This fee is to compensate for staff costs associated with preparation of research data sets and data dictionaries for Behavioral Risk Factor Surveillance System data. Note: The	



following discounts apply: Local Health Department (100% for any standard annual data set); State Agency, Student or Not for Profit Entity (75% for any standard annual data set); Researcher (50% for any standard annual data set); For Profit Entities pay full amount. Note that entities that have paid to have questions included on the Behavioral Risk Factor Surveillance System are excluded from this fee as their payment includes receipt of data. Fee will be \$300.00 for initial data set. Each additional year data set will be an additional \$150.00 (50% discount).

Healthcare Facilities Data Series

Fee Discounts - Healthcare Facilities

Data Series ..... Note

(1) The Following Discounts Apply: Local Health Departments (100% for Standard Limited Use or Research Data Sets); Healthcare Facility with <5,000 discharges (80% for Standard Limited Use Data Set); Healthcare Facility with 5,000-35,000 discharges (50% for Standard Limited Use Data Set); Prior Years (50% for any data set); Student (75% for any standard data set); Public University or Not for Profit Entity (50% for any standard data series); Geographic Subset (discount proportional to percent of records required from limited use data set); On-time Renewal (15% for any data series. (2) Pricing for client-based partnership. The per-client fee is to be negotiated with the partner based on volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used. (3) Pricing for redistribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement.

Standard Annual Limited Use

Data Set ..... 3,600.00

Standard Annual Research

Data set ..... 6,000.00

Quarterly Preliminary Feeds ..... 4,500.00

Federal Annual Database ..... 4,500.00

Enhanced Annual Summary Report ... 500.00

All Payer Claims Data Standard Limited Use Data Series

Fee Discounts - All Payer Claims Data

Standard Limited Use Data Series ... Note

(1) The following discounts apply: Local Health Departments (100% for Standard Limited Use Data Sets); Contributing Carrier (50% for standard limited use data sets); Student (75% for any standard data set); Single Use and Single User License (50% for any standard limited use data set); Geographic Subset (discount proportional to percent of records required from limited use data set); On-time Renewal (15% for any data series). (2) Pricing for client-based partnership: The per-client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used. (3) Pricing for

redistribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement.

Single Year ..... 8,000.00

Two Years ..... 12,000.00

Three Years ..... 16,000.00

Additional Years ..... 4,000.00

Sample File ..... 2,000.00

Two-Year Public Use File ..... 4,000.00

All Payer Claims Data Standard Research Data Series

Fee Discounts - All Payer Claims Data Standard Research Data Series ..... Note

(1) The following discounts apply: Local Health Departments (100% for any standard Research Data Set); Student (50% for any standard research data set); Single Use and Single User License (50% for any standard research data set); On-time Renewal (15% for any data series); (2) Pricing for redistribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement.

Single Year ..... 20,000.00

Two Years ..... 30,000.00

Three Years ..... 40,000.00

Additional Years ..... 10,000.00

Special Purpose Series ..... 4,000.00

Other Data Series and Licenses

Fee Discounts - Other Data Series

and Licenses ..... Note

The following discounts apply:

Non-Contributing Carrier (50% for CAHPS (Consumer Assessment of Healthcare Providers and Systems) Data Set); Contributing Carrier (75% for CAHPS Data Set); Prior Year (20% for HEDIS (Healthcare Effectiveness Data and Information Set) & CAHPS Data Set); Years before Current and Prior Year (35% for HEDIS & CAHPS Data Set); Student (75% for HEDIS & CAHPS Data Set or Survey Responses); Public University or Not for Profit Entity (35% for HEDIS & CAHPS Data Set or Survey Responses); On-time Renewal (15% for any data series). Institutional License ..... 150,000.00

HEDIS (Healthcare Effectiveness Data

and Information Set) Data Set ... 1,575.00

CAHPS (Consumer Assessment

of Healthcare Providers and

Systems) Data Set ..... 1,575.00

CAHPS (Consumer Assessment of

Healthcare Providers and Systems)

Survey Responses ..... 2,000.00

Other Fees and Services

Custom data services (per hour) ..... 95.28

This hourly fee applies to all custom work, including data extraction analytics; aggregate patient-risk profiles for clinics, payers or systems; data management preprocessing; data matching; and creation of samples or subsets.

Additional Fields to create a custom

data set (per field added) ..... 225.00

Individual Information Extract

(per person) ..... 100.00

Application Fee (non-refundable) ..... 50.00

Application fees are non-refundable but may be credited towards a data fee if the application is approved.

Convenience Fee (for Credit or Debit Card payment) ..... 3%

Birth Certificate

Initial Copy ..... 22.00

Stillbirth ..... 18.00

Affidavit ..... 25.00

Book Copy of Birth Certificate ..... 25.00

Adoption ..... 60.00

Death Certificate

Initial Copy ..... 30.00

The Legislature intends that for every initial copy of a Utah Death Certificate sold, \$12 shall be remitted to the Office of the Medical Examiner.

Burial Transit Permit ..... 7.00

Disinterment Permit ..... 25.00

Death Certificate Reprint Fee ..... 3.00

Specialized Services

Additional Copies ..... 10.00

Paternity Search (one hour minimum) (per hour) ..... 18.00

Delayed Registration ..... 60.00

Marriage and Divorce Abstracts ..... 18.00

Legitimation ..... 60.00

Adoption Registry ..... 25.00

Adoption Expedite Fee ..... 25.00

Death Research (one hour minimum) (per hour) ..... 20.00

Death Notification Subscription Fee (organization less than or equal to 100,000 lives) ..... 500.00

Death Notification Subscription Fee (organizations greater than 100,000 lives) ..... 1,000.00

Death Notification Fee (per matched death) ..... 1.00

Court Order Name Changes ..... 25.00

Court Order Paternity ..... 60.00

Online Access to Computerized Vital Records (per month) ..... 12.00

Ad-hoc Statistical Requests (per hour) ... 45.00

Online Convenience Fee ..... 4.00

Online Identity Verification ..... 1.39

Expedite Fee ..... 15.00

Delay of File Fee (charged for every birth/death certificate registered 30 days or more after the event) ..... 50.00

Executive Director

All the fees in this section apply for the entire Department of Health

Clinic Fees Tied to Medicaid

Reimbursement Levels ..... variable

The Department of Health benchmarks many of its charges in its medical and dental clinics to Medicaid reimbursement rates. If the Legislature authorizes reimbursement increases during the General Session, then the Legislature authorizes a proportional increase in effected clinic fees.

Conference Registrations ..... 100.00

Non-sufficient Check Collection Fee ..... 20.00

Non-sufficient Check Service Charge .... 20.00

Specialized Services

Expedited Shipping Fee ..... 15.00

Testimony

Expert Testimony Fee for those without a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour) ..... 78.75

Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Plus travel costs.

Expert Testimony Fee for those with a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour) ..... 250.00

Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Plus travel costs.

Government Records Access and Management Act (GRAMA)

Mailing or shipping cost ..... Actual cost up to a \$100.00

Staff time for file search and/or information compilation

Department of Technology Services (per hour) ..... 70.00

For Department of Technology Services or programmer/analyst staff time.

Department of Health (per hour) ..... 35.00

For Department of Health staff time; first 15 minutes free, additional time.

Copy

11 x 8.5 Black and White (per page) ... 0.15

11x17 or color (per page) ..... 0.40

Information on disk (per kilobyte) .... 0.02

Administrative Fee, 1-15 copies ..... 25.00

Administrative Fee, each additional copy ..... 1.00

Fax (per page) ..... 0.50

**FAMILY HEALTH AND PREPAREDNESS**

Children with Special Health Care Needs

Children with Special Health Care Needs Service Balance Charge after Insurance Payment

Household income less than or equal to 133% of Federal Poverty Level ..... 1.00

Household income 134% to 150% of Federal Poverty Level ..... 20%

Household income 151% to 185% of Federal Poverty Level ..... 40%

Household income greater than 225% of Federal Poverty Level ..... 100%

Evaluation of Speech

92521 Fluency ..... 150.00

92522 Sound Production ..... 121.00

92523 Sound Production w/ Evaluation of Language Comprehension ..... 260.00

Special Otorhinolaryngologic Services

92524 Behavioral and Qualitative Analysis of Voice and Resonance ..... 116.00

Physical Medicine and Rehabilitation

Therapeutic Procedures

97116 Gait training ..... 33.00

97112 Neuromuscular reeducation ..... 38.00

97542 Wheelchair Assessment fitting/training ..... 25.00

97755 Assistive Technology Assessment ..... 43.00

Office Visit, New Patient

99201 Problem focused, straightforward ..... 65.00

99202 Expanded problem, straightforward ..... 110.00

99203 Detailed, Low Complexity ..... 160.00

99204 Comprehensive, Moderate Complexity ..... 245.00

99205 Comprehensive, High Complexity ..... 315.00

Office Visit, Established Patient

99211 Minimal Service or non-Medical Doctor ..... 30.00

99212 Problem focused, straightforward ..... 65.00

99213 Expanded Problem, Low Complexity ..... 108.00

99214 Detailed, Moderate Complexity .. 160.00

99215 Comprehensive, High Complexity ..... 220.00

Office Consultation, New or Established Patient

99241 Problem focused, straightforward ..... 50.00

99242 Expanded problem focused, straightforward ..... 80.00

99243 Detailed Exam, Low Complexity ..... 100.00

99244 Comprehensive, Moderate Complexity ..... 140.00

99245 Comprehensive, High Complexity ..... 426.00

95974 Cranial Neurostimulation evaluation ..... 160.00

99354 Prolonged, face to face ..... 73.00

    First hour

99355 Prolonged, face to face ..... 112.00

    Additional 30 minutes

99358 Prolonged, non face to face ..... 93.00

    First hour

99359 Prolonged, non face to face ..... 51.00

    Additional 30 minutes

T1013 Sign Language oral interview ..... 13.00

Nutrition

97802 Medical Assessment ..... 22.00

97803 Reassessment ..... 22.00

Psychology

96113 Developmental Testing: Each additional 30 minutes ..... 80.00

    For each additional 30 minutes of developmental testing.

96130 Psychological Testing ..... 136.00

96103 Testing with computer ..... 30.00

96110 Developmental Testing ..... 136.00

96112 Extended Developmental Testing ..... 136.00

90791 Psychiatric Diagnostic Evaluation ..... 140.00

90792 Psychiatric Diagnostic Evaluation With Medical Services .... 157.00

90804 Psychotherapy, face to face, 20-30 minutes ..... 90.00

90806 Psychotherapy, face to face, 50 minutes ..... 130.00

90846 Family Medical Psychotherapy, 30 minutes ..... 112.00

90847 Family Medical Psychotherapy, conjoint 30 minutes ..... 116.00

90885 Evaluation of hospital records ..... 55.00

90889 Preparation of reports ..... 74.00

Physical and Occupational Therapy

97161 Physical Therapy Evaluation ..... 90.00

97162 Physical Therapy Evaluation-Moderate Complexity ..... 90.00

97163 Physical Therapy Evaluation-High Complexity ..... 90.00

97164 Physical Therapy Re-evaluation ..... 52.00

97165 Occupational Therapy Evaluation ..... 90.00

97166 Occupational Therapy Evaluation-Moderate Complexity ..... 90.00

97167 Occupational Therapy Evaluation-High Complexity ..... 90.00

97168 Occupational Therapy Re-evaluation ..... 52.00

97110 Therapeutic Physical Therapy .... 33.00

97530 Therapeutic Activity ..... 44.00

97535 Self Care Management ..... 37.00

97760 Orthotic Management ..... 38.00

97762 Orthotic/prosthetic Use Management ..... 38.00

G9012 Wheelchair Measurement/Fitting ..... 312.00

Audiology

92550 Tympanometry and Acoustic Reflex Threshold Testing ..... 24.00

92551 Audiometry, Pure Tone Screen .... 13.00

92552 Audiometry, Pure Tone Threshold ..... 20.00

92553 Audiometry, Air and Bone ..... 40.00

92555 Speech Audiometry threshold testing ..... 25.00

92556 Speech Audiometry threshold/speech recognition testing ... 40.00

92557 Basic Comprehension, Audiometry ..... 36.00

92567 Tympanometry ..... 12.00

92568 Acoustic reflex testing, threshold ..... 17.00

92570 Tympanometry and Acoustic Reflex Threshold ..... 33.00

    Acoustic Reflex Decay Testing

92579 Visual reinforcement audiometry ..... 42.00

92579-52 Visual reinforcement audiometry, limited ..... 21.00

92582 Conditioning Play Audiometry .... 72.00

92585 Auditory Evoked Potentials testing ..... 144.00

92587 Evoked Otoacoustic emissions testing ..... 24.00

92590 Hearing Aid Exam ..... 60.00

92591 Hearing Aid Exam, Binaural ..... 75.00

92592-52 Hearing aid check, monaural ..... 31.00

92593-52 Hearing aid check, binaural ... 44.00

92620 Evaluation of Central Auditory Function ..... 90.00

92621 Evaluation of Central Auditory Function ..... 22.00

    Each additional 15 minutes

V5008 Hearing Check, Patient Under 3 Years Old ..... 38.00

V5257 Hearing Aid, Digital Monaural .....	2,000.00
V5261 Hearing Aid, Digital Binaural .....	1,100.00
V5264 Ear Mold Insert .....	75.00
V5266 Hearing Aid battery .....	1.00
Baby Watch Early Intervention Monthly Participation Fee	
Household income less than or equal to 100% of Federal Poverty Level	
Household income 101% to 186% of Federal Poverty Level .....	10.00
Household income 187% to 200% of Federal Poverty Level .....	20.00
Household income 201% to 250% of Federal Poverty Level .....	30.00
Household income 251% to 300% of Federal Poverty Level .....	40.00
Household income 301% to 400% of Federal Poverty Level .....	50.00
Household income 401% to 500% of Federal Poverty Level .....	60.00
Household income 501% to 600% of Federal Poverty Level .....	80.00
Household income 601% to 700% of Federal Poverty Level .....	100.00
Household income 701% to 800% of Federal Poverty Level .....	120.00
Household income 801% to 900% of Federal Poverty Level .....	140.00
Household income 901% to 1000% of Federal Poverty Level .....	160.00
Household income 1001% to 1100% of Federal Poverty Level .....	180.00
Household income above 1100% of Federal Poverty Level .....	200.00
Director's Office	
These fees apply for the entire Division of Family Health and Preparedness	
Credit Card Fee (per transaction) .....	Not to exceed 3%
To determine the amount charged, a percentage will be calculated using the total of credit card fees incurred by the Division, divided by the total credit card revenues.	
Online Processing Fee (per transaction) ...	0.75
Convenience fee to cover cost of Utah Interactive processing fee.	
Background Screening Fee - Public Safety .....	33.25
This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by Family Health and Preparedness are passed through to Public Safety.	
Fingerprints .....	12.00
Direct Access Clearance System Facility Initial or Change of Ownership (per 100) .....	100.00
Initial Clearance .....	18.00
Facility Renewal .....	200.00
Background checks initial or annual renewal (not in Direct Access Clearance System) ....	18.00
This fee will be assessed at the Division level for background checks not completed	

through the Direct Access Clearance System. This fee will be assessed for initial or annual renewal.	
Emergency Medical Services and Preparedness Registration and Licensure License/License Renewal Fee	
License Verification .....	10.00
Behavior Health Unit Permit	
Behavior Health Unit (per Vehicle) ...	100.00
Registration and Licensure License/License Renewal Fee	
Course Coordinator Extension Fee .....	40.00
Dispatch Inspection	
Dispatch .....	100.00
Quality Assurance and Designation Review Stroke Center Designation/Redesignation	150.00
Registration and Licensure License/License Renewal Fee	
Quality Assurance Review Fee All Levels .....	30.00
Training Officer Extension Fee .....	40.00
Quality Assurance Designation Review Air Ambulance Quality Assurance Review .....	5,000.00
Registration and Licensure License Fee	
Blood Draw Permit .....	35.00
Quality Assurance Review Fee for All Levels Late Fee .....	75.00
License/License Renewal Fee Initial and Reciprocity Quality Assurance for All Levels .....	45.00
Decal for purchase for All Levels .....	2.00
Patches for purchase for All Levels .....	5.00
Course Audit Fee .....	40.00
Course Request Fee Course for All Levels .....	300.00
Late (per day) .....	10.00
Ground Ambulance - Emergency Medical Technician Permit	
Quality Assurance Review (per vehicle) .....	100.00
Advanced (per vehicle) .....	130.00
Interfacility Transfer Ambulance Permit	
Emergency Medical Technician Quality Assurance Review (per vehicle) .....	100.00
Advanced (per vehicle) .....	130.00
Fleet Vehicles Permit	
Fleet fee (per fleet) .....	3,200.00
Agency with 20 or more vehicles	
Paramedic Permit	
Rescue (per vehicle) .....	165.00
Tactical Response (per vehicle) .....	165.00
Ambulance (per vehicle) .....	170.00
Interfacility Transfer Service (per vehicle) .....	170.00
Quick Response Unit Permit	
Emergency Medical Technician Quality Assurance Review (per vehicle) .....	100.00

Advanced (per vehicle) . . . . .	100.00
Air Ambulance Permit	
Advanced Air Ambulance (per vehicle) . . . . .	130.00
Specialized (per vehicle) . . . . .	165.00
Out of State (per vehicle) . . . . .	200.00
Quality Assurance Designation Review	
Resource Hospital (per hospital) . . . . .	150.00
Trauma Center Verification/Quality Assurance Review . . . . .	5,000.00
Trauma Designation Consultation	
Quality Assurance Review . . . . .	750.00
Focused Quality Assurance Review . . . . .	3,000.00
Emergency Patient Receiving Facility Re-designation . . . . .	150.00
Emergency Patient Receiving Facility Initial Designation . . . . .	500.00
Quality Assurance Application Reviews	
Newspaper Publications	
Original Air Ambulance License . . . . .	850.00
Original Ground Ambulance/Paramedic License Non Contested . . . . .	850.00
Original Ambulance/Paramedic License Contested . . . . .	Variable up to actual cost
Original Designation . . . . .	135.00
Renewal Ambulance/Paramedic/Air License . . . . .	135.00
Renewal Designation . . . . .	135.00
Upgrade in Ambulance Service Level . . . . .	125.00
Change in ownership/operator	
Non-contested . . . . .	850.00
Contested . . . . .	Up to actual cost
Change in geographic service area	
Non-contested . . . . .	850.00
Contested . . . . .	Up to actual cost
Quality Assurance Course Review	
Critical Care Endorsement . . . . .	20.00
Requesting a change to the name. Remove Certification and replace with Endorsement.	
Course Coordinator	
Seminar Registration . . . . .	50.00
Seminar Registration Late . . . . .	25.00
Emergency Medical Training and Testing Program Designation . . . . .	135.00
Instructor Seminar	
Registration . . . . .	150.00
Registration Late . . . . .	25.00
None	
Conference Sponsor/Vendor . . . . .	500.00
New Course Coordinator	
Course Coordination Endorsement . . . . .	75.00
Course Coordination Registration Late . . . . .	25.00
New Instructor	
New Instructor Endorsement . . . . .	150.00
Requesting a change to the name. Remove Course Certification and replace with New Instructor Endorsement.	
Course Registration Late . . . . .	25.00
New Training Officer	
New Training Officer Endorsement . . . . .	75.00
Requesting a change to the name. Remove Initial Certification and replace with New Training Officer Endorsement.	

Course Registration Late . . . . .	25.00
Pediatric	
Advanced Life Support Course . . . . .	170.00
Education for Prehospital Professionals Course . . . . .	170.00
Training Officer	
Seminar Registration . . . . .	50.00
Seminar Registration Late . . . . .	25.00
Training and Seminars	
Additional Lunch . . . . .	15.00
Trainings and Seminars	
Course Quality Assurance Review	
Late . . . . .	25.00
Less than 30 days	
Emergency Vehicle Operations	
Instructor Course . . . . .	40.00
Medical Director's Course . . . . .	50.00
Management/Leadership Seminar . . . . .	150.00
Prehospital Trauma Life Support Course . . . . .	175.00
Pediatric Advanced Life Support Course Renewal . . . . .	85.00
Equipment Delivery	
Strike Team BLU-MED Mobile Field Response Tent Support . . . . .	6,000.00
Pediatric	
Rental of pediatric course equipment to for-profit agency . . . . .	150.00
Quality Assurance Course Review	
Pediatric	
Pediatric Education for Prehospital Professionals Course Renewal . . . . .	85.00
Data	
Pre-hospital	
Non-profits Users . . . . .	800.00
Academic, non-profit, and other government users	
For-profit Users . . . . .	1,600.00
Trauma Registry	
Non-profits Users . . . . .	800.00
Academic, non-profit, and other government users	
For-profit Users . . . . .	1,600.00
Health Facility Licensing and Certification	
Annual License	
Abortion Clinics . . . . .	1,800.00
Health Facilities base . . . . .	260.00
A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.	
Direct Access Clearance System	
Contractor Access . . . . .	100.00
Two Year Licensing Base	
Plus the appropriate fee as listed below to any new or renewal license	
Health Care Facility . . . . .	520.00
Every other year	
Health Care Providers	
Change Fee . . . . .	130.00
Charged for making changes to existing licenses.	
Hospitals	
Hospital Licensed Bed . . . . .	39.00
Nursing Care Facilities, and Small Health Care Facilities Licensed Bed . . . . .	31.20

End Stage Renal Disease Centers	
Licensed Station	182.00
Freestanding Ambulatory Surgery Centers (per facility)	2,990.00
Birthing Centers (per licensed unit)	520.00
Hospice Agencies	1,495.00
Home Health Agencies	1,495.00
Personal Care Agencies	1,000.00
Mammography Screening Facilities	520.00
Assisted Living Facilities	
Type I (per licensed bed)	26.00
Type II (per licensed bed)	26.00
The fee for each satellite and branch office of current licensed facility	260.00
Late Fee	
Within 1 to 14 days after expiration of license	50 % of scheduled fee
Within 15 to 30 days after expiration of license	7 % of scheduled fee
New Provider/Change in Ownership	
Applications for health care facilities	747.50
Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.	
Assisted Living and Small Health Care Type-N (nursing focus)	
Limited Capacity Applications:	325.00
Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.	
Application Termination or Delay	
If a health care facility application is terminated or delayed during the application process, a fee based on services rendered will be retained as follows:	
On-site inspections	90% of total fee
Plan Review and Inspection	
Hospitals	
Number of Beds	
Up to 16	3,445.00
17 to 50	6,890.00
51 to 100	10,335.00
101 to 200	12,870.00
201 to 300	15,470.00
301 to 400	17,192.50
Over 400, base	17,192.50
Over 400, each additional bed	37.50
In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.	
Nursing Care Facilities and Small Health Care Facilities	
Number of Beds	
Up to 5	1,118.00
6 to 16	1,716.00
17 to 50	3,900.00
51 to 100	6,890.00
101 to 200	8,580.00
Freestanding Ambulatory Surgical Facilities (per operating room)	1,722.50

Other Freestanding Ambulatory Facilities (per service unit)	442.00
Includes Birthing Centers, Abortion Clinics, and similar facilities.	
End Stage Renal Disease Facilities (per service unit)	175.50
Assisted Living Type I and Type II	
Number of Beds	
Up to 5	598.00
6 to 16	1,196.00
17 to 50	2,762.50
51 to 100	5,167.50
101 to 200	7,247.50
Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost \$559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.	
Remodels of Licensed Facilities	
Hospitals, Freestanding Surgery Facilities (per square foot)	0.29
All others excluding Home Health Agencies (per square foot)	0.25
Each additional required on-site inspection	559.00
Health Care Facility Licensing	
Rules	Actual cost
Plus mailing	
Other Plan Review Fee Policies	
Plan Review Onsite Inspection	559.00
If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, the Department may conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be \$559.00 per inspection, plus mileage reimbursement at the approved state rate.	
Previously Reviewed or Approved Plan	60% of scheduled fee
A facility that uses plans and specifications previously reviewed and approved by the Department. Cost: 60% of the scheduled plan review fee.	
Special Equipment Facility Addition or Remodel (per square foot)	0.52
A facility making additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator. Cost: Fifty-two cents per square foot.	
Terminated or Delayed Plan Review	
Preliminary Drawing	
Review	25% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 25% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.	

Working Drawings and Specifications  
 Review ..... 80% of scheduled fee

If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Certificate of Authority

Health Maintenance Organization  
 Review of Application ..... 650.00

Conditional Monitoring Inspections  
 Center-based providers (per visit) ..... 253.00  
 Charge per extra visit begins with the second additional visit required due to non-compliance.

Home-based providers (per visit) ..... 245.00  
 Charge per extra visit begins with the second additional visit required due to non-compliance.

Annual License

Annual Licensed Child Care  
 Facility Base ..... 62.00  
 Plus the appropriate fee as listed below to any new or renewal license

Change in license or certificate during the license period more than twice a year ..... 31.00

Child Care Center Facilities (per child) ... 1.75  
 Late Fee ..... Variable

Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee. For centers, \$15.50 plus \$0.75 per child in the requested capacity. For homes, \$15.50.

New Provider/Change in Ownership

New Provider/Change in Ownership  
 Applications for Child Care center facilities ..... 200.00  
 A fee will be assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.

Other

Inspection fee for non-compliant facility follow-up inspection ..... 25.00

**MEDICAID AND HEALTH FINANCING**

Contracts

Provider Enrollment

Medicaid application fee for prospective or re-enrolling . rate set by federal government

This fee is set by the federal government (Centers for Medicare and Medicaid Services) and is effective on January 1 of each year.

**MEDICAID SERVICES**

Other Services

Health Clinics

Repair

58300 Insertion of Intrauterine Device ..... 160.00

58301 Removal of Intrauterine Device ..... 163.00

87082 Presumptive, Pathogenic Organism Screen ..... 16.00

87102 Fungal ..... 16.00

87106 Yeast ..... 8.00

87110 Chlamydia ..... 16.00

87220 Potassium Hydroxide for Wet Prep ..... 10.00

60001 Aspiration/Injection  
 Thyroid Gland ..... 81.00

80048 Basic Metabolic Profile ..... 3.00

80053 Metabolic Panel Labs ..... 4.00  
 Comprehensive

80061 Lipid Panel Labs ..... 6.00

80061 Quick Lipid Panel ..... 29.00

80076 Hepatic Function Panel ..... 4.00

80100 Drug Screen for Multiple Drug Classes ..... 26.00

80101 Drug Screen for Single Drug Class ..... 26.00

80176 Xylocaine 0-55 cc ..... 29.00

99408 Alcohol, substance screening; 15-30 minute intervention ..... 34.00

Removal Foreign Body, External  
 57415 Removal of impacted vaginal foreign body ..... 180.00

65025 Eye, Superficial ..... 173.00

65220 Eye, Corneal ..... 215.00

69200 Auditory Canal without General Anesthesia ..... 150.00

69209 Cerumen Removal/One or Both Ears ..... 78.00

Simple  
 12001 Superficial Wound 2.5 cm or Less ..... 192.00

12002 Wound 2.6-7.5 cm ..... 203.00

12004 Wound 7.6-12.5 cm ..... 133.00

12005 Wound 12.6-20.0 cm ..... 166.00

12011 Face/Ear/Nose/Lip 2.5 cm or Less ..... 234.00

12032 Layer Closure Scalp/Extremities/Trunk 2.6-7.5 cm ... 151.00

12035 Layer Closure Scalp/Extremities/Trunk 12.6-20 cm ... 227.00

13120 Complex Scalp/Arms/Legs ... 146.00

16020 Burn Dress without Anesthesia Office/Hospital Small .. 65.00

16025 Burn Dress without Anesthesia Medical Face/Extremities ..... 120.00

87804 Influenza A ..... 23.00  
 Quick Test

Urine Analysis

81000 with Microscope ..... 10.00

81002 Urinalysis, dipstick/reagent; non-auto w/o microscope ..... 10.00

81003 Automated and without Microscope ..... 10.00

81025 Human Chorionic Gonadotropin ..... 22.00

Urine  
 82043 Microalbumin ..... 16.00

82055 Alcohol Screen ..... 21.00

82270 Hemocult .....	7.00	90715 Adacel - Tetanus Diphtheria Vaccine .....	75.00
Feces Screening		90716 Varicella .....	166.00
82570 Creatinine .....	12.00	90732 Pneumovax Shot .....	129.00
82728 Ferritin .....	19.00	90734 Meningitis .....	136.00
82948 Glucose for Blood, Regent Strip .....	5.00	90744 Hepatitis B/ Newborn-18 Years .....	73.00
82962 Glucose for Monitoring Device .....	6.00	90746 Hepatitis B 19+ Years Adult .....	88.00
83036 Hemoglobin A1C (long-term blood sugar test) .....	23.00	Malignant	
83540 Iron .....	31.00	17260 Trunk/Arm/Leg 0.5 or Less ....	58.00
84443 Thyroid Stimulating Hormone Labs .....	10.00	17280 Lesion Face 0.5 cm Less .....	76.00
84460 Alanine Amino Test .....	15.00	17281 Lesion Face 0.6-1 .....	109.00
85013 Hematocrit .....	5.00	Arthrocentesis	
85025 Complete Blood Count Labs ....	4.00	20520 Foreign Body Removal .....	120.00
85610 Prothrombin Time .....	10.00	Simple	
86580 Purified Protein Derivative/Tuberculosis Test .....	13.00	20550 Injection for Trigger Point Tendon/Ligament/ Ganglion .....	90.00
85652 Sedimentation Rate .....	11.00	20552 Trigger Point Injection (TPI) .....	95.00
85651 Erythrocyte Sedimentation Test .....	11.00	20600 Small Joint/Ganglion Fingers/Toes .....	50.00
86308 Mononucleosis test .....	15.00	20610 Major Joint/Bursa Shoulder/Knee .....	104.00
86318 Helicobacter Pylori test .....	23.00	20605 Intermediate Joint/ Bursa Ankle/Elbow .....	90.00
86318 Quick Helicobacter Pylori test .....	23.00	211 Community Service .....	52.00
86403 Monospot .....	18.00	28190 Foreign Body Removal for Foot Subcutaneous .....	125.00
88164 Cytopathology, Slides, Cervical or Vagina .....	26.00	30901 Cauterize (Limited) for Control Nasal Hemorrhage/ Anterior/Simple .....	60.00
87880 Strep .....	26.00	36415 Venipuncture .....	8.00
Quick Test		44641 Excision for Malignant Lesion .....	131.00
87880 Quick Strep for Test for Medicaid/Medicare .....	26.00	46083 Incision for Thrombosed Hemorrhoid, External .....	104.00
Destruction		46600 Anoscope .....	23.00
17000 Any Method Benign First Lesion .....	100.00	52000 Cystoscopy .....	125.00
17003 Add-on Benign/ Pre-malignant .....	110.00	53670 Catheterization, Urinary, Simple .....	30.00
17004 Benign Lesion 15 or More ....	182.00	Colposcopy	
17110 Flat Wart for Up to 15 .....	165.00	57455 Cervix With Biopsy .....	156.00
17111 Flat Warts for 15 and More ..	150.00	57456 Cervix With Electrocautery conization .....	146.00
88147 Papanicolaou (PAP) Smear for Cervical or Vaginal .....	42.00	57421 Biopsy of Vagina/Cervix ....	156.00
90620 Supplemental Security Income Exam Initial Consult .....	133.00	57511 Cryocautery Cervix for Initial or Repeat .....	83.00
Immunization		Culture	
Hepatitis		87060 Strep .....	17.00
90632 Hep A for 18+ Years .....	90.00	Bacterial	
90634 Hep A for Pediatric- Adolescent .....	42.00	87070 Culture - Throat .....	16.00
90636 Hep A and B Combination Adult .....	95.00	87077 Incision and Drainage .....	16.00
90645 Haemophilus Influenza B ...	47.00	87081 Single Organism .....	14.00
90649 Gardasil Human Papillomavirus Vaccine .....	281.00	87088 Bacterial Urine Identification and Quantification .....	12.00
90658 Influenza Virus Vaccine .....	25.00	87086 Bacterial Urine .....	12.00
90669 Pneumococcal > 5 years old Only .....	104.00	92552 Audiometry .....	30.00
90471 Immunization Administration for One Vaccine .....	30.00	93000 Electrocardiogram .....	36.00
90472 Immunization Administration for Additional Vaccine .....	21.00	99386 New patient well exam .....	217.00
90701 Diphtheria Tetanus Pertussis ...	42.00	99409 Alcohol, substance screening; 30+ minute intervention .....	60.00
90702 Diphtheria Tetanus .....	14.00	57160 Fitting and insertion of pessary or other intravaginal support device .....	85.00
90703 Tetanus .....	26.00		
90707 Measles Mumps Rubella .....	80.00		



99387 New patient well exam . . . . .	200.00	99392 Age 1-4 . . . . .	130.00
93015 Cardiovascular Stress Test . . . . .	130.00	99393 Age 5-11 . . . . .	130.00
Treadmill		99394 Age 12-17 . . . . .	166.00
Incision and Drainage		99395 Age 18-20 . . . . .	150.00
10060 Abscess Simple/Single . . . . .	168.00	Federal Aviation Administration	
10061 Complicated or Multiple . . . . .	125.00	Exam . . . . .	52.00
10080 Pilonidal Cyst . . . . .	73.00	11100 Biopsy for Skin Lesion	
Simple		Subcutaneous . . . . .	165.00
99397 Medical Evaluation for 65		11101 Biopsy for Skin Subcutaneous	
Years and Over . . . . .	210.00	Each Separate/Additional Lesion . . . . .	32.00
57150 Irrigation of vagina and/or		11200 Removal Skin Tags 1-15 . . . . .	125.00
application of medicament for		11201 Removal Skin tag any area,	
treatment of bacterial, parasitic,		Each Add 10 Lesion . . . . .	14.00
or fungoid disease . . . . .	55.00	11300 Shave Biopsy for Epidermal/	
99402 Preventive Medicine		Dermal Lesion 1 Trunk-Neck . . . . .	140.00
Counseling 30-44 Minutes . . . . .	468.00	11305 Shave Excision and	
99432 Newborn Normal Care -		Electrocautery . . . . .	67.00
In Office . . . . .	42.00	G0008 Flu Shot Administration	
G0396 Alcohol, substance screening;		for Medicare . . . . .	30.00
15-30 minute intervention . . . . .	30.00	G0009 Injection Administration	
G0397 Alcohol, substance screening;		for Pneumonia without Physician	
30+ minute intervention . . . . .	58.00	for Medicare . . . . .	17.00
G0402 Welcome to Medicare Preventive		G0010 Hepatitis B Vaccine	
Physical Exam . . . . .	170.00	Administration . . . . .	17.00
G0438 Annual Wellness Check		G0101 Papanicolaou (PAP) with Breast	
Medicare New Patient . . . . .	180.00	Exam Cervical/Vaginal Screen . . . . .	42.00
G0439 Annual Wellness Check		Medicare	
Medicare Established Patient . . . . .	120.00	G0107 Hemocult . . . . .	10.00
A4460 Ace Wrap (per roll) . . . . .	7.00	G0179 Physician Re-certification	
A4550 Surgical Tray . . . . .	42.00	for Home Health . . . . .	83.00
A4565 Sling . . . . .	21.00	G0180 Physician Certification for	
10120 Incision and Removal		Home Health . . . . .	83.00
Foreign Object-Simple . . . . .	73.00	11310 Surgery by Electrocautery . . . . .	42.00
10140 Incision and Drainage of Cyst,		Excision	
Hematoma or Seroma . . . . .	130.00	Benign	
10160 Puncture Aspiration		Trunk/Arm/Leg	
of Abscess, Hematoma . . . . .	52.00	11400 Lesion 0.5cm or Less . . . . .	162.00
Debridement		11402 Lesion 1.1-2.0 cm . . . . .	237.00
11000 Infected Skin up to 10% . . . . .	57.00	11401 Lesion 0.6-1cm . . . . .	210.00
11040 Skin Partial Thickness . . . . .	44.00	11403 2.1-3.0 cm . . . . .	142.00
11041 Skin Full Thickness . . . . .	52.00	11404 3.1-4.0 cm . . . . .	160.00
11042 Skin and Subcutaneous		11420 Scalp/Neck/Genital	
Tissue . . . . .	110.00	0.5 or less . . . . .	90.00
11044 Skin, Tissue, Muscle, Bone . . . . .	218.00	11421 Lesion 0.6-1.0 cm . . . . .	125.00
Avulsion		11422 Subcutaneous/Neck/	
11740 Toenail . . . . .	26.00	Genital/Feet 1.1-2.0 cm . . . . .	140.00
11730 Nail Plate Single . . . . .	160.00	11423 Cyst . . . . .	150.00
11731 Nail Second . . . . .	42.00	11440 Benign Face/Ear/	
11732 Nail Each Additional Nail . . . . .	30.00	Eyelid 0.5cm/less . . . . .	100.00
11750 Excision for Nail/Matrix		11441 Benign Lesion Face/	
Permanent Removal . . . . .	296.00	Ear/Eye/Nose 0.6-1.0 cm . . . . .	125.00
11765 Wedge Excision of Skin of		11602 Malignant Trunk/Arm/	
Nail Fold Ingrown . . . . .	200.00	Leg 1.1-2.0 cm . . . . .	112.00
A4570 Splint . . . . .	23.00	11604 3.1-4.0 cm . . . . .	166.00
Complete Blood Count . . . . .	5.00	Malignant	
Complete Metabolic Panel . . . . .	6.00	11622 Lesion Scalp/Neck/	
Cornell Well Child Check Visits . . . . .	36.00	Hand/Feet/Genital 1.1-2.0 cm . . . . .	166.00
99361 Medical Conference by		11641 Face/Nose/Ear 0.6-1.0 cm . . . . .	131.00
Physicians . . . . .	52.00	11642 Face/Nose Ears 1.1-2.0 cm . . . . .	172.00
Form 21 . . . . .	73.00	J0170 Injection for Epinephrine . . . . .	10.00
Disability Exam		J0290 Injection for Ampicillin	
Check		Sodium 500 mg . . . . .	8.00
99381 New Patient Under 1 . . . . .	140.00	J0540 Bicillin 1.2 million units . . . . .	38.00
99382 New Patient Age 1-4 . . . . .	165.00	J0696 Rocephin 250 mg . . . . .	47.00
99383 New Patient Age 5-11 . . . . .	160.00	J0702 Injection for Celestone 3 mg . . . . .	12.00
99384 Age 12-17 . . . . .	190.00	J0704 Injection for Celestone 4 mg . . . . .	12.00
99385 Age 18-20 . . . . .	188.00	J0780 Compazine up to 10 mg . . . . .	16.00
99391 Under 1 . . . . .	125.00	J0810 Solu Medrol 150 mg . . . . .	21.00

J1000 Estradiol	12.00	J3130 Testosterone	31.00
J1055 Depo-Provera	88.00	J3301 Kenalog-10 (per 10 mg)	31.00
J1200 Benadryl up to 50 mg	10.00	Wood filler/paste A6261	40.00
J1390 Estrogen	31.00	Viscous Lidocaine J8499	5.00
J1470 Gamma Globulin 2 cc	21.00	Progesterone J2675	4.00
J1820 Insulin up to 100 units	10.00	90772 Injection	18.00
J2001 Lidocaine	30.00	Therapeutic, Diagnosis	
J1885 Toradol 15 mg	21.00	95117 Injections for Allergy 2 or More	16.00
11720 Debridement for Nails 1-5	27.00	99188 App Topical Fluoride Varnish	20.00
11721 Debridement for Nails 6 or More	55.00	95860 Electromyogram 1	81.00
58110 Endometrial sampling in conjunction with colposcopy	65.00	99245 Office Consult for New or Established Patient	426.00
36416 Capillary Blood Collection	7.00	90805 Psychiatric Diagnosis	
31505 Laryngoscopy	70.00	Interview Follow-up Visit	92.00
1000cc normal saline J7030	10.00	J3401 Vistaril 25 mg	12.00
58100 Biopsy, Endometrial	130.00	J3420 Injection B-12	10.00
76815 Ultrasound, pregnancy uterus, with image limited	100.00	J7300 Intrauterine copper contraceptive	900.00
93926 Duplex Scan Limited Study	130.00	contraception	
93965 Doppler of Extremity	132.00	J7302 Levonorgestrel-releasing intrauterine contraceptive	1,002.00
99386 Exam age 40-64	238.00	J7320 Hyalgan, Synvisc	281.00
99396 Medical Evaluation for Adult 40-64	180.00	Knee Injection	
94200 Peak Flow	21.00	Y4600 Injection for Pediatric Immunization Only	11.00
99387 New Patient Preventive Medicine Services Age 65 and Older	200.00	Y9051 Records Sent to Case Worker	16.00
94010 Spirometry	70.00	J7620 Albuterol Per ml, Inhalation Solution Durable Medical Equipment	3.00
94060 Spirometry with Bronchodilators	64.00	J7625 Albuterol Sulfate 0.5%/ml Inhalation Solution Administration	4.00
IV Monitoring 1st half hour 96360	60.00	Artificial Insemination 58321	250.00
85610 Prothrombin Time (sent out)	3.00	Malignant lesion removal 0.5 cm or less 11600	120.00
83036 Hemoglobin A1C (long-term blood sugar test) sent out	7.00	L3908 Wrist Splint	50.00
83013 H-Pylori Breath Test	63.00	Liver Function Test	6.00
Arterial Studies		Typhoid 90691	75.00
93923	182.00	IV Monitoring each additional hour 96361	20.00
93924	221.00	Lipid	17.00
93922	120.00	Residual Functional Capacity Questionnaire	52.00
A6403 Gauze, 16-48 square inch	2.00	Established Patient	
J2000 Xylocaine 0-55 cc	5.00	99211 Brief	30.00
J2550 Phenergan up to 50 mg	10.00	99211N Brief Night	30.00
82947 Glucose sent out	7.00	99212 Limited	65.00
82575 Creatinine Clearance	18.00	99212N Limited Night	65.00
90670 Pneumovax 13	285.00	99213 Intermediate	108.00
94640 Intermittent Pause Pressure Breathing Device - Nebulizer Breathing	42.00	99213N Intermediate Night	108.00
99406 Smoking, Tobacco Cessation Counseling Visit 3-10 Minutes	14.00	99214 Extended	160.00
94760 Pulse Oximetry - Oxygen Saturation	10.00	99214N Extended Night	160.00
99407 Smoking, Tobacco Cessation Counseling Visit greater than 10 Minutes	26.00	99215 Comprehensive	220.00
95115 Injections for Allergy Only 1	15.00	99215N Comprehensive Night	220.00
96372 Injection administration	40.00	84153 Prostate Specific Antigen Test	42.00
80305 Drug Screen Direct Observation	20.00	95861 Electromyogram 2	139.00
Consult With Another Physician		95900 Nerve Conduction Velocity Motor	42.00
99241 History, Exam, Straightforward	50.00	95904 Nerve Conduction Velocity Sensory	35.00
99242 Expanded History and Exam Straightforward	80.00	97035 Ultrasound	16.00
99243 Detailed History, Exam low complexity	100.00	97110 Therapy	24.00
99244 Comprehensive History, Exam	140.00	97124 Massage	13.00
moderate complexity		97260 Manipulate for Spinal 1 Area	16.00
		99050 After Hours	24.00
		99058 Emergency Visit	36.00
		10007 No Show Fee, Established Patient	35.00
		99070 Eye Tray	19.00

10006 Same Day Cancellation, Established Patient .....	35.00
99080 Form 20 .....	88.00
Disability Exam	
10008 No Show Fee, Established Patient, Endodontist Appointment .....	75.00
99173 Visual Acuity Screening Test .....	10.00
10009 No Show Fee, Established Patient, Hospital Sedation .....	100.00
S0020 Marcaine up to 30 ml .....	18.00
76801 Ultrasound, pregnancy uterus, first trimester trans-abdominal approach .....	130.00
New Patient	
99201 Brief .....	65.00
99201N Brief Night .....	65.00
99202 Limited .....	110.00
99202N Limited Night .....	110.00
99203 Intermediate .....	160.00
99203N Intermediate Night .....	160.00
99204 Extended .....	245.00
99204N Extended Night .....	245.00
99205 Comprehensive .....	315.00
99205N Comprehensive Night .....	315.00
76805 Ultrasound, pregnancy uterus, after first trimester trans-abdominal approach .....	150.00
90791 Psychiatric diagnosis evaluation w/o medical service (per 15 minutes) .....	40.00
99354 Prolonged Services for one Hour ...	73.00
International Normalized Ratio home testing review G0250 .....	8.00
A6402 Gauze, less than 16 square inch ...	1.00
S9981 Medical Records Copying Fee, Administration .....	21.00
Supplemental Security Insurance Exam .....	113.00
10040 Acne Surgery .....	48.00
Family Dental Plan	
D1352 Preventive Resin Restoration in a Moderate to High Caries Risk Patient .....	39.00
D2940 Protective Restoration .....	65.00
D2952 Post and Core in Addition to Crown .....	248.00
D6930 Recement a Three Unit Bridge ...	85.00
D7530 Surgical Incision .....	312.00
D7910 Suture of Recent Small Wounds up to 5 cm .....	250.00
D9420 Hospital or Ambulatory Surgical Center Call .....	98.00
D9440 After Hours Office Visit .....	86.00
D9910 Application of Desensitizing Medicament .....	26.00
D9930 Treatment of Complications .....	85.00
Preventive	
D1110 Prophylaxis-adult .....	80.00
D1120 Prophylaxis-child .....	61.00
D1203 Topical application of fluoride excluding prophy .....	20.00
D1206 Topical Fluoride Varnish; Therapeutic Application High Risk ...	30.00
D1208 Topical Application of Fluoride .....	30.00
D1351 Sealant (per tooth) .....	47.00

D4341 Periodontal Scaling and Root Planning Four or More Contiguous Teeth or Bounded Teeth Spaces (per Quadrant) .....	245.00
D4342 Periodontal Scaling and Root Planning 1-3 teeth (per Quadrant) .....	143.00
D4355 Full mouth debridement .....	158.00
D4910 Periodontal Maintenance .....	150.00
D4921 - Gingival Irrigation (per Quadrant) .....	7.00
Oral Evaluation	
D0120 Periodic .....	52.00
D0140 Limited .....	65.00
D0150 Comprehensive .....	68.00
D0170 Re-evaluation - Limited, Problem Focused (Established Patient) .....	50.00
D0180 Comprehensive Periodontal Evaluation .....	58.00
D0190 Screening of Patient .....	25.00
D0191 Assessment of Patient .....	25.00
D0210 Intraoral - complete series including Bitewings .....	122.00
D0220 Intraoral periapical .....	23.00
First film	
D0230 Intraoral periapical .....	17.00
Additional film	
D0240 Intraoral Occlusal Radiographic Image .....	19.00
D0270 Bitewing .....	23.00
Cost of single film	
D0272 Bitewing .....	37.00
Cost of two film	
D0273 Bitewings - Three Films .....	56.00
D0274 Bitewing .....	56.00
Cost of four film	
D0330 Panoramic Film .....	101.00
D9110 Palliative (Emergency) Treatment for Pain - Minor Procedure .....	94.00
Space Maintainer	
D1510 Fixed unilateral .....	266.00
D1515 Fixed bilateral .....	269.00
D1520 Removable unilateral .....	319.00
D1525 Removable bilateral .....	346.00
D1550 Recement .....	68.00
Amalgam	
D2140 One surface .....	102.00
D2150 Two surface .....	133.00
D2160 Three surface .....	158.00
D2161 4 or more surface .....	190.00
Resin	
D2330 One surface, anterior .....	127.00
D2331 Two surface, anterior .....	158.00
D2332 Three surface, anterior .....	188.00
D2335 4 or more surface-can be incisal angle, anterior .....	224.00
D2390 Resin-Based Composite Crown, Anterior .....	291.00
D2391 One surface, posterior .....	141.00
D2392 Resin-Based Composite - Two Surfaces, Posterior .....	188.00
D2393 Resin-Based Composite - Three Surfaces, Posterior .....	227.00

D2394 Resin-Based Composite - Four or More Surfaces, Posterior . . . . .	273.00	D7510 Incision and drainage of abscess . . . . .	169.00
Root Canal Therapy		D7960 Frenulectomy . . . . .	232.00
D3310 Anterior . . . . .	762.00	D9230 Nitrous sedation/inhalation . . . . .	72.00
D3320 Bicuspid . . . . .	891.00	D9248 Non-intravenous Conscious Sedation . . . . .	156.00
D3330 1st molar . . . . .	1,094.00	Denture	
D3110 Pulp Cap-Direct (Excluding Final Restoration) . . . . .	63.00	D5110 Complete upper . . . . .	1,150.00
D3120 Pulp Cap-Indirect (Excluding Final Restoration) . . . . .	69.00	D5120 Complete lower . . . . .	1,150.00
D3220 Therapeutic pulpotomy . . . . .	128.00	D5130 Immediate upper . . . . .	1,237.00
D3221 Open and Medicate . . . . .	142.00	D5140 Immediate lower . . . . .	1,237.00
D3230 Pulpal Therapy-Anterior		D5211 Upper partial-resin base . . . . .	1,131.00
Primary Tooth . . . . .	156.00	D5212 Lower partial-resin base . . . . .	1,131.00
D3240 Pulpal Therapy-Posterior		D5213 Upper partial-cast metal frame with resin base . . . . .	1,250.00
Primary Tooth . . . . .	195.00	D5214 Lower partial-cast metal frame with resin base . . . . .	1,250.00
Apicoectomy/periradicular surgery		D5410 Adjust complete upper . . . . .	88.00
D3410 - bicuspid . . . . .	622.00	D5411 Adjust complete lower . . . . .	88.00
D3421 - bicuspid (1st root) . . . . .	653.00	D5421 Adjust partial upper . . . . .	88.00
D3425 - molar (1st root) . . . . .	780.00	D5422 Adjust partial lower . . . . .	88.00
D3426 - (Each additional root) . . . . .	250.00	D5510 Repair broken complete base . . . . .	224.00
D3430 Retrograde filling . . . . .	189.00	D5520 Replace missing/broken teeth complete . . . . .	260.00
2700 Fee, Dental - Crown, Rush Procedure . . . . .	60.00	D5610 Repair resin base-partial . . . . .	156.00
D2740 Crown, Porcelain/Ceramic Substrate . . . . .	1,105.00	D5620 Repair cast framework . . . . .	180.00
D2750 Crown, Porcelain fused to High Noble Metal . . . . .	1,105.00	D5650 Add tooth to existing partial . . . . .	190.00
D2751 Crown, Porcelain fused to Predominantly Base Metal . . . . .	1,105.00	D5630 Repair or replace broken clasp . . . . .	231.00
D2752 Crown, Porcelain fused to Noble Metal . . . . .	1,105.00	D5640 Replace broken teeth (per tooth) . . . . .	200.00
D2751 Crown-porcelain fused to majority base metal . . . . .	650.00	D5750 Reline complete upper . . . . .	359.00
D2980 Crown Repair, By Report . . . . .	120.00	D5751 Reline complete lower . . . . .	359.00
D2920 Recement Crown . . . . .	77.00	D5760 Reline upper partial . . . . .	383.00
D2930 Refabricated stainless steel crown-primary . . . . .	208.00	D5761 Reline lower partial . . . . .	383.00
D2931 Refabricated stainless steel crown-permanent . . . . .	236.00	D5850 Tissue Conditioning Maxillary . . . . .	156.00
D2950 Core build-up . . . . .	198.00	D5851 Tissue Conditioning Mandibular . . . . .	156.00
D2951 Pin retention (per tooth) . . . . .	46.00	D6241 Pontic, Porcelain fused to Predominantly Base Metal . . . . .	1,105.00
D2954 Prefabricated post and core . . . . .	251.00	D5660 Add Clasp to Existing Partial Denture . . . . .	231.00
D6240 Pontic, Porcelain fused to High Noble Metal . . . . .	1,105.00	99406 Smoking, Tobacco Cessation Counseling Visit 3-10 Minutes . . . . .	14.00
D6245 Pontic, Porcelain/Ceramic . . . . .	1,105.00	99407 Smoking, Tobacco Cessation Counseling greater than 10 Minutes . . . . .	26.00
D6740 Crown, Porcelain/Ceramic . . . . .	1,105.00	Mobile Dental Equipment Fees	
D6242 Pontic, Porcelain fused to Noble Metal . . . . .	1,105.00	Mobile Dental Package Weekly (per Week) . . . . .	750.00
D6750 Pontic, Porcelain fused to High Noble Metal . . . . .	1,105.00	Plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.	
D6751 Pontic, Porcelain fused to Predominantly Base Metal . . . . .	1,105.00	Additional dental operator (per Week) . . . . .	187.00
D6752 Pontic, Porcelain fused to Noble Metal . . . . .	1,105.00	Dental Operatory in addition to Mobile Dental Equipment Fees	
D6930 Recement Bridge . . . . .	78.00	D0145 Oral Evaluation for a patient under three years of age . . . . .	39.00
Surgical Procedure		D0160 Detailed and Extensive Oral Evaluation . . . . .	25.00
D4210 Gingivectomy or Gingivoplasty . . . . .	468.00	D0171 Re-Evaluation Post-Operative Office Visit . . . . .	50.00
D7111 Coronal Remnants . . . . .	97.00	D0460 Pulp Vitality Tests . . . . .	50.00
D7140 Single tooth extraction . . . . .	123.00	D0470 Diagnostic Cast . . . . .	50.00
D7210 Surgical removal erupted tooth . . . . .	218.00	D0999 . . . . .	75.00
D7270 Tooth re-implantation with stabilization . . . . .	244.00	D1320 Tobacco Counseling for the control and prevention of oral disease . . . . .	20.00
D7286 Biopsy of oral tissue . . . . .	236.00	D1330 Oral Hygiene Instruction . . . . .	20.00
D7410 Excision of benign tumor . . . . .	472.00		

D1353 Sealant Repair Per Tooth . . . . .	43.00
D1516 Space Maintainer - Fixed Bilateral Maxillary . . . . .	284.00
D1517 Space Maintainer - Fixed Bilateral Mandibular . . . . .	284.00
D1526 Space Maintainer - Removable Bilateral Maxillary . . . . .	268.00
D1527 Space Maintainer-Removable Bilateral Mandibular . . . . .	284.00
D1555 Removal of Fixed Space Maintainer . . . . .	37.00
D1575 Distal Shoe Space Maintainer - Fixed Unilateral . . . . .	50.00
D1999 Unspecified Preventative Procedure, By Report . . . . .	45.00
D2790 Crown, Full Cast High Noble Metal (Gold) . . . . .	975.00
D2953 with a D2952 . . . . .	109.00
each additionally indirectly fabricated post same tooth to be used	
D2999 Unspecified Restorative Procedure, By Report . . . . .	75.00
D3999 Unspecified Endodontic Procedure, By Report . . . . .	75.00
D4249 Clinical Crown Lengthening Hard Tissue . . . . .	472.00
D4999 Unspecified Periodontal Procedure, By Report . . . . .	75.00
D5511 Repair broken complete Denture base, Mandibular . . . . .	216.00
D5512 Repair Broken Complete Denture Base, Maxillary . . . . .	216.00
D5611 Repair resin partial Denture Base, Mandibular . . . . .	216.00
D5612 Repair resin partial denture base, maxillary . . . . .	216.00
D5621 Repair cast partial framework, Mandibular . . . . .	216.00
D5622 Repair cast partial framework, Maxillary . . . . .	216.00
D5820 Interim Partial Denture Maxillary . . . . .	330.00
D5821 Interim Partial Denture Mandibular . . . . .	316.00
D5876 Add Metal Sub-Structure to Acrylic Full Denture By Arch . . . . .	175.00
D5999 Unspecified Removable Prosthodontic Procedure By Report . . . . .	75.00
D6999 Unspecified Fixed Prosthodontic Procedure By Report . . . . .	75.00
D7999 Unspecified Oral Surgery Procedure by Report . . . . .	75.00
D9430 Office Visit for Observation (during regularly scheduled hours) - no other services performed . . . . .	75.00
D9943 Occlusal Guard Adjustment . . . . .	37.00
D9944 Occlusal Guard Hard Appliance Full Arch . . . . .	200.00
D9945 Occlusal Guard Soft Appliance Full Arch . . . . .	200.00
D9999 Unspecified Adjunctive Procedure by Report . . . . .	75.00

**QUALIFIED PATIENT ENTERPRISE FUND**

Medical Cannabis  
Pharmacy and Medical Provider Fees  
Pharmacy

Application (per Region) . . . . .	2,500.00
License Urban (per Pharmacy) ..	67,000.00
Annual fee.	
Home Delivery License Urban (per Pharmacy) . . . . .	69,500.00
Annual fee	
License Rural (per Pharmacy) ...	50,000.00
Annual fee	
Home Delivery License Rural (per Pharmacy) . . . . .	52,500.00
Annual fee	
Owner Background Screening (per Owner/director) . . . . .	18.00
This fee should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.	
Owner Background Screening - Dept. of Public Safety (per Owner/director) . . . . .	33.25
This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by the Medical Cannabis Program are passed through to Public Safety.	
Qualified Medical Provider Registration (Initial) (per Provider) . . . . .	100.00
Qualified Medical Provider Registration (Renewal) (per Provider) . . . . .	50.00
Renewal every 2 years	
Pharmacy Medical Provider/ Pharmacist Registration Fee (Initial) (per Provider) . . . . .	150.00
Pharmacy Medical Provider/ Pharmacist Registration Fee (Renewal, every 2 years) (per Provider) . . . . .	50.00
Renewal every 2 years	
Pharmacy Agent Registration (Initial or >= 1 Year Expired) (per Agent) . . . . .	100.00
This fee contains an amount that should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by the Medical Cannabis Program are passed through to Public Safety. This fee contains an amount that should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by	

the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Pharmacy Agent Registration  
(Renewal) (per Agent) ..... 50.00

Renewal every 2 years. This fee contains an amount that should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Courier Application (per Courier) ..... 125.00  
Courier Owner Background

Screening (per Owner/director) ..... 18.00

This fee should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Courier Owner Background Screening -  
Dept. of Public Safety (per Owner/  
director) ..... 33.25

This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by the Medical Cannabis Program are passed through to Public Safety.

Courier License (Initial)  
(per Courier) ..... 2,500.00

Courier License (Renewal)  
(per Courier) ..... 1,000.00

Annual fee after initial license

Courier Agent Registration (Initial  
or >= 1 Year Expired) (per Agent) ... 100.00

This fee contains an amount that should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by the Medical Cannabis Program are passed through to Public Safety. This fee contains an amount that should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal

(not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Courier Agent Registration  
(Renewal) (per Agent) ..... 50.00

Renewal every 2 year. This fee contains an amount that should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Patient Fees

Patient Card (Initial) (per Patient) ..... 15.00  
Patient Registration Renewal

(30 Days) (per Patient) ..... 5.00  
Patient Registration Renewal

(6 Month) (per Patient) ..... 15.00  
Guardian and Provisional Card

(Initial or >= 1 Year  
Expired) (per Guardian/Patient) ..... 66.25

This fee contains an amount that should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by the Medical Cannabis Program are passed through to Public Safety. This fee contains an amount that should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Guardian and Provisional Card  
(30 Days) (per Guardian/Patient) ..... 5.00

Guardian and Provisional Card  
(6 Month) (per Guardian/Patient) ... 24.00

This fee contains an amount that should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical

Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Guardian (already background screened as a Guardian) and Provisional Card (Initial) (per Guardian/Patient) . . . . . 15.00

Guardian (already background screened as a Guardian) and Provisional Card (30 Days) (per Guardian/patient) . . . . . 5.00

Guardian (already background screened as a Guardian) and Provisional Card (6 Month) (per Guardian/patient) . . . . . 15.00

Caregiver Registration and Card (Initial or >= 1 Year Expired) (per Caregiver) . . . . . 66.25

This fee contains an amount that should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health.

Fees collected by the Medical Cannabis Program are passed through to Public Safety. This fee contains an amount that should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Caregiver Registration and Card (Renewal) (per Caregiver) . . . . . 14.00

Renewal date is dependent upon the renewal date of the related patient card. No fee for the first 30-day patient renewal. This fee contains an amount that should be the same as that charged by the Division of Family Health and Preparedness - Background checks initial or annual renewal (not in Direct Access Clearance System). If the Legislature changes the fee charged by the Division of Family Health and Preparedness, then the Legislature also approves the same change for the Medical Cannabis Program. Fees collected by the Medical Cannabis Program are passed through to the Division of Family Health and Preparedness.

Caregiver (already background screened as a Caregiver) Registration and Card (Initial) (per Caregiver) . . . . . 15.00

Caregiver Registration (already background screened as a Caregiver) and Card (Renewal) (per Caregiver) . . . . . 5.00

Renewal date is dependent upon the renewal date of the related patient card. No fee for the first 30-day patient renewal.

Uniform Transaction Fee (per Transaction) . . . . . 3.00

**DEPARTMENT OF HUMAN SERVICES**

**DIVISION OF CHILD AND FAMILY SERVICES**

Service Delivery  
Live Scan Testing . . . . . 10.00

**EXECUTIVE DIRECTOR OPERATIONS**

Executive Director's Office  
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Human Services

Paper (per side of sheet) . . . . . 0.25

Audio tape (per tape) . . . . . 5.00

Video tape (per tape) . . . . . 15.00

Mailing . . . . . Actual cost

Compiling and Reporting

In another format (per hour) . . . . . 25.00

If programmer/analyst assistance is required (per hour) . . . . . 50.00

Office of Licensing

Licensing

Online Background Check

Application Fee . . . . . 5.00

Adult Day Care

Initial License Fee

0-50 Consumers per Program . . . . . 900.00

More than 50 Consumers per Program . . . . . 900.00

Renewal Fee

0-50 Consumers per Program . . . . . 300.00

More than 50 Consumers per Program . . . . . 600.00

Per Licensed Capacity . . . . . 9.00

Child Placing Adoption

Initial License Fee . . . . . 900.00

Renewal Fee . . . . . 750.00

Child Placing Foster

Child Placing Foster . . . . . 250.00

Initial license fee and renewal fee.

Day Treatment

Initial License Fee . . . . . 900.00

Renewal Fee . . . . . 450.00

Intermediate Secure Treatment

Initial License Fee . . . . . 900.00

Renewal Fee . . . . . 750.00

Per Licensed Capacity . . . . . 9.00

Life Safety Pre-inspection

Life Safety Pre-inspection . . . . . 600.00

One time initial fee to verify life/fire safety

Outdoor Youth Program

Basic . . . . . 1,408.00

Initial license fee and renewal fee.

Outpatient Treatment

Initial License Fee . . . . . 900.00

Renewal Fee . . . . . 300.00

Recovery Residences

Initial License Fee . . . . . 1,295.00

Renewal Fee . . . . . 500.00

Residential Support

Initial License Fee . . . . . 900.00

Renewal Fee . . . . . 300.00

Social Detoxification

Initial license fee . . . . . 900.00

Renewal Fee . . . . . 600.00

Residential Treatment	
Initial License Fee	900.00
Renewal Fee	600.00
Per Licensed Capacity	9.00
Therapeutic School Program	
Initial License Fee	900.00
Renewal Fee	600.00
Per Licensed Capacity	9.00

**OFFICE OF RECOVERY SERVICES**

Child Support Services	
Automated Credit Card Convenience Fee	2.00
Fee for self-serve payments made online or through the automated phone system (IVR).	
Collections Processing	12.00
6 percent of payment disbursed up to a maximum of \$12 per month.	
Assisted Credit Card Convenience Fee	6.00
Fee for phone payments made with the assistance of an accounting worker.	
Federal Offset	25.00
Annual Collection Fee	35.00

**DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES**

Physical Disabilities Waiver	
Graduated	630.00
Critical Support Services for People with Disabilities who are non-Medicaid matched. The fee ranges between 1 percent and 3 percent of Gross Family Income.	
Utah State Developmental Center	
USDC Theater Rental	
Full Day (per day)	625.00
Theater Technician (per hour)	20.00
Hourly (per hour)	100.00
Half Day (per half day)	360.00
Equipment	250.00

**DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH**

State Hospital	
Use of USH Facilities	
Photo Shoots (per 2 hours)	20.00
Groups up to 50 people (per day)	75.00
Groups over 50 people (per day)	150.00
State Substance Abuse Services	
Alcoholic Beverage Server	
On Premise and Off Premise Sales	3.50

**DEPARTMENT OF WORKFORCE SERVICES**

**ADMINISTRATION**

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services	
Photocopies (for all copies after the first 10)	0.10
These GRAMA fees apply to the entire Department of Workforce Services.	
Fax Pages Local, All Pages	2.00

These GRAMA fees apply to the entire Department of Workforce Services.	
Fax Pages Long Distance, All Pages	2.00
These GRAMA fees apply to the entire Department of Workforce Services.	
Research (per hour)	20.00
These GRAMA fees apply to the entire Department of Workforce Services.	

**HOUSING AND COMMUNITY DEVELOPMENT**

Community Development	
Private Activity Bond	
Confirmation per million volume cap (per million of allocated volume cap)	300.00
Original application: under \$3 million	1,500.00
Original application: \$3-\$5 million	2,000.00
Original application: over \$5 million	3,000.00
Private Activity Bond Re-application	
Re-application: under \$3 million	750.00
Re-application: \$3 - \$5 million	1,000.00
Re-application: over \$5 million	1,500.00
Private Activity Bond Extension	
Second 90 Day Extension	2,000.00
Third 90 Day Extension	4,000.00
Each Additional 90 Day Extension	4,000.00
Homeless Committee	
State Community Services Office	
Homeless Summit	35.00

**INTERMOUNTAIN WEATHERIZATION TRAINING FUND**

Certification Training Exam (per Exam)	Actual Cost
Field Certification Test Proctor (per Field Exam)	400.00
Initial Certification Training (per Person)	2,200.00
Intermountain Weatherization Training Center Additional Instructor (per Instructor)	540.00
Intermountain Weatherization Training Center Facility Use 0-24 persons (per Day)	1,100.00
Intermountain Weatherization Training Center Facility Use 25-50 persons (per Day)	1,700.00
Intermountain Weatherization Training Center Training 0-24 persons (per Day)	2,220.00
Intermountain Weatherization Training Center Training 25-50 persons (per Day)	4,000.00
Recertification Refresher Training (per Hour)	105.00
Written Certification Test Proctor (per Written Exam)	300.00

**OPERATIONS AND POLICY**

Workforce Development	
Career Ladder Course (per Course)	16.00



**STATE OFFICE OF REHABILITATION**

Blind and Visually Impaired  
 Low Vision Store ..... Actual Cost  
 Deaf and Hard of Hearing  
 Interpreter  
     Standard Late Fee (per Assessment) ..... 80.00  
     Annual Maintenance/Recognition  
     (per Individual) ..... 70.00  
 Interpreter Certification  
     Knowledge Exam (per Exam) ..... 60.00  
     Novice Exam (per Exam) ..... 150.00  
     Professional Exam (per Exam) ..... 150.00  
     Temporary Permit (per Permit) ..... 150.00  
     Student Permit (per Permit) ..... 15.00  
 Out-of-State Interpreter Certification  
     Utah Novice Level Certificate ..... 300.00  
     Utah Professional Level Certificate ..... 300.00  
     Knowledge Exam ..... 120.00

**STATE SMALL BUSINESS  
 CREDIT INITIATIVE PROGRAM FUND**

Loan Origination Fee for Loan  
     Participation Program (per 1.00) ..... 0.04  
     This is a variable fee and the department  
     may charge at a rate that is less than or equal  
     to 4% of the loan amount based on  
     participation & risk level.  
 Loan Origination Fee for Loan Guarantee  
     Program (per 1.00) ..... 0.04  
     This is a variable fee and the department  
     may charge at a rate that is less than or equal  
     to 4% of the loan amount based on  
     participation & risk level.

**UNEMPLOYMENT INSURANCE**

Unemployment Insurance Administration  
 Debt Collection Information Disclosure  
     Fee (per Report) ..... 15.00  
     Fee for employment information research  
     and report for creditors providing a court  
     order for employment information of a  
     specific debtor.

**REFUGEE SERVICES FUND**

World Refugee Day Around the World  
     Booth (per Booth) ..... 25.00  
 World Refugee Day Food Vendor  
     (per Booth) ..... 75.00  
 World Refugee Day Full Partner Booth  
     (per Full Booth) ..... 100.00  
 World Refugee Day Global Market  
     (per Booth) ..... 40.00  
 World Refugee Day Shared Partner  
     Booth (per Shared Booth) ..... 50.00  
 World Refugee Day Soccer (per Team) ..... 50.00

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

**DEPARTMENT OF  
 AGRICULTURE AND FOOD**

**ADMINISTRATION**

General Administration

General Administration  
     Administrative Hearing Fee (per Hour) Variable  
     Hourly charge varies from \$0 to \$500  
     depending on type of hearing and staffing  
     required.  
     Registered Farms Recording ..... 10.00  
 All Agriculture Divisions  
     Citations, Maximum per Violation ..... 500.00  
     Background Check Fee ..... 51.50  
     Certified document ..... 25.00  
     Copies of files  
         Per hour ..... 10.00  
         Per copy ..... 0.25  
     Duplicate ..... 15.00  
     Internet Access ..... 1.50  
     Late ..... 25.00  
     Returned check ..... 20.00  
     Mileage ..... Variable  
     Fee charged according to the current  
     mileage rate of the State of Utah.

Brand Inspection  
     Brand Inspection  
         Livestock Dealer (per dealer) ..... 250.00  
         Livestock Auction Market  
         (per Market) ..... 100.00  
         Livestock Dealer/Agent (per Agent) .... 75.00  
         Auction Weigh Person (per  
         Weigh Person) ..... 25.00  
 Utah Horse Commission  
 Utah Horse Commission (fees are not to  
 exceed the amounts identified)  
     Owner/Trainer ..... 100.00  
     Owner ..... 75.00  
     Organization ..... 75.00  
     Trainer ..... 75.00  
     Assistant trainer ..... 75.00  
     Jockey ..... 75.00  
     Jockey Agent ..... 75.00  
     Veterinarian ..... 75.00  
     Racing Official ..... 75.00  
     Racing Organization Manager or  
         Official ..... 75.00  
     Authorized Agent ..... 75.00  
     Farrier ..... 75.00  
     Assistant to the Racing Manager or  
         Official ..... 75.00  
     Video Operator ..... 75.00  
     Photo Finish Operator ..... 75.00  
     Valet ..... 50.00  
     Jockey Room Attendant or Custodian .... 50.00  
     Colors Attendant ..... 50.00  
     Paddock Attendant ..... 50.00  
     Pony Rider ..... 50.00  
     Groom ..... 50.00  
     Security Guard ..... 50.00  
     Stable Gate Man ..... 50.00  
     Security Investigator ..... 50.00  
     Concessionaire ..... 50.00  
     Application Processing ..... 25.00

**ANIMAL HEALTH**

Animal Health  
     Inspection Service (per Hour) ..... 39.00  
     This fee covers the cost of overtime work  
     performed at meat production  
     establishments on weekends, holidays and  
     after official hours of operation.

Commercial Aquaculture Facility . . . . .	150.00
Commercial Fishing Facility . . . . .	30.00
Citation	
Per violation . . . . .	200.00
Per head . . . . .	2.00
If not paid within 15 days, two times the citation fee; if not paid within 30 days, four times the citation fee.	
Hatchery Operation (Poultry) . . . . .	25.00
Poultry Dealer License (per dealer) . . . . .	25.00
Health Certificate Book . . . . .	50.00
Trichomoniasis Report Book . . . . .	8.00
Auction Veterinary	
Cattle (per day) . . . . .	200.00
Sheep (per day) . . . . .	90.00
Service Fee for Veterinarians	
Per day . . . . .	600.00
Per mile . . . . .	Variable
Mileage costs are charged at the current state rate.	
Trichomoniasis Ear Tags . . . . .	2.00
Brand Inspection	
Brand Inspection	
Farm Custom Slaughter . . . . .	100.00
Estray Animals . . . . .	Variable
Actual amount of proceeds received for the sale of the estrayed animal.	
Beef Promotion (per head) . . . . .	1.50
Cattle only	
Citation (per violation) . . . . .	200.00
Citation (per head) . . . . .	2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.	
Brand Inspection	
Special Sales . . . . .	250.00
Cattle (per head) . . . . .	1.00
Horse (per head) . . . . .	2.00
Sheep (per head) . . . . .	0.05
Brand Book . . . . .	25.00
Show and Seasonal Permits	
Horse (per head) . . . . .	25.00
Cattle (per head) . . . . .	25.00
Horse Permit	
Lifetime (per first horse) . . . . .	55.00
Lifetime (per horses after first) . . . . .	35.00
Duplicate Lifetime . . . . .	10.00
Lifetime Transfer . . . . .	10.00
Brand Recording . . . . .	75.00
Certified copy of Recording (new brand card) . . . . .	5.00
Minimum Charge (per inspection stop) . . . . .	20.00
Brand Transfer . . . . .	175.00
Brand Renewal and Registration . . . . .	175.00
Brand registration is on a 5 year cycle.	
Elk Farming	
Elk Inspection New License . . . . .	500.00
Brand Inspection (per elk) . . . . .	5.00
Service Charge (per stop, per owner) . . . . .	15.00
Elk Hunting Permit . . . . .	100.00
Elk License	
Renewal . . . . .	300.00
Late . . . . .	50.00
Meat Inspection	
Meat Inspection	
Inspection Service . . . . .	39.00
Meat Packing	
Meat Packing Plant . . . . .	150.00

Custom Exempt . . . . .	150.00
T/A (Talmage-Aiken) Official . . . . .	150.00
Packing/Processing Official . . . . .	150.00

### MARKETING AND DEVELOPMENT

Marketing/Utah's Own	
Utah's Own Supporter . . . . .	1,000.00
Utah's Own Year One Membership . . . . .	25.00
Utah's Own Annual Membership . . . . .	50.00

### PLANT INDUSTRY

Grain Inspection	
Grain Inspection	
Regular hourly rate (per hour) . . . . .	28.00
Overtime hourly rate (per hour) . . . . .	42.00
Official Inspection Services (includes sampling, except where indicated)	
Railcar (per car) . . . . .	20.50
Truck or trailer (per carrier) . . . . .	10.50
Container Inspection . . . . .	21.50
Submitted sample (per sample) . . . . .	7.50
Re-inspection	
Based on new sample (per truck) . . . . .	10.50
Basis file sample . . . . .	7.50
Based on new sample rail . . . . .	20.50
Protein test	
Original or file sample retest . . . . .	8.00
Oil and starch . . . . .	8.00
Basis new sample . . . . .	5.50
Plus sample hourly	
Factor only determination (per factor) . . . . .	3.00
Plus samplers hourly rate, if applicable	
Stowage examination services (per certificate) . . . . .	10.00
A fee for applicant requested certification of specific factors (per request) . . . . .	3.00
Malting barley analysis of non-malting class barley, HVAC or DHV percentage determination in durum or hard spring wheats, etc.	
Extra copies of certificates (per copy) . . . . .	1.00
Insect damaged kernel, determination (weevil, bore) . . . . .	2.75
Sampling only, same as original carrier fee, except hopper cars, 4 or more . . . . .	14.00
Mailing sample handling charge . . . . .	3.00
Plus actual cost	
Sealing rail cars or containers upon request over 5 seals per rail car . . . . .	5.00
Request for services not covered by the above fees will be performed at the applicable hourly rate stated herein, plus mileage and travel time, if applicable. Actual travel time will be assessed outside of a 50 mile radius of Ogden.	
Falling number inspection, per sample (per Sample) . . . . .	12.00
Class X Weighing inspection (per Inspection) . . . . .	6.00
Non-Official Services	
Safflower Grading . . . . .	13.00
Class II weighing (per carrier) . . . . .	6.00
Dark Hard Vitreous kernels (DHV) percentage in Hard Red Wheat . . . . .	4.00

Determination of hard kernel percentage in soft white wheat .....	4.00
Dry Hay Feed Analysis .....	14.00
Silages (corn or hay) Analysis .....	20.00
Feed grain Analysis .....	14.00
Black Light (Aflatoxin) .....	3.00
Aflatoxin Test .....	20.00
Strip quick test	
Grain grading instructions (per hour, per person) .....	20.00
Set of check Samples .....	25.00
Proteins-moisture, Set of 5	
Other Requests (per hour) .....	Variable
Charge based on our hourly rate of \$48.	
<b>Chemistry Laboratory</b>	
Alcohol Content Testing .....	25.00
Fees for other State and Federal Agencies .....	Variable
Charges for other tests performed for other government agencies are authorized and are to be based on cost recovery.	
Cannabis Component Testing .....	200.00
Industrial Hemp Chemistry Testing .....	50.00
Fee to test Industrial Hemp samples prior to harvest.	
Surcharge for Expedited ELISA	
Cyanotoxin Testing .....	50.00
Anatoxin-a ELISA Test - First Sample .....	116.00
Anatoxin-a ELISA Test - Additional Samples .....	12.00
Microcystin ELISA Test - First Sample .....	113.00
Microcystin ELISA Test - Additional Samples .....	10.00
Cylindrospermopsin ELISA Test - First Sample .....	113.00
Cylindrospermopsin ELISA Test- Additional Samples .....	10.00
<b>Seed, Feed, and Meat</b>	
Moisture .....	20.00
Fat .....	35.00
Fiber, Crude or ADF (Acid Detergent Fiber) .....	45.00
Proximate analysis (moisture, protein, fat, fiber, ash) .....	90.00
Proximate analysis (moisture, protein, fiber) .....	60.00
Protein .....	32.00
NPN (Non-Protein Nitrogen) .....	25.00
Ash .....	20.00
Water Activity .....	30.00
Salt .....	30.00
<b>Fertilizer</b>	
Nitrogen .....	32.00
Available Phosphorous .....	35.00
Potash .....	30.00
<b>Inorganics</b>	
Digested	
Prep and First Analyte .....	35.00
Additional Analytes .....	22.00
pH .....	20.00
Water Test I .....	250.00
Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Zn	
Water Test II .....	180.00
Br, Cl, F, NO3, PO4, CO3, HCO3, CLO4, pH	
Water Quality .....	180.00

Br, Cl, F, NO3, NO2, SO4, PO4, carbonate, bicarbonate, perchlorate	
Herbicides - Water .....	185.00
Insecticides/Fungicides - Water .....	205.00
Herbicides - Soil/Plants .....	305.00
Insecticides - Soil/Plants .....	265.00
<b>Pesticide</b>	
<b>Water</b>	
Single Test .....	205.00
Multiresidue Test .....	275.00
<b>Non-water</b>	
Single Test .....	305.00
Multiresidue Test .....	400.00
Formulation .....	305.00
<b>Inorganics</b>	
Undigested	
Prep and First Analyte .....	25.00
Additional Analytes .....	12.00
Vitamin A .....	60.00
Mercury Analysis .....	85.00
<b>Cannabis</b>	
<b>Industrial Hemp Grower</b>	
Licensing Fee .....	500.00
<b>Industrial Hemp Inspection</b>	
Hourly Rate .....	65.00
<b>Industrial Hemp Processor</b>	
Licensing Fee .....	2,000.00
<b>Product Registration Fee for Products Containing Oil Extracted from Cannabis .....</b>	250.00
<b>Product Registration Fee for Products Containing Cannabis Seed or Solid Derivatives from Cannabis Seed .....</b>	125.00
<b>Product Registration Service Fee for Cannabis .....</b>	75.00
<b>Late Fee for Product Registration for Cannabis or Cannabis Seed Products ..</b>	50.00
<b>Agricultural Inspection</b>	
<b>Agricultural Inspection: Inspection services performed (per Hour) .....</b>	40.00
<b>Agricultural Inspection: For inspectors' time over 40 hours per week (overtime) and on Holidays, plus regular fees (per hour) .....</b>	60.00
<b>Good Agricultural Practices (GAP) Inspection (per hour) .....</b>	Federal rate
<b>Agricultural Inspection Mileage .....</b>	Variable
All inspections shall include mileage which will be charged according to the current mileage rate of the State of Utah.	
<b>Organic Certification</b>	
<b>Organic, Transitional, and Grass Fed Certification .....</b>	300.00
<b>Annual registration late fee (per Registration) .....</b>	100.00
<b>Fee for inspection (per hour) .....</b>	65.00
<b>Inspectors' time &gt;40 hours per week (overtime) plus regular fees (per hour) .....</b>	98.00
<b>Major holidays and Sundays plus regular fees (per hour) .....</b>	98.00
<b>Gross Sales</b>	
\$0 to \$5,000 .....	Exempt
If an organic producer has gross sales of less than or equal to \$5,000 for the previous calendar year, they are exempt from paying this fee.	
\$5,001 to \$10,000 .....	100.00

\$10,001 to \$15,000 .....	180.00	Minimum Semiannual Assessment	
\$15,001 to \$20,000 .....	240.00	(per Assessment) .....	20.00
\$20,001 to \$25,000 .....	300.00	Fertilizer Registration .....	25.00
\$25,001 to \$30,000 .....	360.00	Processing .....	35.00
\$30,001 to \$35,000 .....	420.00	Beekeepers	
\$35,001 to \$50,000 .....	600.00	Insect Identification .....	10.00
\$50,001 to \$75,000 .....	900.00	Pest and Disease Lab Diagnostics -	
\$75,001 to \$100,000 .....	1,200.00	Licensed Beekeeper .....	20.00
\$100,001 to \$150,000 .....	1,800.00	Pest and Disease Lab Diagnostics -	
\$150,001 to \$280,000 .....	2,240.00	Non-Licensed Beekeepers .....	40.00
\$280,001 to \$375,000 .....	3,000.00	License	
\$375,001 to \$500,000 .....	4,000.00	1 to 20 hives .....	10.00
\$500,001 and up .....	5,000.00	21 to 100 hives .....	25.00
Shipping Point		101 to 500 hives .....	50.00
Fruit		Seed Purity	
Bulk load (per hundredweight) .....	0.10	Flowers .....	24.00
Vegetables		Grains .....	16.00
Potatoes (per hundredweight) .....	0.10	Grasses .....	34.00
Onions (per hundredweight) .....	0.10	Legumes .....	16.00
Cucurbita (per hundredweight) .....	0.10	Trees and Shrubs .....	25.00
Cucurbita family includes: watermelon,		Vegetables .....	16.00
muskmelon, squash (summer, fall, and		Seed Germination	
winter), pumpkin, gourd and others.		Flowers .....	24.00
Phytosanitary Inspection		Grains .....	16.00
(per inspection) .....	100.00	Grasses .....	25.00
Phytosanitary Inspection with grade		Legumes .....	16.00
certification (per inspection) .....	50.00	Trees and Shrubs .....	25.00
Control Atmosphere .....	10.00	Vegetables .....	16.00
One commodity (per certificate) .....	30.00	Seed Tetrazolium Test	
Except regular rate at continuous grading		Flowers .....	44.00
facilities		Grains .....	28.00
Mixed loads (per commodity) .....	30.00	Grasses .....	44.00
Export Compliance Agreements ...	50.00	Legumes .....	34.00
Nursery		Trees and Shrubs .....	44.00
Gross Sales ((\$10.00 min) based on previous		Vegetables .....	28.00
calendar year, applies to all Gross Sales Fees)		Embryo Analysis (Loose Smut Test) .....	25.00
\$0 to \$5,000 .....	40.00	Cut Test .....	16.00
\$5,001 to \$100,000 .....	80.00	Mill Check (per hour) .....	48.00
\$100,001 to \$250,000 .....	120.00	Moisture Test .....	24.00
\$250,001 to \$500,000 .....	160.00	Canada Standards .....	20.00
\$500,001 and up .....	200.00	Examination of Extra Quantity for Other	
Nursery Agency .....	50.00	Crop or Weed Seed (per hour) .....	48.00
Feed		Charge based on our hourly rate of \$48.	
Commercial Feed .....	25.00	Examination for Noxious Weeds	
Processing .....	35.00	Only (per hour) .....	48.00
Custom Formula Permit .....	75.00	Charge based on our hourly rate of \$48.	
Pesticide		Identification .....	No charge
Commercial Applicator Certification		Quick identification using microscope to	
4 or less Commercial Pesticide		determine seed type. There is no charge for	
Applicators .....	75.00	this service.	
5-9 Commercial Pesticide		Additional Copies of Analysis Reports .....	1.00
Applicators .....	150.00	Emergency service for single component	
10 or more Commercial Pesticide		only (per sample) .....	42.00
Applicators .....	300.00	Hay and Straw Weed Free Certification	
Triennial (3 year) Certification		Bulk loads of hay up to 10 loads .....	30.00
and License .....	45.00	Charge for each hay tag .....	0.10
Replacement of lost or		Citations, maximum per violation .....	500.00
stolen certificate/license .....	15.00		
Triennial (3 year) examination			
and educational materials .....	20.00		
Product Registration .....	60.00		
Processing Service .....	135.00		
Dealer License			
Triennial .....	100.00		
Fertilizer			
Blenders License .....	75.00		
Assessment (per ton) .....	0.35		

### REGULATORY SERVICES

Chemistry Laboratory	
E. coli Enumeration in Water .....	7.00
Certification	
Milk Laboratory Evaluation Program	
Basic Lab .....	50.00
Number of Certified Analyst .....	30.00
3 x \$10.00	

Number of Approved Test . . . . .	30.00
3 x \$10.00	
Total Yearly Assessed . . . . .	90.00
Standard Plate Count . . . . .	10.00
Coliform Count . . . . .	15.00
Antibiotics Test . . . . .	5.00
Phosphatase Test . . . . .	15.00
Wisconsin Mastitis Test (WMT)	
Screening Test . . . . .	5.00
Direct Microscopic Somatic Cell	
Count (DMSCC): Confirmation . . . . .	10.00
Direct Somatic Cell Count	
(DSCC): Instrumentation . . . . .	5.00
Coliform Confirmation . . . . .	5.00
Container Rinse Test . . . . .	10.00
H2O Coliform Confirmation Test . . . . .	5.00
H2O Coliform Total Count . . . . .	18.00
Butterfat % . . . . .	10.00
Babcock method	
Added H2O in Raw Milk . . . . .	5.00
Reactivated Phosphatase	
Confirmation . . . . .	15.00
Antibiotics Confirmation Test . . . . .	10.00
Salmonella Screen . . . . .	40.00
E-Coli Screen (per Test) . . . . .	40.00
E. coli confirmatory testing	
(per Test) . . . . .	40.00
Salmonella confirmatory testing	
(per Test) . . . . .	40.00
STEC confirmatory testing	
(per Test) . . . . .	40.00
Listeria confirmatory testing	
(per Test) . . . . .	40.00
Listeria Screen . . . . .	30.00
All Other Services, per hour . . . . .	40.00
The lab performs a variety of tests for other government agencies. The charges for these tests is determined according to the number of tests, and based on cost to the Laboratory and therefore may be different than the fee schedule. Because of changing needs, the Laboratory may receive requests for test that are impossible to anticipate and list fully in a standard fee schedule. Charges for these tests are authorized and are to be based on costs.	
Campylobacter Screen . . . . .	40.00
Changed Appropriation Unit for fee based on budget reallocation in GS 2019.	
<b>Regulatory Services</b>	
<b>Domestic Game Slaughter</b>	
Domestic Game Slaughter License . . . . .	500.00
“The department will adopt a schedule of fees to cover the cost of this part.”	
Domestic Game Slaughter Inspection	
(per Hour) . . . . .	100.00
“The department will adopt a schedule of fees to cover the cost of this part.”	
Domestic Game Slaughter	
Mileage . . . . .	Variable
To allow for charging of mileage to and from Domestic Game Slaughter inspections. To be charged at the current mileage rate of the State of Utah.	
<b>Kratom</b>	
Kratom Product Registration . . . . .	200.00

“The department will set a fee to register a Kratom product, in accordance with this section 4-2-103”	
Kratom Processing Fee . . . . .	40.00
Processing fee associated with Kratom product and establishment registrations. This fee covers the cost to process a license/registration.	
<b>Bedding/Upholstered Furniture</b>	
Manufacturers of Bedding and/or Upholstered Furniture . . . . .	
Wholesale Dealer . . . . .	65.00
Supply Dealer . . . . .	65.00
Manufacturers of Quilted Clothing . . . . .	65.00
Upholsterer with employees . . . . .	50.00
Upholsterer without employees . . . . .	25.00
Sterilization Fee . . . . .	65.00
Processing /All Bedding	
Upholstery Licenses . . . . .	40.00
<b>Dairy</b>	
Test milk for payment . . . . .	40.00
Operate milk manufacturing plant	
(per Plant) . . . . .	85.00
Make butter (per Operation) . . . . .	40.00
Haul farm bulk milk (per Operation) . . . . .	40.00
Make cheese (per Operation) . . . . .	40.00
Operate a pasteurizer (per Operator) . . . . .	40.00
Operate a milk processing plant	
(per Plant) . . . . .	85.00
Dairy Products Distributor	
(per Distributor) . . . . .	85.00
<b>Base Food Inspection</b>	
Small . . . . .	50.00
Less than 1,000 sq. ft. / 4 or fewer employees	
Medium . . . . .	150.00
1,000-5,000 sq. ft., with limited food processing	
Large . . . . .	250.00
Food processor over 1,000 sq. ft. / Grocery store 1,000-50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000-50,000 sq. ft.	
Super . . . . .	400.00
Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.	
<b>Plan Review</b>	
Plan Review Fee - Small (per Each) . . . . .	50.00
Plan Review Fee - Medium	
(per Each) . . . . .	150.00
Plan Review Fee - Large (per Each) . . . . .	250.00
Plan Review Fee - Super (per Each) . . . . .	400.00
<b>Special Inspection</b>	
<b>Food and Dairy Inspection</b>	
Per hour . . . . .	30.00
Overtime rate . . . . .	40.00
<b>Weights and Measures</b>	
Weighing and measuring devices/individual servicemen (per Serviceperson) . . . . .	50.00
Metrology services (per hour) . . . . .	50.00
<b>Base Weights and Measures</b>	
Small . . . . .	50.00

1-3 scales, 1-12 fuel dispensers, 1 meter, 1 large scale, or 1-3 scanners	
Medium	150.00
4-15 scales, 13-24 fuel dispensers, 2-3 meters, 2-3 large scales, or 4-15 scanners	
Large	250.00
16-25 scales, 25-36 fuel dispensers, 4-6 meters, 4-5 large scales, or 16-25 scanners	
Super	400.00
26+ scales, 37+ fuel dispensers, 7+ meters, 6+ large scales, or 26+ scanners	
Special Scale Inspections	
Large Capacity Truck (Man Hour)	
(per hour)	25.00
Large Capacity Truck (per mile)	2.00
Large Capacity Truck (Equipment Hour) (per hour)	25.00
Equipment use	
Pickup Truck (per hour)	25.00
Pickup Truck (per mile)	1.00
Pickup Truck (per hour)	20.00
Equipment use	
Overnight Trip (per day)	Variable
Charge includes the Per-Diem state rate plus the cost of the hotel.	
Petroleum Refinery	
Gasoline	
Octane Rating	132.00
Benzene Level	88.00
Pensky-Martens Flash Point	22.00
Overtime charges (per hour)	33.00
Gravity	11.00
Distillation	28.00
Sulfur, X-ray	39.00
Reid Vapor Pressure (RVP)	28.00
Aromatics	55.00
Leads	22.00
Diesel	
Gravity	28.00
Distillation	28.00
Sulfur, X-ray	22.00
Cloud Point	22.00
Conductivity	28.00
Cetane	22.00
Certificate of Free Sale	
Single Certificate	30.00
More than 3 pages	55.00
Citations, maximum per violation	500.00

**QUALIFIED PRODUCTION ENTERPRISE FUND**

Medical Cannabis	
Medical Cannabis Cultivation License	
Fee	100,000.00
Annual license fee for a medical cannabis cultivator.	
Medical Cannabis Cultivation	
License Application Fee	2,500.00
Fee to apply for a medical cannabis cultivator license.	
Medical Cannabis Processor Tier 1	
License Fee	100,000.00
Annual license fee to processed medical cannabis into a consumable product.	
Medical Cannabis Processor Tier 1	
License Application Fee	1,250.00

Fee to apply for a medical cannabis processor license.	
Medical Cannabis Processor Tier 2	
License Fee	35,000.00
Annual fee to process medical cannabis into a consumable product.	
Medical Cannabis Processor Tier 2	
License Application Fee	1,250.00
Fee to apply to process medical cannabis.	
Medical Cannabis Establishment	
Agent Registration Fee - Background Check Needed	150.00
Bi-annual fee to process applications to register medical cannabis employees to be able to work in the industry. This includes background checks, verifying certifications standards are met and issuing card.	
Medical Cannabis Establishment	
Agent Registration Fee - No Background Check Needed	100.00
Bi-annual fee to process applications to register medical cannabis employees to be able to work in the industry. This includes background checks, verifying certifications standards are met and issuing card.	
Medical Cannabis Laboratory	
License Fee	15,000.00
Annual fee to be licenses to test medical cannabis chemical compounds.	
Medical Cannabis Laboratory	
License Application Fee	500.00
Application fee for license to test medical cannabis chemical compounds.	
Medical Cannabis Research	
University License	2,500.00
Fee to issue licenses to Utah Research Universities to conduct research on medical cannabis.	
Cannabis - Total THC and Total CBD Testing	65.00
Cannabis laboratory testing fee for the determination of total THC and total CBD in cannabis (e.g., hemp and medical cannabis), including cannabis plant (flower) and cannabis-derived products (e.g., CBD oil).	

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR QUALITY**

Emission Inventory Workshop	15.00
Attendance	
Air Emissions (per ton)	89.67
Major and Minor Source Compliance	
Inspection (per hour)	100.00
Annual Aggregate Compliance	
20 or less tons per year (per year)	180.00
21-79 tons per year (per year)	360.00
80-99 tons per year (per year)	900.00
100 or more tons per year	
(per year)	1,260.00
Asbestos and Lead-Based Paint (LBP)	
Abatement	
Course Accreditation Fee (per hour)	100.00
Asbestos Company/LBP Firm	
Certification Application (per year)	275.00

LBP Renovation Firm Certification	
Application (per year) .....	110.00
Asbestos Individual Certification	
Application .....	137.50
Asbestos Individual Certification	
App;ocatopm Surcharge, (Non-Utah Accredited Training Provider) .....	33.00
LBP Abatement Worker	
Certification Application (per year) ...	110.00
LBP Inspector, Dust Sampling	
Technician Certification Application (per year) .....	137.50
LBP Risk Assessor, Supervisor, Project	
Designer Certification Application (per year) .....	220.00
LBP Renovator Certification Application	
(per year) .....	110.00
Lost Certification Card Replacement ...	33.00
Annual Asbestos Notification .....	550.00
Asbestos/LBP Abatement Project	
Notification Base Fee .....	165.00
Asbestos/LBP Abatement Project	
Notification Base Fee - Owner Occupied Residences .....	55.00
Abatement Unit Fee/100 units or any fraction thereof up to 10,000 units .....	7.70
(square feet/linear feet/cubic feet) (times 3)	
School Building Asbestos Hazard Emergency Response Act (AHERA) abatement unit fees will be waived	
Abatement Unit Fee/100 units or any fraction thereof more than 10,000 units .....	3.85
(square feet/linear feet/cubic feet) (times 3)	
School Building AHERA abatement fees will be waived	
Demolition Notification Base .....	27.50
Demolition unit per 5,000 square feet or any fraction thereof .....	55.00
Alternative Work Practice Review Application <10daytrainingprovider/Private Residence Non-National Emission Standards for Hazardous Air Pollutants (NESHAP) Requests .....	110.00
NESHAP Structures and Any Other Requests .....	275.00
Permit Category	
Filing Fees	
Name Changes .....	100.00
Small Sources Exemptions and Soil Remediation, Source Determination Letters .....	250.00
New non-PSD sources, minor & major modifications to existing sources, Administrative Amendments .....	500.00
Any unpermitted sources at an existing facility .....	1,500.00
New major prevention of significant deterioration (PSD) sources .....	5,000.00
Monitoring plan review and site visit	
Application Review Fees	

New major source or modifications to major source in nonattainment area .....	45,000.00
Up to 450 hours	
New major source or modifications to major source in attainment area .....	30,000.00
Up to 300 hours	
New minor source or modifications to minor source .....	2,000.00
Up to 20 hours	
Generic permit for minor source or modifications of minor sources .....	800.00
Up to 8 hours (sources for which engineering review/BACT standardized)	
Temporary Relocations .....	700.00
Minor sources (new or modified) with <3 tpy uncontrolled emissions .....	500.00
Up to 5 hours	
Permitting cost for additional hours (per hour) .....	100.00
Technical review of and assistance given (per hour) .....	100.00
e.g. appeals, sales/use tax exemptions, soils exemptions, soils remediations, experimental approvals, impact analyses, etc.	
Annual NSR Fee	
Ten year review of non-expiring permits, rule and process training, electronic permitting tools	
<20 tons annual emmissions .....	100.00
20 to 49 tons annual emissions .....	300.00
50-99 tons annual emissions .....	600.00
100-250 tons annual emissions .....	1,000.00
>250 tons annual emissions .....	1,500.00
PBRs with controls .....	100.00
Air Quality Training .....	Actual Cost

**DRINKING WATER**

Special Surveys .....	Actual cost
File Searches .....	Actual cost
Well Sealing Inspection (per hour) .....	100.00
Technical Assistance (per hour) .....	100.00
Operator Certification Program	
Examination: online .....	120.00
Any level	
Examination: paper .....	200.00
Any level	
Renewal of certification .....	150.00
Every 3 years if applied for during designated period	
Reinstatement of lapsed certificate .....	300.00
Certificate of reciprocity with another state .....	150.00
Cross Connection Control Program	
Certification and Renewal Program Administrator:	
paper testing .....	225.00
Program Administrator: renewal .....	125.00
Assembly Tester and Class III; initial certification and renewal .....	225.00
Certificate of reciprocity with another state .....	225.00

Replacement Certificate ..... 25.00

Cost Recovery

After-the-Fact Review - Construction  
without Approval (per project) ..... 1,000.00

After-the-Fact Review - Unapproved  
Facility in Use (per project) ..... 1,000.00

Additional Follow up - Monitoring  
Compliance (per violation) ..... 300.00

Additional Follow up - Reporting  
Compliance (per violation; reassessed  
every compliance period) ..... 200.00

Additional Follow up - CCR  
Compliance (per violation;  
reassessed quarterly) ..... 500.00

Additional Follow up - Public Notice  
Compliance (per violation; reassessed  
every compliance period) ..... 500.00

Additional Follow up - Unresolved  
Significant Deficiencies (per  
citation; reassessed quarterly) ..... 1,000.00

Additional Follow up - Compliance  
Inspections and Assessments  
(per inspection) ..... 1,000.00

Preparation, Issuance and Oversight of  
Enforcement Orders

Administrative Orders (per order) .. 6,000.00

Stipulated Enforcement Orders  
(per order) ..... 2,000.00

Other orders resulting from non-  
compliance or public health risks  
(per order) ..... 1,000.00

Drinking Water Loan

Origination ..... 1.0% of Loan Amount

**ENVIRONMENTAL  
RESPONSE AND REMEDIATION**

Environmental Response and Remediation  
Professional and Technical services or  
assistance (per hour) ..... 100.00

Including but not limited to EPCRA  
Technical Assistance, PST Claim  
Preparation Assistance, Oversight for Tanks  
Failing to pay UST fee, UST Compliance  
follow-up Inspection, apportionment of  
Liability requested by responsible parties,  
prepare, administer or conduct  
administrative process, environmental  
covenants.

Voluntary Environmental Cleanup  
Program Application Fee ..... 2,500.00

Review/Oversight/Participation in  
Voluntary Agreements (per hour) ..... 100.00

Annual Underground Storage Tank  
Tanks on Petroleum Storage

Tank (PST) Fund ..... 110.00

Tanks not on PST Fund ..... 220.00

Tanks at Facilities significantly out of  
compliance with leak prevention  
or leak detection requirements ..... 300.00

PST Fund Reapplication, Certification  
of Compliance Reapplication Fee,  
or both ..... 300.00

Initial Approval of Alternate UST  
Financial Assurance Mechanisms ..... 420.00  
(Non-PST Participants)

Approval of alternate UST financial  
assurance mechanisms after  
initial year ..... 240.00  
(with no Mechanism changes)

Certification or Certification Renewal for  
UST Consultants

UST installers, removers, groundwater  
& soil samplers, & non-government  
UST inspectors & testers ..... 225.00

Consultant Recertification Class ..... 150.00

Clandestine Drug Lab Decontamination  
Specialist Certification  
Certification and Recertification ..... 225.00

Retest of Certification Exam ..... 100.00

Enforceable Written Assurance Letters

Written letter ..... 500.00

Flat fee to cover costs up to \$500

Additional charge for any costs  
above \$500 (per hour) ..... 100.00

Environmental Response and  
Remediation Program Training .... Actual cost

UST Operators Registration ..... 50.00

UST Red Tag Replacement ..... 500.00

Applied only when a Red Tag is removed  
without authorization

UST Installation Base Fee ..... 500.00

UST Tank Installation State  
Inspection Fee ..... 200.00

**EXECUTIVE DIRECTOR'S OFFICE**

All Divisions

Request for copies over 10 pages  
(per page) ..... 0.25

Copies made by the requestor-over

10 pages (per page) ..... 0.05

Compiling, tailoring, searching, etc., a record in  
another format. Actual cost after 1st 1/4 hour  
Charged at rate of lowest paid staff  
employee who has necessary skill/training to  
perform the request.

Special computer data requests  
(per hour) ..... 100.00

CDs (per disk) ..... 10.00

DVDs (per disk) ..... 8.00

Contract Services ..... Actual Cost

To be charged in order to efficiently utilize  
department resources, protect dept  
permitting processes, address extraordinary  
or unanticipated requests on the permitting  
processes, or make use of specialized  
expertise. In providing these services,  
department may not provide service in a  
manner that impairs any other person's  
service from the department.

**WASTE MANAGEMENT  
AND RADIATION CONTROL**

Waste Management and Radiation Control  
Resource Conservation and Recovery

Act (RCRA) Facility List ..... 5.00

Solid and Hazardous Waste Program  
Administration (including Used Oil and Waste  
Tire Recycling Programs)

Professional (per hour) ..... 100.00

This fee includes but is not limited to:  
Review of Site Investigation and Site



Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders, and related compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans

Hazardous Waste Permit Filing

Hazardous Waste Operation

Plan Renewal ..... 1,000.00

Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Districts seeking review from the Division)

New Comm. Facility

Class V and Class VI Landfills ..... 1,000.00

New Non-Commercial Facility ..... 750.00

New Incinerator

Commercial ..... 5,000.00

Industrial or Private ..... 1,000.00

Plan Renewals and Plan Modifications .... 100.00

Variance Requests ..... 500.00

Enforceable Written Assurance Letters or Similar Letters

Flat fee for up to 8 hours to complete letter ..... 500.00

Additional per hour charge if over the original 8 hours ..... 100.00

Solid Waste Facility Fee

Treatment and Disposal facilities ... Greater of \$125 or \$0.21/ton Quarterly

Treatment (thermal, physical or chemical) and Disposal facilities including: Land Application, Land Treatment, Composting, Waste to Energy, Landfill, Incineration. Beginning January 1, 2019, in accordance with 19-6-119(6), facilities treating or disposing of nonhazardous solid waste subject to a permit or plan of operation shall pay the following fees quarterly. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Transfer facilities . Greater of \$125 or \$0.11/ton Quarterly

Beginning January 1, 2019, in accordance with 19-6-119(6), facilities transferring of nonhazardous solid waste subject to a permit or plan of operation shall pay the following fees quarterly. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Waste Tire Recycling

Registration

Recycler or Transporter (per year) .... 100.00

Used Oil

Do It Your Selfer and Used Oil Collection Center Registration ..... No charge

Permit filing fee for Transporter, Transfer Facility, Processor/Re-refiner, and Off-Spec Burner, including

Permit Modifications and Plan Reviews ..... 100.00

Annual Registration for Transporter, Transfer Facility, Processor/ Re-refiner, Off-Spec Burner, & Land Application (per year) ..... 100.00

Marketer

Permit Filing ..... 50.00

Annual Registration Fee for Marketer (per year) ..... 50.00

Vehicle Manufacturer Mercury Switch Removal and Collection Plan

Mercury Switch Removal and Collection Plan Filing ..... 100.00

Non-Hazardous Solid Waste

Polychlorinated Biphenyl (PCBs) (per ton) ..... 4.75

Or fraction of a ton

Hazardous Waste Flat Fee (per year) ..... 2,444,800.00

Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.

Machine-Generated Radiation

Annual Registration Fee

Per control unit including first tube, plus annual fee for each additional tube connected to the control unit

Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental ..... 35.00

Division Conducted Inspection, Per Tube

Hospital/Therapy, Medical, Chiropractic, Industrial Facility with High and/or Very High Radiation Areas Accessible to Individuals and Other Types, Annual or Biennial ..... 105.00

Podiatry/Veterinary, Industrial Facility with Cabinet X-Ray Units or Units Designated for Other Purposes ..... 75.00

Dental

First tube on a single control unit .... 45.00

Additional tubes on a control unit (per Tube) ..... 12.50

Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts

Inspection report (per Tube) ..... 15.00

Radioactive Material

Special Nuclear Material

New License or Renewal License for:

Possession and use in sealed sources contained in devices used in industrial measuring systems, ..... 440.00

including X-ray fluorescence analyzers and neutron generators

Possession and use of less than 15 grams in unsealed form for research and development ..... 730.00

Use as calibration and reference sources ..... 180.00

All other licenses ..... 1,150.00

Annual Fee

Possession and use in sealed sources contained in devices used in industrial measuring systems, including X-ray fluorescence analyzers and neutron generators, possession and use of less than 15 grams in unsealed form for research and development . . . . .	740.00	Broad scope for research and development that do not authorize commercial distribution . . . . .	2,320.00
Use as calibration and reference sources . . . . .	240.00	Research and development that do not authorize commercial distribution . . . . .	700.00
All other licenses . . . . .	1,600.00	All other radioactive material . . . . .	440.00
Source Material		New License or License Renewal for:	
New License or License Renewal		Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services . . . . .	320.00
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake . . . . .	5,510.00	Licenses that authorize services for leak testing only . . . . .	150.00
Regulation of source and byproduct material at uranium mills or commercial waste facilities		New License or License Renewal to distribute items containing radioactive material:	
Uranium mills or commercial sites disposing of or reprocessing byproduct material , including mills in standby status (per month) . . . . .	10,760.00	New License or License Renewal to Distribute Items Containing Radioactive Material . . . . .	700.00
Licenses for possession and use of source material for shielding . . . . .	230.00	To persons exempt from licensing requirements of R313-19, except specific licenses the licensing requirements of R313-19, and to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21.	
All other source material licenses . . . . .	1,000.00	Annual license fee for possession and use of radioactive material for:	
Annual Fee		Broad scope for processing or manufacturing for commercial distribution, processing or manufacturing and distribution of radio-pharmaceuticals, generators, reagent kits, sources or devices containing radioactive material . . . . .	2,960.00
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake . . . . .	4,810.00	Or broad scope for research and development.	
Licenses for possession and use of source material for shielding . . . . .	365.00	Others for processing or manufacturing for commercial distribution . . . . .	2,040.00
All other source material licenses . . . . .	1,275.00	The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material . . . . .	1,000.00
Radioactive Material other than Source Material and Special Nuclear Material		Industrial radiography operations . . . . .	2,560.00
New License or License Renewal for possession and use of radioactive material for:		Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units), or search and development that do not authorize commercial distribution . . . . .	940.00
Broad scope for processing or manufacturing for commercial distribution . . . . .	2,320.00	Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes . . . . .	1,740.00
Others for processing or manufacturing for commercial distribution . . . . .	1,670.00	10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes . . . . .	3,480.00
Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material . . . . .	2,320.00	All other radioactive material . . . . .	520.00
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material . . . . .	860.00	Annual fee for:	
Industrial radiography operations . . . . .	1,670.00	Licenses that authorize services for other licensees, except licenses that authorize	
Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) . . . . .	700.00		
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes . . . . .	1,670.00		
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes . . . . .	3,340.00		

leak testing or waste disposal services subject to the fees specified for the listed services ..... 420.00

Licenses that authorize services for leak testing only ..... 160.00

Annual fee to distribute items containing radioactive material:

Annual Fee to Distribute Items Containing Radioactive Material ..... 580.00

To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19; or to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21.

Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)

Annual ..... 1,724,200.00

New Application

Siting

application .... Actual costs up to \$250,000

License application ..... Actual costs up to \$1,000,000

Renewal ..... Actual costs up to \$1,000,000

Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities (per hour) ..... 100.00

Review of Commercial Low-level Radioactive Waste Disposal and Uranium Recovery Special Projects ..... Actual cost

Applicable when the licensee and the Division agree that a review will be conducted by a contractor in support of the efforts of Division staff.

Generator Site Access Permits

Non-Broker Generators transferring radioactive waste (per year) ..... 2,500.00

Brokers (waste collectors or processors) (per year) ..... 7,500.00

Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour) ..... 100.00

Licenses authorizing receipt of waste radioactive material from others for packaging/repackaging the material

The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material

New License/Renewal ..... 3,190.00

Annual ..... 2,760.00

Licenses authorizing receipt of prepackaged waste radioactive material from others

The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material

New License/Renewal ..... 700.00

Annual ..... 1,100.00

Licenses authorizing packing of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material

New License/Renewal ..... 440.00

Annual ..... 520.00

Well Logging, Well Surveys, and Tracer Studies Licenses

for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies

New License/Renewal ..... 1,670.00

Annual ..... 2,100.00

Licenses for possession and use of radioactive material for field flooding tracer studies

New License/Renewal ..... Actual cost

Annual ..... 4,000.00

Nuclear Laundries

Licenses for commercial collection and laundry of items contaminated with radioactive material

New License/Renewal ..... 1,670.00

Annual ..... 2,380.00

Human Use of Radioactive Material

License for human use of radioactive materials in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices

New License/Renewal ..... 1,090.00

Annual ..... 1,280.00

Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices

New License/Renewal ..... 2,320.00

Annual ..... 2,960.00

Other licenses issued for human use of radioactive material

except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices

New License/Renewal ..... 700.00

Annual ..... 1,100.00

Civil Defense

Licenses for possession and use of radioactive material for civil defense activities

New License/Renewal ..... 700.00

Annual ..... 380.00

Power Source

Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power

New License/Renewal ..... 5,510.00

Annual ..... 2,520.00

Plan Reviews

Review of plans for decommissioning, decontamination, reclamation, waste disposal pursuant to R313-15-1002, or site restoration activities ..... 400.00

Plus added cost above 8 hours (per hour) ..... 100.00

Investigation of a misadministration by a third party as defined in R313-30-5 or in R313-32-2, as applicable ..... Actual cost

General License	Electric
Initial registration/renewal for first year	Major ..... 1,089.00
Measuring, gauging, and control devices	Minor ..... 436.00
as described in R313-21-22(4), ..... 20.00	Fish Hatcheries General Permit ..... 121.00
other than hydrogen-3 (tritium) devices	Food and Kindred Products
and polonium-210 devices containing no	Major ..... 1,089.00
more than 10 millicuries used for producing	Minor ..... 436.00
light or an ionized atmosphere	Hazardous Waste Clean-up Sites ..... 2,614.00
Annual fee after initial license/renewal	Geothermal
Measuring, gauging, and control devices	Major ..... 871.00
as described in R313-21-22(4) ..... 20.00	Minor ..... 436.00
other than hydrogen-3 (tritium) and	Inorganic Chemicals
polonium-210 devices containing no more	Major ..... 1,307.00
than other than 10 millicuries used for	Minor ..... 653.00
producing light or an ionized atmosphere,	Iron and Steel Manufacturing
including In Vitro testing and Depleted	Major ..... 2,614.00
Uranium	Minor ..... 653.00
Reciprocity - Licensees who conduct	Leaking Underground Storage
activities under the reciprocity provisions	Tank (LUST) Cleanup
of R313-19-30 (per type of license	General Permit ..... 436.00
category) ..... Full annual fee	LUST Cleanup Individual Permit ..... 871.00
Publication costs for making public notice	Meat Products
of required actions ..... Actual cost	Major ..... 1,307.00
Expedited application review (per hour) .. 100.00	Minor ..... 436.00
Applicable when, by mutual consent of the	Metal Finishing and Products
applicant and staff, an application request is	Major ..... 1,307.00
taken out of date order and processed by staff.	Minor ..... 653.00
Management and oversight of	Mineral Mining and Processing
impounded radioactive material .... Actual cost	Sand and Gravel ..... 242.00
License amendment, for greater than	Salt Extraction ..... 242.00
three applications in a calendar year .... 200.00	Other
Analytical costs for monitoring samples	Other Majors ..... 871.00
from radioactive materials	Other Minors ..... 436.00
facilities ..... Actual cost	Manufacturing
	Major ..... 1,742.00
	Minor ..... 653.00
	Oil and Gas Extraction
	flow rate 436.00
	flow rate > 0.5 MGD ..... 653.00
	Ore Mining
	Major ..... 1,307.00
	Minor ..... 653.00
	Major w/ concentration process .... 10,000.00
	Organic Chemicals Manufacturing
	Major ..... 2,178.00
	Minor ..... 653.00
	Petroleum Refining
	Major ..... 1,742.00
	Minor ..... 653.00
	Pharmaceutical Preparations
	Major ..... 1,742.00
	Minor ..... 653.00
	Rubber and Plastic Products
	Major ..... 1,089.00
	Minor ..... 653.00
	Space Propulsion
	Major ..... 2,420.00
	Minor ..... 653.00
	Steam and/or Power Electric Plants
	Major ..... 871.00
	Minor ..... 436.00
	Water Treatment Plants (Except
	Political Subdivisions)
	General Permit ..... 121.00
	Annual UPDES Publicly Owned
	Treatment Works (POTW)

### WATER QUALITY

Operator Certification
Certification Examination ..... 50.00
Renewal of Certificate ..... 25.00
Renewal of Lapsed Certificate plus
renewal (per month) ..... 25.00
\$75 maximum
Duplicate Certificate ..... 25.00
New Certificate change in status ..... 25.00
Certification by reciprocity with
another state ..... 50.00
Grandfather Certificate ..... 20.00
Underground Wastewater Disposal Systems
New Systems ..... 25.00
Certificate Issuance ..... 25.00
Utah Pollutant Discharge Elimination System
(UPDES) Permits, Surface Water
Cement Manufacturing
Major ..... 871.00
Minor ..... 218.00
Coal Mining and Preparation
General Permit ..... 436.00
Individual Major ..... 1,307.00
Individual Minor ..... 871.00
Concentrated Animal Feeding
Operations (CAFO) General Permit ... 110.00
Construction Dewatering/Hydrostatic
Testing General Permit ..... 150.00
Dairy Products
Major ..... 871.00
Minor ..... 436.00

Large >10 million gallons per day (mgd) flow design (per year) . . . . .	8,800.00
Medium >3 mgd but <10 mgd flow design (per year) . . . . .	5,500.00
Small <3mgd but > 1 mgd (per year) . . . . .	1,100.00
Very Small <1 mgd (per year) . . . . .	550.00
Annual UPDES Pesticide Applicator Fee	
Small Applicator . . . . .	200.00
Medium Applicator . . . . .	500.00
Large Applicator . . . . .	1,650.00
Groundwater Remediation Treatment Plant . . . . .	5,500.00
Biosolids Annual Fee (Domestic Sludge)	
Small Systems (per year) . . . . .	385.00
1-4,000 connections	
Medium Systems (per year) . . . . .	1,117.00
4,001 to 15,000 connections	
Large Systems (per year) . . . . .	1,623.00
greater than 15,000 connections	
Non-contact Cooling Water	
Flow rate <= 10,000 gallons per day (gpd) (per year) . . . . .	110.00
10,000 gpd < Flow rate 100,000 gpd (per year) . . . . .	220.00
100,000 gpd < Flow rate <1.0 mgd (per year) . . . . .	440.00
Flow Rate > 1.0 mgd (per year) . . . . .	660.00
Stormwater Permits	
General Multi-Sector Industrial Storm Water Permit (per year) . . . . .	250.00
Industrial Stormwater No Exposure Certificate (per 5 years) . . . . .	150.00
General Construction Storm Water Permit (per year) . . . . .	150.00
Common Plan Storm Water Permit (per year) . . . . .	150.00
Construction Stormwater Low Erosivity Waiver Fee (per project) . . . . .	100.00
One-time project based fee.	
Municipal Storm Water	
0-5,000 Population (per year) . . . . .	750.00
5,001 - 10,000 Population (per year) . . . . .	1,250.00
10,001 - 50,000 Population (per year) . . . . .	1,750.00
50,001 - 125,000 Population (per year) . . . . .	3,000.00
> 125,000 Population (per year) . . . . .	4,000.00
Registered Stormwater Inspection (RSI) Certifications	
Certification Course and Examination (per year) . . . . .	200.00
Certification Renewal (per year) . . . . .	50.00
Renewal of Lapsed Certification (per year) . . . . .	100.00
Post-marked no more than 90 days after expiration.	
Registered SWPPP Writer RSI Certification Certification Course and Examination (per year) . . . . .	300.00
Annual Ground Water Permit Administration Fee	
Tailings/Evaporation/Process Ponds; Heaps (per Each) . . . . .	Actual cost
0-1 Acre . . . . .	385.00
>1-15 Acres . . . . .	770.00
>15-50 Acres . . . . .	1,540.00

>50-300 Acres . . . . .	2,310.00
>300-500 Acres . . . . .	6,140.00
>500 Acres . . . . .	12,280.00
Non-discharging municipal and commercial treatment facilities . . . . .	350.00
Underground Injection Control Permit Application Fee	
Class I Hazardous Waste Disposal . . . . .	25,000.00
One time fee	
Class I Non-Hazardous Waste Disposal . . . . .	9,000.00
One time fee	
Class III Solution Mining . . . . .	7,200.00
One time fee	
Class V Aquifer Storage and Recovery . . . . .	5,400.00
One time fee	
All Other Permits	
Base (per facility) . . . . .	770.00
Each additional regulated facility (per facility) . . . . .	770.00
Multi-celled pond system or grouping of facilities with common compliance point is considered one facility	
UPDES, ground water, underground injection control, construction permits not listed above, and permit modifications (per hour) . . . . .	100.00
Except projects of political subdivisions funded by the Division of Water Quality.	
Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour) . . . . .	100.00
Permittee to be notified upon receipt of application	
Water Quality Cleanup Activities	
Corrective Action, Site Investigation/ Remediation Oversight, Administration of Consent Orders and Agreements, and emergency response to spills and water pollution incidents (per hour) . . . . .	100.00
Actual cost for sample analytical lab work actual cost	
Technical Review of and assistance given (per hour) . . . . .	100.00
401 Certification reviews and issuance and compliance: permit appeals; and sales and use tax exemptions	
Water Quality Loan	
Origination . . . . .	1.0% of Loan Amount

**GOVERNOR'S OFFICE**

**OFFICE OF ENERGY DEVELOPMENT**

Alternative Energy Development	
Tax Credit . . . . .	150.00
C-PACE 3rd Party Administrator . . . . .	3.0%
Fee is based on total amount financed on each C-PACE project.	
High Cost Infrastructure Tax Credit, private investment \$10 million or less . . . . .	150.00
High Cost Infrastructure Tax Credit, private investment more than \$10 million . . . . .	250.00
Renewable energy Systems Tax Credit and Qualifying Solar Projects Tax Credit . . . . .	15.00
RESTC Production Tax Credit . . . . .	150.00

Application fee for the Renewable Energy Systems PRODUCTION Tax Credit.		Primacord (per mile) . . . . .	200.00
<b>DEPARTMENT OF NATURAL RESOURCES</b>		Surface Vibrators (per mile) . . . . .	200.00
<b>FORESTRY, FIRE AND STATE LANDS</b>		Shothole >50 ft (per hole) . . . . .	50.00
Division Administration		Shothole <50 ft (per mile) . . . . .	200.00
Administrative		Pattern Shotholes (per pattern) . . . . .	200.00
Application		Commercial . . . . .	200.00
Mineral Lease . . . . .	40.00	Commercial Recreation Event (per person over 150 people) . . . . .	2.00
Special Lease Agreement . . . . .	40.00	Minimum ROE of \$200 plus per person royalty	
Mineral Unit/Communitization Agreement . . . . .	40.00	Data Processing	
Special Use Lease Agreement (SULA) . . . . .	300.00	Production Time (per hour) . . . . .	55.00
Grazing Permit . . . . .	50.00	Programming Time (per hour) . . . . .	75.00
Materials Permit . . . . .	200.00	Geographic Information System	
Easement . . . . .	150.00	Processing Time (per hour) . . . . .	55.00
Right of Entry . . . . .	50.00	Personnel Time (per hour) . . . . .	50.00
Exchange of Land . . . . .	1,000.00	Sovereign Lands	
Sovereign Land General Permit		Easements	
Private . . . . .	50.00	Minimum Easement . . . . .	225.00
Public		Canal	
Assignment		Existing	
Mineral Lease		<=33' wide (per rod) . . . . .	15.00
Total Assignment . . . . .	50.00	>33' but <=66' wide (per rod) . . . . .	30.00
Interest Assignment . . . . .	50.00	>66' but <=100' wide (per rod) . . . . .	45.00
Operating Right Assignment . . . . .	50.00	>100' wide (per rod) . . . . .	60.00
Overriding Royalty Assignment . . . . .	50.00	New	
Partial Assignment . . . . .	50.00	<=33' wide (per rod) . . . . .	30.00
Collateral Assignment . . . . .	50.00	>33' but <=66' wide (per rod) . . . . .	45.00
Special Use Lease Agreement (SULA) . . . . .	50.00	>66' but <=100' wide (per rod) . . . . .	60.00
Grazing Permit per AUM (Animal Unit Month) . . . . .	2.00	>100' wide (per rod) . . . . .	75.00
Grazing Sublease per AUM (Animal Unit Month) . . . . .	2.00	Roads	
Materials Permits . . . . .	50.00	Existing	
Easement . . . . .	50.00	<=33' wide (per rod) . . . . .	5.50
Right of Entry (ROE) . . . . .	50.00	>33' but <=66' wide (per rod) . . . . .	11.00
Sovereign Land General Permit . . . . .	50.00	>66' but <=100' wide (per rod) . . . . .	16.50
Grazing Non-use (per lease) . . . . .	10%	>100' wide (per rod) . . . . .	22.00
Special Use Lease Agreement (SULA) non-use . . . . .	10%	New	
ROE, Easement, Grazing amendment . . . . .	50.00	<=33' wide (per rod) . . . . .	8.50
SULA, general permit, mineral lease, materials permit amendment . . . . .	125.00	>33' but <=66' wide (per rod) . . . . .	17.00
Reinstatement . . . . .	150.00	>66' but <=100' wide (per rod) . . . . .	25.50
Surface leases & permits per reinstatement/per lease or permit		>100' wide (per rod) . . . . .	34.00
Bioprospecting - Registration . . . . .	50.00	Power lines, Telephone Cables, Retaining walls and jetties	
Oral Auction Administration . . . . .	Actual cost	<=30' wide (per rod) . . . . .	14.00
Affidavit of Lost Document (per document) . . . . .	25.00	>30' but <=60' wide (per rod) . . . . .	20.00
Certified Document (per document) . . . . .	10.00	>60' but <=100' wide (per rod) . . . . .	26.00
Research on Leases or Title Records (per hour) . . . . .	50.00	>100' but <=200' wide (per rod) . . . . .	32.00
Reproduction of Records		>200' but <=300' wide (per rod) . . . . .	42.00
Self service (per copy) . . . . .	0.10	>300' wide (per rod) . . . . .	52.00
By staff (per copy) . . . . .	0.40	Pipelines	
Change on Name of Division		<=2" (per rod) . . . . .	7.00
Records (per occurrence) . . . . .	20.00	>2" but <=13" (per rod) . . . . .	14.00
Fax copy (per page) . . . . .	1.00	>13" but <=25" (per rod) . . . . .	20.00
Send only		>25" but <=37" (per rod) . . . . .	26.00
Late Fee . . . . .	6% or \$30	>37" (per rod) (per rod) . . . . .	52.00
Returned check charge . . . . .	30.00	Special Use Lease Agreements (SULA)	
Sovereign Lands		SULA Lease Rate . . . . .	450.00
Rights of Entry		Minimum \$450 or market rate per R652-30-400	
Seismic Survey Fees		Grazing Permits . . . . .	3.00
		Annual rate per AUM (Animal Unit Month)	
		Special Use Lease Agreements . . . . .	Market rate
		General Permits	
		Mooring Buoys: 3 yr max term . . . . .	50.00
		Renewal - Mooring Buoys; 3 yr max term . . . . .	50.00
		Floating Dock, Wheeled Pier, Seasonal Use; 3 year max . . . . .	250.00

Dock/pier, Single Upland Owner	
Use; 3 year max	350.00
Boat Ramp, Temporary, Metal;	
3 year max	250.00
Boat Ramp, Concrete, Gravel;	
10 year max	700.00
Irrigation Pump – Pump Head	
Only; 15 year max	50.00
Irrigation Pump – Structure;	
15 year max	150.00
Storm Water Outfall, Drain;	
10 year max	150.00
Other	450.00
Minimum \$450 or market rate per	
R652-30-400	
Mineral Lease	
Rental Rate 1st ten years (per acre)	1.10
Rental Rate Renewals (per acre)	2.20

**OIL, GAS AND MINING**

Administration	
New Coal Mine Permit Application	5.00
Copy	
Staff Copy (per page)	0.25
Self Copy (per page)	0.10
Minerals Reclamation	
Mineral Program	
Exploration Permit	150.00
Annual Permit	
Small Mining Operations	150.00
Large Mining Operations	
10 to 50 acres	500.00
over 50 acres	1,000.00

**PARKS AND RECREATION**

Park Operation Management	
Boat Dealer Number and Registration	
Fee	25.00
All fees for the Division of Parks and Recreation	
may not exceed, but may be less than, the	
amounts stated in the division’s fee schedule.	
Golf Course Fees RENTALS	
Motorized cart, per 9 holes	16.00
Driving Range	9.00
Golf Course Fees GREENS FEES	
9 holes	18.00
Reservation Fee	10.65
Camping Fees	40.00
Group Camping Fees	400.00
Boating Fees	
Boat Mooring	
In/Off Season with or without	
Utilities (per foot)	7.00
Boat and RV Storage	200.00
Promotional Pass	1,100.00
Entrance Fees	
Motor Vehicles	
Day Use Annual Pass	150.00
Group Site Day-Use Fees	250.00
Parking Fee	5.00
Entrance Fees	25.00
Application Fees	250.00
Easement, Grazing permit, Construction/	
Maintenance, Special Use Permit, Waiting	
List, Events	

Assessment and Assignment Fees	
Repository Fees	
Curation (per storage unit)	700.00
Annual Repository Agreement,	
Annual Agreement Fee, Fee	
Collection, Return Checks, and	
Duplicate Document (per	
storage unit)	80.00
Staff or researcher time per hour	50.00
Equipment and building rental	
per hour	100.00
OHV and Boating Program Fees	
OHV Program Fee	
Statewide OHV Registration Fee	72.00
State-issued Permit to Non-	
resident OHV	30.00
OHV Education Fee	
Division’s Off-highway Vehicle Program	
and Personal Watercraft Safety	
Certificate, including	
replacement certificates	30.00
Boating Section Fees	
Commercial Dealer Demo Pass	200.00
Statewide Boat Registration Fee	40.00
Carrying Passengers for Hire Fee	200.00
Boat Livery Registration Fee	100.00
Lodging Fees	
Lodging	120.00

**UTAH GEOLOGICAL SURVEY**

Administration	
Sample Library	
Cutting Thin Section Blanks	10.00
Core Plug <1 inch (per plug)	10.00
Core Plugs > 1 inch diameter	25.00
Layout-Cuttings, Core, Coal, Oil/	
Water (per box)	5.00
Binocular/Petrographic Microscopes	
(per day)	25.00
Workshop Fee - Building Use	
(per day)	250.00
Workshop - Saturday/	
Sunday/Holiday Surcharge	320.00
Research Fee (per hour)	50.00
XRF High Resolution Scanning	
(per Hour)	15.00
XRF Analysis - Discreet Sample	
(per Sample)	10.00
Core Slabbing	
1.8” Diameter or Smaller (per foot)	10.00
1.8”-3.5” Diameter (per foot)	14.00
Core Photographing	
Box/Closeup 8x10 color/Thin	
Section (per Photo)	5.00
Paleontology	
File Search Requests	
Paleontology File Search Fee	30.00
Up to 30 minutes	
Miscellaneous	
Copies, Self-Serve (per copy)	0.10
Copies, Staff (per copy)	0.25
Research and Professional Services	
(per hour)	50.00

**WATER RESOURCES**

Administration	
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Color Plots	
Existing (per linear foot)	2.00
Custom Orders	Current staff rate
Plans and Specifications	
Small Set	10.00
Average Size Set	25.00
Large Set	35.00
Cloud Seeding License	Variable
Copies, Staff (per hour)	Current staff rate

**WATER RIGHTS**

Administration

Applications

Appropriation Variable see below

For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:

Flow - cubic feet per second (cfs)

More than 0, not to exceed 0.1	150.00
More than 0.1, not to exceed 0.5	200.00
More than 0.5, not to exceed 1.0	250.00
More than 1.0, not to exceed 2.0	300.00
More than 2.0, not to exceed 3.0	350.00
More than 3.0, not to exceed 4.0	400.00
More than 4.0, not to exceed 5.0	430.00
More than 5.0, not to exceed 6.0	460.00
More than 6.0, not to exceed 7.0	490.00
More than 7.0, not to exceed 8.0	520.00
More than 8.0, not to exceed 9.0	550.00
More than 9.0, not to exceed 10.0	580.00
More than 10.0, not to exceed 11.0	610.00
More than 11.0, not to exceed 12.0	640.00
More than 12.0, not to exceed 13.0	670.00
More than 13.0, not to exceed 14.0	700.00
More than 14.0, not to exceed 15.0	730.00
More than 15.0, not to exceed 16.0	760.00
More than 16.0, not to exceed 17.0	790.00
More than 17.0, not to exceed 18.0	820.00
More than 18.0, not to exceed 19.0	850.00
More than 19.0, not to exceed 20.0	880.00
More than 20.0, not to exceed 21.0	910.00
More than 21.0, not to exceed 22.0	940.00
More than 22.0, not to exceed 23.0	970.00
More than 23.0	1,000.00

Volume - acre-feet (af)

More than 0, not to exceed 20	150.00
More than 20, not to exceed 100	200.00
More than 100, not to exceed 500	250.00
More than 500, not to exceed 1,000	300.00
More than 1,000, not to exceed 1,500	350.00
More than 1,500, not to exceed 2,000	400.00
More than 2,000, not to exceed 2,500	430.00
More than 2,500, not to exceed 3,000	460.00
More than 3,000, not to exceed 3,500	490.00
More than 3,500, not to exceed 4,000	520.00
More than 4,000, not to exceed 4,500	550.00

More than 4,500, not to exceed 5,000	580.00
More than 5,000, not to exceed 5,500	610.00
More than 5,500, not to exceed 6,000	640.00
More than 6,000, not to exceed 6,500	670.00
More than 6,500, not to exceed 7,000	700.00
More than 7,000, not to exceed 7,500	730.00
More than 7,500, not to exceed 8,000	760.00
More than 8,000, not to exceed 8,500	790.00
More than 8,500, not to exceed 9,000	820.00
More than 9,000, not to exceed 9,500	850.00
More than 9,500, not to exceed 10,000	880.00
More than 10,000, not to exceed 10,500	910.00
More than 10,500, not to exceed 11,000	940.00
More than 11,000, not to exceed 11,500	970.00
More than 11,500	1,000.00
Extension Requests for Submitting a Proof of Appropriation	
Less than 14 years after the date of approval of the application	50.00
14 years or more after the date of approval of the application	150.00
Fixed time periods	150.00
For each certification of copies	10.00
A reasonable charge for preparing copies of any and all documents	Variable
Application to segregate a water right	50.00
Groundwater Recovery Permit	2,500.00
Fee Changed from Recharge to Recovery	
Notification for the use of sewage effluent or to change the point of discharge	750.00
Diligence claim investigation	500.00
Report of Water Right Conveyance	
Submission	40.00
Protest Filings	15.00
Livestock Watering Certificate	150.00
Well Driller	
Permit	
Initial	350.00
Renewal (Annual) (per year)	100.00
Late renewal (Annual) (per year)	50.00
Drill Rig Operator Registration	
Initial	100.00
Renewal (Annual) (per year)	50.00
Late Renewal (Annual) (per year)	50.00
Pump Installer License	
Initial	200.00
Renewal (Annual) (per year)	75.00
Late renewal (Annual) (per year)	50.00
Pump Rig Operator Registration	
Initial	75.00
Renewal (Annual) (per year)	25.00
Late renewal (Annual) (per year)	25.00
Stream Alteration	



Commercial .....	2,000.00
Government .....	500.00
Non-Commercial .....	100.00

**WATERSHED**

Sage Grouse Mitigation Agreement	
Fee (per Credit/Acre) .....	5.00
Sage Grouse Mitigation	
Application Fee .....	100.00
Sage Grouse Mitigation Credit	
Transfer Fee (per Credit/Acre) .....	5.00

**WILDLIFE RESOURCES**

Director's Office	
Fishing Licenses	
Resident	
Youth Fishing (12-13) .....	5.00
Resident Youth Fishing Ages 14-17	
(365 Day) .....	16.00
Resident Fishing Ages 18-64	
(365 day) .....	34.00
Resident Multi Year License (Up to 5 years)	
for Ages 18-64 \$33/year.	
Age 65 Or Older (365 day) .....	25.00
Disabled Veteran (365 day) .....	12.00
Resident Fishing 3 day any age .....	16.00
7-Day (Any Age) .....	20.00
Resident Set Line Fishing License .....	20.00
Nonresident	
Youth Fishing (12-13) .....	6.00
Nonresident Youth Fishing	
Ages 14-17 (365 day) .....	29.00
Nonresident Fishing age 18 Or	
Older (365 day) .....	85.00
Nonresident Multi Year (Up to 5 Years) for	
Ages 18 or Older \$84/year (includes license	
extensions).	
Nonresident Fishing 3 day any age .....	28.00
7-Day (Any Age) .....	46.00
Nonresident Set Line	
Fishing License .....	23.00
Season Fishing Licenses not	
Combinations .....	Up to 20% discount
Stamps	
Wyoming Flaming Gorge .....	12.00
Arizona Lake Powell .....	9.00
Game Licenses	
Introductory Hunting License .....	4.00
Upon successful completion of Hunter	
Education - add to registration fee	
Resident Introductory Combination	
license (hunter's ed completion) .....	6.00
Nonresident Introductory Combination	
license (hunter's ed completion) .....	6.00
Resident	
Hunting License (up to 13) .....	11.00
Resident Hunting License	
Ages 14-17 .....	16.00
Resident Hunting License	
Ages 18-64 .....	34.00
Resident Multi Year license (Up to 5 years)	
for Ages 18-64 \$33/year	
Resident Hunting License Ages 65	
Or Older .....	25.00
Resident Hunting License Disabled	
Veteran (365 Day) .....	25.50

Resident Youth Combination	
License Ages 14-17 .....	20.00
Resident Combination license	
Ages 18-64 .....	38.00
Resident Multi Year License (Up to 5 Years)	
for ages 18-64 \$37/year	
Resident Combination Ages 65	
or Older .....	29.00
Resident Combination License	
Disabled Veteran (365 Day) .....	28.50
Dedicated Hunter Certificate of Registration	
(COR)	
1 yr. (12-17) .....	40.00
1 Yr. (18+) .....	65.00
3 Yr. (12-17) .....	120.00
3 Yr. (18+) .....	195.00
Lifetime License Dedicated Hunter Certificate	
of Registration (COR)	
1 Yr. (12-17) .....	12.50
1 Yr. (18+) .....	25.00
3 Yr. (12-17) .....	37.50
3 Yr. (18+) .....	75.00
Nonresident	
Nonresident Youth Hunting License	
Ages 17 and Under .....	29.00
Nonresident Hunting License Age 18	
or Older (365 day) .....	72.00
Nonresident Multi Year Hunting	
License .....	71.00
(Up to 5 Years, including license	
extensions)	
Nonresident Youth Combination	
license Ages 17 and under .....	33.00
Nonresident Combination license	
Ages 18 Or Older .....	98.00
Nonresident Multi Year License (Up to 5	
Years, includes extensions) for Ages 18 or	
Older \$97/year.	
Nonresident Small Game - 3 Day .....	42.00
Falconry Meet .....	15.00
Dedicated Hunter Certificate of	
Registration (COR)	
1 Yr. (14-17) .....	268.00
Includes season fishing license	
1 Yr. (18+) .....	349.00
Includes season fishing license	
3 Yr. (12-17) .....	814.00
Includes season fishing license	
3 Yr. (18+) .....	1,047.00
Includes season fishing license	

General Season Permits

Resident	
Youth General Season Turkey .....	25.00
Turkey .....	35.00
General Season Deer .....	40.00
Antlerless Deer .....	30.00
Two Doe Antlerless .....	45.00
Depredation - Antlerless .....	30.00
Archery Bull Elk .....	50.00
General Bull Elk .....	50.00
Multi Season General Bull Elk .....	150.00
Antlerless Elk .....	50.00
Control Antlerless Elk .....	30.00
Resident Two Cow Elk permit .....	80.00
Resident Landowner Mitigation	
Deer - Antlerless .....	30.00
Elk - Antlerless .....	30.00

Pronghorn - Doe .....	30.00	Depredation - Bull Elk - Without Current Year Unused	
Nonresident		Bull Permit .....	285.00
Turkey .....	115.00	Co-Operative Wildlife Management Unit (CWMU)/Landowner	
General Season Deer .....	398.00	Any Bull .....	285.00
Includes season fishing license		Antlerless .....	50.00
Depredation - Antlerless .....	107.00	Nonresident	
Antlerless Deer .....	107.00	Limited Entry Bull .....	1,000.00
Two Doe Antlerless .....	197.00	Includes season fishing license	
Archery Bull Elk .....	593.00	Multi Season Limited Entry Bull .....	1,805.00
Includes season fishing license		Includes fishing license	
General Bull .....	593.00	Depredation - Antlerless .....	318.00
Includes season fishing license		Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Multi Season General Bull Elk .....	800.00	Any Bull .....	1,000.00
Antlerless Elk .....	251.00	Includes fishing license	
Control Antlerless Elk .....	107.00	Antlerless .....	318.00
Nonresident Two Cow Elk permit .....	350.00	Pronghorn	
Nonresident Landowner Mitigation		Resident	
Deer - Antlerless .....	107.00	Limited Buck .....	55.00
Two Doe Antlerless Deer Mitigation ..	197.00	Limited Doe .....	30.00
Elk - Antlerless .....	318.00	Limited Two Doe .....	45.00
Pronghorn - Doe .....	107.00	Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Two doe Antlerless Pronghorn Mitigation .....	197.00	Buck .....	55.00
Limited Entry Game Permits		Doe .....	30.00
Deer		Depredation Doe .....	30.00
Resident		Archery Buck .....	55.00
Limited Entry .....	80.00	Nonresident	
Multi Season Limited Entry Buck ...	145.00	Limited Buck .....	337.00
Premium Limited Entry .....	168.00	Includes season fishing license	
Multi Season Premium Limited Entry Buck .....	305.00	Limited Doe .....	107.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner		Limited Two Doe .....	197.00
Buck .....	40.00	Archery Buck .....	337.00
Limited Entry .....	80.00	Includes season fishing license	
Premium Limited Entry .....	168.00	Depredation Doe .....	107.00
Antlerless .....	30.00	Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Two Doe Antlerless .....	45.00	Buck .....	337.00
Nonresident		Includes season fishing license	
Limited Entry .....	650.00	Doe .....	107.00
Includes season fishing license		Moose	
Multi Season Limited Entry Buck .....	1,100.00	Resident	
Includes season fishing license		Bull .....	413.00
Premium Limited Entry .....	768.00	Antlerless .....	213.00
Includes season fishing license		Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Multi Season Premium Limited Entry Buck .....	1,330.00	Bull .....	413.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner		Antlerless .....	213.00
Buck .....	398.00	Nonresident	
Includes season fishing license		Bull .....	2,200.00
Limited Entry .....	568.00	Includes season fishing license	
Includes season fishing license. Includes CWMU Management buck deer permits.		Antlerless .....	1,000.00
Premium Limited Entry .....	768.00	Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Includes season fishing license		Bull .....	2,200.00
Antlerless .....	107.00	Includes season fishing license	
Two Doe Antlerless .....	197.00	Antlerless .....	1,000.00
Elk		Bison	
Resident		Resident .....	413.00
Limited Entry Bull .....	285.00	Resident Antelope Island .....	1,110.00
Multi Season Limited Entry Bull ...	513.00	Nonresident .....	2,200.00
Depredation .....	50.00	Includes season fishing license	
Depredation - Bull Elk - With Current Year Unused Bull Permit .....	235.00	Nonresident Antelope Island .....	2,615.00

Includes season fishing license	
Bighorn Sheep	
Resident	
Desert	513.00
Rocky Mountain	513.00
Resident Rocky Mtn/Desert Bighorn	
Sheep Ewe permit	100.00
Nonresident	
Desert	2,200.00
Includes season fishing license	
Rocky Mountain	2,200.00
Includes season fishing license	
Nonresident Rocky Mtn/Desert	
Bighorn Sheep Ewe permit	1,000.00
Goats	
Resident Mountain	413.00
Nonresident Mountain	2,200.00
Includes season fishing license	
Cougar/Bear	
Resident	
Cougar	58.00
Bear	83.00
Premium Bear	166.00
Bear Archery	83.00
Cougar Pursuit	30.00
Bear Pursuit	30.00
Nonresident	
Cougar	297.00
Bear	354.00
Multi Season Bear	546.00
Cougar Pursuit	155.00
Bear Pursuit	155.00
Wolf	
Resident	20.00
Nonresident	80.00
Cougar/Bear	
Cougar or Bear Damage	30.00
Wild Turkey	
Resident Limited Entry	35.00
Nonresident Limited Entry	115.00
Waterfowl	
Swan	
Resident	15.00
Nonresident	17.00
Sandhill Crane	
Resident	15.00
Nonresident	17.00
Sportsman Permits	
Resident	
Bull Moose	413.00
Hunter's Choice Bison	413.00
Desert Bighorn Ram	513.00
Bull Elk	513.00
Buck Deer	168.00
Buck Pronghorn	55.00
Bear	83.00
Cougar	58.00
Mountain Goat	413.00
Rocky Mountain Sheep	513.00
Turkey	35.00
Other	
Falconry Permits	
Resident	
Capture	
Apprentice Class	30.00
General Class	50.00
Master Class	50.00

Nonresident	
Capture	
Apprentice Class	132.00
General Class	132.00
Master Class	132.00
Handling	10.00
Includes licenses, Certificate of Registration, and exchanges	
Resident Drawing Application	10.00
Nonresident Draw Applications	15.00
Landowner Association Application	150.00
Nonrefundable	
Resident/Nonresident Dedicated Hunter	
Hourly Labor Buyout Rate	20.00
Bird Bands	0.25
Furbearer/Trap Registration	
Resident Furbearer	29.00
Any age	
Nonresident Furbearer	177.00
Any age	
Resident Bobcat Temporary	
Possession	15.00
Nonresident Bobcat Temporary	
Possession	52.00
Resident Trap Registration	10.00
Nonresident Trap Registration	10.00
Duplicate Licenses, Permits and Tags	
Hunter Education cards	10.00
Furharvester Education cards	10.00
Duplicate Vouchers CWMU/ Conservation/ Mitigation	25.00
Refund of Hunting Draw License	25.00
Application Amendment	25.00
Late Harvest Reporting	50.00
Exchange	10.00
Wildlife Management Area Access (without a valid license)	10.00
Division Programs Participation	
fee	Variable
Fees shall be determined by the division using the estimated costs of materials and supplies needed for participation in the event.	
Wood Products on Division Land	
Firewood (2 Cords)	10.00
Christmas Tree	5.00
Ornamentals	
Conifers (per tree)	5.00
Maximum \$60.00 per permit	
Deciduous (per tree)	3.00
Maximum \$60.00 per permit	
Hunter Education	
Hunter Education Training	6.00
Hunter Education Home Study	6.00
Furharvester Education Training	6.00
Bowhunter Education Class	6.00
Long Distance Verification	2.00
Becoming an Outdoors Woman	150.00
Special Needs Rates Available	
Hunter Education Range	
Adult	5.00
Market price up to \$10.	
Youth	2.00
Ages 15 and under. Market price up to \$5.	
Group for organized groups and not for special passes	50% discount
Spotting Scope Rental	2.00

Trap, Skeet or Riverside Skeet (per round) .....	5.00
Market price up to \$10	
Five Stand - Multi-Station Birds .....	7.00
Market price up to \$10	
Ten Punch Pass	
Ten Punch Pass Shooting Ranges Youth (Rifle/Archery/ Handgun) .....	Up to \$45
Market price up to \$45.00	
Ten Punch Pass Shooting Ranges (Shotgun) .....	Up to \$95
Market price up to \$95.00	
Ten Punch Pass Shooting Ranges Adult (Rifle/Archery/ Handgun) .....	Up to \$95
Market price up to \$95.00	
Sportsmen Club Meetings .....	20.00
Shooting Center RV	
Camping .....	\$10.00 to \$50.00
Reproduction of Records	
Self Service (per copy) .....	0.10
Staff Service (per copy) .....	0.25
Geographic Information System	
Personnel Time (per hour) .....	50.00
Processing (per hour) .....	55.00
Data Processing	
Programming Time (per hour) .....	75.00
Production (per hour) .....	55.00
License Agency	
Application .....	20.00
Other Services to be reimbursed at actual time and materials	
Postage .....	Current rate
Lost license paper by license agents (per page) .....	10.00
Return check charge .....	20.00
Hardware Ranch Sleigh Ride	
Adult .....	5.00
Age 4-8 .....	3.00
Age 0-3 .....	No charge
Education Groups (per person) .....	1.00
Easement and Leases Schedule	
Application for Leases	
Leases .....	250.00
Nonrefundable	
Easements	
Rights-of-way .....	750.00
Nonrefundable	
Rights-of-entry .....	50.00
Nonrefundable	
Easements Oil and Gas Pipelines ...	250.00
Amendment to lease, easement, right-of-way .....	400.00
Nonrefundable	
Amendment to right of entry .....	50.00
Certified document .....	5.00
Nonrefundable	
Research on leases or title records (per hour) .....	50.00
Rights-of-Way	
Leases and Easements - Resulting in Long-Term Uses of Habitat ...	Variable
Fees shall be determined on a case-by-case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the	

lease, right-of-way, or easement. Fair market value shall be determined by customary market valuation practices.

Special Use Permits for non-depleting land uses of < 1 year .....

Variable  
A nonrefundable application of \$50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.

#### Width of Easement

0' - 30' Initial .....	12.00
0' - 30' Renewal .....	8.00
31' - 60' Initial .....	18.00
31' - 60' Renewal .....	12.00
61' - 100' Initial .....	24.00
61' - 100' Renewal .....	16.00
101' - 200' Initial .....	30.00
101' - 200' Renewal .....	20.00
201' - 300' Initial .....	40.00
201' - 300' Renewal .....	28.00
>300' Initial .....	50.00
>300' Renewal .....	34.00

#### Outside Diameter of Pipe

<2.0" Initial .....	9.40
<2.0" Renewal .....	4.00
2.0" - 13" Initial .....	19.00
2.0" - 13" Renewal .....	8.00
13.1" - 37" Initial .....	38.00
13.1" - 25" Renewal .....	12.00
25.1" - 37" Renewal .....	16.00
>37" Initial .....	75.00
>37" Renewal .....	32.00

#### Roads, Canals

Permanent loss of habitat plus high maintenance disturbance .....	18.00
1' - 33' New Construction	
Permanent loss of habitat plus high maintenance disturbance .....	12.00
1' - 33' Existing	
Permanent loss of habitat plus high maintenance disturbance .....	24.00
33.1' - 66' New Construction	
Permanent loss of habitat plus high maintenance disturbance .....	18.00
33.1' - 66' Existing	

#### Assignments: Easements, Grazing

Permits, Right-of-entry, Special Use .....	250.00
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#### Certificates of Registration

Initial - Personal Use .....	75.00
Initial - Commercial .....	150.00

#### TYPE I

Certificate of Registration (COR)	
Fishing Contest	
Small, Under 50 .....	20.00
Medium, 50 to 100 .....	100.00
Large, over 200 .....	250.00
Amendment .....	10.00
Certificate of Registration (COR)	
Handling .....	10.00
Renewal .....	30.00

Late fee for failure to renew Certificates of Registration when due: greater of \$10 or 20% of fee. ....	Variable
Required Inspections .....	100.00
Failure to Submit Required Annual Activity Report When Due .....	10.00
Request for Species Reclassification ...	200.00
Request for Variance .....	200.00
Commercial Fishing and Dealing Commercially in Aquatic Wildlife Dealer in Live/Dead Bait .....	75.00
Helper Cards - Live/Dead Bait .....	15.00
Commercial Seiner .....	1,000.00
Helper Cards - Commercial Seiner .....	100.00
Commercial Brine Shrimper .....	15,000.00
Helper Cards - Commercial Brine Shrimper .....	1,500.00
Upland Game Cooperative Wildlife Management Units New Application .....	250.00
Annual .....	150.00
Big Game Cooperative Wildlife Management Unit New Application .....	250.00
Annual .....	150.00
Falconry Three year .....	45.00
Five Year .....	75.00
Commercial Hunting Areas New Application .....	150.00
Renewal Application .....	150.00

**SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION**

Administration Research on leases or title by staff (per hour) .....	75.00
Reproduction of Records Copies Made By Staff (per copy) .....	0.40
Copies - Self-service (per copy) .....	0.10
Name change on Administrative Records Name Change on Admin. Records - Surface Document .....	15.00
Name Change on Admin. Records - Lease (per lease) .....	15.00
Late fee .....	The greater of 6% or \$30
Fax send only including cover (per page) ...	1.00
Certified Copies (per document) .....	10.00
Affidavit of Lost Document (per document) .....	25.00
Surface Easements Amendment .....	400.00
Application .....	750.00
Assignment Fees .....	250.00
Collateral .....	250.00
Reinstatement .....	400.00
Exchange Application .....	1,000.00
Grazing Permit Amendment .....	75.00
Application .....	75.00
Assignment Fees .....	30.00
Collateral .....	50.00

Reinstatement .....	100.00
Non-Use .....	20.00
Modified Amendment .....	50.00
Application .....	250.00
Assignment Fees .....	250.00
Collateral .....	50.00
Reinstatement .....	30.00
Letter of Intent Application .....	100.00
Right of Entry Amendment .....	50.00
Application .....	50.00
Assignment .....	250.00
Extension of Time .....	100.00
Processing .....	50.00
Right of Entry Trailing Permit Application plus AUM (Animal Unit Month) fees .....	50.00
Sales/Certificates Application .....	250.00
Assignment .....	250.00
Partial Conveyance .....	250.00
Patent Reissue .....	50.00
Processing .....	500.00
Special Use Agreements Amendment .....	400.00
Application .....	250.00
Assignment Fees .....	250.00
Collateral .....	250.00
Processing .....	700.00
Reinstatement .....	400.00
Timber Agreement Application .....	100.00
6 months or less Assignment .....	250.00
6 months or less Application .....	500.00
longer than 6 months Assignment .....	250.00
longer than 6 months Extension of Time .....	250.00
longer than 6 months Mineral Application Materials Permit (Sand and Gravel) ..	250.00
Mineral Materials Permit .....	100.00
Mineral Lease .....	30.00
Rockhounding Permit Association .....	200.00
Individual/Family .....	25.00
Collateral .....	75.00
Materials Permit (Sand and Gravel) .....	200.00
Operating Rights .....	75.00
Overriding Royalty .....	50.00
Record Title .....	75.00
Segregation .....	150.00
Processing Materials Permit (Sand/Gravel) .....	700.00
Transfer Active Oil and Gas Lease to Current Form .....	50.00
Cash Equivalent .....	3.00
Bank Charge (per incident) .....	3 percent
Fee based on total transaction value.	

**PUBLIC EDUCATION**

**STATE BOARD OF EDUCATION**

**STATE ADMINISTRATIVE OFFICE**

Board and Administration  
 Unauthorized parking fee ..... 30.00  
 Indirect Cost Pool  
 Indirect Cost Pool  
 Restricted Funds  
     USBE percentage of personal  
         service costs ..... up to 10.9%  
 Unrestricted Funds  
     USBE percentage of personal  
         service costs ..... up to 24.6%  
 Student Support Services  
 Conference or Professional  
     Development Registration (per Day) ..... 50.00  
     These fees apply to the entire department.

**UTAH SCHOOLS FOR THE  
 DEAF AND THE BLIND**

Administration  
 USDB Audiologist Fee (per Hour) ..... 71.81  
 Study Abroad Fee ..... 500.00  
 Support Services  
     Conference Attendance  
         Educator - Conference  
             Attendance Fee ..... 100.00  
             Parent - Conference Attendance Fee ... 25.00  
         Adult Lunch Tickets ..... 2.25  
         Copy and Fax Machine  
             Copy Machine  
                 Color ..... 1.00  
                 Black/White ..... 0.10  
         Room Rental  
             Conference ..... 100.00  
 School for the Deaf  
 Instruction  
     Teachers Aide ..... 13.50  
         Tight labor market has forced USDB to  
         increase the hourly rate to attract job  
         candidates.  
     Educator ..... 71.81  
         This fee is the average of all USDB  
         Educators' salary and benefits.  
     After-School Program ..... 30.00  
     Pre-School Monthly Tuition ..... 75.00  
     Out-of-State Tuition ..... 50,600.00  
     Educational Interpreter ..... 46.83  
 Support Services  
     Athletic (per sport) ..... 100.00  
     Room Rental  
         Multipurpose ..... 200.00  
 School for the Blind  
 Instruction  
     Student Education Services Aide ..... 30.53  
         Reflects 2.5% personnel increase in hourly  
         rate from the 2019 General Legislative  
         session.  
 Support Services  
     Room Rental  
         Dormitory ..... 50.00

**RETIREMENT AND  
 INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN  
 RESOURCE MANAGEMENT**

**HUMAN RESOURCE MANAGEMENT**

Statewide Management Liability Training  
 Course Fee (per student) ..... 750.00  
     Per Course  
 Other Training Fee (per hour) ..... 25.00  
     \$25 per training hour - materials not  
     included.

**HUMAN RESOURCES  
 INTERNAL SERVICE FUND**

ISF - Core HR Services  
 Core HR (per FTE) ..... 12.00  
 ISF - Field Services  
 Consulting Services (Non-Customer)  
     (per Hour) ..... 50.00  
     Billing for DHRM consultation with  
     agencies who do not use DHRM HR services.  
 HR Services (per FTE) ..... 740.00  
 ISF - Payroll Field Services  
 Payroll Services (per FTE) ..... 54.00  
     Per UCA 67-19-13.5, the following  
     agencies are not required to use DHRM  
     payroll services: State Treasurer's Office,  
     State Auditor's Office, Dept. of Technology  
     Services, Dept. of Public Safety, Dept. of  
     Natural Resources, Dept. of Transportation,  
     Utah Schools for the Deaf and the Blind.

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

Capitol Hill Grounds  
     Commercial Production Grounds/per  
         event (per day) ..... 2,500.00  
     Commercial Production White  
         Chapel/per event ..... 1,000.00  
     Commercial filming/photography  
         Capitol building-2 hour increments ... 500.00  
     Commercial filming/photography  
         Capitol grounds-2 hour increments ... 250.00  
 A-South Lawn  
     A-South Lawn/per event ..... 2,000.00  
     A-South Lawn/per hour ..... 400.00  
 D-West Lawn  
     D-West Lawn/per event ..... 500.00  
     D-West Lawn/per hour ..... 150.00  
 South Steps  
     South Steps/per event (per event) ..... 500.00  
     South Steps/per hour (per hour) ..... 125.00  
 Capitol Hill - The State Capitol Preservation Board  
 may establish the maximum amount of time a  
 person may use a facility.  
 Parking Lot  
     Parking Space (per stall per day) ..... 7.00  
     For events only  
 Rotunda

Commercial Production Rotunda/  
per event (per day) ..... 5,000.00

Rotunda Rental Fee Monday-  
Thursday (per event) ..... 2,000.00

Rotunda Rental Fee Friday-  
Sunday (per event) ..... 2,300.00

Rotunda two hour block Mon-Fri  
during Leg Session and Interim  
days (7 a.m.-5:30 p.m.) ..... No charge

Hall of Governors  
Hall of Governors ..... 1,300.00

Hall of Governors - Two hour block  
Monday - Friday during Leg  
Session and Interim days  
(7:00 a.m.-5:30 p.m.) ..... No charge

Plaza  
Plaza/per event ..... 1,300.00

Plaza/per hour ..... 200.00

Room 105  
Nonprofit, Gov't Nonofficial  
Business, K-12, & Higher Ed  
Room #105/per hour ..... 50.00

Room #105 Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session  
and Interim days (no more  
than 8 hours/week) ..... No charge

Room 170  
Nonprofit, Gov't Nonofficial Business, K-12, &  
Higher Ed  
Room #170/per hour ..... 50.00

Room #170 Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session  
and Interim days (no more  
than 8 hours/week) ..... No charge

Room 210  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Room #210/per hour ..... 50.00

Room #210 Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than  
8 hours/week) ..... No charge

State Room  
State Room/per event ..... 1,000.00

State Room/per hour ..... 125.00

Board Room  
General Public, Commercial, & Private  
Groups  
Board Room/per hour ..... 150.00

Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Board Room/per hour ..... 75.00

Olmsted Room  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Olmsted Room/per hour ..... 50.00

Olmsted Room Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than  
8 hours/week) ..... No charge

Kletting Room  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Kletting Room/per hour ..... 50.00

Kletting Room Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and

Interim days (no more than  
8 hours/week) ..... No charge

Elk Room  
Nonprofit, Gov't Nonofficial Business,  
K-12, & Higher Ed  
Elk Room/per hour ..... 50.00

Elk Room Mon-Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than 8  
hours/week) ..... No charge

Seagull Room  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Seagull Room/per hour ..... 50.00

Seagull Room Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than  
8 hours/week) ..... No charge

Beehive Room  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Beehive Room/per hour ..... 50.00

Beehive Room Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than 8  
hours/week) ..... No charge

Copper Room  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Copper Room/per hour ..... 50.00

Copper Room Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than  
8 hours/week) ..... No charge

Aspen Room  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Aspen Room/per hour ..... 50.00

Aspen Room Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than  
8 hours/week) ..... No charge

State Office Building - The State Capitol  
Preservation Board may establish the maximum  
amount of time a person may use a facility.

Auditorium  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Auditorium/per hour ..... 75.00

Auditorium Mon - Fri, 11 a.m.-  
1:30 p.m. during Leg Session and  
Interim days with the use of  
preferred caterer ..... No charge

Room 1112  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Room #1112/per hour ..... 50.00

Room #1112 Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than  
8 hours/week) ..... No charge

Room B110  
Nonprofit, Gov't Nonofficial Business,  
K -12, & Higher Ed  
Room #B110/per hour ..... 50.00

Room #B110 Mon - Fri, 7:00 a.m.-  
5:30 p.m. during Leg Session and  
Interim days (no more than  
8 hours/week) ..... No charge

White Community Memorial Chapel  
White Chapel per day of event ..... 500.00  
White Chapel noon-midnight  
rehearsal ..... 250.00

Miscellaneous Other  
Access Badges ..... 25.00  
Additional Labor (per person,  
per 1/2 hr) ..... 25.00  
Additional Personnel (per person,  
per 1/2 hr) ..... 25.00  
Adjustment (per person, per 1/2 hr) ..... 25.00  
Administrative Fee ..... 10.00  
Baby Grand Piano ..... 200.00  
Chairs (per chair) ..... 1.50  
Change in set-up fee (per person,  
per 1/2 hr) ..... 25.00  
Easel ..... 10.00  
Event/Dance Floor 30x30 ..... 1,000.00  
Event/Dance Floor 21x21 ..... 600.00  
Event/Dance Floor 15x15 ..... 450.00  
Event/Dance Floor 12x12 ..... 250.00  
Event/Dance Floor 6x6 ..... 125.00  
Extension Cords ..... 5.00  
Flags ..... No charge  
Free Speech Public Space Usage ... No charge  
Garbage Can ..... No charge  
Gold Formal Chair (per chair) ..... 5.00  
Insurance Coverage for Capitol Hill Facilities  
and Grounds ..... Coverage of \$1,000,000.00  
Locker Rentals (per year) ..... 40.00  
Podium  
With Microphone ..... 35.00  
Without Microphone ..... 25.00  
POLYCOM Phone Rental ..... 10.00  
Projector Cart ..... 25.00  
Risers (per section) ..... 25.00  
Security (per officer, per hour) ..... 50.00  
Speaker (per speaker) ..... 15.00  
Stanchion ..... 10.00  
Standing Microphone ..... 15.00  
Table (per table) ..... 7.00  
Table Pedestal Round 42" (per table) ..... 10.00  
Upright Piano ..... 50.00  
Wood Folding Chair (per chair) ..... 2.50

**UTAH NATIONAL GUARD**

Operations and Maintenance

Armory Rental

Armory Rental (per hour) ..... 25.00

Armory rental fee of \$25/hour is charged to pay for the additional operations and maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.

Security Attendant (per hour) ..... 15.00

Utah National Guard requires a security attendant to accompany an armory rental outside of business hours to ensure the security of facilities and equipment.

Refundable Cleaning Deposit ..... 100.00

This refundable fee is required to mitigate the liability of damage or additional cleaning

requirement for National Guard armories during or after rental.

**DEPARTMENT OF  
VETERANS AND MILITARY AFFAIRS**

**VETERANS AND MILITARY AFFAIRS**

Cemetery  
Veterans' Burial ..... 812.00  
Spouse/Dependent Burial ..... 812.00  
Saturday Burial Surcharge ..... 700.00  
Chapel Rental ..... 150.00  
Fee for renting the on-site chapel for  
funerals, memorials or other events.  
Lawn Vase ..... 65.00  
Niche Vase ..... 25.00  
Disinterment  
Cremains Disinterment ..... 150.00  
Single Depth Disinterment ..... 600.00  
Double Depth Disinterment ..... 900.00

**Section 3. Effective Date.**

This bill takes effect on July 1, 2020.



**CHAPTER 301****H. B. 9**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**REVENUE BOND AND CAPITAL FACILITIES AMENDMENTS**

Chief Sponsor: Douglas V. Sagers  
 Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill enacts provisions relating to 2020 revenue bonds and capital facility design and construction authorization.

**Highlighted Provisions:**

This bill:

- ▶ modifies the amount authorized for reconstructing a Foothill liquor store;
- ▶ expresses the Legislature's intent relating to the Board of Regents' issuance, sale, and delivery of revenue bonds to finance:
  - the University of Utah Health Sciences campus office building;
  - the University of Utah Health Sciences garage and roadway improvements;
  - the University of Utah's purchase of an office tower in Salt Lake City; and
  - Dixie State University's expansion of the Greater Zion Stadium; and
- ▶ expresses the Legislature's intent relating to:
  - the University of Utah's use of donations and institutional funds for an addition to the Rio Tinto Kennecott Building, and other related matters; and
  - Utah State University's use of institutional funds for the purchase and remodel of the Blanding Professional Career and Technical Education Lab, and other related matters.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63B-28-101, as enacted by Laws of Utah 2018, Chapter 406

**ENACTS:**

63B-30-101, Utah Code Annotated 1953  
 63B-30-201, Utah Code Annotated 1953

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

**Section 1. Section 63B-28-101 is amended to read:****63B-28-101. Revenue bond authorizations -- State Building Ownership Authority.**

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue

or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,451,800 for a Pleasant Grove or Lehi market area liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to [~~\$8,659,000~~] \$10,759,000 for reconstructing the Store 4: Foothill liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

**Section 2. Section 63B-30-101 is enacted to read:****Part 1. 2020 Revenue Bond Authorizations****63B-30-101. Revenue bond authorizations -- Board of Regents.**

(1) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Health Sciences campus office building;

(b) the University of Utah use clinical revenues and other non-state revenues of the University of Utah Health Sciences as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed \$100,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Health Sciences campus office building, subject

to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Health Sciences garage and roadway improvements;

(b) the University of Utah use clinical, parking, and other non-state revenues of the University of Utah Health Sciences as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed \$80,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Health Sciences garage and roadway improvements, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

(3) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of purchasing the 102 Tower Building located at 102 South 200 East in Salt Lake City, Utah;

(b) the University of Utah use hospital and institutional lease payments as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) may not exceed \$50,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may purchase the 102 Tower Building; and

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

(4) The Legislature intends that:

(a) the Board of Regents, on behalf of Dixie State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing an expansion of the Greater Zion Stadium;

(b) Dixie State University use Washington County tourism marketing revenue, donations, and institutional funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (4);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (4) may not exceed \$10,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct an expansion of the Greater Zion Stadium, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

**Section 3. Section 63B-30-201 is enacted to read:**

**Part 2. 2020 Capital Facility Design and Construction Authorization**

**63B-30-201. Authorization to design and construct capital facilities using institutional or agency funds.**

(1) The Legislature intends that:

(a) the University of Utah may, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities, use up to \$9,685,000 in donations and institutional funds to plan, design, and construct an addition to the Rio Tinto Kennecott Building;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs and capital improvements.

(2) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities, use up to \$1,600,000 in institutional funds to plan, design, and construct or purchase and remodel a Blanding Professional Career and Technical Education Lab;

(b) the university may not use state funds for any portion of this project; and

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(c) the university may use state funds for operation and maintenance costs and capital improvements.

**CHAPTER 302****H. B. 23**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective July 1, 2020

**TOBACCO AND ELECTRONIC  
CIGARETTE AMENDMENTS**

Chief Sponsor: Jon Hawkins  
 Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill amends provisions related to tobacco products and electronic cigarettes.

**Highlighted Provisions:**

This bill:

- ▶ defines terms related to electronic cigarettes and tobacco retailers;
- ▶ modifies the definition of a retail tobacco specialty business to include a business that appears to be a retail tobacco specialty business or sells a flavored electronic cigarette product;
- ▶ amends permit violations for tobacco retailers;
- ▶ creates requirements regarding verification of age for retail tobacco specialty businesses;
- ▶ modifies and places sunset provisions on dates from which laws are applicable to retail tobacco specialty businesses;
- ▶ authorizes regulation and testing of manufacturer sealed electronic substances;
- ▶ requires a tobacco retailer to maintain certain records;
- ▶ provides that a retail tobacco specialty shop may not be located within 1,000 feet of a school;
- ▶ creates civil penalties for a retail tobacco specialty business that allows an individual under 21 years old in certain circumstances to gain access to the premises of the business or to purchase a tobacco product or an electronic cigarette product;
- ▶ increases the minimum age for obtaining, possessing, using, providing, or furnishing tobacco products and paraphernalia and electronic cigarette products to 21 years old;
- ▶ prohibits a manufacturer, wholesaler, or retailer from providing certain discounts or giveaways for electronic cigarette products and tobacco products;
- ▶ prohibits a general tobacco retailer from selling, providing, or distributing a flavored electronic cigarette product;
- ▶ makes it a crime to fraudulently use or transfer proof of age to gain access to a retail tobacco specialty business or to purchase a tobacco product or electronic cigarette product;
- ▶ makes it a crime for an employee of a retail tobacco specialty business to allow an individual under 21 years old to purchase a tobacco product or an electronic cigarette product;
- ▶ preempts certain ordinances, rules, and regulations on tobacco products, electronic cigarette products, and tobacco paraphernalia;
- ▶ amends the number of times that a peace officer must conduct an investigation of a retail shop for underage tobacco sales; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

- 10-8-41.6, as last amended by Laws of Utah 2018, Chapter 231
- 10-8-47 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 17-50-333, as last amended by Laws of Utah 2018, Chapter 231
- 26-57-103, as enacted by Laws of Utah 2015, Chapter 132
- 26-62-102, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 26-62-205 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 26-62-304 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 26-62-305 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 51-9-203 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapters 136 and 232
- 53-3-229, as last amended by Laws of Utah 2010, Chapters 114 and 276
- 53-3-810, as last amended by Laws of Utah 2010, Chapters 114 and 276
- 53G-8-209, as last amended by Laws of Utah 2019, Chapter 293
- 59-14-703 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 63I-1-210, as last amended by Laws of Utah 2018, Chapter 236
- 63I-1-217, as last amended by Laws of Utah 2018, Chapters 236 and 347
- 76-8-311.3, as last amended by Laws of Utah 2010, Chapter 114
- 76-10-101, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 132
- 76-10-103 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 76-10-104 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 76-10-104.1 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 76-10-105 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 76-10-105.1 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 76-10-111, as last amended by Laws of Utah 2010, Chapter 114
- 76-10-112, as enacted by Laws of Utah 1989, Chapter 193
- 77-39-101 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232

**ENACTS:**

- 26-62-206, Utah Code Annotated 1953
- 26-62-401, Utah Code Annotated 1953
- 26-62-402, Utah Code Annotated 1953
- 76-10-113, Utah Code Annotated 1953
- 76-10-114, Utah Code Annotated 1953
- 76-10-115, Utah Code Annotated 1953

76-10-116, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

10-8-41.6, as last amended by Laws of Utah 2018, Chapter 231

17-50-333, as last amended by Laws of Utah 2018, Chapter 231

26-62-305, as last amended by Laws of Utah 2019, Chapter 232

76-10-111, as last amended by Laws of Utah 2010, Chapter 114

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

**Section 1. Section 10-8-41.6 is amended to read:**

**10-8-41.6. Regulation of retail tobacco specialty business.**

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(~~(e)~~) (e) "Local health department" means the same as that term is defined in Section 26A-1-102.

(~~(d)~~) (f) "Permittee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(~~(e)~~) (g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) the sale of tobacco products and electronic cigarette products accounts for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products or electronic cigarette products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products or electronic cigarette products; [~~or~~]

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(~~(iv)~~) (vi) the retail space features a self-service display for tobacco products or electronic cigarette products.

(~~(f)~~) (h) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(~~(g)~~) (i) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(~~(i)~~) any cigar, cigarette, or electronic cigarette, as those terms are defined in Section 76-10-101;]

(~~(ii)~~) a tobacco product, as that term is defined in Section 59-14-102, including:]

(~~(A)~~) chewing tobacco; or]

(~~(B)~~) any substitute for a tobacco product, including flavoring or additives to tobacco; and]

(~~(iii)~~) tobacco paraphernalia, as that term is defined in Section 76-10-104.1.]

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state[, and through delegation,] by the state or by delegation of the state's police powers to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

- (A) agriculture use; or
- (B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(ii) a valid license to sell tobacco products from the State Tax Commission.

(b) A person that was licensed to conduct business as a retail tobacco specialty business in a municipality before July 1, 2018, shall obtain a permit from a local health department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates ~~[the regulations]~~ federal law or federal regulations restricting the sale and distribution of ~~[cigarettes and smokeless tobacco]~~ tobacco products or electronic cigarette products to protect children and adolescents ~~[issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140];~~

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) ~~[In accordance with Subsection (7)(b)]~~ Except as provided in Subsection (8), a retail tobacco specialty business that has a business license and is operating in a municipality in

accordance with all applicable laws except for the requirement in Subsection (4), on or before December 31, ~~[2015]~~ 2018, is exempt from Subsection (4).

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the retail tobacco specialty business license is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

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

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of a retail tobacco specialty business license issued before December 31, ~~[2015]~~ 2018.

(8) Beginning August 15, 2020, a retail tobacco specialty business that has a business license and is operating in a municipality may not be located within 1,000 feet of any school.

**Section 2. Section 10-8-47 (Effective 07/01/20) is amended to read:**

**10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

(1) A municipal legislative body may:

(a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny;

(b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house, or place in the city;

(c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or combustible material;

(d) provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in the cases when the money or property embezzled or obtained under false pretenses does not exceed in value the sum of \$500;

(e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to an individual younger than 21 years old; or

(f) prohibit the sale, giving away, or furnishing of ~~[tobacco or e-cigarettes]~~ a tobacco product or an electronic cigarette product, as those terms are defined in Section 76-10-101, to an individual younger than ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1, 2021,]~~ 21 years old.

(2) A city may:

(a) by ordinance, prohibit the possession of controlled substances as defined in the Utah Controlled Substances Act or any other endangering or impairing substance, provided the conduct is not a class A misdemeanor or felony; and

(b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are addicted to the use of drugs or intoxicants such that an individual substantially lacks the capacity to control the individual's use of the drugs or intoxicants, and judicial supervision may be imposed as a means of effecting the individual's rehabilitation.

**Section 3. Section 17-50-333 is amended to read:**

**17-50-333. Regulation of retail tobacco specialty business.**

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

~~[(d)]~~ (f) "Local health department" means the same as that term is defined in Section 26A-1-102.

~~[(e)]~~ (g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) the sale of tobacco products and electronic cigarette products accounts for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products or electronic cigarette products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products or electronic cigarette products; ~~[(e)]~~

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

~~[(iv)]~~ (vi) the retail space features a self-service display for tobacco products or electronic cigarette products.

~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

~~[(g)]~~ (i) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

~~[(i) any cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;]~~

~~[(ii) a tobacco product as that term is defined in Section 59-14-102, including;]~~

~~[(A) chewing tobacco; or]~~

~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco; and]~~

~~[(iii) tobacco paraphernalia as that term is defined in Section 76-10-104.1.]~~

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state, ~~and through delegation,]~~ by the state or by the delegation of the state's police power to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to

conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

- (i) 1,000 feet of a community location;
- (ii) 600 feet of another retail tobacco specialty business; or
- (iii) 600 feet from property used or zoned for:
  - (A) agriculture use; or
  - (B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(ii) a valid license to sell tobacco products from the State Tax Commission.

(b) A person that was licensed to conduct business as a retail tobacco specialty business in a county before July 1, 2018, shall obtain a permit from a local health department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates ~~[the regulations]~~ federal law or federal regulations restricting the sale and distribution of ~~[cigarettes and smokeless tobacco]~~ tobacco products or electronic cigarette products to protect children and adolescents ~~[issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140];~~

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) ~~[In accordance with Subsection (7)(b)]~~ Except as provided in Subsection (8), a retail tobacco specialty business that has a business license and is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4), on or before December 31, ~~[2015]~~ 2018, is exempt from Subsection (4).

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the retail tobacco specialty business license is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

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

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of a retail tobacco specialty business license issued before December 31, ~~[2015]~~ 2018.

(8) Beginning August 15, 2020, a retail tobacco specialty business that has a business license and is operating in a county may not be located within 1,000 feet of any school.

**Section 4. Section 26-57-103 is amended to read:**

**26-57-103. Electronic cigarette products -- Labeling -- Manufacturing and quality control standards -- Advertising.**

(1) The department shall, in consultation with a local health department, as defined in Section 26A-1-102, and with input from members of the public, establish ~~no later than January 1, 2016,~~ by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards for electronic cigarette substance:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

~~[(2) The standards established by the department under Subsection (1) do not apply to a manufacturer sealed electronic cigarette substance.]~~



(2) On or before January 1, 2021, the department shall, in consultation with a local health department, as defined in Section 26A-1-102, and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards for manufacturer sealed electronic cigarette substance:

- (a) labeling;
- (b) nicotine content;
- (c) packaging; and
- (d) product quality.

(3) ~~(a) [Beginning on July 1, 2016, a]~~ A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the standards established by the department under Subsection (1).

(b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette substance unless the manufacturer sealed electronic cigarette substance complies with the standards established by the department under Subsection (2).

(4) ~~(a) [Beginning on July 1, 2016, a]~~ A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the standards established by the department under ~~[Subsection 1]~~ Subsections (1) and (2).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette substance.

(5) ~~[Beginning on July 1, 2016, a]~~ A person may not advertise an electronic cigarette product:

- (a) as a tobacco cessation device;
- (b) if the person is not licensed to sell an electronic cigarette product under Section 59-14-803; or
- (c) during a period of time when the person's license to sell an electronic cigarette product under Section 59-14-803 has been suspended or revoked.

**Section 5. Section 26-62-102 is amended to read:**

**26-62-102. Definitions.**

As used in this chapter:

(1) "Community location" means the same as that term is defined:

- (a) as it relates to a municipality, in Section 10-8-41.6; and
- (b) as it relates to a county, in Section 17-50-333.

(2) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

~~[(2)]~~ (3) "Employee" means an employee of a tobacco retailer.

~~[(3)]~~ (4) "Enforcing agency" means the state Department of Health, or any local health department enforcing the provisions of this chapter.

~~[(4)]~~ (5) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.

~~[(5)]~~ (6) "Local health department" means the same as that term is defined in Section 26A-1-102.

(7) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this chapter.

~~[(6)]~~ (8) "Permit" means a tobacco retail permit issued under this chapter.

(9) (a) "Proof of age" means:

(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(ii) a valid identification that:

(A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

(iv) a valid United States military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.

~~[(7)]~~ (10) "Retail tobacco specialty business" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

~~[(8)]~~ (11) "Tax commission license" means a license issued by the State Tax Commission under:

(a) Section 59-14-201 to sell cigarettes at retail;

(b) Section 59-14-301 to sell tobacco products at retail; or

(c) Section 59-14-803 to sell an electronic cigarette product.

~~[(9)]~~ (12) "Tobacco product" means:

(a) the same as that term is defined in Section 76-10-101; or

(b) tobacco paraphernalia as defined in Section 76-10-101.

~~[(a) a cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;]~~

~~[(b) a tobacco product as that term is defined in Section 59-14-102, including:]~~

~~[(i) chewing tobacco; or]~~

~~[(ii) any substitute for a tobacco product, including flavoring or additives to tobacco; or]~~

~~[(c) tobacco paraphernalia as that term is defined in Section 76-10-104.1.]~~

~~[(40)] (13) "Tobacco retailer" means a person that is required to obtain a tax commission license.~~

**Section 6. Section 26-62-205 (Effective 07/01/20) is amended to read:**

**26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty business.**

A retail tobacco specialty business shall:

(1) electronically verify proof of age for any individual that enters the premises of the business in accordance with Part 4, Proof of Age Requirements;

~~[(1)] (2) except as provided in Subsection 76-10-105.1(4), prohibit any individual from entering the business if the individual is: (a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and (b) beginning July 1, 2021, under 21 years old; and~~

~~[(2)] (3) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates:~~

(a) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty business in Subsection 76-10-105.1(4); and

(b) the prohibition on the sale of tobacco products and electronic cigarette products to an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1, and 76-10-114.

**Section 7. Section 26-62-206 is enacted to read:**

**26-62-206. Permit requirements for the sale of tobacco products and electronic cigarette products.**

(1) A tobacco retailer shall:

(a) provide the customer with an itemized receipt for each sale of a tobacco product or an electronic cigarette product that separately identifies:

(i) the name of the tobacco product or the electronic cigarette product;

(ii) the amount charged for each tobacco product or electronic cigarette product; and

(iii) the time and date of the sale; and

(b) maintain an itemized transaction log for each sale of a tobacco product or an electronic cigarette product that separately identifies:

(i) the name of the tobacco product or the electronic cigarette product;

(ii) the amount charged for each tobacco product or electronic cigarette product; and

(iii) the date and time of the sale.

(2) The itemized transaction log described in Subsection (1)(b) shall be:

(a) maintained for at least one year after the date of each transaction in the itemized transaction log; and

(b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

**Section 8. Section 26-62-304 (Effective 07/01/20) is amended to read:**

**26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

(1) At a civil hearing conducted under Section 26-62-302, evidence of the final criminal conviction of a tobacco retailer or employee for violation of Section [76-10-104] 76-10-114 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this chapter for sale of tobacco products to an individual under [the following ages] 21 years old is prima facie evidence of a violation of this chapter[.].

~~[(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

~~[(b) beginning July 1, 2021, under 21 years old.]~~

(2) If the tobacco retailer is convicted of violating Section [76-10-104] 76-10-114, the enforcing agency:

(a) may not assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained; and

(b) may revoke or suspend a permit in accordance with Section 26-62-305 or 26-62-402.

**Section 9. Section 26-62-305 (Effective 07/01/20) is amended to read:**

**26-62-305 (Effective 07/01/20). Penalties.**

(1) (a) ~~[(a) If, following an inspection by an enforcing agency, or an investigation or issuance of a citation or information under Section 77-39-101,] an enforcing agency determines that a person has violated the terms of a permit issued under this chapter, the enforcing agency may impose the penalties described in this section.~~

(b) If multiple violations are found in a single inspection by an enforcing agency or investigation[.],

~~only one violation shall count toward the penalties described in this section. (2) (a) The administrative penalty for] by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as one single violation under Subsections (2), (3), and (4).~~

~~(2) Except as provided in Subsection (3) and Section 26-62-402, if a violation is found in an inspection by an enforcing agency or an investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall:~~

~~(a) on a first violation at a retail location [is], impose a penalty of [not] no more than \$500[-];~~

~~(b) [The administrative penalty for] on a second violation at the same retail location that occurs within one year of a previous violation [is], impose a penalty of [not] no more than \$750[-];~~

~~(c) [The administrative penalty for] on a third [or subsequent] violation at the same retail location that occurs within two years after two [or more] previous violations, [is] impose:~~

~~(i) a suspension of the [retail tobacco business] permit for 30 consecutive business days within 60 days after the day on which the third [or subsequent] violation occurs; or~~

~~(ii) a penalty of [not] no more than \$1,000[-]; and~~

~~[(3) The department or a local health department may:]~~

~~[(a) revoke a permit if a fourth violation occurs within two years of three previous violations;]~~

~~[(b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit if the violation is due to a sale of tobacco products to an individual under:]~~

~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(ii) beginning July 1, 2021, 21 years old; and]~~

~~[(c) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked-]~~

~~(d) on a fourth or subsequent violation within two years of three previous violations:~~

~~(i) impose a penalty of no more than \$1,000;~~

~~(ii) revoke a permit of the retailer; and~~

~~(iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.~~

~~(3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product or an electronic cigarette product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer, the enforcing agency shall:~~

~~(a) on a first violation, impose a fine of no more than \$2,000 on the general tobacco retailer; and~~

~~(b) on the second violation for the same general tobacco retailer within one year of the first violation:~~

~~(i) impose a fine not exceeding \$5,000; and~~

~~(ii) revoke the permit for the general tobacco retailer.~~

~~(4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product or an electronic cigarette product to an individual under 21 years old, the enforcing agency shall apply the provisions of Section 26-62-402.~~

~~[(4)] (5) (a) Except when a transfer described in Subsection [(5)] (6) occurs, a local health department may not issue a permit to:~~

~~(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3) or Section 26-62-402; or~~

~~(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3) or Section 26-62-402.~~

~~(b) A person whose permit:~~

~~(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and~~

~~(ii) is revoked under this section or Section 26-62-402 may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.~~

~~[(5)] (6) Violations of this chapter, Section 10-8-41.6, [or] Section 17-50-333, or Section 26-62-402 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:~~

~~(a) the tobacco retailer is transferred to a new proprietor; and~~

~~(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.~~

## **Section 10. Section 26-62-401 is enacted to read:**

### **Part 4. Proof of Age Requirements**

#### **26-62-401. Verification of proof of age.**

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

~~(a) "Employee" means an employee of a retail tobacco specialty business.~~

~~(b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.~~

(2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.

(3) To comply with Subsection (2), an employee shall:

(a) request the individual present proof of age; and

(b) verify the validity of the proof of age electronically in accordance with Subsection (4).

(4) A retail tobacco specialty business shall use an electronic verification program to assist the business in complying with the requirements of this section.

(5) (a) A retail tobacco specialty business may not disclose information obtained under this section except as provided under this part.

(b) Information obtained under this section:

(i) shall be kept for at least 180 days; and

(ii) is subject to inspection upon request by a peace officer or the representative of an enforcing agency.

(6) (a) If an employee does not verify proof of age under this section, the employee may not permit an individual to:

(i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

(ii) purchase a tobacco product or an electronic cigarette product.

(b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if:

(i) the individual is accompanied by a parent or legal guardian who provides proof of age; or

(ii) the individual is present at the retail tobacco specialty shop for a bona fide commercial purpose other than to purchase a tobacco product or an electronic cigarette product.

(7) To determine whether the individual described in Subsection (2) is 21 years old or older, the following may request an individual described in Subsection (2) to present proof of age:

(a) an employee;

(b) a peace officer; or

(c) a representative of an enforcing agency.

**Section 11. Section 26-62-402 is enacted to read:**

**26-62-402. Penalties.**

(1) Except as provided in Subsection (2), if a violation of this part is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101, the enforcing agency shall:

(a) on a first violation, impose a penalty of no more than \$500 on the retail tobacco specialty business;

(b) on a second violation for the same retail tobacco specialty business that occurs within one year of a previous violation, impose a penalty of no more than \$750;

(c) on a third violation for the same retail tobacco specialty business that occurs within two years of the two previous violations, impose:

(i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or

(ii) a penalty of no more than \$1,000; and

(d) on a fourth or subsequent violation within two years of the three previous violations:

(i) impose a penalty of no more than \$1,000;

(ii) revoke the permit of the retail tobacco specialty business; and

(iii) recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

(2) If a violation of this part is committed by the owner and is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101, the enforcing agency shall:

(a) on a first violation, impose a fine not exceeding \$2,000; and

(b) on a second violation at the same retail tobacco specialty business within one year of the first violation:

(i) impose a fine not exceeding \$5,000;

(ii) revoke the retail tobacco specialty business's permit; and

(iii) recommend to a municipality or county that the retail tobacco specialty license issued under Section 10-8-41.6 or 17-50-333 to the retail tobacco specialty business be suspended or revoked.

(3) If multiple violations are found in a single investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as a single violation.

**Section 12. Section 51-9-203 (Effective 07/01/20) is amended to read:**

**51-9-203 (Effective 07/01/20). Requirements for tobacco and electronic cigarette programs.**

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

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

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

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

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

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

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

(C) if directed toward youth:

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

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

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

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

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which ~~[tobacco products]~~ tobacco products and electronic cigarette products, as those terms are defined in Section 76-10-101, are available to individuals under ~~[the following ages: (A) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (B) beginning July 1, 2021, 21 years old;~~

(b) agree, by contract, to file an annual written report with the Department of Health that contains the following:

(i) the amount funded;

(ii) the amount expended;

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

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

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

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

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

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

(A) the provisions of the Master Settlement Agreement;

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

(C) Title 26, Chapter 62, Part 3, Enforcement; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 13. Section 53-3-229 is amended to read:**

**53-3-229. Prohibited uses of license certificate -- Penalty.**

(1) It is a class C misdemeanor for ~~[a person]~~ an individual to:

(a) lend or knowingly permit the use of a license certificate issued to the ~~[person]~~ individual, by ~~[a person]~~ another individual not entitled to ~~[it]~~ the license certificate;

(b) display or ~~[to]~~ represent as the ~~[person's]~~ individual's own license certificate a license certificate not issued to the ~~[person]~~ individual;

(c) refuse to surrender to the division or a peace officer upon demand any license certificate issued by the division;

(d) use a false name or give a false address in any application for a license or any renewal or duplicate of the license certificate, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in the application;

(e) display a canceled, denied, revoked, suspended, or disqualified driver license certificate as a valid driver license certificate;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic driver license certificate issued by a governmental entity if the item is not an authentic driver license certificate issued by that governmental entity; or

(g) alter any information on an authentic driver license certificate so that it no longer represents the information originally displayed.

(2) The provisions of Subsection (1)(e) do not prohibit the use of ~~[a person's]~~ an individual's driver license certificate as a means of personal identification.

(3) It is a class A misdemeanor to knowingly:

(a) issue a driver license certificate with false or fraudulent information;

(b) issue a driver license certificate to ~~[a person]~~ an individual who is younger than 21 years ~~[of age]~~ old if the driver license certificate is not distinguished as required for ~~[a person]~~ an individual who is younger than 21 years ~~[of age]~~ old under Section 53-3-207; or

(c) acquire, use, display, or transfer a false or altered driver license certificate to procure~~[:]~~ a tobacco product or an electronic cigarette product, as those terms are defined in Section 76-10-101.

~~[(i) a cigarette;]~~

~~[(ii) an electronic cigarette, as defined in Section 76-10-101;]~~

~~[(iii) tobacco; or]~~

~~[(iv) a tobacco product.]~~

(4) ~~[A person]~~ An individual may not use, display, or transfer a false or altered driver license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(5) It is a third degree felony if ~~[a person's]~~ an individual's acquisition, use, display, or transfer of a false or altered driver license certificate:

(a) aids or furthers the ~~[person's]~~ individual's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the ~~[person's]~~ individual's efforts to commit a violent felony.

**Section 14. Section 53-3-810 is amended to read:**

**53-3-810. Prohibited uses of identification card -- Penalties.**

(1) It is a class C misdemeanor to:

(a) lend or knowingly permit the use of an identification card issued to the ~~[person]~~ individual, by ~~[a person]~~ an individual not entitled to ~~[it]~~ the identification card;

(b) display or to represent as the ~~[person's]~~ individual's own identification card an identification card not issued to the ~~[person]~~ individual;

(c) refuse to surrender to the division or a peace officer upon demand any identification card issued by the division;

(d) use a false name or give a false address in any application for an identification card or any renewal or duplicate of the identification card, or to knowingly make a false statement, or to knowingly conceal a material fact in the application;

(e) display a revoked identification card as a valid identification card;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic identification card issued by a governmental entity if the item is not an authentic identification card issued by that governmental entity; or

(g) alter any information contained on an authentic identification card so that it no longer represents the information originally displayed.

(2) It is a class A misdemeanor to knowingly:

(a) issue an identification card with false or fraudulent information;

(b) issue an identification card to ~~[any person]~~ an individual who is younger than 21 years ~~[of age]~~ old if the identification card is not distinguished as required for ~~[a person]~~ an individual who is younger than 21 years ~~[of age]~~ old under Section 53-3-806; or

(c) acquire, use, display, or transfer a false or altered identification card to procure~~[:]~~ a tobacco product or an electronic cigarette product, as those terms are defined in Section 76-10-101.

~~[(i) a cigarette;]~~

~~[(ii) an electronic cigarette, as defined in Section 76-10-101;]~~

~~[(iii) tobacco; or]~~

~~[(iv) a tobacco product.]~~

(3) ~~[A person]~~ An individual may not knowingly use, display, or transfer a false or altered identification card to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain

employment that may not be obtained by a minor in violation of Section 32B-1-403.

(4) It is a third degree felony if ~~a person's~~ an individual's acquisition, use, display, or transfer of a false or altered identification card:

(a) aids or furthers the ~~person's~~ individual's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the ~~person's~~ individual's efforts to commit a violent felony.

**Section 15. Section 53G-8-209 is amended to read:**

**53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.**

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and standards of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.

(b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):

(i) the use of foul, abusive, or profane language while engaged in school related activities;

(ii) the illicit use, possession, or distribution of:

(A) a controlled ~~substances~~ substance or drug paraphernalia~~, and the use, possession, or distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and~~;

(B) a tobacco product or an electronic cigarette product, as those terms are defined in Section 76-10-101; or

(C) an alcoholic beverage;

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

**Section 16. Section 59-14-703 (Effective 07/01/20) is amended to read:**

**59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine operators -- Renewal of certification -- Requirements for certification or renewal of certification -- Denial.**

(1) A cigarette rolling machine operator may not perform the following without first obtaining certification from the commission as provided in this part:

(a) locate a cigarette rolling machine within this state;

(b) make or offer to make a cigarette rolling machine available for use within this state; or

(c) offer a cigarette for sale within this state if the cigarette is produced by:

(i) the cigarette rolling machine operator; or

(ii) another person at the location of the cigarette rolling machine operator's cigarette rolling machine.

(2) A cigarette rolling machine operator shall renew its certification as provided in this section.

(3) The commission shall prescribe a form for certifying a cigarette rolling machine operator under this part.

(4) (a) A cigarette rolling machine operator shall apply to the commission for certification before the cigarette rolling machine operator performs an act described in Subsection (1) within the state for the first time.

(b) A cigarette rolling machine operator shall apply to the commission for a renewal of certification on or before the earlier of:

(i) December 31 of each year; or

(ii) the day on which there is a change in any of the information the cigarette rolling machine operator provides on the form described in Subsection (3).

(5) To obtain certification or renewal of certification under this section from the commission, a cigarette rolling machine operator shall:

(a) identify:

(i) the cigarette rolling machine operator's name and address;

(ii) the location, make, and brand of the cigarette rolling machine operator's cigarette rolling machine; and

(iii) each person from whom the cigarette rolling machine operator will purchase or be provided tobacco products that the cigarette rolling machine operator will use to produce cigarettes; and

(b) certify, under penalty of perjury, that:

(i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling machine, regardless of the tobacco's label or description, shall be only of a:

(A) brand family listed on the commission's directory listing required by Section 59-14-603; and

(B) tobacco product manufacturer listed on the commission's directory listing required by Section 59-14-603;

(ii) the cigarette rolling machine operator shall prohibit another person who uses the cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

(iii) the cigarette rolling machine operator holds a current license issued in accordance with this chapter;

(iv) the cigarettes produced from the cigarette rolling machine shall comply with Title 53, Chapter

7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection Act;

(v) the cigarette rolling machine shall be located in a separate and defined area where the cigarette rolling machine operator ensures that an individual younger than ~~[the age specified in Subsection (6)]~~ 21 years old may not be:

(A) present at any time; or

(B) permitted to enter at any time; and

(vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer, or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20 cigarettes per retail transaction.

~~[(6) For purposes of Subsection (5), an individual is younger than:]~~

~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(b) beginning July 1, 2021, 21 years old.]~~

~~[(7)]~~ (6) If the commission determines that a cigarette rolling machine operator meets the requirements for certification or renewal of certification under this section, the commission shall grant the certification or renewal of certification.

~~[(8)]~~ (7) If the commission determines that a cigarette rolling machine operator does not meet the requirements for certification or renewal of certification under this section, the commission shall:

(a) deny the certification or renewal of certification; and

(b) provide the cigarette rolling machine operator the grounds for denial of the certification or renewal of certification in writing.

**Section 17. Section 63I-1-210 is amended to read:**

**63I-1-210. Repeal dates, Title 10.**

(1) Subsection 10-8-41.6(7), the language that states "December 31, 2018" is repealed July 1, 2022, and replaced with "December 31, 2015".

(2) Section 10-9a-526 is repealed December 31, 2020.

**Section 18. Section 63I-1-217 is amended to read:**

**63I-1-217. Repeal dates, Title 17.**

(1) Subsection 17-16-21(2)(d) is repealed July 1, 2023.

(2) Subsection 17-50-333(7), the language that states "December 31, 2018" is repealed July 1, 2022, and replaced with "December 31, 2015".

**Section 19. Section 76-8-311.3 is amended to read:**

**76-8-311.3. Items prohibited in correctional and mental health facilities -- Penalties.**



(1) As used in this section:

(a) “Contraband” means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

(b) “Controlled substance” means any substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(c) “Correctional facility” means:

(i) any facility operated by or contracting with the Department of Corrections to house offenders in either a secure or nonsecure setting;

(ii) any facility operated by a municipality or a county to house or detain criminal offenders;

(iii) any juvenile detention facility; and

(iv) any building or grounds appurtenant to the facility or lands granted to the state, municipality, or county for use as a correctional facility.

(d) “Electronic cigarette~~”~~<sup>[? is as]</sup> product” means the same as that term is defined in Section 76-10-101.

(e) “Medicine” means any prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(f) “Mental health facility” is as defined in Section 62A-15-602.

(g) “Offender” means a person in custody at a correctional facility.

(h) “Secure area” is as defined in Section 76-8-311.1.

(i) “Tobacco product” means the same as that term is defined in Section 76-10-101.

(2) Notwithstanding Section 76-10-500, a correctional or mental health facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any quantity may be:

(a) transported to or upon a correctional or mental health facility;

(b) sold or given away at any correctional or mental health facility;

(c) given to or used by any offender at a correctional or mental health facility; or

(d) knowingly or intentionally possessed at a correctional or mental health facility.

(3) It is a defense to any prosecution under this section if the accused in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

(4) (a) [~~Any person~~] An individual who transports to or upon a correctional facility, or into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

(b) [~~Any person~~] An individual who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.

(c) [~~Any~~] An offender who possesses at a correctional facility, or [~~any~~] a detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.

(d) [~~Any person~~] An individual who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a third degree felony.

(e) [~~Any person~~] An individual violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility.

(5) (a) [~~A person~~] An individual is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, whether or not lawfully prescribed for the offender; or

(iii) poison in any quantity.

(b) [~~A person~~] An individual is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, whether or not lawfully prescribed for the offender; or

(iii) poison in any quantity.

(c) An inmate is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine, other than medicine provided by the facility's health care providers in compliance with facility policy; or

(iii) poison in any quantity.

(d) ~~[A person]~~ An individual is guilty of a class A misdemeanor who, with the intent to directly or indirectly provide or sell any tobacco product or electronic cigarette product to an offender, directly or indirectly:

(i) transports, delivers, or distributes any tobacco product or electronic cigarette product to an offender or on the grounds of any correctional facility;

(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another person to transport any tobacco product or electronic cigarette product to an offender or on any correctional facility, if the person is acting with the mental state required for the commission of an offense; or

(iii) facilitates, arranges, or causes the transport of any tobacco product or electronic cigarette product in violation of this section to an offender or on the grounds of any correctional facility.

(e) ~~[A person]~~ An individual is guilty of a class A misdemeanor who, without the permission of the authority operating the correctional or mental health facility, fails to declare or knowingly possesses at a correctional facility or in a secure area of a mental health facility any:

(i) spirituous or fermented liquor;

(ii) medicine; or

(iii) poison in any quantity.

(f) ~~[A person]~~ An individual is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility. The provisions of Subsection (5)(d) regarding any tobacco product or electronic cigarette product take precedence over this Subsection (5)(f).

(g) Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.

(6) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.

(7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product or electronic cigarette product to offenders is a class A misdemeanor.

**Section 20. Section 76-10-101 is amended to read:**

**76-10-101. Definitions.**

As used in this part:

(1) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette as described in Subsection (2).

(2) "Cigarette" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

~~[(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section 59-14-802.]~~

(3) (a) "Electronic cigarette" means:

(i) any electronic oral device:

(A) that provides an aerosol or a vapor of nicotine or other substance; and

(B) which simulates smoking through the use or inhalation of the device;

(ii) a component of the device described in Subsection (3)(a)(i); and

(iii) an accessory sold in the same package as the device described in Subsection (3)(a)(i).

(b) "Electronic cigarette" includes an oral device that is:

(i) composed of a heating element, battery, or electronic circuit; and

(ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) an e-cigar;

(C) an e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (3)(a).

(4) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

(5) “Electronic cigarette substance” means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

(6) (a) “Flavored electronic cigarette product” means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.

(b) “Flavored electronic cigarette product” includes an electronic cigarette product that has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice.

(c) “Flavored electronic cigarette product” does not include an electronic cigarette product that:

(i) has a taste or smell of only tobacco, mint, or menthol; or

(ii) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i).

[44] (7) “Place of business” includes:

- (a) a shop;
- (b) a store;
- (c) a factory;
- (d) a public garage;
- (e) an office;
- (f) a theater;
- (g) a recreation hall;
- (h) a dance hall;
- (i) a poolroom;
- (j) a café;
- (k) a cafeteria;
- (l) a cabaret;
- (m) a restaurant;
- (n) a hotel;
- (o) a lodging house;
- (p) a streetcar;
- (q) a bus;
- (r) an interurban or railway passenger coach;
- (s) a waiting room; and
- (t) any other place of business.

(8) “Prefilled electronic cigarette” means an electronic cigarette that is sold prefilled with an electronic cigarette substance.

(9) “Retail tobacco specialty business” means the same as that term is defined in Section 26-62-102.

[45] (10) “Smoking” means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

(11) (a) “Tobacco paraphernalia” means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product or an electronic cigarette substance into the human body.

(b) “Tobacco paraphernalia” includes:

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) water pipes;

(iii) carburetion tubes and devices;

(iv) smoking and carburetion masks;

(v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(vi) chamber pipes;

(vii) carburetor pipes;

(viii) electric pipes;

(ix) air-driven pipes;

(x) chillums;

(xi) bongs; and

(xii) ice pipes or chillers.

(c) “Tobacco paraphernalia” does not include matches or lighters.

(12) “Tobacco product” means:

(a) a cigar;

(b) a cigarette; and

(c) tobacco in any form, including:

(i) chewing tobacco; and

(ii) any substitute for tobacco, including flavoring or additives to tobacco.

(13) “Tobacco retailer” means:

(a) a general tobacco retailer, as that term is defined in Section 26-62-102; and

(b) a retail tobacco specialty business.

**Section 21. Section 76-10-103 (Effective 07/01/20) is amended to read:**

**76-10-103 (Effective 07/01/20). Permitting minors to use a tobacco product or an electronic cigarette product in place of business.**

It is a class C misdemeanor for the proprietor of any place of business to knowingly permit an individual under [the following ages] 21 years old to frequent a place of business while the individual is using [tobacco] a tobacco product or an electronic cigarette product.

~~[(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

~~[(2) beginning July 1, 2021, under 21 years old.]~~

**Section 22. Section 76-10-104 (Effective 07/01/20) is amended to read:**

**76-10-104 (Effective 07/01/20). Providing a tobacco product or electronic cigarette product to a minor -- Penalties.**

~~[(1) A person violates this section who knowingly, intentionally, recklessly, or with criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to an individual under the following ages, is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses:]~~

~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(b) beginning July 1, 2021, 21 years old.]~~

~~[(2)] (1) As used in this section, "provides":~~

~~(a) includes selling, giving, furnishing, sending, or causing to be sent; and~~

~~(b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.~~

~~(2) An individual who knowingly, intentionally, recklessly, or with criminal negligence provides a tobacco product or an electronic cigarette product to an individual who is under 21 years old, is guilty of:~~

~~(a) a class C misdemeanor on the first offense;~~

~~(b) a class B misdemeanor on the second offense; and~~

~~(c) a class A misdemeanor on any subsequent offense.~~

~~(3) This section does not apply to conduct of an employee of a tobacco retailer that is a violation of Section 76-10-114.~~

**Section 23. Section 76-10-104.1 (Effective 07/01/20) is amended to read:**

**76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to a minor -- Penalties.**

~~(1) [For purposes of this section: (a) "Provides" As used in this section, "provides":~~

~~[(4)] (a) includes selling, giving, furnishing, sending, or causing to be sent; and~~

~~[(4)] (b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who~~

transports or delivers a package for another person without any reason to know of the package's content.

~~[(b) "Tobacco paraphernalia":]~~

~~[(i) means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:]~~

~~[(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;]~~

~~[(B) water pipes;]~~

~~[(C) carburetion tubes and devices;]~~

~~[(D) smoking and carburetion masks;]~~

~~[(E) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;]~~

~~[(F) chamber pipes;]~~

~~[(G) carburetor pipes;]~~

~~[(H) electric pipes;]~~

~~[(I) air-driven pipes;]~~

~~[(J) chillums;]~~

~~[(K) bongs; and]~~

~~[(L) ice pipes or chillers; and]~~

~~[(ii) does not include matches or lighters.]~~

~~(2) (a) It is unlawful for [a person] an individual to knowingly, intentionally, recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under: (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1, 2021,] 21 years old.~~

~~(b) [A person] An individual who violates this section is guilty of:~~

~~(i) a class C misdemeanor on the first offense; and~~

~~(ii) a class B misdemeanor on any subsequent [offenses] offense.~~

**Section 24. Section 76-10-105 (Effective 07/01/20) is amended to read:**

**76-10-105 (Effective 07/01/20). Buying or possessing a tobacco product or an electronic cigarette product by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

~~(1) [(a)] An individual who is 18 years old or older, but younger than [the age specified in Subsection (1)(b)] 21 years old, and who buys or attempts to buy, accepts, or has in the individual's possession [any cigar, cigarette, electronic cigarette, or tobacco in any form] a tobacco product or an electronic cigarette product is:~~

~~(a) guilty of an infraction; and~~

(b) subject to:

(i) a minimum fine or penalty of \$60; and

(ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(ii) beginning July 1, 2021, 21 years old.]~~

(2) (a) An individual who is under [the age of] 18 years old and who buys or attempts to buy, accepts, or has in the individual's possession [any cigar, cigarette, electronic cigarette, or tobacco in any form] a tobacco product or an electronic cigarette product is subject to the jurisdiction of the juvenile court and subject to Section 78A-6-602, unless the violation is committed on school property.

(b) If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

[(a)] (i) a fine or penalty, in accordance with Section 78A-6-117; and

[(b)] (ii) participation in a court-approved tobacco education program, which may include a participation fee.

(3) (a) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.

(b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

~~[(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette, electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older and is:]~~

~~[(i) on active duty in the United States Armed Forces; or]~~

~~[(ii) a spouse or dependent of an individual who is on active duty in the United States Armed Forces.]~~

~~[(b) A valid, government-issued military identification card is required to verify proof of age under Subsection (4)(a).]~~

**Section 25. Section 76-10-105.1 (Effective 07/01/20) is amended to read:**

**76-10-105.1 (Effective 07/01/20).**

**Requirement of direct, face-to-face sale of tobacco products and electronic cigarette products -- Minors not allowed in retail tobacco specialty business -- Penalties.**

(1) As used in this section:

[(a) "Cigarette" means the same as that term is defined in Section 59-14-102.]

~~[(b)]~~ (a) (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

(ii) "Face-to-face exchange" does not include a sale through a:

(A) vending machine; or

(B) self-service display.

~~[(e)]~~ (b) "Retailer" means a person who:

(i) sells a [cigarette, tobacco,] tobacco product or an electronic cigarette product to an individual for personal consumption; or

(ii) operates a facility with a vending machine that sells a [cigarette, tobacco,] tobacco product or an electronic cigarette product.

~~[(d)]~~ (c) "Self-service display" means a display of a [cigarette, tobacco,] tobacco product or an electronic cigarette product to which the public has access without the intervention of a retailer or retailer's employee.

~~[(e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.]~~

~~[(f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is defined:]~~

~~[(i) as it relates to a municipality, in Section 10-8-41.6; and]~~

~~[(ii) as it relates to a county, in Section 17-50-333.]~~

(2) Except as provided in Subsection (3), a retailer may sell a [cigarette, tobacco,] tobacco product or an electronic cigarette product only in a face-to-face exchange.

(3) The face-to-face sale requirement in Subsection (2) does not apply to:

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual who complies with Subsection (4) to be present; or

(c) a sale at a retail tobacco specialty [shop] business.

(4) [(a)] An individual who [is less than the age specified in Subsection (4)(b)] is under 21 years old may not enter or be present at a [tobacco specialty shop] retail tobacco specialty business unless the individual is:

[(i)] (a) accompanied by a parent or legal guardian;

[(ii)] (b) present at the [tobacco shop] retail tobacco specialty business for a bona fide commercial purpose other than to purchase a [cigarette, tobacco,] tobacco product or an electronic cigarette[; or] product.

~~[(iii) 18 years old or older and an active duty member of the United States Armed Forces, as demonstrated by a valid, government-issued military identification card.]~~

~~[(b) For purposes of Subsection (4)(a), the individual is younger than:]~~

~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(ii) beginning July 1, 2021, 21 years old.]~~

(5) A parent or legal guardian who accompanies, under Subsection (4)(a)~~[(i)]~~, an individual into an area described in Subsection (3)(b)~~[,]~~ or into a ~~[tobacco specialty shop]~~ retail tobacco specialty business, may not allow the individual to purchase a ~~[cigarette, tobacco,]~~ tobacco product or an electronic cigarette product.

(6) A violation of Subsection (2) or (4) is a:

(a) class C misdemeanor on the first offense;

(b) class B misdemeanor on the second offense; and

(c) class A misdemeanor on ~~[the third and all]~~ any subsequent offenses.

(7) An individual who violates Subsection (5) is guilty of ~~[providing tobacco to a minor]~~ an offense under Section 76-10-104.

~~[(8) (a) An ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, minimum age of sale, placement, or display of cigarettes, tobacco, or electronic cigarettes that is not essentially identical to this section and Section 76-10-102 is superseded.]~~

~~[(b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.]~~

**Section 26. Section 76-10-111 is amended to read:**

**76-10-111. Prohibition of gift or free distribution of smokeless tobacco or electronic cigarettes products -- Exceptions.**

(1) The Legislature finds that:

(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use ~~[these products]~~ smokeless tobacco because research indicates that ~~[they]~~ smokeless tobacco may cause mouth or oral cancers;

(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

(c) the use of electronic ~~[cigarettes]~~ cigarette products may lead to unhealthy behavior such as the use of tobacco products; and

(d) it is necessary to restrict the gift of the products described in this Subsection (1) in the interest of the health of the citizens of this state.

(2) (a) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, and retailer to:

(i) give or distribute without charge any smokeless tobacco, chewing tobacco, or an electronic cigarette product in this state~~[,]~~;

(ii) except as provided in Subsection (2)(b), sell, offer for sale, or furnish an electronic cigarette product at less than the cost of the product to the manufacturer, wholesaler, or retailer; or

(iii) give, distribute, sell, offer for sale, or furnish an electronic cigarette product for free or at a lower price because the purchaser makes another purchase.

(b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection (2)(a)(ii) does not include a discount for:

(i) a physical manufacturer coupon:

(A) that is surrendered to the retailer at the time of sale; and

(B) for which the manufacturer will reimburse the wholesaler or retailer for the full amount of the discount described in the manufacturer coupon and provided to the purchaser;

(ii) a rebate that will be paid to the manufacturer, wholesaler, or retailer for the full amount of the rebate provided to the purchaser; or

(iii) a promotional fund that will be paid to the manufacturer, wholesaler, or retailer for the full amount of the promotional fund to the purchaser.

(3) ~~[Any person]~~ An individual who violates this section is guilty of:

(a) a class C misdemeanor for the first offense~~[,]~~; and ~~[is guilty of]~~

(b) a class B misdemeanor for any subsequent offense.

~~[(3)]~~ (4) (a) Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be distributed to ~~[adults]~~ an adult without charge at a professional ~~[conventions]~~ convention where the general public is excluded.

~~[(b) Subsection (2) does not apply to a retailer, manufacturer, or distributor who gives smokeless tobacco, chewing tobacco, or an electronic cigarette to a person of legal age upon the person's purchase of another tobacco product or electronic cigarette.]~~

**Section 27. Section 76-10-112 is amended to read:**

**76-10-112. Prohibition of distribution of a tobacco product -- Exceptions.**

(1) Except as provided in Subsection ~~[(2)]~~ (3), it is unlawful for a manufacturer, wholesaler, or retailer to give or distribute ~~[cigarettes or other tobacco products]~~ a tobacco product in this state without charge.

(2) ~~[Any person]~~ An individual who violates this subsection is guilty of:

(a) a class C misdemeanor for the first offense; and

(b) a class B misdemeanor for any subsequent offense.

~~[(2) Cigarettes and other tobacco products]~~

(3) A tobacco product may be distributed to ~~[adults]~~ an adult without charge at a professional ~~[conventions]~~ convention where the general public is excluded.

~~[(3)]~~ (4) The prohibition described in Subsection (1) does not apply to ~~[retailers, manufacturers, or distributors who give cigarettes or other tobacco products to persons of legal age upon their purchase of cigarettes or other tobacco products]~~ a tobacco retailer, a manufacturer, or a distributor that gives a tobacco product to an individual who is 21 years old or older upon the individual's purchase of a tobacco product.

**Section 28. Section 76-10-113 is enacted to read:**

**76-10-113. Prohibition on distribution of flavored electronic cigarette products.**

(1) It is unlawful for a tobacco retailer that is not a retail tobacco specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any person.

(2) An individual who violates this section is guilty of:

(a) a class C misdemeanor for the first offense; and

(b) a class B misdemeanor for any subsequent offense.

**Section 29. Section 76-10-114 is enacted to read:**

**76-10-114. Unlawful sale of a tobacco product or electronic cigarette product.**

(1) As used in this section:

(a) "Compensatory service" means service or unpaid work performed by an employee, in lieu of the payment of a fine or imprisonment.

(b) "Employee" means an employee or an owner of a tobacco retailer.

(2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco product or an electronic cigarette product in the course of business to an individual who is under 21 years old.

(3) An employee who violates this section is:

(a) on a first violation:

(i) guilty of an infraction; and

(ii) subject to:

(A) a fine not exceeding \$1,000; or

(B) compensatory service;

(b) on any subsequent violation:

(i) guilty of a class C misdemeanor; and

(ii) subject to:

(A) a fine not exceeding \$2,000; or

(B) compensatory service.

**Section 30. Section 76-10-115 is enacted to read:**

**76-10-115. Unlawful transfer or use of proof of age.**

(1) As used in this section:

(a) "Proof of age" means:

(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(ii) a valid identification that:

(A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

(iv) a valid United States military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(2) An individual who knowingly and intentionally transfers that individual's proof of age to another individual to aid that individual in purchasing a tobacco product or an electronic cigarette product, or in gaining admittance to any part of the premises of a retail tobacco specialty business, is guilty of a class B misdemeanor.

(3) An individual who knowingly and intentionally uses proof of age containing false information with the intent to purchase a tobacco product or an electronic cigarette product, or to gain admittance to any part of the premises of a retail tobacco specialty business, is guilty of a class A misdemeanor.

**Section 31. Section 76-10-116 is enacted to read:**

**76-10-116. Ordinances, rules, and regulations.**

(1) Except as provided in Subsection (2), an ordinance, rule, or regulation adopted by a

governing body of a political subdivision of the state or a state agency is superseded if:

(a) the ordinance, rule, or regulation affects:

(i) the minimum age of sale for a tobacco product, an electronic cigarette product, or tobacco paraphernalia;

(ii) the provision or sale of a tobacco product, an electronic cigarette product, or tobacco paraphernalia;

(iii) the flavoring of a tobacco product or an electronic cigarette product;

(iv) the purchase or possession of a tobacco product, an electronic cigarette product, or tobacco paraphernalia; or

(v) the placement or display of a tobacco product or an electronic cigarette product; and

(b) the ordinance, rule, or regulation is not essentially identical to any state statute relating to the applicable subject described in Subsection (1)(a).

(2) A governing body of a political subdivision of the state or a state agency may adopt an ordinance, rule, or regulation on a subject described in Subsections (1)(a)(i) through (v) if the governing body of a political subdivision of the state or a state agency is authorized by statute to adopt the ordinance, rule, or regulation.

(3) Subsection (1) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

**Section 32. Section 77-39-101 (Effective 07/01/20) is amended to read:**

**77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco products, and electronic cigarettes products to underage individuals.**

(1) As used in this section, “electronic cigarette” is as:

(a) “Electronic cigarette product” means the same as that term is defined in Section 76-10-101.

(b) “Tobacco product” means the same as that term is defined in Section 76-10-101.

(2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer Classifications, may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment; or

(ii) Section [76-10-104] 76-10-114 by requesting an individual under [the age specified in Subsection (2)(e)] 21 years old to enter into and attempt to purchase or make a purchase from a retail establishment of:

(A) a [eigar] tobacco product; or

[B] a cigarette;

[(C) tobacco in any form; or]

[(D)] (B) an electronic cigarette product.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol; or

(ii) (A) a [eigar] tobacco product; or

[B] a cigarette;

[(C) tobacco in any form; or]

[(D)] (B) an electronic cigarette product.

(d) If a citation or information is issued, [it] the citation or information shall be issued within seven days of the purchase.

[(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:]

[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]

[(ii) beginning July 1, 2021, 21 years old.]

(3) (a) If an individual under [the age of] 18 years old is requested to attempt a purchase, a written consent of that individual’s parent or guardian shall be obtained prior to that individual participating in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco products, or [an] electronic cigarette products.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase may not during the attempted purchase misrepresent the age of the individual by false or misleading identification documentation in attempting the purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a [eigar, a cigarette, tobacco in any form] tobacco product, or an electronic cigarette product if a peace officer directs, supervises, and monitors the individual.

(6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted[.] within a 12-month period:

[(i) on a random basis; and]



~~[(ii) within a 12-month period at any one retail establishment location not more often than:]~~

~~[(A) two times for the attempted purchase of:]~~

~~[(I) a cigar;]~~

~~[(II) a cigarette;]~~

~~[(III) tobacco in any form; or]~~

~~[(IV) an electronic cigarette; and]~~

~~[(B) four times for the attempted purchase of alcohol.]~~

(i) on a random basis at any one retail establishment location, not more often than four times for the attempted purchase of alcohol; and

(ii) a minimum of two times at a retail establishment that sells tobacco products or electronic cigarette products for the attempted purchase of a tobacco product or an electronic cigarette product.

(b) This section does not prohibit an investigation or an attempt to purchase ~~tobacco~~ alcohol, a tobacco product, or an electronic cigarette product under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a ~~cigar, a cigarette, tobacco in any form~~ tobacco product, or an electronic cigarette product to an individual under the age established by Section 32B-4-403 or ~~[76-10-104] 76-10-114; and~~

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7) (a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

(i) the name of the supervising peace officer;

(ii) the name of the individual attempting the purchase;

(iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;

(iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;

(v) the name and address of the retail establishment; and

(vi) the date and time of the attempted purchase.

### **Section 33. Effective date.**

This bill takes effect on July 1, 2020.

### **Section 34. Coordinating H.B. 23 with S.B. 37 -- Superseding technical and substantive amendments.**

If this H.B. 23 and S.B. 37, Electronic Cigarette and Other Nicotine Product Amendments, both

pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) not make the changes in H.B. 23 to Subsections ~~10-8-41.6(1)(g)(i) and 17-50-333(1)(f)(i)~~, regarding a retail tobacco specialty business;

(2) not make the changes in S.B. 37 to Subsection ~~26-62-305(3)(b)~~;

(3) modify Subsections ~~26-62-305(3) and (4) in H.B. 23 to read:~~

”(3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer, the enforcing agency shall:

(a) on a first violation, impose a fine of no more than \$2,000 on the general tobacco retailer; and

(b) on the second violation for the same general tobacco retailer within one year of the first violation:

(i) impose a fine not exceeding \$5,000; and

(ii) revoke the permit for the general tobacco retailer.

(4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old, the enforcing agency shall apply the provisions of Section ~~26-62-402.~~”; and

(4) not make the changes in H.B. 23 to Section ~~76-10-111.~~

**CHAPTER 303****H. B. 32**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**CRISIS SERVICES AMENDMENTS**

Chief Sponsor: Steve Eliason  
 Senate Sponsor: Daniel W. Thatcher

**LONG TITLE****General Description:**

This bill relates to crisis response treatment and resources.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ changes the name of the “Mental Health Crisis Line Commission” to the “Behavioral Health Crisis Response Commission”;
- ▶ modifies the membership of the Behavioral Health Crisis Response Commission;
- ▶ expands the mobile crisis outreach team grant program to fund additional mobile crisis outreach teams in certain counties;
- ▶ requires the Division of Substance Abuse and Mental Health to administer a grant program for the development of a behavioral health receiving center;
- ▶ directs the Department of Health to:
  - apply for a waiver or a state plan amendment with Medicaid to offer a program to provide reimbursement for certain services that are provided in a behavioral health receiving center at a bundled daily rate;
  - if the waiver or state plan amendment is approved, require a managed care organization that contracts with Medicaid to provide reimbursement for certain services that are provided in a behavioral health receiving center; and
  - consult with accountable care organizations and counties when determining whether to integrate payment for certain services that are provided in a behavioral health receiving center;
- ▶ requires the Department of Human Services to establish a statewide stabilization services plan and standards for providing stabilization services to a child;
- ▶ requires the Division of Substance Abuse and Mental Health to implement a statewide warm line;
- ▶ requires the Behavioral Health Crisis Response Commission to study and make recommendations regarding implementation of the statewide warm line; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to Department of Human Services -- Division of Substance Abuse and Mental Health -- Community Mental Health Services, as an ongoing appropriation:
  - From General Fund, \$10,460,000;

- ▶ to Department of Human Services -- Division of Substance Abuse and Mental Health -- Community Mental Health Services, as a one-time appropriation:
  - From General Fund, One-time, \$5,652,000;
- ▶ to Governor’s Office -- Suicide Prevention -- Suicide Prevention, as an ongoing appropriation:
  - from General Fund, \$100,000; and
- ▶ to University of Utah -- SafeUT Crisis Text and Tip Line -- SafeUT Operations, as an ongoing appropriation:
  - from General Fund, \$250,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 17-43-301, as last amended by Laws of Utah 2019, Chapter 256
- 26-18-418, as last amended by Laws of Utah 2019, Chapter 393
- 62A-1-104, as last amended by Laws of Utah 2018, Chapter 147
- 62A-1-111, as last amended by Laws of Utah 2018, Chapter 200
- 62A-15-102, as last amended by Laws of Utah 2018, Chapter 414
- 62A-15-116, as last amended by Laws of Utah 2019, Chapter 446
- 62A-15-1301, as enacted by Laws of Utah 2018, Chapter 407
- 62A-15-1302, as enacted by Laws of Utah 2018, Chapter 407
- 62A-15-1303, as enacted by Laws of Utah 2018, Chapter 407
- 62A-15-1401, as enacted by Laws of Utah 2018, Chapter 84
- 63C-18-101, as enacted by Laws of Utah 2017, Chapter 23
- 63C-18-102, as enacted by Laws of Utah 2017, Chapter 23
- 63C-18-202, as enacted by Laws of Utah 2017, Chapter 23
- 63C-18-203, as last amended by Laws of Utah 2018, Chapters 84 and 407
- 63I-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
- 63I-1-262, as last amended by Laws of Utah 2019, Chapters 246, 257, 440 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
- 63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

- 62A-15-118, Utah Code Annotated 1953
- 26-18-420, Utah Code Annotated 1953

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

**Section 1. Section 17-43-301 is amended to read:**

**17-43-301. Local mental health authorities -- Responsibilities.**

(1) As used in this section:

(a) “Assisted outpatient treatment” means the same as that term is defined in Section 62A-15-602.

(b) “Crisis worker” means the same as that term is defined in Section 62A-15-1301.

(c) “Local mental health crisis line” means the same as that term is defined in Section [63C-18-102] 62A-15-1301.

(d) “Mental health therapist” means the same as that term is defined in Section 58-60-102.

(e) “Public funds” means the same as that term is defined in Section 17-43-303.

(f) “Statewide mental health crisis line” means the same as that term is defined in Section [63C-18-102] 62A-15-1301.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual’s substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health

department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department, the Department of

Health, and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 62A-15-630.5;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 62A-15-1302;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Substance Abuse and Mental Health, in accordance with Section 62A-15-1302; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the

time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services, as described in Section 62A-15-630.4, to a resident of the county who has been ordered under Section 62A-15-630.5 to receive assisted outpatient treatment.

**Section 2. Section 26-18-418 is amended to read:**

**26-18-418. Medicaid waiver for mental health crisis lines and mobile crisis outreach teams.**

(1) As used in this section:

(a) "Local mental health crisis line" means the same as that term is defined in Section ~~[63C-18-102]~~ 62A-15-1301.

(b) "Mental health crisis" means:

(i) a mental health condition that manifests itself in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(A) serious danger to the individual's health or well-being; or

(B) a danger to the health or well-being of others; or

(ii) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or the intervention of a mental health therapist.

(c) (i) "Mental health crisis services" means direct mental health services and on-site intervention that a mobile crisis outreach team provides to an individual suffering from a mental health crisis, including the provision of safety and care plans, prolonged mental health services for up to 90 days, and referrals to other community resources.

(ii) "Mental health crisis services" includes:

(A) local mental health crisis lines; and

(B) the statewide mental health crisis line.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section ~~[63C-18-102]~~ 62A-15-1301.

(2) In consultation with the Department of Human Services and the ~~[Mental]~~ Behavioral Health Crisis ~~[Line]~~ Response Commission created in Section 63C-18-202, the department shall develop a proposal to amend the state Medicaid plan to include mental health crisis services, including the statewide mental health crisis line, local mental health crisis lines, and mobile crisis outreach teams.

(3) By January 1, 2019, the department shall apply for a Medicaid waiver with CMS, if necessary to implement, within the state Medicaid program, the mental health crisis services described in Subsection (2).

**Section 3. Section 26-18-420 is enacted to read:**

**26-18-420. Reimbursement for crisis management services provided in a behavioral health receiving center -- Integration of payment for physical health services.**

(1) As used in this section:

(a) “Accountable care organization” means the same as that term is defined in Section 26-18-408.

(b) “Behavioral health receiving center” means the same as that term is defined in Section 62A-15-118.

(c) “Crisis management services” means behavioral health services provided to an individual who is experiencing a mental health crisis.

(d) “Managed care organization” means the same as that term is defined in 42 C.F.R. Sec. 438.2.

(2) Before July 1, 2020, the division shall apply for a Medicaid waiver or state plan amendment with CMS to offer a program that provides reimbursement through a bundled daily rate for crisis management services that are delivered to an individual during the individual’s stay at a behavioral health receiving center.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall:

(a) implement the program described in Subsection (2); and

(b) require a managed care organization that contracts with the state’s Medicaid program for behavioral health services or integrated health services to provide coverage for crisis management services that are delivered to an individual during the individual’s stay at a behavioral health receiving center.

(4) (a) The department may elect to integrate payment for physical health services provided in a behavioral health receiving center.

(b) In determining whether to integrate payment under Subsection (4)(a), the department shall consult with accountable care organizations and counties in the state.

**Section 4. Section 62A-1-104 is amended to read:**

**62A-1-104. Definitions.**

(1) As used in this title:

(a) “Competency evaluation” means the same as that term is defined in Section 77-15-2.

(b) “Concurrence of the board” means agreement by a majority of the members of a board.

(c) “Department” means the Department of Human Services established in Section 62A-1-102.

(d) “Executive director” means the executive director of the department, appointed under Section 62A-1-108.

(e) “Forensic evaluator” means the same as that term is defined in Section 77-15-2.

(f) “Stabilization services” means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child’s parent or guardian skills to improve family functioning.

[4] (g) “System of care” means a broad, flexible array of services and supports that:

(i) serves a child with or who is at risk for complex emotional and behavioral needs;

(ii) is community based;

(iii) is informed about trauma;

(iv) builds meaningful partnerships with families and children;

(v) integrates service planning, service coordination, and management across state and local entities;

(vi) includes individualized case planning;

(vii) provides management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(viii) is guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child’s family.

(2) The definitions provided in Subsection (1) are to be applied in addition to definitions contained throughout this title that are applicable to specified chapters or parts.

**Section 5. Section 62A-1-111 is amended to read:**

**62A-1-111. Department authority.**

The department may, in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department’s institutions and community programs, at the request of the client or the client’s legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for ~~its~~ the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for ~~its~~ the department's staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court under Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed under Section 78A-6-1301; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to ~~it~~ the department by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(22) within appropriations authorized by the Legislature, promote and develop a system of care[, as defined in Section 62A-1-104] and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the

department's divisions, offices, and institutions; and

(23) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

**Section 6. Section 62A-15-102 is amended to read:**

**62A-15-102. Definitions.**

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

- (a) affect the person's risk of engaging in criminal behavior; and
- (b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director of the Division of Substance Abuse and Mental Health.

(3) "Division" means the Division of Substance Abuse and Mental Health established in Section 62A-15-103.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who

experiences a mental health crisis, which may include:

- (a) direct mental health services;
- (b) on-site intervention provided by a mobile crisis outreach team;
- (c) the provision of safety and care plans;
- (d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;
- (e) referrals to other community resources;
- (f) local mental health crisis lines; and
- (g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) (a) "Public funds" means federal money received from the Department of Human Services or the Department of Health, and state money appropriated by the Legislature to the Department of Human Services, the Department of Health, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services pursuant to substance abuse or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(12) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(13) "Statewide mental health crisis line" means the same as that term is defined in Section [63C-18-102] 62A-15-1301.

**Section 7. Section 62A-15-116 is amended to read:**

**62A-15-116. Mobile crisis outreach team expansion.**



(1) In consultation with the ~~[Mental]~~ Behavioral Health Crisis ~~[Line]~~ Response Commission, established in Section 63C-18-202, the division shall award grants for the development of:

(a) five mobile crisis outreach teams:

~~[(a)]~~ (i) in counties of the second, third, fourth, fifth, or sixth class; or

(ii) in counties of the first class, if no more than two mobile crisis outreach teams are operating or have been awarded a grant to operate in the county; and

(b) at least three mobile crisis outreach teams in counties of the third, fourth, fifth, or sixth class.

~~[(b) to]~~ (2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

~~[(2)]~~ (3) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed mobile crisis outreach team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.

~~[(3)]~~ (4) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

~~[(4)]~~ (5) In consultation with the ~~[Mental]~~ Behavioral Health Crisis ~~[Line]~~ Response Commission, established in Section 63C-18-202, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

**Section 8. Section 62A-15-118 is enacted to read:**

**62A-15-118. Behavioral Health Receiving Center Grant Program.**

(1) As used in this section:

(a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.

(b) "Project" means a behavioral health receiving center project described in Subsection (2)(a).

(2) (a) (i) Before July 1, 2020, the division shall issue a request for proposals in accordance with this section to award a grant to one or more counties of the first or second class, as classified in Section 17-50-501, to, except as provided in Subsection (2)(a)(ii), develop and implement a behavioral health receiving center.

(ii) A grant awarded under Subsection (2)(a)(i) may not be used to purchase land for the behavioral health receiving center.

(b) The division shall award all grants under this section before December 31, 2020.

(3) The purpose of a project is to:

(a) increase access to mental health crisis services for individuals in the state who are experiencing a mental health crisis; and

(b) reduce the number of individuals in the state who are incarcerated or in a hospital emergency room while experiencing a mental health crisis.

(4) An application for a grant under this section shall:

(a) identify the population to which the behavioral health receiving center will provide mental health crisis services;

(b) identify the type of mental health crisis services the behavioral health receiving center will provide;

(c) explain how the population described in Subsection (4)(a) will benefit from the provision of mental health crisis services;

(d) provide details regarding:

(i) how the proposed project plans to provide mental health crisis services;

(ii) how the proposed project will ensure that consideration is given to the capacity of the behavioral health receiving center;

(iii) how the proposed project will ensure timely and effective provision of mental health crisis services;

(iv) the cost of the proposed project;

(v) any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the proposed project;

(vi) any plan to use funding sources in addition to a grant under this section for the proposed project;

(vii) the sustainability of the proposed project; and

(viii) the methods the proposed project will use to:

(A) protect the privacy of each individual who receives mental health crisis services from the behavioral health receiving center;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(e) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (5).

(5) In evaluating an application for the grant, the division shall consider:

(a) the extent to which the proposed project will fulfill the purposes described in Subsection (3);

(b) the extent to which the population described in Subsection (4)(a) is likely to benefit from the proposed project;

(c) the cost of the proposed project;

(d) the extent to which any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the project, or additional funding sources available to the applicant for the proposed project, are likely to benefit the proposed project; and

(e) the viability and innovation of the proposed project.

(6) Before June 30, 2021, the division shall report to the Health and Human Services Interim Committee regarding:

(a) each county awarded a grant under this section; and

(b) the details of each project.

(7) Before June 30, 2023, the division shall report to the Health and Human Services Interim Committee regarding:

(a) data gathered in relation to each project;

(b) knowledge gained relating to the provision of mental health crisis services in a behavioral health receiving center;

(c) recommendations for the future use of mental health crisis services in behavioral health receiving centers; and

(d) obstacles encountered in the provision of mental health crisis services in a behavioral health receiving center.

**Section 9. Section 62A-15-1301 is amended to read:**

**Part 13. Statewide Mental Health Crisis Line and Statewide Warm Line**

**62A-15-1301. Definitions.**

As used in this part:

(1) "Certified peer support specialist" means an individual who:

(a) meets the standards of qualification or certification that the division sets, in accordance with Section 62A-15-1302; and

(b) staffs the statewide warm line under the supervision of at least one mental health therapist.

[4] (2) "Commission" means the [Mental] Behavioral Health Crisis [Line] Response Commission created in Section 63C-18-202.

[2] (3) "Crisis worker" means an individual who:

(a) meets the standards of qualification or certification that the division sets, in accordance with Section 62A-15-1302; and

(b) staffs the statewide mental health crisis line, the statewide warm line, or a local mental health crisis line under the supervision of at least one mental health therapist.

[3] (4) "Local mental health crisis line" means [the same as that term is defined in Section

63C-18-102.] a phone number or other response system that is:

(a) accessible within a particular geographic area of the state; and

(b) intended to allow an individual to contact and interact with a qualified mental or behavioral health professional.

(5) "Mental health crisis" means the same as that term is defined in Section 62A-15-1401.

[4] (6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

[5] (7) "Statewide mental health crisis line" means [the same as that term is defined in Section 63C-18-102.] a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional 24 hours per day, 365 days per year.

(8) "Statewide warm line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional or a certified peer support specialist.

**Section 10. Section 62A-15-1302 is amended to read:**

**62A-15-1302. Contracts for statewide mental health crisis line and statewide warm line -- Crisis worker and certified peer support specialist qualification or certification.**

(1) (a) The division shall enter into a new contract or modify an existing contract to manage and operate [the statewide mental health crisis line], in accordance with this part, [and to encourage collaboration with local mental health crisis lines] the statewide mental health crisis line and the statewide warm line.

(b) Through the [contract] contracts described in Subsection (1)(a) and in consultation with the commission, the division shall set standards of care and practice for:

(i) the mental health therapists and crisis workers who staff the statewide mental health crisis line[-]; and

(ii) the mental health therapists, crisis workers, and certified peer support specialists who staff the statewide warm line.

(2) (a) The division shall establish training and minimum standards for the qualification or certification of:

(i) crisis workers who staff the statewide mental health crisis line, the statewide warm line, and local mental health crisis lines[-]; and

(ii) certified peer support specialists who staff the statewide warm line.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to establish the training and minimum standards described in Subsection (2)(a).

**Section 11. Section 62A-15-1303 is amended to read:**

**62A-15-1303. Statewide mental health crisis line and statewide warm line operational standards.**

(1) In consultation with the commission, the division shall ensure that:

~~[(1)]~~ (a) the following individuals are available to staff and answer calls to the statewide mental health crisis line 24 hours per day, 365 days per calendar year:

~~[(a)]~~ (i) mental health therapists; or

~~[(b)]~~ (ii) crisis workers;

~~[(2)]~~ (b) a sufficient amount of staff is available to ensure that when an individual calls the statewide mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the statewide mental health crisis line, an individual described in Subsection (1)(a) answers the call without the caller first:

~~[(a)]~~ (i) waiting on hold; or

~~[(b)]~~ (ii) being screened by an individual other than a mental health therapist or crisis worker; ~~and~~

~~[(3)]~~ (c) the statewide mental health crisis line has capacity to accept all calls that local mental health crisis lines route to the statewide mental health crisis line~~[-];~~

(d) the following individuals are available to staff and answer calls to the statewide warm line during the hours and days of operation set by the division under Subsection (2):

(i) mental health therapists;

(ii) crisis workers; or

(iii) certified peer support specialists;

(e) when an individual calls the statewide mental health crisis line, the individual's call may be transferred to the statewide warm line if the individual is not experiencing a mental health crisis; and

(f) when an individual calls the statewide warm line, the individual's call may be transferred to the statewide mental health crisis line if the individual is experiencing a mental health crisis.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the hours and days of operation for the statewide warm line.

**Section 12. Section 62A-15-1401 is amended to read:**

**62A-15-1401. Definitions.**

As used in this part:

(1) "Commission" means the ~~[Mental]~~ Behavioral Health Crisis ~~[Line]~~ Response Commission created in Section 63C-18-202.

(2) "Emergency medical service personnel" means the same as that term is defined in Section 26-8a-102.

(3) "Emergency medical services" means the same as that term is defined in Section 26-8a-102.

(4) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(5) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(6) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(a) serious jeopardy to the individual's health or well-being; or

(b) a danger to others.

(7) (a) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(b) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(8) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(9) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

**Section 13. Section 63C-18-101 is amended to read:**

**CHAPTER 18. BEHAVIORAL HEALTH CRISIS RESPONSE COMMISSION**

**63C-18-101. Title.**

(1) This chapter is known as the "~~[Mental]~~ Behavioral Health Crisis ~~[Line]~~ Response Commission."

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

**Section 14. Section 63C-18-102 is amended to read:**

**63C-18-102. Definitions.**

As used in this chapter:

(1) "Commission" means the ~~[Mental]~~ Behavioral Health Crisis ~~[Line]~~ Response Commission created in Section 63C-18-202.

(2) "Local mental health crisis line" means ~~[a phone number or other response system that is:]~~ the

same as that term is defined in Section 62A-15-1301.

~~[(a) accessible within a particular geographic area of the state; and]~~

~~[(b) intended to allow an individual to contact and interact with a qualified mental or behavioral health professional.]~~

~~(3) "Statewide mental health crisis line" means [a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional 24 hours per day, 365 days per year] the same as that term is defined in Section 62A-15-1301.~~

~~(4) "Statewide warm line" means the same as that term is defined in Section 62A-15-1301.~~

**Section 15. Section 63C-18-202 is amended to read:**

**63C-18-202. Commission established -- Members.**

(1) There is created the ~~[Mental] Behavioral Health Crisis [Line] Response Commission~~, composed of the following ~~[11] 16~~ members:

(a) the executive director of the University Neuropsychiatric Institute;

(b) the governor or the governor's designee;

(c) the director of the Division of Substance Abuse and Mental Health;

(d) one representative of the Office of the Attorney General, appointed by the attorney general;

(e) one member of the public, appointed by the chair of the commission and approved by the commission;

(f) two individuals who are mental or behavioral health clinicians licensed to practice in the state, appointed by the chair of the commission and approved by the commission, at least one of whom is an individual who:

(i) is licensed as a physician under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(g) one individual who represents a county of the first or second class, appointed by the Utah Association of Counties;

(h) one individual who represents a county of the third, fourth, or fifth class, appointed by the Utah Association of Counties;

(i) one individual who represents the Utah Hospital Association, appointed by the chair of the commission;

(j) one individual who represents law enforcement, appointed by the chair of the commission;

(k) one individual who has lived with a mental health disorder, appointed by the chair of the commission;

(l) one individual who represents an integrated health care system that:

(i) is not affiliated with the chair of the commission; and

(ii) provides inpatient behavioral health services and emergency room services to individuals in the state;

(m) one individual who represents an accountable care organization, as defined in Section 26-18-420, with a statewide membership base;

~~[(4)] (n) one member of the House of Representatives, appointed by the speaker of the House of Representatives; and~~

~~[(5)] (o) one member of the Senate, appointed by the president of the Senate.~~

(2) (a) The executive director of the University Neuropsychiatric Institute is the chair of the commission.

(b) The chair of the commission shall appoint a member of the commission to serve as the vice chair of the commission, with the approval of the commission.

(c) The chair of the commission shall set the agenda for each commission meeting.

(3) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(4) (a) Except as provided in Subsection (4)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the commission.

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

(5) The Office of the Attorney General shall provide staff support to the commission.

**Section 16. Section 63C-18-203 is amended to read:**

**63C-18-203. Commission duties -- Reporting requirements.**

(1) The commission shall:

(a) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health

professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

(b) study how to establish and implement a statewide mental health crisis line and a statewide warm line, including identifying:

(i) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line, including a short code for text messaging and ~~[an N11]~~ a three-digit number for calls;

(ii) a statewide phone number or other means for an individual to easily access the statewide warm line, including a short code for text messaging and a three-digit number for calls;

~~[(iii)]~~ (iii) a supply of:

(A) qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

(B) qualified mental or behavioral health professionals or certified peer support specialists to staff the statewide warm line; and

~~[(iii)]~~ (iv) a funding mechanism to operate and maintain the statewide mental health crisis line and the statewide warm line;

(c) coordinate with local mental health authorities in fulfilling the commission's duties described in Subsections (1)(a) and (b); and

(d) recommend standards for ~~[mobile crisis outreach team certification as]~~ the certifications described in Section 62A-15-1302.

(2) The commission may conduct other business related to the commission's duties described in Subsection (1).

(3) The commission shall consult with the Division of Substance Abuse and Mental Health regarding the standards and operation of the statewide mental health crisis line and the statewide warm line, in accordance with Title 62A, Chapter 15, Part 13, Statewide Mental Health Crisis Line and Statewide Warm Line.

**Section 17. Section 63I-1-226 is amended to read:**

**63I-1-226. Repeal dates, Title 26.**

(1) Section 26-1-40 is repealed July 1, 2022.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-417(3) relating to a report to the Health and Human Services Interim Committee is repealed July 1, 2020.

(5) Subsection 26-18-418(2), the language that states "and the ~~[Mental]~~ Behavioral Health Crisis ~~[Line]~~ Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(6) Section 26-18-419.1 is repealed December 31, 2019.

(7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

(12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

(13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

**Section 18. Section 63I-1-262 is amended to read:**

**63I-1-262. Repeal dates, Title 62A.**

(1) Subsections 62A-1-120(8)(g), (h), and (i) relating to completion of premarital counseling or education under Section 30-1-34 are repealed July 1, 2023.

(2) Section 62A-3-209 is repealed July 1, 2023.

(3) Section 62A-4a-202.9 is repealed December 31, 2021.

(4) Section 62A-4a-213 is repealed July 1, 2024.

(5) Section 62A-15-114 is repealed December 31, 2021.

(6) Subsections 62A-15-116(1) and (4), the language that states "In consultation with the ~~[SafeUT and School Safety]~~ Behavioral Health Crisis Response Commission, established in Section ~~[53B-17-1203]~~ 63C-18-202," is repealed January 1, 2023.

(7) Section 62A-15-118 is repealed December 31, 2023.

~~[(7)]~~ (8) Subsections 62A-15-1100(1) and 62A-15-1101~~[(8)]~~(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

~~[(8)]~~ (9) In relation to the ~~[Mental]~~ Behavioral Health Crisis ~~[Line]~~ Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301~~[(4)]~~(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Section 62A-15-1303, the language that states "In consultation with the commission," is repealed; and

(d) Subsection 62A-15-1402(2)(a), the language that states “With recommendations from the commission,” is repealed.

**Section 19. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

~~[(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.]~~

~~[(7) (6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.]~~

~~[(8) (7) Title 63C, Chapter 18, [Mental Behavioral] Health Crisis [Line] Response Commission, is repealed July 1, 2023.]~~

~~[(9) (8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.]~~

~~[(10) (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.]~~

~~[(11) (10) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:]~~

~~(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;~~

~~(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;~~

~~(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;~~

~~(d) Subsection 63H-6-104(3)(a)(i) is amended to read:~~

~~“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under~~

Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

~~(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and~~

~~(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.~~

~~[(12) (11) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.]~~

~~[(13) (12) Section 63M-7-212 is repealed on December 31, 2019.]~~

~~[(14) (13) On July 1, 2025:]~~

~~(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;~~

~~(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;~~

~~(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;~~

~~(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;~~

~~(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;~~

~~(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;~~

~~(g) Subsections 63J-4-401(5)(a) and (c) are repealed;~~

~~(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;~~

~~(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);~~

~~(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and~~

~~(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.~~

~~[(15) (14) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.]~~

~~[(16) (15) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.]~~

~~[(17) (16) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.]~~

~~[(18) (17) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.]~~

(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[(49)] (18) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[(20)] (19) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”[-]

[(21)] (20) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

[(22)] (21) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[(23)] (22) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

[(24)] (23) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

[(25)] (24) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[(26)] (25) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection [(26)] (25)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections [(26)] (25)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

[(27)] (26) Section 63N-2-512 is repealed on July 1, 2021.

[(28)] (27) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [(28)] (27)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[(29)] (28) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

[(30)] (29) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[(31)] (30) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

[(32)] (31) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

[~~33~~] (32) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

[~~34~~] (33) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

### Section 20. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ITEM 1

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund	\$2,400,000
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Schedule of Programs:

Community Mental Health Services	\$2,400,000
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The Legislature intends that the appropriations under this item be used to award grants under Section 62A-15-116.

#### ITEM 2

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund	\$25,000
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From General Fund, One-time	\$250,000
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Schedule of Programs:

Community Mental Health Services	\$275,000
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The Legislature intends that:

(1) the one-time appropriation under this item be used to purchase, maintain, and replace vehicles to be used by mobile crisis outreach teams described in Section 62A-15-116;

(2) the ongoing appropriations under this item be used to provide for maintenance or replacement of the vehicles described in Subsection (1) of this item; and

(3) under Section 63J-1-603, the one-time appropriation provided under this section not lapse at the close of fiscal year 2021 and the use of any non-lapsing funds is limited to the purposes described in Subsection (2) of this item.

#### ITEM 3

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund	\$8,035,000
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From General Fund, One-time	\$5,652,000
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Schedule of Programs:

Community Mental Health Services

The Legislature intends that:

(1) the appropriations under this item be used to award grants under Section 62A-15-118 and for operation of the mental health crisis line and statewide warm line described in Sections 62A-15-1302 and 1303;

(2) the one-time appropriation under this item be used to award grants under Section 62A-15-118 and for software to operate the mental health crisis line described in Sections 62A-15-1302 and 1303; and

(3) under Section 63J-1-603, the one-time appropriation under this item not lapse at the close of fiscal year 2021 and the use of any nonlapsing funds is limited to the purpose described in Subsection (2) of this item.

#### ITEM 4

To Governor's Office -- Suicide Prevention

From General Fund	\$100,000
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Schedule of Programs:

Suicide Prevention	\$100,000
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The Legislature intends that the appropriations under this item be used to award grants under Section 62A-15-1103.

#### ITEM 5

To University of Utah -- SafeUT Crisis Text and Tip Line

From General Fund	\$250,000
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Schedule of Programs:

SafeUT Operations	\$250,000
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The Legislature intends that the appropriations under this item be used to create and operate a crisis intervention application for first responders and emergency medical services personnel in the state.



**CHAPTER 304****H. B. 35**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**MENTAL HEALTH TREATMENT  
 ACCESS AMENDMENTS**

Chief Sponsor: Steve Eliason  
 Senate Sponsor: Todd Weiler  
 Cosponsors: Cheryl K. Acton  
 Susan Duckworth

**LONG TITLE****General Description:**

This bill modifies and enacts provisions relating to mental health treatment access.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the Forensic Mental Health Coordinating Council, in consultation with the Utah Substance Use and Mental Health Advisory Council, to study and provide recommendations regarding the long-term need for adult beds at the Utah State Hospital;
- ▶ modifies the membership of the Utah Substance Use and Mental Health Advisory Council;
- ▶ requires the Division of Substance Abuse and Mental Health to:
  - set standards for certification of assertive community treatment teams (ACT teams);
  - make rules outlining the responsibilities of ACT teams;
  - award a grant for the development of one ACT team; and
  - implement and manage a housing assistance program for certain individuals released from the Utah State Hospital; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ to the Department of Human Services -- Division of Substance Abuse and Mental Health -- Utah State Hospital, as an ongoing appropriation:
  - from the General Fund, \$4,885,500;
- ▶ to the Department of Human Services -- Division of Substance Abuse and Mental Health -- Utah State Hospital, as a one-time appropriation:
  - from the General Fund, One-time, (\$1,076,900); and
- ▶ to the Department of Human Services -- Division of Substance Abuse and Mental Health -- Community Mental Health Services, as an ongoing appropriation:
  - from the General Fund, \$350,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

62A-15-605, as last amended by Laws of Utah 2015, Chapter 403  
 63M-7-301, as last amended by Laws of Utah 2019, Chapter 246  
 63I-1-262, as last amended by Laws of Utah 2019, Chapters 246, 257, 440 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

62A-15-1701, Utah Code Annotated 1953  
 62A-15-1702, Utah Code Annotated 1953  
 62A-15-1703, Utah Code Annotated 1953  
 62A-15-1704, Utah Code Annotated 1953

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

**Section 1. Section 62A-15-605 is amended to read:**

**62A-15-605. Forensic Mental Health Coordinating Council -- Establishment and purpose.**

(1) There is established the Forensic Mental Health Coordinating Council composed of the following members:

- (a) the director of the Division of Substance Abuse and Mental Health or the director's appointee;
- (b) the superintendent of the state hospital or the superintendent's appointee;
- (c) the executive director of the Department of Corrections or the executive director's appointee;
- (d) a member of the Board of Pardons and Parole or its appointee;
- (e) the attorney general or the attorney general's appointee;
- (f) the director of the Division of Services for People with Disabilities or the director's appointee;
- (g) the director of the Division of Juvenile Justice Services or the director's appointee;
- (h) the director of the Commission on Criminal and Juvenile Justice or the director's appointee;
- (i) the state court administrator or the administrator's appointee;
- (j) the state juvenile court administrator or the administrator's appointee;
- (k) a representative from a local mental health authority or an organization, excluding the state hospital that provides mental health services under contract with the Division of Substance Abuse and Mental Health or a local mental health authority, as appointed by the director of the division;
- (l) the executive director of the Utah Developmental Disabilities Council or the director's appointee; and
- (m) other individuals, including individuals from appropriate advocacy organizations with an interest in the mission described in Subsection (3),

as appointed by the members described in Subsections (1)(a) through (l).

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

(a) Section 63A-3-106;

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

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

(3) The purpose of the Forensic Mental Health Coordinating Council is to:

(a) advise the director regarding the state hospital admissions policy for individuals in the custody of the Department of Corrections;

(b) develop policies for coordination between the division and the Department of Corrections;

(c) advise the executive director of the Department of Corrections regarding department policy related to the care of individuals in the custody of the Department of Corrections who are mentally ill;

(d) promote communication between and coordination among all agencies dealing with individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(e) study, evaluate, and recommend changes to laws and procedures relating to individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(f) identify and promote the implementation of specific policies and programs to deal fairly and efficiently with individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system; ~~and~~

(g) promote judicial education relating to individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system~~;~~; and

(h) in consultation with the Utah Substance Abuse Advisory Council created in Section 63M-7-301, study the long-term need for adult patient beds at the state hospital, including:

(i) the total number of beds currently in use in the adult general psychiatric unit of the state hospital;

(ii) the current bed capacity at the state hospital;

(iii) the projected total number of beds needed in the adult general psychiatric unit of the state hospital over the next three, five, and 10 years based on:

(A) the state's current and projected population growth;

(B) current access to mental health resources in the community; and

(C) any other factors the Forensic Mental Health Coordinating Council finds relevant to projecting the total number of beds; and

(iv) the cost associated with the projected total number of beds described in Subsection (3)(h)(iii).

(4) The Forensic Mental Health Coordinating Council shall report the results of the study described in Subsection (3)(h) and any recommended changes to laws or procedures based on the results to the Health and Human Services Interim Committee before November 30 of each year.

**Section 2. Section 62A-15-1701 is enacted to read:**

**Part 17. Utah Assertive Community Treatment Act**

**62A-15-1701. Definitions.**

As used in this part:

(1) "ACT team personnel" means a licensed psychiatrist or mental health therapist, or another individual, as determined by the division, who is part of an ACT team.

(2) "Assertive community treatment team" or "ACT team" means a mobile team of medical and mental health professionals that provides assertive community outreach treatment and, based on the individual circumstances of each case, coordinates with other medical providers and appropriate community resources.

(3) (a) "Assertive community treatment" means mental health services and on-site intervention that a person renders to an individual with a mental illness.

(b) "Assertive community treatment" includes the provision of assessment and treatment plans, rehabilitation, support services, and referrals to other community resources.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(5) "Mental illness" means the same as that term is defined in Section 62A-15-602.

(6) "Psychiatrist" means the same as that term is defined in Section 62A-15-1601.

**Section 3. Section 62A-15-1702 is enacted to read:**

**62A-15-1702. Division duties -- ACT team license creation.**

(1) To promote the availability of assertive community treatment, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for ACT team personnel and ACT teams, that includes:

(a) the standards the division establishes under Subsection (2); and

(b) guidelines for:

(i) required training and experience of ACT team personnel; and

(ii) the coordination of assertive community treatment and other community resources.

(2) (a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the certifications described in Subsection (1); and

(ii) create a statewide ACT team plan that:

(A) identifies statewide assertive community treatment needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide assertive community treatment.

(b) The division may delegate the ACT team plan requirement described in Subsection (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community outreach treatment.

**Section 4. Section 62A-15-1703 is enacted to read:**

**62A-15-1703. Grants for development of an ACT team.**

(1) The division shall award grants for the development of one ACT team to provide assertive community treatment to individuals in the state.

(2) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed ACT team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed ACT team.

(3) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

**Section 5. Section 62A-15-1704 is enacted to read:**

**62A-15-1704. Housing assistance program for individuals discharged from the Utah State Hospital and receiving assertive community treatment.**

(1) (a) The division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a housing assistance program in consultation with the Utah State Hospital, established in Section 62A-15-601, and one or more housing authorities, associations of governments, or nonprofit entities.

(b) The housing assistance program shall provide the housing assistance described in Subsection (1)(c) to individuals:

(i) who are discharged from the Utah State Hospital; and

(ii) who the division determines would benefit from assertive community treatment.

(c) The housing assistance provided under the housing assistance program may include:

(i) subsidizing rent payments for housing;

(ii) subsidizing the provision of temporary or transitional housing; or

(iii) providing money for one-time housing barrier assistance, including rental housing application fees, utility hookup fees, or rental housing security deposits.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for the operation of the housing assistance program described in Subsection (1).

(3) The division shall report to the Health and Human Services Interim Committee each year before November 30 regarding:

(a) the entities the division consulted with under Subsection (1)(a);

(b) the number of individuals who are benefitting from the housing assistance program described in Subsection (1);

(c) the type of housing assistance provided under the housing assistance program described in Subsection (1);

(d) the average monthly dollar amount provided to individuals under the housing assistance program described in Subsection (1); and

(e) recommendations regarding improvements or changes to the housing assistance program described in Subsection (1).

**Section 6. Section 63I-1-262 is amended to read:**

**63I-1-262. Repeal dates, Title 62A.**

(1) Subsections 62A-1-120(8)(g), (h), and (i) are repealed July 1, 2023.

(2) Section 62A-3-209 is repealed July 1, 2023.

(3) Section 62A-4a-202.9 is repealed December 31, 2021.

(4) Section 62A-4a-213 is repealed July 1, 2024.

(5) Section 62A-15-114 is repealed December 31, 2021.

(6) Subsections 62A-15-116(1) and (4), the language that states "In consultation with the SafeUT and School Safety Commission, established in Section 53B-17-1203," is repealed January 1, 2023.

(7) Subsections 62A-15-605(3)(h) and (4) relating to the study of long-term needs for adult beds in the state hospital are repealed July 1, 2022.

~~(7)~~ (8) Subsections 62A-15-1100(1) and 62A-15-~~1101~~~~(8)~~(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

~~(8)~~ (9) In relation to the Mental Health Crisis Line Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(1) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states “and in consultation with the commission” is repealed;

(c) Section 62A-15-1303, the language that states “In consultation with the commission,” is repealed; and

(d) Subsection 62A-15-1402(2)(a), the language that states “With recommendations from the commission,” is repealed.

**Section 7. Section 63M-7-301 is amended to read:**

**63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**

(1) (a) As used in this part, “council” means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor’s office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general’s designee;

(b) ~~an~~ one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner’s designee;

(d) the director of the Division of Substance Abuse and Mental Health or the director’s designee;

(e) the state superintendent of public instruction or the superintendent’s designee;

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

(g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director’s designee;

(h) the executive director of the Department of Corrections or the executive director’s designee;

(i) the director of the Division of Juvenile Justice Services or the director’s designee;

(j) the director of the Division of Child and Family Services or the director’s designee;

(k) the chair of the Board of Pardons and Parole or the chair’s designee;

(l) the director of the Office of Multicultural Affairs or the director’s designee;

(m) the director of the Division of Indian Affairs or the director’s designee;

(n) the state court administrator or the state court administrator’s designee;

(o) [a] one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) [a] one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) [a] one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) [a] one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2);

(u) [a] one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

(w) in addition to the voting members described in Subsections (2)(a) through (v), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (v) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

~~(iii)~~ (iv) one resident of the state who represents prevention professionals;

~~(iv)~~ (v) one resident of the state who represents treatment professionals;

~~(v)~~ (vi) one resident of the state who represents the physical health care field;

~~(vi)~~ (vii) one resident of the state who is a criminal defense attorney;

~~(vii)~~ (viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

~~(viii)~~ (ix) one resident of the state who represents local law enforcement agencies; ~~and~~

~~(ix)~~ (x) one representative of private service providers that serve youth with substance use disorders or mental health disorders~~[-]; and~~

(xi) one resident of the state who is certified by the Division of Substance Abuse and Mental Health as a peer support specialist as described in Subsection 62A-15-103(2)(h).

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

**Section 8. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund \$4,885,500

From General Fund, One-time (\$1,076,900)

Schedule of Programs:

Utah State Hospital \$3,808,600

The Legislature intends that appropriations provided under this item be used for the establishment and maintenance of 30 adult patient beds at the Utah State Hospital.

ITEM 2

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund \$350,000

Schedule of Programs:

Community Mental Health Services \$350,000

The Legislature intends that appropriations provided under this item be used to award grants under Section 62A-15-1703.

**CHAPTER 305****H. B. 47**

Passed February 28, 2020

Approved March 30, 2020

Effective May 12, 2020

Exception clause

**PROPERTY TAX AMENDMENTS**

Chief Sponsor: Steve Eliason  
Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill modifies the Property Tax Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of incremental value to include project areas created under Title 11, Chapter 58, Utah Inland Port Authority Act; Title 63H, Chapter 1, Military Installation Development Authority Act; and Title 63N, Chapter 2, Part 5, New Convention Facility Development Incentives;
- ▶ defines related terms;
- ▶ modifies the definitions of charitable purposes, educational purposes, and exclusive use for purposes of claiming a property tax exemption;
- ▶ provides activities that exclude a person from claiming an exemption for charitable purposes, educational purposes, or religious purposes; and
- ▶ changes the effective date of Section 59-2-1101 in S.B. 263, Property Tax Definition Amendment, Chapter 496, 2019 General Session.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

59-2-924, as last amended by Laws of Utah 2018, Chapters 101, 368, and 415

59-2-1101 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapters 453 and 496

**Uncodified Material Affected:**

AMENDS UNCODIFIED MATERIAL:

**Uncodified Section 2, Laws of Utah 2019, Chapter 496**

This uncodified section affects Section 59-2-1101 (Effective 07/01/20).

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

**Section 1. Section 59-2-924 is amended to read:**

**59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.**

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

~~(b)~~ (c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102; or

(iv) for a host local government, the same as that term is defined in Section 63N-2-502.

~~(e)~~ (e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

- (i) an annexation to a taxing entity; or
- (ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

~~[(d)]~~ (f) (i) “Centrally assessed new growth” means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) “Centrally assessed new growth” does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

~~[(e)]~~ (g) “Certified tax rate” means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

~~[(f)]~~ (h) “Eligible new growth” means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(i) “Host local government” means the same as that term is defined in Section 63N-2-502.

(j) “Hotel property” means the same as that term is defined in Section 63N-2-502.

(k) “Hotel property new growth” means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(l) “Incremental property tax revenue” means the same as that term is defined in Section 63N-2-502.

~~[(g)]~~ (m) “Incremental value” means ~~[the same as that term is defined in Section 17C-1-102.];~~

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iii) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority; or

(iv) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government.

~~[(h)]~~ (n) (i) “Locally assessed new growth” means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) “Locally assessed new growth” does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

~~[(i)]~~ (o) “Project area” means ~~[the same as that term is defined in Section 17C-1-102.];~~

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

~~[(j)] (p) “Project area new growth” means [an amount equal to the incremental value that is no longer provided to an agency as tax increment].;~~

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment; or

(iii) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation.

(q) “Property tax allocation” means the same as that term is defined in Section 63H-1-102.

(r) “Property tax differential” means the same as that term is defined in Section 11-58-102.

(s) “Tax increment” means the same as that term is defined in Section 17C-1-102.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(c) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.



(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and

personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

**Section 2. Section 59-2-1101 (Effective 07/01/20) is amended to read:**

**59-2-1101 (Effective 07/01/20). Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.**

(1) As used in this section:

~~[(a) (i) "Educational purposes" means the same as that term is used in Section 501(c)(3), Internal Revenue Code, and interpreted according to federal law.]~~

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection ~~[(1)(a)(i)]~~ (1)(b)(ii).

~~[(b) (c) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.]~~ one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(d) “Gift to the community” means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

~~(e)~~ (e) “Government exemption” means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

~~(d)~~ (f) (i) “Nonprofit entity” means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity’s property to the entity’s nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity’s assets are distributable only for exempt purposes under state law or to the government for a public purpose;

(C) that does not receive income from any source, including gifts, donations, or payments from recipients of products or services, that produces a profit to the entity in the sense that the income exceeds operating and long-term maintenance expenses; and

(D) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) “Nonprofit entity” includes an entity ~~[if the]~~:

~~(4)~~ (A) if the entity is:

(I) treated as a disregarded entity for federal income tax purposes; and

~~(4ii)~~ ~~entity is~~ (II) wholly owned by, and controlled under the direction of, a nonprofit entity; and

~~(4iii)~~ (B) for which none of the net earnings and profits of the entity ~~[irrevocably]~~ inure to the benefit of any person other than a nonprofit entity.

~~(e)~~ (g) “Tax relief” means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious~~[;]~~ purposes;

(B) charitable~~[;]~~ purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

[(6)] (8) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

[(7)] (9) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection [(6)] (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

**Section 3. Uncodified Section 2, Laws of Utah 2019, Chapter 496 is amended to read:**

Section 2. Effective date.

This bill takes effect on [July 1, 2020] January 1, 2021.

**Section 4. Retrospective operation.**

Section 59-2-924 has retrospective operation to January 1, 2020.

**Section 5. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

(2) The changes in this bill to Section 59-2-1101 (Effective 07/01/20) take effect on January 1, 2021.

**CHAPTER 306****H. B. 107**

Passed March 10, 2020

Approved March 30, 2020

Effective May 12, 2020

**EFFECTIVE TEACHERS IN HIGH  
POVERTY SCHOOLS INCENTIVE  
PROGRAM AMENDMENTS**

Chief Sponsor: Mike Winder  
 Senate Sponsor: Lyle W. Hillyard  
 Cosponsors: Carol Spackman Moss  
 Susan Pulsipher  
 Adam Robertson  
 V. Lowry Snow  
 Christine F. Watkins

**LONG TITLE****General Description:**

This bill amends the Effective Teachers in High Poverty Schools Incentive Program.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of eligible teacher to allow teachers of grade 1 through grade 3 to become eligible for the Effective Teachers in High Poverty Schools Incentive Program;
- ▶ increases the amount of the annual salary bonus; and
- ▶ guarantees the portion of the annual salary bonus paid to an eligible teacher by the state board.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-2-513, as last amended by Laws of Utah 2019, Chapter 186

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

**Section 1. Section 53F-2-513 is amended to read:****53F-2-513. Effective Teachers in High Poverty Schools Incentive Program -- Salary bonus -- Evaluation.**

(1) As used in this section:

(a) "Cohort" means a group of students, defined by the year in which the group enters grade 1.

(b) "Eligible teacher" means a teacher who:

(i) is employed as a teacher in a high poverty school at the time the teacher is considered by the state board for a salary bonus; and

~~(ii) achieves a median growth percentile of 70 or higher;~~

~~(A) a full school year before the school year the eligible teacher is being considered by the state board for a salary bonus under this section, regardless of whether the teacher was employed the~~

~~previous school year by a high poverty school or a different public school; and]~~

(ii) a full school year before the school year the eligible teacher is being considered by the state board for a salary bonus under this section, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, either:

~~(B)] (A) achieves a median growth percentile of 70 or higher while teaching at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303[-]; or~~

~~(B) teaches grade 1, 2, or 3, and achieves at least 85% of students whose progress is assessed as typical or better at the end of the year assessment while teaching at any public school in the state at which a benchmark assessment is administered as described in Section 53F-2-503.~~

(c) "High poverty school" means a public school:

(i) in which:

(A) more than 20% of the enrolled students are classified as children affected by intergenerational poverty; or

(B) 70% or more of the enrolled students qualify for free or reduced lunch; or

(ii) (A) that has previously met the criteria described in Subsection (1)(c)(i)(A) and for each school year since meeting that criteria at least 15% of the enrolled students at the public school have been classified as children affected by intergenerational poverty; or

(B) that has previously met the criteria described in Subsection (1)(c)(i)(B) and for each school year since meeting that criteria at least 60% of the enrolled students at the public school have qualified for free or reduced lunch.

(d) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(e) "Median growth percentile" means a number that describes the comparative effectiveness of a teacher in helping the teacher's students achieve growth in a year by identifying the median student growth percentile of all the students a teacher instructs.

(f) "Program" means the Effective Teachers in High Poverty Schools Incentive Program created in Subsection (2).

(g) "Student growth percentile" is a number that describes where a student ranks in comparison to the student's cohort.

(2) (a) The Effective Teachers in High Poverty Schools Incentive Program is created to provide an annual salary bonus for an eligible teacher.

(b) The state board shall make rules for:

(i) the administration of the program;

(ii) payment of a salary bonus; and

(iii) application requirements.

(c) The state board shall make an annual salary bonus payment in a fiscal year that begins on July 1, 2017, and each fiscal year thereafter in which money is appropriated for the program.

(3) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to fund the program.

(b) Money appropriated for the program shall include money for the following employer-paid benefits:

- (i) social security; and
- (ii) Medicare.

(4) (a) (i) A charter school or school district school shall annually apply to the state board on behalf of an eligible teacher for an eligible teacher to receive an annual salary bonus each year that the teacher is an eligible teacher.

(ii) A teacher need not be an eligible teacher in consecutive years to receive the increased annual salary bonus described in Subsection (4)(b).

(b) The annual salary bonus for an eligible teacher is [~~\$5,000~~] \$7,000.

(c) A public school that applies on behalf of an eligible teacher under Subsection (4)(a)(i) shall pay half of the salary bonus described in Subsection (4)(b) each year the eligible teacher is awarded the salary bonus.

(d) The state board shall award a salary bonus to an eligible teacher based on the order that an application from a public school on behalf of the eligible teacher is received.

(5) The state board shall:

(a) determine if a teacher is an eligible teacher; and

(b) verify, as needed, the determinations made under Subsection (5)(a) with the school district and school district administrators.

(6) The state board shall:

(a) distribute money from the program to school districts and charter schools in accordance with this section and state board rule; and

(b) include the employer-paid benefits described in Subsection (3)(b) in addition to the salary bonus amount described in Subsection (4)(b).

(7) Money received from the program shall be used by a school district or charter school to provide an annual salary bonus equal to the amount specified in Subsection (4)(b) for each eligible teacher and to pay affiliated employer-paid benefits described in Subsection (3)(b).

(8) (a) After the third year salary bonus payments are made, and each succeeding year, the state board shall evaluate the extent to which a salary bonus described in this section improves recruitment and retention of effective teachers in high poverty schools by at least:

(i) surveying teachers who receive the salary bonus; and

(ii) examining turnover rates of teachers who receive the salary bonus compared to teachers who do not receive the salary bonus.

(b) Each year that the state board conducts an evaluation described in Subsection (8)(a), the state board shall, in accordance with Section 68-3-14, submit a report on the results of the evaluation to the Education Interim Committee on or before November 30.

(9) A public school shall annually notify a teacher:

- (a) of the teacher's median growth percentile; and
- (b) how the teacher's median growth percentile is calculated.

(10) Notwithstanding this section, if the appropriation for the program is insufficient to cover the costs associated with salary bonuses, the state board may limit or reduce a salary bonus.

**CHAPTER 307****H. B. 108**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**MEDICAL SPECIALISTS  
 IN PUBLIC SCHOOLS**

Chief Sponsor: Carol Spackman Moss  
 Senate Sponsor: Kathleen Riebe

**LONG TITLE****General Description:**

This bill permits an LEA to adopt separate schedules for employees who provide certain education-related medical services in a school-based setting.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ permits an LEA to adopt a separate salary schedule or separate salary schedules for employees who provide certain education-related medical services in a school-based setting.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

53G-7-218, Utah Code Annotated 1953

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

**Section 1. Section 53G-7-218 is enacted to read:**

**53G-7-218. Medical specialists in public schools.**

(1) As used in this section:

(a) “Qualified individual” means an individual who:

(i) is employed by an LEA; and

(ii) provides related services in a school-based setting.

(b) “Qualified individual” includes:

(i) an audiologist;

(ii) a speech-language pathologist;

(iii) a mental health practitioner;

(iv) a nurse;

(v) an occupational therapist; and

(vi) a physical therapist.

(c) “Related services” means the same as that term is defined in 34 C.F.R. 300.34.

(2) An LEA may adopt a salary schedule, or salary schedules, for qualified individuals, that:

(a) is separate from salary schedules adopted for other LEA employees; and

(b) takes into consideration the market rate for related services provided outside of a school-based setting.

**CHAPTER 308****H. B. 141**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**EDUCATOR SALARY INCENTIVE  
 PROGRAM AMENDMENTS**

Chief Sponsor: Val K. Potter  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill amends provisions regarding educator salaries and incentives.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for the inclusion of social workers licensed by the Division of Occupational and Professional Licensing in certain education funding formulas and programs;
- ▶ makes discretionary a requirement that the State Board of Education distribute funds under the Teacher Salary Supplement Program on a pro rata basis under certain circumstances; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 53F-2-305, as last amended by Laws of Utah 2019,  
 Chapter 186
- 53F-2-405, as last amended by Laws of Utah 2019,  
 Chapter 186
- 53F-2-504, as last amended by Laws of Utah 2019,  
 Chapters 134, 186, and 283

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

**Section 1. Section 53F-2-305 is amended to read:**

**53F-2-305. Professional staff weighted pupil units.**

(1) Professional staff weighted pupil units are computed and distributed in accordance with the following schedule:

- (a) Professional Staff Cost Formula

Years of Experience	Bachelor's Degree	Bachelor's +30 Qt.Hr.	Master's Degree	Master's Degree +45 Qt. Hr	Doctorate
1	1.00	1.05	1.10	1.15	1.20
2	1.05	1.10	1.15	1.20	1.25
3	1.10	1.15	1.20	1.25	1.30
4	1.15	1.20	1.25	1.30	1.35
5	1.20	1.25	1.30	1.35	1.40
6	1.25	1.30	1.35	1.40	1.45
7	1.30	1.35	1.40	1.45	1.50
8	1.35	1.40	1.45	1.50	1.55
9			1.50	1.55	1.60
10				1.60	1.65
11					1.70



(b) Multiply the number of full-time or equivalent professional personnel in each applicable experience category in Subsection (1)(a) by the applicable weighting factor.

(c) Divide the total of Subsection (1)(b) by the number of professional personnel included in Subsection (1)(b) and reduce the quotient by 1.00.

(d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed in accordance with Sections 53F-2-302 and 53F-2-304.

(2) The state board shall enact rules that require a certain percentage of a school district's or charter school's professional staff to be certified in the area in which the staff teaches in order for the school district or charter school to receive full funding under the schedule.

(3) If an individual's teaching experience is a factor in negotiating a contract of employment to teach in the state's public schools, then the LEA governing board is encouraged to accept as credited experience all of the years the individual has taught in the state's public schools.

(4) The professional personnel described in Subsection (1) shall include an individual employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) a license in the field of social work issued by the Division of Occupational and Professional Licensing; and

(b) a position as a social worker.

**Section 2. Section 53F-2-405 is amended to read:**

**53F-2-405. Educator salary adjustments.**

(1) As used in this section, "educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) (i) a license issued by the state board; and

~~(b)~~ (ii) a position as a:

~~(i)~~ (A) classroom teacher;

~~(ii)~~ (B) speech pathologist;

~~(iii)~~ (C) librarian or media specialist;

~~(iv)~~ (D) preschool teacher;

~~(v)~~ (E) mentor teacher;

~~(vi)~~ (F) teacher specialist or teacher leader;

~~(vii)~~ (G) guidance counselor;

~~(viii)~~ (H) audiologist;

~~(ix)~~ (I) psychologist; or

~~(x)~~ (J) social worker<sup>[-]</sup>; or

(b) (i) a license issued by the Division of Occupational and Professional Licensing; and

(ii) a position as a social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) Money appropriated to the state board for educator salary adjustments shall be distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment shall be the same for each full-time-equivalent educator position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator; and

(c) a salary adjustment may be awarded only to an educator who has received a satisfactory rating or above on the educator's most recent evaluation.

(5) The state board may make rules as necessary to administer this section.

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

(i) retirement;

(ii) worker's compensation;

(iii) social security; and

(iv) Medicare.

(7) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the state board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

**Section 3. Section 53F-2-504 is amended to read:**

**53F-2-504. Teacher Salary Supplement Program.**

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying educational background or qualifying teaching background;

(ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;

(iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and

(iv) is a new employee or received at least a satisfactory rating on the teacher's most recent evaluation.

(b) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

(c) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

(d) "License" means the same as that term is defined in Section 53E-6-102.

(e) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course

requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of science;

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

(f) "Qualifying teaching background" means the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years.

(g) "Supplement-approved assignment" means an assignment to teach:

(i) a secondary school level mathematics course;

(ii) integrated science in grade 7 or 8;

(iii) chemistry;

(iv) physics;

(v) computer science; or

(vi) special education.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) The annual salary supplement for an eligible teacher who is assigned full-time to a supplement-approved assignment is \$4,100 and funded through an appropriation described in Subsection (2).

(b) An eligible teacher who is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the supplement-approved assignment.

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

- (b) determine if a teacher is an eligible teacher;
- (c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and
- (d) certify a list of eligible teachers.

(5) ~~[(a)]~~ An eligible teacher shall apply to the state board ~~[before the conclusion of a school year]~~ to receive the salary supplement authorized in this section in accordance with state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(b) An eligible teacher may apply to the state board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:]~~

~~[(i) the school year as an annual award; or]~~

~~[(ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.]~~

(6) (a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7) (a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board ~~[shall]~~ may distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

**CHAPTER 309****H. B. 166**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**WATERSHED COUNCILS**

Chief Sponsor: Timothy D. Hawkes  
Senate Sponsor: Ralph Okerlund

**LONG TITLE****General Description:**

This bill addresses the creation of watershed councils.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Watershed Council Act, including;
  - addressing interpretation of the act;
  - defining terms;
  - outlining watersheds;
  - providing for the creation of the Utah Watersheds Council;
  - granting rulemaking authority to the Division of Water Resources;
  - establishing the role of the Utah Watersheds Council;
  - providing for the creation of local watershed councils;
  - establishing the roles and governance of local watershed councils;
  - outlining conditions applicable to all watershed councils; and
  - providing for the review of the act; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

79-2-201, as last amended by Laws of Utah 2017, Chapter 451

**ENACTS:**

73-10g-301, Utah Code Annotated 1953  
73-10g-302, Utah Code Annotated 1953  
73-10g-303, Utah Code Annotated 1953  
73-10g-304, Utah Code Annotated 1953  
73-10g-305, Utah Code Annotated 1953  
73-10g-306, Utah Code Annotated 1953  
73-10g-307, Utah Code Annotated 1953  
73-10g-308, Utah Code Annotated 1953  
73-10g-309, Utah Code Annotated 1953

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

**Section 1. Section 73-10g-301 is enacted to read:****Part 3. Watershed Councils Act****73-10g-301. Title -- Implementation of part.**

(1) This part is known as the "Watershed Councils Act."

(2) This part shall be liberally construed to:

(a) develop diverse and balanced stakeholder forums for discussion of water policy and resource issues at watershed and state levels that are not vested with regulatory, infrastructure financing, or enforcement powers or responsibilities; and

(b) use local expertise and resources found in universities and other research institutions or in regional, state, and federal agencies.

**Section 2. Section 73-10g-302 is enacted to read:****73-10g-302. Definitions.**

As used in this part:

(1) "Council" means the state council or a local council created under this part.

(2) "Local council" means a local watershed council created in accordance with Section 73-10g-306.

(3) "State council" means the Utah Watersheds Council created in Section 73-10g-304.

(4) "Utah Water Task Force" means a task force created by the Department of Natural Resources to review and make recommendations regarding water issues.

**Section 3. Section 73-10g-303 is enacted to read:****73-10g-303. Watersheds.**

For the purposes of this part, the state is divided into the following watersheds, corresponding to those found on hydrologic basin maps maintained by the division:

(1) the Bear River Watershed, comprised of the portions of Box Elder, Cache, Rich, and Summit counties that drain into the Bear River or Great Salt Lake;

(2) the Weber River Watershed, comprised of the portions of Weber, Davis, Morgan, and Summit counties that drain into the Weber River or Great Salt Lake;

(3) the Jordan River Watershed, comprised of the portions of Salt Lake and Utah counties that drain into the Jordan River or Great Salt Lake;

(4) the Utah Lake Watershed, comprised of the portions of Utah, Wasatch, Juab, and Summit counties that drain into Utah Lake;

(5) the West Desert Watershed, comprised of the portions of Box Elder, Tooele, Juab, Millard, Beaver, and Iron counties that drain into Great Salt Lake or have no outlet, as well as the portion of Box Elder County that drains into the Columbia River watershed;

(6) the Sevier River Watershed, comprised of the portions of Kane, Garfield, Wayne, Piute, Emery, Sevier, Sanpete, Carbon, Utah, Juab, Tooele, Millard, and Beaver counties that drain into the Sevier River;

(7) the Cedar-Beaver Watershed, comprised of the portions of Washington, Iron, Beaver, Garfield,

Piute, and Millard counties that historically drained into Sevier Lake;

(8) the Uintah Watershed, comprised of the portions of Daggett, Summit, Duchesne, Uintah, Wasatch, Carbon, Grand, and Emery counties that drain into the Green and Colorado rivers;

(9) the West Colorado River Watershed, comprised of the portions of Duchesne, Wasatch, Carbon, Sanpete, Sevier, Emery, Grand, Wayne, San Juan, Garfield, and Kane counties that drain into the Colorado River;

(10) the Southeast Colorado River Watershed, comprised of the portions of Grand, Wayne, San Juan, and Garfield counties that drain into the San Juan and Colorado rivers;

(11) the Kanab Creek-Virgin River Watershed, comprised of the portions of Iron, Washington, and Kane counties that drain into the Colorado River; and

(12) the Great Salt Lake Watershed, comprised of the West Desert, Bear River, Weber River, Jordan River, and Utah Lake watersheds.

**Section 4. Section 73-10g-304 is enacted to read:**

**73-10g-304. Utah Watersheds Council -- Creation and governance.**

(1) Within the Department of Natural Resources, there is created the "Utah Watersheds Council" consisting of the following members who are residents of the state:

(a) the executive director of the Department of Natural Resources;

(b) the executive director of the Department of Environmental Quality;

(c) the commissioner of the Department of Agriculture and Food;

(d) the director of the Utah Division of Indian Affairs;

(e) the Utah State University Extension vice president;

(f) the director of the Division of Emergency Management within the Department of Public Safety;

(g) a representative designated by the Utah Association of Counties;

(h) a representative designated by the Utah League of Cities and Towns;

(i) a representative designated by the Utah Association of Special Districts;

(j) a representative of reclamation projects located in the state selected by the governor from a list of three persons nominated jointly by the local sponsors of reclamation projects located in the state and the executive director of the Department of Natural Resources;

(k) a representative of agricultural interests selected by the governor from a list of three persons nominated jointly by the commissioner of the Department of Agriculture and Food, the president of the Utah Farm Bureau, and the Utah State University Extension vice president;

(l) a representative of environmental conservation interests selected by the governor from a list of three persons nominated jointly by the executive directors of the Department of Environmental Quality and Department of Natural Resources;

(m) a representative of business and industry water interests selected by the governor from a list of three individuals nominated jointly by the Utah Manufacturers Association, Utah Mining Association, and Utah Petroleum Association; and

(n) the designated individual selected by a local watershed council certified under Section 73-10g-306.

(2) (a) The division is directed, by no later than July 1, 2020, to organize a meeting of the individuals identified in Subsections (1)(a) through (m), in which those individuals shall:

(i) organize the state council as provided in this part;

(ii) select a chair and at least one vice-chair from among the members of the state council to have powers and duties provided in the organizing documents adopted by the state council; and

(iii) adopt policies to govern the state council's activities, including policies for the creation of subcommittees that may be less than a quorum of the state council and may include persons of suitable expertise who are not state council members.

(b) The state council shall make the organizing documents and policies created under Subsection (2)(a) available:

(i) to the public;

(ii) at each meeting of the state council; and

(iii) on a public website maintained by the division for council business.

(3) The state council may invite federal agencies to name representatives as liaisons to the state council.

(4) The state council shall stagger the initial terms of the state council members listed in Subsections (1)(g) through (m), after which members will be replaced according to policies adopted by the state council.

(5) After the state council's initial organization, the state council may hold regular and special meetings at such locations within the state and on a schedule as the state council determines, provided that the state council shall meet at least semi-annually.

(6) A majority of the members of the state council constitutes a quorum.

(7) The action of the majority of the council constitutes the action of the state council.

(8) (a) The state council policies may allow that a properly authorized representative of a voting member of the state council may act in the place of that voting member if the voting member is absent or unable to act.

(b) The state council shall enter in the record of a meeting proper documentation of a representative's authority to act on behalf of the voting member under this Subsection (8).

(c) Authorization to act on behalf of a voting member may be given for more than one meeting.

(d) Authorization to act on behalf of a voting member shall comply with the policies adopted by the state council.

(9) (a) The division shall staff the state council.

(b) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate the creation and operation of the state council.

**Section 5. Section 73-10g-305 is enacted to read:**

**73-10g-305. Role of the state council.**

(1) The state council is directed to:

(a) serve as a forum to encourage and facilitate discussion and collaboration by and among the stakeholders relative to the water-related interests of the state and the state's people and institutions;

(b) facilitate communication and coordination between the Department of Natural Resources, the Department of Agriculture and Food, the Department of Environmental Quality, and other state and federal agencies in the administration and implementation of water-related activities;

(c) facilitate the establishment of local watershed councils by certifying a local council:

(i) for the watersheds defined in Section 73-10g-303; and

(ii) after reviewing the proceedings and documents submitted by proposed local councils, to ensure that the local council meets the certification requirements in Section 73-10g-306;

(d) provide resources and support for the administration of local councils;

(e) consult and seek guidance from local councils; and

(f) provide advice to the governor and Legislature on water issues.

(2) The state council shall provide updates on the state council's activities annually, or as invited, to:

(a) the Natural Resources, Agriculture, and Environment Interim Committee;

(b) the Legislative Water Development Commission; and

(c) the Utah Water Task Force.

**Section 6. Section 73-10g-306 is enacted to read:**

**73-10g-306. Local watershed councils -- Creation.**

(1) A proposed local watershed council may be certified by the Utah Watersheds Council under Subsection 73-10g-305(1)(c) if:

(a) the organizing documents and policies of the proposed local watershed council:

(i) provide for an open and equitable system of governance;

(ii) encourage participation by a water user or group of water users, other watershed groups, mutual irrigation companies, distribution system committees, and other stakeholders within the watershed; and

(iii) require that:

(A) a majority of the members of the local council constitutes a quorum; and

(B) an action of the local council be approved by no less than a majority of the members of the local council;

(b) in a balance appropriate for the watershed, the proposed local council membership includes watershed stakeholders who reside or work within the watershed or own or control the right to divert or use water within the watershed and is representative, where feasible, of at least these interests:

(i) agriculture;

(ii) industry;

(iii) Indian tribes;

(iv) public water suppliers, as defined in Section 73-1-4;

(v) water planning and research institutions;

(vi) water quality;

(vii) fish and wildlife;

(viii) water dependent habitat and environments;

(ix) watershed management, such as distribution system committees functioning within the watershed;

(x) mutual irrigation companies; and

(xi) local sponsors of reclamation projects;

(c) for each of the five watersheds that drain into Great Salt Lake, the proposed local council includes a person designated by the Great Salt Lake local watershed council, if the Great Salt Lake local watershed council is certified; and

(d) for the Great Salt Lake watershed, the proposed local council includes a person designated by each of the five watersheds that drain into Great Salt Lake that has a certified local watershed council.

(2) A local council may invite state and federal agencies to name representatives as liaisons to the local council.

**Section 7. Section 73-10g-307 is enacted to read:**

**73-10g-307. Local watershed councils -- Roles and governance.**

(1) A local council shall provide a forum to encourage and facilitate discussion of and collaboration on local watershed issues.

(2) A local council shall:

(a) select the local council's representative to the state council;

(b) hold meetings at times and locations as the local council determines; and

(c) make the local council's policies available to the public:

(i) at each meeting of the local council; and

(ii) on a public website maintained by the division for council business.

**Section 8. Section 73-10g-308 is enacted to read:**

**73-10g-308. Conditions applicable to all watershed councils.**

(1) A council:

(a) is a public body as defined in Section 52-4-103 and shall comply with Title 52, Chapter 4, Open and Public Meetings Act; and

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

(2) A member of a council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(3) Creation of the state council or a local council does not:

(a) supersede, usurp, or replace any other watershed oriented organization within the relevant watershed unless otherwise agreed upon by the watershed oriented organization; or

(b) create a stakeholder for purposes of compliance with any state or federal law, including the National Environmental Policy Act, 42 U.S.C. Sec. 4321 et seq.

(4) A council does not have separate or inherent adjudicative, regulatory, infrastructure development, infrastructure financing, enforcement, or other powers or responsibilities beyond those stated in this part.

**Section 9. Section 73-10g-309 is enacted to read:**

**73-10g-309. Review of Watershed Councils Act.**

(1) The Natural Resources, Agriculture, and Environment Interim Committee shall direct a review of this part, which shall begin no later than October 1, 2024, and end before September 30, 2025.

(2) The state council shall clearly identify for the Natural Resources, Agriculture, and Environment Interim Committee the public purposes and interests for which the councils were originally created and whether those public purposes and interests are still relevant and are being adequately addressed through the councils.

(3) The Natural Resources, Agriculture, and Environment Interim Committee shall consider the extent to which the councils have operated in the public interest and served as valuable forums for water-related discussions among stakeholders.

(4) The interim committee shall submit a report of its recommendations, including proposed legislation and recommendations concerning the part to the Legislature before January 1, 2026.

**Section 10. Section 79-2-201 is amended to read:**

**79-2-201. Department of Natural Resources created.**

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Board of Parks and Recreation, created in Section 79-4-301;

(d) Wildlife Board, created in Section 23-14-2;

(e) Board of the Utah Geological Survey, created in Section 79-3-301;

(f) Water Development Coordinating Council, created in Section 73-10c-3;

(g) Division of Water Rights, created in Section 73-2-1.1;

(h) Division of Water Resources, created in Section 73-10-18;

(i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

(j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

(k) Division of Parks and Recreation, created in Section 79-4-201;

(l) Division of Wildlife Resources, created in Section 23-14-1;

(m) Utah Geological Survey, created in Section 79-3-201;

(n) Heritage Trees Advisory Committee, created in Section 65A-8-306;

(o) Recreational Trails Advisory Council, authorized by Section 79-5-201;

(p) Boating Advisory Council, authorized by Section 73-18-3.5;

(q) Wildlife Board Nominating Committee, created in Section 23-14-2.5; ~~and~~

(r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6[-]; and

(s) Utah Watersheds Council, created in Section 73-10g-304.



**CHAPTER 310****H. B. 207**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020  
 Exception clause

**INSULIN ACCESS AMENDMENTS**

Chief Sponsor: Norman K. Thurston  
 Senate Sponsor: Deidre M. Henderson  
 Cosponsors: Patrice M. Arent  
 Melissa G. Ballard  
 Kay J. Christofferson  
 Jennifer Dailey-Provost  
 Brad M. Daw  
 James A. Dunnigan  
 Steve Eliason  
 Craig Hall  
 Suzanne Harrison  
 Jon Hawkins  
 Sandra Hollins  
 Eric K. Hutchings  
 Marsha Judkins  
 Lee B. Perry  
 Marie H. Poulson  
 Raymond P. Ward  
 Christine F. Watkins  
 Mike Winder

**LONG TITLE****General Description:**

This bill creates mechanisms to increase Utahns' access to affordable insulin.

**Highlighted Provisions:**

This bill:

- ▶ creates an incentive for health benefit plans to reduce the required copayments for insulin;
- ▶ directs the Insurance Department to conduct a study on insulin pricing;
- ▶ directs the Public Employees' Benefit and Insurance Program to purchase insulin at discounted prices and to create a program that allows Utahns to purchase the discounted insulin;
- ▶ increases the number of days for which an insulin prescription can be refilled; and
- ▶ authorizes a pharmacist to refill an expired insulin prescription.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

31A-22-626, as last amended by Laws of Utah 2015, Chapter 258  
 58-17b-609, as last amended by Laws of Utah 2005, Chapter 160

**ENACTS:**

31A-22-626.5, Utah Code Annotated 1953  
 49-20-420, Utah Code Annotated 1953  
 58-17b-608.2, Utah Code Annotated 1953

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

**Section 1. Section 31A-22-626 is amended to read:****31A-22-626. Coverage of diabetes.**

(1) As used in this section[, "~~diabetes~~"]:

(a) "Diabetes" includes individuals with:

[~~(a)~~] (i) complete insulin deficiency or type 1 diabetes;

[~~(b)~~] (ii) insulin resistant with partial insulin deficiency or type 2 diabetes; [~~and~~] or

[~~(c)~~] (iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.

(b) "High deductible health plan" means the same as that term is defined in Section 223(c)(2), Internal Revenue Code.

(c) "Lowest tier" means:

(i) the lowest cost tier of a health benefit plan;

(ii) the lowest cost-sharing level of a high deductible health plan that preserves the enrollee's ability to claim tax exempt contributions from the enrollee's health savings account under federal laws and regulations; or

(iii) a discount or other cost-savings program that has the effect of equating cost-sharing of insulin to the health plan's lowest-cost tier.

(d) "Therapy category" means a type of insulin that is distinct from other types of insulin due to a difference in onset, peak time, or duration.

(2) The commissioner shall establish, by rule, minimum standards of coverage for diabetes for accident and health insurance policies that provide a health insurance benefit before July 1, 2000.

(3) In making rules under Subsection (2), the commissioner shall require rules:

(a) with durational limits, amount limits, deductibles, and coinsurance for the treatment of diabetes equitable or identical to coverage provided for the treatment of other illnesses or diseases; and

(b) that provide coverage for:

(i) diabetes self-management training and patient management, including medical nutrition therapy as defined by rule, provided by an accredited or certified program and referred by an attending physician within the plan and consistent with the health plan provisions for self-management education:

(A) recognized by the federal Centers for Medicare and Medicaid Services; or

(B) certified by the Department of Health; and

(ii) the following equipment, supplies, and appliances to treat diabetes when medically necessary:

(A) blood glucose monitors, including those for the legally blind;

(B) test strips for blood glucose monitors;

- (C) visual reading urine and ketone strips;
- (D) lancets and lancet devices;
- (E) insulin;
- (F) injection aides, including those adaptable to meet the needs of the legally blind, and infusion delivery systems;
- (G) syringes;
- (H) prescriptive oral agents for controlling blood glucose levels; and
- (I) glucagon kits.
- (4) If a health benefit plan entered into or renewed on or after January 1, 2021, provides coverage for insulin for diabetes, the health benefit plan shall:
- (a) cap the total amount that an insured is required to pay for at least one insulin in each therapy category at an amount not to exceed \$30 per prescription of a 30-day supply of insulin for the treatment of diabetes; and
- (b) apply the cap to an insured regardless of whether the insured has met the plan's deductible.
- (5) Subsection (4) does not apply to a health benefit plan that:
- (a) covers at least one insulin for the treatment of diabetes in each therapy category under the lowest tier of drugs; and
- (b) does not require cost-sharing other than a co-payment of an insured before the plan will cover insulin at the lowest tier.
- (6) Subsection (4) does not apply to a health benefit plan that:
- (a) guarantees an insured that the insured will not pay more out-of-pocket for insulin the insured obtains through the health benefit plan than the insured would pay to obtain insulin through the discount program described in Section 49-20-420; and
- (b) caps the total amount that an insured is required to pay for at least one insulin in each therapy category at an amount not to exceed \$100 per prescription of a 30-day supply of insulin for the treatment of diabetes.
- (7) A health benefit plan that provides coverage for insulin may condition the coverage of insulin at a cost-sharing method described in Subsection (4), (5), or (6) on:
- (a) the insured's participation in wellness-related activities for diabetes;
- (b) purchasing the insulin at an in-network pharmacy; or
- (c) choosing an insulin from the lowest tier of the health benefit plan's formulary.
- (8) The department may issue a waiver from the requirements described in Subsection (4) to a health benefit plan if the health benefit plan can

demonstrate to the department that the plan provides an insured with substantially similar consumer cost reductions to those that result from Subsections (4) and (5).

(9) The department shall annually adjust the caps described in Subsections (4)(a) and (6)(b) for inflation based on an index that reflects the change in the previous year in the average wholesale price of insulin sold in Utah.

(10) The department shall annually provide the price of insulin available under the discount program described in Section 49-20-420 to a health benefit plan that adopts the cost-sharing method described in Subsection (6).

(11) A health benefit plan entered into or renewed on or after January 1, 2021, that provides coverage of insulin is not required to reimburse a participant, as that term is defined in Subsection 49-20-420(1), for insulin the participant obtains through the discount program described in Section 49-20-420.

(12) The department may request information from insurers to monitor the impact of the requirements of this section on insulin prices charged by pharmaceutical manufacturers.

(13) The department shall classify records provided in response to the request described in Subsection (12) as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

(14) The department may not publish information submitted in response to the request described in Subsection (12) in a manner that:

(a) makes a specific submission from a contracting insurer identifiable; or

(b) discloses information that is a trade secret, as defined in Section 13-24-2.

**Section 2. Section 31A-22-626.5 is enacted to read:**

**31A-22-626.5. Affordable insulin study.**

(1) As used in this section, "insulin" means a prescription drug that contains insulin.

(2) The department shall obtain funding through grants to fund a study on insulin costs.

(3) If the department obtains the funding described in Subsection (2), the department shall, on or before October 30, 2020, complete a study on the cost of insulin manufacturing and factors that determine the price of insulin.

(4) The department shall use public, readily available data accessible to the department to conduct the study described in Subsection (3).

(5) The study described in Subsection (3) shall investigate:

(a) current and historical trend information about the wholesale acquisition cost of insulin;

(b) the cost to produce insulin;

(c) explanations for increases in insulin costs;

(d) expenditures of drug manufacturers in marketing insulin;

(e) manufacturers' net profits from insulin;

(f) the portion of a drug manufacturers' total net profits that is composed of insulin net profits;

(g) financial assistance currently available to individuals who use insulin through patient prescription assistance programs;

(h) value to individuals who use insulin benefits including:

(i) coupons provided directly to individuals who use insulin; and

(ii) programs to assist individuals who use insulin in paying co-payments and coinsurance;

(i) costs to drug manufacturers of the programs described in Subsection (5)(h);

(j) total value of benefits manufacturers provide in the form of rebates for insulin to health plans or pharmacy benefit managers in Utah; and

(k) additional information that the department determines will aid the Legislature in developing policy to reduce insulin prices in Utah.

(6) (a) On or before October 30, 2020, the department shall submit a final report on the study described in Subsection (3) to the Health and Human Services Interim Committee and the Business and Labor Interim Committee.

(b) The department's report may include recommendations on legislation for:

(i) increased drug pricing transparency; and

(ii) programs that would meaningfully reduce the cost of insulin.

(c) The final report shall include references to all sources of information and data used in the report and study, except the department may not disclose information that is proprietary or protected under state law or federal law or regulation.

**Section 3. Section 49-20-420 is enacted to read:**

**49-20-420. Insulin discount program.**

(1) As used in this section:

(a) "Diabetes" means:

(i) complete insulin deficiency or type 1 diabetes;

(ii) insulin resistant with partial insulin deficiency or type 2 diabetes; or

(iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.

(b) "Discount program" means a process developed by the program that allows participants to purchase insulin at a discounted, post-rebate rate.

(c) "Individual with diabetes" means an individual who has been diagnosed with diabetes and who uses insulin to treat diabetes.

(d) "Insulin" means a prescription drug that contains insulin.

(e) "Participant" means a resident of Utah who:

(i) uses insulin to treat diabetes;

(ii) does not receive health coverage under the program; and

(iii) enrolls in the discount program.

(f) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(g) "Rebate" means the same as that term is defined in Section 31A-46-102.

(2) Notwithstanding Subsection 49-20-201(1), and for the purpose of the insulin discount program only, the program shall offer an insulin discount program that allows participants to purchase insulin at a discounted, post-rebate price.

(3) The discount program described in Subsection (2) shall:

(a) provide a participant with a card or electronic document that identifies the participant as eligible for the discount;

(b) provide a participant with information about pharmacies that will honor the discount;

(c) allow a participant to purchase insulin at a discounted, post-rebate price; and

(d) provide a participant with instructions to pursue a reimbursement of the purchase price from the participant's health insurer.

(4) The discount program shall charge a price for insulin that allows the program to retain only enough of any rebate for the insulin to make the state risk pool whole for providing discounted insulin to participants.

**Section 4. Section 58-17b-608.2 is enacted to read:**

**58-17b-608.2. Insulin prescriptions and diabetes supplies.**

(1) As used in this section, "exhausted prescription" means a prescription for an insulin that the patient is currently using that:

(a) expired no earlier than six months before the patient requests the pharmacist for a refill; or

(b) is not expired and has no refills remaining.

(2) If a valid prescription for insulin includes an authorization for one or more refills, a pharmacist may combine refills to dispense a supply for 90 days but may not exceed the total supply authorized by the refills.

(3) Notwithstanding Section 58-17b-608 and Subsection (2), a pharmacist may, on an emergency basis, dispense a refill for an exhausted prescription based on the prescribing practitioner's instructions for the exhausted prescription in an amount up to a supply for 60 days.

(4) A pharmacist may dispense insulin for an exhausted prescription described in Subsection (3) no more than one time per exhausted prescription.

(5) Before a pharmacist may dispense insulin under Subsection (3), the pharmacist shall:

(a) attempt to contact the prescribing practitioner to inform the prescribing practitioner that the patient's prescription has expired; and

(b) notify the patient of the outcome of the attempt described in Subsection (5)(a).

(6) Within 30 days after the day on which a pharmacist dispenses insulin under Subsection (3), the pharmacist shall inform the prescribing practitioner of:

(a) the amount of insulin dispensed; and

(b) the type of insulin dispensed.

(7) The division, in consultation with the Board of Pharmacy and the Physicians Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safe dispensing of insulin under Subsection (3).

(8) Notwithstanding Section 58-17b-605.5, a pharmacist, when filling a prescription for insulin, may dispense an interchangeable biological product, as defined in Subsection 58-17b-605.5(1), except that the pharmacist may not dispense an interchangeable biological product if a prescribing practitioner prohibits the substitution through a method described in Subsection 58-17b-605.5(6).

(9) A pharmacist may dispense the therapeutic equivalent when filling a prescription for:

(a) a glucometer;

(b) diabetes test strips;

(c) lancets; or

(d) syringes.

**Section 5. Section 58-17b-609 is amended to read:**

**58-17b-609. Limitation on prescriptions and refills -- Controlled Substances Act not affected -- Legend drugs.**

(1) Except as provided in ~~[Section]~~ Sections 58-16a-102 and 58-17b-608.2, a prescription for any prescription drug or device may not be dispensed after one year from the date it was initiated except as otherwise provided in Chapter 37, Utah Controlled Substances Act.

(2) ~~[A]~~ Except as provided in Section 58-17b-608.2, a prescription authorized to be refilled may not be refilled after one year from the original issue date.

(3) A practitioner may not be prohibited from issuing a new prescription for the same drug orally, in writing, or by electronic transmission.

(4) Nothing in this chapter affects Chapter 37, Utah Controlled Substances Act.

(5) A prescription for a legend drug written by a licensed prescribing practitioner in another state

may be filled or refilled by a pharmacist or pharmacy intern in this state if the pharmacist or pharmacy intern verifies that the prescription is valid.

**Section 6. Effective date.**

This bill takes effect on May 12, 2020, except that the amendments to Sections 31A-22-626 and 49-20-420 take effect on January 1, 2021.

**CHAPTER 311****H. B. 248**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**AGRICULTURE REVISIONS**

Chief Sponsor: Logan Wilde  
 Senate Sponsor: Scott D. Sandall

**LONG TITLE****General Description:**

This bill addresses regulation of agriculture related activities.

**Highlighted Provisions:**

This bill:

- ▶ addresses violation of rules;
- ▶ modifies definition provisions;
- ▶ provides for preventive control for human food regulations;
- ▶ provides the standards for the growing, harvesting, packaging, and holding of produce for human consumption;
- ▶ addresses regulation of fertilizer or soil amendments;
- ▶ modifies requirements for aerial hunting activity;
- ▶ addresses brand inspection provisions;
- ▶ provides for the commissioner of agriculture and food to appoint members of the conservation board of supervisors and make changes related to conservation districts;
- ▶ repeals provisions related to the cat and dog community spay and neuter program; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 4-2-303, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-2-602, as enacted by Laws of Utah 2018, Chapter 51  
 4-5-102, as last amended by Laws of Utah 2019, Chapter 32  
 4-5-103, as last amended by Laws of Utah 2019, Chapter 32  
 4-5-104, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-13-102, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-13-103, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-13-104, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-13-105, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-13-106, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-13-108, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-13-109, as renumbered and amended by Laws of

- Utah 2017, Chapter 345  
 4-23-106, as last amended by Laws of Utah 2019, Chapter 268  
 4-24-304, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-24-308, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 17D-3-102, as last amended by Laws of Utah 2017, Chapter 345  
 17D-3-103, as last amended by Laws of Utah 2018, Chapters 115 and 256  
 17D-3-203, as last amended by Laws of Utah 2009, Chapter 350  
 17D-3-301, as last amended by Laws of Utah 2017, Chapter 70  
 17D-3-302, as enacted by Laws of Utah 2008, Chapter 360  
 17D-3-303, as enacted by Laws of Utah 2008, Chapter 360  
 17D-3-304, as enacted by Laws of Utah 2008, Chapter 360  
 17D-3-305, as last amended by Laws of Utah 2019, Chapter 255  
 17D-3-310, as enacted by Laws of Utah 2008, Chapter 360  
 17D-3-311, as enacted by Laws of Utah 2012, Chapter 103  
 26-15-1, as last amended by Laws of Utah 2017, Chapter 345  
 59-10-1304, as last amended by Laws of Utah 2019, Chapter 89

**ENACTS:**

4-13-110, Utah Code Annotated 1953

**REPEALS:**

- 4-13-107, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-40-101, as renumbered and amended by Laws of Utah 2011, Chapter 124  
 4-40-102, as last amended by Laws of Utah 2017, Chapter 345  
 17D-3-306, as enacted by Laws of Utah 2008, Chapter 360  
 17D-3-307, as enacted by Laws of Utah 2008, Chapter 360  
 17D-3-308, as enacted by Laws of Utah 2008, Chapter 360  
 17D-3-309, as last amended by Laws of Utah 2011, Chapter 292  
 59-10-1310, as last amended by Laws of Utah 2012, Chapter 369

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

**Section 1. Section 4-2-303 is amended to read:****4-2-303. Violations unlawful.**

It is unlawful for [any] a person, or the officer or employee of [any] a person, to willfully violate, disobey, or disregard this title, a rule made under this title, or any notice or order issued under this title.

**Section 2. Section 4-2-602 is amended to read:****4-2-602. Local Food Advisory Council created.**

(1) There is created the Local Food Advisory Council consisting of up to the following 13 members:

(a) one member of the Senate appointed by the president of the Senate;

(b) two members of the House of Representatives appointed by the speaker of the House of Representatives, each from a different political party;

(c) the commissioner of the Department of Agriculture and Food, or the commissioner's designee;

(d) the executive director of the Department of Health, or the executive director's designee;

(e) two crop direct-to-consumer food producers, appointed by the governor;

(f) two animal direct-to-consumer food producers, appointed by the governor; and

(g) the following potential members, appointed by the governor as needed:

(i) a direct-to-consumer food producer;

(ii) a member of a local agriculture organization;

(iii) a food retailer;

(iv) a licensed dietician;

(v) a county health department representative;

(vi) an urban farming representative;

(vii) a representative of a business engaged in the processing, packaging, or distribution of food;

(viii) an anti-hunger advocate; and

(ix) an academic with expertise in agriculture.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the commission.

(c) The cochairs may, with the consent of a majority of the council, appoint additional nonvoting members to the council who shall serve in a voluntary capacity.

(3) In appointing members to the council under Subsections (1)(e) through (g), the governor shall strive to take into account the geographical makeup of the council.

(4) A vacancy on the council [~~resulting from the council~~] shall be filled in the same manner in which the original appointment [~~was~~] is made.

(5) Compensation for a member of the council who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) Council members who are employees of the state shall receive no additional compensation.

(7) The Department of Agriculture and Food shall provide staff support for the council.

**Section 3. Section 4-5-102 is amended to read:**

**4-5-102. Definitions.**

As used in this chapter:

(1) "Advertisement" means a representation, other than by labeling, made to induce the purchase of food.

(2) (a) "Color additive":

(i) means a dye, pigment, or other substance not exempted under the federal act that, when added or applied to a food, is capable of imparting color; and

(ii) includes black, white, and intermediate grays.

(b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or other agricultural chemical that imparts color solely because of the chemical's effect, before or after harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of any plant life.

(3) (a) "Consumer commodity" means a food, as defined by this ~~[act]~~ chapter, or by the federal act.

(b) "Consumer commodity" does not include:

(i) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

(ii) a commodity subject to Title 4, Chapter 16, Utah Seed Act;

(iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

(iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec. 451 et seq.;

(v) a tobacco or tobacco product; or

(vi) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

(4) "Contaminated" means not securely protected from dust, dirt, or foreign or injurious agents.

(5) (a) "Farm" means an agricultural operation, under management by one entity, that grows or harvests crops.

(b) "Farm" does not include an entity that is exempt under 21 C.F.R. 112.4(a)[~~7~~] or 21 C.F.R. 112.5[~~7~~, or 21 C.F.R. 117.3].

(6) "Farmers market" means a market where a producer of a food product sells only a fresh, raw, whole, unprocessed, and unprepared food item directly to the final consumer.

(7) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(8) "Food" means:

(a) an article used for food or drink for human or animal consumption or the components of the article;

(b) chewing gum or chewing gum components; or

(c) a food supplement for special dietary use [which] that is necessitated because of a physical, physiological, pathological, or other condition.

(9) (a) “Food additive” means a substance, the intended use of which results in the substance becoming a component, or otherwise affecting the characteristics, of a food.

(b) (i) “Food additive” includes a substance or source of radiation intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

(ii) “Food additive” does not include:

(A) a pesticide chemical in or on a raw agricultural commodity;

(B) a pesticide chemical that is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity; or

(C) a substance used in accordance with a sanction or approval granted pursuant to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.

(10) (a) “Food establishment” means a grocery store, bakery, candy factory, food processor, bottling plant, sugar factory, cannery, farm, rabbit processor, meat processor, flour mill, cold or dry warehouse storage, or other facility where food products are manufactured, canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.

(b) “Food establishment” does not include:

(i) a dairy farm, a dairy plant, or a meat establishment, that is subject to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.; or

(ii) a farmers market.

(11) “Label” means a written, printed, or graphic display on the immediate container of an article of food.

(12) “Labeling” means a label and other written, printed, or graphic display:

(a) on an article of food or the article of food’s container or wrapper; or

(b) accompanying the article of food.

(13) “Official compendium” means the official documents or supplements to the:

(a) United States Pharmacopoeia;

(b) National Formulary; or

(c) Homeopathic Pharmacopoeia of the United States.

(14) (a) “Package” means a container or wrapping in which a consumer commodity is enclosed for use

in the delivery or display of the consumer commodity to retail purchasers.

(b) “Package” does not include:

(i) a package liner;

(ii) a shipping container or wrapping used solely for the transportation of a consumer commodity in bulk or in quantity to a manufacturer, packer, processor, or wholesale or retail distributor; or

(iii) a shipping container or outer wrapping used by a retailer to ship or deliver a consumer commodity to a retail customer, if the container and wrapping bear no printed information relating to the consumer commodity.

(15) (a) “Pesticide” means a substance intended:

(i) to prevent, destroy, repel, or mitigate a pest, as defined under [Subsection] Section 4-14-102[(20)]; or

(ii) for use as a plant regulator, defoliant, or desiccant.

(b) “Pesticide” does not include:

(i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by the United States Secretary of Health and Human Services not to be a new animal drug by federal regulation establishing conditions of use of the drug; or

(ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal drug.

(16) “Principal display panel” means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(17) “Produce” means a food that is a:

(a) fruit, vegetable, mix of intact fruits and vegetables, mushroom, sprout from any seed source, peanut, tree nut, or herb; and

(b) raw agricultural commodity.

(18) “Raw agricultural commodity” means a food in the food’s raw or natural state, including all fruits that are washed, colored, or otherwise treated in the fruit’s unpeeled, natural form [~~prior to~~] before marketing.

(19) “Registration” means the commissioner’s issuance of a certificate to a qualified food establishment.

(20) “Sprout” means the shoot of a plant generally harvested when cotyledons are undeveloped or underdeveloped and mature leaves have not emerged.

**Section 4. Section 4-5-103 is amended to read:**

**4-5-103. Adulterated food specified.**

(1) A food is adulterated:

(a) if the food bears or contains a poisonous or deleterious substance in a quantity that may ordinarily render the food injurious to health;

(b) if the food bears or contains an added poisonous or added deleterious substance that is unsafe within the meaning of Subsection 4-5-204(1);

(c) except as provided in Subsection (3), if the food:

(i) is a raw agricultural commodity; and

(ii) bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a;

(d) if the food is, bears, or contains a food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

(e) if the food consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance;

(f) if the food is otherwise unfit for food;

(g) if the food has been produced, prepared, packed, or held under unsanitary conditions whereby the food may have:

(i) become contaminated with filth; or

(ii) been rendered diseased, unwholesome, or injurious to health;

(h) if the food is, in whole or in part, the product of:

(i) a diseased animal;

(ii) an animal that has died other than by slaughter; or

(iii) an animal that has fed upon the uncooked offal from a slaughterhouse;

(i) if the food's container is composed, in whole or in part, of a poisonous or deleterious substance that may render the contents injurious to health;

(j) if the food ~~has been~~ is intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to Section 4-5-204, or 21 U.S.C. Sec. 348;

(k) if the food:

(i) is a meat or meat product; and

(ii) (A) is in a casing, package, or wrapper:

(I) through which a part of the casing, package, or wrapper's contents can be seen; and

(II) that is colored or has markings that are colored, so as to be misleading or deceptive with respect to the color, quality, or kind of food to which the color is applied; or

(B) contains or bears a color additive;

(l) if the food is produce and is in violation of ~~a provision of~~ 21 C.F.R. Part 112;

(m) if a valuable constituent ~~has been~~ is, in whole or in part, omitted or abstracted from a product and a substance ~~has been~~ is substituted wholly or in part;

(n) if damage or inferiority ~~has been~~ is concealed;

(o) if a substance ~~has been~~ is added, mixed, or packed with a product so as to:

(i) increase the product's bulk or weight;

(ii) reduce the product's quality or strength; or

(iii) make the product appear better or of greater value; or

(p) if the food:

(i) is confectionery; and

(ii) (A) has partially or completely imbedded in the food a nonnutritive object, unless the department determines that the nonnutritive object:

(I) is of practical functional value to the confectionery product; and

(II) would not render the product injurious or hazardous to health;

(B) bears or contains alcohol, other than alcohol derived solely from the use of flavoring extracts, that does not exceed .05% by volume; or

(C) bears or contains a nonnutritive substance, unless:

(I) the nonnutritive substance is a safe nonnutritive substance that is in or on the confectionery for a practical functional purpose in the manufacture, packaging, or storing of the confectionery; and

(II) the use of the nonnutritive substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this chapter.

(2) The department may, for the purpose of avoiding or resolving uncertainty as to the application of Subsection (1)(p)(ii)(C), issue rules allowing or prohibiting the use of a particular nonnutritive substance.

(3) Notwithstanding ~~the provisions of~~ Section 4-5-204, the residue of a pesticide chemical remaining in or on a processed food is not considered unsafe if:

(a) the pesticide chemical is used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under 21 U.S.C. Sec. 346a;

(b) the residue of the pesticide chemical in or on the raw agricultural commodity is removed to the extent possible in good manufacturing practice;

(c) the raw agricultural commodity is subjected to processing such as canning, cooking, freezing, dehydrating, or milling; and

(d) the concentration of the residue in the processed food when ready to eat is no greater than the tolerance prescribed for the raw agricultural commodity.



**Section 5. Section 4-5-104 is amended to read:**

**4-5-104. Authority to make and enforce rules.**

(1) The department may adopt rules to efficiently enforce this chapter, and if practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(2) ~~[Hearings]~~ The department or an officer, agent, or employee designated by the department shall conduct a hearing authorized or required by this chapter ~~[shall be conducted by the department or by an officer, agent, or employee designated by the department].~~

(3) (a) Except as provided by Subsection (3)(b), ~~[all]~~ pesticide chemical regulations ~~[and their amendments now or hereafter]~~ adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this state.

(b) The department may adopt a rule that prescribes tolerance for pesticides in finished foods in this state whether or not in accordance with regulations ~~[promulgated]~~ made under the federal act.

(4) (a) Except as provided by Subsection (4)(b), ~~[all]~~ food additive regulations ~~[and their amendments now or hereafter]~~ adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.

(b) The department may adopt a rule that prescribes conditions under which a food additive may be used in this state whether or not in accordance with regulations ~~[promulgated]~~ made under the federal act.

(5) ~~[All color]~~ Color additive regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive rules in this state.

(6) (a) Except as provided by Subsection (6)(b), ~~[all]~~ special dietary use regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the special dietary use rules in this state.

(b) The department may, if ~~[it]~~ the department finds it necessary to inform purchasers of the value of a food for special dietary use, prescribe special dietary use rules whether or not in accordance with regulations ~~[promulgated]~~ made under the federal act.

(7) (a) Except as provided by Subsection (7)(b), ~~[all]~~ regulations adopted under the Fair Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the rules in this state.

(b) Except as provided by Subsection (7)(c), the department may, if ~~[it]~~ the department finds it necessary in the interest of consumers, prescribe package and labeling rules for consumer

commodities, whether or not in accordance with regulations ~~[promulgated]~~ made under the federal act.

(c) The department may not adopt rules that are contrary to the labeling requirements for the net quantity of contents required according to 15 U.S.C. Sec. 1453(a)(4).

(8) (a) Except as provided by Subsection (8)(b), the preventive control for human food regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the preventive controls for the state.

(b) The department may adopt a rule that prescribes preventive controls in this state whether or not in accordance with regulations made under the federal act except that the rule may not be more stringent than the federal law.

(9) (a) Except as provided by Subsection (9)(b), the standards for the growing, harvesting, packaging, and holding of produce for human consumption regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the standards for the state.

(b) The department may adopt a rule that prescribes standards for the growing, harvesting, packaging, and holding of produce for human consumption in this state whether or not in accordance with regulations made under the federal act except that the rule may not be more stringent than the federal law.

~~[(8)]~~ (10) (a) A federal regulation automatically adopted according to this chapter takes effect in this state on the date ~~[it]~~ the federal regulation becomes effective as a federal regulation.

(b) The department shall publish all other proposed rules in publications prescribed by the department.

(c) (i) A person who may be adversely affected by a rule may, within 30 days after a federal regulation is automatically adopted, or within 30 days after publication of any other rule, file with the department, in writing, objections and a request for a hearing.

(ii) The timely filing of substantial objections to a federal regulation automatically adopted stays the effect of the rule.

(d) (i) If no substantial objections are received and no hearing is requested within 30 days after publication of a proposed rule, it shall take effect on a date set by the department.

(ii) The effective date shall be at least 60 days after the time for filing objections has expired.

(e) (i) If timely substantial objections are made to a federal regulation within 30 days after ~~[it]~~ the federal regulation is automatically adopted or to a proposed rule within 30 days after ~~[it]~~ the proposed rule is published, the department, after notice, shall conduct a public hearing to receive evidence on the issues raised by the objections.

(ii) ~~[Any]~~ An interested person or the person's representative may be heard.

(f) (i) The department shall act upon objections by order and shall mail the order to objectors by certified mail as soon after the hearing as practicable.

(ii) The order shall be based on substantial evidence in the record of the hearing.

(g) (i) If the order concerns a proposed rule, ~~[it]~~ the department may withdraw ~~[it]~~ the proposed rule or set an effective date for the rule as published or as modified by the order.

(ii) The effective date shall be at least 60 days after publication of the order.

~~[(9)]~~ (11) Whenever a regulation is ~~[promulgated]~~ made under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances established by the department under this chapter shall immediately conform to the standards established by the Federal Food and Drug Administration as herein provided and shall remain the same until the department determines that for reasons peculiar to Utah a different rule should apply.

**Section 6. Section 4-13-102 is amended to read:**

**4-13-102. Definitions.**

As used in this chapter:

(1) "Adulterated fertilizer" means ~~[any commercial]~~ a fertilizer or soil amendment that:

(a) contains [an ingredient that renders] a deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with the directions for use on the label[, or];

(b) has a composition that falls below or differs from that which the composition is purported to possess by the composition's labeling;

(c) contains unwanted crop or weed seed[, or is inadequately labeled to protect plant life.]; or

(d) exceeds levels of metals permitted by the United States Environmental Protection Agency.

(2) "Beneficial substances or compounds" means a substance or compound other than primary, secondary, and micro plant nutrients that can be demonstrated by scientific research to be beneficial to one or more species of plants when applied exogenously.

(3) "Biostimulant" means a product containing naturally-occurring substances and microbes that are used to stimulate plant growth, enhance resistance to plant pests, and reduce abiotic stress.

(4) "Blender" means a person engaged in the business of blending or mixing fertilizer, soil amendments, or both.

~~[(2)]~~ (5) "Brand" means [any] a term, design, or trade mark used in connection with one or several grades of [commercial] fertilizer or soil amendment.

~~[(3) "Commercial fertilizer" means any substance that contains one or more recognized plant nutrients that is used for its plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule of the department.]~~

(6) "Bulk fertilizer" means fertilizer delivered to the purchaser either in solid or liquid state in a non-packaged form to which a label cannot be attached.

(7) "Custom blend" means a fertilizer blended according to specification provided to a blender in a soil test nutrient recommendation or to meet the specific consumer request before blending.

(8) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed.

(9) "Derivation" means the source from which the guaranteed nutrients are derived.

(10) "Distribute" means to import, consign, manufacture, produce, compound, mix, blend, or to offer for sale, sell, barter, or supply fertilizer or soil amendments in the state.

~~[(4)]~~ (11) "Distributor" means [any] a person who[:] distributes.

~~[(a) imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer;]~~

~~[(b) imports, consigns, manufactures, produces, compounds, sizes, or blends a soil amendment; or]~~

~~[(c) offers for sale, sells, barter, or otherwise supplies commercial fertilizer or a soil amendment in this state.]~~

(12) "Fertilizer" means a substance that contains one or more recognized plant nutrients that is used for the substance's plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule.

~~[(5)]~~ (13) "Fertilizer material" means a [commercial] fertilizer that contains [either]:

(a) quantities of no more than one of the primary plant nutrients [(nitrogen, phosphoric acid and potash)], nitrogen (N), phosphate (P2O5), Potash (K2O);

(b) [approximately] 85% plant nutrients in the form of a single chemical compound; or

(c) plant or animal residues or by-products, or a natural material deposit that is processed so that its primary plant nutrients have not been materially changed, except through purification and concentration.

~~[(6)]~~ (14) “Grade” means the percentage of total nitrogen, available ~~[phosphorus or phosphoric acid, and soluble potassium or]~~ phosphate and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis; ~~provided,~~ if that specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash and that fertilizer materials such as bone meal, manures, and similar raw materials may be guaranteed in fractional units.

~~[(7)]~~ (15) (a) “Guaranteed analysis” means the minimum percentage by weight of plant nutrients claimed in the following order and form:

Total ~~[nitrogen]~~ Nitrogen (N) \_\_\_ percent

Available ~~[phosphoric acid (P<sub>0</sub>)]~~ Phosphate (P<sub>2</sub>O<sub>5</sub>) \_\_\_ percent

Soluble ~~[potash (K<sub>0</sub>)]~~ Potash (K<sub>2</sub>O) \_\_\_ percent

(b) For unacidulated mineral phosphatic ~~[materials]~~ material and basic slag, bone, tankage, and other organic ~~[phosphate materials, it means the total phosphoric acid]~~ phosphate or degree of fineness may also be guaranteed.

~~[(c) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds per ton, when required by rule.]~~

~~[(d)]~~ (c) (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rule of the department.

(ii) The guarantees for such other nutrients shall be expressed in the form of the element.

(iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label.

(iv) Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department.

(v) Any plant nutrients or other substances or compounds guaranteed are subject to inspection and analysis in accord with the methods and rules prescribed by the department.

~~[(8)]~~ (16) “Investigational allowance” means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of ~~[commercial]~~ fertilizer or soil amendment.

~~[(9)]~~ (17) “Label” means the display of ~~[all]~~ the written, printed, or graphic matter upon the immediate container or statement accompanying a ~~[commercial]~~ fertilizer or soil amendment.

~~[(10)]~~ (18) “Labeling” means ~~[all]~~ the written, printed, or graphic matter upon or accompanying ~~[any commercial]~~ fertilizer or soil amendment, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of ~~[such commercial]~~ fertilizers or soil amendments.

(19) “Lot” means a definite quantity identified by a combination of numbers, letters, characters, or amount represented by a weight certificate from which every part is uniform within recognized tolerances from which the distributor can be determined.

(20) “Micro plant nutrient” means boron, chlorine, cobalt, copper, iron, manganese, molybdenum, nickel, sodium, and zinc.

~~[(11)]~~ (21) “Mixed fertilizer” means a ~~[commercial]~~ fertilizer containing any combination or mixture of fertilizer materials.

(22) “Nonplant food ingredient” means a substance or compound other than the primary, secondary, or micro nutrients.

~~[(12)]~~ (23) “Official sample” means ~~[any]~~ a sample of ~~[commercial]~~ fertilizer or soil amendment taken by the department and designated as “official.”

(24) “Other ingredients” means the non-soil amending ingredients present in soil amendments.

~~[(13)]~~ (25) “Percent” or “percentage” means the percentage by weight.

(26) “Plant amendment” means a substance applied to plants or seeds that is intended to improve growth, yield, product quality, reproduction, flavor, or other favorable characteristics of plants except fertilizer, soil amendments, agricultural liming materials, animal and vegetable manure, pesticides, or plant regulators.

(27) “Primary nutrient” includes total nitrogen, available phosphate, and soluble potash.

~~[(14)]~~ (28) “Registrant” means ~~[any]~~ a person who registers a ~~[commercial]~~ fertilizer or a soil amendment under ~~[the provisions of]~~ this chapter.

~~[(15)]~~ (a) “Soil amendment” means any substance that is intended to improve the physical characteristics of soil.]

~~[(b) “Soil amendment” does not include any commercial fertilizer, agriculture liming materials, unmanipulated animal manure, unmanipulated vegetable manure, pesticides, or other material exempt by rule of the department.]~~

(29) “Secondary nutrient” includes calcium, magnesium, and sulfur.

(30) “Slow release fertilizer” means a fertilizer in a form that releases, or converts to a plant-available form, plant nutrients at a slower rate relative to an appropriate reference soluble product.

(31) “Soil amending ingredient” means a substance that will improve the physical, chemical, biochemical, biological, or other characteristics of the soil.

(32) “Soil amendment” means a substance or a mixture of substances that is intended to improve the physical, chemical, biochemical, biological, or other characteristics of the soil, except fertilizers, agricultural liming materials, unmanipulated

animal manures, unmanipulated vegetable manures, or pesticides.

~~[(16)]~~ (33) “Specialty fertilizer” means ~~[any commercial]~~ fertilizer distributed primarily for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

~~[(17)]~~ (34) “Ton” means a net weight of 2,000 pounds avoirdupois.

**Section 7. Section 4-13-103 is amended to read:**

**4-13-103. Distribution of fertilizer or soil amendment -- Registration required -- Application -- Fees -- Expiration -- Renewal -- Exemptions specified -- Blenders and mixers.**

(1) (a) ~~[Each]~~ A brand and grade of ~~[commercial]~~ fertilizer or soil amendment shall be registered in the name of the person whose name appears upon the label before being distributed in this state.

(b) The application for registration shall be submitted to the department on a form prescribed and furnished by ~~[it]~~ the department, and shall be accompanied by a fee determined by the department pursuant to Subsection 4-2-103(2) for each brand and grade.

(c) Upon approval by the department, a copy of the registration shall be furnished to the applicant.

~~(d)~~ (i) ~~[Each]~~ A registration expires at midnight on December 31 of the year in which issued.

~~(ii)~~ ~~[Each]~~ A registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

~~(iii)~~ ~~[Each]~~ A renewal fee shall be paid on or before December 31 of each year.

~~[(2) The application for registration shall include the following information:]~~

~~[(a) the net weight;]~~

~~[(b) the brand and grade;]~~

~~[(c) the guaranteed analysis;]~~

~~[(d) the name and address of the registrant; and]~~

~~[(e) any other information as the department may prescribe by rule.]~~

~~[(3)]~~ (2) A distributor is not required to register ~~[any commercial fertilizer which]~~ fertilizer that has been registered by another person under this chapter if the label does not differ in any respect.

~~[(4)]~~ (3) (a) A ~~[distributor]~~ blender is not required to register each grade of ~~[commercial]~~ fertilizer or soil amendment formulated according to specifications provided by a consumer before mixing, but is required to:

(i) ~~[register]~~ license the name under which the business of blending or mixing is conducted;

(ii) pay an annual blenders license fee determined by the department pursuant to Subsection 4-2-103(2); and

(iii) label the ~~[mixed]~~ fertilizer or soil amendment as provided in Section 4-13-104.

(b) (i) A blenders license ~~[shall expire]~~ expires at midnight on December 31 of the year in which ~~[it]~~ the license is issued.

(ii) A blenders license is renewable for a period of one year upon the payment of an annual license renewal fee in an amount equal to the current applicable original blenders license fee.

(iii) ~~[Each]~~ A renewal fee shall be paid on or before December 31 of each year.

~~[(5)]~~ (4) (a) A tonnage fee shall be assessed on fertilizer and soil amendment products sold in the state.

(b) The fee shall be ~~[-(i)]~~ determined by the department pursuant to Subsection 4-2-103(2); ~~and].~~

~~[(ii) paid by the manufacturer or distributor on a schedule specified by rule.]~~

~~(c) When more than one person is involved in the distribution of a fertilizer or soil amendment, the final person who has the fertilizer or soil amendment registered and distributed to a non-registrant or consumer is responsible for reporting the tonnage and paying the tonnage fee, unless the report and payment is made by a prior distributor of the fertilizer or soil amendment.~~

~~(d) The tonnage report shall be submitted on a form provided by the department on or before December 31 annually covering shipments made during the preceding 12-month period from November 1 to October 31.~~

~~[(e)]~~ (e) Revenue generated by the fee shall be deposited ~~[in]~~ into the General Fund as dedicated credits to be used by the department for education and research about and promotion of proper fertilizer and soil amendment distribution, handling, and use.

**Section 8. Section 4-13-104 is amended to read:**

**4-13-104. Labeling requirements for fertilizer and soil amendments specified.**

(1) A container of fertilizer distributed in this state shall bear a label in clearly legible and conspicuous form setting forth the:

(a) brand name and grade;

(b) guaranteed analysis, except that:

(i) sources of nutrients, when shown on the label, shall be listed below the completed guaranteed analysis in order of predominance;

(ii) guarantees of zeros may not be made and may not appear in statement except in nutrient guarantee breakdowns; and

(iii) if chemical forms of nitrogen are claimed or required, the form shall be shown, but no implied order of the forms of nitrogen is intended;

(c) derivation statement of guaranteed nutrients, nonplant food ingredients, and beneficial substances or compounds if present;

(d) directions for use when applicable;

(e) caution or warning statement when applicable;

(f) name and address of the registrant or the manufacturer, if different from the registrant;

(g) net weight or volume; and

(h) lot number.

~~[(4)] (2) [Each] A container of specialty [commercial] fertilizer distributed in this state shall bear a label in clear, legible, and conspicuous form setting forth[?] the information specified in Subsections (1)(a) through (h).~~

~~[(a) its net weight;]~~

~~[(b) brand and grade;]~~

~~[(c) guaranteed analysis;]~~

~~[(d) the name and address of the registrant; and]~~

~~[(e) the lot number.]~~

~~[(2) (a) Each bulk shipment of commercial fertilizer distributed in this state shall be accompanied by a printed or written statement setting forth the information specified in Subsections (1)(a) through (e).]~~

~~[(b) The statement shall be delivered to the purchaser at the time the bulk fertilizer is delivered.]~~

~~[(3) Each sale of packaged mixed fertilizer shall be labeled, or labeling furnished the consumer, to show its net weight, guaranteed analysis, lot number, and the name and address of the distributor.]~~

~~[(4) (a) Each container of soil amendment shall conform to the requirements of Subsection (1), and if distributed in bulk, with Subsection (2).]~~

~~[(b) The name or chemical designation and content of the soil amending ingredient or any other information prescribed by rule of the department shall appear whether distributed in a container or in bulk.]~~

(3) A shipment of custom blend fertilizer shall be accompanied by a printed or written statement setting forth the:

(a) information specified in Subsections (1)(a) through (c);

(b) name and address of the licensed blender;

(c) net weight or volume; and

(d) lot number.

(4) A shipment of fertilizer material shall be accompanied by a printed or written statement setting forth the:

(a) information specified in Subsections (1)(a) through (c);

(b) name and address of the registrant if different from the supplier or shipper;

(c) net weight or volume; and

(d) lot number.

(5) The grade is not required on a fertilizer label when no primary nutrients are claimed or are less than one percent.

(6) Additional nutrient guarantees may not be an extension of the grade statement and shall be a separate line or include terms such as "plus," "with," or "including."

(7) A soil amendment distributed in the state shall bear a label in clearly legible and conspicuous form setting forth the:

(a) brand name;

(b) guaranteed analysis, which includes:

(i) nonplant food ingredients separated out by soil amending ingredients and other total ingredients, in that order, by percentages; and

(ii) nonsoil amending ingredients separating out beneficial substances and beneficial compounds, in that order, by percentage or acceptable units;

(c) purpose of product;

(d) direction for application;

(e) caution or warning statement when applicable;

(f) name and address of registrant; and

(g) net weight or volume.

(8) The department may require proof of claims made, usefulness, and value of the soil amendments.

(9) For evidence of proof the department may rely on experimental data, evaluations, or advice supplied from such sources as the director of the Agricultural Experiment Station. The experimental design shall be related to state conditions for which the product is intended.

(10) Information or a statement may not appear on a package, label, delivery slip, or advertising matter that is false or misleading to the purchaser as to the use, value, quality, analysis, type, or composition of the soil amendment.

(11) A fertilizer is misbranded if:

(a) the fertilizer's labeling is false or misleading in any particular;

(b) the fertilizer is distributed under the name of another fertilizer product;

(c) the fertilizer is not labeled as required; or

(d) the fertilizer purports to be or is represented as fertilizer, or is represented as containing a plant nutrient fertilizer that does not conform with the definition of identity or any commonly accepted definitions of official fertilizer terms.

**Section 9. Section 4-13-105 is amended to read:**

**4-13-105. Enforcement -- Inspection and samples authorized -- Methods for**

**sampling and analysis prescribed --  
Warrants.**

(1) The department shall periodically sample, inspect, analyze, and test ~~[commercial]~~ fertilizers and soil amendments distributed within this state to determine if they comply with this chapter.

~~[(2) Methods of analysis and sampling shall be in accordance with those adopted by the department from sources such as the Association of Official Analytical Chemists Journal.]~~

(2) (a) The methods of sampling and analysis shall be those adopted by the AOAC International.

(b) In a case not covered by the methods adopted under Subsection (2)(a), or in a case when a method is available in which improved applicability has been demonstrated, the department may adopt appropriate methods from other sources.

(3) In determining whether a ~~[commercial]~~ fertilizer or soil amendment is deficient, the department shall be guided solely by the official sample.

(4) (a) The department [is authorized to] may enter any public or private premises or carriers during regular business hours [in order] to have access to [commercial] fertilizers or soil amendments and records relating to the distribution of fertilizers and soil amendments subject to this chapter.

(b) If admittance is refused, the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

(5) The department shall distribute the results of an official sample.

(6) The department shall retain an official sample for a minimum of 90 days from the issuance of a report.

**Section 10. Section 4-13-106 is amended to read:**

**4-13-106. Distribution of fertilizers not complying with labeling requirements prohibited -- Penalty assessed -- Court action to vacate or amend finding authorized.**

(1) ~~[No]~~ A person ~~[shall]~~ may not distribute in this state a ~~[commercial]~~ fertilizer, fertilizer material, soil amendment, or specialty fertilizer if the official sample thereof establishes that the ~~[commercial]~~ fertilizer, fertilizer material, soil amendment, or specialty fertilizer is deficient in the nutrients or ingredients guaranteed on the label by an amount exceeding the values established by rule ~~[or if the overall index value of the official sample is below the level established by rule].~~

~~[(2) If an official sample, after analysis, demonstrates the guaranteed analysis is deficient in one or more of its primary plant foods (NPK) beyond the investigational allowance prescribed by rule, or if the over-all index value of the official~~

~~sample is below the level established by rule, a penalty of three times the commercial value of the deficiency or deficiencies of the lot represented by the official sample may be assessed against the registrant.]~~

~~[(3) All penalties assessed under this section shall be paid to the department within three months after notice from the department.]~~

(2) The department shall evaluate and take administrative action the department prescribes for a deficiency beyond the investigational allowances established by the department.

[4] (3) [Any] A registrant aggrieved by the finding of an official sample deficiency may file a complaint with a court of competent jurisdiction to vacate or amend the finding of the department.

**Section 11. Section 4-13-108 is amended to read:**

**4-13-108. Denial, suspension, or revocation authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.**

(1) The department may ~~deny~~, revoke, or suspend the ~~license for a blender or the registration of [any] a brand of [commercial] fertilizer or soil amendment[, or refuse to register any brand of commercial fertilizer or soil amendment]~~ upon satisfactory evidence that the licensee or registrant has used fraudulent or deceptive practices in licensure, registration, or distribution in this state.

(2) (a) The department may issue a “stop sale, use, or removal order” to the owner or person in possession of any designated lot of ~~[commercial]~~ fertilizer or soil amendment ~~[which it]~~ that the department finds or has reason to believe is being offered or exposed for sale in violation of this chapter.

(b) The order shall be in writing and ~~[no commercial]~~ fertilizer or soil amendment subject to ~~[it shall]~~ the order may not be moved or offered or exposed for sale, except upon the subsequent written release of the department.

(c) Before a release is issued, the department may require the owner or person in possession of the “stopped” lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(3) (a) The department ~~[is authorized]~~ may seek in a court of competent jurisdiction ~~[to seek]~~ an order of seizure or condemnation of ~~[any fertilizer which] any fertilizer that violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction, to prevent violation of this chapter.~~

(b) ~~[No]~~ A bond ~~[shall]~~ may not be required of the department in any injunctive proceeding under this section.

(4) If condemnation is ordered, the fertilizer or soil amendment shall be disposed of as the court directs~~;~~ provided, that in no event shall it, except that the court may not order condemnation without

giving the claimant of the fertilizer or soil amendment an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the product into conformance, or to remove [it] the fertilizer or soil amendment from the state.

(5) If the court orders condemnation of the [commercial] fertilizer or soil amendment, court costs, fees, storage, and other expenses shall be awarded against the claimant of the fertilizer or soil amendment.

**Section 12. Section 4-13-109 is amended to read:**

**4-13-109. Sales or exchanges of fertilizers or soil amendments between manufacturers, importers, or manipulators permitted.**

[Nothing in this] This chapter [shall] may not be construed to restrict or avoid sales or exchanges of [commercial] fertilizers or soil amendments to each other by importers, manufacturers, or manipulators who mix fertilizer or soil amendment materials for sale or as preventing the free and unrestricted shipment of [commercial] fertilizer or soil amendments to manufacturers or manipulators who have registered their brands as required by this chapter.

**Section 13. Section 4-13-110 is enacted to read:**

**4-13-110. Department may make and enforce rules -- Cooperation with state and federal agencies authorized.**

(1) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and enforce the rules to administer and enforce this chapter.

(b) The department shall by rule adopt the official terms, tables, definitions, and statements adopted by the Association of American Plant Food Control officials and published in the official publications of that organization.

(2) The department may enter into agreements with other agencies of the state, other states, and agencies of the federal government to administer and enforce this chapter.

(3) The department may use the following terms in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to the extent that the department is authorized to make rules by a provision other than this Subsection (3):

- (a) biostimulant;
- (b) bulk fertilizer;
- (c) plant amendment;
- (d) secondary nutrient; and
- (e) slow release fertilizer.

**Section 14. Section 4-23-106 is amended to read:**

**4-23-106. Department to issue licenses and permits -- Department to issue aircraft use permits -- Aerial hunting.**

(1) The department is responsible for the issuance of permits and licenses for the purposes of the federal Fish and Wildlife Act of 1956.

(2) A private person may not use [any] an aircraft for the prevention of damage without first obtaining a use permit from the department.

(3) The department may issue an annual permit for aerial hunting to a private person for the protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, if the person shows that the person or the person's designated pilot, along with the aircraft to be used in the aerial hunting, are licensed and qualified in accordance with the requirements of the department set by rule.

(4) The department may predicate the issuance or retention of a permit for aerial hunting upon the permittee's full and prompt disclosure of information as the department may request for submission pursuant to rules made by the department.

(5) The department shall collect an annual fee, set in accordance with Section 63J-1-504, from a person who has an aircraft for which a permit is issued or renewed under this section.

(6) Aerial hunting activity under a permit issued by the department is restricted to:

(a) (i) private lands that are owned or managed by the permittee;

(ii) state grazing allotments where the permittee is permitted by the state or the State Institutional Trust Lands Administration to graze livestock; or

(iii) federal grazing allotments where the permittee is permitted by the United States Bureau of Land Management or United States Forest Service to graze livestock; and

(b) ~~only during the time period [:(i) for purposes of Subsection (6)(a)(ii) or (iii), that under an active permit the permittee may graze or run livestock on the land; and (ii)] for which the private land owner has provided written permission for the aerial hunting.~~

(7) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to carry out the purpose of this section.

(8) The issuance of an aerial hunting permit or license under this section does not authorize the holder to use aircraft to hunt, pursue, shoot, wound, kill, trap, capture, or collect protected wildlife, as defined in Section 23-13-2, unless also authorized by the Division of Wildlife Resources under Section 23-20-12.

**Section 15. Section 4-24-304 is amended to read:**

**4-24-304. Brand inspection required before slaughter -- Exceptions.**

(1) Except as provided in [Subsection] Subsections (2) and (3), a brand inspection is required before any cattle, calves, horses, domesticated elk, or mules are slaughtered.

(2) (a) A person may slaughter cattle, calves, horses, or mules for that person's own use without a brand inspection if the requirements of Section 4-32-106 are met.

(b) The department may authorize a custom exempt slaughter facility or a farm custom slaughter licensee to verify ownership of cattle, calves, horses, or mules before slaughter for the owner's use.

(c) A custom exempt slaughter facility or farm custom slaughter licensee authorized by the department, shall verify ownership of cattle, calves, horses, or mules before slaughter for the owner's use.

(d) If the department has reason to believe that a licensee or registrant is or has engaged in conduct that violates this chapter, the department shall issue a notice of agency action pursuant to Section 4-1-106.

(3) The department may authorize a state or department employee to verify ownership of cattle or calves at a licensed meat establishment before slaughter, if there is no change in ownership of the cattle or calves.

**Section 16. Section 4-24-308 is amended to read:**

**4-24-308. Brand inspection fees.**

(1) The department with the approval of the Livestock Brand Board may set and collect a fee for the:

(a) issuance of any certificate of brand inspection[-];

(b) verification of ownership at a custom exempt slaughter facility before slaughter for the owner's use;

(c) verification of ownership by a farm custom slaughter licensee before slaughter for the owner's use; or

(d) verification of ownership by a state or department employee at a meat establishment where there is no transfer of ownership.

(2) Brand inspection fees incurred for the inspection of such animals at a livestock market may be withheld by the market and paid from the proceeds derived from their sale.

(3) The fee shall be determined by the department pursuant to Subsection 4-2-103(2).

**Section 17. Section 17D-3-102 is amended to read:**

**17D-3-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Conservation Commission, created in Section 4-18-104.

(2) "Commissioner" means the commissioner of the department.

~~(2)~~ (3) "Conservation district" means a limited purpose local government entity, as described in Section 17D-3-103, that operates under, is subject to, and has the powers set forth in this chapter.

~~(3)~~ (4) "Department" means the Department of Agriculture and Food, created in Section 4-2-102.

**Section 18. Section 17D-3-103 is amended to read:**

**17D-3-103. Conservation district status, authority, and duties.**

(1) A conservation district created under this chapter:

- (a) is a body corporate and politic;
- (b) is a political subdivision of the state; and
- (c) may sue and be sued.

(2) (a) A conservation district may:

(i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;

(ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;

(iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;

(iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;

(v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;

(vi) enter into a contract in the name of the conservation district;

(vii) receive money from:

(A) a federal or state agency;

(B) a county, municipality, or other political subdivision of the state; or

(C) a private source;

(viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:

(A) the observance of particular methods of cultivation;

(B) the use of specific crop programs and tillage practices;

(C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;



(D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and

(E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;

(ix) plan watershed and flood control projects in cooperation with local, state, and federal authorities, and coordinate flood control projects in the state;

(x) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;

(xi) employ clerical and other staff personnel, including legal staff, subject to available [funds] money; and

(xii) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.

(b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:

(i) the land occupier or owner; and

(ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.

(c) (i) [Each] A recommendation under Subsection (2)(a)(viii) shall be uniform throughout the conservation district or, if the board of supervisors classifies land under Subsection (2)(c)(ii), throughout each land classification.

(ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.

(3) (a) [Each] A conservation district shall annually submit to the commission, no later than the date that the commission prescribes:

(i) a copy of the minutes of each conservation district meeting;

(ii) a copy of the conservation district's annual work plan; and

(iii) an accounting of the conservation district's financial affairs, as provided in Subsection (3)(b).

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

(i) be prepared by a disinterested person; and

(ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.

(4) (a) [Each] A conservation district shall register and maintain the conservation district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A conservation district that fails to comply with Subsection (4)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

**Section 19. Section 17D-3-203 is amended to read:**

**17D-3-203. Considerations in determining whether to approve conservation district creation, consolidation, division, or dissolution -- Denial or approval -- Notice and plat to lieutenant governor -- Recording requirements -- Prohibition against considering similar creation, consolidation, division, or dissolution if previously denied.**

(1) In determining whether to approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, the commission shall consider:

(a) the demonstrated necessity and administrative practicality of the creation, consolidation, division, or dissolution;

(b) the topography of and soil compositions and prevailing land use practices within the area of the proposed or existing conservation district or districts;

(c) the hydrologic unit code of the watershed in which the area of the proposed or existing conservation district or districts is located;

(d) the relationship of the area of the proposed or existing conservation district or districts to existing watersheds and agricultural regions; and

(e) the sentiment expressed by persons within the area of the proposed or existing conservation district or districts with respect to the proposed creation, consolidation, division, or dissolution.

(2) After holding a public hearing as required under Subsection 17D-3-201(2)(b) and considering the factors listed in Subsection (1), the commission shall:

(a) (i) disapprove the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, [as the case may be,] if the commission determines that creation, consolidation, division, or dissolution is not necessary or administratively practical; or

(ii) approve the creation of a conservation district, the consolidation of existing conservation districts, or the division or dissolution of an existing conservation district, [as the case may be,] if the commission determines that creation, consolidation, division, or dissolution is necessary and administratively practical; and

(b) set forth in writing the reasons for the commission's action.

(3) (a) If the commission approves the creation, consolidation, division, or dissolution, the commission shall:

(i) deliver to the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:

(A) if the conservation district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of boundary action; and

(Cc) except in the case of dissolution, approved final local entity plat; and

(II) a certified copy of the document that the commission adopted approving the boundary action; or

(B) if the conservation district is or, in the case of a dissolution, was located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the document that the commission adopted approving the boundary action; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the document that the commission adopted approving the boundary action.

(b) Upon the lieutenant governor's issuance of the certificate of creation, consolidation, division, or dissolution under Section 67-1a-6.5, ~~as the case may be,~~ the conservation district is created and incorporated, consolidated, divided, or dissolved, respectively.

(4) If the commission disapproves a creation, consolidation, division, or dissolution under Subsection (2)(a)(i), the commission may not, for six months following the denial, consider a similar proposal to create, divide, or dissolve the conservation district or to consolidate the conservation districts, as the case may be.

**Section 20. Section 17D-3-301 is amended to read:**

**17D-3-301. Board of supervisors -- Number -- Term -- Chair and officers -- Quorum -- Compensation.**

(1) ~~[Each]~~ A board of supervisors shall govern a conservation district ~~[shall be governed by a board of supervisors].~~

(2) ~~[(a)]~~ The board of supervisors of a conservation district consists of five members ~~[elected]~~ appointed as provided in this part, at least three of whom shall be private agricultural land operators.

~~[(b)]~~ ~~If the board of supervisors divides the conservation district into watershed voting areas under Section 17D-3-308, at least one member of the board of supervisors shall reside within each watershed voting area.]~~

(3) (a) ~~[The]~~ Subject to Subsection (3)(c), the term of office of ~~[each]~~ a member of a board of supervisors is four years.

(b) Notwithstanding Subsection (3)(a), if multiple conservation districts are consolidated or a single conservation district divided or dissolved under Part 2, Creation, Consolidation, Division, and Dissolution of Conservation Districts:

(i) the term of each member of the board of supervisors of the consolidated conservation districts or the divided or dissolved conservation district terminates immediately upon consolidation, division, or dissolution; and

(ii) (A) ~~the [commission shall hold an election]~~ commissioner shall appoint a new board of supervisors, as provided in this part, ~~[for all board of supervisors members of]~~ for the consolidated conservation district or divided conservation districts, as the case may be; and

(B) subject to Subsection (3)(c), the term of ~~[the two candidates receiving the highest number of votes at an election under Subsection (3)(b)(ii)(A)]~~ shall be four years, and the term of the three candidates receiving the next highest number of votes ~~shall be two years]~~ office of a member of the board of supervisors appointed is four years.

(c) Notwithstanding the other provisions of this Subsection (3), the commissioner may, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The board of supervisors shall elect a chair from among their number for a term of one year, and may elect other officers from among their number that the board considers necessary.

(5) A majority of the board of supervisors constitutes a quorum for the transaction of board business, and action by a majority of a quorum present at a meeting of the board constitutes action of the board.

(6) For performing official duties, ~~[each]~~ a member of the board of supervisors of a conservation district shall receive:

(a) per diem and travel expenses in accordance with Section 11-55-103; and

(b) actual and necessary expenses as determined by the department.

**Section 21. Section 17D-3-302 is amended to read:**

**17D-3-302. Board of supervisors members to be appointed -- Candidates nominated by nominating committee -- Candidate qualifications -- Nomination committee.**

(1) As provided in this part, ~~each~~ the commissioner shall appoint a member of a board of supervisors of a conservation district ~~shall be elected at large within the conservation district~~ from candidates nominated by ~~(a)~~ a nominating committee consisting of:

~~(i)~~ (a) the chair of the commission or council of the county in which the conservation district is located;

~~(ii)~~ (b) the chair of the USDA Farm Service Agency Committee of the county in which the conservation district is located;

~~(iii)~~ (A) (c) (i) the chair of the board of supervisors of the conservation district; or

~~(B)~~ (ii) the chair's designee, if the chair wishes to be a candidate for ~~reelection;~~ reappointment; and

~~(iv)~~ (d) the agricultural extension service designated representative of the county in which the conservation district is located~~;~~.

~~(b)~~ petition under Section 17D-3-304.

(2) The commissioner may remove an individual from the nominating committee upon the request of the group the individual represents.

~~(2)~~ (3) ~~Each candidate for election~~ A candidate for appointment to the board of supervisors of a conservation district shall be:

(a) at least 18 years of age; and

(b) a resident within the conservation district.

**Section 22. Section 17D-3-303 is amended to read:**

**17D-3-303. Nominating committee nomination of candidates for appointment to the board of supervisors.**

The nominating committee under Subsection 17D-3-302(1)~~(a)~~ shall:

(1) nominate for ~~each~~ a conservation district ~~election~~ a slate of candidates for ~~election~~ appointment to the board of supervisors of the conservation district equal or greater in number to ~~at least one more than~~ the number of board of supervisors members to be ~~elected~~ appointed; and

(2) submit the names of candidates to the ~~commission~~ commissioner no later than the date set by the commission as the close of nominations.

**Section 23. Section 17D-3-304 is amended to read:**

**17D-3-304. Petition to nominate candidates for appointment to the board of supervisors.**

(1) ~~[A]~~ In addition to the procedure in Section 17D-3-302, a person may be nominated to be a candidate for ~~election~~ appointment as a member of a board of supervisors of a conservation district by a petition filed with the ~~commission~~ department no later than the date set by the commission as the close of nominations.

(2) ~~Each~~ A petition under Subsection (1) shall~~(a)~~ state:

~~(i)~~ (a) the candidate's name;

~~(ii)~~ (b) that the candidate is at least 18 years of age; ~~and~~

~~(iii)~~ (c) that the candidate for appointment is a resident of the conservation district for which the ~~election~~ nomination for candidacy is to be held; ~~and~~

~~(b)~~ (d) contain the ~~signatures of at least six persons who reside and are registered voters within the conservation district; and (e) list the name, address, and voting precinct number of each person who signs the petition.~~ notarized signature of the candidate.

(3) The department shall forward a petition received under this section to the nominating committee for consideration under Sections 17D-3-302 and 17D-3-303.

**Section 24. Section 17D-3-305 is amended to read:**

**17D-3-305. Setting the date of nomination of the board of supervisors -- Notice requirements.**

(1) The commission shall set the date of the ~~election~~ nomination of members of the board of supervisors of a conservation district.

(2) The commission shall publish notice of the ~~election~~ nomination day described in Subsection (1):

(a) (i) in a newspaper of general circulation within the conservation district at least once, no later than four weeks before the day of the ~~election~~ nomination; or

(ii) if there is no newspaper of general circulation in the conservation district, at least four weeks before the ~~day of the election~~ nomination day, by posting one notice, and at least one additional notice per 2,000 population of the conservation district, in places within the conservation district that are most likely to give notice to the ~~voters~~ residents in the conservation district; ~~or~~

~~(iii)~~ at least four weeks before the day of the election, by mailing notice to each registered voter in the conservation district;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the ~~election~~ nomination;

(c) in accordance with Section 45-1-101, for four weeks before the day of the ~~[election]~~ nomination; and

(d) if the conservation district has a website, on the conservation district's website for four weeks before the day of the ~~[election]~~ nomination.

(3) The ~~[date set for an election under Subsection (1) may not be]~~ commissioner shall appoint the board of members by no later than six weeks after the date set by the commission for the close of nominations.

(4) The notice required under Subsection (2) shall ~~[-(a)-]~~ state:

~~[(i)]~~ (a) the nomination date ~~[of the election]; and~~

~~[(ii)]~~ the names of all candidates; and

~~[(iii)]~~ that a ballot request form for the election may be obtained from the commission office or from any other place that the commission designates; and

~~[(b)]~~ specify the address of the commission office or other place where a ballot request form may be obtained;

(b) the number of open board member positions for the conservation district.

**Section 25. Section 17D-3-310 is amended to read:**

**17D-3-310. Vacancies in the board of supervisors.**

If a vacancy occurs in the office of board of supervisors member, the remaining members of the board of supervisors shall ~~[appoint a person]~~ nominate an individual to the commissioner to appoint to fill the vacancy, to serve the remainder of the unexpired term of the member creating the vacancy.

**Section 26. Section 17D-3-311 is amended to read:**

**17D-3-311. Training for board members.**

(1) A member of a board of supervisors shall, within one year after ~~[taking office]~~ appointment, complete the training described in Subsection (2).

(2) The state auditor shall, with the assistance of the commission and an association that represents conservation districts, develop a training curriculum for a member of the board of supervisors and conduct the training.

**Section 27. Section 26-15-1 is amended to read:**

**26-15-1. Definitions.**

As used in this chapter:

(1) (a) "Food handler" means any person working part-time or full-time in a food service establishment who:

(i) moves food or food containers, prepares, stores, or serves food;

(ii) comes in contact with any food, utensil, tableware or equipment; or

~~[(iii)]~~ washes the same. ~~[The term also]~~

(b) "Food handler" includes:

(i) owners, supervisors, and management persons, and any other person working in a food-service establishment ~~[-. The term also includes any]; or~~

(ii) an operator or person:

(A) employed by one who handles food dispensed through vending machines; ~~[or]~~

(B) who comes into contact with food contact surfaces or containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or

(C) who otherwise services or maintains one or more vending machines.

~~[(b)]~~ (c) "Food handler" does not include a producer of food products selling food at a farmers market as defined in ~~[Subsection]~~ Section 4-5-102~~[(5)]~~.

(2) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well being of the people within the state.

(3) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can affect public health.

**Section 28. Section 59-10-1304 is amended to read:**

**59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.**

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

~~[(iv)]~~ the contribution provided for in Section 59-10-1310;

~~[(v)]~~ (iv) the contribution provided for in Section 59-10-1315;

~~[(vi)]~~ (v) the contribution provided for in Section 59-10-1318;

~~[(vii)]~~ (vi) the contribution provided for in Section 59-10-1319; or

~~[(viii)]~~ (vii) the contribution provided for in Section 59-10-1320.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission’s website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

**Section 29. Repealer.**

This bill repeals:

**Section 4-13-107, Department to publish commercial values applied to components of commercial fertilizer.**

**Section 4-40-101, Title.**

**Section 4-40-102, Cat and Dog Community Spay and Neuter Program Restricted Account -- Interest -- Use of contributions and interest.**

**Section 17D-3-306, Eligibility to vote in an election for board of supervisors members.**

**Section 17D-3-307, Supervisor’s election mailing list.**

**Section 17D-3-308, Watershed voting areas.**

**Section 17D-3-309, Election of board of supervisors members -- Ballots --**

**Commission duties regarding elections -- Election expenses.**

**Section 59-10-1310, Contribution to Cat and Dog Community Spay and Neuter Program Restricted Account.**

**CHAPTER 312****H. B. 262**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020  
 Exception clause

**JUVENILE DELINQUENCY AMENDMENTS**

Chief Sponsor: Craig Hall  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill amends provisions relating to juvenile delinquency.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of a youth offender in the custody of the Division of Juvenile Justice Services;
- ▶ adds a definition for a referral to a juvenile court for a nonjudicial adjustment;
- ▶ clarifies and amends the referral, citation, and petition process for the juvenile court;
- ▶ prohibits the prosecution of an individual for offenses that occurred before the individual was 12 years old with exceptions;
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 17-18a-404, as last amended by Laws of Utah 2017, Chapter 330
- 76-10-105 (Superseded 07/01/20), as last amended by Laws of Utah 2018, Chapter 415
- 76-10-105 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 78A-6-105, as last amended by Laws of Utah 2019, Chapters 335 and 388
- 78A-6-113, as last amended by Laws of Utah 2018, Chapter 285
- 78A-6-116, as last amended by Laws of Utah 2010, Chapter 38
- 78A-6-210, as last amended by Laws of Utah 2018, Chapter 117
- 78A-6-601, as last amended by Laws of Utah 2010, Chapter 38
- 78A-6-602, as last amended by Laws of Utah 2018, Chapters 117 and 415
- 78A-6-603, as last amended by Laws of Utah 2018, Chapters 117 and 415
- 78A-6-703, as last amended by Laws of Utah 2019, Chapter 326
- 78A-7-106, as last amended by Laws of Utah 2019, Chapter 136

**ENACTS:**

78A-6-602.5, Utah Code Annotated 1953

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

**Section 1. Section 17-18a-404 is amended to read:**

**17-18a-404. Juvenile proceedings.**

For a proceeding involving a charge of juvenile delinquency, infraction, or a status offense, a prosecutor shall:

(1) review cases [~~pursuant to Section~~] in accordance with Sections ~~78A-6-602, 78A-6-602.5, and 78A-6-603;~~ and

(2) appear and prosecute for the state in the juvenile court of the county.

**Section 2. Section 76-10-105 (Superseded 07/01/20) is amended to read:**

**76-10-105 (Superseded 07/01/20). Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

(1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C misdemeanor and subject to:

(a) a minimum fine or penalty of \$60; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject to [~~the jurisdiction of the juvenile court and subject to Section 78A-6-602~~] a citation under Section 78A-6-603, unless the violation is committed on school property. If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

(a) a fine or penalty, in accordance with Section 78A-6-117; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(3) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property. A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

**Section 3. Section 76-10-105 (Effective 07/01/20) is amended to read:**

**76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

(1) (a) An individual who is 18 years old or older, but younger than the age specified in Subsection (1)(b), and buys or attempts to buy, accepts, or has in the individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of an infraction and subject to:

- (i) a minimum fine or penalty of \$60; and
- (ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

(b) For purposes of Subsection (1)(a), the individual is younger than:

(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(ii) beginning July 1, 2021, 21 years old.

(2) An individual under ~~[the age of]~~ 18 years old who buys or attempts to buy, accepts, or has in the individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject to ~~[the jurisdiction of the juvenile court and subject to Section 78A-6-602]~~ a citation under Section 78A-6-603, unless the violation is committed on school property. If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

(a) a fine or penalty, in accordance with Section 78A-6-117; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(3) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property. A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette, electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years old or older and is:

(i) on active duty in the United States Armed Forces; or

(ii) a spouse or dependent of an individual who is on active duty in the United States Armed Forces.

(b) A valid, government-issued military identification card is required to verify proof of age under Subsection (4)(a).

**Section 4. Section 78A-6-105 is amended to read:**

**78A-6-105. Definitions.**

As used in this chapter:

- (1) (a) "Abuse" means:
  - (i) (A) nonaccidental harm of a child;
  - (B) threatened harm of a child;
  - (C) sexual exploitation;
  - (D) sexual abuse; or
  - (E) human trafficking of a child in violation of Section 76-5-308.5; or
  - (ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. [A]

(b) "Adjudication" does not mean a finding of not competent to proceed ~~[pursuant to]~~ in accordance with Section 78A-6-1302 ~~[is not an adjudication]~~.

(4) (a) "Adult" means an individual ~~[18 years of age or over, except that an individual 18 years or over under]~~ who is 18 years old or older.

(b) "Adult" does not include an individual who is 18 years old or older and under the continuing jurisdiction of the juvenile court ~~[pursuant to]~~ in accordance with Section 78A-6-120 ~~[shall be referred to as a minor]~~.

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means an individual under 18 years ~~[of age]~~ old.

(7) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years [of age] old, to transfer custody.

(10) “Court” means the juvenile court.

(11) “Criminogenic risk factors” means evidence-based factors that are associated with a minor’s likelihood of reoffending.

(12) “Delinquent act” means an act that would constitute a felony or misdemeanor if committed by an adult.

(13) “Department” means the Department of Human Services created in Section 62A-1-102.

(14) “Dependent child” includes a child who is homeless or without proper care through no fault of the child’s parent, guardian, or custodian.

(15) “Deprivation of custody” means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(16) “Detention” means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(17) “Detention risk assessment tool” means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor’s risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(18) “Developmental immaturity” means incomplete development in one or more domains which manifests as a functional limitation in the minor’s present ability to consult with counsel with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings.

(19) “Division” means the Division of Child and Family Services.

(20) “Educational neglect” means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(21) “Evidence-based” means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(22) “Forensic evaluator” means the same as that term is defined in Section 77-15-2.

(23) “Formal probation” means a minor is under field supervision by the probation department or other agency designated by the court and subject to

return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(24) “Formal referral” means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court’s jurisdiction and that [a] the minor’s case must be reviewed by the court’s probation department or a prosecuting attorney.

(25) “Group rehabilitation therapy” means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(26) “Guardianship of the person” includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(27) “Habitual truant” means the same as that term is defined in Section 53G-6-201.

(28) “Harm” means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child’s growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(29) (a) “Incest” means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator’s ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (29)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(30) “Intake probation” means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(31) “Intellectual disability” means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual’s ability to function in society.

(32) “Legal custody” means a relationship embodying the following rights and duties:



- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- (d) the right to determine where and with whom the minor shall live; and
- (e) the right, in an emergency, to authorize surgery or other extraordinary care.

(33) “Material loss” means an uninsured:

- (a) property loss;
- (b) out-of-pocket monetary loss;
- (c) lost wages; or
- (d) medical [expenses] expense.

(34) “Mental illness” means:

- (a) a psychiatric disorder that substantially impairs an individual’s mental, emotional, behavioral, or related functioning; or
- (b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(35) “Minor” means:

- (a) a child; or
- (b) an individual who is:
  - (i) at least 18 years [~~of age~~] old and younger than 21 years [~~of age~~] old; and
  - (ii) under the jurisdiction of the juvenile court.

(36) “Mobile crisis outreach team” means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

(37) “Molestation” means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(38) (a) “Natural parent” means a minor’s biological or adoptive parent[~~, and~~].

(b) “Natural parent” includes the minor’s noncustodial parent.

(39) (a) “Neglect” means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child’s health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) “Neglect” does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child’s parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(40) “Neglected child” means a child who has been subjected to neglect.

(41) “Nonjudicial adjustment” means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor’s parent, legal guardian, or custodian.

(42) “Not competent to proceed” means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against [~~them~~] the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against ~~them~~ the minor with a reasonable degree of rational understanding.

(43) “Physical abuse” means abuse that results in physical injury or damage to a child.

(44) “Probation” means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor’s home under prescribed conditions.

(45) “Prosecuting attorney” means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

[(45)] (46) “Protective supervision” means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor’s home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

[(46)] (47) (a) “Related condition” means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual’s ability to function in society.

(b) “Related condition” does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

[(47)] (48) (a) “Residual parental rights and duties” means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child’s religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, “residual parental rights and duties” ~~also include~~ includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

[(48)] (49) “Secure facility” means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

[(49)] (50) “Severe abuse” means abuse that causes or threatens to cause serious harm to a child.

[(50)] (51) “Severe neglect” means neglect that causes or threatens to cause serious harm to a child.

[(51)] (52) “Sexual abuse” means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (29), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

[(52)] (53) “Sexual exploitation” means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

[~~53~~] (54) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(55) "Same or single criminal episode" means the same as that term is defined in Section 76-1-401.

[~~54~~] (56) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

[~~55~~] (57) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

[~~56~~] (58) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

[~~57~~] (59) "Supported" means the same as that term is defined in Section 62A-4a-101.

[~~58~~] (60) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

[~~59~~] (61) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

[~~60~~] (62) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

[~~61~~] (63) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

[~~62~~] (64) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

[~~63~~] (65) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

[~~64~~] (66) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

[~~65~~] (67) "Without merit" means the same as that term is defined in Section 62A-4a-101.

**Section 5. Section 78A-6-113 is amended to read:**

**78A-6-113. Placement of minor in detention or shelter facility -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement for criminal proceedings -- Bail laws inapplicable -- Exception.**

(1) (a) A minor may not be placed or kept in a secure detention facility pending court proceedings except in accordance with Section 78A-6-112.

(b) A child may not be placed or kept in a shelter facility pending court proceedings unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

(c) (i) A court may temporarily place in a detention facility, as provided in Subsection (4), a child who is taken into custody based upon a warrant issued under Subsection 78A-6-106(6), if the court finds that detention is the least restrictive placement available to ensure the immediate safety of the child.

(ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention longer than is necessary for the division to identify a less restrictive, available, and appropriate placement for the child.

(2) (a) After admission of a child to a detention facility pursuant to Section 78A-6-112 and immediate investigation by an authorized officer of the court, the judge or the officer shall order the release of the child to the child's parents, guardian, or custodian if [it is found] the judge or officer finds that the child can be safely returned to their care, either upon written promise to bring the child to the court at a time set or without restriction.

[~~(a)~~] (b) If a child's parent, guardian, or custodian fails to retrieve the child from a facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the facility.

[~~(b)~~] (c) The facility shall determine the cost of care.

(e) (d) Any money collected under this Subsection (2) shall be retained by the Division of Juvenile Justice Services to recover the cost of care for the time the child remains in the facility.

(3) (a) When a child is detained in a detention or shelter facility, the parents or guardian shall be informed by the person in charge of the facility that the parent's or guardian's child has the right to a prompt hearing in court to determine whether the child is to be further detained or released.

(b) When a minor is detained in a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in court to determine whether the minor is to be further detained or released.

(c) Detention hearings shall be held by the judge or by a commissioner.

(d) The court may, at any time, order the release of the minor, whether a detention hearing is held or not.

(e) If a child is released, and the child remains in the facility, because the parents, guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be responsible for the cost of care as provided in Subsections ~~[(2)(a), (b), and (e)]~~ (2)(b), (c), and (d).

(4) (a) A minor may not be held in a detention facility longer than 48 hours before a detention hearing, excluding weekends and holidays, unless the court has entered an order for continued detention.

(b) A child may not be held in a shelter facility longer than 48 hours before a shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has been entered by the court after notice to all parties described in Section 78A-6-306.

(c) (i) A hearing for detention or shelter may not be waived.

(ii) Detention staff shall provide the court with all information received from the ~~[person]~~ individual who brought the minor to the detention facility.

(d) The judge or commissioner may only order a minor to be held in the facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:

(i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;

(ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and

(iii) the minor is eligible for detention under the division guidelines for detention admissions established by the Division of Juvenile Justice Services, under Section 62A-7-202 and under Section 78A-6-112.

(e) (i) After a detention hearing has been held, only the court may release a minor from detention. If a minor remains in a detention facility, periodic reviews shall be held ~~[pursuant to the Utah State Juvenile Court Rules of Practice and Procedure]~~ in accordance with the Utah Rules of Juvenile Procedure to ensure that continued detention is necessary.

(ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that notice of ~~[its]~~ the court's decision, including any disposition, order, or no contact orders, be provided to designated persons in the appropriate local law enforcement agency and the district superintendent or the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iii) Any employee of the local law enforcement agency, the school district, and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.

(5) A minor may not be held in a detention facility, following a dispositional order of the court for nonsecure substitute care as defined in Section 62A-4a-101, or for community-based placement under Section 62A-7-101.

(6) (a) Except as otherwise provided in this section, a minor may not be held in a detention facility following a disposition order of the court for longer than 72 hours, excluding weekends and holidays.

(b) The period of detention may be extended by the court for a cumulative total of seven calendar days if:

(i) the Division of Juvenile Justice Services or another agency responsible for placement files a written petition with the court requesting the extension and setting forth good cause; and

(ii) the court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.

(c) The court may extend the period of detention beyond the seven calendar days if the court finds by clear and convincing evidence that:

(i) the Division of Juvenile Justice Services or another agency responsible for placement does not have space for the minor; and

(ii) the safety of the minor and community requires an extension of the period of detention.

(d) The Division of Juvenile Justice Services shall report to the court every 48 hours, excluding

weekends and holidays, regarding ~~the status of~~ whether the Division of Juvenile Justice Services or another agency responsible for placement has space for the minor.

(7) The agency requesting an extension shall promptly notify the detention facility that a written petition has been filed.

(8) The court shall promptly notify the detention facility regarding ~~its~~ the court's initial disposition and any ruling on a petition for an extension, whether granted or denied.

(9) (a) A child under 16 years of age may not be held in a jail, lockup, or other place for adult detention except as provided by Section 62A-7-201 or unless certified as an adult pursuant to Section 78A-6-703. Section 62A-7-201 regarding confinement facilities applies to this Subsection (9).

(b) A child 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the detention facility for children may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including a jail or other place of confinement for adults. However, a secure facility is not an appropriate place of confinement for detention purposes under this section.

(10) A sheriff, warden, or other official in charge of a jail or other facility for the detention of adult offenders or ~~persons~~ individuals charged with ~~crime~~ an offense shall immediately notify the juvenile court when ~~a person~~ an individual who is or appears to be under 18 years ~~of age~~ old is received at the facility and shall make arrangements for the transfer of the ~~person~~ individual to a detention facility, unless otherwise ordered by the juvenile court.

(11) This section does not apply to a minor who is brought to the adult facility under charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal proceedings in the district court under Section 78A-6-702 or 78A-6-703.

(12) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or 78A-6-703 may be detained in a jail or other place of detention used for adults charged with crime.

(13) Provisions of law regarding bail are not applicable to minors detained or taken into custody under this chapter, except that bail may be allowed:

(a) if a minor who need not be detained lives outside this state; or

(b) when a minor who need not be detained comes within one of the classes in ~~Subsection 78A-6-603(11)~~ Section 78A-6-1101.

(14) Section 76-8-418 is applicable to a child who willfully and intentionally commits an act against a jail or other place of confinement, including a Division of Juvenile Justice Services detention, shelter, or secure confinement facility ~~which~~ that

would be a third degree felony if committed by an adult.

**Section 6. Section 78A-6-116 is amended to read:**

**78A-6-116. Minor's cases considered civil proceedings -- Adjudication of jurisdiction by juvenile court not conviction of crime -- Exceptions -- Minor not to be charged with crime -- Exception -- Traffic violation cases -- Abstracts to Department of Public Safety.**

(1) Except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703, ~~proceedings~~ a proceeding in a minor's case ~~shall be regarded as civil proceedings~~ is a civil proceeding with the court exercising equitable powers.

(2) (a) An adjudication by a juvenile court that a minor is within ~~its~~ the court's jurisdiction under Section 78A-6-103 is ~~not~~ considered a conviction of a crime, except in cases involving traffic violations.

(b) An adjudication may not:

(i) operate to impose any civil disabilities upon the minor ~~nor to~~; or

(ii) disqualify the minor for any civil service or military service or appointment.

(3) ~~[A]~~ (a) Except for cases involving traffic violations, and as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703, a minor may not be charged with a crime or convicted in any court ~~except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703, and in cases involving traffic violations. When~~.

(b) Except as provided in Sections 78A-6-702 and 78A-6-703, if a petition ~~has been~~ is filed in the juvenile court, ~~the~~ a minor may not later be ~~subjected~~ subject to criminal prosecution based on the same facts ~~except as provided in Section 78A-6-702 or 78A-6-703~~.

(c) Except as provided in Section 78A-6-602, an individual may not be subject to a delinquency proceeding for an offense that the individual is alleged to have committed before the individual was 12 years old.

(4) (a) An adjudication by a juvenile court that a minor is within ~~its~~ the court's jurisdiction under Section 78A-6-103 is considered a conviction for the purposes of determining the level of offense for which a minor may be charged and enhancing the level of an offense in the juvenile court.

(b) A prior adjudication may be used to enhance the level or degree of an offense committed by an adult only as otherwise specifically provided.

(5) Abstracts of court records for all adjudications of traffic violations shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

(6) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution may be forwarded to employers, financial institutions, law

enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing the order as provided in Section 78A-6-117.

**Section 7. Section 78A-6-210 is amended to read:**

**78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.**

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

(2) (a) The account shall be funded from the financial penalty established under Subsection 78A-6-602(2)(e)(i)(8)(a).

(b) The court shall deposit all money collected as a result of penalties assessed as part of the nonjudicial adjustment of a case in the account.

(c) The account shall be used to pay the expenses of juvenile compensatory service, victim restitution, and diversion programs.

(3) (a) Except under [Subsections] Subsection (3)(b)[,] or (4)[,] and as otherwise provided by law, all fines, fees, penalties, and forfeitures imposed and collected by the juvenile court shall be paid to the state treasurer for deposit [in] into the General Fund.

(b) Not more than 50% of any fine or forfeiture collected may be paid to a state rehabilitative employment program for delinquent minors that provides for employment of the minor in the county of the minor's residence if:

(i) reimbursement for the minor's labor is paid to the victim of the minor's delinquent behavior;

(ii) the amount earned and paid is set by court order;

(iii) the minor is not paid more than the hourly minimum wage; and

(iv) no payments to victims are made without the minor's involvement in a rehabilitative work program.

(c) Fines withheld under Subsection (3)(b) and any private contributions to the rehabilitative employment program are accounted for separately and are subject to audit at any time by the state auditor.

(d) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing. The Board of Juvenile Court Judges shall establish policies for the use of the funds described in this subsection.

(4) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.

(5) No fee may be charged by any state or local public officer for the service of process in any proceedings initiated by a public agency.

**Section 8. Section 78A-6-601 is amended to read:**

**78A-6-601. Criminal proceedings involving minors -- Transfer to juvenile court -- Exceptions.**

(1) [If, during the pendency of a criminal or quasi-criminal proceeding in another court, including a preliminary hearing, it is determined that the person charged] Except as provided in Subsection (3) and Sections 78A-6-701, 78A-6-702, and 78A-6-703, if while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years [of age] old and was [less] younger than 18 years [of age] old at the time of committing the alleged offense, [that] the district court or justice court shall transfer the case to the juvenile court[, together] with all the papers, documents, and transcripts of any testimony [except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703].

(2) (a) [The] Except as provided in Subsection (2)(b), the district or justice court making the transfer shall:

(i) order the [person] individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court~~[, or shall];~~ or

(ii) release [him] the individual to the custody of [his] the individual's parent or guardian, or other person legally responsible for [him] the individual, to be brought before the juvenile court at a time designated by [it] the juvenile court.

(b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:

(i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;

(ii) the juvenile court shall treat the transfer as a referral under Subsection 78A-6-602(3); and

(iii) the juvenile court's probation department shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section 78A-6-602.

[The] (c) If a case is transferred to the juvenile court under this section, the juvenile court shall [then proceed as provided in] proceed in accordance with this chapter.

(3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with Subsections 78A-5-102(9) and 78A-7-106(2).

**Section 9. Section 78A-6-602 is amended to read:**

**78A-6-602. Referrals -- Nonjudicial adjustments.**

~~[(1) A proceeding in a minor's case is commenced by petition, except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.]~~

~~(1) As used in this section, "referral" means a formal referral, a referral to the court under Section 53G-8-211 or Subsection 78A-6-601(2)(b), or a citation issued to a minor for which the court receives notice under Section 78A-6-603.~~

~~(2) (a) A peace officer, or a public official of the state, a county, city, or town charged with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral with the [juvenile] court within 10 days of a minor's arrest.~~

~~(b) If the arrested minor is taken to a detention facility, [the formal referral shall be filed] the peace officer, or public official, shall file the formal referral with the [juvenile] court within 72 hours, excluding weekends and holidays. [A formal referral under Section 53G-8-211 may not be filed with the juvenile court on an offense unless the offense is subject to referral under Section 53G-8-211.]~~

~~[(b) (i) When the court is informed by a peace officer or other person that a minor is or appears to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to determine whether the minor is eligible to enter into a written consent agreement with the probation department and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2).]~~

~~(c) A peace officer, public official, school district, or school may only make a referral to the court under Section 53G-8-211 for an offense that is subject to referral under Section 53G-8-211.~~

~~(3) If the court receives a referral for a minor who is, or appears to be, within the court's jurisdiction, the court's probation department shall make a preliminary inquiry in accordance with Subsections (5), (6), and (7) to determine whether the minor is eligible to enter into a nonjudicial adjustment.~~

~~(4) If a minor is referred to the court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the court's probation department shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.~~

~~(5) (a) The court's probation department may:~~

~~(i) conduct a validated risk and needs assessment; and~~

~~(ii) request that a prosecuting attorney review a referral in accordance with Subsection (11) if:~~

~~(A) the results of the validated risk and needs assessment indicate the minor is high risk; or~~

~~(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.~~

~~(b) If a minor violates Section 41-6a-502, the minor shall:~~

~~(i) undergo a drug and alcohol screening;~~

~~(ii) if found appropriate by the screening, participate in an assessment; and~~

~~(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.~~

~~(6) Except as provided in Subsection (7)(b), the probation department shall request that a prosecuting attorney review a referral in accordance with Subsection (11) if:~~

~~(a) the referral involves:~~

~~(i) a felony offense; or~~

~~(ii) a violation of:~~

~~(A) Section 41-6a-502, driving under the influence;~~

~~(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;~~

~~(C) Section 76-5-206, negligent homicide;~~

~~(D) Section 76-9-702.1, sexual battery;~~

~~(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or~~

~~(F) Section 76-10-509, possession of dangerous weapon by minor, but only if the dangerous weapon is a firearm;~~

~~(b) the minor has a current suspended order for custody under Subsection 78A-6-117(5)(a); or~~

~~(c) the referral involves an offense alleged to have occurred before an individual was 12 years old and the offense is a felony violation of:~~

~~(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;~~

~~(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;~~

~~(iii) Section 76-5-203, murder or attempted murder;~~

~~(iv) Section 76-5-302, aggravated kidnapping;~~

~~(v) Section 76-5-405, aggravated sexual assault;~~

~~(vi) Section 76-6-103, aggravated arson;~~

~~(vii) Section 76-6-203, aggravated burglary;~~

~~(viii) Section 76-6-302, aggravated robbery; or~~

~~(ix) Section 76-10-508.1, felony discharge of a firearm.~~

~~[(4)] (7) (a) Except as provided in [Subsection (2)] Subsections (5) and (6), the court's probation~~

department shall offer a nonjudicial adjustment to a minor if the minor:

~~[(A)] (i) is referred [with a] for an offense that is a misdemeanor, infraction, or status offense;~~

~~[(B)] (ii) has no more than two prior adjudications; and~~

~~[(C)] (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.~~

(b) If the court receives a referral for an offense that is alleged to have occurred before an individual was 12 years old, the court's probation department shall offer a nonjudicial adjustment to the individual, unless the referral includes an offense described in Subsection (6)(c).

(c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (7), the court's probation department shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (7), the court's probation department shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

~~[(iii)] For purposes of this Subsection (2)(b), an adjudication or nonjudicial adjustment means an action based on a single episode of conduct that is closely related in time and is incident to an attempt or an accomplishment of a single objective.]~~

~~[(e) (i) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment pursuant to Subsection (2)(b), the probation department shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.]~~

~~[(ii)] The victim shall be responsible to provide to the division upon request:]~~

~~[(A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and out-of-pocket loss;]~~

~~[(B) documentation and evidence of compensation or reimbursement from insurance companies or agencies of Utah, any other state, or federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and]~~

~~[(C) proof of identification, including home and work address and telephone numbers.]~~

~~[(iii)] The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available.]~~

~~[(d) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a validated risk and needs assessment and may request that the prosecutor review the referral pursuant to Subsection (2)(h) to determine whether to dismiss~~

~~the referral or file a petition instead of offering a nonjudicial adjustment if:]~~

~~[(A) the results of the assessment indicate the youth is high risk; or]~~

~~[(B) the results of the assessment indicate the youth is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.]~~

~~[(ii)] (d) Except as provided in Subsection [(2)(k)] (6), the court's probation department may offer a nonjudicial adjustment to [any other] a minor who does not meet the criteria provided in Subsection [(2)(b)] (7)(a).~~

~~[(iii)] Acceptance of an offer of nonjudicial adjustment may not be predicated on an admission of guilt.]~~

(8) For a nonjudicial adjustment, the court's probation department may require a minor to:

(a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the terms established under Subsection (10)(c);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substantive abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

(9) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Subsection (7), the court's probation department shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the probation department upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department



determining restitution based on the best information available.

(10) (a) The court's probation department may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

~~[(iv)]~~ (b) ~~[A minor may not be denied]~~ The court's probation department may not deny a minor an offer of nonjudicial adjustment due to ~~[an]~~ a minor's inability to pay a financial penalty under Subsection ~~[(2)(e)]~~ (8).

(c) The court's probation department shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (8) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208 on or after July 1, 2018.

~~[(v) Efforts to effect a]~~ (d) A nonjudicial adjustment may not extend for ~~[a period of]~~ more than 90 days ~~[without leave of a judge of the court, who may extend the period]~~, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

(e) (i) Notwithstanding Subsection (10)(d), a juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (10)(d) for a minor who is offered a nonjudicial adjustment under Subsection (7)(b) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection (11)(b)(ii) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, if the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

(ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (10)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the treatment under this Subsection (10)(e), but the judge may only grant each extension for 90 days at a time.

(f) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

~~[(vi) A prosecutor may not file a petition against a minor unless:]~~

~~[(A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or (d)(ii);]~~

~~[(B) the minor declines nonjudicial adjustment;]~~

~~[(C) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;]~~

~~[(D) the minor fails to respond to the probation department's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or]~~

~~[(E) the prosecutor is acting under Subsection (2)(k).]~~

~~[(e) The nonjudicial adjustment of a case may include the following conditions agreed upon as part of the nonjudicial closure:]~~

~~[(i) payment of a financial penalty of not more than \$250 to the juvenile court subject to the terms established under Subsection (2)(f);]~~

~~[(ii) payment of victim restitution;]~~

~~[(iii) satisfactory completion of community or compensatory service;]~~

~~[(iv) referral to an appropriate provider for counseling or treatment;]~~

~~[(v) attendance at substance use disorder programs or counseling programs;]~~

~~[(vi) compliance with specified restrictions on activities and associations;]~~

~~[(vii) victim-offender mediation, if requested by the victim; and]~~

~~[(viii) other reasonable actions that are in the interest of the child or minor, the community, and the victim.]~~

~~[(f) A fee, fine, or restitution included in a nonjudicial closure in accordance with Subsection (2)(e) shall be based upon the ability of the minor's family to pay as determined by a statewide sliding scale developed as provided in Section 63M-7-208 on and after July 1, 2018.]~~

~~[(g)] (11) If a [prosecutor learns of a referral involving an offense identified in Subsection (2)(k), if] prosecuting attorney is requested to review a referral in accordance with Subsection (5) or (6), a minor fails to substantially comply with ~~[the conditions]~~ a condition agreed upon as part of the nonjudicial ~~[closure]~~ adjustment, or ~~[if]~~ a minor is not offered or declines a nonjudicial adjustment ~~[pursuant to Subsection (2)(b), (2)(d)(ii), or (2)(d)(vi), the prosecutor shall review the case and take one of the following actions:]~~ in accordance with Subsection (7), the prosecuting attorney shall:~~

~~(a) review the case; and~~

~~(b) (i) dismiss the case;~~

~~(ii) refer the case back to the probation department for a new attempt at nonjudicial adjustment; or~~

~~(iii) [subject to Subsection (2)(i)] except as provided in Subsections (12)(b), (13), and 78A-6-602.5(2), file a petition with the court.~~

~~[(h) Notwithstanding Subsection (2)(g), a petition may only be filed]~~

~~(12) (a) A prosecuting attorney may file a petition only upon reasonable belief that:~~

~~(i) the charges are supported by probable cause;~~

(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice.

~~[(4)] (b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (2)(g)(iii) (11)(b)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection [(2)(e) or those] (8) or conditions imposed through any other court diversion program.~~

~~[(j) Notwithstanding Subsection (2)(i), a violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile court may include a fine or penalty and participation in a court-approved tobacco education program, which may include a participation fee.]~~

~~[(k) Notwithstanding the other provisions of this section, the probation department shall request that a prosecutor review a referral in accordance with Subsection (2)(g) if:]~~

~~[(i) the referral involves a violation of:]~~

~~[(A) Section 41-6a-502, driving under the influence;]~~

~~[(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;]~~

~~[(C) Section 76-5-206, negligent homicide;]~~

~~[(D) Section 76-9-702.1, sexual battery;]~~

~~[(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or]~~

~~[(F) Section 76-10-509, possession of dangerous weapon by minor, but only if the dangerous weapon is a firearm; or]~~

~~[(ii) the minor has a current suspended order for custody under Subsection 78A-6-117(5)(a).]~~

(13) A prosecuting attorney may not file a petition against a minor unless:

(a) the prosecuting attorney has statutory authority to file the petition under Section 78A-6-602.5; and

(b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (7);

(ii) the minor declines nonjudicial adjustment;

(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;

(iv) the minor fails to respond to the probation department's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or

(v) the prosecuting attorney is acting under Subsection (11).

~~[(4)] (14) If the [prosecutor] prosecuting attorney files a petition in court or a proceeding is commenced against a minor under Section 78A-6-603, the court may refer the case to the probation department for another offer of nonjudicial adjustment.~~

~~[(m) If a minor violates Section 41-6a-502, regardless of whether a prosecutor reviews a referral under Subsection (2)(k)(i)(A), the minor shall be subject to a drug and alcohol screening and participate in an assessment, if found appropriate by the screening, and if warranted, follow the recommendations of the assessment.]~~

~~[(3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor 14 years of age or older, the county attorney, district attorney, or attorney general may commence an action by filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction and certify the minor to the district court.]~~

~~[(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C misdemeanors, other infractions or misdemeanors as designated by general order of the Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the juvenile court, a petition is not required and the issuance of a citation as provided in Section 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in accordance with Subsection (2)(b)(i) is required.]~~

~~[(b)](15) Any failure to comply with the time deadline on a formal referral may not be the basis of dismissing the formal referral.~~

**Section 10. Section 78A-6-602.5 is enacted to read:**

**78A-6-602.5. Petition for a delinquency proceeding -- Criminal information.**

(1) A prosecuting attorney shall file a petition to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

(a) Subsection (2);

(b) Subsection (3);

(c) Section 78A-6-603;

(d) Section 78A-6-701; and

(e) Section 78A-6-702.

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

(a) the individual is alleged to have committed a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

- (iv) Section 76-5-302, aggravated kidnapping;
- (v) Section 76-5-405, aggravated sexual assault;
- (vi) Section 76-6-103, aggravated arson;
- (vii) Section 76-6-203, aggravated burglary;
- (viii) Section 76-6-302, aggravated robbery; or
- (ix) Section 76-10-508.1, felony discharge of a firearm; or

(b) an offer for a nonjudicial adjustment is made under Section 78A-6-602 and the minor:

(i) declines to accept the offer for the nonjudicial adjustment; or

(ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.

(3) Except as provided in Sections 78A-6-701 and 78A-6-702, if a minor was 14 years old or older at the time the offense was alleged to have occurred, the prosecuting attorney may commence an action by filing:

(a) a criminal information in the juvenile court; and

(b) a motion requesting the juvenile court waive the court's jurisdiction and certify the minor to the district court under Section 78A-6-703.

**Section 11. Section 78A-6-603 is amended to read:**

**78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to appear.**

[1] As used in this section, "citation" means an abbreviated referral and is sufficient to invoke the jurisdiction of the court in lieu of a petition.]

(1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the court has jurisdiction over and the offense listed in the citation is for:

(a) a violation of a wildlife law;

(b) a violation of a boating law;

(c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:

(i) for a traffic violation; or

(ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;

(d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;

(e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or

(f) a violation of Subsection 76-10-105(2).

(2) [A citation] Except as provided in Subsection (6) and Section 53G-8-211, a citation for an offense listed in Subsection (1) shall be submitted to the court within five days of issuance to a minor.

(3) A copy of the citation shall contain:

(a) the name and address of the [juvenile] court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that the minor is alleged to have [been] violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested minor into custody as provided in Section 78A-6-112;

(i) [the date and time when the minor is to appear, or] a statement that the minor and parent or legal guardian are to appear when notified by the [juvenile] court; and

(j) the signature of the minor and the parent or legal guardian, if present, agreeing to appear at the [juvenile court as designated on the citation] court when notified by the court.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or legal guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

(5) A citation received by the court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

[6] In accordance with Section 53G-8-211, the following offenses may be sent to the juvenile court as a citation:]

[a] violations of wildlife laws;]

[b] violations of boating laws;]

[c] violations of curfew laws;]

[d] any class B misdemeanor or less traffic violations where the person is under the age of 16;]

[e] any class B or class C misdemeanor or infraction;]

~~[(4) any other infraction or misdemeanor as designated by general order of the Board of Juvenile Court Judges; and]~~

~~[(g) violations of Section 76-10-105 subject to the jurisdiction of the juvenile court.]~~

~~[(7)] (6) A minor offense, as defined [under] in Section 78A-6-1202, alleged to have been committed by an enrolled child on school property or related to school attendance, may only be [sent] referred to the [prosecutor] prosecuting attorney or the [juvenile] court in accordance with Section 53G-8-211.~~

~~(7) If a court receives a citation described in Subsection (1), the court's probation department shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection 78A-6-602(7).~~

~~(8) (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:~~

~~(i) the minor is not eligible for, or does not complete, a nonjudicial adjustment in accordance with Section 78A-6-602; and~~

~~(ii) the prosecuting attorney conducts an inquiry under Subsection (9).~~

~~(b) Except as provided in Subsection 78A-6-602.5(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.~~

~~[(8) An inquiry shall be conducted:]~~

~~[(a) by the prosecutor to determine upon reasonable belief that:]~~

~~(9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:~~

~~[(i) the charges are] (a) the charge listed in the citation is supported by probable cause;~~

~~[(ii)] (b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and~~

~~[(iii)] (c) the decision to charge is in the interests of justice; and].~~

~~[(b) if appropriate, by the court under Section 78A-6-117.]~~

~~[(9) Subsection (5) may not apply to a runaway child.]~~

~~[(10) (a) A minor receiving a citation described in this section shall appear at the juvenile court designated in the citation on the time and date specified in the citation or when notified by the juvenile court.]~~

~~[(b) A citation may not require a minor to appear sooner than five days following its issuance.]~~

~~(10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at~~

~~the court at a date and time established by the court.~~

~~(11) [A] If a minor [who receives a citation and] willfully fails to appear before the [juvenile court pursuant to a citation may be found] court for a proceeding under Subsection (8)(a), the court may:~~

~~(a) find the minor in contempt of court[. The court may]; and~~

~~(b) proceed against the minor as provided in Section 78A-6-1101.~~

~~(12) When a [citation is issued] proceeding is commenced under this section, bail may be posted and forfeited under Section 78A-6-113 with the consent of:~~

~~(a) the court; and~~

~~(b) if the minor is a child, the parent or legal guardian of the child cited.~~

**Section 12. Section 78A-6-703 is amended to read:**

**78A-6-703. Certification hearings -- Juvenile court to hold preliminary hearing -- Factors considered by juvenile court for waiver of jurisdiction to district court.**

~~(1) If a criminal information filed in accordance with Subsection [78A-6-602(3)] 78A-6-602.5(3) alleges the commission of an act [which] that would constitute a felony if committed by an adult, the juvenile court shall conduct a preliminary hearing.~~

~~(2) At the preliminary hearing the state shall have the burden of going forward with [its] the state's case and the burden of establishing:~~

~~(a) probable cause to believe that a crime was committed and that the [defendant] minor committed it; and~~

~~(b) by a preponderance of the evidence, that it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction.~~

~~(3) In considering whether or not it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider, and may base its decision on, the finding of one or more of the following factors:~~

~~(a) the seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by juvenile facilities;~~

~~(b) whether the alleged offense was committed by the minor under circumstances [which] that would subject the minor to enhanced penalties under Section 76-3-203.1 if the minor were adult and the offense was committed:~~

~~(i) in concert with two or more persons;~~

~~(ii) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or~~

~~(iii) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;~~

(c) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(d) whether the alleged offense was against persons or property, greater weight being given to offenses against persons, except as provided in Section 76-8-418;

(e) the maturity of the minor as determined by considerations of the minor's home, environment, emotional attitude, and pattern of living;

(f) the record and previous history of the minor;

(g) the likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;

(h) the desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;

(i) whether the minor used a firearm in the commission of an offense; and

(j) whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5.

(4) The amount of weight to be given to each of the factors listed in Subsection (3) is discretionary with the court.

(5) (a) ~~Written~~ The court may consider written reports and other materials relating to the minor's mental, physical, educational, and social history ~~[may be considered by the court]~~.

(b) If requested by the minor, the minor's parent, guardian, or other interested party, the court shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(6) At the conclusion of the state's case, the minor may testify under oath, call witnesses, cross-examine adverse witnesses, and present evidence on the factors required by Subsection (3).

(7) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.

(8) The juvenile court shall consider the following when determining where the minor will be held until the time of trial:

(a) the age of the minor;

(b) the nature, seriousness, and circumstances of the alleged offense;

(c) the minor's history of prior criminal acts;

(d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and

secure environment for all minors within the facility;

(f) the relative ability of the facility to meet the needs of the minor and protect the public;

(g) whether the minor presents an imminent risk of harm to the minor or others within the facility;

(h) the physical maturity of the minor;

(i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(j) any other factors the court considers relevant.

(9) If a minor is ordered to a juvenile detention facility under Subsection (8), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(10) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(11) If the minor ordered to a juvenile detention facility under Subsection (8) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(12) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of confinement for adults.

(13) The district court may reconsider the decision on where the minor shall be held pursuant to Subsection (7).

(14) If the court finds the state has met its burden under Subsection (2), the court may enter an order:

(a) certifying that finding; and

(b) directing that the minor be held for criminal proceedings in the district court.

(15) If an indictment is returned by a grand jury, the preliminary examination held by the juvenile court need not include a finding of probable cause, but the juvenile court shall proceed in accordance with this section regarding the additional consideration referred to in Subsection (2)(b).

(16) Title 78B, Chapter 22, Indigent Defense Act, Section 78A-6-115, and other provisions relating to proceedings in juvenile cases are applicable to the hearing held under this section to the extent they are pertinent.

(17) A minor who has been directed to be held for criminal proceedings in the district court is not entitled to a preliminary examination in the district court.

(18) A minor who has been certified for trial in the district court shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The

juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.

(19) When a minor has been certified to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the jurisdiction of the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection (21) or Section 78A-6-705.

(20) If a minor enters a plea to, or is found guilty of any of the charges filed or on any other offense arising out of the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.

(21) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

**Section 13. Section 78A-7-106 is amended to read:**

**78A-7-106. Jurisdiction.**

(1) ~~[Justice courts have]~~ A justice court has jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within ~~[their]~~ the court's territorial jurisdiction by ~~[a person]~~ an individual who is 18 years ~~[of age]~~ old or older.

(2) Except those offenses over which the juvenile court has exclusive jurisdiction, ~~[justice courts have]~~ a justice court has jurisdiction over the following offenses committed within ~~[their]~~ the court's territorial jurisdiction by ~~[a person]~~ an individual who is 16 or 17 years ~~[of age]~~ old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23, Wildlife Resources Code of Utah;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-Highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) As used in this section, "the court's jurisdiction" means the territorial jurisdiction of a justice court.

(4) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either ~~[a person]~~ an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(d) ~~[a person]~~ an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(e) ~~[a person]~~ an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another ~~[person]~~ individual in the planning or commission of an offense within the court's jurisdiction;

(f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(ii) (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and

(B) as used in Subsection(4)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;

(iii) ~~[a person]~~ an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(iv) the offense is committed on or near the boundary of the court's jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

(5) A justice court judge may transfer a criminal matter in which the defendant is a child to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the minor would be served by the continuing jurisdiction of the juvenile court~~[, subject to Section 78A-6-602].~~

(6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

**Section 14. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

(2) The actions affecting Section 76-10-105 (Effective 07/01/20) take effect on July 1, 2020.

**CHAPTER 313****H. B. 273**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**PROPERTY RIGHTS  
 OMBUDSMAN AMENDMENTS**

Chief Sponsor: Val L. Peterson  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill modifies the Property Rights Ombudsman Act.

**Highlighted Provisions:**

This bill:

- ▶ provides that in a court action involving a dispute related to land use, the substantially prevailing party may recover a penalty if:
  - the substantially prevailing party is the land use applicant or a government entity;
  - the court resolves the dispute consistent with an advisory opinion issued on the same facts and circumstances; and
  - the opposing party knowingly and intentionally violated the law; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

13-43-206, as last amended by Laws of Utah 2019, Chapter 112

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

**Section 1. Section 13-43-206 is amended to read:**

**13-43-206. Advisory opinion -- Process.**

(1) A request for an advisory opinion under Section 13-43-205 shall be:

- (a) filed with the Office of the Property Rights Ombudsman; and
- (b) accompanied by a filing fee of \$150.

(2) The Office of the Property Rights Ombudsman may establish policies providing for partial fee waivers for a person who is financially unable to pay the entire fee.

(3) A person requesting an advisory opinion need not exhaust administrative remedies, including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an advisory opinion.

(4) The Office of the Property Rights Ombudsman shall:

- (a) deliver notice of the request to opposing parties indicated in the request;

(b) inquire of all parties if there are other necessary parties to the dispute; and

(c) deliver notice to all necessary parties.

(5) If a governmental entity is an opposing party, the Office of the Property Rights Ombudsman shall deliver the request in the manner provided for in Section 63G-7-401.

(6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the parties can agree to a neutral third party to issue an advisory opinion.

(b) If no agreement can be reached within four business days after notice is delivered pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall appoint a neutral third party to issue an advisory opinion.

(7) All parties that are the subject of the request for advisory opinion shall:

(a) share equally in the cost of the advisory opinion; and

(b) provide financial assurance for payment that the neutral third party requires.

(8) The neutral third party shall comply with the provisions of Section 78B-11-109, and shall promptly:

(a) seek a response from all necessary parties to the issues raised in the request for advisory opinion;

(b) investigate and consider all responses; and

(c) issue a written advisory opinion within 15 business days after the appointment of the neutral third party under Subsection (6)(b), unless:

(i) the parties agree to extend the deadline; or

(ii) the neutral third party determines that the matter is complex and requires additional time to render an opinion, which may not exceed 30 calendar days.

(9) An advisory opinion shall include a statement of the facts and law supporting the opinion's conclusions.

(10) (a) Copies of any advisory opinion issued by the Office of the Property Rights Ombudsman shall be delivered as soon as practicable to all necessary parties.

(b) A copy of the advisory opinion shall be delivered to the government entity in the manner provided for in Section 63G-7-401.

(11) An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to, nor admissible as evidence in, a dispute involving land use law except as provided in Subsection (12).

(12) ~~[(a)]~~ Subject to Subsection ~~[(12)(d)]~~ (14), if a dispute involving land use law results in the issuance of an advisory opinion described in this section, if the same issue that is the subject of the advisory opinion is subsequently litigated on the same facts and circumstances at issue in the



advisory opinion, and if the relevant issue is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect:

(a) reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution[-]; and

(b) subject to Subsection (13), if the court finds that the opposing party knowingly and intentionally violated the law governing that cause of action, a civil penalty of \$250 per day:

(i) beginning on the later of:

(A) 30 days after the day on which the advisory opinion was delivered; or

(B) the day on which the action was filed; and

(ii) ending the day on which the court enters a final judgment.

(13) (a) Subsection (12) does not apply unless the resolution described in Subsection (12) is final.

(b) A court may not impose a civil penalty under Subsection (12)(b) against or in favor of a party other than the land use applicant or a government entity.

~~[(b)]~~ (14) In addition to any amounts awarded under Subsection (12)~~[(a)]~~, if the dispute described in Subsection (12)~~[(a)]~~ in whole or in part concerns an impact fee, and if the result of the litigation requires that the political subdivision or private entity refund the impact fee in accordance with Section 11-36a-603, the political subdivision or private entity shall refund the impact fee in an amount that is based on the difference between the impact fee paid and what the impact fee should have been if the political subdivision or private entity had correctly calculated the impact fee.

~~[(e)]~~ (15) Nothing in this ~~[Subsection (12)]~~ section is intended to create any new cause of action under land use law.

~~[(d) Subsection (12)(a) does not apply unless the resolution described in Subsection (12)(a) is final.]~~

~~[(13)]~~ (16) Unless filed by the local government, a request for an advisory opinion under Section 13-43-205 does not stay the progress of a land use application, the effect of a land use decision, or the condemning entity's occupancy of a property.

**CHAPTER 314****H. B. 274**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**DELEGATION OF HEALTH CARE SERVICES AMENDMENTS**

Chief Sponsor: Raymond P. Ward  
 Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill addresses delegation of the performance of health care services.

**Highlighted Provisions:**

This bill:

- ▶ defines terms and modifies definitions;
- ▶ requires the Division of Occupational and Professional Licensing, in consultation with the Department of Health, to identify by administrative rule health care services that a health care provider is not required to delegate before an unlicensed individual may perform the services;
- ▶ subject to certain requirements, allows an individual's caregiver to delegate the performance of routine nursing care for the individual to an unlicensed individual; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-31b-102, as last amended by Laws of Utah 2019, Chapter 233

**ENACTS:**

58-1-307.1, Utah Code Annotated 1953  
 58-31b-308.1, Utah Code Annotated 1953

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

**Section 1. Section 58-1-307.1 is enacted to read:****58-1-307.1. Delegation of health care services -- Division duties.**

The division, in consultation with the Department of Health, shall identify by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a list of health care services that an unlicensed individual may perform without delegation by a health care provider, as defined in Section 78B-3-403, regardless of the setting or licensing of the facility in which the health care services are performed.

**Section 2. Section 58-31b-102 is amended to read:****58-31b-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute be unprofessional or unlawful conduct in accordance with a fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Applicant" means a person an individual who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) "Approved education program" means a nursing education program that is accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(4) "Board" means the Board of Nursing created in Section 58-31b-201.

(5) "Consultation and referral plan" means a written plan jointly developed by an advanced practice registered nurse and, except as provided in Subsection 58-31b-803(4), a consulting physician that permits the advanced practice registered nurse to prescribe Schedule II controlled substances in consultation with the consulting physician.

(6) "Consulting physician" means a physician and surgeon or osteopathic physician and surgeon licensed in accordance with this title who has agreed to consult with an advanced practice registered nurse with a controlled substance license, a DEA registration number, and who will be prescribing Schedule II controlled substances.

(7) "Diagnosis" means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

(8) "Examinee" means a person an individual who applies to take or does take any examination required under this chapter for licensure.

(9) "Licensee" means a person an individual who is licensed or certified under this chapter.

(10) "Long-term care facility" means any of the following facilities licensed by the Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act:

- (a) a nursing care facility;
- (b) a small health care facility;
- (c) an intermediate care facility for people with an intellectual disability;
- (d) an assisted living facility Type I or II; or
- (e) a designated swing bed unit in a general hospital.

(11) "Medication aide certified" means a certified nurse aide who:

(a) has a minimum of 2,000 hours experience working as a certified nurse aide;

(b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and

(c) is certified by the division as a medication aide certified.

(12) "Pain clinic" means the same as that term is defined in Section 58-1-102.

(13) (a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by [administrative] rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

(i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and

(ii) is in a regulated long-term care facility.

(b) "Practice as a medication aide certified":

(i) includes:

(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health by [administrative] rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(14) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. ~~[Advanced practice registered nursing]~~ "Practice of advanced practice registered nursing" includes:

(a) maintenance and promotion of health and prevention of disease;

(b) diagnosis, treatment, correction, consultation, and referral for common health problems;

(c) prescription or administration of prescription drugs or devices including:

(i) local anesthesia;

(ii) Schedule III-V controlled substances; and

(iii) Subject to Section 58-31b-803, Schedule II controlled substances; or

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and

(C) selecting, ordering, or administering appropriate medications;

(ii) anesthesia induction, maintenance, and emergence, including:

(A) selecting and initiating the planned anesthetic technique;

(B) selecting and administering anesthetics and adjunct drugs and fluids; and

(C) administering general, regional, and local anesthesia;

(iii) postanesthesia follow-up care, including:

(A) evaluating the patient's response to anesthesia and implementing corrective actions; and

(B) selecting, ordering, or administering the medications and studies listed in Subsection (14)(d); and

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

(C) the establishment of peripheral, central, and arterial invasive lines; and

(v) for purposes of Subsection (14)(d), "upon the request of a licensed health care professional":

(A) means a health care professional practicing within the scope of the health care professional's license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified

registered nurse anesthetist to enter into a consultation and referral plan or obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

(15) “Practice of nursing” means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment~~[-The practice of nursing]~~, and requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences~~[-and]~~. “Practice of nursing” includes:

- (a) initiating and maintaining comfort measures;
- (b) promoting and supporting human functions and responses;
- (c) establishing an environment conducive to well-being;
- (d) providing health counseling and teaching;
- (e) collaborating with health care professionals on aspects of the health care regimen;
- (f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;~~[-and]~~
- (g) delegating ~~[nurse interventions]~~ nursing tasks that may be performed by others ~~[and are not in conflict with this chapter]~~, including an unlicensed assistive personnel; and
- (h) supervising an individual to whom a task is delegated under Subsection (15)(g) as the individual performs the task.

(16) “Practice of practical nursing” means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as provided in this Subsection (16) by ~~[a person]~~ an individual licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

- (a) contributing to the assessment of the health status of individuals and groups;
- (b) participating in the development and modification of the strategy of care;
- (c) implementing appropriate aspects of the strategy of care;
- (d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and
- (e) participating in the evaluation of responses to interventions.

(17) “Practice of registered nursing” means performing acts of nursing as provided in this Subsection (17) by ~~[a person]~~ an individual licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered nursing acts include:

- (a) assessing the health status of individuals and groups;
- (b) identifying health care needs;
- (c) establishing goals to meet identified health care needs;
- (d) planning a strategy of care;
- (e) prescribing nursing interventions to implement the strategy of care;
- (f) implementing the strategy of care;
- (g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;
- (h) evaluating responses to interventions;
- (i) teaching the theory and practice of nursing; and
- (j) managing and supervising the practice of nursing.

(18) “Routine medications”:

- (a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and
- (b) is limited to medications that are administered by the following routes:
  - (i) oral;
  - (ii) sublingual;
  - (iii) buccal;
  - (iv) eye;
  - (v) ear;
  - (vi) nasal;
  - (vii) rectal;
  - (viii) vaginal;
  - (ix) skin ointments, topical including patches and transdermal;
  - (x) premeasured medication delivered by aerosol/nebulizer; and
  - (xi) medications delivered by metered hand-held inhalers.

(19) “Unlawful conduct” means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

(20) “Unlicensed assistive personnel” means any unlicensed ~~[person]~~ individual, regardless of title, ~~[to whom tasks are]~~ who is delegated a task by a licensed nurse as permitted by division rule made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and ~~in~~ ~~accordance with~~ the standards of the profession.

(21) “Unprofessional conduct” means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 3. Section 58-31b-308.1 is enacted to read:**

**58-31b-308.1. Delegation of nursing care by a responsible caregiver.**

(1) As used in this section:

(a) “Patient” means an individual who is receiving nursing care from a responsible caregiver.

(b) “Responsible caregiver” means a patient’s spouse, adult child, parent, foster parent, or legal guardian who is primarily responsible for providing nursing care to the patient.

(c) “Unlicensed direct care worker” means any unlicensed individual, regardless of title, who is 18 years of age or older and to whom a responsible caregiver delegates under this section.

(2) A responsible caregiver may delegate to an unlicensed direct care worker the performance of nursing care for a patient if:

(a) the nursing care is provided to the patient at the residence in which the patient and responsible caregiver regularly reside;

(b) the patient’s condition is stable;

(c) the responsible caregiver routinely provides the nursing care for the patient;

(d) the nursing care is considered routine care for the patient; and

(e) performance of the nursing care:

(i) poses little potential hazard for the patient; and

(ii) is generally expected to produce a predictable outcome for the patient.

(3) Before an unlicensed direct care worker may perform nursing care delegated under Subsection (2), the responsible caregiver shall train the unlicensed direct care worker to perform the nursing care and verify the unlicensed direct care worker is able to competently perform the nursing care for the patient after training is complete.

**CHAPTER 315****H. B. 280**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**TRANSIENT ROOM TAX PROVISIONS**

Chief Sponsor: Carl R. Albrecht  
 Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill amends provisions related to the transient room tax.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies expenditure requirements for certain counties that impose a transient room tax;
- ▶ requires a county that imposes a transient room tax to include certain expenditure information in the county's annual report;
- ▶ allows a county auditor to coordinate with the State Tax Commission in determining whether to require an audit of any person that is required to remit a transient room tax;
- ▶ removes certain time limitations applicable to a municipality's authority to impose a transient room tax; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the State Tax Commission -- Tax Administration -- as an ongoing appropriation:
  - from the General Fund Restricted - Sales and Use Tax Admin. Fees, \$264,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 17-31-2, as last amended by Laws of Utah 2019, Chapters 136 and 304  
 17-31-5.5, as last amended by Laws of Utah 2019, Chapter 304  
 59-12-118, as last amended by Laws of Utah 1994, Chapter 259  
 59-12-302, as last amended by Laws of Utah 2018, Chapters 258 and 312  
 59-12-353, as last amended by Laws of Utah 2015, Chapter 258

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

**Section 1. Section 17-31-2 is amended to read:**

**17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.**

(1) As used in this section:

(a) "Aircraft" means the same as that term is defined in Section 72-10-102.

(b) "Airport" means the same as that term is defined in Section 72-10-102.

(c) "Airport authority" means the same as that term is defined in Section 72-10-102.

(d) "Airport operator" means the same as that term is defined in Section 72-10-102.

(e) "Base year revenue" means the amount of revenue generated by a transient room tax and collected by a county for fiscal year 2018-19.

(f) "Base year promotion expenditure" means the amount of revenue generated by a transient room tax that a county spent for the purpose described in Subsection (2)(a) during fiscal year 2018-19.

(g) "Eligible town" means a town that:

(i) is located within a county that has a national park within or partially within the county's boundaries; and

(ii) imposes a resort communities tax authorized by Section 59-12-401.

(h) "Emergency medical services provider" means an eligible town, a local district, or a special service district.

(i) "Town" means a municipality that is classified as a town in accordance with Section 10-2-301.

(j) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by Section 59-12-301.

(2) ~~Any~~ Subject to the requirements of this section, a county legislative body may impose the transient room tax for the purposes of:

(a) establishing and promoting recreation, tourism, film production, and conventions;

(b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, and arenas; ~~and~~

(vi) related facilities;

(vii) if a national park is located within or partially within the county, the following on any route designated by the county legislative body:

(A) transit service, including shuttle service; and

(B) parking infrastructure; and

(viii) an airport, if:

(A) the county is a county of the fourth, fifth, or sixth class; and

(B) the county is the airport operator of the airport;

(c) acquiring land, leasing land, or making payments for construction or infrastructure

improvements required for or related to the purposes listed in Subsection (2)(b); ~~and]~~

(d) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for:

- (i) solid waste disposal operations;
- (ii) emergency medical services;
- (iii) search and rescue activities;
- (iv) law enforcement activities; and
- (v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105[-]; and

(e) making the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection (5).

(3) (a) The county legislative body of a county that imposes a transient room tax at a rate of 3% or less may expend the revenue generated as provided in Subsection (4), after making any reduction required by Subsection (6).

(b) The county legislative body of a county that imposes a transient room tax at a rate that exceeds 3% or increases the rate of transient room tax above 3% may expend:

(i) the revenue generated from the transient room tax at a rate of 3% as provided in Subsection (4), after making any reduction required by Subsection (6); and

(ii) the revenue generated from the portion of the rate that exceeds 3%:

(A) for any combination of the purposes described in Subsections (2) and (5); and

(B) regardless of the limitation on expenditures for the purposes described in Subsection (4).

(4) Subject to Subsection (6), a county may not expend more than 1/3 of the revenue generated by a rate of transient room tax that does not exceed 3%, for any combination of the ~~[following purposes:]~~ purposes described in Subsections (2)(b) through (2)(e).

~~[(a) (i) acquiring, leasing, constructing, furnishing, maintaining, or operating:]~~

~~[(A) convention meeting rooms;]~~

~~[(B) exhibit halls;]~~

~~[(C) visitor information centers;]~~

~~[(D) museums;]~~

~~[(E) sports and recreation facilities including practice fields, stadiums, and arenas; and]~~

~~[(F) related facilities; and]~~

~~[(ii) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes described in Subsection (4)(a)(i);]~~

~~[(b) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, to pay for:]~~

~~[(i) solid waste disposal operations;]~~

~~[(ii) emergency medical services;]~~

~~[(iii) search and rescue activities;]~~

~~[(iv) law enforcement activities; and]~~

~~[(v) road repair and upgrade of:]~~

~~[(A) class B roads, as defined in Section 72-3-103;]~~

~~[(B) class C roads, as defined in Section 72-3-104; or]~~

~~[(C) class D roads, as defined in Section 72-3-105; or]~~

~~[(e) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds authorized under Subsection (5).]~~

(5) (a) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in ~~[Subsection (4)(a) or (b)]~~ Subsections (2)(b) through (2)(d) that are permitted to be paid from bond proceeds.

(b) If a county legislative body does not need the revenue generated by the transient room tax for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection ~~[(4)(e)]~~ (2)(e), the county legislative body shall expend that revenue for the purposes described in Subsection (2), subject to the limitation of Subsection (4).

(6) (a) In addition to the purposes described in Subsection (2), a county legislative body may expend up to 4% of the total revenue generated by a transient room tax to pay a provider for emergency medical services in one or more eligible towns.

~~[(b) An emergency medical services provider means an eligible town, a local district, or a special service district.]~~

~~[(e)]~~ (b) A county legislative body shall reduce the amount that the county is authorized to expend for the purposes described in Subsection (4) by subtracting the amount of transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of revenue described in Subsection (4).

(7) (a) A county legislative body in a county of the fourth, fifth, or sixth class shall expend the revenue generated by a transient room tax as follows:

(i) an amount equal to the county's base year promotion expenditure for the purpose described in Subsection (2)(a);

(ii) an amount equal to the difference between the county's base year revenue and the county's base

year promotion expenditure in accordance with Subsections (3) through (6); and

(iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose described in Subsection (2)(a); and

(B) subject to Subsection (7)(b), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections (2)(b) through (e) or to pay an emergency medical services provider for emergency medical services in one or more eligible towns.

(b) A county legislative body in a county of the fourth, fifth, or sixth class may not:

(i) expend more than 4% of the revenue generated by a transient room tax to pay an emergency medical services provider for emergency medical services in one or more eligible towns; or

(ii) expend revenue generated by a transient room tax for the purpose described in Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.

(c) The provisions of this Subsection (7) apply notwithstanding any other provision of this section.

(d) If the total amount of revenue generated by a transient room tax in a county of the fourth, fifth, or sixth class is less than the county's base year promotion expenditure:

(i) Subsections (7)(a) through (c) do not apply; and

(ii) the county legislative body shall expend the revenue generated by the transient room tax in accordance with Subsections (3) through (6).

**Section 2. Section 17-31-5.5 is amended to read:**

**17-31-5.5. Report to county legislative body -- Content.**

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall prepare annually a report in accordance with Subsection (2).

(2) The report described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; and

(D) conventions;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2[(4)(e)] (2)(e) and (5)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; and

(E) a tourist facility; and

(iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

(3) For the transient room tax, the report described in Subsection (1) shall include a breakdown of each expenditure described in Subsection (2)(a)(i), including:

(a) whether the expenditure was used for in-state and out-of-state promotion efforts;

(b) an explanation of how the expenditure targeted a cost created by tourism; and

(c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.

[~~(3)~~] (4) A county legislative body shall provide a copy of the report described in Subsection (1) to:

(a) the Utah Office of Tourism within the Governor's Office of Economic Development;

(b) its tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

**Section 3. Section 59-12-118 is amended to read:**

**59-12-118. Commission's authority to administer sales and use tax.**



Except as provided in [Section] Sections 59-12-209 and 59-12-302, the commission shall have exclusive authority to administer, operate, and enforce the provisions of this chapter including:

- (1) determining, assessing, and collecting any sales and use tax imposed pursuant to this chapter;
- (2) representing each county, city, and town's interest in any administrative proceeding involving the state or local option sales and use tax;
- (3) adjudicating any administrative proceedings involving the state or local option sales and use tax;
- (4) waiving, reducing, or compromising any penalty and interest imposed in connection with any determination of state or local option sales or use tax; and
- (5) prescribing forms and rules to conform with this chapter for the making of returns and for the ascertainment, assessment, and collection of the taxes imposed under this chapter.

**Section 4. Section 59-12-302 is amended to read:**

**59-12-302. Collection of tax -- Administrative charge.**

(1) Except as provided in [Subsection (2) or (3)] Subsections (2), (3), and (4), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

- (i) Part 1, Tax Collection; or
- (ii) Part 2, Local Sales and Use Tax Act; and
- (b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(4) A county auditor may coordinate with the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.

[4] (5) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

**Section 5. Section 59-12-353 is amended to read:**

**59-12-353. Additional municipal transient room tax.**

~~(1) Subject to the limitations of Subsection (2), the] The governing body of a municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:~~

~~[(a) (1) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and~~

~~[(b) (2) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)](a) to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.~~

~~[(2) The governing body of a municipality may impose the tax under this section until the sooner of:]~~

~~[(a) the day on which the following have been paid in full:]~~

~~[(i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); and]~~

~~[(ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); or]~~

~~[(b) 25 years from the day on which the municipality levied the tax under this section.]~~

**Section 6. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ITEM 1**

To State Tax Commission -- Tax Administration

From General Fund Restricted - Sales and Use Tax Admin. Fees	\$264,000
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**Schedule of Programs:**

Auditing Division	\$140,000
Tax Payer Services	\$124,000

The Legislature intends that the State Tax Commission use the appropriation under this item to employ staff or purchase resources to ensure that persons in counties of the fourth, fifth, and sixth class comply with the collection and remittance requirements of a transient room tax authorized in Title 17, Chapter 31, Recreational, Tourist, and Convention Bureaus, and Section 59-12-301.

**CHAPTER 316****H. B. 290**

Passed March 11, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**OCCUPATIONAL  
LICENSING AMENDMENTS**

Chief Sponsor: Norman K. Thurston  
Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill modifies the licensing and registration requirements of certain professions.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies the Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act to require a permit rather than a license for certain activities;
- ▶ changes the Hunting Guides and Outfitters Licensing Act to the Hunting Guides and Outfitters Registration Act;
- ▶ repeals provisions creating the Hunting Guides and Outfitters Licensing Board;
- ▶ describes the requirements for an individual to register as, and the requirements for providing the services of, a hunting guide or outfitter; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 4-10-104, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-10-105, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-10-106, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-10-110, as last amended by Laws of Utah 2017, Chapter 77 and renumbered and amended by Laws of Utah 2017, Chapter 345 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 345
- 58-79-101, as enacted by Laws of Utah 2009, Chapter 52
- 58-79-102, as last amended by Laws of Utah 2010, Chapter 326
- 58-79-301, as enacted by Laws of Utah 2009, Chapter 52
- 58-79-302, as enacted by Laws of Utah 2009, Chapter 52
- 58-79-303, as enacted by Laws of Utah 2009, Chapter 52
- 58-79-304, as enacted by Laws of Utah 2009, Chapter 52
- 58-79-401, as enacted by Laws of Utah 2009, Chapter 52
- 58-79-501, as last amended by Laws of Utah 2010, Chapter 326

58-79-502, as enacted by Laws of Utah 2009, Chapter 52

**REPEALS:**

58-79-201, as last amended by Laws of Utah 2018, Chapter 318

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

**Section 1. Section 4-10-104 is amended to read:**

**4-10-104. Manufacture, repair, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material -- License required.**

It is unlawful for any person to engage in the manufacture, repair, or wholesale sale of any bedding, upholstered furniture, quilted clothing, or filling material without a [license] permit issued by the department.

**Section 2. Section 4-10-105 is amended to read:**

**4-10-105. Registration -- Permit -- Fees -- Expiration -- Renewal.**

(1) (a) A person [~~may apply to the~~] may register with the department, on [forms] a form prescribed and furnished by the department, for a [license] permit to manufacture, repair, sterilize, or engage in the wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material.

(b) Upon receipt of a proper [application] registration form and payment of the appropriate [license] registration fee, the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue to the applicant a [license] permit to engage in the particular activity through December 31 of the year in which the [license] permit is issued, subject to suspension or revocation of the permit for cause.

(c) A person doing business under more than one name shall [~~be licensed~~] register with and obtain a permit from the department for each name under which business is conducted.

(2) The annual [license] registration fee for each [license] permit issued under this chapter shall be determined by the department pursuant to Subsection 4-2-103(2).

(3) Each [license] permit issued under this chapter is renewable for a period of one year upon the payment of the applicable amount for the particular [license] permit sought to be renewed on or before December 31 of each year.

(4) A person who holds a valid manufacturer's [~~license may, upon application, be licensed~~] permit may register and obtain a permit as a wholesale dealer without the payment of an additional [license] registration fee.

(5) A person who fails to renew a [license] permit and engages in conduct requiring a [license] permit under this chapter shall pay the applicable [license] registration fee for each year in which the person engages in conduct requiring a [license] permit for which [~~a license~~] the permit is not renewed.

(6) The department may retroactively collect a registration fee owed under Subsection (5).

**Section 3. Section 4-10-106 is amended to read:**

**4-10-106. Unlawful acts specified.**

It is unlawful for any person to:

(1) sell bedding, upholstered furniture, quilted clothing, or filling material as new unless it is made from new material and properly tagged;

(2) sell bedding, upholstered furniture, quilted clothing or filling material made from secondhand material which is not properly tagged;

(3) label or sell a used or secondhand article as if it were a new article;

(4) use burlap or other material which has been used for packing or baling, or to use any unsanitary, filthy, or vermin or insect infected filling material in the manufacture or repair of any article;

(5) sell bedding, upholstered furniture, quilted clothing or filling material which is not properly tagged regardless of point of origin;

(6) use any false or misleading statement, term, or designation on any tag;

(7) use any false or misleading label;

(8) sell new bedding, upholstered furniture, or quilted clothing with filling material made of down, feather, wool, or hair that has not been properly sterilized; or

(9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material without a [license] permit issued by the department as required by this chapter.

**Section 4. Section 4-10-110 is amended to read:**

**4-10-110. Sale of bedding, upholstered furniture, quilted clothing, or filling material -- Tag, stamp, or stencil required -- Secondhand material to bear tag -- Presumption -- Owner's own material to be tagged.**

(1) A wholesaler or retailer may sell bedding, upholstered furniture, quilted clothing, or prefabricated filling if it is properly tagged, stamped, or stenciled under Section 4-10-107 or 4-10-109.

(2) Notwithstanding the requirements of Section 4-10-107, a retailer who sells [used articles] used bedding or upholstered furniture shall:

(a) attach a secondhand material tag to each used article before sale; or

(b) clearly display a disclosure statement as provided in Subsection (3).

(3) The disclosure statement required under Subsection (2)(b) shall:

(a) state "ALL ~~[ITEMS]~~ BEDDING AND UPHOLSTERED FURNITURE OFFERED FOR SALE IN THIS ESTABLISHMENT ARE SECONDHAND UNLESS SPECIFICALLY LABELED AS NEW";

(b) be printed:

(i) in black capital letters using Arial, Calibri, Cambria, or Times New Roman in no smaller than 48-point font; and

(ii) on bright yellow paper, at least 8.5 inches by 6.5 inches in size; and

(c) be displayed at each public entrance and checkstand at each retail location.

(4) Possession of an article by a person who regularly engages in the manufacture, repair, wholesale, or supply of such articles is presumptive evidence of intent to sell.

(5) (a) A person who repairs "owner's own material" shall immediately upon its receipt attach an owner's material tag to the article.

(b) The tag shall remain attached to the article until it is actually in the process of repair and shall be reattached upon completion of repair.

**Section 5. Section 58-79-101 is amended to read:**

**CHAPTER 79. HUNTING GUIDES AND OUTFITTERS REGISTRATION ACT**

**58-79-101. Title.**

This chapter is known as the "Hunting Guides and Outfitters ~~[Licensing]~~ Registration Act."

**Section 6. Section 58-79-102 is amended to read:**

**58-79-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1)]~~ "Board" means the Hunting Guides and Outfitters Licensing Board created in Section 58-79-201.

~~[(2)]~~ (1) "Compensation" means anything of economic value in excess of \$100 that is paid, loaned, granted, given, donated, or transferred to a hunting guide or outfitter for or in consideration of personal services, materials, or property.

~~[(3)]~~ (2) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill wildlife.

~~[(4)]~~ (3) "Hunting guide" means an individual who:

(a) offers or provides hunting guide services on public lands for compensation; and

(b) is retained for compensation by an outfitter.

~~[(5)]~~ (4) "Hunting guide services" means to guide, lead, or assist an individual in hunting wildlife.

~~[(6)]~~ (5) "Outfitter" means an individual who offers or provides outfitting or hunting guide

services for compensation to another individual for hunting wildlife on public lands.

[~~(7)~~] (6) (a) “Outfitting services” means providing, for hunting wildlife on public lands:

(i) transportation of people, equipment, supplies, or wildlife to or from a location;

(ii) packing, protecting, or supervising services; or

(iii) hunting guide services.

(b) “Outfitting services” does not include activities undertaken by the Division of Wildlife Resources or its employees, associates, volunteers, contractors, or agents under authority granted in Title 23, Wildlife Resources Code of Utah.

[~~(8)~~] (7) (a) “Public lands” means any lands owned by the United States, the state, or a political subdivision or independent entity of the state that are open to the public for purposes of engaging in a wildlife related activity.

(b) “Public lands” does not include lands owned by the United States, the state, or a political subdivision or independent entity of the state that are included in a cooperative wildlife management unit under Subsection 23-23-7(5) so long as the guiding and outfitting services furnished by the cooperative wildlife management unit are limited to hunting species of wildlife specifically authorized by the Division of Wildlife Resources in the unit’s management plan.

[~~(9)~~] (8) “Wildlife” means cougar, bear, and big game animals as defined in Subsection 23-13-2(6).

**Section 7. Section 58-79-301 is amended to read:**

**Part 3. Registration**

**58-79-301. Registration required.**

(1) Beginning [~~January 1, 2010~~] July 1, 2021, and except as provided in Sections 58-1-307 and 58-79-304, [a license is required to provide the services of a hunting guide or outfitter] in order to provide the services of a hunting guide or outfitter, an individual is required to register with the division under the provisions of this chapter.

(2) The division shall issue to an individual who qualifies under the provisions of this chapter [a license] a registration in the classification of:

(a) hunting guide; or

(b) outfitter.

(3) The division shall maintain a record of each individual who is registered with the division as a hunting guide or outfitter.

**Section 8. Section 58-79-302 is amended to read:**

**58-79-302. Qualifications for registration.**

(1) [An applicant for licensure] To register as a hunting guide an individual shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d) possess a high degree of skill and ability as a hunting guide;]~~

~~[(e) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and]~~

~~[(f) meet with the division and board if requested by the division or board.]~~

(c) in a form prescribed by the division, submit proof that the individual is covered by liability insurance when providing services as a hunting guide that is issued by an insurance company or association authorized to transact business in the state in an amount determined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) [An applicant for licensure] To register as an outfitter an individual shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d) possess a high degree of skill and ability as an outfitter;]~~

~~[(e) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and]~~

~~[(f) meet with the division and board if requested by the division or board.]~~

(c) in a form prescribed by the division, submit proof that the individual is covered by liability insurance when providing services as an outfitter that is issued by an insurance company or association authorized to transact business in the state in an amount determined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 9. Section 58-79-303 is amended to read:**

**58-79-303. Term of registration -- Expiration -- Renewal.**

(1) ~~[(a)]~~ The division shall issue ~~[each license] each registration~~ under this chapter in accordance with a two-year renewal cycle established by rule.

~~[(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycle it administers.]~~

(2) Each ~~[license] registration~~ automatically expires on the expiration date shown on the ~~[license unless the licensee renews it in accordance with]~~

registration unless the registrant renews the registration in the same manner as a licensee renews a license under Section 58-1-308.

**Section 10. Section 58-79-304 is amended to read:**

**58-79-304. Exemptions from registration.**

The exemptions from [licensure] registration under this chapter are limited to:

(1) those set forth for a licensee in Section 58-1-307; and

(2) an employee or subordinate of a hunting guide or outfitter if ~~[(a)]~~ the employee or subordinate does not use the title of hunting guide or outfitter or is not directly represented to the public to be legally qualified to engage in the practice of being a hunting guide or outfitter before the public in this state ~~[-; and].~~

~~[(b) the employee's or subordinate's duties do not include responsible charge.]~~

**Section 11. Section 58-79-401 is amended to read:**

**58-79-401. Grounds for denial of registration -- Disciplinary proceedings.**

Grounds for refusing to issue a [license] registration to an applicant, for refusing to renew the ~~[license of a licensee]~~ registration of a registrant, for revoking, suspending, restricting, or placing on probation the ~~[license of a licensee]~~ registration of a registrant, for issuing a public or private reprimand to a [licensee] registrant, and for issuing a cease and desist order under this chapter shall be in accordance with the provisions applicable to a licensee under Section 58-1-401.

**Section 12. Section 58-79-501 is amended to read:**

**58-79-501. Unlawful conduct.**

“Unlawful conduct” includes, in addition to the definition in Section 58-1-501, using the title “hunting guide” or “outfitter” or any other title or designation to indicate that the individual is a hunting guide or outfitter or acting as a hunting guide or outfitter, unless the individual ~~[has a current license]~~ is currently registered as a hunting guide or outfitter under this chapter.

**Section 13. Section 58-79-502 is amended to read:**

**58-79-502. Unprofessional conduct.**

“Unprofessional conduct” includes, in addition to the definition in Section 58-1-501, and as may be further defined by division rule:

(1) engaging in an activity that would place a [licensee's] registrant's client, prospective client, or third party's safety at risk, recognizing the inherent risks associated with hunting wildlife and the activity engaged in being above and beyond those inherent risks;

(2) using false, deceptive, or misleading advertising related to providing services as a hunting guide or outfitter; ~~[and]~~

(3) misrepresenting services, outcomes, facilities, equipment, or fees to a client or prospective client ~~[-];~~ and

(4) failing to provide the division with active and current contact information within 30 days of any changes to the registrant's contact information that was provided to the division during registration or the renewal of registration as a hunting guide or outfitter.

**Section 14. Repealer.**

This bill repeals:

**Section 58-79-201, Board.**

**CHAPTER 317****H. B. 300**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**JUSTICE COURT  
 JURISDICTION AMENDMENTS**

Chief Sponsor: Keven J. Stratton  
 Senate Sponsor: Todd Weiler

**LONG TITLE****General Description:**

This bill amends a provision relating to the territorial jurisdiction of a justice court.

**Highlighted Provisions:**

This bill:

- ▶ extends the jurisdiction of a county justice court for limited circumstances.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78A-7-105, as last amended by Laws of Utah 2014, Chapter 151

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

**Section 1. Section 78A-7-105 is amended to read:**

**78A-7-105. Territorial jurisdiction --  
 Voting.**

(1) (a) The territorial jurisdiction of county justice courts extends to the limits of the precinct for which the justice court is created and includes all cities or towns within the precinct, ~~except~~ other than cities where a municipal justice court exists.

(b) A county or district attorney may file a class B or C misdemeanor offense in a county justice court, regardless of where the act occurred, if:

(i) the same offense could have been filed as a class A misdemeanor in district court;

(ii) statute provides that an attempt to commit the offense described in Subsection (1)(b)(i) is a class B or class C misdemeanor; and

(iii) the case was submitted to the county or district attorney's office for prosecution.

(c) Notwithstanding Subsection (1)(a), the territorial jurisdiction of a county justice court extends to the place where the act, filed as a class B or C misdemeanor under Subsection (1)(b), occurred.

(2) The territorial jurisdiction of municipal justice courts extends to the corporate limits of the municipality in which the justice court is created.

(3) Justice court judges have the same authority regarding matters within their jurisdiction as judges of courts of record.

(4) A justice court may issue all extraordinary writs and other writs as necessary to carry into effect its orders, judgments, and decrees.

(5) (a) Except as provided in this Subsection (5), a judgment rendered in a justice court does not create a lien upon any real property of the judgment debtor unless the judgment or abstract of the judgment:

(i) is recorded in the office of the county recorder of the county in which the real property of the judgment debtor is located; and

(ii) contains the information identifying the judgment debtor in the judgment or abstract of judgment as required in Subsection 78B-5-201(4)(b) or as a separate information statement of the judgment creditor as required in Subsection 78B-5-201(5).

(b) The lien runs for eight years from the date the judgment was entered in the district court under Section 78B-5-202 unless the judgment is earlier satisfied.

(c) State agencies are exempt from the recording requirement of Subsection (5)(a).

**CHAPTER 318****H. B. 302**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**HERITAGE AND ARTS  
FOUNDATION AMENDMENTS**

Chief Sponsor: Mike Winder  
Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill modifies provisions related to the Department of Heritage and Arts (department).

**Highlighted Provisions:**

This bill:

- ▶ authorizes the department to create a heritage and arts foundation (foundation);
- ▶ describes the requirements, including reporting requirements, related to the foundation;
- ▶ creates the Heritage and Arts Foundation Fund (fund);
- ▶ describes the requirements of administering and using the fund; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

9-1-201, as last amended by Laws of Utah 2019, Chapter 221

**ENACTS:**

9-1-209, Utah Code Annotated 1953

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

**Section 1. Section 9-1-201 is amended to read:**

**9-1-201. Department of Heritage and Arts -- Creation -- Powers and duties.**

(1) There is created the Department of Heritage and Arts.

(2) The department shall:

(a) be responsible for preserving and promoting the heritage of the state, the arts in the state, and cultural development within the state;

(b) perform heritage, arts, and cultural development planning for the state;

(c) coordinate the program plans of the various divisions within the department;

(d) administer and coordinate all state or federal grant programs which are, or become, available for heritage, arts, and cultural development;

(e) administer any other programs over which the department is given administrative supervision by the governor;

(f) submit an annual written report to the governor and the Legislature as described in Section 9-1-208;

(g) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(h) perform any other duties as provided by the Legislature.

(3) The department may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, public or private, but may not use those contributions for publicizing the exclusive interest of the donor[-]; and

(b) establish a nonprofit foundation called the Heritage and Arts Foundation under the control and direction of the executive director to assist in the development and implementation of the programs and objectives described in this title.

(4) Money received under Subsection (3)(a) shall be deposited ~~in~~ into the General Fund as dedicated credits.

(5) A foundation established by the department under Subsection (3)(b):

(a) may receive contributions of money, services, and facilities from legislative appropriations, government grants, and private sources for the development and implementation of the programs and objectives described in this title;

(b) shall comply with the requirements described in Section 9-1-209; and

(c) shall provide information detailing all transactions and balances associated with the foundation to the department, which shall be summarized by the department and included in the department's annual report described in Section 9-1-208.

~~[(5)]~~ (6) (a) For a pass-through funding grant of \$50,000 or less, the department shall make an annual disbursement to the pass-through funding grant recipient.

(b) For a pass-through funding grant of more than \$50,000, the department shall make a semiannual disbursement to the pass-through funding grant recipient, contingent upon the department receiving a semiannual progress report from the pass-through funding grant recipient.

(c) The department shall:

(i) provide the pass-through funding grant recipient with a progress report form for the reporting purposes described in Subsection ~~[(5)]~~ (6)(b); and

(ii) include reporting requirement instructions with the form.

**Section 2. Section 9-1-209 is enacted to read:**

**9-1-209. Heritage and Arts Foundation Fund.**

(1) As used in this section, "fund" means the Heritage and Arts Foundation Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Heritage and Arts Foundation Fund."

(3) The executive director shall administer the fund.

(4) Money may be deposited into the fund from a variety of sources, including transfers, grants, private foundations, individual donors, gifts, bequests, legislative appropriations, and money made available from any other source.

(5) Money collected by the Heritage and Arts Foundation described in Subsections 9-22-104(3)(b) and (5) shall be deposited into the fund.

(6) Any portion of the fund may be treated as an endowment fund such that the principal of that portion of the fund is held in perpetuity on behalf of the department.

(7) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from those investments shall be deposited into the fund.

(8) The executive director may expend money from the fund for any of the purposes described in this title.



**CHAPTER 319****H. B. 304**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**CITIZEN FEEDBACK PROGRAM**

Chief Sponsor: Derrin R. Owens  
Senate Sponsor: Curtis S. Bramble  
Cosponsor: Cheryl K. Acton

**LONG TITLE****General Description:**

This bill enacts the Citizen Feedback Program.

**Highlighted Provisions:**

This bill:

- ▶ allows each executive branch agency to gather feedback from members of the public to assess the quality of service the agency provides and identify areas for improvement;
- ▶ addresses the permissible methods for gathering the public feedback; and
- ▶ provides for annual reporting of any public feedback.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

63G-24-101, Utah Code Annotated 1953  
63G-24-201, Utah Code Annotated 1953  
63G-24-202, Utah Code Annotated 1953

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

**Section 1. Section 63G-24-101 is enacted to read:**

**CHAPTER 24. STATE AGENCY QUALITY SERVICE ACT**

**Part 1. General Provisions**

**63G-24-101. Definitions.**

As used in this chapter, "state agency" means an executive branch:

- (1) department;
- (2) division; or
- (3) office.

**Section 2. Section 63G-24-201 is enacted to read:**

**Part 2. Citizen Feedback Program**

**63G-24-201. Option to gather feedback.**

(1) A state agency may gather feedback from members of the public whom the state agency serves to allow the state agency to assess the quality of service the state agency provides and identify areas for improvement.

(2) A state agency that chooses to gather the feedback described in Subsection (1) shall:

(a) request members of the public evaluate the quality of the following, as applicable:

- (i) programs and services;
- (ii) facilities, including access, location, signs, and cleanliness;
- (iii) staff, including staff courtesy, friendliness, and knowledge;
- (iv) communications, including toll-free telephone access, ability to speak to a live person, and the efficacy of any communications by mail, electronic mail, text message, or mobile application;
- (v) website, including the ease of access to and use of the website, mobile access to the website, and information accessible through the website;
- (vi) complaint handling, including the ease of filing a complaint and the timeliness of a response;
- (vii) timeliness, including wait times for service in person, by phone, by mail, or through a website; and
- (viii) brochures or other printed information, including the accuracy of the information; and

(b) use one or more of the following methods to gather the feedback:

- (i) a survey;
- (ii) a mobile application;
- (iii) a web application; or
- (iv) another method the state agency determines appropriate.

**Section 3. Section 63G-24-202 is enacted to read:**

**63G-24-202. Citizen feedback annual report.**

(1) The Governor's Office of Management and Budget shall prepare an annual report that contains a summary of any feedback that state agencies gathered in accordance with Section 63G-24-201 during the preceding calendar year.

(2) On or before July 1, the Governor's Office of Management and Budget shall:

- (a) provide an electronic copy of the report described in Subsection (1) to each legislator; and
- (b) make the report described in Subsection (1) accessible to the public.

**CHAPTER 320****H. B. 334**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**CIVICS EDUCATION AMENDMENTS**

Chief Sponsor: Dan N. Johnson  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill creates a civics engagement pilot program to assess the benefits of, and methods for, implementing a requirement to complete a civics engagement project as a condition for receiving a high school diploma.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates a civics engagement pilot program to assess the benefits of, and methods for, implementing a requirement to complete a civics engagement project as a condition for receiving a high school diploma;
- ▶ provides for training for teachers in schools participating in the pilot program; and
- ▶ requires schools participating in the pilot program to submit a report to the State Board of Education.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53G-10-204, as last amended by Laws of Utah 2019, Chapters 48, 246, 293, 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

63I-2-253, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324, 325, and 444

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

**Section 1. Section 53G-10-204 is amended to read:****53G-10-204. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.**

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Civics engagement pilot program" means the pilot program described in Subsection (7).

(d) "Civics engagement project" means the civics engagement project described in Subsection (7), which a student enrolled in a participating LEA may complete.

(e) "Participating LEA" means an LEA that meets the eligibility criteria, and is selected by the state board, to participate in the civics engagement pilot program.

[~~(e)~~] (f) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable

citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

(6) In accordance with Section 53E-1-203, the state board shall report to the Education Interim Committee the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.

(7) (a) In accordance with this section, subject to appropriations by the Legislature for this purpose, beginning with the 2020-21 school year, the state board shall administer a three-year civics engagement pilot program to assess the benefits of, and methods for, implementing a requirement to complete a civics engagement project as a condition for receiving a high school diploma.

(b) The state board shall:

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

(A) to create a civics engagement project that complies with core standards for Utah public education for social studies and prepares students for lifelong civic motivation and participation through applied learning of civics content;

(B) to establish eligibility requirements for participating LEAs;

(C) to create an application process for LEAs to apply to participate in the pilot program; and

(D) for a report that a participating LEA is required to submit to the state board at the end of the pilot program;

(ii) select participating LEAs:

(A) from diverse geographic areas within the state; and

(B) with a range of student population sizes; and

(iii) subject to appropriations by the Legislature for this purpose, in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide training that prepares teachers in a participating LEA to assist

students to successfully complete the civics engagement project.

(c) A participating LEA shall submit a report to the state board in accordance with the rules described in Subsection (7)(b)(i)(D).

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

**63I-2-253. Repeal dates -- Titles 53 through 53G.**

(1) (a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech Board of Trustees and the transition to that composition, are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of directors, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) Section 53B-6-105.7 is repealed July 1, 2024.

(4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(5) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(6) Section 53B-8-112 is repealed July 1, 2024.

(7) Section 53B-8-114 is repealed July 1, 2024.

(8) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General

Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(9) Section 53B-10-101 is repealed on July 1, 2027.

(10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(11) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

(12) Section 53E-3-520 is repealed July 1, 2021.

(13) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

(14) Section 53E-5-307 is repealed July 1, 2020.

(15) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(16) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(17) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(18) Section 53F-4-204 is repealed July 1, 2019.]~~

~~[(19)]~~ (18) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(20)]~~ (19) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(21)]~~ (20) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(22)]~~ (21) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(22) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

(23) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

**CHAPTER 321****H. B. 336**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**CONCURRENT ENROLLMENT  
 CERTIFICATE PILOT PROGRAM**

Chief Sponsor: Val L. Peterson  
 Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill creates the LAUNCH certificate, DISCOVER breadth certificate, TRANSFORM general education certificate, and TRANSFORM CTE institutional credential awarded to qualifying students for completion of concurrent enrollment courses, and creates the PRIME pilot program to expand access to concurrent enrollment and career and technical education certificates.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ creates:
  - the LAUNCH certificate and DISCOVER breadth certificate, awarded by the State Board of Education (state board) to qualifying students;
  - the TRANSFORM general education certificate, awarded by an institution of higher education to a qualifying student;
  - the TRANSFORM CTE institutional credential, awarded by the state board, an institution of higher education, or technical college to a qualifying student; and
  - the two-year PRIME pilot program, to expand access to concurrent enrollment and career and technical education certificates.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476  
 63I-2-253, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324, 325, and 444

**ENACTS:**

53E-10-309, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476

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

**Section 1. Section 53E-1-201 is amended to read:****53E-1-201. Reports to and action required of the Education Interim Committee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

~~(a)~~ (b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

~~(b)~~ (c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

~~(c)~~ (d) the report described in Section 53B-1-103 by the State Board of Regents on career and technical education issues and addressing workforce needs;

~~(d)~~ (e) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;

~~(e)~~ (f) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;

~~(f)~~ (g) the reports described in Section 53B-28-401 by the State Board of Regents and the Utah System of Technical Colleges Board of Trustees regarding activities related to campus safety;

~~(g)~~ (h) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

~~(h)~~ (i) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

~~(i)~~ (j) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

~~(j)~~ (k) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

~~(k)~~ (l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

~~(l)~~ (m) the report described in Section 53F-4-407 by the state board on UPSTART; and

~~(m)~~ (n) the report described in Section 53F-5-405 by an independent evaluator of a

partnership that receives a grant to improve educational outcomes for students who are low income; and].

~~[(n) the report described in Section 63N-12-208 by the STEM Action Center Board, including the information described in Section 63N-12-213 on the status of the computer science initiative and Section 63N-12-214 on the Computing Partnerships Grants Program.]~~

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

~~[(f)] (g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;~~

~~[(g)] (h) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;~~

~~[(h)] (i) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;~~

~~[(i)] (j) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;~~

~~[(j)] (k) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;~~

~~[(k)] (l) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;~~

~~[(l)] (m) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;~~

~~[(m)] (n) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and~~

~~[(n)] (o) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.~~

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

**Section 2. Section 53E-10-309 is enacted to read:**

**53E-10-309. LAUNCH certificate -- DISCOVER breadth certificate -- TRANSFORM general education certificate -- TRANSFORM CTE institutional credential -- Utah PRIME Pilot Program.**

(1) As used in this section:

(a) "DISCOVER breadth certificate" means a certificate of completion awarded by the state board to an eligible student who meets the criteria described in this section.

(b) "Industry certification" means a career and technical education certification awarded through validation of skills in cooperation with a business, trade association, or other industry group, in accordance with rules adopted by the state board under Section 53F-2-311.

(c) "Institutional certificate" means a career and technical education program completion certificate awarded by the state board, an institution of higher education, or a technical college.

(d) "LAUNCH certificate" means a certificate of completion awarded by the state board to an eligible student who meets the criteria described in this section.

(e) "Participating LEA" means an LEA that participates in the pilot program.

(f) "Pilot program" means the PRIME pilot program described in Subsection (7).

(g) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

(h) "Qualifying student" means an eligible student who meets the criteria for a LAUNCH certificate, a DISCOVER breadth certificate, a TRANSFORM general education certificate, or a TRANSFORM CTE institutional credential as described in this section.

(i) "Technical college" means the same as that term is defined in 53B-1-101.5.

(j) "TRANSFORM CTE institutional credential" means an institutional credential awarded to an eligible student who meets the criteria described in this section.

(k) “TRANSFORM general education certificate” means a certificate of completion established by the Board of Regents in accordance with Section 53B-16-105.

(2) The state board shall award a LAUNCH certificate to an eligible student who:

(a) completes six concurrent enrollment credits;

(b) is awarded an industry certification or institutional certificate; and

(c) has on file a plan for college and career readiness.

(3) The state board shall award a DISCOVER breadth certificate to an eligible student who completes one 3-credit course in each of the following categories through concurrent enrollment at an institution of higher education:

(a) arts;

(b) humanities;

(c) life sciences;

(d) social and behavioral sciences; and

(e) physical sciences.

(4) An institution of higher education shall award a TRANSFORM general education certificate to an eligible student who completes the requirements established by the State Board of Regents in accordance with Section 53B-16-105.

(5) The state board, an institution of higher education, or a technical college through which an eligible student takes career and technical education courses, shall award a TRANSFORM CTE institutional credential to an eligible student who completes a career and technical education program that is at least 900 hours or 30 credit hours.

(6) The State Board of Regents shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that credits described in Subsections (2), (3), and (4) earned by a qualifying student are transferable to institutions of higher education.

(7) (a) In accordance with this section, and subject to appropriations by the Legislature for this purpose, the state board shall administer a two-year Utah PRIME pilot program, beginning in the 2021-2022 school year, to expand access to concurrent enrollment courses and career and technical education certificates by expanding digital delivery models for distance learning programs or funding enrollment in participating LEAs.

(b) The state board shall:

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

(A) establish eligibility requirements for a participating LEA; and

(B) create an application process for LEAs to apply for the pilot program;

(ii) select up to eight LEAs to be participating LEAs for the pilot program; and

(iii) distribute up to \$100,000 in each year of the pilot program to a participating LEA to carry out the purposes of the pilot program.

(c) A participating LEA shall offer concurrent enrollment courses, including career and technical education courses, that meet the requirements for the LAUNCH certificate, DISCOVER breadth certificate, TRANSFORM general education certificate, and TRANSFORM CTE institutional credential.

(d) In 2022 and in 2023, on or before November 30, the state board shall deliver a report, in accordance with Section 53E-1-201, to the Education Interim Committee that:

(i) identifies the participating LEAs;

(ii) describes how pilot program appropriation money is used;

(iii) describes the effectiveness of the pilot program;

(iv) compares the demographics of students enrolled in the pilot program with the demographics of all students enrolled in participating LEAs; and

(v) includes the number of:

(A) concurrent enrollment courses offered by participating LEAs;

(B) students enrolled in concurrent enrollment courses at participating LEAs; and

(C) LAUNCH certificates, DISCOVER breadth certificates, TRANSFORM general education certificates, and TRANSFORM CTE institutional credentials awarded to students in participating LEAs.

**Section 3. Section 63I-2-253 is amended to read:**

**63I-2-253. Repeal dates -- Titles 53 through 53G.**

(1) (a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech Board of Trustees and the transition to that composition, are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of directors, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) Section 53B-6-105.7 is repealed July 1, 2024.

(4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states “Except as provided in Subsection (6)(b)(ii)(B),” is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college’s change in performance with the technical college’s average performance, is repealed July 1, 2021.

(5) (a) Subsection 53B-7-707(3)(a)(ii), the language that states “Except as provided in Subsection (3)(b),” is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(6) Section 53B-8-112 is repealed July 1, 2024.

(7) Section 53B-8-114 is repealed July 1, 2024.

(8) (a) The following sections, regarding the Regents’ scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents’ scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(9) Section 53B-10-101 is repealed on July 1, 2027.

(10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(11) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

(12) Section 53E-3-520 is repealed July 1, 2021.

(13) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

(14) Section 53E-5-307 is repealed July 1, 2020.

(15) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[45] (16) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education’s duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

[46] (17) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[47] (18) In Subsection 53F-2-515(1), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

[48] Section 53F-4-204 is repealed July 1, 2019.

(19) In Subsection 53F-9-302(3), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(20) In Subsection 53F-9-305(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(21) In Subsection 53F-9-306(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(22) In Subsection 53G-3-304(1)(c)(i), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(23) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent.

#### **Section 4. Coordinating H.B. 336 with S.B. 72 -- Superseding technical and substantive amendments.**

If this H.B. 336 and S.B. 72, Revisor’s Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that the amendments to Section 53E-1-201 in H.B. 336 supersede the amendments to Section 53E-1-201 in S.B. 72, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.



**CHAPTER 322****H. B. 339**

Passed March 12, 2020  
Approved March 30, 2020  
Effective October 15, 2020

**CLEAN AIR SPECIAL  
GROUP LICENSE PLATE**

Chief Sponsor: Stephen G. Handy  
Senate Sponsor: Luz Escamilla

**LONG TITLE****General Description:**

This bill creates the Clean Air Support special group license plate.

**Highlighted Provisions:**

This bill:

- ▶ creates the Clean Air Support special group license plate;
- ▶ requires donations of recipients of the license plate to be deposited into the Clean Air Fund and the Clean Air Support Restricted Account to fund education, awareness, and other programs to promote cleaner air; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 41-1a-418, as last amended by Laws of Utah 2019, Chapters 38, 127, 213, and 392
- 41-1a-422, as last amended by Laws of Utah 2019, Chapters 38 and 213
- 59-10-1319, as enacted by Laws of Utah 2016, Chapter 111
- 63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
- 63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483
- 63J-1-602.1, as last amended by Laws of Utah 2019, Chapters 89, 136, 213, 215, 244, 326, 342, and 482

**ENACTS:**

19-1-109, Utah Code Annotated 1953

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

**Section 1. Section 19-1-109 is enacted to read:****19-1-109. Clean Air Support Restricted Account.**

(1) There is created in the General Fund a restricted account known as the "Clean Air Support Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) (a) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(b) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the account.

(4) Subject to appropriation, the department shall distribute the money in the account to one or more organizations that:

(a) are tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) have as part of the organization's mission:

(i) to encourage and educate the public about simple changes to improve air quality in the state;

(ii) to provide grants to organizations or individuals with innovative ideas to reduce emissions; and

(iii) to partner with other organizations to strengthen efforts to improve air quality.

(5) The department may also expend funds in the account to pay the costs of issuing or reordering Clean Air Support special group license plate decals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing procedures for an organization to apply to receive money under this section.

**Section 2. Section 41-1a-418 is amended to read:****41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

- (i) a special interest vehicle;
- (ii) a vintage vehicle;
- (iii) a farm truck; or
- (iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

- (i) a current member of the Legislature;
- (ii) a current member of the United States Congress;
- (iii) a current member of the National Guard;
- (iv) a licensed amateur radio operator;
- (v) a currently employed, volunteer, or retired firefighter until June 30, 2009;
- (vi) an emergency medical technician;
- (vii) a current member of a search and rescue team;
- (viii) a current honorary consulate designated by the United States Department of State;
- (ix) an individual supporting commemoration and recognition of women's suffrage;
- (x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth; or
- (xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

- (i) an institution's scholastic scholarship fund;
- (ii) the Division of Wildlife Resources;
- (iii) the Department of Veterans and Military Affairs;
- (iv) the Division of Parks and Recreation;
- (v) the Department of Agriculture and Food;
- (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- (vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

- (ix) the Boys and Girls Clubs of America;
- (x) Utah public education;
- (xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;
- (xii) the Department of Public Safety;
- (xiii) programs that support Zion National Park;
- (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
- (xv) programs that promote bicycle operation and safety awareness;
- (xvi) programs that conduct or support cancer research;
- (xvii) programs that create or support autism awareness;
- (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
- (xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
- (xx) programs that support and promote adoptions;
- (xxi) programs that create or support civil rights education and awareness;
- (xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;
- (xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;
- (xxiv) programs that support children with heart disease;
- (xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;
- (xxvi) programs that provide assistance to children with cancer;
- (xxvii) programs that promote leadership and career development through agricultural education;
- (xxviii) the Utah State Historical Society;
- (xxix) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans; [Ø]
- (xxx) programs that promote motorcycle safety awareness[-]; or
- (xxxi) organizations that promote clean air through partnership, education, and awareness.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in

Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

**Section 3. Section 41-1a-422 is amended to read:**

**41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.**

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(X) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(Y) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Z) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(AA) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(BB) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(CC) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(DD) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130; [or]

(EE) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102[.]; or

(FF) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) “Institution” means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

- (i) the name of the contributor;
- (ii) the institution to which a donation was made;
- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

- (i) unless collected by the named institution under Subsection (2), collected by the division;
- (ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

#### **Section 4. Section 59-10-1319 is amended to read:**

#### **59-10-1319. Contribution to Clean Air Fund.**

(1) (a) There is created an [agency] expendable special revenue fund known as the “Clean Air Fund.”

(b) The fund shall consist of all amounts deposited into the fund in accordance with Subsection (2).

(2) (a) Except as provided in Section 59-10-1304, for a taxable year beginning on or after January 1, 2017, a resident or nonresident individual who files an individual income tax return under this chapter may designate on the resident or nonresident individual’s individual income tax return a contribution as provided in this section to be:

- ~~(a)~~ (i) deposited into the Clean Air Fund; and
- ~~(b)~~ (ii) expended as provided in Subsection (3).

(b) The fund shall also consist of amounts deposited into the fund through:

(i) contributions deposited into the account in accordance with Section 41-1a-422;

(ii) private contributions; and

(iii) donations or grants from public or private entities.

(3) (a) At least once each year, the commission shall disburse from the Clean Air Fund all money deposited into the fund since the last disbursement.

(b) The commission shall disburse money under Subsection (3)(a) to the Division of Air Quality for the purpose of:

- (i) providing money for grants to individuals or organizations in the state to fund activities intended to improve air quality in the state; ~~or~~

(ii) enhancing programs designed to educate the public about the importance of air quality to the health, well-being, and livelihood of individuals in the state[-]; and

(iii) pay the costs of issuing or reordering Clean Air Support special group license plate decals.

**Section 5. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed on December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1[(13)](14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1[(53)](56), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for

certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(27) Section 63N-2-512 is repealed on July 1, 2021.

(28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

(33) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

(34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

**Section 6. Section 63I-2-263 is amended to read:**

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

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1~~(52)~~(57) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

**Section 7. Section 63J-1-602.1 is amended to read:**

**63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men’s Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) The Clean Air Support Restricted Account created in Section 19-1-109.

~~[(6)]~~ (7) The~~[-“]~~Support for State-Owned Shooting Ranges Restricted Account~~[”]~~ created in Section 23-14-13.5.

~~[(7)]~~ (8) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

~~[(8)]~~ (9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

~~[(9)]~~ (10) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

~~[(10)]~~ (11) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

~~[(11)]~~ (12) State funds for matching federal funds in the Children’s Health Insurance Program as provided in Section 26-40-108.

~~[(12)]~~ (13) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

~~[(13)]~~ (14) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

~~[(14)]~~ (15) The Technology Development Restricted Account created in Section 31A-3-104.

~~[(15)]~~ (16) The Criminal Background Check Restricted Account created in Section 31A-3-105.



[46] (17) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

[47] (18) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

[48] (19) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

[49] (20) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

[20] (21) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

[21] (22) The School Readiness Restricted Account created in Section 35A-15-203.

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

[23] (24) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[24] (25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[25] (26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[26] (27) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[27] (28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[28] (29) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[29] (30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[30] (31) The DNA Specimen Restricted Account created in Section 53-10-407.

[31] (32) The Canine Body Armor Restricted Account created in Section 53-16-201.

[32] (33) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[33] (34) The Higher Education Capital Projects Fund created in Section 53B-22-202.

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

[35] (36) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[36] (37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

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

[38] (39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[39] (40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[40] (41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

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

[42] (43) The Relative Value Study Restricted Account created in Section 59-9-105.

[43] (44) The Cigarette Tax Restricted Account created in Section 59-14-204.

[44] (45) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[45] (46) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[46] (47) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

[47] (48) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

[48] (49) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

[49] (50) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

[50] (51) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[51] (52) The Immigration Act Restricted Account created in Section 63G-12-103.

~~[(52)]~~ (53) Money received by the military installation development authority, as provided in Section 63H-1-504.

~~[(53)]~~ (54) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

~~[(54)]~~ (55) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

~~[(55)]~~ (56) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

~~[(56)]~~ (57) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

~~[(57)]~~ (58) The Motion Picture Incentive Account created in Section 63N-8-103.

~~[(58)]~~ (59) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

~~[(59)]~~ (60) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

~~[(60)]~~ (61) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

~~[(61)]~~ (62) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

~~[(62)]~~ (63) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

~~[(63)]~~ (64) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

~~[(64)]~~ (65) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

~~[(65)]~~ (66) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

~~[(66)]~~ (67) Fees for certificate of admission created under Section 78A-9-102.

~~[(67)]~~ (68) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(68)]~~ (69) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

~~[(69)]~~ (70) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

~~[(70)]~~ (71) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

#### **Section 8. Effective date.**

This bill takes effect on October 15, 2020.

**CHAPTER 323****H. B. 345**

Passed March 12, 2020  
Approved March 30, 2020  
Effective November 1, 2021

**PERSONAL RECORDS AMENDMENTS**

Chief Sponsor: Stewart E. Barlow  
Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill allows an adult adoptee to access the adoptee's original birth certificate in certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ amends rulemaking authority;
- ▶ allows an adult adoptee to access an adoption document related to the adult adoptee in certain circumstances;
- ▶ allows a birth parent to allow:
  - an adult adoptee's access to an adoption document; and
  - the sharing of contact information with the adult adoptee; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

26-2-22, as last amended by Laws of Utah 2015, Chapter 137

78B-6-141, as last amended by Laws of Utah 2018, Chapter 30

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

**Section 1. Section 26-2-22 is amended to read:****26-2-22. Inspection of vital records.**

(1) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this chapter, department rules, and Sections 78B-6-141 and 78B-6-144.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this chapter, department rule, Section 78B-6-141, or Section 78B-6-144.

(c) (i) An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.

(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).

(d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is

satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(2) A direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

(ii) a member of the subject's immediate family;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(3) For purposes of Subsection (2):

(a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild;

(b) a designated legal representative means an attorney, physician, funeral service director, genealogist, or other agent of the subject or the subject's immediate family who has been delegated the authority to access vital records;

(c) except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or the immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights pursuant to Title 78A, Chapter 6, Juvenile Court Act of 1996, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest; and

(d) a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest.

(4) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

(6) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection 78B-6-141(4);

~~[(a)]~~ (b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;

~~[(b)]~~ (c) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144; and

~~[(e)]~~ (d) for collecting fees and donations pursuant to Section 78B-6-144.5.

**Section 2. Section 78B-6-141 is amended to read:**

**78B-6-141. Court hearings may be closed -- Petition and documents sealed -- Exceptions.**

(1) (a) Notwithstanding Section 78A-6-114, court hearings in adoption cases may be closed to the public upon request of a party to the adoption petition and upon court approval.

(b) In a closed hearing, only the following individuals may be admitted:

~~[(a)]~~ (i) a party to the proceeding;

~~[(b)]~~ (ii) the adoptee;

~~[(e)]~~ (iii) a representative of an agency having custody of the adoptee;

~~[(d)]~~ (iv) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

~~[(e)]~~ (v) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

~~[(f)]~~ (vi) in a hearing on a petition to intervene, the proposed intervenor;

~~[(g)]~~ (vii) in a hearing to finalize an adoption, invitees of the petitioner; and

~~[(h)]~~ (viii) other individuals for good cause, upon order of the court.

(2) An adoption document and any other documents filed in connection with a petition for adoption are sealed.

(3) The documents described in Subsection (2) may only be open to inspection and copying:

(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;

(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

(d) as provided under Section 78B-6-144;

(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;

(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;

(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or

(h) to an adult adoptee, to the extent permitted under Subsection (4).

~~(4) (a) [For an adoption finalized on or after January 1, 2016, a birth parent may elect, on a written consent form provided by the office, to permit identifying information about the birth parent to be made available for inspection by an] An adult adoptee[-] that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:~~

(i) to the extent that a birth parent consents under Subsection (4)(b); or

(ii) if the birth parents listed on the original birth certificate are deceased.

(b) A birth parent may~~[-]~~:

(i) provide consent to allow the access described in Subsection (4)(a) by electing, electronically or on a written form provided by the office, allowing the birth parent to elect to:

(A) allow the office to provide the adult adoptee with the contact information of the birth parent that the birth parent indicates;

(B) allow the office to provide the adult adoptee with the contact information of an intermediary that the birth parent indicates;

(C) prohibit the office from providing any contact information to the adult adoptee;

(D) allow the office to provide the adult adoptee with a noncertified copy of the original birth certificate; and

(ii) at any time, file, electronically or on a written document with the office, to:

~~[(4)]~~ (A) change the election described in Subsection ~~[(4)(a)]~~ (4)(b); or

~~[(4)]~~ (B) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.

(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).

(d) If two birth parents are listed on the original birth certificate and only one birth parent consents under Subsection (4)(b) or is deceased, the office may redact the name of the other birth parent.

(5) (a) An individual who files a motion to intervene in an adoption proceeding:

(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(b) An order described in Subsection (3)(b) shall:

(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.

### **Section 3. Effective date.**

This bill takes effect on November 1, 2021.

**CHAPTER 324****H. B. 360**

Passed March 10, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**INTERACTIVE READING  
SOFTWARE AMENDMENTS**

Chief Sponsor: Steve Waldrip  
Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill amends provisions related to an interactive reading software.

**Highlighted Provisions:**

This bill:

- ▶ moves an authorization for an analytical software program out of a specific appropriation allocation;
- ▶ allows for the use of a specific appropriation allocation for administrative costs; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-4-203, as last amended by Laws of Utah 2019, Chapters 164, 186, and 324

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

**Section 1. Section 53F-4-203 is amended to read:****53F-4-203. Early interactive reading software -- Independent evaluator.**

(1) (a) Subject to legislative appropriations, the state board shall select and contract with one or more technology providers, through a request for proposals process, to provide early interactive reading software for literacy instruction and assessments for students in kindergarten through grade 3.

(b) By August 1 of each year, the state board shall distribute licenses for early interactive reading software described in Subsection (1)(a) to the school districts and charter schools of LEA governing boards that apply for the licenses.

(c) Except as provided in state board rule, a school district or charter school that received a license described in Subsection (1)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.

(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (1)(c) shall be distributed through a competitive process.

(2) A public school that receives a license described in Subsection (1)(b) shall use the license for a student in kindergarten or grade 1, 2, or 3:

(a) for intervention for the student if the student is reading below grade level; or

(b) for advancement beyond grade level for the student if the student is reading at or above grade level.

(3) (a) On or before August 1 of each year, the state board shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.

(b) The state board shall ensure that a contract with an independent evaluator requires the independent evaluator to:

(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (1);

(ii) for the evaluation under Subsection (3)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and

(iii) determine the extent to which a public school uses the early interactive reading software.

(c) The state board and the independent evaluator selected under Subsection (3)(a) shall submit a report on the results of the evaluation in accordance with Section 53E-1-201.

(4) The state board may acquire an analytical software program that:

(a) monitors, for an individual school, early intervention interactive reading software use and the associated impact on student performance; and

(b) analyzes the information gathered under Subsection (4)(a) to prescribe individual school usage time to maximize the beneficial impact on student performance.

~~[(4)] (5) The state board may use up to 4% of the appropriation provided under Subsection (1)(a) [to:~~

~~[(a) acquire an analytical software program that:]~~

~~[(i) monitors, for an individual school, early intervention interactive reading software use and the associated impact on student performance; and]~~

~~[(ii) analyzes the information gathered under Subsection (4)(a)(i) to prescribe individual school usage time to maximize the beneficial impact on student performance; or]~~

~~[(b)] (a) to contract with an independent evaluator selected under Subsection (3)(a)[-]; and~~

(b) for administrative costs associated with this section.

**CHAPTER 325****H. B. 372**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**DIGITAL WELLNESS, CITIZENSHIP,  
AND SAFE TECHNOLOGY COMMISSION**

Chief Sponsor: Keven J. Stratton  
 Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill creates the Digital Wellness, Citizenship, and Safe Technology Commission to advance the goal of training every student in healthy behavior related to technology use.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Digital Wellness, Citizenship, and Safe Technology Commission (commission); and
- ▶ requires the commission to:
  - identify best practices and compile resources for training students in healthy behavior related to technology use; and
  - report to the Education Interim Committee and the State Board of Education on efforts related to delivering training in healthy behavior related to technology use.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

**ENACTS:**

63C-21-101, Utah Code Annotated 1953  
 63C-21-102, Utah Code Annotated 1953  
 63C-21-201, Utah Code Annotated 1953  
 63C-21-202, Utah Code Annotated 1953

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

**Section 1. Section 63C-21-101 is enacted to read:****CHAPTER 21. DIGITAL WELLNESS,  
CITIZENSHIP, AND SAFE TECHNOLOGY  
COMMISSION****Part 1. General Provisions****63C-21-101. Title.**

(1) This chapter is known as the "Digital Wellness, Citizenship, and Safe Technology Commission."

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

**Section 2. Section 63C-21-102 is enacted to read:****63C-21-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Digital Wellness, Citizenship, and Safe Technology Commission created in Section 63C-21-201.

(2) "Cyber-bullying" means the same as that term is defined in Section 53G-9-601.

(3) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(4) "Local education agency" or "LEA" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(5) "State board" means the State Board of Education.

(6) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

(7) "Student" means a child who is under the age of 18.

**Section 3. Section 63C-21-201 is enacted to read:****Part 2. Digital Wellness, Citizenship, and Safe Technology Commission****63C-21-201. Commission established --  
Members.**

(1) There is created the Digital Wellness, Citizenship, and Safe Technology Commission to advance the goal of reaching every student, parent, and student's support network with training and ongoing support in digital citizenship, composed of the following 11 members:

(a) one member of the Senate, appointed by the president of the Senate who shall serve as co-chair of the commission;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives who shall serve as co-chair of the commission;

(c) two members appointed by the state superintendent, that may include:

(i) a current or former classroom teacher; and

(ii) a parent of a student;

(d) the governor or the governor's designee;

(e) the attorney general or the attorney general's designee; and

(f) five members with experience and expertise related to digital citizenship training and education, recommended by the co-chairs of the commission and jointly approved by the president of the Senate and the speaker of the House of Representatives, that may include:

(i) a mental health professional;

(ii) a facilitator of a school community council;

(iii) a media literacy librarian; and

(iv) a representative of the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) A majority of the members of the commission constitutes a quorum of the commission.

(b) The action by a majority of the members of a quorum constitutes the action of the commission.

(3) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

(5) The commission shall meet up to seven times per year.

**Section 4. Section 63C-21-202 is enacted to read:**

**63C-21-202. Commission duties -- Reporting requirements.**

(1) To ensure students are digital media-literate, and able to use technology safely and ethically, the commission shall:

(a) identify best practices for reaching every student with training in digital citizenship;

(b) identify, compile, and publish resources that an LEA or a parent may use to educate students, parents, or a student's support network in digital citizenship;

(c) identify and compile emerging research on digital citizenship and educating students, parents, or a student's support network in digital citizenship;

(d) collaborate and coordinate efforts with programs related to cyber-bullying, suicide prevention, anti-pornography, and social and emotional learning to provide resources for promoting digital citizenship to LEAs, students, teachers, and parents; and

(e) administer funds appropriated by the Legislature for the purposes described in this part, in accordance with the intent of the Legislature for the appropriation.

(2) The commission shall annually report to the Education Interim Committee and the state board on:

(a) objectives for training students in digital citizenship;

(b) a template for a plan that an LEA may use to achieve the objectives described in Subsection (2)(a);

(c) involving parents in promoting digital citizenship, including resources for educating students and parents at home;

(d) approved providers to deliver training in digital citizenship to teachers and students in LEAs; and

(e) the expenditure of the funds described in Subsection (1)(e).

**Section 5. Section 63I-2-263 is amended to read:**

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

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

~~[(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.]~~

~~[(3)] (2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.~~

~~(3) Title 63C, Chapter 21, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.~~

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1~~[(52)](56)~~ is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.



**CHAPTER 326****H. B. 398**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**PLANT PEST EMERGENCY CONTROL**

Chief Sponsor: Derrin R. Owens  
Senate Sponsor: Ralph Okerlund

**LONG TITLE****General Description:**

This bill addresses plant pest emergency control.

**Highlighted Provisions:**

This bill:

- ▶ expands the scope of the insect infestation emergency control chapter;
- ▶ modifies definitions;
- ▶ addresses decision and action committees;
- ▶ addresses commissioner's authority to address plant pest emergencies;
- ▶ creates the Plant Pest Fund;
- ▶ amends provisions related to recovery of costs from an owner or occupant; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 4-1-110, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-35-101, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-35-102, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-35-103, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-35-104, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-35-105, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-35-106, as renumbered and amended by Laws of Utah 2017, Chapter 345  
4-35-107, as last amended by Laws of Utah 2019, Chapter 349

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

**Section 1. Section 4-1-110 is amended to read:****4-1-110. Growing or storing food for personal or family use.**

(1) As used in this section, "family food" means food owned by an individual that is intended for the individual's consumption, or for consumption by members of the individual's immediate family, that:

- (a) is legal for human consumption;
- (b) is lawfully possessed; and
- (c) poses no risk:

(i) to health;

(ii) of spreading [~~insect~~] plant pest infestation; or

(iii) of spreading agricultural disease.

(2) Family food that is grown by an individual on the individual's property is not subject to local or federal regulation if growth of the family food:

(a) does not negatively impact the rights of adjoining property owners; and

(b) complies with the food safety requirements of this title.

(3) A government entity may not confiscate family food described in Subsection (2) or family food that is stored by the owner in the owner's home or dwelling.

(4) (a) If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this section shall be given effect without the invalid provision or application.

(b) The provisions of this section are severable.

**Section 2. Section 4-35-101 is amended to read:****CHAPTER 35. PLANT PEST EMERGENCY CONTROL ACT****4-35-101. Title.**

This chapter is known as the "[~~Insect Infestation~~] Plant Pest Emergency Control Act."

**Section 3. Section 4-35-102 is amended to read:****4-35-102. Definitions.**

As used in this chapter:

(1) "Committee" means the Decision and Action Committee created by [~~and established under~~] this chapter.

(2) "Department" means the Department of Agriculture and Food.

(3) "Fund" means the Plant Pest Fund created by Section 4-35-106.

[~~(3)~~] (4) [~~"Insect"~~] "Plant pest" means [~~any animal in the class insect~~] a biological agent that the commissioner determines to be a threat to agriculture in the state as described in Subsection 4-2-103(1)(k)(i).

**Section 4. Section 4-35-103 is amended to read:****4-35-103. Decision and Action Committee created -- Members -- How appointed -- Duties of committee -- Per diem and expenses allowed.**

(1) (a) There is created the Decision and Action Committee that consists of not fewer than six members.

(b) One member is the commissioner and one member is appointed to represent the department.

(c) The remaining members of the committee are appointed by the commissioner ~~[on an ad hoc basis]~~ as necessary from persons directly affected by and involved in the current ~~[insect infestation]~~ plant pest emergency.

(d) The commissioner, or the commissioner's designee, shall cast the deciding vote in the event of a tie.

(e) The committee is dissolved when the commissioner declares that the ~~[insect infestation]~~ plant pest emergency is over.

(f) Attendance of a majority of committee members at a meeting called of the committee constitutes a quorum for the transaction of business.

(g) The committee is governed by Title 52, Chapter 4, Open and Public Meetings Act, and Title 63G, Chapter 2, Government Records Access and Management Act.

(2) The committee shall ~~[-(a)]~~ establish a system of priorities for ~~[any insect infestation]~~ plant pest emergency ~~[-and]~~.

~~[(b) certify to the commissioner any area which requires the establishment of an insect control district in areas of infestation and in which a simple majority of the landowners and lessees whose total production exceeds 50% of the production in that area has agreed to pay proportionate shares of the costs of controlling the insects infesting the area.]~~

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 5. Section 4-35-104 is amended to read:**

**4-35-104. Commissioner to declare emergency -- Powers of commissioner in emergency.**

(1) (a) The commissioner, with the consent of the governor, may declare that ~~[an insect infestation]~~ a plant pest emergency situation exists ~~[which]~~ that jeopardizes property and resources, and designate the area or areas affected.

(b) ~~[The]~~ An area referred to in Subsection (1)(a) may include federal lands, after notification of the appropriate federal land manager.

(2) The commissioner is authorized, subject to ~~[the requirements of]~~ Section 4-35-105, to direct all emergency measures the ~~[commissioner]~~ commissioner considers necessary to alleviate the emergency condition.

(3) The commissioner shall:

(a) ~~[utilize]~~ use equipment, supplies, facilities, personnel, and other available resources;

(b) enter into contracts for the acquisition, rental, or hire of equipment, services, materials, and supplies;

(c) accept assistance, services, and facilities offered by federal and local governmental units or private agencies; and

(d) accept on behalf of the state the provisions and benefits of acts of Congress designated to provide assistance.

**Section 6. Section 4-35-105 is amended to read:**

**4-35-105. Commissioner to act upon declaration of a plant pest emergency.**

(1) The commissioner initiates operations to control ~~[the insect infestation]~~ a plant pest in the designated area or ~~[areas; (a)]~~ upon declaration of an infestation emergency ~~[-as described in Section 4-35-104; and]~~.

~~[(b) upon deposit of the owner's and lessee's projected proportionate share of the costs.]~~

(2) The commissioner and the members of the committee may suspend or terminate control operations upon a determination that the operations will not significantly reduce the ~~[insect]~~ plant pest population in the designated emergency area.

**Section 7. Section 4-35-106 is amended to read:**

**4-35-106. Plant Pest Fund.**

~~[(1) All money received by the state under this chapter is deposited by the Department of Agriculture and Food as dedicated credits for the purpose of insect control with the state.]~~

~~[(2) The dedicated credits may be used as matching funds for:]~~

(1) There is created an expendable special revenue fund known as the "Plant Pest Fund."

(2) The fund is funded from:

(a) money the plant industry division within the department receives under this title;

(b) the landowner's and lessee's share of costs, if required by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) appropriations from the Legislature;

(d) federal money deposited into the fund; and

(e) the interest and earnings on the fund.

(3) The department may only use money in the fund to fund survey, detection, eradication, or suppression efforts for plant pests with the exception designated in Subsection (4).

(4) The department may annually use an amount not to exceed the lesser of the following to carry out the department's duties under this chapter:

(a) 10% of the fund annually; or

(b) \$300,000.

(5) (a) The fund may not exceed \$10,000,000 of money deposited under Subsections (2)(a), (c), and (e).

(b) The Division of Finance shall transfer the money described in Subsection (5)(a) in excess of \$10,000,000 at the end of a fiscal year into the General Fund.

(6) Federal money deposited into the fund shall be accounted for separately.

~~[(a)]~~ (7) Fund money may be used as matching funds for participation in programs of the United States Department of Agriculture~~;~~ and for survey, detection, eradication, or suppression efforts of plant pests.

~~[(b) in contracts with private property owners who own croplands contiguous to infested public rangelands.]~~

**Section 8. Section 4-35-107 is amended to read:**

**4-35-107. Notice to owner or occupant -- Corrective action required -- Directive issued by department -- Costs -- Owner or occupant may prohibit treatment.**

(1) The department or an authorized agent of the department shall notify the owner or occupant of the problem and the available alternatives to remedy the problem. The owner or occupant shall take corrective action within 30 days.

(2) (a) If the owner or occupant fails to take corrective action under Subsection (1), the department may issue a directive for corrective action ~~[which]~~ that shall be taken within 15 days.

(b) If the owner or occupant fails to act within the required time, the department shall take the necessary action.

(c) The department may recover full or partial costs incurred for controlling ~~[an insect infestation]~~ a plant pest emergency from the owner or occupant of the property on whose property corrective action was taken. The amount of costs to be recovered is at the department's sole discretion.

(3) (a) ~~[Owners or occupants]~~ An owner or occupant of property may prohibit treatment by presenting an affidavit from the owner's or occupant's attending physician or physician assistant to the department ~~[which]~~ that states that the treatment as planned is a danger to the owner's or occupant's health.

(b) The department shall provide the owner or occupant with alternatives to treatment ~~[which]~~ that will abate the ~~[infestation]~~ plant pest.

**CHAPTER 327****H. B. 416**

Passed March 12, 2020

Approved March 30, 2020

Effective May 12, 2020

**PENALTIES FOR  
MISCONDUCT WITH STUDENTS**

Chief Sponsor: Candice B. Pierucci  
 Senate Sponsor: Deidre M. Henderson  
 Cosponsors: Cheryl K. Acton  
 Brady Brammer  
 Kim F. Coleman  
 Sandra Hollins  
 Eric K. Hutchings  
 Dan N. Johnson  
 Marsha Judkins  
 Karianne Lisonbee  
 Lee B. Perry  
 Susan Pulsipher  
 Angela Romero

**LONG TITLE****General Description:**

This bill amends penalties for an educator who engages in misconduct with students.

**Highlighted Provisions:**

This bill:

- ▶ imposes penalties for an educator or license applicant who engages in sexually explicit conduct with a student who:
  - is not a minor;
  - is not enrolled in an adult education program; and
  - is enrolled at a school where a license applicant or educator is employed or is a participant in an extracurricular activity in which the educator is involved.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-6-603, as last amended by Laws of Utah 2019, Chapter 186

53E-6-604, as last amended by Laws of Utah 2019, Chapter 186

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-6-603 is amended to read:****53E-6-603. Ineligibility for educator license.**

(1) The state board may refuse to issue a license to a license applicant if the state board finds good cause for the refusal, including behavior of the applicant:

(a) found pursuant to a criminal, civil, or administrative matter after reasonable opportunity for the applicant to contest the allegation; and

(b) considered, as behavior of an educator, to be:

(i) immoral, unprofessional, or incompetent behavior; or

(ii) a violation of standards of ethical conduct, performance, or professional competence.

(2) The state board may not issue, renew, or reinstate an educator license if the license applicant or educator:

(a) was convicted of a felony of a sexual nature;

(b) pled guilty to a felony of a sexual nature;

(c) entered a plea of no contest to a felony of a sexual nature;

(d) entered a plea in abeyance to a felony of a sexual nature;

(e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;

(f) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;

(g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who [is]:

(i) is not enrolled in an adult education program in an LEA;

~~(i)~~ (ii) is not a minor; and

~~(ii)~~ (iii) (A) is enrolled in [a school] an LEA where the license applicant or educator is [~~or~~ was] employed; or

(B) is a participant in an extracurricular program in which the educator is involved; or

(h) admits to the state board or UPPAC that the license applicant or educator committed conduct that amounts to:

(i) a felony of a sexual nature; or

(ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or (g).

(3) If an individual is ineligible for licensure under Subsection (1) or (2), a public school may not:

(a) employ the person in the public school; or

(b) allow the person to volunteer in the public school.

(4) (a) If the state board denies licensure under this section, the state board shall immediately notify the applicant of:

(i) the denial; and

(ii) the applicant's right to request a hearing before UPPAC.

(b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30 days after the day on which the applicant received the notice, request a hearing before UPPAC for the applicant to review and respond to all evidence upon which the state board based the denial.

(c) If the state board receives a request for a hearing described in Subsection (4)(b), the state board shall direct UPPAC to hold a hearing.

**Section 2. Section 53E-6-604 is amended to read:**

**53E-6-604. State board disciplinary action against an educator.**

(1) (a) The state board shall direct UPPAC to investigate an allegation, administrative decision, or judicial decision that evidences an educator is unfit for duty because the educator exhibited behavior that:

- (i) is immoral, unprofessional, or incompetent; or
- (ii) violates standards of ethical conduct, performance, or professional competence.

(b) If the state board determines an allegation or decision described in Subsection (1)(a) does not evidence an educator's unfitness for duty, the state board may dismiss the allegation or decision without an investigation or hearing.

(2) The state board shall direct UPPAC to investigate and allow an educator to respond in a UPPAC hearing if the state board receives an allegation that the educator:

- (a) was charged with a felony of a sexual nature;
- (b) was convicted of a felony of a sexual nature;
- (c) pled guilty to a felony of a sexual nature;
- (d) entered a plea of no contest to a felony of a sexual nature;
- (e) entered a plea in abeyance to a felony of a sexual nature;
- (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
- (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or
- (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who [is]:

(i) is not enrolled in an adult education program in an LEA;

[~~(i)~~] (ii) is not a minor; and

[~~(ii)~~] (iii) (A) is enrolled in [a school] an LEA where the educator is [or was] employed[.]; or

(B) is a participant in an extracurricular program in which the educator is involved.

(3) Upon notice that an educator allegedly violated Section 53E-6-701, the state board shall direct UPPAC to:

- (a) investigate the alleged violation; and
- (b) hold a hearing to allow the educator to respond to the allegation.

(4) Upon completion of an investigation or hearing described in this section, UPPAC shall:

- (a) provide findings to the state board; and
- (b) make a recommendation for state board action.

(5) (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and recommendation, the state board may:

- (i) revoke the educator's license;
- (ii) suspend the educator's license;
- (iii) restrict or prohibit the educator from renewing the educator's license;
- (iv) warn or reprimand the educator;
- (v) enter into a written agreement with the educator that requires the educator to comply with certain conditions;
- (vi) direct UPPAC to further investigate or gather information; or
- (vii) take other action the state board finds to be appropriate for and consistent with the educator's behavior.

(b) Upon review of UPPAC's findings and recommendation, the state board shall revoke the license of an educator who:

- (i) was convicted of a felony of a sexual nature;
- (ii) pled guilty to a felony of a sexual nature;
- (iii) entered a plea of no contest to a felony of a sexual nature;
- (iv) entered a plea in abeyance to a felony of a sexual nature;
- (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
- (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
- (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who:

(A) is not enrolled in an adult education program in an LEA;

(B) is not a minor; and[.];

[~~(A) not a minor; and~~]

[~~(B) enrolled in a school where the educator is or was employed; or~~]

(C) is enrolled in an LEA where the educator is employed or is a participant in an extracurricular program in which the educator is involved; or

(viii) admits to the state board or UPPAC that the applicant committed conduct that amounts to:

- (A) a felony of a sexual nature; or
- (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi), or (vii).

(c) The state board may not reinstate a revoked license.

(d) Before the state board takes adverse action against an educator under this section, the state board shall ensure that the educator had an opportunity for a UPPAC hearing.

**CHAPTER 328****H. B. 431**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**ENERGY EFFICIENCY  
 PROGRAMS AMENDMENTS**

Chief Sponsor: Stephen G. Handy  
 Senate Sponsor: Curtis S. Bramble  
 Cosponsor: Jeffrey D. Stenquist

**LONG TITLE****General Description:**

This bill amends provisions related to energy efficiency programs for large-scale natural gas utilities and large-scale electric utilities.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of “demand side management” in the context of an authorized tariff relating to energy efficiency and conservation, to include the use of heat pumps; and
- ▶ requires the Public Service Commission to allow an end-use customer of a large-scale electric utility or a large-scale natural gas utility to continue to receive a credit or rebate under an approved demand side management tariff or schedule under certain circumstances.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

54-7-12, as last amended by Laws of Utah 2009, Chapter 319  
 54-7-12.8, as last amended by Laws of Utah 2016, Chapter 393

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 54-7-12 is amended to read:**

**54-7-12. Rate increase or decrease --  
 Procedure -- Effective dates -- Electrical  
 or telephone cooperative.**

(1) As used in this section:

(a) (i) “Base rates” means those charges included in a public utility’s generally applicable rate tariffs, including:

- (A) a fare;
- (B) a rate;
- (C) a rental;
- (D) a toll; or

(E) any other charge generally applicable to a public utility’s rate tariffs.

(ii) Unless included by a commission order, “base rates” does not include charges included in:

- (A) a deferred account;
- (B) a balancing account;
- (C) a major plant addition surcharge;
- (D) a major plant addition surcredit;
- (E) a special contract; or
- (F) a public utility program offering.

(b) (i) “Complete filing” means an application filed by a public utility that substantially complies with minimum filing requirements established by the commission, by rule, for a general rate increase or decrease.

(ii) The commission shall within 180 days after March 25, 2009 create and finalize rules concerning the minimum requirements to be met for an application to be considered a complete filing.

(c) “General rate decrease” means:

(i) any direct decrease to a public utility’s base rates; or

(ii) any modification of a classification, contract, practice, or rule that decreases a public utility’s base rates.

(d) “General rate increase” means:

(i) any direct increase to a public utility’s base rates; or

(ii) any modification of a classification, contract, practice, or rule that increases a public utility’s base rates.

(2) (a) A public utility that files for a general rate increase or general rate decrease shall file a complete filing with the commission setting forth the proposed rate increase or decrease.

(b) (i) For purposes of this Subsection (2), a public utility’s application for a general rate increase or decrease shall be considered a complete filing unless within 30 days after the day on which the commission receives the public utility’s application, the commission issues an order describing information that the public utility must provide for the application to be considered a complete filing.

(ii) Subject to Subsection (2)(b)(iii) and within 14 days after the day on which the application is received by the commission, a party or a person may file a motion to challenge whether an application for a general rate increase or decrease is a complete filing.

(iii) A party or a person may not file a motion described in Subsection (2)(b)(ii) unless the person or party has first filed a motion to intervene with the commission.

(c) If, in accordance with Subsection (2)(b)(i), the commission issues an order that an application is not a complete filing, the commission shall:

(i) determine the materiality of an application deficiency; and

(ii) (A) if the deficiencies are not material, issue an order that the 240-day period described in Subsection (3)(a) shall continue without delay or be suspended and resume when the public utility files the required information; or

(B) if the deficiencies are material, issue an order that the 240-day period described in Subsection (3)(a) shall start over when the public utility files the required information.

(d) (i) The commission shall, after reasonable notice, hold a hearing to determine whether the proposed rate increase or decrease, or some other rate increase or decrease, is just and reasonable.

(ii) If a rate decrease is proposed by a public utility, the commission may waive a hearing unless it seeks to suspend, alter, or modify the rate decrease.

(e) Except as otherwise provided in Subsection (2)(d), (3), or (4), a proposed rate increase or decrease is not effective until after completion of the hearing and issuance of a final order by the commission concerning the proposed increase or decrease.

(3) (a) Within 240 days after a public utility submits a complete filing, the commission shall issue a final order to:

(i) grant the proposed general rate increase or decrease;

(ii) grant a different general rate increase or decrease; or

(iii) deny the proposed general rate increase or decrease.

(b) If the commission does not issue a final written order within 240 days after the public utility submits a complete filing in accordance with Subsection (3)(a):

(i) the public utility's proposed rate increase or decrease is final; and

(ii) the commission may not order a refund of any amount already collected or returned by the public utility under Subsection [(4)] (3)(a).

(4) (a) (i) A request for interim rates shall be made within 90 days after the day on which a public utility files a complete filing for a general rate increase or a general rate decrease.

(ii) The commission, on its own initiative or in response to an application by a public utility or other party, may, after a hearing, allow any rate increase or decrease proposed by a public utility, or a reasonable part of the rate increase or decrease, to take effect on an interim basis within 45 days after the day on which the request is filed, subject to the commission's right to order a refund or surcharge.

(iii) The evidence presented in the hearing held pursuant to this Subsection (4) need not encompass all issues that may be considered in a rate case hearing held pursuant to Subsection (2)(d), but shall establish an adequate prima facie showing

that the interim rate increase or decrease is justified.

(b) The commission may, after a hearing, issue a final order before the expiration of 240 days after the day on which the public utility files a complete filing establishing the utility's revenue requirement and fixing the utility's allowable rates before the commission determines the final allocation of the increase or decrease among categories of customers and classes of service.

(c) (i) If the commission in the commission's final order on a public utility's revenue requirement finds that the interim increase ordered under Subsection (4)(a)(ii) exceeds the increase finally ordered, the commission shall order the public utility to refund the excess to customers.

(ii) If the commission in the commission's final order on a public utility's revenue requirement finds that the interim decrease ordered under Subsection (4)(a)(ii) exceeds the decrease finally ordered, the commission shall order a surcharge to customers to recover the excess decrease.

(5) (a) Notwithstanding any other provisions of this title, any schedule, classification, practice, or rule filed by a public utility with the commission that does not result in any rate increase shall take effect 30 days after the date of filing or within any lesser time the commission may grant, subject to its authority after a hearing to suspend, alter, or modify that schedule, classification, practice, or rule.

(b) When the commission suspends a schedule, classification, practice, or rule, the commission shall hold a hearing on the schedule, classification, practice, or rule before issuing its final order.

(c) For purposes of this Subsection (5), any schedule, classification, practice, or rule that introduces a service or product not previously offered may not result in a rate increase.

(6) Notwithstanding any other provision of this title, whenever a public utility files with the commission any schedule, classification, practice, or rule that does not result in an increase in any rate, fare, toll, rental, or charge, the schedule, classification, practice, or rule shall take effect 30 days after the date of filing or at any earlier time the commission may grant, subject to the authority of the commission, after a hearing, to suspend, alter, or modify the schedule, classification, practice, or rule.

(7) This section does not apply to any rate changes of an electrical or telephone cooperative that meets all of the requirements of this Subsection (7).

(a) (i) The cooperative is organized for the purpose of either distributing electricity or providing telecommunication services to its members and the public at cost.

(ii) "At cost" includes interest costs and a reasonable rate of return as determined by the cooperative's board of directors.

(b) The cooperative's board of directors and any appropriate agency of the federal government have



approved the rate increase or other rate change and all necessary tariff revisions reflecting the increased rate or rate change.

(c) Before implementing any rate increases, the cooperative has held a public meeting for all its customers and members. The cooperative shall mail a notice of the meeting to all of the cooperative's customers and members not less than 10 days prior to the date that the meeting is held.

(d) The cooperative has filed its tariff revisions reflecting the rate increase or other rate change with the commission, who shall make the tariffs available for public inspection.

(8) Notwithstanding Subsections (2) and (4), the procedures for implementing a proposed rate increase by a telephone corporation having less than 30,000 subscriber access lines in the state are provided in this Subsection (8).

(a) (i) The proposed rate increase by a telephone corporation subject to this Subsection (8) may become effective on the day the telephone corporation files with the commission the proposed tariff revisions and necessary information to support a determination by the commission that the proposed rate increase is just and reasonable.

(ii) The telephone corporation shall notify the commission and all potentially affected access line subscribers of the proposed rate increase 30 days before filing the proposed rate increase or change.

(b) (i) The commission may investigate whether the proposed rate increase is just and reasonable.

(ii) If the commission determines, after notice and hearing, that the rate increase is unjust or unreasonable in whole or in part, the commission may establish the rates, charges, or classifications that the commission finds to be just and reasonable.

(c) The commission shall investigate and hold a hearing to determine whether any proposed rate increase is just and reasonable if 10% or more of the telephone corporation's potentially affected access line subscribers file a request for agency action requesting an investigation and hearing.

(9) For a rebate received by an end-use customer under a demand side management program of a large-scale natural gas utility's approved schedule, the commission shall allow the end-use customer to continue receiving the rebate for up to one calendar year if:

(a) the end-use customer:

(i) is currently participating in the demand side management program; and

(ii) has completed new construction within the previous 12 months; and

(b) the schedule under which the rebate was created is modified due to a change in:

(i) standards adopted under Title 15A, State Construction and Fire Codes Act; or

(ii) 10 C.F.R. Chapter 2, Chapter 3, and Chapter 5.

**Section 2. Section 54-7-12.8 is amended to read:**

**54-7-12.8. Electric energy efficiency, sustainable transportation and energy, and conservation tariff.**

(1) As used in this section:

(a) "Demand side management" means an activity or program that promotes electric energy efficiency or conservation, the use of heat pumps, or more efficient management of electric energy loads.

(b) "Pilot program period" means a period of five years, beginning on January 1, 2017, during which the sustainable transportation and energy plan is effective.

(c) "Sustainable transportation and energy plan" means the same as that term is defined in Section 54-20-102.

(d) "Utah solar incentive program" means the eligible utility rooftop solar pilot program established by commission order in 2012.

(2) (a) As provided in this section, the commission may approve a tariff under which an electrical corporation includes a line item charge on the electrical corporation's customers' bills to recover costs incurred by the electrical corporation for demand side management.

(b) The commission shall authorize a large-scale electric utility that is allowed to charge a customer for demand side management under Subsection (2)(a) to:

(i) if requested by the large-scale electric utility, capitalize the annual costs incurred for demand side management provided in Subsection (2)(a);

(ii) amortize the annual cost for demand side management over a period of 10 years;

(iii) apply a carrying charge to the unamortized balance that is equal to the large-scale electric utility's pretax weighted average cost of capital approved by the commission in the large-scale electric utility's most recent general rate proceeding; and

(iv) recover the amortization cost described in Subsection (2)(b)(ii) and the carrying charge described in Subsection (2)(b)(iii) in customer rates.

(3) The commission shall, before January 1, 2017, authorize a large-scale electric utility to implement a combined line item charge on the large-scale electric utility's customers' bills to recover the cost to the large-scale electric utility of:

(a) demand side management, including the cost of amortizing a deferred balance;

(b) the sustainable transportation and energy plan; and

(c) the additional expense described in Subsection (5)(a)(i).

(4) On December 31, 2016, the commission shall end the Utah solar incentive program and

surcharge tariff and the large-scale electric utility shall stop accepting new applications for solar incentive program incentives.

(5) (a) The commission may authorize a large-scale electric utility that capitalizes demand side management costs under Subsection (2)(b) to:

(i) recognize the difference between the annual revenues the large-scale electric utility collects for demand side management and the annual amount of the large-scale electric utility's demand side management cost amortization expense as an additional expense;

(ii) establish and fund, via the additional expense described in Subsection (5)(a)(i), a regulatory liability; and

(iii) use the regulatory liability described in Subsection (5)(a)(ii) to depreciate thermal generation plant.

(b) (i) The commission may authorize the large-scale electric utility to use the regulatory liability described in Subsection (5)(a)(ii) to depreciate thermal generation plant for which the commission determines depreciation is in the public interest for compliance with an environmental regulation or another purpose.

(ii) The commission may not consider the existence of the regulatory liability described in Subsection (5)(a)(ii) in a determination to accelerate depreciation under Subsection (5)(b)(i).

(c) The commission shall allow the large-scale electric utility to apply a carrying charge to the regulatory liability described in Subsection (5)(a)(ii) in an amount equal to the large-scale electric utility's pretax average weighted cost of capital approved by the commission in the large-scale electric utility's most recent general rate proceeding.

(d) The commission may allow a large-scale electric utility to use the regulatory liability carrying charge described in Subsection (5)(c) to offset the carrying charge described in Subsection (2)(b)(iii).

(e) The large-scale electric utility shall apply the carrying charge described in Subsection (5)(c) to funds that a large-scale electric utility is authorized to use to depreciate thermal generation plant under Subsection (5)(a) until the reduction in the large-scale electric utility's rate base associated with the thermal generation plant depreciation for which the funds are used is reflected in the large-scale electric utility's customers' rates.

(f) If the commission determines that funds established in the regulatory liability under Subsection (5)(a) are no longer needed for the purpose of depreciating thermal generation plant, the large-scale electric utility shall use the balance of the funds in the regulatory liability to offset the capitalized demand side management costs described in Subsection (2)(b)(i).

(6) (a) During the pilot program period, of the funds a large-scale electric utility collects via the line item charge described in Subsection (3), the commission shall authorize the large-scale electric utility to allocate on an annual basis:

(i) \$10,000,000 to the sustainable transportation and energy plan; and

(ii) the funds not allocated to the sustainable transportation and energy plan to demand side management.

(b) The commission shall authorize a large-scale electric utility to spend up to:

(i) \$2,000,000 annually for the electric vehicle incentive program described in Section 54-20-103; and

(ii) an annual average of:

(A) \$1,000,000 for the clean coal technology program described in Section 54-20-104; and

(B) \$3,400,000 for the innovative utility programs described in Section 54-20-105.

(c) The commission shall authorize a large-scale electric utility to recoup the large-scale electric utility's unrecovered costs paid through the Utah solar incentive program from the funds allocated under Subsection (6)(a)(i).

(d) The commission may authorize a large-scale electric utility to allocate funds the large-scale electric utility collects via the line item charge described in Subsection (3) not spent under this Subsection (6) to a conservation, efficiency, or new technology program if the conservation, efficiency, or new technology program is cost-effective and in the public interest.

(7) A large-scale electric utility shall establish a balancing account that includes:

(a) funds allocated under Subsection (6)(a)(i);

(b) the program expenditures described in Subsection (6)(b);

(c) the unrecovered Utah solar incentive program costs described in Subsection (6)(c); and

(d) a carrying charge in an amount determined by the commission.

(8) A customer that is paying a contract rate under an agreement with a large-scale electric utility as of January 1, 2016, is exempt from the costs recovered under Subsection (3), except for costs created by or arising from the Utah solar incentive program included in Subsection 54-7-12.8(3)(b).

(9) (a) In any proceeding commenced under Section 54-3-32, the commission may not consider or assess to an eligible customer an expenditure, cost, amortization, charge, or liability of any kind that is created by or arises in whole or in part from:

(i) any program created under Title 54, Chapter 20, Sustainable Transportation and Energy Plan Act; or

(ii) this section, except for costs created by or arising from the Utah solar incentive program included in Subsection 54-7-12.8(3)(b).

(b) Except as provided in Subsection (9)(a) and in Section 54-3-33, this section and Title 54, Chapter 20, Sustainable Transportation and Energy Plan Act, do not:

(i) amend or repeal any provision of Section 54-3-32; or

(ii) affect any right, defense, or credit available to an eligible customer under Section 54-3-32.

(10) Each electrical corporation proposing a tariff under this section shall, before submitting the tariff to the commission for approval, seek input from:

(a) the Division of Public Utilities;

(b) the Office of Consumer Services; and

(c) a person that files a request for notice with the commission.

(11) Before approving a tariff under this section, the commission shall hold a hearing if:

(a) requested in writing by the electrical corporation, a customer of the electrical corporation, or any other interested party within 15 days after the tariff filing; or

(b) the commission determines that a hearing is appropriate.

(12) (a) The commission may approve a demand side management tariff under this section either with or without a provision allowing an end-use customer to receive a credit against the charges imposed under the tariff for electric energy efficiency measures that:

~~[(a)]~~ (i) the customer implements or has implemented at the customer's expense; and

~~[(b)]~~ (ii) qualify for the credit under criteria established by the commission.

(b) For a credit that an end-use customer receives under an approved demand side management tariff pursuant to Subsection (12)(a), the commission shall allow the end-use customer to continue receiving the credit for up to one calendar year if:

(i) the end-use customer:

(A) is currently participating in the demand side management tariff; and

(B) has completed new construction within the previous 12 months; and

(ii) the tariff under which the credit was created is modified due to a change in:

(A) standards adopted under Title 15A, State Construction and Fire Codes Act; or

(B) 10 C.F.R. Chapter 2, Chapter 3, and Chapter 5.

(13) In approving a tariff under this section, the commission may impose whatever conditions or

limits it considers appropriate, including a maximum annual cost.

(14) Unless otherwise ordered by the commission, each tariff under this section approved by the commission shall take effect no sooner than 30 days after the electrical corporation files the tariff with the commission.

**CHAPTER 329****H. B. 462**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**UNLAWFUL DETAINER AMENDMENTS**

Chief Sponsor: James A. Dunnigan  
Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill amends provisions related to unlawful detainer of property.

**Highlighted Provisions:**

This bill:

- ▶ reinstates references to the federal law governing certain aspects of a foreclosure of residential property occupied by a tenant;
- ▶ amends a requirement for unlawful detainer by a tenant if the tenant fails to make payments, continues to possess the property, and receives notice;
- ▶ provides that if a court denies a submitted order of restitution when a tenant continues to possess the property, the court shall give notice to the parties upon request and hold a hearing;
- ▶ provides that if the tenant fails to appear the court shall issue an order of restitution and enter a default judgment, unless the court finds otherwise;
- ▶ allows for a court to issue an order of restitution regardless of whether a judgment is entered;
- ▶ allows for the court to modify a judgment for additional amounts owed;
- ▶ requires a defendant to provide an address to the court and plaintiff within a certain time period;
- ▶ provides that failure of a defendant to provide an address after an order of restitution does not create a burden on the plaintiff or the court to seek out the defendant for further notice; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78B-6-802, as last amended by Laws of Utah 2016, Chapter 325  
78B-6-810, as last amended by Laws of Utah 2018, Chapter 291  
78B-6-811, as last amended by Laws of Utah 2018, Chapter 291

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 78B-6-802 is amended to read:****78B-6-802. Unlawful detainer by tenant for a term less than life.**

(1) A tenant holding real property for a term less than life[,] is guilty of an unlawful detainer if the tenant:

(a) ~~[except as provided in Subsection (1)(i),]~~ continues in possession, in person or by subtenant, of the property or any part of ~~[it] the property,~~ after the expiration of the specified term or period for which it is let to ~~[him] the tenant,~~ which specified term or period, whether established by express or implied contract, or whether written or parol, shall be terminated without notice at the expiration of the specified term or period;

(b) having leased real property for an indefinite time with monthly or other periodic rent reserved ~~[and except as provided in Subsection (1)(i)]:~~

(i) continues in possession of ~~[it] the property~~ in person or by subtenant after the end of any month or period, in cases where the owner, the owner's designated agent, or any successor in estate of the owner, 15 calendar days or more ~~[prior to]~~ before the end of that month or period, has served notice requiring the tenant to quit the premises at the expiration of that month or period; or

(ii) in cases of tenancies at will, remains in possession of the premises after the expiration of a notice of not less than five calendar days;

(c) continues in possession, in person or by subtenant, after default in the payment of any rent or other amounts due and after a notice in writing requiring in the alternative the payment of the rent and other amounts due or the surrender of the detained premises, has remained uncomplied with for a period of three ~~[calendar]~~ business days after service, which notice may be served at any time after the rent becomes due;

(d) assigns or sublets the leased premises contrary to the covenants of the lease, or commits or permits waste on the premises after service of a three calendar days' notice to quit;

(e) sets up or carries on any unlawful business on or in the premises after service of a three calendar days' notice to quit;

(f) suffers, permits, or maintains on or about the premises any nuisance, including nuisance as defined in Section 78B-6-1107 after service of a three calendar days' notice to quit;

(g) commits a criminal act on the premises and remains in possession after service of a three calendar days' notice to quit;

(h) continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, other than those previously mentioned, and after notice in writing requiring in the alternative the performance of the conditions or covenant or the surrender of the property, served upon the tenant and upon any subtenant in actual occupation of the premises remains uncomplied with for three calendar days after service; or

~~[(i) (i) is a bona fide tenant of a foreclosed rental property, as defined in Section 57-1-25.5 or Section 78B-6-802.7; and]~~

(i) (i) is a tenant under a bona fide tenancy as described in Section 702 of the Protecting Tenants at Foreclosure Act; and

(ii) continues in possession after the effective date of a notice to vacate given in accordance with ~~[Subsection 57-1-25.5(3) or Subsection 78B-6-802.7(3)]~~ Section 702 of the Protecting Tenants at Foreclosure Act.

(2) ~~[Within three calendar days after the]~~ After service of the notice and the time period required for the notice, the tenant, any subtenant in actual occupation of the premises, any mortgagee of the term, or other person interested in ~~[its] the~~ lease's continuance may perform the condition or covenant and ~~[thereby]~~ save the lease from forfeiture, except that if the covenants and conditions of the lease violated by the lessee cannot afterwards be performed, or the violation cannot be brought into compliance, ~~[the]~~ a notice provided for in Subsections (1)(d) through (g) may be given.

(3) Unlawful detainer by an owner resident of a mobile home is determined under Title 57, Chapter 16, Mobile Home Park Residency Act.

(4) The notice provisions for nuisance in Subsections (1)(d) through (g) do not apply to nuisance actions provided in Sections 78B-6-1107 through 78B-6-1114.

**Section 2. Section 78B-6-810 is amended to read:**

**78B-6-810. Court procedures.**

(1) In an action under this chapter in which the tenant remains in possession of the property:

(a) the court shall expedite the proceedings, including the resolution of motions and trial;

(b) the court shall begin the trial within 60 days after the day on which the complaint is served, unless the parties agree otherwise;

(c) if this chapter requires a hearing to be held within a specified time and a judge is not available, the time may be extended to the first date ~~[thereafter]~~ after expiration of the specified time on which a judge is available to hear the case ~~[in a jurisdiction in which a judge is not always available; and];~~

(d) if this chapter requires a hearing to be held within a specified time, this section does not require a hearing to be held before the assigned judge, and the court may, out of convenience, schedule a hearing before another judge within the jurisdiction~~[-]; and~~

(e) if a court denies an order of restitution submitted by a party, and upon a party's request, the court shall give notice to the parties of the reason for denial and set a hearing within 10 business days of the day on which the order was submitted to the court.

(2) (a) In an action for unlawful detainer, the court shall hold an evidentiary hearing, upon request of either party, within 10 business days after the day on which the defendant files an answer or response.

(b) At the evidentiary hearing held in accordance with Subsection (2)(a):

(i) the court shall determine who has the right of occupancy during the litigation's pendency; and

(ii) if the court determines that all issues between the parties can be adjudicated without further proceedings, the court shall adjudicate ~~[those]~~ all issues and enter judgment on the merits.

(3) (a) (i) As used in this Subsection (3)(a), "an act that would be considered criminal under the laws of this state" means:

(A) an act that would constitute a felony under the laws of this state;

(B) an act that would be considered criminal affecting the health or safety of a tenant, the landlord, the landlord's agent, or other individual on the landlord's property;

(C) an act that would be considered criminal that causes damage or loss to any tenant's property or the landlord's property;

(D) a drug- or gang-related act that would be considered criminal;

(E) an act or threat of violence against any tenant or other individual on the premises, or against the landlord or the landlord's agent; and

(F) any other act that would be considered criminal that the court determines directly impacts the safety or peaceful enjoyment of the premises by any tenant.

(ii) In an action for unlawful detainer in which the claim is for nuisance and alleges an act that would be considered criminal under the laws of this state, the court shall hold an evidentiary hearing upon request within 10 days after the day on which the complaint is filed to determine whether the alleged act occurred.

(b) The hearing required by Subsection (3)(a)(ii) shall be set at the time the complaint is filed and notice of the hearing shall be served upon the defendant with the summons at least three calendar days before the scheduled time of the hearing.

(c) If the court, at an evidentiary hearing held in accordance with Subsection (3)(a), determines that it is more likely than not that the alleged act occurred, the court shall issue an order of restitution.

(d) If an order of restitution is issued in accordance with Subsection (3)(c), a constable or the sheriff of the county where the property is situated shall return possession of the property to the plaintiff immediately.

(e) The court may allow a period of up to 72 hours before restitution may be made under Subsection (3)(d) if the court determines the time is appropriate under the circumstances.

(f) At the evidentiary hearing held in accordance with Subsection (3)(a)(ii), if the court determines that all issues between the parties can be adjudicated without further proceedings, the court shall adjudicate those issues and enter judgment on the merits.

~~[(g) “An act that would be considered criminal under the laws of this state” under Subsection (3)(a) includes only the following:]~~

~~[(i) an act that would be considered a felony under the laws of this state;]~~

~~[(ii) an act that would be considered criminal affecting the health or safety of a tenant, the landlord, the landlord’s agent, or other person on the landlord’s property;]~~

~~[(iii) an act that would be considered criminal that causes damage or loss to any tenant’s property or the landlord’s property;]~~

~~[(iv) a drug or gang-related act that would be considered criminal;]~~

~~[(v) an act or threat of violence against any tenant or other person on the premises, or against the landlord or the landlord’s agent; and]~~

~~[(vi) any other act that would be considered criminal that the court determines directly impacts the safety or peaceful enjoyment of the premises by any tenant.]~~

(4) (a) At any hearing held in accordance with this chapter in which the [tenant] defendant after receiving notice fails to appear, the court shall issue an order of restitution and enter a judgment of default against the defendant, unless the court makes a finding for why the order of restitution or judgment of default should not be issued.

(b) If an order of restitution is issued in accordance with Subsection (4)(a), a constable or the sheriff of the county where the property is situated shall return possession of the property to the plaintiff immediately.

(5) A court adjudicating matters under this chapter may make other orders as are appropriate and proper.

**Section 3. Section 78B-6-811 is amended to read:**

**78B-6-811. Judgment for restitution, damages, and rent -- Immediate enforcement -- Remedies.**

(1) (a) A ~~[judgment may be entered]~~ court may:

(i) enter a judgment upon the merits or upon default[-]; and

(ii) issue an order of restitution regardless of whether a judgment is entered.

(b) A judgment entered in favor of the plaintiff shall include an order for the restitution of the premises as provided in Section 78B-6-812.

(c) If the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease or agreement.

(d) (i) A forfeiture under Subsection (1)(c) does not release a defendant from any obligation for payments on a lease for the remainder of the lease’s term.

(ii) Subsection (1)(d)(i) does not change any obligation on either party to mitigate damages.

(2) The jury or the court, if the proceeding is tried without a jury or upon the defendant’s default, shall also assess the damages resulting to the plaintiff from any of the following:

(a) forcible entry;

(b) forcible or unlawful detainer;

(c) waste of the premises during the defendant’s tenancy, if waste is alleged in the complaint and proved at trial;

(d) the amounts due under the contract, if the alleged unlawful detainer is after default in the payment of amounts due under the contract; and

(e) the abatement of the nuisance by eviction as provided in Sections 78B-6-1107 through 78B-6-1114.

(3) The judgment shall be entered against the defendant for the rent, for three times the amount of the damages assessed under Subsections (2)(a) through (2)(e).

(4) (a) If the proceeding is for unlawful detainer, execution upon the judgment shall be issued immediately after the entry of the judgment.

(b) In all cases, the judgment may be issued and enforced immediately.

(5) In an action under this chapter, the court:

(a) shall award costs and reasonable attorney fees to the prevailing party[-];

(b) may modify a judgment for additional amounts owed if a motion is submitted within 180 days on the earlier of the day on which:

(i) the order of restitution is enforced; or

(ii) the defendant vacates the premises; and

(c) may grant a party additional time for a motion under Subsection (5)(b).

(6) (a) If the court issues an order of restitution, the defendant shall provide a current address to the court and the plaintiff within 30 days of the day on which the court issues the order of restitution.

(b) Failure of a defendant to provide an address under Subsection (6)(a) does not require the plaintiff or the court to bear the burden of seeking out the defendant to provide notice for any subsequent proceeding.

**CHAPTER 330****S. B. 2**

Passed March 12, 2020  
Approved March 30, 2020  
Effective March 30, 2020

**PUBLIC EDUCATION  
BUDGET AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard  
House Sponsor: Steve Eliason

**LONG TITLE****General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2019, and ending June 30, 2020, and for the fiscal year beginning July 1, 2020, and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ▶ increases the value of the weighted pupil unit (WPU) by 6% over the value of the WPU for fiscal year 2020 to set the value at \$3,745 for fiscal year 2021;
- ▶ adjusts the number of weighted pupil units to implement program changes in the Necessarily Existent Small Schools program;
- ▶ provides appropriations for other purposes as described;
- ▶ amends and enacts provisions related to certain appropriations for public education, including:
  - youth in custody;
  - use of Minimum School Program balances;
  - charter school administration; and
  - the nonlapsing authority of the State Board of Education;
- ▶ makes technical and conforming changes; and
- ▶ provides intent language.

**Monies Appropriated in this Bill:**

This bill appropriates \$3,820,200 in operating and capital budgets for fiscal year 2020, all of which is from the Education Fund.

This bill appropriates \$263,313,500 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$236,365,300 from the Education Fund; and
- ▶ \$26,948,200 from various sources as detailed in this bill. This bill appropriates \$22,350,000 in restricted fund and account transfers for fiscal year 2021, including:
- ▶ \$20,600,000 from the Education Fund; and
- ▶ \$1,750,000 from various sources as detailed in this bill.

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53E-1-202, as enacted by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 223

53E-3-503, as last amended by Laws of Utah 2019, Chapters 186 and 187  
53F-2-205, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-301.5, as last amended by Laws of Utah 2019, Chapter 408  
53F-2-304, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-306, as last amended by Laws of Utah 2019, Chapters 186 and 408  
53F-2-504, as last amended by Laws of Utah 2019, Chapters 134, 186, and 283  
63J-1-602.2, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469

**ENACTS:**

53F-9-103, Utah Code Annotated 1953

**REPEALS:**

53F-2-414, as last amended by Laws of Utah 2019, Chapters 136 and 408

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-1-202 is amended to read:****53E-1-202. Reports to and action required of the Public Education Appropriations Subcommittee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:

(a) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(b) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and

(c) the report by the STEM Action Center Board described in Section 63N-12-208, including the information described in Section 63N-12-213 on the status of the computer science initiative.

(2) (a) The one-time report by the state board regarding cost centers and implementing activity based costing is due to the Public Education Appropriations Subcommittee in accordance with Section 53E-3-520.

(b) The occasional report, described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program, is due to the Public Education Appropriations Subcommittee and in accordance with Section 68-3-14.

(3) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete the following:

(a) the evaluation described in Section 53F-2-410 of funding for at-risk students; and

~~(b) the reviews of related to basic school programs as described in Section 53F-2-414; and~~

~~(c)~~ (b) if required, the study described in Section 53F-4-304 of scholarship payments.

**Section 2. Section 53E-3-503 is amended to read:**

**53E-3-503. Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.**

(1) (a) The state board is directly responsible for the education of all individuals who are:

(i) (A) younger than 21 years old; or

(B) eligible for special education services as described in Chapter 7, Part 2, Special Education Program; and

(ii) (A) receiving services from the Department of Human Services;

(B) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent resides within the state; or

(C) being held in a juvenile detention facility.

(b) The state board shall:

(i) make rules to provide for the distribution of funds for the education of individuals described in Subsection (1)(a)[-]; and

(ii) expend funds appropriated for the education of youth in custody in the following order of priority:

(A) for students in a facility described in Subsection (1)(a)(ii) who are not included in an LEA's average daily membership; and

(B) for students in a facility described in Subsection (1)(a)(ii) who are included in an LEA's average daily membership and who may benefit from additional educational support services.

(c) Subject to future budget constraints, the amount appropriated for the education of youth in custody under this section shall increase annually based on the following:

(i) the percentage of enrollment growth of students in kindergarten through grade 12; and

(ii) changes to the value of the weighted pupil unit as defined in Section 53F-4-301.

(2) Subsection (1)(a)(ii)(B) does not apply to an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

(3) The state board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the state board shall retain responsibility for the programs.

(4) The Legislature shall establish and maintain separate education budget categories for youth in custody or who are under the jurisdiction of the following state agencies:

(a) detention centers and the Divisions of Juvenile Justice Services and Child and Family Services;

(b) the Division of Substance Abuse and Mental Health; and

(c) the Division of Services for People with Disabilities.

(5) (a) The Department of Human Services and the state board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The Department of Human Services and the state board may appoint similar councils for those in the custody of the Division of Substance Abuse and Mental Health or the Division of Services for People with Disabilities.

(6) A school district contracting to provide services under Subsection (3) shall establish an advisory council to plan, coordinate, and review education and treatment programs for individuals held in custody in the district.

**Section 3. Section 53F-2-205 is amended to read:**

**53F-2-205. Powers and duties of state board to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.**

(1) As used in this section:

(a) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(b) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

(i) Basic Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the state board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the state board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guaranteed local levy increments as defined in Section 53F-2-601, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or



(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section 53F-2-704; ~~or~~

(d) to fund the cost of the salary supplements described in Section 53F-2-504; or

~~[(d)]~~ (e) to support a school district with a loss in student enrollment as provided in Section 53F-2-207.

(4) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are overestimated, the state board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are underestimated, the state board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the state board shall reduce the state guarantee per weighted pupil unit provided under the local levy state guarantee program described in Section 53F-2-601, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) Money appropriated to the state board is nonlapsing, including appropriations to the Minimum School Program and all agencies, line items, and programs under the jurisdiction of the state board.

(8) The state board shall report actions taken by the state board under this section to the Office of the

Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

**Section 4. Section 53F-2-301.5 is amended to read:**

**53F-2-301.5. Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.**

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the rate floor; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that is:

(i) calculated by subtracting the minimum basic tax rate from the rate floor; or

(ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Rate floor" means a rate that is the greater of:

(i) a .0016 tax rate; or

(ii) the minimum basic tax rate.

(h) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) "WPU value amount" means an amount that is:

(i) equal to the product of:

(A) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, ~~[2019] 2020~~, is ~~[\$490,684,600] \$547,952,600~~ in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, ~~[2019] 2020~~, is  ~~[.001588] .001576~~.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, ~~[2019] 2020~~, is ~~[\$18,800,000] \$20,600,000~~ in revenue statewide.

(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, ~~[2019] 2020~~, is  ~~[.000061] .000060~~.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's

basic school program and the sum of the revenue generated by the school district by the following:

(i) the minimum basic tax rate;

(ii) the basic levy increment rate;

(iii) the equity pupil tax rate; and

(iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

**Section 5. Section 53F-2-304 is amended to read:**

**53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.**

(1) As used in this section, "necessarily existent small schools funding balance" means the difference between:

(a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating

schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

(4) A one or two-year secondary school that has received necessarily existent small school money under this section ~~[prior to]~~ before July 1, 2000, may continue to receive ~~[such]~~ the money in subsequent years.

(5) The state board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(6) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using regression formulas adopted by the state board.

(b) The regression formulas establish the following maximum sizes for funding under the necessarily existent small school program:

- (i) an elementary school 160
- (ii) a one or two-year secondary school 300
- (iii) a three-year secondary school 450
- (iv) a four-year secondary school 500
- (v) a six-year secondary school 600

(c) Schools with fewer than 10 students shall receive the same add-on weighted pupil units as schools with 10 students.

(d) The state board shall prepare and distribute an allocation table based on the regression formula to each school district.

(7) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

(8) (a) The state board may allocate up to 200 weighted pupil units to support schools that:

- (i) have isolating conditions, as defined by the state board, including geographic isolation; and
- (ii) do not qualify for necessarily existent small schools funding due to formula limitations.

(b) The state board shall review funding allocations under this Subsection (8) at least once every five calendar years.

~~[(8)]~~ (9) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding

an expense approved by the state board as described in Subsection 53G-6-305(3)(a).

~~[(9)]~~ (10) (a) Subject to Subsection ~~[(9)]~~ (10)(b) and after a distribution made under Subsection ~~[(8)]~~ (9), the state board may distribute a portion of necessarily existent small schools funding in accordance with a formula adopted by the state board that considers the tax effort of a local school board.

(b) The amount distributed in accordance with Subsection ~~[(9)]~~ (10)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

~~[(10)]~~ (11) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the state board.

**Section 6. Section 53F-2-306 is amended to read:**

**53F-2-306. Weighted pupil units for small school district administrative costs -- Appropriation for charter school administrative costs.**

(1) Administrative costs weighted pupil units are computed for a small school district and distributed to the small school district in accordance with the following schedule:

Administrative Costs Schedule

School District Enrollment as of October 1	Weighted Pupil Units
1 - 500 students	95
501 - 1,000 students	80
1,001 - 2,000 students	70
2,001 - 5,000 students	60

(2) (a) Except as provided in Subsection (2)(b), money appropriated to the state board for charter school administrative costs shall be distributed to charter schools in the amount of \$100 for each charter school student in enrollment.

(b) (i) If money appropriated for charter school administrative costs is insufficient to provide the amount per student prescribed in Subsection (2)(a), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the state board makes adjustments to Minimum School Program allocations under Section 53F-2-205, the allocation provided in Subsection (2)(b)(i) shall be determined after adjustments are made under Section 53F-2-205.

(iii) For fiscal year ~~[2020]~~ 2021, the state board shall distribute ~~[\$40,000]~~ a minimum of \$45,000 to each charter school that enrolls fewer than ~~[400]~~ 450 students.

(c) Charter school governing boards are encouraged to identify and use cost-effective

methods of performing administrative functions, including contracting for administrative services with the State Charter School Board as provided in Section 53G-5-202.

(3) Charter schools are not eligible for funds for administrative costs under Subsection (1).

**Section 7. Section 53F-2-504 is amended to read:**

**53F-2-504. Teacher Salary Supplement Program.**

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying educational background or qualifying teaching background;

(ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;

(iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and

(iv) is a new employee or received at least a satisfactory rating on the teacher's most recent evaluation.

(b) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

(c) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

(d) "License" means the same as that term is defined in Section 53E-6-102.

(e) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course

requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of science;

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

(f) "Qualifying teaching background" means the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years.

(g) "Supplement-approved assignment" means an assignment to teach:

(i) a secondary school level mathematics course;

(ii) integrated science in grade 7 or 8;

(iii) chemistry;

(iv) physics;

(v) computer science; or

(vi) special education.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) The annual salary supplement for an eligible teacher who is assigned full-time to a supplement-approved assignment is \$4,100 and funded through an appropriation described in Subsection (2).

(b) An eligible teacher who is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the supplement-approved assignment.

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

- (b) determine if a teacher is an eligible teacher;
- (c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers.

(5) (a) An eligible teacher shall apply to the state board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher may apply to the state board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

- (i) the school year as an annual award; or
- (ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7) (a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board ~~shall~~ may distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

**Section 8. Section 53F-9-103 is enacted to read:**

**53F-9-103. Nonlapsing funds.**

All appropriations to the state board are nonlapsing, including appropriations to the Minimum School Program and all agencies, line items, and programs under the jurisdiction of the state board.

**Section 9. Section 63J-1-602.2 is amended to read:**

**63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and ~~its~~ the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

~~[(2)]~~ (3) The Percent-for-Art Program created in Section 9-6-404.

~~[(3)]~~ (4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

~~[(4)]~~ (5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

~~[(5)]~~ (6) The Trip Reduction Program created in Section 19-2a-104.

~~[(6)]~~ (7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

~~[(7)]~~ (8) The primary care grant program created in Section 26-10b-102.

~~[(8)]~~ (9) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

~~[(9)]~~ (10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

~~[(40)]~~ (11) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

~~[(41)]~~ (12) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

~~[(42)]~~ (13) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a) or (b).

~~[(43)]~~ (14) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

~~[(44)]~~ (15) A new program or agency that is designated as nonlapsing under Section 36-24-101.

~~[(45)]~~ (16) The Utah National Guard, created in Title 39, Militia and Armories.

~~[(46)]~~ (17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

~~[(47)]~~ (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

~~[(48)]~~ (19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

~~[(49)]~~ (20) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

~~[(20)]~~ (21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

~~[(21)]~~ The State Board of Education, as provided in Section 53F-2-205.]

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N,

Chapter 4, Part 4, Rural Employment Expansion Program.

(30) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(31) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(32) The Traffic Noise Abatement Program created in Section 72-6-112.

(33) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(34) A state rehabilitative employment program, as provided in Section 78A-6-210.

(35) The Utah Geological Survey, as provided in Section 79-3-401.

(36) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(38) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(39) The program established by the Division of Facilities Construction and Management under Subsection 63A-5-228(3) under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

#### **Section 10. Repealer.**

This bill repeals:

#### **Section 53F-2-414, Review of related to basic school programs.**

#### **Section 11. Fiscal Year 2020 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

#### **Section 11(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

##### Public Education

##### State Board of Education - Minimum School Program

##### Item 1 To State Board of Education - Minimum School Program - Related to Basic School Programs

<u>From Education Fund, One-Time</u>	<u>3,500,200</u>
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##### Schedule of Programs:

<u>Teacher Salary Supplement</u>	<u>3,820,200</u>
<u>Student Health and Counseling Support Program</u>	<u>(320,000)</u>
<u>State Board of Education</u>	
<u>Item 2 To State Board of Education - MSP Categorical Program Administration</u>	
<u>From Education Fund, One-Time</u>	<u>320,000</u>
<u>Schedule of Programs:</u>	
<u>Student Health and Counseling Support Program</u>	<u>320,000</u>

**Section 12. Fiscal Year 2021 Appropriations.**

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021.

(2) The value of each weighted pupil unit (WPU) for fiscal year 2021 is increased from the value of the WPU for fiscal year 2021 established in H.B. 1, Public Education Base Budget Amendments, 2020 General Session, and set at \$3,745.

**Section 12(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

<u>Public Education</u>	
<u>State Board of Education - Minimum School Program</u>	
<u>Item 3 To State Board of Education - Minimum School Program - Basic School Program</u>	
<u>From Education Fund</u>	<u>170,023,000</u>
<u>From Local Revenue</u>	<u>20,600,000</u>
<u>Schedule of Programs:</u>	
<u>Kindergarten</u>	<u>5,816,600</u>
<u>Grades 1-12</u>	<u>129,081,400</u>
<u>Foreign Exchange</u>	<u>69,900</u>
<u>Necessarily Existent Small Schools (386 WPUs)</u>	<u>3,518,200</u>
<u>Professional Staff</u>	<u>12,049,900</u>
<u>Administrative Costs</u>	<u>322,700</u>
<u>Special Education - Add-on</u>	<u>18,413,900</u>
<u>Special Education - Self-Contained</u>	<u>2,817,800</u>
<u>Special Education - Preschool</u>	<u>2,409,200</u>
<u>Special Education - Extended School Year</u>	<u>97,400</u>

<u>Special Education - Impact Aid</u>	<u>438,800</u>
<u>Special Education - Intensive Services</u>	<u>169,400</u>
<u>Special Education - Extended Year for Special Educators</u>	<u>193,600</u>
<u>Career and Technical Education - Add-on</u>	<u>6,198,300</u>
<u>Class Size Reduction</u>	<u>9,025,900</u>
<u>Item 4 To State Board of Education - Minimum School Program - Related to Basic School Programs</u>	
<u>From Education Fund</u>	<u>40,763,400</u>
<u>From Education Fund, One-Time</u>	<u>250,000</u>
<u>From Uniform School Fund Rest. - Trust Distribution Account</u>	<u>6,166,000</u>
<u>Schedule of Programs:</u>	
<u>Pupil Transportation To and From School</u>	<u>10,977,700</u>
<u>Enhancement for At-Risk Students</u>	<u>2,841,100</u>
<u>Youth in Custody</u>	<u>26,753,800</u>
<u>Adult Education</u>	<u>860,600</u>
<u>Enhancement for Accelerated Students</u>	<u>1,332,900</u>
<u>Centennial Scholarship Program</u>	<u>16,400</u>
<u>Concurrent Enrollment</u>	<u>5,627,000</u>
<u>School Land Trust Program</u>	<u>6,166,000</u>
<u>Charter School Local Replacement</u>	<u>(14,426,100)</u>
<u>Charter School Administration</u>	<u>250,000</u>
<u>Teacher Salary Supplement</u>	<u>3,300,000</u>
<u>Beverly Taylor Sorenson Elem. Arts Learning Program</u>	<u>4,000,000</u>
<u>Student Health and Counseling Support Program</u>	<u>(520,000)</u>

The Legislature intends that the State Board of Education use up to \$409,000 in balances in the Charter School Administration program to provide a minimum of \$45,000 to each charter school that enrolls fewer than 450 students in fiscal year 2021.

State Board of Education - School Building Programs

Item 5 To State Board of Education - School Building Programs - Capital Outlay Programs

Under Item 48 in H.B. 1, Public Education Base Budget Amendments, 2020 General Session, the Legislature intends that the State Board of Education:

(1) study the distribution formulas for the Capital Outlay Foundation Program created in Section 53F-3-202 and Capital Outlay Enrollment Growth Program created in Section 53F-3-203, including:

(a) addressing the impact on the Capital Outlay Foundation Program formula distribution

associated with the equal weighting of local property tax revenues from school district Capital and Debt Service levies, including whether adjusting the balance would provide for a broader distribution among school districts;

(b) addressing how to adjust distribution formulas to improve equity and distribution to a wider array of school districts;

(c) addressing whether using a WPU-based formula like the Voted and Board Local Levy Guarantee could improve distributional equity among districts; and

(d) making recommendations on potential statutory changes; and

(2) report to the Public Education Appropriations Subcommittee on the study described in Subsection (1) on or before September 30, 2020.

State Board of Education

Item 6 To State Board of Education - Educator Licensing

From Education Fund (3,629,300)

Schedule of Programs:

Educator Licensing 170,700

STEM Endorsement Incentives (3,800,000)

Item 7 To State Board of Education - Fine Arts Outreach

From Education Fund 250,000

Schedule of Programs:

Provisional Program 250,000

Item 8 To State Board of Education - Initiative Programs

From Education Fund 19,007,500

From Education Fund, One-Time 2,688,500

Schedule of Programs:

Computer Science Initiatives 7,000,000

Contracts and Grants 2,401,500

General Financial Literacy 500,000

Intergenerational Poverty Interventions 1,001,100

Kindergarten Supplement Enrichment Program 3,000,000

Partnerships for Student Success 3,006,400

Strengthening Career and College Readiness (213,000)

UPSTART 5,000,000

Item 9 To State Board of Education - MSP Categorical Program Administration

From Education Fund 520,000

Schedule of Programs:

Student Health and Counseling Support Program 520,000

Item 10 To State Board of Education - Science Outreach

From Education Fund 200,000

Schedule of Programs:

Informal Science Education Enhancement 200,000

Item 11 To State Board of Education - State Administrative Office

From Education Fund 1,601,200

From Education Fund, One-Time 3,200,000

Schedule of Programs:

Financial Operations 650,700

Indirect Cost Pool 450,000

Statewide Online Education Program 3,250,500

Student Support Services 450,000

The Legislature intends that the State Board of Education:

(1) evaluate the participation of home school and private school students in the Statewide Online Education Program, including:

(a) ongoing funding levels;

(b) the mix between home and private school students;

(c) how to best manage future growth needs within appropriated funding; and

(d) the potential of using mechanisms to control costs, including implementing a fee structure or requiring private and home school students to enroll in a local education agency; and

(2) report recommendations to the Public Education Appropriations Subcommittee on the evaluation described in Subsection (1) before August 30, 2020.

Item 12 To State Board of Education - General System Support

From Education Fund (400,000)

Schedule of Programs:

Student Achievement 50,000

Teaching and Learning (450,000)

The Legislature intends that the State Board of Education use any revenue or nonlapsing balances generated from the licensing of Readiness Improvement Success Empowerment (RISE) questions:

(1) to develop additional assessment questions for all state assessments;

(2) to provide professional learning for Utah educators; and

(3) for risk mitigation expenditures.



Item 13 To State Board of Education - Utah Schools for the Deaf and the BlindFrom Education Fund 946,000From Education Fund, One-Time 945,000Schedule of Programs:Administration 1,391,000Utah State Instructional Materials Access Center 500,000School and Institutional Trust Fund OfficeItem 14 To School and Institutional Trust Fund OfficeFrom School and Institutional Trust Fund Management Account 182,200Schedule of Programs:School and Institutional Trust Fund Office 182,200**Section 12(b).Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Public EducationItem 15 To Underage Drinking Prevention Program Restricted AccountFrom Liquor Control Fund 1,750,000Schedule of Programs:Underage Drinking Prevention Program Restricted Account 1,750,000Item 16 To Teacher and Student Success AccountFrom Education Fund 20,600,000Schedule of Programs:Teacher and Student Success Account 20,600,000**Section 13. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2020.

(2) If approved by two-thirds of all the members elected to each house, Section 11, Fiscal Year 2020 Appropriations, and Section 11(a), Operating and Capital Budgets, take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 331

S. B. 8

Passed March 10, 2020
Approved March 30, 2020
Effective July 1, 2020

STATE AGENCY AND HIGHER EDUCATION
COMPENSATION APPROPRIATIONS

Chief Sponsor: Don L. Ipson
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

Highlighted Provisions:

This bill:

- provides funding for a 3.0% labor market increase for state employees;
provides funding for a 2.5% labor market increase for higher education employees;
provides funding for step and lane increases for employees of the Utah Schools for the Deaf and the Blind;
provides funding for an average 4.53% increase in health insurance benefits rates for state and higher education employees;
provides funding for retirement rate changes for certain state employees;
provides funding for an up-to \$26 per pay period match for qualifying state employees enrolled in a defined contribution plan; and
provides funding for other compensation adjustments as authorized.

Money Appropriated in this Bill:

This bill appropriates \$103,367,600 in operating and capital budgets for fiscal year 2021, including:

- \$25,636,100 from the General Fund;
\$37,339,800 from the Education Fund; and
\$40,391,700 from various sources as detailed in this bill.

This bill appropriates \$245,400 in expendable funds and accounts for fiscal year 2021.

This bill appropriates \$340,400 in business-like activities for fiscal year 2021.

This bill appropriates \$0 in restricted fund and account transfers for fiscal year 2021, including:

- \$23,600 from the General Fund; and
(\$23,600) from various sources as detailed in this bill.

This bill appropriates \$900 in fiduciary funds for fiscal year 2021.

Other Special Clauses:

This bill takes effect on July 1, 2020.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2021 Appropriations. Under provisions of Section 67-19-43, Utah Code

Annotated, the employer defined contribution match for the fiscal year beginning July 1, 2020 and ending June 30, 2021 shall be \$26 per pay period. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND
CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1

To Attorney General
From General Fund . . . . . 815,400
From General Fund, One-Time . . . . . 102,400
From Federal Funds . . . . . 91,700
From Federal Funds, One-Time . . . . . 11,800
From Dedicated Credits Revenue . . . . . 192,500
From Dedicated Credits Revenue,
One-Time . . . . . 24,600
From Attorney General Litigation Fund . . . . . 300
From Revenue Transfers . . . . . 28,000
From Revenue Transfers, One-Time . . . . . 3,600
Schedule of Programs:
Administration . . . . . 196,600
Child Protection . . . . . 290,000
Civil . . . . . 63,400
Criminal Prosecution . . . . . 720,300

Item 2

To Attorney General - Children's Justice Centers
From General Fund . . . . . 14,800
From General Fund, One-Time . . . . . 1,700
From Dedicated Credits Revenue . . . . . 1,700
From Dedicated Credits Revenue,
One-Time . . . . . 200
Schedule of Programs:
Children's Justice Centers . . . . . 18,400

Item 3

To Attorney General - Prosecution Council
From General Fund . . . . . 3,300
From General Fund, One-Time . . . . . 400
From Dedicated Credits Revenue . . . . . 5,100
From Dedicated Credits Revenue,
One-Time . . . . . 600
From General Fund Restricted -
Public Safety Support . . . . . 9,000
From General Fund Restricted -
Public Safety Support, One-Time . . . . . 1,000
From Revenue Transfers . . . . . 4,700
From Revenue Transfers, One-Time . . . . . 600
Schedule of Programs:
Prosecution Council . . . . . 24,700

BOARD OF PARDONS AND PAROLE

Item 4

To Board of Pardons and Parole
From General Fund . . . . . 148,800
From General Fund, One-Time . . . . . 21,000

Schedule of Programs:  
Board of Pardons and Parole ..... 169,800

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 5**

To Utah Department of Corrections -  
Programs and Operations  
From General Fund ..... 7,285,500  
From General Fund, One-Time ..... 1,124,500  
Schedule of Programs:  
Adult Probation and Parole  
Administration ..... 81,700  
Adult Probation and Parole  
Programs ..... 2,496,400  
Department Administrative Services .. 455,000  
Department Executive Director ..... 199,900  
Department Training ..... 74,100  
Prison Operations Administration ..... 54,500  
Prison Operations Central  
Utah/Gunnison ..... 1,516,700  
Prison Operations Draper Facility ... 2,825,300  
Prison Operations Inmate  
Placement ..... 119,200  
Programming Administration ..... 17,600  
Programming Skill Enhancement ..... 384,200  
Programming Treatment ..... 185,400

**Item 6**

To Utah Department of Corrections -  
Department Medical Services  
From General Fund ..... 659,600  
From General Fund, One-Time ..... 83,200  
Schedule of Programs:  
Medical Services ..... 742,800

**JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR**

**Item 7**

To Judicial Council/State Court Administrator -  
Administration  
From General Fund ..... 3,601,400  
From General Fund, One-Time ..... 468,400  
From Federal Funds ..... 13,800  
From Federal Funds, One-Time ..... 3,000  
Schedule of Programs:  
Administrative Office ..... 132,100  
Court of Appeals ..... 157,500  
Courts Security ..... 4,300  
Data Processing ..... 197,200  
District Courts ..... 1,878,500  
Grants Program ..... 16,800  
Judicial Education ..... 21,400  
Justice Courts ..... 6,300  
Juvenile Courts ..... 1,525,600  
Law Library ..... 31,000  
Supreme Court ..... 115,900

The Legislature intends that salaries for District Court judges be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature, the salary for a District Court judge for the fiscal year beginning July 1, 2020 and ending June 30, 2021 shall be \$175,550. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA

Title 67 Chapter 8 Section 2 and rounded to the nearest \$50.

**Item 8**

To Judicial Council/State Court Administrator -  
Contracts and Leases  
From General Fund ..... 1,200  
Schedule of Programs:  
Contracts and Leases ..... 1,200

**Item 9**

To Judicial Council/State Court Administrator -  
Guardian ad Litem  
From General Fund ..... 278,300  
From General Fund, One-Time ..... 39,000  
Schedule of Programs:  
Guardian ad Litem ..... 317,300

**Item 10**

To Judicial Council/State Court Administrator -  
Jury and Witness Fees  
From General Fund ..... 12,600  
From General Fund, One-Time ..... 3,300  
Schedule of Programs:  
Jury, Witness, and Interpreter ..... 15,900

**GOVERNORS OFFICE**

**Item 11**

To Governors Office - Commission on  
Criminal and Juvenile Justice  
From General Fund ..... 72,000  
From General Fund, One-Time ..... 9,600  
From Federal Funds ..... 57,900  
From Federal Funds, One-Time ..... 8,900  
From Dedicated Credits Revenue ..... 1,600  
From Dedicated Credits Revenue,  
One-Time ..... 300  
From Crime Victim Reparations Fund ... 45,000  
From Crime Victim Reparations  
Fund, One-Time ..... 7,500  
From General Fund Restricted -  
Criminal Forfeiture Restricted  
Account ..... 3,200  
From General Fund Restricted -  
Criminal Forfeiture Restricted  
Account, One-Time ..... 100  
From General Fund Restricted -  
Law Enforcement Operations ..... 3,200  
From General Fund Restricted -  
Law Enforcement Operations, One-Time . 100  
Schedule of Programs:  
CCJJ Commission ..... 69,500  
Extraditions ..... 1,600  
Judicial Performance Evaluation  
Commission ..... 14,300  
Sentencing Commission ..... 4,400  
State Asset Forfeiture Grant Program ... 3,300  
State Task Force Grants ..... 3,300  
Substance Use and Mental Health  
Advisory Council ..... 5,300  
Utah Office for Victims of Crime ..... 107,700

**Item 12**

To Governors Office - Governor's Office  
From General Fund ..... 123,300  
From General Fund, One-Time ..... 10,500  
From Dedicated Credits Revenue ..... 13,700  
From Dedicated Credits Revenue,  
One-Time ..... 1,300

From Expendable Receipts .....	300
Schedule of Programs:	
Administration .....	89,400
Governor's Residence .....	7,600
Literacy Projects .....	2,100
Lt. Governor's Office .....	42,800
Washington Funding .....	7,200

Under provisions of Section 67-22-1, Utah Code Annotated, the Legislature intends that salaries for Governor be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature the Governors salary for the fiscal year beginning July 1, 2020 and ending June 30, 2021 shall be \$165,600. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67-22-1.

**Item 13**

To Governors Office - Governor's Office of Management and Budget	
From General Fund .....	94,400
From General Fund, One-Time .....	11,000
Schedule of Programs:	
Administration .....	25,100
Operational Excellence .....	21,600
Planning and Budget Analysis .....	58,700

**Item 14**

To Governors Office - Indigent Defense Commission	
From General Fund Restricted - Indigent Defense Resources .....	20,400
From General Fund Restricted - Indigent Defense Resources, One-Time .....	3,200
Schedule of Programs:	
Indigent Defense Commission .....	23,600

**DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES**

**Item 15**

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations	
From General Fund .....	1,912,500
From General Fund, One-Time .....	405,900
From Federal Funds .....	42,600
From Federal Funds, One-Time .....	9,000
From Dedicated Credits Revenue .....	7,700
From Dedicated Credits Revenue, One-Time .....	1,400
From Expendable Receipts .....	2,000
From Expendable Receipts, One-Time .....	400
From Revenue Transfers .....	18,400
From Revenue Transfers, One-Time .....	3,700
Schedule of Programs:	
Administration .....	118,500
Community Programs .....	161,000
Correctional Facilities .....	542,500
Early Intervention Services .....	593,800
Rural Programs .....	782,300
Youth Parole Authority .....	13,000
Case Management .....	192,500

**OFFICE OF THE STATE AUDITOR**

**Item 16**

To Office of the State Auditor - State Auditor	
From General Fund .....	96,900
From General Fund, One-Time .....	14,600
From Dedicated Credits Revenue .....	78,300
From Dedicated Credits Revenue, One-Time .....	11,800
Schedule of Programs:	
State Auditor .....	201,600

**DEPARTMENT OF PUBLIC SAFETY**

**Item 17**

To Department of Public Safety - Driver License	
From General Fund .....	5,000
From General Fund, One-Time .....	1,000
From Dedicated Credits Revenue .....	500
From Dedicated Credits Revenue, One-Time .....	100
From Department of Public Safety Restricted Account .....	677,500
From Department of Public Safety Restricted Account, One-Time .....	143,400
From Public Safety Motorcycle Education Fund .....	2,400
From Public Safety Motorcycle Education Fund, One-Time .....	700
From Pass-through .....	1,600
From Pass-through, One-Time .....	300
Schedule of Programs:	
Driver License Administration .....	43,900
Driver Records .....	188,900
Driver Services .....	596,600
Motorcycle Safety .....	3,100

**Item 18**

To Department of Public Safety - Emergency Management	
From General Fund .....	116,900
From General Fund, One-Time .....	19,800
From Dedicated Credits Revenue .....	39,700
From Dedicated Credits Revenue, One-Time .....	6,600
Schedule of Programs:	
Emergency Management .....	183,000

**Item 19**

To Department of Public Safety - Highway Safety	
From General Fund .....	400
From General Fund, One-Time .....	100
From Federal Funds .....	38,600
From Federal Funds, One-Time .....	6,600
Schedule of Programs:	
Highway Safety .....	45,700

**Item 20**

To Department of Public Safety - Peace Officers' Standards and Training	
From General Fund .....	59,400
From General Fund, One-Time .....	6,900
From Dedicated Credits Revenue .....	32,100
From Dedicated Credits Revenue, One-Time .....	2,600
Schedule of Programs:	
Basic Training .....	54,800
POST Administration .....	24,300
Regional/Inservice Training .....	21,900

**Item 21**

To Department of Public Safety - Programs & Operations

From General Fund	2,221,900
From General Fund, One-Time	333,800
From Federal Funds	23,500
From Federal Funds, One-Time	2,000
From Dedicated Credits Revenue	203,000
From Dedicated Credits Revenue, One-Time	32,200
From Department of Public Safety Restricted Account	271,800
From Department of Public Safety Restricted Account, One-Time	34,400
From General Fund Restricted - Fire Academy Support	47,000
From General Fund Restricted - Fire Academy Support, One-Time	10,300
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct.	70,800
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-Time	10,500
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account	1,100
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account, One-Time	200
From Revenue Transfers	12,800
From Revenue Transfers, One-Time	800
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau	3,600
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau, One-Time	100
Schedule of Programs:	
Aero Bureau	18,100
CITS Administration	15,300
CITS Communications	316,900
CITS State Bureau of Investigation	153,500
CITS State Crime Labs	171,000
Department Commissioner's Office	114,700
Department Fleet Management	2,700
Department Grants	34,400
Department Intelligence Center	39,400
Fire Marshall - Fire Fighter Training	14,000
Fire Marshall - Fire Operations	59,800
Highway Patrol - Administration	33,300
Highway Patrol - Commercial Vehicle	152,600
Highway Patrol - Field Operations	1,534,800
Highway Patrol - Protective Services	213,100
Highway Patrol - Safety Inspections	27,300
Highway Patrol - Special Enforcement	219,000
Highway Patrol - Special Services	135,500
Highway Patrol - Technology Services	24,400

**Item 22**

To Department of Public Safety - Bureau of Criminal Identification

From General Fund	6,800
From General Fund, One-Time	1,200
From Dedicated Credits Revenue	141,400

From Dedicated Credits Revenue, One-Time	26,000
From General Fund Restricted - Concealed Weapons Account	82,700
From General Fund Restricted - Concealed Weapons Account, One-Time	15,200
From Revenue Transfers	800
From Revenue Transfers, One-Time	100
Schedule of Programs:	
Non-Government/Other Services	274,200

**STATE TREASURER**

**Item 23**

To State Treasurer

From General Fund	24,100
From General Fund, One-Time	2,300
From Dedicated Credits Revenue	19,000
From Dedicated Credits Revenue, One-Time	1,500
From Land Trusts Protection and Advocacy Account	8,500
From Land Trusts Protection and Advocacy Account, One-Time	700
From Unclaimed Property Trust	38,300
From Unclaimed Property Trust, One-Time	6,200
Schedule of Programs:	
Advocacy Office	9,200
Money Management Council	3,300
Treasury and Investment	43,600
Unclaimed Property	44,500

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 24**

To Department of Administrative Services - Administrative Rules

From General Fund	11,800
From General Fund, One-Time	2,600
Schedule of Programs:	
DAR Administration	14,400

**Item 25**

To Department of Administrative Services - DFCM Administration

From General Fund	86,600
From General Fund, One-Time	11,800
From Education Fund	18,100
From Education Fund, One-Time	2,700
From Dedicated Credits Revenue	24,700
From Dedicated Credits Revenue, One-Time	3,500
From Capital Projects Fund	62,900
From Capital Projects Fund, One-Time	9,300
Schedule of Programs:	
DFCM Administration	206,400
Energy Program	13,200

**Item 26**

To Department of Administrative Services - Executive Director

From General Fund	25,300
From General Fund, One-Time	3,100

Schedule of Programs:  
 Executive Director ..... 28,400

**Item 27**

To Department of Administrative Services -  
 Finance - Mandated  
 From General Fund ..... (2,728,000)  
 From General Fund, One-Time ..... (4,500,000)  
 Schedule of Programs:  
 State Employee Benefits ..... (7,228,000)

**Item 28**

To Department of Administrative Services -  
 Finance Administration  
 From General Fund ..... 126,700  
 From General Fund, One-Time ..... 22,600  
 From Dedicated Credits Revenue ..... 37,400  
 From Dedicated Credits Revenue,  
 One-Time ..... 7,100  
 From Gen. Fund Rest. - Internal  
 Service Fund Overhead ..... 15,500  
 From Gen. Fund Rest. - Internal  
 Service Fund Overhead, One-Time ..... 2,200  
 Schedule of Programs:  
 Finance Director's Office ..... 19,800  
 Financial Information Systems ..... 52,100  
 Financial Reporting ..... 61,200  
 Payables/Disbursing ..... 53,600  
 Payroll ..... 24,800

**Item 29**

To Department of Administrative Services -  
 Inspector General of Medicaid Services  
 From General Fund ..... 32,200  
 From General Fund, One-Time ..... 5,400  
 From Medicaid Expansion Fund ..... 1,100  
 From Medicaid Expansion Fund,  
 One-Time ..... 200  
 From Revenue Transfers ..... 62,700  
 From Revenue Transfers, One-Time ..... 10,600  
 Schedule of Programs:  
 Inspector General of Medicaid  
 Services ..... 112,200

**Item 30**

To Department of Administrative Services -  
 Judicial Conduct Commission  
 From General Fund ..... 6,600  
 From General Fund, One-Time ..... 700  
 Schedule of Programs:  
 Judicial Conduct Commission ..... 7,300

**Item 31**

To Department of Administrative Services -  
 Purchasing  
 From General Fund ..... 43,600  
 From General Fund, One-Time ..... 4,200  
 Schedule of Programs:  
 Purchasing and General Services ..... 47,800

**Item 32**

To Department of Administrative Services -  
 State Archives  
 From General Fund ..... 61,300  
 From General Fund, One-Time ..... 10,500  
 From Federal Funds ..... 700  
 From Federal Funds, One-Time ..... 200  
 From Dedicated Credits Revenue ..... 4,500  
 From Dedicated Credits Revenue,  
 One-Time ..... 900

Schedule of Programs:  
 Archives Administration ..... 13,700  
 Patron Services ..... 16,200  
 Preservation Services ..... 28,400  
 Records Analysis ..... 19,800

**DEPARTMENT OF  
 TECHNOLOGY SERVICES**

**Item 33**

To Department of Technology Services -  
 Chief Information Officer  
 From General Fund ..... 15,000  
 From General Fund, One-Time ..... 700  
 Schedule of Programs:  
 Chief Information Officer ..... 15,700

**Item 34**

To Department of Technology Services -  
 Integrated Technology Division  
 From General Fund ..... 17,500  
 From General Fund, One-Time ..... 2,600  
 From Federal Funds ..... 7,000  
 From Federal Funds, One-Time ..... 1,000  
 From Dedicated Credits Revenue ..... 16,800  
 From Dedicated Credits Revenue,  
 One-Time ..... 2,500  
 From Gen. Fund Rest. - Statewide  
 Unified E-911 Emerg. Acct. .... 4,600  
 From Gen. Fund Rest. - Statewide  
 Unified E-911 Emerg. Acct., One-Time ... 700  
 Schedule of Programs:  
 Automated Geographic Reference  
 Center ..... 52,700

**TRANSPORTATION**

**Item 35**

To Transportation - Aeronautics  
 From Dedicated Credits Revenue ..... 11,100  
 From Dedicated Credits Revenue,  
 One-Time ..... 1,300  
 From Aeronautics Restricted Account ..... 41,500  
 From Aeronautics Restricted Account,  
 One-Time ..... 5,700  
 Schedule of Programs:  
 Administration ..... 26,900  
 Airplane Operations ..... 32,700

**Item 36**

To Transportation - Engineering Services  
 From Transportation Fund ..... 716,000  
 From Transportation Fund, One-Time .. 113,700  
 From Federal Funds ..... 272,300  
 From Federal Funds, One-Time ..... 41,500  
 From Dedicated Credits Revenue ..... 1,100  
 From Dedicated Credits Revenue,  
 One-Time ..... 200  
 Schedule of Programs:  
 Civil Rights ..... 8,300  
 Construction Management ..... 67,100  
 Engineer Development Pool ..... 71,000  
 Engineering Services ..... 101,800  
 Environmental ..... 80,000  
 Highway Project Management Team .... 12,900  
 Materials Lab ..... 172,700  
 Preconstruction Admin ..... 90,900  
 Program Development ..... 257,700  
 Research ..... 52,500  
 Right-of-Way ..... 98,300

Structures ..... 131,600

**Item 37**

To Transportation - Operations/  
Maintenance Management

From Transportation Fund ..... 2,573,600

From Transportation Fund, One-Time .. 461,200

From Federal Funds ..... 215,400

From Federal Funds, One-Time ..... 39,700

From Dedicated Credits Revenue ..... 42,900

From Dedicated Credits Revenue,  
One-Time ..... 7,900

Schedule of Programs:

Field Crews ..... 525,500

Maintenance Planning ..... 84,600

Region 1 ..... 375,100

Region 2 ..... 493,900

Region 3 ..... 339,700

Region 4 ..... 701,500

Seasonal Pools ..... 85,200

Shops ..... 267,200

Traffic Operations Center ..... 355,100

Traffic Safety/Tramway ..... 112,900

**Item 38**

To Transportation - Region Management

From Transportation Fund ..... 820,400

From Transportation Fund, One-Time .. 140,300

From Federal Funds ..... 95,100

From Federal Funds, One-Time ..... 16,000

From Dedicated Credits Revenue ..... 1,100

From Dedicated Credits Revenue,  
One-Time ..... 100

Schedule of Programs:

Cedar City ..... 8,200

Price ..... 15,100

Region 1 ..... 236,000

Region 2 ..... 353,600

Region 3 ..... 203,200

Region 4 ..... 248,200

Richfield ..... 8,700

**Item 39**

To Transportation - Support Services

From Transportation Fund ..... 466,100

From Transportation Fund, One-Time ... 78,900

From Federal Funds ..... 92,900

From Federal Funds, One-Time ..... 17,100

Schedule of Programs:

Administrative Services ..... 62,100

Community Relations ..... 43,000

Comptroller ..... 113,300

Data Processing ..... 4,500

Human Resources Management ..... 44,500

Internal Auditor ..... 42,300

Ports of Entry ..... 278,000

Procurement ..... 45,000

Risk Management ..... 22,300

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF ALCOHOLIC  
BEVERAGE CONTROL**

**Item 40**

To Department of Alcoholic Beverage Control -  
DABC Operations

From Liquor Control Fund ..... 687,400

From Liquor Control Fund, One-Time .... 83,300

Schedule of Programs:

Administration ..... 21,600

Executive Director ..... 108,700

Stores and Agencies ..... 547,700

Warehouse and Distribution ..... 92,700

**DEPARTMENT OF COMMERCE**

**Item 41**

To Department of Commerce - Building

Inspector Training

From Dedicated Credits Revenue ..... 2,400

From Dedicated Credits Revenue,  
One-Time ..... 600

Schedule of Programs:

Building Inspector Training ..... 3,000

**Item 42**

To Department of Commerce - Commerce

General Regulation

From General Fund ..... 1,600

From General Fund, One-Time ..... 200

From Federal Funds ..... 8,400

From Federal Funds, One-Time ..... 1,300

From Dedicated Credits Revenue ..... 42,200

From Dedicated Credits Revenue,  
One-Time ..... 6,100

From General Fund Restricted -  
Commerce Service Account ..... 510,200

From General Fund Restricted - Commerce  
Service Account, One-Time ..... 78,800

From General Fund Restricted -  
Factory Built Housing Fees ..... 2,000

From General Fund Restricted -  
Factory Built Housing Fees, One-Time ... 300

From Gen. Fund Rest. - Geologist  
Education and Enforcement ..... 400

From Gen. Fund Rest. - Geologist  
Education and Enforcement, One-Time ... 100

From Gen. Fund Rest. - Nurse  
Education & Enforcement Acct. .... 1,200

From Gen. Fund Rest. - Nurse Education  
& Enforcement Acct., One-Time ..... 200

From General Fund Restricted -  
Pawnbroker Operations ..... 3,800

From General Fund Restricted -  
Pawnbroker Operations, One-Time ..... 700

From General Fund Restricted - Public Utility  
Restricted Acct. .... 109,400

From General Fund Restricted - Public  
Utility Restricted Acct., One-Time ..... 17,600

From Revenue Transfers ..... 4,100

From Revenue Transfers, One-Time ..... 700

From Pass-through ..... 2,600

From Pass-through, One-Time ..... 500

Schedule of Programs:

Administration ..... 70,300

Consumer Protection ..... 78,200

Corporations and Commercial Code .... 79,200

Occupational and Professional  
Licensing ..... 286,000

Office of Consumer Services ..... 21,900

Public Utilities ..... 117,900

Real Estate ..... 63,100

Securities ..... 75,800

**GOVERNOR'S OFFICE OF  
ECONOMIC DEVELOPMENT**

**Item 43**

To Governor's Office of Economic Development -  
Administration  
From General Fund ..... 53,800  
From General Fund, One-Time ..... 8,700  
Schedule of Programs:  
Administration ..... 62,500

**Item 44**

To Governor's Office of Economic Development -  
Business Development  
From General Fund ..... 113,900  
From General Fund, One-Time ..... 15,200  
From Federal Funds ..... 7,000  
From Federal Funds, One-Time ..... 900  
From Dedicated Credits Revenue ..... 3,600  
From Dedicated Credits Revenue,  
One-Time ..... 400  
From General Fund Restricted -  
Industrial Assistance Account ..... 3,700  
From General Fund Restricted -  
Industrial Assistance Account,  
One-Time ..... 500  
Schedule of Programs:  
Corporate Recruitment and Business  
Services ..... 96,100  
Outreach and International Trade ..... 49,100

**Item 45**

To Governor's Office of Economic Development -  
Office of Tourism  
From General Fund ..... 73,000  
From General Fund, One-Time ..... 12,000  
From Dedicated Credits Revenue ..... 7,200  
From Dedicated Credits Revenue,  
One-Time ..... 1,400  
From General Fund Rest. -  
Motion Picture Incentive Acct. .... 11,900  
From General Fund Rest. - Motion  
Picture Incentive Acct., One-Time ..... 1,300  
Schedule of Programs:  
Administration ..... 22,700  
Film Commission ..... 20,400  
Operations and Fulfillment ..... 63,700

**Item 46**

To Governor's Office of Economic Development -  
Pete Suazo Utah Athletics Commission  
From General Fund ..... 3,200  
From Dedicated Credits Revenue ..... 1,300  
Schedule of Programs:  
Pete Suazo Utah Athletics  
Commission ..... 4,500

**Item 47**

To Governor's Office of Economic Development -  
Talent Ready Utah Center  
From General Fund ..... 11,400  
From General Fund, One-Time ..... 700  
Schedule of Programs:  
Talent Ready Utah Center ..... 9,700  
Utah Works Program ..... 2,400

**FINANCIAL INSTITUTIONS**

**Item 48**

To Financial Institutions - Financial  
Institutions Administration  
From General Fund Restricted -  
Financial Institutions ..... 181,000  
From General Fund Restricted -  
Financial Institutions, One-Time ..... 30,200  
Schedule of Programs:  
Administration ..... 211,200

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 49**

To Department of Heritage and Arts -  
Administration  
From General Fund ..... 66,700  
From General Fund, One-Time ..... 10,300  
From Dedicated Credits Revenue ..... 1,300  
From Dedicated Credits Revenue,  
One-Time ..... 100  
Schedule of Programs:  
Administrative Services ..... 40,600  
Executive Director's Office ..... 22,000  
Information Technology ..... 4,800  
Utah Multicultural Affairs Office ..... 11,000

**Item 50**

To Department of Heritage and Arts - Division  
of Arts and Museums  
From General Fund ..... 46,300  
From General Fund, One-Time ..... 6,800  
From Dedicated Credits Revenue ..... 2,200  
From Dedicated Credits Revenue,  
One-Time ..... 300  
Schedule of Programs:  
Administration ..... 10,800  
Community Arts Outreach ..... 44,800

**Item 51**

To Department of Heritage and Arts -  
Commission on Service and Volunteerism  
From General Fund ..... 1,800  
From General Fund, One-Time ..... 400  
From Federal Funds ..... 18,400  
From Federal Funds, One-Time ..... 3,500  
Schedule of Programs:  
Commission on Service and  
Volunteerism ..... 24,100

**Item 52**

To Department of Heritage and Arts -  
Indian Affairs  
From General Fund ..... 8,400  
From General Fund, One-Time ..... 700  
Schedule of Programs:  
Indian Affairs ..... 9,100

**Item 53**

To Department of Heritage and Arts - State History  
From General Fund ..... 59,100  
From General Fund, One-Time ..... 8,300  
From Federal Funds ..... 24,700  
From Federal Funds, One-Time ..... 3,000  
From Dedicated Credits Revenue ..... 2,800  
From Dedicated Credits Revenue,  
One-Time ..... 400  
Schedule of Programs:  
Administration ..... 11,100  
Historic Preservation and Antiquities ... 48,700



Library and Collections .....	19,400
Public History, Communication and Information .....	19,100

**Item 54**

To Department of Heritage and Arts - State Library From General Fund .....	65,900
From General Fund, One-Time .....	11,500
From Federal Funds .....	12,400
From Federal Funds, One-Time .....	2,300
From Dedicated Credits Revenue .....	40,700
From Dedicated Credits Revenue, One-Time .....	7,100
Schedule of Programs:	
Administration .....	9,100
Blind and Disabled .....	54,300
Bookmobile .....	25,200
Library Development .....	22,800
Library Resources .....	28,500

**Item 55**

To Department of Heritage and Arts - Stem Action Center	
From General Fund .....	22,900
From General Fund, One-Time .....	2,800
From Dedicated Credits Revenue .....	11,600
From Dedicated Credits Revenue, One-Time .....	1,300
Schedule of Programs:	
STEM Action Center .....	38,600

**INSURANCE DEPARTMENT**

**Item 56**

To Insurance Department - Bail Bond Program From General Fund Restricted - Bail Bond Surety Administration .....	1,200
Schedule of Programs:	
Bail Bond Program .....	1,200

**Item 57**

To Insurance Department - Health Insurance Actuary	
From General Fund Rest. - Health Insurance Actuarial Review .....	5,600
From General Fund Rest. - Health Insurance Actuarial Review, One-Time ...	700
Schedule of Programs:	
Health Insurance Actuary .....	6,300

**Item 58**

To Insurance Department - Insurance Department Administration	
From General Fund .....	300
From Federal Funds .....	7,400
From Federal Funds, One-Time .....	1,000
From General Fund Restricted - Captive Insurance .....	36,700
From General Fund Restricted - Captive Insurance, One-Time .....	5,800
From General Fund Restricted - Insurance Department Acct. ....	210,500
From General Fund Restricted - Insurance Department Acct., One-Time .....	28,200
From General Fund Rest. - Insurance Fraud Investigation Acct. ....	51,600
From General Fund Rest. - Insurance Fraud Investigation Acct., One-Time ...	3,800

Schedule of Programs:	
Administration .....	246,100
Captive Insurers .....	42,500
Insurance Fraud Program .....	56,700

**Item 59**

To Insurance Department - Title Insurance Program	
From General Fund Rest. - Title Licensee Enforcement Acct. ....	3,500
From General Fund Rest. - Title Licensee Enforcement Acct., One-Time ...	700
Schedule of Programs:	
Title Insurance Program .....	4,200

**LABOR COMMISSION**

**Item 60**

To Labor Commission	
From General Fund .....	163,200
From General Fund, One-Time .....	23,800
From Federal Funds .....	81,900
From Federal Funds, One-Time .....	13,400
From Dedicated Credits Revenue .....	3,400
From Dedicated Credits Revenue, One-Time .....	400
From Employers' Reinsurance Fund .....	1,800
From Employers' Reinsurance Fund, One-Time .....	200
From General Fund Restricted - Industrial Accident Account .....	89,200
From General Fund Restricted - Industrial Accident Account, One-Time .....	13,500
From General Fund Restricted - Workplace Safety Account .....	14,500
From General Fund Restricted - Workplace Safety Account, One-Time .....	2,500
Schedule of Programs:	
Adjudication .....	50,000
Administration .....	40,600
Antidiscrimination and Labor .....	75,400
Boiler, Elevator and Coal Mine Safety Division .....	57,200
Industrial Accidents .....	55,000
Utah Occupational Safety and Health .....	127,000
Workplace Safety .....	2,600

**PUBLIC SERVICE COMMISSION**

**Item 61**

To Public Service Commission	
From General Fund Restricted - Public Utility Restricted Acct. ....	69,500
From General Fund Restricted - Public Utility Restricted Acct., One-Time ...	10,800
From Revenue Transfers .....	300
Schedule of Programs:	
Administration .....	80,600

**UTAH STATE TAX COMMISSION**

**Item 62**

To Utah State Tax Commission - Tax Administration	
From General Fund .....	683,800
From General Fund, One-Time .....	118,600
From Education Fund .....	503,200
From Education Fund, One-Time .....	86,200

From Federal Funds .....	16,500
From Federal Funds, One-Time .....	2,900
From Dedicated Credits Revenue .....	188,400
From Dedicated Credits Revenue, One-Time .....	34,400
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account .....	95,300
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account, One-Time .....	13,700
From General Fund Rest. - Sales and Use Tax Admin Fees .....	264,300
From General Fund Rest. - Sales and Use Tax Admin Fees, One-Time .....	44,800
From Revenue Transfers .....	4,600
From Revenue Transfers, One-Time .....	800
From Uninsured Motorist Identification Restricted Account .....	3,700
From Uninsured Motorist Identification Restricted Account, One-Time .....	700
Schedule of Programs:	
Administration Division .....	293,100
Auditing Division .....	425,400
Motor Vehicle Enforcement Division ..	113,000
Motor Vehicles .....	463,200
Property Tax Division .....	180,200
Seasonal Employees .....	4,800
Tax Payer Services .....	408,300
Tax Processing Division .....	173,900

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 63**

To Department of Health - Children's Health Insurance Program	
From General Fund .....	4,000
From General Fund, One-Time .....	(100)
From Federal Funds .....	13,100
From Federal Funds, One-Time .....	2,200
Schedule of Programs:	
Children's Health Insurance Program ...	19,200

**Item 64**

To Department of Health - Disease Control and Prevention	
From General Fund .....	306,200
From General Fund, One-Time .....	38,900
From Federal Funds .....	510,400
From Federal Funds, One-Time .....	96,700
From Dedicated Credits Revenue .....	172,600
From Dedicated Credits Revenue, One-Time .....	23,900
From Expendable Receipts .....	3,800
From Expendable Receipts, One-Time .....	700
From Expendable Receipts - Rebates .....	31,700
From Expendable Receipts - Rebates, One-Time .....	6,100
From Department of Public Safety Restricted Account .....	2,700
From Department of Public Safety Restricted Account, One-Time .....	200
From Gen. Fund Rest. - State Lab Drug Testing Account .....	11,200

From Gen. Fund Rest. - State Lab Drug Testing Account, One-Time .....	1,700
From Revenue Transfers .....	23,700
From Revenue Transfers, One-Time .....	4,500
Schedule of Programs:	
Clinical and Environmental Lab Certification Programs .....	19,900
Epidemiology .....	331,300
General Administration .....	51,900
Health Promotion .....	401,200
Utah Public Health Laboratory .....	242,000
Office of the Medical Examiner .....	188,700

**Item 65**

To Department of Health - Executive Director's Operations	
From General Fund .....	129,800
From General Fund, One-Time .....	19,500
From Federal Funds .....	101,000
From Federal Funds, One-Time .....	14,500
From Dedicated Credits Revenue .....	56,300
From Dedicated Credits Revenue, One-Time .....	9,400
From Revenue Transfers .....	50,600
From Revenue Transfers, One-Time .....	8,000
Schedule of Programs:	
Center for Health Data and Informatics .....	160,700
Executive Director .....	98,800
Office of Internal Audit .....	25,900
Program Operations .....	103,700

**Item 66**

To Department of Health - Family Health and Preparedness	
From General Fund .....	260,600
From General Fund, One-Time .....	46,800
From Federal Funds .....	383,800
From Federal Funds, One-Time .....	65,700
From Dedicated Credits Revenue .....	89,900
From Dedicated Credits Revenue, One-Time .....	15,300
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account .....	2,300
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account, One-Time ....	500
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp. ....	800
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp., One-Time ....	200
From Revenue Transfers .....	103,600
From Revenue Transfers, One-Time .....	18,800

Schedule of Programs:	
Children with Special Health Care Needs .....	303,800
Director's Office .....	71,100
Emergency Medical Services and Preparedness .....	75,000
Health Facility Licensing and Certification .....	291,000
Maternal and Child Health .....	153,200
Primary Care .....	25,000
Public Health and Health Care Preparedness .....	69,200

**Item 67**

To Department of Health - Medicaid and Health Financing	
From General Fund .....	103,200
From General Fund, One-Time .....	18,000

From Federal Funds	486,700
From Federal Funds, One-Time	85,400
From Expendable Receipts	132,700
From Expendable Receipts, One-Time	23,200
From Medicaid Expansion Fund	46,200
From Medicaid Expansion Fund, One-Time	8,700
From Nursing Care Facilities Provider Assessment Fund	22,400
From Nursing Care Facilities Provider Assessment Fund, One-Time	3,900
From Revenue Transfers	54,300
From Revenue Transfers, One-Time	9,900
Schedule of Programs:	
Authorization and Community Based Services	146,300
Coverage and Reimbursement Policy	127,500
Director's Office	88,300
Eligibility Policy	104,400
Financial Services	130,300
Managed Health Care	243,100
Medicaid Operations	154,700

**Item 68**

To Department of Health - Medicaid Services	
From General Fund	95,000
From General Fund, One-Time	15,800
From Federal Funds	174,100
From Federal Funds, One-Time	23,900
From Dedicated Credits Revenue	44,200
From Dedicated Credits Revenue, One-Time	7,700
From Revenue Transfers	10,300
From Revenue Transfers, One-Time	1,700
Schedule of Programs:	
Home and Community Based Waivers	36,400
Other Services	156,300
Pharmacy	23,700
Provider Reimbursement Information System for Medicaid	156,300

**Item 69**

To Department of Health - Primary Care Workforce Financial Assistance	
From General Fund	100
From Federal Funds	2,800
From Federal Funds, One-Time	100
Schedule of Programs:	
Primary Care Workforce Financial Assistance	3,000

**Item 70**

To Department of Health - Rural Physicians Loan Repayment Assistance	
From General Fund	5,400
From General Fund, One-Time	200
Schedule of Programs:	
Rural Physicians Loan Repayment Program	5,600

**DEPARTMENT OF HUMAN SERVICES**

**Item 71**

To Department of Human Services - Division of Aging and Adult Services	
From General Fund	134,500
From General Fund, One-Time	24,100
From Federal Funds	21,100

From Federal Funds, One-Time	2,900
Schedule of Programs:	
Administration - DAAS	47,800
Adult Protective Services	120,600
Aging Alternatives	3,900
Aging Waiver Services	10,300

**Item 72**

To Department of Human Services - Division of Child and Family Services	
From General Fund	1,907,100
From General Fund, One-Time	332,900
From Federal Funds	592,900
From Federal Funds, One-Time	103,200
From Expendable Receipts	2,000
From Expendable Receipts, One-Time	300
From Gen. Fund Rest. - Victims of Domestic Violence Services Acct	1,000
From Gen. Fund Rest. - Victims of Domestic Violence Services Acct, One-Time	200
Schedule of Programs:	
Administration - DCFS	142,300
Child Welfare Management Information System	45,600
Domestic Violence	12,000
Facility-Based Services	18,500
Minor Grants	44,800
Service Delivery	2,676,400

**Item 73**

To Department of Human Services - Executive Director Operations	
From General Fund	269,200
From General Fund, One-Time	46,200
From Federal Funds	152,400
From Federal Funds, One-Time	25,700
From Dedicated Credits Revenue	20,100
From Dedicated Credits Revenue, One-Time	4,300
From Revenue Transfers	81,500
From Revenue Transfers, One-Time	13,300
Schedule of Programs:	
Executive Director's Office	163,700
Fiscal Operations	88,800
Information Technology	10,200
Legal Affairs	17,500
Office of Licensing	161,500
Office of Quality and Design	157,200
Utah Developmental Disabilities Council	13,800

**Item 74**

To Department of Human Services - Office of Public Guardian	
From General Fund	16,900
From General Fund, One-Time	3,100
From Federal Funds	900
From Federal Funds, One-Time	200
From Revenue Transfers	11,200
From Revenue Transfers, One-Time	2,100
Schedule of Programs:	
Office of Public Guardian	34,400

**Item 75**

To Department of Human Services - Office of Recovery Services	
From General Fund	255,200
From General Fund, One-Time	50,400
From Federal Funds	438,100

From Federal Funds, One-Time	85,200
From Dedicated Credits Revenue	216,300
From Dedicated Credits Revenue, One-Time	41,800
From Medicaid Expansion Fund	1,300
From Medicaid Expansion Fund, One-Time	300
From Revenue Transfers	59,500
From Revenue Transfers, One-Time	12,600
Schedule of Programs:	
Administration - ORS	44,900
Child Support Services	822,400
Children in Care Collections	27,900
Electronic Technology	83,900
Financial Services	72,900
Medical Collections	108,700

**Item 76**

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund	482,500
From General Fund, One-Time	70,300
From Federal Funds	12,000
From Federal Funds, One-Time	2,000
From Dedicated Credits Revenue	45,000
From Dedicated Credits Revenue, One-Time	5,900
From Revenue Transfers	832,900
From Revenue Transfers, One-Time	113,300
Schedule of Programs:	
Administration - DSPD	151,900
Service Delivery	209,600
Utah State Developmental Center	1,202,400

**Item 77**

To Department of Human Services - Division of Substance Abuse and Mental Health	
From General Fund	1,481,700
From General Fund, One-Time	185,200
From Federal Funds	68,700
From Federal Funds, One-Time	10,100
From Dedicated Credits Revenue	86,700
From Dedicated Credits Revenue, One-Time	10,700
From Expendable Receipts	400
From Expendable Receipts, One-Time	100
From Revenue Transfers	416,900
From Revenue Transfers, One-Time	52,400
Schedule of Programs:	
Administration - DSAMH	117,900
Community Mental Health Services	54,300
State Hospital	2,105,000
State Substance Abuse Services	35,700

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 78**

To Department of Workforce Services - Administration	
From General Fund	75,800
From General Fund, One-Time	14,100
From Federal Funds	179,500
From Federal Funds, One-Time	32,300
From Dedicated Credits Revenue	2,900
From Dedicated Credits Revenue, One-Time	500
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct	400

From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-Time	100
From Navajo Revitalization Fund	300
From Permanent Community Impact Loan Fund	2,600
From Permanent Community Impact Loan Fund, One-Time	500
From Revenue Transfers	46,200
From Revenue Transfers, One-Time	8,800
Schedule of Programs:	
Administrative Support	260,300
Communications	43,600
Executive Director's Office	28,200
Internal Audit	31,900

**Item 79**

To Department of Workforce Services - General Assistance	
From General Fund	23,900
From General Fund, One-Time	5,800
From Revenue Transfers	1,200
From Revenue Transfers, One-Time	300
Schedule of Programs:	
General Assistance	31,200

**Item 80**

To Department of Workforce Services - Housing and Community Development	
From General Fund	12,900
From General Fund, One-Time	2,300
From Federal Funds	72,800
From Federal Funds, One-Time	13,300
From Dedicated Credits Revenue	3,700
From Dedicated Credits Revenue, One-Time	700
From Expendable Receipts	1,100
From Expendable Receipts, One-Time	200
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account	5,400
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-Time	1,100
From Gen. Fund Rest. - Pamela Atkinson Homeless Account	2,300
From Gen. Fund Rest. - Pamela Atkinson Homeless Account, One-Time	400
From Housing Opportunities for Low Income Households	5,300
From Housing Opportunities for Low Income Households, One-Time	1,100
From Navajo Revitalization Fund	700
From Navajo Revitalization Fund, One-Time	100
From Olene Walker Housing Loan Fund	5,300
From Olene Walker Housing Loan Fund, One-Time	1,100
From OWHT-Fed Home	5,300
From OWHT-Fed Home, One-Time	1,100
From OWHTF-Low Income Housing	5,300
From OWHTF-Low Income Housing, One-Time	1,100
From Permanent Community Impact Loan Fund	16,100
From Permanent Community Impact Loan Fund, One-Time	2,700
From Qualified Emergency Food Agencies Fund	300
From Uintah Basin Revitalization Fund	300

Schedule of Programs:

Community Development .....	42,800
Community Development Administration .....	41,900
Community Services .....	6,900
HEAT .....	8,900
Homeless Committee .....	16,500
Housing Development .....	29,000
Weatherization Assistance .....	16,000

**Item 81**

To Department of Workforce Services - Operations and Policy

From General Fund .....	891,000
From General Fund, One-Time .....	179,700
From Federal Funds .....	1,442,100
From Federal Funds, One-Time .....	288,800
From Dedicated Credits Revenue .....	11,000
From Dedicated Credits Revenue, One-Time .....	2,100
From Expendable Receipts .....	18,300
From Expendable Receipts, One-Time .....	3,700
From Medicaid Expansion Fund .....	91,800
From Medicaid Expansion Fund, One-Time .....	18,300
From General Fund Restricted - School Readiness Account .....	43,400
From General Fund Restricted - School Readiness Account, One-Time .....	9,000
From Revenue Transfers .....	655,600
From Revenue Transfers, One-Time .....	131,000

Schedule of Programs:

Eligibility Services .....	2,137,800
Utah Data Research Center .....	19,300
Workforce Development .....	1,545,300
Workforce Research and Analysis .....	83,400

**Item 82**

To Department of Workforce Services - State Office of Rehabilitation

From General Fund .....	315,200
From General Fund, One-Time .....	54,300
From Federal Funds .....	680,200
From Federal Funds, One-Time .....	113,600
From Dedicated Credits Revenue .....	7,700
From Dedicated Credits Revenue, One-Time .....	1,400
From Expendable Receipts .....	9,800
From Expendable Receipts, One-Time .....	1,600
From Revenue Transfers .....	800
From Revenue Transfers, One-Time .....	100

Schedule of Programs:

Blind and Visually Impaired .....	100,400
Deaf and Hard of Hearing .....	90,300
Disability Determination .....	287,300
Executive Director .....	8,200
Rehabilitation Services .....	698,500

**Item 83**

To Department of Workforce Services - Unemployment Insurance

From General Fund .....	22,300
From General Fund, One-Time .....	4,200
From Federal Funds .....	507,700
From Federal Funds, One-Time .....	104,300
From Dedicated Credits Revenue .....	12,900
From Dedicated Credits Revenue, One-Time .....	2,600
From Expendable Receipts .....	700

From Expendable Receipts, One-Time .....	100
From Revenue Transfers .....	3,000
From Revenue Transfers, One-Time .....	600

Schedule of Programs:

Adjudication .....	113,700
Unemployment Insurance Administration .....	544,700

**HIGHER EDUCATION**

**UNIVERSITY OF UTAH**

**Item 84**

To University of Utah - Education and General

From Education Fund .....	10,102,000
From Dedicated Credits Revenue .....	3,339,000

Schedule of Programs:

Education and General .....	13,355,900
Operations and Maintenance .....	85,100

**Item 85**

To University of Utah - Educationally Disadvantaged

From Education Fund .....	11,200
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Schedule of Programs:

Educationally Disadvantaged .....	11,200
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**Item 86**

To University of Utah - School of Medicine

From Education Fund .....	1,082,300
From Dedicated Credits Revenue .....	360,800

Schedule of Programs:

School of Medicine .....	1,443,100
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**Item 87**

To University of Utah - University Hospital

From Education Fund .....	163,400
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Schedule of Programs:

University Hospital .....	153,100
Miners' Hospital .....	10,300

**Item 88**

To University of Utah - School of Dentistry

From Education Fund .....	102,700
From Dedicated Credits Revenue .....	34,100

Schedule of Programs:

School of Dentistry .....	136,800
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**Item 89**

To University of Utah - Public Service

From Education Fund .....	42,700
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Schedule of Programs:

Seismograph Stations .....	17,200
Natural History Museum of Utah .....	22,200
State Arboretum .....	3,300

**Item 90**

To University of Utah - Statewide TV Administration

From Education Fund .....	64,600
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Schedule of Programs:

Public Broadcasting .....	64,600
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**Item 91**

To University of Utah - Poison Control Center

From Education Fund .....	75,200
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Schedule of Programs:

Poison Control Center .....	75,200
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**Item 92**

To University of Utah - Center on Aging

From Education Fund .....	2,900
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Schedule of Programs:  
Center on Aging ..... 2,900

**Item 93**

To University of Utah - Rocky Mountain Center for  
Occupational and Environmental Health  
From Education Fund ..... 4,700  
Schedule of Programs:  
Center for Occupational and  
Environmental Health ..... 4,700

**UTAH STATE UNIVERSITY****Item 94**

To Utah State University - Education and General  
From Education Fund ..... 4,634,300  
From Dedicated Credits Revenue ..... 1,529,300  
Schedule of Programs:  
Education and General ..... 6,043,600  
USU - School of Veterinary Medicine ... 74,100  
Operations and Maintenance ..... 45,900

**Item 95**

To Utah State University - USU -  
Eastern Education and General  
From Education Fund ..... 232,800  
From Dedicated Credits Revenue ..... 77,700  
Schedule of Programs:  
USU - Eastern Education and  
General ..... 310,500

**Item 96**

To Utah State University -  
Educationally Disadvantaged  
From Education Fund ..... 300  
Schedule of Programs:  
Educationally Disadvantaged ..... 300

**Item 97**

To Utah State University - USU - Eastern Career  
and Technical Education  
From Education Fund ..... 24,800  
Schedule of Programs:  
USU - Eastern Career and Technical  
Education ..... 24,800

**Item 98**

To Utah State University - Uintah Basin Regional  
Campus  
From Education Fund ..... 144,400  
From Dedicated Credits Revenue ..... 48,100  
Schedule of Programs:  
Uintah Basin Regional Campus ..... 192,500

**Item 99**

To Utah State University - Regional Campuses  
From Education Fund ..... 111,500  
Schedule of Programs:  
Administration ..... 111,500

**Item 100**

To Utah State University - Brigham City  
Regional Campus  
From Education Fund ..... 179,600  
From Dedicated Credits Revenue ..... 59,800  
Schedule of Programs:  
Brigham City Regional Campus ..... 239,400

**Item 101**

To Utah State University - Tooele  
Regional Campus

From Education Fund ..... 183,500  
From Dedicated Credits Revenue ..... 61,200  
Schedule of Programs:  
Tooele Regional Campus ..... 244,700

**Item 102**

To Utah State University - Water  
Research Laboratory  
From Education Fund ..... 105,700  
Schedule of Programs:  
Water Research Laboratory ..... 105,700

**Item 103**

To Utah State University - Agriculture  
Experiment Station  
From Education Fund ..... 346,200  
Schedule of Programs:  
Agriculture Experiment Station ..... 346,200

**Item 104**

To Utah State University - Cooperative Extension  
From Education Fund ..... 467,400  
Schedule of Programs:  
Cooperative Extension ..... 467,400

**Item 105**

To Utah State University - Prehistoric Museum  
From Education Fund ..... 12,500  
Schedule of Programs:  
Prehistoric Museum ..... 12,500

**Item 106**

To Utah State University - Blanding Campus  
From Education Fund ..... 74,200  
From Dedicated Credits Revenue ..... 24,800  
Schedule of Programs:  
Blanding Campus ..... 99,000

**WEBER STATE UNIVERSITY****Item 107**

To Weber State University - Education  
and General  
From Education Fund ..... 2,702,900  
From Dedicated Credits Revenue ..... 901,000  
Schedule of Programs:  
Education and General ..... 3,576,000  
Operations and Maintenance ..... 27,900

**Item 108**

To Weber State University -  
Educationally Disadvantaged  
From Education Fund ..... 9,600  
Schedule of Programs:  
Educationally Disadvantaged ..... 9,600

**SOUTHERN UTAH UNIVERSITY****Item 109**

To Southern Utah University - Education  
and General  
From Education Fund ..... 1,473,000  
From Dedicated Credits Revenue ..... 490,900  
Schedule of Programs:  
Education and General ..... 1,955,400  
Operations and Maintenance ..... 8,500

**Item 110**

To Southern Utah University -  
Educationally Disadvantaged  
From Education Fund ..... 1,300  
Schedule of Programs:

Educationally Disadvantaged . . . . . 1,300

**Item 111**

To Southern Utah University - Rural Development  
 From Education Fund . . . . . 2,600  
 Schedule of Programs:  
     Rural Development . . . . . 2,600

**UTAH VALLEY UNIVERSITY**

**Item 112**

To Utah Valley University - Education and General  
 From Education Fund . . . . . 4,342,000  
 From Dedicated Credits Revenue . . . . . 1,447,200  
 Schedule of Programs:  
     Education and General . . . . . 5,710,900  
     Operations and Maintenance . . . . . 78,300

**Item 113**

To Utah Valley University -  
 Educationally Disadvantaged  
 From Education Fund . . . . . 4,600  
 Schedule of Programs:  
     Educationally Disadvantaged . . . . . 4,600

**SNOW COLLEGE**

**Item 114**

To Snow College - Education and General  
 From Education Fund . . . . . 657,400  
 From Dedicated Credits Revenue . . . . . 219,100  
 Schedule of Programs:  
     Education and General . . . . . 851,200  
     Operations and Maintenance . . . . . 25,300

**Item 115**

To Snow College - Career and Technical  
 Education  
 From Education Fund . . . . . 41,100  
 Schedule of Programs:  
     Career and Technical Education . . . . . 41,100

**DIXIE STATE UNIVERSITY**

**Item 116**

To Dixie State University - Education and General  
 From Education Fund . . . . . 1,238,100  
 From Dedicated Credits Revenue . . . . . 405,500  
 Schedule of Programs:  
     Education and General . . . . . 1,621,900  
     Operations and Maintenance . . . . . 21,700

**Item 117**

To Dixie State University - Zion  
 Park Amphitheater  
 From Education Fund . . . . . 1,000  
 From Dedicated Credits Revenue . . . . . 400  
 Schedule of Programs:  
     Zion Park Amphitheater . . . . . 1,400

**SALT LAKE COMMUNITY COLLEGE**

**Item 118**

To Salt Lake Community College - Education  
 and General  
 From Education Fund . . . . . 2,603,800  
 From Dedicated Credits Revenue . . . . . 867,900  
 Schedule of Programs:  
     Education and General . . . . . 3,463,400  
     Operations and Maintenance . . . . . 8,300

**Item 119**

To Salt Lake Community College -  
 School of Applied Technology  
 From Education Fund . . . . . 195,000  
 Schedule of Programs:  
     School of Applied Technology . . . . . 195,000

**STATE BOARD OF REGENTS**

**Item 120**

To State Board of Regents - Administration  
 From Education Fund . . . . . 90,200  
 Schedule of Programs:  
     Administration . . . . . 90,200

**Item 121**

To State Board of Regents - Student Assistance  
 From Education Fund . . . . . 9,500  
 Schedule of Programs:  
     Regents' Scholarship . . . . . 6,000  
     Western Interstate Commission  
         for Higher Education . . . . . 300  
     Talent Development Incentive  
         Loan Program . . . . . 3,200

**Item 122**

To State Board of Regents - Student Support  
 From Education Fund . . . . . 20,300  
 Schedule of Programs:  
     Concurrent Enrollment . . . . . 12,700  
     Articulation Support . . . . . 7,600

**Item 123**

To State Board of Regents - Economic Development  
 From Education Fund . . . . . 8,800  
 Schedule of Programs:  
     Economic Development Initiatives . . . . . 8,800

**Item 124**

To State Board of Regents - Education Excellence  
 From Education Fund . . . . . 13,400  
 Schedule of Programs:  
     Education Excellence . . . . . 13,400

**Item 125**

To State Board of Regents - Math  
 Competency Initiative  
 From Education Fund . . . . . 1,200  
 Schedule of Programs:  
     Math Competency Initiative . . . . . 1,200

**Item 126**

To State Board of Regents - Medical  
 Education Council  
 From Education Fund . . . . . 16,500  
 Schedule of Programs:  
     Medical Education Council . . . . . 16,500

**UTAH SYSTEM OF TECHNICAL COLLEGES**

**Item 127**

To Utah System of Technical Colleges -  
 Bridgerland Technical College  
 From Education Fund . . . . . 415,800  
 Schedule of Programs:  
     Bridgerland Technical College . . . . . 415,800

**Item 128**

To Utah System of Technical Colleges -  
 Davis Technical College  
 From Education Fund . . . . . 457,600  
 Schedule of Programs:

Davis Technical College ..... 457,600

**Item 129**

To Utah System of Technical Colleges -  
 Dixie Technical College  
 From Education Fund ..... 215,500  
 Schedule of Programs:  
 Dixie Technical College ..... 215,500

**Item 130**

To Utah System of Technical Colleges -  
 Mountainland Technical College  
 From Education Fund ..... 354,400  
 Schedule of Programs:  
 Mountainland Technical College ..... 354,400

**Item 131**

To Utah System of Technical Colleges -  
 Ogden-Weber Technical College  
 From Education Fund ..... 403,200  
 Schedule of Programs:  
 Ogden-Weber Technical College ..... 403,200

**Item 132**

To Utah System of Technical Colleges -  
 Southwest Technical College  
 From Education Fund ..... 122,800  
 Schedule of Programs:  
 Southwest Technical College ..... 122,800

**Item 133**

To Utah System of Technical Colleges -  
 Tooele Technical College  
 From Education Fund ..... 128,900  
 Schedule of Programs:  
 Tooele Technical College ..... 128,900

**Item 134**

To Utah System of Technical Colleges -  
 Uintah Basin Technical College  
 From Education Fund ..... 220,600  
 Schedule of Programs:  
 Uintah Basin Technical College ..... 220,600

**Item 135**

To Utah System of Technical Colleges -  
 USTC Administration  
 From Education Fund ..... 43,800  
 Schedule of Programs:  
 Administration ..... 43,800

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
 AGRICULTURE AND FOOD**

**Item 136**

To Department of Agriculture and Food -  
 Administration  
 From General Fund ..... 54,800  
 From General Fund, One-Time ..... 6,800  
 From Federal Funds ..... 10,000  
 From Federal Funds, One-Time ..... 1,200  
 From Dedicated Credits Revenue ..... 14,600  
 From Dedicated Credits Revenue,  
 One-Time ..... 2,000  
 From General Fund Restricted -  
 Cat and Dog Community Spay and  
 Neuter Program Restricted Account ..... 700

From General Fund Restricted -  
 Cat and Dog Community Spay  
 and Neuter Program Restricted  
 Account, One-Time ..... 100  
 From Revenue Transfers ..... 1,500  
 From Revenue Transfers, One-Time ..... 200  
 Schedule of Programs:  
 Chemistry Laboratory ..... 8,400  
 General Administration ..... 83,200  
 Utah Horse Commission ..... 300

**Item 137**

To Department of Agriculture and Food -  
 Animal Health  
 From General Fund ..... 60,900  
 From General Fund, One-Time ..... 9,400  
 From Federal Funds ..... 44,700  
 From Federal Funds, One-Time ..... 6,700  
 From Dedicated Credits Revenue ..... 1,700  
 From Dedicated Credits Revenue,  
 One-Time ..... 200  
 From General Fund Restricted -  
 Livestock Brand ..... 27,300  
 From General Fund Restricted -  
 Livestock Brand, One-Time ..... 5,100  
 Schedule of Programs:  
 Animal Health ..... 39,500  
 Brand Inspection ..... 44,500  
 Meat Inspection ..... 72,000

**Item 138**

To Department of Agriculture and Food -  
 Invasive Species Mitigation  
 From General Fund Restricted -  
 Invasive Species Mitigation Account ..... 7,500  
 From General Fund Restricted - Invasive  
 Species Mitigation Account, One-Time ..... 800  
 Schedule of Programs:  
 Invasive Species Mitigation ..... 8,300

**Item 139**

To Department of Agriculture and Food -  
 Marketing and Development  
 From General Fund ..... 18,300  
 From General Fund, One-Time ..... 2,200  
 From Dedicated Credits Revenue ..... 400  
 From Dedicated Credits Revenue,  
 One-Time ..... 100  
 Schedule of Programs:  
 Marketing and Development ..... 21,000

**Item 140**

To Department of Agriculture and Food -  
 Plant Industry  
 From General Fund ..... 16,500  
 From General Fund, One-Time ..... 3,000  
 From Federal Funds ..... 65,300  
 From Federal Funds, One-Time ..... 10,200  
 From Dedicated Credits Revenue ..... 75,600  
 From Dedicated Credits Revenue,  
 One-Time ..... 12,200  
 From Agriculture Resource  
 Development Fund ..... 2,300  
 From Agriculture Resource  
 Development Fund, One-Time ..... 500  
 From Revenue Transfers ..... 4,900  
 From Revenue Transfers, One-Time ..... 900  
 From Pass-through ..... 4,800  
 From Pass-through, One-Time ..... 800  
 Schedule of Programs:



Environmental Quality .....	4,800
Grain Inspection .....	9,800
Grazing Improvement Program .....	28,100
Insect Infestation .....	15,400
Plant Industry .....	138,900

**Item 141**

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund .....	19,000
From General Fund, One-Time .....	3,900
From Revenue Transfers .....	13,100
From Revenue Transfers, One-Time .....	2,700
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention .....	12,200
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention, One-Time .....	2,500
Schedule of Programs: Predatory Animal Control .....	53,400

**Item 142**

To Department of Agriculture and Food - Rangeland Improvement	
From Gen. Fund Rest. - Rangeland Improvement Account .....	5,100
From Gen. Fund Rest. - Rangeland Improvement Account, One-Time .....	700
Schedule of Programs: Rangeland Improvement .....	5,800

**Item 143**

To Department of Agriculture and Food - Regulatory Services	
From General Fund .....	65,300
From General Fund, One-Time .....	12,300
From Federal Funds .....	28,300
From Federal Funds, One-Time .....	5,400
From Dedicated Credits Revenue .....	59,500
From Dedicated Credits Revenue, One-Time .....	11,300
From Pass-through .....	1,600
From Pass-through, One-Time .....	300
Schedule of Programs: Regulatory Services .....	184,000

**Item 144**

To Department of Agriculture and Food - Resource Conservation	
From General Fund .....	24,300
From General Fund, One-Time .....	4,700
From Federal Funds .....	14,200
From Federal Funds, One-Time .....	2,900
From Agriculture Resource Development Fund .....	16,500
From Agriculture Resource Development Fund, One-Time .....	3,000
From Revenue Transfers .....	6,700
From Revenue Transfers, One-Time .....	1,300
From Utah Rural Rehabilitation Loan State Fund .....	2,600
From Utah Rural Rehabilitation Loan State Fund, One-Time .....	300
Schedule of Programs: Resource Conservation .....	64,600
Resource Conservation Administration .....	11,900

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Item 145**

To Department of Environmental Quality - Air Quality	
From General Fund .....	125,200
From General Fund, One-Time .....	22,400
From Federal Funds .....	124,400
From Federal Funds, One-Time .....	22,300
From Dedicated Credits Revenue .....	95,700
From Dedicated Credits Revenue, One-Time .....	17,100
From Clean Fuel Conversion Fund .....	2,200
From Clean Fuel Conversion Fund, One-Time .....	400
Schedule of Programs: Air Quality .....	409,700

**Item 146**

To Department of Environmental Quality - Drinking Water	
From General Fund .....	29,000
From General Fund, One-Time .....	4,200
From Federal Funds .....	86,800
From Federal Funds, One-Time .....	12,500
From Dedicated Credits Revenue .....	6,600
From Dedicated Credits Revenue, One-Time .....	900
From Water Dev. Security Fund - Drinking Water Loan Prog. ....	21,200
From Water Dev. Security Fund - Drinking Water Loan Prog., One-Time ..	3,100
From Water Dev. Security Fund - Drinking Water Orig. Fee .....	4,800
From Water Dev. Security Fund - Drinking Water Orig. Fee, One-Time .....	700
Schedule of Programs: Drinking Water .....	169,800

**Item 147**

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund .....	16,100
From General Fund, One-Time .....	2,600
From Federal Funds .....	89,000
From Federal Funds, One-Time .....	14,200
From Dedicated Credits Revenue .....	13,200
From Dedicated Credits Revenue, One-Time .....	2,100
From General Fund Restricted - Petroleum Storage Tank .....	1,100
From General Fund Restricted - Petroleum Storage Tank, One-Time .....	200
From Petroleum Storage Tank Cleanup Fund .....	10,800
From Petroleum Storage Tank Cleanup Fund, One-Time .....	1,800
From Petroleum Storage Tank Trust Fund .....	33,000
From Petroleum Storage Tank Trust Fund, One-Time .....	5,300
From General Fund Restricted - Voluntary Cleanup .....	12,400
From General Fund Restricted - Voluntary Cleanup, One-Time .....	1,900
Schedule of Programs: Environmental Response and Remediation .....	203,700

**Item 148**

To Department of Environmental Quality -	
Executive Director's Office	
From General Fund	60,400
From General Fund, One-Time	9,600
From Federal Funds	6,900
From Federal Funds, One-Time	1,100
From General Fund Restricted -	
Environmental Quality	22,500
From General Fund Restricted -	
Environmental Quality, One-Time	3,600
Schedule of Programs:	
Executive Director's Office	104,100

**Item 149**

To Department of Environmental Quality -	
Waste Management and Radiation Control	
From General Fund	16,100
From General Fund, One-Time	2,800
From Federal Funds	26,600
From Federal Funds, One-Time	4,600
From Dedicated Credits Revenue	48,900
From Dedicated Credits Revenue,	
One-Time	8,400
From General Fund Restricted -	
Environmental Quality	114,800
From General Fund Restricted -	
Environmental Quality, One-Time	19,600
From Gen. Fund Rest. - Used	
Oil Collection Administration	15,700
From Gen. Fund Rest. - Used Oil	
Collection Administration, One-Time	2,700
From Waste Tire Recycling Fund	3,000
From Waste Tire Recycling Fund,	
One-Time	500
Schedule of Programs:	
Waste Management and Radiation	
Control	263,700

**Item 150**

To Department of Environmental Quality -	
Water Quality	
From General Fund	70,700
From General Fund, One-Time	11,900
From Federal Funds	99,700
From Federal Funds, One-Time	16,800
From Dedicated Credits Revenue	40,300
From Dedicated Credits Revenue,	
One-Time	6,700
From Revenue Transfers	6,500
From Revenue Transfers, One-Time	1,100
From Gen. Fund Rest. -	
Underground Wastewater System	1,800
From Gen. Fund Rest. - Underground	
Wastewater System, One-Time	300
From Water Dev. Security Fund -	
Utah Wastewater Loan Prog.	31,700
From Water Dev. Security Fund -	
Utah Wastewater Loan Prog.,	
One-Time	5,200
From Water Dev. Security Fund -	
Water Quality Orig. Fee	2,200
From Water Dev. Security Fund -	
Water Quality Orig. Fee, One-Time	400
Schedule of Programs:	
Water Quality	295,300

**GOVERNOR'S OFFICE****Item 151**

To Governor's Office - Office of	
Energy Development	
From General Fund	29,100
From General Fund, One-Time	4,600
From Federal Funds	14,200
From Federal Funds, One-Time	2,300
From Dedicated Credits Revenue	3,900
From Dedicated Credits Revenue,	
One-Time	600
From Ut. S. Energy Program Rev.	
Loan Fund (ARRA)	3,900
From Ut. S. Energy Program Rev.	
Loan Fund (ARRA), One-Time	600
Schedule of Programs:	
Office of Energy Development	59,200

**DEPARTMENT OF NATURAL RESOURCES****Item 152**

To Department of Natural Resources -	
Administration	
From General Fund	76,500
From General Fund, One-Time	12,900
From General Fund Restricted -	
Sovereign Lands Management	2,600
From General Fund Restricted - Sovereign	
Lands Management, One-Time	400
Schedule of Programs:	
Administrative Services	40,300
Executive Director	32,800
Lake Commissions	5,100
Law Enforcement	5,700
Public Information Office	8,500

**Item 153**

To Department of Natural Resources -	
Contributed Research	
From Dedicated Credits Revenue	300
Schedule of Programs:	
Contributed Research	300

**Item 154**

To Department of Natural Resources -	
Cooperative Agreements	
From Federal Funds	79,700
From Federal Funds, One-Time	10,200
From Dedicated Credits Revenue	7,300
From Dedicated Credits Revenue,	
One-Time	900
From Revenue Transfers	36,200
From Revenue Transfers, One-Time	4,600
Schedule of Programs:	
Cooperative Agreements	138,900

**Item 155**

To Department of Natural Resources -	
Forestry, Fire and State Lands	
From General Fund	22,500
From General Fund, One-Time	4,600
From Federal Funds	101,200
From Federal Funds, One-Time	24,600
From Dedicated Credits Revenue	122,100
From Dedicated Credits Revenue,	
One-Time	27,000
From General Fund Restricted -	
Sovereign Lands Management	110,400

From General Fund Restricted - Sovereign Lands Management, One-Time .....	26,900
Schedule of Programs:	
Division Administration .....	34,500
Fire Management .....	28,400
Fire Suppression Emergencies .....	5,000
Forest Management .....	14,500
Lands Management .....	29,600
Lone Peak Center .....	125,000
Program Delivery .....	202,300

**Item 156**

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund .....	65,400
From General Fund, One-Time .....	14,600
From Federal Funds .....	91,600
From Federal Funds, One-Time .....	19,800
From Dedicated Credits Revenue .....	6,800
From Dedicated Credits Revenue, One-Time .....	1,600
From Gen. Fund Rest. - Oil & Gas Conservation Account .....	86,600
From Gen. Fund Rest. - Oil & Gas Conservation Account, One-Time .....	19,400
Schedule of Programs:	
Abandoned Mine .....	40,400
Administration .....	68,400
Coal Program .....	58,200
Minerals Reclamation .....	38,300
Oil and Gas Program .....	100,500

**Item 157**

To Department of Natural Resources - Parks and Recreation	
From General Fund .....	50,300
From General Fund, One-Time .....	7,300
From Federal Funds .....	21,100
From Federal Funds, One-Time .....	3,200
From Dedicated Credits Revenue .....	15,200
From Dedicated Credits Revenue, One-Time .....	2,500
From General Fund Restricted - Boating .....	72,200
From General Fund Restricted - Boating, One-Time .....	11,100
From Gen. Fund Rest. - Off-highway Access and Education .....	400
From General Fund Restricted - Off-highway Vehicle .....	94,300
From General Fund Restricted - Off-highway Vehicle, One-Time .....	14,600
From General Fund Restricted - State Park Fees .....	333,400
From General Fund Restricted - State Park Fees, One-Time .....	49,900
From Revenue Transfers .....	400
Schedule of Programs:	
Executive Management .....	23,200
Park Operation Management .....	572,900
Planning and Design .....	7,500
Recreation Services .....	34,400
Support Services .....	37,900

**Item 158**

To Department of Natural Resources - Species Protection	
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From General Fund Restricted - Species Protection .....	11,400
From General Fund Restricted - Species Protection, One-Time .....	1,900
Schedule of Programs:	
Species Protection .....	13,300

**Item 159**

To Department of Natural Resources - Utah Geological Survey	
From General Fund .....	128,500
From General Fund, One-Time .....	25,900
From Federal Funds .....	20,400
From Federal Funds, One-Time .....	4,300
From Dedicated Credits Revenue .....	16,200
From Dedicated Credits Revenue, One-Time .....	3,400
From General Fund Restricted - Mineral Lease .....	46,300
From General Fund Restricted - Mineral Lease, One-Time .....	9,300
From Gen. Fund Rest. - Land Exchange Distribution Account .....	700
From Gen. Fund Rest. - Land Exchange Distribution Account, One-Time .....	100
Schedule of Programs:	
Administration .....	20,100
Energy and Minerals .....	49,500
Geologic Hazards .....	40,100
Geologic Information and Outreach .....	58,900
Geologic Mapping .....	47,400
Ground Water .....	39,100

**Item 160**

To Department of Natural Resources - Water Resources	
From General Fund .....	83,600
From General Fund, One-Time .....	14,000
From Federal Funds .....	20,600
From Federal Funds, One-Time .....	3,600
From Water Resources Conservation and Development Fund .....	64,100
From Water Resources Conservation and Development Fund, One-Time .....	11,200
Schedule of Programs:	
Administration .....	20,100
Construction .....	77,900
Interstate Streams .....	9,000
Planning .....	90,100

**Item 161**

To Department of Natural Resources - Water Rights	
From General Fund .....	197,200
From General Fund, One-Time .....	31,100
From Federal Funds .....	4,000
From Federal Funds, One-Time .....	600
From Dedicated Credits Revenue .....	85,300
From Dedicated Credits Revenue, One-Time .....	13,500
Schedule of Programs:	
Adjudication .....	47,700
Administration .....	26,600
Applications and Records .....	140,600
Canal Safety .....	700
Dam Safety .....	40,600
Field Services .....	46,100
Technical Services .....	29,400

**Item 162**

To Department of Natural Resources - Watershed	
From General Fund .....	3,100
From General Fund, One-Time .....	500
Schedule of Programs:	
Watershed .....	3,600

**Item 163**

To Department of Natural Resources - Wildlife Resources	
From General Fund .....	143,300
From General Fund, One-Time .....	22,800
From Federal Funds .....	394,900
From Federal Funds, One-Time .....	76,000
From Dedicated Credits Revenue .....	2,500
From Dedicated Credits Revenue, One-Time .....	400
From General Fund Restricted - Boating .....	34,500
From General Fund Restricted - Boating, One-Time .....	4,500
From General Fund Restricted - Predator Control Account .....	9,700
From General Fund Restricted - Predator Control Account, One-Time .....	1,900
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account .....	400
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account, One-Time .....	100
From Revenue Transfers .....	2,500
From Revenue Transfers, One-Time .....	400
From General Fund Restricted - Wildlife Habitat .....	16,200
From General Fund Restricted - Wildlife Habitat, One-Time .....	900
From General Fund Restricted - Wildlife Resources .....	664,000
From General Fund Restricted - Wildlife Resources, One-Time .....	113,000
Schedule of Programs:	
Administrative Services .....	140,100
Aquatic Section .....	325,300
Conservation Outreach .....	130,000
Director's Office .....	64,200
Habitat Council .....	17,100
Habitat Section .....	191,300
Law Enforcement .....	357,200
Wildlife Section .....	262,800

**PUBLIC LANDS POLICY  
COORDINATING OFFICE**

**Item 164**

To Public Lands Policy Coordinating Office	
From General Fund .....	40,600
From General Fund, One-Time .....	5,200
From General Fund Restricted - Constitutional Defense .....	17,200
From General Fund Restricted - Constitutional Defense, One-Time .....	2,200
Schedule of Programs:	
Public Lands Policy Coordinating Office .....	65,200

**SCHOOL AND INSTITUTIONAL  
TRUST LANDS ADMINISTRATION**

**Item 165**

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund ....	258,800
From Land Grant Management Fund, One-Time .....	37,500
Schedule of Programs:	
Accounting .....	17,000
Administration .....	15,300
Auditing .....	9,700
Board .....	2,600
Development - Operating .....	42,300
Director .....	14,100
External Relations .....	8,700
Grazing and Forestry .....	17,600
Information Technology Group .....	39,000
Legal/Contracts .....	25,200
Mining .....	17,900
Oil and Gas .....	25,200
Surface .....	61,700

**PUBLIC EDUCATION**

**STATE BOARD OF EDUCATION**

**Item 166**

To State Board of Education - Child Nutrition	
From Education Fund .....	700
From Education Fund, One-Time .....	100
From Federal Funds .....	79,500
From Federal Funds, One-Time .....	13,300
Schedule of Programs:	
Child Nutrition .....	93,600

**Item 167**

To State Board of Education - Educator Licensing	
From Education Fund .....	46,200
From Education Fund, One-Time .....	7,300
Schedule of Programs:	
Educator Licensing .....	53,500

**Item 168**

To State Board of Education - Initiative Programs	
From General Fund .....	5,000
From General Fund, One-Time .....	600
From Education Fund .....	21,200
From Education Fund, One-Time .....	1,800
Schedule of Programs:	
Carson Smith Scholarships .....	4,400
General Financial Literacy .....	3,100
Intergenerational Poverty Interventions .....	1,300
Partnerships for Student Success .....	1,600
School Turnaround and Leadership Development Act .....	8,100
UPSTART .....	3,700
ULEAD .....	5,200
Educational Improvement Opportunities Outside of the Regular School Day Grant Program ....	1,200

**Item 169**

To State Board of Education - MSP Categorical Program Administration	
From Education Fund .....	53,000
From Education Fund, One-Time .....	5,900
Schedule of Programs:	
Adult Education .....	6,400

Beverly Taylor Sorenson Elem.  
 Arts Learning Program ..... 4,900  
 CTE Comprehensive Guidance ..... 4,400  
 Digital Teaching and Learning ..... 11,400  
 Dual Immersion ..... 3,200  
 Enhancement for At-Risk Students .... 10,500  
 Special Education State Programs ..... 4,700  
 Youth-in-Custody ..... 9,700  
 State Safety and Support Program ..... 3,700

**Item 170**

To State Board of Education - State  
 Administrative Office  
 From Education Fund ..... 295,800  
 From Education Fund, One-Time ..... 41,300  
 From Federal Funds ..... 175,900  
 From Federal Funds, One-Time ..... 23,800  
 From General Fund Restricted -  
 Mineral Lease ..... 11,500  
 From General Fund Restricted -  
 Mineral Lease, One-Time ..... 1,500  
 From General Fund Restricted -  
 School Readiness Account ..... 1,100  
 From General Fund Restricted -  
 School Readiness Account, One-Time .... 200  
 From General Fund Restricted -  
 Substance Abuse Prevention ..... 2,700  
 From General Fund Restricted - Substance  
 Abuse Prevention, One-Time ..... 300  
 From Revenue Transfers ..... 145,400  
 From Revenue Transfers, One-Time ..... 20,000  
 From Uniform School Fund Rest. -  
 Trust Distribution Account ..... 9,900  
 From Uniform School Fund Rest. -  
 Trust Distribution Account, One-Time ... 1,700  
 Schedule of Programs:  
 Board and Administration ..... 43,400  
 Data and Statistics ..... 25,300  
 Financial Operations ..... 82,300  
 Indirect Cost Pool ..... 165,400  
 Information Technology ..... 124,400  
 Policy and Communication ..... 45,500  
 School Trust ..... 11,600  
 Special Education ..... 125,300  
 Statewide Online Education Program .... 5,700  
 Student Support Services ..... 102,200

**Item 171**

To State Board of Education - General  
 System Support  
 From General Fund ..... 700  
 From General Fund, One-Time ..... 100  
 From Education Fund ..... 63,700  
 From Education Fund, One-Time ..... 8,100  
 From Federal Funds ..... 131,200  
 From Federal Funds, One-Time ..... 15,100  
 From Dedicated Credits Revenue ..... 16,800  
 From Dedicated Credits Revenue,  
 One-Time ..... 1,900  
 From General Fund Restricted -  
 Mineral Lease ..... 1,100  
 From General Fund Restricted -  
 Mineral Lease, One-Time ..... 100  
 Schedule of Programs:  
 Teaching and Learning ..... 100,100  
 Assessment and Accountability ..... 63,800  
 Career and Technical Education ..... 74,900

**Item 172**

To State Board of Education - State  
 Charter School Board  
 From Education Fund ..... 26,800  
 From Education Fund, One-Time ..... 4,000  
 Schedule of Programs:  
 State Charter School Board ..... 30,800

**Item 173**

To State Board of Education -  
 Teaching and Learning  
 From Education Fund ..... 1,000  
 From Education Fund, One-Time ..... 300  
 From Revenue Transfers ..... 1,000  
 From Revenue Transfers, One-Time ..... 300  
 Schedule of Programs:  
 Student Access to High Quality School  
 Readiness Progs ..... 2,600

**Item 174**

To State Board of Education - Utah  
 Schools for the Deaf and the Blind  
 From Education Fund ..... 1,755,300  
 From Education Fund, One-Time ..... 60,500  
 From Federal Funds ..... 1,800  
 From Federal Funds, One-Time ..... 200  
 From Dedicated Credits Revenue ..... 26,600  
 From Dedicated Credits Revenue,  
 One-Time ..... 2,400  
 From Revenue Transfers ..... 285,300  
 From Revenue Transfers, One-Time ..... 28,900  
 Schedule of Programs:  
 Administration ..... 1,329,200  
 Transportation and Support  
 Services ..... 285,900  
 Utah State Instructional Materials  
 Access Center ..... 47,500  
 School for the Deaf ..... 263,200  
 School for the Blind ..... 235,200

**SCHOOL AND INSTITUTIONAL  
 TRUST FUND OFFICE**

**Item 175**

To School and Institutional Trust Fund Office  
 From School and Institutional Trust  
 Fund Management Acct. .... 25,900  
 From School and Institutional Trust  
 Fund Management Acct., One-Time .... 2,000  
 Schedule of Programs:  
 School and Institutional Trust Fund  
 Office ..... 27,900

**RETIREMENT AND  
 INDEPENDENT ENTITIES**

**CAREER SERVICE REVIEW OFFICE**

**Item 176**

To Career Service Review Office  
 From General Fund ..... 7,900  
 From General Fund, One-Time ..... 1,400  
 Schedule of Programs:  
 Career Service Review Office ..... 9,300

**UTAH EDUCATION AND  
 TELEHEALTH NETWORK**

**Item 177**

To Utah Education and Telehealth Network -  
 Digital Teaching and Learning Program

From Education Fund . . . . . 4,500  
 Schedule of Programs:  
     Digital Teaching and Learning  
         Program . . . . . 4,500

**Item 178**

To Utah Education and Telehealth Network  
 From General Fund . . . . . 20,200  
 From Education Fund . . . . . 368,300  
 From Federal Funds . . . . . 86,400  
 From Dedicated Credits Revenue . . . . . 25,800  
 Schedule of Programs:  
     Administration . . . . . 78,600  
     Instructional Support . . . . . 82,400  
     KUEN Broadcast . . . . . 9,200  
     Public Information . . . . . 9,000  
     Technical Services . . . . . 284,300  
     Utah Telehealth Network . . . . . 37,200

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 179**

To Capitol Preservation Board  
 From General Fund . . . . . 29,400  
 From General Fund, One-Time . . . . . 4,400  
 Schedule of Programs:  
     Capitol Preservation Board . . . . . 33,800

**LEGISLATURE**

**Item 180**

To Legislature - Senate  
 From General Fund . . . . . 54,600  
 From General Fund, One-Time . . . . . 5,600  
 Schedule of Programs:  
     Administration . . . . . 60,200

**Item 181**

To Legislature - House of Representatives  
 From General Fund . . . . . 84,800  
 From General Fund, One-Time . . . . . 5,200  
 Schedule of Programs:  
     Administration . . . . . 90,000

**Item 182**

To Legislature - Office of Legislative Research  
     and General Counsel  
 From General Fund . . . . . 292,200  
 From General Fund, One-Time . . . . . 31,600  
 Schedule of Programs:  
     Administration . . . . . 323,800

**Item 183**

To Legislature - Office of the Legislative  
     Fiscal Analyst  
 From General Fund . . . . . 97,700  
 From General Fund, One-Time . . . . . 11,000  
 Schedule of Programs:  
     Administration and Research . . . . . 108,700

**Item 184**

To Legislature - Office of the Legislative  
     Auditor General  
 From General Fund . . . . . 126,700  
 From General Fund, One-Time . . . . . 19,400  
 Schedule of Programs:  
     Administration . . . . . 146,100

**Item 185**

To Legislature - Legislative Services  
 From General Fund . . . . . 27,100  
 From General Fund, One-Time . . . . . 4,500  
 Schedule of Programs:  
     Human Resources . . . . . 31,600

**UTAH NATIONAL GUARD**

**Item 186**

To Utah National Guard  
 From General Fund . . . . . 94,900  
 From General Fund, One-Time . . . . . 14,000  
 From Federal Funds . . . . . 642,100  
 From Federal Funds, One-Time . . . . . 108,600  
 From Dedicated Credits Revenue . . . . . 400  
 From Dedicated Credits Revenue,  
     One-Time . . . . . 100  
 Schedule of Programs:  
     Administration . . . . . 45,000  
     Operations and Maintenance . . . . . 815,100

**DEPARTMENT OF VETERANS AND  
 MILITARY AFFAIRS**

**Item 187**

To Department of Veterans and Military Affairs -  
     Veterans and Military Affairs  
 From General Fund . . . . . 55,200  
 From General Fund, One-Time . . . . . 8,500  
 From Federal Funds . . . . . 11,800  
 From Federal Funds, One-Time . . . . . 2,100  
 From Dedicated Credits Revenue . . . . . 1,900  
 From Dedicated Credits Revenue,  
     One-Time . . . . . 200  
 Schedule of Programs:  
     Administration . . . . . 20,600  
     Cemetery . . . . . 14,700  
     Military Affairs . . . . . 4,900  
     Outreach Services . . . . . 32,800  
     State Approving Agency . . . . . 6,700

**Subsection 1(b). Expendable Funds and  
 Accounts.** The Legislature has reviewed the  
 following expendable funds. The Legislature  
 authorizes the State Division of Finance to  
 transfer amounts between funds and accounts  
 as indicated. Outlays and expenditures from the  
 funds or accounts to which the money is  
 transferred may be made without further  
 legislative action, in accordance with statutory  
 provisions relating to the funds or accounts.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**DEPARTMENT OF PUBLIC SAFETY**

**Item 188**

To Department of Public Safety - Alcoholic  
     Beverage Control Act Enforcement Fund  
 From Dedicated Credits Revenue . . . . . 95,600  
 From Dedicated Credits Revenue,  
     One-Time . . . . . 17,200  
 Schedule of Programs:  
     Alcoholic Beverage Control Act  
     Enforcement Fund . . . . . 112,800

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**DEPARTMENT OF  
ADMINISTRATIVE SERVICES**

**Item 189**

To Department of Administrative Services -  
State Debt Collection Fund  
From Dedicated Credits Revenue ..... 28,100  
From Dedicated Credits Revenue,  
One-Time ..... 5,900  
Schedule of Programs:  
State Debt Collection Fund ..... 34,000

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF COMMERCE**

**Item 190**

To Department of Commerce -  
Cosmetologist/Barber, Esthetician,  
Electrologist Fund  
From Licenses/Fees ..... 2,200  
From Licenses/Fees, One-Time ..... 600  
Schedule of Programs:  
Cosmetologist/Barber, Esthetician,  
Electrologist Fund ..... 2,800

**Item 191**

To Department of Commerce - Real  
Estate Education, Research, and  
Recovery Fund  
From Dedicated Credits Revenue ..... 5,000  
From Dedicated Credits Revenue,  
One-Time ..... 600  
Schedule of Programs:  
Real Estate Education, Research,  
and Recovery Fund ..... 5,600

**Item 192**

To Department of Commerce - Residential  
Mortgage Loan Education, Research,  
and Recovery Fund  
From Licenses/Fees ..... 2,900  
From Licenses/Fees, One-Time ..... 600  
From Interest Income ..... 300  
Schedule of Programs:  
RMLERR Fund ..... 3,800

**Item 193**

To Department of Commerce - Securities Investor  
Education/Training/Enforcement Fund  
From Licenses/Fees ..... 2,400  
From Licenses/Fees, One-Time ..... 600  
Schedule of Programs:  
Securities Investor Education/  
Training/ Enforcement Fund ..... 3,000

**GOVERNOR'S OFFICE OF  
ECONOMIC DEVELOPMENT**

**Item 194**

To Governor's Office of Economic Development -  
Outdoor Recreation Infrastructure Account

From Dedicated Credits Revenue ..... 9,400  
From Dedicated Credits Revenue,  
One-Time ..... 1,700  
Schedule of Programs:  
Outdoor Recreation Infrastructure  
Account ..... 11,100

**PUBLIC SERVICE COMMISSION**

**Item 195**

To Public Service Commission - Universal  
Public Telecom Service  
From Dedicated Credits Revenue ..... 6,200  
From Dedicated Credits Revenue,  
One-Time ..... 700  
Schedule of Programs:  
Universal Public Telecommunications  
Service Support ..... 6,900

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
AGRICULTURE AND FOOD**

**Item 196**

To Department of Agriculture and Food -  
Salinity Offset Fund  
From Revenue Transfers ..... 800  
Schedule of Programs:  
Salinity Offset Fund ..... 800

**EXECUTIVE APPROPRIATIONS**

**UTAH NATIONAL GUARD**

**Item 197**

To Utah National Guard - National  
Guard MWR Fund  
From Dedicated Credits Revenue ..... 20,900  
From Dedicated Credits Revenue,  
One-Time ..... 19,500  
Schedule of Programs:  
National Guard MWR Fund ..... 40,400

**DEPARTMENT OF  
VETERANS AND MILITARY AFFAIRS**

**Item 198**

To Department of Veterans and Military Affairs -  
Utah Veterans Nursing Home Fund  
From Federal Funds ..... 21,600  
From Federal Funds, One-Time ..... 2,600  
Schedule of Programs:  
Veterans Nursing Home Fund ..... 24,200

**Subsection 1(c). Business-like Activities.**

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer

amounts between funds and accounts as indicated.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 199**

To Utah Department of Corrections - Utah Correctional Industries  
From Dedicated Credits Revenue ..... 249,700  
From Dedicated Credits Revenue, One-Time ..... 48,300  
Schedule of Programs:  
Utah Correctional Industries ..... 298,000

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 200**

To Department of Health - Qualified Patient Enterprise Fund  
From Dedicated Credits Revenue ..... 28,200  
From Dedicated Credits Revenue, One-Time ..... 4,800  
Schedule of Programs:  
Qualified Patient Enterprise Fund ..... 33,000

**NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF AGRICULTURE AND FOOD**

**Item 201**

To Department of Agriculture and Food - Agriculture Loan Programs  
From Agriculture Resource Development Fund ..... 5,300  
From Agriculture Resource Development Fund, One-Time ..... 800  
From Utah Rural Rehabilitation Loan State Fund ..... 2,900  
From Utah Rural Rehabilitation Loan State Fund, One-Time ..... 400  
Schedule of Programs:  
Agriculture Loan Program ..... 9,400

**Subsection 1(d). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**Item 202**

To General Fund Restricted - Indigent Defense Resources Account  
From General Fund ..... 20,400

From General Fund, One-Time ..... 3,200  
From Revenue Transfers ..... (20,400)  
From Revenue Transfers, One-Time .... (3,200)

**Subsection 1(e). Fiduciary Funds.** The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**LABOR COMMISSION**

**Item 203**

To Labor Commission - Uninsured Employers Fund  
From Dedicated Credits Revenue ..... 600  
From Trust and Agency Funds ..... 300  
Schedule of Programs:  
Uninsured Employers Fund ..... 900

**Section 2. Effective Date.**  
This bill takes effect on July 1, 2020.



**CHAPTER 332****S. B. 11**

Passed February 10, 2020

Approved March 30, 2020

Effective May 12, 2020

**OFFSET FOR OCCUPATIONAL HEALTH  
AND SAFETY RELATED DONATIONS  
SUNSET EXTENSION**

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

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**LONG TITLE****General Description:**

This bill modifies provisions of the Legislative Oversight and Sunset Act.

**Highlighted Provisions:**

This bill:

- ▶ extends the sunset date of the offset for occupational health and safety related donations.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-234, as last amended by Laws of Utah 2019, Chapter 136

63I-1-259, as last amended by Laws of Utah 2019, Chapters 29 and 479

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*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-1-234 is amended to read:****63I-1-234. Repeal dates, Titles 34 and 34A.**

Section 34A-2-202.5 is repealed December 31, ~~2020~~ 2030.

**Section 2. Section 63I-1-259 is amended to read:****63I-1-259. Repeal dates, Title 59.**

(1) Section 59-1-213.1 is repealed on May 9, 2024.

(2) Section 59-1-213.2 is repealed on May 9, 2024.

(3) Subsection 59-1-405(1)(g) is repealed on May 9, 2024.

(4) Subsection 59-1-405(2)(b) is repealed on May 9, 2024.

(5) Section 59-7-618 is repealed July 1, 2020.

(6) Section 59-9-102.5 is repealed December 31, ~~2020~~ 2030.

(7) Section 59-10-1033 is repealed July 1, 2020.

(8) Subsection 59-12-2219(13), which addresses new revenue supplanting existing allocations, is repealed on June 30, 2020.

(9) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.

**CHAPTER 333****S. B. 12**

Passed February 5, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**VETERANS PREFERENCE  
 IN PRIVATE EMPLOYMENT**

Chief Sponsor: Todd Weiler  
 House Sponsor: Craig Hall

**LONG TITLE****General Description:**

This bill provides that private employers who provide a veterans preference may extend that preference to the spouses of veterans.

**Highlighted Provisions:**

This bill:

- ▶ allows private employers to extend veterans preference to spouses of veterans.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

34-50-103, as last amended by Laws of Utah 2019, Chapter 489  
 34-50-105, as enacted by Laws of Utah 2015, Chapter 263

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 34-50-103 is amended to read:**

**34-50-103. Voluntary veterans preference employment policy -- Private employment -- Antidiscrimination requirements.**

(1) A private sector employer may create a veterans employment preference policy that may also apply to a veteran's spouse.

(2) The veterans employment preference policy shall be:

(a) in writing; and

(b) applied uniformly to employment decisions regarding hiring, promotion, or retention including during a reduction in force.

(3) A private employer may require a veteran to submit a discharge document form or proof of current service in the armed forces to be eligible for the preference. If the applicant is the spouse of a veteran, the employer may require that the spouse submit the veteran's discharge document or proof of current service in the armed forces.

(4) A private employer's veterans employment preference policy shall be publicly posted by the employer at the place of employment or on the

Internet if the employer has a website or uses the Internet to advertise employment opportunities.

**Section 2. Section 34-50-105 is amended to read:**

**34-50-105. Verification of eligibility.**

The department and the Department of Workforce Services may assist, as permitted under state and federal laws governing privacy, a private employer in verifying if an applicant is [~~a veteran~~]:

(1) a veteran or currently serving member of the armed forces; or

(2) a spouse of a veteran or currently serving member of the armed forces.

**CHAPTER 334****S. B. 15**

Passed February 13, 2020

Approved March 30, 2020

Effective May 12, 2020

**GOVERNMENT OPERATIONS  
SUNSET REAUTHORIZATIONS**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Jon Hawkins

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**LONG TITLE****General Description:**

This bill repeals the sunset date for provisions that allow a local district to secure certain bonds with mineral lease payments.

**Highlighted Provisions:**

This bill:

- ▶ repeals the sunset date for provisions that allow a local district to secure certain bonds with mineral lease payments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-211, as last amended by Laws of Utah 2019, Chapter 246

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*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-1-211 is amended to read:****63I-1-211. Repeal dates, Title 11.**

[~~(1) Section 11-14-308 is repealed December 31, 2020.~~]

[~~(2) Title 11, Chapter 59, Point of the Mountain State Land Authority Act, is repealed January 1, 2029.~~]

**CHAPTER 335****S. B. 16**

Passed February 5, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**RURAL RESIDENCY TRAINING PROGRAM RE AUTHORIZATION**

Chief Sponsor: Allen M. Christensen  
 House Sponsor: Kyle R. Andersen

**LONG TITLE****General Description:**

This bill amends and reauthorizes the rural residency training program.

**Highlighted Provisions:**

This bill:

- ▶ adds dental education programs to the list of training programs in the rural residency training program;
- ▶ reauthorizes the rural residency training program for five years; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53B-24-102, as last amended by Laws of Utah 2015, Chapter 258  
 53B-24-402, as last amended by Laws of Utah 2015, Chapters 62 and 258  
 63I-1-253, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246, 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53B-24-102 is amended to read:****53B-24-102. Definitions.**

As used in this chapter:

(1) "Accredited clinical education program" means a clinical education program for a health care profession that is accredited by the Accreditation Council on Graduate Medical Education.

(2) "Accredited clinical training program" means a clinical training program that is accredited by an entity recognized within medical education circles as an accrediting body for medical education, advanced practice nursing education, physician assistance education, doctor of pharmacy education, dental education, or registered nursing education.

(3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(4) "Council" means the Medical Education Council created under Section 53B-24-302.

(5) "Health care professionals in training" means medical students and residents, advance practice nursing students, physician assistant students, doctor of pharmacy students, dental students, and registered nursing students.

(6) "Program" means the Medical Education Program created under Section 53B-24-202.

**Section 2. Section 53B-24-402 is amended to read:****53B-24-402. Rural residency training program.**

(1) ~~[For purposes of]~~ As used in this section:

(a) "Physician" means:

(i) a person licensed to practice medicine under Title 58, Chapter 67, Utah Medical Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) a person licensed to practice dentistry under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act.

(b) "Rural residency training program" means an accredited clinical training program ~~[as defined in Section 53B-24-102]~~ which places a physician into a rural county for a part or all of the physician's clinical training.

(2) (a) Subject to appropriations from the Legislature, the council shall establish a pilot program to place physicians into rural residency training programs.

(b) The program shall sunset in accordance with Section 63I-1-253.

**Section 3. Section 63I-1-253 is amended to read:****63I-1-253. Repeal dates, Titles 53 through 53G.**

The following provisions are repealed on the following dates:

(1) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2022.

(2) Subsection 53-13-104(6), regarding being 19 years old at certification, is repealed July 1, 2022.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) ~~[Section 53B-24-402, Rural residency training program,]~~ Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, ~~[2020]~~ 2025.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the

Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language that states “by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203” is repealed; and

(b) Section 53E-4-203 is repealed.

(10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

(a) Subsection 53B-17-1201(1) is repealed;

(b) Section 53B-17-1203 is repealed;

(c) Subsection 53B-17-1204(2) is repealed;

(d) Subsection 53B-17-1204(4)(a), the language that states “in accordance with the method described in Subsection (4)(c)” is repealed; and

(e) Subsection 53B-17-1204(4)(c) is repealed.

(11) Section 53F-2-514 is repealed July 1, 2020.

(12) Section 53F-5-203 is repealed July 1, 2024.

(13) Section 53F-5-212 is repealed July 1, 2024.

(14) Section 53F-5-213 is repealed July 1, 2023.

(15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~[(16) Section 53F-6-201 is repealed July 1, 2019.]~~

[(17)] (16) Section 53F-9-501 is repealed January 1, 2023.

[(18)] (17) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[(19)] (18) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2020.

**CHAPTER 336****S. B. 17**

Passed February 26, 2020

Approved March 30, 2020

Effective May 12, 2020

**HEBER VALLEY HISTORIC RAILROAD  
AUTHORITY SUNSET DATE EXTENSION**

Chief Sponsor: Wayne A. Harper

House Sponsor: Marie H. Poulson

**LONG TITLE****General Description:**

This bill modifies the Legislative Oversight and Sunset Act.

**Highlighted Provisions:**

This bill:

- ▶ extends the sunset date of Title 63H, Chapter 4, Heber Valley Historic Railroad Authority.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-1-263 is amended to read:****63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, ~~2020~~ 2024.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed on December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(27) Section 63N-2-512 is repealed on July 1, 2021.

(28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

(33) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

(34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.



**CHAPTER 337****S. B. 18**

Passed February 6, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**DIVORCE AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard  
 House Sponsor: V. Lowry Snow

**LONG TITLE****General Description:**

This bill amends the circumstances under which a district court may modify an alimony order.

**Highlighted Provisions:**

This bill:

- ▶ amends the circumstances under which a district court may modify an alimony order; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 30-3-5, as last amended by Laws of Utah 2018, Chapters 89 and 297
- 30-3-5.4, as last amended by Laws of Utah 2018, Chapter 96
- 78B-12-212, as last amended by Laws of Utah 2018, Chapter 96

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 30-3-5 is amended to read:**

**30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Determination of alimony -- Nonmeritorious petition for modification.**

(1) When a decree of divorce is rendered, the court may include in [it] the decree of divorce equitable orders relating to the children, property, debts or obligations, and parties.

(2) The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child, including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for a dependent child; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with Section 30-3-5.4 [which] that will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) [pursuant to] in accordance with Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

[~~(2)~~] (3) (a) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of a dependent child, necessitated by the employment or training of the custodial parent.

(b) If the court determines that the circumstances are appropriate and that the dependent child would be adequately cared for, the court may include an order allowing the noncustodial parent to provide child care for the dependent child, necessitated by the employment or training of the custodial parent.

[~~(3)~~] (4) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of a child and the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

[~~(4)~~] (5) Child support, custody, visitation, and other matters related to a child born to the parents after entry of the decree of divorce may be added to the decree by modification.

[~~(5)~~] (6) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

[46] (7) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

[47] (8) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party:

- (a) actual attorney fees incurred;
- (b) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, which may include:
  - (i) court costs;
  - (ii) child care expenses;
  - (iii) transportation expenses actually incurred;
  - (iv) lost wages, if ascertainable; and
  - (v) counseling for a child or parent if ordered or approved by the court;
- (c) make-up parent time consistent with the best interest of the child; and
- (d) any other appropriate equitable remedy.

[48] (9) (a) The court shall consider at least the following factors in determining alimony:

- (i) the financial condition and needs of the recipient spouse;
- (ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;
- (iii) the ability of the payor spouse to provide support;
- (iv) the length of the marriage;
- (v) whether the recipient spouse has custody of a minor child requiring support;
- (vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and
- (vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor

spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

(c) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage relationship:

- (i) engaging in sexual relations with ~~a person~~ an individual other than the party's spouse;
- (ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a minor child;
- (iii) knowingly and intentionally causing the other party or a minor child to reasonably fear life-threatening harm; or
- (iv) substantially undermining the financial stability of the other party or the minor child.

(d) The court may, when fault is at issue, close the proceedings and seal the court records.

(e) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection [48] (9)(a). However, the court shall consider all relevant facts and equitable principles and may, in the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(f) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(g) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(h) In determining alimony when a marriage of short duration dissolves, and no child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

[49] (10) (a) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not foreseeable at the time of the divorce.

(b) Regardless of whether a party's retirement is foreseeable, the party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree expressly states otherwise.

~~(iii)~~ (c) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

~~(iii)~~ (d) (i) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in Subsection (9) or this Subsection ~~[(8)]~~ (10).

~~(A)~~ (ii) The court may consider the subsequent spouse's financial ability to share living expenses.

~~(B)~~ (iii) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

~~(j)~~ (e) ~~[Alimony may not be ordered]~~ The court may not order alimony for a duration longer than the number of years that the marriage existed unless, at any time before termination of alimony, the court finds extenuating circumstances that justify the payment of alimony for a longer period of time.

~~(9)~~ (11) Unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse. However, if the remarriage is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

~~(10)~~ (12) (a) Subject to Subsection ~~[(10)]~~ (12)(b), an order of the court that a party pay alimony to a former spouse terminates upon establishment by the party paying alimony that the former spouse, after the order for alimony is issued, cohabits with another ~~[person]~~ individual, even if the former spouse is not cohabiting with another person when the party paying alimony files the motion to terminate alimony.

(b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection ~~[(10)]~~ (12)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another ~~[person]~~ individual.

**Section 2. Section 30-3-5.4 is amended to read:**

**30-3-5.4. Designation of primary and secondary health, dental, or hospital insurance coverage.**

(1) ~~[For purposes of]~~ As used in this section, "health, hospital, or dental insurance plan" has the same meaning as "health care insurance" as defined in Section 31A-1-301.

(2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for medical expenses rendered in accordance with Section 78B-12-212, and an administrative order under Section 62A-11-326 shall, in accordance with Subsection (2)(b)(ii), designate which parent's health, hospital,

or dental insurance plan is primary coverage and which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent child.

(b) The provisions of the court order required by Subsection (2)(a) shall:

(i) take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans; and

(ii) include the following language:

"If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's Name) shall be primary coverage for the dependent child and the health, hospital, or dental insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent's health, hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent child."

(c) A decree of divorce or related court order may not modify the language required by Subsection (2)(b)(ii).

(d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents in accordance with Subsections ~~[30-3-5(1)(a)]~~ 30-3-5(2)(a) and 78B-12-212(7).

(3) In designating primary coverage pursuant to Subsection (2), a court may take into account:

(a) the birth dates of the parents;

(b) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a dependent child;

(c) the parent with physical custody of the dependent child; or

(d) any other factor the court considers relevant.

**Section 3. Section 78B-12-212 is amended to read:**

**78B-12-212. Medical expenses.**

(1) A child support order issued or modified in this state on or after July 1, 2018, shall require compliance with this section as of the effective date of the child support order unless the court makes specific findings as to good cause to deviate from the requirements of this section.

(2) (a) The court shall order that health care coverage for the medical expenses of a minor child be provided by a parent.

(b) The court shall order that a parent provide insurance for the medical expenses of a minor child

if insurance is available to that parent at a reasonable cost.

(c) The court shall, in accordance with Section 30-3-5, designate which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans.

(3) In determining which parent shall be ordered to maintain insurance for medical expenses, the court or administrative agency may consider the:

- (a) reasonableness of the cost;
- (b) availability of a group insurance policy;
- (c) coverage of the policy; and
- (d) preference of the custodial parent.

(4) The order shall require each parent to share equally the out-of-pocket costs of the premium actually paid by a parent for the child's portion of insurance unless the court finds good cause to order otherwise.

(5) The parent who provides the insurance coverage may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium. If the parent does not have insurance but another member of the parent's household provides insurance coverage for the child, the parent may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium.

(6) The child's portion of the premium is a per capita share of the premium actually paid. The premium expense for a child shall be calculated by dividing the premium amount by the number of persons covered under the policy and multiplying the result by the number of children in the instant case.

(7) The order shall, in accordance with Subsection ~~[30-3-5(1)(b)]~~ 30-3-5(2)(a), include a cash medical support provision that requires each parent to equally share all reasonable and necessary uninsured and unreimbursed medical and dental expenses incurred for a dependent child, including deductibles and copayments unless the court finds good cause to order otherwise.

(8) The parent ordered to maintain insurance shall provide verification of coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., upon initial enrollment of the dependent child, and after initial enrollment on or before January 2 of each calendar year. The parent shall notify the other parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar days of the date the parent first knew or should have known of the change.

(9) A parent who incurs medical expenses shall provide written verification of the cost and payment

of medical expenses to the other parent within 30 days of payment.

(10) In addition to any other sanctions provided by the court, a parent incurring medical expenses may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses if that parent fails to comply with Subsections (8) and (9).

**CHAPTER 338****S. B. 21**

Passed February 27, 2020

Approved March 30, 2020

Effective May 12, 2020

**EDUCATION AMENDMENTS**

Chief Sponsor: Kathleen Riebe  
House Sponsor: Andrew Stoddard

**LONG TITLE****General Description:**

This bill amends provisions regarding requirements on the Utah State Board of Education and programs that the Utah State Board of Education administers.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ removes language requiring a teacher to submit an annual application for a salary supplement;
- ▶ removes a requirement in the Educational Improvement Opportunities Outside of the Regular School Day Grant Program that matching funds be private;
- ▶ amends a definition regarding a waiver of immunity related to sexual battery and sexual assault against a student under certain conditions; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-4-401, as enacted by Laws of Utah 2018, Chapter 1

53F-2-504, as last amended by Laws of Utah 2019, Chapters 134, 186, and 283

53F-5-210, as last amended by Laws of Utah 2019, Chapter 186

63G-7-301, as last amended by Laws of Utah 2019, Chapters 229 and 248

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-4-401 is amended to read:****53E-4-401. Definitions.**

As used in this part, "instructional materials" means textbooks or materials used as, or in place of, textbooks and which may be used within the state curriculum framework for courses of study by students in public schools ~~[to include]~~, including:

- (1) textbooks;
- (2) workbooks;
- (3) computer software;
- (4) ~~[laser discs or videodiscs]~~ online or Internet courses; and

(5) ~~[multiple forms of communications]~~ audio and video media.

**Section 2. Section 53F-2-504 is amended to read:****53F-2-504. Teacher Salary Supplement Program.**

- (1) As used in this section:
  - (a) "Eligible teacher" means a teacher who:
    - (i) has a qualifying educational background or qualifying teaching background;
    - (ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;
    - (iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and
    - (iv) is a new employee or received at least a satisfactory rating on the teacher's most recent evaluation.
  - (b) "Field of computer science" means:
    - (i) computer science; or
    - (ii) computer information technology.
  - (c) "Field of science" means:
    - (i) integrated science;
    - (ii) chemistry;
    - (iii) physics;
    - (iv) physical science; or
    - (v) general science.
  - (d) "License" means the same as that term is defined in Section 53E-6-102.
  - (e) "Qualifying educational background" means:
    - (i) for a teacher who is assigned a secondary school level mathematics course:
      - (A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or
      - (B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;
    - (ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:
      - (A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or
      - (B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of science;
    - (iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

(f) "Qualifying teaching background" means the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years.

(g) "Supplement-approved assignment" means an assignment to teach:

- (i) a secondary school level mathematics course;
- (ii) integrated science in grade 7 or 8;
- (iii) chemistry;
- (iv) physics;
- (v) computer science; or
- (vi) special education.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) workers' compensation;
- (iii) Social Security; and
- (iv) Medicare.

(3) (a) The annual salary supplement for an eligible teacher who is assigned full-time to a supplement-approved assignment is \$4,100 and funded through an appropriation described in Subsection (2).

(b) An eligible teacher who is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the supplement-approved assignment.

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher is an eligible teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers.

(5) (a) An eligible teacher shall apply to the state board ~~[before the conclusion of a school year]~~, as provided by the board, to receive the salary supplement authorized in this section.

(b) An eligible teacher may ~~[apply to the state board]~~, after verification that the requirements under this section have been satisfied, ~~[to]~~ receive a salary supplement after the completion of:

(i) the school year as an annual award; or

(ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7) (a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary

supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board shall distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

**Section 3. Section 53F-5-210 is amended to read:**

**53F-5-210. Educational Improvement Opportunities Outside of the Regular School Day Grant Program.**

(1) As used in this section:

(a) "Applicant" means an LEA, private provider, nonprofit provider, or municipality that provides an existing program and applies for a grant under the provisions of this section.

(b) "Existing program" means a currently funded and operating program, as described in Subsections 53E-3-508(1)(a) and (b).

(c) "Grant program" means the Educational Improvement Opportunities Outside of the Regular School Day Grant Program created in Subsection (2).

(d) "Grantor" means:

(i) for an LEA that receives a grant under this section, the state board; or

(ii) for a private provider, nonprofit provider, or municipality that receives a grant under this section, the Department of Workforce Services.

(e) "Local education agency" or "LEA" means a school district or charter school.

(2) There is created the Educational Improvement Opportunities Outside of the Regular School Day Grant Program to provide grant funds for an existing program to improve and develop the existing program in accordance with the high quality standards described in Section 53E-3-508.

(3) Subject to legislative appropriation and in accordance with Subsection (7):

(a) the state board shall:

(i) solicit LEA applications to receive a grant under this section; and

(ii) award a grant based on the criteria described in Subsection (5); and

(b) the Department of Workforce Services shall:

(i) solicit private provider, nonprofit provider, or municipality applications to receive a grant under this section; and

(ii) award a grant based on the criteria described in Subsection (5).

(4) To receive a grant under this section, an applicant shall submit a proposal to the grantor describing:

(a) how the applicant proposes to develop and improve the existing program to meet the standards described in Section 53E-3-508;

(b) information necessary for the state board to determine the impact of the applicant's program on the academic performance of participating students;

(c) the total number of students the applicant proposes to serve through the existing program;

(d) the estimated percentage of the students described in Subsection (4)(c) who qualify for free or reduced lunch; and

(e) the estimated cost of the applicant's existing program, per student.

(5) In awarding a grant under Subsection (3), the grantor shall consider:

(a) how an applicant's existing program proposes to meet the standards described in Section 53E-3-508; and

(b) the percentage of students in that program who qualify for free and reduced lunch.

(6) An applicant that receives a grant under this section shall:

(a) use the grant to improve an existing program in accordance with the standards described in Section 53E-3-508; and

(b) annually report to the grantor:

(i) the number of students served by the existing program;

(ii) the academic outcomes that the program is expected to have on participating students;

(iii) program attendance rates of participating students; and

(iv) other information required by the grantor.

(7) (a) To receive a distribution of grant money under this section, an applicant shall identify and certify the availability of [private] matching funds in the amount of the grant to be distributed to the applicant.

(b) Neither the state board nor the Department of Workforce Services shall be expected to seek [private] matching funds for this grant program.

(8) The state board shall make rules to administer this section that include:

(a) specific criteria to determine academic performance;

(b) application and reporting procedures; and

(c) criteria for an existing program to qualify for a grant under this section.

(9) The Department of Workforce Services shall make rules to administer the grant program as described in Subsection (3)(b).

(10) In accordance with 34 C.F.R. Sec. 99.35, the state board shall designate the Department of Workforce Services as an authorized representative for the purpose of sharing student data and evaluating and reporting the impact and effectiveness of the grant program.

(11) The state board and the Department of Workforce Services may utilize up to 10% of the funds appropriated for administrative costs associated with the grant program and the report described in Subsection (12).

(12) The state board shall report to the Education Interim Committee before November 30, 2019, regarding:

(a) the grant program's effect on the quality of existing programs that participate in the grant program; and

(b) the impact of the existing programs on the academic performance of participating students.

**Section 4. Section 63G-7-301 is amended to read:**

**63G-7-301. Waivers of immunity.**

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses awarded under Section 20A-19-301(5); and

(k) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G-11-402.

(3) (a) As used in this Subsection (3):

(i) "[~~Appropriate behavior policy~~] Code of conduct" means a [~~policy~~] code of conduct that:



(A) is not less stringent than a model ~~[policy]~~ code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to ~~[an appropriate behavior policy]~~ a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the ~~[policy]~~ code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the ~~[policy]~~ code of conduct.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the State Board of Regents that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

**CHAPTER 339****S. B. 23**

Passed March 5, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**DIVISION OF OCCUPATIONAL  
 AND PROFESSIONAL  
 LICENSING AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
 House Sponsor: James A. Dunnigan

**LONG TITLE****General Description:**

This bill modifies provisions related to the Division of Occupational and Professional Licensing (the division).

**Highlighted Provisions:**

This bill:

- ▶ modifies the division's administrative fine authority;
- ▶ modifies the division's authority to grant a license by endorsement;
- ▶ modifies the responsibilities of the Uniform Building Code Commission;
- ▶ modifies the division's licensing fees for active duty personnel;
- ▶ modifies licensing regulations during disasters;
- ▶ removes good moral character provisions for many licensed professions;
- ▶ modifies provisions concerning the licensing requirements for certain cosmetology related professions;
- ▶ modifies the division's required uses of surcharges for certain professions;
- ▶ modifies background check provisions for certain medical professions and for licensed security guards;
- ▶ modifies the membership of the Plumbers Licensing Board and the Electricians Licensing Board;
- ▶ modifies provisions related to the health facility administrator license;
- ▶ modifies the citation authority of the division;
- ▶ modifies pharmacy notification requirements;
- ▶ modifies provisions related to prelitigation panels under the Utah Health Care Malpractice Act;
- ▶ modifies provisions related to disclosing information from the controlled substance database in criminal proceedings;
- ▶ modifies provisions related to unprofessional and unlawful conduct for professions regulated by the division; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

15A-1-203, as last amended by Laws of Utah 2019, Chapters 20 and 119  
 38-11-102, as last amended by Laws of Utah 2018, Chapter 229

58-1-301.3, as enacted by Laws of Utah 2018, Chapter 331  
 58-1-301.5, as last amended by Laws of Utah 2018, Chapter 318  
 58-1-301.7, as last amended by Laws of Utah 2013, Chapter 262  
 58-1-302, as last amended by Laws of Utah 2019, Chapter 215  
 58-1-307, as last amended by Laws of Utah 2019, Chapters 136 and 349  
 58-1-501, as last amended by Laws of Utah 2019, Chapter 198  
 58-1-502, as last amended by Laws of Utah 2018, Chapter 318  
 58-3a-105, as enacted by Laws of Utah 2019, Chapter 215  
 58-3a-302, as last amended by Laws of Utah 2009, Chapter 183  
 58-3a-304, as last amended by Laws of Utah 2016, Chapter 268  
 58-3a-502, as last amended by Laws of Utah 2018, Chapter 318  
 58-5a-302, as last amended by Laws of Utah 2017, Chapter 244  
 58-11a-102, as last amended by Laws of Utah 2017, Chapters 215 and 342  
 58-11a-302, as last amended by Laws of Utah 2018, Chapters 415 and 445  
 58-11a-304, as last amended by Laws of Utah 2018, Chapter 318  
 58-11a-306, as last amended by Laws of Utah 2018, Chapter 318  
 58-11a-502, as last amended by Laws of Utah 2016, Chapters 249 and 274  
 58-11a-503, as last amended by Laws of Utah 2018, Chapter 318  
 58-15-11, as last amended by Laws of Utah 1993, Chapter 297  
 58-16a-102, as last amended by Laws of Utah 2012, Chapters 256 and 362  
 58-16a-302, as last amended by Laws of Utah 2016, Chapter 238  
 58-16a-501, as last amended by Laws of Utah 2012, Chapter 256  
 58-16a-503, as last amended by Laws of Utah 2000, Chapter 160  
 58-17b-303, as last amended by Laws of Utah 2012, Chapter 93  
 58-17b-304, as last amended by Laws of Utah 2013, Chapter 166  
 58-17b-305, as last amended by Laws of Utah 2013, Chapter 166  
 58-17b-305.1, as enacted by Laws of Utah 2014, Chapter 385  
 58-17b-308, as last amended by Laws of Utah 2017, Chapter 384  
 58-17b-504, as last amended by Laws of Utah 2018, Chapter 318  
 58-17b-614, as last amended by Laws of Utah 2007, Chapter 279  
 58-20b-302, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1  
 58-22-102, as last amended by Laws of Utah 2017, Chapter 218  
 58-22-104, as enacted by Laws of Utah 2019, Chapter 215

58-22-302, as last amended by Laws of Utah 2017, Chapter 382	58-55-305, as last amended by Laws of Utah 2019, Chapters 136 and 215
58-22-305, as last amended by Laws of Utah 2013, Chapter 262	58-55-308, as last amended by Laws of Utah 2019, Chapter 340
58-22-503, as last amended by Laws of Utah 2018, Chapter 318	58-55-401, as last amended by Laws of Utah 2011, Chapter 413
58-24b-302, as last amended by Laws of Utah 2019, Chapter 101	58-55-501, as last amended by Laws of Utah 2018, Chapter 318
58-26a-302, as last amended by Laws of Utah 2017, Chapter 229	58-55-503, as last amended by Laws of Utah 2018, Chapter 318
58-26a-305, as last amended by Laws of Utah 2008, Chapter 265	58-56-9.5, as last amended by Laws of Utah 2018, Chapters 229 and 318
58-26a-306, as last amended by Laws of Utah 2019, Chapter 122	58-57-4, as last amended by Laws of Utah 2009, Chapter 183
58-28-301, as enacted by Laws of Utah 2006, Chapter 109	58-60-109, as last amended by Laws of Utah 2015, Chapter 323
58-28-302, as last amended by Laws of Utah 2009, Chapter 183	58-60-115, as last amended by Laws of Utah 2012, Chapter 179
58-28-304, as renumbered and amended by Laws of Utah 2006, Chapter 109	58-60-117, as last amended by Laws of Utah 2018, Chapter 318
58-31b-503, as last amended by Laws of Utah 2018, Chapter 318	58-60-205, as last amended by Laws of Utah 2019, Chapter 393
58-31b-803, as last amended by Laws of Utah 2019, Chapter 233	58-60-207, as last amended by Laws of Utah 2019, Chapter 393
58-37f-203, as last amended by Laws of Utah 2019, Chapter 59	58-60-305.5, as last amended by Laws of Utah 2009, Chapter 183
58-37f-301, as last amended by Laws of Utah 2018, Chapter 123	58-60-305, as last amended by Laws of Utah 2019, Chapter 393
58-37f-302, as enacted by Laws of Utah 2010, Chapter 287	58-60-308, as last amended by Laws of Utah 2019, Chapter 393
58-37f-303, as enacted by Laws of Utah 2016, Chapter 112	58-60-405, as last amended by Laws of Utah 2015, Chapter 77
58-40-302, as last amended by Laws of Utah 2015, Chapter 77	58-60-407, as last amended by Laws of Utah 2019, Chapter 393
58-40-501, as enacted by Laws of Utah 2012, Chapter 82	58-60-506, as last amended by Laws of Utah 2015, Chapter 77
58-41-5, as last amended by Laws of Utah 2010, Chapter 397	58-61-304, as last amended by Laws of Utah 2013, Chapters 16 and 262
58-42a-302, as last amended by Laws of Utah 2015, Chapters 28, 432 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 28	58-61-501, as last amended by Laws of Utah 2001, Chapter 281
58-42a-501, as repealed and reenacted by Laws of Utah 2015, Chapter 432	58-61-704, as enacted by Laws of Utah 2015, Chapter 367
58-46a-302, as last amended by Laws of Utah 2013, Chapter 87	58-61-705, as enacted by Laws of Utah 2015, Chapter 367
58-47b-302, as last amended by Laws of Utah 2009, Chapter 183	58-63-302, as last amended by Laws of Utah 2018, Chapter 177
58-49-4, as last amended by Laws of Utah 1989, Chapter 225	58-63-306, as last amended by Laws of Utah 2008, Chapter 246
58-49-5, as enacted by Laws of Utah 1986, Chapter 192	58-63-503, as last amended by Laws of Utah 2018, Chapter 318
58-49-9, as enacted by Laws of Utah 1986, Chapter 192	58-64-302, as last amended by Laws of Utah 2016, Chapter 201
58-53-502, as last amended by Laws of Utah 2018, Chapter 318	58-67-503, as last amended by Laws of Utah 2018, Chapter 318
58-54-302, as last amended by Laws of Utah 2012, Chapter 369	58-67-302, as last amended by Laws of Utah 2019, Chapter 445
58-55-103, as last amended by Laws of Utah 2016, Chapter 25	58-67-302.5, as last amended by Laws of Utah 2019, Chapter 445
58-55-106, as enacted by Laws of Utah 2019, Chapter 215	58-67-302.7, as last amended by Laws of Utah 2018, Chapter 318
58-55-201, as last amended by Laws of Utah 2019, Chapter 215	58-67-302.8, as last amended by Laws of Utah 2018, Chapter 318
58-55-302, as last amended by Laws of Utah 2019, Chapter 215	58-67-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
	58-67-403, as last amended by Laws of Utah 2018, Chapter 318

58-68-302, as last amended by Laws of Utah 2019, Chapter 445  
 58-68-302.5, as last amended by Laws of Utah 2018, Chapter 318  
 58-68-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
 58-68-403, as last amended by Laws of Utah 2018, Chapter 318  
 58-68-503, as last amended by Laws of Utah 2018, Chapter 318  
 58-69-302, as last amended by Laws of Utah 2018, Chapter 66  
 58-70a-302, as last amended by Laws of Utah 2017, Chapter 309  
 58-70a-306, as last amended by Laws of Utah 2010, Chapter 37  
 58-71-302, as last amended by Laws of Utah 2009, Chapter 183  
 58-72-302, as last amended by Laws of Utah 2019, Chapter 485  
 58-73-302, as last amended by Laws of Utah 2009, Chapter 183  
 58-74-102, as last amended by Laws of Utah 2019, Chapter 379  
 58-74-302, as last amended by Laws of Utah 2019, Chapter 379  
 58-75-302, as last amended by Laws of Utah 2009, Chapter 183  
 58-76-302, as last amended by Laws of Utah 2009, Chapter 183  
 58-76-502, as last amended by Laws of Utah 2018, Chapter 318  
 58-77-302, as last amended by Laws of Utah 2009, Chapter 183  
 58-78-302, as last amended by Laws of Utah 2011, Chapter 367  
 58-79-302, as enacted by Laws of Utah 2009, Chapter 52  
 58-84-201, as enacted by Laws of Utah 2014, Chapter 340  
 58-86-202, as enacted by Laws of Utah 2016, Chapter 294  
 58-86-302, as enacted by Laws of Utah 2016, Chapter 294  
 63G-2-305, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277  
 78B-3-416, as last amended by Laws of Utah 2018, Chapter 318

**ENACTS:**

58-61-304.1, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 15A-1-203 is amended to read:**

**15A-1-203. Uniform Building Code Commission -- Unified Code Analysis Council.**

(1) There is created a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes.

(2) The commission shall consist of 11 members as follows:

(a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;

(b) one member shall be a licensed building inspector employed by a political subdivision of the state;

(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be a fire official;

(f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;

(g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

(h) one member shall be from the Division of Facilities Construction and Management of the Department of Administrative Services.

(3) (a) The executive director shall appoint each commission member after submitting a nomination to the governor for confirmation or rejection.

(b) If the governor rejects a nominee, the executive director shall submit an alternative nominee until the governor confirms the nomination. An appointment is effective after the governor confirms the nomination.

(4) (a) Except as required by Subsection (4)(b), as terms of commission members expire, the executive director shall appoint each new commission member or reappointed commission member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the commission membership for any reason, the executive director shall appoint a replacement for the unexpired term.

(6) (a) A commission member may not serve more than two full terms.

(b) A commission member who ceases to serve may not again serve on the commission until after the expiration of two years after the day on which service ceased.

(7) A majority of the commission members constitute a quorum and may act on behalf of the commission.

(8) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) (a) The commission shall annually designate one of the commission's members to serve as chair of the commission.

(b) The division shall provide a secretary to facilitate the function of the commission and to record the commission's actions and recommendations.

(10) The commission shall:

(a) in accordance with Section 15A-1-204, report to the Business and Labor Interim Committee;

~~[(b) offer an opinion regarding the interpretation of or the application of a code if a person submits a request for an opinion;]~~

~~[(e)]~~ (b) act as an appeals board as provided in Section 15A-1-207;

~~[(d)]~~ (c) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to a code, including a committee to advise the commission regarding health matters related to a plumbing code; and

~~[(e)]~~ (d) assist the division in overseeing code-related training in accordance with Section 15A-1-209.

~~[(11) A person requesting an opinion under Subsection (10)(b) shall submit a formal request clearly stating:]~~

~~[(a) the facts in question;]~~

~~[(b) the specific citation at issue in a code; and]~~

~~[(c) the position taken by the persons involved in the facts in question.]~~

~~[(12)]~~ (11) (a) In a manner consistent with Subsection ~~[(10)(d)]~~ (10)(c), the commission shall jointly create with the Utah Fire Prevention Board an advisory peer committee known as the "Unified Code Analysis Council" to review fire prevention and construction code issues that require definitive and specific analysis.

(b) The commission and Utah Fire Prevention Board shall jointly, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

(i) the appointment of members to the Unified Code Analysis Council; and

(ii) procedures followed by the Unified Code Analysis Council.

**Section 2. Section 38-11-102 is amended to read:**

**38-11-102. Definitions.**

(1) "Board" means the Residence Lien Recovery Fund Advisory Board established under Section 38-11-104.

(2) "Certificate of compliance" means an order issued by the director to the owner finding that the

owner is in compliance with the requirements of Subsections 38-11-204(4)(a) and (4)(b) and is entitled to protection under Section 38-11-107.

(3) "Construction on an owner-occupied residence" means designing, engineering, constructing, altering, remodeling, improving, repairing, or maintaining a new or existing residence.

(4) "Department" means the Department of Commerce.

(5) "Director" means the director of the Division of Occupational and Professional Licensing or the director's designee.

(6) "Division" means the Division of Occupational and Professional Licensing.

(7) "Duplex" means a single building having two separate living units.

(8) "Encumbered fund balance" means the aggregate amount of outstanding claims against the fund. The remainder of the money in the fund is unencumbered funds.

(9) "Executive director" means the executive director of the Department of Commerce.

(10) "Factory built housing" is as defined in Section 15A-1-302.

(11) "Factory built housing retailer" means a person that sells factory built housing to consumers.

(12) "Fund" means the Residence Lien Recovery Fund established under Section 38-11-201.

(13) "Laborer" means a person who provides services at the site of the construction on an owner-occupied residence as an employee of an original contractor or other qualified beneficiary performing qualified services on the residence.

(14) "Licensee" means any holder of a license issued under Title 58, Chapter 3a, Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; Chapter 53, Landscape Architects Licensing Act; and Chapter 55, Utah Construction Trades Licensing Act.

(15) "Nonpaying party" means the original contractor, subcontractor, or real estate developer who has failed to pay the qualified beneficiary making a claim against the fund.

(16) "Original contractor" means a person who contracts with the owner of real property or the owner's agent to provide services, labor, or material for the construction of an owner-occupied residence.

(17) "Owner" means a person who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an owner-occupied residence upon real property that the person:

- (i) owns; or
  - (ii) purchases after the person enters into a contract described in this Subsection (17)(a) and before completion of the owner-occupied residence;
  - (b) contracts with a real estate developer to buy a residence upon completion of the construction on the owner-occupied residence; or
  - (c) purchases a residence from a real estate developer after completion of the construction on the owner-occupied residence.
- (18) "Owner-occupied residence" means a residence that is, or after completion of the construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a primary or secondary residence within 180 days after the day on which the construction on the residence is complete.
- (19) "Qualified beneficiary" means a person who:
- (a) provides qualified services;
  - (b) pays necessary fees required under this chapter; and
  - (c) registers with the division:
    - (i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks recovery from the fund as a licensed contractor; or
    - (ii) as a person providing qualified services other than as a licensed contractor under Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as a licensed contractor.
- (20) (a) "Qualified services" means the following performed in construction on an owner-occupied residence:
- (i) contractor services provided by a contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act;
  - (ii) architectural services provided by an architect licensed under Title 58, Chapter 3a, Architects Licensing Act;
  - (iii) engineering and land surveying services provided by a professional engineer or land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
  - (iv) landscape architectural services by a landscape architect licensed or exempt from licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;
  - (v) design and specification services of mechanical or other systems;
  - (vi) other services related to the design, drawing, surveying, specification, cost estimation, or other like professional services;
  - (vii) providing materials, supplies, components, or similar products;

- (viii) renting equipment or materials;
  - (ix) labor at the site of the construction on the owner-occupied residence; and
  - (x) site preparation, set up, and installation of factory built housing.
- (b) "Qualified services" does not include the construction of factory built housing in the factory.
- (21) "Real estate developer" means a person having an ownership interest in real property who:
- (a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a residence that is offered for sale to the public; or
  - (b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act, who engages in the construction of a residence that is offered for sale to the public.
- (22) (a) "Residence" means an improvement to real property used or occupied, to be used or occupied as, or in conjunction with:
- (i) a primary or secondary detached single-family dwelling; or
  - (ii) a multifamily dwelling up to and including duplexes.
- (b) "Residence" includes factory built housing.
- (23) "Subsequent owner" means a person who purchases a residence from an owner within 180 days after the day on which the construction on the residence is completed.

**Section 3. Section 58-1-301.3 is amended to read:**

**58-1-301.3. Waiver of licensing fees.**

An individual applying for initial licensure or licensure renewal under this title may apply for initial licensure or licensure renewal without paying the fees described in Subsection 58-1-301(1) if the applicant provides evidence to the division in a form prescribed by the division that at the time of the application the applicant is:

- (1) on full-time active service with a branch of the armed forces of the United States, including an applicant who is on full-time active duty orders with the National Guard or reserve component of the armed forces; or
- (2) receiving public assistance through one of the following programs administered by the Department of Workforce Services:

- (a) the Family Employment Program described in Section 35A-3-302; or

- (b) General Assistance described in Section 35A-3-401.

**Section 4. Section 58-1-301.5 is amended to read:**

**58-1-301.5. Division access to Bureau of Criminal Identification records.**

(1) The division shall have direct access to ~~[criminal background information]~~ local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of persons who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) Section 58-17b-307 of Title 58, Chapter 17b, Pharmacy Practice Act;

(b) Sections 58-24b-302 and 58-24b-302.1 of Title 58, Chapter 24b, Physical Therapy Practice Act;

(c) Section 58-31b-302 of Title 58, Chapter 31b, Nurse Practice Act;

(d) Section 58-47b-302 of Title 58, Chapter 47b, Massage Therapy Practice Act;

(e) Section 58-55-302 of Title 58, Chapter 55, Utah Construction Trades Licensing Act, as it applies to alarm companies and alarm company agents;

(f) Sections 58-61-304 and 58-61-304.1 of Title 58, Chapter 61, Psychologist Licensing Act;

~~(f)~~ (g) Section 58-63-302 of Title 58, Chapter 63, Security Personnel Licensing Act;

~~(g)~~ (h) Section 58-64-302 of Title 58, Chapter 64, Deception Detection Examiners Licensing Act;

~~(h)~~ (i) Sections 58-67-302 and 58-67-302.1 of Title 58, Chapter 67, Utah Medical Practice Act; and

~~(i)~~ (j) Sections 58-68-302 and 58-68-302.1 of Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

**Section 5. Section 58-1-301.7 is amended to read:**

**58-1-301.7. Change of information.**

(1) (a) An applicant, licensee, or certificate holder shall ~~[send the division a signed statement, in a form required by the division, notifying]~~ notify the division within 10 business days of a change in mailing address or email address.

(b) When providing a mailing address, the individual may provide a post office box or other mail drop location.

(c) In addition to providing a mailing address, an applicant, licensee, or certificate holder ~~[may]~~ shall provide to the division, in a form ~~[required]~~ approved by the division, an email address ~~[and may designate email as the preferred method of receiving notifications from the division].~~

(2) An applicant, licensee, or certificate holder is considered to have received a notification that has been sent to the most recent:

(a) mailing address provided to the division by the applicant, licensee, or certificate holder; or

(b) email address furnished to the division by the applicant, licensee, or certificate holder ~~[, if email has been designated by the applicant, licensee, or certificate holder as the preferred method of receiving notifications from the division].~~

**Section 6. Section 58-1-302 is amended to read:**

**58-1-302. License by endorsement.**

(1) Subject to Subsections (2), (3), ~~[and]~~ (4), and (5), the division ~~[may]~~ shall issue a license without examination to a person who has been licensed in a state, district, or territory of the United States ~~[or in a foreign country]~~ if:

~~(a) the division determines the education, experience, and examination requirements of the state, district, or territory of the United States or the foreign country, at the time the license was issued, were substantially equal to the current requirements of this state; or]~~

~~(b) after being licensed outside of this state, the person has at least one year of experience in the state, district, or territory of the United States where the license was issued, and the division determines the person has the education, experience, and skills necessary to demonstrate competency in the occupation or profession for which licensure is sought.]~~

(a) after being licensed outside of this state, the person has at least one year of experience in the state, district, or territory of the United States where the license was issued;

(b) the person's license is in good standing in the state, district, or territory of the United States where the license was issued; and

(c) the division determines that the license issued by the state, district, or territory of the United States encompasses a similar scope of practice as the license sought in this state.

(2) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the ~~[requirements of Subsection (1)]~~ administration and requirements of this section.

(3) Notwithstanding the provisions of Subsection (1), the division may refuse to issue a license to a person under the provisions of this section if:

(a) the division determines that there is reasonable cause to believe that the person is not qualified to receive a license in this state; or

(b) the person has a previous or pending disciplinary action related to the person's license.

~~(3)~~ (4) Before a [resident] person may be issued a license under this section, the [resident] person shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the [resident's] person's identity, qualifications, and good standing in the occupation or profession for which licensure is sought.

~~(4)~~ (5) In accordance with Section 58-1-107, licensure endorsement provisions in this section are subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

(6) On or before October 1, 2022, the division shall provide a written report to the Business and Labor Interim Committee regarding the effectiveness and sufficiency of the provisions of this section at ensuring that persons receiving a license without examination under the provisions of this section are qualified to receive a license in this state.

**Section 7. Section 58-1-307 is amended to read:**

**58-1-307. Exemptions from licensure.**

(1) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified individuals;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state,

and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods; and

(j) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:

(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and

(ii) the license is current and the spouse is in good standing in the state of licensure.

(2) (a) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

(b) Violation of a limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful,



professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health-related activities, the division in collaboration with the relevant board may:

(a) suspend the requirements for permanent or temporary licensure of individuals who are licensed in another state for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for individuals who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act; and

(vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be licensed under Section 26-8a-302;

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures;

(e) exempt or modify the requirement for licensure of an individual who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126; ~~and~~

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act~~[-]; and~~

(g) in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exempt or modify

the requirements for licensure of an individual engaged in one or more of the construction trades described in Chapter 55, Utah Construction Trades Licensing Act.

(5) Individuals exempt under Subsection (4)(c) and individuals operating under modified scope of practice provisions under Subsection (4)(b):

(a) are exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for:

(i) a local or state department of health; or

(ii) a host entity as defined in Section 26-49-102.

(6) In accordance with the protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health or a local health department shall coordinate with public safety authorities as defined in Subsection 26-23b-110(1) and may:

(a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a consequence of, the emergency; or

(b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance:

(i) if necessary, to replenish a commercial pharmacy in the event that the commercial pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication is exhausted; or

(ii) for dispensing or direct administration to treat the disease or condition that gave rise to, or was a consequence of, the emergency by:

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

(E) a governmental entity for use by a community more than 50 miles from a person described in Subsections (6)(b)(ii)(A) through (D).

(7) In accordance with protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health shall coordinate the distribution of medications:

(a) received from the strategic national stockpile to local health departments; and

(b) from local health departments to emergency personnel within the local health departments' geographic region.

(8) The Department of Health shall establish by rule, made in accordance with Title 63G, Chapter 3,

Utah Administrative Rulemaking Act, protocols for administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency. The protocol shall establish procedures for the Department of Health or a local health department to:

(a) coordinate the distribution of:

(i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance received by the Department of Health from the strategic national stockpile to local health departments; and

(ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication received by a local health department to emergency personnel within the local health department's geographic region;

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's or physician assistant's patient; and

(c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication to an individual who:

(i) is working in a triage situation;

(ii) is receiving preventative or medical treatment in a triage situation;

(iii) does not have coverage for the prescription in the individual's health insurance plan;

(iv) is involved in the delivery of medical or other emergency services in response to the declared national, state, or local emergency; or

(v) otherwise has a direct impact on public health.

(9) The Department of Health shall give notice to the division upon implementation of the protocol established under Subsection (8).

**Section 8. Section 58-1-501 is amended to read:**

**58-1-501. Unlawful and unprofessional conduct.**

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing an occupation or profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same occupation or profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any occupation or profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission; [or]

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title[.]; or

(g) aiding or abetting any other person to violate any statute, rule, or order regulating an occupation or profession under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) ~~violating, or aiding or abetting any other person to violate,~~ any statute, rule, or order regulating an occupation or profession under this title;

(b) violating, or aiding or abetting any other person to violate, any generally accepted

professional or ethical standard applicable to an occupation or profession regulated under this title;

(c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession;

(d) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession;

(f) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so;

(g) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(h) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(i) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(j) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license;

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(l) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(m) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify

conditions, and to identify contraindications to the proposed treatment; or

(ii) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(n) violating a provision of Section 58-1-501.5; or

(o) violating the terms of an order governing a license.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

**Section 9. Section 58-1-502 is amended to read:**

**58-1-502. Unlawful and unprofessional conduct -- Penalties.**

(1) (a) Unless otherwise specified in this title, a person who violates the unlawful conduct provisions defined in this title is guilty of a class A misdemeanor.

(b) Unless a specific fine amount is specified elsewhere in this title, the director or the director's designee may assess an administrative fine of up to \$1,000 for each instance of unprofessional or unlawful conduct defined in this title.

(2) (a) In addition to any other statutory penalty for a violation related to a specific occupation or profession regulated by this title, if upon inspection or investigation, the division concludes that a person has violated Subsection 58-1-501(1)(a), (1)(c), (1)(g), or (2)(o), or a rule or order issued with respect to those subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly:

(i) issue a citation to the person according to this section and any pertinent rules;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) (i) The division may assess a fine under this Subsection (2) against a person who violates Subsection 58-1-501(1)(a), (1)(c), (1)(g), or (2)(o), or a rule or order issued with respect to those subsections, as evidenced by:

(A) an uncontested citation;

(B) a stipulated settlement; or

(C) a finding of a violation in an adjudicative proceeding.

(ii) The division may, in addition to or in lieu of a fine under Subsection (2)(b)(i), order the person to

cease and desist from violating Subsection 58-1-501(1)(a), (1)(c), (1)(g), or (2)(o), or a rule or order issued with respect to those subsections.

(c) Except for a cease and desist order, the division may not assess the licensure sanctions cited in Section 58-1-401 through a citation.

(d) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.

(e) The division may issue a notice in lieu of a citation.

(f) (i) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(i) ~~[The]~~ Subject to the time limitations described in Subsection 58-1-401(6), the division may not issue a citation under this section after the expiration of one year following the [occurrence of a violation] date on which the violation that is the subject of the citation is reported to the division.

(j) The director or the director's designee shall assess fines according to the following:

(i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000; and

(iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000 for each day of continued offense.

(3) (a) An action for a first or second offense that has not yet resulted in a final order of the division may not preclude initiation of a subsequent action

for a second or subsequent offense during the pendency of a preceding action.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(4) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court may award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 10. Section 58-3a-105 is amended to read:**

**58-3a-105. Surcharge fee.**

(1) In addition to any other fees authorized by this chapter or by the division in accordance with Section 63J-1-504, the division shall require each applicant for an initial license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1 surcharge fee.

(2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be used by the division to provide each licensee under this chapter with access to an electronic reference library that provides web-based access to national, state, and local building codes and standards.

**Section 11. Section 58-3a-302 is amended to read:**

**58-3a-302. Qualifications for licensure.**

(1) Except as provided in Subsection (2), each applicant for licensure as an architect shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e)] provide satisfactory evidence of good moral character;~~

~~[(d)] (c) have graduated and received an earned bachelors or masters degree from an architecture program meeting criteria established by rule by the division in collaboration with the board;~~

~~[(e)] (d) have successfully completed a program of diversified practical experience established by rule by the division in collaboration with the board;~~

~~[(f)] (e) have successfully passed examinations established by rule by the division in collaboration with the board; and~~

~~[(g)] (f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.~~

(2) Each applicant for licensure as an architect by endorsement shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) provide satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and

(ii) current certification from the National Council of Architectural Registration Boards; or

(iii) current license in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and

(iv) full-time employment as a licensed architect as a principal for at least five of the last seven years immediately preceding the date of the application;

~~[(e)]~~ (d) have successfully passed any examination established by rule by the division in collaboration with the board; and

~~[(f)]~~ (e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

**Section 12. Section 58-3a-304 is amended to read:**

**58-3a-304. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated limited acts or practices without being licensed under this chapter:

(a) a person offering to render architectural services in this state when not licensed under this chapter if the person:

(i) holds a current and valid architect license issued by a licensing authority recognized by rule by the division in collaboration with the board;

(ii) discloses in writing to the potential client the fact that the architect:

(A) is not licensed in the state;

(B) may not provide architectural services in the state until the architect is licensed in the state; and

(C) that such condition may cause a delay in the ability of the architect to provide architectural services in the state;

(iii) notifies the division in writing of his intent to offer to render architectural services in the state; and

(iv) does not provide architectural services or engage in the practice of architecture in this state until licensed to do so;

(b) a person preparing a plan and specification for one or two-family dwellings, including townhouses;

(c) a person licensed to practice professional engineering under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, performing engineering or incidental architectural acts or practices that do not exceed the scope of the education and training of the person performing architecture;

(d) unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter while preparing plans and specifications under the supervision of an architect;

(e) a person preparing a plan or specification for, or supervising the alteration of or repair to, an existing building affecting an area not exceeding 3,000 square feet when structural elements of a building are not changed, such as foundations, beams, columns, and structural slabs, joists, bearing walls, and trusses; and

(f) an organization engaged in the practice of architecture, provided that:

(i) the organization employs a principal; and

(ii) all individuals employed by the organization, who are engaged in the practice of architecture, are licensed or exempt from licensure under this chapter.

(2) Nothing in this section shall be construed to restrict a ~~(draftsman)~~ person from preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those plans to a licensed architect for ~~(his)~~ review, approval, and subsequent fixing of the architect's seal to that set of plans ~~(if they meet the building code standards)~~.

**Section 13. Section 58-3a-502 is amended to read:**

**58-3a-502. Penalty for unlawful conduct.**

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to Section 58-3a-501, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to Section 58-3a-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to this section.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-3a-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of ~~[six months following the occurrence of any violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the

division shall not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 14. Section 58-5a-302 is amended to read:**

**58-5a-302. Qualifications to practice podiatry.**

An applicant for licensure to practice podiatry shall:

(1) submit an application in a form as prescribed by the division;

(2) pay a fee as determined by the department under Section 63J-1-504;

~~[(3) be of good moral character;]~~

~~[(4)]~~ (3) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a podiatric physician, as evidenced by having received an earned degree of doctor of podiatric medicine from a podiatry school or college accredited by the Council on Podiatric Medical Education;

~~[(5)]~~ (4) if licensed on or after July 1, 2015, satisfy the division and board that the applicant:

(a) has successfully completed 24 months of resident training in a program approved by the Council on Podiatric Medical Education; or

(b) (i) has successfully completed 12 months of resident training in a program approved by the Council on Podiatric Medical Education after receiving a degree of doctor of podiatric medicine as required under Subsection ~~[(4)]~~ (3);

(ii) has been accepted in, and is successfully participating in, progressive resident training in a Council on Podiatric Medical Education approved program within Utah, in the applicant's second or third year of postgraduate training; and

(iii) has agreed to surrender to the division the applicant's license as a podiatric physician without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the

applicant's license as a podiatric physician will be automatically revoked by the division if the applicant fails to continue in good standing in a Council on Podiatric Medical Education approved progressive resident training program within the state; and

[~~6~~] (5) pass examinations required by rule.

**Section 15. Section 58-11a-102 is amended to read:**

**58-11a-102. Definitions.**

As used in this chapter:

(1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Approved esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(~~3~~)(4) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Approved hair designer apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~3~~] (4) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(~~4~~)(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[4] (5) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(~~5~~)(6) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~5~~] (6) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.

[~~6~~] (7) "Barber instructor" means a barber who is licensed under this chapter to engage in the practice of barbering instruction.

[7] (8) "Board" means the Cosmetology and Associated Professions Licensing Board created in Section 58-11a-201.

[~~8~~] (9) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section 58-67-102.

[~~9~~] (10) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

[~~10~~] (11) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.

[~~11~~] (12) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

[~~12~~] (13) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is immediately available for consultation, advice, instruction, and evaluation.

[~~13~~] (14) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.

[~~14~~] (15) "Electrologist instructor" means an electrologist who is licensed under this chapter to engage in the practice of electrology instruction.

[~~15~~] (16) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.

[~~16~~] (17) "Esthetician instructor" means a master esthetician who is licensed under this chapter to engage in the practice of esthetics instruction.

[~~17~~] (18) "Fund" means the Cosmetology and Associated Professions Education and Enforcement Fund created in Section 58-11a-103.

[~~18~~] (19) (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's natural human hair.

(b) "Hair braiding" includes the following methods or styles:

(i) African-style braiding;

(ii) box braids;

(iii) cornrows;

(iv) dreadlocks;

(v) french braids;

(vi) invisible braids;

(vii) micro braids;

(viii) single braids;

(ix) single plaits;

(x) twists;

(xi) visible braids;

(xii) the use of lock braids; and

(xiii) the use of decorative beads, accessories, and nonhair extensions.

(c) "Hair braiding" does not include:

(i) the use of:

(A) wefts;

(B) synthetic tape;

- (C) synthetic glue;
- (D) keratin bonds;
- (E) fusion bonds; or
- (F) heat tools;
- (ii) the cutting of human hair; or
- (iii) the application of heat, dye, a reactive chemical, or other preparation to:
  - (A) alter the color of the hair; or
  - (B) straighten, curl, or alter the structure of the hair.

[(49)] (20) "Hair designer" means a person who is licensed under this chapter to engage in the practice of hair design.

[(20)] (21) "Hair designer instructor" means a hair designer who is licensed under this chapter to engage in the practice of hair design instruction.

[(21)] (22) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.

[(22)] (23) "Licensed electrology school" means an electrology school licensed under this chapter.

[(23)] (24) "Licensed esthetics school" means an esthetics school licensed under this chapter.

[(24)] (25) "Licensed hair design school" means a hair design school licensed under this chapter.

[(25)] (26) "Licensed nail technology school" means a nail technology school licensed under this chapter.

[(26)] (27) "Master esthetician" means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.

[(27)] (28) "Nail technician" means an individual who is licensed under this chapter to engage in the practice of nail technology.

[(28)] (29) "Nail technician instructor" means a nail technician licensed under this chapter to engage in the practice of nail technology instruction.

[(29)] (30) "Practice of barbering" means:

- (a) cutting, clipping, or trimming the hair of the head of any person by the use of scissors, shears, clippers, or other appliances;
- (b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;
- (c) removing hair from the face or neck of a person by the use of shaving equipment; and
- (d) when providing other services described in this Subsection [(29)] (30), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

[(30)] (31) "Practice of barbering instruction" means teaching the practice of barbering at a licensed barber school, at a licensed

cosmetology/barber school, or for an approved barber apprenticeship.

[(31)] (32) "Practice of basic esthetics" means any one of the following skin care procedures done on the body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

- (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

- (b) limited chemical exfoliation as defined by rule;

- (c) removing superfluous hair by means other than electrolysis, except that an individual is not required to be licensed as an esthetician to engage in the practice of threading;

- (d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;

- (e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying eyelash or eyebrow extensions; or

- (f) except as provided in Subsection [(31)](f)(i) [(32)](f)(i), cosmetic laser procedures under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the following:

- (i) superfluous hair removal which shall be under indirect supervision;

- (ii) anti-aging resurfacing enhancements;

- (iii) photo rejuvenation; or

- (iv) tattoo removal.

[(32)] (33) (a) "Practice of cosmetology/barbering" means:

- (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

- (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

- (iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying eyelash or eyebrow extensions;

- (iv) removing hair from the body of a person by the use of depilatories, waxing, or shaving equipment;

- (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or both on the human head; or

- (vi) practicing hair weaving or hair fusing or servicing previously medically implanted hair.

(b) The term "practice of cosmetology/barbering" includes:

- (i) the practice of barbering;



- (ii) the practice of basic esthetics; and
  - (iii) the practice of nail technology.
- (c) An individual is not required to be licensed as a cosmetologist/barber to engage in the practice of threading.

[~~33~~] (34) "Practice of cosmetology/barbering instruction" means teaching the practice of cosmetology/barbering:

- (a) at a licensed cosmetology/barber school, a licensed barber school, or a licensed nail technology school; or
- (b) for an approved cosmetologist/barber apprenticeship.

[~~34~~] (35) "Practice of electrology" means:

- (a) the removal of superfluous hair from the body of a person by the use of electricity, waxing, shaving, or tweezing; or
- (b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to superfluous hair removal.

[~~35~~] (36) "Practice of electrology instruction" means teaching the practice of electrology at a licensed electrology school.

[~~36~~] (37) "Practice of esthetics instruction" means teaching the practice of basic esthetics or the practice of master-level esthetics:

- (a) at a licensed esthetics school or a licensed cosmetology/barber school; or
- (b) for an approved esthetician apprenticeship or an approved master esthetician apprenticeship.

[~~37~~] (38) "Practice of hair design" means:

- (a) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;
- (b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors, shears, clippers, or other appliances;
- (c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or both on the human head; or
- (d) practicing hair weaving, hair fusing, or servicing previously medically implanted hair.

[~~38~~] (39) "Practice of hair design instruction" means teaching the practice of hair design at a licensed cosmetology/barber school, a licensed hair design school, or a licensed barber school.

[~~39~~] (40) (a) "Practice of master-level esthetics" means:

- (i) any of the following when done for cosmetic purposes on the body and not for the treatment of medical, physical, or mental ailments:
  - (A) body wraps as defined by rule;
  - (B) hydrotherapy as defined by rule;

- (C) chemical exfoliation as defined by rule;
- (D) advanced pedicures as defined by rule;
- (E) sanding, including microdermabrasion;
- (F) advanced extraction;
- (G) other esthetic preparations or procedures with the use of:

(I) the hands; or

(II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; or

(H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician's evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:

(I) superfluous hair removal;

(II) anti-aging resurfacing enhancements;

(III) photo rejuvenation; or

(IV) tattoo removal with a physician's, advanced practice nurse's, or physician assistant's evaluation before the tattoo removal procedure, as required by Subsection 58-1-506(3)(a); and

(ii) lymphatic massage by manual or other means as defined by rule.

(b) Notwithstanding the provisions of Subsection [~~39~~](a) (40)(a), a master-level esthetician may perform procedures listed in Subsection [~~39~~](a)(i)(H) (40)(a)(i)(H) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

(c) The term "practice of master-level esthetics" includes the practice of esthetics, but an individual is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading.

[~~40~~] (41) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application and removal of sculptured or artificial nails.

[~~41~~] (42) "Practice of nail technology instruction" means teaching the practice of nail technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for an approved nail technician apprenticeship.

[~~42~~] (43) "Recognized barber school" means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

[~~43~~] (44) "Recognized cosmetology/barber school" means a cosmetology/barber school located in a state other than Utah, whose students, upon

graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(44)]~~ (45) "Recognized electrology school" means an electrology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(45)]~~ (46) "Recognized esthetics school" means an esthetics school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(46)]~~ (47) "Recognized hair design school" means a hair design school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(47)]~~ (48) "Recognized nail technology school" means a nail technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(48)]~~ (49) "Salon" means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

~~[(49)]~~ (50) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

~~[(50)]~~ (51) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-11a-501 and as may be further defined by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 16. Section 58-11a-302 is amended to read:**

**58-11a-302. Qualifications for licensure.**

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

(ii) (A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection ~~[(1)(d)(ii)(A)]~~ (1)(c)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

~~[(e)]~~ (d) meet the examination requirement established by rule.

(2) Each applicant for licensure as a barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a barber;

~~[(d) be of good moral character;]~~

~~[(e)]~~ (d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,000 hours of experience as a barber; and

~~[(f)]~~ (e) meet the examination requirement established by rule.

(3) Each applicant for licensure as a barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for barber schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(4) Each applicant for licensure as a cosmetologist/barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)] (c)~~ provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection ~~[(4)(d)(ii)(A)]~~ (4)(c)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

~~[(e)]~~ (d) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

~~[(d) be of good moral character;]~~

~~[(e)]~~ (d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or

(iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

~~[(f)]~~ (e) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

~~[(e)]~~ (d) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

~~[(d) be of good moral character;]~~

~~[(e)]~~ (d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience as an electrologist; and

~~[(f)]~~ (e) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(10) Each applicant for licensure as an esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of one of the following:

(i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;

(ii) completion of an approved esthetician apprenticeship; or

(iii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection ~~[(10)(d)(iii)(A)]~~ (10)(c)(iii)(A); and

~~[(e)]~~ (d) meet the examination requirement established by division rule.

(11) Each applicant for licensure as a master esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of:

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

(A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or

(B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

~~[(e)]~~ (d) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and

~~[(f)]~~ (e) meet the examination requirement established by division rule.

(12) Each applicant for licensure as an esthetician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;

~~[(d) be of good moral character;]~~

~~[(e)]~~ (d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience in esthetics; and

~~[(f)]~~ (e) meet the examination requirement established by rule.

(13) Each applicant for licensure as an esthetics school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(14) Each applicant for licensure as a hair designer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection ~~[(14)(d)(ii)(A); or]~~ (14)(c)(ii)(A);

(iii) being a state licensed cosmetologist/barber; ~~and~~ or

(iv) completion of an approved hair designer apprenticeship; and

~~[(e)]~~ (d) meet the examination requirements established by rule.

(15) Each applicant for licensure as a hair designer instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;

~~[(d) be of good moral character;]~~

~~[(e)]~~ (d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,500 hours of experience as a hair designer or as a cosmetologist/barber; and

~~[(f)]~~ (e) meet the examination requirement established by rule.

(16) Each applicant for licensure as a hair design school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(17) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii) (A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection ~~[(17)(d)(ii)(A)]~~ (17)(c)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

~~[(e)]~~ (d) meet the examination requirement established by division rule.

(18) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

~~[(d) be of good moral character;]~~

~~[(e)]~~ (d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours; or

(iii) a minimum of 600 hours of experience in nail technology; and

~~[(f)]~~ (e) meet the examination requirement established by rule.

(19) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(20) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(21) (a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

(i) a student that did not complete the student's education while attending a different school; or

(ii) a licensee of any other profession listed in this section, based on the licensee's schooling, apprenticeship, or experience.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (21)(a).

(22) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6, Part 2, Compulsory Education; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

(23) A person seeking to qualify for licensure under this chapter by apprenticing in an approved apprenticeship shall register with the division as described in Section 58-11a-306.

(24) The department may only charge a fee to a person applying for licensure as any type of instructor under this chapter if the person is not a licensed instructor in any other profession under this chapter.

(25) In order to encourage economic development in the state in accordance with Subsection 63G-1-201(4)(e), the department may offer any required examination under this section, which is

prepared by a national testing organization, in languages in addition to English.

**Section 17. Section 58-11a-304 is amended to read:**

**58-11a-304. Exemptions from licensure.**

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology without being licensed under this chapter:

(1) a person licensed under the laws of this state to engage in the practice of medicine, surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which they are licensed;

(2) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;

(3) a registered nurse, undertaker, or mortician licensed under the laws of this state when engaged in the practice of the profession for which the person is licensed;

(4) a person who visits the state to engage in instructional seminars, advanced classes, trade shows, or competitions of a limited duration;

(5) a person who engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology without compensation;

(6) a person instructing an adult education class or other educational program directed toward persons who are not licensed under this chapter and that is not intended to train persons to become licensed under this chapter, provided:

(a) an attendee receives no credit toward educational requirements for licensure under this chapter;

(b) the instructor informs each attendee in writing that taking such a class or program will not certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(c) (i) the instructor is properly licensed; or

(ii) the instructor receives no compensation;

(7) a person providing instruction in workshops, seminars, training meetings, or other educational programs whose purpose is to provide continuing professional development to licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians, electrologists, or nail technicians;

(8) a person enrolled in a licensed barber [ø], cosmetology/barber, or hair design school when participating in an on the job training internship under the direct supervision of a licensed barber [ø], cosmetologist/barber, or hair designer upon completion of a basic program under the standards

established by rule by the division in collaboration with the board;

(9) a person enrolled in an approved apprenticeship pursuant to Section 58-11a-306;

(10) an employee of a company that is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology when demonstrating the company's products to a potential customer, provided the employee makes no representation to a potential customer that attending such a demonstration will certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter;

(11) a person who:

(a) is qualified to engage in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology in another jurisdiction as evidenced by licensure, certification, or lawful practice in the other jurisdiction;

(b) is employed by, or under contract with, a motion picture company; and

(c) engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology in the state:

(i) solely to assist in the production of a motion picture; and

(ii) for no more than 120 days per calendar year; and

(12) a person who:

(a) engages in hair braiding; and

(b) unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter.

**Section 18. Section 58-11a-306 is amended to read:**

**58-11a-306. Apprenticeship.**

(1) An approved barber apprenticeship shall:

(a) consist of not less than 1,250 hours of training [~~in not less than eight months~~]; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a barber instructor or a cosmetology/barber instructor; and

(ii) provides one-on-one direct supervision of the barber apprentice during the apprenticeship program.

(2) An approved cosmetologist/barber apprenticeship shall:

(a) consist of not less than 2,500 hours of training [~~in not less than 15 months~~]; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a cosmetologist/barber instructor; and

(ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice during the apprenticeship program.

(3) An approved hair designer apprenticeship shall:

(a) consist of not less than 1,600 hours of training; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a hair designer instructor or a cosmetologist/barber instructor; and

(ii) provides one-on-one direct supervision of the hair designer apprentice during the apprenticeship program.

~~[(3)]~~ (4) An approved esthetician apprenticeship shall:

~~[(a)]~~ (a) consist of not less than 800 hours of training [in not less than five months]; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as an esthetician instructor; and

(ii) provides one-on-one direct supervision of the esthetician apprentice during the apprenticeship program.

~~[(4)]~~ (5) An approved master esthetician apprenticeship shall:

~~[(a)]~~ (a) consist of not less than 1,500 hours of training [in not less than 10 months]; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a master-level esthetician instructor; and

(ii) provides one-on-one direct supervision of the master esthetician apprentice during the apprenticeship program.

~~[(5)]~~ (6) An approved nail technician apprenticeship shall:

~~[(a)]~~ (a) consist of not less than 375 hours of training [in not less than three months]; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber instructor;

(ii) provides direct supervision of the nail technician apprentice during the apprenticeship program; and

(iii) provides direct supervision to no more than two nail technician apprentices during the apprentice program.

~~[(6)]~~ (7) A person seeking to qualify for licensure by apprenticing in an approved apprenticeship under this chapter shall:

(a) register with the division before beginning the training requirements by:

(i) submitting a form prescribed by the division, which includes the name of the licensed supervisor; and

(ii) paying a fee determined by the department under Section 63J-1-504;

(b) complete the apprenticeship within five years of the date on which the division approves the registration; and

(c) notify the division within 30 days if the licensed supervisor changes after the registration is approved by the division.

~~[(7)]~~ (8) Notwithstanding Subsection ~~[(6)]~~ (7), if a person seeking to qualify for licensure by apprenticing in an approved apprenticeship under this chapter registers with the division before January 1, 2017, any training requirements completed by the person as an apprentice in an approved apprenticeship before registration may be applied to successful completion of the approved apprenticeship.

**Section 19. Section 58-11a-502 is amended to read:**

**58-11a-502. Unlawful conduct.**

Unlawful conduct includes:

(1) practicing or engaging in, or attempting to practice or engage in activity for which a license is required under this chapter unless:

(a) the person holds the appropriate license under this chapter; or

(b) an exemption in Section 58-1-307 or 58-11a-304 applies;

~~[(2) aiding or abetting a person engaging in the practice of, or attempting to engage in the practice of, any occupation or profession licensed under this chapter if the employee is not licensed to do so under this chapter or exempt from licensure;]~~

~~[(3)]~~ (2) touching, or applying an instrument or device to the following areas of a client's body:

(a) the genitals or the anus, except in cases where the patron states to a licensee that the patron requests a hair removal procedure and signs a written consent form, which must also include the witnessed signature of a legal guardian if the patron is a minor, authorizing the licensee to perform a hair removal procedure; or

(b) the breast of a female patron, except in cases in which the female patron states to a licensee that the patron requests breast skin procedures and signs a written consent form, which must also include the witnessed signature of a parent or legal guardian if the patron is a minor, authorizing the licensee to perform breast skin procedures;

~~[(4)]~~ (3) using or possessing a solution composed of at least 10% methyl methacrylate on a client;

~~[(5)]~~ (4) performing an ablative procedure as defined in Section 58-67-102;

~~[(6)]~~ (5) when acting as an instructor regarding a service requiring licensure under this chapter, for a



class or education program where attendees are not licensed under this chapter, failing to inform each attendee in writing that:

(a) taking the class or program without completing the requirements for licensure under this chapter is insufficient to certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(b) the attendee is required to obtain licensure under this chapter before performing the service for compensation; or

~~(7)~~ (6) failing as a salon or school where nail technology is practiced or taught to maintain a source capture system required under Title 15A, State Construction and Fire Codes Act, including failing to maintain and clean a source capture system's air filter according to the manufacturer's instructions.

**Section 20. Section 58-11a-503 is amended to read:**

**58-11a-503. Penalties.**

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-11a-502 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.

(2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code, shall be subject to the applicable penalties in Title 76, Utah Criminal Code.

(3) Grounds for immediate suspension of a licensee's license by the division include the issuance of a citation for violation of Subsection 58-11a-502(1), ~~(2), (4), (5), (6), or (7)~~ (3), (4), (5), or (6).

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-11a-502(1), ~~(2), (4), (5), (6), or (7)~~ (3), (4), (5), or (6), or a rule or order issued with respect to Subsection 58-11a-502(1), ~~(2), (4), (5), (6), or (7)~~ (3), (4), (5), or (6), and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who is in violation of Subsection 58-11a-502(1), ~~(2), (4), (5), (6), or (7)~~ (3), (4), (5), or (6), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-11a-502(1), ~~(2), (4), (5), (6), or (7)~~ (3), (4), (5), or (6).

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-11a-401 may not be assessed through a citation.

(b) (i) Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.

(c) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by a person specially designated by the director or by mail.

(d) (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(g) No citation may be issued under this section after the expiration of ~~six months following the occurrence of a violation~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(h) Fines shall be assessed by the director or the director's designee according to the following:

(i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;

(ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-11a-502(1), ~~(2), (4), (5), (6), or (7)~~ (3), (4), (5), or (6); or

(B) (I) the division initiated an action for a first or second offense;

(II) no final order has been issued by the division in the action initiated under Subsection (4)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-11a-502(1), [~~(2), (4), (5), (6), or (7)~~] (3), (4), (5), or (6); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund.

(b) A penalty which is not paid may be collected by the director by either:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 21. Section 58-15-11 is amended to read:**

**58-15-11. Exemptions to chapter.**

(1) In addition to the exemptions described in Section 58-1-307, this chapter does not apply to [~~facilities of any~~]:

(a) a facility of a recognized church or denomination that cares for the sick and suffering by mental or spiritual means if no drug or material remedy is used in the care provided[-]; or

(b) the superintendent of the Utah State Developmental Center described in Section 62A-5-201.

(2) Any [~~facilities~~] facility or person exempted under this section shall comply with each statute and rule on sanitation and life safety.

**Section 22. Section 58-16a-102 is amended to read:**

**58-16a-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Optometrist Licensing Board created in Section 58-16a-201.

(2) "Contact lens" means any lens that:

(a) has a spherical, cylindrical, or prismatic power or curvature;

(b) is made pursuant to a current prescription; and

(c) is intended to be worn on the surface of the eye.

(3) (a) "Contact lens prescription" means a written or verbal order for contact lenses that includes:

(i) the commencement date of the prescription;

(ii) the base curve, power, diameter, material or brand name, and expiration date;

(iii) for a written order, the signature of the prescribing optometrist or physician; and

(iv) for a verbal order, a record maintained by the recipient of:

(A) the name of the prescribing optometrist or physician; and

(B) the date when the prescription was issued or ordered.

(b) A prescription may include:

(i) a limit on the quantity of lenses that may be ordered under the prescription if required for medical reasons documented in the patient's files; and

(ii) the expiration date of the prescription, which shall be two years from the commencement date, unless documented medical reasons require otherwise.

(c) When a provider prescribes a private label contact lens for a patient the prescription shall include:

(i) the name of the manufacturer;

(ii) the trade name of the private label brand; and

(iii) if applicable, the trade name of the equivalent national brand.

(4) "Contact lens prescription verification" means a written request from a person who sells or provides contact lenses that:

(a) is sent to the prescribing optometrist or physician; and

(b) seeks the confirmation of the accuracy of a patient's prescription.

(5) "Eye and its adnexa" means the human eye and all structures situated within the orbit, including the conjunctiva, lids, lashes, and lacrimal system.

(6) "Fitting of a contact lens" means:

(a) the using of a keratometer to measure the human eye;

(b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and

(c) trial fitting of contact lenses, which includes a period of time for evaluation for fit and performance, to determine a tentative contact lens prescription for a patient if the patient:

- (i) has not worn contact lenses before; or
- (ii) has changed to a different type or base curve.

(7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized by means of laser or ionizing radiation.

(8) "Ophthalmic lens" means any lens used to treat the eye and that:

(a) has a spherical, cylindrical, or prismatic power;

(b) is made pursuant to an unexpired prescription; and

(c) is intended to be used in eyeglasses or spectacles.

(9) "Optometric assistant" means an unlicensed individual:

(a) working under the direct and immediate supervision of a licensed optometrist; and

(b) engaged in specific tasks assigned by the licensed optometrist in accordance with the standards and ethics of the profession.

(10) "Optometrist" or "optometric physician" means an individual licensed under this chapter.

(11) "Optometry" and "practice of optometry" mean any one or any combination of the following practices:

(a) examination of the human eye and its adnexa to detect and diagnose defects or abnormal conditions;

(b) determination or modification of the accommodative or refractive state of the human eye or its range or power of vision by administration and prescription of pharmaceutical agents or the use of diagnostic instruments;

(c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its adnexa;

(d) display of any advertisement, circular, sign, or device offering to:

- (i) examine the eyes;
- (ii) fit glasses or contact lenses; or
- (iii) adjust frames;

(e) removal of a foreign body from the eye or its adnexa, that is not deeper than the anterior 1/2 of the cornea; and

(f) consultation regarding the eye and its adnexa with other appropriate health care providers, including referral to other appropriate health care providers; and

~~[(g) a person, not licensed as an optometrist, directing a licensee under this chapter to withhold or alter the eye care services the licensee has ordered.]~~

(12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the eye and its adnexa.

(13) "Physician" has the same meaning as defined in Sections 58-67-102 and 58-68-102.

(14) "Prescription drug" has the same definition as in Section 58-17b-102.

(15) "Unexpired" means a prescription that was issued:

(a) for ophthalmic lenses which does not expire unless the optometrist or physician includes an expiration date on the prescription based on medical reasons that are documented in the patient's file; and

(b) in accordance with Subsection (3) for a contact lens.

**Section 23. Section 58-16a-302 is amended to read:**

**58-16a-302. Qualifications for licensure.**

(1) An applicant for licensure as an optometrist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the division under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) (i) be a doctoral graduate of a recognized school of optometry accredited by the American Optometric Association's Accreditation Council on Optometric Education; or

(ii) be a graduate of a school of optometry located outside the United States that meets the criteria that would qualify the school for accreditation under Subsection ~~[(1)(d)(i)]~~ (1)(c)(i), as demonstrated by the applicant for licensure;

~~[(e)]~~ (d) if the applicant graduated from a recognized school of optometry prior to July 1, 1996, have successfully completed a course of study satisfactory to the division, in consultation with the board, in general and ocular pharmacology and emergency medical care;

~~[(f)]~~ (e) have passed examinations approved by the division in consultation with the board that include:

(i) a standardized national optometry examination;

(ii) a standardized clinical examination; and

(iii) a standardized national therapeutics examination; and

~~[(g)]~~ (f) meet with the board and representatives of the division, if requested by either party, for the

purpose of evaluating the applicant's qualifications for licensure.

(2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a license under this chapter by endorsement to an individual who:

(a) submits an application for licensure by endorsement on a form approved by the division;

(b) pays a fee established by the division in accordance with Section 63J-1-504;

~~[(c) provides satisfactory evidence to the division that the individual is of good moral character;]~~

~~[(d)]~~ (c) verifies that the individual is licensed as an optometrist in good standing in each state of the United States, or province of Canada, in which the individual is currently licensed as an optometrist; and

~~[(e)]~~ (d) has been actively engaged in the legal practice of optometry for at least 3,200 hours during the immediately preceding two years in a manner consistent with the legal practice of optometry in this state.

**Section 24. Section 58-16a-501 is amended to read:**

**58-16a-501. Unlawful conduct.**

"Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

(1) buying, selling, or fraudulently obtaining, any optometry diploma, license, certificate, or registration;

~~[(2) aiding or abetting the buying, selling, or fraudulently obtaining, of any optometry diploma, license, certificate, or registration;]~~

~~[(3)]~~ (2) selling or providing contact lenses or ophthalmic lenses in a manner inconsistent with Section 58-16a-801 or intentionally altering a prescription unless the person selling or providing the lenses is a licensed optometrist or ophthalmologist; or

~~[(4)]~~ (3) representing oneself as or using the title of "optometrist," "optometric physician," "doctor of optometry," or "O.D.," unless currently licensed under this chapter.

**Section 25. Section 58-16a-503 is amended to read:**

**58-16a-503. Penalty for unlawful conduct.**

(1) Except as provided in Subsection (2), any person who violates the unlawful conduct provision defined in Section 58-16a-501 or Subsection 58-1-501(1)(a) or (1)(c) is guilty of a third degree felony.

(2) A person who violates Subsection 58-16a-501~~[(3)]~~(2) is guilty of a class C misdemeanor.

**Section 26. Section 58-17b-303 is amended to read:**

**58-17b-303. Qualifications for licensure as a pharmacist.**

(1) An applicant for licensure as a pharmacist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

~~[(c) produce satisfactory evidence of good moral character as it relates to the applicant's ability to practice pharmacy;]~~

~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;

~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public;

~~[(f)]~~ (e) have graduated and received a professional entry degree from a school or college of pharmacy which is accredited by the Accreditation Council on Pharmacy Education;

~~[(g)]~~ (f) have completed an internship meeting standards established by division rule made in collaboration with the board; and

~~[(h)]~~ (g) have successfully passed examinations required by division rule made in collaboration with the board.

(2) An applicant for licensure as a pharmacist whose pharmacy education was completed at a foreign pharmacy school shall, in addition to the requirements under Subsections (1)(a) through ~~[(e), (g), and (h)]~~ (d), (f), and (g), obtain a certification of equivalency from a credentialing agency required by division rule made in collaboration with the board.

(3) An applicant for a license by endorsement as a pharmacist under this section shall:

(a) submit a written application in the form prescribed by the division;

(b) pay the fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character as required of applicants for licensure as pharmacists under Subsection (1);]~~

~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;

~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public;

~~[(f)]~~ (e) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in the four years immediately preceding the date of application;

~~[(g)]~~ (f) produce satisfactory evidence of completing the professional education required under Subsection (1);

~~[(h)]~~ (g) be currently licensed in good standing as a pharmacist in another state, territory, or possession of the United States;

~~[(i)]~~ (h) produce satisfactory evidence that the examination requirements are or were at the time the license was issued, equal to those of this state; and

~~[(j)]~~ (i) pass the jurisprudence examination prescribed by division rule made in collaboration with the board.

**Section 27. Section 58-17b-304 is amended to read:**

**58-17b-304. Qualifications for licensure of pharmacy intern.**

An applicant for licensure as a pharmacy intern shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504;

~~[(3) produce satisfactory evidence of good moral character as it relates to the applicant's ability to practice pharmacy;]~~

~~[(4)]~~ (3) complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;

~~[(5)]~~ (4) have no physical or mental condition of a nature which prevents the applicant from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public;

~~[(6)]~~ (5) meet the preliminary educational qualifications required by division rule made in collaboration with the board; and

~~[(7)]~~ (6) meet one of the following educational criteria:

(a) be a current pharmacy student, a resident, or fellow in a program approved by division rule made in collaboration with the board; or

(b) have graduated from a foreign pharmacy school and received certification of equivalency from a credentialing agency approved by division rule made in collaboration with the board.

**Section 28. Section 58-17b-305 is amended to read:**

**58-17b-305. Qualifications for licensure of pharmacy technician.**

(1) An applicant for licensure as a pharmacy technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) produce satisfactory evidence of good moral character as it relates to the applicant's ability to practice pharmacy;]~~

~~[(d)]~~ (c) complete a criminal background check and be free from criminal convictions as described in Section 58-1-501;

~~[(e)]~~ (d) have no physical or mental condition of a nature which prevents the applicant from engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to the public;

~~[(f)]~~ (e) have completed a program and curriculum of education and training, meeting standards established by division rule made in collaboration with the board; and

~~[(g)]~~ (f) successfully complete the examinations requirement within the time periods established by division rule made in collaboration with the board.

(2) A pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes is not eligible to be a licensed pharmacy technician while on probation with the division.

**Section 29. Section 58-17b-305.1 is amended to read:**

**58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.**

(1) An applicant for licensure as a pharmacy technician trainee shall:

(a) submit an application to the division on a form created by the division;

(b) pay a fee established by the division in accordance with Section 63J-1-504;

~~[(c) submit satisfactory evidence, as determined by the division, of good moral character as it relates to the applicant's ability to practice pharmacy;]~~

~~[(d)]~~ (c) unless exempted by the division, submit a completed criminal background check;

~~[(e)]~~ (d) demonstrate, as determined by the division, that the applicant does not have a physical or mental condition that would prevent the applicant from engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to the public; and

~~[(f)]~~ (e) submit evidence that the applicant is enrolled in a training program approved by the division.

(2) A pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during division probation.

**Section 30. Section 58-17b-308 is amended to read:**

**58-17b-308. Term of license -- Expiration -- Renewal.**

(1) Except as provided in Subsection (2), each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be

extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle. Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

(2) The duration of a pharmacy intern license may be no longer than:

(a) one year for a license issued under Subsection ~~[58-17b-304(7)(b)]~~ 58-17b-304(6)(b); or

(b) five years for a license issued under Subsection ~~[58-17b-304(7)(a)]~~ 58-17b-304(6)(a).

(3) A pharmacy intern license issued under this chapter may not be renewed, but may be extended by the division in collaboration with the board.

(4) As a prerequisite for renewal of a class D pharmacy license of a pharmacy that engages in compounding, a licensee shall submit the most recent inspection report:

(a) conducted within two years before the application for renewal; and

(b) (i) conducted as part of the National Association of Boards of Pharmacy Verified Pharmacy Program; or

(ii) performed by the state licensing agency of the state in which the applicant is a resident and in accordance with the National Association of Boards of Pharmacy multistate inspection blueprint program.

**Section 31. Section 58-17b-504 is amended to read:**

**58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**

(1) Any person who violates any of the unlawful conduct provisions of Subsection 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

(2) Any person who violates any of the unlawful conduct provisions of Subsection 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

(3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts of unprofessional or unlawful conduct, the division may:

(i) assess administrative penalties; and

(ii) take any other appropriate administrative action.

(b) An administrative penalty imposed pursuant to this section shall be deposited in the General Fund as a dedicated credit to be used by the division for pharmacy licensee education and enforcement as provided in Section 58-17b-505.

(4) If a licensee has been convicted of violating Section 58-17b-501 prior to an administrative

finding of a violation of the same section, the licensee may not be assessed an administrative fine under this chapter for the same offense for which the conviction was obtained.

(5) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) Any person who is in violation of the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions.

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-17b-401 may not be assessed through a citation.

(d) Each citation shall be in writing and specifically describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated. The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act. The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(e) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(f) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with the citation after it becomes final.

(h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(i) No citation may be issued under this section after the expiration of [six months following the occurrence of any violation] one year following the date on which the violation that is the subject of the citation is reported to the division.

(6) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 32. Section 58-17b-614 is amended to read:**

**58-17b-614. Notification.**

(1) A pharmacy shall report in writing to the division not later than 10 business days:

(a) before the date of:

~~(a)~~ (i) a permanent closure of the pharmacy facility;

~~(b)~~ (ii) a change of name or ownership of the pharmacy facility;

~~(c)~~ (iii) a change of location of the pharmacy facility;

~~(d)~~ (iv) a sale or transfer of any controlled substance as a result of the permanent closing or change of ownership of the pharmacy facility; or

~~(e)~~ (v) any matter or occurrence that the ~~board~~ division requires by rule to be reported; or

(b) after the day on which:

~~(f)~~ (i) a final administrative disciplinary order is issued against the pharmacy license holder by the regulatory or licensing agency of the state in which the pharmacy is located if the pharmacy is a class D pharmacy; ~~or~~

~~(g)~~ (ii) a final order against a pharmacist is issued who is designated as the pharmacist-in-charge of the pharmacy by the regulatory or licensing agency of the state in which the pharmacy is located if the pharmacy is a class D pharmacy~~[-]; or~~

(iii) any matter or occurrence that the division requires by rule to be reported.

(2) A pharmacy shall report in writing to the division a disaster, accident, or emergency that may affect the purity or labeling of a drug, medication, device, or other material used in the diagnosis or treatment of injury, illness, or disease immediately upon the occurrence of the disaster, accident, or emergency as defined by rule.

(3) A reporting pharmacy shall maintain a copy of any notification required by this section for two years and make a copy available for inspection.

**Section 33. Section 58-20b-302 is amended to read:**

**58-20b-302. Qualifications for licensure.**

(1) Except as provided in Subsection (2), an applicant for licensure as an environmental health scientist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~(c) be of good moral character;~~

~~(d)~~ (c) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

~~(e)~~ (d) pass an examination as determined by division rule in collaboration with the board; and

~~(f)~~ (e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division.

(2) An applicant for licensure as an environmental health scientist-in-training shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~(c) be of good moral character;~~

~~(d)~~ (c) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

~~(e)~~ (d) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

[4] (e) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as an environmental health scientist-in-training only under the general supervision of a supervising environmental health scientist licensed under this chapter.

**Section 34. Section 58-22-102 is amended to read:**

**58-22-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Professional Engineers and Professional Land Surveyors Licensing Board created in Section 58-22-201.

(2) "Building" means a structure which has human occupancy or habitation as its principal purpose, and includes the structural, mechanical, and electrical systems, utility services, and other facilities required for the building, and is otherwise governed by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(3) "Complete construction plans" means a final set of plans, specifications, and reports for a building or structure that normally includes:

- (a) floor plans;
- (b) elevations;
- (c) site plans;
- (d) foundation, structural, and framing detail;
- (e) electrical, mechanical, and plumbing design;
- (f) information required by the energy code;
- (g) specifications and related calculations as appropriate; and
- (h) all other documents required to obtain a building permit.

(4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology.

(5) "Fund" means the Professional Engineer, Professional Structural Engineer, and Professional Land Surveyor Education and Enforcement Fund created in Section 58-22-103.

(6) "NCEES" means the National Council of Examiners for Engineering and Surveying.

(7) "Principal" means a licensed professional engineer, professional structural engineer, or professional land surveyor having responsible charge of an organization's professional engineering, professional structural engineering, or professional land surveying practice.

(8) "Professional engineer" means a person licensed under this chapter as a professional engineer.

(9) (a) "Professional engineering," "the practice of engineering," or "the practice of professional

engineering" means a service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to the service or creative work as consultation, investigation, evaluation, planning, design, and design coordination of engineering works and systems, planning the use of land and water, facility programming, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications; any of which embraces these services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and including other professional services as may be necessary to the planning, progress, and completion of any engineering services.

(b) "The practice of professional engineering" does not include the practice of architecture as defined in Section 58-3a-102, but a licensed professional engineer may perform architecture work as is incidental to the practice of engineering.

(10) "Professional engineering intern" means a person who:

- (a) has completed the education requirements to become a professional engineer;
- (b) has passed the fundamentals of engineering examination; and
- (c) is engaged in obtaining the four years of qualifying experience for licensure under the direct supervision of a licensed professional engineer.

(11) "Professional land surveying" or "the practice of land surveying" means a service or work, the adequate performance of which requires the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting or locating of property boundaries or points controlling boundaries, and for the platting and layout of lands and subdivisions of lands, including the topography, alignment and grades of streets, and for the preparation and perpetuation of maps, record plats, field notes records, and property descriptions that represent these surveys and other duties as sound surveying practices could direct.

(12) "Professional land surveyor" means an individual licensed under this chapter as a professional land surveyor.

(13) "Professional structural engineer" means a person licensed under this chapter as a professional structural engineer.



(14) (a) “Professional structural engineering” or “the practice of structural engineering” means a service or creative work providing structural engineering services for significant structures, including:

(i) buildings and other structures representing a substantial hazard to human life, which include:

(A) buildings and other structures whose primary occupancy is public assembly with an occupant load greater than 300;

(B) buildings and other structures with elementary school, secondary school, or day care facilities with an occupant load greater than 250;

(C) buildings and other structures with an occupant load greater than 500 for colleges or adult education facilities;

(D) health care facilities with an occupant load of 50 or more resident patients, but not having surgery or emergency treatment facilities;

(E) jails and detention facilities with a gross area greater than 3,000 square feet; and

(F) buildings and other structures with an occupant load greater than 5,000;

(ii) buildings and other structures designated as essential facilities, including:

(A) hospitals and other health care facilities having surgery or emergency treatment facilities with a gross area greater than 3,000 square feet;

(B) fire, rescue, and police stations and emergency vehicle garages with a mean height greater than 24 feet or a gross area greater than 5,000 square feet;

(C) designated earthquake, hurricane, or other emergency shelters with a gross area greater than 3,000 square feet;

(D) designated emergency preparedness, communication, and operation centers and other buildings required for emergency response with a mean height more than 24 feet or a gross area greater than 5,000 square feet;

(E) power-generating stations and other public utility facilities required as emergency backup facilities with a gross area greater than 3,000 square feet;

(F) structures with a mean height more than 24 feet or a gross area greater than 5,000 square feet containing highly toxic materials as defined by the division by rule, where the quantity of the material exceeds the maximum allowable quantities set by the division by rule; and

(G) aviation control towers, air traffic control centers, and emergency aircraft hangars at commercial service and cargo air services airports as defined by the Federal Aviation Administration with a mean height greater than 35 feet or a gross area greater than 20,000 square feet; and

(iii) buildings and other structures requiring special consideration, including:

(A) structures or buildings that are normally occupied by human beings and are five stories or more in height;

(B) structures or buildings that are normally occupied by human beings and have an average roof height more than 60 feet above the average ground level measured at the perimeter of the structure; and

(C) buildings that are over 200,000 aggregate gross square feet in area.

(b) “Professional structural engineering” or “the practice of structural engineering”:

(i) includes the definition of professional engineering or the practice of professional engineering as provided in Subsection (9); and

(ii) may be further defined by rules made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(15) “Structure” means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in a definite manner, and as otherwise governed by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(16) “Supervision of an employee, subordinate, associate, or drafter of a licensee” means that a licensed professional engineer, professional structural engineer, or professional land surveyor is responsible for and personally reviews, corrects when necessary, and approves work performed by an employee, subordinate, associate, or drafter under the direction of the licensee, and may be further defined by rule by the division in collaboration with the board.

(17) “TAC/ABET” means the Technology Accreditation Commission/Accreditation Board for Engineering and Technology.

(18) “Unlawful conduct” means the same as that term is defined in Sections 58-1-501 and 58-22-501.

(19) “Unprofessional conduct” means the same as that term is defined in Sections 58-1-501 and 58-22-502.5.

**Section 35. Section 58-22-104 is amended to read:**

**58-22-104. Surcharge fee.**

(1) In addition to any other fees authorized by this chapter or by the division in accordance with Section 63J-1-504, the division shall require each applicant for an initial license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1 surcharge fee.

(2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be used by the division to provide each licensee under this chapter with access to an electronic reference library that provides web-based access to national, state, and local building codes and standards.

**Section 36. Section 58-22-302 is amended to read:**

**58-22-302. Qualifications for licensure.**

(1) Each applicant for licensure as a professional engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) provide satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) (i) have graduated and received a bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board; or

(ii) have completed the Transportation Engineering Technology and Fundamental Engineering College Program before July 1, 1998, under the direction of the Utah Department of Transportation and as certified by the Utah Department of Transportation;

~~[(e)]~~ (d) have successfully completed a program of qualifying experience established by rule by the division in collaboration with the board;

~~[(f)]~~ (e) have successfully passed examinations established by rule by the division in collaboration with the board; and

~~[(g)]~~ (f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(2) Each applicant for licensure as a professional structural engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) provide satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) have graduated and received an earned bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board;

~~[(e)]~~ (d) have successfully completed three years of licensed professional engineering experience established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering;

~~[(f)]~~ (e) have successfully passed examinations established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating

that the applicant is currently engaged in the practice of structural engineering; and

~~[(g)]~~ (f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(3) Each applicant for licensure as a professional land surveyor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) provide satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) (i) have graduated and received an associates, bachelors, or masters degree from a land surveying program, or an equivalent land surveying program, such as a program offered by a technical college described in Section 53B-2a-105, as approved by the State Board of Regents, established by rule by the division in collaboration with the board, and have successfully completed a program of qualifying experience in land surveying established by rule by the division in collaboration with the board; or

(ii) have successfully completed a program of qualifying experience in land surveying prior to January 1, 2007, in accordance with rules established by the division in collaboration with the board;

~~[(e)]~~ (d) have successfully passed examinations established by rule by the division in collaboration with the board; and

~~[(f)]~~ (e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(4) Each applicant for licensure by endorsement shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) provide satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board;

(ii) having successfully passed an examination established by rule by the division in collaboration with the board; and

(iii) full-time employment as a principal for at least five of the last seven years immediately preceding the date of the application as a:

(A) licensed professional engineer for licensure as a professional engineer;

(B) licensed professional structural engineer for licensure as a structural engineer; or

(C) licensed professional land surveyor for licensure as a professional land surveyor; and

[~~(e)~~] (d) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 37. Section 58-22-305 is amended to read:**

**58-22-305. Exemption from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the following acts or practices without being licensed under this chapter:

(a) a person offering to render professional engineering, professional structural engineering, or professional land surveying services in this state when not licensed under this chapter if the person:

(i) holds a current and valid professional engineer, professional structural engineer, or professional land surveyor license issued by a licensing authority recognized by rule by the division in collaboration with the board;

(ii) discloses in writing to the potential client the fact that the professional engineer, professional structural engineer, or professional land surveyor:

(A) is not licensed in the state;

(B) may not provide professional engineering, professional structural engineering, or professional land surveying services in the state until licensed in the state; and

(C) that such condition may cause a delay in the ability of the professional engineer, professional structural engineer, or professional land surveyor to provide licensed services in the state;

(iii) notifies the division in writing of the person's intent to offer to render professional engineering, professional structural engineering, or professional land surveying services in the state; and

(iv) does not provide professional engineering, professional structural engineering, or professional land surveying services, or engage in the practice of professional engineering, professional structural engineering, or professional land surveying in this state until licensed to do so;

(b) a person preparing a plan and specification for a one or two-family residence not exceeding two stories in height;

(c) a person licensed to practice architecture under Title 58, Chapter 3a, Architects Licensing Act, performing architecture acts or incidental engineering or structural engineering practices that do not exceed the scope of the education and training of the person performing engineering or structural engineering;

(d) unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter while preparing plans, maps, sketches, drawings, documents, specifications, plats, and reports under the supervision of a professional engineer, professional structural engineer, or professional land surveyor;

(e) a person preparing a plan or specification for, or supervising the alteration of or repair to, an existing building affecting an area not exceeding 3,000 square feet when structural elements of a building are not changed, such as foundations, beams, columns, and structural slabs, joists, bearing walls, and trusses;

(f) an employee of a communications, utility, railroad, mining, petroleum, or manufacturing company, or an affiliate of such a company, if the professional engineering or professional structural engineering work is performed solely in connection with the products or systems of the company and is not offered directly to the public;

(g) an organization engaged in the practice of professional engineering, structural engineering, or professional land surveying, provided that:

(i) the organization employs a principal; and

(ii) all individuals employed by the organization, who are engaged in the practice of professional engineering, structural engineering, or land surveying, are licensed or exempt from licensure under this chapter; and

(h) a person licensed as a professional engineer, a professional structural engineer, or a professional land surveyor in a state other than Utah serving as an expert witness, provided the expert testimony meets one of the following:

(i) oral testimony as an expert witness in an administrative, civil, or criminal proceeding; or

(ii) written documentation included as part of the testimony in a proceeding, including designs, studies, plans, specifications, or similar documentation, provided that the purpose of the written documentation is not to establish specifications, plans, designs, processes, or standards to be used in the future in an industrial process, system, construction, design, or repair.

(2) Nothing in this section shall be construed to restrict a [~~draftsman~~] person from preparing plans for a client under the exemption provided in Subsection (1)(b), or taking those plans to a professional engineer for the engineer's review, approval, and subsequent fixing of the engineer's seal to that set of plans[, if the plans meet the building code standards].

**Section 38. Section 58-22-503 is amended to read:**

**58-22-503. Penalties and administrative actions for unlawful or unprofessional conduct.**

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Section 58-1-501, 58-22-501, or 58-22-502.5, or

any rule or order issued with respect to Section 58-22-501 or 58-22-502.5, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect to Section 58-22-501 or 58-22-502.5, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be ordered to cease and desist from violating Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect to this section.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-22-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of

a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of [six months following the occurrence of any violation] one year following the date on which the violation that is the subject of the citation is reported to the division.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the division shall not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 39. Section 58-24b-302 is amended to read:**

**58-24b-302. Licensure.**

(1) An applicant for a license as a physical therapist shall:

~~[(a) be of good moral character;]~~

~~[(b)]~~ (a) complete the application process, including payment of fees;

~~[(e)]~~ (b) submit proof of graduation from a professional physical therapist education program that is accredited by a recognized accreditation agency;

~~[(d)]~~ (c) pass a licensing examination:

(i) after complying with Subsection ~~[(4)](e)~~ (1)(b); or

(ii) if the applicant is in the final term of a professional physical therapist education program that is accredited by a recognized accreditation agency;

~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

~~[(f) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

(e) consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for a license as a physical therapist assistant shall:

~~[(a) be of good moral character;]~~

~~[(b)]~~ (a) complete the application process, including payment of fees set by the division, in accordance with Section 63J-1-504, to recover the costs of administering the licensing requirements relating to physical therapist assistants;

(e) (b) submit proof of graduation from a physical therapist assistant education program that is accredited by a recognized accreditation agency;

~~[(d)]~~ (c) pass a licensing examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) after the applicant complies with Subsection ~~[(2)(e)]~~ (2)(b); or

(ii) if the applicant is in the final term of a physical therapist assistant education program that is accredited by a recognized accreditation agency;

~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

~~[(f)]~~ (e) submit to, and pass, a criminal background check, in accordance with Section 58-24b-302.1 and standards established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An applicant for a license as a physical therapist who is educated outside of the United States shall:

~~[(a) be of good moral character;]~~

~~[(b)]~~ (a) complete the application process, including payment of fees;

~~[(e)]~~ (b) (i) provide satisfactory evidence that the applicant graduated from a professional physical therapist education program that is accredited by a recognized accreditation agency; or

(ii) (A) provide satisfactory evidence that the applicant graduated from a physical therapist education program that prepares the applicant to engage in the practice of physical therapy, without restriction;

(B) provide satisfactory evidence that the education program described in Subsection ~~[(3)(e)(ii)(A)]~~ (3)(b)(ii)(A) is recognized by the government entity responsible for recognizing a physical therapist education program in the country where the program is located; and

(C) pass a credential evaluation to ensure that the applicant has satisfied uniform educational requirements;

~~[(d)]~~ (c) after complying with Subsection ~~[(3)(e)]~~ (3)(b), pass a licensing examination;

~~[(e)]~~ (d) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

~~[(f) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

(e) consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The division shall issue a license to a person who holds a current unrestricted license to practice physical therapy in a state, district, or territory of the United States of America, other than Utah, if the person:

~~[(a) is of good moral character;]~~

~~[(b)]~~ (a) completes the application process, including payment of fees;

~~[(e)]~~ (b) is able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

~~[(d) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact,]~~

(c) consents to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~(e)~~ (d) meets any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an internship in physical therapy, unless the person is:

(i) certified by the division; or

(ii) exempt from licensure under Section 58-24b-304.

(b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is participating in the supervised clinical training program for the purpose of becoming a physical therapist or a physical therapist assistant.

**Section 40. Section 58-26a-302 is amended to read:**

**58-26a-302. Qualifications for licensure and registration -- Licensure by endorsement.**

(1) Each applicant for licensure under this chapter as a certified public accountant shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~(c) show evidence of good moral character;~~

~~(d)~~ (c) submit a certified transcript of credits from an accredited institution acceptable to the board showing:

(i) successful completion of a total of 150 semester hours or 225 quarter hours of collegiate level education with a concentration in accounting, auditing, and business;

(ii) a baccalaureate degree or its equivalent at a college or university approved by the board; and

(iii) compliance with any other education requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~(e)~~ (d) submit evidence of one year of accounting experience in a form prescribed by the division;

~~(f)~~ (e) submit evidence of having successfully completed the qualifying examinations in accordance with Section 58-26a-306; and

~~(g)~~ (f) submit to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure.

(2) (a) The division may issue a license under this chapter to a person who holds a license as a certified public accountant issued by any other state of the United States of America if the applicant for licensure by endorsement:

(i) submits an application in a form prescribed by the division;

(ii) pays a fee determined by the department under Section 63J-1-504;

~~(iii) shows evidence of good moral character;~~

~~(iv)~~ (iii) submits to an interview by the board, if requested, for the purpose of examining the applicant's competence and qualifications for licensure; and

~~(v)~~ (iv) (A) (I) shows evidence of having passed the qualifying examinations; and

(II) (Aa) meets the requirements for licensure which were applicable in this state at the time of the issuance of the applicant's license by the state from which the original licensure by satisfactorily passing the AICPA Uniform CPA Examination was issued; or

(Bb) had four years of professional experience after passing the AICPA Uniform CPA Examination upon which the original license was based, within the 10 years immediately preceding the application for licensure by endorsement; or

(B) shows evidence that the applicant's education, examination record, and experience are substantially equivalent to the requirements of Subsection (1), as provided by rule.

(b) This Subsection (2) applies only to a person seeking to obtain a license issued by this state and does not apply to a person practicing as a certified public accountant in the state under Subsection 58-26a-305(1).

(3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

(i) submit an application in a form prescribed by the division;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) have, notwithstanding any other provision of law, a simple majority of the ownership of the Certified Public Accountant firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, held by individuals who are certified public accountants, licensed under this chapter or another state of the United States of America, and the partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state hold a valid license issued under Subsection 58-26a-301(2) or the corresponding provisions of prior law; and

(iv) meet any other requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Each separate location of a qualified business entity within the state seeking registration as a Certified Public Accountant firm shall register separately.

(c) A Certified Public Accountant firm may include owners who are not licensed under this chapter as outlined in Subsection (3)(a)(iii), provided that:

(i) the firm designates a licensee of this state who is responsible for the proper registration of the Certified Public Accountant firm and identifies that individual to the division; and

(ii) all nonlicensed owners are active individual participants in the CPA firm.

**Section 41. Section 58-26a-305 is amended to read:**

**58-26a-305. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of the practice of public accountancy, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under any other title while practicing in this state if:

(i) the person's principal place of business is not in this state; and

(A) the person's license as a certified public accountant is from any state which the National Association of State Boards of Accountancy (NASBA) National Qualification Appraisal Service has verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act; or

(B) the person's license as a certified public accountant is from a state which the NASBA National Qualification Appraisal Service has not verified to be substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and the person obtains from the NASBA National Qualification Appraisal Service verification that the person's CPA qualifications are substantially equivalent to the CPA licensure requirements of the Uniform Accountancy Act and Subsection ~~58-26a-302(1)(d)(i)~~ 58-26a-302(1)(c)(i); and

(ii) the person consents, as a condition of the grant of this privilege:

(A) to personal and subject matter jurisdiction and disciplinary authority of the division;

(B) to comply with this chapter and the rules made under this chapter;

(C) that in the event the license from the state of the person's principal place of business becomes invalid, the person shall cease offering or rendering

professional services in this state both individually and on behalf of the firm; and

(D) to the appointment of the state board which issued the person's license as the person's agent upon whom process may be served in an action or proceeding brought by the division against the licensee;

(b) through December 31, 2012, a person licensed by any other state, district, or territory of the United States as a certified public accountant or its equivalent under another title while practicing in this state if:

(i) the person does not qualify for a practice privilege under Subsection (1)(a);

(ii) the practice is incidental to the person's regular practice outside of this state; and

(iii) the person's temporary practice within the state is in conformity with this chapter and the rules established under this chapter;

(c) an officer, member, partner, or employee of any entity or organization who signs any statement or report in reference to the financial affairs of the entity or organization with a designation of that person's position within the entity or organization;

(d) a public official or employee while performing his official duties;

(e) a person using accounting or auditing skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports; or

(f) an employee of a CPA firm registered under this chapter or an assistant to a person licensed under this chapter, working under the supervision of a licensee, if:

(i) neither the employee or assistant nor the licensed employer or registered CPA firm represents that the unlicensed person is a certified public accountant; and

(ii) no accounting or financial statements are issued over the unlicensed person's name.

(2) (a) Notwithstanding any other provision of law, a person who qualifies under Subsection (1)(a) has all the privileges of a licensee of this state and may engage in acts included within the definition of the practice of public accountancy, whether in person or by mail, telephone, or electronic means, based on a practice privilege in this state, and no notice, fee, or other submission shall be provided by that person.

(b) The division may revoke, suspend, or restrict an exemption granted under Subsection (1)(a) or (b), or place on probation or issue a public or private reprimand to a person exempted under those subsections for the reasons set forth in Subsection 58-1-401(2).

**Section 42. Section 58-26a-306 is amended to read:**

**58-26a-306. Examination requirements.**

(1) Before taking the qualifying examinations, an applicant shall:

(a) submit an application in a form approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate completion of at least 120 semester hours or 180 quarter hours of the education requirement described in Subsection ~~[58-26a-302(1)(d)]~~ 58-26a-302(1)(c); and

(d) be approved by the board, or an organization designated by the board, to take the qualifying examinations.

(2) A person must sit for and meet the conditioning requirements of the AICPA Uniform CPA Examination as established by the AICPA.

**Section 43. Section 58-28-301 is amended to read:**

**58-28-301. Licensure required.**

(1) (a) A license is required to engage in the practice of veterinary medicine, except as specifically provided in Sections 58-1-307 and 58-28-307.

(b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be licensed under this chapter as a veterinary intern in order to engage in a program of indirectly supervised clinical training with a veterinarian licensed under this chapter, and as necessary to meet licensing requirements under Subsection ~~[58-28-302(1)(d)]~~ 58-28-302(1)(c).

(2) The division shall issue to a person who qualifies under this chapter a license in the classification of:

(a) veterinarian; or

(b) veterinarian intern.

**Section 44. Section 58-28-302 is amended to read:**

**58-28-302. License qualifications.**

(1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry shall:

~~[(a) be of good moral character as it relates to the functions and duties of a licensed veterinarian;]~~

~~[(b)]~~ (a) pass an examination approved by the board on the theory and practice of the science of veterinary medicine, surgery, dentistry, and other subjects determined by the board, knowledge of which is generally required of veterinarians;

~~[(e)]~~ (b) (i) graduate from a veterinary college accredited by the AVMA; or

(ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary Graduates issued by the AVMA;

~~[(d)]~~ (c) (i) have practiced under the supervision of a veterinarian licensed to practice in this state for a period of at least six months;

(ii) have participated in veterinary investigational, educational, or sanitary control work of a nature and duration as to be the equivalent of the experience of Subsection ~~[(1)(d)(i)]~~ (1)(c)(i);

(iii) have practiced as a licensed veterinarian outside Utah for a period of at least six months; or

(iv) have practiced as a veterinarian while employed by the United States government, its agencies, or the state or its political subdivisions for a period of at least six months; and

~~[(e)]~~ (d) pay a fee to the Department of Commerce determined ~~[by it pursuant to]~~ in accordance with Section 63J-1-504 for the examination, for an initial license, and for a renewal license.

(2) (a) An applicant for licensure as a veterinary intern shall comply with the provisions of ~~[Subsections (1)(a) and (e)]~~ Subsection (1)(b).

(b) An applicant's license as a veterinary intern is limited to the period of time necessary to complete clinical training as described in Subsection ~~[(1)(d)]~~ (1)(c) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a veterinarian, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training has been completed.

**Section 45. Section 58-28-304 is amended to read:**

**58-28-304. Temporary license -- License reciprocity.**

(1) The division may issue a temporary license to practice veterinary medicine, surgery, and dentistry to any person not qualified for licensure under Subsection (4) who meets all requirements of Section 58-28-302 with the exception of Subsections ~~[58-28-302(1)(b) and (d)]~~ 58-28-302(1)(a) and (c), except that the temporary license shall by its terms expire at the date examination results are available for the examination next following the date of the issuance of the temporary license.

(2) The temporary license shall permit the holder to practice under the indirect supervision of a veterinarian licensed to practice in this state.

(3) The division may extend the expiration date of the temporary license until the following examination date if:

(a) the applicant shows to the board good cause for failing to take or pass the examination; and

(b) the majority of the board members recommend the extension.



(4) Upon the recommendation of the board, the division may issue a license without examination to a person who:

(a) has been licensed or registered to practice veterinary medicine, surgery, and dentistry in any state, district, or territory of the United States or in any foreign country, whose educational, examination, and experience requirements are or were at the time the license was issued equal to those of this state;

(b) has engaged in the practice of veterinary medicine, dentistry, and surgery while licensed by another jurisdiction for at least two years;

(c) obtained the license in another jurisdiction after passing an examination component acceptable to the division and the board;

(d) produces satisfactory evidence of having practiced veterinary medicine competently and in accordance with the standards and ethics of the profession while practicing in another jurisdiction; and

(e) produces satisfactory evidence of identity and good moral character as it relates to the applicant's functions and practice as a licensed veterinarian.

**Section 46. Section 58-31b-503 is amended to read:**

**58-31b-503. Penalties and administrative actions for unlawful conduct and unprofessional conduct.**

(1) Any person who violates the unlawful conduct provision specifically defined in Subsection 58-1-501(1)(a) is guilty of a third degree felony.

(2) Any person who violates any of the unlawful conduct provisions specifically defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A misdemeanor.

(3) Any person who violates any of the unlawful conduct provisions specifically defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B misdemeanor.

(4) (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts of unprofessional or unlawful conduct, the division may:

(i) assess administrative penalties; and

(ii) take any other appropriate administrative action.

(b) An administrative penalty imposed pursuant to this section shall be deposited in the "Nurse Education and Enforcement Account" as provided in Section 58-31b-103.

(5) If a licensee has been convicted of violating Section 58-31b-501 prior to an administrative finding of a violation of the same section, the licensee may not be assessed an administrative fine under this chapter for the same offense for which the conviction was obtained.

(6) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(i) promptly issue a citation to the person according to this chapter and any pertinent administrative rules;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) Any person who is in violation of a provision described in Subsection (6)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding may be assessed a fine:

(i) pursuant to this Subsection (6) of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; and

(ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to those provisions.

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-31b-401 may not be assessed through a citation.

(d) Each citation issued under this section shall:

(i) be in writing; and

(ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days of service of the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation; and

(iii) be served upon any person upon whom a summons may be served:

(A) in accordance with the Utah Rules of Civil Procedure;

(B) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(C) by mail.

(e) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with the citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of ~~[six months following the occurrence of any violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(7) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 47. Section 58-31b-803 is amended to read:**

**58-31b-803. Limitations on prescriptive authority for advanced practice registered nurses.**

(1) This section does not apply to an advanced practice registered nurse specializing as a certified registered nurse anesthetist under Subsection 58-31b-102(14)(d).

(2) Except as provided in Subsections (3) and ~~[58-31b-502(1)(e)]~~ 58-31b-502(1)(q), an advanced practice registered nurse may prescribe or administer a Schedule II controlled substance without a consultation and referral plan.

(3) An advanced practice registered nurse described in Subsection (4) may not prescribe or administer a Schedule II controlled substance unless the advanced practice registered nurse prescribes or administers Schedule II controlled substances in accordance with a consultation and referral plan.

(4) Subsection (3) applies to an advanced practice registered nurse who:

(a) (i) is engaged in independent solo practice; and

(ii) (A) has been licensed as an advanced practice registered nurse for less than one year; or

(B) has less than 2,000 hours of experience practicing as a licensed advanced practice registered nurse; or

(b) owns or operates a pain clinic.

(5) Notwithstanding Subsection 58-31b-102(5), an advanced practice registered nurse with at least three years of experience as a licensed advanced practice registered nurse may supervise a consultation and referral plan for an advanced practice registered nurse described in Subsection (4)(a).

**Section 48. Section 58-37f-203 is amended to read:**

**58-37f-203. Submission, collection, and maintenance of data.**

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) ~~[(i) On and after January 1, 2016, a]~~ A pharmacist shall comply with either:

~~[(A)]~~ (i) the submission time requirements established by the division under Subsection (1)(a)(i); or

~~[(B)]~~ (ii) the submission time requirements established by the division under Subsection (1)(a)(ii).

~~[(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).]~~

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

(i) the requirements of this section;

(ii) the procedures established by the division;

(iii) additional types of information or data fields established by the division; and

(iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) (a) The pharmacist-in-charge and the pharmacist described in Subsection (2)(~~b~~)(a) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6) regarding:

(i) each controlled substance that is dispensed by the pharmacist or under the pharmacist's supervision; and

(ii) each noncontrolled substance that is:

(A) designated by the division under Subsection (8)(a); and

(B) dispensed by the pharmacist or under the pharmacist's supervision.

(b) Subsection (3)(a) does not apply to a drug that is dispensed for an inpatient at a health care facility.

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. ~~[The patient shall provide a postal address for the division's response.]~~

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision ~~[by mail postmarked]~~ within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the ~~[postmark date of the patient's letter making a patient's written request for a correction under this Subsection (5)].~~

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

(a) electronic format;

(b) submission procedures; and

(c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

(a) the identification of each individual who requests or receives information from the database;

(b) the information provided to each individual; and

(c) the date and time that the information is requested or provided.

(8) (a) The division, in collaboration with the Utah Controlled Substance Advisory Committee created in Section 58-38a-201, shall designate a list of noncontrolled substances described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) To determine whether a prescription drug should be designated in the schedules of controlled substances under this chapter, the division may collect information about a prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of controlled substances under this chapter.

**Section 49. Section 58-37f-301 is amended to read:**

**58-37f-301. Access to database.**

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

- (c) a board member if:
- (i) the board member is assigned to monitor a licensee on probation; and
- (ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;
- (d) a member of a diversion committee established in accordance with Subsection 58-1-404(2) if:
- (i) the diversion committee member is limited to obtaining information from the database regarding the person whose conduct is the subject of the committee's consideration; and
- (ii) the conduct that is the subject of the committee's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;
- (e) in accordance with a written agreement entered into with the department, employees of the Department of Health:
- (i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;
- (ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance; or
- (iii) in the medical examiner's office;
- (f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:
- (i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;
- (ii) the scientific studies to be conducted by the designee:
- (A) fit within the responsibilities of the Department of Health for health and welfare;
- (B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and
- (C) are not conducted for profit or commercial gain; and
- (D) are conducted in a research facility, as defined by division rule, that is associated with a university

or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

(l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection [(2)(j)] (2)(k)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(m) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(n) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

(o) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(p) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance

abuse treatment program described in Subsection (2)(p)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(p), from the database;

(q) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(s) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

(t) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment; and

(u) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities.

(3) (a) (i) A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

(ii) A pharmacist described in Subsection (2)(k) who is a pharmacist-in-charge may designate up to

five employees to access information from the database under Subsection (2)(l).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency department of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency department;

(ii) is treating an emergency department patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the

requirements of Subsection 58-37f-203(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(n).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

**Section 50. Section 58-37f-302 is amended to read:**

**58-37f-302. Other restrictions on access to database.**

(1) A person who is a relative of a deceased individual is not entitled to access information from the database relating to the deceased individual based on the fact or claim that the person is:

(a) related to the deceased individual; or

(b) subrogated to the rights of the deceased individual.

(2) Except as provided in [Subsection] Subsections (3) and (4), data provided to, maintained in, or accessed from the database that may be identified to, or with, a particular person is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to the data.

(3) The restrictions described in Subsection (2) do not apply to a civil, judicial, or administrative action brought to enforce the provisions of this chapter.

(4) (a) Subject to the requirements of this Subsection (4), in a state criminal proceeding a court may:

(i) order the release of information contained in the database if the court determines good cause has been shown in accordance with Rule 16, Utah Rules of Criminal Procedure; and

(ii) at any time order that information released under this Subsection (4) be restricted, limited, or restrained from further dissemination as the court determines is appropriate.

(b) Upon the motion of a defendant, a court may only issue an order compelling the production of database information under this Subsection (4) that pertains to a victim if the court finds upon notice as provided in Subsection (4)(c), and after a hearing, that the defendant is entitled to production of the information under applicable state and federal law.

(c) A motion by a defendant for database information pertaining to a victim shall be served by the defendant on:

(i) the prosecutor and on counsel for the victim or victim's representative; or

(ii) the prosecutor if the victim is unrepresented by counsel.

(d) Upon a defendant's motion for database information pertaining to a victim, if the court determines that good cause exists to order release of database information pertaining to the victim, the court shall conduct an in camera review of the

database information and may only disclose to the defense and prosecution those portions of database information that are relevant to the state criminal proceeding.

**Section 51. Section 58-37f-303 is amended to read:**

**58-37f-303. Access to opioid prescription information via an electronic data system.**

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "EDS user":

(i) means:

(A) a prescriber;

(B) a pharmacist; or

(C) an individual granted access to the database under Subsection 58-37f-301(3)(c); and

(ii) does not mean an individual whose access to the database has been revoked by the division pursuant to Subsection 58-37f-301(5)(~~b~~)(c).

(c) "Electronic data system" means a software product or an electronic service used by:

(i) a prescriber to manage electronic health records; or

(ii) a pharmacist to manage the dispensing of prescription drugs.

(d) "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is licensed under Section 58-37-6 to prescribe an opioid.

(g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division shall make opioid prescription information in the database available to an EDS user via the user's electronic data system.

(3) An electronic data system may be used to make opioid prescription information in the database available to an EDS user only if the electronic data system complies with rules established by the division under Subsection (4).

(4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(i) an electronic data system's:

(A) allowable access to and use of opioid prescription information in the database; and

(B) minimum actions that must be taken to ensure that opioid prescription information

accessed from the database is protected from inappropriate disclosure or use; and

(ii) an EDS user's:

(A) allowable access to opioid prescription information in the database via an electronic data system; and

(B) allowable use of the information.

(b) The rules shall establish:

(i) minimum user identification requirements that in substance are the same as the database identification requirements in Section 58-37f-301;

(ii) user access restrictions that in substance are the same as the database identification requirements in Section 58-37f-301; and

(iii) any other requirements necessary to ensure that in substance the provisions of Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database that has been made available to an EDS user via an electronic data system.

(5) The division may not make opioid prescription information in the database available to an EDS user via the user's electronic data system if:

(a) the electronic data system does not comply with the rules established by the division under Subsection (4); or

(b) the EDS user does not comply with the rules established by the division under Subsection (4).

(6) (a) The division shall periodically audit the use of opioid prescription information made available to an EDS user via the user's electronic data system.

(b) The audit shall review compliance by:

(i) the electronic data system with rules established by the division under Subsection (4); and

(ii) the EDS user with rules established by the division under Subsection (4).

(c) (i) If the division determines by audit or other means that an electronic data system is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the electronic data system's access to opioid prescription information in the database.

(ii) If the division determines by audit or other means that an EDS user is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the EDS user's access to opioid prescription information in the database via an electronic data system.

(iii) If the division suspends or revokes access to opioid prescription information in the database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other appropriate corrective or disciplinary action authorized by this chapter or title.



**Section 52. Section 58-40-302 is amended to read:**

**58-40-302. Qualifications for licensure.**

(1) An applicant for licensure under this chapter shall:

(a) submit an application in a form prescribed by the division; and

(b) pay a fee determined by the department under Section 63J-1-504~~;~~ and.

~~[(c) be of good moral character.]~~

(2) In addition to the requirements of Subsection (1), an applicant for licensure as a master therapeutic recreation specialist under this chapter shall as defined by division rule:

(a) complete an approved graduate degree;

(b) complete 4,000 qualifying hours of paid experience as:

(i) a licensed therapeutic recreation specialist if completed in the state; or

(ii) a certified therapeutic recreation specialist certified by the National Council for Therapeutic Recreation Certification if completed outside of the state; and

(c) pass an approved examination.

(3) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation specialist under this chapter shall, as defined by division rule:

(a) complete an approved:

(i) bachelor's degree in therapeutic recreation or recreational therapy;

(ii) bachelor's degree with an approved emphasis, option, or concentration in therapeutic recreation or recreational therapy; or

(iii) graduate degree;

(b) complete an approved practicum; and

(c) pass an approved examination.

(4) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation technician under this chapter shall, as defined by division rule:

(a) have a high school diploma or GED equivalent;

(b) complete an approved:

(i) educational course in therapeutic recreation taught by a licensed master therapeutic recreation specialist; or

(ii) six semester hours or nine quarter hours in therapeutic recreation or recreational therapy from an accredited college or university;

(c) complete an approved practicum under the supervision of:

(i) a licensed master therapeutic recreation specialist; or

(ii) an on-site, full-time, employed therapeutic recreation specialist;

(d) pass an approved examination; and

(e) complete a minimum of two hours of training in suicide prevention via a course that the division designates as approved.

**Section 53. Section 58-40-501 is amended to read:**

**58-40-501. Unlawful conduct.**

"Unlawful conduct" includes:

(1) providing, leading, facilitating, teaching, or offering to provide or teach recreational therapy services unless licensed under this chapter or exempted from licensure under Section 58-1-307 or 58-40-305; and

(2) using the initials MTRS, TRS, or TRT, or other abbreviation, term, title, or sign relating to the practice of recreational therapy services unless licensed under this chapter~~;~~ and.

~~[(3) employing or aiding and abetting the employment of an unqualified or unlicensed person to:]~~

~~[(a) practice as a recreational therapist; or]~~

~~[(b) provide recreational therapy services.]~~

**Section 54. Section 58-41-5 is amended to read:**

**58-41-5. Licensure requirements.**

(1) To obtain and maintain a license as an audiologist beginning July 1, 2010, an applicant must:

(a) submit a completed application in the form and content prescribed by the division and pay a fee to the department in accordance with Section 63J-1-504;

~~[(b) be of good moral character;]~~

~~[(e)]~~ (b) provide the committee with verification that the applicant is the legal holder of a clinical doctor's degree or AuD, in audiology, from an accredited university or college, based on a program of studies primarily in the field of audiology;

~~[(d)]~~ (c) be in compliance with the regulations of conduct and codes of ethics for the profession of audiology;

~~[(e)]~~ (d) submit to the board certified evidence of having completed at least one year of professional experience, at least 30 hours per week for an academic year, of direct clinical experience in treatment and management of patients, supervised and attested to by one holding an audiologist license under this chapter, the CCC, or their full equivalent; and

~~[(f)]~~ (e) pass a nationally standardized examination in audiology which is the same as or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to current

ASHA standards, and the board may require the applicant to pass an acceptable practical demonstration of clinical skills to an examining committee of licensed audiologists appointed by the board.

(2) To obtain and maintain a license as an audiologist prior to July 1, 2010, an applicant shall:

(a) comply with Subsections (1)(a), ~~[(b), (d), (e), and (f)]~~ (c), (d), and (e); and

(b) provide the committee with verification that the applicant has received at least a master's degree in the area of audiology from an accredited university or college, based on a program of studies primarily in the field of audiology, and holds the CCC or its full equivalent.

(3) An individual who, prior to July 1, 2010, is licensed as an audiologist under this chapter is, on or after July 1, 2010, considered to hold a current license under this chapter as an audiologist and is subject to this chapter.

(4) To obtain and maintain a license as a speech-language pathologist, an applicant must:

(a) comply with ~~[Subsections (1)(a) and (b)]~~ Subsection (1)(a);

(b) provide the committee with verification that the applicant has received at least a master's degree in speech-language pathology from an accredited university or college, based on a program of studies primarily in the field of speech-language pathology;

(c) be in compliance with the regulations of conduct and code of ethics for the profession of speech-language pathology;

(d) comply with Subsection ~~[(1)(e)]~~ (1)(b), except that the supervision and attestation requirement shall be from a licensed speech-language pathologist rather than a licensed audiologist; and

(e) pass a nationally standardized examination in speech-language pathology which is the same as or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to current ASHA standards, and the board may require the applicant to pass an acceptable practical demonstration of clinical skills to an examining committee of licensed speech-language pathologists appointed by the board.

**Section 55. Section 58-42a-302 is amended to read:**

**58-42a-302. Qualifications for licensure.**

(1) An applicant for licensure as an occupational therapist shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

~~[(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;]~~

~~[(d)]~~ (c) graduate with a bachelor's or graduate degree for the practice of occupational therapy from an education program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 24 weeks of supervised fieldwork experience; and

~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy.

(2) All applicants for licensure as an occupational therapy assistant shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

~~[(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;]~~

~~[(d)]~~ (c) graduate from an educational program for the practice of occupational therapy as an occupational therapy assistant that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

~~[(e)]~~ (d) if applying for licensure on or after July 1, 2015, complete a minimum of 16 weeks of supervised fieldwork experience; and

~~[(f)]~~ (e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy.

(3) Notwithstanding the other requirements of this section, the division may issue a license as an occupational therapist or as an occupational therapy assistant to an applicant who:

(a) meets the requirements of receiving a license by endorsement under Section 58-1-302; or

(b) has been licensed in a state, district, or territory of the United States, or in a foreign country, where the education, experience, or examination requirements are not substantially equal to the requirements of this state, if the applicant passes the applicable examination described in Subsection ~~[(1)(f) or (2)(f)]~~ (1)(e) or (2)(e).

**Section 56. Section 58-42a-501 is amended to read:**

**58-42a-501. Unlawful conduct.**

“Unlawful conduct,” as defined in Section 58-1-501 and as may be further defined by division rule, includes:

(1) engaging or offering to engage in the practice of occupational therapy unless licensed under this chapter or exempted from licensure under Section 58-1-307 or 58-42a-304;

(2) using the title occupational therapist or occupational therapy assistant unless licensed under this chapter; and

~~[(3) employing or aiding and abetting an unqualified or unlicensed person to engage or offer to engage in the practice of occupational therapy unless the person is exempted from licensure under Section 58-1-307 or 58-42a-304; and]~~

~~[(4)] (3) obtaining a license under this chapter by means of fraud, misrepresentation, or concealment of a material fact.~~

**Section 57. Section 58-46a-302 is amended to read:**

**58-46a-302. Qualifications for licensure.**

(1) Each applicant for licensure as a hearing instrument specialist shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay a fee as determined by the division pursuant to Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)] (c) have qualified for and currently hold board certification by the National Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the division in collaboration with the board;~~

~~[(e)] (d) have passed the Utah Law and Rules Examination for Hearing Instrument Specialists; and~~

~~[(f)] (e) if the applicant holds a hearing instrument intern license, surrender the hearing instrument intern license at the time of licensure as a hearing instrument specialist.~~

(2) Each applicant for licensure as a hearing instrument intern shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay a fee as determined by the division pursuant to Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)] (c) have passed the Utah Law and Rules Examination for Hearing Instrument Specialists; and~~

~~[(e)] (d) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as a hearing instrument intern only under the supervision of a supervising hearing instrument specialist in accordance with:~~

(i) Section 58-46a-302.5; and

(ii) the supervision requirements for obtaining board certification by the National Board for Certification - Hearing Instrument Sciences, or an equivalent certification approved by the division in collaboration with the board.

**Section 58. Section 58-47b-302 is amended to read:**

**58-47b-302. License classifications -- Qualifications for licensure.**

(1) The division shall issue licenses under this chapter in the classifications of:

(a) massage therapist; and

(b) massage apprentice.

(2) Each applicant for licensure as a massage therapist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)] (c) be 18 years of age or older;~~

~~[(e)] (d) have either:~~

(i) (A) graduated from a school of massage having a curriculum which meets standards established by division rule made in collaboration with the board; or

(B) completed equivalent education and training in compliance with division rule; or

(ii) completed a massage apprenticeship program consisting of a minimum of 1,000 hours of supervised training over a minimum of 12 months and in accordance with standards established by the division by rule made in collaboration with the board; and

~~[(f)] (e) pass examinations established by rule by the division in collaboration with the board.~~

(3) Each applicant for licensure as a massage apprentice shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)] (c) be 18 years of age or older;~~

~~[(e)] (d) provide satisfactory evidence to the division that the individual will practice as a massage apprentice only under the direct supervision of a licensed massage therapist in good standing and who has engaged in the lawful practice of massage therapy as a licensed massage therapist for not less than 6,000 hours; and~~

~~[(f)] (e) successfully complete an examination as required by division rule.~~

(4) (a) Any new massage therapist or massage apprentice applicant shall submit fingerprint cards

in a form acceptable to the division at the time the license application is filed and shall consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(b) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each new massage therapist or apprentice applicant through the national criminal history system (NCIC) or any successor system.

(c) The cost of the background check and the fingerprinting shall be borne by the applicant.

(5) (a) Any new massage therapist or massage apprentice license issued under this section shall be conditional, pending completion of the criminal background check. If the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license shall be immediately and automatically revoked.

(b) Any person whose conditional license has been revoked under Subsection (5)(a) shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(6) An applicant who successfully completes a fingerprint background check under Subsection (4) may not be required by any other state or local government body to submit to a second fingerprint background check as a condition of lawfully practicing massage therapy in this state.

**Section 59. Section 58-49-4 is amended to read:**

**58-49-4. Qualifications for certification -- Fee.**

Each applicant for certification under this chapter shall provide proof satisfactory to the division that the applicant:

~~[(1) is of good moral character as it relates to the practice of dietetics;]~~

~~[(2)]~~ (1) holds a baccalaureate or post-baccalaureate degree conferred by a college or university approved by the division at the time the degree was conferred with a major course of study in the sciences of food, dietetics, food systems management, or an equivalent major course of study;

~~[(3)]~~ (2) has completed an internship or preplanned professional baccalaureate or post-baccalaureate experience in a dietetic program under the supervision of a certified dietitian who is certified under this chapter or certified, registered, or licensed under the laws of another state or territory of the United States;

~~[(4)]~~ (3) has satisfactorily passed a competency examination, approved by or given at the direction of the board in collaboration with the division; and

~~[(5)]~~ (4) has paid the appropriate fees determined by the Department of Commerce. The fee assessed

by the Department of Commerce shall be fair and reasonable and shall reflect the cost of services provided.

**Section 60. Section 58-49-5 is amended to read:**

**58-49-5. Certification of persons currently qualified.**

The requirements of Subsections ~~[58-49-4(2), (3), and (4)]~~ 58-49-4(1), (2), and (3) are waived and a certificate shall be issued by the division upon application and payment of the appropriate fees by any person who, ~~[prior to]~~ before December 31, 1986, has provided to the division proof that on May 1, 1985, ~~[he]~~ the person was and is currently registered by the Commission on Dietetic Registration.

**Section 61. Section 58-49-9 is amended to read:**

**58-49-9. Use of titles by uncertified person.**

No person, without first being certified under this chapter may:

(1) assume or use the title or designation "dietitian," ~~["-dietician,"]~~ "certified dietitian," "registered dietitian," "registered dietitian nutritionist," the letters "C.D.," the letter "D.," or any other title, words, letters, abbreviations, or insignia indicating or implying that the person is a certified dietitian, including by using any of the preceding terms with the alternative spelling "dietician"; or

(2) represent in any way, whether orally, in writing, in print, or by signature, directly or by implication, that ~~[he]~~ the person is a certified dietitian.

**Section 62. Section 58-53-502 is amended to read:**

**58-53-502. Citations -- Penalty for unlawful conduct.**

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d), Section 58-53-501, or Section 58-53-603 or any rule or order issued with respect to Section 58-53-501, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-53-501 or any rule or order issued with respect to Section 58-53-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to Subsection (1)(i) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-53-501 or

any rule or order issued with respect to Section 58-53-501.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-53-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of ~~[six months following the occurrence of any violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the division does not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 63. Section 58-54-302 is amended to read:**

**58-54-302. Requirements for licensure.**

(1) Each applicant for licensure as a radiologic technologist, radiology assistant, or radiology practical technician shall:

(a) submit an application in a form prescribed by the division in collaboration with the board; and

(b) pay a fee as determined by the department pursuant to Section 63J-1-504~~[-and]~~.

~~[(c) be of good moral character.]~~

(2) Each applicant for licensure as a radiologic technologist shall, in addition to the requirements of Subsection (1):

(a) be a graduate of an accredited educational program in radiologic technology or certified by the American Registry of Radiologic Technologists or any equivalent educational program approved by the division in collaboration with the board; and

(b) have passed an examination approved by the division in collaboration with the board.

(3) Each applicant for licensure as a radiology practical technician shall, in addition to the requirements of Subsection (1), have passed a basic examination and one or more specialty examinations that are competency based, using a task analysis of the scope of practice of radiology practical technicians in the state. The basic examination and the specialty examination shall be approved by the division in collaboration with the board and the licensing board of the profession within which the radiology practical technician will be practicing.

(4) The division shall provide for administration of the radiology practical technician examination not less than monthly at offices designated by the division and located:

- (a) in Salt Lake City; and
- (b) within each local health department jurisdictional area.
- (5) (a) Except as provided in Subsection (5)(b), each applicant for licensure as a radiologist assistant shall:
- (i) meet the requirements of Subsections (1) and (2);
  - (ii) have a Bachelor of Science degree; and
  - (iii) be certified as:
    - (A) a radiologist assistant by the American Registry of Radiologic Technologists; or
    - (B) a radiology practitioner assistant by the Certification Board of Radiology Practitioner Assistants.

(b) An individual who meets the requirements of Subsections (5)(a)(i) and (iii), but not Subsection (5)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31, 2013, at which time, the individual must have completed the Bachelor of Science degree in order to retain the license of radiologist assistant.

**Section 64. Section 58-55-103 is amended to read:**

**58-55-103. Construction Services Commission created -- Functions -- Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings -- Concurrence.**

- (1) (a) There is created within the division the Construction Services Commission.
- (b) The commission shall:
- (i) with the concurrence of the director, make reasonable rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which are consistent with this chapter including:
    - (A) licensing of various licensees;
    - (B) examination requirements and administration of the examinations, to include approving and establishing a passing score for applicant examinations;
    - (C) standards of supervision for students or persons in training to become qualified to obtain a license in the trade they represent; and
    - (D) standards of conduct for various licensees;
  - (ii) approve or disapprove fees adopted by the division under Section 63J-1-504;
  - (iii) except where the boards conduct them, conduct all administrative hearings not delegated to an administrative law judge relating to the licensing of any applicant;
  - (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the concurrence of the director, impose sanctions against licensees and

certificate holders with the same authority as the division under Section 58-1-401;

- (v) advise the director on the administration and enforcement of any matters affecting the division and the construction industry;
- (vi) advise the director on matters affecting the division budget;
- (vii) advise and assist trade associations in conducting construction trade seminars and industry education and promotion; and
- (viii) perform other duties as provided by this chapter.

(2) (a) Initially the commission shall be comprised of the five members of the Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.

(b) The terms of office of the commission members who are serving on the Contractors Licensing Board shall continue as they serve on the commission.

(c) Beginning July 1, 2004, the commission shall be comprised of nine members appointed by the executive director with the approval of the governor from the following groups:

- (i) one member shall be a licensed general engineering contractor;
- (ii) one member shall be a licensed general building contractor;
- (iii) two members shall be licensed residential and small commercial contractors;
- (iv) three members shall be the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and
- (v) two members shall be from the general public, ~~provided, however that the certified public accountant on the Contractors Licensing Board will continue to serve until the current term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from the general public].~~

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the executive director with the approval of the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the executive director with the approval of the governor shall, at the time of appointment or reappointment, adjust the length of terms to stagger the terms of commission members so that approximately 1/2 of the commission members are appointed every two years.

(c) A commission member may not serve more than two consecutive terms.

(4) The commission shall elect annually one of its members as chair, for a term of one year.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The commission shall meet at least monthly unless the director determines otherwise.

(b) The director may call additional meetings at the director's discretion, upon the request of the chair, or upon the written request of four or more commission members.

(8) (a) Five members constitute a quorum for the transaction of business.

(b) If a quorum is present when a vote is taken, the affirmative vote of commission members present is the act of the commission.

(9) The commission shall comply with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of its adjudicative proceedings.

(10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a concurring role must jointly agree for the action to be taken.

(b) If a provision of this chapter requires concurrence between the director or division and the commission and no concurrence can be reached, the director or division has final authority.

(c) When this chapter requires concurrence between the director or division and the commission:

(i) the director or division shall report to and update the commission on a regular basis related to matters requiring concurrence; and

(ii) the commission shall review the report submitted by the director or division under this Subsection (10)(c) and concur with the report, or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the director or division.

**Section 65. Section 58-55-106 is amended to read:**

**58-55-106. Surcharge fee.**

(1) In addition to any other fees authorized by this chapter or by the division in accordance with Section 63J-1-504, the division shall require each applicant for an initial license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1 surcharge fee.

(2) The surcharge fee shall be deposited in the General Fund as a dedicated credit to be used by the

division to provide each licensee under this chapter with access to an electronic reference library that provides web-based access to national, state, and local building codes and standards.

**Section 66. Section 58-55-201 is amended to read:**

**58-55-201. Boards created -- Duties.**

(1) There is created a Plumbers Licensing Board, an Alarm System Security and Licensing Board, and an Electricians Licensing Board. Members of the boards shall be selected to provide representation as follows:

(a) The Plumbers Licensing Board consists of ~~five~~ seven members as follows:

(i) ~~two~~ three members shall be licensed from among the license classifications of master or journeyman plumber, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;

(ii) ~~two~~ three members shall be licensed plumbing contractors, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(iii) one member shall be from the public at large with no history of involvement in the construction trades.

(b) (i) The Alarm System Security and Licensing Board consists of five members as follows:

(A) three individuals who are officers or owners of a licensed alarm business;

(B) one individual from among nominees of the Utah Peace Officers Association; and

(C) one individual representing the general public.

(ii) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:

(A) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(B) advise the division in its investigation of these complaints.

(iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(c) The Electricians Licensing Board consists of ~~five~~ seven members as follows:

(i) ~~two~~ three members shall be licensed from among the license classifications of master or journeyman electrician, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;

(ii) ~~two~~ three members shall be licensed electrical contractors, of whom at least one shall

represent a union organization and at least one shall be selected having no union affiliation; and

(iii) one member shall be from the public at large with no history of involvement in the construction trades or union affiliation.

(2) The duties, functions, and responsibilities of each board include the following:

(a) recommending to the commission appropriate rules;

(b) recommending to the commission policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;

(e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession it represents; and

(f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

(3) The division in collaboration with the Plumbers Licensing Board and the Electricians Licensing Board shall provide a preliminary report on or before October 1, 2019, and a final written report on or before June 1, 2020, to the Business and Labor Interim Committee and the Occupational and Professional Licensure Review Committee that provides recommendations for consistent educational and training standards for plumber and electrician apprentice programs in the state, including recommendations for education and training provided by all providers, including institutions of higher education and technical colleges.

**Section 67. Section 58-55-302 is amended to read:**

**58-55-302. Qualifications for licensure.**

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, which requirements include:

(i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;

(ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor,

general electrical contractor, or residential electrical contractor, the only required division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter, and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

(iii) if required in Section 58-55-304, an individual qualifier must pass the required division-administered examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 25-hour course established by rule by the commission with the concurrence of the director, which is taught by an approved precursory course provider, and which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, a provider-administered examination at the end of the 25-hour course;

(iv) complete a five-hour business and law course established by rule by the commission with the concurrence of the director, which is taught by an approved precursory course provider, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or



residential electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course;

(v) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) ~~[After approval of an applicant for a contractor's license by the applicable board and the division, the]~~ The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber.

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber.

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber.

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber.

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice plumber may work without supervision for a period not to exceed eight hours in any 24-hour period; and

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician.

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician.

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman electrician.

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician;

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period;

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) An alarm company applicant shall:

(i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(A) demonstrates 6,000 hours of experience in the alarm company business;

(B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(C) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) if a corporation, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(iv) if a partnership, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(v) if a proprietorship, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(ix) document that none of the applicant's officers, directors, shareholders described in

Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

(x) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(xi) meet with the division and board.

(I) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of

this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

(5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.

(6) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.

(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.

(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

(9) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or

revoked more than two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (10)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (10) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection(1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (10):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), ~~(25), or (27)~~ or (26) or Subsection 58-55-502(8) or (9).

(11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(13) A social security number provided under Subsection (1)(e)(vi) is a private record under Subsection 63G-2-302(1)(i).

**Section 68. Section 58-55-305 is amended to read:**

**58-55-305. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when

working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on work incidental to their own business;

(d) a sole ~~owners~~ owner of property engaged in building:

(i) no more than one residential structure per year on the sole owner's property and no more than three residential structures per five years on ~~their~~ the sole owner's property for ~~their own~~ the sole owner's noncommercial, nonpublic use; ~~except~~, except that a person other than the property owner or ~~individuals~~ a person described in Subsection (1)(e), who engages in building ~~the~~ a residential structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on ~~their~~ the sole owner's property for ~~their own~~ the sole owner's noncommercial, nonpublic use ~~which~~ that are incidental to a residential structure on the property, including ~~sheds, carports, or detached garages~~ a shed, carport, or detached garage;

(e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure; and

(ii) as used in this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or

otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$3,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work; and

(ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this section:

(A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six month period of time:

(I) must be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and

(II) may be performed by a licensed journeyman electrician or plumber or an individual referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system such as a faucet, toilet, fixture, device, outlet, or electrical switch;

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system on a Subsection (1)(h)(i) project must be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3);

(C) installation, repair, or replacement of water-based fire protection systems on a Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;

(D) work as an alarm business or company or as an alarm company agent shall be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in this chapter;

(E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i) project must be performed by a licensed alarm business or company or a licensed alarm company agent;

(F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;

(G) installation, repair, or replacement of a radon mitigation system or a soil depressurization system must be performed by a licensed contractor; and

(H) if the total value of the project is greater than \$1,000, the person shall file with the division a one-time affirmation, subject to periodic reaffirmation as established by division rule, that the person has:

(I) public liability insurance in coverage amounts and form established by division rule; and

(II) if applicable, workers compensation insurance which would cover an employee of the person if that employee worked on the construction project;

(i) a person practicing a specialty contractor classification or construction trade which the director does not classify by administrative rule as significantly impacting the public's health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k) (i) a person engaged in minor plumbing work that is incidental, as defined by the division by rule, to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 15A-1-202, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system; and

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

(l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:

(i) meets the appropriate state construction codes or local plumbing standards; and

(ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;

(m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by:

(i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

(ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

(n) a person involved in minor electrical work incidental to a mechanical or service installation, including the outdoor installation of an above-ground, prebuilt hot tub;

(o) a person who ordinarily would be subject to the electrician licensure requirements under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty contractor license for the electrical work associated with the installation, repair, or maintenance of solar energy panels, may continue the limited electrical work for solar energy panels under a specialty contractor license;

(p) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

(i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

(ii) a licensed contractor obtains the necessary building permits;

(q) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:

(i) gas range;

(ii) gas dryer;

(iii) outdoor gas barbeque; or

(iv) outdoor gas patio heater;

(r) a person performing maintenance on an elevator as defined in Section 58-55-102, if the maintenance is not related to the operating integrity of the elevator; and

(s) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.

(2) A compliance agency as defined in Section 15A-1-202 that issues a building permit to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

**Section 69. Section 58-55-308 is amended to read:**

**58-55-308. Scope of practice -- Installation, repair, maintenance, or replacement of gas appliance, combustion system, or automatic fire sprinkler system -- Rules.**

(1) (a) The commission, with the concurrence of the director, may adopt reasonable rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and limit the scope of practice and operating standards of the classifications and subclassifications licensed under this chapter in a manner consistent with established practice in the relevant industry.

(b) The commission and the director may limit the field and scope of operations of a licensee under this chapter in accordance with the rules and the public health, safety, and welfare, based on the licensee's

education, training, experience, knowledge, and financial responsibility.

(2) (a) The work and scope of practice covered by this Subsection (2) and Subsection (3) is the installation, repair, maintenance, cleaning, or replacement of a residential or commercial gas appliance or combustion system.

(b) The provisions of this Subsection (2) apply to any:

(i) licensee under this chapter whose license authorizes the licensee to perform the work described in Subsection (2)(a); and

(ii) person exempt from licensure under Subsection 58-55-305(1)(b).

(c) Any person described in Subsection (2)(b) that performs work described in Subsection (2)(a):

(i) must first receive training and certification as specified in rules adopted by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) shall ensure that any employee authorized under other provisions of this chapter to perform work described in Subsection (2)(a) has first received training and certification as specified in rules adopted by the division.

(d) The division may exempt from the training requirements adopted under Subsection (2)(c) a person that has adequate experience, as determined by the division.

(3) The division may exempt the following individuals from the certification requirements adopted under Subsection (2)(c):

(a) a person who has passed a test equivalent to the level of testing required by the division for certification, or has completed an apprenticeship program that teaches the installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship Training; and

(b) a person working under the immediate one-to-one supervision of a certified natural gas technician or a person exempt from certification.

(4) (a) The work and scope of practice covered by this Subsection (4) is the installation, repair, maintenance, or replacement of an automatic fire sprinkler system.

(b) The provisions of this Subsection (4) apply to an individual acting as a qualifier for a business entity in accordance with Section 58-55-304, where the business entity seeks to perform the work described in Subsection (4)(a).

(c) Before a business entity described in Subsection (4)(b) may perform the work described in Subsection (4)(a), the qualifier for the business entity shall:

(i) be a licensed general building contractor; or

(ii) obtain a certification in fire sprinkler fitting from the division by providing evidence to the division that the qualifier has met the following requirements:



(A) completing a Department of Labor federally approved apprentice training program or completing two-years experience under the immediate supervision of a licensee who has obtained a certification in fire sprinkler fitting; and

(B) passing the Star fire sprinklerfitting mastery examination offered by the National Inspection Testing and Certification Corporation or an equivalent examination approved by the division.

(d) The division may also issue a certification in fire sprinkler fitting to a qualifier for a business entity who has received training and experience equivalent to the requirements of Subsection (4)(c), as specified in rules adopted by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) This section does not prohibit a licensed specialty contractor from accepting and entering into a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades, other than that in which the contractor is licensed, is incidental and supplemental to the work for which the contractor is licensed.

**Section 70. Section 58-55-401 is amended to read:**

**58-55-401. Grounds for denial of license and disciplinary proceedings.**

(1) In accordance with Section 58-1-401, the division may:

- (a) refuse to issue a license to an applicant;
- (b) refuse to renew the license of a licensee;

(c) revoke the right of a licensee to recover from the Residence Lien Recovery Fund created by Section 38-11-201;

(d) revoke, suspend, restrict, or place on probation the license of a licensee;

(e) issue a public or private reprimand to a licensee; and

- (f) issue a cease and desist order.

(2) In addition to an action taken under Subsection (1), the division may take an action described in Subsection 58-1-401(2) in relation to a license as a contractor, if:

(a) the applicant or licensee is an unincorporated entity; and

(b) an individual who holds an ownership interest in or is the qualifier under Section 58-55-304 of the applicant or licensee engages in:

(i) unlawful conduct as described in Section 58-55-501; or

(ii) unprofessional conduct as described in Section 58-55-502.

**Section 71. Section 58-55-501 is amended to read:**

**58-55-501. Unlawful conduct.**

Unlawful conduct includes:

(1) engaging in a construction trade, acting as a contractor, an alarm business or company, or an alarm company agent, or representing oneself to be engaged in a construction trade or to be acting as a contractor in a construction trade requiring licensure, unless the person doing any of these is appropriately licensed or exempted from licensure under this chapter;

(2) acting in a construction trade, as an alarm business or company, or as an alarm company agent beyond the scope of the license held;

(3) hiring or employing a person who is not licensed under this chapter to perform work on a project, unless the person:

(a) is an employee of a person licensed under this chapter for wages; and

(b) is not required to be licensed under this chapter;

(4) applying for or obtaining a building permit either for oneself or another when not licensed or exempted from licensure as a contractor under this chapter;

(5) issuing a building permit to any person for whom there is no evidence of a current license or exemption from licensure as a contractor under this chapter;

(6) applying for or obtaining a building permit for the benefit of or on behalf of any other person who is required to be licensed under this chapter but who is not licensed or is otherwise not entitled to obtain or receive the benefit of the building permit;

(7) failing to obtain a building permit when required by law or rule;

(8) submitting a bid for any work for which a license is required under this chapter by a person not licensed or exempted from licensure as a contractor under this chapter;

(9) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to obtain or renew a license under this chapter;

(10) allowing one's license to be used by another except as provided by statute or rule;

(11) doing business under a name other than the name appearing on the license, except as permitted by statute or rule;

(12) if licensed as a contractor in the electrical trade or plumbing trade, journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician, or residential electrician, failing to directly supervise an apprentice under one's supervision or exceeding the number of apprentices one is allowed to have under the contractor's supervision;

(13) if licensed as a contractor or representing oneself to be a contractor, receiving any funds in

payment for a specific project from an owner or any other person, which funds are to pay for work performed or materials and services furnished for that specific project, and after receiving the funds to exercise unauthorized control over the funds by failing to pay the full amounts due and payable to persons who performed work or furnished materials or services within a reasonable period of time;

(14) employing an unlicensed alarm business or company or an unlicensed individual as an alarm company agent, except as permitted under the exemption from licensure provisions under Section 58-1-307;

(15) if licensed as an alarm company or alarm company agent, filing with the division fingerprint cards for an applicant which are not those of the applicant, or are in any other way false or fraudulent and intended to mislead the division in its consideration of the applicant for licensure;

(16) if licensed under this chapter, willfully or deliberately disregarding or violating:

(a) the building or construction laws of this state or any political subdivision;

(b) the safety and labor laws applicable to a project;

(c) any provision of the health laws applicable to a project;

(d) the workers' compensation insurance laws of the state applicable to a project;

(e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or

(f) reporting, notification, and filing laws of this state or the federal government;

~~[(17) aiding or abetting any person in evading the provisions of this chapter or rules established under the authority of the division to govern this chapter;]~~

[(18)] (17) engaging in the construction trade or as a contractor for the construction of residences of up to two units when not currently registered or exempt from registration as a qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;

[(19)] (18) failing, as an original contractor, as defined in Section 38-11-102, to include in a written contract the notification required in Section 38-11-108;

[(20)] (19) wrongfully filing a preconstruction or construction lien in violation of Section 38-1a-308;

[(21)] (20) if licensed as a contractor, not completing the approved continuing education required under Section 58-55-302.5;

[(22)] (21) an alarm company allowing an employee with a temporary license under Section 58-55-312 to engage in conduct on behalf of the

company outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

[(23)] (22) an alarm company agent under a temporary license under Section 58-55-312 engaging in conduct outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

[(24)] (23) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States; or

(b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah while not lawfully present in the United States;

[(25)] (24) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an individual who engages, or will engage, in a construction trade in Utah for a separate entity for which the unincorporated entity provides the individual as labor:

(a) workers' compensation coverage:

(i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; or

(ii) that would be required under the chapters listed in Subsection [(25)] (24)(a)(i) if the unincorporated entity were licensed under this chapter; and

(b) unemployment compensation in accordance with Title 35A, Chapter 4, Employment Security Act, for an individual who owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

[(26)] (25) the failure of a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules, to:

(a) display the contractor's license number prominently on a vehicle that:

(i) the contractor uses; and

(ii) displays the contractor's business name; or

(b) carry a copy of the contractor's license in any other vehicle that the contractor uses at a job site, whether or not the vehicle is owned by the contractor;

[(27)] (26) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual; or

(b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual, who owns an interest in the unincorporated entity, to engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual;

~~[(28)]~~ (27) a contractor failing to comply with a requirement imposed by a political subdivision, state agency, or board of education under Section 58-55-310; or

~~[(29)]~~ (28) failing to timely comply with the requirements described in Section 58-55-605.

**Section 72. Section 58-55-503 is amended to read:**

**58-55-503. Penalty for unlawful conduct -- Citations.**

(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (21), (22), (23), (24), (25), (26), (27), or (28), ~~or (29),~~ or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

(3) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), ~~[(19)]~~ (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), ~~or (29),~~ Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), ~~[(19)]~~ (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), ~~or (29),~~ or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), ~~[(14)]~~ (18), (19), (20), (21), (24), (25), (26), (27), or (28), ~~or (29),~~ or Subsection 58-55-504(2).

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of ~~[six months following the occurrence of a violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(h) Except as provided in Subsection (5), the director or the director's designee shall assess a fine in accordance with the following:

(i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), ~~[(19)]~~ (18), (23), (24), (25), (26), (27), or (28), ~~[(29)],~~ or Subsection 58-55-504(2); or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), ~~[(19)]~~ (18), (23), (24), (25), (26), (27), or (28), ~~[(29)],~~ or Subsection 58-55-504(2); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) ~~[(25)]~~ two or more times within a 12-month period, unless, with

respect to a violation of Subsection 58-55-501~~[(24)]~~(23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24) ~~[(25)]~~ for each individual is considered a separate violation.

(5) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

(6) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

(7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

**Section 73. Section 58-56-9.5 is amended to read:**

**58-56-9.5. Penalty for unlawful conduct -- Citations.**

(1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.

(2) Grounds for immediate suspension of a licensee's license by the division under this chapter include:

(a) the issuance of a citation for violation of a provision of Section 58-56-9.1 or 58-56-9.3; and

(b) failure by a licensee to make application to, report to, or notify the division with respect to a matter for which application, notification, or reporting is required under this chapter or rules made under this chapter by the division.

(3) (a) If upon inspection or investigation, the division concludes that a person has violated a provision of Section 58-56-9.1 or 58-56-9.3, or a rule or order issued with respect to that section, and that disciplinary action is appropriate, the director

or the director's designee from within the division shall:

(i) promptly issue a citation to the person according to this chapter and any pertinent rules;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) (i) A person who violates a provision of Section 58-56-9.1 or 58-56-9.3, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine under this Subsection (3)(b) and may, in addition to or instead of the fine, be ordered by the division to cease from violating the provision.

(ii) Except as otherwise provided in Subsection (2)(a), the division may not assess licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

(c) (i) Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(e) (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.

(h) No citation may be issued under this section after the expiration of ~~[six months following the occurrence of the violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(i) The director or the director's designee may assess fines for violations of Section 58-56-9.1 or 58-56-9.3 as follows:

(i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;

(ii) for a second offense, a fine of up to \$2,000; and

(iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued offense.

(j) For the purposes of issuing a final order under this section and assessing a fine under Subsection (3)(i), an offense constitutes a second or subsequent offense if:

(i) the division previously issued a final order determining that a person committed a first or second offense in violation of a provision of Section 58-56-9.1; or

(ii) (A) the division initiated an action for a first or second offense;

(B) no final order has been issued by the division in the action initiated under Subsection (3)(j)(ii)(A);

(C) the division determines during an investigation that occurred after the initiation of the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent violation of a provision of Section 58-56-9.1; and

(D) after determining that the person committed a second or subsequent offense under Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under Subsection (3)(j)(ii)(A).

(k) In issuing a final order for a second or subsequent offense under Subsection (3)(j), the division shall comply with the requirements of this section.

(4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the Commerce Service Account created by Section 13-1-2.

(b) The director may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 74. Section 58-57-4 is amended to read:****58-57-4. Qualifications for a license.**

(1) The division shall issue a respiratory care practitioner license to an applicant who meets the requirements specified in this section.

(2) An applicant seeking licensure as a respiratory care practitioner shall:

(a) submit an application on a form prescribed by the division;

(b) pay a fee as determined by the department pursuant to Section 63J-1-504;

~~[(c) show evidence of good moral character;]~~

~~[(d)]~~ (c) possess a high school education or its equivalent, as determined by the division in collaboration with the board;

~~[(e)]~~ (d) have completed a respiratory care practitioner educational program that is accredited by a nationally accredited organization acceptable to the division as defined by rule; and

~~[(f)]~~ (e) pass an examination approved by the division in collaboration with the board.

**Section 75. Section 58-60-109 is amended to read:****58-60-109. Unlawful conduct.**

As used in this chapter, "unlawful conduct" includes:

(1) practice of the following unless licensed in the appropriate classification or exempted from licensure under this title:

- (a) mental health therapy;
- (b) clinical social work;
- (c) certified social work;
- (d) marriage and family therapy;
- (e) clinical mental health counselor;
- (f) practice as a social service worker; or
- (g) substance use disorder counselor;

(2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division the licensed psychologist's completion of the supervised training in mental health therapy required under Subsection 58-61-304(1)~~[(f)]~~(e); or

(3) representing oneself as, or using the title of, the following:

(a) unless currently licensed in a license classification under this title:

- (i) psychiatrist;
- (ii) psychologist;
- (iii) registered psychiatric mental health nurse specialist;
- (iv) mental health therapist;

(v) clinical social worker;

(vi) certified social worker;

(vii) marriage and family therapist;

(viii) clinical mental health counselor;

(ix) social service worker;

(x) substance use disorder counselor;

(xi) associate clinical mental health counselor; or

(xii) associate marriage and family therapist; or

(b) unless currently in possession of the credentials described in Subsection (4), social worker.

(4) An individual may represent oneself as a, or use the title of, social worker if the individual possesses certified transcripts from an accredited institution of higher education, recognized by the division in collaboration with the Social Work Licensing Board, verifying satisfactory completion of an education and an earned degree as follows:

(a) a bachelor's or master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(b) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203.

**Section 76. Section 58-60-115 is amended to read:****58-60-115. License by endorsement.**

The division shall issue a license by endorsement under this chapter to a person who:

(1) submits an application on a form provided by the division;

(2) pays a fee determined by the department under Section 63J-1-504;

(3) provides documentation of current licensure in good standing in a state, district, or territory of the United States to practice in the profession for which licensure is being sought;

(4) except as provided in Subsection (5), provides documentation that the person has engaged in the lawful practice of the profession for which licensure is sought for at least 4,000 hours, of which 1,000 hours are in mental health therapy;

(5) if applying for a license to practice as a licensed substance use disorder counselor, provides documentation that the person:

(a) has engaged in the lawful practice of the profession for at least 4,000 hours; and

(b) has passed an examination approved by the division, by rule, to establish proficiency in the profession;

(6) has passed the profession specific jurisprudence examination if required of a new applicant; and

(7) is of good ~~[moral character and]~~ professional standing, and has no disciplinary action pending or in effect against the applicant's license in any jurisdiction.

**Section 77. Section 58-60-117 is amended to read:**

**58-60-117. Externship licenses.**

(1) The division shall issue a temporary license under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act, of this chapter to a person who:

(a) submits an application for licensure under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act;

(b) pays a fee determined by the department under Section 63J-1-504;

(c) holds an earned doctoral degree or master's degree in a discipline that is a prerequisite for practice as a mental health therapist;

(d) has a deficiency, as defined by division rule, in course work;

(e) provides mental health therapy as an employee of a public or private organization, which provides mental health therapy, while under the supervision of a person licensed under this chapter; and

(f) ~~[is of good moral character and]~~ has no disciplinary action pending or in effect against the applicant in connection with the practice of mental health therapy, in any jurisdiction.

(2) A temporary license issued under this section shall expire upon the earlier of:

(a) issuance of the license applied for; or

(b) unless the deadline is extended for good cause as determined by the division, three years from the date the temporary license was issued.

(3) The temporary license issued under this section is an externship license.

**Section 78. Section 58-60-205 is amended to read:**

**58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.**

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education

recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

~~[(e)]~~ (d) have completed a minimum of 4,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a supervisor approved by the division in collaboration with the board who is a:

(A) clinical mental health counselor;

(B) psychiatrist;

(C) psychologist;

(D) registered psychiatric mental health nurse practitioner;

(E) marriage and family therapist; or

(F) clinical social worker; and

(iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection ~~[(1)(d)]~~ (1)(c), which training may be included as part of the 4,000 hours of training in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection ~~[(1)(e)(ii)]~~ (1)(d)(ii);

~~[(g)]~~ (f) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203; and

~~[(h)]~~ (g) pass the examination requirement established by rule under Section 58-1-203.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the

board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

~~[(e)]~~ (d) pass the examination requirement established by rule under Section 58-1-203.

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a), (b), ~~[(e), and (d)]~~ and (c).

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection ~~[(2)(e)]~~ (2)(d) or six months, whichever occurs first.

(c) A certified social worker intern may provide mental health therapy under the general supervision, as defined by rule, of a supervisor described in Subsection ~~[(1)(e)(ii)]~~ (1)(d)(ii).

(4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the

division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and

~~[(e)]~~ (d) pass the examination requirement established by rule under Section 58-1-203.

(5) The division shall ensure that the rules for an examination described under Subsections ~~[(1)(b), (2)(e), and (4)(e)]~~ (1)(g), (2)(d), and (4)(d) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

**Section 79. Section 58-60-207 is amended to read:**

**58-60-207. Scope of practice -- Limitations.**

(1) (a) A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) A clinical social worker may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:

(a) under supervision of an individual described in Subsection 58-60-205(1)~~[(e)]~~(d)(ii) and as an employee of another person when engaged in the practice of mental health therapy;

(b) without supervision and in private and independent practice or as an employee of another person, if not engaged in the practice of mental health therapy;

(c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other mental health therapists, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and

(d) supervising social service workers as provided by division rule.



**Section 80. Section 58-60-305 is amended to read:**

**58-60-305. Qualifications for licensure.**

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

~~[(e)]~~ (d) have completed a minimum of 4,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;

(iii) obtained after completion of the education requirement in Subsection ~~[(1)(d)]~~ (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

~~[(f)]~~ (e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection ~~[(1)(d)(i) or (1)(d)(ii)]~~ (1)(c)(i) or (1)(c)(ii), which training may be included as part of the 4,000 hours of training described in Subsection ~~[(1)(e)]~~ (1)(d), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307; and

~~[(g)]~~ (f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections ~~[(1)(a), (b), (e), and (d)]~~ (1)(a), (b), and (c).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections ~~[(1)(e) and (f)]~~ (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual

presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

**Section 81. Section 58-60-305.5 is amended to read:**

**58-60-305.5. Qualification for licensure before May 1, 2000.**

(1) A person who was licensed under this chapter as of May 1, 2000, may apply for renewal of licensure without being required to fulfill the educational requirements described in Subsection 58-60-305(1)~~[(d)]~~(c).

(2) A person who seeks licensure under this chapter before July 1, 2002, need comply only with the licensure requirements in effect before May 1, 2000.

**Section 82. Section 58-60-308 is amended to read:**

**58-60-308. Scope of practice -- Limitations.**

(1) A licensed marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(2) (a) To the extent an individual has completed the educational requirements of Subsection 58-60-305(1)~~[(d)]~~(c), a licensed associate marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy if the practice is:

(i) within the scope of employment as a licensed associate marriage and family therapist with a public agency or a private clinic as defined by division rule; and

(ii) under the supervision of a licensed mental health therapist who is qualified as a supervisor under Section 58-60-307.

(b) A licensed associate marriage and family therapist may not engage in the independent practice of marriage and family therapy.

**Section 83. Section 58-60-405 is amended to read:**

**58-60-405. Qualifications for licensure.**

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

(d) (c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of:

(i) an education and degree in an education program in counseling with a core curriculum defined by division rule under Section 58-1-203 preparing one to competently engage in mental health therapy; and

(ii) an earned doctoral or master's degree resulting from that education program;

(e) (d) have completed a minimum of 4,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;

(iii) obtained after completion of the education requirement in Subsection (1)(d)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(f) (e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(d)(c), which training may be included as part of the 4,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule; and

(g) (f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a), (b), (e), and (d) (1)(a), (b), and (c).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of two years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

**Section 84. Section 58-60-407 is amended to read:**

**58-60-407. Scope of practice -- Limitations.**

(1) (a) A licensed clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) A licensed clinical mental health counselor may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) (a) To the extent an individual has completed the educational requirements of Subsection 58-60-305(1)(c), a licensed associate clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling if the practice is:

(i) within the scope of employment as a licensed clinical mental health counselor with a public agency or private clinic as defined by division rule; and

(ii) under supervision of a qualified licensed mental health therapist as defined in Section 58-60-102.

(b) A licensed associate clinical mental health counselor may not engage in the independent practice of clinical mental health counseling.

**Section 85. Section 58-60-506 is amended to read:**

**58-60-506. Qualifications for licensure.**

(1) An applicant for licensure under this part on and after July 1, 2012, must meet the following qualifications:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~(c) be of good moral character;~~

(d) (c) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively; and

(e) (d) except for licensure as a certified substance use disorder counselor intern and a certified advanced substance use disorder counselor intern, satisfy the examination requirement established by division rule under Section 58-1-203.

(2) In accordance with division rules, an applicant for licensure as an advanced substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution of higher education that:

- (i) meet division standards;
  - (ii) verify the satisfactory completion of a baccalaureate or graduate degree; and
  - (iii) verify the completion of prerequisite courses established by division rules;
- (b) documentation of the applicant's completion of a substance use disorder education program that includes:
- (i) at least 300 hours of substance use disorder related education, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and
  - (ii) a supervised practicum of at least 350 hours, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and
  - (c) documentation of the applicant's completion of at least 4,000 hours of supervised experience in substance use disorder treatment, of which 2,000 hours may have been obtained while qualifying for a substance use disorder counselor license, that:
    - (i) meets division standards; and
    - (ii) is performed within a four-year period after the applicant's completion of the substance use disorder education program described in Subsection (2)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.
- (3) An applicant for licensure as a certified advanced substance use disorder counselor shall meet the requirements in Subsections (2)(a) and (b).
- (4) (a) An applicant for licensure as a certified advanced substance use disorder counselor intern shall meet the requirements in Subsections (2)(a) and (b).
- (b) A certified advanced substance use disorder counselor intern license expires at the earlier of:
- (i) the licensee passing the examination required for licensure as a certified advanced substance use disorder counselor; or
  - (ii) six months after the certified advanced substance use disorder counselor intern license is issued.
  - (5) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:
    - (a) certified transcripts from an accredited institution that:
      - (i) meet division standards;
      - (ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and
      - (iii) verify the completion of prerequisite courses established by division rules;

- (b) documentation of the applicant's completion of a substance use disorder education program that includes:
    - (i) completion of at least 200 hours of substance use disorder related education;
    - (ii) included in the 200 hours described in Subsection (5)(b)(i), a minimum of two hours of training in suicide prevention via a course that the division designates as approved; and
    - (iii) completion of a supervised practicum of at least 200 hours; and
  - (c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:
    - (i) meets division standards; and
    - (ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection (5)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.
- (6) An applicant for licensure as a certified substance use disorder counselor shall meet the requirements of Subsections (5)(a) and (b).
- (7) (a) An applicant for licensure as a certified substance use disorder counselor intern shall meet the requirements of Subsections (5)(a) and (b).
- (b) A certified substance use disorder counselor intern license expires at the earlier of:
- (i) the licensee passing the examination required for licensure as a certified substance use disorder counselor; or
  - (ii) six months after the certified substance use disorder counselor intern license is issued.
- Section 86. Section 58-61-304 is amended to read:**
- 58-61-304. Qualifications for licensure by examination or endorsement.**
- (1) An applicant for licensure as a psychologist based upon education, clinical training, and examination shall:
- (a) submit an application on a form provided by the division;
  - (b) pay a fee determined by the department under Section 63J-1-504;
  - ~~(c) be of good moral character;~~
  - ~~(d)~~ (c) produce certified transcripts of credit verifying satisfactory completion of a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;
  - ~~(e)~~ (d) have completed a minimum of 4,000 hours of psychology training as defined by division

rule under Section 58-1-203 in not less than two years and under the supervision of a psychologist supervisor approved by the division in collaboration with the board;

~~[(f)]~~ (e) to be qualified to engage in mental health therapy, document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of a master's level of education in psychology, which training may be included as part of the 4,000 hours of training required in Subsection (1)~~[(e)]~~(d), and for which documented evidence demonstrates not less than one hour of supervision for each 40 hours of supervised training was obtained under the direct supervision of a psychologist, as defined by rule;

~~[(g)]~~ (f) pass the examination requirement established by division rule under Section 58-1-203; ~~[and]~~

(g) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(2) An applicant for licensure as a psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~(c) [be of good moral character and professional standing, and]~~ not have any disciplinary action pending or in effect against the applicant's psychologist license in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence the applicant is currently licensed in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence the applicant has actively practiced psychology in that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

(g) provide satisfactory evidence that:

(i) the education, supervised experience, examination, and all other requirements for licensure in that jurisdiction at the time the applicant obtained licensure were substantially equivalent to the licensure requirements for a psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction; or

(ii) the applicant is:

(A) a current holder of Board Certified Specialist status in good standing from the American Board of Professional Psychology;

(B) currently credentialed as a health service provider in psychology by the National Register of Health Service Providers in Psychology; or

(C) currently holds a Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards; ~~[and]~~

(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(h)]~~ (i) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(3) (a) An applicant for certification as a psychology resident shall comply with the provisions of Subsections (1)(a), (b), (c), ~~[(d)]~~ (g), and (h).

(b) (i) An individual's certification as a psychology resident is limited to the period of time necessary to complete clinical training as described in Subsections ~~[(1)(e) and (f)]~~ (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the Psychologist Licensing Board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a psychologist.

(ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

**Section 87. Section 58-61-304.1 is enacted to read:**

**58-61-304.1. Criminal background check.**

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

**Section 88. Section 58-61-501 is amended to read:**

**58-61-501. Unlawful conduct.**

As used in this chapter, "unlawful conduct" includes:

(1) practice of psychology unless licensed as a psychologist or certified psychology resident under this chapter or exempted from licensure under this title;

(2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division his completion of the supervised training in psychotherapy required under Subsection 58-61-304(1)(~~f~~)(e); or

(3) representing oneself as or using the title of psychologist, or certified psychology resident unless currently licensed under this chapter.

**Section 89. Section 58-61-704 is amended to read:**

**58-61-704. Term of license or registration.**

(1) (a) The division shall issue each license under this part with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensed individual shall show satisfactory evidence of renewal requirements as required under this part.

(3) Each license or registration expires on the expiration date shown on the license unless

renewed by the licensed individual in accordance with Section 58-1-308.

(4) (a) A registration as a registered behavior specialist or a registered assistant behavior specialist:

(i) expires on the day the individual is no longer employed in accordance with Subsection ~~58-61-705(5)(e) or (6)(e)~~ 58-61-705(5)(d) or (6)(d); and

(ii) may not be renewed.

(b) The Department of Human Services, or an organization contracted with a division of the Department of Human Services, shall notify the Division of Occupational and Professional Licensing when a person registered under this part is no longer employed as a registered behavior specialist or a registered assistant behavior specialist.

**Section 90. Section 58-61-705 is amended to read:**

**58-61-705. Qualifications for licensure -- By examination -- By certification.**

(1) An applicant for licensure as a behavior analyst based upon education, supervised experience, and national examination shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~(c) be of good moral character;~~

~~(d)~~ (c) produce certified transcripts of credit verifying satisfactory completion of a master's or doctoral degree in applied behavior analysis from an accredited institution of higher education or an equivalent master or doctorate degree as determined by the division by administrative rule;

~~(e)~~ (d) as defined by the division by administrative rule, have completed at least 1,500 hours of experiential behavior analysis training within a five year period of time with a qualified supervisor; and

~~(f)~~ (e) pass the examination requirement established by division rule under Section 58-1-203.

(2) An applicant for licensure as a behavior analyst based upon certification shall:

(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~(c) be of good moral character; and~~

~~(d)~~ (c) provide official verification of current certification as a board certified behavior analyst from the Behavior Analyst Certification Board.

(3) An applicant for licensure as an assistant behavior analyst based upon education, supervised experience, and national examination shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) produce certified transcripts of credit verifying satisfactory completion of a bachelor's degree from an accredited institution of higher education and satisfactory completion of specific core course work in behavior analysis established under Section 58-1-203 from an accredited institution of higher education;

~~[(e)]~~ (d) as defined by the division by administrative rule, have completed at least 1,000 hours of experiential behavior analysis training within a five-year period of time with a qualified supervisor; and

~~[(f)]~~ (e) pass the examination requirement established by division rule under Section 58-1-203.

(4) An applicant for licensure as an assistant behavior analyst based upon certification shall:

(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(e) be of good moral character; and]~~

~~[(d)]~~ (c) provide official verification of current certification as a board certified assistant behavior analyst from the Behavior Analyst Certification Board.

(5) An applicant for registration as a behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) have at least five years of experience as a professional engaged in the practice of behavior analysis on or before May 15, 2015; and

~~[(e)]~~ (d) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

(6) An applicant for registration as an assistant behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) have at least one year of experience as a professional engaging in the practice of behavior analysis prior to July 1, 2015; and

~~[(e)]~~ (d) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

**Section 91. Section 58-63-302 is amended to read:**

**58-63-302. Qualifications for licensure.**

(1) Each applicant for licensure as an armored car company or a contract security company shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have a qualifying agent who:

(i) shall meet with the division and the board and demonstrate that the applicant and the qualifying agent meet the requirements of this section;

(ii) is a resident of the state and is a corporate officer or owner of the applicant;

(iii) exercises material day-to-day authority in the conduct of the applicant's business by making substantive technical and administrative decisions and whose primary employment is with the applicant;

(iv) is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;

(v) is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's performance under this chapter does not jeopardize the health or safety of the general public;

(vi) is not an employee of a government agency;

(vii) passes an examination component established by rule by the division in collaboration with the board; and

(viii) (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or

(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;

(d) if a corporation, provide:

(i) the names, addresses, dates of birth, and social security numbers of all corporate officers, directors,

and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and social security numbers, of all shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by the division if the stock is publicly listed and traded;

(e) if a limited liability company, provide:

(i) the names, addresses, dates of birth, and social security numbers of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and social security numbers of all individuals owning 5% or more of the equity of the company;

(f) if a partnership, provide the names, addresses, dates of birth, and social security numbers of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(g) if a proprietorship, provide the names, addresses, dates of birth, and social security numbers of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(h) have good moral character in that officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(i) document that none of the applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

(i) have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; and

(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

(j) file and maintain with the division evidence of:

(i) comprehensive general liability insurance in a form and in amounts established by rule by the division in collaboration with the board;

(ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;

(iii) registration with the Division of Corporations and Commercial Code; and

(iv) registration as required by applicable law with the:

(A) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(B) State Tax Commission; and

(C) Internal Revenue Service; and

(k) meet with the division and board if requested by the division or board.

(2) Each applicant for licensure as an armed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board, which shall include a minimum of eight hours of classroom or online curriculum;

(h) successfully complete firearms training requirements established by rule by the division in collaboration with the board, which shall include a minimum of 12 hours of training;

(i) pass the examination requirement established by rule by the division in collaboration with the board; and

(j) meet with the division and board if requested by the division or the board.

(3) Each applicant for licensure as an unarmed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

- (i) a felony;
  - (ii) a misdemeanor involving moral turpitude; or
  - (iii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;
  - (d) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;
  - (e) not be currently suffering from habitual drunkenness or from drug addiction or dependence;
  - (f) successfully complete basic education and training requirements established by rule by the division in collaboration with the board, which shall include a minimum of eight hours of classroom or online curriculum;
  - (g) pass the examination requirement established by rule by the division in collaboration with the board; and
  - (h) meet with the division and board if requested by the division or board.
- (4) Each applicant for licensure as an armored car security officer shall:
- (a) submit an application in a form prescribed by the division;
  - (b) pay a fee determined by the department under Section 63J-1-504;
  - (c) have good moral character in that the applicant has not been convicted of:
    - (i) a felony;
    - (ii) a misdemeanor involving moral turpitude; or
    - (iii) a crime that when considered with the duties and responsibilities of an armored car security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;
  - (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);
  - (e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;
  - (f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;
  - (g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;
  - (h) successfully complete firearms training requirements established by rule by the division in collaboration with the board;
  - (i) pass the examination requirements established by rule by the division in collaboration with the board; and

(j) meet with the division and board if requested by the division or the board.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant who is applying for licensure or licensure renewal under this chapter.

(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the FBI for criminal history information under this section.

(7) The Department of Public Safety shall send the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.

(8) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews under this chapter.

(9) The division shall use or disseminate the information it obtains from the reviews of criminal history records of the Department of Public Safety and the FBI only to determine if an applicant for licensure or licensure renewal under this chapter is qualified for licensure.

**Section 92. Section 58-63-306 is amended to read:**

**58-63-306. Replacement of qualifying agent.**

If the qualifying agent of an armored car company or a contract security company ceases to perform the agent's duties on a regular basis, the licensee shall:

(1) notify the division in writing within 15 days [~~by registered or certified mail~~]; and



(2) replace the qualifying agent within 60 days after the time required for notification to the division.

**Section 93. Section 58-63-503 is amended to read:**

**58-63-503. Penalties.**

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-63-501 or who fails to comply with a citation issued under this section after it becomes final is guilty of a class A misdemeanor.

(2) The division may immediately suspend a license issued under this chapter of a person who is given a citation for violating Subsection 58-63-501(1), (2), (4), or (5).

(3) (a) If upon inspection or investigation, the division determines that a person has violated Subsection 58-63-501(1), (2), (4), or (5) or any rule made or order issued under those subsections, and that disciplinary action is warranted, the director or the director's designee within the division shall promptly issue a citation to the person and:

(i) attempt to negotiate a stipulated settlement; or

(ii) notify the person to appear for an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) (i) The division may fine a person who violates Subsection 58-63-501(1), (2), (4), or (5), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to cease and desist from the violation, or do both.

(ii) Except for a cease and desist order, the division may not impose the licensure sanctions listed in Section 58-63-401 through the issuance of a citation under this section.

(c) The written citation shall:

(i) describe the nature of the violation, including a reference to the allegedly violated statute, rule, or order;

(ii) state the recipient must notify the division in writing within 20 calendar days of issuance of the citation if the recipient wants to contest the citation at the adjudicative proceeding referred to in Subsection (3)(a)(ii); and

(iii) explain the consequences of failure to timely contest the citation or to make payment of a fine assessed under the citation with the time specified in the citation.

(d) (i) The division may serve a citation issued under this section, or a copy of the citation, upon an individual who is subject to service of a summons under the Utah Rules of Civil Procedure.

(ii) (A) The division may serve the individual personally or serve the individual's agent.

(B) The division may serve the summons by a division investigator, by a person designated by the director, or by mail.

(e) (i) If within 20 days from the service of a citation the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The division may grant an extension of the 20-day period for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The division may not issue a citation for an alleged violation under this section after the expiration of ~~[six months following the occurrence of the alleged violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(h) The director or the director's designee may assess fines under this section as follows:

(i) for a first offense under Subsection (3)(a), a fine of up to \$1,000;

(ii) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and

(iii) for a subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each day of continued violation.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (3)(h), an offense is a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-63-501(1) or (4); or

(B) (I) the division initiated an action for a first or second offense;

(II) no final order has been issued by the division in an action initiated under Subsection (3)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-63-501(1) or (4); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (3)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (3)(i)(i), the division shall comply with the requirements of this section.

(4) (a) The division shall deposit a fine imposed by the director under Subsection (3)(h) in the General Fund as a dedicated credit for use by the division for the purposes listed in Section 58-63-103.

(b) The director may collect a fine that is not paid by:

- (i) referring the matter to a collection agency; or
- (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 94. Section 58-64-302 is amended to read:**

**58-64-302. Qualifications for licensure.**

(1) Each applicant for licensure as a deception detection examiner:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) ~~[shall be of good moral character in that the applicant has not]~~ may not have been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime ~~[which]~~ that when considered with the duties and responsibilities of a deception detection examiner is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule by the division in collaboration with the board; and

(h) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection

examinations under the supervision of a licensed deception detection examiner.

(2) Each applicant for licensure as a deception detection intern:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) ~~[shall be of good moral character in that the applicant has not]~~ may not have been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime ~~[which]~~ that when considered with the duties and responsibilities of a deception detection intern is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule by the division in collaboration with the board; and

(h) shall provide the division with an intern supervision agreement in a form prescribed by the division under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) Each applicant for licensure as a deception detection examination administrator:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) ~~[shall be of good moral character in that the applicant has not]~~ may not have been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of a deception detection

examination administrator is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience; and

(g) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.

(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.

(5) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.

(6) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.

(7) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.

**Section 95. Section 58-67-302 is amended to read:**

**58-67-302. Qualifications for licensure.**

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-67-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of medicine from an LCME accredited medical school or college; or

(ii) if the applicant graduated from a medical school or college located outside the United States or its territories, submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

~~[(f)]~~ (e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1)~~[(e)]~~(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the

applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as a physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;

~~[(g)]~~ (f) pass the licensing examination sequence required by division rule made in collaboration with the board;

~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

~~[(i)]~~ (h) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure;

~~[(j)]~~ (i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

~~[(k)]~~ (j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as a physician and surgeon by endorsement who is currently licensed to practice medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of medicine in any state, district, or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through ~~[(e)]~~ (d), ~~[(f)]~~(e)(i), and ~~[(h)]~~(g) through ~~[(k)]~~ (j);

(d) have passed the licensing examination sequence required in Subsection ~~[(1)(f)]~~ (1)(e) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice history review, and comprehensive assessments, if requested by the division in collaboration with the board; and

(g) produce satisfactory evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require the following requirements for licensure:

- (a) a post-residency board certification; or
- (b) a cognitive test when the physician reaches a specified age, unless:
  - (i) the screening is based on evidence of cognitive changes associated with aging that are relevant to physician performance;
  - (ii) the screening is based on principles of medical ethics;
  - (iii) physicians are involved in the development of standards for assessing competency;
  - (iv) guidelines, procedures, and methods of assessment, which may include cognitive screening, are relevant to physician practice and to the physician's ability to perform the tasks specifically required in the physician's practice environment;
  - (v) the primary driver for establishing assessment results is the ethical obligation of the profession to the health of the public and patient safety;
  - (vi) the goal of the assessment is to optimize physician competency and performance through education, remediation, and modifications to a physician's practice environment or scope;
  - (vii) a credentialing committee determines that public health or patient safety is directly threatened, the screening permits a physician to retain the right to modify the physician's practice environment to allow the physician to continue to provide safe and effective care;
  - (viii) guidelines, procedures, and methods of assessment are transparent to physicians and physicians' representatives, if requested by a physician or a physician's representative, and physicians are made aware of the specific methods used, performance expectations and standards against which performance will be judged, and the possible outcomes of the screening or assessment;
  - (ix) education or remediation practices that result from screening or assessment procedures are:
    - (A) supportive of physician wellness;
    - (B) ongoing; and
    - (C) proactive; and

(x) procedures and screening mechanisms that are distinctly different from for cause assessments do not result in undue cost or burden to senior physicians providing patient care.

**Section 96. Section 58-67-302.5 is amended to read:**

**58-67-302.5. Licensing of graduates of foreign medical schools.**

(1) Notwithstanding any other provision of law to the contrary, an individual enrolled in a medical school outside the United States, its territories, the District of Columbia, or Canada is eligible for licensure as a physician and surgeon in this state if the individual has satisfied the following requirements:

- (a) meets all the requirements of Subsection 58-67-302(1), except for Subsection 58-67-302(1)(~~e~~)(d);
  - (b) has studied medicine in a medical school located outside the United States which is recognized by an organization approved by the division;
  - (c) has completed all of the formal requirements of the foreign medical school except internship or social service;
  - (d) has attained a passing score on the educational commission for foreign medical graduates examination or other qualifying examinations such as the United States Medical Licensing Exam parts I and II, which are approved by the division or a medical school approved by the division;
  - (e) has satisfactorily completed one calendar year of supervised clinical training under the direction of a United States medical education setting accredited by the liaison committee for graduate medical education and approved by the division;
  - (f) has completed the postgraduate hospital training required by Subsection 58-67-302(1)(~~f~~)(~~i~~)(e)(i); and
  - (g) has passed the examination required by the division of all applicants for licensure.
- (2) Satisfaction of the requirements of Subsection (1) is in lieu of:
- (a) the completion of any foreign internship or social service requirements; and
  - (b) the certification required by Subsection 58-67-302(1)(~~e~~)(d).
- (3) Individuals who satisfy the requirements of Subsections (1)(a) through (g) shall be eligible for admission to graduate medical education programs within the state, including internships and residencies, which are accredited by the liaison committee for graduate medical education.
- (4) A document issued by a medical school located outside the United States shall be considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a physician and surgeon in this state if:

(a) the foreign medical school is recognized by an organization approved by the division;

(b) the document granted by the foreign medical school is issued after the completion of all formal requirements of the medical school except internship or social service; and

(c) the foreign medical school certifies that the person to whom the document was issued has satisfactorily completed the requirements of Subsection (1)(c).

(5) The division may not require as a requirement for licensure a cognitive test when the physician reaches a specified age, unless the test reflects the standards described in Subsections 58-67-302(5)(b)(i) through (x).

(6) The provisions for licensure under this section shall be known as the "fifth pathway program."

**Section 97. Section 58-67-302.7 is amended to read:**

**58-67-302.7. Licensing of physician-educators.**

(1) As used in this section:

(a) "Foreign country" means a country other than the United States, its territories, or Canada.

(b) "Foreign medical school" means a medical school that is outside the United States, its territories, and Canada.

(2) Notwithstanding any provision of law to the contrary, an individual may receive a type I foreign teaching license if the individual:

(a) submits an application in a form prescribed by the division, which may include:

(i) submission by the applicant of information maintained in a practitioner data bank, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) the applicant's curriculum vitae;

(b) is a graduate of a foreign medical school that is accepted for certification by the Educational Commission for Foreign Medical Graduates;

(c) is licensed in good standing in a foreign country, the United States, its territories, or Canada;

(d) does not have an investigation or action pending against the physician's healthcare license, does not have a healthcare license that was suspended or revoked, and has not surrendered a healthcare license in lieu of disciplinary action, unless:

(i) the license was subsequently reinstated in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure

by the applicant and full consideration by the division in collaboration with the board, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents resolution, and the division in collaboration with the board is satisfied that but for the mitigating circumstance, the license would be reinstated;

(e) submits documentation of legal status to work in the United States;

(f) meets at least three of the following qualifications:

(i) (A) published original results of clinical research, within 10 years before the day on which the application is submitted, in a medical journal listed in the Index Medicus or an equivalent scholarly publication; and

(B) submits the publication to the Board in English or in a foreign language with a verifiable, certified English translation;

(ii) held an appointment at a medical school approved by the LCME or at any medical school listed in the World Health Organization directory at the level of associate or full professor, or its equivalent, for at least five years;

(iii) (A) developed a treatment modality, surgical technique, or other verified original contribution to the field of medicine within 10 years before the day on which the application is submitted; and

(B) has the treatment modality, surgical technique, or other verified original contribution attested to by the dean of an LCME accredited school of medicine in Utah;

(iv) actively practiced medicine cumulatively for 10 years; or

(v) is board certified in good standing of a board of the American Board of Medical Specialities or equivalent specialty board;

~~[(g) is of good moral character;]~~

~~[(h)]~~ (g) is able to read, write, speak, understand, and be understood in the English language and demonstrates proficiency to the satisfaction of the division in collaboration with the board, if requested;

~~[(4)]~~ (h) is invited by an LCME accredited medical school in Utah to serve as a full-time member of the medical school's academic faculty, as evidenced by written certification from:

(i) the dean of the medical school, stating that the applicant has been appointed to a full-time faculty position, that because the applicant has unique expertise in a specific field of medicine the medical school considers the applicant to be a valuable member of the faculty, and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the state; and

(ii) the head of the department to which the applicant is to be appointed, stating that the

applicant will be under the direction of the head of the department and will be permitted to practice medicine only as a necessary part of the applicant's duties, providing detailed evidence of the applicant's qualifications and competence, including the nature and location of the applicant's proposed responsibilities, reasons for any limitations of the applicant's practice responsibilities, and the degree of supervision, if any, under which the applicant will function;

~~(f)~~ (i) pays a licensing fee set by the division under Section 63J-1-504; and

~~(k)~~ (j) has practiced medicine for at least 10 years as an attending physician.

(3) Notwithstanding any provision of law to the contrary, an individual may receive a type II foreign teaching license if the individual:

(a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through ~~(f)~~ (i);

(b) has delivered clinical care to patients cumulatively for five years after graduation from medical school; and

(c) (i) will be completing a clinical fellowship while employed at the medical school described in Subsection (2)~~(f)~~(h); or

(ii) has already completed a medical residency accredited by the Royal College of Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a comparable accreditation organization as determined by the division in collaboration with the board.

(4) After an initial term of one year, a type I license may be renewed for periods of two years if the licensee continues to satisfy the requirements described in Subsection (2) and completes the division's continuing education renewal requirements established under Section 58-67-303.

(5) A type II license may be renewed on an annual basis, up to four times, if the licensee continues to satisfy the requirements described in Subsection (3) and completes the division's continuing education renewal requirements established under Section 58-67-303.

(6) A license issued under this section:

(a) authorizes the licensee to practice medicine:

(i) within the scope of the licensee's employment at the medical school described in Subsection (2)~~(f)~~(h) and the licensee's academic position; and

(ii) at a hospital or clinic affiliated with the medical school described in Subsection (2)~~(f)~~(h) for the purpose of teaching, clinical care, or pursuing research;

(b) shall list the limitations described in Subsection (6)(a); and

(c) shall expire on the earlier of:

(i) one year after the day on which the type I or type II license is initially issued, unless the license is renewed;

(ii) for a type I license, two years after the day on which the license is renewed;

(iii) for a type II license, one year after the day on which the license is renewed; or

(iv) the day on which employment at the medical school described in Subsection (2)~~(f)~~(h) ends.

(7) A person who holds a type I license for five consecutive years may apply for licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies the requirements described in Subsection (8). If the person fails to obtain licensure as a physician and surgeon in this state, the person may apply for a renewal of the type I license under Subsection (2).

(8) An individual who holds a type I or type II license for five consecutive years is eligible for licensure as a physician and surgeon in this state if the individual:

(a) worked an average of at least 40 hours per month at the level of an attending physician during the time the individual held the type I or type II license;

(b) holds the rank of associate professor or higher at the medical school described in Subsection (2)~~(f)~~(h);

(c) obtains certification from the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(d) spent a cumulative 20 hours per year while holding a type I or type II license:

(i) teaching or lecturing to medical students or house staff;

(ii) participating in educational department meetings or conferences that are not certified to meet the continuing medical education license renewal requirement; or

(iii) attending continuing medical education classes in addition to the requirements for continuing education described in Subsections (4) and (5);

(e) obtains a passing score on the final step of the licensing examination sequence required by division rule made in collaboration with the board; and

(f) satisfies the requirements described in Subsections 58-67-302(1)(a) through ~~(d), (i), and (j)~~ (c), (h), and (i).

(9) If a person who holds a type II license fails to obtain licensure as a physician and surgeon in this state after applying under the procedures described in Subsection (8), the person may not:

(a) reapply for or renew a type II license; or

(b) apply for a type I license.

(10) The division or the board may require an applicant for licensure under this section to meet

with the board and representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(11) The division in collaboration with the board may withdraw a license under this section at any time for material misrepresentation or unlawful or unprofessional conduct.

**Section 98. Section 58-67-302.8 is amended to read:**

**58-67-302.8. Restricted licensing of an associate physician.**

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-67-302(1)(a) through [(d), (1)(e)(i), and (1)(h) through (k)] (c), (1)(d)(i), and (1)(g) through (j);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-67-302[(1)(e)(i)] (1)(d)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine as described in Subsection (3), the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-67-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

(3) An associate physician's scope of practice is limited to primary care services to medically underserved populations or in medically underserved areas within the state.

**Section 99. Section 58-67-304 is amended to read:**

**58-67-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j)(i);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-602.

**Section 100. Section 58-67-403 is amended to read:**

**58-67-403. Revocation of license -- Nondisciplinary.**

Revocation by the division of a license under Subsection 58-67-302(1)[(f)](e) for failure to continue on a resident training program for reasons other than unprofessional or unlawful conduct is a nondisciplinary action and may not be reported by the division as a disciplinary action against the licensee.



**Section 101. Section 58-67-503 is amended to read:**

**58-67-503. Penalties and administrative actions for unlawful and unprofessional conduct.**

(1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

- (i) assessing administrative penalties; or
- (ii) taking other appropriate administrative action.

(b) A monetary administrative penalty imposed under this section shall be deposited in the Physician Education Fund created in Section 58-67a-1.

(3) If a licensee has been convicted of unlawful conduct, described in Section 58-67-501, before an administrative proceeding regarding the same conduct, the division may not assess an additional administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated provisions of Section 58-67-501, Section 58-67-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

- (i) issue a citation to the individual;
- (ii) attempt to negotiate a stipulated settlement; or
- (iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

- (i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or
- (ii) order to cease and desist from the behavior that constitutes a violation of the provisions described in Subsection (4)(a).

(c) An individual's license may not be suspended or revoked through a citation.

(d) Each citation issued under this section shall:

- (i) be in writing;
- (ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

(iii) be served in accordance with the Utah Rules of Civil Procedure.

(e) If the individual to whom the citation is issued fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after ~~[six months from the day on which the violation last occurred]~~ the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

- (i) referring the matter to a collection agency; or
- (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 102. Section 58-68-302 is amended to read:**

**58-68-302. Qualifications for licensure.**

(1) An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

- (i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)] (c)~~ if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-68-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(e)] (d)~~ provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as an osteopathic physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of osteopathic medicine from an AOA approved medical school or college; or

(ii) submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board, if the applicant is graduated from an osteopathic medical school or college located outside of the United States or its territories which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

~~[(f)] (e)~~ satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine required under Subsection (1)~~[(e)](d)~~; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine as required under Subsection (1)~~[(e)](d)~~;

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME or AOA approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as an osteopathic physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME or AOA

approved progressive resident training program within the state;

~~[(g)] (f)~~ pass the licensing examination sequence required by division rule, as made in collaboration with the board;

~~[(h)] (g)~~ be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

~~[(i)] (h)~~ meet with the board and representatives of the ~~division~~, if requested for the purpose of evaluating the applicant's qualifications for licensure;

~~[(j)] (i)~~ designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

~~[(k)] (j)~~ establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as an osteopathic physician and surgeon by endorsement who is currently licensed to practice osteopathic medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of osteopathic medicine in any state, district or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the day on which the applicant applied for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through ~~[(e), (1)(f)(i), and (1)(h) through (k)]~~ (d), (1)(e)(i), and (1)(g) through (j);

(d) have passed the licensing examination sequence required in Subsection (1)~~[(g)](f)~~ or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice review history, and physical and psychological assessments, if requested by the division in collaboration with the board; and

(g) produce evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the health care facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require a:

(a) post-residency board certification[-]; or

(b) a cognitive test when the physician reaches a specified age, unless the test reflects the standards described in Subsections 58-67-302(5)(b)(i) through (x).

**Section 103. Section 58-68-302.5 is amended to read:**

**58-68-302.5. Restricted licensing of an associate physician.**

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-68-302(1)(a) through ~~[(d), (1)(e)(i), and (1)(h) through (k)]~~ (c), (1)(d)(i), and (1)(g) through (j);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-68-302(1)(~~e~~)(i)(d)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine as described in Subsection (3), the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-68-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

(3) An associate physician's scope of practice is limited to primary care services to medically underserved populations or in medically underserved areas within the state.

**Section 104. Section 58-68-304 is amended to read:**

**58-68-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access

to medical records in accordance with Subsection 58-68-302(1)(~~j~~)(i);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(~~k~~)(j); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-602.

**Section 105. Section 58-68-403 is amended to read:**

**58-68-403. Revocation of license -- Nondisciplinary.**

Revocation by the division of a license under Subsection 58-68-302(1)(~~f~~)(e) for failure to

continue on a resident training program for reasons other than unprofessional or unlawful conduct is a nondisciplinary action and may not be reported by the division as a disciplinary action against the licensee.

**Section 106. Section 58-68-503 is amended to read:**

**58-68-503. Penalties and administrative actions for unlawful and unprofessional conduct.**

(1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

- (i) assessing administrative penalties; or
- (ii) taking any other appropriate administrative action.

(b) A monetary administrative penalty imposed under this section shall be deposited in the Physician Education Fund described in Section 58-67a-1.

(3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501, before an administrative proceeding regarding the same conduct, the licensee may not be assessed an administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated the provisions of Section 58-68-501, Section 58-68-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

- (i) issue a citation to the individual;
- (ii) attempt to negotiate a stipulated settlement; or

(iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

(i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

(ii) order to cease and desist from the behavior that constitutes a violation of provisions described in Subsection (4)(a).

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in

Section 58-1-401 may not be assessed through a citation.

(d) Each citation issued under this section shall:

(i) be in writing;

(ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

(iii) be served in accordance with the requirements of the Utah Rules of Civil Procedure.

(e) If the individual to whom the citation is issued fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.

(h) No citation may be issued under this section after ~~[six months from the day on which the last violation occurred]~~ the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 107. Section 58-69-302 is amended to read:**

**58-69-302. Qualifications -- Licensure as a dentist -- Licensure as a dental hygienist.**

(1) An applicant for licensure as a dentist, except as provided in Subsection (2), shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a dentist as evidenced by having received an earned doctor's degree in dentistry from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;

~~[(e)]~~ (d) pass the National Board Dental Examinations as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

~~[(f)]~~ (e) pass any regional dental clinical licensure examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(g)]~~ (f) pass any other examinations regarding applicable law, rules, or ethics as established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

~~[(i)]~~ (h) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.

(2) An applicant for licensure as a dentist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in good standing with an unrestricted license in another jurisdiction described in Section 58-1-302;

(b) document having met all requirements for licensure under Subsection (1) except Subsection ~~[(1)(d)]~~ (1)(c); and

(c) document having been successfully engaged in clinical practice as a dentist for not less than 6,000 hours in the five years immediately preceding the date of application for licensure.

(3) An applicant for licensure as a dental hygienist, except as set forth in Subsection (4), shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department pursuant to Section 63J-1-504;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) be a graduate holding a certificate or degree in dental hygiene from a school accredited by

the Commission on Dental Accreditation of the American Dental Association;

~~[(e)]~~ (d) pass the National Board Dental Hygiene Examination as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

~~[(f)]~~ (e) pass an examination consisting of practical demonstrations in the practice of dental hygiene and written or oral examination in the theory and practice of dental hygiene as established by division rule made in collaboration with the board;

~~[(g)]~~ (f) pass any other examinations regarding applicable law, rules, and ethics as established by rule by division rule made in collaboration with the board;

~~[(h)]~~ (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

~~[(i)]~~ (h) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.

(4) An applicant for licensure as a dental hygienist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in another jurisdiction set forth in Section 58-1-302;

(b) (i) document having met all requirements for licensure under Subsection (3) except, an applicant having received licensure in another state or jurisdiction prior to 1962, the year when the National Board Dental Hygiene Examinations were first administered, shall document having passed a state administered examination acceptable to the division in collaboration with the board; or

(ii) document having obtained licensure in another state or jurisdiction upon which licensure by endorsement is based by meeting requirements which were equal to licensure requirements in Utah at the time the applicant obtained licensure in the other state or jurisdiction; and

(c) document having been successfully engaged in practice as a dental hygienist for not less than 2,000 hours in the two years immediately preceding the date of application for licensure.

**Section 108. Section 58-70a-302 is amended to read:**

**58-70a-302. Qualifications for licensure.**

Each applicant for licensure as a physician assistant shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504;

~~[(3) be of good moral character;]~~

~~[(4)]~~ (3) have successfully completed a physician assistant program accredited by the:

(a) Accreditation Review Commission on Education for the Physician Assistant; or

(b) if prior to January 1, 2001, either the:

(i) Committee on Accreditation of Allied Health Education Programs; or

(ii) Committee on Allied Health Education and Accreditation;

~~[(5)]~~ (4) have passed the licensing examinations required by division rule made in collaboration with the board;

~~[(6)]~~ (5) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure; and

~~[(7)]~~ (6) (a) if the applicant desires to practice in Utah, complete a form provided by the division indicating:

(i) the applicant has completed a delegation of services agreement signed by the physician assistant and the supervising physician; and

(ii) the agreement is on file at the Utah practice sites; or

(b) complete a form provided by the division indicating the applicant is not practicing in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection ~~[(7)]~~ (6)(a).

**Section 109. Section 58-70a-306 is amended to read:**

**58-70a-306. Temporary license.**

(1) An applicant for licensure as a physician assistant who has met all qualifications for licensure except passing an examination component as required in Section 58-70a-302, may apply for and be granted a temporary license to practice under Subsection (2).

(2) (a) The applicant shall submit to the division evidence of completion of a physician assistant program as defined in Subsection 58-70a-302~~[(4)]~~(3).

(b) (i) The temporary license shall be issued for a period not to exceed 120 days to allow the applicant to pass the Physician Assistant National Certifying Examination.

(ii) The temporary license may not be renewed or extended.

(c) A physician assistant holding a temporary license may work only under the direct supervision of an approved supervising or substitute supervising physician in accordance with a delegation of services agreement, and all patient charts shall be reviewed and countersigned by the supervising or substitute supervising physician.

**Section 110. Section 58-71-302 is amended to read:**

**58-71-302. Qualifications for licensure.**

(1) An applicant for licensure as a naturopathic physician, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and

(ii) a record of professional liability claims made against the applicant and settlements paid by or in behalf of the applicant;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a naturopathic physician, as evidenced by having received an earned degree of doctor of naturopathic medicine from:

(i) a naturopathic medical school or college accredited by the Council of Naturopathic Medical Education or its successor organization approved by the division;

(ii) a naturopathic medical school or college that is a candidate for accreditation by the Council of Naturopathic Medical Education or its successor organization, and is approved by the division in collaboration with the board, upon a finding there is reasonable expectation the school or college will be accredited; or

(iii) a naturopathic medical school or college which, at the time of the applicant's graduation, met current criteria for accreditation by the Council of Naturopathic Medical Education or its successor organization approved by the division;

~~[(e)]~~ (d) provide satisfactory documentation of having successfully completed, after successful completion of the education requirements set forth in Subsection ~~[(1)(d)]~~ (1)(c), 12 months of clinical experience in naturopathic medicine in a residency program recognized by the division and associated with an accredited school or college of naturopathic medicine, and under the preceptorship of a licensed naturopathic physician, physician and surgeon, or osteopathic physician;

~~[(f)]~~ (e) pass the licensing examination sequence required by division rule established in collaboration with the board;

~~[(g)]~~ (f) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

~~[(h)]~~ (g) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

(2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a naturopathic physician under the endorsement provision of Section 58-1-302 shall:

(i) meet the requirements of Section 58-1-302;

(ii) document having met all requirements for licensure under Subsection (1) except the clinical experience requirement of Subsection ~~[(1)(e)]~~ (1)(d);

(iii) have passed the examination requirements established under Subsection ~~[(1)(f) which]~~ (1)(e) that:

(A) the applicant has not passed in connection with licensure in another state or jurisdiction; and

(B) are available to the applicant to take without requiring additional professional education;

(iv) have been actively engaged in the practice of a naturopathic physician for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah; and

(v) meet with the board and representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(b) The division may rely, either wholly or in part, on one or more credentialing associations designated by division rule, made in collaboration with the board, to document and certify in writing to the satisfaction of the division that an applicant has met each of the requirements of this Subsection (2), including the requirements of Section 58-1-302, and that:

(i) the applicant holds a current license;

(ii) the education, experience, and examination requirements of the foreign country or the state, district, or territory of the United States that issued the applicant's license are, or were at the time the license was issued, equal to those of this state for licensure as a naturopathic physician; and

(iii) the applicant has produced evidence satisfactory to the division of the applicant's qualifications, identity, and good standing as a naturopathic physician.

**Section 111. Section 58-72-302 is amended to read:**

**58-72-302. Qualifications for licensure.**

An applicant for licensure as a licensed acupuncturist shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504;

~~[(3) be of good moral character;]~~

~~[(4)]~~ (3) meet the requirements for current active certification in acupuncture under guidelines established by the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other appropriate documentation;

[45] (4) pass the examination required by the division by rule;

[46] (5) establish procedures, as defined by rule, which shall enable patients to give informed consent to treatment; and

[47] (6) meet with the board, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

**Section 112. Section 58-73-302 is amended to read:**

**58-73-302. Qualifications for licensure.**

(1) Each applicant for licensure as a chiropractic physician, other than those applying for a license based on licensure as a chiropractor or chiropractic physician in another jurisdiction, shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

[4d] (c) demonstrate satisfactory completion of at least two years of general study in a college or university;

[4e] (d) demonstrate having earned a degree of doctor of chiropractic from a chiropractic college or university that at the time the degree was conferred was accredited by the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the United States Department of Education and by the division rule made in collaboration with the board;

[4f] (e) demonstrate successful completion of:

(i) the National Chiropractic Boards:

(A) Parts I and II;

(B) Written Clinical Competency Examination; and

(C) Physical Therapy;

(ii) the Utah Chiropractic Law and Rules Examination; and

(iii) a practical examination approved by the division in collaboration with the board; and

[4g] (f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure.

(2) Each applicant for licensure as a chiropractic physician based on licensure as a chiropractor or chiropractic physician in another jurisdiction shall:

(a) submit an application in the form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(e) be of good moral character;]~~

[4d] (c) demonstrate having obtained licensure as a chiropractor or chiropractic physician in another state under education requirements which were equivalent to the education requirements in this state to obtain a chiropractor or chiropractic physician license at the time the applicant obtained the license in the other state;

[4e] (d) demonstrate successful completion of:

(i) the Utah Chiropractic Law and Rules Examination; and

(ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board of Chiropractic Examiners;

[4f] (e) have been actively engaged in the practice of chiropractic for not less than two years immediately preceding application for licensure in this state; and

[4g] (f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure.

**Section 113. Section 58-74-102 is amended to read:**

**58-74-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Practice of court reporting" means the making of a verbatim record, by stenography or voice writing, of any trial, legislative public hearing, state agency public hearing, deposition, examination before trial, hearing or proceeding before any grand jury, referee, board, commission, master or arbitrator, or other sworn testimony given under oath.

(2) "State certified court reporter" means a person who engages in the practice of court reporting and has met the requirements for state certification as a state certified court reporter.

(3) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-74-501.

(4) "Unprofessional conduct" means the same as that term is defined in [Section] Sections 58-1-501 and 58-74-502 and as may be further defined by rule.

**Section 114. Section 58-74-302 is amended to read:**

**58-74-302. Qualifications for state certification.**

(1) Each applicant for state certification as a state certified court reporter under this chapter shall:

(a) be at least 18 years of age;

(b) be a citizen of the United States and a resident of the state;

(c) submit an application in a form prescribed by the division;

(d) pay a fee determined by the department under Section 63J-1-504;



(e) possess a high degree of skill and ability in the art of court reporting; and

~~[(f) produce satisfactory evidence of good moral character; and]~~

~~[(g)]~~ (f) submit evidence that the applicant has completed and passed the Registered Professional Reporter Examination of the National Court Reporters Association or the Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

(2) ~~[Any]~~ A person granted a certificate to practice as a state certified court reporter may use the abbreviation "C.C.R." or "C.V.R." as long as the person's certificate is current and valid.

**Section 115. Section 58-75-302 is amended to read:**

**58-75-302. Qualifications for licensure -- Temporary license.**

(1) Except as provided in Subsection (2), each applicant for licensure as a genetic counselor under this chapter shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory documentation of having earned:

(i) a master's degree from a genetic counseling training program that is accredited by the American Board of Genetic Counseling or an equivalent as determined by the division; or

(ii) a doctoral degree from a medical genetics training program that is accredited by the American Board of Medical Genetics or an equivalent as determined by the division; and

~~[(e)]~~ (d) meet the examination requirement for certification as:

(i) a genetic counselor by the American Board of Genetic Counseling or the American Board of Medical Genetics; or

(ii) a medical geneticist by the American Board of Medical Genetics.

(2) The division may issue a temporary license, in accordance with Section 58-1-303 and any other conditions established by rule, to an applicant who meets all of the requirements for licensure except the examination requirement of Subsection ~~[(4)]~~~~(e)]~~ (1)(d).

**Section 116. Section 58-76-302 is amended to read:**

**58-76-302. Qualifications for licensure.**

Each applicant for licensure as a professional geologist shall:

(1) submit an application in a form as prescribed by the division;

(2) pay a fee as determined by the department under Section 63J-1-504;

~~[(3) be of good moral character;]~~

~~[(4)]~~ (3) provide satisfactory evidence of:

(a) a bachelors or graduate degree in the geosciences granted through an institution of higher education that is accredited by a regional or national accrediting agency with a minimum of 30 semester or 45 quarter hours of course work in the geosciences; or

(b) completion of other equivalent educational requirements as determined by the division in collaboration with the board;

~~[(5)]~~ (4) provide satisfactory evidence of:

(a) with a bachelors degree, a specific record of five years of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work;

(b) with a masters degree, a specific record of three years of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work; or

(c) with a doctorate degree, a specific record of one year of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work; and

~~[(6)]~~ (5) after January 1, 2004, meet the examination requirement established by rule by the division in collaboration with the board.

**Section 117. Section 58-76-502 is amended to read:**

**58-76-502. Penalty for unlawful conduct.**

(1) (a) If, upon inspection or investigation, the division concludes that a person has violated Section 58-76-501 or any rule or order issued with respect to Section 58-76-501, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-76-501 or any rule or order issued with respect to Section 58-76-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-76-501 or any rule or order issued with respect to this section.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-76-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of ~~[six months following the occurrence of any violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the

division shall not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

**Section 118. Section 58-77-302 is amended to read:**

**58-77-302. Qualifications for licensure.**

Each applicant for licensure as a licensed direct-entry midwife shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee as determined by the department under Section 63J-1-504;

~~[(3) be of good moral character;]~~

[4] (3) hold a Certified Professional Midwife certificate in good standing with the North American Registry of Midwives or equivalent certification approved by the division in collaboration with the board;

[5] (4) hold current adult and infant CPR and newborn resuscitation certifications through an organization approved by the division in collaboration with the board; and

[6] (5) provide documentation of successful completion of an approved pharmacology course as defined by division rule.

**Section 119. Section 58-78-302 is amended to read:**

**58-78-302. Qualifications for licensure -- Licensure by credential.**

(1) Except as provided in Subsection (2), an applicant for licensure as a vocational rehabilitation counselor under this chapter shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504 to recover the costs of administering licensing requirements relating to vocational rehabilitation counselors;

~~[(e) be of good moral character;]~~

~~[(d)]~~ (c) provide satisfactory evidence of having earned a master's degree in rehabilitation counseling or a related field;

~~[(e)]~~ (d) provide satisfactory evidence of having 4,000 hours of disability related work experience under the supervision of a licensed vocational rehabilitation counselor, except as otherwise provided in Subsection (2); and

~~[(f)]~~ (e) meet the examination requirement established by rule by the division in collaboration with the board.

(2) The division may issue a license under this chapter to an individual who is licensed in another state or jurisdiction to practice vocational rehabilitation counseling if the division finds that the other state or jurisdiction has substantially the same or higher licensure requirements as this state.

**Section 120. Section 58-79-302 is amended to read:**

**58-79-302. Qualifications for licensure.**

(1) An applicant for licensure as a hunting guide shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) possess a high degree of skill and ability as a hunting guide;

~~[(e)]~~ (d) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and

~~[(f)]~~ (e) meet with the division and board if requested by the division or board.

(2) An applicant for licensure as an outfitter shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) possess a high degree of skill and ability as an outfitter;

~~[(e)]~~ (d) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and

~~[(f)]~~ (e) meet with the division and board if requested by the division or board.

**Section 121. Section 58-84-201 is amended to read:**

**58-84-201. Qualifications for state certification.**

(1) The division shall grant state certification to a person who qualifies under this chapter to engage

in the practice of music therapy as a state certified music therapist.

(2) Each applicant for state certification as a state certified music therapist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) be of good moral character; and]~~

~~[(d)]~~ (c) provide satisfactory documentation that the applicant is board certified by, and in good standing with, the Certification Board for Music Therapists, or an equivalent board as determined by division rule.

**Section 122. Section 58-86-202 is amended to read:**

**58-86-202. Qualifications for state certification.**

Each applicant for state certification as a state certified commercial interior designer shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504; and

(3) provide satisfactory evidence of ~~[(a) good moral character; and (b)]~~ having qualified to take and having passed the examination of the National Council for Interior Design Qualification, or an equivalent body as determined by division rule.

**Section 123. Section 58-86-302 is amended to read:**

**58-86-302. Penalty for unlawful conduct.**

(1) If upon inspection or investigation the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301, and that disciplinary action is appropriate, the director or the director's designee may:

(a) issue a citation to the person according to this chapter and any pertinent rules;

(b) attempt to negotiate a stipulated settlement; or

(c) notify the person to appear at an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(2) A person who violates Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this chapter and may, in addition to or in lieu of the fine, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301.

(3) A citation issued under this chapter shall:

(a) be in writing;

(b) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(c) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(d) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(4) The division may issue a notice in lieu of a citation.

(5) A citation issued under this section, or a copy of the citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made by mail or may be made personally or upon the person's agent by a division investigator or by a person specially designated by the director.

(6) (a) If within 20 calendar days from the service of the citation the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(b) The period to contest a citation may be extended by the division for cause.

(7) The division may refuse to issue or renew or may suspend, revoke, or place on probation the state certification of a state certified commercial interior designer who fails to comply with a citation after the citation becomes final.

(8) The failure of an applicant for state certification to comply with a citation after the citation becomes final is a ground for denial of state certification.

(9) No citation may be issued under this section after the expiration of ~~[six months following the occurrence of a violation]~~ one year following the date on which the violation that is the subject of the citation is reported to the division.

(10) The director or the director's designee shall assess fines according to the following:

(a) for a first offense handled pursuant to this section, a fine of up to \$1,000;

(b) for a second offense handled pursuant to this section, a fine of up to \$2,000; and

(c) for any subsequent offense handled pursuant to this section, a fine of up to \$2,000 for each day of continued offense.

(11) An action initiated for a first or second offense that has not yet resulted in a final order of the division does not preclude initiation of a

subsequent action for a second or subsequent offense during the pendency of a preceding action.

(12) (a) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or by bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect the penalty.

(c) In an action brought to enforce the provisions of this section, reasonable attorney fees and costs shall be awarded to the division.

**Section 124. Section 63G-2-305 is amended to read:**

**63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the

Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the

purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or



(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under ~~[Subsection]~~ Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) ~~[or]~~ and (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

- (a) a victim's application or request for benefits;
- (b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating

an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201; and

(73) a record described in Section 31A-37-503.

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); and

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride.

**Section 125. Section 78B-3-416 is amended to read:**

**78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.**

(1) (a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists.

(b) (i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(e) The division may not provide more than one hearing panel for each alleged medical liability case against a health care provider.

(2) (a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3) (a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the prelitigation panel; or

(B) a certificate of compliance under Section 78B-3-418; or

(ii) the expiration of the time for holding a hearing under Subsection (3)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a prelitigation hearing under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

(c) If the prelitigation hearing has not been completed within the time limits established in Subsection (3)(b)(ii), the claimant shall:

(i) file an affidavit of merit under the provisions of Section 78B-3-423; or

(ii) file an affidavit with the division within 180 days of the request for pre-litigation review, in accordance with Subsection (3)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.

(d) If the claimant files an affidavit under Subsection (3)(c)(ii):

(i) within 15 days of the filing of the affidavit under Subsection (3)(c)(ii), the division shall determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre-litigation hearing; and

(ii) (A) if the determination is that the respondent failed to reasonably cooperate in the scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418; or

(B) if the division makes a determination other than the determination in Subsection (3)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection (3).

(e) (i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(4) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b) (i) one ~~member who is a~~ or more members who are licensed health care ~~provider~~ providers listed under Section 78B-3-403, who ~~is~~ are practicing and knowledgeable in the same specialty as the proposed defendant, and who ~~is~~ are appointed by the division in accordance with Subsection (5); or

(ii) in claims against only ~~hospitals or their~~ a health care facility or the facility's employees, one member who is an individual currently serving in a ~~hospital~~ health care facility administration position directly related to ~~hospital~~ health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

(5) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a

condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(6) Each person selected as a panel member shall certify, under oath, that he has no bias or conflict of interest with respect to any matter under consideration.

(7) A member of the prelitigation hearing panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) In addition to the actual cost of administering the licensure of health care

providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

**CHAPTER 340****S. B. 24**

Passed February 5, 2020

Approved March 30, 2020

Effective May 12, 2020

**UTAH WORKS PROGRAM AMENDMENTS**

Chief Sponsor: Ann Millner  
House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill modifies provisions of the Utah Works Program (the program) within the Talent Ready Utah Center.

**Highlighted Provisions:**

This bill:

- ▶ modifies the requirements of the program;
- ▶ modifies the reporting requirements of the program; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63N-12-508, as enacted by Laws of Utah 2019, Chapter 487

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63N-12-508 is amended to read:****63N-12-508. Utah Works.**

(1) There is created within the center the Utah Works Program.

(2) The program, under the direction of the center and the talent ready board, shall coordinate and partner with the entities described below to develop workforce solutions short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, the Utah System of Higher Education, and the Utah System of Technical Colleges;

(b) identifying partnering with businesses that have significant hiring demands for primarily newly created jobs in the state;

(c) coordinating with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the Utah System of Higher Education and the Utah System of Technical Colleges to develop educational and training

resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) The office, in consultation with the talent ready board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

(4) The center shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1-301:

(a) the number of participants in the program;

(b) how program participants learned about or were referred to the program, including the number of participants who learned about or were referred to the program by:

(i) the Department of Workforce Services;

(ii) marketing efforts of the center or talent ready board;

(iii) a school counselor; and

(iv) other methods;

~~(b)~~ (c) the number of participants who have completed training offered by the program; and

~~(e)~~ (d) the number of participants who have been hired by a business participating in the program.

**CHAPTER 341****S. B. 25**

Passed February 6, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**STATE HIGHWAY  
SYSTEM MODIFICATIONS**

Chief Sponsor: Wayne A. Harper  
 House Sponsor: Kay J. Christofferson

**LONG TITLE****General Description:**

This bill modifies the descriptions of SR-6, SR-85, and SR-241.

**Highlighted Provisions:**

This bill:

- modifies the descriptions of SR-6, SR-85, and SR-241.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 72-4-106, as last amended by Laws of Utah 2017, Chapter 99  
 72-4-114, as last amended by Laws of Utah 2019, Chapter 52  
 72-4-130, as last amended by Laws of Utah 2014, Chapter 44

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 72-4-106 is amended to read:****72-4-106. State highways -- SR-6 to SR-10.**

State highways include:

~~[(1) SR-6. From the Utah-Nevada state line easterly through Delta and Tintic Junction to the northbound ramps of the North Santaquin Interchange of Route 15; then beginning again at the Moark Connection Interchange of Route 15 easterly through Spanish Fork Canyon and Price to Route 70 west of Green River.]~~

(1) SR-6. From the Utah-Nevada state line easterly through Delta and Tintic Junction through the North Santaquin Interchange of Route 15 continuing northerly through the Spanish Fork Interchange of Route 15 including the bridge eastbound intersecting Route 15 from southbound exit 257 of Route 15 at the Spanish Fork Interchange, continuing easterly through the Moark Junction, through Spanish Fork Canyon and Price to Route 70 west of Green River, returning along the same route including the bridge intersecting Route 15 at the Spanish Fork Interchange returning to the Utah-Nevada state line.

(2) SR-7. From Route 15 in St. George easterly via Southern Parkway to Sand Hollow Road.

(3) SR-8. From Dixie Downs Road to Route 18 in St. George on Sunset Boulevard.

(4) SR-9. From Route 15 at Harrisburg Junction easterly to Zion National Park south boundary, and from Zion National Park east boundary to Route 89 at Mt. Carmel Junction.

(5) SR-10. From a junction with Route 70 east of Fremont Junction northeasterly to Route 55 in Price.

**Section 2. Section 72-4-114 is amended to read:****72-4-114. State highways -- SR-81 to SR-90.**

State highways include:

(1) SR-81. From Route 30 north to Fielding.

(2) SR-82. From Route 102 north on 300 East Street in Tremonton to Garland; then east approximately 0.8 mile; then north to Route 13.

(3) SR-83. From Route 13 in Corinne westerly to Lampo Junction; then northerly to Route 84 at Howell Interchange.

(4) SR-84. From the Utah-Idaho state line near Snowville to a point on Route 15 at the Tremonton Interchange; then from another point on Route 15 near Roy to Route 80 near Echo, traversing the alignment of interstate Route 84.

~~[(5) SR-85. From Route 68 westerly on Porter Rockwell Boulevard; then northerly on Mountain View Corridor Highway to 4100 South in West Valley City.]~~

(5) SR-85. From Route 73 in Saratoga Springs northerly on 800 West to Route 68 in Lehi; then beginning again at Route 68 in Bluffdale westerly on Porter Rockwell Boulevard; then northerly on Mountain View Corridor Highway to 4100 South in West Valley City.

(6) SR-86. From Route 65 at Henefer westerly to Route 84.

(7) SR-87. From Route 40 in Duchesne northerly; then easterly through Altamont; thence southeasterly through Upalco; then east to Route 40 southwest of Roosevelt.

(8) SR-88. From the south end of the Green River Bridge south of Ouray northerly to Route 40 east of Ft. Duchesne.

(9) SR-89. From the Utah-Arizona state line northwest of Page, Arizona, westerly to Kanab; then northerly to a junction with Route 70 near Sevier Junction; then beginning again at the junction with Route 70 south of Salina, northerly through Salina, Gunnison and Mt. Pleasant to a junction with Route 6 at Thistle Junction; beginning again at junction with Route 6 at Moark Junction northerly through Springville, Provo, Orem, and American Fork to Route 15 north of Lehi; then beginning again at a junction with Route 71 in Draper northerly through Sandy, Midvale, Murray, Salt Lake City, and Bountiful to a junction with Route 15 at the 500 west interchange; then beginning again at a junction with Route 15 at

Lagoon northerly through Uintah Junction and Ogden to Route 91 near south city limits of Brigham City; then beginning again at a junction with Route 91 in Logan northeasterly to Route 30 in Garden City; then northerly to the Utah-Idaho state line.

(10) SR-89A. From the Utah-Arizona state line south of Kanab northerly to Route 89 in Kanab.

(11) SR-90. From Route 13 in Brigham easterly on 2nd South Street to Route 91.

**Section 3. Section 72-4-130 is amended to read:**

**72-4-130. State highways -- SR-241, SR-243, SR-248.**

State highways include:

(1) SR-241. From ~~[SR-114]~~ Route 114 east on 1600 North in Orem to ~~[the on- and off-ramps on the east side of interstate Route 15]~~ Route 89.

(2) SR-243. From Route 89 in Logan Canyon to Beaver Mountain Ski Resort.

(3) SR-248. From Route 224 at Park City Junction to Route 40 at the Park City Interchange; then southeasterly and easterly to Route 32 in Kamas.

**CHAPTER 342****S. B. 26**

Passed February 12, 2020

Approved March 30, 2020

Effective May 12, 2020

**WATER BANKING AMENDMENTS**

Chief Sponsor: Jani Iwamoto  
 House Sponsor: Timothy D. Hawkes  
 Cosponsors: David P. Hinkins  
 Ralph Okerlund

**LONG TITLE****General Description:**

This bill addresses transactional water right banking.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Board of Water Resources, the state engineer, and the Division of Water Resources to implement water banking;
- ▶ enacts the Water Banking Act, including:
  - defining terms;
  - outlining the objectives of a water right banking system;
  - providing the scope of the chapter;
  - addressing assistance by the Division of Water Resources;
  - addressing fees;
  - outlining how statutory water banks are established and amended;
  - outlining how contract water banks are established and amended;
  - requiring annual reports to the Board of Water Resources;
  - addressing default of a water bank and revocation of a water bank;
  - providing for the banking of water rights;
  - addressing condemnation of banked water rights;
  - addressing delivery request for loaned water rights in water banks;
  - addressing the enforcement powers of the state engineer; and
  - imposing reporting procedures on the board and the Department of Natural Resources;
- ▶ provides for a repeal date of the water banking provisions;
- ▶ specifies that water rights deposited in a water bank are not subject to abandonment or forfeiture while approved for use in a water bank; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-273, as last amended by Laws of Utah 2019, Chapters 96 and 246

73-1-4, as last amended by Laws of Utah 2017, Chapter 132

73-10-4, as last amended by Laws of Utah 1969, Chapter 198

**ENACTS:**

73-31-101, Utah Code Annotated 1953

73-31-102, Utah Code Annotated 1953

73-31-103, Utah Code Annotated 1953

73-31-104, Utah Code Annotated 1953

73-31-105, Utah Code Annotated 1953

73-31-106, Utah Code Annotated 1953

73-31-107, Utah Code Annotated 1953

73-31-201, Utah Code Annotated 1953

73-31-202, Utah Code Annotated 1953

73-31-203, Utah Code Annotated 1953

73-31-204, Utah Code Annotated 1953

73-31-205, Utah Code Annotated 1953

73-31-206, Utah Code Annotated 1953

73-31-301, Utah Code Annotated 1953

73-31-302, Utah Code Annotated 1953

73-31-303, Utah Code Annotated 1953

73-31-304, Utah Code Annotated 1953

73-31-305, Utah Code Annotated 1953

73-31-401, Utah Code Annotated 1953

73-31-402, Utah Code Annotated 1953

73-31-501, Utah Code Annotated 1953

73-31-502, Utah Code Annotated 1953

73-31-503, Utah Code Annotated 1953

73-31-601, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-1-273 is amended to read:****63I-1-273. Repeal dates, Title 73.**

(1) In relation to the Legislative Water Development Commission, on January 1, 2021:

[~~(1)~~] (a) in Subsection 73-10g-105(3), the language that states "and in consultation with the State Water Development Commission created in Section 73-27-102" is repealed;

[~~(2)~~] (b) Subsection 73-10g-203(4)(a) is repealed; and

[~~(3)~~] (c) Title 73, Chapter 27, State Water Development Commission, is repealed.

(2) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(x) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

**Section 2. Section 73-1-4 is amended to read:**

**73-1-4. Reversion to the public by abandonment or forfeiture for nonuse within seven years -- Nonuse application.**

(1) As used in this section:

(a) "Public entity" means:

- (i) the United States;
- (ii) an agency of the United States;
- (iii) the state;
- (iv) a state agency;
- (v) a political subdivision of the state; or
- (vi) an agency of a political subdivision of the state.

(b) "Public water supplier" means an entity that:

- (i) supplies water, directly or indirectly, to the public for municipal, domestic, or industrial use; and
- (ii) is:
  - (A) a public entity;
  - (B) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission;
  - (C) a community water system:
    - (I) that:
      - (Aa) supplies water to at least 100 service connections used by year-round residents; or
      - (Bb) regularly serves at least 200 year-round residents; and
    - (II) whose voting members:
      - (Aa) own a share in the community water system;
      - (Bb) receive water from the community water system in proportion to the member's share in the community water system; and
    - (Cc) pay the rate set by the community water system based on the water the member receives; or
  - (D) a water users association:
    - (I) in which one or more public entities own at least 70% of the outstanding shares; and
    - (II) that is a local sponsor of a water project constructed by the United States Bureau of Reclamation.

(c) "Shareholder" means the same as that term is defined in Section 73-3-3.5.

(d) "Water company" means the same as that term is defined in Section 73-3-3.5.

(e) "Water supply entity" means an entity that supplies water as a utility service or for irrigation purposes and is also:

- (i) a municipality, water conservancy district, metropolitan water district, irrigation district, or other public agency;
- (ii) a water company regulated by the Public Service Commission; or
- (iii) any other owner of a community water system.

(2) (a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the appropriator's successor in interest abandons or ceases to beneficially use all or a portion of a water right for a period of at least seven years, the water right or the unused portion of that water right is subject to forfeiture in accordance with Subsection (2)(c).

(b) (i) An appropriator or the appropriator's successor in interest may file an application for nonuse with the state engineer.

(ii) A nonuse application may be filed on all or a portion of the water right, including water rights held by a water company.

(iii) After giving written notice to the water company, a shareholder may file a nonuse application with the state engineer on the water represented by the stock.

(iv) (A) The approval of a nonuse application excuses the requirement of beneficial use of water from the date of filing.

(B) The time during which an approved nonuse application is in effect does not count toward the seven-year period described in Subsection (2)(a).

(v) The filing or approval of a nonuse application or a series of nonuse applications under Subsection (3) does not:

(A) constitute beneficial use of a water right;

(B) protect a water right that is already subject to forfeiture under this section; or

(C) bar a water right owner from:

(I) using the water under the water right as permitted under the water right; or

(II) claiming the benefit of Subsection (2)(e) or any other forfeiture defense provided by law.

(c) (i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the water right may not be forfeited unless a judicial action to declare the right forfeited is commenced:

(A) within 15 years from the end of the latest period of nonuse of at least seven years; or

(B) within the combined time of 15 years from the end of the most recent period of nonuse of at least seven years and the time the water right was subject to one or more nonuse applications.

(ii) (A) The state engineer, in a proposed determination of rights filed with the court and prepared in accordance with Section 73-4-11, may not assert that a water right was forfeited unless the most recent period of nonuse of seven years ends or occurs:

(I) during the 15 years immediately preceding the day on which the state engineer files the proposed determination of rights with the court; or

(II) during the combined time immediately preceding the day on which the state engineer files the proposed determination of rights consisting of 15 years and the time the water right was subject to one or more approved nonuse applications.



(B) After the day on which a proposed determination of rights is filed with the court a person may not assert that a water right subject to that determination was forfeited before the issuance of the proposed determination, unless the state engineer asserts forfeiture in the proposed determination, or a person, in accordance with Section 73-4-11, makes an objection to the proposed determination that asserts forfeiture.

(iii) A water right, found to be valid in a decree entered in an action for general determination of rights under Chapter 4, Determination of Water Rights, is subject to a claim of forfeiture based on a seven-year period of nonuse that begins after the day on which the state engineer filed the related proposed determination of rights with the court, unless the decree provides otherwise.

(iv) If in a judicial action a court declares a water right forfeited, on the date on which the water right is forfeited:

(A) the right to beneficially use the water reverts to the public; and

(B) the water made available by the forfeiture:

(I) first, satisfies other water rights in the hydrologic system in order of priority date; and

(II) second, may be appropriated as provided in this title.

(d) Except as provided in Subsection (2)(e), this section applies whether the unused or abandoned water or a portion of the water is:

(i) permitted to run to waste; or

(ii) beneficially used by others without right with the knowledge of the water right holder.

(e) This section does not apply to:

(i) the beneficial use of water according to a lease or other agreement with the appropriator or the appropriator's successor in interest;

(ii) a water right if its place of use is contracted under an approved state agreement or federal conservation following program;

(iii) those periods of time when a surface water or groundwater source fails to yield sufficient water to satisfy the water right;

(iv) a water right when water is unavailable because of the water right's priority date;

(v) a water right to store water in a surface reservoir or an aquifer, in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act, if:

(A) the water is stored for present or future beneficial use; or

(B) storage is limited by a safety, regulatory, or engineering restraint that the appropriator or the appropriator's successor in interest cannot reasonably correct;

(vi) a water right if a water user has beneficially used substantially all of the water right within a

seven-year period, provided that this exemption does not apply to the adjudication of a water right in a general determination of water rights under Chapter 4, Determination of Water Rights;

(vii) except as provided by Subsection (2)(g), a water right:

(A) (I) owned by a public water supplier;

(II) represented by a public water supplier's ownership interest in a water company; or

(III) to which a public water supplier owns the right of beneficial use; and

(B) conserved or held for the reasonable future water requirement of the public, which is determined according to Subsection (2)(f);

(viii) a supplemental water right during a period of time when another water right available to the appropriator or the appropriator's successor in interest provides sufficient water so as to not require beneficial use of the supplemental water right; ~~or~~

(ix) a period of nonuse of a water right during the time the water right is subject to an approved change application where the applicant is diligently pursuing certification~~[-];~~ or

(x) a water right subject to an approved change application for use within a water bank that has been authorized but not dissolved under Chapter 31, Water Banking Act, during the period of time the state engineer authorizes the water right to be used within the water bank.

(f) (i) The reasonable future water requirement of the public is the amount of water needed in the next 40 years by:

(A) the persons within the public water supplier's reasonably anticipated service area based on reasonably anticipated population growth; or

(B) other water use demand.

(ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably anticipated service area:

(A) is the area served by the community water system's distribution facilities; and

(B) expands as the community water system expands the distribution facilities in accordance with Title 19, Chapter 4, Safe Drinking Water Act.

(g) For a water right acquired by a public water supplier on or after May 5, 2008, Subsection (2)(e)(vii) applies if:

(i) the public water supplier submits a change application under Section 73-3-3; and

(ii) the state engineer approves the change application.

(3) (a) The state engineer shall furnish a nonuse application form requiring the following information:

(i) the name and address of the applicant;

(ii) a description of the water right or a portion of the water right, including the point of diversion, place of use, and priority;

- (iii) the quantity of water;
- (iv) the period of use;
- (v) the extension of time applied for;
- (vi) a statement of the reason for the nonuse of the water; and
- (vii) any other information that the state engineer requires.

(b) (i) Upon receipt of the application, the state engineer shall publish a notice of the application once a week for two successive weeks:

(A) in a newspaper of general circulation in the county in which the source of the water supply is located and where the water is to be beneficially used; and

(B) as required in Section 45-1-101.

(ii) The notice shall:

(A) state that an application has been made; and

(B) specify where the interested party may obtain additional information relating to the application.

(c) ~~[Any]~~ An interested person may file a written protest with the state engineer against the granting of the application:

(i) within 20 days after the notice is published, if the adjudicative proceeding is informal; and

(ii) within 30 days after the notice is published, if the adjudicative proceeding is formal.

(d) In ~~[any proceedings]~~ a proceeding to determine whether the nonuse application should be approved or rejected, the state engineer shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(e) After further investigation, the state engineer may approve or reject the application.

(4) (a) The state engineer shall grant a nonuse application on all or a portion of a water right for a period of time not exceeding seven years if the applicant shows a reasonable cause for nonuse.

(b) A reasonable cause for nonuse includes:

(i) a demonstrable financial hardship or economic depression;

(ii) a physical ~~[causes or changes]~~ cause or change that ~~[fender]~~ renders use beyond the reasonable control of the water right owner so long as the water right owner acts with reasonable diligence to resume or restore the use;

(iii) the initiation of water conservation or an efficiency ~~[practices]~~ practice, or the operation of a groundwater recharge recovery program approved by the state engineer;

(iv) operation of a legal ~~[proceedings]~~ proceeding;

(v) the holding of a water right or stock in a mutual water company without use by ~~[any]~~ a water supply entity to meet the reasonable future requirements of the public;

(vi) situations where, in the opinion of the state engineer, the nonuse would assist in implementing an existing, approved water management plan; or

(vii) the loss of capacity caused by deterioration of the water supply or delivery equipment if the applicant submits, with the application, a specific plan to resume full use of the water right by replacing, restoring, or improving the equipment.

(5) (a) Sixty days before the expiration of a nonuse application, the state engineer shall notify the applicant by mail or by any form of electronic communication through which receipt is verifiable, of the date when the nonuse application will expire.

(b) An applicant may file a subsequent nonuse application in accordance with this section.

### **Section 3. Section 73-10-4 is amended to read:**

#### **73-10-4. Powers and duties of board.**

(1) The board shall have the following powers and duties to:

~~[(1) To]~~ (a) authorize studies, investigations, and plans for the full development, ~~[and utilization]~~ use, and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state and other agencies~~[-]~~;

~~[(2) To]~~ (b) enter into contracts subject to the provisions of this ~~[aet]~~ chapter for the construction of conservation projects ~~[which]~~ that in the opinion of the board will conserve and ~~[utilize]~~ use for the best advantage of the people of this state the water and power resources of the state, including projects beyond the boundaries of the state of Utah located on interstate waters when the benefit of such projects accrues to the citizens of the state~~[-]~~;

~~[(3) To]~~ (c) sue and be sued in accordance with applicable law~~[-]~~;

~~[(4) To]~~ (d) supervise in cooperation with the governor and the executive director of natural resources all matters affecting interstate compact negotiations and the administration of ~~[such]~~ the compacts affecting the waters of interstate rivers, lakes and other sources of supply~~[-]~~;

~~[(5) To]~~ (e) contract with federal and other agencies and with the National ~~[Reclamation]~~ Water Resources Association and to make studies, investigations and recommendations and do all other things on behalf of the state for any purpose ~~[which]~~ that relates to the development, conservation, protection and control of the water and power resources of the state~~[-]~~;

~~[(6) To]~~ (f) consult and advise with the Utah Water Users' Association and other organized water users' associations in the state~~[-]~~;

~~[(7) To]~~ (g) consider and make recommendations on behalf of the state ~~[of Utah]~~ of reclamation projects or other water development projects for construction by any agency of the state or United States and in so doing recommend the order in which projects shall be undertaken~~[-]~~; or

(h) review, approve, and revoke an application to create a water bank under Chapter 31, Water Banking Act, collect an annual report, maintain the water banking website, and conduct any other function related to a water bank as described in Chapter 31, Water Banking Act.

~~(8)~~ (2) Nothing contained ~~herein~~ in this section shall be construed to impair or otherwise interfere with the authority of the state engineer granted by Title 73, Water and Irrigation, except as ~~herein~~ specifically otherwise provided in this section.

**Section 4. Section 73-31-101 is enacted to read:**

### CHAPTER 31. WATER BANKING ACT

#### Part 1. General Provisions

##### 73-31-101. Title.

This chapter is known as the "Water Banking Act."

**Section 5. Section 73-31-102 is enacted to read:**

##### 73-31-102. Definitions.

As used in this chapter:

(1) "Applicant" means:

(a) a record holder of a perfected water right or a valid diligence claim applying for board approval of a statutory water bank under Part 2, Statutory Water Banks; or

(b) a public entity applying for board approval of a contract water bank under Part 3, Contract Water Banks.

(2) "Application" means an application submitted to the board to approve a water bank.

(3) "Approved change application" means a change application that the state engineer approves to authorize a water right holder to deposit a water right in a water bank pursuant to this chapter and Section 73-3-3 or 73-3-3.5.

(4) "Banked water right" means a water right, or a portion of a water right, deposited in a water bank that the state engineer has authorized for use in a water bank through an approved change application.

(5) "Board" means the Board of Water Resources.

(6) "Borrower" means a person seeking to use a banked water right within a water bank's service area.

(7) "Contract water bank" means a water bank created pursuant to Part 3, Contract Water Banks.

(8) "Delivery request" means a request to use a banked water right made by a borrower in accordance with a water bank's policies approved under the water bank's application.

(9) "Deposit" means depositing a banked water right for use within the service area of a water bank.

(10) "Depositor" means a person seeking to deposit a water right in a water bank.

(11) "Hereafter use" means the conditions of use the state engineer authorizes for a banked water right during the term of an approved change application.

(12) "Heretofore use" means the authorized conditions of use that were in effect before the state engineer approved a change application authorizing new conditions for the use of a banked water right.

(13) "Loaned water rights" means a banked water right that is used pursuant to an approved delivery request.

(14) "Perfected water right" means a water right evidenced by:

(a) a decree;

(b) a certificate of appropriation; or

(c) a proposed determination or court order issued in a general adjudication.

(15) "Public entity" means the same as that term is defined in Section 73-1-4 except for the United States or an agency of the United States.

(16) "Reporting year" means November 1 through October 31.

(17) "Service area" means the geographic area where a water bank is approved to operate and operates.

(18) "State engineer" means the state engineer appointed under Section 73-2-1.

(19) "Statutory water bank" means a water bank created pursuant to Part 2, Statutory Water Banks.

(20) "Water bank" means a contract water bank or a statutory water bank.

(21) "Water banking website" means a website overseen by the board in accordance with Section 73-31-103.

**Section 6. Section 73-31-103 is enacted to read:**

##### 73-31-103. Notice -- Website.

(1) A notice required under this chapter shall be posted in accordance with Subsection 73-3-6(1) and to a water bank's website, unless otherwise specified.

(2) The board may create and oversee a website for the purpose of making water banking information available to the public.

**Section 7. Section 73-31-104 is enacted to read:**

##### 73-31-104. Objectives of water banks.

The objectives in creating a water bank are to:

(1) promote:

(a) the optimal use of the public's water;

(b) transparency and access to water markets;

(c) temporary, flexible, and low cost water transactions between water users; and

(d) Utah's agricultural economy by providing access to water resources and income for Utah's agricultural industry; and

(2) facilitate:

(a) robust and sustainable agricultural production while meeting growing municipal and industrial water demands, such as fallowing arrangements;

(b) water quality improvement;

(c) water rights administration and distribution; and

(d) a healthy and resilient natural environment.

**Section 8. Section 73-31-105 is enacted to read:**

**73-31-105. Scope.**

Nothing in this chapter prevents a person from entering into an agreement regarding the use of a water right that differs from the requirements of this chapter, except that only a water bank approved under this chapter may avail itself of the statutory provisions that apply to a water bank.

**Section 9. Section 73-31-106 is enacted to read:**

**73-31-106. Board assistance.**

The board may direct the Division of Water Resources to assist the board in fulfilling the board's responsibilities under this chapter.

**Section 10. Section 73-31-107 is enacted to read:**

**73-31-107. Fees.**

(1) The board may charge fees, set pursuant to Section 63J-1-504, to cover the costs of processing and administering:

(a) a statutory water bank application; or

(b) a contract water bank application.

(2) The board shall charge a uniform fee for a statutory water bank application and a uniform fee for a contract water bank application.

(3) The board may charge a different fee for a statutory water bank application than is charged for a contract water bank application.

(4) Fees collected under this section shall be deposited in the General Fund as a dedicated credit to be used by the board to implement this chapter.

**Section 11. Section 73-31-201 is enacted to read:**

**Part 2. Statutory Water Banks**

**73-31-201. Approval of statutory water bank.**

(1) The board shall approve an application to create a statutory water bank that satisfies this part.

(2) As a condition of approval, a statutory water bank is subject to this chapter.

**Section 12. Section 73-31-202 is enacted to read:**

**73-31-202. Statutory water bank application.**

(1) A record holder, other than the United States or an agency of the United States, of a perfected water right or a valid diligence claim may request approval for a proposed statutory water bank if the place of use and point of diversion for the applicant's water right are encompassed within the proposed service area of the proposed statutory water bank and the applicant files an application with the board that includes the following:

(a) the name of the statutory water bank;

(b) the mailing address for the statutory water bank;

(c) the type of legal entity recognized under Utah law that constitutes the statutory water bank;

(d) a proposed service area map for the statutory water bank;

(e) whether the statutory water bank will accept deposits of surface water rights or groundwater rights, provided that:

(i) a statutory water bank may not accept deposits of both surface water rights and groundwater rights; and

(ii) the applicant's perfected water right or valid diligence claim is of the type accepted by the statutory water bank;

(f) a copy of the statutory water bank's governing documents that specify:

(i) the number of members of the governing body, which may not be an even number;

(ii) the qualifications for governing members, including terms and election or appointment procedures; and

(iii) the initial governing members' names, telephone numbers, and post office addresses;

(g) a confirmation that the applicant satisfies the criteria listed in Subsection (1)(e)(ii);

(h) procedures that describe how the statutory water bank will:

(i) determine and fund the water bank's administrative costs;

(ii) design, facilitate, and conduct transactions between borrowers and depositors for the use of a banked water right; and

(iii) accept, reject, and manage banked water rights, including:

(A) what information a depositor shall provide to inform the statutory water bank, the state engineer,

or any other distributing entity regarding the feasibility of using the water right within the statutory water bank's designated service area;

(B) how a potential depositor is to work with the statutory water bank to jointly file a change application seeking authorization from the state engineer to deposit a water right within the statutory water bank;

(C) conditions for depositing a water right with the statutory water bank;

(D) how payments to depositors are determined; and

(E) under what conditions a depositor may use a water right at the heretofore place of use pursuant to Subsection 73-31-501(4);

(iv) accept, review, and approve delivery requests, including:

(A) deadlines for submitting a delivery request to the statutory water bank;

(B) a cost or fee associated with submitting a delivery request and how that cost or fee is to be applied or used by the statutory water bank;

(C) what information a borrower is to include on a delivery request to sufficiently inform the statutory water bank, state engineer, or another distributing entity whether the delivery request is feasible within the statutory water bank's designated service area;

(D) any notice and comment procedures for notifying other water users of the delivery request;

(E) the criteria the statutory water bank will use to evaluate delivery requests;

(F) how the statutory water bank will inform water users who have submitted a delivery request if the delivery request is approved or denied, the reasons for denial if denied, and any applicable conditions if approved;

(G) appeal or grievance procedures, if any, for a borrower seeking to challenge a denial of a delivery request, including identifying who has the burden in an appeal and the standards of review;

(H) how the statutory water bank will determine prices for the use of loaned water rights; and

(I) how the statutory water bank will coordinate with the state engineer to facilitate distribution of approved delivery requests;

(v) how the statutory water bank will ensure that the aggregate amount of loaned water rights during a calendar year does not exceed the total sum of the banked water rights within the statutory water bank; and

(vi) how the statutory water bank will resolve complaints regarding the statutory water bank's operations;

(i) the process that the statutory water bank will follow if the statutory water bank terminates,

dissolves, or if the board revokes the statutory water bank's permission to operate pursuant to this chapter, including how the statutory water bank will return banked water rights to depositors and how the statute water bank will return any amounts owing to depositors; and

(j) a signed declaration or affidavit from at least two governing members of the statutory water bank affirming that:

(i) the information submitted is correct;

(ii) as a condition for permission to operate, the statutory water bank may not discriminate between the nature of use, depositors, or borrowers;

(iii) the statutory water bank shall comply with the conditions of an approved changed application for a banked water right; and

(iv) the statutory water bank shall report to the state engineer known violations of approved change applications.

(2) The board may prepare a form or online application for an applicant to use in submitting an application to the board under this part.

**Section 13. Section 73-31-203 is enacted to read:**

**73-31-203. Action by board on statutory water bank applications.**

(1) Upon receipt of an application under Subsection 73-31-202, the board shall record the date the board receives the application.

(2) The board shall:

(a) examine an application for completeness to determine whether the application satisfies this part;

(b) review an application to determine whether it meets the objectives of a water bank described in Section 73-31-103;

(c) consider an application complete if the application satisfies the requirements of this part; and

(d) notify the applicant of any additional information or changes needed to process the application.

(3) Within 30 days of the date the board determines that an application is complete, the board shall post notice of the application pursuant to Section 73-31-103.

(4) The notice required by Subsection (3) shall state:

(a) that an application to create a statutory water bank has been filed with the board;

(b) where an interested party may obtain a copy of the application and any additional information related to the application; and

(c) the date, time, and place of the public meeting required by Section 73-31-204.

**Section 14. Section 73-31-204 is enacted to read:**

**73-31-204. Public meeting -- Comments.**

(1) On the date indicated in the notice posted under Subsection 73-31-203(3), the board shall hold a public meeting to:

(a) inform water users within the service area of the proposed statutory water bank; and

(b) receive comments from water users regarding the application.

(2) The board shall accept public comments for a period of time no less than 30 days after the adjournment of the public meeting.

(3) The board shall review public comments when reviewing the proposed statutory water bank's application, but submitting a comment does not create a right of appeal of the board's decision under Title 63G, Chapter 4, Administrative Procedures Act, nor is the board required to address how or whether public comments impacted the board's decision.

(4) A statutory water bank may review public comments and comments from the board before a final decision is made by the board. If the statutory water bank desires to make changes to the statutory water bank's application, the statutory water bank may notify the board in writing before the board takes action on the application that the statutory water bank will submit a revised application following the same process that governs the filing and review of the original application for a statutory water bank under this chapter.

**Section 15. Section 73-31-205 is enacted to read:**

**73-31-205. Review of statutory bank application.**

(1) After complying with Sections 73-31-203 and 73-31-204, the board shall approve an application if the application satisfies Section 73-31-202, which is to be liberally interpreted by the board to facilitate the objectives described in Section 73-31-104.

(2) In approving an application, the board shall:

(a) issue an order approving the statutory water bank;

(b) approve persons to serve as the initial members of the governing body in accordance with the proposed statutory water bank's structure and Section 73-31-202; and

(c) publish the approved application on the water banking website.

(3) If the board denies an application, the board shall issue a written explanation to the applicant that sets forth the reason for denial, provided that the board's decision regarding an application does not create a right of appeal under Title 63G, Chapter 4, Administrative Procedures Act.

**Section 16. Section 73-31-206 is enacted to read:**

**73-31-206. Amending application.**

(1) After the board approves a statutory water bank's application under this part, the statutory water bank may seek to amend the statutory water bank's application by filing a description of the proposed amendment with the board. The board shall follow the procedures of Sections 73-31-201, 73-31-204, and 73-31-205 to approve an amendment to a statutory water bank's application.

(2) An amendment approved by the board becomes effective on the first day of the next reporting year.

**Section 17. Section 73-31-301 is enacted to read:**

**Part 3. Contract Water Banks**

**73-31-301. Approval of contract water bank.**

(1) The board shall approve an application to create a contract water bank that satisfies this part.

(2) As a condition of approval, a contract water bank is subject to this chapter.

**Section 18. Section 73-31-302 is enacted to read:**

**73-31-302. Contract water bank application.**

(1) A public entity may seek to have a contract for water use approved as a contract water bank under this chapter by submitting an application to the board that meets the following criteria:

(a) the name of the contract water bank;

(b) the mailing address for the contract water bank;

(c) the proposed service area map for the contract water bank;

(d) a description of how the contract water bank's governing body will be structured and operate;

(e) a description for how water delivery requests and loaned water rights are to be administered;

(f) criteria for the participation, if any, of non-public entities;

(g) includes a copy of the contract, provided that a public entity may redact any information that is private, controlled, protected, or otherwise restricted under Title 63G, Chapter 2, Government Records Access and Management Act;

(h) information regarding how the public can learn when the submittal of an application or contract that is the basis of the contract water bank is on the agenda of a public meeting of the public entity under Title 52, Chapter 4, Open and Public Meetings Act;

(i) whether the contract water bank will accept deposits of surface water rights or groundwater rights, provided that a contract water bank may not accept deposits of both surface water rights and groundwater rights; and

(j) the process the contract water bank will follow if the contract water bank terminates, dissolves, or the board revokes the contract water bank's approval to operate pursuant to this chapter, including how the contract water bank will return

banked water rights to depositors and how the contract water bank will return any amounts owing to depositors.

(2) The board may prepare a form or online application for an applicant to use in submitting an application to the board under this part.

**Section 19. Section 73-31-303 is enacted to read:**

**73-31-303. Action by board on contract water bank application.**

(1) Upon receipt of an application for a proposed contract water bank, the board shall record the day on which the board receives the application.

(2) The board shall:

(a) examine the application to determine whether changes are required for the board to process the application in accordance with this part;

(b) review the application to determine whether it meets the objectives of a water bank described in Section 73-31-103;

(c) consider the application complete if the application satisfies this part; and

(d) notify the applicant of any additional information or changes needed to process the application.

(3) Within 30 days of the date the board determines that an application is complete, the board shall post notice of the application in accordance with Section 73-31-103.

(4) The notice required by Subsection (3), shall state:

(a) that an application to approve a contract water bank has been filed with the board; and

(b) where a person may review the application.

**Section 20. Section 73-31-304 is enacted to read:**

**73-31-304. Review of contract water bank application.**

(1) After complying with Section 73-31-303, the board shall approve an application for a contract water bank if the application satisfies Section 73-31-302, which is to be liberally interpreted by the board to facilitate the objectives described in Section 73-31-104.

(2) In approving an application, the board shall:

(a) issue an order approving the contract water bank; and

(b) publish a summary of the information submitted by the public entity under Subsection 73-31-302(1) on the water banking website.

(3) If the board denies an application, the board shall issue a written explanation to the applicant that sets forth the reason for the denial, provided that the board's decision regarding an application does not create a right of appeal under Title 63G, Chapter 4, Administrative Procedures Act.

(4) A contract water bank may review public comments and comments from the board before a final decision is made by the board. If the contract water bank desires to make changes to the contract water bank's application, the contract water bank may notify the board in writing before the board takes action on the application that the contract water bank will submit a revised application following the same process that governs the filing of an original application.

**Section 21. Section 73-31-305 is enacted to read:**

**73-31-305. Amending application.**

(1) After the board approves a contract water bank's application under this part, the contract water bank may seek to amend the contract water bank's application by filing a description of the proposed amendment with the board. The board shall follow the procedures of Sections 73-31-303 and 73-31-304 to approve an amendment to a contract water bank's application.

(2) An amendment approved by the board becomes effective on the first day of the next reporting year.

**Section 22. Section 73-31-401 is enacted to read:**

**Part 4. Reporting by Water Banks**

**73-31-401. Annual reports.**

(1) (a) On or before November 30 of each year, the governing body of a water bank shall submit to the board an annual report on the governing body's management of the water bank's operations for the previous reporting year on a form provided by the board that provides the information in Subsection (2).

(b) Proof to the satisfaction of the board that the water bank has mailed, hand-delivered, or sent the annual report electronically is considered compliance with this Subsection (1).

(2) The annual report shall include the following information for the prior reporting year:

(a) a tabulation of the volume and change application number of water rights deposited in the water bank;

(b) the nature of use of each banked water right before the banked water right was deposited in the water bank and the volumes of water allocated to each use before being deposited;

(c) a tabulation of loaned water rights from that water bank, which includes:

(i) the change application number;

(ii) the volume of water derived from the loaned water rights;

(iii) the nature of use of the loaned water rights and the volumes of water allocated to each use; and

(iv) for a statutory water bank, the borrower;

(d) for a statutory water bank:

(i) the amounts charged for the loaned water rights, including a breakdown by nature of use if appropriate;

(ii) the revenue generated by the statutory water bank, including the sources of revenue;

(iii) the amounts paid out to depositors;

(iv) the statutory water bank's expenses;

(v) the balance at the end of the reporting year of the statutory water bank's bank account;

(vi) the accounting practices used by the statutory water bank;

(vii) whether there is pending or ongoing litigation involving the statutory water bank;

(viii) whether there are, or have been, any governmental audits of the statutory water bank;

(ix) any proposed amendments to an approved statutory water bank's procedures for the coming reporting year;

(x) a narrative explanation of any inconsistencies in the annual report or in the operation of the statutory water bank; and

(xi) a narrative explanation of how the statutory water bank is or is not fulfilling the objectives described in Section 73-31-104; and

(e) a declaration or affidavit signed by at least two governing members of the statutory water bank stating that the information in the report is correct.

(3) The board shall deliver a copy of the prescribed form to each water bank before August 30 of each year.

(4) If the annual report contains the information required by this section, the board shall post notice of the annual report in accordance with Section 73-31-103.

(5) If the annual report does not contain the information required by this section, the board shall promptly notify the reporting water bank in writing and return the report to the water bank for correction, providing a written explanation to the water bank that sets forth the information that needs to be corrected. The water bank shall remain in good standing if the water bank submits a corrected annual report that satisfies this section within 90 days of the written notice of the board.

(6) If a water bank fails to submit an annual report by November 30, or fails to submit a corrected annual report within 90 days of the rejection of an annual report, the water bank is considered in noncompliance under this chapter.

**Section 23. Section 73-31-402 is enacted to read:**

**73-31-402. Water bank noncompliance -- Revocation of application.**

(1) If a water bank is in noncompliance with this chapter pursuant to Section 73-31-401, the board shall give the water bank a written notice of noncompliance that:

(a) explains why the water bank is in noncompliance; and

(b) gives the water bank a 90-day corrective period from the date of the notice to correct the cause of the noncompliance.

(2) The board shall:

(a) post a notice given under Subsection (1) pursuant to Section 73-31-103; and

(b) notify the state engineer of the water bank's noncompliance.

(3) If the board determines that the water bank has corrected the noncompliance within the 90-day corrective period, the board shall:

(a) provide the water bank written notice that the water bank's noncompliance has been cured;

(b) post the written notice required under Subsection (3)(a) pursuant to Section 73-31-103; and

(c) notify the state engineer that the water bank has corrected the noncompliance within the 90-day corrective period.

(4) (a) If the water bank fails to correct the noncompliance within the 90-day corrective period, the water bank's approval to operate terminates at the end of the current calendar year.

(b) The board shall mail notice to the water bank that the water bank's approval to operate has terminated and that the water bank's operations under the application shall cease at the end of the current calendar year.

(c) The board shall post the notice required under Subsection (4)(b) pursuant to Section 73-31-103.

(d) A water bank shall notify the water bank's depositors and borrowers of the dissolution within 60 days of receiving a notice under this Subsection (4) and shall enact the procedures set forth in the water bank's application ceasing the water bank's operations.

(5) The state engineer may not approve a change application that seeks to deposit a water right into a water bank that the board determines to be in noncompliance under this chapter.

(6) A depositor retains title to deposited water rights and the water bank retains no ownership in the deposited water rights.

**Section 24. Section 73-31-501 is enacted to read:**

**Part 5. Deposits**

**73-31-501. Banking water.**

(1) A water right may be deposited with a water bank pursuant to an approved change application filed under Section 73-3-3 or 73-3-3.5.

(2) The state engineer may not approve a change application that authorizes the use of a water right within a water bank for any period of time that exceeds December 31, 2030.

(3) A banked water right is excused from beneficial use requirements pursuant to Subsection 73-1-4 (2)(e)(x).



(4) A depositor of a banked water right may use the banked water right in its heretofore use if:

(a) the depositor does so under the authority, control, and accounting of the water bank;

(b) the water bank informs the state engineer that the depositor's heretofore use is consistent with the water bank's operating procedures for loaned water rights; and

(c) during the time the depositor uses the banked water right in its heretofore use, the water bank does not allow the banked water right to be used for other uses within the water bank.

(5) If an entity authorized to condemn a water right leases a water right under this chapter, the entity may not begin the process of condemning the water right:

(a) while the entity leases the water right under this chapter; or

(b) within five years after the day on which the entity's lease of the water right under this chapter ends.

**Section 25. Section 73-31-502 is enacted to read:**

**73-31-502. Delivery request for loaned water rights in water bank.**

(1) A borrower may use water from a water bank for any use within the water bank's service area consistent with the objectives in Section 73-31-104 and the conditions, if any, of the underlying approved change application.

(2) A borrower shall make use of a banked water right by submitting a delivery request to the water bank that complies with the water bank's requirements.

(3) The state engineer administratively supervises delivery of water to a borrower. The state engineer may:

(a) review an approved delivery request at any point in time to ensure the delivery request complies with a state engineer order approving water rights for use in the water bank, established distribution procedures based on priority, or both; and

(b) restrict delivery of loaned water rights if the approved delivery request causes impairment to other water users.

(4) A water bank shall keep a daily accounting of loaned water rights.

(5) A water bank shall refer known illegal water use actions to the state engineer's enforcement program pursuant to Section 73-2-25.

(6) A water bank is responsible for the payment of all distribution costs assessed for the delivery of a banked water right under Section 73-5-1.

**Section 26. Section 73-31-503 is enacted to read:**

**73-31-503. State engineer enforcement.**

This chapter does not limit or impair the state engineer's enforcement powers set forth in Section 73-2-25.

**Section 27. Section 73-31-601 is enacted to read:**

**Part 6. Board Reports**

**73-31-601. Reports.**

(1) In accordance with Section 68-3-14, the board shall report annually by no later than the November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee regarding the implementation of this chapter.

(2) The board shall submit a written report to the Natural Resources, Agriculture, and Environment Interim Committee by October 31, 2029, recommending whether the Legislature should take one or more of the following actions:

(a) remove or extend the repeal date in Section 63I-1-273;

(b) amend the chapter, a provision in the chapter, or a provision in the Utah Code; or

(c) take no action and allow the chapter to repeal under Section 63I-1-273.

(3) At a minimum, the written report described under Subsection (2) shall include the following:

(a) a summary of the implementation of the chapter;

(b) a statement describing and justifying the recommendation; and

(c) a description of the positive and negative aspects of the recommendation.

(4) Before the board's submission of the written report described in Subsection (2), the Department of Natural Resources shall prepare and submit a draft report to the board for the board's review, provided that the executive director of the Department of Natural Resources may consult with another state agency or person that the executive director considers necessary to prepare the draft report.

(5) (a) Upon receipt of the draft report described in Subsection (4), the board shall review the draft report and solicit public comment on the draft report by:

(i) requesting written comments; and

(ii) holding no less than one public hearing at which:

(A) the Department of Natural Resources shall explain and justify the draft report's recommendation; and

(B) an interested person may comment on or speak for or against the draft report's recommendations.

(b) The board shall give notice of the opportunities to provide public comment under this Subsection (5) by:

(i) mailing notice to the address of record for each water bank;

(ii) publishing notice in a newspaper of general circulation in the state; and

(iii) publishing notice as required in Section 45-1-101.

(c) The board may give separate notices for any public hearings the board may hold pursuant to Subsection 73-31-601(5)(a)(ii).

(d) The notice described in Subsection (5)(b) shall state:

(i) that the board is soliciting public comment on the draft report and shall hold a public hearing on a certain day, time, and place fixed in the notice, which shall not be less than 30 days after the day the first notice is published, for the purpose of hearing comments regarding the draft report;

(ii) that the board shall accept written comments on the draft report for a period of no less than 30 days after the day the first notice is published, and include instructions for how the public may submit comments; and

(iii) how the public may obtain a copy of the draft report.

(6) The board shall consider timely public comments submitted under this section, and may require the Department of Natural Resources to make revisions the board considers necessary before approving and submitting the final written report required in Subsection (2).

**CHAPTER 343****S. B. 27**

Passed February 10, 2020

Approved March 30, 2020

Effective May 12, 2020

**ATTORNEY GENERAL  
REPORTING REQUIREMENTS**

Chief Sponsor: Todd Weiler

House Sponsor: Karianne Lisonbee

**LONG TITLE****General Description:**

This bill modifies reporting requirements for the attorney general.

**Highlighted Provisions:**

This bill:

- ▶ modifies a reporting requirement for the attorney general regarding lawsuits challenging the constitutionality of state law;
- ▶ requires the attorney general to submit a report regarding lawsuits and decisions challenging the constitutionality and enforceability of state statutes; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

36-12-7, as last amended by Laws of Utah 2018, Chapter 474

67-5-1, as last amended by Laws of Utah 2019, Chapters 225 and 347

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 36-12-7 is amended to read:****36-12-7. Legislative Management Committee -- Duties -- Litigation.**

(1) The Senate or House Management Committee shall:

(a) receive legislative resolutions directing studies on legislative matters and may assign these studies to the appropriate interim committee of its house;

(b) assign to interim committees of the same house, matters of legislative study not specifically contained in a legislative resolution but considered significant to the welfare of the state;

(c) receive requests from interim committees of its house for matters to be included on the study agenda of the requesting committee. Appropriate bases for denying a study include inadequate funding to properly complete the study or duplication of the work;

(d) establish a budget account for interim committee day as designated by Legislative Management Committee and for all other legislative committees of its house and allocate to

that account sufficient funds to adequately provide for the work of the committee; and

(e) designate the time and place for periodic meetings of the interim committees.

(2) To maximize the use of legislators' available time, the Senate and House Management Committees should attempt to schedule the committee meetings of their respective houses during the same one or two-day period each month. This does not preclude an interim committee from meeting at any time it determines necessary to complete its business.

(3) The Legislative Management Committee shall:

(a) employ, after recommendation of the appropriate subcommittee of the Legislative Management Committee, without regard to political affiliation, and subject to approval of a majority vote of both houses, persons qualified for the positions of director of the Office of Legislative Research and General Counsel, legislative fiscal analyst, legislative general counsel, and legislative auditor general. Appointments to these positions shall be for terms of six years subject to renewal under the same procedure as the original appointment. A person may be removed from any of these offices before the expiration of the person's term only by a majority vote of both houses of the Legislature or by a two-thirds vote of the management committee for such causes as inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office. If a vacancy occurs in any of these offices after adjournment of the Legislature, the committee shall appoint an individual to fill the vacancy until such time as the person is approved or rejected by majority vote of the next session of the Legislature;

(b) develop policies for personnel management, compensation, and training of all professional legislative staff;

(c) develop a policy within the limits of legislative appropriation for the authorization and payment to legislators of compensation and travel expenses, including out-of-state travel;

(d) approve special study budget requests of the legislative directors; and

(e) assist the speaker-elect of the House of Representatives and the president-elect of the Senate, upon selection by their majority party caucus, to organize their respective houses of the Legislature and assume the direction of the operation of the Legislature in the forthcoming annual general session.

(4) (a) The Legislature delegates to the Legislative Management Committee the authority, by means of a majority vote of the committee, to direct the legislative general counsel in matters involving the Legislature's participation in litigation.

(b) The Legislature has an unconditional right to intervene in a state court action and may provide

evidence or argument, written or oral, if a party to that court action challenges:

- (i) the constitutionality of a state statute;
- (ii) the validity of legislation; or
- (iii) any action of the Legislature.

(c) In a federal court action that challenges the constitutionality of a state statute, the validity of legislation, or any action of the Legislature, the Legislature may seek to intervene, to file an amicus brief, or to present argument in accordance with federal rules of procedure.

(d) Intervention by the Legislature pursuant to Subsection (4)(b) or (c) does not limit the duty of the attorney general to appear and prosecute legal actions or defend state agencies, officers or employees as otherwise provided by law.

(e) In any action in which the Legislature intervenes or participates, legislative counsel and the attorney general shall function independently from each other in the representation of their respective clients.

(f) The attorney general shall notify the legislative general counsel of a claim in accordance with Subsection 67-5-1[(24)](25).

**Section 2. Section 67-5-1 is amended to read:**

**67-5-1. General duties.**

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when

prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of ~~their~~ the district and county attorneys' offices, including the authority to:

(a) require a district or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge; or

(b) review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county or district attorney of the jurisdiction where the incident occurred and the county or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months of the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county or district attorney of the jurisdiction where the incident occurred;

(7) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(a) in accordance with Section 67-5-1.1, to the Legislature or either house;

(b) to any state officer, board, or commission; and

(c) to any county attorney or district attorney;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of

Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than \$500,000; or

(ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(21) (a) submit a written report to the committees described in Subsection (21)(b) that summarizes ~~[the status and progress of any lawsuits that challenge the constitutionality of state law that were pending at the time the attorney general submitted]~~ any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (21), including any:

(i) settlements reached;

(ii) consent decrees entered; ~~or~~

(iii) judgments issued; ~~and~~

(iv) preliminary injunctions issued;

(v) temporary restraining orders issued; or

(vi) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(b) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (21)(a) to:

(i) the Legislative Management Committee;

(ii) the Judiciary Interim Committee; and

(iii) the Law Enforcement and Criminal Justice Interim Committee;

(22) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee;

(23) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(24) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(25) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

- (a) the constitutionality of a state statute;
- (b) the validity of legislation; or
- (c) any action of the Legislature; and

(26) (a) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(i) establish outreach to the tribes and affected counties and communities; and

(ii) foster better relations and a cooperative framework; and

(b) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(i) the status of the work of the special advisor described in Subsection (26)(a); and

(ii) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (26)(a).

**CHAPTER 344****S. B. 28**

Passed February 26, 2020

Approved March 30, 2020

Effective May 12, 2020

**ELECTION LAW REVISIONS**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Marc K. Roberts

**LONG TITLE****General Description:**

This bill amends provisions relating to candidate filings and ballots.

**Highlighted Provisions:**

This bill:

- ▶ removes a statement from the unaffiliated portion of the ballot; and
- ▶ modifies the definition of “filing officer” in relation to state legislators.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

20A-6-301, as last amended by Laws of Utah 2018, Chapter 274

20A-9-101, as last amended by Laws of Utah 2018, Chapter 19

20A-11-1602, as last amended by Laws of Utah 2019, Chapter 266

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 20A-6-301 is amended to read:****20A-6-301. Paper ballots -- Regular general election.**

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5).

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) “Official Ballot for \_\_\_ County, Utah”;

(ii) the date of the election; and

(iii) the words “Clerk of \_\_\_\_\_ County” or, as applicable, the name of a combined office that includes the duties of a county clerk;

(c) the party name or title is printed in capital letters not less than one-fourth of an inch high;

(d) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed with the other candidates for the same office in accordance with Section 20A-6-305, without a party name or title[, and with a mark referencing the following statement at the bottom of the ticket: “This candidate is not affiliated with, or does not qualify to be listed on the ballot as affiliated with, a political party.”];

(e) each ticket containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(f) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(g) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart; and

(h) on a ticket for a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601:

(i) the ballot includes a space for a write-in candidate immediately following the last candidate listed on that ticket; or

(ii) for the offices of president and vice president and governor and lieutenant governor, the ballot includes two spaces for write-in candidates immediately following the last candidates on that ticket, one placed above the other, to enable the entry of two valid write-in candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other person, is placed on the ballot:

(i) under the registered political party’s name, if any; or

(ii) under the title of the registered political party as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to \_\_\_\_\_ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to \_\_\_\_\_ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

**Section 2. Section 20A-9-101 is amended to read:**

**20A-9-101. Definitions.**

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the officeholder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) the office of justice or judge of any court of record or not of record;

(ii) the office of presidential elector;

(iii) any political party offices;

(iv) any municipal or local district offices; and

(v) the office of United States Senator and United States Representative.

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) for the office of a state senator or state representative, the lieutenant governor or the applicable clerk described in Subsection (6)(c) or (d);

~~[(b)]~~ (c) the county clerk, for county offices and local school district offices;

~~[(e)]~~ (d) the county clerk in the filer's county of residence, for multicounty offices;

~~[(d)]~~ (e) the city or town clerk, for municipal offices; ~~[and]~~ or

~~[(e)]~~ (f) the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; ~~[and]~~ or

(vi) any municipal or local district offices.

(10) "Municipal office" means an elective office in a municipality.



(11) (a) “Political division” means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) “Political division” includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) “Qualified political party” means a registered political party that:

(a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party’s convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party’s convention;

(b) does not hold the registered political party’s convention before the fourth Saturday in March of an even-numbered year;

(c) permits a member of the registered political party to seek the registered political party’s nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party’s convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(d) (i) if the registered political party is a continuing political party, no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party’s candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party’s candidates in accordance with the provisions of Section 20A-9-406.

**Section 3. Section 20A-11-1602 is amended to read:**

**20A-11-1602. Definitions.**

As used in this part:

(1) “Conflict of interest” means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder’s immediate family, or an individual or entity that the officeholder is required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the

public or on the officeholder’s profession, occupation, or association generally.

(2) “Conflict of interest disclosure” means:

(a) before January 1, 2020, a conflict of interest disclosure form that includes all information required under Section 20A-11-1604; and

(b) on or after January 1, 2020, a disclosure, on the website, of all information required under Section 20A-11-1604.

(3) “Entity” means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

(4) “Filing officer” means:

(a) the lieutenant governor, for the office of a state constitutional officer or State Board of Education member; or

(b) the lieutenant governor or the county clerk in the county of the candidate’s residence, for a state legislative office.

(5) “Immediate family” means the regulated officeholder’s spouse, a child living in the regulated officeholder’s immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder.

(6) “Income” means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

(7) (a) “Owner or officer” means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

(i) the entity or a portion of the entity; or

(ii) an employee, agent, or independent contractor of the entity.

(b) “Owner or officer” includes:

(i) a member of a board of directors or other governing body of an entity; or

(ii) a partner in any type of partnership.

(8) “Preceding year” means the year immediately preceding the day on which the regulated officeholder makes a conflict of interest disclosure.

(9) “Regulated officeholder” means an individual who is required to make a conflict of interest disclosure under the provisions of this part.

(10) “State constitutional officer” means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

(11) "Website" means the Candidate and Officeholder Conflict of Interest Disclosure Website described in Section 20A-11-1602.5.

**CHAPTER 345****S. B. 31**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**SAFETY INSPECTIONS  
FOR CITED VEHICLES**

Chief Sponsor: Kathleen Riebe  
 House Sponsor: Lee B. Perry

**LONG TITLE****General Description:**

This bill extends the time period for motor vehicles to be repaired after being cited by an officer.

**Highlighted Provisions:**

This bill:

- ▶ extends the time period for persons to repair a vehicle after being cited by a peace officer; and
- ▶ allows a peace officer to stop and inspect a vehicle that has been in an accident.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-8-209, as last amended by Laws of Utah 2017, Chapter 149  
 53-8-210, as last amended by Laws of Utah 2016, Chapter 348

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-8-209 is amended to read:****53-8-209. Inspection by officers --  
Certificate of inspection.**

(1) A peace officer may stop, inspect, and test a vehicle at any time upon reasonable cause to believe that:

(a) a vehicle is unsafe or not equipped as required by law; ~~or~~

(b) the vehicle's equipment is not in proper adjustment or repair~~[-];~~ or

(c) the vehicle has been in an accident and a post accident investigation is necessary.

(2) (a) (i) If a vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer may give a written notice to the driver and shall send a copy to the division.

(ii) The notice shall:

(A) require that the vehicle be placed in safe condition and the vehicle's equipment in proper repair and adjustment;

(B) specify the repairs and adjustments needed; and

(C) require that a safety inspection certificate be obtained within ~~[five]~~ 14 days.

(b) If a vehicle is, in the reasonable judgment of the peace officer, hazardous to operate, the peace officer may require that the vehicle:

(i) not be operated under its own power; or

(ii) be driven to the nearest garage or other place of safety.

(c) (i) If the owner or driver does not comply with the notice requirements and secure a safety inspection certificate within ~~[five]~~ 14 days, the vehicle may not be operated on the highways of this state.

(ii) A violation of Subsection (2)(c)(i) is an infraction.

(3) An owner or driver of a vehicle is not guilty of an infraction and is not required to pay a fee or fine if the citation was issued for:

(a) expired registration in violation of Section 41-1a-201, and:

(i) the citation was issued within two months after the expiration of the vehicle's registration; and

(ii) the owner or driver registers the vehicle within 14 days after the citation was issued; or

(b) a violation of Section 41-1a-205, 41-6a-1601, or 53-8-205 or any other equipment related infraction under Title 41, Chapter 6a, Part 16, Vehicle Equipment, and the owner or driver obtains a safety inspection, emissions inspection, or proof of repair, as applicable, within 14 days after the citation was issued.

**Section 2. Section 53-8-210 is amended to read:****53-8-210. Enforcement of inspection requirements.**

(1) A person operating a vehicle shall submit the vehicle to a safety inspection when required to do so by a peace officer.

(2) (a) An owner or driver, upon receiving a notice as provided in Section 53-8-209, shall within ~~[five]~~ 14 business days:

(i) secure a safety inspection certificate~~[-, which shall be issued in duplicate, one copy to be retained by the owner or driver and the other copy to be forwarded to the division.];~~ and

(ii) present the certificate and the repaired vehicle to the Utah Highway Patrol for verification.

(b) In lieu of compliance with this subsection, the vehicle may not be operated, except as provided in Subsection (3).

(3) (a) A person may not operate any vehicle after receiving a notice from a peace officer that the vehicle is in need of repair or adjustment, except that a peace officer may allow the vehicle to be driven to the residence or place of business of the owner or driver or to the nearest garage where

repairs are available if driving the vehicle is not excessively dangerous.

(b) The vehicle may not be operated again on the highways until its equipment has been placed in proper repair and adjustment and otherwise conforms to the requirements of this part and Title 41, Chapter 6a, Traffic Code, and a safety inspection certificate is obtained as promptly as possible.

(4) If repair or adjustment of any vehicle or its equipment is necessary, the owner of the vehicle may obtain repair or adjustment at any place he may choose.

**CHAPTER 346****S. B. 32**

Passed February 27, 2020

Approved March 30, 2020

Effective May 12, 2020

**PRISONER OFFENSE AMENDMENTS**

Chief Sponsor: Karen Mayne

House Sponsor: Lee B. Perry

**LONG TITLE****General Description:**

This bill modifies provisions related to an offense committed by a prison inmate.

**Highlighted Provisions:**

This bill:

- ▶ modifies the list of offenses that qualify a prison inmate serving a sentence for a capital or first degree felony to be sentenced to life in prison without the possibility of parole; and
- ▶ makes conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

76-3-203.6, as last amended by Laws of Utah 2016, Chapter 277

76-5-103.5, as last amended by Laws of Utah 2006, Chapter 102

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 76-3-203.6 is amended to read:****76-3-203.6. Enhanced penalty for certain offenses committed by prisoner.**

(1) As used in this section, "serving a sentence" means a prisoner is sentenced and committed to the custody of the Department of Corrections, the sentence has not been terminated or voided, and the prisoner:

- (a) has not been paroled; or
- (b) is in custody after arrest for a parole violation.

(2) If the trier of fact finds beyond a reasonable doubt that a prisoner serving a sentence for a capital felony or a first degree felony commits any offense listed in Subsection (5), the offense is a first degree felony and the court shall sentence the defendant to life in prison without parole.

(3) Notwithstanding Subsection (2), the court may sentence the defendant to an indeterminate prison term of not less than 20 years and that may be for life if the court finds that the interests of justice would best be served and states the specific circumstances justifying the disposition on the record.

(4) Subsection (2) does not apply if the prisoner is younger than 18 years of age at the time the offense listed in Subsection (5) is committed and is sentenced on or after May 10, 2016.

(5) Offenses referred to in Subsection (2) are:

(a) ~~[aggravated assault, Section 76-5-103]~~ aggravated assault by a prisoner, Section 76-5-103.5;

(b) mayhem, Section 76-5-105;

(c) attempted murder, Section 76-5-203;

(d) kidnapping, Section 76-5-301;

(e) child kidnapping, Section 76-5-301.1;

(f) aggravated kidnapping, Section 76-5-302;

(g) rape, Section 76-5-402;

(h) rape of a child, Section 76-5-402.1;

(i) object rape, Section 76-5-402.2;

(j) object rape of a child, Section 76-5-402.3;

(k) forcible sodomy, Section 76-5-403;

(l) sodomy on a child, Section 76-5-403.1;

(m) aggravated sexual abuse of a child, Section 76-5-404.1;

(n) aggravated sexual assault, Section 76-5-405;

(o) aggravated arson, Section 76-6-103;

(p) aggravated burglary, Section 76-6-203; and

(q) aggravated robbery, Section 76-6-302.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

- (i) a grievous sexual offense;
- (ii) child kidnapping, Section 76-5-301.1; or
- (iii) aggravated kidnapping, Section 76-5-302; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

**Section 2. Section 76-5-103.5 is amended to read:****76-5-103.5. Aggravated assault by prisoner.**

Any prisoner who commits aggravated assault ~~[not amounting to a violation of Section 76-3-203.6]~~ is guilty of:

(1) a second degree felony if no serious bodily injury was intentionally caused; or

(2) a first degree felony if serious bodily injury was intentionally caused.

**CHAPTER 347****S. B. 37**

Passed March 12, 2020

Approved March 30, 2020

Effective July 1, 2020

**ELECTRONIC CIGARETTE AND OTHER  
NICOTINE PRODUCT AMENDMENTS**

Chief Sponsor: Allen M. Christensen

House Sponsor: Paul Ray

Cosponsors: David G. Buxton

Luz Escamilla

Keith Grover

Wayne A. Harper

Lyle W. Hillyard

Jani Iwamoto

Derek L. Kitchen

Karen Mayne

Ann Millner

Ralph Okerlund

Kathleen Riebe

Scott D. Sandall

Jerry W. Stevenson

Ronald Winterton

**LONG TITLE****General Description:**

This bill enacts and amends provisions relating to electronic cigarette products and nicotine products.

**Highlighted Provisions:**

This bill:

- ▶ defines and coordinates terms;
- ▶ increases the minimum age for obtaining, possessing, using, providing, or furnishing of tobacco products, paraphernalia, and under certain circumstances, electronic cigarettes and nicotine products to 21 years old;
- ▶ imposes permitting requirements and processes for the sale of a nicotine product;
- ▶ requires a tobacco retailer to provide itemized receipts and to maintain an itemized transaction log for sales of a tobacco product, an electronic cigarette product, or a nicotine product;
- ▶ establishes a Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program within the Department of Health;
- ▶ creates a committee to advise the department on the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program;
- ▶ creates the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program operated by local health departments;
- ▶ specifies requirements relating to the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program;
- ▶ applies civil penalties to the improper sale of a nicotine product;
- ▶ requires certain nicotine products to have a statement on the products' exterior packages that the products contain nicotine;
- ▶ creates a reduction on certain tax rates for products that are issued a modified risk tobacco product order by the United States Food and Drug Administration;
- ▶ imposes licensing and bonding requirements on a person that sells or distributes an electronic cigarette product or a nicotine product;

- ▶ imposes an excise tax on the sale in the state of an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, and a prefilled nontherapeutic nicotine device;
- ▶ provides for the remittance of the tax collected;
- ▶ creates the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account;
- ▶ addresses use of revenue from the taxation of an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, and a prefilled nontherapeutic nicotine device;
- ▶ provides criminal penalties for a sale or a purchase of an electronic cigarette product or a nicotine product in violation of the law;
- ▶ prohibits a manufacturer, a wholesaler, or a retailer from providing certain discounts or giveaways for electronic cigarettes; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 10-8-41.6, as last amended by Laws of Utah 2018, Chapter 231
- 10-8-47 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 17-50-333, as last amended by Laws of Utah 2018, Chapter 231
- 26-1-7, as last amended by Laws of Utah 2017, Chapter 419
- 26-38-2, as last amended by Laws of Utah 2018, Chapters 231 and 281
- 26-57-101, as enacted by Laws of Utah 2015, Chapter 132
- 26-57-102, as enacted by Laws of Utah 2015, Chapter 132
- 26-62-101, as enacted by Laws of Utah 2018, Chapter 231
- 26-62-102, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 26-62-201, as enacted by Laws of Utah 2018, Chapter 231
- 26-62-202, as last amended by Laws of Utah 2019, Chapter 157
- 26-62-205 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 26-62-301, as enacted by Laws of Utah 2018, Chapter 231
- 26-62-304 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 26-62-305 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232
- 26-62-306, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 26A-1-128, as enacted by Laws of Utah 2018, Chapter 231
- 51-9-203 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapters 136 and 232
- 53-3-229, as last amended by Laws of Utah 2010, Chapters 114 and 276
- 53-3-810, as last amended by Laws of Utah 2010, Chapters 114 and 276

53G-4-402, as last amended by Laws of Utah 2019, Chapters 83, 293, and 451  
 53G-8-209, as last amended by Laws of Utah 2019, Chapter 293  
 59-14-102, as last amended by Laws of Utah 2013, Chapter 148  
 59-14-302, as last amended by Laws of Utah 2014, Chapter 189  
 59-14-703 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232  
 59-14-801, as enacted by Laws of Utah 2015, Chapter 132  
 59-14-802, as last amended by Laws of Utah 2019, Chapter 136  
 59-14-803, as last amended by Laws of Utah 2018, Chapter 231  
 63I-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246  
 76-8-311.3, as last amended by Laws of Utah 2010, Chapter 114  
 76-10-101, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 132  
 76-10-103 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232  
 76-10-104 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232  
 76-10-104.1 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232  
 76-10-105 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232  
 76-10-105.1 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232  
 76-10-111, as last amended by Laws of Utah 2010, Chapter 114  
 77-39-101 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 232

**ENACTS:**

26-7-10, Utah Code Annotated 1953  
 26-57-104, Utah Code Annotated 1953  
 26-62-206, Utah Code Annotated 1953  
 26A-1-129, Utah Code Annotated 1953  
 59-14-104, Utah Code Annotated 1953  
 59-14-804, Utah Code Annotated 1953  
 59-14-805, Utah Code Annotated 1953  
 59-14-806, Utah Code Annotated 1953  
 59-14-807, Utah Code Annotated 1953  
 59-14-808, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 10-8-41.6 is amended to read:****10-8-41.6. Regulation of retail tobacco specialty business.**

- (1) As used in this section:
- (a) "Community location" means:
- (i) a public or private kindergarten, elementary, middle, junior high, or high school;
- (ii) a licensed child-care facility or preschool;
- (iii) a trade or technical school;

- (iv) a church;
- (v) a public library;
- (vi) a public playground;
- (vii) a public park;
- (viii) a youth center or other space used primarily for youth oriented activities;
- (ix) a public recreational facility;
- (x) a public arcade; or
- (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

~~[(e)]~~ (e) "Local health department" means the same as that term is defined in Section 26A-1-102.

(f) "Nicotine product" means the same as that term is defined in Section 76-10-101.

~~[(d)] "Permittee" means a person licensed under this section to conduct business as a retail tobacco specialty business.]~~

~~[(e)]~~ (g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) ~~[the sale of tobacco products accounts]~~ sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products; or

(iv) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

~~[(g)]~~ (i) "Tobacco product" means:

(i) a tobacco product as defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

~~[(i)] any cigar, cigarette, or electronic cigarette, as those terms are defined in Section 76-10-101;]~~

~~[(ii)] a tobacco product, as that term is defined in Section 59-14-102, including:]~~

~~[(A)] chewing tobacco; or]~~

~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco; and]~~

~~[(iii) tobacco paraphernalia, as that term is defined in Section 76-10-104.1.]~~

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state, and through delegation, to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

~~(5) [(a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a]~~ A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

~~[(4)]~~ (a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

~~[(ii)]~~ (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell ~~[tobacco products from the State Tax Commission.]~~ a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

~~[(b) A person that was licensed to conduct business as a retail tobacco specialty business in a municipality before July 1, 2018, shall obtain a permit from a local health department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.]~~

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140;

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has a retail tobacco specialty business license and is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4), on or before December 31, 2015, is exempt from Subsection (4).

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the retail tobacco specialty business license is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of a retail tobacco specialty business license issued before December 31, 2015.



**Section 2. Section 10-8-47 (Effective 07/01/20) is amended to read:**

**10-8-47 (Effective 07/01/20). Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, tobacco products, electronic cigarette products, or nicotine products to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.**

(1) A municipal legislative body may:

(a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny;

(b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house, or place in the city;

(c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or combustible material;

(d) provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in the cases when the money or property embezzled or obtained under false pretenses does not exceed in value the sum of \$500;

(e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to an individual younger than 21 years old; or

(f) prohibit the sale, giving away, or furnishing of ~~[tobacco or e-cigarettes]~~ a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section 76-10-101 to an individual younger than~~[:] 21 years old.~~

~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(ii) beginning July 1, 2021, 21 years old.]~~

(2) A city may:

(a) by ordinance, prohibit the possession of controlled substances as defined in the Utah Controlled Substances Act or any other endangering or impairing substance, provided the conduct is not a class A misdemeanor or felony; and

(b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are addicted to the use of drugs or intoxicants such that an individual substantially lacks the capacity to control the individual's use of the drugs or intoxicants, and judicial supervision may be imposed as a means of effecting the individual's rehabilitation.

**Section 3. Section 17-50-333 is amended to read:**

**17-50-333. Regulation of retail tobacco specialty business.**

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

~~[(e)]~~ (d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

~~[(d)]~~ (e) "Local health department" means the same as that term is defined in Section 26A-1-102.

(f) "Nicotine product" means the same as that term is defined in Section 76-10-101.

~~[(e)]~~ (g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) ~~[the sale of tobacco products accounts]~~ sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products; or

(iv) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

~~[(f)]~~ (h) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

~~[(g)]~~ (i) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) ~~tobacco paraphernalia as defined in Section 76-10-101.~~

~~[(i) any cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;]~~

~~[(ii) a tobacco product as that term is defined in Section 59-14-102, including:]~~

~~[(A) chewing tobacco; or]~~

~~[(B) any substitute for a tobacco product, including flavoring or additives to tobacco; and]~~

~~[(iii) tobacco paraphernalia as that term is defined in Section 76-10-104.1.]~~

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state, and through delegation, to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) ~~[(a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a]~~ A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

~~[(4)]~~ (a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

~~[(4)]~~ (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax

Commission in accordance with Section 59-14-201 or 59-14-301 to sell ~~[tobacco products from the State Tax Commission.]~~ a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

~~[(b) A person that was licensed to conduct business as a retail tobacco specialty business in a county before July 1, 2018, shall obtain a permit from a local health department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.]~~

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140;

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has a retail tobacco specialty business license and is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4), on or before December 31, 2015, is exempt from Subsection (4).

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the retail tobacco specialty business license is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of a retail tobacco specialty business license issued before December 31, 2015.

**Section 4. Section 26-1-7 is amended to read:**

**26-1-7. Committees within department.**

(1) There are created within the department the following committees:

(a) Health Facility Committee;

(b) State Emergency Medical Services Committee;

(c) Air Ambulance Committee;

(d) Health Data Committee;

(e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

(f) Residential Child Care Licensing Advisory Committee;

(g) Child Care Center Licensing Committee; ~~and~~

(h) Primary Care Grant Committee[-]; and

(i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee.

(2) The department shall:

(a) consolidate advisory groups and committees with other committees or advisory groups as appropriate to create greater efficiencies and budgetary savings for the department; and

(b) create in writing, time-limited and subject-limited duties for the advisory groups or committees as necessary to carry out the responsibilities of the department.

**Section 5. Section 26-7-10 is enacted to read:**

**26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.**

(1) As used in this section:

(a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section 26-1-7.

(b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in this section.

(2) (a) There is created within the department the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(b) In consultation with the committee, the department shall:

(i) establish guidelines for the use of funds appropriated to the program;

(ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and appropriate for the population targeted by the program; and

(iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

(3) (a) The committee shall advise the department on:

(i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the state;

(ii) developing the guidelines described in Subsection (2)(b)(i); and

(iii) implementing the provisions of the program.

(b) The executive director shall:

(i) appoint members of the committee; and

(ii) consult with the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301 when making the appointments under Subsection (3)(b)(i).

(c) The committee shall include, at a minimum:

(i) the executive director of a local health department as defined in Section 26A-1-102, or the local health department executive director's designee;

(ii) one designee from the department;

(iii) one representative from the Department of Public Safety;

(iv) one representative from the behavioral health community; and

(v) one representative from the education community.

(d) A member of the committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(4) On or before October 31 of each year, the department shall report to:

(a) the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the program;

(ii) the impact and results of the program, including the effectiveness of each program funded

under Subsection (2)(b)(iii), during the previous fiscal year;

(iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account created in Section 59-14-807; and

(iv) any recommendations for legislation; and

(b) the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301, regarding:

(i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

(ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

**Section 6. Section 26-38-2 is amended to read:**

**26-38-2. Definitions.**

As used in this chapter:

~~[(1) "E-cigarette":]~~

~~[(a) means any electronic oral device:]~~

~~[(i) that provides an aerosol or a vapor of nicotine or other substance; and]~~

~~[(ii) which simulates smoking through its use or through inhalation of the device; and]~~

~~[(b) includes an oral device that is:]~~

~~[(i) composed of a heating element, battery, or electronic circuit; and]~~

~~[(ii) marketed, manufactured, distributed, or sold as:]~~

~~[(A) an e-cigarette;]~~

~~[(B) e-cigar;]~~

~~[(C) e-pipe; or]~~

~~[(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (1)(a).]~~

(1) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

(2) "Non-tobacco shisha" means any product that:

(a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(3) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity,

whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

(i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

(j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and

(ii) any child care, other than child care as defined in Section 26-39-102, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or their guests or families;

(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and

(p) a holder of a bar establishment license, as defined in Section 32B-1-102.

(4) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned,

leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

(5) “Shisha” means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(6) “Smoking” means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

(c) using an ~~e-cigarette~~ electronic cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

**Section 7. Section 26-57-101 is amended to read:**

**CHAPTER 57. ELECTRONIC CIGARETTE AND NICOTINE PRODUCT REGULATION ACT**

**26-57-101. Title.**

This chapter is known as the “Electronic Cigarette and Nicotine Product Regulation Act.”

**Section 8. Section 26-57-102 is amended to read:**

**26-57-102. Definitions.**

As used in this chapter:

(1) “Cigarette” means the same as that term is defined in Section 59-14-102.

(2) “Electronic cigarette” means the same as that term is defined in Section ~~[59-14-802]~~ 76-10-101.

(3) “Electronic cigarette product” means ~~[an electronic cigarette or an electronic cigarette substance.]~~ the same as that term is defined in Section 76-10-101.

(4) “Electronic cigarette substance” means the same as that term is defined in Section ~~[59-14-802]~~ 76-10-101.

(5) “Local health department” means the same as that term is defined in Section 26A-1-102.

~~[(5)]~~ (6) “Manufacture” includes:

(a) to cast, construct, or make electronic cigarettes; or

(b) to blend, make, process, or prepare an electronic cigarette substance.

~~[(6)]~~ (7) “Manufacturer sealed electronic cigarette substance” means an electronic cigarette substance that is sold in a container that:

(a) is ~~[pre-filled]~~ prefilled by the electronic cigarette substance manufacturer; and

(b) the electronic cigarette manufacturer does not intend for a consumer to open.

(8) “Nicotine” means the same as that term is defined in Section 76-10-101.

(9) “Nicotine product” means the same as that term is defined in Section 76-10-101.

**Section 9. Section 26-57-104 is enacted to read:**

**26-57-104. Labeling of nicotine products containing nicotine.**

(1) Any nicotine product shall contain the statement described in Subsection (2) if the nicotine product:

(a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or

(ii) is not otherwise required under federal or state law to contain a nicotine warning; and

(b) contains nicotine.

(2) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (1) as follows:

“This product contains nicotine.”

**Section 10. Section 26-62-101 is amended to read:**

**CHAPTER 62. TOBACCO, ELECTRONIC CIGARETTE, AND NICOTINE PRODUCT RETAIL PERMIT**

**26-62-101. Title.**

This chapter is known as “Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit.”

**Section 11. Section 26-62-102 is amended to read:**

**26-62-102. Definitions.**

As used in this chapter:

(1) “Community location” means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(2) “Electronic cigarette product” means the same as that term is defined in Section 76-10-101.

~~[(2)]~~ (3) “Employee” means an employee of a tobacco retailer.

~~[(3)]~~ (4) “Enforcing agency” means the state Department of Health, or any local health department enforcing the provisions of this chapter.

(4) (5) “General tobacco retailer” means a tobacco retailer that is not a retail tobacco specialty business.

~~[(5)]~~ (6) “Local health department” means the same as that term is defined in Section 26A-1-102.

(7) “Nicotine product” means the same as that term is defined in Section 76-10-101.

~~[(6)]~~ (8) “Permit” means a tobacco retail permit issued under this chapter.

~~[(7)]~~ (9) “Retail tobacco specialty business” means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

~~[(8)]~~ (10) “Tax commission license” means a license issued by the State Tax Commission under:

(a) Section 59-14-201 to sell ~~[cigarettes]~~ a cigarette at retail;

(b) Section 59-14-301 to sell ~~[tobacco products]~~ a tobacco product at retail; or

(c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

~~[(9)]~~ (11) “Tobacco product” means:

(a) a tobacco product as defined in Section 76-10-101; or

(b) tobacco paraphernalia as defined in Section 76-10-101.

~~[(a) a cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;]~~

~~[(b) a tobacco product as that term is defined in Section 59-14-102, including:]~~

~~[(i) chewing tobacco; or]~~

~~[(ii) any substitute for a tobacco product, including flavoring or additives to tobacco; or]~~

~~[(c) tobacco paraphernalia as that term is defined in Section 76-10-101.]~~

~~[(10)]~~ (12) “Tobacco retailer” means a person that is required to obtain a tax commission license.

**Section 12. Section 26-62-201 is amended to read:**

**26-62-201. Permitting requirement.**

(1) (a) ~~[Beginning July 1, 2018, a]~~ A tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this chapter by the local health department with jurisdiction over the physical location where the tobacco retailer operates.

(b) A tobacco retailer without a valid permit may not:

(i) place ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a nicotine product in public view;

(ii) display any advertisement related to ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a nicotine product that promotes the sale, distribution, or use of those products; or

(iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco ~~[or tobacco products]~~, a tobacco product, an electronic cigarette product, or a nicotine product.

(2) A local health department may issue a permit under this chapter for a tobacco retailer in the classification of:

(a) a general tobacco retailer; or

(b) a retail tobacco specialty business.

(3) A permit under this chapter is:

(a) valid only for one physical location, including a vending machine;

(b) valid only at one fixed business address; and

(c) if multiple tobacco retailers are at the same address, separately required for each tobacco retailer.

~~[(4) Notwithstanding the requirement in Subsection (1), a person that holds a tax commission license that was valid on July 1, 2018:]~~

~~[(a) may operate without a permit under this chapter until December 31, 2018; and]~~

~~[(b) shall obtain a permit from a local health department under this chapter before January 1, 2019.]~~

**Section 13. Section 26-62-202 is amended to read:**

**26-62-202. Permit application.**

(1) A local health department shall issue a permit under this chapter for a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

(b) meets all requirements for a permit under this chapter.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section 26-62-203.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this chapter;

(ii) Chapter 38, Utah Indoor Clean Air Act;

(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a nicotine product; and

(f) the dates of all violations disclosed under this Subsection (3).

(4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the retail tobacco specialty business obtained a license to operate the retail tobacco specialty business before December 31, 2015, from:

(a) a municipality under Section 10-8-41.6; or

(b) a county under Section 17-50-333.

(6) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, a permit process for local health departments in accordance with this chapter.

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

**Section 14. Section 26-62-205 (Effective 07/01/20) is amended to read:**

**26-62-205 (Effective 07/01/20). Permit requirements for a retail tobacco specialty business.**

A retail tobacco specialty business shall:

(1) except as provided in Subsection 76-10-105.1(4), prohibit any individual from entering the business if the individual is is younger than 21 years old; and

~~[(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

~~[(b) beginning July 1, 2021, under 21 years old; and]~~

(2) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates the prohibition in Subsection 76-10-105.1(4).

**Section 15. Section 26-62-206 is enacted to read:**

**26-62-206. Requirements for the sale of tobacco product, electronic cigarette product, or nicotine product.**

(1) A tobacco retailer shall:

(a) provide the customer with an itemized receipt for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:

(i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;

(ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and

(iii) the date and time of the sale; and

(b) maintain an itemized transaction log for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:

(i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;

(ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and

(iii) the date and time of the sale.

(2) The itemized transaction log described in Subsection (1)(b) shall be:

(a) maintained for at least one year after the date of each transaction in the itemized transaction log;

(b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer; and

(c) in addition to any documentation required under Section 59-1-1406 and Subsection 59-14-805(2).

**Section 16. Section 26-62-301 is amended to read:**

**26-62-301. Permit violation.**

A person is in violation of the permit issued under this chapter if the person violates:

- (1) a provision of this chapter;
- (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;
- (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;
- (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- (6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a nicotine product.

**Section 17. Section 26-62-304 (Effective 07/01/20) is amended to read:**

**26-62-304 (Effective 07/01/20). Hearing -- Evidence of criminal conviction.**

(1) At a civil hearing conducted under Section 26-62-302, evidence of the final criminal conviction of a tobacco retailer or employee for violation of Section 76-10-104 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this chapter for sale of ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a nicotine product to an individual under ~~[the following ages]~~ 21 years old is prima facie evidence of a violation of this chapter~~[-]~~.

~~[(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

~~[(b) beginning July 1, 2021, under 21 years old.]~~

(2) If the tobacco retailer is convicted of violating Section 76-10-104, the enforcing agency:

- (a) may not assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained; and
- (b) may revoke or suspend a permit in accordance with Section 26-62-305.

**Section 18. Section 26-62-305 (Effective 07/01/20) is amended to read:**

**26-62-305 (Effective 07/01/20). Penalties.**

(1) (a) If, following an inspection by an enforcing agency, or an investigation or issuance of a citation or information under Section 77-39-101, an

enforcing agency determines that a person has violated the terms of a permit issued under this chapter, the enforcing agency may impose the penalties described in this section.

(b) If multiple violations are found in a single inspection or investigation, only one violation shall count toward the penalties described in this section.

(2) (a) The administrative penalty for a first violation at a retail location is a penalty of not more than \$500.

(b) The administrative penalty for a second violation at the same retail location that occurs within one year of a previous violation is a penalty of not more than \$750.

(c) The administrative penalty for a third or subsequent violation at the same retail location that occurs within two years after two or more previous violations is:

(i) a suspension of the retail tobacco business permit for 30 consecutive business days within 60 days after the day on which the third or subsequent violation occurs; or

(ii) a penalty of not more than \$1,000.

(3) The department or a local health department may:

(a) revoke a permit if a fourth violation occurs within two years of three previous violations;

(b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit if the violation is due to a sale of ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a nicotine product to an individual under~~[-]~~ 21 years old; and

~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(ii) beginning July 1, 2021, 21 years old; and]~~

(c) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

(4) (a) Except when a transfer described in Subsection (5) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (3); or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (3).

(b) A person whose permit:

(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and

(ii) is revoked may not apply for a new permit for any tobacco retailer for a period of 24 months after



the day on which an enforcing agency revokes the permit.

(5) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

**Section 19. Section 26-62-306 is amended to read:**

**26-62-306. Recognition of tobacco retailer training program.**

(1) In determining the amount of the monetary penalty to be imposed for an employee's violation of this chapter, a hearing officer shall reduce the civil penalty by at least 50% if the hearing officer determines that:

(a) the tobacco retailer has implemented a documented employee training program; and

(b) the employees have completed that training program within 30 days after the day on which each employee commences the duties of selling ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a nicotine product.

(2) (a) For the first offense at a location, if the hearing officer determines under Subsection (1) that the tobacco retailer licensee has not implemented a documented training program with a written curriculum for employees at that location regarding compliance with this chapter, the hearing officer may suspend all or a portion of the penalty if:

(i) the tobacco retailer agrees to initiate a training program for employees at that location; and

(ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a).

(b) If the hearing officer determines at a subsequent hearing that the tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the tobacco retailer demonstrates good cause for an extension of time for implementation of the training program.

**Section 20. Section 26A-1-128 is amended to read:**

**26A-1-128. Tobacco, electronic cigarette, and nicotine product permits -- Enforcement.**

A local health department:

(1) shall enforce the requirements of Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit;

(2) may enforce licensing requirements for entities that hold a business license to sell ~~[tobacco products]~~ a tobacco product, an electronic cigarette product, or a nicotine product under Section 10-8-41.6 or Section 17-50-333; and

(3) may recommend to a municipality or county that the business license of a retail tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6, Section 17-50-333, or Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit.

**Section 21. Section 26A-1-129 is enacted to read:**

**26A-1-129. Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program -- Reporting.**

(1) As used in this section, "grant program" means the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in this section.

(2) There is created the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program which shall be administered by local health departments in accordance with this section.

(3) (a) A local health department shall administer the grant program with funds allocated to the grant program under Subsection 59-14-807(4)(d), to award grants to:

(i) a coalition of community organizations that is focused on substance abuse prevention;

(ii) a local government agency, including a law enforcement agency, for a program that is focused on substance abuse prevention; or

(iii) a local education agency as defined in Section 53J-1-301.

(b) A recipient of a grant under the grant program shall use the grant to address root causes and factors associated with the use of electronic cigarettes, marijuana, and other drugs:

(i) by addressing one or more risk or protective factors identified in the Utah Student Health and Risk Prevention Statewide Survey; and

(ii) through one or more of the following activities aimed at reducing use of electronic cigarettes, marijuana, and other drugs:

(A) providing information;

(B) enhancing individual skills;

(C) providing support to activities that reduce risk or enhance protections;

(D) enhancing access or reducing barriers systems, processes, or programs;

(E) changing consequences by addressing incentives or disincentives;

(F) changing the physical design or structure of an environment to reduce risk or enhance protections; or

(G) supporting modifications or changing policies.

(c) The grant program shall provide funding for a program or purpose that is:

(i) evidence-based; or

(ii) a promising practice as defined by the United States Centers for Disease Control and Prevention.

(4) (a) An applicant for a grant under the grant program shall submit an application to the local health department that has jurisdiction over the area in which the applicant is proposing use of grant funds.

(b) The application described in Subsection (4)(a) shall:

(i) provide a summary of how the applicant intends to expend grant funds; and

(ii) describe how the applicant will meet the requirements described in Subsection (3).

(c) A local health department may establish the form or manner in which an applicant must submit an application for the grant program under this section.

(5) (a) A local health department shall:

(i) on or before June 30 of each year:

(A) review each grant application the local health department receives for the grant program; and

(B) select recipients for a grant under the grant program; and

(ii) before July 15 of each year, disperse grant funds to each selected recipient.

(b) A local health department may not award a single grant under this section in an amount that exceeds \$100,000.

(6) (a) Before August 1 of each year, a recipient of a grant under the grant program shall, for the previous year, submit a report to the local health department that:

(i) provides an accounting for the expenditure of grant funds;

(ii) describes measurable outcomes as a result of the expenditures;

(iii) describes the impact and effectiveness of programs and activities funded through the grant; and

(iv) indicates the amount of grant funds remaining on the date that the report is submitted.

(b) (i) A grant recipient shall submit the report described in Subsection (6)(a) before August 1 of each year until the grant recipient expends all funds awarded to the recipient under the grant program.

(ii) After a grant recipient expends all funds awarded to the recipient under the grant program, the grant recipient shall submit a final report to the local health department with the information described in Subsection (6)(a).

(7) (a) On or before September 1 of each year, each local health department shall submit the reports described in Subsection (6) to the Association of Local Health Departments.

(b) The Association of Local Health Departments shall compile the reports and, in collaboration with the Department of Health, submit a report to the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the grant program;

(ii) the impact and effectiveness of programs and activities that the grant program funds during the previous fiscal year; and

(iii) any recommendations for legislation.

**Section 22. Section 51-9-203 (Effective 07/01/20) is amended to read:**

**51-9-203 (Effective 07/01/20). Requirements for tobacco programs.**

(1) To be eligible to receive funding under this part for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(I) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products are

available to individuals under [~~the following ages:~~ 21 years old;

~~[(A) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(B) beginning July 1, 2021, 21 years old;]~~

(b) agree, by contract, to file an annual written report with the Department of Health that contains the following:

(i) the amount funded;

(ii) the amount expended;

(iii) a description of the program or campaign and the number of adults and youth who participated;

(iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and

(v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this part directly or indirectly, to:

(i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or

(ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

(A) the provisions of the Master Settlement Agreement;

(B) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(C) Title 26, Chapter 62, Part 3, Enforcement; and

(D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

(d) agree, by contract, to repay the funds provided under this part if the organization:

(i) fails to file a timely report as required by Subsection (1)(b); or

(ii) uses any portion of the funds in violation of Subsection (1)(c).

(2) The Department of Health shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:

(a) shall include a comparison of annual smoking trends;

(b) may be conducted by an independent evaluator; and

(c) may be paid for by funds appropriated from the account for that purpose.

(3) The Department of Health shall annually report to the Social Services Appropriations

Subcommittee on the reviews conducted pursuant to Subsection (2).

(4) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

(a) repay the state as provided in Subsection (1)(d); and

(b) be disqualified from receiving funds under this part in any subsequent fiscal year.

(5) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(6) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

**Section 23. Section 53-3-229 is amended to read:**

**53-3-229. Prohibited uses of license certificate -- Penalty.**

(1) It is a class C misdemeanor for [~~a person~~] an individual to:

(a) lend or knowingly permit the use of a license certificate issued to the [~~person~~] individual, by [~~a person~~] another individual not entitled to it;

(b) display or to represent as the [~~person's~~] individual's own a license certificate not issued to the [~~person~~] individual;

(c) refuse to surrender to the division or a peace officer upon demand any license certificate issued by the division;

(d) use a false name or give a false address in any application for a license or any renewal or duplicate of the license certificate, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in the application;

(e) display a canceled, denied, revoked, suspended, or disqualified driver license certificate as a valid driver license certificate;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic driver license certificate issued by a governmental entity if the item is not an authentic driver license certificate issued by that governmental entity; or

(g) alter any information on an authentic driver license certificate so that it no longer represents the information originally displayed.

(2) The provisions of Subsection (1)(e) do not prohibit the use of [~~a person's~~] an individual's driver license certificate as a means of personal identification.

(3) It is a class A misdemeanor to knowingly:

(a) issue a driver license certificate with false or fraudulent information;

(b) issue a driver license certificate to a person younger than 21 years of age if the driver license certificate is not distinguished as required for [~~a~~

person] an individual younger than 21 years of age under Section 53-3-207; or

(c) acquire, use, display, or transfer a false or altered driver license certificate to procure[~~;~~] a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section 76-10-101.

~~[(i) a cigarette;]~~

~~[(ii) an electronic cigarette, as defined in Section 76-10-101;]~~

~~[(iii) tobacco; or]~~

~~[(iv) a tobacco product.]~~

(4) ~~[A person]~~ An individual may not use, display, or transfer a false or altered driver license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(5) It is a third degree felony if ~~[a person's]~~ an individual's acquisition, use, display, or transfer of a false or altered driver license certificate:

(a) aids or furthers the ~~[person's]~~ individual's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the ~~[person's]~~ individual's efforts to commit a violent felony.

**Section 24. Section 53-3-810 is amended to read:**

**53-3-810. Prohibited uses of identification card -- Penalties.**

(1) It is a class C misdemeanor to:

(a) lend or knowingly permit the use of an identification card issued to the ~~[person]~~ individual, by ~~[a person]~~ an individual not entitled to it;

(b) display or to represent as the ~~[person's]~~ individual's own an identification card not issued to the ~~[person]~~ individual;

(c) refuse to surrender to the division or a peace officer upon demand any identification card issued by the division;

(d) use a false name or give a false address in any application for an identification card or any renewal or duplicate of the identification card, or to knowingly make a false statement, or to knowingly conceal a material fact in the application;

(e) display a revoked identification card as a valid identification card;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic identification card issued by a governmental entity if the item is not an authentic identification card issued by that governmental entity; or

(g) alter any information contained on an authentic identification card so that it no longer represents the information originally displayed.

(2) It is a class A misdemeanor to knowingly:

(a) issue an identification card with false or fraudulent information;

(b) issue an identification card to ~~[any person]~~ an individual who is younger than 21 years of age if the identification card is not distinguished as required for ~~[a person]~~ an individual who is younger than 21 years of age under Section 53-3-806; or

(c) acquire, use, display, or transfer a false or altered identification card to procure[~~;~~] a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section 76-10-101.

~~[(i) a cigarette;]~~

~~[(ii) an electronic cigarette, as defined in Section 76-10-101;]~~

~~[(iii) tobacco; or]~~

~~[(iv) a tobacco product.]~~

(3) ~~[A person]~~ An individual may not knowingly use, display, or transfer a false or altered identification card to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(4) It is a third degree felony if ~~[a person's]~~ an individual's acquisition, use, display, or transfer of a false or altered identification card:

(a) aids or furthers the ~~[person's]~~ individual's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the ~~[person's]~~ individual's efforts to commit a violent felony.

**Section 25. Section 53G-4-402 is amended to read:**

**53G-4-402. Powers and duties generally.**

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

(f) implement training programs for school administrators, including basic management

training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(g) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements,

boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

**Section 26. Section 53G-8-209 is amended to read:**

**53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.**

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the

level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and standards of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.

(b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):

(i) the use of foul, abusive, or profane language while engaged in school related activities;

(ii) the illicit use, possession, or distribution of:

(A) controlled substances or drug paraphernalia]; ~~and the use, possession, or distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law~~];

(B) a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section 76-10-101; or

(C) an alcoholic beverage; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under [Utah] state law.

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

**Section 27. Section 59-14-102 is amended to read:**

**59-14-102. Definitions.**

As used in this chapter:

(1) “Alternative nicotine product” means the same as that term is defined in Section 76-10-101.

~~(1)~~ (2) “Cigarette” means a roll for smoking made wholly or in part of tobacco:

(a) regardless of:

(i) the size of the roll;

(ii) the shape of the roll; or

(iii) whether the tobacco is ~~is~~ ~~(A)~~ flavored ~~(B)~~, adulterated ~~(C)~~, or mixed with any other ingredient; and

(b) if the wrapper or cover of the roll is made of paper or any other substance or material except tobacco.

~~(2)~~ (3) “Cigarette rolling machine” means a device or machine that has the capability to produce at least 150 cigarettes in less than 30 minutes.

~~(3)~~ (4) “Cigarette rolling machine operator” means a person who:

(a) (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette rolling machine; and

(ii) makes the cigarette rolling machine available for use by another person to produce a cigarette; or

(b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

~~(4)~~ (5) “Consumer” means a person that is not required:

(a) under Section 59-14-201 to obtain a license under Section 59-14-202; ~~or~~

(b) under Section 59-14-301 to obtain a license under Section 59-14-202~~;~~ or

(c) to obtain a license under Section 59-14-803.

~~(5)~~ (6) “Counterfeit cigarette” means:

(a) a cigarette that has a false manufacturing label; or

(b) a package of cigarettes bearing a counterfeit tax stamp.

(7) “Electronic cigarette” means the same as that term is defined in Section 76-10-101.

(8) “Electronic cigarette product” means the same as that term is defined in Section 76-10-101.

(9) “Electronic cigarette substance” means the same as that term is defined in Section 76-10-101.

~~(6)~~ (10) “Importer” means a person ~~who~~ that imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution.

~~(7)~~ (11) “Indian tribal entity” means a federally recognized Indian tribe, tribal entity, or any other person doing business as a distributor or retailer of cigarettes on tribal lands located in the state.

~~(8)~~ (12) “Little cigar” means a roll for smoking that:

(a) is made wholly or in part of tobacco;

(b) ~~that~~ uses an integrated cellulose acetate filter or other similar filter; and

(c) ~~that~~ is wrapped in a substance:

(i) containing tobacco; and

(ii) that is not exclusively natural leaf tobacco.

~~(9)~~ (13) (a) Except as provided in Subsection ~~(9)~~ (13)(b), “manufacturer” means a person ~~who~~ that:

(i) manufactures, fabricates, assembles, processes, or labels a finished cigarette~~;~~ or

(ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repackages, relabels, or imports an electronic cigarette product or a nicotine product.

(b) “Manufacturer” does not include a cigarette rolling machine operator.

~~(10)~~ (14) “Moist snuff” means tobacco that:

(a) is finely ~~(i)~~ cut ~~(ii)~~, ground ~~(iii)~~, or powdered;

(b) has at least 45% moisture content, as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) is not intended to be:

(i) smoked; or

(ii) placed in the nasal cavity; and

(d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in single-use units, including:

(i) tablets;

(ii) lozenges;

(iii) strips;

(iv) sticks; or

(v) packages containing multiple single-use units.

(15) “Nicotine” means the same as that term is defined in Section 76-10-101.

(16) “Nicotine product” means the same as that term is defined in Section 76-10-101.

(17) “Nontherapeutic nicotine device” means the same as that term is defined in Section 76-10-101.

(18) “Nontherapeutic nicotine device substance” means the same as that term is defined in Section 76-10-101.

(19) “Nontherapeutic nicotine product” means the same as that term is defined in Section 76-10-101.

(20) “Prefilled electronic cigarette” means the same as that term is defined in Section 76-10-101.

(21) “Prefilled nontherapeutic nicotine device” means the same as that term is defined in Section 76-10-101.



[41] (22) “Retailer” means a person that:

(a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state; or

(b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state.

[12] (23) “Stamp” means the indicia required to be placed on a cigarette package that evidences payment of the tax on cigarettes required by Section 59-14-205.

[43] (24) (a) “Tobacco product” means a product made of, or containing, tobacco.

(b) “Tobacco product” includes:

(i) a cigarette produced from a cigarette rolling machine;

(ii) a little cigar; or

(iii) moist snuff.

(c) “Tobacco product” does not include a cigarette.

[44] (25) “Tribal lands” means land held by the United States in trust for a federally recognized Indian tribe.

**Section 28. Section 59-14-104 is enacted to read:**

**59-14-104. Rate reduction for modified risk tobacco products.**

(1) Beginning July 1, 2021, the tax imposed under this chapter is reduced in accordance with Subsection (2):

(a) on the first day of a calendar quarter; and

(b) after a 90-day period beginning on the day on which the commission receives a notice from the manufacturer of a product that has received a modified risk tobacco product order from the United States Food and Drug Administration.

(2) The tax imposed under this chapter is reduced by:

(a) 50% for any product that is issued a modified risk tobacco product order under 21 U.S.C. Sec. 387k(g)(1); and

(b) 25% for any product that is issued a modified risk tobacco product order under 21 U.S.C. Sec. 387k(g)(2).

**Section 29. Section 59-14-302 is amended to read:**

**59-14-302. Tax basis -- Rates.**

(1) As used in this section:

(a) “Manufacturer’s sales price” means the amount the manufacturer of a tobacco product charges after subtracting a discount.

(b) “Manufacturer’s sales price” includes an original Utah destination freight charge, regardless of:

(i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

(ii) who pays the original Utah destination freight charge.

(2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

(3) (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

(b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling machine shall be paid by the cigarette rolling machine operator.

(4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced from a cigarette rolling machine, the [rate] amount of the tax under this section is .86 multiplied by the manufacturer’s sales price.

(5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:

(i) at a rate of \$1.83 per ounce; and

(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (5)(a) is imposed:

(i) on that fractional part of one ounce; and

(ii) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) A little cigar is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

(b) (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

(ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced from the cigarette rolling machine.

(7) (a) Moisture content of a tobacco product is determined at the time of packaging.

(b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

(i) for a period of three years after the last day on which the manufacturer distributes the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of the tobacco product available for review by the commission, upon demand; and

(ii) provide a document, to the person described in Subsection (3) to whom the manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco product, as verified by the scientific evidence described in Subsection (7)(b)(i).

(c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product by a person who relies, in good faith, on the document described in Subsection (7)(b)(ii).

(d) A person described in Subsection (3) who is required to pay tax on a tobacco product:

(i) shall, for a period of three years after the last day on which the person pays the tax on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for review by the commission, upon demand; and

(ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

**Section 30. Section 59-14-703 (Effective 07/01/20) is amended to read:**

**59-14-703 (Effective 07/01/20). Certification of cigarette rolling machine operators -- Renewal of certification -- Requirements for certification or renewal of certification -- Denial.**

(1) A cigarette rolling machine operator may not perform the following without first obtaining certification from the commission as provided in this part:

(a) locate a cigarette rolling machine within this state;

(b) make or offer to make a cigarette rolling machine available for use within this state; or

(c) offer a cigarette for sale within this state if the cigarette is produced by:

(i) the cigarette rolling machine operator; or

(ii) another person at the location of the cigarette rolling machine operator's cigarette rolling machine.

(2) A cigarette rolling machine operator shall renew its certification as provided in this section.

(3) The commission shall prescribe a form for certifying a cigarette rolling machine operator under this part.

(4) (a) A cigarette rolling machine operator shall apply to the commission for certification before the cigarette rolling machine operator performs an act described in Subsection (1) within the state for the first time.

(b) A cigarette rolling machine operator shall apply to the commission for a renewal of certification on or before the earlier of:

(i) December 31 of each year; or

(ii) the day on which there is a change in any of the information the cigarette rolling machine operator provides on the form described in Subsection (3).

(5) To obtain certification or renewal of certification under this section from the commission, a cigarette rolling machine operator shall:

(a) identify:

(i) the cigarette rolling machine operator's name and address;

(ii) the location, make, and brand of the cigarette rolling machine operator's cigarette rolling machine; and

(iii) each person from whom the cigarette rolling machine operator will purchase or be provided tobacco products that the cigarette rolling machine operator will use to produce cigarettes; and

(b) certify, under penalty of perjury, that:

(i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling machine, regardless of the tobacco's label or description, shall be only of a:

(A) brand family listed on the commission's directory listing required by Section 59-14-603; and

(B) tobacco product manufacturer listed on the commission's directory listing required by Section 59-14-603;

(ii) the cigarette rolling machine operator shall prohibit another person who uses the cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

(iii) the cigarette rolling machine operator holds a current license issued in accordance with this chapter;

(iv) the cigarettes produced from the cigarette rolling machine shall comply with Title 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection Act;

(v) the cigarette rolling machine shall be located in a separate and defined area where the cigarette rolling machine operator ensures that an individual younger than ~~[the age specified in Subsection (6)]~~ 21 years old may not be:

(A) present at any time; or

(B) permitted to enter at any time; and

(vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer, or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20 cigarettes per retail transaction.

~~[(6) For purposes of Subsection (5), an individual is younger than:]~~

~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(b) beginning July 1, 2021, 21 years old.]~~

[~~(7)~~] (6) If the commission determines that a cigarette rolling machine operator meets the requirements for certification or renewal of certification under this section, the commission shall grant the certification or renewal of certification.

[~~(8)~~] (7) If the commission determines that a cigarette rolling machine operator does not meet the requirements for certification or renewal of certification under this section, the commission shall:

(a) deny the certification or renewal of certification; and

(b) provide the cigarette rolling machine operator the grounds for denial of the certification or renewal of certification in writing.

**Section 31. Section 59-14-801 is amended to read:**

**Part 8. Electronic Cigarette and Nicotine Product Licensing and Taxation Act**

**59-14-801. Title.**

This part is known as the "Electronic Cigarette Product and Nicotine Product Licensing and Taxation Act."

**Section 32. Section 59-14-802 is amended to read:**

**59-14-802. Definitions.**

As used in this part:

[~~(1)~~] "Cigarette" means the same as that term is defined in Section 59-14-102.]

[~~(2)~~] (a) "Electronic cigarette" means:

[~~(i)~~] an electronic device used to deliver or capable of delivering vapor containing nicotine to an individual's respiratory system;

[~~(ii)~~] a component of the device described in Subsection (2)(a)(i); or]

[~~(iii)~~] an accessory sold in the same package as the device described in Subsection (2)(a)(i).]

[~~(b)~~] "Electronic cigarette" includes an e-cigarette as defined in Section 26-38-2.]

[~~(3)~~] "Electronic cigarette product" means an electronic cigarette or an electronic cigarette substance.];

[~~(4)~~] "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.];

[~~(5)~~] (1) "Licensee" means a person that holds a valid license to sell an electronic cigarette [products] product or a nicotine product.

[~~(6)~~] "License to sell an electronic cigarette product" means a license issued by the commission under Subsection 59-14-803(3).]

(2) (a) "Manufacturer's sales price" means the amount that the manufacturer of an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic

nicotine device substance, or a prefilled nontherapeutic nicotine device charges after subtracting a discount.

(b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:

(i) whether the electronic cigarette substance, prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine device is shipped f.o.b. origin or f.o.b. destination; or

(ii) who pays the original Utah destination freight charge.

**Section 33. Section 59-14-803 is amended to read:**

**59-14-803. License to sell electronic cigarette product or nicotine product.**

(1) [~~Except as provided in Subsection (2), a~~] A person may not sell, offer to sell, or distribute an electronic cigarette product [~~in Utah~~] or a nicotine product in this state without first:

(a) except as provided in Subsection (2), obtaining a license from the commission under this section to sell an electronic cigarette product [~~from the commission under this section.~~] or a nicotine product; and

(b) complying with any bonding requirement described in Subsection (5).

(2) A person that holds a valid license to sell cigarettes under Section 59-14-201[,], or a person that holds a valid license to sell tobacco products under Section 59-14-301[,], may, without obtaining a separate license [~~to sell an electronic cigarette product under this part,~~] in accordance with this section, sell, offer to sell, or distribute an electronic cigarette product [~~in Utah in accordance with this part~~] or a nicotine product in this state.

(3) The commission shall issue a license to sell an electronic cigarette product or a nicotine product to a person that submits an application, on a form created by the commission, that includes:

(a) the person's name;

(b) the address of the facility where the person will sell an electronic cigarette product or a nicotine product; and

(c) any other information the commission requires to implement this chapter.

(4) A license described in Subsection (3) is:

(a) valid only at one fixed business address;

(b) valid for three years;

(c) valid only for a physical location; and

(d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

(5) (a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or retailer that is responsible under this part for the collection of tax on an electronic cigarette

substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to post a bond.

(b) The manufacturer, jobber, distributor, wholesaler, or retailer may post the bond required by Subsection (5)(a) in combination with any bond required by Section 59-14-201 or 59-14-301.

(c) Subject to Subsection (5)(d), the commission shall determine the form and amount of the bond.

(d) The minimum amount of the bond shall be:

(i) except as provided in Subsection (5)(d)(ii) or (ii), \$500;

(ii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond required by Subsection (5)(a) in combination with a bond required by either Section 59-14-201 or 59-14-301, \$1,000; or

(iii) if the manufacturer, jobber, distributor, wholesaler, or retailer posts the bond required by Subsection (5)(a) in combination with a bond required by both Sections 59-14-201 and 59-14-301, \$1,500.

[45] (6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the additional information described in Subsection (3)(c) that a person ~~must~~ shall provide in the application described in Subsection (3).

[46] (7) It is a class B misdemeanor for a person to violate Subsection (1).

[47] (8) The commission may not charge a fee for a license under this section.

**Section 34. Section 59-14-804 is enacted to read:**

**59-14-804. Taxation of electronic cigarette substance, prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, and prefilled nontherapeutic nicotine device.**

(1) (a) Beginning on July 1, 2020, a tax is imposed upon the following:

(i) an electronic cigarette substance; and

(ii) a prefilled electronic cigarette.

(b) Beginning on July 1, 2021, a tax is imposed upon the following:

(i) a nontherapeutic nicotine device substance; and

(ii) a prefilled nontherapeutic nicotine device.

(c) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.

(2) (a) The amount of tax imposed under Subsections (1)(a) and (b) is .56 multiplied by the manufacturer's sales price.

(b) (i) The tax under Subsection (1)(c) on an alternative nicotine product is imposed:

(A) at a rate of \$1.83 per ounce; and

(B) on the basis of the net weight of the alternative nicotine product as listed by the manufacturer.

(ii) If the net weight of the alternative nicotine product is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (2)(b)(i)(A) is imposed:

(A) on that fractional part of one ounce; and

(B) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) If a product is sold in the same package as a product that is taxed under Subsection (1), the tax described in Subsection (2) shall apply to the wholesale manufacturer's sale price of the entire packaged product.

(4) (a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall pay the tax levied under Subsection (1) at the time that an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device is first received in the state.

(b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not resell an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to another distributor, another retailer, or a consumer before paying the tax levied under Subsection (1).

(5) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall remit the taxes collected in accordance with this section to the commission.

(b) The commission shall deposit revenues generated by the tax imposed by this section into the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account created in Section 59-14-807.

**Section 35. Section 59-14-805 is enacted to read:**

**59-14-805. Remittance of tax -- Returns -- Invoice required -- Filing requirement-- Exception -- Penalty -- Overpayment.**

(1) (a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user that collects the tax imposed on an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device shall remit to the commission, in an electronic format approved by the commission:

(i) the tax collected in the previous calendar quarter; and

(ii) the quarterly tax return.

(b) The tax collected and the return are due on or before the last day of April, July, October, and January.

(2) (a) A manufacturer, jobber, distributor, wholesaler, retailer, or any other person selling an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to a person other than the ultimate consumer shall furnish the purchaser with an itemized invoice showing:

(i) the seller's name and address;

(ii) the name and address of the purchaser;

(iii) the date of sale;

(iv) the name and price of the product; and

(v) the discount, if any.

(b) The invoice shall show whether the price includes the tax.

(c) The seller and the purchaser shall retain copies of the invoice and make the invoice available for inspection at the request of the commission or the commission's agent for a period of three years following the sale.

(3) (a) A consumer that purchases an untaxed electronic cigarette substance, prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device substance, or prefilled nontherapeutic nicotine device for use or other consumption shall:

(i) file with the commission, on forms prescribed by the commission, a statement showing the quantity and description of the item subject to tax under this part; and

(ii) pay the tax imposed by this part on that item.

(b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax due on or before the last day of the month immediately following the month during which the consumer purchased an untaxed electronic cigarette substance, prefilled electronic cigarette, alternative nicotine device substance, nontherapeutic nicotine product, or prefilled nontherapeutic nicotine device.

(c) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable to pay under this part for a period of three years following the date on which the statement required by this section was filed.

(4) A tourist who imports an untaxed electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device into the state does not need to file the statement described in Subsection (3) or pay the tax if the item is for the tourist's own use or consumption while in this state.

(5) In addition to the tax required by this part, a person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, if a person subject to this section fails to:

(a) pay the tax prescribed by this part;

(b) pay the tax on time; or

(c) file a return required by this part.

(6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

**Section 36. Section 59-14-806 is enacted to read:**

**59-14-806. Refund of taxes paid --  
Exemption for exported electronic  
cigarettes and nicotine products.**

(1) When an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device taxed under this chapter is sold and shipped to a regular dealer in those articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the taxes paid, upon condition that the seller in this state:

(a) is a licensed dealer;

(b) signs an affidavit that the electronic cigarette substance, the prefilled electronic cigarette, the alternative nicotine product, the nontherapeutic nicotine device substance, or the prefilled nontherapeutic nicotine device was sold and shipped to a regular dealer in those articles in another state;

(c) furnishes, from the purchaser, a written acknowledgment that the purchaser has received the electronic cigarette substance, the prefilled electronic cigarette, the alternative nicotine product, the nontherapeutic nicotine device substance, or the prefilled nontherapeutic nicotine device; and

(d) reports the name and address of the purchaser.

(2) A wholesaler or distributor in this state that exports an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to a regular dealer in those articles in another state shall be exempt from the payment of any tax under this chapter upon furnishing proof of the sale and exportation as the commission may require.

**Section 37. Section 59-14-807 is enacted to read:**

**59-14-807. Electronic Cigarette Substance  
and Nicotine Product Tax Restricted  
Account.**

(1) There is created within the General Fund a restricted account known as the "Electronic

Cigarette Substance and Nicotine Product Tax Restricted Account.”

(2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account consists of:

(a) revenues collected from the tax imposed by Section 59-14-804; and

(b) amounts appropriated by the Legislature.

(3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:

(a) \$2,000,000 which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;

(b) \$2,000,000 to the Department of Health for statewide cessation programs and prevention education;

(c) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors; and

(d) \$3,000,000 which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26-57-103;

(ii) the labeling requirement described in Section 26-57-104; and

(iii) the penalty provisions described in Section 26-62-305.

(b) The Department of Health shall use the money received in accordance with Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26-7-10.

(c) The local health department shall use the money received in accordance with Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(5) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account after the distribution described in Subsection (3) may

only be used for programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

**Section 38. Section 59-14-808 is enacted to read:**

**59-14-808. Restrictions on mail order or Internet sales.**

(1) For purposes of this section:

(a) “Distributor” means a person, wherever residing or located, who:

(i) is licensed in this state to purchase a non-taxed nicotine product or a non-taxed electronic cigarette product; and

(ii) stores, sells, or otherwise disposes of a nicotine product or an electronic cigarette product.

(b) “Licensed person” means the same as that term is defined in Section 59-14-409.

(c) “Order or purchase” includes:

(i) by mail or delivery service;

(ii) through the Internet or computer network;

(iii) by telephone; or

(iv) through some other electronic method.

(d) “Retailer” means any person who sells a nicotine product or an electronic cigarette product to consumers for personal consumption.

(2) A person, distributor, manufacturer, or retailer shall not:

(a) cause a nicotine product or an electronic cigarette product to be ordered or purchased by anyone other than a licensed person; or

(b) knowingly provide substantial assistance to a person who violates this section.

(3) (a) Each order or purchase of a nicotine product or an electronic cigarette product in violation of Subsection (2) constitutes a separate violation under this section.

(b) In addition to the penalties in Subsection (4), a person who violates this section is subject to:

(i) a civil penalty in an amount not to exceed \$5,000 for each violation of this section;

(ii) an injunction to restrain a threatened or actual violation of this section; and

(iii) recovery by the state for:

(A) the costs of investigation;

(B) the cost of expert witness fees;

(C) the cost of the action; and

(D) reasonable attorney’s fees.

(4) A person who knowingly violates this section has engaged in an unfair and deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and the court shall order any profits, gain, gross receipts, or other benefit from the

violation to be disgorged and paid to the state treasurer for deposit in the General Fund.

**Section 39. Section 63I-1-226 is amended to read:**

**63I-1-226. Repeal dates, Title 26.**

(1) Section 26-1-40 is repealed July 1, 2022.

(2) Section 26-7-10 is repealed July 1, 2025.

~~[(2)]~~ (3) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

~~[(3)]~~ (4) Section 26-10-11 is repealed July 1, 2020.

~~[(4)]~~ (5) Subsection 26-18-417(3) is repealed July 1, 2020.

~~[(5)]~~ (6) Subsection 26-18-418(2), the language that states “and the Mental Health Crisis Line Commission created in Section 63C-18-202” is repealed July 1, 2023.

~~[(6) Section 26-18-419.1 is repealed December 31, 2019.]~~

(7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

(12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

(13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

**Section 40. Section 76-8-311.3 is amended to read:**

**76-8-311.3. Items prohibited in correctional and mental health facilities -- Penalties.**

(1) As used in this section:

(a) “Contraband” means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

(b) “Controlled substance” means any substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(c) “Correctional facility” means:

(i) any facility operated by or contracting with the Department of Corrections to house offenders in either a secure or nonsecure setting;

(ii) any facility operated by a municipality or a county to house or detain criminal offenders;

(iii) any juvenile detention facility; and

(iv) any building or grounds appurtenant to the facility or lands granted to the state, municipality, or county for use as a correctional facility.

(d) “Electronic cigarette product” ~~[is as]~~ means the same as that term is defined in Section 76-10-101.

(e) “Medicine” means any prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(f) “Mental health facility” ~~[is as]~~ means the same as that term is defined in Section 62A-15-602.

(g) “Nicotine product” means the same as that term is defined in Section 76-10-101.

~~[(g)]~~ (h) “Offender” means a person in custody at a correctional facility.

~~[(h)]~~ (i) “Secure area” ~~[is as]~~ means the same as that term is defined in Section 76-8-311.1.

(j) “Tobacco product” means the same as that term is defined in Section 76-10-101.

(2) Notwithstanding Section 76-10-500, a correctional or mental health facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any quantity may be:

(a) transported to or upon a correctional or mental health facility;

(b) sold or given away at any correctional or mental health facility;

(c) given to or used by any offender at a correctional or mental health facility; or

(d) knowingly or intentionally possessed at a correctional or mental health facility.

(3) It is a defense to any prosecution under this section if the accused in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

(4) (a) Any ~~[person]~~ individual who transports to or upon a correctional facility, or into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

(b) Any ~~person~~ individual who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.

(c) Any offender who possesses at a correctional facility, or any detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.

(d) Any ~~person~~ individual who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a third degree felony.

(e) Any ~~person~~ individual violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility.

(5) (a) ~~A person~~ An individual is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any:

- (i) spirituous or fermented liquor;
- (ii) medicine, whether or not lawfully prescribed for the offender; or
- (iii) poison in any quantity.

(b) ~~A person~~ An individual is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any:

- (i) spirituous or fermented liquor;
- (ii) medicine, whether or not lawfully prescribed for the offender; or
- (iii) poison in any quantity.

(c) An inmate is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:

- (i) spirituous or fermented liquor;
- (ii) medicine, other than medicine provided by the facility's health care providers in compliance with facility policy; or
- (iii) poison in any quantity.

(d) ~~A person~~ An individual is guilty of a class A misdemeanor who, with the intent to directly or indirectly provide or sell any tobacco product [œ],

electronic cigarette product, or nicotine product to an offender, directly or indirectly:

(i) transports, delivers, or distributes any tobacco product [œ], electronic cigarette product, or nicotine product to an offender or on the grounds of any correctional facility;

(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another person to transport any tobacco product [œ], electronic cigarette product, or nicotine product to an offender or on any correctional facility, if the person is acting with the mental state required for the commission of an offense; or

(iii) facilitates, arranges, or causes the transport of any tobacco product [œ], electronic cigarette product, or nicotine product in violation of this section to an offender or on the grounds of any correctional facility.

(e) ~~A person~~ An individual is guilty of a class A misdemeanor who, without the permission of the authority operating the correctional or mental health facility, fails to declare or knowingly possesses at a correctional facility or in a secure area of a mental health facility any:

- (i) spirituous or fermented liquor;
- (ii) medicine; or
- (iii) poison in any quantity.

(f) (i) ~~A person~~ Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility.

(ii) The provisions of Subsection (5)(d) regarding any tobacco product [œ], electronic cigarette product, or nicotine product take precedence over this Subsection (5)(f).

(g) Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.

(6) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.

(7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product [œ], electronic cigarette product, or nicotine product to offenders is a class A misdemeanor.

**Section 41. Section 76-10-101 is amended to read:**

**76-10-101. Definitions.**

As used in this part:

(1) (a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a



nontherapeutic nicotine product, or a tobacco product, that:

- (i) contains nicotine;
- (ii) is intended for human consumption;
- (iii) is not purchased with a prescription from a licensed physician; and

(iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Alternative nicotine product" includes:

- (i) pure nicotine;
- (ii) snortable nicotine;
- (iii) dissolvable salts, orbs, pellets, sticks, or strips; and
- (iv) nicotine-laced food and beverage.

(c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.

[(4)] (2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette [as described in Subsection (2)].

[(2)] (3) "Cigarette" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection [(2)] (3)(a).

[(3) "Electronic cigarette" means an electronic cigarette product, as defined in Section 59-14-802.]

(4) (a) "Electronic cigarette" means:

- (i) any electronic oral device:
  - (A) that provides an aerosol or a vapor of nicotine or other substance; and
  - (B) which simulates smoking through the use or inhalation of the device;
- (ii) a component of the device described in Subsection (4)(a)(i); or
- (iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).

(b) "Electronic cigarette" includes an oral device that is:

- (i) composed of a heating element, battery, or electronic circuit; and
- (ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) an e-cigar;

(C) an e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).

(5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

(6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

(7) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.

(8) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.

(9) (a) "Nontherapeutic nicotine device" means a device that:

(i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;

(ii) is not purchased with a prescription from a licensed physician; and

(iii) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic nicotine nasal spray.

(10) "Nontherapeutic nicotine device substance" means a substance that:

(a) contains nicotine;

(b) is sold in a cartridge for use in a nontherapeutic nicotine device;

(c) is not purchased with a prescription from a licensed physician; and

(d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(11) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

[(4)] (12) "Place of business" includes:

- (a) a shop;
- (b) a store;
- (c) a factory;
- (d) a public garage;
- (e) an office;
- (f) a theater;
- (g) a recreation hall;

- (h) a dance hall;
- (i) a poolroom;
- (j) a café;
- (k) a cafeteria;
- (l) a cabaret;
- (m) a restaurant;
- (n) a hotel;
- (o) a lodging house;
- (p) a streetcar;
- (q) a bus;
- (r) an interurban or railway passenger coach;
- (s) a waiting room; and
- (t) any other place of business.

(13) “Prefilled electronic cigarette” means an electronic cigarette that is sold prefilled with an electronic cigarette substance.

(14) “Prefilled nontherapeutic nicotine device” means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.

(15) “Retail tobacco specialty business” means the same as that term is defined in Section 26-62-102.

[~~(5)~~] (16) “Smoking” means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

(17) (a) “Tobacco paraphernalia” means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.

(b) “Tobacco paraphernalia” includes:

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) water pipes;

(iii) carburetion tubes and devices;

(iv) smoking and carburetion masks;

(v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(vi) chamber pipes;

(vii) carburetor pipes;

(viii) electric pipes;

(ix) air-driven pipes;

(x) chillums;

(xi) bongos; and

(xii) ice pipes or chillers.

(c) “Tobacco paraphernalia” does not include matches or lighters.

(18) “Tobacco product” means:

(a) a cigar;

(b) a cigarette; or

(c) tobacco in any form, including:

(i) chewing tobacco; and

(ii) any substitute for tobacco, including flavoring or additives to tobacco.

(19) “Tobacco retailer” means:

(a) a general tobacco retailer, as that term is defined in Section 26-62-102; or

(b) a retail tobacco specialty business.

**Section 42. Section 76-10-103 (Effective 07/01/20) is amended to read:**

**76-10-103 (Effective 07/01/20). Permitting minors to use tobacco products, electronic cigarette products, or nicotine products in place of business.**

It is a class C misdemeanor for the proprietor of any place of business to knowingly permit an individual under ~~[the following ages]~~ 21 years old to frequent a place of business while the individual is using ~~[tobacco:]~~ a tobacco product, an electronic cigarette product, or a nicotine product.

~~[(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and]~~

~~[(2) beginning July 1, 2021, under 21 years old.]~~

**Section 43. Section 76-10-104 (Effective 07/01/20) is amended to read:**

**76-10-104 (Effective 07/01/20). Providing a cigar, a cigarette, an electronic cigarette product, a nicotine product, or tobacco to a minor -- Penalties.**

~~[(1) A person violates this section who knowingly, intentionally, recklessly, or with criminal negligence provides a cigar, cigarette, electronic cigarette, or tobacco in any form, to an individual under the following ages, is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses:]~~

~~[(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(b) beginning July 1, 2021, 21 years old.]~~

~~[(2)] (1) As used in this section “provides”:~~

~~(a) includes selling, giving, furnishing, sending, or causing to be sent; and~~

~~(b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person~~

without any reason to know of the package's content.

(2) An individual who knowingly, intentionally, recklessly, or with criminal negligence provides a tobacco product, an electronic cigarette product, or a nicotine product to an individual who is under 21 years old, is guilty of:

- (a) a class C misdemeanor on the first offense;
- (b) a class B misdemeanor on the second offense; and
- (c) a class A misdemeanor on any subsequent offense.

**Section 44. Section 76-10-104.1 (Effective 07/01/20) is amended to read:**

**76-10-104.1 (Effective 07/01/20). Providing tobacco paraphernalia to a minor -- Penalties.**

[1] For purposes of this section:

[(a) "Provides":]

(1) As used in this section, "provides":

[(4)] (a) includes selling, giving, furnishing, sending, or causing to be sent; and

[(4)] (b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

[(b) "Tobacco paraphernalia": (i) means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:]

[(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;]

[(B) water pipes;]

[(C) carburetion tubes and devices;]

[(D) smoking and carburetion masks;]

[(E) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;]

[(F) chamber pipes;]

[(G) carburetor pipes;]

[(H) electric pipes;]

[(I) air-driven pipes;]

[(J) chillums;]

[(K) bongs; and]

[(L) ice pipes or chillers; and]

[(ii) does not include matches or lighters.]

(2) (a) It is unlawful for ~~[a person]~~ an individual to knowingly, intentionally, recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under ~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and (ii) beginning July 1, 2021,]~~ 21 years old.

(b) ~~[A person]~~ An individual who violates this section is guilty of a class C misdemeanor on the first offense and a class B misdemeanor on subsequent offenses.

**Section 45. Section 76-10-105 (Effective 07/01/20) is amended to read:**

**76-10-105 (Effective 07/01/20). Buying or possessing a cigar, a cigarette, an electronic cigarette product, a nicotine product, or tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

(1) ~~[(a)]~~ An individual who is 18 years or older, but younger than ~~[the age specified in Subsection (1)(b)]~~ 21 years old, and buys or attempts to buy, accepts, or has in the individual's possession ~~[any cigar, cigarette, electronic cigarette, or tobacco in any form]~~ a tobacco product, an electronic cigarette product, or a nicotine product is guilty of an infraction and subject to:

[(4)] (a) a minimum fine or penalty of \$60; and

[(4)] (b) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

~~[(b) For purposes of Subsection (1)(a), the individual is younger than:]~~

~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(ii) beginning July 1, 2021, 21 years old.]~~

(2) (a) An individual under the age of 18 who buys or attempts to buy, accepts, or has in the individual's possession ~~[any cigar, cigarette, electronic cigarette, or tobacco in any form]~~ a tobacco product, an electronic cigarette product, or a nicotine product is subject to the jurisdiction of the juvenile court and subject to Section 78A-6-602, unless the violation is committed on school property.

(b) If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

~~[(a)]~~ (i) a fine or penalty, in accordance with Section 78A-6-117; and

~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may include a participation fee.

(3) (a) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.

(b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

~~[(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette, electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older and is:]~~

~~[(i) on active duty in the United States Armed Forces; or]~~

~~[(ii) a spouse or dependent of an individual who is on active duty in the United States Armed Forces.]~~

~~[(b) A valid, government-issued military identification card is required to verify proof of age under Subsection (4)(a).]~~

**Section 46. Section 76-10-105.1 (Effective 07/01/20) is amended to read:**

**76-10-105.1 (Effective 07/01/20).**

**Requirement of direct, face-to-face sale of a tobacco product, an electronic cigarette product, or a nicotine product -- Minors not allowed in tobacco specialty shop -- Penalties.**

(1) As used in this section:

~~[(a) "Cigarette" means the same as that term is defined in Section 59-14-102.]~~

~~[(b)] (a) (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.~~

~~(ii) "Face-to-face exchange" does not include a sale through a:~~

~~(A) vending machine; or~~

~~(B) self-service display.~~

~~[(e)] (b) "Retailer" means a person who:~~

~~(i) sells a [cigarette, tobacco, or] tobacco product, an electronic cigarette product, or a nicotine product to an individual for personal consumption; or~~

~~(ii) operates a facility with a vending machine that sells a [cigarette, tobacco, or] tobacco product, an electronic cigarette product, or a nicotine product.~~

~~[(d)] (c) "Self-service display" means a display of a cigarette, tobacco product, [or] an electronic cigarette product, or a nicotine product to which the public has access without the intervention of a retailer or retailer's employee.~~

~~[(e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.]~~

~~[(f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is defined:]~~

~~[(i) as it relates to a municipality, in Section 10-8-41.6; and]~~

~~[(ii) as it relates to a county, in Section 17-50-333.]~~

(2) Except as provided in Subsection (3), a retailer may sell a [cigarette, tobacco, or] tobacco product, an electronic cigarette product, or a nicotine product only in a face-to-face exchange.

(3) The face-to-face sale requirement in Subsection (2) does not apply to:

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual who complies with Subsection (4) to be present; or

(c) a sale at a retail tobacco specialty [shop] business.

~~(4) [(a) An individual who [is less than the age specified in Subsection (4)(b)] is under 21 years old may not enter or be present at a [tobacco specialty shop] retail tobacco specialty business unless the individual is:~~

~~[(i)] (a) accompanied by a parent or legal guardian; or~~

~~[(ii)] (b) present at the [tobacco shop] retail tobacco specialty business for a bona fide commercial purpose other than to purchase a [cigarette, tobacco, or] tobacco product, an electronic cigarette[; or] product, or a nicotine product.~~

~~[(iii) 18 years old or older and an active duty member of the United States Armed Forces, as demonstrated by a valid, government-issued military identification card.]~~

~~[(b) For purposes of Subsection (4)(a), the individual is younger than:]~~

~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(ii) beginning July 1, 2021, 21 years old.]~~

(5) A parent or legal guardian who accompanies, under Subsection (4)(a)[(i)], an individual into an area described in Subsection (3)(b), or into a [tobacco specialty shop,] retail tobacco specialty business may not allow the individual to purchase a cigarette, tobacco, ~~[or]~~ an electronic cigarette product, or a nicotine product.

(6) A violation of Subsection (2) or (4) is a:

(a) class C misdemeanor on the first offense;

(b) class B misdemeanor on the second offense; and

(c) class A misdemeanor on [the third and all] any subsequent offenses.

(7) An individual who violates Subsection (5) is guilty of [providing tobacco to a minor] an offense under Section 76-10-104.

(8) (a) An ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, minimum age of sale, placement, or display of [cigarettes, tobacco, or electronic cigarettes] tobacco products, electronic cigarette products, or

nicotine products that is not essentially identical to this section and Section 76-10-102 is superseded.

(b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

**Section 47. Section 76-10-111 is amended to read:**

**76-10-111. Restrictions on sale of smokeless tobacco or electronic cigarette products -- Exceptions.**

(1) The Legislature finds that:

(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;

(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

(c) the use of electronic [~~cigarettes~~] cigarette products may lead to unhealthy behavior such as the use of tobacco products; and

(d) it is necessary to restrict the gift of the products described in this Subsection (1) in the interest of the health of the citizens of this state.

(2) (a) Except as provided in Subsection (3), it is unlawful for a manufacturer, wholesaler, and retailer to:

(i) give or distribute without charge any smokeless tobacco, chewing tobacco, or electronic cigarette product in this state[-];

(ii) sell, offer for sale, or furnish any electronic cigarette product at less than the cost, including the amount of any applicable tax, of the product to the manufacturer, wholesaler, or retailer; or

(iii) give, distribute, sell, offer for sale, or furnish any electronic cigarette product for free or at a lower price because the recipient of the electronic cigarette product makes another purchase.

(b) The price that a manufacturer, wholesaler, or retailer may charge under Subsection (2)(a)(ii) does not include a discount for:

(i) a physical manufacturer coupon:

(A) that is surrendered to the wholesaler or retailer at the time of sale; and

(B) for which the manufacturer will reimburse the wholesaler or the retailer for the full amount of the discount described in the manufacturer coupon and provided to the purchaser;

(ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the rebate provided to the purchaser; or

(iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the promotional fund provided to the purchaser.

(c) Any [~~person~~] individual who violates this section is guilty of:

(i) a class C misdemeanor for the first offense[~~, and is guilty of~~]; and

(ii) a class B misdemeanor for any subsequent offense.

(3) [~~(a)~~] Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be distributed to adults without charge at professional conventions where the general public is excluded.

~~[(b) Subsection (2) does not apply to a retailer, manufacturer, or distributor who gives smokeless tobacco, chewing tobacco, or an electronic cigarette to a person of legal age upon the person's purchase of another tobacco product or electronic cigarette.]~~

**Section 48. Section 77-39-101 (Effective 07/01/20) is amended to read:**

**77-39-101 (Effective 07/01/20). Investigation of sales of alcohol, tobacco products, electronic cigarette products, and nicotine products to underage individuals.**

(1) As used in this section[,-]:

(a) [~~“electronic”~~] “Electronic cigarette product” [is as] means the same as that term is defined in Section 76-10-101.

(b) “Nicotine product” means the same as that term is defined in Section 76-10-101.

(c) “Tobacco product” means the same as that term is defined in Section 76-10-101.

(2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer Classifications, may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment; or

(ii) Section 76-10-104 by requesting an individual under [~~the age specified in Subsection (2)(e)~~] 21 years old to enter into and attempt to purchase or make a purchase from a retail establishment of:

~~[(A) a cigar;]~~

~~[(B) a cigarette;]~~

~~[(C) tobacco in any form; or]~~

(A) a tobacco product;

~~[(D)]~~ (B) an electronic cigarette[-] product; or

(C) a nicotine product.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol; or

~~[(ii) (A) a cigar;]~~

~~[(B) a cigarette;]~~

~~[(C) tobacco in any form; or]~~

(ii) (A) a tobacco product;

~~[(D)] (B) an electronic cigarette[.] product; or~~

(C) a nicotine product.

(d) If a citation or information is issued, it shall be issued within seven days of the purchase.

~~[(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:]~~

~~[(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and]~~

~~[(ii) beginning July 1, 2021, 21 years old.]~~

(3) (a) If an individual under the age of 18 years old is requested to attempt a purchase, a written consent of that individual's parent or guardian shall be obtained prior to that individual participating in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco products, ~~[or an]~~ electronic cigarette products, or nicotine products.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase may not during the attempted purchase misrepresent the age of the individual by false or misleading identification documentation in attempting the purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a ~~[cigar, a cigarette, tobacco in any form, or]~~ tobacco product, an electronic cigarette product, or a nicotine product if a peace officer directs, supervises, and monitors the individual.

(6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted within a 12-month period:

(i) on a random basis at any one retail establishment location, not more often than four times for the attempted purchase of alcohol; and

(ii) a minimum of two times at a retail establishment that sells tobacco products, electronic cigarette products, or nicotine products for the attempted purchase of a tobacco product, an electronic cigarette product, or a nicotine product.

~~[(i) on a random basis; and]~~

~~[(ii) within a 12-month period at any one retail establishment location not more often than:]~~

~~[(A) two times for the attempted purchase of:]~~

~~[(I) a cigar;]~~

~~[(II) a cigarette;]~~

~~[(III) tobacco in any form; or]~~

~~[(IV) an electronic cigarette; and]~~

~~[(B) four times for the attempted purchase of alcohol.]~~

(b) This section does not prohibit an investigation or an attempt to purchase [tobacco] alcohol, a tobacco product, an electronic cigarette product, or a nicotine product under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a ~~[cigar, a cigarette, tobacco in any form, or]~~ tobacco product, an electronic cigarette product, or a nicotine product to an individual under the age established by Section 32B-4-403 or 76-10-104; and

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7) (a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

(i) the name of the supervising peace officer;

(ii) the name of the individual attempting the purchase;

(iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;

(iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;

(v) the name and address of the retail establishment; and

(vi) the date and time of the attempted purchase.

#### **Section 49. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 348****S. B. 45**

Passed February 26, 2020

Approved March 30, 2020

Effective July 1, 2020

Exception clause

**UNIFORM FIDUCIARY INCOME AND  
PRINCIPAL ACT AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: V. Lowry Snow

**LONG TITLE****General Description:**

This bill amends provisions of the Uniform Fiduciary Income and Principal Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ clarifies language of the Uniform Fiduciary Income and Principal Act;
- ▶ resolves a conflict between the Uniform Fiduciary Income and Principal Act and the Uniform Directed Trust Act regarding the terms of a trust;
- ▶ modifies dates to reflect the effective date of the Uniform Fiduciary Income and Principal Act; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 22-3-102 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-104 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-201 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-202 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-203 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-301 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-302 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-303 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-304 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-305 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-307 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-308 (Effective 07/01/20), as enacted by Laws

- of Utah 2019, Chapter 495
- 22-3-309 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-401 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-402 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-403 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-404 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-405 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-407 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-409 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-411 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-412 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-414 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-415 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-505 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-506 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-507 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-601 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-602 (Effective 07/01/20), as repealed and reenacted by Laws of Utah 2019, Chapter 495
- 22-3-701 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-702 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-703 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-801 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-803 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 22-3-804 (Effective 07/01/20), as enacted by Laws of Utah 2019, Chapter 495
- 75-7-103 (Superseded 07/01/20), as last amended by Laws of Utah 2019, Chapter 153
- 75-7-103 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapters 153 and 495

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 22-3-102 (Effective 07/01/20) is amended to read:**

**22-3-102 (Effective 07/01/20). Definitions.**

In this chapter:

(1) (a) "Accounting period" means a calendar year, unless a fiduciary selects another period of 12 calendar months or approximately 12 calendar months.

(b) "Accounting period" includes a part of a calendar year or another period of 12 calendar months or approximately 12 calendar months that begins when an income interest begins or ends when an income interest ends.

(2) (a) "Asset-backed security" means a security that is serviced primarily by the cash flows of a discrete pool of fixed or revolving receivables or other financial assets that by the financial assets' terms convert into cash within a finite time.

(b) "Asset-backed security" includes rights or other assets that ensure the servicing or timely distribution of proceeds to the holder of the asset-backed security.

(c) "Asset-backed security" does not include an asset to which Section 22-3-401, 22-3-409, or 22-3-414 applies.

(3) "Beneficiary" includes:

(a) for a trust:

(i) a current beneficiary, including a current income beneficiary and a beneficiary that may receive only principal;

(ii) a remainder beneficiary; and

(iii) any other successor beneficiary;

(b) for an estate, an heir and devisee; and

(c) for a life estate or term interest, a person that holds a life estate, term interest, or remainder, or other interest following a life estate or term interest.

(4) "Court" means a court ~~[of competent jurisdiction in the state]~~ in this state with jurisdiction over a trust or estate, or a life estate or other term interest described in Subsection 22-3-103(2).

(5) "Current income beneficiary" means a beneficiary to which a fiduciary may distribute net income, ~~[whether]~~ even if the fiduciary also may distribute principal to the beneficiary.

(6) (a) "Distribution" means a payment or transfer by a fiduciary to a beneficiary in the beneficiary's capacity as a beneficiary, made under the terms of the trust, without consideration other than the beneficiary's right to receive the payment or transfer under the terms of the trust.

(b) "Distribute," "distributed," and "distributee" have corresponding meanings.

(7) (a) "Estate" means a decedent's estate.

(b) "Estate" includes the property of the decedent as the estate is originally constituted and the property of the estate as it exists at any time during administration.

(8) "Fiduciary" includes:

(a) a trustee, trust director as defined in Section 75-12-102, personal representative, life tenant, holder of a term interest, and person acting under a delegation from a fiduciary;

(b) a person that holds property for a successor beneficiary whose interest may be affected by an allocation of receipts and expenditures between income and principal; and

(c) if there are two or more co-fiduciaries, all co-fiduciaries acting under the terms of the trust and applicable law.

(9) (a) "Income" means money or other property a fiduciary receives as current return from principal.

(b) "Income" includes a part of receipts from a sale, exchange, or liquidation of a principal asset to the extent provided in Part 4, Allocation of Receipts.

(10) (a) "Income interest" means the right of a current income beneficiary to receive all or part of net income, whether the terms of the trust require the net income to be distributed or authorize the net income to be distributed in the fiduciary's discretion.

(b) "Income interest" includes the right of a current beneficiary to use property held by a fiduciary.

(11) "Independent person" means a person that is not:

(a) for a trust:

(i) a qualified beneficiary as determined under Section 75-7-103;

(ii) a settlor of the trust; or

(iii) an individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(b) for an estate, a beneficiary;

(c) a spouse, parent, brother, sister, or issue of an individual described in Subsection (11)(a) or (b);

(d) a corporation, partnership, limited liability company, or other entity in which persons described in Subsections (11)(a) through (c), in the aggregate, have voting control; or

(e) an employee of a person described in Subsection (11)(a), (b), (c), or (d).

(12) "Mandatory income interest" means the right of a current income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(13) (a) "Net income" means:

(i) the total allocations during an accounting period to income under the terms of a trust and this chapter minus the disbursements during the



accounting period, other than distributions, allocated to income under the terms of the trust and this chapter; and

(ii) to the extent the trust is a unitrust under Part 3, Unitrust, the unitrust amount determined under Part 3, Unitrust.

(b) “Net income” includes an adjustment from principal to income under Section 22-3-203.

(c) “Net income” does not include an adjustment from income to principal under Section 22-3-203.

(14) “Person” means:

(a) an individual<sup>[7]</sup>;

(b) an estate<sup>[7]</sup>;

(c) a trust<sup>[7]</sup>;

(d) a business or nonprofit entity<sup>[7]</sup>;

(e) a public corporation, government or governmental subdivision, agency, or instrumentality<sup>[7]</sup>; or

(f) any other legal entity.

(15) “Personal representative” means an executor, administrator, successor personal representative, special administrator, or person that performs substantially the same function with respect to an estate under the law governing the person’s status.

(16) “Principal” means property held in trust for distribution to, production of income for, or use by a current or successor beneficiary.

(17) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) “Settlor” means the same as that term is defined in Section 75-7-103.

(19) “Special tax benefit” means:

(a) exclusion of a transfer to a trust from gifts described in Section 2503(b) of the Internal Revenue Code because of the qualification of an income interest in the trust as a present interest in property;

(b) status as a qualified subchapter S trust described in Section 1361(d)(3) of the Internal Revenue Code at a time the trust holds stock of an S corporation described in Section 1361(a)(1) of the Internal Revenue Code;

(c) an estate or gift tax marital deduction for a transfer to a trust under Section 2056 or 2523 of the Internal Revenue Code that depends or depended in whole or in part on the right of the settlor’s spouse to receive the net income of the trust;

(d) exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by Section 2601 of the Internal Revenue Code because the trust was irrevocable on September 25, 1985, if there is any possibility that:

(i) a taxable distribution, as defined in Section 2612(b) of the Internal Revenue Code, could be made from the trust; or

(ii) a taxable termination, as defined in Section 2612(a) of the Internal Revenue Code, could occur with respect to the trust; or

(e) an inclusion ratio, as defined in Section 2642(a) of the Internal Revenue Code, of the trust which is less than one, if there is any possibility that:

(i) a taxable distribution, as defined in Section 2612(b) of the Internal Revenue Code, could be made from the trust; or

(ii) a taxable termination, as defined in Section 2612(a) of the Internal Revenue Code, could occur with respect to the trust.

(20) “Successive interest” means the interest of a successor beneficiary.

(21) “Successor beneficiary” means a person entitled to receive income or principal or to use property when an income interest or other current interest ends.

(22) “Terms of a trust” means:

(a) except as otherwise provided in Subsection (22)(b), the manifestation of the settlor’s intent regarding a trust’s provisions as:

(i) expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding;

(b) the trust’s provisions as established, determined, or amended by:

(i) a trustee or trust director in accordance with applicable law;

(ii) a court order; or

(iii) a nonjudicial settlement agreement under Section 75-7-110;

(c) for an estate, a will; or

(d) for a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries.

(23) (a) “Trust” includes:

(i) an express trust, private or charitable, with additions to the trust, wherever and however created; and

(ii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

(b) “Trust” does not include:

(i) a constructive trust;

(ii) a resulting trust, conservatorship, guardianship, multi-party account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits,

pensions, retirement benefits, or employee benefits of any kind; or

(iii) an arrangement under which a person is a nominee, escrowee, or agent for another.

(24) (a) "Trustee" means a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary.

(b) "Trustee" includes an original, additional, or successor trustee, whether appointed or confirmed by a court.

(25) (a) "Will" means any testamentary instrument recognized by applicable law ~~[which]~~ that makes a legally effective disposition of an individual's property~~[,]~~ effective at the individual's death.

(b) "Will" includes a codicil or other amendment to a testamentary instrument.

**Section 2. Section 22-3-104 (Effective 07/01/20) is amended to read:**

**22-3-104 (Effective 07/01/20). Governing law.**

(1) Except as otherwise provided in the terms of a trust or this chapter, this chapter applies when this state is:

(a) the principal place of administration of a trust or estate; or

(b) the situs of property that is not held in a trust or estate and is subject to a life estate or other term interest described in Subsection 22-3-103(2).

(2) By accepting the trusteeship of a trust having ~~[its]~~ the trust's principal place of administration in this state or by moving the principal place of administration of a trust to this state, the trustee submits to the application of this chapter to any matter within the scope of this chapter involving the trust.

**Section 3. Section 22-3-201 (Effective 07/01/20) is amended to read:**

**22-3-201 (Effective 07/01/20). Fiduciary duties -- General principles.**

(1) In making an allocation or determination or exercising discretion under this chapter, a fiduciary shall:

(a) act in good faith, based on what is fair and reasonable to all beneficiaries;

(b) administer a trust or estate impartially, except to the extent the terms of the trust manifest an intent that the fiduciary shall or may favor one or more beneficiaries;

(c) administer the trust or estate in accordance with the terms of the trust, even if there is a different provision in this chapter; and

(d) administer the trust or estate in accordance with this chapter, except to the extent the terms of the trust provide otherwise or authorize the fiduciary to determine otherwise.

(2) (a) A fiduciary's allocation, determination, or exercise of discretion under this chapter is presumed to be fair and reasonable to all beneficiaries.

(b) A fiduciary may exercise a discretionary power of administration given to the fiduciary by the terms of the trust, and an exercise of the power that produces a result different from a result required or permitted by this chapter does not create an inference that the fiduciary abused the fiduciary's discretion.

(3) A fiduciary shall:

(a) add a receipt to principal, to the extent neither the terms of the trust nor this chapter allocates the receipt between income and principal; and

(b) charge a disbursement to principal, to the extent neither the terms of the trust nor this chapter allocates the disbursement between income and principal.

(4) ~~[A] If a fiduciary determines an exercise of discretionary power will assist the fiduciary to administer the trust or estate impartially, the fiduciary may:~~

(a) exercise the power to adjust under Section 22-3-203~~[,]~~;

(b) convert an income trust to a unitrust under Subsection 22-3-303(1)(a)~~[,]~~;

(c) change the percentage or method used to calculate a unitrust amount under Subsection 22-3-303(1)(b)~~[,]~~; or

(d) convert a unitrust to an income trust under Subsection 22-3-303(1)(c)~~[,] if the fiduciary determines the exercise of the power will assist the fiduciary to administer the trust or estate impartially].~~

~~[(5) Factors the fiduciary must consider in making the determination under Subsection (4) include:]~~

(5) In making the determination under Subsection (4), the fiduciary shall consider the following factors:

(a) the terms of the trust;

(b) the nature, distribution standards, and expected duration of the trust;

(c) the effect of the allocation rules, including specific adjustments between income and principal, under Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, Part 6, Death of Individual or Termination of Income Interest, and Part 7, Apportionment at Beginning and End of Income Interest;

(d) the desirability of liquidity and regularity of income;

(e) the desirability of the preservation and appreciation of principal;

(f) the extent to which an asset is used or may be used by a beneficiary;

(g) the increase or decrease in the value of principal assets, reasonably determined by the fiduciary;

(h) whether and to what extent the terms of the trust;

(i) give the fiduciary power to accumulate income or invade principal; or

(ii) prohibit the fiduciary from accumulating income or invading principal;

(i) the extent to which the fiduciary has accumulated income or invaded principal in preceding accounting periods;

(j) the effect of current and reasonably expected economic conditions; and

(k) the reasonably expected tax consequences of the exercise of the power.

**Section 4. Section 22-3-202 (Effective 07/01/20) is amended to read:**

**22-3-202 (Effective 07/01/20). Judicial review of exercise of discretionary power -- Request for instruction.**

(1) In this section, “fiduciary decision” means:

(a) a fiduciary’s allocation between income and principal or other determination regarding income and principal required or authorized by the terms of the trust or this chapter;

(b) the fiduciary’s exercise or nonexercise of a discretionary power regarding income and principal granted by the terms of the trust or this chapter, including the power to:

(i) adjust under Section 22-3-203[;];

(ii) convert an income trust to a unitrust under Subsection 22-3-303(1)(a)[;];

(iii) change the percentage or method used to calculate a unitrust amount under Subsection 22-3-303(1)(b)[;]; or

(iv) convert a unitrust to an income trust under Subsection 22-3-303(1)(c); or

(c) the fiduciary’s implementation of a decision described in Subsection (1)(a) or (b).

(2) The court may not order a fiduciary to change a fiduciary decision, unless the court determines that the fiduciary decision was an abuse of the fiduciary’s discretion.

(3) (a) If the court determines that a fiduciary decision was an abuse of the fiduciary’s discretion, the court may order a remedy authorized by law, including a remedy authorized in Section 75-7-1001.

(b) To place the beneficiaries in the positions that the beneficiaries would have occupied if there had not been an abuse of the fiduciary’s discretion, the court may order:

(i) the fiduciary to exercise or refrain from exercising the power to adjust under Section 22-3-203;

(ii) the fiduciary to exercise or refrain from exercising the power to:

(A) convert an income trust to a unitrust under Subsection 22-3-303(1)(a)[;];

(B) change the percentage or method used to calculate a unitrust amount under Subsection 22-3-303(1)(b)[;]; or

(C) convert a unitrust to an income trust under Subsection 22-3-303(1)(c);

(iii) the fiduciary to distribute an amount to a beneficiary;

(iv) a beneficiary to return some or all of a distribution; or

(v) the fiduciary to withhold an amount from one or more future distributions to a beneficiary.

(4) (a) On petition by a fiduciary for instruction, the court may determine whether a proposed fiduciary decision will result in an abuse of the fiduciary’s discretion.

(b) A beneficiary that opposes the proposed decision has the burden to establish that the proposed decision will result in an abuse of the fiduciary’s discretion if the petition:

(i) describes the proposed decision;

(ii) contains sufficient information to inform the beneficiary of the reasons for making the proposed decision and the facts on which the fiduciary relies; and

(iii) explains how the beneficiary will be affected by the proposed decision.

**Section 5. Section 22-3-203 (Effective 07/01/20) is amended to read:**

**22-3-203 (Effective 07/01/20). Fiduciary’s power to adjust.**

(1) Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to administer the trust or estate impartially.

(2) This section does not create a duty to exercise or consider the power to adjust under Subsection (1) or to inform a beneficiary about the applicability of this section.

(3) A fiduciary that in good faith exercises or fails to exercise the power to adjust under Subsection (1) is not liable to a person affected by the exercise or failure to exercise.

(4) In deciding whether and to what extent to exercise the power to adjust under Subsection (1), a fiduciary shall consider all factors the fiduciary considers relevant, including the relevant factors in Subsection 22-3-201(5) and the application of Subsection 22-3-401(9), Section 22-3-408, and Section 22-3-413.

(5) A fiduciary may not exercise the power to ~~make an adjustment~~ under Subsection (1) ~~[to make an adjustment]~~ or the power to make a determination that an allocation is insubstantial under Section 22-3-408 ~~[to make a determination that an allocation is insubstantial]~~ if:

(a) the adjustment or determination would reduce the amount payable to a current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;

(b) the adjustment or determination would change the amount payable to a beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the terms of the trust;

(c) the adjustment or determination would reduce an amount that is permanently set aside for a charitable purpose under the terms of the trust, unless both income and principal are set aside for the charitable purpose;

(d) possessing or exercising the power would cause a person to be treated as the owner of all or part of the trust for federal income tax purposes;

(e) possessing or exercising the power would cause all or part of the value of the trust assets to be included in the gross estate of an individual for federal estate tax purposes;

(f) possessing or exercising the power would cause an individual to be treated as making a gift for federal gift tax purposes;

(g) the fiduciary is not an independent person;

(h) the trust is irrevocable and provides for income to be paid to the settlor and possessing or exercising the power would cause the adjusted principal or income to be considered an available resource or available income under a public-benefit program; or

(i) the trust is a unitrust under Part 3, Unitrust.

(6) If Subsection (5)(d), (e), (f), or (g) applies to a fiduciary:

(a) a co-fiduciary to which Subsections (5)(d) through (g) do not apply may exercise the power to adjust, unless the exercise of the power to adjust by the remaining co-fiduciary or co-fiduciaries is not permitted by the terms of the trust or law other than this chapter; or

(b) (i) if there is no co-fiduciary to which Subsections (5)(d) through (g) do not apply[<sub>7</sub>];

(A) except as otherwise provided in Subsection (6)(b)(ii)(A), the fiduciary may appoint a co-fiduciary to which Subsections (5)(d) through (g) do not apply[<sub>7</sub>, which may be a special fiduciary with limited powers, and];

(B) except as otherwise provided in Subsection (6)(b)(ii)(B), the appointed co-fiduciary may exercise the power to adjust under Subsection (1)[<sub>7</sub>, unless the appointment of a co-fiduciary or the exercise of the power by a co-fiduciary is not permitted by the terms of the trust or law other than this chapter.]; and

(C) the appointed co-fiduciary may be a special fiduciary with limited powers.

(ii) (A) If the appointment of a co-fiduciary is not permitted by the terms of the trust or by a provision of law outside this chapter, a fiduciary may not appoint a co-fiduciary.

(B) If the exercise of the power to adjust by a co-fiduciary is not permitted by the terms of the trust or by a provision of law outside this chapter, the co-fiduciary may not exercise the power to adjust under Subsection (1).

(7) A fiduciary may release or delegate to a co-fiduciary the power to adjust under Subsection (1) if the fiduciary determines that the fiduciary's possession or exercise of the power to adjust will or may:

(a) cause a result described in Subsections (5)(a) through (f) or (h); or

(b) deprive the trust of a tax benefit or impose a tax burden not described in Subsections (5)(a) through (f).

(8) A fiduciary's release or delegation to a co-fiduciary under Subsection (7) of the power to adjust under Subsection (1):

(a) must be in a record;

(b) applies to the entire power to adjust, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(i) from income to principal;

(ii) from principal to income;

(iii) for specified property; or

(iv) in specified circumstances;

(c) for a delegation, may be modified by a redelegation under this subsection by the co-fiduciary to which the delegation is made; and

(d) subject to Subsection (8)(c), is permanent, unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

(9) Terms of a trust [which] that deny or limit the power to adjust between income and principal do not affect the application of this section, unless the terms of the trust expressly deny or limit the power to adjust under Subsection (1).

(10) The exercise of the power to adjust under Subsection (1) in any accounting period may apply to the current accounting period, the immediately preceding accounting period, and one or more subsequent accounting periods.

(11) A description of the exercise of the power to adjust under Subsection (1) [must] shall be:

(a) included in a report, if any, sent to beneficiaries under Subsection 75-7-811(3); or

(b) communicated at least annually to the qualified beneficiaries determined under Subsection 75-7-103(1)(h).

**Section 6. Section 22-3-301 (Effective 07/01/20) is amended to read:**

**22-3-301 (Effective 07/01/20). Definitions.**

In this part:

(1) "Applicable value" means the amount of the net fair market value of a trust taken into account under Section 22-3-307.

(2) "Express unitrust" means a trust for which, under the terms of the trust without regard to this part, income or net income ~~[must or may]~~ is permitted or required to be calculated as a unitrust amount.

(3) "Income trust" means a trust that is not a unitrust.

(4) "Net fair market value of a trust" means the fair market value of the assets of the trust~~[, less]~~ minus the noncontingent liabilities of the trust.

(5) (a) "Unitrust" means a trust for which net income is a unitrust amount.

(b) "Unitrust" includes an express unitrust.

(6) "Unitrust amount" means:

(a) an amount computed by multiplying a determined value of a trust by a determined percentage; and

(b) for a unitrust administered under a unitrust policy, the applicable value~~[,]~~ multiplied by the unitrust rate.

(7) "Unitrust policy" means a policy described in Sections 22-3-305 through 22-3-309 and adopted under Section 22-3-303.

(8) "Unitrust rate" means the rate used to compute the unitrust amount under Subsection (6) for a unitrust administered under a unitrust policy.

**Section 7. Section 22-3-302 (Effective 07/01/20) is amended to read:**

**22-3-302 (Effective 07/01/20). Application -- Duties and remedies.**

(1) Except as otherwise provided in Subsection (2), this part applies to:

(a) an income trust, unless the terms of the trust expressly prohibit use of this part by:

(i) a specific reference to this part; or

(ii) an explicit expression of intent that net income not be calculated as a unitrust amount; and

(b) an express unitrust, except to the extent the terms of the trust explicitly:

(i) prohibit use of this part by a specific reference to this part;

(ii) prohibit conversion to an income trust; or

(iii) limit changes to the method of calculating the unitrust amount.

(2) This part does not apply to a trust described in Section 170(f)(2)(B), 642(c)(5), 664(d),

2702(a)(3)(A)(ii) or (iii), or 2702(b) of the Internal Revenue Code.

(3) (a) An income trust to which this part applies under Subsection (1)(a) may be converted to a unitrust under this part regardless of the terms of the trust concerning distributions.

(b) Conversion to a unitrust under this part does not affect other terms of the trust concerning distributions of income or principal.

(4) (a) This part applies to an estate only to the extent a trust is a beneficiary of the estate.

(b) To the extent of the trust's interest in the estate, and in the same manner as for a trust under this part:

(i) the estate may be administered as a unitrust~~[,];~~

(ii) the administration of the estate as a unitrust may be discontinued~~[,];~~ or

(iii) the percentage or method used to calculate the unitrust amount may be changed~~[, in the same manner as for a trust under this part].~~

(5) This part does not create a duty to take or consider action under this part or to inform a beneficiary about the applicability of this part.

(6) A fiduciary that in good faith takes or fails to take an action under this part is not liable to a person affected by the action or inaction of the fiduciary.

**Section 8. Section 22-3-303 (Effective 07/01/20) is amended to read:**

**22-3-303 (Effective 07/01/20). Authority of fiduciary.**

(1) A fiduciary, without court approval, by complying with Subsections (2) and (6), may:

(a) convert an income trust to a unitrust if the fiduciary adopts, in a record, a unitrust policy for the trust providing:

(i) that, in administering the trust, the net income of the trust will be a unitrust amount rather than net income determined without regard to this part; and

(ii) the percentage and method used to calculate the unitrust amount;

(b) change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(c) convert a unitrust to an income trust if the fiduciary adopts, in a record, a determination that, in administering the trust, the net income of the trust will be net income determined without regard to this part rather than a unitrust amount.

(2) A fiduciary may take an action under Subsection (1) if:

(a) the fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(b) the fiduciary sends a notice in a record, in the manner required by Section 22-3-304, describing and proposing to take the action;

(c) the fiduciary sends a copy of the notice under Subsection (2)(b) to each settlor of the trust which is:

(i) if an individual, living; or

(ii) if not an individual, in existence;

(d) at least one member of each class of the qualified beneficiaries determined under Subsection 75-7-103(1)(h) receiving the notice under Subsection (2)(b) is:

(i) if an individual, legally competent;

(ii) if not an individual, in existence; or

(iii) represented in the manner provided in Subsection 22-3-304(2); and

(e) the fiduciary does not receive, by the date specified in the notice under Subsection 22-3-304(4)(e), an objection in a record to the action proposed under Subsection (2)(b) from a person to which the notice under Subsection (2)(b) is sent.

(3) (a) If a fiduciary receives, not later than the date stated in the notice under Subsection 22-3-304(4)(e), an objection in a record described in Subsection 22-3-304(4)(d) to a proposed action, the fiduciary or a beneficiary may request that the court ~~[to have the proposed action taken as proposed, taken with modifications, or prevented].~~:

(i) require the fiduciary to take the proposed action;

(ii) require the fiduciary to take the proposed action with modifications; or

(iii) prevent the proposed action.

(b) A person described in Subsection 22-3-304(1) may oppose the proposed action in the proceeding under ~~[this subsection,]~~ Subsection (3)(a), regardless of whether the person:

(i) consented under Subsection 22-3-304(3); or

(ii) objected under Subsection 22-3-304(4)(d).

(4) If, after sending a notice under Subsection (2)(b), a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify ~~[in a record]~~ each person described in Subsection 22-3-304(1) in a record of the decision not to take the action and the reasons for the decision.

(5) If a beneficiary requests in a record that a fiduciary take an action described in Subsection (1) and the fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(6) In deciding whether and how to take an action authorized by Subsection (1), or whether and how to

respond to a request by a beneficiary under Subsection (5), a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including the relevant factors in Subsection 22-3-201(5).

(7) ~~[A]~~ For a reason described in Subsection 22-3-203(7), and in the manner described in Subsection 22-3-203(8), a fiduciary may:

(a) release or delegate the power to convert an income trust to a unitrust under Subsection (1)(a)~~];~~];

(b) change the percentage or method used to calculate a unitrust amount under Subsection (1)(b)~~];~~]; or

~~(c) convert a unitrust to an income trust under Subsection (1)(c)~~], for a reason described in Subsection 22-3-203(7) and in the manner described in Subsection 22-3-203(8).~~~~

**Section 9. Section 22-3-304 (Effective 07/01/20) is amended to read:**

**22-3-304 (Effective 07/01/20). Notice.**

(1) A fiduciary shall send a notice required by Subsection 22-3-303(2)(b) ~~[must be sent]~~ in a manner authorized under Section 75-7-109 to:

(a) the qualified beneficiaries determined under Subsection 75-7-103(1)(h); ~~[and]~~

~~[(b) each person that is granted a power over the trust by the terms of the trust, to the extent the power is exercisable when the person is not then serving as a trustee.];~~

~~[(i) including a:]~~

~~[(A) power over the investment, management, or distribution of trust property or other matters of trust administration; and]~~

~~[(B) power to appoint or remove a trustee or person described in this subsection; and]~~

~~[(ii) excluding a:]~~

~~[(A) power of appointment;]~~

~~[(B) power of a beneficiary over the trust, to the extent the exercise or nonexercise of the power affects the beneficial interest of the beneficiary or another beneficiary represented by the beneficiary under Sections 75-7-301 through 75-7-305 with respect to the exercise or nonexercise of the power; and]~~

~~[(C) power over the trust if the terms of the trust provide that the power is held in a nonfiduciary capacity and the power must be held in a nonfiduciary capacity to achieve a tax objective under the Internal Revenue Code.]~~

(b) each person acting, in accordance with Title 75, Chapter 12, Uniform Directed Trust Act, as trust director of the trust; and

(c) each person that is granted a power by the terms of the trust to appoint or remove a trustee or person described in Subsection (1)(b), to the extent the power is exercisable when the person that exercises the power is not then serving as trustee or is a person described in Subsection (1)(b).

(2) The representation provisions of Sections 75-7-301 through 75-7-305 apply to notice under this section.

(3) (a) A person may consent in a record at any time to action proposed under Subsection 22-3-303(2)(b).

~~[(b) A notice required by Subsection 22-3-303(2)(b) need not be sent to a person that consents under this subsection.]~~

(b) If a person required to receive a notice under Subsection (1) consents under Subsection (3)(a) to not receive the notice, the fiduciary is not required to send the person the notice.

(4) A notice required by Subsection 22-3-303(2)(b) must shall include:

(a) the action proposed under Subsection 22-3-303(2)(b);

(b) for a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under Subsection 22-3-303(1)(a);

(c) for a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or replacement of the unitrust policy adopted under Subsection 22-3-303(1)(b);

(d) a statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(e) the date by which the fiduciary shall receive an objection under Subsection (4)(d) ~~must be received by the fiduciary, which must~~, which shall be at least 30 days after the date the notice is sent;

(f) the date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(g) the name and contact information of the fiduciary; and

(h) the name and contact information of a person that may be contacted for additional information.

**Section 10. Section 22-3-305 (Effective 07/01/20) is amended to read:**

**22-3-305 (Effective 07/01/20). Unitrust policy.**

(1) In administering a unitrust under this part, a fiduciary shall follow a unitrust policy:

(a) adopted under Subsection 22-3-303(1)(a) or (b); or

(b) amended or replaced under Subsection 22-3-303(1)(b).

(2) A unitrust policy must shall provide:

(a) the unitrust rate or the method for determining the unitrust rate under Section 22-3-306;

(b) the method for determining the applicable value under Section 22-3-307; and

(c) the rules described in Sections 22-3-306 through 22-3-309 ~~which~~ that apply in the administration of the unitrust, ~~whether~~ regardless of whether the rules are:

(i) mandatory, as provided in Subsections 22-3-307(1) and 22-3-308(1); or

(ii) optional, as provided in Section 22-3-306 and Subsections 22-3-307(2), 22-3-308(2), and 22-3-309(1), to the extent the fiduciary elects to adopt those rules.

**Section 11. Section 22-3-307 (Effective 07/01/20) is amended to read:**

**22-3-307 (Effective 07/01/20). Applicable value.**

(1) A unitrust policy must shall provide the method for determining the fair market value of an asset for the purpose of determining the unitrust amount, including:

(a) the frequency of valuing the asset, which need not require a valuation in every period; and

(b) the date for valuing the asset in each period ~~in which~~ that the asset is valued.

(2) Except as otherwise provided in Subsection 22-3-309(2)(b), a unitrust policy may provide methods for determining the amount of the net fair market value of the trust to take into account in determining the applicable value, including:

(a) obtaining an appraisal of an asset for which fair market value is not readily available;

(b) exclusion of specific assets or groups or types of assets;

(c) other exceptions or modifications of the treatment of specific assets or groups or types of assets;

(d) identification and treatment of cash or property held for distribution;

(e) use of:

(i) an average of fair market values over a stated number of preceding periods; or

(ii) another mathematical blend of fair market values over a stated number of preceding periods;

(f) a limit on how much the applicable value of all assets, groups of assets, or individual assets may increase over:

(i) the corresponding applicable value for the preceding period; or

(ii) a mathematical blend of applicable values over a stated number of preceding time periods;

(g) a limit on how much the applicable value of all assets, groups of assets, or individual assets may decrease below:

(i) the corresponding applicable value for the preceding period; or

(ii) a mathematical blend of applicable values over a stated number of preceding periods;

(h) the treatment of accrued income and other features of an asset [which] that affect value; and

(i) determining the liabilities of the trust, including treatment of liabilities to conform with the treatment of assets under Subsections (2)(a) through (h).

**Section 12. Section 22-3-308 (Effective 07/01/20) is amended to read:**

**22-3-308 (Effective 07/01/20). Period.**

(1) (a) A unitrust policy [must] shall provide the period used under Sections 22-3-306 and 22-3-307.

(b) Except as otherwise provided in Subsection 22-3-309(2)(c), the period may be:

- (i) a calendar year;
- (ii) a 12-month period other than a calendar year;
- (iii) a calendar quarter;
- (iv) a three-month period other than a calendar quarter; or
- (v) another period.

(2) Except as otherwise provided in Subsection 22-3-309(2), a unitrust policy may provide standards for:

(a) using fewer preceding periods under Subsection 22-3-306(1)(b)(ii), (2)(c), or (2)(d) if:

- (i) the trust was not in existence in a preceding period; or
- (ii) market indices or other published data are not available for a preceding period;

(b) using fewer preceding periods under Subsection 22-3-307(2)(e)(i) or (ii), (f)(ii), or (g)(ii) if:

- (i) the trust was not in existence in a preceding period; or
- (ii) fair market values are not available for a preceding period; and

(c) prorating the unitrust amount on a daily basis for a part of a period in which the trust or the administration of the trust as a unitrust or the interest of any beneficiary commences or terminates.

**Section 13. Section 22-3-309 (Effective 07/01/20) is amended to read:**

**22-3-309 (Effective 07/01/20). Special tax benefits -- Other rules.**

- (1) A unitrust policy may:
  - (a) provide methods and standards for:
    - (i) determining the timing of distributions;
    - (ii) making distributions in cash or in kind or partly in cash and partly in kind; or

(iii) correcting an underpayment or overpayment to a beneficiary based on the unitrust amount if there is an error in calculating the unitrust amount;

(b) specify sources and the order of sources, including categories of income for federal income tax purposes, from which distributions of a unitrust amount are paid; or

(c) provide other standards and rules the fiduciary determines serve the interests of the beneficiaries.

(2) If a trust qualifies for a special tax benefit or a fiduciary is not an independent person:

(a) the unitrust rate established under Section 22-3-306 may not be less than 3% or more than 5%;

(b) the only provisions of Section 22-3-307 [which] that apply are Subsections 22-3-307(1) and (2)(a), (d), (e)(i), and (i);

(c) the only period that may be used under Section 22-3-308 is a calendar year under Subsection 22-3-308(1); and

(d) the only other provisions of Section 22-3-308 that apply are Subsection 22-3-308(2)(b)(i) and (c).

**Section 14. Section 22-3-401 (Effective 07/01/20) is amended to read:**

**22-3-401 (Effective 07/01/20). Receipts from entity -- Character of receipts from entity.**

(1) In this section:

(a) "Capital distribution" means an entity distribution of money [which] that is a:

- (i) return of capital; or
- (ii) distribution in total or partial liquidation of the entity.

(b) (i) "Entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization or arrangement in which a fiduciary owns or holds an interest, [~~whether or not~~] regardless of whether the entity is a taxpayer for federal income tax purposes.

(ii) "Entity" does not include:

(A) a trust or estate to which Section 22-3-402 applies;

(B) a business or other activity to which Section 22-3-403 applies that is not conducted by an entity described in Subsection (1)(b)(i);

(C) an asset-backed security; or

(D) an instrument or arrangement to which Section 22-3-416 applies.

(c) "Entity distribution" means a payment or transfer by an entity made to a person in the person's capacity as an owner or holder of an interest in the entity.

(2) In this section, an attribute or action of an entity includes an attribute or action of any other entity in which the entity owns or holds an interest, including an interest owned or held indirectly through another entity.



(3) Except as otherwise provided in Subsections (4)(b) through (d), a fiduciary shall allocate to income:

- (a) money received in an entity distribution; and
- (b) tangible personal property of nominal value received from the entity.

(4) A fiduciary shall allocate to principal:

(a) property received in an entity distribution [~~which~~] that is not:

- (i) money; or
- (ii) tangible personal property of nominal value;
- (b) money received in an entity distribution in an exchange for part or all of the fiduciary's interest in the entity, to the extent the entity distribution reduces the fiduciary's interest in the entity relative to the interests of other persons that own or hold interests in the entity;

(c) money received in an entity distribution that the fiduciary determines or estimates is a capital distribution; and

(d) money received in an entity distribution from an entity that is:

(i) a regulated investment company or real estate investment trust if the money received is a capital gain dividend for federal income tax purposes; or

(ii) treated for federal income tax purposes [~~comparably~~] in a comparable manner to the treatment described in Subsection (4)(d)(i).

(5) A fiduciary may determine or estimate that money received in an entity distribution is a capital distribution:

(a) by relying without inquiry or investigation on a characterization of the entity distribution provided by or on behalf of the entity, unless the fiduciary:

(i) determines, on the basis of information known to the fiduciary, that the characterization is or may be incorrect; or

(ii) owns or holds more than 50% of the voting interest in the entity;

(b) by determining or estimating, on the basis of information known to the fiduciary or provided to the fiduciary by or on behalf of the entity, that the total amount of money and property received by the fiduciary in the entity distribution or a series of related entity distributions is or will be greater than 20% of the fair market value of the fiduciary's interest in the entity; or

(c) if neither Subsection (5)(a) nor (b) applies, by considering the factors in Subsection (6) and the information known to the fiduciary or provided to the fiduciary by or on behalf of the entity.

(6) In making a determination or estimate under Subsection (5)(c), a fiduciary may consider:

(a) a characterization of an entity distribution provided by or on behalf of the entity;

(b) the amount of money or property received in:

(i) the entity distribution; or

(ii) what the fiduciary determines is or will be a series of related entity distributions;

(c) the amount described in Subsection (6)(b) compared to the amount that the fiduciary determines or estimates is, during the current or preceding accounting periods:

(i) the entity's operating income;

(ii) the proceeds of the entity's sale or other disposition of:

(A) all or part of the business or other activity conducted by the entity;

(B) one or more business assets that are not sold to customers in the ordinary course of the business or other activity conducted by the entity; or

(C) one or more assets other than business assets, unless the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets;

(iii) if the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets, the gain realized on the disposition;

(iv) the entity's regular, periodic entity distributions;

(v) the amount of money that the entity has accumulated;

(vi) the amount of money that the entity has borrowed;

(vii) the amount of money that the entity has received from the sources described in Sections 22-3-407, 22-3-410, 22-3-411, and 22-3-412; and

(viii) the amount of money that the entity has received from a source not otherwise described in this subsection; and

(d) any other factor the fiduciary determines is relevant.

(7) If, after applying Subsections (3) through (6), a fiduciary determines that a part of an entity distribution is a capital distribution but the fiduciary is in doubt about the amount of the entity distribution [~~which~~] that is a capital distribution, the fiduciary shall allocate to principal the amount of the entity distribution [~~which~~] that is in doubt.

(8) If a fiduciary receives additional information about the application of this section to an entity distribution before the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary may consider the additional information before making the payment to the beneficiary and may change a decision to make the payment to the beneficiary.

(9) If a fiduciary receives additional information about the application of this section to an entity distribution after the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary is

not required to change or recover the payment to the beneficiary but may consider that information in determining whether to exercise the power to adjust under Section 22-3-203.

**Section 15. Section 22-3-402 (Effective 07/01/20) is amended to read:**

**22-3-402 (Effective 07/01/20). Receipts from entity -- Distribution from trust or estate.**

(1) A fiduciary shall allocate:

(a) to income an amount received as a distribution of income, including a unitrust distribution under Part 3, Unitrust, from a trust or estate in which the fiduciary has an interest, other than an interest the fiduciary purchased in a trust that is an investment entity, ~~and shall allocate~~; and

(b) to principal an amount received as a distribution of principal from the trust or estate.

(2) If a fiduciary purchases, or receives from a settlor, an interest in a trust that is an investment entity, Section 22-3-401, 22-3-415, or 22-3-416 applies to a receipt from the trust.

**Section 16. Section 22-3-403 (Effective 07/01/20) is amended to read:**

**22-3-403 (Effective 07/01/20). Receipts from entity -- Business or other activity conducted by fiduciary.**

(1) This section applies to a business or other activity conducted by a fiduciary if the fiduciary determines that it is in the interests of the beneficiaries to account separately for the business or other activity instead of:

(a) accounting for the business or other activity as part of the fiduciary's general accounting records; or

(b) conducting the business or other activity through an entity described in Subsection 22-3-401(1)(b)(i).

(2) A fiduciary may account separately under this section for the transactions of a business or other activity, whether or not assets of the business or other activity are segregated from other assets held by the fiduciary.

(3) A fiduciary that accounts separately under this section for a business or other activity:

(a) may determine:

(i) the extent to which the net cash receipts of the business or other activity ~~must~~ shall be retained for:

(A) working capital;

(B) the acquisition or replacement of fixed assets; and

(C) other reasonably foreseeable needs of the business or other activity; and

(ii) the extent ~~to which~~ that the remaining net cash receipts are accounted for as principal or

income in the fiduciary's general accounting records for the trust;

(b) may make a determination under Subsection (3)(a) separately and differently from the fiduciary's decisions concerning distributions of income or principal; and

(c) shall account for the net amount received from the sale of an asset of the business or other activity, other than a sale in the ordinary course of the business or other activity, as principal in the fiduciary's general accounting records for the trust, to the extent the fiduciary determines that the net amount received is no longer required in the conduct of the business or other activity.

(4) ~~[Activities for which a]~~ A fiduciary may account separately under this section ~~[include]~~ for activities that include:

(a) retail, manufacturing, service, and other traditional business activities;

(b) farming;

(c) raising and selling livestock and other animals;

(d) managing rental properties;

(e) extracting minerals, water, and other natural resources;

(f) growing and cutting timber;

(g) an activity to which Section 22-3-414, 22-3-415, or 22-3-416 applies; and

(h) any other business conducted by the fiduciary.

**Section 17. Section 22-3-404 (Effective 07/01/20) is amended to read:**

**22-3-404 (Effective 07/01/20). Receipts not normally apportioned -- Principal receipts.**

A fiduciary shall allocate to principal:

(1) to the extent not allocated to income under this chapter, an asset received from:

(a) an individual during the individual's lifetime;

(b) an estate;

(c) a trust on termination of an income interest; or

(d) a payor under a contract naming the fiduciary as beneficiary;

(2) except as otherwise provided in this part, money or other property received from the sale, exchange, liquidation, or change in form of a principal asset;

(3) an amount recovered from a third party to reimburse the fiduciary because of a disbursement described in Subsection 22-3-502(1) or for another reason to the extent not based on loss of income;

(4) proceeds of property taken by eminent domain, except that proceeds awarded for loss of income in an accounting period are income if a current income beneficiary had a mandatory income interest during the accounting period;

(5) net income received in an accounting period during which there is no beneficiary to which a fiduciary ~~may or must~~ is permitted or required to distribute income; and

(6) other receipts as provided in Part 3, Unitrust.

**Section 18. Section 22-3-405 (Effective 07/01/20) is amended to read:**

**22-3-405 (Effective 07/01/20). Receipts not normally apportioned -- Rental property.**

(1) To the extent a fiduciary does not account for the management of rental property as a business under Section 22-3-403, the fiduciary shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease.

(2) An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods:

(a) ~~must~~ shall be added to principal and held subject to the terms of the lease, except as otherwise provided by law other than this chapter; and

(b) is not allocated to income or available for distribution to a beneficiary until the fiduciary's contractual obligations have been satisfied with respect to that amount.

**Section 19. Section 22-3-407 (Effective 07/01/20) is amended to read:**

**22-3-407 (Effective 07/01/20). Receipts not normally apportioned -- Insurance policy or contract.**

(1) This section does not apply to a contract to which Section 22-3-409 applies.

(2) (a) Except as otherwise provided in Subsection (3), a fiduciary shall allocate to principal the proceeds of a life insurance policy or other contract received by the fiduciary as beneficiary, including a contract that insures against damage to, destruction of, or loss of title to an asset.

(b) The fiduciary shall allocate dividends on an insurance policy:

(i) to income, to the extent premiums on the policy are paid from income; and

(ii) to principal, to the extent premiums on the policy are paid from principal.

(3) A fiduciary shall allocate to income proceeds of a contract that insures the fiduciary against loss of:

(a) occupancy or other use by a current income beneficiary;

(b) income; or

(c) subject to Section 22-3-403, profits from a business.

**Section 20. Section 22-3-409 (Effective 07/01/20) is amended to read:**

**22-3-409 (Effective 07/01/20). Receipts normally apportioned -- Deferred**

**compensation, annuity, or similar payment.**

(1) In this section:

(a) "Internal income of a separate fund" means the amount determined under Subsection (2).

(b) "Marital trust" means a trust:

(i) of which the settlor's surviving spouse is the only current income beneficiary and is entitled to a distribution of all the current net income of the trust; and

(ii) that qualifies for a marital deduction with respect to the settlor's estate under Section 2056 of the Internal Revenue Code because:

(A) an election to qualify for a marital deduction under Section 2056(b)(7) of the Internal Revenue Code has been made; or

(B) the trust qualifies for a marital deduction under Section 2056(b)(5) of the Internal Revenue Code.

(c) (i) "Payment" means an amount a fiduciary may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future amounts the fiduciary may receive.

(ii) "Payment" includes an amount received in money or property from the payor's general assets or from a separate fund created by the payor.

(d) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(2) For each accounting period, ~~the following rules apply to a~~ and for each separate fund:

(a) the fiduciary shall determine the internal income of the separate fund as if the separate fund were a trust subject to this chapter;

(b) if the fiduciary cannot determine the internal income of the separate fund under Subsection (2)(a), the internal income of the separate fund is deemed to equal 3% of the value of the separate fund, according to the most recent statement of value preceding the beginning of the accounting period; and

(c) if the fiduciary cannot determine the value of the separate fund under Subsection (2)(b), the value of the separate fund is deemed to equal the present value of the expected future payments, as determined under Section 7520 of the Internal Revenue Code, for the month preceding the beginning of the accounting period for which the computation is made.

(3) A fiduciary shall allocate a payment received from a separate fund during an accounting period to income, to the extent of the internal income of the separate fund during the accounting period, and the balance to principal.

(4) The fiduciary of a marital trust shall:

(a) withdraw from a separate fund the amount the current income beneficiary of the trust requests

the fiduciary to withdraw, not greater than the amount by which the internal income of the separate fund during the accounting period exceeds the amount the fiduciary otherwise receives from the separate fund during the accounting period;

(b) transfer from principal to income the amount the current income beneficiary requests the fiduciary to transfer, not greater than the amount by which the internal income of the separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the accounting period after the application of Subsection (4)(a); and

(c) distribute to the current income beneficiary as income:

(i) the amount of the internal income of the separate fund received or withdrawn during the accounting period; and

(ii) the amount transferred from principal to income under Subsection (4)(b).

(5) For a trust, other than a marital trust, of which one or more current income beneficiaries are entitled to a distribution of all the current net income, the fiduciary shall transfer from principal to income the amount by which the internal income of a separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the accounting period.

**Section 21. Section 22-3-411 (Effective 07/01/20) is amended to read:**

**22-3-411 (Effective 07/01/20). Receipts normally apportioned -- Minerals, water, and other natural resources.**

(1) To the extent that a fiduciary does not account for a receipt from an interest in minerals, water, or other natural resources as a business under Section 22-3-403, the fiduciary shall allocate the receipt:

(a) to income, to the extent received:

(i) as delay rental or annual rent on a lease;

(ii) as a factor for interest or the equivalent of interest under an agreement creating a production payment; or

(iii) on account of an interest in renewable water;

(b) to principal, if received from a production payment, to the extent that Subsection (1)(a)(ii) does not apply; or

(c) between income and principal equitably, to the extent received:

(i) on account of an interest in nonrenewable water;

(ii) as a royalty, shut-in-well payment, take-or-pay payment, or bonus; or

(iii) from a working interest or any other interest not provided for in Subsection (1)(a) or (b) or Subsection (1)(c)(i) or (ii).

(2) This section applies to an interest owned or held by a fiduciary ~~whether or not~~ regardless of whether a settlor was extracting minerals, water, or other natural resources before the fiduciary owned or held the interest.

(3) An allocation of a receipt under Subsection (1)(c) is presumed to be equitable if the amount allocated to principal is equal to the amount allowed by the Internal Revenue Code as a deduction for depletion of the interest.

(4) (a) If a fiduciary owns or holds an interest in minerals, water, or other natural resources before July 1, ~~2019~~ 2020, the fiduciary may allocate receipts from the interest as provided in this section or in the manner used by the fiduciary before July 1, ~~2019~~ 2020.

(b) If the fiduciary acquires an interest in minerals, water, or other natural resources on or after July 1, ~~2019~~ 2020, the fiduciary shall allocate receipts from the interest as provided in this section.

**Section 22. Section 22-3-412 (Effective 07/01/20) is amended to read:**

**22-3-412 (Effective 07/01/20). Receipts normally apportioned -- Timber.**

(1) To the extent that a fiduciary does not account for receipts from the sale of timber and related products as a business under Section 22-3-403, the fiduciary shall allocate the net receipts:

(a) to income, to the extent that the amount of timber cut from the land does not exceed the rate of growth of the timber;

(b) to principal, to the extent that the amount of timber cut from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(c) between income and principal if the net receipts are from the lease of land used for growing and cutting timber or from a contract to cut timber from land, by determining the amount of timber cut from the land under the lease or contract and applying the rules in Subsections (1)(a) and (b); or

(d) to principal, to the extent that advance payments, bonuses, and other payments are not allocated under Subsection (1)(a), (b), or (c).

(2) In determining net receipts to be allocated under Subsection (1), a fiduciary shall deduct and transfer to principal a reasonable amount for depletion.

(3) This section applies to land owned or held by a fiduciary ~~whether or not~~ regardless of whether a settlor was cutting timber from the land before the fiduciary owned or held the property.

(4) (a) If a fiduciary owns or holds an interest in land used for growing and cutting timber before July 1, ~~2019~~ 2020, the fiduciary may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the fiduciary before July 1, ~~2019~~ 2020.

(b) If the fiduciary acquires an interest in land used for growing and cutting timber on or after July 1, [2019] 2020, the fiduciary shall allocate net receipts from the sale of timber and related products as provided in this section.

**Section 23. Section 22-3-414 (Effective 07/01/20) is amended to read:**

**22-3-414 (Effective 07/01/20). Receipts normally apportioned -- Derivative or option.**

(1) In this section:

(a) "Derivative" means a contract, instrument, other arrangement, or combination of contracts, instruments, or other arrangements, for which the value, rights, and obligations [of which] are, in whole or in part, dependent on or derived from an underlying tangible or intangible asset, group of tangible or intangible assets, index, or occurrence of an event.

(b) "Derivative" includes stocks, fixed income securities, and financial instruments and arrangements based on indices, commodities, interest rates, weather-related events, and credit-default events.

(2) To the extent that a fiduciary does not account for a transaction in derivatives as a business under Section 22-3-403, the fiduciary shall allocate:

(a) 10% of receipts from the transaction and 10% of disbursements made in connection with the transaction to income; and

(b) the balance to principal.

(3) Subsection (4) applies if:

(a) a fiduciary:

(i) grants an option to buy property from a trust, [whether or not] regardless of whether the trust owns the property when the option is granted;

(ii) grants an option that permits another person to sell property to the trust; or

(iii) acquires an option to buy property for the trust or an option to sell an asset owned by the trust; and

(b) the fiduciary or other owner of the asset is required to deliver the asset if the option is exercised.

(4) If this subsection applies, the fiduciary shall allocate 10% to income and the balance to principal of the following amounts:

(a) an amount received for granting the option;

(b) an amount paid to acquire the option; and

(c) gain or loss realized on the exercise, exchange, settlement, offset, closing, or expiration of the option.

**Section 24. Section 22-3-415 (Effective 07/01/20) is amended to read:**

**22-3-415 (Effective 07/01/20). Receipts normally apportioned -- Asset-backed security.**

(1) Except as otherwise provided in Subsection (2), a fiduciary shall allocate:

(a) to income, a receipt from or related to an asset-backed security, to the extent that the payor identifies the payment as being from interest or other current return[;]; and

(b) to principal, the balance of the receipt.

(2) If a fiduciary receives one or more payments in exchange for part or all of the fiduciary's interest in an asset-backed security, including a liquidation or redemption of the fiduciary's interest in the security, the fiduciary shall allocate:

(a) to income, 10% of receipts from the transaction and 10% of disbursements made in connection with the transaction[;]; and

(b) to principal, the balance of the receipts and disbursements.

**Section 25. Section 22-3-505 (Effective 07/01/20) is amended to read:**

**22-3-505 (Effective 07/01/20).**

**Reimbursement of principal from income.**

(1) If a fiduciary makes or expects to make a principal disbursement described in Subsection (2), the fiduciary may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or provide a reserve for future principal disbursements.

(2) To the extent that a fiduciary has not been and does not expect to be reimbursed by a third party, principal disbursements to which Subsection (1) applies include:

(a) an amount chargeable to income but paid from principal because income is not sufficient;

(b) the cost of an improvement to principal, regardless of whether the improvement is a change to an existing asset or the construction of a new asset, including a special assessment;

(c) a disbursement made to prepare property for rental, including tenant allowances, leasehold improvements, and commissions;

(d) a periodic payment on an obligation secured by a principal asset, to the extent that the amount transferred from income to principal for depreciation is less than the periodic payment; and

(e) a disbursement described in Subsection 22-3-502(1).

(3) If an asset whose ownership gives rise to a principal disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under Subsection (1).

**Section 26. Section 22-3-506 (Effective 07/01/20) is amended to read:**

**22-3-506 (Effective 07/01/20). Income taxes.**

(1) A tax required to be paid by a fiduciary that is based on receipts allocated to income ~~[must]~~ shall be paid from income.

(2) A tax required to be paid by a fiduciary that is based on receipts allocated to principal ~~[must]~~ shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(3) Subject to Subsection (4) and Sections 22-3-504, 22-3-505, and 22-3-507, a tax required to be paid by a fiduciary on a share of an entity's taxable income in an accounting period ~~[must]~~ shall be paid from:

(a) income and principal proportionately to the allocation between income and principal of receipts from the entity in the period; and

(b) principal, to the extent that the tax exceeds the receipts from the entity in the accounting period.

(4) After applying Subsections (1) through (3), a fiduciary shall adjust income or principal receipts, to the extent that the taxes the fiduciary pays are reduced because of a deduction for a payment made to a beneficiary.

**Section 27. Section 22-3-507 (Effective 07/01/20) is amended to read:**

**22-3-507 (Effective 07/01/20). Adjustment between income and principal because of taxes.**

(1) A fiduciary may make an adjustment between income and principal to offset the shifting of economic interests or tax benefits between current income beneficiaries and successor beneficiaries that arises from:

(a) an election or decision the fiduciary makes regarding a tax matter, other than a decision to claim an income tax deduction to which Subsection (2) applies;

(b) an income tax or other tax imposed on the fiduciary or a beneficiary as a result of a transaction involving the fiduciary or a distribution by the fiduciary; or

(c) ownership by the fiduciary of an interest in an entity, a part of whose taxable income, ~~[whether or not]~~ regardless of whether the taxable income is distributed, is includable in the taxable income of the fiduciary or a beneficiary.

(2) (a) If the amount of an estate tax marital or charitable deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting ~~[it]~~ the amount for estate tax purposes and, as a result, estate taxes paid from principal are increased and income taxes paid by the fiduciary or a beneficiary are decreased, the fiduciary shall charge each beneficiary that benefits from the decrease in income tax to reimburse the principal from which the increase in estate tax is paid.

(b) The total reimbursement must equal the increase in the estate tax, to the extent that the

principal used to pay the increase would have qualified for a marital or charitable deduction but for the payment.

(c) The share of the reimbursement for each fiduciary or beneficiary whose income taxes are reduced ~~[must]~~ shall be the same as ~~[its]~~ the fiduciary's or beneficiary's share of the total decrease in income tax.

(3) A fiduciary that charges a beneficiary under Subsection (2) may offset the charge by obtaining payment from the beneficiary, withholding an amount from future distributions to the beneficiary, or adopting another method or combination of methods.

**Section 28. Section 22-3-601 (Effective 07/01/20) is amended to read:**

**22-3-601 (Effective 07/01/20). Determination and distribution of net income.**

(1) This section applies when:

(a) the death of an individual results in the creation of an estate or trust; or

(b) an income interest in a trust terminates, regardless of whether the trust continues or is distributed.

(2) A fiduciary of an estate or trust with an income interest that terminates shall:

(a) determine, ~~[under]~~ in accordance with Subsection ~~[(7)]~~ (8) and Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, and Part 7, Apportionment at Beginning and End of Income Interest, the amount of net income and net principal receipts received from property specifically given to a beneficiary; and

(b) distribute the net income and net principal receipts to the beneficiary that is to receive the specific property.

(3) ~~[A]~~ Subject to Subsection (4), a fiduciary shall determine the income and net income of an estate or income interest in a trust that terminates, other than the amount of net income determined ~~[under]~~ in accordance with Subsection (2), ~~[under]~~ and in accordance with Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, and Part 7, Apportionment at Beginning and End of Income Interest, and by:

(a) including in net income all income from property used or sold to discharge liabilities;

(b) paying from income or principal, in the fiduciary's discretion~~],~~:

(i) fees of attorneys, accountants, and fiduciaries~~],~~;

(ii) court costs and other expenses of administration~~], and~~;

(iii) interest on estate ~~[and]~~ taxes, inheritance taxes, and other taxes imposed because of the decedent's death~~], but the fiduciary may pay the expenses from income of property passing to a trust for which the fiduciary claims a federal estate tax~~

marital or charitable deduction only to the extent; and

~~[(i) the payment of the expenses from income will not cause the reduction or loss of the deduction; or]~~

~~[(ii) the fiduciary makes an adjustment under Subsection 22-3-507(2); and]~~

(c) paying from principal other disbursements made or incurred in connection with the settlement of the estate or the winding up of an income interest that terminates, including:

(i) to the extent authorized by the decedent's will, the terms of the trust, or applicable law, debts, funeral expenses, disposition of remains, family allowances, estate and inheritance taxes, and other taxes imposed because of the decedent's death; and

(ii) related penalties that are apportioned, by the decedent's will, the terms of the trust, or applicable law, to the estate or income interest that terminates.

(4) A fiduciary may pay the expenses from income of property passing to a trust for which the fiduciary claims a federal estate tax marital or charitable deduction only to the extent:

(a) the payment of the expenses from income will not cause the reduction or loss of the deduction; or

(b) the fiduciary makes an adjustment under Subsection 22-3-507(2).

~~[(4)] (5) If a decedent's will, the terms of a trust, or applicable law provides for the payment of interest or the equivalent of interest to a beneficiary that receives a pecuniary amount outright, the fiduciary shall make the payment from net income determined under Subsection (3) or from principal to the extent that net income is insufficient.~~

~~[(5)] (6) If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends because of an income beneficiary's death, and no payment of interest or the equivalent of interest is provided for by the terms of the trust or applicable law, the fiduciary shall pay the interest or the equivalent of interest to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.~~

~~[(6)] (7) A fiduciary shall distribute net income remaining after payments required by Subsections ~~[(4)] (5)~~ and ~~[(5)] (6)~~ in the manner described in Section 22-3-602 to all other beneficiaries, including a beneficiary that receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.~~

~~[(7)] (8) (a) A fiduciary may not reduce principal or income receipts from property described in Subsection (2) because of a payment described in Section 22-3-501 or 22-3-502, to the extent the decedent's will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent~~

the fiduciary recovers or expects to recover the payment from a third party.

(b) The net income and principal receipts from the property ~~[must]~~ shall be determined by including the amount the fiduciary receives or pays regarding the property, whether the amount accrued or became due before, on, or after the date of the decedent's death or an income interest's terminating event, and making a reasonable provision for an amount the estate or income interest may become obligated to pay after the property is distributed.

**Section 29. Section 22-3-602 (Effective 07/01/20) is amended to read:**

**22-3-602 (Effective 07/01/20). Distribution to successor beneficiary.**

(1) (a) Except to the extent Part 3, Unitrust, applies for a beneficiary that is a trust, each beneficiary described in Subsection 22-3-601(6) is entitled to receive a share of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values of the undistributed principal assets as of the distribution date.

(b) If a fiduciary makes more than one distribution of assets to beneficiaries to which this section applies, each beneficiary, including a beneficiary that does not receive part of the distribution, is entitled, as of each distribution date, to a share of the net income the fiduciary received after the decedent's death, an income interest's other terminating event, or the preceding distribution by the fiduciary.

(2) In determining a beneficiary's share of net income under Subsection (1), ~~the following rules apply~~:

(a) ~~[The]~~ the beneficiary is entitled to receive a share of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date~~[-]~~;

(b) ~~[The]~~ the beneficiary's fractional interest under Subsection (2)(a) ~~[must]~~ shall be calculated:

(i) on the aggregate value of the assets as of the distribution date without reducing the value by any unpaid principal obligation; and

(ii) without regard to:

(A) property specifically given to a beneficiary under the decedent's will or the terms of the trust; and

(B) property required to pay pecuniary amounts not in trust~~[-]~~; and

(c) ~~[The]~~ the distribution date under Subsection (2)(a) may be the date ~~[as of]~~ on which the fiduciary calculates the value of the assets if that date is reasonably near the date on which the assets are distributed.

(3) To the extent that a fiduciary does not distribute under this section all the collected but undistributed net income to each beneficiary ~~[as of]~~ on or before a distribution date, the fiduciary shall

maintain records showing the interest of each beneficiary in the net income.

(4) If this section applies to income from an asset, a fiduciary may apply ~~[the rules in this section]~~ Subsection (2) to net gain or loss realized from the disposition of the asset after the decedent's death, an income interest's terminating event, or the preceding distribution by the fiduciary.

**Section 30. Section 22-3-701 (Effective 07/01/20) is amended to read:**

**22-3-701 (Effective 07/01/20). When right to income begins and ends.**

(1) (a) An income beneficiary is entitled to net income in accordance with the terms of the trust from the date on which an income interest begins.

(b) The income interest begins on the date that is specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to:

- (i) the trust for the current income beneficiary; or
- (ii) a successive interest for a successor beneficiary.

(2) An asset becomes subject to a trust under Subsection (1)(b)(i):

(a) for an asset that is transferred to the trust during the settlor's life, on the date the asset is transferred;

(b) for an asset that becomes subject to the trust because of a decedent's death, on the date of the decedent's death, even if there is an intervening period of administration of the decedent's estate; or

(c) for an asset that is transferred to a fiduciary by a third party because of a decedent's death, on the date of the decedent's death.

(3) An asset becomes subject to a successive interest under Subsection (1)(b)(ii) on the day after the preceding income interest ends, as determined under Subsection (4), even if there is an intervening period of administration to wind up the preceding income interest.

(4) An income interest ends on the day before an income beneficiary dies or another terminating event occurs or on the last day of a period during which there is no beneficiary to which a fiduciary ~~[may or must]~~ is permitted or required to distribute income.

**Section 31. Section 22-3-702 (Effective 07/01/20) is amended to read:**

**22-3-702 (Effective 07/01/20).**

**Apportionment of receipts and disbursements when decedent dies or income interest begins.**

(1) A fiduciary shall allocate an income receipt or disbursement, other than a receipt to which Subsection 22-3-601(2) applies, to principal if ~~[its]~~ the due date of the income receipt or disbursement occurs before the date on which:

- (a) for an estate, the decedent died; or

(b) for a trust or successive interest, an income interest begins.

(2) If the due date of a periodic income receipt or disbursement occurs on or after the date on which a decedent died or an income interest begins, a fiduciary shall allocate the receipt or disbursement to income.

(3) If an income receipt or disbursement is not periodic or has no due date, a fiduciary shall:

(a) treat the receipt or disbursement under this section as accruing from day to day; and

(b) allocate:

(i) to principal, the portion of the receipt or disbursement accruing before the date on which a decedent died or an income interest begins~~[s]~~; and

(ii) to income, the balance.

(4) A receipt or disbursement is periodic under Subsections (2) and (3) if:

(a) the receipt or disbursement ~~[must]~~ shall be paid at regular intervals under an obligation to make payments; or

(b) the payor customarily makes payments at regular intervals.

(5) (a) An item of income or obligation is due under this section on the date on which the payor is required to make a payment.

(b) If a payment date is not stated, there is no due date.

(6) Distributions to shareholders or other owners from an entity to which Section 22-3-401 applies are due:

(a) on the date fixed by or on behalf of the entity for determining the persons entitled to receive the distribution;

(b) if no date is fixed, on the date of the decision by or on behalf of the entity to make the distribution; or

(c) if no date is fixed and the fiduciary does not know the date of the decision by or on behalf of the entity to make the distribution, on the date the fiduciary learns of the decision.

**Section 32. Section 22-3-703 (Effective 07/01/20) is amended to read:**

**22-3-703 (Effective 07/01/20).**

**Apportionment when income interest ends.**

(1) In this section:

(a) "Undistributed income" means net income received on or before the date on which an income interest ends.

(b) "Undistributed income" does not include an item of income or expense ~~[which]~~ that is due or accrued or net income that has been added or is required to be added, to principal under the terms of the trust.

(2) Except as otherwise provided in Subsection (3), when a mandatory income interest of a



beneficiary ends, the fiduciary shall pay the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust to the beneficiary or, if the beneficiary does not survive the date that the interest ends, to the beneficiary's estate.

(3) If a beneficiary has an unqualified power to withdraw more than 5% of the value of a trust immediately before an income interest ends:

(a) the fiduciary shall allocate to principal the undistributed income from the portion of the trust [which] that may be withdrawn; and

(b) Subsection (2) applies only to the balance of the undistributed income.

(4) When a fiduciary's obligation to pay a fixed annuity or a fixed fraction of the value of assets ends, the fiduciary shall prorate the final payment as required to preserve an income tax, gift tax, estate tax, or other tax benefit.

**Section 33. Section 22-3-801 (Effective 07/01/20) is amended to read:**

**22-3-801 (Effective 07/01/20). Uniformity of application and construction.**

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to [its] the uniform act's subject matter among states that enact it.

**Section 34. Section 22-3-803 (Effective 07/01/20) is amended to read:**

**22-3-803 (Effective 07/01/20). Application to trust or estate.**

This chapter applies to a trust or estate existing or created on or after July 1, [2019] 2020, except as otherwise expressly provided in the terms of the trust or this chapter.

**Section 35. Section 22-3-804 (Effective 07/01/20) is amended to read:**

**22-3-804 (Effective 07/01/20). Severability.**

If any provision of this chapter or [its] the application of this chapter to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter [which] that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

**Section 36. Section 75-7-103 (Superseded 07/01/20) is amended to read:**

**75-7-103 (Superseded 07/01/20). Definitions.**

(1) In this chapter:

(a) "Action," with respect to an act of a trustee, includes a failure to act.

(b) "Beneficiary" means a person that:

(i) has a present or future beneficial interest in a trust, vested or contingent; or

(ii) in a capacity other than that of trustee, holds a power of appointment over trust property.

(c) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection 75-7-405(1).

(d) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(e) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(f) "Jurisdiction," with respect to a geographic area, includes a state or country.

(g) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.

(h) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(i) is a current distributee or permissible distributee of trust income or principal; or

(ii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(i) "Resident estate" or "resident trust" means:

(i) an estate of a decedent who at death was domiciled in this state;

(ii) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this state; or

(iii) a trust administered in this state.

(j) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(k) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(l) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer or encumbrance of a beneficiary's interest.

(m) "Terms of a trust" means:

(i) [subject to] except as otherwise provided in Subsection (1)(m)(ii), the manifestation of the settlor's intent regarding a trust's provisions as:

(A) expressed in the trust instrument; or

(B) established by other evidence that would be admissible in a judicial proceeding; or

(ii) the trust's provisions, as established, determined, or amended by:

(A) a trustee or ~~other person~~ trust director in accordance with applicable law;

(B) a court order; or

(C) a nonjudicial settlement agreement under Section 75-7-110.

(n) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(2) Terms not specifically defined in this section have the meanings provided in Section 75-1-201.

**Section 37. Section 75-7-103 (Effective 07/01/20) is amended to read:**

**75-7-103 (Effective 07/01/20). Definitions.**

(1) In this chapter:

(a) "Action," with respect to an act of a trustee, includes a failure to act.

(b) "Beneficiary" means a person that:

(i) has a present or future beneficial interest in a trust, vested or contingent; or

(ii) in a capacity other than that of trustee, holds a power of appointment over trust property.

(c) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection 75-7-405(1).

(d) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(e) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(f) "Jurisdiction," with respect to a geographic area, includes a state or country.

(g) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.

(h) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(i) is a current distributee or permissible distributee of trust income or principal; or

(ii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(i) "Resident estate" or "resident trust" means:

(i) an estate of a decedent who at death was domiciled in this state;

(ii) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this state; or

(iii) a trust administered in this state.

(j) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(k) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(l) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer or encumbrance of a beneficiary's interest.

(m) "Terms of a trust" means:

(i) except as otherwise provided in Subsection (1)(m)(ii), the manifestation of the settlor's intent regarding a trust's provisions as:

(A) expressed in the trust instrument; or

(B) established by other evidence that would be admissible in a judicial proceeding;

(ii) the trust's provisions as established, determined, or amended by:

(A) a trustee or trust director in accordance with the applicable law;

(B) court order; or

(C) a nonjudicial settlement agreement under Section 75-7-110[5].

~~[(iii) for an estate, a will; or]~~

~~[(iv) for a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries.]~~

(n) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(2) Terms not specifically defined in this section have the meanings provided in Section 75-1-201.

**Section 38. Effective date.**

(1) Except as provided in Subsection (2), the amendments to Section 75-7-103 (Superseded 07/01/20) in this bill take effect on May 12, 2020.

(2) This bill takes effect on July 1, 2020.

**CHAPTER 349****S. B. 47**

Passed February 19, 2020

Approved March 30, 2020

Effective May 12, 2020

**PUBLIC DOCUMENT  
SIGNATURE CLASSIFICATION**Chief Sponsor: Jani Iwamoto  
House Sponsor: Steve Eliason**LONG TITLE****General Description:**

This bill classifies as a protected record signatures on a political petition, on a request to withdraw a signature from a political petition, and on other documents relating to elections.

**Highlighted Provisions:**

This bill:

- ▶ provides that signatures on a voter registration record, a political petition, a request to withdraw a signature from a political petition, and other documents relating to elections are protected records;
- ▶ permits an individual to view, but not to make a copy of, a signature described in the preceding paragraph;
- ▶ except for a record classified as private, requires a records custodian to provide a list of names instead of a signature protected under the provisions of this bill; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

20A-7-206, as last amended by Laws of Utah 2019, Chapters 210, 217, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 210, and 217

20A-7-605, as last amended by Laws of Utah 2019, Chapter 203

63G-2-305, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277

**ENACTS:**

63G-2-305.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 20A-7-206 is amended to read:****20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.**

(1) (a) In order to qualify an initiative petition for placement on the regular general election ballot, the sponsors shall deliver a signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

(ii) 316 days after the day on which the application for the initiative petition is filed; or

(iii) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202.

(b) A sponsor may not submit an initiative packet after the deadline described in Subsection (1)(a).

(2) For an initiative packet received by the county clerk before December 1, the county clerk shall, within 30 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) post the name and voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 90 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(3) For an initiative packet received by the county clerk on or after December 1, the county clerk shall, within 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) post the name and ~~[precinct]~~ voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 45 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(4) Within seven days after timely receipt of a statement described in Subsection 20A-7-205(3), the county clerk shall:

(a) remove the voter's signature from the posting described in Subsection (2)(c) or (3)(c); and

(b) (i) remove the voter's signature from the signature packet totals; and

(ii) inform the lieutenant governor of the removal.

(5) The county clerk may not certify a signature under Subsection (2) or (3):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-205; or

(b) that does not have a date of signature next to the signature.

(6) In order to qualify an initiative petition for submission to the Legislature, the sponsors shall

deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(7) The county clerk may not certify a signature under Subsection (8) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(8) No later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (6):

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; and

(c) deliver all of the verified initiative packets to the lieutenant governor.

(9) The sponsor or a sponsor's representative may not retrieve an initiative packet from a county clerk after the initiative packet is submitted to the county clerk.

**Section 2. Section 20A-7-605 is amended to read:**

**20A-7-605. Obtaining signatures -- Verification -- Removal of signature.**

(1) Any Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(2) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet.

(b) An individual may not sign the verification printed on the last page of the referendum packet if the individual signed a signature sheet in the referendum packet.

(3) (a) Any voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting a statement to that effect to the county clerk.

(b) Except as provided in Subsection (3)(c), upon receipt of the statement, the county clerk shall remove the signature of the individual submitting the statement from the referendum petition.

(c) A county clerk may not remove signatures from a referendum petition later than seven days after the day on which the sponsors timely submit the last signature packet to the county clerk.

(4) The sponsors of a referendum petition:

(a) shall, for each signature packet:

(i) within seven days after the day on which the first individual signs the signature packet, provide a clear, legible image of all signatures on the signature packet to the county clerk via email or other electronic means; and

(ii) immediately send a new image if the county clerk informs the sponsors that the image is not clear and legible;

(b) may not permit additional signatures on a signature packet of which the sponsors have sent an image under Subsection (4)(a); and

(c) may not submit a signature packet to the county clerk unless the sponsors timely comply with the requirements of Subsection (4)(a) in relation to the signature packet.

(5) Each person who gathers a signature removal statement described in Subsection (3):

(a) shall, within seven days after the day on which the individual signs the signature removal statement, provide a clear, legible image of the statement to the county clerk via email or other electronic means; and

(b) shall, immediately send a new image if the local clerk informs the sender that the image is not clear and legible; and

(c) may not submit a signature removal statement to the county clerk, unless the sender timely complies with the requirements of Subsections (5)(a) and (b) in relation to the signature removal statement.

(6) (a) The county clerk shall provide to an individual, upon request[;], a document or electronic list containing the name and voter identification number of each individual who signed the initiative packet.

~~[(i) an image of a signature packet or signature removal statement with the dates of birth redacted; or]~~

~~[(ii) instead of providing an image described in Subsection (6)(a)(i), a document or electronic list containing the name and other information, other than the dates of birth, that appear on an image described in this Subsection (6)(a).]~~

(b) Subject to Subsection 20A-7-606.3(3), the local clerk may begin certifying, removing, and tallying signatures upon receipt of an image described in Subsection (4) or (5).

**Section 3. Section 63G-2-305 is amended to read:**

**63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to

the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose

information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments,

retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address,

home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33;



(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201; and

(73) a record described in Section 31A-37-503.

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); [and]

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride[-];

(76) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(77) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record; and

(78) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (76) or (77), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code.

**Section 4. Section 63G-2-305.5 is enacted to read:**

**63G-2-305.5. Viewing or obtaining lists of signatures.**

(1) The records custodian of a signature described in Subsection 63G-2-305(76) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:

(a) provide a list of the names of the individuals who signed the petition or request; and

(b) permit an individual to view, but not take a copy or other image of, the signatures on a political petition described in Subsection 63G-2-305(76).

(2) The records custodian of a signature described in Subsection 63G-2-305(77) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:

(a) provide a list of the names of registered voters, excluding the names that are classified as private under Title 20A, Chapter 2, Voter Registration; and

(b) except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, permit an individual to view, but not take a copy or other image of, the signature on a voter registration record.

(3) Except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, the records custodian of a signature described in Subsection 63G-2-305(78) shall, upon request, permit an individual to view, but not take a copy or other image of, a signature.

**CHAPTER 350****S. B. 51**

Passed March 5, 2020  
 Approved March 30, 2020  
 Effective March 30, 2020

**SECONDARY WATER REQUIREMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: Carl R. Albrecht

**LONG TITLE****General Description:**

This bill addresses the metering of pressurized secondary water.

**Highlighted Provisions:**

This bill:

- ▶ repeals outdated language;
- ▶ enacts exemptions;
- ▶ addresses scope of sections; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

73-10-34, as enacted by Laws of Utah 2019, Chapter 449

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 73-10-34 is amended to read:****73-10-34. Secondary water metering.**

(1) As used in this section:

(a) (i) "Commercial user" means a secondary water user that is a place of business.

(ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

(b) (i) "Industrial user" means a secondary water user that manufactures or produces materials.

(ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

(c) (i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

(d) (i) "Residential user" means a secondary water user in a residence.

(ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

(e) "Secondary water" means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end consumer for the irrigation of landscaping or a garden.

(f) "Secondary water supplier" means an entity that supplies pressurized secondary water.

(2) A secondary water supplier that begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

~~[(3) (a) A secondary water provider that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan for metering the use of the pressurized water in accordance with this Subsection (3).]~~

~~[(b) The plan required by this Subsection (3) shall be filed with the Division of Water Resources by no later than December 31, 2019, and address the process the secondary water supplier will follow to implement metering, including:]~~

~~[(i) the costs of full metering by the secondary water provider;]~~

~~[(ii) how long it would take the secondary water provider to complete full metering, including an anticipated begin date and completion date; and]~~

~~[(iii) how the secondary water supplier will finance metering.]~~

~~[(4) (a) The Department of Natural Resources shall oversee a study by the Utah Water Task Force within the Department of Natural Resources of issues related to metering secondary water in the state including cost, timing, the need for exemptions, resources to pay the cost of metering, and any other issues the Department of Natural Resources finds relevant.]~~

~~[(b) The Department of Natural Resources shall report the results of the study to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November interim meeting of 2019.]~~

~~[(5) (3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:~~

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of connections in each of the following categories through which the secondary

water supplier supplies pressurized secondary water:

- (i) commercial;
- (ii) industrial;
- (iii) institutional; and
- (iv) residential;

(e) the total volume of water that the secondary water supplier receives from its sources; and

(f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.

[(6)] (4) (a) Beginning July 1, 2019, the Board of Water Resources may make up to \$10,000,000 in low-interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection [(6)] (4), except the rules may not include prepayment penalties.

(5) This section does not apply to a secondary water supplier to the extent that:

(a) the secondary water supplier supplies secondary water within a county of the third, fourth, fifth, or sixth class; or

(b) there is no meter that a meter manufacturer will warranty because of the water quality within a specific location.

(6) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.

## **Section 2. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 351****S. B. 55**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**VEHICLE REGISTRATION REVISIONS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: Marc K. Roberts

**LONG TITLE****General Description:**

This bill amends provisions related to dismissal of penalties for failure to register a vehicle.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions to allow a court to dismiss an action against an individual for the individual's failure to register a vehicle if the individual can show proof of proper registration within certain time constraints.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-1a-1303, as last amended by Laws of Utah 2015, Chapter 412  
 53-8-209, as last amended by Laws of Utah 2017, Chapter 149

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 41-1a-1303 is amended to read:****41-1a-1303. Driving without registration or certificate of title.**

(1) Except as provided in Section 41-1a-211 or 41-1a-1303.5, a person may not drive or move, or an owner may not knowingly permit to be driven or moved upon any highway any vehicle of a type required to be registered in this state:

(a) that is not properly registered or for which a certificate of title has not been issued or applied for; or

(b) for which the required fee has not been paid.

(2) [A] Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

**Section 2. Section 53-8-209 is amended to read:****53-8-209. Inspection by officers -- Certificate of inspection.**

(1) A peace officer may stop, inspect, and test a vehicle at any time upon reasonable cause to believe that:

(a) a vehicle is unsafe or not equipped as required by law; or

(b) the vehicle's equipment is not in proper adjustment or repair.

(2) (a) (i) If a vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer may give a written notice to the driver and shall send a copy to the division.

(ii) The notice shall:

(A) require that the vehicle be placed in safe condition and the vehicle's equipment in proper repair and adjustment;

(B) specify the repairs and adjustments needed; and

(C) require that a safety inspection certificate be obtained within five days.

(b) If a vehicle is, in the reasonable judgment of the peace officer, hazardous to operate, the peace officer may require that the vehicle:

(i) not be operated under its own power; or

(ii) be driven to the nearest garage or other place of safety.

(c) (i) If the owner or driver does not comply with the notice requirements and secure a safety inspection certificate within five days, the vehicle may not be operated on the highways of this state.

(ii) A violation of Subsection (2)(c)(i) is an infraction.

(3) An owner or driver of a vehicle is not guilty of an infraction and is not required to pay a fee or fine if the citation was issued for:

(a) expired registration in violation of Section 41-1a-201 or 41-1a-1303, and:

(i) the citation was issued within two months after the expiration of the vehicle's registration; and

(ii) the owner or driver registers the vehicle within 14 days after the citation was issued; or

(b) a violation of Section 41-1a-205, 41-6a-1601, or 53-8-205 or any other equipment related infraction under Title 41, Chapter 6a, Part 16, Vehicle Equipment, and the owner or driver obtains a safety inspection, emissions inspection, or proof of repair, as applicable, within 14 days after the citation was issued.

**CHAPTER 352****S. B. 60**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**ADVICE AND CONSENT AMENDMENTS**

Chief Sponsor: Karen Mayne  
 House Sponsor: Timothy D. Hawkes

**LONG TITLE****General Description:**

This bill amends provisions relating to the Senate's advice and consent for gubernatorial nominees.

**Highlighted Provisions:**

This bill:

- ▶ modifies deadlines, and the information provided by the governor, with respect to non-judicial gubernatorial nominees;
- ▶ requires a Senate confirmation hearing, and provides an exception to a deadline waiver provision, for certain nominees;
- ▶ requires notice of anticipated vacancies in offices that require Senate consent;
- ▶ provides a process for government entities and other organizations to provide input on gubernatorial appointments;
- ▶ requires a judicial nominating commission to provide the list of nominees to the Senate at the time it provides the list to the governor;
- ▶ amends provisions requiring Senate consent to also require Senate advice; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides coordination clauses.

**Utah Code Sections Affected:****AMENDS:**

4-2-104, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-18-104, as last amended by Laws of Utah 2018, Chapter 115  
 7-1-202, as last amended by Laws of Utah 2002, Chapter 176  
 7-1-203, as last amended by Laws of Utah 2013, Chapter 73  
 9-1-201.1, as enacted by Laws of Utah 2012, Chapter 212  
 9-6-204, as last amended by Laws of Utah 2012, Chapter 212  
 9-6-803, as enacted by Laws of Utah 2015, Chapter 350  
 9-8-204, as last amended by Laws of Utah 2019, Chapter 221  
 9-22-104, as renumbered and amended by Laws of Utah 2019, Chapter 487  
 11-38-201, as last amended by Laws of Utah 2013, Chapter 310  
 13-1-3, as last amended by Laws of Utah 2002, Chapter 176  
 17B-2a-1005, as last amended by Laws of Utah 2014, Chapter 377  
 19-1-104, as last amended by Laws of Utah 2002, Chapter 176

19-2-103, as last amended by Laws of Utah 2015, Chapter 154  
 19-4-103, as last amended by Laws of Utah 2012, Chapter 360  
 19-5-103, as last amended by Laws of Utah 2015, Chapter 234  
 19-6-103, as last amended by Laws of Utah 2015, Chapter 451  
 20A-1-504, as last amended by Laws of Utah 2018, Chapter 19  
 23-14-2, as last amended by Laws of Utah 2011, Chapter 297  
 26-1-8, as last amended by Laws of Utah 2002, Chapter 176  
 26-9f-103, as last amended by Laws of Utah 2018, Chapter 125  
 26-21-3, as last amended by Laws of Utah 2011, Chapter 366  
 26-33a-103, as last amended by Laws of Utah 2014, Chapter 118  
 26-39-200, as last amended by Laws of Utah 2019, Chapter 111  
 31A-2-102, as last amended by Laws of Utah 2002, Chapter 176  
 31A-2-403, as last amended by Laws of Utah 2019, Chapter 193  
 32B-2-201, as last amended by Laws of Utah 2012, Chapter 365  
 32B-2-205, as last amended by Laws of Utah 2012, Chapter 365  
 34-20-3, as last amended by Laws of Utah 2016, Chapter 348  
 34A-1-201, as last amended by Laws of Utah 2011, Chapter 336  
 34A-1-205, as last amended by Laws of Utah 2013, Chapter 428  
 35A-1-201, as last amended by Laws of Utah 2018, Chapter 423  
 35A-8-304, as last amended by Laws of Utah 2019, Chapter 89  
 35A-8-2103, as renumbered and amended by Laws of Utah 2018, Chapter 182  
 40-6-4, as last amended by Laws of Utah 2013, Chapter 243  
 49-11-202, as last amended by Laws of Utah 2019, Chapter 31  
 51-7-16, as last amended by Laws of Utah 2010, Chapter 286  
 51-10-206, as last amended by Laws of Utah 2019, Chapter 163  
 53-1-107, as last amended by Laws of Utah 2002, Chapter 176  
 53-2a-1103, as last amended by Laws of Utah 2019, Chapter 161  
 53B-1-104, as last amended by Laws of Utah 2018, Chapter 382  
 53B-1-105, as last amended by Laws of Utah 2012, Chapter 78  
 53B-2-104, as last amended by Laws of Utah 2019, Chapter 357  
 53B-2a-103, as last amended by Laws of Utah 2018, Chapter 382  
 53B-2a-108, as repealed and reenacted by Laws of Utah 2018, Chapter 382  
 53C-1-202, as last amended by Laws of Utah 2011, Chapter 247

53E-3-921, as renumbered and amended by Laws of Utah 2018, Chapter 1

53G-5-201, as last amended by Laws of Utah 2019, Chapter 293

54-1-1.5, as last amended by Laws of Utah 2002, Chapter 176

54-10a-201, as renumbered and amended by Laws of Utah 2009, Chapter 237

59-1-201, as last amended by Laws of Utah 2014, Chapter 370

59-1-206, as last amended by Laws of Utah 2003, Chapter 131

61-1-18.5, as last amended by Laws of Utah 2011, Chapter 319

61-2f-103, as last amended by Laws of Utah 2016, Chapters 25 and 381

61-2g-204, as renumbered and amended by Laws of Utah 2011, Chapter 289

62A-1-107, as last amended by Laws of Utah 2019, Chapter 246

62A-1-108, as last amended by Laws of Utah 2002, Chapter 176

62A-7-501, as last amended by Laws of Utah 2019, Chapter 246

63A-1-105, as last amended by Laws of Utah 2002, Chapter 176

63F-1-105, as enacted by Laws of Utah 2005, Chapter 169

63G-2-501, as last amended by Laws of Utah 2019, Chapter 254

63H-4-102, as last amended by Laws of Utah 2011, Chapter 308 and renumbered and amended by Laws of Utah 2011, Chapter 370

63H-6-104, as last amended by Laws of Utah 2018, Chapter 447

63H-8-201, as renumbered and amended by Laws of Utah 2015, Chapter 226

63J-4-602, as renumbered and amended by Laws of Utah 2008, Chapter 382

63J-4-702, as last amended by Laws of Utah 2019, Chapter 246

63L-9-103, as renumbered and amended by Laws of Utah 2017, Chapter 451

63M-2-301, as last amended by Laws of Utah 2019, Chapters 246 and 352

63M-7-203, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-7-504, as last amended by Laws of Utah 2011, Chapter 131

63N-1-202, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-1-401, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-1-501, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-7-102, as renumbered and amended by Laws of Utah 2015, Chapter 283

64-13-3, as last amended by Laws of Utah 2002, Chapter 176

67-1-1.5, as last amended by Laws of Utah 2010, Chapter 355

67-1-2, as last amended by Laws of Utah 2008, Chapter 382

67-1-2.5, as last amended by Laws of Utah 2019, Chapter 246

67-1-3, as last amended by Laws of Utah 2002, Chapter 176

67-1-5, Utah Code Annotated 1953

67-1a-2, as last amended by Laws of Utah 2019, Chapter 165

67-19a-201, as last amended by Laws of Utah 2010, Chapters 249, 286, 324 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 249

68-4-5, as repealed and reenacted by Laws of Utah 2011, Chapter 356

68-4-6, as repealed and reenacted by Laws of Utah 2011, Chapter 356

72-1-202, as last amended by Laws of Utah 2019, Chapters 69 and 479

72-1-301, as last amended by Laws of Utah 2019, Chapter 479

73-2-1, as last amended by Laws of Utah 2017, Chapter 60

73-10-2, as last amended by Laws of Utah 2010, Chapter 286

73-30-201, as last amended by Laws of Utah 2011, Chapter 308

77-5-6, as last amended by Laws of Utah 1986, Chapter 47

77-27-2, as last amended by Laws of Utah 2011, Chapter 366

78A-11-103, as last amended by Laws of Utah 2012, Chapter 133

78B-22-402, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and amended by Laws of Utah 2019, Chapter 326

79-2-202, as last amended by Laws of Utah 2018, Chapter 200

79-3-302, as last amended by Laws of Utah 2010, Chapter 286

79-4-302, as last amended by Laws of Utah 2010, Chapter 286

**Utah Code Sections Affected by Coordination Clause:**

53B-1-404, Utah Code Annotated 1953

63G-24-102, Utah Code Annotated 1953

67-1-2, as last amended by Laws of Utah 2008, Chapter 382

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 4-2-104 is amended to read:**

**4-2-104. Administration by commissioner.**

(1) Administration of the department is under the direction, control, and management of a commissioner appointed by the governor with the advice and consent of the Senate.

(2) The commissioner shall serve at the pleasure of the governor.

(3) The governor shall establish the commissioner's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

**Section 2. Section 4-18-104 is amended to read:**

**4-18-104. Conservation Commission created -- Composition -- Appointment -- Terms -- Compensation -- Attorney general to provide legal assistance.**

(1) There is created within the department the Conservation Commission to perform the functions specified in this chapter.

(2) The Conservation Commission shall be composed of:

(a) 11 voting members, including:

(i) the director of the Extension Service at Utah State University or the director's designee;

(ii) the executive director of the Department of Natural Resources or the executive director's designee;

(iii) the executive director of the Department of Environmental Quality or the executive director's designee;

(iv) the president of the County Weed Supervisors Association or the president's designee; and

(v) seven district supervisors who provide district representation on the commission on a multicounty basis; and

(b) the commissioner or the commissioner's designee.

(3) If a district supervisor is unable to attend a meeting, the district supervisor may designate an alternate to serve in the place of the district supervisor for that meeting.

(4) None of the members described in Subsection (2)(a)(v) or (3) may serve on an association that represents a conservation district.

(5) (a) The commissioner or the commissioner's designee shall serve as chair of the Conservation Commission.

(b) The commissioner or the commissioner's designee may not vote except in the event of a tie, in which case the commissioner or the commissioner's designee shall cast the deciding vote.

(6) The members of the commission specified in Subsection (2)(a)(v) shall:

(a) be recommended by the commission to the governor; and

(b) be appointed by the governor with the advice and consent of the Senate.

(7) (a) Except as required by Subsection (7)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (7)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission

members are staggered so that approximately half of the commission is appointed every two years.

(c) A commission member may not be appointed to more than two consecutive terms.

(8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(9) Attendance of six voting members of the commission at a meeting constitutes a quorum.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) The commission shall keep a record of the commission's actions.

(12) The attorney general shall provide legal services to the commission upon request.

**Section 3. Section 7-1-202 is amended to read:**

**7-1-202. Commissioner of financial institutions as executive officer -- Appointment -- Term -- Salary -- Qualifications.**

The chief executive officer of the Department of Financial Institutions shall be the commissioner of financial institutions who shall be appointed by the governor with the advice and consent of the Senate. ~~[He]~~ The commissioner shall hold office for a term of four years following [his] appointment and confirmation and until [his] a successor is appointed and qualified, but [he] shall be subject to removal at the pleasure of the governor. The governor shall establish the commissioner's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation. The commissioner of financial institutions shall be a citizen of the United States and shall have sufficient experience with depository institutions or as an employee of a state or federal agency having supervision over financial institutions to demonstrate [his] the commissioner's qualifications and fitness to perform the duties of [his] the commissioner's office.

**Section 4. Section 7-1-203 is amended to read:**

**7-1-203. Board of Financial Institutions.**

(1) There is created a Board of Financial Institutions consisting of the commissioner and the following five members, who shall be qualified by training and experience in their respective fields and shall be appointed by the governor with the advice and consent of the Senate:

(a) one representative from the commercial banking business;

(b) one representative from the consumer lending, money services business, or escrow agency business;



(c) one representative from the industrial bank business;

(d) one representative from the credit union business; and

(e) one representative of the general public who, as a result of education, training, experience, or interest, is well qualified to consider economic and financial issues and data as they may affect the public interest in the soundness of the financial systems of this state.

(2) The commissioner shall act as chair.

(3) (a) A member of the board shall be a resident of this state.

(b) No more than three members of the board may be from the same political party.

(c) No more than two members of the board may be connected with the same financial institution or its holding company.

(d) A member may not participate in any matter involving an institution with which the member has a conflict of interest.

(4) (a) Except as required by Subsection (4)(b), the terms of office shall be four years each expiring on July 1.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member serves until the member's successor is appointed and qualified.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term.

(5) (a) The board shall meet at least quarterly on a date the board sets.

(b) The commissioner or any two members of the board may call additional meetings.

(c) Four members constitute a quorum for the transaction of business.

(d) Actions of the board require a vote of a majority of those present when a quorum is present.

(e) A meeting of the board and records of the board's proceedings are subject to Title 52, Chapter 4, Open and Public Meetings Act, except for discussion of confidential information pertaining to a particular financial institution.

(6) (a) A member of the board shall, by sworn or written statement filed with the commissioner, disclose any position of employment or ownership interest that the member has with respect to any institution subject to the jurisdiction of the department.

(b) The member shall:

(i) file the statement required by this Subsection (6) when first appointed to the board; and

(ii) subsequently file amendments to the statement if there is any material change in the matters covered by the statement.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The board shall advise the commissioner with respect to:

(a) the exercise of the commissioner's duties, powers, and responsibilities under this title; and

(b) the organization and performance of the department and its employees.

(9) The board shall recommend annually to the governor and the Legislature a budget for the requirements of the department in carrying out its duties, functions, and responsibilities under this title.

**Section 5. Section 9-1-201.1 is amended to read:**

**9-1-201.1. Executive director of department -- Appointment -- Removal -- Compensation.**

(1) The department shall be directed, organized, and managed by an executive director appointed by the governor with the advice and consent of the Senate.

(2) The executive director serves at the pleasure of the governor.

(3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

**Section 6. Section 9-6-204 is amended to read:**

**9-6-204. Utah Arts Council Board of Directors.**

(1) There is created within the division the Board of Directors of the Utah Arts Council.

(2) (a) The board shall consist of 13 members appointed by the governor to four-year terms of office with the advice and consent of the Senate.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Nine board members shall be working artists in the following areas:

(i) visual arts;

(ii) architecture or design;

(iii) literature;

- (iv) music;
- (v) sculpture;
- (vi) folklore or folk arts;
- (vii) theatre;
- (viii) dance; and
- (ix) media arts.

(d) Four board members shall be citizens knowledgeable in the arts.

(3) The members shall be appointed from the state at large with due consideration for geographical representation.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor within one month from the time of vacancy.

(5) Seven members of the board constitute a quorum for the transaction of business.

(6) The governor shall annually select one of the board members as chair.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) A member may not receive gifts, prizes, or awards of money from the purchasing fund of the division during the member's term of office.

**Section 7. Section 9-6-803 is amended to read:**

**9-6-803. Arts and Culture Business Alliance -- Creation -- Members -- Vacancies.**

(1) There is created within the division the Arts and Culture Business Alliance.

(2) (a) The alliance shall consist of seven members.

(b) The six members described in Subsections (2)(d) and (e) shall be appointed by the governor to four-year terms of office with the advice and consent of the Senate.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of the members described in Subsections (2)(d) and (e) are staggered so that approximately half of the members are appointed every two years.

(d) Five members shall be citizens with an interest in supporting and advancing the arts and arts development in the state.

(e) One member shall have expertise in business or finance.

(f) One member is the executive director of the Department of Heritage and Arts, or the executive director's designee.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original member.

(4) Four members of the board constitute a quorum for the transaction of business.

(5) The governor shall annually select one of the board members as chair.

(6) Except for the executive director, a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) A member may not receive a gift, prize, or award of money from the division or the account.

**Section 8. Section 9-8-204 is amended to read:**

**9-8-204. Board of State History.**

(1) There is created within the department the Board of State History.

(2) The board shall consist of 11 members appointed by the governor with the advice and consent of the Senate as follows:

(a) sufficient representatives to satisfy the federal requirements for an adequately qualified State Historic Preservation Review Board; and

(b) other persons with an interest in the subject matter of the division's responsibilities.

(3) (a) Except as required by Subsection (3)(b), the members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the advice and consent of the Senate.

(5) A simple majority of the board constitutes a quorum for conducting board business.

(6) The governor shall select a chair and vice chair from the board members.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 9. Section 9-22-104 is amended to read:**

**9-22-104. STEM Action Center Board -- Duties.**

- (1) The STEM board shall:
  - (a) establish a STEM Action Center to:
    - (i) coordinate STEM activities in the state among the following stakeholders:
      - (A) the State Board of Education;
      - (B) school districts and charter schools;
      - (C) the State Board of Regents;
      - (D) institutions of higher education;
      - (E) parents of home-schooled students;
      - (F) other state agencies; and
      - (G) business and industry representatives;
    - (ii) align public education STEM activities with higher education STEM activities; and
    - (iii) create and coordinate best practices among public education and higher education;
      - (b) with the advice and consent of the Senate, appoint a director to oversee the administration of the STEM Action Center;
  - (c) select a physical location for the STEM Action Center;
  - (d) strategically engage industry and business entities to cooperate with the STEM board:
    - (i) to support high quality professional development and provide other assistance for educators and students; and
    - (ii) to provide private funding and support for the STEM Action Center;
  - (e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and
  - (f) work to meet the following expectations:
    - (i) that at least 50 educators are implementing best practice learning tools in classrooms;
    - (ii) performance change in student achievement in each classroom participating in a STEM Action Center project; and
    - (iii) that students from at least 50 schools in the state participate in the STEM competitions, fairs, and camps described in Subsection 9-22-106(2)(d).
- (2) The STEM board may:
  - (a) enter into contracts for the purposes of this part;

- (b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;
  - (c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the STEM board;
  - (d) prescribe the duties and powers of the STEM Action Center providers; and
  - (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.
- (3) The STEM board may establish a foundation to assist in:
    - (a) the development and implementation of the programs authorized under this part to promote STEM education; and
    - (b) implementation of other STEM education objectives described in this part.
  - (4) A foundation established by the STEM board under Subsection (3):
    - (a) may solicit and receive contributions from a private organization for STEM education objectives described in this part;
    - (b) shall comply with the requirements described in Section 9-22-105;
    - (c) does not have power or authority to incur contractual obligations or liabilities that constitute a claim against public funds;
    - (d) may not exercise executive or administrative authority over the programs or other activities described in this part, except to the extent specifically authorized by the STEM board;
    - (e) shall provide the STEM board with information detailing transactions and balances associated with the foundation; and
    - (f) may not:
      - (i) engage in lobbying activities;
      - (ii) attempt to influence legislation; or
      - (iii) participate in any campaign activity for or against:
        - (A) a political candidate; or
        - (B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.
- Section 10. Section 11-38-201 is amended to read:**
- 11-38-201. Quality Growth Commission -- Term of office -- Vacancy -- Organization -- Expenses -- Staff.**
- (1) (a) There is created a Quality Growth Commission consisting of:
    - (i) the director of the Department of Natural Resources;
    - (ii) the commissioner of the Department of Agriculture and Food;

(iii) six elected officials at the local government level, three of whom may not be residents of a county of the first or second class; and

(iv) five persons from the profit and nonprofit private sector, two of whom may not be residents of a county of the first or second class and no more than three of whom may be from the same political party and one of whom shall be from the residential construction industry, nominated by the Utah Home Builders Association, and one of whom shall be from the real estate industry, nominated by the Utah Association of Realtors.

(b) (i) The director of the Department of Natural Resources and the commissioner of the Department of Agriculture and Food may not assume their positions on the commission until:

(A) after May 1, 2005; and

(B) the term of the respective predecessor in office, who is a state government level appointee, expires.

(ii) The term of a commission member serving on May 1, 2005 as one of the six elected local officials or five private sector appointees may not be shortened because of application of the restriction under Subsections (1)(a)(iii) and (iv) on the number of appointees from counties of the first or second class.

(2) (a) Each commission member appointed under Subsection (1)(a)(iii) or (iv) shall be appointed by the governor with the advice and consent of the Senate.

(b) The governor shall select three of the six members under Subsection (1)(a)(iii) from a list of names provided by the Utah League of Cities and Towns, and shall select the remaining three from a list of names provided by the Utah Association of Counties.

(c) Two of the persons appointed under Subsection (1) shall be from the agricultural community from a list of names provided by Utah farm organizations.

(3) (a) The term of office of each member is four years, except that the governor shall appoint one of the persons at the state government level, three of the persons at the local government level, and two of the persons under Subsection (1)(a)(iv) to an initial two-year term.

(b) No member of the commission may serve more than two consecutive four-year terms.

(4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).

(5) Commission members shall elect a chair from their number and establish rules for the organization and operation of the commission.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A member is not required to give bond for the performance of official duties.

(8) Staff services to the commission:

(a) shall be provided by the Governor's Office of Management and Budget; and

(b) may be provided by local entities through the Utah Association of Counties and the Utah League of Cities and Towns, with funds approved by the commission from those identified as available to local entities under Subsection 11-38-203(1)(a).

**Section 11. Section 13-1-3 is amended to read:**

**13-1-3. Executive director.**

(1) The department shall be under the supervision, direction, and control of the executive director of commerce. The executive director shall be appointed by the governor with the advice and consent of the Senate. The executive director shall hold office at the pleasure of the governor. The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall employ personnel necessary to carry out the duties and responsibilities of the department.

**Section 12. Section 17B-2a-1005 is amended to read:**

**17B-2a-1005. Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.**

(1) Members of the board of trustees for a water conservancy district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the water conservancy district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (4)(a).

(2) (a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).

(b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.

(c) (i) For a district located in more than a single county, the governor, with the advice and consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).

(ii) (A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.

(B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.

(iii) (A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.

(B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.

(iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.

(v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.

(d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.

(3) (a) The board shall give written notice of the upcoming vacancy in an appointed trustee's term and the date when the trustee's term expires to the county legislative body in single county districts and to the nominating entities and the governor in all other districts:

(i) if the upcoming vacancy is in a single county district, at least 90 days before the expiration of the trustee's term; and

(ii) for all other districts, on or before October 1 before the expiration of the appointed trustee's term.

(b) (i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).

(ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall make the appointment from qualified candidates without consultation with the county or municipal legislative body.

(iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.

(iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the advice and consent of the Senate.

(c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.

(4) (a) Members of the board of trustees of a water conservancy district shall be elected, if, subject to Subsection (4)(b):

(i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) The board of trustees of a water conservancy district shall consist of:

(a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or

(b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.

(6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.

(7) Each trustee shall furnish a corporate surety bond at the expense of the district, conditioned for the faithful performance of duties as a trustee.

(8) (a) The board of trustees of a water conservancy district may:

(i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;

(ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;

(iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has been declared;

(iv) allocate and reallocate the use of water to lands within the district;

(v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;

(vi) create a lien, as provided in this part, upon land to which the use of water is transferred;

(vii) discharge a lien from land to which a lien has attached; and

(viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.

(b) (i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.

(ii) (A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.

(B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

**Section 13. Section 19-1-104 is amended to read:**

**19-1-104. Creation of department -- Appointment of executive director.**

(1) There is created within state government the Department of Environmental Quality. The department shall be administered by an executive director.

(2) The executive director shall be appointed by the governor with the advice and consent of the Senate and shall serve at the pleasure of the governor.

(3) The executive director shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the department's affairs.

(4) The Legislature shall fix the compensation of the executive director in accordance with Title 67, Chapter 22, State Officer Compensation.

**Section 14. Section 19-2-103 is amended to read:**

**19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem and expenses.**

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the advice and consent of the Senate:

(i) one representative who:

(A) is not connected with industry;

(B) is an expert in air quality matters; and

(C) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mining industry;

(iv) one representative from the fuels industry;

(v) one representative from the manufacturing industry;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about air pollution matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

(3) No more than five of the appointed members of the board shall belong to the same political party.

(4) A majority of the members of the board may not derive any significant portion of their income from persons subject to permits or orders under this chapter.

(5) (a) Members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(6) A member may serve more than one term.

(7) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(9) The board shall elect annually a chair and a vice chair from its members.

(10) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Three days' notice shall be given to each member of the board before a meeting.

(11) Five members constitute a quorum at a meeting, and the action of a majority of members present is the action of the board.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 15. Section 19-4-103 is amended to read:**

**19-4-103. Drinking Water Board -- Members -- Organization -- Meetings -- Per diem and expenses.**

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the advice and consent of the Senate:

(i) one representative who is a Utah-licensed professional engineer with expertise in civil or sanitary engineering;

(ii) two representatives who are elected officials from a municipal government that is involved in the management or operation of a public water system;

(iii) one representative from an improvement district, a water conservancy district, or a metropolitan water district;

(iv) one representative from an entity that manages or operates a public water system;

(v) one representative from:

(A) the state water research community; or

(B) an institution of higher education that has comparable expertise in water research to the state water research community;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about drinking water and public water systems, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) represent different geographical areas within the state insofar as practicable;

(c) be a resident of Utah;

(d) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(e) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

(3) No more than five appointed members of the board shall be from the same political party.

(4) (a) As terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c) (i) Notwithstanding Subsection (4)(a), the term of a board member who is appointed before May 1, 2013, shall expire on April 30, 2013.

(ii) On May 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) Each member holds office until the expiration of the member's term, and until a successor is appointed, but not for more than 90 days after the expiration of the term.

(7) The board shall elect annually a chair and a vice chair from its members.

(8) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Reasonable notice shall be given to each member of the board before any meeting.

(9) Five members constitute a quorum at any meeting and the action of the majority of the members present is the action of the board.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 16. Section 19-5-103 is amended to read:**

**19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms -- Organization -- Meetings -- Per diem and expenses.**

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

- (i) the executive director; or
- (ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the advice and consent of the Senate:

- (i) one representative who:

(A) is an expert and has relevant training and experience in water quality matters;

(B) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience; and

(C) represents local and special service districts in the state;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mineral industry;

(iv) one representative from the manufacturing industry;

(v) one representative who represents agricultural and livestock interests;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

- (2) A member of the board shall:

(a) be knowledgeable about water quality matters, as evidenced by a professional degree, a

professional accreditation, or documented experience;

- (b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

(3) No more than five of the appointed members may be from the same political party.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the advice and consent of the Senate.

(5) (a) A member shall be appointed for a term of four years and is eligible for reappointment.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c) (i) Notwithstanding Subsection (5)(a), the term of a board member who is appointed before March 1, 2013, shall expire on February 28, 2013.

(ii) On March 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

(6) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, not to exceed 90 days after the formal expiration of the term.

- (7) The board shall:

(a) organize and annually select one of its members as chair and one of its members as vice chair;

(b) hold at least four regular meetings each calendar year; and

(c) keep minutes of its proceedings which are open to the public for inspection.

(8) The chair may call a special meeting upon the request of three or more members of the board.

(9) Each member of the board and the director shall be notified of the time and place of each meeting.

(10) Five members of the board constitute a quorum for the transaction of business, and the action of a majority of members present is the action of the board.

(11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and



(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 17. Section 19-6-103 is amended to read:**

**19-6-103. Waste Management and Radiation Control Board -- Members -- Terms -- Organization -- Meetings -- Per diem and expenses.**

(1) The board consists of the following 12 members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following 11 voting members appointed by the governor with the advice and consent of the Senate:

(i) one representative who is:

(A) not connected with industry; and

(B) a Utah-licensed professional engineer;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the manufacturing, mining, or fuel industry;

(iv) one representative from the private solid or hazardous waste disposal industry;

(v) one representative from the private hazardous waste recovery industry;

(vi) one representative from the radioactive waste management industry;

(vii) one representative from the uranium milling industry;

(viii) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests;

(ix) one representative from the public who is trained and experienced in public health and a licensed:

(A) medical doctor; or

(B) dentist; and

(x) one representative who is:

(A) a medical physicist or a health physicist; or

(B) a professional employed in the field of radiation safety.

(2) A member of the board shall:

(a) be knowledgeable about solid and hazardous waste matters and radiation safety and protection as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department in accordance with Subsection 19-1-201(1)(d)(i)(B).

(3) No more than six of the appointed members may be from the same political party.

(4) (a) Members shall be appointed for terms of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c) (i) Notwithstanding Subsection (4)(a), the term of a board member who is appointed before March 1, 2013, shall expire on February 28, 2013.

(ii) On March 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

(5) Each member is eligible for reappointment.

(6) Board members shall continue in office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, after considering recommendations of the board and with the advice and consent of the Senate.

(8) The board shall elect a chair and vice chair on or before April 1 of each year from its membership.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) (a) The board shall hold a meeting at least once every three months including one meeting during each annual general session of the Legislature.

(b) Meetings shall be held on the call of the chair, the director, or any three of the members.

(11) Six members constitute a quorum at any meeting, and the action of the majority of members present is the action of the board.

**Section 18. Section 20A-1-504 is amended to read:**

**20A-1-504. Midterm vacancies in the offices of attorney general, state treasurer, state auditor, State Board of Education member, and lieutenant governor.**

(1) (a) When a vacancy occurs for any reason in the office of attorney general, state treasurer, state auditor, or State Board of Education member, the vacancy shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by:

(i) appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder; or

(ii) for a State Board of Education vacancy, if the individual who is being replaced:

(A) was elected at a nonpartisan State Board of Education election, by appointing, with the advice and consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103;

(B) was elected at a partisan State Board of Education election, but is not a member of a political party, by appointing, with the advice and consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103; or

(C) was elected at a partisan State Board of Education election, and is a member of a political party, by appointing an individual who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder.

(2) If a vacancy occurs in the office of lieutenant governor, the governor shall, with the advice and consent of the Senate, appoint a person to hold the office until the next regular general election at which the governor stands for election.

**Section 19. Section 23-14-2 is amended to read:**

**23-14-2. Wildlife Board -- Creation -- Membership -- Terms -- Quorum -- Meetings -- Per diem and expenses.**

(1) There is created a Wildlife Board which shall consist of seven members appointed by the governor with the advice and consent of the Senate.

(2) (a) In addition to the requirements of Section 79-2-203, the members of the board shall have expertise or experience in at least one of the following areas:

(i) wildlife management or biology;

(ii) habitat management, including range or aquatic;

(iii) business, including knowledge of private land issues; and

(iv) economics, including knowledge of recreational wildlife uses.

(b) Each of the areas of expertise under Subsection (2)(a) shall be represented by at least one member of the Wildlife Board.

(3) (a) The governor shall select each board member from a list of nominees submitted by the nominating committee pursuant to Section 23-14-2.5.

(b) No more than two members shall be from a single wildlife region described in Subsection 23-14-2.6(1).

(c) The governor may request an additional list of at least two nominees from the nominating committee if the initial list of nominees for a given position is unacceptable.

(d) (i) If the governor fails to appoint a board member within 60 days after receipt of the initial or additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim board member shall serve until the matter is resolved by the committee and the governor or until the board member is replaced pursuant to this chapter.

(4) (a) Except as required by Subsection (4)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a six-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of board members are staggered so that approximately one-third of the board is appointed every two years; and

(ii) members serving from the same region have staggered terms.

(c) If a vacancy occurs, the nominating committee shall submit two names, as provided in Subsection 23-14-2.5(4), to the governor and the governor shall appoint a replacement for the unexpired term.

(d) Board members may serve only one term unless:

(i) the member is among the first board members appointed to serve four years or less; or

(ii) the member filled a vacancy under Subsection (4)(c) for four years or less.

(5) (a) The board shall elect a chair and a vice chair from its membership.

(b) Four members of the board shall constitute a quorum.

(c) The director of the Division of Wildlife Resources shall act as secretary to the board but is not a voting member of the board.

(6) (a) The Wildlife Board shall hold a sufficient number of public meetings each year to expeditiously conduct its business.

(b) Meetings may be called by the chair upon five days notice or upon shorter notice in emergency situations.

(c) Meetings may be held at the Salt Lake City office of the Division of Wildlife Resources or elsewhere as determined by the Wildlife Board.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) The members of the Wildlife Board shall complete an orientation course to assist them in the performance of the duties of their office.

(b) The Department of Natural Resources shall provide the course required under Subsection (8)(a).

**Section 20. Section 26-1-8 is amended to read:**

**26-1-8. Executive director -- Appointment -- Compensation.**

The chief administrative officer of the department is the executive director who shall be appointed by the governor with the advice and consent of the Senate. The executive director shall serve at the pleasure of the governor. The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

**Section 21. Section 26-9f-103 is amended to read:**

**26-9f-103. Utah Digital Health Service Commission.**

(1) There is created within the department the Utah Digital Health Service Commission.

(2) The governor shall appoint 13 members to the commission with the advice and consent of the Senate, as follows:

(a) a physician who is involved in digital health service;

(b) a representative of a health care system or a licensed health care facility as that term is defined in Section 26-21-2;

(c) a representative of rural Utah, which may be a person nominated by an advisory committee on rural health issues created pursuant to Section 26-1-20;

(d) a member of the public who is not involved with digital health service;

(e) a nurse who is involved in digital health service; and

(f) eight members who fall into one or more of the following categories:

(i) individuals who use digital health service in a public or private institution;

(ii) individuals who use digital health service in serving medically underserved populations;

(iii) nonphysician health care providers involved in digital health service;

(iv) information technology professionals involved in digital health service;

(v) representatives of the health insurance industry;

(vi) telehealth digital health service consumer advocates; and

(vii) individuals who use digital health service in serving mental or behavioral health populations.

(3) (a) The commission shall annually elect a chairperson from its membership. The chairperson shall report to the executive director of the department.

(b) The commission shall hold meetings at least once every three months. Meetings may be held from time to time on the call of the chair or a majority of the board members.

(c) Seven commission members are necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a majority of members present shall be the action of the commission.

(4) (a) Except as provided in Subsection (4)(b), a commission member shall be appointed for a three-year term and eligible for two reappointments.

(b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately 1/3 of the commission is appointed each year.

(c) A commission member shall continue in office until the expiration of the member's term and until a successor is appointed, which may not exceed 90 days after the formal expiration of the term.

(d) Notwithstanding Subsection (4)(c), a commission member who fails to attend 75% of the scheduled meetings in a calendar year shall be disqualified from serving.

(e) When a vacancy occurs in membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The department shall provide informatics staff support to the commission.

(7) The funding of the commission shall be a separate line item to the department in the annual appropriations act.

**Section 22. Section 26-21-3 is amended to read:**

**26-21-3. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.**

(1) The Health Facility Committee created by Section 26-1-7 consists of 15 members appointed by the governor with the advice and consent of the Senate. The appointed members shall be knowledgeable about health care facilities and issues. The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;

(b) one hospital administrator;

(c) one hospital trustee;

(d) one representative of a freestanding ambulatory surgical facility;

(e) one representative of an ambulatory surgical facility that is affiliated with a hospital;

(f) two representatives of the nursing care facility industry;

(g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse Practice Act;

(h) one professional in the field of intellectual disabilities not affiliated with a nursing care facility;

(i) one licensed architect or engineer with expertise in health care facilities;

(j) two representatives of assisted living facilities licensed under this chapter;

(k) two consumers, one of whom has an interest in or expertise in geriatric care; and

(l) one representative from either a home health care provider or a hospice provider.

(2) (a) Except as required by Subsection (2)(b), members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, giving consideration to recommendations made by the

committee, with the advice and consent of the Senate.

(d) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less. However, a member may continue to serve as a member until [he] the member is replaced.

(e) The committee shall annually elect from its membership a chair and vice chair.

(f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.

(g) Eight members constitute a quorum. A vote of the majority of the members present constitutes action of the committee.

**Section 23. Section 26-33a-103 is amended to read:**

**26-33a-103. Committee membership -- Terms -- Chair -- Compensation.**

(1) The Health Data Committee created by Section 26-1-7 shall be composed of 15 members.

(2) (a) One member shall be:

(i) the commissioner of the Utah Insurance Department; or

(ii) the commissioner's designee who shall have knowledge regarding the health care system and characteristics and use of health data.

(b) Fourteen members shall be appointed by the governor with the advice and consent of the Senate in accordance with Subsection (3). No more than seven members of the committee appointed by the governor may be members of the same political party.

(3) The members of the committee appointed under Subsection (2)(b) shall:

(a) be knowledgeable regarding the health care system and the characteristics and use of health data;

(b) be selected so that the committee at all times includes individuals who provide care;

(c) include one person employed by or otherwise associated with a general acute hospital as defined by Section 26-21-2, who is knowledgeable about the collection, analysis, and use of health care data;

(d) include two physicians, as defined in Section 58-67-102:

(i) who are licensed to practice in this state;

(ii) who actively practice medicine in this state;

(iii) who are trained in or have experience with the collection, analysis, and use of health care data; and

(iv) one of whom is selected by the Utah Medical Association;

(e) include three persons:

(i) who are:

(A) employed by or otherwise associated with a business that supplies health care insurance to its employees; and

(B) knowledgeable about the collection and use of health care data; and

(ii) at least one of whom represents an employer employing 50 or fewer employees;

(f) include three persons representing health insurers:

(i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(ii) at least one of whom is employed by or associated with a third party payer that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(iii) who are trained in, or experienced with the collection, analysis, and use of health care data;

(g) include two consumer representatives:

(i) from organized consumer or employee associations; and

(ii) knowledgeable about the collection and use of health care data;

(h) include one person:

(i) representative of a neutral, non-biased entity that can demonstrate that it has the broad support of health care payers and health care providers; and

(ii) who is knowledgeable about the collection, analysis, and use of health care data; and

(i) include two persons representing public health who are trained in, or experienced with the collection, use, and analysis of health care data.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Members may serve after their terms expire until replaced.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) Committee members shall annually elect a chair of the committee from among their membership. The chair shall report to the executive director.

(7) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working days notice to the

other members, or upon written request by at least four committee members with at least 10 working days notice to other committee members.

(8) Eight committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-204, 52-4-205, and 52-4-206 are met.

**Section 24. Section 26-39-200 is amended to read:**

**26-39-200. Child Care Center Licensing Committee.**

(1) (a) The Child Care Center Licensing Committee created in Section 26-1-7 shall be comprised of seven members appointed by the governor and approved by the Senate in accordance with this subsection.

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and

(ii) hold an active license as a child care center from the department to provide center based child care.

(c) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in center based child care;

(B) a child development expert from the state system of higher education;

(C) except as provided in Subsection (1)(e), a pediatrician licensed in the state; and

(D) an architect licensed in the state.

(ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.

(d) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

(e) For the appointment described in Subsection (1)(c)(i)(C), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection (1)(e), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(c)(i)(C); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(c)(i)(C) within 90 days after the day on which the governor sends the notice described in Subsection (1)(e)(ii)(A).

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Three members of the licensing committee constitute a quorum for the transaction of business.

**Section 25. Section 31A-2-102 is amended to read:**

**31A-2-102. Appointment, general powers, and duties of commissioner -- Vacancy -- Compensation of commissioner.**

(1) The chief officer of the department is the insurance commissioner, who may exercise all powers given to, and shall perform all duties imposed on, the Insurance Department. ~~[He]~~ The commissioner shall be appointed by the governor with the advice and consent of the Senate. If the

commissioner dies, resigns, or is removed, a successor may be appointed as specified in this subsection. If the Legislature is not then in session, the successor may serve as acting commissioner without advice and consent of the Senate until the Senate has an opportunity to advise and consent to the successor. The commissioner is subject to removal at the pleasure of the governor.

(2) When the office of the commissioner is vacant, or when the commissioner is unable to perform the duties of the office, the governor shall fill the position as provided in Section 67-1-1.5.

(3) The governor shall establish the commissioner's salary within the salary range approved by the Legislature in Title 67, Chapter 22, State Officer Compensation.

**Section 26. Section 31A-2-403 is amended to read:**

**31A-2-403. Title and Escrow Commission created.**

(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members appointed by the governor with the advice and consent of the Senate as follows:

(i) except as provided in Subsection (1)(c), two members shall be employees of a title insurer;

(ii) two members shall:

(A) be employees of a Utah agency title insurance producer;

(B) be or have been licensed under the title insurance line of authority;

(C) as of the day on which the member is appointed, be or have been licensed with the title examination or escrow subline of authority for at least five years; and

(D) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(ii); and

(iii) one member shall be a member of the general public from any county in the state.

(b) No more than one commission member may be appointed from a single company or an affiliate or subsidiary of the company.

(c) If the governor is unable to identify more than one individual who is an employee of a title insurer and willing to serve as a member of the commission, the commission shall include the following members in lieu of the members described in Subsection (1)(a)(i):

(i) one member who is an employee of a title insurer; and

(ii) one member who is an employee of a Utah agency title insurance producer.

(2) (a) Subject to Subsection (2)(c), a commission member shall file with the commissioner a disclosure of any position of employment or

ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.

(b) The disclosure statement required by this Subsection (2) shall be:

(i) filed by no later than the day on which the person begins that person's appointment; and

(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).

(c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is in a publicly traded company or held as part of a mutual fund, trust, or similar investment.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the members appointed under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are appointed every two years.

(c) A commission member may not serve more than one consecutive term.

(d) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the advice and consent of the Senate.

(4) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Members of the commission shall annually select one commission member to serve as chair.

(6) (a) (i) Except as provided in Subsection (6)(b), the commission shall meet at least monthly.

(ii) (A) The commissioner shall, with the concurrence of the chair of the commission, designate at least one monthly meeting per quarter as an in-person meeting.

(B) Notwithstanding Section 52-4-207, a commission member shall physically attend a meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A) and may not attend through

electronic means. A commission member may attend any other commission meeting, subcommittee meeting, or emergency meeting by electronic means in accordance with Section 52-4-207.

(b) (i) Except as provided in Subsection (6)(b)(ii), the commissioner may, with the concurrence of the chair of the commission, cancel a monthly meeting of the commission if, due to the number or nature of pending title insurance matters, the monthly meeting is not necessary.

(ii) The commissioner may not cancel a monthly meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A).

(c) The commissioner may call additional meetings:

(i) at the commissioner's discretion;

(ii) upon the request of the chair of the commission; or

(iii) upon the written request of three or more commission members.

(d) (i) Three commission members constitute a quorum for the transaction of business.

(ii) The action of a majority of the commission members when a quorum is present is the action of the commission.

(7) The commissioner shall staff the commission.

**Section 27. Section 32B-2-201 is amended to read:**

**32B-2-201. Alcoholic Beverage Control Commission created.**

(1) There is created the "Alcoholic Beverage Control Commission." The commission is the governing board over the department.

(2) (a) The commission is composed of seven part-time commissioners appointed by the governor with the advice and consent of the Senate.

(b) No more than four commissioners may be of the same political party.

(3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the governor shall appoint each new commissioner or reappointed commissioner to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of no more than three commissioners expire in a fiscal year.

(4) (a) When a vacancy occurs on the commission for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(b) Unless removed in accordance with Subsection (6), a commissioner shall remain on the commission after the expiration of a term until a successor is appointed by the governor, with the advice and consent of the Senate.

- (5) A commissioner shall take the oath of office.
- (6) (a) The governor may remove a commissioner from the commission for cause, neglect of duty, inefficiency, or malfeasance after a public hearing conducted by:
- (i) the governor; or
  - (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.
- (b) At least 10 days before the hearing described in Subsection (6)(a), the governor shall provide the commissioner notice of:
- (i) the date, time, and place of the hearing; and
  - (ii) the alleged grounds for the removal.
- (c) The commissioner shall have an opportunity to:
- (i) attend the hearing;
  - (ii) present witnesses and other evidence; and
  - (iii) confront and cross examine witnesses.
- (d) After a hearing under this Subsection (6):
- (i) the person conducting the hearing shall prepare written findings of fact and conclusions of law; and
  - (ii) the governor shall serve a copy of the prepared findings and conclusions upon the commissioner.
- (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing examiner shall issue a written recommendation to the governor in addition to complying with Subsection (6)(d).
- (f) A commissioner has five days from the day on which the commissioner receives the findings and conclusions described in Subsection (6)(d) to file written objections to the recommendation before the governor issues a final order.
- (g) The governor shall:
- (i) issue the final order under this Subsection (6) in writing; and
  - (ii) serve the final order upon the commissioner.
- (7) A commissioner may not receive compensation or benefits for the commissioner's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (8) (a) The governor shall annually appoint the chair of the commission. A commissioner serves as chair to the commission at the pleasure of the governor. If removed as chair, the commissioner continues to serve as a commissioner unless removed as a commissioner under Subsection (6).

- (b) The commission shall elect:
- (i) another commissioner to serve as vice chair; and
  - (ii) other commission officers as the commission considers advisable.
- (c) A commissioner elected under Subsection (8)(b) shall serve in the office to which the commissioner is elected at the pleasure of the commission.
- (9) (a) Each commissioner has equal voting rights on a commission matter when in attendance at a commission meeting.
- (b) Four commissioners is a quorum for conducting commission business.
- (c) A majority vote of the quorum present at a meeting is required for the commission to act.
- (10) (a) The commission shall meet at least monthly, but may hold other meetings at times and places as scheduled by:
- (i) the commission;
  - (ii) the chair; or
  - (iii) three commissioners upon filing a written request for a meeting with the chair.

(b) Notice of the time and place of a commission meeting shall be given to each commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act. A commission meeting is open to the public, except for a commission meeting or portion of a commission meeting that is closed by the commission as authorized by Sections 52-4-204 and 52-4-205.

**Section 28. Section 32B-2-205 is amended to read:**

**32B-2-205. Director of alcoholic beverage control.**

- (1) (a) In accordance with Subsection (1)(b), the governor, with the advice and consent of the Senate, shall appoint a director of alcoholic beverage control to a four-year term. The director may be appointed to more than one four-year term. The director is the administrative head of the department.
- (b) (i) The governor shall appoint the director from nominations made by the commission.
- (ii) The commission shall submit the nomination of three individuals to the governor for appointment of the director.
- (iii) By no later than 30 calendar days from the day on which the governor receives the three nominations submitted by the commission, the governor may:
- (A) appoint the director; or
  - (B) reject the three nominations.
- (iv) If the governor rejects the nominations or fails to take action within the 30-day period, the commission shall nominate three different individuals from which the governor may appoint



the director or reject the nominations until such time as the governor appoints the director.

(v) The governor may reappoint the director without seeking nominations from the commission. Reappointment of a director is subject to the advice and consent of the Senate.

(c) If there is a vacancy in the position of director, during the nomination process described in Subsection (1)(b), the governor may appoint an interim director for a period of up to 30 calendar days. If a director is not appointed within the 30-day period, the interim director may continue to serve beyond the 30-day period subject to the advice and consent of the Senate at the next scheduled time for the Senate giving consent to appointments of the governor. Except that if the Senate does not act on the consent to the appointment of the interim director within 60 days of the end of the initial 30-day period, the interim director may continue as the interim director.

(d) The director may be terminated by:

(i) the commission by a vote of four commissioners; or

(ii) the governor after consultation with the commission.

(e) The director may not be a commissioner.

(f) The director shall:

(i) be qualified in administration;

(ii) be knowledgeable by experience and training in the field of business management; and

(iii) possess any other qualification prescribed by the commission.

(2) The governor shall establish the director's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(3) The director shall:

(a) carry out the policies of the commission;

(b) carry out the policies of the department;

(c) fully inform the commission of the operations and administrative activities of the department; and

(d) assist the commission in the proper discharge of the commission's duties.

**Section 29. Section 34-20-3 is amended to read:**

**34-20-3. Labor relations board.**

(1) (a) There is created the Labor Relations Board consisting of the following:

(i) the commissioner of the Labor Commission;

(ii) two members appointed by the governor with the advice and consent of the Senate consisting of:

(A) a representative of employers, in the appointment of whom the governor shall consider nominations from employer organizations; and

(B) a representative of employees, in the appointment of whom the governor shall consider nominations from employee organizations.

(b) (i) Except as provided in Subsection (1)(b)(ii), as terms of members appointed under Subsection (1)(a)(ii) expire, the governor shall appoint each new member or reappointed member to a four-year term.

(ii) Notwithstanding the requirements of Subsection (1)(b)(i), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members appointed under Subsection (1)(a)(ii) are staggered so one member is appointed every two years.

(c) The commissioner shall serve as chair of the board.

(d) A vacancy occurring on the board for any cause of the members appointed under Subsection (1)(a)(ii) shall be filled by the governor with the advice and consent of the Senate pursuant to this section for the unexpired term of the vacating member.

(e) The governor may at any time remove a member appointed under Subsection (1)(a)(ii) but only for inefficiency, neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

(f) A member of the board appointed under Subsection (1)(a)(ii) may not hold any other office in the government of the United States, this state or any other state, or of any county government or municipal corporation within a state.

(g) A member appointed under Subsection (1)(a)(ii) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) A meeting of the board may be called:

(a) by the chair; or

(b) jointly by the members appointed under Subsection (1)(a)(ii).

(3) The chair may provide staff and administrative support as necessary from the Labor Commission.

(4) A vacancy in the board does not impair the right of the remaining members to exercise all the powers of the board, and two members of the board shall at all times constitute a quorum.

(5) The board shall have an official seal which shall be judicially noticed.

**Section 30. Section 34A-1-201 is amended to read:**

**34A-1-201. Commissioner -- Appointment -- Removal -- Compensation --**

**Qualifications -- Responsibilities -- Reports.**

(1) (a) The chief administrative officer of the commission is the commissioner, who shall be appointed by the governor with the advice and consent of the Senate.

(b) The commissioner shall serve at the pleasure of the governor.

(c) The commissioner shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(d) The commissioner shall be experienced in administration, management, and coordination of complex organizations.

(2) (a) The commissioner shall serve full-time.

(b) (i) Except as provided in Subsection (2)(b)(ii), the commissioner may not:

(A) hold any other office of this state, another state, or the federal government except in an ex officio capacity; or

(B) serve on any committee of any political party.

(ii) Notwithstanding Subsection (2)(b)(i), the commissioner may:

(A) hold a nominal position or title if it is required by law as a condition for the state participating in an appropriation or allotment of any money, property, or service that may be made or allotted for the commission; or

(B) serve as the chief administrative officer of any division, office, or bureau that is established within the commission.

(iii) If the commissioner holds a position as permitted under Subsection (2)(b)(ii), the commissioner may not be paid any additional compensation for holding the position.

(3) Before beginning the duties as a commissioner, an appointed commissioner shall take and subscribe the constitutional oath of office and file the oath with the Division of Archives.

(4) The commissioner shall:

(a) administer and supervise the commission in compliance with Title 67, Chapter 19, Utah State Personnel Management Act;

(b) approve the proposed budget of each division and the Appeals Board;

(c) approve all applications for federal grants or assistance in support of any commission program; and

(d) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title or Title 34, Labor in General.

(5) (a) The commissioner shall report annually to the Legislature and the governor concerning the

operations of the commission and the programs that the commission administers.

(b) If federal law requires that a report to the governor or Legislature be given concerning the commission or a program administered by the commission, the commissioner or the commissioner's designee shall make that report.

**Section 31. Section 34A-1-205 is amended to read:**

**34A-1-205. Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.**

(1) There is created the Appeals Board within the commission consisting of three members. The board may call and preside at adjudicative proceedings to review an order or decision that is subject to review by the Appeals Board under this title.

(2) (a) The governor shall appoint the members with the advice and consent of the Senate and in accordance with this section.

(b) One member of the board shall be appointed to represent employers, in making this appointment, the governor shall consider nominations from employer organizations.

(c) One member of the board shall be appointed to represent employees, in making this appointment, the governor shall consider nominations from employee organizations.

(d) No more than two members may belong to the same political party.

(e) The governor shall, at the time of appointment or reappointment, make appointments to the board so that at least two of the members of the board are members of the Utah State Bar in good standing or resigned from the Utah State Bar in good standing.

(3) (a) The term of a member shall be six years beginning on March 1 of the year the member is appointed, except that the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that one member is appointed every two years.

(b) The governor may remove a member only for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

(c) A member shall hold office until a successor is appointed and has qualified.

(4) A member shall be part-time and receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

(5) (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.

(b) The governor shall appoint and may remove at will the chair from the position of chair.

(6) A majority of the board shall constitute a quorum to transact business.

(7) (a) The commission shall provide the Appeals Board necessary staff support, except as provided in Subsection (7)(b).

(b) At the request of the Appeals Board, the attorney general shall act as an impartial aid to the Appeals Board in outlining the facts and the issues.

**Section 32. Section 35A-1-201 is amended to read:**

**35A-1-201. Executive director -- Appointment -- Removal -- Compensation -- Qualifications -- Responsibilities -- Deputy directors.**

(1) (a) The chief administrative officer of the department is the executive director, who is appointed by the governor with the advice and consent of the Senate.

(b) The executive director serves at the pleasure of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(d) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(2) The executive director shall:

(a) administer and supervise the department in compliance with Title 67, Chapter 19, Utah State Personnel Management Act;

(b) supervise and coordinate between the economic service areas and directors created under Chapter 2, Economic Service Areas;

(c) coordinate policies and program activities conducted through the divisions and economic service areas of the department;

(d) approve the proposed budget of each division, the Workforce Appeals Board, and each economic service area within the department;

(e) approve all applications for federal grants or assistance in support of any department program;

(f) coordinate with the executive directors of the Governor's Office of Economic Development and the Governor's Office of Management and Budget to review data and metrics to be reported to the Legislature as described in Subsection 35A-1-109(2)(b); and

(g) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title.

(3) The executive director may appoint deputy or assistant directors to assist the executive director in carrying out the department's responsibilities.

(4) The executive director shall at least annually provide for the sharing of information between the advisory councils established under this title.

**Section 33. Section 35A-8-304 is amended to read:**

**35A-8-304. Permanent Community Impact Fund Board created -- Members -- Terms -- Chair -- Expenses.**

(1) There is created within the department the Permanent Community Impact Fund Board composed of 11 members as follows:

(a) the chair of the Board of Water Resources or the chair's designee;

(b) the chair of the Water Quality Board or the chair's designee;

(c) the director of the department or the director's designee;

(d) the state treasurer;

(e) the chair of the Transportation Commission or the chair's designee;

(f) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;

(g) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;

(h) a locally elected official who resides in Duchesne, Daggett, or Uintah County;

(i) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County; and

(j) a locally elected official from each of the two counties that produced the most mineral lease money during the previous four-year period, prior to the term of appointment, as determined by the department.

(2) (a) The members specified under Subsections (1)(f) through (j) may not reside in the same county and shall be:

(i) nominated by the Board of Directors of the Southeastern Association of Local Governments, the Six County Association of Governments, the Uintah Basin Association of Governments, and the Five County Association of Governments, respectively, except that a member under Subsection (1)(j) shall be nominated by the Board of Directors of the Association of Governments from the region of the state in which the county is located; and

(ii) appointed by the governor with the advice and consent of the Senate.

(b) Except as required by Subsection (2)(c), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) The terms of office for the members of the impact board specified under Subsections (1)(a) through (1)(e) shall run concurrently with the terms of office for the councils, boards, committees, commission, departments, or offices from which the members come.

(4) The executive director of the department, or the executive director's designee, is the chair of the impact board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 34. Section 35A-8-2103 is amended to read:**

**35A-8-2103. Private Activity Bond Review Board.**

(1) There is created within the department the Private Activity Bond Review Board, composed of the following 11 members:

(a) (i) the executive director of the department or the executive director's designee;

(ii) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(iii) the state treasurer or the state treasurer's designee;

(iv) the chair of the Board of Regents or the chair's designee; and

(v) the chair of the Utah Housing Corporation or the chair's designee; and

(b) six local government members who are:

(i) three elected or appointed county officials, nominated by the Utah Association of Counties and appointed by the governor with the advice and consent of the Senate; and

(ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed by the governor with the advice and consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), the terms of office for the local government members of the board of review shall be four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board of review members are staggered so that approximately half of the board of review is appointed every two years.

(c) Members may be reappointed only once.

(3) (a) If a local government member ceases to be an elected or appointed official of the city or county the member is appointed to represent, that

membership on the board of review terminates immediately and there shall be a vacancy in the membership.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed within 30 days in the manner of the regular appointment for the unexpired term.

(4) (a) The chair of the board of review is the executive director of the department or the executive director's designee.

(b) The chair is nonvoting except in the case of a tie vote.

(5) Six members of the board of review constitute a quorum.

(6) Formal action by the board of review requires a majority vote of a quorum.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The chair of the board of review serves as the state official designated under state law to make certifications required to be made under Section 146 of the code including the certification required by Section 149(e)(2)(F) of the code.

**Section 35. Section 40-6-4 is amended to read:**

**40-6-4. Board of Oil, Gas, and Mining created -- Functions -- Appointment of members -- Terms -- Chair -- Quorum -- Expenses.**

(1) (a) There is created within the Department of Natural Resources the Board of Oil, Gas, and Mining.

(b) The board shall be the policy making body for the Division of Oil, Gas, and Mining.

(2) (a) The board shall consist of seven members appointed by the governor with the advice and consent of the Senate.

(b) No more than four members shall be from the same political party.

(c) In accordance with the requirements of Section 79-2-203, the members appointed under Subsection (2)(a) shall include the following:

(i) two members who are knowledgeable in mining matters;

(ii) two members who are knowledgeable in oil and gas matters;

(iii) one member who is knowledgeable in ecological and environmental matters;

(iv) one member who:

(A) is a private land owner;

(B) owns a mineral or royalty interest; and

(C) is knowledgeable in mineral or royalty interests; and

(v) one member who is knowledgeable in geological matters.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the advice and consent of the Senate.

(b) The person appointed shall have the same qualifications as the person's predecessor.

(5) (a) The board shall appoint its chair from the membership.

(b) Four members of the board shall constitute a quorum for the transaction of business and the holding of hearings.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 36. Section 49-11-202 is amended to read:**

**49-11-202. Establishment of Utah State Retirement Board -- Quorum -- Terms -- Officers -- Expenses and per diem.**

(1) There is established the Utah State Retirement Board composed of seven board members determined as follows:

(a) Four board members, with experience in investments or banking, shall be appointed by the governor from the general public.

(b) One board member shall be a school employee appointed by the governor from at least three nominations submitted by the governing board of the school employees' association that is representative of a majority of the school employees who are members of a system administered by the board.

(c) One board member shall be a public employee appointed by the governor from at least three nominations submitted by the governing board of the public employee association that is representative of a majority of the public employees who are members of a system administered by the board.

(d) One board member shall be the state treasurer.

(2) Four board members constitute a quorum for the transaction of business.

(3) (a) All appointments to the board shall be made on a nonpartisan basis, with the advice and consent of the Senate.

(b) Board members shall serve until their successors are appointed and take the constitutional oath of office.

(c) When a vacancy occurs on the board for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Except as required by Subsection (4)(b), all appointed board members shall serve for four-year terms.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that:

(i) approximately half of the board is appointed every two years; and

(ii) no more than two of the board members appointed under Subsection (1)(a) are appointed every two years.

(c) A board member who is appointed as a school employee or as a public employee who retires or who is no longer employed with a participating employer shall immediately resign from the board.

(5) (a) Each year the board shall elect a president and vice president from its membership.

(b) A board member may not receive compensation or benefits for the board member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 37. Section 51-7-16 is amended to read:**

**51-7-16. State Money Management Council -- Members -- Terms -- Vacancies -- Chair and vice chair -- Executive secretary -- Meetings -- Quorum -- Members' disclosure of interests -- Per diem and expenses.**

(1) (a) There is created a State Money Management Council composed of five members appointed by the governor after consultation with

the state treasurer and with the advice and consent of the Senate.

(b) The members of the council shall be qualified by training and experience in the field of investment or finance as follows:

(i) at least one member, but not more than two members, shall be experienced in the banking business;

(ii) at least one member, but not more than two members, shall be an elected treasurer;

(iii) at least one member, but not more than two members, shall be an appointed public treasurer; and

(iv) two members, but not more than two members, shall be experienced in the field of investment.

(c) No more than three members of the council may be from the same political party.

(2) (a) Except as required by Subsection (2)(b), the council members shall be appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) All members shall serve until their successors are appointed and qualified.

(3) (a) The council members shall elect a chair and vice chair.

(b) The state treasurer shall serve as executive secretary of the council without vote.

(4) (a) The council shall meet at least once per quarter at a regular date to be fixed by the council and at other times at the call of the chair, the state treasurer, or any two members of the council.

(b) Three members are a quorum for the transaction of business.

(c) Actions of the council require a vote of a majority of those present.

(d) All meetings of the council and records of its proceedings are open for inspection by the public at the state treasurer's office during regular business hours except for:

(i) reports of the commissioner of financial institutions concerning the identity, liquidity, or financial condition of qualified depositories and the amount of public funds each is eligible to hold; and

(ii) reports of the director concerning the identity, liquidity, or financial condition of certified dealers.

(5) (a) Each member of the council shall file a sworn or written statement with the lieutenant

governor that discloses any position or employment or ownership interest that ~~he~~ the member has in any financial institution or investment organization.

(b) Each member shall file the statement required by this Subsection (5) when ~~he~~ the member becomes a member of the council and when substantial changes in ~~his~~ the member's position, employment, or ownership interests occur.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 38. Section 51-10-206 is amended to read:**

**51-10-206. Dinè Advisory Committee.**

(1) There is created the Dinè Advisory Committee.

(2) (a) The governor, with the advice and consent of the Senate, shall appoint nine members to the Dinè Advisory Committee.

(b) In making an appointment under Subsection (2)(a), the governor shall ensure that the Dinè Advisory Committee includes:

(i) two registered members of the Aneth Chapter of the Navajo Nation who reside in San Juan County, Utah;

(ii) one registered member of the Blue Mountain Dinè who resides in San Juan County, Utah;

(iii) one registered member of the Mexican Water Chapter of the Navajo Nation who resides in San Juan County, Utah;

(iv) one registered member of the Naatsis' n Chapter of the Navajo Nation who resides in San Juan County, Utah;

(v) subject to Subsection (4), two members who reside in San Juan County, Utah, one of whom is a registered member of the Oljato Chapter of the Navajo Nation, and one of whom is a registered member of either the Oljato Chapter or the Dennehotso Chapter of the Navajo Nation;

(vi) one registered member of the Red Mesa Chapter of the Navajo Nation who resides in San Juan County, Utah; and

(vii) one registered member of the Teec Nos Pos Chapter of the Navajo Nation who resides in San Juan County, Utah.

(3) (a) (i) Each chapter of the Utah Navajo Chapter, except the Aneth, Oljato, and Dennehotso chapters, shall submit to the governor the names of two nominees to the Dinè Advisory Committee chosen by the chapter.

(ii) The governor shall appoint one of the two persons whose names are submitted under

Subsection (3)(a)(i) as that chapter's representative on the Dinè Advisory Committee.

(b) (i) The Blue Mountain Dinè shall submit to the governor the names of two nominees to the Dinè Advisory Committee.

(ii) The governor shall appoint one of the two persons whose names are submitted under Subsection (3)(b)(i) as the Blue Mountain Dinè representative on the Dinè Advisory Committee.

(c) (i) The Aneth Chapter shall submit to the governor the names of two nominees for each of the two positions to the Dinè Advisory Committee representing the Aneth chapter.

(ii) The governor shall appoint two of the persons whose names are submitted under Subsection (3)(c)(i) to be the Aneth Chapter's representatives on the Dinè Advisory Committee.

(d) (i) Subject to Subsection (3)(d)(ii), the Oljato Chapter shall submit to the governor the names of two nominees for each of the two positions to the Dinè Advisory Committee representing the Oljato Chapter and the Dennehotso Chapter.

(ii) The Dennehotso Chapter may submit one nominee for purposes of the governor appointing a representative of the Oljato Chapter and the Dennehotso Chapter.

(iii) The governor shall appoint two of the persons whose names are submitted under Subsection (3)(d)(i) or (ii) to be the representatives on the Dinè Advisory Committee of the Oljato Chapter and the Dennehotso Chapter.

(e) Before submitting a name to the governor, a Utah Navajo Chapter and the Blue Mountain Dinè shall ensure that the individual's whose name is submitted:

- (i) is an enrolled member of the Navajo Nation;
- (ii) resides in San Juan County, Utah;
- (iii) is 21 years of age or older;
- (iv) is not an officer of the chapter;
- (v) has not been convicted of a felony; and
- (vi) is not currently, or within the last 12 months has not been, an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from an expenditure of:

(A) the Division of Indian Affairs; or

(B) the fund.

(4) If both members appointed under Subsection (2)(b)(v) are registered members of the Oljato Chapter, the two members shall attend Dennehotso Chapter meetings as practicable.

(5) (a) Except as provided in Subsection (5)(b) and other than the amount authorized by this section for Dinè Advisory Committee member expenses, a person appointed to the Dinè Advisory Committee may not solicit, accept, or receive any benefit from an expenditure of:

(i) the Division of Indian Affairs;

(ii) the fund; or

(iii) the Division of Indian Affairs or fund as an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from the expenditure of:

(A) the Division of Indian Affairs; or

(B) the fund.

(b) A member of the Dinè Advisory Committee may receive a benefit from an expenditure of the fund if:

(i) when the benefit is discussed by the Dinè Advisory Committee:

(A) the member discloses that the member may receive the benefit;

(B) the member physically leaves the room in which the Dinè Advisory Committee is discussing the benefit; and

(C) the Dinè Advisory Committee approves the member receiving the benefit by a unanimous vote of the members present at the meeting discussing the benefit;

(ii) a Utah Navajo Chapter requests that the benefit be received by the member;

(iii) the member is in compliance with the ethics and conflict of interest policy required under Subsection 51-10-204(2)(c);

(iv) (A) the expenditure from the fund is made in accordance with this chapter; and

(B) the benefit is no greater than the benefit available to members of the Navajo Nation residing in San Juan County, Utah; and

(v) the member is not receiving the benefit as an officer, director, employee, or contractor of a service provider.

(6) (a) (i) Except as required in Subsection (6)(a)(ii), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(ii) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the Dinè Advisory Committee is appointed every two years.

(iii) The terms of the Aneth Chapter's representatives appointed under Subsection (3)(c)(ii) shall be staggered in accordance with this Subsection (6) so that only one position is appointed by the governor in a year.

(iv) The terms of the Oljato Chapter's and the Dennehotso Chapter's representatives appointed under Subsection (3)(d) shall be staggered in accordance with this Subsection (6) so that only one position is appointed by the governor in a year.

(b) Except as provided in Subsection (6)(c), a committee member shall serve until the committee member's successor is appointed and qualified.

(c) If a committee member is absent from three consecutive committee meetings, or if the committee member violates the ethical or conflict of interest policies established by statute or the Dinè Advisory Committee:

- (i) the committee member's appointment is terminated;
- (ii) the position is vacant; and
- (iii) the governor shall appoint a replacement.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term according to the procedures of this section.

(e) The governor may appoint an individual to more than one term on the Dinè Advisory Committee.

(7) (a) The committee members shall select a chair and vice chair from committee membership each two years subsequent to the appointment of new committee members.

(b) Five members of the Dinè Advisory Committee is a quorum for the transaction of business.

(c) The Dinè Advisory Committee shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) ensure that its meetings are held at or near:

(A) a chapter house or meeting hall of a Utah Navajo Chapter; or

(B) other places in Utah that the Dinè Advisory Committee considers practical and appropriate; and

(iii) ensure that its meetings are public hearings at which a resident of San Juan County, Utah, may appear and speak.

(8) A committee member may not receive compensation or benefits for the committee member's service, but may receive per diem and travel expenses in accordance with policy adopted by the board.

(9) The trust administrator shall staff the Dinè Advisory Committee.

(10) The Dinè Advisory Committee shall advise the trust administrator about the expenditure of fund money.

**Section 39. Section 53-1-107 is amended to read:**

**53-1-107. Commissioner of public safety -- Appointment -- Qualifications -- Salary.**

(1) The chief executive officer of the department is the commissioner.

(2) (a) Every fourth year after the year 1989, the governor shall appoint a commissioner with the advice and consent of the Senate.

(b) The commissioner shall serve for a period of four years from July 1 of the year of [his] the commissioner's appointment.

(3) The commissioner shall:

(a) be an individual of recognized executive and administrative capacity;

(b) be selected solely with regard to [his] the commissioner's qualifications and fitness to discharge the duties of the commissioner's office;

(c) be of high moral character;

(d) be of good standing in the community in which [he] the commissioner lives; and

(e) have been a resident of this state for a period of at least five years immediately prior to [his] appointment.

(4) The commissioner shall devote full time to the duties of the office.

(5) The governor shall establish the commissioner's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

**Section 40. Section 53-2a-1103 is amended to read:**

**53-2a-1103. Search and Rescue Advisory Board -- Members -- Compensation.**

(1) There is created the Search and Rescue Advisory Board consisting of seven members appointed as follows:

(a) two representatives designated by the Utah Sheriff's Association, who are members of a voluntary search and rescue unit operating in the state, one of whom is from a county having a population of 75,000 or more; and one from a county having a population of less than 75,000;

(b) three sheriffs designated by the Utah Sheriff's Association, at least one of whom shall be from a county having a population of 75,000 or more, and at least one of whom shall be from a county having a population of less than 75,000;

(c) one representative of the Division of Emergency Management designated by the director; and

(d) one private citizen appointed by the governor with the advice and consent of the Senate.

(2) (a) The term of each member of the board is four years.

(b) A member may be reappointed to successive terms.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) In order to stagger the terms of membership, the members appointed or reappointed to represent the Utah Sheriff's Association on or after May 2, 2005, shall serve a term of two years, and all subsequent terms shall be four years.



(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 41. Section 53B-1-104 is amended to read:**

**53B-1-104. Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation.**

(1) Except as provided in Subsection (2), the board consists of 17 residents of the state appointed by the governor with the advice and consent of the Senate, as follows:

- (a) eight at-large members;
- (b) eight members, each of whom is:
  - (i) selected from three nominees presented to the governor by a higher education institution board of trustees; and
  - (ii) a current or former member of the institution of higher education board of trustees that nominates the member; and
- (c) one member, selected from three nominees presented to the governor by the student body presidents of the institutions of higher education, who:
  - (i) is a fully matriculated student enrolled in an institution of higher education; and
  - (ii) is not serving as a student body president at the time of the nomination.

(2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve on the board, even if the individual does not fulfill a requirement for the composition of the board described in Subsection (1).

(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the member's term expires.

(b) An individual appointed to the board on or before May 8, 2017, who is a current or former member of an institution of higher education board of trustees is the board member for the institution of higher education described in Subsection (1)(b).

(c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).

(ii) In appointing a new member to the board, the governor shall first appoint a member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.

(3) (a) All appointments to the board shall be made on a nonpartisan basis.

(b) In making appointments to the board, the governor shall consider:

- (i) geographic representation of members;
- (ii) diversity;
- (iii) experience in higher education governance;
- (iv) experience in economic development; and
- (v) exposure to institutions of higher education.

(c) An individual may not serve simultaneously on the State Board of Regents and an institution of higher education board of trustees.

(4) (a) Except as provided in Subsection (4)(b), members of the board shall be appointed to six-year staggered terms, which begin on July 1 of the year of appointment.

(b) A student member described in Subsection (1)(c) shall be appointed to a one-year term.

(c) (i) The governor may remove a member of the board for cause.

(ii) The governor shall consult with the president of the Senate before removing a member of the board.

(5) (a) A member of the board shall take the official oath of office before entering upon the duties of office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) The board shall elect a chair and vice chair from among the board's members who shall serve terms of two years and until their successors are chosen and qualified.

(7) (a) The board shall appoint a secretary from the staff of the board's chief executive to serve at the board's discretion.

(b) The secretary is a full-time employee who receives a salary set by the board.

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

(8) (a) The board may establish advisory committees.

(b) The powers and authority of the board are nondelegable, except as specifically provided for in this title.

(c) All matters requiring board determination shall be addressed in a properly convened meeting of the board or the board's executive committee.

(9) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.

(10) (a) The board shall meet regularly upon the board's own determination.

(b) The board may also meet, in full or executive session, at the request of the chair, the executive officer, or five members of the board.

(11) A quorum of the voting members of the board is required to conduct the board's business and consists of nine members.

(12) (a) A vacancy in the board occurring before the expiration of a voting member's full term shall be immediately filled by appointment by the governor with the advice and consent of the Senate.

(b) An individual appointed under Subsection (12)(a) serves for the remainder of the unexpired term.

(13) A board member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 42. Section 53B-1-105 is amended to read:**

**53B-1-105. Appointment of commissioner of higher education -- Qualifications -- Duties.**

(1) (a) The board, upon approval from the governor and with the advice and consent of the Senate for each appointee nominated on or after May 8, 2012, shall appoint a commissioner of higher education to serve at its pleasure as its chief executive officer.

(b) The commissioner may be terminated by:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) prescribe the duties and functions of the commissioner; and

(iii) select a commissioner on the basis of outstanding professional qualifications.

(2) The commissioner is responsible to the board to:

(a) ensure that the policies and programs of the board are properly executed;

(b) furnish information about the state system of higher education and make recommendations regarding that information to the board;

(c) provide state-level leadership in any activity affecting an institution in the state system of higher education; and

(d) perform other duties assigned by the board in carrying out its duties and responsibilities.

**Section 43. Section 53B-2-104 is amended to read:**

**53B-2-104. Institution of higher education board of trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.**

(1) (a) Except as provided in Subsection (10), the board of trustees of an institution of higher education consists of the following:

(i) except as provided in Subsection (1)(c), eight individuals appointed by the governor with the advice and consent of the Senate; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake Community College shall be representative of the interests of business, industry, and labor.

(c) (i) The board of trustees of Utah State University has nine individuals appointed by the governor with the advice and consent of the Senate.

(ii) One of the nine individuals described in Subsection (1)(c)(i) shall reside in the Utah State University Eastern service region or the Utah State University Blanding service region.

(2) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) Except as provided in Subsection (2)(d), a member appointed under Subsection (1)(a)(i) or (1)(c)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(d) (i) The governor may remove a member appointed under Subsection (1)(a)(i) or (1)(c)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (1)(a)(i) or (1)(c)(i).

(3) When a vacancy occurs in the membership of a board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(5) A board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(6) (a) A board of trustees may enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) A board of trustees may provide for an executive committee in the board of trustees' bylaws.

(ii) If established, an executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the action.

(c) Copies of a board of trustees' bylaws shall be filed with the board.

(7) A quorum is required to conduct business and consists of six members.

(8) A board of trustees may establish advisory committees.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) This section does not apply to a technical college board of directors described in Section 53B-2a-108.

**Section 44. Section 53B-2a-103 is amended to read:**

**53B-2a-103. UTech Board of Trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.**

(1) There is created the UTech Board of Trustees.

(2) (a) Beginning on July 1, 2019, the board of trustees is composed of 15 members appointed by the governor with the advice and consent of the Senate, as follows:

(i) one member selected from at least two nominees presented to the governor by the board of directors of each technical college, for a total of eight members; and

(ii) one member who is employed in and represents each of the following sectors:

(A) information technology;

(B) manufacturing;

(C) life sciences;

(D) health care;

(E) transportation;

(F) union craft, trade, or apprenticeship; and

(G) non-union craft, trade, or apprenticeship.

(b) The seven members described in Subsection (2)(a)(ii) shall be selected from the state at large, subject to the following conditions:

(i) at least four members shall reside in a geographic area served by a technical college; and

(ii) no more than two members may reside in a single geographic area served by a technical college.

(c) The governor shall make appointments to the board of trustees on a nonpartisan basis.

(d) An individual may not serve on the board of trustees and a technical college board of directors simultaneously.

(3) (a) (i) Except as provided under Subsection (3)(a)(ii), a member shall be appointed commencing on July 1 of each odd-numbered year to a four-year term.

(ii) The governor shall ensure that member terms are staggered so that approximately one-half of the members' terms expire in any odd-numbered year.

(b) A member may not hold office for more than two consecutive full terms.

(c) (i) The governor may remove a member of the board of trustees for cause.

(ii) The governor shall consult with the president of the Senate before removing a member of the board of trustees.

(4) When a vacancy occurs on the board of trustees for any reason, the governor shall appoint a replacement for the unexpired term.

(5) (a) Each member shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) (a) The board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(b) A member may not serve more than two consecutive terms as the chair or vice chair.

(7) (a) The board of trustees shall enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) The board of trustees shall provide for an executive committee in the board of trustees' bylaws.

(ii) The executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) The executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) The executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular

meeting following the executive committee's activities.

(8) A quorum shall be required to conduct business which shall consist of a majority of board of trustee members.

(9) The board of trustees may establish advisory committees.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 45. Section 53B-2a-108 is amended to read:**

**53B-2a-108. Technical college boards of directors -- Membership -- Appointments.**

(1) As used in this section:

(a) "Higher education institution" means the same as that term is defined in Section 53B-2a-112.

(b) "Technical college service area" means the geographic area served by each technical college as described in Section 53B-2a-105.

(2) A technical college board of directors consists of:

(a) one member of the local school board for each school district in the technical college service area, appointed by the local school board to which the member belongs;

(b) except as provided in Subsection (3)(b), one individual who is a member of the higher education institution board of trustees, appointed by the higher education institution board of trustees; and

(c) a number of individuals, appointed by the governor with the advice and consent of the Senate, that is:

(i) seven for:

(A) Tooele Technical College;

(B) Uintah Basin Technical College; and

(C) Dixie Technical College;

(ii) eight for:

(A) Bridgerland Technical College;

(B) Ogden-Weber Technical College;

(C) Davis Technical College; and

(D) Southwest Technical College; or

(iii) nine for Mountainland Technical College.

(3) (a) In appointing the members described in Subsection (2)(c), the governor shall appoint individuals who represent the interests of business,

industry, or labor in the technical college service area.

(b) If no member of the institution of higher education board of trustees lives within the technical college service area, the institution of higher education board of trustees may nominate an individual to be appointed by the governor with the advice and consent of the Senate instead of appointing a member described in Subsection (2)(b).

(4) (a) The governor may remove a member appointed under Subsection (2)(c) or (3)(b) for cause.

(b) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (2)(c) or (3)(b).

(5) (a) Notwithstanding Subsection (2) or 53B-2a-109(2), an individual appointed to a technical college board of directors on or before May 7, 2018, may continue to serve on the technical college board of directors until the end of the individual's current term, even if the total number of members on the technical college board of directors exceeds the number of members for the technical college board of directors described in Subsection (2).

(b) Notwithstanding Subsection (2), the governor may only make an appointment described in Subsection (2)(c) if the number of members on the technical college board of directors following the appointment will be less than or equal to the number of members for the technical college board of directors described in Subsection (2).

**Section 46. Section 53C-1-202 is amended to read:**

**53C-1-202. Board of trustees membership -- Nomination list -- Qualifications -- Terms -- Replacement -- Chair -- Quorum.**

(1) There is established the School and Institutional Trust Lands Board of Trustees.

(2) The board shall consist of seven members appointed on a nonpartisan basis by the governor with the advice and consent of the Senate.

(3) (a) Except for the appointment made pursuant to Subsection (5), all appointments to the board shall be for a nonconsecutive term of six years, or until a replacement has been appointed and confirmed pursuant to this section.

(b) If a vacancy occurs, the governor shall appoint a replacement, following the procedures set forth in Subsections (2), (4), (5), and (6), to fill the unexpired term.

(c) Any member of the board who has served less than six years upon the expiration of that member's term is eligible for a consecutive reappointment.

(4) (a) The governor shall select six of the seven appointees to the board from a nomination list of at least two candidates for each position or vacancy submitted pursuant to Section 53C-1-203.

(b) The governor may request an additional nomination list of at least two candidates from the

nominating committee if the initial list of candidates for a given position is unacceptable.

(c) (i) If the governor fails to select an appointee within 60 days after receipt of the initial list or within 60 days after the receipt of an additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim appointee shall serve until the matter is resolved by the committee and the governor or until replaced pursuant to this chapter.

(5) (a) The governor may appoint one member without requiring a nomination list.

(b) The member appointed under Subsection (5)(a) serves at the pleasure of the governor.

(6) (a) Each board candidate shall possess outstanding professional qualifications pertinent to the purposes and activities of the trust.

(b) The board shall represent the following areas of expertise:

(i) nonrenewable resource management or development;

(ii) renewable resource management or development; and

(iii) real estate.

(c) Other qualifications which are pertinent for membership to the board are expertise in any of the following areas:

(i) business;

(ii) investment banking;

(iii) finance;

(iv) trust administration;

(v) asset management; and

(vi) the practice of law in any of the areas referred to in Subsections (6)(b) and (6)(c)(i) through (v).

(7) The board of trustees shall select a chair and vice chair from its membership.

(8) Before assuming a position on the board, each member shall take an oath of office.

(9) Four members of the board constitute a quorum for the transaction of business.

(10) The governor or five board members may, for cause, remove a member of the board.

**Section 47. Section 53E-3-921 is amended to read:**

**53E-3-921. Appointment of compact commissioner.**

The governor, with the advice and consent of the Senate, shall appoint a compact commissioner to carry out the duties described in this part.

**Section 48. Section 53G-5-201 is amended to read:**

**53G-5-201. State Charter School Board created.**

(1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.

(2) (a) The State Charter School Board is created consisting of the following members appointed by the governor with the advice and consent of the Senate:

(i) one member who has expertise in finance or small business management;

(ii) three members who:

(A) are nominated by an organization that represents Utah's charter schools; and

(B) have expertise or experience in developing or administering a charter school;

(iii) two members who are nominated by the state board; and

(iv) one member who:

(A) has expertise in personalized learning, including digital teaching and learning or deliberate practice; and

(B) supports innovation in education.

(b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53G-5-104.

(c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).

(d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.

(3) (a) State Charter School Board members shall serve four-year terms.

(b) If a vacancy occurs, the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term.

(4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(5) (a) The State Charter School Board shall annually elect a chair from its membership.

(b) Four members of the State Charter School Board shall constitute a quorum.

(c) Meetings may be called by the chair or upon request of three members of the State Charter School Board.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 49. Section 54-1-1.5 is amended to read:**

**54-1-1.5. Appointment of members -- Terms -- Qualifications -- Chairman -- Quorum -- Removal -- Vacancies -- Compensation.**

The commission shall be composed of three members appointed by the governor with the advice and consent of the Senate. The terms of the members shall be staggered so that one commissioner is appointed for a term of six years on March 1 of each odd-numbered year. Not more than two members of the commission shall belong to the same political party. One member of the commission shall be designated by the governor as chairman of the commission. Any two commissioners constitute a quorum. Any member of the commission may be removed for cause by the governor. Vacancies in the commission shall be filled for unexpired terms by appointment of the governor. Commissioners shall receive compensation as established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, and all actual and necessary expenses incurred in attending to official business. Each commissioner at the time of appointment and qualification shall be a resident citizen of the United States and of the state of Utah and shall be not less than 30 years of age. Except as provided by law, no commissioner may hold any other office either under the government of the United States or of this state or of any municipal corporation within this state.

**Section 50. Section 54-10a-201 is amended to read:**

**54-10a-201. Office of Consumer Services -- Director.**

(1) There is created within the Department of Commerce the "Office of Consumer Services."

(2) (a) The governor shall appoint, with the concurrence of the Committee of Consumer Services and the advice and consent of the Senate, a qualified person in the field of public utilities to be the director of the office.

(b) The director shall serve for a term of six years.

(c) For purposes of the individual who is the director on May 12, 2009, that individual's six-year term is considered to begin on July 1, 2009.

(d) The governor may remove the director for cause.

(3) In accordance with this chapter, the director shall on behalf of the office:

(a) represent residential consumers and small commercial consumers of an applicable public utility; and

(b) represent the interests of:

(i) residential consumers; and

(ii) small commercial consumers.

**Section 51. Section 59-1-201 is amended to read:**

**59-1-201. Composition of commission -- Terms -- Removal from office -- Appointment.**

(1) The commission shall be composed of four members appointed by the governor with the advice and consent of the Senate.

(2) Subject to Subsection (3), the term of office of each commissioner shall be for four years and expire on June 30 of the year the term ends.

(3) The governor shall stagger a term described in Subsection (2) so that the term of one commissioner expires each year.

(4) A commissioner shall hold office until a successor is appointed and qualified.

(5) (a) The governor may remove a commissioner from office for neglect of duty, inefficiency, or malfeasance, after notice and a hearing.

(b) If the governor removes a commissioner from office and appoints another person to replace the commissioner, the person the governor appoints to replace the commissioner:

(i) shall serve for the remainder of the unexpired term; and

(ii) may be reappointed as the governor determines.

(6) (a) Before appointing a commissioner, the governor shall request a list of names of potential appointees from:

(i) the Utah State Bar;

(ii) one or more organizations that represent certified public accountants who are licensed to practice in the state;

(iii) one or more organizations that represent persons who assess or appraise property in the state; and

(iv) one or more national organizations that:

(A) offer a professional certification in the areas of property tax, sales and use tax, and state income tax;

(B) require experience, education, and testing to obtain the certification; and

(C) require additional education to maintain the certification.

(b) In appointing a commissioner, the governor shall consider:

(i) to the extent names of potential appointees are submitted, the names of potential appointees submitted in accordance with Subsection (6)(a); and

(ii) any other potential appointee of the governor's own choosing.

**Section 52. Section 59-1-206 is amended to read:**

**59-1-206. Appointment of staff -- Executive director -- Compensation --**

**Administrative secretary -- Internal audit unit -- Appeals office staff -- Division directors -- Criminal tax investigators.**

(1) The commission shall appoint the following persons who are qualified, knowledgeable, and experienced in matters relating to their respective positions, exempt under Title 67, Chapter 19, Utah State Personnel Management Act, to serve at the pleasure of, and who are directly accountable to, the commission:

(a) in consultation with the governor and with the advice and consent of the Senate, an executive director;

(b) an administrative secretary;

(c) an internal audit unit; and

(d) an appeals staff.

(2) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(3) Division directors shall be appointed by the executive director subject to the approval of the commission. The division directors are exempt employees under Title 67, Chapter 19, Utah State Personnel Management Act.

(4) (a) The executive director may with the approval of the commission employ additional staff necessary to perform the duties and responsibilities of the commission. These employees are subject to Title 67, Chapter 19, Utah State Personnel Management Act.

(b) (i) The executive director may under Subsection (4)(a) employ criminal tax investigators to help the commission carry out its duties and responsibilities regarding criminal provisions of the state tax laws. The executive director may not employ more than eight criminal tax investigators at one time.

(ii) The executive director may designate investigators hired under this Subsection (4)(b) as special function officers, as defined in Section 53-13-105, to enforce the criminal provisions of the state tax laws.

(iii) Notwithstanding Section 49-15-201, any special function officer designated under this Subsection (4)(b) may not become or be designated as a member of the Public Safety Retirement Systems.

(5) The internal audit unit shall provide the following:

(a) an examination to determine the honesty and integrity of fiscal affairs, the accuracy and reliability of financial statements and reports, and the adequacy and effectiveness of financial controls to properly record and safeguard the acquisition, custody, and use of public funds;

(b) an examination to determine whether commission administrators have faithfully adhered to commission policies and legislative intent;

(c) an examination to determine whether the operations of the divisions and other units of the commission have been conducted in an efficient and effective manner;

(d) an examination to determine whether the programs administered by the divisions and other units of the commission have been effective in accomplishing intended objectives; and

(e) an examination to determine whether management control and information systems are adequate and effective in assuring that commission programs are administered faithfully, efficiently, and effectively.

(6) The appeals office shall receive and hear appeals to the commission and shall conduct the hearings in compliance with formal written rules approved by the commission. The commission has final review authority over the appeals.

**Section 53. Section 61-1-18.5 is amended to read:**

**61-1-18.5. Securities Commission -- Transition.**

(1) (a) There is created a Securities Commission.

(b) The division shall provide staffing to the commission.

(2) (a) The commission shall:

(i) formulate and make recommendations to the director regarding policy and budgetary matters;

(ii) submit recommendations regarding registration requirements;

(iii) formulate and make recommendations to the director regarding the establishment of reasonable fees;

(iv) act in an advisory capacity to the director with respect to the exercise of the director's duties, powers, and responsibilities;

(v) conduct an administrative hearing under this chapter that is not:

(A) delegated by the commission to an administrative law judge or the division relating to a violation of this chapter; or

(B) expressly delegated to the division under this chapter;

(vi) except as provided in Subsection (2)(b), and consistent with Section 61-1-20, impose a sanction as provided in this chapter;

(vii) review rules made by the division for purposes of concurrence in accordance with Section 61-1-24; and

(viii) perform other duties as this chapter provides.

(b) (i) The commission may delegate to the division the authority to impose a sanction under this chapter.

(ii) If under Subsection (2)(b)(i) the commission delegates to the division the authority to impose a

sanction, a person who is subject to the sanction may petition the commission for review of the sanction.

(iii) A person who is sanctioned by the division in accordance with this Subsection (2)(b) may seek agency review by the executive director only after the commission reviews the division's action.

(3) (a) The governor shall appoint five members to the commission with the advice and consent of the Senate as follows:

(i) two members from the securities brokerage community:

(A) who are not from the same broker-dealer or affiliate; and

(B) who have at least five years prior experience in securities matters;

(ii) one member from the securities section of the Utah State Bar:

(A) whose practice primarily involves:

(I) corporate securities; or

(II) representation of plaintiffs in securities cases;

(B) who does not routinely represent clients involved in:

(I) civil or administrative litigation with the division; or

(II) criminal cases brought under this chapter; and

(C) who has at least five years prior experience in securities matters;

(iii) one member who is an officer or director of a business entity not subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934; and

(iv) one member from the public at large who has no active participation in the securities business.

(b) A member may not serve more than two consecutive terms.

(4) (a) Except as required by Subsection (4)(b) and subject to Subsection (4)(c), as terms of current members expire, the governor shall appoint a new member or reappointed member to a four-year term.

(b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) For purposes of making an appointment to the commission, the governor:

(i) shall as of May 12, 2009:

(A) appoint all five members of the commission; and

(B) stagger the terms of the five members of the commission to comply with Subsection (4)(b); and

(ii) may not consider the commission an extension of the previous Securities Advisory Board.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term.

(e) A member shall serve until the member's respective successor is appointed and qualified.

(f) The commission shall annually select one member to serve as chair of the commission.

(5) (a) The commission shall meet:

(i) at least quarterly on a regular date to be fixed by the commission; and

(ii) at such other times at the call of:

(A) the director; or

(B) any two members of the commission.

(b) A majority of the commission shall constitute a quorum for the transaction of business.

(c) An action of the commission requires a vote of a majority of members present.

(6) A member of the commission shall, by sworn and written statement filed with the Department of Commerce and the lieutenant governor, disclose any position of employment or ownership interest that the member has with respect to an entity or business subject to the jurisdiction of the division or commission. This statement shall be filed upon appointment and must be appropriately amended whenever significant changes occur in matters covered by the statement.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) A rule or form made by the division under this section that is in effect on May 11, 2009, is considered to have been concurred with by the commission as of May 12, 2009, until the commission acts on the rule or form.

(b) For a civil or administrative action pending under this chapter as of May 12, 2009, brought under the authority of division under this chapter as in effect May 11, 2009, that may be brought only by the commission under this chapter as in effect on May 12, 2009:

(i) the action shall be considered brought by the commission; and

(ii) the commission may take any act authorized under this chapter regarding that action.

**Section 54. Section 61-2f-103 is amended to read:**

**61-2f-103. Real Estate Commission.**



(1) There is created within the division a Real Estate Commission. The commission shall:

(a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker; and

(C) a sales agent;

(ii) registration of:

(A) an entity; and

(B) a branch office;

(iii) preclicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;

(ix) standards of conduct for a licensee under this chapter; and

(x) if the commission, with the concurrence of the division, determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(2) (a) Except as provided in Subsection (2)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (2)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

(3) (a) The commission shall be comprised of five members appointed by the governor and approved by the Senate.

(b) Four of the commission members shall:

(i) have at least five years' experience in the real estate business; and

(ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection (3)(b) who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection (3)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

(4) (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

(5) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

(8) Three members of the commission constitute a quorum for the transaction of business.

**Section 55. Section 61-2g-204 is amended to read:**

**61-2g-204. Real Estate Appraiser Licensing and Certification Board.**

(1) (a) There is established a Real Estate Appraiser Licensing and Certification Board that consists of five regular members as follows:

(i) one state-licensed or state-certified appraiser who may be either a residential or general licensee or certificate holder;

(ii) one state-certified residential appraiser;

(iii) one state-certified general appraiser;

(iv) one member who is certified as either a state-certified residential appraiser or a state-certified general appraiser; and

(v) one member of the general public.

(b) A state-licensed or state-certified appraiser may be appointed as an alternate member of the board.

(c) The governor shall appoint all members of the board with the advice and consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term beginning on July 1.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Upon the expiration of a member's term, a member of the board shall continue to hold office

until the appointment and qualification of the member's successor.

(d) A person may not serve as a member of the board for more than two consecutive terms.

(3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) The governor may remove a member for cause.

(4) The public member of the board may not be licensed or certified under this chapter.

(5) The board shall meet at least quarterly to conduct its business. The division shall give public notice of a board meeting.

(6) The members of the board shall elect a chair annually from among the members to preside at board meetings.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) Three members of the board shall constitute a quorum for the transaction of business.

(b) If a quorum of members is unavailable for any meeting, the alternate member of the board, if any, shall serve as a regular member of the board for that meeting if with the presence of the alternate member a quorum is present at the meeting.

**Section 56. Section 62A-1-107 is amended to read:**

**62A-1-107. Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.**

(1) The Board of Aging and Adult Services described in Subsection 62A-1-105(1)(a) shall have seven members who are appointed by the governor with the advice and consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) No more than four members of the board may be from the same political party. The board shall

have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to the Board of Aging and Adult Services.

(4) The board shall annually elect a chairperson from the board's membership. The board shall hold meetings at least once every three months. Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of the board. Four members of the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall adopt bylaws governing its activities. Bylaws shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of the board member's appointment.

(7) The board has program policymaking authority for the division over which the board presides.

**Section 57. Section 62A-1-108 is amended to read:**

**62A-1-108. Executive director -- Appointment -- Compensation -- Qualifications -- Responsibilities.**

(1) The chief administrative officer of the department is the executive director, who shall be appointed by the governor with the advice and consent of the Senate. The executive director may be removed at the will of the governor. The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation. The executive director shall be experienced in administration, management, and coordination of complex organizations.

(2) The executive director is responsible for:

(a) administration and supervision of the department;

(b) coordination of policies and program activities conducted through the boards, divisions, and offices of the department;

(c) approval of the proposed budget of each board, division, and office within the department; and

(d) such other duties as the Legislature or governor shall assign to him.

(3) The executive director may appoint deputy or assistant directors to assist him in carrying out the department's responsibilities.

**Section 58. Section 62A-7-501 is amended to read:**

**62A-7-501. Youth Parole Authority -- Expenses -- Responsibilities -- Procedures.**

(1) There is created within the division a Youth Parole Authority.

(2) (a) The authority is composed of 10 part-time members and five pro tempore members who are residents of this state. No more than three pro tempore members may serve on the authority at any one time.

(b) Throughout this section, the term "member" refers to both part-time and pro tempore members of the Youth Parole Authority.

(3) (a) Except as required by Subsection (3)(b), members shall be appointed to four-year terms by the governor with the advice and consent of the Senate.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.

(4) Each member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.

(5) When a vacancy occurs in the membership for any reason, the replacement member shall be appointed for the unexpired term.

(6) During the tenure of the member's appointment, a member may not:

(a) be an employee of the department, other than in the member's capacity as a member of the authority;

(b) hold any public office;

(c) hold any position in the state's juvenile justice system; or

(d) be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or its contractor.

(7) In extraordinary circumstances or when a regular member is absent or otherwise unavailable, the chair may assign a pro tempore member to act in the absent member's place.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The authority shall determine appropriate parole dates for youth offenders in accordance with Section 62A-7-404.

(10) Youth offenders may be paroled to their own homes, to an independent living program contracted or operated by the division, to an approved independent living setting, or to other appropriate residences of qualifying relatives or guardians, but shall remain on parole until parole is terminated by the authority in accordance with Section 62A-7-404.

(11) The division's case management staff shall implement parole release plans and shall supervise youth offenders while on parole.

(12) The division shall permit the authority to have reasonable access to youth offenders in secure facilities and shall furnish all pertinent data requested by the authority in matters of parole, revocation, and termination.

**Section 59. Section 63A-1-105 is amended to read:**

**63A-1-105. Appointment of executive director -- Compensation.**

(1) The governor shall:

(a) appoint the executive director with the advice and consent of the Senate; and

(b) establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall serve at the pleasure of the governor.

**Section 60. Section 63F-1-105 is amended to read:**

**63F-1-105. Appointment of executive director -- Compensation -- Authority.**

(1) The governor shall:

(a) appoint the executive director with the advice and consent of the Senate; and

(b) establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall:

(a) serve at the pleasure of the governor; and

(b) exercise all powers given to and perform all duties imposed on the department.

**Section 61. Section 63G-2-501 is amended to read:**

**63G-2-501. State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.**

(1) There is created the State Records Committee within the Department of Administrative Services consisting of the following seven individuals:

(a) an individual in the private sector whose profession requires the individual to create or manage records that, if created by a governmental entity, would be private or controlled;

(b) an individual with experience with electronic records and databases, as recommended by a statewide technology advocacy organization that represents the public, private, and nonprofit sectors;

(c) the director of the Division of Archives and Records Services or the director's designee;

(d) two citizen members;

(e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and

(f) one individual representing the news media.

(2) The governor shall appoint the members described in Subsections (1)(a), (b), (d), (e), and (f) with the advice and consent of the Senate.

(3) (a) Except as provided in Subsection (3)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member of the State Records Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

**Section 62. Section 63H-4-102 is amended to read:**

**63H-4-102. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses.**

(1) There is created an independent state agency and a body politic and corporate known as the "Heber Valley Historic Railroad Authority."

(2) The authority is composed of eight members as follows:

(a) one member of the county legislative body of Wasatch County;

(b) the mayor of Heber City;

(c) the mayor of Midway;

(d) the executive director of the Department of Transportation or the executive director's designee;

(e) the executive director of Parks and Recreation, or the executive director's designee; and

(f) three public members appointed by the governor with the advice and consent of the Senate, being private citizens of the state, as follows:

(i) two people representing the tourism industry, one each from Wasatch and Utah counties; and

(ii) one person representing the public at large.

(3) All members shall be residents of the state.

(4) (a) Except as required by Subsection (4)(b), the three public members are appointed for four-year terms beginning July 1, 2010.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.

(5) Any of the three public members may be removed from office by the governor or for cause by an affirmative vote of any four members of the authority.

(6) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term by the governor with advice and consent of the Senate for the unexpired term.

(7) Each public member shall hold office for the term of appointment and until a successor has been appointed and qualified.

(8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.

(9) The governor shall appoint the chair of the authority from among its members.

(10) The members shall elect from among their number a vice chair and other officers they may determine.

(11) The powers of the authority are vested in its members.

(12) (a) Four members constitute a quorum for transaction of authority business.

(b) An affirmative vote of at least four members is necessary for any action taken by the authority.

(13) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 63. Section 63H-6-104 is amended to read:**

**63H-6-104. Board of directors -- Membership -- Term -- Quorum -- Vacancies -- Duties.**

(1) The corporation is governed by a board of directors.

(2) The board is composed of members as follows:

(a) the director of the Division of Facilities Construction and Management or the director's designee;

(b) the commissioner of agriculture and food or the commissioner's designee;

(c) two members, appointed by the president of the Senate:

(i) who have business related experience; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(d) two members, appointed by the speaker of the House:

(i) who have business related experience; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(e) five members, of whom only one may be a legislator, in accordance with Subsection (3)(e), appointed by the governor with the advice and consent of the Senate as follows:

(i) two members who represent agricultural interests;

(ii) two members who have business related experience; and

(iii) one member who is recommended by the Utah Farm Bureau Federation;

(f) one member, appointed by the mayor of Salt Lake City with the advice and consent of the Senate, who is a resident of the neighborhood located adjacent to the state fair park;

(g) a representative of Salt Lake County, if Salt Lake County is party to an executed lease agreement with the corporation; and

(h) a representative of the Days of '47 Rodeo.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(c), (d), (e), or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.

(ii) In making appointments to the board, the president of the Senate, the speaker of the House, the governor, and the mayor of Salt Lake City shall ensure that the terms of approximately 1/4 of the appointed board members expire each year.

(b) Except as provided in Subsection (3)(c), appointed board members serve until their successors are appointed and qualified.

(c) (i) If an appointed board member is absent from three consecutive board meetings without excuse, that member's appointment is terminated, the position is vacant, and the individual who appointed the board member shall appoint a replacement.

(ii) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as applicable, may remove an appointed member of the board at will.

(d) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as appropriate, shall fill any vacancy that occurs on the board for any reason by appointing an individual in accordance with the procedures described in this section for the unexpired term of the vacated member.

(e) No more than a combined total of two legislators may be appointed under Subsections (2)(c), (d), and (e).

(4) The governor shall select the board's chair.

(5) A majority of the members of the board is a quorum for the transaction of business.

(6) The board may elect a vice chair and any other board offices.

(7) The board may create one or more subcommittees to advise the board on any issue related to the state fair park.

(8) In carrying out the board's duties under this chapter, the board shall cooperate with and, upon request, appear before the State Fair Park Committee.

(9) No later than November 30 of each year, the board shall provide the following to the State Fair Park Committee:

(a) a report on the general state of the financial and business affairs of the corporation;

(b) a report on that year's annual exhibition described in Subsection 63H-6-103(4)(j), including the exhibition's attendance, operations, and revenue;

(c) any appropriation request that the board plans to submit to the Legislature; and

(d) any other report that the State Fair Park Committee requests.

**Section 64. Section 63H-8-201 is amended to read:**

**63H-8-201. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses.**

(1) (a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."

(b) The corporation may also be known and do business as the:

(i) Utah Housing Finance Association; and

(ii) Utah Housing Finance Agency in connection with a contract entered into when that was the corporation's legal name.

(c) No other entity may use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The corporation is governed by a board of trustees composed of the following nine trustees:

(a) the executive director of the Department of Workforce Services or the executive director's designee;

(b) the commissioner of the Department of Financial Institutions or the commissioner's designee;

(c) the state treasurer or the treasurer's designee; and

(d) six public trustees, who are private citizens of the state, as follows:

(i) two people who represent the mortgage lending industry;

(ii) two people who represent the home building and real estate industry; and

(iii) two people who represent the public at large.

(3) The governor shall:

(a) appoint the six public trustees of the corporation with the advice and consent of the Senate; and

(b) ensure that:

(i) the six public trustees are from different counties and are residents of the state; and

(ii) not more than three of the public trustees are members of the same political party.

(4) (a) Except as required by Subsection (4)(b), the governor shall appoint the six public trustees to terms of office of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.

(5) (a) A public trustee of the corporation may be removed from office for cause either by the governor or by an affirmative vote of six trustees of the corporation.

(b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(c) A public trustee shall hold office for the term of appointment and until the trustee's successor has been appointed and qualified.

(d) A public trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6) (a) The governor shall select the chair of the corporation.

(b) The trustees shall elect from among their number a vice chair and other officers they may determine.

(7) (a) Five trustees of the corporation constitute a quorum for transaction of business.

(b) An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.

(c) A vacancy in the board of trustees does not impair the right of a quorum to exercise all rights and perform all duties of the corporation.

(8) A trustee may not receive compensation or benefits for the trustee's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

**Section 65. Section 63J-4-602 is amended to read:**

**63J-4-602. Public Lands Policy Coordinating Office -- Coordinator -- Appointment -- Qualifications -- Compensation.**

(1) There is created within state government the Public Lands Policy Coordinating Office. The office shall be administered by a public lands policy coordinator.

(2) The coordinator shall be appointed by the governor with the advice and consent of the Senate and shall serve at the pleasure of the governor.

(3) The coordinator shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the office's affairs.

(4) The coordinator and employees of the office shall receive compensation as provided in Title 67, Chapter 19, Utah State Personnel Management Act.

**Section 66. Section 63J-4-702 is amended to read:**

**63J-4-702. Employability to Careers Program Board.**

(1) There is created within the office the Employability to Careers Program Board composed of the following members:

(a) the executive director of the Department of Workforce Services or the executive director's designee;

(b) the executive director of the Department of Human Services or the executive director's designee; and

(c) three members appointed by the governor with the advice and consent of the Senate as follows:

(i) one member from the private or nonprofit sector with expertise in finance;

(ii) one member who is not a legislator from the private or nonprofit sector chosen from among two individuals recommended by the president of the Senate; and

(iii) one member who is not a legislator from the private or nonprofit sector chosen from among two individuals recommended by the speaker of the House of Representatives.

(2) (a) An appointed member of the board shall serve for a term of three years, but may be reappointed for one additional term.

(b) If a vacancy occurs in the board for any reason, the governor with the advice and consent of the Senate shall appoint a replacement to serve the remainder of the board member's term.

(3) The board shall elect a chair from among the board's membership.

(4) The board shall meet at least quarterly upon the call of the chair.

(5) Four members of the board constitute a quorum.

(6) Action by a majority present constitutes the action of the board.

(7) A board member may not receive compensation or benefits for the member's service, but a member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The office shall provide staff support to the board.

**Section 67. Section 63L-9-103 is amended to read:**

**63L-9-103. Director.**

(1) Upon the requirements described in Subsection 63L-9-102(2) being fulfilled, the governor shall, with the advice and consent of the Senate, appoint a director of the Department of Land Management.

(2) The director shall:

(a) be the executive and administrative head of the Department of Land Management;

(b) have demonstrated ability and experience in the administration and management of state or federal lands;

(c) not hold any other public office or be involved in a political party or organization; and

(d) hire personnel to staff the department.

(3) The director shall have:

(a) executive authority and control of the Department of Land Management; and

(b) authority over all personnel matters.

**Section 68. Section 63M-2-301 is amended to read:**

**63M-2-301. The Utah Science Technology and Research Initiative -- Governing authority -- Program director.**

(1) There is created the Utah Science Technology and Research Initiative.

(2) Subject to Subsection (10), to oversee USTAR, there is created the Utah Science Technology and Research Governing Authority consisting of:

(a) the state treasurer or the state treasurer's designee;

(b) the executive director of the Governor's Office of Economic Development;

(c) three members appointed by the governor, with the advice and consent of the Senate;

(d) two members who are not legislators appointed by the president of the Senate;

(e) two members who are not legislators appointed by the speaker of the House of Representatives; and

(f) one member appointed by the commissioner of higher education.

(3) (a) The eight appointed members under Subsections (2)(c) through (f) shall serve four-year staggered terms.

(b) An appointed member under Subsection (2)(c), (d), (e), or (f):

(i) may not serve more than two full consecutive terms; and

(ii) may be removed from the governing authority for any reason before the member's term is completed:

(A) at the discretion of the original appointing authority; and

(B) after the original appointing authority consults with the governing authority.

(4) A vacancy on the governing authority in an appointed position under Subsection (2)(c), (d), (e), or (f) shall be filled for the unexpired term by the appointing authority in the same manner as the original appointment.

(5) (a) Except as provided in Subsection (5)(b), the governor, with the advice and consent of the Senate, shall select the chair of the governing authority to serve a one-year term.

(b) The governor may extend the term of a sitting chair of the governing authority without the advice and consent of the Senate.

(c) The executive director of the Governor's Office of Economic Development shall serve as the vice chair of the governing authority.

(6) The governing authority shall meet at least six times each year and may meet more frequently at the request of a majority of the members of the governing authority.

(7) Five members of the governing authority are a quorum.

(8) A member of the governing authority may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance:

(i) pursuant to Sections 63A-3-106 and 63A-3-107; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) The governor, with the advice and consent of the Senate, may appoint a program director to oversee USTAR.

(b) The program director is an at-will employee who may be terminated with or without cause by the governor or the executive director of the Governor's Office of Economic Development.

(10) On July 1, 2019, the governing authority is dissolved and the program director is under the supervision of the executive director of the Governor's Office of Economic Development.

**Section 69. Section 63M-7-203 is amended to read:**

**63M-7-203. Executive director -- Qualifications -- Compensation -- Appointment -- Functions.**

(1) The governor, with the advice and consent of the Senate, shall appoint a person experienced in the field of criminal justice and in administration as the executive director of the Commission on Criminal and Juvenile Justice. The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) (a) The executive director, under the direction of the commission, shall administer the duties of the commission and act as the governor's advisor on national, state, regional, metropolitan, and local government planning as it relates to criminal justice.

(b) This chapter does not derogate the planning authority conferred on state, regional, metropolitan, and local governments by existing law.

**Section 70. Section 63M-7-504 is amended to read:**

**63M-7-504. Crime Victim Reparations and Assistance Board -- Members.**

(1) (a) A Crime Victim Reparations and Assistance Board is created, consisting of seven members appointed by the governor with the advice and consent of the Senate.

(b) The membership of the board shall consist of:

(i) a member of the bar of this state;

(ii) a victim of criminally injurious conduct;

(iii) a licensed physician;

(iv) a representative of law enforcement;

(v) a mental health care provider;

(vi) a victim advocate; and

(vii) a private citizen.



(c) The governor may appoint a chair of the board who shall serve for a period of time prescribed by the governor, not to exceed the length of the chair's term. The board may elect a vice chair to serve in the absence of the chair.

(d) The board may hear appeals from administrative decisions as provided in rules adopted pursuant to Section 63M-7-515.

(2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member may be reappointed to one successive term in addition to a member's initial full-term appointment.

(3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) A member resigning from the board shall serve until the member's successor is appointed and qualified.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The board shall meet at least once quarterly but may meet more frequently as necessary.

**Section 71. Section 63N-1-202 is amended to read:**

**63N-1-202. Executive director of office -- Appointment -- Removal -- Compensation.**

(1) The office shall be administered, organized, and managed by an executive director appointed by the governor, with the advice and consent of the Senate.

(2) The executive director serves at the pleasure of the governor.

(3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

**Section 72. Section 63N-1-401 is amended to read:**

**63N-1-401. Board of Business and Economic Development -- Membership -- Expenses.**

(1) (a) There is created within the office the Board of Business and Economic Development, consisting of 15 members appointed by the governor to four-year terms of office with the advice and consent of the Senate.

(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(2) In appointing members of the committee, the governor shall ensure that:

(a) no more than eight members of the board are from one political party; and

(b) members represent a variety of geographic areas and economic interests of the state.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) Eight members of the board constitute a quorum for conducting board business and exercising board power.

(5) The governor shall select one board member as the board's chair.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

**Section 73. Section 63N-1-501 is amended to read:**

**63N-1-501. Governor's Economic Development Coordinating Council -- Membership -- Expenses.**

(1) There is created in the office the Governor's Economic Development Coordinating Council, consisting of the following 11 members:

(a) the executive director, who shall serve as chair of the council;

(b) the chair of the board or the chair's designee;

(c) the chair of the Utah Science Technology and Research Governing Authority created in Section 63M-2-301 or the chair's designee;

(d) the chair of the Governor's Rural Partnership Board created in Section 63C-10-102 or the chair's designee;

(e) the chair of the board of directors of the Utah Capital Investment Corporation created in Section 63N-6-301 or the chair's designee;

(f) the chair of the Economic Development Corporation of Utah or its successor organization or the chair's designee;

(g) the chair of the World Trade Center Utah or its successor organization or the chair's designee; and

(h) four members appointed by the governor, with the advice and consent of the Senate, who have expertise in business, economic development, entrepreneurship, or the raising of venture or seed capital for research and business growth.

(2) (a) The four members appointed by the governor may serve for no more than two consecutive two-year terms.

(b) The governor shall appoint a replacement if a vacancy occurs from the membership appointed under Subsection (1)(h).

(3) Six members of the council constitute a quorum for the purpose of conducting council business and the action of a majority of a quorum constitutes the action of the council.

(4) A member may not receive compensation or benefits for the member's service on the council, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) The office shall provide office space and administrative staff support for the council.

(6) The council, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

**Section 74. Section 63N-7-102 is amended to read:**

**63N-7-102. Members -- Meetings -- Expenses.**

(1) (a) The board shall consist of 13 members appointed by the governor to four-year terms with the advice and consent of the Senate.

(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(2) The members may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(3) Not more than seven members of the board may be of the same political party.

(4) (a) The members shall be representative of:

(i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection (4)(b); and

(ii) a diverse mix of business ownership or executive management of tourism related industries.

(b) The geographical representatives shall be appointed as follows:

(i) one member from Salt Lake, Tooele, or Morgan County;

(ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

(iii) one member from Utah, Summit, Juab, or Wasatch County;

(iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;

(v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

(vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

(c) The tourism industry representatives of ownership or executive management shall be appointed as follows:

(i) one member from ownership or executive management of the lodging industry, as recommended by the lodging industry for the governor's consideration;

(ii) one member from ownership or executive management of the restaurant industry, as recommended by the restaurant industry for the governor's consideration;

(iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and

(iv) one member from ownership or executive management of the motor vehicle rental industry, as recommended by the motor vehicle rental industry for the governor's consideration.

(d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.

(e) One member shall be appointed from the Utah Tourism Industry Coalition as recommended by the coalition for the governor's consideration.

(f) One member shall be appointed to represent the state's counties as recommended by the Utah Association of Counties for the governor's consideration.

(g) (i) The governor may choose to disregard a recommendation made for a board member under Subsections (4)(c), (e), and (f).

(ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection (4)(g)(i).

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.

(6) Seven members of the board constitute a quorum for conducting board business and exercising board powers.

(7) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a four-year term as recommended by the board for the governor's consideration.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(9) The board shall meet monthly or as often as the board determines to be necessary at various locations throughout the state.

(10) Members who may have a potential conflict of interest in consideration of fund allocation decisions shall identify the potential conflict prior to voting on the issue.

(11) (a) The board shall determine attendance requirements for maintaining a designated board seat.

(b) If a board member fails to attend according to the requirements established pursuant to Subsection (11)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.

(c) A replacement appointed by the governor under Subsection (11)(b) shall serve for the remainder of the board member's unexpired term.

(12) The board's office shall be in Salt Lake City.

**Section 75. Section 64-13-3 is amended to read:**

**64-13-3. Executive director.**

(1) The executive director shall be appointed by the governor with the advice and consent of the Senate.

(2) The executive director shall be experienced and knowledgeable in the field of corrections and shall have training in criminology and penology.

(3) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

**Section 76. Section 67-1-1.5 is amended to read:**

**67-1-1.5. Gubernatorial appointment powers.**

(1) As used in this section:

(a) "Board member" means each gubernatorial appointee to any state board, committee, commission, council, or authority.

(b) "Executive branch management position" includes department executive directors, division directors, and any other administrative position in state government where the person filling the position:

- (i) works full-time performing managerial and administrative functions;
- (ii) is appointed by the governor with the advice and consent of the Senate.

(c) (i) "Executive branch policy position" means any person other than a person filling an executive branch management position, who is appointed by the governor with the advice and consent of the Senate.

(ii) "Executive branch policy position" includes each member of any state board and commission appointed by the governor with the advice and consent of the Senate.

(2) (a) Whenever a vacancy occurs in any executive branch policy position or in any executive branch management position, the governor shall submit the name of a nominee to the Senate for advice and consent no later than three months after the day on which the vacancy occurs.

(b) If the Senate fails to consent to that person within 90 days after the day on which the governor submits the nominee's name to the Senate for consent:

- (i) the nomination is considered rejected; and
- (ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a) or submit the name of a different nominee to the Senate for consent no later than 60 days after the date on which the nomination was rejected by the Senate.

(3) (a) Whenever a vacancy occurs in any executive branch management position, the governor may either:

- (i) appoint an interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months, pending consent of a person to permanently fill that position by the Senate; or
- (ii) appoint an interim manager who does not meet the qualifications of the vacant position and submit that person's name to the Senate for consent as interim manager within one month of the appointment.

(b) If the Senate fails to consent to the interim manager appointed under Subsection (3)(a)(ii) within 30 days after the day on which the governor submits the nominee's name to the Senate for consent:

- (i) the nomination is considered rejected; and
- (ii) the governor may:
  - (A) (I) reappoint the interim manager to whom the Senate failed to consent within 30 days; and
  - (II) resubmit the name of the person described in Subsection (3)(b)(ii)(A)(I) to the Senate for consent as interim manager; or

(B) appoint a different interim manager under Subsection (3)(a).

(c) If, after an interim manager has served three months, no one has been appointed and received Senate consent to permanently fill the position, the governor shall:

(i) appoint a new interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months; or

(ii) submit the name of the first interim manager to the Senate for consent as an interim manager for a three-month term.

(d) If the Senate fails to consent to a nominee whose name is submitted under Subsection (3)(c)(ii) within 30 days after the day on which the governor submits the name to the Senate:

(i) the nomination is considered rejected; and

(ii) the governor shall:

(A) (I) reappoint the person described in Subsection (3)(d); and

(II) resubmit the name of the person described in Subsection (3)(d) to the Senate for consent as interim manager; or

(B) appoint a different interim manager in the manner required by Subsection (3)(a).

(4) The governor may not make a temporary appointment to fill a vacant executive branch policy position.

(5) (a) Before appointing any person to serve as a board member, the governor shall ask the person whether or not the person wishes to receive per diem, expenses, or both for serving as a board member.

(b) If the person declines to receive per diem, expenses, or both, the governor shall notify the agency administering the board, commission, committee, council, or authority and direct the agency to implement the board member's request.

(6) A gubernatorial nomination upon which the Senate has not acted to give consent or refuse to give consent is void when a vacancy in the office of governor occurs.

**Section 77. Section 67-1-2 is amended to read:**

**67-1-2. Senate confirmation of gubernatorial nominees -- Verification of nomination requirements -- Consultation on appointments -- Notification of anticipated vacancies.**

(1) ~~Unless~~ Until October 1, 2020, unless waived by a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader, 15 days before any Senate session to confirm any gubernatorial nominee, except a judicial appointment, the governor shall send to each

member of the Senate and to the Office of Legislative Research and General Counsel:

(a) a list of each nominee for an office or position made by the governor in accordance with the Utah Constitution and state law; and

(b) any information that may support or provide biographical information about the nominee, including resumes and curriculum vitae.

(2) Except as provided in Subsection (3), beginning October 1, 2020, at least 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial nominee, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel the following information for each nominee:

(a) the nominee's name and biographical information, including a resume and curriculum vitae;

(b) a detailed list, with citations, of the legal requirements for the appointed position;

(c) a detailed list with supporting documents explaining how, and verifying that, the nominee meets each statutory and constitutional requirement for the appointed position; and

(d) a written certification by the governor that the nominee satisfies all requirements for the appointment.

(3) (a) Subsection (2) does not apply to a judicial nominee.

(b) Beginning October 1, 2020, a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (2) for a gubernatorial nominee other than a nominee for the following:

(i) the executive director of a department;

(ii) the executive director of the Governor's Office of Economic Development;

(iii) the executive director of the Labor Commission;

(iv) a member of the State Tax Commission;

(v) a member of the State Board of Education;

(vi) a member of the State Board of Regents;

(vii) a member of the Utah System of Technical Colleges Board of Trustees; or

(viii) an individual:

(A) whose appointment requires the advice and consent of the Senate; and

(B) whom the governor designates as a member of the governor's cabinet.

(4) Beginning October 1, 2020, the Senate shall hold a confirmation hearing for a nominee for an individual described in Subsection (3)(b)(i) through (viii).

(5) Beginning on October 1, 2020, the governor shall:

(a) if the governor is aware of an upcoming vacancy in a position that requires Senate confirmation, provide notice of the upcoming vacancy to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel at least 30 days before the day on which the vacancy occurs; and

(b) establish a process for government entities and other relevant organizations to provide input on gubernatorial appointments.

~~[(2)]~~ (6) When the governor makes a judicial appointment, the governor shall immediately provide to the president of the Senate and the Office of Legislative Research and General Counsel:

(a) the name of the judicial appointee; and

(b) the judicial appointee's:

(i) resume;

(ii) complete file of all the application materials the governor received from the Judicial Nominating Commission; and

(iii) any other related documents, including any letters received by the governor about the appointee, unless the letter specifically directs that it may not be shared.

~~[(3)]~~ (7) The governor shall inform the president of the Senate and the Office of Legislative Research and General Counsel of the number of letters withheld pursuant to Subsection ~~[(2)]~~ (6)(b)(iii).

~~[(4)]~~ (8) (a) Letters of inquiry submitted by any judge at the request of any judicial nominating commission shall be classified as private in accordance with Section 63G-2-302.

(b) All other records received from the governor pursuant to this Subsection ~~[(4)]~~ (8) may be classified as private in accordance with Section 63G-2-302.

~~[(5)]~~ (9) The Senate shall consent or refuse to give its consent to the nomination or judicial appointment.

(10) A judicial nominating commission shall, at the time the judicial nominating commission certifies a list of the most qualified judicial applicants to the governor under Section 78A-10-104, submit the same list to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel.

**Section 78. Section 67-1-2.5 is amended to read:**

**67-1-2.5. Executive boards -- Database -- Governor's review of new boards.**

(1) As used in this section:

(a) "Administrator" means the boards and commissions administrator designated under Subsection (2).

(b) "Executive board" means any executive branch board, commission, council, committee, working group, task force, study group, advisory

group, or other body with a defined limited membership that is created to operate for more than six months by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government.

(2) (a) Before September 1 of the calendar year following the year in which the Legislature creates a new executive board, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to remain in statute;

(ii) in the governor's review under Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation and making the report described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

(c) Upon receipt of a report from the governor under Subsection (2)(a)(iii), the Government Operations Interim Committee shall vote on whether to address the recommendations made by the governor in the report and prepare legislation accordingly.

(3) (a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.

(b) The administrator shall ensure that the database contains:

(i) the name of each executive board;

(ii) the statutory or constitutional authority for the creation of the executive board;

(iii) the sunset date on which each executive board's statutory authority expires;

(iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

(vi) the title of the position held by the person who appointed each member of the executive board;

(vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

(viii) whether ~~or not~~ members appointed to the executive board require the advice and consent of the Senate;

(ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;

(x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

(xi) whether each executive board is a policy board or an advisory board;

(xii) whether the executive board has or exercises rulemaking authority; and

(xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

(4) The administrator shall place the following on the governor's website:

(a) the information contained in the database;

(b) each report the administrator receives under Subsection (5); and

(c) the summary report described in Subsection (6).

(5) (a) Before August 1 of each year, each executive board shall prepare and submit to the administrator an annual report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the actual work performed by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(iv) a description of actions taken by the executive board since the last report the executive board

submitted to the administrator under this Subsection (5);

(v) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

(vi) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of each year.

(c) An executive board is not required to submit a report under this Subsection (5) if the executive board:

(i) is also a legislative board under Section 36-12-22; and

(ii) submits a report under Section 36-12-22.

(6) (a) The administrator shall prepare, publish, and distribute an annual report by September 1 of each year that includes:

(i) as of August 1 of that year:

(A) the total number of executive boards;

(B) the name of each of those executive boards and the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(C) for each state officer and each department and division, the total number of executive boards under the jurisdiction of or affiliated with that officer, department, and division;

(D) the total number of members for each of those executive boards;

(E) whether or not some or all of the members of each of those executive boards are approved by the Senate;

(F) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and

(G) the compensation, if any, paid to the members of each of those executive boards; and

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that did not submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(v); and

(D) a list of any executive boards that indicated under Subsection (5)(a)(vi) that the executive board should no longer exist.

(b) The administrator shall distribute copies of the report described in Subsection (6)(a) to:

(i) the governor;

(ii) the president of the Senate;

- (iii) the speaker of the House;
- (iv) the Office of Legislative Research and General Counsel;
- (v) the Government Operations Interim Committee; and
- (vi) any other persons who request a copy of the annual report.

(c) Each year, the Government Operations Interim Committee shall prepare legislation making any changes the committee determines are suitable with respect to the report the committee receives under Subsection (6)(b), including:

- (i) repealing an executive board that is no longer functional or necessary; and
- (ii) making appropriate changes to make an executive board more effective.

**Section 79. Section 67-1-3 is amended to read:**

**67-1-3. Removal of gubernatorial appointee.**

(1) Any time during a recess of the Legislature, the governor may remove any gubernatorial appointee for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(2) If the appointment required the advice and consent of the Senate, the governor may fill the vacancy created by the removal by following the procedures and requirements of Section 67-1-1.5.

**Section 80. Section 67-1-5 is amended to read:**

**67-1-5. Commissioning officers.**

The governor must commission all officers of the militia, and all officers appointed by the governor or by the governor with the advice and consent of the Senate.

**Section 81. Section 67-1a-2 is amended to read:**

**67-1a-2. Duties enumerated.**

- (1) The lieutenant governor shall:
  - (a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:
    - (i) as the head of any one department, if so qualified, with the advice and consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;
    - (ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;
    - (iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise general supervisory authority over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) assist county clerks in unifying the election ballot;

(iv) (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor; and

(B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of those persons who have received the highest number of votes for any office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of

Subsection 20A-5-302(2) and Sections 20A-5-802 and 20A-5-803;

(x) conduct the study described in Section 67-1a-14;

(xi) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xii) perform other election duties as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) determine a new municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a Municipality, based on the municipality's population using the population estimate from the Utah Population Committee; and

(ii) (A) prepare a certificate indicating the class in which the new municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the municipality's legislative body.

(b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

(A) each official census or census estimate of the United States Bureau of the Census; or

(B) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

(ii) (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.

(c) The lieutenant governor shall:

(i) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Committee; and

(ii) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body.

(d) The lieutenant governor shall monitor the population of each municipality using population information from:

(i) each official census or census estimate of the United States Bureau of the Census; or

(ii) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census.

(e) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(f) (i) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

**Section 82. Section 67-19a-201 is amended to read:**

**67-19a-201. Career Service Review Office created -- Appointment of an administrator -- Reporting -- Qualifications.**

(1) There is created a Career Service Review Office.

(2) (a) The governor shall appoint, with the advice and consent of the Senate, an administrator of the office.



(b) The administrator shall have demonstrated an ability to administer personnel policies in performing the duties specified in this chapter.

**Section 83. Section 68-4-5 is amended to read:**

**68-4-5. Creation -- Members -- Terms.**

(1) There is established the "Utah Commission on Uniform State Laws," which consists of members of the Utah State Bar who are appointed as commissioners to the National Conference of Commissioners on Uniform State Laws as follows:

(a) one commissioner, appointed by the governor with the advice and consent of the Senate, who shall be a member of the Senate at the time of appointment;

(b) one commissioner, appointed by the governor with the advice and consent of the Senate, who shall be a member of the House of Representatives at the time of appointment;

(c) two commissioners, appointed by the governor with the advice and consent of the Senate, who shall be active members of the Utah State Bar;

(d) one commissioner who is the Legislature's general counsel or, alternatively, an attorney from the Office of Legislative Research and General Counsel who is appointed by the general counsel;

(e) any commissioner that has previously served as a member of the commission and has been elected as a life member of the National Conference of Commissioners on Uniform State Laws according to the conference's constitution, bylaws, and rules of procedure; and

(f) up to one associate commissioner, appointed by the Legislature's general counsel, who is an attorney from the Office of Legislative Research and General Counsel.

(2) Commissioners appointed by the governor shall be appointed for four-year terms commencing on the date of their confirmation by the Senate.

(3) A commissioner continues to serve:

(a) unless the commissioner dies or resigns;

(b) unless the commissioner ceases to be a member of the Utah State Bar in good standing; or

(c) (i) for a commissioner appointed by the governor and notwithstanding expiration of the commissioner's term under Subsection (2), until the governor:

(A) reappoints the commissioner to a new term; or

(B) appoints a successor commissioner;

(ii) for the general counsel, until the general counsel ceases to serve as general counsel or appoints an attorney to serve in the general counsel's place;

(iii) for a commissioner appointed to serve in the place of the general counsel, until the general counsel chooses to serve as a commissioner or appoints a successor commissioner; or

(iv) for an associate commissioner, until the general counsel appoints a successor commissioner or elects not to fill the position of associate commissioner.

**Section 84. Section 68-4-6 is amended to read:**

**68-4-6. Vacancies.**

(1) For a commissioner who serves in a governor-appointed position described in Subsection 68-4-5(1)(a), (b), or (c):

(a) the office of a commissioner becomes vacant and the governor, with the advice and consent of the Senate, shall immediately appoint a new commissioner upon the commissioner's:

(i) death;

(ii) resignation; or

(iii) failure to be a member of the Utah State Bar in good standing; and

(b) the governor may, with the advice and consent of the Senate, appoint a new commissioner or, as applicable, reappoint the current commissioner, provided that the current commissioner meets the requirements for appointment, after any of the following events:

(i) the commissioner's failure to actively serve as commissioner;

(ii) the commissioner's refusal to serve as commissioner;

(iii) expiration of the commissioner's term;

(iv) the commissioner's appointment to another position on the commission; or

(v) the commissioner's election as a life member of the National Conference of Commissioners on Uniform State Laws.

(2) (a) The commissioner who is the Legislature's general counsel shall serve only while acting as the Legislature's general counsel.

(b) A commissioner who is serving as an appointee of the Legislature's general counsel shall serve at the will of the general counsel.

**Section 85. Section 72-1-202 is amended to read:**

**72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.**

(1) (a) The governor, with the advice and consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a registered professional engineer and qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of any transportation project for which state funds are expended;

(d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

(e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business;

(f) purchase all equipment, services, and supplies necessary to achieve the department's functions, powers, duties, rights, and responsibilities delegated under Section 72-1-201;

(g) have the responsibility to determine whether a purchase from, contribution to, or other participation with a public entity or association of public entities in a pooled fund program to acquire, develop, or share information, data, reports, or other services related to the department's mission are procurement items under Title 63G, Chapter 6a, Utah Procurement Code;

(h) have responsibility for administrative supervision of the Comptroller Division, the Internal Audit Division, and the Communications Division; and

(i) appoint assistants, to serve at the discretion of the executive director, to administer the divisions of the department.

(3) The executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Department of Human Resource Management.

**Section 86. Section 72-1-301 is amended to read:**

**72-1-301. Transportation Commission created -- Members, appointment, terms -- Qualifications -- Pay and expenses -- Chair -- Quorum.**

(1) (a) There is created the Transportation Commission which shall consist of seven members.

(b) The members of the commission shall be residents of Utah.

(c) The members of the commission shall be selected on a nonpartisan basis.

(d) (i) The commissioners shall be appointed by the governor, with the advice and consent of the Senate, for a term of six years, beginning on April 1 of odd-numbered years, except as provided under Subsection (1)(d)(ii).

(ii) The first two additional commissioners serving on the seven member commission shall be appointed for terms of two years nine months and four years nine months, respectively, initially commencing on July 1, 1996, and subsequently commencing as specified under Subsection (1)(d)(i).

(e) The commissioners serve on a part-time basis.

(f) Each commissioner shall remain in office until a successor is appointed and qualified.

(2) (a) Except as provided in Subsection (2)(b), the selection of the commissioners shall be as follows:

(i) one commissioner from Box Elder, Cache, or Rich county;

(ii) one commissioner from Salt Lake or Tooele county;

(iii) one commissioner from Carbon, Emery, Grand, or San Juan county;

(iv) one commissioner from Beaver, Garfield, Iron, Kane, Millard, Piute, Sanpete, Sevier, Washington, or Wayne county;

(v) one commissioner from Weber, Davis, or Morgan county;

(vi) one commissioner from Juab, Utah, Wasatch, Duchesne, Summit, Uintah, or Daggett county; and

(vii) one commissioner selected from the state at large.

(b) Beginning with the appointment of commissioners on or after July 1, 2009 and subject to the restriction in Subsection (2)(d), the selection of commissioners shall be as follows:

(i) four commissioners with one commissioner selected from each of the four regions established by the department; and

(ii) subject to the restriction in Subsection (2)(c), three commissioners selected from the state at large.

(c) (i) At least one of the three commissioners appointed under Subsection (2)(b)(ii) shall be selected from a rural county.

(ii) For purposes of this Subsection (2)(c), a rural county includes a county of the third, fourth, fifth, or sixth class.

(d) No more than two commissioners appointed under Subsection (2)(b) may be selected from any one of the four regions established by the department.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) (a) One member of the commission shall be designated by the governor as chair.

(b) The commission shall select one member as vice chair to act in the chair's absence.

(5) Any four commissioners constitute a quorum.

(6) Each member of the commission shall qualify by taking the constitutional oath of office.

(7) For the purposes of Section 63J-1-504, the commission is not considered an agency.

**Section 87. Section 73-2-1 is amended to read:**

**73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.**

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties; and

(g) the duty of water.

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights; or

(h) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of those waters;

(c) enable him to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of all lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define their boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

**Section 88. Section 73-10-2 is amended to read:**

**73-10-2. Board of Water Resources -- Members -- Appointment -- Terms -- Vacancies.**

(1) (a) The Board of Water Resources shall be comprised of eight members to be appointed by the governor with the advice and consent of the Senate.

(b) In addition to the requirements of Section 79-2-203, not more than four members shall be from the same political party.

(2) One member of the board shall be appointed from each of the following districts:

(a) Bear River District, comprising the counties of Box Elder, Cache, and Rich;

(b) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;

(c) Salt Lake District, comprising the counties of Salt Lake and Tooele;

(d) Provo River District, comprising the counties of Juab, Utah, and Wasatch;

(e) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute, and Wayne;

(f) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;

(g) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand, and San Juan; and

(h) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron, Washington, and Kane.

(3) (a) Except as required by Subsection (3)(b), all appointments shall be for terms of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the advice and consent of the Senate and shall be from the same district as such person.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 89. Section 73-30-201 is amended to read:**

**73-30-201. Advisory council created -- Staffing -- Per diem and travel expenses.**

(1) There is created an advisory council known as the "Great Salt Lake Advisory Council" consisting of 11 members listed in Subsection (2).

(2) (a) The governor shall appoint the following members, with the advice and consent of the Senate:

(i) one representative of industry representing the extractive industry;

(ii) one representative of industry representing aquaculture;

(iii) one representative of conservation interests;

(iv) one representative of a migratory bird protection area as defined in Section 23-28-102;

(v) one representative who is an elected official from municipal government, or the elected official's designee;

(vi) five representatives who are elected officials from county government, or the elected official's designee, one each representing:

(A) Box Elder County;

(B) Davis County;

(C) Salt Lake County;

(D) Tooele County; and

(E) Weber County; and

(vii) one representative of a publicly owned treatment works.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding Subsection (3)(a), at the time of appointment or reappointment, the governor shall adjust the length of terms of voting members to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(d) A member shall hold office until the member's successor is appointed and qualified.

(4) The council shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(5) (a) Attendance of six members at a meeting of the council constitutes a quorum.

(b) A vote of the majority of the members present at a meeting when a quorum is present constitutes an action of the council.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The Department of Natural Resources and the Department of Environmental Quality shall coordinate and provide necessary staff assistance to the council.

**Section 90. Section 77-5-6 is amended to read:**

**77-5-6. Suspension on filing articles -- Vacancy, how filled.**

When articles of impeachment are presented to the Senate, and the officer has been served with a copy of the articles, [he] the officer shall be temporarily suspended from [his] office and may not exercise [his] the duties of the office until [he] the officer is acquitted. Upon the suspension of any officer, other than the governor, or a justice or judge of a court of record, [his] the office shall be temporarily filled by an appointment made by the governor, with the advice and consent of the Senate, until the acquittal of the party impeached, or, in the case of [his] the officer's removal, until the vacancy is filled at the next election as provided by law.

**Section 91. Section 77-27-2 is amended to read:**

**77-27-2. Board of Pardons and Parole -- Creation -- Compensation -- Functions.**

(1) There is created the Board of Pardons and Parole. The board shall consist of five full-time members and not more than five pro tempore members to be appointed by the governor with the advice and consent of the Senate as provided in this section. The members of the board shall be resident citizens of the state. The governor shall establish salaries for the members of the board within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) (a) (i) The full-time board members shall serve terms of five years. The terms of the full-time members shall be staggered so one board member is appointed for a term of five years on March 1 of each year.

(ii) The pro tempore members shall serve terms of five years, beginning on March 1 of the year of appointment, with no more than one pro tempore member term beginning or expiring in the same calendar year. If a pro tempore member vacancy occurs, the board may submit the names of not fewer than three or more than five persons to the governor for appointment to fill the vacancy.

(b) All vacancies occurring on the board for any cause shall be filled by the governor with the advice and consent of the Senate pursuant to this section for the unexpired term of the vacating member.

(c) The governor may at any time remove any member of the board for inefficiency, neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

(d) A member of the board may not hold any other office in the government of the United States, this state or any other state, or of any county government or municipal corporation within a state. A member may not engage in any occupation or business inconsistent with the member's duties.

(e) A majority of the board constitutes a quorum for the transaction of business, including the holding of hearings at any time or any location within or without the state, or for the purpose of exercising any duty or authority of the board. Action taken by a majority of the board regarding whether parole, pardon, commutation, termination of sentence, or remission of fines or forfeitures may

be granted or restitution ordered in individual cases is deemed the action of the board. A majority vote of the five full-time members of the board is required for adoption of rules or policies of general applicability as provided by statute. However, a vacancy on the board does not impair the right of the remaining board members to exercise any duty or authority of the board as long as a majority of the board remains.

(f) Any investigation, inquiry, or hearing that the board has authority to undertake or hold may be conducted by any board member or an examiner appointed by the board. When any of these actions are approved and confirmed by the board and filed in its office, they are considered to be the action of the board and have the same effect as if originally made by the board.

(g) When a full-time board member is absent or in other extraordinary circumstances the chair may, as dictated by public interest and efficient administration of the board, assign a pro tempore member to act in the place of a full-time member. Pro tempore members shall receive a per diem rate of compensation as established by the Division of Finance and all actual and necessary expenses incurred in attending to official business.

(h) The chair may request staff and administrative support as necessary from the Department of Corrections.

(3) (a) Except as provided in Subsection (3)(b), the Commission on Criminal and Juvenile Justice shall:

(i) recommend five applicants to the governor for a full-time member appointment to the Board of Pardons and Parole; and

(ii) consider applicants' knowledge of the criminal justice system, state and federal criminal law, judicial procedure, corrections policies and procedures, and behavioral sciences.

(b) The procedures and requirements of Subsection (3)(a) do not apply if the governor appoints a sitting board member to a new term of office.

(4) (a) The board shall appoint an individual to serve as its mental health adviser and may appoint other staff necessary to aid it in fulfilling its responsibilities under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness. The adviser shall prepare reports and recommendations to the board on all persons adjudicated as guilty with a mental illness, in accordance with Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness.

(b) The mental health adviser shall possess the qualifications necessary to carry out the duties imposed by the board and may not be employed by the Department of Corrections or the Utah State Hospital.

(i) The Board of Pardons and Parole may review outside employment by the mental health advisor.

(ii) The Board of Pardons and Parole shall develop rules governing employment with entities

other than the board by the mental health advisor for the purpose of prohibiting a conflict of interest.

(c) The mental health adviser shall:

(i) act as liaison for the board with the Department of Human Services and local mental health authorities;

(ii) educate the members of the board regarding the needs and special circumstances of persons with a mental illness in the criminal justice system;

(iii) in cooperation with the Department of Corrections, monitor the status of persons in the prison who have been found guilty with a mental illness;

(iv) monitor the progress of other persons under the board's jurisdiction who have a mental illness;

(v) conduct hearings as necessary in the preparation of reports and recommendations; and

(vi) perform other duties as assigned by the board.

**Section 92. Section 78A-11-103 is amended to read:**

**78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies -- Voting -- Power of chair.**

(1) The membership of the commission consists of the following 11 members:

(a) two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a four-year term, not more than one of whom may be of the same political party as the speaker;

(b) two members of the Senate to be appointed by the president of the Senate for a four-year term, not more than one of whom may be of the same political party as the president;

(c) two members of, and in good standing with, the Utah State Bar, who shall be appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may reside in the same judicial district;

(d) three persons not members of the Utah State Bar, who shall be appointed by the governor, with the advice and consent of the Senate, for four-year terms, not more than two of whom may be of the same political party as the governor; and

(e) two judges to be appointed by a majority of the Utah Supreme Court for a four-year term, neither of whom may:

(i) be a member of the Utah Supreme Court;

(ii) serve on the same level of court as the other; and

(iii) if trial judges, serve primarily in the same judicial district as the other.

(2) (a) The terms of the members shall be staggered so that approximately half of the commission expires every two years.

(b) Members of the commission may not serve longer than eight years.

(3) The commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter. A judge who is a member of the commission or the Supreme Court may not participate in any proceedings involving the judge's own removal or retirement.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the appointing authority for that position for the unexpired term.

(b) If the appointing authority fails to appoint a replacement, the commissioners who have been appointed may act as a commission under all the provisions of this section.

(5) Six members of the commission shall constitute a quorum. Any action of a majority of the quorum constitutes the action of the commission.

(6) (a) At each commission meeting, the chair and executive director shall schedule all complaints to be heard by the commission and present any information from which a reasonable inference can be drawn that a judge has committed misconduct so that the commission may determine by majority vote of a quorum whether the executive director shall draft a written complaint in accordance with Subsection 78A-11-102(2)(b).

(b) The chair and executive director may not act to dismiss any complaint without a majority vote of a quorum of the commission.

(7) It is the responsibility of the chair and the executive director to ensure that the commission complies with the procedures of the commission.

(8) The chair shall be nonvoting except in the case of a tie vote.

(9) The chair shall be allowed the actual expenses of secretarial services, the expenses of services for either a court reporter or a transcriber of electronic tape recordings, and other necessary administrative expenses incurred in the performance of the duties of the commission.

(10) Upon a majority vote of the quorum, the commission may:

(a) employ an executive director, legal counsel, investigators, and other staff to assist the commission; and

(b) incur other reasonable and necessary expenses within the authorized budget of the commission and consistent with the duties of the commission.

(11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

**Section 93. Section 78B-22-402 is amended to read:**

**78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.**

(1) The commission is composed of 15 voting members and one ex officio, nonvoting member.

(a) The governor, with the advice and consent of the Senate, shall appoint the following 13 voting members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) an attorney representing minority interests recommended by the Utah Minority Bar Association;

(iv) one member recommended by the Utah Association of Counties from a county of the first or second class;

(v) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

(vi) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

(vii) two members recommended by the Utah League of Cities and Towns from its membership;

(viii) a retired judge recommended by the Judicial Council;

(ix) one attorney practicing in the area of parental defense, recommended by an entity funded under the Child Welfare Parental Defense Program created in Section 63M-7-211; and

(x) two members of the Utah Legislature, one from the House of Representatives and one from the Senate, selected jointly by the Speaker of the House and President of the Senate.

(b) The Judicial Council shall appoint a voting member from the Administrative Office of the Courts.

(c) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a voting member of the commission.

(d) The director of the commission, appointed under Section 78B-22-403, is an ex officio, nonvoting member of the commission.

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the

members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal defense, parental defense, or juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) A person who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) The commission shall annually elect a chair from the commission's membership to serve a one-year term. A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

**Section 94. Section 79-2-202 is amended to read:**

**79-2-202. Executive director -- Appointment -- Removal -- Compensation -- Responsibilities.**

(1) (a) The chief administrative officer of the department is an executive director appointed by the governor with the advice and consent of the Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall:

(a) administer and supervise the department and provide for coordination and cooperation among the

boards, divisions, councils, and committees of the department;

(b) approve the budget of each board and division;

(c) participate in regulatory proceedings as appropriate for the functions and duties of the department;

(d) report at the end of each fiscal year to the governor on department, board, and division activities;

(e) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(f) perform other duties as provided by statute.

(3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the executive director, may accept an executive or legislative provision that is enacted by the federal government, whereby the state may participate in the distribution, disbursement, or administration of a fund or service from the federal government for purposes consistent with the powers and duties of the department.

(4) (a) The executive director, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.

(b) The executive director shall submit any plan to the governor for review and approval.

**Section 95. Section 79-3-302 is amended to read:**

**79-3-302. Members of board -- Qualifications and appointment -- Vacancies -- Organization -- Meetings -- Financial gain prohibited -- Expenses.**

(1) The board consists of seven members appointed by the governor, with the advice and consent of the Senate.

(2) In addition to the requirements of Section 79-2-203, the members shall have the following qualifications:

(a) one member knowledgeable in the field of geology as applied to the practice of civil engineering;

(b) four members knowledgeable and representative of various segments of the mineral industry throughout the state, such as hydrocarbons, solid fuels, metals, and industrial minerals;

(c) one member knowledgeable of the economic or scientific interests of the mineral industry in the state; and

(d) one member who is interested in the goals of the survey and from the public at large.

(3) The director of the School and Institutional Trust Lands Administration is an ex officio member of the board but without any voting privileges.

(4) (a) Except as required by Subsection (4)(b), members are appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) No more than four members may be of the same political party.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the advice and consent of the Senate.

(5) The board shall select from its members a chair and such officers and committees as it considers necessary.

(6) (a) The board shall hold meetings at least quarterly on such dates as may be set by its chair.

(b) Special meetings may be held upon notice of the chair or by a majority of its members.

(c) A majority of the members of the board present at a meeting constitutes a quorum for the transaction of business.

(7) Members of the board may not obtain financial gain by reason of information obtained during the course of their official duties.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 96. Section 79-4-302 is amended to read:**

**79-4-302. Board appointment and terms of members -- Expenses.**

(1) (a) The board is composed of nine members appointed by the governor, with the advice and consent of the Senate, to four-year terms.

(b) In addition to the requirements of Section 79-2-203, the governor shall:

(i) appoint one member from each judicial district and one member from the public at large;

(ii) ensure that not more than five members are from the same political party; and

(iii) appoint persons who have an understanding of and demonstrated interest in parks and recreation.



(c) Notwithstanding the term requirements of Subsection (1)(a), the governor may adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(2) When vacancies occur because of death, resignation, or other cause, the governor, with the advice and consent of the Senate, shall:

(a) appoint a person to complete the unexpired term of the person whose office was vacated; and

(b) if the person was appointed from a judicial district, appoint the replacement from the judicial district from which the person whose office has become vacant was appointed.

(3) The board shall appoint its chair from its membership.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 97. Coordinating S.B. 60 with S.B. 146 -- Superseding and technical amendments.**

If this S.B. 60 and S.B. 146, Boards and Commissions Modifications, both pass and become law, and S.B. 111, Higher Education Amendments, does not pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) modifying Subsections 67-1-2(1) and (2) to read:

“(1) [Unless] Until October 1, 2020, unless waived by a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader, 15 days before any Senate session to confirm any gubernatorial nominee, except a judicial appointment, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel:

(a) a list of each nominee for an office or position made by the governor in accordance with the Utah Constitution and state law; and

(b) any information that may support or provide biographical information about the nominee, including resumes and curriculum vitae.

(2) Except as provided in Subsection (3), beginning October 1, 2020, at least 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial nominee, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel the following information for each nominee:

(a) the nominee's name and biographical information, including a resume and curriculum vitae with personal contact information, including home address, email address, and telephone number, redacted, except that the governor shall send to the Office of Legislative Research and General Counsel the contact information for the nominee;

(b) a detailed list, with citations, of the legal requirements for the appointed position;

(c) a detailed list with supporting documents explaining how, and verifying that, the nominee meets each statutory and constitutional requirement for the appointed position;

(d) a written certification by the governor that the nominee satisfies all requirements for the appointment; and

(e) public comment information collected in accordance with Section 63G-24-204.”; and

(2) renumbering the remaining subsections, and references to those subsections, accordingly..

**Section 98. Coordinating S.B. 60 with S.B. 111 -- Superseding technical and substantive amendments.**

If this S.B. 60 and S.B. 111, Higher Education Amendments, both pass and become law, and S.B. 146, Boards and Commissions Modifications, does not pass, it is the intent of the Legislature that the amendments in this coordination clause supersede the coordination clause in Section 202 in S.B. 111, and that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by modifying Subsections 67-1-2(3)(b) and (4) to read:

“(b) Beginning October 1, 2020, a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (2) for a gubernatorial nominee other than a nominee for the following:

(i) the executive director of a department;

(ii) the executive director of the Governor's Office of Economic Development;

(iii) the executive director of the Labor Commission;

(iv) a member of the State Tax Commission;

(v) a member of the State Board of Education;

(vi) a member of the Utah Board of Higher Education; or

(vii) an individual:

(A) whose appointment requires the advice and consent of the Senate; and

(B) whom the governor designates as a member of the governor's cabinet.

(4) Beginning October 1, 2020, the Senate shall hold a confirmation hearing for a nominee for an individual described in Subsection (3)(b)(i) through (vii).”.

**Section 99. Coordinating S.B. 60 with S.B. 146 and S.B. 111 -- Superseding technical and substantive amendments.**

If this S.B. 60, S.B. 146, Boards and Commissions Modifications, and S.B. 111, Higher Education Amendments, all pass and become law, it is the intent of the Legislature that the amendments in this coordination clause supersede the coordination clause in Section 60 in S.B. 146, and that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) modifying Subsection 53B-1-404(1) as renumbered and amended by S.B. 111 to read:

~~“(1) [Except as provided in Subsection (2), the] The board consists of [17] 18 residents of the state appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, as follows:~~

~~[(a) eight at-large members;]~~

~~[(b) eight members, each of whom is:]~~

~~[(i) selected from three nominees presented to the governor by a higher education institution board of trustees; and]~~

~~[(ii) a current or former member of the institution of higher education board of trustees that nominates the member; and]~~

~~[(c) one member, selected from three nominees presented to the governor by the student body presidents of the institutions of higher education, who:]~~

~~[(i) is a fully matriculated student enrolled in an institution of higher education; and]~~

~~[(ii) is not serving as a student body president at the time of the nomination.]~~

~~[(2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve on the board, even if the individual does not fulfill a requirement for the composition of the board described in Subsection (1).]~~

~~[(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the member’s term expires.]~~

~~[(b) An individual appointed to the board on or before May 8, 2017, who is a current or former member of an institution of higher education board of trustees is the board member for the institution of higher education described in Subsection (1)(b).]~~

~~[(c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).]~~

~~[(ii) In appointing a new member to the board, the governor shall first appoint a member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.]~~

(a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from among candidates presented to the governor by a nominating committee; and

(b) two student members appointed as described in Subsection (4).”;

(2) creating a newly enacted Subsection 53B-1-404(4)(c) to read:

“(c) An appointee described in Subsection (4)(a) is not subject to the public comment process described in Section 63G-24-204.”;

(3) modifying Subsections 63G-24-102(4) and (5)(a) to read:

“(4) “Nominee” means a person selected by the governor to fill a rulemaking board vacancy subject to the advice and consent of the Senate.

(5) (a) “Rulemaking board” means a board, committee, commission, or council:

(i) that has rulemaking authority; and

(ii) at least part of whose membership is appointed by the governor subject to the advice and consent of the Senate.”;

(4) modifying Subsections 67-1-2(1) through (4) to read:

“(1) [Unless] Until October 1, 2020, unless waived by a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader, 15 days before any Senate session to confirm any gubernatorial nominee, except a judicial appointment, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel:

(a) a list of each nominee for an office or position made by the governor in accordance with the Utah Constitution and state law; and

(b) any information that may support or provide biographical information about the nominee, including resumes and curriculum vitae.

(2) Except as provided in Subsection (3), beginning October 1, 2020, at least 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial nominee, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel the following information for each nominee:

(a) the nominee’s name and biographical information, including a resume and curriculum vitae with personal contact information, including home address, email address, and telephone number, redacted, except that the governor shall send to the Office of Legislative Research and General Counsel the contact information for the nominee;

(b) a detailed list, with citations, of the legal requirements for the appointed position;

(c) a detailed list with supporting documents explaining how, and verifying that, the nominee meets each statutory and constitutional requirement for the appointed position;

(d) a written certification by the governor that the nominee satisfies all requirements for the appointment; and

(e) public comment information collected in accordance with Section 63G-24-204.

(3) (a) Subsection (2) does not apply to a judicial nominee.

(b) Beginning October 1, 2020, a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (2) for a gubernatorial nominee other than a nominee for the following:

(i) the executive director of a department;

(ii) the executive director of the Governor's Office of Economic Development;

(iii) the executive director of the Labor Commission;

(iv) a member of the State Tax Commission;

(v) a member of the State Board of Education;

(vi) a member of the Utah Board of Higher Education; or

(vii) an individual:

(A) whose appointment requires the advice and consent of the Senate; and

(B) whom the governor designates as a member of the governor's cabinet.

(4) Beginning October 1, 2020, the Senate shall hold a confirmation hearing for a nominee for an individual described in Subsection (3)(b)(i) through (vii)."; and

(5) renumbering the remaining subsections, and references to those subsections, of Section 67-1-2 accordingly.

**CHAPTER 353****S. B. 70**

Passed February 27, 2020

Approved March 30, 2020

Effective May 12, 2020

**DETERMINATION OF  
DEATH AMENDMENTS**Chief Sponsor: Keith Grover  
House Sponsor: Brad M. Daw**LONG TITLE****General Description:**

This bill allows for a registered nurse to make a determination of death in certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ allows a nurse to make a determination of death in certain circumstances; and
- ▶ makes conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-34-2, as last amended by Laws of Utah 2011, Chapter 297

**ENACTS:**

26-34-4, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 26-34-2 is amended to read:****26-34-2. Definition of death --  
Determination of death.**

(1) An individual is dead if the individual has sustained either:

(a) irreversible cessation of circulatory and respiratory functions; or

(b) irreversible cessation of all functions of the entire brain, including the brain stem.

(2) A determination of death shall be made in accordance with this chapter and accepted medical standards.

**Section 2. Section 26-34-4 is enacted to read:****26-34-4. Determination of death made by  
registered nurse.**

(1) As used in this section:

(a) “Health care facility” means the same as that term is defined in Section 26-21-2.

(b) “Physician” means a physician licensed under:

(i) Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(c) “Registered nurse” means a registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act.

(2) A registered nurse may make a determination of death of an individual if:

(a) an attending physician has:

(i) documented in the individual’s medical or clinical record that the individual’s death is anticipated due to illness, infirmity, or disease no later than 180 days after the day on which the physician makes the documentation; and

(ii) established clear assessment procedures for determining death;

(b) the death actually occurs within the 180-day period described in Subsection (2)(a); and

(c) at the time of the documentation described in Subsection (2)(a), the physician authorized the following, in writing, to make the determination of death:

(i) one or more specific registered nurses; or

(ii) if the individual is in a health care facility that has complied with Subsection (5), all registered nurses that the facility employs.

(3) A registered nurse who has determined death under this section shall:

(a) document the clinical criteria for the determination in the individual’s medical or clinical record;

(b) notify the physician described in Subsection (2); and

(c) ensure that the death certificate includes:

(i) the name of the deceased;

(ii) the presence of a contagious disease, if known; and

(iii) the date and time of death.

(4) Except as otherwise provided by law or rule, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, shall certify a determination of death described in Subsection (3) within 24 hours after the registered nurse makes the determination of death.

(5) (a) For a health care facility to be eligible for a general authorization described in Subsection (2)(c), the facility shall adopt written policies and procedures that provide for the determination of death by a registered nurse under this section.

(b) A registered nurse that a health care facility employs may not make a determination of death under this section unless the facility has adopted the written policies and procedures described in Subsection (5)(a).

(6) The department may make rules, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, to ensure the appropriate determination of death under this section.

**CHAPTER 354****S. B. 72**

Passed February 18, 2020

Approved March 30, 2020

Effective May 12, 2020

**REVISOR'S TECHNICAL  
CORRECTIONS TO UTAH CODE**

Chief Sponsor: Evan J. Vickers

House Sponsor: Francis D. Gibson

**LONG TITLE****General Description:**

This bill modifies parts of the Utah Code to make technical corrections.

**Highlighted Provisions:**

This bill:

- ▶ modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, eliminating redundant or obsolete language, making minor wording changes, updating cross-references, and correcting numbering and other errors.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

3-1-11, as last amended by Laws of Utah 2010, Chapter 378  
 4-4-107, as enacted by Laws of Utah 2019, Chapter 138  
 4-5-104, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-10-106, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-15-110, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-16-501, as renumbered and amended by Laws of Utah 2017, Chapter 345  
 4-32a-208, as enacted by Laws of Utah 2019, Chapter 315  
 7-3-3, as last amended by Laws of Utah 2013, Chapter 73  
 7-25-102, as last amended by Laws of Utah 2019, Chapter 353  
 10-1-307, as last amended by Laws of Utah 2011, Chapter 309  
 10-1-405, as last amended by Laws of Utah 2012, Chapter 422  
 10-5-132, as last amended by Laws of Utah 2019, Chapter 20  
 11-13-602, as enacted by Laws of Utah 2016, Chapter 382  
 11-17-2, as last amended by Laws of Utah 2016, Chapter 176  
 11-59-202, as enacted by Laws of Utah 2018, Chapter 388  
 13-32a-104, as last amended by Laws of Utah 2019, Chapter 309  
 13-32a-110, as last amended by Laws of Utah 2019, Chapter 309  
 13-32a-111, as last amended by Laws of Utah 2019, Chapter 309

13-32a-112, as last amended by Laws of Utah 2019, Chapter 309  
 16-6a-1008.7, as last amended by Laws of Utah 2013, Chapter 412  
 17-27a-602, as last amended by Laws of Utah 2019, Chapter 384  
 17-27a-604.5, as last amended by Laws of Utah 2019, Chapter 384  
 17-50-335, as last amended by Laws of Utah 2016, Chapter 371  
 17B-1-202, as last amended by Laws of Utah 2016, Chapter 371  
 17B-2a-1207, as enacted by Laws of Utah 2019, Chapter 490  
 17D-1-103, as last amended by Laws of Utah 2018, Chapter 256  
 17D-1-201, as last amended by Laws of Utah 2016, Chapter 371  
 19-1-404, as last amended by Laws of Utah 2014, Chapter 295  
 19-2-104, as last amended by Laws of Utah 2015, Chapter 154  
 19-6-102.1, as last amended by Laws of Utah 2018, Chapter 281  
 19-6-104, as last amended by Laws of Utah 2019, Chapter 152  
 19-6-715, as last amended by Laws of Utah 2011, Chapter 309  
 19-6-808, as last amended by Laws of Utah 2011, Chapter 309  
 20A-1-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 4  
 20A-3-302, as last amended by Laws of Utah 2019, Chapter 255  
 20A-7-402, as last amended by Laws of Utah 2019, Chapters 203, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 203  
 26-18-416, as last amended by Laws of Utah 2019, Chapters 136 and 393  
 26-19-302, as renumbered and amended by Laws of Utah 2018, Chapter 443  
 26-61a-113, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1  
 26-61a-301, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
 26-61a-602, as repealed and reenacted by Laws of Utah 2019, First Special Session, Chapter 5  
 26-61a-604, as repealed and reenacted by Laws of Utah 2019, First Special Session, Chapter 5  
 26-61a-702, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
 30-3-37, as last amended by Laws of Utah 2014, Chapter 162  
 31A-2-218, as last amended by Laws of Utah 2015, Chapter 283  
 31A-30-106.1, as last amended by Laws of Utah 2017, Chapter 168  
 31A-30-112, as last amended by Laws of Utah 2013, Chapter 341  
 31A-30-115, as last amended by Laws of Utah 2013, Chapters 319 and 341  
 31A-30-117, as last amended by Laws of Utah 2015, Chapter 283

32B-7-408, as enacted by Laws of Utah 2019, Chapter 403	58-1-501.7, as last amended by Laws of Utah 2019, Chapter 193
32B-10-206, as enacted by Laws of Utah 2010, Chapter 276	58-9-102, as last amended by Laws of Utah 2018, Chapter 326
32B-10-605, as enacted by Laws of Utah 2010, Chapter 276	58-28-606, as enacted by Laws of Utah 2015, Chapter 61
32B-12-301, as enacted by Laws of Utah 2010, Chapter 276	58-37-8, as last amended by Laws of Utah 2019, Chapter 58
34A-1-205, as last amended by Laws of Utah 2013, Chapter 428	59-2-919, as last amended by Laws of Utah 2019, Chapters 322 and 450
34A-2-109, as renumbered and amended by Laws of Utah 1997, Chapter 375	59-2-924, as last amended by Laws of Utah 2018, Chapters 101, 368, and 415
35A-1-104.5, as last amended by Laws of Utah 2015, Chapter 283	59-2-1905, as enacted by Laws of Utah 2019, Chapter 453
35A-3-203, as last amended by Laws of Utah 2019, Chapter 89	59-7-104, as last amended by Laws of Utah 2019, Chapter 418
38-11-202, as last amended by Laws of Utah 2018, Chapter 229	59-7-610, as last amended by Laws of Utah 2019, Chapter 247
41-1a-422, as last amended by Laws of Utah 2019, Chapters 38 and 213	59-7-614.10, as last amended by Laws of Utah 2019, Chapter 247
41-1a-1008, as last amended by Laws of Utah 2013, Chapter 463	59-7-624, as enacted by Laws of Utah 2019, Chapter 247
41-3-105, as last amended by Laws of Utah 2018, Chapter 387	59-10-136, as last amended by Laws of Utah 2019, Chapter 323
41-6a-102, as last amended by Laws of Utah 2019, Chapters 49, 391, 428, and 459	59-10-1007, as last amended by Laws of Utah 2019, Chapter 247
51-11-102, as enacted by Laws of Utah 2018, Chapter 253	59-10-1037, as last amended by Laws of Utah 2019, Chapter 247
53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476	59-10-1112, as enacted by Laws of Utah 2019, Chapter 247
53E-1-202, as enacted by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 223	59-12-102, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
53E-7-204, as repealed and reenacted by Laws of Utah 2019, Chapter 187 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 187	59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486
53E-7-208, as repealed and reenacted by Laws of Utah 2019, Chapter 187	59-26-104, as last amended by Laws of Utah 2011, Chapter 309
53E-8-403, as last amended by Laws of Utah 2019, Chapter 314	62A-4a-202.9, as enacted by Laws of Utah 2017, Chapter 459
53F-2-504, as last amended by Laws of Utah 2019, Chapters 134, 186, and 283	63A-5-225, as last amended by Laws of Utah 2019, Chapter 246
53F-5-202, as last amended by Laws of Utah 2019, Chapters 186 and 283	63F-2-102, as last amended by Laws of Utah 2018, Chapter 81
53F-5-212, as enacted by Laws of Utah 2019, Chapter 173	63G-1-401, as last amended by Laws of Utah 2019, Chapters 47, 82, 91, 123, 308, and 310
53F-9-201, as last amended by Laws of Utah 2019, Chapter 191	63G-6a-204, as last amended by Laws of Utah 2019, Chapter 454
53G-7-306, as last amended by Laws of Utah 2019, Chapter 293	63G-6a-712, as enacted by Laws of Utah 2018, Chapter 352
53G-7-903, as renumbered and amended by Laws of Utah 2018, Chapter 3	63G-6a-1209, as enacted by Laws of Utah 2013, Chapter 445
53G-8-402, as renumbered and amended by Laws of Utah 2018, Chapter 3	63G-6a-1403, as last amended by Laws of Utah 2017, Chapter 348
53G-8-405, as renumbered and amended by Laws of Utah 2018, Chapter 3	63H-1-201, as last amended by Laws of Utah 2017, Chapter 216
53G-9-208, as last amended by Laws of Utah 2019, Chapters 293 and 349	63I-1-230, as last amended by Laws of Utah 2018, Chapter 347
53G-10-402, as last amended by Laws of Utah 2019, Chapters 196 and 293	63I-1-253, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246, 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246
53G-11-501, as last amended by Laws of Utah 2019, Chapter 293	63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

63I-2-226, as last amended by Laws of Utah 2019, Chapters 262, 393, 405 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

63I-2-231, as last amended by Laws of Utah 2019, Chapter 55

63I-2-235, as last amended by Laws of Utah 2018, Chapter 423

63I-2-253, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324, 325, and 444

63I-2-258, as last amended by Laws of Utah 2018, Chapter 38

63I-2-259, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

63I-2-272, as last amended by Laws of Utah 2019, Chapters 136 and 246

63J-4-608, as enacted by Laws of Utah 2019, Chapter 374

63M-2-503, as last amended by Laws of Utah 2019, Chapter 352

63M-2-504, as last amended by Laws of Utah 2019, Chapter 352

63M-7-202, as last amended by Laws of Utah 2019, Chapter 401

63M-13-202, as enacted by Laws of Utah 2019, Chapter 34

63N-1-501, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-4-302, as last amended by Laws of Utah 2019, Chapter 465

64-13e-102, as last amended by Laws of Utah 2018, Chapter 374

72-16-306, as enacted by Laws of Utah 2019, Chapter 244

73-10-1, as last amended by Laws of Utah 2007, Chapter 329

75-9-105, as enacted by Laws of Utah 2016, Chapter 256

76-5-702, as enacted by Laws of Utah 2019, Chapter 398

77-18-1, as last amended by Laws of Utah 2019, Chapters 28 and 429

77-40-102 (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448

78A-6-115, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

78B-6-133, as last amended by Laws of Utah 2019, Chapter 335

**REPEALS:**

19-2-305, as enacted by Laws of Utah 2015, Chapter 381

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 3-1-11 is amended to read:**

**3-1-11. Certificates of and termination of membership -- Dividends and distribution of reserves -- Preferred stock -- Certificates of interest -- Unclaimed credits.**

(1) No certificate for membership or stock shall be issued until fully paid for, but bylaws may provide

that a member may vote and hold office prior to payment in full for his membership or stock.

(2) Dividends in excess of eight per centum per annum on the actual cash value of the consideration received by the association may not be paid on common stock or membership capital, but dividends may be cumulative if so provided in the articles or bylaws.

(3) (a) Savings in excess of dividends and additions to reserves and surplus shall be distributed on the basis of patronage.

(b) The bylaws may provide that any distribution to a nonmember, who is eligible for membership, may be credited to that nonmember until the amount of the distribution equals the value of a membership certificate, or a share of the association's common stock.

(c) The distribution credited to the account of the nonmember may be transferred to the membership fund at the option of the board, if, after two years, the amount is less than the value of the membership certificate or a share of common stock.

(4) (a) The bylaws shall provide the time and manner of settlement of membership interests with members who withdraw from the association or whose membership is otherwise terminated.

(b) Provisions for forfeiture of membership interests may be made in the bylaws.

(c) After the termination of the membership, for whatever cause, the withdrawing member shall exercise no further control over the facilities, assets, or activities of the association. The withdrawing member may not claim or receive any assets of the association except as follows:

(i) undistributed patronage allocated to the withdrawing member may be paid to the withdrawing member pursuant to the association's bylaws;

(ii) the withdrawing member may be reimbursed for the par value of membership or stock in the association pursuant to the association's articles, bylaws, and membership agreement; and

(iii) the withdrawing member shall receive any distributions to which the member is entitled pursuant to Subsection 3-1-20(3)(d).

(5) (a) An association may issue preferred stock to members and nonmembers.

(b) Preferred stock may be redeemed or retired by the association on the terms and conditions as are provided in the articles or bylaws and printed on the stock certificates.

(c) Preferred stockholders may not vote, but no change in their priority or preference rights shall be effective until the written consent of the holders of a majority of the preferred stock has been obtained.

(d) Payment for preferred stock may be made in cash, services, or property on the basis of the fair value of the stock, services, and property, as determined by the board.

(6) (a) The association may issue to each member a certificate of interest evidencing the member's



interest in any fund, capital investment, or other assets of the association.

(b) Those certificates may be transferred only to the association, or to other purchasers, as approved by the board of directors, under the terms and conditions provided for in the bylaws.

(7) (a) As used in this Subsection (7), “reasonable effort” means:

(i) a letter to a member’s or former member’s last-known address, a listing of unclaimed credits in an association publication, and the posting of a list of unclaimed credits at the association’s principal place of business; and

(ii) publishing a list of the unclaimed credits exceeding \$25 each, or greater, in a newspaper of general circulation in the area where the association’s principal offices are located.

(b) The association may retain revolving certificates of interest described in this Subsection (7) as an exception to the provisions of Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act, if:

(i) the board of directors of the association determines to revolve the certificates and the certificates remain unclaimed by the association’s members or former members for five years after the credit is declared;

(ii) the association is authorized to retain those credits by its bylaws;

(iii) the board of directors of the association approves the retention; and

(iv) before retaining the credits, the association makes a reasonable effort to locate and communicate the issuance of the credits to the members or former members.

(c) (i) The board of directors may either add the unclaimed credits as a contribution to the capital fund, or use them to establish an agricultural educational program as described in Subsection (7)(c)(ii).

(ii) If the board of directors chooses to use the unclaimed credits to establish an agricultural educational program, it shall establish an agricultural educational program to:

(A) provide scholarships for low income and worthy students to colleges and universities;

(B) provide funding for director training and education;

(C) provide funds for cooperative education programs in secondary or higher education institutions; or

(D) provide other educational opportunities.

(iii) The board of directors may not distribute unclaimed credits to current patrons of the association.

(iv) Upon dissolution of an association, the board of directors shall report and remit unclaimed credits to the Division of Unclaimed Property.

(d) (i) Each association that applies credits under Subsection (7)(c) during a calendar year shall file an annual report with the State Treasurer by April 15 of the following year.

(ii) The report shall specify:

(A) the dollar amount of credits applied during the year;

(B) the dollar amount of [~~credit~~] credits paid to claimants during the year; and

(C) the aggregate dollar amount of credits applied since January 1, 1996.

(e) At any time after the association retains credits under this Subsection (7), the association shall pay the members, former members, or their successors in interest, the value of the credit, without interest, if the members, former members, or their successors in interest:

(i) file a written claim for payment with the association; and

(ii) surrender the certificate issued by the association that evidences the credit.

**Section 2. Section 4-4-107 is amended to read:**

**4-4-107. Exemptions from regulation.**

(1) Except as provided in this section, a small producer and the shell eggs produced by a small producer [~~is~~] are exempt from regulation by the department.

(2) The Department of Health has the authority to investigate foodborne illness.

(3) The department may assist, consult, or inspect shell eggs when requested by a small producer.

(4) Nothing in this section affects the authority of the Department of Health or the department to certify, license, regulate, or inspect food or food products that are not exempt from certification, licensing regulation, or inspection under this section.

(5) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the temperature, cleaning, and sanitization of shell eggs under this chapter that are sold by a small producer to a restaurant.

(6) Eggs sold by a small producer pursuant to this chapter are exempt from the restricted egg tolerances for United States Consumer Grade B as specified in the United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of United States Agriculture Department.

**Section 3. Section 4-5-104 is amended to read:**

**4-5-104. Authority to make and enforce rules.**

(1) The department may adopt rules to efficiently enforce this chapter, and if practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(2) Hearings authorized or required by this chapter shall be conducted by the department or by an officer, agent, or employee designated by the department.

(3) (a) Except as provided by Subsection (3)(b), all pesticide chemical regulations and their amendments now or hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this state.

(b) The department may adopt a rule that prescribes tolerance for pesticides in finished foods in this state whether or not in accordance with regulations promulgated under the federal act.

(4) (a) Except as provided by Subsection (4)(b), all food additive regulations and their amendments now or hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.

(b) The department may adopt a rule that prescribes conditions under which a food additive may be used in this state whether or not in accordance with regulations promulgated under the federal act.

(5) All color additive regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive rules in this state.

(6) (a) Except as provided by Subsection (6)(b), all special dietary use regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the special dietary use rules in this state.

(b) The department may, if it finds it necessary to inform purchasers of the value of a food for special dietary use, prescribe special dietary use rules whether or not in accordance with regulations promulgated under the federal act.

(7) (a) Except as provided by Subsection (7)(b), all regulations adopted under the Fair Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the rules in this state.

(b) Except as provided by Subsection (7)(c), the department may, if it finds it necessary in the interest of consumers, prescribe package and labeling rules for consumer commodities, whether or not in accordance with regulations promulgated under the federal act.

(c) The department may not adopt rules that are contrary to the labeling requirements for the net quantity of contents required according to 15 U.S.C. Sec. 1453(a)(4).

(8) (a) A federal regulation automatically adopted according to this chapter takes effect in this state on the date it becomes effective as a federal regulation.

(b) The department shall publish all other proposed rules in publications prescribed by the department.

(c) (i) A person who may be adversely affected by a rule may, within 30 days after a federal regulation is automatically adopted, or within 30 days after publication of any other rule, file with the department, in writing, objections and a request for a hearing.

(ii) The timely filing of substantial objections to a federal regulation automatically adopted stays the effect of the rule.

(d) (i) If no substantial objections are received and no hearing is requested within 30 days after publication of a proposed rule, it shall take effect on a date set by the department.

(ii) The effective date shall be at least 60 days after the time for filing objections has expired.

(e) (i) If timely substantial objections are made to a federal regulation within 30 days after it is automatically adopted or to a proposed rule within 30 days after it is published, the department, after notice, shall conduct a public hearing to receive evidence on the issues raised by the objections.

(ii) Any interested person or the person's representative may be heard.

(f) (i) The department shall act upon objections by order and shall mail the order to objectors by certified mail as soon after the hearing as practicable.

(ii) The order shall be based on substantial evidence in the record of the hearing.

(g) (i) If the order concerns a proposed rule, ~~the~~ the department may withdraw ~~the~~ the rule or set an effective date for the rule as published or as modified by the order.

(ii) The effective date shall be at least 60 days after publication of the order.

(9) Whenever a regulation is promulgated under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances established by the department under this chapter shall immediately conform to the standards established by the Federal Food and Drug Administration as herein provided and shall remain the same until the department determines that for reasons peculiar to Utah a different rule should apply.

**Section 4. Section 4-10-106 is amended to read:**

**4-10-106. Unlawful acts specified.**

It is unlawful for any person to:

(1) sell bedding, upholstered furniture, quilted clothing, or filling material as new unless it is made from new material and properly tagged;

(2) sell bedding, upholstered furniture, quilted clothing or filling material made from secondhand material which is not properly tagged;

(3) label or sell a used or secondhand article as if it were a new article;

(4) use burlap or other material which has been used for packing or baling, or to use any unsanitary, filthy, or vermin or insect [~~infected~~] infested filling material in the manufacture or repair of any article;

(5) sell bedding, upholstered furniture, quilted clothing or filling material which is not properly tagged regardless of point of origin;

(6) use any false or misleading statement, term, or designation on any tag;

(7) use any false or misleading label;

(8) sell new bedding, upholstered furniture, or quilted clothing with filling material made of down, feather, wool, or hair that has not been properly sterilized; or

(9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material without a license as required by this chapter.

**Section 5. Section 4-15-110 is amended to read:**

**4-15-110. Nursery stock offered or advertised for sale -- Unlawful to misrepresent name, origin, grade, variety, quality, or vitality -- Information required in advertisements.**

(1) A person shall not misrepresent the name, origin, grade, variety, quality, or [~~indice~~] indicia of vitality of any nursery stock advertised or offered for sale at a nursery or nursery outlet.

(2) All advertisements of nursery stock shall clearly state the name, size, and grade of the stock where applicable.

**Section 6. Section 4-16-501 is amended to read:**

**4-16-501. Chapter does not apply to seed not intended for sowing, to seed at seed processing plant, or to seed transported or delivered for transportation in the ordinary course of business.**

(1) This chapter does not apply to:

(a) seed or grain not intended for sowing;

(b) subject to Subsection (2), seed at, or consigned to, a seed processing or cleaning plant; or

(c) to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier.

(2) Any label or other representation which is made with respect to seed described in Subsection (1)(b) that is made with respect to the uncleaned or unprocessed seed is subject to this chapter.

(3) A carrier described in Subsection (1)(c) may not be engaged in producing, processing, or marketing agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting.

**Section 7. Section 4-32a-208 is amended to read:**

**4-32a-208. Rulemaking.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this part, the department shall make rules regarding:

(a) antemortem inspection, in accordance with 9 C.F.R. Sec. 352.10;

(b) postmortem inspection of the domesticated game carcass to ensure the domesticated game carcass is clean and wholesome, including inspection of the kidneys and abdominal and thoracic viscera;

(c) slaughter area and facilities requirements;

(d) personal cleanliness of individuals involved in domesticated game slaughter;

(e) skinning, hoisting, bleeding, and evisceration of domesticated game [~~animals~~];

(f) chronic wasting disease testing requirements, surveillance, investigation, and follow-up, in accordance with department rule;

(g) tags and tagging procedure to maintain carcass identification;

(h) procedure for transportation of a domesticated game carcass; and

(i) packaging and labeling of domesticated game products.

(2) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding labeling a domesticated game carcass as slaughtered:

(a) with inspection and processed at a farm custom slaughter facility; or

(b) with inspection and the domesticated game carcass released to a licensed food establishment for processing and sale to a consumer.

(3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that allow:

(a) a person with a farm custom slaughter license to slaughter and process domesticated game in accordance with this part; and

(b) a facility licensed to perform custom exempt processing, as defined in Section 4-32-105, to process slaughtered domesticated game in accordance with this part.

**Section 8. Section 7-3-3 is amended to read:**

**7-3-3. "Banking business" defined -- Credit card banks -- Insurance of deposit accounts.**

(1) (a) Except as provided under Subsection (1)(b), a person is considered to be conducting a banking business and is a bank subject to the provisions of this title that are applicable to banks if the person is authorized:

(i) under the laws of this:

- (A) state;
- (B) another state;
- (C) the United States;
- (D) the District of Columbia; or
- (E) a territory of the United States; and

(ii) (A) to accept deposits from the public; and

(B) to conduct such other business activities as may be authorized by statute or by the commissioner in accordance with Subsection 7-3-10(3).

(b) A person is not considered to be a bank subject to the provisions of this title that are applicable to banks if the person is authorized to conduct the business of:

- (i) a federal savings and loan association;
- (ii) a federal savings bank;
- (iii) an industrial bank subject to Chapter 8, Industrial Banks;
- (iv) a federally chartered credit union; or
- (v) a credit union subject to Chapter 9, Utah Credit Union Act.

(2) A person authorized to operate as a bank in this state may operate as a credit card bank if it:

- (a) engages only in credit card operations;
  - (b) does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;
  - (c) does not accept a savings or time ~~deposits~~ deposit of less than \$100,000;
  - (d) maintains only one office that accepts deposits; and
  - (e) does not engage in the business of making commercial loans.
- (3) All deposit accounts in banks or branches subject to the jurisdiction of the department shall be insured by the Federal Deposit Insurance Corporation or a successor to the Federal Deposit Insurance Corporation.

**Section 9. Section 7-25-102 is amended to read:**

**7-25-102. Definitions.**

As used in this chapter:

(1) "Applicant" means a person filing an application for a license under this chapter.

(2) "Authorized agent" means a person designated by the licensee under this chapter to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.

(3) "Blockchain" ~~or "blockchain technology"~~ means an electronic method of storing data that is:

- (a) maintained by consensus of multiple unaffiliated parties;
- (b) distributed across multiple locations; and
- (c) mathematically verified.

(4) "Blockchain token" means an electronic record that is:

- (a) recorded on a blockchain; and
- (b) capable of being traded between persons without an intermediary.

(5) "Executive officer" means the licensee's president, chair of the executive committee, executive vice president, treasurer, chief financial officer, or any other person who performs similar functions.

(6) "Key shareholder" means a person, or group of persons acting in concert, who is the owner of 20% or more of a class of an applicant's stock.

(7) "Licensee" means a person licensed under this chapter.

(8) "Material litigation" means litigation that, according to generally accepted accounting principles, is considered significant to a person's financial health and would be required to be referenced in an annual audited financial statement, report to shareholders, or similar document.

(9) (a) "Money transmission" means the sale or issuance of a payment instrument or engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including payment instrument, wire, facsimile, or electronic transfer.

(b) "Money transmission" does not include a blockchain token.

(10) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

(11) "Outstanding payment instrument" means a payment instrument issued by the licensee that has been sold in the United States directly by the licensee or a payment instrument issued by the licensee that has been sold and reported to the licensee as having been sold by an authorized agent of the licensee in the United States, and that has not yet been paid by or for the licensee.

(12) (a) "Payment instrument" means a check, draft, money order, travelers check, or other instrument or written order for the transmission or payment of money, sold or issued to one or more

persons, whether or not the instrument is negotiable.

(b) "Payment instrument" does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

(13) "Remit" means either to make direct payment of the money to the licensee or its representatives authorized to receive the money, or to deposit the money in a depository institution in an account in the name of the licensee.

**Section 10. Section 10-1-307 is amended to read:**

**10-1-307. Administration, collection, and enforcement of taxes by commission -- Distribution of revenues -- Administrative charge -- Collection of taxes by municipality.**

(1) (a) Subject to Subsection (1)(b) and except as provided in Subsection (3), the commission shall administer, collect, and enforce the municipal energy sales and use tax from energy suppliers according to the procedures established in:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections 59-12-107.1 and 59-12-123.

(b) If an energy supplier pays a municipal energy sales and use tax to the commission, the energy supplier shall pay the municipal energy sales and use tax to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the energy supplier is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the energy supplier is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the energy supplier is required to file a sales and use tax return with the commission quarterly under Section ~~59-12-108~~ 59-12-107.

(2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and 10-1-310(2) and subject to Subsection (6), the commission shall pay a municipality the difference between:

(i) the entire amount collected by the commission from the municipal energy sales and use tax authorized by this part based on:

(A) the point of sale of the taxable energy if a taxable sale occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; or

(B) the point of use of the taxable energy if the use occurs in a municipality that imposes a municipal

energy sales and use tax as provided in this part; and

(ii) the administrative charge described in Subsection (2)(c).

(b) In accordance with Subsection (2)(a), the commission shall transfer to the municipality monthly by electronic transfer the revenues generated by the municipal energy sales and use tax levied by the municipality and collected by the commission.

(c) (i) Subject to Subsection (2)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a municipal energy sales and use tax under this part.

(ii) The commission may not retain or deposit an administrative charge from revenues a municipality collects under Subsection (3) from a tax under this part.

(3) An energy supplier shall pay the municipal energy sales and use tax revenues it collects from its customers under this part directly to each municipality in which the energy supplier has sales of taxable energy if:

(a) the municipality is the energy supplier; or

(b) (i) the energy supplier estimates that the municipal energy sales and use tax collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more; and

(ii) the energy supplier collects the tax imposed by this part.

(4) An energy supplier paying a tax under this part directly to a municipality may retain the percentage of the tax authorized under Subsection 59-12-108(2) for the energy supplier's costs of collecting and remitting the tax.

(5) An energy supplier paying the tax under this part directly to a municipality shall file an information return with the commission, at least annually, on a form prescribed by the commission.

(6) (a) As used in this Subsection (6):

(i) "2005 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2005.

(ii) "2006 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006, reduced by the 2006 rebate amount.

(iii) "2006 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:

(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006; and

(B) the 2005 base amount, plus:

(I) 10% of the 2005 base amount; and

(II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2006.

(iv) "2007 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:

(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007; and

(B) the 2006 base amount, plus:

(I) 10% of the 2006 base amount; and

(II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2007.

(v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30, 2005.

(vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30, 2006.

(vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30, 2007.

(viii) "Gas supplier" means an energy supplier that supplies natural gas.

(ix) "Natural gas portion" means the amount of municipal energy sales and use tax proceeds attributable to sales and uses of natural gas.

(b) (i) In December 2006, each gas supplier shall reduce the natural gas portion of municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate amount.

(ii) If the 2006 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2006, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2006 rebate amount is exhausted.

(iii) For December 2006 and for each month thereafter that the gas supplier is required under Subsection (6)(b)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:

(A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and

(B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.

(c) (i) In December 2007, each gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality by the 2007 rebate amount.

(ii) If the 2007 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2007, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2007 rebate amount is exhausted.

(iii) For December 2007 and for each month thereafter that the gas supplier is required under Subsection (6)(c)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:

(A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and

(B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.

(d) Nothing in this Subsection (6) may be construed to require a reduction under Subsection (6)(b) or (c) if the rebate amount is zero or negative.

**Section 11. Section 10-1-405 is amended to read:**

**10-1-405. Collection of taxes by commission -- Uniform interlocal agreement -- Administrative charge -- Rulemaking authority.**

(1) Subject to the other provisions of this section, the commission shall collect, enforce, and administer any municipal telecommunications license tax imposed under this part pursuant to:

(a) the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection:

(A) except for:

(I) Subsection 59-12-103(2)(i);

(II) Section 59-12-104;

(III) Section 59-12-104.1;

(IV) Section 59-12-104.2;

(V) Section 59-12-104.3;

(VI) Section 59-12-107.1; and

(VII) Section 59-12-123; and

(B) except that for purposes of Section 59-1-1410, the term "person" may include a customer from whom a municipal telecommunications license tax is recovered in accordance with Subsection 10-1-403(2); and

(b) a uniform interlocal agreement between the municipality that imposes the municipal telecommunications license tax and the commission:

(i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

(ii) that complies with Subsection (2)(a); and

(iii) that is developed by rule in accordance with Subsection (2)(b).

(2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that the commission shall:

(i) transmit money collected under this part monthly by electronic funds transfer by the commission to the municipality;

(ii) conduct audits of the municipal telecommunications license tax;

(iii) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part; and

(iv) collect, enforce, and administer the municipal telecommunications license tax authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement that meets the requirements of this section.

(3) If a telecommunications provider pays a municipal telecommunications license tax to the commission, the telecommunications provider shall pay the municipal telecommunications license tax to the commission:

(a) monthly on or before the last day of the month immediately following the last day of the previous month if:

(i) the telecommunications provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(ii) the telecommunications provider is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the telecommunications provider is required to file a sales and use tax return

with the commission quarterly under Section ~~59-12-108~~ 59-12-107.

(4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate that exceeds 3.5%:

(a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission shall collect the municipal telecommunications license tax:

(i) within the municipality;

(ii) at a rate of 3.5%; and

(iii) from a telecommunications provider required to pay the municipal telecommunications license tax on or after July 1, 2007; and

(b) the commission shall collect a municipal telecommunications license tax within the municipality at the rate imposed by the municipality if:

(i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate of up to 3.5%;

(ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing the rate of the municipal telecommunications license tax; and

(iii) a telecommunications provider is required to pay the municipal telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

**Section 12. Section 10-5-132 is amended to read:**

**10-5-132. Fees collected for construction approval -- Approval of plans.**

(1) As used in this section:

(a) "Construction project" means the same as that term is defined in Section 38-1a-102.

(b) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(c) "Planning review" means a review to verify that a town has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

(d) (i) "Plan review" means all of the reviews and approvals of a plan that a town requires to obtain a building permit from the town with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

(e) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(f) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(g) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(e)(g)(i), a review that a licensed engineer conducts.

(h) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a town collects a fee for the inspection of a construction project, the town shall ensure that the construction project receives a prompt inspection.

(b) If a town cannot provide a building inspection within a reasonable time, the town shall promptly engage an independent inspector with fees collected from the applicant.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, on the day on which the inspection occurs, the inspector shall give the permit holder written notification of each violation that:

(i) is delivered in hardcopy or by electronic means; and

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code.

(3) (a) A town shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the town.

(b) A town shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the town.

(c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the town complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.



- (d) An applicant may:
- (i) waive the plan review time requirements described in this Subsection (3); or
  - (ii) with the town's consent, establish an alternative plan review time requirement.
- (4) (a) A town may not enforce a requirement to have a plan review if:
- (i) the town does not complete the plan review within the time period described in Subsection (3)(a) or (b); and
  - (ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.
- (b) A town may attach to a reviewed plan a list that includes:
- (i) items with which the town is concerned and may enforce during construction; and
  - (ii) building code violations found in the plan.
- (c) A town may not require an applicant to redraft a plan if the town requests minor changes to the plan that the list described in Subsection (4)(b) identifies.

**Section 13. Section 11-13-602 is amended to read:**

**11-13-602. Definitions.**

As used in this part:

- (1) "Asset" means funds, money, an account, real or personal property, or personnel.
- (2) (a) "Associated entity" means a taxed interlocal entity that adopts a segment's organizing resolution.
- (b) "Associated entity" does not include any other segment.
- (3) "Fiduciary duty" means a duty expressly designated as a fiduciary duty of:
- (a) a director or an officer of a taxed interlocal entity in:
    - (i) the organization agreement of the taxed interlocal entity; or
    - (ii) an agreement executed by the director or the officer and the taxed interlocal entity; or
  - (b) a director or an officer of a segment in:
    - (i) the organizing resolution of the segment; or
    - (ii) an agreement executed by the director or the officer and the segment.
- (4) "Governing body" means the body established in an organizing resolution to govern a segment.
- (5) "Governmental law" means:
- (a) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
  - (b) Title 63A, Chapter 3, Division of Finance;

(c) Title 63G, Chapter 6a, Utah Procurement Code;

(d) a law imposing an obligation on a taxed interlocal entity similar to an obligation imposed by a law described in Subsection (5)(a), (b), or (c);

(e) an amendment to or replacement or renumbering of a law described in Subsection (5)(a), (b), (c), or (d); or

(f) a law superseding a law described in Subsection (5)(a), (b), (c), or (d).

(6) "Indexed office" means the address identified under Subsection 63G-7-401(5)(a)(i) by a segment's associated entity in the associated entity's statement described in Subsection 63G-7-401(5).

(7) "Organization agreement" means an agreement, as amended, that creates a taxed interlocal entity.

(8) "Organizing resolution" means a resolution described in Subsection 11-13-604(1) that creates a segment.

(9) "Principal county" means the county in which the indexed office of a segment's associated entity is located.

(10) "Project" means:

(a) the same as that term is defined in Section 11-13-103; or

(b) facilities, improvements, or contracts undertaken by a taxed interlocal entity in accordance with Subsection 11-13-204(2).

(11) "Public asset" means:

(a) an asset used by a public entity;

(b) tax revenue;

(c) state funds; or

(d) public funds.

(12) "Segment" means a segment created in accordance with Section 11-13-604.

(13) "Taxed interlocal entity" means:

(a) a project entity that:

(i) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(iii) does not receive, expend, or have the authority to compel payment from tax revenue; or

(b) an interlocal entity that:

(i) was created before 1981 for the purpose of providing power supply at wholesale to its members;

(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(iii) does not receive, expend, or have the authority to compel payment from tax revenue.

(14) (a) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(b) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection [(13)] (14)(a), individually.

**Section 14. Section 11-17-2 is amended to read:**

**11-17-2. Definitions.**

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(4) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for the military installation development authority created in Section 63H-1-201, the [authority] board, as defined in Section 63H-1-102;

(c) for a state university except as provided in Subsection (4)(d), the board or body having the control and supervision of the state university; and

(d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(5) (a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) "Lender" means a trust company, savings bank, savings and loan association, bank, credit

union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

(7) "Mortgage" means a mortgage, trust deed, or other security device.

(8) "Municipality" means any incorporated city, town, or metro township in the state, including cities or towns operating under home rule charters.

(9) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10) (a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system; or

(f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

**Section 15. Section 11-59-202 is amended to read:**

**11-59-202. Authority powers.**

The authority may:

(1) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

(2) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

(3) sue and be sued;

(4) enter into contracts generally;

(5) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as

necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(6) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(7) enter into a lease agreement on real or personal property, either as lessee or lessor;

(8) provide for the development of the point of the mountain state land under one or more contracts;

(9) exercise powers and perform functions under a contract, as authorized in the contract;

(10) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(11) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(12) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(13) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

(14) transact other business and exercise all other powers provided for in this chapter;

(15) enter into a development agreement with a developer of some or all of the point of the mountain state land;

(16) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section ~~[11-42-102]~~ 11-42a-102, in accordance with Title 11, Chapter ~~[42, Assessment Area Act]~~ 42a, Commercial Property Assessed Clean Energy Act;

(17) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(18) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land; and

(19) enter into an agreement with the federal government or an agency of the federal

government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter.

**Section 16. Section 13-32a-104 is amended to read:**

**13-32a-104. Tickets required to be maintained -- Contents -- Identification of items -- Prohibition against pawning or selling certain property.**

(1) A pawn or secondhand business shall keep a ticket for property a person pawns or sells to the pawn or secondhand business. A pawn or secondhand business shall document on the ticket the following information regarding the property:

(a) the date and time of the transaction;

(b) whether the transaction is a pawn or purchase;

(c) the ticket number;

(d) the date by which the property must be redeemed, if the property is pawned;

(e) the following information regarding the individual who pawns or sells the property:

(i) the individual's full name and date of birth as they appear on the individual's identification and the individual's residence address and telephone number;

(ii) the unique number and type of identification presented to the pawn or secondhand business;

(iii) the individual's signature; and

(iv) subject to Subsection (6), a legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint and the reason why the right index ~~[finger's print]~~ fingerprint was unavailable;

(f) the amount loaned on, paid for, or value for trade-in of each article of property;

(g) the full name of the individual conducting the pawn transaction or secondhand merchandise transaction on behalf of the pawn or secondhand business or the initials or a unique identifying number of the individual, if the pawn or secondhand business maintains a record of the initials or unique identifying number of the individual; and

(h) an accurate description of each article of property, with available identifying marks, including:

(i) names, brand names, numbers, serial numbers, model numbers, color, manufacturers' names, and size;

(ii) metallic composition, and any jewels, stones, or glass;

(iii) any other marks of identification or indicia of ownership on the property;

(iv) the weight of the property, if the payment is based on weight;

(v) any other unique identifying feature;

(vi) gold content, if indicated; or

(vii) if multiple articles of property of a similar nature are delivered together in one transaction and the articles of property do not bear serial or model numbers and do not include precious metals or gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) (a) A pawn or secondhand business may not accept property if, upon inspection, it is apparent that:

(i) a serial number or another form of indicia of ownership has been removed, altered, defaced, or obliterated;

(ii) the property is not a numismatic item and has indicia of being new, but is not accompanied by a written receipt or other satisfactory proof of ownership other than the seller's own statement; or

(iii) except as provided in Subsection 13-32a-103.1(3), the property is a gift card, transaction card, or other physical or digital card or certificate evidencing store credit.

(b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or secondhand business is the original seller of the property and is accepting a return of the property as provided by the pawn or secondhand business' established return policy.

(c) Property is presumed to have had indicia of being new at the time of a transaction if the property is subsequently advertised by the pawn or secondhand business as being new.

(3) (a) An individual may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with Title 77, Chapter 24a, Lost or Mislaid Personal Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn or sale.

(4) A coin dealer is subject to Section 13-32a-104.5 and not subject to this section.

(5) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

(6) (a) On and after January 1, 2020:

(i) a pawn or secondhand business shall obtain an electronic legible fingerprint of the individual's

right index finger that can be submitted to the central database at the same time the other information is submitted under this section, or if the right index finger cannot be fingerprinted, an electronic legible fingerprint of the individual with a notation on the ticket identifying the fingerprint and the reason why a right index fingerprint is unavailable; and

(ii) the electronic fingerprint is not required on the ticket.

(b) On and after January 1, 2020, a pawn or secondhand business shall submit an electronic legible fingerprint obtained under Subsection (6)(a) to the central database.

(7) (a) As used in this Subsection (7), "jewelry" means:

(i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry and watches; or

(ii) any jewelry that the pawn or secondhand business is allowed to sell under Subsection 13-32a-109(1), including scrap jewelry and watches.

(b) On and after January 1, 2020, a pawn or secondhand business shall obtain:

(i) a color digital photograph clearly and accurately depicting:

(A) each item of jewelry; and

(B) if an item of jewelry has one or more engravings, an additional color digital photograph specifically depicting any engraving; and

(ii) a color digital photograph of an item that bears an identifying mark, including:

(A) a serial number, engraving, owner label, or similar identifying mark; and

(B) an additional photograph that clearly depicts the identifying mark described in Subsection (7)(b)(ii)(A).

**Section 17. Section 13-32a-110 is amended to read:**

**13-32a-110. Administrative or civil penalties -- Criminal prosecution.**

(1) A violation of any of the following sections is subject to an administrative or civil penalty of not more than \$500:

(a) Section 13-32a-104, ticket required to be maintained;

(b) Section 13-32a-104.5, ticket by coin dealer to be maintained;

(c) Section 13-32a-106, transaction information provided to law enforcement;

(d) Section 13-32a-108, retention of records;

(e) Section 13-32a-109, holding period for pawned or purchased property;

(f) Section 13-32a-110.5, transactions with certain individuals prohibited;

(g) Section 13-32a-111, payment of fees as required; or

(h) Section [~~13-32a-112~~] 13-32a-112.1, training requirements for pawn or secondhand business employees and officers of participating law enforcement agencies.

(2) This section does not prohibit civil action by a governmental entity regarding the pawn or secondhand business' operation or licenses.

(3) The imposition of civil penalties under this section does not prohibit criminal prosecution by a governmental entity for criminal violations of this chapter.

**Section 18. Section 13-32a-111 is amended to read:**

**13-32a-111. Fees to fund account.**

(1) (a) A pawn or secondhand business in operation shall pay an annual fee, no more than \$500, set in accordance with Section 63J-1-504.

(b) A law enforcement agency within Utah that participates in the use of the central database shall pay an annual fee set in accordance with Section 63J-1-504.

(c) A law enforcement agency outside Utah that requests access to the central database shall pay an annual fee set in accordance with Section 63J-1-504.

(2) A fee paid under Subsection (1) shall be paid annually to the division on or before January 31.

(3) A fee received by the division under this section shall be deposited into the account.

(4) The division may only increase fees for a [~~pawnshop~~] pawn or secondhand business under Section 63J-1-504.

**Section 19. Section 13-32a-112 is amended to read:**

**13-32a-112. Pawnshop and Secondhand Merchandise Advisory Board.**

(1) There is created within the division the "Pawnshop and Secondhand Merchandise Advisory Board."

(2) The board consists of seven voting members appointed by the executive director of the Department of Commerce:

(a) one law enforcement officer whose work regularly involves pawn or secondhand business, recommended by the Utah Chiefs of Police Association;

(b) one law enforcement officer whose work regularly involves pawn or secondhand business, recommended by the Utah Sheriffs Association;

(c) one state, county, or municipal prosecutor, recommended by a prosecutors' association or council;

(d) one pawnbroker, recommended by the pawn industry;

(e) one secondhand merchandise dealer, recommended by the secondhand merchandise industry;

(f) one coin dealer, recommended by the Utah Coin Dealers Association; and

(g) one representative from the pawn or secondhand merchandise industry at large, recommended by the pawn or secondhand merchandise industry.

(3) After receiving a recommendation for a member by a respective association, council, or industry for the board, the executive director may:

(a) decline the recommendation; and

(b) request another recommendation from the respective association, council, or industry.

(4) (a) A member of the board shall be appointed to a term of not more than four years, and may be reappointed upon expiration of the member's term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director of the Department of Commerce shall, at the time of appointments or reappointments, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the executive director of the Department of Commerce shall appoint a member for the unexpired term.

(d) The executive director of the Department of Commerce may remove a member and replace the member in accordance with this section for the following reasons:

(i) the member fails or refuses to fulfill the duties of a board member, including attendance at board meetings; or

(ii) the member, an entity owned by the member, an entity that the member is employed by, or an entity that the member is representing, engages in a violation of this chapter or Section 76-6-408.

(e) Notwithstanding Subsection (4)(d), members of the board as of May 13, 2019, are removed from the board and the executive director of the Department of Commerce shall appoint the board members in accordance with this section.

(5) (a) The board shall elect one voting member as the chair of the board by a majority of the members present at the board's first meeting each year.

(b) The chair shall preside over the board for a period of one year.

(c) The board shall meet quarterly upon the call of the chair.

(d) A quorum of five members is required for the board to take action. An action taken by majority of a quorum present at a meeting constitutes an action of the board.

(6) (a) The duties and powers of the board include the following:

(i) recommending to the division appropriate rules regarding the administration and enforcement of this chapter;

(ii) recommending to the division changes related to the central database; and

(iii) advising the division on matters related to the pawn and secondhand merchandise industries.

(b) This Subsection (6) does not require the board's approval to act on a rule or amend this chapter.

(7) A pawn or secondhand business may file with the board complaints regarding law enforcement agency practices perceived to be inconsistent with this chapter. The board may refer the complaints to the Peace Officers Standards and Training Division.

**Section 20. Section 16-6a-1008.7 is amended to read:**

**16-6a-1008.7. Conversion to or from a domestic limited liability company.**

(1) (a) A domestic nonprofit corporation may convert to a domestic limited liability company subject to [~~Title 48, Chapter 2e, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, [~~as appropriate~~] pursuant to Section 48-3a-1405, by complying with:

(i) this Subsection (1); and

(ii) Section [~~48-2e-1401 or~~] 48-3a-1041.

(b) If a domestic nonprofit corporation converts to a domestic limited liability company in accordance with this Subsection (1), the articles of conversion or statement of conversion, as applicable, shall:

(i) comply with [~~Section 48-2e-1402 or~~] Sections 48-3a-1042 and 48-3a-1045; and

(ii) if the corporation has any members, provide for:

(A) the cancellation of any membership; or

(B) the conversion of any membership in the domestic nonprofit corporation to a membership interest in the domestic limited liability company.

(c) Before articles of conversion or statement of conversion may be filed with the division, the conversion shall be approved:

(i) in the manner provided for the articles of incorporation or bylaws of the domestic nonprofit corporation; or

(ii) if the articles of incorporation or bylaws of the domestic nonprofit corporation do not provide the method for approval:

(A) if the domestic nonprofit corporation has voting members, by all of the members of the domestic nonprofit corporation regardless of limitations or restrictions on the voting rights of the members; or

(B) if the nonprofit domestic corporation does not have voting members, by a majority of:

(I) the directors in office at the time the conversion is approved by the board of directors; or

(II) if directors have not been appointed or elected, the incorporators.

(2) A domestic limited liability company may convert to a domestic nonprofit corporation subject to this chapter by:

(a) filing articles of incorporation in accordance with this chapter; and

(b) complying with Section [~~48-2e-1406 or~~] 48-3a-1041, [~~as appropriate~~] pursuant to Section 48-3a-1405.

(3) Any conversion under this section may not result in a violation, directly or indirectly, of:

(a) Section 16-6a-1301; or

(b) any other provision of this chapter.

**Section 21. Section 17-27a-602 is amended to read:**

**17-27a-602. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.**

(1) A planning commission shall:

(a) review and provide a recommendation to the legislative body on any proposed ordinance that regulates the subdivision of land in the [~~municipality~~] county;

(b) review and make a recommendation to the legislative body on any proposed ordinance that amends the regulation of the subdivision of the unincorporated land in the county or, in the case of a mountainous planning district, the mountainous planning district;

(c) provide notice consistent with Section 17-27a-205; and

(d) hold a public hearing on the proposed ordinance before making the planning commission's final recommendation to the legislative body.

(2) (a) A legislative body may adopt, modify, revise, or reject an ordinance described in Subsection (1) that the planning commission recommends.

(b) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

**Section 22. Section 17-27a-604.5 is amended to read:**

**17-27a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.**

(1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement.

(2) (a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required landscaping or infrastructure improvements; or

(ii) post an improvement completion assurance for any required landscaping or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:

(i) completion of 100% of the required landscaping or infrastructure improvements; or

(ii) if the county has inspected and accepted a portion of the landscaping or infrastructure improvements, 100% of the incomplete or unaccepted landscaping or infrastructure improvements.

(c) A county shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section 17-27a-802 based on the installation of landscaping or infrastructure improvements.

(d) A county may not require an applicant to post an improvement completion assurance for:

(i) landscaping or an infrastructure improvement that the county has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; or

(iii) in a [municipality] county where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the [municipality] county requires to be private.

(3) At any time before a county accepts a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

(i) county engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) When a county accepts an improvement completion assurance for landscaping or infrastructure improvements for a development in accordance with Subsection (2)(c)(ii), the county may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(5) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

**Section 23. Section 17-50-335 is amended to read:**

**17-50-335. Energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure.**

A county may provide or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section ~~[11-42-102]~~ 11-42a-102, in a designated voluntary assessment area in accordance with Title 11, Chapter ~~[42, Assessment Area Act]~~ 42a, Commercial Property Assessed Clean Energy Act.

**Section 24. Section 17B-1-202 is amended to read:**

**17B-1-202. Local district may be created -- Services that may be provided -- Limitations.**

(1) (a) A local district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;



(x) the construction and maintenance of a right-of-way, including:

- (A) a curb;
- (B) a gutter;
- (C) a sidewalk;
- (D) a street;
- (E) a road;
- (F) a water line;
- (G) a sewage line;
- (H) a storm drain;
- (I) an electricity line;
- (J) a communications line;
- (K) a natural gas line; or
- (L) street lighting;

(xi) transportation, including public transit and providing streets and roads;

(xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

(xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

(xiv) law enforcement service;

(xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

(xvi) the control or abatement of earth movement or a landslide;

(xvii) the operation of animal control services and facilities; or

(xviii) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section ~~[11-42-102]~~ 11-42a-102, in accordance with Title 11, Chapter ~~[42, Assessment Area Act]~~ 42a, Commercial Property Assessed Clean Energy Act.

(b) Each local district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a local district in a critical management area as defined in Section 73-5-15

following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A local district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a local district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii) (A) A local district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the local district is subject to Section 73-1-4.

(v) A local district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) For purposes of this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3) (a) A local district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a local district from providing more than four services if, before April 30, 2007, the local district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a local district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a local district does not provide the same service as

another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

- (i) sewage system; or
- (ii) water system.

(5) (a) Except for a local district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a local district need not be contiguous.

(6) For a local district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

- (a) paramedic service; and
- (b) emergency service, including hazardous materials response service.

(7) A local district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A local district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A local district may not be created under this chapter for two years after the date on which a local district is dissolved as provided in Section 17B-1-217 if the local district proposed for creation:

- (a) provides the same or a substantially similar service as the dissolved local district; and
- (b) is located in substantially the same area as the dissolved local district.

**Section 25. Section 17B-2a-1207 is amended to read:**

**17B-2a-1207. Public infrastructure district bonds.**

(1) A public infrastructure district may issue negotiable bonds for the purposes described in Section 17B-2a-1206, as provided in, as applicable:

- (a) Title 11, Chapter 14, Local Government Bonding Act;
  - (b) Title 11, Chapter 27, Utah Refunding Bond Act;
  - (c) Title 11, Chapter 42, Assessment Area Act; and
  - (d) this section.
- (2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4)(a)(xii); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in denominations of not less than \$500,000, and in integral multiples above \$500,000 of not less than \$1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public ~~improvement~~ infrastructure district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under this

Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17B-2a-1209.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

**Section 26. Section 17D-1-103 is amended to read:**

**17D-1-103. Special service district status, powers, and duties -- Registration as a limited purpose entity -- Limitation on districts providing jail service.**

(1) A special service district:

(a) is:

(i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A special service district may:

(a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;

(b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:

(i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a local district, another special service district, or any other political subdivision of the state; or

(ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;

(c) acquire or construct facilities;

(d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

(e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;

(f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;

(g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the special service district's property or assets, including water and water rights;

(h) accept a government grant or loan and comply with the conditions of the grant or loan;

(i) use an officer, employee, property, equipment, office, or facility of the county or municipality that

created the special service district, subject to reimbursement as provided in Subsection [(3)] (4);

(j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;

(k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;

(l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;

(m) borrow money and incur indebtedness;

(n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:

(i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;

(ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;

(iii) bonds payable from both taxes and revenues;

(iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;

(v) tax anticipation notes;

(vi) bond anticipation notes;

(vii) refunding bonds;

(viii) special assessment bonds; and

(ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;

(o) except as provided in Subsection (5), impose fees or charges or both for commodities, services, or facilities that the special service district provides;

(p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;

(q) provide other services that the governing body determines will more effectively carry out the purposes of the special service district; and

(r) adopt an official seal for the special service district.

(3) (a) Each special service district shall register and maintain the special service district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A special service district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(4) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.

(5) (a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection (5)(a) may not be construed to limit a special service district that provides jail service from:

(i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or

(ii) receiving compensation for jail service it provides under a contract described in Subsection (5)(b)(i).

**Section 27. Section 17D-1-201 is amended to read:**

**17D-1-201. Services that a special service district may be created to provide.**

As provided in this part, a county or municipality may create a special service district to provide any combination of the following services:

(1) water;

(2) sewerage;

(3) drainage;

(4) flood control;

(5) garbage collection and disposal;

(6) health care;

(7) transportation, including the receipt of federal secure rural school funds under Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public roads;

(8) recreation;

(9) fire protection, including:

(a) emergency medical services, ambulance services, and search and rescue services, if fire protection service is also provided;

(b) Firewise Communities programs and the development of community wildfire protection plans; and

(c) the receipt of federal secure rural school funds as provided under Section 51-9-603 for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9);

(10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;

(11) street lighting;

(12) consolidated 911 and emergency dispatch;

(13) animal shelter and control;

(14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to provide construction and maintenance of public facilities, traditional governmental services, and planning, as a means for mitigating impacts from extractive mineral industries;

(15) in a county of the first class, extended police protection;

(16) control or abatement of earth movement or a landslide;

(17) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section ~~[11-42-102]~~ 11-42a-102, in accordance with Title 11, Chapter ~~[42, Assessment Area Act]~~ 42a, Commercial Property Assessed Clean Energy Act; or

(18) cemetery.

**Section 28. Section 19-1-404 is amended to read:**

**19-1-404. Department duties -- Rulemaking -- Loan repayment.**

(1) The department shall:

(a) administer the fund created in Section 19-1-403 to encourage government officials and private sector business vehicle owners and operators to obtain and use clean fuel vehicles; and

(b) by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(i) specifying the amount of money in the fund to be dedicated annually for grants;

~~[(ii) limiting the amount of a grant given to any person claiming a tax credit under Section 59-7-605 or 59-10-1009 for the motor vehicle for which a grant is requested to assure that the sum of the tax credit and grant does not exceed:]~~

~~[(A) 50% of the incremental cost of the OEM vehicle; or]~~

~~[(B) 50% of the cost of conversion equipment;]~~

~~[(iii)]~~ (ii) limiting the number of motor vehicles per fleet operator that may be eligible for a grant in a year;

~~[(iv)]~~ (iii) specifying criteria the department shall consider in prioritizing and awarding loans and grants;

~~[(v)]~~ (iv) specifying repayment periods;

~~[(vi)]~~ (v) specifying procedures for:

(A) awarding loans and grants; and

(B) collecting loans; and

~~[(vii)]~~ (vi) requiring all loan and grant applicants to:

(A) apply on forms provided by the department;

(B) agree in writing to use the clean fuel for which each vehicle is converted or purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled beginning from the time of conversion or purchase of the vehicle;

(C) agree in writing to notify the department if a vehicle converted or purchased using loan or grant proceeds becomes inoperable through mechanical failure or accident and to pursue a remedy outlined in department rules;

(D) provide reasonable data to the department on a vehicle converted or purchased with loan or grant proceeds; and

(E) submit a vehicle converted or purchased with loan or grant proceeds to inspections by the department as required in department rules and as necessary for administration of the loan and grant program.

(2) (a) When developing repayment schedules for the loans, the department shall consider the projected savings from use of the clean vehicle.

(b) A repayment schedule may not exceed 10 years.

(c) The department shall make a loan from the fund for a private sector vehicle at an interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing date of the loan.

(d) The department shall make a loan from the fund for a government vehicle with no interest rate.

(3) The Division of Finance shall:

(a) collect and account for the loans; and

(b) have custody of all loan documents, including all notes and contracts, evidencing the indebtedness of the fund.

**Section 29. Section 19-2-104 is amended to read:**

**19-2-104. Powers of board.**

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source;

(b) establishing air quality standards;

(c) requiring persons engaged in operations that result in air pollution to:

(i) install, maintain, and use emission monitoring devices, as the board finds necessary;

(ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air pollutant; and

(iii) provide access to records relating to emissions which cause or contribute to air pollution;

(d) (i) implementing:

(A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(B) 40 C.F.R. Part 763, Asbestos; and

(C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos; and

(ii) reviewing and approving asbestos management plans submitted by local education agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;

(f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;

(g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;

(h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2);

(i) implementing lead-based paint training, certification, and performance requirements in accordance with 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406; and

(j) to implement the requirements of Section 19-2-107.5.

(2) When implementing Subsection (1)(h) the board shall take into consideration:

(a) the impact of the business on overall air quality; and

(b) the need of the business to use automobiles in order to carry out its business purposes.

(3) (a) The board may:

(i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or matter in, the administration of this chapter;

(ii) recommend that the director:

(A) issue orders necessary to enforce the provisions of this chapter;

(B) enforce the orders by appropriate administrative and judicial proceedings;

(C) institute judicial proceedings to secure compliance with this chapter; or

(D) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, or interested persons or groups; and

(iii) establish certification requirements for asbestos project monitors, which shall provide for experience-based certification of a person who:

(A) receives relevant asbestos training, as defined by rule; and

(B) has acquired a minimum of 1,000 hours of asbestos project monitoring related work experience.

(b) The board shall:

(i) to ensure compliance with applicable statutes and regulations:

(A) review a settlement negotiated by the director in accordance with Subsection 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

(B) approve or disapprove the settlement;

(ii) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(iii) meet the requirements of federal air pollution laws;

(iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish work practice and certification requirements for persons who:

(A) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections if:

(I) the contract work is done on a site other than a residential property with four or fewer units; or

(II) the contract work is done on a residential property with four or fewer units where a tested sample contained greater than 1% of asbestos;

(B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general public has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;

(C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

(D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

(v) establish certification requirements for a person required under 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as an inspector, management planner, abatement project designer, asbestos abatement contractor and supervisor, or an asbestos abatement worker;

~~[(vi) establish certification procedures and requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax credit granted in Section 59-7-605 or 59-10-1009;]~~

~~[(vii)]~~ (vi) establish certification requirements for a person required under 15 U.S.C. 2601 et seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust sampling technician; and

~~[(viii)]~~ (vii) assist the State Board of Education in adopting school bus idling reduction standards and implementing an idling reduction program in accordance with Section 41-6a-1308.

(4) A rule adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.

(6) (a) The board may not require testing for asbestos or related materials on a residential property with four or fewer units, unless:

(i) the property's construction was completed before January 1, 1981; or

(ii) the testing is for:

(A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos fiber;

(B) asbestos cement siding or roofing materials;

(C) resilient flooring products including vinyl asbestos tile, sheet vinyl products, resilient flooring backing material, whether attached or unattached, and mastic;

(D) thermal-system insulation or tape on a duct or furnace; or

(E) vermiculite type insulation materials.

(b) A residential property with four or fewer units is subject to an abatement rule made under Subsection (1) or (3)(b)(iv) if:

(i) a sample from the property is tested for asbestos; and

(ii) the sample contains asbestos measuring greater than 1%.

(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-2-107 or 19-2-108:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

(9) Notwithstanding Subsection (7), the board may exercise all authority granted to the board by a federally enforceable state implementation plan.

**Section 30. Section 19-6-102.1 is amended to read:**

**19-6-102.1. Treatment and disposal -- Exclusions.**

As used in Subsections ~~[19-6-104(3)(e)(ii)(B),]~~ 19-6-108(3)(b), 19-6-108(3)(c)(ii)(B), and 19-6-119(1)(a), the term "treatment ~~[and]~~ or disposal" specifically excludes the recycling, use, reuse, or reprocessing of fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; waste from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust, including recycle, reuse, use, or reprocessing for road sanding, sand blasting, road construction, railway ballast, construction fill, aggregate, and other construction-related purposes.

**Section 31. Section 19-6-104 is amended to read:**

**19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

(1) The board may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;

(b) recommend that the director:

(i) issue orders necessary to enforce the provisions of the Radiation Control Act;

(ii) enforce the orders by appropriate administrative and judicial proceedings; or

(iii) institute judicial proceedings to secure compliance with this part;

(c) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

(d) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of the Radiation Control Act; or

(e) order the director to impound radioactive material in accordance with Section 19-3-111.

(2) (a) The board shall promote the planning and application of pollution prevention and radioactive waste minimization measures to prevent the unnecessary waste and depletion of natural resources; and

(b) review the qualifications of, and issue certificates of approval to, individuals who:

(i) survey mammography equipment; or

(ii) oversee quality assurance practices at mammography facilities.

(3) The board shall:

(a) survey solid and hazardous waste generation and management practices within this state and, after public hearing and after providing opportunities for comment by local governmental entities, industry, and other interested persons, prepare and revise, as necessary, a waste management plan for the state;

(b) order the director to:

(i) issue orders necessary to effectuate the provisions of this part and rules made under this part;

(ii) enforce the orders by administrative and judicial proceedings; or

(iii) initiate judicial proceedings to secure compliance with this part;

(c) promote the planning and application of resource recovery systems to prevent the unnecessary waste and depletion of natural resources;

(d) meet the requirements of federal law related to solid and hazardous wastes to insure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste;

(e) (i) require any facility, including those listed in Subsection (3)(e)(ii), to submit plans, specifications, and other information required by the board to the director prior to construction, modification, installation, or establishment of a facility to allow the director to determine whether the proposed construction, modification, installation, or establishment of the facility will be in accordance with rules made under this part;

(ii) facilities referred to in Subsection (3)(e)(i) include any incinerator that is intended for disposing of nonhazardous solid waste; ~~and~~

(iii) a facility referred to in Subsection (3)(e)(i) does not include a commercial facility that is solely

for the purpose of recycling, reuse, or reprocessing the following waste:

(A) fly ash waste;

(B) bottom ash waste;

(C) slag waste; or

(D) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; and

(iv) a facility referred to in Subsection (3)(e)(i) does not include a facility when the following waste is generated and the disposal occurs at an on-site location owned and operated by the generator of the waste:

(A) waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. 261.4(b)(7)(ii); or

(B) cement kiln dust;

(f) to ensure compliance with applicable statutes and regulations:

(i) review a settlement negotiated by the director in accordance with Subsection 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

(ii) approve or disapprove the settlement.

(4) The board may:

(a) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding; or

(b) advise, consult, cooperate with, or provide technical assistance to other agencies of the state or federal government, other states, interstate agencies, or affected groups, political subdivisions, industries, or other persons in carrying out the purposes of this part.

(5) (a) The board shall establish a comprehensive statewide waste management plan.

(b) The plan shall:

(i) incorporate the solid waste management plans submitted by the counties;

(ii) provide an estimate of solid waste capacity needed in the state for the next 20 years;

(iii) assess the state's ability to minimize waste and recycle;

(iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste needs and existing capacity;

(v) evaluate facility siting, design, and operation;

(vi) review funding alternatives for solid waste management; and

(vii) address other solid waste management concerns that the board finds appropriate for the preservation of the public health and the environment.



(c) The board shall consider the economic viability of solid waste management strategies prior to incorporating them into the plan and shall consider the needs of population centers.

(d) The board shall review and modify the comprehensive statewide solid waste management plan no less frequently than every five years.

(6) (a) The board shall determine the type of solid waste generated in the state and tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid waste management plan.

(b) The board shall review and modify the inventory no less frequently than once every five years.

(7) Subject to the limitations contained in Subsection 19-6-102(18)(b), the board shall establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.

(8) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-6-107:

- (a) a permit;
- (b) a license;
- (c) a registration;
- (d) a certification; or

(e) another administrative authorization made by the director.

(9) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

**Section 32. Section 19-6-715 is amended to read:**

**19-6-715. Recycling fee collection procedures.**

(1) A lubricating oil vendor shall pay the fee collected under Section 19-6-714 to the commission:

(a) monthly on or before the last day of the month immediately following the last day of the previous month if:

(i) the lubricating oil vendor is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(ii) the lubricating oil vendor is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the lubricating oil vendor is required to file a sales and use tax return with the commission quarterly under Section ~~59-12-108~~ 59-12-107.

(2) A lubricating oil vendor may retain a maximum of 2% of the recycling fee it collects under Section 19-6-714 for the costs of collecting the fee.

(3) The payment of the fee to the commission shall be accompanied by a form provided by the commission.

**Section 33. Section 19-6-808 is amended to read:**

**19-6-808. Payment of recycling fee -- Administrative charge.**

(1) A tire retailer shall pay the recycling fee to the commission:

(a) monthly on or before the last day of the month immediately following the last day of the previous month if:

(i) the tire retailer is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(ii) the tire retailer is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the tire retailer is required to file a sales and use tax return with the commission quarterly under Section ~~59-12-108~~ 59-12-107.

(2) The payment shall be accompanied by a form prescribed by the commission.

(3) (a) The proceeds of the fee shall be transferred by the commission to the fund for payment of partial reimbursement.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a fee under Section 19-6-805.

(4) (a) The commission shall administer, collect, and enforce the fee authorized under this part in accordance with the same procedures used in the administration, collection, and enforcement of the state sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, and Title 59, Chapter 1, General Taxation Policies.

(b) A tire retailer may retain 2-1/2% of the recycling fee collected under this part for the cost of collecting the fee.

(c) The exemptions provided in Section 59-12-104 do not apply to this part.

(5) The fee imposed by this part is in addition to all other state, county, or municipal fees and taxes imposed on the sale of new tires.

**Section 34. Section 20A-1-102 is amended to read:**

**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) “Automatic tabulating equipment” means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) “Ballot” means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter’s votes.

(b) “Ballot” includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) “Ballot label” means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(5) “Ballot proposition” means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) “Ballot sheet”:

(a) means a ballot that:

(i) consists of paper or a card where the voter’s votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) “Bind,” “binding,” or “bound” means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) “Board of canvassers” means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) “Bond election” means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) “Book voter registration form” means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.

(12) “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(20) “County officers” means those county officers that are required by law to be elected.

(21) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(22) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303 or Chapter [1] 4, Part 6, [~~Election Offenses—Generally~~] Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(23) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(24) “Election Assistance Commission” means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(25) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(26) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(27) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(28) "Election official" means any election officer, election judge, or poll worker.

(29) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(30) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(31) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(32) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(33) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(34) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

(35) "Judicial office" means the office filled by any judicial officer.

(36) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(37) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(38) "Local district officers" means those local district board members that are required by law to be elected.

(39) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(40) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(41) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(42) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(43) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(44) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(45) "Municipal office" means an elective office in a municipality.

(46) "Municipal officers" means those municipal officers that are required by law to be elected.

(47) "Municipal primary election" means an election held to nominate candidates for municipal office.

(48) "Municipality" means a city, town, or metro township.

(49) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(50) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(51) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(52) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(53) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(54) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(55) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(56) "Polling place" means the building where voting is conducted.

(57) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(58) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(59) "Primary convention" means the political party conventions held during the year of the regular general election.

(60) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(61) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(62) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(63) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(64) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(65) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(66) "Registration form" means a book voter registration form and a by-mail voter registration form.

(67) "Regular ballot" means a ballot that is not a provisional ballot.

(68) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(69) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(70) "Resident" means a person who resides within a specific voting precinct in Utah.

(71) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(72) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the

ballot for one or more candidates who are members of different political parties or who are unaffiliated.

(73) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(74) "Special election" means an election held as authorized by Section 20A-1-203.

(75) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

(76) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(77) "Stub" means the detachable part of each ballot.

(78) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(79) "Ticket" means a list of:

- (a) political parties;
- (b) candidates for an office; or
- (c) ballot propositions.

(80) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(81) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(82) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

- (A) the state; or
- (B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (82)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

- (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid social security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;
- (vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(83) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(84) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(85) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(86) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(87) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots,

including the voting machine enclosure or curtain;  
or

(b) a voting device that is free standing.

(88) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(89) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(90) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(91) "Watcher" means an individual who complies with the requirements described in Section 20A-3-201 to become a watcher for an election.

(92) "Write-in ballot" means a ballot containing any write-in votes.

(93) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

**Section 35. Section 20A-3-302 is amended to read:**

**20A-3-302. Conducting election by absentee ballot.**

(1) (a) Notwithstanding Section 17B-1-306, an election officer may administer an election by absentee ballot under this section.

(b) An election officer who administers an election by absentee ballot, except for an election conducted under Section 20A-7-609.5, shall, before the following dates, notify the lieutenant governor that the election will be administered by absentee ballot:

(i) February 1 of an even-numbered year if the election is a regular general election; or

(ii) May 1 of an odd-numbered year if the election is a municipal general election.

(2) An election officer who administers an election by absentee ballot:

(a) shall mail to each active voter within a voting precinct:

(i) an absentee ballot;

(ii) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote;

(iii) a courtesy reply mail envelope;

(iv) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election; and

(b) may not mail an absentee ballot under this section to:

(i) an inactive voter; or

(ii) a voter whom the election officer is prohibited from sending an absentee ballot under Subsection (8)(c)(ii).

(3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.

(4) An election officer who administers an election by absentee ballot shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(5) Upon receipt of a returned absentee ballot, the election officer shall review and process the ballot under Section 20A-3-308.

(6) A county that administers an election by absentee ballot:

(a) shall provide at least one election day voting center in accordance with Chapter 3, Part 7, Election Day Voting Center, for every 5,000 active voters in the county who will not receive an absentee ballot, but not fewer than one election day voting center;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section [~~20A-6-301~~] 20A-3-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date

of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3-604;

(d) is not required to pay return postage for an absentee ballot; and

(e) is subject to an audit conducted under Subsection (7).

(7) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (7)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (7) on the lieutenant governor's website.

(8) (a) An individual in a jurisdiction that conducts an election by absentee ballot may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (8)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive an absentee ballot in that election.

(c) An election officer who receives a request from an individual under Subsection (8)(a):

(i) shall remove the individual's name from the list of voters who will receive an absentee ballot; and

(ii) may not send the individual an absentee ballot for:

(A) the next election, if the individual submits the request described in Subsection (8)(a) before the deadline described in Subsection (8)(b); or

(B) an election after the election described in Subsection (8)(c)(ii)(A).

(d) An individual who submits a request under Subsection (8)(a) may resume the individual's receipt of an absentee ballot in an election conducted under this section by filing an absentee ballot request under Section 20A-3-304.

**Section 36. Section 20A-7-402 is amended to read:**

**20A-7-402. Local voter information pamphlet -- Contents -- Limitations -- Preparation -- Statement on front cover.**

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter

information pamphlet that complies with the requirements of this part.

(2) (a) Within the time requirements described in Subsection (2)(c)(i), a municipality that is subject to a special local ballot proposition shall provide a notice that complies with the requirements of Subsection (2)(c)(ii) to the municipality's residents by:

(i) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including the notice with a newsletter, utility bill, or other material;

(ii) posting the notice, until after the deadline described in Subsection (2)(d) has passed, on:

(A) the Utah Public Notice Website created in Section 63F-1-701; and

(B) the home page of the municipality's website, if the municipality has a website; and

(iii) sending the notice electronically to each individual in the municipality for whom the municipality has an email address.

(b) A county that is subject to a special local ballot proposition shall:

(i) send an electronic notice that complies with the requirements of Subsection (2)(c)(ii) to each individual in the county for whom the county has an email address; or

(ii) until after the deadline described in Subsection (2)(d) has passed, post a notice that complies with the requirements of Subsection (2)(c)(ii) on:

(A) the Utah Public Notice Website created in Section 63F-1-701; and

(B) the home page of the county's website.

(c) A municipality or county that mails, sends, or posts a notice under Subsection (2)(a) or (b) shall:

(i) mail, send, or post the notice:

(A) not less than 90 days before the date of the election at which a special local ballot proposition will be voted upon; or

(B) if the requirements of Subsection (2)(c)(i)(A) cannot be met, as soon as practicable after the special local ballot proposition is approved to be voted upon in an election; and

(ii) ensure that the notice contains:

(A) the ballot title for the special local ballot proposition;

(B) instructions on how to file a request under Subsection (2)(d); and

(C) the deadline described in Subsection (2)(d).

(d) To prepare a written argument for or against a special local ballot proposition, an eligible voter shall file a request with the election officer before 5 p.m. no later than 55 days before the day of the election at which the special local ballot proposition is to be voted on.

(e) If more than one eligible voter requests the opportunity to prepare a written argument for or against a special local ballot proposition, the election officer shall make the final designation in accordance with the following order of priority:

(i) sponsors have priority in preparing an argument regarding a special local ballot proposition; and

(ii) members of the local legislative body have priority over others if a majority of the local legislative body supports the written argument.

(f) The election officer shall grant a request described in Subsection (2)(d) or (e) no later than 67 days before the day of the election at which the ballot proposition is to be voted on.

(g) (i) A sponsor of a special local ballot proposition may prepare a written argument in favor of the special local ballot proposition.

(ii) Subject to Subsection (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection (2)(d) may prepare a written argument against the special local ballot proposition.

(h) An eligible voter who submits a written argument under this section in relation to a special local ballot proposition shall:

(i) ensure that the written argument does not exceed 500 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv);

(ii) list, at the end of the argument, at least one, but no more than five, names as sponsors;

(iii) submit the written argument to the election officer before 5 p.m. no later than 60 days before the election day on which the ballot proposition will be submitted to the voters;

(iv) list in the argument, immediately after the eligible voter's name, the eligible voter's residential address; and

(v) submit with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

(i) An election officer shall refuse to accept and publish an argument submitted after the deadline described in Subsection (2)(h)(iii).

(3) (a) An election officer who timely receives the written arguments in favor of and against a special local ballot proposition shall, within one business day after the day on which the election office receives both written arguments, send, via mail or email:

(i) a copy of the written argument in favor of the special local ballot proposition to the eligible voter who submitted the written argument against the special local ballot proposition; and

(ii) a copy of the written argument against the special local ballot proposition to the eligible voter who submitted the written argument in favor of the special local ballot proposition.

(b) The eligible voter who submitted a timely written argument in favor of the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument against the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection [(3)] (2)(h)(ii) or (iv); and

(iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely written argument against the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument in favor of the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection [(3)] (2)(h)(ii) or (iv); and

(iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a written rebuttal argument in relation to a special local ballot proposition that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4) (a) Except as provided in Subsection (4)(b), in relation to a special local ballot proposition:

(i) an eligible voter may not modify a written argument or a written rebuttal argument after the eligible voter submits the written argument or written rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify a written argument or a written rebuttal argument.

(b) The election officer, and the eligible voter who submits a written argument or written rebuttal argument in relation to a special local ballot proposition, may jointly agree to modify a written argument or written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written argument or written rebuttal argument in relation to a special local ballot proposition if the eligible voter who submits the written argument or written rebuttal argument fails to negotiate, in good faith, to modify the written argument or written rebuttal argument in accordance with Subsection (4)(b).



(5) In relation to a special local ballot proposition, an election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) Sponsors whose written argument in favor of a standard local ballot proposition is included in a proposition information pamphlet under Section 20A-7-401.5:

(a) may, if a written argument against the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(b) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(c) shall submit the written rebuttal argument no later than 45 days before the election day on which the standard local ballot proposition will be submitted to the voters.

(7) (a) A county or municipality that submitted a written argument against a standard local ballot proposition that is included in a proposition information pamphlet under Section 20A-7-401.5:

(i) may, if a written argument in favor of the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(b) If a county or municipality submits more than one written rebuttal argument under Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments, giving preference to a written rebuttal argument submitted by a member of a local legislative body.

(8) (a) An election officer shall refuse to accept and publish a written rebuttal argument that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

(b) Before an election officer publishes a local voter information pamphlet under this section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An election officer who receives a written rebuttal argument described in this section may not, before publishing the local voter information pamphlet described in this section, disclose the written rebuttal argument, or any information contained in the written rebuttal argument, to any person who may in any way be involved in preparing an opposing rebuttal argument.

(9) (a) Except as provided in Subsection (9)(b), a person may not modify a written rebuttal argument after the written rebuttal argument is submitted to the election officer.

(b) The election officer, and the person who submits a written rebuttal argument, may jointly agree to modify a written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written rebuttal argument if the person who submits the written rebuttal argument:

(i) fails to negotiate, in good faith, to modify the written rebuttal argument in accordance with Subsection (9)(b); or

(ii) does not timely submit the written rebuttal argument to the election officer.

(d) An election officer shall make a good faith effort to negotiate a modification described in Subsection (9)(b) in an expedited manner.

(10) An election officer may designate another person to take the place of a person who submits a written rebuttal argument in relation to a standard local ballot proposition if the person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the person's duties.

(11) (a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate and the legal impact statement prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

**"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."**

(12) (a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the written arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed written arguments:

**"The arguments for or against a ballot proposition are the opinions of the authors.";**

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 days before, but not more than 45 days before, the election at which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered voter entitled to vote on the ballot proposition:

- (A) a voter information pamphlet; or
- (B) the notice described in Subsection (12)(c).

(b) (i) If the language of the ballot proposition exceeds 500 words in length, the election officer may summarize the ballot proposition in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection (12)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

**Section 37. Section 26-18-416 is amended to read:**

**26-18-416. Primary Care Network enhancement waiver program.**

(1) As used in this section:

(a) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in this section.

(b) "Federal poverty level" means the poverty guidelines established by the secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).

(c) "Health coverage improvement program" means the same as that term is defined in Section 26-18-411.

(d) "Income eligibility ceiling" means the percentage of federal poverty level:

(i) established by the Legislature in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for coverage in the enhancement waiver program in accordance with this section.

(e) "Optional population" means the optional expansion population under PPACA if the expansion provides coverage for individuals at or above 95% of the federal poverty level.

(f) "Primary Care Network" means the state Primary Care Network program created by the Medicaid primary care network demonstration waiver obtained under Section 26-18-3.

(2) The department shall continue to implement the Primary Care Network program for qualified

individuals under the Primary Care Network program.

(3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with CMS to implement, within the state Medicaid program, the enhancement waiver program described in this section within six months after the day on which:

(i) the division receives a notice from CMS that the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion, will not be approved; or

(ii) the division withdraws the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion.

(b) The division may not apply for a waiver under Subsection (3)(a) while a waiver request under Section 26-18-415, Medicaid waiver expansion, is pending with CMS.

(4) An individual who is eligible for the enhancement waiver program may receive the following benefits under the enhancement waiver program:

(a) the benefits offered under the Primary Care Network program;

(b) diagnostic testing and procedures;

(c) medical specialty care;

(d) inpatient hospital services;

(e) outpatient hospital services;

(f) outpatient behavioral health care, including outpatient substance abuse care; and

(g) for an individual who qualifies for the health coverage improvement program, as approved by CMS, temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(5) An individual is eligible for the enhancement waiver program if, at the time of enrollment:

(a) the individual is qualified to enroll in the Primary Care Network or the health coverage improvement program;

(b) the individual's annual income is below the income eligibility ceiling established by the Legislature under Subsection (1)(d); and

(c) the individual meets the eligibility criteria established by the department under Subsection (6).

(6) (a) Based on available funding and approval from CMS [~~and subject to Subsection (6)(d)~~], the department shall determine the criteria for an individual to qualify for the enhancement waiver program, based on the following priority:

(i) adults in the expansion population, as defined in Section 26-18-411, who qualify for the health coverage improvement program;

(ii) adults with dependent children who qualify for the health coverage improvement program under Subsection 26-18-411(3);

(iii) adults with dependent children who do not qualify for the health coverage improvement program; and

(iv) if funding is available, adults without dependent children.

(b) The number of individuals enrolled in the enhancement waiver program may not exceed 105% of the number of individuals who were enrolled in the Primary Care Network on December 31, 2017.

(c) The department may only use appropriations from the Medicaid Expansion Fund created in Section 26-36b-208 to fund the state portion of the enhancement waiver program.

(7) The department may request a modification of the income eligibility ceiling and the eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the enhancement waiver program, projected enrollment in the enhancement waiver program, costs to the state, and the state budget.

(8) The department may implement the enhancement waiver program by contracting with Medicaid accountable care organizations to administer the enhancement waiver program.

(9) In accordance with Subsections 26-18-411(11) and (12), the department may use funds that have been appropriated for the health coverage improvement program to implement the enhancement waiver program.

(10) If the department expands the state Medicaid program to the optional population, the department:

(a) except as provided in Subsection (11), may not accept any new enrollees into the enhancement waiver program after the day on which the expansion to the optional population is effective;

(b) shall suspend the enhancement waiver program within one year after the day on which the expansion to the optional population is effective; and

(c) shall work with CMS to maintain the waiver for the enhancement waiver program submitted under Subsection (3) while the enhancement waiver program is suspended under Subsection (10)(b).

(11) If, after the expansion to the optional population described in Subsection (10) takes effect, the expansion to the optional population is repealed by either the state or the federal government, the department shall reinstate the enhancement waiver program and continue to accept new enrollees into the enhancement waiver program in accordance with the provisions of this section.

**Section 38. Section 26-19-302 is amended to read:**

**26-19-302. Insurance policies not to deny or reduce benefits of individuals eligible for state medical assistance -- Exemptions.**

(1) A policy of accident or sickness insurance may not contain any provision denying or reducing benefits because services are rendered to an insured or dependent who is eligible for or receiving medical assistance from the state.

(2) An association, corporation, or organization may not deliver, issue for delivery, or renew any subscriber's contract which contains any provisions denying or reducing benefits because services are rendered to a subscriber or dependent who is eligible for or receiving medical assistance from the state.

(3) An association, corporation, business, or organization authorized to do business in this state and which provides or pays for any health care benefits may not deny or reduce benefits because services are rendered to a beneficiary who is eligible for or receiving medical assistance from the state.

(4) Notwithstanding Subsection (1), (2), or (3), the Utah State Public ~~[Employees]~~ Employees' Health Program, administered by the Utah State Retirement Board, is not required to reimburse any agency of state government for custodial care which the agency provides, through its staff or facilities, to members of the Utah State Public ~~[Employees]~~ Employees' Health Program.

**Section 39. Section 26-61a-113 is amended to read:**

**26-61a-113. No effect on use of hemp extract -- Cannabidiol -- Approved drugs.**

(1) Nothing in this chapter prohibits an individual~~[- (a) with a valid hemp extract registration card that the department issues under Section 26-56-103 from possessing, administering, or using hemp extract in accordance with Section 58-37-4.3; or (b)]~~ from purchasing, selling, possessing, or using a cannabidiol product in accordance with Section 4-41-402.

(2) Nothing in this chapter restricts or otherwise affects the prescription, distribution, or dispensing of a product that the United States Food and Drug Administration has approved.

**Section 40. Section 26-61a-301 is amended to read:**

**26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an

applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least \$125,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to

site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after ~~the effective date of this bill~~ September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(a) shall consult with the Department of Agriculture and Food regarding the applicant; and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5).

(6) The department may revoke a license under this part if:

(a) the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis pharmacy makes the same violation of this chapter three times;

(c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; or

(d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

**Section 41. Section 26-61a-602 is amended to read:**

**26-61a-602. State central patient portal medical provider.**

(1) In relation to the state central patient portal:

(a) the department may only employ, as a state central patient portal medical provider:

(i) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

(ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) if the department employs a state central patient portal medical provider, the department shall ensure that a state central patient portal medical provider is available during normal business hours.

(2) A state central patient portal medical provider may:

(a) provide consultations to medical cannabis cardholders and qualified medical providers; and

(b) determine dosing parameters in accordance with Subsection 26-61a-502(5).

**Section 42. Section 26-61a-604 is amended to read:**

**26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.**

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after ~~the effective date of this bill~~ September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times; or

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after ~~the effective date of this bill~~ September 23, 2019, a misdemeanor for drug distribution.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

**Section 43. Section 26-61a-702 is amended to read:**

**26-61a-702. Enforcement -- Fine -- Citation.**

(1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter or an applicable administrative rule:

(i) revoke the medical cannabis pharmacy license;

(ii) refuse to renew the medical cannabis pharmacy license; or

(iii) assess the medical cannabis pharmacy an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or medical cannabis courier agent's violation of this chapter:

(i) revoke the medical cannabis pharmacy agent or medical cannabis courier agent registration card;

(ii) refuse to renew the medical cannabis pharmacy agent or medical cannabis courier agent registration card; or

(iii) assess the medical cannabis pharmacy agent or medical cannabis courier agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or [a] the medical cannabis [courier's license] courier to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or agent registration card; or

(b) suspend, revoke, or place on probation the person's license or agent registration card.

(7) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual violates a provision of this chapter, the individual is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled

Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

**Section 44. Section 30-3-37 is amended to read:**

**30-3-37. Relocation.**

(1) For purposes of this section, "relocation" means moving 150 miles or more from the residence of the other parent.

(2) The relocating parent shall provide 60 days advance written notice of the intended relocation to the other parent. The written notice of relocation shall contain statements affirming the following:

(a) the parent-time provisions in Subsection [(5)] (6) or a schedule approved by both parties will be followed; and

(b) neither parent will interfere with the other's parental rights pursuant to court ordered parent-time arrangements, or the schedule approved by both parties.

(3) The court shall, upon motion of any party or upon the court's own motion, schedule a hearing with notice to review the notice of relocation and parent-time schedule as provided in Section 30-3-35 and make appropriate orders regarding the parent-time and costs for parent-time transportation.

(4) In a hearing to review the notice of relocation, the court shall, in determining if the relocation of a custodial parent is in the best interest of the child, consider any other factors that the court considers relevant to the determination. If the court determines that relocation is not in the best interest of the child, and the custodial parent relocates, the court may order a change of custody.

(5) If the court finds that the relocation is in the best interest of the child, the court shall determine the parent-time schedule and allocate the transportation costs that will be incurred for the child to visit the noncustodial parent. In making its determination, court shall consider:

(a) the reason for the parent's relocation;

(b) the additional costs or difficulty to both parents in exercising parent-time;

(c) the economic resources of both parents; and

(d) other factors the court considers necessary and relevant.

(6) Unless otherwise ordered by the court, upon the relocation, as defined in Subsection (1), of one of the parties the following schedule shall be the minimum requirements for parent-time for children 5 to 18 years of age:

(a) in years ending in an odd number, the child shall spend the following holidays with the noncustodial parent:

(i) Thanksgiving holiday beginning Wednesday until Sunday; and

(ii) Spring break, if applicable, beginning the last day of school before the holiday until the day before school resumes;

(b) in years ending in an even number, the child shall spend the following holidays with the noncustodial parent:

- (i) the entire winter school break period; and
- (ii) the Fall school break beginning the last day of school before the holiday until the day before school resumes;
- (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive weeks. The children should be returned to the custodial home no later than seven days before school begins; however, this week shall be counted when determining the amount of parent-time to be divided between the parents for the summer or off-track period; and
- (d) one weekend per month, at the option and expense of the noncustodial parent.

(7) The court may also set a parent-time schedule for children under the age of five. The schedule shall take into consideration the following:

- (a) the age of the child;
- (b) the developmental needs of the child;
- (c) the distance between the parents' homes;
- (d) the travel arrangements and cost;
- (e) the level of attachment between the child and the noncustodial parent; and
- (f) any other factors relevant to the best interest of the child.

(8) The noncustodial parent's monthly weekend entitlement is subject to the following restrictions.

(a) If the noncustodial parent has not designated a specific weekend for parent-time, the noncustodial parent shall receive the last weekend of each month unless a holiday assigned to the custodial parent falls on that particular weekend. If a holiday assigned to the custodial parent falls on the last weekend of the month, the noncustodial parent shall be entitled to the next to the last weekend of the month.

(b) If a noncustodial parent's extended parent-time or parent-time over a holiday extends into or through the first weekend of the next month, that weekend shall be considered the noncustodial parent's monthly weekend entitlement for that month.

(c) If a child is out of school for teacher development days or snow days after the children begin the school year, or other days not included in the list of holidays in Subsection (6) and those days are contiguous with the noncustodial parent's monthly weekend parent-time, those days shall be included in the weekend parent-time.

(9) The custodial parent is entitled to all parent-time not specifically allocated to the noncustodial parent.

(10) In the event finances and distance preclude the exercise of minimum parent-time for the

noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the children.

(11) Upon the motion of any party, the court may order uninterrupted parent-time with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the court finds it is not in the best interests of the child. If the court orders uninterrupted parent-time during a period not covered by this section, it shall specify in its order which parent is responsible for the child's travel expenses.

(12) Unless otherwise ordered by the court the relocating party shall be responsible for all the child's travel expenses relating to Subsections (6)(a) and (b) and 1/2 of the child's travel expenses relating to Subsection (6)(c), provided the noncustodial parent is current on all support obligations. If the noncustodial parent has been found in contempt for not being current on all support obligations, the noncustodial parent shall be responsible for all of the child's travel expenses under Subsection (6), unless the court rules otherwise. Reimbursement by either responsible party to the other for the child's travel expenses shall be made within 30 days of receipt of documents detailing those expenses.

(13) The court may apply this provision to any preexisting decree of divorce.

(14) Any action under this section may be set for an expedited hearing.

(15) A parent who fails to comply with the notice of relocation in Subsection (2) shall be in contempt of the court's order.

**Section 45. Section 31A-2-218 is amended to read:**

**31A-2-218. Strategic plan for health system reform.**

The commissioner and the department shall:

(1) work with the Governor's Office of Economic Development, the Department of Health, the Department of Workforce Services, and the Legislature to develop health system reform ~~in accordance with the strategic plan described in Title 63N, Chapter 11, Health System Reform Act~~;

(2) work with health insurers in accordance with Section 31A-22-635 to develop standards for health insurance applications and compatible electronic systems;

(3) facilitate a private sector method for the collection of health insurance premium payments made for a single policy by multiple payers, including the policyholder, one or more employers of one or more individuals covered by the policy, government programs, and others by educating employers and insurers about collection services available through private vendors, including financial institutions;

(4) encourage health insurers to develop products that:



(a) encourage health care providers to follow best practice protocols;

(b) incorporate other health care quality improvement mechanisms; and

(c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted by the Health Insurance Portability and Accountability Act;

(5) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as necessary, to accomplish the requirements of this section; and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as necessary, to implement Subsections (2), (3), and (4).

**Section 46. Section 31A-30-106.1 is amended to read:**

**31A-30-106.1. Small employer premiums -- Rating restrictions -- Disclosure.**

(1) Premium rates for small employer health benefit plans under this chapter are subject to this section.

(2) (a) The index rate for a rating period for any class of business may not exceed the index rate for any other class of business by more than 20%.

(b) For a class of business, the premium rates charged during a rating period to covered insureds with similar case characteristics for the same or similar coverage, or the rates that could be charged to an employer group under the rating system for that class of business, may not vary from the index rate by more than 30% of the index rate, except when catastrophic mental health coverage is selected as provided in Subsection 31A-22-625(2)(d).

(3) The percentage increase in the premium rate charged to a covered insured for a new rating period, adjusted pro rata for rating periods less than a year, may not exceed the sum of the following:

(a) the percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period;

(b) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status, or duration of coverage of the covered individuals as determined from the small employer carrier's rate manual for the class of business, except when catastrophic mental health coverage is selected as provided in Subsection 31A-22-625(2)(d); and

(c) any adjustment due to change in coverage or change in the case characteristics of the covered insured as determined for the class of business from the small employer carrier's rate manual.

(4) (a) Adjustments in rates for claims experience, health status, and duration from issue may not be charged to individual employees or dependents.

(b) Rating adjustments and factors, including case characteristics, shall be applied uniformly and consistently to the rates charged for all employees and dependents of the small employer.

(c) Rating factors shall produce premiums for identical groups that:

(i) differ only by the amounts attributable to plan design; and

(ii) do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

(d) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(5) A health benefit plan that uses a restricted network provision may not be considered similar coverage to a health benefit plan that does not use a restricted network provision, provided that use of the restricted network provision results in substantial difference in claims costs.

(6) The small employer carrier may not use case characteristics other than the following:

(a) age of the employee, in accordance with Subsection (7);

(b) geographic area;

(c) family composition in accordance with Subsection (9);

(d) for plans renewed or effective on or after July 1, 2011, gender of the employee and spouse;

(e) for an individual age 65 and older, whether the employer policy is primary or secondary to Medicare; and

(f) a wellness program, in accordance with Subsection (12).

(7) Age limited to:

(a) the following age bands:

(i) less than 20;

(ii) 20-24;

(iii) 25-29;

(iv) 30-34;

(v) 35-39;

(vi) 40-44;

(vii) 45-49;

(viii) 50-54;

(ix) 55-59;

(x) 60-64; and

(xi) 65 and above; and

(b) a standard slope ratio range for each age band, applied to each family composition tier rating structure under Subsection (9)(b):

(i) as developed by the commissioner by administrative rule; and

(ii) not to exceed an overall ratio as provided in Subsection (8).

(8) (a) The overall ratio permitted in Subsection (7)(b)(ii) may not exceed:

(i) 5:1 for plans renewed or effective before January 1, 2012; and

(ii) 6:1 for plans renewed or effective on or after January 1, 2012; and

(b) the age slope ratios for each age band may not overlap.

(9) [~~Except as provided in Subsection 31A-30-207(2), family~~] Family composition is limited to:

(a) an overall ratio of:

(i) 5:1 or less for plans renewed or effective before January 1, 2012; and

(ii) 6:1 or less for plans renewed or effective on or after January 1, 2012; and

(b) a tier rating structure that includes:

(i) four tiers that include:

(A) employee only;

(B) employee plus spouse;

(C) employee plus a child or children; and

(D) a family, consisting of an employee plus spouse, and a child or children;

(ii) for plans renewed or effective on or after January 1, 2012, five tiers that include:

(A) employee only;

(B) employee plus spouse;

(C) employee plus one child;

(D) employee plus two or more children; and

(E) employee plus spouse plus one or more children; or

(iii) for plans renewed or effective on or after January 1, 2012, six tiers that include:

(A) employee only;

(B) employee plus spouse;

(C) employee plus one child;

(D) employee plus two or more children;

(E) employee plus spouse plus one child; and

(F) employee plus spouse plus two or more children.

(10) If a health benefit plan is a health benefit plan into which the small employer carrier is no longer enrolling new covered insureds, the small employer carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change

in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new covered insureds.

(11) (a) A covered carrier may not transfer a covered insured involuntarily into or out of a class of business.

(b) A covered carrier may not offer to transfer a covered insured into or out of a class of business unless the offer is made to transfer all covered insureds in the class of business without regard to:

(i) case characteristics;

(ii) claim experience;

(iii) health status; or

(iv) duration of coverage since issue.

(12) Notwithstanding Subsection (4)(b), a small employer carrier may:

(a) offer a wellness program to a small employer group if:

(i) the premium discount to the employer for the wellness program does not exceed 20% of the premium for the small employer group; and

(ii) the carrier offers the wellness program discount uniformly across all small employer groups;

(b) offer a premium discount as part of a wellness program to individual employees in a small employer group:

(i) to the extent allowed by federal law; and

(ii) if the employee discount based on the wellness program is offered uniformly across all small employer groups; and

(c) offer a combination of premium discounts for the employer and the employee, based on a wellness program, if:

(i) the employer discount complies with Subsection (12)(a); and

(ii) the employee discount complies with Subsection (12)(b).

(13) (a) A small employer carrier shall maintain at the small employer carrier's principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that the small employer carrier's rating methods and practices are:

(i) based upon commonly accepted actuarial assumptions; and

(ii) in accordance with sound actuarial principles.

(b) (i) A small employer carrier shall file with the commissioner on or before April 1 of each year, in a form and manner and containing information as prescribed by the commissioner, an actuarial certification certifying that:

(A) the small employer carrier is in compliance with this chapter; and

(B) the rating methods of the small employer carrier are actuarially sound.

(ii) A copy of the certification required by Subsection (13)(b)(i) shall be retained by the small employer carrier at the small employer carrier's principal place of business.

(c) A small employer carrier shall make the information and documentation described in this Subsection (13) available to the commissioner upon request.

(14) (a) The commissioner shall establish rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) implement this chapter; and

(ii) assure that rating practices used by small employer carriers under this section and carriers for individual plans under Section 31A-30-106 are consistent with the purposes of this chapter.

(b) The rules may:

(i) assure that differences in rates charged for health benefit plans by carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups or individuals assumed to select particular health benefit plans; and

(ii) prescribe the manner in which case characteristics may be used by small employer and individual carriers.

(15) Records submitted to the commissioner under this section shall be maintained by the commissioner as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

**Section 47. Section 31A-30-112 is amended to read:**

**31A-30-112. Employee participation levels.**

(1) (a) For purposes of this section, "participation" ~~[is as]~~ means the same as that term is defined in Section 31A-1-301.

(b) Except as provided in Subsection (2) ~~[and Section 31A-30-206]~~, a requirement used by a covered carrier in determining whether to provide coverage to a small employer, including a participation requirement and a minimum employer contribution requirement, shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the covered carrier.

(2) A covered carrier may not increase a participation requirement or a requirement for minimum employer contribution, applicable to a small employer, at any time after the small employer is accepted for coverage.

**Section 48. Section 31A-30-115 is amended to read:**

**31A-30-115. Actuarial review of health benefit plans.**

(1) (a) The department shall conduct an actuarial review of rates submitted by a carrier that offers a small employer plan and a carrier that offers an individual plan under this chapter:

(i) to verify the validity of the rates, risk factors, and premiums of the plans; and

(ii) as the department determines is necessary to oversee market conduct.

(b) The actuarial review by the department shall be funded from a fee:

(i) established by the department in accordance with Section 63J-1-504; and

(ii) paid by a carrier offering a health benefit plan subject to this chapter.

(c) The department shall ~~[(i) report aggregate data from the actuarial review to the risk adjuster board created in Section 31A-42-201; and (ii) contact carriers, if the department determines it is appropriate, to:~~

~~[(A)]~~ (i) inform a carrier of the department's findings regarding the rates of a particular carrier; and

~~[(B)]~~ (ii) request a carrier to recalculate or verify base rates, rating factors, and premiums.

(d) A carrier shall comply with the department's request under Subsection (1)(c)(ii).

(2) (a) There is created in the General Fund a restricted account known as the "Health Insurance Actuarial Review Restricted Account."

(b) The Health Insurance Actuarial Review Restricted Account shall consist of money received by the commissioner under this section.

(c) The commissioner shall administer the Health Insurance Actuarial Review Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use money deposited into the Health Insurance Actuarial Review Restricted Account to pay for the actuarial review conducted by the department under this section.

**Section 49. Section 31A-30-117 is amended to read:**

**31A-30-117. Patient Protection and Affordable Care Act -- Market transition.**

(1) (a) ~~[After complying with the reporting requirements of Section 63N-11-106, the]~~ The commissioner may adopt administrative rules that change the rating and underwriting requirements of this chapter as necessary to transition the insurance market to meet federal qualified health plan standards and rating practices under PPACA.

(b) Administrative rules adopted by the commissioner under this section may include:

(i) the regulation of health benefit plans as described in Subsections 31A-2-212(5)(a) and (b); and

(ii) disclosure of records and information required by PPACA and state law.

(c) (i) The commissioner shall establish by administrative rule one statewide open enrollment period that applies to the individual insurance market that is not on the PPACA certified individual exchange.

(ii) The statewide open enrollment period:

(A) may be shorter, but no longer than the open enrollment period established for the individual insurance market offered in the PPACA certified exchange; and

(B) may not be extended beyond the dates of the open enrollment period established for the individual insurance market offered in the PPACA certified exchange.

(2) A carrier that offers health benefit plans in the individual market that is not part of the individual PPACA certified exchange:

(a) shall open enrollment:

(i) during the statewide open enrollment period established in Subsection (1)(c); and

(ii) at other times, for qualifying events, as determined by administrative rule adopted by the commissioner; and

(b) may open enrollment at any time.

(3) To the extent permitted by the Centers for Medicare and Medicaid Services policy, or federal regulation, the commissioner shall allow a health insurer to choose to continue coverage and individuals and small employers to choose to re-enroll in coverage in nongrandfathered health coverage that is not in compliance with market reforms required by PPACA.

**Section 50. Section 32B-7-408 is amended to read:**

**32B-7-408. Master off-premise beer retailer state license.**

(1) (a) The commission may issue a master off-premise beer retailer state license that authorizes a person to store, sell, or offer for sale beer for consumption off the person's premises at multiple locations as off-premise beer retailers if the person applying for the master off-premise beer retailer state license:

(i) owns each of the off-premise beer retailers;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of an off-premise beer retailer under the master off-premise beer retailer state license separately meets the requirements of this part; and

(iii) the master off-premise beer retailer state license includes at least five off-premise beer retailer locations.

(b) The person seeking a master off-premise beer retailer state license shall designate which off-premise beer retailer locations the person seeks to have under the master off-premise beer retailer state license.

(c) An off-premise beer retailer location under a master off-premise beer retailer state license is considered separately licensed for purposes of this title.

(2) (a) A master off-premise beer retailer state license expires on the last day of February each year.

(b) To renew a person's master off-premise beer retailer state license, a person shall comply with the renewal requirements of Section 32B-7-403 by no later than January 31 of the year in which the off-premise beer retailer state license expires.

(3) (a) The nonrefundable application fee for a master off-premise beer retailer state license is \$75.

(b) The initial license fee for a master off-premise beer retailer state license is:

(i) \$1,100 plus a separate initial license fee for each newly licensed off-premise beer retailer state license under the master off-premise beer retailer state license determined in accordance with Subsection 32B-7-402(3); and

(ii) refundable if the commission does not issue the master off-premise beer retailer state license.

(c) The renewal fee for a master off-premise beer retailer state license is \$300 plus a separate renewal fee for each off-premise beer retailer state license under the master off-premise beer retailer state license determined in accordance with Subsection 32B-7-403(2)(b).

(4) A new location may be added to a master off-premise beer retailer state license after the master off-premise beer retailer state license is issued if, including payment of the initial license fee, the location separately meets the requirements of this part.

(5) (a) A master off-premise beer retailer state licensee shall notify the department of a change in the persons managing a location covered by a master off-premise beer retailer state license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master off-premise beer retailer state license at the time of the change; or

(ii) within 30 days of the change, if the off-premise beer retailer state licensee is transferring management personnel from one location to another location covered by the master off-premise beer retailer state license.

(b) A location covered by a master off-premise beer retailer state license shall keep its own records on its premises so that the department may audit the records.

(c) A master off-premise beer retailer state licensee may not transfer beer between different locations covered by the master off-premise beer retailer state license.

(6) (a) If there is a violation of this title at a location covered by a master off-premise beer retailer state license, the violation may result in

disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under [a] the master off-premise beer retailer state license;

(ii) individual staff of the location under the master off-premise beer retailer state license; or

(iii) a combination of persons or locations described in Subsections (6)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (6)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master off-premise beer retailer state licensee or individual staff of the master off-premise beer retailer state licensee if during a period beginning on March 1 and ending the last day of February:

(i) at least 25% of the locations covered by the master off-premise beer retailer state license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master off-premise beer retailer state license have been found by the commission to have violated this title.

(7) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master off-premise beer retailer state license under this section.

**Section 51. Section 32B-10-206 is amended to read:**

**32B-10-206. General operational requirements for special use permit.**

(1) (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a special use permittee;

(ii) individual staff of a special use permittee; or

(iii) a special use permittee and staff of the special use permittee.

(c) The commission may suspend or revoke a special use permit with or without cause.

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an

alcoholic product authorized for the special use permit that is held by the special use permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, [~~store, sell, offer for sale, allow~~] storage, sale, offering for sale, allowing consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.

(3) (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).

(4) (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.

(b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises.

(c) A special use permittee shall purchase liquor at prices set by the commission.

(d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.

(e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.

(5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's application.

(6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(7) A special use permittee may not employ a minor to handle an alcoholic product.

(8) (a) The location specified in a special use permit may not be transferred from one location to another location, without prior written approval of the commission.

(b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not.

(9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.

(10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:

(a) physical facilities;

(b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;

(c) purchase, storage, and sales quantity limitations; and

(d) other matters considered appropriate by the commission.

**Section 52. Section 32B-10-605 is amended to read:**

**32B-10-605. Religious organization exemption.**

(1) A religious organization that provides or allows to be provided an alcoholic product to a person as part of the religious organization's religious services:

(a) does not violate this title by providing or allowing the provision of an alcoholic product as part of a religious service; and

(b) is not required to hold a license or special use permit to provide or allow the provision of an alcoholic product for religious services.

(2) This exemption does not exempt a religious organization from complying with this title with respect to an alcoholic product purchased by the religious organization for a purpose other than [one] the purpose stated in Subsection (1).

**Section 53. Section 32B-12-301 is amended to read:**

**32B-12-301. General operational requirements for liquor warehousing license.**

(1) (a) A liquor warehouse licensee and staff of the liquor warehouse licensee shall comply with this title and the rules of the commission.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a liquor warehouse licensee;

(ii) individual staff of a liquor warehouse licensee; or

(iii) both a liquor warehouse licensee and staff of the liquor warehouse licensee.

(2) (a) A liquor warehouse licensee shall make and maintain records required by the department.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2).

(3) A liquor warehousing license may not be transferred from one location to another location, without prior written approval of the commission.

(4) (a) A liquor warehouse licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not.

(b) A liquor warehousing license has no monetary value for any type of disposition.

(5) A liquor warehouse licensee may not employ a minor to handle an alcoholic product.

(6) Liquor that is warehoused in this state and sold to an out-of-state consignee[,] may be transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor Carrier Safety Act.

(7) Liquor that is warehoused in this state and sold to the department may be transported only by a motor carrier approved by the department.

(8) Liquor transported to or from a liquor warehouse licensee's licensed premises shall be carried in a sealed conveyance that is made available for inspection by the department while en route within the state.

(9) A liquor warehouse licensee may not ship, convey, distribute, or remove liquor from a warehouse in less than a full case lot.

(10) A liquor warehouse licensee may not ship, convey, distribute, or remove liquor from a warehouse to a consignee outside the state that is not licensed as a liquor wholesaler or retailer by the state in which the consignee is domiciled.

(11) A liquor warehouse licensee may not receive, warehouse, distribute, transport, ship, or convey liquor that the commission has not authorized the liquor warehouse licensee to handle through its warehouse.

(12) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of licensees relating to:

(a) physical facilities;

(b) conditions of storage, distribution, or transport of liquor; and

(c) other matters considered appropriate by the commission.

**Section 54. Section 34A-1-205 is amended to read:**

**34A-1-205. Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.**

(1) There is created the Appeals Board within the commission consisting of three members. The board may call and preside at adjudicative proceedings to review an order or decision that is

subject to review by the Appeals Board under this title.

(2) (a) The governor shall appoint the members with the consent of the Senate and in accordance with this section.

(b) One member of the board shall be appointed to represent employers~~[, in]~~. In making this appointment, the governor shall consider nominations from employer organizations.

(c) One member of the board shall be appointed to represent employees~~[, in]~~. In making this appointment, the governor shall consider nominations from employee organizations.

(d) No more than two members may belong to the same political party.

(e) The governor shall, at the time of appointment or reappointment, make appointments to the board so that at least two of the members of the board are members of the Utah State Bar in good standing or resigned from the Utah State Bar in good standing.

(3) (a) The term of a member shall be six years beginning on March 1 of the year the member is appointed, except that the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that one member is appointed every two years.

(b) The governor may remove a member only for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

(c) A member shall hold office until a successor is appointed and has qualified.

(4) A member shall be part-time and receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

(5) (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.

(b) The governor shall appoint and may remove at will the chair from the position of chair.

(6) A majority of the board shall constitute a quorum to transact business.

(7) (a) The commission shall provide the Appeals Board necessary staff support, except as provided in Subsection (7)(b).

(b) At the request of the Appeals Board, the attorney general shall act as an impartial aid to the Appeals Board in outlining the facts and the issues.

**Section 55. Section 34A-2-109 is amended to read:**

**34A-2-109. Interstate and intrastate commerce.**

(1) Except as provided in Subsection (2), this chapter and Chapter 3, Utah Occupational Disease Act, apply to employers and their employees engaged in:

- (a) intrastate commerce;
- (b) interstate commerce; and
- (c) foreign commerce.

(2) If a rule of liability or method of compensation is established by the Congress of the United States as to interstate or foreign commerce, this chapter and Chapter 3, Utah Occupational Disease Act, apply only to the extent that:

(a) this chapter and Chapter 3, Utah Occupational Disease Act, ~~has~~ have a mutual connection with intrastate work; and

(b) the connection to intrastate work is clearly separable and distinguishable from interstate or foreign commerce.

**Section 56. Section 35A-1-104.5 is amended to read:**

**35A-1-104.5. Other department duties -- Strategic plan for health system reform -- Reporting suspected misuse of a Social Security number.**

(1) The department shall work with the Department of Health, the Insurance Department, the Governor's Office of Economic Development, and the Legislature to develop the health system reform ~~[in accordance with Title 63N, Chapter 11, Health System Reform Act]~~.

(2) In the process of determining an individual's eligibility for a public benefit or service under this title or under federal law, if the department determines that a valid social security number is being used by an unauthorized individual, the department shall:

(a) inform the individual who the department determines to be the likely actual owner of the social security number or, if the likely actual owner is a minor, the minor's parent or guardian, of the suspected misuse; and

(b) subject to federal law, provide information of the suspected misuse to an appropriate law enforcement agency responsible for investigating identity fraud.

(3) If the department learns or determines that providing information under Subsection (2)(b) is prohibited by federal law, the department shall notify the Legislative Management Committee.

**Section 57. Section 35A-3-203 is amended to read:**

**35A-3-203. Functions and duties of office -- Annual report.**

The office shall:

(1) assess critical child care needs throughout the state on an ongoing basis and focus its activities on helping to meet the most critical needs;

(2) provide child care subsidy services for income-eligible children through age 12 and for income-eligible children with disabilities through age 18;

(3) provide information:

(a) to employers for the development of options for child care in the work place; and

(b) for educating the public in obtaining quality child care;

(4) coordinate services for quality child care training and child care resource and referral core services;

(5) apply for, accept, or expend gifts or donations from public or private sources;

(6) provide administrative support services to the committee;

(7) work collaboratively with the following for the delivery of quality child care, early childhood programs, and school age programs throughout the state:

(a) the State Board of Education; and

(b) the Department of Health;

(8) research child care programs and public policy to improve the quality and accessibility of child care, early childhood programs, and school age programs in the state;

(9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved by the Child Care Advisory Committee, created in Section 35A-3-205;

(11) coordinate with the department to include in the annual written report described in Section 35A-1-109 information regarding the status of child care in Utah; and

(12) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with state and federal law, establishing the eligibility requirements for a child care provider to receive a grant or subsidy, including for the following:

(a) providing child care for an income-eligible child age 12 or younger; and

(b) providing child care for an income-eligible child with disabilities age 18 or younger[; and].

~~[(c) qualifying for an award from the High Quality School Readiness Grant Program created in Section 53F-6-305.]~~

**Section 58. Section 38-11-202 is amended to read:**

**38-11-202. Payments to the fund.**

Beginning on May 8, 2018, the Residence Lien Recovery Fund will no longer be supported by special assessments and will be solely supported by:

(1) fees determined by the division under Section 63J-1-504 collected from laborers under Subsection 38-11-204(7) when the laborers obtain a recovery from the fund;

(2) amounts collected by subrogation under Section 38-11-205 on behalf of the fund following a payment from the fund;

(3) application fees determined by the division under Section 63J-1-504 collected from:

(a) qualified beneficiaries or laborers under Subsection 38-11-204(1)(b) when qualified beneficiaries or laborers make a claim against the fund; or

(b) owners or agents of the owners seeking to obtain a certificate of compliance for the owner;

(4) registration fees determined by the division under Section 63J-1-504 collected from other qualified beneficiaries registering with the department in accordance with Subsection 38-11-301(3)(a)(iii);

~~[(5) reinstatement fees determined by the division under Section 63J-1-504 collected from registrants in accordance with Subsection 38-11-302(5)(b);]~~

~~[(6)] (5) civil fines authorized under Subsection 38-11-205(2) collected by the attorney general for failure to reimburse the fund; and~~

~~[(7)] (6) any interest earned by the fund.~~

**Section 59. Section 41-1a-422 is amended to read:**

**41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.**

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;



(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) ~~[Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon] Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;~~

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(X) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(Y) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Z) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(AA) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(BB) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(CC) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(DD) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130; or

(EE) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, "contributor"

means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

- (i) the name of the contributor;
- (ii) the institution to which a donation was made;
- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

- (i) unless collected by the named institution under Subsection (2), collected by the division;
- (ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;
- (iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and
- (iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

**Section 60. Section 41-1a-1008 is amended to read:**

**41-1a-1008. Criminal penalty for violation.**

(1) Except as provided in Subsection (2) or unless otherwise provided, it is a class A misdemeanor to knowingly violate Sections 41-1a-1001 through ~~41-1a-1007~~ 41-1a-1006.

(2) Any owner, who is not a manufacturer, dealer, motor vehicle auction, or consignor to a motor vehicle auction not licensed under Section 41-3-201, who knowingly or intentionally conceals, removes, destroys, or alters a disclosure statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3 is guilty of a:

- (a) class A misdemeanor; or
- (b) third degree felony if the person has previously been convicted two or more times of knowingly or intentionally concealing, removing, destroying, or altering a disclosure statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3.

(3) Criminal penalties under this chapter are not exclusive, but are in addition to those under Section 76-10-1801.

(4) Each vehicle sold, offered for sale, or displayed for sale in violation of Section 41-1a-1005.3 shall be a separate offense.

**Section 61. Section 41-3-105 is amended to read:**

**41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.**

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through ~~41-1a-1007~~ 41-1a-1006 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The administrator may employ clerks, deputies, and assistants necessary to discharge the

duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3) (a) The administrator may investigate any suspected or alleged violation of:

- (i) this chapter;
- (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- (iii) any law concerning motor vehicle fraud; or
- (iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4) (a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

(i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;

(iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;

(iv) a complete description of the principal place of business, including:

(A) the municipality, with the street and number, if any;

(B) if located outside of any municipality, a general description so that the location can be determined; and

(C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business;

(v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the name and address of each individual who will act as a salesperson under authority of the license;

(vi) at least five years of business history;

(vii) the federal tax identification number issued to the dealer;

(viii) the sales and use tax license number issued to the dealer under Title 59, Chapter 12, Sales and Use Tax Act; and

(ix) if the application is for a direct-sale manufacturer's license:

(A) the name of each line-make the applicant will sell, display for sale, or offer for sale or exchange;

(B) the name and address of each individual who will act as a direct-sale manufacturer salesperson under authority of the license;

(C) a complete description of the direct-sale manufacturer's authorized service center, including the address and any other place of business the applicant operates and maintains in conjunction with the authorized service center;

(D) a sworn statement that the applicant complies with each qualification for a direct-sale manufacturer under this chapter;

(E) a sworn statement that if at any time the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the applicant will inform the division in writing within 10 business days after the day on which the noncompliance occurs; and

(F) an acknowledgment that if the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

(5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of the administrator's office.

(6) (a) The administrator may require that a licensee erect or post signs or devices on the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, lettering and other details of signs or devices, and location of signs or devices.

(7) (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.

(b) Notices of all meetings shall be sent to each member not fewer than five days before the meeting.

(8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of any witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

(9) The administrator may contract with a public prosecutor to provide additional prosecution of this chapter.

**Section 62. Section 41-6a-102 is amended to read:**

**41-6a-102. Definitions.**

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

- (a) an unpaved intervening space;
- (b) a physical barrier; or
- (c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

- (a) has a power output of not more than 750 watts;
- (b) has fully operable pedals on permanently affixed cranks;
- (c) is fully operable as a bicycle without the use of the electric motor; and
- (d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for

the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(24) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(25) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(26) "Highway authority" means the same as that term is defined in Section 72-1-102.

(27) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(28) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

- (d) pavement edges; or
- (e) other devices.
- (29) “Lane filtering” means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.
- (30) “Law enforcement agency” means the same as that term is as defined in Section 53-1-102.
- (31) “Limited access highway” means a highway:
- (a) that is designated specifically for through traffic; and
- (b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.
- (32) “Local highway authority” means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.
- (33) (a) “Low-speed vehicle” means a four wheeled electric motor vehicle that:
- (i) is designed to be operated at speeds of not more than 25 miles per hour; and
- (ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.
- (b) “Low-speed vehicle” does not include a golfcart or an off-highway vehicle.
- (34) “Metal tire” means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.
- (35) (a) “Mini-motorcycle” means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.
- (b) “Mini-motorcycle” does not include a moped or a motor assisted scooter.
- (c) “Mini-motorcycle” does not include a motorcycle that is:
- (i) designed for off-highway use; and
- (ii) registered as an off-highway vehicle under Section 41-22-3.
- (36) “Mobile home” means:
- (a) a trailer or semitrailer that is:
- (i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and
- (ii) equipped for use as a conveyance on streets and highways; or
- (b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (36)(a), but that is instead used permanently or temporarily for:
- (i) the advertising, sale, display, or promotion of merchandise or services; or
- (ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.
- (37) (a) “Moped” means a motor-driven cycle having:
- (i) pedals to permit propulsion by human power; and
- (ii) a motor that:
- (A) produces not more than two brake horsepower; and
- (B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.
- (b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.
- (c) “Moped” does not include:
- (i) an electric assisted bicycle; or
- (ii) a motor assisted scooter.
- (38) (a) “Motor assisted scooter” means a self-propelled device with:
- (i) at least two wheels in contact with the ground;
- (ii) a braking system capable of stopping the unit under typical operating conditions;
- (iii) an electric motor not exceeding 2,000 watts;
- (iv) either:
- (A) handlebars and a deck design for a person to stand while operating the device; or
- (B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device; and
- (v) a design for the ability to be propelled by human power alone; and
- (vi) a maximum speed of 20 miles per hour on a paved level surface.
- (b) “Motor assisted scooter” does not include:
- (i) an electric assisted bicycle; or
- (ii) a motor-driven cycle.
- (39) (a) “Motor vehicle” means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
- (b) “Motor vehicle” does not include:
- (i) vehicles moved solely by human power;
- (ii) motorized wheelchairs;

- (iii) an electric personal assistive mobility device;
- (iv) an electric assisted bicycle;
- (v) a motor assisted scooter;
- (vi) a personal delivery device, as defined in Section 41-6a-1119; or
- (vii) a mobile carrier, as defined in Section 41-6a-1120.

(40) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an auticycle.

(41) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

(42) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

(43) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

(44) "Operate" means the same as that term is defined in Section 41-1a-102.

(45) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

(46) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

(47) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(48) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(49) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

(50) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(51) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(52) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(53) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

(54) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(55) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(56) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

(57) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

(58) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(59) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(60) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

(61) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(62) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(63) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(64) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(65) "Stop" when required means complete cessation from movement.

(66) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(67) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

(68) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

(69) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

(70) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

(71) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(72) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

(73) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(74) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

(75) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

(76) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

(77) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

**Section 63. Section 51-11-102 is amended to read:**

**51-11-102. Definitions.**

As used in this chapter:

(1) "Division" means the Division of Facilities Construction and Management created in Section 63A-5-201.

(2) "Fund" means the Winter Sports Venue Grant Fund.

(3) "Improve" or "improvements" means the replacement or addition to infrastructure, buildings, building components, or facility equipment.

(4) "Venue" means a facility:



(a) designed and currently approved under standards developed by a generally recognized sports federation to host world-class level, international winter sports competitions; and

(b) used for recreational, developmental, and competitive athletic training.

(5) "Venue operator" means a person who:

(a) ~~[(i)]~~ operates a venue~~;~~ ~~and (ii) the venue~~ that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(b) owns a venue or operates a venue under contract with the public owner of the venue.

**Section 64. Section 53E-1-201 is amended to read:**

**53E-1-201. Reports to and action required of the Education Interim Committee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(b) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(c) the report described in Section 53B-1-103 by the State Board of Regents on career and technical education issues and addressing workforce needs;

(d) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;

(e) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;

(f) the reports described in Section 53B-28-401 by the State Board of Regents and the Utah System of Technical Colleges Board of Trustees regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the report described in Section 53F-5-405 by an independent evaluator of a partnership that receives a grant to improve educational outcomes for students who are low income; and

(n) the report described in Section ~~[63N-12-208]~~ 9-22-109 by the STEM Action Center Board, including the information described in Section ~~[63N-12-213]~~ 9-22-113 on the status of the computer science initiative and Section ~~[63N-12-214]~~ 9-22-114 on the Computing Partnerships Grants Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(l) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations

related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

**Section 65. Section 53E-1-202 is amended to read:**

**53E-1-202. Reports to and action required of the Public Education Appropriations Subcommittee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:

(a) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(b) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and

(c) the report by the STEM Action Center Board described in Section ~~[63N-12-208]~~ 9-20-109, including the information described in Section ~~[63N-12-213]~~ 9-20-113 on the status of the computer science initiative.

(2) (a) The one-time report by the state board regarding cost centers and implementing activity based costing is due to the Public Education Appropriations Subcommittee in accordance with Section 53E-3-520.

(b) The occasional report, described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program, is due to the Public Education Appropriations Subcommittee and in accordance with Section 68-3-14.

(3) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete the following:

(a) the evaluation described in Section 53F-2-410 of funding for at-risk students;

(b) the reviews of related to basic school programs as described in Section 53F-2-414; and

(c) if required, the study described in Section 53F-4-304 of scholarship payments.

**Section 66. Section 53E-7-204 is amended to read:**

**53E-7-204. State board special education authority and duties -- Rulemaking.**

(1) The state board shall have general control and supervision over all public educational programs in the state for students who are eligible for special education services.

(2) A program described in Subsection (1) shall comply with state board rule.

(3) In accordance with federal ~~[law, state law, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ and state law, the state board shall make rules to implement this part, including provisions that ensure:

(a) appropriate and timely identification of a potential eligible student;

(b) the evaluation and classification of an eligible student by qualified personnel;

(c) standards for special education services and supports;

(d) availability of LEA special education programs;

(e) delivery of special education service responsibilities;

(f) certification and qualification for the instructional staff of eligible students; and

(g) special education services for eligible students who are dual enrollment students attending public school on a part-time basis as described in Section 53G-6-702.

(4) In accordance with federal ~~[law, state law, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ and state law, the state board may make rules to otherwise administer the state board's authority described in Subsection (1).

**Section 67. Section 53E-7-208 is amended to read:**

**53E-7-208. Special education dispute resolution -- Rulemaking -- Due process hearing -- Right to appeal.**

(1) In accordance with ~~[Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and]~~ this section, the state board shall make rules that:

(a) allow for a prompt, fair, and final resolution of a dispute that arises over the provision of special education services to an eligible student;

(b) establish and maintain procedural safeguards that meet the requirements of 20 U.S.C. Sec. 1415; and

(c) establish timelines that provide adequate time to address and resolve a dispute described in Subsection (1)(a) without unnecessarily disrupting or delaying an eligible student's free appropriate public education.

(2) A party to a dispute described in Subsection (1)(a), including an LEA, shall make a diligent and good faith effort to resolve the dispute informally at the LEA level before seeking a due process hearing under state board rule.

(3) (a) If a dispute is not resolved informally as described in Subsection (2), a party to the dispute may request a due process hearing in accordance with state board rule.

(b) Upon request of a party to a dispute described in Subsection (2), the state board shall, in

accordance with state board rule and 20 U.S.C. Sec. 1415:

- (i) conduct a due process hearing; and
- (ii) issue a decision on the due process hearing.

(4) (a) A party to a due process hearing may appeal the decision resulting from the due process hearing by filing a civil action with a court described in 20 U.S.C. Sec. 1415(i), if the party files the action within 30 days after the day on which the due process hearing decision was issued.

(b) If parties to a due process hearing fail to reach agreement on the payment of attorney fees for the due process hearing, a party may seek to recover attorney fees in accordance with 20 U.S.C. Sec. 1415(i) by filing a court action within 30 days after the day on which the due process hearing decision was issued.

**Section 68. Section 53E-8-403 is amended to read:**

**53E-8-403. Educational programs.**

(1) The Utah Schools for the Deaf and the Blind shall provide an educational program for a student:

(a) based on assessments of the student's abilities; and

(b) in accordance with the student's IEP or Section 504 accommodation plan.

(2) If a student's ability to access the core curriculum is impaired primarily due to a severe sensory loss and requires intensive sensory-based instruction or services, the Utah Schools for the Deaf and the Blind shall provide an educational program that will enable the student, with accommodations, to access the core curriculum.

(3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to students who are blind [as required by Chapter 7, Part 3, Braille Requirements for Blind Students].

**Section 69. Section 53F-2-504 is amended to read:**

**53F-2-504. Teacher Salary Supplement Program.**

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying educational background or qualifying teaching background;

(ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;

(iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and

(iv) is a new employee or received at least a satisfactory rating on the teacher's most recent evaluation.

(b) "Field of computer science" means:

- (i) computer science; or
- (ii) computer information technology.
- (c) "Field of science" means:
  - (i) integrated science;
  - (ii) chemistry;
  - (iii) physics;
  - (iv) physical science; or
  - (v) general science.

~~[(d) "License" means the same as that term is defined in Section 53E-6-102.]~~

~~[(e)]~~ (d) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of science;

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

~~[(f)]~~ (e) "Qualifying teaching background" means the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years.

~~[(g)]~~ (f) "Supplement-approved assignment" means an assignment to teach:

- (i) a secondary school level mathematics course;
- (ii) integrated science in grade 7 or 8;
- (iii) chemistry;

- (iv) physics;
- (v) computer science; or
- (vi) special education.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

- (ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) workers' compensation;
- (iii) Social Security; and
- (iv) Medicare.

(3) (a) The annual salary supplement for an eligible teacher who is assigned full-time to a supplement-approved assignment is \$4,100 and funded through an appropriation described in Subsection (2).

(b) An eligible teacher who is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the supplement-approved assignment.

- (4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

- (b) determine if a teacher is an eligible teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

- (d) certify a list of eligible teachers.

(5) (a) An eligible teacher shall apply to the state board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher may apply to the state board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

- (i) the school year as an annual award; or
- (ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7) (a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board shall distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

**Section 70. Section 53F-5-202 is amended to read:**

**53F-5-202. National Board certification reimbursement.**

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

(b) As used in this section, "eligible educator" means an educator who is employed as an educator by an LEA.

(2) (a) Subject to legislative appropriations and Subsection (2)(b), the state board shall reimburse

an eligible educator for a cost incurred by the eligible educator to attain or renew a National Board certification.

(b) The state board may only issue a reimbursement under Subsection (2)(a) for:

(i) a National Board certification attained or renewed after July 1, 2016, and before July 1, 2019; or

(ii) a cost incurred by an eligible teacher to attain or renew a National Board certification after July 1, 2016, and before July 1, 2019.

(3) Subject to legislative appropriations, and in accordance with this section, beginning July 1, 2019, the state board may pay up to the total cost:

(a) for an eligible educator who does not have a National Board certification to pursue a National Board certification; or

(b) for an eligible educator who has a National Board certification, to renew the National Board certification.

(4) An eligible educator who does not have a National Board certification and intends for the state board to pay for the eligible educator to pursue a National Board certification shall:

(a) submit to the state board:

(i) an application;

(ii) a letter of recommendation from the principal of the eligible educator's school; and

(iii) a plan for completing the requirements for a National Board certification within three years of the state board approving the eligible educator's application; and

(b) pay a registration fee directly to the organization that administers National Board certification.

(5) An eligible educator who intends for the state board to pay to renew the eligible educator's National Board certification shall submit an application to the state board.

(6) The state board may not:

(a) pay for an eligible educator to attempt to earn National Board certification over a period of longer than three years; or

(b) pay for an individual to attempt National Board certification or a component of National Board certification more than once.

(7) The state board shall make rules specifying procedures and timelines for:

(a) reimbursing costs under Subsection (2); and

(b) paying costs for an eligible educator to pursue or renew a National Board certification under Subsection (3).

**Section 71. Section 53F-5-212 is amended to read:**

**53F-5-212. Grants for additional educators for high-need schools.**

(1) As used in this section:

(a) "Educator" means an individual who holds a professional educator license described in Section 53E-6-201.

(b) "First-year educator" means an educator who is:

(i) a classroom teacher; and

(ii) in the educator's first year of teaching.

(c) "High-need school" means an elementary school in an LEA that qualifies for a grant under this section based on the criteria established by the state board under Subsection (5)(a)(ii).

(d) "Local education agency" or "LEA" means a school district or charter school.

(e) "Title I school" means a school that receives funds under Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(2) Subject to legislative appropriations, and in accordance with this section, the state board shall award a grant to an LEA to fund the salary and benefits for an additional first-year educator to teach in a high-need school.

(3) The state board shall:

(a) solicit proposals from LEAs to receive a grant under this section; and

(b) award grants to LEAs on a competitive basis based on the LEA applications described in Subsection (4)(a).

(4) To receive a grant under this section, an LEA shall:

(a) submit an application to the state board that:

(i) lists the school or schools for which the LEA intends to use a grant;

(ii) describes how each school for which the LEA intends to use a grant meets the criteria for being a high-need school; and

(iii) includes any other information required by the state board under the rules described in Subsection (5); and

(b) provide matching funds in an amount equal to the grant received by the LEA under this section.

(5) (a) The state board shall make rules specifying:

(i) the procedure for an LEA to apply for a grant under this section, including application requirements; and

(ii) the criteria for determining if an elementary school is a high-need school.

(b) In establishing the criteria described in Subsection (5)(a)(ii), the state board shall consider the following factors:

- (i) Title I school status;
  - (ii) low school performance, as indicated by the school accountability system described in Title 53E, Chapter 5, Part 2, School Accountability System;
  - (iii) a high percentage of students enrolled in the school who are either experiencing or at risk of experiencing intergenerational poverty;
  - (iv) a high ratio of students to educators in the school;
  - (v) higher than average educator turnover in the school;
  - (vi) a high percentage of students enrolled in the school who are experiencing homelessness; and
  - (vii) other factors determined by the state board.
- (6) An LEA that receives a grant under this section shall:
- (a) (i) use the grant to fund a portion of the cost of the salary and benefits for an additional first-year educator who teaches in a high-need school; and
  - (ii) maintain a class size of fewer than 20 students for a first-year educator whose salary and benefits are funded by the grant; and
  - (b) annually submit a report to the state board describing:
    - (i) how the LEA used the grant; and
    - (ii) whether the grant was effective in maintaining a smaller class size for the first-year educator whose salary and benefits were funded by the grant.

**Section 72. Section 53F-9-201 is amended to read:**

**53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.**

- (1) As used in this section:
- (a) “Annual distribution calculation” means, for a given fiscal year, the average of:
    - (i) 4% of the average market value of the State School Fund for that fiscal year; and
    - (ii) the distribution amount for the prior fiscal year, multiplied by the sum of:
      - (A) one;
      - (B) the percent change in student enrollment from the school year two years prior to the prior school year; and
      - (C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.
  - (b) “Average market value of the State School Fund” means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 12 consecutive quarters ending in the prior fiscal year.

(c) “Consumer price index” means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) “SITFO director” means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) “State School Fund investment earnings distribution amount” or “distribution amount” means, for a fiscal year, the lesser of:

- (i) the annual distribution calculation; or
- (ii) 4% of the average market value of the State School Fund.

(2) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including revenues received by donation.

(3) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year’s distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in

Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

- (i) the State Treasurer;
  - (ii) the Legislative Fiscal Analyst;
  - (iii) the Division of Finance;
  - (iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;
  - (v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;
  - (vi) the ~~[State Board of Education]~~ state board; and
  - (vii) the Governor's Office of Management and Budget.
- (6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

- (a) annually review the distribution amount; and
  - (b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.
- (7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution Account funds for the School LAND Trust Program as described in Subsections 53F-2-404(1)(a) and (c).

**Section 73. Section 53G-7-306 is amended to read:**

**53G-7-306. School district interfund transfers.**

(1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

(2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.

(3) The state board may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.

(4) The state board may also authorize school district interfund transfers of residual equity for a financially distressed district if the state board determines the following:

- (a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;
- (b) the deficit cannot be reasonably reduced under Section 53G-7-305; and
- (c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the state board.

(5) The state board shall develop in rule standards for defining and aiding financially distressed school districts under this section.

(6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.

(b) Debt service levies under Subsection 59-2-924(5)(c) that are not subject to the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.

(c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.

(d) Any amounts left in the debt service fund after all general obligation debt has been retired may be transferred to the capital projects fund upon completion of the budgetary hearing process required under Section 53G-7-303.

**Section 74. Section 53G-7-903 is amended to read:**

**53G-7-903. Interns -- Workers' compensation medical benefits.**

(1) An intern participating in an internship under Section 53G-7-902 is considered to be a volunteer government worker of the sponsoring public school, or an employee of the sponsoring private school, solely for purposes of receiving workers' compensation medical benefits.

(2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy against the school and the cooperating employer for all injuries and occupational diseases as provided under Title 34A, ~~[Chapters]~~ Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

**Section 75. Section 53G-8-402 is amended to read:**

**53G-8-402. Notification by juvenile court and law enforcement agencies.**

(1) Notifications received from the juvenile court or law enforcement agencies by the school district pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(b)(c) are governed by this part.

(2) School districts may enter into agreements with law enforcement agencies for notification under Subsection (1).

**Section 76. Section 53G-8-405 is amended to read:**

**53G-8-405. Liability for release of information.**

(1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.

(2) A person receiving information under Subsection 78A-6-112(3)(b) or 78A-6-117(1)(b)(c), or Section 53G-8-403 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

**Section 77. Section 53G-9-208 is amended to read:**

**53G-9-208. Sunscreen -- Possession -- Administration -- Immunity.**

(1) As used in this section, "sunscreen" means a compound topically applied to prevent sunburn.

(2) A public school shall permit a student, without a parent's, physician's, or physician assistant's authorization, to possess or self-apply sunscreen that is regulated by the Food and Drug Administration.

(3) If a student is unable to self-apply sunscreen, a volunteer school employee may apply the sunscreen on the student if the student's parent provides written consent for the assistance.

(4) A volunteer school employee who applies sunscreen on a student in compliance with Subsection (3) and the volunteer school employee's employer are not liable for:

(a) an adverse reaction suffered by the student as a result of having the sunscreen applied; or

(b) discontinuing the application of the sunscreen at any time.

**Section 78. Section 53G-10-402 is amended to read:**

**53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.**

(1) As used in this section:

(a) "LEA governing board" means a local school board or charter school governing board.

(b) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2) (a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene;

(iv) prevention of communicable disease;

(v) refusal skills; and

(vi) the harmful effects of pornography.

(b) The state board shall make rules that, and instruction shall:

(i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;

(ii) stress personal skills that encourage individual choice of abstinence and fidelity;

(iii) prohibit instruction in:

(A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(B) the advocacy of premarital or extramarital sexual activity; or

(C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.

(c) The state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:

(i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and

(ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.

(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.

(e) (i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(f) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.



(g) An LEA governing board may choose to adopt:

(i) the instructional materials recommended under Subsection (2)(f); or

(ii) other instructional materials in accordance with Subsection (2)(h).

(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:

(i) ensure that the materials comply with state law and board rules;

(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee; and

(iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students attending the respective schools and an opportunity for parents to express their views and opinions on the materials at the meeting.

(3) (a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the state board, the Department of Health shall cooperate with the state board in developing programs to provide instruction in those areas.

(4) (a) The state board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5) (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or an LEA governing board may not allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The state board shall adopt rules implementing this section.

(e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7) (a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) An LEA governing board shall provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents of students.

(d) In order to assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) An LEA governing board shall review every two years:

(a) LEA governing board policies on instruction described in this section;

(b) for a local school board [of a school district], data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

**Section 79. Section 53G-11-501 is amended to read:**

**53G-11-501. Definitions.**

As used in this part:

(1) “Administrator” means an individual who supervises educators and holds an appropriate license issued by the state board.

(2) “Career educator” means a licensed employee who has a reasonable expectation of continued employment under the policies of a local school board.

(3) “Career employee” means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53G-11-503 and an agreement with the employee or the employee’s association, district practice, or policy.

(4) “Contract term” or “term of employment” means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.

(5) “Dismissal” or “termination” means:

(a) termination of the status of employment of an employee;

(b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;

(c) reduction in salary of an employee not generally applied to all employees of the same category employed by the school district during the employee’s contract term; or

(d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.

(6) “Educator” means an individual employed by a school district who is required to hold a professional license issued by the state board, except:

(a) a superintendent; or

(b) an individual who works less than three hours per day or is hired for less than half of a school year.

(7) (a) “Employee” means a career or provisional employee of a school district, except as provided in Subsection (7)(b).

(b) Excluding Section 53G-11-518, for purposes of this part, “employee” does not include:

(i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the Blind;

(ii) a district business administrator or the equivalent at the Utah Schools for the Deaf and the Blind; or

(iii) a temporary employee.

(8) “Last-hired, first-fired layoff policy” means a staff reduction policy that mandates the termination of an employee who started to work for a district most recently before terminating a more senior employee.

(9) “Provisional educator” means an educator employed by a school district who has not achieved status as a career educator within the school district.

(10) “Provisional employee” means an individual, other than a career employee or a temporary employee, who is employed by a school district.

(11) “School board” [~~or “board”~~] means a local school board or, for the Utah Schools for the Deaf and the Blind, the state board.

(12) “School district” or “district” means:

(a) a public school district; or

(b) the Utah Schools for the Deaf and the Blind.

(13) “Summative evaluation” means the annual evaluation that summarizes an educator’s performance during a school year and that is used to make decisions related to the educator’s employment.

(14) “Temporary employee” means an individual who is employed on a temporary basis as defined by policies adopted by the school board. If the class of employees in question is represented by an employee organization recognized by the school board, the school board shall adopt the school board’s policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.

(15) (a) “Unsatisfactory performance” means a deficiency in performing work tasks that may be:

(i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and

(ii) remediated through training, study, mentoring, or practice.

(b) “Unsatisfactory performance” does not include the following conduct that is designated as a cause for termination under Section 53G-11-512 or a reason for license discipline by the state board or Utah Professional Practices Advisory Commission:

(i) a violation of work policies;

(ii) a violation of school board policies, state board rules, or law;

(iii) a violation of standards of ethical, moral, or professional conduct; or

(iv) insubordination.

**Section 80. Section 58-1-501.7 is amended to read:**

**58-1-501.7. Standards of conduct for prescription drug education -- Academic and commercial detailing.**

(1) For purposes of this section:

(a) “Academic detailing”:

(i) means a health care provider who is licensed under this title to prescribe or dispense a prescription drug and employed by someone other than a pharmaceutical manufacturer:

(A) for the purpose of countering information provided in commercial detailing; and

(B) to disseminate educational information about prescription drugs to other health care providers in an effort to better align clinical practice with scientific research; and

(ii) does not include a health care provider who:

(A) is disseminating educational information about a prescription drug as part of teaching or supervising students or graduate medical education students at an institution of higher education or through a medical residency program;

(B) is disseminating educational information about a prescription drug to a patient or a patient’s representative; or

(C) is acting within the scope of practice for the health care provider regarding the prescribing or dispensing of a prescription drug.

(b) “Commercial detailing” means an educational practice employed by a pharmaceutical manufacturer in which clinical information and evidence about a prescription drug is shared with health care professionals.

(c) “Manufacture” is as defined in Section 58-37-2.

(d) “Pharmaceutical manufacturer” is a person who manufactures a prescription drug.

(2) (a) Except as provided in Subsection (3), the provisions of this section apply to an academic detailer beginning July 1, 2013.

(b) An academic detailer and a commercial detailer who educate another health care provider about prescription drugs through written or oral educational material is subject to federal regulations regarding:

(i) false and misleading advertising in 21 C.F.R., Part 201 (2007);

(ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and

(iii) the federal Office of the Inspector General’s Compliance Program Guidance for Pharmaceutical Manufacturers issued in April 2003, as amended.

(c) A person who is injured by a violation of this section has a private right of action against a person engaged in academic detailing, if:

(i) the actions of the person engaged in academic detailing, that are a violation of this section, are:

(A) the result of gross negligence by the person; or

(B) willful and wanton behavior by the person; and

(ii) the damages to the person are reasonable, foreseeable, and proximately caused by the violations of this section.

(3) (a) For purposes of this Subsection, “accident and health insurance”:

(i) means the same as that term is defined in Section 31A-1-301; and

(ii) includes a self-funded health benefit plan and an administrator for a self-funded health benefit plan.

(b) This section does not apply to a person who engages in academic detailing if that person is engaged in academic detailing on behalf of:

(i) a person who provides accident and health insurance, including when the person who provides accident and health insurance contracts with or offers:

(A) the state Medicaid program, including the Primary Care Network within the state’s Medicaid program;

(B) the Children’s Health Insurance Program created in Section 26-40-103;

~~[(C) the state’s high risk insurance program created in Section 31A-29-104;]~~

~~[(D)]~~ (C) a Medicare plan; or

~~[(E)]~~ (D) a Medicare supplement plan;

(ii) a hospital as defined in Section 26-21-2;

(iii) any class of pharmacy as defined in Section 58-17b-102, including any affiliated pharmacies;

(iv) an integrated health system as defined in Section 13-5b-102; or

(v) a medical clinic.

(c) This section does not apply to communicating or disseminating information about a prescription drug for the purpose of conducting research using prescription drugs at a health care facility as defined in Section 26-21-2, or a medical clinic.

**Section 81. Section 58-9-102 is amended to read:**

**58-9-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) “Alkaline hydrolysis” means a water-based dissolution process using alkaline chemicals, heat, and sometimes agitation or pressure that reduces human remains to a liquid and to dry bone residue and includes the disposal of the liquid and the

processing and pulverization of the dry bone residue.

(2) “Alkaline hydrolysis chamber” means the enclosed space within which the alkaline hydrolysis process takes place and that is used exclusively for alkaline hydrolysis of human remains.

(3) “Alkaline hydrolysis container” means a container:

(a) in which human remains are transported to a funeral service establishment and placed in an alkaline hydrolysis chamber for resomation; and

(b) that meets substantially all of the following standards:

(i) able to be closed in order to provide a complete covering for the human remains;

(ii) resistant to leakage or spillage;

(iii) rigid enough for handling with ease; and

(iv) able to provide protection for the health, safety, and personal integrity of crematory personnel.

(4) “Authorizing agent” means a person legally entitled to authorize the cremation or the alkaline hydrolysis process of human remains.

(5) “Beneficiary” means the individual who, at the time of the individual’s death, is to receive the benefit of the property and services purchased under a preneed funeral arrangement.

(6) “Board” means the Board of Funeral Service created in Section 58-9-201.

(7) “Body part” means:

(a) a limb or other portion of the anatomy that is removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or

(b) a human body or any portion of a body that has been donated to science for medical research purposes.

(8) “Buyer” means a person who purchases a preneed funeral arrangement.

(9) “Calcination” means a process in which a dead human body is reduced by intense heat to a residue that is not as substantive as the residue that follows cremation.

(10) “Cremated remains” means all the remains of a cremated body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of foreign matter including casket material, bridgework, or eyeglasses that were cremated with the human remains.

(11) “Cremation” means the technical process, using direct flame and heat, or a chemical process, that reduces human remains to bone fragments through heat and evaporation, or a chemical process, and includes the processing and usually the pulverization of the bone fragments.

(12) “Cremation chamber” means the enclosed space within which the cremation process takes place and which is used exclusively for the cremation of human remains.

(13) “Cremation container” means the container:

(a) in which the human remains are transported to the crematory and placed in the cremation chamber for cremation; and

(b) that meets substantially all of the following standards:

(i) composed of readily combustible or consumable materials suitable for cremation;

(ii) able to be closed in order to provide a complete covering for the human remains;

(iii) resistant to leakage or spillage;

(iv) rigid enough for handling with ease; and

(v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

(14) “Crematory” means the building or portion of a building that houses the cremation chamber and the holding facility.

(15) “Direct disposition” means the disposition of a dead human body:

(a) as quickly as law allows;

(b) without preparation of the body by embalming; and

(c) without an attendant funeral service or graveside service.

(16) “Disposition” means the final disposal of a dead human body by:

(a) earth interment;

(b) above ground burial;

(c) cremation;

(d) calcination;

(e) alkaline hydrolysis;

(f) burial at sea;

(g) delivery to a medical institution; or

(h) other lawful means.

(17) “Embalming” means replacing body fluids in a dead human body with preserving and disinfecting chemicals.

(18) (a) “Funeral merchandise” means any of the following into which a dead human body is placed in connection with the transportation or disposition of the body:

(i) a vault;

(ii) a casket; or

(iii) other personal property.

(b) “Funeral merchandise” does not include:

(i) a mausoleum crypt;

(ii) an interment receptacle preset in a cemetery; or

(iii) a columbarium niche.

(19) “Funeral service” means a service, rite, or ceremony performed:

(a) with respect to the death of a human; and

(b) with the body of the deceased present.

(20) “Funeral service director” means an individual licensed under this chapter who may engage in all lawful professional activities regulated and defined under the practice of funeral service.

(21) (a) “Funeral service establishment” means a place of business at a specific street address or location licensed under this chapter that is devoted to:

(i) the embalming, care, custody, shelter, preparation for burial, and final disposition of dead human bodies; and

(ii) the furnishing of services, merchandise, and products purchased from the establishment as a preneed provider under a preneed funeral arrangement.

(b) “Funeral service establishment” includes:

(i) all portions of the business premises and all tools, instruments, and supplies used in the preparation and embalming of dead human bodies for burial, cremation, alkaline hydrolysis, and final disposition as defined by division rule; and

(ii) a facility used by the business in which funeral services may be conducted.

(22) “Funeral service intern” means an individual licensed under this chapter who is permitted to:

(a) assist a funeral service director in the embalming or other preparation of a dead human body for disposition;

(b) assist a funeral service director in the cremation, calcination, alkaline hydrolysis, or pulverization of a dead human body or its remains; and

(c) perform other funeral service activities under the supervision of a funeral service director.

(23) “Graveside service” means a funeral service held at the location of disposition.

(24) “Memorial service” means a service, rite, or ceremony performed:

(a) with respect to the death of a human; and

(b) without the body of the deceased present.

(25) “Practice of funeral service” means:

(a) supervising the receipt of custody and transportation of a dead human body to prepare the body for:

(i) disposition; or

(ii) shipment to another location;

(b) entering into a contract with a person to provide professional services regulated under this chapter;

(c) embalming or otherwise preparing a dead human body for disposition;

(d) supervising the arrangement or conduct of:

(i) a funeral service;

(ii) a graveside service; or

(iii) a memorial service;

(e) cremation, calcination, alkaline hydrolysis, or pulverization of a dead human body or the body’s remains;

(f) supervising the arrangement of:

(i) a disposition; or

(ii) a direct disposition;

(g) facilitating:

(i) a disposition; or

(ii) a direct disposition;

(h) supervising the sale of funeral merchandise by a funeral establishment;

(i) managing or otherwise being responsible for the practice of funeral service in a licensed funeral service establishment;

(j) supervising the sale of a preneed funeral arrangement; and

(k) contracting with or employing individuals to sell a preneed funeral arrangement.

(26) (a) “Preneed funeral arrangement” means a written or oral agreement sold in advance of the death of the beneficiary under which a person agrees with a buyer to provide at the death of the beneficiary any of the following as are typically provided in connection with a disposition:

(i) goods;

(ii) services, including:

(A) embalming services; and

(B) funeral directing services;

(iii) real property; or

(iv) personal property, including:

(A) a casket;

(B) another primary container;

(C) a cremation, alkaline hydrolysis, or transportation container;

(D) an outer burial container;

(E) a vault;

(F) a grave liner;

(G) funeral clothing and accessories;

(H) a monument;

(I) a grave marker; and

(J) a cremation or alkaline hydrolysis urn.

(b) “Preneed funeral arrangement” does not include a policy or product of life insurance providing a death benefit cash payment upon the death of the beneficiary which is not limited to providing the products or services described in Subsection [(23)] (26)(a).

(27) “Processing” means the reduction of identifiable bone fragments after the completion of the cremation or the alkaline hydrolysis process to unidentifiable bone fragments by manual means.

(28) “Pulverization” means the reduction of identifiable bone fragments after the completion of the cremation or alkaline hydrolysis and processing to granulated particles by manual or mechanical means.

(29) “Resomation” means the alkaline hydrolysis process.

(30) “Sales agent” means an individual licensed under this chapter as a preneed funeral arrangement sales agent.

(31) “Temporary container” means a receptacle for cremated or alkaline hydrolysis remains usually made of cardboard, plastic, or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.

(32) “Unlawful conduct” means the same as that term is defined in Sections 58-1-501 and 58-9-501.

(33) “Unprofessional conduct” means the same as that term is defined in Sections 58-1-501 and 58-9-502.

(34) “Urn” means a receptacle designed to permanently encase cremated or alkaline hydrolysis remains.

**Section 82. Section 58-28-606 is amended to read:**

**58-28-606. Veterinary corporations, partnerships, and limited liability companies -- Unlicensed individuals -- Ownership of capital stock -- Service as officer or director.**

(1) As used in this section:

(a) “Veterinary corporation” means a professional corporation organized to render veterinary services under Title 16, Chapter 11, Professional Corporation Act.

(b) “Veterinary limited liability company” means a limited liability company organized to render veterinary services under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act.

(c) “Veterinary partnership” means a partnership or limited liability partnership organized to render veterinary services under [Title 48, Chapter 1, General and Limited Liability Partnerships].:

(i) Title 48, Chapter 1d, Utah Uniform Partnership Act; or

(ii) Title 48, Chapter 2e, Utah Uniform Limited Partnership Act.

(2) A veterinary corporation may issue or transfer shares of the veterinary corporation’s capital stock to a person that is not licensed to practice veterinary medicine, surgery, and dentistry under this chapter.

(3) An individual who is not licensed to practice veterinary medicine, surgery, and dentistry under this chapter:

(a) may not serve as an officer or director of a veterinary corporation; and

(b) may serve as secretary or treasurer of a veterinary corporation.

(4) A veterinary limited liability company or a veterinary partnership may include an individual who is not licensed to practice veterinary medicine, surgery, and dentistry under this chapter.

**Section 83. Section 58-37-8 is amended to read:**

**58-37-8. Prohibited acts -- Penalties.**

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of [Chapters] Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of [Chapters] Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of

another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first



degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

- (i) engaged in medical research; and
- (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years of age is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

**Section 84. Section 59-2-919 is amended to read:**

**59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.**

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) “Current calendar year” means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity’s certified tax rate.

(f) “Fiscal year taxing entity” means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) “Last year’s property tax budgeted revenue” does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity’s certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity’s certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity’s certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point “NOTICE OF PROPOSED TAX INCREASE”; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity’s certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

“[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.”;

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax ~~revenues~~ revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax ~~revenues~~ revenue.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

**“NOTICE OF PROPOSED TAX INCREASE  
(NAME OF TAXING ENTITY)**

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$ \_\_\_\_\_ to \$ \_\_\_\_\_, which is \$ \_\_\_\_\_ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by \_\_\_% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

**PUBLIC HEARING**

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the

calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a local district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a local district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

**Section 85. Section 59-2-924 is amended to read:**

**59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.**

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

- (A) interest;
- (B) penalties;
- (C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment,

contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(c) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(d) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(e) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(f) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

- (A) locally assessed new growth;
- (B) centrally assessed new growth; and
- (C) project area new growth.

(g) "Incremental value" means the same as that term is defined in Section 17C-1-102.

(h) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable

value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(i) "Project area" means the same as that term is defined in Section 17C-1-102.

(j) "Project area new growth" means an amount equal to the incremental value that is no longer provided to an agency as tax increment.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3~~(22)~~(23); and

(c) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value,

from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

**Section 86. Section 59-2-1905 is amended to read:**

**59-2-1905. Refund.**

(1) As used in this section:

(a) "Property taxes and fees due" means:

(i) the taxes due on an active duty claimant or veteran claimant's property:

(A) with respect to which a county grants an exemption under this part; and

(B) for the calendar year for which the county grants an exemption under this part; and

(ii) for a veteran claimant, a uniform fee on tangible personal property described in Section 59-2-405 that is owned by the veteran claimant and assessed for the calendar year for which the county grants an exemption under this part.

(b) "Property taxes and fees paid" is an amount equal to the sum of the following:

(i) the amount of property taxes that qualifies for an exemption under this part that the active duty claimant or the veteran claimant paid for the calendar year for which the active duty claimant or veteran claimant is applying for an exemption under this part;

(ii) the amount of the exemption the county grants for the calendar year for which the active duty claimant or veteran claimant is applying for an exemption under this part; and

(iii) for a veteran claimant, the amount of a uniform fee on tangible personal property, described in Section 59-2-405 and that qualifies for an exemption under this part, that is paid by the veteran claimant for the calendar year for which the veteran claimant is applying for an exemption under this part.

(2) A county shall refund to an active duty claimant or a veteran claimant an amount equal to the amount by which the active duty ~~claimant~~ claimant's or veteran claimant's property taxes and fees paid exceed the active duty ~~claimant~~ claimant's or veteran claimant's property taxes and fees due, if that amount is \$1 or more.



**Section 87. Section 59-7-104 is amended to read:**

**59-7-104. Tax -- Minimum tax.**

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise~~[, as defined in Section 59-7-101,]~~ or for the privilege of doing business~~[, as defined in Section 59-7-101,]~~ in the state.

(2) The tax shall be 4.95% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

**Section 88. Section 59-7-610 is amended to read:**

**59-7-610. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

- (i) commercial composting; or
- (ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

- (b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in [Utah] the state; and

- (ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

(ii) for [claims] a claim of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer's tax credit; and

(iii) for [claims] a claim of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in [Utah] the state; and

(F) the amount of the taxpayer's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The taxpayer shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the [office] Governor's Office of Economic Development issues a written certification; and

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the taxpayer made the purchases or payments;

(b) before any other tax credits the taxpayer may claim for the taxable year; and

(c) before the taxpayer [claiming] claims a tax credit authorized by this section.

(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three

taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(8) A taxpayer may not claim or carry forward a tax credit under this section for a taxable year during which the taxpayer claims the targeted business income tax credit under Section 59-7-624.

**Section 89. Section 59-7-614.10 is amended to read:**

**59-7-614.10. Nonrefundable enterprise zone tax credit.**

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit [available] under this part for a taxable year during which the business entity has claimed the targeted business income tax credit [available] under Section 59-7-624.

(6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1-301; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

**Section 90. Section 59-7-624 is amended to read:**

**59-7-624. Targeted business income tax credit.**

(1) As used in this section, "business applicant" means the same as that term is defined in Section 63N-2-302.

(2) A business applicant that is certified and issued a targeted business income tax eligibility certificate by the [office] Governor's Office of Economic Development under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit [available] under this section, the business applicant may not claim or carry forward a tax

credit [available] under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

**Section 91. Section 59-10-136 is amended to read:**

**59-10-136. Domicile -- Temporary absence from state.**

(1) (a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; or

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i).

(2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:

(a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

(b) the individual or the individual's spouse:

(i) votes in this state in a regular general election, municipal general election, primary election, or special election during the taxable year; and

(ii) has not registered to vote in another state in that taxable year; or

(c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.

(3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(iii) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

(iv) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;

(v) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

(vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

(vii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

(viii) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

(ix) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(x) whether the individual or the individual's spouse asserts residency in this state on a

document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;

(xi) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile; [øø]

(xii) whether the individual is an individual described in Subsection (1)(b);

(xiii) whether the individual:

(A) maintains a place of abode in the state; and

(B) spends in the aggregate 183 or more days of the taxable year in the state; or

(xiv) whether the individual or the individual's spouse:

(A) did not vote in this state in a regular general election, municipal general election, primary election, or special election during the taxable year, but voted in the state in a general election, municipal general election, primary election, or special election during any of the three taxable years prior to that taxable year; and

(B) has not registered to vote in another state during a taxable year described in Subsection (3)(b)(xiv)(A).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsection (3)(b)(xiii), the commission may by rule define what constitutes spending a day of the taxable year in the state.

(4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:

(i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and

(ii) during the time period described in Subsection (4)(a)(i), neither the individual nor the individual's spouse:

(A) return to this state for more than 30 days in a calendar year;

(B) claim a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);

(C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence; or

(E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.

(b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.

(c) For purposes of Subsection (4)(a), an absence from the state:

(i) begins on the later of the date:

(A) the individual leaves this state; or

(B) the individual's spouse leaves this state; and

(ii) ends on the date the individual or the individual's spouse returns to this state if the individual or the individual's spouse remains in this state for more than 30 days in a calendar year.

(d) An individual shall file an individual income tax return or amended individual income tax return under this chapter and pay any applicable interest imposed under Section 59-1-402 if:

(i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and

(ii) the individual or the individual's spouse fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state.

(e) (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.

(ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:

(A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and

(B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).

(5) Notwithstanding Subsections (2) and (3), for individuals who are spouses for purposes of this

section and one of the spouses has domicile under this section, the other spouse is not considered to have domicile in this state under Subsection (2) or (3) if one of the spouses establishes by a preponderance of the evidence that, during the taxable year and for three taxable years prior to that taxable year, that other spouse:

- (a) is not an owner of property in this state;
- (b) does not return to this state for more than 30 days in a calendar year;
- (c) has not received earned income as defined in Section 32(c)(2), Internal Revenue Code, in this state;
- (d) has not voted in this state in a regular general election, municipal general election, primary election, or special election; and
- (e) does not have a driver license in this state.

(6) (a) Except as provided in Subsection (5), an individual is considered to have domicile in this state in accordance with this section, the individual's spouse is considered to have domicile in this state.

(b) For purposes of this section, an individual is not considered to have a spouse if:

- (i) the individual is legally separated or divorced from the spouse; or
- (ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

(c) Except as provided in Subsection (6)(b)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether an individual has a spouse.

(7) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.

**Section 92. Section 59-10-1007 is amended to read:**

**59-10-1007. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

- (a) a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:
  - (i) commercial composting; or
  - (ii) manufacturing facilities or plant units that:
    - (A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in [Utah] the state; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;

(ii) for [claims] a claim of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;

(B) the date that the claimant, estate, or trust purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;

(E) the amount of the claimant's, estate's, or trust's tax credit; and

(F) a statement that the machinery and equipment are integral to the composting or recycling process; and

(iii) for [claims] a claim of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the claimant, estate, or trust made to a third party;

(B) the date that the claimant, estate, or trust made the payment to a third party;

(C) the amount that the claimant, estate, or trust paid to each third party;

(D) the total amount that the claimant, estate, or trust paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in [Utah] the state; and

(F) the amount of the claimant's, estate's, or trust's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the ~~office~~ Governor's Office of Economic Development issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.

(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and

(c) before the claimant, estate, or trust ~~claiming~~ claims a tax credit authorized by this section.

(4) The commission shall make rules governing what information a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(8) A claimant, estate, or trust may not claim or carry forward a tax credit ~~available~~ under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

**Section 93. Section 59-10-1037 is amended to read:**

**59-10-1037. Nonrefundable enterprise zone tax credit.**

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit ~~available~~ under this part for a taxable year during which the business entity has claimed the targeted business income tax credit ~~available~~ under Section 59-10-1112.

(6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information, if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1-301; and

(F) other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal

Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

**Section 94. Section 59-10-1112 is amended to read:**

**59-10-1112. Targeted business income tax credit.**

(1) As used in this section, “business applicant” means the same as that term is defined in Section 63N-2-302.

(2) A business applicant that is certified and issued a targeted business income tax eligibility certificate by the [office] Governor’s Office of Economic Development under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit [available] under this section, the business applicant may not claim or carry forward a tax credit [available] under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

**Section 95. Section 59-12-102 is amended to read:**

**59-12-102. Definitions.**

As used in this chapter:

(1) “800 service” means a telecommunications service that:

- (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- (b) is typically marketed:
  - (i) under the name 800 toll-free calling;
  - (ii) under the name 855 toll-free calling;
  - (iii) under the name 866 toll-free calling;
  - (iv) under the name 877 toll-free calling;
  - (v) under the name 888 toll-free calling; or
  - (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) “900 service” means an inbound toll telecommunications service that:

- (i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber’s:

- (A) prerecorded announcement; or
- (B) live service; and

(iii) is typically marketed:

- (A) under the name 900 service; or
- (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) “900 service” does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber’s customer:

- (A) a product; or
- (B) a service.

(3) (a) “Admission or user fees” includes season passes.

(b) “Admission or user fees” does not include annual membership dues to private organizations.

(4) “Affiliate” or “affiliated person” means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) “Agreement” means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) “Agreement combined tax rate” means the sum of the tax rates:

- (a) listed under Subsection (7); and
- (b) that are imposed within a local taxing jurisdiction.

(7) “Agreement sales and use tax” means a tax imposed under:

- (a) Subsection 59-12-103(2)(a)(i)(A);
- (b) Subsection 59-12-103(2)(b)(i);
- (c) Subsection 59-12-103(2)(c)(i);
- (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- (e) Section 59-12-204;
- (f) Section 59-12-401;
- (g) Section 59-12-402;
- (h) Section 59-12-402.1;
- (i) Section 59-12-703;

- (j) Section 59-12-802;
  - (k) Section 59-12-804;
  - (l) Section 59-12-1102;
  - (m) Section 59-12-1302;
  - (n) Section 59-12-1402;
  - (o) Section 59-12-1802;
  - (p) Section 59-12-2003;
  - (q) Section 59-12-2103;
  - (r) Section 59-12-2213;
  - (s) Section 59-12-2214;
  - (t) Section 59-12-2215;
  - (u) Section 59-12-2216;
  - (v) Section 59-12-2217;
  - (w) Section 59-12-2218;
  - (x) Section 59-12-2219; or
  - (y) Section 59-12-2220.
- (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
    - (i) an airline as defined in Section 59-2-102; or
    - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
  - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
    - (i) check, diagnose, overhaul, and repair:
      - (A) an onboard system of a fixed wing turbine powered aircraft; and
      - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
    - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
    - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
      - (A) an inspection;
      - (B) a repair, including a structural repair or modification;
      - (C) changing landing gear; and
      - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
    - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

- (a) biomass energy;
- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
  - (i) coal-to-liquids;
  - (ii) nuclear fuel;
  - (iii) oil-impregnated diatomaceous earth;
  - (iv) oil sands;
  - (v) oil shale;
  - (vi) petroleum coke; or
  - (vii) waste heat from:
    - (A) an industrial facility; or
    - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.



(15) “Assisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) “Biomass energy” does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) “Bundled transaction” means the sale of two or more items of tangible personal property,

products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute “clothing”; and
- (ii) that are consistent with the list of items that constitute “clothing” under the agreement.

(23) “Coal-to-liquid” means the process of converting coal into a liquid synthetic fuel.

(24) “Commercial use” means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (111).

(25) (a) “Common carrier” means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) “Common carrier” does not include a person that, at the time the person is traveling to or from that person’s place of employment, transports a passenger to or from the passenger’s place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person’s place of employment.

(c) “Common carrier” does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) “Component part” includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) “Computer” means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) “Computer software” means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) “Construction materials” means any tangible personal property that will be converted into real property.

(32) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

(33) (a) “Delivery charge” means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(35) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
  - (I) a meal; or
  - (II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

- (A) a mass audience; or
- (B) addressees on a mailing list provided:
  - (I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(40) "Directory assistance" means an ancillary service of providing:

- (a) address information; or
- (b) telephone number information.

(41) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(42) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(43) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) “Drug” does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(44) (a) Except as provided in Subsection (44)(c), “durable medical equipment” means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).

(c) “Durable medical equipment” does not include mobility enhancing equipment.

(45) “Electronic” means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (45)(b)(i) through (vi).

(46) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(47) “Employee” means the same as that term is defined in Section 59-10-401.

(48) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(49) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(50) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(51) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance’s:

(I) taste; or

(II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection (95)(b)(iii).

(c) “Food and food ingredients” does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(52) (a) “Fundraising sales” means sales:

- (i) (A) made by a school; or
- (B) made by a school student;
- (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and
- (iii) that are part of an officially sanctioned school activity.
- (b) For purposes of Subsection (52)(a)(iii), “officially sanctioned school activity” means a school activity:
- (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
- (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
- (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.
- (53) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.
- (54) “Governing board of the agreement” means the governing board of the agreement that is:
- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.
- (55) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:
- (i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;
- (ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;
- (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
- (iv) the National Guard;
- (v) an independent entity as defined in Section 63E-1-102; or
- (vi) a political subdivision as defined in Section 17B-1-102.
- (b) “Governmental entity” does not include the state systems of public and higher education, including:
- (i) a school;
- (ii) the State Board of Education;
- (iii) the State Board of Regents; or
- (iv) an institution of higher education described in Section 53B-1-102.
- (56) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.
- (57) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:
- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;
- (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
- (v) other farming activities;
- (c) in manufacturing tangible personal property at an establishment described in:
- (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
- (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (d) by a scrap recycler if:
- (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and
- (ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or
- (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.
- (58) (a) Except as provided in Subsection (58)(b), “installation charge” means a charge for installing:
- (i) tangible personal property; or

- (i) a product transferred electronically.
- (b) “Installation charge” does not include a charge for:
  - (i) repairs or renovations of:
    - (A) tangible personal property; or
    - (B) a product transferred electronically; or
  - (ii) attaching tangible personal property or a product transferred electronically:
    - (A) to other tangible personal property; and
    - (B) as part of a manufacturing or fabrication process.
- (59) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.
- (60) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:
  - (i) (A) a fixed term; or
  - (B) an indeterminate term; and
  - (ii) consideration.
- (b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
- (c) “Lease” or “rental” does not include:
  - (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
  - (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
    - (A) upon completion of required payments; and
    - (B) if the payment of an option price does not exceed the greater of:
      - (I) \$100; or
      - (II) 1% of the total required payments; or
    - (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
  - (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:
    - (i) set-up of tangible personal property;
    - (ii) maintenance of tangible personal property; or
    - (iii) inspection of tangible personal property.
- (61) “Life science establishment” means an establishment in this state that is classified under

the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
- (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- (62) “Life science research and development facility” means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.
- (63) “Load and leave” means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.
- (64) “Local taxing jurisdiction” means a:
  - (a) county that is authorized to impose an agreement sales and use tax;
  - (b) city that is authorized to impose an agreement sales and use tax; or
  - (c) town that is authorized to impose an agreement sales and use tax.
- (65) “Manufactured home” means the same as that term is defined in Section 15A-1-302.
- (66) “Manufacturing facility” means:
  - (a) an establishment described in:
    - (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
    - (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
  - (b) a scrap recycler if:
    - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
      - (A) iron;
      - (B) steel;
      - (C) nonferrous metal;
      - (D) paper;
      - (E) glass;
      - (F) plastic;
      - (G) textile; or
      - (H) rubber; and
    - (ii) the new products under Subsection (66)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(67) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(68) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (68)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service

sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include a person that only provides payment processing services.

(69) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(70) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;



- (h) spouse;
- (i) person who is the spouse of a person described in Subsections (70)(a) through (g); or
- (j) person similar to a person described in Subsections (70)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (71) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- (72) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (73) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:
- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- (iii) the origination point described in Subsection (73)(a)(i) and the termination point described in Subsection (73)(a)(ii) are not fixed.
- (b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."
- (74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment" means equipment that is:
- (i) primarily and customarily used to provide or increase the ability to move from one place to another;
- (ii) appropriate for use in a:
- (A) home; or
- (B) motor vehicle; and
- (iii) not generally used by persons with normal mobility.
- (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (74)(a).
- (c) "Mobility enhancing equipment" does not include:
- (i) a motor vehicle;
- (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- (iii) durable medical equipment; or
- (iv) a prosthetic device.

- (75) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- (76) "Model 2 seller" means a seller registered under the agreement that:
- (a) except as provided in Subsection (76)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
- (b) retains responsibility for remitting all of the sales tax:
- (i) collected by the seller; and
- (ii) to the appropriate local taxing jurisdiction.
- (77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under the agreement that has:
- (i) sales in at least five states that are members of the agreement;
- (ii) total annual sales revenues of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
- (A) for an agreement sales and use tax; and
- (B) due to each local taxing jurisdiction; and
- (iv) entered into a performance agreement with the governing board of the agreement.
- (b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.
- (78) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.
- (79) "Modular home" means a modular unit as defined in Section 15A-1-302.
- (80) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- (81) "Oil sands" means impregnated bituminous sands that:
- (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;
- (b) yield mixtures of liquid hydrocarbon; and
- (c) require further processing other than mechanical blending before becoming finished petroleum products.
- (82) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.
- (83) "Optional computer software maintenance contract" means a computer software maintenance

contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(84) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(85) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (85)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(86) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(88) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (88)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (88)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (129)(c).

(89) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(90) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(91) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(92) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(93) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(94) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(95) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (95)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(96) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (97)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(98) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(99) (a) Except as provided in Subsection (99)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(100) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(101) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(102) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(103) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(104) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(105) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(106) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(107) "Rental" means the same as that term is defined in Subsection (60).

(108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(109) "Research and development" means the process of inquiry or experimentation aimed at the

discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(110) (a) “Residential telecommunications services” means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (110)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(111) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(112) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(113) (a) “Retailer” means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and [who] that is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(114) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(115) “Sale at retail” means the same as that term is defined in Subsection (112).

(116) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(117) “Sales price” means the same as that term is defined in Subsection (103).

(118) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (118)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(119) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(120) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(121) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (121)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(122) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(123) (a) Subject to Subsections (123)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.



(b) "Short-term lodging consumable" includes:

- (i) a beverage;
- (ii) a brush or comb;
- (iii) a cosmetic;
- (iv) a hair care product;
- (v) lotion;
- (vi) a magazine;
- (vii) makeup;
- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;
- (xii) a notepad;
- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or
- (xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(124) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(125) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(126) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(127) "State" means the state of Utah, its departments, and agencies.

(128) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) “Tangible personal property” does not include a product that is transferred electronically.

(e) “Tangible personal property” does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(130) (a) “Telecommunications enabling or facilitating equipment, machinery, or software” means an item listed in Subsection (130)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (130)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

(131) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(132) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or

leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(133) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) “Telecommunications service” includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) “Telecommunications service” does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser’s primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

- (A) equipment; or
- (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;

(viii) a product transferred electronically, including:

- (A) music;
- (B) reading material;
- (C) a ring tone;
- (D) software; or
- (E) video;

(ix) a radio and television audio and video programming service:

- (A) regardless of the medium; and
- (B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

- (x) a value-added nonvoice data service; or
- (xi) tangible personal property.

(134) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (134)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

- (i) that person; or
- (ii) the telecommunications service that the person owns, controls, operates, or manages.

(135) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (135)(b) if that item is purchased or leased primarily for switching or routing:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (135)(a):

- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;
- (v) a multiplexer;
- (vi) plug in circuitry;
- (vii) a router;
- (viii) software;
- (ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (135)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (135)(b)(i) through (ix).

(136) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection (136)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;

- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

(137) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
- (ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(138) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(139) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(140) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(141) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (142)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(143) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (142).

(144) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:
  - (A) identify a caller; and
  - (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(145) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a facility that generates electricity:

- (i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(147) "Watercraft" means a vessel as defined in Section 73-18-2.

(148) "Wind energy" means wind used as the sole source of energy to produce electricity.

(149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

**Section 96. Section 59-12-104 is amended to read:**

**59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the

item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that

the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and



- (ii) for:
- (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
- (B) a boat, the boat is registered outside of this state; or
- (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (24)(a) does not apply to:
- (i) a lease or rental of a product; or
- (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:
- (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or
- (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- (28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
- (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:
- (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
- (I) 30 days in any calendar year; or
- (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
- (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;
- (31) sales of aircraft manufactured in Utah;
- (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
- (33) sales, leases, or uses of the following:
- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
- (i) sold or leased to or used by an authorized carrier; and
- (ii) before the vehicle is placed in service for the first time;
- (34) (a) 45% of the sales price of any new manufactured home; and
- (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
- (a) a person presents a prescription for the durable medical equipment; and
- (b) the durable medical equipment is used for home use only;
- (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and
- (b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- (38) sales to a ski resort of:
- (a) snowmaking equipment;
- (b) ski slope grooming equipment;
- (c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

- (A) “commercial distribution”;
- (B) “live musical performance”;
- (C) “live news program”;
- (D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;
- (F) lighting;
- (G) fencing;
- (H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection

(56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) generating equipment;
- (B) a control and monitoring system;
- (C) a power line;
- (D) substation equipment;
- (E) lighting;
- (F) fencing;
- (G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

- (A) a new waste energy facility; or
- (B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

- (A) is located in the state;
- (B) produces fuel from alternative energy, including:

- (I) methanol; or
- (II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

- (A) names; or
- (B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a

purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal

Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital ~~audiowork~~ audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product

transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2);

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

**Section 97. Section 59-26-104 is amended to read:**

**59-26-104. Collection of tax.**

A multi-channel video or audio service provider shall:

(1) collect the tax imposed by Section 59-26-103 from the purchaser;

(2) pay the tax collected under Subsection (1) to the commission:

(a) monthly on or before the last day of the month immediately following the last day of the previous month if:

(i) the multi-channel video or audio service provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(ii) the multi-channel video or audio service provider is not required to file a sales and use tax return under Chapter 12, Sales and Use Tax Act; or

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the multi-channel video or audio service provider is required to file a sales and use tax return with the commission quarterly under Section [59-12-108] 59-12-107; and

(3) pay the tax collected under Subsection (1) using a form prescribed by the commission.

**Section 98. Section 62A-4a-202.9 is amended to read:**

**62A-4a-202.9. Child protection unit pilot program.**

(1) The division shall establish and operate, as funding allows, a child protection unit pilot program in up to three areas of the state where a local government has established a child protection unit.

(2) The child protection unit pilot program is established to improve communications between a child protection unit and the division in the division's management of child welfare matters and to strengthen the state's child welfare system.

(3) The pilot program may include:

(a) involving a child protection unit in the child protection team during the division's investigation when a child is taken into protective custody, as described in Section 62A-4a-202.3;

(b) involving a child protection unit in the child protection team meetings, as described in Section 62A-4a-202.8;

(c) involving a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services, as described in Section 62A-4a-409; or

(d) receiving referrals, reports, or other information from a child protection unit about a child protection unit's investigations of cases that may involve abuse, neglect, or dependency of a child.

(4) The division shall consult with a child protection unit before the division closes a mutual case.

(5) The child protection unit shall notify the division if the child protection unit closes an investigation related to a mutual case.

(6) The division and the child protection unit shall coordinate on mutual cases at least once every month.

(7) Subject to Section 62A-4a-412, while in meetings or while coordinating with the child protection unit about a mutual case, the division shall grant the child protection unit access to the division's information or records on the mutual case.

(8) A child protection unit may share case-specific information obtained from the division with members of a multidisciplinary team that is:

(a) assembled by the child protection unit for a particular case;

(b) assembled when a case demonstrates:

(i) the likelihood of severe child abuse or neglect; or

(ii) a high risk of repetition as evidenced by previous involvements with law enforcement;

(c) assembled for the purpose of information sharing and identification of resources, services, or actions that are in the best interest of the child or the child's family; and

(d) composed of:



- (i) a victim advocate;
  - (ii) a therapist;
  - (iii) a representative of the child's school district;
- or
- (iv) another individual that the child protection unit designates as valuable to provide necessary services to the child or the family of the child.

(9) The division and the child protection unit shall collect data on the effectiveness of the pilot program in strengthening the state's child welfare system and shall report the data to the Child Welfare Legislative Oversight [Committee] Panel on or before November 30 of each year that the pilot program is in effect.

**Section 99. Section 63A-5-225 is amended to read:**

**63A-5-225. Development of new correctional facilities.**

(1) As used in this section:

(a) "Committee" means the Legislative Management Committee created in Section 36-12-6.

(b) "New correctional facilities" means a new prison and related facilities to be constructed to replace the state prison located in Draper.

(c) "Prison project" means all aspects of a project for the design and construction of new correctional facilities on the selected site, including:

- (i) the acquisition of land, interests in land, easements, or rights-of-way;
- (ii) site improvement; and
- (iii) the acquisition, construction, equipping, or furnishing of facilities, structures, infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the selected site, that are necessary, incidental, or convenient to the development of new correctional facilities on the selected site.

(d) "Selected site" means the site selected [~~under Subsection 63C-15-203(2)~~] as the site for new correctional facilities.

(2) In consultation with the committee, the division shall oversee the prison project, as provided in this section.

(3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section, the division shall:

- (i) enter into contracts with persons providing professional and construction services for the prison project;
- (ii) provide reports to the committee regarding the prison project, as requested by the commission; and
- (iii) consider input from the committee on the prison project, subject to Subsection (3)(b).

(b) The division may not consult with or receive input from the committee regarding:

(i) the evaluation of proposals from persons seeking to provide professional and construction services for the prison project; or

(ii) the selection of persons to provide professional and construction services for the prison project.

(c) A contract with a project manager or person with a comparable position on the prison project shall include a provision that requires the project manager or other person to provide reports to the committee regarding the prison project, as requested by the committee.

(4) All contracts associated with the design or construction of new correctional facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section.

(5) The division shall coordinate with the Department of Corrections, created in Section 64-13-2, and the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, during the prison project to help ensure that the design and construction of new correctional facilities are conducive to and consistent with, and help to implement any reforms of or changes to, the state's corrections system and corrections programs.

(6) (a) There is created within the General Fund a restricted account known as the "Prison Development Restricted Account."

(b) The account created in Subsection (6)(a) is funded by legislative appropriations.

(c) (i) The account shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of account funds into the account.

(d) Upon appropriation from the Legislature, money from the account shall be used to fund the Prison Project Fund created in Subsection (7).

(7) (a) There is created a capital projects fund known as the "Prison Project Fund."

(b) The fund consists of:

- (i) money appropriated to the fund by the Legislature; and
- (ii) proceeds from the issuance of bonds authorized in Section 63B-25-101 to provide funding for the prison project.

(c) (i) The fund shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of fund money into the fund.

(d) Money in the fund shall be used by the division to fund the prison project.

**Section 100. Section 63F-2-102 is amended to read:**

**63F-2-102. Data Security Management Council -- Membership -- Duties.**

(1) There is created the Data Security Management Council composed of nine members as follows:

(a) the chief information officer appointed under Section 63F-1-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate [~~from the Legislative Information Technology Steering Committee~~]; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

(i) the Judicial Council;

(ii) the State Board of Regents;

(iii) the State Board of Education;

(iv) the Utah System of Technical Colleges Board of Trustees;

(v) the State Tax Commission; and

(vi) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Department of Technology Services shall provide staff to the council.

(5) The council shall meet quarterly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

(ii) continuous risk monitoring;

(iii) password management;

(iv) using the latest technology to identify and respond to vulnerabilities;

(v) protecting data in new and old systems; and

(vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

**Section 101. Section 63G-1-401 is amended to read:**

**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Utah State Flag Day, on March 9;

(c) Vietnam Veterans Recognition Day, on March 29;

(d) Utah Railroad Workers Day, on May 10;

(e) Dandy-Walker Syndrome Awareness Day, on May 11;

(f) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

(g) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;

(h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

(i) Navajo Code Talker Day, on August 14;

(j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

(k) Constitution Day, on September 17;

(l) POW/MIA Recognition Day, on the third Friday in September;

(m) Victims of Communism Memorial Day, on November 7;

(n) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

(o) Bill of Rights Day, on December 15.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(f) and (l).

(3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on [useonlyasdirected.org](http://useonlyasdirected.org) that allow disposal throughout the year.

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(5) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

~~[(5)] (6) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.~~

~~[(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.]~~

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

~~[(9)] (10) The month of October shall be commemorated annually as Italian-American Heritage Month.~~

~~[(10)] (11) The month of November shall be commemorated annually as American Indian Heritage Month.~~

~~[(11) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.]~~

(12) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

**Section 102. Section 63G-6a-204 is amended to read:**

**63G-6a-204. Applicability of rules and regulations of Utah State Procurement Policy Board and State Building Board -- Report to interim committee.**

(1) Except as provided in Subsection (2), rules made by the board under this chapter shall govern all procurement units for which the board is the applicable rulemaking authority.

(2) The building board rules governing procurement of construction, design professional services, and leases apply to the procurement of construction, design professional services, and leases of real property by the Division of Facilities Construction and Management.

(3) An applicable rulemaking authority may make its own rules, consistent with this chapter, governing procurement by a person over which the applicable rulemaking authority has rulemaking authority.

(4) The board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made under Section 63G-6a-203.

~~[(5) Notwithstanding Subsection 63G-3-301(15)(b), an applicable rulemaking authority is required to initiate rulemaking proceedings, for rules required to be made under this chapter, on or before:]~~

~~[(a) May 13, 2014, if the applicable rulemaking authority is the board; or]~~

~~[(b) January 1, 2015, for each other applicable rulemaking authority.]~~

**Section 103. Section 63G-6a-712 is amended to read:**

**63G-6a-712. Unsolicited proposals.**

(1) As used in this section, “unsolicited proposal”~~;~~  
~~(a)~~ means a written proposal:

~~(i)~~ (a) for a public-private partnership for:

~~(A)~~ (i) an infrastructure project; or

~~(B)~~ (ii) a project to collect, analyze, and distribute health data to improve health and health care and to facilitate interaction regarding health and health care issues; and

~~(iii)~~ (b) that is not submitted in response to a solicitation~~;~~ and~~].~~

~~(b) does not include an initial proposal, as defined in Section 63G-6a-711.]~~

(2) (a) Subject to Subsection (2)(b), a person may submit an unsolicited proposal to a procurement unit at any time.

(b) An unsolicited proposal may not be used to seek a procurement unit’s consideration of a proposal after the expiration of the time for submitting proposals in response to a request for proposals.

(3) An unsolicited proposal shall include:

(a) a reference to this section and a statement that the unsolicited proposal is submitted under this section;

(b) a conceptual description of the project that constitutes the procurement item that is the subject of the proposed public-private partnership;

(c) a description of the economic benefit of the project to the state and the procurement unit;

(d) information concerning the services or facilities currently being provided by the state or procurement unit that are similar to the project;

(e) an estimate of the project costs for:

(i) design;

(ii) implementation;

(iii) operation and maintenance; and

(iv) any other related project cost; and

(f) the name, address, telephone number, and email address of an individual who may be contacted for further information concerning the unsolicited proposal.

(4) A procurement unit is not required to consider an unsolicited proposal.

(5) A procurement unit may charge a person submitting an unsolicited proposal a fee to cover the actual cost of processing, considering, and evaluating the unsolicited proposal.

(6) A procurement unit that receives an unsolicited proposal may not award a contract for the procurement item described in the unsolicited proposal unless:

(a) the procurement unit first engages in a standard procurement process for proposals to

provide the procurement item described in the unsolicited proposal; or

(b) awarding the contract without the procurement unit engaging in a standard procurement process is allowed under Section 63G-6a-802.

(7) If a procurement unit engages in a standard procurement process pursuant to Subsection (6)(a):

(a) the procurement unit shall treat an unsolicited proposal as though it were submitted as a proposal in response to the solicitation; and

(b) a person who has submitted an unsolicited proposal may, within the time provided in the solicitation for the submission of proposals, modify the unsolicited proposal to the extent necessary to address matters raised in the solicitation that were not addressed in the initial unsolicited proposal.

(8) An applicable rulemaking authority may make rules to govern the submission, processing, consideration, and evaluation of an unsolicited proposal, including fees relating to the unsolicited proposal.

(9) An unsolicited proposal is subject to Chapter 2, Government Records Access and Management Act, including, if applicable, provisions relating to a written claim of business confidentiality, as provided in Section 63G-2-309, for trade secrets, commercial information, or nonindividual financial information described in Subsection 63G-2-305(1) or (2).

**Section 104. Section 63G-6a-1209 is amended to read:**

**63G-6a-1209. Leases.**

(1) As used in this section, “lease” means for a procurement unit to lease or lease-purchase a procurement item from a person.

(2) This section does not apply to the lease of real property.

(3) A procurement unit may not lease a procurement item unless the procurement unit complies with the requirements of this section.

(4) A procurement unit may lease a procurement item if:

(a) the procurement officer determines that it is in the best interest of the procurement unit to lease the procurement item, after the procurement officer:

(i) investigates alternative means of obtaining the procurement item; and

(ii) considers the costs and benefits of the alternative means of obtaining the procurement item;

(b) all conditions for renewal and cost are included in the lease;

(c) the lease is awarded through a standard procurement process, or an exception to a standard procurement process described in Part 8, Exceptions to Procurement Requirements;

(d) for a standard procurement process, the invitation for bids, request for proposals, or request for quotes states:

(i) that the procurement unit is seeking, or willing to consider, a lease; and

(ii) for a lease purchase, that the procurement unit is seeking, or willing to consider, a lease-purchase;

(e) the lease is not used to avoid competition; and

(f) the lease complies [tø] with all other provisions of law or rule applicable to the lease.

**Section 105. Section 63G-6a-1403 is amended to read:**

**63G-6a-1403. Procurement of tollway development agreements.**

(1) As used in this section, "tollway development agreement" [is-as] means the same as that term is defined in Section 72-6-202.

(2) The Department of Transportation and the Transportation Commission:

(a) may solicit a tollway development agreement proposal by following the requirements of this section;

(b) may award a solicited tollway development agreement contract for any tollway project by following the requirements of this section; and

(c) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of tollway development agreement proposals in addition to those required by this section.

(3) (a) Before entering into a tollway development agreement, the Department of Transportation may issue a request for qualifications to prequalify potential contractors.

(b) Public notice of the request for qualifications shall be given in accordance with board rules.

(c) The Department of Transportation shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least provide:

(i) a demonstration of their experience with other transportation concession projects with attributes similar to the project being procured;

(ii) a financial statement of the firm or consortium of firms making the proposal;

(iii) a conceptual project development plan and financing plan;

(iv) the legal structure of the firm or consortium of firms making the proposal;

(v) the organizational structure for the project; and

(vi) a statement describing why the firm or consortium of firms is best qualified for the project.

(d) The request for qualifications shall identify the number of eligible competing offerors that the Department of Transportation will select to submit a proposal.

(4) The Department of Transportation shall:

(a) evaluate the responses received from the request for qualifications;

(b) select from their number those qualified to submit proposals; and

(c) invite those respondents to submit proposals based upon the Department of Transportation's request for proposals.

(5) The Department of Transportation shall issue a request for proposals to those qualified respondents that may require, as appropriate for the procurement:

(a) a description of the proposed project or projects;

(b) a financial plan for the project, including:

(i) the anticipated financial commitment of all parties;

(ii) equity, debt, and other financing mechanisms;

(iii) an analysis of the projected return, rate of return, or both; and

(iv) the monetary benefit and other value to a government entity;

(c) assumptions about user fees or toll rates;

(d) a project development and management plan, including:

(i) the contracting structure;

(ii) the plan for quality management;

(iii) the proposed toll enforcement plan; and

(iv) the plan for safety management; and

(e) that the proposal [tø] comply with the minimum guidelines for tollway development agreement proposals under Section 72-6-204.

(6) The Department of Transportation and the Transportation Commission:

(a) shall evaluate the submissions received in response to the request for proposals from the prequalified offerors;

(b) shall comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and

(c) may, after considering price and other identified factors and complying with the requirements of Section 72-6-206, award the contract to the responsible offeror whose responsive proposal is most advantageous to the state.

**Section 106. Section 63H-1-201 is amended to read:**

**63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.**

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) as provided in this chapter, facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

(i) in a project area; or

(ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;

(g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;

(j) receive the property tax allocation and other taxes and fees as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) enter into a development agreement with a developer of land within a project area;

(q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section ~~[11-42-102]~~ 11-42a-102, in accordance with Title 11, Chapter ~~[42, Assessment Area Act]~~ 42a, Commercial Property Assessed Clean Energy Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform; and

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

**Section 107. Section 63I-1-230 is amended to read:**

**63I-1-230. Repeal dates, Title 30.**

Sections 30-1-34<sup>[,]</sup> and 30-1-36<sup>[,]</sup> and ~~30-1-39~~ are repealed July 1, 2023.

**Section 108. Section 63I-1-253 is amended to read:**

**63I-1-253. Repeal dates, Titles 53 through 53G.**

The following provisions are repealed on the following dates:

(1) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2022.

(2) Subsection 53-13-104(6), regarding being 19 years old at certification, is repealed July 1, 2022.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language that states “by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203” is repealed; and

(b) Section 53E-4-203 is repealed.

(10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

(a) Subsection 53B-17-1201(1) is repealed;

(b) Section 53B-17-1203 is repealed;

(c) Subsection 53B-17-1204(2) is repealed;

(d) Subsection 53B-17-1204(4)(a), the language that states “in accordance with the method described in Subsection (4)(c)” is repealed; and

(e) Subsection 53B-17-1204(4)(c) is repealed.

(11) Section 53F-2-514 is repealed July 1, 2020.

(12) Section 53F-5-203 is repealed July 1, 2024.

(13) Section 53F-5-212 is repealed July 1, 2024.

(14) Section 53F-5-213 is repealed July 1, 2023.

(15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~[(16) Section 53F-6-201 is repealed July 1, 2019.]~~

[(17)] (16) Section 53F-9-501 is repealed January 1, 2023.

[(18)] (17) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

~~[(19)]~~ (18) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2020.

**Section 109. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

~~[(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.]~~

~~[(7)]~~ (6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

~~[(8)]~~ (7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

~~[(9)]~~ (8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

~~[(10)]~~ (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

~~[(11)]~~ (10) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

[42] (11) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[13] ~~Section 63M-7-212 is repealed on December 31, 2019.~~

[14] (12) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

[45] (13) Subsection 63J-1-602.1(13), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(14) (a) Subsection 63J-1-602.1(55), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(55), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[46] (15) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[47] (16) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

[18] (a) ~~Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.~~

(b) ~~When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

[49] (17) Subsection 63J-1-602.2[~~(23)~~](24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[20] ~~Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:~~

[~~“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”~~]

[21] (18) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

[22] (19) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[23] (20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

[24] (21) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

[25] (22) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.



~~[(26)]~~ (23) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~[(26)]~~ (23)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(26)]~~ (23)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(27)]~~ (24) Section 63N-2-512 is repealed on July 1, 2021.

~~[(28)]~~ (25) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(28)]~~ (25)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(29)]~~ (26) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

~~[(30)]~~ (27) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

~~[(31)]~~ (28) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(32)]~~ (29) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

~~[(33)]~~ (30) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

~~[(34)]~~ (31) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

**Section 110. Section 63I-2-226 is amended to read:**

**63I-2-226. Repeal dates -- Title 26.**

(1) Subsection 26-7-8(3) is repealed January 1, 2027.

(2) Section 26-8a-107 is repealed July 1, 2024.

(3) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

~~[(4) Subsection 26-18-2.3(5) is repealed January 1, 2020.]~~

~~[(5)]~~ (4) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

~~[(6)]~~ (5) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

~~[(7) Subsection 26-18-604(2) is repealed January 1, 2020.]~~

~~[(8)]~~ (6) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

~~[(9)]~~ (7) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

~~[(10) Subsection 26-33a-106.5(6)(e)(iii) is repealed January 1, 2020.]~~

~~[(11)]~~ (8) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

~~[(12) Subsection 26-50-202(7)(b) is repealed January 1, 2020.]~~

~~[(13) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.]~~

~~[(14) (9) Subsection 26-55-107(8) is repealed January 1, 2021.]~~

~~[(15) Subsection 26-56-103(9)(d) is repealed January 1, 2020.]~~

~~[(16) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.]~~

~~[(17) (10) Subsection 26-61-202(4)(b) is repealed January 1, 2022.]~~

~~[(18) (11) Subsection 26-61-202(5) is repealed January 1, 2022.]~~

**Section 111. Section 63I-2-231 is amended to read:**

**63I-2-231. Repeal dates -- Title 31A.**

~~[(1) Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements is repealed July 1, 2019.]~~

~~[(2) Title 31A, Chapter 30, Part 3, Individual and Small Employer Risk Adjustment Act is repealed July 1, 2019.]~~

**Section 112. Section 63I-2-235 is amended to read:**

**63I-2-235. Repeal dates -- Title 35A.**

~~[(1) Section 35A-1-110 is repealed July 1, 2019.]~~

~~[(2) Section 35A-3-208 is repealed July 1, 2019.]~~

~~[(3) Subsection 35A-8-604(6) is repealed October 1, 2020.]~~

**Section 113. Section 63I-2-253 is amended to read:**

**63I-2-253. Repeal dates -- Titles 53 through 53G.**

~~[(1) (a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech Board of Trustees and the transition to that composition, are repealed July 1, 2019.]~~

~~[(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.]~~

~~[(2) (1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of directors, is repealed July 1, 2022.]~~

~~[(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.]~~

~~[(3) (2) Section 53B-6-105.7 is repealed July 1, 2024.]~~

~~[(4) (3) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.]~~

~~[(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.]~~

~~[(5) (4) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.]~~

~~[(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.]~~

~~[(6) (5) Section 53B-8-112 is repealed July 1, 2024.]~~

~~[(7) (6) Section 53B-8-114 is repealed July 1, 2024.]~~

~~[(8) (7) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:~~

~~(i) Section 53B-8-202;~~

~~(ii) Section 53B-8-203;~~

~~(iii) Section 53B-8-204; and~~

~~(iv) Section 53B-8-205.~~

~~[(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.]~~

~~[(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.]~~

~~[(9) (8) Section 53B-10-101 is repealed on July 1, 2027.]~~

~~[(10) (9) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.]~~

~~[(11) (10) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.]~~

~~[(12) (11) Section 53E-3-520 is repealed July 1, 2021.]~~

~~[(13) (12) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.]~~

~~[(14) (13) Section 53E-5-307 is repealed July 1, 2020.]~~

~~[(15) (14) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.]~~

~~[(16) (15) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.]~~

~~[(17)] (16)~~ In Subsection 53F-2-515(1), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(18)] Section 53F-4-204 is repealed July 1, 2019.]~~

~~[(19)] (17)~~ In Subsection 53F-9-302(3), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(20)] (18)~~ In Subsection 53F-9-305(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(21)] (19)~~ In Subsection 53F-9-306(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(22)] (20)~~ In Subsection 53G-3-304(1)(c)(i), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(23)] (21)~~ On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent.

**Section 114. Section 63I-2-258 is amended to read:**

**63I-2-258. Repeal dates -- Title 58.**

~~[Subsection 58-37f-303(7) is repealed January 1, 2019.]~~

**Section 115. Section 63I-2-259 is amended to read:**

**63I-2-259. Repeal dates -- Title 59.**

~~[(1)] Section 59-1-102 is repealed on May 14, 2019.]~~

~~[(2)]~~ In Section 59-2-926, the language that states “applicable” and “or 53F-2-301.5” is repealed July 1, 2023.

~~[(3)] Subsection 59-2-1007(15) is repealed on December 31, 2018.]~~

**Section 116. Section 63I-2-263 is amended to read:**

**63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1~~[(52)]~~(56) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

~~[(8)] Section 63J-4-708 is repealed January 1, 2023.]~~

**Section 117. Section 63I-2-272 is amended to read:**

**63I-2-272. Repeal dates -- Title 72.**

~~[(1)]~~ Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.

~~[(2)] On July 1, 2018:]~~

~~[(a) in Subsection 72-2-108(2), the language that states “and except as provided in Subsection (10)” is repealed; and]~~

~~[(b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states “, excluding any amounts appropriated as additional support for class B and class C roads under Subsection (10),” is repealed.]~~

~~[(3)] Section 72-3-113 is repealed January 1, 2020.]~~

**Section 118. Section 63J-4-608 is amended to read:**

**63J-4-608. Facilitating the acquisition of federal land -- Advisory committee.**

(1) As used in this section:

(a) “Advisory committee” means the committee established under Subsection (3).

(b) “Federal land” means land that the secretary is authorized to dispose of under the federal land disposal law.

(c) “Federal land disposal law” means the Recreation and Public Purposes Act, 43 U.S.C. Sec. 869 et seq.

(d) "Government entity" means any state or local government entity allowed to submit a land application under the federal land disposal law.

(e) "Land application" means an application under the federal land disposal law requesting the secretary to sell or lease federal land.

(f) "Land application process" means all actions involved in the process of submitting and obtaining a final decision on a land application.

(g) "Secretary" means the Secretary of the Interior of the United States.

(2) The coordinator and the office shall:

(a) develop expertise:

(i) in the land application process; and

(ii) concerning the factors that tend to increase the chances that a land application will result in the secretary selling or leasing federal land as requested in the land application;

(b) work to educate government entities concerning:

(i) the availability of federal land pursuant to the federal land disposal law; and

(ii) the land application process;

(c) advise and consult with a government entity that requests assistance from the coordinator or the office to formulate and submit a land application and to pursue a decision on the land application;

(d) advise and consult with a government entity that requests assistance from the coordinator or the office to identify and quantify the amount of any funds needed to provide the public use described in a land application;

(e) with the advice and recommendations of the advisory committee:

(i) adopt a list of factors to be considered in determining the degree to which a land application or potential land application is in the public interest; and

(ii) recommend a prioritization of all land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)(f)(i);

(f) prepare and submit a written report of land applications:

(i) to the Natural Resources, Agriculture, and Environment Interim Committee and the Federalism Commission [~~for the Stewardship of Public Lands~~];

(ii) (A) annually no later than August 31; and

(B) at other times, if and as requested by the committee or commission; and

(iii) (A) on the activities of the coordinator and the office under this section;

(B) on the land applications and potential land applications in the state; and

(C) on the decisions of the secretary on land applications submitted by government entities in the state and the quantity of land acquired under the land applications;

(g) present a summary of information contained in the report described in Subsection (3)(f):

(i) at a meeting of the Natural Resources, Agriculture, and Environment Interim Committee and at a meeting of the Federalism Commission [~~for the Stewardship of Public Lands~~];

(ii) annually no later than August 31; and

(iii) at other times, if and as requested by the committee or commission; and

(h) report to the Executive Appropriations Committee of the Legislature, as frequently as the coordinator considers appropriate or as requested by the committee, on the need for legislative appropriations to provide funds for the public purposes described in land applications.

(3) (a) There is created a committee comprised of:

(i) an individual designated by the chairs of the Federalism Commission [~~for the Stewardship of Public Lands~~];

(ii) an individual designated by the director of the Division of Facilities Construction and Management;

(iii) a representative of the Antiquities Section, created in Section 9-8-304, designated by the director of the Division of State History;

(iv) a representative of municipalities designated by the Utah League of Cities and Towns;

(v) a representative of counties designated by the Utah Association of Counties;

(vi) an individual designated by the Governor's Office of Economic Development; and

(vii) an individual designated by the director of the Division of Parks and Recreation, created in Section 79-4-201.

(b) The seven members of the advisory committee under Subsection (3)(a) may, by majority vote, appoint up to four additional volunteer members of the advisory committee.

(c) The advisory committee shall advise and provide recommendations to the coordinator and the office on:

(i) factors the coordinator and office should consider in determining the degree to which a land application or potential land application is in the public interest; and

(ii) the prioritization of land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)(f)(i).

(d) A member of the advisory committee may not receive compensation, benefits, or expense reimbursement for the member's service on the advisory committee.

(e) The advisory committee may:

(i) select a chair from among the advisory committee members; and

(ii) meet as often as necessary to perform the advisory committee's duties under this section.

(f) The coordinator shall facilitate the convening of the first meeting of the advisory committee.

**Section 119. Section 63M-2-503 is amended to read:**

**63M-2-503. USTAR grant programs.**

(1) USTAR shall establish at least one competitive grant program that:

(a) is designed to:

(i) address market gaps in technology development in the state; or

(ii) facilitate research and development of promising technologies;

(b) does not overlap with or duplicate other state funded programs; and

(c) offers grants, on a competitive basis, to:

(i) researchers employed by higher education institutions;

(ii) private entities; or

(iii) partnerships between researchers employed by higher education institutions and private entities.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, USTAR shall make rules that describe, for each grant program:

(a) the purpose;

(b) eligibility criteria to receive a grant;

(c) how USTAR determines which proposals receive grants;

(d) reporting requirements in accordance with Part 7, Reporting by Recipients of USTAR Support; and

(e) other information USTAR determines is necessary or appropriate.

(3) USTAR:

(a) shall solicit proposals for each grant program; and

(b) may, subject to legislative appropriation and Subsection 63M-2-502(1)(b), award grants for each program.

(4) In evaluating a grant proposal received in response to a solicitation under this section, USTAR shall consider, as applicable:

(a) the extent to which the planned research has the potential for commercialization;

(b) the market gap the technology or research fills; and

(c) other factors USTAR determines are relevant, important, or necessary.

(5) USTAR shall require a recipient of a grant under this section, as a condition of receiving a grant, to comply with the reporting requirements described in ~~[(a) Section 63M-2-702, for a USTAR researcher; or (b)]~~ Section 63M-2-703, for a private entity or for a partnership between a USTAR researcher and a private entity.

(6) Beginning on July 1, 2019, USTAR:

(a) may not establish any new competitive grant programs;

(b) may not award new grants related to any existing competitive grant program; and

(c) may continue to pay grant money for a grant awarded before July 1, 2019, in accordance with the written terms of the grant.

**Section 120. Section 63M-2-504 is amended to read:**

**63M-2-504. Other USTAR support.**

(1) USTAR may:

(a) provide mentoring, networking, and entrepreneurial training for a private entity or USTAR researcher to help take a new technology to market;

(b) provide support to a private entity or USTAR researcher in assessing the potential for bringing a technology to market; and

(c) encourage industry partnerships between a private entity and a USTAR researcher.

(2) USTAR shall require a recipient of USTAR support under this section, as a condition of receiving USTAR support, to comply with the reporting requirements in ~~[(a) Section 63M-2-702, for a USTAR researcher; or (b)]~~ Section 63M-2-703, for a private entity or for a partnership between a USTAR researcher and a private entity.

**Section 121. Section 63M-7-202 is amended to read:**

**63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.**

(1) The commission on criminal and juvenile justice shall be composed of 25 voting members as follows:

(a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;

(b) the state court administrator or the state court administrator's designee;

(c) the executive director of the Department of Corrections or the executive director's designee;

(d) the executive director of the Department of Human Services or the executive director's designee;

(e) the commissioner of the Department of Public Safety or the commissioner's designee;

(f) the attorney general or an attorney designated by the attorney general;

(g) the president of the chiefs of police association or a chief of police designated by the association's president;

(h) the president of the sheriffs' association or a sheriff designated by the association's president;

(i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;

(j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;

(k) the chair of the Utah Substance Use and Mental Health Advisory Council or a member of the Utah Substance Use and Mental Health Advisory Council designated by the chair;

(l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;

(m) the chair of the Utah Council on Victims of Crime [~~or the chair's designee~~] or a member of the Utah Council on Victims of Crime designated by the chair;

(n) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;

(o) the chair of the Utah Indigent Defense Commission or a member of the Indigent Defense Commission designated by the chair;

(p) the Salt Lake County District Attorney or an attorney designated by the district attorney; and

(q) the following members designated to serve four-year terms:

(i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;

(ii) a representative of the statewide association of public attorneys designated by the association's officers;

(iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and

(iv) one member of the Senate who is appointed by the president of the Senate.

(2) The governor shall appoint the remaining five members to four-year staggered terms as follows:

(a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;

(b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;

(c) one representative of public education;

(d) one citizen representative; and

(e) a representative from a local faith who has experience with the criminal justice system.

(3) In addition to the members designated under Subsections (1) and (2), the United States Attorney for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.

(4) In appointing the members under Subsection (2), the governor shall take into account the geographical makeup of the commission.

**Section 122. Section 63M-13-202 is amended to read:**

**63M-13-202. Duties of the commission.**

(1) The responsibilities of the commission include:

(a) supporting Utah parents and families, who have family members that are in early childhood, by providing comprehensive and accurate information regarding the availability of voluntary services that are available to children in early childhood from state agencies and other private and public entities;

(b) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;

(c) sharing and analyzing information regarding early childhood issues in the state;

(d) developing and coordinating a comprehensive delivery system of services for children in early childhood that addresses the following four areas:

(i) family support and safety;

(ii) health and development;

(iii) early learning; and

(iv) economic development; and

(e) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.

(2) To fulfill the responsibilities described in Subsection (1), the commission shall:

(a) directly engage with parents, families, community members, and public and private service providers to identify and address:

(i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;

(ii) gaps and barriers to entry in the provision of services for children in early childhood; and

(iii) community-based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;

(b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:

(i) children in early childhood who live in urban, suburban, or rural areas of the state;

(ii) children in early childhood with varying socioeconomic backgrounds;

(iii) children in early childhood with varying ethnic or racial heritage;

(iv) children in early childhood from various geographic areas of the state; and

(v) children in early childhood with special needs;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;

(d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;

(e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend and implement changes to those policies, procedures, and programs;

(f) identify policies, procedures, and programs related to children in early childhood in the state that are inefficient or duplicative and recommend and implement changes to those policies, procedures, and programs;

(g) recommend policy, procedure, and program changes to address the needs of children in early childhood;

(h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services;

(i) develop, recommend, and coordinate a comprehensive delivery system of services for children in early childhood; and

(j) develop strategies and monitor efforts concerning:

(i) increasing school readiness;

(ii) improving access to child care and early education programs; and

(iii) improving family and community engagement in early childhood education and development.

(3) In fulfilling the duties of the commission, the commission shall collaborate with the Early Childhood Utah Advisory Council created in Section ~~[22-66-201]~~ 26-66-201.

(4) In fulfilling the commission's duties, the commission may:

(a) request and receive, from any state or local governmental agency or institution, information relating to early childhood, including reports, audits, projections, and statistics; and

(b) appoint special advisory groups to advise and assist the commission.

(5) Members of a special advisory group described in Subsection (4)(b):

(a) shall be appointed by the commission;

(b) may include:

(i) members of the commission; and

(ii) individuals from the private or public sector; and

(c) may not receive reimbursement or pay for work done in relation to the special advisory group.

(6) A special advisory group created in accordance with Subsection (4)(b) shall report to the commission on the progress of the special advisory group.

**Section 123. Section 63N-1-501 is amended to read:**

**63N-1-501. Governor's Economic Development Coordinating Council -- Membership -- Expenses.**

(1) There is created in the office the Governor's Economic Development Coordinating Council, consisting of the following ~~[11]~~ 10 members:

(a) the executive director, who shall serve as chair of the council;

(b) the chair of the board or the chair's designee;

~~[(c) the chair of the Utah Science Technology and Research Governing Authority created in Section 63M-2-301 or the chair's designee;]~~

~~[(d)]~~ (c) the chair of the Governor's Rural Partnership Board created in Section 63C-10-102 or the chair's designee;

~~[(e)]~~ (d) the chair of the board of directors of the Utah Capital Investment Corporation created in Section 63N-6-301 or the chair's designee;

~~[(f)]~~ (e) the chair of the Economic Development Corporation of Utah or its successor organization or the chair's designee;

~~[(g)]~~ (f) the chair of the World Trade Center Utah or its successor organization or the chair's designee; and

~~[(h)]~~ (g) four members appointed by the governor, with the consent of the Senate, who have expertise in business, economic development, entrepreneurship, or the raising of venture or seed capital for research and business growth.

(2) (a) The four members appointed by the governor may serve for no more than two consecutive two-year terms.

(b) The governor shall appoint a replacement if a vacancy occurs from the membership appointed under Subsection (1)~~[(h)]~~(g).

(3) Six members of the council constitute a quorum for the purpose of conducting council business and the action of a majority of a quorum constitutes the action of the council.

(4) A member may not receive compensation or benefits for the member's service on the council, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) The office shall provide office space and administrative staff support for the council.

(6) The council, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

**Section 124. Section 63N-4-302 is amended to read:**

**63N-4-302. Definitions.**

As used in this part:

(1) (a) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(b) For the purposes of this part, a person controls another person if the person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(2) "Claimant" means a resident or nonresident person that has state taxable income.

(3) "Closing date" means the date on which a rural investment company has collected all of the investments described in Subsection 63N-4-303(7).

(4) (a) "Credit-eligible contribution" means an investment of cash by a claimant in a rural investment company that is or will be eligible for a tax credit as evidenced by notification issued by the office under Subsection 63N-4-303(5)(c).

(b) The investment shall purchase an equity interest in the rural investment company or purchase, at par value or premium, a debt instrument issued by the rural investment company that has a maturity date at least five years after the closing date.

(5) "Eligible small business" means a business that at the time of an initial growth investment in the business by a rural investment company:

(a) has fewer than 150 employees;

(b) has less than \$10,000,000 in net income for the preceding taxable year;

(c) maintains the business's principal business operations in the state; and

(d) is engaged in an industry related to:

(i) aerospace;

(ii) defense;

(iii) energy and natural resources;

(iv) financial services;

(v) life sciences;

(vi) outdoor products;

(vii) software development;

(viii) information technology;

(ix) manufacturing; or

(x) agribusiness.

(6) (a) "Excess return" means the difference between:

(i) the present value of all growth investments made by a rural investment company on the day the rural investment company applies to exit the program under Section 63N-4-309, including the present value of all distributions and gains from the growth investments; and

(ii) the sum of the amount of the original growth investment and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management, or operation of the rural investment company.

(b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is equal to zero.

(7) "Federally licensed rural business investment company" means a person licensed as a rural business investment company under 7 U.S.C. Sec. 2009cc.

(8) "Federally licensed small business investment company" means a person licensed as a small business investment company under 15 U.S.C. Sec. 681.

(9) (a) "Full-time employee" means an employee that throughout the year works at least 30 hours per week or meets the customary practices accepted by that industry as full time.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional hour or other criteria to determine what constitutes a full-time employee.

(10) "Growth investment" means any capital or equity investment in an eligible small business or any loan made from the investment authority to an eligible small business with a stated maturity at least one year after the date of issuance.

(11) (a) "High wage" means a wage that is at least 100% of the county average wage.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may



make rules that establish additional criteria to determine what constitutes a high wage.

(12) “Investment authority” means the minimum amount of investment a rural investment company must make in eligible small businesses in order for credit-eligible contributions to the rural investment company to qualify for a rural job creation tax credit under Section 59-7-621 or 59-10-1038.

(13) (a) “New annual jobs” means the difference between:

(i) (A) the monthly average of full-time employees that are paid a high wage at an eligible small business for the preceding calendar year; or

(B) if the preceding calendar year contains the initial growth investment, the monthly average of full-time employees that are paid a high wage at an eligible small business for the months including and after the initial growth investment and before the end of the preceding calendar year; and

(ii) the number of full-time employees that are paid a high wage at the eligible small business on the date of the initial growth investment.

(b) If the amount calculated in Subsection [(2)] (13)(a) is less than zero, the new annual jobs amount is equal to zero.

(14) (a) “Principal business operations” means the location where at least 60% of a business’s employees work or where employees that are paid at least 60% of a business’s payroll work.

(b) For the purposes of this part, an out-of-state business that agrees to relocate employees to this state to establish the business’s principal business operations in this state using the proceeds of a growth investment is considered to have the business’s principal business operations in this state if the business satisfies the requirements of Subsection (14)(a) within 180 days after receiving the growth investment, unless the office agrees to a later date.

(15) “Program” means the provisions of this part applicable to a rural investment company.

(16) “Rural county” means any county in this state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

(17) “Rural investment company” means a person approved by the office under Section 63N-4-303.

(18) (a) “State reimbursement amount” means the difference between:

(i) 50% of the rural investment company’s credit-eligible capital contributions; and

(ii) the product of:

(A) the total sum of new annual jobs reported to the state in the rural investment company’s exit report described in Section 63N-4-309; and

(B) \$20,000.

(b) If the amount calculated in Subsection (18)(a) is less than zero, the state reimbursement amount is equal to zero.

(19) “Tax credit” means a rural job creation tax credit created by Section 59-7-621 or 59-10-1038.

(20) “Tax credit certificate” means a certificate issued by the office that:

(a) lists the name of the person to which the office authorizes a tax credit;

(b) lists the person’s taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the person to claim for the taxable year; and

(d) may include other information as determined by the office.

**Section 125. Section 64-13e-102 is amended to read:**

**64-13e-102. Definitions.**

As used in this chapter:

(1) “Actual state daily incarceration rate” means the daily incarceration rate that reflects the actual expenses of the department, including:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead;

(e) motor pool expenses;

(f) medical expenses;

(g) mental health expenses;

(h) dental expenses;

(i) straight line capital depreciation, over a 40-year period, for prison facilities of the department; and

(j) expenses for treatment, including substance abuse treatment, alcohol abuse treatment, sex offender treatment, and alternative treatment.

(2) “Alternative treatment” means:

(a) evidence-based cognitive behavioral therapy; or

(b) a certificate-based program provided by a Utah technical college, as defined in [Subsection] Section 53B-26-102[(8)].

(3) “CCJJ” means the Utah Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

(4) “Department” means the Department of Corrections.

(5) “Division of Finance” means the Division of Finance, created in Section 63A-3-101.

(6) “Final state daily incarceration rate” means the average actual state daily incarceration rate,

calculated, reviewed, and discussed under Section 64-13e-105, and approved by the Legislature under Subsection 64-13e-105(3).

(7) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

(8) "State parole inmate" means an individual who is:

- (a) on parole, as defined in Section 77-27-1; and
- (b) housed in a county jail for a reason related to the individual's parole.

(9) "State probationary inmate" means a felony probationer sentenced to time in a county jail under Subsection 77-18-1(8).

(10) "Treatment program" means:

- (a) an alcohol treatment program;
- (b) a substance abuse treatment program;
- (c) a sex offender treatment program; or
- (d) an alternative treatment program.

**Section 126. Section 72-16-306 is amended to read:**

**72-16-306. Reporting and shutdown for certain injuries.**

(1) (a) An owner-operator shall report each known reportable serious injury to the director within eight hours after the owner-operator learns of the reportable serious injury.

(b) An owner-operator shall include the following information in a report described in Subsection 1(a):

- (i) the owner-operator's name and ~~contract~~ contact information;
- (ii) the location of the amusement ride at the time the reportable serious injury occurred;
- (iii) a description of:
  - (A) the amusement ride; and
  - (B) the nature of the reportable serious injury; and
- (iv) any other information required by rule made under this chapter.

(2) (a) In addition to the requirement described in Subsection 1), an owner-operator of a mobile amusement ride shall report each known serious injury to the fair, show, landlord, or owner of the property upon which the mobile amusement ride was located at the time the serious injury occurred.

(b) After a serious injury, the owner-operator may not operate the mobile amusement ride until the owner-operator receives written authorization from:

- (i) the fair, show, landlord, or owner of the property upon which the amusement ride was located at the time the serious injury occurred; or

- (ii) the director.

(3) For purposes of Title 63G, Chapter 2, Government Records Access and Management Act, a report to the director described in this section and any record related to the report is a protected record as defined in Section 63G-2-103, except the ride description, the owner-operator, the location of the amusement ride at the time the reportable injury occurred, and the general nature of the reportable injury.

**Section 127. Section 73-10-1 is amended to read:**

**73-10-1. State's policy -- Creation of revolving fund -- General construction of chapter.**

(1) (a) The Legislature of the state of Utah ~~having~~ has heretofore declared:

(i) by Section 73-1-1, Utah Code Annotated 1953, that, "All waters ~~of~~ in this state, whether above or under the ground, are hereby declared to be the property of the public, subject to all existing rights to the use thereof"; ~~and further,~~

(ii) by Section 73-1-3, Utah Code Annotated 1953, that "Beneficial use shall be the basis, the ~~measures~~ measure and the limit of all rights to the use of water in this state"; and ~~further,~~

(iii) by Section 17B-2a-1002 that the policy of the state is, to "[~~T~~o] obtain from water in [~~U~~tah] the state the highest duty for domestic uses and irrigation of lands in [~~U~~tah] the state within the terms of applicable interstate compacts ~~[or otherwise, now by this act]~~ and other law."

(b) The Legislature by this chapter reiterates and reaffirms such declaration of the public policy of the state of Utah.

(2) It is further declared to be the policy of this chapter and of the state of Utah, and the legislature recognizes:

(a) that by construction of projects based upon sound engineering the waters within the various counties of the state of Utah can be saved from waste and increased in efficiency of beneficial use by 25% to 100%;

(b) that because of well-known conditions such as low prices and lack of market for farm products, particularly the inefficiency of water supply because of lack of late season water and consequent lack of financial strength, water users in small communities have been unable to build projects that would provide full conservation and beneficial use for the limited water supply in this semiarid land;

(c) that water, as the property of the public, should be so managed by the public that it can be put to the highest use for public benefit;

(d) that Congress of the United States has provided for the building of larger water conservation projects throughout the semiarid states, payment of the capital costs without interest to be made by the water users upon the basis of a fair portion of crop returns;

(e) that the Congress of the United States has established in the department of interior and in the department of agriculture, various agencies having authority to develop, protect, and aid in putting to beneficial use the land and water resources of the United States and to cooperate with state agencies having similar authority;

(f) that the interests of the state of Utah require that means be provided for close cooperation between all state and federal agencies to the end that the underground waters and waters of the small streams of the state, and the lands thereunder, can be made to yield abundantly and increase the income and well-being of the citizens of the state;

(g) that it appears to be sound public policy for the state of Utah to provide a revolving fund, to be increased at each legislative session, to the end that every mountain stream and every water resource within the state can be made to render the highest beneficial service, such fund to be so administered that no project will be built except upon expert engineering, financial, and geological approval.

(3) All of the provisions of this chapter shall be liberally construed so as to carry out and put into force and effect the purposes and policies as hereinabove set forth.

**Section 128. Section 75-9-105 is amended to read:**

**75-9-105. Execution of power of attorney.**

(1) A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney before a notary public or other individual authorized by the law to take acknowledgments. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

(2) If the principal resides or is about to reside in a hospital, assisted living, skilled nursing, or similar facility, at the time of execution of the power of attorney, the principal may not name any agent that is the owner, operator, health care provider, or employee of the hospital, assisted living facility, skilled nursing, or similar residential care facility unless the agent is the spouse, legal guardian, or next of kin of the principal, or unless the agent's authority is strictly limited to the purpose of assisting the principal to establish eligibility for Medicaid.

(3) A violation of Subsection (2) is a violation of Subsection 76-5-111(4)(9)(a).

**Section 129. Section 76-5-702 is amended to read:**

**76-5-702. Prohibition on female genital mutilation -- Exceptions.**

(1) It is a second degree felony for any person to:

(a) perform a procedure described in Section 76-5-701 on a female under 18 years of age;

(b) give permission for or permit a procedure described in Section 76-5-701 to be performed on a female under 18 years of age; or

(c) remove or cause, permit, or facilitate the removal of a female under 18 years of age from this state for the purpose of facilitating the performance of a procedure described in Section 76-5-701 on the female.

(2) It is not a defense to female genital mutilation that the conduct described in Section 76-5-701 is required as a matter of religion, custom, ritual, or standard practice, or that the individual on whom it is performed or the individual's parent or guardian consented to the procedure.

(3) A surgical procedure is not a violation of Section 76-5-701 if the procedure is performed by a physician licensed as a medical professional in the place it is performed and is:

(a) medically advisable;

(b) necessary to preserve or protect the physical health of the person on whom it is performed; or

(c) requested for sex reassignment surgery by the person on whom it is performed.

(4) A medical professional licensed in accordance with Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act, who is convicted of a violation of this section shall have their license permanently revoked by the appropriate licensing board.

**Section 130. Section 77-18-1 is amended to read:**

**77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.**

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation under the supervision of an agency of local government or with a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

- (i) the type of offense;
- (ii) the results of a risk and needs assessment;
- (iii) the demand for services;
- (iv) the availability of agency resources;
- (v) public safety; and
- (vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanor in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from

the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:

- (a) provide for the support of others for whose support the defendant is legally liable;

(b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(c) if on probation for a felony offense, serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(d) serve a term of home confinement, which may include the use of electronic monitoring;

(e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(f) pay for the costs of investigation, probation, and treatment services;

(g) make restitution or reparation to the victim or victims with interest in accordance with Chapter 38a, Crime Victims Restitution Act; and

(h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony

or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(b) (i) If, upon expiration or termination of the probation period under Subsection (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(c) (i) The department shall notify the court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may be modified as is consistent with the supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with ~~[Section 78B-5-705]~~ Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the conditions of probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(ii) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to

remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

(iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit the defendant to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household; or

(f) requested by a sex offender treatment provider who is certified to provide treatment under the program established in Subsection 64-13-25(3) and who, at the time of the request:

(i) is providing sex offender treatment to the offender who is the subject of the presentence investigation report; and

(ii) provides written assurance to the department that the report:

(A) is necessary for the treatment of the offender;

(B) will be used solely for the treatment of the offender; and

(C) will not be disclosed to an individual or entity other than the offender.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

**Section 131. Section 77-40-102 (Effective 05/01/20) is amended to read:**

**77-40-102 (Effective 05/01/20). Definitions.**

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) (a) "Clean slate eligible case" means a case:

(i) where, except as provided in Subsection (5)(c), each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction; or

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40-105(5) and (6) without taking into consideration the exception in Subsection 77-40-105(8); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) "Clean slate eligible case" includes a case that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

(i) except as provided in Subsection (5)(c), each charge within the case is:

(A) a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor; or

(C) an infraction;

(ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

(iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed.

(c) "Clean slate eligible case" does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes a criminal judgment accounts receivable, as defined in Section 77-32a-101, that:

(A) has been entered as a civil judgment and transferred to the Office of State Debt Collection; or

(B) has not been satisfied according to court records; or

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection 77-40-105(2)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Person;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(7) "Department" means the Department of Public Safety established in Section 53-1-103.

(8) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another;

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (8).

(9) "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

(10) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any local ordinance, except:

(a) any drug possession offense;

(b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(c) Sections 73-18-13 through 73-18-13.6;

(d) those offenses defined in Title 76, Utah Criminal Code; or

(e) any local ordinance that is substantially similar to those offenses listed in Subsections (11)(a) through (d).

(12) "Petitioner" means an individual applying for expungement under this chapter.

(13) (a) "Traffic offense" means:

(i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41, Chapter 6a, Traffic Code;

(ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) Title 73, Chapter 18, State Boating Act; and



(iv) all local ordinances that are substantially similar to those offenses.

(b) "Traffic offense" does not mean:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to the offenses listed in Subsections (13)(b)(i) and (ii).

**Section 132. Section 78A-6-115 is amended to read:**

**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Medical cannabis.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, a record of a proceeding made under Subsection (1)(a) shall be released by the court to any person upon a finding on the record for good cause.

(ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iii) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the request.

(iv) For purposes of this Subsection (1)(b):

(A) "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and

(B) "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A,

Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the person who wrote the report or prepared the material appear as a witness if the person is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any person who participated in preparing the dispositional report to appear as a witness, if the person is reasonably available.

(5) (a) In an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the proceeding;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the proceeding.

(c) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

(d) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in its discretion, consider evidence of statements made by a child under eight years of age to a person in a trust relationship.

(7) (a) As used in this Subsection (7):

(i) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(ii) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.

(iii) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(iv) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(v) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(i) the individual's ~~use or~~ possession or use complies with ~~(4)~~ Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the dosing parameters determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child, if:

(i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's

possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the dosing parameters determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(B) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3); and

(ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise had cannabis introduced to the child's body; or

(B) there is no evidence showing a nexus between the parent's or guardian's use of medical cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

**Section 133. Section 78B-6-133 is amended to read:**

**78B-6-133. Contested adoptions -- Rights of parties -- Determination of custody.**

(1) If a person whose consent for an adoption is required pursuant to Subsection 78B-6-120(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that person's rights pursuant to the provisions of this chapter or Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(2) (a) If there are proper grounds to terminate the person's parental rights, the court shall order that the person's rights be terminated.

(b) If there are not proper grounds to terminate the person's parental rights, the court shall:

(i) dismiss the adoption petition;

(ii) conduct an evidentiary hearing to determine who should have custody of the child; and

(iii) award custody of the child in accordance with the child's best interest.

(c) Termination of a person's parental rights does not terminate the right of a relative of the parent to seek adoption of the child.

(3) Evidence considered at the custody hearing may include:

(a) evidence of psychological or emotional bonds that the child has formed with a third person, including the prospective adoptive parent; and

(b) any detriment that a change in custody may cause the child.

(4) If the court dismisses the adoption petition, the fact that a person relinquished a child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the child's best interest for custody to be awarded to such person or that:

(a) the person is unfit or incompetent to be a parent;

(b) the person has neglected or abandoned the child;

(c) the person is not interested in having custody of the child; or

(d) the person has forfeited the person's parental presumption.

(5) Any custody order entered pursuant to this section may also:

(a) include provisions for:

(i) parent-time; or

(ii) visitation by an interested third party; and

(b) provide for the financial support of the child.

(6) (a) If a person or entity whose consent is required for an adoption under Subsection 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as set forth in Subsection (2).

(b) The court may also finalize the adoption if doing so is in the best interest of the child.

(7) (a) A person may not contest an adoption after the final decree of adoption is entered, if that person:

(i) was a party to the adoption proceeding;

(ii) was served with notice of the adoption proceeding; or

(iii) executed a consent to the adoption or relinquishment for adoption.

(b) No person may contest an adoption after one year from the day on which the final decree of adoption is entered.

(c) The limitations on contesting an adoption action, described in this Subsection (7), apply to all attempts to contest an adoption:

(i) regardless of whether the adoption is contested directly or collaterally; and

(ii) regardless of the basis for contesting the adoption, including claims of fraud, duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of jurisdiction.

(d) The limitations on contesting an adoption action, described in this Subsection (7), do not prohibit a timely appeal of:

(i) a final decree of adoption; or

(ii) a decision in an action challenging an adoption, if the action was brought within the time limitations described in Subsections (7)(a) and (b).

(8) A court that has jurisdiction over a child for whom more than one petition for adoption is filed shall grant a hearing only under the following circumstances:

(a) to a petitioner:

(i) with whom the child is placed;

(ii) who has custody or guardianship of the child;

(iii) who has filed a written statement with the court within 120 days after the day on which the shelter hearing is held:

(A) requesting immediate placement of the child with the petitioner; and

(B) expressing the petitioner's intention of adopting the child;

(iv) who is a relative with whom the child has a significant and substantial relationship and who was unaware, within the first 120 days after the day on which the shelter hearing is held, of the child's removal from the child's parent; or

(v) who is a relative with whom the child has a significant and substantial relationship and, in a case where the child is not placed with a relative or is placed with a relative that is unable or unwilling to adopt the child:

(A) was actively involved in the child's child welfare case with the division or the juvenile court while the child's parent engaged in reunification services; and

(B) filed a written statement with the court that includes the information described in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated reunification services; or

(b) if the child:

(i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; or

(ii) is placed with, or is in the custody or guardianship of, an individual who previously informed the division or the court that the individual is unwilling or unable to adopt the child.

(9) (a) If the court grants a hearing on more than one petition for adoption, there is a rebuttable presumption that it is in the best interest of a child to be placed for adoption with a petitioner:

(i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah Adoption Act; and

(ii) (A) with whom the child has continuously resided for six months;

(B) who has filed a written statement with the court within 120 days after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

(C) who is a relative described in Subsection (8)(a)(iv).

(b) The court may consider other factors relevant to the best interest of the child to determine whether the presumption is rebutted.

(c) The court shall weigh the best interest of the child uniformly between petitioners if more than one petitioner satisfies a rebuttable presumption condition described in Subsection (9)(a).

(10) Nothing in this section shall be construed to prevent the division or the child's guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

(11) The division shall use best efforts to provide a known relative with timely information relating to the relative's rights or duties under this section.

**Section 134. Repealer.**

This bill repeals:

**Section 19-2-305, Limitation on applying for a tax credit.**

**CHAPTER 355****S. B. 73**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**READING ASSESSMENT  
 EXPANSION AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson  
 House Sponsor: V. Lowry Snow

**LONG TITLE****General Description:**

This bill expands the grades in which a school administers a benchmark assessment for reading.

**Highlighted Provisions:**

This bill:

- ▶ expands the grades in which a school administers a benchmark assessment for reading to include grades 4 through 6; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to State Board of Education -- Initiative Programs -- Electronic Elementary Reading Tool, as an ongoing appropriation:
  - from the Education Fund, \$1,500,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-4-307, as last amended by Laws of Utah 2019, Chapter 186

53F-4-201, as last amended by Laws of Utah 2019, Chapter 186

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-4-307 is amended to read:****53E-4-307. Benchmark assessments in reading -- Report to parent.**

(1) As used in this section, "competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(2) The state board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades 1~~, 2, and 3~~ through 6 as provided by this section.

(3) A school district or charter school shall:

(a) administer benchmark assessments to students in grades 1, 2, and 3 at the beginning, middle, and end of the school year using the benchmark assessment approved by the state board; and

(b) after administering a benchmark assessment, report the results to a student's parent.

(4) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:

(a) provide focused individualized intervention to develop the reading skill;

(b) administer formative assessments to measure the success of the focused intervention;

(c) inform the student's parent of activities that the parent may engage in with the student to assist the student in improving reading proficiency; and

(d) provide information to the parent regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school.

(5) In accordance with Section 53F-4-201, the state board shall contract with one or more educational technology providers for a [diagnostie] benchmark assessment system for reading for students in kindergarten through grade [3] 6.

**Section 2. Section 53F-4-201 is amended to read:****53F-4-201. State board required to contract for a benchmark assessment system for reading.**

(1) (a) As described in Section 53E-4-307, the state board shall approve a benchmark assessment for use statewide by school districts and charter schools.

(b) The state board shall contract with one or more educational technology providers, selected through a request for proposals process, for a [diagnostie] benchmark assessment system for reading for students in kindergarten through grade [3] 6 that meets the requirements of this section.

(2) Subject to legislative appropriations, a [diagnostie] benchmark assessment system for reading shall be made available to school districts and charter schools that apply to use a [diagnostie] benchmark assessment for reading beginning in the 2011-12 school year.

(3) A [diagnostie] benchmark assessment system for reading for students in kindergarten through grade [3] 6 shall:

(a) be in a digital format;

(b) include benchmark assessments of reading proficiency to be administered at the beginning, in the middle, and at the end of kindergarten~~, grade 1, grade 2, and grade 3~~ and grades 1 through 6;

(c) include formative assessments to be administered every two to four weeks for students who are at high risk of not attaining proficiency in reading;

(d) align with the language arts core standards for Utah public schools adopted by the state board; and

(e) include a data analysis component hosted by the provider that:

(i) has the capacity to generate electronic information immediately and produce individualized student progress reports, class summaries, and class groupings for instruction;

(ii) may have the capability of identifying lesson plans that may be used to develop reading skills;

(iii) enables teachers, administrators, and designated supervisors to access reports through a secured password system;

(iv) produces electronic printable reports for parents and administrators; and

(v) has the capability for principals to monitor usage by teachers.

### **Section 3. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ITEM 1

To the State Board of Education -- Initiative Programs

<u>From Education Fund</u>	<u>\$1,500,000</u>
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#### Schedule of Programs

<u>Electronic Elementary Reading Tool</u>	<u>\$1,500,000</u>
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**CHAPTER 356****S. B. 75**

Passed March 4, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**LEGISLATIVE AUDIT AMENDMENTS**

Chief Sponsor: Karen Mayne  
 House Sponsor: Francis D. Gibson

**LONG TITLE****General Description:**

This bill amends provisions relating to the duties and practices of the legislative auditor general.

**Highlighted Provisions:**

This bill:

- ▶ modifies duties and powers of the legislative auditor general;
- ▶ requires employees of the Office of Legislative Auditor General to be subject to background checks; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

36-12-15, as last amended by Laws of Utah 2012, Chapter 137

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 36-12-15 is amended to read:****36-12-15. Office of Legislative Auditor General established -- Qualifications -- Powers, functions, and duties.**

(1) There is created an Office of Legislative Auditor General as a permanent staff office for the Legislature.

(2) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least five years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(3) The legislative auditor general shall appoint and develop a professional staff within budget limitations.

(4) (a) The Office of the Legislative Auditor General shall exercise the constitutional authority provided in Article VI, Sec. 33, Utah Constitution.

(b) Under the direction of the legislative auditor general, the office shall:

(i) conduct comprehensive and special purpose audits, examinations, and reviews of any entity that receives public funds;

(ii) prepare and submit a written report on each audit, examination, or review to the Legislative Management Committee, the audit subcommittee,

and to all members of the Legislature within 75 days after the audit or examination is completed; and

(iii) as provided in Section 36-24-101:

(A) monitor all new programs and agencies created during each Annual General Session or Special Session of the Legislature;

(B) provide each new program and agency created with a list of best practices in setting up their program or agency, including:

(I) policies;

(II) performance measures; and

(III) data collection;

(C) send each new program and agency:

(I) within one year after its creation, a survey instrument requesting a self evaluation that includes policies, performance measures, and data collection; and

(II) within two years after its creation, a survey instrument requesting a self evaluation that includes policies, performance measures, and data collection; and

(D) (I) using the new program or agency's response to the self evaluation survey instruments, recommend to the legislative audit subcommittee that the office conduct an audit of those new programs and agencies created on which questions have arisen as a result of the response to the survey instrument and provide a limited scope audit report on those new programs or agencies on which it receives direction to audit to the legislative interim committee and to the legislative appropriations subcommittee with oversight responsibility for that program or agency on or before the November interim meeting; and

(II) include within this limited scope audit report a recommendation as to whether the program or agency is fulfilling its statutory guidelines and directives.

(5) The audit, examination, or review of any entity that receives public funds may include a determination of any or all of the following:

(a) the honesty and integrity of all its fiscal affairs;

(b) the accuracy and reliability of its financial statements and reports;

(c) whether or not its financial controls are adequate and effective to properly record and safeguard its acquisition, custody, use, and accounting of public funds;

(d) whether or not its administrators have faithfully adhered to legislative intent;

(e) whether or not its operations have been conducted in an efficient, effective, and cost efficient manner;

(f) whether or not its programs have been effective in accomplishing intended objectives; and

(g) whether or not its management control and information systems are adequate and effective.

(6) The Office of Legislative Auditor General ~~may~~:

(a) (i) shall, notwithstanding any other provision of law, ~~obtain~~ have access to all records, documents, and reports of any entity that receives public funds that are necessary to the scope of ~~its duties; and~~ the duties of the legislative auditor general or the office; and

(ii) ~~if necessary,~~ may issue a subpoena to obtain access as provided in Subsection (6)(a)(i) using the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers;

(b) establish policies, procedures, methods, and standards of audit work for the office and staff;

(c) prepare and submit each audit report without interference from any source relative to the content of the report, the conclusions reached in the report, or the manner of disclosing the results of the legislative auditor general's findings; and

(d) prepare and submit the annual budget request for the office.

(7) To preserve the professional integrity and independence of the office:

(a) no legislator or public official may urge the appointment of any person to the office; and

(b) the legislative auditor general may not be appointed to serve on any board, authority, commission, or other agency of the state during the legislative auditor general's term as legislative auditor general.

(8) The following records in the custody or control of the legislative auditor general shall be protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(a) Records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the legislative auditor general through other documents or evidence, and the records relating to the allegation are not relied upon by the legislative auditor general in preparing a final audit report.

(b) Records and audit workpapers to the extent they would disclose the identity of a person who during the course of a legislative audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected.

(c) Prior to the time that an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee

or head of a governmental entity for their response or information.

(d) Records that would disclose an outline or part of any audit survey plans or audit program.

(e) Requests for audits, if disclosure would risk circumvention of an audit.

(f) The provisions of Subsections (8)(a), (b), and (c) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(g) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The legislative auditor general shall:

(a) be available to the Legislature and to its committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the Legislative Management Committee;

(c) report immediately in writing to the Legislative Management Committee through its audit subcommittee any apparent violation of penal statutes disclosed by the audit of a state agency and furnish to the Legislative Management Committee all information relative to the apparent violation;

(d) report immediately in writing to the Legislative Management Committee through its audit subcommittee any apparent instances of malfeasance or nonfeasance by a state officer or employee disclosed by the audit of a state agency; and

(e) make any recommendations to the Legislative Management Committee through its audit subcommittee with respect to the alteration or improvement of the accounting system used by any entity that receives public funds.

(10) If the legislative auditor general conducts an audit of a state agency that has previously been audited and finds that the state agency has not implemented a recommendation made by the legislative auditor general in a previous audit, the legislative auditor general shall, upon release of the audit:

(a) report immediately in writing to the Legislative Management Committee through its audit subcommittee that the state agency has not implemented that recommendation; and

(b) shall report, as soon as possible, that the state agency has not implemented that recommendation to a meeting of an appropriate legislative committee designated by the audit subcommittee of the Legislative Management Committee.

(11) (a) Prior to each annual general session, the legislative auditor general shall prepare a summary of the audits conducted and of actions taken based upon them during the preceding year.



(b) This report shall also set forth any items and recommendations that are important for consideration in the forthcoming session, together with a brief statement or rationale for each item or recommendation.

(c) The legislative auditor general shall deliver the report to the Legislature and to the appropriate committees of the Legislature.

(12) (a) No person or entity may:

(i) interfere with a legislative audit, examination, or review of any entity conducted by the office; or

(ii) interfere with the office relative to the content of the report, the conclusions reached in the report, or the manner of disclosing the results and findings of the office.

(b) Any person or entity that violates the provisions of this Subsection (12) is guilty of a class B misdemeanor.

(13) (a) Beginning July 1, 2020, the Office of the Legislative Auditor General may require any current employee, or any applicant for employment, to submit to a fingerprint-based local, regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request. The office shall require that an individual required to submit to a background check under this subsection also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

(c) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

**CHAPTER 357****S. B. 81**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**MOTION PICTURE  
 INCENTIVES AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher  
 House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill modifies provisions related to motion picture incentives.

**Highlighted Provisions:**

This bill:

- ▶ removes the cap on cash rebate incentives allowed for any one motion picture.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63N-8-104, as renumbered and amended by Laws of Utah 2015, Chapter 283

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63N-8-104 is amended to read:**

**63N-8-104. Motion picture incentives -- Standards to qualify for an incentive -- Limitations -- Content of agreement between office and motion picture company or digital media company.**

(1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:

(a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and

(b) criteria for determining the amount of the incentive.

(2) The office shall ensure that those standards include the following:

(a) an incentive may only be issued for a [state approved] state-approved production by a motion picture company or digital media company;

(b) financing has been obtained and is in place for the production; and

(c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.

(3) With respect to a digital media project, the office shall consider economic modeling, including

the costs and benefits of the digital media project to state and local governments in determining the motion picture incentive amount.

(4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state or that has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.

(5) (a) The office, with advice from the board, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.

(b) Subject to Subsection 63N-8-103(3), the office may commit or authorize a motion picture incentive:

(i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:

(A) employing a significant percentage of cast and crew from Utah;

(B) highlighting the state of Utah and the Utah Film Commission in the motion picture credits; or

(C) other promotion opportunities as agreed upon by the office and the motion picture company; and

(ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.

~~[(e) A cash rebate incentive from the Motion Picture Incentive Restricted Account may not exceed \$500,000 per state approved production for a motion picture project.]~~

~~[(d)]~~ (c) The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.

(6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):

(a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;

(b) specifies:

(i) the nature of the incentive; and

(ii) the maximum amount of the motion picture incentive that the motion picture company or digital media company may earn for a taxable year and over the life of the production;

(c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;

(d) requires the motion picture company or digital media company to retain records supporting its

claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and

(e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.

**CHAPTER 358****S. B. 89**

Passed February 27, 2020

Approved March 30, 2020

Effective May 12, 2020

**MENTAL HEALTH  
SERVICES AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Patrice M. Arent

**LONG TITLE****General Description:**

This bill creates the Mental Health Services Donation Fund.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Mental Health Services Donation Fund;
- ▶ requires the Division of Substance Abuse and Mental Health to administer the Mental Health Services Donation Fund;
- ▶ describes the purposes for which the Mental Health Services Donation Fund may be used;
- ▶ requires the Division of Substance Abuse and Mental Health to report to the Mental Health Crisis Line Commission regarding the administration of the Mental Health Services Donation Fund; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

63I-1-262, as last amended by Laws of Utah 2019, Chapters 246, 257, 440 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

62A-15-1701, Utah Code Annotated 1953

62A-15-1702, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

62A-15-1702, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 62A-15-1701 is enacted to read:****Part 17. Mental Health Services Donation Fund****62A-15-1701. Definitions.**

As used in this part:

(1) "Fund" means the Mental Health Services Donation Fund created in Section 62A-15-1702.

(2) "Local mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

(3) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(4) "Mental health therapy" means treatment or prevention of a mental illness, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized by mental health therapists;

(b) establishing a diagnosis in accordance with established written standards generally recognized by mental health therapists;

(c) prescribing a plan or medication for the prevention or treatment of a condition of a mental illness or an emotional disorder; and

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized by mental health therapists.

(5) "Qualified individual" means an individual who:

(a) is experiencing a mental health crisis; and

(b) calls a local mental health crisis line or the statewide mental health crisis line.

(6) "Statewide mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

**Section 2. Section 62A-15-1702 is enacted to read:****62A-15-1702. Mental Health Services Donation Fund.**

(1) There is created an expendable special revenue fund known as the "Mental Health Services Donation Fund."

(2) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and

(b) interest earned on money in the fund.

(3) The division shall administer the fund in accordance with this section.

(4) The division shall award fund money to an entity in the state that provides mental health and substance abuse treatment for the purpose of:

(a) providing through telehealth or in-person services, mental health therapy to qualified individuals;

(b) providing access to evaluations and coordination of short-term care to assist a qualified individual in identifying services or support needs, resources, or benefits for which the qualified individual may be eligible; and

(c) developing a system for a qualified individual and a qualified individual's family to access information and referrals for mental health therapy.

(5) Fund money may only be used for the purposes described in Subsection (4).

(6) The division shall provide an annual report to the Mental Health Crisis Line Commission, created in Section 63C-18-202, regarding:

(a) the entity that is awarded a grant under Subsection (4);

(b) the number of qualified individuals served by the entity with fund money; and

(c) any costs or benefits as a result of the award of the grant.

**Section 3. Section 63I-1-262 is amended to read:**

**63I-1-262. Repeal dates, Title 62A.**

(1) Subsections 62A-1-120(8)(g), (h), and (i) are repealed July 1, 2023.

(2) Section 62A-3-209 is repealed July 1, 2023.

(3) Section 62A-4a-202.9 is repealed December 31, 2021.

(4) Section 62A-4a-213 is repealed July 1, 2024.

(5) Section 62A-15-114 is repealed December 31, 2021.

(6) Subsections 62A-15-116(1) and (4), the language that states "In consultation with the SafeUT and School Safety Commission, established in Section 53B-17-1203," is repealed January 1, 2023.

(7) Subsections 62A-15-1100(1) and 62A-15-1101~~(8)~~(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

(8) In relation to the Mental Health Crisis Line Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(1) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Section 62A-15-1303, the language that states "In consultation with the commission," is repealed; [and]

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed~~[-];~~ and

(e) Subsection 62A-15-1702(6) is repealed.

**Section 4. Coordinating S.B. 89 with H.B. 32 -- Changing terminology.**

If this S.B. 89 and H.B. 32, Crisis Services Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the terminology in Subsection 62A-15-1702(6) of S.B. 89 from "Mental Health Crisis Line Commission" to "Behavioral Health Crisis Response Commission."

**CHAPTER 359****S. B. 93**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**MATH AND SCIENCE OPPORTUNITIES  
 FOR STUDENTS AND TEACHERS**

Chief Sponsor: Lyle W. Hillyard  
 House Sponsor: Steve Eliason

**LONG TITLE****General Description:**

This bill amends an existing program to create the Math and Science Opportunities for Students and Teachers Program.

**Highlighted Provisions:**

This bill:

- ▶ amends an existing program to create the Math and Science Opportunities for Students and Teachers (MOST) Program;
- ▶ amends the duties and authority of the State Board of Education related to the MOST Program;
- ▶ repeals requirements on the State Charter School Board related to the MOST Program; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the State Board of Education - Minimum School Program - Related to Basic School Programs, as an ongoing appropriation:
  - from the Education Fund, \$900,000; and
- ▶ to the State Board of Education - MSP Categorical Program Administration, as an ongoing appropriation:
  - from the Education Fund, \$100,000.

**Other Special Clauses:**

This bill contains a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

- 53F-2-203, as last amended by Laws of Utah 2019, Chapters 136 and 186  
 53F-2-414, as last amended by Laws of Utah 2019, Chapters 136 and 408  
 53F-2-505, as last amended by Laws of Utah 2019, Chapter 186

**Utah Code Sections Affected by Coordination Clause:**

- 53F-2-505, as last amended by Laws of Utah 2019, Chapter 186

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53F-2-203 is amended to read:**

**53F-2-203. Reduction of LEA governing board allocation based on insufficient revenues.**

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:

(a) an appropriation for a state guaranteed local levy increment as described in Section 53F-2-601; and

(b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the state board, after consultation with each LEA governing board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), an LEA governing board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) An LEA governing board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

- (a) educator salary adjustments provided in Section 53F-2-405;
- (b) the Teacher Salary Supplement Program provided in Section 53F-2-504;
- (c) the extended year for special educators provided in Section 53F-2-310;
- (d) ~~[USTAR centers]~~ the Math and Science Opportunities for Students and Teachers Program provided in Section 53F-2-505;

(e) the School LAND Trust Program described in Sections 53F-2-404 and 53G-7-1206; or

(f) a special education program within the basic school program.

(6) An LEA governing board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) An LEA governing board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the state board as part of the school district or charter school's Annual Financial and Program report.

**Section 2. Section 53F-2-414 is amended to read:**

**53F-2-414. Review of related to basic school programs.**

(1) No later than November 30, 2018, the Public Education Appropriations Subcommittee shall:

- (a) review and make recommendations on each program in the related to basic school programs described in Subsection (3);

(b) adopt a review schedule going forward for each program described in Subsection (3), placing a program on a schedule to review annually or every four years; and

(c) review annually or every four years each program according to the schedule adopted under Subsection (1)(b).

(2) For a related to basic school program that is not listed in Subsection (3) and is adopted by the Legislature after January 1, 2018, the Public Education Appropriations Subcommittee shall:

(a) review and make recommendations for the program in the program's initial year of implementation;

(b) adopt a review schedule going forward for the program, placing the program on a schedule to review annually or every four years; and

(c) review annually or every four years the program according to the schedule adopted under Subsection (2)(b).

(3) The programs subject to review under Subsection (1) are the following:

(a) the state-supported transportation program described in Section 53F-2-403;

(b) the weighted pupil unit flexibility allocations described in Section 53F-2-205;

(c) the Enhancement for At-Risk Students Program described in Section 53F-2-410;

(d) the youth in custody program described in Section 53E-3-503;

(e) the adult education program described in Title 53E, Chapter 10, Part 2, Adult Education;

(f) the Enhancement for Accelerated Students Program described in Section 53F-2-408;

(g) the Centennial Scholarship Program described in Section 53F-2-501;

(h) the concurrent enrollment program described in Title 53E, Chapter 10, Part 3, Concurrent Enrollment;

(i) the Title I Schools Paraeducators Program described in Section 53F-2-411;

(j) the School LAND Trust Program described in Section 53F-2-404;

(k) the charter school local replacement funding program described in Section 53F-2-702;

(l) the charter school administration allocations described in Section 53F-2-306;

(m) the Early Literacy Program described in Section 53F-2-503;

(n) the educator salary adjustments described in Section 53F-2-405;

(o) the Teacher Salary Supplement Program described in Section 53F-2-504;

(p) the school library books and electronic resources appropriation described in Section 53F-2-407;

(q) the matching appropriation for school nurses described in Section 53F-2-519;

(r) the Dual Language Immersion Program described in Section 53F-2-502;

(s) the ~~[Utah Science Technology and Research (USTAR) Initiative Centers]~~ Math and Science Opportunities for Students and Teachers Program described in Section 53F-2-505;

(t) the Beverley Taylor Sorenson Elementary Arts Learning Program described in Section 53F-2-506;

(u) the early intervention program described in Section 53F-2-507; and

(v) the Digital Teaching and Learning Grant Program described in Section 53F-2-510.

**Section 3. Section 53F-2-505 is amended to read:**

**53F-2-505. Math and Science Opportunities for Students and Teachers Program.**

(1) As used in this section, "MOST Program" means the Math and Science Opportunities for Students and Teachers Program created in this section.

~~(1)~~ (2) (a) The ~~[Utah Science Technology and Research Initiative (USTAR) Centers]~~ Math and Science Opportunities for Students and Teachers Program is created to provide a financial incentive for LEA governing boards to adopt programs in respective ~~[charter schools and school districts]~~ LEAs that result in a more efficient use of human resources and capital facilities.

(b) The ~~[potential]~~ intended benefits of the program include:

~~(i)~~ (i) increased opportunities for supporting math and science teachers in their instructional delivery as it pertains to student learning outcomes;

~~(ii)~~ (ii) increased compensation for math and science teachers by providing opportunities for an expanded contract year which will enhance [school districts' and charter schools'] LEAs' ability to attract and retain talented and highly qualified math and science teachers;

~~(iii)~~ (iii) increased capacity of school buildings by using buildings more hours of the day or more days of the year, resulting in reduced capital facilities costs;

~~(iv)~~ (iv) decreased class sizes created by expanding the number of instructional opportunities in a year;

~~(v)~~ (v) opportunities for earlier high school graduation;

~~(vi)~~ (vi) improved student college preparation;

~~(vii)~~ (vii) increased opportunities to offer additional remedial and advanced courses in math and science; and

~~[(vii)] (viii) opportunities to coordinate high school and post-secondary math and science education[; and].~~

~~[(viii) the creation or improvement of science, technology, engineering, and math centers (STEM Centers).]~~

~~[(2)] (3) From money appropriated for the [USTAR Centers] MOST Program, the state board shall award grants to [charter schools and school districts] LEAs to pay for costs related to the adoption and implementation of the program.~~

~~[(3)] (4) The state board shall:~~

~~(a) first, distribute a base amount of funds to each regional service center to support monitoring and compliance and to provide technical assistance to program grantees;~~

~~[(a)] (b) solicit proposals from [the State Charter School Board and local school boards] an LEA or a regional service center on behalf of an LEA for the use of grant money to facilitate the adoption and implementation of the program; and~~

~~[(b)] (c) award grants on a competitive basis.~~

~~[(4) The State Charter School Board shall:]~~

~~[(a) solicit proposals from charter school governing boards that may be interested in participating in the USTAR Centers Program;]~~

~~[(b) prioritize and consolidate the proposals into the equivalent of a single school district request; and]~~

~~[(c) submit the consolidated request to the state board.]~~

(5) In selecting a grant recipient, the state board shall consider:

(a) the degree to which [a charter school or school district's] an LEA's proposed adoption and implementation of an extended year for math and science teachers achieves the benefits described in Subsection ~~[(4)] (2)~~;

(b) the unique circumstances of different urban, rural, large, small, growing, and declining [~~charter schools and school districts~~] LEAs; and

(c) providing pilot programs in as many different [~~school districts and charter schools~~] LEAs as possible.

(6) (a) Except as provided in Subsection (6)(b), [a school district or charter school] an LEA may only use grant money to provide [full-year teacher] educator contracts, [part-time teacher] educator contract extensions, educator stipends, or combinations of both, for participating MOST Program math and science teachers.

(b) Up to 5% of the grant money may be used to fund math and science field trips, textbooks, and supplies.

(7) Participation in the [USTAR Centers] MOST Program [shall be] is:

(a) voluntary for an individual teacher; and

(b) voluntary for a charter school or school district.

#### Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

##### ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund	\$900,000
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##### Schedule of Programs:

Math and Science Opportunities for Students and Teachers Program	\$900,000
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##### ITEM 2

To State Board of Education - MSP Categorical Program Administration

From Education Fund	\$100,000
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##### Schedule of Programs:

Math and Science Opportunities for Students and Teachers Program	\$100,000
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#### Section 5. Coordinating S.B. 93 with S.B. 79 -- Superseding substantive amendments.

If this S.B. 93 and S.B. 79, Regional Education Service Agencies, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by changing all references in Section 53F-2-505 from "regional service center" to "regional education service agency".



**CHAPTER 360****S. B. 95**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective July 1, 2020  
 Exception clause

**ECONOMIC  
 DEVELOPMENT AMENDMENTS**

Chief Sponsor: Scott D. Sandall  
 House Sponsor: Carl R. Albrecht

**LONG TITLE****General Description:**

This bill modifies provisions related to economic development.

**Highlighted Provisions:**

This bill:

- ▶ defines terms, including “rural county”;
- ▶ creates the Rural County Grant Program (grant program);
- ▶ describes the requirements for a rural county to apply for a grant under the grant program;
- ▶ requires each rural county that seeks to participate in the grant program to create a County Economic Development Advisory Board (CED board) and describes the membership and duties of a CED board;
- ▶ describes the requirements of the Governor’s Rural Partnership Board and the Office of Rural Development in administering the grant program;
- ▶ moves the provisions of the Recycling Market Development Zone Act from the Governor’s Office of Economic Development (GOED) to the Department of Environmental Quality;
- ▶ repeals provisions of the Utah Science Technology and Research Governing Authority Act;
- ▶ creates the Rural Speculative Industrial Building Program within GOED;
- ▶ modifies provisions related to certain GOED administered economic development programs;
- ▶ repeals provisions related to certain GOED administered economic development programs, which has the effect of ending those programs; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2020:

- ▶ to the General Fund, as a one-time appropriation:
  - from Nonlapsing Balances -- USTAR -- Support Programs, \$1,436,200;
- ▶ to the General Fund, as a one-time appropriation:
  - from Nonlapsing Balances -- USTAR -- Grant Programs, \$1,765,200;

- ▶ to the Utah Science Technology and Research Governing Authority -- USTAR Administration, as a one-time appropriation:
  - from the General Fund, (\$1,512,500); and
- ▶ to the General Fund Restricted -- Workforce Development Restricted Account, as a one-time appropriation:
  - from the General Fund, (\$11,931,000).

This bill appropriates in fiscal year 2021:

- ▶ to the Utah Science Technology and Research Governing Authority -- USTAR Administration, as an ongoing appropriation:
  - from the General Fund, (\$1,788,400);
- ▶ to the Utah Science Technology and Research Governing Authority -- Support Programs, as an ongoing appropriation:
  - from the General Fund, (\$31,600);
- ▶ to the General Fund Restricted -- Workforce Development Restricted Account, as an ongoing appropriation:
  - from the General Fund, (\$14,636,900);
- ▶ to the Governor’s Office of Economic Development -- Rural County Grant Program, as an ongoing appropriation:
  - from the General Fund, \$4,600,000;
- ▶ to the Governor’s Office of Economic Development -- Rural County Grants Program, as a one-time appropriation:
  - from the General Fund, \$3,400,000;
- ▶ to the Governor’s Office of Economic Development -- Rural Coworking and Innovation Center Grant Program, as an ongoing appropriation:
  - from the General Fund, \$250,000;
- ▶ to the Governor’s Office of Economic Development -- Rural Coworking and Innovation Center Grant Program, as a one-time appropriation:
  - from the General Fund, \$2,000,000;
- ▶ to the Governor’s Office of Economic Development -- Business Development -- Rural Speculative Industrial Building Program, as an ongoing appropriation:
  - from the General Fund, \$250,000;
- ▶ to the Governor’s Office of Economic Development -- Pass-through, as an ongoing appropriation:
  - from the General Fund, (\$385,600); and
  - from Dedicated Credits Revenue, (\$16,100); and
- ▶ to the Governor’s Office of Economic Development -- SBIR/STTR Center, as an ongoing appropriation:
  - from the General Fund, \$385,600; and
  - from Dedicated Credits Revenue, \$16,100.

**Other Special Clauses:**

This bill provides retrospective operation.

This bill provides a special effective date.

This bill provides coordination clauses.

**Utah Code Sections Affected:****AMENDS:**

53B-17-1101, as enacted by Laws of Utah 2018, Chapter 453

53B-18-1601, as enacted by Laws of Utah 2018, Chapter 453  
 59-7-610, as last amended by Laws of Utah 2019, Chapter 247  
 59-10-1007, as last amended by Laws of Utah 2019, Chapter 247  
 63A-3-110, as last amended by Laws of Utah 2019, Chapter 211  
 63A-5-305, as last amended by Laws of Utah 2016, Chapter 240  
 63C-10-103, as last amended by Laws of Utah 2018, Chapter 204  
 63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246  
 63J-1-602.2, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469  
 63N-1-501, as renumbered and amended by Laws of Utah 2015, Chapter 283  
 63N-2-203, as last amended by Laws of Utah 2017, Chapter 252  
 63N-2-204, as last amended by Laws of Utah 2016, Chapter 11  
 63N-2-208, as renumbered and amended by Laws of Utah 2015, Chapter 283  
 63N-2-213, as last amended by Laws of Utah 2019, Chapter 247  
 63N-4-104, as renumbered and amended by Laws of Utah 2015, Chapter 283  
 67-19-15, as last amended by Laws of Utah 2018, Chapters 39 and 415

**ENACTS:**

17-54-101, Utah Code Annotated 1953  
 17-54-102, Utah Code Annotated 1953  
 17-54-103, Utah Code Annotated 1953  
 17-54-104, Utah Code Annotated 1953  
 63N-4-701, Utah Code Annotated 1953  
 63N-4-702, Utah Code Annotated 1953  
 63N-4-703, Utah Code Annotated 1953  
 63N-4-704, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

19-13-101, (Renumbered from 63N-2-401, as renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-102, (Renumbered from 63N-2-402, as last amended by Laws of Utah 2015, Chapter 30 and renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-103, (Renumbered from 63N-2-403, as renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-104, (Renumbered from 63N-2-404, as renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-105, (Renumbered from 63N-2-405, as renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-106, (Renumbered from 63N-2-406, as renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-107, (Renumbered from 63N-2-407, as renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-108, (Renumbered from 63N-2-408, as renumbered and amended by Laws of Utah 2015, Chapter 283)

19-13-109, (Renumbered from 63N-2-409, as renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-110, (Renumbered from 63N-2-410, as renumbered and amended by Laws of Utah 2015, Chapter 283)  
 19-13-111, (Renumbered from 63N-2-411, as renumbered and amended by Laws of Utah 2015, Chapter 283)

**REPEALS:**

13-1-14, as last amended by Laws of Utah 2019, Chapter 352  
 59-7-614.11, as enacted by Laws of Utah 2017, Chapter 252  
 59-10-1039, as enacted by Laws of Utah 2017, Chapter 252  
 63M-2-101, as last amended by Laws of Utah 2015, Chapter 283  
 63M-2-102, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-301, as last amended by Laws of Utah 2019, Chapters 246 and 352  
 63M-2-302, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-302.5, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-304, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-501, as enacted by Laws of Utah 2016, Chapter 240  
 63M-2-502, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-503, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-504, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-601, as enacted by Laws of Utah 2016, Chapter 240  
 63M-2-602, as last amended by Laws of Utah 2018, Chapter 453  
 63M-2-701, as enacted by Laws of Utah 2016, Chapter 240  
 63M-2-703, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-801, as enacted by Laws of Utah 2016, Chapter 240  
 63M-2-802, as last amended by Laws of Utah 2019, Chapter 352  
 63M-2-803, as last amended by Laws of Utah 2019, Chapter 352  
 63N-2-213.5, as enacted by Laws of Utah 2017, Chapter 252  
 63N-3-104, as last amended by Laws of Utah 2019, Chapter 499  
 63N-3-104.5, as last amended by Laws of Utah 2019, Chapter 499

**Utah Code Sections Affected by Coordination Clause:**

59-7-610, as last amended by Laws of Utah 2019, Chapter 247  
 59-10-1007, as last amended by Laws of Utah 2019, Chapter 247  
 63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 17-54-101 is enacted to read:**

**CHAPTER 54. RURAL COUNTY GRANT PROGRAM**

**17-54-101. Title.**

This chapter is known as the "Rural County Grant Program."

**Section 2. Section 17-54-102 is enacted to read:**

**17-54-102. Definitions.**

(1) "CED board" means a County Economic Development Advisory Board as described in Section 17-54-104.

(2) "Grant" means a grant available under the Rural County Grant Program created in Section 17-54-103.

(3) "Grant program" means the Rural County Grant Program created in Section 17-54-103.

(4) "Office of Rural Development" means the Office of Rural Development created within the Governor's Office of Economic Development in Section 63N-4-102.

(5) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(6) "Rural partnership board" means the Governor's Rural Partnership Board created in Section 63C-10-102.

**Section 3. Section 17-54-103 is enacted to read:**

**17-54-103. Rural County Grant Program.**

(1) There is created the Rural County Grant Program.

(2) The grant program shall be overseen by the rural partnership board and administered by the Office of Rural Development.

(3) (a) In overseeing the grant program, the rural partnership board shall recommend the awarding of grants to rural counties to address the economic development needs of rural counties, in accordance with the provisions of this chapter, which needs may include:

(i) business recruitment, development, and expansion;

(ii) workforce training and development; and

(iii) infrastructure, industrial building development, and capital facilities improvements for business development.

(b) After reviewing the recommendations of the rural partnership board, the executive director of the Governor's Office of Economic Development shall award grants to rural counties in accordance with the provisions of this chapter.

(4) Subject to appropriations from the Legislature and subject to the reporting and other requirements of this chapter, grant money shall be distributed:

(a) equally between all rural counties that have created a CED board, in an amount up to and including \$200,000 annually per county; and

(b) for grant money that is available after \$200,000 has been provided annually to each eligible rural county, through the process described in Subsection (6).

(5) Beginning in 2021, a rural county may not receive an additional grant under this chapter unless the rural county:

(a) demonstrates a funding match, which may include a funding match provided by any combination of a community reinvestment agency, redevelopment agency, community development and renewal agency, private-sector entity, nonprofit entity, federal matching grant, county or municipality general fund match, or in-kind match, and that totals:

(i) a 10% match for a county of the sixth class;

(ii) a 20% match for a county of the fifth class;

(iii) a 30% match for a county of the fourth class; and

(iv) a 40% match for a county of the third class; and

(b) has complied with the reporting requirements required by the rural partnership board and the reporting requirements described in Subsection (9) for all previous years that the county has received a grant.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of Rural Development in collaboration with the rural partnership board shall make rules establishing the eligibility and reporting criteria for a rural county to receive grant money under Subsection (4)(b), including:

(a) the form and process for a county to submit an application to the rural partnership board for a grant;

(b) the method of scoring and prioritizing grant program applications from rural counties;

(c) the reporting, auditing, and post-performance requirements for a rural county that receives grant money; and

(d) any deadlines that shall be met by a rural county when applying for a grant.

(7) In determining the award of grant money under Subsection (4)(b), the rural partnership board may not recommend the awarding of more than \$800,000 annually to a rural county.

(8) In determining the recommended award of grant money under Subsection (4)(b), the rural partnership board may prioritize applications that demonstrate any combination of the following:

(a) that the county has or is actively pursuing the creation of an effective strategic economic development plan;

(b) consistency with local economic development priorities;

(c) economic need;

(d) utilization of local financial or in-kind resources in combination with a grant;

(e) evidence that jobs will be created; and

(f) evidence that there will be a positive return on investment.

(9) On or before September 1 of each year, a county that has received a grant under this chapter in the previous 12 months shall provide a written report to the rural partnership board that describes:

(a) the amount of grant money the county has received;

(b) how grant money has been distributed by the county, including what companies or entities have utilized grant money, how much grant money each company or entity has received, and how each company or entity has used the money;

(c) an evaluation of the effectiveness of awarded grants in improving economic development in the county, including the number of jobs created, infrastructure that has been created, and capital improvements in the county;

(d) how much matching money has been utilized by the county and what entities have provided the matching money; and

(e) any other reporting, auditing, or post-performance requirements established by the Office of Rural Development in collaboration with the rural partnership board under Subsection (6).

(10) The Office of Rural Development shall compile the reported information and provide a written report to the Governor's Office of Economic Development for inclusion in the Governor's Office of Economic Development's annual written report described in Section 63N-1-301.

**Section 4. Section 17-54-104 is enacted to read:**

**17-54-104. County Economic Development Advisory Board.**

(1) (a) Each rural county that seeks to obtain a grant under this chapter, shall create a CED board composed of at least the following members appointed by the county legislative body:

(i) a county representative;

(ii) a representative of a municipality in the county;

(iii) a workforce development representative;

(iv) a private-sector representative; and

(v) a member of the public who lives in the county.

(b) The county legislative body may also appoint additional members with experience or expertise in economic development matters.

(c) In appointing members of the CED board, the county legislative body may consider gender and socioeconomic diversity.

(2) Each CED board shall assist and advise the county legislative body on:

(a) applying for a grant under this chapter;

(b) what projects should be funded by grant money provided to a rural county under this chapter; and

(c) preparing reporting requirements for grant money received by a rural county under this chapter.

**Section 5. Section 19-13-101, which is renumbered from Section 63N-2-401 is renumbered and amended to read:**

**CHAPTER 13. RECYCLING MARKET DEVELOPMENT ZONE ACT**

**[63N-2-401]. 19-13-101. Title.**

This part is known as the "Recycling Market Development Zone Act."

**Section 6. Section 19-13-102, which is renumbered from Section 63N-2-402 is renumbered and amended to read:**

**[63N-2-402]. 19-13-102. Definitions.**

As used in this part:

(1) "Composting" means the controlled decay of landscape waste or sewage sludge and organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other organisms.

(2) "Postconsumer waste material" means any product generated by a business or consumer that has served its intended end use, and that has been separated from solid waste for the purposes of collection, recycling, and disposition and that does not include secondary waste material.

(3) (a) "Recovered materials" means waste materials and by-products that have been recovered or diverted from solid waste.

(b) "Recovered materials" does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(4) (a) "Recycling" means the diversion of materials from the solid waste stream and the beneficial use of the materials and includes a series of activities by which materials that would become or otherwise remain waste are diverted from the waste stream for collection, separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of the materials as substitutes for goods made from virgin materials.

(b) "Recycling" does not include burning municipal solid waste for energy recovery.

(5) "Recycling market development zone" or "zone" means an area designated by the office as meeting the requirements of this part.

(6) (a) "Secondary waste material" means industrial by-products that go to disposal facilities and waste generated after completion of a manufacturing process.

(b) "Secondary waste material" does not include internally generated scrap commonly returned to industrial or manufacturing processes, such as home scrap and mill broke.

(7) "Tax incentive" means a nonrefundable tax credit available under Section 59-7-610 or 59-10-1007.

**Section 7. Section 19-13-103, which is renumbered from Section 63N-2-403 is renumbered and amended to read:**

**[63N-2-403]. 19-13-103. Duties of the department.**

The [office] department shall:

(1) facilitate recycling development zones through state support of county incentives [which] that encourage development of manufacturing enterprises that use recycling materials currently collected;

(2) evaluate an application from a county or municipality executive authority to be designated as a recycling market development zone and determine if the county or municipality qualifies for that designation;

(3) provide technical assistance to municipalities and counties in developing applications for designation as a recycling market development zone;

(4) assist counties and municipalities designated as recycling market development zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business in obtaining the benefits of an incentive or inducement program authorized by this part; and

(6) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the recycling market development zone[; and].

~~[(7) include in the annual written report described in Section 63N-2-301, an evaluation of the effectiveness of the program and recommendations for legislation.]~~

**Section 8. Section 19-13-104, which is renumbered from Section 63N-2-404 is renumbered and amended to read:**

**[63N-2-404]. 19-13-104. Criteria for recycling market development zone -- Application process and fees.**

(1) An area may be designated as a recycling market development zone only if:

(a) the county or municipality agrees to make a qualifying local contribution under Section [63N-2-405] 19-13-105; and

(b) the county or municipality provides for postconsumer waste collection for recycling within the county or municipality.

(2) The executive authority of any municipality or county desiring to be designated as a recycling market development zone shall:

(a) obtain the written approval of the municipality or county's legislative body; and

(b) file an application with the [office] department demonstrating the county or municipality meets the requirements of this part.

(3) The application shall be in a form prescribed by the [office] department, and shall include:

(a) a plan developed by the county or municipality that identifies local contributions meeting the requirements of Section [63N-2-405] 19-13-105;

(b) a county or municipality development plan that outlines:

(i) the specific investment or development reasonably expected to take place;

(ii) any commitments obtained from businesses to participate, and in what capacities regarding recycling markets;

(iii) the county's or municipality's economic development plan and demonstration of coordination between the zone and the county or municipality in overall development goals;

(iv) zoning requirements demonstrating that sufficient portions of the proposed zone area are zoned as appropriate for the development of commercial, industrial, or manufacturing businesses;

(v) the county's or municipality's long-term waste management plan and evidence that the zone will be adequately served by the plan; and

(vi) the county or municipality postconsumer waste collection infrastructure;

(c) the county's or municipality's proposed means of assessing the effectiveness of the development plan or other programs implemented within the zone;

(d) state whether within the zone either of the following will be established:

(i) commercial manufacturing or industrial processes that will produce end products that consist of not less than 50% recovered materials, of which not less than 25% is postconsumer waste material; or

(ii) commercial composting;

(e) any additional information required by the [office] department; and

(f) any additional information the county or municipality considers relevant to its designation as a recycling market development zone.

(4) A county or municipality applying for designation as a recycling market development zone shall pay to the [office] department an application fee determined under Section 63J-1-504.

**Section 9. Section 19-13-105, which is renumbered from Section 63N-2-405 is renumbered and amended to read:**

**[63N-2-405]. 19-13-105. Qualifying local contributions.**

Qualifying local contributions to the recycling market development zone may vary depending on available resources, and may include:

- (1) simplified procedures for obtaining permits;
- (2) dedication of available government grants;
- (3) waiver of business license or permit fees;
- (4) infrastructure improvements;
- (5) private contributions;
- (6) utility rate concessions;
- (7) suspension or relaxation of locally originated zoning laws or general plans; and
- (8) other proposed local contributions as the [office] department finds promote the purposes of this part.

**Section 10. Section 19-13-106, which is renumbered from Section 63N-2-406 is renumbered and amended to read:**

**[63N-2-406]. 19-13-106. Eligibility review.**

- (1) The [office] department shall:
  - (a) review and evaluate an application submitted under Section [63N-2-404] 19-13-104; and
  - (b) determine whether the municipality or county is eligible for designation as a recycling market development zone.
- (2) In designating recycling market development zones, the [office] department shall consider:
  - (a) whether the current waste management practices and conditions of the county or municipality are favorable to the development of postconsumer waste material markets;
  - (b) whether the creation of the zone is necessary to assist in attracting private sector recycling investments to the area; and
  - (c) the amount of available landfill capacity to serve the zone.

**Section 11. Section 19-13-107, which is renumbered from Section 63N-2-407 is renumbered and amended to read:**

**[63N-2-407]. 19-13-107. Quarterly consideration.**

The [office] department shall take action quarterly on any application requesting

designation as a recycling market development zone.

**Section 12. Section 19-13-108, which is renumbered from Section 63N-2-408 is renumbered and amended to read:**

**[63N-2-408]. 19-13-108. Duration of designation.**

A recycling market development zone designation ends five years from the date the [office] department designates the area as a recycling market development zone, at the end of which the county or municipality may reapply for the designation.

**Section 13. Section 19-13-109, which is renumbered from Section 63N-2-409 is renumbered and amended to read:**

**[63N-2-409]. 19-13-109. Revocation of designations.**

(1) The [office] department may revoke the designation of a recycling market development zone if no businesses utilize the tax incentives during any calendar year.

(2) Before revocation of the zone, the [office] department shall conduct a public hearing within a reasonable distance of the zone to determine reasons for inactivity and explore possible alternative actions.

**Section 14. Section 19-13-110, which is renumbered from Section 63N-2-410 is renumbered and amended to read:**

**[63N-2-410]. 19-13-110. Recycling market development zone credit.**

For a taxpayer within a recycling market development zone, there are allowed the nonrefundable credits against tax as provided by Sections 59-7-610 and 59-10-1007.

**Section 15. Section 19-13-111, which is renumbered from Section 63N-2-411 is renumbered and amended to read:**

**[63N-2-411]. 19-13-111. Annual report.**

(1) A county or municipality designated as a recycling market development zone shall report by no later than July 31 of each year to the [office] department regarding the economic activity that has occurred in the zone following the designation.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [office] department may make rules providing for the form and content of the annual reports.

**Section 16. Section 53B-17-1101 is amended to read:**

**53B-17-1101. Definitions.**

As used in this part:

(1) "Researcher" means an individual who:

(a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

(b) before May 8, 2018, received funding from USTAR for some or all of the researcher’s startup costs or salary;

(c) was recruited to become a member of the university’s faculty; and

(d) after May 8, 2018, receives some or all of the researcher’s start up costs or salary from a legislative appropriation to the university for that purpose.

(2) “University” means the University of Utah.

(3) “USTAR” means the Utah Science Technology and Research Initiative [~~created in Section 63M-2-301~~], which was repealed in 2020.

**Section 17. Section 53B-18-1601 is amended to read:**

**53B-18-1601. Definitions.**

As used in this part:

(1) “Researcher” means an individual who:

(a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

(b) before May 8, 2018, received funding from USTAR for some or all of the researcher’s startup costs or salary;

(c) was recruited to become a member of the university’s faculty; and

(d) after May 8, 2018, receives some or all of the researcher’s start up costs or salary from a legislative appropriation to the university for that purpose.

(2) “University” means Utah State University.

(3) “USTAR” means the Utah Science Technology and Research Initiative [~~created in Section 63M-2-301~~], which was repealed in 2020.

**Section 18. Section 59-7-610 is amended to read:**

**59-7-610. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section [~~63N-2-402~~] 19-13-102 may claim the following nonrefundable tax credits:

(a) a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in [~~Utah~~] the state; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the [~~Governor’s Office of Economic Development~~] Department of Environmental Quality a written certification, on a form approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

(ii) for [~~claims~~] a claim of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer’s tax credit; and

(iii) for [~~claims~~] a claim of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in [~~Utah~~] the state; and

(F) the amount of the taxpayer’s tax credit.

(b) (i) The [~~Governor’s Office of Economic Development~~] Department of Environmental Quality shall provide a taxpayer seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The taxpayer shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The [~~Governor’s Office of Economic Development~~] Department of Environmental

Quality shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the ~~[office]~~ Department of Environmental Quality issues a written certification; and

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the taxpayer made the purchases or payments;

(b) before any other tax credits the taxpayer may claim for the taxable year; and

(c) before the taxpayer ~~[claiming]~~ claims a tax credit authorized by this section.

(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three taxable years, the amount of ~~[the tax credit that exceeds the taxpayer's income tax liability]~~ a tax credit described in Subsection (1)(a) that the taxpayer does not use for the taxable year.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim ~~[or carry forward]~~ a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(8) A taxpayer may not claim or carry forward a tax credit under this section for a taxable year during which the taxpayer claims the targeted business income tax credit under Section 59-7-624.

**Section 19. Section 59-10-1007 is amended to read:**

**59-10-1007. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section ~~[63N-2-402]~~ 19-13-102 may claim the following nonrefundable tax credits:

(a) a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in ~~[Utah]~~ the state; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the ~~[Governor's Office of Economic Development]~~ Department of Environmental Quality a written certification, on a form approved by the commission, that includes:

(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;

(ii) for ~~[claims]~~ a claim of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;

(B) the date that the claimant, estate, or trust purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;

(E) the amount of the claimant's, estate's, or trust's tax credit; and

(F) a statement that the machinery and equipment are integral to the composting or recycling process; and

(iii) for ~~[claims]~~ a claim of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the claimant, estate, or trust made to a third party;

(B) the date that the claimant, estate, or trust made the payment to a third party;

(C) the amount that the claimant, estate, or trust paid to each third party;

(D) the total amount that the claimant, estate, or trust paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in ~~[Utah]~~ the state; and

(F) the amount of the claimant's, estate's, or trust's tax credit.

(b) (i) The ~~[Governor's Office of Economic Development]~~ Department of Environmental Quality shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period



of time that a person is required to keep books and records under Section 59-1-1406.

(c) The ~~[Governor's Office of Economic Development]~~ Department of Environmental Quality shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the ~~[office]~~ Department of Environmental Quality issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.

(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and

(c) before the claimant, estate, or trust ~~[claiming]~~ claims a tax credit authorized by this section.

(4) The commission shall make rules governing what information a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of ~~[the tax credit that exceeds the taxpayer's income tax liability]~~ a tax credit described in Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(8) A claimant, estate, or trust may not claim or carry forward a tax credit ~~[available]~~ under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

**Section 20. Section 63A-3-110 is amended to read:**

**63A-3-110. Personal use expenditures for state officers and employees.**

(1) As used in this section:

(a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a governmental entity.

(b) "Governmental entity" means:

(i) an executive branch agency of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the State Board of Education, and the State Board of Regents;

(ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, the Legislature, and legislative committees;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch; or

(iv) independent state entities created under Title 63H, Independent State Entities~~[, or]~~.

~~[(v) the Utah Science Technology and Research Governing Authority created under Section 63M-2-301.]~~

(c) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(d) (i) "Personal use expenditure" means an expenditure made without the authority of law that:

(A) is not directly related to the performance of an activity as a state officer or employee;

(B) primarily furthers a personal interest of a state officer or employee or a state officer's or employee's family, friend, or associate; and

(C) would constitute taxable income under federal law.

(ii) "Personal use expenditure" does not include:

(A) a de minimis or incidental expenditure; or

(B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the state.

(e) "Public funds" means the same as that term is defined in Section 51-7-3.

(2) A state officer or employee may not:

(a) use public funds for a personal use expenditure; or

(b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for a personal use expenditure.

(3) If the Division of Finance or the responsible governmental entity determines that a state officer or employee has intentionally made a personal use expenditure in violation of Subsection (2), the governmental entity shall:

(a) require the state officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:

(i) the personal use expenditure was disbursed; or

(ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;

(b) require the state officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the Division of Finance; and

(c) deposit the money received under Subsection (3)(b) into the General Fund.

(4) (a) Any state officer or employee who has been found by a governmental entity to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the governmental entity.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules regarding an appeal process for an appeal made under Subsection (4)(a), including the designation of an appeal authority.

(5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a portion of the wages of a state officer or employee who has violated Subsection (2) until the requirements of Subsection (3) have been met.

(b) If the state officer or employee has requested an appeal under Subsection (4), the Division of Finance may only withhold the wages of the officer or employee after the appeal authority described in Subsection (4)(b) has confirmed that the officer or employee violated Subsection (2).

(6) Nothing in this chapter immunizes a state officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.

(7) A state officer or employee who is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

**Section 21. Section 63A-5-305 is amended to read:**

**63A-5-305. Leasing by higher education institutions.**

(1) The Board of Regents shall establish written policies and procedures governing leasing by higher education institutions.

(2) Except as provided in [Sections] Section 53B-2a-113 [and 63M-2-602], a higher education institution shall comply with the procedures and requirements of the Board of Regents' policies before signing or renewing a lease.

**Section 22. Section 63C-10-103 is amended to read:**

**63C-10-103. Duties.**

(1) The board shall:

(a) serve as an advisory board to:

(i) the governor on rural economic and planning issues; and

(ii) the Governor's Office of Economic Development on rural economic development issues;

(b) prepare an annual strategic plan that:

(i) identifies rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives; and

(ii) includes a work plan for accomplishing the objectives referred to in Subsection (1)(b)(i);

(c) identify local, regional, and statewide rural economic development and planning priorities;

(d) study and take input on issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration;

(e) advocate for rural needs, programs, policies, opportunities, and other issues relating to rural economic development and planning;

(f) oversee the Rural County Grant Program created in Section 17-54-103; and

~~[(f) review projects in enterprise zones proposed by nonprofit corporations headquartered in enterprise zones as described in Subsection 63N-2-213.5(6);]~~

~~[(g) review applications for cash awards, grants, loans, or other financial assistance under;]~~

~~[(i) the Rural Fast Track Program described in Section 63N-3-104; and]~~

~~[(ii) the Business Expansion and Retention Initiative described in Section 63N-3-104.5; and]~~

~~[(h)] (g) no later than October 1 of each year, submit to the governor, the Legislature, and the Economic Development and Workforce Services Interim Committee an annual report, in accordance with Section 68-3-14, that provides:~~

(i) an overview of the rural economy in the state;

(ii) a summary of current issues and policy matters relating to rural economic development; and

(iii) a statement of the board's initiatives, programs, and economic development priorities.

(2) The board may engage in activities necessary to fulfill the board's duties, including:

(a) propose or support rural economic development legislation; and

(b) create one or more subcommittees.

**Section 23. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed [on] July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed [on] December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1[(53)](55), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1[(53)](55), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2[(23)](24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

~~[(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.]~~

~~[(b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.]~~

~~[(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:]~~

~~[(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or]~~

~~[(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.]~~

~~[(d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:]~~

~~[(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and]~~

~~[(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or]~~

~~[(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.]~~

~~[(27) (26) Section 63N-2-512 is repealed on] July 1, 2021.~~

~~[(28) (27) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.~~

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(28) (27)(b),~~ an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(29) (28) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.~~

~~[(30) (29) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.~~

~~[(31) (30) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.~~

~~[(32) (31) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:~~

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

~~[(33) (32) In relation to the Talent Ready Utah Board, on January 1, 2023:~~

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

[~~(34)~~ (33)] Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

**Section 24. Section 63J-1-602.2 is amended to read:**

**63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

- (1) The Legislature and its committees.
- (2) The Percent-for-Art Program created in Section 9-6-404.
- (3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.
- (4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).
- (5) The Trip Reduction Program created in Section 19-2a-104.
- (6) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.
- (7) The primary care grant program created in Section 26-10b-102.
- (8) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).
- (9) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.
- (10) The Rural Physician Loan Repayment Program created in Section 26-46a-103.
- (11) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.
- (12) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a) or (b).
- (13) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.
- (14) A new program or agency that is designated as nonlapsing under Section 36-24-101.
- (15) The Utah National Guard, created in Title 39, Militia and Armories.
- (16) The State Tax Commission under Section 41-1a-1201 for the:
  - (a) purchase and distribution of license plates and decals; and
  - (b) administration and enforcement of motor vehicle registration requirements.
- (17) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(19) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(20) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(21) The State Board of Education, as provided in Section 53F-2-205.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

~~[(27) The Utah Science Technology and Research Initiative created in Section 63M-2-301.]~~

~~[(28)]~~ (27) The Governor’s Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

~~[(29)]~~ (28) Appropriations to fund the Governor’s Office of Economic Development’s Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

~~[(30)]~~ (29) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

~~[(31)]~~ (30) A public safety answering point’s emergency telecommunications service fund, as provided in Section 69-2-301.

~~[(32)]~~ (31) The Traffic Noise Abatement Program created in Section 72-6-112.

~~[(33)]~~ (32) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

~~[(34)]~~ (33) A state rehabilitative employment program, as provided in Section 78A-6-210.

~~[(35)]~~ (34) The Utah Geological Survey, as provided in Section 79-3-401.

~~[(36)]~~ (35) The Bonneville Shoreline Trail Program created under Section 79-5-503.

~~[(37)]~~ (36) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(38)]~~ (37) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

~~[(39)]~~ (38) The program established by the Division of Facilities Construction and Management under Subsection 63A-5-228(3) under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

**Section 25. Section 63N-1-501 is amended to read:**

**63N-1-501. Governor's Economic Development Coordinating Council -- Membership -- Expenses.**

(1) There is created in the office the Governor's Economic Development Coordinating Council, consisting of the following 11 members:

(a) the executive director, who shall serve as chair of the council;

(b) the chair of the board or the chair's designee;

~~[(c) the chair of the Utah Science Technology and Research Governing Authority created in Section 63M-2-301 or the chair's designee;]~~

~~[(d)]~~ (c) the chair of the Governor's Rural Partnership Board created in Section 63C-10-102 or the chair's designee;

~~[(e)]~~ (d) the chair of the board of directors of the Utah Capital Investment Corporation created in Section 63N-6-301 or the chair's designee;

~~[(f)]~~ (e) the chair of the Economic Development Corporation of Utah or its successor organization or the chair's designee;

~~[(g)]~~ (f) the chair of the World Trade Center Utah or its successor organization or the chair's designee; and

~~[(h)]~~ (g) ~~four~~ five members appointed by the governor, with the consent of the Senate, who have expertise in business, economic development, entrepreneurship, or the raising of venture or seed capital for research and business growth.

(2) (a) The ~~four~~ five members appointed by the governor may serve for no more than two consecutive two-year terms.

(b) The governor shall appoint a replacement if a vacancy occurs from the membership appointed under Subsection (1)(~~h~~)(g).

(3) Six members of the council constitute a quorum for the purpose of conducting council business and the action of a majority of a quorum constitutes the action of the council.

(4) A member may not receive compensation or benefits for the member's service on the council, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) The office shall provide office space and administrative staff support for the council.

(6) The council, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

**Section 26. Section 63N-2-203 is amended to read:**

**63N-2-203. Powers of the office.**

The office shall:

(1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;

(2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;

(3) provide technical assistance to county applicants and municipal applicants in developing applications for designation as enterprise zones;

(4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and

(6) as part of the annual written report described in Section 63N-1-301, prepare an annual evaluation that provides:

(a) based on data from the State Tax Commission, the total amount of tax credits claimed under this part;

(b) the total amount awarded in tax credits for each development zone;

(c) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(d) the amount of tax credits awarded for rehabilitating a building in each development zone;

(e) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone; and

~~[(f) the list of approved projects under Section 63N-2-213.5 and the aggregate value of the tax credit certificates issued related to contributions to those approved projects; and]~~

~~[(g)]~~ (f) recommendations regarding the effectiveness of the program and any suggestions for legislation.

**Section 27. Section 63N-2-204 is amended to read:**

**63N-2-204. Criteria for designation of enterprise zones -- Application.**

(1) A county applicant seeking designation as an enterprise zone shall file an application with the

office that, in addition to complying with the other requirements of this part:

(a) verifies that the county has a population of not more than 70,000; and

(b) provides clear evidence of the need for development in the county.

(2) A municipal applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with other requirements of this part:

(a) verifies that the municipality has a population that does not exceed 20,000;

(b) verifies that the municipality is within a county that has a population of not more than 70,000; and

(c) provides clear evidence of the need for development in the municipality.

(3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the office, and shall include the following information:

(a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section 63N-2-205;

(b) the county applicant or municipal applicant has a development plan that outlines:

(i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;

(ii) the specific investment or development reasonably expected to take place;

(iii) any commitments obtained from businesses;

(iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;

(v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and

(vi) a copy of the county applicant's or municipal applicant's economic development plan to demonstrate coordination between the zone and overall county or municipal goals;

(c) the county applicant's or municipal applicant's proposed means of assessing the effectiveness of the development plan or other programs within the zone once they have been implemented within the zone;

(d) any additional information required by the office; and

(e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.

(4) On or after January 1, 2021, no new enterprise zones shall be designated.

**Section 28. Section 63N-2-208 is amended to read:**

**63N-2-208. Duration of designation.**

(1) Each enterprise zone has a duration of five years~~, at the end of which the county may reapply for the designation~~.

(2) On or after January 1, 2021, neither a municipality nor a county may reapply for an enterprise zone designation for an enterprise zone that has reached the end of the enterprise zone's five-year duration.

**Section 29. Section 63N-2-213 is amended to read:**

**63N-2-213. State tax credits.**

(1) The office shall certify a business entity's eligibility for a tax credit described in this section.

(2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:

(a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and

(b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.

(3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

(a) deny the tax credit; or

(b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.

(4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:

(a) determine the amount of the tax credit to be granted to the business entity;

(b) issue a tax credit certificate to the business entity; and

(c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:

(a) the form and content of an application for a tax credit under this section;

(b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and

(c) administration of the program, including relevant timelines and deadlines.

(7) Subject to the limitations of Subsections (8) through (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of \$200 may be claimed ~~for two consecutive years~~ for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more, including that the building has had or contained no occupants, tenants, furniture, or personal property for two years or more, in the time period immediately before the rehabilitation; and

(f) an annual investment tax credit ~~of 10%~~ may be claimed in an amount equal to 5% of the first \$250,000 in investment, and 5% of the next \$1,000,000 \$750,000 qualifying investment in plant, equipment, or other depreciable property.

(8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30 full-time employee positions in a taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (7)(a) through (d) in a prior

taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (7)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of ~~full-time~~ employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of ~~full-time~~ employee positions that existed at the business entity in the previous ~~three~~ taxable ~~years~~ year.

(c) Construction jobs are not eligible for the tax credits under Subsections (7)(a) through (d).

(9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade or by a public utilities business.

(11) A business entity that has no employees:

(a) may not claim tax credits under Subsections (7)(a) through (d); and

(b) may claim tax credits under Subsections (7)(e) through (f).

(12) (a) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-304.

(b) A business entity may not claim or carry forward a tax credit available under this section for a taxable year during which the business entity claims or carries forward a tax credit available under Section 59-7-610 or 59-10-1007.

(13) (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credits to the state;

(B) the purpose and effectiveness of the tax credits; and

(C) the extent to which the state benefits from the tax credits; and



(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

**Section 30. Section 63N-4-104 is amended to read:**

**63N-4-104. Duties.**

(1) The Office of Rural Development shall:

(a) provide staff support to the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6);

(b) facilitate within GOED the implementation of the strategic plan prepared under Subsection 63C-10-103(1)(b);

(c) work to enhance the capacity of GOED to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions;

(d) work with the Governor's Rural Partnership Board to coordinate and focus available resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah; ~~and~~

(e) assist the Governor's Rural Partnership Board in administering the Rural County Grant Program created in Section 17-54-103, including, as described in Subsection 17-54-103(10), compiling reported information regarding the program for inclusion in GOED's annual written report described in Section 63N-1-301; and

~~(e)~~ (f) in accordance with economic development and planning policies set by state government, coordinate relations between:

(i) the state;

(ii) rural governments;

(iii) other public and private groups engaged in rural economic planning and development; and

(iv) federal agencies.

(2) (a) The Office of Rural Development may:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties;

(ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and

(iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii) for the use and benefit of rural citizens within the state.

(b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

**Section 31. Section 63N-4-701 is enacted to read:**

**Part 7. Rural Speculative Industrial Building Program**

**63N-4-701. Title.**

This part is known as the "Rural Speculative Industrial Building Program."

**Section 32. Section 63N-4-702 is enacted to read:**

**63N-4-702. Definitions.**

As used in this part:

(1) "Entity" means a county, city, or private company.

(2) "Lease" means a legal contract entered into by the office and a lessor of a rural speculative industrial building before the construction of a rural speculative industrial building.

(3) "Program" means the Rural Speculative Industrial Building Program created in Section 63N-4-703.

(4) "Rural speculative industrial building" means an industrial facility that is constructed with the support of the program in a rural area and that does not have a private entity tenant at the time construction begins.

(5) "Rural area" means any area in a county of the state, except for an area in Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, or Summit counties.

**Section 33. Section 63N-4-703 is enacted to read:**

**63N-4-703. Creation and purpose of the Rural Speculative Industrial Building Program.**

(1) There is created the Rural Speculative Industrial Building Program administered by the office.

(2) In administering the program, the office shall encourage the construction of rural speculative industrial buildings by private developers in one or more rural areas to attract new or expanding businesses into rural areas.

**Section 34. Section 63N-4-704 is enacted to read:**

**63N-4-704. Requirements for entering into a lease.**

(1) In accordance with the provisions of this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the eligibility and reporting criteria for an applicant to participate in the program as a lessor of a rural speculative industrial building, including:

(a) the form and process of submitting an application to the office;

(b) the eligibility requirements of an applicant;

(c) the method and formula for determining lease terms between the office and a lessor of a rural speculative industrial building; and

(d) the reporting requirements of participants in the program.

(2) In determining whether to approve an application for participation in the program, the office may prioritize a project:

(a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;

(b) where an applicant demonstrates comprehensive planning of the project, including a business case;

(c) where the applicant, as determined by the office, is likely to have success in attracting a tenant to assume the office's lease of a rural speculative industrial building in a short amount of time; and

(d) that maximizes economic development opportunities in accordance with the economic development needs or plans of a county or a municipality.

(3) Subject to legislative appropriation, a lease may only be entered into by the office if:

(a) the executive director, after consultation with the board, approves entering into the lease;

(b) the local municipal entity supports the program through the provision of local incentives, reduced impact fees, or other monetary support for the rural speculative industrial building; and

(c) the lease terms are not more than \$100,000 per year with a maximum five-year lease term.

(4) The office shall include in the annual written report described in Section 63N-1-301:

(a) an overview of each lease entered into under this program; and

(b) the success of this program in attracting new or expanding businesses into rural areas.

**Section 35. Section 67-19-15 is amended to read:**

**67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.**

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

~~(ii) the Utah Science Technology and Research Initiative (USTAR);]~~

~~(iii)] (ii) the Public Lands Policy Coordinating Council;~~

~~(iv)] (iii) the Office of the State Auditor; and~~

~~(v)] (iv) the Office of the State Treasurer;~~

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the department; or

(B) educators as defined by Section 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(n) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;

(o) schedule AU includes patients and inmates employed in state institutions;

(p) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and

(q) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the executive director; or

(ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter 10, Veterans Preference.

(3) (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.

(c) Unless the executive director's decision is reversed by the governor, when the executive director denies an agency's request, the executive director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

### **Section 36. Repealer.**

This bill repeals:

### **Section 13-1-14, Workforce Development Restricted Account.**

### **Section 59-7-614.11, Nonrefundable nonprofit contribution tax credit.**

### **Section 59-10-1039, Nonrefundable nonprofit contribution tax credit.**

### **Section 63M-2-101, Title.**

### **Section 63M-2-102, Definitions.**

### **Section 63M-2-301, The Utah Science Technology and Research Initiative -- Governing authority -- Program director.**

### **Section 63M-2-302, USTAR powers and duties.**

### **Section 63M-2-302.5, USTAR requirements.**

### **Section 63M-2-304, Background checks for employees.**

### **Section 63M-2-501, Title.**

### **Section 63M-2-502, Principal researchers -- Agreement requirements -- Discontinuing funding.**

### **Section 63M-2-503, USTAR grant programs.**

### **Section 63M-2-504, Other USTAR support.**

**Section 63M-2-601, Title.****Section 63M-2-602, Lease agreement for a research building -- Requirements for lease agreement.****Section 63M-2-701, Title.****Section 63M-2-703, Reporting requirements for private entities.****Section 63M-2-801, Title.****Section 63M-2-802, USTAR annual report.****Section 63M-2-803, Audit requirements.****Section 63N-2-213.5, State tax credits for contributions to a nonprofit corporation.****Section 63N-3-104, Rural Fast Track Program -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.****Section 63N-3-104.5, Business Expansion and Retention Initiative -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.****Section 37. Appropriation.****Subsection 37(a). Appropriation for fiscal year 2020.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

**ITEM 1**To General Fund

From Nonlapsing Balances -- USTAR —	
Support Programs	\$1,436,200

Schedule of Programs:

General Fund, One-time	\$1,436,200
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**ITEM 2**To General Fund

From Nonlapsing Balances -- USTAR —	
Grant Programs	\$1,765,200

Schedule of Programs:

General Fund, One-time	\$1,765,200
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Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ITEM 3**

To Utah Science Technology and Research Governing Authority -- USTAR Administration

From General Fund, One-time	(\$1,512,500)
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Schedule of Programs:

Administration	(\$330,300)
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Project Management & Compliance	(\$1,182,200)
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**ITEM 4**

To General Fund Restricted -- Workforce Development Restricted Account

From General Fund, One-time	(\$11,931,000)
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Schedule of Programs:

Workforce Development Restricted Account	(\$11,931,000)
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**Subsection 37(b). Appropriation for fiscal year 2021.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ITEM 1**

To Utah Science Technology and Research Governing Authority -- USTAR Administration

From General Fund	(\$1,788,400)
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Schedule of Programs:

Administration	(\$606,200)
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Project Management & Compliance	(\$1,182,200)
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**ITEM 2**

To Utah Science Technology and Research Governing Authority -- Support Programs

From General Fund	(\$31,600)
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Schedule of Programs:

Regional Outreach	(\$13,100)
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SBIR/STTR Assistance Center	(\$7,900)
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Incubation Programs	(\$10,600)
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**ITEM 3**

To General Fund Restricted -- Workforce Development Restricted Account

From General Fund	(\$14,636,900)
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Schedule of Programs:

Workforce Development Restricted Account	(\$14,636,900)
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**ITEM 4**

To Governor's Office of Economic Development -- Rural County Grant Program

<u>From General Fund</u>	<u>\$4,600,000</u>
<u>Schedule of Programs:</u>	
<u>Rural County Grant Program</u>	<u>\$4,600,000</u>
<u>ITEM 5</u>	
<u>To Governor's Office of Economic Development -- Rural County Grant Program</u>	
<u>From General Fund, One-time</u>	<u>\$3,400,000</u>
<u>Schedule of Programs:</u>	
<u>Rural County Grant Program</u>	<u>\$3,400,000</u>
<u>ITEM 6</u>	
<u>To Governor's Office of Economic Development -- Rural Coworking and Innovation Center Grant Program</u>	
<u>From General Fund</u>	<u>\$250,000</u>
<u>Schedule of Programs:</u>	
<u>Rural Coworking and Innovation Center Grant Program</u>	<u>\$250,000</u>
<u>ITEM 7</u>	
<u>To Governor's Office of Economic Development -- Rural Coworking and Innovation Center Grant Program</u>	
<u>From General Fund, One-time</u>	<u>\$2,000,000</u>
<u>Schedule of Programs:</u>	
<u>Rural Coworking and Innovation Center Grant Program</u>	<u>\$2,000,000</u>
<u>ITEM 8</u>	
<u>To Governor's Office of Economic Development -- Business Development</u>	
<u>From General Fund</u>	<u>\$250,000</u>
<u>Schedule of Programs:</u>	
<u>Rural Speculative Industrial Building Program</u>	<u>\$250,000</u>
<u>ITEM 9</u>	
<u>To Governor's Office of Economic Development -- Pass-through</u>	
<u>From General Fund</u>	<u>(\$385,600)</u>
<u>From Dedicated Credits Revenue</u>	<u>(\$16,100)</u>
<u>Schedule of Programs:</u>	
<u>Pass-through</u>	<u>(\$401,700)</u>
<u>ITEM 10</u>	
<u>To Governor's Office of Economic Development -- SBIR/STTR Center</u>	
<u>From General Fund</u>	<u>\$385,600</u>
<u>From Dedicated Credits Revenue</u>	<u>\$16,100</u>
<u>Schedule of Programs:</u>	
<u>SBIR/STTR Center</u>	<u>\$401,700</u>

The Legislature intends that any remaining money in the Workforce Development Restricted Account and any remaining money in USTAR accounts that has not been specifically appropriated for other purposes in fiscal year 2021 be deposited into the General Fund.

**Section 38. Retrospective operation.**

The repeal of Sections 59-7-614.11, 59-10-1039, and 63N-2-213.5 in this bill have retrospective operation for a taxable year beginning on or after January 1, 2020.

**Section 39. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2020.

(2) Uncodified Subsection 37(a), Appropriation for Fiscal Year 2020, takes effect on May 12, 2020.

**Section 40. Coordinating S.B. 95 with S.B. 72 -- Substantive and technical amendments.**

If this S.B. 95 and S.B. 72, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that on July 1, 2020, the amendments to Sections 59-7-610 and 59-10-1007 in this bill supersede the amendments to Sections 59-7-610 and 59-10-1007 in S.B. 72, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication..

**Section 41. Coordinating S.B. 95 with H.B. 179 -- Substantive and technical amendments.**

If this S.B. 95 and H.B. 179, Recycling Market Development Zone Tax Credit Amendments, both pass and become law, it is the intent of the Legislature that on July 1, 2020, the amendments to Section 63I-1-263 in this bill supersede the amendments to Section 63I-1-263 in H.B. 179, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

**CHAPTER 361****S. B. 96**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**EMERGING TECHNOLOGY  
 TALENT INITIATIVE**

Chief Sponsor: Ann Millner  
 House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill creates a deep technology talent initiative within higher education.

**Highlighted Provisions:**

This bill:

- ▶ defines terms, including “deep technology”;
- ▶ creates and describes a deep technology talent initiative that will be developed and overseen by the State Board of Regents;
- ▶ describes what entities may participate in and create proposals to receive funding under the deep technology talent initiative;
- ▶ describes the requirements and process for receiving funding under the deep technology talent initiative; and
- ▶ creates an advisory council to make recommendations to the State Board of Regents regarding submitted proposals for funding under the deep technology talent initiative.

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ to the State Board of Regents -- Economic Development -- Deep Technology Talent Initiative, as an ongoing appropriation:
  - from the Workforce Development Restricted Account, \$5,000,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

53B-26-301, Utah Code Annotated 1953  
 53B-26-302, Utah Code Annotated 1953  
 53B-26-303, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53B-26-301 is enacted to read:**

**Part 3. Deep Technology Initiative**

**53B-26-301. Definitions.**

As used in this part:

(1) “Advisory council” means the Deep Technology Talent Advisory Council created in Section 53B-26-303.

(2) (a) “Deep technology” means technology that leads to new products and innovations based on scientific discovery or meaningful engineering innovation.

(b) “Deep technology” may include technology that leads to new products and innovations related to one or more of the following:

- (i) advanced materials;
- (ii) artificial intelligence;
- (iii) augmented and virtual reality;
- (iv) biotechnology;
- (v) photonics;
- (vi) quantum computing;
- (vii) robotics;
- (viii) secure computing; and
- (ix) other emerging technologies as determined by the advisory council.

(3) “Institution of higher education” means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.

**Section 2. Section 53B-26-302 is enacted to read:**

**53B-26-302. Deep technology initiative.**

(1) Subject to appropriations from the Legislature and in accordance with the proposal process and other provisions of this section, the board shall develop and oversee a deep technology talent initiative that includes providing funding for expanded programs in deep technology.

(2) The board shall facilitate collaborations that create expanded, multidisciplinary programs or stackable credential programs in both undergraduate and graduate studies that prepare students to be workforce participants in jobs requiring deep technology skills.

(3) An institution of higher education seeking to partner with one or more participating employers shall submit a proposal to the board, in a form approved by the board and in accordance with deadlines determined by the board, which contains the following elements:

(a) a description of the proposed program in deep technology that demonstrates the program will:

(i) be responsive to the deep technology talent needs of the state through industry involvement in the project’s design;

(ii) be a partnership that includes at least one participating employer and at least one institution of higher education; and

(iii) address a previously unmet state need related to deep technology;

(b) an estimate of:

(i) student enrollment in the program;

(ii) what academic credit or credentials will be provided by the program; and

(iii) occupations for which graduates will be qualified;

(c) evidence that each participating employer is committed to participating and contributing to the program by providing any combination of instruction, extensive workplace experience, or mentoring;

(d) a description of any resources that will be provided by each participating employer in the program; and

(e) the amount of funding requested for the program, including justification for the funding.

(4) The board shall provide all proposals to the advisory council and the advisory council shall review and prioritize each proposal received and recommend to the board whether the proposal should be funded, including the recommended amount of funding, using the following criteria:

(a) the quality and completeness of the elements of the proposal described in Subsection (3);

(b) to what extent the proposed program:

(i) would expand the capacity to meet state or regional workforce needs related to deep technology;

(ii) would integrate deep technology competency with disciplinary expertise;

(iii) identifies a faculty member or other individual who has expertise and a demonstrated willingness to lead the proposed program;

(iv) would incorporate internships or significant project experiences, including team-based experiences;

(v) identifies how industry professionals would participate in curriculum development and teaching;

(vi) would create partnerships with other higher education institutions and industry; and

(vii) would be cost effective; and

(c) other relevant criteria as determined by the advisory council and the board.

(5) Subject to Subsection (6) and the other provisions of this section, on or before September 1 of each fiscal year, the board shall review the recommendations of the advisory council and may provide funding for deep technology programs using the criteria described in Subsection (4).

(6) Before the board may provide funding for one or more deep technology programs for fiscal year 2021, on or before October 1, 2020, the board shall provide written information regarding the proposed funding to, and shall consider the recommendations of, the Higher Education Appropriations Subcommittee.

(7) (a) Each institution of higher education that receives funding under this section shall, in a form approved by the board, annually provide written information to the board regarding the activities, successes, and challenges related to administering the deep technology program, including:

(i) specific entities that received funding under this section;

(ii) the amount of funding provided to each entity;

(iii) the number of participating students in each program;

(iv) the number of graduates of the program; and

(v) the number of graduates of the program employed in jobs requiring deep technology skills.

(b) On or before November 1 of each year, the board shall provide a written report containing the information described in this Subsection (7) to the:

(i) Education Interim Committee; and

(ii) Higher Education Appropriations Subcommittee.

**Section 3. Section 53B-26-303 is enacted to read:**

**53B-26-303. Deep Technology Talent Advisory Council.**

(1) There is created the Deep Technology Talent Advisory Council to make recommendations to the board in the board's administration of the deep technology talent initiative described in Section 53B-26-302.

(2) The advisory council shall consist of the following members:

(a) two members who have extensive experience in deep technology in the private sector appointed by the president of the Senate;

(b) two members who have extensive experience in deep technology in the private sector appointed by the speaker of the House of Representatives;

(c) a representative of the board appointed by the chair of the board;

(d) a representative of the Governor's Office of Economic Development appointed by the executive director of the Governor's Office of Economic Development;

(e) one member of the Senate appointed by the president of the Senate;

(f) one member of the House of Representatives appointed by the speaker of the House of Representatives; and

(g) other specialized industry experts who may be invited by a majority of the advisory council to participate as needed as nonvoting members.

(3) The board shall provide staff support for the advisory council.

(4) (a) One of the advisory council members appointed under Subsection (2)(a) shall serve an initial term of two years and one of the advisory council members appointed under Subsection (2)(b) shall serve an initial term of two years.

(b) Except as described in Subsection (4)(a), all other advisory council members shall serve an initial term of four years.

(c) Successor advisory council members upon appointment or reappointment shall each serve a term of four years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the initial appointing authority for the unexpired term.

(e) An advisory council member may not serve more than two consecutive terms.

(5) A vote of a majority of the advisory council members is necessary to take action on behalf of the advisory council.

(6) The duties of the advisory council include reviewing, prioritizing, and making recommendations to the board regarding proposals for funding under the deep technology talent initiative described in Section 53B-26-302.

(7) A member may not receive compensation or benefits for the member's service, but a member who is not a legislator may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

#### **Section 4. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

##### ITEM 1

To State Board of Regents -- Economic Development

<u>From Workforce Development</u>	
<u>Restricted Account</u>	<u>\$5,000,000</u>

##### Schedule of Programs:

<u>Deep Technology Talent Initiative</u>	<u>\$5,000,000</u>
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The Legislature intends that appropriations under Item 1:

(1) be allocated to programs that meet the criteria described in Section 53B-26-302; and

(2) under Section 63J-1-603, not lapse at the close of fiscal year 2021.



**CHAPTER 362****S. B. 99**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**SCHOOL LEADERSHIP  
 DEVELOPMENT AMENDMENTS**

Chief Sponsor: Ann Millner  
 House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill creates a grant program to provide awards for mentorship and training activities for new and aspiring principals.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for the State Board of Education to award grants to eligible local education agencies to use for mentorship and training activities for:
  - new principals hired by a local education agency within three years; and
  - aspiring principals;
- ▶ creates reporting requirements; and
- ▶ requires the state board to make rules.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the State Board of Education - Minimum School Program - Related to Basic School Programs, as an ongoing appropriation:
  - from the Education Fund, \$4,800,000; and
- ▶ to the State Board of Education - State Administrative Office - General System Support, as an ongoing appropriation:
  - from the Education Fund, \$200,000.

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****ENACTS:**

53F-5-214, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

53F-5-214, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53F-5-214 is enacted to read:**

**53F-5-214. Grants for new and aspiring principals.**

(1) As used in this section:

(a) "Aspiring principal" means an educator who is:

- (i) employed by an LEA; and
- (ii) pursuing a school leadership license or license area of concentration through enrollment in a state board approved school leadership program.

(b) "Educator" means an individual who holds a professional educator license described in Section 53E-6-201.

(c) "Eligible applicant" means one of the following that has established a mentoring program for new principals, or agrees to establish a mentoring program during the first year of funding, that meets the requirements as described in Subsection (6):

- (i) a single LEA;
- (ii) a group of more than one LEA that submits a joint application;
- (iii) a regional service center as described in Section 53G-4-410.

(d) "Internship" means an extended supervised experience for an aspiring principal to engage in the work of a principal, designed to build and demonstrate the competencies required for a school leadership license or license area of concentration.

(e) "New principal" means a principal hired by an LEA within the previous three years who has not been previously employed as a principal by the LEA.

(f) (i) "Principal" means a school-level leader with executive authority, including:

- (A) a principal;
- (B) an assistant principal;
- (C) a charter school director; or
- (D) another school-based administrator.

(ii) "Principal" does not include:

- (A) a school district administrator; or
- (B) a director of two or more charter schools.

(g) "Residency" means a clinical experience for an aspiring principal that:

- (i) takes place in a new setting, other than the aspiring principal's current position; and
- (ii) that is designed to build and demonstrate the competencies required for a school leadership license or license area of concentration.

(2) (a) An eligible applicant may apply to the state board for a grant to provide professional learning and training activities for a new principal or an aspiring principal.

(b) Subject to legislative appropriations, the state board shall award a grant to an eligible applicant on a qualifying or competitive basis.

(c) The state board may award a grant to an eligible applicant for up to five years.

(d) The state board shall determine an eligible applicant's grant amount based on a formula determined by the state board as described Subsection (6).

(3) (a) A grant recipient that receives a grant under this section may use the grant award:

- (i) to provide mentoring activities to a new principal;

(ii) to provide job-embedded experiences such as an internship or residency to an aspiring principal to help the aspiring principal meet school leader standards and competencies required for licensure as a principal;

(iii) for activities designed to improve principal leadership, including:

(A) hiring a principal supervisor or a principal coach;

(B) providing professional learning activities to help a principal meet school leadership standards and competencies for principal licensure established by the state board; and

(C) other activities determined by the state board in Subsection (6); and

(iv) for planning purposes during the first year of the grant award.

(b) A grant recipient that receives a grant award under this section shall use the grant award for activities that are evidenced-based.

(4) A grant recipient that receives a grant award under this section shall report to the state board on the performance measures and reporting requirements described in Subsection (6).

(5) On or before the November 2026 meeting, the state board shall report to the Education Interim Committee on:

(a) the information described in Subsection (4); and

(b) for each grant recipient:

(i) how the grant recipient used the grant award;

(ii) the number and percent of principals receiving the professional learning and training activities described in Subsection (3);

(iii) survey data collected from participating new principals and aspiring principals regarding the quality and effectiveness of the professional learning and training activities described in Subsection (3);

(iv) retention rates for all principals;

(v) teacher retention rates in each school with a new principal or aspiring principal receiving the professional learning and training activities described in Subsection (3); and

(vi) school accountability data described in Title 53E, Chapter 5, Accountability, for each year the grant recipient uses the grant award to provide new and aspiring principals with the professional learning and training activities described in Subsection (3).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing:

(a) mentoring program requirements for new principals;

(b) grant application and award procedures including a formula for determining an eligible applicant's grant award amount;

(c) performance measures and reporting requirements for a grant recipient;

(d) principal leadership standards and competencies;

(e) a grant award distribution schedule; and

(f) professional learning activities to improve principal leadership for which a grant recipient may use a grant award.

## **Section 2. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

### ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

<u>From Education Fund</u>	<u>\$4,800,000</u>
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Schedule of Programs:

<u>Grants for new and aspiring principals</u>	<u>\$4,800,000</u>
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The Legislature intends that appropriations provided under this item be used for grants to provide professional development and training for new or aspiring school principals as described in Section 53F-5-214.

### ITEM 2

To State Board of Education - State Administrative Office - General System Support

<u>From Education Fund</u>	<u>\$200,000</u>
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Schedule of Programs:

<u>Teaching and Learning</u>	<u>\$200,000</u>
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The Legislature intends that appropriations provided under this item be used for the state board to administer the grant program as described in Section 53F-5-214.

## **Section 3. Coordinating S.B. 99 with S.B. 79 -- Superseding substantive amendments.**

If this S.B. 99 and S.B. 79, Regional Education Service Agencies, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by changing all references in Section 53F-5-214 from "regional service center" to "regional education service agency".

**CHAPTER 363****S. B. 100**

Passed March 4, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**STATE INSTITUTIONAL TRUST  
 LANDS ADMINISTRATION AMENDMENTS**

Chief Sponsor: Ralph Okerlund  
 House Sponsor: Carl R. Albrecht

**LONG TITLE****General Description:**

This bill addresses the administration of state institutional trust lands.

**Highlighted Provisions:**

This bill:

- ▶ provides circumstances for when a meeting of the board may be closed; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53C-1-201, as last amended by Laws of Utah 2019, Chapters 454 and 456

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53C-1-201 is amended to read:**

**53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund -- Closed meetings.**

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) The administration is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act,

if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if the administration decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(5), (6), (7), and (13) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for [its] the director's findings, with the Office of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) (A) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill [its] the administration's responsibilities under the law.

(B) The director shall consult with the executive director of the Department of Human Resource Management [~~prior to~~] before making [~~such~~] a recommendation under Subsection (3)(d)(ii)(A).

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

(iv) (A) [~~Salaries~~] The director shall set salaries for exempted positions, except for the director, [~~shall be set by the director,~~] after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board.

(B) The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other

administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with:

(i) subject to Subsection (8), Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(iii) Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, [which] that enable the administration to efficiently fulfill [its] the administration's responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to [the requirements of] Section 63J-1-504:

(A) application[<sub>7</sub>];

(B) assignment[<sub>7</sub>];

(C) amendment[<sub>7</sub>];

(D) affidavit for lost documents[<sub>7</sub>];

(E) name change[<sub>7</sub>];

(F) reinstatement[<sub>7</sub>];

(G) grazing nonuse[<sub>7</sub>];

(H) extension of time[<sub>7</sub>];

(I) partial conveyance[<sub>7</sub>];

(J) patent reissue[<sub>7</sub>];

(K) collateral assignment[<sub>7</sub>];

(L) electronic payment[<sub>7</sub>]; and

(M) processing.

(g) (i) Notwithstanding Subsection 63J-1-206(2)(c), the administration may transfer [funds] money between [its] the administration's line items.

(ii) Before transferring appropriated [funds] money between line items, the administration shall submit a proposal to the board for [its] the board's approval.

(iii) If the board gives approval to a proposal to transfer appropriated [funds] money between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for [its] the Legislative Executive Appropriations Committee's review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated [funds] money between line items;

(B) that the administration not transfer the appropriated [funds] money between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) (i) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act.

(ii) The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-3a-102.

(7) Subject to [the requirements of] Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(8) (a) Notwithstanding Subsection (3), Subsection 52-4-204(2) or 52-4-205(1), and in addition to the reasons to close a meeting under Section 52-4-205, the board may hold a closed meeting if two-thirds of the members present when a quorum is present vote to close the meeting for the purpose of:

(i) conducting a strategy session to discuss market conditions relevant to the sale of particular trust assets if the terms of the sale of any trust assets are publicly disclosed before the board approves the sale and a public discussion would:

(A) disclose the appraisal or estimated value of the trust assets under consideration; or

(B) prevent the board from completing a contemplated transaction concerning the trust assets on the best possible terms; or

(ii) conducting a strategy session to evaluate the terms of a joint venture or other business arrangement authorized under Subsection 53C-1-303(3)(e) if the terms of the joint venture or other business arrangement are publicly disclosed

before the board approves the transaction and a public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the trust assets under consideration; or

(B) prevent the board from completing the transaction concerning the joint venture or other business arrangement on the best possible terms.

(b) The board shall comply with the procedural requirements for closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act.

**CHAPTER 364****S. B. 104**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**LOCAL EDUCATION LEVY  
 STATE GUARANTEE AMENDMENTS**

Chief Sponsor: Lincoln Fillmore  
 House Sponsor: Bradley G. Last

**LONG TITLE****General Description:**

This bill provides for an increase in the guaranteed amount per guaranteed local levy increment in certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ provides for an increase in the guaranteed amount per guaranteed local levy increment in certain circumstances; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-2-601, as last amended by Laws of Utah 2019, Chapter 186

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53F-2-601 is amended to read:**

**53F-2-601. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.**

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) (i) "Voted and board local levy funding balance" means the difference between:

(A) the amount appropriated for the guaranteed local levy increments in a fiscal year; and

(B) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a voted local levy or a board local levy, the state shall guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee for a fiscal year that begins on July 1, 2018, \$43.10 per weighted pupil unit.

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The state board shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

(d) (i) As used in this Subsection (2)(d), "cost for the guarantee" means the total cost for the guarantee described in this section, excluding the cost of the adjustments described in Subsection (2)(b)(ii).

(ii) In addition to an appropriation for the adjustment described in Subsection (2)(b)(ii), if the state cost for the guarantee for the upcoming fiscal year is less than the amount appropriated for the

cost for the guarantee for the current fiscal year, the Legislature may appropriate an additional amount to fund all or part of the difference.

(iii) The state board shall allocate an appropriation described in Subsection (2)(d)(ii) to increase the guarantee amount for each guaranteed local levy increment.

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each year subject to the Legislature appropriating funds for an increase in the guarantee.

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (4)(a) applies for a period of five years following a change in the certified tax rate as described in Subsection (4)(a).

(5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the state board shall:

(i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (3)(a) in the current fiscal year; and

(ii) distribute guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (6)(a)(i).

(b) The state board shall report action taken under Subsection (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

**CHAPTER 365****S. B. 111**

Passed March 5, 2020

Approved March 30, 2020

Effective July 1, 2020

Exception clause

**HIGHER EDUCATION AMENDMENTS**

Chief Sponsor: Ann Millner  
House Sponsor: Brad R. Wilson

**LONG TITLE****General Description:**

This bill amends and enacts provisions related to higher education governance.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ renames the State Board of Regents to the Utah Board of Higher Education;
- ▶ enacts provisions related to the Utah Board of Higher Education, including:
  - powers and duties;
  - membership;
  - compensation for members; and
  - committees;
- ▶ creates a nominating committee to nominate individuals to the governor to appoint to the Utah Board of Higher Education;
- ▶ repeals the Utah System of Technical Colleges Board of Trustees;
- ▶ transitions duties of the Utah System of Technical Colleges Board of Trustees to the Utah Board of Higher Education;
- ▶ provides that the Utah Board of Higher Education is the successor to the Utah System of Technical Colleges Board of Trustees;
- ▶ provides for the transition in the membership of the Utah Board of Higher Education from the membership of the State Board of Regents and the Utah System of Technical Colleges Board of Trustees;
- ▶ creates the positions of associate commissioner for academic education and associate commissioner for technical education;
- ▶ repeals provisions related to the commissioner of technical education;
- ▶ amends provisions related to the selection of institution of higher education presidents;
- ▶ amends requirements related to an institution of higher education's authority to approve a new program of instruction;
- ▶ changes the name of a governing board for a technical college from a technical college board of directors to a technical college board of trustees;
- ▶ amends provisions related to the Higher Education Strategic Planning Commission, including extending the commission by one year;
- ▶ amends other provisions related to higher education; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Legislature - Office of Legislative Research and General Counsel as a one-time appropriation:
  - from the General Fund \$1,200;
- ▶ to the Legislature - Senate as a one-time appropriation:
  - from the General Fund \$4,000;
- ▶ to the Legislature - House of Representatives as a one-time appropriation:
  - from the General Fund \$4,000;
- ▶ to the State Board of Regents - Administration, as an ongoing appropriation:
  - from the Education Fund, \$4,742,600;
  - from Revenue Transfers, \$106,200;
  - from Beginning Nonlapsing Balances, \$380,800;
  - from Closing Nonlapsing Balances, (\$380,800);
- ▶ to the State Board of Regents - Student Assistance, as an ongoing appropriation:
  - from the Education Fund, \$38,400;
- ▶ to the State Board of Regents - Student Support, as an ongoing appropriation:
  - from the Education Fund, \$18,605,800;
  - from Beginning Nonlapsing Balances, \$459,900;
  - from Closing Nonlapsing Balances, (\$459,900);
- ▶ to the State Board of Regents - Student Support, as a one-time appropriation:
  - from the Education Fund, One-time, \$862,100;
  - from Education Fund Restricted - Performance Funding Restricted Account, One-time, \$381,100;
- ▶ to the State Board of Regents - Technology, as an ongoing appropriation:
  - from the Education Fund, (\$7,983,500);
  - from Beginning Nonlapsing Balances, (\$700);
  - from Closing Nonlapsing Balances, \$700;
- ▶ to the State Board of Regents - Technology, as a one-time appropriation:
  - from the Education Fund, One-time, (\$862,100);
  - from Education Fund Restricted - Performance Funding Restricted Account, One-time, (\$143,700);
- ▶ to the State Board of Regents - Economic Development, as an ongoing appropriation:
  - from the Education Fund, (\$5,386,400);
  - from Beginning Nonlapsing Balances, (\$127,400);
  - from Closing Nonlapsing Balances, \$127,400;
- ▶ to the State Board of Regents - Education Excellence, as an ongoing appropriation:
  - from the Education Fund, (\$935,900);
  - from Education Fund Restricted - Performance Funding Restricted Account, (\$143,700);
  - from Revenue Transfers, (\$106,200);
  - from Beginning Nonlapsing Balances, (\$214,000);



- from Closing Nonlapsing Balances, \$214,000;
- ▶ to the State Board of Regents - Education Excellence, as a one-time appropriation:
  - from Education Fund Restricted - Performance Funding Restricted Account, One-time, \$143,700;
- ▶ to the State Board of Regents - Math Competency Initiative, as an ongoing appropriation:
  - from the Education Fund, (\$1,926,200);
  - from Beginning Nonlapsing Balances, (\$485,400);
  - from Closing Nonlapsing Balances, \$485,400; and
- ▶ to the Utah System of Technical Colleges - Utah System of Technical Colleges Administration:
  - from the Education Fund, (\$7,154,800);
  - from Education Fund Restricted - Performance Funding Restricted Account, (\$237,400);
  - from Beginning Nonlapsing Balances, (\$13,200);
  - from Closing Nonlapsing Balances, \$13,200.

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides coordination clauses.

This bill provides revisor instructions.

**Utah Code Sections Affected:****AMENDS:**

- 7-22-101, as last amended by Laws of Utah 2015, Chapter 284
- 9-9-104.6, as last amended by Laws of Utah 2019, Chapter 246
- 9-22-103, as renumbered and amended by Laws of Utah 2019, Chapter 487
- 9-22-104, as renumbered and amended by Laws of Utah 2019, Chapter 487
- 9-22-106, as renumbered and amended by Laws of Utah 2019, Chapter 487
- 11-17-17, as last amended by Laws of Utah 1993, Chapters 4 and 67
- 11-27-2, as last amended by Laws of Utah 2016, Chapter 350
- 11-59-302, as enacted by Laws of Utah 2018, Chapter 388
- 13-34a-104, as last amended by Laws of Utah 2017, Chapter 98
- 19-3-320, as last amended by Laws of Utah 2016, Chapter 144
- 20A-11-1202, as last amended by Laws of Utah 2019, Chapter 203
- 35A-1-206, as last amended by Laws of Utah 2018, Chapter 39
- 35A-5-103, as last amended by Laws of Utah 2016, Chapter 144
- 35A-6-105, as enacted by Laws of Utah 2019, Chapter 224
- 35A-8-2103, as renumbered and amended by Laws of Utah 2018, Chapter 182
- 35A-13-603, as last amended by Laws of Utah 2019, Chapter 89

- 35A-14-102, as last amended by Laws of Utah 2018, Chapter 341 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 35A-14-203, as enacted by Laws of Utah 2017, Chapter 375
- 35A-14-302, as enacted by Laws of Utah 2017, Chapter 375
- 36-21-1, as last amended by Laws of Utah 2018, Chapter 25
- 36-28-102, as last amended by Laws of Utah 2018, Chapter 39
- 41-6a-2002, as last amended by Laws of Utah 2018, Chapter 25
- 49-11-102, as last amended by Laws of Utah 2019, Chapter 31
- 49-11-403, as last amended by Laws of Utah 2015, Chapter 243
- 49-12-203, as last amended by Laws of Utah 2018, Chapter 10 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-12-204, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-12-402, as last amended by Laws of Utah 2017, Chapter 141
- 49-13-203, as last amended by Laws of Utah 2018, Chapter 10 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-13-204, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-13-402, as last amended by Laws of Utah 2019, Chapter 31
- 49-21-102, as last amended by Laws of Utah 2018, Chapter 185
- 49-22-203, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-22-204, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 51-7-4, as last amended by Laws of Utah 2017, Chapter 363
- 51-7-13, as last amended by Laws of Utah 2018, Chapter 415
- 51-8-303, as enacted by Laws of Utah 2007, Chapter 59
- 51-9-201, as last amended by Laws of Utah 2014, Chapter 96
- 53-2a-802, as last amended by Laws of Utah 2017, Chapter 363
- 53-7-204, as last amended by Laws of Utah 2018, Chapter 152
- 53B-1-101.5, as last amended by Laws of Utah 2017, Chapter 382
- 53B-1-102, as last amended by Laws of Utah 2017, Chapter 382
- 53B-1-109, as last amended by Laws of Utah 2018, Chapter 415
- 53B-1-114, as last amended by Laws of Utah 2018, Chapter 415
- 53B-1-301, as enacted by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 444
- 53B-2-102, as last amended by Laws of Utah 2018, Chapter 382

53B-2-103, as last amended by Laws of Utah 2017, Chapter 382	53B-8-107, as last amended by Laws of Utah 2018, Chapter 39
53B-2-104, as last amended by Laws of Utah 2019, Chapter 357	53B-8-201, as last amended by Laws of Utah 2019, Chapter 444
53B-2-106, as last amended by Laws of Utah 2017, Chapter 382	53B-8-301, as enacted by Laws of Utah 2019, Chapter 444
53B-2a-100.5, as enacted by Laws of Utah 2017, Chapter 382	53B-8-303, as enacted by Laws of Utah 2019, Chapter 444
53B-2a-101, as last amended by Laws of Utah 2019, Chapter 482	53B-8a-102.5, as enacted by Laws of Utah 2017, Chapter 389
53B-2a-104, as last amended by Laws of Utah 2018, Chapter 382	53B-8a-204, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
53B-2a-105, as last amended by Laws of Utah 2018, Chapter 382	53B-8e-103, as last amended by Laws of Utah 2018, Chapter 39
53B-2a-106, as last amended by Laws of Utah 2018, Chapters 382 and 415	53B-10-201, as enacted by Laws of Utah 2018, Chapter 402
53B-2a-107, as last amended by Laws of Utah 2018, Chapter 382	53B-11-104, as enacted by Laws of Utah 1998, Chapter 70
53B-2a-108, as repealed and reenacted by Laws of Utah 2018, Chapter 382	53B-12-102, as last amended by Laws of Utah 2011, Chapter 46
53B-2a-109, as last amended by Laws of Utah 2018, Chapter 382	53B-16-101, as last amended by Laws of Utah 2017, Chapter 382
53B-2a-110, as last amended by Laws of Utah 2017, Chapter 382	53B-16-102, as last amended by Laws of Utah 2017, Chapter 382
53B-2a-112, as last amended by Laws of Utah 2018, Chapter 382	53B-16-105, as last amended by Laws of Utah 2019, Chapter 102
53B-2a-113, as last amended by Laws of Utah 2018, Chapter 382	53B-16-107, as last amended by Laws of Utah 2019, Chapter 102
53B-2a-114, as last amended by Laws of Utah 2018, Chapter 382	53B-16-110, as enacted by Laws of Utah 2019, Chapter 102
53B-2a-115, as enacted by Laws of Utah 2017, Chapter 382	53B-16-202, as renumbered and amended by Laws of Utah 1987, Chapter 8
53B-2a-116, as last amended by Laws of Utah 2019, Chapter 13	53B-16-205, as last amended by Laws of Utah 2009, Chapter 346
53B-2a-117, as enacted by Laws of Utah 2019, Chapter 482	53B-16-205.5, as enacted by Laws of Utah 2014, Chapter 69
53B-6-104, as last amended by Laws of Utah 2017, Chapter 43	53B-16-209, as last amended by Laws of Utah 2017, Chapter 382
53B-6-105.5, as last amended by Laws of Utah 2019, Chapter 444	53B-16-303, as last amended by Laws of Utah 2008, Chapter 382
53B-6-105.9, as last amended by Laws of Utah 2008, Chapter 382	53B-16-401, as last amended by Laws of Utah 2017, Chapter 382
53B-6-106, as last amended by Laws of Utah 2017, Chapter 382	53B-16-402, as enacted by Laws of Utah 1996, Chapter 73
53B-7-101, as last amended by Laws of Utah 2019, Chapters 324 and 482	53B-16-501, as last amended by Laws of Utah 2015, Chapter 337
53B-7-104, as last amended by Laws of Utah 1989, Chapter 277	53B-17-101, as last amended by Laws of Utah 2014, Chapter 63
53B-7-702, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315	53B-17-103, as last amended by Laws of Utah 2006, Chapter 150
53B-7-703, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315	53B-17-104, as last amended by Laws of Utah 2014, Chapter 63
53B-7-705, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315	53B-17-105, as last amended by Laws of Utah 2017, Chapter 382
53B-7-706, as last amended by Laws of Utah 2019, Chapter 324	53B-17-503, as enacted by Laws of Utah 1987, Chapter 167
53B-7-707, as last amended by Laws of Utah 2019, Chapter 324	53B-17-505, as enacted by Laws of Utah 1987, Chapter 167
53B-8-101, as last amended by Laws of Utah 2018, Chapters 281 and 382	53B-17-901, as enacted by Laws of Utah 2013, Chapter 302
53B-8-103, as last amended by Laws of Utah 2013, Chapters 10 and 23	53B-17-1203, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and amended by Laws of Utah 2019, Chapter 446 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 446
53B-8-104, as last amended by Laws of Utah 2019, Chapter 324	
53B-8-106, as enacted by Laws of Utah 2002, Chapter 230	

53B-17-1204, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and amended by Laws of Utah 2019, Chapter 446 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 446	53F-2-501, as last amended by Laws of Utah 2019, Chapter 186
53B-18-501, as enacted by Laws of Utah 1988, Chapter 218	53F-5-204, as last amended by Laws of Utah 2019, Chapters 186 and 324
53B-18-1301, as enacted by Laws of Utah 2011, Chapter 249	53F-5-205, as last amended by Laws of Utah 2019, Chapter 186
53B-21-104, as enacted by Laws of Utah 1987, Chapter 167	53G-5-102, as last amended by Laws of Utah 2019, Chapter 293
53B-21-105, as last amended by Laws of Utah 2011, Chapter 342	53G-5-306, as last amended by Laws of Utah 2019, Chapter 293
53B-21-113, as enacted by Laws of Utah 1987, Chapter 167	53G-10-303, as last amended by Laws of Utah 2019, Chapter 293
53B-22-201, as enacted by Laws of Utah 2019, Chapter 482	54-8b-10, as last amended by Laws of Utah 2019, Chapter 349
53B-23-104, as enacted by Laws of Utah 2006, Chapter 301	58-22-302, as last amended by Laws of Utah 2017, Chapter 382
53B-23-106, as enacted by Laws of Utah 2006, Chapter 301	59-12-102, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
53B-26-103, as last amended by Laws of Utah 2019, Chapters 324 and 357	63A-3-103, as last amended by Laws of Utah 2019, Chapter 370
53B-26-202, as last amended by Laws of Utah 2019, Chapter 324	63A-3-110, as last amended by Laws of Utah 2019, Chapter 211
53B-27-301, as enacted by Laws of Utah 2018, Chapter 325	63A-4-103, as last amended by Laws of Utah 2010, Chapter 324
53B-27-303, as enacted by Laws of Utah 2018, Chapter 325	63A-5-104, as last amended by Laws of Utah 2019, Chapters 468 and 482
53B-28-401, as enacted by Laws of Utah 2019, Chapter 476	63A-5-303, as enacted by Laws of Utah 1995, Chapter 113
53E-1-201, as last amended by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476	63A-5-305, as last amended by Laws of Utah 2016, Chapter 240
53E-1-203, as enacted by Laws of Utah 2019, Chapter 324	63A-5-501, as renumbered and amended by Laws of Utah 2008, Chapter 382
53E-2-302, as last amended by Laws of Utah 2019, Chapter 186	63C-19-102, as enacted by Laws of Utah 2018, Chapter 382
53E-3-502, as renumbered and amended by Laws of Utah 2018, Chapter 1	63C-19-201, as enacted by Laws of Utah 2018, Chapter 382
53E-3-505, as last amended by Laws of Utah 2019, Chapters 186 and 226	63C-19-202, as enacted by Laws of Utah 2018, Chapter 382
53E-3-507, as last amended by Laws of Utah 2019, Chapters 186, 324, and 357	63D-2-102, as last amended by Laws of Utah 2009, Chapter 356
53E-4-206, as last amended by Laws of Utah 2019, Chapter 186	63F-1-102, as last amended by Laws of Utah 2019, Chapter 246
53E-4-308, as last amended by Laws of Utah 2019, Chapters 186 and 342	63F-1-206, as last amended by Laws of Utah 2017, Chapter 238
53E-6-201, as last amended by Laws of Utah 2019, Chapter 186	63F-1-303, as last amended by Laws of Utah 2019, Chapter 246
53E-10-301, as last amended by Laws of Utah 2019, Chapters 120 and 147	63F-2-102, as last amended by Laws of Utah 2018, Chapter 81
53E-10-302, as last amended by Laws of Utah 2019, Chapters 120, 147, and 186	63G-2-103, as last amended by Laws of Utah 2019, Chapters 254 and 280
53E-10-303, as renumbered and amended by Laws of Utah 2018, Chapter 1	63G-6a-103, as last amended by Laws of Utah 2019, Chapters 136, 170, 314, and 456
53E-10-304, as last amended by Laws of Utah 2019, Chapter 186	63G-6a-202, as last amended by Laws of Utah 2016, Chapter 144
53E-10-305, as last amended by Laws of Utah 2019, Chapters 120, 147, and 223	63G-7-301, as last amended by Laws of Utah 2019, Chapters 229 and 248
53E-10-308, as last amended by Laws of Utah 2019, Chapters 186 and 324	63G-10-102, as last amended by Laws of Utah 2016, Chapter 144
53E-10-704, as last amended by Laws of Utah 2019, Chapter 186	63I-2-253, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324, 325, and 444
53F-2-409, as last amended by Laws of Utah 2019, Chapters 136 and 186	63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483
	63I-5-102, as last amended by Laws of Utah 2016, Chapters 144 and 195
	63I-5-201, as last amended by Laws of Utah 2018, Chapter 25

63J-1-210, as last amended by Laws of Utah 2011, Chapters 323 and 342  
 63J-1-219, as last amended by Laws of Utah 2018, Chapter 39  
 63J-1-602.2, as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469  
 63J-2-102, as last amended by Laws of Utah 2018, Chapter 469  
 63J-3-103, as last amended by Laws of Utah 2017, Chapter 382  
 63N-1-301, as last amended by Laws of Utah 2019, Chapter 487  
 63N-12-503, as last amended by Laws of Utah 2019, Chapter 427  
 63N-12-508, as enacted by Laws of Utah 2019, Chapter 487  
 67-8-3, as last amended by Laws of Utah 2018, Chapter 415  
 67-19c-101, as last amended by Laws of Utah 2012, Chapter 212  
 67-21-3, as last amended by Laws of Utah 2018, Chapter 178

**ENACTS:**

53B-1-401, Utah Code Annotated 1953  
 53B-1-403, Utah Code Annotated 1953  
 53B-1-405, Utah Code Annotated 1953  
 53B-1-406, Utah Code Annotated 1953  
 53B-1-407, Utah Code Annotated 1953  
 53B-1-409, Utah Code Annotated 1953  
 53B-1-410, Utah Code Annotated 1953  
 53B-1-501, Utah Code Annotated 1953  
 53B-1-502, Utah Code Annotated 1953  
 53B-1-503, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

53B-1-402, (Renumbered from 53B-1-103, as last amended by Laws of Utah 2019, Chapter 357)  
 53B-1-404, (Renumbered from 53B-1-104, as last amended by Laws of Utah 2018, Chapter 382)  
 53B-1-408, (Renumbered from 53B-1-105, as last amended by Laws of Utah 2012, Chapter 78)

**REPEALS:**

53B-1-101, as last amended by Laws of Utah 2017, Chapter 382  
 53B-1-106, as last amended by Laws of Utah 2018, Chapter 325  
 53B-1-107, as last amended by Laws of Utah 2019, Chapter 324  
 53B-2a-102, as last amended by Laws of Utah 2018, Chapter 382  
 53B-2a-111, as last amended by Laws of Utah 2017, Chapter 382

**Utah Code Sections Affected by Coordination Clause:**

53B-1-501, Utah Code Annotated 1953  
 63G-6a-103, as last amended by Laws of Utah 2019, Chapters 136, 170, 314, and 456  
 63N-12-507, as enacted by Laws of Utah 2019, Chapter 427  
 67-1-2, as last amended by Laws of Utah 2008, Chapter 382

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 7-22-101 is amended to read:****7-22-101. Definitions -- Exemptions.**

(1) As used in this chapter:

(a) "Escrow" means an agreement, express or implied, that provides for one or more parties to deliver or entrust money, a certificate of deposit, a security, a negotiable instrument, a deed, or other property or asset to another person to be held, paid, or delivered in accordance with terms and conditions prescribed in the agreement.

(b) "Escrow agent" means a person that provides or offers to provide escrow services to the public.

(c) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

(2) This chapter does not apply to:

(a) a trust company authorized to engage in the trust business in Utah in accordance with Chapter 5, Trust Business;

(b) a person other than an escrow agent regulated under this chapter that is exempted from the definition of trust business in Subsection 7-5-1(1);

(c) a depository institution chartered by a state or the federal government that is engaged in business as a depository institution in Utah;

(d) the [~~State Board of Regents~~] Utah Board of Higher Education, the Utah Higher Education Assistance Authority, or the State Treasurer; and

(e) a person licensed under Title 31A, Insurance Code.

**Section 2. Section 9-9-104.6 is amended to read:****9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.**

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance with Section 26-7-2.5; or

(ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a representative of the Department of Health appointed by the executive director of the Department of Health;

(d) the American Indian-Alaskan Native Public Education Liaison appointed in accordance with Section 53F-5-604; and

(e) a representative appointed by the chief administrative officer of the following:

- (i) the Department of Human Services;
- (ii) the Department of Natural Resources;
- (iii) the Department of Workforce Services;
- (iv) the Governor's Office of Economic Development;
- (v) the State Board of Education; and
- (vi) the ~~[State Board of Regents]~~ Utah Board of Higher Education.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

- (i) the Department of Agriculture and Food;
- (ii) the Department of Heritage and Arts;
- (iii) the Department of Corrections;
- (iv) the Department of Environmental Quality;
- (v) the Department of Public Safety;
- (vi) the Department of Transportation;
- (vii) the Office of the Attorney General;
- (viii) the State Tax Commission; and
- (ix) any agency described in Subsections (2)(c) through (e).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

**Section 3. Section 9-22-103 is amended to read:**

**9-22-103. STEM Action Center Board creation -- Membership.**

(1) There is created the STEM Action Center Board, composed of the following members:

- (a) six private sector members who represent business, appointed by the governor;
- (b) the state superintendent of public instruction or the state superintendent's designee;
- (c) the commissioner of higher education or the commissioner's designee;
- (d) one member appointed by the governor;
- (e) a member of the State Board of Education, chosen by the chair of the State Board of Education;
- (f) the executive director of the department or the executive director's designee;

~~[(g) the Utah System of Technical Colleges commissioner of technical education or the commissioner's designee;]~~

~~[(h)]~~ (g) the executive director of the Department of Workforce Services or the executive director's designee; and

~~[(i)]~~ (h) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the STEM board requires a majority vote of a quorum.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the STEM board to serve a two-year term.

(7) The executive director of the department or the executive director's designee shall serve as the vice chair of the STEM board.

**Section 4. Section 9-22-104 is amended to read:**

**9-22-104. STEM Action Center Board -- Duties.**

- (1) The STEM board shall:
- (a) establish a STEM Action Center to:
- (i) coordinate STEM activities in the state among the following stakeholders:
- (A) the State Board of Education;
- (B) school districts and charter schools;
- (C) the ~~[State Board of Regents]~~ Utah Board of Higher Education;
- (D) institutions of higher education;
- (E) parents of home-schooled students;
- (F) other state agencies; and
- (G) business and industry representatives;
- (ii) align public education STEM activities with higher education STEM activities; and
- (iii) create and coordinate best practices among public education and higher education;
- (b) with the consent of the Senate, appoint a director to oversee the administration of the STEM Action Center;
- (c) select a physical location for the STEM Action Center;
- (d) strategically engage industry and business entities to cooperate with the STEM board:
- (i) to support high quality professional development and provide other assistance for educators and students; and
- (ii) to provide private funding and support for the STEM Action Center;
- (e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and
- (f) work to meet the following expectations:
- (i) that at least 50 educators are implementing best practice learning tools in classrooms;
- (ii) performance change in student achievement in each classroom participating in a STEM Action Center project; and
- (iii) that students from at least 50 schools in the state participate in the STEM competitions, fairs, and camps described in Subsection 9-22-106(2)(d).
- (2) The STEM board may:

(a) enter into contracts for the purposes of this part;

(b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;

(c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the STEM board;

(d) prescribe the duties and powers of the STEM Action Center providers; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.

(3) The STEM board may establish a foundation to assist in:

(a) the development and implementation of the programs authorized under this part to promote STEM education; and

(b) implementation of other STEM education objectives described in this part.

(4) A foundation established by the STEM board under Subsection (3):

(a) may solicit and receive contributions from a private organization for STEM education objectives described in this part;

(b) shall comply with the requirements described in Section 9-22-105;

(c) does not have power or authority to incur contractual obligations or liabilities that constitute a claim against public funds;

(d) may not exercise executive or administrative authority over the programs or other activities described in this part, except to the extent specifically authorized by the STEM board;

(e) shall provide the STEM board with information detailing transactions and balances associated with the foundation; and

(f) may not:

(i) engage in lobbying activities;

(ii) attempt to influence legislation; or

(iii) participate in any campaign activity for or against:

(A) a political candidate; or

(B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

**Section 5. Section 9-22-106 is amended to read:**

**9-22-106. STEM Action Center.**

(1) The STEM board shall:

(a) establish a STEM Action Center;

(b) ensure that the STEM Action Center:

(i) is accessible to the public; and

(ii) includes the components described in Subsection (2);

(c) work cooperatively with the State Board of Education to:

(i) further STEM education; and

(ii) ensure best practices are implemented as described in Sections 9-22-107 and 9-22-108;

(d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities; and

(e) work cooperatively with stakeholders to support and promote activities that align STEM education and training activities with the employment needs of business and industry in the state.

(2) As funding allows, the director of the STEM Action Center shall:

(a) support high quality professional development for educators regarding STEM education;

(b) ensure that the STEM Action Center acts as a research and development center for STEM education through a request for proposals process described in Section 9-22-107;

(c) review and acquire STEM education related materials and products for:

(i) high quality professional development;

(ii) assessment, data collection, analysis, and reporting; and

(iii) public school instruction;

(d) facilitate participation in interscholastic STEM related competitions, fairs, camps, and STEM education activities;

(e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;

(f) use resources to bring the latest STEM education learning tools into public education classrooms;

(g) identify at least 10 best practice innovations used in Utah that have resulted in a measurable improvement in student performance or outcomes in STEM areas;

(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;

(i) identify:

(i) learning tools for kindergarten through grade 6 identified as best practices; and

(ii) learning tools for grades 7 through 12 identified as best practices;

(j) collect data on Utah best practices, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;

(k) keep track of the following items related to best practices described in Subsection (2)(j):

(i) how the best practices data are being used; and

(ii) how many individuals are using the data, including the demographics of the users, if available;

(l) as appropriate, join and participate in a national STEM network;

(m) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;

(n) support best methods of high quality professional development for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;

(o) recognize achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);

(p) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;

(q) develop and distribute STEM information to parents of students in the state;

(r) support targeted high quality professional development for improved instruction in STEM education, including:

(i) improved instructional materials that are dynamic and engaging for students;

(ii) use of applied instruction; and

(iii) introduction of other research-based methods that support student achievement in STEM areas; and

(s) ensure that an online college readiness assessment tool be accessible by:

(i) public education students; and

(ii) higher education students.

(3) The STEM board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.

(4) (a) The director shall work with an independent evaluator to track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, if appropriate, in the following activities:

- (i) public education high school graduation rates;
- (ii) the number of students taking a remedial mathematics course at an institution of higher education described in Section 53B-2-101;
- (iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and
- (iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(b) The State Board of Education and the [~~State Board of Regents~~] Utah Board of Higher Education shall provide information to the STEM board to assist the STEM board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

**Section 6. Section 11-17-17 is amended to read:**

**11-17-17. State universities granted same powers as municipalities and counties -- Authority to issue bonds.**

(1) The [~~State Board of Regents~~] Utah Board of Higher Education may, on behalf of the University of Utah and Utah State University exercise all powers granted to municipalities and counties pursuant to this chapter, except as provided in Subsection (2).

(2) The [~~board~~] Utah Board of Higher Education may not issue bonds in excess of \$10,000,000 in any one fiscal year under this chapter on behalf of either institution as the borrower without prior approval from the Legislature.

(3) Refunding bonds are exempt from the requirements of Subsection (2) if:

- (a) the bonds are issued to reduce debt service costs; and
- (b) the refunding bonds mature during the same time frame as the original obligation.

**Section 7. Section 11-27-2 is amended to read:**

**11-27-2. Definitions.**

As used in this chapter:

(1) "Advance refunding bonds" means refunding bonds issued for the purpose of refunding outstanding bonds in advance of their maturity.

(2) "Assessments" means a special tax levied against property within a special improvement district to pay all or a portion of the costs of making improvements in the district.

(3) "Bond" means any revenue bond, general obligation bond, tax increment bond, special improvement bond, local building authority bond, or refunding bond.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body payable in whole or in part from revenues derived from ad valorem taxes

and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Governing body" means the council, commission, county legislative body, board of directors, board of trustees, board of education, [~~board of regents~~] board of higher education, or other legislative body of a public body designated in this chapter that is vested with the legislative powers of the public body, and, with respect to the state, the State Bonding Commission created by Section 63B-1-201.

(6) "Government obligations" means:

(a) direct obligations of the United States of America, or other securities, the principal of and interest on which are unconditionally guaranteed by the United States of America; or

(b) obligations of any state, territory, or possession of the United States, or of any of the political subdivisions of any state, territory, or possession of the United States, or of the District of Columbia described in Section 103(a), Internal Revenue Code of 1986.

(7) "Issuer" means the public body issuing any bond or bonds.

(8) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any municipal or quasi-municipal corporation, political subdivision, agency, school district, local district, special service district, or other governmental entity now or hereafter existing under the laws of the state.

(9) "Refunding bonds" means bonds issued under the authority of this chapter for the purpose of refunding outstanding bonds.

(10) "Resolution" means a resolution of the governing body of a public body taking formal action under this chapter.

(11) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and that is payable from designated revenues not derived from ad valorem taxes or from a special fund composed of revenues not derived from ad valorem taxes, but excluding all of the following:

(a) any obligation constituting an indebtedness within the meaning of any applicable constitutional or statutory debt limitation;

(b) any obligation issued in anticipation of the collection of taxes, where the entire issue matures not later than one year from the date of the issue; and

(c) any special improvement bond.

(12) "Special improvement bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body or any predecessor of any public body that is payable from assessments levied on benefited property and from any special improvement guaranty fund.



(13) "Special improvement guaranty fund" means any special improvement guaranty fund established under Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities; Title 11, Chapter 42, Assessment Area Act; or any predecessor or similar statute.

(14) "Tax increment bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body issued under authority of Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

**Section 8. Section 11-59-302 is amended to read:**

**11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.**

(1) The board shall consist of 11 members as provided in Subsection (2).

(2) (a) The president of the Senate shall appoint two members of the Senate to serve as members of the board.

(b) The speaker of the House of Representatives shall appoint two members of the House of Representatives to serve as members of the board.

(c) The governor shall appoint four individuals to serve as members of the board:

(i) one of whom shall be a member of the board of or employed by the Governor's Office of Economic Development, created in Section 63N-1-201; and

(ii) one of whom shall be an employee of the Division of Facilities Construction and Management, created in Section 63A-5-201.

(d) The Salt Lake County mayor shall appoint one board member, who shall be an elected Salt Lake County government official.

(e) The mayor of Draper, or a member of the Draper city council that the mayor designates, shall serve as a board member.

(f) The commissioner of higher education, appointed under Section ~~[53B-1-105]~~ 53B-1-408, or the commissioner's designee, shall serve as a board member.

(3) (a) (i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(ii) If the mayor of Draper or commissioner of higher education is removed as a board member under Subsection (5), the mayor of Draper or commissioner of higher education, as the case may be, shall designate an individual to serve as a member of the board, as provided in Subsection (2)(e) or (f), respectively.

(b) Each person appointed or designated to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(4) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of

and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) A member of the board may be removed by a vote of two-thirds of all members of the board.

(6) (a) The governor shall appoint one board member to serve as cochair of the board.

(b) The president of the Senate and speaker of the House of Representatives shall jointly appoint one legislative member of the board to serve as cochair of the board.

**Section 9. Section 13-34a-104 is amended to read:**

**13-34a-104. Authority to execute interstate reciprocity agreement -- Rulemaking.**

(1) The division may execute an interstate reciprocity agreement that:

(a) is for purposes of state authorization under 34 C.F.R. Sec. 600.9; and

(b) is for the benefit of:

(i) postsecondary schools in the state; or

(ii) (A) postsecondary schools in the state; and

(B) institutions that are part of the state system of higher education under Section 53B-1-102.

(2) If the division executes an interstate reciprocity agreement described in Subsection (1) or the ~~[State Board of Regents]~~ Utah Board of Higher Education executes an interstate reciprocity agreement under Section 53B-16-109:

(a) except as provided by division rule, this chapter does not apply to a postsecondary school that obtains state authorization under the reciprocity agreement; and

(b) the division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules relating to:

(i) the standards for granting a postsecondary school state authorization under a reciprocity agreement;

(ii) any filing, document, or fee required for a postsecondary school to obtain authorization under a reciprocity agreement; and

(iii) penalties if a postsecondary school fails to comply with the rules that the division makes under this Subsection (2).

(3) If the division executes an interstate reciprocity agreement described in Subsection (1) that includes institutions that are part of the state system of higher education under Section 53B-1-102, the ~~[State Board of Regents]~~ Utah Board of Higher Education may make rules that:

(a) implement the reciprocity agreement; and

(b) relate to institutions that are part of the state system of higher education under Section 53B-1-102.

**Section 10. Section 19-3-320 is amended to read:**

**19-3-320. Efforts to prevent siting of any nuclear waste facility to include economic development study regarding Native American reservation lands within the state.**

(1) It is the intent of the Legislature that the department, in its efforts to prevent the siting of a nuclear waste facility within the exterior borders of the state, include in its work the study under Subsection (2) and the report under Subsection (3).

(2) It is the intent of the Legislature that the Department of Environmental Quality, in coordination with the office of the governor, and in cooperation with the Departments of Heritage and Arts, Human Services, Health, Workforce Services, Agriculture and Food, Natural Resources, and Transportation, the State Board of Education, and the ~~[Board of Regents]~~ Utah Board of Higher Education:

(a) study the needs and requirements for economic development on the Native American reservations within the state; and

(b) prepare, on or before November 30, 2001, a long-term strategic plan for economic development on the reservations.

(3) It is the intent of the Legislature that this plan, prepared under Subsection (2)(b), shall be distributed to the governor and the members of the Legislature on or before December 31, 2001.

**Section 11. Section 20A-11-1202 is amended to read:**

**20A-11-1202. Definitions.**

As used in this part:

(1) "Applicable election officer" means:

(a) a county clerk, if the email relates only to a local election; or

(b) the lieutenant governor, if the email relates to an election other than a local election.

(2) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.

(3) "Campaign contribution" means any of the following when done for a political purpose or to advocate for or against a ballot proposition:

(a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to a filing entity;

(b) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to a filing entity;

(c) any transfer of funds from another reporting entity to a filing entity;

(d) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(e) remuneration from:

(i) any organization or the organization's directly affiliated organization that has a registered lobbyist; or

(ii) any agency or subdivision of the state, including a school district; or

(f) an in-kind contribution.

(4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.

(b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:

(i) government appropriations;

(ii) taxes;

(iii) government fees imposed for regulatory or revenue raising purposes; or

(iv) interest earned on public funds or other returns on investment of public funds.

(5) "Expenditure" means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(c) a transfer of funds between a public entity and a candidate's personal campaign committee;

(d) a transfer of funds between a public entity and a political issues committee; or

(e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than fair market value.

(6) "Filing entity" means the same as that term is defined in Section 20A-11-101.

(7) "Governmental interlocal cooperation agency" means an interlocal cooperation agency that receives some or all of its revenues from:

(a) government appropriations;

(b) taxes;

(c) government fees imposed for regulatory or revenue raising purposes; or

(d) interest earned on public funds or other returns on investment of public funds.

(8) "Influence" means to campaign or advocate for or against a ballot proposition.

(9) "Interlocal cooperation agency" means an entity created by interlocal agreement under the

authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(10) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(11) "Political purposes" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate for public office at any caucus, political convention, primary, or election; or

(b) judge standing for retention at any election.

(12) "Proposed initiative" means an initiative proposed in an application filed under Section 20A-7-202 or 20A-7-502.

(13) "Proposed referendum" means a referendum proposed in an application filed under Section 20A-7-302 or 20A-7-602.

(14) (a) "Public entity" includes the state, each state agency, each county, municipality, school district, local district, governmental interlocal cooperation agency, and each administrative subunit of each of them.

(b) "Public entity" does not include a commercial interlocal cooperation agency.

(c) "Public entity" includes local health departments created under Title 26, Chapter 1, Department of Health Organization.

(15) (a) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(b) "Public funds" does not include money donated to a public entity by a person or entity.

(16) (a) "Public official" means an elected or appointed member of government with authority to make or determine public policy.

(b) "Public official" includes the person or group that:

(i) has supervisory authority over the personnel and affairs of a public entity; and

(ii) approves the expenditure of funds for the public entity.

(17) "Reporting entity" means the same as that term is defined in Section 20A-11-101.

(18) (a) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "State agency" includes the legislative branch, the ~~Board of Regents, the institutional councils of each higher education institution~~ Utah Board of Higher Education, each institution of higher

education board of trustees, and each higher education institution.

**Section 12. Section 35A-1-206 is amended to read:**

**35A-1-206. State Workforce Development Board -- Appointment -- Membership -- Terms of members -- Compensation.**

(1) There is created within the department the State Workforce Development Board in accordance with the provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq.

(2) The board shall consist of the following ~~[39]~~ 38 members:

(a) the governor or the governor's designee;

(b) one member of the Senate, appointed by the president of the Senate;

(c) one representative of the House of Representatives, appointed by the speaker of the House of Representatives;

(d) the executive director or the executive director's designee;

(e) the executive director of the Department of Human Services or the executive director's designee;

(f) the director of the Utah State Office of Rehabilitation or the director's designee;

(g) the state superintendent of public instruction or the superintendent's designee;

(h) the commissioner of higher education or the commissioner's designee;

~~[(i) the Utah System of Technical Colleges commissioner of technical education or the commissioner of technical education's designee;]~~

~~[(j)]~~ (i) the executive director of the Governor's Office of Economic Development or the executive director's designee;

~~[(k)]~~ (j) the executive director of the Department of Veterans and Military Affairs or the executive director's designee; and

~~[(4)]~~ (k) the following members appointed by the governor:

(i) 20 representatives of business in the state, selected among the following:

(A) owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with policymaking or hiring authority;

(B) representatives of businesses, including small businesses, that provide employment opportunities that include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the state; and

(C) representatives of businesses appointed from among individuals nominated by state business organizations or business trade associations;

(ii) six representatives of the workforce within the state, which:

(A) shall include at least two representatives of labor organizations who have been nominated by state labor federations;

(B) shall include at least one representative from a registered apprentice program;

(C) may include one or more representatives from a community-based organization that has demonstrated experience and expertise in addressing the employment, training, or educational needs of individuals with barriers to employment; and

(D) may include one or more representatives from an organization that has demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including organizations that serve out of school youth; and

(iii) two elected officials that represent a city or a county.

(3) (a) The governor shall appoint one of the appointed business representatives as chair of the board.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) The governor shall ensure that members appointed to the board represent diverse geographic areas of the state, including urban, suburban, and rural areas.

(b) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(c) A member shall continue to serve until the member's successor has been appointed and qualified.

(d) Except as provided in Subsection (4)(e), as terms of board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(e) Notwithstanding the requirements of Subsection (4)(d), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately one half of the board is appointed every two years.

(f) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(g) The executive director shall terminate the term of any governor-appointed member of the board if the member leaves the position that qualified the member for the appointment.

(5) A majority of members constitutes a quorum for the transaction of business.

(6) (a) A member of the board who is not a legislator may not receive compensation or benefits

for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall provide staff and administrative support to the board at the direction of the executive director.

(8) The board has the duties, responsibilities, and powers described in 29 U.S.C. Sec. 3111, including:

(a) identifying opportunities to align initiatives in education, training, workforce development, and economic development;

(b) developing and implementing the state workforce services plan described in Section 35A-1-207;

(c) utilizing strategic partners to ensure the needs of industry are met, including the development of expanded strategies for partnerships for in-demand occupations and understanding and adapting to economic changes;

(d) developing strategies for staff training;

(e) developing and improving employment centers; and

(f) performing other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

**Section 13. Section 35A-5-103 is amended to read:**

**35A-5-103. Roles of service providers.**

(1) Delivery of job training related services not administered by the department under this chapter shall be provided in accordance with Subsections (2) and (3).

(2) The State Board of Education and the [Board of Regents] Utah Board of Higher Education shall provide for basic education, remedial education, and applied technology training.

(3) The Office of Rehabilitation shall provide those services authorized under the Rehabilitation Act of 1973, as amended.

**Section 14. Section 35A-6-105 is amended to read:**

**35A-6-105. Commissioner of Apprenticeship Programs.**

(1) There is created the position of Commissioner of Apprenticeship Programs within the department.

(2) The commissioner shall be appointed by the executive director and chosen from one or more recommendations provided by a majority vote of the State Workforce Development Board.

(3) The commissioner may be terminated without cause by the executive director.

(4) The commissioner shall:

(a) promote and educate the public, including high school guidance counselors and potential participants in apprenticeship programs, about apprenticeship programs offered in the state, including apprenticeship programs offered by private sector businesses, trade groups, labor unions, partnerships with educational institutions, and other associations in the state;

(b) coordinate with the department and other stakeholders, including [~~the Utah System of Technical Colleges,~~] union and nonunion apprenticeship programs, the Office of Apprenticeship, the State Board of Education, the Utah [~~System of Higher Education~~] system of higher education, the Department of Commerce, the Division of Occupational and Professional Licensing, and the Governor's Office of Economic Development to improve and promote apprenticeship opportunities in the state; and

(c) provide an annual written report to:

(i) the department for inclusion in the department's annual written report described in Section 35A-1-109;

(ii) the Business, Economic Development, and Labor Appropriations Subcommittee; and

(iii) the Higher Education Appropriations Subcommittee.

(5) The annual written report described in Subsection (4)(c) shall provide information concerning:

(a) the number of available apprenticeship programs in the state;

(b) the number of apprentices participating in each program;

(c) the completion rate of each program;

(d) the cost of state funding for each program; and

(e) recommendations for improving apprenticeship programs.

**Section 15. Section 35A-8-2103 is amended to read:**

**35A-8-2103. Private Activity Bond Review Board.**

(1) There is created within the department the Private Activity Bond Review Board, composed of the following 11 members:

(a) (i) the executive director of the department or the executive director's designee;

(ii) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(iii) the state treasurer or the state treasurer's designee;

(iv) the chair of the [~~Board of Regents~~] Utah Board of Higher Education or the chair's designee; and

(v) the chair of the Utah Housing Corporation or the chair's designee; and

(b) six local government members who are:

(i) three elected or appointed county officials, nominated by the Utah Association of Counties and appointed by the governor with the consent of the Senate; and

(ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed by the governor with the consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), the terms of office for the local government members of the board of review shall be four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board of review members are staggered so that approximately half of the board of review is appointed every two years.

(c) Members may be reappointed only once.

(3) (a) If a local government member ceases to be an elected or appointed official of the city or county the member is appointed to represent, that membership on the board of review terminates immediately and there shall be a vacancy in the membership.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed within 30 days in the manner of the regular appointment for the unexpired term.

(4) (a) The chair of the board of review is the executive director of the department or the executive director's designee.

(b) The chair is nonvoting except in the case of a tie vote.

(5) Six members of the board of review constitute a quorum.

(6) Formal action by the board of review requires a majority vote of a quorum.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The chair of the board of review serves as the state official designated under state law to make

certifications required to be made under Section 146 of the code including the certification required by Section 149(e)(2)(F) of the code.

**Section 16. Section 35A-13-603 is amended to read:**

**35A-13-603. Board.**

(1) There is created to assist the director of the office the Interpreter Certification Board consisting of the following 11 members:

- (a) a designee of the assistant director;
- (b) a designee of the ~~[State Board of Regents]~~ Utah Board of Higher Education;
- (c) a designee of the State Board of Education;
- (d) four professional interpreters, recommended by the assistant director; and
- (e) four individuals who are deaf or hard of hearing, recommended by the assistant director.

(2) (a) The director shall make all appointments to the board.

(b) In making appointments under Subsections (1)(d) and (e), the director shall give consideration to recommendations by certified interpreters and members of the deaf and hard of hearing community.

(3) (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.

(b) An individual may not serve more than two three-year consecutive terms.

(c) If a vacancy occurs on the board for a reason other than the expiration of a term, the director shall appoint a replacement for the remainder of the term in accordance with Subsections (1) and (2).

(4) The director may remove a board member for cause, which may include misconduct, incompetence, or neglect of duty.

(5) The board shall annually elect a chair and vice chair from among its members.

(6) The board shall meet as often as necessary to accomplish the purposes of this part, but not less than quarterly.

(7) A member of the board may not receive compensation or benefits for the member's service, but may receive travel expenses in accordance with:

- (a) Section 63A-3-107; and
- (b) rules made by the Division of Finance in accordance with Section 63A-3-107.

**Section 17. Section 35A-14-102 is amended to read:**

**35A-14-102. Definitions.**

As used in this chapter:

(1) "Advisory board" means the Utah Data Research Advisory Board created in Section 35A-14-203.

(2) "Center" means the Utah Data Research Center.

(3) "Data" means any information about a person stored in a physical or electronic record.

(4) "Data research program" means the data maintained by the center in accordance with Section 35A-14-301.

(5) "De-identified data" means data about a person that cannot, without additional information, identify the person to another person or machine.

(6) "Director" means the director of the Workforce Research and Analysis Division.

(7) "Participating entity" means:

(a) the State Board of Education, which includes the director as defined in Section 53E-10-701;

~~[(b) the State Board of Regents;]~~

~~[(c) the Utah System of Technical Colleges Board of Trustees;]~~

(b) the Utah Board of Higher Education;

~~[(d)]~~ (c) the Department of Workforce Services; and

~~[(e)]~~ (d) the Department of Health.

**Section 18. Section 35A-14-203 is amended to read:**

**35A-14-203. Utah Data Research Advisory Board -- Composition -- Appointment.**

(1) There is created the Utah Data Research Advisory Board in accordance with this section.

(2) The Utah Data Research Advisory Board is composed of the following members:

(a) the state superintendent of the State Board of Education or the state superintendent's designee;

(b) the commissioner of higher education or the commissioner of higher education's designee;

~~[(c) the commissioner of technical education or the commissioner's designee;]~~

~~[(d)]~~ (c) the executive director of the Department of Workforce Services or the executive director's designee; and

~~[(e)]~~ (d) the director of the Department of Health or the director's designee.

(3) The executive director shall serve as chair.

(4) A member of the board:

(a) except to the extent a member's service on the board is related to the member's duties outside of the board, may not receive compensation or benefits for the member's service; and

(b) may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

**Section 19. Section 35A-14-302 is amended to read:**

**35A-14-302. Center duties -- Data studies.**

(1) The center shall use data that the center maintains or that a participating entity contributes to the data research program under Section 35A-14-301 to conduct research for the purpose of developing public policy for the state.

(2) The director, with consultation by the advisory board, shall create a prioritized list of data research for the center to conduct using the data research program each year.

(3) (a) In developing the list described in Subsection (2), the center shall accept data research requests from:

(i) a legislative committee or a legislative staff office;

(ii) the governor or an executive branch agency;

(iii) the State Board of Education; and

~~(iv) the State Board of Regents; and~~

~~(v) the Utah College of Applied Technology;~~

(iv) the Utah Board of Higher Education.

(b) The department shall begin accepting the data research requests described in Subsection (3)(a) on July 1, 2017.

(c) The center shall report the list described in Subsection (2) to the Education Interim Committee before December 1 of each year.

(4) In addition to conducting data research in accordance with the prioritized list described in Subsection (2), the center may use additional resources to prepare data research at the request of:

(a) a state government entity;

(b) a political subdivision of the state;

(c) a private entity; or

(d) a member of the public.

(5) The director, with approval by the board, shall determine, for a data research request described in Subsection (4):

(a) whether the center has the resources to complete the data research request;

(b) the order in which the center shall complete the data research request, if at all; and

(c) a reasonable estimated cost for the request.

(6) The center, after evaluating a request under Subsection (5), shall:

(a) provide the person that requested the data research with a cost estimate; and

(b) require, before accepting a data research request, that the person that submitted the data research request agree to pay, once the data research is complete, the full cost of completing the data research request as determined by the center under Subsection (5).

(7) The center shall make available to the public, on a website maintained by the center, any data research request that the center completes under this section.

(8) The center shall ensure that any data contained in a completed data research request is de-identified.

(9) The center shall:

(a) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) procedures for submitting a data research request under this section;

(ii) criteria to determine how to prioritize data research requests; and

(iii) minimum standards for information a person is required to include in a data research request; and

(b) create a fee schedule in accordance with Section 63J-1-504 for completing a data research request.

(10) In addition to submitting a data research request under Subsection (4), a participating entity, executive branch agency, or legislative staff office may request, and the center may release, a data set from the data research program if the data set is:

(a) connected;

(b) aggregated; and

(c) de-identified.

(11) (a) The center shall use any fee the center collects under this section to cover the center's costs to administer this chapter.

(b) The center shall deposit any fee the center collects under this section not used to cover the center's costs into the General Fund.

**Section 20. Section 36-21-1 is amended to read:**

**36-21-1. Definition -- Deadline for state governmental entities filing legislation -- Waiver.**

(1) "Governmental entity" means:

(a) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, committees, and elected officials;

(b) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(c) the State Board of Education, the ~~[State Board of Regents]~~ Utah Board of Higher Education, and

any state-funded institution of higher education or public education;

(d) the National Guard;

(e) all quasi independent entities created by statute; and

(f) any political subdivision of the state, including any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district.

(2) Legislation requested by a governmental entity may not be considered by the Legislature during the annual general session unless:

(a) at the time the request for legislation is made it has a legislative sponsor;

(b) the request for legislation is filed with the Office of Legislative Research and General Counsel by December 1st of the year immediately before the Legislature's annual general session; and

(c) at the time the request for legislation is filed, it includes the purpose of the measure and all necessary drafting information.

(3) The Legislature, by motion and with the approval of a majority vote in one house, may waive this requirement.

(4) It is the intent of the Legislature that these agency requests will not be given higher priority than individual legislative requests filed at a later date.

**Section 21. Section 36-28-102 is amended to read:**

**36-28-102. Veterans and Military Affairs Commission -- Creation -- Membership -- Chairs -- Terms -- Per diem and expenses.**

(1) There is created the Veterans and Military Affairs Commission.

(2) The commission membership is composed of 19 permanent members, but may not exceed 24 members, and is as follows:

(a) five legislative members to be appointed as follows:

(i) three members from the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(ii) two members from the Senate, appointed by the president of the Senate, no more than one of whom may be from the same political party;

(b) the executive director of the Department of Veterans and Military Affairs or the director's designee;

(c) the chair of the Utah Veterans Advisory Council;

(d) the executive director of the Department of Workforce Services or the director's designee;

(e) the executive director of the Department of Health or the director's designee;

(f) the executive director of the Department of Human Services or the director's designee;

(g) the adjutant general of the Utah National Guard or the adjutant general's designee;

(h) the Guard and Reserve Transition Assistance Advisor;

(i) a member of the ~~Board of Regents~~ Utah Board of Higher Education or that member's designee;

(j) three representatives of veteran service organizations recommended by the Veterans Advisory Council and confirmed by the commission;

(k) one member of the Executive Committee of the Utah Defense Alliance;

(l) one military affairs representative from a chamber of commerce member, appointed by the Utah State Chamber of Commerce; and

(m) a representative from the Veterans Health Administration.

(3) The commission may appoint by majority vote of the entire commission up to five pro tempore members, representing:

(a) state or local government agencies;

(b) interest groups concerned with veterans issues; or

(c) the general public.

(4) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(5) A majority of the members of the commission shall constitute a quorum. The action of a majority of a quorum constitutes the action of the commission.

(6) The term for each pro tempore member appointed in accordance with Subsection (3) shall be two years from July 1 of the year of appointment. A pro tempore member may not serve more than three terms.

(7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was originally appointed. A person appointed to fill a vacancy under Subsection (6) serves the remaining unexpired term of the member being replaced. If the remaining unexpired term is less than six months, the newly appointed member shall be reappointed on July 1. The time served until July 1 is not counted in the restriction set forth in Subsection (6).

(8) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.



**Section 22. Section 41-6a-2002 is amended to read:**

**41-6a-2002. Definitions.**

As used in this section:

(1) "Automatic license plate reader system" means a system of one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert an image of a license plate into computer-readable data.

(2) "Captured plate data" means the global positioning system coordinates, date and time, photograph, license plate number, and any other data captured by or derived from an automatic license plate reader system.

(3) (a) "Governmental entity" means:

(i) executive department agencies of the state;

(ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney general, and the state treasurer;

(iii) the Board of Pardons and Parole;

(iv) the Board of Examiners;

(v) the National Guard;

(vi) the Career Service Review Office;

(vii) the State Board of Education;

(viii) the ~~[State Board of Regents]~~ Utah Board of Higher Education;

(ix) the State Archives;

(x) the Office of the Legislative Auditor General;

(xi) the Office of the Legislative Fiscal Analyst;

(xii) the Office of Legislative Research and General Counsel;

(xiii) the Legislature;

(xiv) legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(xv) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(xvi) any state-funded institution of higher education or public education; or

(xvii) any political subdivision of the state.

(b) "Governmental entity" includes:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsections (3)(a)(i) through (xvii) that is funded or established by the government to carry out the public's business; or

(ii) a person acting as an agent of a governmental entity or acting on behalf of a governmental entity.

(4) "Secured area" means an area, enclosed by clear boundaries, to which access is limited and not

open to the public and entry is only obtainable through specific access-control points.

**Section 23. Section 49-11-102 is amended to read:**

**49-11-102. Definitions.**

As used in this title:

(1) (a) "Active member" means a member who:

(i) is employed by a participating employer and accruing service credit; or

(ii) within the previous 120 days:

(A) has been employed by a participating employer; and

(B) accrued service credit.

(b) "Active member" does not include a retiree.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.

(3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.

(4) (a) "Agency" means:

(i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, local district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

~~[(14) "Board of Regents" or "State Board of Regents" means the State Board of Regents established in Section 53B-1-103.]~~

(14) "Board of Higher Education" or "Utah Board of Higher Education" means the Utah Board of Higher Education described in Section 53B-1-402.

(15) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(16) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(17) "Council member" means a person serving on the Membership Council established under Section 49-11-205.

(18) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(19) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(21) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(22) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

(a) the State Board of Education and its instrumentalities;

(b) any institution of higher education and its branches;

(c) any school district and its instrumentalities;

(d) any vocational and technical school; and

(e) any entity arising out of a consolidation agreement between entities described under this Subsection (22).

(23) "Elected official":

(a) means a person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office;

(b) includes a person who is appointed to serve an unexpired term of office described under Subsection (23)(a); and

(c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(24) (a) “Employer” means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

(b) “Employer” may also include an agency financed in whole or in part by public funds.

(25) “Exempt employee” means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and

(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(26) “Final average monthly salary” means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(27) “Fund” means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(28) (a) “Inactive member” means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) “Inactive member” does not include retirees.

(29) (a) “Initially entering” means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

(b) “Initially entering” does not include a person who has any prior service credit on file with the office.

(c) “Initially entering” includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

(i) does not have any prior service credit on file with the office;

(ii) is covered by a retirement plan other than a retirement plan created under this title; and

(iii) moves to a position with a participating employer that is covered by this title.

(30) “Institution of higher education” means an institution described in Section 53B-1-102.

(31) (a) “Member” means a person, except a retiree, with contributions on deposit with a system, the Utah Governors’ and Legislators’ Retirement Plan under Chapter 19, Utah Governors’ and Legislators’ Retirement Act, or with a terminated system.

(b) “Member” also includes leased employees within the meaning of Section 414(n)(2) of the

Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer’s work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, “member” does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

(32) “Member contributions” means the sum of the contributions paid to a system or the Utah Governors’ and Legislators’ Retirement Plan, including refund interest if allowed by a system, and which are made by:

(a) the member; and

(b) the participating employer on the member’s behalf under Section 414(h) of the Internal Revenue Code.

(33) “Nonelective contribution” means an amount contributed by a participating employer into a participant’s defined contribution account.

(34) “Normal cost rate”:

(a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and

(b) is determined by the actuary based on the assumed rate of return established by the board.

(35) “Office” means the Utah State Retirement Office.

(36) “Participant” means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

(37) “Participating employer” means a participating employer, as defined by Chapter 12, Public Employees’ Contributory Retirement Act, Chapter 13, Public Employees’ Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters’ Retirement Act, Chapter 17, Judges’ Contributory Retirement Act, and Chapter 18, Judges’ Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(38) “Part-time appointed board member” means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(39) “Pension” means monthly payments derived from participating employer contributions.

(40) “Plan” means the Utah Governors’ and Legislators’ Retirement Plan created by Chapter

19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(41) (a) "Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) "Political subdivision" includes local districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) "Political subdivision" does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(42) "Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

(43) "Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

(44) "Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

(45) "Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

(46) "Retiree" means an individual who has qualified for an allowance under this title.

(47) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

(48) "Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

(49) "Retirement related contribution":

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

(50) "Service credit" means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

(51) "Surviving spouse" means:

(a) the lawful spouse who has been married to a member for at least six months immediately before the death date of the member; or

(b) a former lawful spouse of a member with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612.

(52) "System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

(53) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

(54) "Tier I" means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011; or

(b) a governor or legislator who initially enters office before July 1, 2011.

(55) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

(56) “Unfunded actuarial accrued liability” or “UAAL”:

(a) is determined by the system’s actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

(57) “Voluntary deferrals” means an amount contributed by a participant into that participant’s defined contribution account.

**Section 24. Section 49-11-403 is amended to read:**

**49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

(1) A member, a participating employer, or a member and a participating employer jointly may purchase service credit equal to the period of the member’s employment in the following:

(a) United States federal employment;

(b) employment in a private school based in the United States, if the member received an employer paid retirement benefit for the employment;

(c) public employment in another state or territory of the United States which qualifies the member for membership in the public plan or system covering the employment, but only if the member does not qualify for any retirement benefits based on the employment;

(d) forfeited service credit in this state if the member does not qualify for an allowance based on the service credit;

(e) full-time public service while on an approved leave of absence;

(f) the period of time for which disability benefits were paid if:

(i) the member was receiving:

(A) long-term disability benefits;

(B) short-term disability benefits; or

(C) worker’s compensation disability benefits; and

(ii) the member’s employer had not entered into a benefit protection contract under Section 49-11-404 during the period the member had a disability due to sickness or accident;

(g) employment covered by a retirement plan offered by a public or private system, organization, or company designated by the [State Board of Regents] Utah Board of Higher Education, if the member forfeits any retirement benefit from that

retirement plan for the period of employment to be purchased under this Subsection (1)(g);

(h) employment in a charter school located within the state if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(h); or

(i) employment with a participating employer that is exempt from coverage under this title under a written request for exemption with the office, if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(i).

(2) A member shall:

(a) have at least four years of service credit before a purchase can be made under this section; and

(b) forfeit service credit and any defined contribution balance based on employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

(3) (a) To purchase credit under this section, the member, a participating employer, or a member and a participating employer jointly shall make payment to the system under which the member is currently covered.

(b) The amount of the payment shall be determined by the office based on a formula that is:

(i) recommended by the actuary; and

(ii) adopted by the board.

(4) The purchase may be made through payroll deductions or through a lump sum deposit based upon the present value of future payments.

(5) Total payment must be completed prior to the member’s effective date of retirement or service credit will be prorated in accordance with the amount paid.

(6) (a) For a purchase made before July 1, 2010, if any of the factors used to determine the cost of a service credit purchase change at or before the member’s retirement date, the cost of the purchase shall be recalculated at the time of retirement.

(b) For a purchase made before July 1, 2010, if the recalculated cost exceeds the amount paid for the purchase, the member, a participating employer, or a member and a participating employer jointly may:

(i) pay the increased cost, plus interest, to receive the full amount of service credit; or

(ii) not pay the increased cost and have the purchased service credit prorated.

(c) For a purchase made on or after July 1, 2010:

(i) the purchase shall be made in accordance with rules:

(A) adopted by the board based on recommendations by the board’s actuary; and

(B) in effect at the time the purchase is completed; and

(ii) the cost of the service credit purchase shall not be recalculated at the time of retirement.

(7) If the recalculated cost under Subsection (6)(a) is less than the amount paid for the purchase, the office shall refund the excess payment to the member or participating employer who paid for the purchase.

(8) (a) The board may adopt rules under which a member may make the necessary payments to the office for purchases under this title as permitted by federal law.

(b) The office may reject any payments if the office determines the tax status of the system, plans, or programs would be jeopardized by allowing the payment.

(9) An employee who elects to participate exclusively in the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, may not purchase service credit for that period of employment.

**Section 25. Section 49-12-203 is amended to read:**

**49-12-203. Exclusions from membership in system.**

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the ~~[State Board of Regents]~~ Utah Board of Higher Education, or the ~~[Board of Directors of each technical college]~~ technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from

participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); or

(i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

- (b) an elected official;
- (c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;
- (d) an employee of the Governor's Office of Management and Budget;
- (e) an employee of the Governor's Office of Economic Development;
- (f) an employee of the Commission on Criminal and Juvenile Justice;
- (g) an employee of the Governor's Office;
- (h) an employee of the State Auditor's Office;
- (i) an employee of the State Treasurer's Office;
- (j) any other member who is permitted to make an election under Section 49-11-406;
- (k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

- (a) maintain a list of employee exemptions; and
- (b) update the employee exemptions in the event of any change.
- (8) The office may make rules to implement this section.

**Section 26. Section 49-12-204 is amended to read:**

**49-12-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.**

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or a public or private retirement system, organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(c) Except as provided in Subsection (1)(d), [~~the Board of Regents~~] the Utah Board of Higher Education shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

(d) The [~~Board of Directors~~] technical college board of trustees of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).

(2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the [~~Board of Regents~~] Utah Board of Higher Education, or the [~~Board of Directors~~] technical college board of trustees of each technical college for each technical college, so that each classification is assigned with either:

- (i) this system; or
- (ii) a public or private system, organization, or company designated by:

(A) except as provided in Subsection (2)(b)(ii)(B), the [~~Board of Regents~~] Utah Board of Higher Education; or

(B) [~~the Board of Directors~~] the technical college board of trustees of each technical college for regular full-time employees of each technical college.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education shall have a one-time irrevocable election to participate in this system if the employee:

(i) was hired after January 1, 1979;

(ii) whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system; and

(iii) has service credit in a system under this title.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a), may purchase periods of employment while covered under another retirement program sponsored by the institution of higher education by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

**Section 27. Section 49-12-402 is amended to read:**

**49-12-402. Service retirement plans -- Calculation of retirement allowance.**

(1) (a) Except as provided under Section 49-12-701, retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an annual allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 30 years of service credit, the allowance is:

(i) an amount equal to 1.25% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued prior to July 1, 1975; plus

(ii) an amount equal to 2% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued on and after July 1, 1975.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for each year of retirement from age 60 to age 65, unless the member has 30 or more years of accrued credit in which event no reduction is made to the allowance.

(c) (i) Years of service includes any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or



(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) (i) The final average salary is limited in the computation of that part of an allowance based on service rendered prior to July 1, 1967, during a period when the retiree received employer contributions on a portion of compensation from an educational institution toward the payment of the premium required on a retirement annuity contract with a public or private system, organization, or company designated by the ~~[State Board of Regents]~~ Utah Board of Higher Education to \$4,800.

(ii) This limitation is not applicable to retirees who elected to continue in this system by July 1, 1967.

(b) Periods of employment which are exempt from this system under Subsection 49-12-203(1)(b), may be purchased by the member for the purpose of retirement only if all benefits from a public or private system, organization, or company designated by the ~~[State Board of Regents]~~ Utah Board of Higher Education based on this period of employment are forfeited.

(5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(6) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to a Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (6) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

**Section 28. Section 49-13-203 is amended to read:**

**49-13-203. Exclusions from membership in system.**

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the ~~[State Board of Regents]~~ Utah Board of Higher Education, or the ~~[Board of Directors]~~ technical college board of

trustees of each technical college for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5);

(g) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); or

(h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under

Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

**Section 29. Section 49-13-204 is amended to read:**

**49-13-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.**

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement system with a public or private retirement system, organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1)(a).

(b) The election is final, and no right exists to make any further election.

(c) Except as provided in Subsection (1)(d), the ~~Board of Regents~~ Utah Board of Higher Education shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

(d) The ~~Board of Directors~~ technical college board of trustees of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).

(2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the ~~Board of Regents~~ Utah Board of Higher Education, or the ~~Board of Directors~~ technical college board of trustees of each technical college for regular full-time employees of each technical college, so that each classification is assigned with either:

(i) this system; or

(ii) a public or private system, organization, or company designated by:

(A) except as provided in Subsection (2)(b)(ii)(B), the ~~Board of Regents~~ Utah Board of Higher Education; or

(B) the ~~[Board of Directors]~~ technical college board of trustees of each technical college for regular full-time employees of each technical college.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system shall have a one-time irrevocable election to participate in this system.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a) may purchase periods of employment while covered under another retirement program by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

**Section 30. Section 49-13-402 is amended to read:**

**49-13-402. Service retirement plans -- Calculation of retirement allowance.**

(1) (a) Except as provided under Subsection (7) or Section 49-13-701, retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 30 years of service credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which event no reduction is made to the allowance.

(c) (i) Years of service include any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) (i) The final average salary is limited in the computation of that part of an allowance based on service rendered prior to July 1, 1967, during a period when the retiree received employer contributions on a portion of compensation from an educational institution toward the payment of the premium required on a retirement annuity contract with a public or private system, organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher Education to \$4,800.

(ii) This limitation is not applicable to retirees who elected to continue in the Public Employees' Contributory Retirement System by July 1, 1967.

(b) Periods of employment which are exempt from this system as permitted under Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement only if all benefits from a public or private system, organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher Education based on this period of employment are forfeited.

(5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(6) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (6) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

(7) A retiree may not choose payment of an allowance under a retirement option described in this section that is not applicable to that retiree, including because the retiree did not make member contributions or does not have a lawful spouse at the time of retirement.

**Section 31. Section 49-21-102 is amended to read:**

**49-21-102. Definitions.**

As used in this chapter:

(1) "Date of disability" means the date on which a period of total disability begins, and may not begin on or before the last day of performing full-duty work in the eligible employee's regular occupation.

(2) (a) "Eligible employee" means the following employee whose employer provides coverage under this chapter:

(i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102;

(B) any public safety service employee as defined under Section 49-14-102, 49-15-102, or 49-23-102;

(C) any firefighter service employee or volunteer firefighter as defined under Section 49-23-102 who began firefighter service on or after July 1, 2011;

(D) any judge as defined under Section 49-17-102 or 49-18-102; or

(E) the governor of the state;

(ii) an employee who is exempt from participating in a retirement system under Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and

(iii) an employee who is covered by a retirement program offered by a public or private system, organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher Education.

(b) "Eligible employee" does not include:

(i) any employee that is exempt from coverage under Section 49-21-201; or

(ii) a retiree.

(3) "Elimination period" means the three months at the beginning of each continuous period of total disability for which no benefit will be paid. The elimination period begins on the nearest first day of the month from the date of disability. The elimination period may include a one-time trial return to work period of less than 15 consecutive calendar days.

(4) (a) "Gainful employment" means any occupation or employment position in the state that:

(i) contemplates continued employment during a fiscal or calendar year; and

(ii) would pay an amount equal to or greater than 40 hours per week at the legally required minimum wage, regardless of the number of hours worked.

(b) "Gainful employment" does not mean that an occupation or employment position in the state is:

(i) available within any geographic boundaries of the state;

- (ii) offered at a certain level of wages;
- (iii) available at a particular number of hours per week; or
- (iv) currently available.

(5) “Maximum benefit period” means the maximum period of time the monthly disability income benefit will be paid under Section 49-21-403 for any continuous period of total disability.

(6) “Monthly disability benefit” means the monthly payments and accrual of service credit under Section 49-21-401.

(7) “Objective medical impairment” means an impairment resulting from an injury or illness which is diagnosed by a physician and which is based on accepted objective medical tests or findings rather than subjective complaints.

(8) (a) “Ongoing disability” means, after the elimination period and the first 24 months of disability benefits, the complete inability, as determined under Subsection (8)(b), to engage in any gainful employment which is reasonable, considering the eligible employee’s education, training, and experience.

(b) For purposes of Subsection (8)(a), inability is determined:

- (i) based solely on physical objective medical impairment; and
- (ii) regardless of the existence or absence of any mental impairment.

(9) “Own occupation disability” means the complete inability, due to objective medical impairment, whether physical or mental, to engage in the eligible employee’s regular occupation during the elimination period and the first 24 months of disability benefits.

(10) “Physician” means a licensed physician.

(11) “Regular monthly salary” means the amount certified by the participating employer as the monthly salary of the eligible employee, unless there is a discrepancy between the certified amount and the amount actually paid, in which case the office shall determine the regular monthly salary.

(12) “Regular occupation” means either:

- (a) the primary duties performed by the eligible employee for the 12 months preceding the date of disability; or
- (b) a permanent assignment of duty to the eligible employee, as long as the eligible employee has actually performed all the required duties of the permanent assignment of duty.

(13) “Rehabilitative employment” means any occupation or employment for wage or profit, for which the eligible employee is reasonably qualified to perform based on education, training, or experience.

(14) “Total disability” means:

- (a) own occupation disability; or
- (b) ongoing disability.

(15) (a) “Workers’ compensation indemnity benefits” means benefits provided that are designed to replace wages under Title 34A, Chapter 2, Part 4, Compensation and Benefits, including wage replacement for a temporary disability, temporary partial disability, permanent partial disability, or permanent total disability.

(b) “Workers’ compensation indemnity benefits” includes a settlement amount following a claim for indemnity benefits.

**Section 32. Section 49-22-203 is amended to read:**

**49-22-203. Exclusions from membership in system.**

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher Education, or the [~~Board of Directors~~] technical college board of trustees of each technical college for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(e) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

- (i) new employees from participation in this system under Subsection 49-11-623(3)(a); or
- (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(f) a person who files a written request for exemption with the office under Section 49-22-205; or

(g) an employee described in Subsection (1)(g)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

- (i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

**Section 33. Section 49-22-204 is amended to read:**

**49-22-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems.**

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement annuity contract with a public or private system, organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(c) Except as provided in Subsection (1)(d), the ~~[Board of Regents]~~ Utah Board of Higher Education shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

(d) The ~~[Board of Directors]~~ technical college board of trustees of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).

(2) (a) A regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the ~~[Board of Regents]~~ Utah Board of Higher Education, or the ~~[Board of Directors]~~ technical college board of trustees of each technical college for each technical college, so that each classification is assigned with either:

(i) this system; or

(ii) a public or private system, organization, or company designated by:

(A) except as provided under Subsection (2)(b)(ii)(B), the ~~[Board of Regents]~~ Utah Board of Higher Education; or

(B) the ~~[Board of Directors]~~ technical college board of trustees of each technical college for regular full-time employees of each technical college.

(3) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system may elect to continue participation in this system upon change to an employment classification which requires participation in a public or private system, organization, or company designated by:

(a) except as provided in Subsection (3)(b), the ~~[Board of Regents]~~ Utah Board of Higher Education; or

(b) the ~~[Board of Directors]~~ technical college board of trustees of each technical college for regular full-time employees of each technical college.

(4) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system shall participate in this system.

**Section 34. Section 51-7-4 is amended to read:**

**51-7-4. Transfer of functions, powers, and duties relating to public funds to state treasurer -- Exceptions -- Deposit of income from investment of state money.**

(1) Unless otherwise required by the Utah Constitution or applicable federal law, the functions, powers, and duties vested by law in each state officer, board, commission, institution, department, division, agency, or other similar instrumentality relating to the deposit, investment, or reinvestment of public funds, and the purchase, sale, or exchange of investments or securities of, or for, funds or accounts under the control and management of each of these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

(a) funds assigned to the Utah State Retirement Board for investment under Section 49-11-302;

(b) funds of member institutions of the state system of higher education:

(i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

(ii) derived from student fees or from income from operations of auxiliary enterprises, which fees and income are pledged or otherwise dedicated to the payment of interest and principal of bonds issued by an institution of higher education;

(iii) subject to rules made by the council, under Section 51-7-18, deposited in a foreign depository institution as defined in Section 7-1-103; and

(iv) other funds that are not included in the institution's work program as approved by the [~~State Board of Regents~~] Utah Board of Higher Education;

(c) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work Programs for Prisoners;

(d) trust funds established by judicial order;

(e) funds of the Utah Housing Corporation;

(f) endowment funds of higher education institutions; and

(g) the funds of the Utah Educational Savings Plan.

(2) All public funds held or administered by the state or its boards, commissions, institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to the state treasurer as provided by this section shall be:

(a) deposited and invested by the custodian in accordance with this chapter, unless otherwise required by statute or by applicable federal law; and

(b) reported to the state treasurer in a form prescribed by the state treasurer.

(3) Unless otherwise provided by the constitution or laws of this state or by contractual obligation, the income derived from the investment of state money by the state treasurer shall be deposited ~~in~~ into and become part of the General Fund.

**Section 35. Section 51-7-13 is amended to read:**

**51-7-13. Funds of member institutions of state system of higher education and public education foundations -- Authorized deposits or investments.**

(1) The provisions of this section apply to all funds of:

(a) higher education institutions, other than endowment funds, that are not transferred to the state treasurer under Section 51-7-4; and

(b) public education foundations established under Section 53E-3-403.

(2) (a) Proceeds of general obligation bond issues and all funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds issued by or for the benefit of the institution shall be invested according to the requirements of:

(i) Section 51-7-11 and the rules of the council; or

(ii) the terms of the borrowing instruments applicable to those bonds and funds if those terms are more restrictive than Section 51-7-11.

(b) (i) The public treasurer shall invest the proceeds of bonds other than general obligation bonds issued by or for the benefit of the institution and all funds pledged or otherwise dedicated to the payment of interest and principal of bonds other than general obligation bonds according to the terms of the borrowing instruments applicable to those bonds.

(ii) If no provisions governing investment of bond proceeds or pledged or dedicated funds are contained in the borrowing instruments applicable to those bonds or funds, the public treasurer shall comply with the requirements of Section 51-7-11 in investing those proceeds and funds.

(c) All other funds in the custody or control of any of those institutions or public education foundations shall be invested as provided in Section 51-7-11 and the rules of the council.

(3) (a) Each institution shall make monthly reports detailing the deposit and investment of funds in its custody or control to its institutional council and the [~~State Board of Regents~~] Utah Board of Higher Education.

(b) The state auditor may conduct or cause to be conducted an annual audit of the investment program of each institution.

(c) The [~~State Board of Regents~~] Utah Board of Higher Education shall:

(i) require whatever internal controls and supervision are necessary to ensure the appropriate safekeeping, investment, and accounting for all funds of these institutions; and

(ii) submit annually to the governor and the Legislature a summary report of all investments by institutions under its jurisdiction.

**Section 36. Section 51-8-303 is amended to read:**

**51-8-303. Requirements of member institutions of the state system of higher education.**

(1) The [~~State Board of Regents~~] Utah Board of Higher Education shall:

(a) establish asset allocations for the institutional funds;

(b) in consultation with the commissioner of higher education, establish guidelines for investing the funds; and

(c) establish a written policy governing conflicts of interest.

(2) (a) A higher education institution may not invest its institutional funds in violation of the [~~State Board of Regents~~] Utah Board of Higher Education's guidelines unless the [~~State Board of Regents~~] Utah Board of Higher Education approves an investment policy that has been adopted by the higher education institution's board of trustees.

(b) A higher education institution and its employees shall comply with the ~~[State Board of Regents']~~ Utah Board of Higher Education's conflict of interest requirements unless the ~~[State Board of Regents]~~ Utah Board of Higher Education approves the conflict of interest policy that has been adopted by the higher education institution's board of trustees.

(3) (a) The board of trustees of a higher education institution may adopt:

(i) an investment policy to govern the investment of the higher education institution's institutional funds; and

(ii) a conflict of interest policy.

(b) The investment policy shall:

(i) define the groups, and the responsibilities of those groups, that must be involved with investing the institutional funds;

(ii) ensure that the groups defined under Subsection (3)(b)(i) at least include the board of trustees, an investment committee, institutional staff, and a custodian bank;

(iii) create an investment committee that includes not more than two members of the board of trustees and no less than two independent investment management professionals;

(iv) determine an appropriate risk level for the institutional funds;

(v) establish allocation ranges for asset classes considered suitable for the institutional funds;

(vi) determine prudent diversification of the institutional funds; and

(vii) establish performance objectives and a regular review process.

(c) Each higher education institution that adopts an investment policy, a conflict of interest policy, or both, shall submit the policy, and any subsequent amendments, to the ~~[State Board of Regents]~~ Utah Board of Higher Education for ~~[its]~~ approval.

(4) Each higher education institution shall make monthly reports detailing the deposit and investment of funds in ~~[its]~~ the institution's custody or control to:

(a) ~~[its]~~ the institution of higher education board of trustees; and

~~[(b) the State Board of Regents.]~~

(b) the Utah Board of Higher Education.

(5) The state auditor may conduct or cause to be conducted an annual audit of the investment program of each higher education institution.

(6) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall submit an annual report to the governor and the Legislature summarizing all investments by higher education institutions under its jurisdiction.

**Section 37. Section 51-9-201 is amended to read:**

**51-9-201. Creation of Tobacco Settlement Restricted Account.**

(1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."

(2) The account shall earn interest.

(3) The account shall consist of:

(a) on and after July 1, 2007, 60% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and

(b) interest earned on the account.

(4) To the extent that funds will be available for appropriation in a given fiscal year, those funds shall be appropriated from the account in the following order:

(a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense of the Tobacco Settlement Agreement;

(b) \$18,500 to the State Tax Commission for ongoing enforcement of business compliance with the Tobacco Tax Settlement Agreement;

(c) \$10,452,900 to the Department of Health for:

(i) children in the Medicaid program created in Title 26, Chapter 18, Medical Assistance Act, and the Children's Health Insurance Program created in Section 26-40-103; and

(ii) for restoration of dental benefits in the Children's Health Insurance Program;

(d) \$3,847,100 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television, and with a preference in funding given to tobacco-related programs;

(e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the Department of Human Services for the statewide expansion of the drug court program;

(f) \$4,000,000 to the ~~[State Board of Regents]~~ Utah Board of Higher Education for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and

(g) any remaining funds as directed by the Legislature through appropriation.

**Section 38. Section 53-2a-802 is amended to read:**

**53-2a-802. Definitions.**

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or



(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Technology Services, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the [State Board of Regents] Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

**Section 39. Section 53-7-204 is amended to read:**

**53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council -- Local administrative duties.**

(1) The board shall:

(a) administer the state fire code as the standard in the state;

(b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;

(iii) establishing safety standards for retail storage, handling, and sale of class C common state approved explosives;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(v) subject to Subsection (2), creating a uniform statewide policy regarding a state, county, special district, and local government entity's safe seizure, storage, and repurposing, destruction, or disposal of a firework, class A explosive, or class B explosive that:

(A) is illegal; or

(B) a person uses or handles in an illegal manner;

(vi) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

(vii) implementing Section 15A-1-403;

(viii) setting guidelines for use of funding;

(ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification;

(x) establishing ongoing training standards for hazardous materials emergency response agencies; and

(xi) establishing criteria for the fire safety inspection of a food truck;

(c) recommend to the commissioner a state fire marshal;

(d) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;

(e) provide for the employment of field assistants and other salaried personnel as required;

(f) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;

(g) establish a statewide fire prevention, fire education, and fire service training program in cooperation with the ~~[Board of Regents]~~ Utah Board of Higher Education;

(h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(i) establish a fire academy in accordance with Section 53-7-204.2;

(j) coordinate the efforts of all people engaged in fire suppression in the state;

(k) work aggressively with the local political subdivisions to reduce fire losses;

(l) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;

(m) establish a certification program for persons who inspect and test automatic fire sprinkler systems;

(n) establish a certification program for persons who inspect and test fire alarm systems;

(o) establish a certification for persons who provide response services regarding hazardous materials emergencies;

(p) in accordance with Sections 15A-1-403 and 68-3-14, submit a written report to the Business and Labor Interim Committee; and

(q) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.

(2) (a) In the rules that the board makes under Subsection (1)(b)(v), the board shall include a provision prohibiting a state, county, special district, or local government entity from disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under circumstances described in the rule.

(b) When making a rule under Subsection (1)(b)(v), the board shall:

(i) review and include applicable references to:

(A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and

(B) provisions of the International Fire Code; and

(ii) consider the appropriate role of the following in relation to the rule:

(A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and

(B) a firework wholesaler or distributor.

(3) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

(4) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

**Section 40. Section 53B-1-101.5 is amended to read:**

**53B-1-101.5. Definitions.**

As used in this title:

(1) (a) "Academic education" means an educational program that is offered by a degree-granting institution.

(b) "Academic education" does not include technical education.

~~[(4)]~~ (2) "Board" means the [State Board of Regents—established] Utah Board of Higher Education described in Section [53B-1-103] 53B-1-402.

~~[(2)]~~ (3) "Career and technical education" means [organized—educational—programs—offering—sequences—of—courses—or—skill—sets—directly—related—to—preparing—individuals—for—paid—or—unpaid—employment—in—current—or—emerging—occupations—that—generally—do—not—require—a—baccalaureate—or—advanced—degree.] an educational program that:

(a) is designed to meet industry needs;

(b) leads to:

(i) a certificate; or

(ii) a degree; and

(c) may qualify for funding under the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. 2301 et seq.

[~~(3)~~] (4) “Commissioner” means the commissioner of higher education appointed in accordance with Section [53B-1-105] 53B-1-408.

[~~(4)~~] “Technical college” means, except as provided in Section 53B-26-102, a member college of the Utah System of Technical Colleges listed in Section 53B-2a-105.]

(5) “Degree-granting institution of higher education” or “degree-granting institution” means an institution of higher education described in Subsection 53B-1-102(1)(a).

(6) “Institution board of trustees” means:

(a) an institution of higher education board of trustees described in Section 53B-2-103; or

(b) a technical college board of trustees described in Section 53B-2a-108.

(7) “Technical college” means an institution of higher education described in Subsection 53B-1-102(1)(b).

(8) (a) “Technical education” means career and technical education that:

(i) leads to an institutional certificate; or

(ii) is short-term training.

(b) “Technical education” does not include general education.

**Section 41. Section 53B-1-102 is amended to read:**

**53B-1-102. Utah system of higher education.**

(1) The [state] Utah system of higher education consists of the following institutions:

[~~(a) the Utah System of Higher Education, which consists of the following institutions:~~]

[~~(i) the State Board of Regents;~~]

(a) degree-granting institutions, which are:

[~~(i)] (i) the University of Utah;~~

[~~(ii)] (ii) Utah State University;~~

[~~(iii)] (iii) Weber State University;~~

[~~(iv)] (iv) Southern Utah University;~~

[~~(v)] (v) Snow College;~~

[~~(vi)] (vi) Dixie State University;~~

[~~(vii)] (vii) Utah Valley University; and~~

[~~(viii)] (viii) Salt Lake Community College;~~

[~~(b) the Utah System of Technical Colleges, which consists of the following institutions:~~]

[~~(i) the Utah System of Technical Colleges Board of Trustees;~~]

(b) technical colleges, which are:

[~~(i)] (i) Bridgerland Technical College;~~

[~~(ii)] (ii) Davis Technical College;~~

[~~(iii)] (iii) Dixie Technical College;~~

[~~(iv)] (iv) Mountainland Technical College;~~

[~~(v)] (v) Ogden-Weber Technical College;~~

[~~(vi)] (vi) Southwest Technical College;~~

[~~(vii)] (vii) Tooele Technical College; and~~

[~~(viii)] (viii) Uintah Basin Technical College; and]~~

(c) the Utah Board of Higher Education; and

[~~(e)] (d) other public post-high school educational institutions as the Legislature may designate.~~

(2) A change in the name of an institution within the [Utah System of Higher Education shall not be considered] Utah system of higher education is not a change in the role or mission of the institution, unless otherwise authorized by the [State Board of Regents] board.

(3) It is not the intent of the Legislature to increase the number of research universities in the state beyond the University of Utah and Utah State University.

(4) An institution or board described in Subsection (1) is empowered to sue and be sued and to contract and be contracted with.

**Section 42. Section 53B-1-109 is amended to read:**

**53B-1-109. Coordination of higher education and public education information technology systems -- Use of unique student identifier.**

(1) As used in this section, “unique student identifier” means the same as that term is defined in Section 53E-4-308.

(2) The [State Board of Regents] board and State Board of Education shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53E-4-308.

(3) Information technology systems [utilized] used at an institution within the state system of higher education shall [utilize] use the unique student identifier of all students who have previously been assigned a unique student identifier.

**Section 43. Section 53B-1-114 is amended to read:**

**53B-1-114. Coordination for education.**

(1) At least quarterly, in order to coordinate education services, the commissioner and the state

superintendent of public instruction shall convene a meeting of individuals who have responsibilities related to Utah's education system [shall meet], including:

(a) the state superintendent of public instruction [described in Section 53E-3-301];

(b) the commissioner;

~~[(c) the commissioner of technical education described in Section 53B-2a-102;]~~

~~[(d)]~~ (c) the executive director of the Department of Workforce Services described in Section 35A-1-201;

~~[(e)]~~ (d) the executive director of the Governor's Office of Economic Development described in Section 63N-1-202;

~~[(f)]~~ (e) the chair of the State Board of Education;

~~[(g)]~~ (f) the chair of the [State Board of Regents] Utah Board of Higher Education;

~~[(h) the chair of the Utah System of Technical Colleges Board of Trustees described in Section 53B-2a-103; and]~~

(g) a member of the governor's staff; and

~~[(i)]~~ (h) the chairs of the Education Interim Committee.

(2) The coordinating group described in this section shall, for the State Board of Education and the Utah Board of Higher Education:

(a) coordinate strategic planning efforts;

(b) encourage alignment of strategic plans; and

(c) report on the State Board of Education's strategic plan to the Utah Board of Higher Education and the Utah Board of Higher Education's strategic plan to the State Board of Education.

~~[(2)]~~ (3) A meeting described in [this section] Subsection (1) is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

#### **Section 44. Section 53B-1-301 is amended to read:**

##### **53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-17-804, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the

effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Development on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board [and the Utah System of Technical Colleges Board of Trustees, respectively,] on performance;

(e) the report described in Section 53B-8-201 by the board on the Regents' Scholarship Program;

(f) the report described in Section 53B-8-303 by the [State Board of Regents] board regarding Access Utah promise scholarships;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Development on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E-10-308 by the State Board of Education and [State Board of Regents] board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) as described in Section 53B-26-103, a proposal by an eligible partnership related to workforce needs for technical jobs projected to support economic growth;

(c) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and

(d) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) the review described in Section 53B-7-705 of the implementation of performance funding;

(c) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(d) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(e) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

**Section 45. Section 53B-1-401 is enacted to read:**

**Part 4. Utah Board of Higher Education**

**53B-1-401. Definitions.**

As used in this part:

(1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.

(2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.

(3) "Nominating committee" means the committee described in Section 53B-1-406.

**Section 46. Section 53B-1-402, which is renumbered from Section 53B-1-103 is renumbered and amended to read:**

**[53B-1-103]. 53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.**

(1) There is established a State Board of Regents[,], which:

(a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;

(b) is the governing board for the institutions of higher education;

(c) controls, manages, and supervises the Utah system of higher education; and

(d) is a body politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as a body politic and corporate.

[(2) (a) Except as provided in Subsection (2)(b), the board shall control, manage, and supervise the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to the board.]

[(b) The board may only exercise powers relating to the Utah System of Technical Colleges Board of Trustees, the Utah System of Technical Colleges, or

a technical college that are specifically provided in this title.]

[(3) The board shall, for the Utah System of Higher Education:]

[(a) provide strategic leadership and link system capacity to the economy and workforce needs;]

[(b) enhance the impact and efficiency of the system;]

[(c) establish measurable goals and metrics and delineate the expected contributions of individual institutions of higher education toward these goals;]

[(d) evaluate presidents based on institutional performance;]

[(e) delegate to presidents the authority to manage the presidents' institutions of higher education;]

[(f) administer statewide functions including system data collection and reporting;]

[(g) establish unified budget, finance, and capital funding priorities and practices; and]

[(h) provide system leadership on issues that have a system-wide impact, including:]

[(i) statewide college access and college preparedness initiatives;]

[(ii) learning opportunities drawn from multiple campuses or online learning options, including new modes of delivery of content at multiple locations;]

[(iii) degree program requirement guidelines including credit hour limits, articulation agreements, and transfer across institutions;]

[(iv) alignment of general education requirements across institutions of higher education;]

[(v) incorporation of evidence-based practices that increase college completion; and]

[(vi) monitoring of workforce needs, with an emphasis on credentials that build upon one another.]

[(4) The board shall coordinate and support articulation agreements between the Utah System of Technical Colleges or a technical college and other institutions of higher education.]

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize system priorities, including:

(i) quality;

(ii) affordability;

(iii) educational opportunity, access, equity, and completion;

(iv) workforce alignment and preparation for high-quality jobs; and

(v) economic growth;

(b) establish policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) coordinate data collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform duties related to an institution of higher education president, including:

(i) appointing an institution of higher education president in accordance with Sections 53B-2-102 and 53B-2a-107;

(ii) providing support and guidance to an institution of higher education president; and

(iii) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs; and

(vii) coordinating work-based learning;

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services;

(p) develop strategies for providing higher education, including career and technical education, in rural areas;

(q) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives; and

(r) provide ongoing quality review of institutions.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

[4] (4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education [issues and addressing workforce needs], to the governor and to the Legislature's Education Interim

Committee by October 31 of each year, ~~[which shall include]~~ including information detailing:

(a) how the career and technical education needs of secondary students are being met by institutions of higher education ~~[described in Subsection 53B-1-102(1)(a), including the access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding];~~

(b) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

~~[(6)]~~ (5) The board may modify the name of an institution ~~[described in Subsection 53B-1-102(1)(a)]~~ of higher education to reflect the role and general course of study of the institution.

~~[(7)]~~ (6) The board may not conduct a feasibility study or perform another act relating to merging a technical college with another institution of higher education.

~~[(8)]~~ (7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

~~[(9)]~~ (8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

**Section 47. Section 53B-1-403 is enacted to read:**

**53B-1-403. Committees.**

(1) The board shall form:

(a) a committee to focus on technical education; and

(b) a committee to focus on academic education.

(2) The board may form committees in addition to the committees described in Subsection (1).

**Section 48. Section 53B-1-404, which is renumbered from Section 53B-1-104 is renumbered and amended to read:**

**[53B-1-104]. 53B-1-404. Membership of the board -- Student appointees -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation -- Training.**

(1) ~~[Except as provided in Subsection (2), the]~~ The board consists of ~~[17]~~ 18 residents of the state appointed by the governor with the advice and consent of the Senate, as follows:

~~[(a) eight at large members;]~~

~~[(b) eight members, each of whom is:]~~

~~[(i) selected from three nominees presented to the governor by a higher education institution board of trustees; and]~~

~~[(ii) a current or former member of the institution of higher education board of trustees that nominates the member; and]~~

~~[(c) one member, selected from three nominees presented to the governor by the student body presidents of the institutions of higher education, who:]~~

~~[(i) is a fully matriculated student enrolled in an institution of higher education; and]~~

~~[(ii) is not serving as a student body president at the time of the nomination.]~~

~~[(2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve on the board, even if the individual does not fulfill a requirement for the composition of the board described in Subsection (1).]~~

~~[(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the member's term expires.]~~

~~[(b) An individual appointed to the board on or before May 8, 2017, who is a current or former member of an institution of higher education board of trustees is the board member for the institution of higher education described in Subsection (1)(b).]~~

~~[(c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).]~~

~~[(ii) In appointing a new member to the board, the governor shall first appoint a member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.]~~

(a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from among candidates presented to the governor by a nominating committee; and

(b) two student members appointed as described in Subsection (4).

(2) (a) For an appointment of a member effective July 1, 2020, the governor shall appoint the member in accordance with Section 53B-1-501.

(b) Unless appointed by the governor as described in Section 53B-1-501, the term of each individual who is a member of the State Board of Regents on May 12, 2020, expires on June 30, 2020.

(3) If the governor is not satisfied with a sufficient number of the candidates presented by the nominating committee to make the required

number of appointments, the governor may request that the committee nominate additional candidates.

(4) (a) For the appointments described in Subsection (1)(b), the governor shall appoint:

(i) one individual who is enrolled in a certificate program at a technical college at the time of the appointment; and

(ii) one individual who:

(A) is a fully matriculated student enrolled in a degree-granting institution; and

(B) is not serving as a student body president at the time of the nomination.

(b) The governor shall select:

(i) an appointee described in Subsection (4)(a)(i) from among three nominees, presented to the governor by a committee consisting of eight students, one from each technical college, each of whom is recognized by the student's technical college; and

(ii) an appointee described in Subsection (4)(a)(ii) from among three nominees presented to the governor by the student body presidents of degree-granting institutions.

(3) (5) (a) All appointments to the board shall be made on a nonpartisan basis.

(b) In making appointments to the board, the governor shall consider:

(i) geographic representation of members;

(ii) diversity;

(iii) experience in higher education governance;

(iv) experience in economic development; and

(v) exposure to institutions of higher education.

(e) (b) An individual may not serve simultaneously on the [State Board of Regents] board and an institution [of higher education] board of trustees.

(4) (6) (a) (i) Except as provided in Subsection (4)(b), members of the board (6)(a)(ii) and Section 53B-1-501, members shall be appointed to six-year staggered terms, each of which begins on July 1 of the year of appointment.

(b) A student member (ii) A member described in Subsection (1)(e)(b) shall be appointed to a one-year term.

(b) (i) A member described in Subsection (1)(a) may serve up to two consecutive full terms.

(ii) The governor may appoint a member described in Subsection (1)(a) to a second consecutive full term without a recommendation from the nominating committee.

(iii) A member described in Subsection (1)(b) may not serve more than one full term.

(c) (i) The governor may remove a member [of the board] for cause.

(ii) The governor shall consult with the president of the Senate before removing a member [of the board].

(5) (7) (a) A member [of the board] shall take the official oath of office before entering upon the duties of office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) (8) The board shall elect a chair and vice chair from among the board's members who shall serve terms of two years and until their successors are chosen and qualified.

(7) (9) (a) The board shall appoint a secretary from the commissioner's staff [of the board's chief executive] to serve at the board's discretion.

(b) The secretary is a full-time employee [who receives a salary set by the board].

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

(8) (10) (a) The board may establish advisory committees in addition to the advisory council described in Section 53B-1-407.

(b) The powers and authority of the board are nondelegable, except as specifically provided for in this title.

(e) (b) All matters requiring board determination shall be addressed in a properly convened meeting of the board or the board's executive committee.

(9) (11) (a) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.

(b) The board shall provide for an executive committee in the bylaws that:

(i) has the full authority of the board to act upon routine matters during the interim between board meetings;

(ii) may not act on nonroutine matters except under extraordinary and emergency circumstances; and

(iii) shall report to the board at the board's next meeting following an action undertaken by the executive committee.

(10) (12) (a) The board shall meet regularly upon the board's own determination.

(b) The board may also meet, in full or executive session, at the request of the chair, [the executive officer, or] the commissioner, or at least five members of the board.

(11) (13) A quorum of the [voting members of the] board is required to conduct the board's business and consists of [nine] 10 members.

(12) (14) (a) A vacancy in the board occurring before the expiration of a [voting] member's full



~~term shall be immediately filled [by appointment by the governor with the consent of the Senate] through the nomination process described in Section 53B-1-406 and this section.~~

(b) An individual appointed under Subsection ~~[(12)]~~ (14)(a) serves for the remainder of the unexpired term.

(15) (a) (i) Subject to Subsection (15)(a)(ii), a member shall receive a daily salary for each calendar day that the member attends a board meeting that is the same as the daily salary for a member of the Legislature described in Section 36-2-3.

(ii) A member may receive a salary for up to 10 calendar days per calendar year.

~~[(13) A board member may not receive compensation or benefits for the member's service, but may]~~ (b) A member may receive per diem and travel expenses in accordance with:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(c)]~~ (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(16) The commissioner shall provide to each member:

(a) initial training when the member joins the board; and

(b) ongoing annual training.

**Section 49. Section 53B-1-405 is enacted to read:**

**53B-1-405. Qualifications for board members.**

(1) The board shall develop qualifications for the composition of the board to ensure that combined, the board members have:

(a) a range of experience, including experience in industry;

(b) varied areas of expertise; and

(c) varied geographic representation.

(2) In developing the qualifications, the board shall consider:

(a) expertise in:

(i) business or industry;

(ii) technical education;

(iii) general education; and

(iv) advanced education and research;

(b) geographic representation; and

(c) knowledge or experience in a field including:

(i) finance;

(ii) accounting or auditing;

(iii) law;

(iv) facilities or real estate;

(v) educational delivery models;

(vi) workforce development;

(vii) economic development;

(viii) kindergarten through grade 12 education; and

(ix) educational quality assessment.

(3) The board shall consult with the governor to develop the qualifications described in this section.

**Section 50. Section 53B-1-406 is enacted to read:**

**53B-1-406. Nominating committee.**

(1) Except as provided in Subsection (1)(b), a nominating committee shall be formed to begin service:

(a) by January 1, 2022; and

(b) on January 1 of each even number year thereafter.

(2) (a) A nominating committee shall include:

(i) subject to Subsection (2)(b), one individual appointed by the president of the Senate;

(ii) subject to Subsection (2)(b), one individual appointed by the speaker of the House of Representatives; and

(iii) five individuals appointed by the governor, including:

(A) one individual who is a member of the board of trustees of a degree-granting institution;

(B) one individual who is a member of a technical college board of trustees; and

(C) three additional individuals.

(b) An individual appointed under Subsection (2)(a)(i) or (ii) may not be serving as a legislator at the time of appointment.

(3) (a) Except as provided in Subsection (3)(b), a nominating committee member is appointed to a two-year term.

(b) If a nominating committee is formed due to a vacancy on the board occurring before January 1, 2022, each nominating committee member shall be appointed to a term that expires on December 31, 2023.

(4) (a) The nominating committee shall elect one member to serve as the chair of the nominating committee.

(b) The chair, or another nominating committee member designated by the chair, shall schedule and convene all nominating committee meetings.

(c) (i) Four members of the nominating committee constitute a quorum.

(ii) The action of a majority of a quorum constitutes the action of the nominating committee.

(5) The nominating committee shall submit to the governor at least three candidates for each open position on the board.

(6) The nominating committee shall identify a candidate for the board based on the qualifications described in Section 53B-1-405.

(7) The nominating committee shall nominate individuals to the governor on a nonpartisan basis.

(8) A nominating committee member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The commissioner shall provide staff support to the nominating committee.

**Section 51. Section 53B-1-407 is enacted to read:**

**53B-1-407. Industry advisory council.**

(1) The board shall establish an industry advisory council.

(2) The board shall ensure that the industry advisory council includes representation from:

(a) employers;

(b) kindergarten through grade 12 representatives;

(c) degree-granting institution faculty; and

(d) technical college faculty.

(3) The industry advisory council shall inform:

(a) the committee for technical education;

(b) the committee for academic education; and

(c) the State Board of Education.

**Section 52. Section 53B-1-408, which is renumbered from Section 53B-1-105 is renumbered and amended to read:**

**[53B-1-105]. 53B-1-408. Appointment of commissioner of higher education -- Qualifications -- Associate commissioners -- Duties.**

(1) (a) [The] Subject to Section 53B-1-503, the board, upon approval from the governor and with the advice and consent of the Senate [for each appointee nominated on or after May 8, 2012], shall appoint a commissioner of higher education to serve at [its] the board's pleasure as [its] the board's chief executive officer.

(b) The commissioner may be terminated by:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) subject to Subsection (3), prescribe the duties and functions of the commissioner; and

(iii) select a commissioner on the basis of outstanding professional qualifications.

(2) (a) The commissioner shall appoint, subject to approval by the board:

(i) an associate commissioner for academic education; and

(ii) an associate commissioner for technical education.

(b) (i) The commissioner may appoint associate commissioners in addition to the associate commissioners described in Subsection (2)(a).

(ii) An association commissioner described in Subsection (2)(b)(i) is not subject to the approval of the board.

[(2)] (3) The commissioner is responsible to the board to:

(a) ensure that the policies [~~and programs~~], programs, and strategic plan of the board are properly executed;

(b) furnish information about the [~~state~~] Utah system of higher education and make recommendations regarding that information to the board;

(c) provide state-level leadership in any activity affecting an institution [~~in the state system~~] of higher education; and

(d) perform other duties assigned by the board in carrying out [its] the board's duties and responsibilities.

**Section 53. Section 53B-1-409 is enacted to read:**

**53B-1-409. Appointment and hiring of staff.**

(1) The commissioner may appoint and hire a staff of professional, legal, and administrative personnel.

(2) The commissioner shall determine salaries, retirement provisions, and other benefits for the staff described in this section.

**Section 54. Section 53B-1-410 is enacted to read:**

**53B-1-410. Utah Board of Higher Education successor to rights and duties.**

(1) The board is the successor to the Utah System of Technical Colleges Board of Trustees.

(2) For the Utah System of Technical Colleges Board of Trustees, the board:

(a) is vested with all rights, titles, privileges, powers, obligations, liabilities, immunities, franchises, endowments, assets, property, and claims;

(b) shall fulfill and perform all obligations, including obligations relating to outstanding bonds and notes; and

(c) may continue an administrative rule.

**Section 55. Section 53B-1-501 is enacted to read:**

**Part 5. Transition to Utah Board of Higher Education**

**53B-1-501. Establishment of initial board membership.**

(1) (a) The governor shall appoint, with the advice and consent of the Senate, individuals to the board, to ensure that beginning July 1, 2020, the board consists of 18 members, including:

(i) at least six individuals who were members of the State Board of Regents on May 12, 2020;

(ii) at least six individuals who were members of the Utah System of Technical Colleges Board of Trustees on May 12, 2020; and

(iii) two student members appointed to the board in accordance with Section 53B-1-404.

(b) Before making an appointment described in Subsection (1)(a), the governor shall consult:

(i) for an appointment described in Subsection (1)(a)(i), with State Board of Regents leadership; and

(ii) for an appointment described in Subsection (1)(a)(ii), with Utah System of Technical Colleges Board of Trustees leadership.

(2) (a) Except for an appointment described in Subsection (1)(a)(iii), the governor shall appoint an individual to a two-year, four-year, or six-year term to ensure that one-third of the members complete the members' terms on June 30 of each even number year.

(b) The governor may appoint an individual described in Subsection (1)(a) to a second term without the individual being considered by the nominating committee described in Section 53B-1-406 if, at the time of the individual's initial appointment to the board, the individual:

(i) is serving the individual's first full term on the State Board of Regents or the Utah System of Technical Colleges Board of Trustees; or

(ii) is not a member of the State Board of Regents or the Utah System of Technical Colleges Board of Trustees.

(c) An appointment described in Subsection (2)(b) is for a six-year term.

(3) Following the appointments described in this section, a vacancy on the board shall be filled in accordance with Section 53B-1-404.

**Section 56. Section 53B-1-502 is enacted to read:**

**53B-1-502. Transition of Utah System of Technical Colleges to Utah Board of Higher Education -- Recommendations.**

(1) Beginning July 1, 2020, the board shall assume all statutory and administrative requirements that were requirements on the Utah

System of Technical Colleges Board of Trustees on June 30, 2020.

(2) (a) Beginning July 1, 2020, an individual who was an employee of the Utah System of Technical Colleges on June 30, 2020, is an employee of the Utah Board of Higher Education.

(b) Subsection (2)(a) does not apply to:

(i) a technical college employee; or

(ii) a technical college president.

(3) The board shall review statutory and administrative requirements on the board, including requirements related to academic education and technical education, and may recommend amendments.

(4) On or before November 1, 2020, the board shall report on any recommendations described in Subsection (3) to the Higher Education Strategic Planning Commission.

**Section 57. Section 53B-1-503 is enacted to read:**

**53B-1-503. Commissioner beginning July 1, 2020.**

(1) An individual serving as commissioner before July 1, 2020, may not continue to serve as commissioner after August 1, 2020, unless the board appoints the individual:

(a) in accordance with Section 53B-1-408; or

(b) as an interim commissioner.

(2) The State Board of Regents and the Utah System of Technical Colleges Board of Trustees:

(a) shall jointly:

(i) develop and post a job description for the commissioner; and

(ii) recruit candidates for the commissioner; and

(b) may provide one or more candidates identified under Subsection (2)(a) for the position of commissioner to the Utah Board of Higher Education.

**Section 58. Section 53B-2-102 is amended to read:**

**53B-2-102. Board to appoint president for each institution.**

(1) As used in this section:

(a) "Institution of higher education" means ~~an institution that is part of the Utah System of Higher Education described in Subsection 53B-1-102(1)(a)~~ a degree-granting institution.

(b) "President" means the president of an institution of higher education.

~~(b)~~ (c) "Search committee" means a committee that selects finalists for a position as an institution of higher education president.

(2) The board shall appoint a president for each institution of higher education.

(3) An institution of higher education president serves at the pleasure of the board.

(4) (a) (i) ~~[Tø]~~ Except as provided in Subsection (4)(a)(ii), to appoint an institution of higher education president, the board shall establish a search committee that includes representatives of faculty, staff, students, the institution of higher education board of trustees, alumni, the outgoing institution of higher education president's executive council or cabinet, and the board.

(ii) The board may delegate the authority to appoint the search committee described in Subsection (4)(a)(i) to an institution of higher education board of trustees.

(iii) The commissioner shall provide staff support to a search committee.

(b) (i) [A] Except as provided in Subsection (4)(b)(ii), a search committee shall be cochaired by a member of the board and a member of the institution of higher education board of trustees.

(ii) The board may delegate the authority to chair a search committee to the institution of higher education board trustees.

(c) A search committee described in Subsection (4)(a) shall forward three to five finalists to the board to consider for a position as an institution of higher education president.

(d) A search committee may not forward an individual to the board as a finalist unless two-thirds of the search committee members, as verified by the commissioner, find the individual to be qualified and likely to succeed as an institution of higher education president.

(5) (a) The board shall select an institution of higher education president from among the finalists presented by a search committee.

(b) If the board is not satisfied with the finalists forwarded by a search committee, the board may direct the search committee to resume the search process until the search committee has forwarded three finalists with whom the board is satisfied.

(6) The board, through the commissioner, shall create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates for institution of higher education presidents.

(7) (a) Except as provided in Subsection (7)(b), a record or information gathered or generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

(b) Application materials for a publicly named finalist described in Subsection (5)(a) are not protected records under Section 63G-2-305.

**Section 59. Section 53B-2-103 is amended to read:**

**53B-2-103. Boards of trustees for a degree-granting institution -- Powers and duties.**

(1) ~~[Each college or university has a]~~ A degree-granting institution has a board of trustees that may act on behalf of the ~~[college or university]~~ institution in performing duties, responsibilities, and functions as may be specifically authorized to the board of trustees by the ~~[State Board of Regents]~~ board or by statute.

(2) A board of trustees of a degree-granting institution has the following powers and duties:

(a) to facilitate communication between the institution and the community;

(b) to assist in planning, implementing, and executing fund raising and development projects aimed at supplementing institutional appropriations;

(c) to perpetuate and strengthen alumni and community identification with the ~~[college or university's]~~ degree-granting institution's tradition and goals;

(d) to select recipients of honorary degrees; and

(e) to approve changes to the ~~[institution of higher education's]~~ degree-granting institution's programs, in accordance with Section 53B-16-102.

(3) A board of trustees of a degree-granting institution shall:

(a) approve a strategic plan for the institution of higher education that is aligned with:

(i) state attainment goals;

(ii) workforce needs; and

(iii) the institution of higher education's role, mission, and distinctiveness; and

(b) monitor the institution of higher education's progress toward achieving the strategic plan.

**Section 60. Section 53B-2-104 is amended to read:**

**53B-2-104. Board of trustees for a degree-granting institution -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.**

(1) (a) Except as provided in Subsection (10), the board of trustees of an institution of higher education consists of the following:

(i) except as provided in Subsection (1)(c), eight individuals appointed by the governor with the advice and consent of the Senate; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake

Community College shall be representative of the interests of business, industry, and labor.

(c) (i) The board of trustees of Utah State University has nine individuals appointed by the governor with the advice and consent of the Senate.

(ii) One of the nine individuals described in Subsection (1)(c)(i) shall reside in the Utah State University Eastern service region or the Utah State University Blanding service region.

(2) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) Except as provided in Subsection (2)(d), a member appointed under Subsection (1)(a)(i) or (1)(c)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(d) (i) The governor may remove a member appointed under Subsection (1)(a)(i) or (1)(c)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (1)(a)(i) or (1)(c)(i).

(3) When a vacancy occurs in the membership of a board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(5) A board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(6) (a) A board of trustees may enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) A board of trustees may provide for an executive committee in the board of trustees' bylaws.

(ii) If established, an executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the action.

(c) Copies of a board of trustees' bylaws shall be filed with the board.

(7) A quorum is required to conduct business and consists of six members.

(8) A board of trustees may establish advisory committees.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) This section does not apply to a technical college board of ~~directors~~ trustees described in Section 53B-2a-108.

**Section 61. Section 53B-2-106 is amended to read:**

**53B-2-106. Duties and responsibilities of the president of an institution of higher education -- Approval by board of trustees -- Applicability to a technical college president.**

(1) (a) Except as provided in Subsection [~~(5)~~] (6), the president of each institution of higher education described in Section 53B-2-101 may exercise grants of power and authority as delegated by the board, as well as the necessary and proper exercise of powers and authority not specifically denied to the institution of higher education or the institution of higher education's administration, faculty, or students by the board or by law, to ensure the effective and efficient administration and operation of the institution of higher education consistent with the statewide master plan for higher education.

(b) The president of each institution of higher education may, after consultation with the institution of higher education's board of trustees, exercise powers relating to the institution of higher education's employees, including faculty and persons under contract with the institution of higher education, by implementing:

(i) furloughs;

(ii) reductions in force;

(iii) benefit adjustments;

(iv) program reductions or discontinuance;

(v) early retirement incentives that provide cost savings to the institution of higher education; or

(vi) other measures that provide cost savings to the institution of higher education.

(2) Except as provided by the board, the president of each institution of higher education, with the approval of the institution of higher education's board of trustees, may:

(a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members, and other professional personnel, prescribe their duties, and determine their salaries;

(ii) appoint support personnel, prescribe their duties, and determine their salaries from the institution of higher education's position classification plan, which may:

(A) be based upon similarity of duties and responsibilities within the institution of higher education; and

(B) as funds permit, provide salary and benefits comparable with private enterprise;

(iii) adopt policies for:

(A) employee sick leave use and accrual; and

(B) service recognition for employees with more than 15 years of employment with the institution of higher education; and

(iv) subject to the authority of, the policy established by, and the approval of the board, and recognizing the status of the institutions within the state system of higher education as bodies politic and corporate, appoint attorneys to provide legal advice to the institution of higher education's administration and to coordinate legal affairs within the institution of higher education. The board shall coordinate activities of attorneys at the institutions of higher education. The institutions of higher education shall provide an annual report to the board on the activities of appointed attorneys. These appointed attorneys may not conduct litigation, settle claims covered by the State Risk Management Fund, or issue formal legal opinions, but shall, in all respects, cooperate with the Office of the Attorney General in providing legal representation to the institution of higher education;

(b) provide for the constitution, government, and organization of the faculty and administration, and enact implementing rules, including the establishment of a prescribed system of tenure;

(c) authorize the faculty to determine the general initiation and direction of instruction and of the examination, admission, and classification of students. In recognition of the diverse nature and traditions of the various institutions governed by the board, the systems of faculty government need not be identical but should be designed to further faculty identification with and involvement in the institution's pursuit of achievement and excellence and in fulfillment of the institution's role as established in the statewide master plan for higher education; and

(d) enact rules for administration and operation of the institution which are consistent with the prescribed role established by the board, rules enacted by the board, or the laws of the state. The rules may provide for administrative, faculty, student, and joint committees with jurisdiction over specified institutional matters, for student government and student affairs organization, for the establishment of institutional standards in furtherance of the ideals of higher education fostered and subscribed to by the institution of higher education, the institution of higher education's administration, faculty, and students,

and for the holding of classes on legal holidays, other than Sunday.

(3) An institution of higher education president shall manage the president's institution as a part of the Utah system of higher education.

~~[(3)]~~ (4) Compensation costs and related office expenses for appointed attorneys shall be funded within existing budgets.

~~[(4)]~~ (5) The ~~[State Board of Regents]~~ board shall establish guidelines relating to the roles and relationships between institutional presidents and boards of trustees, including those matters which must be approved by a board of trustees before implementation by the president.

~~[(5)]~~ (6) This section does not apply to a technical college president.

**Section 62. Section 53B-2a-100.5 is amended to read:**

#### CHAPTER 2a. TECHNICAL COLLEGES

##### 53B-2a-100.5. Title.

This chapter is known as "[~~Utah System of~~ Technical Colleges."

**Section 63. Section 53B-2a-101 is amended to read:**

##### 53B-2a-101. Definitions.

As used in this chapter:

~~[(1) "Board of trustees" means the UTech Board of Trustees.]~~

~~[(2)]~~ (1) "Capital developments" means the same as that term is defined in Section 63A-5-104.

~~[(3) "Commissioner of technical education" means the UTech commissioner of technical education.]~~

~~[(4)]~~ (2) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

~~[(5)]~~ (3) "Dedicated project" means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

~~[(6)]~~ (4) "Nondedicated project" means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

~~[(7)]~~ (5) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;

(b) students have the flexibility to begin or end study at any time, progress through course material

at their own pace, and demonstrate competency when knowledge and skills have been mastered; and

(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.

[~~(8)~~] (6) "State funds" means the same as that term is defined in Section 63A-5-104.

[~~(9)~~] "UTech" means the Utah System of Technical Colleges described in Section 53B-1-102.]

**Section 64. Section 53B-2a-104 is amended to read:**

**53B-2a-104. Utah System of Technical Colleges Board of Trustees powers and duties.**

(1) [The board of trustees] Except as provided in Subsection (2), the Utah System of Technical Colleges Board of Trustees is vested with the control, management, and supervision of technical colleges in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to the board of trustees.

(2) Beginning on July 1, 2020:

(a) the Utah System of Technical Colleges Board of Trustees no longer has duties or authorities; and

(b) in accordance with Title 53B, Chapter 1, Part 5, Transition to Utah Board of Higher Education, the Utah Board of Higher Education assumes all statutory powers, duties, authorities, and budgetary authority of the Utah System of Technical Colleges Board of Trustees.

[~~(2)~~] The board of trustees shall:

[~~(a)~~] ensure that a technical college complies with the requirements in Section 53B-2a-106;]

[~~(b)~~] appoint the commissioner of technical education in accordance with Section 53B-2a-102;]

[~~(c)~~] advise the commissioner of technical education and the State Board of Regents on issues related to career and technical education, including articulation with institutions of higher education and public education;]

[~~(d)~~] ensure that a secondary student in the public education system has access to career and technical education through a technical college in the secondary student's service region;]

[~~(e)~~] in consultation with the State Board of Education, the State Board of Regents, and technical college presidents, develop strategies for providing career and technical education in rural areas, considering distances between rural career and technical education providers;]

[~~(f)~~] receive budget requests from each technical college, compile and prioritize the requests, and submit the request to:]

[~~(i)~~] the Legislature; and]

[~~(ii)~~] the Governor's Office of Management and Budget;]

[~~(g)~~] receive funding requests pertaining to capital facilities and land purchases from each technical college, ensure that the requests comply with Section 53B-2a-112, prioritize the requests, and submit the prioritized requests to the State Building Board;]

[~~(h)~~] comply with Chapter 7, Part 7, Performance Funding;]

[~~(i)~~] in conjunction with the commissioner of technical education, establish benchmarks, provide oversight, evaluate program performance, and obtain independent audits to ensure that a technical college follows the noncredit career and technical education mission described in this part;]

[~~(j)~~] approve programs for UTech;]

[~~(k)~~] approve the tuition rates for technical colleges;]

[~~(l)~~] prepare and submit an annual report detailing the board of trustees' progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:]

[~~(i)~~] how the career and technical education needs of secondary students are being met, including what access secondary students have to programs offered at technical colleges;]

[~~(ii)~~] how the emphasis on high demand, high wage, and high skill jobs in business and industry described in Section 53B-2a-106 is being provided;]

[~~(iii)~~] performance outcomes, including:]

[~~(A)~~] performance on the metrics described in Section 53B-7-707; and]

[~~(B)~~] earnings; and]

[~~(iv)~~] student tuition and fees; and]

[~~(m)~~] collaborate with the State Board of Regents, the State Board of Education, the Department of Workforce Services, and the Governor's Office of Economic Development on the delivery of career and technical education.]

[~~(3)~~] The board of trustees, the commissioner of technical education, or a technical college president or board of directors may not conduct a feasibility study or perform another act relating to offering a degree or awarding credit.]

**Section 65. Section 53B-2a-105 is amended to read:**

**53B-2a-105. Technical colleges.**

[UTech is composed of the] Utah has the following technical colleges:

(1) Bridgerland Technical College, which serves the geographic area encompassing:

(a) the Box Elder School District;

(b) the Cache School District;

(c) the Logan School District; and

- (d) the Rich School District;
- (2) Ogden-Weber Technical College, which serves the geographic area encompassing:
- (a) the Ogden City School District; and
- (b) the Weber School District;
- (3) Davis Technical College, which serves the geographic area encompassing:
- (a) the Davis School District; and
- (b) the Morgan School District;
- (4) Tooele Technical College, which serves the geographic area encompassing the Tooele County School District;
- (5) Mountainland Technical College, which serves the geographic area encompassing:
- (a) the Alpine School District;
- (b) the Nebo School District;
- (c) the Provo School District;
- (d) the South Summit School District;
- (e) the North Summit School District;
- (f) the Wasatch School District; and
- (g) the Park City School District;
- (6) Uintah Basin Technical College, which serves the geographic area encompassing:
- (a) the Daggett School District;
- (b) the Duchesne School District; and
- (c) the Uintah School District;
- (7) Southwest Technical College, which serves the geographic area encompassing:
- (a) the Beaver School District;
- (b) the Garfield School District;
- (c) the Iron School District; and
- (d) the Kane School District; and
- (8) Dixie Technical College, which serves the geographic area encompassing the Washington School District.

**Section 66. Section 53B-2a-106 is amended to read:**

**53B-2a-106. Technical colleges -- Duties.**

- (1) Each technical college shall, within the geographic area served by the technical college:
- (a) offer ~~[a noncredit postsecondary and secondary career and]~~ technical education ~~[curriculum]~~ programs;
- (b) offer ~~[that curriculum]~~ a program described in Subsection (1)(a) at:
- (i) low cost to adult students, as approved by the board ~~[of trustees]~~; and
- (ii) no tuition to secondary students;

~~[(c) provide career and technical education that will result in:]~~

~~[(i) appropriate licensing, certification, or other evidence of completion of training; and]~~

~~[(ii) qualification for specific employment, with an emphasis on high demand, high wage, and high skill jobs in business and industry;]~~

~~[(d)]~~ (c) develop cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of instructional facilities within the geographic area served by the technical college; and

~~[(e)]~~ (d) after consulting with school districts and charter schools within the geographic area served by the technical college:

(i) ensure that secondary students in the public education system have access to ~~[career and]~~ technical education at the technical college; and

(ii) prepare and submit an annual report to the board ~~[of trustees]~~ detailing:

(A) how the ~~[career and]~~ technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at the technical college;

(C) how the ~~[emphasis on]~~ technical college emphasizes high demand, high wage, high skill jobs in business and industry ~~[described in Subsection (1)(e)(ii) is being provided]~~; and

(D) student tuition and fees.

(2) A technical college may offer:

(a) a competency-based high school diploma approved by the State Board of Education in accordance with Section 53E-3-501;

(b) ~~[noncredit,]~~ basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen ~~[career and]~~ technical education or job-related program;

(c) ~~[noncredit]~~ courses of interest when similar offerings to the community are limited and courses are financially self-supporting; and

(d) secondary school level courses through the Statewide Online Education Program in accordance with Section 53F-4-504.

(3) Except as provided in Subsection (2)(d), a technical college may not:

(a) offer courses other than ~~[noncredit career and]~~ technical education or the ~~[noncredit,]~~ basic instruction described in Subsections (2)(b) and (c);

(b) offer a degree;

(c) offer ~~[career and]~~ technical education or basic instruction outside the geographic area served by the technical college without a cooperative agreement between an affected institution of higher education, except as provided in Subsection ~~[(6)]~~ (5);



(d) provide tenure or academic rank for its instructors; or

(e) participate in intercollegiate athletics.

(4) The mission of a technical college is limited to ~~noncredit career and~~ technical education and may not expand to include ~~[credit-based]~~ academic programs ~~[typically offered by community colleges or other institutions of higher education]~~ that lead to a degree.

~~[(5) A technical college shall be recognized as a member of UTech, and regional affiliation shall be retained and recognized through local designations such as "Bridgerland Technical College: A member technical college of the Utah System of Technical Colleges."]~~

~~[(6)]~~ (5) (a) A technical college may offer ~~[career and]~~ technical education or basic instruction outside the geographic area served by the technical college without a cooperative agreement, as required in Subsection (3)(c), if:

(i) the ~~[career and]~~ technical education or basic instruction is specifically requested by:

(A) an employer; or

(B) a craft, trade, or apprenticeship program;

(ii) the technical college notifies the affected institution about the request; and

(iii) the affected institution is given an opportunity to make a proposal, prior to any contract being finalized or training being initiated by the technical college, to the employer, craft, trade, or apprenticeship program about offering the requested ~~[career and]~~ technical education or basic instruction, provided that the proposal shall be presented no later than one business week from the delivery of the notice described under Subsection ~~[(6)]~~ (5)(a)(ii).

(b) The requirements under Subsection ~~[(6)]~~ (5)(a)(iii) do not apply if there is a prior training relationship.

**Section 67. Section 53B-2a-107 is amended to read:**

**53B-2a-107. Technical college presidents -- Appointments -- Duties.**

(1) (a) The board ~~[of trustees]~~ shall appoint a president for each technical college.

(b) The board ~~[of trustees]~~ shall establish a policy for appointing a technical college president that:

(i) requires the board ~~[of trustees]~~ to create, or delegate to the technical college board of trustees to create, a search committee that:

(A) includes ~~[an equal number of board of trustees]~~ board members and at least as many members from the technical college board of ~~[directors]~~ trustees as members from the board; and

(B) may include technical college faculty, students, or other individuals;

(ii) requires the search committee to seek nominations, interview candidates, and forward qualified candidates to the board ~~[of trustees]~~ for consideration;

(iii) provides for at least two members of the technical college board of ~~[directors]~~ trustees to participate in ~~[board of trustees']~~ the board's interviews of finalists; ~~[and]~~

(iv) provides for the board ~~[of trustees]~~ to vote to appoint a technical college president in a meeting that complies with Title 52, Chapter 4, Open and Public Meetings Act~~[-]~~; and

(v) provides for the commissioner to provide staff support for a search committee.

(c) (i) Except as provided in Subsection (1)(c)(ii), a record or information gathered or generated during the search process for a technical college president, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

(ii) Application materials for a publicly named finalist are not protected records under Section 63G-2-305.

(2) (a) A technical college president shall serve as the chief executive officer of the technical college.

(b) A technical college president does not need to have a doctorate degree, but shall have extensive experience in career and technical education.

(c) A technical college president is subject to regular review and evaluation administered by the board ~~[of trustees]~~, in consultation with the technical college board of ~~[directors]~~ trustees, through a process approved by the board ~~[of trustees]~~.

(d) A technical college president serves at the pleasure of the board ~~[of trustees]~~.

(e) The board ~~[of trustees]~~, in consultation with a technical college board of ~~[directors]~~ trustees, shall set the compensation for the technical college president using market survey information.

(3) A technical college president shall:

(a) serve as the executive officer of the technical college board of ~~[directors]~~ trustees;

(b) administer the day-to-day operations of the technical college;

(c) consult with the technical college board of ~~[directors; and]~~ trustees;

(d) administer human resource policies and employee compensation plans in accordance with the requirements of the board ~~[of trustees.];~~ and

(e) manage the technical college president's institution as part of the Utah system of higher education.

**Section 68. Section 53B-2a-108 is amended to read:**

**53B-2a-108. Technical college boards of trustees -- Membership -- Appointments.**

(1) As used in this section:

(a) “Higher education institution” means the same as that term is defined in Section 53B-2a-112.

(b) “Technical college service area” means the geographic area served by each technical college as described in Section 53B-2a-105.

(2) A technical college board of [directors] trustees consists of:

(a) one member of the local school board for each school district in the technical college service area, appointed by the local school board to which the member belongs;

(b) except as provided in Subsection (3)(b), one individual who is a member of the higher education institution board of trustees, appointed by the higher education institution board of trustees; and

(c) a number of individuals, appointed by the governor with the advice and consent of the Senate, that is:

(i) seven for:

(A) Tooele Technical College;

(B) Uintah Basin Technical College; and

(C) Dixie Technical College;

(ii) eight for:

(A) Bridgerland Technical College;

(B) Ogden-Weber Technical College;

(C) Davis Technical College; and

(D) Southwest Technical College; or

(iii) nine for Mountainland Technical College.

(3) (a) In appointing the members described in Subsection (2)(c), the governor shall appoint individuals who represent the interests of business, industry, or labor in the technical college service area.

(b) If no member of the institution of higher education board of trustees lives within the technical college service area, the institution of higher education board of trustees may nominate an individual to be appointed by the governor with the advice and consent of the Senate instead of appointing a member described in Subsection (2)(b).

(4) (a) The governor may remove a member appointed under Subsection (2)(c) or (3)(b) for cause.

(b) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (2)(c) or (3)(b).

(5) (a) Notwithstanding Subsection (2) or 53B-2a-109(2), an individual appointed to a technical college board of [directors] trustees on or before May 7, 2018, may continue to serve on the technical college board of [directors] trustees until the end of the individual’s current term, even if the

total number of members on the technical college board of [directors] trustees exceeds the number of members for the technical college board of [directors] trustees described in Subsection (2).

(b) Notwithstanding Subsection (2), the governor may only make an appointment described in Subsection (2)(c) if the number of members on the technical college board of [directors] trustees following the appointment will be less than or equal to the number of members for the technical college board of [directors] trustees described in Subsection (2).

**Section 69. Section 53B-2a-109 is amended to read:**

**53B-2a-109. Technical college boards of trustees -- Terms -- Quorum -- Chair -- Compensation.**

(1) (a) Except as provided in this Subsection (1), a member of a technical college board of [directors] trustees is appointed to a four-year term.

(b) The governor may appoint a member described in Subsection 53B-2a-108(2)(c) to a two-year term to ensure that the terms of approximately half of the members described in Subsection 53B-2a-108(2)(c) expire every other year.

(c) When a vacancy occurs in the membership of a technical college board of [directors] trustees, the appointing authority for the vacant position described in Section 53B-2a-108 shall appoint a replacement for the remainder of the term.

(d) An appointed member holds office until a successor is appointed in accordance with Section 53B-2a-108.

(2) A member of a technical college board of [directors] trustees may not hold office for more than two consecutive full terms.

(3) A majority of a technical college board of [directors] trustees is a quorum.

(4) A technical college board of [directors] trustees shall elect a chair from the technical college board of [directors] trustees’ membership.

(5) A member of a technical college board of [directors] trustees may not receive compensation or benefits for the member of the technical college board of [directors] trustees’ service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) (a) A technical college board of [directors] trustees may enact bylaws for the technical college board of [directors] trustees’ own government, including provisions for regular meetings, that are in accordance with the policies of the board [of trustees].

(b) (i) A technical college board of [directors] trustees may provide for an executive committee in

the technical college board of ~~[directors]~~ trustees' bylaws.

(ii) If established, an executive committee shall have the full authority of the technical college board of ~~[directors]~~ trustees to act upon routine matters during the interim between board of ~~[directors]~~ trustees' meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the technical college board of ~~[directors]~~ trustees at the technical college board of ~~[directors]~~ trustees' next regular meeting following the activities.

(7) A technical college board of ~~[directors]~~ trustees may establish advisory committees.

**Section 70. Section 53B-2a-110 is amended to read:**

**53B-2a-110. Technical college board of trustees' powers and duties.**

(1) A technical college board of ~~[directors]~~ trustees shall:

(a) assist the technical college president in preparing a budget request for the technical college's annual operations to the board ~~[of trustees]~~;

(b) after consulting with the board ~~[of trustees]~~, other higher education institutions, school districts, and charter schools within the technical college's region, prepare a comprehensive strategic plan for delivering ~~[career and]~~ technical education within the region;

(c) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Development, and the Governor's Office of Management and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah businesses and industries;

(d) in accordance with Section 53B-16-102, develop programs based upon the information ~~[gathered in accordance with]~~ described in Subsection (1)(c), including expedited program approval and termination procedures to meet market needs;

(e) adopt an annual budget and fund balances;

(f) develop policies for the operation of ~~[career and]~~ technical education facilities under the technical college board of ~~[directors]~~ trustees' jurisdiction;

(g) establish human resources and compensation policies for all employees in accordance with policies of the board ~~[of trustees]~~;

(h) approve credentials for employees and assign employees to duties in accordance with board ~~[of trustees]~~ policies and accreditation guidelines;

(i) conduct annual program evaluations;

(j) appoint program advisory committees and other advisory groups to provide counsel, support, and recommendations for updating and improving the effectiveness of training programs and services;

(k) approve regulations, both regular and emergency, to be issued and executed by the technical college president;

(l) coordinate with local school boards, school districts, and charter schools to meet the ~~[career and]~~ technical education needs of secondary students; ~~[and]~~

(m) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the board ~~[of trustees]~~ and the State Board of Education~~[-]; and~~

(n) (i) approve a strategic plan for the technical college that is aligned with:

(A) state attainment goals;

(B) workforce needs; and

(C) the technical college's role, mission, and distinctiveness; and

(ii) monitor the technical college's progress toward achieving the strategic plan.

(2) A policy described in Subsection (1)(g) does not apply to compensation for a technical college president.

(3) A technical college board of ~~[directors]~~ trustees may not exercise jurisdiction over career and technical education provided by a school district or charter school or provided by a higher education institution independently of the technical college.

(4) If a program advisory committee or other advisory group submits a printed recommendation to a technical college board of ~~[directors]~~ trustees, the technical college board of ~~[directors]~~ trustees shall acknowledge the recommendation with a printed response that explains the technical college board of ~~[directors]~~ trustees' action regarding the recommendation and the reasons for the action.

**Section 71. Section 53B-2a-112 is amended to read:**

**53B-2a-112. Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.**

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) Dixie State University for Dixie Technical College.

~~[(2) A technical college shall avoid any unnecessary duplication of career and technical education instructional facilities, programs, administration, and staff between the technical college and other public and higher education institutions.]~~

~~[(3)] (2)~~ A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships; or

(b) with other public and higher education institutions to enhance career and technical education within the technical college's region~~[-or-]~~.

~~[(c) to comply with Subsection (2).]~~

~~[(4)] (3)~~ Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's higher education institution and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

~~[(5)] (4)~~ (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board ~~[of trustees]~~, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections ~~[(4)] (3)~~(a) through (c); and

(ii) coordinate the request with the president of the technical college's higher education institution, if applicable.

(b) The State Building Board shall make a finding that the requirements of this section are met before the State Building Board may consider a funding request from the board ~~[of trustees]~~ pertaining to

new capital facilities and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

~~[(6)] (5)~~ Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of career and technical education in the region;

(b) determine the feasibility of using existing systems; and

(c) with the approval of the technical college board of ~~[directors]~~ trustees and the board ~~[of trustees]~~, use the existing systems.

**Section 72. Section 53B-2a-113 is amended to read:**

**53B-2a-113. Technical colleges -- Leasing authority -- Lease-purchase agreements -- Report.**

(1) ~~[In accordance with Subsection 53B-2a-112(2), a]~~ A technical college may enter into a lease with other higher education institutions, school districts, charter schools, state agencies, or business and industry for a term of:

(a) one year or less with the approval of the technical college board of ~~[directors]~~ trustees; or

(b) more than one year with the approval of the board ~~[of trustees and]~~ if:

(i) ~~[the approval of]~~ the Legislature approves funding for the lease ~~[by the Legislature]~~ prior to a technical college entering into the lease; or

(ii) the lease agreement includes language that allows termination of the lease without penalty.

(2) (a) ~~[In accordance with Subsection 53B-2a-112(2), a]~~ A technical college may enter into a lease-purchase agreement if:

(i) there is a long-term benefit to the state;

(ii) the project is included in ~~[both]~~ the technical college ~~[and UTech master plans]~~ master plan;

(iii) the lease-purchase agreement includes language that allows termination of the lease;

(iv) the lease-purchase agreement is approved by the technical college board of ~~[directors]~~ trustees and the board ~~[of trustees]~~; and

(v) the lease-purchase agreement is:

(A) reviewed by the Division of Facilities Construction and Management;

(B) reviewed by the State Building Board; and

(C) approved by the Legislature.

(b) An approval under Subsection (2)(a) shall include a recognition of:

- (i) all parties, dates, and elements of the agreement;
- (ii) the equity or collateral component that creates the benefit; and
- (iii) the options dealing with the sale and division of equity.

(3) (a) Each technical college shall provide an annual lease report to the board [of trustees] that details each of the technical college's leases, annual costs, location, square footage, and recommendations for lease continuation.

(b) The board [of trustees] shall compile and distribute an annual combined lease report for all technical colleges to the Division of Facilities Construction and Management and to others upon request.

(4) The board [of trustees] shall use the annual combined lease report in determining planning, utilization, and budget requests.

**Section 73. Section 53B-2a-114 is amended to read:**

**53B-2a-114. Educational program on the use of information technology.**

(1) [U~~Tee~~h] The board, through the technical colleges, shall offer an educational program on the use of information technology as provided in this section.

(2) An educational program on the use of information technology shall:

- (a) provide instruction on skills and competencies essential for the workplace and requested by employers;
- (b) include the following components:
  - (i) a curriculum;
  - (ii) online access to the curriculum;
  - (iii) instructional software for classroom and student use;
  - (iv) certification of skills and competencies most frequently requested by employers;
  - (v) professional development for faculty; and
  - (vi) deployment and program support, including integration with existing curriculum standards; and
- (c) be made available to students, faculty, and staff of technical colleges.

**Section 74. Section 53B-2a-115 is amended to read:**

**53B-2a-115. Utah System of Technical Colleges -- Institutional name changes.**

(1) Beginning July 1, 2017:

[~~(a) the Utah College of Applied Technology shall be known as the Utah System of Technical Colleges;~~]

[~~(b)~~] (a) Bridgerland Applied Technology College shall be known as Bridgerland Technical College;

[~~(c)~~] (b) Ogden-Weber Applied Technology College shall be known as Ogden-Weber Technical College;

[~~(d)~~] (c) Davis Applied Technology College shall be known as Davis Technical College;

[~~(e)~~] (d) Tooele Applied Technology College shall be known as Tooele Technical College;

[~~(f)~~] (e) Mountainland Applied Technology College shall be known as Mountainland Technical College;

[~~(g)~~] (f) Uintah Basin Applied Technology College shall be known as Uintah Basin Technical College;

[~~(h)~~] (g) Southwest Applied Technology College shall be known as Southwest Technical College; and

[~~(i)~~] (h) Dixie Applied Technology College shall be known as Dixie Technical College.

(2) (a) As described in Subsection (1), [~~the Utah System of Technical Colleges is a continuation of the Utah College of Applied Technology and~~] each technical college is a continuation of the applied technology college that preceded the technical college.

(b) An institution described in Subsection (1):

- (i) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the institution that preceded the institution; and
- (ii) shall fulfill and perform all obligations of the institution that preceded the institution, including obligations relating to outstanding bonds and notes.

**Section 75. Section 53B-2a-116 is amended to read:**

**53B-2a-116. Technical college scholarships.**

(1) As used in this section:

- (a) "High demand program" means a program designated by the board [of trustees] in accordance with Subsection (7).
- (b) "Institution of higher education" means an institution [~~within the Utah System of Higher Education~~] described in Subsection 53B-1-102(1)(a).
- (c) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.
- (d) "Scholarship" means a technical college scholarship described in this section.
- (e) "Technical college service area" means the same as that term is defined in Section 53B-2a-108.

(2) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to the board [of trustees] to be distributed to technical colleges to award scholarships.

(b) The board [~~of trustees~~] shall annually distribute:

(i) 50% of the appropriation described in Subsection (2)(a) to each technical college in an equal amount; and

(ii) 50% of the appropriation described in Subsection (2)(a) to each technical college based on the technical college's prior year share of secondary student membership hours completed at all technical colleges.

(3) In accordance with the rules described in Subsection (6), a technical college may award a scholarship to an individual who:

(a) graduates or will graduate from high school within the 12 months prior to the individual receiving a scholarship;

(b) is enrolled in, or intends to enroll in, a high demand program; and

(c) while the individual is enrolled in a secondary school, makes satisfactory progress in a career and technical education pathway offered by:

(i) a technical college;

(ii) an institution of higher education; or

(iii) a school district or charter school.

(4) Subject to Subsection (5), a technical college may award a scholarship for an amount of money up to the total cost of tuition, program fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(5) (a) Except as provided in Subsection (5)(b), a technical college may only apply a scholarship toward a scholarship recipient's costs described in Subsection (4) from the day on which the technical college awards the scholarship until 12 months after the day on which the scholarship recipient graduates from high school.

(b) (i) A technical college may defer a scholarship for up to three years after the day on which the scholarship recipient graduates from high school.

(ii) A technical college that defers a scholarship may apply the scholarship toward the scholarship recipient's costs described in Subsection (4) for up to a total of 12 months.

(c) A technical college may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the technical college on at least a half time basis, as determined by the technical college; or

(ii) make satisfactory progress toward the completion of a certificate.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board [~~of trustees~~] shall make rules that establish:

(a) requirements related to a technical college's administration of a scholarship described in this section;

(b) requirements related to eligibility for a scholarship, including requiring technical colleges to prioritize scholarships for underserved populations;

(c) a process for an individual to apply to a technical college to receive a scholarship; and

(d) how to determine satisfactory progress for purposes described in Subsections (3)(c) and (5)(c)(ii).

(7) Every other year, after consulting with the Department of Workforce Services, the board [~~of trustees~~] shall designate, as a high demand program, a technical college program that prepares an individual to work in a job that has, in Utah or in the technical college service area:

(a) high employer demand and high median hourly wages; or

(b) significant industry importance.

**Section 76. Section 53B-2a-117 is amended to read:**

**53B-2a-117. Legislative approval -- Capital development projects -- Prioritization.**

(1) As used in this section:

(a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) "Fund" means the Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(3) In accordance with Section 53B-2a-112, a technical college shall submit to the board [~~of trustees~~] a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(4) The board [~~of trustees~~] shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53B-2a-112;

(b) based on the results of the [~~board of trustees~~] board's review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and

(c) submit the lists described in Subsection (4)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the State Building Board for the State Building Board's:

(A) recommendation, for the list described in Subsection (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(5) A dedicated project:

(a) is subject to the State Building Board's recommendation as described in Section 63A-5-104; and

(b) is not subject to the State Building Board's prioritization as described in Section 63A-5-104.

(6) (a) Subject to Subsection (7), the board [of trustees] shall prioritize funding requests for capital development projects described in this section based on:

- (i) growth and capacity;
- (ii) effectiveness and support of critical programs;
- (iii) cost effectiveness;
- (iv) building deficiencies and life safety concerns; and

(v) alternative funding sources.

(b) [On or before August 1, 2019, the board of trustees] The board shall establish:

(i) how the board [of trustees] will measure each factor described in Subsection (6)(a); and

(ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board [of trustees] may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$7,000,000 but less than \$14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least \$14,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(8) (a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(b) The Legislature shall consider a technical college's request described in Subsection (8)(a).

**Section 77. Section 53B-6-104 is amended to read:**

**53B-6-104. Multi-University Consortium for Teacher Training in Sensory Impairments -- Purposes -- Appropriation.**

(1) (a) In conjunction with the [State Board of Regents'] board's master plan for higher education, there is established a Multi-University Consortium for Teacher Training in Sensory Impairments which is an outgrowth of a consortium established by the federal government.

(b) The consortium shall include within its membership the University of Utah, Utah State University, Brigham Young University, the Utah Schools for the Deaf and the Blind, the Services for At-Risk Students section under the State Board of Education, and local school districts.

(2) The consortium, in collaboration with the [State Board of Regents] board and the State Board of Education, shall develop and implement teacher preparation programs that qualify and certify instructors to work with students who are visually impaired, deaf, or hard of hearing, or both visually impaired and deaf or hard of hearing.

~~[(3) (a) There is appropriated from the General Fund for fiscal year 1994-95, \$200,000 to the State Board of Regents to fund the consortium's teacher preparation programs referred to in Subsection (2).]~~

~~[(b) The appropriation is nonlapsing.]~~

~~[(e) (3) [The State Board of Regents] The board shall consider including within [its] the board's annual budget recommendations a line item appropriation to provide ongoing funding for the programs provided pursuant to this section.~~

**Section 78. Section 53B-6-105.5 is amended to read:**

**53B-6-105.5. Technology Initiative Advisory Board -- Composition -- Duties.**

(1) There is created a Technology Initiative Advisory Board to assist and make recommendations to the [State Board of Regents in its] board in the board's administration of the Engineering and Computer Science Initiative established under Section 53B-6-105.

(2) (a) The advisory board shall consist of individuals appointed by the governor from business and industry who have expertise in the areas of engineering, computer science, and related technologies.

(b) The advisory board shall select a chair and cochair.

(c) The advisory board shall meet at the call of the chair.

(d) The [State Board of Regents] board, through the commissioner of higher education, shall provide staff support for the advisory board.

(3) A member of ~~an~~ the advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) The advisory board shall:

(a) make recommendations to the ~~State Board of Regents~~ board on the allocation and distribution of money appropriated to fund:

(i) the faculty incentive program established in Section 53B-6-105.9; and

(ii) equipment purchases required to improve the quality of instructional programs in engineering, computer science, and related technology;

(b) prepare a strategic plan that details actions required by the ~~State Board of Regents~~ board to meet the intent of the Engineering and Technology Science Initiative;

(c) review and assess engineering, computer science, and related technology programs currently being offered at higher education institutions and their impact on the economic prosperity of the state;

(d) provide the ~~State Board of Regents~~ board with an assessment and reporting plan that:

(i) measures results against expectations under the initiative, including verification of the matching requirements for institutions of higher education to receive money under Section 53B-6-105.9; and

(ii) includes an analysis of market demand for technical employment, program articulation among higher education institutions in engineering, computer science, and related technology, tracking of student placement, student admission to the initiative program by region, transfer rates, and retention in and graduation rates from the initiative program; and

(e) make an annual report of its activities to the ~~State Board of Regents~~ board.

(5) The annual report of the Technology Initiative Advisory Board shall include the summary report of the institutional matches described in Section 53B-6-105.9.

**Section 79. Section 53B-6-105.9 is amended to read:**

**53B-6-105.9. Incentive program for engineering, computer science, and related technology faculty.**

(1) The Legislature shall provide an annual appropriation to help fund the faculty incentive component of the Engineering and Computer Science Initiative established under Section 53B-6-105.

(2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in

engineering, computer science, and related technology fields under guidelines established by the ~~State Board of Regents~~ board.

(3) (a) State institutions of higher education shall match the appropriation on a one-to-one basis in order to qualify for state money appropriated under Subsection (1).

(b) (i) Qualifying institutions shall annually report their matching dollars to the board.

(ii) The board shall make a summary report of the institutional matches.

(iii) The annual report of the Technology Initiative Advisory Board required by Section 53B-6-105.5 shall include the summary report of the institutional matches.

(4) The board shall make ~~a rule~~ rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures to apply for and distribute the state appropriation to qualifying institutions.

**Section 80. Section 53B-6-106 is amended to read:**

**53B-6-106. Jobs Now and economic development initiatives.**

(1) The board shall develop, establish, and maintain:

(a) ~~The Utah System of Technical Colleges Board of Trustees shall develop, establish, and maintain~~ a Jobs Now Initiative, to promote workforce preparation programs that meet critical needs and shortages throughout the state~~[-]; and~~

(b) ~~The State Board of Regents shall develop, establish, and maintain~~ economic development initiatives within the Utah system of higher education.

(2) The initiatives specified in Subsection (1) shall provide support for technical training expansion that trains skilled potential employees within a period not to exceed 12 months for technical jobs in critical needs occupations and other innovative economic development policy initiatives.

(3) (a) Subject to future budget constraints, the Legislature shall provide an annual appropriation to the ~~Utah System of Technical Colleges~~ board to fund the Jobs Now Initiative established in Subsection (1)(a).

(b) (i) ~~The Utah System of Technical Colleges Board of Trustees~~ board shall allocate the appropriation for the Jobs Now Initiative to technical colleges.

(ii) A technical college shall use money received under Subsection (3)(b)(i) for technical training expansion referred to in Subsection (2).

(c) Subject to future budget constraints, the Legislature shall provide an annual appropriation to the ~~State Board of Regents~~ board to fund economic development initiatives established pursuant Subsection (1)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~[-]~~, the board shall



make rules to implement the initiatives described in Subsection (1).

~~[(i) the Utah System of Technical Colleges Board of Trustees shall make rules to implement the Jobs Now Initiative; and]~~

~~[(ii) the board shall make rules to implement economic development initiatives.]~~

**Section 81. Section 53B-7-101 is amended to read:**

**53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.**

(1) As used in this section:

(a) ~~[(i)]~~ “Higher education institution” or “institution” means an institution of higher education listed in Section 53B-1-102.

~~[(ii) “Higher education institution” or “institution” does not include:]~~

~~[(A) the Utah System of Technical Colleges Board of Trustees; or]~~

~~[(B) a technical college.]~~

(b) “Research university” means the University of Utah or Utah State University.

(2) (a) ~~[The]~~ Subject to Subsection (3), the board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.

(b) The board’s combined budget recommendation shall include:

- (i) employee compensation;
- (ii) mandatory costs, including building operations and maintenance, fuel, and power;
- (iii) performance funding described in Part 7, Performance Funding;
- (iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and
- (v) enrollment growth.

(c) The board’s recommendations shall be available for presentation to the governor and to the Legislature at least 30 days before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after ~~[(it)]~~ the board has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.

(3) In the combined request for appropriation, the board shall differentiate between appropriations requested for academic education and appropriations requested for technical education.

~~[(3)]~~ (4) (a) Institutional operating budgets shall be submitted to the board at least 90 days before the convening of the Legislature in accordance with procedures established by the board.

(b) Except as provided in ~~[Section]~~ Sections 53B-2a-117 and 53B-22-204, funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the State Building Board.

~~[(4)]~~ (5) (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

- (i) justifying for higher education institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and
- (ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

~~[(5)]~~ (6) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the Higher Education Appropriations Subcommittee.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the Higher Education Appropriations Subcommittee is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or the Higher Education Appropriations Subcommittee to reconsider both the total amount and the allocation.

~~[(6)]~~ (7) The board may devise, establish, periodically review, and revise formulas for the board’s use and for the use of the governor and the Higher Education Appropriations Subcommittee in making appropriation recommendations.

~~[(7)]~~ (8) (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) The board may fix the tuition, fees, and charges for each institution at levels the board finds necessary to meet budget requirements.

~~[(8)]~~ (9) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

~~[(9)] (10)~~ The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions are appropriated to the respective institutions to be used in accordance with institutional work programs.

~~[(40)] (11)~~ An institution may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.

~~[(11)] (12)~~ If the Legislature appropriates money in accordance with this section, the money shall be distributed to the board and higher education institutions to fund the items described in Subsection (2)(b).

**Section 82. Section 53B-7-104 is amended to read:**

**53B-7-104. Retention of net reimbursed overhead revenues.**

(1) For fiscal year 1990-91 and for each succeeding year, all budget documents for the system of higher education shall reflect retention by the institutions within the system of their net reimbursed overhead revenues for support of research and related programs under policies established by the ~~[State Board of Regents]~~ board. These overhead revenues may not be considered a dedicated credit.

(2) The board, in conjunction with institutions within the system, shall provide the Legislature, through the Office of Legislative Fiscal Analyst, with a complete accounting of the net reimbursed overhead revenues on an annual basis. This accounting shall include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year.

**Section 83. Section 53B-7-702 is amended to read:**

**53B-7-702. Definitions.**

As used in this part:

(1) "Account" means the Performance Funding Restricted Account created in Section 53B-7-703.

(2) "Estimated revenue growth from targeted jobs" means the estimated increase in individual income tax revenue generated by individuals employed in targeted jobs, determined by the Department of Workforce Services in accordance with Section 53B-7-704.

(3) "Full new performance funding amount" means the maximum amount of new performance funding that a ~~[higher education]~~ degree-granting institution or technical college may qualify for in a fiscal year, determined by the Legislature in accordance with Section 53B-7-705.

(4) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(5) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

~~[(6)] "Higher education institution" means the same as that term is defined in Section 53B-7-101.~~

~~[(7)] (6)~~ "Job" means an occupation determined by the Department of Workforce Services.

~~[(8)] (7)~~ "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.

~~[(9)] (8)~~ "New performance funding" means the difference between the total amount of money in the account and the amount of money appropriated from the account for performance funding in the current fiscal year.

~~[(10)] (9)~~ "Performance" means total performance across the metrics described in:

(a) Section 53B-7-706 for a ~~[higher education]~~ degree-granting institution; or

(b) Section 53B-7-707 for a technical college.

~~[(11)] (10)~~ "Research university" means the University of Utah or Utah State University.

~~[(12)] (11)~~ "Targeted job" means a job designated by the Department of Workforce Services or GOED in accordance with Section 53B-7-704.

~~[(13)] (12)~~ "Technical college graduate" means an individual who:

(a) has earned a certificate from an accredited program at a technical college; and

(b) is no longer enrolled in the technical college.

~~[(14)] "Utah System of Technical Colleges" means the Utah System of Technical Colleges described in Chapter 2a, Utah System of Technical Colleges.~~

**Section 84. Section 53B-7-703 is amended to read:**

**53B-7-703. Performance Funding Restricted Account -- Creation -- Deposits into account -- Legislative review.**

(1) There is created within the Education Fund a restricted account known as the "Performance Funding Restricted Account."

(2) Money in the account shall be:

(a) used for performance funding for:

(i) ~~[higher education]~~ degree-granting institutions; and

(ii) technical colleges; and

(b) appropriated by the Legislature in accordance with Section 53B-7-705.

(3) (a) Money in the account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) (a) Except as provided in Subsection (4)(b)(ii), the Division of Finance shall deposit into the account an amount equal to:

(i) 14% of the estimated revenue growth from targeted jobs upon appropriation by the Legislature for the fiscal year beginning on July 1, 2018; and

(ii) 20% of the estimated revenue growth from targeted jobs upon appropriation by the Legislature for a fiscal year beginning on or after July 1, 2019.

(b) (i) As used in this Subsection (4)(b), "total higher education appropriations" means, for the current fiscal year, the total state funded appropriations to:

(A) the ~~[State Board of Regents]~~ board;

(B) ~~[higher education]~~ degree-granting institutions; and

~~[(C) the Utah System of Technical Colleges; and]~~

~~[(D)]~~ (C) technical colleges.

(ii) If a deposit described in Subsection (4)(a) would exceed 10% of total higher education appropriations, upon appropriation by the Legislature, the Division of Finance shall deposit into the account an amount equal to 10% of total higher education appropriations.

(c) The Legislature may appropriate money to the account.

(5) During the interim following a legislative general session in which an amount described in Subsection (4)(b) is deposited into the account, the Higher Education Appropriations Subcommittee shall review performance funding described in this part and make recommendations to the Legislature about:

(a) the performance levels required for ~~[higher education]~~ degree-granting institutions and technical colleges to receive performance funding as described in Section 53B-7-705;

(b) the performance metrics described in Sections 53B-7-706 and 53B-7-707; and

(c) the amount of individual income tax revenue dedicated to higher education performance funding.

**Section 85. Section 53B-7-705 is amended to read:**

**53B-7-705. Determination of full new performance funding amount -- Role of appropriations subcommittee -- Program review.**

(1) In accordance with this section, and based on money deposited into the account, the Legislature shall, as part of the higher education appropriations budget process, annually determine the full new performance funding amount for each:

(a) ~~[higher education]~~ degree-granting institution; and

(b) technical college.

(2) The Legislature shall annually allocate:

(a) 90% of the money in the account to ~~[higher education]~~ degree-granting institutions; and

(b) 10% of the money in the account to technical colleges.

(3) (a) The Legislature shall determine a ~~[higher education]~~ degree-granting institution's full new performance funding amount based on the ~~[higher education]~~ degree-granting institution's prior year share of:

(i) full-time equivalent enrollment in all ~~[higher education]~~ degree-granting institutions; and

(ii) the total state-funded appropriated budget for all ~~[higher education]~~ degree-granting institutions.

(b) In determining a ~~[higher education]~~ degree-granting institution's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i) and (ii).

(4) (a) The Legislature shall determine a technical college's full new performance funding amount based on the technical college's prior year share of:

(i) membership hours for all technical colleges; and

(ii) the total state-funded appropriated budget for all technical colleges.

(b) In determining a technical college's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).

(5) Annually, at least 30 days before the first day of the legislative general session ~~[-(a)]~~ the board shall submit a report to the Higher Education Appropriations Subcommittee on each ~~[higher education]~~ degree-granting institution's ~~[performance; and]~~ and each technical college's performance.

~~[(b) the Utah System of Technical Colleges Board of Trustees shall submit a report to the Higher Education Appropriations Subcommittee on each technical college's performance.]~~

(6) (a) In accordance with this Subsection (6), and based on the ~~[reports]~~ report described in Subsection (5), the Legislature shall determine for each ~~[higher education]~~ degree-granting institution and each technical college:

(i) the portion of the full new performance funding amount earned; and

(ii) the amount of new performance funding to recommend that the Legislature appropriate, from the account, to the ~~[higher education]~~ degree-granting institution or technical college.

(b) (i) A ~~[higher education]~~ degree-granting institution earns the full new performance funding amount if the ~~[higher education]~~ degree-granting institution has a positive change in performance of at least 1% compared to the ~~[higher education]~~ degree-granting institution's average performance over the previous five years.

(ii) (A) Except as provided in Subsection (6)(b)(ii)(B), a technical college earns the full new

performance funding amount if the technical college has a positive change in the technical college's performance of at least 5% compared to the technical college's average performance over the previous five years.

(B) A technical college's change in performance may be compared to the technical college's average performance over fewer than five years in accordance with Subsection 53B-7-707(3)(b).

(c) A ~~[higher education]~~ degree-granting institution or technical college that has a positive change in performance that is less than a change described in Subsection (6)(b) is eligible to receive a prorated amount of the full new performance funding amount.

(d) A ~~[higher education institution]~~ degree-granting or technical college that has a negative change, or no change, in performance over a time period described in Subsection (6)(b) is not eligible to receive new performance funding.

(7) An appropriation described in this section is ongoing.

(8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature may, by majority vote, appropriate or refrain from appropriating money for performance funding as circumstances require in a particular year.

(9) On or before November 1, 2020, the Education Interim Committee, the Higher Education Appropriations Subcommittee, and the governor shall review the implementation of performance funding described in this part.

**Section 86. Section 53B-7-706 is amended to read:**

**53B-7-706. Performance metrics for degree-granting institutions -- Determination of performance.**

(1) (a) The board shall establish a model for determining a ~~[higher education]~~ degree-granting institution's performance.

(b) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(2) (a) The model described in Subsection (1) shall include metrics, including:

(i) completion, measured by degrees and certificates awarded;

(ii) completion by underserved students, measured by degrees and certificates awarded to underserved students;

(iii) responsiveness to workforce needs, measured by degrees and certificates awarded in high market demand fields;

(iv) institutional efficiency, measured by degrees and certificates awarded per full-time equivalent student; and

(v) for a research university, research, measured by total research expenditures.

(b) Subject to Subsection (2)(c), the board shall determine the relative weights of the metrics described in Subsection (2)(a).

(c) The board shall assign the responsiveness to workforce needs metric described in Subsection (2)(a)(iii) a weight of at least 25% when determining ~~[an institution of higher education's]~~ a degree-granting institution's performance.

(3) For each ~~[higher education]~~ degree-granting institution, the board shall annually determine the ~~[higher education]~~ degree-granting institution's:

(a) performance; and

(b) change in performance compared to the ~~[higher education]~~ degree-granting institution's average performance over the previous five years.

(4) The board shall use the model described in this section to make the report described in Section 53B-7-705 for determining a ~~[higher education]~~ degree-granting institution's performance funding for a fiscal year beginning on or after July 1, 2018.

**Section 87. Section 53B-7-707 is amended to read:**

**53B-7-707. Performance metrics for technical colleges -- Determination of performance.**

(1) (a) The ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall establish a model for determining a technical college's performance.

(b) The ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(2) (a) The model described in Subsection (1) shall include metrics, including:

(i) completions, measured by certificates awarded;

(ii) short-term occupational training, measured by completions of:

(A) short-term occupational training that takes less than 60 hours to complete; and

(B) short-term occupational training that takes at least 60 hours to complete;

(iii) secondary completions, measured by:

(A) completions of competencies sufficient to be recommended for high school credits;

(B) certificates awarded to secondary students; and

(C) retention of certificate-seeking high school graduates as certificate-seeking postsecondary students;

(iv) placements, measured by:

(A) total placements in related employment, military service, or continuing education;

- (B) placements for underserved students; and
- (C) placements from high impact programs; and
- (v) institutional efficiency, measured by the number of technical college graduates per 900 membership hours.

(b) The ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall determine the relative weights of the metrics described in Subsection (2)(a).

(3) (a) For each technical college, the ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall annually determine the technical college's:

- (i) performance; and
- (ii) except as provided in Subsection (3)(b), change in performance compared to the technical college's average performance over the previous five years.

(b) For performance during a fiscal year before fiscal year 2020, if comparable performance data is not available for the previous five years, the ~~[Utah System of Technical Colleges Board of Trustees]~~ board may determine a technical college's change in performance using the average performance over the previous three or four years.

**Section 88. Section 53B-8-101 is amended to read:**

**53B-8-101. Waiver of tuition.**

(1) (a) The president of an institution of higher education described in Section 53B-2-101 may waive all or part of the tuition on behalf of meritorious or impecunious resident students to an amount not exceeding 10% of the total amount of tuition which, in the absence of the waivers, would have been collected from all Utah resident students at the institution of higher education.

(b) (i) Two and a half percent of the waivers designated in Subsection (1)(a) shall be set aside for members of the Utah National Guard.

(ii) A waiver described in Subsection (1)(b)(i) shall be preserved by the student at least 60 days before the beginning of an academic term.

(2) (a) A president of an institution of higher education listed in Subsections 53B-2-101(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a meritorious nonresident undergraduate student.

(b) In determining which students are meritorious for purposes of granting a tuition waiver under Subsection (2)(a), a president shall consider students who are performing above the average at the institution of higher education, including having an admissions index higher than the average for the institution, if an admissions index is used.

(c) A president of an institution of higher education may continue to waive the nonresident portion of tuition for a student described in

Subsection (2)(a) for as long as the student is enrolled at the institution of higher education.

(d) In addition to waiving the nonresident portion of tuition for a meritorious nonresident student under Subsection (2)(a), a president of an institution of higher education may waive the resident portion of tuition after the meritorious nonresident student completes a year of full-time study at the institution of higher education.

(3) To encourage students to enroll for instruction in occupations critical to the state for which trained personnel are in short supply, a president of an institution of higher education shall grant additional full or partial tuition waivers upon recommendation of ~~the~~ the board.

~~[(a) the board, for an institution of higher education described in Subsections 53B-2-101(1)(a) through (h); or]~~

~~[(b) the Utah System of Technical Colleges Board of Trustees, for a technical college.]~~

(4) A president of an institution of higher education may waive all or part of the difference between resident and nonresident tuition for:

- (a) meritorious graduate students; or
- (b) nonresident summer school students.

(5) The board may establish policies that:

(a) require an institution of higher education described in Subsections 53B-2-101(1)(a) through (h) to regularly assess and report whether the institution of higher education's use of tuition waivers supports the goals established by the board in accordance with Section ~~[53B-1-103]~~ 53B-1-402 for the institution of higher education;

(b) subject to the provisions of this section, establish the amount or percentage of tuition that an institution of higher education may waive;

(c) define the terms "meritorious" and "impecunious," as the terms apply to tuition waivers for resident students described in Subsection (1)(a); and

(d) establish limitations on an institution of higher education's allocation of waivers described in Subsection (1)(a) for resident students who are meritorious or resident students who are impecunious.

(6) (a) The board shall submit an annual budget appropriation request for each institution of higher education described in ~~[Subsections 53B-2-101(1)(a) through (h)]~~ Section 53B-2-101.

~~[(b) The Utah System of Technical Colleges Board of Trustees shall submit an annual budget appropriation request for each technical college.]~~

~~[(e)]~~ (b) A request described in Subsection (6)(a) ~~[or (b)]~~ shall include requests for funds sufficient in amount to equal the estimated loss of dedicated credits that would be realized if all of the tuition waivers authorized by Subsection (2) were granted.

**Section 89. Section 53B-8-103 is amended to read:**

**53B-8-103. Waiver of nonresident differential in tuition rates -- Dixie State University good neighbor tuition waivers.**

(1) Notwithstanding any other provision of law:

(a) (i) The board may determine when to grant a full or partial waiver of the nonresident differential in tuition rates charged to undergraduate students pursuant to reciprocal agreements with other states.

(ii) In making the determination described under Subsection (1)(a)(i), the board shall consider the potential of the waiver to:

(A) enhance educational opportunities for Utah residents;

(B) promote mutually beneficial cooperation and development of Utah communities and nearby communities in neighboring states;

(C) contribute to the quality of educational programs; and

(D) assist in maintaining the cost effectiveness of auxiliary operations in Utah institutions of higher education.

(b) (i) Consistent with its determinations made pursuant to Subsection (1)(a), the board may enter into agreements with other states to provide for a full or partial reciprocal waiver of the nonresident tuition differential charged to undergraduate students.

(ii) An agreement shall provide for the numbers and identifying criteria of undergraduate students, and shall specify the institutions of higher education that will be affected by the agreement.

(c) The board shall establish policy guidelines for the administration by the affected Utah institutions of any tuition waivers authorized under this section, for evaluating applicants for such waivers, and for reporting the results of the reciprocal waiver programs authorized by this section.

(d) A report and financial analysis of any waivers of tuition authorized under this section shall be submitted annually to the general session of the Legislature as part of the budget recommendations of the board for the system of higher education.

(2) (a) Dixie State University may offer a good neighbor full waiver of the nonresident differential in tuition rates charged to undergraduate students:

(i) pursuant to reciprocal agreements with other states; or

(ii) to a resident of a county that has a portion of the county located within 70 miles of the main campus of Dixie State University.

(b) (i) A student who attends Dixie State University under a good neighbor tuition waiver shall pay a surcharge per credit hour in addition to

the regular resident tuition and fees of Dixie State University.

(ii) The surcharge per credit hour shall be based on a percentage of the approved resident tuition per credit hour each academic year.

(iii) The percentage assessed as a surcharge per credit hour shall be set by the [~~State Board of Regents~~] board.

(c) Dixie State University may restrict the number of good neighbor tuition waivers awarded.

(d) A student who attends Dixie State University on a good neighbor tuition waiver may not count the time during which the waiver is received towards establishing resident student status in Utah.

**Section 90. Section 53B-8-104 is amended to read:**

**53B-8-104. Nonresident partial tuition scholarships.**

(1) The board may grant a scholarship for partial waiver of the nonresident portion of total tuition charged by public institutions of higher education to nonresident undergraduate students, subject to the limitations provided in this section, if the board determines that the scholarship will:

(a) promote mutually beneficial cooperation between Utah communities and nearby communities in states adjacent to Utah;

(b) contribute to the quality and desirable cultural diversity of educational programs in Utah institutions;

(c) assist in maintaining an adequate level of service and related cost-effectiveness of auxiliary operations in Utah institutions of higher education; and

(d) promote enrollment of nonresident students with high academic aptitudes.

(2) The board shall establish policy guidelines for the administration by institutions of higher education of any partial tuition scholarships authorized under this section, for evaluating applicants for those scholarships, and for reporting the results of the scholarship program authorized by this section.

(3) The policy guidelines promulgated by the board under Subsection (2) shall include the following provisions:

(a) the amount of the approved scholarship may not be more than 1/2 of the differential tuition charged to nonresident students for an equal number of credit hours of instruction;

(b) a nonresident partial tuition scholarship may be awarded initially only to a nonresident undergraduate student who has not previously been enrolled in a college or university in Utah and who has enrolled full time for 10 or more credit hours, whose legal domicile is within approximately 100 highway miles of the Utah system of higher education institution at which the recipient wishes to enroll or such distance that the [~~regents~~] board may establish for any institution;

(c) the total number of nonresident partial tuition scholarships granted may not exceed a total of 600 such scholarships in effect at any one time; and

(d) the board shall determine eligibility for nonresident partial tuition scholarships on the basis of program availability at an institution and on a competitive basis, using quantifiable measurements such as grade point averages and results of test scores.

(4) The board shall submit an annual report and financial analysis of the effects of offering nonresident partial tuition scholarships authorized under this section to the Higher Education Appropriations Subcommittee as part of the board's budget recommendations for the system of higher education.

**Section 91. Section 53B-8-106 is amended to read:**

**53B-8-106. Resident tuition -- Requirements -- Rules.**

(1) If allowed under federal law, a student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, shall be exempt from paying the nonresident portion of total tuition if the student:

(a) attended high school in this state for three or more years;

(b) graduated from a high school in this state or received the equivalent of a high school diploma in this state; and

(c) registers as an entering student at an institution of higher education not earlier than the fall of the 2002-03 academic year.

(2) In addition to the requirements under Subsection (1), a student without lawful immigration status shall file an affidavit with the institution of higher education stating that the student has filed an application to legalize his immigration status, or will file an application as soon as he is eligible to do so.

(3) The ~~[State Board of Regents]~~ board shall make rules for the implementation of this section.

(4) Nothing in this section limits the ability of institutions of higher education to assess nonresident tuition on students who do not meet the requirements under this section.

**Section 92. Section 53B-8-107 is amended to read:**

**53B-8-107. Military member surviving dependents -- Tuition waiver.**

(1) As used in this section:

(a) "Federal active duty" means serving under orders in accordance with United States Code, Title 10 or Title 32, at any time on or after September 11, 2001.

(b) "Qualifying deceased military member" means a person who:

(i) was killed while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; or

(ii) dies of wounds or injuries received while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; and

(iii) was a member of the armed forces of the United States and a Utah resident;

(iv) was a member of the reserve component of the armed forces on or after September 11, 2001, and a Utah resident; or

(v) was a member of the Utah National Guard on or after September 11, 2001.

(c) "State active duty" means serving in the Utah National Guard in any duty status authorized by the governor under Title 39, Militia and Armories.

(2) This section shall be known as the Scott B. Lundell Military Survivors' tuition waiver.

(3) A state institution of higher education shall waive undergraduate tuition for a dependent of a qualifying deceased military member under the following conditions:

(a) the dependent has been accepted by the institution in accordance with the institution's admissions guidelines;

(b) except as provided in Subsection (4), the dependent is a resident student as determined under Section 53B-8-102;

(c) the dependent may not have already completed a course of studies leading to an undergraduate degree;

(d) the dependent may only utilize the waiver for courses that are applicable toward the degree or certificate requirements of the program in which the dependent is enrolled; and

(e) the dependent may not be excluded from the waiver if the dependent has previously taken courses at or has been awarded credit by a state institution of higher education.

(4) Notwithstanding Subsection (3)(b), a dependent of a qualifying deceased military member that was a member of the Utah National Guard is not required to be a resident student as determined under Section 53B-8-102.

(5) The tuition waiver in this section is applicable for undergraduate study only.

(6) The Department of Veterans and Military Affairs, after consultation with the adjutant general if necessary, shall certify to the institution that the dependent is a surviving dependent eligible for the tuition waiver in accordance with this section.

(7) The waiver in this section does not apply to fees, books, or housing expenses.

(8) The ~~[State Board of Regents]~~ board may request reimbursement from the Legislature for costs incurred in providing the tuition waiver under this section.

**Section 93. Section 53B-8-201 is amended to read:**

**53B-8-201. Regents' Scholarship Program.**

(1) As used in this section:

(a) "Eligible institution" means an institution of higher education within the state system of higher education described in Section 53B-1-102.

(b) "Eligible student" means a student who:

(i) applies to the board in accordance with the rules described in Subsection (6);

(ii) is enrolled in an eligible institution; and

(iii) meets the criteria established by the board in rules described in Subsection (6).

(c) "Fee" means:

(i) for an eligible institution that is ~~[part of the Utah System of Higher Education]~~ a degree-granting institution, a fee approved by the board; or

(ii) for an eligible institution that is a technical college, a fee approved by the eligible institution.

(d) "Program" means the Regents' Scholarship Program described in this section.

(2) (a) A student who graduates from high school after July 1, 2018:

(i) may receive a Regents' scholarship in accordance with this section; and

(ii) may not receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205.

(b) A student who graduates from high school on or before July 1, 2018:

(i) may receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205; and

(ii) may not receive a Regents' scholarship in accordance with this section.

(3) (a) Subject to legislative appropriations, beginning with an appropriation for fiscal year 2019, the board shall annually distribute money for the Regents' Scholarship Program described in this section to each eligible institution to award as Regents' scholarships to eligible students.

(b) The board shall annually determine the amount of a Regents' scholarship based on:

(i) the number of eligible students in the state; and

(ii) money available for the program.

(c) The board shall annually determine the total amount of money to distribute to an eligible institution based on the eligible institution's share of all eligible students in the state.

(4) (a) Except as provided in Subsection (4)(b) or (c), an eligible institution shall provide to an eligible student a Regents' scholarship in the amount determined by the board described in Subsection (3)(b).

(b) For a Regents' scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of the Regents' scholarship based on other state aid awarded to the eligible student for tuition and fees.

(c) For a Regents' scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the Regents' scholarship so that the total amount of state aid awarded to the eligible student, including tuition or fee waivers and the Regents' scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the Regents' scholarship for tuition and fees.

(5) The board may:

(a) audit an eligible institution's administration of Regents' scholarships; and

(b) require an eligible institution to repay to the board money distributed to the eligible institution under this section that is not provided to an eligible student as a Regents' scholarship.

(6) ~~[(4)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

~~[(4)]~~ (a) requirements related to an eligible institution's administration of Regents' scholarships;

~~[(4)]~~ (b) a process for a student to apply to the board to determine the student's eligibility for a Regents' scholarship;

~~[(4)]~~ (c) criteria to determine a student's eligibility for a Regents' scholarship, including:

~~[(A)]~~ (i) minimum secondary education academic performance standards;

~~[(B)]~~ (ii) the completion of secondary core curriculum and graduation requirements;

~~[(C)]~~ (iii) the completion of a Free Application for Federal Student Aid;

~~[(D)]~~ (iv) need-based measures that address college affordability and access; and

~~[(E)]~~ (v) minimum enrollment requirements in an eligible institution; and

~~[(4)]~~ (d) a requirement for each eligible institution to annually report to the board on all Regents' scholarships awarded by the eligible institution.

~~[(b)]~~ In making rules described in Subsection (6)(a) that apply to a technical college, the board shall consult with the Utah System of Technical Colleges Board of Trustees.]



(7) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

(8) (a) The State Board of Education, a school district, or a public high school shall cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

(b) The State Board of Education shall annually provide to the board a list of directory information, including name and address, for each grade 8 student in the state.

(9) Notwithstanding the provisions in this section, a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities is an eligible institution for purposes of providing a Regents' scholarship to an eligible student who applies for a Regents' scholarship on or before July 1, 2019.

(10) If money appropriated under this section is available after Regents' scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302.

**Section 94. Section 53B-8-301 is amended to read:**

**53B-8-301. Definitions.**

As used in this part:

(1) "Access Utah promise scholarship" or "promise scholarship" means a scholarship described in Section 53B-8-303.

(2) "Eligible individual" means an individual who:

(a) applies for a promise scholarship in accordance with Section 53B-8-303; and

(b) meets the eligibility requirements described in Section 53B-8-303.

(3) "Fee" means:

(a) for an institution that is ~~[part of the Utah System of Higher Education]~~ a degree-granting institution, a fee approved by the board; or

(b) for an institution that is a technical college, a fee approved by the institution.

(4) "Institution of higher education" or "institution" means an institution described in Section 53B-1-102.

(5) "Partner award" means a financial award described in Section 53B-8-304.

(6) "Promise partner" means an employer that participates in the program described in Section 53B-8-304.

**Section 95. Section 53B-8-303 is amended to read:**

**53B-8-303. Access Utah promise scholarships.**

(1) An individual may apply for a promise scholarship in accordance with the rules described in Subsection (8).

(2) An individual is eligible to receive a promise scholarship if the individual:

(a) (i) has a high school diploma or the equivalent; and

(ii) does not have an associate or higher postsecondary degree;

(b) demonstrates financial need, in accordance with the rules described in Subsection (8);

(c) is a Utah resident;

(d) enrolls in an institution; and

(e) accepts all other grants, tuition or fee waivers, and scholarships offered to the individual to attend the institution in which the individual enrolls.

(3) Subject to legislative appropriations, and in accordance with the rules described in Subsection (8), the board shall annually distribute money for promise scholarships to each institution.

(4) (a) Except as provided in Subsection (4)(d), an institution shall award a promise scholarship to an eligible individual.

(b) For a promise scholarship recipient, an institution shall:

(i) evaluate the recipient's knowledge, skills, and competencies acquired through formal or informal education outside the traditional postsecondary academic environment; and

(ii) award credit, as applicable, for the recipient's prior learning described in Subsection (4)(b)(i).

(c) An institution shall award a promise scholarship in an amount that is equal to the difference between:

(i) the total cost of tuition and fees for the program in which the recipient is enrolled; and

(ii) the total value of all other grants, tuition waivers, fee waivers, and scholarships received by the recipient to attend the institution.

(d) If an institution's distribution described in Subsection (3) is insufficient to award a promise scholarship to each eligible individual in the amount described in Subsection (4)(c), the institution:

(i) shall, when possible, use other funding sources to fully fund the amount described in Subsection (4)(c) for each eligible individual; and

(ii) may prioritize promise scholarships based on financial need in accordance with the rules described in Subsection (8).

(e) An institution may use up to 3% of the institution's distribution described in Subsection (3) for administration.

(5) An institution shall continue to award a promise scholarship to a recipient who meets the requirements established by the board in the rules

described in Subsection (8) until the earliest of the following:

(a) two years after the recipient initially receives a promise scholarship;

(b) the recipient uses a promise scholarship to attend an institution for four semesters;

(c) the recipient completes the requirements for an associate degree; or

(d) if the recipient attends an institution that does not offer associate degrees, the recipient has 60 earned credit hours.

(6) A recipient may only use a promise scholarship for tuition and fees.

(7) A promise scholarship is transferable between institutions.

(8) ~~[(a)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[and Subsection (8)(b),]~~ the board shall make rules to establish:

~~[(4)]~~ (a) requirements related to whether an individual is eligible for a promise scholarship, including:

~~[(A)]~~ (i) a process for an eligible individual to defer a promise scholarship;

~~[(B)]~~ (ii) how an individual demonstrates financial need for purposes of receiving a promise scholarship; and

~~[(C)]~~ (iii) how to determine whether an individual is a Utah resident;

~~[(4)]~~ (b) a process and requirements for an individual to apply for a promise scholarship;

~~[(4)]~~ (c) a formula to determine the distributions to each institution described in Subsection (3) that takes into account:

~~[(A)]~~ (i) the cost of tuition and fees for programs offered by institutions; and

~~[(B)]~~ (ii) the number of eligible individuals who attend each institution;

~~[(4)]~~ (d) how an institution may prioritize awarding scholarships based on the financial needs of eligible individuals;

~~[(4)]~~ (e) conditions a recipient is required to meet to continue to receive a promise scholarship, including requirements related to academic achievement and enrollment status; and

~~[(4)]~~ (f) a requirement that in communicating about promise scholarships to recipients and potential recipients, the board and institutions do not portray the Access Utah Promise Scholarship Program as a program that is guaranteed to be in effect indefinitely.

~~[(b) In making the rules described in Subsection (8)(a), the board shall consult with the Utah System of Technical Colleges Board of Trustees.]~~

(9) On or before November 1 each year, the board shall report to the Higher Education Appropriations Subcommittee regarding promise scholarships, including:

(a) the number of scholarships awarded; and

(b) whether the promise scholarship program is effective in helping underserved students access higher education.

**Section 96. Section 53B-8a-102.5 is amended to read:**

**53B-8a-102.5. Definitions for part.**

As used in this part:

(1) "Administrative fund" means the money used to administer the Utah Educational Savings Plan.

(2) "Board" means the board of directors of the Utah Educational Savings Plan, which is the ~~[State Board of Regents]~~ Utah Board of Higher Education acting in the ~~[State Board of Regents']~~ Utah Board of Higher Education's capacity as the Utah Higher Education Assistance Authority under Title 53B, Chapter 12, Higher Education Assistance Authority.

(3) "Endowment fund" means the endowment fund established under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

(4) "Executive director" means the administrator appointed to administer and manage the Utah Educational Savings Plan.

(5) "Federally insured depository institution" means an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation and the National Credit Union Administration.

(6) "Grantor trust" means a trust, the income of which is for the benefit of the grantor under Section 677, Internal Revenue Code.

(7) "Higher education costs" means qualified higher education expenses as defined in Section 529(e)(3), Internal Revenue Code.

(8) "Owner of the grantor trust" means one or more individuals who are treated as an owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

(9) "Program fund" means the program fund created under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

(10) "Qualified investment" means an amount invested in accordance with an account agreement established under this part.

(11) "Tuition and fees" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment.

**Section 97. Section 53B-8a-204 is amended to read:**

**53B-8a-204. Distribution of program money -- Application process -- Prioritization -- Account agreements.**

(1) The plan shall distribute money in the program by creating a 529 savings account for an eligible individual identified by a community partner.

(2) (a) (i) The plan shall carry out the responsibility described in Subsection (1) by establishing a process in which a community partner may apply for an allocation of program money to designate for eligible individuals.

(ii) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall establish the application process for a community partner to apply for an allocation of program money.

(iii) The application process described in Subsection (2)(a)(ii) shall include:

(A) the criteria for a community partner to apply for an allocation of program money;

(B) the criteria that the plan will use to prioritize applications if the dollar amounts requested in the applications exceed the dollar amount available;

(C) the requirements for establishing a 529 savings account in the name of an eligible individual; and

(D) the roles and responsibilities of a community partner that makes a successful application for an allocation of program money.

(b) (i) A community partner that receives an allocation of program money shall enter into a contract with the plan.

(ii) The contract described in Subsection (2)(b)(i) shall:

(A) define the roles and responsibilities of the community partner and the plan with regard to the community partner's allocation of program money; and

(B) specify that the individual the community partner identifies to receive a portion of the community partner's allocation is an eligible individual.

(3) If the plan approves a community partner's application for an allocation of program money, the plan may not promise or otherwise encumber the allocation to any other person unless the allocation is forfeited under Subsection (5)(b)(ii).

(4) (a) A community partner shall identify each eligible individual who will receive a portion of the community partner's allocation of program money.

(b) After a community partner identifies an eligible individual to receive a portion of the community partner's allocation, the community partner shall notify the plan of:

(i) the amount of the community partner's allocation that shall transfer to a 529 savings

account in the name of the identified eligible individual; and

(ii) the amount, if any, that the community partner will be contributing in accordance with Part 1, Utah Educational Savings Plan, to the 529 savings account on behalf of the identified eligible individual.

(5) (a) Upon receiving the information described in Subsection (4)(b), the plan shall establish a 529 savings account for the identified eligible individual, with the community partner as the account owner.

(b) The community partner shall inform the beneficiary that:

(i) within three years after the day on which the beneficiary graduates from high school, the beneficiary shall enroll in:

(A) a credit-granting institution of higher education within the state system of higher education;

(B) a private, nonprofit college or university in the state that is accredited by the Northwestern Association of Schools and Colleges; or

(C) a technical college; and

(ii) if the beneficiary fails to enroll within three years after the day on which the beneficiary graduates from high school, any money that remains in the 529 savings account shall be returned to the program.

(c) After entering into the account agreement described in Subsection (5)(a), the plan shall deposit into the beneficiary's 529 savings account the amount of the allocation described in Subsection (4)(b)(i).

**Section 98. Section 53B-8e-103 is amended to read:**

**53B-8e-103. Tuition waivers for Purple Heart recipients -- Qualifications -- Limitations.**

(1) Beginning in the 2004-05 academic year, a state institution of higher education shall waive undergraduate tuition for each Purple Heart recipient who:

(a) is admitted as a full-time, part-time, or summer school student in an undergraduate program of study leading to a degree or certificate;

(b) is a resident student of the state as determined under Section 53B-8-102; and

(c) submits verification as provided in Subsection (3) that the student is a Purple Heart recipient.

(2) (a) Beginning in the 2008-09 academic year, a state institution of higher education shall waive graduate tuition as provided in this Subsection (2) for each Purple Heart recipient who:

(i) is admitted as a full-time, part-time, or summer school student in a graduate program of study leading to a degree;

(ii) is a resident student of the state as determined under Section 53B-8-102; and

(iii) submits verification as provided in Subsection (3) that the student is a Purple Heart recipient.

(b) To qualify for a graduate tuition waiver, a Purple Heart recipient shall apply for a graduate program no later than 10 years from the day on which the Purple Heart recipient completes an undergraduate degree.

(c) The total amount of all graduate tuition waived for a Purple Heart recipient may not exceed \$10,000.

(d) A Purple Heart recipient may receive a graduate tuition waiver for a period of time that does not exceed the lesser of:

(i) the time it takes for the Purple Heart recipient to complete a graduate degree; or

(ii) five years after the day on which the Purple Heart recipient is accepted to a graduate program.

(3) A Purple Heart recipient seeking a tuition waiver shall request the Department of Veterans and Military Affairs to provide the verification required by Subsection (1)(c). The Department of Veterans and Military Affairs shall provide the verification upon obtaining evidence satisfactory to the division that the student is a Purple Heart recipient.

(4) The ~~[State Board of Regents]~~ board may request reimbursement from the Legislature for costs incurred in providing the tuition waiver under this section.

**Section 99. Section 53B-10-201 is amended to read:**

**53B-10-201. Definitions.**

As used in this part:

(1) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(2) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(3) "Incentive loan" means a loan described in Section 53B-10-202.

(4) "Institution" means an institution of higher education ~~[that is part of the Utah System of Higher Education]~~ described in Subsection 53B-1-102(1)(a).

(5) "Program" means the Talent Development Incentive Loan Program created in Section 53B-10-202.

(6) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an individual to work in a qualifying job, as determined by GOED under Section 53B-10-203.

(7) "Qualifying job" means a job:

(a) described in Section 53B-10-203 for which an individual may receive an incentive loan for the current two-year period; or

(b) (i) that was selected in accordance with Section 53B-10-203 at the time a recipient received an incentive loan; and

(ii) (A) for which the recipient is pursuing a qualifying degree;

(B) for which the recipient completed a qualifying degree; or

(C) in which the recipient is working.

(8) "Recipient" means an individual who receives an incentive loan.

**Section 100. Section 53B-11-104 is amended to read:**

**53B-11-104. Eligibility for student financial aid -- Filing of selective service status.**

(1) A male born after December 31, 1959, may not receive any state-supported loan, grant, or scholarship for attendance at a postsecondary institution within the state unless he has filed a statement of selective service status with the institution.

(2) The statement shall certify one of the following:

(a) that the male has registered with the selective service system in accordance with the Military Selective Service Act, 50 U.S.C. Sec. 3802, as amended;

(b) that the male is not required to register with the selective service system because he is:

(i) under 18 or over 26 years of age;

(ii) on active duty with the armed forces of the United States other than for training in a reserve or national guard unit;

(iii) a nonimmigrant alien lawfully in the United States in accordance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101(a)(15); or

(iv) not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(3) (a) The board ~~[of regents]~~, through the commissioner of higher education, shall specify the form of statement to be filed under Subsection (2).

(b) Each statement shall contain a section:

(i) certifying registration with the selective service system and a space for the student to record his selective service number; and

(ii) for the certification of nonregistration and for an explanation of the reason for exemption.

(c) The board may require documentation for the certifications under Subsection (3)(b).

(4) Postsecondary institutions within the state may not make or guarantee any loan, grant, scholarship, or other state-supported financial assistance to a male student unless the student has filed the statement required under Subsection (1).

(5) (a) If a postsecondary institution within the state has received a statement certifying that the

individual is registered under Subsection (2)(a) or is exempt from registration for a reason other than he is under 18 years of age, the individual is not required to file any further statement with the institution under this section.

(b) If the institution receives a statement of exemption because the individual is under 18 years of age, it shall require the filing of a new statement each time the individual seeks to apply for financial assistance for educational expenses, until it receives a statement certifying that the individual has registered with the selective service system or is exempt from registration for a reason other than being under 18 years of age.

**Section 101. Section 53B-12-102 is amended to read:**

**53B-12-102. Separation of duties, responsibilities, funds, liabilities, and expenses -- Appointment of board of directors -- No state or local debt -- Minors eligible for loans.**

(1) As used in this section, "fiduciary or commercial information" means information:

(a) related to any subject if the disclosure of the information:

- (i) would conflict with fiduciary obligations; or
- (ii) is prohibited by insider trading provisions; or
- (b) of a commercial nature, including information related to:

- (i) account owners or borrowers;
- (ii) demographic data;
- (iii) contracts and related payments;
- (iv) negotiations;
- (v) proposals or bids;
- (vi) investments;
- (vii) the investment and management of funds;
- (viii) fees and charges;
- (ix) plan and program design;
- (x) investment options and underlying investments offered to account owners;
- (xi) marketing and outreach efforts;
- (xii) lending criteria;
- (xiii) the structure and terms of bonding;
- (xiv) financial plans; or

(xv) reviews and audits, except the final report of the annual audit of financial statements required under Section 53B-8a-111.

(2) The duties, responsibilities, funds, liabilities, and expenses of the board as the Utah Higher Education Assistance Authority shall be maintained separate and apart from its other duties, responsibilities, funds, liabilities, and expenses.

(3) (a) In order to carry out the obligation of separation of functions required under Subsection (2), the board may appoint a board of directors of the authority, and designate its chairman to govern and manage the authority.

(b) The board of directors consists of not less than five persons, not more than two-thirds of whom may be members of the ~~[State Board of Regents]~~ board.

(c) The board of directors reports to and serves at the pleasure of the ~~[State Board of Regents]~~ board, and has all of the powers, duties, and responsibilities of the Utah Higher Education Assistance Authority except for those expressly retained by the ~~[State Board of Regents]~~ board.

(4) All meetings of the Utah Higher Education Assistance Authority and its appointed board of directors shall be open to the public, except those meetings or portions of meetings that are closed as authorized by Sections 52-4-204 and 52-4-205, including to discuss fiduciary or commercial information.

(5) An obligation incurred under this chapter does not constitute a debt of the state or any of its political subdivisions.

(6) (a) A person who would otherwise qualify for a loan guaranteed by the authority is not disqualified because that person is a minor.

(b) For the purpose of applying for, receiving, and repaying a loan, a minor has full legal capacity to act and has all the rights, powers, privileges, and obligations of a person of full age with respect to the loan.

**Section 102. Section 53B-16-101 is amended to read:**

**53B-16-101. Establishment of institutional roles and general courses of study.**

(1) Except as institutional roles are specifically assigned by the Legislature, the board:

(a) ~~[may]~~ shall establish and define the roles of the various institutions of higher education ~~[under the board's control and management]~~; and

(b) shall, within each institution of higher education's primary role, prescribe the general course of study to be offered at the institution of higher education, including for:

(i) research universities, which provide undergraduate, graduate, and research programs and include:

- (A) the University of Utah; and
- (B) Utah State University;

(ii) regional universities, which provide career and technical education, undergraduate associate and baccalaureate programs, and select master's degree programs to fill regional demands and include:

- (A) Weber State University;
- (B) Southern Utah University;

- (C) Dixie State University; and
- (D) Utah Valley University; ~~and~~
- (iii) comprehensive community colleges, which provide associate programs and include:
- (A) Salt Lake Community College; and
- (B) Snow College~~[-]; and~~
- (iv) technical colleges and degree-granting institutions that provide technical education, and include:
- (A) each technical college;
- (B) Salt Lake Community College's School of Applied Technology's technical education role described in Section 53B-16-209;
- (C) each Utah State University regional institution's technical education role described in Section 53B-16-207; and
- (D) Snow College's technical education role described in Section 53B-16-205.
- (2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each institution of higher education described in ~~[Subsection]~~ Subsections (1)(b)(i) through (iii) has career and technical education included in the institution of higher education's primary role.
- (b) The board shall determine the extent to which an institution described in Subsection (2)(a) provides career and technical education within the institution's primary role.
- (3) The board ~~[may]~~ shall further clarify each institution of higher education's primary role~~[-]~~ by clarifying:
- (a) the level of program that the institution of higher education generally offers;
- (b) broad fields that are within the institution of higher education's mission; and
- (c) any special characteristics of the institution of higher education, such as being a land grant university.
- (4) On or before November 1, 2020, the board shall report to the Higher Education Strategic Planning Commission on the board's activities related to defining and clarifying each institution's role.

**Section 103. Section 53B-16-102 is amended to read:**

**53B-16-102. Changes in curriculum -- Substantial alterations in institutional operations -- Program approval -- Periodic review of programs -- Career and technical education curriculum changes.**

- (1) As used in this section:
- (a) "Institution of higher education" means an institution described in ~~[Subsection 53B-1-102(1)(a)]~~ Section 53B-1-102.

(b) "Program of instruction" means a program of curriculum that leads to the completion of a degree, diploma, certificate, or other credential.

(2) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution of higher education may make such changes in the institution of higher education's curriculum as necessary to better effectuate the institution of higher education's primary role.

~~[(3) An institution of higher education shall notify the board of a proposed new program of instruction.]~~

(3) The board shall establish criteria for whether an institution of higher education may approve a new program of instruction, including criteria related to whether:

(a) the program of instruction meets identified workforce needs;

(b) the institution of higher education is maximizing collaboration with other institutions of higher education to provide for efficiency in offering the program of instruction;

(c) the new program of instruction is within the institution of higher education's mission and role; and

(d) the new program of instruction meets other criteria determined by the board.

(4) (a) ~~[Without]~~ Except as provided in Subsection (4)(b), without the approval of the board, an institution of higher education may not:

(i) establish a branch, extension center, college, or professional school; or

(ii) establish a new program of instruction ~~[that is outside of the institution of higher education's primary role described in Section 53B-16-101].~~

(b) An institution of higher education may, with the approval of the institution of higher education's board of trustees, establish a new program of instruction that ~~[is within the institution of higher education's primary role described in Section 53B-16-101]~~ meets the criteria described in Subsection (3).

(5) (a) An institution of higher education shall notify the board of a proposed new program of instruction, including how the proposed new program of instruction meets the criteria described in Subsection (3).

(b) The board shall establish procedures and guidelines for institutional boards of trustees to consider an institutional proposal for a new program of instruction described in Subsection (4)(b).

~~[(b) The guidelines described in Subsection (5)(a) shall provide that:]~~

~~[(i) prior to seeking approval from the institution of higher education's board of trustees, an institution of higher education that proposes a new program of instruction submit the proposal to the~~

commissioner to conduct a peer review by other institutions of higher education;]

~~[(ii) the commissioner issue a report with the results of a peer review described in Subsection (5)(b)(i) to the board and the board of trustees of the institution of higher education proposing the new program of instruction; and]~~

~~[(iii) an institution of higher education that proposes a new program of instruction include:]~~

~~[(A) a fiscal analysis of the new program of instruction's initial and ongoing costs; and]~~

~~[(B) the institution of higher education's source of funding for the new program of instruction.]~~

(6) (a) The board shall conduct a periodic review of all new programs of instruction, including those funded by gifts, grants, and contracts, no later than two years after the first cohort to begin the program of instruction completes the program of instruction.

(b) The board may conduct a periodic review of any program of instruction at an institution of higher education, including a program of instruction funded by a gift, grant, or contract.

(c) Following a review described in this Subsection (6), the board may recommend that the institution of higher education modify or terminate the program of instruction.

(7) Prior to requiring modification or termination of a program, the board shall give the institution of higher education adequate opportunity for a hearing before the board.

(8) In making decisions related to career and technical education curriculum changes, the board shall coordinate on behalf of the boards of trustees of higher education institutions a review of the proposed changes by the State Board of Education [and the Utah System of Technical Colleges Board of Trustees] to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with high schools and technical colleges.

**Section 104. Section 53B-16-105 is amended to read:**

**53B-16-105. Common course numbering -- Transferability of credits -- Agreement with competency-based general education provider -- Policies.**

(1) As used in this section:

(a) "Articulation agreement" means an agreement between the board and a provider that allows a student to transfer credit awarded by the provider for a general education course to any institution of higher education.

(b) "Competency-based" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

(c) "Competency-based general education provider" or "provider" means a private institution that:

(i) offers a postsecondary competency-based general education course online or in person;

(ii) awards academic credit; and

(iii) does not award degrees, including associates degrees or baccalaureate degrees.

(d) "Credit for prior learning" means the same as that term is defined in Section 53B-16-110.

(e) "Institution of higher education" means an institution [within the Utah System of Higher Education] described in Section 53B-1-102.

(f) "Regionally accredited institution" means an institution that:

(i) offers a competency-based postsecondary general education course online or in person; and

(ii) is accredited by a regional accrediting body recognized by the United States Department of Education.

~~[(g) "Utah System of Higher Education" means the institutions described in Subsection 53B-1-102(1)(a).]~~

(2) The board shall:

(a) facilitate articulation and the seamless transfer of courses, programs, and credit for prior learning within the Utah [System of Higher Education] system of higher education;

(b) provide for the efficient and effective progression and transfer of students within the Utah [System of Higher Education] system of higher education;

(c) avoid the unnecessary duplication of courses;

(d) communicate ways in which a student may earn credit for prior learning; and

(e) allow a student to proceed toward the student's educational objectives as rapidly as the student's circumstances permit.

(3) The board shall develop, coordinate, and maintain a transfer and articulation system [within the Utah System of Higher Education] that:

(a) maintains a course numbering system that assigns common numbers to specified courses of similar level with similar curricular content, rigor, and standards;

(b) allows a student to track courses that transfer among institutions of higher education to meet requirements for general education and lower division courses that transfer to baccalaureate majors;

(c) allows a student to transfer courses from a provider with which the board has an articulation agreement to any institution of higher education;

(d) allows a student to transfer competency-based general education courses from a regionally accredited institution to an institution of higher education;

(e) improves program planning;

(f) increases communication and coordination between institutions of higher education;

(g) facilitates student acceleration and the transfer of students and credits between institutions of higher education; and

(h) if the system includes a software or data tool:

(i) provides predictive analysis that models probabilities of student success; and

(ii) develops tailored strategies to best support students.

(4) (a) The board shall identify general education courses in the humanities, social sciences, arts, physical sciences, and life sciences with uniform prefixes and common course numbers.

(b) ~~[An institution of higher education]~~ A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (4)(a).

(c) ~~[An institution of higher education]~~ A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements for general education or lower division courses that transfer to baccalaureate majors.

(5) (a) The board shall identify common prerequisite courses and course substitutions for degree programs across ~~[institutions of higher education]~~ degree-granting institutions.

(b) The commissioner shall appoint committees of faculty members from the ~~[institutions of higher education]~~ degree-granting institutions to recommend appropriate courses of similar content and numbering that will satisfy requirements for lower division courses that transfer to baccalaureate majors.

(c) ~~[An institution of higher education]~~ A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (5)(a).

(d) ~~[An institution of higher education]~~ A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (5)(a) toward filling graduation requirements.

(6) (a) (i) The board shall seek proposals from providers to enter into articulation agreements.

(ii) A proposal described in Subsection (6)(a)(i) shall include the general education courses that the provider intends to include in an articulation agreement.

(b) The board shall:

(i) evaluate each general education course included in a proposal described in Subsection (6)(a) to determine whether the course is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education; and

(ii) if the board determines that a course included in a provider's proposal is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher

education, enter into an articulation agreement with the provider.

(7) The board shall establish policies to administer the policies and requirements described in this section.

(8) The board shall include information demonstrating that institutions of higher education are complying with the provisions of this section and the policies established in accordance with Subsection (7) in the annual report described in Section ~~[53B-1-107]~~ 53B-1-402.

**Section 105. Section 53B-16-107 is amended to read:**

**53B-16-107. Credit for military service and training -- Notification -- Transferability -- Reporting.**

(1) As used in this section, "credit" includes proof of equivalent noncredit course completion awarded by a technical college.

(2) An institution of higher education listed in Section 53B-2-101 shall provide written notification to each student applying for admission that the student is required to meet with a college counselor in order to receive credit for military service and training as recommended by a postsecondary accreditation agency or association designated by the board ~~[or the Utah System of Technical Colleges Board of Trustees]~~ if:

(a) credit for military service and training is requested by the student; and

(b) the student has met with an advisor at an institution of higher education listed in Section 53B-2-101 at which the student intends to enroll to discuss applicability of credit to program requirements, possible financial aid implications, and other factors that may impact attainment of the student's educational goals.

(3) Upon transfer within the state system of higher education, a student may present a transcript to the receiving institution of higher education for evaluation and to determine the applicability of credit to the student's program of study, and the receiving institution of higher education shall evaluate the credit to be transferred in accordance with Subsection (2) and the policies described in Section 53B-16-110.

(4) The board ~~[and the Utah System of Technical Colleges Board of Trustees]~~ shall annually report the number of credits awarded under this section by each institution of higher education to the Department of Veterans and Military Affairs.

**Section 106. Section 53B-16-110 is amended to read:**

**53B-16-110. Credit for prior learning -- Board plan and policies -- Reporting.**

(1) As used in this section:

(a) "Credit for prior learning" means credit awarded by an institution to a student who demonstrates, through a prior learning



assessment, that the student's prior learning meets college-level competencies.

(b) "Institution" means an institution of higher education ~~[that is within the Utah System of Higher Education]~~ described in Section 53B-1-102.

(c) "Prior learning" means knowledge, skills, or competencies acquired through formal or informal education outside the traditional postsecondary academic environment.

(d) "Prior learning assessment" means a method of evaluating or assessing an individual's prior learning.

~~[(e) "Utah System of Higher Education" means the institutions described in Subsection 53B-1-102(1)(a).]~~

(2) ~~[On or before November 1, 2019, the]~~ The board shall develop a ~~[systemwide]~~ plan for advising and communicating with students and the public about credit for prior learning ~~[in the Utah System of Higher Education].~~

(3) (a) ~~[On or before November 1, 2019, the]~~ The board shall establish policies that provide minimum standards for all institutions regarding:

- (i) accepted forms of prior learning assessments;
- (ii) awarding credit for prior learning;
- (iii) transferability of credit for prior learning between institutions;
- (iv) transcription of credit for prior learning;
- (v) institutional procedures for maintaining transparency and consistency in awarding credit for prior learning;
- (vi) communication to faculty, advisors, current students, and prospective students regarding standards and cost related to credit for prior learning and prior learning assessments;
- (vii) required training of faculty and advisors on prior learning assessment standards and processes; and
- (viii) portfolio-specific prior learning assessments.

(b) The board shall ensure that accepted forms of prior learning assessments described in Subsection (3)(a) include at least the following:

- (i) program evaluations, completed by an institution, of noncollegiate programs or training courses to recognize proficiencies;
- (ii) nationally recognized, standardized examinations, including:
  - (A) Advanced Placement examinations;
  - (B) College Level Exam Program general examinations;
  - (C) College Level Exam Program subject examinations; and
  - (D) DANTES Subject Standardized Tests;

(iii) customized examinations offered by an institution to verify an individual's learning achievement that may include course final examinations or other examinations that assess general disciplinary knowledge or skill;

(iv) evaluations of corporate or military training; and

(v) assessments of individuals' portfolios.

(4) (a) The board shall establish minimum scores and maximum credit for each standardized examination described in Subsection (3)(b)(ii).

(b) An institution shall award credit to a student who demonstrates competency by passing a standardized examination described in Subsection (3)(b)(ii) unless the award of credit duplicates credit already awarded.

(5) The board shall:

(a) create and maintain a website that provides ~~[systemwide and institutional]~~ statewide information on prior learning assessments and credit for prior learning; and

(b) identify a software or data tool that will support the board in:

- (i) implementing the plan described in Subsection (2); and
- (ii) fulfilling the board's requirements described in Section 53B-16-105.

(6) On or before the November 2019 interim meeting, the board shall report to the Education Interim Committee on:

- (a) the plan described in Subsection (2);
- (b) the policies described in Subsection (3); and
- (c) the software or data tool described in Subsection (5).

(7) On or before May 1, 2020, an institution shall report to the board:

- (a) steps the institution will take to:
  - (i) implement the plan described in Subsection (2) and the policies described in Subsection (3); and
  - (ii) communicate to students about credit for prior learning, including about the policies described in Subsection (3);
- (b) a timeline for the steps described in Subsection (7)(a); and

(c) each form of prior learning assessment for which the institution provides credit for prior learning that is not described in Subsection (3)(b).

(8) An institution shall annually report to the board on:

- (a) each form of prior learning assessment for which the institution provides credit for prior learning; and
- (b) the total amount of credit for prior learning the institution provides to students.

**Section 107. Section 53B-16-202 is amended to read:**

**53B-16-202. Curricula at the community colleges.**

The curricula at the colleges shall include ~~[vocational]~~ career and technical education, courses of a general nature which can be transferred to other higher education institutions, adult and continuing education, and developmental education. The colleges also provide needed community service. ~~[Vocational]~~ Career and technical education continues as the highest priority role of the colleges; and to ensure ~~[its]~~ continued emphasis of career and technical education, the ~~[Board of Regents]~~ board shall develop specific funding mechanisms which will maintain the high priority treatment of these programs and address the fact that many vocational programs are more costly than general education/transfer programs.

**Section 108. Section 53B-16-205 is amended to read:**

**53B-16-205. Establishment of Snow College Richfield campus -- Supervision and administration -- Transition -- Institutional mission.**

(1) There is established a branch campus of Snow College in Richfield, Utah, hereafter referred to as the Snow College Richfield campus.

(2) Snow College shall administer the branch campus under the general control and supervision of the ~~[State Board of Regents]~~ board as an integrated part of Snow College's mission, programs, and curriculum.

(3) Snow College shall:

(a) maintain a strong curriculum in career and technical education courses at the Snow College Richfield campus and within the region served by Snow College which can be transferred to other institutions within the higher education system, together with lower division courses and courses required for associate degrees in science, arts, applied science, and career and technical education;

(b) work with school districts and charter schools in developing an aggressive concurrent enrollment program in cooperation with Snow College Richfield campus; and

(c) provide, through the Snow College Richfield Campus, for open-entry, open-exit competency-based career and technical education programs, at a low cost tuition rate for adults and at no tuition cost to secondary students, that emphasize short-term job training or retraining for immediate placement in the job market and serve the geographic area encompassing:

- (i) the Juab School District;
- (ii) the Millard School District;
- (iii) the Tintic School District;
- (iv) the North Sanpete School District;
- (v) the South Sanpete School District;
- (vi) the Wayne School District;
- (vii) the Piute School District; and

(viii) the Sevier School District.

(4) Snow College may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of Snow College.

(5) Snow College shall report to the ~~[State Board of Regents]~~ board annually on:

(a) the status of and maintenance of the effort for career and technical education in the region served by Snow College, including access to open-entry, open-exit competency-based career and technical education programs; and

(b) student tuition and fees.

(6) Legislative appropriations to Snow College's career and technical education shall be made as line items that are separate from other appropriations for Snow College.

**Section 109. Section 53B-16-205.5 is amended to read:**

**53B-16-205.5. Snow College Concurrent Education Program.**

(1) As used in this section:

(a) "Interactive video conferencing" means two-way, real-time transmission of audio and video signals between devices or computers at two or more locations.

(b) "Program" means the Snow College Concurrent Education Program.

(2) Consistent with policies established by the ~~[State Board of Regents]~~ board, Snow College shall establish and administer, subject to legislative appropriations, the Snow College Concurrent Education Program to provide:

(a) a consistent two-year schedule of concurrent enrollment courses delivered through interactive video conferencing to secondary school students;

(b) a pathway for a secondary school student to earn college credits that:

(i) apply toward earning an Associate of Science or Associate of Arts degree; or

(ii) satisfy scholarship requirements or other objectives that best meet the needs of an individual student; and

(c) advisory support to secondary school students who participate in the program and the secondary school students' school counselors to ensure that students' concurrent enrollment courses align with the students' academic and career goals.

**Section 110. Section 53B-16-209 is amended to read:**

**53B-16-209. Salt Lake Community College -- School of Applied Technology -- Career and technical education -- Supervision and administration -- Institutional mission.**

(1) (a) There is hereby established a School of Applied Technology at Salt Lake Community College.

(b) Beginning on July 1, 2009, the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College shall be established as Salt Lake Community College's School of Applied Technology.

(2) Salt Lake Community College's School of Applied Technology is a continuation of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College and shall:

(a) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College; and

(b) fulfill and perform all obligations of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College.

(3) Salt Lake Community College shall administer the School of Applied Technology.

(4) Salt Lake Community College's School of Applied Technology shall:

(a) provide non-credit career and technical education for both secondary and adult students, with an emphasis primarily on open-entry, open-exit programs;

(b) ensure that economically disadvantaged, educationally disadvantaged, or other at-risk students have access to non-credit career and technical education;

(c) maintain a strong curriculum in non-credit career and technical education courses which can be articulated with credit career and technical education courses within the institution and within the state system of higher education;

(d) offer noncredit, basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program;

(e) offer the curriculum at:

(i) low cost to adult students, consistent with legislative appropriations to the School of Applied Technology; and

(ii) no tuition cost to secondary students;

(f) provide noncredit career and technical education that will result in:

(i) appropriate licensing, certification, or other evidence of completion of training; and

(ii) qualification for specific employment, with an emphasis on high demand, high wage, and high skill jobs in business and industry;

(g) develop cooperative agreements within the geographic area served by the School of Applied Technology with school districts, charter schools, and other higher education institutions, businesses, industries, and community and private

agencies to maximize the availability of instructional facilities; and

(h) after consulting with school districts and charter schools within the geographic area served:

(i) ensure that secondary students in the public education system have access to non-credit career and technical education at each School of Applied Technology location; and

(ii) prepare and submit an annual report to the [State Board of Regents] board detailing:

(A) how the non-credit career and technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at School of Applied Technology locations;

(C) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided; and

(D) student tuition and fees.

(5) Salt Lake Community College or Salt Lake Community College's School of Applied Technology may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of Salt Lake Community College or Salt Lake Community College's School of Applied Technology.

(6) Legislative appropriations to Salt Lake Community College's School of Applied Technology shall be made as a line item that separates it from other appropriations for Salt Lake Community College.

**Section 111. Section 53B-16-303 is amended to read:**

**53B-16-303. Access to restricted records.**

Notwithstanding any other provision of Title 63G, Chapter 2, Government Records Access and Management Act, access to records restricted by this part shall only be permitted upon:

(1) written consent of the public institution of higher education originating, receiving, or maintaining such records; or

(2) a finding by the State Records Committee or a court that the record has not been properly classified as restricted under Section 63G-2-302, provided that the review of a restricted classification of a record shall not include considerations of weighing public and private interests regarding access to a properly classified record as contained in Subsection 63G-2-403(11)(b) or 63G-2-404(7) or Section 63G-2-309. Nothing in this Subsection (2) shall be construed to limit the authority of the [State Board of Regents] board to reclassify and disclose a record of a public institution of higher education.

**Section 112. Section 53B-16-401 is amended to read:**

**53B-16-401. Definitions.**

As used in this part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through an institution of higher education, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Institution of higher education" means any component of the state system of higher education as defined under Section 53B-1-102 that is authorized by the board [~~or the Utah System of Technical Colleges Board of Trustees~~] to offer internship programs, and any private institution of higher education which offers internship programs under this part.

(3) "Intern" means a student enrolled in a work experience and career exploration program under Section 53B-16-402 that is sponsored by an institution of higher education, involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.

(4) "Internship" means the work experience segment of an intern's work experience and career exploration program sponsored by an institution of higher education, performed under the direct supervision of a cooperating employer.

**Section 113. Section 53B-16-402 is amended to read:**

**53B-16-402. Higher education internships.**

An institution of higher education may offer internships in connection with work experience and career exploration programs operated in accordance with rules of the [~~State Board of Regents~~] board.

**Section 114. Section 53B-16-501 is amended to read:**

**53B-16-501. Nonprofit corporations or foundations -- Purpose.**

(1) Dixie State University may form a nonprofit corporation or foundation controlled by the president of the university and the [~~Board of Regents~~] board to aid and assist the university in attaining its charitable, communications, and other related educational objectives, including support for media innovation, film festivals, film production, print media, broadcasting, television, and digital media.

(2) The nonprofit corporation or foundation may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out its public purposes.

**Section 115. Section 53B-17-101 is amended to read:**

**53B-17-101. Legislative findings on public broadcasting and telecommunications for education.**

The Legislature finds and determines the following:

(1) The University of Utah's Dolores Dore' Eccles Broadcast Center is the statewide public

broadcasting and telecommunications facility for education in Utah.

(2) The center shall provide services to citizens of the state in cooperation with higher and public education, state and local government, and private industry.

(3) Distribution services provided through the center shall include KUED - TV, KUER - FM, and KUEN - TV.

(4) KUED - TV and KUER - FM are licensed to the University of Utah.

(5) The Utah Education and Telehealth Network's broadcast entity, KUEN - TV, is licensed to the [~~Utah State Board of Regents~~] Utah Board of Higher Education and, together with UETN, is operated on behalf of the state's systems of public and higher education.

(6) All the entities referred to in Subsection (3) are under the administrative supervision of the University of Utah, subject to the authority and governance of the [~~State Board of Regents~~] Utah Board of Higher Education.

(7) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of educational programs.

**Section 116. Section 53B-17-103 is amended to read:**

**53B-17-103. General powers of University of Utah related to public broadcasting and telecommunication for education.**

(1) Subject to applicable rules of the Federal Communications Commission and the [~~State Board of Regents~~] Utah Board of Higher Education, the University of Utah shall:

(a) serve as the state's provider of public television services, with programming from the Public Broadcasting Service and other syndicated and locally produced programs;

(b) serve as the state's primary provider of public radio services, with programming from National Public Radio and other syndicated and locally produced programs; and

(c) subject to Section 53B-7-103, accept and use gifts and apply for and receive funds from federal and other sources to carry out the purposes of this part.

(2) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate KUED - TV.

(3) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of educational programs.

**Section 117. Section 53B-17-104 is amended to read:**

**53B-17-104. Responsibilities of the Utah Board of Higher Education, the State Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN related to public broadcasting and**

**telecommunication for education and government.**

(1) Subject to applicable rules of the Federal Communications Commission and Section 53B-17-105, the [~~State Board of Regents~~] Utah Board of Higher Education, the State Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN shall:

(a) coordinate statewide services of public radio and television;

(b) develop, maintain, and operate statewide distribution systems for KUED - TV, KUER - FM, and KUEN, the statewide distance learning service, the educational data network, connections to the Internet, and other telecommunications services appropriate for providing video, audio, and data telecommunication services in support of public and higher education, state government, and public libraries;

(c) support the delivery of these services to as many communities as may be economically and technically feasible and lawfully permissible under the various operating licenses;

(d) cooperate with state and local governmental and educational agencies and provide leadership and consulting service for telecommunication for education;

(e) represent the state with privately owned telecommunications systems to gain access to their networks for the delivery of programs and services sponsored or produced by public and higher education;

(f) acquire, produce, coordinate, and distribute a variety of programs and services of an educational, cultural, informative, and entertaining nature designed to promote the public interest and welfare of the state;

(g) coordinate with the state system of higher education to acquire, produce, and distribute broadcast and nonbroadcast college credit telecourses, teleconferences, and other instructional and training services;

(h) coordinate with school districts and public schools to acquire, produce, and distribute broadcast and nonbroadcast telecourses, teleconferences, and other instructional and training services to the public schools;

(i) coordinate the development of a clearing house for the materials, courses, publications, media, software, and other applicable information related to the items addressed in Subsections (1)(g) and (h);

(j) coordinate the provision of the following services to public schools:

(i) broadcast, during school hours, of educational and administrative programs recommended by the State Board of Education;

(ii) digitization of programs for broadcast purposes; and

(iii) program previewing;

(k) share responsibility for Instructional Television (ITV) awareness and utilization; and

(1) provide teleconference and training services for state and local governmental agencies.

(2) This section neither regulates nor restricts a privately owned company in the distribution or dissemination of education programs.

**Section 118. Section 53B-17-105 is amended to read:**

**53B-17-105. Utah Education and Telehealth Network.**

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

(h) in consultation with the Utah Department of Health, advise the governor and the Legislature on:

(i) the role of telehealth in the state;

(ii) the policy issues related to telehealth;

(iii) the changing telehealth needs and resources in the state; and

(iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

(b) work with the private sector to deliver high-quality, cost-effective services;

(c) avoid duplicating facilities, equipment, or services of private providers or public telecommunications service, as defined under Section 54-8b-2;

(d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

(e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.

(4) The University of Utah shall provide administrative support for UETN.

(5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.

(b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

(i) ~~four~~ five members representing the state system of higher education, of which at least one member represents technical colleges, appointed by the commissioner of higher education;

(ii) four members representing the state system of public education appointed by the State Board of Education;

~~[(iii) one member representing technical colleges appointed by the Utah System of Technical Colleges commissioner of technical education;]~~

~~[(iv)]~~ (iii) one member representing the state library appointed by the state librarian;

~~[(v)]~~ (iv) two members representing hospitals as follows:

(A) the members may not be employed by the same hospital system;

(B) one member shall represent a rural hospital;

(C) one member shall represent an urban hospital; and

(D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and

~~[(vi)]~~ (v) one member representing the office of the governor, appointed by the governor.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) (i) The board shall elect a chair.

(ii) The chair shall set the agenda for the board meetings.

(6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The board:

(a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;

(b) may terminate the executive director's employment or assignment;

(c) shall determine the executive director's salary;

(d) shall annually conduct a performance evaluation of the executive director;

(e) shall establish policies the board determines are necessary for the operation of UETN and the administration of UETN's duties; and

(f) shall advise UETN in:

(i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and

(ii) acquiring, producing, and distributing instructional content.

(8) The executive director of UETN shall be an at-will employee.

(9) UETN shall locate and maintain educational and telehealth telecommunication infrastructure throughout the state.

(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the Department of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

**Section 119. Section 53B-17-503 is amended to read:**

**53B-17-503. Administration through nonprofit corporations or foundations -- Control -- Authority of corporations or foundations -- Personnel considered employees of university.**

(1) The University of Utah may establish, develop, and administer through nonprofit corporations or foundations controlled by the

president and the ~~[State Board of Regents]~~ board a research park upon the land acquired by the university under the patent.

(2) The nonprofit corporations or foundations may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out their public purposes.

(3) All salaried employees, agents, officers, faculty, and staff of the nonprofit corporation or foundation are for the purpose of employee benefits, employees, agents, officers, faculty, and staff of the University of Utah.

**Section 120. Section 53B-17-505 is amended to read:**

**53B-17-505. City to provide services and facilities to research park -- Fees and charges -- Disallowance of special improvement district or special taxes.**

(1) The Salt Lake City Council shall provide police and fire protection and furnish, install, and maintain customary municipal services and facilities for street lighting, traffic control, sidewalks, curb, gutter, drainage, sewage disposal, and water supply to all areas of the research park established upon lands conveyed to the University of Utah under the patent.

(2) The services and facilities are to be furnished and provided as needed and determined by the ~~[State Board of Regents]~~ board subject to connection fees, use charges, and other service fees customarily assessed against similar persons, companies, or properties within the territorial limits of Salt Lake City.

(3) No special improvement district may be created or special taxes imposed with respect to the services and facilities provided under this section.

**Section 121. Section 53B-17-901 is amended to read:**

**53B-17-901. Admissions -- Increase authorized.**

(1) Beginning with the 2013-14 school year and subject to Subsection (2), the University of Utah School of Medicine may increase the number of students admitted by 40 students for a total of 122 students admitted annually.

(2) Beginning with the 2013-14 school year, no fewer than 82% of the students admitted annually shall:

(a) meet the qualifications of a resident student for the purpose of tuition in accordance with:

(i) Section 53B-8-102;

(ii) ~~[State Board of Regents]~~ board policy on determining resident status; and

(iii) University of Utah policy on determining resident status;

(b) have graduated from a public or private college or university located in Utah; or

(c) have graduated from a public or private high school located in Utah.

**Section 122. Section 53B-17-1203 is amended to read:**

**53B-17-1203. SafeUT and School Safety Commission established -- Members.**

(1) There is created the SafeUT and School Safety Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) one member who represents the Utah public education system, appointed by the State Board of Education;

(c) one member who represents the ~~[Utah System of Higher Education]~~ Utah system of higher education, appointed by the ~~[State Board of Regents]~~ board;

(d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate;

(g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;

(h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;

(i) one member who represents the Utah Department of Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Human Services; and

(j) two members of the public, appointed by the chair of the commission.

(2) (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(3) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(5) Formal action by the commission requires a majority vote of a quorum.

(6) (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The Office of the Attorney General shall provide staff support to the commission.

**Section 123. Section 53B-17-1204 is amended to read:**

**53B-17-1204. SafeUT and School Safety Commission duties -- LEA governing board duties -- Fees.**

(1) As used in this section:

(a) "LEA governing board" means:

(i) for a school district, the local school board;

(ii) for a charter school, the charter school governing board; or

(iii) for the Utah Schools for the Deaf and the Blind, the State Board of Education.

(b) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) The commission shall coordinate:

(a) statewide efforts related to the SafeUT Crisis Line; and

(b) with the State Board of Education and the [~~State Board of Regents~~] board to promote awareness of the services available through the SafeUT Crisis Line.

(3) An LEA governing board shall inform students, parents, and school personnel about the SafeUT Crisis Line.

(4) (a) Except as provided in Subsection (4)(b), the University Neuropsychiatric Institute may charge a fee to an institution of higher education or other entity for the use of the SafeUT Crisis Line in accordance with the method described in Subsection (4)(c).

(b) The University Neuropsychiatric Institute may not charge a fee to the State Board of Education or a local education agency for the use of the SafeUT Crisis Line.

(c) The commission shall establish a standard method for charging a fee described in Subsection (4)(a).

**Section 124. Section 53B-18-501 is amended to read:**

**53B-18-501. Nonprofit corporations or foundations -- Purpose.**

(1) In addition to any other powers which it now has, Utah State University may form nonprofit corporations or foundations controlled by the president of the university and the [~~State Board of Regents~~] board to aid and assist the university in attaining its charitable, scientific, literary, research, and educational objectives.

(2) The nonprofit corporations or foundations may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out their public purposes.

**Section 125. Section 53B-18-1301 is amended to read:**

**53B-18-1301. Veterinary education program -- Partnership agreement.**

(1) With the approval of the [~~State Board of Regents~~] board, Utah State University may enter into a partnership agreement with Washington State University to establish a veterinary education program.

(2) The partnership agreement may provide that:

(a) (i) initially, up to 20 Utah resident students and 10 nonresident students may be accepted each year into a four-year program leading to a doctorate in veterinary medicine; and

(ii) if resources become available to expand the doctoral program in veterinary medicine, additional Utah resident students and nonresident students may be accepted into the program; and

(b) students accepted into the doctoral program in veterinary medicine pursuant to Subsection (2)(a) complete the first and second years of study at Utah State University and the third and fourth years of study at Washington State University.

(3) Subject to future budget constraints, the Legislature shall annually provide an appropriation to pay for the nonresident portion of tuition for Utah students enrolled at Washington State University under a partnership agreement authorized by this section for the third and fourth years of a doctoral program in veterinary medicine.

**Section 126. Section 53B-21-104 is amended to read:**

**53B-21-104. Deposit of bond proceeds -- State Building Board responsibilities -- Approval of Division of Facilities Construction and Management.**

(1) The [~~State Board of Regents~~] board treasurer or other fiscal officer, with the approval of the state treasurer, deposits the proceeds from the sale of bonds under this chapter into a special Construction Trust Fund Account established in compliance with the State Money Management Act of 1974.

(2) The proceeds are credited to the board on behalf of the institution of higher education for which the bonds were issued.

(3) The proceeds are kept in a separate fund and used solely for the purpose for which they were authorized by the board.



(4) The State Building Board makes all contracts and executes all instruments which it considers necessary to provide for the projects referred to in Section 53B-21-101.

(5) The proceeds in the special Construction Trust Fund Account shall be disbursed only upon receipt of written statements supported by itemized estimates and claims presented to the Division of Facilities Construction and Management as provided in the resolution authorizing the issuance of the bonds.

**Section 127. Section 53B-21-105 is amended to read:**

**53B-21-105. Disposition and use of income from operation of buildings -- Payment of principal and interest on bonds.**

(1) Except for the revenues paid directly to a trustee under Subsection 53B-21-102(3)(f), all income and revenues from the operation of the buildings under this chapter are deposited as collected in a fund established in compliance with the State Money Management Act.

(2) (a) This money is for the payment of the principal and interest on the bonds authorized under this chapter.

(b) The money shall also be used, to the extent provided in the resolution authorizing the bonds, to pay for the cost of maintaining and operating the building and to establish reserves for that purpose.

(3) The ~~[State Board of Regents]~~ board treasurer or other designated fiscal officer shall, not less than 15 days prior to the date interest and principal payments are due, transmit to the paying agent sufficient money from the fund to pay the obligation.

**Section 128. Section 53B-21-113 is amended to read:**

**53B-21-113. Limitation on issuance of bonds.**

No bonds may be authorized or issued by the ~~[State Board of Regents]~~ board or the board of any institution under this chapter without the prior approval of the Legislature.

**Section 129. Section 53B-22-201 is amended to read:**

**53B-22-201. Definitions.**

As used in this part:

(1) "Capital developments" means the same as that term is defined in Section 63A-5-104.

(2) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(3) "Dedicated project" means a capital development project for which state funds from an institution's allocation are requested or used.

(4) "Fund" means the Higher Education Capital Projects Fund created in Section 53B-22-202.

(5) "Institution" means ~~[a college or university that is part of the Utah System of Higher Education described in Section 53B-1-102]~~ a degree-granting institution.

(6) "Institution's allocation" means the total amount of money in the fund that an institution has been allocated in accordance with Section 53B-22-203.

(7) "Nondedicated project" means a capital development project for which state funds from a source other than an institution's allocation are requested or used.

(8) "State funds" means the same as that term is defined in Section 63A-5-104.

**Section 130. Section 53B-23-104 is amended to read:**

**53B-23-104. Centers for processing requests for electronic versions of instructional materials.**

(1) The ~~[State Board of Regents]~~ board may establish one or more centers to process requests for electronic versions of instructional materials pursuant to this chapter.

(2) The institutions designated as within the jurisdiction of a center shall submit requests for instructional material to the center, which shall transmit the request to the publisher or manufacturer.

(3) If there is more than one center, each center shall make every effort to coordinate requests.

(4) The publisher or manufacturer of instructional material shall be required to honor and respond to only those requests submitted through a designated center.

(5) If a publisher or manufacturer has responded to a request for instructional materials by a center, all subsequent requests for those instructional materials shall be satisfied by the center to which the request is made.

**Section 131. Section 53B-23-106 is amended to read:**

**53B-23-106. Board to make rules.**

~~[The State Board of Regents shall adopt]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this section for its implementation and administration, including rules addressing:

(1) the designation of materials considered "required or essential to student success";

(2) the determination of the availability of technology for the conversion of nonprinted materials pursuant to Section 53B-23-103 and the conversion of mathematics and science materials pursuant to Section 53B-23-102; and

(3) the procedures and standards relating to distribution of files and materials pursuant to Section 53B-23-103.

**Section 132. Section 53B-26-103 is amended to read:**

**53B-26-103. GOED reporting requirement -- Proposals -- Funding.**

(1) Every other year, the Governor's Office of Economic Development shall report to the Higher Education Appropriations Subcommittee~~], the board, and the Utah System of Technical Colleges Board of Trustees~~ and the board on the high demand technical jobs projected to support economic growth in the following high need strategic industry clusters:

- (a) aerospace and defense;
- (b) energy and natural resources;
- (c) financial services;
- (d) life sciences;
- (e) outdoor products;
- (f) software development and information technology; and
- (g) any other strategic industry cluster designated by the Governor's Office of Economic Development.

(2) To receive funding under this section, an eligible partnership shall submit a proposal containing the elements described in Subsection (3) to the Higher Education Appropriations Subcommittee on or before January 5 for fiscal year 2018 and any succeeding fiscal year.

(3) A proposal described in Subsection (2) shall include:

- (a) a program of instruction that:
  - (i) is responsive to the workforce needs of a strategic industry cluster described in Subsection (1);
    - (A) in one CTE region, for a proposal submitted by a regional partnership; or
    - (B) in at least two CTE regions, for a proposal submitted by a statewide partnership;
  - (ii) leads to the attainment of a stackable sequence of credentials; and
  - (iii) includes a non-duplicative progression of courses that include both academic and CTE content;
- (b) expected student enrollment, attainment rates, and job placement rates;
- (c) evidence of input and support for the proposal from an industry advisory group;
- (d) a description of any financial or in-kind contributions for the program from an industry advisory group;

(e) a description of the job opportunities available at each exit point in the stackable sequence of credentials;

(f) evidence of an official action in support of the proposal from~~:] the board;~~

~~[(i) the Utah System of Technical Colleges Board of Trustees, if the eligible partnership includes a technical college described in Subsection 53B-26-102(10)(a); or]~~

~~[(ii) the board, if the eligible partnership includes:]~~

~~[(A) an institution of higher education; or]~~

~~[(B) a college described in Subsections 53B-26-102(10)(b) through (e);]~~

(g) if the program of instruction described in Subsection (3)(a) requires board approval under Section 53B-16-102, evidence of board approval of the program of instruction; and

(h) a funding request, including justification for the request.

(4) The Higher Education Appropriations Subcommittee shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal contains the elements described in Subsection (3);

(ii) for a proposal from a regional partnership, support for the proposal is widespread within the CTE region; and

(iii) the proposal expands the capacity to meet state or regional workforce needs;

(b) determine the extent to which to fund the proposal; and

(c) make a recommendation to the Legislature for funding the proposal through the appropriations process.

(5) An eligible partnership that receives funding under this section:

(a) shall use the money to deliver the program of instruction described in the eligible partnership's proposal; and

(b) may not use the money for administration.

**Section 133. Section 53B-26-202 is amended to read:**

**53B-26-202. Nursing initiative -- Medical Education Council reporting requirement -- Proposals -- Funding.**

(1) Every even-numbered year, the Medical Education Council created in Section 53B-24-302 shall:

(a) project the demand, by license classification, for individuals to enter a nursing profession in each region;

(b) receive input from at least one medical association in developing the projections described in Subsection (1)(a); and

(c) report the projections described in Subsection (1)(a) to:

~~[(i) the State Board of Regents;]~~

~~[(ii) the Utah System of Technical Colleges Board of Trustees; and]~~

(i) the board; and

~~[(iii)]~~ (ii) the Higher Education Appropriations Subcommittee.

(2) To receive funding under this section, on or before January 5, an eligible program shall submit to the Higher Education Appropriations Subcommittee, through the budget process for the ~~[State Board of Regents or the Utah System of Technical Colleges]~~ board, as applicable, a proposal that describes:

(a) a program of instruction offered by the eligible program that is responsive to a projection described in Subsection (1)(a);

(b) the following information about the eligible program:

(i) expected student enrollment;

(ii) attainment rates;

(iii) job placement rates; and

(iv) passage rates for exams required for licensure for a nursing profession;

(c) the instructional cost per full-time equivalent student enrolled in the eligible program;

(d) financial or in-kind contributions to the eligible program from:

(i) the health care industry; or

(ii) an institution; and

(e) a funding request, including justification for the request.

(3) The Higher Education Appropriations Subcommittee shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal:

(A) contains the elements described in Subsection (2);

(B) expands the capacity to meet the projected demand described in Subsection (1)(a); and

(C) has health care industry or institution support; and

(ii) the program of instruction described in the proposal:

(A) is cost effective;

(B) has support from the health care industry or an institution; and

(C) has high passage rates on exams required for licensure for a nursing profession;

(b) determine the extent to which to fund the proposal; and

(c) make an appropriation recommendation to the Legislature on the amount of money determined under Subsection (3)(b) to the eligible program's institution.

(4) An institution that receives funding under this section shall use the funding to increase the number of students enrolled in the eligible program for which the institution receives funding.

(5) On or before November 1, 2020, and annually thereafter, the board shall report to the Higher Education Appropriations Subcommittee on the elements described in Subsection (2) for each eligible program funded under this section.

**Section 134. Section 53B-27-301 is amended to read:**

**53B-27-301. Definitions.**

As used in this part:

(1) "Civil liberty" means a civil liberty enumerated in the United States Constitution or the Utah Constitution.

~~[(2) "Governing board" means:]~~

~~[(a) for an institution described in Subsections 53B-2-101(1)(a) through (h), the board; or]~~

~~[(b) for a technical college, the Utah System of Technical Colleges Board of Trustees.]~~

~~[(3)]~~ (2) "Initiate rulemaking proceedings" means the same as that term is defined in Section 63G-3-601.

**Section 135. Section 53B-27-303 is amended to read:**

**53B-27-303. Complaint process -- Reporting.**

(1) Before August 1, 2019, ~~[each governing]~~ the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a student enrolled in an institution may submit a complaint to the ~~[institution's governing]~~ board alleging a policy of the institution directly affects one or more of the student's civil liberties.

(2) (a) When a student submits a complaint in accordance with the rules adopted under Subsection (1), the ~~[governing]~~ board shall:

(i) examine the complaint and, within 30 days after the day on which the ~~[governing]~~ board receives the complaint, determine whether the complaint is made in good faith; and

(ii) (A) if the ~~[governing]~~ board determines that the complaint is made in good faith, direct the institution against which the complaint is made to initiate rulemaking proceedings for the challenged policy; or

(B) if the ~~[governing]~~ board determines that the complaint is made in bad faith, dismiss the complaint.

(b) Before November 30 of each year, ~~each governing~~ the board shall submit a report to the Administrative Rules Review Committee detailing:

(i) the number of complaints the ~~governing~~ board received during the preceding year;

(ii) the number of complaints the ~~governing~~ board found to be made in good faith during the preceding year; and

(iii) each policy that is the subject of a good-faith complaint that the ~~governing~~ board received during the preceding year.

(3) If ~~a governing~~ the board directs an institution to initiate rulemaking proceedings for a challenged policy in accordance with this section, the institution shall initiate rulemaking proceedings for the policy within 60 days after the day on which the ~~governing~~ board directs the institution.

**Section 136. Section 53B-28-401 is amended to read:**

**53B-28-401. Campus safety plans and training -- Institution duties -- Governing board duties.**

(1) As used in this section:

(a) "Covered offense" means:

- (i) sexual assault;
- (ii) domestic violence;
- (iii) dating violence; or
- (iv) stalking.

~~[(b) "Governing board" means:]~~

~~[(i) for a college or university that is part of the Utah System of Higher Education described in Section 53B-1-102, the board; or]~~

~~[(ii) for a technical college, the Utah System of Technical Colleges Board of Trustees.]~~

~~[(e)]~~ (b) "Institution" means an institution of higher education described in Section 53B-1-102.

~~[(d)]~~ (c) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii) (A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

(6) ~~Each governing~~ The board shall:

(a) on or before July 1, 2019, establish minimum requirements for an institution's campus safety plan described in Subsection (2);

(b) identify resources an institution may use to develop a campus safety training curriculum as described in Subsection (4); and

(c) report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings, on the implementation of the requirements described in this section.

**Section 137. Section 53E-1-201 is amended to read:**

**53E-1-201. Reports to and action required of the Education Interim Committee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(b) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(c) the report described in Section ~~53B-1-103~~ 53B-1-402 by the ~~[State Board of Regents]~~ Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

~~[(d) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;]~~

~~[(e) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;]~~

(d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

~~[(f)]~~ (e) the reports described in Section 53B-28-401 by the ~~[State Board of Regents and the Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher Education regarding activities related to campus safety;

~~[(g)]~~ (f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

~~[(h)]~~ (g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

~~[(i)]~~ (h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

~~[(j)]~~ (i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

~~[(k)]~~ (j) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

~~[(l)]~~ (k) the report described in Section 53F-4-407 by the state board on UPSTART;

~~[(m)]~~ (l) the report described in Section 53F-5-405 by an independent evaluator of a partnership that receives a grant to improve educational outcomes for students who are low income; and

~~[(n)]~~ (m) the report described in Section 63N-12-208 by the STEM Action Center Board, including the information described in Section 63N-12-213 on the status of the computer science initiative and Section 63N-12-214 on the Computing Partnerships Grants Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(l) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the

Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

**Section 138. Section 53E-1-203 is amended to read:**

**53E-1-203. State Superintendent's Annual Report.**

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and

(vii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2) (a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) through October 1, 2022, the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) beginning on July 1, 2020, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and ~~[State Board of Regents]~~ Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-2-503 by the state board on early literacy;

(viii) the report described in Section 53F-5-506 by the state board on information related to competency-based education;

(ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services; and

(x) the report described in Section 53G-10-204 by the state board on methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

**Section 139. Section 53E-2-302 is amended to read:**

**53E-2-302. Characteristics of public education system.**

The Legislature shall assist in maintaining a public education system that has the following characteristics:

(1) assumes that all students have the ability to learn and that each student departing the system will be prepared to achieve success in productive employment, further education, or both;

(2) provides a personalized education plan or personalized education occupation plan for each student, which involves the student, the student's parent, and school personnel in establishing the plan;

(3) provides students with the knowledge and skills to take responsibility for their decisions and to make appropriate choices;

(4) provides opportunities for students to exhibit the capacity to learn, think, reason, and work effectively, individually and in groups;

(5) offers world-class core standards that enable students to successfully compete in a global society, and to succeed as citizens of a constitutional republic;

(6) incorporates an information retrieval system that provides students, parents, and educators with reliable, useful, and timely data on the progress of each student;

(7) attracts, prepares, inducts, and retains excellent teachers for every classroom in large part through collaborative efforts among the state board, the ~~[State Board of Regents]~~ Utah Board of Higher Education, and school districts, provides effective ongoing professional development opportunities for teachers to improve their teaching skills, and provides recognition, rewards, and compensation for their excellence;

(8) empowers each school district and public school to create its own vision and plan to achieve results consistent with the objectives outlined in this part;

(9) uses technology to improve teaching and learning processes and for the delivery of educational services;

(10) promotes ongoing research and development projects at the district and the school level that are directed at improving or enhancing public education;

(11) offers a public school choice program, which gives students and their parents options to best meet the student's personalized education needs;

(12) emphasizes the involvement of educators, parents, business partnerships, and the community at large in the educational process by allowing them to be involved in establishing and implementing educational goals and participating in decision-making at the school site; and

(13) emphasizes competency-based standards and progress-based assessments, including tracking and measurement systems.

**Section 140. Section 53E-3-502 is amended to read:**

**53E-3-502. State Board of Education assistance to districts and schools.**

In order to assist school districts and individual schools in acquiring and maintaining the characteristics set forth in Section 53E-2-302, the State Board of Education shall:

(1) provide the framework for an education system, including core competency standards and their assessment, in which school districts and public schools permit students to advance by demonstrating competency in subject matter and mastery of skills;

(2) conduct a statewide public awareness program on competency-based educational systems;

(3) compile and publish, for the state as a whole, a set of educational performance indicators describing trends in student performance;

(4) promote a public education climate of high expectations and academic excellence;

(5) disseminate successful site-based decision-making models to districts and schools and provide teacher professional development opportunities and evaluation programs for site-based plans consistent with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b);

(6) provide a mechanism for widespread dissemination of information about strategic planning for public education, including involvement of business and industry in the education process, in order to ensure the understanding and support of all the individuals and groups concerned with the mission of public education as outlined in Section 53E-2-301;

(7) provide for a research and development clearing house at the state level to receive and share with school districts and public schools information

on effective and innovative practices and programs in education;

(8) help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and

(9) in concert with the [State Board of Regents] Utah Board of Higher Education and the state's colleges of education review and revise teacher licensing requirements to be consistent with teacher preparation for participation in personalized education programs within the public schools.

**Section 141. Section 53E-3-505 is amended to read:**

**53E-3-505. Financial and economic literacy education.**

(1) As used in this section:

(a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) "Financial and economic literacy concepts" include concepts related to the following topics:

(i) basic budgeting;

(ii) saving and financial investments;

(iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;

(iv) career management, including earning an income;

(v) rights and responsibilities of renting or buying a home;

(vi) retirement planning;

(vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;

(viii) insurance;

(ix) federal, state, and local taxes;

(x) charitable giving;

(xi) identity fraud and theft;

(xii) negative financial consequences of gambling;

(xiii) bankruptcy;

(xiv) economic systems, including a description of:

(A) a command system such as socialism or communism, a market system such as capitalism, and a mixed system; and

(B) historic and current examples of the effects of each economic system on economic growth;

(xv) supply and demand;



- (xvi) monetary and fiscal policy;
  - (xvii) effective business plan creation, including using economic analysis in creating a plan;
  - (xviii) scarcity and choices;
  - (xix) opportunity cost and tradeoffs;
  - (xx) productivity;
  - (xxi) entrepreneurship; and
  - (xxii) economic reasoning.
- (c) “General financial literacy course” means the course of instruction administered by the state board under Subsection (3).
- (2) The state board shall:
- (a) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:
    - (i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;
    - (ii) using curriculum mapping;
    - (iii) creating training materials and staff development programs that:
      - (A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and
      - (B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and
    - (iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;
  - (b) work with interested public, private, and nonprofit entities to:
    - (i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;
    - (ii) coordinate school use of existing financial and economic literacy education resources;
    - (iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;
    - (iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and
    - (v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

- (c) make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses; and
  - (d) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy concepts to teachers, including:
    - (i) a statewide learning community for financial and economic literacy;
    - (ii) summer workshops; and
    - (iii) online videos of experts in the field of financial and economic literacy education.
- (3) The state board shall:
- (a) administer a general financial literacy course in the same manner that the state board administers other core standards for Utah public school courses for grades 9 through 12;
  - (b) adopt standards and objectives for the general financial literacy course that address:
    - (i) financial and economic literacy concepts;
    - (ii) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid;
    - (iii) financial benefits of pursuing concurrent enrollment as defined in Section 53E-10-301; and
    - (iv) technology that relates to banking, savings, and financial products; and
  - (c) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;
    - (ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and
    - (iii) develop a plan, through the state superintendent, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:
      - (A) an analysis of assessment results by standard; and
      - (B) average scores statewide and by school district and school.
- (4) (a) The state board shall establish a task force to study and make recommendations to the state board on how to improve financial and economic literacy education in the public school system.
- (b) The task force membership shall include representatives of:
- (i) the state board;
  - (ii) school districts and charter schools;
  - (iii) the [State Board of Regents] Utah Board of Higher Education; and

(iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) The state board shall convene the task force at least once every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.

**Section 142. Section 53E-3-507 is amended to read:**

**53E-3-507. Powers of the state board.**

The state board:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

(3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;

(4) shall cooperate with the Utah [~~System of Technical Colleges Board of Trustees~~] Board of Higher Education, technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding to ensure that students in the public education system have access to career and technical education at [~~Utah System of Technical Colleges~~] technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience; and

(6) shall, after consulting with school districts, charter schools, the Utah [~~System of Technical Colleges Board of Trustees~~] Board of Higher Education, technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding, prepare and submit an annual report in accordance with Section 53E-1-203 detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) the access secondary students have to programs offered:

(i) at technical colleges; and

(ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding.

**Section 143. Section 53E-4-206 is amended to read:**

**53E-4-206. Career and college readiness mathematics competency standards.**

(1) As used in this section, "qualifying score" means a score established as described in Subsection (4), that, if met by a student, qualifies the student to receive college credit for a mathematics course that satisfies the state system of higher education quantitative literacy requirement.

(2) The state board shall make rules that:

(a) (i) establish the mathematics competency standards described in Subsection (3) as a graduation requirement beginning with the 2016-17 school year; and

(ii) include the qualifying scores described in Subsection (4); and

(b) establish systematic reporting of college and career ready mathematics achievement.

(3) In addition to other graduation requirements established by the state board, a student shall fulfill one of the following requirements to demonstrate mathematics competency that supports the student's future college and career goals as outlined in the student's college and career plan:

(a) for a student pursuing a college degree after graduation:

(i) receive a score that at least meets the qualifying score for:

(A) an Advanced Placement calculus or statistics exam;

(B) an International Baccalaureate higher level mathematics exam;

(C) a college-level math placement test described in Subsection (5);

(D) a College Level Examination Program precalculus or calculus exam; or

(E) the ACT Mathematics Test; or

(ii) receive at least a "C" grade in a concurrent enrollment mathematics course that satisfies the state system of higher education quantitative literacy requirement;

(b) for a non college degree-seeking student, the student shall complete appropriate math competencies for the student's career goals as described in the student's college and career plan;

(c) for a student with an individualized education program prepared in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall meet the mathematics standards described in the student's individualized education program; or

(d) for a senior student with special circumstances as described in state board rule, the student shall fulfill a requirement associated with the student's special circumstances, as established in state board rule.

(4) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall, in consultation with the state board, determine qualifying scores for the tests and exams described in Subsection (3)(a)(i).

(5) The ~~[State Board of Regents, established in Section 53B-1-103,]~~ Utah Board of Higher Education shall make a policy to select at least two tests for college-level math placement.

(6) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall, in consultation with the state board, make policies to:

(a) develop mechanisms for a student who completes a math competency requirement described in Subsection (3)(a) to:

(i) receive college credit; and

(ii) satisfy the state system of higher education quantitative literacy requirement;

(b) allow a student, upon completion of required high school mathematics courses with at least a "C" grade, entry into a mathematics concurrent enrollment course;

(c) increase access to a range of mathematics concurrent enrollment courses;

(d) establish a consistent concurrent enrollment course approval process; and

(e) establish a consistent process to qualify high school teachers with an upper level mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

**Section 144. Section 53E-4-308 is amended to read:**

**53E-4-308. Unique student identifier -- Coordination of higher education and public education information technology systems -- Coordination of preschool and public education information technology systems.**

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

(a) is not assigned to any former or current student; and

(b) does not incorporate personal information, including a birth date or Social Security number.

(2) The state board, through the state superintendent, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The state board and the ~~[State Board of Regents]~~ Utah Board of Higher Education shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109.

(4) The state board and the ~~[State Board of Regents]~~ Utah Board of Higher Education shall coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

(5) (a) The state board and the Department of Workforce Services shall coordinate assignment of a unique student identifier to each student enrolled in a program described in Title 35A, Chapter 15, Preschool Programs.

(b) A unique student identifier assigned to a student under Subsection (5)(a) shall remain the student's unique student identifier used by the state board when the student enrolls in a public school in kindergarten or a later grade.

(c) The state board, the Department of Workforce Services, and a contractor as defined in Section 53F-4-401, shall coordinate access to the unique student identifier of a preschool student who later attends an LEA.

**Section 145. Section 53E-6-201 is amended to read:**

**53E-6-201. State board licensure.**

(1) To be fully implemented by July 1, 2020, and, if technology and funds are available, the state board shall establish in rule a system for educator licensing that includes:

(a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;

(b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in state board rule; and

(c) an LEA-specific educator license issued by the state board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools.

(2) An individual employed in a position that requires licensure by the state board shall hold the license that is appropriate to the position.

(3) (a) The state board may by rule rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.

(b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the state board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the ~~[State Board of Regents]~~ Utah Board of Higher Education, if:

(i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(ii) enrollments are determined by each institution under rules and guidelines established by the ~~[State Board of Regents]~~ Utah Board of Higher Education in accordance with findings of fact that space is available for the educator's enrollment.

**Section 146. Section 53E-10-301 is amended to read:**

**53E-10-301. Definitions.**

As used in this part:

(1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the ~~[State Board of Regents]~~ Utah Board of Higher Education under Section 53E-10-302.

(2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Eligible instructor" means an instructor who meets the requirements described in Subsection 53E-10-302(5).

(5) "Eligible student" means a student who:

(a) is enrolled in, and counted in average daily membership in, a public school within the state;

(b) has on file a plan for college and career readiness as described in Section 53E-2-304; and

(c) is in grade 9, 10, 11, or 12.

(6) "Institution of higher education" means an institution ~~[that is part of the Utah System of Higher Education]~~ described in Subsection 53B-1-102(1)(a).

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

(i) number of years teaching in the academic field;

(ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

(v) portfolio of work related to the academic field; or

(vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

**Section 147. Section 53E-10-302 is amended to read:**

**53E-10-302. Concurrent enrollment program.**

(1) The state board and the ~~[State Board of Regents]~~ Utah Board of Higher Education shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

(i) toward high school graduation; and

(ii) at an institution of higher education;

(b) includes only a course that:

(i) leads to a degree or certificate offered by an institution of higher education; and

(ii) is one of the following:

(A) a general education course;

(B) a career and technical education course;

(C) a pre-major college level course; or

(D) a foreign language concurrent enrollment course described in Section 53E-10-307;

(c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and

(d) is designed and implemented to take full advantage of the most current available education technology.

(2) The state board and the ~~[State Board of Regents]~~ Utah Board of Higher Education shall coordinate to:

(a) establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for a concurrent enrollment course align with:

(A) core standards for Utah public schools adopted by the state board; and

(B) except for a foreign language concurrent enrollment course described in Section 53E-10-307, an institution of higher education lower division course numbered at or above the 1000 level; and

(b) provide advising to an eligible student, including information on:

(i) general education requirements at institutions of higher education; and

(ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.

(3) After consultation with institution of higher education concurrent enrollment directors, the [~~State Board of Regents~~] Utah Board of Higher Education shall:

(a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and

(b) on or before July 1, 2019, establish a policy that:

(i) determines which concurrent enrollment courses are career and technical education courses; and

(ii) creates a process for:

(A) an LEA to appeal an institution of higher education's decision under Subsection (6) if the institution of higher education does not approve an LEA employee as an eligible instructor; and

(B) an LEA or institution of higher education to determine whether an eligible instructor who previously taught a concurrent enrollment course is no longer qualified to teach the concurrent enrollment course.

(4) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(5) (a) An institution of higher education faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an institution of higher education; and

(iii) (A) as described in Subsection (6), is approved as an eligible instructor by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee;

(B) has an upper level mathematics credential issued by the state board;

(C) is approved as adjunct faculty by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee; or

(D) teaches a concurrent enrollment course that the LEA employee taught during the 2018-19 or 2019-20 school year.

(6) An institution of higher education shall approve an LEA employee as an eligible instructor:

(a) for a career and technical education concurrent enrollment course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the concurrent enrollment course's academic field; or

(ii) qualifying experience, as determined by the institution of higher education; or

(b) for a concurrent enrollment course other than a career and technical education course, if the LEA employee has:

(i) a master's degree or higher in the concurrent enrollment course's academic field;

(ii) (A) a master's degree or higher in any academic field; and

(B) at least 18 completed credit hours of graduate course work in an academic field that is relevant to the concurrent enrollment course; or

(iii) qualifying experience, as determined by the institution of higher education.

(7) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

**Section 148. Section 53E-10-303 is amended to read:**

**53E-10-303. Designated institution of higher education -- Concurrent enrollment course right of first refusal.**

(1) As used in this section, "designated institution of higher education" means an institution of higher education that is designated by the [~~State Board of Regents~~] Utah Board of Higher Education to provide a course or program of study within a specific geographic region.

(2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated institution of higher education to request that the designated institution of higher education contract with the LEA to provide the concurrent enrollment course.

(3) If the LEA's designated institution of higher education chooses to offer the concurrent enrollment course, the LEA shall contract with the LEA's designated institution of higher education to provide the concurrent enrollment course.

(4) An LEA may contract with an institution of higher education that is not the LEA's designated institution of higher education to provide a concurrent enrollment course if the LEA's designated institution of higher education:

(a) chooses not to offer the concurrent enrollment course proposed by the LEA; or

(b) fails to respond to the LEA's request under Subsection (2) within 30 days after the day on which the LEA contacts the designated institution of higher education.

**Section 149. Section 53E-10-304 is amended to read:**

**53E-10-304. Concurrent enrollment participation form -- Parental permission.**

(1) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall create a higher education concurrent enrollment participation form that includes a parental permission form.

(2) Before allowing an eligible student to participate in concurrent enrollment, an LEA and an institution of higher education shall ensure that the eligible student has, for the current school year:

(a) submitted the participation form described in Subsection (1);

(b) signed an acknowledgment of program participation requirements; and

(c) obtained parental permission as indicated by the signature of a student's parent on the parental permission form.

**Section 150. Section 53E-10-305 is amended to read:**

**53E-10-305. Tuition and fees.**

(1) Except as provided in this section, the ~~[State Board of Regents]~~ Utah Board of Higher Education or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The ~~[State Board of Regents]~~ Utah Board of Higher Education may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for

concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53E-10-302(5)(b); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

(5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as defined in Section 53G-7-601, that is required for a concurrent enrollment course.

**Section 151. Section 53E-10-308 is amended to read:**

**53E-10-308. Reporting.**

The state board and the ~~[State Board of Regents]~~ Utah Board of Higher Education shall submit an annual written report to the Higher Education Appropriations Subcommittee and in accordance with Section 53E-1-203 on student participation in the concurrent enrollment program, including:

(1) data on the higher education tuition not charged due to the hours of higher education credit granted through concurrent enrollment;

(2) tuition or fees charged under Section 53E-10-305;

(3) an accounting of the money appropriated for concurrent enrollment; and

(4) a justification of the distribution method described in Subsections 53F-2-409(3)(d) and (e).

**Section 152. Section 53E-10-704 is amended to read:**

**53E-10-704. Director Selection Committee -- Membership -- Powers and duties -- Compensation.**

(1) There is created the Director Selection Committee to appoint the director.

(2) The selection committee shall consist of the following nine members each appointed for two-year staggered terms, with the initial terms of the members described in Subsections (2)(a), (b), and (c) to be three years:

(a) one member of the office of the governor, who is the chair of the selection committee and appointed by the governor;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) one member of the Senate, appointed by the president of the Senate;

(d) one member of the state board, appointed by the chair of the state board;

(e) one member of the ~~[Board of Regents]~~ Utah Board of Higher Education, appointed by the chair of the ~~[Board of Regents]~~ Utah Board of Higher Education;

(f) one member appointed by the state superintendent;

(g) one member of the State Charter School Board, appointed by the chair of the State Charter School Board;

(h) one member of the Utah School Boards Association recognized in Section 53G-4-502, appointed by the association executive director; and

(i) one member of a state association that represents school superintendents, appointed by the association executive director.

(3) (a) A member of the selection committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the selection committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) A majority of the members shall constitute a quorum for the transaction of selection committee business.

(5) (a) The selection committee shall select and appoint a director for a four-year term.

(b) The director may be appointed for more than one term.

(6) (a) In a year in which the director is appointed, the selection committee shall:

(i) solicit applications for the director position to be submitted no later than June 1;

(ii) hold at least two meetings to discuss candidates for the open director position; and

(iii) select and appoint by majority vote a candidate to fill the director position to begin employment no later than August 1.

(b) Notwithstanding Subsection (6)(a), if a midterm vacancy in the director position occurs, the selection committee shall:

(i) no later than 25 business days after the day on which the position is vacated, solicit applications for the director position;

(ii) hold at least two meetings to discuss candidates for the vacant position; and

(iii) no later than 60 business days after the day on which the position is vacated, select a candidate

to fill the director position for the remainder of the term.

(7) (a) The selection committee:

(i) may remove a director before the completion of the director's term only by a majority vote of the selection committee; and

(ii) is the only person empowered to remove the director.

(b) The chair shall hold a meeting to consider removing the director upon request of two or more selection committee members.

(8) A member of the selection committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The selection committee shall:

(a) establish criteria for evaluation of the ULEAD program, including the degree of participation by participating institutions and practitioners; and

(b) evaluate the effectiveness of ULEAD every four years for purposes of continuing the program.

(10) The selection committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

**Section 153. Section 53F-2-409 is amended to read:**

**53F-2-409. Concurrent enrollment funding.**

(1) The terms defined in Section 53E-10-301 apply to this section.

(2) The state board shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The state board shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken where:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the state board shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the ~~[State Board of Regents]~~ Utah Board of Higher Education.

(c) From the money allocated under Subsection (3)(a)(ii), the state board shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the ~~[State Board of Regents]~~ Utah Board of Higher Education.

(d) The state board shall make rules providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The [~~State Board of Regents~~] Utah Board of Higher Education shall make rules providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) kindergarten through grade 12 student enrollment; and

(b) the value of the weighted pupil unit.

(5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

**Section 154. Section 53F-2-501 is amended to read:**

**53F-2-501. Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.**

(1) A secondary public school student who has completed all required courses or demonstrated mastery of required skills and competencies may graduate at any time with the approval of:

(a) the student;

(b) the student's parent; and

(c) a local school official who is authorized by the school's principal or director to approve early graduation.

(2) The state board shall make a payment to a public high school in an amount equal to 1/2 of the scholarship awarded to each student under this section who graduates from the school at or before the conclusion of grade 11, or a proportionately lesser amount for a student who graduates after the conclusion of grade 11 but before the conclusion of grade 12.

(3) (a) The state board shall award to each student who graduates from high school at or before the conclusion of grade 11 a centennial scholarship in the amount of the greater of 30% of the previous year's value of the weighted pupil unit or \$1,000, subject to this Subsection (3) through Subsection (6).

(b) A student who is awarded a centennial scholarship may use the scholarship for full time enrollment at:

(i) a Utah public college, university, or community college;

(ii) a technical college described in Section 53B-2a-105; or

(iii) any other institution in the state of Utah that:

(A) is accredited by an accrediting organization recognized by the [~~State Board of Regents~~] Utah Board of Higher Education; and

(B) offers postsecondary courses of the student's choice.

(c) Before making a payment of a centennial scholarship, the state board shall verify that the student has registered at an institution described in Subsection (3)(b):

(i) during the fiscal year following the student's graduation from high school; or

(ii) at the end of the student's deferral period, in accordance with Subsection (4).

(d) If a student graduates after the conclusion of grade 11 but before the conclusion of grade 12, the state board shall award the student a centennial scholarship of a proportionately lesser amount than the scholarship amount described in Subsection (3)(a).

(4) (a) A student who is eligible for a centennial scholarship under Subsection (3) may make a request to the state board that the state board defer consideration of the student for the scholarship for a set period of time.

(b) A student who makes a request under Subsection (4)(a) shall state in the request the reason for which the student wishes not to be considered for the scholarship until the end of the deferral period, which may include:

(i) health reasons;

(ii) religious reasons;

(iii) military service; or

(iv) humanitarian service.

(c) If a student makes a request under Subsection (4)(a), the state board shall:

(i) (A) review the student's request; and

(B) approve or reject the student's request; and

(ii) if the state board approves the student's request, in consultation with the student, set the length of the deferral period, ensuring that the deferral period is sufficient to meet the student's needs under Subsection (4)(b).

(d) At the end of the deferral period, and upon request of the student, the state board shall:

(i) determine a student to be eligible for the scholarship if the student was eligible at the time of the student's request for deferral; and

(ii) if found eligible, make a payment to the student in an amount equal to the amount described in Subsection (4)(e).

(e) The amount of a student's deferred scholarship payment shall be determined by the state board based on the amount of the scholarship the student would have been entitled to as described in Subsection (3) and based on the fiscal year prior to the student's request for deferral.

(5) Except as provided in Subsection (4)(b), the state board:

(a) shall make the payments authorized in Subsections (2) and (3)(a) during the fiscal year that follows the student's graduation; and



(b) may make the payments authorized in Subsection (3)(b) during the fiscal year:

- (i) in which the student graduates; or
- (ii) following the student's graduation.

(6) Subject to future budget constraints, the Legislature shall adjust the appropriation for the Centennial Scholarship Program based on:

(a) the anticipated increase of students awarded a centennial scholarship; and

(b) the percent increase of the prior year's weighted pupil unit value, as provided in Subsection (3).

**Section 155. Section 53F-5-204 is amended to read:**

**53F-5-204. Initiative to strengthen college and career readiness.**

(1) As used in this section:

- (a) "College and career counseling" means:
  - (i) nurturing college and career aspirations;
  - (ii) assisting students in planning an academic program that connects to college and career goals;
  - (iii) providing early and ongoing exposure to information necessary to make informed decisions when selecting a college and career;
  - (iv) promoting participation in college and career assessments;
  - (v) providing financial aid information; and
  - (vi) increasing understanding about college admission processes.
- (b) "LEA" or "local education agency" means a school district or charter school.

(2) There is created the Strengthening College and Career Readiness Program, a grant program for LEAs, to improve students' college and career readiness through enhancing the skill level of school counselors to provide college and career counseling.

(3) The state board shall:

(a) on or before August 1, 2015, collaborate with the ~~[State Board of Regents]~~ Utah Board of Higher Education, and business, community, and education stakeholders to develop a certificate for school counselors that:

(i) certifies that a school counselor is highly skilled at providing college and career counseling; and

(ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as defined in rules established by the state board;

(b) subject to legislative appropriations, award grants to LEAs, on a competitive basis, for payment of course fees for courses required to earn the certificate developed by the state board under Subsection (3)(a); and

(c) make rules specifying:

- (i) procedures for applying for and awarding grants under this section;
- (ii) criteria for awarding grants; and
- (iii) reporting requirements for grantees.

(4) An LEA that receives a grant under this section shall use the grant for payment of course fees for courses required to attain the certificate as determined by the state board under Subsection (3)(a).

**Section 156. Section 53F-5-205 is amended to read:**

**53F-5-205. Paraeducator to Teacher Scholarship Program -- Grants for math teacher training programs.**

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

(b) As used in this section, "paraeducator" means a school employee who:

- (i) delivers instruction under the direct supervision of a teacher; and
- (ii) works in an area where there is a shortage of qualified teachers, such as special education, Title I, ESL, reading remediation, math, or science.

(2) The Paraeducator to Teacher Scholarship Program is created to award scholarships to paraeducators for education and training to become licensed teachers.

(3) The state board shall use money appropriated for the Paraeducator to Teacher Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by school districts and charter schools who are pursuing an associate's degree or bachelor's degree program to become a licensed teacher.

(4) A paraeducator is eligible to receive a scholarship if:

- (a) the paraeducator is employed by a school district or charter school;
- (b) is admitted to, or has made an application to, an associate's degree program or bachelor's degree program that will prepare the paraeducator for teacher licensure; and
- (c) the principal at the school where the paraeducator is employed has nominated the paraeducator for a scholarship.

(5) (a) The state board shall establish a committee to select scholarship recipients from nominations submitted by school principals.

(b) The committee shall include representatives of the state board, ~~[State Board of Regents]~~ the Utah Board of Higher Education, and the general public, excluding school district and charter school employees.

(c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (d) The committee shall select scholarship recipients based on the following criteria:
- (i) test scores, grades, or other evidence demonstrating the applicant's ability to successfully complete a teacher education program; and
- (ii) the applicant's record of success as a paraeducator.
- (6) The maximum scholarship amount is \$5,000.
- (7) Scholarship money may only be used to pay for tuition costs:
- (a) of:
- (i) an associate's degree program that fulfills credit requirements for the first two years of a bachelor's degree program leading to teacher licensure; or
- (ii) the first two years of a bachelor's degree program leading to teacher licensure; and
- (b) at a higher education institution:
- (i) located in Utah; and
- (ii) accredited by the Northwest Commission on Colleges and Universities.
- (8) A scholarship recipient must be continuously employed as a paraeducator by a school district or charter school while pursuing a degree using scholarship money.
- (9) The state board shall make rules in accordance with this section to administer the Paraeducator to Teacher Scholarship Program, including rules establishing:
- (a) scholarship application procedures;
- (b) the number of, and qualifications for, committee members who select scholarship recipients; and
- (c) procedures for distributing scholarship money.
- (10) If the state obtains matching funds of equal sums from private contributors, the state board may award grants to institutions of higher education or nonprofit educational organizations for programs that provide:
- (a) mentoring and training leading to a secondary education license with a certificate in mathematics for an individual who:
- (i) is not a teacher in a public or private school;
- (ii) does not have a teaching license;
- (iii) has a bachelor's degree or higher; and
- (iv) demonstrates a high level of mathematics competency by:

(A) successfully completing substantial course work in mathematics; and

(B) passing a mathematics content exam; or

(b) a stipend, professional development, and leadership opportunities to an experienced mathematics teacher who demonstrates high content knowledge and exemplary teaching and leadership skills to assist the teacher in becoming a teacher leader.

(11) (a) The state board shall make rules that establish criteria for awarding grants under this section.

(b) In awarding grants, the state board shall consider the amount or percent of matching funds provided by the grant recipient.

**Section 157. Section 53G-5-102 is amended to read:**

**53G-5-102. Definitions.**

As used in this chapter:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

- (a) cash;
- (b) stock or other investments;
- (c) real property;
- (d) equipment and supplies;
- (e) an ownership interest;
- (f) a license;
- (g) a cause of action; and
- (h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

- (a) the board of trustees of:
- (i) the University of Utah;
- (ii) Utah State University;
- (iii) Weber State University;
- (iv) Southern Utah University;
- (v) Snow College;
- (vi) Dixie State University;
- (vii) Utah Valley University; or
- (viii) Salt Lake Community College; or

(b) ~~[the board of directors of]~~ a technical college board of trustees described in Section 53B-2a-108.

(3) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

**Section 158. Section 53G-5-306 is amended to read:**

**53G-5-306. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.**

(1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) The state board shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(4) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(5) (a) The school's charter agreement may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Section 53G-5-205.

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (5)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

(6) (a) In addition to complying with the requirements of this section, a technical college board of ~~[directors]~~ trustees described in Section 53B-2a-108 shall obtain the approval of the ~~[Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher Education before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of ~~[directors]~~ trustees approves an application to establish and operate a charter school, the technical college board of ~~[directors]~~ trustees shall submit the application to the ~~[Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher Education.

(c) The ~~[Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher Education shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.

(d) The ~~[Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher Education may deny an application approved by a technical college board of ~~[directors]~~ trustees if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(7) (a) Subject to the requirements of this chapter and other related provisions, a technical college board of ~~[directors]~~ trustees may establish:

(i) procedures for submitting applications to establish and operate a charter school; or

(ii) criteria for approval of an application to establish and operate a charter school.

(b) The ~~[Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher Education may not establish policy governing the procedures or criteria described in Subsection (7)(a).

(8) Before a technical college board of ~~[directors]~~ trustees accepts a charter school application, the technical college board of ~~[directors]~~ trustees shall, in accordance with state board rules, establish and make public:

(a) application requirements, in accordance with Section 53G-5-302;

(b) the application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

**Section 159. Section 53G-10-303 is amended to read:**

**53G-10-303. Teaching of American sign language.**

(1) The Legislature recognizes that American sign language is a fully developed, autonomous, natural language with distinct grammar, syntax, and art forms.

(2) American sign language shall be accorded equal status with other linguistic systems in the state's public and higher education systems.

(3) The state board, in consultation with the state's school districts and members of the deaf and hard of hearing community, shall develop and implement policies and procedures for the teaching of American sign language in the state's public education system at least at the middle school or high school level.

(4) A student may count credit received for completion of a course in American sign language at the middle school or high school level toward the satisfaction of a foreign language requirement in the public education system under rules made by the state board.

(5) The [~~State Board of Regents~~] Utah Board of Higher Education, in consultation with the state's public institutions of higher education and members of the state's deaf and hard of hearing community, shall develop and implement policies and procedures for offering instruction in American sign language in the state's system of higher education.

(6) The Joint Liaison Committee, in consultation with members of the state's deaf and hard of hearing community, shall review any policies and procedures developed under this section and make recommendations to either or both boards regarding the policies.

**Section 160. Section 54-8b-10 is amended to read:**

**54-8b-10. Imposing a surcharge to provide deaf, hard of hearing, and speech impaired individuals with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.**

(1) As used in this section:

(a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any state resident who:

(i) is so certified by:

- (A) a licensed physician;
- (B) a licensed physician assistant;
- (C) an otolaryngologist;
- (D) a speech language pathologist;
- (E) an audiologist; or
- (F) a qualified state agency; and

(ii) qualifies for assistance under any low income public assistance program administered by a state agency.

(b) "Certified interpreter" means a person who is a certified interpreter under Title 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

(c) (i) "Telecommunication device" means any mechanical adaptation device that enables a deaf,

hard of hearing, or severely speech impaired individual to use the telephone.

(ii) "Telecommunication device" includes:

- (A) telecommunication devices for the deaf (TDD);
- (B) telephone amplifiers;
- (C) telephone signal devices;
- (D) artificial larynxes; and
- (E) adaptive equipment for TDD keyboard access.

(2) The commission shall establish a program whereby a certified deaf, hard of hearing, or severely speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.

(3) (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf, hard of hearing, or severely speech impaired individual with a normal hearing individual by way of telecommunication devices designed for that purpose.

(b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.

(4) The commission shall cover the costs of the program described in this section from the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.

(5) In administering the program described in this section, the commission may use funds from the Universal Public Telecommunications Service Support Fund:

- (a) for the purchase, maintenance, repair, and distribution of telecommunication devices;
- (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;
- (c) for the general administration of the program;
- (d) to train individuals in the use of telecommunications devices; and
- (e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:

(i) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the [~~Board of Regents~~] Utah Board of Higher Education that trains persons to qualify as certified interpreters; or

(ii) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.

(6) The commission may create disbursement criteria and procedures by rule made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds under Subsection (5).

(7) The commission shall solicit advice, counsel, and physical assistance from deaf, hard of hearing, or severely speech impaired individuals and the organizations serving deaf, hard of hearing, or severely speech impaired individuals in the design and implementation of the program.

**Section 161. Section 58-22-302 is amended to read:**

**58-22-302. Qualifications for licensure.**

(1) Each applicant for licensure as a professional engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) (i) have graduated and received a bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board; or

(ii) have completed the Transportation Engineering Technology and Fundamental Engineering College Program before July 1, 1998, under the direction of the Utah Department of Transportation and as certified by the Utah Department of Transportation;

(e) have successfully completed a program of qualifying experience established by rule by the division in collaboration with the board;

(f) have successfully passed examinations established by rule by the division in collaboration with the board; and

(g) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(2) Each applicant for licensure as a professional structural engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) have graduated and received an earned bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board;

(e) have successfully completed three years of licensed professional engineering experience established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering;

(f) have successfully passed examinations established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering; and

(g) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(3) Each applicant for licensure as a professional land surveyor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) (i) have graduated and received an associates, bachelors, or masters degree from a land surveying program, or an equivalent land surveying program, such as a program offered by a technical college described in Section 53B-2a-105, as approved by the [State Board of Regents] Utah Board of Higher Education, established by rule by the division in collaboration with the board, and have successfully completed a program of qualifying experience in land surveying established by rule by the division in collaboration with the board; or

(ii) have successfully completed a program of qualifying experience in land surveying prior to January 1, 2007, in accordance with rules established by the division in collaboration with the board;

(e) have successfully passed examinations established by rule by the division in collaboration with the board; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(4) Each applicant for licensure by endorsement shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board;

(ii) having successfully passed an examination established by rule by the division in collaboration with the board; and

(iii) full-time employment as a principal for at least five of the last seven years immediately preceding the date of the application as a:

(A) licensed professional engineer for licensure as a professional engineer;

(B) licensed professional structural engineer for licensure as a structural engineer; or

(C) licensed professional land surveyor for licensure as a professional land surveyor; and

(e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 162. Section 59-12-102 is amended to read:**

**59-12-102. Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218;

(x) Section 59-12-2219; or

- (y) Section 59-12-2220.
- (8) “Aircraft” means the same as that term is defined in Section 72-10-102.
- (9) “Aircraft maintenance, repair, and overhaul provider” means a business entity:
- (a) except for:
- (i) an airline as defined in Section 59-2-102; or
- (ii) an affiliated group, as defined in Section 59-7-101, except that “affiliated group” includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
- (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
- (i) check, diagnose, overhaul, and repair:
- (A) an onboard system of a fixed wing turbine powered aircraft; and
- (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
- (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
- (A) an inspection;
- (B) a repair, including a structural repair or modification;
- (C) changing landing gear; and
- (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
- (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft’s certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (10) “Alcoholic beverage” means a beverage that:
- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.
- (11) “Alternative energy” means:
- (a) biomass energy;
- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
- (i) coal-to-liquids;
- (ii) nuclear fuel;
- (iii) oil-impregnated diatomaceous earth;
- (iv) oil sands;
- (v) oil shale;
- (vi) petroleum coke; or
- (vii) waste heat from:
- (A) an industrial facility; or
- (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (12) (a) Subject to Subsection (12)(b), “alternative energy electricity production facility” means a facility that:
- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.
- (13) (a) “Ancillary service” means a service associated with, or incidental to, the provision of telecommunications service.
- (b) “Ancillary service” includes:
- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.
- (14) “Area agency on aging” means the same as that term is defined in Section 62A-3-101.
- (15) “Assisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by an individual:
- (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and
- (b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.
- (16) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:
- (a) who is not the purchaser of the cleaning or washing of the tangible personal property; and
- (b) at the direction of the seller of the cleaning or washing of the tangible personal property.
- (17) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of



another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of “purchase price.”

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller’s purchase price of the tangible personal property or product is 10% or less of the seller’s total purchase price of the bundled transaction; or

(B) the seller’s sales price of the tangible personal property or product is 10% or less of the seller’s total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller’s purchase price or the seller’s sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller’s purchase price and the seller’s sales price to

determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller’s purchase price and the seller’s sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price or sales price of that retail sale.

(20) “Certified automated system” means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) “Certified service provider” means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller’s sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller’s obligation under Section 59-12-124 to remit a tax on the seller’s own purchases.

(22) (a) Subject to Subsection (22)(b), “clothing” means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “clothing”; and

(ii) that are consistent with the list of items that constitute “clothing” under the agreement.

(23) “Coal-to-liquid” means the process of converting coal into a liquid synthetic fuel.

(24) “Commercial use” means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (111).

(25) (a) “Common carrier” means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) “Common carrier” does not include a person that, at the time the person is traveling to or from

that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(35) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
- (I) a meal; or
- (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
- (i) identifiable by the “Supplemental Facts” box found on the label; and
- (ii) as required by 21 C.F.R. Sec. 101.36.
- (36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.
- (b) “Digital audio work” includes a ringtone.
- (37) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (38) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.
- (39) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:
- (i) to:
- (A) a mass audience; or
- (B) addressees on a mailing list provided:
- (I) by a purchaser of the mailing list; or
- (II) at the discretion of the purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) “Direct mail” does not include multiple items of printed material delivered to a single address.
- (40) “Directory assistance” means an ancillary service of providing:
- (a) address information; or
- (b) telephone number information.
- (41) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:
- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
- (A) a health care facility as defined in Section 26-21-2;
- (B) a health care provider as defined in Section 78B-3-403;
- (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- (b) “Disposable home medical equipment or supplies” does not include:
- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
- (A) eyeglasses; or
- (B) contact lenses.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.
- (42) “Drilling equipment manufacturer” means a facility:
- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
- (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
- (43) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- (i) recognized in:
- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- (ii) intended for use in the:
- (A) diagnosis of disease;
- (B) cure of disease;
- (C) mitigation of disease;
- (D) treatment of disease; or
- (E) prevention of disease; or
- (iii) intended to affect:
- (A) the structure of the body; or

<p>(B) any function of the body.</p> <p>(b) “Drug” does not include:</p> <p>(i) food and food ingredients;</p> <p>(ii) a dietary supplement;</p> <p>(iii) an alcoholic beverage; or</p> <p>(iv) a prosthetic device.</p> <p>(44) (a) Except as provided in Subsection (44)(c), “durable medical equipment” means equipment that:</p> <p>(i) can withstand repeated use;</p> <p>(ii) is primarily and customarily used to serve a medical purpose;</p> <p>(iii) generally is not useful to a person in the absence of illness or injury; and</p> <p>(iv) is not worn in or on the body.</p> <p>(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).</p> <p>(c) “Durable medical equipment” does not include mobility enhancing equipment.</p> <p>(45) “Electronic” means:</p> <p>(a) relating to technology; and</p> <p>(b) having:</p> <p>(i) electrical capabilities;</p> <p>(ii) digital capabilities;</p> <p>(iii) magnetic capabilities;</p> <p>(iv) wireless capabilities;</p> <p>(v) optical capabilities;</p> <p>(vi) electromagnetic capabilities; or</p> <p>(vii) capabilities similar to Subsections (45)(b)(i) through (vi).</p> <p>(46) “Electronic financial payment service” means an establishment:</p> <p>(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and</p> <p>(b) that performs electronic financial payment services.</p> <p>(47) “Employee” means the same as that term is defined in Section 59–10–401.</p> <p>(48) “Fixed guideway” means a public transit facility that uses and occupies:</p> <p>(a) rail for the use of public transit; or</p> <p>(b) a separate right-of-way for the use of public transit.</p>	<p>(49) “Fixed wing turbine powered aircraft” means an aircraft that:</p> <p>(a) is powered by turbine engines;</p> <p>(b) operates on jet fuel; and</p> <p>(c) has wings that are permanently attached to the fuselage of the aircraft.</p> <p>(50) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.</p> <p>(51) (a) “Food and food ingredients” means substances:</p> <p>(i) regardless of whether the substances are in:</p> <p>(A) liquid form;</p> <p>(B) concentrated form;</p> <p>(C) solid form;</p> <p>(D) frozen form;</p> <p>(E) dried form; or</p> <p>(F) dehydrated form; and</p> <p>(ii) that are:</p> <p>(A) sold for:</p> <p>(I) ingestion by humans; or</p> <p>(II) chewing by humans; and</p> <p>(B) consumed for the substance’s:</p> <p>(I) taste; or</p> <p>(II) nutritional value.</p> <p>(b) “Food and food ingredients” includes an item described in Subsection (95)(b)(iii).</p> <p>(c) “Food and food ingredients” does not include:</p> <p>(i) an alcoholic beverage;</p> <p>(ii) tobacco; or</p> <p>(iii) prepared food.</p> <p>(52) (a) “Fundraising sales” means sales:</p> <p>(i) (A) made by a school; or</p> <p>(B) made by a school student;</p> <p>(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and</p> <p>(iii) that are part of an officially sanctioned school activity.</p> <p>(b) For purposes of Subsection (52)(a)(iii), “officially sanctioned school activity” means a school activity:</p> <p>(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;</p> <p>(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and</p>
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(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(53) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(54) “Governing board of the agreement” means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(55) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the ~~[State Board of Regents]~~ Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(56) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(57) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(58) (a) Except as provided in Subsection (58)(b), “installation charge” means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(59) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(60) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) “Lease” or “rental” does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(61) “Life science establishment” means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(62) “Life science research and development facility” means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(63) “Load and leave” means delivery to a purchaser by use of a tangible storage media if the

tangible storage media is not physically transferred to the purchaser.

(64) “Local taxing jurisdiction” means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(65) “Manufactured home” means the same as that term is defined in Section 15A-1-302.

(66) “Manufacturing facility” means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (66)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(67) (a) “Marketplace” means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) “Marketplace” includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(68) (a) “Marketplace facilitator” means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller’s product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (68)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of

tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include a person that only provides payment processing services.

(69) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(70) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (70)(a) through (g); or

(j) person similar to a person described in Subsections (70)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(71) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(72) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(73) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (73)(a)(i) and the termination point described in Subsection (73)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (74)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(75) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(76) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (76)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(78) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(79) "Modular home" means a modular unit as defined in Section 15A-1-302.

(80) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(81) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(82) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(83) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(84) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(85) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (85)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(86) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.



(88) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (88)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (88)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (129)(c).

(89) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(90) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(91) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(92) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(93) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(94) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(95) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (95)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.
- (c) An eating utensil provided by the seller does not include the following used to transport the food:
- (i) a container; or
  - (ii) packaging.
- (96) “Prescription” means an order, formula, or recipe that is issued:
- (a) (i) orally;
  - (ii) in writing;
  - (iii) electronically; or
  - (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.
- (97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), “prewritten computer software” means computer software that is not designed and developed:
- (i) by the author or other creator of the computer software; and
  - (ii) to the specifications of a specific purchaser.
- (b) “Prewritten computer software” includes:
- (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:
- (A) by the author or other creator of the computer software; and
  - (B) to the specifications of a specific purchaser;
- (ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or
  - (iii) except as provided in Subsection (97)(c), prewritten computer software or a prewritten portion of prewritten computer software:
- (A) that is modified or enhanced to any degree; and
  - (B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.
- (c) “Prewritten computer software” does not include a modification or enhancement described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:
- (i) reasonable; and
  - (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other

statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(98) (a) “Private communications service” means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) “Private communications service” includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(99) (a) Except as provided in Subsection (99)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(100) (a) “Prosthetic device” means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) “Prosthetic device” includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

- (c) "Prosthetic device" does not include:
- (i) corrective eyeglasses; or
  - (ii) contact lenses.
- (101) (a) "Protective equipment" means an item:
- (i) for human wear; and
  - (ii) that is:
    - (A) designed as protection:
      - (I) to the wearer against injury or disease; or
      - (II) against damage or injury of other persons or property; and
    - (B) not suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "protective equipment"; and
  - (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
- (102) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- (i) regardless of:
    - (A) characteristics;
    - (B) copyright;
    - (C) form;
    - (D) format;
    - (E) method of reproduction; or
    - (F) source; and
  - (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- (103) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- (i) valued in money; and
  - (ii) for which tangible personal property, a product transferred electronically, or services are:
    - (A) sold;
    - (B) leased; or
    - (C) rented.
- (b) "Purchase price" and "sales price" include:
- (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
  - (ii) expenses of the seller, including:
    - (A) the cost of materials used;
    - (B) a labor cost;
    - (C) a service cost;
    - (D) interest;
    - (E) a loss;
    - (F) the cost of transportation to the seller; or
    - (G) a tax imposed on the seller;
  - (iii) a charge by the seller for any service necessary to complete the sale; or
  - (iv) consideration a seller receives from a person other than the purchaser if:
    - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
    - (II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
    - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
    - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
    - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
    - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
    - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
    - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
      - (Aa) invoice the purchaser receives; or
      - (Bb) certificate, coupon, or other documentation the purchaser presents.
- (c) "Purchase price" and "sales price" do not include:
- (i) a discount:
    - (A) in a form including:
      - (I) cash;
      - (II) term; or
      - (III) coupon;
    - (B) that is allowed by a seller;
    - (C) taken by a purchaser on a sale; and
    - (D) that is not reimbursed by a third party; or
  - (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an

invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(104) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(105) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(106) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(107) "Rental" means the same as that term is defined in Subsection (60).

(108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(109) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(110) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (110)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(111) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(112) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

(113) (a) “Retailer” means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(114) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(115) “Sale at retail” means the same as that term is defined in Subsection (112).

(116) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(117) “Sales price” means the same as that term is defined in Subsection (103).

(118) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

(A) the sale of:

- (I) textbooks;
- (II) textbook fees;
- (III) laboratory fees;
- (IV) laboratory supplies; or
- (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (118)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

(119) For purposes of this section and Section 59-12-104, “school” means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(120) (a) “Seller” means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) “Seller” includes a marketplace facilitator.

(121) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (121)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(122) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(123) (a) Subject to Subsections (123)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(124) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(125) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(126) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(127) "State" means the state of Utah, its departments, and agencies.

(128) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(130) (a) "Telecommunications enabling or facilitating equipment, machinery, or software"



means an item listed in Subsection (130)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (130)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

(131) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(132) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(133) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(134) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (134)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(135) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (135)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (135)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (135)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (135)(b)(i) through (ix).

(136) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (136)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections

(136)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

(137) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(138) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(139) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(140) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(141) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (142)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(143) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (142).

(144) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(145) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(147) "Watercraft" means a vessel as defined in Section 73-18-2.

(148) "Wind energy" means wind used as the sole source of energy to produce electricity.

(149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

**Section 163. Section 63A-3-103 is amended to read:**

**63A-3-103. Duties of director of division -- Application to institutions of higher education.**

(1) The director of the Division of Finance shall:

(a) define fiscal procedures relating to approval and allocation of funds;

(b) provide for the accounting control of funds;

(c) promulgate rules that:

(i) establish procedures for maintaining detailed records of all types of leases;

(ii) account for all types of leases in accordance with generally accepted accounting principles;

(iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and

(iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;

(d) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(e) oversee the Office of State Debt Collection;

(f) publish the state's current constitutional debt limit on the Utah Public Finance Website, created in Section 63A-1-202; and

(g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.

(2) (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System, only to the extent expressly authorized or required by the [~~State Board of Regents~~] Utah Board of Higher Education under Title 53B, State System of Higher Education.

(b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.

(3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:

(a) not later than 60 days after a request from the state auditor; and

(b) at the end of each fiscal year.

**Section 164. Section 63A-3-110 is amended to read:**

**63A-3-110. Personal use expenditures for state officers and employees.**

(1) As used in this section:

(a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a governmental entity.

(b) "Governmental entity" means:

(i) an executive branch agency of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the State Board of Education, and the [~~State Board of Regents~~] Utah Board of Higher Education;

(ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, the Legislature, and legislative committees;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) independent state entities created under Title 63H, Independent State Entities; or

(v) the Utah Science Technology and Research Governing Authority created under Section 63M-2-301.

(c) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(d) (i) "Personal use expenditure" means an expenditure made without the authority of law that:

(A) is not directly related to the performance of an activity as a state officer or employee;

(B) primarily furthers a personal interest of a state officer or employee or a state officer's or employee's family, friend, or associate; and

(C) would constitute taxable income under federal law.

(ii) "Personal use expenditure" does not include:

(A) a de minimis or incidental expenditure; or

(B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties,

including a minimal allowance for a detour as provided by the state.

(e) "Public funds" means the same as that term is defined in Section 51-7-3.

(2) A state officer or employee may not:

(a) use public funds for a personal use expenditure; or

(b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for a personal use expenditure.

(3) If the Division of Finance or the responsible governmental entity determines that a state officer or employee has intentionally made a personal use expenditure in violation of Subsection (2), the governmental entity shall:

(a) require the state officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:

(i) the personal use expenditure was disbursed; or

(ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;

(b) require the state officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the Division of Finance; and

(c) deposit the money received under Subsection (3)(b) into the General Fund.

(4) (a) Any state officer or employee who has been found by a governmental entity to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the governmental entity.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules regarding an appeal process for an appeal made under Subsection (4)(a), including the designation of an appeal authority.

(5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a portion of the wages of a state officer or employee who has violated Subsection (2) until the requirements of Subsection (3) have been met.

(b) If the state officer or employee has requested an appeal under Subsection (4), the Division of Finance may only withhold the wages of the officer or employee after the appeal authority described in Subsection (4)(b) has confirmed that the officer or employee violated Subsection (2).

(6) Nothing in this chapter immunizes a state officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.

(7) A state officer or employee who is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

**Section 165. Section 63A-4-103 is amended to read:**

**63A-4-103. Risk management -- Duties of state agencies.**

(1) (a) Unless specifically authorized by statute to do so, a state agency may not:

(i) purchase insurance or self-fund any risk unless authorized by the risk manager; or

(ii) procure or provide liability insurance for the state.

(b) (i) Notwithstanding the provisions of Subsection (1)(a), the ~~[State Board of Regents]~~ Utah Board of Higher Education may authorize higher education institutions to purchase insurance for, or self-fund, risks associated with their programs and activities that are not covered through the risk manager.

(ii) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall provide copies of those purchased policies to the risk manager.

(iii) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall ensure that the state is named as additional insured on any of those policies.

(2) Each state agency shall:

(a) comply with reasonable risk related recommendations made by the risk manager;

(b) participate in risk management training activities conducted or sponsored by the risk manager;

(c) include the insurance and liability provisions prescribed by the risk manager in all state contracts, together with a statement certifying to the other party to the contract that the insurance and liability provisions in the contract are those prescribed by the risk manager;

(d) at each principal design stage, provide written notice to the risk manager that construction and major remodeling plans relating to agency buildings and facilities to be covered by the fund are available for review, for risk control purposes, and make them available to the risk manager for his review and recommendations; and

(e) cooperate fully with requests from the risk manager for agency planning, program, or risk related information, and allow the risk manager to attend agency planning and management meetings.

(3) Failure to include in the contract the provisions required by Subsection (2)(c) does not make the contract unenforceable by the state.

**Section 166. Section 63A-5-104 is amended to read:**

**63A-5-104. Definitions -- Capital development and capital improvement process -- Approval requirements -- Limitations on new projects -- Emergencies.**

(1) As used in this section:

- (a) (i) “Capital developments” means a:
- (A) remodeling, site, or utility project with a total cost of \$3,500,000 or more;
- (B) new facility with a construction cost of \$500,000 or more; or
- (C) purchase of real property where an appropriation is requested to fund the purchase.
- (ii) “Capital developments” does not include a project described in Subsection (1)(b)(iii).
- (b) “Capital improvements” means:
- (i) a remodeling, alteration, replacement, or repair project with a total cost of less than \$3,500,000;
- (ii) a site or utility improvement with a total cost of less than \$3,500,000;
- (iii) a utility infrastructure improvement project that:
- (A) has a total cost of less than \$7,000,000;
- (B) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and
- (C) the State Building Board determines is more cost effective or feasible to be completed as a single project; or
- (iv) a new facility with a total construction cost of less than \$500,000.
- (c) (i) “New facility” means the construction of a new building on state property regardless of funding source.
- (ii) “New facility” includes:
- (A) an addition to an existing building; and
- (B) the enclosure of space that was not previously fully enclosed.
- (iii) “New facility” does not include:
- (A) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$3,500,000; or
- (B) the construction of facilities that do not fully enclose a space.
- (d) “Replacement cost of existing state facilities and infrastructure” means the replacement cost, as determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities as defined by the State Building Board and the replacement cost of infrastructure as defined by the State Building Board.
- (e) “State funds” means public money appropriated by the Legislature.
- (2) (a) Except as provided in Subsection (2)(f), the board shall, on behalf of all state agencies, submit capital development recommendations and

priorities to the Legislature for approval and prioritization.

(b) In developing the board’s capital development recommendations and priorities, the board shall require each state agency that requests an appropriation for a capital development project to:

(i) submit to the board a capital development project request; and

(ii) complete and submit to the board a study that demonstrates the feasibility of the capital development project, including:

(A) the need for the capital development project;

(B) the appropriateness of the scope of the capital development project;

(C) any private funding for the capital development project; and

(D) the economic and community impacts of the capital development project.

(c) The board shall verify the completion and accuracy of a feasibility study that a state agency submits to the board under Subsection (2)(b).

(d) The board shall require that an institution of higher education described in Section 53B-1-102 that submits a request for a capital development project address whether and how, as a result of the project, the institution will:

(i) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;

(ii) respond to individual skilled and technical job demand over the next 3, 5, and 10 years;

(iii) respond to industry demands for trained workers;

(iv) help meet commitments made by the Governor’s Office of Economic Development, including relating to training and incentives;

(v) respond to changing needs in the economy; and

(vi) based on demographics, respond to demands for on-line or in-class instruction.

(e) The board shall give more weight in the board’s scoring process to a request that is designated as a higher priority by the ~~[State Board of Regents]~~ Utah Board of Higher Education than a request that is designated as a lower priority by the ~~[State Board of Regents]~~ Utah Board of Higher Education only when determining the order of prioritization among requests submitted by the ~~[State Board of Regents]~~ Utah Board of Higher Education.

(f) (i) For a dedicated project as defined in Section 53B-2a-101 or 53B-22-201, the board shall submit recommendations to the Legislature in accordance with this section.

(ii) A dedicated project as defined in Section 53B-2a-101 or 53B-22-201 is not subject to prioritization by the board.

(3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project may not be constructed on state property without legislative approval.

(b) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:

(i) the board determines that the requesting state agency has provided adequate assurance that state funds will not be used for the design or construction of the facility;

(ii) the state agency provides to the board a written document, signed by the head of the state agency:

(A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance to the resulting facility for immediate or future capital improvements; and

(B) detailing the source of the funding that will be used for the cost of operations and maintenance for immediate and future capital improvements to the resulting facility; and

(iii) the board determines that the use of the state property is:

(A) appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities constructed under the exemption provided in Subsection (3)(b).

(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state agency may not request:

(A) increased state funds for operations and maintenance; or

(B) state capital improvement funding.

(d) Legislative approval is not required for:

(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds that has been approved by the board;

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

(iii) a facility to be built at This is the Place State Park by This is the Place Foundation with funds of the foundation, including grant money from the state, or with donated services or materials;

(iv) a capital project that:

(A) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and

(B) does not provide a new facility for a state agency or higher education institution; or

(v) a capital project on school and institutional trust lands that is funded by the School and Institutional Trust Lands Administration from the Land Grant Management Fund and that does not fund construction of a new facility for a state agency or higher education institution.

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the sale of the real property are used for, another maintenance facility, including improvements for a maintenance facility and real property.

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

(4) The Legislature may authorize:

(a) the total square feet to be occupied by each state agency; and

(b) the total square feet and total cost of lease space for each agency.

(5) If construction of a new building or facility will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(6) (a) Except as provided in Subsections (6)(b) and (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) If the Legislature determines that there exists an Education Fund budget deficit or a General Fund budget deficit as those terms are defined in Section 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

(c) Subsection (6)(a) does not apply to a dedicated project as defined in Section 53B-2a-101 or 53B-22-201.

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), the Legislature may not fund the design and construction of a new facility in phases over more than one year unless the Legislature approves the funding for both the design and construction by a vote of two-thirds of all the members elected to each house.

(ii) Subsection (7)(a)(i) does not apply to a dedicated project as defined in Section 53B-2a-101 or 53B-22-201.

(b) An agency is required to receive approval from the board before the agency begins programming for a new facility that requires legislative approval under Subsection (3).

(c) The board or an agency may fund the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection (7)(a).

(8) (a) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, after the Legislature approves capital development and capital improvement priorities under this section and Section 63A-5-228, if an emergency arises that creates an unforeseen and critical need for a capital improvement project, the board may reallocate capital improvement funds to address the project.

(b) The board shall report any changes the board makes in capital improvement allocations approved by the Legislature to:

(i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

(ii) the Legislature at its next annual general session.

**Section 167. Section 63A-5-303 is amended to read:**

**63A-5-303. Lease reporting and coordination.**

(1) The director shall:

(a) prepare a standard form upon which agencies and other state institutions and entities can report their current and proposed lease activity, including any lease renewals; and

(b) develop procedures and mechanisms within the division to:

(i) obtain and share information about each agency's real property needs; and

(ii) provide oversight and review of lessors and lessees during the term of each lease.

(2) Each agency, the Judicial Council, and the ~~[Board of Regents]~~ board of trustees for each institution of higher education shall report all current and proposed lease activity on the standard form prepared by the division to:

(a) the State Building Board; and

(b) the Office of Legislative Fiscal Analyst.

**Section 168. Section 63A-5-305 is amended to read:**

**63A-5-305. Leasing by higher education institutions.**

(1) The ~~[Board of Regents]~~ Utah Board of Higher Education shall establish written policies and procedures governing leasing by higher education institutions.

(2) Except as provided in Sections 53B-2a-113 and 63M-2-602, a higher education institution shall comply with the procedures and requirements of the ~~[Board of Regents]~~ Utah Board of Higher Education policies before signing or renewing a lease.

**Section 169. Section 63A-5-501 is amended to read:**

**63A-5-501. Making keys to buildings of the state, political subdivisions, or colleges and universities without permission prohibited.**

No person shall knowingly make or cause to be made any key or duplicate key for any building, laboratory, facility, room, dormitory, hall or any other structure or part thereof owned by the state, by any political subdivision thereof or by the ~~[board of regents]~~ Utah Board of Higher Education or other governing body of any college or university ~~[which]~~ that is supported wholly or in part by the state without the prior written consent of the state, political subdivision, ~~[board of regents]~~ Utah Board of Higher Education, or other governing body.

**Section 170. Section 63C-19-102 is amended to read:**

**63C-19-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Higher Education Strategic Planning Commission created in Section 63C-19-201.

(2) "Institution of higher education" means an institution described in ~~[Subsections 53B-1-102(1)(a)(ii) through (ix)]~~ Subsection 53B-1-102(1)(a).

(3) "Institutional role" means an institution of higher education's role described in Section 53B-16-101.

(4) "State system of higher education" means the state system of higher education described in Section 53B-1-102.

(5) "Strategic plan" means the strategic plan described in Section 63C-19-202.

(6) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

**Section 171. Section 63C-19-201 is amended to read:**

**63C-19-201. Higher Education Strategic Planning Commission -- Membership -- Quorum and voting requirements -- Compensation -- Staff support.**



(1) There is created the Higher Education Strategic Planning Commission consisting of the following [22] members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) two members of the House of Representatives, appointed by the speaker of the House of Representatives;

~~[(c) two members of the State Board of Regents, appointed by the chair of the State Board of Regents;]~~

~~[(d) two members of the Utah System of Technical Colleges Board of Trustees, appointed by the chair of the Utah System of Technical Colleges Board of Trustees;]~~

(c) four members of the Utah Board of Higher Education, appointed by the chair of the Utah Board of Higher Education;

~~[(e)] (d) four individuals, appointed by the chair of the [State Board of Regents] Utah Board of Higher Education, who represent degree-granting institutions of higher education from a range of geographic areas and with varied institutional roles;~~

~~[(f)] (e) two individuals, appointed by the chair of the [Utah System of Technical Colleges Board of Trustees] Utah Board of Higher Education, who represent technical colleges from a range of geographic areas;~~

~~[(g)] (f) the commissioner of higher education or the commissioner's designee;~~

~~[(h) the commissioner of technical education or the commissioner's designee;]~~

~~[(i)] (g) (i) a member of the governor's staff who is responsible for advising the governor on education issues, appointed by the governor; or~~

(ii) a member of the governor's staff designated by the individual described in Subsection (1)(g)(i);

~~[(j)] (h) the executive director of the Governor's Office of Economic Development or the executive director's designee;~~

~~[(k)] (i) the executive director of the Department of Workforce Services or the executive director's designee;~~

(4) (j) the state superintendent of public instruction or the superintendent's designee; and

~~[(m)] (k) two Utah business leaders, one appointed by the president of the Senate and one appointed by the speaker of the House of Representatives.~~

(2) (a) The president of the Senate shall appoint one of the members described in Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall appoint one of the members described in Subsection (1)(b) as a cochair of the commission.

(c) The chair of the [State Board of Regents] Utah Board of Higher Education shall appoint ~~[one]~~ two of the members described in Subsection (1)(c) as ~~[a vice chair]~~ vice chairs of the commission.

~~[(d) The chair of the Utah System of Technical Colleges Board of Trustees shall appoint one of the members described in Subsection (1)(d) as a vice chair of the commission.]~~

(3) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) (a) A majority of the commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) The Office of Legislative Research and General Counsel and the Office of the Legislative Fiscal Analyst shall provide staff support to the commission.

**Section 172. Section 63C-19-202 is amended to read:**

**63C-19-202. Commission powers and duties -- Strategic plan -- Reports.**

(1) (a) ~~[The]~~ During calendar year 2019, the commission shall develop a strategic plan aimed at meeting the future challenges of the state system of higher education.

(b) The strategic plan shall address:

(i) providing quality, accessible, and innovative postsecondary education that prepares Utahns for the twenty-first century;

(ii) cost-effective and affordable modes of higher education delivery;

(iii) the integration of prior learning and competency-based experiences to meet degree or certificate requirements;

(iv) maximizing the role of the state system of higher education in workforce and economic development;

(v) a statewide campus and technology master plan that reflects regional differences in projected student enrollment growth in the state system of higher education;

(vi) governance of the state system of higher education, including studying best practices and recommending modifications; and

(vii) other issues related to the state system of higher education as determined by the commission.

~~[(2) (a) The commission shall:]~~

~~[(i) select a consultant to manage the strategic planning process in accordance with Subsection (3);]~~

~~[(ii) guide the analytical work of a consultant described in Subsection (2)(a)(i) and review the results of the work;]~~

~~[(iii) coordinate with a consultant described in Subsection (2)(a)(i) to engage in a strategic planning process and create a strategic plan;]~~

~~[(iv) conduct regional meetings to gather stakeholder input during the strategic planning process; and]~~

~~[(v) report to the Legislature and the governor in accordance with Subsection (5).]~~

~~[(b) The commission may designate and assign working groups within the commission to address, study, evaluate, or discuss issues related to the commission's work.]~~

~~[(3) Subject to direction from the commission, a consultant selected under Subsection (2)(a) shall:]~~

~~[(a) collect and analyze data related to the current and future projected conditions of the state system of higher education, including:]~~

~~[(i) relevant demographics and educational attainment;]~~

~~[(ii) the state's economy, including workforce supply and demand;]~~

~~[(iii) affordability and financing of higher education through tuition, state funding, and other sources;]~~

~~[(iv) innovation by institutions of higher education, including research and research commercialization;]~~

~~[(v) operational and capital facility efficiencies;]~~

~~[(vi) accountability measures to assess the performance of the state system of higher education; and]~~

~~[(vii) any other data collection or analysis requested by the commission;]~~

~~[(b) based on the data described in Subsection (3)(a), make comparisons between higher education in Utah and higher education in other states or countries;]~~

~~[(c) project the condition of the state system of higher education in the future under the state's current system based on the projected:]~~

~~[(i) population;]~~

~~[(ii) workforce needs; and]~~

~~[(iii) funding requirements through tuition and state funding;]~~

~~[(d) develop alternatives to the projection described in Subsection (3)(c) by modeling potential changes to:]~~

~~[(i) industry and economic growth;]~~

~~[(ii) student enrollment patterns;]~~

~~[(iii) the portion of funding for the state system of higher education that comes from tuition and the portion of funding that comes from state funding; and]~~

~~[(iv) investments in capital facilities or technology infrastructure;]~~

~~[(e) recommend accountability or performance measures to assess the effectiveness of the state system of higher education;]~~

~~[(f) in coordination with the commission, conduct the regional meetings described in Subsection (2)(a)(iv) to share information and seek input from a range of stakeholders;]~~

~~[(g) recommend changes to the governance system for the state system of higher education that would facilitate implementation of the strategic plan; and]~~

~~[(h) produce for the commission:]~~

~~[(i) a draft report, including findings, observations, and strategic priorities; and]~~

~~[(ii) a final report, incorporating feedback from the commission on the draft report described in Subsection (3)(h)(i), regarding the future of the state system of higher education.]~~

~~[(4) The State Board of Regents and the Utah System of Technical Colleges Board of Trustees shall provide the commission and a consultant selected under Subsection (2)(a) with data and data analysis as requested by the commission.]~~

~~(2) During calendar year 2020, the commission shall:~~

~~(a) develop a statewide attainment goal and subgoals for higher education;~~

~~(b) define affordability for higher education in the state; and~~

~~(c) assist in facilitating the transition to the Utah Board of Higher Education.~~

~~[(5) (3) (a) On or before November 30, 2018, the commission shall report on the commission's progress to:~~

~~(i) the Education Interim Committee;~~

~~(ii) the Higher Education Appropriations Subcommittee;~~

~~(iii) the Legislative Management Committee; and~~

~~(iv) the governor.~~

~~(b) On or before November 30, 2019, the commission shall provide a [final] report, including a strategic plan and any recommendations, to:~~

~~(i) the Education Interim Committee;~~

(ii) the Higher Education Appropriations Subcommittee;

(iii) the Legislative Management Committee; and

(iv) the governor.

(c) On or before November 30, 2020, the commission shall report on the duties described in Subsection (2) to:

(i) the Education Interim Committee;

(ii) the Higher Education Appropriations Subcommittee;

(iii) the Legislative Management Committee; and

(iv) the governor.

**Section 173. Section 63D-2-102 is amended to read:**

**63D-2-102. Definitions.**

As used in this chapter:

(1) (a) "Collect" means the gathering of personally identifiable information:

(i) from a user of a governmental website; or

(ii) about a user of the governmental website.

(b) "Collect" includes use of any identifying code linked to a user of a governmental website.

(2) "Court website" means a website on the Internet that is operated by or on behalf of any court created in Title 78A, Chapter 1, Judiciary.

(3) "Governmental entity" means:

(a) an executive branch agency as defined in Section 63F-1-102;

(b) the legislative branch;

(c) the judicial branch;

(d) the State Board of Education;

(e) the ~~Board of Regents~~ Utah Board of Higher Education;

(f) an institution of higher education; and

(g) a political subdivision of the state:

(i) as defined in Section 17B-1-102; and

(ii) including a school district.

(4) (a) "Governmental website" means a website on the Internet that is operated by or on behalf of a governmental entity.

(b) "Governmental website" includes a court website.

(5) "Governmental website operator" means a governmental entity or person acting on behalf of the governmental entity that:

(a) operates a governmental website; and

(b) collects or maintains personally identifiable information from or about a user of that website.

(6) "Personally identifiable information" means information that identifies:

(a) a user by:

(i) name;

(ii) account number;

(iii) physical address;

(iv) email address;

(v) telephone number;

(vi) Social Security number;

(vii) credit card information; or

(viii) bank account information;

(b) a user as having requested or obtained specific materials or services from a governmental website;

(c) Internet sites visited by a user; or

(d) any of the contents of a user's data-storage device.

(7) "User" means a person who accesses a governmental website.

**Section 174. Section 63F-1-102 is amended to read:**

**63F-1-102. Definitions.**

As used in this title:

(1) "Chief information officer" means the chief information officer appointed under Section 63F-1-201.

(2) "Data center" means a centralized repository for the storage, management, and dissemination of data.

(3) "Department" means the Department of Technology Services.

(4) "Enterprise architecture" means:

(a) information technology that can be applied across state government; and

(b) support for information technology that can be applied across state government, including:

(i) technical support;

(ii) master software licenses; and

(iii) hardware and software standards.

(5) (a) "Executive branch agency" means an agency or administrative subunit of state government.

(b) "Executive branch agency" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) the State Board of Education;

(iv) the ~~Board of Regents~~ Utah Board of Higher Education;

(v) institutions of higher education;

(vi) independent entities as defined in Section 63E-1-102; and

(vii) elective constitutional offices of the executive department which includes:

- (A) the state auditor;
- (B) the state treasurer; and
- (C) the attorney general.

(6) "Executive branch strategic plan" means the executive branch strategic plan created under Section 63F-1-203.

(7) "Individual with a disability" means an individual with a condition that meets the definition of "disability" in 42 U.S.C. Sec. 12102.

(8) "Information technology" means all computerized and auxiliary automated information handling, including:

- (a) systems design and analysis;
- (b) acquisition, storage, and conversion of data;
- (c) computer programming;
- (d) information storage and retrieval;
- (e) voice, video, and data communications;
- (f) requisite systems controls;
- (g) simulation; and
- (h) all related interactions between people and machines.

(9) "State information architecture" means a logically consistent set of principles, policies, and standards that guide the engineering of state government's information technology and infrastructure in a way that ensures alignment with state government's business and service needs.

**Section 175. Section 63F-1-206 is amended to read:**

**63F-1-206. Rulemaking -- Policies.**

(1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) provide standards that impose requirements on executive branch agencies that:

(A) are related to the security of the statewide area network; and

(B) establish standards for when an agency must obtain approval before obtaining items listed in Subsection 63F-1-205(1);

(ii) specify the detail and format required in an agency information technology plan submitted in accordance with Section 63F-1-204;

(iii) provide for standards related to the privacy policies of websites operated by or on behalf of an executive branch agency;

(iv) provide for the acquisition, licensing, and sale of computer software;

(v) specify the requirements for the project plan and business case analysis required by Section 63F-1-205;

(vi) provide for project oversight of agency technology projects when required by Section 63F-1-205;

(vii) establish, in accordance with Subsection 63F-1-205(2), the implementation of the needs assessment for information technology purchases;

(viii) establish telecommunications standards and specifications in accordance with Section 63F-1-404; and

(ix) establish standards for accessibility of information technology by individuals with disabilities in accordance with Section 63F-1-210.

(b) The rulemaking authority granted by this Subsection (1) is in addition to any other rulemaking authority granted by this title.

(2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this title by executive branch agencies if the policy:

(i) is consistent with the executive branch strategic plan; and

(ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

(b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:

(A) the governor; and

(B) all cabinet level officials.

(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may review and comment on a policy submitted under Subsection (2)(b)(i).

(3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:

(i) broad communication of the security procedure would create a significant potential for increasing the vulnerability of the statewide area network to breach or attack; and

(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.

(b) A security procedure described in Subsection (3)(a) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) The chief information officer shall provide a copy of the security procedure as a protected record to:

(i) the chief justice of the Utah Supreme Court for the judicial branch;

(ii) the speaker of the House of Representatives and the president of the Senate for the legislative branch;

(iii) the chair of the ~~[Board of Regents]~~ Utah Board of Higher Education; and

(iv) the chair of the State Board of Education.

**Section 176. Section 63F-1-303 is amended to read:**

**63F-1-303. Executive branch agencies -- Subscription by institutions.**

(1) An executive branch agency in accordance with its agency information technology plan approved by the chief information officer shall:

(a) subscribe to the information technology services provided by the department; or

(b) contract with one or more alternate private providers of information technology services if the chief information officer determines that the purchase of the services from a private provider will:

(i) result in:

(A) cost savings;

(B) increased efficiency; or

(C) improved quality of services; and

(ii) not impair the interoperability of the state's information technology services.

(2) An institution of higher education may subscribe to the services provided by the department if:

(a) the president of the institution recommends that the institution subscribe to the services of the department; and

(b) the ~~[Board of Regents]~~ Utah Board of Higher Education determines that subscription to the services of the department will result in cost savings or increased efficiency to the institution.

(3) The following may subscribe to information technology services by requesting that the services be provided from the department:

(a) the legislative branch;

(b) the judicial branch;

(c) the State Board of Education;

(d) a political subdivision of the state;

(e) an agency of the federal government;

(f) an independent entity as defined in Section 63E-1-102; and

(g) an elective constitutional officer of the executive department as defined in Subsection 63F-1-102(5)(b)(vii).

**Section 177. Section 63F-2-102 is amended to read:**

**63F-2-102. Data Security Management Council -- Membership -- Duties.**

(1) There is created the Data Security Management Council composed of ~~[nine]~~ eight members as follows:

(a) the chief information officer appointed under Section 63F-1-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate from the Legislative Information Technology Steering Committee; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

(i) the Judicial Council;

(ii) the ~~[State Board of Regents]~~ Utah Board of Higher Education;

(iii) the State Board of Education;

~~[(iv) the Utah System of Technical Colleges Board of Trustees;]~~

~~[(v)]~~ (iv) the State Tax Commission; and

~~[(vi)]~~ (v) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Department of Technology Services shall provide staff to the council.

(5) The council shall meet quarterly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

- (ii) continuous risk monitoring;
- (iii) password management;
- (iv) using the latest technology to identify and respond to vulnerabilities;
- (v) protecting data in new and old systems; and
- (vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

**Section 178. Section 63G-2-103 is amended to read:**

**63G-2-103. Definitions.**

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

- (a) the time and general nature of police, fire, and paramedic calls made to the agency; and
- (b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustible units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service

Review Office, the State Board of Education, the ~~[State Board of Regents]~~ Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity;

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103; or

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(26) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(27) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.



(28) "State archivist" means the director of the state archives.

(29) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

**Section 179. Section 63G-6a-103 is amended to read:**

**63G-6a-103. Definitions.**

As used in this chapter:

(1) "Applicable rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;

(B) for the Office of the Attorney General, the attorney general; and

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education ~~[described in]~~, the Utah Board of Higher Education;

~~[(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or]~~

~~[(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;]~~

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the board of directors of the Utah Educational Savings Plan;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(2) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(3) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(4) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(6) "Bidding process" means the procurement process described in Part 6, Bidding.

(7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) "Building board" means the State Building Board, created in Section 63A-5-101.

(9) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(10) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(11) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(12) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under

Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

- (26) "Design professional" means:
- (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;
  - (b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or
  - (c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.
- (27) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.
- (28) "Design professional services" means:
- (a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;
  - (b) professional engineering as defined in Section 58-22-102;
  - (c) master planning and programming services; or
  - (d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.
- (29) "Design-build" means the procurement of design professional services and construction by the use of a single contract.
- (30) "Director" means the director of the division.
- (31) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.
- (32) "Educational procurement unit" means:
- (a) a school district;
  - (b) a public school, including a local school board or a charter school;
  - (c) the Utah Schools for the Deaf and the Blind;
  - (d) the Utah Education and Telehealth Network;
  - (e) an institution of higher education of the state described in Section 53B-1-102; or
  - (f) the State Board of Education.
- (33) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:
- (a) is regularly maintained by a manufacturer or contractor;
  - (b) is published or otherwise available for inspection by customers; and
  - (c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.
- (34) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.
- (35) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:
- (a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or
  - (b) an adjustment is required by law.
- (36) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:
- (a) is based on the consumer price index or another commercially acceptable index, source, or formula; and
  - (b) is not based on a percentage of the cost to the contractor.
- (37) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.
- (38) "Head of a procurement unit" means:
- (a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;
  - (b) for an executive branch procurement unit:
    - (i) the director of the division; or
    - (ii) any other person designated by the board, by rule;
  - (c) for a judicial procurement unit:
    - (i) the Judicial Council; or
    - (ii) any other person designated by the Judicial Council, by rule;
  - (d) for a local government procurement unit:
    - (i) the legislative body of the local government procurement unit; or
    - (ii) any other person designated by the local government procurement unit;
  - (e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;
  - (f) for a special service district, the governing body of the special service district or a designee of the governing body;
  - (g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;
  - (h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) for a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president's designee;

(m) for a public transit district, the board of trustees or a designee of the board of trustees;

(n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education; or

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.

(39) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(40) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) "Local district" means the same as that term is defined in Section 17B-1-102.

(49) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the

county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(50) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(51) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(52) "Municipality" means a city, town, or metro township.

(53) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) "Offeror" means a person who submits a proposal in response to a request for proposals.

(55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) "Procure" means to acquire a procurement item through a procurement.

(57) "Procurement":

(a) means a procurement unit's acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) "Procurement item" means a supply, a service, or construction.

(59) "Procurement officer" means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; or

(xii) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(61) "Professional service" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(62) "Protest officer" means:

(a) for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) the head of the procurement unit's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means any government entity of the state or political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(74) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(78) "Sealed" means manually or electronically secured to prevent disclosure.

(79) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(81) "Sole source contract" means a contract resulting from a sole source procurement.

(82) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) "Solicitation" means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) “Special service district” means the same as that term is defined in Section 17D-1-102.

(86) “Specification” means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(87) “Standard procurement process” means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(88) “State cooperative contract” means a contract awarded by the division for and in behalf of all public entities.

(89) “Statement of qualifications” means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) “Subcontractor”:

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person’s contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) “Supply” means a good, material, technology, piece of equipment, or any other item of personal property.

(92) “Tie bid” means that the lowest responsive bids of responsible bidders are identical in price.

(93) “Time and materials contract” means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(94) “Transitional costs”:

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(95) “Trial use contract” means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) “Vendor”:

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

**Section 180. Section 63G-6a-202 is amended to read:**

**63G-6a-202. Creation of Utah State Procurement Policy Board.**

(1) There is created the Utah State Procurement Policy Board.

(2) The board consists of up to 15 members as follows:

(a) two representatives of state institutions of higher education, appointed by the ~~board of regents~~ Utah Board of Higher Education;

(b) a representative of the Department of Human Services, appointed by the executive director of that department;

(c) a representative of the Department of Transportation, appointed by the executive director of that department;

(d) two representatives of school districts, appointed by the State Board of Education;

(e) a representative of the Division of Facilities Construction and Management, appointed by the director of that division;

(f) one representative of a county, appointed by the Utah Association of Counties;

(g) one representative of a city or town, appointed by the Utah League of Cities and Towns;

(h) two representatives of local districts or special service districts, appointed by the Utah Association of Special Districts;

(i) the executive director of the Department of Technology Services or the executive director's designee;

(j) the chief procurement officer or the chief procurement officer's designee; and

(k) two representatives of state agencies, other than a state agency already represented on the board, appointed by the executive director of the Department of Administrative Services, with the approval of the executive director of the state agency that employs the employee.

(3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions.

(4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member.

(5) (a) The board shall:

(i) adopt rules of procedure for conducting its business; and

(ii) elect a chair to serve for one year.

(b) The chair of the board shall be selected by a majority of the members of the board and may be elected to succeeding terms.

(c) The chief procurement officer shall designate an employee of the division to serve as the nonvoting secretary to the policy board.

(6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 181. Section 63G-7-301 is amended to read:**

**63G-7-301. Waivers of immunity.**

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;



(j) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses awarded under Section 20A-19-301(5); and

(k) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G-11-402.

(3) (a) As used in this Subsection (3):

(i) "Appropriate behavior policy" means a policy that:

(A) is not less stringent than a model policy, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to an appropriate behavior policy; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the policy to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the policy.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the [~~State Board of Regents~~] Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed

against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

**Section 182. Section 63G-10-102 is amended to read:**

**63G-10-102. Definitions.**

As used in this chapter:

(1) (a) "Action settlement agreement" includes a stipulation, consent decree, settlement agreement, or any other legally binding document or representation that resolves a threatened or pending lawsuit between the state and another party by requiring the state to take legally binding action.

(b) "Action settlement agreement" includes stipulations, consent decrees, settlement agreements, and other legally binding documents or representations resolving a dispute between the state and another party when the state is required to pay money and required to take legally binding action.

(c) "Action settlement agreement" does not include:

(i) the internal process established by the Department of Transportation to resolve construction contract claims;

(ii) any resolution of an employment dispute or claim made by an employee of the state of Utah against the state as employer;

(iii) adjudicative orders issued by the State Tax Commission, the Public Service Commission, the Labor Commission, or the Department of Workforce Services; or

(iv) the settlement of disputes arising from audits, defaults, or breaches of permits, contracts of sale, easements, or leases by the School and Institutional Trust Lands Administration.

(2) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the legislative branch, the judicial branch, the attorney general's office, the State Board of Education, the [Board of Regents]

Utah Board of Higher Education, the institutional councils of each higher education institution, and each higher education institution.

(3) (a) "Financial settlement agreement" includes a stipulation, consent decree, settlement agreement, and any other legally binding document or representation that resolves a dispute between the state and another party exclusively by requiring the payment of money from one party to the other.

(b) "Financial settlement agreement" does not include:

(i) agreements made under the internal process established by the Department of Transportation to resolve construction contract claims;

(ii) adjudicative orders issued by the State Tax Commission, Public Service Commission, Labor Commission, or the Department of Workforce Services;

(iii) the settlement of disputes arising from audits, defaults, or breaches of permits, contracts of sale, easements, or leases by the School and Institutional Trust Lands Administration; or

(iv) agreements made under the internal processes established by the Division of Facilities Construction and Management or by law to resolve construction contract claims made against the state by contractors or subcontractors.

(4) "Government entities" means the state and its political subdivisions.

**Section 183. Section 63I-2-253 is amended to read:**

**63I-2-253. Repeal dates -- Titles 53 through 53G.**

~~[(1) (a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech Board of Trustees and the transition to that composition, are repealed July 1, 2019.]~~

~~[(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.]~~

(1) Section 53B-2a-103 is repealed July 1, 2021.

(2) Section 53B-2a-104 is repealed July 1, 2021.

~~[(2)] (3) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of [directors] trustees, is repealed July 1, 2022.~~

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(3)] (4) Section 53B-6-105.7 is repealed July 1, 2024.~~

~~[(4)] (5) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.~~

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

[45] (6) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

[46] (7) Section 53B-8-112 is repealed July 1, 2024.

[47] (8) Section 53B-8-114 is repealed July 1, 2024.

[48] (9) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

- (i) Section 53B-8-202;
- (ii) Section 53B-8-203;
- (iii) Section 53B-8-204; and
- (iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[49] (10) Section 53B-10-101 is repealed on July 1, 2027.

[40] (11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[41] (12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

[42] (13) Section 53E-3-520 is repealed July 1, 2021.

[43] (14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

[44] (15) Section 53E-5-307 is repealed July 1, 2020.

[45] (16) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[46] (17) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[47] (18) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[48] Section 53F-4-204 is repealed July 1, 2019.]

(19) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(20) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(21) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(22) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(23) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

**Section 184. Section 63I-2-263 is amended to read:**

**63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission, is repealed July 1, [2020] 2021.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

- (a) Section 63G-1-801;
- (b) Section 63G-1-802;
- (c) Section 63G-1-803; and
- (d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

- (a) Section 63H-6-104.5 is repealed; and
- (b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(52) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

**Section 185. Section 63I-5-102 is amended to read:**

**63I-5-102. Definitions.**

As used in this chapter:

(1) "Agency governing board" is any board or commission that has policy making and oversight responsibility over the agency, including the authority to appoint and remove the agency director.

(2) "Agency head" means a cabinet officer, an elected official, an executive director, or a board or commission vested with responsibility to administer or make policy for a state agency.

(3) "Agency internal audit director" or "audit director" means the person who:

(a) directs the internal audit program for the state agency; and

(b) is appointed by the audit committee or, if no audit committee has been established, by the agency head.

(4) "Appointing authority" means:

(a) the governor, for state agencies other than the State Tax Commission;

(b) the Judicial Council, for judicial branch agencies;

(c) the ~~Board of Regents~~ Utah Board of Higher Education, for higher education entities;

(d) the State Board of Education, for entities administered by the State Board of Education; or

(e) the four tax commissioners, for the State Tax Commission.

(5) "Audit committee" means a standing committee composed of members who:

(a) are appointed by an appointing authority;

(b) (i) do not have administrative responsibilities within the agency; and

(ii) are not an agency contractor or other service provider; and

(c) have the expertise to provide effective oversight of and advice about internal audit activities and services.

(6) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(7) "Higher education entity" means the ~~Board of Regents, the institutional councils of each higher education institution~~ Utah Board of Higher Education, an institution of higher education board of trustees, or each higher education institution.

(8) "Internal audit" means an independent appraisal activity established within a state agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the agency.

(9) "Internal audit program" means an audit function that:

(a) is conducted by an agency, division, bureau, or office, independent of the agency, division, bureau, or office operations;

(b) objectively evaluates the effectiveness of agency, division, bureau, or office governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(10) "Judicial branch agency" means each administrative entity of the judicial branch.

(11) (a) "State agency" means:

(i) each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; or

(ii) each state public education entity.

(b) "State agency" does not mean:

(i) a legislative branch agency;

(ii) an independent state agency as defined in Section 63E-1-102;

(iii) a county, municipality, school district, local district, or special service district; or

(iv) any administrative subdivision of a county, municipality, school district, local district, or special service district.

**Section 186. Section 63I-5-201 is amended to read:**

**63I-5-201. Internal auditing programs -- State agencies.**

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the ~~Board of Regents~~ Utah Board of Higher Education.

(b) The ~~State Board of Regents~~ Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit program under the direction of the Alcoholic Beverage Control Commission.

**Section 187. Section 63J-1-210 is amended to read:**

**63J-1-210. Restrictions on agency expenditures of money -- Lobbyists.**

(1) As used in this section:

(a) (i) "Agency" means:

(A) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; or

(B) a school, a school district, or a charter school.

(ii) "Agency" includes the legislative branch, the judicial branch, the ~~Board of Regents~~ Utah Board of Higher Education, the board of trustees of each higher education institution, or a higher education institution.

(b) "Contract lobbyist" means a person who is not an employee of an agency who is hired as an independent contractor by the agency to communicate with legislators or the governor for the purpose of influencing the passage, defeat, amendment, or postponement of a legislative action or an executive action.

(c) "Executive action" means action undertaken by the governor, including signing or vetoing legislation, and action undertaken by any official in the executive branch of state government.

(d) "Legislative action" means action undertaken by the Utah Legislature or any part of it.

(2) An agency to which money is appropriated by the Legislature may not expend any money to pay a contract lobbyist.

(3) This section does not affect the provisions of Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

**Section 188. Section 63J-1-219 is amended to read:**

**63J-1-219. Definitions -- Federal receipts reporting requirements.**

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Department of Technology Services, the Department of Transportation, the Department of Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the ~~State Board of Regents~~ Utah Board of Higher Education, the State Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the

designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) ~~The report required by Subsection (2) that the [Board of Regents] Utah Board of Higher Education prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.~~

(b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

**Section 189. Section 63J-1-602.2 is amended to read:**

**63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(5) The Trip Reduction Program created in Section 19-2a-104.

(6) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(7) The primary care grant program created in Section 26-10b-102.

(8) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(9) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(10) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(12) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a) or (b).

(13) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(14) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(15) The Utah National Guard, created in Title 39, Militia and Armories.

(16) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(17) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(19) ~~The [State Board of Regents] Utah Board of Higher Education~~ for teacher preparation programs, as provided in Section 53B-6-104.

(20) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(21) The State Board of Education, as provided in Section 53F-2-205.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(31) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(32) The Traffic Noise Abatement Program created in Section 72-6-112.

(33) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(34) A state rehabilitative employment program, as provided in Section 78A-6-210.

(35) The Utah Geological Survey, as provided in Section 79-3-401.

(36) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(38) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(39) The program established by the Division of Facilities Construction and Management under Subsection 63A-5-228(3) under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

**Section 190. Section 63J-2-102 is amended to read:**

**63J-2-102. Definitions.**

As used in this chapter:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" does not include the legislative branch, the ~~board of regents~~ Utah Board of Higher Education, the Utah Higher Education Assistance Authority, the board of trustees of each higher education institution, each higher education institution and its associated branches, centers, divisions, institutes, foundations, hospitals, colleges, schools, or departments, a public education entity, or an independent agency.

(2) "Dedicated credits" means the same as that term is defined in Section 63J-1-102.

(3) "Fees" means revenue collected by an agency for performing a service or providing a function that the agency deposits or accounts for as dedicated credits.

(4) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that emphasizes the flow of financial resources.

(b) "Governmental fund" does not include internal service funds, enterprise funds, capital projects funds, debt service funds, or trust and agency funds as established in Section 51-5-4.

(5) "Independent agency" means the Utah State Retirement Office and the Utah Housing Corporation.

(6) "Program" means the same as that term is defined in Section 63J-1-102.

(7) "Revenue types" means the categories established by the Division of Finance under the authority of this chapter that classify revenue according to the purpose for which it is collected.

**Section 191. Section 63J-3-103 is amended to read:**

**63J-3-103. Definitions.**

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and Education Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Education Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) [~~Utah System of Technical Colleges~~] Utah Board of Higher Education expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Education Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the Wildland Fire Suppression Fund created in Section 65A-8-204 or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section 63A-5-104;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Management and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

**Section 192. Section 63N-1-301 is amended to read:**

**63N-1-301. Annual report -- Content -- Format -- Strategic plan.**

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations,



activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Management and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent Ready Utah Board created in Section 63N-12-503.

(5) (a) On or before October 1, 2019, the office shall:

(i) in consultation with the organizations described in Subsection (5)(c), coordinate the development of a written strategic plan that contains a coordinated economic development strategy for the state; and

(ii) provide the strategic plan to the president of the Senate, the speaker of the House of Representatives, and the Economic Development and Workforce Services Interim Committee.

(b) The strategic plan shall:

(i) establish a statewide economic development strategy that consists of a limited set of clear, concise, and defined principles and goals;

(ii) recommend targeted economic development policies that will further the implementation of the economic development strategy described in this section;

(iii) identify each of the relevant state-level economic development agencies, including the agencies described in Subsection (5)(c);

(iv) outline the functional role in furthering the state's economic development strategy for each relevant state-level economic development agency;

(v) establish specific principles and make specific recommendations to decrease competition and increase communication and cooperation among state-level economic development agencies, providers and administrators of economic development programs in the state, nonprofit entities that participate in economic development in the state, and local governments;

(vi) recommend a fundamental realignment of economic development programs in the state to ensure each program's purpose is congruent with the mission of the organization within which the program is located;

(vii) address rural economic development by:

(A) establishing goals and principles to ensure the state's economic development strategy works for both urban and rural areas of the state; and

(B) providing recommendations on how existing rural economic development programs should be restructured or realigned;

(viii) assess the effectiveness of the state's economic development incentives and make recommendations regarding:

(A) how incentive policies could be improved; and

(B) how incentives could be better coordinated among state-level economic development agencies and local governments;

(ix) make recommendations regarding how to align the state's economic development strategy and policies in order to take advantage of the strengths and address the weaknesses of the state's current and projected urban and rural workforce;

(x) make recommendations regarding how to monitor and assess whether certain economic development policies further the statewide economic development strategy described in this

section, including recommendations on performance metrics to measure results; and

(xi) align the strategic plan with each element of the statewide economic development strategy.

(c) The office shall coordinate the development of the strategic plan by working in coordination with and obtaining information from other state agencies, including:

- (i) the Department of Workforce Services;
- (ii) the Office of Energy Development;
- (iii) the State Board of Education; and
- ~~[(iv) the State Board of Regents; and]~~

~~[(v) the Utah System of Technical Colleges Board of Trustees.]~~

- (iv) the Utah Board of Higher Education.

(d) If contacted by the office, other state agencies, including those described in Subsection (5)(c), shall, in accordance with state and federal law, share information and cooperate with the office in coordinating the development of the strategic plan.

**Section 193. Section 63N-12-503 is amended to read:**

**63N-12-503. Talent Ready Utah Board.**

(1) There is created within GOED the Talent Ready Utah Board composed of the following ~~[15]~~ 14 members:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) the commissioner of higher education or the commissioner of higher education's designee;

~~[(c) the commissioner of technical education or the commissioner of technical education's designee;]~~

~~[(d)]~~ (c) the chair of the State Board of Education or the chair's designee;

~~[(e)]~~ (d) the executive director of the Department of Workforce Services or the executive director of the department's designee;

~~[(f)]~~ (e) the executive director of GOED or the executive director's designee;

~~[(g)]~~ (f) the director of the Division of Occupational and Professional Licensing or the director's designee;

~~[(h)]~~ (g) the governor's education advisor or the advisor's designee;

~~[(i)]~~ (h) one member of the Senate, appointed by the president of the Senate;

~~[(j)]~~ (i) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

~~[(k)]~~ (j) the president of the Salt Lake Chamber or the president's designee;

~~[(4)]~~ (k) three representatives of private industry chosen by the talent ready board; and

~~[(m)]~~ (l) a representative of the technology industry chosen by the talent ready board.

(2) The talent ready board shall select a chair and vice chair from among the members of the talent ready board.

(3) The talent ready board shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent ready board constitutes a quorum for the transaction of official talent ready board business.

(5) Formal action by the talent ready board requires the majority vote of a quorum.

(6) A member of the talent ready board:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The talent ready board shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

(b) make recommendations to the center regarding how to better align training and education in the state with industry demand;

(c) make recommendations to the center regarding how to better align technical education with current and future workforce needs; and

(d) coordinate with the center to meet the responsibilities described in Subsection 63N-12-502(4).

**Section 194. Section 63N-12-508 is amended to read:**

**63N-12-508. Utah Works.**

(1) There is created within the center the Utah Works Program.

(2) The program, under the direction of the center and the talent ready board, shall develop workforce solutions that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, ~~[the Utah System of Higher Education, and the Utah System of Technical Colleges]~~ and the Utah system of higher education;

(b) identifying businesses that have significant hiring demands in the state;

(c) coordinating with the Department of Workforce Services to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the [~~Utah System of Higher Education and the Utah System of Technical Colleges~~] Utah system of higher education to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) The office, in consultation with the talent ready board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

(4) The center shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1-301:

(a) the number of participants in the program;

(b) the number of participants who have completed training offered by the program; and

(c) the number of participants who have been hired by a business participating in the program.

**Section 195. Section 67-8-3 is amended to read:**

**67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.**

(1) (a) The executive director of the Department of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, 53E-3-302, [~~53B-1-105~~] 53B-1-408, or 53C-1-301.

(b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.

(2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).

(3) (a) After consultation with the attorney general, the executive director of the Department of

Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment.

(b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments.

(c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law.

**Section 196. Section 67-19c-101 is amended to read:**

**67-19c-101. Department award program.**

(1) As used in this section:

(a) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Workforce Services, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the [~~State Board of Regents~~] Utah Board of Higher Education, the State Tax Commission, the Department of Technology Services, and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3) (a) By April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for his department from the employees in his department.

(b) By July 1 of each year, the department head shall:

(i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to his employees.

(c) Department heads shall make the award to a person who demonstrates:

(i) extraordinary competence in performing his function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions to them;

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4) (a) The Department of Human Resource Management shall divide any appropriation for outstanding department employee awards that it receives from the Legislature equally among the departments.

(b) If the department receives money from the Department of Human Resource Management or if the department budget allows, the department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5) (a) The department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for himself or for any relative as defined in Section 52-3-1.

(c) Any awards or award programs existing in any department as of May 3, 1993, shall be modified to conform to the requirements of this section.

**Section 197. Section 67-21-3 is amended to read:**

**67-21-3. Reporting of governmental waste or violations of law -- Employer action -- Exceptions.**

(1) (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:

(i) the waste or misuse of public funds, property, or manpower;

(ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or

(iii) as it relates to a state government employer:

(A) gross mismanagement;

(B) abuse of authority; or

(C) unethical conduct.

(b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:

(i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);

(ii) the attorney general's office;

(iii) law enforcement, if the conduct is criminal in nature;

(iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:

(A) the state auditor's office;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Office of Legislative Auditor General;

(E) the governor's office;

(F) the state court administrator; or

(G) the Division of Finance;

(v) if the employee is a public entity employee, but not an employee of a state institution of higher education, the director of the Division of Purchasing and General Services;

(vi) if the employee is a political subdivision employee:

(A) the legislative body, or a member of the legislative body, of the political subdivision;

(B) the governing body, or a member of the governing body, of the political subdivision;

(C) the top executive of the political subdivision; or

(D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or

(vii) if the employee is an employee of a state institution of higher education:

~~(A) the State Board of Regents or a member of the State Board of Regents;~~

(A) the Utah Board of Higher Education or a member of the Utah Board of Higher Education;

(B) the commissioner of higher education;

(C) the president of the state institution of higher education where the employee is employed; or

(D) the entity that conducts audits of the state institution of higher education where the employee is employed.

(c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.

(2) An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.

(3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the

United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.

(4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:

- (a) the waste or misuse of public funds, property, or manpower;
- (b) a violation or suspected violation of any law, rule, or regulation; or
- (c) as it relates to a state government employer:
  - (i) gross mismanagement;
  - (ii) abuse of authority; or
  - (iii) unethical conduct.

**Section 198. Repealer.**

This bill repeals:

**Section 53B-1-101, Purpose of title.**

**Section 53B-1-106, Appointment and hiring of staff -- Transfer of functions, personnel, and funds.**

**Section 53B-1-107, Annual report of board activities.**

**Section 53B-2a-102, Commissioner of technical education -- Appointment -- Duties.**

**Section 53B-2a-111, Board of Trustees -- Consultation with State Board of Regents.**

**Section 199. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Office of Legislative Research and General Counsel

From General Fund, One-time \$1,200

Schedule of Programs:

Administration \$1,200

ITEM 2

To Legislature - Senate

From General Fund, One-time \$4,000

Schedule of Programs:

Administration \$4,000

ITEM 3

To Legislature - House of Representatives

From General Fund, One-time \$4,000

Schedule of Programs:

Administration \$4,000

The Legislature intends that an appropriation provided under items 1 through 3 be used for expenses relating to the Higher Education Strategic Planning Commission, described in Title 63C, Chapter 19, Higher Education Strategic Planning Commission.State Board of Regents

ITEM 4

To State Board of Regents - Administration

From Education Fund \$4,742,600

From Revenue Transfers \$106,200

From Beginning Nonlapsing Balances \$380,800

From Closing Nonlapsing Balances (\$380,800)

Schedule of Programs:

Administration \$4,848,800

The Legislature intends that the Division of Finance rename the "State Board of Regents" agency "Utah Board of Higher Education" and the "State Board of Regents - Administration" line item "Utah Board of Higher Education Administration".

ITEM 5

To State Board of Regents - Student Assistance

From Education Fund \$38,400

Schedule of Programs:

Engineering Loan Repayment \$38,400

The Legislature intends that the Division of Finance rename the "State Board of Regents -- Student Assistance" line item "Utah Board of Higher Education -- Student Assistance".

ITEM 6

To State Board of Regents - Student Support

From Education Fund \$18,605,800

From Education Fund, One-time \$862,100

From Education Fund Restricted - Performance UFunding Restricted Account, One-time \$381,100

From Beginning Nonlapsing Balances \$459,900

From Closing Nonlapsing Balances (\$459,900)

Schedule of Programs:

Concurrent Enrollment (\$486,700)

Articulation Support (\$301,700)

Higher Education Technology Initiative \$5,504,600

Utah Academic Library Consortium \$3,410,000

Engineering Initiative \$5,000,000

<u>Math Competency Initiative</u>	<u>\$1,926,200</u>
<u>Performance Funding —</u> <u>Colleges and Universities</u>	<u>\$0</u>
<u>Performance Funding —</u> <u>Technical Colleges</u>	<u>\$237,400</u>
<u>Custom Fit</u>	<u>\$4,559,200</u>

The Legislature intends that the Division of Finance rename the “State Board of Regents -- Student Support” line item “Utah Board of Higher Education -- Institutional and Student Support”.

**ITEM 7**To State Board of Regents - Technology

<u>From Education Fund</u>	<u>(\$7,983,500)</u>
<u>From Education Fund, One-time</u>	<u>(\$862,100)</u>
<u>From Education Fund Restricted -</u> <u>Performance Funding Restricted</u> <u>Account, One-time</u>	<u>(\$143,700)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>(\$700)</u>
<u>From Closing Nonlapsing Balances</u>	<u>\$700</u>

**ITEM 8**To State Board of Regents - Economic Development

<u>From Education Fund</u>	<u>(\$5,386,400)</u>
<u>From Beginning Nonlapsing</u> <u>Balances</u>	<u>(\$127,400)</u>
<u>From Closing Nonlapsing Balances</u>	<u>\$127,400</u>

**ITEM 9**To State Board of Regents - Education Excellence

<u>From Education Fund</u>	<u>(\$935,900)</u>
<u>From Education Fund Restricted -</u> <u>Performance Funding</u> <u>Restricted Account</u>	<u>(\$143,700)</u>
<u>From Education Fund Restricted -</u> <u>Performance Funding</u> <u>Restricted Account, One-time</u>	<u>\$143,700</u>
<u>From Revenue Transfers</u>	<u>(\$106,200)</u>
<u>From Beginning Nonlapsing</u> <u>Balances</u>	<u>(\$214,000)</u>
<u>From Closing Nonlapsing Balances</u>	<u>\$214,000</u>

**ITEM 10**To State Board of Regents - Math Competency Initiative

<u>From Education Fund</u>	<u>(\$1,926,200)</u>
<u>From Beginning Nonlapsing</u> <u>Balances</u>	<u>(\$485,400)</u>
<u>From Closing Nonlapsing Balances</u>	<u>\$485,400</u>

Utah System of Technical Colleges**ITEM 11**To Utah System of Technical Colleges - USTC Administration

<u>From Education Fund</u>	<u>(\$7,154,800)</u>
<u>From Education Fund Restricted - Performance Funding</u>	
<u>Restricted Account</u>	<u>(\$237,400)</u>
<u>From Beginning Nonlapsing</u> <u>Balances</u>	<u>(\$13,200)</u>
<u>From Closing Nonlapsing</u> <u>Balances</u>	<u>\$13,200</u>

**Section 200. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2020.

(2) Amendments to the following sections take effect May 12, 2020:

- (a) Section 53B-1-401;
- (b) Section 53B-1-403;
- (c) Section 53B-1-501;
- (d) Section 53B-1-502;
- (e) Section 53B-1-503; and
- (f) Section 63C-19-202.

**Section 201. Coordinating S.B. 111 with H.B. 68 -- Substantive and technical amendments.**

If this S.B. 111 and H.B. 68, Apprenticeship and Work-Based Learning Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by modifying Subsection 63N-12-507(1), amended in H.B. 68 to read:

“(1) The center in collaboration with the talent ready board may partner with one or more of the following to facilitate and encourage apprenticeship opportunities and work-based learning opportunities for Utah students:

- (a) the state board;
- (b) the Utah system of higher education; and
- (c) a participating employer in the state.”.

**Section 202. Coordinating S.B. 111 with S.B. 60 -- Substantive and technical amendments.**

If this S.B. 111 and S.B. 60, Advice and Consent Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) creating a newly enacted Subsection 53B-1-501(4) to read:

“(4) Notwithstanding Section 67-1-2, for an appointment described in this section:

- (a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection 67-1-2(1); and

(b) the Senate is not required to hold a confirmation hearing.”; and

(2) modifying Subsections 67-1-2(2)(b) and (3) amended in S.B. 60 to read:

“(b) A majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (1) for a gubernatorial nominee other than a nominee for the following:

(i) the executive director of a department;

(ii) the executive director of the Governor’s Office of Economic Development;

(iii) the executive director of the Labor Commission;

(iv) a member of the State Tax Commission;

(v) a member of the State Board of Education;

(vi) a member of the Utah Board of Higher Education; or

(vii) an individual:

(A) whose appointment requires the advice and consent of the Senate; and

(B) whom the governor designates as a member of the governor’s cabinet.

(3) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsections (2)(b)(i) through (vii).”.

**Section 203. Coordinating S.B. 111 with S.B. 90 -- Substantive and technical amendments.**

If this S.B. 111 and S.B. 90, Procurement Code Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 63G-6a-103 in S.B. 90 supersede the amendments to Section 63G-6a-103 in S.B. 111;

(2) modify the definition of “Procurement official” in Subsection 63G-6a-103(57)(n) to read:

“(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;”;

(3) modify the definition of “Rulemaking authority” in Subsection 63G-6a-103(77)(f) to read:

“(f) for a state institution of higher education, the Utah Board of Higher Education;”;

(4) (a) delete Subsection 63G-6a-103(77)(g); and

(b) renumber remaining subsections accordingly;

(5) modify Subsection 63G-6a-103(77)(k), which is renumbered to Subsection 63G-6a-103(77)(j), to read:

“(k) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;”..

**Section 204. Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on July 1, 2020, replace “State Board of Regents” or “Board of Regents” with “Utah Board of Higher Education” in any new language added to the Utah Code by legislation passed during the 2020 General Session, except for the references to the “State Board of Regents” enacted in this bill in:

(1) Section 53B-1-404; and

(2) Title 53B, Chapter 1, Part 5, Transition to Utah Board of Higher Education.

**CHAPTER 366****S. B. 115**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**BONDING AMENDMENTS**

Chief Sponsor: Kirk A. Cullimore  
 House Sponsor: Brady Brammer

**LONG TITLE****General Description:**

This bill modifies state and local general obligation bond provisions.

**Highlighted Provisions:**

This bill:

- ▶ provides that a first lien is created on ad valorem taxes for the payment of principal and interest on the local political subdivision's general obligation bonds;
- ▶ provides that a local school board may use revenues remaining from an ad valorem tax levied for school district technology programs or projects after the principal, premium, and interest on the district's bonds have been paid for the applicable period for which the taxes were levied;
- ▶ provides that a lien does not attach to any technology programs or projects paid for from the remaining tax revenues;
- ▶ provides that a general obligation bond issued and sold by or on behalf of a local political subdivision is secured by a first statutory lien on all revenues received pursuant to the levy and collection of ad valorem taxes, that:
  - arises and attaches immediately to the ad valorem tax revenues without the need for any action or authorization by the local political subdivision;
  - is valid and binding from the time the general obligation bonds are executed and delivered; and
  - is effective, binding, and enforceable against the local political subdivision, its successors, transferees, and creditors, and all others asserting rights to the ad valorem tax revenues;
- ▶ requires that amounts appropriated or added to the tax levy to pay principal of, premium, and interest on general obligation bonds be applied to the payment of those bonds;
- ▶ modifies a provision relating to the Legislature's appropriation of money each fiscal year to pay the principal, premium, and interest due on the State's outstanding general obligation bonds;
- ▶ modifies amounts related to bond proceeds provided to the State Infrastructure Bank Fund;
- ▶ modifies provisions related to the State Infrastructure Bank Fund;
- ▶ authorizes the issuance of general obligation bonds for Department of Transportation projects; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 11-14-310, as last amended by Laws of Utah 2018, Chapter 288
- 11-14-501, as last amended by Laws of Utah 2007, Chapter 272
- 63B-27-101, as last amended by Laws of Utah 2019, Chapters 327, 479, and 497
- 63J-1-205.1, as enacted by Laws of Utah 2015, Chapter 175
- 72-2-121, as last amended by Laws of Utah 2019, Chapters 479 and 497
- 72-2-121.3, as last amended by Laws of Utah 2015, Chapter 421
- 72-2-121.4, as last amended by Laws of Utah 2015, Chapter 421
- 72-2-124, as last amended by Laws of Utah 2019, Chapters 327 and 479
- 72-2-201, as last amended by Laws of Utah 2019, Chapter 479
- 72-2-203, as last amended by Laws of Utah 2019, Chapter 479
- 72-2-204, as last amended by Laws of Utah 2019, Chapter 479

**ENACTS:**

63B-30-101, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 11-14-310 is amended to read:****11-14-310. General obligation bonds -- Levy and collection of taxes.**

(1) (a) (i) Any bonds issued under this chapter [~~in such manner~~] that [~~they~~] are not payable solely from revenues other than those derived from ad valorem taxes are full general obligations of the local political subdivision[~~, for~~].

(ii) The local political subdivision's full faith and credit is pledged for the prompt and punctual payment of principal of and interest on [~~which the full faith and credit of the local political subdivision are pledged, and the~~] the local political subdivision's general obligation bonds.

(iii) A local political subdivision is [~~hereby expressly~~] required, regardless of any limitations [~~which~~] that may otherwise exist on the amount of taxes [~~which~~] that the local political subdivision may levy, to provide for the annual levy and collection [~~annually~~] of ad valorem taxes, without limitation as to the rate or amount, on all taxable property in the local political subdivision fully sufficient for [~~such purpose~~] the payment of principal and interest on the local political subdivision's general obligation bonds as the principal and interest become due.

(iv) If by law ad valorem taxes for the local political subdivision are levied by a board other than its governing body[~~;~~]:

(A) the taxes [~~for which provision is herein made~~] shall be levied by [~~such~~] the other board; and

(B) the local political subdivision shall [~~be under the duty in due season in~~], each year, [~~to~~] provide



~~[such other]~~ the levying board with all information necessary to ~~[the]~~ levy ~~[of]~~ the taxes in the required amount.

(v) ~~[Such taxes]~~ Taxes levied under Subsection (1)(a)(iv) shall be levied and collected by the same officers, at the same time, and in the same manner as are other taxes levied for the local political subdivision.

(b) The pledge of the taxes levied under this section shall constitute an automatically arising first lien on the taxes as provided in Section 11-14-501.

~~(b)(c)(i)~~ A local school board may use revenues remaining from a tax levied under this section for school district technology programs or projects after the principal of and premium and interest on the district's general obligation bonds have been paid for the applicable period for which the taxes were levied.

~~(ii)~~ A lien created pursuant to Section 11-14-501 does not attach to any technology programs or projects paid for from the remaining tax revenues under Subsection (1)(c)(i).

(2) (a) If ~~[any]~~ a local political subdivision ~~[shall neglect]~~ neglects or ~~[fail]~~ fails for any reason to levy or collect or to cause to be levied or collected sufficient taxes for the prompt and punctual payment of such principal and interest, [any] a person in interest may enforce levy and collection [thereof in any] of sufficient taxes in a court having jurisdiction of the subject matter[, and any].

(b) A suit, action, or proceeding brought by ~~[such]~~ a person in interest under Subsection (2)(a) shall be a preferred cause and shall be heard and disposed of without delay.

(c) All provisions of the constitution and laws relating to the collection of county and municipal taxes and tax sales ~~[shall also]~~ apply to and regulate the collection of the taxes levied pursuant to this section, through the officer whose duty it is to collect the taxes and money due the local political subdivision.

**Section 2. Section 11-14-501 is amended to read:**

**11-14-501. Creation and perfection of government security interests.**

(1) As used in this section:

(a) "Bonds" means any bond, note, lease, or other obligation of a governmental unit.

(b) (i) "General obligation bond" means a bond, note, warrant, certificate of indebtedness, or other obligation of a local political subdivision that:

(A) is payable in whole or in part from revenues derived from ad valorem taxes; and

(B) constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(ii) "General obligation bond" includes a general obligation tax, revenue, or bond anticipation note issued by a local political subdivision that is payable in whole or in part from revenues derived from ad valorem taxes.

~~(b)(c)~~ (c) "Governmental unit" has the meaning assigned in Section 70A-9a-102.

~~(e)~~ (d) "Pledge" means the creation of a security interest of any kind.

~~(d)~~ (e) "Property" means any property or interests in property, other than real property.

~~(e)~~ (f) "Security agreement" means any resolution, ordinance, indenture, document, or other agreement or instrument under which the revenues, fees, rents, charges, taxes, or other property are pledged to secure the bonds.

(2) This section expressly governs the creation, perfection, priority, and enforcement of a security interest created by the state or a governmental unit of the state, notwithstanding anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the contrary.

(3) (a) The revenues, fees, rents, charges, taxes, or other property pledged by a governmental unit for the purpose of securing its bonds are immediately subject to the lien of the pledge.

(b) (i) The lien is a perfected lien upon the effective date of the security agreement.

(ii) The physical delivery, filing, or recording of a security agreement or financing statement under the Uniform Commercial Code or otherwise, or any other similar act, is not necessary to perfect the lien.

(c) The lien of any pledge is valid, binding, perfected, and enforceable from the time the pledge is made.

(d) The lien of the pledge has priority:

(i) based on the time of the creation of the pledge unless otherwise provided in the security agreement; and

(ii) as against all parties having claims of any kind in tort, contract, or otherwise against the governmental unit, regardless of whether or not the parties have notice of the lien.

(e) Each pledge and security agreement made for the benefit or security of any of the bonds shall continue to be effective until:

(i) the principal, interest, and premium, if any, on the bonds have been fully paid;

(ii) provision for payment has been made; or

(iii) the lien created by the security agreement has been released by agreement of the parties in interest or as provided by the security agreement that created the lien.

(4) (a) General obligation bonds issued and sold by or on behalf of a local political subdivision shall be secured by a first statutory lien on all revenues received pursuant to the levy and collection of ad valorem taxes.

(b) The lien described in Subsection (4)(a):

(i) arises and attaches immediately to the ad valorem tax revenues without the need for any action or authorization by the local political subdivision;

(ii) is valid and binding from the time the general obligation bonds are executed and delivered; and

(iii) is effective, binding, and enforceable against the local political subdivision, its successors, transferees, and creditors, and all others asserting rights to the ad valorem tax revenues.

(c) A lien described in Subsection (4)(a) is enforceable against the parties described in Subsection (4)(b)(iii):

(i) regardless of whether the parties described in Subsection (4)(b)(iii) have notice of the lien; and

(ii) without the need for any physical delivery, recordation, filing, or further action.

(5) Any amounts appropriated or added to the tax levy to pay principal of and premium and interest on general obligation bonds:

(a) shall be applied solely to the payment of those general obligation bonds; and

(b) may not be used for any other purpose, except as provided by law.

(6) This section applies to all revenues received pursuant to the levy and collection of the ad valorem tax regardless of the date on which the general obligation bonds were issued.

(7) This section applies to all bonds, including bonds issued before or after the effective date of this section.

**Section 3. Section 63B-27-101 is amended to read:**

**63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.**

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed \$1,000,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2) for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304, giving priority consideration for projects with a regional significance or that support economic development within the state, including:

(i) projects that are prioritized but exceed available cash flow beyond the normal programming horizon; or

(ii) projects prioritized in the state highway construction program; and

(b) \$100,000,000 to be used by the Department of Transportation for transportation improvements as prioritized by the Transportation Commission for projects that:

(i) have a significant economic development impact associated with recreation and tourism within the state; and

(ii) address significant needs for congestion mitigation.

(3) [~~Fifty-six~~] Forty-six million dollars of the bond proceeds issued under this section shall be provided to the State Infrastructure Bank Fund created by Section 72-2-202 to make funds available for a transportation infrastructure loan or transportation infrastructure assistance under Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, including the amounts as follows:

(a) [~~\$24,000,000~~] \$14,000,000 to the military installation development authority created in Section 63H-1-201;

(b) \$5,000,000 to the Inland Port Authority created in Section 11-58-201, for highway, infrastructure, and rail right-of-way acquisition, design, engineering, and construction, to be repaid through tax differential; and

(c) \$7,000,000 to Midvale City for a parking structure in proximity to an intermodal transportation facility that enhances economic development within the city.

(4) (a) Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station associated with or adjacent to an institution of higher education.

(b) Nineteen million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design,

engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

(c) Nine million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for infrastructure improvements related to the Provo Airport.

(d) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in this section, the Department of Transportation may use available funding to study, design, engineer, and construct rail access through I-80 in western Salt Lake County.

(5) The bond proceeds issued under this section shall be provided to the Department of Transportation.

(6) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

**Section 4. Section 63B-30-101 is enacted to read:**

**Part 3. General Obligation Bonds**

**63B-30-101. General obligation bonds for transportation projects.**

(1) As used in this section, "transportation projects" means Department of Transportation projects described in Subsection 63B-27-101(2).

(2) (a) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the transportation projects for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(b) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(3) The commission may issue general obligation bonds as provided in this section.

(4) The total amount of bonds to be issued under this section may not exceed \$89,510,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$92,000,000.

(5) The commission shall ensure that proceeds from the issuance of bonds under this section are provided to the Department of Transportation for use by the Department of Transportation to pay all or part of the cost of the transportation projects, including:

(a) interest estimated to accrue on the bonds authorized in this section until the completion of construction of the transportation project, plus a period of 12 months after the end of construction; and

(b) all related engineering, architectural, and legal fees.

(6) The Department of Transportation shall transfer \$20,000,000 of bond proceeds under this section to the Governor's Office of Economic Development for a transportation-related project in a project area created by the military installation development authority, created in Section 63H-1-201.

(7) (a) The Department of Transportation may enter into agreements related to the transportation projects before the receipt of proceeds of bonds issued under this section.

(b) The state intends to use proceeds of tax-exempt bonds to reimburse itself for expenditures for costs of the transportation projects.

**Section 5. Section 63J-1-205.1 is amended to read:**

**63J-1-205.1. Legislature to pay debt service first.**

~~[In appropriating money from the General Fund, the] The Legislature shall appropriate money each fiscal year sufficient to ~~[debt service]~~ pay the principal, premium, and interest due on the state's outstanding general obligation bonds before making any other appropriation in the fiscal year.~~

**Section 6. Section 72-2-121 is amended to read:**

**72-2-121. County of the First Class Highway Projects Fund.**

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

~~[(d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and (9);]~~

~~[(e)] (d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection~~

72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

~~[(f)] (e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);~~

~~[(g)] (f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:~~

~~(i) to the legislative body of a county of the first class; and~~

~~(ii) to be used by a county of the first class for:~~

~~(A) highway construction, reconstruction, or maintenance projects; or~~

~~(B) the enforcement of state motor vehicle and traffic laws;~~

~~[(h) for fiscal year 2015 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(e) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue available in the fund for the 2015 fiscal year:]~~

~~[(i) to the legislative body of a county of the first class; and]~~

~~[(ii) to be used by a county of the first class for:]~~

~~[(A) highway construction, reconstruction, or maintenance projects; or]~~

~~[(B) the enforcement of state motor vehicle and traffic laws;]~~

~~[(i)] (g) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f)(e) has been made, to transfer an amount equal to \$25,000,000:~~

~~(i) to the legislative body of a county of the first class; and~~

~~(ii) to be used by the county for the purposes described in this section;~~

~~[(j)] (h) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f)(e) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:~~

~~(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and~~

(ii) the Transportation Fund created in Section 72-2-102 until \$28,079,000 has been deposited into the Transportation Fund;

~~[(k)]~~ (i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)~~[(e)]~~(d), the payment under Subsection (4)~~[(f)]~~(e), and the transfers under Subsections (4)~~[(g)]~~(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b) to a public transit district in a county of the first class to fund a system for public transit;

~~[(l)]~~ (j) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)~~[(e)]~~(d), the payment under Subsection (4)~~[(f)]~~(e), and the transfers under Subsections (4)~~[(g)]~~(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

~~[(m)]~~ (k) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)~~[(e)]~~(d), the payment under Subsection (4)~~[(f)]~~(e), and the transfers under Subsections ~~[(4)(j) through (l)]~~ (4)(h), (i), and (j) have been made, to transfer \$12,000,000 to the ~~[Department of Transportation]~~ department to distribute for the following projects:

(i) \$2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) \$1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) \$1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) \$1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) \$1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) \$1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) \$1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) \$900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) \$1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) \$700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) \$500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

~~[(n)]~~ (l) for a fiscal year beginning after the amount described in Subsection (4)~~[(j)]~~(h) has been repaid to the Transportation Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)~~[(j)]~~(h)(ii) has been repaid, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)~~[(f)]~~(e) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on July 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection (4)(j)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (8).

(9) (a) Any revenue in the fund that is not specifically allocated and obligated under ~~[this section]~~ Subsections (4) through (8) is subject to the review process described in this Subsection (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory council of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (9)(f).

(h) (i) After the review and ranking of each project as described in this section, the county

transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

(i) the amount of revenue received into the fund during the past year;

(ii) any funds available for allocation;

(iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation-related debt.

(10) As resources allow, the department shall study in 2020 transportation connectivity in the southwest valley of Salt Lake County, including the feasibility of connecting major east-west corridors to U-111.

**Section 7. Section 72-2-121.3 is amended to read:**

**72-2-121.3. Special revenue fund -- 2010 Salt Lake County Revenue Bond Sinking Fund.**

(1) There is created a special revenue fund within the County of the First Class Highway Projects Fund entitled "2010 Salt Lake County Revenue Bond Sinking Fund."

(2) The fund consists of:

(a) money transferred into the fund from the County of the First Class Highway Projects Fund in accordance with Subsection ~~[72-2-121(4)(e)]~~ 72-2-121(4)(d); and

(b) for a fiscal year beginning on or after July 1, 2013, money transferred into the fund from the Transportation Investment Fund of 2005 in accordance with Subsection 72-2-124(4)(a)(iv).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) The director of the Division of Finance may use fund money only as provided in this section.

(b) The director of the Division of Finance may not distribute any money from the fund under this section until the director has received a formal opinion from the attorney general that Salt Lake County has entered into a binding agreement with the state of Utah containing all of the terms required by Section 72-2-121.4.

(c) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, on July 1 of each year beginning July 1, 2011, the director of the Division of Finance shall transfer from the County of the First Class Highway Projects Fund and the Transportation Investment Fund of 2005 to the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County that is necessary to pay:

(i) up to two times the debt service requirement necessary to pay debt service on the revenue bonds issued by Salt Lake County for that fiscal year; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(d) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, the director of the Division of Finance shall, upon request from Salt Lake County, transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

(i) the debt service on the revenue bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) Any money remaining in the 2010 Salt Lake County Revenue Bond Sinking Fund at the end of the fiscal year lapses to the County of the First Class Highway Projects Fund.

**Section 8. Section 72-2-121.4 is amended to read:**

**72-2-121.4. 2010 interlocal agreement governing state highway projects in Salt Lake County.**

(1) Under the direction of the attorney general, the state of Utah and Salt Lake County may enter into an interlocal agreement that includes, at minimum, the provisions specified in this section.

(2) The attorney general shall ensure that, in the agreement, Salt Lake County covenants to:

(a) issue revenue bonds in an amount generating proceeds of at least \$77,000,000, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements, and secured by revenues received from the state of Utah under Section 72-2-121.3;

(b) transfer at least \$68,500,000 to the Department of Transportation to be used for state highway projects in Salt Lake County as provided in the interlocal agreement; and

(c) use or transfer to a municipality to use \$8,500,000 to pay all or part of the costs of the following highway construction projects in Salt Lake County in the following amounts:

(i) \$2,000,000 to Salt Lake County for 2300 East in Salt Lake County;

(ii) \$3,500,000 to Salt Lake City for North Temple;

(iii) \$1,500,000 to Murray City for 4800 South; and

(iv) \$1,500,000 to Riverton City for 13400 South -- 4000 West to 4570 West.

(3) The attorney general shall ensure that, in the agreement, the state of Utah covenants to:

(a) use the money transferred by Salt Lake County under Subsection (2)(b) to pay all or part of the costs of the following state highway construction or reconstruction projects within Salt Lake County:

(i) 5400 South -- Bangerter Highway to 4000 West;

(ii) Bangerter Highway at SR-201;

(iii) 12300 South at State Street;

(iv) Bangerter Highway at 6200 South;

(v) Bangerter Highway at 7000 South;

(vi) Bangerter Highway at 3100 South;

(vii) 5400 South -- 4000 West to past 4800 West;

(viii) 9400 South and Wasatch Boulevard; and

(ix) I-215 West Interchange -- 3500 South to 3800 South and ramp work;

(b) widen and improve US-89 between 7200 South and 9000 South with available highway funding identified by the commission; and

(c) transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

(i) the debt service on the revenue bonds issued by Salt Lake County; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(4) The costs under Subsections (2)(c) and (3)(a) may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities and all related engineering, architectural, and legal fees.

(5) In preparing the agreement required by this section, the attorney general and Salt Lake County shall:

(a) review each existing interlocal agreement with Salt Lake County concerning Salt Lake County revenues received by the state for state highway projects within Salt Lake County; and

(b) as necessary, modify those agreements or draft a new interlocal agreement encompassing all of the provisions necessary to reflect the state of Utah's and Salt Lake County's obligations for those revenues and projects.

~~[(6) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,000,000 of the funds described in Subsection (2)(b) to Draper City to pay for highway improvements to 13490 South.]~~

~~[(7) If project savings are identified from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$3,000,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class Highway Projects Fund created by Section 72-2-121 to fund the following highway projects:]~~

~~[(a) \$2,000,000 to West Valley City to pay for highway improvements to SR-201 Frontage Road at Bangerter Highway and associated roads to ease traffic flow onto Bangerter Highway between SR-201 and Lake Park Boulevard; and]~~

~~[(b) \$1,000,000 to West Valley City for improvements to SR-201 Frontage Road at 7200 West.]~~

~~[(8) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,100,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class Highway Projects Fund created by Section 72-2-121 to West Jordan City for highway improvements on 4000 West from 7800 South to Old Bingham Highway.]~~

~~[(9) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,000,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class Highway Projects Fund created by Section 72-2-121 to Midvale City to fund the following highway projects:]~~

~~[(a) \$500,000 to Midvale City for improvements to Union Park Avenue from I-215 exit south to Creek Road and Wasatch Boulevard; and]~~

~~[(b) \$500,000 to Midvale City for improvements to 7200 South from I-15 to 700 West.]~~

~~[(10) (a) (i) Before providing funds to a municipality or county under Subsections (7), (8), and (9), the Department of Transportation shall obtain from the municipality or county:]~~

~~[(A) a written certification signed by the county or city mayor or the mayor's designee certifying that the municipality or county will use the funds provided under Subsections (7), (8), and (9) solely for the projects described in Subsections (7), (8), and (9); and]~~

~~[(B) other documents necessary to protect the state and the bondholders and to ensure that all legal requirements are met.]~~

~~[(ii) Except as provided in Subsection (10)(b), by January 1 of each year, the municipality or county receiving funds described in Subsections (7), (8), and (9) shall submit to the Department of Transportation a statement of cash flow for the current fiscal year detailing the funds necessary to pay project costs for the projects described in Subsections (7), (8), and (9).]~~

~~[(iii) Except as provided in Subsection (10)(b), after receiving the statement required under Subsection (10)(a)(ii) and after July 1, the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs for the current fiscal year based upon the statement of cash flow submitted by the municipality or county.]~~

~~[(iv) Upon the financial close of each project described in Subsections (7), (8), and (9), the municipality or county receiving funds under Subsections (7), (8), and (9) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.]~~

~~[(b) For calendar year 2012 only:]~~

~~[(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (10)(a)(ii) as soon as possible; and]~~

~~[(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.]~~

~~[(c) The commission or the state treasurer may make any statement of intent relating to a reimbursement under this Subsection (10) that is necessary or desirable to comply with federal tax law.]~~

**Section 9. Section 72-2-124 is amended to read:**

**72-2-124. Transportation Investment Fund of 2005.**

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:



(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection [72-2-121(4)(f)] 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121; and

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income

housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

**Section 10. Section 72-2-201 is amended to read:**

**72-2-201. Definitions.**

As used in this part:

(1) "Fund" means the State Infrastructure Bank Fund created under Section 72-2-202.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project.

(4) "Public entity" means a state agency, county, municipality, local district, special service district, an intergovernmental entity organized under state law, or the military installation development authority created in Section 63H-1-201.

(5) "Transportation project":

(a) means a project:

(i) to improve a state or local highway;

(ii) to improve a public transportation facility or nonmotorized transportation facility;

(iii) to construct or improve parking facilities [~~that support an intermodal regional transportation purpose~~]; or

(iv) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement;

(b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing; and

(c) may only include a project if the project is part of:

(i) the statewide long range plan;

(ii) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(iii) a local government general plan or economic development initiative.

**Section 11. Section 72-2-203 is amended to read:**

**72-2-203. Loans and assistance -- Authority -- Rulemaking.**

(1) Money in the fund may be used by the department, as prioritized by the commission or as directed by the Legislature, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance and a process for prioritization of requests for loans and assistance.

(3) The prioritization process, procedures, and standards for making an infrastructure loan or providing infrastructure assistance may include consideration of the following:

(a) availability of money in the fund;

(b) credit worthiness of the project;

(c) demonstration that the project will encourage, enhance, or create economic benefits to the state or political subdivision;

(d) likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;

(e) the extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;

(f) demonstration that the project provides a benefit to the state highway system, including safety or mobility improvements;

(g) the amount of proposed assistance as a percentage of the overall project costs with emphasis on local and private participation;

(h) demonstration that the project provides intermodal connectivity with public transportation, pedestrian, or nonmotorized transportation facilities; and

(i) other provisions the commission considers appropriate.

**Section 12. Section 72-2-204 is amended to read:**

**72-2-204. Loan program procedures -- Repayment.**

(1) A public entity may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the public entity to the repayment of the loan.

(2) A loan or assistance from the fund shall bear interest at ~~the~~ a rate not to exceed .5% above bond market interest rates available to the state.

(3) A loan shall be repaid no later than ~~[10]~~ 15 years from the date the department issues the loan to the borrower, with repayment commencing no later than:

(a) when the project is completed; or

(b) in the case of a highway project, when the facility has opened to traffic.

(4) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:

(a) transportation project revenues, including special assessment revenues;

(b) general funds of the public entity;

(c) money withheld under Subsection (7); or

(d) any other legally available revenues.

(5) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

(6) Before obtaining an infrastructure loan, a county or municipality shall:

(a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and

(b) adopt an ordinance or resolution authorizing the infrastructure loan.

(7) (a) If a public entity fails to comply with the terms of its infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.

(b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money in the fund to pay the amounts due under the contract.

(c) The department may elect when to request the withholding of money under this Subsection (7).

(8) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan

contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.

**CHAPTER 367****S. B. 128**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective October 15, 2020

**NON-VEHICLE FRANCHISE  
 AGREEMENT AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
 House Sponsor: Francis D. Gibson

**LONG TITLE****General Description:**

This bill amends provisions of the New Automobile Franchise Act and the Motor Vehicle Business Regulation Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ excludes certain trailers from the New Automobile Franchise Act;
- ▶ amends provisions related to prohibitions and requirements of license holders; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 13-14-102, as last amended by Laws of Utah 2018, Chapter 245  
 41-3-102, as last amended by Laws of Utah 2019, Chapter 424  
 41-3-210, as last amended by Laws of Utah 2018, Chapter 387

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 13-14-102 is amended to read:****13-14-102. Definitions.**

As used in this chapter:

(1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory Board created in Section 13-14-103.

(2) "Affected municipality" means an incorporated city or town:

(a) that is located in the notice area; and

(b) (i) within which a franchisor is proposing a new or relocated dealership that is within the relevant market area of an existing dealership of the same line-make owned by another franchisee; or

(ii) within which an existing dealership is located and a franchisor is proposing a new or relocated dealership within the relevant market area of that existing dealership of the same line-make.

(3) "Affiliate" has the meaning set forth in Section 16-10a-102.

(4) "Aftermarket product" means any product or service not included in the franchisor's suggested retail price of the new motor vehicle, as that price appears on the label required by 15 U.S.C. Sec. 1232(f).

(5) "Dealership" means a site or location in this state:

(a) at which a franchisee conducts the business of a new motor vehicle dealer; and

(b) that is identified as a new motor vehicle dealer's principal place of business for licensing purposes under Section 41-3-204.

(6) "Department" means the Department of Commerce.

(7) "Do-not-drive order" means an order issued by a franchisor that instructs an individual not to operate a motor vehicle of the franchisor's line-make due to a recall.

(8) "Executive director" means the executive director of the Department of Commerce.

(9) (a) "Franchise" or "franchise agreement" means a written agreement, or in the absence of a written agreement, then a course of dealing or a practice for a definite or indefinite period, in which:

(i) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(ii) a community of interest exists in the marketing of new motor vehicles, new motor vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.

(b) "Franchise" or "franchise agreement" includes a sales and service agreement.

(10) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured, produced, represented, or distributed by the franchisor.

(11) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured, produced, assembled, represented, or distributed by the franchisor, and includes:

(a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;

(b) an intermediate distributor; and

(c) an agent, officer, or field or area representative of the franchisor.

(12) "Lead" means the referral by a franchisor to a franchisee of a potential customer whose contact information was obtained from a franchisor's program, process, or system designed to generate referrals for the purchase or lease of a new motor vehicle, or for service work related to the franchisor's vehicles.

(13) "Line-make" means:

(a) for other than a recreational vehicle, the motor vehicles that are offered for sale, lease, or

distribution under a common name, trademark, service mark, or brand name of the franchisor; or

(b) for a recreational vehicle, a specific series of recreational vehicle product that:

(i) is identified by a common series trade name or trademark;

(ii) is targeted to a particular market segment, as determined by decor, features, equipment, size, weight, and price range;

(iii) has a length and floor plan that distinguish the recreational vehicle from other recreational vehicles with substantially the same decor, features, equipment, size, weight, and price;

(iv) belongs to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and

(v) a franchise agreement authorizes a dealer to sell.

(14) "Mile" means 5,280 feet.

(15) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.

(16) (a) "Motor vehicle" means:

(i) except as provided in Subsection (16)(b), a trailer;

(i) (ii) a travel trailer;

(iii) except as provided in Subsection (16)(b), a motor vehicle as defined in Section 41-3-102;

(iii) (iv) a semitrailer as defined in Section 41-1a-102; and

(iv) a trailer as defined in Section 41-1a-102; and

(v) a recreational vehicle.

(b) "Motor vehicle" does not include:

(i) a motorcycle as defined in Section 41-1a-102;

(ii) an off-highway vehicle as defined in Section 41-3-102; ~~and~~

~~(iii) a small trailer [as defined in Section 41-3-102];~~

(iv) a trailer that:

(A) is not designed for human habitation; and

(B) has a gross vehicle weight rating of less than 26,000 pounds;

(v) a mobile home as defined in Section 41-1a-102;

(vi) a trailer of 750 pounds or less unladen weight; and

(vii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product.

(17) "New motor vehicle" means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

(18) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1)[~~(a)~~] to sell new motor vehicles.

(19) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

(20) "Notice area" means the geographic area that is:

(a) within a radius of at least six miles and no more than 10 miles from the site of an existing dealership; and

(b) located within a county with a population of at least 225,000.

(21) "Primary market area" means:

(a) for an existing dealership, the geographic area established by the franchisor that the existing dealership is intended to serve; or

(b) for a new or relocated dealership, the geographic area proposed by the franchisor that the new or relocated dealership is intended to serve.

(22) "Recall" means a determination by a franchisor or the National Highway Traffic Safety Administration that a motor vehicle has a safety-related defect or fails to meet a federal safety or emissions standard.

(23) "Recall repair" means any diagnostic work, labor, or part necessary to resolve an issue that is the basis of a recall.

(24) (a) "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.

(b) "Recreational vehicle" includes:

(i) a travel trailer;

(ii) a camping trailer;

(iii) a motor home;

(iv) a fifth wheel trailer; and

(v) a van.

(25) (a) "Relevant market area," except with respect to recreational vehicles, means:

(i) as applied to an existing dealership that is located in a county with a population of less than 225,000:

(A) the county in which the existing dealership is located; and

(B) the area within a 15-mile radius of the existing dealership; or

(ii) as applied to an existing dealership that is located in a county with a population of 225,000 or more, the area within a 10-mile radius of the existing dealership.

(b) “Relevant market area,” with respect to recreational vehicles, means:

(i) the county in which the dealership is to be established or relocated; and

(ii) the area within a 35-mile radius from the site of the existing dealership.

(26) “Sale, transfer, or assignment” means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.

(27) “Serve” or “served,” unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.

(28) “Site-control agreement” means an agreement, however denominated and regardless of the agreement’s form or of the parties to the agreement, that has the effect of:

(a) controlling in any way the use and development of the premises upon which a franchisee’s business operations are located;

(b) requiring a franchisee to establish or maintain an exclusive dealership facility on the premises upon which the franchisee’s business operations are located; or

(c) restricting the ability of the franchisee or, if the franchisee leases the dealership premises, the franchisee’s lessor to transfer, sell, lease, develop, redevelop, or change the use of some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease, or any similar arrangement.

(29) “Small trailer” means the same as that term is defined in Section 41-3-102.

[429] (30) “Stop-sale order” means an order issued by a franchisor that prohibits a franchisee from selling or leasing a certain used motor vehicle of the franchisor’s line-make, which then or thereafter is in the franchisee’s inventory, due to a recall.

(31) “Trailer” means the same as that term is defined in Section 41-3-102.

[430] (32) “Travel trailer,” “camping trailer,” or “fifth wheel trailer” means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[431] (33) “Used motor vehicle” means a motor vehicle that:

(a) has been titled and registered to a purchaser other than a franchisee; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

[432] (34) “Value of a used motor vehicle” means the average trade-in value for a used motor vehicle of the same year, make, and model as reported in a recognized, independent third-party used motor vehicle guide.

[433] (35) “Written,” “write,” “in writing,” or other variations of those terms shall include all reliable forms of electronic communication.

**Section 2. Section 41-3-102 is amended to read:**

**41-3-102. Definitions.**

As used in this chapter:

(1) “Administrator” means the motor vehicle enforcement administrator.

(2) “Agent” means a person other than a holder of any dealer’s or salesperson’s license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) “Auction” means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) “Authorized service center” means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

(5) “Board” means the advisory board created in Section 41-3-106.

(6) “Body shop” means a person engaged in rebuilding, restoring, repairing, or painting the body of motor vehicles for compensation.

(7) “Commission” means the State Tax Commission.

(8) “Crusher” means a person who crushes or shreds motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

(9) (a) “Dealer” means a person:

(i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) “Dealer” includes a representative or consignee of any dealer.

(10) “Direct-sale manufacturer” means a person:

(a) that is both a manufacturer and a dealer;

(b) that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person’s own line-make that are:

(i) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(ii) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(iii) manufactured by the person;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person’s activities as a direct-sale manufacturer from a physical location in the United States.

(11) “Direct-sale manufacturer salesperson” means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

(12) (a) “Dismantler” means a person engaged in the business of dismantling motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) “Dismantler” includes a person who dismantles three or more motor vehicles in any 12-month period.

(13) “Distributor” means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.

(14) “Distributor branch” means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(15) “Distributor representative” means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch’s motor vehicles, or for supervising or

contacting dealers or prospective dealers of the distributor or the distributor branch.

(16) “Division” means the Motor Vehicle Enforcement Division created in Section 41-3-104.

(17) “Factory branch” means a branch office maintained by a person who manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch’s representatives.

(18) “Factory representative” means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer’s or factory branch’s motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

(19) (a) “Franchise” means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer’s distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(b) “Franchise” includes a contract or agreement described in Subsection (19)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

(20) (a) “Franchise holder” means a manufacturer who:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;

(iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;

(v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.

(b) “Franchise holder” does not include a manufacturer described in Subsection (20)(a), if at all times during the franchised dealer’s existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.

(21) “Line-make” means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.



(22) “Manufacturer” means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer’s statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.

(23) “Material owner” means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections (23)(a) and (b).

(24) (a) “Motor vehicle” means a vehicle that is:

(i) self-propelled;

(ii) a trailer~~;~~;

(iii) a travel trailer~~;~~;

(iv) a semitrailer; ~~or~~

~~(iii)~~ (v) an off-highway vehicle; or

(vi) a small trailer.

(b) “Motor vehicle” does not include:

(i) mobile homes as defined in Section 41-1a-102;

(ii) trailers of 750 pounds or less unladen weight;

~~(iii) farm tractors and other machines and tools~~ a farm tractor or other machine or tool used in the production, harvesting, ~~and~~ or care of a farm ~~products~~ product; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

(25) “Motorcycle” ~~[has the same meaning as]~~ means the same as that term is defined in Section 41-1a-102.

(26) “New motor vehicle” means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

(27) “Off-highway vehicle” ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 41-22-2.

(28) “Pawnbroker” means a person whose business is to lend money on security of personal property deposited with him.

(29) (a) “Principal place of business” means a site or location in this state:

(i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

(ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

(iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(b) “Principal place of business” means, with respect to a direct-sale manufacturer, the direct-sale manufacturer’s showroom, which shall comply with the requirements of Subsection (29)(a).

(30) “Remanufacturer” means a person who reconstructs used motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

(31) “Salesperson” means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

(32) “Semitrailer” ~~[has the same meaning as]~~ means the same as that term is defined in Section 41-1a-102.

(33) “Showroom” means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer’s business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

(34) “Small trailer” means a trailer that has an unladen weight of:

(a) more than 750 pounds~~;~~ but; and

(b) less than 2,000 pounds.

(35) “Special equipment” includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

(36) “Special equipment dealer” means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

(37) “Trailer” ~~[has the same meaning as]~~ means the same as that term is defined in Section 41-1a-102.

(38) “Transporter” means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

(39) "Travel trailer" [~~has the same meaning as provided~~] means the same as that term is defined in Section 41-1a-102.

(40) "Used motor vehicle" means a vehicle that:

(a) has been titled and registered to a purchaser other than a dealer; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

(41) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

**Section 3. Section 41-3-210 is amended to read:**

**41-3-210. License holders -- Prohibitions and requirements.**

(1) The holder of any license issued under this chapter may not:

(a) intentionally publish, display, or circulate any advertising that is misleading or inaccurate in any material fact or that misrepresents any of the products sold, manufactured, remanufactured, handled, or furnished by a licensee;

(b) intentionally publish, display, or circulate any advertising without identifying the seller as the licensee by including in the advertisement the full name under which the licensee is licensed or the licensee's number assigned by the division;

(c) violate this chapter or the rules made by the administrator;

(d) violate any law of the state respecting commerce in motor vehicles or any rule respecting commerce in motor vehicles made by any licensing or regulating authority of the state;

(e) engage in business as a new motor vehicle dealer, special equipment dealer, used motor vehicle dealer, motor vehicle crusher, or body shop without having in effect a bond as required in this chapter;

(f) act as a dealer, dismantler, crusher, manufacturer, transporter, remanufacturer, or body shop without maintaining a principal place of business;

(g) unless the licensee is a special equipment dealer who sells a new special equipment motor vehicle with a gross vehicle weight of 12,000 or more pounds after installing special equipment on the motor vehicle:

(i) engage in a business respecting the selling or exchanging of new or new and used motor vehicles for which the licensee is not licensed; and

(ii) unless the licensee is a direct-sale manufacturer, sell or exchange a new motor vehicle for which the licensee does not have a franchise;

(h) dismantle or transport to a crusher for crushing or other disposition any motor vehicle without first obtaining a dismantling or junk permit under Section 41-1a-1009, 41-1a-1010, or 41-1a-1011;

(i) as a new motor vehicle dealer, special equipment dealer, or used motor vehicle dealer fail to give notice of sales or transfers as required in Section 41-3-301;

(j) advertise or otherwise represent, or knowingly allow to be advertised or represented on the licensee's behalf or at the licensee's place of business, that no down payment is required in connection with the sale of a motor vehicle when a down payment is required and the buyer is advised or induced to finance a down payment by a loan in addition to any other loan financing the remainder of the purchase price of the motor vehicle;

(k) as a crusher, crush or shred a motor vehicle brought to the crusher without obtaining proper evidence of ownership of the motor vehicle; proper evidence of ownership is a certificate of title endorsed according to law or a dismantling or junk permit issued under Section 41-1a-1009, 41-1a-1010, or 41-1a-1011;

(l) as a manufacturer or remanufacturer assemble a motor vehicle that does not comply with construction, safety, or vehicle identification number standards fixed by law or rule of any licensing or regulating authority;

(m) as anyone other than a salesperson or a direct-sale manufacturer salesperson licensed under this chapter, be present on a dealer display space and contact prospective customers to promote the sale of the dealer's vehicles;

(n) sell, display for sale, or offer for sale motor vehicles at any location other than the principal place of business or additional places of business licensed under this chapter; this provision is construed to prevent dealers, salespersons, or any other representative of a dealership from selling, displaying, or offering motor vehicles for sale from their homes or other unlicensed locations;

(o) (i) as a dealer, dismantler, body shop, or manufacturer, maintain a principal place of business or additional place of business that shares any common area with a business or activity not directly related to motor vehicle commerce; or

(ii) maintain any places of business that share any common area with another dealer, dismantler, body shop, or manufacturer;

(p) withhold delivery of license plates obtained by the licensee on behalf of a customer for any reason, including nonpayment of any portion of the vehicle purchase price or down payment;

(q) issue a temporary permit for any vehicle that has not been sold by the licensee;

(r) alter a temporary permit in any manner;

(s) operate any principal place of business or additional place of business in a location that does not comply with local ordinances, including zoning ordinances;

(t) sell, display for sale, offer for sale, or exchange any new motor vehicle if the licensee does not:

(i) have a new motor vehicle dealer's license or a direct-sale manufacturer's license under Section 41-3-202; and

(ii) unless the licensee is a direct-sale manufacturer, possess a franchise from the manufacturer of the new motor vehicle sold, displayed for sale, offered for sale, or exchanged by the licensee;

(u) as a new motor vehicle dealer or used motor vehicle dealer, encourage or conspire with any person who has not obtained a salesperson's or a direct-sale manufacturer salesperson's license to solicit for prospective purchasers; ~~or~~

(v) as a direct-sale manufacturer, engage in business as a direct-sale manufacturer without having:

(i) an authorized service center; or

(ii) a principal place of business~~[-];~~ or

(w) possess a franchise that is not expressed in writing, if the franchise allows the sale or exchange of a new trailer that:

(i) is not designed for human habitation;

(ii) has a gross vehicle weight rating of less than 26,000 pounds; and

(iii) is not designed to carry a motorboat as defined in Section 73-18-2.

(2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange the vehicle as the make designated by the final stage manufacturer, except in those specific situations where the licensee:

(i) possesses a franchise from the initial or first stage manufacturer, presumably the manufacturer of the motor vehicle's chassis; or

(ii) manufactured the initial or first stage of the motor vehicle.

(b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer under Section 41-3-301.

(3) Each licensee, except salespersons, shall maintain and make available for inspection by peace officers and employees of the division:

(a) a record of every motor vehicle bought, or exchanged by the licensee or received or accepted by the licensee for sale or exchange;

(b) a record of every used part or used accessory bought or otherwise acquired;

(c) a record of every motor vehicle bought or otherwise acquired and wrecked or dismantled by the licensee;

(d) all buyers' orders, contracts, odometer statements, temporary permit records, financing records, and all other documents related to the purchase, sale, or consignment of motor vehicles; and

(e) a record of the name and address of the person to whom any motor vehicle or motor vehicle body, chassis, or motor vehicle engine is sold or otherwise disposed of and a description of the motor vehicle by year, make, and vehicle identification number.

(4) Each licensee required by this chapter to keep records shall:

(a) be kept by the licensee at least for five years; and

(b) furnish copies of those records upon request to any peace officer or employee of the division during reasonable business hours.

(5) (a) A manufacturer, distributor, distributor representative, or factory representative may not induce or attempt to induce by means of coercion, intimidation, or discrimination any dealer to:

~~[(a)]~~ (i) accept delivery of any motor vehicle, parts, or accessories or any other commodity or commodities, including advertising material not ordered by the dealer;

~~[(b)]~~ (ii) order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of the motor vehicle as publicly advertised by the manufacturer;

~~[(c)]~~ (iii) order from any person any parts, accessories, equipment, machinery, tools, appliances, or any other commodity;

~~[(d)]~~ (iv) enter into an agreement with the manufacturer, distributor, distributor representative, or factory representative of any of them, or to do any other act unfair to the dealer by threatening to cancel any franchise or contractual agreement between the manufacturer, distributor, distributor branch, or factory branch and the dealer;

~~[(e)]~~ (v) refuse to deliver to any dealer having a franchise or contractual arrangement for the retail sale of new and unused motor vehicles sold or distributed by the manufacturer, distributor, distributor branch or factory branch, any motor vehicle, publicly advertised for immediate delivery within 60 days after the dealer's order is received; ~~or~~

~~[(f)]~~ (vi) unfairly, without regard to the equities of the dealer, cancel the franchise of any motor vehicle dealer; the nonrenewal of a franchise or selling agreement without cause and written notice is a violation of this subsection and is an unfair cancellation~~[-];~~ or

(vii) waive or forbear the right of the dealer, if the dealer offers for sale, sells, or exchanges cargo/utility trailers, to protest the establishment or relocation of a dealer who offers for sale, sells, or exchanges cargo/utility trailers of the same line-make in the relevant market area of the established dealer.

(b) For the purpose of Subsection (5)(a)(vii):

(i) “Cargo/utility trailer” means a trailer that:

(A) is not designed for human habitation;

(B) has a gross vehicle weight rating of less than 26,000 pounds; and

(C) is not designed to carry a motorboat as defined in Section 73-18-2.

(ii) “Relevant market area” means:

(A) for a dealership located in a county that has a population of less than 225,000, the county in which the dealership is located and the area within a 15-mile radius of the dealership; or

(B) for a dealership located in a county that has a population of 225,000 or more, the area within a 10-mile radius of the dealership.

(6) A dealer may not assist an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, or by allowing use of his facilities or dealer license number, or by any other means.

(7) (a) The holder of any new motor vehicle dealer or direct-sale manufacturer license issued under this chapter may not sell any new motor vehicle to:

(i) another dealer licensed under this chapter who does not hold a valid franchise for the make of new motor vehicles sold, unless the selling dealer licenses and titles the new motor vehicle to the purchasing dealer; or

(ii) any motor vehicle leasing or rental company located within this state, or who has any branch office within this state, unless the dealer licenses and titles the new motor vehicle to the purchasing, leasing, or rental company.

(b) Subsection (7)(a)(i) does not apply to the sale of a new incomplete motor vehicle with a gross vehicle weight of 12,000 or more pounds to a special equipment dealer licensed under this chapter.

(8) A dealer licensed under this chapter may not take on consignment any new motor vehicle from anyone other than a new motor vehicle dealer, factory, or distributor who is licensed and, if required, franchised to distribute or sell that make of motor vehicle in this or any other state.

(9) A body shop licensed under this chapter may not assist an unlicensed body shop in unlawful activity through active or passive means or by allowing use of its facilities, name, body shop number, or by any other means.

(10) A used motor vehicle dealer licensed under this chapter may not advertise, offer for sale, or sell a new motor vehicle that has been driven less than 7,500 miles by obtaining a title only to the vehicle and representing it as a used motor vehicle.

(11) (a) Except as provided in Subsection (11)(c), or in cases of undue hardship or emergency as provided by rule by the division, a dealer or salesperson licensed under this chapter may not, on

consecutive days of Saturday and Sunday, sell, offer for sale, lease, or offer for lease a motor vehicle.

(b) Each day a motor vehicle is sold, offered for sale, leased, or offered for lease in violation of Subsection (11)(a) and each motor vehicle sold, offered for sale, leased, or offered for lease in violation of Subsection (11)(a) shall constitute a separate offense.

(c) The provisions of Subsection (11)(a) shall not apply to a dealer participating in a trade show or exhibition if:

(i) there are five or more dealers participating in the trade show or exhibition; and

(ii) the trade show or exhibition takes place at a location other than the principal place of business of one of the dealers participating in the trade show or exhibition.

(12) For purposes of imposing the sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, a licensee issuing a temporary permit under Section 41-3-302 shall separately identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act.

(13) (a) A dismantler or dealer engaged in the business of dismantling motor vehicles for the sale of parts or salvage shall identify any vehicles or equipment used by the dismantler or dealer for transporting parts or salvage on the highways.

(b) The identification required under Subsection (13)(a) shall:

(i) include the name, address, and license number of the dismantler or dealer; and

(ii) be conspicuously displayed on both sides of the vehicle or equipment in clearly legible letters and numerals not less than two inches in height.

#### **Section 4. Effective date.**

This bill takes effect on October 15, 2020.

**CHAPTER 368****S. B. 130**

Passed March 4, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**911 COMMUNICATIONS AMENDMENTS**

Chief Sponsor: Wayne A. Harper  
 House Sponsor: Stephen G. Handy

**LONG TITLE****General Description:**

This bill modifies provisions relating to emergency communications systems.

**Highlighted Provisions:**

This bill:

- ▶ modifies the powers of the Utah Communications Authority;
- ▶ modifies provisions relating to the Utah Communications Authority sales, leases, or trades of public safety communications network capacity;
- ▶ requires the PSAP advisory committee to recommend, the Utah Communications Authority Board to adopt, and public safety answering points to adopt a statewide CAD-to-CAD call handling and 911 call transfer protocol;
- ▶ modifies provisions relating to the Utah Communications Authority's strategic plan;
- ▶ requires the Utah Communications Authority to report to legislative committees on the authority's plan for and progress in implementing audit recommendations;
- ▶ modifies provisions relating to Utah Communications Authority divisions and advisory committees;
- ▶ provides for distributions from the Unified Statewide 911 Emergency Service Account to PSAPs who meet certain criteria;
- ▶ eliminates language relating to required meetings involving the authority's executive director, the Radio Network Division, and stakeholders, and relating to a required comprehensive plan;
- ▶ modifies the Utah Communications Authority's authority to charge fees;
- ▶ requires the Department of Public Safety to enter into an agreement with a single public safety answering point serving within a county;
- ▶ modifies provisions relating to a required audit for certain counties;
- ▶ requires public safety answering points to comply with specified 911 call transfer rates; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63H-7a-103, as last amended by Laws of Utah 2019, Chapter 509  
 63H-7a-202, as last amended by Laws of Utah 2019, Chapter 509

63H-7a-204, as last amended by Laws of Utah 2019, Chapter 509  
 63H-7a-206, as last amended by Laws of Utah 2019, Chapter 509  
 63H-7a-207, as repealed and reenacted by Laws of Utah 2019, Chapter 509  
 63H-7a-208, as repealed and reenacted by Laws of Utah 2019, Chapter 509  
 63H-7a-302, as last amended by Laws of Utah 2017, Chapter 430  
 63H-7a-303, as last amended by Laws of Utah 2019, Chapter 509  
 63H-7a-304, as last amended by Laws of Utah 2019, Chapter 509  
 63H-7a-404, as last amended by Laws of Utah 2017, Chapter 430  
 63H-7a-502, as last amended by Laws of Utah 2017, Chapter 430  
 63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483  
 69-2-201, as last amended by Laws of Utah 2019, Chapter 509  
 69-2-202, as enacted by Laws of Utah 2017, Chapter 430  
 69-2-203, as last amended by Laws of Utah 2019, Chapter 509

**ENACTS:**

63H-7a-206.5, Utah Code Annotated 1953  
 63H-7a-304.5, Utah Code Annotated 1953  
 69-2-204, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63H-7a-103 is amended to read:****63H-7a-103. Definitions.**

As used in this chapter:

(1) "911 account" means the Unified Statewide 911 Emergency Service Account, created in Subsection 63H-7a-304(1).

(2) "911 call transfer" means the redirection of a 911 call from the person who initially receives the call to another person within the state.

(4) (3) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(2) (4) "Authority" means the Utah Communications Authority created in Section 63H-7a-201.

(5) "Backhaul network" means the portion of a public safety communications network that consists primarily of microwave paths, fiber lines, or ethernet circuits.

(3) (6) "Board" means the Utah Communications Authority Board created in Section 63H-7a-203.

(7) "CAD" means a computer-based system that aids PSAP dispatchers by automating selected dispatching and record-keeping activities.

(8) "CAD-to-CAD" means standardized connectivity between PSAPs or between a PSAP

and a dispatch center for the transmission of data between CADs.

[4] (9) “Dispatch center” means an entity that receives and responds to an emergency or nonemergency communication transferred to the entity from a public safety answering point.

[5] (10) “FirstNet” means the federal First Responder Network Authority established in 47 U.S.C. Sec. 1424.

[6] (11) “Lease” means any lease, lease purchase, sublease, operating, management, or similar agreement.

[7] (12) “Public agency” means any political subdivision of the state dispatched by a public safety answering point.

[8] (13) “Public safety agency” means the same as that term defined in Section 69-2-102.

[9] (14) “Public safety answering point” or “PSAP” means an entity in this state that:

(a) receives, as a first point of contact, direct 911 emergency communications from the 911 emergency service network requesting a public safety service;

(b) has a facility with the equipment and staff necessary to receive the communication;

(c) assesses, classifies, and prioritizes the communication; and

(d) dispatches the communication to the proper responding agency.

[10] (15) “Public safety communications network” means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, connectivity, and 911 call processing equipment.

**Section 2. Section 63H-7a-202 is amended to read:**

**63H-7a-202. Powers and duties of the Utah Communications Authority.**

(1) The authority has the power to:

(a) sue and be sued in the authority’s own name;

(b) have an official seal and power to alter that seal at will;

(c) make and execute contracts and all other instruments necessary or convenient for the performance of the authority’s duties and the exercise of the authority’s powers and functions under this chapter, including contracts with public and private providers;

(d) own, acquire, design, construct, operate, maintain, repair, and dispose of any portion of a

public safety communications network utilizing technology that is fiscally prudent, upgradable, technologically advanced, redundant, and secure;

(e) borrow money and incur indebtedness;

(f) enter into agreements with public agencies, private ~~entities~~ persons, the state, and federal government to provide public safety communications network services on terms and conditions the authority considers to be in the best interest of the authority;

(g) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a public safety communications network and all related facilities and rights-of-way that the authority owns, operates, and maintains;

~~[(h) except as provided in Subsection (3), sell public safety communications network capacity to a state agency, a political subdivision of the state, an agency of the federal government, or a private entity engaged in a public safety purpose, if the sale is:]~~

~~[(i) for a public safety purpose;]~~

~~[(ii) consistent with the authority’s duties under this chapter; or]~~

~~[(iii) pursuant to:]~~

~~[(A) an agreement entered into by the authority before January 1, 2017; or]~~

~~[(B) a renewal of an agreement described in Subsection (1)(h)(iii)(A);]~~

(h) sell, lease, or trade public safety communications network capacity, except backhaul network capacity, to a state agency, a political subdivision of the state, or an agency of the federal government;

(i) sell, lease, or trade backhaul network capacity to a state agency, a political subdivision of the state, or an agency of the federal government for a public safety purpose;

(j) sell, lease, or trade backhaul network capacity to a state agency, a political subdivision of the state, or an agency of the federal government for a purpose other than a public safety purpose, subject to a maximum of 50 megabytes per second in the aggregate at any one location;

(k) subject to Subsection (2):

(i) sell, lease, or trade backhaul network capacity to a private person for a public safety purpose, subject to a maximum of 50 megabytes per second in the aggregate at any one location; or

(ii) sell, lease, or trade public safety communications network capacity, except backhaul network capacity, to a private person for any purpose;

(l) sell, lease, or trade public safety communications network capacity, if the sale, lease, or trade is under an agreement the authority entered into before June 30, 2020, or under an extension of an agreement that the authority entered into before June 30, 2020;

~~[(4)] (m) review, approve, disapprove, or revise recommendations regarding the expenditure of funds disbursed by the authority under this chapter; and~~

~~[(4)] (n) perform all other duties authorized by this chapter.~~

~~[(2) The authority may not intentionally overbuild the public safety communications network for the purpose of competing with a public or private provider of a telecommunications service.]~~

~~[(3) Notwithstanding Subsection (1)(h), the authority may not sell public safety communications network capacity to any telecommunication carrier.]~~

(2) (a) For a sale, lease, or trade to a private person under Subsection (1)(k), the authority shall require compensation from the private person that is:

(i) fair and reasonable;

(ii) competitively neutral;

(iii) nondiscriminatory;

(iv) open to public inspection;

(v) established to promote access by multiple telecommunication facility providers; and

(vi) set after the authority conducts a market analysis to determine the fair and reasonable value of public safety communications network capacity.

(b) The authority shall conduct the market analysis required under Subsection (2)(a)(vi):

(i) before a sale, lease, or trade to a private person under Subsection (1)(k); and

(ii) thereafter no less frequently than every five years.

(c) (i) Compensation charged under Subsection (2)(a) may be cash, in-kind, or a combination of cash and in-kind.

(ii) In-kind compensation may not be charged without the agreement of the authority and the private person who will pay the in-kind compensation.

(iii) The authority shall determine the present value of any in-kind compensation based on the incremental cost to the private person.

(iv) The authority shall require the value of any in-kind compensation or combination of cash and in-kind compensation to be at least the amount of cash that would be paid if compensation were cash only.

(3) The authority shall work with PSAPs to identify and address deficiencies relating to PSAP staffing and training.

**Section 3. Section 63H-7a-204 is amended to read:**

**63H-7a-204. Utah Communications Authority Board powers and duties.**

The board shall:

(1) manage the affairs and business of the authority consistent with this chapter;

(2) adopt bylaws;

(3) appoint an executive director to administer the authority;

(4) receive and act upon reports covering the operations of the public safety communications network and funds administered by the authority;

(5) receive and act upon reports from the Radio Network Division prepared pursuant to Subsection 63H-7a-402(1)(b) that identify the benefits, costs, and economic feasibility of using existing public or private facilities, equipment, or services consistent with Subsections 63H-7a-402(1)(a)[,] and 63H-7a-404(2)(c), [and 63H-7a-404(3)] prior to issuing or approving a request for proposal;

(6) ensure that the public safety communications network and funds are administered according to law;

(7) examine and approve an annual operating budget for the authority;

(8) receive and act upon recommendations of the director;

(9) recommend to the governor and Legislature legislation involving the public safety communications network;

(10) develop policies for the long-term operation of the authority and the performance of the authority's functions;

(11) authorize the executive director to enter into agreements on behalf of the authority;

(12) provide for the management and administration of the public safety communications network by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(13) exercise the powers and perform the duties conferred on the board by this chapter;

(14) consider issues and information received from the public safety advisory committee and the PSAP advisory committee;

(15) provide for audits of the authority; [and]

(16) establish the following divisions within the authority:

(a) 911 Division;

(b) Radio Network Division;

(c) Interoperability Division; and

(d) Administrative Services Division[-]; and

(17) on or before November 30, 2020, adopt a statewide CAD-to-CAD call handling and 911 call

transfer protocol, after receiving the PSAP advisory committee's proposal under Subsection 63H-7a-208(9).

**Section 4. Section 63H-7a-206 is amended to read:**

**63H-7a-206. Strategic plan -- Report.**

(1) The authority shall create, maintain, and review annually a statewide, comprehensive multiyear strategic plan, in consultation with state and local stakeholders ~~[and], the PSAP advisory committee [created in Section 63H-7a-208], and the public safety advisory committee, that:~~

(a) coordinates the authority's activities and duties in the:

- (i) 911 Division;
- (ii) Radio Network Division;
- (iii) Interoperability Division; and
- (iv) Administrative Services Division; and
- (b) includes ~~[a plan for]:~~

~~(i) a plan for maintaining, upgrading, and expanding the public safety communications network]; (ii) developing new systems; (iii) expanding existing systems], including microwave and fiber optics based systems;~~

- ~~[(iv)] (ii) a plan for statewide interoperability;~~
- ~~[(v)] (iii) a plan for statewide coordination; [and]~~
- ~~(iv) radio network coverage maps; and~~
- ~~[(vi)] (v) FirstNet standards.~~

(2) The executive director shall update the strategic plan described in Subsection (1) before July 1 of each year.

(3) The executive director shall, before December 1 of each year, report on the strategic plan described in Subsection (1) to:

- (a) the board;
- (b) the Executive Offices and Criminal Justice Appropriations Subcommittee; and
- (c) the Legislative Management Committee.

(4) The authority shall consider the strategic plan described in Subsection (1) before spending funds in the restricted accounts created by this chapter.

**Section 5. Section 63H-7a-206.5 is enacted to read:**

**63H-7a-206.5. Report on implementing audit recommendations.**

By October 1, 2020, and again the following year by October 1, 2021, the authority shall report to the Public Utilities, Energy, and Technology Interim Committee and Retirement and Independent Entities Interim Committee of the Legislature on the authority's plan for and progress in implementing the recommendations of the December 2019 performance audit by the Office of

the Legislative Auditor General, audit number 2019-15.

**Section 6. Section 63H-7a-207 is amended to read:**

**63H-7a-207. Public safety advisory committee.**

(1) There is established the public safety advisory committee composed of 15 members as described in Subsections (2) and (3).

(2) The board shall appoint members to the public safety advisory committee as follows:

- (a) one representative from an association that represents fire chiefs in the state;
- (b) one representative from an association that represents police chiefs in the state;
- (c) one representative from an association that represents sheriffs in the state;
- (d) one representative from an association that represents emergency medical service personnel in the state;
- (e) one member of law enforcement from a county of the first or second class;

(f) one member of law enforcement from a county of the third or fourth class;

(g) one member of law enforcement from a county of the fifth or sixth class;

(h) one individual from a fire department within a county of the first or second class;

(i) one individual from a fire department within a county of the third or fourth class;

(j) one individual from a fire department within a county of the fifth or sixth class; and

(k) one individual from the public safety communications industry.

(3) The following shall serve on the public safety advisory committee:

- (a) the commissioner of public safety or the commissioner's designee;
- (b) the executive director of the Department of Transportation or the executive director's designee;
- (c) the chair of the public safety answering point advisory committee created in Section 63H-7a-208; and

(d) an individual nominated by the representatives of tribal governments elected under Section 9-9-104.5.

(4) (a) Subject to Subsection (4)(b), each member appointed pursuant to Subsection (2) shall be appointed to a four-year term beginning July 1, 2019.

(b) Notwithstanding Subsection (2)(a), the board shall:

- (i) at the time of appointment or reappointment of individuals described in Subsection (2), adjust the length of terms to ensure that the terms of



committee members are staggered so that approximately half of the those appointed pursuant to Subsection (2) are appointed every two years; and

(ii) not reappoint a member for more than two consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed as described in Subsection (2) or (3), as applicable, for the unexpired term.

(6) (a) Each January, the committee shall organize and select one of the committee's members as chair and one member as vice chair.

(b) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(7) (a) The chair shall convene a minimum of four meetings per year.

(b) The chair may call special meetings.

(c) The chair shall call a meeting upon request of eight or more members of the committee.

(8) Eight members of the committee constitute a quorum for the transaction of business, and the action of a majority of the members present is the action of the committee.

(9) A member may not receive compensation or benefits for the member's service.

(10) The public safety advisory committee shall, on behalf of stakeholders, make recommendations to the director and the board regarding:

(a) the authority operations and policies;

(b) the radio network division and interoperability division strategic plans;

(c) the operation, maintenance, and capital development of and access to the public safety communications network; [and]

(d) the authority's administrative rules relative to the radio network division and interoperability division[-]; and

(e) how to solve stakeholder interoperability problems.

(11) The chair of the public safety advisory committee is a nonvoting member of the board.

(12) (a) The committee is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

(b) The committee shall:

(i) at least 24 hours before a committee meeting, post a notice of the meeting, with a meeting agenda, on the authority's website;

(ii) within 10 days after a committee meeting, post to the authority's website the audio and draft minutes of the meeting; and

(iii) within three days after the committee approves minutes of a committee meeting, post the approved minutes to the authority's website.

(c) The committee's vice chair is responsible for preparing minutes of committee meetings.

**Section 7. Section 63H-7a-208 is amended to read:**

**63H-7a-208. PSAP advisory committee.**

(1) There is established a PSAP advisory committee composed of nine members appointed by the board as follows:

(a) one representative from a PSAP managed by a city;

(b) one representative from a PSAP managed by a county;

(c) one representative from a PSAP managed by a special service district;

(d) one representative from a PSAP managed by the Department of Public Safety;

(e) one representative from a PSAP from a county of the first class;

(f) one representative from a PSAP from a county of the second class;

(g) one representative from a PSAP from a county of the third or fourth class;

(h) one representative from a PSAP from a county of the fifth or sixth class; and

(i) one member from the telecommunications industry.

(2) (a) Except as provided in Subsection (2)(b), each member shall be appointed to a four-year term beginning July 1, 2019.

(b) Notwithstanding Subsection (2)(a), the board shall:

(i) at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that the terms of approximately half of the committee end every two years; and

(ii) not reappoint a member for more than two consecutive terms.

(3) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the board for the unexpired term.

(4) (a) Each January, the committee shall organize and select one of its members as chair and one member as vice chair.

(b) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(5) (a) The chair shall convene a minimum of four meetings per year.

(b) The chair may call special meetings.

(c) The chair shall call a meeting upon request of five or more members of the committee.

(6) Five members of the committee constitute a quorum for the transaction of business, and the

action of a majority of the members present is the action of the committee.

(7) A member may not receive compensation or benefits for the member's service.

(8) The PSAP advisory committee shall, on behalf of stakeholders, make recommendations to the director and the board regarding:

(a) the authority operations and policies;

(b) the 911 division and interoperability division strategic plans;

(c) the operation, maintenance, and capital development of the public safety communications network;

(d) the authority's administrative rules relative to the 911 division and the interoperability division; and

(e) the development of minimum standards and best practices as described in Subsection 63H-7a-302(1)(a).

(9) No later than September 30, 2020, the PSAP advisory committee shall propose to the board a statewide CAD-to-CAD call handling and 911 call transfer protocol.

~~[(9)]~~ (10) The chair of the PSAP advisory committee is a nonvoting member of the board.

~~[(40)]~~ (11) (a) The committee is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

(b) The committee shall:

(i) at least 24 hours before a committee meeting, post a notice of the meeting, with a meeting agenda, on the authority's website;

(ii) within 10 days after a committee meeting, post to the authority's website the audio and draft minutes of the meeting; and

(iii) within three days after the committee approves minutes of a committee meeting, post the approved minutes to the authority's website.

(c) The committee's vice chair is responsible for preparing minutes of committee meetings.

**Section 8. Section 63H-7a-302 is amended to read:**

**63H-7a-302. 911 Division duties and powers.**

(1) The 911 Division shall:

(a) in conjunction with the PSAP advisory committee, develop and report to the director minimum standards and best practices:

(i) for public safety answering points in the state, including minimum technical, administrative, fiscal, network, and operational standards for public safety answering points and dispatch centers ~~in the state~~; and

(ii) that will result in rapid, efficient, and interoperable 911 services throughout the state;

(b) annually prepare and publish a report of how well PSAPs statewide are complying with the standards and best practices developed under Subsection (1)(a);

~~[(b)]~~ (c) investigate and report to the director on emerging technology;

~~[(e)]~~ (d) monitor and coordinate the implementation of the unified statewide 911 emergency services network;

~~[(d)]~~ (e) investigate and recommend to the director mapping systems and technology necessary to implement the unified statewide 911 emergency services network;

~~[(e)]~~ (f) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the 911 Division;

(ii) an annual plan for the projects funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 and the ~~Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304~~ 911 account; and

(iii) information required by the director to contribute to the strategic plan described in Section 63H-7a-206;

~~[(f)]~~ (g) assist public safety answering points implementing and coordinating the unified statewide 911 emergency services network; and

~~[(g)]~~ (h) coordinate the development of an interoperable computer aided dispatch platform:

(i) for public safety answering points; and

(ii) where needed, to assist public safety answering points with the creation or integration of the interoperable computer aided dispatch system.

(2) The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 or the ~~Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304~~ 911 account, the proceeds from which shall return to the respective restricted accounts.

(3) The 911 Division may make recommendations to the executive director for the use of the funds expended from the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(4) (a) The 911 Division shall review information regarding:

(i) in aggregate, the number of service subscribers by service type in a political subdivision;

(ii) network costs;

(iii) public safety answering point costs;

(iv) system engineering information; and

(v) connectivity between public safety answering point computer aided dispatch systems.

(b) In accordance with Subsection (4)(a) the 911 Division may request:

(i) information as described in Subsection (4)(a)(i) from the State Tax Commission; and

(ii) information from public safety answering points related to the computer aided dispatch system.

(c) The information requested by and provided to the 911 Division under Subsection (4) is a protected record in accordance with Section 63G-2-305.

(5) The 911 Division shall recommend to the executive director, for approval by the board, rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ~~to~~ ~~(a) administer the program funded by the Unified Statewide 911 Emergency Service restricted account created in Section 63H-7a-304, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point is required to adopt in order to qualify for goods or services that are funded from the restricted account; and (b)~~ administer the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point is required to adopt in order to qualify as a recipient of goods or services that are funded from the restricted account.

(6) The board may authorize the 911 Division to employ an outside consultant to study and advise the division on matters related to the 911 Division duties regarding the public safety communications network.

(7) The 911 Division shall administer the program funded by the 911 account in accordance with Sections 63H-7a-304 and 63H-7a-304.5.

~~[(7)]~~ (8) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

**Section 9. Section 63H-7a-303 is amended to read:**

**63H-7a-303. Computer Aided Dispatch Restricted Account -- Creation -- Administration -- Permitted uses.**

(1) There is created a restricted account within the General Fund known as the "Computer Aided Dispatch Restricted Account," consisting of money appropriated or otherwise made available by the Legislature.

(2) Subject to this Subsection (2) and appropriations by the Legislature, the authority may expend funds in the Computer Aided Dispatch Restricted Account for the following purposes:

(a) enhancing public safety as provided in this chapter; and

(b) creating a shared computer aided dispatch system including:

(i) an interoperable computer aided dispatch platform that will be selected, shared, or hosted on a statewide or regional basis;

(ii) an interoperable computer aided dispatch platform selected by a county of the first class, when:

(A) authorized through an interlocal agreement between the county's two primary public safety answering points; and

(B) the county's computer aided dispatch platform is capable of interfacing with the platform described in Subsection (2)(b)(i); and

(iii) a statewide computer aided dispatch system data sharing platform to provide interoperability of systems.

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may expend funds from the Computer Aided Dispatch Restricted Account to cover the Administrative Services Division's administrative costs related to the Computer Aided Dispatch Restricted Account.

(4) On July 1, ~~[2022]~~ 2024, all funds in the Computer Aided Dispatch Restricted Account shall automatically transfer to the ~~[Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304]~~ 911 account.

**Section 10. Section 63H-7a-304 is amended to read:**

**63H-7a-304. Unified Statewide 911 Emergency Service Account -- Creation -- Administration -- Permitted uses.**

(1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-403;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Except as provided in Subsection (4) and subject to Subsection (3) and appropriations by the Legislature, the authority shall disburse funds in the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account for the purpose of enhancing and maintaining the statewide public safety communications network and 911 call processing equipment in order to rapidly ~~and~~, efficiently, effectively, and with greater interoperability deliver 911 services in the state.

(b) In expending funds in the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

- (ii) best promotes interoperability;
- (iii) impacts the largest service territory;
- (iv) impacts a densely populated area; or
- (v) impacts an underserved area.

(c) The authority shall expend funds in the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account in accordance with the authority strategic plan described in Section 63H-7a-206.

(d) The authority may not expend funds from the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account collected through the 911 emergency service charge imposed in Section 69-2-403 on behalf of a PSAP that chooses not to participate in the:

- (i) public safety communications network; and
- (ii) the 911 emergency service defined in Section 69-2-102.

(e) The authority may not expend funds from the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account collected through the prepaid wireless 911 service charge revenue distributed in Subsection 69-2-405(9)(b)(ii) on behalf of a PSAP that chooses not to participate in the:

- (i) public safety communications network; and
- (ii) 911 emergency service defined in Section 69-2-102.

(f) The executive director shall recommend to the board expenditures for the authority to make from the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account in accordance with this Subsection (2).

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may use funds in the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account to cover the Administrative Services Division's administrative costs related to the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account.

(4) (a) The authority shall reimburse from the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account to the Automated Geographic Reference Center created in Section 63F-1-506 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge deposited into the ~~[Unified Statewide 911 Emergency Service Account]~~ 911 account under Section 69-2-403.

(b) The Automated Geographic Reference Center shall use the funds reimbursed to the Automated Geographic Reference Center under Subsection (4)(a) to:

- (i) enhance and upgrade digital mapping standards; and
- (ii) maintain a statewide geospatial database for unified statewide 911 emergency service.

~~[(c) Subject to an appropriation by the Legislature, the authority may expend funds from the United Statewide 911 Emergency Service Account to reimburse a county for the costs, up to \$60,000, of each audit described in Section 69-2-203.]~~

**Section 11. Section 63H-7a-304.5 is enacted to read:**

**63H-7a-304.5. Distributions from 911 account to qualifying PSAPs.**

(1) As used in this section:

(a) "Certified statement" means a statement signed by a PSAP's director or other authorized administrator certifying the PSAP's compliance with the requirements of Subsection (2)(a).

(b) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.

(c) "Proportionate share" means a percentage derived by dividing a PSAP's average 911 call volume, as reported to the State Tax Commission under Section 69-2-302, for the preceding three years by the total of the average 911 call volume for the same three-year period for all PSAPs that have submitted a certified statement seeking a distribution of the applicable remaining funds.

(d) "Qualifying PSAP" means a PSAP that:

(i) meets the requirements of Subsection (2)(a) for the period for which remaining funds are sought; and

(ii) submits a timely certified statement to the authority.

(e) "Remaining funds" means the money remaining in the 911 account after deducting:

(i) disbursements under Subsections 63H-7a-304(2)(a), (3), and (4);

(ii) authority expenditures or disbursements in accordance with the authority's strategic plan, including expenditures or disbursements to pay for:

(A) implementing, maintaining, or upgrading the public safety communications network or statewide 911 phone system; and

(B) authority overhead for managing the 911 portion of the public safety communications network; and

(iii) money that the board determines should remain in the 911 account for future use.

(f) "Required transfer rate" means:

(i) a transfer rate of no more than 2%; or

(ii) for a PSAP with a transfer rate for the fiscal year ending June 30, 2020 that is greater than 2%, and until June 30, 2023, the transfer rate that meets the requirement for the applicable period under Subsection 69-2-204(3)(a), (b), or (c).

(g) "Transfer rate" means the same as that term is defined in Section 69-2-204.

(2) (a) To qualify for a proportionate share of remaining funds, a PSAP shall, for the period for which remaining funds are sought:

(i) have answered;

(A) 90% of all 911 calls arriving at the PSAP within 15 seconds; and

(B) 95% of all 911 calls arriving at the PSAP within 20 seconds;

(ii) have adopted and be using the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the board under Subsection 63H-7a-204(17);

(iii) have participated in the authority's annual interoperability exercise; and

(iv) have complied with the required transfer rate.

(b) A PSAP that seeks a proportionate share of remaining funds shall submit a certified statement to the authority no later than July 31 following the end of the fiscal year for which remaining funds are sought.

(c) Notwithstanding Subsection (2)(a):

(i) a qualifying PSAP in a county with multiple PSAPs does not qualify for a proportionate share of remaining funds for a period beginning after June 30, 2023 unless every PSAP in that county is a qualifying PSAP; and

(ii) a PSAP described in Subsection 69-2-203(5) does not qualify for remaining funds.

(3) (a) Subject to Subsection (3)(b) and beginning after July 2021 for PSAPs that have become qualifying PSAPs for the previous fiscal year the authority shall distribute to each qualifying PSAP that PSAP's proportionate share of the remaining funds.

(b) The authority may not distribute more than 15% of remaining funds to any single PSAP.

(4) All money that a PSAP receives under this section is subject to Section 69-2-301.

## **Section 12. Section 63H-7a-404 is amended to read:**

### **63H-7a-404. Radio Network Division responsibility to administer public safety communications network.**

(1) The Radio Network Division shall administer the development, installation, implementation, and maintenance of the public safety communications network for the authority, for the benefit of state government entities and political subdivisions of the state that use the public safety communications network.

(2) In developing and maintaining the public safety communications network as described in Subsection (1), the Radio Network Division shall:

(a) maintain and upgrade existing VHF and 800 MHz radio networks;

(b) coordinate with state government entities, political subdivisions of the state, and public and private providers; and

(c) contract for facilities, equipment, and services for the public safety communications network in a manner that:

(i) complies with Title 63G, Chapter 6a, Utah Procurement Code;

(ii) promotes high-quality, cost-effective services for public safety communications network users;

(iii) evaluates the costs and benefits of using existing public or private facilities, equipment, or services or developing or establishing new facilities, equipment, or services; and

(iv) where economically beneficial without compromising quality or reliability of service, avoids duplicating existing private or public facilities, equipment, or services; and].

~~[(v) considers the plan developed under Subsection (3).]~~

~~[(3) The Radio Network Division and the executive director shall, before January 15, 2018, meet with all public safety communications network stakeholders, including public and private providers in the state, to:]~~

~~[(a) identify the locations and functional capabilities of existing public and private communications facilities in the state; and]~~

~~[(b) develop a detailed, comprehensive plan for:]~~

~~[(i) repairing and maintaining the existing public safety communications network; and]~~

~~[(ii) upgrading the public safety communications network.]~~

~~[(4) The plan described in Subsection (3) shall include:]~~

~~[(a) a statewide system design;]~~

~~[(b) anticipated coverage maps;]~~

~~[(c) any public and private communications facilities that can be integrated with the public safety communications network; and]~~

~~[(d) a detailed cost estimate for maintaining or upgrading the public safety communications network.]~~

~~[(5) In addition to meeting with stakeholders under Subsection (3), the authority shall issue a request for information for maintaining or upgrading the public safety communications network such that the authority receives all request for information responses before January 15, 2018.]~~

~~[(6) Any radio user fee that the authority assessed on a user of the public safety communications network before July 1, 2017, is repealed.]~~

(3) (a) The authority may not charge a state government entity or political subdivision of the state a radio user fee.

(b) Subsection (3)(a) may not be construed to prevent the authority from charging a state government entity or political subdivision of the state for other services associated with the public safety communications network.

(c) The authority may charge a person other than a PSAP a fee for connecting a radio console to the public safety communications network.

**Section 13. Section 63H-7a-502 is amended to read:**

**63H-7a-502. Interoperability Division duties.**

(1) The Interoperability Division shall:

(a) review and make recommendations to the executive director, for approval by the board, regarding:

(i) statewide interoperability coordination and FirstNet standards;

(ii) technical, administrative, fiscal, technological, network, and operational issues for the implementation of statewide interoperability, coordination, and FirstNet;

(iii) assisting public agencies with the implementation and coordination of the Interoperability Division responsibilities; and

(iv) training for the public safety communications network and unified statewide 911 emergency services;

(b) review information and records regarding:

(i) aggregate information of the number of service subscribers by service type in a political subdivision;

(ii) matters related to statewide interoperability coordination;

(iii) matters related to FirstNet including advising the governor regarding FirstNet; and

(iv) training needs;

(c) prepare and submit to the executive director for approval by the board:

(i) an annual plan for the Interoperability Division; and

(ii) information required by the director to contribute to the comprehensive strategic plan described in Section 63H-7a-206; ~~and~~

(d) prepare and conduct annual training exercises:

(i) for public safety agencies; and

(ii) designed to enhance interoperability and the effectiveness and efficiency of public safety agencies; and

~~[(d)]~~ (e) fulfill all other duties imposed on the Interoperability Division by this chapter.

(2) The Interoperability Division may:

(a) recommend to the executive director to own, operate, or enter into contracts related to statewide interoperability, FirstNet, and training;

(b) request information needed under Subsection (1)(b)(i) from:

(i) the State Tax Commission; and

(ii) public safety agencies; and

(c) employ an outside consultant to study and advise the Interoperability Division on:

(i) issues of statewide interoperability;

(ii) FirstNet; and

(iii) training.

(3) The information requested by and provided to the Interoperability Division under Subsection (1)(b)(i) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

**Section 14. Section 63I-2-263 is amended to read:**

**63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, ~~2022~~ 2024.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(52) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

**Section 15. Section 69-2-201 is amended to read:**

**69-2-201. Public safety answering point -- Establishment -- Administration -- Consolidation.**

(1) (a) A public agency may:

(i) operate a public safety answering point to provide 911 emergency service to any part of the geographic area within the public agency's jurisdiction;

(ii) subject to Subsection (1)(b), operate a public safety answering point with any other contiguous public agency to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions; or

(iii) operate a public safety answering point under an agreement with another public agency that existed before January 1, 2017, to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions.

(b) A public agency that operates a public safety answering point in connection with a contiguous public agency shall:

(i) provide for the operation of the public safety answering point by interlocal agreement between the public agencies; and

(ii) submit a copy of the interlocal agreement to the director of the Utah Communications Authority.

(2) Except as provided in Subsection (3), a public agency may not establish a dispatch center or a public safety answering point after January 1, 2017.

(3) (a) A public agency that operates a public safety answering point established before January 1, 2017, may:

(i) continue to operate the public safety answering point; or

(ii) physically consolidate the public safety answering point with another public safety answering point operated by another contiguous public agency.

(b) A county may establish a public safety answering point on or after January 1, 2017, if no public safety answering point exists in the county.

(4) A public agency may, in order to provide funding for operating a public safety answering point:

(a) seek funds from the federal or state government;

(b) seek funds appropriated by local governmental taxing authorities to fund a public safety agency; or

(c) seek gifts, donations, or grants from a private [entity] person.

(5) Each dispatch center in the state shall enter into an interlocal agreement with the governing authority of a public safety answering point that serves the county where the dispatch center is located that provides for:

(a) functional consolidation of the dispatch center with the public safety answering point; and

(b) a plan for the public safety answering point to provide 911 emergency service to the geographic area served by the dispatch center.

(6) (a) No public entity may cause or allow a 911 or emergency call box communication to be redirected to any network other than to the 911 emergency service network.

(b) Each public entity shall comply with Subsection (6)(a) on or before July 1, 2019, and thereafter.

(7) A special service district that operates a public safety answering point or a dispatch center:

(a) shall administer the public safety answering point or dispatch center in accordance with Title 17D, Chapter 1, Special Service District Act; and

(b) may raise funds, borrow money, or incur indebtedness for the purpose of maintaining the public safety answering point or the dispatch center in accordance with:

(i) Section 17D-1-105; and

(ii) Section 17D-1-103.

(8) No later than January 1, 2021, a public safety answering point shall adopt the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the Utah Communications Authority board under Subsection 63H-7a-204(17).

**Section 16. Section 69-2-202 is amended to read:**

**69-2-202. Agreement between Department of Public Safety and public safety answering point for dispatch services -- Agreement for improving dispatch services.**

(1) A public safety answering point shall, before providing dispatch services to the Department of Public Safety:

(a) enter into a written agreement with the Department of Public Safety for providing dispatch services that specifies:

(i) the scope of the services that the public safety answering point will provide; and

(ii) the rate that the public safety answering point will charge the Department of Public Safety for dispatch services; and

(b) submit a copy of the agreement to:

(i) the director of the Utah Communications Authority; and

(ii) the commissioner of the Department of Public Safety.

(2) The Department of Public Safety shall, before providing dispatch services to a public agency as a public safety answering point:

(a) enter into a written agreement with the public agency for providing dispatch services that specifies:

(i) the scope of the services that the Department of Public Safety will provide; and

(ii) the rate that the Department of Public Safety will charge the public agency for dispatch services; and

(b) submit a copy of the agreement to:

(i) the director of the Utah Communications Authority; and

(ii) the commissioner of the Department of Public Safety.

(3) (a) As used in this Subsection (3), “single answering point” means a public safety answering point that is the single public safety answering point serving within a county.

(b) No later than December 31, 2020, the Department of Public Safety and a single answering point shall enter into an agreement:

(i) to reduce or eliminate 911 call transfers, reduce 911 call response time, implement a successful CAD-to-CAD call handling system, and increase the efficiency of the dispatch services, within the geographical area served by the single answering point; or

(ii) providing for the single answering point to provide dispatch services to the Department of Public Safety within the geographical area served by the single answering point.

**Section 17. Section 69-2-203 is amended to read:**

**69-2-203. Audit of public safety answering points within a county -- Reports -- Consequence of failure to comply.**

(1) ~~Before July 1, 2021, and before July 1 of every fourth year beginning in 2025, each county that is not served by a single, physically consolidated public safety answering point shall~~ A county that by June 30, 2024 has not achieved a transfer rate, as defined in Section 69-2-204, of 2% or less shall:

(a) utilize a qualified third party to conduct an audit of each public safety answering point within the county~~[-]; and~~

(b) require the audit to be completed no later than January 1, 2025.

(2) ~~[(a)]~~ The audit described in Subsection (1) shall evaluate:

~~[(i)]~~ (a) how best to provide the emergency services within the county; ~~and~~

(b) what needs to happen for the PSAPs within the county to achieve a transfer rate, as defined in Section 69-2-204, of 2% or less; and

~~[(ii)]~~ (c) whether the county could provide more cost efficient emergency service or improve public safety by establishing a single public safety answering point for the county.

~~[(b) The county may request and the Utah Communications Authority Board created in Section 63H-7a-203 may grant reimbursement for the costs of each audit described in Subsection (1), up to \$60,000, distributed from the Unified Statewide 911 Emergency Services Account described in Section 63H-7a-304.]~~

(3) (a) Each public safety answering point shall participate and cooperate in the audit described in Subsection (1).

(b) A public safety answering point that fails to participate and cooperate in the audit as described in Subsection (1) is ineligible for funding or services provided by the Unified Statewide 911 Emergency Services Account described in Section 63H-7a-304.

(4) No later than February 28, 2025, a county required to have an audit conducted under Subsection (1) shall submit to the Utah Communications Authority:

(a) a copy of the audit report; and

(b) a written plan of how and when the county will implement the audit recommendations.

(5) A PSAP in a county that fails to comply with the requirements of this section does not qualify for a distribution of funds under Section 63H-7a-304.5.

**Section 18. Section 69-2-204 is enacted to read:**

**69-2-204. Public safety answering point 911 call transfer rate requirements.**

(1) As used in this section:

(a) “Fiscal year” means the period from July 1 of one year to June 30 of the following year.

(b) “Transfer rate” means the percentage of 911 calls that are:

(i) received by a public safety answering point during a fiscal year; and

(ii) transferred to another location in the state.

(2) Subject to Subsection (3), a public safety answering point shall maintain a transfer rate that is no more than 2%.

(3) A public safety answering point with a transfer rate for the fiscal year ending June 30, 2020 that is greater than 2% shall:

(a) for the fiscal year ending June 30, 2021, reduce the public safety answering point’s transfer rate to at least 5% less than the transfer rate for the fiscal year ending June 30, 2020;

(b) for the fiscal year ending June 30, 2022, reduce the public safety answering point’s transfer rate:

(i) to at least 15% less than the transfer rate for the fiscal year ending June 30, 2020; or



(ii) to at least 10% less than the transfer rate for the fiscal year ending June 30, 2021; and

(c) for the fiscal year ending June 30, 2023, reduce the public safety answering point's transfer rate to no more than 5%.

**CHAPTER 369****S. B. 131**

Passed March 9, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**MINING AMENDMENTS**

Chief Sponsor: David P. Hinkins  
 House Sponsor: Scott H. Chew

**LONG TITLE****General Description:**

This bill addresses mining.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of small mining operations; and
- ▶ addresses eligibility of a mining company or mining services company for certain grants;
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

40-8-4, as last amended by Laws of Utah 2011, Chapter 231

63N-4-404, as last amended by Laws of Utah 2019, Chapters 45 and 136

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 40-8-4 is amended to read:****40-8-4. Definitions.**

As used in this chapter:

(1) "Adjudicative proceeding" means:

(a) a division or board action or proceeding determining the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license; or

(b) judicial review of a division or board action or proceeding specified in Subsection (1)(a).

(2) "Applicant" means a person who has filed a notice of intent to commence mining operations, or who has applied to the board for a review of a notice or order.

(3) (a) "Approved notice of intention" means a formally filed notice of intention to commence mining operations, including revisions to it, which has been the notice of intention that is approved under Section 40-8-13.

(b) An approved notice of intention is not required for small mining operations.

(4) "Board" means the Board of Oil, Gas, and Mining.

(5) "Conference" means an informal adjudicative proceeding conducted by the division or board.

(6) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated material, solutions, or occurring on the surface, beneath the surface, or in the waters of the land from which any product useful to man may be produced, extracted, or obtained or which is extracted by underground mining methods for underground storage.

(b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water, geothermal steam, and oil and gas as defined in [Title 40,] Chapter 6, Board and Division of Oil, Gas, and Mining, but includes oil shale and bituminous sands extracted by mining operations.

(7) "Development" means the work performed in relation to a deposit following its the deposit's discovery but ~~prior to~~ before and in contemplation of production mining operations, aimed at, but not limited to, preparing the site for mining operations, defining further the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and other related activities.

(8) "Division" means the Division of Oil, Gas, and Mining.

(9) "Emergency order" means an order issued by the board in accordance with ~~the provisions of~~ Title 63G, Chapter 4, Administrative Procedures Act.

(10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of:

(i) discovering a deposit or mineral deposit[,];

(ii) delineating the boundaries of a deposit or mineral deposit[,]; and

(iii) identifying regions or specific areas in which deposits or mineral deposits are most likely to exist.

(b) "Exploration" includes ~~, but is not limited to~~:

(i) sinking shafts;

(ii) tunneling;

(iii) drilling holes and digging pits or cuts;

(iv) building of roads, and other access ways; and

(v) constructing and operating other facilities related to ~~these~~ the activities described in this Subsection (10)(b).

(11) "Hearing" means a formal adjudicative proceeding conducted by the board under its the board's procedural rules.

(12) (a) "Imminent danger to the health and safety of the public" means the existence of a condition or practice, or a violation of a permit requirement or other requirement of this chapter in a mining operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated.

(b) A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose ~~himself or herself~~ the rational person to the danger during the time necessary for abatement.

(13) (a) "Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including~~, but not limited to~~:

- (i) on-site private ways, roads, and railroads;
- (ii) land excavations;
- (iii) exploration sites;
- (iv) drill sites or workings;
- (v) refuse banks or spoil piles;
- (vi) evaporation or settling ponds;
- (vii) stockpiles;
- (viii) leaching dumps;
- (ix) placer areas;
- (x) tailings ponds or dumps; and
- (xi) work, parking, storage, or waste discharge areas, structures, and facilities.

(b) ~~[All lands shall be]~~ Lands are excluded from ~~[the provisions of]~~ Subsection (13)(a) that would:

(i) be includable as land affected, but which have been reclaimed in accordance with an approved plan, as may be approved by the board; and

(ii) include lands in which mining operations have ceased ~~[prior to]~~ before July 1, 1977.

(14) (a) "Mining operation" means activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including~~, but not limited to,~~ surface mining and the surface effects of underground and in situ mining, on-site transportation, concentrating, milling, evaporation, and other primary processing.

(b) "Mining operation" does not include:

- (i) the extraction of sand, gravel, and rock aggregate;
- (ii) the extraction of oil and gas as defined in ~~[Title 40,~~ Chapter 6, Board and Division of Oil, Gas, and Mining;
- (iii) the extraction of geothermal steam;
- (iv) smelting or refining operations;
- (v) off-site operations and transportation;
- (vi) reconnaissance activities; or
- (vii) activities ~~[which]~~ that will not cause significant surface resource disturbance or involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

(15) "Notice" means:

(a) notice of intention, as defined in this chapter; or

(b) written information given to an operator by the division describing compliance conditions at a mining operation.

(16) "Notice of intention" means a notice to commence mining operations, including revisions to the notice.

(17) "Off-site" means the land areas that are outside of or beyond the on-site land.

(18) (a) "On-site" means the surface lands on or under which surface or underground mining operations are conducted.

(b) A series of related properties under the control of a single operator, but separated by small parcels of land controlled by others, ~~[will be]~~ are considered to be a single site unless an exception is made by the division.

(19) "Operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mining operation or proposed mining operation.

(20) "Order" means written information provided by the division or board to an operator or other parties, describing the compliance status of a permit or mining operation.

(21) "Owner" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mineral deposit or the surface of lands employed in mining operations.

(22) "Permit area" means the area of land indicated on the approved map submitted by the operator with the application or notice to conduct mining operations.

(23) "Permit" means a permit or notice to conduct mining operations issued by the division.

(24) "Permittee" means a person holding, or who is required by Utah law to hold, a valid permit or notice to conduct mining operations.

(25) "Person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other governmental or business organization.

(26) "Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable~~,~~ ecological condition and use ~~[which will be]~~ that is consistent with local environmental conditions.

(27) "Small mining operations" means mining operations that disturb or will disturb ~~[10]~~ 20 or less surface acres at any given time in an unincorporated area of a county or ~~[five]~~ 10 or less surface acres at any given time in an incorporated area of a county.

(28) “Unwarranted failure to comply” means the failure of a permittee to prevent the occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

**Section 2. Section 63N-4-404 is amended to read:**

**63N-4-404. Rural employment expansion grant application process.**

(1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to receive a rural employment expansion grant as provided in this part shall provide the office with an application for a rural employment expansion grant in a form approved by the office that includes:

(a) a certification, by an officer of the business entity, of each signature on the application;

(b) a document that specifies the projected number and anticipated wage level of the new full-time employee positions that the business entity plans to create as the basis for qualifying for a rural employment expansion grant; and

(c) any additional information required by the office.

(2) (a) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application is inadequate to provide a reasonable justification for authorizing the rural employment expansion grant, the office shall:

(i) deny the application; or

(ii) inform the business entity that the application is inadequate and ask the business entity to submit additional documentation.

(b) (i) If the office denies an application, the business entity may appeal the denial to the office.

(ii) The office shall review any appeal within 10 business days and make a final determination of the business entity’s eligibility for a grant under this part.

(3) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application provides reasonable justification for authorizing a rural employment expansion grant and if there are available funds for the grant, the office shall enter into a written agreement with the business entity that:

(a) indicates the maximum rural employment expansion grant amount the business entity is authorized to receive;

(b) includes a document signed by an officer of the business entity that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity’s tax returns and other information that would otherwise be subject to

confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(c) describes the documentation required to demonstrate that the business entity has created the new full-time employee positions described in the application provided under Subsection (1); and

(d) specifies the deadlines to provide the documentation described in Subsection (3)(c).

(4) (a) Subject to available funds, the office may award a rural employment expansion grant to a business entity as follows:

(i) \$4,000 for each new full-time employee position in a county where the average county wage is equal to or greater than the state average wage;

(ii) \$5,000 for each new full-time employee position in a county where the average county wage is between 85% and 99% of the state average wage; and

(iii) \$6,000 for each new full-time employee position in a county where the average county wage is less than 85% of the state average wage.

(b) A business entity may qualify for no more than \$250,000 in rural employment expansion grants in any fiscal year.

(5) (a) Subject to available funds, the office shall award a business entity a grant in the amount allowed under this part if the business entity provides documentation to the office:

(i) in a form prescribed by the office under Subsection (3)(c);

(ii) before the deadline described in Subsection (3)(d); and

(iii) that demonstrates that the business applicant has created new full-time employee positions.

(b) If a business entity does not provide the documentation described in Subsection (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to receive a rural employment expansion grant unless the business entity submits a new application to be reviewed by the office in accordance with Subsection (1).

(6) Nothing in this part prevents a business entity that has received a rural employment expansion grant from concurrently applying for or receiving another grant or incentive administered by the office.

(7) (a) As used in this Subsection (7):

(i) “Mining company” means an entity whose primary business is the exploration for or extraction of minerals from the earth.

(ii) “Mining services company” means an entity whose primary business is providing support services for a mining company, including drilling or geological modeling.

(b) If an applicant for a rural employment expansion grant is a mining company or mining services company having business operations

within five miles of a rural county, the applicant shall be treated as if the applicant were located within the adjacent rural county in determining whether the applicant qualifies for the rural employment expansion program.

**CHAPTER 370****S. B. 132**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**UNIFORM FOREIGN-COUNTRY  
MONEY JUDGMENT RECOGNITION ACT**

Chief Sponsor: Lyle W. Hillyard  
House Sponsor: V. Lowry Snow

**LONG TITLE****General Description:**

This bill enacts the Uniform Foreign-Country Money Judgments Recognition Act.

**Highlighted Provisions:**

This bill:

- ▶ creates definitions regarding a foreign country and a foreign-country judgment;
- ▶ requires that for a foreign-country judgment to be covered by the Uniform Foreign-Country Money Judgments Recognition Act (the Act), the judgment must grant or deny the recovery of a sum of money and be final, conclusive, and enforceable under the law of the foreign country where the judgment was rendered;
- ▶ excludes certain foreign-country judgments from coverage of the Act;
- ▶ provides the grounds for which a court may deny recognition of a foreign-country judgment;
- ▶ provides the procedure for seeking to enforce a foreign-country judgment;
- ▶ provides the effect on the parties of a court recognizing a foreign-country money judgment;
- ▶ allows for the stay of proceedings regarding a foreign-money judgment in certain circumstances;
- ▶ provides a statute of limitations on enforcement of a foreign-country money judgment;
- ▶ addresses uniformity of the law;
- ▶ addresses enforcement of foreign-country money judgments not covered by the Act; and
- ▶ provides that the Act applies to actions commenced after May 12, 2020.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

78B-5-450, Utah Code Annotated 1953  
78B-5-451, Utah Code Annotated 1953  
78B-5-452, Utah Code Annotated 1953  
78B-5-453, Utah Code Annotated 1953  
78B-5-454, Utah Code Annotated 1953  
78B-5-455, Utah Code Annotated 1953  
78B-5-456, Utah Code Annotated 1953  
78B-5-457, Utah Code Annotated 1953  
78B-5-458, Utah Code Annotated 1953  
78B-5-459, Utah Code Annotated 1953  
78B-5-460, Utah Code Annotated 1953  
78B-5-461, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 78B-5-450 is enacted to read:****Part 4a. Uniform Foreign-Country Money Judgments Recognition Act****78B-5-450. Title.**

This part is known as the “Uniform Foreign-Country Money Judgments Recognition Act.”

**Section 2. Section 78B-5-451 is enacted to read:****78B-5-451. Definitions.**

As used in this part:

(1) “Foreign country” means a government other than:

- (a) the United States;
- (b) a state, district, commonwealth, territory, or insular possession of the United States; or
- (c) any other government with regard to which the decision in this state as to whether to recognize a judgment of that government’s courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

(2) “Foreign-country judgment” means a judgment of a court of a foreign country.

**Section 3. Section 78B-5-452 is enacted to read:****78B-5-452. Applicability.**

(1) Except as otherwise provided in Subsection (2), this part applies to a foreign-country judgment to the extent that the judgment:

- (a) grants or denies the recovery of a sum of money; and
- (b) under the law of the foreign country where rendered, is final, conclusive, and enforceable.

(2) This part does not apply to a foreign-country judgment, even if the judgment grants or denies the recovery of a sum of money, to the extent that the judgment is:

- (a) a judgment for taxes;
- (b) a fine or other penalty; or
- (c) a judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

(3) A party seeking recognition of a foreign-country judgment has the burden of establishing that this part applies to the foreign-country judgment.

**Section 4. Section 78B-5-453 is enacted to read:****78B-5-453. Standards for recognition of foreign-country judgment.**

(1) Except as otherwise provided in Subsections (2) and (3), a court of this state shall recognize a foreign-country judgment to which this part applies.

(2) A court of this state may not recognize a foreign-country judgment if:

(a) the judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(b) the foreign court did not have personal jurisdiction over the defendant; or

(c) the foreign court did not have jurisdiction over the subject matter.

(3) A court of this state may decline to recognize a foreign-country judgment if:

(a) the defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;

(b) the judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present the party's case;

(c) the judgment or the cause of action on which the judgment is based is repugnant to the public policy of this state or the United States;

(d) the judgment conflicts with another final and conclusive judgment;

(e) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;

(f) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

(g) the judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or

(h) the specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(4) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in Subsection (2) or (3) exists.

**Section 5. Section 78B-5-454 is enacted to read:**

**78B-5-454. Personal jurisdiction.**

(1) A foreign-country judgment may not be refused recognition for lack of personal jurisdiction if:

(a) the defendant was served with process personally in the foreign country;

(b) the defendant voluntarily appeared in the proceeding, except for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;

(c) the defendant, before the commencement of the proceeding, had agreed to submit to the

jurisdiction of the foreign court with respect to the subject matter involved;

(d) the defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had the corporation's or organization's principal place of business in, or was organized under the laws of, the foreign country;

(e) the defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign country; or

(f) the defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action arising out of that operation.

(2) The list describing the grounds for personal jurisdiction in Subsection (1) is not exclusive.

(3) A court of this state may recognize grounds for personal jurisdiction other than those described in Subsection (1) as sufficient to support a foreign-country judgment.

**Section 6. Section 78B-5-455 is enacted to read:**

**78B-5-455. Procedure for recognition of foreign-country judgment.**

(1) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.

(2) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

**Section 7. Section 78B-5-456 is enacted to read:**

**78B-5-456. Effect of recognition of foreign-country judgment.**

If the court in a proceeding under Section 78B-5-455 finds that the foreign-country judgment is entitled to recognition under this part, the foreign-country judgment, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, is:

(1) conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and

(2) enforceable in the same manner and to the same extent as a judgment rendered in this state.

**Section 8. Section 78B-5-457 is enacted to read:**

**78B-5-457. Stay of proceedings pending appeal of foreign-country judgment.**

If a party establishes that an appeal from a foreign-country judgment is pending or an appeal will be taken, the court may stay any proceedings with regard to the foreign-country judgment until:

- (1) the appeal is concluded;
- (2) the time for appeal expires; or
- (3) the appellant has had sufficient time to prosecute the appeal and has failed to do so.

**Section 9. Section 78B-5-458 is enacted to read:**

**78B-5-458. Statute of limitations.**

An action to recognize a foreign-country judgment shall be commenced within the earlier of:

- (1) the time during which the foreign-country judgment is effective in the foreign country; or
- (2) 15 years from the day on which the foreign-country judgment became effective in the foreign country.

**Section 10. Section 78B-5-459 is enacted to read:**

**78B-5-459. Uniformity of interpretation.**

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to the subject matter of the uniform act among states that enact the uniform act.

**Section 11. Section 78B-5-460 is enacted to read:**

**78B-5-460. Saving clause.**

This part does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this part.

**Section 12. Section 78B-5-461 is enacted to read:**

**78B-5-461. Application to future actions.**

This part applies to all actions commenced on or after May 12, 2020, in which the issue of recognition of a foreign-country judgment is raised.



**CHAPTER 371****S. B. 139**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**AMENDMENTS TO INDIGENT DEFENSE**

Chief Sponsor: Ralph Okerlund  
 House Sponsor: Joel Ferry

**LONG TITLE****General Description:**

This bill addresses indigent defense services.

**Highlighted Provisions:**

This bill:

- ▶ creates and modifies definitions;
- ▶ amends the right to counsel for certain parties;
- ▶ amends the powers, duties, and membership of the Utah Indigent Defense Commission;
- ▶ creates the Office of Indigent Defense Services;
- ▶ creates the powers and duties of the Office of Indigent Defense Services;
- ▶ amends provisions related to indigent defense grants;
- ▶ creates the Indigent Appellate Defense Division to serve rural counties;
- ▶ provides the powers and duties of the Indigent Appellate Defense Division;
- ▶ creates the position of chief appellate officer within the Indigent Appellate Defense Division; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78A-6-1111, as last amended by Laws of Utah 2019, Chapter 326  
 78B-6-112, as last amended by Laws of Utah 2019, Chapters 136, 326, and 491  
 78B-22-102, as enacted by Laws of Utah 2019, Chapter 326  
 78B-22-201, as enacted by Laws of Utah 2019, Chapter 326  
 78B-22-301, as enacted by Laws of Utah 2019, Chapter 326  
 78B-22-401, as renumbered and amended by Laws of Utah 2019, Chapter 326  
 78B-22-402, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and amended by Laws of Utah 2019, Chapter 326  
 78B-22-404, as renumbered and amended by Laws of Utah 2019, Chapter 326  
 78B-22-406, as renumbered and amended by Laws of Utah 2019, Chapter 326  
 78B-22-601, as renumbered and amended by Laws of Utah 2019, Chapter 326

**ENACTS:**

78B-22-451, Utah Code Annotated 1953  
 78B-22-452, Utah Code Annotated 1953  
 78B-22-801, Utah Code Annotated 1953

78B-22-802, Utah Code Annotated 1953

78B-22-803, Utah Code Annotated 1953

78B-22-804, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

78B-22-453, (Renumbered from 78B-22-403, as renumbered and amended by Laws of Utah 2019, Chapter 326)

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 78A-6-1111 is amended to read:****78A-6-1111. Order for indigent defense service or guardian ad litem.**

~~[(1) A court shall order indigent defense services for a minor, parent, or legal guardian as provided by Title 78B, Chapter 22, Indigent Defense Act.]~~

(1) A court shall order indigent defense services in accordance with Title 78B, Chapter 22, Indigent Defense Act, for a minor, parent, or legal guardian facing an action filed by a private party or the state under this title.

(2) (a) In any action under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902.

(b) The child shall [also] be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

**Section 2. Section 78B-6-112 is amended to read:****78B-6-112. District court jurisdiction over termination of parental rights proceedings.**

(1) A district court has jurisdiction to terminate parental rights in a child if the party [who] that filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, [if terminating the individual's parental rights is] and termination is in the best interests of the child.

(6) The court shall appoint an indigent defense service provider[~~, under~~] in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent [a party] an individual who faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission [~~under~~] in accordance with Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

**Section 3. Section 78B-22-102 is amended to read:**

**78B-22-102. Definitions.**

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) "Director" means the director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

[4] (5) (a) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.

(b) "Indigent defense resources" does not include an indigent defense service provider.

[5] (6) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual pursuant to:

(a) a contract with an indigent defense system to provide indigent defense services; or

(b) an order issued by the court under Subsection 78B-22-203(2)(a).

[6] (7) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

[7] (8) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services [~~in the city's or town's justice court~~];

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, [~~or~~] and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

[8] (9) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection [(8)] (9)(a), who is appealing [a first appeal from] an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

[9] (10) "Minor" means the same as that term is defined in Section 78A-6-105.

(11) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

[40] (12) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B-22-702 and 78B-22-703.

**Section 4. Section 78B-22-201 is amended to read:**

**78B-22-201. Right to counsel.**

(1) A court shall advise the following of the individual's right to counsel when the individual first appears before the court:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing ~~any~~ an action initiated by the state under:

(i) Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(ii) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or

(iii) Title 78A, Chapter 6, Part 10, Adult Offenses; ~~or~~

~~(iv) Section 78B-6-112; or~~

(c) a parent or legal guardian facing an action initiated by any party under:

(i) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or

(ii) Section 78B-6-112; or

~~(e)~~ (d) an individual described in this Subsection (1), who is appealing ~~a first appeal from~~ a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

**Section 5. Section 78B-22-301 is amended to read:**

**78B-22-301. Standards for indigent defense systems.**

An indigent defense system shall provide indigent defense services for an indigent individual in accordance with the ~~minimum guidelines~~ core principles adopted by the commission under Section 78B-22-404.

**Section 6. Section 78B-22-401 is amended to read:**

**78B-22-401. Utah Indigent Defense Commission -- Creation -- Purpose.**

(1) There is created the Utah Indigent Defense Commission within the State Commission on Criminal and Juvenile Justice ~~the "Utah Indigent Defense Commission."~~

(2) The purpose of the commission is to assist:

(a) the state in meeting the state's obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code; and

(b) the office with carrying out the statutory duties assigned to the commission and office.

**Section 7. Section 78B-22-402 is amended to read:**

**78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.**

(1) The commission is composed of 15 ~~voting~~ members ~~and one ex officio, nonvoting member~~.

(a) The governor, with the consent of the Senate, shall appoint the following ~~13 voting~~ 11 members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) one attorney practicing in the area of parental defense, recommended by an entity funded under the Child Welfare Parental Defense Program created in Section 63M-7-211;

~~(iii)~~ (iv) ~~an~~ one attorney representing minority interests recommended by the Utah Minority Bar Association;

~~(iv)~~ (v) one member recommended by the Utah Association of Counties from a county of the first or second class;

~~(v)~~ (vi) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

~~(vi)~~ (vii) a one director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

~~(vii)~~ (viii) two members recommended by the Utah League of Cities and Towns from its membership; and

~~(viii)~~ (ix) a one retired judge recommended by the Judicial Council~~;~~

~~(ix) one attorney practicing in the area of parental defense, recommended by an entity funded under the Child Welfare Parental Defense Program created in Section 63M-7-211; and~~

~~(x)~~ (b) The speaker of the House of Representatives and the president of the Senate shall appoint two members of the Utah Legislature, one from the House of Representatives and one from the Senate~~, selected jointly by the Speaker of the House and President of the Senate~~.

~~(b)~~ (c) The Judicial Council shall appoint a ~~voting~~ member from the Administrative Office of the Courts.

~~(e)~~ (d) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a ~~voting~~ member of the commission.

~~[(d) The director of the commission, appointed under Section 78B-22-403, is an ex officio, nonvoting member of the commission.]~~

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal defense, parental defense, or juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) ~~[A person]~~ An individual who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) (a) The commission shall ~~[annually elect]~~ elect annually a chair from the commission's membership to serve a one-year term.

(b) A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service~~],~~ but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[pursuant to]~~ in accordance with Sections 63A-3-106 and 63A-3-107.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

**Section 8. Section 78B-22-404 is amended to read:**

**78B-22-404. Powers and duties of the commission.**

(1) The commission shall:

(a) adopt ~~[minimum guidelines]~~ core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which ~~[guidelines]~~ core principles at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at ~~[the]~~ all stages to indigent individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;

~~[(c) identify and collect data from any source, which is necessary for the commission to:]~~

~~[(i) aid, oversee, and review compliance by indigent defense systems with the commission's minimum guidelines for the effective representation of indigent individuals; and]~~

~~[(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;]~~

~~[(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's minimum guidelines for effective representation of indigent individuals;]~~

~~[(e) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's minimum guidelines for the effective representation of indigent individuals;]~~

~~[(f) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;]~~

~~[(g) establish procedures to award grants to indigent defense systems under Section 78B-22-406 consistent with the commission's minimum guidelines for the effective representation of indigent individuals and appropriations by the state;]~~

~~[(h) (c) emphasize the importance of ensuring constitutionally effective indigent defense services;~~

~~[(i) (d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services[;]; and]~~

~~[(j) (e) oversee individuals and entities involved in providing indigent defense services[;].]~~

~~[(k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:]~~

~~[(i) the operations of the commission;]~~

~~[(ii) the operations of the indigent defense systems in the state; and]~~

~~[(iii) compliance with the commission's minimum guidelines by indigent defense systems receiving grants from the commission;]~~

~~[(l) submit recommendations for improving indigent defense services in the state, to legislative, executive, and judicial leadership; and]~~

~~[(m) publish an annual report on the commission's website.]~~

~~(2) The commission may:~~

~~(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part[.]; and]~~

~~(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties.~~

**Section 9. Section 78B-22-406 is amended to read:**

**78B-22-406. Indigent defense services grant program.**

(1) The commission may award grants ~~[to]~~:

(a) to supplement local spending by an indigent defense system for indigent defense~~[.];~~ services; and

(b) for contracts to provide indigent defense services for appeals from juvenile court proceedings in a county of the third, fourth, fifth, or sixth class.

~~(2) [Commission grant money may be used for the following expenses:] The commission may use grant money:~~

(a) to assist an indigent defense system to provide indigent defense services that meet the commission's ~~[minimum guidelines]~~ core principles for the effective representation of indigent individuals;

(b) ~~[the establishment and maintenance of]~~ to establish and maintain local indigent defense data collection systems;

(c) to provide indigent defense services in addition to ~~[those]~~ indigent defense services that are currently being provided by an indigent defense system; ~~[and]~~

(d) to provide training and continuing legal education for indigent defense service providers~~[.];~~ and

(e) to assist indigent defense systems with appeals from juvenile court proceedings.

(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) a grant from the commission is necessary for the indigent defense system to meet the commission's ~~[minimum guidelines]~~ core principles for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's ~~[minimum guidelines]~~ core principles for the effective representation of indigent individuals.

**Section 10. Section 78B-22-451 is enacted to read:**

**Part 4a. Office of Indigent Defense Services 78B-22-451. Office of Indigent Defense Services -- Creation.**

There is created the Office of Indigent Defense Services within the State Commission of Criminal and Juvenile Justice.

**Section 11. Section 78B-22-452 is enacted to read:**

**78B-22-452. Duties of the office.**

(1) The office shall:

(a) establish an annual budget for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(h) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(i) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

(j) submit recommendations to the commission for improving indigent defense services in the state;

(k) publish an annual report on the commission's website; and

(l) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

**Section 12. Section 78B-22-453, which is renumbered from Section 78B-22-403 is renumbered and amended to read:**

**~~[78B-22-403]. 78B-22-453. Director -- Qualifications -- Staff.~~**

~~(1) The commission shall appoint a director to carry out the following duties:]~~

~~(a) establish an annual budget;]~~

~~(b) assist the commission in performing the commission's statutory duties;]~~

~~(c) assist the commission in developing and regularly reviewing advisory caseload guidelines and procedures; and]~~

~~(d) perform all other duties as assigned.]~~

(1) The executive director of the State Commission on Criminal and Juvenile Justice shall appoint a director to carry out the duties of the office described in Section 78B-22-452.

(2) The director shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the full-time director.

(3) The director shall hire staff as necessary to carry out the duties of the ~~commission~~ office described in Section 78B-22-452, including:

(a) one individual who is an active member of the Utah State Bar to serve as a full-time assistant director; and

(b) one individual with data collection and analysis skills ~~to carry out duties as outlined in Subsection 78B-22-404(1)(e).~~

(4) When appointing the director of the office under Subsection (1), the executive director of the State Commission on Criminal and Juvenile Justice shall give preference to an individual with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

~~(4) The commission in appointing the director, and the director in hiring the assistant director, shall give a preference to individuals]~~

(5) When hiring the assistant director, the director shall give preference to an individual with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

**Section 13. Section 78B-22-601 is amended to read:**

**78B-22-601. Defense of indigent inmates.**

(1) The board shall enter into contracts to provide indigent defense services for an indigent inmate who:

(a) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501;

(b) is charged with having committed a crime within that state prison; and

(c) will require defense counsel.

(2) Payment for indigent defense services shall be made from the Indigent Inmate Trust Fund as provided in Section 78B-22-602.

(3) A contract under this part shall ensure that indigent defense services are provided in a manner consistent with the [minimum guidelines] core principles described in Section 78B-22-301.

(4) The county attorney or district attorney of a county of the third, fourth, fifth, or sixth class shall function as the prosecuting entity.

(5) (a) A county of the third, fourth, fifth, or sixth class where a state prison is located may impose an additional property tax levy by ordinance at .0001 per dollar of taxable value in the county.

(b) If the county governing body imposes the additional property tax levy by ordinance, the [money] revenue shall be deposited into the Indigent Inmate Trust Fund as provided in Section 78B-22-602 to fund the purposes of this part.

(c) Upon notification that the fund has reached the amount specified in Subsection 78B-22-602(6), a county shall deposit [money] revenue derived from the property tax levy after the county receives the notice into a county account used exclusively to provide indigent defense services.

(d) A county that chooses not to impose the additional levy by ordinance may not receive any benefit from the Indigent Inmate Trust Fund.

**Section 14. Section 78B-22-801 is enacted to read:**

**Part 8. Indigent Appellate Defense Division**

**78B-22-801. Definitions.**

(1) (a) “Appellate defense services” means the representation of an indigent individual facing an appeal under Section 77-18a-1.

(b) “Appellate defense services” does not include the representation of an indigent individual facing an appeal in a case where the indigent individual was prosecuted for aggravated murder.

(2) “Division” means the Indigent Appellate Defense Division created in Section 78B-22-802.

**Section 15. Section 78B-22-802 is enacted to read:**

**78B-22-802. Indigent Appellate Defense Division.**

There is created the Indigent Appellate Defense Division within the Office of Indigent Defense Services.

**Section 16. Section 78B-22-803 is enacted to read:**

**78B-22-803. Powers and duties of the division.**

(1) The division shall:

(a) provide appellate defense services in counties of the third, fourth, fifth, and sixth class; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78A-22-404 and any

other state and federal standards for appellate defense services.

(2) Upon consultation with the director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission’s website:

(i) appellate performance standards;

(ii) case weighting standards; and

(iii) any other relevant measures or information to assist with appellate defense services; and

(c) if requested by the commission, provide a report to the commission on:

(i) the provision of appellate defense services by the division;

(ii) the caseloads of appellate attorneys; and

(iii) any other information relevant to appellate defense services in the state.

(3) If the division provides appellate defense services to an indigent individual in an indigent defense system, the division shall provide notice to the district court and the indigent defense system that the division intends to be appointed as counsel for the indigent individual.

(4) The office shall assist with providing training and continual legal education on appellate defense to indigent defense service providers in counties of the third, fourth, fifth, and sixth class.

**Section 17. Section 78B-22-804 is enacted to read:**

**78B-22-804. Chief appellate officer -- Qualifications -- Staff.**

(1) (a) After consulting with the commission, the director shall appoint a chief appellate officer.

(b) When appointing the chief appellate officer, the director shall give preference to an individual with experience in adult criminal appellate defense representation.

(2) The chief appellate officer shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the chief appellate officer.

(3) The chief appellate officer shall carry out the duties of the division described in Section 78B-22-803.

(4) The chief appellate officer shall:

(a) provide appellate defense services in a county of the third, fourth, fifth, or sixth class;

(b) hire staff as necessary to carry out the duties of the division described in Section 78A-22-803; and

(c) perform all other duties that are necessary for the division to carry out the division’s statutory duties.

**CHAPTER 372****S. B. 145**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020  
 Exception clause

**PHARMACY PRACTICE  
 ACT AMENDMENTS**

Chief Sponsor: Evan J. Vickers  
 House Sponsor: Suzanne Harrison

**LONG TITLE****General Description:**

This bill amends provisions relating to the practice of pharmacy.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ authorizes the dispensing of epinephrine auto-injectors and stock albuterol under certain circumstances;
- ▶ amends provisions related to out-of-state mail service pharmacies;
- ▶ amends provisions related to a prescription drug or device that is not readily available in all pharmacies;
- ▶ authorizes the dispensing of a quantity or dosage form different from a prescription in certain instances;
- ▶ amends provisions related to the dispensing of a substitute for albuterol;
- ▶ amends provisions relating to emergency refills;
- ▶ authorizes the dispensing of certain prescription medical devices under certain circumstances;
- ▶ authorizes certain physicians to issue a standing prescription drug order for an epinephrine auto-injector or stock albuterol in accordance with a protocol that meets certain requirements;
- ▶ exempts a physician from liability for civil damages for acts or omissions resulting from the dispensing of an epinephrine auto-injector or stock albuterol under the physician's standing prescription drug order;
- ▶ exempts controlled substances dispensed for administration or use in a health care facility outpatient setting from reporting to the state's controlled substance database; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

26-41-102 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 236  
 26-41-105 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 236  
 31A-46-102, as enacted by Laws of Utah 2019, Chapter 241  
 58-17b-605, as last amended by Laws of Utah 2013, Chapter 423  
 58-37f-201, as last amended by Laws of Utah 2016, Chapter 99

58-37f-203, as last amended by Laws of Utah 2019, Chapter 59

**ENACTS:**

58-17b-602.1, Utah Code Annotated 1953  
 58-17b-610.8, Utah Code Annotated 1953  
 58-17b-1001, Utah Code Annotated 1953  
 58-17b-1002, Utah Code Annotated 1953  
 58-17b-1003, Utah Code Annotated 1953  
 58-17b-1004, Utah Code Annotated 1953  
 58-17b-1005, Utah Code Annotated 1953  
 58-17b-1006, Utah Code Annotated 1953  
 58-17b-1007, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

31A-46-305, (Renumbered from 58-17b-619, as enacted by Laws of Utah 2004, Chapter 280)

**REPEALS AND REENACTS:**

58-17b-608, as enacted by Laws of Utah 2004, Chapter 280

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 26-41-102 (Effective 07/01/20) is amended to read:**

**26-41-102 (Effective 07/01/20). Definitions.**

As used in this chapter:

(1) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

(a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.

(2) "Asthma action plan" means a written plan:

(a) developed with a school nurse, a student's parent or guardian, and the student's health care provider to help control the student's asthma; and

(b) signed by the student's:

(i) parent or guardian; and

(ii) health care provider.

(3) "Asthma emergency" means an episode of respiratory distress that may include symptoms such as wheezing, shortness of breath, coughing, chest tightness, or breathing difficulty.

(4) "Epinephrine auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.

(5) "Health care provider" means an individual who is licensed as:

(a) a physician under Title 58, Chapter 67, Utah Medical Practice Act;

(b) a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(c) an advanced practice registered nurse under Section 58-31b-302; or



(d) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(6) “Pharmacist” means the same as that term is defined in Section 58-17b-102.

(7) “Pharmacy intern” means the same as that term is defined in Section 58-17b-102.

(8) “Physician” means the same as that term is defined in Section 58-67-102.

~~[(6)]~~ (9) “Qualified adult” means a person who:

(a) is 18 years of age or older; and

(b) (i) for purposes of administering an epinephrine auto-injector, has successfully completed the training program established in Section 26-41-104; and

(ii) for purposes of administering stock albuterol, has successfully completed the training program established in Section 26-41-104.1.

[(7)] (10) “Qualified epinephrine auto-injector entity”:

(a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and

(b) includes:

(i) recreation camps;

(ii) an education facility, school, or university;

(iii) a day care facility;

(iv) youth sports leagues;

(v) amusement parks;

(vi) food establishments;

(vii) places of employment; and

(viii) recreation areas.

[(8)] (11) “Qualified stock albuterol entity” means a public or private school that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience an asthma emergency.

[(9)] (12) “Stock albuterol” means a prescription inhaled medication:

(a) used to treat asthma; and

(b) that may be delivered through a device, including:

(i) an inhaler; or

(ii) a nebulizer with a mouthpiece or mask.

**Section 2. Section 26-41-105 (Effective 07/01/20) is amended to read:**

**26-41-105 (Effective 07/01/20). Authority to obtain and use an epinephrine auto-injector or stock albuterol.**

(1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for:

(a) epinephrine auto-injectors for use in accordance with this chapter; or

(b) stock albuterol for use in accordance with this chapter.

~~[(2) — A qualified adult may obtain from a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs, a prescription for an epinephrine auto-injector or stock albuterol.]~~

(2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this chapter that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain stock albuterol for use in accordance with this chapter that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26-41-104 after administering an epinephrine auto-injector.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student’s asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26-41-104.1 after administering stock albuterol.

(5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain ~~from a~~

physician, pharmacist, or any other person authorized to prescribe or dispense prescription drugs, a prescription for a supply of epinephrine auto-injectors or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26-41-107.

(c) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the department in Section 26-41-107.

### **Section 3. Section 31A-46-102 is amended to read:**

#### **31A-46-102. Definitions.**

As used in this chapter:

(1) "Administrative fee" means any payment, other than a rebate, that a pharmaceutical manufacturer makes directly or indirectly to a pharmacy benefit manager.

(2) "Contracting insurer" means an insurer as defined in Section 31A-22-636 with whom a pharmacy benefit manager contracts to provide a pharmacy benefit management service.

(3) "Device" means the same as that term is defined in Section 58-17b-102.

~~[(3)]~~ (4) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

~~[(4)]~~ (5) "Pharmacy" means the same as that term is defined in Section 58-17b-102.

~~[(5)]~~ (6) "Pharmacy benefits management service" means any of the following services provided to a health benefit plan, or to a participant of a health benefit plan:

(a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or

(b) administering or managing a prescription drug benefit provided by the health benefit plan for the benefit of a participant of the health benefit plan, including administering or managing:

(i) a mail service pharmacy;

(ii) a specialty pharmacy;

(iii) claims processing;

(iv) payment of a claim;

(v) retail network management;

(vi) clinical formulary development;

(vii) clinical formulary management services;

(viii) rebate contracting;

(ix) rebate administration;

(x) a participant compliance program;

(xi) a therapeutic intervention program;

(xii) a disease management program; or

(xiii) a service that is similar to, or related to, a service described in Subsection ~~[(5)]~~ (6)(a) or ~~[(5)]~~ (6)(b)(i) through (xii).

~~[(6)]~~ (7) "Pharmacy benefit manager" means a person licensed under this chapter to provide a pharmacy benefits management service.

~~[(7)]~~ (8) "Pharmacy service" means a product, good, or service provided to an individual by a pharmacy or pharmacist.

~~[(8)]~~ (9) (a) "Rebate" means a refund, discount, or other price concession that is paid by a pharmaceutical manufacturer to a pharmacy benefit manager based on a prescription drug's utilization or effectiveness.

(b) "Rebate" does not include an administrative fee.

### **Section 4. Section 31A-46-305, which is renumbered from Section 58-17b-619 is renumbered and amended to read:**

#### **~~58-17b-619~~. 31A-46-305. Out-of-state mail service pharmacies -- Drugs not readily available in all pharmacies.**

(1) As used in this section, "out-of-state mail service pharmacy" means the same as that term is defined in Section 58-17b-102.

~~[(1) Any]~~ (2) Except as provided in Subsection (3), a third party payor ~~for~~ of pharmaceutical services within the state, or its agent or contractor, may not require ~~any~~ a pharmacy patient to obtain prescription drug benefits from ~~a specific~~ one or more out-of-state ~~pharmacy~~ mail service pharmacies as a condition of obtaining third party payment prescription drug benefit coverage as defined in rule.

~~[(2) (a) This section does not prohibit any third party payor of pharmaceutical services, who provides for reimbursement to the pharmacy patient or payment on his behalf, from exercising the right to limit the amount reimbursed for the cost~~

~~of prescription drugs based upon the cost of identical prescription drugs available through a designated out-of-state pharmacy.]~~

~~[(b) Notwithstanding Subsection (2)(a), any third party payor of pharmaceutical services may restrict the type of outlet where a patient may obtain certain prescriptive drugs and devices, such as injectable medications, that are not readily available in all pharmacies. The payor may also restrict access to no more than one mail-order pharmacy.]~~

~~[(3) Each third party payor of pharmaceutical services shall identify as a part of the third party agreement or contract the designated out-of-state pharmacy which shall be used as the base line comparison.]~~

(3) For a prescription drug or device that is not readily available in all pharmacies, including an injectable medication, a third party payor of pharmaceutical services may require a pharmacy patient to obtain prescription drug benefits from certain pharmacies, including one or more out-of-state mail service pharmacies.

(4) (a) A violation of this section is a class A misdemeanor.

(b) Each violation of this section is a separate offense.

**Section 5. Section 58-17b-602.1 is enacted to read:**

**58-17b-602.1. Dispensing quantity or dosage form different from prescription.**

(1) Without specific authorization from a prescriber, a pharmacist or pharmacy intern may dispense:

(a) a prescription in a quantity different than the quantity prescribed if the prescribed quantity or package size is not commercially available; and

(b) a prescription in a dosage form different than the dosage form prescribed, if in the professional judgement of the pharmacist or pharmacy intern, dispensing a different dosage form is in the best interest of the patient.

(2) This section does not apply if:

(a) the substitute would change the bioavailability of the medication;

(b) the substitute would change the treatment parameters; or

(c) the prescriber has written or clearly designated "dispense as written" on the prescription.

**Section 6. Section 58-17b-605 is amended to read:**

**58-17b-605. Drug product equivalents.**

(1) For the purposes of this section:

(a) (i) "Drug" is as defined in Section 58-17b-102.

(ii) "Drug" does not mean a "biological product" as defined in Section 58-17b-605.5.

(b) "Drug product equivalent" means:

(i) a drug product that is designated as the therapeutic equivalent of another drug product in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research of the United States Food and Drug Administration[-]; and

(ii) notwithstanding Subsection (1)(b)(i), an appropriate substitute for albuterol designated by division rule made under Subsection (9).

(2) A pharmacist or pharmacy intern dispensing a prescription order for a specific drug by brand or proprietary name may substitute a drug product equivalent for the prescribed drug only if:

(a) the purchaser specifically requests or consents to the substitution of a drug product equivalent;

(b) the drug product equivalent is of the same generic type and is designated the therapeutic equivalent in the approved drug products with therapeutic equivalence evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration;

(c) the drug product equivalent is permitted to move in interstate commerce;

(d) the pharmacist or pharmacy intern counsels the patient on the use and the expected response to the prescribed drug, whether a substitute or not, and the substitution is not otherwise prohibited by this chapter;

(e) the prescribing practitioner has not indicated that a drug product equivalent may not be substituted for the drug, as provided in Subsection (6); and

(f) the substitution is not otherwise prohibited by law.

(3) (a) Each out-of-state mail service pharmacy dispensing a drug product equivalent as a substitute for another drug into this state shall notify the patient of the substitution either by telephone or in writing.

(b) Each out-of-state mail service pharmacy shall comply with the requirements of this chapter with respect to a drug product equivalent substituted for another drug, including labeling and record keeping.

(4) Pharmacists or pharmacy interns may not substitute without the prescriber's authorization on trade name drug product prescriptions unless the product is currently categorized in the approved drug products with therapeutic equivalence evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration as a drug product considered to be therapeutically equivalent to another drug product.

(5) A pharmacist or pharmacy intern who dispenses a prescription with a drug product

equivalent under this section assumes no greater liability than would be incurred had the pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.

(6) (a) If, in the opinion of the prescribing practitioner, it is in the best interest of the patient that a drug product equivalent not be substituted for a prescribed drug, the practitioner may indicate a prohibition on substitution either by writing “dispense as written” or signing in the appropriate space where two lines have been preprinted on a prescription order and captioned “dispense as written” or “substitution permitted”.

(b) If the prescription is communicated orally by the prescribing practitioner to the pharmacist or pharmacy intern, the practitioner shall indicate the prohibition on substitution and that indication shall be noted in writing by the pharmacist or pharmacy intern with the name of the practitioner and the words “orally by” and the initials of the pharmacist or pharmacy intern written after it.

(7) A pharmacist or pharmacy intern who substitutes a drug product equivalent for a prescribed drug shall communicate the substitution to the purchaser. The drug product equivalent container shall be labeled with the name of the drug dispensed, and the pharmacist, pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both the name of the prescribed drug and the name of the drug product equivalent dispensed in its place.

(8) (a) For purposes of this Subsection (8), “substitutes” means to substitute:

- (i) a generic drug for another generic drug;
- (ii) a generic drug for a nongeneric drug;
- (iii) a nongeneric drug for another nongeneric drug; or
- (iv) a nongeneric drug for a generic drug.

(b) A prescribing practitioner who makes a finding under Subsection (6)(a) for a patient with a seizure disorder shall indicate a prohibition on substitution of a drug product equivalent in the manner provided in Subsection (6)(a) or (b).

(c) Except as provided in Subsection (8)(d), a pharmacist or pharmacy intern who cannot dispense the prescribed drug as written, and who needs to substitute a drug product equivalent for the drug prescribed to the patient to treat or prevent seizures shall notify the prescribing practitioner prior to the substitution.

(d) Notification under Subsection (8)(c) is not required if the drug product equivalent is paid for in whole or in part by Medicaid.

(9) (a) The division shall designate by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, the Physicians Licensing Board created in Section 58-67-201, and the Osteopathic Physician and Surgeon’s Licensing

Board created in Section 58-68-201, appropriate substitutes for albuterol.

(b) Subsections (2)(b) and (4) do not apply to the substitution of a drug product equivalent for albuterol.

~~(9)~~ (10) Failure of a licensed medical practitioner to specify that no substitution is authorized does not constitute evidence of negligence.

**Section 7. Section 58-17b-608 is repealed and reenacted to read:**

**58-17b-608. Emergency refills.**

(1) If a prescription may not be refilled otherwise, a pharmacist or pharmacy intern may refill the prescription in an emergency without the prescribing practitioner’s authorization if:

(a) the prescription is for a drug that is not a controlled substance;

(b) the patient is currently using the drug prescribed;

(c) the prescribing practitioner is not available promptly to authorize the refill;

(d) the pharmacist or pharmacy intern, or another pharmacist or pharmacy intern at the same pharmacy, has not previously dispensed a refill for the prescription under this section;

(e) refilling the prescription is in the interest of the patient’s health;

(f) in the professional judgment of the pharmacist or pharmacy intern the prescription should be refilled;

(g) except as provided in Subsection (1)(h), the pharmacist or pharmacy intern dispenses the medication in accordance with the prescribing practitioner’s instructions included with the prescription; and

(h) the pharmacist or pharmacy intern dispenses no more than the amount necessary to address the emergency.

(2) If the prescription for a drug dispensed under Subsection (1) is on file with the pharmacy where the drug is dispensed, the pharmacist or pharmacy intern may dispense more than a three-day supply only if:

(a) (i) the prescription has expired within the past 30 days; or

(ii) no refills are remaining on the prescription; and

(b) the amount dispensed does not exceed the lesser of:

(i) a 30-day supply; or

(ii) the quantity last dispensed at the pharmacy pursuant to the prescription as either a fill or a refill.

(3) A pharmacist or pharmacy intern who dispenses a prescription refill under this section

shall inform the prescribing practitioner of the emergency refill as soon as practicable.

**Section 8. Section 58-17b-610.8 is enacted to read:**

**58-17b-610.8. Prescription devices.**

(1) The following documents from a prescribing practitioner shall be considered a prescription for purposes of dispensing of and payment for a device described in Subsection (3), if the device is prescribed or indicated by the document and the document is on file with a pharmacy:

- (a) a written prescription; or
- (b) a written record of a patient's:
  - (i) current diagnosis; or
  - (ii) treatment protocol.

(2) A pharmacist or pharmacy intern at a pharmacy at which a document that is considered a prescription under Subsection (1) is on file may dispense a prescription device described in Subsection (3) to the patient in accordance with:

(a) the document that is considered a prescription under Subsection (1); and

(b) rules made by the division under Subsection (4).

(3) This section applies to:

- (a) nebulizers;
- (b) spacers for use with nebulizers or inhalers; and

(c) diabetic testing supplies.

(4) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, the Physicians Licensing Board created in Section 58-67-201, and the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, to implement this section.

**Section 9. Section 58-17b-1001 is enacted to read:**

**Part 10. Epinephrine Auto-Injector and Stock Albuterol Act**

**58-17b-1001. Title.**

This part is known as the "Epinephrine Auto-Injector and Stock Albuterol Act."

**Section 10. Section 58-17b-1002 is enacted to read:**

**58-17b-1002. Definitions.**

As used in this part:

(1) "Epinephrine auto-injector" means the same as that term is defined in Section 26-41-102.

(2) "Local health department" means the same as that term is defined in Section 26A-1-102.

(3) "Physician" means the same as that term is defined in Section 58-67-102.

(4) "Qualified adult" means the same as that term is defined in Section 26-41-102.

(5) "Qualified epinephrine auto-injector entity" means the same as that term is defined in Section 26-41-102.

(6) "Qualified stock albuterol entity" means the same as that term is defined in Section 26-41-102.

(7) "Stock albuterol" means the same as that term is defined in Section 26-41-102.

**Section 11. Section 58-17b-1003 is enacted to read:**

**58-17b-1003. Voluntary participation.**

This part does not create a duty or standard of care for a person to prescribe or dispense an epinephrine auto-injector or stock albuterol.

**Section 12. Section 58-17b-1004 is enacted to read:**

**58-17b-1004. Authorization to dispense an epinephrine auto-injector and stock albuterol pursuant to a standing order.**

(1) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense an epinephrine auto-injector:

(a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency Response for Life-threatening Conditions; or

(ii) to a qualified epinephrine auto-injector entity for use in accordance with Title 26, Chapter 41, Emergency Response for Life-threatening Conditions;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe an epinephrine auto-injector; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

(2) Notwithstanding any other provision of this chapter, a pharmacist or pharmacist intern may dispense stock albuterol:

(a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency Response for Life-threatening Conditions; or

(ii) to a qualified stock albuterol entity for use in accordance with Title 26, Chapter 41, Emergency Response for Life-threatening Conditions;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe stock albuterol; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

**Section 13. Section 58-17b-1005 is enacted to read:**

**58-17b-1005. Standing prescription drug orders for epinephrine auto-injectors and stock albuterol.**

(1) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of an epinephrine auto-injector under Section 58-17b-1004 in accordance with a protocol that:

(a) requires the physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;

(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the epinephrine auto-injector;

(c) requires those authorized by the physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:

(i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;

(ii) a description of the epinephrine auto-injector dispensed; and

(iii) other relevant information; and

(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

(2) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of the stock albuterol under Section 58-17b-1004 in accordance with a protocol that:

(a) requires the physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;

(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the stock albuterol;

(c) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:

(i) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;

(ii) a description of the stock albuterol dispensed; and

(iii) other relevant information; and

(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the board.

**Section 14. Section 58-17b-1006 is enacted to read:**

**58-17b-1006. Guidelines for dispensing an epinephrine auto-injector and stock albuterol.**

(1) A pharmacist or pharmacy intern who dispenses an epinephrine auto-injector under this part shall, at a minimum, provide patient counseling to the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed regarding:

(a) the appropriate administration and storage of the epinephrine auto-injector;

(b) potential side effects and risks of the epinephrine auto-injector; and

(c) when to seek emergency medical attention.

(2) A pharmacist or pharmacy intern who dispenses stock albuterol under this part shall, at a minimum, provide patient counseling to the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed regarding:

(a) the appropriate administration and storage of the stock albuterol;

(b) potential side effects and risks of the stock albuterol; and

(c) when to seek emergency medical attention.

**Section 15. Section 58-17b-1007 is enacted to read:**

**58-17b-1007. Limited civil liability.**

(1) A physician who issues a standing prescription drug order in accordance with Subsection 58-17b-1005(1) is not liable for any civil damages for acts or omissions resulting from the dispensing of an epinephrine auto-injector under this part.

(2) A physician who issues a standing prescription drug order in accordance with Subsection 58-17b-1005(2) is not liable for any civil damages for acts or omissions resulting from the dispensing of stock albuterol under this part.

**Section 16. Section 58-37f-201 is amended to read:**

**58-37f-201. Controlled substance database -- Creation -- Purpose.**

(1) There is created within the division a controlled substance database.

(2) The division shall administer and direct the functioning of the database in accordance with this chapter.

(3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.

(4) The division shall, in collaboration with the board, determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.

(5) The purpose of the database is to contain:

(a) the data described in Section 58-37f-203 regarding ~~[every prescription for a controlled substance dispensed in the state to any individual other than an inpatient in a licensed health care facility]~~ prescriptions for dispensed controlled substances;

(b) data reported to the division under Section 26-21-26 regarding poisoning or overdose;

(c) data reported to the division under Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) regarding convictions for driving under the influence of a prescribed controlled substance or impaired driving; and

(d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)(j) regarding certain violations of the Utah Controlled Substances Act.

(6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance;

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy;

(e) individuals admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance; and

(f) individuals convicted for:

(i) driving under the influence of a prescribed controlled substance that renders the individual incapable of safely operating a vehicle;

(ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

(iii) certain violations of the Utah Controlled Substances Act.

**Section 17. Section 58-37f-203 is amended to read:**

**58-37f-203. Submission, collection, and maintenance of data.**

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

(A) the submission time requirements established by the division under Subsection (1)(a)(i); or

(B) the submission time requirements established by the division under Subsection (1)(a)(ii).

(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

(i) the requirements of this section;

(ii) the procedures established by the division;

(iii) additional types of information or data fields established by the division; and

(iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) (a) ~~[The]~~ Except as provided in Subsection (3)(b), the pharmacist-in-charge and the pharmacist described in Subsection (2)(b) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision ~~[other than those dispensed for an inpatient at a health care facility]~~, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6) regarding:

(i) each controlled substance that is dispensed by the pharmacist or under the pharmacist's supervision; and

(ii) each noncontrolled substance that is:

(A) designated by the division under Subsection (8)(a); and

(B) dispensed by the pharmacist or under the pharmacist's supervision.

(b) Subsection (3)(a) does not apply to a drug that is dispensed for ~~[an inpatient]~~ administration to, or

use by, a patient at a health care facility, including a patient in an outpatient setting at the health care facility.

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

- (a) electronic format;
- (b) submission procedures; and
- (c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

- (a) the identification of each individual who requests or receives information from the database;
- (b) the information provided to each individual; and
- (c) the date and time that the information is requested or provided.

(8) (a) The division, in collaboration with the Utah Controlled Substance Advisory Committee created in Section 58-38a-201, shall designate a list of noncontrolled substances described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) To determine whether a prescription drug should be designated in the schedules of controlled substances under this chapter, the division may collect information about a prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of controlled substances under this chapter.

#### **Section 18. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

(2) The actions affecting the following sections take effect on July 1, 2020:

- (a) Section 26-41-102;
- (b) Section 26-41-105;
- (c) Section 58-17b-1001;
- (d) Section 58-17b-1002;
- (e) Section 58-17b-1003;
- (f) Section 58-17b-1004;
- (g) Section 58-17b-1005;
- (h) Section 58-17b-1006; and
- (i) Section 58-17b-1007.



**CHAPTER 373****S. B. 146**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective January 1, 2021

**BOARDS AND  
COMMISSIONS MODIFICATIONS**

Chief Sponsor: Wayne A. Harper  
 House Sponsor: Logan Wilde

**LONG TITLE****General Description:**

This bill creates conflicts of interest and vacancy procedures for certain types of boards, commissions, and committees.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ enacts procedures to follow for vacancies on certain types of boards, commissions, and committees;
- ▶ enacts procedures for a member of certain types of boards, commissions, and committees to follow when the member has a conflict of interest;
- ▶ modifies deadlines, and the information provided by the governor, with respect to certain non-judicial gubernatorial nominees;
- ▶ requires a Senate confirmation hearing, and provides an exception to a deadline waiver provision, for certain nominees;
- ▶ requires notice of anticipated vacancies in certain offices that require Senate consent; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides coordination clauses.

**Utah Code Sections Affected:****AMENDS:**

4-18-104, as last amended by Laws of Utah 2018, Chapter 115  
 9-6-204, as last amended by Laws of Utah 2012, Chapter 212  
 9-8-204, as last amended by Laws of Utah 2019, Chapter 221  
 19-1-106, as last amended by Laws of Utah 2015, Chapter 451  
 19-2-103, as last amended by Laws of Utah 2015, Chapter 154  
 19-4-103, as last amended by Laws of Utah 2012, Chapter 360  
 19-5-103, as last amended by Laws of Utah 2015, Chapter 234  
 19-6-103, as last amended by Laws of Utah 2015, Chapter 451  
 23-14-2, as last amended by Laws of Utah 2011, Chapter 297  
 26-21-3, as last amended by Laws of Utah 2011, Chapter 366  
 26-33a-103, as last amended by Laws of Utah 2014, Chapter 118  
 31A-2-403, as last amended by Laws of Utah 2019, Chapter 193

32B-2-201, as last amended by Laws of Utah 2012, Chapter 365  
 34-20-3, as last amended by Laws of Utah 2016, Chapter 348  
 35A-8-304, as last amended by Laws of Utah 2019, Chapter 89  
 35A-8-2103, as renumbered and amended by Laws of Utah 2018, Chapter 182  
 40-6-4, as last amended by Laws of Utah 2013, Chapter 243  
 51-7-16, as last amended by Laws of Utah 2010, Chapter 286  
 53B-1-104, as last amended by Laws of Utah 2018, Chapter 382  
 53B-2-104, as last amended by Laws of Utah 2019, Chapter 357  
 53B-2a-103, as last amended by Laws of Utah 2018, Chapter 382  
 53B-2a-108, as repealed and reenacted by Laws of Utah 2018, Chapter 382  
 53C-1-202, as last amended by Laws of Utah 2011, Chapter 247  
 54-1-1.5, as last amended by Laws of Utah 2002, Chapter 176  
 59-1-201, as last amended by Laws of Utah 2014, Chapter 370  
 59-1-203, as last amended by Laws of Utah 1991, Chapter 114  
 59-13-103, as last amended by Laws of Utah 2008, Chapter 153  
 61-2f-103, as last amended by Laws of Utah 2016, Chapters 25 and 381  
 61-2g-204, as renumbered and amended by Laws of Utah 2011, Chapter 289  
 62A-1-107, as last amended by Laws of Utah 2019, Chapter 246  
 63G-2-501, as last amended by Laws of Utah 2019, Chapter 254  
 63H-6-104, as last amended by Laws of Utah 2018, Chapter 447  
 63H-8-201, as renumbered and amended by Laws of Utah 2015, Chapter 226  
 63M-2-301, as last amended by Laws of Utah 2019, Chapters 246 and 352  
 63M-7-504, as last amended by Laws of Utah 2011, Chapter 131  
 63N-1-401, as renumbered and amended by Laws of Utah 2015, Chapter 283  
 67-1-2, as last amended by Laws of Utah 2008, Chapter 382  
 67-1-2.5, as last amended by Laws of Utah 2019, Chapter 246  
 72-1-301, as last amended by Laws of Utah 2019, Chapter 479  
 72-1-302, as last amended by Laws of Utah 2002, Chapter 10  
 73-10-2, as last amended by Laws of Utah 2010, Chapter 286  
 77-27-2, as last amended by Laws of Utah 2011, Chapter 366  
 78A-11-103, as last amended by Laws of Utah 2012, Chapter 133  
 78B-22-402, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and amended by Laws of Utah 2019, Chapter 326

79-3-302, as last amended by Laws of Utah 2010, Chapter 286

79-4-302, as last amended by Laws of Utah 2010, Chapter 286

**ENACTS:**

63G-24-101, Utah Code Annotated 1953

63G-24-102, Utah Code Annotated 1953

63G-24-103, Utah Code Annotated 1953

63G-24-201, Utah Code Annotated 1953

63G-24-202, Utah Code Annotated 1953

63G-24-203, Utah Code Annotated 1953

63G-24-204, Utah Code Annotated 1953

63G-24-205, Utah Code Annotated 1953

63G-24-301, Utah Code Annotated 1953

63G-24-302, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

26-21-3, as last amended by Laws of Utah 2011, Chapter 366

53B-1-404, renumbered from 53B-1-104, as last amended by Laws of Utah 2018, Chapter 382

63G-24-102, Utah Code Annotated 1953

67-1-2, as last amended by Laws of Utah 2008, Chapter 382

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 4-18-104 is amended to read:**

**4-18-104. Conservation Commission created -- Composition -- Appointment -- Terms -- Compensation -- Attorney general to provide legal assistance.**

(1) There is created within the department the Conservation Commission to perform the functions specified in this chapter.

(2) The Conservation Commission shall be composed of:

(a) ~~11~~ 12 voting members, including:

(i) the director of the Extension Service at Utah State University or the director's designee;

(ii) the executive director of the Department of Natural Resources or the executive director's designee;

(iii) the executive director of the Department of Environmental Quality or the executive director's designee;

(iv) the president of the County Weed Supervisors Association or the president's designee; and

(v) seven district supervisors who provide district representation on the commission on a multicounty basis; and

(b) the commissioner or the commissioner's designee.

(3) If a district supervisor is unable to attend a meeting, the district supervisor may designate an alternate to serve in the place of the district supervisor for that meeting.

(4) None of the members described in Subsection (2)(a)(v) or (3) may serve on an association that represents a conservation district.

(5) (a) The commissioner or the commissioner's designee shall serve as chair of the Conservation Commission.

(b) The commissioner or the commissioner's designee may not vote except in the event of a tie, in which case the commissioner or the commissioner's designee shall cast the deciding vote.

(6) The members of the commission specified in Subsection (2)(a)(v) shall:

(a) be recommended by the commission to the governor; and

(b) be appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(7) (a) Except as required by Subsection (7)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (7)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) A commission member may not be appointed to more than two consecutive terms.

(8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(9) Attendance of six voting members of the commission at a meeting constitutes a quorum.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) The commission shall keep a record of the commission's actions.

(12) The attorney general shall provide legal services to the commission upon request.

(13) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 2. Section 9-6-204 is amended to read:**

**9-6-204. Utah Arts Council Board of Directors.**

(1) There is created within the division the Board of Directors of the Utah Arts Council.

(2) (a) The board shall consist of 13 members appointed by the governor to four-year terms of

office with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Nine board members shall be working artists in the following areas:

- (i) visual arts;
- (ii) architecture or design;
- (iii) literature;
- (iv) music;
- (v) sculpture;
- (vi) folklore or folk arts;
- (vii) theatre;
- (viii) dance; and
- (ix) media arts.

(d) Four board members shall be citizens knowledgeable in the arts.

(3) The members shall be appointed from the state at large with due consideration for geographical representation.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor within one month from the time of vacancy.

(5) Seven members of the board constitute a quorum for the transaction of business.

(6) The governor shall annually select one of the board members as chair.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) A member may not receive gifts, prizes, or awards of money from the purchasing fund of the division during the member's term of office.

(9) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 3. Section 9-8-204 is amended to read:**

**9-8-204. Board of State History.**

(1) There is created within the department the Board of State History.

(2) The board shall consist of 11 members appointed by the governor with the consent of the

Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, as follows:

(a) sufficient representatives to satisfy the federal requirements for an adequately qualified State Historic Preservation Review Board; and

(b) other persons with an interest in the subject matter of the division's responsibilities.

(3) (a) Except as required by Subsection (3)(b), the members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.

(5) A simple majority of the board constitutes a quorum for conducting board business.

(6) The governor shall select a chair and vice chair from the board members.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 4. Section 19-1-106 is amended to read:**

**19-1-106. Boards within department.**

(1) The following policymaking boards are created within the department:

- (a) the Air Quality Board, appointed under Section 19-2-103;
- (b) the Drinking Water Board, appointed under Section 19-4-103;
- (c) the Water Quality Board, appointed under Section 19-5-103; and

(d) the Waste Management and Radiation Control Board, appointed under Section [19-6-104] 19-6-103.

(2) The authority of the boards created in Subsection (1) is limited to the specific authority granted them under this title.

(3) A vacancy that occurs during an expired term in a board described in Subsection (1) shall be filled in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

**Section 5. Section 19-2-103 is amended to read:**

**19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem and expenses.**

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who:

(A) is not connected with industry;

(B) is an expert in air quality matters; and

(C) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mining industry;

(iv) one representative from the fuels industry;

(v) one representative from the manufacturing industry;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about air pollution matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest ~~rules~~ provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest, and the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

(3) No more than five of the appointed members of the board shall belong to the same political party.

(4) A majority of the members of the board may not derive any significant portion of their income

from persons subject to permits or orders under this chapter.

(5) (a) Members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(6) A member may serve more than one term.

(7) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(9) The board shall elect annually a chair and a vice chair from its members.

(10) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Three days' notice shall be given to each member of the board before a meeting.

(11) Five members constitute a quorum at a meeting, and the action of a majority of members present is the action of the board.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 6. Section 19-4-103 is amended to read:**

**19-4-103. Drinking Water Board -- Members -- Organization -- Meetings -- Per diem and expenses.**

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who is a Utah-licensed professional engineer with expertise in civil or sanitary engineering;

(ii) two representatives who are elected officials from a municipal government that is involved in the management or operation of a public water system;

(iii) one representative from an improvement district, a water conservancy district, or a metropolitan water district;

(iv) one representative from an entity that manages or operates a public water system;

(v) one representative from:

(A) the state water research community; or

(B) an institution of higher education that has comparable expertise in water research to the state water research community;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about drinking water and public water systems, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) represent different geographical areas within the state insofar as practicable;

(c) be a resident of Utah;

(d) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(e) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(3) No more than five appointed members of the board shall be from the same political party.

(4) (a) As terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c) (i) Notwithstanding Subsection (4)(a), the term of a board member who is appointed before May 1, 2013, shall expire on April 30, 2013.

(ii) On May 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) Each member holds office until the expiration of the member's term, and until a successor is appointed, but not for more than 90 days after the expiration of the term.

(7) The board shall elect annually a chair and a vice chair from its members.

(8) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Reasonable notice shall be given to each member of the board before any meeting.

(9) Five members constitute a quorum at any meeting and the action of the majority of the members present is the action of the board.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 7. Section 19-5-103 is amended to read:**

**19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms -- Organization -- Meetings -- Per diem and expenses.**

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who:

(A) is an expert and has relevant training and experience in water quality matters;

(B) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience; and

(C) represents local and special service districts in the state;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mineral industry;

(iv) one representative from the manufacturing industry;

(v) one representative who represents agricultural and livestock interests;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about water quality matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(3) No more than five of the appointed members may be from the same political party.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.

(5) (a) A member shall be appointed for a term of four years and is eligible for reappointment.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

~~[(c) (i) Notwithstanding Subsection (5)(a), the term of a board member who is appointed before March 1, 2013, shall expire on February 28, 2013.]~~

~~[(ii) On March 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.]~~

(6) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, not to exceed 90 days after the formal expiration of the term.

(7) The board shall:

(a) organize and annually select one of its members as chair and one of its members as vice chair;

(b) hold at least four regular meetings each calendar year; and

(c) keep minutes of its proceedings which are open to the public for inspection.

(8) The chair may call a special meeting upon the request of three or more members of the board.

(9) Each member of the board and the director shall be notified of the time and place of each meeting.

(10) Five members of the board constitute a quorum for the transaction of business, and the action of a majority of members present is the action of the board.

(11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 8. Section 19-6-103 is amended to read:**

**19-6-103. Waste Management and Radiation Control Board -- Members -- Terms -- Organization -- Meetings -- Per diem and expenses.**

(1) The board consists of the following 12 members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following 11 voting members appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who is:

(A) not connected with industry; and

(B) a Utah-licensed professional engineer;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the manufacturing, mining, or fuel industry;

(iv) one representative from the private solid or hazardous waste disposal industry;

(v) one representative from the private hazardous waste recovery industry;

(vi) one representative from the radioactive waste management industry;

(vii) one representative from the uranium milling industry;

(viii) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests;

(ix) one representative from the public who is trained and experienced in public health and a licensed:

(A) medical doctor; or

(B) dentist; and

(x) one representative who is:

(A) a medical physicist or a health physicist; or

(B) a professional employed in the field of radiation safety.

(2) A member of the board shall:

(a) be knowledgeable about solid and hazardous waste matters and radiation safety and protection as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department in accordance with Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(3) No more than six of the appointed members may be from the same political party.

(4) (a) Members shall be appointed for terms of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

~~[(c) (i) Notwithstanding Subsection (4)(a), the term of a board member who is appointed before March 1, 2013, shall expire on February 28, 2013.]~~

~~[(ii) On March 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.]~~

(5) Each member is eligible for reappointment.

(6) Board members shall continue in office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, after considering recommendations of the board and with the consent of the Senate.

(8) The board shall elect a chair and vice chair on or before April 1 of each year from its membership.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) (a) The board shall hold a meeting at least once every three months including one meeting during each annual general session of the Legislature.

(b) Meetings shall be held on the call of the chair, the director, or any three of the members.

(11) Six members constitute a quorum at any meeting, and the action of the majority of members present is the action of the board.

**Section 9. Section 23-14-2 is amended to read:**

**23-14-2. Wildlife Board -- Creation -- Membership -- Terms -- Quorum -- Meetings -- Per diem and expenses.**

(1) There is created a Wildlife Board which shall consist of seven members appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) In addition to the requirements of Section 79-2-203, the members of the board shall have expertise or experience in at least one of the following areas:

(i) wildlife management or biology;

(ii) habitat management, including range or aquatic;

(iii) business, including knowledge of private land issues; and

(iv) economics, including knowledge of recreational wildlife uses.

(b) Each of the areas of expertise under Subsection (2)(a) shall be represented by at least one member of the Wildlife Board.

(3) (a) The governor shall select each board member from a list of nominees submitted by the nominating committee pursuant to Section 23-14-2.5.

(b) No more than two members shall be from a single wildlife region described in Subsection 23-14-2.6(1).

(c) The governor may request an additional list of at least two nominees from the nominating committee if the initial list of nominees for a given position is unacceptable.

(d) (i) If the governor fails to appoint a board member within 60 days after receipt of the initial or additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim board member shall serve until the matter is resolved by the committee and the governor or until the board member is replaced pursuant to this chapter.

(4) (a) Except as required by Subsection (4)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a six-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of board members are staggered so that approximately one-third of the board is appointed every two years; and

(ii) members serving from the same region have staggered terms.

(c) If a vacancy occurs, the nominating committee shall submit two names, as provided in Subsection 23-14-2.5(4), to the governor and the governor shall appoint a replacement for the unexpired term.

(d) Board members may serve only one term unless:

(i) the member is among the first board members appointed to serve four years or less; or

(ii) the member filled a vacancy under Subsection (4)(c) for four years or less.

(5) (a) The board shall elect a chair and a vice chair from its membership.

(b) Four members of the board shall constitute a quorum.

(c) The director of the Division of Wildlife Resources shall act as secretary to the board but is not a voting member of the board.

(6) (a) The Wildlife Board shall hold a sufficient number of public meetings each year to expeditiously conduct its business.

(b) Meetings may be called by the chair upon five days notice or upon shorter notice in emergency situations.

(c) Meetings may be held at the Salt Lake City office of the Division of Wildlife Resources or elsewhere as determined by the Wildlife Board.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) The members of the Wildlife Board shall complete an orientation course to assist them in the performance of the duties of their office.

(b) The Department of Natural Resources shall provide the course required under Subsection (8)(a).

(9) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 10. Section 26-21-3 is amended to read:**

**26-21-3. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.**

(1) The Health Facility Committee created by Section 26-1-7 consists of 15 members appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies. The appointed members shall be knowledgeable about health care facilities and issues. The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;

(b) one hospital administrator;

(c) one hospital trustee;

(d) one representative of a freestanding ambulatory surgical facility;

(e) one representative of an ambulatory surgical facility that is affiliated with a hospital;

(f) two representatives of the nursing care facility industry;

(g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse Practice Act;

(h) one professional in the field of intellectual disabilities not affiliated with a nursing care facility;

(i) one licensed architect or engineer with expertise in health care facilities;

(j) two representatives of assisted living facilities licensed under this chapter;

(k) two consumers, one of whom has an interest in or expertise in geriatric care; and

(l) one representative from either a home health care provider or a hospice provider.

(2) (a) Except as required by Subsection (2)(b), members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for



the unexpired term by the governor, giving consideration to recommendations made by the committee, with the consent of the Senate.

(d) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less. However, a member may continue to serve as a member until he is replaced.

(e) The committee shall annually elect from its membership a chair and vice chair.

(f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.

(g) Eight members constitute a quorum. A vote of the majority of the members present constitutes action of the committee.

(h) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 11. Section 26-33a-103 is amended to read:**

**26-33a-103. Committee membership -- Terms -- Chair -- Compensation.**

(1) The Health Data Committee created by Section 26-1-7 shall be composed of 15 members.

(2) (a) One member shall be:

(i) the commissioner of the Utah Insurance Department; or

(ii) the commissioner's designee who shall have knowledge regarding the health care system and characteristics and use of health data.

(b) Fourteen members shall be appointed by the governor with the consent of the Senate in accordance with Subsection (3) and in accordance with Title 63G, Chapter 24, Part 2, Vacancies. No more than seven members of the committee appointed by the governor may be members of the same political party.

(3) The members of the committee appointed under Subsection (2)(b) shall:

(a) be knowledgeable regarding the health care system and the characteristics and use of health data;

(b) be selected so that the committee at all times includes individuals who provide care;

(c) include one person employed by or otherwise associated with a general acute hospital as defined by Section 26-21-2, who is knowledgeable about the collection, analysis, and use of health care data;

(d) include two physicians, as defined in Section 58-67-102:

(i) who are licensed to practice in this state;

(ii) who actively practice medicine in this state;

(iii) who are trained in or have experience with the collection, analysis, and use of health care data; and

(iv) one of whom is selected by the Utah Medical Association;

(e) include three persons:

(i) who are:

(A) employed by or otherwise associated with a business that supplies health care insurance to its employees; and

(B) knowledgeable about the collection and use of health care data; and

(ii) at least one of whom represents an employer employing 50 or fewer employees;

(f) include three persons representing health insurers:

(i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(ii) at least one of whom is employed by or associated with a third party payer that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(iii) who are trained in, or experienced with the collection, analysis, and use of health care data;

(g) include two consumer representatives:

(i) from organized consumer or employee associations; and

(ii) knowledgeable about the collection and use of health care data;

(h) include one person:

(i) representative of a neutral, non-biased entity that can demonstrate that it has the broad support of health care payers and health care providers; and

(ii) who is knowledgeable about the collection, analysis, and use of health care data; and

(i) include two persons representing public health who are trained in, or experienced with the collection, use, and analysis of health care data.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Members may serve after their terms expire until replaced.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) Committee members shall annually elect a chair of the committee from among their membership. The chair shall report to the executive director.

(7) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working days notice to the other members, or upon written request by at least four committee members with at least 10 working days notice to other committee members.

(8) Eight committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-204, 52-4-205, and 52-4-206 are met.

(11) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 12. Section 31A-2-403 is amended to read:**

**31A-2-403. Title and Escrow Commission created.**

(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members who shall be, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appointed by the governor with the consent of the Senate as follows:

(i) except as provided in Subsection (1)(c), two members shall be employees of a title insurer;

(ii) two members shall:

(A) be employees of a Utah agency title insurance producer;

(B) be or have been licensed under the title insurance line of authority;

(C) as of the day on which the member is appointed, be or have been licensed with the title examination or escrow subline of authority for at least five years; and

(D) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(ii); and

(iii) one member shall be a member of the general public from any county in the state.

(b) No more than one commission member may be appointed from a single company or an affiliate or subsidiary of the company.

(c) If the governor is unable to identify more than one individual who is an employee of a title insurer and willing to serve as a member of the commission, the commission shall include the following members in lieu of the members described in Subsection (1)(a)(i):

(i) one member who is an employee of a title insurer; and

(ii) one member who is an employee of a Utah agency title insurance producer.

(2) (a) Subject to Subsection (2)(c), a commission member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest, and file with the commissioner a disclosure of any position of employment or ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.

(b) The disclosure statement required by this Subsection (2) shall be:

(i) filed by no later than the day on which the person begins that person's appointment; and

(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).

(c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is in a publicly traded company or held as part of a mutual fund, trust, or similar investment.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the members appointed under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are appointed every two years.

(c) A commission member may not serve more than one consecutive term.

(d) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the consent of the Senate.

(4) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Members of the commission shall annually select one commission member to serve as chair.

(6) (a) (i) Except as provided in Subsection (6)(b), the commission shall meet at least monthly.

(ii) (A) The commissioner shall, with the concurrence of the chair of the commission, designate at least one monthly meeting per quarter as an in-person meeting.

(B) Notwithstanding Section 52-4-207, a commission member shall physically attend a meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A) and may not attend through electronic means. A commission member may attend any other commission meeting, subcommittee meeting, or emergency meeting by electronic means in accordance with Section 52-4-207.

(b) (i) Except as provided in Subsection (6)(b)(ii), the commissioner may, with the concurrence of the chair of the commission, cancel a monthly meeting of the commission if, due to the number or nature of pending title insurance matters, the monthly meeting is not necessary.

(ii) The commissioner may not cancel a monthly meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A).

(c) The commissioner may call additional meetings:

(i) at the commissioner's discretion;

(ii) upon the request of the chair of the commission; or

(iii) upon the written request of three or more commission members.

(d) (i) Three commission members constitute a quorum for the transaction of business.

(ii) The action of a majority of the commission members when a quorum is present is the action of the commission.

(7) The commissioner shall staff the commission.

**Section 13. Section 32B-2-201 is amended to read:**

**32B-2-201. Alcoholic Beverage Control Commission created.**

(1) There is created the "Alcoholic Beverage Control Commission." The commission is the governing board over the department.

(2) (a) The commission is composed of seven part-time commissioners appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) No more than four commissioners may be of the same political party.

(3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the governor shall appoint each new commissioner or reappointed commissioner to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of no more than three commissioners expire in a fiscal year.

(4) (a) When a vacancy occurs on the commission for any reason, the governor shall appoint a replacement for the unexpired term with the consent of the Senate.

(b) Unless removed in accordance with Subsection (6), a commissioner shall remain on the commission after the expiration of a term until a successor is appointed by the governor, with the consent of the Senate.

(5) A commissioner shall take the oath of office.

(6) (a) The governor may remove a commissioner from the commission for cause, neglect of duty, inefficiency, or malfeasance after a public hearing conducted by:

(i) the governor; or

(ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

(b) At least 10 days before the hearing described in Subsection (6)(a), the governor shall provide the commissioner notice of:

(i) the date, time, and place of the hearing; and

(ii) the alleged grounds for the removal.

(c) The commissioner shall have an opportunity to:

(i) attend the hearing;

(ii) present witnesses and other evidence; and

(iii) confront and cross examine witnesses.

(d) After a hearing under this Subsection (6):

(i) the person conducting the hearing shall prepare written findings of fact and conclusions of law; and

(ii) the governor shall serve a copy of the prepared findings and conclusions upon the commissioner.

(e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing examiner shall issue a written recommendation to the governor in addition to complying with Subsection (6)(d).

(f) A commissioner has five days from the day on which the commissioner receives the findings and conclusions described in Subsection (6)(d) to file written objections to the recommendation before the governor issues a final order.

(g) The governor shall:

(i) issue the final order under this Subsection (6) in writing; and

(ii) serve the final order upon the commissioner.

(7) A commissioner may not receive compensation or benefits for the commissioner's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) The governor shall annually appoint the chair of the commission. A commissioner serves as chair to the commission at the pleasure of the governor. If removed as chair, the commissioner continues to serve as a commissioner unless removed as a commissioner under Subsection (6).

(b) The commission shall elect:

(i) another commissioner to serve as vice chair; and

(ii) other commission officers as the commission considers advisable.

(c) A commissioner elected under Subsection (8)(b) shall serve in the office to which the commissioner is elected at the pleasure of the commission.

(9) (a) Each commissioner has equal voting rights on a commission matter when in attendance at a commission meeting.

(b) Four commissioners is a quorum for conducting commission business.

(c) A majority vote of the quorum present at a meeting is required for the commission to act.

(d) A commissioner shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(10) (a) The commission shall meet at least monthly, but may hold other meetings at times and places as scheduled by:

(i) the commission;

(ii) the chair; or

(iii) three commissioners upon filing a written request for a meeting with the chair.

(b) Notice of the time and place of a commission meeting shall be given to each commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act. A commission meeting is open to the public, except for a commission meeting or portion of a commission meeting that is closed by the commission as authorized by Sections 52-4-204 and 52-4-205.

**Section 14. Section 34-20-3 is amended to read:**

**34-20-3. Labor relations board.**

(1) (a) There is created the Labor Relations Board consisting of the following:

(i) the commissioner of the Labor Commission;

(ii) two members who shall be, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appointed by the governor with the consent of the Senate consisting of:

(A) a representative of employers, in the appointment of whom the governor shall consider nominations from employer organizations; and

(B) a representative of employees, in the appointment of whom the governor shall consider nominations from employee organizations.

(b) (i) Except as provided in Subsection (1)(b)(ii), as terms of members appointed under Subsection (1)(a)(ii) expire, the governor shall appoint each new member or reappointed member to a four-year term.

(ii) Notwithstanding the requirements of Subsection (1)(b)(i), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members appointed under Subsection (1)(a)(ii) are staggered so one member is appointed every two years.

(c) The commissioner shall serve as chair of the board.

(d) A vacancy occurring on the board for any cause of the members appointed under Subsection (1)(a)(ii) shall be filled by the governor with the consent of the Senate pursuant to this section for the unexpired term of the vacating member.

(e) The governor may at any time remove a member appointed under Subsection (1)(a)(ii) but only for inefficiency, neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

(f) A member of the board appointed under Subsection (1)(a)(ii) may not hold any other office in the government of the United States, this state or any other state, or of any county government or municipal corporation within a state.

(g) A member appointed under Subsection (1)(a)(ii) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) A meeting of the board may be called:

(a) by the chair; or

(b) jointly by the members appointed under Subsection (1)(a)(ii).

(3) The chair may provide staff and administrative support as necessary from the Labor Commission.

(4) A vacancy in the board does not impair the right of the remaining members to exercise all the powers of the board, and two members of the board shall at all times constitute a quorum.

(5) The board shall have an official seal which shall be judicially noticed.

(6) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 15. Section 35A-8-304 is amended to read:**

**35A-8-304. Permanent Community Impact Fund Board created -- Members -- Terms -- Chair -- Expenses.**

(1) There is created within the department the Permanent Community Impact Fund Board composed of 11 members as follows:

(a) the chair of the Board of Water Resources or the chair's designee;

(b) the chair of the Water Quality Board or the chair's designee;

(c) the director of the department or the director's designee;

(d) the state treasurer;

(e) the chair of the Transportation Commission or the chair's designee;

(f) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;

(g) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;

(h) a locally elected official who resides in Duchesne, Daggett, or Uintah County;

(i) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County; and

(j) a locally elected official from each of the two counties that produced the most mineral lease money during the previous four-year period, prior to the term of appointment, as determined by the department.

(2) (a) The members specified under Subsections (1)(f) through (j) may not reside in the same county and shall be:

(i) nominated by the Board of Directors of the Southeastern Association of Local Governments, the Six County Association of Governments, the Uintah Basin Association of Governments, and the Five County Association of Governments, respectively, except that a member under Subsection (1)(j) shall be nominated by the Board of Directors of the Association of Governments from the region of the state in which the county is located; and

(ii) appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Except as required by Subsection (2)(c), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) The terms of office for the members of the impact board specified under Subsections (1)(a) through (1)(e) shall run concurrently with the terms of office for the councils, boards, committees, commission, departments, or offices from which the members come.

(4) The executive director of the department, or the executive director's designee, is the chair of the impact board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) A member described in Subsections (1)(f) through (j) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 16. Section 35A-8-2103 is amended to read:**

**35A-8-2103. Private Activity Bond Review Board.**

(1) There is created within the department the Private Activity Bond Review Board, composed of the following 11 members:

(a) (i) the executive director of the department or the executive director's designee;

(ii) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(iii) the state treasurer or the state treasurer's designee;

(iv) the chair of the Board of Regents or the chair's designee; and

(v) the chair of the Utah Housing Corporation or the chair's designee; and

(b) six local government members who are:

(i) three elected or appointed county officials, nominated by the Utah Association of Counties and appointed by the governor with the consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed by the governor with the consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), the terms of office for the local government members of the board of review shall be four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board of review members are staggered so that approximately half of the board of review is appointed every two years.

(c) Members may be reappointed only once.

(3) (a) If a local government member ceases to be an elected or appointed official of the city or county the member is appointed to represent, that membership on the board of review terminates immediately and there shall be a vacancy in the membership.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed within 30 days in the manner of the regular appointment for the unexpired term.

(4) (a) The chair of the board of review is the executive director of the department or the executive director's designee.

(b) The chair is nonvoting except in the case of a tie vote.

(5) Six members of the board of review constitute a quorum.

(6) Formal action by the board of review requires a majority vote of a quorum.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The chair of the board of review serves as the state official designated under state law to make certifications required to be made under Section 146 of the code including the certification required by Section 149(e)(2)(F) of the code.

(9) A member appointed to fill a position described in Subsection (1)(b) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 17. Section 40-6-4 is amended to read:**

**40-6-4. Board of Oil, Gas, and Mining created -- Functions -- Appointment of members -- Terms -- Chair -- Quorum -- Expenses.**

(1) (a) There is created within the Department of Natural Resources the Board of Oil, Gas, and Mining.

(b) The board shall be the policy making body for the Division of Oil, Gas, and Mining.

(2) (a) The board shall consist of seven members appointed by the governor with the consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) No more than four members shall be from the same political party.

(c) In accordance with the requirements of Section 79-2-203, the members appointed under Subsection (2)(a) shall include the following:

(i) two members who are knowledgeable in mining matters;

(ii) two members who are knowledgeable in oil and gas matters;

(iii) one member who is knowledgeable in ecological and environmental matters;

(iv) one member who:

(A) is a private land owner;

(B) owns a mineral or royalty interest; and

(C) is knowledgeable in mineral or royalty interests; and

(v) one member who is knowledgeable in geological matters.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the consent of the Senate.

(b) The person appointed shall have the same qualifications as the person's predecessor.

(5) (a) The board shall appoint its chair from the membership.

(b) Four members of the board shall constitute a quorum for the transaction of business and the holding of hearings.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 18. Section 51-7-16 is amended to read:**

**51-7-16. State Money Management Council -- Members -- Terms -- Vacancies -- Chair and vice chair-- Executive secretary -- Meetings -- Quorum -- Members' disclosure of interests -- Per diem and expenses.**

(1) (a) There is created a State Money Management Council composed of five members appointed by the governor after consultation with the state treasurer and with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) The members of the council shall be qualified by training and experience in the field of investment or finance as follows:

(i) at least one member, but not more than two members, shall be experienced in the banking business;

(ii) at least one member, but not more than two members, shall be an elected treasurer;

(iii) at least one member, but not more than two members, shall be an appointed public treasurer; and

(iv) two members, but not more than two members, shall be experienced in the field of investment.

(c) No more than three members of the council may be from the same political party.

(2) (a) Except as required by Subsection (2)(b), the council members shall be appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) All members shall serve until their successors are appointed and qualified.

(3) (a) The council members shall elect a chair and vice chair.

(b) The state treasurer shall serve as executive secretary of the council without vote.

(4) (a) The council shall meet at least once per quarter at a regular date to be fixed by the council and at other times at the call of the chair, the state treasurer, or any two members of the council.

(b) Three members are a quorum for the transaction of business.

(c) Actions of the council require a vote of a majority of those present.

(d) All meetings of the council and records of its proceedings are open for inspection by the public at the state treasurer's office during regular business hours except for:

(i) reports of the commissioner of financial institutions concerning the identity, liquidity, or financial condition of qualified depositories and the amount of public funds each is eligible to hold; and

(ii) reports of the director concerning the identity, liquidity, or financial condition of certified dealers.

(5) (a) Each member of the council shall file a sworn or written statement with the lieutenant governor that discloses any position or employment or ownership interest that he has in any financial institution or investment organization.

(b) Each member shall file the statement required by this Subsection (5) when he becomes a member of the council and when substantial changes in his position, employment, or ownership interests occur.

(c) Each member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 19. Section 53B-1-104 is amended to read:**

**53B-1-104. Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation.**

(1) Except as provided in Subsection (1)(c) or (2), the board consists of 17 residents of the state appointed by the governor with the consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, as follows:

(a) eight at-large members;

(b) eight members, each of whom is:

(i) selected from three nominees presented to the governor by a higher education institution board of trustees; and

(ii) a current or former member of the institution of higher education board of trustees that nominates the member; and

(c) one member, selected from three nominees presented to the governor by the student body presidents of the institutions of higher education, but not subject to the public comment process described in Section 63G-24-204, who:

(i) is a fully matriculated student enrolled in an institution of higher education; and

(ii) is not serving as a student body president at the time of the nomination.

(2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve on the board, even if the individual does not fulfill a requirement for the composition of the board described in Subsection (1).

(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the member's term expires.

(b) An individual appointed to the board on or before May 8, 2017, who is a current or former member of an institution of higher education board of trustees is the board member for the institution of higher education described in Subsection (1)(b).

(c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).

(ii) In appointing a new member to the board, the governor shall first appoint a member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.

(3) (a) All appointments to the board shall be made on a nonpartisan basis.

(b) In making appointments to the board, the governor shall consider:

- (i) geographic representation of members;
- (ii) diversity;
- (iii) experience in higher education governance;
- (iv) experience in economic development; and
- (v) exposure to institutions of higher education.

(c) An individual may not serve simultaneously on the State Board of Regents and an institution of higher education board of trustees.

(4) (a) Except as provided in Subsection (4)(b), members of the board shall be appointed to six-year staggered terms, which begin on July 1 of the year of appointment.

(b) A student member described in Subsection (1)(c) shall be appointed to a one-year term.

(c) (i) The governor may remove a member of the board for cause.

(ii) The governor shall consult with the president of the Senate before removing a member of the board.

(5) (a) A member of the board shall take the official oath of office before entering upon the duties of office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) The board shall elect a chair and vice chair from among the board's members who shall serve

terms of two years and until their successors are chosen and qualified.

(7) (a) The board shall appoint a secretary from the staff of the board's chief executive to serve at the board's discretion.

(b) The secretary is a full-time employee who receives a salary set by the board.

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

(8) (a) The board may establish advisory committees.

(b) The powers and authority of the board are nondelegable, except as specifically provided for in this title.

(c) All matters requiring board determination shall be addressed in a properly convened meeting of the board or the board's executive committee.

(9) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.

(10) (a) The board shall meet regularly upon the board's own determination.

(b) The board may also meet, in full or executive session, at the request of the chair, the executive officer, or five members of the board.

(11) A quorum of the voting members of the board is required to conduct the board's business and consists of nine members.

(12) (a) A vacancy in the board occurring before the expiration of a voting member's full term shall be immediately filled by appointment by the governor with the consent of the Senate.

(b) An individual appointed under Subsection (12)(a) serves for the remainder of the unexpired term.

(13) A board member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(14) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 20. Section 53B-2-104 is amended to read:**

**53B-2-104. Institution of higher education board of trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.**

(1) (a) Except as provided in Subsection (10), the board of trustees of an institution of higher education consists of the following:



(i) except as provided in Subsection (1)(c), eight individuals appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake Community College shall be representative of the interests of business, industry, and labor.

(c) (i) The board of trustees of Utah State University has nine individuals appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(ii) One of the nine individuals described in Subsection (1)(c)(i) shall reside in the Utah State University Eastern service region or the Utah State University Blanding service region.

(2) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) Except as provided in Subsection (2)(d), a member appointed under Subsection (1)(a)(i) or (1)(c)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(d) (i) The governor may remove a member appointed under Subsection (1)(a)(i) or (1)(c)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (1)(a)(i) or (1)(c)(i).

(3) When a vacancy occurs in the membership of a board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(5) A board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(6) (a) A board of trustees may enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) A board of trustees may provide for an executive committee in the board of trustees' bylaws.

(ii) If established, an executive committee shall have full authority of the board of trustees to act

upon routine matters during the interim between board of trustees meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the action.

(c) Copies of a board of trustees' bylaws shall be filed with the board.

(7) A quorum is required to conduct business and consists of six members.

(8) A board of trustees may establish advisory committees.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) This section does not apply to a technical college board of directors described in Section 53B-2a-108.

(11) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 21. Section 53B-2a-103 is amended to read:**

**53B-2a-103. UTech Board of Trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.**

(1) There is created the UTech Board of Trustees.

(2) (a) Beginning on July 1, 2019, the board of trustees is composed of 15 members appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, as follows:

(i) one member selected from at least two nominees presented to the governor by the board of directors of each technical college, for a total of eight members; and

(ii) one member who is employed in and represents each of the following sectors:

(A) information technology;

(B) manufacturing;

(C) life sciences;

(D) health care;

(E) transportation;

(F) union craft, trade, or apprenticeship; and

(G) non-union craft, trade, or apprenticeship.

(b) The seven members described in Subsection (2)(a)(ii) shall be selected from the state at large, subject to the following conditions:

(i) at least four members shall reside in a geographic area served by a technical college; and

(ii) no more than two members may reside in a single geographic area served by a technical college.

(c) The governor shall make appointments to the board of trustees on a nonpartisan basis.

(d) An individual may not serve on the board of trustees and a technical college board of directors simultaneously.

(3) (a) (i) Except as provided under Subsection (3)(a)(ii), a member shall be appointed commencing on July 1 of each odd-numbered year to a four-year term.

(ii) The governor shall ensure that member terms are staggered so that approximately one-half of the members' terms expire in any odd-numbered year.

(b) A member may not hold office for more than two consecutive full terms.

(c) (i) The governor may remove a member of the board of trustees for cause.

(ii) The governor shall consult with the president of the Senate before removing a member of the board of trustees.

(4) When a vacancy occurs on the board of trustees for any reason, the governor shall appoint a replacement for the unexpired term.

(5) (a) Each member shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) (a) The board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(b) A member may not serve more than two consecutive terms as the chair or vice chair.

(7) (a) The board of trustees shall enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) The board of trustees shall provide for an executive committee in the board of trustees' bylaws.

(ii) The executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) The executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) The executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the executive committee's activities.

(8) A quorum shall be required to conduct business which shall consist of a majority of board of trustee members.

(9) The board of trustees may establish advisory committees.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 22. Section 53B-2a-108 is amended to read:**

**53B-2a-108. Technical college boards of directors -- Membership -- Appointments.**

(1) As used in this section:

(a) "Higher education institution" means the same as that term is defined in Section 53B-2a-112.

(b) "Technical college service area" means the geographic area served by each technical college as described in Section 53B-2a-105.

(2) A technical college board of directors consists of:

(a) one member of the local school board for each school district in the technical college service area, appointed by the local school board to which the member belongs;

(b) except as provided in Subsection (3)(b), one individual who is a member of the higher education institution board of trustees, appointed by the higher education institution board of trustees; and

(c) a number of individuals, appointed by the governor with the consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies, that is:

(i) seven for:

(A) Tooele Technical College;

(B) Uintah Basin Technical College; and

(C) Dixie Technical College;

(ii) eight for:

(A) Bridgerland Technical College;

(B) Ogden-Weber Technical College;

(C) Davis Technical College; and

(D) Southwest Technical College; or

(iii) nine for Mountainland Technical College.

(3) (a) In appointing the members described in Subsection (2)(c), the governor shall appoint individuals who represent the interests of business,

industry, or labor in the technical college service area.

(b) If no member of the institution of higher education board of trustees lives within the technical college service area, the institution of higher education board of trustees may nominate an individual to be appointed by the governor with the consent of the Senate instead of appointing a member described in Subsection (2)(b).

(4) (a) The governor may remove a member appointed under Subsection (2)(c) or (3)(b) for cause.

(b) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (2)(c) or (3)(b).

(5) (a) Notwithstanding Subsection (2) or 53B-2a-109(2), an individual appointed to a technical college board of directors on or before May 7, 2018, may continue to serve on the technical college board of directors until the end of the individual's current term, even if the total number of members on the technical college board of directors exceeds the number of members for the technical college board of directors described in Subsection (2).

(b) Notwithstanding Subsection (2), the governor may only make an appointment described in Subsection (2)(c) if the number of members on the technical college board of directors following the appointment will be less than or equal to the number of members for the technical college board of directors described in Subsection (2).

(6) A member described in Subsection (2)(c) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 23. Section 53C-1-202 is amended to read:**

**53C-1-202. Board of trustees membership -- Nomination list -- Qualifications -- Terms -- Replacement -- Chair -- Quorum.**

(1) There is established the School and Institutional Trust Lands Board of Trustees.

(2) The board shall consist of seven members appointed on a nonpartisan basis by the governor with the consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(3) (a) Except for the appointment made pursuant to Subsection (5), all appointments to the board shall be for a nonconsecutive term of six years, or until a replacement has been appointed and confirmed pursuant to this section.

(b) If a vacancy occurs, the governor shall appoint a replacement, following the procedures set forth in Subsections (2), (4), (5), and (6), to fill the unexpired term.

(c) Any member of the board who has served less than six years upon the expiration of that member's term is eligible for a consecutive reappointment.

(4) (a) The governor shall select six of the seven appointees to the board from a nomination list of at least two candidates for each position or vacancy submitted pursuant to Section 53C-1-203.

(b) The governor may request an additional nomination list of at least two candidates from the nominating committee if the initial list of candidates for a given position is unacceptable.

(c) (i) If the governor fails to select an appointee within 60 days after receipt of the initial list or within 60 days after the receipt of an additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim appointee shall serve until the matter is resolved by the committee and the governor or until replaced pursuant to this chapter.

(5) (a) The governor may appoint one member without requiring a nomination list.

(b) The member appointed under Subsection (5)(a) serves at the pleasure of the governor.

(6) (a) Each board candidate shall possess outstanding professional qualifications pertinent to the purposes and activities of the trust.

(b) The board shall represent the following areas of expertise:

(i) nonrenewable resource management or development;

(ii) renewable resource management or development; and

(iii) real estate.

(c) Other qualifications which are pertinent for membership to the board are expertise in any of the following areas:

(i) business;

(ii) investment banking;

(iii) finance;

(iv) trust administration;

(v) asset management; and

(vi) the practice of law in any of the areas referred to in Subsections (6)(b) and (6)(c)(i) through (v).

(7) The board of trustees shall select a chair and vice chair from its membership.

(8) Before assuming a position on the board, each member shall take an oath of office.

(9) Four members of the board constitute a quorum for the transaction of business.

(10) The governor or five board members may, for cause, remove a member of the board.

(11) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 24. Section 54-1-1.5 is amended to read:**

**54-1-1.5. Appointment of members -- Terms -- Qualifications -- Chairman -- Quorum -- Removal -- Vacancies -- Compensation.**

The commission shall be composed of three members appointed by the governor with the consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies. The terms of the members shall be staggered so that one commissioner is appointed for a term of six years on March 1 of each odd-numbered year. Not more than two members of the commission shall belong to the same political party. One member of the commission shall be designated by the governor as chairman of the commission. Any two commissioners constitute a quorum. Any member of the commission may be removed for cause by the governor. Vacancies in the commission shall be filled for unexpired terms by appointment of the governor. Commissioners shall receive compensation as established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, and all actual and necessary expenses incurred in attending to official business. Each commissioner at the time of appointment and qualification shall be a resident citizen of the United States and of the state of Utah and shall be not less than 30 years of age. Except as provided by law, no commissioner may hold any other office either under the government of the United States or of this state or of any municipal corporation within this state. A commissioner shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 25. Section 59-1-201 is amended to read:**

**59-1-201. Composition of commission -- Terms -- Removal from office -- Appointment.**

(1) The commission shall be composed of four members appointed by the governor with the consent of the Senate, and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) Subject to Subsection (3), the term of office of each commissioner shall be for four years and expire on June 30 of the year the term ends.

(3) The governor shall stagger a term described in Subsection (2) so that the term of one commissioner expires each year.

(4) A commissioner shall hold office until a successor is appointed and qualified.

(5) (a) The governor may remove a commissioner from office for neglect of duty, inefficiency, or malfeasance, after notice and a hearing.

(b) If the governor removes a commissioner from office and appoints another person to replace the commissioner, the person the governor appoints to replace the commissioner:

(i) shall serve for the remainder of the unexpired term; and

(ii) may be reappointed as the governor determines.

(6) (a) Before appointing a commissioner, the governor shall request a list of names of potential appointees from:

(i) the Utah State Bar;

(ii) one or more organizations that represent certified public accountants who are licensed to practice in the state;

(iii) one or more organizations that represent persons who assess or appraise property in the state; and

(iv) one or more national organizations that:

(A) offer a professional certification in the areas of property tax, sales and use tax, and state income tax;

(B) require experience, education, and testing to obtain the certification; and

(C) require additional education to maintain the certification.

(b) In appointing a commissioner, the governor shall consider:

(i) to the extent names of potential appointees are submitted, the names of potential appointees submitted in accordance with Subsection (6)(a); and

(ii) any other potential appointee of the governor's own choosing.

**Section 26. Section 59-1-203 is amended to read:**

**59-1-203. Conflicts of interest -- Salaries -- Ethics.**

(1) No person appointed as a member of the commission may hold any other office under the laws of this state, the government of the United States, or any other state. Each member shall devote full time to the duties of the office and may not hold any other position of trust or profit under the Constitution nor engage in any other occupation that would create a direct conflict with the duties of a commissioner.

(2) The salaries of the commissioners shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation. Commissioners shall also be allowed expenses as provided by law.

(3) No commissioner, executive director, or consultant shall engage in political or charitable fund raising activities. Commissioners and commission employees are governed by Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) A commissioner shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 27. Section 59-13-103 is amended to read:**

**59-13-103. List of clean fuels provided to tax commission -- Report to the Legislature.**

(1) The Air Quality Board shall annually provide to the tax commission a list of fuels that are clean fuels under Section 59-13-102.

(2) The Air Quality Board [created] appointed under Section 19-2-103 shall in conjunction with the State Tax Commission prepare and submit to the Legislature before January 1, 1995, a report evaluating the impacts, benefits, and economic consequences of the clean fuel provisions of Sections 59-13-201 and 59-13-301.

**Section 28. Section 61-2f-103 is amended to read:**

**61-2f-103. Real Estate Commission.**

(1) There is created within the division a Real Estate Commission. The commission shall:

(a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

- (i) licensing of:
  - (A) a principal broker;
  - (B) an associate broker; and
  - (C) a sales agent;
- (ii) registration of:
  - (A) an entity; and
  - (B) a branch office;
- (iii) prelicensing and postlicensing education curricula;
- (iv) examination procedures;
- (v) the certification and conduct of:
  - (A) a real estate school;
  - (B) a course provider; or
  - (C) an instructor;
- (vi) proper handling of money received by a licensee under this chapter;
- (vii) brokerage office procedures and recordkeeping requirements;
- (viii) property management;
- (ix) standards of conduct for a licensee under this chapter; and
- (x) if the commission, with the concurrence of the division, determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;
- (b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee

imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

- (i) licensing of an applicant;
- (ii) conduct of a licensee;
- (iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or
- (iv) violation of this chapter by any person;
- (d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(2) (a) Except as provided in Subsection (2)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (2)(a) does not apply to a rule made:

- (i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or
- (ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

(3) (a) The commission shall be comprised of five members appointed by the governor and approved by the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Four of the commission members shall:

- (i) have at least five years' experience in the real estate business; and
- (ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection (3)(b) who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection (3)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

(4) (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

(5) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

(8) Three members of the commission constitute a quorum for the transaction of business.

(9) A member of the commission shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 29. Section 61-2g-204 is amended to read:**

**61-2g-204. Real Estate Appraiser Licensing and Certification Board.**

(1) (a) There is established a Real Estate Appraiser Licensing and Certification Board that consists of five regular members as follows:

(i) one state-licensed or state-certified appraiser who may be either a residential or general licensee or certificate holder;

(ii) one state-certified residential appraiser;

(iii) one state-certified general appraiser;

(iv) one member who is certified as either a state-certified residential appraiser or a state-certified general appraiser; and

(v) one member of the general public.

(b) A state-licensed or state-certified appraiser may be appointed as an alternate member of the board.

(c) The governor shall appoint all members of the board with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term beginning on July 1.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Upon the expiration of a member's term, a member of the board shall continue to hold office until the appointment and qualification of the member's successor.

(d) A person may not serve as a member of the board for more than two consecutive terms.

(3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) The governor may remove a member for cause.

(4) The public member of the board may not be licensed or certified under this chapter.

(5) The board shall meet at least quarterly to conduct its business. The division shall give public notice of a board meeting.

(6) The members of the board shall elect a chair annually from among the members to preside at board meetings.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) Three members of the board shall constitute a quorum for the transaction of business.

(b) If a quorum of members is unavailable for any meeting, the alternate member of the board, if any, shall serve as a regular member of the board for that meeting if with the presence of the alternate member a quorum is present at the meeting.

(c) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 30. Section 62A-1-107 is amended to read:**

**62A-1-107. Board of Aging and Adult Services -- Members, appointment, terms,**

**vacancies, chairperson, compensation, meetings, quorum.**

(1) The Board of Aging and Adult Services described in Subsection 62A-1-105(1)(a) shall have seven members who are appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) No more than four members of the board may be from the same political party. The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to the Board of Aging and Adult Services.

(4) The board shall annually elect a chairperson from the board's membership. The board shall hold meetings at least once every three months. Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of the board. Four members of the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall adopt bylaws governing its activities. Bylaws shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of the board member's appointment.

(7) The board has program policymaking authority for the division over which the board presides.

(8) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 31. Section 63G-2-501 is amended to read:****63G-2-501. State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.**

(1) There is created the State Records Committee within the Department of Administrative Services consisting of the following seven individuals:

(a) an individual in the private sector whose profession requires the individual to create or manage records that, if created by a governmental entity, would be private or controlled;

(b) an individual with experience with electronic records and databases, as recommended by a statewide technology advocacy organization that represents the public, private, and nonprofit sectors;

(c) the director of the Division of Archives and Records Services or the director's designee;

(d) two citizen members;

(e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and

(f) one individual representing the news media.

(2) The governor shall appoint the members described in Subsections (1)(a), (b), (d), (e), and (f) with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(3) (a) Except as provided in Subsection (3)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member of the State Records Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) A member described in Subsection (1)(a), (b), (d), (e), or (f) shall comply with the conflict of interest provisions described in Chapter 24, Part 3, Conflicts of Interest.

**Section 32. Section 63G-24-101 is enacted to read:**

**CHAPTER 24. BOARD VACANCIES AND CONFLICTS ACT**

**Part 1. General Provisions**

**63G-24-101. Title.**

This chapter is known as the “Board Vacancies and Conflicts Act.”

**Section 33. Section 63G-24-102 is enacted to read:**

**63G-24-102. Definitions.**

As used in this chapter:

(1) “Affiliation” means association with an entity, including association in the form of employment, ownership, shareholdership, or financial interest.

(2) “Agency” means the same as that term is defined in Section 63G-4-103.

(3) “Appointed board member” means an individual appointed by the governor, with the consent of the Senate, to serve on a rulemaking board.

(4) “Nominee” means a person selected by the governor to fill a rulemaking board vacancy subject to the consent of the Senate.

(5) (a) “Rulemaking board” means a board, committee, commission, or council:

(i) that has rulemaking authority; and

(ii) at least part of whose membership is appointed by the governor subject to the consent of the Senate.

(b) “Rulemaking board” does not include:

(i) the State Board of Education; or

(ii) the Utah Retirement Board.

(6) “Substantial interest” means the same as that term is defined in Section 67-16-3.

**Section 34. Section 63G-24-103 is enacted to read:**

**63G-24-103. Requirement to follow this chapter.**

(1) An applicant, a rulemaking board, and the governor’s office shall follow the procedures for vacancies described in this chapter in order to fill a vacancy on a rulemaking board.

(2) An appointed board member shall follow the procedures for conflicts of interest described in this chapter.

**Section 35. Section 63G-24-201 is enacted to read:**

**Part 2. Vacancies**

**63G-24-201. Notice.**

(1) A rulemaking board shall give public notice regarding a vacancy or expiring term on the rulemaking board on or before:

(a) 90 days before the day on which a departing appointed board member’s or a continuing board member’s term expires; or

(b) 10 days after the day on which the rulemaking board chair or vice chair receives written notice of a current appointed board member’s intent to leave the board.

(2) (a) The governor’s office shall post the notice described in Subsection (1) on the governor’s website described in Subsection 67-1-2.5(4).

(b) A rulemaking board may post the notice described in Subsection (1) on the rulemaking board’s website.

**Section 36. Section 63G-24-202 is enacted to read:**

**63G-24-202. Application.**

(1) The application period for an appointed board member position shall last no fewer than 60 days.

(2) An applicant shall use the application feature on the governor’s website described in Subsection 67-1-2.5(4) to apply for a vacant appointed board member position.

(3) The application feature described in Subsection (2) shall require the applicant to provide information including:

(a) the applicant’s name;

(b) the applicant’s current employment; and

(c) the applicant’s affiliation with public and private entities, including employment, in the five years on or before the day on which the applicant submits the application.

**Section 37. Section 63G-24-203 is enacted to read:**

**63G-24-203. Governor selection of nominee.**

(1) The governor shall select a nominee based on:

(a) the applicant’s fitness for office; and

(b) statutory requirements.

(2) The governor shall follow the process described in Section 67-1-2 to notify the Senate of a nominee for an appointed board member vacancy.

**Section 38. Section 63G-24-204 is enacted to read:**

**63G-24-204. Public comment on nominee.**

(1) Within seven days after the day on which the governor selects a nominee, the governor’s office shall post the information about the nominee described in Subsection 63G-24-202(3) on the governor’s website described in Subsection 67-1-2.5(4).

(2) A rulemaking board may post the information about the nominee described in Subsection 63G-24-202(3) on the rulemaking board’s website.

(3) Before posting the information described in Subsection 63G-24-202(3), the governor’s office and the rulemaking board shall redact personal information about the nominee, including the



nominee's home address, date of birth, email address, and phone number.

(4) The governor's website described in Subsection 67-1-2.5(4) shall include information on how to publicly comment on a nominee no fewer than seven days before the first day on which the governor's office will accept applications for a position.

(5) The governor's office shall permit public comment for no fewer than 30 days after the day on which the governor's office posts the information about the nominee.

**Section 39. Section 63G-24-205 is enacted to read:**

**63G-24-205. Senate confirmation of nominee.**

The Senate shall follow the process described in Section 67-1-2 to confirm a nominee to fill an appointed board member vacancy.

**Section 40. Section 63G-24-301 is enacted to read:**

**Part 3. Conflicts of Interest**

**63G-24-301. Disclosure of conflicts.**

(1) An appointed board member shall disclose the nature of any position or financial interest the appointed board member holds in any business entity that is subject to the regulation of the agency, including if the relationship of the appointed board member to the business entity is that of:

- (a) an officer;
- (b) a director;
- (c) an agent;
- (d) an employee; or
- (e) an owner of a substantial interest.

(2) Within 10 days after the day on which an appointed board member is appointed to serve on a rulemaking board, the appointed board member shall make the disclosure described in Subsection (1) in writing to the rulemaking board.

(3) An appointed board member shall, if there are changes to items the appointed board member is required to disclose under Subsection (1), update the disclosure before voting on a measure the rulemaking board takes with respect to a business entity described in Subsection (1).

**Section 41. Section 63G-24-302 is enacted to read:**

**63G-24-302. Effect on voting.**

Disclosure under Section 63G-24-201 does not require an appointed board member to abstain from voting unless the appointed board member holds a substantial interest in a business entity that the vote will impact.

**Section 42. Section 63H-6-104 is amended to read:**

**63H-6-104. Board of directors -- Membership -- Term -- Quorum -- Vacancies -- Duties.**

(1) The corporation is governed by a board of directors.

(2) The board is composed of members as follows:

(a) the director of the Division of Facilities Construction and Management or the director's designee;

(b) the commissioner of agriculture and food or the commissioner's designee;

(c) two members, appointed by the president of the Senate:

(i) who have business related experience; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(d) two members, appointed by the speaker of the House:

(i) who have business related experience; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(e) five members, of whom only one may be a legislator, in accordance with Subsection (3)(e), appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies as follows:

(i) two members who represent agricultural interests;

(ii) two members who have business related experience; and

(iii) one member who is recommended by the Utah Farm Bureau Federation;

(f) one member, appointed by the mayor of Salt Lake City with the consent of the Senate, who is a resident of the neighborhood located adjacent to the state fair park;

(g) a representative of Salt Lake County, if Salt Lake County is party to an executed lease agreement with the corporation; and

(h) a representative of the Days of '47 Rodeo.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(c), (d), (e), or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.

(ii) In making appointments to the board, the president of the Senate, the speaker of the House, the governor, and the mayor of Salt Lake City shall ensure that the terms of approximately 1/4 of the appointed board members expire each year.

(b) Except as provided in Subsection (3)(c), appointed board members serve until their successors are appointed and qualified.

(c) (i) If an appointed board member is absent from three consecutive board meetings without

excuse, that member's appointment is terminated, the position is vacant, and the individual who appointed the board member shall appoint a replacement.

(ii) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as applicable, may remove an appointed member of the board at will.

(d) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as appropriate, shall fill any vacancy that occurs on the board for any reason by appointing an individual in accordance with the procedures described in this section for the unexpired term of the vacated member.

(e) No more than a combined total of two legislators may be appointed under Subsections (2)(c), (d), and (e).

(4) The governor shall select the board's chair.

(5) A majority of the members of the board is a quorum for the transaction of business.

(6) The board may elect a vice chair and any other board offices.

(7) The board may create one or more subcommittees to advise the board on any issue related to the state fair park.

(8) In carrying out the board's duties under this chapter, the board shall cooperate with and, upon request, appear before the State Fair Park Committee.

(9) No later than November 30 of each year, the board shall provide the following to the State Fair Park Committee:

(a) a report on the general state of the financial and business affairs of the corporation;

(b) a report on that year's annual exhibition described in Subsection 63H-6-103(4)(j), including the exhibition's attendance, operations, and revenue;

(c) any appropriation request that the board plans to submit to the Legislature; and

(d) any other report that the State Fair Park Committee requests.

(10) A member described in Subsection (2)(e) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 43. Section 63H-8-201 is amended to read:**

**63H-8-201. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses.**

(1) (a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."

(b) The corporation may also be known and do business as the:

(i) Utah Housing Finance Association; and

(ii) Utah Housing Finance Agency in connection with a contract entered into when that was the corporation's legal name.

(c) No other entity may use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The corporation is governed by a board of trustees composed of the following nine trustees:

(a) the executive director of the Department of Workforce Services or the executive director's designee;

(b) the commissioner of the Department of Financial Institutions or the commissioner's designee;

(c) the state treasurer or the treasurer's designee; and

(d) six public trustees, who are private citizens of the state, as follows:

(i) two people who represent the mortgage lending industry;

(ii) two people who represent the home building and real estate industry; and

(iii) two people who represent the public at large.

(3) The governor shall:

(a) appoint the six public trustees of the corporation with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(b) ensure that:

(i) the six public trustees are from different counties and are residents of the state; and

(ii) not more than three of the public trustees are members of the same political party.

(4) (a) Except as required by Subsection (4)(b), the governor shall appoint the six public trustees to terms of office of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.

(5) (a) A public trustee of the corporation may be removed from office for cause either by the governor or by an affirmative vote of six trustees of the corporation.

(b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(c) A public trustee shall hold office for the term of appointment and until the trustee's successor has been appointed and qualified.

(d) A public trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6) (a) The governor shall select the chair of the corporation.

(b) The trustees shall elect from among their number a vice chair and other officers they may determine.

(7) (a) Five trustees of the corporation constitute a quorum for transaction of business.

(b) An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.

(c) A vacancy in the board of trustees does not impair the right of a quorum to exercise all rights and perform all duties of the corporation.

(8) A trustee may not receive compensation or benefits for the trustee's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(9) A trustee described in Subsection (2)(d) shall comply with the conflict of interest provisions described in Section 63G-24-301.

**Section 44. Section 63M-2-301 is amended to read:**

**63M-2-301. The Utah Science Technology and Research Initiative -- Governing authority -- Program director.**

(1) There is created the Utah Science Technology and Research Initiative.

(2) Subject to Subsection (10), to oversee USTAR, there is created the Utah Science Technology and Research Governing Authority consisting of:

(a) the state treasurer or the state treasurer's designee;

(b) the executive director of the Governor's Office of Economic Development;

(c) three members appointed by the governor, with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies;

(d) two members who are not legislators appointed by the president of the Senate;

(e) two members who are not legislators appointed by the speaker of the House of Representatives; and

(f) one member appointed by the commissioner of higher education.

(3) (a) The eight appointed members under Subsections (2)(c) through (f) shall serve four-year staggered terms.

(b) An appointed member under Subsection (2)(c), (d), (e), or (f):

(i) may not serve more than two full consecutive terms; and

(ii) may be removed from the governing authority for any reason before the member's term is completed:

(A) at the discretion of the original appointing authority; and

(B) after the original appointing authority consults with the governing authority.

(4) A vacancy on the governing authority in an appointed position under Subsection (2)(c), (d), (e), or (f) shall be filled for the unexpired term by the appointing authority in the same manner as the original appointment.

(5) (a) Except as provided in Subsection (5)(b), the governor, with the consent of the Senate, shall select the chair of the governing authority to serve a one-year term.

(b) The governor may extend the term of a sitting chair of the governing authority without the consent of the Senate.

(c) The executive director of the Governor's Office of Economic Development shall serve as the vice chair of the governing authority.

(6) The governing authority shall meet at least six times each year and may meet more frequently at the request of a majority of the members of the governing authority.

(7) Five members of the governing authority are a quorum.

(8) A member of the governing authority may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance:

(i) pursuant to Sections 63A-3-106 and 63A-3-107; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) The governor, with the consent of the Senate, may appoint a program director to oversee USTAR.

(b) The program director is an at-will employee who may be terminated with or without cause by the governor or the executive director of the Governor's Office of Economic Development.

(10) On July 1, 2019, the governing authority is dissolved and the program director is under the supervision of the executive director of the Governor's Office of Economic Development.

**Section 45. Section 63M-7-504 is amended to read:**

**63M-7-504. Crime Victim Reparations and Assistance Board -- Members.**

(1) (a) A Crime Victim Reparations and Assistance Board is created, consisting of seven members appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) The membership of the board shall consist of:

- (i) a member of the bar of this state;
- (ii) a victim of criminally injurious conduct;
- (iii) a licensed physician;
- (iv) a representative of law enforcement;
- (v) a mental health care provider;
- (vi) a victim advocate; and
- (vii) a private citizen.

(c) The governor may appoint a chair of the board who shall serve for a period of time prescribed by the governor, not to exceed the length of the chair's term. The board may elect a vice chair to serve in the absence of the chair.

(d) The board may hear appeals from administrative decisions as provided in rules adopted pursuant to Section 63M-7-515.

(2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member may be reappointed to one successive term in addition to a member's initial full-term appointment.

(3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) A member resigning from the board shall serve until the member's successor is appointed and qualified.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The board shall meet at least once quarterly but may meet more frequently as necessary.

(6) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 46. Section 63N-1-401 is amended to read:**

**63N-1-401. Board of Business and Economic Development -- Membership -- Expenses.**

(1) (a) There is created within the office the Board of Business and Economic Development, consisting of 15 members appointed by the governor to four-year terms of office with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(2) In appointing members of the committee, the governor shall ensure that:

- (a) no more than eight members of the board are from one political party; and
- (b) members represent a variety of geographic areas and economic interests of the state.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(4) Eight members of the board constitute a quorum for conducting board business and exercising board power.

(5) The governor shall select one board member as the board's chair.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(7) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 47. Section 67-1-2 is amended to read:**

**67-1-2. Sending list of gubernatorial nominees to Senate and to Office of Legislative Research and General Counsel.**

~~[(1) Unless waived by a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader, 15 days before any Senate session to confirm any gubernatorial nominee, except a judicial appointment,]~~

(1) Except as provided in Subsection (2), at least 30 days before the day of an extraordinary session of

the Senate to confirm a gubernatorial nominee, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel the following information for each nominee:

~~[(a) a list of each nominee for an office or position made by the governor in accordance with the Utah Constitution and state law; and]~~

~~[(b) any information that may support or provide biographical information about the nominee, including resumes and curriculum vitae.]~~

(a) the nominee's name and biographical information, including a resume and a curriculum vitae with personal contact information, including home address, email address, and telephone number, redacted, except that the governor shall send to the Office of Legislative Research and General Counsel the contact information for the nominee;

(b) a detailed list, with citations, of the legal requirements for the appointed position;

(c) a detailed list with supporting documents explaining how, and verifying that, the nominee meets each statutory and constitutional requirement for the appointed position;

(d) a written certification by the governor that the nominee satisfies all requirements for the appointment; and

(e) public comment information collected in accordance with Section 63G-24-204.

(2) (a) Subsection (1) does not apply to a judicial nominee.

(b) A majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (1) for a gubernatorial nominee other than a nominee for the following:

- (i) a member of the State Tax Commission;
- (ii) a member of the State Board of Education;
- (iii) a member of the State Board of Regents; or
- (iv) a member of the Utah System of Technical Colleges Board of Trustees.

(3) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsections (2)(b)(i) through (iv).

(4) The governor shall:

(a) if the governor is aware of an upcoming vacancy in a position that requires Senate confirmation, provide notice of the upcoming vacancy to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel at least 30 days before the day on which the vacancy occurs; and

(b) establish a process for the government entities and other relevant organizations to provide input on gubernatorial appointments.

~~[(2)] (5) When the governor makes a judicial appointment, the governor shall immediately provide to the president of the Senate and the Office of Legislative Research and General Counsel:~~

~~(a) the name of the judicial appointee; and~~

~~(b) the judicial appointee's:~~

~~(i) resume;~~

~~(ii) complete file of all the application materials the governor received from the Judicial Nominating Commission; and~~

~~(iii) any other related documents, including any letters received by the governor about the appointee, unless the letter specifically directs that it may not be shared.~~

~~[(3)] (6) The governor shall inform the president of the Senate and the Office of Legislative Research and General Counsel of the number of letters withheld pursuant to Subsection [(2)] (5)(b)(iii).~~

~~[(4)] (7) (a) Letters of inquiry submitted by any judge at the request of any judicial nominating commission shall be classified as private in accordance with Section 63G-2-302.~~

~~(b) All other records received from the governor pursuant to this Subsection [(4)] (7) may be classified as private in accordance with Section 63G-2-302.~~

~~[(5)] (8) The Senate shall consent or refuse to give [its] consent to the nomination or judicial appointment.~~

**Section 48. Section 67-1-2.5 is amended to read:**

**67-1-2.5. Executive boards -- Database -- Governor's review of new boards.**

(1) As used in this section:

(a) "Administrator" means the boards and commissions administrator designated under Subsection (2).

(b) "Executive board" means any executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government.

(2) (a) Before September 1 of the calendar year following the year in which the Legislature creates a new executive board, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to remain in statute;

(ii) in the governor's review under Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation and making the report described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

(c) Upon receipt of a report from the governor under Subsection (2)(a)(iii), the Government Operations Interim Committee shall vote on whether to address the recommendations made by the governor in the report and prepare legislation accordingly.

(3) (a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.

(b) The administrator shall ensure that the database contains:

(i) the name of each executive board;

(ii) the statutory or constitutional authority for the creation of the executive board;

(iii) the sunset date on which each executive board's statutory authority expires;

(iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

(vi) the title of the position held by the person who appointed each member of the executive board;

(vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

(viii) whether or not members appointed to the executive board require consent of the Senate;

(ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;

(x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

(xi) whether each executive board is a policy board or an advisory board;

(xii) whether the executive board has or exercises rulemaking authority, or is a rulemaking board as defined in Section 63G-24-102; and

(xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

(4) The administrator shall ~~place the following on~~ ensure the governor's website includes:

(a) the information contained in the database<sup>(3)</sup>, except for an individual's:

(i) physical address;

(ii) email address; and

(iii) telephone number;

(b) each report the administrator receives under Subsection (5); and

(c) the summary report described in Subsection (6).

(5) (a) Before August 1 of each year, each executive board shall prepare and submit to the administrator an annual report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the actual work performed by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(iv) a description of actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(v) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

(vi) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of each year.

(c) An executive board is not required to submit a report under this Subsection (5) if the executive board:

(i) is also a legislative board under Section 36-12-22; and

(ii) submits a report under Section 36-12-22.

(6) (a) The administrator shall prepare, publish, and distribute an annual report by September 1 of each year that includes:

(i) as of August 1 of that year:

(A) the total number of executive boards;

(B) the name of each of those executive boards and the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(C) for each state officer and each department and division, the total number of executive boards under the jurisdiction of or affiliated with that officer, department, and division;

(D) the total number of members for each of those executive boards;

(E) whether or not some or all of the members of each of those executive boards are approved by the Senate;

(F) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and

(G) the compensation, if any, paid to the members of each of those executive boards; and

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that did not submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(v); and

(D) a list of any executive boards that indicated under Subsection (5)(a)(vi) that the executive board should no longer exist.

(b) The administrator shall distribute copies of the report described in Subsection (6)(a) to:

(i) the governor;

(ii) the president of the Senate;

(iii) the speaker of the House;

(iv) the Office of Legislative Research and General Counsel;

(v) the Government Operations Interim Committee; and

(vi) any other persons who request a copy of the annual report.

(c) Each year, the Government Operations Interim Committee shall prepare legislation making any changes the committee determines are suitable with respect to the report the committee receives under Subsection (6)(b), including:

(i) repealing an executive board that is no longer functional or necessary; and

(ii) making appropriate changes to make an executive board more effective.

**Section 49. Section 72-1-301 is amended to read:**

**72-1-301. Transportation Commission created -- Members, appointment, terms -- Qualifications -- Pay and expenses -- Chair -- Quorum.**

(1) (a) There is created the Transportation Commission which shall consist of seven members.

(b) The members of the commission shall be residents of Utah.

(c) The members of the commission shall be selected on a nonpartisan basis.

(d) (i) The commissioners shall, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, be appointed by the governor, with the consent of the Senate, for a term of six years, beginning on April 1 of odd-numbered years, except as provided under Subsection (1)(d)(ii).

(ii) The first two additional commissioners serving on the seven member commission shall be appointed for terms of two years nine months and four years nine months, respectively, initially commencing on July 1, 1996, and subsequently commencing as specified under Subsection (1)(d)(i).

(e) The commissioners serve on a part-time basis.

(f) Each commissioner shall remain in office until a successor is appointed and qualified.

(2) (a) Except as provided in Subsection (2)(b), the selection of the commissioners shall be as follows:

(i) one commissioner from Box Elder, Cache, or Rich county;

(ii) one commissioner from Salt Lake or Tooele county;

(iii) one commissioner from Carbon, Emery, Grand, or San Juan county;

(iv) one commissioner from Beaver, Garfield, Iron, Kane, Millard, Piute, Sanpete, Sevier, Washington, or Wayne county;

(v) one commissioner from Weber, Davis, or Morgan county;

(vi) one commissioner from Juab, Utah, Wasatch, Duchesne, Summit, Uintah, or Daggett county; and

(vii) one commissioner selected from the state at large.

(b) Beginning with the appointment of commissioners on or after July 1, 2009 and subject to the restriction in Subsection (2)(d), the selection of commissioners shall be as follows:

(i) four commissioners with one commissioner selected from each of the four regions established by the department; and

(ii) subject to the restriction in Subsection (2)(c), three commissioners selected from the state at large.

(c) (i) At least one of the three commissioners appointed under Subsection (2)(b)(ii) shall be selected from a rural county.

(ii) For purposes of this Subsection (2)(c), a rural county includes a county of the third, fourth, fifth, or sixth class.

(d) No more than two commissioners appointed under Subsection (2)(b) may be selected from any one of the four regions established by the department.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) (a) One member of the commission shall be designated by the governor as chair.

(b) The commission shall select one member as vice chair to act in the chair's absence.

(5) Any four commissioners constitute a quorum.

(6) Each member of the commission shall qualify by taking the constitutional oath of office.

(7) For the purposes of Section 63J-1-504, the commission is not considered an agency.

**Section 50. Section 72-1-302 is amended to read:**

**72-1-302. Commission offices and meetings.**

(1) The commission shall maintain offices and hold regular meetings at those offices on dates fixed and formally announced by it, and may hold other meetings at the times and places as it may, by order, provide.

(2) (a) Meetings may be held upon call of the governor, the chairman, or two commissioners upon notice of the time, place, and purpose of meeting to each commissioner at least seven days prior to the date of the meeting.

(b) Any meeting may be held upon shorter notice with the unanimous approval of the commission.

(c) A member of the commission shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 51. Section 73-10-2 is amended to read:**

**73-10-2. Board of Water Resources -- Members -- Appointment -- Terms -- Vacancies.**

(1) (a) The Board of Water Resources shall be comprised of eight members to be appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) In addition to the requirements of Section 79-2-203, not more than four members shall be from the same political party.

(2) One member of the board shall be appointed from each of the following districts:

(a) Bear River District, comprising the counties of Box Elder, Cache, and Rich;

(b) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;

(c) Salt Lake District, comprising the counties of Salt Lake and Tooele;

(d) Provo River District, comprising the counties of Juab, Utah, and Wasatch;

(e) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute, and Wayne;

(f) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;

(g) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand, and San Juan; and

(h) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron, Washington, and Kane.

(3) (a) Except as required by Subsection (3)(b), all appointments shall be for terms of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate and shall be from the same district as such person.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.



**Section 52. Section 77-27-2 is amended to read:**

**77-27-2. Board of Pardons and Parole -- Creation -- Compensation -- Functions.**

(1) There is created the Board of Pardons and Parole. The board shall consist of five full-time members and not more than five pro tempore members to be appointed by the governor with the consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, and as provided in this section. The members of the board shall be resident citizens of the state. The governor shall establish salaries for the members of the board within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) (a) (i) The full-time board members shall serve terms of five years. The terms of the full-time members shall be staggered so one board member is appointed for a term of five years on March 1 of each year.

(ii) The pro tempore members shall serve terms of five years, beginning on March 1 of the year of appointment, with no more than one pro tempore member term beginning or expiring in the same calendar year. If a pro tempore member vacancy occurs, the board may submit the names of not fewer than three or more than five persons to the governor for appointment to fill the vacancy.

(b) All vacancies occurring on the board for any cause shall be filled by the governor with the consent of the Senate pursuant to this section for the unexpired term of the vacating member.

(c) The governor may at any time remove any member of the board for inefficiency, neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

(d) A member of the board may not hold any other office in the government of the United States, this state or any other state, or of any county government or municipal corporation within a state. A member may not engage in any occupation or business inconsistent with the member's duties.

(e) A majority of the board constitutes a quorum for the transaction of business, including the holding of hearings at any time or any location within or without the state, or for the purpose of exercising any duty or authority of the board. Action taken by a majority of the board regarding whether parole, pardon, commutation, termination of sentence, or remission of fines or forfeitures may be granted or restitution ordered in individual cases is deemed the action of the board. A majority vote of the five full-time members of the board is required for adoption of rules or policies of general applicability as provided by statute. However, a vacancy on the board does not impair the right of the remaining board members to exercise any duty or authority of the board as long as a majority of the board remains. A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(f) Any investigation, inquiry, or hearing that the board has authority to undertake or hold may be conducted by any board member or an examiner appointed by the board. When any of these actions are approved and confirmed by the board and filed in its office, they are considered to be the action of the board and have the same effect as if originally made by the board.

(g) When a full-time board member is absent or in other extraordinary circumstances the chair may, as dictated by public interest and efficient administration of the board, assign a pro tempore member to act in the place of a full-time member. Pro tempore members shall receive a per diem rate of compensation as established by the Division of Finance and all actual and necessary expenses incurred in attending to official business.

(h) The chair may request staff and administrative support as necessary from the Department of Corrections.

(3) (a) Except as provided in Subsection (3)(b), the Commission on Criminal and Juvenile Justice shall:

(i) recommend five applicants to the governor for a full-time member appointment to the Board of Pardons and Parole; and

(ii) consider applicants' knowledge of the criminal justice system, state and federal criminal law, judicial procedure, corrections policies and procedures, and behavioral sciences.

(b) The procedures and requirements of Subsection (3)(a) do not apply if the governor appoints a sitting board member to a new term of office.

(4) (a) The board shall appoint an individual to serve as its mental health adviser and may appoint other staff necessary to aid it in fulfilling its responsibilities under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness. The adviser shall prepare reports and recommendations to the board on all persons adjudicated as guilty with a mental illness, in accordance with Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness.

(b) The mental health adviser shall possess the qualifications necessary to carry out the duties imposed by the board and may not be employed by the Department of Corrections or the Utah State Hospital.

(i) The Board of Pardons and Parole may review outside employment by the mental health advisor.

(ii) The Board of Pardons and Parole shall develop rules governing employment with entities other than the board by the mental health advisor for the purpose of prohibiting a conflict of interest.

(c) The mental health adviser shall:

(i) act as liaison for the board with the Department of Human Services and local mental health authorities;

(ii) educate the members of the board regarding the needs and special circumstances of persons with a mental illness in the criminal justice system;

(iii) in cooperation with the Department of Corrections, monitor the status of persons in the prison who have been found guilty with a mental illness;

(iv) monitor the progress of other persons under the board's jurisdiction who have a mental illness;

(v) conduct hearings as necessary in the preparation of reports and recommendations; and

(vi) perform other duties as assigned by the board.

**Section 53. Section 78A-11-103 is amended to read:**

**78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies -- Voting -- Power of chair.**

(1) The membership of the commission consists of the following 11 members:

(a) two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a four-year term, not more than one of whom may be of the same political party as the speaker;

(b) two members of the Senate to be appointed by the president of the Senate for a four-year term, not more than one of whom may be of the same political party as the president;

(c) two members of, and in good standing with, the Utah State Bar, who shall be appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may reside in the same judicial district;

(d) three persons not members of the Utah State Bar, who shall be appointed by the governor, with the consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, for four-year terms, not more than two of whom may be of the same political party as the governor; and

(e) two judges to be appointed by a majority of the Utah Supreme Court for a four-year term, neither of whom may:

(i) be a member of the Utah Supreme Court;

(ii) serve on the same level of court as the other; and

(iii) if trial judges, serve primarily in the same judicial district as the other.

(2) (a) The terms of the members shall be staggered so that approximately half of the commission expires every two years.

(b) Members of the commission may not serve longer than eight years.

(3) The commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter. A judge who is a member of the commission or the Supreme Court

may not participate in any proceedings involving the judge's own removal or retirement.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the appointing authority for that position for the unexpired term.

(b) If the appointing authority fails to appoint a replacement, the commissioners who have been appointed may act as a commission under all the provisions of this section.

(5) Six members of the commission shall constitute a quorum. Any action of a majority of the quorum constitutes the action of the commission.

(6) (a) At each commission meeting, the chair and executive director shall schedule all complaints to be heard by the commission and present any information from which a reasonable inference can be drawn that a judge has committed misconduct so that the commission may determine by majority vote of a quorum whether the executive director shall draft a written complaint in accordance with Subsection 78A-11-102(2)(b).

(b) The chair and executive director may not act to dismiss any complaint without a majority vote of a quorum of the commission.

(c) A member of the commission described in Subsection (1)(d) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(7) It is the responsibility of the chair and the executive director to ensure that the commission complies with the procedures of the commission.

(8) The chair shall be nonvoting except in the case of a tie vote.

(9) The chair shall be allowed the actual expenses of secretarial services, the expenses of services for either a court reporter or a transcriber of electronic tape recordings, and other necessary administrative expenses incurred in the performance of the duties of the commission.

(10) Upon a majority vote of the quorum, the commission may:

(a) employ an executive director, legal counsel, investigators, and other staff to assist the commission; and

(b) incur other reasonable and necessary expenses within the authorized budget of the commission and consistent with the duties of the commission.

(11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

**Section 54. Section 78B-22-402 is amended to read:**

**78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.**

(1) The commission is composed of 15 voting members and one ex officio, nonvoting member.

(a) The governor, with the consent of the Senate, and in accordance with Title 63G, Chapter 24, Part 2, Vacancies, shall appoint the following 13 voting members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) an attorney representing minority interests recommended by the Utah Minority Bar Association;

(iv) one member recommended by the Utah Association of Counties from a county of the first or second class;

(v) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

(vi) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

(vii) two members recommended by the Utah League of Cities and Towns from its membership;

(viii) a retired judge recommended by the Judicial Council;

(ix) one attorney practicing in the area of parental defense, recommended by an entity funded under the Child Welfare Parental Defense Program created in Section 63M-7-211; and

(x) two members of the Utah Legislature, one from the House of Representatives and one from the Senate, selected jointly by the Speaker of the House and President of the Senate.

(b) The Judicial Council shall appoint a voting member from the Administrative Office of the Courts.

(c) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a voting member of the commission.

(d) The director of the commission, appointed under Section 78B-22-403, is an ex officio, nonvoting member of the commission.

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal defense, parental defense, or juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing

effective representation in indigent defense services.

(5) A person who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) The commission shall annually elect a chair from the commission's membership to serve a one-year term. A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

(c) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 55. Section 79-3-302 is amended to read:**

**79-3-302. Members of board -- Qualifications and appointment -- Vacancies -- Organization -- Meetings -- Financial gain prohibited -- Expenses.**

(1) The board consists of seven members appointed by the governor, with the consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) In addition to the requirements of Section 79-2-203, the members shall have the following qualifications:

(a) one member knowledgeable in the field of geology as applied to the practice of civil engineering;

(b) four members knowledgeable and representative of various segments of the mineral industry throughout the state, such as hydrocarbons, solid fuels, metals, and industrial minerals;

(c) one member knowledgeable of the economic or scientific interests of the mineral industry in the state; and

(d) one member who is interested in the goals of the survey and from the public at large.

(3) The director of the School and Institutional Trust Lands Administration is an ex officio member of the board but without any voting privileges.

(4) (a) Except as required by Subsection (4)(b), members are appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) No more than four members may be of the same political party.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the consent of the Senate.

(5) The board shall select from its members a chair and such officers and committees as it considers necessary.

(6) (a) The board shall hold meetings at least quarterly on such dates as may be set by its chair.

(b) Special meetings may be held upon notice of the chair or by a majority of its members.

(c) A majority of the members of the board present at a meeting constitutes a quorum for the transaction of business.

(7) (a) Members of the board may not obtain financial gain by reason of information obtained during the course of their official duties.

(b) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 56. Section 79-4-302 is amended to read:**

**79-4-302. Board appointment and terms of members -- Expenses.**

(1) (a) The board is composed of nine members appointed in accordance with Title 63G, Chapter 24, Part 2, Vacancies, by the governor, with the consent of the Senate, to four-year terms.

(b) In addition to the requirements of Section 79-2-203, the governor shall:

(i) appoint one member from each judicial district and one member from the public at large;

(ii) ensure that not more than five members are from the same political party; and

(iii) appoint persons who have an understanding of and demonstrated interest in parks and recreation.

(c) Notwithstanding the term requirements of Subsection (1)(a), the governor may adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(2) When vacancies occur because of death, resignation, or other cause, the governor, with the consent of the Senate, shall:

(a) appoint a person to complete the unexpired term of the person whose office was vacated; and

(b) if the person was appointed from a judicial district, appoint the replacement from the judicial district from which the person whose office has become vacant was appointed.

(3) The board shall appoint its chair from its membership.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

**Section 57. Effective date.**

This bill takes effect on January 1, 2021.

**Section 58. Coordinating S.B. 146 with S.B. 60 -- Substantive and technical amendments.**

If this S.B. 146 and S.B. 60, Advice and Consent Amendments, both pass and become law, and S.B. 111, Higher Education Amendments, does not pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by modifying Subsections 63G-24-102(4) and (5)(a) to read:

"(4) 'Nominee' means a person selected by the governor to fill a rulemaking board vacancy subject to the advice and consent of the Senate.

(5) (a) 'Rulemaking board' means a board, committee, commission, or council:

(i) that has rulemaking authority; and

(ii) at least part of whose membership is appointed by the governor subject to the advice and consent of the Senate."

**Section 59. Coordinating S.B. 146 with S.B. 111 -- Substantive and technical amendments.**

If this S.B. 146 and S.B. 111, Higher Education Amendments, both pass and become law, but S.B.

60, Advice and Consent Amendments, does not pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) modifying Subsection 53B-1-404(1) as renumbered and amended by S.B. 111 to read:

“(1) [Except as provided in Subsection (2), the] The board consists of [17] 18 residents of the state appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, as follows:

[~~(a) eight at-large members;~~]

[~~(b) eight members, each of whom is:]~~

[~~(i) selected from three nominees presented to the governor by a higher education institution board of trustees; and]~~

[~~(ii) a current or former member of the institution of higher education board of trustees that nominates the member; and]~~

[~~(e) one member, selected from three nominees presented to the governor by the student body presidents of the institutions of higher education, who:]~~

[~~(i) is a fully matriculated student enrolled in an institution of higher education; and]~~

[~~(ii) is not serving as a student body president at the time of the nomination.]~~

[~~(2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve on the board, even if the individual does not fulfill a requirement for the composition of the board described in Subsection (1).]~~

[~~(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the member’s term expires.]~~

[~~(b) An individual appointed to the board on or before May 8, 2017, who is a current or former member of an institution of higher education board of trustees is the board member for the institution of higher education described in Subsection (1)(b).]~~

[~~(c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).]~~

[~~(ii) In appointing a new member to the board, the governor shall first appoint a member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.]~~

(a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from among candidates presented to the governor by a nominating committee; and

(b) two student members appointed as described in Subsection (4).”;

(2) creating a newly enacted Subsection 53B-1-404(4)(c) to read:

“(c) An appointee described in Subsection (4)(a) is not subject to the public comment process described in Section 63G-24-204.”;

(3) modifying Subsections 63G-24-102(4) and (5)(a) to read:

“(4) “Nominee” means a person selected by the governor to fill a rulemaking board vacancy subject to the consent of the Senate.

(5) (a) “Rulemaking board” means a board, committee, commission, or council:

(i) that has rulemaking authority; and

(ii) at least part of whose membership is appointed by the governor subject to the consent of the Senate.”; and

(4) modifying Subsections 67-1-2(2)(b) and (3) amended in S.B. 146 to read:

“(b) A majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (1) for a gubernatorial nominee other than a nominee for the following:

(i) a member of the State Tax Commission;

(ii) a member of the State Board of Education; or

(iii) a member of the Utah Board of Higher Education.

(3) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsections (2)(b)(i) through (iii).”.

### **Section 60. Coordinating S.B. 146 with S.B. 60 and S.B. 111 -- Substantive and technical amendments.**

If this S.B. 146, S.B. 60, Advice and Consent Amendments, and S.B. 111, Higher Education Amendments, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) modifying Subsection 53B-1-404(1) as renumbered and amended by S.B. 111 to read:

“(1) [Except as provided in Subsection (2), the] The board consists of [17] 18 residents of the state appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, as follows:

[~~(a) eight at-large members;~~]

[~~(b) eight members, each of whom is:]~~

[~~(i) selected from three nominees presented to the governor by a higher education institution board of trustees; and]~~

[~~(ii) a current or former member of the institution of higher education board of trustees that nominates the member; and]~~

[~~(e) one member, selected from three nominees presented to the governor by the student body~~

presidents of the institutions of higher education, who;]

~~(i) is a fully matriculated student enrolled in an institution of higher education; and]~~

~~(ii) is not serving as a student body president at the time of the nomination.]~~

~~[(2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve on the board, even if the individual does not fulfill a requirement for the composition of the board described in Subsection (1).]~~

~~[(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the member's term expires.]~~

~~[(b) An individual appointed to the board on or before May 8, 2017, who is a current or former member of an institution of higher education board of trustees is the board member for the institution of higher education described in Subsection (1)(b).]~~

~~[(c) (i) Subject to Subsection (2)(e)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).]~~

~~[(ii) In appointing a new member to the board, the governor shall first appoint a member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.]~~

~~(a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from among candidates presented to the governor by a nominating committee; and~~

~~(b) two student members appointed as described in Subsection (4).”;~~

~~(2) creating a newly enacted Subsection 53B-1-404(4)(c) to read:~~

~~“(c) An appointee described in Subsection (4)(a) is not subject to the public comment process described in Section 63G-24-204.”;~~

~~(3) modifying Subsections 63G-24-102(4) and (5)(a) to read:~~

~~“(4) “Nominee” means a person selected by the governor to fill a rulemaking board vacancy subject to the advice and consent of the Senate.~~

~~(5) (a) “Rulemaking board” means a board, committee, commission, or council:~~

~~(i) that has rulemaking authority; and~~

~~(ii) at least part of whose membership is appointed by the governor subject to the advice and consent of the Senate.”; and~~

~~(4) modifying Subsections 67-1-2(2)(b) and (3) amended in this S.B. 146 and S.B. 60 to read:~~

~~“(b) A majority of the president of the Senate, the Senate majority leader, and the Senate minority~~

leader may waive the 30-day requirement described in Subsection (1) for a gubernatorial nominee other than a nominee for the following:

(i) the executive director of a department;

(ii) the executive director of the Governor’s Office of Economic Development;

(iii) the executive director of the Labor Commission;

(iv) a member of the State Tax Commission;

(v) a member of the State Board of Education;

(vi) a member of the Utah Board of Higher Education; or

(vii) an individual:

(A) whose appointment requires the advice and consent of the Senate; and

(B) whom the governor designates as a member of the governor’s cabinet.

(3) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsections (2)(b)(i) through (vii).”.

**Section 61. Coordinating S.B. 146 with H.B. 10 -- Superseding technical and substantive amendments.**

If this S.B. 146 and H.B. 10, Boards and Commissions Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 26-21-3 in H.B. 10 supersede the amendments to Section 26-21-3 in this bill when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

**CHAPTER 374****S. B. 147**

Passed March 5, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**SCHOOL INTERNSHIP  
SAFETY AGREEMENTS**

Chief Sponsor: Deidre M. Henderson  
House Sponsor: Susan Pulsipher

**LONG TITLE****General Description:**

This bill provides for public or private schools to enter into internship safety agreements with cooperating employers.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for public or private schools to enter into internship safety agreements with cooperating employers;
- ▶ specifies employers that are subject to and exempt from a background check requirement; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53G-7-901, as last amended by Laws of Utah 2019, Chapter 293  
53G-7-904, as renumbered and amended by Laws of Utah 2018, Chapter 3  
53G-11-402, as renumbered and amended by Laws of Utah 2018, Chapter 3

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53G-7-901 is amended to read:****53G-7-901. Definitions.**

As used in this part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through a school, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Intern" means a student enrolled in a school-sponsored work experience and career exploration program under Section 53G-7-902 involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.

(3) "Internship" means the work experience segment of an intern's school-sponsored work experience and career exploration program, performed under the direct supervision of a cooperating employer.

(4) "Internship safety agreement" means the agreement between a public or private school and a cooperating employer in accordance with Section 53G-7-904.1.

[4] (5) "Private school" means a school serving any of grades 7 through 12 which is not part of the public education system.

[5] (6) "Public school" means:

- (a) a public school district;
- (b) an applied technology center or applied technology service region;
- (c) the Schools for the Deaf and the Blind; or
- (d) other components of the public education system authorized by the state board to offer internships.

**Section 2. Section 53G-7-904 is amended to read:****53G-7-904. Internship programs --  
Criminal background checks.**

(1) (a) A public or private school may enter into an internship safety agreement with a cooperating employer.

(b) The public or private school described in Subsection (1)(a) shall ensure that the internship safety agreement requires a cooperating employer to:

(i) ensure that an adult officer or employee of the cooperating employer is not intentionally alone with an intern for any significant amount of time during the intern's activities;

(ii) maintain compliance with all applicable state and federal laws relating to workplace and student safety, privacy, and welfare; and

(iii) provide a safe, educational, courteous, and welcoming professional environment that is free of harassment or discriminatory conduct that may result in a hostile, intimidating, abusive, offensive, or oppressive learning environment.

[Officers] (2) (a) If a public or private school has not entered into an internship safety agreement with a cooperating employer, officers and employees of [a] the cooperating employer who will be given significant unsupervised access to a student in connection with the student's activities as an intern shall [be considered to be a volunteer for purposes of] submit to criminal background checks under Section 53G-11-402.

(b) If a public or private school has entered into an internship safety agreement with a cooperating employer, officers and employees of the cooperating employer are exempt from the criminal background check requirement described in Section 53G-11-402.

**Section 3. Section 53G-11-402 is amended to read:****53G-11-402. Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.**

- (1) An LEA or qualifying private school shall:
- (a) require the following individuals to submit to a nationwide criminal background check and ongoing monitoring as a condition for employment or appointment:
    - (i) a non-licensed employee;
    - (ii) a contract employee;
    - (iii) except for an officer or employee of a cooperating employer under an internship safety agreement under Section 53G-7-904, a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and
      - (iv) a charter school governing board member;
    - (b) collect the following from an individual required to submit to a background check under Subsection (1)(a):
      - (i) personal identifying information;
      - (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and
      - (iii) consent, on a form specified by the LEA or qualifying private school, for:
        - (A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and
        - (B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404;
      - (c) submit the individual's personal identifying information to the bureau for:
        - (i) an initial fingerprint-based background check by the FBI and the bureau; and
        - (ii) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53G-11-405; and
        - (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.
  - (2) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:
    - (a) has passed an initial review; and
    - (b) is one of a pool of no more than five candidates for the position.
  - (3) By September 1, 2018, an LEA or qualifying private school shall:
    - (a) collect the information described in Subsection (1)(b) from individuals:
      - (i) who were employed or appointed prior to July 1, 2015; and
      - (ii) with whom the LEA or qualifying private school currently maintains an authorizing relationship; and
      - (b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.
    - (4) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status of the licensed educator as provided in Section 53G-11-405.
    - (5) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.



**CHAPTER 375****S. B. 148**

Passed March 5, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**OIL AND GAS MODIFICATIONS**

Chief Sponsor: Ralph Okerlund  
 House Sponsor: Carl R. Albrecht

**LONG TITLE****General Description:**

This bill addresses the regulation of oil and gas activities.

**Highlighted Provisions:**

This bill:

- ▶ modifies definition provisions;
- ▶ requires review of rules made related to bonding requirements;
- ▶ modifies the process for imposing and collecting administrative penalties;
- ▶ creates the Oil and Gas Administrative Penalties Account; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 40-6-2, as last amended by Laws of Utah 2017, Chapter 220  
 40-6-5, as last amended by Laws of Utah 2012, Chapter 342  
 40-6-9.5, as last amended by Laws of Utah 1989, Chapter 22  
 40-6-11, as last amended by Laws of Utah 1987, Chapter 161  
 63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246  
 63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483  
 63J-1-602.1, as last amended by Laws of Utah 2019, Chapters 89, 136, 213, 215, 244, 326, 342, and 482

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 40-6-2 is amended to read:****40-6-2. Definitions.**

For the purpose of this chapter:

- (1) "Board" means the Board of Oil, Gas, and Mining.
- (2) "Correlative rights" means the opportunity of each owner in a pool to produce [his] the owner's just and equitable share of the oil and gas in the pool without waste.

(3) "Condensate" means hydrocarbons, regardless of gravity, that:

(a) occur naturally in the gaseous phase in the reservoir; and

(b) are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.

(4) "Consenting owner" means an owner who, in the manner and within the time frame established by the board in rule, consents to the drilling and operation of a well and agrees to bear the owner's proportionate share of the costs of the drilling and operation of the well.

(5) "Crude oil" means hydrocarbons, regardless of gravity, that:

(a) occur naturally in the liquid phase in the reservoir; and

(b) are produced and recovered at the wellhead in liquid form.

(6) "Division" means the Division of Oil, Gas, and Mining.

[~~6~~] (7) (a) "Gas" means natural gas, as defined in Subsection [~~9~~] (10), natural gas liquids, as defined in Subsection [~~10~~] (11), other gas, as defined in Subsection [~~10~~] (17), or any mixture of them.

(b) "Gas" does not include any gaseous or liquid substance processed from coal, oil shale, or tar sands.

[~~7~~] (8) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well within the state in violation of this chapter or any rule or order of the board.

[~~8~~] (9) "Illegal product" means any product derived in whole or in part from illegal oil or illegal gas.

[~~9~~] (10) (a) "Natural gas" means hydrocarbons that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form, except natural gas liquids as defined in Subsection [~~10~~] (11) and condensate as defined in Subsection (3).

(b) "Natural gas" includes coalbed methane gas.

[~~10~~] (11) "Natural gas liquids" means hydrocarbons, regardless of gravity, that are separated from natural gas as liquids in gas processing plants through the process of condensation, absorption, adsorption, or other methods.

[~~11~~] (12) "Nonconsenting owner" means an owner who does not, after written notice and in the manner and within the time frame established by the board in rule, consent to the drilling and operation of a well or agree to bear the owner's proportionate share of the costs.

[~~12~~] (13) (a) "Oil" means crude oil, as defined in Subsection (5), condensate, as defined in Subsection (3), or any mixture of them.

(b) "Oil" does not include any gaseous or liquid substance processed from coal, oil shale, or tar sands.

[(43)] (14) "Oil and gas operations" means to explore for, develop, or produce oil and gas.

[(44)] (15) (a) "Oil and gas proceeds" means any payment that:

(i) derives from oil and gas production from any well located in the state;

(ii) is expressed as a right to a specified interest in the:

(A) cash proceeds received from the sale of the oil and gas; or

(B) the cash value of the oil and gas; and

(iii) is subject to any tax withheld from the payment pursuant to law.

(b) "Oil and gas proceeds" includes a royalty interest, overriding royalty interest, production payment interest, or working interest.

(c) "Oil and gas proceeds" does not include a net profits interest or other interest the extent of which cannot be determined with reference to a specified share of:

(i) the cash proceeds received from the sale of the oil and gas; or

(ii) the cash value of the oil and gas.

[(45)] (16) "Operator" means a person who has been designated by the owners or the board to operate a well or unit.

[(46)] (17) (a) "Other gas" means nonhydrocarbon gases that:

(i) occur naturally in the gaseous phase in the reservoir; or

(ii) are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

(b) "Other gas" includes hydrogen sulfide, carbon dioxide, helium, and nitrogen.

[(47)] (18) "Owner" means a person who has the right:

(a) to drill into and produce from a reservoir; and

(b) to appropriate the oil and gas produced for himself that person or for himself that person and others.

[(48)] (19) "Payor" means the person who undertakes to distribute oil and gas proceeds to the persons entitled to them, whether as the first purchaser of that production, as operator of the well from which the production was obtained, or as lessee under the lease on which royalty is due.

(20) "Person" means the same as that term is defined in Section 68-3-12.5 and includes an operator or owner as used in this chapter.

[(49)] (21) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure that is completely separated from any other zone in the structure is a separate pool. "Common source of supply" and "reservoir" are synonymous with "pool."

[(20)] (22) "Pooling" means the bringing together of separately owned interests for the common development and operation of a drilling unit.

[(21)] (23) "Producer" means the owner or operator of a well capable of producing oil and gas.

[(22)] (24) "Product" means any commodity made from oil and gas.

[(23)] (25) "Surface land" means privately owned land:

(a) overlying privately owned oil and gas resources;

(b) upon which oil and gas operations are conducted; and

(c) owned by a surface land owner.

[(24)] (26) (a) "Surface land owner" means a person who owns, in fee simple absolute, all or part of the surface land as shown by the records of the county where the surface land is located.

(b) "Surface land owner" does not include the surface land owner's lessee, renter, tenant, or other contractually related person.

[(25)] (27) "Surface land owner's property" means a surface land owner's:

(a) surface land;

(b) crops on the surface land; and

(c) existing improvements on the surface land.

[(26)] (28) "Surface use agreement" means an agreement between an owner or operator and a surface land owner addressing:

(a) the use and reclamation of surface land owned by the surface land owner; and

(b) compensation for damage to the surface land caused by oil and gas operations that result in:

(i) loss of the surface land owner's crops on the surface land;

(ii) loss of value of existing improvements owned by the surface land owner on the surface land; and

(iii) permanent damage to the surface land.

[(27)] (29) "Waste" means:

(a) the inefficient, excessive, or improper use or the unnecessary dissipation of oil or gas or reservoir energy;

(b) the inefficient storing of oil or gas;

(c) the locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes:

(i) a reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and economical operations;

(ii) unnecessary wells to be drilled; or

(iii) the loss or destruction of oil or gas either at the surface or subsurface; or

(d) the production of oil or gas in excess of:

(i) transportation or storage facilities; or

(ii) the amount reasonably required to be produced as a result of the proper drilling, completing, testing, or operating of a well or otherwise utilized on the lease from which it is produced.

**Section 2. Section 40-6-5 is amended to read:**

**40-6-5. Jurisdiction of board -- Rules.**

(1) The board has jurisdiction over all persons and property necessary to enforce this chapter. The board shall ~~enact~~ make rules in accordance with ~~the~~ Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The board shall ~~adopt~~ make rules and ~~make~~ orders as necessary to administer the following provisions:

(a) Ownership of all facilities for the production, storage, treatment, transportation, refining, or processing of oil and gas shall be identified.

(b) Well logs, directional surveys, and reports on well location, drilling, and production shall be made and filed with the division. Logs of wells marked "confidential" shall be kept confidential for one year after the date on which the log is required to be filed, unless the operator gives written permission to release the log at an earlier date. Production reports shall be:

(i) filed monthly;

(ii) accurate; and

(iii) in a form that reasonably serves the needs of state agencies and private fee owners.

(c) Monthly reports from gas processing plants shall be filed with the division.

(d) Wells shall be drilled, cased, cemented, operated, and plugged in such manner as to prevent:

(i) the escape of oil, gas, or water out of the reservoir in which they are found into another formation;

(ii) the detrimental intrusion of water into an oil or gas reservoir;

(iii) the pollution of fresh water supplies by oil, gas, or salt water;

(iv) blowouts;

(v) cavings;

(vi) seepages;

(vii) fires; and

(viii) unreasonable:

(A) loss of a surface land owner's crops on surface land;

(B) loss of value of existing improvements owned by a surface land owner on surface land; and

(C) permanent damage to surface land.

(e) The drilling of wells ~~shall~~ may not commence without an adequate and approved supply of water as required by Title 73, Chapter 3, Appropriation. This ~~provision~~ Subsection (2)(e) is not intended to impose ~~any~~ additional legal requirements, but to assure that existing legal requirements concerning the use of water have been met ~~prior to~~ before the commencement of drilling.

(f) ~~The~~ Subject to Subsection (9), an operator shall furnish a reasonable performance bond or other good and sufficient surety, conditioned for the performance of the duty to:

(i) plug each dry or abandoned well;

(ii) repair each well causing waste or pollution;

(iii) maintain and restore the well site; and

(iv) except as provided in Subsection (8), protect a surface land owner against unreasonable:

(A) loss of a surface land owner's crops on surface land;

(B) loss of value of existing improvements owned by a surface land owner on surface land; and

(C) permanent damage to surface land.

(g) Production from wells shall be separated into oil and gas and measured by means and upon standards that ~~will be~~ are prescribed by the board and ~~will~~ reflect current industry standards.

(h) Crude oil obtained from any reserve pit, disposal pond or pit, or similar facility, and any accumulation of nonmerchantable waste crude oil shall be treated and processed, as prescribed by the board.

(i) Any person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas or injects fluids for cycling, pressure maintenance, secondary or enhanced recovery, or salt water disposal in this state shall maintain complete and accurate records of the quantities produced, sold, purchased, acquired, stored, transported, refined, processed, or injected for a period of at least six years. The records shall be available for examination by the board or ~~its~~ the board's agents at any reasonable time. Rules enacted to administer this ~~subsection~~ Subsection (2)(i) shall be consistent with applicable federal requirements.

(j) Any person with an interest in a lease shall be notified when all or part of that interest in the lease is sold or transferred.

(k) The assessment and collection of administrative penalties is consistent with Section 40-6-11.

- (3) The board has the authority to regulate:
- (a) all operations for and related to the production of oil or gas including:
- (i) drilling, testing, equipping, completing, operating, producing, and plugging of wells; and
- (ii) reclamation of sites;
- (b) the spacing and location of wells;
- (c) operations to increase ultimate recovery, such as:
- (i) cycling of gas;
- (ii) the maintenance of pressure; and
- (iii) the introduction of gas, water, or other substances into a reservoir;
- (d) the disposal of salt water and oil-field wastes;
- (e) the underground and surface storage of oil, gas, or products; and
- (f) the flaring of gas from an oil well.
- (4) For the purposes of administering this chapter, the board may designate:
- (a) wells as:
- (i) oil wells; or
- (ii) gas wells; and
- (b) pools as:
- (i) oil pools; or
- (ii) gas pools.
- (5) The board has exclusive jurisdiction over:
- (a) class II injection wells, as defined by the federal Environmental Protection Agency or [any] a successor agency; and
- (b) pits and ponds in relation to these injection wells.
- (6) The board has jurisdiction:
- (a) to hear [any] questions regarding multiple mineral development conflicts with oil and gas operations if there:
- (i) is potential injury to other mineral deposits on the same lands; or
- (ii) are simultaneous or concurrent operations conducted by other mineral owners or lessees affecting the same lands; and
- (b) to enter [its] the board's order or rule with respect to those questions.
- (7) The board has enforcement powers with respect to operators of minerals other than oil and gas as are set forth in Section 40-6-11, for the sole purpose of enforcing multiple mineral development issues.
- (8) [The provisions of] Subsection (2)(f)(iv) [do] not apply if the surface land owner is a party to, or a successor of a party to:

- (a) a lease of the underlying privately owned oil and gas;
- (b) a surface use agreement applicable to the surface land owner's surface land; or

(c) a contract, waiver, or release addressing an owner's or operator's use of the surface land owner's surface land.

(9) (a) The board shall review rules made under Subsection (2)(f) to determine whether the rules provide adequate fiscal security for the fiscal risks to the state related to oil and gas operations.

(b) During the board's review under this Subsection (9), the board may consider the bonding schemes of other states.

**Section 3. Section 40-6-9.5 is amended to read:**

**40-6-9.5. Permits for crude oil production -- Application -- Bond requirement -- Closure of facilities -- Availability of records.**

(1) The division may issue permits authorizing construction, operation, maintenance, and cessation of treating facilities and operations covered by Subsection 40-6-5(2)(h) and to approve, as part of that permit, post-cessation reclamation of the site.

(2) ~~[Each]~~ (a) An owner and operator of [any] a facility described in Subsection 40-6-5(2)(h) or planning to construct, operate, or maintain a facility described in Subsection 40-6-5(2)(h) shall submit to the division an application stating in detail:

(i) the location, type, and capacity of the facility contemplated;

(ii) the extent and location of area disturbed or to be disturbed including[, but not limited to,] any pits, ponds, or lands[,], associated with the facility;

(iii) a plan for reclamation of the site; and

(iv) other materials required by the division. [All existing]

(b) Existing facilities described in Subsection 40-6-5(2)(h) shall submit plans by July 28, 1985.

(c) Application for all planned facilities must be approved and a permit issued before any ground clearing or construction may occur.

(3) (a) As a condition for approval of [any] a permit, the owner and operator shall post a bond in an amount determined by the division to cover reclamation costs for the site consistent with rules made to implement Subsection 40-6-5(2)(f).

(b) Approval of [any] a permit is also conditioned upon compliance with [all] the laws, rules, and orders of the board.

(c) Failure to post the bond is considered sufficient grounds to deny a permit.

(4) The board may order the closure of [any] a facility described in Subsection 40-6-5(2)(h) if:

(a) an application is not forthcoming in the time allowed in Subsection (2)(s);

(b) a bond is not posted[;];

(c) a violation of the rules and regulations of other state or federal agencies exists[;]; or

(d) for other material and substantial cause.

(5) The owner and operator are subject to [all] applicable state, federal, and local rules and regulations.

(6) The records required to be kept by Subsection 40-6-5(2)(i) shall be available for inspection and audit by the board or [its] the board's agents during reasonable working hours.

**Section 4. Section 40-6-11 is amended to read:**

**40-6-11. Power to summon witnesses, administer oaths and require production of records -- Enforcement -- Penalties for violation of chapter or rules -- Illegal oil or gas -- Civil liability -- Restricted account.**

(1) [The] At a hearing or investigation conducted by the board, the board may:

(a) summon witnesses[;];

(b) administer oaths[;]; and

(c) require the production of records, books, and documents for examination [at any hearing or investigation conducted by it].

(2) (a) If [any] a person fails or refuses to comply with a subpoena issued by the board, or fails or refuses to testify about any matter, the board may apply to [any] a district court in the state for an order compelling that person to:

(i) comply with the subpoena[; and to];

(ii) attend before the board [and];

(iii) produce the subpoenaed records, books, and documents for examination[;]; and [to]

(iv) give [his] the person's testimony.

(b) The court may punish the person for contempt as if [he] the person disobeyed a subpoena issued by the court, or if [he] the person refused to testify in a court.

(3) (a) Whenever it appears that [any] a person is violating [any provision of] this chapter or [any] a rule or order made under the authority of this chapter, the board may issue an order requiring compliance within a period not to exceed [30] 45 days.

(b) The board may bring suit in the name of the state against [any] a person violating this chapter, or rules or orders made under the authority of this chapter if:

(i) the violation continues after expiration of the time period granted in Subsection (3)(a);

(ii) the violation presents an immediate threat to public health, safety, or welfare; or

(iii) the violation would cause waste.

(4) (a) [If] Subject to the requirements of this Subsection (4), if the board or division determines, after an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, that [any] a person has violated [any provision of] this chapter, or [any] a permit, rule, or order made under [the provisions of] this chapter, [that person is subject, in a civil proceeding, to a penalty not exceeding] the board or division may impose an administrative penalty on the person not to exceed \$5,000 per day for each day of violation.

(b) If the board determines that the violation is willful, the board may impose an administrative penalty on that person [may be fined not more than] not to exceed \$10,000 for each day of violation.

(c) The board shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a standardized violation schedule to set the violations and the associated administrative penalty for each violation.

(d) A single violation shall result in a single administrative penalty, that may be imposed on a daily basis for each day that the violation remains unresolved following the assessment of the administrative penalty or completion of the appeal.

(e) Before initiation of an adjudicative proceeding or assessing an administrative penalty, and except for circumstances provided in Subsection (5)(b), the division shall provide a notice of violation to the owner and operator in the form and manner set forth by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. The rule made under this Subsection (4)(e) shall, at a minimum, require the notice to set forth the actions necessary to cure the violation and a reasonable period of time to cure the violation.

(f) Should an owner or operator fail to cure the violation as set out in the notice of violation under Subsection (4)(e), the division may initiate an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(g) Administrative penalties assessed by the division or the board may not exceed \$200,000 per violation per person.

(h) An administrative penalty assessed by the division may be appealed to the board within 30 days of the assessment.

(i) If a violation remains unabated and the maximum penalty amount has accrued, the division may request an emergency order from the board requiring the operator or person to suspend operations of the well or facility in violation. Operations may only resume upon abatement of the violation.

(5) If ordered to do so by the board, the director of the division may order the immediate closure or shutdown of any well that is operating in violation

of ~~the provisions of~~ this chapter, if the closure or shutdown will not cause waste or is necessary because of an immediate threat to public health, safety, or welfare.

(6) (a) ~~[No]~~ A person may not sell, purchase, acquire, transport, refine, process, or handle illegal oil, gas, or product, if the person knows or has reason to know that the oil, gas, or product is illegal.

(b) The court in the district where the illegal oil, gas, or product is found, shall, after notice and hearing in an action brought by the board, order the product to be seized and sold, and the proceeds returned or held for the legal owner.

(7) (a) ~~[Nothing in this]~~ This chapter, ~~[and no]~~ a suit by or against the board, and ~~[no]~~ a violation charged or asserted against ~~[any]~~ a person under ~~[any provisions of]~~ this chapter, or ~~[any]~~ a rule or order issued under the authority of this chapter, ~~[shall]~~ may not impair, abridge, or delay ~~[any]~~ a cause of action for damages that ~~[any]~~ a person may have or assert against any person violating ~~[any provision of]~~ this chapter, or ~~[any]~~ a rule or order issued under the authority of this chapter.

(b) ~~[Any]~~ A person damaged by ~~[any]~~ a violation may sue for and recover whatever damages that ~~[he]~~ the person otherwise may be entitled to receive.

(8) After an administrative penalty is assessed under this chapter, the division may collect that administrative penalty as if the administrative penalty were a judgment issued by a court of law so long as the penalized person was provided with notice of the violation, a reasonable opportunity to cure, and an opportunity for a hearing under Title 63G, Chapter 4, Administrative Procedures Act, and the administrative and appellate remedies are exhausted.

(9) (a) There is created within the General Fund a restricted account known as the “Oil and Gas Administrative Penalties Account.”

(b) The Oil and Gas Administrative Penalties Account shall consist of:

(i) administrative penalties collected by the board or division under this chapter; and

(ii) interest earned on the Oil and Gas Administrative Penalties Account.

(c) The Oil and Gas Administrative Penalties Account shall earn interest.

(d) Subject to appropriation by the Legislature, the division may use money in the Oil and Gas Administrative Penalties Account to offset:

(i) risks to the public health, safety, or welfare caused by oil and gas operations for impacts and activities covered by bonding; or

(ii) other direct impacts to the general public from oil and gas development as identified by the board and the executive director of the Department of Natural Resources at a public hearing that are not otherwise addressed through performance bonds allowed by Subsection 40-6-5(2)(f).

(e) In accordance with Section 63J-1-602.1, appropriations from the Oil and Gas Administrative Penalty Account are nonlapsing.

**Section 5. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed on December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection 63J-1-602.1~~(53)~~(56), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1~~(53)~~(56), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(27) Section 63N-2-512 is repealed on July 1, 2021.

(28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

(33) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

(34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

**Section 6. Section 63I-2-263 is amended to read:**

**63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1[(52)](57) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.



(8) Section 63J-4-708 is repealed January 1, 2023.

**Section 7. Section 63J-1-602.1 is amended to read:**

**63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(7) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(8) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(9) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-15-203.

(22) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(23) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

~~(23)~~ (24) The Oil and Gas Conservation Account created in Section 40-6-14.5.

~~(24)~~ (25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

~~(25)~~ (26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

~~(26)~~ (27) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

~~(27)~~ (28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

~~(28)~~ (29) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

~~(29)~~ (30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

~~(30)~~ (31) The DNA Specimen Restricted Account created in Section 53-10-407.

~~(31)~~ (32) The Canine Body Armor Restricted Account created in Section 53-16-201.

~~(32)~~ (33) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

~~(33)~~ (34) The Higher Education Capital Projects Fund created in Section 53B-22-202.

~~(34)~~ (35) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

~~(35)~~ (36) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

~~(36)~~ (37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

~~(37)~~ (38) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that

are used for education and enforcement purposes, as provided in Section 58-17b-505.

[(38)] (39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[(39)] (40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[(40)] (41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[(41)] (42) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[(42)] (43) The Relative Value Study Restricted Account created in Section 59-9-105.

[(43)] (44) The Cigarette Tax Restricted Account created in Section 59-14-204.

[(44)] (45) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[(45)] (46) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[(46)] (47) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

[(47)] (48) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

[(48)] (49) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

[(49)] (50) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

[(50)] (51) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[(51)] (52) The Immigration Act Restricted Account created in Section 63G-12-103.

[(52)] (53) Money received by the military installation development authority, as provided in Section 63H-1-504.

[(53)] (54) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[(54)] (55) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[(55)] (56) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[(56)] (57) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

[(57)] (58) The Motion Picture Incentive Account created in Section 63N-8-103.

[(58)] (59) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[(59)] (60) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[(60)] (61) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[(61)] (62) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

[(62)] (63) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[(63)] (64) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[(64)] (65) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[(65)] (66) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[(66)] (67) Fees for certificate of admission created under Section 78A-9-102.

[(67)] (68) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[(68)] (69) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[(69)] (70) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

[(70)] (71) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

**CHAPTER 376****S. B. 149**

Passed March 4, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**OCCUPATIONAL AND PROFESSIONAL  
 LICENSING AMENDMENTS**

Chief Sponsor: Wayne A. Harper  
 House Sponsor: Norman K. Thurston

**LONG TITLE****General Description:**

This bill modifies the licensing, certification, and registration requirements of certain professions.

**Highlighted Provisions:**

This bill:

- ▶ modifies the Court Reporter Act;
- ▶ changes the Hunting Guides and Outfitters Licensing Act to the Hunting Guides and Outfitters Registration Act;
- ▶ repeals provisions creating the Hunting Guides and Outfitters Licensing Board;
- ▶ describes the requirements for an individual to register as, and the requirements for providing the services of, a hunting guide or outfitter; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-79-101, as enacted by Laws of Utah 2009, Chapter 52  
 58-79-102, as last amended by Laws of Utah 2010, Chapter 326  
 58-79-301, as enacted by Laws of Utah 2009, Chapter 52  
 58-79-302, as enacted by Laws of Utah 2009, Chapter 52  
 58-79-303, as enacted by Laws of Utah 2009, Chapter 52  
 58-79-304, as enacted by Laws of Utah 2009, Chapter 52  
 58-79-401, as enacted by Laws of Utah 2009, Chapter 52  
 58-79-501, as last amended by Laws of Utah 2010, Chapter 326  
 58-79-502, as enacted by Laws of Utah 2009, Chapter 52  
 78A-2-402, as last amended by Laws of Utah 2019, Chapter 379  
 78A-2-404, as last amended by Laws of Utah 2019, Chapter 379

**REPEALS:**

58-79-201, as last amended by Laws of Utah 2018, Chapter 318

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 58-79-101 is amended to read:**

**CHAPTER 79. HUNTING GUIDES AND  
 OUTFITTERS REGISTRATION ACT**

**58-79-101. Title.**

This chapter is known as the “Hunting Guides and Outfitters [Licensing] Registration Act.”

**Section 2. Section 58-79-102 is amended to read:**

**58-79-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1)] (1) “Board” means the Hunting Guides and Outfitters Licensing Board created in Section 58-79-201.~~

~~[(2)] (1) “Compensation” means anything of economic value in excess of \$100 that is paid, loaned, granted, given, donated, or transferred to a hunting guide or outfitter for or in consideration of personal services, materials, or property.~~

~~[(3)] (2) “Hunting” means to locate, pursue, chase, catch, capture, trap, or kill wildlife.~~

~~[(4)] (3) “Hunting guide” means an individual who:~~

~~(a) offers or provides hunting guide services on public lands for compensation; and~~

~~(b) is retained for compensation by an outfitter.~~

~~[(5)] (4) “Hunting guide services” means to guide, lead, or assist an individual in hunting wildlife.~~

~~[(6)] (5) “Outfitter” means an individual who offers or provides outfitting or hunting guide services for compensation to another individual for hunting wildlife on public lands.~~

~~[(7)] (6) (a) “Outfitting services” means providing, for hunting wildlife on public lands:~~

~~(i) transportation of people, equipment, supplies, or wildlife to or from a location;~~

~~(ii) packing, protecting, or supervising services; or~~

~~(iii) hunting guide services.~~

~~(b) “Outfitting services” does not include activities undertaken by the Division of Wildlife Resources or its employees, associates, volunteers, contractors, or agents under authority granted in Title 23, Wildlife Resources Code of Utah.~~

~~[(8)] (7) (a) “Public lands” means any lands owned by the United States, the state, or a political subdivision or independent entity of the state that are open to the public for purposes of engaging in a wildlife related activity.~~

~~(b) “Public lands” does not include lands owned by the United States, the state, or a political subdivision or independent entity of the state that are included in a cooperative wildlife management~~

unit under Subsection 23-23-7(5) so long as the guiding and outfitting services furnished by the cooperative wildlife management unit are limited to hunting species of wildlife specifically authorized by the Division of Wildlife Resources in the unit's management plan.

~~[(9)]~~ (8) "Wildlife" means cougar, bear, and big game animals as defined in Subsection 23-13-2(6).

**Section 3. Section 58-79-301 is amended to read:**

**Part 3. Registration**

**58-79-301. Registration required.**

(1) Beginning ~~[January 1, 2010]~~ July 1, 2021, and except as provided in Sections 58-1-307 and 58-79-304, ~~[a license is required to provide the services of a hunting guide or outfitter]~~ in order to provide the services of a hunting guide or outfitter, an individual is required to register with the division under the provisions of this chapter.

(2) The division shall issue to an individual who qualifies under the provisions of this chapter ~~[a license]~~ a registration in the classification of:

- (a) hunting guide; or
- (b) outfitter.

(3) The division shall maintain a record of each individual who is registered with the division as a hunting guide or outfitter.

**Section 4. Section 58-79-302 is amended to read:**

**58-79-302. Qualifications for registration.**

(1) ~~[An applicant for licensure]~~ To register as a hunting guide an individual shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d) possess a high degree of skill and ability as a hunting guide;]~~

~~[(e) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and]~~

~~[(f) meet with the division and board if requested by the division or board.]~~

(c) in a form prescribed by the division, submit proof that the individual is covered by liability insurance when providing services as a hunting guide that is issued by an insurance company or association authorized to transact business in the state in an amount determined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) ~~[An applicant for licensure]~~ To register as an outfitter an individual shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d) possess a high degree of skill and ability as an outfitter;]~~

~~[(e) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and]~~

~~[(f) meet with the division and board if requested by the division or board.]~~

(c) in a form prescribed by the division, submit proof that the individual is covered by liability insurance when providing services as an outfitter that is issued by an insurance company or association authorized to transact business in the state in an amount determined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 5. Section 58-79-303 is amended to read:**

**58-79-303. Term of registration -- Expiration -- Renewal.**

(1) ~~[(a)]~~ The division shall issue ~~[each license]~~ each registration under this chapter in accordance with a two-year renewal cycle established by rule.

~~[(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycle it administers.]~~

(2) Each ~~[license]~~ registration automatically expires on the expiration date shown on the ~~[license unless the licensee renews it in accordance with]~~ registration unless the registrant renews the registration in the same manner as a licensee renews a license under Section 58-1-308.

**Section 6. Section 58-79-304 is amended to read:**

**58-79-304. Exemptions from registration.**

The exemptions from ~~[licensure]~~ registration under this chapter are limited to:

(1) those set forth for a licensee in Section 58-1-307; and

(2) an employee or subordinate of a hunting guide or outfitter if ~~[(a)]~~ the employee or subordinate does not use the title of hunting guide or outfitter or is not directly represented to the public to be legally qualified to engage in the practice of being a hunting guide or outfitter before the public in this state ~~[-and].~~

~~[(b) the employee's or subordinate's duties do not include responsible charge.]~~

**Section 7. Section 58-79-401 is amended to read:**

**58-79-401. Grounds for denial of registration -- Disciplinary proceedings.**

Grounds for refusing to issue a ~~[license]~~ registration to an applicant, for refusing to renew the ~~[license of a licensee]~~ registration of a registrant, for revoking, suspending, restricting, or placing on probation the ~~[license of a licensee]~~ registration of a registrant, for issuing a public or private reprimand to a ~~[licensee]~~ registrant, and for issuing a cease and desist order under this chapter shall be in accordance with the provisions applicable to a licensee under Section 58-1-401.

**Section 8. Section 58-79-501 is amended to read:**

**58-79-501. Unlawful conduct.**

“Unlawful conduct” includes, in addition to the definition in Section 58-1-501, using the title “hunting guide” or “outfitter” or any other title or designation to indicate that the individual is a hunting guide or outfitter or acting as a hunting guide or outfitter, unless the individual ~~[has a current license]~~ is currently registered as a hunting guide or outfitter under this chapter.

**Section 9. Section 58-79-502 is amended to read:**

**58-79-502. Unprofessional conduct.**

“Unprofessional conduct” includes, in addition to the definition in Section 58-1-501, and as may be further defined by division rule:

(1) engaging in an activity that would place a ~~[licensee's]~~ registrant's client, prospective client, or third party's safety at risk, recognizing the inherent risks associated with hunting wildlife and the activity engaged in being above and beyond those inherent risks;

(2) using false, deceptive, or misleading advertising related to providing services as a hunting guide or outfitter; ~~[and]~~

(3) misrepresenting services, outcomes, facilities, equipment, or fees to a client or prospective client~~[-];~~ and

(4) failing to provide the division with active and current contact information within 30 days of any changes to the registrant's contact information that was provided to the division during registration or the renewal of registration as a hunting guide or outfitter.

**Section 10. Section 78A-2-402 is amended to read:**

**78A-2-402. Definitions.**

As used in this part:

(1) “Certified court reporter” means a state certified court reporter as described in Title 58, Chapter 74, State Certification of Court Reporters Act.

(2) “Official court transcriber” means a person certified and authorized in accordance with rules of the Judicial Council ~~[as competent]~~ to transcribe into written form an audio or video recording of court proceedings.

**Section 11. Section 78A-2-404 is amended to read:**

**78A-2-404. Contract restrictions.**

(1) (a) Any contract for court reporting services, not related to a particular case or reporting incident, is prohibited between a court reporter or any other person with whom a court reporter has a principal and agency relationship and any attorney, party to an action, or party having a financial interest in an action.

(b) Negotiating or bidding reasonable fees, equal to all the parties, on a case-by-case basis ~~[may not be]~~ is not prohibited.

(2) A certified court reporter is an officer of the court, authorized to administer oaths, whose impartiality shall remain beyond question.

(3) This section does not apply to the courts or the administrative tribunals of this state.

(4) Violation of this section shall be considered unprofessional conduct as provided in Section 58-74-102 and 58-74-502, and shall be grounds for revocation of state certification only.

**Section 12. Repealer.**

This bill repeals:

**Section 58-79-201, Board.**

**CHAPTER 377****S. B. 150**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020  
 Exception clause

**TRANSPORTATION GOVERNANCE  
 AND FUNDING AMENDMENTS**

Chief Sponsor: Wayne A. Harper  
 House Sponsor: Kay J. Christofferson

**LONG TITLE****General Description:**

This bill amends provisions related to transportation funding, motor vehicles, transportation network companies, and other transportation related items.

**Highlighted Provisions:**

This bill:

- ▶ requires counties and municipalities to provide certain notifications to a large public transit district related to development that could impact public transit corridors;
- ▶ amends provisions related to safety standards of transportation network company vehicles;
- ▶ amends provisions related to public transit districts, including:
  - removing a cap on the number of transit-oriented developments allowed;
  - defining terms related to public transit infrastructure and planning; and
  - provisions related to powers and responsibilities of the board of trustees and local advisory councils of a large public transit district;
- ▶ amends provisions related to odometer disclosures to comply with federal law;
- ▶ amends provisions related to registration fees for hybrid electric motor vehicles;
- ▶ amends provisions related to certain local option sales and use taxes regarding voter approval of certain sales tax impositions and approved uses of certain revenues;
- ▶ requires the Department of Transportation to provide reports to the Legislature regarding the road usage charge program, implementation, and future inclusion of all motor vehicles;
- ▶ amends provisions related to the duties of and prioritization criteria considered by the Transportation Commission;
- ▶ amends provisions and defines terms related to the distribution of class B and class C road funds;
- ▶ allows certain funds related to class B and C roads to be used for administration of the class B and C road fund;
- ▶ amends provisions of the Transportation Investment Fund of 2005 related to programming of funds;
- ▶ amends provisions related to revenues generated by a tollway to allow revenues to be used for any state transportation purpose;
- ▶ amends provisions related to airport operators and the duties of peace officers and other employees interacting with traffic and air passengers; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 10-9a-206, as last amended by Laws of Utah 2017, Chapter 428
- 13-51-107, as last amended by Laws of Utah 2017, Chapter 406
- 17-27a-206, as last amended by Laws of Utah 2017, Chapter 428
- 17B-2a-802, as last amended by Laws of Utah 2019, Chapter 479
- 17B-2a-804, as last amended by Laws of Utah 2018, Chapter 424
- 17B-2a-808.1, as last amended by Laws of Utah 2019, Chapter 479
- 41-1a-902, as last amended by Laws of Utah 1992, Chapter 234 and renumbered and amended by Laws of Utah 1992, Chapter 1
- 41-1a-1206, as last amended by Laws of Utah 2019, Chapter 479
- 59-12-2214, as last amended by Laws of Utah 2019, Chapter 479
- 59-12-2215, as last amended by Laws of Utah 2019, Chapter 479
- 59-12-2217, as last amended by Laws of Utah 2019, Chapter 479
- 72-1-102, as last amended by Laws of Utah 2019, Chapters 431 and 479
- 72-1-213.1, as enacted by Laws of Utah 2019, Chapter 479
- 72-1-303, as last amended by Laws of Utah 2018, Chapter 424
- 72-1-304, as last amended by Laws of Utah 2019, Chapters 327 and 479
- 72-2-107, as last amended by Laws of Utah 2019, Chapter 479
- 72-2-108, as last amended by Laws of Utah 2018, Second Special Session, Chapter 8
- 72-2-124, as last amended by Laws of Utah 2019, Chapters 327 and 479
- 72-3-104, as last amended by Laws of Utah 2003, Chapters 131 and 292
- 72-6-118, as last amended by Laws of Utah 2018, Chapter 269
- 72-10-207, as last amended by Laws of Utah 1998, Chapters 282, 365 and renumbered and amended by Laws of Utah 1998, Chapter 270

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 10-9a-206 is amended to read:**

**10-9a-206. Third party notice -- High priority transportation corridor notice.**

(1) (a) If a municipality requires notice to adjacent property owners, the municipality shall:

(i) mail notice to the record owner of each parcel within parameters specified by municipal ordinance; or

(ii) post notice on the property with a sign of sufficient size, durability, print quality, and

location that is reasonably calculated to give notice to passers-by.

(b) If a municipality mails notice to third party property owners under Subsection (1)(a), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

(2) (a) As used in this Subsection (2), “high priority transportation corridor” means a transportation corridor identified as a high priority transportation corridor under Section 72-5-403.

(b) The Department of Transportation may request, in writing, that a municipality provide the department with electronic notice of each land use application received by the municipality that may adversely impact the development of a high priority transportation corridor.

(c) If the municipality receives a written request as provided in Subsection (2)(b), the municipality shall provide the Department of Transportation with timely electronic notice of each land use application that the request specifies.

(3) (a) A large public transit district, as defined in Section 17B-2a-802, may request, in writing, that a municipality provide the large public transit district with electronic notice of each land use application received by the municipality that may impact the development of a major transit investment corridor.

(b) If the municipality receives a written request as provided in Subsection (3)(a), the municipality shall provide the large public transit district with timely electronic notice of each land use application that the request specifies.

**Section 2. Section 13-51-107 is amended to read:**

**13-51-107. Driver requirements.**

(1) Before a transportation network company allows an individual to use the transportation network company’s software application as a transportation network driver, the transportation network company shall:

(a) require the individual to submit to the transportation network company:

(i) the individual’s name, address, and age;

(ii) a copy of the individual’s driver license, including the driver license number; and

(iii) proof that the vehicle that the individual will use to provide transportation network services is registered with the Division of Motor Vehicles;

(b) require the individual to consent to a criminal background check of the individual by the transportation network company or the transportation network company’s designee; and

(c) obtain and review a report that lists the individual’s driving history.

(2) A transportation company may not allow an individual to provide transportation network

services as a transportation network driver if the individual:

(a) has committed more than three moving violations in the three years before the day on which the individual applies to become a transportation network driver;

(b) has been convicted, in the seven years before the day on which the individual applies to become a transportation network driver, of:

(i) driving under the influence of alcohol or drugs;

(ii) fraud;

(iii) a sexual offense;

(iv) a felony involving a motor vehicle;

(v) a crime involving property damage;

(vi) a crime involving theft;

(vii) a crime of violence; or

(viii) an act of terror;

(c) is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(d) does not have a valid Utah driver license; or

(e) is not at least 19 years of age.

(3) (a) A transportation network company shall prohibit a transportation network driver from accepting a request for a prearranged ride if the motor vehicle that the transportation network driver uses to provide transportation network services fails to comply with:

~~(a)~~ (i) equipment standards described in Section 41-6a-1601; and

~~(b)~~ (ii) emission requirements adopted by a county under Section 41-6a-1642.

(b) (i) If upon visual inspection, a defect relating to the equipment standards described in Section 41-6a-1601 can be reasonably identified, an airport operator may perform a safety inspection of a transportation network driver’s vehicle operating within the airport to ensure compliance with equipment standards described in Section 41-6a-1601.

(ii) An airport operator shall conduct all inspections under this Subsection (3) in such a manner to minimize impact to the transportation network driver’s and transportation network company vehicle’s availability to provide prearranged rides.

(4) A transportation network driver, while providing transportation network services, shall carry proof, in physical or electronic form, that the transportation network driver is covered by insurance that satisfies the requirements of Section 13-51-108.

**Section 3. Section 17-27a-206 is amended to read:**

**17-27a-206. Third party notice -- High priority transportation corridor notice.**

(1) (a) If a county requires notice to adjacent property owners, the county shall:

(i) mail notice to the record owner of each parcel within parameters specified by county ordinance; or

(ii) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

(b) If a county mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

(2) (a) As used in this Subsection (2), “high priority transportation corridor” means a transportation corridor identified as a high priority transportation corridor under Section 72-5-403.

(b) The Department of Transportation may request, in writing, that a county provide the department with electronic notice of each land use application received by the county that may adversely impact the development of a high priority transportation corridor.

(c) If the county receives a written request as provided in Subsection (2)(b), the county shall provide the Department of Transportation with timely electronic notice of each land use application that the request specifies.

(3) (a) A large public transit district, as defined in Section 17B-2a-802, may request, in writing, that a county provide the large public transit district with electronic notice of each land use application received by the county that may impact the development of a major transit investment corridor.

(b) If the county receives a written request as provided in Subsection (3)(a), the county shall provide the large public transit district with timely electronic notice of each land use application that the request specifies.

**Section 4. Section 17B-2a-802 is amended to read:**

**17B-2a-802. Definitions.**

As used in this part:

(1) “Affordable housing” means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) “Affordable housing” may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) “Affordable housing” does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) “Appointing entity” means the person, county, unincorporated area of a county, or municipality

appointing a member to a public transit district board of trustees.

(3) (a) “Chief executive officer” means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) “Chief executive officer” shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) “Council of governments” means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(5) “Department” means the Department of Transportation created in Section 72-1-201.

(6) “Executive director” means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(7) (a) “General manager” means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) “General manager” shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(8) “Large public transit district” means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

(9) (a) “Locally elected public official” means a person who holds an elected position with a county or municipality.

(b) “Locally elected public official” does not include a person who holds an elected position if the elected position is not with a county or municipality.

(10) “Metropolitan planning organization” means the same as that term is defined in Section 72-1-208.5.

(11) “Multicounty district” means a public transit district located in more than one county.

(12) “Operator” means a public entity or other person engaged in the transportation of passengers for hire.

(13) (a) “Public transit” means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) “Public transit” does not include transportation services provided by:

(i) chartered bus;



- (ii) sightseeing bus;
- (iii) taxi;
- (iv) school bus service;
- (v) courtesy shuttle service for patrons of one or more specific establishments; or
- (vi) intra-terminal or intra-facility shuttle services.

(14) "Public transit district" means a local district that provides public transit services.

(15) "Small public transit district" means any public transit district that is not a large public transit district.

(16) "Station area plan" means a plan adopted by the relevant municipality or county that establishes and preserves a vision for areas within one-half mile of a fixed guideway station of a large public transit district, the development of which includes:

- (a) involvement of all relevant stakeholders who have an interest in the station area, including relevant metropolitan planning organizations;
- (b) identification of major infrastructural and policy constraints and a course of action to address those constraints; and
- (c) other criteria as determined by the board of trustees of the relevant public transit district.

[46] (17) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

- (a) leased by or operated by or on behalf of a public transit district; and
- (b) related to the public transit services provided by the district, including:
  - (i) railway or other right-of-way;
  - (ii) railway line; and
  - (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[47] (18) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

[48] (19) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district ~~[that serves a county of the first class].~~

[49] (20) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

**Section 5. Section 17B-2a-804 is amended to read:**

**17B-2a-804. Additional public transit district powers.**

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;

(o) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and

(p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the development of areas under Subsection (1)(p) that have been approved by the board of trustees, and in the manners described in Subsection (1)(p).

~~(4) in the manner described in Subsection (1)(p)(i) or (ii); and]~~

~~[(ii) on no more than eight transit-oriented developments or transit-supportive developments selected by the board of trustees.]~~

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

(d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:

(a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:

(i) service and ridership;

(ii) regional plans made by the metropolitan planning agency;

(iii) the local economy;

(iv) the environment and air quality;

(v) affordable housing; and

(vi) integration with other modes of transportation; ~~and]~~

(b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service.

(4) A public transit district may not participate in a transit-oriented development if:

(a) the relevant municipality or county has not developed and adopted a station area plan; and

(b) (i) for a transit-oriented development involving a municipality, the municipality is not in compliance with Sections 10-9a-403 and 10-9a-408 regarding the inclusion of moderate income housing in the general plan and the required reporting requirements; or

(ii) for a transit-oriented development involving property in an unincorporated area of a county, the county is not in compliance with Sections 17-27a-403 and 17-27a-408 regarding inclusion of moderate income housing in the general plan and required reporting requirements.

~~[(4)] (5) A public transit district may be funded from any combination of federal, state, local, or private funds.~~

~~[(5)] (6) A public transit district may not acquire property by eminent domain.~~

**Section 6. Section 17B-2a-808.1 is amended to read:**

**17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

(j) (i) in partnership with the Department of Transportation, study and evaluate the feasibility of a strategic transition of a large public transit district into a state entity; and

(ii) in partnership with the Department of Transportation, before November 30, 2019, report on the progress of the study to the Transportation Interim Committee and the Infrastructure and General Government Appropriations Subcommittee;

(k) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director; and

(ii) all chief level officers;

(l) supervise and regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

(ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(m) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(n) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(o) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(p) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)(p)(ii) to the general public upon request;

(q) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

(r) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

(s) together with the local advisory council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)(p);

(t) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

- (i) how negotiations occurred;
- (ii) the rationale for providing a reduced fare; and
- (iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(u) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws; and

(v) review and approve any:

- (i) contract or expense exceeding \$200,000; or
- (ii) proposed change order to an existing contract if ~~the value of the change order exceeds~~ the change order:

~~[(A) 15% of the total contract; or]~~

~~[(B) \$200,000.]~~

(A) increases the total contract value to \$200,000 or more;

(B) increases a contract of or expense of \$200,000 or more by 15% or more; or

(C) has a total change order value of \$200,000 or more.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(o).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

(b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and

(c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.

(5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Bonding Commission created in Section 63B-1-201.

(6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(8) (a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.

(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed \$150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.

(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes

control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.

**Section 7. Section 41-1a-902 is amended to read:**

**41-1a-902. Odometer disclosure statement -- Contents -- Receipt -- Exceptions.**

(1) Each motor vehicle certificate of title, at the time it is issued to the transferee, shall contain:

(a) the mileage disclosed by the transferor when ownership of the motor vehicle was transferred; and

(b) a space for the information required to be disclosed under this section at the time of future transfer of ownership.

(2) At the time of any sale or transfer of a motor vehicle, the transferor shall furnish to the transferee a written odometer disclosure statement in a form prescribed by the division. This statement shall be signed and certified as to its truthfulness by the transferor, stating:

(a) the date of transfer;

(b) the transferor's name and address;

(c) the transferee's name and address;

(d) the identity of the motor vehicle, including its make, model, year, body type, and identification number;

(e) the odometer reading at the time of transfer, not including tenths of miles or tenths of kilometers;

(f) (i) that to the best of the transferor's knowledge, the odometer reading reflects the amount of miles or kilometers the motor vehicle has actually been driven;

(ii) that the odometer reading reflects the amount of miles or kilometers in excess of the designed mechanical odometer limit; or

(iii) that the odometer reading is not the actual amount of miles or kilometers; and

(g) a warning to alert the transferee if a discrepancy exists between the odometer reading and the actual mileage.

(3) (a) Each transferee of a motor vehicle shall acknowledge receipt of the odometer disclosure statement required by Subsection (2) by signing it, and the transferor shall deliver to the transferee the original odometer disclosure statement. Both the transferor and the transferee shall retain a legible copy of the odometer disclosure statement for not less than four years.

(b) A dealer who is required under Section 41-3-301 to title and register a motor vehicle sold to a customer shall surrender the original odometer disclosure statement to the division and deliver a copy to the transferee.

(4) Notwithstanding the requirements of this section, the odometer mileage need not be disclosed by a transferor of:

(a) a single motor vehicle having a manufacturer specified gross laden weight rating of more than 16,000 pounds, or a motor vehicle registered in this state for a gross laden weight of 18,000 pounds or more;

(b) a motor vehicle that is [10] 20 years old or older;

(c) a motor vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications; or

(d) a new motor vehicle prior to its first transfer for purposes other than resale.

(5) If the motor vehicle has not been titled or if the certificate of title does not contain a space for the information required, the written disclosure shall be executed as a separate document.

(6) A person may not sign an odometer disclosure statement as both the transferor and the transferee in the same transaction.

**Section 8. Section 41-1a-1206 is amended to read:**

**41-1a-1206. Registration fees -- Fees by gross laden weight.**

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) \$46.00 for each motorcycle;

(b) \$44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) \$45 for each vintage vehicle that is less than 40 years old; and

(h) in addition to the fee described in Subsection (1)(b):

(i) for each electric motor vehicle:

~~[(A) \$60 during calendar year 2019;]~~

~~[(B)] (A) \$90 during calendar year 2020; and~~

~~[(C)] (B) \$120 beginning January 1, 2021, and thereafter;~~

(ii) for each hybrid electric motor vehicle:

~~[(A) \$10 during calendar year 2019;]~~

~~[(B)] (A) \$15 during calendar year 2020; and~~

~~[(C)] (B) \$20 beginning January 1, 2021, and thereafter;~~

(iii) for each plug-in hybrid electric motor vehicle:

~~[(A) \$26 during calendar year 2019;]~~

~~[(B)] (A) \$39 during calendar year 2020; and~~

~~[(C)] (B) \$52 beginning January 1, 2021, and thereafter; and~~

(iv) for any motor vehicle not described in Subsections (1)(h)(i) through (iii) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane:

~~[(A) \$60 during calendar year 2019;]~~

~~[(B)] (A) \$90 during calendar year 2020; and~~

~~[(C)] (B) \$120 beginning January 1, 2021, and thereafter.~~

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) \$34.50 for each motorcycle; and

(ii) \$33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) for each electric motor vehicle:

~~[(A) \$46.50 during calendar year 2019;]~~

~~[(B)] (A) \$69.75 during calendar year 2020; and~~

~~[(C)] (B) \$93 beginning January 1, 2021, and thereafter;~~

(ii) for each hybrid electric motor vehicle:

~~[(A) \$7.50 during calendar year 2019;]~~

~~[(B)] (A) \$11.25 during calendar year 2020; and~~

~~[(C)] (B) \$15 beginning January 1, 2021, and thereafter;~~

(iii) for each plug-in hybrid electric motor vehicle:

~~[(A) \$20 during calendar year 2019;]~~

~~[(B)] (A) \$30 during calendar year 2020; and~~

~~[(C)] (B) \$40 beginning January 1, 2021, and thereafter; and~~

(iv) for each motor vehicle not described in Subsections (2)(b)(i) through (iii) that is fueled by a source other than motor fuel, diesel fuel, natural gas, or propane:

~~[(A) \$46.50 during calendar year 2019;]~~

~~[(B)] (A) \$69.75 during calendar year 2020; and~~

~~[(C)] (B) \$93 beginning January 1, 2021, and thereafter.~~

(3) (a) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2022, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(i)~~[(C)](B)~~, (1)(h)(ii)~~[(C)](B)~~, (1)(h)(iii)~~[(C)](B)~~, (1)(h)(iv)~~[(C)](B)~~, (2)(b)(i)~~[(C)](B)~~, (2)(b)(ii)~~[(C)](B)~~, (2)(b)(iii)~~[(C)](B)~~, and (2)(b)(iv)~~[(C)](B)~~ by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(b) The amounts calculated as described in Subsection (3)(a) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is \$40.

(b) A vintage vehicle that is 40 years old or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle

shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of \$130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than \$200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

**Section 9. Section 59-12-2214 is amended to read:**

**59-12-2214. County, city, or town option sales and use tax to fund a system for public transit, an airport facility, a water conservation project, or to be deposited into the County of the First Class Highway Projects Fund -- Base -- Rate.**

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town.

(2) Notwithstanding Section 59-12-2212.2, and subject to ~~[Subsection (3)]~~ Subsections (3) and (4), a county, city, or town that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

(a) to fund a system for public transit;

(b) to fund a project or service related to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county that imposes the sales and use tax, if the airport facility is part of the regional transportation plan of the area metropolitan

planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town that imposes the sales and use tax, if:

(A) that city or town is located within a county of the second class;

(B) that city or town owns or operates the airport facility; and

(C) an airline is headquartered in that city or town; or

(c) for a combination of Subsections (2)(a) and (b).

(3) A county of the first class that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax as follows:

(a) 80% of the revenues collected from the sales and use tax shall be expended to fund a system for public transit; and

(b) 20% of the revenues collected from the sales and use tax shall be deposited into the County of the First Class Highway Projects Fund created by Section 72-2-121.

(4) (a) A county of the third class that has a portion of the county annexed into a large public transit district and that has imposed a sales and use tax under this section as of January 1, 2020, may change the list of purposes for which the sales and use tax revenue may be expended if:

(i) the proposed uses of the sales and use tax revenue are allowed uses described in this section; and

(ii) in coordination with a relevant large public transit district, the county legislative body passes an ordinance describing the allowed uses of the sales and use tax revenue.

(b) Notwithstanding Section 59-12-2208, and regardless of whether the imposition of the sales and use tax imposed under this section was submitted to the voters as described in Section 59-12-2208, the county legislative body is not required to submit an opinion question to the county's registered voters to change the allowed uses as described in Subsection (4)(a).

**Section 10. Section 59-12-2215 is amended to read:**

**59-12-2215. City or town option sales and use tax for highways or to fund a system for public transit -- Base -- Rate.**

(1) Subject to the other provisions of this part, a city or town may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(2) A city or town imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax as described in Section 59-12-2212.2.

(3) Notwithstanding Section 59-12-2208, a city, or town legislative body may, but is not required to,

submit an opinion question to the city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

**Section 11. Section 59-12-2217 is amended to read:**

**59-12-2217. County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.**

(1) Subject to the other provisions of this part, and subject to Subsection (8), a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) (a) Except as provided in Subsection (2)(b), and subject to Subsections (3) through (6) and Section 59-12-2207, the revenue collected from a sales and use tax under this section may only be expended as described in Section 59-12-2212.2.

(b) Subject to Subsections (3) through (6), in a county of the first or second class, or if a county is part of an area metropolitan planning organization, that portion of the county within the metropolitan planning organization, the revenue collected from a sales and use tax under this section may only be expended as described in Section 59-12-2212.2, and only if the expenditure is for:

(i) a project or service:

(A) relating to a regionally significant transportation facility or collector road for the portion of the project or service that is performed within the county;

(B) for new capacity or congestion mitigation, and not for operation or maintenance, if the project or service is performed within the county; and

(C) on a priority list created by the county's council of governments in accordance with Subsection (5) and approved by the county legislative body in accordance with Subsection (5);

(ii) corridor preservation for a project or service described in Subsection (2)(b)(i)(A) or (B); or

(iii) debt service or bond issuance costs related to a project or service described in Subsection (2)(b)(i)(A) or (B).

(c) The restriction in Subsection (2)(b)(i)(B) from using revenue for operation or maintenance does not apply to any revenue subject to rights or obligations under a contract entered into before January 1, 2019, between a county and a public transit district.

(3) For revenue expended under this section for a project or service described in Subsection (2) that is on or part of a regionally significant transportation facility and that constructs or adds a new through lane or interchange, or provides new fixed guideway public transit service, the project shall be part of:

(a) the statewide long-range plan; or

(b) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization area exists for the area.

(4) (a) As provided in this Subsection (4), a council of governments shall:

(i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;

(ii) create a priority list of transportation projects or services described in Section 59-12-2212.2 in accordance with Subsection (5); and

(iii) present the priority list to the county legislative body for approval in accordance with Subsection (5).

(b) The written prioritization process described in Subsection (4)(a)(i) shall include:

(i) a definition of the type of projects to which the written prioritization process applies;

(ii) subject to Subsection (4)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will be used to determine which proposed projects will be prioritized;

(iii) the specification of data that is necessary to apply the weighted criteria system;

(iv) application procedures for a project to be considered for prioritization by the council of governments; and

(v) any other provision the council of governments considers appropriate.

(c) The weighted criteria system described in Subsection (4)(b)(ii) shall include the following:

(i) the cost effectiveness of a project;

(ii) the degree to which a project will mitigate regional congestion;

(iii) the compliance requirements of applicable federal laws or regulations;

(iv) the economic impact of a project;

(v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and

(vi) any other provision the council of governments considers appropriate.

(d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (4)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:

(i) the written prioritization process; or

(ii) any proposed amendment to the written prioritization process.

(5) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with



Subsection (4) to create a priority list of transportation projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

(i) the written prioritization process; and

(ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (5)(b) is held.

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (5)(b); and

(ii) make the reasons described in Subsection (5)(d)(i) publicly available.

(e) Subject to Subsections (5)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (5), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection (5)(e) per calendar year.

(6) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection 59-12-2212.2 shall be:

(a) deposited in or transferred to the County of the First Class Highway Projects Fund created by Section 72-2-121; and

(b) expended as provided in Section 72-2-121.

(7) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(8) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is

annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (8)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

**Section 12. Section 72-1-102 is amended to read:**

**72-1-102. Definitions.**

As used in this title:

(1) "Circulator alley" means a publicly owned passageway:

(a) with a right-of-way width of 20 feet or greater;

(b) located within a master planned community;

(c) established by the city having jurisdictional authority as part of the street network for traffic circulation that may also be used for:

(i) garbage collection;

(ii) access to residential garages; or

(iii) access rear entrances to a commercial establishment; and

(d) constructed with a bituminous or concrete pavement surface.

[4] (2) "Commission" means the Transportation Commission created under Section 72-1-301.

[2] (3) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

[3] (4) "Department" means the Department of Transportation created in Section 72-1-201.

[4] (5) "Executive director" means the executive director of the department appointed under Section 72-1-202.

[5] (6) "Farm tractor" has the meaning set forth in Section 41-1a-102.

[6] (7) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

[7] (8) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or

made public in an action for the partition of real property, including the entire area within the right-of-way.

[~~(8)~~] (9) “Highway authority” means the department or the legislative, executive, or governing body of a county or municipality.

[~~(9)~~] (10) “Implement of husbandry” has the meaning set forth in Section 41-1a-102.

[~~(10)~~] (11) “Interstate system” means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

[~~(11)~~] (12) “Limited-access facility” means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(13) “Master planned community” means a land use development:

(a) designated by the city as a master planned community; and

(b) comprised of a single development agreement for a development larger than 500 acres.

[~~(12)~~] (14) “Motor vehicle” has the same meaning set forth in Section 41-1a-102.

[~~(13)~~] (15) “Municipality” has the same meaning set forth in Section 10-1-104.

[~~(14)~~] (16) “National highway systems highways” means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

[~~(15)~~] (17) (a) “Port-of-entry” means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) “Port-of-entry” includes inspection and checking stations and weigh stations.

[~~(16)~~] (18) “Port-of-entry agent” means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

[~~(17)~~] (19) “Public transit” means the same as that term is defined in Section 17B-2a-802.

[~~(18)~~] (20) “Public transit facility” means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[~~(19)~~] (21) “Right-of-way” means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

[~~(20)~~] (22) “Sealed” does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

[~~(21)~~] (23) “Semitrailer” has the meaning set forth in Section 41-1a-102.

[~~(22)~~] (24) “SR” means state route and has the same meaning as state highway as defined in this section.

[~~(23)~~] (25) “State highway” means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

[~~(24)~~] (26) “State transportation purposes” has the meaning set forth in Section 72-5-102.

[~~(25)~~] (27) “State transportation systems” means all streets, alleys, roads, highways, pathways, and thoroughfares of any kind, including connected structures, airports, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

[~~(26)~~] (28) “Trailer” has the meaning set forth in Section 41-1a-102.

[~~(27)~~] (29) “Truck tractor” has the meaning set forth in Section 41-1a-102.

[~~(28)~~] (30) “UDOT” means the Utah Department of Transportation.

[~~(29)~~] (31) “Vehicle” has the same meaning set forth in Section 41-1a-102.

**Section 13. Section 72-1-213.1 is amended to read:**

**72-1-213.1. Road usage charge program.**

(1) As used in this section:

(a) “Account manager” means an entity under contract with the department to administer and manage the road usage charge program.

(b) “Alternative fuel vehicle” means the same as that term is defined in Section 41-1a-102.

(c) “Payment period” means the interval during which an owner is required to report mileage and pay the appropriate road usage charge according to the terms of the program.

(d) “Program” means the road usage charge program established and described in this section.

(2) There is established a road usage charge program as described in this section.

(3) (a) The department shall implement and oversee the administration of the program, which shall begin on January 1, 2020.

(b) To implement and administer the program, the department may contract with an account manager.

(4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of the alternative fuel vehicle in the program.

(b) If an application for enrollment into the program is approved by the department, the owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department:

(i) shall make rules to establish:

(A) processes and terms for enrollment into and withdrawal or removal from the program;

(B) payment periods and other payment methods and procedures for the program;

(C) standards for mileage reporting mechanisms for an owner or lessee of an alternative fuel vehicle to report mileage as part of participation in the program;

(D) standards for program functions for mileage recording, payment processing, account management, and other similar aspects of the program;

(E) contractual terms between an owner or lessee of an alternative fuel vehicle owner and an account manager for participation in the program;

(F) contractual terms between the department and an account manager, including authority for an account manager to enforce the terms of the program;

(G) procedures to provide security and protection of personal information and data connected to the program, and penalties for account managers for violating privacy protection rules;

(H) penalty procedures for a program participant's failure to pay a road usage charge or tampering with a device necessary for the program; and

(I) department oversight of an account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the program; and

(ii) may make rules to establish:

(A) an enrollment cap for certain alternative fuel vehicle types to participate in the program;

(B) a process for collection of an unpaid road usage charge or penalty; or

(C) integration of the program with other similar programs, such as tolling.

(b) The department shall make recommendations to and consult with the commission regarding road

usage mileage rates for each type of alternative fuel vehicle.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the commission shall, after consultation with the department, make rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

(7) (a) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Transportation Fund.

(b) The department may use revenue generated by the program to cover the costs of administering the program.

(8) (a) The department may:

(i) (A) impose a penalty for failure to timely pay a road usage charge according to the terms of the program or tampering with a device necessary for the program; and

(B) request that the Division of Motor Vehicles place a hold on the registration of the owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to the terms of the program;

(ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner or lessee of:

(A) the road usage charge program, implementation, and procedures;

(B) an unpaid road usage charge and the amount of the road usage charge to be paid to the department;

(C) the penalty for failure to pay a road usage charge within the time period described in Subsection (8)(a)(iii); and

(D) a hold being placed on the owner's or lessee's registration for the alternative fuel vehicle, if the road usage charge and penalty are not paid within the time period described in Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's registration; and

(iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage charge to the department within 30 days of the date when the department sends written notice of the road usage charge to the owner or lessee.

(b) The department shall send the correspondence and notice described in Subsection (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

(9) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to an alternative fuel vehicle and participation in the program including:

(i) registration and ownership information pertaining to an alternative fuel vehicle;

(ii) information regarding the failure of an alternative fuel vehicle owner or lessee to pay a road usage charge or penalty imposed under this section

within the time period described in Subsection (8)(a)(iii); and

(iii) the status of a request for a hold on the registration of an alternative fuel vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

(10) The owner of an alternative fuel vehicle may apply for enrollment in the program or withdraw from the program according to the terms established by the department pursuant to rules made under Subsection (5).

(11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

(a) report mileage driven as required by the department pursuant to Subsection (5);

(b) pay the road usage fee for each payment period as set by the department and the commission pursuant to Subsections (5) and (6); and

(c) comply with all other provisions of this section and other requirements of the program.

(12) (a) On or before June 1, 2021, and except for the vehicles excluded in Subsection (12)(b), the department shall submit to a legislative committee designated by the Legislative Management Committee a written plan to enroll all vehicles registered in the state in the program by December 31, 2031.

(b) The plan described in Subsection (12)(a) may exclude authorized carriers described in Subsection 59-12-102(17)(a).

(c) Beginning in 2021, on or before October 1 of each year, the department shall submit annually an electronic report recommending strategies to expand enrollment in the program to meet the deadline provided in Subsection (12)(a).

(13) Beginning in 2021, the department shall submit annually, on or before October 1, to the legislative committee that receives the report described in Subsection (12)(a), an electronic report that:

(a) states for the preceding fiscal year:

(i) the amount of revenue collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program; and

(b) provides for the current fiscal year, an estimate of:

(i) the revenue that will be collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program.

**Section 14. Section 72-1-303 is amended to read:**

**72-1-303. Duties of commission.**

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects in the state transportation systems and capital development of new public transit facilities for each fiscal year based on project lists compiled by the department and taking into consideration the strategic initiatives described in Section 72-1-211;

(b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(c) holding public hearings and otherwise providing for public input in transportation matters;

(d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(f) advising the department in state transportation systems policy;

(g) approving settlement agreements of condemnation cases subject to Section 63G-10-401;

(h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting, ex officio member or a voting member on the board of trustees of a public transit district;

(i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans; and

(j) reviewing administrative rules made, substantively amended, or repealed by the department.

(2) (a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125, the commission shall annually report to a committee designated by the Legislative Management Committee:

(i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and

(ii) the unfunded highway construction and maintenance needs within the state.

(b) The committee designated by the Legislative Management Committee under Subsection (2)(a) shall:

(i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

**Section 15. Section 72-1-304 is amended to read:**

**72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.**

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects that:

(A) mitigate traffic congestion on the state highway system; and

(B) are part of an active transportation plan approved by the department;

(iii) public transit projects that add capacity to the public transit systems within the state; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802.

(b) When prioritizing a public transit or transportation project that increases capacity, the commission may give priority consideration to projects that are part of a transportation reinvestment zone created under Section 11-13-227 if:

(i) the state is a participant in the transportation reinvestment zone; or

(ii) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system.

~~[(3)]~~ (4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state

provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

[4] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

[5] (6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection [4] (5).

**Section 16. Section 72-2-107 is amended to read:**

**72-2-107. Appropriation from Transportation Fund -- Apportionment for class B and class C roads.**

(1) There is appropriated to the department from the Transportation Fund annually an amount equal to 30% of an amount which the director of finance shall compute in the following manner: The total revenue deposited into the Transportation Fund during the fiscal year from state highway-user taxes and fees, minus those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to:

- (a) the Department of Public Safety;
- (b) the State Tax Commission;
- (c) the Division of Finance;
- (d) the Utah Travel Council;
- (e) the road usage charge program created in Section 72-1-213.1; and
- (f) any other amounts appropriated or transferred for any other state agencies not a part of the department.

(2) (a) Except as provided in ~~[Subsection]~~ Subsections (2)(b) and (c), all of the money appropriated in Subsection (1) shall be apportioned among counties and municipalities for class B and class C roads as provided in this title.

(b) The department shall annually transfer \$500,000 of the amount calculated under Subsection (1) to the State Park Access Highways Improvement Program created in Section 72-3-207.

(c) Administrative costs of the department to administer class B and class C roads shall be paid from funds calculated under Subsection (1).

(3) Each quarter of every year the department shall make the necessary accounting entries to transfer the money appropriated under this section for class B and class C roads.

(4) The funds appropriated for class B and class C roads shall be expended under the direction of the department as the Legislature shall provide.

**Section 17. Section 72-2-108 is amended to read:**

**72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.**

(1) For purposes of this section:

(a) "Eligible county" means a county of the fifth class, as described in Section 17-50-501, that received a distribution for fiscal year 2015 that was reapportioned to include money in addition to the amount calculated under Subsection (2), and the portion of the distribution derived from the calculation under Subsection (2) was less than 60% of the total distribution.

(b) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (1)(b)(iii)(A) through (E); and

(II) coarser than sand.

(c) "Paved road" includes:

(i) a gravelled road with a chip seal surface~~[-]~~; and

(ii) a circulator alley.

(d) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(e) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five; and

(ii) all other road type road miles multiplied by two.

(2) Subject to the provisions of Subsections (3) through (7), funds appropriated for class B and class C roads shall be apportioned among counties and municipalities in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Committee.

(3) For purposes of Subsection (2)(b), “the population of a county” means:

(a) for a county of the first class with a metro township, as defined in Section 10-2a-403, within the boundaries of the county as of January 1, 2020:

(i) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 7% of the total population of that county, including municipalities; and

(ii) if the population of a county outside the corporate limits of municipalities in the county is less than 7% of the total population:

(A) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(I) 7%; and

(II) the actual percentage of population outside the corporate limits of municipalities in that county; and

(B) the population apportioned to the county shall be 7% of the total population of that county, including incorporated municipalities; or

(b) for any county not described in Subsection (3)(a):

~~(a)~~ (i) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

~~(b)~~ (ii) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

~~(i)~~ (A) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

~~(A)~~ (I) 14%; and

~~(B)~~ (II) the actual percentage of population outside the corporate limits of municipalities in that county; and

~~(ii)~~ (B) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) For an eligible county, the department shall reapportion the funds under Subsection (2) to

ensure that the county or municipality receives, for a fiscal year beginning on or after July 1, 2018, an amount equal to the greater of:

(a) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(b) (i) the amount apportioned to the county or municipality for class B and class C roads through the apportionment formula under Subsection (2) or this Subsection (4) in the prior fiscal year; plus

(ii) the amount calculated as described in Subsection (6).

(5) (a) The department shall decrease proportionately as provided in Subsection (5)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (5)(a) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4).

(6) (a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4) shall receive an amount equal to the amount apportioned to the eligible county or municipality under Subsection (4) for class B and class C roads in the prior fiscal year multiplied by the percentage increase or decrease in the total funds available for class B and class C roads between the prior fiscal year and the fiscal year that immediately preceded the prior fiscal year.

(b) The adjustment under Subsection (6)(a) shall be made in the same way as provided in Subsections (5)(a) and (b).

(7) (a) If a county or municipality does not qualify for a reapportionment under Subsection (4) in the current fiscal year but previously qualified for a reapportionment under Subsection (4) on or after July 1, 2017, the county or municipality shall receive an amount equal to the greater of:

(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(ii) the amount apportioned to the county or municipality for class B and class C roads in the prior fiscal year.

(b) The adjustment under Subsection (7)(a) shall be made in the same way as provided in Subsections (5)(a) and (b).

(8) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

**Section 18. Section 72-2-124 is amended to read:**

**72-2-124. Transportation Investment Fund of 2005.**

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class

Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121; and

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not use program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not use program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.



(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before May 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not [use] program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may [use] program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not [use] program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may [use] program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not [use] program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

**Section 19. Section 72-3-104 is amended to read:**

**72-3-104. City streets -- Class C roads -- Construction and maintenance.**

(1) City streets comprise:

(a) highways, roads, circulator alleys, and streets within the corporate limits of the municipalities that are not designated as class A state roads or as class B roads; and

(b) those highways, roads, and streets located within a national forest and constructed or maintained by the municipality under agreement with the appropriate federal agency.

(2) City streets are class C roads.

(3) Except for city streets within counties of the first and second class as defined in Section 17-50-501, the state and city have joint undivided interest in the title to all rights-of-way for all city streets.

(4) The municipal governing body exercises sole jurisdiction and control of the city streets within the municipality.

(5) The department shall cooperate with the municipal legislative body in the construction and maintenance of the class C roads within each municipality.

(6) The municipal legislative body shall expend or cause to be expended upon the class C roads the funds allocated to each municipality from the Transportation Fund under rules made by the department.

(7) Any town or city in the third, fourth, or fifth class may:

(a) contract with the county or the department for the construction and maintenance of class C roads within its corporate limits; or

(b) transfer, with the consent of the county, its:

(i) class C roads to the class B road system; and

(ii) funds allocated from the Transportation Fund to the municipality to the county legislative body for use upon the transferred class C roads.

(8) A municipal legislative body of any city of the third, fourth, or fifth class may use any portion of the class C road funds allocated to the municipality for the construction of sidewalks, curbs, and gutters on class A state roads within the municipal limits by cooperative agreement with the department.

**Section 20. Section 72-6-118 is amended to read:**

**72-6-118. Definitions -- Establishment and operation of tollways -- Imposition and collection of tolls -- Amount of tolls -- Rulemaking.**

(1) As used in this section:

(a) "High occupancy toll lane" means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee.

(b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

(c) "Toll lane" means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use.

(d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way designed and used as a transportation route that is constructed, operated, or maintained through the use of toll revenues.

(ii) "Tollway" includes a high occupancy toll lane and a toll lane.

(e) "Tollway development agreement" has the same meaning as defined in Section 72-6-202.

(2) Subject to the provisions of Subsection (3), the department may:

(a) establish, expand, and operate tollways and related facilities for the purpose of funding in whole or in part the acquisition of right-of-way and the design, construction, reconstruction, operation, enforcement, and maintenance of or impacts from a transportation route for use by the public;

(b) enter into contracts, agreements, licenses, franchises, tollway development agreements, or other arrangements to implement this section;

(c) impose and collect tolls on any tollway established under this section, including collection of past due payment of a toll or penalty;

(d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls pursuant to the terms and conditions of a tollway development agreement;

(e) use technology to automatically monitor a tollway and collect payment of a toll, including:

(i) license plate reading technology; and

(ii) photographic or video recording technology; and

(f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll or penalty imposed for usage of a tollway involving the motor vehicle for which registration renewal has been requested.

(3) (a) The department may establish or operate a tollway on an existing highway if approved by the commission in accordance with the terms of this section.

(b) To establish a tollway on an existing highway, the department shall submit a proposal to the commission including:

(i) a description of the tollway project;

(ii) projected traffic on the tollway;

(iii) the anticipated amount of the toll to be charged; and

(iv) projected toll revenue.

(4) (a) For a tollway established under this section, the department may:

(i) according to the terms of each tollway, impose the toll upon the owner of a motor vehicle using the tollway according to the terms of the tollway;

(ii) send correspondence to the owner of the motor vehicle to inform the owner of:

(A) an unpaid toll and the amount of the toll to be paid to the department;

(B) the penalty for failure to pay the toll timely; and

(C) a hold being placed on the owner's registration for the motor vehicle if the toll and penalty are not paid timely, which would prevent the renewal of the motor vehicle's registration;

(iii) require that the owner of the motor vehicle pay the toll to the department within 30 days of the date when the department sends written notice of the toll to the owner; and

(iv) impose a penalty for failure to pay a toll timely.

(b) The department shall mail the correspondence and notice described in Subsection (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

(5) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to a motor vehicle and tollway enforcement including:

(i) registration and ownership information pertaining to a motor vehicle;

(ii) information regarding the failure of a motor vehicle owner to timely pay a toll or penalty imposed under this section; and

(iii) the status of a request for a hold on the registration of a motor vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or penalty imposed under this section for usage of a tollway involving the motor vehicle for which registration renewal has been requested until the department withdraws the hold request.

(6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall:

(i) set the amount of any toll imposed or collected on a tollway on a state highway; and

(ii) for tolls established under Subsection (6)(b), set:

(A) an increase in a toll rate or user fee above an increase specified in a tollway development agreement; or

(B) an increase in a toll rate or user fee above a maximum toll rate specified in a tollway development agreement.

(b) A toll or user fee and an increase to a toll or user fee imposed or collected on a tollway on a state highway that is the subject of a tollway development agreement shall be set in the tollway development agreement.

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(i) necessary to establish and operate tollways on state highways;

(ii) that establish standards and specifications for automatic tolling systems and automatic tollway monitoring technology; and

(iii) to set the amount of a penalty for failure to pay a toll under this section.

(b) The rules shall:

(i) include minimum criteria for having a tollway; and

(ii) conform to regional and national standards for automatic tolling.

(8) (a) The commission may provide funds for public or private tollway pilot projects or high occupancy toll lanes from General Fund money appropriated by the Legislature to the commission for that purpose.

(b) The commission may determine priorities and funding levels for tollways designated under this section.

(9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway on a state highway shall be deposited into the Tollway Special Revenue Fund created in Section 72-2-120 and used for ~~[acquisition of right-of-way and the design, construction, reconstruction, operation, maintenance, enforcement of state transportation systems and facilities, including operating improvements to the tollway, and other facilities used exclusively for the operation of a tollway facility within the corridor served by the tollway]~~ any state transportation purpose.

(b) Revenue generated from a tollway that is the subject of a tollway development agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance with Subsection (9)(a) unless:

(i) the revenue is to a private entity through the tollway development agreement; or

(ii) the revenue is identified for a different purpose under the tollway development agreement.

(10) Data described in Subsection (2)(e) obtained for the purposes of this section:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the photographic or video data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in this section;

(c) may only be preserved:

(i) so long as necessary to collect the payment of a toll or penalty imposed in accordance with this section; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(11) (a) The department may not sell for any purpose photographic or video data captured under Subsection (2)(e)(ii).

(b) The department may not share captured photographic or video data for a purpose not authorized under this section.

(12) Before November 1, 2018, the Driver License Division, the Division of Motor Vehicles, and the department shall jointly study and report findings and recommendations to the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers' License Compact, and other methods to collect a toll or penalty under this section from:

(a) an owner of a motor vehicle registered outside this state; or

(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.

**Section 21. Section 72-10-207 is amended to read:**

**72-10-207. Powers of department and political subdivisions over airports -- Security unit.**

(1) The department, and counties, municipalities, or other political subdivisions of this state that have established or may establish airports or that acquire, lease, or set apart real property for those purposes, may:

(a) construct, equip, improve, maintain, and operate the airports or may vest the authority for their construction, equipment, improvement, maintenance, and operation in an officer of the department or in an officer, board, or body of the political subdivision;

(b) adopt rules, establish charges, fees, and tolls for the use of airports and landing fields, fix penalties for the violation of the rules, and establish liens to enforce payment of the charges, fees, and tolls, subject to approval by the commission;

(c) lease the airports to private parties for operation for a term not exceeding 50 years, as long as the public is not deprived of its rightful, equal, and uniform use of the facility;

(d) lease or assign space, area, improvements, equipment, buildings, and facilities on the airports to private parties for operation for a term not exceeding 50 years;

(e) lease or assign real property comprising all or any part of the airports to private parties for the construction and operation of hangars, shop buildings, or office buildings for a term not

exceeding 50 years, if the projected construction cost of the hangar, shop building, or office building is \$100,000 or more; and

(f) establish, maintain, operate, and staff a security unit for the purpose of enforcing state and local laws at any airport that is subject to federal airport security regulations.

(2) The department or political subdivision shall pay the construction, equipment, improvement, maintenance, and operations expenses of any airport established by them under Subsection (1).

(3) (a) If the department or political subdivision establishes a security unit under Subsection (1)(f), the department head or the governing body of the political subdivision shall appoint persons qualified as peace officers under Title 53, Chapter 13, Peace Officer Classifications to staff the security unit.

(b) A security unit appointed by the department or political subdivision is exempt from civil service regulations.

(c) If the department or political subdivision establishes a security unit under Subsection (1)(f), the department head or the governing body of the political subdivision:

(i) may allow peace officers or other workers to assist with airport operations and vehicle and traffic flow; and

(ii) may not allow peace officers or other workers to:

(A) unreasonably impede or obstruct traffic;

(B) create unsafe traffic situations; or

(C) intimidate vehicle drivers or airport passengers.

**Section 22. Effective date.**

This bill takes effect on May 12, 2020, with the exceptions of:

(1) Section 41-1a-902, which takes effect on October 1, 2020;

(2) Section 41-1a-1206, which takes effect on January 1, 2021; and

(3) Section 72-2-108, which takes effect on July 1, 2021.

**CHAPTER 378****S. B. 151**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**ACCELERATED STUDENT PROGRAM AMENDMENTS**

Chief Sponsor: Karen Mayne  
 House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill amends provisions related to early college programs and a program for accelerated students.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to make rules;
- ▶ removes early college programs from the Enhancement for Accelerated Students Program;
- ▶ creates a funding formula for early college programs;
- ▶ provides for funding distribution formulas for the Enhancement for Accelerated Students Program and early college programs to prioritize increasing access to the programs for groups of students who are underrepresented in the programs;
- ▶ provides that an LEA that receives funding for concurrent enrollment may prioritize using the funding to increase access to concurrent enrollment for groups of students who are underrepresented in concurrent enrollment; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-2-206, as last amended by Laws of Utah 2019, Chapter 186  
 53F-2-408, as last amended by Laws of Utah 2019, Chapter 186  
 53F-2-409, as last amended by Laws of Utah 2019, Chapters 136 and 186

**ENACTS:**

53F-2-408.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53F-2-206 is amended to read:****53F-2-206. Flexibility in the use of certain related to basic program funds.**

(1) As used in this section, “qualifying program” means:

(a) the Enhancement for At-Risk Students Program created in Section 53F-2-410;

(b) the Enhancement for Accelerated Students Program created in Section 53F-2-408; ~~and~~

(c) the early college programs described in Section 53F-2-408.5; and

~~[(e)]~~ (d) the concurrent enrollment program established in Section 53E-10-302.

(2) If a school district or charter school receives an allocation of state funds for a qualifying program that is less than \$10,000, the LEA governing board of the receiving school district or charter school may:

(a) (i) combine the funds with one or more qualifying program fund allocations each of which is less than \$10,000; and

(ii) use the combined funds in accordance with the program requirements for any of the qualifying programs that are combined; or

(b) (i) transfer the funds to a qualifying program for which the school district or charter school received an allocation of funds that is greater than or equal to \$10,000; and

(ii) use the combined funds in accordance with the program requirements for the qualifying program to which the funds are transferred.

**Section 2. Section 53F-2-408 is amended to read:****53F-2-408. Enhancement for Accelerated Students Program.**

(1) As used in this section, ~~“eligible low-income student” means a student who: (a) takes an Advanced Placement test; (b) has applied for an Advanced Placement test fee reduction; and (c) qualifies for a free lunch or a lunch provided at reduced cost.~~ “local education agency” or “LEA” means:

(a) a school district; or

(b) a charter school.

~~[(2) The state board shall distribute money appropriated for the Enhancement for Accelerated Students Program to school districts and charter schools according to a formula adopted by the state board, after consultation with LEA governing boards.]~~

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish a formula to distribute money appropriated for the Enhancement for Accelerated Students Program.

(b) The state board shall consult with LEAs before making the rules described in Subsection (2)(a).

(3) A distribution formula adopted under Subsection (2) ~~may~~ shall:

(a) include an allocation of money for ~~[:]~~ gifted and talented programs; and

~~[(a) Advanced Placement courses;]~~

~~[(b) Advanced Placement test fees of eligible low-income students;]~~

~~[(c) gifted and talented programs, including professional development for teachers of high ability students; and]~~

~~[(d) International Baccalaureate programs.]~~

(b) prioritize funding to increase access to gifted and talented programs for groups of students who are underrepresented in gifted and talented programs.

~~[(4) The greater of 1.5% or \$100,000 of the appropriation for the Enhancement for Accelerated Students Program may be allowed for International Baccalaureate programs.]~~

~~[(5)] (4) A school district or charter school shall use money distributed under this section to enhance the academic growth of students whose academic achievement is accelerated.~~

~~[(6)] (5) The state board shall develop performance criteria to measure the effectiveness of the Enhancement for Accelerated Students Program.~~

~~[(7)] (6) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.~~

**Section 3. Section 53F-2-408.5 is enacted to read:**

**53F-2-408.5. Early college programs.**

(1) As used in this section:

(a) "Advanced placement course" means a rigorous course developed by the College Board that:

(i) is developed by a committee composed of college faculty and advanced placement teachers and covers the breadth of information, skills, and assignments found in the corresponding college course; and

(ii) for which a student who performs well on an exam for the course may be:

(A) granted college credit; or

(B) given advanced standing at a college or university.

(b) "Eligible low income student" means a student who:

(i) takes an advanced placement course test;

(ii) has applied for an advanced placement course test fee reduction; and

(iii) qualifies for a free lunch or a lunch provided at a reduced cost.

(c) "International Baccalaureate program" means a program established by the International Baccalaureate Organization.

(d) "Local education agency" or "LEA" means:

(i) a school district; or

(ii) a charter school.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish a formula to distribute money appropriated for the early college programs described in Subsection (2)(b).

(b) Subject to Subsection (2)(c), the formula described in Subsection (2)(a) shall:

(i) include an allocation of money for the following early college programs:

(A) advanced placement courses;

(B) advanced placement course test fees for eligible low income students; and

(C) International Baccalaureate programs; and

(ii) prioritize funding to increase access to early college programs for groups of students who are underrepresented in early college programs.

(c) The state board may not allocate more than \$100,000 of an appropriation under this section for International Baccalaureate programs.

(d) The state board shall consult with LEAs before making the rules described in Subsection (2)(a).

(3) An LEA shall use money distributed under this section for the purposes described in Subsection (2)(b).

(4) The state board shall develop performance criteria to measure the effectiveness of the early college programs described in this section.

(5) If an LEA receives an allocation of less than \$10,000 for the early college programs described in this section, the LEA may use the allocation as described in Section 53F-2-206.

**Section 4. Section 53F-2-409 is amended to read:**

**53F-2-409. Concurrent enrollment funding.**

(1) The terms defined in Section 53E-10-301 apply to this section.

(2) The state board shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The state board shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken [where] for which:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the state board shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the State Board of Regents.

(c) From the money allocated under Subsection (3)(a)(ii), the state board shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the State Board of Regents.

(d) The state board shall make rules providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The State Board of Regents shall make rules providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) kindergarten through grade 12 student enrollment; and

(b) the value of the weighted pupil unit.

(5) (a) An LEA that receives money under this section may prioritize using the money to increase access to concurrent enrollment for groups of students who are underrepresented in concurrent enrollment.

(b) If an LEA receives an allocation of less than \$10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

**CHAPTER 379****S. B. 152**

Passed March 11, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**SEARCH AND RESCUE  
FUNDING AMENDMENTS**

Chief Sponsor: Kathleen Riebe  
House Sponsor: Casey Snider

**LONG TITLE****General Description:**

This bill amends provisions of, and provides additional funding for, the Search and Rescue Financial Assistance Program and the Utah Search and Rescue Assistance Card Program.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions of the Search and Rescue Financial Assistance Program;
- ▶ provides for an annual deposit of sales and use tax revenues into the General Fund as a dedicated credit to provide for reimbursement expenses relating to search and rescue and to promote the assistance card program; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-2a-1102, as last amended by Laws of Utah 2017, Chapters 167, 168, and 292  
59-12-103, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-2a-1102 is amended to read:**

**53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.**

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses<sup>[,]</sup>" ~~as used in this section,~~ means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, ~~helicopters,~~ snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to ~~any person~~ an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23-19-42, 41-22-34, and 73-18-24; ~~and~~

(iii) money deposited under Subsection 59-12-103(14); and

~~(iii)~~ (iv) appropriations made to the program by the Legislature.

(b) All money received from the revenue sources in Subsections (3)(a)(i) and (ii), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the ~~purposes under this section~~ program.

(c) 10% of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

~~(e)~~ (d) All funding for the program is nonlapsing.

(4) ~~The~~ Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and



(c) rules made under Subsection (7).

~~[(5) Program money]~~

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Outdoor Recreation Office, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(6).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23-19-42, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be utilized to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23-19-42, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Outdoor Recreation Office regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

**Section 2. Section 59-12-103 is amended to read:**

**59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of

one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) (I) through March 31, 2019, 4.70%; and

(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax

under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable

under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in

Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in

Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the

Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and

(ii) for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (13)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(14) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated credit solely for use of

the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.



**CHAPTER 380****S. B. 153**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**BUSINESS PAYROLL  
 PRACTICES AMENDMENTS**

Chief Sponsor: Karen Mayne  
 House Sponsor: James A. Dunnigan

**LONG TITLE****General Description:**

This bill amends provisions of the Utah Construction Trades Licensing Act regarding unlawful conduct.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions of the Utah Construction Trades Licensing Act regarding unlawful conduct.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-55-503, as last amended by Laws of Utah 2018, Chapter 318

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 58-55-503 is amended to read:**

**58-55-503. Penalty for unlawful conduct -- Citations.**

(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (22), (23), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

(3) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

(4) (a) (i) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (19), (21), (22), (23), (24), (25), (26), (27), (28), or (29), Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) (ii) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (19), (21), (22), (23), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (19), (21), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2).

(4) (iii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) A citation shall clearly explain the consequences of failure to timely contest the

citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after ~~it~~ the citation becomes final.

(f) The failure of an applicant for licensure to comply with a citation after ~~it~~ the citation becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of six months following the occurrence of a violation.

(h) (i) Except as provided in ~~Subsection~~ Subsections (4)(h)(ii) and (5), the director or the director's designee shall assess a fine in accordance with the following:

~~(4)~~ (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

~~(4)(i)~~ (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000; and

~~(4)(ii)~~ (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(ii) Except as provided in Subsection (5), if a person violates Subsection 58-55-501(16)(e) or (29), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

(B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$4,000; and

(C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$4,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (19), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2); or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (19), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or (25) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(24), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25) for each individual is considered a separate violation.

(5) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

(6) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

(7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

**CHAPTER 381****S. B. 154**

Passed March 5, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**TAXED INTERLOCAL  
 ENTITY AMENDMENTS**

Chief Sponsor: David P. Hinkins  
 House Sponsor: Carl R. Albrecht

**LONG TITLE****General Description:**

This bill modifies provisions relating to taxed interlocal entities.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of “project,” for purposes of taxed interlocal entities, to include fuel production facilities and energy storage facilities and to include a project entity’s ownership interest in a Utah interlocal energy hub;
- ▶ defines “Utah interlocal energy hub”;
- ▶ modifies the definition of “taxed interlocal entity” to expand the type of payment of funds a project entity and interlocal entity may receive without losing their status as a taxed interlocal entity; and
- ▶ provides that a segment is a project entity if the segment’s associated entity is a project entity.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

11-13-103, as last amended by Laws of Utah 2018, Chapter 424  
 11-13-602, as enacted by Laws of Utah 2016, Chapter 382  
 11-13-604, as enacted by Laws of Utah 2016, Chapter 382

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 11-13-103 is amended to read:****11-13-103. Definitions.**

As used in this chapter:

(1) (a) “Additional project capacity” means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) “Additional project capacity” does not mean or include replacement project capacity.

(2) “Board” means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) “Candidate” means one or more of:

(a) the state;

(b) a county, municipality, school district, local district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) “Commercial project entity” means a project entity, defined in Subsection (18), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) “Direct impacts” means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) “Electric interlocal entity” means an interlocal entity described in Subsection 11-13-203(3).

(7) “Energy services interlocal entity” means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) “Estimated electric requirements,” when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in “estimated electric requirements” if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity’s contractual or legal obligations to any of its members.

(9) (a) “Facilities providing replacement project capacity” means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.

(b) “Facilities providing replacement project capacity” includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:

(i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or

(ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an ownership, leasehold, right-of-way, or permitted interest.

(10) “Governing authority” means a governing board or joint administrator.

(11) (a) “Governing board” means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) “Governing board” includes a board of directors described in an agreement, as amended, that creates a project entity.

(c) “Governing board” does not include a board as defined in Subsection (2).

(12) “Interlocal entity” means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

(13) “Joint administrator” means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

(14) “Joint or cooperative undertaking” means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.

(15) “Member” means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

(16) “Out-of-state public agency” means a public agency as defined in Subsection (19)(c), (d), or (e).

(17) (a) “Project”:

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel [øf] facilities, fuel production facilities, fuel transportation facilities [and], energy storage facilities, or water facilities that are:

(A) owned by that Utah interlocal entity or electric interlocal entity; and

(B) required for the generation and transmission facility.

(b) “Project” includes a project entity’s ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities providing replacement project capacity; [and]

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project[-]; and

(iv) a Utah interlocal energy hub, as defined in Section 11-13-602.

(18) “Project entity” means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

(19) “Public agency” means:

(a) a city, town, county, school district, local district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(20) “Qualified energy services interlocal entity” means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

(21) “Replacement project capacity” means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected with the site of a project, regardless of whether:

(i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project existing before installation of the capacity replacing existing capacity;

(ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or

(iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

(22) “Transportation reinvestment zone” means an area created by two or more public agencies by interlocal agreement to capture increased property

or sales tax revenue generated by a transportation infrastructure project as described in Section 11-13-227.

(23) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

(24) "Utah public agency" means a public agency under Subsection (19)(a) or (b).

**Section 2. Section 11-13-602 is amended to read:**

**11-13-602. Definitions.**

As used in this part:

(1) "Asset" means funds, money, an account, real or personal property, or personnel.

(2) (a) "Associated entity" means a taxed interlocal entity that adopts a segment's organizing resolution.

(b) "Associated entity" does not include any other segment.

(3) "Fiduciary duty" means a duty expressly designated as a fiduciary duty of:

(a) a director or an officer of a taxed interlocal entity in:

(i) the organization agreement of the taxed interlocal entity; or

(ii) an agreement executed by the director or the officer and the taxed interlocal entity; or

(b) a director or an officer of a segment in:

(i) the organizing resolution of the segment; or

(ii) an agreement executed by the director or the officer and the segment.

(4) "Governing body" means the body established in an organizing resolution to govern a segment.

(5) "Governmental law" means:

(a) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(b) Title 63A, Chapter 3, Division of Finance;

(c) Title 63G, Chapter 6a, Utah Procurement Code;

(d) a law imposing an obligation on a taxed interlocal entity similar to an obligation imposed by a law described in Subsection (5)(a), (b), or (c);

(e) an amendment to or replacement or renumbering of a law described in Subsection (5)(a), (b), (c), or (d); or

(f) a law superseding a law described in Subsection (5)(a), (b), (c), or (d).

(6) "Indexed office" means the address identified under Subsection 63G-7-401(5)(a)(i) by a segment's associated entity in the associated entity's statement described in Subsection 63G-7-401(5).

(7) "Organization agreement" means an agreement, as amended, that creates a taxed interlocal entity.

(8) "Organizing resolution" means a resolution described in Subsection 11-13-604(1) that creates a segment.

(9) "Principal county" means the county in which the indexed office of a segment's associated entity is located.

(10) "Project" means:

(a) the same as that term is defined in Section 11-13-103; or

(b) facilities, improvements, or contracts undertaken by a taxed interlocal entity in accordance with Subsection 11-13-204(2).

(11) "Public asset" means:

(a) an asset used by a public entity;

(b) tax revenue;

(c) state funds; or

(d) public funds.

(12) "Segment" means a segment created in accordance with Section 11-13-604.

(13) "Taxed interlocal entity" means:

(a) a project entity that:

(i) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than:

(A) a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; or

(B) a grant that is subject to accountability requirements and that the project entity receives for purposes related to a Utah interlocal energy hub, including research and development of technology, financing, construction, installation, operation, and other actions that the project entity may take with respect to a project; and

(iii) does not receive, expend, or have the authority to compel payment from tax revenue; or

(b) an interlocal entity that:

(i) was created before 1981 for the purpose of providing power supply at wholesale to its members;

(ii) does not receive a payment of funds from a federal agency or office, state agency or office,

political subdivision, or other public agency or office other than:

(A) a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; [and] or

(B) a loan, grant, guaranty, transferable tax credit, cost-sharing arrangement, or other funding arrangement for an advanced nuclear power facility, as defined in 26 U.S.C. Sec. 45J(d), for an advanced nuclear reactor, as defined in 42 U.S.C. Sec. 16271(b)(1), or for an advanced nuclear energy facility that is eligible for a guarantee under 42 U.S.C. Sec. 16513; and

(iii) does not receive, expend, or have the authority to compel payment from tax revenue.

(14) (a) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(b) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (13)(a), individually.

(15) "Utah interlocal energy hub" means project entity-owned facilities that:

(a) are located within the state; and

(b) facilitate the coordination of resources and participants in a multi-county or interstate region for:

(i) the generation of energy, including with hydrogen fuel;

(ii) the transmission of energy;

(iii) energy storage, including compressed air energy storage;

(iv) producing environmental benefits; or

(v) the production, storage, or transmission of fuel, including hydrogen fuel.

**Section 3. Section 11-13-604 is amended to read:**

**11-13-604. Segments authorized.**

(1) (a) To the extent authorized in a taxed interlocal entity's organization agreement or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, the governing board of a taxed interlocal entity may by resolution establish or provide for the establishment of one or more segments that have separate rights, powers, privileges, authority or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, or duties with respect to, as specified in the segment's organizing resolution, the taxed interlocal entity's:

(i) property;

(ii) assets;

(iii) projects;

(iv) undertakings;

(v) opportunities;

(vi) actions;

(vii) debts;

(viii) liabilities;

(ix) obligations; or

(x) any combination of the items listed in Subsections (1)(a)(i) through (viii).

(b) To the extent provided in the organization agreement of a segment's associated entity, a segment may have a separate purpose from the associated entity.

(c) The name of a segment shall:

(i) contain the name of the segment's associated entity; and

(ii) be distinguishable from the name of any other segment established by the associated entity.

(2) Notwithstanding any other provision of law, the debts, liabilities, and obligations incurred, contracted for, arising out of the conduct of or otherwise existing with respect to a particular segment are only enforceable or chargeable against the assets of that segment, and not against the assets of the segment's associated entity generally or any other segment established by the segment's associated entity if:

(a) the segment is established by or in accordance with an organizing resolution;

(b) separate records are maintained for the segment to the extent necessary to avoid the segment's records constituting a fraud upon the segment's creditors;

(c) the assets associated with the segment are held and accounted for separately from the assets of any other segment established by the associated entity to the extent necessary to avoid the segment's accounting for the segment's assets constituting a fraud upon the segment's creditors;

(d) the segment's organizing resolution provides for a limitation on liabilities of the segment; and

(e) a notice of limitation on liabilities of the segment is recorded in accordance with Section 11-13-605.

(3) Except as otherwise provided in the segment's organizing resolution, a segment that satisfies the conditions described in Subsections (2)(a) through (e):

(a) is treated as a separate interlocal entity; and

(b) may:

(i) in its own name, contract, hold title to property, grant liens and security interests, and sue and be sued;

(ii) exercise all or any part of the powers, privileges, rights, authority, and capacity of the segment's associated entity; and

(iii) engage in any action in which the segment's associated entity may engage.

(4) Except as otherwise provided in the organization agreement of the segment's associated entity or in the segment's organizing resolution, a segment is governed by the organization agreement of the segment's associated entity.

(5) Subject to Subsection (4), a segment's organizing resolution:

(a) may address any matter relating to the segment, including the segment's governance or operation, to the extent that the organization agreement of a segment's associated entity does not address the matter; and

(b) to the extent not addressed in the organization agreement of the segment's associated entity, shall address the following matters:

(i) the powers delegated to the segment;

(ii) the manner in which the segment is to be governed, including whether the segment's governing body is the same as the governing board of the segment's associated entity;

(iii) subject to Subsection (6), if the segment's governing body is different from the governing board of the segment's associated entity, the manner in which the members of the segment's governing body are appointed or selected;

(iv) the segment's purpose;

(v) the manner of financing the segment's actions;

(vi) how the segment will establish and maintain a budget;

(vii) how to partially or completely terminate the segment and, upon a partial or complete termination, how to dispose of the segment's property;

(viii) the process, conditions, and terms for withdrawal of a participating public agency from the segment; and

(ix) voting rights, including whether voting is weighted, and, if so, the basis upon which the vote weight is determined.

(6) An organizing resolution shall provide that if a segment's governing body is different from the governing board of the segment's associated entity, the Utah public agencies that are parties to the organization agreement of the segment's associated entity may appoint or select members of the segment's governing body with a majority of the voting power.

(7) A segment may not:

(a) transfer the segment's property or other assets to the segment's associated entity or to another segment established by the segment's associated entity if the transfer impairs the ability of the segment to pay the segment's debts that exist at the time of the transfer, unless the segment's associated entity or the other segment gives fair value for the property or asset; or

(b) assign a tax or other liability imposed against the segment to the segment's associated entity or to

another segment established by the segment's associated entity if the assignment impairs a creditor's ability to collect the amount due when owed.

(8) If a segment and a segment's associated entity or another segment established by the segment's associated entity are involved in a joint action or have a common interest in a facility, the segment's or the segment's associated entity's maintenance of records and accounts related to the joint action or common interest does not constitute a violation of Subsection (2)(b) or (c).

(9) Except as otherwise provided in this part or where clearly not applicable, the provisions of law that apply to a segment's associated entity also apply to the segment, including Subsection 11-13-205(5), as if the segment were a separate legal or administrative entity.

(10) (a) To the extent an associated entity is a taxpayer as defined in Section 59-8-103, the associated entity shall pay tax on the associated entity's gross receipts at the rate of tax that would apply if all gross receipts of the associated entity and the associated entity's segments, in the aggregate, were the gross receipts of a single taxpayer.

(b) Each segment of an associated entity that is a taxpayer as defined in Section 59-8-103 shall pay tax on the segment's gross receipts each period described in Subsection 59-8-105(1) at the same rate of tax as the rate of tax paid by the segment's associated entity for the same period.

(c) Notwithstanding Subsections (10)(a) and (b):

(i) an associated entity is not liable for the tax imposed on a segment; and

(ii) a segment of an associated entity is not liable for the tax imposed on the segment's associated entity or on another segment of the segment's associated entity.

(11) Notwithstanding any other provision of law, a segment is a project entity if the segment's associated entity is a project entity.



**CHAPTER 382****S. B. 155**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**MEDICAL BILLING AMENDMENTS**

Chief Sponsor: Karen Mayne  
 House Sponsor: Timothy D. Hawkes

**LONG TITLE****General Description:**

This bill enacts provisions related to balance billing for certain health care services.

**Highlighted Provisions:**

This bill:

- ▶ requires health care facilities and health care providers who engage in balance billing for certain health care services to submit a report to the Insurance Department;
- ▶ requires an insurer to provide certain information regarding reimbursement for emergency services to the Insurance Department;
- ▶ specifies the information that must be reported by a health care provider, a health care facility, or a health insurer;
- ▶ creates a reporting requirement; and
- ▶ creates a sunset date.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

26-21-27, as enacted by Laws of Utah 2010, Chapter 68  
 58-1-508, as last amended by Laws of Utah 2018, Chapter 203  
 63G-2-305, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277  
 63I-2-231, as last amended by Laws of Utah 2019, Chapter 55

**ENACTS:**

31A-22-653, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 26-21-27 is amended to read:****26-21-27. Reporting certain health care facility charges.**

(1) Beginning January 1, 2011, a health care facility licensed under this chapter shall, when requested by a consumer:

~~(4)~~ (a) make a list of prices charged by the facility available for the consumer that includes the facility's:

~~(a)~~ (i) in-patient procedures;

~~(b)~~ (ii) out-patient procedures;

~~(e)~~ (iii) the 50 most commonly prescribed drugs in the facility;

~~(d)~~ (iv) imaging services; and

~~(e)~~ (v) implants; and

~~(2)~~ (b) provide the consumer with information regarding any discounts the facility provides for:

~~(a)~~ (i) charges for services not covered by insurance; or

~~(b)~~ (ii) prompt payment of billed charges.

(2) A health care provider that is subject to the reporting requirement in Section 31A-22-653 shall submit information to the Insurance Department in accordance with Section 31A-22-653.

**Section 2. Section 31A-22-653 is enacted to read:****31A-22-653. Emergency service balance billing report -- Rulemaking -- Immunity -- Reporting requirement.**

(1) As used in this section:

(a) (i) "Balance billing" means the practice of a qualified provider billing an enrollee of a health benefit plan who is a Utah resident for the difference between the qualified provider's charge and the insurer's allowed amount.

(ii) "Balance billing" does not include a qualified provider billing an enrollee of a health benefit plan for cost sharing, including copayments, coinsurance, and deductibles, required under the enrollee's health benefit plan.

(b) "Emergency service" means:

(i) emergency services as defined in 29 C.F.R. Sec. 2590.715-2719A(b)(4)(ii); and

(ii) services related to emergency services under Subsection (1)(b)(i) that:

(A) are provided by a qualified provider after the condition of the enrollee of a health benefit plan is no longer considered an emergency medical condition as defined in Section 31A-22-627; and

(B) stabilize as defined in 42 U.S.C. Sec. 1395dd(e)(3), improve, or resolve the condition of the enrollee of a health benefit plan.

(c) "Qualified provider" means a person who:

(i) provides an emergency service from July 1, 2020, through June 30, 2021; and

(ii) (A) is licensed to provide health care services under Title 58, Occupations and Professions; or

(B) is a health care facility as defined in Section 26-21-2.

(d) "Reporting period" means the period beginning July 1, 2020, and ending on June 30, 2021.

(2) On or before January 4, 2022, a qualified provider that engages in balance billing during the reporting period shall submit a report to the commissioner that describes:

(a) during the reporting period and aggregated by payer, the percentage of episodes of care for an emergency service provided to a Utah resident who is an enrollee of a health benefit plan offered by an insurer for which the qualified provider was out-of-network for which the qualified provider engaged in balance billing; and

(b) the specialty or subspecialty of the qualified provider, as identified by the qualified provider.

(3) On or before January 1, 2022, an insurer shall submit a report to the commissioner that describes, for enrollees of a health benefit plan who are Utah residents:

(a) whether the insurer provided a reimbursement directly to the enrollee of a health benefit plan during the reporting period for emergency services not performed by a network qualified provider; and

(b) during the reporting period, the percentage of emergency department claims received from all qualified providers for enrollees of a health benefit plan who are Utah residents that were provided by an out-of-network qualified provider.

(4) Information submitted to the commissioner under this section is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(5) A qualified provider is immune from any civil liability for the disclosure of information to the commissioner in accordance with this section.

(6) On or before July 1, 2022, the commissioner shall provide a written report to the Business and Labor Interim Committee and the Health and Human Services Interim Committee regarding:

(a) the information received under this section; and

(b) in collaboration with the Air Ambulance Committee created in Section 26-1-7, information regarding the amount charged by air medical transport providers that engage in balance billing.

**Section 3. Section 58-1-508 is amended to read:**

**58-1-508. Failure to follow certain health care claims practices and reporting requirements -- Penalties.**

(1) As used in this section, "health care provider" means an individual who is licensed to provide health care services under this title.

(2) The division may assess a fine of up to \$500 per violation against a health care provider that violates Section 31A-26-313.

(3) The division shall waive the fine described in Subsection (2) if:

(a) the health care provider demonstrates to the division that the health care provider mitigated and reversed any damage to the insured caused by the health care provider or third party's violation; or

(b) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care provider or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

(4) A health care provider that is subject to the reporting requirement in Section 31A-22-653 shall submit information to the Insurance Department in accordance with Section 31A-22-653.

**Section 4. Section 63G-2-305 is amended to read:**

**63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

- (ii) a request for proposals;
  - (iii) a request for quotes;
  - (iv) a grant; or
  - (v) other similar document; or
- (b) an unsolicited proposal, as defined in Section 63G-6a-712;
- (7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:
- (a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or
  - (b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and
    - (ii) at least two years have passed after the day on which the request for information is issued;
  - (8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:
    - (a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;
    - (b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
    - (c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;
    - (d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or
    - (e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;
  - (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
    - (a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

- (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
- (10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:
  - (a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
  - (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
  - (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;
  - (d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or
  - (e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;
- (11) records the disclosure of which would jeopardize the life or safety of an individual;
- (12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;
- (13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;
- (14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;
- (15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;
- (16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
- (17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would

constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or

control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201 or 31A-22-653; [and]

(73) a record described in Section 31A-37-503[.];

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); and

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride.

**Section 5. Section 63I-2-231 is amended to read:**

**63I-2-231. Repeal dates -- Title 31A.**

~~[(1) Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements is repealed July 1, 2019.]~~

~~[(2) Title 31A, Chapter 30, Part 3, Individual and Small Employer Risk Adjustment Act is repealed July 1, 2019.]~~

Section 31A-22-653 is repealed January 1, 2023.

**CHAPTER 383****S. B. 156**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**GENERAL SESSION DATE AMENDMENTS**

Chief Sponsor: Ann Millner  
 House Sponsor: Michael K. McKell

**LONG TITLE****General Description:**

This bill establishes the beginning date for annual general sessions of the Legislature.

**Highlighted Provisions:**

This bill:

- ▶ designates the first Tuesday after the third Monday in January as the beginning of the annual general session of the Legislature; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

36-3-201, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

36-3-301, (Renumbered from 36-10-1, as enacted by Laws of Utah 1973, Chapter 70)

36-3-306, (Renumbered from 36-3-1, as last amended by Laws of Utah 1995, Chapter 20)

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 36-3-201 is enacted to read:**

**CHAPTER 3. LEGISLATIVE SESSIONS AND LEGISLATION****Part 1. [Reserved]****Part 2. Legislative Sessions**

**36-3-201. Beginning date of annual general session.**

The annual general session of the Legislature shall begin the first Tuesday after the third Monday in January.

**Section 2. Section 36-3-301, which is renumbered from Section 36-10-1 is renumbered and amended to read:**

**Part 3. Legislation**

**[36-10-1]. 36-3-301. Enacting clause.**

(1) The enacting clause of every law passed by the Legislature shall be: "Be it enacted by the Legislature of the state of Utah."

(2) The enacting clause of every law passed by the vote of the people as provided in Article VI, Section 1, of the Constitution of Utah shall be: "Be it enacted by the People of the state of Utah."

**Section 3. Section 36-3-306, which is renumbered from Section 36-3-1 is renumbered and amended to read:**

**[36-3-1]. 36-3-306. Enrolling of bills.**

All bills ordered enrolled by the Legislature shall be delivered to the Office of Legislative Research and General Counsel, who shall without delay enroll the bills and return them to the secretary of the Senate or chief clerk of the House of Representatives.



**CHAPTER 384****S. B. 157**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**CHARITABLE PRESCRIPTION  
 DRUG RECYCLING PROGRAM**

Chief Sponsor: Evan J. Vickers  
 House Sponsor: Brad M. Daw

**LONG TITLE****General Description:**

This bill amends the Charitable Prescription Drug Recycling Act.

**Highlighted Provisions:**

This bill:

- ▶ expands eligibility for the Charitable Prescription Drug Recycling Program;
- ▶ authorizes an individual to transfer certain unused prescription drugs to a physician's office for donation to the program; and
- ▶ amends rulemaking requirements for the program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-17b-902, as enacted by Laws of Utah 2016, Chapter 405  
 58-17b-903, as enacted by Laws of Utah 2016, Chapter 405  
 58-17b-907, as enacted by Laws of Utah 2016, Chapter 405

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 58-17b-902 is amended to read:****58-17b-902. Definitions.**

As used in this part:

- (1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.
- (2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.
- (3) "Charitable clinic" means a charitable nonprofit corporation that:
  - (a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;
  - (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;
  - (c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

- (i) advice;
  - (ii) counseling;
  - (iii) diagnosis;
  - (iv) treatment;
  - (v) surgery; or
  - (vi) care or services relating to the preservation or maintenance of health; and
- (d) has a licensed outpatient pharmacy.
- (4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.
  - (5) "County health department" means the same as that term is defined in Section 26A-1-102.
  - (6) "Donated prescription drug" means a prescription drug that an eligible donor donates to an eligible pharmacy under the program.
  - (7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:
    - (a) a nursing care facility;
    - (b) an assisted living facility;
    - (c) a licensed intermediate care facility for people with an intellectual disability;
    - (d) a manufacturer;
    - (e) a pharmaceutical wholesale distributor;
    - (f) an eligible pharmacy; or
    - (g) a physician's office.
  - (8) "Eligible pharmacy" means a pharmacy that:
    - (a) is registered by the division as eligible to participate in the program; and
    - (b) (i) is licensed in the state as a Class A retail pharmacy; or
    - (~~(b)~~) (ii) is operated by:
      - (~~(i)~~) (A) a county;
      - (~~(ii)~~) (B) a county health department;
      - (~~(iii)~~) (C) a pharmacy under contract with a county health department;
      - (~~(iv)~~) (D) the Department of Health, created in Section ~~26~~-1-4;
      - (~~(v)~~) (E) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103; or
      - (~~(vi)~~) (F) a charitable clinic.
  - (9) "Eligible prescription drug" means a prescription drug, described in Section 58-17b-904, that is not:
    - (a) a controlled substance; or
    - (b) a drug that can only be dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements.
  - (10) "Licensed intermediate care facility for people with an intellectual disability" means the same as that term is defined in Section 58-17b-503.

(11) "Medically indigent individual" means an individual who:

- (a) (i) does not have health insurance; and
- (ii) lacks reasonable means to purchase prescribed medications; or
- (b) (i) ~~[is covered under Medicaid or Medicare]~~ has health insurance; and
- (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed medications.

(12) "Nursing care facility" means the same as that term is defined in Section 26-18-501.

(13) "Physician's office" means a fixed medical facility that:

- (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse, licensed under Title 58, Occupations and Professions; and
- (b) treats an individual who presents at, or is transported to, the facility.

(14) "Program" means the Charitable Prescription Drug Recycling Program created in Section 58-17b-903.

(15) "Unit pack" means the same as that term is defined in Section 58-17b-503.

(16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(17) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502.

**Section 2. Section 58-17b-903 is amended to read:**

**58-17b-903. Charitable Prescription Drug Recycling Program -- Creation -- Requirements.**

(1) There is created the Charitable Prescription Drug Recycling Program.

(2) The division, in consultation with the board, shall:

(a) implement the program, on a statewide basis, to permit:

(i) an eligible donor to transfer an eligible prescription drug to an eligible pharmacy for dispensing to a medically indigent individual; and

(ii) an individual to transfer an eligible prescription drug to a physician's office:

(A) that is an eligible donor; and

(B) for transfer to an eligible pharmacy for dispensing to a medically indigent individual;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to implement the program; and

(c) provide technical assistance to entities that desire to participate in the program.

**Section 3. Section 58-17b-907 is amended to read:**

**58-17b-907. Rules made by the division.**

The rules made by the division under Subsection 58-17b-903(2)(b) shall include:

(1) registration requirements to establish the eligibility of a pharmacy to participate in the program;

(2) a formulary that includes all eligible prescription drugs approved by the federal Food and Drug Administration;

(3) standards and procedures for:

(a) verifying whether a pharmacy or pharmacist participating in the program is licensed and in good standing with the board;

(b) handling of ~~[a donated]~~ an eligible prescription drug transferred in accordance with Subsection 58-17b-903(2) to an eligible pharmacy or a physician's office, including:

(i) acceptance;

(ii) identification, including redundant criteria for verification;

(iii) documentation, under 21 U.S.C. Sec. 360eee-1, of transaction information, history, and statements;

(iv) safe storage;

(v) security;

(vi) inspection;

(vii) transfer; and

(viii) dispensing;

(c) a pharmacist or licensed pharmacy technician working in or consulting with a participating eligible donor;

(d) disposition of a donated prescription drug that is a controlled substance;

(e) record keeping regarding:

(i) the eligible donor that donated each prescription drug;

(ii) an individual who transferred an eligible prescription drug to a physician's office under Subsection 58-17b-903(2)(a)(ii);

~~[(iii)]~~ (iii) the identification and evaluation of a donated prescription drug by a pharmacist or licensed pharmacy technician; and

~~[(iii)]~~ (iv) the dispensing or disposition of a prescription drug;

(f) determining the status of a medically indigent individual;

(g) labeling requirements to:

(i) ensure compliance with patient privacy laws relating to:

(A) an individual who receives an eligible prescription drug; and

(B) patient information that may appear on a donated prescription drug;

(ii) clearly identify an eligible prescription drug dispensed under the program; and

(iii) communicate necessary information regarding the manufacturer's recommended expiration date or the beyond use date; and

(h) ensuring compliance with the requirements of this part;

(4) a process for seeking input from:

(a) the Department of Health, created in Section 26-1-4, to establish program standards and procedures for assisted living facilities and nursing care facilities; and

(b) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103, to establish program standards and procedures for mental health and substance abuse clients; and

(5) the creation of a special training program that a pharmacist and a licensed pharmacy technician at an eligible pharmacy must complete before participating in the program.

**CHAPTER 385****S. B. 158**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**URBAN RENEWAL  
PROJECT AREA AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
 House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill modifies provisions related to certain urban renewal project areas.

**Highlighted Provisions:**

This bill:

- ▶ allows a community reinvestment agency to extend urban renewal project area funds for a project area that includes an inactive industrial site without obtaining the taxing entity's approval.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

17C-2-207, as last amended by Laws of Utah 2016, Chapter 350

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 17C-2-207 is amended to read:****17C-2-207. Extending collection of tax increment in an urban renewal project area budget.**

(1) An extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.

(2) (a) An agency's collection of tax increment under an urban renewal project area budget may be extended by:

(i) following the project area budget amendment procedures outlined in Section 17C-2-206; or

(ii) following the procedures outlined in this section.

(b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).

(3) ~~[(T)]~~ Except as provided in Subsection (4), to extend under this section the project area funds collection period under a previously approved project area budget, the agency shall:

(a) obtain the approval of the taxing entity through an interlocal agreement;

(b) (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget; and

(ii) provide notice of the hearing:

(A) as required by Chapter 1, Part 8, Hearing and Notice Requirements; and

(B) including the proposed project area budget's extension period; and

(c) after obtaining the taxing entity's approval in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.

(4) (a) Subject to Subsection (4)(b), to extend under this section the project area funds collection period under a previously approved project area budget for a project area that includes an inactive industrial site, the agency shall:

(i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget;

(ii) provide notice of the hearing as required by Chapter 1, Part 8, Hearing and Notice Requirements, including notice of the proposed project area budget's extension period; and

(iii) at or after the public hearing, adopt a resolution approving the extension.

(b) An extension under Subsection (4)(a) may not extend the length of time that tax increment is collected from any single tax parcel.

~~[(4)]~~ (5) After the project area funds collection period expires, an agency may continue to receive project area funds from those taxing entities that agree to an extension through an interlocal agreement in accordance with Subsection (3)(a) or through the process described in Subsection (4).

~~[(5)]~~ (6) (a) A person may contest the agency's adoption of an extension within 30 days after the day on which the agency adopts the resolution providing for the extension.

(b) A person ~~[who]~~ that fails to contest an extension under Subsection ~~[(5)]~~ (6)(a):

(i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

(A) a distribution of tax increment to the agency under the budget, as extended; or

(B) an agency's use of tax increment under the budget, as extended.

**CHAPTER 386****S. B. 162**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**EDUCATIONAL FINANCIAL AID FOR STUDENTS WITH A CRIMINAL RECORD**

Chief Sponsor: Todd Weiler  
 House Sponsor: Melissa G. Ballard

**LONG TITLE****General Description:**

This bill amends qualifications for the Regents' Scholarship Program and New Century scholarships.

**Highlighted Provisions:**

This bill:

- ▶ removes the restriction on eligibility for the Regents' Scholarship Program and New Century scholarships for students with a criminal record.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53B-8-105, as last amended by Laws of Utah 2019, Chapter 444

53B-8-203, as renumbered and amended by Laws of Utah 2017, Chapter 386

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53B-8-105 is amended to read:****53B-8-105. New Century scholarships -- High school requirements.**

(1) As used in this section:

(a) "Complete the requirements for an associate degree" means that a student:

(i) (A) completes all the required courses for an associate degree from a higher education institution within the state system of higher education that offers associate degrees; and

(B) applies for the associate degree from the institution; or

(ii) completes equivalent requirements described in Subsection (1)(a)(i)(A) from a higher education institution within the state system of higher education that offers baccalaureate degrees but does not offer associate degrees.

(b) "Fee" means a fee approved by the board.

(2) (a) The board shall award New Century scholarships.

(b) The board shall develop and approve the math and science curriculum described under Subsection (3)(a)(ii).

(3) (a) In order to qualify for a New Century scholarship, a student in Utah schools shall complete the requirements for an:

(i) associate degree; or

(ii) approved math and science curriculum.

(b) The requirements under Subsection (3)(a) shall be completed:

(i) by the day on which the student's class graduates from high school; and

(ii) with at least a 3.0 grade point average.

(c) In addition to the requirements in Subsection (3)(a), a student in Utah shall:

(i) complete the high school graduation requirements of:

(A) a public high school established by the State Board of Education and the student's school district or charter school; or

(B) a private high school in the state that is accredited by a regional accrediting body approved by the board; and

(ii) complete high school with at least a 3.5 cumulative high school grade point average.

(4) Notwithstanding Subsection (3), for a student who does not receive a high school grade point average, the student shall:

(a) complete the requirements for an associate degree:

(i) by June 15 of the year the student completes high school; and

(ii) with at least a 3.0 grade point average; and

(b) score a composite ACT score of 26 or higher.

(5) To be eligible for the scholarship, a student:

(a) shall submit an application to the board with:

(i) an official college transcript showing college courses the student has completed to complete the requirements for an associate degree; and

(ii) (A) if applicable, an official high school transcript; or

(B) if applicable, a copy of the student's ACT scores;

(b) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid; and

~~[(c) may not have a criminal record, with the exception of a misdemeanor traffic citation; and]~~

~~[(d)]~~ (c) if applicable, shall meet the application deadlines as established by the board under Subsection (10).

(6) (a) The scholarship may be used at a:

(i) higher education institution within the state system of higher education that offers baccalaureate programs; or

(ii) if the scholarship holder applies for the scholarship on or before October 1, 2019, private, nonprofit college or university in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

(b) (i) Subject to Subsection (6)(e), the total value of the scholarship is up to \$5,000, allocated over a time period described in Subsection (6)(c), as prescribed by the board.

(ii) The board may increase the scholarship amount described in Subsection (6)(b)(i) by an amount not to exceed the average percentage tuition increase approved by the board for institutions in the state system of higher education.

(c) The scholarship is valid for the shortest of the following time periods:

(i) two years of full-time equivalent enrollment;

(ii) 60 credit hours; or

(iii) until the student meets the requirements for a baccalaureate degree.

(d) (i) A scholarship holder shall enroll full-time at a higher education institution by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(ii) The board may grant a deferral or leave of absence to a scholarship holder, but the scholarship holder may only receive scholarship money within five years of the student's high school graduation date.

(e) For a scholarship for which a student applies after October 1, 2019:

(i) the board shall reduce the amount of the scholarship holder's scholarship so that the total amount of state aid awarded to the scholarship holder, including tuition or fee waivers or the scholarship, does not exceed the cost of the scholarship holder's tuition and fees; and

(ii) the scholarship holder may only use the scholarship for tuition and fees.

(7) The board may cancel a New Century scholarship at any time if the student fails to:

(a) register for at least 15 credit hours per semester;

(b) maintain a 3.3 grade point average for two consecutive semesters; or

(c) make reasonable progress toward the completion of a baccalaureate degree.

(8) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the General Fund to the board for the costs associated with the New Century Scholarship Program authorized under this section.

(b) It is understood that the appropriation is offset in part by the state money that would otherwise be required and appropriated for these students if they were enrolled in a four-year

postsecondary program at a state-operated institution.

(c) Notwithstanding Subsections (2)(a) and (6), if the appropriation under Subsection (8)(a) is insufficient to cover the costs associated with the New Century Scholarship Program, the board may reduce the scholarship amount.

(d) If money appropriated under this section is available after New Century scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302.

(9) (a) The board shall adopt policies establishing an application process and an appeal process for a New Century scholarship.

(b) The board shall disclose on all applications and related materials that the amount of the scholarship is subject to funding and may be reduced, in accordance with Subsection (8)(c).

(c) The board shall require an applicant for a New Century scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(d) The certification under this Subsection (9) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(10) The board may set deadlines for receiving New Century scholarship applications and supporting documentation.

(11) A student may not receive both a New Century scholarship and a Regents' scholarship established in Part 2, Regents' Scholarship Program.

**Section 2. Section 53B-8-203 is amended to read:**

**53B-8-203. Regents' Scholarship Program -- Base Regents' scholarship -- Qualifications -- Application.**

(1) This section only applies to a student who graduates from high school on or before July 1, 2018.

(2) A student qualifies for a Base Regents' scholarship if the student:

(a) completes the high school graduation requirements of:

(i) a public school established by the State Board of Education and the student's school district or charter school; or

(ii) a private high school in the state that is accredited by a regional accrediting body approved by the board;

(b) completes high school with at least a 3.0 cumulative grade point average;

(c) has at least one reported ACT test score; and

(d) (i) completes the following high school or college credit in grades 9 through 12:

(A) four units of credit of English;

(B) four units of credit of mathematics;

(C) three and one-half units of credit of social science;

(D) three units of credit of lab-based natural science; and

(E) two units of credit of sequential world or classical language other than English; and

(ii) except as provided in Subsection (5), earns a course grade on a transcript of "C" or above in each individual course listed in Subsection (2)(d)(i).

(3) The board shall establish policies to determine specific courses that meet the requirements under Subsection (2)(d)(i).

(4) To be eligible for the scholarship, a student:

(a) shall submit an application to the board with:

(i) a copy of the student's official high school transcript and ACT scores; and

(ii) if applicable, a college transcript showing a college course the student has completed to meet the requirements of Subsection (2)(d);

(b) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid; and

~~[(e) may not have a criminal record, with the exception of a misdemeanor traffic citation; and]~~

~~[(d)]~~ (c) if applicable, shall meet the application deadlines as established by the board under Subsection 53B-8-202(10).

(5) For purposes of determining if a student meets the grade requirements of Subsection (2)(d)(ii), the board shall assign additional weights to grades earned in courses described in Subsection (2)(d)(i) that are advanced placement, concurrent enrollment, or International Baccalaureate program courses.

(6) (a) The amount of the Base Regents' scholarship is \$1,000.

(b) The board may adjust the amount of the Base Regents' scholarship by up to a percentage of the average percentage tuition increase approved by the board for institutions in the system of higher education.

(7) (a) The board shall require an applicant for a Regents' scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(b) The certification under this Subsection (7) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

**CHAPTER 387****S. B. 165**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**EMERGENCY RESPONSE  
 PLANS FOR HOMELESSNESS**

Chief Sponsor: Luz Escamilla  
 House Sponsor: Sandra Hollins

**LONG TITLE****General Description:**

This bill relates to emergency response plans for homelessness.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires certain local oversight bodies to develop an emergency response plan to respond to conditions that pose a risk to the health or safety of homeless individuals and families; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

35A-8-602, as last amended by Laws of Utah 2019, Chapter 234  
 35A-8-604, as last amended by Laws of Utah 2019, Chapters 53, 94, and 234

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 35A-8-602 is amended to read:**

**35A-8-602. Purposes of Homeless Coordinating Committee -- Uses of Pamela Atkinson Homeless Account.**

(1) As used in this section:

(a) "Council of governments" means the same as that term is defined in Section 17B-2a-802.

(b) "Emergency situation" means conditions exist that pose a risk to the health or safety of individuals and families experiencing homelessness.

~~[(4)]~~ (2) The Homeless Coordinating Committee shall work to ensure that services provided to the homeless by state agencies, local governments, and private organizations are provided in a cost-effective and service efficient manner by:

(a) preparing and implementing a statewide strategic plan to minimize homelessness in the state that:

(i) outlines specific goals and measurable benchmarks for progress;

(ii) identifies gaps in service delivery to the variety of homeless populations;

(iii) provides recommendations to the governor and the Legislature on strategies, policies, procedures, and programs to address the needs of the homeless populations in the state; and

(iv) identifies best practices and recommends improvements in coordinating service delivery to the variety of homeless populations through the use of electronic databases and through data sharing among service providers;

(b) evaluating annually the progress made toward achieving the goals outlined in the plan described in Subsection ~~[(4)]~~ (2)(a); and

(c) designating local oversight bodies that are responsible to:

(i) develop a common agenda and vision for reducing homelessness in the local oversight bodies' respective region;

(ii) develop a spending plan that coordinates the funding supplied to local stakeholders;

(iii) monitor the progress toward achieving state and local goals; ~~[and]~~

(iv) align local funding to projects that are improving outcomes and targeting specific needs in the community~~[-];~~ and

(v) develop a nonbinding locally appropriate emergency response plan in coordination with the council of governments of the county in which the local oversight body provides services that:

(A) establishes guidelines for emergency response during an emergency situation;

(B) ensures that the basic needs of individuals and families experiencing homelessness are met during an emergency situation;

(C) expands local capacity and infrastructure in response to an emergency situation, including the development, construction, and improvement of emergency shelters;

(D) facilitates access to emergency services and individualized support for individuals and families experiencing homelessness during an emergency situation; and

(E) expands outreach and education efforts for individuals and families experiencing homelessness during an emergency situation.

~~[(2)]~~ (3) (a) Programs funded by the committee shall emphasize emergency housing and self-sufficiency, including placement in meaningful employment or occupational training activities and, where needed, special services to meet the unique needs of the homeless who:

(i) have families with children;

(ii) have a disability or a mental illness; or

(iii) suffer from other serious challenges to employment and self-sufficiency.

(b) The committee may also fund treatment programs to ameliorate the effects of substance abuse or a disability.



~~[(3)]~~ (4) The committee members designated in Subsection 35A-8-601(2) shall:

(a) award contracts funded by the Pamela Atkinson Homeless Account with the advice and input of those designated in Subsection 35A-8-601(3);

(b) in the evaluation of contract awards, consider whether:

(i) the proposed award addresses the needs identified in the strategic plan described in Subsection ~~[(4)]~~ (2);

(ii) the proposed award is aligned with the process described in Subsection ~~[(4)]~~ (2); and

(iii) the proposed contractor has a policy to share client-level service information with other entities in accordance with state and federal law to enhance coordinated services for those experiencing homelessness; and

(c) identify specific targets and benchmarks for each contract that align with the strategic plan described in Subsection ~~[(4)]~~ (2).

~~[(4)]~~ (5) (a) In any fiscal year, no more than 80% of the funds in the Pamela Atkinson Homeless Account may be allocated to organizations that provide services only in Salt Lake, Davis, Weber, and Utah Counties.

(b) The committee may:

(i) expend up to 3% of its annual appropriation for administrative costs associated with the allocation of funds from the Pamela Atkinson Homeless Account, and up to 2% of its annual appropriation for marketing the account and soliciting donations to the account; and

(ii) pay for the initial costs of the State Tax Commission in implementing Section 59-10-1306 from the account.

~~[(5)]~~ (6) If there are decreases in contributions to the account, the committee may expend money held in the account to provide program stability, but the committee shall reimburse the amount of those expenditures to the account.

~~[(6)]~~ (7) The committee shall make an annual report to the department regarding the progress made implementing the strategic plan described in Subsection ~~[(4)]~~ (2) for inclusion in the annual written report described in Section 35A-1-109.

~~[(7)]~~ (8) The committee shall update the strategic plan described in Subsection ~~[(4)]~~(a) (2) on an annual basis.

~~[(8)]~~ (9) The state treasurer shall invest the money in the Pamela Atkinson Homeless Account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited in the restricted account.

**Section 2. Section 35A-8-604 is amended to read:**

**35A-8-604. Uses of Homeless to Housing Reform Restricted Account.**

(1) With the concurrence of the division and in accordance with this section, the Homeless Coordinating Committee members designated in Subsection 35A-8-601(2) may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-8-605.

(2) Before final approval of a grant or contract awarded under this section, the Homeless Coordinating Committee and the division shall provide written information regarding the grant or contract to, and shall consider the recommendations of, the Executive Appropriations Committee.

(3) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the division and the Homeless Coordinating Committee that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the Homeless Coordinating Committee before the awarding of the grant or contract.

(4) In determining the awarding of a grant or contract under this section, the Homeless Coordinating Committee, with the concurrence of the division, shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) consider the advice of committee members designated in Subsection 35A-8-601(3);

(c) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(d) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter;

(e) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults;

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness; and

(xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services; and

(f) address the needs identified in the strategic plan described in Subsection 35A-8-602[(1)(a)](2) for inclusion in the annual written report described in Section 35A-1-109.

(5) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, the Homeless Coordinating Committee, with the concurrence of the division, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(6) In accordance with Subsection (5), and subject to the approval of the Homeless Coordinating Committee with the concurrence of the division, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the Homeless Coordinating Committee with the concurrence of the division; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

(7) (a) As used in this Subsection (7) and in Subsection (8), "homeless shelter" means a facility that:

(i) is located within a municipality; and

(ii) provides temporary shelter year-round to homeless individuals, including an emergency shelter or medical respite facility.

(b) In addition to the other provisions of this section, the Homeless Coordinating Committee, with the concurrence of the division, may award a grant or contract:

(i) to a municipality to improve sidewalks, pathways, or roadways near a homeless shelter to provide greater safety to homeless individuals; and

(ii) to a municipality to hire one or more peace officers to provide greater safety to homeless individuals.

(8) (a) If a homeless shelter commits to provide matching funds equal to the total grant awarded under this Subsection (8), the Homeless Coordinating Committee, with the concurrence of the division, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (8), the Homeless Coordinating Committee, with the concurrence of the division, shall consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

(9) The division may expend money from the restricted account to offset actual division and Homeless Coordinating Committee expenses related to administering this section.

**CHAPTER 388****S. B. 166**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**STUDENT DATA PRIVACY AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: A. Cory Maloy

**LONG TITLE****General Description:**

This bill amends provisions related to student data privacy.

**Highlighted Provisions:**

This bill:

- ▶ requires law enforcement to provide and validate information necessary for the state board to complete a required report on incidents that occur on school grounds;
- ▶ clarifies requirements regarding the content of privacy notices;
- ▶ exempts schools from certain contractual provisions related to sharing directory information if the directory information is shared in accordance with federal law;
- ▶ binds other government agencies that contract on behalf of education entities to the same requirements as education entities;
- ▶ clarifies that education entities may obtain written authorization to waive a provision of a contract with a third-party contractor related to a student's student data; and
- ▶ requires information related to suspension or expulsion to appear in a student's cumulative folder.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-1-203, as enacted by Laws of Utah 2019, Chapter 324  
 53E-3-516, as last amended by Laws of Utah 2019, Chapters 186 and 324  
 53E-9-305, as last amended by Laws of Utah 2019, Chapters 136, 175, and 186  
 53E-9-309, as last amended by Laws of Utah 2019, Chapter 186  
 53G-8-208, as last amended by Laws of Utah 2019, Chapter 293

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-1-203 is amended to read:****53E-1-203. State Superintendent's Annual Report.**

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and

(vii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2) (a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) through October 1, 2022, the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) beginning on July 1, [2020] 2023, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and State Board of Regents on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-2-503 by the state board on early literacy;

(viii) the report described in Section 53F-5-506 by the state board on information related to competency-based education;

(ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services; and

(x) the report described in Section 53G-10-204 by the state board on methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

**Section 2. Section 53E-3-516 is amended to read:**

**53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.**

(1) As used in this section:

(a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(c) "Minor" means the same as that term is defined in Section 53G-6-201.

(d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

- (i) a search and seizure by an SRO;
- (ii) issuance of a criminal citation;
- (iii) issuance of a ticket or summons;
- (iv) filing a delinquency petition; or
- (v) referral to a probation officer.

(e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) "Student resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, [2020] 2023, the state board [~~in collaboration with school districts, charter schools, and law enforcement agencies,~~] shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

- (a) arrests of a minor;
- (b) other law enforcement activities; and
- (c) disciplinary actions.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data

and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

[~~(3)~~] (4) The report described in Subsection (2) shall include the following information [~~by school district and charter school~~] listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; and

(ii) the type of disciplinary action; and

(d) the number of SROs employed.

[~~(4)~~] (5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections [~~(3)~~] (4)(a) through (c):

(a) age;

(b) grade level;

(c) race;

(d) sex; and

(e) disability status.

[~~(5)~~] (6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

[~~(6)~~] (7) The state board shall make rules to compile the report described in Subsection (2).

[~~(7)~~] (8) The state board shall provide the report described in Subsection (2) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year.

**Section 3. Section 53E-9-305 is amended to read:**

**53E-9-305. Collecting student data -- Prohibition -- Student data collection notice -- Written consent.**

(1) An education entity may not collect a student's:

(a) social security number; or

(b) except as required in Section 78A-6-112, criminal record.

(2) ~~[An]~~ Except as provided in Subsection (3), an education entity that collects student data shall, in accordance with this section, prepare and distribute ~~[, except as provided in Subsection (3),]~~ to parents and students a student data collection notice statement that:

- (a) is a prominent, stand-alone document;
- (b) is annually updated and published on the education entity's website;
- (c) states the student data that the education entity collects;
- (d) states that the education entity will not collect the student data described in Subsection (1);
- (e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;

(f) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

(g) describes in general terms how the education entity stores and protects student data; and

(h) states a student's rights under this part.

(3) The state board may publicly post the state board's collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data if the education entity:

(a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an evidence-based alternative intervention described in Subsection 53G-8-211(3) without written consent.

(8) Nothing in this section prohibits an education entity from including additional information related to student and parent privacy in the notice described in Subsection (2).

**Section 4. Section 53E-9-309 is amended to read:**

**53E-9-309. Third-party contractors.**

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2) When contracting with a third-party contractor, an education entity, or a government agency contracting on behalf of an education entity, shall require the following provisions in the contract:

(a) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and state board rule;

(b) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;

(c) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;

(d) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and

(e) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

(a) use student data for adaptive learning or customized student learning purposes;

(b) market an educational application or product to a parent of a student if the third-party contractor did not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;

(c) use a recommendation engine to recommend to a student:

(i) content that relates to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party; or

(ii) services that relate to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party;

(d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;

(e) use student data to allow or improve operability and functionality of the third-party contractor's application; or

(f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:

(i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and

(ii) only if the third-party contractor obtains authorization in writing from:

(A) a student's parent through the student's school or LEA; or

(B) for an adult student, the student.

(5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or the student's parent consents to the maintenance of the personally identifiable student data.

(6) (a) A third-party contractor may not:

(i) except as provided in Subsection (6)(b), sell student data;

(ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or

(iii) use student data for targeted advertising.

(b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.

(7) The provisions of this section do not:

(a) apply to the use of a general audience application, including the access of a general audience application with login credentials created by a third-party contractor's application;

(b) apply if the student data is shared in accordance with the education entity's directory information policy, as described in 34 C.F.R. 99.37;

~~(c)~~ (c) apply to the providing of Internet service; or

~~(e)~~ (d) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

(8) A provision of this section that relates to a student's student data does not apply to a third-party contractor if the education entity or third-party contractor obtains authorization from the following individual, in writing, to waive that provision:

(a) the student's parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

**Section 5. Section 53G-8-208 is amended to read:**

**53G-8-208. Student suspended or expelled -- Responsibility of parent -- Application for students with disabilities.**

(1) If a student is suspended or expelled from a public school under this part for more than 10 school days, the parent is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

(2) (a) The parent shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.

(b) The parent and designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the student's educational needs.

(3) Costs for educational services which are not provided by the school district or charter school are the responsibility of the student's parent.

(4) (a) Each school district or charter school shall maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's ~~[transcript]~~ cumulative folder.

(b) The district or charter school shall contact the parent of each suspended or expelled student under the age of 16 at least once each month to determine the student's progress.

(5) (a) This part applies to students with disabilities to the extent permissible under applicable law or regulation.

(b) If application of any requirement of this part to a student with a disability is not permissible under applicable law or regulation, the responsible school authority shall implement other actions consistent with the conflicting law or regulation which shall most closely correspond to the requirements of this part.



**CHAPTER 389****S. B. 167**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**JUDICIARY AMENDMENTS**

Chief Sponsor: Todd Weiler  
House Sponsor: Craig Hall

**LONG TITLE****General Description:**

This bill amends the number of members of the Judicial Council.

**Highlighted Provisions:**

This bill:

- ▶ increases the number of members of the Judicial Council by:
  - one member elected by the judges of the district courts; and
  - one member elected by the judges of the juvenile courts.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78A-2-104, as last amended by Laws of Utah 2018, Chapter 25

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 78A-2-104 is amended to read:**

**78A-2-104. Judicial Council -- Creation -- Members -- Terms and election -- Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.**

(1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution, shall be composed of:

- (a) the chief justice of the Supreme Court;
  - (b) one member elected by the justices of the Supreme Court;
  - (c) one member elected by the judges of the Court of Appeals;
  - (d) [~~five~~ six] members elected by the judges of the district courts;
  - (e) [~~two~~ three] members elected by the judges of the juvenile courts;
  - (f) three members elected by the justice court judges; and
  - (g) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Bar in good standing at the time of election by the Board of Commissioners.
- (2) The Judicial Council shall have a seal.

(3) (a) The chief justice of the Supreme Court shall act as presiding officer of the council and chief administrative officer for the courts. The chief justice shall vote only in the case of a tie.

(b) All members of the council shall serve for three-year terms.

(i) If a council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.

(ii) In courts having more than one member, the members shall be elected to staggered terms.

(iii) The person elected by the Board of Commissioners may complete a three-year term of office on the Judicial Council even though the person ceases to be a member or ex officio member of the Board of Commissioners. The person shall be an active member of the Bar in good standing for the entire term of the Judicial Council.

(c) Elections shall be held under rules made by the Judicial Council.

(4) The council is responsible for the development of uniform administrative policy for the courts throughout the state. The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the council and for the general management of the courts, with the aid of the state court administrator. The council has authority and responsibility to:

(a) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and

(b) publish and submit to the governor, the chief justice of the Supreme Court, and the Legislature an annual report of the operations of the courts, which shall include financial and statistical data and may include suggestions and recommendations for legislation.

(5) The council shall establish standards for the operation of the courts of the state including, but not limited to, facilities, court security, support services, and staff levels for judicial and support personnel.

(6) The council shall by rule establish the time and manner for destroying court records, including computer records, and shall establish retention periods for these records.

(7) (a) Consistent with the requirements of judicial office and security policies, the council shall establish procedures to govern the assignment of state vehicles to public officers of the judicial branch.

(b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and may be assigned for unlimited use, within the state only.

(8) (a) The council shall advise judicial officers and employees concerning ethical issues and shall establish procedures for issuing informal and formal advisory opinions on these issues.

(b) Compliance with an informal opinion is evidence of good faith compliance with the Code of Judicial Conduct.

(c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.

(9) (a) The council shall establish written procedures authorizing the presiding officer of the council to appoint judges of courts of record by special or general assignment to serve temporarily in another level of court in a specific court or generally within that level. The appointment shall be for a specific period and shall be reported to the council.

(b) These procedures shall be developed in accordance with Subsection 78A-2-107(10) regarding temporary appointment of judges.

(10) The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record. There shall be at least one court clerk's office open during regular court hours in each county. Any trial court of record may hold court in any municipality designated as a location of a court of record.

(11) The Judicial Council shall by rule determine whether the administration of a court shall be the obligation of the Administrative Office of the Courts or whether the Administrative Office of the Courts should contract with local government for court support services.

(12) The Judicial Council may by rule direct that a district court location be administered from another court location within the county.

(13) (a) The Judicial Council shall:

(i) establish the Office of Guardian Ad Litem, in accordance with Title 78A, Chapter 6, Part 9, Guardian Ad Litem; and

(ii) establish and supervise a Guardian Ad Litem Oversight Committee.

(b) The Guardian Ad Litem Oversight Committee described in Subsection (13)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection (13)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.

(14) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

**CHAPTER 390****S. B. 168**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**VEHICLE RENTAL AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Joel Ferry

**LONG TITLE****General Description:**

This bill amends provisions related to driver license verification for the rental of a motor vehicle.

**Highlighted Provisions:**

This bill:

- ▶ allows verification of a driver license through electronic or digital means for purposes of renting a motor vehicle; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-3-203, as last amended by Laws of Utah 2015, Chapter 412

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-3-203 is amended to read:**

**53-3-203. Authorizing or permitting driving in violation of chapter -- Renting of motor vehicles -- License requirements -- Employees must be licensed -- Violations.**

(1) A person may not authorize or knowingly permit a motor vehicle owned by ~~him or under his~~ the person or under the person's control to be driven by a person in violation of this chapter.

(2) (a) A person may not rent a motor vehicle to another person unless the person who will be the driver is licensed in this state, or in the case of a nonresident, licensed under the laws of the state or country of his residence.

(b) A person may not rent a motor vehicle to another person until ~~he~~ the person:

(i) has inspected the license certificate of the person who will be the driver; and

(ii) verified the signature on the license certificate by comparison with the signature of the person who will be the driver written in his presence.

(c) (i) A person may verify the information described in Subsection (2)(b) for a subsequent vehicle rental through the use of an electronic system maintained by the person for the purposes of expediting the vehicle rental process.

(ii) The electronic system described in Subsection (2)(c)(i) may contain information voluntarily

provided by the person who will be the driver including:

(A) information included on the driver license certificate; and

(B) biometric information.

~~(e)~~ (d) A person renting a motor vehicle to another shall keep a record of the:

(i) registration number of the rented motor vehicle;

(ii) name and address of the person to whom the motor vehicle is rented;

(iii) number of the license certificate of the renter; and

(iv) date and place the license certificate was issued.

~~(d)~~ (e) The record is open to inspection by any peace officer or officer or employee of the division.

(3) A person may not employ a person to drive a motor vehicle who is not licensed as required under this chapter.

(4) A person who violates this section is guilty of an infraction.

**CHAPTER 391****S. B. 169**

Passed March 11, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**TRANSPORTATION  
UTILITY FEE AMENDMENTS**

Chief Sponsor: Deidre M. Henderson  
House Sponsor: Candice B. Pierucci

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**LONG TITLE****General Description:**

This bill modifies provisions related to municipal transportation utility fees.

**Highlighted Provisions:**

This bill:

- ▶ clarifies the definition of a transportation utility fee imposed by a municipality.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

11-26-301, as enacted by Laws of Utah 2018,  
Chapter 283

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*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 11-26-301 is amended to read:****11-26-301. Definitions -- Prohibition on imposition of transportation utility fee.**

(1) As used in this section:

(a) (i) "Legal subdivision" means a local government that is recognized by Utah Constitution, Article XI.

(ii) "Legal subdivision" does not include a local government that Utah Constitution, Article XI, only authorizes the Legislature to create.

(b) "Municipality" means the same as that term is defined in Section 10-1-104.

(c) "Transportation utility fee" means an ongoing, regular fee ~~or tax~~ imposed:

(i) by a municipality for the purpose of maintaining public roads; and

(ii) on utility customers within the municipality.

(2) A municipality may not impose a transportation utility fee on a legal subdivision.

(3) This section does not grant to a municipality any authority not otherwise provided for by law to impose a transportation utility fee.

**CHAPTER 392****S. B. 170**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**INDIGENT DEFENSE AMENDMENTS**

Chief Sponsor: Todd Weiler  
 House Sponsor: Joel Ferry

**LONG TITLE****General Description:**

This bill amends provisions related to indigent defense.

**Highlighted Provisions:**

This bill:

- ▶ creates and modifies definitions;
- ▶ amends the right to counsel for parties in certain actions;
- ▶ amends the powers, duties, and membership of the Utah Indigent Defense Commission;
- ▶ creates the Office of Indigent Defense Services;
- ▶ creates the powers and duties of the Office of Indigent Defense Services;
- ▶ amends provisions related to indigent defense funds;
- ▶ creates a reporting requirement for indigent defense systems;
- ▶ protects certain records related to the Office of Indigent Defense Services; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

- 78A-6-1111, as last amended by Laws of Utah 2019, Chapter 326
- 78B-6-112, as last amended by Laws of Utah 2019, Chapters 136, 326, and 491
- 78B-22-102, as enacted by Laws of Utah 2019, Chapter 326
- 78B-22-201, as enacted by Laws of Utah 2019, Chapter 326
- 78B-22-301, as enacted by Laws of Utah 2019, Chapter 326
- 78B-22-401, as renumbered and amended by Laws of Utah 2019, Chapter 326
- 78B-22-402, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and amended by Laws of Utah 2019, Chapter 326
- 78B-22-404, as renumbered and amended by Laws of Utah 2019, Chapter 326
- 78B-22-405, as renumbered and amended by Laws of Utah 2019, Chapter 326
- 78B-22-406, as renumbered and amended by Laws of Utah 2019, Chapter 326
- 78B-22-501, as renumbered and amended by Laws of Utah 2019, Chapter 326
- 78B-22-502, as renumbered and amended by Laws of Utah 2019, Chapter 326

**ENACTS:**

- 78B-22-451, Utah Code Annotated 1953  
 78B-22-452, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

- 78B-22-453, (Renumbered from 78B-22-403, as renumbered and amended by Laws of Utah 2019, Chapter 326)
- 78B-22-454, (Renumbered from 78B-22-601, as renumbered and amended by Laws of Utah 2019, Chapter 326)
- 78B-22-455, (Renumbered from 78B-22-602, as renumbered and amended by Laws of Utah 2019, Chapter 326)

**Utah Code Sections Affected by Coordination Clause:**

- 78B-22-451, Utah Code Annotated 1953  
 78B-22-452, Utah Code Annotated 1953  
 78B-22-453, Renumbered from 78B-22-403, as renumbered and amended by Laws of Utah 2019, Chapter 326

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 78A-6-1111 is amended to read:****78A-6-1111. Order for indigent defense service or guardian ad litem.**

~~[(1) A court shall order indigent defense services for a minor, parent, or legal guardian as provided by Title 78B, Chapter 22, Indigent Defense Act.]~~

(1) A court shall order indigent defense services in accordance with Title 78B, Chapter 22, Indigent Defense Act, for a minor, parent, or legal guardian facing an action filed by a private party or the state under this title.

(2) In any action under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

**Section 2. Section 78B-6-112 is amended to read:****78B-6-112. District court jurisdiction over termination of parental rights proceedings.**

(1) A district court has jurisdiction to terminate parental rights in a child if the party who filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

- (a) joined with a proceeding on an adoption petition; or
- (b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, ~~if terminating the individual's parental rights is~~ and termination is in the best interests of the child.

(6) The court shall appoint an indigent defense service provider ~~under~~ in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent ~~a party~~ an individual who faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission under Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

**Section 3. Section 78B-22-102 is amended to read:**

**78B-22-102. Definitions.**

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) "Director" means the director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

~~[(4)]~~ (5) (a) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.

(b) "Indigent defense resources" does not include an indigent defense service provider.

~~[(5)]~~ (6) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual pursuant to:

(a) a contract with an indigent defense system to provide indigent defense services; or

(b) an order issued by the court under Subsection 78B-22-203(2)(a).

~~[(6)]~~ (7) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

~~[(7)]~~ (8) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services ~~[in the city's or town's justice court];~~

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, ~~or~~ and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

~~[(8)]~~ (9) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection ~~[(8)]~~ (9)(a), who is appealing ~~[a first appeal from]~~ an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

[~~(9)~~] (10) “Minor” means the same as that term is defined in Section 78A-6-105.

(11) “Office” means the Office of Indigent Defense Services created in Section 78B-22-451.

[~~(10)~~] (12) “Participating county” means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B-22-702 and 78B-22-703.

**Section 4. Section 78B-22-201 is amended to read:**

**78B-22-201. Right to counsel.**

(1) A court shall advise the following of the individual’s right to counsel when the individual first appears before the court:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing ~~[any]~~ an action initiated by the state under:

(i) Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(ii) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or

(iii) Title 78A, Chapter 6, Part 10, Adult Offenses; ~~[or]~~

[~~(iv) Section 78B-6-112; or]~~

(c) a parent or legal guardian facing an action initiated by any party under:

(i) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or

(ii) Section 78B-6-112; or

[~~(e)~~] (d) an individual described in this Subsection (1), who is appealing ~~[a first appeal from]~~ a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

**Section 5. Section 78B-22-301 is amended to read:**

**78B-22-301. Standards for indigent defense systems -- Written report.**

(1) An indigent defense system shall provide indigent defense services for an indigent individual in accordance with the ~~[minimum guidelines]~~ core principles adopted by the commission under Section 78B-22-404.

(2) (a) On or before March 30 of each year, all indigent defense systems shall submit a written

report to the commission that describes each indigent defense system’s compliance with the commission’s core principles.

(b) If an indigent defense system fails to submit a timely report under Subsection (2)(a), the indigent defense system is disqualified from receiving a grant from the commission for the following calendar year.

**Section 6. Section 78B-22-401 is amended to read:**

**78B-22-401. Utah Indigent Defense Commission -- Creation -- Purpose.**

(1) There is created the Utah Indigent Defense Commission within the State Commission on Criminal and Juvenile Justice ~~[the “Utah Indigent Defense Commission.”]~~

(2) The purpose of the commission is to assist:

(a) the state in meeting the state’s obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code~~[-];~~ and

(b) the Office of Indigent Defense Services, created in Section 78A-22-451, with carrying out the statutory duties assigned to the commission and the Office of Indigent Defense Services.

**Section 7. Section 78B-22-402 is amended to read:**

**78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.**

(1) The commission is composed of 15 ~~[voting]~~ members ~~[and one ex officio, nonvoting member].~~

(a) The governor, with the consent of the Senate, shall appoint the following ~~[13 voting]~~ 11 members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) one attorney practicing in the area of parental defense, recommended by an entity funded under the Child Welfare Parental Defense Program created in Section 63M-7-211;

[~~(iii)~~] (iv) ~~[an]~~ one attorney representing minority interests recommended by the Utah Minority Bar Association;

[~~(iv)~~] (v) one member recommended by the Utah Association of Counties from a county of the first or second class;

[~~(v)~~] (vi) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

[~~(vi)~~] (vii) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

[~~(vii)~~] (viii) two members recommended by the Utah League of Cities and Towns from its membership; and

~~[(viii)] (ix) [a] one retired judge recommended by the Judicial Council[;].~~

~~[(ix) one attorney practicing in the area of parental defense, recommended by an entity funded under the Child Welfare Parental Defense Program created in Section 63M-7-211; and]~~

~~[(x)] (b) The speaker of the House of Representatives and the president of the Senate shall appoint two members of the Utah Legislature, one from the House of Representatives and one from the Senate, selected jointly by the Speaker of the House and President of the Senate].~~

~~[(b)] (c) The Judicial Council shall appoint a [voting] member from the Administrative Office of the Courts.~~

~~[(e)] (d) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a [voting] member of the commission.~~

~~[(d) The director of the commission, appointed under Section 78B-22-403, is an ex officio, nonvoting member of the commission].~~

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal defense, parental defense, or juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) A person who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) The commission shall ~~[annually]~~ elect annually a chair from the commission's membership to serve a one-year term. A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[pursuant to]~~ in accordance with Sections 63A-3-106 and 63A-3-107.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

**Section 8. Section 78B-22-404 is amended to read:**

**78B-22-404. Powers and duties of the commission.**

(1) The commission shall:

(a) adopt ~~[minimum guidelines]~~ core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which ~~[guidelines]~~ principles at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at ~~[the]~~ all stages to indigent individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including



expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;

~~[(c) identify and collect data from any source, which is necessary for the commission to:]~~

~~[(i) aid, oversee, and review compliance by indigent defense systems with the commission's minimum guidelines for the effective representation of indigent individuals; and]~~

~~[(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;]~~

~~[(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's minimum guidelines for effective representation of indigent individuals;]~~

~~[(e) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's minimum guidelines for the effective representation of indigent individuals;]~~

~~[(f) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;]~~

~~[(g) establish procedures to award grants to indigent defense systems under Section 78B-22-406 consistent with the commission's minimum guidelines for the effective representation of indigent individuals and appropriations by the state;]~~

~~[(h) (c) emphasize the importance of ensuring constitutionally effective indigent defense services;~~

~~[(i) (d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services; and]~~

~~[(j) (e) oversee individuals and entities involved in providing indigent defense services[;].]~~

~~[(k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:]~~

~~[(i) the operations of the commission;]~~

~~[(ii) the operations of the indigent defense systems in the state; and]~~

~~[(iii) compliance with the commission's minimum guidelines by indigent defense systems receiving grants from the commission;]~~

~~[(l) submit recommendations for improving indigent defense services in the state, to legislative, executive, and judicial leadership; and]~~

~~[(m) publish an annual report on the commission's website.]~~

(2) The commission may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part[.];

(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties; and

(c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate Trust Fund created in Section 78B-22-455.

**Section 9. Section 78B-22-405 is amended to read:**

**78B-22-405. Indigent Defense Resources Restricted Account -- Administration.**

(1) (a) There is created within the General Fund a restricted account known as the "Indigent Defense Resources Restricted Account."

(b) Appropriations from the account are nonlapsing.

(2) The account consists of:

(a) money appropriated by the Legislature based upon recommendations from the commission consistent with principles of shared state and local funding;

(b) any other money received by the commission from any source to carry out the purposes of this part; and

(c) any interest and earnings from the investment of account money.

(3) The commission shall administer the account and, subject to appropriation, disburse money from the account for the following purposes:

(a) to establish and maintain a statewide indigent defense data collection system;

(b) to establish and administer a grant program to provide grants of state money and other money to indigent defense systems as set forth in Section 78B-22-406;

(c) to provide training and continuing legal education for indigent defense service providers; and

(d) for administrative costs.

**Section 10. Section 78B-22-406 is amended to read:**

**78B-22-406. Indigent defense services grant program.**

(1) The commission may award grants to supplement local spending by an indigent defense system for indigent defense[.] services.

~~[(2) Commission grant money may be used for the following expenses:]~~

(2) The commission may use grant money:

(a) to assist an indigent defense system to provide indigent defense services that meet the commission's [minimum guidelines] core principles for the effective representation of indigent individuals;

(b) ~~[the establishment and maintenance of]~~ to establish and maintain local indigent defense data collection systems;

(c) to provide indigent defense services in addition to ~~[those]~~ indigent defense services that are currently being provided by an indigent defense system; ~~and]~~

(d) to provide training and continuing legal education for indigent defense service providers[-]; and

(e) to reimburse an indigent defense system for the cost of providing indigent defense services in an action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights, if the indigent defense system has complied with the commission's policies and procedures for reimbursement.

(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) a grant from the commission is necessary for the indigent defense system to meet the commission's ~~[minimum guidelines]~~ core principles for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's ~~[minimum guidelines]~~ core principles for the effective representation of indigent individuals.

**Section 11. Section 78B-22-451 is enacted to read:**

**Part 4a. Office of Indigent Defense Services**

**78B-22-451. Office of Indigent Defense Services -- Creation.**

There is created the Office of Indigent Defense Services within the State Commission of Criminal and Juvenile Justice.

**Section 12. Section 78B-22-452 is enacted to read:**

**78B-22-452. Duties of the office.**

(1) The office shall:

(a) establish an annual budget for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts, and other agreements, to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203;

(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(i) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

(j) submit recommendations to the commission for improving indigent defense services in the state;

(k) publish an annual report on the commission's website; and

(l) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

**Section 13. Section 78B-22-453, which is renumbered from Section 78B-22-403 is renumbered and amended to read:**

**[78B-22-403]. 78B-22-453. Director -- Qualifications -- Staff.**

~~[(1) The commission shall appoint a director to carry out the following duties:]~~

~~[(a) establish an annual budget;]~~

~~[(b) assist the commission in performing the commission's statutory duties;]~~

~~[(c) assist the commission in developing and regularly reviewing advisory caseload guidelines and procedures; and]~~

~~[(d) perform all other duties as assigned.]~~

(1) The executive director of the State Commission on Criminal and Juvenile Justice shall appoint a director to carry out the duties of the office described in Section 78B-22-452.

(2) The director shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the full-time director.

(3) The director shall hire staff as necessary to carry out the duties of the [commission] office described in Section 78B-22-452, including:

(a) one individual who is an active member of the Utah State Bar to serve as a full-time assistant director; and

(b) one individual with data collection and analysis skills [to carry out duties as outlined in Subsection 78B-22-404(1)(e)].

(4) When appointing the director of the office under Subsection (1), the executive director of the State Commission on Criminal and Juvenile Justice shall give preference to an individual with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

~~[(4) The commission in appointing the director, and the director in hiring the assistant director, shall give a preference to individuals]~~

(5) When hiring the assistant director, the director shall give preference to an individual with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

**Section 14. Section 78B-22-454, which is renumbered from Section 78B-22-601 is renumbered and amended to read:**

**[78B-22-601]. 78B-22-454. Defense of indigent inmates.**

~~[(1) The board shall enter into contracts to provide indigent defense services for an indigent inmate who:]~~

~~[(a) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501;]~~

~~[(b) is charged with having committed a crime within that state prison; and]~~

~~[(c) will require defense counsel.]~~

~~[(2) Payment for indigent defense services shall be made from the Indigent Inmate Trust Fund as provided in Section 78B-22-602.]~~

(1) The office shall pay for indigent defense services for indigent inmates from the Indigent Inmate Trust Fund created in Section 78B-22-455.

~~[(3) (2) A contract under this part shall ensure that indigent defense services are provided in a manner consistent with [the minimum guidelines] the core principles described in Section [78B-22-301] 78B-22-404.~~

~~[(4) (3) The county attorney or district attorney of a county of the third, fourth, fifth, or sixth class shall function as the prosecuting entity.~~

~~[(5) (4) (a) A county of the third, fourth, fifth, or sixth class where a state prison is located may impose an additional property tax levy by ordinance at .0001 per dollar of taxable value in the county.~~

(b) If the county governing body imposes the additional property tax levy by ordinance, the [money] revenue shall be deposited into the Indigent Inmate Trust Fund as provided in Section [78B-22-602] 78B-22-455 to fund the purposes of this part.

(c) Upon notification that the fund has reached the amount specified in Subsection [78B-22-602] 78B-22-455(6), a county shall deposit [money] revenue derived from the property tax levy after the county receives the notice into a county account used exclusively to provide indigent defense services.

(d) A county that chooses not to impose the additional levy by ordinance may not receive any benefit from the Indigent Inmate Trust Fund.

**Section 15. Section 78B-22-455, which is renumbered from Section 78B-22-602 is renumbered and amended to read:**

**[78B-22-602]. 78B-22-455. Indigent Inmate Trust Fund.**

(1) There is created a private-purpose trust fund known as the "Indigent Inmate Trust Fund" to be disbursed by the [Division of Finance at the direction of the board and in accordance with contracts made under Section 78B-22-502] office in accordance with contracts entered into under Subsection 78B-22-452(1)(g).

(2) Money deposited into this trust fund shall only be used:

(a) to pay indigent defense services for an indigent inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501 [who];

(ii) is charged with having committed a crime within [the] that state prison[, and who will require indigent defense services]; and

(iii) has been appointed counsel in accordance with Section 78B-22-203; and

~~(b) for administrative costs pursuant to Section 78B-22-501.]~~

(b) to cover costs of administering the Indigent Inmate Trust Fund.

(3) The trust fund consists of:

(a) proceeds received from counties that impose the additional tax levy by ordinance under Subsection ~~[78B-22-601]~~ 78B-22-454(5), which shall be the total county obligation for payment of costs listed in Subsection (2) for defense services for indigent inmates;

(b) appropriations made to the fund by the Legislature; and

(c) interest and earnings from the investment of fund money.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) (a) In any calendar year in which the fund ~~[runs a deficit]~~ has insufficient funding, or is projected to ~~[run a deficit, the board]~~ have insufficient funding, the commission shall request a supplemental appropriation from the Legislature in the following general session to ~~[pay for the deficit]~~ provide sufficient funding.

(b) The state shall pay any or all of the reasonable and necessary money ~~[for the deficit]~~ to provide sufficient funding into the Indigent Inmate Trust Fund.

(6) The fund is capped at \$1,000,000.

(7) The ~~[Division of Finance]~~ office shall notify the contributing counties when the fund approaches \$1,000,000 and provide each county with the amount of the balance in the fund.

(8) Upon notification by the ~~[Division of Finance]~~ office that the fund is near the limit imposed in Subsection (6), the counties may contribute enough money to enable the fund to reach \$1,000,000 and discontinue contributions until notified by the ~~[Division of Finance]~~ office that the balance has fallen below \$1,000,000, at which time counties that meet the requirements of Section ~~[78B-22-601]~~ 78B-22-454 shall resume contributions.

**Section 16. Section 78B-22-501 is amended to read:**

**78B-22-501. Indigent Defense Funds Board -- Members -- Administrative support.**

(1) As used in this part, "fund" means the Indigent Aggravated Murder Defense Trust Fund created in Section 78B-22-701.

~~[(4)]~~ (2) There is created the Indigent Defense Funds Board within the Division of Finance ~~[the Indigent Defense Funds Board].~~

(3) The board is composed of the following nine members:

(a) two members who are current commissioners or county executives of participating counties

appointed by the board of directors of the Utah Association of Counties;

(b) one member at large appointed by the board of directors of the Utah Association of Counties;

(c) two members who are current county attorneys of participating counties appointed by the Utah Prosecution Council;

(d) the director of the Division of Finance or the director's designee;

(e) one member appointed by the Administrative Office of the Courts; and

(f) two members who are private attorneys engaged in or familiar with the criminal defense practice appointed by the members of the board listed in Subsections ~~[(4)]~~ (3)(a) through (e).

~~[(2)]~~ (4) Members appointed under Subsection ~~[(4)]~~ (3)(a), (b), (c), or (f) shall serve four-year terms.

~~[(3)]~~ (5) A vacancy is created if a member appointed under:

(a) Subsection ~~[(4)]~~ (3)(a) no longer serves as a county commissioner or county executive; or

(b) Subsection ~~[(4)]~~ (3)(c) no longer serves as a county attorney.

~~[(4)]~~ (6) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

~~[(5)]~~ (7) The Division of Finance may provide administrative support and may seek payment for the costs or the board may contract for administrative support to be paid from the ~~[funds described in Subsection 78B-22-502(1)(a)]~~ fund.

~~[(6)]~~ (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

~~[(7) Per diem and expenses for board members shall be paid from the funds described in Subsection 78B-22-502(1)(a).]~~

(9) The fund shall pay per diem and expenses for board members.

~~[(8)]~~ (10) Five members shall constitute a quorum and, if a quorum is present, the action of a majority of the members present shall constitute the action of the board.

**Section 17. Section 78B-22-502 is amended to read:**

**78B-22-502. Duties of board.**

(1) The board shall:

(a) establish rules and procedures for the application by a county for disbursements, and the

screening and approval of the applications for money from the ~~[:] fund;~~

~~[(i) Indigent Inmate Trust Fund established in Part 6, Indigent Inmates; and]~~

~~[(ii) Indigent Aggravated Murder Defense Trust Fund, established in Part 7, Indigent Aggravated Murder Defense Trust Fund;]~~

(b) receive, screen, and approve, or disapprove the application of a county for disbursements from ~~[a fund described in Subsection (1)(a)]~~ the fund;

(c) calculate the amount of the annual contribution to be made to the fund ~~[described in Subsection (1)(a)(ii)]~~ by each participating county;

(d) prescribe forms for the application for money from ~~[a fund described in Subsection (1)(a)]~~ the fund;

(e) oversee and approve the disbursement of money from ~~[a fund described in Subsection (1)(a) as provided in Sections 78B-22-602 and 78B-22-701]~~ the fund as described in Section 78B-22-701;

(f) establish the board's own rules of procedure, elect the board's own officers, and appoint committees of the board's members and other people as may be reasonable and necessary; and

(g) negotiate, enter into, and administer contracts with legal counsel, qualified under and meeting the standards consistent with this chapter, to provide indigent defense services to ~~[(i)]~~ an indigent individual prosecuted in a participating county for an offense involving aggravated murder ~~[: and]~~.

~~[(ii) an indigent inmate who is incarcerated in a county described in Section 78B-22-601.]~~

(2) The board may provide to the court a list of attorneys qualified under Utah Rules of Criminal Procedure, Rule 8, with which the board has a preliminary contract to provide indigent defense services for an assigned rate.

**Section 18. Coordinating S.B. 170 with S.B. 139 -- Substantive and technical amendments.**

If this S.B. 170 and S.B. 139, Amendments to Indigent Defense, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) the amendments to Section 78B-22-451 in this bill supersede the amendments to Section 78B-22-451 in S.B. 139;

(2) the amendments to Section 78B-22-452 in this bill supersede the amendments to Section 78B-22-452 in S.B. 139; and

(3) the amendments to Section 78B-22-403, renumbered and amended by this bill to Section 78B-22-453, supersede the amendments to Section 78B-22-403, renumbered and amended by S.B. 139.

**CHAPTER 393****S. B. 171**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**NONPROFIT ENTITIES AMENDMENTS**

Chief Sponsor: Daniel McCay  
 House Sponsor: Mark A. Strong

**LONG TITLE****General Description:**

This bill amends provisions relating to nonprofit entities.

**Highlighted Provisions:**

This bill:

- ▶ prohibits a public entity from, subject to certain exceptions, disclosing or taking certain other action regarding information that identifies a person as a donor to an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code;
- ▶ places limitations on the regulation of a nonprofit entity by a public agency; and
- ▶ classifies a record protected from disclosure under this bill as a protected record under the Government Records Access and Management Act.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63G-2-305, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277

**ENACTS:**

63G-24-101, Utah Code Annotated 1953  
 63G-24-102, Utah Code Annotated 1953  
 63G-24-103, Utah Code Annotated 1953  
 63G-24-104, Utah Code Annotated 1953  
 63G-24-105, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63G-2-305 is amended to read:****63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures,

policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel,

that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would

reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or



any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

- (i) unpublished lecture notes;
- (ii) unpublished notes, data, and information:
  - (A) relating to research; and
  - (B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

- (II) a sponsor of sponsored research;
- (iii) unpublished manuscripts;
- (iv) creative works in process;
- (v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

- (a) a production facility; or
- (b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

- (a) the safety of the general public; or
- (b) the security of:
  - (i) governmental property;
  - (ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human

service program as that term is defined in Section 62A-2-101, except for recordings that:

- (a) depict the commission of an alleged crime;
- (b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
- (c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
- (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or
- (e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; ~~and~~

(68) an audio recording that is:

- (a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;
- (b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

  - (i) is responding to an individual needing resuscitation or with a life-threatening condition; and
  - (ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

- (c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201; ~~and~~

(73) a record described in Section 31A-37-503[-];

(74) any record created by the Division of Occupational and Professional Licensing as a result

of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii); ~~and~~

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride[-]; and

(76) personal information, as defined in Section 63G-24-102, to the extent disclosure is prohibited under Section 63G-24-103.

**Section 2. Section 63G-24-101 is enacted to read:**

**CHAPTER 24. GOVERNMENT  
INTERACTION WITH NONPROFIT  
ENTITIES**

**63G-24-101. Title.**

This chapter is known as "Government Interaction With Nonprofit Entities."

**Section 3. Section 63G-24-102 is enacted to read:**

**63G-24-102. Definitions.**

As used in this chapter:

(1) "Personal information" means a record or other compilation of data that identifies a person as a donor to an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code.

(2) "Public agency" means a state or local government entity, including:

(a) a department, division, agency, office, commission, board, or other government organization;

(b) a political subdivision, including a county, city, town, metro township, local district, or special service district;

(c) a public school, school district, charter school, or public higher education institution; or

(d) a judicial or quasi-judicial body.

**Section 4. Section 63G-24-103 is enacted to read:**

**63G-24-103. Protection of personal information.**

(1) Except as provided in Subsections (2), (3), and (5), a public agency may not:

(a) require an individual to provide the public agency with personal information or otherwise compel the release of personal information;

(b) require an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code to provide the public agency with personal information or compel the entity to release personal information;

(c) release, publicize, or otherwise publicly disclose personal information in possession of a public agency; or

(d) request or require a current or prospective contractor or grantee of the public agency to provide the public agency with a list of entities exempt from

federal income tax under Section 501(c) of the Internal Revenue Code to which the contractor or grantee has provided financial or nonfinancial support.

(2) Subsection (1) does not apply to:

(a) a disclosure of personal information required under Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or any other legal requirement relating to reporting campaign contributions, campaign expenditures, lobbying disclosures, or lobbying expenditures;

(b) a disclosure of personal information expressly required by law;

(c) a disclosure of personal information voluntarily made:

(i) as part of public comment or in a public meeting; or

(ii) in another manner that is publicly accessible;

(d) a disclosure of personal information pursuant to a warrant or court order issued by a court of competent jurisdiction;

(e) a lawful request for discovery of personal information in litigation or a criminal proceeding;

(f) the use of personal information in a legal proceeding;

(g) a public agency sharing personal information with another public agency in accordance with the requirements of law; or

(h) a nonprofit created under Title 11, Chapter 13a, Governmental Nonprofit Corporations Act.

(3) Subsections (1)(a), (b), and (d) do not apply to:

(a) administration or enforcement of Title 13, Chapter 11, Utah Consumer Sales Practice Act, or Title 13, Chapter 22, Charitable Solicitations Act;

(b) the request or use of personal information necessary to the State Tax Commission's administration of tax or motor vehicle laws; or

(c) access to personal information by the Office of the Legislative Auditor General or the state auditor's office to conduct an audit.

(4) A court shall consider whether to:

(a) limit a request for discovery of personal information; or

(b) issue a protective order in relation to the disclosure of personal information obtained or used in relation to a legal proceeding.

(5) Subsection (1) does not apply to disclosure of a contributor, as defined in Section 41-1a-422, to a sponsoring organization described in Subsection 41-1a-422(3).

**Section 5. Section 63G-24-104 is enacted to read:**

**63G-24-104. Enforcement -- Penalty.**

(1) A person whose personal information is provided or disclosed in violation of this chapter

may bring a civil action for appropriate injunctive relief, damages, or both.

(2) A court may award court costs and attorney fees to a person that brings an action described in Subsection (1) if the person prevails in that action.

(3) A person that knowingly violates a provision of Section 63G-24-103 is guilty of a class C misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000, or both.

**Section 6. Section 63G-24-105 is enacted to read:**

**63G-24-105. Limitations on regulation by a public agency.**

A public agency may not impose a requirement on the registration or maintenance of a nonprofit entity that is more restrictive or expansive than the requirements authorized by Utah Code or federal law.

**CHAPTER 394****S. B. 173**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**DISORDERLY CONDUCT AMENDMENTS**

Chief Sponsor: Don L. Ipson  
 House Sponsor: Lee B. Perry

**LONG TITLE****General Description:**

This bill amends criminal provisions relating to disorderly conduct.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies the elements of, and penalties for, disorderly conduct;
- ▶ provides increased penalties for violations that occur at an official meeting;
- ▶ repeals a criminal provision relating to disrupting legislative or official meetings; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 36-11-103, as last amended by Laws of Utah 2019, Chapter 339  
 36-11-401, as last amended by Laws of Utah 2019, Chapter 339  
 76-3-203.1, as last amended by Laws of Utah 2016, Chapter 130  
 76-3-203.3, as last amended by Laws of Utah 2007, Chapter 229  
 76-9-102, as last amended by Laws of Utah 2016, Chapter 245  
 76-9-802, as last amended by Laws of Utah 2009, Chapters 157 and 356  
 76-9-902, as enacted by Laws of Utah 2009, Chapter 86

**REPEALS:**

- 76-8-304, as last amended by Laws of Utah 1992, Chapter 30

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 36-11-103 is amended to read:****36-11-103. Licensing requirements.**

(1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the lieutenant governor by completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a Lobbyist License Application Form that includes:

(i) a place for the lobbyist's name and business address;

(ii) a place for the following information for each principal for whom the lobbyist works or is hired as an independent contractor:

(A) the principal's name;

(B) the principal's business address;

(C) the name of each public official that the principal employs and the nature of the employment with the public official; and

(D) the general purposes, interests, and nature of the principal;

(iii) a place for the name and address of the person who paid or will pay the lobbyist's registration fee, if the fee is not paid by the lobbyist;

(iv) a place for the lobbyist to disclose:

(A) any elected or appointed position that the lobbyist holds in state or local government, if any; and

(B) the name of each public official that the lobbyist employs and the nature of the employment with the public official, if any;

(v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; and

(vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

(2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section;

(ii) completes the training required by Section 36-11-307; and

(iii) pays a \$60 filing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 each year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if ~~the applicant has been convicted of violating Section 76-8-104 or 76-8-304~~, within one year before the date of the lobbying license application~~],~~ the applicant is convicted of a violation of:

(A) Section 76-8-104; or

(B) Section 76-9-102, if the violation is a misdemeanor that occurs at an official meeting;

(iii) during the term of any suspension imposed under Section 36-11-401;

(iv) if the applicant has not complied with Subsection 36-11-307(6);

(v) during the term of a suspension imposed under Subsection 36-11-501(3);

(vi) if the lobbyist fails to pay a fine imposed under Subsection 36-11-501(3);

(vii) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information; or

(viii) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24, Lobbying Restrictions Act.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63G, Chapter 4, Administrative Procedures Act.

(5) The lieutenant governor shall deposit each license fee into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program described in this section.

(6) A principal need not obtain a license under this section, but if the principal makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

(7) Government officers need not obtain a license under this section, but shall disclose any expenditures made to benefit public officials as required by Section 36-11-201.

(8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the reports by Section 36-11-201.

**Section 2. Section 36-11-401 is amended to read:**

**36-11-401. Penalties.**

(1) Any person who intentionally violates Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; and

(b) for each subsequent violation of that same section within 24 months, either:

(i) an administrative penalty of up to \$5,000; or

(ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(2) Any person who intentionally fails to file a financial report required by this chapter, omits material information from a license application form or financial report, or files false information on a license application form or financial report, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; or

(b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(3) Any person who intentionally fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

(4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104 [~~or 76-8-304~~], or Section 76-9-102 if the violation is a misdemeanor that occurs at an official meeting, the lieutenant governor shall suspend a lobbyist's license for up to one year from the date of conviction.

(5) (a) Any person who intentionally violates Section 36-11-301, 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

(b) The lieutenant governor shall suspend the lobbyist license of any person convicted under any of these sections for up to one year.

(c) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

(d) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

(6) Nothing in this chapter creates a third-party cause of action or appeal rights.

**Section 3. Section 76-3-203.1 is amended to read:**

**76-3-203.1. Offenses committed in concert with two or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.**

(1) As used in this section:

(a) "Criminal street gang" has the same definition as in Section 76-9-802.

(b) "In concert with two or more persons" means:

(i) the defendant was aided or encouraged by at least two other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

- (A) was physically present; or
- (B) participated as a party to any offense listed in Subsection (5).
- (c) “In concert with two or more persons” means, regarding intent:
- (i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and
- (ii) a minor is a party if the minor’s actions would cause the minor to be a party if the minor were an adult.
- (2) A person who commits any offense listed in Subsection (5) is subject to an enhanced penalty for the offense as provided in Subsection (4) if the trier of fact finds beyond a reasonable doubt that the person acted:
- (a) in concert with two or more persons;
- (b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or
- (c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.
- (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.
- (4) The enhanced penalty for a:
- (a) class B misdemeanor is a class A misdemeanor;
- (b) class A misdemeanor is a third degree felony;
- (c) third degree felony is a second degree felony;
- (d) second degree felony is a first degree felony; and
- (e) first degree felony is an indeterminate prison term of not less than five years in addition to the statutory minimum prison term for the offense, and which may be for life.
- (5) Offenses referred to in Subsection (2) are:
- (a) any criminal violation of the following chapters of Title 58, Occupations and Professions:
- (i) Chapter 37, Utah Controlled Substances Act;
- (ii) Chapter 37a, Utah Drug Paraphernalia Act;
- (iii) Chapter 37b, Imitation Controlled Substances Act; or
- (iv) Chapter 37c, Utah Controlled Substance Precursor Act;
- (b) assault and related offenses under Title 76, Chapter 5, Part 1, Assault and Related Offenses;
- (c) any criminal homicide offense under Title 76, Chapter 5, Part 2, Criminal Homicide;

- (d) kidnapping and related offenses under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- (e) any felony sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- (f) sexual exploitation of a minor as defined in Section 76-5b-201;
- (g) any property destruction offense under Title 76, Chapter 6, Part 1, Property Destruction;
- (h) burglary, criminal trespass, and related offenses under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- (i) robbery and aggravated robbery under Title 76, Chapter 6, Part 3, Robbery;
- (j) theft and related offenses under Title 76, Chapter 6, Part 4, Theft, or Part 6, Retail Theft;
- (k) any fraud offense under Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;
- (l) any offense of obstructing government operations under Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, [76-8-304,] 76-8-307, 76-8-308, and 76-8-312;
- (m) tampering with a witness or other violation of Section 76-8-508;
- (n) retaliation against a witness, victim, informant, or other violation of Section 76-8-508.3;
- (o) extortion or bribery to dismiss criminal proceeding as defined in Section 76-8-509;
- (p) any explosives offense under Title 76, Chapter 10, Part 3, Explosives;
- (q) any weapons offense under Title 76, Chapter 10, Part 5, Weapons;
- (r) pornographic and harmful materials and performances offenses under Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances;
- (s) prostitution and related offenses under Title 76, Chapter 10, Part 13, Prostitution;
- (t) any violation of Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- (u) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (v) communications fraud as defined in Section 76-10-1801;
- (w) any violation of Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; and
- (x) burglary of a research facility as defined in Section 76-10-2002.
- (6) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert

are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

**Section 4. Section 76-3-203.3 is amended to read:**

**76-3-203.3. Penalty for hate crimes -- Civil rights violation.**

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2) (a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(b);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

(d) any misdemeanor theft offense under Section 76-6-412;

(e) any offense of obstructing government operations under Sections 76-8-301, 76-8-302, ~~76-8-304,~~ 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313;

(f) any offense of interfering or intending to interfere with activities of colleges and universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

(g) any misdemeanor offense against public order and decency as defined in Title 76, Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

(h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Telephone Abuse;

(i) any cruelty to animals offense under Section 76-9-301; ~~and~~

(j) any weapons offense under Section 76-10-506~~[,]~~; or

(k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

(5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

**Section 5. Section 76-9-102 is amended to read:**

**76-9-102. Disorderly conduct.**

(1) ~~[A person]~~ As used in this section:

(a) "Official meeting" means:

(i) a meeting, as defined in Section 52-4-103;

(ii) a meeting of the Legislature, the Utah Senate, the Utah House of Representatives, a legislative caucus, or any committee, task force, working group, or other organization in the state legislative branch; or

(iii) a meeting of an entity created by the Utah Constitution, Utah Code, Utah administrative rule, legislative rule, or a written rule or policy of the Legislative Management Committee.

(b) "Public place" means a place to which the public or a substantial group of the public has access, including:

(i) streets or highways; and

(ii) the common areas of schools, hospitals, apartment houses, office buildings, public buildings, public facilities, transport facilities, and shops.

(2) An individual is guilty of disorderly conduct if:

(a) the ~~person~~ individual refuses to comply with the lawful order of a law enforcement officer to move from a public place or an official meeting, or knowingly creates a hazardous or physically offensive condition, by any act ~~which~~ that serves no legitimate purpose; or

(b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk ~~thereof~~ of public inconvenience, annoyance, or alarm, the person:

(i) engages in fighting or in violent, tumultuous, or threatening behavior;

(ii) makes unreasonable noises in a public place or an official meeting;

(iii) makes unreasonable noises in a private place which can be heard in a public place or an official meeting; or

(iv) obstructs vehicular or pedestrian traffic in a public place or an official meeting.

~~(2) "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas~~



~~of schools, hospitals, apartment houses, office buildings, public buildings and facilities, transport facilities, and shops.]~~

(3) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does not constitute a violation of this section. Nothing in this Subsection (3) may limit or prohibit a law enforcement officer from approaching or engaging any person in a voluntary conversation.

~~[(4) Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.]~~

(4) An individual who violates this section is guilty of:

(a) except as provided in Subsection (4)(b), (c), or (d), an infraction;

(b) except as provided in Subsection (4)(c) or (d), a class C misdemeanor, if the violation occurs after the individual has been asked to cease conduct prohibited under this section;

(c) except as provided in Subsection (4)(d), a class B misdemeanor, if:

(i) the violation occurs after the individual has been asked to cease conduct prohibited under this section; and

(ii) within five years before the day on which the individual violates this section, the individual was previously convicted of a violation of this section; or

(d) a class A misdemeanor, if:

(i) the violation occurs after the individual has been asked to cease conduct prohibited under this section; and

(ii) within five years before the day on which the individual violates this section, the individual was previously convicted of two or more violations of this section.

**Section 6. Section 76-9-802 is amended to read:**

**76-9-802. Definitions.**

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its primary activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

(3) "Minor" means a person younger than 18 years of age.

(4) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;

(b) the predicate gang crimes are:

(i) committed by two or more persons; or

(ii) committed by an individual at the direction of, or in association with a criminal street gang; and

(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

(5) (a) "Predicate gang crime" means any of the following offenses:

(i) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;

(ii) any criminal violation of the following provisions:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;

(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(vi) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(vii) Title 76, Chapter 6, Part 1, Property Destruction;

(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(ix) Title 76, Chapter 6, Part 3, Robbery;

(x) any felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;

(xiv) Section 76-8-508, which includes tampering with a witness;

(xv) Section 76-8-508.3, which includes retaliation against a witness or victim;

(xvi) Section 76-8-509, which includes extortion or bribery to dismiss a criminal proceeding;

(xvii) a misdemeanor violation of Section 76-9-102, if the violation occurs at an official meeting;

~~[(xvii)]~~ (xviii) Title 76, Chapter 10, Part 3, Explosives;

~~[(xviii)]~~ (xix) Title 76, Chapter 10, Part 5, Weapons;

~~[(xix)]~~ (xx) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

~~[(xx)]~~ (xxi) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

~~[(xxi)]~~ (xxii) Section 76-10-1801, which addresses communications fraud;

~~[(xxii)]~~ (xxiii) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; or

~~[(xxiii)]~~ (xxiv) Section 76-10-2002, which addresses burglary of a research facility.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.

**Section 7. Section 76-9-902 is amended to read:**

**76-9-902. Definitions.**

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its substantial activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or an identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Gang loitering" means a person remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:

(a) establish control over one or more identifiable areas;

(b) intimidate others from entering those areas; or

(c) conceal illegal activities.

(3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years, if the predicate gang crimes are committed:

(a) (i) by two or more persons; or

(ii) by an individual at the direction of or in association with a criminal street gang; and

(b) with the specific intent to promote, further, or assist in any criminal conduct by members of a criminal street gang.

(4) (a) "Predicate gang crime" means any of the following offenses:

(i) any criminal violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iii) Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(v) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(vi) Title 76, Chapter 6, Part 1, Property Destruction;

(vii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(viii) Title 76, Chapter 6, Part 3, Robbery;

(ix) any felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(x) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xi) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(xii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, ~~76-8-304,~~ 76-8-307, 76-8-308, and 76-8-312;

(xiii) Section 76-8-508, which includes tampering with a witness;

(xiv) Section 76-8-508.3, which includes retaliation against a witness or victim;

(xv) Section 76-8-509, which includes extortion or bribery to dismiss a criminal proceeding;

(xvi) a misdemeanor violation of Section 76-9-102, if the violation occurs at an official meeting;

~~(xvi)~~ (xvii) Title 76, Chapter 10, Part 3, Explosives;

~~(xvii)~~ (xviii) Title 76, Chapter 10, Part 5, Weapons;

~~(xviii)~~ (xix) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

~~(xix)~~ (xx) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

~~(xx)~~ (xxi) Section 76-10-1801, which addresses communications fraud;

~~(xxi)~~ (xxii) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;

~~(xxii)~~ (xxiii) Section 76-10-2002, which addresses burglary of a research facility; and

~~(xxiii)~~ (xxiv) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification number; and

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute any offense in Subsection (4)(a) if committed in this state.

(5) (a) "Public place" means any location or structure to which the public or a substantial group of the public has access, and includes:

(i) a sidewalk, street, or highway;

(ii) a public park, public recreation facility, or any other area open to the public;

(iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse, or the parking lot or structure adjacent to any of these; and

(iv) the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and businesses.

(b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

## **Section 8. Repealer.**

This bill repeals:

### **Section 76-8-304, Disturbing Legislature or official meeting.**

**CHAPTER 395****S. B. 175**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**DEFENSE CONTRACTS AMENDMENTS**

Chief Sponsor: Wayne A. Harper  
House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill modifies and enacts provisions related to indigent and parental defense.

**Highlighted Provisions:**

This bill:

- ▶ creates and modifies definitions;
- ▶ amends the powers, duties, and membership of the Utah Indigent Defense Commission;
- ▶ creates the Office of Indigent Defense Services;
- ▶ creates the powers and duties of the Office of Indigent Defense Services;
- ▶ requires the Office of Indigent Defense Services to administer the Child Welfare Parental Defense Program;
- ▶ modifies provisions relating to administration of the Child Welfare Parental Defense Program;
- ▶ creates a reporting requirement for indigent defense services; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides coordination clauses.

**Utah Code Sections Affected:****AMENDS:**

63M-7-204, as last amended by Laws of Utah 2019, Chapter 435  
78A-6-1111, as last amended by Laws of Utah 2019, Chapter 326  
78B-6-112, as last amended by Laws of Utah 2019, Chapters 136, 326, and 491  
78B-22-102, as enacted by Laws of Utah 2019, Chapter 326  
78B-22-201, as enacted by Laws of Utah 2019, Chapter 326  
78B-22-401, as renumbered and amended by Laws of Utah 2019, Chapter 326  
78B-22-402, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and amended by Laws of Utah 2019, Chapter 326  
78B-22-404, as renumbered and amended by Laws of Utah 2019, Chapter 326  
78B-22-406, as renumbered and amended by Laws of Utah 2019, Chapter 326

**ENACTS:**

78B-22-451, Utah Code Annotated 1953  
78B-22-452, Utah Code Annotated 1953  
78B-22-801, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

78B-22-453, (Renumbered from 78B-22-403, as renumbered and amended by Laws of Utah 2019, Chapter 326)  
78B-22-802, (Renumbered from 63M-7-211, as enacted by Laws of Utah 2019, Chapter 435)  
78B-22-803, (Renumbered from 63M-7-211.1, as enacted by Laws of Utah 2019, Chapter 435)  
78B-22-804, (Renumbered from 63M-7-211.2, as enacted by Laws of Utah 2019, Chapter 435)

**Utah Code Sections Affected by Coordination Clauses:**

78B-22-402, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and amended by Laws of Utah 2019, Chapter 326  
78B-22-451, Utah Code Annotated 1953  
78B-22-452, Utah Code Annotated 1953  
78B-22-453, Renumbered from 78B-22-403, as renumbered and amended by Laws of Utah 2019, Chapter 326  
78B-22-803, Renumbered from 63M-7-211.1, as enacted by Laws of Utah 2019, Chapter 435

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63M-7-204 is amended to read:****63M-7-204. Duties of commission.**

- (1) The State Commission on Criminal and Juvenile Justice administration shall:
- (a) promote the commission's purposes as enumerated in Section 63M-7-201;
  - (b) promote the communication and coordination of all criminal and juvenile justice agencies;
  - (c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;
  - (d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;
  - (e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;
  - (f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;
  - (g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants funded from money from the Law Enforcement Operations Account created in Section 51-9-411 for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs; and

(u) oversee the trauma-informed justice program described in Section 63M-7-209[; and].

~~[(v) administer the Child Welfare Parental Defense Program in accordance with Sections 63M-7-211, 63M-7-211.1, and 63M-7-211.2.]~~

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

**Section 2. Section 78A-6-1111 is amended to read:**

**78A-6-1111. Order for indigent defense service or guardian ad litem.**

~~[(1) A court shall order indigent defense services for a minor, parent, or legal guardian as provided by Title 78B, Chapter 22, Indigent Defense Act.]~~

(1) A court shall order indigent defense services in accordance with Title 78B, Chapter 22, Indigent Defense Act, for a minor, parent, or legal guardian facing an action filed by a private party or the state under this title.

(2) (a) In any action under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902.

(b) The child shall [also] be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

**Section 3. Section 78B-6-112 is amended to read:**

**78B-6-112. District court jurisdiction over termination of parental rights proceedings.**

(1) A district court has jurisdiction to terminate parental rights in a child if the party ~~who~~ that filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, ~~[if terminating the individual's parental rights]~~ and termination is in the best interests of the child.

(6) The court shall appoint an indigent defense service provider~~, under~~ in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent ~~[a party]~~ an individual who faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission ~~[under]~~ in accordance with Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

**Section 4. Section 78B-22-102 is amended to read:**

**78B-22-102. Definitions.**

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) "Director" means the director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

~~[(4)]~~ (5) (a) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.

(b) "Indigent defense resources" does not include an indigent defense service provider.

~~[(5)]~~ (6) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual pursuant to:

(a) a contract with an indigent defense system to provide indigent defense services; or

(b) an order issued by the court under Subsection 78B-22-203(2)(a).

~~[(6)]~~ (7) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

~~[(7)]~~ (8) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services ~~[in the city's or town's justice court];~~

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, ~~[or]~~ and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

~~[(8)]~~ (9) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection ~~[(8)]~~ (9)(a), who is appealing ~~[a first appeal from]~~ an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

~~[(9)]~~ (10) "Minor" means the same as that term is defined in Section 78A-6-105.

(11) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

~~[(10)]~~ (12) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B-22-702 and 78B-22-703.

**Section 5. Section 78B-22-201 is amended to read:**

**78B-22-201. Right to counsel.**

(1) A court shall advise the following of the individual's right to counsel when the individual first appears before the court:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing ~~[any]~~ an action initiated by the state under:

(i) Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(ii) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or

(iii) Title 78A, Chapter 6, Part 10, Adult Offenses; ~~[or]~~

~~[(iv) Section 78B-6-112; or]~~

(c) a parent or legal guardian facing an action initiated by any party under:

(i) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or

(ii) Section 78B-6-112; or

~~[(e)]~~ (d) an individual described in this Subsection (1), who is appealing ~~[a first appeal from]~~ a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

**Section 6. Section 78B-22-401 is amended to read:**

**78B-22-401. Utah Indigent Defense Commission -- Creation -- Purpose.**

(1) There is created the Utah Indigent Defense Commission within the State Commission on

Criminal and Juvenile Justice ~~[the "Utah Indigent Defense Commission."].~~

(2) The purpose of the commission is to assist:

(a) the state in meeting the state's obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code[.]; and

(b) the office with carrying out the statutory duties assigned to the commission and office.

**Section 7. Section 78B-22-402 is amended to read:**

**78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.**

(1) (a) The commission is composed of 15 ~~[voting]~~ members ~~[and one ex officio, nonvoting member].~~

~~[(a)]~~ (b) The governor, with the consent of the Senate, shall appoint the following ~~[13 voting]~~ 11 members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) one attorney practicing in the area of parental defense, recommended by an entity funded under the Child Welfare Parental Defense Program created in Section 78B-22-802;

~~[(iii) an]~~ (iv) one attorney representing minority interests recommended by the Utah Minority Bar Association;

~~[(iv)]~~ (v) one member recommended by the Utah Association of Counties from a county of the first or second class;

~~[(v)]~~ (vi) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

~~[(vi)]~~ (vii) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

~~[(vii)]~~ (viii) two members recommended by the Utah League of Cities and Towns from its membership; and

~~[(viii) a]~~ (ix) one retired judge recommended by the Judicial Council[.];

~~[(ix) one attorney practicing in the area of parental defense, recommended by an entity funded under the Child Welfare Parental Defense Program created in Section 63M-7-211; and]~~

~~[(x)]~~ (c) The speaker of the House of Representatives and the president of the Senate shall appoint two members of the Utah Legislature, one from the House of Representatives and one from the Senate, ~~[selected jointly by the Speaker of the House and President of the Senate].~~

~~[(b)]~~ (d) The Judicial Council shall appoint a ~~[voting]~~ member from the Administrative Office of the Courts.

~~[(e)]~~ (e) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a ~~[voting]~~ member of the commission.

~~[(d) The director of the commission, appointed under Section 78B-22-403, is an ex officio, nonvoting member of the commission.]~~

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal defense, parental defense, or juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) ~~[A person]~~ An individual who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) (a) The commission shall ~~[annually]~~ elect ~~annually~~ a chair from the commission's membership to serve a one-year term.

(b) A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[pursuant to]~~ in accordance with Sections 63A-3-106 and 63A-3-107.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

**Section 8. Section 78B-22-404 is amended to read:**

**78B-22-404. Powers and duties of the commission.**

(1) The commission shall:

(a) adopt minimum guidelines for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which guidelines at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused individuals in criminal cases at the critical stages~~[-, and at the]~~ of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;

~~[(c) identify and collect data from any source, which is necessary for the commission to:]~~

~~[(i) aid, oversee, and review compliance by indigent defense systems with the commission's]~~



~~minimum guidelines for the effective representation of indigent individuals; and]~~

~~[(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;]~~

~~[(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's minimum guidelines for effective representation of indigent individuals;]~~

~~[(e) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's minimum guidelines for the effective representation of indigent individuals;]~~

~~[(f) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;]~~

~~[(g) establish procedures to award grants to indigent defense systems under Section 78B-22-406 consistent with the commission's minimum guidelines for the effective representation of indigent individuals and appropriations by the state;]~~

~~[(4h) (c) emphasize the importance of ensuring constitutionally effective indigent defense services;~~

~~[(4i) (d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services; and~~

~~[(4j) (e) oversee individuals and entities involved in providing indigent defense services[;].~~

~~[(4k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:]~~

~~[(i) the operations of the commission;]~~

~~[(ii) the operations of the indigent defense systems in the state; and]~~

~~[(iii) compliance with the commission's minimum guidelines by indigent defense systems receiving grants from the commission;]~~

~~[(4l) submit recommendations for improving indigent defense services in the state, to legislative, executive, and judicial leadership; and]~~

~~[(4m) publish an annual report on the commission's website.]~~

~~(2) The commission may:~~

~~(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part[.];~~

~~(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties; and~~

~~(c) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Defense Fund created in Section 78B-22-804.~~

**Section 9. Section 78B-22-406 is amended to read:**

**78B-22-406. Indigent defense services grant program.**

(1) The commission may award grants to supplement local spending by an indigent defense system for indigent defense.

~~[(2) Commission grant money may be used for the following expenses:]~~

(2) The commission may use grant money:

(a) to assist an indigent defense system to provide indigent defense services that meet the commission's minimum guidelines for the effective representation of indigent individuals;

(b) [the establishment and maintenance of] to establish and maintain local indigent defense data collection systems;

(c) to provide indigent defense services in addition to [those] indigent defense services that are currently being provided by an indigent defense system; [and]

(d) to provide training and continuing legal education for indigent defense service providers[.]; and

(e) to pay for indigent defense resources and costs and expenses for parental defense attorneys as described in Subsection 78B-22-804(2).

(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) a grant from the commission is necessary for the indigent defense system to meet the commission's minimum guidelines for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's minimum guidelines for the effective representation of indigent individuals.

**Section 10. Section 78B-22-451 is enacted to read:**

**Part 4a. Office of Indigent Defense Services 78B-22-451. Office of Indigent Defense Services -- Creation.**

There is created the Office of Indigent Defense Services within the State Commission on Criminal and Juvenile Justice.

**Section 11. Section 78B-22-452 is enacted to read:**

**78B-22-452. Duties of the office.**

(1) The office shall:

(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's minimum guidelines for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's minimum guidelines for effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's minimum guidelines;

(g) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(h) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's minimum guidelines for the effective representation of indigent individuals;

(i) administer the Child Welfare Parental Defense Program in accordance with Part 8, Child Welfare Parental Defense Program;

(j) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's minimum guidelines by indigent defense systems receiving grants from the commission;

(k) submit recommendations to the commission for improving indigent defense services in the state;

(l) publish an annual report on the commission's website; and

(m) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's minimum guidelines implemented under Section 78B-22-404.

**Section 12. Section 78B-22-453, which is renumbered from Section 78B-22-403 is renumbered and amended to read:**

**[78B-22-403]. 78B-22-453. Director -- Qualifications -- Staff.**

(1) The [commission] executive director of the State Commission on Criminal and Juvenile Justice shall appoint a director to carry out the [following duties:] duties of the office described in Section 78B-22-452.

~~[(a) establish an annual budget;]~~

~~[(b) assist the commission in performing the commission's statutory duties;]~~

~~[(c) assist the commission in developing and regularly reviewing advisory caseload guidelines and procedures; and]~~

~~[(d) perform all other duties as assigned.]~~

(2) The director shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the full-time director.

(3) The director shall hire staff as necessary to carry out the duties of the [commission] office as described in Section 78B-22-452, including:

(a) one individual who is an active member of the Utah State Bar to serve as a full-time assistant director; and

(b) one individual with data collection and analysis skills [to carry out duties as outlined in Subsection 78B-22-404(1)(e)].

~~[(4) The commission in appointing the director, and the director in hiring the assistant director, shall give a preference to individuals]~~

(4) When appointing the director of the office under Subsection (1), the executive director of the State Commission on Criminal and Juvenile Justice shall give preference to an individual with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

(5) When hiring the assistant director, the director shall give preference to an individual with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

**Section 13. Section 78B-22-801 is enacted to read:**

**Part 8. Child Welfare Parental Defense Program**

**78B-22-801. Definitions.**

As used in this part:

(1) "Child welfare case" means a proceeding under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.

(2) “Contracted parental defense attorney” means an attorney who represents an indigent individual who is a parent in a child welfare case under a contract with the office or a contributing county.

(3) “Contributing county” means a county that complies with this part for participation in the Child Welfare Parental Defense Fund described in Section 78B-22-804.

(4) “Fund” means the Child Welfare Parental Defense Fund created in Section 78B-22-804.

(5) “Program” means the Child Welfare Parental Defense Program created in Section 78B-22-802.

**Section 14. Section 78B-22-802, which is renumbered from Section 63M-7-211 is renumbered and amended to read:**

**[63M-7-211]. 78B-22-802. Child Welfare Parental Defense Program -- Creation -- Duties -- Annual report -- Budget.**

~~[(1) As used in this section and Sections 63M-7-211.1 and 63M-7-211.2:]~~

~~[(a) “Child welfare case” means a proceeding under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.]~~

~~[(b) “Commission” means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.]~~

~~[(c) “Contracted parental defense attorney” means a parental defense attorney who is under contract with the commission to provide parental defense in a child welfare case.]~~

~~[(d) “Executive director” means the executive director of the commission appointed under Section 63M-7-203.]~~

~~[(e) “Fund” means the Child Welfare Parental Defense Fund established in Section 63M-7-211.2.]~~

~~[(f) “Parental defense attorney” means an attorney, law firm, or group of attorneys who:]~~

~~[(i) are authorized to practice law in the state; and]~~

~~[(ii) provide legal representation under contract with the commission, or a county in the state, to a parent who is a party in a child welfare case.]~~

~~[(g) “Program” means the Child Welfare Parental Defense Program created in this section.]~~

~~[(2)] (1) There is created within the [commission] office the Child Welfare Parental Defense Program.~~

~~[(3) The commission shall:]~~

~~[(a) administer and enforce this section;]~~

~~[(b) manage the operation and budget of the program;]~~

~~[(c) provide assistance and advice to parental defense attorneys;]~~

~~[(d) develop and provide educational and training programs for parental defense attorneys; and]~~

~~[(e) provide information and advice to assist a parental defense attorney to comply with the attorney’s professional, contractual, and ethical duties.]~~

~~[(4) The commission may]~~

~~(2) (a) The office shall:~~

~~(i) administer and enforce the program in accordance with this part;~~

~~(ii) manage the operation and budget of the program;~~

~~(iii) develop and provide educational and training programs for contracted parental defense attorneys; and]~~

~~(iv) provide information and advice to assist a contracted parental defense attorney to comply with the attorney’s professional, contractual, and ethical duties.~~

~~(b) In administering the program, the office shall contract with:~~

~~[(a)] (i) a person who is qualified to perform the program duties under this section; and]~~

~~[(b)] (ii) an attorney [authorized to practice law in the state], as an independent contractor, [to serve as a parental defense attorney under this section.] in accordance with Section 78B-22-803.~~

~~[(5) (a) On or before October 1 of each year, the executive director shall report to the governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the operations, activities, and goals of the program.]~~

~~[(b)] (3) (a) The [executive] director shall prepare a budget of:~~

~~(i) the administrative expenses for the program; and]~~

~~(ii) the amount estimated to fund needed contracts and other costs.~~

~~[(c) The professional legislative staff may include summary data and nonidentifying information in the staff’s audits and reports to the Legislature.]~~

~~(b) On or before October 1 of each year, the director shall report to the governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the operations, activities, and goals of the program.~~

~~[(6) (a) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, and except as provided in Subsection (6)(b), a record of a contracted parental defense attorney is protected and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise.]~~

~~[(ii) A record of a contracted parental defense attorney is subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers.]~~

~~[(b) The Legislature shall maintain a record released in accordance with Subsection (6)(a)(ii) as confidential.]~~

**Section 15. Section 78B-22-803, which is renumbered from Section 63M-7-211.1 is renumbered and amended to read:**

**[63M-7-211.1]. 78B-22-803. Child welfare parental defense contracts.**

(1) (a) The [commission] office may enter into a contract with [a parental defense] an attorney to provide indigent defense services for [an indigent] a parent who is the subject of a petition alleging abuse, neglect, or dependency, and requires [a parental defense attorney under] indigent defense services under Section 78A-6-1111.

(b) [Payment] The office shall make payment for the representation, costs, and expenses of a contracted parental defense attorney [shall be made] from the Child Welfare Parental Defense Fund in accordance with Section [63M-7-211.2] 78B-22-804.

~~[(c) The parental defense attorney shall maintain the minimum qualifications as provided by this section.]~~

~~[(2) A contracted parental defense attorney shall:]~~

~~[(a) adequately prepare for and attend all court hearings, including initial and continued shelter hearings and mediations;]~~

~~[(b) fully advise the client of the nature of the proceedings and of the client's rights, communicate to the client any offers of settlement or compromise, and advise the client regarding the reasonably foreseeable consequences of any course of action in the proceedings;]~~

~~[(c) be reasonably available to consult with the client outside of court proceedings;]~~

~~[(d) where attendance is reasonably necessary, attend meetings regarding the client's case with representatives of one or more of the Division of Child and Family Services, the Office of the Attorney General, or the Office of Guardian Ad Litem;]~~

~~[(e) represent the interest of the client at all stages of the proceedings before the trial court, and on appeal as required by law; and]~~

~~[(f) participate in the training courses and otherwise maintain the standards described in Subsection (4).]~~

~~[(3) If the commission enters into a contract with a firm to provide parental defense attorney services under this section, the contract shall require that each attorney in the firm who will provide representation of a parent in a child welfare case under the contract perform the duties described in Subsection (2).]~~

[(4)] (2) (a) Except as [otherwise] provided in Subsection [(4)] (2)(b), a contracted parental defense attorney shall:

(i) complete a basic training course provided by the [program] office;

(ii) provide parental defense services consistent with the commission's minimum guidelines described in Section 78B-22-404;

~~[(iii)]~~ (iii) have experience in child welfare cases; and

~~[(iii)]~~ (iv) participate each calendar year in continuing legal education courses providing no fewer than eight hours of instruction in child welfare law.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule, exempt from the requirements of Subsection [(4)] (2)(a) an attorney who has equivalent training or adequate experience.

**Section 16. Section 78B-22-804, which is renumbered from Section 63M-7-211.2 is renumbered and amended to read:**

**[63M-7-211.2]. 78B-22-804. Child Welfare Parental Defense Fund -- Contracts for coverage by the Child Welfare Parental Defense Fund.**

(1) There is created an expendable special revenue fund known as the "Child Welfare Parental Defense Fund."

(2) Subject to availability, the [commission] office may make distributions from the fund [as required in this section or Section 63M-7-211 or 63M-7-211.1] for the following purposes:

(a) to pay for [the representation, costs, expert witness fees, and expenses of] indigent defense resources for contracted parental defense attorneys [who are under contract with the commission to provide parental defense in child welfare cases for an indigent parent that is the subject of a petition alleging abuse, neglect, or dependency];

(b) for administrative costs [under this section or Section 63M-7-211 or 63M-7-211.1] of the program; and

(c) for reasonable expenses directly related to the functioning of the program, including training and travel expenses.

(3) The fund consists of:

(a) appropriations made to the fund by the Legislature;

(b) interest and earnings from the investment of fund money;

(c) proceeds deposited by [participating] contributing counties under this section; and

(d) private contributions to the fund.

(4) The state treasurer shall invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(5) (a) If the [commission] office anticipates a deficit in the fund during a fiscal year:

(i) the commission [shall] may request an appropriation from the Legislature; and

(ii) the Legislature may fund the anticipated deficit through appropriation.

(b) If the anticipated deficit is not funded by the Legislature, the [commission] office may request an interim assessment to participating counties as described in Subsection (6) to fund the anticipated deficit.

(6) (a) A county legislative body and the [commission] office may annually enter into a [written agreement] contract for the [commission] office to provide parental defense attorney services in the contributing county out of the fund.

(b) The [agreement] contract described under Subsection (6)(a) shall:

(i) require the contributing county to pay into the fund an amount defined by a formula established by the commission by rule under Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) provide for revocation of the agreement for failure to pay an assessment on the due date established by the commission by rule under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) (a) After the first year of operation of the fund, any contributing county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, [shall be] is required to make an equity payment, in addition to the assessment provided in Subsection (5).

(b) The commission shall determine the amount of the equity payment described in Subsection (7)(a) by rule established by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) A contributing county that elects to withdraw from participation in the fund, or whose participation in the fund is revoked due to failure to pay the contributing county's assessment, as described in Subsection (6), when due, shall forfeit any right to any previously paid assessment by the contributing county or coverage from the fund.

**Section 17. Coordinating S.B. 175 with S.B. 139 -- Substantive and technical amendments.**

If this S.B. 175 and S.B. 139, Amendments to Indigent Defense, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) the amendments to Section 78B-22-451 in this bill supersede the amendments to Section 78B-22-451 in S.B. 139;

(2) the amendments to Section 78B-22-403, renumbered and amended by this bill, supersede the amendments to Section 78B-22-403, renumbered and amended by S.B. 139;

(3) the amendments to Section 78B-22-402 in this bill supersede the amendments to Section 78B-22-402 in S.B. 139;

(4) the terminology in Subsection 78B-22-803(2)(a)(ii) in this bill is changed from "minimum guidelines" to "core principles"; and

(5) Section 78B-22-452 is modified to read:

"78B-22-452. Duties of the office.

(1) The office shall:

(a) establish an annual budget for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(h) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(i) administer the Child Welfare Parental Defense Program in accordance with Part 8, Child Welfare Parental Defense Program;

(j) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

(k) submit recommendations to the commission for improving indigent defense services in the state;

(l) publish an annual report on the commission's website; and

(m) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404."

**Section 18. Coordinating S.B. 175 with S.B. 170 -- Substantive and technical amendments.**

If this S.B. 175 and S.B. 170, Indigent Defense Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) the amendments in Section 78B-22-451 in this bill supersede the amendments to Section 78B-22-451 in S.B. 170;

(2) the amendments to Section 78B-22-403, as renumbered and amended by this bill, supersede the amendments to Section 78B-22-403, renumbered and amended by S.B. 170;

(3) the amendments to Section 78B-22-402 in this bill supersede the amendments to Section 78B-22-402 in S.B. 170;

(4) the terminology in Subsection 78B-22-803(2)(a)(ii) in this bill is changed from "minimum guidelines" to "core principles"; and

(5) Section 78B-22-452 is modified to read:

"78B-22-452. Duties of the office.

(1) The office shall:

(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203;

(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(j) administer the Child Welfare Parental Defense Program in accordance with Part 8, Child Welfare Parental Defense Program;

(k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

(l) submit recommendations to the commission for improving indigent defense services in the state;

(m) publish an annual report on the commission's website; and

(n) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404."

**Section 19. Coordinating S.B. 175 with S.B. 139 and S.B. 170 -- Substantive and technical amendments.**

If this S.B. 175 and S.B. 139, Amendments to Indigent Defense, and S.B. 170, Indigent Defense Amendments, all pass and become law, it is the

intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) the amendments in Section 78B-22-451 in this bill supersede the amendments to Section 78B-22-451 in S.B. 139 and S.B. 170;

(2) the amendments to Section 78B-22-403, as renumbered and amended by this bill, supersede the amendments to Section 78B-22-403, renumbered and amended by S.B. 139 and S.B. 170;

(3) the amendments to Section 78B-22-402 in this bill supersede the amendments to Section 78B-22-402 in S.B. 139 and S.B. 170;

(4) the terminology in Subsection 78B-22-803(2)(a)(ii) in this bill is changed from “minimum guidelines” to “core principles”; and

(5) Section 78B-22-452 is modified to read:

“78B-22-452. Duties of the office.

(1) The office shall:

(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission’s statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission’s core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission’s core principles for effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission’s core principles;

(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203;

(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission’s core principles for the effective representation of indigent individuals;

(j) administer the Child Welfare Parental Defense Program in accordance with Part 8, Child Welfare Parental Defense Program;

(k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission’s core principles by indigent defense systems receiving grants from the commission;

(l) submit recommendations to the commission for improving indigent defense services in the state;

(m) publish an annual report on the commission’s website; and

(n) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission’s core principles implemented under Section 78B-22-404.”

**CHAPTER 396****S. B. 178**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**ADMINISTRATIVE  
 SECURITY AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
 House Sponsor: A. Cory Maloy

**LONG TITLE****General Description:**

This bill amends security provisions for the tax commission.

**Highlighted Provisions:**

This bill:

- ▶ requires that a motor vehicle enforcement administrator provide security for the State Tax Commission in an area that restricts certain persons from transporting any firearm, ammunition, dangerous weapon, or explosive; and
- ▶ adds the State Tax Commission to the list of entities that may establish secure areas.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

41-3-105, as last amended by Laws of Utah 2018, Chapter 387  
 76-8-311.1, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 41-3-105 is amended to read:****41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.**

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3) (a) The administrator may investigate any suspected or alleged violation of:

- (i) this chapter;
- (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- (iii) any law concerning motor vehicle fraud; or

(iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4) (a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

(i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;

(iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;

(iv) a complete description of the principal place of business, including:

(A) the municipality, with the street and number, if any;

(B) if located outside of any municipality, a general description so that the location can be determined; and

(C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business;

(v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the name and address of each individual who will act as a salesperson under authority of the license;

(vi) at least five years of business history;

(vii) the federal tax identification number issued to the dealer;

(viii) the sales and use tax license number issued to the dealer under Title 59, Chapter 12, Sales and Use Tax Act; and

(ix) if the application is for a direct-sale manufacturer's license:

(A) the name of each line-make the applicant will sell, display for sale, or offer for sale or exchange;

(B) the name and address of each individual who will act as a direct-sale manufacturer salesperson under authority of the license;

(C) a complete description of the direct-sale manufacturer's authorized service center, including the address and any other place of business the applicant operates and maintains in conjunction with the authorized service center;



(D) a sworn statement that the applicant complies with each qualification for a direct-sale manufacturer under this chapter;

(E) a sworn statement that if at any time the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the applicant will inform the division in writing within 10 business days after the day on which the noncompliance occurs; and

(F) an acknowledgment that if the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

(5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of the administrator's office.

(6) (a) The administrator may require that a licensee erect or post signs or devices on the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, lettering and other details of signs or devices, and location of signs or devices.

(7) (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.

(b) Notices of all meetings shall be sent to each member not fewer than five days before the meeting.

(8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of any witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

(9) The administrator shall provide security for an area within the commission designated as a secure area under Section 76-8-311.1.

~~[(9)]~~ (10) The administrator may contract with a public prosecutor to provide additional prosecution of this chapter.

**Section 2. Section 76-8-311.1 is amended to read:**

**76-8-311.1. Secure areas -- Items prohibited -- Penalty.**

(1) In addition to the definitions in Section 76-10-501, as used in this section:

(a) "Correctional facility" has the same meaning as defined in Section 76-8-311.3.

(b) "Explosive" has the same meaning as defined for "explosive, chemical, or incendiary device" defined in Section 76-10-306.

(c) "Law enforcement facility" means a facility which is owned, leased, or operated by a law enforcement agency.

(d) "Mental health facility" has the same meaning as defined in Section 62A-15-602.

(e) (i) "Secure area" means any area into which certain persons are restricted from transporting any firearm, ammunition, dangerous weapon, or explosive.

(ii) A "secure area" may not include any area normally accessible to the public.

(2) (a) A person in charge of the State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm, ammunition, dangerous weapon, or explosive.

(b) Subsections (2)(a), (3), (4), (5), and (6) apply to higher education secure area hearing rooms referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

(3) At least one notice shall be prominently displayed at each entrance to an area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) (a) Provisions shall be made to provide a secure weapons storage area so that persons entering the secure area may store their weapons prior to entering the secure area.

(b) The entity operating the facility shall be responsible for weapons while they are stored in the storage area.

(5) It is a defense to any prosecution under this section that the accused, in committing the act made criminal by this section, acted in conformity with the facility's rule or policy established pursuant to this section.

(6) (a) Any person who knowingly or intentionally transports into a secure area of a facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony.

(b) Any person violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a secure area of a facility.

**CHAPTER 397****S. B. 179**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**PUBLIC INFRASTRUCTURE  
DISTRICT AMENDMENTS**

Chief Sponsor: Daniel McCay  
 House Sponsor: James A. Dunnigan

**LONG TITLE****General Description:**

This bill modifies provisions in the Public Infrastructure District Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies requirements regarding the creation of a public infrastructure district;
- ▶ allows a public infrastructure district to annex or withdraw property without the consent of the creating entity if authorized in the district's governing document;
- ▶ exempts a public infrastructure district from certain notice and hearing requirements upon:
  - levying a property tax if certain conditions are met; or
  - amending a property tax levy rate limitation in the district's governing document; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

17B-2a-1202, as enacted by Laws of Utah 2019, Chapter 490  
 17B-2a-1204, as enacted by Laws of Utah 2019, Chapter 490  
 17B-2a-1205, as enacted by Laws of Utah 2019, Chapter 490  
 17B-2a-1207, as enacted by Laws of Utah 2019, Chapter 490

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 17B-2a-1202 is amended to read:****17B-2a-1202. Definitions.**

As used in this part:

- (1) "Board" means the board of trustees of a public infrastructure district.
- (2) "Creating entity" means the county or municipality that approves of the creation of the public infrastructure district.
- (3) "District applicant" means the person proposing the creation of the public infrastructure district.
- (4) "Division" means a division of a public infrastructure district.

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(5) "Governing document" means the document governing the public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Chapter 1, Provisions Applicable to All Local Districts, and this part.

(6) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by the public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the ~~mill~~ property tax levy rate limit established under Section 17B-2a-1209 for any fiscal year, except as provided in Subsection 17B-2a-1207(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

**Section 2. Section 17B-2a-1204 is amended to read:****17B-2a-1204. Creation -- Annexation or withdrawal of property.**

(1) ~~[It]~~ Except as provided in Subsection (2), in addition to the provisions regarding creation of a local district in Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

(a) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(b) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(2) (a) The ~~[election requirement of Section 17B-1-214 does]~~ following do not apply to ~~[a petition meeting the requirements of Subsection (1).]~~ the creation of a public infrastructure district:

(i) Section 17B-1-203;

(ii) Section 17B-1-204;

(iii) Subsection 17B-1-208(2);

(iv) Section 17B-1-212; or

(v) Section 17B-1-214.

(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:

(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1):

(i) may be certified under Section 17B-1-209; and

(ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).

(3) (a) Notwithstanding Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district after:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the annexation; or

(B) adoption of a governing document that authorizes the board to annex an area outside of the boundaries of the public infrastructure district without the consent of the creating entity;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area and approves of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed and consents to the annexation into the public infrastructure district.

(b) Upon meeting the requirements of Subsection (3)(a), the board shall comply with the resolution and filing requirements of Subsections 17B-1-414(1) and (2).

[~~(e)-(i)~~] (4) (a) Notwithstanding Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district after:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the [~~annexation;~~] withdrawal; or

(B) adoption of a governing document that authorizes the board to withdraw property from the

public infrastructure district without the consent of the creating entity;

[~~(B)~~] (ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area and approves of the withdrawal from the public infrastructure district; and

[~~(C)~~] (iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn and consents to the withdrawal from the public infrastructure district.

[~~(ii)~~] (b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

[~~(d)~~] (c) Upon meeting the requirements of [~~Subsection (3)(e)~~] Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.

[~~(4)~~] (5) The creating entity may impose limitations on the powers of the public infrastructure district through the governing document.

[~~(5)~~] (6) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection [~~(5)~~] (6)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity or any municipality, county, the state, or any other political subdivision.

(ii) Notwithstanding Subsection [~~(5)~~] (6)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection [(5)] (6)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection [(5)] (6)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

[(6)] (7) The creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

[(7)] (8) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

**Section 3. Section 17B-2a-1205 is amended to read:**

**17B-2a-1205. Public infrastructure district board -- Governing document.**

(1) The legislative body of the creating entity [~~that approves the creation of a public infrastructure district~~] shall appoint the members of the board, in accordance with the governing document.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:

(i) all of the surface property owners consent to the waiver of the residency requirement;

(ii) there are no residents within the boundaries of the public infrastructure district;

(iii) no qualified candidate timely files to be considered for appointment to the board; or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(4).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(4) (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:

(i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions

which, when completed, would increase or decrease the number of eligible voters within the division.

(c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) The public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) The governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable [mill] property tax levy rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.

~~[(b) Notwithstanding Subsection (8)(a), any amendment to a property tax mill limitation requires:]~~

~~[(i) before the adoption of the resolution of the creating entity described in Subsection (8)(a), the public infrastructure district to comply with the notice and public hearing requirements of Section 59-2-919, with at least one member of the governing body of the creating entity attending the public hearing required in Subsection 59-2-919(3)(a)(v) or (4)(b); or]~~

~~[(ii) the consent of:]~~

~~[(A) 100% of surface property owners within the boundaries of the public infrastructure district; and]~~

~~[(B) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.]~~

(b) Notwithstanding Subsection (8)(a), any amendment to a property tax levy rate limitation requires the consent of:

(i) 100% of surface property owners within the boundaries of the public infrastructure district; and

(ii) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

**Section 4. Section 17B-2a-1207 is amended to read:**

**17B-2a-1207. Public infrastructure district bonds.**

(1) A public infrastructure district may issue negotiable bonds for the purposes described in Section 17B-2a-1206, as provided in, as applicable:

(a) Title 11, Chapter 14, Local Government Bonding Act;

(b) Title 11, Chapter 27, Utah Refunding Bond Act;

(c) Title 11, Chapter 42, Assessment Area Act; and

(d) this section.

(2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4)(a)(xii); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in denominations of not less than \$500,000, and in

integral multiples above \$500,000 of not less than \$1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public improvement district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).

(e) A public infrastructure district that levies a property tax for payment of debt service on a limited tax bond issued under this section is not required to comply with the notice and hearing requirements of Section 59-2-919 unless the rate exceeds the rate established in:

(i) Section 17B-2a-1209, except as provided in Subsection (8);

(ii) the governing document; or

(iii) the documents relating to the issuance of the limited tax bond.

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate,

price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17B-2a-1209.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

**CHAPTER 398****S. B. 183**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**NONJUDICIAL  
 FORECLOSURE AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
 House Sponsor: Marc K. Roberts

**LONG TITLE****General Description:**

This bill amends provisions of the Condominium Ownership Act and the Community Association Act.

**Highlighted Provisions:**

This bill:

- ▶ amends terms;
- ▶ amends provisions related to nonjudicial foreclosure on a unit, including:
  - establishing limitations on nonjudicial foreclosure; and
  - exempting time share estates from certain limitations;
- ▶ amends provisions related to nonjudicial foreclosure on a lot, including:
  - establishing limitations on nonjudicial foreclosure; and
  - exempting time share estates from certain limitations; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 57-8-3, as last amended by Laws of Utah 2017, Chapter 131  
 57-8-46, as enacted by Laws of Utah 2011, Chapter 355  
 57-8a-102, as last amended by Laws of Utah 2017, Chapters 131 and 424  
 57-8a-303, as enacted by Laws of Utah 2011, Chapter 355

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 57-8-3 is amended to read:****57-8-3. Definitions.**

As used in this chapter:

- (1) "Assessment" means any charge imposed by the association, including:
  - (a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and
  - (b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" or "association" means all of the unit owners:

- (a) acting as a group in accordance with the declaration and bylaws; or
- (b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

- (a) the land included within the condominium project, whether leasehold or in fee simple;
- (b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;
- (c) the basements, yards, gardens, parking areas, and storage spaces;
- (d) the premises for lodging of janitors or persons in charge of the property;
- (e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;
- (f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;
- (g) such community and commercial facilities as may be provided for in the declaration; and
- (h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

- (a) all sums lawfully assessed against the unit owners;
- (b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;
- (c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.



(10) “Condominium project” means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) “Condominium unit” means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) “Contractible condominium” means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) “Convertible land” means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) “Convertible space” means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) “Declarant” means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) “Declaration” means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) “Electrical corporation” means the same as that term is defined in Section 54-2-1.

(18) “Expandable condominium” means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(19) “Gas corporation” means the same as that term is defined in Section 54-2-1.

(20) “Governing documents”:

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(21) “Independent third party” means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(22) “Judicial foreclosure” means a foreclosure of a unit:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in this chapter.

~~[(22)]~~ (23) “Leasehold condominium” means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

~~[(23)]~~ (24) “Limited common areas and facilities” means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

~~[(24)]~~ (25) “Majority” or “majority of the unit owners,” unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

~~[(25)]~~ (26) “Management committee” means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

~~[(26)]~~ (27) “Management committee meeting” means a gathering of a management committee,

whether in person or by means of electronic communication, at which the management committee can take binding action.

~~[(27)]~~ (28) (a) “Means of electronic communication” means an electronic system that allows individuals to communicate orally in real time.

(b) “Means of electronic communication” includes:

- (i) web conferencing;
- (ii) video conferencing; and
- (iii) telephone conferencing.

~~[(28)]~~ (29) “Mixed-use condominium project” means a condominium project that has both residential and commercial units in the condominium project.

(30) “Nonjudicial foreclosure” means the sale of a unit:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in this chapter.

~~[(29)]~~ (31) “Par value” means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners’ association, liability for common expenses, or right to common profits, assigned on the basis thereof.

~~[(30)]~~ (32) “Period of administrative control” means the period of control described in Subsection 57-8-16.5(1).

~~[(31)]~~ (33) “Person” means an individual, corporation, partnership, association, trustee, or other legal entity.

~~[(32)]~~ (34) “Property” means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

~~[(33)]~~ (35) “Record,” “recording,” “recorded,” and “recorder” have the meaning stated in Chapter 3, Recording of Documents.

~~[(34)]~~ (36) “Rentals” or “rental unit” means:

(a) a unit that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the unit owner is not occupying the unit as the unit owner’s primary residence; or

(b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.

~~[(35)]~~ (37) “Size” means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

~~[(36)]~~ (38) “Time period unit” means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Section 57-19-2.

~~[(37)]~~ (39) “Unconstructed unit” means a unit that:

(a) is intended, as depicted in the condominium plat, to be fully or partially contained in a building; and

(b) is not constructed.

~~[(38)]~~ (40) (a) “Unit” means a separate part of the property intended for any type of independent use, which is created by the recording of a declaration and a condominium plat that describes the unit boundaries.

(b) “Unit” includes one or more rooms or spaces located in one or more floors or a portion of a floor in a building.

(c) “Unit” includes a convertible space, in accordance with Subsection 57-8-13.4(3).

~~[(39)]~~ (41) “Unit number” means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

~~[(40)]~~ (42) “Unit owner” means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

**Section 2. Section 57-8-46 is amended to read:**

**57-8-46. Notice of nonjudicial foreclosure -- Limitations on nonjudicial foreclosure.**

(1) At least 30 calendar days before ~~[initiating]~~ the day on which an association of unit owners

initiates a nonjudicial foreclosure~~[, an]~~ by filing for record a notice of default in accordance with Section 57-1-24, the association of unit owners shall ~~[provide]~~ deliver notice to the owner of the unit that is the intended subject of the nonjudicial foreclosure.

(2) The notice under Subsection (1):

(a) shall:

(i) notify the unit owner that the association of unit owners intends to pursue nonjudicial foreclosure with respect to the owner's unit to enforce the association of unit owners' lien for an unpaid assessment;

(ii) notify the unit owner of the owner's right to demand judicial foreclosure in the place of nonjudicial foreclosure;

(iii) be in substantially the following form:

**“NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE**

The (insert the name of the association of unit owners), the association for the project in which your unit is located, intends to foreclose upon your unit and allocated interest in the common areas and facilities for delinquent assessments using a procedure that will not require it to file a lawsuit or involve a court. This procedure is governed by Utah Code, Sections 57-8-46 and 57-8-47, and is being followed in order to enforce the association's lien against your unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. This procedure cannot and will not be used to foreclose upon your unit for delinquent fines for a violation of the association of unit owners' governing documents. Alternatively, you have the right to demand that a foreclosure of your property for delinquent assessments be conducted in a lawsuit with the oversight of a judge. If you make this demand, the association of unit owners may also include a claim for delinquent fines for a violation of the association of unit owners' governing documents. Additionally, if you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that 'I demand a judicial foreclosure proceeding upon my unit,' or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within [15] 30 days after the [date of the postmark on the envelope in which] day on which this notice was [mailed] delivered to you. The address to which you must mail your demand is (insert the address of the association of unit owners for receipt of a demand)."; and

(iv) be sent to the unit owner by certified mail, return receipt requested; and

(b) may be included with other association correspondence to the unit owner.

(3) An association of unit owners may not use a nonjudicial foreclosure to enforce a lien if:

(a) the association of unit owners fails to provide notice in accordance with Subsection (1);

(b) the unit owner mails the association of unit owners a written demand for judicial foreclosure:

~~[(a)]~~ (i) by U.S. mail, certified with a return receipt requested;

~~[(b)]~~ (ii) to the address stated in the association of unit owners' notice under Subsection (1); and

~~[(e)]~~ (iii) within [15] 30 days after the [date of the postmark on the envelope of] day on which the return receipt described in Subsection (2)(a)(iv) shows the association of unit owners' notice under Subsection (1) is delivered;

(c) the lien includes a fine described in Subsection 57-8-44(1)(a)(iii); or

(d) unless the lien is on a time share estate as defined in Section 57-19-2, the lien does not include an assessment described in Subsection 57-8-44(1)(a)(i) that is delinquent more than 180 days after the day on which the assessment is due.

**Section 3. Section 57-8a-102 is amended to read:**

**57-8a-102. Definitions.**

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Title 57, Chapter 8, Condominium Ownership Act.

(3) “Board meeting” means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

(4) “Board of directors” or “board” means the entity, regardless of name, with primary authority to manage the affairs of the association.

(5) “Common areas” means property that the association:

- (a) owns;
- (b) maintains;
- (c) repairs; or
- (d) administers.

(6) “Common expense” means costs incurred by the association to exercise any of the powers provided for in the association’s governing documents.

(7) “Declarant”:

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person’s successor and assign.

(8) “Electrical corporation” means the same as that term is defined in Section 54-2-1.

(9) “Gas corporation” means the same as that term is defined in Section 54-2-1.

(10) (a) “Governing documents” means a written instrument by which the association may:

- (i) exercise powers; or
- (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) “Governing documents” includes:

- (i) articles of incorporation;
- (ii) bylaws;
- (iii) a plat;
- (iv) a declaration of covenants, conditions, and restrictions; and
- (v) rules of the association.

(11) “Independent third party” means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

(12) “Judicial foreclosure” means a foreclosure of a lot:

(a) for the nonpayment of an assessment; [~~and~~]

(b) [~~(i)~~] in the manner provided by law for the foreclosure of a mortgage on real property; and

[~~(ii)~~] (c) as provided in Part 3, Collection of Assessments.

(13) “Lease” or “leasing” means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(14) “Limited common areas” means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(15) “Lot” means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

(16) (a) “Means of electronic communication” means an electronic system that allows individuals to communicate orally in real time.

(b) “Means of electronic communication” includes:

- (i) web conferencing;
- (ii) video conferencing; and
- (iii) telephone conferencing.

(17) “Mixed-use project” means a project under this chapter that has both residential and commercial lots in the project.

(18) “Nonjudicial foreclosure” means the sale of a lot:

(a) for the nonpayment of an assessment; [~~and~~]

(b) [~~(i)~~] in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

[~~(ii)~~] (c) as provided in Part 3, Collection of Assessments.

(19) “Period of administrative control” means the period during which the person who filed the association’s governing documents or the person’s successor in interest retains authority to:

(a) appoint or remove members of the association’s board of directors; or

(b) exercise power or authority assigned to the association under the association's governing documents.

(20) "Rentals" or "rental lot" means:

(a) a lot that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence; or

(b) an occupied lot owned by an entity or trust, regardless of who occupies the lot.

(21) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

(22) "Solar energy system" means:

(a) a system that is used to produce electric energy from sunlight; and

(b) the components of the system described in Subsection (22)(a).

**Section 4. Section 57-8a-303 is amended to read:**

**57-8a-303. Notice of nonjudicial foreclosure -- Limitations on nonjudicial foreclosure.**

(1) At least 30 calendar days before ~~initiating~~ the day on which an association initiates a nonjudicial foreclosure~~, an~~ by filing for record a notice of default in accordance with Section 57-1-24, the association shall ~~provide~~ deliver notice to the owner of the lot that is the intended subject of the nonjudicial foreclosure.

(2) The notice under Subsection (1):

(a) shall:

(i) notify the lot owner that the association intends to pursue nonjudicial foreclosure with respect to the owner's lot to enforce the association's lien for an unpaid assessment;

(ii) notify the lot owner of the owner's right to demand judicial foreclosure in the place of nonjudicial foreclosure;

(iii) be in substantially the following form:

**"NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE**

The (insert the name of the association), the association for the project in which your lot is located, intends to foreclose upon your lot and allocated interest in the common areas for delinquent assessments using a procedure that will not require it to file a lawsuit or involve a court. This procedure is governed by Utah Code, Sections 57-8a-303 and 57-8a-304, and is being followed in order to enforce the association's lien against your lot and to collect the amount of an unpaid assessment against your lot, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure

proceeding. This procedure cannot and will not be used to foreclose upon your lot for delinquent fines for a violation of the association's governing documents. Alternatively, you have the right to demand that a foreclosure of your property for delinquent assessments be conducted in a lawsuit with the oversight of a judge. If you make this demand, the association may also include a claim for delinquent fines for a violation of the association's governing documents. Additionally, if you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that 'I demand a judicial foreclosure proceeding upon my lot,' or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within ~~[15]~~ 30 days after the ~~[date of the postmark on the envelope in which]~~ day on which this notice was ~~[mailed]~~ delivered to you. The address to which you must mail your demand is (insert the association's address for receipt of a demand)."; and

(iv) be sent to the lot owner by certified mail, return receipt requested; and

(b) may be included with other association correspondence to the lot owner.

(3) An association may not use a nonjudicial foreclosure to enforce a lien if:

(a) the association fails to provide notice in accordance with Subsection (1);

(b) the lot owner mails the association a written demand for judicial foreclosure:

~~[(a)]~~ (i) by U.S. mail, certified with a return receipt requested;

~~[(b)]~~ (ii) to the address stated in the association's notice under Subsection (1); and

~~[(c)]~~ (iii) within ~~[15]~~ 30 days after the ~~[date of the postmark on the envelope of]~~ day on which the return receipt described in Subsection (2)(a)(iv) shows the association's notice under Subsection (1) ~~is delivered;~~

(c) the lien includes a fine described in Subsection 57-8a-301(1)(a)(iii); or

(d) unless the lien is on a time share estate as defined in Section 57-19-2, the lien does not include an assessment described in Subsection 57-8a-301(1)(a)(i) that is delinquent more than 180 days after the day on which the assessment is due.

**CHAPTER 399****S. B. 185**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**GOVERNMENT RECORDS AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: Joel Ferry

**LONG TITLE****General Description:**

This bill modifies provisions related to government records.

**Highlighted Provisions:**

This bill:

- ▶ defines correctional facility;
- ▶ classifies records related to the operation of a correctional facility as public, except in certain circumstances; and
- ▶ modifies the rulemaking authority of the executive director of the Department of Administrative Services under the Public Records Management Act.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63A-12-104, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 63G-2-301, as last amended by Laws of Utah 2018, Chapter 415

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63A-12-104 is amended to read:****63A-12-104. Rulemaking authority.**

(1) The executive director of the Department of Administrative Services, with the recommendation of the state archivist, may make rules as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement provisions of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, dealing with procedures for the collection, storage, designation, classification, access, mediation for records access, and management of records.

(2) A governmental entity that includes divisions, boards, departments, committees, commissions, or other subparts that fall within the definition of a governmental entity under this chapter, may, by rule, specify at which level the requirements specified in this chapter shall be undertaken.

**Section 2. Section 63G-2-301 is amended to read:****63G-2-301. Public records.**

(1) As used in this section:

(a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):

(a) laws;

(b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:

(i) undercover law enforcement personnel; and

(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;

(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;

(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;

(g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands

Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

- (i) titles or encumbrances to real property;
  - (ii) restrictions on the use of real property;
  - (iii) the capacity of persons to take or convey title to real property; or
  - (iv) tax status for real and personal property;
- (h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;
- (i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;
- (j) documentation of the compensation that a governmental entity pays to a contractor or private provider;
- (k) summary data;
- (l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of a voter registration record that are classified as private under Subsection 63G-2-302(1)(j) or (k);
- (m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;
- (n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53G-7-1203;
- (o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111; and
- (p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.
- (3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:
- (a) administrative staff manuals, instructions to staff, and statements of policy;
  - (b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;
  - (c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;

- (d) contracts entered into by a governmental entity;
- (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;
- (f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);
- (g) chronological logs and initial contact reports;
- (h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;
- (i) empirical data contained in drafts if:
  - (i) the empirical data is not reasonably available to the requester elsewhere in similar form; and
  - (ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;
- (j) drafts that are circulated to anyone other than:
  - (i) a governmental entity;
  - (ii) a political subdivision;
  - (iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;
  - (iv) a government-managed corporation; or
  - (v) a contractor or private provider;
- (k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;
- (l) original data in a computer program if the governmental entity chooses not to disclose the program;
- (m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
- (n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
- (o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:
  - (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and
  - (ii) the charges on which the disciplinary action was based were sustained;
- (p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;

- (q) final audit reports;
- (r) occupational and professional licenses;
- (s) business licenses; ~~and~~

(t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline[-]; and

(u) (i) records that disclose a standard, regulation, policy, guideline, or rule regarding the operation of a correctional facility or the care and control of inmates committed to the custody of a correctional facility; and

(ii) records that disclose the results of an audit or other inspection assessing a correctional facility's compliance with a standard, regulation, policy, guideline, or rule described in Subsection (3)(u)(i).

(4) The list of public records in this section is not exhaustive and should not be used to limit access to records.



**CHAPTER 400****S. B. 202**

Passed March 10, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**PUBLIC EDUCATION FINANCIAL REPORTING AMENDMENTS**

Chief Sponsor: Curtis S. Bramble  
House Sponsor: Steve Eliason

**LONG TITLE****General Description:**

This bill provides for adjustments in certain reports to the State Board of Education.

**Highlighted Provisions:**

This bill:

- ▶ provides for a local education agency to make adjustments in certain reports to the State Board of Education.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53E-3-501, as last amended by Laws of Utah 2019, Chapters 83 and 186

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-3-501 is amended to read:****53E-3-501. State board to establish miscellaneous minimum standards for public schools.**

(1) The state board shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:

- (a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;
- (ii) required school administrative and supervisory services; and
- (iii) the evaluation of instructional personnel;
- (b) (i) access to programs;
- (ii) attendance;
- (iii) competency levels;
- (iv) graduation requirements; and
- (v) discipline and control;
- (c) (i) school accreditation;
- (ii) the academic year;
- (iii) alternative and pilot programs;
- (iv) curriculum and instruction requirements;

- (v) school libraries; and
  - (vi) services to:
    - (A) persons with a disability as defined by and covered under:
      - (I) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;
      - (II) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and
      - (III) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and
    - (B) other special groups;
  - (d) (i) state reimbursed bus routes;
  - (ii) bus safety and operational requirements; and
  - (iii) other transportation needs;
  - (e) (i) school productivity and cost effectiveness measures;
  - (ii) federal programs;
  - (iii) school budget formats; and
  - (iv) financial, statistical, and student accounting requirements; and
  - (f) data collection and reporting by LEAs.
- (2) The state board shall determine if:
- (a) the minimum standards have been met; and
  - (b) required reports are properly submitted.
- (3) The state board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.
- (4) (a) A technical college listed in Section 53B-2a-105 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the state board.
- (b) A school district may grant a high school diploma to a student participating in a course described in Subsection (4)(a) that is provided by a technical college listed in Section 53B-2a-105.
- (5) (a) As used in this Subsection (5), "generally accepted accounting principles" means a common framework of accounting rules and standards for financial reporting promulgated by either the Financial Accounting Standards Board or the Governmental Accounting Standards Board, as applicable to the reporting entity.
- (b) Subject to Subsections (5)(c) and (d), the state board shall ensure that the rules and standards described in Subsections (1)(e) and (f) allow for an LEA to make adjustments to the LEA's general entry ledger, in accordance with generally accepted accounting principles, to accurately reflect the LEA's use of funds for allowable costs and activities:
- (i) during a fiscal year; and
  - (ii) at the close of a fiscal year.
- (c) If the state board determines under Subsection (2) that an LEA has not met the

minimum standards described in Subsection (1)(e) or (f) or has not properly submitted a required report, the state board shall allow the LEA an opportunity to cure the relevant defect through an adjustment described in Subsection (5)(b).

(d) An LEA may not, in an adjustment described in Subsection (5)(b), reflect the use of restricted federal or state funds for a cost or activity that is not an allowable cost or activity for the restricted funds.

**CHAPTER 401**  
**S. B. 206**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**JUDICIAL ELECTION AMENDMENTS**

Chief Sponsor: Daniel McCay  
House Sponsor: Timothy D. Hawkes

**LONG TITLE**

**General Description:**

This bill provides information requirements related to a judicial retention election.

**Highlighted Provisions:**

This bill:

- ▶ requires the Judicial Retention Evaluation Commission's website address to be included on:
  - a general election ballot; and
  - the electronic voter information website; and
- ▶ requires other information related to the Judicial Retention Evaluation Commission be included on the electronic voter information website.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

20A-7-801, as last amended by Laws of Utah 2019, Chapter 255  
20A-12-201, as last amended by Laws of Utah 2017, Chapter 81

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 20A-7-801 is amended to read:**

**20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of the lieutenant governor -- Content -- Duties of local election officials -- Deadlines -- Frequently asked voter questions -- Other elections.**

(1) There is established the Statewide Electronic Voter Information Website Program administered by the lieutenant governor in cooperation with the county clerks for general elections and municipal authorities for municipal elections.

(2) In accordance with this section, and as resources become available, the lieutenant governor, in cooperation with county clerks, shall develop, establish, and maintain a state-provided Internet website designed to help inform the voters of the state of:

- (a) the offices and candidates up for election; and
- (b) the content, effect, operation, fiscal impact, and supporting and opposing arguments of ballot propositions submitted to the voters.

(3) Except as provided under Subsection (6), the website shall include:

(a) all information currently provided in the Utah voter information pamphlet under Chapter 7, Part 7, Voter Information Pamphlet, including a section prepared, analyzed, and submitted by the [Judicial Council] Judicial Performance Evaluation Commission describing the judicial selection and retention process;

(b) on the homepage of the website, a link to the Judicial Performance Evaluation Commission's website, judges.utah.gov;

(c) a link to the retention recommendation made by the Judicial Performance Evaluation Commission in accordance with Title 78A, Chapter 12, Part 2, Judicial Performance Evaluation, for each judicial appointee to a court that is subject to a retention election, in accordance with Section 20A-12-201, for the upcoming general election;

~~(d)~~ (d) all information submitted by election officers under Subsection (4) on local office races, local office candidates, and local ballot propositions;

~~(e)~~ (e) a list that contains the name of a political subdivision that operates an election day voting center under Section 20A-3-703 and the location of the election day voting center;

~~(f)~~ (f) other information determined appropriate by the lieutenant governor that is currently being provided by law, rule, or ordinance in relation to candidates and ballot questions; and

~~(g)~~ (g) any differences in voting method, time, or location designated by the lieutenant governor under Subsection 20A-1-308(2).

(4) (a) An election official shall submit the following information for each ballot label under the election official's direct responsibility under this title:

(i) a list of all candidates for each office;

(ii) if submitted by the candidate to the election official's office before 5 p.m. no later than 45 days before the primary election or before 5 p.m. no later than 60 days before the general election:

(A) a statement of qualifications, not exceeding 200 words in length, for each candidate;

(B) the following current biographical information if desired by the candidate, current:

(I) age;

(II) occupation;

(III) city of residence;

(IV) years of residence in current city; and

(V) email address; and

(C) a single web address where voters may access more information about the candidate and the candidate's views; and

(iii) factual information pertaining to all ballot propositions submitted to the voters, including:

(A) a copy of the number and ballot title of each ballot proposition;

(B) the final vote cast for each ballot proposition, if any, by a legislative body if the vote was required to place the ballot proposition on the ballot;

(C) a complete copy of the text of each ballot proposition, with all new language underlined and all deleted language placed within brackets; and

(D) other factual information determined helpful by the election official.

(b) The information under Subsection (4)(a) shall be submitted to the lieutenant governor no later than one business day after the deadline under Subsection (4)(a) for each general election year and each municipal election year.

(c) The lieutenant governor shall:

(i) review the information submitted under this section, to determine compliance under this section, prior to placing it on the website;

(ii) refuse to post information submitted under this section on the website if it is not in compliance with the provisions of this section; and

(iii) organize, format, and arrange the information submitted under this section for the website.

(d) The lieutenant governor may refuse to include information the lieutenant governor determines is not in keeping with:

(i) Utah voter needs;

(ii) public decency; or

(iii) the purposes, organization, or uniformity of the website.

(e) A refusal under Subsection (4)(d) is subject to appeal in accordance with Subsection (5).

(5) (a) A person whose information is refused under Subsection (4), and who is aggrieved by the determination, may appeal by submitting a written notice of appeal to the lieutenant governor before 5 p.m. within 10 business days after the date of the determination. A notice of appeal submitted under this Subsection (5)(a) shall contain:

(i) a listing of each objection to the lieutenant governor's determination; and

(ii) the basis for each objection.

(b) The lieutenant governor shall review the notice of appeal and shall issue a written response within 10 business days after the day on which the notice of appeal is submitted.

(c) An appeal of the response of the lieutenant governor shall be made to the district court, which shall review the matter de novo.

(6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently enter the voter's address information on the website to retrieve information on which offices, candidates,

and ballot propositions will be on the voter's ballot at the next general election or municipal election.

(b) The information on the website will anticipate and answer frequent voter questions including the following:

(i) what offices are up in the current year for which the voter may cast a vote;

(ii) who is running for what office and who is the incumbent, if any;

(iii) what address each candidate may be reached at and how the candidate may be contacted;

(iv) for partisan races only, what, if any, is each candidate's party affiliation;

(v) what qualifications have been submitted by each candidate;

(vi) where additional information on each candidate may be obtained;

(vii) what ballot propositions will be on the ballot; and

(viii) what judges are up for retention election.

(7) As resources are made available and in cooperation with the county clerks, the lieutenant governor may expand the electronic voter information website program to include the same information as provided under this section for special elections and primary elections.

**Section 2. Section 20A-12-201 is amended to read:**

**20A-12-201. Judicial appointees -- Retention elections.**

(1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(ii) pay a filing fee of \$50.

(b) (i) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:

(A) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period

beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(B) pay a filing fee of \$25 for each judicial office.

(ii) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election.

(iii) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.

(3) (a) The lieutenant governor shall, no later than August 31 of each regular general election year:

(i) transmit a certified list containing the names of the justices of the Supreme Court and judges of the Court of Appeals declaring their candidacy to the county clerk of each county; and

(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

(b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

(4) (a) At the general election, the ballots shall contain<sup>7</sup>:

(i) at the beginning of the judicial retention section of the ballot, the following statement:

“Visit [judges.utah.gov](http://judges.utah.gov) to learn about the Judicial Performance Evaluation Commission’s recommendations for each judge”; and

(ii) as to each justice or judge of any court to be voted on in the county, the following question:

“Shall \_\_\_\_\_ (name of justice or judge) be retained in the office of \_\_\_\_\_? (name of office, such as “Justice of the Supreme Court of Utah”; “Judge of the Court of Appeals of Utah”; “Judge of the District Court of the Third Judicial District”; “Judge of the Juvenile Court of the Fourth Juvenile Court District”; “Justice Court Judge of (name of county) County or (name of municipality)”)

Yes ( )

No ( ).”

(b) If a justice court exists by means of an interlocal agreement under Section 78A-7-102, the ballot question for the judge shall include the name of that court.

(5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

(b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the

first Monday in January after the regular general election.

(6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) If a justice court judge is standing for retention for more than one office, the county clerk shall place the judge's name on the ballot separately for each office. If the justice court judge receives more no votes than yes votes in one office, but more yes votes than no votes in the other, the justice court judge shall be retained only in the office for which the judge received more yes votes than no votes.

**CHAPTER 402****S. B. 207**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**PAID LEAVE AMENDMENTS**

Chief Sponsor: Todd Weiler  
 House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill requires certain state employers to offer paid postpartum recovery leave.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires certain state employers to provide certain employees paid postpartum recovery leave to recover from childbirth;
- ▶ requires the Department of Human Resource Management to adopt rules to administer postpartum recovery leave; and
- ▶ allows the Department of Administrative Services to transfer certain money for the costs of postpartum recovery leave.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Administrative Services -- Finance Mandated Paid Postpartum Recovery Leave -- Paid Postpartum Recovery Leave, as on ongoing appropriation:
  - from the General Fund, \$507,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63J-1-206, as last amended by Laws of Utah 2019, Chapters 182 and 468

**ENACTS:**

67-19-14.7, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63J-1-206 is amended to read:****63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.**

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) Except as provided in [Subsection] Subsections (2)(c)(ii) and (iii), an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205.

(iii) The Department of Administrative Services may transfer money appropriated for the purpose of paying the costs of paid employee postpartum recovery leave under Section 67-19-14.7 to another department, agency, institution, or division.

(~~(iii)~~) (iv) If the money appropriated to an agency to pay lease payments under the program established in Subsection 63A-5-228(3) exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

**Section 2. Section 67-19-14.7 is enacted to read:**

**67-19-14.7. Postpartum recovery leave.**

(1) As used in this section:

(a) "Eligible employee" means an employee who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

(iv) gives birth to a child.

(b) "Postpartum recovery leave" means leave hours a state employer provides to an eligible employee to recover from childbirth.

(c) "Retaliatory action" means to do any of the following to an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(f)(i) through (iv).

(d) (i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;

(B) the legislative branch of the state; or

(C) the judicial branch of the state.

(ii) "State employer" does not include:

(A) an institute of higher education;

(B) the Board of Regents;

(C) the State Board of Education;

(D) an independent entity as defined in Section 63E-1-102;

(E) the Attorney General's Office;

(F) the State Auditor's Office; or

(G) the State Treasurer's Office.

(2) (a) Except as provided in Subsection (3), a state employer shall allow an eligible employee to use up to 120 hours of paid postpartum recovery leave based on a 40-hour work week for recovery from childbirth.

(b) A state employer shall allow an eligible employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of postpartum recovery leave available to

the eligible employee under this section on a pro rata basis as adopted by rule by the department under Subsection (1).

(3) (a) Postpartum recovery leave described in Subsection (2):

(i) shall be used starting on the day on which the eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;

(ii) shall be used in a single continuous period; and

(iii) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.

(b) The amount of postpartum recovery leave authorized under Subsection (2) does not increase if an eligible employee has more than one child born from the same pregnancy.

(4) (a) Except as provided in Subsection (4)(b), an eligible employee shall give the state employer notice at least 30 days before the day on which the eligible employee plans to:

(i) begin using postpartum recovery leave under this section; and

(ii) stop using postpartum recovery leave under this section.

(b) If circumstances beyond the eligible employee's control prevent the eligible employee from giving notice in accordance with Subsection (4)(a), the eligible employee shall give each notice described in Subsection (4)(a) as soon as reasonably practicable.

(5) A state employer may not charge postpartum recovery leave under this section against sick, annual, or other leave.

(6) A state employer may not compensate an eligible employee for any unused postpartum recovery leave upon termination of employment.

(7) (a) Following the expiration of an eligible employee's postpartum recovery leave under this section, the state employer shall ensure that the eligible employee may return to:

(i) the position that the eligible employee held before using postpartum recovery leave; or

(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the eligible employee held before using postpartum recovery leave.

(b) If during the time an eligible employee uses postpartum recovery leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the eligible employee would have been separated had the eligible employee not been using the postpartum recovery leave, the state employer may separate the eligible employee in accordance with any applicable process or procedure as if the eligible employee were not using the postpartum recovery leave.

(8) During the time an eligible employee uses postpartum recovery leave under this section, the

eligible employee shall continue to receive all employment related benefits and payments at the same level that the eligible employee received immediately before beginning the postpartum leave, provided that the eligible employee pays any required employee contributions.

(9) A state employer may not:

(a) interfere with or otherwise restrain an eligible employee from using postpartum recovery leave in accordance with this section; or

(b) take retaliatory action against an eligible employee for using postpartum recovery leave in accordance with this section.

(10) A state employer shall provide each employee written information regarding an eligible employee's right to use postpartum recovery leave under this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall, by July 1, 2020, make rules for the use and administration of postpartum recovery leave under this section, including a schedule that provides paid or postpartum recovery leave for an eligible employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

**Section 3. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Administrative Services -- Finance Mandated Postpartum Recovery Leave

From General Fund                                 \$507,000

Schedule of Programs:

Paid Postpartum Recovery Leave     \$507,000

The Legislature intends that the Department of Administrative Services use the appropriation under this item to offset incremental costs associated with hiring a replacement employee or the payment of overtime to a current employee due to an employee utilizing postpartum recovery leave under Section 67-19-14.7. Any unexpended funds remaining at the end of each fiscal year lapses to the General Fund.



**CHAPTER 403****S. B. 209**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**FIRE AND RESCUE  
 TRAINING AMENDMENTS**

Chief Sponsor: Wayne A. Harper  
 House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill addresses fire and rescue training programs.

**Highlighted Provisions:**

This bill:

- ▶ requires Utah Valley University to operate a fire and rescue training program, with advice and support from the Utah Fire Prevention Board;
- ▶ repeals provisions relating to the Utah Fire Prevention Board's responsibility to establish a fire academy;
- ▶ modifies provisions relating to an account used to support operations of the State Fire Marshal Division;
- ▶ requires the Utah Fire Prevention Board to provide technical expertise, advice, and support to Utah Valley University with respect to the fire and rescue training program;
- ▶ requires Utah Valley University to provide the program without cost to designated individuals;
- ▶ requires Utah Valley University and the Utah Fire Prevention Board to enter into a contract to define the terms of their relationship relative to the fire and rescue training program; and
- ▶ requires Utah Valley University and the Utah Fire Prevention Board to report on the fire and rescue training program to legislative committees.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Public Safety - Public Safety Programs and Operations:
  - from the General Fund Restricted - Fire Academy Support Account, (\$4,273,000);
- ▶ to Utah Valley University - Education and General:
  - from the Education Fund, \$4,700,000;
- ▶ to the General Fund Restricted - Fire Academy Support Account:
  - from the General Fund, (\$4,200,000).

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:****AMENDS:**

53-7-204, as last amended by Laws of Utah 2018, Chapter 152  
 53-7-204.2, as last amended by Laws of Utah 2011, Chapter 303  
 53-7-504, as enacted by Laws of Utah 2010, Chapter 376

53B-1-301, as enacted by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 444

**ENACTS:**

53B-29-101, Utah Code Annotated 1953  
 53B-29-201, Utah Code Annotated 1953  
 53B-29-202, Utah Code Annotated 1953  
 53B-29-203, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

53-7-204, as last amended by Laws of Utah 2018, Chapter 152

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-7-204 is amended to read:****53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council -- Local administrative duties.**

(1) The board shall:

(a) administer the state fire code as the standard in the state;

(b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;

(iii) establishing safety standards for retail storage, handling, and sale of class C common state approved explosives;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(v) subject to Subsection (2), creating a uniform statewide policy regarding a state, county, special district, and local government entity's safe seizure, storage, and repurposing, destruction, or disposal of

a firework, class A explosive, or class B explosive that:

- (A) is illegal; or
- (B) a person uses or handles in an illegal manner;
- (vi) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;
- (vii) implementing Section 15A-1-403;
- (viii) setting guidelines for use of funding;
- (ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification;
- (x) establishing ongoing training standards for hazardous materials emergency response agencies; and
- (xi) establishing criteria for the fire safety inspection of a food truck;
- (c) recommend to the commissioner a state fire marshal;
- (d) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;
- (e) provide for the employment of field assistants and other salaried personnel as required;
- (f) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;
- ~~[(g) establish a statewide fire prevention, fire education, and fire service training program in cooperation with the Board of Regents;]~~
- (g) provide technical expertise, advice, and support to Utah Valley University in the establishment and operation of the fire and rescue training program described in Section 53B-29-202;
- (h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;
- ~~[(i) establish a fire academy in accordance with Section 53-7-204.2;]~~
- [(j)] (i) coordinate the efforts of all people engaged in fire suppression in the state;
- ~~[(k)] (j) work aggressively with the local political subdivisions to reduce fire losses;~~
- [(4)] (k) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;
- ~~[(m)] (l) establish a certification program for persons who inspect and test automatic fire sprinkler systems;~~
- ~~[(n)] (m) establish a certification program for persons who inspect and test fire alarm systems;~~

~~[(o)] (n) establish a certification for persons who provide response services regarding hazardous materials emergencies;~~

~~[(p)] (o) in accordance with Sections 15A-1-403 and 68-3-14, submit a written report to the Business and Labor Interim Committee; and~~

~~[(q)] (p) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.~~

(2) (a) In the rules that the board makes under Subsection (1)(b)(v), the board shall include a provision prohibiting a state, county, special district, or local government entity from disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under circumstances described in the rule.

(b) When making a rule under Subsection (1)(b)(v), the board shall:

(i) review and include applicable references to:

(A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and

(B) provisions of the International Fire Code; and

(ii) consider the appropriate role of the following in relation to the rule:

(A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and

(B) a firework wholesaler or distributor.

(3) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

(4) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

**Section 2. Section 53-7-204.2 is amended to read:**

**53-7-204.2. Fire Prevention Support Account -- Funding.**

(1) ~~[(1)]~~ As used in this section:

(a) "Account" means the Fire ~~[Academy]~~ Prevention Support Account created in Subsection ~~[(4)]~~ (2).

(b) "Property insurance premium" means premium paid as consideration for property insurance as defined in Section 31A-1-301.

~~[(2) The board shall:]~~

~~[(a) establish a fire academy that:]~~

~~[(i) provides instruction and training for paid, volunteer, institutional, and industrial firefighters;]~~

~~[(ii) develops new methods of firefighting and fire prevention;]~~

~~[(iii) provides training for fire and arson detection and investigation;]~~

~~[(iv) provides public education programs to promote fire safety;]~~

~~[(v) provides for certification of firefighters, pump operators, instructors, and officers; and]~~

~~[(vi) provides facilities for teaching fire-fighting skills;]~~

~~[(b) establish a cost recovery fee in accordance with Section 63J-1-504 for training commercially employed firefighters; and]~~

~~[(c) request funding for the academy.]~~

~~[(3) The board may:]~~

~~[(a) accept gifts, donations, and grants of property and services on behalf of the fire academy; and]~~

~~[(b) enter into contractual agreements necessary to facilitate establishment of the school.]~~

~~[(4) (2) (a) To provide a funding source [for the academy and] for the general operation of the [State Fire Marshal Division] division, there is created in the General Fund a restricted account known as the Fire [Academy] Prevention Support Account.~~

~~(b) The following revenue shall be deposited in the account to implement this section:~~

~~(i) the percentage specified in Subsection ~~[(5) (3)]~~ of the annual tax for each year that is levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, upon property insurance premiums and as applied to fire and allied lines insurance collected by insurance companies within the state;~~

~~(ii) the percentage specified in Subsection ~~[(6) (4)]~~ of all money assessed and collected upon life insurance premiums within the state;~~

~~[(iii) the cost recovery fees established by the board;]~~

~~[(iv) gifts, donations, and grants of property on behalf of the fire academy;]~~

~~[(v) (iii) appropriations made by the Legislature; and]~~

~~[(vi) (iv) money collected from civil penalties in accordance with Section 53-7-504.~~

~~[(5) (3) The percentage of the tax specified in Subsection ~~[(4) (2)(b)(i)]~~ to be deposited in the account each fiscal year is 25%.~~

~~[(6) (4) The percentage of the money specified in Subsection ~~[(4) (2)(b)(ii)]~~ to be deposited in the account each fiscal year is 5%.~~

**Section 3. Section 53-7-504 is amended to read:**

**53-7-504. Offenses -- Civil penalties -- Penalty money to be deposited into the Fire Prevention Support Account.**

(1) (a) A person may not sell, offer for sale, or distribute a novelty lighter in this state.

(b) A person may not import a novelty lighter into this state for the purpose of selling or distributing the novelty lighter within this state.

(c) A person may not possess a novelty lighter in inventory for the purpose of selling or distributing the novelty lighter within this state.

(2) (a) The state fire marshal may assess a civil penalty against a person who violates Subsection (1) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) The civil penalty for a violation of Subsection (1) may not exceed:

(i) \$10,000 for the importation of novelty lighters;

(ii) \$1,000 if the person acts as a wholesaler of novelty lighters or distributes novelty lighters by means other than distribution directly to consumers; and

(iii) \$500 if the person is:

(A) a retail seller of novelty lighters; or

(B) a person distributing novelty lighters, other than as a manufacturer, importer, or wholesaler.

(3) If a person continues to violate this section after the state fire marshal gives the person written notice of a violation, each day that the violation continues after written notice is given is a separate offense subject to a civil penalty.

(4) (a) For purposes of imposing civil penalties, it is prima facie evidence that a lighter is a novelty lighter if the lighter is listed by the state fire marshal as a novelty lighter under Section 53-7-503, or is of a class or type of lighter listed by the state fire marshal as a novelty lighter.

(b) Listing by the state fire marshal is not a requirement for a determination that a lighter is a novelty lighter.

(5) All money collected from civil penalties under this section shall be deposited ~~[(in)]~~ into the Fire ~~[Academy]~~ Prevention Support Account created in Section 53-7-204.2.

(6) A person may seek judicial review of a final agency action under this part as provided in Title 63G, Chapter 4, Administrative Procedures Act.

**Section 4. Section 53B-1-301 is amended to read:**

**53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-17-804, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Development on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board and the Utah System of Technical Colleges Board of Trustees, respectively, on performance;

(e) the report described in Section 53B-8-201 by the board on the Regents' Scholarship Program;

(f) the report described in Section 53B-8-303 by the State Board of Regents regarding Access Utah promise scholarships;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Development on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E-10-308 by the State Board of Education and State Board of Regents on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) as described in Section 53B-26-103, a proposal by an eligible partnership related to

workforce needs for technical jobs projected to support economic growth;

(c) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; ~~and~~

(d) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202; and

~~[(d)]~~ (e) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) the review described in Section 53B-7-705 of the implementation of performance funding;

(c) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(d) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(e) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

**Section 5. Section 53B-29-101 is enacted to read:**

## **CHAPTER 29. UTAH VALLEY UNIVERSITY**

### **Part 1. General Provisions**

#### **53B-29-101. Title.**

This chapter is known as "Utah Valley University."

**Section 6. Section 53B-29-201 is enacted to read:**

#### **Part 2. Fire and Rescue Training Program** **53B-29-201. Definitions.**

As used in this part:

(1) "Fire and rescue training program" means the program described in Section 53B-29-202.

(2) "Fire board" means the Utah Fire Prevention Board, created in Section 53-7-203.

**Section 7. Section 53B-29-202 is enacted to read:**

#### **53B-29-202. Fire prevention, education, and training program.**

(1) With technical advice and support from the fire board, Utah Valley University shall operate a statewide fire and rescue service training program that:

(a) provides instruction, training, and testing for:

(i) Utah Valley University students; and

(ii) firefighters and emergency rescue personnel throughout the state, whether paid or volunteer;

(b) explores new methods of firefighting, fire training, and fire prevention;

(c) provides training for fire and arson detection and investigation;

(d) provides training to students, firefighters, and emergency rescue personnel on how to conduct public education programs to promote fire safety;

(e) provides for certification of firefighters, pump operators, instructors, officers, and rescue personnel; and

(f) provides facilities and props for teaching firefighting and emergency rescue skills.

(2) Utah Valley University shall ensure that the curriculum, training, and facilities offered in the fire and rescue training program are sufficient to allow individuals who successfully complete the program to receive applicable certification as a firefighter or emergency rescue professional.

(3) Utah Valley University and the fire board shall consult together regarding:

(a) the development and content of the curriculum and training of the fire and rescue training program;

(b) the identification of individuals who will be permitted to participate in the fire and rescue program without cost; and

(c) the establishment of certification standards and requirements.

(4) Utah Valley University shall allow individuals designated by the fire board to participate in and complete the fire and rescue training program without cost and to receive applicable certification.

(5) Utah Valley University and the fire board shall by contract establish terms to:

(a) define the scope and content of the fire and rescue training program;

(b) identify the fire and rescue personnel throughout the state who will be permitted to participate in the fire and rescue training program without cost; and

(c) define other aspects of the relationship between Utah Valley University and the fire board relating to the fire and rescue training program that are mutually beneficial.

**Section 8. Section 53B-29-203 is enacted to read:**

**53B-29-203. Reporting requirement.**

In 2023, no later than October 31, 2023, Utah Valley University and the fire board shall report to the Education Interim Committee, the Law Enforcement and Criminal Justice Interim

Committee, and the Higher Education Appropriations Subcommittee of the Legislature about:

(1) the operation of the fire and rescue training program, including successes and challenges associated with the operation of the fire and rescue training program; and

(2) the positive aspects of and any concerns relating to the relationship between Utah Valley University and the fire board with respect to the fire and rescue training program.

**Section 9. Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021.

**Section 9a. Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Public Safety - Public Safety Programs and Operations

From General Fund Restricted - Fire Academy Support Account	(\$4,273,000)
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Schedule of Programs:

Fire Fighter Training	(\$4,273,000)
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ITEM 2

To Utah Valley University - Fire and Rescue Training

From Education Fund	\$4,500,000
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Schedule of Programs:

Fire and Rescue Training	\$4,500,000
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The Legislature intends that Utah Valley University use the money appropriated in this bill to fund the fire and rescue training program described in Section 53B-29-202.

**Section 9b. Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.

ITEM 3

To General Fund Restricted - Fire Academy Support Account

From General Fund	(\$4,200,000)
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Schedule of Programs:

General Fund Restricted - Fire  
Academy Support Account (\$4,200,000)

**Section 10. Coordinating S.B. 209 with S.B. 111 -- Superseding technical and substantive amendment.**

If S.B. 209 and S.B. 111, Higher Education Amendments, both pass and become law, it is the intent of the Legislature that Subsection 53-7-204(1)(g) in this bill supersede the amendments to Subsection 53-7-204(1)(g) in S.B. 111 when the Office of Legislative Research and General Counsel prepares the database for publication.

**CHAPTER 404****S. B. 210**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**BODY CAMERA AMENDMENTS**

Chief Sponsor: Daniel McCay  
 House Sponsor: Lee B. Perry

**LONG TITLE****General Description:**

This bill modifies provisions related to law enforcement use of body-worn cameras.

**Highlighted Provisions:**

This bill:

- ▶ modifies the list of circumstances in which an officer may deactivate a body-worn camera;
- ▶ defines terms;
- ▶ requires a police officer to document reasons why the officer failed to comply with requirements related to body-worn cameras; and
- ▶ allows a presiding judge to provide an adverse inference instruction to a jury of a criminal trial if an officer failed to comply with requirements related to body-worn cameras, under specified circumstances.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

77-7a-104, as last amended by Laws of Utah 2018, Chapters 285 and 316

**ENACTS:**

77-7a-104.1, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 77-7a-104 is amended to read:****77-7a-104. Activation and use of body-worn cameras.**

(1) An officer using a body-worn camera shall verify that the equipment is properly functioning as is reasonably within the officer's ability.

(2) An officer shall report any malfunctioning equipment to the officer's supervisor if:

(a) the body-worn camera issued to the officer is not functioning properly upon initial inspection; or

(b) an officer determines that the officer's body-worn camera is not functioning properly at any time while the officer is on duty.

(3) An officer shall wear the body-worn camera so that it is clearly visible to the person being recorded.

(4) An officer shall activate the body-worn camera prior to any law enforcement encounter, or as soon as reasonably possible.

(5) An officer shall record in an uninterrupted manner until after the conclusion of a law enforcement encounter, except as an interruption of a recording is allowed under this section.

(6) When going on duty and off duty, an officer who is issued a body-worn camera shall record the officer's name, identification number, and the current time and date, unless the information is already available due to the functionality of the body-worn camera.

(7) If a body-worn camera was present during a law enforcement encounter, the officer shall document the presence of the body-worn camera in any report or other official record of a contact.

(8) When a body-worn camera has been activated, the officer may not deactivate the body-worn camera until the officer's direct participation in the law enforcement encounter is complete, except as provided in Subsection (9).

(9) An officer may deactivate a body-worn camera:

(a) to consult with a supervisor or another officer;

(b) during a significant period of inactivity; ~~and~~

(c) during a conversation with a sensitive victim of crime, a witness of a crime, or an individual who wishes to report or discuss criminal activity if:

(i) the individual who is the subject of the recording requests that the officer deactivate the officer's body-worn camera; and

(ii) the officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body-worn camera~~[-];~~ or

(d) during a conversation with a victim of a sexual offense, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, or domestic violence, as defined in Section 77-36-1, if:

(i) the officer is conducting an evidence-based lethality assessment;

(ii) the victim or the officer believes that deactivating the body-worn camera recording:

(A) will encourage complete and accurate information sharing by the victim; or

(B) is necessary to protect the safety or identity of the victim; and

(iii) the officer's body-worn camera is reactivated as soon as reasonably possible after the evidence-based lethality assessment is complete.

(10) If an officer deactivates or fails to activate a body-worn camera in violation of this section, the officer shall document the reason for deactivating or for failing to activate a body-worn camera in a written report.

(11) (a) For purposes of this Subsection (11):

(i) "Health care facility" means the same as that term is defined in Section 78B-3-403.

(ii) “Health care provider” means the same as that term is defined in Section 78B-3-403.

(iii) “Hospital” means the same as that term is defined in Section 78B-3-403.

(iv) “Human service program” means the same as that term is defined in Section 62A-2-101.

(b) An officer may not activate a body-worn camera in a hospital, health care facility, human service program, or the clinic of a health care provider, except during a law enforcement encounter, and with notice under Section 77-7a-105.

(12) A violation of this section may not serve as the sole basis to dismiss a criminal case or charge.

(13) Nothing in this section precludes a law enforcement agency from establishing internal agency policies for an officer’s failure to comply with the requirements of this section.

**Section 2. Section 77-7a-104.1 is enacted to read:**

**77-7a-104.1. Adverse inference jury instruction.**

(1) As used in this section, “adverse inference instruction” means an instruction that:

(a) is provided to a jury in accordance with Utah Rules of Criminal Procedure, Rule 19; and

(b) directs the jury that an officer’s failure to comply with a requirement of Section 77-7a-104 may give rise to an adverse inference against the officer.

(2) (a) A court presiding over a jury trial may provide an adverse inference instruction if the defendant seeking the adverse inference instruction establishes by a preponderance of the evidence that:

(i) an officer intentionally or, with reckless disregard of a requirement of Section 77-7a-104, failed to comply with a requirement of Section 77-7a-104; and

(ii) the officer’s failure to comply with the requirement of Section 77-7a-104 is reasonably likely to affect the outcome of the defendant’s trial.

(b) In considering whether to include an adverse inference instruction under Subsection (2)(a), the court shall consider:

(i) the degree of prejudice to the defendant as a result of the officer’s failure to comply with Section 77-7a-104;

(ii) the materiality and importance of the missing evidence in relation to the case as a whole;

(iii) the strength of the remaining evidence;

(iv) the degree of fault on behalf of the officer described in Subsection (2)(a)(i) or the law enforcement agency employing the officer, including whether evidence supports that the officer or the law enforcement agency displays a

pattern of intentional or reckless disregard of the requirements of Section 77-7a-104; and

(v) other considerations the court determines are relevant to ensure just adjudication and due process.

(c) If a court includes an adverse inference instruction, the prosecutor shall, after the conclusion of the trial, send written notice of the instruction to the law enforcement agency that employed the officer described in Subsection (2)(a)(i) at the time of the offense, including:

(i) the written order or a description of the order allowing for the instruction;

(ii) the language of the instruction; and

(iii) the outcome of the trial.



**CHAPTER 405****S. B. 212**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective October 15, 2020

**SPECIAL GROUP LICENSE  
 PLATE AMENDMENTS**

Chief Sponsor: Luz Escamilla  
 House Sponsor: Mark A. Wheatley

**LONG TITLE****General Description:**

This bill creates the Latino Community Support special group license plate.

**Highlighted Provisions:**

This bill:

- ▶ creates the Latino Community Support Restricted Account;
- ▶ requires the Department of Commerce to administer the account and distribute funds to qualifying organizations;
- ▶ creates the Latino Community Support special group license plate; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 41-1a-418, as last amended by Laws of Utah 2019, Chapters 38, 127, 213, and 392  
 41-1a-422, as last amended by Laws of Utah 2019, Chapters 38 and 213  
 63I-1-263, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468, 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246  
 63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483  
 63J-1-602.1, as last amended by Laws of Utah 2019, Chapters 89, 136, 213, 215, 244, 326, 342, and 482

**ENACTS:**

13-1-16, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 13-1-16 is enacted to read:**

**13-1-16. Latino Community Support Restricted Account.**

(1) There is created in the General Fund a restricted account known as the "Latino Community Support Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) (a) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(b) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(4) Subject to appropriation, the department shall distribute the money in the account to one or more charitable organizations that:

(a) are tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) have as a primary part of the organization's mission to strengthen the state's Latino community by:

(i) creating strong leaders through education and mentoring;

(ii) providing scholarships and educational financial support; and

(iii) recognizing academic and vocational achievement, and school and community leadership.

(5) The department may also expend funds in the account to pay the costs of issuing or reordering Latino Community support special group license plate decals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing procedures for an organization to apply to receive money under this section.

**Section 2. Section 41-1a-418 is amended to read:**

**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

- (i) a special interest vehicle;
- (ii) a vintage vehicle;
- (iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

- (i) a current member of the Legislature;
- (ii) a current member of the United States Congress;
- (iii) a current member of the National Guard;
- (iv) a licensed amateur radio operator;
- (v) a currently employed, volunteer, or retired firefighter until June 30, 2009;
- (vi) an emergency medical technician;
- (vii) a current member of a search and rescue team;
- (viii) a current honorary consulate designated by the United States Department of State;
- (ix) an individual supporting commemoration and recognition of women's suffrage;
- (x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth; or
- (xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

- (i) an institution's scholastic scholarship fund;
- (ii) the Division of Wildlife Resources;
- (iii) the Department of Veterans and Military Affairs;
- (iv) the Division of Parks and Recreation;
- (v) the Department of Agriculture and Food;
- (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- (vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

- (ix) the Boys and Girls Clubs of America;
- (x) Utah public education;
- (xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;
- (xii) the Department of Public Safety;
- (xiii) programs that support Zion National Park;
- (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
- (xv) programs that promote bicycle operation and safety awareness;
- (xvi) programs that conduct or support cancer research;
- (xvii) programs that create or support autism awareness;
- (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
- (xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
- (xx) programs that support and promote adoptions;
- (xxi) programs that create or support civil rights education and awareness;
- (xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;
- (xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;
- (xxiv) programs that support children with heart disease;
- (xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;
- (xxvi) programs that provide assistance to children with cancer;
- (xxvii) programs that promote leadership and career development through agricultural education;
- (xxviii) the Utah State Historical Society;
- (xxix) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans; ~~[or]~~
- (xxx) programs that promote motorcycle safety awareness~~[-];~~ or
- (xxxi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in

Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

**Section 3. Section 41-1a-422 is amended to read:**

**41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.**

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(X) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(Y) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Z) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(AA) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(BB) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(CC) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(DD) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130; [ø]

(EE) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102[;]; or

(FF) the Latino Community Support Restricted Account created in Section 13-1-16.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name

at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) “Institution” means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

- (i) the name of the contributor;
- (ii) the institution to which a donation was made;
- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

- (i) unless collected by the named institution under Subsection (2), collected by the division;
- (ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

**Section 4. Section 63I-1-263 is amended to read:**

**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language that states “using criteria established by the board” is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-1-204(1)(b), the language that states “using the standards provided in Subsection 63A-1-203(3)(c)” is repealed.

(2) Subsection 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

(12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(13) Section 63M-7-212 is repealed on December 31, 2019.

(14) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(15) Subsection ~~[63J-1-602.1(13)]~~ 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(16) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(17) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(18) (a) Subsection ~~[63J-1-602.1(53)]~~ 63J-1-602.1(56), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(19) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(20) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

“(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(24) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

(25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(26) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (26)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (26)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(27) Section 63N-2-512 is repealed on July 1, 2021.

(28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(29) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(32) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2) (a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

(33) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-22-102(16) is repealed;

(b) in Subsection 9-22-114(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-22-114(5), the language that states “representatives of Talent Ready Utah,” is repealed.

(34) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

**Section 5. Section 63I-2-263 is amended to read:**

**63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

- (a) Section 63G-1-801;
- (b) Section 63G-1-802;
- (c) Section 63G-1-803; and
- (d) Section 63G-1-804.
- (5) In relation to the State Fair Park Committee, on January 1, 2021:
- (a) Section 63H-6-104.5 is repealed; and
- (b) Subsections 63H-6-104(8) and (9) are repealed.
- (6) Section 63H-7a-303 is repealed on July 1, 2022.
- (7) In relation to the Employability to Careers Program Board, on July 1, 2022:
- (a) Subsection ~~[63J-1-602.1(52)]~~ 63J-1-602.1(57) is repealed;
- (b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and
- (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.
- (8) Section 63J-4-708 is repealed January 1, 2023.

**Section 6. Section 63J-1-602.1 is amended to read:**

**63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

- (1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.
- (2) The Native American Repatriation Restricted Account created in Section 9-9-407.
- (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.
- (4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.
- (5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.
- (6) The "Latino Community Support Restricted Account" created in Section 13-1-16.
- ~~[(6)]~~ (7) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.
- ~~[(7)]~~ (8) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.
- ~~[(8)]~~ (9) Funds collected from the program fund for local health department expenses incurred in

responding to a local health emergency under Section 26-1-38.

~~[(9)]~~ (10) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

~~[(10)]~~ (11) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

~~[(11)]~~ (12) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

~~[(12)]~~ (13) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

~~[(13)]~~ (14) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

~~[(14)]~~ (15) The Technology Development Restricted Account created in Section 31A-3-104.

~~[(15)]~~ (16) The Criminal Background Check Restricted Account created in Section 31A-3-105.

~~[(16)]~~ (17) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

~~[(17)]~~ (18) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

~~[(18)]~~ (19) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

~~[(19)]~~ (20) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

~~[(20)]~~ (21) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

~~[(21)]~~ (22) The School Readiness Restricted Account created in Section 35A-15-203.

~~[(22)]~~ (23) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

~~[(23)]~~ (24) The Oil and Gas Conservation Account created in Section 40-6-14.5.

~~[(24)]~~ (25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

~~[(25)]~~ (26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

~~[(26)]~~ (27) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

~~[(27)]~~ (28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

~~[(28)]~~ (29) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.



[~~429~~] (30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~430~~] (31) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~431~~] (32) The Canine Body Armor Restricted Account created in Section 53-16-201.

[~~432~~] (33) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~433~~] (34) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~434~~] (35) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~435~~] (36) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~436~~] (37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~437~~] (38) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~438~~] (39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~439~~] (40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~440~~] (41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~441~~] (42) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~442~~] (43) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~443~~] (44) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~444~~] (45) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~445~~] (46) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~446~~] (47) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

[~~447~~] (48) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

[~~448~~] (49) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

[~~449~~] (50) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

[~~450~~] (51) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~451~~] (52) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~452~~] (53) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~453~~] (54) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~454~~] (55) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~455~~] (56) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~456~~] (57) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

[~~457~~] (58) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~458~~] (59) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~459~~] (60) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~460~~] (61) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~461~~] (62) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

[~~462~~] (63) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~463~~] (64) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~464~~] (65) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~465~~] (66) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~466~~] (67) Fees for certificate of admission created under Section 78A-9-102.

~~[(67)]~~ (68) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(68)]~~ (69) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

~~[(69)]~~ (70) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

~~[(70)]~~ (71) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

**Section 7. Effective date.**

This bill takes effect on October 15, 2020.

**CHAPTER 406****S. B. 213**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**SEPSIS PROTOCOL REQUIREMENTS**

Chief Sponsor: Karen Mayne  
 House Sponsor: Stewart E. Barlow

**LONG TITLE****General Description:**

This bill authorizes hospitals to develop sepsis protocol requirements.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes hospitals to develop sepsis protocols; and
- ▶ provides guidance on factors the protocols should include.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

26-21c-101, Utah Code Annotated 1953  
 26-21c-102, Utah Code Annotated 1953  
 26-21c-103, Utah Code Annotated 1953  
 26-21c-104, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 26-21c-101 is enacted to read:****CHAPTER 21c. SEPSIS PROTOCOLS****26-21c-101. Title.**

This chapter is known as “Sepsis Protocols.”

**Section 2. Section 26-21c-102 is enacted to read:****26-21c-102. Definitions.**

As used in this chapter:

(1) “Hospital” means a general acute hospital as defined in Section 26-21-2.

(2) “Sepsis” means a life-threatening complication of an infection.

**Section 3. Section 26-21c-103 is enacted to read:****26-21c-103. Protocols.**

(1) Hospitals may develop protocols for the treatment of sepsis and septic shock that are consistent with current evidence-based guidelines for the treatment of severe sepsis and septic shock.

(2) When developing the protocols described in Subsection (1), a hospital shall consider:

(a) a process for screening and recognizing patients with sepsis;

(b) a process to screen out individuals for whom the protocols would not be appropriate for treating sepsis;

(c) timeline goals for treating sepsis;

(d) different possible methods for treating sepsis and reasons to use each method;

(e) specific protocols to treat children who present with symptoms of sepsis or septic shock; and

(f) training requirements for staff.

(3) A hospital may update the hospital’s sepsis protocols as new data on the treatment of sepsis and septic shock becomes available.

**Section 4. Section 26-21c-104 is enacted to read:****26-21c-104. Presenting protocols upon inspection.**

The department, or an entity assigned by the department to inspect a hospital, may request a copy of the sepsis protocols described in Section 26-21c-103 when inspecting a hospital.

**CHAPTER 407****S. B. 216**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**RECREATIONAL VEHICLE  
 TAX AMENDMENTS**

Chief Sponsor: Ralph Okerlund  
 House Sponsor: Derrin R. Owens

**LONG TITLE****General Description:**

This bill amends provisions related to the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act.

**Highlighted Provisions:**

This bill:

- ▶ authorizes counties to impose a tax on short-term rentals of off-highway vehicles and recreational vehicles;
- ▶ allows sellers to retain a percentage of the tax collected on rentals of off-highway vehicles and recreational vehicles;
- ▶ defines terms; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

59-12-108, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6  
 59-12-602, as last amended by Laws of Utah 2010, Chapter 263  
 59-12-603, as last amended by Laws of Utah 2018, Chapters 258 and 312  
 63N-2-502, as last amended by Laws of Utah 2016, Chapter 350

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-12-108 is amended to read:**

**59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain amounts allocated to local taxing jurisdictions.**

(1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of \$50,000 or more for the previous calendar year shall:

- (i) file a return with the commission:

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the month for which the seller collects a tax under this chapter; and

(ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)(i) the

amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by electronic funds transfer.

(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:

(i) is required by Section 59-12-107 to file the return electronically; or

(ii) (A) is required to collect and remit a tax under Section 59-12-107; and

(B) files a simplified electronic return.

(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) a fee under Section 19-6-714;

(iii) a fee under Section 19-6-805;

(iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(v) a tax under this chapter.

(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).

(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:

(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):

(A) Subsection 59-12-103(2)(a);

(B) Subsection 59-12-103(2)(b); and

(C) Subsection 59-12-103(2)(d); and

(ii) for an agreement sales and use tax.

(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c).

(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:

(A) 1.31% of any amounts the seller is required to remit to the commission for:

(I) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(II) the month for which the seller is filing a return in accordance with Subsection (1); and

(III) an agreement sales and use tax; and

(B) 1.31% of the difference between:

(I) the amounts the seller would have been required to remit to the commission:

(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

(Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) for an agreement sales and use tax; and

(II) the amounts the seller is required to remit to the commission for:

(Aa) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(Bb) the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) an agreement sales and use tax.

(d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1% of any amounts the seller is required to remit to the commission:

(i) for the month for which the seller is filing a return in accordance with Subsection (1); and

(ii) under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Subsection 59-12-603(1)(a)(i)(A); ~~or~~

(C) Subsection 59-12-603(1)(a)(i)(B) ~~or~~; or

(D) Subsection 59-12-603(1)(a)(ii).

(3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1) may not retain any amount under Subsection (2).

(4) A seller that has a tax liability under this chapter for the previous calendar year of less than \$50,000 may:

(a) voluntarily meet the requirements of Subsection (1); and

(b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2).

(5) Penalties for late payment shall be as provided in Section 59-1-401.

(6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:

(i) the total amount retained for that month by all sellers had the percentages listed under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

(ii) the total amount retained for that month by all sellers at the percentages listed under Subsections (2)(b) and (2)(c)(ii).

(b) The commission shall each month allocate the amount calculated under Subsection (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.

(c) The amount the commission calculates under Subsection (6)(a) may not include an amount collected from a tax that:

(i) the state imposes within a county, city, or town, including the unincorporated area of a county; and

(ii) is not imposed within the entire state.

**Section 2. Section 59-12-602 is amended to read:**

**59-12-602. Definitions.**

As used in this part:

(1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) "Airport facility" includes:

(i) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;

(ii) a control tower, including a radar system;

(iii) a public area of an airport; or

(iv) a terminal facility.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) “All-terrain type III vehicle” means the same as that term is defined in Section 41-22-2.

~~(2)~~ (5) “Convention facility” means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

~~(3)~~ (6) “Cultural facility” means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(7) (a) Except as provided in Subsection (7)(b), “off-highway vehicle” means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(b) “Off-highway vehicle” does not include a vehicle that is a motor vehicle under Section 41-1a-102.

(8) “Motorcycle” means the same as that term is defined in Section 41-22-2.

~~(4)~~ (9) “Recreation facility” or “tourist facility” means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

(10) (a) Except as provided in Subsection (10)(c), “recreational vehicle” means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is pulled by another vehicle.

(b) “Recreational vehicle” includes:

(i) a travel trailer;

(ii) a camping trailer; and

(iii) a fifth wheel trailer.

(c) “Recreational vehicle” does not include a vehicle that is a motor vehicle under Section 41-1a-102.

~~(5)~~ (11) (a) “Restaurant” includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.

(b) “Restaurant” does not include:

(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and

(ii) a theater that sells food items, but not a dinner theater.

(12) “Short-term rental” means a lease or rental that is 30 days or less.

(13) “Snowmobile” means the same as that term is defined in Section 41-22-2.

(14) “Travel trailer,” “camping trailer,” or “fifth wheel trailer” means a portable vehicle without motive power, designed as a temporary dwelling for

travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

**Section 3. Section 59-12-603 is amended to read:**

**59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term [~~leases and~~] rentals of motor vehicles [~~not exceeding 30 days~~], except for [~~leases and~~] short-term rentals of motor vehicles made for the purpose of temporarily replacing a person’s motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) [~~beginning on or after January 1, 1999,~~] a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term [~~leases and~~] rentals of motor vehicles [~~not exceeding 30 days~~], except for [~~leases and~~] short-term rentals of motor vehicles made for the purpose of temporarily replacing a person’s motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) beginning on January 1, 2021, a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

~~(iii)~~ (iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; and

~~(iii)~~ (iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of [~~the taxes provided for in Subsections (1)(a)(i) through (iii) may be used~~] a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(~~(iii)~~)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose ~~the~~ a tax under Subsection (1), ~~each~~ the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect ~~its~~ a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to ~~its~~ the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to

each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) “Annexation” means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) “Annexing area” means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, ~~on or after July 1, 2004,~~ a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the [date] day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if, ~~for an annexation that occurs on or after July 1, 2004,~~ the annexation will result in the enactment, repeal, or change in the rate of a tax under this part

for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the [date] day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

**Section 4. Section 63N-2-502 is amended to read:**

**63N-2-502. Definitions.**

As used in this part:

(1) “Agreement” means an agreement described in Section 63N-2-503.

(2) “Base taxable value” means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.

(3) “Certified claim” means a claim that the office has approved and certified as provided in Section 63N-2-505.

(4) “Claim” means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.

(5) “Claimant” means the qualified hotel owner or host local government that submits a claim under Subsection 63N-2-505(1)(a) for a convention incentive.



(6) “Commission” means the Utah State Tax Commission.

(7) “Community reinvestment agency” means the same as that term is defined in Section 17C-1-102.

(8) “Construction revenue” means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

(9) “Convention incentive” means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.

(10) “Eligibility period” means:

(a) the period that:

(i) begins the date construction of a qualified hotel begins; and

(ii) ends:

(A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or

(B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or

(b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:

(i) begins no earlier than the date construction of a qualified hotel begins; and

(ii) is shorter than the period described in Subsection (10)(a).

(11) “Endorsement letter” means a letter:

(a) from the county in which a qualified hotel is located or is proposed to be located;

(b) signed by the county executive; and

(c) expressing the county’s endorsement of a developer of a qualified hotel as meeting all the county’s criteria for receiving the county’s endorsement.

(12) “Host agency” means the community reinvestment agency of the host local government.

(13) “Host local government” means:

(a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or

(b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.

(14) “Hotel property” means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail

shops, restaurants, parking, and other ancillary facilities and amenities.

(15) “Incentive fund” means the Convention Incentive Fund created in Section 63N-2-503.5.

(16) “Incremental property tax revenue” means the amount of property tax revenue generated from hotel property that equals the difference between:

(a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and

(b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property’s base taxable value.

(17) “Local portion” means the portion of new tax revenue that is generated by local taxes.

(18) “Local taxes” means a tax imposed under:

(a) Section 59-12-204;

(b) Section 59-12-301;

(c) Sections 59-12-352 and 59-12-353;

~~[(d) Subsection 59-12-603(1)(a)(i)(A);]~~

~~[(e) Subsection 59-12-603(1)(a)(i)(B);]~~

~~[(f) Subsection 59-12-603(1)(a)(ii);]~~

~~[(g) (d) Subsection 59-12-603(1)(a)[~~(iii)~~];] or~~

~~[(h) (e) Section 59-12-1102.]~~

(19) “New tax revenue” means construction revenue, offsite revenue, and onsite revenue.

(20) “Offsite revenue” means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:

(a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).

(21) “Onsite revenue” means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.

(22) “Public infrastructure” means:

(a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;

(b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and

(c) other buildings, facilities, infrastructure, and improvements that benefit the public.

(23) “Qualified hotel” means a full-service hotel development constructed in the state on or after July 1, 2014 that:

- (a) requires a significant capital investment;
  - (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and
  - (c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.
- (24) “Qualified hotel owner” means a person who owns a qualified hotel.
- (25) “Review committee” means the independent review committee established under Section 63N-2-504.
- (26) “Significant capital investment” means an amount of at least \$200,000,000.
- (27) “State portion” means the portion of new tax revenue that is generated by state taxes.
- (28) “State taxes” means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), (2)(c)(i), or (2)(d)(i)(A).
- (29) “Third-party seller” means a person who is a seller in a transaction:
- (a) occurring other than on hotel property;
  - (b) that is:
    - (i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or
    - (ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and
  - (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

**HBVCHAPTER 408**  
**S. B. 229**

Passed March 11, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**ADMINISTRATIVE RULES AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
House Sponsor: Marc K. Roberts

**LONG TITLE**

**General Description:**

This bill modifies provisions relating to administrative rulemaking.

**Highlighted Provisions:**

This bill:

- ▶ creates and modifies definitions;
- ▶ creates a director position within the Office of Administrative Rules and defines the duties of the director;
- ▶ requires the Office of Administrative Rules to make administrative rules regarding the administrative rulemaking process;
- ▶ modifies the duties of the executive director of the Department of Administrative Rules;
- ▶ clarifies that rulemaking grants in education related sections are subject to the Utah Administrative Rulemaking Act; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

53E-1-102, as last amended by Laws of Utah 2019, Chapter 186  
53E-3-401, as last amended by Laws of Utah 2019, Chapter 186  
53E-3-503, as last amended by Laws of Utah 2019, Chapters 186 and 187  
53E-3-505, as last amended by Laws of Utah 2019, Chapters 186 and 226  
53E-3-508, as last amended by Laws of Utah 2019, Chapter 186  
53E-3-512, as last amended by Laws of Utah 2019, Chapter 186  
53E-3-516, as last amended by Laws of Utah 2019, Chapters 186 and 324  
53E-3-519, as enacted by Laws of Utah 2019, Chapter 41  
53E-4-205, as last amended by Laws of Utah 2019, Chapter 186  
53E-4-206, as last amended by Laws of Utah 2019, Chapter 186  
53E-4-302, as last amended by Laws of Utah 2019, Chapter 186  
53E-4-408, as last amended by Laws of Utah 2019, Chapter 186  
53E-5-202, as last amended by Laws of Utah 2019, Chapter 186  
53E-5-301, as last amended by Laws of Utah 2019, Chapter 186  
53E-5-305, as last amended by Laws of Utah 2019, Chapter 186

53E-5-306, as last amended by Laws of Utah 2019, Chapter 186  
53E-5-308, as last amended by Laws of Utah 2019, Chapter 186  
53E-5-309, as last amended by Laws of Utah 2019, Chapter 186  
53E-6-201, as last amended by Laws of Utah 2019, Chapter 186  
53E-6-301, as last amended by Laws of Utah 2019, Chapter 186  
53E-6-302, as last amended by Laws of Utah 2019, Chapter 186  
53E-6-902, as last amended by Laws of Utah 2019, Chapter 186  
53E-6-903, as renumbered and amended by Laws of Utah 2019, Chapter 487  
53E-8-204, as last amended by Laws of Utah 2019, Chapters 186, 314, and 324  
53E-8-401, as last amended by Laws of Utah 2019, Chapters 186 and 314  
53E-8-409, as last amended by Laws of Utah 2019, Chapters 186 and 314  
53E-9-301, as last amended by Laws of Utah 2019, Chapters 87, 175, 186, and 342  
53E-9-302, as last amended by Laws of Utah 2019, Chapter 186  
53E-9-304, as last amended by Laws of Utah 2019, Chapter 186  
53E-9-306, as last amended by Laws of Utah 2019, Chapter 186  
53E-9-307, as last amended by Laws of Utah 2019, Chapter 186  
53E-10-703, as last amended by Laws of Utah 2019, Chapters 186 and 324  
53E-10-705, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-303, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-304, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-305, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-307, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-309, as last amended by Laws of Utah 2019, Chapters 186 and 324  
53F-2-404, as last amended by Laws of Utah 2019, Chapters 186 and 191  
53F-2-405, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-409, as last amended by Laws of Utah 2019, Chapters 136 and 186  
53F-2-415, as enacted by Laws of Utah 2019, Chapter 446  
53F-2-416, as enacted by Laws of Utah 2019, Chapter 505  
53F-2-417, as enacted by Laws of Utah 2019, Chapter 408  
53F-2-502, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-503, as last amended by Laws of Utah 2019, Chapters 186 and 324  
53F-2-506, as last amended by Laws of Utah 2019, Chapter 186  
53F-2-508, as last amended by Laws of Utah 2019, Chapters 186 and 324

53F-2-510, as last amended by Laws of Utah 2019, Chapters 186 and 324	53G-6-803, as last amended by Laws of Utah 2019, Chapters 202 and 293
53F-2-511, as last amended by Laws of Utah 2019, Chapter 186	53G-7-306, as last amended by Laws of Utah 2019, Chapter 293
53F-2-512, as last amended by Laws of Utah 2019, Chapters 186 and 324	53G-7-503, as last amended by Laws of Utah 2019, Chapters 223 and 293
53F-2-513, as last amended by Laws of Utah 2019, Chapter 186	53G-7-504, as last amended by Laws of Utah 2019, Chapters 223 and 293
53F-2-514, as last amended by Laws of Utah 2019, Chapter 186	53G-7-1004, as last amended by Laws of Utah 2019, Chapter 293
53F-2-520, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and amended by Laws of Utah 2019, Chapter 408	53G-7-1206, as last amended by Laws of Utah 2019, Chapters 293 and 505
53F-4-205, as last amended by Laws of Utah 2019, Chapter 186	53G-7-1304, as enacted by Laws of Utah 2019, Chapter 505
53F-4-304, as last amended by Laws of Utah 2019, Chapter 186	53G-7-1306, as enacted by Laws of Utah 2019, Chapter 505
53F-4-305, as last amended by Laws of Utah 2019, Chapter 186	53G-8-702, as last amended by Laws of Utah 2019, Chapters 293 and 441
53F-4-514, as last amended by Laws of Utah 2019, Chapter 186	53G-8-802, as enacted by Laws of Utah 2019, Chapter 441
53F-5-201, as last amended by Laws of Utah 2019, Chapter 186	53G-9-607, as last amended by Laws of Utah 2019, Chapter 293
53F-5-202, as last amended by Laws of Utah 2019, Chapters 186 and 283	53G-9-704, as last amended by Laws of Utah 2019, Chapter 293
53F-5-204, as last amended by Laws of Utah 2019, Chapters 186 and 324	53G-9-801, as last amended by Laws of Utah 2019, Chapter 293
53F-5-205, as last amended by Laws of Utah 2019, Chapter 186	53G-10-304, as last amended by Laws of Utah 2019, Chapter 293
53F-5-209, as last amended by Laws of Utah 2019, Chapter 186	53G-10-402, as last amended by Laws of Utah 2019, Chapters 196 and 293
53F-5-210, as last amended by Laws of Utah 2019, Chapter 186	53G-10-406, as last amended by Laws of Utah 2019, Chapter 293
53F-5-212, as enacted by Laws of Utah 2019, Chapter 173	53G-10-502, as last amended by Laws of Utah 2019, Chapter 293
53F-5-406, as last amended by Laws of Utah 2019, Chapter 186	53G-10-507, as last amended by Laws of Utah 2019, Chapter 293
53F-5-502, as last amended by Laws of Utah 2019, Chapter 186	53G-10-508, as last amended by Laws of Utah 2019, Chapters 293 and 325
53F-5-506, as last amended by Laws of Utah 2019, Chapters 186 and 324	53G-11-304, as enacted by Laws of Utah 2019, Chapter 205
53F-5-603, as last amended by Laws of Utah 2019, Chapter 186	53G-11-504, as last amended by Laws of Utah 2019, Chapter 293
53F-9-401, as last amended by Laws of Utah 2019, Chapter 186	53G-11-508, as last amended by Laws of Utah 2019, Chapter 293
53G-4-410, as last amended by Laws of Utah 2019, Chapter 293	53G-11-510, as last amended by Laws of Utah 2019, Chapter 293
53G-5-205, as last amended by Laws of Utah 2019, Chapter 293	53G-11-511, as last amended by Laws of Utah 2019, Chapters 293 and 324
53G-5-304, as last amended by Laws of Utah 2019, Chapter 293	53G-11-518, as last amended by Laws of Utah 2019, Chapter 293
53G-5-406, as last amended by Laws of Utah 2019, Chapter 293	63A-1-105.5, as last amended by Laws of Utah 2008, Chapter 382
53G-5-501, as last amended by Laws of Utah 2019, Chapter 293	63G-3-102, as last amended by Laws of Utah 2018, Chapter 281
53G-5-503, as last amended by Laws of Utah 2019, Chapter 293	63G-3-201, as last amended by Laws of Utah 2018, Chapter 325
53G-5-504, as last amended by Laws of Utah 2019, Chapter 293	63G-3-301, as last amended by Laws of Utah 2019, Chapter 454
53G-6-302, as last amended by Laws of Utah 2019, Chapters 293 and 316	63G-3-401, as last amended by Laws of Utah 2016, Chapter 193
53G-6-504, as last amended by Laws of Utah 2019, Chapter 293	63G-3-402, as last amended by Laws of Utah 2016, Chapter 193
53G-6-702, as last amended by Laws of Utah 2019, Chapter 293	63G-3-403, as last amended by Laws of Utah 2016, Chapter 193
	63G-3-601, as last amended by Laws of Utah 2017, Chapter 181

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-1-102 is amended to read:**

**53E-1-102. Public education code definitions.**

Unless otherwise indicated, as used in this title, Title 53F, Public Education System -- Funding, and Title 53G, Public Education System -- Local Administration:

(1) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

(2) "Charter school governing board" means the board that governs a charter school.

(3) "District school" means a public school under the control of a local school board.

(4) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(5) "LEA governing board" means:

(a) for a school district, the local school board;

(b) for a charter school, the charter school governing board; or

(c) for the Utah Schools for the Deaf and the Blind, the state board.

(6) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(7) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

(8) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

(9) "Parent" means a parent or legal guardian.

(10) "Public education code" means:

(a) this title;

(b) Title 53F, Public Education System -- Funding; and

(c) Title 53G, Public Education System -- Local Administration.

~~[(11) "Rule" means a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

[(12)] (11) "Section 504 accommodation plan" means a plan developed in accordance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq., for a student with a disability, to meet the student's educational needs and ensure

equitable access to a free appropriate public education.

~~[(13)]~~ (12) "State board" means the State Board of Education.

[(14)] (13) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

**Section 2. Section 53E-3-401 is amended to read:**

**53E-3-401. Powers of the state board -- Adoption of rules -- Enforcement -- Attorney.**

(1) As used in this section:

(a) "Education entity" means:

(i) an entity that receives a distribution of state funds through a grant program managed by the state board under this public education code;

(ii) an entity that enters into a contract with the state board to provide an educational good or service;

(iii) a school district; or

(iv) a charter school.

(b) "Educational good or service" means a good or service that is required or regulated under:

(i) this public education code; or

(ii) a rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and authorized under this public education code.

(2) (a) The state board has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.

(3) The state board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(4) (a) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules to execute the state board's duties and responsibilities under the Utah Constitution and state law.

(b) The state board may delegate the state board's statutory duties and responsibilities to state board employees.

(5) (a) The state board may sell any interest it holds in real property upon a finding by the state board that the property interest is surplus.

(b) The state board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the state board, the money may only be used for purposes related to the agency or institution.

(d) The state board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.

(6) The state board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.

(7) On or before December 31, 2010, the state board shall review mandates or requirements provided for in state board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

(8) (a) If an education entity violates this public education code or rules authorized under this public education code, the state board may, in accordance with the rules described in Subsection (8)(c):

(i) require the education entity to enter into a corrective action agreement with the state board;

(ii) temporarily or permanently withhold state funds from the education entity;

(iii) require the education entity to pay a penalty; or

(iv) require the education entity to reimburse specified state funds to the state board.

(b) Except for temporarily withheld funds, if the state board collects state funds under Subsection (8)(a), the state board shall pay the funds into the Uniform School Fund.

(c) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(i) that require notice and an opportunity to be heard for an education entity affected by a state board action described in Subsection (8)(a); and

(ii) to administer this Subsection (8).

(d) (i) An individual may bring a violation of statute or state board rule to the attention of the state board in accordance with a process described in rule adopted by the state board.

(ii) If the state board identifies a violation of statute or state board rule as a result of the process described in Subsection (8)(d)(i), the state board may take action in accordance with this section.

(e) The state board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.

(9) The state board may audit the use of state funds by an education entity that receives those state funds as a distribution from the state board.

(10) The state board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information

necessary for the LEA to verify that the educational good or service complies with:

(a) this public education code; and

(b) state board rule authorized under this public education code.

(11) (a) The state board may appoint an attorney to provide legal advice to the state board and coordinate legal affairs for the state board and the state board's employees.

(b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.

(c) An attorney described in Subsection (11)(a) may not:

(i) conduct litigation;

(ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or

(iii) issue formal legal opinions.

(12) The state board shall ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

**Section 3. Section 53E-3-503 is amended to read:**

**53E-3-503. Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.**

(1) (a) The state board is directly responsible for the education of all individuals who are:

(i) (A) younger than 21 years old; or

(B) eligible for special education services as described in Chapter 7, Part 2, Special Education Program; and

(ii) (A) receiving services from the Department of Human Services;

(B) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent resides within the state; or

(C) being held in a juvenile detention facility.

(b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of individuals described in Subsection (1)(a).

(2) Subsection (1)(a)(ii)(B) does not apply to an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

(3) The state board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the state board shall retain responsibility for the programs.

(4) The Legislature shall establish and maintain separate education budget categories for youth in custody or who are under the jurisdiction of the following state agencies:

(a) detention centers and the Divisions of Juvenile Justice Services and Child and Family Services;

(b) the Division of Substance Abuse and Mental Health; and

(c) the Division of Services for People with Disabilities.

(5) (a) The Department of Human Services and the state board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The Department of Human Services and the state board may appoint similar councils for those in the custody of the Division of Substance Abuse and Mental Health or the Division of Services for People with Disabilities.

(6) A school district contracting to provide services under Subsection (3) shall establish an advisory council to plan, coordinate, and review education and treatment programs for individuals held in custody in the district.

**Section 4. Section 53E-3-505 is amended to read:**

**53E-3-505. Financial and economic literacy education.**

(1) As used in this section:

(a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) "Financial and economic literacy concepts" include concepts related to the following topics:

(i) basic budgeting;

(ii) saving and financial investments;

(iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;

(iv) career management, including earning an income;

(v) rights and responsibilities of renting or buying a home;

(vi) retirement planning;

(vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;

(viii) insurance;

(ix) federal, state, and local taxes;

(x) charitable giving;

(xi) identity fraud and theft;

(xii) negative financial consequences of gambling;

(xiii) bankruptcy;

(xiv) economic systems, including a description of:

(A) a command system such as socialism or communism, a market system such as capitalism, and a mixed system; and

(B) historic and current examples of the effects of each economic system on economic growth;

(xv) supply and demand;

(xvi) monetary and fiscal policy;

(xvii) effective business plan creation, including using economic analysis in creating a plan;

(xviii) scarcity and choices;

(xix) opportunity cost and tradeoffs;

(xx) productivity;

(xxi) entrepreneurship; and

(xxii) economic reasoning.

(c) "General financial literacy course" means the course of instruction administered by the state board under Subsection (3).

(2) The state board shall:

(a) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:

(i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

(b) work with interested public, private, and nonprofit entities to:

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

(ii) coordinate school use of existing financial and economic literacy education resources;

(iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

(iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and

(v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses; and

(d) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy concepts to teachers, including:

(i) a statewide learning community for financial and economic literacy;

(ii) summer workshops; and

(iii) online videos of experts in the field of financial and economic literacy education.

(3) The state board shall:

(a) administer a general financial literacy course in the same manner that the state board administers other core standards for Utah public school courses for grades 9 through 12;

(b) adopt standards and objectives for the general financial literacy course that address:

(i) financial and economic literacy concepts;

(ii) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid;

(iii) financial benefits of pursuing concurrent enrollment as defined in Section 53E-10-301; and

(iv) technology that relates to banking, savings, and financial products; and

(c) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

(A) an analysis of assessment results by standard; and

(B) average scores statewide and by school district and school.

(4) (a) The state board shall establish a task force to study and make recommendations to the state board on how to improve financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

(i) the state board;

(ii) school districts and charter schools;

(iii) the State Board of Regents; and

(iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) The state board shall convene the task force at least once every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.

**Section 5. Section 53E-3-508 is amended to read:**

**53E-3-508. Rulemaking -- Standards for high quality programs operating outside of the regular school day.**

(1) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall, in consultation with the Department of Workforce Services, make rules that describe the standards for a high quality program operating outside of the regular school day:

(a) for elementary or secondary students; and

(b) offered by a:

(i) school district;

(ii) charter school;

(iii) private provider, including a non-profit provider; or

(iv) municipality.

(2) The standards described in Subsection (1) shall specify that a high quality program operating outside of the regular school day:

(a) provides a safe, healthy, and nurturing environment for all participants;

(b) develops and maintains positive relationships among staff, participants, families, schools, and communities;

(c) encourages participants to learn new skills; and

(d) is effectively administered.

**Section 6. Section 53E-3-512 is amended to read:**

**53E-3-512. State board rules establishing basic ethical conduct standards -- Local school board policies.**

(1) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state



board shall make rules that establish basic ethical conduct standards for public education employees who provide education-related services outside of their regular employment to their current or prospective public school students.

(2) The rules shall provide that a local school board may adopt policies implementing the standards and addressing circumstances present in the district.

**Section 7. Section 53E-3-516 is amended to read:**

**53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.**

(1) As used in this section:

(a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(c) "Minor" means the same as that term is defined in Section 53G-6-201.

(d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

- (i) a search and seizure by an SRO;
- (ii) issuance of a criminal citation;
- (iii) issuance of a ticket or summons;
- (iv) filing a delinquency petition; or
- (v) referral to a probation officer.

(e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) "Student resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2020, the state board, in collaboration with school districts, charter schools, and law enforcement agencies, shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

- (a) arrests of a minor;
- (b) other law enforcement activities; and
- (c) disciplinary actions.

(3) The report described in Subsection (2) shall include the following information by school district and charter school:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; and

(ii) the type of disciplinary action; and

(d) the number of SROs employed.

(4) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (3)(a) through (c):

- (a) age;
- (b) grade level;
- (c) race;
- (d) sex; and
- (e) disability status.

(5) Information included in the annual report described in Subsection (2) shall comply with:

- (a) Chapter 9, Part 3, Student Data Protection;
- (b) Chapter 9, Part 2, Student Privacy; and
- (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(6) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(7) The state board shall provide the report described in Subsection (2) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year.

**Section 8. Section 53E-3-519 is amended to read:**

**53E-3-519. School counselor services.**

(1) No later than July 1, 2019, the state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(a) the recommended direct and indirect services a school counselor may provide;

(b) the recommended amount of time a school counselor may spend on direct and indirect services; and

(c) recommended activities for a school counselor.

(2) No later than November 30, 2019, the state board shall prepare and submit to the Education Interim Committee a report on the state board's strategic efforts to address counseling services in schools.

**Section 9. Section 53E-4-205 is amended to read:**

**53E-4-205. American civics education initiative.**

(1) As used in this section:

(a) "Adult education program" means an organized educational program below the postsecondary level, other than a regular full-time K-12 secondary education program, provided by an LEA or nonprofit organization that provides the opportunity for an adult to further the adult's high school level education.

(b) "Basic civics test" means a test that includes 50 of the 100 questions on the civics test form used by the United States Citizenship and Immigration Services:

(i) to determine that an individual applying for United States citizenship meets the basic citizenship skills specified in 8 U.S.C. Sec. 1423; and

(ii) in accordance with 8 C.F.R. Sec. 312.2.

(2) (a) Except as provided in Subsection (2)(b), the state board shall require:

(i) a public school student who graduates on or after January 1, 2016, to pass a basic civics test as a condition for receiving a high school diploma; and

(ii) a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma.

(b) The state board may require a public school student to pass an alternate assessment instead of a basic civics test if the student qualifies for an alternate assessment, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An individual who correctly answers a minimum of 35 out of the 50 questions on a basic civics test passes the test and an individual who correctly answers fewer than 35 out of 50 questions on a basic civics test does not pass the test.

(4) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) require an LEA that serves secondary students to administer a basic civics test or alternate assessment to a public school student enrolled in the LEA;

(b) require an adult education program provider to administer a basic civics test to an individual who intends to receive an adult education secondary diploma;

(c) allow an individual to take a basic civics test as many times as needed in order to pass the test; and

(d) for the alternate assessment described in Subsection (2)(b), describe:

(i) the content of an alternate assessment;

(ii) how a public school student qualifies for an alternate assessment; and

(iii) how an LEA determines if a student passes an alternate assessment.

**Section 10. Section 53E-4-206 is amended to read:**

**53E-4-206. Career and college readiness mathematics competency standards.**

(1) As used in this section, "qualifying score" means a score established as described in Subsection (4), that, if met by a student, qualifies the student to receive college credit for a mathematics course that satisfies the state system of higher education quantitative literacy requirement.

(2) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) (i) establish the mathematics competency standards described in Subsection (3) as a graduation requirement beginning with the 2016-17 school year; and

(ii) include the qualifying scores described in Subsection (4); and

(b) establish systematic reporting of college and career ready mathematics achievement.

(3) In addition to other graduation requirements established by the state board, a student shall fulfill one of the following requirements to demonstrate mathematics competency that supports the student's future college and career goals as outlined in the student's college and career plan:

(a) for a student pursuing a college degree after graduation:

(i) receive a score that at least meets the qualifying score for:

(A) an Advanced Placement calculus or statistics exam;

(B) an International Baccalaureate higher level mathematics exam;

(C) a college-level math placement test described in Subsection (5);

(D) a College Level Examination Program precalculus or calculus exam; or

(E) the ACT Mathematics Test; or

(ii) receive at least a “C” grade in a concurrent enrollment mathematics course that satisfies the state system of higher education quantitative literacy requirement;

(b) for a non college degree-seeking student, the student shall complete appropriate math competencies for the student’s career goals as described in the student’s college and career plan;

(c) for a student with an individualized education program prepared in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall meet the mathematics standards described in the student’s individualized education program; or

(d) for a senior student with special circumstances as described in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the student shall fulfill a requirement associated with the student’s special circumstances, as established in state board rule.

(4) The State Board of Regents shall, in consultation with the state board, determine qualifying scores for the tests and exams described in Subsection (3)(a)(i).

(5) The State Board of Regents, established in Section 53B-1-103, shall make a policy to select at least two tests for college-level math placement.

(6) The State Board of Regents shall, in consultation with the state board, make policies to:

(a) develop mechanisms for a student who completes a math competency requirement described in Subsection (3)(a) to:

(i) receive college credit; and

(ii) satisfy the state system of higher education quantitative literacy requirement;

(b) allow a student, upon completion of required high school mathematics courses with at least a “C” grade, entry into a mathematics concurrent enrollment course;

(c) increase access to a range of mathematics concurrent enrollment courses;

(d) establish a consistent concurrent enrollment course approval process; and

(e) establish a consistent process to qualify high school teachers with an upper level mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

**Section 11. Section 53E-4-302 is amended to read:**

**53E-4-302. Statewide assessments -- Duties of the state board.**

(1) The state board shall:

(a) require the state superintendent to:

(i) submit and recommend statewide assessments to the state board for adoption by the state board; and

(ii) distribute the statewide assessments adopted by the state board to a school district or charter school;

(b) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program; and

(c) require a school district or charter school to administer statewide assessments.

(2) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for the administration of statewide assessments.

(3) The state board shall ensure that statewide assessments are administered in compliance with the requirements of Chapter 9, Student Privacy and Data Protection.

**Section 12. Section 53E-4-408 is amended to read:**

**53E-4-408. Instructional materials alignment with core standards for Utah public schools.**

(1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core standards for Utah public schools adopted under Section 53E-3-501;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

(a) the state board;

(b) the state superintendent or employees of the state board;

(c) the State Instructional Materials Commission appointed pursuant to Section 53E-4-402;

(d) a local school board or a school district; or

(e) the instructional materials creator or publisher.

(3) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

**Section 13. Section 53E-5-202 is amended to read:**

**53E-5-202. Statewide school accountability system -- State board rulemaking.**

(1) There is established a statewide school accountability system.

(2) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to implement the school accountability system in accordance with this part.

**Section 14. Section 53E-5-301 is amended to read:**

**53E-5-301. Definitions.**

As used in this part:

(1) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(2) "Educator" means the same as that term is defined in Section 53E-6-102.

(3) "Final remedial year" means the second school year following the initial remedial year.

(4) "Independent school turnaround expert" or "turnaround expert" means a person identified by the state board under Section 53E-5-305.

(5) "Initial remedial year" means the school year a district school or charter school is designated as a low performing school under Section 53E-5-302.

(6) "LEA governing board" means a local school board or charter school governing board.

(7) "Low performing school" means a district school or charter school that has been designated a low performing school by the state board because the school is:

(a) for two consecutive school years in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school accountability system; and

(b) a low performing school according to other outcome-based measures as may be defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) "School accountability system" means the school accountability system established in Part 2, School Accountability System.

(9) "School grade" or "grade" means the letter grade assigned to a school as the school's overall rating under the school accountability system.

(10) "School turnaround committee" means a committee established under:

- (a) for a district school, Section 53E-5-303; or
- (b) for a charter school, Section 53E-5-304.

(11) "School turnaround plan" means a plan described in:

- (a) for a district school, Section 53E-5-303; or
- (b) for a charter school, Section 53E-5-304.

**Section 15. Section 53E-5-305 is amended to read:**

**53E-5-305. State board to identify independent school turnaround experts -- Review and approval of school turnaround plans -- Appeals process.**

(1) The state board shall identify two or more approved independent school turnaround experts, through a standard procurement process, that a low performing school may contract with to:

- (a) respond to the needs assessment conducted under Section 53E-5-302; and
- (b) provide the services described in Section 53E-5-303 or 53E-5-304, as applicable.

(2) In identifying independent school turnaround experts under Subsection (1), the state board shall identify experts that:

(a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments described in Section 53E-4-301;

(b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;

(c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;

(d) have experience working with the various education entities that govern public schools;

(e) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers; and

(f) are willing to partner with any low performing school in the state, regardless of location.

(3) (a) The state board shall:

(i) review a proposal submitted for approval under Section 53E-5-303 or 53E-5-304 no later than 30 days after the day on which the proposal is submitted;

(ii) review a school turnaround plan submitted for approval under Subsection 53E-5-303(7)(b) or under Subsection 53E-5-304(9)(b) within 30 days of submission; and

(iii) approve a school turnaround plan that:

(A) is timely;

(B) is well-developed; and

(C) meets the criteria described in Subsection 53E-5-303(5).

(b) The state board may not approve a school turnaround plan that is not aligned with the needs assessment conducted under Section 53E-5-302.

(4) (a) Subject to legislative appropriations, when a school turnaround plan is approved by the state board, the state board shall distribute funds to each LEA governing board with a low performing school to carry out the provisions of Sections 53E-5-303 and 53E-5-304.

(b) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing a distribution method and allowable uses of the funds described in Subsection (4)(a).

(5) The state board shall:

(a) monitor and assess progress toward the goals, benchmarks and timetable in each school turnaround plan; and

(b) act as a liaison between a local school board, low performing school, and turnaround expert.

(6) (a) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish an appeals process for:

(i) a low performing district school that is not granted approval from the district school's local school board under Subsection 53E-5-303(7)(b);

(ii) a low performing charter school that is not granted approval from the charter school's charter school governing board under Subsection 53E-5-304(9)(b); and

(iii) a local school board or charter school governing board that is not granted approval from the state board under Subsection (3)(a) or (b).

(b) The state board shall ensure that rules made under Subsection (6)(a) require an appeals process described in:

(i) Subsections (6)(a)(i) and (ii) to be resolved on or before July 1 of the initial remedial year; and

(ii) Subsection (6)(a)(iii) to be resolved on or before August 15 of the initial remedial year.

(7) The state board may use up to 4% of the funds appropriated by the Legislature to carry out the provisions of this part for administration if the amount for administration is approved by the state board in an open meeting.

**Section 16. Section 53E-5-306 is amended to read:**

**53E-5-306. Implications for failing to improve school performance.**

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and state board rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and

(c) has received at least a B grade under the school accountability system in the previous two school years.

(2) (a) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing:

(i) exit criteria for a low performing school;

(ii) criteria for granting a school an extension as described in Subsection (3); and

(iii) implications for a low performing school that does not meet exit criteria after the school's final remedial year or the last school year of the extension period described in Subsection (3).

(b) In establishing exit criteria for a low performing school the state board shall:

(i) determine for each low performing school the number of points awarded under the school accountability system in the final remedial year that represent a substantive and statistically significant improvement over the number of points awarded under the school accountability system in the school year immediately preceding the initial remedial year;

(ii) establish a method to estimate the exit criteria after a low performing school's first remedial year to provide a target for each low performing school; and

(iii) use generally accepted statistical practices.

(c) The state board shall through a competitively awarded contract engage a third party with expertise in school accountability and assessments to verify the criteria adopted under this Subsection (2).

(3) (a) A low performing school may petition the state board for an extension to continue school improvement efforts for up to two years if the low performing school does not meet the exit criteria established by the state board as described in Subsection (2).

(b) A school that has been granted an extension under this Subsection (3) is eligible for:

(i) continued funding under Section 53E-5-305; and

(ii) (A) the school teacher recruitment and retention incentive under Section 53E-5-308; or

(B) the School Recognition and Reward Program under Section 53E-5-307.

(4) If a low performing school does not meet exit criteria after the school's final remedial year or the last school year of the extension period, the state board may intervene by:

(a) restructuring a district school, which may include:

(i) contract management;

(ii) conversion to a charter school; or

(iii) state takeover;

- (b) restructuring a charter school by:
  - (i) terminating a school's charter agreement;
  - (ii) closing a charter school; or
  - (iii) transferring operation and control of the charter school to:
    - (A) a high performing charter school; or
    - (B) the school district in which the charter school is located; or
- (c) other appropriate action as determined by the state board.

**Section 17. Section 53E-5-308 is amended to read:**

**53E-5-308. Turnaround school teacher recruitment and retention.**

- (1) As used in this section, "plan" means a teacher recruitment and retention plan.
- (2) On a date specified by the state board, an LEA governing board of a low performing school shall submit to the state board for review and approval a plan to address teacher recruitment and retention in a low performing school.
- (3) The state board shall:
  - (a) review a plan submitted under Subsection (2);
  - (b) approve a plan if the plan meets criteria established by the state board in rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
  - (c) subject to legislative appropriations, provide funding to an LEA governing board for teacher recruitment and retention efforts identified in an approved plan if the LEA governing board provides matching funds in an amount equal to at least the funding the low performing school would receive from the state board.
- (4) The money distributed under this section may only be expended to fund teacher recruitment and retention efforts identified in an approved plan.

**Section 18. Section 53E-5-309 is amended to read:**

**53E-5-309. School Leadership Development Program.**

- (1) As used in this section, "school leader" means a school principal or assistant principal.
- (2) There is created the School Leadership Development Program to increase the number of highly effective school leaders capable of:
  - (a) initiating, achieving, and sustaining school improvement efforts; and
  - (b) forming and sustaining community partnerships as described in Section 53F-5-402.
- (3) The state board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:

- (a) may provide in-depth training in proven strategies to turn around low performing schools;
- (b) may emphasize hands-on and job-embedded learning;
- (c) aligns with the state's leadership standards established by state board rule;
- (d) reflects the needs of a school district or charter school where a school leader serves;
- (e) may include training on using student achievement data to drive decisions;
- (f) may develop skills in implementing and evaluating evidence-based instructional practices;
- (g) may develop skills in leading collaborative school improvement structures, including professional learning communities; and
- (h) includes instruction on forming and sustaining community partnerships as described in Section 53F-5-402.

(4) Subject to legislative appropriations, the state board shall provide incentive pay to a school leader who:

- (a) completes leadership development training under this section; and
- (b) agrees to work, for at least five years, in a school that received an F grade or D grade under the school accountability system in the school year previous to the first year the school leader:
  - (i) completes leadership development training; and
  - (ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).
- (5) [The] In accordance with Title 63G, Utah Administrative Rulemaking Act, the state board shall make rules specifying:

- (a) eligibility criteria for a school leader to participate in the School Leadership Development Program;
- (b) application procedures for the School Leadership Development Program;
- (c) criteria for selecting school leaders from the application pool; and
- (d) procedures for awarding incentive pay under Subsection (4).

**Section 19. Section 53E-6-201 is amended to read:**

**53E-6-201. State board licensure.**

- (1) To be fully implemented by July 1, 2020, and, if technology and funds are available, the state board shall establish in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a system for educator licensing that includes:
  - (a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;

(b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in state board rule; and

(c) an LEA-specific educator license issued by the state board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools.

(2) An individual employed in a position that requires licensure by the state board shall hold the license that is appropriate to the position.

(3) (a) The state board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.

(b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the state board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the State Board of Regents, if:

(i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(ii) enrollments are determined by each institution under rules and guidelines established by the State Board of Regents in accordance with findings of fact that space is available for the educator's enrollment.

**Section 20. Section 53E-6-301 is amended to read:**

**53E-6-301. Qualifications of applicants for licenses -- Changes in qualifications.**

(1) The state board shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the scholarship, training, and experience required of license applicants.

(2) (a) The state board shall announce any increase in the requirements when made.

(b) An increase in requirements shall become effective not less than one year from the date of the announcement.

(3) The state board may determine by examination or otherwise the qualifications of license applicants.

**Section 21. Section 53E-6-302 is amended to read:**

**53E-6-302. Teacher preparation programs.**

(1) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state

board shall make rules that establish standards for approval of a preparation program.

(2) The state board shall ensure that standards adopted under Subsection (1) meet or exceed generally recognized national standards for preparation of educators.

(3) The state board shall designate an employee of the state board's staff to:

(a) work with education deans of state institutions of higher education to coordinate on-site monitoring of teacher preparation programs that may include:

(i) monitoring courses for teacher preparation programs;

(ii) working with course instructors for teacher preparation programs; and

(iii) interviewing students admitted to teacher preparation programs;

(b) act as a liaison between:

(i) the state board;

(ii) local school boards or charter school governing boards; and

(iii) representatives of teacher preparation programs; and

(c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:

(i) the state board; and

(ii) education deans of state institutions of higher education.

(4) The state board shall:

(a) in good faith, consider the findings and recommendations described in Subsection (3)(c); and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as the state board determines is necessary, to implement recommendations described in Subsection (3)(c).

**Section 22. Section 53E-6-902 is amended to read:**

**53E-6-902. Teacher leaders.**

(1) As used in this section, "teacher" means an educator who has an assignment to teach in a classroom.

(2) There is created the role of a teacher leader to:

(a) work with a student teacher and a teacher who supervises a student teacher;

(b) assist with the training of a recently hired teacher; and

(c) support school-based professional learning.

(3) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) define the role of a teacher leader, including the functions described in Subsection (2); and

(b) establish the minimum criteria for a teacher to qualify as a teacher leader.

(4) The state board shall solicit recommendations from school districts and educators regarding:

(a) appropriate resources to provide a teacher leader; and

(b) appropriate ways to compensate a teacher leader.

**Section 23. Section 53E-6-903 is amended to read:**

**53E-6-903. STEM education endorsements and incentive program.**

(1) As used in this section, "STEM" means science, technology, engineering, and mathematics.

(2) The state board shall:

(a) develop STEM education endorsements; and

(b) create and implement financial incentives for:

(i) an educator to earn an elementary or secondary STEM education endorsement described in Subsection (2)(a); and

(ii) a school district or a charter school to have STEM endorsed educators on staff.

(3) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing the uses of STEM education endorsements described in Subsection (2), including that:

(a) an incentive for an educator to take a course leading to a STEM education endorsement may only be given for a course that carries higher-education credit; and

(b) a school district or a charter school may consider a STEM education endorsement as part of an educator's salary schedule.

**Section 24. Section 53E-8-204 is amended to read:**

**53E-8-204. Authority of the state board -- Rulemaking -- Superintendent -- Advisory council.**

(1) The state board is the governing board of the Utah Schools for the Deaf and the Blind.

(2) (a) The state board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

(b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.

(3) The superintendent shall:

(a) subject to the approval of the state board, appoint an associate superintendent to administer the Utah School for the Deaf based on:

(i) demonstrated competency as an expert educator of deaf persons; and

(ii) knowledge of school management and the instruction of deaf persons;

(b) subject to the approval of the state board, appoint an associate superintendent to administer the Utah School for the Blind based on:

(i) demonstrated competency as an expert educator of blind persons; and

(ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.

(4) (a) The state board shall:

(i) establish an advisory council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;

(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and

(iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.

(b) The advisory council described in Subsection (4)(a) shall include at least:

(i) two members who are blind;

(ii) two members who are deaf; and

(iii) two members who are deafblind or parents of a deafblind child.

(5) The state board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.

(6) (a) The state board shall submit a report in accordance with Section 53E-1-201 on the Utah Schools for the Deaf and the Blind.

(b) The state board shall ensure that the report described in Subsection (6)(a) includes:

(i) a financial report;

(ii) a report on Utah Schools for the Deaf and the Blind programs and activities; and

(iii) a report of student academic performance.

**Section 25. Section 53E-8-401 is amended to read:**

**53E-8-401. Eligibility for services of the Utah Schools for the Deaf and the Blind.**

(1) Except as provided in Subsections (3), (4), and (5), an individual is eligible to receive services of the Utah Schools for the Deaf and the Blind if the individual is:

(a) a resident of Utah;



(b) younger than 22 years of age;

(c) referred to the Utah Schools for the Deaf and the Blind by:

- (i) the individual's school district of residence;
- (ii) a local early intervention program; or

(iii) if the referral is consistent with the Individual with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the Parent Infant Program; and

(d) identified as deaf, blind, or deafblind through:

(i) the special education eligibility determination process; or

(ii) the Section 504 eligibility determination process.

(2) (a) In determining eligibility for an individual who is younger than age three and is deafblind, the following information may be used:

(i) ophthalmological and audiological documentation;

(ii) functional vision or hearing assessments and evaluations; or

(iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.

(b) Informed clinical opinion shall be:

(i) included in the determination of eligibility when documentation is incomplete or not conclusive; and

(ii) based on pertinent records related to the individual's current health status and medical history, an evaluation and observations of the individual's level of sensory functioning, and the needs of the family.

(3) (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.

(b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.

(4) (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with the rules of the state board described in Subsection (6).

(b) The rules shall require the payment of tuition for services provided to a nonresident.

(5) An individual is eligible to receive services from the Utah Schools for the Deaf and the Blind under circumstances described in Section 53E-8-408.

(6) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board:

(a) shall make rules that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind; and

(b) may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the resident is younger than 22 years of age.

**Section 26. Section 53E-8-409 is amended to read:**

**53E-8-409. Instructional Materials Access Center -- Board to make rules.**

(1) The state board shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.

(2) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish the Utah State Instructional Materials Access Center;

(b) define how the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;

(c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:

(i) identify students who qualify for instructional materials in alternate formats; and

(ii) distribute and store instructional materials in alternate formats; and

(d) require textbook publishers, as a condition of contract, to provide electronic file sets in conformance with the National Instructional Materials Accessibility Standard.

**Section 27. Section 53E-9-301 is amended to read:**

**53E-9-301. Definitions.**

As used in this part:

(1) "Adult student" means a student who:

(a) is at least 18 years old;

(b) is an emancipated student; or

(c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.

(2) "Aggregate data" means data that:

(a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;

(b) do not reveal personally identifiable student data; and

(c) are collected in accordance with state board rule.

- (3) (a) “Biometric identifier” means a:
- (i) retina or iris scan;
  - (ii) fingerprint;
  - (iii) human biological sample used for valid scientific testing or screening; or
  - (iv) scan of hand or face geometry.
- (b) “Biometric identifier” does not include:
- (i) a writing sample;
  - (ii) a written signature;
  - (iii) a voiceprint;
  - (iv) a photograph;
  - (v) demographic data; or
  - (vi) a physical description, such as height, weight, hair color, or eye color.
- (4) “Biometric information” means information, regardless of how the information is collected, converted, stored, or shared:
- (a) based on an individual’s biometric identifier; and
  - (b) used to identify the individual.
- (5) “Data breach” means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.
- (6) “Data governance plan” means an education entity’s comprehensive plan for managing education data that:
- (a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;
  - (b) describes the role, responsibility, and authority of an education entity data governance staff member;
  - (c) provides for necessary technical assistance, training, support, and auditing;
  - (d) describes the process for sharing student data between an education entity and another person;
  - (e) describes the education entity’s data expungement process, including how to respond to requests for expungement;
  - (f) describes the data breach response process; and
  - (g) is published annually and available on the education entity’s website.
- (7) “Education entity” means:
- (a) the state board;
  - (b) a local school board;
  - (c) a charter school governing board;
  - (d) a school district;
  - (e) a charter school; or
  - (f) the Utah Schools for the Deaf and the Blind.
- (8) “Expunge” means to seal or permanently delete data, as described in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under Section 53E-9-306.
- (9) “General audience application” means an Internet website, online service, online application, mobile application, or software program that:
- (a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and
  - (b) is not subject to a contract between an education entity and a third-party contractor.
- (10) “Local education agency” or “LEA” means:
- (a) a school district;
  - (b) a charter school; or
  - (c) the Utah Schools for the Deaf and the Blind.
- (11) “Metadata dictionary” means a record that:
- (a) defines and discloses all personally identifiable student data collected and shared by the education entity;
  - (b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:
    - (i) the purpose for sharing the data with the recipient;
    - (ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and
    - (iii) how sharing the data is permitted under federal or state law; and
  - (c) without disclosing personally identifiable student data, is displayed on the education entity’s website.
- (12) “Necessary student data” means data required by state statute or federal law to conduct the regular activities of an education entity, including:
- (a) name;
  - (b) date of birth;
  - (c) sex;
  - (d) parent contact information;
  - (e) custodial parent information;
  - (f) contact information;
  - (g) a student identification number;
  - (h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;

(i) courses taken and completed, credits earned, and other transcript information;

(j) course grades and grade point average;

(k) grade level and expected graduation date or graduation cohort;

(l) degree, diploma, credential attainment, and other school exit information;

(m) attendance and mobility;

(n) drop-out data;

(o) immunization record or an exception from an immunization record;

(p) race;

(q) ethnicity;

(r) tribal affiliation;

(s) remediation efforts;

(t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening described in Section 53G-9-404;

(u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;

(v) student injury information;

(w) a disciplinary record created and maintained as described in Section 53E-9-306;

(x) juvenile delinquency records;

(y) English language learner status; and

(z) child find and special education evaluation data related to initiation of an IEP.

(13) (a) "Optional student data" means student data that is not:

(i) necessary student data; or

(ii) student data that an education entity may not collect under Section 53E-9-305.

(b) "Optional student data" includes:

(i) information that is:

(A) related to an IEP or needed to provide special needs services; and

(B) not necessary student data;

(ii) biometric information; and

(iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

(14) "Parent" means:

(a) a student's parent;

(b) a student's legal guardian; or

(c) an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.

(15) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

(i) a student's first and last name;

(ii) the first and last name of a student's family member;

(iii) a student's or a student's family's home or physical address;

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

(16) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

(17) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

(18) "Student data manager" means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.

(19) (a) "Targeted advertising" means presenting advertisements to a student where the

advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.

(b) "Targeted advertising" does not include advertising to a student:

(i) at an online location based upon that student's current visit to that location; or

(ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

(20) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

(21) "Written consent" means written authorization to collect or share a student's student data, from:

(a) the student's parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

**Section 28. Section 53E-9-302 is amended to read:**

**53E-9-302. State student data protection governance.**

(1) (a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.

(b) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.

(2) The state board shall oversee the preparation and maintenance of:

(a) a statewide data governance plan; and

(b) a state-level metadata dictionary.

(3) As described in this Subsection (3), the state board shall establish advisory groups to oversee student data protection in the state and make recommendations to the state board regarding student data protection.

(a) The state board shall establish a student data policy advisory group:

(i) composed of members from:

(A) the Legislature;

(B) the state board and state board employees; and

(C) one or more LEAs;

(ii) to discuss and make recommendations to the state board regarding:

(A) enacted or proposed legislation; and

(B) state and local student data protection policies across the state;

(iii) that reviews and monitors the state student data governance plan; and

(iv) that performs other tasks related to student data protection as designated by the state board.

(b) The state board shall establish a student data governance advisory group:

(i) composed of the state student data officer and other state board employees; and

(ii) that performs duties related to state and local student data protection, including:

(A) overseeing data collection and usage by state board program offices; and

(B) preparing and maintaining the state board's student data governance plan under the direction of the student data policy advisory group.

(c) The state board shall establish a student data users advisory group:

(i) composed of members who use student data at the local level; and

(ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.

(4) (a) The state board shall designate a state student data officer.

(b) The state student data officer shall:

(i) act as the primary point of contact for state student data protection administration in assisting the state board to administer this part;

(ii) ensure compliance with student privacy laws throughout the public education system, including:

(A) providing training and support to applicable state board and LEA employees; and

(B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data collection notice;

(iii) investigate complaints of alleged violations of this part;

(iv) report violations of this part to:

(A) the state board;

(B) an applicable education entity; and

(C) the student data policy advisory group; and

(v) act as a state level student data manager.

(5) The state board shall designate:

(a) at least one support manager to assist the state student data officer; and

(b) a student data protection auditor to assist the state student data officer.

(6) The state board shall establish a research review process for a request for data for the purpose of research or evaluation.

**Section 29. Section 53E-9-304 is amended to read:**

**53E-9-304. Student data ownership and access -- Notification in case of significant data breach.**

(1) (a) A student owns the student's personally identifiable student data.

(b) An education entity shall allow the following individuals to access a student's student data that is maintained by the education entity:

(i) the student's parent;

(ii) the student; and

(iii) in accordance with the education entity's internal policy described in Section 53E-9-303 and in the absence of a parent, an individual acting as a parent to the student.

(2) (a) If a significant data breach occurs at an education entity, the education entity shall notify:

(i) the student, if the student is an adult student; or

(ii) the student's parent, if the student is not an adult student.

(b) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to define a significant data breach described in Subsection (2)(a).

**Section 30. Section 53E-9-306 is amended to read:**

**53E-9-306. Using and expunging student data -- Rulemaking -- Disciplinary records.**

(1) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules regarding using and expunging student data, including:

(a) a categorization of disciplinary records that includes the following levels of maintenance:

(i) one year;

(ii) three years; and

(iii) in accordance with Subsection (3), as determined by the education entity;

(b) the types of student data that may be expunged, including:

(i) medical records; and

(ii) behavioral test assessments;

(c) the types of student data that may not be expunged, including:

(i) grades;

(ii) transcripts;

(iii) a record of the student's enrollment; and

(iv) assessment information; and

(d) the timeline and process for a prior student or parent of a prior student to request that an education entity expunge all of the prior student's student data.

(2) In accordance with state board rule, an education entity may create and maintain a disciplinary record for a student.

(3) (a) As recognized in Section 53E-9-304, and to ensure maximum student data privacy, an education entity shall, in accordance with state board rule, expunge a student's student data that is stored by the education entity.

(b) An education entity shall retain and dispose of records in accordance with Section 63G-2-604 and state board rule.

**Section 31. Section 53E-9-307 is amended to read:**

**53E-9-307. Securing and cataloging student data.**

[The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:

(a) an education entity;

(b) the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4, for student data obtained under Section 53E-9-308; and

(c) a third-party contractor; and

(2) state requirements for an education entity's metadata dictionary.

**Section 32. Section 53E-10-703 is amended to read:**

**53E-10-703. ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.**

(1) The ULEAD director shall:

(a) (i) hold a doctorate degree in education or an equivalent degree; and

(ii) have demonstrated experience in research and dissemination of best practices in education; and

(b) (i) be a full-time employee; and

(ii) report to the state superintendent.

(2) The state superintendent shall:

- (a) evaluate the director's performance annually;
  - (b) report on the director's performance to the selection committee; and
  - (c) provide space for the director and the director's staff.
- (3) The director may hire staff, using only money specifically appropriated to ULEAD.
- (4) The director shall perform the following duties and functions:
- (a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;
  - (b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:
    - (i) sharing innovative and effective practices shown to improve student learning;
    - (ii) identifying experts in specific areas of practice; and
    - (iii) maintaining a research clearinghouse and directory of researchers; and
  - (c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.
- (5) The director shall:
- (a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);
  - (b) identify Utah LEAs, or schools outside the public school system, that are:
    - (i) innovative in specific areas of practice; and
    - (ii) more effective or efficient than comparable LEAs in improving student learning;
  - (c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;
  - (d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and
  - (e) (i) disseminate each innovative practice report to LEAs; and
    - (ii) publish innovative practice reports on the ULEAD website.
- (6) In an innovative practice report, a participating institution shall:
- (a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;
  - (b) identify through academically acceptable, evidence-based research methods the causes of the LEA's successful practice;

- (c) identify opportunities for LEAs to adopt or customize innovative or best practices;
  - (d) address limitations to successful replication or adaptation of the successful practice by other LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;
  - (e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;
  - (f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and
  - (g) include:
    - (i) an executive summary describing the innovative practice report; and
    - (ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.
- (7) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.
- (8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.
- (9) The director or a participating institution, to enable successful replication or adaption of successful practices, may recommend to:
- (a) the Legislature, amendments to state law; or
  - (b) the state board, revisions to state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or policy.
- (10) The director shall:
- (a) report on the activities of ULEAD annually to the state board; and
  - (b) provide reports or other information to the state board upon state board request.
- (11) The director shall:
- (a) prepare an annual report on ULEAD research and other activities;
  - (b) submit the report in accordance with Section 53E-1-201 and 53E-1-202;
  - (c) publish the annual report on the ULEAD website; and
  - (d) disseminate the report to LEAs through electronic channels.
- (12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices, featuring:
- (a) Utah education leaders; and
  - (b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

**Section 33. Section 53E-10-705 is amended to read:**

**53E-10-705. Participating institutions.**

(1) The director may arrange or collaborate with a participating institution:

(a) to conduct an innovative practice report or provide other research services, including research regarding barriers to adoption of practices studied by ULEAD;

(b) to assist an LEA to:

(i) facilitate communities of practice for replication or adaptation of best practices identified by ULEAD; and

(ii) advise teachers and school leaders on conducting their own research to improve education practices;

(c) to assist an LEA with an application to the state board for waiver from a state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with Section 53G-7-202 to allow replication or adaptation of best practices; or

(d) for any other purpose that is consistent with and advances the director's duties and functions.

(2) An agreement entered into by a participating institution with the state board or an LEA to perform ULEAD work shall:

(a) include provisions allowing and governing external research data sharing; and

(b) comply with state and federal law.

(3) The director shall support federal and private research funding requests by a participating institution for research that is in support of the director's duties and functions.

**Section 34. Section 53F-2-303 is amended to read:**

**53F-2-303. Foreign exchange student weighted pupil units.**

(1) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2) through (4).

(2) (a) Notwithstanding Section 53F-2-302, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(b) Subject to the limitation in Subsection (3), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(i) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(ii) sponsored by an agency approved by the district's local school board or charter school's governing board.

(3) (a) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2) shall be the lesser of:

(i) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(ii) 328 foreign exchange students.

(b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2).

(4) Notwithstanding Section 53F-2-601, weighted pupil units in the grades 1-12 basic program for foreign exchange students, as determined by Subsections (2) and (3), may not be included for the purposes of determining a school district's state guarantee money under Section 53F-2-601.

**Section 35. Section 53F-2-304 is amended to read:**

**53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.**

(1) As used in this section, "necessarily existent small schools funding balance" means the difference between:

(a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better

served by one school meeting the needs of secondary students in a designated geographical area.

(4) A one or two-year secondary school that has received necessarily existent small school money under this section prior to July 1, 2000, may continue to receive such money in subsequent years.

(5) The state board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(6) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using regression formulas adopted by the state board.

(b) The regression formulas establish the following maximum sizes for funding under the necessarily existent small school program:

- |   |     |
|---|-----|
| (i) an elementary school                | 160 |
| (ii) a one or two-year secondary school | 300 |
| (iii) a three-year secondary school     | 450 |
| (iv) a four-year secondary school       | 500 |
| (v) a six-year secondary school         | 600 |

(c) Schools with fewer than 10 students shall receive the same add-on weighted pupil units as schools with 10 students.

(d) The state board shall prepare and distribute an allocation table based on the regression formula to each school district.

(7) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

(8) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding an expense approved by the state board as described in Subsection 53G-6-305(3)(a).

(9) (a) Subject to Subsection (9)(b) and after a distribution made under Subsection (8), the state board may distribute a portion of necessarily existent small schools funding in accordance with a formula adopted by the state board that considers the tax effort of a local school board.

(b) The amount distributed in accordance with Subsection (9)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

(10) A local school board may use the money allocated under this section for maintenance and

operation of school programs or for other school purposes as approved by the state board.

**Section 36. Section 53F-2-305 is amended to read:**

**53F-2-305. Professional staff weighted pupil units.**

(1) Professional staff weighted pupil units are computed and distributed in accordance with the following schedule:

- (a) Professional Staff Cost Formula



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Years of Experience	Bachelor's Degree	Bachelor's +30 Qt.Hr.	Master's Degree	Master's Degree +45 Qt. Hr	Doctorate
1	1.00	1.05	1.10	1.15	1.20
2	1.05	1.10	1.15	1.20	1.25
3	1.10	1.15	1.20	1.25	1.30
4	1.15	1.20	1.25	1.30	1.35
5	1.20	1.25	1.30	1.35	1.40
6	1.25	1.30	1.35	1.40	1.45
7	1.30	1.35	1.40	1.45	1.50
8	1.35	1.40	1.45	1.50	1.55
9			1.50	1.55	1.60
10				1.60	1.65
11					1.70

(b) Multiply the number of full-time or equivalent professional personnel in each applicable experience category in Subsection (1)(a) by the applicable weighting factor.

(c) Divide the total of Subsection (1)(b) by the number of professional personnel included in Subsection (1)(b) and reduce the quotient by 1.00.

(d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed in accordance with Sections 53F-2-302 and 53F-2-304.

(2) The state board shall enact rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require a certain percentage of a school district's or charter school's professional staff to be certified in the area in which the staff teaches in order for the school district or charter school to receive full funding under the schedule.

(3) If an individual's teaching experience is a factor in negotiating a contract of employment to teach in the state's public schools, then the LEA governing board is encouraged to accept as credited experience all of the years the individual has taught in the state's public schools.

**Section 37. Section 53F-2-307 is amended to read:**

**53F-2-307. Weighted pupil units for programs for students with disabilities -- Local school board allocation.**

(1) The number of weighted pupil units for students with disabilities shall reflect the direct cost of programs for those students conducted in accordance with rules established by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Disability program money allocated to school districts or charter schools is restricted and shall be spent for the education of students with disabilities but may include expenditures for approved programs of services conducted for certified instructional personnel who have students with disabilities in their classes.

(3) The state board shall establish and strictly interpret definitions and provide standards for determining which students have disabilities and shall assist school districts and charter schools in determining the services that should be provided to students with disabilities.

(4) Each year the state board shall evaluate the standards and guidelines that establish the identifying criteria for disability classifications to assure strict compliance with those standards by the school districts and charter schools.

(5) (a) Money appropriated to the state board for add-on WPUs for students with disabilities enrolled in regular programs shall be allocated to school districts and charter schools as provided in this Subsection (5).

(b) The state board shall use a school district's or charter school's average number of special education add-on weighted pupil units determined by the previous five year's average daily membership data as a foundation for the special education add-on appropriation.

(c) A school district's or charter school's special education add-on WPUs for the current year may not be less than the foundation special education add-on WPUs.

(d) Growth WPUs shall be added to the prior year special education add-on WPUs, and growth WPUs shall be determined as follows:

(i) The special education student growth factor is calculated by comparing S-3 total special education ADM of two years previous to the current year to the S-3 total special education ADM three years previous to the current year, not to exceed the official October total school district growth factor from the prior year.

(ii) When calculating and applying the growth factor, a school district's S-3 total special education ADM for a given year is limited to 12.18% of the school district's S-3 total student ADM for the same year.

(iii) Growth ADMs are calculated by applying the growth factor to the S-3 total special education ADM of two years previous to the current year.

(iv) Growth ADMs for each school district or each charter school are multiplied by 1.53 weighted pupil units and added to the prior year special education add-on WPU to determine each school district's or each charter school's total allocation.

(6) If money appropriated under this chapter for programs for students with disabilities does not meet the costs of school districts and charter schools for those programs, each school district and each charter school shall first receive the amount generated for each student with a disability under the basic program.

**Section 38. Section 53F-2-309 is amended to read:**

**53F-2-309. Appropriation for intensive special education costs.**

(1) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing a distribution formula to allocate money appropriated to the state board for Special Education -- Intensive Services that allocate to an LEA:

(a) 50% of the appropriation based on the highest cost students with disabilities; and

(b) 50% of the appropriation based on the highest impact to an LEA due to high cost students with disabilities.

(2) The state board shall allocate money appropriated to the state board for Special Education -- Intensive Services in accordance with rules described in Subsection (1).

**Section 39. Section 53F-2-404 is amended to read:**

**53F-2-404. School LAND Trust Program distribution of funds.**

(1) (a) By appropriation the Legislature shall fund the School LAND Trust Program, established in Section 53G-7-1206, on or before July 31 of each fiscal year:

(i) from the Trust Distribution Account, created in Section 53F-9-201; and

(ii) except as provided in Subsection (1)(b), in the total amount of the quarterly deposits made to the Trust Distribution Account for the School LAND Trust Program during the prior fiscal year.

(b) The amount described in Subsection (1)(a)(ii) may not exceed an amount equal to 3% of the funds provided for the Minimum School Program, in accordance with this chapter, each fiscal year.

(c) Independently from the appropriation for the School LAND Trust Program described in Subsection (1)(a), the Legislature shall make an annual appropriation to the state board from the Trust Distribution Account, created in Section 53F-9-201, for the administration of the School LAND Trust Program.

(d) Any unused balance remaining from an amount appropriated under Subsection (1)(c) shall be deposited into the Trust Distribution Account.

(2) (a) The state board shall allocate the money referred to in Subsection (1)(a) annually as follows:

(i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1)(a);

(ii) charter schools shall receive funding equal to the product of:

(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1)(a); and

(iii) of the funds available for distribution under Subsection (1)(a) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.

(b) (i) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules specifying a formula to

distribute the amount allocated under Subsection (2)(a)(ii) to charter schools.

(ii) In making rules under Subsection (2)(b)(i), the state board shall:

(A) consult with the State Charter School Board; and

(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on projected enrollment, to be adjusted in future years based on actual enrollment.

(c) A school district shall distribute its allocation under Subsection (2)(a)(iii) to each school within the school district on an equal per student basis.

(d) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (2)(a)(iii).

**Section 40. Section 53F-2-405 is amended to read:**

**53F-2-405. Educator salary adjustments.**

(1) As used in this section, "educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) a license issued by the state board; and

(b) a position as a:

(i) classroom teacher;

(ii) speech pathologist;

(iii) librarian or media specialist;

(iv) preschool teacher;

(v) mentor teacher;

(vi) teacher specialist or teacher leader;

(vii) guidance counselor;

(viii) audiologist;

(ix) psychologist; or

(x) social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) Money appropriated to the state board for educator salary adjustments shall be distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment shall be the same for each full-time-equivalent educator position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator; and

(c) a salary adjustment may be awarded only to an educator who has received a satisfactory rating or above on the educator's most recent evaluation.

(5) The state board may make rules as necessary to administer this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

(i) retirement;

(ii) worker's compensation;

(iii) social security; and

(iv) Medicare.

(7) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the state board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

**Section 41. Section 53F-2-409 is amended to read:**

**53F-2-409. Concurrent enrollment funding.**

(1) The terms defined in Section 53E-10-301 apply to this section.

(2) The state board shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The state board shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken where:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the state board shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the State Board of Regents.

(c) From the money allocated under Subsection (3)(a)(ii), the state board shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the State Board of Regents.

(d) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The State Board of Regents shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) kindergarten through grade 12 student enrollment; and

(b) the value of the weighted pupil unit.

(5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

**Section 42. Section 53F-2-415 is amended to read:**

**53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.**

(1) As used in this section, "qualifying personnel" means a school counselor or other counselor, school psychologist or other psychologist, school social worker or other social worker, or school nurse who:

(a) is licensed; and

(b) collaborates with educators and a student's parent on:

(i) early identification and intervention of the student's academic and mental health needs; and

(ii) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide in a school targeted school-based mental health support, including clinical services and trauma-informed care, through employing or entering into contracts for services provided by qualifying personnel.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school culture, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3):

(a) based on the formula described in Subsection (2)(b); and

(b) in an amount of money that the LEA equally matches using local or unrestricted state money.

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to employ or enter into contracts for services provided by qualified personnel.

(6) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position, the LEA's reason for discontinuing the position; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to 2% of an appropriation under this section for costs related to the administration of the provisions of this section.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; or

(b) youth suicide prevention programs described in Section 53G-9-702.

**Section 43. Section 53F-2-416 is amended to read:**

**53F-2-416. Appropriation and distribution for the Teacher and Student Success Program.**

(1) The terms defined in Section 53G-7-1301 apply to this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money from the Teacher and Student Success Account described in Section 53F-9-306 to the state board for the Teacher and Student Success Program.

(3) Except as provided in Subsection (5)(a), the state board shall calculate an amount to distribute to an LEA that is the product of:

(a) the percentage of weighted pupil units in the LEA compared to the total number of weighted pupil units for all LEAs in the state; and

(b) the amount of the appropriation described in Subsection (2), less the amount calculated, in accordance with state board rule, for:

(i) an LEA that is in the LEA's first year of operation; and

(ii) the Utah Schools for the Deaf and the Blind.

(4) The state board shall distribute to an LEA an amount calculated for the LEA as described in Subsection (3) if the LEA governing board of the

LEA has submitted an LEA governing board student success framework as required by the program.

(5) In accordance with this section ~~and~~, Title 53G, Chapter 7, Part 13, Teacher and Student Success Program, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board:

(a) shall make rules to calculate an LEA distribution for:

(i) an LEA that is in the LEA's first year of operation; and

(ii) the Utah Schools for the Deaf and the Blind, taking into account all students who receive services from the Utah Schools for the Deaf and the Blind, regardless of whether a student is enrolled in another LEA; and

(b) may make rules to distribute funds as described in this section.

**Section 44. Section 53F-2-417 is amended to read:**

**53F-2-417. Rural school district transportation grants.**

(1) Subject to legislative appropriations and Subsection (2), the state board shall award a grant for a school district to provide:

(a) transportation to students who are not eligible for state-supported transportation under Section 53F-2-403;

(b) transportation for students to and from student activities and field trips; or

(c) replacement school buses.

(2) The state board may only award a grant described in Subsection (1) to a school district that:

(a) qualifies for transportation money under Section 53F-2-403;

(b) is located in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501;

(c) provides matching money, from the school district's board local levy described in Section 53F-8-302, in an amount equal to the grant the school district receives from the state board under this section; and

(d) dedicates the total grant and matching money to a transportation purpose described in Subsection (1).

(3) The state board shall determine the amount of a grant to award a school district based on the prior-year miles traveled for purposes described in Subsections (1)(a) and (b).

(4) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish, for a grant described in this section, procedures for:

(a) a school district to apply for a grant; and

(b) awarding a grant.

**Section 45. Section 53F-2-502 is amended to read:**

**53F-2-502. Dual language immersion.**

(1) As used in this section:

(a) "Dual language immersion" means an instructional setting in which a student receives a portion of instruction in English and a portion of instruction exclusively in a partner language.

(b) "Local education agency" or "LEA" means a school district or a charter school.

(c) "Participating LEA" means an LEA selected by the state board to receive a grant described in this section.

(d) "Partner language" means a language other than English in which instruction is provided in dual language immersion.

(2) The state board shall:

(a) establish a dual language immersion program;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish:

(i) a grant program for an LEA to receive funding for dual language immersion;

(ii) the required qualifications for an LEA to be a participating LEA;

(iii) subject to this section, requirements of a participating LEA;

(iv) a proficiency assessment for each partner language; and

(v) a progression of how a school in a participating LEA adds grade levels in which the school offers dual language immersion;

(c) subject to legislative appropriations:

(i) select participating LEAs; and

(ii) award to a participating LEA a grant to support dual language immersion in the LEA; and

(d) report to a legislative committee on the results of a proficiency assessment described in Subsection (2)(b)(iv) upon request.

(3) A participating LEA shall:

(a) establish in a school a full-day dual language immersion instructional model that provides at least 50% of instruction exclusively in a partner language;

(b) in accordance with the state board rules described in Subsection (2)(b), add grades in which dual language immersion is provided in a school; and

(c) annually administer to each student in grades 3 through 8 who participates in dual language immersion an assessment described in Subsection (2)(b)(iv).

(4) The state board shall:

(a) provide support to a participating LEA, including by:

(i) offering professional learning for dual language immersion educators;

(ii) developing curriculum related to dual language immersion; or

(iii) providing instructional support for a partner language;

(b) conduct a program evaluation of the dual language immersion program established under Subsection (2)(a); and

(c) on or before November 1, 2019, report to the Education Interim Committee and the Public Education Appropriations Subcommittee on the results of the program evaluation described in Subsection (4)(b).

(5) The state board may, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a third party to conduct the program evaluation described in Subsection (4)(b).

**Section 46. Section 53F-2-503 is amended to read:**

**53F-2-503. Early Literacy Program -- Literacy proficiency plan.**

(1) As used in this section:

(a) "Program" means the Early Literacy Program.

(b) "Program money" means:

(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The Early Literacy Program consists of program money and is created to supplement other school resources for early literacy.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the Early Literacy Program.

(4) (a) An LEA governing board of a school district or a charter school that serves students in any of grades kindergarten through grade 3 shall submit a plan to the state board for literacy proficiency improvement that incorporates the following components:

(i) core instruction in:

(A) phonological awareness;

(B) phonics;

(C) fluency;

(D) comprehension;

(E) vocabulary;

(F) oral language; and

(G) writing;

(ii) intervention strategies that are aligned to student needs;

(iii) professional development for classroom teachers, literacy coaches, and interventionists in kindergarten through grade 3;

(iv) assessments that support adjustments to core and intervention instruction;

(v) a growth goal for the school district or charter school that:

(A) is based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and

(B) includes a target of at least 60% of all students in grades 1 through 3 meeting the growth goal;

(vi) at least two goals that are specific to the school district or charter school that:

(A) are measurable;

(B) address current performance gaps in student literacy based on data; and

(C) include specific strategies for improving outcomes; and

(vii) if a school uses interactive literacy software, the use of interactive literacy software, including early interactive reading software described in Section 53F-4-203.

(b) An LEA governing board shall approve a plan described in Subsection (4)(a) in a public meeting before submitting the plan to the state board.

(c) The state board shall provide model plans that an LEA governing board may use, or an LEA governing board may develop the LEA governing board's own plan.

(d) A plan developed by an LEA governing board shall be approved by the state board.

(e) The state board shall develop uniform standards for acceptable growth goals that an LEA governing board adopts for a school district or charter school as described in this Subsection (4).

(5) (a) There are created within the Early Literacy Program three funding programs:

(i) the Base Level Program;

(ii) the Guarantee Program; and

(iii) the Low Income Students Program.

(b) The state board may use up to \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the state board for the Early Literacy Program and not used by the state board for computer-assisted instructional learning and assessments described in Subsection (5)(b) shall be allocated to the three funding programs as follows:

(a) 8% to the Base Level Program;

(b) 46% to the Guarantee Program; and

(c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the LEA governing board shall submit a plan described in Subsection (4) and shall receive approval of the plan from the state board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the charter school governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade 3; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade 3.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds may choose to first participate in the Guarantee Program or the Low Income Students Program.

(b) A school district shall fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The state board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the state board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the state board the information the state board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 multiplied by the school district's total WPUs and the revenue the local school board is required to allocate under

Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the elementary charter school's total WPUs.

(c) The state board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the state board for computer-assisted instructional learning and assessments.

(10) The state board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) An LEA governing board shall use program money for early literacy interventions and supports in kindergarten through grade 3 that have proven to significantly increase the percentage of students who are proficient in literacy, including:

(i) evidence-based intervention curriculum;

(ii) literacy assessments that identify student learning needs and monitor learning progress; or

(iii) focused literacy interventions that may include:

(A) the use of reading specialists or paraprofessionals;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) An LEA governing board may use program money for portable technology devices used to administer literacy assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) An LEA governing board shall annually submit a report to the state board accounting for the expenditure of program money in accordance with the LEA governing board's plan described in Subsection (4).

(b) If an LEA governing board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the state board for the



amount of program money improperly used, up to the amount of program money received from the state board.

(14) (a) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each LEA governing board to annually report progress in meeting goals described in Subsections (4)(a)(v) and (vi), including the strategies the school district or charter school uses to address the goals.

(ii) If a school district or charter school does not meet or exceed the school district's or charter school's goals described in Subsection (4)(a)(v) or (vi), the LEA governing board shall prepare a new plan that corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the state board before the LEA governing board receives an allocation for the next year.

(15) (a) The state board shall:

(i) develop strategies to provide support for a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi); and

(ii) provide increasing levels of support to a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi) for two consecutive years.

(b) (i) The state board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy.

(ii) The digital reporting platform shall include performance information for a school district or charter school on the goals described in Subsections (4)(a)(v) and (vi).

(16) The state board may use up to 3% of the funds appropriated by the Legislature to carry out the provisions of this section for administration of the program.

(17) The state board shall make an annual report in accordance with Section 53E-1-203 that:

(a) includes information on:

(i) student learning gains in early literacy for the past school year and the five-year trend;

(ii) the percentage of grade 3 students who are proficient in English language arts in the past school year and the five-year trend;

(iii) the progress of school districts and charter schools in meeting goals described in a plan described in Subsection (4)(a); and

(iv) the specific strategies or interventions used by school districts or charter schools that have significantly improved early grade literacy proficiency; and

(b) may include recommendations on how to increase the percentage of grade 3 students who are proficient in English language arts, including how to use a strategy or intervention described in Subsection (17)(a)(iv) to improve literacy proficiency for additional students.

(18) The report described in Subsection (17) shall include information provided through the digital reporting platform described in Subsection (15)(b).

**Section 47. Section 53F-2-506 is amended to read:**

**53F-2-506. Beverley Taylor Sorenson Elementary Arts Learning Program.**

(1) As used in this section:

(a) "Endowed chair" means a person who holds an endowed position or administrator of an endowed program for the purpose of arts and integrated arts instruction at an endowed university.

(b) "Endowed university" means an institution of higher education in the state that:

(i) awards elementary education degrees in arts instruction;

(ii) has received a major philanthropic donation for the purpose of arts and integrated arts instruction; and

(iii) has created an endowed position as a result of a donation described in Subsection (1)(b)(ii).

(c) "Integrated arts advocate" means a person who:

(i) advocates for arts and integrated arts instruction in the state; and

(ii) coordinates with an endowed chair pursuant to the agreement creating the endowed chair.

(2) The Legislature finds that a strategic placement of arts in elementary education can impact the critical thinking of students in other core subject areas, including mathematics, reading, and science.

(3) The Beverley Taylor Sorenson Elementary Arts Learning Program is created to enhance the social, emotional, academic, and arts learning of students in kindergarten through grade 6 by integrating arts teaching and learning into core subject areas and providing professional development for positions that support elementary arts and integrated arts education.

(4) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, and subject to Subsection (5), the state board shall, after consulting with endowed chairs and the integrated arts advocate and receiving their recommendations, administer a grant program to enable LEAs to:

(a) hire highly qualified arts specialists, art coordinators, and other positions that support arts education and arts integration;

(b) provide up to \$10,000 in one-time funds for each new school arts specialist described under

Subsection (4)(a) to purchase supplies and equipment; and

(c) engage in other activities that improve the quantity and quality of integrated arts education.

(5) (a) An LEA that receives a grant under Subsection (4) shall provide matching funds of no less than 20% of the grant amount, including no less than 20% of the grant amount for actual salary and benefit costs per full-time equivalent position funded under Subsection (4)(a).

(b) An LEA may not:

(i) include administrative, facility, or capital costs to provide the matching funds required under Subsection (5)(a); or

(ii) use funds from the Beverley Taylor Sorenson Elementary Arts Learning Program to supplant funds for existing programs.

(6) An LEA that receives a grant under this section shall partner with an endowed chair to provide professional development in integrated elementary arts education.

(7) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, the state board shall administer a grant program to fund activities within arts and the integrated arts programs at an endowed university in the college where the endowed chair resides to:

(a) provide high quality professional development in elementary integrated arts education in accordance with the professional learning standards in Section 53G-11-303 to LEAs that receive a grant under Subsection (4);

(b) design and conduct research on:

(i) elementary integrated arts education and instruction;

(ii) implementation and evaluation of the Beverley Taylor Sorenson Elementary Arts Learning Program; and

(iii) effectiveness of the professional development under Subsection (7)(a); and

(c) provide the public with integrated elementary arts education resources.

(8) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Beverley Taylor Sorenson Elementary Arts Learning Program.

**Section 48. Section 53F-2-508 is amended to read:**

**53F-2-508. Student Leadership Skills Development Program.**

(1) For purposes of this section, "program" means the Student Leadership Skills Development Program created in Subsection (2).

(2) There is created the Student Leadership Skills Development Program to develop student behaviors and skills that enhance a school's

learning environment and are vital for success in a career, including:

(a) communication skills;

(b) teamwork skills;

(c) interpersonal skills;

(d) initiative and self-motivation;

(e) goal setting skills;

(f) problem solving skills; and

(g) creativity.

(3) (a) The state board shall administer the program and award grants to elementary schools that apply for a grant on a competitive basis.

(b) The state board may award a grant of:

(i) up to \$10,000 per school for the first year a school participates in the program; and

(ii) up to \$20,000 per school for subsequent years a school participates in the program.

(c) (i) After awarding a grant to a school for a particular year, the state board may not change the grant amount awarded to the school for that year.

(ii) The state board may award a school a different amount in subsequent years.

(4) An elementary school may participate in the program established under this section in accordance with state board rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) In selecting elementary schools to participate in the program, the state board shall:

(a) require a school in the first year the school participates in the program to provide matching funds or an in-kind contribution of goods or services in an amount equal to the grant the school receives from the state board;

(b) require a school to participate in the program for two years; and

(c) give preference to Title I schools or schools in need of academic improvement.

(6) The state board shall make the following information related to the grants described in Subsection (3) publicly available on the state board's website:

(a) reimbursement procedures that clearly define how a school may spend grant money and how the state board will reimburse the school;

(b) the period of time a school is permitted to spend grant money;

(c) criteria for selecting a school to receive a grant; and

(d) a list of schools that receive a grant and the amount of each school's grant.

(7) A school that receives a grant described in Subsection (3) shall:

(a) (i) set school-wide goals for the school's student leadership skills development program; and

(ii) require each student to set personal goals; and

(b) provide the following to the state board after the first school year of implementation of the program:

(i) evidence that the grant money was used for the purpose of purchasing or developing the school's own student leadership skills development program; and

(ii) a report on the effectiveness and impact of the school's student leadership skills development program on student behavior and academic results as measured by:

(A) a reduction in truancy;

(B) assessments of academic achievement;

(C) a reduction in incidents of student misconduct or disciplinary actions; and

(D) the achievement of school-wide goals and students' personal goals.

(8) After participating in the program for two years, a school may not receive additional grant money in subsequent years if the school fails to demonstrate an improvement in student behavior and academic achievement as measured by the data reported under Subsection (7)(b).

**Section 49. Section 53F-2-510 is amended to read:**

**53F-2-510. Digital Teaching and Learning Grant Program.**

(1) As used in this section:

(a) "Advisory committee" means the committee established by the state board under Subsection [(9)] (7)(b).

(b) "Digital readiness assessment" means an assessment provided by the state board that:

(i) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(ii) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

(c) "High quality professional learning" means the professional learning standards described in Section 53G-11-303.

(d) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

(e) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the state board and the advisory committee.

(f) "Program" means the Digital Teaching and Learning Grant Program created and described in Subsections (6) through (11).

(g) "Utah Education and Telehealth Network" or "UETN" means the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) The state board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

(i) the state board;

(ii) UETN;

(iii) LEAs; and

(iv) the Governor's Education Excellence Commission.

(3) As funding allows, the state board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the state board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

(i) student and teacher devices;

(ii) Wi-Fi and wireless compatible technology;

(iii) curriculum software;

(iv) assessment solutions;

(v) technical support;

(vi) change management of LEAs;

(vii) high quality professional learning;

(viii) Internet delivery and capacity; and

(ix) security and privacy of users;

(c) a determination of the requirements for:

(i) statewide technology infrastructure; and

(ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system's current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the state board;

(i) proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

(4) UETN shall:

(a) in consultation with the state board, conduct an inventory of the state public education system's current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the state board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

(5) Beginning July 1, 2016, and ending July 1, 2021, each LEA, including each school within an LEA, shall annually complete a digital readiness assessment.

(6) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

(7) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules for the administration of the program, including rules requiring:

(i) an LEA plan to include measures to ensure that the LEA monitors and implements technology with best practices, including the recommended use for effectiveness;

(ii) an LEA plan to include robust goals for learning outcomes and appropriate measurements of goal achievement;

(iii) an LEA to demonstrate that the LEA plan can be fully funded by grant funds or a combination of grant and local funds; and

(iv) an LEA to report on funds from expenses previous to the implementation of the LEA plan that the LEA has redirected after implementation;

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the state board; and

(c) in accordance with this section, approve LEA plans and award grants.

(8) (a) The state board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection (9); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection (8)(b).

(b) The state board or its designee shall provide the training described in Subsection (8)(a)(ii).

(9) The state board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) a proposal to provide high quality professional learning for educators in the use of digital teaching and learning technology;

(c) a proposal for leadership training and management restructuring, if necessary, for successful implementation;

(d) clearly identified targets for improved student achievement, student learning, and college readiness through digital teaching and learning; and

(e) any other requirement established by the state board in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including an application process and metrics to analyze the quality of a proposed LEA plan.

(10) The state board or the state board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in realtime and for the LEA to use to create customized reports.

(11) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(12) (a) An LEA that receives a grant as part of the program shall:

(i) subject to Subsection (12)(b), complete an implementation assessment for each year that the LEA is expending grant money; and

(ii) (A) report the findings of the implementation assessment to the state board; and

(B) submit to the state board a plan to resolve issues raised in the implementation assessment.

(b) Each school within the LEA shall:

(i) complete an implementation assessment; and

(ii) submit a compilation report that meets the requirements described in Subsections (12)(a)(ii)(A) and (B).

(13) The state board or the state board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

(14) The state board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

(15) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall contract with an independent evaluator to:

(a) annually evaluate statewide direct and intermediate outcomes beginning the first year that grants are awarded, including baseline data collection for long-term outcomes;

(b) in the fourth year after a grant is awarded, and each year thereafter, evaluate statewide long-term outcomes; and

(c) report on the information described in Subsections (15)(a) and (b) to the state board.

(16) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the state board, the state board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection (16)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement

directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection (16)(b), the state board shall pay the balance due to UETN from the LEA's funds received under Title 53F, Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection (16)(b)(ii) or (16)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection (16)(b)(ii) or (16)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

**Section 50. Section 53F-2-511 is amended to read:**

**53F-2-511. Reimbursement Program for Early Graduation From Competency-Based Education.**

(1) As used in this section:

(a) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(b) "Eligible LEA" means an LEA that has demonstrated to the state board that the LEA or, for a school district, a school within the LEA, provides and facilitates competency-based education that:

(i) is based on the core principles described in Section 53F-5-502; and

(ii) meets other criteria established by the state board in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Eligible student" means an individual who:

(i) attended an eligible LEA and graduated by completing graduation requirements, as described in Section 53E-4-204, earlier than that individual's cohort completed graduation requirements because of the individual's participation in the eligible LEA's competency-based education;

(ii) no longer attends the eligible LEA; and

(iii) is not included in the LEA's average daily membership under this chapter.

(d) "Partial pupil" means if an eligible student attends less than a full year of membership, the number of days the student was in membership compared to a full membership year.

(e) "Program" means the Reimbursement Program for Early Graduation From Competency-Based Education established in this section.

(2) (a) There is established the Reimbursement Program for Early Graduation From Competency-Based Education.

(b) Subject to future budget constraints, the Legislature may annually appropriate money to the Reimbursement Program for Early Graduation From Competency-Based Education.

(3) An LEA may apply to the state board to receive a reimbursement, as described in Subsection (5), for an eligible student.

(4) The state board shall approve a reimbursement to an LEA after the LEA demonstrates:

(a) that the LEA is an eligible LEA; and

(b) that the individual for whom the eligible LEA requests reimbursement is an eligible student.

(5) (a) For each eligible student, the state board shall only reimburse an eligible LEA:

(i) if the eligible student attended the eligible LEA for less than a full school year before the eligible student's cohort graduated, up to the value of one weighted pupil unit pro rated based on the difference between:

(A) the number of days of partial pupil in average daily membership earned by the eligible LEA while the eligible student was still in attendance; and

(B) a full pupil in average daily membership; and

(ii) the value of one weighted pupil unit for each full school year the eligible student graduated ahead of the eligible student's cohort.

(b) The state board shall:

(i) use data from the prior year average daily membership to determine the number of eligible students; and

(ii) reimburse the eligible LEA in the current school year.

(6) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to administer the provisions of this section.

**Section 51. Section 53F-2-512 is amended to read:**

**53F-2-512. Appropriation for accommodation plans for students with Section 504 accommodations.**

(1) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish a reimbursement program that:

(a) distributes any money appropriated to the state board for Special Education -- Section 504 Accommodations;

(b) allows an LEA to apply for reimbursement of the costs of services that:

(i) an LEA renders to a student with a Section 504 accommodation plan; and

(ii) exceed 150% of the average cost of a general education student; and

(c) provides for a pro-rated reimbursement based on the amount of reimbursement applications received during a given fiscal year and the amount of money appropriated to the state board that fiscal year.

(2) Beginning with the 2018-19 school year, the state board shall allocate money appropriated to the state board for Special Education -- Section 504 Accommodations in accordance with the rules described in Subsection (1).

**Section 52. Section 53F-2-513 is amended to read:**

**53F-2-513. Effective Teachers in High Poverty Schools Incentive Program -- Salary bonus -- Evaluation.**

(1) As used in this section:

(a) "Cohort" means a group of students, defined by the year in which the group enters grade 1.

(b) "Eligible teacher" means a teacher who:

(i) is employed as a teacher in a high poverty school at the time the teacher is considered by the state board for a salary bonus; and

(ii) achieves a median growth percentile of 70 or higher:

(A) a full school year before the school year the eligible teacher is being considered by the state board for a salary bonus under this section, regardless of whether the teacher was employed the previous school year by a high poverty school or a different public school; and

(B) while teaching at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303.

(c) "High poverty school" means a public school:

(i) in which:

(A) more than 20% of the enrolled students are classified as children affected by intergenerational poverty; or

(B) 70% or more of the enrolled students qualify for free or reduced lunch; or

(ii) (A) that has previously met the criteria described in Subsection (1)(c)(i)(A) and for each school year since meeting that criteria at least 15% of the enrolled students at the public school have been classified as children affected by intergenerational poverty; or

(B) that has previously met the criteria described in Subsection (1)(c)(i)(B) and for each school year since meeting that criteria at least 60% of the enrolled students at the public school have qualified for free or reduced lunch.

(d) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(e) "Median growth percentile" means a number that describes the comparative effectiveness of a teacher in helping the teacher's students achieve growth in a year by identifying the median student growth percentile of all the students a teacher instructs.

(f) “Program” means the Effective Teachers in High Poverty Schools Incentive Program created in Subsection (2).

(g) “Student growth percentile” is a number that describes where a student ranks in comparison to the student’s cohort.

(2) (a) The Effective Teachers in High Poverty Schools Incentive Program is created to provide an annual salary bonus for an eligible teacher.

(b) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

- (i) the administration of the program;
- (ii) payment of a salary bonus; and
- (iii) application requirements.

(c) The state board shall make an annual salary bonus payment in a fiscal year that begins on July 1, 2017, and each fiscal year thereafter in which money is appropriated for the program.

(3) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to fund the program.

(b) Money appropriated for the program shall include money for the following employer-paid benefits:

- (i) social security; and
- (ii) Medicare.

(4) (a) (i) A charter school or school district school shall annually apply to the state board on behalf of an eligible teacher for an eligible teacher to receive an annual salary bonus each year that the teacher is an eligible teacher.

(ii) A teacher need not be an eligible teacher in consecutive years to receive the increased annual salary bonus described in Subsection (4)(b).

(b) The annual salary bonus for an eligible teacher is \$5,000.

(c) A public school that applies on behalf of an eligible teacher under Subsection (4)(a)(i) shall pay half of the salary bonus described in Subsection (4)(b) each year the eligible teacher is awarded the salary bonus.

(d) The state board shall award a salary bonus to an eligible teacher based on the order that an application from a public school on behalf of the eligible teacher is received.

(5) The state board shall:

(a) determine if a teacher is an eligible teacher; and

(b) verify, as needed, the determinations made under Subsection (5)(a) with the school district and school district administrators.

(6) The state board shall:

(a) distribute money from the program to school districts and charter schools in accordance with this section and state board rule; and

(b) include the employer-paid benefits described in Subsection (3)(b) in addition to the salary bonus amount described in Subsection (4)(b).

(7) Money received from the program shall be used by a school district or charter school to provide an annual salary bonus equal to the amount specified in Subsection (4)(b) for each eligible teacher and to pay affiliated employer-paid benefits described in Subsection (3)(b).

(8) (a) After the third year salary bonus payments are made, and each succeeding year, the state board shall evaluate the extent to which a salary bonus described in this section improves recruitment and retention of effective teachers in high poverty schools by at least:

- (i) surveying teachers who receive the salary bonus; and
- (ii) examining turnover rates of teachers who receive the salary bonus compared to teachers who do not receive the salary bonus.

(b) Each year that the state board conducts an evaluation described in Subsection (8)(a), the state board shall, in accordance with Section 68-3-14, submit a report on the results of the evaluation to the Education Interim Committee on or before November 30.

(9) A public school shall annually notify a teacher:

- (a) of the teacher’s median growth percentile; and
- (b) how the teacher’s median growth percentile is calculated.

(10) Notwithstanding this section, if the appropriation for the program is insufficient to cover the costs associated with salary bonuses, the state board may limit or reduce a salary bonus.

**Section 53. Section 53F-2-514 is amended to read:**

**53F-2-514. Job enhancements for mathematics, science, technology, and special education training.**

(1) As used in this section, “special education teacher” includes occupational therapist.

(2) The Public Education Job Enhancement Program is established to attract, train, and retain highly qualified:

(a) secondary teachers with expertise in mathematics, physics, chemistry, physical science, learning technology, or information technology;

(b) special education teachers; and

(c) teachers in grades 4 through 6 with mathematics endorsements.

(3) The program shall provide for the following:

(a) application by a school district superintendent or the principal of a school on behalf of a qualified teacher;

(b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be given to selected public school teachers on a competitive basis:

(i) whose applications are approved; and

(ii) who teach in the state's public education system for four years in the areas identified in Subsection (2);

(c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two installments, with an initial payment of up to \$10,000 at the beginning of the term and up to \$10,000 at the conclusion of the term;

(ii) repayment of a portion of the initial payment by the teacher if the teacher fails to complete two years of the four-year teaching term in the areas identified in Subsection (2) as provided by rule of the state board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, unless waived for good cause by the state board; and

(iii) nonpayment of the second installment if the teacher fails to complete the four-year teaching term; and

(d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the providing institution to certify adequate performance in obtaining the master's degree, endorsement, or graduate education in order for the teacher to maintain the scholarship; and

(ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails to complete the authorized classes or program or to teach in the state system of public education in the areas identified in Subsection (2) for four years after obtaining the master's degree, the endorsement, or graduate education.

(4) An individual teaching in the public schools under a letter of authorization may participate in the cash award program if:

(a) the individual has taught under the letter of authorization for at least one year in the areas referred to in Subsection (2); and

(b) the application made under Subsection (3)(a) is based in large part upon the individual receiving a superior evaluation as a classroom teacher.

(5) (a) The program may provide for the expenditure of up to \$1,000,000 of available money, if at least an equal amount of matching money becomes available, to provide professional development training to superintendents, administrators, and principals in the effective use of technology in public schools.

(b) An award granted under this Subsection (5) shall be made in accordance with criteria developed and adopted by the state board in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may be expended, regardless of the matching money being available.

**Section 54. Section 53F-2-520 is amended to read:**

**53F-2-520. Rural school transportation reimbursement.**

(1) As used in this section:

(a) "Eligible LEA" means a school district or a charter school:

(i) that is located in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501; and

(ii) in which at least 65% of the students enrolled in the school district or charter school qualify for free or reduced price lunch.

(b) "Eligible school" means a school:

(i) in an eligible LEA; and

(ii) that the eligible LEA has provided transportation to and from for a regular school day for students for at least five years.

(c) "LEA governing board" means:

(i) the local school board of a school district that is an eligible LEA; or

(ii) the charter school governing board of a charter school that is an eligible LEA.

(2) An LEA governing board may annually submit a request to the state board to receive reimbursement for an expense that:

(a) the LEA governing board incurs transporting a student to or from an eligible school for the regular school day; and

(b) the LEA governing board does not pay using state funding for pupil transportation described in Section 53F-2-402 or 53F-2-403.

(3) (a) Subject to legislative appropriations, and except as provided in Subsection (3)(b), the state board shall reimburse an LEA governing board for an expense included in a request described in Subsection (2).

(b) If the legislative appropriation for this section is insufficient to fund an expense in a request received under Subsection (2), the state board may reduce an LEA governing board's reimbursement in accordance with the rules described in Subsection (4).

(4) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) requirements for information an LEA governing board shall include in a reimbursement request described in Subsection (2);

(b) a deadline by which an LEA governing board shall submit a request described in Subsection (2); and

(c) a formula for reducing an LEA governing board's allocation under Subsection (3).



(5) Nothing in this section affects a school district's allocation for pupil transportation under Sections 53F-2-402 and 53F-2-403.

**Section 55. Section 53F-4-205 is amended to read:**

**53F-4-205. Kindergarten supplemental enrichment program.**

(1) As used in this section:

(a) "Eligible school" means a charter or school district school in which:

(i) at least 10% of the students experience intergenerational poverty; or

(ii) 50% of students were eligible to receive free or reduced lunch in the previous school year.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(c) "Kindergarten supplemental enrichment program" means a program to improve the academic competency of kindergarten students that:

(i) meets the criteria described in Subsection (4);

(ii) receives funding from a grant program described in Subsection (3); and

(iii) is administered by an eligible school.

(2) (a) In accordance with this section, the state board shall distribute funds appropriated under this section to support kindergarten supplemental enrichment programs, giving priority first to awarding funds to an eligible school with at least 10% of the students experiencing intergenerational poverty and second priority to an eligible school in which 50% of students were eligible to receive free or reduced lunch in the previous school year.

(b) The state board shall develop kindergarten entry and exit assessments for use by a kindergarten supplemental enrichment program.

(3) (a) The state board shall administer a qualifying grant program as described in this Subsection (3) to distribute funds described in Subsection (2)(a) to an eligible school:

(i) that applies for a grant;

(ii) that offers a kindergarten supplemental enrichment program that meets the requirements described in Subsection (4);

(iii) that has an overall need for a kindergarten supplemental enrichment program, based on the results of the eligible school's kindergarten entry and exit assessments described in Subsection (4)(b)(ii);

(iv) if the eligible school has previously established a kindergarten supplemental enrichment program under this section, that shows success of the eligible school's kindergarten supplemental enrichment program, based on the results of the eligible school's kindergarten entry and exit assessments described in Subsection (4)(b)(ii); and

(v) that proposes a kindergarten supplemental enrichment program that addresses the particular needs of students at risk of experiencing intergenerational poverty.

(b) An eligible school shall include in a grant application a letter from the principal of the eligible school certifying that the eligible school's proposed kindergarten supplemental enrichment program will meet the needs of either children in intergenerational poverty or children who are eligible to receive free or reduced lunch as appropriate for the eligible school.

(4) An eligible school that receives a grant as described in Subsection (3) shall:

(a) use the grant money to offer a kindergarten supplemental enrichment program to:

(i) target kindergarten students at risk for not meeting grade 3 core standards for Utah public schools, established by the state board under Section 53E-4-202, by the end of each student's grade 3 year;

(ii) use an evidence-based early intervention model;

(iii) focus on academically improving age-appropriate literacy and numeracy skills;

(iv) emphasize the use of live instruction;

(v) administer the kindergarten entry and exit assessments described in Subsection (2)(b); and

(vi) deliver the kindergarten supplemental enrichment program through additional hours or other means; and

(b) report to the state board annually regarding:

(i) how the eligible school used grant money received under Subsection (3);

(ii) the results of the eligible school's kindergarten entry and exit assessments for the prior year;

(iii) with assistance from state board employees, the number of students served, including the number of students who are eligible for free or reduced lunch; and

(iv) with assistance from state board employees, student performance outcomes achieved by the eligible school's kindergarten supplemental enrichment program, disaggregated by economic and ethnic subgroups.

(5) An eligible school that receives a grant as described in Subsection (3) may not receive funds appropriated under Section 53F-2-507.

(6) A parent may decline participation of the parent's kindergarten student in an eligible school's kindergarten supplemental enrichment program.

(7) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish reporting procedures and administer this section.

**Section 56. Section 53F-4-304 is amended to read:**

**53F-4-304. Scholarship payments.**

(1) (a) The state board shall award scholarships subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the state board from the General Fund to make scholarship payments.

(c) The Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in preschool through grade 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in preschool through grade 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e) (i) If money is not available to pay for all scholarships requested, the state board shall allocate scholarships on a random basis except that the state board shall give preference to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, the state board may not award new scholarships during that school year and the state board shall prorate money available for scholarships among the eligible students who received scholarships in the previous year.

(2) Except as provided in Subsection (4), the state board shall award full-year scholarships in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) If a student leaves a private school before the end of a fiscal quarter:

(a) the private school is only entitled to the amount of scholarship equivalent to the number of days that the student attended the private school; and

(b) the private school shall remit a prorated amount of the scholarship to the state board in accordance with the procedures described in rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) For the amount of funds remitted under Subsection (4)(b), the state board shall:

(a) make the amount available to the student to enroll immediately in another qualifying private school; or

(b) refund the amount back to the Carson Smith Scholarship Program account to be available to support the costs of another scholarship.

(6) (a) The state board shall make an additional allocation on a random basis before June 30 each year only:

(i) if there are sufficient remaining funds in the program; and

(ii) for scholarships for students enrolled in a full-day preschool program.

(b) If the state board awards a scholarship under Subsection (6)(a), the scholarship amount or supplement may not exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.0; or

(ii) the private school tuition and fees.

(c) The state board shall, when preparing annual growth projection numbers for the Legislature, include the annual number of applications for additional allocations described in Subsection (6)(a).

(7) (a) The scholarship amount for a student who receives a waiver under Subsection 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b) (i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten or part-day preschool program, a

full-year scholarship is equal to the amount specified in Subsection (3).

(8) (a) Except as provided in Subsection (8)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the state board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(9) A parent of a scholarship student shall notify the state board if the student does not have continuing enrollment and attendance at an eligible private school.

(10) Before scholarship payments are made, the state board shall cross-check enrollment lists of scholarship students, LEAs, and youth in custody to ensure that scholarship payments are not erroneously made.

**Section 57. Section 53F-4-305 is amended to read:**

**53F-4-305. State board to make rules.**

[The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules consistent with this part establishing:

(1) the eligibility of students to participate in the scholarship program;

(2) the application process for the scholarship program; and

(3) payment procedures to eligible private schools.

**Section 58. Section 53F-4-514 is amended to read:**

**53F-4-514. State board -- Rulemaking.**

The state board shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(1) establish a course credit acknowledgement form and procedures for completing and submitting to the state board a course credit acknowledgement; and

(2) establish procedures for the administration of a statewide assessment to a student enrolled in an online course.

**Section 59. Section 53F-5-201 is amended to read:**

**53F-5-201. Grants for online delivery of statewide assessments.**

(1) As used in this section:

(a) "Adaptive tests" means tests administered during the school year using an online adaptive test system.

(b) "Core standards for Utah public schools" means the standards established by the state board as described in Section 53E-4-202.

(c) "Statewide assessment" means the same as that term is defined in Section 53E-4-301.

(d) "Summative tests" means tests administered near the end of a course to assess overall achievement of course goals.

(e) "Uniform online summative test system" means a single system for the online delivery of summative tests required as statewide assessments that:

(i) is coordinated by the state board;

(ii) ensures the reliability and security of statewide assessments; and

(iii) is selected through collaboration between the state board and school district representatives with expertise in technology, assessment, and administration.

(2) The state board may award grants to school districts and charter schools to implement:

(a) a uniform online summative test system to enable school staff and parents of students to review statewide assessment scores by the end of the school year; or

(b) an online adaptive test system to enable parents of students and school staff to measure and monitor a student's academic progress during a school year.

(3) (a) Grant money may be used to pay for any of the following, provided it is directly related to implementing a uniform online summative test system, an online adaptive test system, or both:

(i) computer equipment and peripherals, including electronic data capture devices designed for electronic test administration and scoring;

(ii) software;

(iii) networking equipment;

(iv) upgrades of existing equipment or software;

(v) upgrades of existing physical plant facilities;

(vi) personnel to provide technical support or coordination and management; and

(vii) teacher professional development.

(b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the online delivery of summative tests or adaptive tests required as statewide assessments, may be used for other purposes.

(4) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) establishing procedures for applying for and awarding grants;

(b) specifying how grant money is allocated among school districts and charter schools;

(c) requiring reporting of grant money expenditures and evidence showing that the grant money has been used to implement a uniform online summative test system, an online adaptive test system, or both;

(d) establishing technology standards for an online adaptive testing system;

(e) requiring a school district or charter school that receives a grant under this section to implement, in compliance with Title 53E, Chapter 9, Student Privacy and Data Protection, an online adaptive test system by the 2014-15 school year that:

(i) meets the technology standards established under Subsection (4)(d); and

(ii) is aligned with the core standards for Utah public schools;

(f) requiring a school district or charter school to provide matching funds to implement a uniform online summative test system, an online adaptive test system, or both in an amount that is greater than or equal to the amount of a grant received under this section; and

(g) ensuring that student identifiable data is not released to any person, except as provided by Title 53E, Chapter 9, Student Privacy and Data Protection, and rules of the state board adopted under the authority of those parts.

(5) If a school district or charter school uses grant money for purposes other than those stated in Subsection (3), the school district or charter school is liable for reimbursing the state board in the amount of the grant money improperly used.

(6) A school district or charter school may not use federal funds to provide the matching funds required to receive a grant under this section.

(7) A school district may not impose a tax rate above the certified tax rate for the purpose of generating revenue to provide matching funds for a grant under this section.

**Section 60. Section 53F-5-202 is amended to read:**

**53F-5-202. National Board certification reimbursement.**

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

(b) As used in this section, "eligible educator" means an educator who is employed as an educator by an LEA.

(2) (a) Subject to legislative appropriations and Subsection (2)(b), the state board shall reimburse an eligible educator for a cost incurred by the

eligible educator to attain or renew a National Board certification.

(b) The state board may only issue a reimbursement under Subsection (2)(a) for:

(i) a National Board certification attained or renewed after July 1, 2016, and before July 1, 2019; or

(ii) a cost incurred by an eligible teacher to attain or renew a National Board certification after July 1, 2016, and before July 1, 2019.

(3) Subject to legislative appropriations, and in accordance with this section, beginning July 1, 2019, the state board may pay up to the total cost:

(a) for an eligible educator who does not have a National Board certification to pursue a National Board certification; or

(b) for an eligible educator who has a National Board certification, to renew the National Board certification.

(4) An eligible educator who does not have a National Board certification and intends for the state board to pay for the eligible educator to pursue a National Board certification shall:

(a) submit to the state board:

(i) an application;

(ii) a letter of recommendation from the principal of the eligible educator's school; and

(iii) a plan for completing the requirements for a National Board certification within three years of the state board approving the eligible educator's application; and

(b) pay a registration fee directly to the organization that administers National Board certification.

(5) An eligible educator who intends for the state board to pay to renew the eligible educator's National Board certification shall submit an application to the board.

(6) The state board may not:

(a) pay for an eligible educator to attempt to earn National Board certification over a period of longer than three years; or

(b) pay for an individual to attempt National Board certification or a component of National Board certification more than once.

(7) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying procedures and timelines for:

(a) reimbursing costs under Subsection (2); and

(b) paying costs for an eligible educator to pursue or renew a National Board certification under Subsection (3).

**Section 61. Section 53F-5-204 is amended to read:**

**53F-5-204. Initiative to strengthen college and career readiness.**

- (1) As used in this section:
- (a) “College and career counseling” means:
- (i) nurturing college and career aspirations;
- (ii) assisting students in planning an academic program that connects to college and career goals;
- (iii) providing early and ongoing exposure to information necessary to make informed decisions when selecting a college and career;
- (iv) promoting participation in college and career assessments;
- (v) providing financial aid information; and
- (vi) increasing understanding about college admission processes.
- (b) “LEA” or “local education agency” means a school district or charter school.
- (2) There is created the Strengthening College and Career Readiness Program, a grant program for LEAs, to improve students’ college and career readiness through enhancing the skill level of school counselors to provide college and career counseling.
- (3) The state board shall:
- (a) on or before August 1, 2015, collaborate with the State Board of Regents, and business, community, and education stakeholders to develop a certificate for school counselors that:
- (i) certifies that a school counselor is highly skilled at providing college and career counseling; and
- (ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as defined in rules established by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (b) subject to legislative appropriations, award grants to LEAs, on a competitive basis, for payment of course fees for courses required to earn the certificate developed by the state board under Subsection (3)(a); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:
- (i) procedures for applying for and awarding grants under this section;
- (ii) criteria for awarding grants; and
- (iii) reporting requirements for grantees.
- (4) An LEA that receives a grant under this section shall use the grant for payment of course fees for courses required to attain the certificate as determined by the state board under Subsection (3)(a).

**Section 62. Section 53F-5-205 is amended to read:**

**53F-5-205. Paraeducator to Teacher Scholarship Program -- Grants for math teacher training programs.**

- (1) (a) The terms defined in Section 53E-6-102 apply to this section.
- (b) As used in this section, “paraeducator” means a school employee who:
- (i) delivers instruction under the direct supervision of a teacher; and
- (ii) works in an area where there is a shortage of qualified teachers, such as special education, Title I, ESL, reading remediation, math, or science.
- (2) The Paraeducator to Teacher Scholarship Program is created to award scholarships to paraeducators for education and training to become licensed teachers.
- (3) The state board shall use money appropriated for the Paraeducator to Teacher Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by school districts and charter schools who are pursuing an associate’s degree or bachelor’s degree program to become a licensed teacher.
- (4) A paraeducator is eligible to receive a scholarship if:
- (a) the paraeducator is employed by a school district or charter school;
- (b) is admitted to, or has made an application to, an associate’s degree program or bachelor’s degree program that will prepare the paraeducator for teacher licensure; and
- (c) the principal at the school where the paraeducator is employed has nominated the paraeducator for a scholarship.
- (5) (a) The state board shall establish a committee to select scholarship recipients from nominations submitted by school principals.
- (b) The committee shall include representatives of the state board, State Board of Regents, and the general public, excluding school district and charter school employees.
- (c) A member may not receive compensation or benefits for the member’s service, but may receive per diem and travel expenses in accordance with:
- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (d) The committee shall select scholarship recipients based on the following criteria:
- (i) test scores, grades, or other evidence demonstrating the applicant’s ability to successfully complete a teacher education program; and
- (ii) the applicant’s record of success as a paraeducator.

(6) The maximum scholarship amount is \$5,000.

(7) Scholarship money may only be used to pay for tuition costs:

(a) of:

(i) an associate's degree program that fulfills credit requirements for the first two years of a bachelor's degree program leading to teacher licensure; or

(ii) the first two years of a bachelor's degree program leading to teacher licensure; and

(b) at a higher education institution:

(i) located in Utah; and

(ii) accredited by the Northwest Commission on Colleges and Universities.

(8) A scholarship recipient must be continuously employed as a paraeducator by a school district or charter school while pursuing a degree using scholarship money.

(9) The state board shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Paraeducator to Teacher Scholarship Program, including rules establishing:

(a) scholarship application procedures;

(b) the number of, and qualifications for, committee members who select scholarship recipients; and

(c) procedures for distributing scholarship money.

(10) If the state obtains matching funds of equal sums from private contributors, the state board may award grants to institutions of higher education or nonprofit educational organizations for programs that provide:

(a) mentoring and training leading to a secondary education license with a certificate in mathematics for an individual who:

(i) is not a teacher in a public or private school;

(ii) does not have a teaching license;

(iii) has a bachelor's degree or higher; and

(iv) demonstrates a high level of mathematics competency by:

(A) successfully completing substantial course work in mathematics; and

(B) passing a mathematics content exam; or

(b) a stipend, professional development, and leadership opportunities to an experienced mathematics teacher who demonstrates high content knowledge and exemplary teaching and leadership skills to assist the teacher in becoming a teacher leader.

(11) (a) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, that establish criteria for awarding grants under this section.

(b) In awarding grants, the state board shall consider the amount or percent of matching funds provided by the grant recipient.

**Section 63. Section 53F-5-209 is amended to read:**

**53F-5-209. Grants for school-based mental health supports.**

(1) As used in this section:

(a) "Elementary school" means a school that includes any one or all of grades kindergarten through grade 6.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(c) "Qualifying personnel" means a school counselor or school social worker who:

(i) is licensed by the state board; and

(ii) collaborates with educators and a student's family or guardian on:

(A) early identification and intervention of a student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for a student's academic achievement.

(2) Subject to legislative appropriations and Subsection (3), the state board shall award a grant to an LEA to provide targeted school-based mental health support in an elementary school, including trauma-informed care, through employment of qualifying personnel.

(3) In awarding a grant under this section, the state board shall give:

(a) first priority to an LEA that proposes to target funds to one or more elementary schools with a high percentage of students exhibiting risk factors for childhood trauma; and

(b) second priority to an LEA that proposes to target funds to one or more elementary schools with a high percentage of students experiencing intergenerational poverty.

(4) To qualify for a grant, an LEA shall:

(a) submit an application to the state board that includes:

(i) measurable goals on improving student safety, student engagement, school culture, and academic achievement; and

(ii) how the LEA intends to meet goals submitted under Subsection (4)(a)(i) through the use of the grant funds; and

(b) provide local funds to match grant funds received under this section in an amount equal to one-half of the amount of the grant funds.

(5) An LEA may not replace federal, state, or local funds previously allocated to employ qualified

personnel with funds distributed under this section.

(6) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules specifying:

(a) procedures for applying for and awarding grants under this section, including:

(i) a definition of risk factors for childhood trauma;

(ii) the duration of a grant; and

(iii) a schedule for submission of matching grant funds; and

(b) annual reporting requirements for grantees in accordance with Subsection (7).

(7) An LEA that receives a grant under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (4)(a)(i); and

(b) if the LEA decides to discontinue the qualifying personnel position, the LEA's reason for discontinuing the position.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs educators on the impact of trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

**Section 64. Section 53F-5-210 is amended to read:**

**53F-5-210. Educational Improvement Opportunities Outside of the Regular School Day Grant Program.**

(1) As used in this section:

(a) "Applicant" means an LEA, private provider, nonprofit provider, or municipality that provides an existing program and applies for a grant under the provisions of this section.

(b) "Existing program" means a currently funded and operating program, as described in Subsections 53E-3-508(1)(a) and (b).

(c) "Grant program" means the Educational Improvement Opportunities Outside of the Regular School Day Grant Program created in Subsection (2).

(d) "Grantor" means:

(i) for an LEA that receives a grant under this section, the state board; or

(ii) for a private provider, nonprofit provider, or municipality that receives a grant under this section, the Department of Workforce Services.

(e) "Local education agency" or "LEA" means a school district or charter school.

(2) There is created the Educational Improvement Opportunities Outside of the Regular

School Day Grant Program to provide grant funds for an existing program to improve and develop the existing program in accordance with the high quality standards described in Section 53E-3-508.

(3) Subject to legislative appropriation and in accordance with Subsection (7):

(a) the state board shall:

(i) solicit LEA applications to receive a grant under this section; and

(ii) award a grant based on the criteria described in Subsection (5); and

(b) the Department of Workforce Services shall:

(i) solicit private provider, nonprofit provider, or municipality applications to receive a grant under this section; and

(ii) award a grant based on the criteria described in Subsection (5).

(4) To receive a grant under this section, an applicant shall submit a proposal to the grantor describing:

(a) how the applicant proposes to develop and improve the existing program to meet the standards described in Section 53E-3-508;

(b) information necessary for the state board to determine the impact of the applicant's program on the academic performance of participating students;

(c) the total number of students the applicant proposes to serve through the existing program;

(d) the estimated percentage of the students described in Subsection (4)(c) who qualify for free or reduced lunch; and

(e) the estimated cost of the applicant's existing program, per student.

(5) In awarding a grant under Subsection (3), the grantor shall consider:

(a) how an applicant's existing program proposes to meet the standards described in Section 53E-3-508; and

(b) the percentage of students in that program who qualify for free and reduced lunch.

(6) An applicant that receives a grant under this section shall:

(a) use the grant to improve an existing program in accordance with the standards described in Section 53E-3-508; and

(b) annually report to the grantor:

(i) the number of students served by the existing program;

(ii) the academic outcomes that the program is expected to have on participating students;

(iii) program attendance rates of participating students; and

(iv) other information required by the grantor.

(7) (a) To receive a distribution of grant money under this section, an applicant shall identify and certify the availability of private matching funds in the amount of the grant to be distributed to the applicant.

(b) Neither the state board nor the Department of Workforce Services shall be expected to seek private matching funds for this grant program.

(8) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to administer this section that include:

(a) specific criteria to determine academic performance;

(b) application and reporting procedures; and

(c) criteria for an existing program to qualify for a grant under this section.

(9) The Department of Workforce Services shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the grant program as described in Subsection (3)(b).

(10) In accordance with 34 C.F.R. Sec. 99.35, the state board shall designate the Department of Workforce Services as an authorized representative for the purpose of sharing student data and evaluating and reporting the impact and effectiveness of the grant program.

(11) The state board and the Department of Workforce Services may utilize up to 10% of the funds appropriated for administrative costs associated with the grant program and the report described in Subsection (12).

(12) The state board shall report to the Education Interim Committee before November 30, 2019, regarding:

(a) the grant program's effect on the quality of existing programs that participate in the grant program; and

(b) the impact of the existing programs on the academic performance of participating students.

**Section 65. Section 53F-5-212 is amended to read:**

**53F-5-212. Grants for additional educators for high-need schools.**

(1) As used in this section:

(a) "Educator" means an individual who holds a professional educator license described in Section 53E-6-201.

(b) "First-year educator" means an educator who is:

(i) a classroom teacher; and

(ii) in the educator's first year of teaching.

(c) "High-need school" means an elementary school in an LEA that qualifies for a grant under

this section based on the criteria established by the state board under Subsection (5)(a)(ii).

(d) "Local education agency" or "LEA" means a school district or charter school.

(e) "Title I school" means a school that receives funds under Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(2) Subject to legislative appropriations, and in accordance with this section, the state board shall award a grant to an LEA to fund the salary and benefits for an additional first-year educator to teach in a high-need school.

(3) The state board shall:

(a) solicit proposals from LEAs to receive a grant under this section; and

(b) award grants to LEAs on a competitive basis based on the LEA applications described in Subsection (4)(a).

(4) To receive a grant under this section, an LEA shall:

(a) submit an application to the state board that:

(i) lists the school or schools for which the LEA intends to use a grant;

(ii) describes how each school for which the LEA intends to use a grant meets the criteria for being a high-need school; and

(iii) includes any other information required by the board under the rules described in Subsection (5); and

(b) provide matching funds in an amount equal to the grant received by the LEA under this section.

(5) (a) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules specifying:

(i) the procedure for an LEA to apply for a grant under this section, including application requirements; and

(ii) the criteria for determining if an elementary school is a high-need school.

(b) In establishing the criteria described in Subsection (5)(a)(ii), the state board shall consider the following factors:

(i) Title I school status;

(ii) low school performance, as indicated by the school accountability system described in Title 53E, Chapter 5, Part 2, School Accountability System;

(iii) a high percentage of students enrolled in the school who are either experiencing or at risk of experiencing intergenerational poverty;

(iv) a high ratio of students to educators in the school;

(v) higher than average educator turnover in the school;

(vi) a high percentage of students enrolled in the school who are experiencing homelessness; and



(vii) other factors determined by the state board.

(6) An LEA that receives a grant under this section shall:

(a) (i) use the grant to fund a portion of the cost of the salary and benefits for an additional first-year educator who teaches in a high-need school; and

(ii) maintain a class size of fewer than 20 students for a first-year educator whose salary and benefits are funded by the grant; and

(b) annually submit a report to the state board describing:

(i) how the LEA used the grant; and

(ii) whether the grant was effective in maintaining a smaller class size for the first-year educator whose salary and benefits were funded by the grant.

**Section 66. Section 53F-5-406 is amended to read:**

**53F-5-406. Rules.**

[The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to administer the Partnerships for Student Success Grant Program in accordance with this part.

**Section 67. Section 53F-5-502 is amended to read:**

**53F-5-502. Competency-Based Education Grants Program -- State board duties -- Review committee -- Technical assistance training.**

(1) There is created the Competency-Based Education Grants Program consisting of the grants created in this part to improve educational outcomes in public schools by advancing student mastery of concepts and skills through the following core principles:

(a) student advancement upon mastery of a concept or skill;

(b) competencies that include explicit, measurable, and transferable learning objectives that empower a student;

(c) assessment that is meaningful and provides a positive learning experience for a student;

(d) timely, differentiated support based on a student's individual learning needs; and

(e) learning outcomes that emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions.

(2) The grant program shall incentivize an LEA to establish competency-based education within the LEA through the use of:

(a) personalized learning;

(b) blended learning;

(c) extended learning;

(d) educator professional learning in competency-based education; or

(e) any other method that emphasizes the core principles described in Subsection (1).

(3) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) for the administration of the grant program and awarding of grants; and

(ii) to define outcome-based measures appropriate to the type of grant for an LEA that is awarded a grant under this part to use to measure the performance of the LEA's plan or program;

(b) establish a grant application process;

(c) in accordance with Subsection (4), establish a review committee to make recommendations to the state board for:

(i) metrics to analyze the quality of a grant application; and

(ii) approval of a grant application; and

(d) with input from the review committee, adopt metrics to analyze the quality of a grant application.

(4) (a) The review committee shall consist of STEM and blended learning experts, current and former school administrators, current and former teachers, and at least one former school district superintendent, in addition to other staff designated by the state board.

(b) The review committee shall:

(i) review a grant application submitted by an LEA;

(ii) make recommendations to the LEA to modify the application, if necessary; and

(iii) make recommendations to the state board regarding the final disposition of an application.

(5) (a) The state board shall provide technical assistance training to assist an LEA with a grant application under this part.

(b) An LEA may not apply for a grant under this part unless:

(i) a representative of the LEA attends the technical assistance training before the LEA submits a grant application; and

(ii) the representative is a superintendent, principal, or a person in a leadership position within the LEA.

(c) The technical assistance training shall include:

(i) instructions on completing a grant application, including grant application requirements;

(ii) information on the scoring metrics used to review a grant application; and

(iii) information on competency-based education.

(6) The state board may use up to 5% of an appropriation provided to fund this part for administration of the grant program.

**Section 68. Section 53F-5-506 is amended to read:**

**53F-5-506. Waiver from state board rule -- State board recommended statutory changes.**

(1) An LEA may apply to the state board in a grant application submitted under this part for a waiver of a state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that inhibits or hinders the LEA from accomplishing its goals set out in its grant application.

(2) The state board may grant the waiver, unless:

(a) the waiver would cause the LEA to be in violation of state or federal law; or

(b) the waiver would threaten the health, safety, or welfare of students in the LEA.

(3) If the state board denies the waiver, the state board shall provide in writing the reason for the denial to the waiver applicant.

(4) (a) The state board shall request from each LEA that receives a grant under this part for each year the LEA receives funds:

(i) information on a state statute that hinders an LEA from fully implementing the LEA's program; and

(ii) suggested changes to the statute.

(b) The state board shall report any information received from an LEA under Subsection (4)(a) and the state board's recommendations in accordance with Section 53E-1-203.

**Section 69. Section 53F-5-603 is amended to read:**

**53F-5-603. Grant program to school districts and charter schools.**

(1) From money appropriated to the grant program, the state board shall distribute grant money on a competitive basis to a school district or charter school that applies for a grant and:

(a) (i) has within the school district one or more American Indian and Alaskan Native concentrated schools; or

(ii) is an American Indian and Alaskan Native concentrated school; and

(b) has a program to fund stipends, recruitment, retention, and professional development of teachers who teach at American Indian and Alaskan Native concentrated schools.

(2) The grant money distributed under this section may only be expended to fund a program described in Subsection (1)(b).

(3) (a) If a school district or charter school obtains a grant under this section, by no later than two years from the date the school district or charter school obtains the grant, the state board shall review the implementation of the program

described in Subsection (1)(b) to determine whether:

(i) the program is effective in addressing the need to retain teachers at American Indian and Alaskan Native concentrated schools; and

(ii) the money is being spent for a purpose not covered by the program described in Subsection (1)(b).

(b) If the state board determines that the program is not effective or that the money is being spent for a purpose not covered by the program described in Subsection (1)(b), the state board may terminate the grant money being distributed to the school district or charter school.

(4) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules providing:

(a) criteria for evaluating grant applications; and

(b) procedures for:

(i) a school district to apply to the state board to receive grant money under this section; and

(ii) the review of the use of grant money described in Subsection (3).

(5) The grant money is intended to supplement and not replace existing money supporting American Indian and Alaskan Native concentrated schools.

**Section 70. Section 53F-9-401 is amended to read:**

**53F-9-401. Autism Awareness Restricted Account.**

(1) There is created in the General Fund a restricted account known as the "Autism Awareness Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the state superintendent shall:

(a) (i) ensure the inventory of Autism Awareness Support special group license plate decals are in stock; and

(ii) transfer money to the Tax Commission to pay for the group license plate as needed;

(b) distribute funds in the account to one or more charitable organizations that:

(i) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(ii) has as the organization's sole mission to promote access to resources and responsible information for individuals of all ages who have, or are affected by, autism or autism spectrum related conditions;

(iii) is an independent organization that has representation from state agencies and private providers serving individuals with autism spectrum disorder and their families in the state;

(iv) includes representation of:

(A) national and local autism advocacy groups, as available; and

(B) interested parents and professionals; and

(v) does not endorse any specific treatment, therapy, or intervention used for autism.

(4) (a) An organization described in Subsection (3) may apply to the state superintendent to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the state superintendent in accordance with Subsection (3) shall expend the distribution only to:

(i) pay for autism education and public awareness of programs and related services in the state;

(ii) enhance programs designed to serve individuals with autism;

(iii) provide support to caregivers providing services for individuals with autism;

(iv) pay administrative costs of the organization; and

(v) pay for academic scholarships and research efforts in the area of autism spectrum disorder.

(c) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules providing procedures for an organization to apply to the state superintendent to receive a distribution under Subsection (3).

**Section 71. Section 53G-4-410 is amended to read:**

**53G-4-410. Regional service centers.**

(1) For purposes of this section, "eligible regional service center" means a regional service center formed by two or more school districts as an interlocal entity, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(2) The Legislature strongly encourages school districts to collaborate and cooperate to provide educational services in a manner that will best utilize resources for the overall operation of the public education system.

(3) An eligible regional service center formed by an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, may receive a distribution described in Subsection (5) if the Legislature appropriates money for eligible regional service centers.

(4) (a) If local school boards enter into an interlocal agreement to confirm or formalize a regional service center in operation before July 1, 2011, the interlocal agreement may not eliminate any rights or obligations of the regional service

center in effect before entering into the interlocal agreement.

(b) An interlocal agreement entered into to confirm or formalize an existing regional service center shall have the effect of confirming and ratifying in the regional service center, the title to any property held in the name, or for the benefit of the regional service center as of the effective date of the interlocal agreement.

(5) (a) The state board shall distribute any funding appropriated to eligible regional service centers as provided by the Legislature.

(b) The state board may provide funding to an eligible regional service center in addition to legislative appropriations.

(6) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules regarding eligible regional service centers including:

(a) the distribution of legislative appropriations to eligible regional service centers;

(b) the designation of eligible regional service centers as agents to distribute Utah Education and Telehealth Network services; and

(c) the designation of eligible regional service centers as agents for regional coordination of public education and higher education services.

**Section 72. Section 53G-5-205 is amended to read:**

**53G-5-205. Charter school authorizers -- Power and duties -- Charter application minimum standard.**

(1) The following entities are eligible to authorize charter schools:

(a) the State Charter School Board;

(b) a local school board; or

(c) a board of trustees of an institution in the state system of higher education as described in Section 53B-1-102.

(2) A charter school authorizer shall:

(a) annually review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the school's performance; and

(b) monitor charter schools authorized by the authorizer for compliance with federal and state laws, rules, and regulations.

(3) A charter school authorizer may:

(a) authorize and promote the establishment of charter schools, subject to the provisions in this part;

(b) make recommendations on legislation and rules pertaining to charter schools to the Legislature and state board, respectively;

(c) make recommendations to the state board on the funding of charter schools;

(d) provide technical support to charter schools and persons seeking to establish charter schools by:

(i) identifying and promoting successful charter school models;

(ii) facilitating the application and approval process for charter school authorization;

(iii) directing charter schools and persons seeking to establish charter schools to sources of funding and support;

(iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; or

(v) assisting charter schools to understand and carry out their charter obligations; or

(e) provide technical support, as requested, to another charter school authorizer relating to charter schools.

(4) Within 60 days after an authorizer's approval of an application for a new charter school, the state board may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or state board rule requirements made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) reconsider the authorizer's approval of an application for a new charter school; and

(b) correct deficiencies in the charter school application or authorizer's application process as described in statute or state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before approving the new application.

(5) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is required to apply when:

(a) evaluating a charter school application; or

(b) monitoring charter school compliance.

(6) The minimum standards described in Subsection (5) shall include:

(a) reasonable consequences for an authorizer that fails to comply with statute or state board rule;

(b) a process for an authorizer to review:

(i) the skill and expertise of a proposed charter school's governing board; and

(ii) the functioning operation of the charter school governing board of an authorized charter school;

(c) a process for an authorizer to review the financial viability of a proposed charter school and of an authorized charter school;

(d) a process to evaluate:

(i) how well an authorizer's authorized charter school complies with the charter school's charter agreement;

(ii) whether an authorizer's authorized charter school maintains reasonable academic standards; and

(iii) standards that an authorizer is required to meet to demonstrate the authorizer's capacity to oversee, monitor, and evaluate the charter schools the authorizer authorizes.

**Section 73. Section 53G-5-304 is amended to read:**

**53G-5-304. Charter schools authorized by the State Charter School Board -- Application process -- Prohibited basis of application denial.**

(1) (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.

(b) The local school board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.

(c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).

(d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(2) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.

(3) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(4) The State Charter School Board shall, in accordance with state board rules, establish and make public the State Charter School Board's:

(a) application requirements, in accordance with Section 53G-5-302;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

**Section 74. Section 53G-5-406 is amended to read:**

**53G-5-406. Accountability -- Rules.**

The state board shall, after consultation with chartering entities, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(1) require a charter school to develop an accountability plan, approved by its charter school authorizer, during its first year of operation;

(2) require an authorizer to:

(a) visit a charter school at least once during:

(i) its first year of operation; and

(ii) the review period described under Subsection (3); and

(b) provide written reports to its charter schools after the visits; and

(3) establish a review process that is required of a charter school once every five years by its authorizer.

**Section 75. Section 53G-5-501 is amended to read:**

**53G-5-501. Noncompliance -- Rulemaking.**

(1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4):

(a) the charter school governing board; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

(a) subject to the requirements of Subsection (4), take one or more of the following actions:

(i) remove a charter school director or finance officer;

(ii) remove a charter school governing board member; or

(iii) appoint an interim director or mentor to work with the charter school; or

(b) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement.

(3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director or mentor is working.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsections (2)(a)(i) through (iii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter agreement.

**Section 76. Section 53G-5-503 is amended to read:**

**53G-5-503. Termination of a charter agreement.**

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter agreement for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter agreement;

(b) failure to meet generally accepted standards of fiscal management;

(c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development; and

(ii) failure to improve the school's grade under the conditions described in Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development;

(d) violation of requirements under this chapter or another law; or

(e) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the charter school governing board may request an informal hearing before the authorizer:

(i) the charter school governing board; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the charter school governing board may appeal the decision to the state board.

(d) (i) The state board shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The state board's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the charter school governing board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter agreement.

(3) An authorizer may not terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter agreement immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter agreement is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district where the charter school is located;

(b) the charter school governing board of another charter school; or

(c) a private management company.

(7) (a) If a charter agreement is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 6, Part 3, School District Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

**Section 77. Section 53G-5-504 is amended to read:**

**53G-5-504. Charter school closure.**

(1) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(2) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);

(b) when the state board takes final action described in Subsection 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(3) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the state board did not make the decision to close, the state board;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.

(b) The notice described in Subsection (3)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(4) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) designate a base of operation that will be maintained throughout the charter school closing, including:

- (i) an office;
- (ii) hours of operation;
- (iii) operational telephone service with voice messaging stating the hours of operation; and
- (iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(5) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (4).

(6) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

(b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

(7) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.

(8) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

(9) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

(10) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

**Section 78. Section 53G-6-302 is amended to read:**

**53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.**

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26-21-2.

(b) "Human services program" means the same as that term is defined in Section 62A-2-101.

(c) "Supervision" means a minor child is:

(i) receiving services from a state agency, local mental health authority, or substance abuse authority with active involvement or oversight; and

(ii) engaged in a human services program that is properly licensed or certified and has provided the school district receiving the minor child with an education plan that complies with the requirements of Section 62A-2-108.1.

(2) The school district of residence of a minor child whose custodial parent resides within Utah is:

(a) the school district in which the custodial parent resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;

(ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the state board;

(iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the state board; or

(v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the state board, if:

(a) the child is married or an emancipated minor under Subsection (2)(b)(v);

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303;

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the policies of the school and school district in which attendance is sought; or

(d) it is established to the satisfaction of the local school board that:

(i) the child's parent moves from the state;

(ii) the child's parent executes a power of attorney under Section 75-5-103 that:

(A) meets the requirements of Subsection (4); and

(B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;

(iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

(iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(v) the child is prepared to abide by the policies of the school and school district in which attendance is sought; and

(vi) the child's attendance in the school will not be detrimental to the school or school district.

(4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

**Section 79. Section 53G-6-504 is amended to read:**

**53G-6-504. Approval of increase in charter school enrollment capacity -- Expansion.**

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The state board may approve an increase in charter school enrollment capacity subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the



Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53G-5-301.

(4) (a) A charter school may annually submit a request to the state board for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The state board shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Title 53F, Chapter 2, Part 7, Charter School Funding, to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(5) (a) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules establishing requirements, procedures, and deadlines for an expansion of a charter school.

(b) The rules described in Subsection (5)(a) shall include rules related to:

(i) an expansion of a charter school when another charter school issues a notice of closure; and

(ii) the establishment of a satellite campus.

(6) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the state board, the state board shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

(7) (a) Except as provided in Subsection (6)(b) or (7)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the state board shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (7)(a)(i).

**Section 80. Section 53G-6-702 is amended to read:**

**53G-6-702. Dual enrollment.**

(1) As used in this section, "minor" means the same as that term is defined in Section 53G-6-201.

(2) A person having control of a minor who is enrolled in a regularly established private school or a home school may also enroll the minor in a public school for dual enrollment purposes.

(3) The minor may participate in any academic activity in the public school available to students in the minor's grade or age group, subject to compliance with the same rules and requirements that apply to a full-time student's participation in the activity.

(4) (a) A student enrolled in a dual enrollment program in a district school is considered a student of the district in which the district school of attendance is located for purposes of state funding to the extent of the student's participation in the district school programs.

(b) A student enrolled in a dual enrollment program in a charter school is considered a student of the charter school for purposes of state funding to the extent of the student's participation in the charter school programs.

(5) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for purposes of dual enrollment to govern and regulate the transferability of credits toward graduation that are earned in a private or home school.

**Section 81. Section 53G-6-803 is amended to read:**

**53G-6-803. Parental right to academic accommodations.**

(1) (a) A student's parent is the primary person responsible for the education of the student, and the state is in a secondary and supportive role to the parent. As such, a student's parent has the right to reasonable academic accommodations from the student's LEA as specified in this section.

(b) Each accommodation shall be considered on an individual basis and no student shall be considered to a greater or lesser degree than any other student.

(c) The parental rights specified in this section do not include all the rights or accommodations that may be available to a student's parent as a user of the public education system.

(d) An accommodation under this section may only be provided if the accommodation is:

- (i) consistent with federal law; and
- (ii) consistent with a student's IEP if the student already has an IEP.
- (2) An LEA shall reasonably accommodate a parent's written request to retain a student in kindergarten through grade 8 on grade level based on the student's academic ability or the student's social, emotional, or physical maturity.
- (3) An LEA shall reasonably accommodate a parent's initial selection of a teacher or request for a change of teacher.
- (4) An LEA shall reasonably accommodate the request of a student's parent to visit and observe any class the student attends.
- (5) Notwithstanding Part 2, Compulsory Education, an LEA shall record an excused absence for a scheduled family event or a scheduled proactive visit to a health care provider if:
- (a) the parent submits a written statement at least one school day before the scheduled absence; and
- (b) the student agrees to make up course work for school days missed for the scheduled absence in accordance with LEA policy.
- (6) (a) An LEA shall reasonably accommodate a parent's written request to place a student in a specialized class, a specialized program, or an advanced course.
- (b) An LEA shall consider multiple academic data points when determining an accommodation under Subsection (6)(a).
- (7) Consistent with Section 53E-4-204, which requires the state board to establish graduation requirements that use competency-based standards and assessments, an LEA shall allow a student to earn course credit toward high school graduation without completing a course in school by:
- (a) testing out of the course; or
- (b) demonstrating competency in course standards.
- (8) An LEA shall reasonably accommodate a parent's request to meet with a teacher at a mutually agreeable time if the parent is unable to attend a regularly scheduled parent teacher conference.
- (9) (a) At the request of a student's parent, an LEA shall excuse a student from taking an assessment that:
- (i) is federally mandated;
- (ii) is mandated by the state under this public education code; or
- (iii) requires the use of:
- (A) a state assessment system; or
- (B) software that is provided or paid for by the state.

(b) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(i) to establish a statewide procedure for excusing a student under Subsection (9)(a) that:

(A) does not place an undue burden on a parent; and

(B) may be completed online; and

(ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or an LEA's employees through school accountability or employee evaluations due to a student not taking an assessment under Subsection (9)(a).

(c) An LEA:

(i) shall follow the procedures outlined in rules made by the state board under Subsection (9)(b) to excuse a student under Subsection (9)(a);

(ii) may not require procedures to excuse a student under Subsection (9)(a) in addition to the procedures outlined in rules made by the state board under Subsection (9)(b); and

(iii) may not provide a nonacademic reward to a student for taking an assessment described in Subsection (9)(a).

(d) The state board shall:

(i) maintain and publish a list of state assessments, state assessment systems, and software that qualify under Subsection (9)(a); and

(ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).

(10) (a) An LEA shall provide for:

(i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53G-8-204; and

(ii) a parent's signature acknowledging receipt of the school's discipline and conduct policy.

(b) An LEA shall notify a parent of a student's violation of a school's discipline and conduct policy and allow a parent to respond to the notice in accordance with Chapter 8, Part 2, School Discipline and Conduct Plans.

**Section 82. Section 53G-7-306 is amended to read:**

**53G-7-306. School district interfund transfers.**

(1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

(2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.

(3) The state board may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.

(4) The state board may also authorize school district interfund transfers of residual equity for a

financially distressed district if the state board determines the following:

(a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;

(b) the deficit cannot be reasonably reduced under Section 53G-7-305; and

(c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the state board.

(5) The board shall develop ~~[in rule]~~ by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, standards for defining and aiding financially distressed school districts under this section.

(6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.

(b) Debt service levies under Subsection 59-2-924(5)(c) that are not subject to the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.

(c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.

(d) Any amounts left in the debt service fund after all general obligation debt has been retired may be transferred to the capital projects fund upon completion of the budgetary hearing process required under Section 53G-7-303.

**Section 83. Section 53G-7-503 is amended to read:**

**53G-7-503. Fees -- Prohibitions -- Voluntary supplies -- Enforcement.**

(1) An LEA may only charge a fee if the fee is authorized and noticed by the LEA governing board in accordance with Section 53G-7-505.

(2) (a) An LEA may not require a fee for elementary school activities that are part of the regular school day or for supplies used during the regular school day.

(b) An elementary school or elementary school teacher may compile and provide to a student's parent a suggested list of supplies for use during the regular school day so that a parent may furnish on a voluntary basis those supplies for student use.

(c) A list provided to an elementary student's parent in accordance with Subsection (2)(b) shall include and be preceded by the following language:

“NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL.”

(3) (a) Beginning with or after the 2021-2022 school year, if an LEA imposes a fee, the fee shall be equal to or less than the expense incurred by the LEA in providing for a student the activity, course, or program for which the LEA imposes the fee.

(b) An LEA may not impose an additional fee or increase a fee to supplant or subsidize another fee.

(4) (a) Beginning with or after the 2021-2022 school year, and notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part or Part 6, Textbook Fees, the state board shall impose corrective action against the LEA, which may include:

(i) requiring an LEA to repay improperly charged fees;

(ii) withholding state funds; and

(iii) suspending the LEA's authority to charge fees for an amount of time specified by the state board.

(b) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(i) that require notice and an opportunity to be heard for an LEA affected by a state board action described in Subsection (4)(a); and

(ii) to administer this Subsection (4).

**Section 84. Section 53G-7-504 is amended to read:**

**53G-7-504. Waiver of fees -- Appeal of decision.**

(1) (a) If an LEA or a school within an LEA charges one or more fees, the LEA shall grant a waiver to a student if charging the fee would deny the student the opportunity to fully participate or complete a requirement because of an inability to pay the fee.

(b) An LEA governing board shall:

(i) adopt policies for granting a waiver; and

(ii) in accordance with Section 53G-7-505, give notice of waiver eligibility and policies.

(2) (a) An LEA that charges a fee under this part and Part 6, Textbook Fees, may provide a variety of alternatives for a student or family to satisfy a fee requirement, including allowing a student to provide:

(i) tutorial assistance to other students;

(ii) assistance before or after school to teachers and other school personnel on school related matters; and

(iii) general community or home service.

(b) Each LEA governing board may add to the list of alternatives provided by the state board, subject to approval by the state board.

(3) With regard to a student who is in the custody of the Division of Child and Family Services who is also eligible under Title IV-E of the federal Social

Security Act, an LEA governing board shall require fee waivers or alternatives in accordance with this section.

(4) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) requiring a parent of a student applying for a fee waiver to provide documentation and certification to the school verifying:

(i) the student's eligibility to receive the waiver; and

(ii) if applicable, that the student has complied with alternatives for satisfying the fee requirements under Subsection (2) to the fullest extent reasonably possible according to the individual circumstances of the student and the LEA; and

(b) specifying the acceptable forms of documentation for the requirement under Subsection (4)(a), which shall include verification based on income tax returns or current pay stubs.

(5) Notwithstanding the requirements under Subsection (4), an LEA is not required to keep documentation on file after the verification is completed.

(6) If a school denies a student or parent request for a fee waiver, the school shall provide the student or parent:

(a) the school's written decision to deny a waiver; and

(b) the procedure to appeal in accordance with LEA policy.

**Section 85. Section 53G-7-1004 is amended to read:**

**53G-7-1004. Rulemaking -- Reporting.**

The state board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding compliance standards and reporting requirements for local school boards with respect to the policy required by Section 53G-7-1002.

**Section 86. Section 53G-7-1206 is amended to read:**

**53G-7-1206. School LAND Trust Program.**

(1) As used in this section:

(a) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(b) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(c) "Council" means a school community council or a charter trust land council.

(d) "LAND trust plan" means a school's plan to use School LAND Trust Program money to implement a component of the school's success plan.

(e) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.

(f) "Teacher and student success plan" or "success plan" means the same as that term is defined in Section 53G-7-1301.

(2) There is established the School LAND (Learning And Nurturing Development) Trust Program under the state board to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school or charter school's teacher and student success plan; and

(b) involve parents of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(3) To receive an allocation under Section 53F-2-404:

(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).

(4) (a) A council shall create a program to use the school's allocation distributed under Section 53F-2-404 to implement a component of the school's success plan, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement a component of the school's success plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend the school's allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a LAND trust plan in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a LAND trust plan, the LAND trust plan is adopted.

(c) A council shall:

(i) post a LAND trust plan that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program website; and

(ii) include with the LAND trust plan a report noting the number of council members who voted

for or against the approval of the LAND trust plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a LAND trust plan.

(ii) If a local school board disapproves a LAND trust plan:

(A) the local school board shall provide a written explanation of why the LAND trust plan was disapproved and request the school community council who submitted the LAND trust plan to revise the LAND trust plan; and

(B) the school community council shall submit a revised LAND trust plan in response to a local school board's request under Subsection (4)(d)(ii)(A).

(iii) Once a LAND trust plan has been approved by a local school board, a school community council may amend the LAND trust plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's LAND trust plan is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

(5) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet state board reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents of students attending the school.

(6) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Section 53F-2-404 on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (5)(b).

(7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(8) (a) The School LAND Trust Program shall provide training to the entities described in Subsection (8)(b) on:

(i) the School LAND Trust Program; and

(ii) (A) a school community council; or

(B) a charter trust land council.

(b) The School LAND Trust Program shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a school district or a charter school; and

(iii) a school community council.

(9) The School LAND Trust Program shall annually review each school's compliance with applicable law, including rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by:

(a) reading each LAND trust plan submitted; and

(b) reviewing expenditures made from School LAND Trust Program money.

(10) The state board shall designate a staff member who administers the School LAND Trust Program:

(a) to serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202; and

(b) who may coordinate with the Land Trusts Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.

**Section 87. Section 53G-7-1304 is amended to read:**

**53G-7-1304. Program requirements -- LEA governing board student success framework -- LEA distribution -- School allocation -- Reporting.**

(1) (a) To receive an LEA distribution, an LEA governing board shall:

(i) adopt an LEA governing board student success framework to provide guidelines and processes for a school within the LEA governing board's LEA to follow in developing a teacher and student success plan; and

(ii) submit the adopted LEA governing board student success framework to the state board.

(b) An LEA governing board may include in the LEA governing board's student success framework any means reasonably designed to improve school performance or student academic achievement, including:

(i) school personnel stipends for taking on additional responsibility outside of a typical work assignment;

(ii) professional learning;

(iii) additional school employees, including counselors, social workers, mental health workers, tutors, media specialists, information technology specialists, or other specialists;

- (iv) technology;
- (v) before- or after-school programs;
- (vi) summer school programs;
- (vii) community support programs or partnerships;
- (viii) early childhood education;
- (ix) class size reduction strategies;
- (x) augmentation of existing programs; or
- (xi) other means.

(c) An LEA governing board student success framework may not support the use of program money:

- (i) to supplant funding for existing public education programs;
- (ii) for district administration costs; or
- (iii) for capital expenditures.

(2) (a) An LEA governing board shall use an LEA distribution as follows:

(i) for increases to base salary and salary driven benefits for school personnel that, except as provided in Subsection (2)(c)(i), total 25% or less of the LEA distribution; and

(ii) except as provided in Subsection (2)(b)(ii) and in accordance with Subsection (3), for each school within the LEA governing board's LEA, an allocation that is equal to the product of:

(A) the percentage of the school's prior year average daily membership compared to the total prior year average daily membership for all schools in the LEA; and

(B) the remaining amount of the LEA governing board's LEA distribution after subtracting the amounts described in Subsections (2)(a)(i) and (2)(b)(ii).

(b) (i) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board to calculate and distribute a school allocation for a school in the school's first year of operation.

(ii) In accordance with Subsection (3) and the rules described in Subsection (2)(b)(i), an LEA governing board shall distribute a school allocation for a school in the school's first year of operation.

(c) Except as provided in Subsection (2)(d), the LEA governing board of a school district may use up to 40% of an LEA distribution for the purposes described in Subsection (2)(a)(i), if:

(i) the LEA governing board has:

(A) approved a board local levy for the maximum amount allowed under Section 53F-8-302; or

(B) after the LEA governing board has submitted an LEA governing board student success framework to the state board, increased the board

local levy described in Section 53F-8-302 by at least .0001 per dollar of taxable value; and

(ii) the school district's average teacher salary is below the state average teacher salary described in Subsection (2)(f).

(d) The LEA governing board of a school district in a county of the fourth, fifth, or sixth class or the LEA governing board of a charter school may use up to 40% of an LEA distribution for the purposes described in Subsection (2)(a)(i), if the LEA's average teacher salary is below the state average teacher salary described in Subsection (2)(f).

(e) An LEA governing board shall annually report information as requested by the state board for the state board to calculate a state average teacher salary.

(f) The state board shall use the information described in Subsection (2)(c)(ii) to calculate a state average teacher salary amount and a state average teacher benefit amount.

(3) An LEA governing board shall allocate a school allocation to a school with a teacher and student success plan that is approved as described in Section 53G-7-1305.

(4) (a) Except as provided in Subsection (4)(b), a school shall use a school allocation to implement the school's success plan.

(b) A school may use up to 5% of the school's school allocation to fund school personnel retention at the principal's discretion, not including uniform salary increases.

(c) A school may not use a school allocation for:

(i) capital expenditures; or

(ii) a purpose that is not supported by the LEA governing board student success framework for the school's LEA.

(5) A school that receives a school allocation shall annually:

(a) submit to the school's LEA governing board a description of:

(i) the budgeted and actual expenditures of the school's school allocation;

(ii) how the expenditures relate to the school's success plan; and

(iii) how the school measures the success of the school's participation in the program; and

(b) post on the school's website:

(i) the school's approved success plan;

(ii) a description of the school's school allocation budgeted and actual expenditures and how the expenditures help the school accomplish the school's success plan; and

(iii) the school's current level of performance, as described in Section 53G-7-1306, according to the indicators described in Section 53E-5-205 or 53E-5-206.

**Section 88. Section 53G-7-1306 is amended to read:**

**53G-7-1306. School improvement oversight -- Performance standards.**

(1) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) using a criteria-setting process, determine a threshold of points under the statewide school accountability system that designates a school as succeeding in school performance and student academic achievement; and

(b) determine performance standards for a school described in Section 53E-5-203.

(2) (a) For each year following the year in which a school received approval for a success plan, an LEA governing board shall determine if the school:

(i) meets or exceeds the threshold of points described in Subsection (1);

(ii) has demonstrated at least a 1% increase in the school's total points received under the statewide school accountability system compared to the previous school year; or

(iii) qualifies for and satisfies the performance standards described in Subsection (1)(b).

(b) If the LEA governing board determines that a school does not satisfy Subsection (2)(a)(i), (ii), or (iii), the LEA governing board shall:

(i) work with the school's principal to modify the school's success plan to address the school's performance; and

(ii) oversee and adjust the school's allocation expenditures until the LEA governing board determines the school satisfies Subsection (2)(a)(i), (ii), or (iii).

**Section 89. Section 53G-8-702 is amended to read:**

**53G-8-702. School resource officer training -- Curriculum.**

(1) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that prepare and make available a training program for school principals and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the state board shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) solicit input from local law enforcement and other interested community stakeholders; and

(d) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

(a) childhood and adolescent development;

(b) responding age-appropriately to students;

(c) working with disabled students;

(d) techniques to de-escalate and resolve conflict;

(e) cultural awareness;

(f) restorative justice practices;

(g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;

(h) student privacy rights;

(i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;

(j) strategies to reduce juvenile justice involvement; and

(k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure.

(4) The state board shall work together with the Department of Public Safety, the State Commission on Criminal and Juvenile Justice, and state and local law enforcement to establish policies and procedures that govern student resource officers.

**Section 90. Section 53G-8-802 is amended to read:**

**53G-8-802. State Safety and Support Program -- State board duties.**

(1) There is created the State Safety and Support Program.

(2) The state board shall:

(a) develop in conjunction with the Division of Substance Abuse and Mental Health model student safety and support policies for an LEA, including:

(i) evidence-based procedures for the assessment of and intervention with an individual whose behavior poses a threat to school safety;

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training:

(i) in school safety;

(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes protocols for conducting a threat assessment, and ensuring building security during an incident;

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 62A-15-103;

(i) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) requiring an LEA to:

(A) create or adopt and disseminate a school climate survey; and

(B) disseminate the school climate survey;

(ii) recommending the distribution method, survey frequency, and sample size of the survey; and

(iii) specifying the areas of content for the school climate survey; and

(j) collect aggregate data and school climate survey results from each LEA.

(3) Nothing in this section requires an individual to respond to a school climate survey.

**Section 91. Section 53G-9-607 is amended to read:**

**53G-9-607. Training, education, and prevention -- Standards.**

(1) (a) An LEA governing board shall include in the training of a school employee training regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation that meets the standards described in Subsection (4).

(b) An LEA governing board may offer voluntary training to parents and students regarding abusive conduct.

(2) To the extent that state or federal funding is available for this purpose, LEA governing boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, abusive conduct, and retaliation.

(3) The programs or initiatives described in Subsection (2) may involve:

(a) the establishment of a bullying task force; or

(b) the involvement of school employees, students, or law enforcement.

(4) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

**Section 92. Section 53G-9-704 is amended to read:**

**53G-9-704. Youth suicide prevention training for employees.**

(1) A school district or charter school shall require a licensed employee to complete a minimum of two hours of professional development training on youth suicide prevention every three years.

(2) The state board shall:

(a) develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention; and

(b) ~~[incorporate in rule]~~ by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, incorporate the training described in Subsection (1) into professional development training described in Section 53E-6-201.

**Section 93. Section 53G-9-801 is amended to read:**

**53G-9-801. Definitions.**

As used in Section 53G-9-802:

(1) "Attainment goal" means earning:

(a) a high school diploma;

(b) a Utah High School Completion Diploma, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) an Adult Education Secondary Diploma, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(d) an employer-recognized, industry-based certificate that is:

(i) likely to result in job placement; and



(ii) included in the state board's approved career and technical education industry certification list.

(2) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(3) "Designated student" means a student:

(a) (i) who has withdrawn from an LEA before earning a diploma;

(ii) who has been dropped from average daily membership; and

(iii) whose cohort has not yet graduated; or

(b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined by the student's LEA, using risk factors defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the graduation rate calculated by the state board for federal accountability and reporting purposes; or

(b) for a charter school that does not include grade 12, a proxy graduation rate defined in rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.

(6) "Nontraditional program" means a program, as defined in rules made by the state board under Subsection 53E-3-501(1)(e), in which a student receives instruction through:

(a) distance learning;

(b) online learning;

(c) blended learning; or

(d) competency-based learning.

(7) "Statewide graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the statewide graduation rate, as annually calculated by the state board; or

(b) for a charter school that does not include grade 12, the average graduation rate for all charter schools that do not include grade 12.

(8) "Third party" means:

(a) a private provider; or

(b) an LEA that does not meet the criteria described in Subsection 53G-9-802(3).

**Section 94. Section 53G-10-304 is amended to read:**

**53G-10-304. Instruction on the flag of the United States of America.**

(1) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state

board shall provide by rule for a program of instruction within the public schools relating to the flag of the United States.

(2) The instruction shall include the history of the flag, etiquette, customs pertaining to the display and use of the flag, and other patriotic exercises as provided by 4 U.S.C. Secs. 1 to 10.

(3) (a) The pledge of allegiance to the flag shall be recited once at the beginning of each day in each public school classroom in the state, led by a student in the classroom, as assigned by the classroom teacher on a rotating basis.

(b) Each student shall be informed by posting a notice in a conspicuous place that the student has the right not to participate in reciting the pledge.

(c) A student shall be excused from reciting the pledge upon written request from the student's parent.

(d) (i) At least once a year students shall be instructed that:

(A) participation in the pledge of allegiance is voluntary and not compulsory; and

(B) not only is it acceptable for someone to choose not to participate in the pledge of allegiance for religious or other reasons, but students should show respect for any student who chooses not to participate.

(ii) A public school teacher shall strive to maintain an atmosphere among students in the classroom that is consistent with the principles described in Subsection (3)(d)(i).

**Section 95. Section 53G-10-402 is amended to read:**

**53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.**

(1) As used in this section:

(a) "LEA governing board" means a local school board or charter school governing board.

(b) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2) (a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

- (i) community and personal health;
- (ii) physiology;
- (iii) personal hygiene;
- (iv) prevention of communicable disease;
- (v) refusal skills; and
- (vi) the harmful effects of pornography.

(b) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall:

(i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;

(ii) stress personal skills that encourage individual choice of abstinence and fidelity;

(iii) prohibit instruction in:

(A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(B) the advocacy of premarital or extramarital sexual activity; or

(C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.

(c) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:

(i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and

(ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.

(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.

(e) (i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(f) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.

(g) An LEA governing board may choose to adopt:

(i) the instructional materials recommended under Subsection (2)(f); or

(ii) other instructional materials in accordance with Subsection (2)(h).

(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:

(i) ensure that the materials comply with state law and board rules;

(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee; and

(iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students attending the respective schools and an opportunity for parents to express their views and opinions on the materials at the meeting.

(3) (a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the state board, the Department of Health shall cooperate with the state board in developing programs to provide instruction in those areas.

(4) (a) The state board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5) (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or an LEA governing board may not allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules implementing this section.

(e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7) (a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) An LEA governing board shall provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents of students.

(d) In order to assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) An LEA governing board shall review every two years:

(a) LEA governing board policies on instruction described in this section;

(b) for a local school board of a school district, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

**Section 96. Section 53G-10-406 is amended to read:**

**53G-10-406. Underage Drinking Prevention Program -- State board rules.**

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcohol;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking; and

(iv) provides practical tools to address the dangers of underage drinking.

(2) There is created the Underage Drinking Prevention Program that consists of:

(a) a school-based prevention program for students in grade 7 or 8; and

(b) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's underage drinking prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective at reducing underage drinking.

(7) (a) The state board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10; and

(b) establish criteria for the state board to use in selecting a provider described in Subsection (6).

**Section 97. Section 53G-10-502 is amended to read:**

**53G-10-502. Driver education established by school districts.**

(1) (a) Local school districts may establish and maintain driver education for pupils.

(b) A school or local school district that provides driver education shall provide an opportunity for each pupil enrolled in that school or local school district to take the written test when the pupil is 15 years and nine months of age.

(c) Notwithstanding the provisions of Subsection (1)(b), a school or local school district that provides driver education may provide an opportunity for each pupil enrolled in that school or school district to take the written test when the pupil is 15 years of age.

(2) The purpose of driver education is to help develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

(3) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for driver education offered in the public schools.

(4) The rules under Subsection (3) shall:

(a) require at least one hour of classroom training on the subject of railroad crossing safety for each driver education pupil;

(b) require instruction, based on data and information provided by the Division of Air Quality, on:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions; and

(c) establish minimum standards for approved driving ranges under Section 53-3-505.5.

(5) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving training provided as part of driver education offered under this part and used to satisfy the driver training requirement under Section 53-3-204.

**Section 98. Section 53G-10-507 is amended to read:**

**53G-10-507. Driver education teachers certified as license examiners.**

(1) The Driver License Division of the Department of Public Safety and the state board shall establish procedures and standards to certify teachers of driver education classes under this part to administer written and driving tests.

(2) The division is the certifying authority.

(3) (a) A teacher certified under this section shall give written and driving tests designed for driver education classes authorized under this part.

(b) The Driver License Division shall, in conjunction with the state board, establish minimal standards for the driver education class tests that are at least as difficult as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform Driver License Act.

(c) A student who passes the written test but fails the driving test given by a teacher certified under this section may apply for a learner permit or class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the driving test at a Driver License Division office.

(4) A student shall have a learner permit issued by the Driver License Division under Section 53-3-210.5 in the student's immediate possession at all times when operating a motor vehicle under this section.

(5) A student who successfully passes the tests given by a certified driver education teacher under this section satisfies the written and driving parts of the test required for a learner permit or class D operator's license.

(6) The Driver License Division and the state board shall establish procedures to enable school districts to administer or process any tests for students to receive a learner permit or class D operator's license.

(7) The division and state board shall establish the standards and procedures required under this section by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 99. Section 53G-10-508 is amended to read:**

**53G-10-508. Programs authorized -- Minimum standards.**

(1) Local school districts may:

(a) allow students to complete the classroom training portion of driver education through home study;

(b) provide each parent with driver education instructional materials to assist in parent involvement with driver education including behind-the-wheel driving materials;

(c) offer driver education outside of school hours in order to reduce the cost of providing driver education;

(d) offer driver education through community education programs;

(e) offer the classroom portion of driver education in the public schools and allow the student to complete the behind-the-wheel portion with a private provider:

(i) licensed under Section 53-3-504; and

(ii) not associated with the school or under contract with the school under Subsection 53G-10-503(3); or

(f) any combination of Subsections (1)(a) through (e).

(2) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall establish in rule minimum standards for the school-related programs under Subsection (1).

**Section 100. Section 53G-11-304 is amended to read:**

**53G-11-304. Educator exit survey -- Rulemaking -- Local education agencies to create and administer exit surveys -- Reporting.**

(1) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) minimum standards for an exit survey described in Subsection (2), including a model exit survey; and

(b) LEA exit survey reporting requirements.

(2) An LEA shall, in accordance with the rules described in Subsection (1):

(a) for an educator who is leaving employment at the LEA:

(i) create an exit survey; and

(ii) make the LEA's best effort to administer the exit survey to the educator before the educator leaves employment at the LEA; and

(b) report the results of an administered exit survey to the state board.

(3) The state board shall:

(a) before taking final action on the rules described in Subsection (1), report the proposed rules to the Education Interim Committee and consider recommendations from the committee regarding the proposed rules; and

(b) on or before November 30, 2020, and as requested by the Education Interim Committee, report to the committee on the results described in Subsection (2)(b).

**Section 101. Section 53G-11-504 is amended to read:**

**53G-11-504. Evaluation of employee performance.**

(1) Except as provided in Subsection (2), a local school board shall require that the performance of each school district employee be evaluated annually in accordance with rules of the state board adopted in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Rules adopted by the state board under Subsection (1) may include an exemption from annual performance evaluations for a temporary employee or a part-time employee.

**Section 102. Section 53G-11-508 is amended to read:**

**53G-11-508. Summative evaluation timelines -- Review of summative evaluations.**

(1) The person responsible for administering an educator's summative evaluation shall:

(a) at least 15 days before an educator's first evaluation:

(i) notify the educator of the evaluation process; and

(ii) give the educator a copy of the evaluation instrument, if an instrument is used;

(b) allow the educator to respond to any part of the evaluation;

(c) attach the educator's response to the evaluation if the educator's response is provided in writing;

(d) within 15 days after the evaluation process is completed, discuss the written evaluation with the educator; and

(e) based upon the educator's performance, assign to the educator one of the four levels of performance described in Section 53G-11-507.

(2) An educator who is not satisfied with a summative evaluation may request a review of the evaluation within 15 days after receiving the written evaluation.

(3) (a) If a review is requested in accordance with Subsection (2), the school district superintendent or the superintendent's designee shall appoint a person not employed by the school district who has expertise in teacher or personnel evaluation to review the evaluation procedures and make recommendations to the superintendent regarding the educator's summative evaluation.

(b) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules prescribing standards for an independent review of an educator's summative evaluation.

(c) A review of an educator's summative evaluation under Subsection (3)(a) shall be conducted in accordance with state board rules made under Subsection (3)(b).

**Section 103. Section 53G-11-510 is amended to read:**

**53G-11-510. State board to describe a framework for the evaluation of educators.**

(1) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) describing a framework for the evaluation of educators that is consistent with the requirements of Part 3, Licensed Employee Requirements, and Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511; and

(b) requiring an educator's summative evaluation to be based on:

(i) educator professional standards established by the state board; and

(ii) the requirements described in Subsection 53G-11-507(1).

(2) The rules described in Subsection (1) shall prohibit the use of end-of-level assessment scores in educator evaluation.

**Section 104. Section 53G-11-511 is amended to read:**

**53G-11-511. Report of performance levels.**

(1) A school district shall report to the state board the number and percent of educators in each of the

four levels of performance assigned under Section 53G-11-508.

(2) The data reported under Subsection (1) shall be separately reported for the following educator classifications:

(a) administrators;

(b) teachers, including separately reported data for provisional teachers and career teachers; and

(c) other classifications or demographics of educators as determined by the state board.

(3) The state superintendent shall include the data reported by school districts under this section in the State Superintendent's Annual Report required by Section 53E-3-301.

(4) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure the privacy and protection of individual evaluation data.

**Section 105. Section 53G-11-518 is amended to read:**

**53G-11-518. State board to make rules on performance compensation.**

(1) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system described in Section 53G-11-507.

(2) Rules adopted under Subsection (1) shall:

(a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and

(b) provide that beginning no later than the 2016-17 school year:

(i) any advancement on an adopted wage or salary schedule:

(A) shall be based primarily on an evaluation; and

(B) may not be based on end-of-level assessment scores; and

(ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

**Section 106. Section 63A-1-105.5 is amended to read:**

**63A-1-105.5. Rulemaking authority of executive director.**

The executive director shall, upon the recommendation of the appropriate division directors or the director of the Office of Administrative Rules, make rules consistent with state and federal law, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing:

(1) administrative services; and

(2) the provision and use of administrative services furnished to state agencies and institutions.

**Section 107. Section 63G-3-102 is amended to read:**

**63G-3-102. Definitions.**

As used in this chapter:

(1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:

(a) the proposed rule, change in the proposed rule, and the rule analysis form;

(b) the public comment received and recorded by the agency during the public comment period;

(c) the agency's response to the public comment;

(d) the agency's analysis of the public comment; and

(e) the agency's report of its decision-making process.

(2) "Agency" means each state board, authority, commission, institution, department, division, officer, or other state government entity other than the Legislature, its committees, the political subdivisions of the state, or the courts, which is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.

(3) "Bulletin" means the Utah State Bulletin.

(4) "Catchline" means a short summary of each section, part, rule, or title of the code that follows the section, part, rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.

(5) "Code" means the body of all effective rules as compiled and organized by the office and entitled "Utah Administrative Code."

(6) "Department" means the Department of Administrative Services created in Section 63A-1-104.

(7) "Director" means the director of the office.

(8) "Effective" means operative and enforceable.

(9) "Executive director" means the executive director of the department.

(10) (a) "File" means to submit a document to the office as prescribed by the department office.

(11) "Filing date" means the day and time the document is recorded as received by the office.

(12) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.

(13) "Office" means the Office of Administrative Rules created in Section 63G-3-401.

(14) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

(15) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.

(16) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.

(17) "Publication date" means the inscribed date of the bulletin.

(18) "Register" may include an electronic database.

(19) (a) "Rule" means an agency's written statement that:

(i) is explicitly or implicitly required by state or federal statute or other applicable law;

(ii) implements or interprets a state or federal legal mandate; and

(iii) applies to a class of persons or another agency.

(b) "Rule" includes the amendment or repeal of an existing rule.

(c) "Rule" does not mean:

(i) orders;

(ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;

(iii) the governor's executive orders or proclamations;

(iv) opinions issued by the attorney general's office;

(v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;

(vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or

(vii) an agency written statement that is in violation of any state or federal law.

(20) "Rule analysis" means the format prescribed by the department office to summarize and analyze rules.

(21) "Small business" means a business employing fewer than 50 persons.

(22) "Substantive change" means a change in a rule that affects the application or results of agency actions.

**Section 108. Section 63G-3-201 is amended to read:**

**63G-3-201. When rulemaking is required.**

- (1) Each agency shall:
- (a) maintain a current version of its rules; and
  - (b) make it available to the public for inspection during its regular business hours.
- (2) In addition to other rulemaking required by law, each agency shall make rules when agency action:
- (a) authorizes, requires, or prohibits an action;
  - (b) provides or prohibits a material benefit;
  - (c) applies to a class of persons or another agency; and
  - (d) is explicitly or implicitly authorized by statute.
- (3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.
- (4) Rulemaking is not required when:
- (a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or, except as provided in Title 53B, Chapter 27, Part 3, Student Civil Liberties Protection Act, students enrolled in a state education institution;
  - (b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;
  - (c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or
  - (d) an agency makes nonsubstantive changes in a rule, except that the agency shall file all nonsubstantive changes in a rule with the office.
- (5) (a) A rule shall enumerate any penalty authorized by statute that may result from its violation, subject to Subsections (5)(b) and (c).
- (b) A violation of a rule may not be subject to the criminal penalty of a class C misdemeanor or greater offense, except as provided under Subsection (5)(c).
- (c) A violation of a rule may be subject to a class C misdemeanor or greater criminal penalty under Subsection (5)(a) when:
- (i) authorized by a specific state statute;
  - (ii) a state law and programs under that law are established in order for the state to obtain or maintain primacy over a federal program; or
  - (iii) state civil or criminal penalties established by state statute regarding the program are equivalent to or less than corresponding federal civil or criminal penalties.

(6) Each agency shall enact rules incorporating the principles of law not already in its rules that are established by final adjudicative decisions within 120 days after the decision is announced in its cases.

(7) (a) Each agency may enact a rule that incorporates by reference:

(i) all or any part of another code, rule, or regulation that has been adopted by a federal agency, an agency or political subdivision of this state, an agency of another state, or by a nationally recognized organization or association;

(ii) state agency implementation plans mandated by the federal government for participation in the federal program;

(iii) lists, tables, illustrations, or similar materials that are subject to frequent change, fully described in the rule, and are available for public inspection; or

(iv) lists, tables, illustrations, or similar materials that the ~~[executive director or the executive director's designee]~~ director determines are too expensive to reproduce in the administrative code.

(b) Rules incorporating materials by reference shall:

(i) be enacted according to the procedures outlined in this chapter;

(ii) state that the referenced material is incorporated by reference;

(iii) state the date, issue, or version of the material being incorporated; and

(iv) define specifically what material is incorporated by reference and identify any agency deviations from it.

(c) The agency shall identify any substantive changes in the material incorporated by reference by following the rulemaking procedures of this chapter.

(d) The agency shall maintain a complete and current copy of the referenced material available for public review at the agency and at the office.

(8) (a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed by statute or agency rule.

(b) An agency may enact a rule creating a justified exception to a rule.

(9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and constitutional requirements.

**Section 109. Section 63G-3-301 is amended to read:**

**63G-3-301. Rulemaking procedure.**

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule agencies shall comply with:



- (a) the requirements of this section;
- (b) consistent procedures required by other statutes;
- (c) applicable federal mandates; and
- (d) rules made by the [department] office to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4) (a) Each agency shall file the agency's proposed rule and rule analysis with the office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c) (i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the [~~executive director or the executive director's designee~~] director determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Management and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a typical business for a one-year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;

(d) the total cost that would incur to all impacted entities over a five-year period; and

(e) the department head's comments on the analysis.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

(i) the state budget;

(ii) local governments;

(iii) small businesses; and

(iv) persons other than small businesses, businesses, or local governmental entities;

(e) the compliance cost for affected persons;

(f) how interested persons may review the full text of the rule;

(g) how interested persons may present their views on the rule;

(h) the time and place of any scheduled public hearing;

(i) the name and telephone number of an agency employee who may be contacted about the rule;

(j) the name of the agency head or designee who authorized the rule;

(k) the date on which the rule may become effective following the public comment period;

(l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);

(m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

(n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).

(9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

(10) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of the agency's rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

(11) (a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

(b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is:

(i) no fewer than seven calendar days after the day on which the public comment period closes under Subsection (11); and

(ii) no more than 120 days after the day on which the rule is published.

(b) The agency shall provide notice of the rule's effective date to the office in the form required by the ~~[department]~~ office.

(c) The notice of effective date may not provide for an effective date before the day on which the office receives the notice.

(d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days after the day on which the rule is published.

(13) (a) Except as provided in Subsection (13)(d), before an agency enacts a rule, the agency shall submit to the appropriations subcommittee and interim committee with jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a three-year period, has a fiscal impact of more than:

(i) \$250,000 to a single person; or

(ii) \$7,500,000 to a group of persons.

(b) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) shall:

(i) before the review, directly inform the chairs of the Administrative Rules Review Committee of the coming review, including the date, time, and place of the review; and

(ii) after the review, directly inform the chairs of the Administrative Rules Review Committee of the outcome of the review, including any recommendation.

(c) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) may recommend to the Administrative Rules Review Committee that the Administrative Rules Review Committee not recommend reauthorization of the rule in the omnibus legislation described in Section 63G-3-502.

(d) The requirement described in Subsection (13)(a) does not apply to:

(i) the State Tax Commission; or

(ii) the State Board of Education.

(14) (a) As used in this Subsection (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection (14)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Administrative Rules Review Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (14)(b), the state agency shall appear before the legislative Administrative Rules Review Committee and provide the reasons for the delay.

**Section 110. Section 63G-3-401 is amended to read:**

**63G-3-401. Office of Administrative Rules created -- Director.**

(1) There is created within the Department of Administrative Services the Office of Administrative Rules, to be administered by a ~~[coordinator]~~ director.

(2) (a) The executive director shall appoint the director.

~~[(2)]~~ (b) The ~~[coordinator]~~ director shall hire, train, and supervise staff necessary for the office to carry out the provisions of this chapter.

**Section 111. Section 63G-3-402 is amended to read:**

**63G-3-402. Office of Administrative Rules -- Duties generally.**

(1) The office shall:

(a) record in a register the receipt of all agency rules, rule analysis forms, and notices of effective dates;

(b) make the register, copies of all proposed rules, and rulemaking documents available for public inspection;

(c) publish all proposed rules, rule analyses, notices of effective dates, and review notices in the bulletin at least monthly, except that the office may publish the complete text of any proposed rule that the [executive director or the executive director's designee] director determines is too long to print or too expensive to publish by reference to the text maintained by the office;

(d) compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it;

(e) publish a digest of all rules and notices contained in the most recent bulletin;

(f) publish at least annually an index of all changes to the administrative code and the effective date of each change;

(g) print, or contract to print, all rulemaking publications the [executive] director determines necessary to implement this chapter;

(h) distribute without charge the bulletin and administrative code to state-designated repositories, the Administrative Rules Review Committee, the Office of Legislative Research and General Counsel, and the two houses of the Legislature;

(i) distribute without charge the digest and index to state legislators, agencies, political subdivisions on request, and the Office of Legislative Research and General Counsel;

(j) distribute, at prices covering publication costs, all paper rulemaking publications to all other requesting persons and agencies;

(k) provide agencies assistance in rulemaking;

(l) if the department operates the office as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(m) administer this chapter and require state agencies to comply with filing, publication, and hearing procedures; and

(n) make technological improvements to the rulemaking process, including improvements to automation and digital accessibility.

(2) The [department] office shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary to make rules under this chapter.

(3) The office may after notifying the agency make nonsubstantive changes to rules filed with the office or published in the bulletin or code by:

(a) implementing a uniform system of formatting, punctuation, capitalization, organization, numbering, and wording;

(b) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(c) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(d) updating or correcting annotations associated with a section, part, rule, or title; and

(e) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4) In addition, the office may make the following nonsubstantive changes with the concurrence of the agency:

(a) eliminate duplication within rules;

(b) eliminate obsolete and redundant words; and

(c) correct defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.

(5) For nonsubstantive changes made in accordance with Subsection (3) or (4) after publication of the rule in the bulletin, the office shall publish a list of nonsubstantive changes in the bulletin. For each nonsubstantive change, the list shall include:

(a) the affected code citation;

(b) a brief description of the change; and

(c) the date the change was made.

(6) All funds appropriated or collected for publishing the office's publications shall be nonlapsing.

**Section 112. Section 63G-3-403 is amended to read:**

**63G-3-403. Repeal and reenactment of Utah Administrative Code.**

(1) When the [executive] director determines that the Utah Administrative Code requires extensive revision and reorganization, the office may repeal the code and reenact a new code according to the requirements of this section.

(2) The office may:

(a) reorganize, reformat, and renumber the code;

(b) require each agency to review its rules and make any organizational or substantive changes according to the requirements of Section 63G-3-303; and

(c) require each agency to prepare a brief summary of all substantive changes made by the agency.

(3) The office may make nonsubstantive changes in the code by:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

(b) eliminating duplication;

(c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules;

(d) eliminating all obsolete or redundant words;

(e) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(f) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(g) updating or correcting annotations associated with a section, part, rule, or title; and

(h) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4) (a) To inform the public about the proposed code reenactment, the office shall publish in the bulletin:

(i) notice of the code reenactment;

(ii) the date, time, and place of a public hearing where members of the public may comment on the proposed reenactment of the code;

(iii) locations where the proposed reenactment of the code may be reviewed; and

(iv) agency summaries of substantive changes in the reenacted code.

(b) To inform the public about substantive changes in agency rules contained in the proposed reenactment, each agency shall:

(i) make the text of their reenacted rules available:

(A) for public review during regular business hours; and

(B) in an electronic version; and

(ii) comply with the requirements of Subsection 63G-3-301(10).

(5) The office shall hold a public hearing on the proposed code reenactment no fewer than 30 days nor more than 45 days after the publication required by Subsection (4)(a).

(6) The office shall distribute complete text of the proposed code reenactment without charge to:

(a) state-designated repositories in Utah;

(b) the Administrative Rules Review Committee; and

(c) the Office of Legislative Research and General Counsel.

(7) The former code is repealed and the reenacted code is effective at noon on a date designated by the office that is not fewer than 45 days nor more than 90 days after the publication date required by this section.

(8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a review of all agency rules.

**Section 113. Section 63G-3-601 is amended to read:**

**63G-3-601. Interested parties -- Petition for agency action.**

(1) As used in this section, "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection 63G-3-301(4), of an agency's proposed rule to implement a petition for the making, amendment, or repeal of a rule as provided in this section.

(2) An interested person may petition an agency to request the making, amendment, or repeal of a rule.

(3) The [department] office shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition.

(4) A statement shall accompany the proposed rule, or proposed amendment or repeal of a rule, demonstrating that the proposed action is within the jurisdiction of the agency and appropriate to the powers of the agency.

(5) Within 60 days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rulemaking proceedings.

(6) (a) If the petition is submitted to a board that has been granted rulemaking authority by the Legislature, the board shall, within 45 days of the submission of the petition, place the petition on its agenda for review.

(b) Within 80 days of the submission of the petition, the board shall either:

(i) deny the petition in writing stating its reasons for denial; or

(ii) initiate rulemaking proceedings.

(7) If the agency or board has not provided the petitioner written notice that the agency has denied the petition or initiated rulemaking proceedings within the time limitations specified in Subsection (5) or (6) respectively, the petitioner may seek a writ of mandamus in state district court.

**CHAPTER 409****S. B. 231**

Passed March 11, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**VETERANS AND MILITARY  
 AFFAIRS GRANT AUTHORITY**

Chief Sponsor: Todd Weiler  
 House Sponsor: Paul Ray

**LONG TITLE****General Description:**

This bill modifies provisions related to the Department of Veterans and Military Affairs.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Department of Veterans and Military Affairs to award grants for certain purposes;
- ▶ gives rulemaking authority to the department related to administration of the grants; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

71-8-2, as last amended by Laws of Utah 2018, Chapters 39 and 200

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 71-8-2 is amended to read:**

**71-8-2. Department of Veterans and Military Affairs created -- Appointment of executive director -- Department responsibilities.**

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions.

(b) Any veteran or veterans group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title;

(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;

(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;

(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title; and

(f) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(4) (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (4)(a) to:

(i) an institution of higher education listed in Section 53B-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(d) A grant may be awarded by the department only after consultation with the Veterans Advisory Council.

[44] (5) Nothing in this chapter shall be construed as altering or preempting the provisions of Title 39, Militia and Armories, as specifically related to the Utah National Guard.

**CHAPTER 410****S. B. 236**

Passed March 12, 2020  
Approved March 30, 2020  
Effective May 12, 2020

**JAIL CONTRACTING AND REIMBURSEMENT AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill modifies provisions related to jail contract and reimbursement rates.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies the formula used to calculate the rate at which the state pays a correctional facility for housing state inmates under various circumstances; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 64-13e-102, as last amended by Laws of Utah 2018, Chapter 374
- 64-13e-103, as last amended by Laws of Utah 2018, Chapters 250 and 374
- 64-13e-104, as last amended by Laws of Utah 2015, Chapters 412 and 425
- 64-13e-105, as last amended by Laws of Utah 2014, Chapter 436

**ENACTS:**

64-13e-103.1, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 64-13e-102 is amended to read:****64-13e-102. Definitions.**

As used in this chapter:

(1) “Actual county daily incarceration rate” means the median amount of jail daily incarceration costs based on the data submitted by counties in accordance with Section 64-13e-104(6)(b).

~~[(4)] (2) “Actual state daily incarceration rate” means the average daily incarceration rate, calculated by the department based on the previous three fiscal years, that reflects the [actual expenses of] following expenses incurred by the department[, including] for housing an inmate:~~

- (a) executive overhead;
- (b) administrative overhead;
- (c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses[;].

~~[(f) medical expenses;]~~

~~[(g) mental health expenses;]~~

~~[(h) dental expenses;]~~

~~[(i) straight line capital depreciation, over a 40-year period, for prison facilities of the department; and]~~

~~[(j) expenses for treatment, including substance abuse treatment, alcohol abuse treatment, sex offender treatment, and alternative treatment.]~~

~~[(2)] (3) “Alternative treatment” means:~~

(a) evidence-based cognitive behavioral therapy; or

(b) a certificate-based program provided by a Utah technical college, as defined in Subsection 53B-26-102(8).

(4) “Annual inmate jail days” means the total number of state probationary inmates housed in a county jail each day for the preceding fiscal year.

~~[(3)] (5) “CCJJ” means the Utah Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.~~

~~[(4)] (6) “Department” means the Department of Corrections.~~

~~[(5)] (7) “Division of Finance” means the Division of Finance, created in Section 63A-3-101.~~

~~[(6) “Final state daily incarceration rate” means the average actual state daily incarceration rate, calculated, reviewed, and discussed under Section 64-13e-105, and approved by the Legislature under Subsection 64-13e-105(3).]~~

(8) “Final county daily incarceration rate” means the amount equal to:

(a) the amount appropriated by the Legislature for the purpose of making payments to counties under Section 64-13e-104; divided by

(b) the average annual inmate jail days for the preceding five fiscal years.

(9) “Jail daily incarceration costs” means the following daily costs incurred by a county jail for housing a state probationary inmate on behalf of the department:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

~~[(7)] (10) “State inmate” means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.~~

~~[(8)] (11) “State parole inmate” means an individual who is:~~

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county jail for a reason related to the individual's parole.

[~~(9)~~] (12) "State probationary inmate" means a felony probationer sentenced to time in a county jail under Subsection 77-18-1(8).

[~~(10)~~] (13) "Treatment program" means:

- (a) an alcohol treatment program;
- (b) a substance abuse treatment program;
- (c) a sex offender treatment program; or
- (d) an alternative treatment program.

**Section 2. Section 64-13e-103 is amended to read:**

**64-13e-103. Contracts for housing state inmates.**

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county or other correctional facility.

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) except as provided in Subsection (3)(a)(ii), [~~91.75%~~] 83.19% of the [~~final~~] actual state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection (3)(c);

(ii) [~~81% of the final~~] 74.18% of the actual state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection (3)(c); and

(iii) [~~73% of the final~~] 66.23% of the actual state daily incarceration rate for beds in a county other than the beds described in Subsections (3)(a)(i) and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection (3)(b)(i);

(ii) the department determines that the Legislature has appropriated sufficient funds to:

(A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i) or (ii); and

(B) pay each county that does not provide a treatment program an amount per state inmate that is not less than the amount per state inmate received for the preceding fiscal year by a county that did not provide a treatment program; and

(iii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(4) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section; and

(b) the total number of state inmate days of incarceration that were provided by the county.

(6) Except as provided under Subsection (7), the department may not enter into a contract described under Subsection (1), unless the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(a) the approximate number of beds to be contracted;

[~~(b) the final state daily incarceration rate;~~]

(b) the daily rate at which the county is paid to house a state inmate;

(c) the approximate amount of the county's long-term debt; and

(d) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

**Section 3. Section 64-13e-103.1 is enacted to read:**

**64-13e-103.1. Calculating the actual state incarceration rate.**



(1) Before September 15 of each year, the department shall calculate, and inform each county and CCJJ of the actual state daily incarceration rate.

(2) The actual state daily incarceration rate may not be less than the rate presented to the Executive Appropriations Committee of the Legislature for purposes of setting the appropriation for the department's budget.

**Section 4. Section 64-13e-104 is amended to read:**

**64-13e-104. Housing of state probationary inmates or state parole inmates -- Payments.**

(1) (a) A county shall accept and house a state probationary inmate or a state parole inmate in a county correctional facility, subject to available resources.

(b) A county may release a number of inmates from a county correctional facility, but not to exceed the number of state probationary inmates in excess of the number of inmates funded by the appropriation authorized in Subsection (2) if:

(i) the state does not fully comply with the provisions of Subsection (9) for the most current fiscal year; or

(ii) funds appropriated by the Legislature for this purpose are less than 50% of the ~~average actual state~~ actual county daily incarceration rate.

(2) Within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary inmate or a state parole inmate at a rate of ~~50% of the final state~~ 56.88% of the actual county daily incarceration rate.

(3) Funds appropriated by the Legislature under Subsection (2):

(a) are nonlapsing;

(b) may only be used for the purposes described in Subsection (2) and Subsection (10); and

(c) may not be used for:

(i) the costs of administering the payment described in this section; or

(ii) payment of contract costs under Section 64-13e-103.

(4) The costs described in Subsection (3)(c)(i) shall be covered by legislative appropriation.

(5) (a) The Division of Finance shall administer the payment described in Subsection (2) and Subsection (10).

(b) In accordance with Subsection (9), CCJJ shall, by rule made pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for ~~the calculation of the payment described in Subsection (2) and Subsection (10)~~ collecting data from counties for the purpose of

completing the calculations described in this section.

(c) Notwithstanding any other provision of this section, CCJJ shall adjust the amount of the payments described in Subsection (7)(b), on a pro rata basis, to ensure that the total amount of the payments made does not exceed the amount appropriated by the Legislature for the payments.

(6) ~~Counties that receive~~ Each county that receives the payment described in Subsection (2) and Subsection (10) shall~~;~~:

(a) on at least a monthly basis, submit a report to CCJJ that includes:

~~(a)~~ (i) the number of state probationary inmates and state parole inmates the county housed under this section;

~~(b)~~ (ii) the total number of state probationary inmate days of incarceration and state parole inmate days of incarceration that were provided by the county;

~~(c)~~ (iii) the total number of offenders housed pursuant to Subsection 64-13-21(2)(b); and

~~(d)~~ (iv) the total number of days of incarceration of offenders housed pursuant to Subsection 64-13-21(2)(b)~~;~~; and

(b) before September 15 of every third year beginning in 2022, calculate and inform CCJJ of the county's jail daily incarceration costs for the preceding fiscal year.

(7) (a) On or before September 30 of each year, CCJJ shall:

(i) compile the information from the reports described in Subsection (6)(a) that relate to the preceding state fiscal year and provide a copy of the compilation to each county that submitted a report~~;~~; and

(ii) calculate:

(A) the actual county incarceration rate, based on the most recent year that data was reported in accordance with Subsection (6)(b); and

(B) the final county incarceration rate.

(b) On or before October 15 of each year, CCJJ shall inform the Division of Finance and each county of:

(i) the actual county incarceration rate;

(ii) the final county incarceration rate; and

(iii) the exact amount of the payment described in this section that shall be made to each county.

(8) On or before December 15 of each year, the Division of Finance shall distribute the payment described in Subsection (7)(b) in a single payment to each county.

(9) (a) The amount paid to each county under Subsection (8) shall be calculated on a pro rata basis, based on the average number of state probationary inmate days of incarceration and the average state parole inmate days of incarceration

that were provided by each county for the preceding five state fiscal years; and

(b) if funds are available, the total number of days of incarceration of offenders housed pursuant to Subsection 64-13-21(2)(b).

(10) If funds appropriated under Subsection (2) remain after payments are made pursuant to Subsection (8), the Division of Finance shall pay a county that houses in its jail a person convicted of a felony who is on probation or parole and who is incarcerated pursuant to Subsection 64-13-21(2)(b) on a pro rata basis not to exceed 50% of the ~~[final state]~~ actual county daily incarceration rate.

**Section 5. Section 64-13e-105 is amended to read:**

**64-13e-105. Meeting to discuss daily incarceration rates.**

~~[(1) (a) Before September 15 of each year, the department shall calculate, and inform the counties and CCJJ of the average actual state daily incarceration rate for the most recent three years for which the data is available.]~~

~~[(b) The actual state daily incarceration rates used to calculate the average rate described in Subsection (1)(a) may not be less than the rates presented to the Executive Appropriations Committee of the Legislature for purposes of setting the appropriation for the department's budget.]~~

~~[(2) (1) Before September 30 of each year, [the following parties] the individuals described in Subsection (2) shall meet to review and discuss:~~

~~(a) the [average] actual state daily incarceration rate, described in [Subsection (1) and] Section 64-13e-103.5;~~

~~(b) the actual county daily incarceration rate; and~~

~~(c) the compilation described in Subsection 64-13e-104(7)[.].~~

~~(2) The following individuals shall meet in accordance with Subsection (1):~~

~~(a) as designated by the Utah Sheriffs Association:~~

~~(i) one sheriff of a county that is currently under contract with the department to house state inmates; and~~

~~(ii) one sheriff of a county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;~~

~~(b) the executive director of the department or the executive director's designee;~~

~~(c) as designated by the Utah Association of Counties:~~

(i) one member of the legislative body of one county that is currently under contract with the department to house state inmates; and

(ii) one member of the legislative body of one county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(d) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee; and

(e) the executive director of the Governor's Office of Management and Budget or the executive director's designee.

~~[(3) (a) The average actual state daily incarceration rate, reviewed and discussed under Subsection (2), may not be used for purposes of calculating payment or reimbursement under this chapter, unless approved by the Legislature in the annual appropriations act.]~~

~~[(b) Nothing in this chapter prohibits the Legislature from setting the final state daily incarceration rate at an amount higher or lower than:]~~

~~[(i) the average actual state incarceration rate; or]~~

~~[(ii) the final state daily incarceration rate that was used during the preceding fiscal year.]~~

**CHAPTER 411****S. B. 238**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**BATTERED PERSON  
 MITIGATION AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher  
 House Sponsor: V. Lowry Snow

**LONG TITLE****General Description:**

This bill provides for mitigation of certain criminal charges related to cohabitant abuse.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for an offense reduction for an individual convicted of an offense if the individual committed the offense as a result of cohabitant abuse; and
- ▶ provides procedures for proving and finding an individual is entitled to the offense reduction in court.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

76-2-409, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 76-2-409 is enacted to read:**

**76-2-409. Battered person mitigation.**

(1) As used in this section:

(a) "Abuse" means the same as that term is defined in Section 78B-7-102.

(b) "Cohabitant" means:

(i) the same as that term is defined in Section 78B-7-102; or

(ii) the relationship of a minor and a natural parent, an adoptive parent, a stepparent, or an individual living with the minor's natural parent as if a stepparent to the minor.

(2) (a) An individual is entitled to battered person mitigation if:

(i) the individual committed a criminal offense that was not legally justified;

(ii) the individual committed the criminal offense against a cohabitant who demonstrated a pattern of abuse against the individual or another cohabitant of the individual; and

(iii) the individual reasonably believed that the criminal offense was necessary to end the pattern of abuse.

(b) A reasonable belief under Subsection (2)(a) is determined from the viewpoint of a reasonable person in the individual's circumstances, as the individual's circumstances are perceived by the individual.

(3) An individual claiming mitigation under Subsection (2)(a) has the burden of proving, by clear and convincing evidence, each element that would entitle the individual to mitigation under Subsection (2)(a).

(4) Mitigation under Subsection (2)(a) results in a one-step reduction of the level of offense of which the individual is convicted.

(5) (a) If the trier of fact is a jury, an individual is not entitled to mitigation under Subsection (2)(a) unless the jury:

(i) finds the individual proved, in accordance with Subsection (3), that the individual is entitled to mitigation by unanimous vote; and

(ii) returns a special verdict for the reduced charge at the same time the jury returns the general verdict.

(b) A nonunanimous vote by the jury on the question of mitigation under Subsection (2)(a) does not result in a hung jury.

(6) An individual intending to claim mitigation under Subsection (2)(a) at the individual's trial shall give notice of the individual's intent to claim mitigation under Subsection (2)(a) to the prosecuting agency at least 30 days before the individual's trial.

**CHAPTER 412****S. B. 239**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**REFINERY SALES TAX EXEMPTION**

Chief Sponsor: Ralph Okerlund  
 House Sponsor: Rex P. Shipp

**LONG TITLE****General Description:**

This bill modifies provisions related to sales tax exemptions for certain refineries.

**Highlighted Provisions:**

This bill:

- ▶ modifies the requirements for a refiner to qualify for the sales and use tax exemption for amounts paid or charged for a purchase or lease of certain equipment, parts, or supplies; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486  
 63M-4-701, as enacted by Laws of Utah 2017, Chapter 429  
 63M-4-702, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-12-104 is amended to read:****59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any

aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

- (B) brought into this state:
- (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- (II) by a nonresident person who is not living or working in this state at the time of the purchase;
- (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- (D) not used in conducting business in this state; and
- (ii) for:
- (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
- (B) a boat, the boat is registered outside of this state; or
- (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (24)(a) does not apply to:
- (i) a lease or rental of a product; or
- (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:
- (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or
- (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- (28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
- (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:
- (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
- (I) 30 days in any calendar year; or
- (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
- (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;
- (31) sales of aircraft manufactured in Utah;
- (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
- (33) sales, leases, or uses of the following:
- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
- (i) sold or leased to or used by an authorized carrier; and
- (ii) before the vehicle is placed in service for the first time;
- (34) (a) 45% of the sales price of any new manufactured home; and
- (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
- (a) a person presents a prescription for the durable medical equipment; and
- (b) the durable medical equipment is used for home use only;
- (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and



(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”;

(D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of

registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter; and
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
- (b) not including amounts paid or charged for a:
- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;
- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;
- (83) amounts paid or charged for a purchase or lease of molten magnesium;
- (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:
- (a) are used in the operation of the establishment; and
- (b) have an economic life of one or more years;
- (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;
- (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:
- (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;
- (b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- (i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person ~~[has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2)]~~ holds a valid refiner tax exemption certification as defined in Section 63M-4-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

**Section 2. Section 63M-4-701 is amended to read:**

**63M-4-701. Definitions.**

As used in this part:

(1) "Blending stock," "blendstock," or "component" means any liquid compound that is blended with other liquid compounds to produce gasoline.

(2) "Refiner" means any person who owns, leases, operates, controls, or supervises a refinery.

(3) "Refiner tax exemption certification" means a certification issued by the office in accordance with Section 63M-4-702.

~~[(3)]~~ (4) "Refinery" means a facility where gasoline or diesel fuel is produced, including a facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel.

**Section 3. Section 63M-4-702 is amended to read:**

**63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development certification of sales and use tax exemption eligibility.**

(1) (a) ~~[Beginning on July 1, 2021, a]~~ A refiner that seeks to be eligible for a sales and use tax exemption under Subsection 59-12-104(86) ~~on or after July 1, 2021, shall annually report to the office whether the refiner's facility that is located within the state [will have]:~~

(i) had an average gasoline sulfur level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616~~[-]~~, during the previous calendar year; or

(ii) for an annual report covering a period before January 1, 2023, if a refiner's facility did not have an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year, the progress the refiner made during the previous calendar year toward complying with the average gasoline sulfur level described in Subsection (1)(a)(i).

(b) Fuels for which a final destination outside Utah can be demonstrated or that are not subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R. Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

~~[(2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is eligible for the sales and use tax exemption under Subsection 59-12-104(86);]~~

~~[(i) on a form provided by the State Tax Commission that shall be retained by the refiner claiming the sales and use tax exemption under Subsection 59-12-104(86);]~~

~~[(ii) if the refiner's refinery that is located within the state had an average sulfur level of 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar year; and]~~

~~[(iii) before a taxpayer is allowed the sales and use tax exemption under Subsection 59-12-104(86).]~~

~~[(b) The certification provided by the office under Subsection (2)(a) shall be renewed annually.]~~

(2) The office shall issue a refiner tax exemption certification to a refiner on a form prescribed by the State Tax Commission:

(a) beginning July 1, 2021, and ending December 31, 2022, if:

(i) the refiner's refinery that is located within the state had an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year; or

(ii) (A) on or before July 1, 2021, the refiner certifies in writing to the office that the refiner's

refinery that is located within the state will have an average gasoline sulfur level described in Subsection (1)(a)(i) after December 31, 2024; and

(B) the office determines that the refiner made satisfactory progress during the previous calendar year toward satisfying the refiner's certification described in Subsection (2)(a)(ii)(A); or

(b) after December 31, 2022, if the refiner's refinery that is located within the state had an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year.

(3) (a) Within 30 days after the day on which the office receives a complete annual report described in Subsection (1)(a), the office shall:

(i) issue a refiner tax exemption certification to the refiner; or

(ii) notify the refiner in writing that the office has determined the refiner does not qualify for a refiner tax exemption certification and the basis for the office's determination.

(b) A refiner tax exemption certification is valid for one year after the day on which the office issues the refiner tax exemption certification.

[(e)] (4) The office:

[(4)] (a) shall accept a copy of a report submitted by a refiner to the Environmental Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average gasoline sulfur level; or

[(ii)] (b) may establish another reporting mechanism through rules made under Subsection [(3)] (5).

[(3)] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.



**CHAPTER 413****S. B. 240**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**REPORTING REQUIREMENTS  
 FOR COUNTY JAILS**

Chief Sponsor: Todd Weiler  
 House Sponsor: Carol Spackman Moss

**LONG TITLE****General Description:**

This bill requires more information to be given on inmate deaths that occur while the inmate is in the custody of a county jail.

**Highlighted Provisions:**

This bill:

- ▶ requires information to be provided on inmate deaths that occur while the inmate is in the custody of a county jail;
- ▶ requires the Commission on Criminal and Juvenile Justice to submit information gathered from inmate death reports to the protection and advocacy agency designated by the governor before November 1 of each year; and
- ▶ requires that a report including only the names and causes of death of deceased inmates and the facility in which they were being held in custody will be made available to the public.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

17-22-32, as last amended by Laws of Utah 2019, Chapter 311

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 17-22-32 is amended to read:**

**17-22-32. County jail reporting requirements.**

(1) As used in this section:

(a) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

- (A) being transported for medical care; or
- (B) receiving medical care outside of a county jail.

(b) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.

(c) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) A county jail shall submit a report to the Commission on Criminal and Juvenile Justice,

created in Section 63M-7-201, before June 15 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year;

(b) for each in-custody death:

(i) the name, gender, race, ethnicity, age, and known or suspected medical diagnosis or disability, if any, of the deceased;

(ii) the date, time, and location of death;

(iii) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

(iv) a brief description of the circumstances surrounding the death;

~~(b)~~ (c) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a);

~~(e)~~ (d) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;

~~(d)~~ (e) the county jail policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; and

~~(e)~~ (f) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; ~~and~~

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year~~[-,]; and~~

(d) submit the compilation to the protection and advocacy agency designated by the governor before November 1 of each year.

(4) The Commission on Criminal and Juvenile Justice may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

(5) A report including only the names and causes of death of deceased inmates and the facility in which they were being held in custody will be made available to the public.

**CHAPTER 414****S. B. 244**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**HOMELESS SHELTER AND SERVICES SHARING AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill modifies provisions of Title 35A, Chapter 8, Housing and Community Development Division.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ describes duties of the director of the Housing and Community Development Division, including the oversight of a Homeless Management Information System; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Workforce Services -- Housing and Community Development -- Homeless Committee, as a one-time appropriation:
  - from the General Fund, One-time, \$1,500,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

35A-8-101, as renumbered and amended by Laws of Utah 2012, Chapter 212

**ENACTS:**

35A-8-203, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 35A-8-101 is amended to read:****35A-8-101. Definitions.**

As used in this chapter:

(1) "Accessible housing" means housing which has been constructed or modified to be accessible, as described in the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(2) "Director" means the director of the division.

(3) "Division" means the Housing and Community Development Division.

(4) "Homeless Management Information System" or "HMIS" means an information technology system that:

(a) is used to collect client-level data and data on the provision of housing and services to homeless

individuals and families and individuals at risk of homelessness in the state; and

(b) meets the requirements of the United States Department of Housing and Urban Development.

**Section 2. Section 35A-8-203 is enacted to read:****35A-8-203. Duties of director.**

(1) The director shall:

(a) coordinate, with the concurrence of the Homeless Coordinating Committee, the provision of homeless services in the state; and

(b) oversee, with the concurrence of Continuum of Care organizations approved by the United States Department of Housing and Urban Development, a Homeless Management Information System for the state that:

(i) shares client-level data between state agencies, local governments, and private organizations that provide services to homeless individuals and families and individuals at risk of homelessness in the state;

(ii) is effective as a case management system;

(iii) except for individuals receiving services who are victims of domestic violence, includes an effective authorization protocol for encouraging individuals who are provided with any homeless services in the state to provide accurate information to providers for inclusion in the HMIS as a condition of receiving homeless services; and

(iv) meets the requirements of the United States Department of Housing and Urban Development and other federal requirements.

(2) In overseeing the provision of homeless services in the state, the director:

(a) shall encourage the coordination of the provision of services to homeless individuals among state agencies, local governments, and private organizations;

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the division to collect and share HMIS data regarding the provision of services to homeless individuals; and

(c) may deny funding to a program or provider that fails to demonstrate the effective collection and sharing of HMIS data regarding the provision of services to homeless individuals.

**Section 3. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Workforce Services -- Housing and Community Development

From General Fund, One-time                      \$1,500,000

Schedule of Programs:

Homeless Committee                                      \$1,500,000

The Legislature intends that:

(1) the Department of Workforce Services use the money in this appropriation to improve the electronic Homeless Management Information System for the state so that the system:

(a) is effective at collecting accurate, client-level data on the provision of housing and services to individuals and families experiencing homelessness; and

(b) serves as an effective case management system for individuals and families experiencing homelessness; and

(2) under Section 63J-1-603, the appropriation provided under this item not lapse at the close of fiscal year 2021.

**CHAPTER 415****S. B. 247**

Passed March 12, 2020  
 Approved March 30, 2020  
 Effective May 12, 2020

**DNA PROCESSING AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg  
 House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill provides that the attorney general may assist a local law enforcement agency with an investigation and sets standards for the use of Rapid DNA testing.

**Highlighted Provisions:**

This bill:

- ▶ allows the Bureau of Forensic Services to authorize DNA testing and analysis at locations other than the state lab; and
- ▶ provides standards for the use of Rapid DNA testing.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-10-403, as last amended by Laws of Utah 2017, Chapter 289

53-10-403.5, as last amended by Laws of Utah 2010, Chapter 405

**ENACTS:**

53-10-403.6, Utah Code Annotated 1953  
 67-5-1.2, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-10-403 is amended to read:****53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through

December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;

(viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xi) sale of a child, Section 76-7-203;

(xii) aggravated escape, Subsection 76-8-309(2);

(xiii) a felony violation of assault on an elected official, Section 76-8-315;

(xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xvii) a felony violation of sexual battery, Section 76-9-702.1;

(xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

(xxvii) violation of condition for release after arrest under Section 77-20-3.5.

(3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah court has adjudicated to be within the jurisdiction of the juvenile court due to the commission of any offense described in Subsection (2), and who is:

(a) within the jurisdiction of the juvenile court on or after July 1, 2002, for an offense under Subsection (2); or

(b) in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002, for an offense under Subsection (2).

**Section 2. Section 53-10-403.5 is amended to read:**

**53-10-403.5. Definitions.**

As used in Sections 53-10-403, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406:

(1) "Bureau" means the Bureau of Forensic Services.

(2) "Combined DNA Index System" or "CODIS" means the program operated by the Federal Bureau of Investigation to support criminal justice DNA databases and the software used to run the databases.

~~[(2)]~~ (3) "Conviction" means:

(a) a verdict or conviction;

(b) a plea of guilty or guilty and mentally ill;

(c) a plea of no contest; or

(d) the acceptance by the court of a plea in abeyance.

~~[(3)]~~ (4) "DNA" means deoxyribonucleic acid.

~~[(4)]~~ (5) "DNA specimen" or "specimen" means a biological sample of a person's saliva or blood, a

biological sample from a crime scene, or a sample collected as part of an investigation.

~~[(5)]~~ (6) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.

(7) "Rapid DNA" means the fully automated process of developing a DNA profile.

~~[(6)]~~ (8) "Violent felony" means any offense under Section 76-3-203.5.

**Section 3. Section 53-10-403.6 is enacted to read:**

**53-10-403.6. Use of Rapid DNA.**

(1) Rapid DNA technology may be used for the purposes of conducting testing of a DNA specimen obtained:

(a) at the time of booking in accordance with Section 53-10-405; or

(b) for non-CODIS comparison during an investigation, if a second specimen is also obtained and is submitted to the bureau or another laboratory that is a National DNA Index System participating laboratory for testing.

(2) Notwithstanding Subsection (1)(b) a second sample is not required if the sample collected was a touch DNA sample and no other specimen or sample is available.

(3) Rapid DNA technology may be used for other purposes only when conducted by the bureau in its capacity as the state's National DNA Index System participating laboratory that follows the Federal Bureau of Investigation Quality Assurance Standards for Forensic DNA Testing Laboratories.

(4) If the investigating agency submits a DNA specimen to the bureau in accordance with the provisions of this section, the bureau shall provide the results of the test directly to the local law enforcement agency that submitted the DNA specimen.

**Section 4. Section 67-5-1.2 is enacted to read:**

**67-5-1.2. Local investigation assistance.**

The attorney general may:

(1) assist or intervene in a local investigation only if:

(a) the local law enforcement agency requests assistance; or

(b) the county or district attorney requests assistance; and

(2) provide Rapid DNA assistance for a local investigation in accordance with Section 53-10-403.6 upon request of and as authorized by, both the investigating agency and the county or district attorney.

**CHAPTER 416**

**H. B. 2**

Passed March 10, 2020  
 Approved March 31, 2020  
 Effective July 1, 2020

**NEW FISCAL YEAR SUPPLEMENTAL  
 APPROPRIATIONS ACT**

Chief Sponsor: Bradley G. Last  
 Senate Sponsor: Jerry W. Stevenson

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ authorizes capital outlay amounts for certain internal service funds;
- ▶ authorizes full time employment levels for certain internal service funds; and
- ▶ provides intent language.

**Money Appropriated in this Bill:**

This bill appropriates \$1,082,350,900 in operating and capital budgets for fiscal year 2021, including:

- ▶ \$126,828,400 from the General Fund;
- ▶ \$67,691,200 from the Education Fund; and
- ▶ \$887,831,300 from various sources as detailed in this bill.

This bill appropriates \$2,174,900 in expendable funds and accounts for fiscal year 2021, including:

- ▶ \$850,000 from the General Fund; and
- ▶ \$1,324,900 from various sources as detailed in this bill.

This bill appropriates \$27,449,800 in business-like activities for fiscal year 2021, including:

- ▶ (\$69,400) from the General Fund; and
- ▶ \$27,519,200 from various sources as detailed in this bill.

This bill appropriates \$29,880,800 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$29,646,200 from the General Fund;
- ▶ \$830,000 from the Education Fund; and
- ▶ (\$595,400) from various sources as detailed in this bill.

This bill appropriates \$10,710,500 in transfers to unrestricted funds for fiscal year 2021.

This bill appropriates \$6,700 in fiduciary funds for fiscal year 2021.

This bill appropriates \$226,940,100 in capital project funds for fiscal year 2021, including:

- ▶ \$4,525,700 from the General Fund;
- ▶ \$212,727,400 from the Education Fund; and

- ▶ \$9,687,000 from various sources as detailed in this bill.

**Other Special Clauses:**

This bill takes effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 1**

To Attorney General

From General Fund .....	(4,433,100)
From Federal Funds .....	260,500
From Dedicated Credits Revenue, One-Time .....	6,100
Schedule of Programs:	
Administration .....	62,800
Child Protection .....	(7,537,900)
Civil .....	124,400
Criminal Prosecution .....	3,184,200

The Legislature intends that the Attorney General's Office, Criminal Department, may purchase up to six (6) additional vehicles with department funds in Fiscal Year 2020 or Fiscal Year 2021.

**Item 2**

To Attorney General - Children's Justice Centers

From General Fund .....	150,000
From General Fund, One-Time .....	250,000
From Federal Funds .....	207,500
Schedule of Programs:	
Children's Justice Centers .....	607,500

The Legislature intends that the Attorney General's Office report on the following performance measures for the Children's Justice Centers line item, whose mission is "to provide a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children's Justice Center, to facilitate healing for children and caregivers, and to utilize the multidisciplinary approach to foster more collaborative and efficient case investigations": (1) Percentage of caregivers that strongly agreed that the CJC provided them with resources to support them and their children (Target = 88.7%); (2)

Percentage of caregivers that strongly agreed that if they knew anyone else who was dealing with a situation like the one their family faced, they would tell that person about the CJC (Target = 90.9%); (3) Percentage of multidisciplinary team (MDT) members that strongly believe clients benefit from the collaborative approach of the MDT (Target = 89.1%), by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 3**

To Attorney General - Prosecution Council

The Legislature intends that the Attorney General's Office report on the following performance measures for the Utah Prosecution Council (UPC), whose mission is "to provide training and continuing legal education and provide assistance for state and local prosecutors": (1) The percentage of prosecutors whose continuing legal education credits come solely from UPC conferences; (2) The number of prosecutors who use a trauma expert in a jury trial; (3) The number of prosecutors who proceed to trial without the cooperation of the victim by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 4**

To Attorney General - State Settlement Agreements

From General Fund, One-Time ..... 2,150,000  
Schedule of Programs:  
State Settlement Agreements ..... 2,150,000

**BOARD OF PARDONS AND PAROLE**

**Item 5**

To Board of Pardons and Parole

From General Fund ..... 262,600  
From General Fund, One-Time ..... 595,100  
Schedule of Programs:  
Board of Pardons and Parole ..... 857,700

The Legislature intends that the Board of Pardons and Parole report on the following performance measures for their line item, whose mission is "The mission of the Utah Board of Pardons and Parole is to provide fair and balanced release, supervision, and clemency decisions that address community safety, victim needs, offender accountability, risk reduction, and reintegration." (1) percent of decisions completed within 7 Days of the Hearing (Target 75%), (2) percent of results completed within 3 Days of decision (Target 90%), (3) percent of mandatory JRI (77-27-5.4) time cuts processed electronically (Target 90%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 6**

To Utah Department of Corrections -

Programs and Operations

From General Fund ..... 5,413,200  
From General Fund, One-Time ..... 973,500  
From Federal Funds ..... 51,500  
From Dedicated Credits Revenue ..... 50,000

Schedule of Programs:

Adult Probation and Parole

Programs ..... 5,800,000  
Department Executive Director .... (2,000,000)  
Prison Operations Administration ... (125,000)  
Prison Operations Draper Facility ... 2,813,200

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation & Parole Agents, for every two agents hired, the Legislature grants the authority to purchase one vehicle with Department funds for FY 2020 and FY 2021.

The Legislature intends that the Department of Corrections, Division of Prison Operations, be able to purchase one vehicle with Department funds.

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund two additional Lieutenants in the Department's Division of Prison Operations Inmate Placement Program, the Legislature grants authority to purchase two vehicles with Department funds.

The Legislature intends that the Department of Corrections report on the following performance measures for the Programs and Operations line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment" (1) AP&P: Percentage of probationers and parolees ending supervision who earned early termination (2) DPO: Per capita rate of convictions for violent incidents inside the state prison by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

The Legislature intends that any targeted funding for compensation increases provided for sworn officers at the Department of Corrections be applied as outlined in the compensation plan entitled "Department of Corrections Certified Pay Plan FY 2020" included in the Executive Offices and Criminal Justice Appropriations Subcommittee meeting for February 19th, 2020.

To the extent that funding is available, the Legislature intends to increase ongoing



appropriations to fully fund the certified correctional staff pay plan to the amount of \$8,439,600 in yearly increments of \$2,813,200 over the next three years.

**Item 7**

To Utah Department of Corrections - Department Medical Services

The Legislature intends that the Department of Corrections report on the following performance measures for the Medical Services line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) Percentage of Health Care Requests closed out within 3 business days of submittal, (2) Percentage of Dental Requests closed out within 7 days of submittal, (3) Average number of days after intake for an inmate to be assigned a mental health level, (4) Percentage of missed medical, dental, or mental health appointments, (5) Percentage of inmates receiving a physical evaluation at intake by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 8**

To Utah Department of Corrections - Jail Contracting

From General Fund ..... 325,000  
 Schedule of Programs:  
 Jail Contracting ..... 325,000

The Legislature intends that the Department of Corrections report on the following performance measures for the Jail Contracting line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) Percentage of available county jail beds contracting at a higher state rate for programming/education by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR**

**Item 9**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... 2,051,400  
 From General Fund, One-Time ..... 450,000

From Federal Funds ..... (44,500)  
 From Revenue Transfers ..... 1,900  
 Schedule of Programs:  
 Administrative Office ..... 32,000  
 Court of Appeals ..... 42,300  
 Courts Security ..... 1,200  
 Data Processing ..... 1,429,600  
 District Courts ..... 549,600  
 Grants Program ..... (42,600)  
 Judicial Education ..... 5,200  
 Justice Courts ..... 1,600  
 Juvenile Courts ..... 400,100  
 Law Library ..... 7,300  
 Supreme Court ..... 32,500

The Legislature intends that the Courts report on district and juvenile court capacity during the 2020 interim including any updates to the judicial weighted caseload formula and workload status using the most current formula. The Legislature further intends that should there be any additional savings in the juvenile court program, that those be used to support district court capacity that could include court commissioners, district court judges, and other resources to address workload.

The Legislature intends that the Utah State Courts report on the following performance measures for the Administration line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law”: (1) Target the recommended time standards in District and Juvenile Courts for all case types, as per the published Utah State Courts Performance Measures, (2) Access and Fairness Survey re satisfaction with my experience in court question, as per the published Utah State Courts Performance Measures (Target 90%), (3) Clearance rate in all courts, as per the published Utah State Courts Performance Measures (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 10**

To Judicial Council/State Court Administrator - Contracts and Leases

From General Fund ..... 300  
 Schedule of Programs:  
 Contracts and Leases ..... 300

The Legislature intends that the Utah State Courts report on the following performance measure for the Contract and Leases line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law”: (1) Execute and administer required contracts within the terms of the contracts and appropriations (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 11**

To Judicial Council/State Court Administrator - Grand Jury

The Legislature intends that the Utah State Courts report on the following performance measure for the Grand Jury line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law”: (1) Administer called Grand Juries (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 12**

To Judicial Council/State Court Administrator - Guardian ad Litem  
 From General Fund ..... 76,900  
 Schedule of Programs:  
     Guardian ad Litem ..... 76,900

The Legislature intends that the Guardian ad Litem report on the seven performance measures for the line item found in the Utah Office of Guardian ad Litem and CASA Annual Report by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 13**

To Judicial Council/State Court Administrator - Jury and Witness Fees  
 From General Fund ..... 3,400  
 Schedule of Programs:  
     Jury, Witness, and Interpreter ..... 3,400

The Legislature intends that the Utah State Courts report on the following performance measure for the Jury and Witness Fees line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law”: (1) Timely pay all required jurors, witnesses and interpreters (Target 100%), by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**GOVERNORS OFFICE**

**Item 14**

To Governors Office - CCJJ Jail Reimbursement  
 From General Fund ..... (325,000)  
 Schedule of Programs:  
     Jail Reimbursement ..... (325,000)

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures the for Jail Reimbursement line item, whose mission is to “reimburse up to 50 percent of the average final daily incarceration rate to house an inmate in county jails for (1) felony offenders placed on probation and given jail time as a condition of probation; and (2) parolees on a 72 hour hold”: (1) Percent of the 50 percent of the average final daily incarceration rate paid to counties (Target equal= 87 percent) by October 15, 2020 to the Executive Offices and Criminal Justice Subcommittee.

**Item 15**

To Governors Office - CCJJ Salt Lake County Jail Bed Housing  
 From General Fund ..... (2,420,000)  
 From General Fund, One-Time ..... 2,420,000

The Legislature intends that any payments from the Commission on Criminal and Juvenile Justice for housing prisoners from Salt Lake County in other counties be limited to the rate of \$26 per day, per prisoner.

**Item 16**

To Governors Office - Commission on Criminal and Juvenile Justice  
 From General Fund ..... 532,800  
 From General Fund, One-Time ..... 350,000  
 From Federal Funds ..... 690,200  
 From Federal Funds, One-Time ..... 300,000  
 From Dedicated Credits Revenue ..... 1,700  
 From Crime Victim Reparations Fund ... 217,800  
 From General Fund Restricted -  
     Criminal Forfeiture Restricted Account ... 200  
 From General Fund Restricted - Law  
     Enforcement Operations ..... 200  
 Schedule of Programs:  
     CCJJ Commission ..... (907,800)  
     County Incentive Grant Program ..... 362,000  
     Extraditions ..... 100,200  
     Judicial Performance Evaluation  
         Commission ..... 3,500  
     Sentencing Commission ..... 1,300  
     State Asset Forfeiture Grant Program .... 200  
     State Task Force Grants ..... 200  
     Substance Use and Mental Health  
         Advisory Council ..... 1,500  
     Utah Office for Victims of Crime .... 2,531,800

The Legislature intends that the Commission on Criminal and Juvenile Justice (CCJJ) organize and coordinate a data gathering and sharing system within the state to help inform processes related to the criminal justice system from arrest through end of supervision, as well as inform process related to non-judicial diversion efforts statewide related to receiving centers and other forms of diversions for adult and juvenile criminal justice systems.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$1,700,000 provided for the Commission on Criminal and Juvenile Justice Commission in Item 66 of Chapter 9 Laws of Utah 2019 not lapse at the close of fiscal year 2020. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2020. The use of any unused funds is limited to employee incentives, one-time remodeling costs, equipment purchases, one-time DTS projects, research and development contracts, one-time costs associated with H.B. 414, Restitution Reporting enacted during the 2019 General Session, extradition costs, meeting and travel costs, state pass through grant programs, and legal costs associated with deliberations required for judicial retention elections.

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures for the Commission on Criminal and Juvenile Justice, line item whose mission is to “(a) promote broad philosophical agreement concerning the objectives of the criminal and juvenile justice system in Utah; (b) provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice to achieve those objectives; and (c) coordinate statewide efforts to reduce crime and victimization in Utah”: (1) Percent of victim reparations claims processed within 30 days or less (Target= 75%); (2) number of grants monitored (Target =143 or 55%); (3) Website Visits to Judges.Utah.Gov (Target = 100% improvement) by October 15, 2020 to the Executive Offices and Criminal Justice Subcommittee.

The Legislature intends that funding for County Incentive Grants/Intake Screenings be used for screening of individuals upon intake into county jails or other criminal justice/human services institutions where screening to improve the overall success of the individual.

**Item 17**

To Governors Office – Governor’s Office  
 From General Fund ..... (462,400)  
 From Federal Funds, One-Time ..... 4,604,000  
 From Dedicated Credits Revenue ..... 87,900  
 Schedule of Programs:  
     Administration ..... 25,000  
     Governor’s Residence ..... 1,900  
     Literacy Projects ..... (10,600)  
     Lt. Governor’s Office ..... 4,211,200  
     Washington Funding ..... 2,000

The Legislature intends that the Governor’s Office report on the following performance measure for the Governor’s Office line item: (1) Number of registered voters and the percentage that voted during the November 2019 general election (Target = increased turnout compared to the 2014 mid-term election); (2) Number of constituent affairs responses by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations.

**Item 18**

To Governors Office – Governor’s Office of Management and Budget  
 From General Fund ..... 528,800  
 Schedule of Programs:  
     Administration ..... 306,800  
     Operational Excellence ..... 6,300  
     Planning and Budget Analysis ..... 215,700

The Legislature intends that the Governor’s Office report on the following performance measure for the Governor’s Office of Management and Budget line item, whose mission is “To create more value for every tax dollar invested”: (1) Increase the

overall percentage of the budget with a defined SUCCESS system measure (Target = establish a baseline for the percentage of the budget with a SUCCESS measure) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 19**

To Governors Office – Indigent Defense Commission  
 From Federal Funds, One-Time ..... 212,900  
 From General Fund Restricted – Indigent Defense Resources ..... 2,006,000  
 Schedule of Programs:  
     Indigent Defense Commission ..... 2,218,900

The Legislature intends that in FY 2021 that \$150,000 one-time of the \$500,000 ongoing appropriated for counsel at first appearances be used by the Indigent Defense Commission to direct a study in coordination with the Administrative Office of the Courts to identify inefficiencies in court processes and how they are impacted by indigent defense, prosecutors and overall court processes/procedures.

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures for the Indigent Defense Commission line item whose mission is to “assist the state in meeting the state’s obligations for the provision of indigent criminal defense services, consistent with the United States Constitution, the Utah Constitution, and state law.”: (1) Percentage of indigent defense systems using Indigent Defense Commission grant money to improve the effective assistance of counsel by improving the organizational capacity of the system, through regionalization (Target=20%); (2) Percentage of total county indigent defense systems improving the effective assistance of counsel through the use of separate indigent defense service providers, to address distinct areas of specialization in indigent defense representation in juvenile and criminal courts. (Target=30%); and (3) Percentage of indigent defense systems operating with Indigent Defense Commission grant money to improve the quality of indigent defense representation through independently-administered defense resources that allow defense counsel to provide the effective assistance of counsel (Target=40%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 20**

To Governors Office – Quality Growth Commission – LeRay McAllister Program  
 From General Fund, One-Time ..... 2,000,000  
 Schedule of Programs:  
     LeRay McAllister Critical Land Conservation Program ..... 2,000,000

**DEPARTMENT OF HUMAN SERVICES -  
DIVISION OF JUVENILE JUSTICE  
SERVICES**

**Item 21**

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations

From General Fund .....	7,200
From Federal Funds .....	108,000
From Dedicated Credits Revenue .....	142,200
From Revenue Transfers .....	(89,700)
Schedule of Programs:	
Community Programs .....	1,250,000
Correctional Facilities .....	(1,082,300)

The Legislature intends that up to \$1,250,000 of ongoing funds for juvenile justice detention capacity be used for expanding/developing youth services.

The Legislature intends that the Department of Human Services, Division of Juvenile Justice Services report on the following performance measures for the DHS Juvenile Justice Services (KJAA) line item, whose mission is "To be a leader in the field of juvenile justice by changing young lives, supporting families and keeping communities safe": (1) Avoid new felony or misdemeanor charge while enrolled in the Youth Services program and within 90 days of release, (Target = 100%), (2) Reduce the risk of recidivism by 25% within 3 years. (Target = 25%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 22**

To Department of Human Services - Division of Juvenile Justice Services - Community Providers

From General Fund Restricted - Juvenile Justice Reinvestment Account .....	4,913,200
From Revenue Transfers, One-Time ...	(31,900)
Schedule of Programs:	
Provider Payments .....	4,881,300

**OFFICE OF THE STATE AUDITOR**

**Item 23**

To Office of the State Auditor - State Auditor

From General Fund .....	35,600
From Dedicated Credits Revenue .....	19,600
Schedule of Programs:	
State Auditor .....	55,200

The Legislature intends that the Office of the State Auditor report on the following performance measures for the Office of the State Auditor line item, whose mission is "to provide Utah taxpayers and government officials with an independent assessment of financial operation, statutory compliance, and performance management for state and local government": (1) Annual financial statement audits completed in a timely manner (within six months) - excluding State CAFR (Target = 65%); (2) State of Utah Comprehensive Annual Financial Report (CAFR) audit completed and released in a

timely manner (within five months or 153 days) (Target = 153 days or less); (3) State of Utah Single Audit Report (Federal Compliance Report) completed and released in a timely manner (w/in six months or 184 days). Federal requirement is nine months. (Target = 184 days or less); (4) Monitoring of CPA firms performing local government financial audits. (Target = 100% over an ongoing three-year period) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**DEPARTMENT OF PUBLIC SAFETY**

**Item 24**

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

From Expendable Receipts .....	1,000,000
Schedule of Programs:	
Emergency and Disaster Management .....	1,000,000

The Legislature intends that the Department of Public Safety report on the following performance measures for their Division of Homeland Security Emergency and Disaster Management line item: (1) distribution of funds for appropriate and approved expenses (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 25**

To Department of Public Safety - Driver License From Uninsured Motorist Identification

Restricted Account .....	376,900
Schedule of Programs:	
Uninsured Motorist .....	376,900

The Legislature intends that the Department of Public Safety report on the following performance measures for their Driver License line item, whose mission is "to license and regulate drivers in Utah and promote public safety": (1) average customer wait time measured in 13 driver license field offices (Target=8 minutes), (2) average customer call wait time (Target=30 seconds), (3) percentage of driver license medical forms processed within 5 days divided by the operating expenses for the process (Target=25 percent improvement) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 26**

To Department of Public Safety - Emergency Management

From General Fund, One-Time .....	500,000
From Federal Funds .....	8,163,900
From Federal Funds, One-Time .....	500,000
Schedule of Programs:	
Emergency Management .....	9,163,900

The Legislature intends that the Department of Public Safety report on the

following performance measures for their Emergency Management line item, whose mission is “to unite the emergency management community and to coordinate the efforts necessary to mitigate, prepare for, respond to, and recover from emergencies, disasters, and catastrophic events”: (1) percentage compliance with standards and elements required to achieve and maintain National Emergency Management Program Accreditation (Target=100 percent), (2) percentage of personnel that have completed the required National Incident Management System training (Target=100 percent), (3) percentage of 98 state agencies that have updated their Continuity of Operation Plans (Target=100 percent) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 27**

To Department of Public Safety - Emergency Management - National Guard Response

The Legislature intends that the Department of Public Safety report on the following performance measures for their Emergency Management - National Guard Response line item, (1) distribution of funds as reimbursement to the National Guard of authorized and approved expenses (Target=100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 28**

To Department of Public Safety - Highway Safety

The Legislature intends that the Department of Public Safety report on the following performance measures for their Highway Safety line item, whose mission is “to develop, promote and coordinate traffic safety initiatives designed to reduce traffic crashes, injuries and fatalities on Utah’s roadways”: (1) percentage of persons wearing a seatbelt, as captures on the Utah Safety Belt Observational Survey (Target=greater than 85 percent), (2) number of motor vehicle crash fatalities (Target=2 percent reduction), (3) number of pedestrian fatalities (Target=3 percent reduction) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 29**

To Department of Public Safety - Peace Officers’ Standards and Training  
From Uninsured Motorist Identification

Restricted Account . . . . .	500,000
Schedule of Programs:	
Basic Training . . . . .	500,000

The Legislature intends that the Department of Public Safety report on the following performance measures for their Peace Officers Standards and Training line item, whose mission is “to provide law enforcement with leadership and innovative training while enhancing the integrity of the profession”: (1) percentage of POST

investigations completed within specified timeframes divided by the operating expenses for the process (Target=25 percent improvement), (2) percentage of presented cases of law enforcement personnel complaints or misconduct allegations ratified by POST Council (Target=95 percent), (3) percentage of law enforcement officers completing 40 hours of mandatory annual training (Target= 100 percent) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 30**

To Department of Public Safety - Programs & Operations

From General Fund . . . . .	11,347,000
From General Fund, One-Time . . . . .	6,750,800
From Dedicated Credits Revenue . . . . .	561,800
From Expendable Receipts, One-Time . . . . .	350,000
From General Fund Restricted -	
Fire Academy Support . . . . .	200,000
Schedule of Programs:	
Aero Bureau . . . . .	5,200,000
CITS Communications . . . . .	600,000
CITS State Crime Labs . . . . .	2,849,800
Department Grants . . . . .	350,000
Fire Marshall - Fire Fighter	
Training . . . . .	200,000
Highway Patrol - Field	
Operations . . . . .	2,421,800
Highway Patrol - Special	
Enforcement . . . . .	7,588,000

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2020 and Fiscal Year 2021.

The Legislature intends that any proceeds from the sale of the salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations. The Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2020 and Fiscal Year 2021.

The Legislature intends that the Fire Marshal office is authorized to increase its fleet by one vehicle as it transitions a non-sworn position to a sworn position.

The Legislature intends that the Utah Department of Public Safety be able to purchase up to six vehicles for its centralized evidence management program.

The Legislature intends that the Department of Public Safety report on the following performance measures for the Utah Highway Patrol in the Public Safety Programs and Operations line item, whose mission is “to provide professional police and traffic services and to protect the constitutional rights of all people in Utah”: (1) percentage of DUI reports submitted for administrative action within specified

timeframes divided by operating expenses for the process (Target=25 percent improvement) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

The Legislature intends that the Department of Public Safety report on the following performance measures for the Bureau of Forensic Services in the Public Safety Programs and Operations line item, whose mission is “to provide a safe and secure environment for the citizens of Utah through the application of the forensic sciences”: (1) median DNA case turnaround time (Target=60 days) by October 15, 2021 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 31**

To Department of Public Safety - Bureau of Criminal Identification

The Legislature intends that the Department of Public Safety report on the following performance measures for the Bureau of Criminal Identification line item, whose mission is to provide public safety agencies and the general public with technical services, expertise, training, criminal justice information, permits and related resources: (1) percentage of LiveScan fingerprint card data entered into the Utah Computerized Criminal History (UCCH) and Automated fingerprint identification System (AFIS) databases, or deleted from the queue (Target=5 working days) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**STATE TREASURER**

**Item 32**

To State Treasurer

From General Fund . . . . .	7,100
From Dedicated Credits Revenue . . . . .	155,800
From Land Trusts Protection and Advocacy Account . . . . .	2,700
From Unclaimed Property Trust . . . . .	10,900
Schedule of Programs:	
Advocacy Office . . . . .	2,700
Money Management Council . . . . .	800
Treasury and Investment . . . . .	162,100
Unclaimed Property . . . . .	10,900

The Legislature intends that the State Treasurer’s Office report on the following performance measures for the State Treasurer line item, whose mission is “To serve the people of Utah by safeguarding public funds, prudently managing and investing the States financial assets, borrowing from the capital markets at the lowest prudently available cost to taxpayers, and reuniting individuals and businesses with their unclaimed property.”: (1) Spread Between PTIF Interest Rate and Benchmark Rate (Target = 0.30%), (2) Ratio of Claim Dollars Paid to Claim Dollars Collected (Target = 50%), and (3) Total Value of

Unclaimed Property Claims Paid (Target = \$20 Million) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**UTAH COMMUNICATIONS AUTHORITY**

**Item 33**

To Utah Communications Authority - Administrative Services Division

The Legislature intends that the Utah Communications Authority, whose mission is to “(a) provide administrative and financial support for statewide 911 emergency services; and (b) establish and maintain a statewide public safety communications network,” report on the following performance measures: 1) the Utah Communications Authority shall maintain the statewide public safety communications network in a manner that maximizes network availability for its users; 2) monitor best practices and other guidance for PSAPs across Utah; 3) ensure compliance with applicable laws, policies, procedures, and other internal controls to ensure adequate administration of the organization by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 34**

To Department of Administrative Services - Building Board Program

From General Fund . . . . .	(10,700)
From Capital Projects Fund . . . . .	(1,227,600)
From Beginning Nonlapsing Balances . . . . .	(192,400)
Schedule of Programs:	
Building Board Program . . . . .	(1,430,700)

**Item 35**

To Department of Administrative Services - DFCM Administration

From General Fund . . . . .	10,700
From General Fund, One-Time . . . . .	(50,000)
From Capital Projects Fund . . . . .	1,227,600
From Beginning Nonlapsing Balances . . . . .	192,400
Schedule of Programs:	
DFCM Administration . . . . .	1,430,700
Energy Program . . . . .	(50,000)

The Legislature intends that any excess DFCM Project Reserve Funds or Contingency Reserve Funds, as determined by DFCM’s analysis of current balances and projected needs, will be transferred to the Utah State Correctional Facility project before any other uses of these funds for FY 2021.

**Item 36**

To Department of Administrative Services - Executive Director

From Dedicated Credits Revenue . . . . .	270,000
Schedule of Programs:	

Executive Director ..... 270,000

**Item 37**

To Department of Administrative Services -  
 Finance - Mandated  
 From Gen. Fund Rest. - Land  
 Exchange Distribution Account ..... (303,000)  
 Schedule of Programs:  
 Land Exchange Distribution ..... (303,000)

**Item 38**

To Department of Administrative Services -  
 Finance Administration  
 From General Fund ..... 1,500,000  
 From General Fund, One-Time ..... 4,000,000  
 Schedule of Programs:  
 Financial Information Systems ..... 5,500,000

**Item 39**

To Department of Administrative Services -  
 State Archives  
 From General Fund, One-Time ..... 100,000  
 Schedule of Programs:  
 Archives Administration ..... 100,000

**Item 40**

To Department of Administrative Services -  
 Finance Mandated - Mineral Lease  
 Special Service Districts  
 From General Fund Restricted -  
 Mineral Lease ..... (4,958,900)  
 Schedule of Programs:  
 Mineral Lease Payments ..... (5,341,800)  
 Mineral Lease Payments in Lieu ..... 382,900

**CAPITAL BUDGET**

**Item 41**

To Capital Budget - Capital Development -  
 Higher Education  
 From Capital Projects Fund,  
 One-Time ..... 95,573,300  
 Schedule of Programs:  
 Bridgerland Technical College Health  
 Science and Technology  
 Building ..... 38,059,600  
 SUU Academic Classroom Building . 43,013,700  
 USU Heravi Global Teaching  
 and Learning Center ..... 14,500,000

**Item 42**

To Capital Budget - Capital Development -  
 Other State Government  
 From Capital Projects Fund ..... 3,000,000  
 From Capital Projects Fund,  
 One-Time ..... 7,525,700  
 Schedule of Programs:  
 Brigham City Consolidated Public  
 Safety Building ..... 7,525,700  
 Offender Housing ..... 3,000,000

**Item 43**

To Capital Budget - Pass-Through  
 From General Fund, One-Time ..... 3,000,000  
 Schedule of Programs:  
 Olympic Park Improvement ..... 3,000,000

**Item 44**

To Capital Budget - Property Acquisition  
 From Education Fund, One-Time .... 15,075,000  
 Schedule of Programs:

Dixie State University Land Bank .. 15,075,000

**STATE BOARD OF BONDING  
 COMMISSIONERS - DEBT SERVICE**

**Item 45**

To State Board of Bonding Commissioners -  
 Debt Service - Debt Service  
 From General Fund, One-Time ..... 10,326,700  
 From Transportation Investment  
 Fund of 2005 ..... 47,749,100  
 From Federal Funds ..... (198,900)  
 From Federal Funds, One-Time ..... 10,610,500  
 From Dedicated Credits Revenue ..... 2,365,400  
 From County of First Class Highway  
 Projects Fund ..... (4,335,300)  
 From Revenue Transfers,  
 One-Time ..... (10,610,500)  
 Schedule of Programs:  
 G.O. Bonds - State Govt ..... (283,800)  
 G.O. Bonds - Transportation ..... 54,024,300  
 Revenue Bonds Debt Service ..... 2,166,500

**DEPARTMENT OF  
 TECHNOLOGY SERVICES**

**Item 46**

To Department of Technology Services -  
 Integrated Technology Division  
 From General Fund ..... 2,100  
 From Federal Funds ..... 299,800  
 From Dedicated Credits Revenue ..... 2,000  
 From Gen. Fund Rest. - Statewide  
 Unified E-911 Emerg. Acct. .... 500  
 Schedule of Programs:  
 Automated Geographic Reference  
 Center ..... 304,400

**TRANSPORTATION**

**Item 47**

To Transportation - Aeronautics  
 From General Fund, One-Time ..... 6,000,000  
 From Federal Funds ..... 200,000  
 Schedule of Programs:  
 Airport Construction ..... 6,200,000

**Item 48**

To Transportation - Highway System Construction  
 From Transportation Fund ..... 23,340,100  
 From Federal Funds ..... (39,718,000)  
 Schedule of Programs:  
 Federal Construction ..... (302,558,100)  
 Rehabilitation/Preservation ..... 283,180,200  
 State Construction ..... 3,000,000

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money

appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

**Item 49**

To Transportation - Cooperative Agreements  
From Expendable Receipts ..... 5,000,000  
Schedule of Programs:  
Cooperative Agreements ..... 5,000,000

**Item 50**

To Transportation - Engineering Services  
From General Fund ..... (1,000,000)  
From General Fund, One-Time ..... 2,000,000  
From Transportation Fund ..... 185,600  
From Federal Funds ..... 324,900  
From Dedicated Credits Revenue ..... 2,135,600  
Schedule of Programs:  
Environmental ..... 400,000  
Planning and Investment ..... 2,000,000  
Materials Lab ..... 2,309,000  
Program Development ..... (1,396,500)  
Research ..... 322,000  
Structures ..... 11,600

**Item 51**

To Transportation - Operations/  
Maintenance Management  
From Transportation Fund ..... 6,927,800  
From Dedicated Credits Revenue ..... 6,700,000  
Schedule of Programs:  
Equipment Purchases ..... 6,000,000  
Field Crews ..... 912,700  
Lands and Buildings ..... 700,000  
Maintenance Administration ..... 317,700  
Maintenance Planning ..... 13,400  
Region 1 ..... 808,200  
Region 2 ..... 1,057,600  
Region 3 ..... 835,700  
Region 4 ..... 1,830,600  
Seasonal Pools ..... 362,000  
Shops ..... 594,900  
Traffic Operations Center ..... 182,000  
Traffic Safety/Tramway ..... 13,000

**Item 52**

To Transportation - Region Management  
From Transportation Fund ..... 402,800  
From Federal Funds ..... 8,400  
From Dedicated Credits Revenue ..... 2,186,000  
Schedule of Programs:  
Region 1 ..... 571,200  
Region 2 ..... 810,300  
Region 3 ..... 289,200  
Region 4 ..... 926,500

**Item 53**

To Transportation - Share the Road  
From General Fund Restricted - Share  
the Road Bicycle Support ..... 10,000  
Schedule of Programs:  
Share the Road ..... 10,000

**Item 54**

To Transportation - Support Services  
From General Fund ..... (2,570,000)  
From Transportation Fund ..... 867,200  
From Federal Funds ..... (666,700)  
Schedule of Programs:  
Administrative Services ..... (2,570,000)  
Comptroller ..... 123,800  
Ports of Entry ..... 76,700

**Item 55**

To Transportation - Transportation  
Investment Fund Capacity Program  
From Transportation Investment Fund  
of 2005, One-Time ..... 274,130,600  
Schedule of Programs:  
Transportation Investment Fund  
Capacity Program ..... 274,130,600

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

**Item 56**

To Transportation - Amusement Ride Safety  
From General Fund ..... (350,800)  
From General Fund, One-Time ..... 350,800  
From General Fund Restricted - Amusement  
Ride Safety Restricted Account ..... 350,800  
From General Fund Restricted -  
Amusement Ride Safety Restricted  
Account, One-Time ..... (350,800)

**Item 57**

To Transportation - Transit  
Transportation Investment  
From Transit Transportation Investment  
Fund ..... 15,687,000  
Schedule of Programs:  
Transit Transportation  
Investment ..... 15,687,000

**Item 58**

To Transportation - Transportation  
Safety Program  
From Transportation Safety Program  
Restricted Account ..... 15,000  
Schedule of Programs:  
Transportation Safety Program ..... 15,000

**Item 59**

To Transportation - Pass-Through  
From General Fund ..... 3,570,000  
From General Fund, One-Time ..... 250,000  
Schedule of Programs:  
Pass-Through ..... 3,820,000



**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF  
ALCOHOLIC BEVERAGE CONTROL**

**Item 60**

To Department of Alcoholic Beverage  
Control - DABC Operations  
From Liquor Control Fund ..... 2,320,200  
From Liquor Control Fund,  
One-Time ..... 1,545,200  
Schedule of Programs:  
Executive Director ..... 282,300  
Operations ..... 1,796,400  
Stores and Agencies ..... 1,637,900  
Warehouse and Distribution ..... 148,800

**DEPARTMENT OF COMMERCE**

**Item 61**

To Department of Commerce - Building  
Inspector Training  
From Dedicated Credits Revenue ..... 180,000  
Schedule of Programs:  
Building Inspector Training ..... 180,000

**Item 62**

To Department of Commerce - Commerce  
General Regulation  
From General Fund Restricted - Commerce  
Service Account ..... 377,000  
Schedule of Programs:  
Occupational and Professional  
Licensing ..... 377,000

**GOVERNOR'S OFFICE  
OF ECONOMIC DEVELOPMENT**

**Item 63**

To Governor's Office of Economic Development -  
Administration  
From General Fund ..... 15,100  
Schedule of Programs:  
Administration ..... 15,100

**Item 64**

To Governor's Office of Economic Development -  
Business Development  
From General Fund ..... 31,400  
From Federal Funds ..... 202,700  
From Dedicated Credits Revenue ..... 50,000  
From General Fund Restricted -  
Industrial Assistance Account ..... 500  
Schedule of Programs:  
Corporate Recruitment and Business  
Services ..... 272,700  
Outreach and International Trade ..... 11,900

**Item 65**

To Governor's Office of Economic Development -  
Office of Tourism  
From General Fund ..... 24,300  
From Dedicated Credits Revenue ..... 1,700  
From General Fund Restricted -  
Tourism Marketing Performance ... 24,000,000  
Schedule of Programs:  
Administration ..... 6,000  
Film Commission ..... 5,000  
Marketing and Advertising ..... 24,000,000

Operations and Fulfillment ..... 15,000

**Item 66**

To Governor's Office of Economic Development -  
Pass-Through  
From General Fund ..... 2,620,000  
From General Fund, One-Time ..... 2,050,000  
Schedule of Programs:  
Pass-Through ..... 4,670,000

**Item 67**

To Governor's Office of Economic Development -  
Pete Suazo Utah Athletics Commission  
From General Fund ..... 1,100  
From Dedicated Credits Revenue ..... 200  
Schedule of Programs:  
Pete Suazo Utah Athletics Commission .. 1,300

**Item 68**

To Governor's Office of Economic Development -  
Talent Ready Utah Center  
From General Fund ..... 3,300  
From Dedicated Credits Revenue ..... 50,000  
Schedule of Programs:  
Talent Ready Utah Center ..... 52,500  
Utah Works Program ..... 800

**Item 69**

To Governor's Office of Economic Development -  
Inland Port Authority  
From General Fund ..... 1,500,000  
From Pass-through ..... 1,000,000  
Schedule of Programs:  
Inland Port Authority ..... 2,500,000

**Item 70**

To Governor's Office of Economic Development -  
Point of the Mountain Authority  
From General Fund, One-Time ..... 385,000  
From Pass-through ..... 1,000,000  
Schedule of Programs:  
Point of the Mountain Authority .... 1,385,000

**FINANCIAL INSTITUTIONS**

**Item 71**

To Financial Institutions - Financial Institutions  
Administration  
From General Fund Restricted -  
Financial Institutions ..... 478,900  
Schedule of Programs:  
Administration ..... 478,900

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 72**

To Department of Heritage and Arts -  
Administration  
From General Fund ..... 127,800  
From Dedicated Credits Revenue ..... 30,100  
Schedule of Programs:  
Administrative Services ..... 126,100  
Information Technology ..... 31,800

**Item 73**

To Department of Heritage and Arts - Division  
of Arts and Museums  
From General Fund ..... 38,700  
From General Fund, One-Time ..... 1,000,000  
From Federal Funds ..... 175,000  
From Dedicated Credits Revenue ..... 2,200  
Schedule of Programs:

Community Arts Outreach . . . . . 215,900  
 Grants to Non-profits . . . . . 1,000,000

The Legislature intends that the Department of Heritage and Arts has authority in FY 2021 to move carry over/nonlapsing dollars from FY 2020 from the Museum Services line item to the Arts and Museum line item as part of the merging process.

**Item 74**

To Department of Heritage and Arts - Indian Affairs  
 From General Fund . . . . . 40,000  
 Schedule of Programs:  
 Indian Affairs . . . . . 40,000

**Item 75**

To Department of Heritage and Arts - Pass-Through  
 From General Fund, One-Time . . . . . 500,000  
 Schedule of Programs:  
 Pass-Through . . . . . 500,000

**Item 76**

To Department of Heritage and Arts - State History  
 From Dedicated Credits Revenue . . . . . 500,000  
 Schedule of Programs:  
 Historic Preservation and Antiquities . . . . . 500,000

**Item 77**

To Department of Heritage and Arts - Stem Action Center  
 From General Fund . . . . . 4,800,000  
 From Federal Funds . . . . . 280,000  
 Schedule of Programs:  
 STEM Action Center . . . . . 5,080,000

**INSURANCE DEPARTMENT**

**Item 78**

To Insurance Department - Bail Bond Program  
 From General Fund Restricted - Bail Bond Surety Administration . . . . . 2,600  
 Schedule of Programs:  
 Bail Bond Program . . . . . 2,600

**Item 79**

To Insurance Department - Insurance Department Administration  
 From General Fund . . . . . 100  
 From Federal Funds . . . . . 1,600  
 From General Fund Restricted - Captive Insurance . . . . . 401,900  
 From General Fund Restricted - Insurance Department Acct. . . . . 53,400  
 Schedule of Programs:  
 Administration . . . . . 55,100  
 Captive Insurers . . . . . 401,900

**Item 80**

To Insurance Department - Title Insurance Program  
 From General Fund Rest. - Title Licensee Enforcement Acct. . . . . 13,800  
 Schedule of Programs:  
 Title Insurance Program . . . . . 13,800

**LABOR COMMISSION**

**Item 81**

To Labor Commission  
 From Federal Funds . . . . . 113,300  
 Schedule of Programs:  
 Utah Occupational Safety and Health . . . . . 113,300

**UTAH STATE TAX COMMISSION**

**Item 82**

To Utah State Tax Commission - License Plates Production  
 From Dedicated Credits Revenue . . . . . 463,600  
 Schedule of Programs:  
 License Plates Production . . . . . 463,600

**Item 83**

To Utah State Tax Commission - Liquor Profit Distribution  
 From General Fund Restricted - Alcoholic Beverage Enforcement and Treatment Account . . . . . 74,100  
 Schedule of Programs:  
 Liquor Profit Distribution . . . . . 74,100

**Item 84**

To Utah State Tax Commission - Tax Administration  
 From General Fund . . . . . 353,800  
 From General Fund, One-Time . . . . . 26,000  
 From Education Fund . . . . . 54,500  
 From Federal Funds . . . . . 8,400  
 From General Fund Restricted - Electronic Payment Fee Rest. Acct . . . . . 500,000  
 From General Fund Rest. - Sales and Use Tax Admin Fees . . . . . 40,100  
 From Revenue Transfers . . . . . 2,200  
 Schedule of Programs:  
 Administration Division . . . . . 192,000  
 Auditing Division . . . . . 185,000  
 Motor Vehicles . . . . . 500,000  
 Tax Payer Services . . . . . 108,000

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 85**

To Department of Health - Children's Health Insurance Program  
 From General Fund . . . . . (1,646,700)  
 From General Fund, One-Time . . . . . (4,096,700)  
 From Federal Funds . . . . . (6,694,600)  
 From Federal Funds, One-Time . . . . . 4,096,700  
 From Revenue Transfers . . . . . 233,900  
 Schedule of Programs:  
 Children's Health Insurance Program . . . . . (8,107,400)

The Legislature intends that the Departments of Health and Workforce Services recommend an option for clients for recurring automatic withdrawal payments to pay their CHIP premiums and report on their recommendations to the Office of the Legislative Fiscal Analyst by October 1, 2020.

**Item 86**

To Department of Health - Disease Control and Prevention

From General Fund .....	119,700
From Federal Funds .....	(3,498,000)
From Dedicated Credits Revenue .....	62,200
From Expendable Receipts .....	751,900
From Expendable Receipts - Rebates .....	5,500
From General Fund Restricted - Cigarette Tax Restricted Account .....	(9,300)
From Gen. Fund Rest. - State Lab Drug Testing Account .....	10,300
From General Fund Restricted - Tobacco Settlement Account .....	300
From Revenue Transfers .....	12,300
Schedule of Programs: Epidemiology .....	798,900
General Administration .....	38,300
Health Promotion .....	(3,641,500)
Utah Public Health Laboratory .....	137,700
Office of the Medical Examiner .....	121,500

The Legislature intends that the Department of Health report on the following additional performance measures for the Disease Control and Prevention line item, whose mission is to “prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease.”: Utah youth use of electronic cigarettes in grades 8, 10, and 12 (Target = 11.1% or less) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 87**

To Department of Health - Executive

Director’s Operations	
From General Fund .....	152,200
From Federal Funds .....	433,100
From Dedicated Credits Revenue .....	27,600
From Revenue Transfers .....	11,900
Schedule of Programs: Adoption Records Access .....	1,800
Center for Health Data and Informatics .....	54,500
Executive Director .....	375,000
Office of Internal Audit .....	1,800
Program Operations .....	115,400
Center for Medical Cannabis .....	76,300

The Legislature intends that the Department of Health prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2020. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2021 items, the department shall provide an initial report by December 1, 2020 and a final report by August 31, 2021.

The Legislature intends that the Department of Health report to the Social Services Appropriations Subcommittee by October 1, 2020 on the current and projected impact of Medicaid expansion on the total and

percentage of funds from Medicaid for the costs of the all-payer claims database.

**Item 88**

To Department of Health - Family Health and Preparedness

From General Fund .....	1,495,000
From Federal Funds .....	(1,712,900)
From Dedicated Credits Revenue .....	4,800
From Expendable Receipts .....	135,000
From General Fund Restricted - Home Visiting Restricted Account .....	(2,000)
From Revenue Transfers .....	7,200
Schedule of Programs: Child Development .....	(4,600)
Children with Special Health Care Needs .....	1,558,500
Director’s Office .....	(47,700)
Emergency Medical Services and Preparedness .....	4,800
Maternal and Child Health .....	(1,596,700)
Public Health and Health Care Preparedness .....	12,800

The Legislature intends that the Department of Health use the ongoing funding provided in item 186 of Chapter 407, Laws of Utah 2019 to coordinate with the Department of Human Services Division of Substance Abuse and Mental Health to have each local mental health authority identify at least one provider who has experience in maternal mental health, or will identify at least one provider to be trained in maternal mental health; providers will be connected to a statewide network of experienced and informed maternal mental health professionals. The Departments of Health and Human Services shall report on the progress of these efforts to the Office of the Legislative Fiscal Analyst by January 1, 2021.

**Item 89**

To Department of Health - Medicaid and Health Financing

From General Fund .....	10,300
From Federal Funds .....	10,852,900
From Dedicated Credits Revenue .....	349,700
From Expendable Receipts .....	(336,400)
From Medicaid Expansion Fund .....	732,400
From Nursing Care Facilities Provider Assessment Fund .....	2,200
From Revenue Transfers .....	5,585,300
Schedule of Programs: Coverage and Reimbursement Policy ....	7,700
Financial Services .....	80,200
Medicaid Operations .....	17,108,500

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by August 1, 2020 on the status of all recommendations in chapter two from “An In-Depth Budget Review of the Utah Department of Health” that the Department of Health had anticipated finished implementing.

The Legislature intends that the Departments of Health and Workforce

Services report to the Office of the Legislative Fiscal Analyst by July 1, 2020 on the costs and revenue associated with implementing cost sharing for families with incomes above 150% of the federal poverty level on Medicaid waiver programs for children.

The Legislature intends that the Departments of Health and Workforce Services report to the Office of the Legislative Fiscal Analyst by July 1, 2020 on the Medicaid populations not currently with a work requirement who could have a work requirement. The report shall include the number of new individuals who could have a work requirement and the associated costs and savings to the State.

The Legislature authorizes the Department of Health to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Medicaid Expansion Fund 2252 for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature intends that the income eligibility ceiling shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: i. 5% for individuals who meet the additional criteria in 26-18-411 Subsection (3) ii. the income level in place prior to July 1, 2017 for an individual with a dependent child.

The Legislature intends that the Department of Health provide its estimate of clients and associated savings from breast and cervical cancer Medicaid clients who will now be served at a higher match rate under Medicaid expansion and report by October 1, 2020 to the Office of the Legislative Fiscal Analyst.

The Legislature intends that the Department of Health report to the Social Services Appropriations Subcommittee by October 1, 2020 on the current and projected impact of Medicaid expansion on the state

subsidy needed for the state-run medical and dental clinics.

The Legislature intends that the \$500,000 in beginning nonlapsing provided to the Department of Health's Medicaid and Health Financing line item for state match to improve existing application level security and provide redundancy for core Medicaid applications is dependent upon up to \$500,000 funds not otherwise designated as nonlapsing to the Department of Health's Medicaid Services line item or Medicaid and Health Financing line item or a combination from both line items not to exceed \$500,000 being retained as nonlapsing in Fiscal Year 2020.

The Legislature intends that the Department of Health work with rural hospitals to propose options to the Office of the Legislative Fiscal Analyst by October 1, 2020 for a new reimbursement methodology for rural inpatient hospital billing that gives the State of Utah more control over the annual inflationary increases and keeps the total funding close to previous levels that could start with FY 2022.

**Item 90**

To Department of Health - Medicaid Services

From General Fund .....	23,286,000
From General Fund, One-Time .....	(3,331,300)
From Federal Funds .....	184,881,800
From Federal Funds, One-Time .....	(7,430,000)
From Dedicated Credits Revenue ..	(11,765,400)
From Expendable Receipts .....	42,820,800
From Expendable Receipts -	
Rebates .....	37,150,500
From Ambulance Service Provider	
Assess Exp Rev Fund .....	1,202,700
From Medicaid Expansion Fund .....	900,000
From Medicaid Expansion Fund,	
One-Time .....	(50,000)
From Nursing Care Facilities Provider	
Assessment Fund .....	1,506,700
From Revenue Transfers .....	25,419,800
From Pass-through .....	13,000
Schedule of Programs:	
Expenditure Offsets from Collections ...	13,000
Home and Community Based	
Waivers .....	155,000
Intermediate Care Facilities for the	
Intellectually Disabled .....	6,465,000
Medicaid Expansion .....	8,700,000
Mental Health and Substance	
Abuse .....	2,304,600
Nursing Home .....	1,488,700
Other Services .....	113,172,700
Pharmacy .....	162,305,200
Provider Reimbursement Information	
System for Medicaid .....	400

The Legislature intends that for reporting on the outcomes of the expansion of social detox services to Medicaid expansion clients, that the Department of Health report the following performance measures (1) initiation and engagement of alcohol and other drug abuse or dependence treatment

and (2) reduction in substance-use-related emergency department visits.

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement by September 30, 2020. The report should include an updated estimate of net ongoing impacts to the State from the new system. The Department of Health should work with other agencies to identify any impacts outside its agency.

The Legislature intends that all funding for the Health Insurance Fee required under Affordable Care Act Provision 9010 paid by Medicaid managed care plans be made contingent upon a reconciliation of the actual tax payments due.

The Legislature authorizes the Department of Health to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Medicaid Expansion Fund 2252 for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

**Item 91**

To Department of Health - Primary Care Workforce Financial Assistance  
 From Education Fund, One-Time ..... 2,000,000  
 Schedule of Programs:  
 Primary Care Workforce Financial Assistance ..... 2,000,000

**DEPARTMENT OF HUMAN SERVICES**

**Item 92**

To Department of Human Services - Division of Aging and Adult Services  
 From General Fund ..... 13,600  
 From Federal Funds ..... 1,359,800  
 Schedule of Programs:  
 Administration - DAAS ..... 1,359,800  
 Aging Waiver Services ..... 13,600

**Item 93**

To Department of Human Services - Division of Child and Family Services  
 From General Fund ..... 11,293,700  
 From Federal Funds ..... 4,388,300  
 From Dedicated Credits Revenue ..... (1,700)  
 From Expendable Receipts ..... 2,000  
 From Gen. Fund Rest. - Victims of Domestic Violence Services Acct ..... 30,000  
 Schedule of Programs:  
 Administration - DCFS ..... 4,287,400  
 Adoption Assistance ..... 259,600  
 Child Welfare Management Information System ..... (28,300)  
 Domestic Violence ..... 30,000  
 Facility-Based Services ..... 472,900  
 In-Home Services ..... (31,900)  
 Minor Grants ..... (178,600)  
 Out-of-Home Care ..... (28,704,400)  
 Selected Programs ..... 7,471,100  
 Service Delivery ..... 2,735,600  
 Special Needs ..... (125,800)  
 Provider Payments ..... 29,524,700

**Item 94**

To Department of Human Services - Executive Director Operations  
 From General Fund ..... (531,100)  
 From Federal Funds ..... (291,000)  
 From Dedicated Credits Revenue ..... 31,100  
 Schedule of Programs:  
 Executive Director's Office ..... (822,100)  
 Office of Licensing ..... 31,100

The Legislature intends that the Department of Human Services report on the following performance measures for the Executive Director Operations line item, whose mission is "To strengthen lives by providing children, youth, families and adults individualized services to thrive in their homes, schools and communities": (1) Corrected department-wide reported fiscal issues -- per reporting process and June 30 quarterly report involving the Bureau of Finance and Bureau of Internal Review and Audit (Target = 98%), (2) Initial foster care homes licensed within 3 months of application completion (Target = 96%), and (3) Percent of children placed in residential treatment out of children at-risk for out-of-home placement (Target = 10%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2020. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2021 items, the department shall provide an initial report by December 1, 2020 and a final report by August 31, 2021.

In addition to the intent language included in Item 113, H.B. 7, the Legislature intends that the Office of Licensing, in consultation with the Division of Child and Family Services, assess the cost to manage Interstate Compacts on the Placements of Children for private providers and the feasibility of assessing a fee to offset the costs of this service.

**Item 95**

To Department of Human Services - Office of Public Guardian

From General Fund, One-Time .....	(58,000)
From Federal Funds .....	(700)
From Revenue Transfers, One-Time ...	(39,000)
Schedule of Programs:	
Office of Public Guardian .....	(97,700)

The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Public Guardian (OPG) line item, whose mission is “To ensure quality coordinated services in the least restrictive, most community-based environment to meet the safety and treatment needs of those we serve while maximizing independence and community and family involvement”: (1) Ensure all other available family or associate resources for guardianship are explored before and during involvement with OPG (Target = 10% of cases transferred to a family member or associate) and (2) Obtain an annual cumulative score of at least 85% on quarterly case process reviews (Target = 85%) by October 1, 2020 and (3) Timeliness of processing open referrals in pending status (Target = 25% time reduction) by October 1, 2021 to the Social Services Appropriations Subcommittee.

**Item 96**

To Department of Human Services - Office of Recovery Services

From General Fund .....	(14,000)
From Federal Funds .....	(1,822,800)
From Dedicated Credits Revenue .....	600
Schedule of Programs:	
Administration - ORS .....	(1,836,800)
Child Support Services .....	600

Notwithstanding the intent language passed on lines 1144 through 1156 in H.B. 7, Social Services Base Budget, the Legislature intends that the Department of Human Services report on the following performance measures for the Office of Recovery Services (ORS) line item, whose mission is “To serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents, establishing paternity and support obligations, and enforcing those obligations when necessary”: (1) Statewide Paternity Establishment Percentage (PEP Score) (Target = 90%), (2) Child Support Services Collections (Target = \$225 million), and (3) Ratio: ORS Collections to Cost (Target = >

\$6.25 to \$1) by October 1, 2020 to the Social Services Appropriations Subcommittee.

The Legislature intends that the Office of Recovery Services provide a report to the Office of the Legislative Fiscal Analyst by September 15, 2020 detailing the following for the estate recovery program: 1) the amount of FY 2020 collections and projections for FY 2021 and FY 2022 and reasons for the trend, 2) the impact of TEFRA liens and other changes from S.B. 241 (2018 G.S.), and 3) what collection efforts are based on federal law and which are based on state law only.

**Item 97**

To Department of Human Services - Division of Services for People with Disabilities

From General Fund .....	10,817,900
From General Fund, One-Time .....	(2,347,000)
From Federal Funds .....	(408,500)
From Expendable Receipts .....	125,000
From Revenue Transfers .....	11,957,700
From Revenue Transfers, One-Time .....	(4,917,000)
Schedule of Programs:	
Administration - DSPD .....	(408,500)
Community Supports Waiver .....	15,562,200
Utah State Developmental Center .....	74,400

The Legislature intends that the Division of Services for People with Disabilities (DSPD) may use funds originally appropriated for individuals transitioning from intermediate care facilities to community-based services in H.J.R. 28 (2019 General Session) for other DSPD services, such as civil commitments, emergency placements, and additional needs, in FY 2020 and FY 2021. The Legislature further intends that DSPD report on the use of these and any other funds appropriated in the 2020 General Session for the DSPD budget shortfall to the Office of the Legislative Fiscal Analyst by September 1, 2020 for FY 2020 funds and by September 1, 2021 for FY 2021 funds.

The Legislature intends that for all funding provided beginning in FY 2016 for Direct Care Staff Salary Increases, the Division of Services for People with Disabilities (DSPD) shall: 1) Direct funds to increase the salaries of direct care workers; 2) Increase only those rates which include a direct care service component, including respite; 3) Monitor providers to ensure that all funds appropriated are applied to direct care worker wages and that none of the funding goes to administrative functions or provider profits; 4) In conjunction with DSPD community providers, report to the Office of the Legislative Fiscal Analyst no later than September 1, 2020 regarding the implementation and status of increasing salaries for direct care workers.

**Item 98**

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund .....	2,133,900
From Federal Funds .....	5,584,400

From Dedicated Credits Revenue . . . . .	2,076,000
From Revenue Transfers . . . . .	58,300
Schedule of Programs:	
Administration - DSAMH . . . . .	5,584,400
Community Mental Health Services . . .	601,100
Local Substance Abuse Services . . . . .	540,000
State Hospital . . . . .	3,127,100

The Legislature intends that the Division of Substance Abuse and Mental Health, in consultation with the Division of Disease Control and Prevention, provide a report detailing the following related to substance use disorder and mental health: 1) an inventory of federal, state, and county funded prevention programs in the State, 2) any available data on effectiveness of those programs, 3) recommendations on whether and, if so, how funding should be rebalanced toward prevention rather than later stage treatment, and 4) recommendations for other efforts that could be preventive, such as around affordable housing, domestic violence, trauma, and intergenerational poverty, and provide that report to the Office of the Legislative Fiscal Analyst before the Social Services Appropriations Subcommittee August Interim meeting.

The Legislature intends that the Department of Health use the ongoing funding provided in item 186 of Chapter 407, Laws of Utah 2019 to coordinate with the Department of Human Services Division of Substance Abuse and Mental Health to have each local mental health authority identify at least one provider who has experience in maternal mental health, or will identify at least one provider to be trained in maternal mental health; providers will be connected to a statewide network of experienced and informed maternal mental health professionals. The Departments of Health and Human Services shall report on the progress of these efforts to the Office of the Legislative Fiscal Analyst by January 1, 2021.

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 99**

To Department of Workforce Services -	
Administration	
From Expendable Receipts . . . . .	71,200
From General Fund Restricted - School	
Readiness Account . . . . .	16,800
From General Fund Restricted - Special	
Admin. Expense Account, One-Time . . . .	67,500
From Unemployment Compensation	
Fund, One-Time . . . . .	88,000
Schedule of Programs:	
Administrative Support . . . . .	215,700
Communications . . . . .	6,800
Executive Director's Office . . . . .	5,000
Human Resources . . . . .	10,300
Internal Audit . . . . .	5,700

The Legislature intends that the Department of Workforce Services prepare

proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2020. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2021 items, the department shall provide an initial report by December 1, 2020 and a final report by August 31, 2021.

The Legislature intends that the Department of Workforce Services shall report to the Social Services Appropriations Subcommittee by October 1, 2020 on the current and projected impact of Medicaid expansion on allocation of costs to Medicaid.

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature intends that the Department of Workforce Services prepare for Social Services Appropriation Subcommittee review by October 1, 2020 a comprehensive review of workload trends and corresponding FTE to ensure the workforce is flexing appropriately.

The Legislature intends that the Departments of Health and Workforce Services report to the Office of the Legislative Fiscal Analyst by July 1, 2020 on the costs and revenue associated with implementing cost sharing for families with incomes above 150% of the federal poverty level on Medicaid waiver programs for children.

The Legislature intends that the Departments of Health and Workforce Services report to the Office of the Legislative Fiscal Analyst by July 1, 2020 on the Medicaid populations not currently with a work requirement who could have a work requirement. The report shall include the number of new individuals who could have a work requirement and the associated costs and savings to the State.

The Legislature intends that the Departments of Health and Workforce Services recommend an option for clients for recurring automatic withdrawal payments to pay their CHIP premiums and report on their recommendations to the Office of the Legislative Fiscal Analyst by October 1, 2020.

Notwithstanding the intent language passed on lines 377 through 383 in H.B. 7, Social Services Base Budget, under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of General Fund appropriations provided in Item 75 of Chapter 10 Laws of Utah 2019 and/or in item 3 of Chapter 1 Laws of Utah 2019 First Special Session for the Department of Workforce Services' Administration line item, shall not lapse at the close of Fiscal Year

2020. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, and one-time projects.

**Item 100**

To Department of Workforce Services -  
 Housing and Community Development  
 From General Fund ..... (1,160,000)  
 From General Fund, One-Time ..... 2,100,000  
 From Federal Funds ..... 4,272,600  
 From Expendable Receipts ..... 250,000  
 From Gen. Fund Rest. - Pamela  
 Atkinson Homeless Account ..... 400,000  
 From Revenue Transfers ..... 500,000  
 From Uintah Basin Revitalization  
 Fund ..... 20,000  
 Schedule of Programs:  
 Community Development ..... 2,120,000  
 HEAT ..... 4,272,600  
 Homeless Committee ..... 240,000  
 Housing Development ..... 500,000  
 Weatherization Assistance ..... (750,000)

The Legislature intends that, in accordance with UCA 35A-8-608(3)(g)(ii), the prioritized list of Homeless Shelter Cities Mitigation Program grant requests, including the recommended grant amount for each grant-eligible entity, be approved as submitted to the Social Services Appropriations Subcommittee by the State Homeless Coordinating Committee.

**Item 101**

To Department of Workforce Services -  
 Nutrition Assistance - SNAP  
 From Federal Funds ..... (20,000,000)  
 Schedule of Programs:  
 Nutrition Assistance - SNAP .... (20,000,000)

**Item 102**

To Department of Workforce Services -  
 Operations and Policy  
 From General Fund ..... (101,300)  
 From Federal Funds ..... 101,300  
 From Federal Funds, One-Time ..... 2,268,100  
 From Expendable Receipts ..... (81,300)  
 From Navajo Revitalization Fund ..... 3,500  
 From OWHTF-Low Income Housing ..... 2,100  
 From General Fund Restricted - School  
 Readiness Account ..... 3,000,000  
 From General Fund Restricted -  
 Special Admin. Expense Account,  
 One-Time ..... 2,843,500  
 From Revenue Transfers ..... 19,189,100  
 From Uintah Basin Revitalization Fund ... 1,800  
 From Unemployment Compensation  
 Fund, One-Time ..... 2,388,100  
 Schedule of Programs:  
 Eligibility Services ..... 17,564,500  
 Facilities and Pass-Through ..... (2,700)  
 Information Technology ..... 3,942,200  
 Other Assistance ..... 2,843,500  
 Temporary Assistance for Needy  
 Families ..... 1,141,400  
 Workforce Development ..... 4,126,100  
 Workforce Research and Analysis ..... (100)

The Legislature intends that the \$500,000 provided in the Department of Workforce Services - Operations and Policy line item for the Weber County Prosperity Initiative from Temporary Assistance for Needy Families (TANF) federal funds: 1) is dependent upon the availability of and qualification for the Weber County Prosperity Initiative for Temporary Assistance for Needy Families federal funds; and 2) be spent over the following two years in equal amounts each year.

The Legislature intends that the \$1,141,400 provided in the Department of Workforce Services - Operations and Policy line item for the Statewide Sexual Assault Prevention Program from Temporary Assistance for Needy Families (TANF) federal funds is dependent upon the availability of and qualification for the Statewide Sexual Assault Prevention Program for Temporary Assistance for Needy Families federal funds.

The Legislature intends that the \$626,700 provided in the Department of Workforce Services - Operations and Policy line item for the Better Together Program from Temporary Assistance for Needy Families (TANF) federal funds: 1) is dependent upon the availability of and qualification for the Better Together Program for Temporary Assistance for Needy Families federal funds; and 2) be spent over the following three years in the following amounts: Year 1 \$202,900; Year 2 \$205,000; Year 3 \$218,800.

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

**Item 103**

To Department of Workforce Services -  
 Special Service Districts  
 From General Fund Restricted -  
 Mineral Lease ..... (825,600)  
 Schedule of Programs:  
 Special Service Districts ..... (825,600)

**Item 104**

To Department of Workforce Services -  
 State Office of Rehabilitation  
 From Federal Funds ..... (7,793,000)  
 From Expendable Receipts ..... 1,500  
 From Permanent Community Impact  
 Loan Fund ..... 1,000  
 From General Fund Restricted - School  
 Readiness Account ..... 400  
 From General Fund Restricted -  
 Special Admin. Expense Account,  
 One-Time ..... 1,500  
 From Unemployment Compensation  
 Fund, One-Time ..... 1,800  
 Schedule of Programs:  
 Aspire Grant ..... (7,793,000)  
 Deaf and Hard of Hearing ..... 6,000  
 Executive Director ..... 100



Rehabilitation Services ..... 100

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the State Office of Rehabilitation line item is limited to one-time projects associated with Unemployment Insurance modernization.

**Item 105**

To Department of Workforce Services -  
 Unemployment Insurance  
 From Expendable Receipts ..... 8,600  
 From Permanent Community Impact  
 Loan Fund ..... 3,700  
 From General Fund Restricted - School  
 Readiness Account ..... 1,200  
 From General Fund Restricted -  
 Special Admin. Expense Account,  
 One-Time ..... 837,500  
 From Unemployment Compensation  
 Fund, One-Time ..... 722,100  
 Schedule of Programs:  
 Adjudication ..... 111,900  
 Unemployment Insurance  
 Administration ..... 1,461,200

**HIGHER EDUCATION**

**UNIVERSITY OF UTAH**

**Item 106**

To University of Utah - Education and General  
 From General Fund ..... (39,200,000)  
 From General Fund, One-Time ..... 49,526,600  
 From Education Fund ..... 43,423,800  
 From Education Fund, One-Time .. (48,500,000)  
 Schedule of Programs:  
 Education and General ..... 5,561,700  
 Operations and Maintenance ..... (311,300)

The legislature intends that the University of Utah College of Business use \$125,000 ongoing, provided by this item to support public finance policy development and state revenue estimating through the Kem C. Gardner Policy Institute.

The Legislature intends that the University of Utah report on the following performance measures for the Education and General line item, whose mission is: "To foster success by preparing students from diverse backgrounds for lives that impact as leaders and citizens. Share new knowledge, discoveries, and innovations, and engage local and global communities to promote education, health, and quality of life": (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous

five years), (5) Total research expenditures (Target = 1% improvement over the average of the previous five years), by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes the University of Utah to purchase fourteen vehicles for its motor pool.

**Item 107**

To University of Utah -  
 Educationally Disadvantaged

The Legislature intends that the University of Utah report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "The Center for Disability & Access is dedicated to students with disabilities by providing the opportunity for success and equal access at the University of Utah. We are committed to providing reasonable accommodations as outlined by Federal and State law. We also strive to create an inclusive, safe and respectful environment. By promoting awareness, knowledge and equity, we aspire to impact positive change within individuals and the campus community": (1) Students with disabilities registered and receiving services (Target = 2%-5% of total university enrollment), (2) Provision of alternative format services, including Braille and Video Captioning (Target = provide accessible materials in a timely manner - prior to materials being needed/utilized in coursework), and (3) Provide Interpreting Services for Deaf and Hard of Hearing students (Target = Maintain a highly qualified and 100% certified interpreting staff. Achieve 100% delivery of properly requested interpreting needs) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 108**

To University of Utah - School of Medicine

The Legislature intends that the University of Utah report on the following performance measures for the School of Medicine line item, whose mission is: "The University of Utah School of Medicine serves the people of Utah and beyond by continually improving individual and community health and quality of life. This is achieved through excellence in patient care, education, and research. Each is vital to our mission and each makes the others stronger": (1) Number of medical school applications (Target = Exceed number of applications as an average of the prior three years), (2) Number of student enrolled in medical school (Target = Maintain full cohort based on enrollment levels), (3) Number of applicants to matriculates (Target = Maintain healthy ratio to insure a class of strong academic quality), (4) Number of miners served (Target = Maintain or exceed historical number served), and (5) Number of miners enrolled (Target = Maintain or exceed historical number enrolled) by October 15,

2021 to the Higher Education Appropriations Subcommittee.

**Item 109**

To University of Utah – Cancer Research and Treatment

The Legislature intends that the University of Utah report on the following performance measures for the Cancer Research and Treatment line item, whose mission is: “To understand cancer from its beginnings, to use that knowledge in the creation and improvement of cancer treatments, to relieve the suffering of cancer patients, and to provide education about cancer risk, prevention, and care”:

(1) Extramural cancer research funding help by HCI investigators (Target = Increase the funding by between 3-6% from 2016 level \$55.9M), (2) Cancer clinical trials available to HCI patients. (Target = Enrollment at or above 12 percent of new HCI cancer patients, and (3) Expand cancer research programs (Target = Launch a new research initiative in Health Outcomes and Population Equity (HOPE), and continue the HCI PathMaker program) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 110**

To University of Utah – University Hospital

The Legislature intends that the University of Utah report on the following performance measures for the University Hospital line item, whose mission is: “The University of Utah Health Sciences Center serves the people of Utah and beyond by continually improving individual and community health and quality of life. This is achieved through excellence in patient care, education, and research, each is vital to our mission and each makes the others stronger”:

(1) Number of annual residents in training (Target = 578), (2) Number of annual resident training hours (Target = 2,080,800), and (3) Percentage of total resident training costs appropriated by the legislature (Target = 20.7%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 111**

To University of Utah – School of Dentistry

The Legislature intends that the University of Utah report on the following performance measures for the School of Dentistry line item, whose mission is: “To improve the oral and overall health of the community through education, research, and service”:

(1) Number of RDEP Beneficiaries Practicing in Utah (Target = 40% of RDEP beneficiaries), (2) Number of RDEP Beneficiaries Admitted to Advanced Practice Residency (Target = 20% of RDEP beneficiaries), and (3) Number of total RDEP Beneficiaries admitted to Program (Target = 10 beneficiaries) by October 15, 2021 to the

Higher Education Appropriations Subcommittee.

**Item 112**

To University of Utah – Public Service

The Legislature intends that the University of Utah report on the following performance measures for the Seismograph Stations Program, whose mission is: “Reducing the risk from earthquakes in Utah through research, education, and public service”:

(1) Timeliness of response to earthquakes in the Utah region. (Target = For 100% of earthquakes with magnitude 3.5 or greater that occur in the Utah region UUSS will transmit an alarm to the Utah Department of Emergency Management within 5 minutes and post event information to the web within 10 minutes), (2) Publications and presentations related to earthquakes. (Target = Each year UUSS researchers will publish at least five papers in peer-reviewed journals. Make at least ten presentations at professional meetings, and make at least ten oral presentations to local stakeholders), and (3) External funds raised to support UUSS mission (Target = Each year UUSS will generate external funds that equal or exceed the amount provided by the State of Utah by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the University of Utah report on the following performance measures for the Natural History Museum of Utah Program, whose mission is: “The Natural History Museum of Utah illuminates the natural world and the place of humans within it”:

(1) Total on-site attendance (Target = Meet or exceed 282,000 for FY 2021), (2) Total off-site attendance (Target = Meet or exceed 200,000 for FY 2021), and (3) Number of school interactions (Target = Meet or exceed 1,250 for FY 2021 by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the University of Utah report on the following performance measures for the State Arboretum Program, whose mission is: “To connect people with plants and the beauty of living landscapes”:

(1) Number of memberships (Target = Increase number of memberships by 3% annually from June 30, 2016 to June 30, 2021), (2) Number of admissions (Target: = Increase number of admission by 3% annually from June 30, 2016 to June 30, 2021), and (3) Number of school children participating in on-site field classes (Target = Maintain present level of participation until Education Center is build that will permit expansion beyond what current facilities permit) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 113**

To University of Utah – Statewide TV Administration

The Legislature intends that the University of Utah report on the following performance measures for the Statewide TV Administration Program, whose mission is: “KUED entertains, informs, and enriches our viewers with exceptional content and is a valued community resource. Our mission is to be a community resource that is trusted, valued, and essential”: (1) Determine number of television households that tune in to KUED (Target = Measurement during Nielsen “sweeps” greater than or equal to the prior three year percentages), (2) Number of visitors to KUEDs informational page and KUEDs video page (Target = Measure Google Analytics to meet or exceed prior three year percentages), and (3) Number of people participating in KUED Community Outreach Events (Target = Equal or greater to the number of viewers in the past three years) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 114**

To University of Utah - Poison Control Center

The Legislature intends that the University of Utah report on the following performance measures for the Poison Control Center line item, whose mission is: “To prevent and minimize adverse health effects from a poison exposure through education, service, and research”: (1) Poison Center Utilization (Target = exceed Nationwide Average), (2) Health care costs averted per dollar invested (Target = \$10.00 savings for every dollar invested in the center), and (3) Service level - speed to answer (Target = answer 85% of cases within 20 seconds) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 115**

To University of Utah - Center on Aging

The Legislature intends that the University of Utah report on the following performance measures for the Center on Aging line item, whose mission is: “To provide educational and research programs in gerontology at the University of Utah”: (1) Increased penetration of UCOA influence by measuring how many stakeholders including UCOA members, community guests, engaged in meetings, events, consults directly as a result of UCOA efforts and facilitation (Target = Annual increase of 25% of qualified UCOA engagements with aging stakeholders), (2) Access to the ADRC - Cover to Cover Program (Target = To provide services to 100% of the people of Utah over age 65), and (3) Increased penetration of iPods placed through facilities and service organizations throughout the state of Utah (Target = Annual increase of 15% of aggregated placements of iPods through the Music & Memory program) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 116**

To University of Utah - Rocky Mountain Center for Occupational and Environmental Health

The Legislature intends that the University of Utah report on the following performance measures for the Rocky Mountain Center for Occupational and Environmental Health line item, whose mission is: “To maintain with our customers an impeccable reputation for professionalism, objectivity, promptness, and evenhandedness. To promote, create and maintain a safe and healthful campus environment”: (1) Number of Students in the degree programs (Target = Greater than or equal to 45 students), (2) Number of students trained (Target = Greater than or equal to 600), and (3) Number of businesses represented in continuing education courses (Target = Greater than or equal to 1,000) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 117**

To University of Utah - SafeUT Crisis Text and Tip From Education Fund . . . . . 875,000  
Schedule of Programs:

SafeUT Operations . . . . . 875,000

The legislature intends, that prior to October 31st, 2020, the University of Utah will submit to the Higher Education Appropriations Subcommittee, a report on all ongoing funding sources transferred from the Department of Human Services, Department of Health, or the State Board of Education to support the SafeUT program in Fiscal Year 2021.

**UTAH STATE UNIVERSITY**

**Item 118**

To Utah State University - Education and General From General Fund . . . . . 6,200  
From General Fund, One-Time . . . . . 2,947,100  
From Education Fund . . . . . 3,028,200  
From Education Fund, One-Time . . . . . 217,900  
Schedule of Programs:

Education and General . . . . . 6,043,700  
USU - School of Veterinary

Medicine . . . . . (10,700)  
Operations and Maintenance . . . . . 166,400

The Legislature intends that Utah State University report on the following performance measures for the Education and General line item, whose mission is: “to be one of the nations premier student-centered land-grant and space-grant universities by fostering the principle that academics come first, by cultivating diversity of thought and culture and by serving the public through learning, discovery and engagement”: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand

fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), (5) Total research expenditures (Target = 1% improvement over the average of the previous five years), by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 119**

To Utah State University - USU - Eastern Education and General  
 From Education Fund ..... 32,300  
 From Education Fund, One-Time ..... 84,900  
 Schedule of Programs:  
 USU - Eastern Education and General ..... 117,200

The Legislature intends that Utah State University report on the following performance measures for the USU Eastern Education and General line item, whose mission is: “with efficiency, innovation, and excellence, Utah State University Eastern prepares the people who create and sustain our region”: (1) Degrees & certificates awarded by USUE (Target = 365), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 950), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 120**

To Utah State University - Educationally Disadvantaged  
 From General Fund ..... (300)  
 Schedule of Programs:  
 Educationally Disadvantaged ..... (300)

The Legislature intends that Utah State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “to provide services to educationally disadvantaged students”: (1) Students served (Target = 20), (2) Average aid per student (Target = \$4,000), and (3) Transfer and retention rate (Target = 80%) by October 15, 2012 to the Higher Education Appropriations Subcommittee.

**Item 121**

To Utah State University - USU - Eastern Educationally Disadvantaged

The Legislature intends that Utah State University report on the following performance measures for the Eastern Educationally Disadvantaged line item, whose mission is: “to provide services to educationally disadvantaged students”: (1)

Students served (Target = 275), (2) Average aid per student (Target = \$500), and (3) Transfer and retention rate (Target = 50%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 122**

To Utah State University - USU - Eastern Career and Technical Education  
 From Education Fund ..... 5,500  
 Schedule of Programs:  
 USU - Eastern Career and Technical Education ..... 5,500

The Legislature intends that Utah State University report on the following performance measures for the Eastern Career and Technical Education line item, whose mission is: “to provide open-entry, open-exit competency-based career and technical education programs, and emphasize short-term job training and retraining for southeastern Utah”: (1) CTE licenses and certifications (Target = 100), (2) CTE Graduate placements (Target = 45), and (3) CTE Completions (Target = 50) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 123**

To Utah State University - Regional Campuses  
 From Education Fund ..... (664,600)  
 Schedule of Programs:  
 Administration ..... (240,100)  
 Uintah Basin Regional Campus ..... 37,900  
 Brigham City Regional Campus ..... (292,000)  
 Tooele Regional Campus ..... (170,400)

The Legislature intends that Utah State University report on the following performance measures for the Brigham City Regional Campus line item, whose mission is: “To provide education opportunities to citizens in Brigham City and surrounding communities”: (1) Degrees and certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 650), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. For Bachelors and 3 yrs. For Associates) (Target = 49% with a 0.5% increase per annum) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature intends that Utah State University report on the following performance measures for the Tooele Regional Campus line item, whose mission is: “To provide education opportunities to citizens in Tooele and along the Wasatch Front”: (1) Degrees and certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 1,200), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this

includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. For Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature intends that Utah State University report on the following performance measures for the Uintah Basin Regional Campus line item, whose mission is: “to provide education opportunities to citizens in the Uintah Basin”: (1) Degrees and certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 375), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. For Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 124**

To Utah State University - Water Research Laboratory  
 From Education Fund ..... (23,500)  
 Schedule of Programs:  
 Water Research Laboratory ..... (23,500)

The Legislature intends that Utah State University report on the following performance measures for the Water Research Laboratory line item, whose mission is: “to work with academic departments at USU to generate, transmit, apply, and preserve knowledge in ways that are consistent with the land-grant mission of the University”: (1) Peer-reviewed journal articles published (Target = 10), (2) Number of students supported (Target = 150), and (3) Research projects and training activities (Target = 200) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 125**

To Utah State University - Agriculture Experiment Station  
 From Education Fund ..... (3,600)  
 Schedule of Programs:  
 Agriculture Experiment Station ..... (3,600)

The Legislature intends that Utah State University report on the following performance measures for the Agriculture Experiment Station line item, whose mission is: “to facilitate research that promotes agriculture and human nutrition, and enhance the quality of rural life: (1) Number of students mentored (Target = 300), (2) Journal articles published (Target = 300), and (3) Lab accessions (Target = 100,000) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 126**

To Utah State University - Cooperative Extension From Education Fund ..... 949,600  
 Schedule of Programs:  
 Cooperative Extension ..... 949,600

The Legislature intends that Utah State University report on the following performance measures for the Cooperative Extension line item, whose mission is: “To deliver research-based education and information throughout the State in cooperation with federal, state, and county partnerships”: (1) Direct contacts (Adult and Youth) (Target = 722,000 - 3 year rolling average), (2) Faculty-delivered activities and events (Target = 2,000 - 3 year rolling average), and (3) Faculty publications (Target = 300 - 3 year rolling average) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 127**

To Utah State University - Prehistoric Museum

The Legislature intends that Utah State University report on the following performance measures for the Prehistoric Museum line item, whose mission is: “The Prehistoric Museum creates understanding and appreciation of natural and cultural processes that formed the geologic, fossil and prehistoric human records found in eastern Utah. We do this through educational and interpretive programs based upon our academic research, preservation programs, authentic exhibits, and the creative efforts of our staff and community”: (1) Museum admissions (Target = 18,000), (2) Number of offsite outreach contacts (Target = 1,000), and (3) Number of scientific specimens added (Target = 800) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 128**

To Utah State University - Blanding Campus From Education Fund ..... 117,300  
 Schedule of Programs:  
 Blanding Campus ..... 117,300

The Legislature intends that Utah State University report on the following performance measures for the Blanding Campus line item, whose mission is: “with efficiency, innovation, and excellence, Utah State University Eastern prepares the people who create and sustain our region”: (1) Degrees & certificates awarded by USUE (Target = 365), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 375), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**WEBER STATE UNIVERSITY**

**Item 129**

To Weber State University - Education and General

From General Fund .....	(74,300)
From General Fund, One-Time .....	(692,400)
From Education Fund .....	1,023,000
Schedule of Programs:	
Education and General .....	948,700
Operations and Maintenance .....	(692,400)

The Legislature intends that Weber State University report on the following performance measures for the Education and General line item, whose mission is: "To ensure quality academic experiences for students to be successful and graduate with an associate, bachelor, or master degree from programs that are responsive to community needs": (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Weber State University to purchase three vehicles for its motor pool.

**Item 130**

To Weber State University - Educationally Disadvantaged

The Legislature intends that Weber State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "To enhance the college experiences of students from traditionally underrepresented backgrounds": (1) Awarding degrees to underrepresented students (Target = Increase to average of 15% of all degrees awarded), (2) Bachelors degrees within six years (Target = Average 5 year graduation rate of 25%), (3) First year to second year enrollment (Target = 55%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**SOUTHERN UTAH UNIVERSITY**

**Item 131**

To Southern Utah University - Education and General

From General Fund .....	5,900
From Education Fund .....	1,588,800
From Education Fund, One-Time .....	(442,200)
Schedule of Programs:	
Education and General .....	1,051,100
Operations and Maintenance .....	101,400

The Legislature intends that Southern Utah University report on the following performance measures for the Education and General line item, whose mission is: "Southern Utah University leads students to successful educational outcomes": (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature intends that Southern Utah University provide annual progress reports to the Higher Education Appropriations Committee beginning October 31, 2021 and each year thereafter on the implementation of the 3-Year Bachelor's Degree Pilot Program funded in this legislation. This report shall include the following information: (1) Total annual budget and expenditures of the program, (2) Progress of each cohort of students towards accelerated degree completion, (3) Evaluation of the pilot program and any modifications proposed for or implemented in the pilot program.

The Legislature authorizes Southern Utah University to purchase three vehicles for its motor pool.

**Item 132**

To Southern Utah University - Educationally Disadvantaged

The Legislature intends that Southern Utah University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "Southern Utah University leads educationally disadvantaged students to successful educational outcomes": (1) Students served (Target = 100), (2) Average aid per student (Target = \$500), and (3) Minimum 33% of ED scholarships offered to minority students (Target = 33% Min.) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 133**

To Southern Utah University - Shakespeare Festival

The Legislature intends that Southern Utah University report on the following performance measures for the Shakespeare Festival line item, whose mission is: "The Utah Shakespeare Festival through its Education department cultivates creative communities and human development through Shakespeare and instructional play for individuals, schools and communities with

emphasis on at-risk and low income populations”: (1) Professional outreach program in the schools instructional hours (Target = 25% increase in 5 years), (2) Education seminars & orientation attendees (Target = 25% increase in 5 years), and (3) USF annual fundraising (Target = 50% increase in 5 years) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 134**

To Southern Utah University - Rural Development

The Legislature intends that Southern Utah University report on the following performance measures for the Rural Development line item, whose mission is: “Southern Utah University through the Office of Regional Services assists our rural Utah communities with economic and business development”: (1) Number of Rural Healthcare Programs Developed (Target = 47), (2) Rural Healthcare Scholar Participation (Target = 1,000), and (3) Graduate Rural Clinical Rotations (Target = 230) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**UTAH VALLEY UNIVERSITY**

**Item 135**

To Utah Valley University - Education and General  
 From General Fund ..... (107,900)  
 From Education Fund ..... 3,590,700  
 From Education Fund, One-Time .... (1,466,900)  
 Schedule of Programs:

Education and General ..... 3,482,800  
 Operations and Maintenance ..... (1,466,900)

The Legislature intends that Utah Valley University report on the following performance measures for the Education and General line item, whose mission is: “Utah Valley University is an integrated university and community college that educates every student for success in work and life through excellence in engaged teaching, services, and scholarship.”: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Utah Valley University to purchase four vehicles for its motor pool.

**Item 136**

To Utah Valley University -  
 Educationally Disadvantaged

The Legislature intends that Utah Valley University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “Accessible and equitable educational opportunities for all students and support students achievement of academic success at the University”: (1) Portion of degree-seeking undergraduate students receiving need-based financial aid (Target = 45%), (2) Number of students served in mental health counseling (Target = 4,000), and (3) Number of tutoring hours provided to students (Target = 22,000) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**SNOW COLLEGE**

**Item 137**

To Snow College - Education and General  
 From General Fund ..... 81,700  
 From Education Fund ..... 318,000  
 From Education Fund, One-Time ..... 12,000  
 Schedule of Programs:  
 Education and General ..... 411,700

The Legislature intends that Snow College report on the following performance measures for the Education and General line item, whose mission is: “Snow College centralizes its mission around a tradition of excellence, a culture of innovation, and an atmosphere of engagement to advance students in the achievement of their educational Targets”: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Snow College to purchase one vehicle for its motor pool.

**Item 138**

To Snow College - Educationally Disadvantaged

The Legislature intends that Snow College report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “Snow College supports the academic preparation of students least likely to attend college”: (1) Aggregate completion rate of first generation, non-tradition (aged 25 or older), minority (not including non-resident, alien/international students), and Pell awarded students. (Target = 35%), (2) Percent of remedial math students who successfully

complete Math 1030, Math 1040, or Math 1050 (college-level math) within 5 semesters of first-time enrollment (Target = 35%), and (3) Percent of remedial English students who successfully complete English 1010 or higher (college level English) within 3 semesters of first-time enrollment (Target = 65%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 139**

To Snow College - Career and Technical Education

The Legislature intends that Snow College report on the following performance measures for the Career and Technical Education line item, whose mission is: "Provide relevant technical education and training that supports local and statewide industry and business development": (1) percent of students per program capacity with the goal of a 2% increase in respective program capacity each year (Target = 60%). (2) Number of CTE degrees and certificates awarded (Target = 200), and (3) Percentage of students who successfully pass their respective state of Utah licensing exam (programs include Automotive, Cosmetology, and Nursing). (Target = 80% pass rate) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**DIXIE STATE UNIVERSITY**

**Item 140**

To Dixie State University - Education and General  
From General Fund . . . . . 86,300  
From Education Fund . . . . . 2,079,200  
From Education Fund, One-Time . . . . (452,600)  
Schedule of Programs:

Education and General . . . . . 2,465,500  
Operations and Maintenance . . . . . (752,600)

The Legislature intends that Dixie State University report on the following performance measures for the Education and General line item, whose mission is: "Dixie State University is a public comprehensive university dedicated to rigorous learning and the enrichment of the professional and personal lives of its students and community by providing opportunities that engage the unique Southern Utah environment and resources": (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Dixie State University to purchase three vehicles for its motor pool.

**Item 141**

To Dixie State University -  
Educationally Disadvantaged

The Legislature intends that Dixie State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "To support the academic success of culturally diverse students": (1) Number of students served (Target = 20), (2) Number of minority students served (Target = 15), and (3) Expenditures per student (Target = \$1,000) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 142**

To Dixie State University -  
Zion Park Amphitheater

The Legislature intends that Dixie State University report on the following performance measures for the Zion Park Amphitheater line item, whose mission is: "to provide a world-class outdoor venue combining learning and the arts in Southern Utah": (1) Number of performances (Target = 8), (2) Ticket sales revenue (Target = \$35,000), and (3) Performances featuring Utah artists (Target = 6) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**SALT LAKE COMMUNITY COLLEGE**

**Item 143**

To Salt Lake Community College - Education and General  
From General Fund . . . . . 30,900  
From Education Fund . . . . . 578,900  
Schedule of Programs:

Education and General . . . . . 280,900  
Operations and Maintenance . . . . . 328,900

The Legislature intends that Salt Lake Community College report on the following performance measures for the Education and General line item, whose mission is: "Salt Lake Community College is your community college. We engage and support students in educational pathways leading to successful transfer and meaningful employment": (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), by October 15, 2021 to the Higher Education Appropriations Subcommittee.



**Item 144**

To Salt Lake Community College -  
Educationally Disadvantaged

The Legislature intends that Salt Lake Community College report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “Benefitting disadvantaged students, including minority students, and to be used for scholarships, tutoring, counseling, and related support services for educationally disadvantaged students”: (1) Number of Needs-based scholarships awarded (Target = 200), (2) Percentage of needs-based recipients returning (Target = 50%), and (3) Graduation rate of needs based scholarship recipients (Target = 50%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 145**

To Salt Lake Community College -  
School of Applied Technology

The Legislature intends that Salt Lake Community College report on the following performance measures for the School of Applied Technology line item, whose mission is: “Developing innovative, short-term, competency-based education to create a skilled workforce for Salt Lake County and the State of Utah”: (1) Membership hours (Target = 350,000), (2) Certificates awarded (Target = 200), and (3) Pass rate for certificate or licensure exams (Target 85%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**STATE BOARD OF REGENTS**

**Item 146**

To State Board of Regents - Administration  
From General Fund . . . . . (28,500)  
From Education Fund . . . . . 1,600,000  
From Education Fund, One-Time . . . . 1,800,000  
Schedule of Programs:  
Administration . . . . . 3,371,500

The Legislature intends that the State Board of Regents report on the following performance metrics for the Administration line item, whose mission includes: “Support the Board of Regents in all responsibilities” (1) Educators reached through professional development, (2) Students reached through outreach events, and (3) Students receiving outreach materials by October 15, 2021 to the Higher Education Appropriations Subcommittee.

Legislature intends that, when preparing the Fiscal Year 2022 base budget and compensation bills, the Legislative Fiscal Analyst shall include in the compensation bill a 75% General Fund-Education Fund / 25% Dedicated Credits mix for each Education and General line item and other instructional line items containing General Fund, Education Fund, and Dedicated Credits, with the exception that the Salt Lake Community

College School of Applied Technology line item shall include 100% General Fund-Education Fund. The Legislature also intends that the Legislative Fiscal Analyst shall include in the compensation bill for the Utah System of Technical Colleges 100% General Fund-Education Fund.

**Item 147**

To State Board of Regents - Student Assistance

The Legislature intends that the State Board of Regents report on the following performance measures for the Student Assistance line item, whose mission is: “To process, award, and appropriate student scholarships and financial assistance, including Regents Scholarship, New Century Scholarship, Student Financial Aid, Minority Scholarship, Veterans Tuition Gap Program, Success Stipend, and WICHE”: (1) Regents Scholarship (Target = Allocate all appropriations to qualified students, less overhead), (2) New Century (Target = Allocate all appropriations to qualified students, less overhead), (3) WICHE (Target = Allocate all appropriations to qualified students, less overhead) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 148**

To State Board of Regents - Student Support

The Legislature intends that the State Board of Regents report on the following performance measures for the Student Support line item, whose mission is: “Programmatic support for students with special needs, concurrent enrollment, transfer students, and Campus Compact initiatives”: (1) Hearing Impaired (Target = Allocate all appropriations to institutions), and (2) Concurrent Enrollment (Target = Increase total student credit hours by 1%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 149**

To State Board of Regents - Technology

The Legislature intends that the State Board of Regents report on the following performance measures for the Technology line item, whose mission is: “Support System-wide information technology and library needs”: (1) HETI Group purchases (Target = \$3.4M savings), (2) UALC additive impact on institutional library collections budgets as reported to IPEDS, (3) Resource downloads (articles, book chapters, etc.) from UALC purchased databases. (Target = rolling average of last three years 3,724,474) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 150**

To State Board of Regents - Economic Development  
From Education Fund . . . . . (5,000,000)  
From Education Fund, One-Time . . . . . 500,000  
Schedule of Programs:  
Engineering Initiative . . . . . (5,000,000)

Economic Development Initiatives . . . . 500,000

The Legislature intends that the State Board of Regents report on the following performance measures for the Economic Development line item, whose mission is: "Support Engineering Initiative, Engineering Loan Repayment program, and promote economic development initiatives within the state": (1) Engineering Initiative degrees (Target = 6% annual increase), and (2) Engineering Scholarship (Target = Contingent on funding, allocate appropriations to student scholarships, less overhead) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

Item 151

To State Board of Regents - Education Excellence From Education Fund . . . . . 29,500,000 Schedule of Programs:

Performance Funding . . . . . 29,500,000

The Legislature intends that all funds allocated in Fiscal Year 2021 in the performance funding line item be distributed to institutions using the Board of Regents performance funding allocation formula as defined in 53B-7-706 and that the funds may be used by the institutions to support institutional priorities.

The Legislature intends that the State Board of Regents report on the following performance measures for the Education Excellence line item: (1) Increase college participation rates with Utah College Advising Corp (Target = 5% increase), (2) Completions (Target = Increase 5 year rolling average by 1%), and (3) 150% Graduation rate (Target = Increase 5 year rolling average by 1%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

Item 152

To State Board of Regents - Math Competency Initiative

The Legislature intends that the State Board of Regents report on the following performance measures for the Math Competency line item, whose mission is: "Increase the number of high school students taking QL mathematics: (1) Increase the number of QL students taking math credit through concurrent enrollment (Target = Increase 5%) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

Item 153

To State Board of Regents - Medical Education Council

The Legislature intends that the State Board of Regents report on the following performance measures for the Medical Education Council line item, whose mission is: "to conduct health care workforce research, to advise on Utah's health care training needs, and to influence graduate medical education financing policies: (1)

Graduate medical education growth (Target = 2.1% growth), (2) Retention for residency and fellowship programs (Target = 45%, 32%), and (3) Utah health provider to 100,000 population ratio (Target = 271) by October 15, 2021 to the Higher Education Appropriations Subcommittee.

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 154

To Utah System of Technical Colleges - Bridgerland Technical College From Education Fund . . . . . 1,236,900 From Education Fund, One-Time . . . . . (283,100) Schedule of Programs: Bridgerland Tech Equipment . . . . . 305,900 Bridgerland Technical College . . . . . 647,900

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Bridgerland Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

Item 155

To Utah System of Technical Colleges - Davis Technical College From Education Fund . . . . . 945,800 From Education Fund, One-Time . . . . . 507,800 Schedule of Programs: Davis Tech Equipment . . . . . 347,800 Davis Technical College . . . . . 1,105,800

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Davis Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Davis Technical College to purchase two vehicles for its motor pool.

**Item 156**

To Utah System of Technical Colleges -  
 Dixie Technical College  
 From Education Fund . . . . . 517,500  
 From Education Fund, One-Time . . . . . 185,000  
 Schedule of Programs:  
 Dixie Tech Equipment . . . . . 185,000  
 Dixie Technical College . . . . . 517,500

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Dixie Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Dixie Technical College to purchase two vehicles for its motor pool.

**Item 157**

To Utah System of Technical Colleges -  
 Mountainland Technical College  
 From Education Fund . . . . . 1,570,800  
 From Education Fund, One-Time . . . . . 491,700  
 Schedule of Programs:  
 Mountainland Tech Equipment . . . . . 326,000  
 Mountainland Technical College . . . . . 1,736,500

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Mountainland Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Mountainland Technical College to purchase one vehicle for its motor pool.

**Item 158**

To Utah System of Technical Colleges -  
 Ogden-Weber Technical College  
 From Education Fund . . . . . 1,251,900  
 From Education Fund, One-Time . . . . . 413,800  
 Schedule of Programs:  
 Ogden-Weber Tech Equipment . . . . . 312,300  
 Ogden-Weber Technical College . . . . . 1,353,400

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Ogden-Weber Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 159**

To Utah System of Technical Colleges -  
 Southwest Technical College  
 From Education Fund . . . . . 139,200  
 From Education Fund, One-Time . . . . . 168,300  
 Schedule of Programs:  
 Southwest Tech Equipment . . . . . 168,300  
 Southwest Technical College . . . . . 139,200

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Southwest Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**Item 160**

To Utah System of Technical Colleges -  
 Tooele Technical College  
 From Education Fund . . . . . 262,400  
 From Education Fund, One-Time . . . . . 159,500

Schedule of Programs:

Tooele Tech Equipment .....	159,500
Tooele Technical College .....	262,400

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Tooele Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Tooele Technical College to purchase three vehicles for its motor pool.

**Item 161**

To Utah System of Technical Colleges -  
 Uintah Basin Technical College

From Education Fund .....	785,300
From Education Fund, One-Time .....	195,200

Schedule of Programs:

Uintah Basin Tech Equipment .....	195,200
Uintah Basin Technical College .....	785,300

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Uintah Basin Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature authorizes Uintah Basin Technical College to purchase four vehicles for its motor pool.

**Item 162**

To Utah System of Technical Colleges -  
 USTC Administration

From Education Fund .....	4,745,000
From Education Fund Restricted - Performance Funding Rest. Acct. ....	830,000

Schedule of Programs:

Administration .....	500,000
Custom Fit .....	245,000
Performance Funding .....	4,830,000

The Legislature intends that the Utah System of Technical Colleges prioritize any funds appropriated in FY 2021 for targeted compensation to the following fields: Medical/Health Sciences and Information Technology and report to the Higher Education Appropriations Subcommittee by October 31, 2020 on the allocation of said funds.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Administration line item, the mission of which is, "To support career and technical education throughout the State of Utah": (1) Percentage of enrolled high school students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (2) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths; and (3) Percentage of students belonging to underserved populations who graduate with an accredited postsecondary certificate, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Custom Fit line item, the mission of which is, "To support economic and workforce development through training partnerships between Utah companies and the Utah System of Technical Colleges": (1) Companies served by Custom Fit training; (2) Trainees served by Custom Fit training; and (3) Hours of instruction provided by Custom Fit, by October 15, 2021 to the Higher Education Appropriations Subcommittee.

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
AGRICULTURE AND FOOD**

**Item 163**

To Department of Agriculture and Food -  
 Administration

From Federal Funds .....	(320,000)
From Dedicated Credits Revenue .....	(472,000)

Schedule of Programs:

Chemistry Laboratory .....	(172,000)
General Administration .....	(620,000)

**Item 164**

To Department of Agriculture and Food -  
 Invasive Species Mitigation

From General Fund Restricted - Invasive Species Mitigation Account .....	1,000,000
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Schedule of Programs:

Invasive Species Mitigation .....	1,000,000
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**Item 165**

To Department of Agriculture and Food -  
Marketing and Development  
From Federal Funds ..... 320,000  
Schedule of Programs:  
Marketing and Development ..... 320,000

**Item 166**

To Department of Agriculture and Food -  
Plant Industry  
From General Fund ..... 2,000,000  
From Dedicated Credits Revenue ..... 824,700  
From Dedicated Credits Revenue,  
One-Time ..... 750,000  
Schedule of Programs:  
Grazing Improvement Program ..... 2,000,000  
Plant Industry ..... 1,574,700

The Legislature intends that the \$2 million appropriation for Watershed Restoration be used for projects that benefit both wildlife and livestock. The funding is to be leveraged with funding from other state, federal, and private sources.

**Item 167**

To Department of Agriculture and Food -  
Predatory Animal Control  
From General Fund ..... 59,600  
From General Fund, One-Time ..... 90,000  
Schedule of Programs:  
Predatory Animal Control ..... 149,600

**Item 168**

To Department of Agriculture and Food -  
Regulatory Services  
From General Fund ..... 28,000  
From Federal Funds ..... 12,200  
From Dedicated Credits Revenue ..... 447,600  
From Pass-through ..... 600  
Schedule of Programs:  
Regulatory Services ..... 488,400

**Item 169**

To Department of Agriculture and Food -  
Resource Conservation  
From Dedicated Credits Revenue ..... 1,000  
From Agriculture Resource Development  
Fund, One-Time ..... 475,000  
Schedule of Programs:  
Resource Conservation ..... 476,000

**Item 170**

To Department of Agriculture and Food -  
Utah State Fair Corporation  
From General Fund, One-Time ..... 550,000  
Schedule of Programs:  
State Fair Corporation ..... 550,000

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Item 171**

To Department of Environmental Quality -  
Air Quality  
From General Fund ..... (172,500)  
From General Fund, One-Time ..... 300,000  
From Federal Funds ..... 126,700  
From Federal Funds, One-Time ..... 9,646,400  
From Dedicated Credits Revenue ..... 820,300

From Clean Fuel Conversion Fund ..... 2,100  
Schedule of Programs:  
Air Quality ..... 10,723,000

**Item 172**

To Department of Environmental Quality -  
Drinking Water  
From General Fund ..... 16,800  
From General Fund, One-Time ..... 10,000,000  
From Federal Funds ..... 50,000  
From Federal Funds, One-Time ..... 802,800  
From Dedicated Credits Revenue ..... 3,212,600  
From Dedicated Credits Revenue,  
One-Time ..... (2,500,000)  
From Revenue Transfers ..... 400  
From Water Dev. Security Fund -  
Drinking Water Loan Prog. .... 12,300  
From Water Dev. Security Fund -  
Drinking Water Orig. Fee ..... 2,700  
Schedule of Programs:  
Drinking Water ..... 11,597,600

**Item 173**

To Department of Environmental Quality -  
Environmental Response and Remediation  
From General Fund ..... 15,800  
From Federal Funds ..... 86,300  
From Federal Funds, One-Time ..... 4,047,600  
From Dedicated Credits Revenue ..... 152,600  
From Expendable Receipts ..... 15,000  
From General Fund Restricted -  
Petroleum Storage Tank ..... 900  
From Petroleum Storage Tank  
Cleanup Fund ..... 10,400  
From Petroleum Storage Tank  
Trust Fund ..... 32,300  
From General Fund Restricted -  
Voluntary Cleanup ..... 12,000  
Schedule of Programs:  
Environmental Response and  
Remediation ..... 4,372,900

**Item 174**

To Department of Environmental Quality -  
Executive Director's Office  
From Federal Funds ..... 38,400  
Schedule of Programs:  
Executive Director's Office ..... 38,400

**Item 175**

To Department of Environmental Quality -  
Waste Management and Radiation Control  
From General Fund ..... 19,300  
From Federal Funds ..... 36,400  
From Dedicated Credits Revenue ..... (38,800)  
From Expendable Receipts ..... 162,600  
From General Fund Restricted -  
Environmental Quality ..... 136,300  
From Gen. Fund Rest. - Used  
Oil Collection Administration ..... 18,800  
From Waste Tire Recycling Fund ..... 3,400  
Schedule of Programs:  
Waste Management and Radiation  
Control ..... 338,000

**Item 176**

To Department of Environmental Quality -  
Water Quality  
From General Fund ..... (129,400)  
From Federal Funds ..... 99,600

From Dedicated Credits Revenue	469,000
From Revenue Transfers	1,600
From Gen. Fund Rest. - Underground Wastewater System	1,600
From Water Dev. Security Fund - Utah Wastewater Loan Prog.	31,400
From Water Dev. Security Fund - Water Quality Orig. Fee	2,000
Schedule of Programs: Water Quality	475,800

**GOVERNOR'S OFFICE**

**Item 177**

To Governor's Office - Office of Energy Development	
From General Fund	8,200
From General Fund, One-Time	500,000
From Federal Funds	3,900
From Dedicated Credits Revenue	(177,400)
From Expendable Receipts	178,600
From Ut. S. Energy Program Rev. Loan Fund (ARRA)	1,200
Schedule of Programs: Office of Energy Development	514,500

**DEPARTMENT OF NATURAL RESOURCES**

**Item 178**

To Department of Natural Resources - Contributed Research	
From Expendable Receipts, One-Time	1,510,800
Schedule of Programs: Contributed Research	1,510,800

**Item 179**

To Department of Natural Resources - Cooperative Agreements	
From Federal Funds	5,242,100
From Dedicated Credits Revenue	1,200
From Revenue Transfers	1,400
Schedule of Programs: Cooperative Agreements	5,244,700

**Item 180**

To Department of Natural Resources - DNR Pass Through	
From General Fund, One-Time	350,000
Schedule of Programs: DNR Pass Through	350,000

**Item 181**

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	200,800
From General Fund, One-Time	1,500,000
From Federal Funds	5,200
From Dedicated Credits Revenue	24,700
From General Fund Restricted - Sovereign Lands Management	389,800
From General Fund Restricted - Sovereign Lands Management, One-Time	1,535,000
Schedule of Programs: Division Administration	172,100
Fire Management	135,000
Lands Management	4,800
Lone Peak Center	23,600

Program Delivery	120,000
Project Management	3,200,000

The Legislature intends that the Utah Lake Eco System appropriation be used to fund treatment to mitigate harmful algal blooms (HABs) in Utah Lake and fund research identifying innovative nutrient management approaches that provide the greatest return on investment to local citizens and to Utah Lake through Scientific Peer Review of the Science Panel advising the Utah Lake Commission and Steering Committee. Specific research focuses would include investigation of constructed treatment wetlands and geochemical augmentation to reduce phosphorous loading, and finally contribute to match funding that could also include in-lake experiments to investigate nutrient cycling and Utah Lake. A final portion of the funding would be used to investigate and address current warning thresholds used by state agencies and local health departments on HABs and appropriate alternatives.

The Legislature intends that the Division of Forestry, Fire, and State Lands purchase an additional vehicle with the one-time Safety Improvement funding request.

**Item 182**

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund	2,266,700
From Federal Funds	7,797,000
From Federal Funds, One-Time	8,000
From Dedicated Credits Revenue	254,000
From Gen. Fund Rest. - Oil & Gas Conservation Account	4,164,400
From Beginning Nonlapsing Balances	3,600,000
Schedule of Programs: Abandoned Mine	5,275,400
Administration	2,311,900
Board	85,000
Coal Program	2,160,000
Minerals Reclamation	1,108,700
OGM Misc. Nonlapsing	3,600,000
Oil and Gas Program	3,549,100

**Item 183**

To Department of Natural Resources - Parks and Recreation	
From General Fund	1,500
From Federal Funds	300
From Dedicated Credits Revenue	500
From Expendable Receipts, One-Time	267,100
From General Fund Restricted - Boating	2,500
From General Fund Restricted - Off-highway Vehicle	3,300
From General Fund Restricted - State Park Fees	611,400
From General Fund Restricted - State Park Fees, One-Time	500,000
Schedule of Programs: Park Operation Management	1,383,200
Recreation Services	500
Support Services	2,900

**Item 184**

To Department of Natural Resources -  
 Parks and Recreation Capital Budget  
 From Expendable Receipts, One-Time ... 175,000  
 From General Fund Restricted -  
   Off-highway Vehicle ..... 3,500,000  
 From General Fund Restricted -  
   Off-highway Vehicle, One-Time ..... 100,000  
 From General Fund Restricted -  
   State Park Fees, One-Time ..... 9,000,000  
 Schedule of Programs:  
   Donated Capital Projects ..... 175,000  
   Off-highway Vehicle Grants ..... 3,600,000  
   Renovation and Development ..... 9,000,000

**Item 185**

To Department of Natural Resources -  
 Predator Control  
 From General Fund ..... (59,600)  
 Schedule of Programs:  
   Predator Control ..... (59,600)

**Item 186**

To Department of Natural Resources -  
 Species Protection  
 From General Fund Restricted -  
   Species Protection, One-Time ..... 1,900,000  
 Schedule of Programs:  
   Species Protection ..... 1,900,000

**Item 187**

To Department of Natural Resources -  
 Utah Geological Survey  
 From General Fund ..... 401,900  
 From General Fund, One-Time ..... 400,000  
 From Federal Funds, One-Time ..... 181,200  
 From General Fund Restricted -  
   Mineral Lease ..... 300  
 Schedule of Programs:  
   Administration ..... 802,200  
   Ground Water ..... 181,200

**Item 188**

To Department of Natural Resources -  
 Water Resources  
 From General Fund ..... 4,000  
 From Federal Funds ..... 1,500  
 From Water Resources Conservation  
   and Development Fund ..... 306,000  
 Schedule of Programs:  
   Cloudseeding ..... 50,000  
   Construction ..... 196,200  
   Interstate Streams ..... 60,000  
   Planning ..... 5,300

**Item 189**

To Department of Natural Resources -  
 Water Rights  
 From General Fund ..... 12,800  
 From Dedicated Credits Revenue ..... 4,100  
 Schedule of Programs:  
   Adjudication ..... 1,500  
   Administration ..... 5,700  
   Applications and Records ..... 8,100  
   Technical Services ..... 1,600

**Item 190**

To Department of Natural Resources -  
 Wildlife Resources

From General Fund ..... 7,300  
 From General Fund, One-Time ..... 1,395,000  
 From Federal Funds ..... 988,700  
 From Expendable Receipts, One-Time ... 110,800  
 From General Fund Restricted - Boating ... 500  
 From General Fund Restricted - Predator  
   Control Account ..... 400  
 From General Fund Restricted -  
   Wildlife Habitat ..... 400,000  
 From General Fund Restricted -  
   Wildlife Resources ..... 2,090,400  
 Schedule of Programs:  
   Administrative Services ..... 2,066,800  
   Aquatic Section ..... 24,000  
   Conservation Outreach ..... 4,000  
   Director's Office ..... 110,800  
   Habitat Council ..... 400,000  
   Habitat Section ..... 13,200  
   Law Enforcement ..... 1,399,500  
   Wildlife Section ..... 974,800

**Item 191**

To Department of Natural Resources -  
 Wildlife Resources Capital Budget  
 From Federal Funds ..... 850,000  
 From General Fund Restricted -  
   State Fish Hatchery Maintenance,  
   One-Time ..... 1,000,000  
 From General Fund Restricted -  
   Wildlife Resources, One-Time ..... 2,000,000  
 Schedule of Programs:  
   Fisheries ..... 3,850,000

**PUBLIC LANDS POLICY  
 COORDINATING OFFICE**

**Item 192**

To Public Lands Policy Coordinating Office  
 From General Fund ..... 12,000  
 From General Fund, One-Time ..... 900,000  
 From General Fund Restricted -  
   Constitutional Defense ..... 5,000  
 Schedule of Programs:  
   Public Lands Policy Coordinating  
   Office ..... 917,000

**SCHOOL AND INSTITUTIONAL  
 TRUST LANDS ADMINISTRATION**

**Item 193**

To School and Institutional Trust  
 Lands Administration  
 From Land Grant Management Fund ..... 70,600  
 From Trust and Agency Funds ..... 1,100  
 Schedule of Programs:  
   Accounting ..... 4,000  
   Administration ..... 3,100  
   Auditing ..... 2,400  
   Board ..... 500  
   Development - Operating ..... 10,800  
   Director ..... 4,100  
   External Relations ..... 2,100  
   Grazing and Forestry ..... 4,300  
   Information Technology Group ..... 9,400  
   Legal/Contracts ..... 6,400  
   Mining ..... 4,300  
   Oil and Gas ..... 6,500  
   Surface ..... 13,800

**RETIREMENT AND  
INDEPENDENT ENTITIES**

**UTAH EDUCATION AND  
TELEHEALTH NETWORK**

**Item 194**

To Utah Education and Telehealth Network  
 From General Fund ..... 2,600,000  
 From Education Fund ..... 1,227,000  
 From Education Fund, One-Time ..... 1,270,000  
 Schedule of Programs:  
     Course Management Systems ..... 2,600,000  
     Technical Services ..... 2,497,000

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 195**

To Capitol Preservation Board  
 From General Fund ..... (19,991,900)  
 Schedule of Programs:  
     Capitol Preservation Board ..... (19,991,900)

The Legislature intends that the Capitol Preservation Board report by October 31, 2020 to the Executive Appropriations Committee on the following performance measures for the Capitol Preservation Board line item: (1) Stewardship plan for a safe, sustainable environment through maintenance, facility operations, and improvements (Target = 100 year life); (2) Provision of high quality tours, information, and education to the public (Target = 50,000 students and 200,000 visitors annually); (3) Provision of event and scheduling program for all government meetings, free speech activities, and public events (Target = 4,000 annually); and (4) Provision of exhibit and curatorial services on Capitol Hill to maintain the collections of artifacts for use and enjoyment of the general public (Target = 9,000 items).

**LEGISLATURE**

**Item 196**

To Legislature - Senate  
 From General Fund ..... 92,100  
 From General Fund, One-Time ..... (1,000)  
 Schedule of Programs:  
     Administration ..... 91,100

**Item 197**

To Legislature - House of Representatives  
 From General Fund ..... 117,900  
 From General Fund, One-Time ..... (5,800)  
 Schedule of Programs:  
     Administration ..... 112,100

**Item 198**

To Legislature - Office of Legislative Research and General Counsel  
 From General Fund ..... 440,400  
 From General Fund, One-Time ..... 40,000  
 Schedule of Programs:  
     Administration ..... 480,400

The Legislature intends that the Office of Legislative Research and General Counsel report by October 31, 2020 to the Subcommittee on Oversight on the following performance measures: (1) Bills ready for introduction within two business days after receiving approval from the sponsor (Target = 95%); (2) Bills numbered and ready for introduction on the first day of the annual general session (Target = 225 bills); (3) Priority bills completed or abandoned by the 5th Wednesday of the session (Target = 98%); (4) Legislator satisfaction regarding the quality of interim committee support and analyst standing committee support (Target = 90% rate “very good” or “excellent” on the biennial legislator survey); (5) Legislator satisfaction regarding timeliness and quality of research and information (Target = 90% rate “very good” or “excellent” on the biennial legislator survey); (6) Timely distribution of “Interim Highlights” to the Legislature (Target = Four business days after interim); (7) New employee computer account set up within one business day after receiving notification of hire (Target = 100%); and (8) Legislative committee rooms opened, tested, and ready for meetings no later than one hour before any scheduled meetings (Target = 100%).

**Item 199**

To Legislature - Office of the Legislative Fiscal Analyst  
 From General Fund ..... 339,100  
 Schedule of Programs:  
     Administration and Research ..... 339,100

The Legislature intends that the Legislative Fiscal Analyst report by October 31, 2020 to the Subcommittee on Oversight on the following performance measures: (1) On-target revenue estimates (Target = 92% accurate for estimates 18 months out, 98% accurate for estimates four months out); (2) Correct appropriations bills (Target = 99%); (3) Unrevised fiscal notes (Target = 99.5%); (4) Timely fiscal notes (Target = 95%); and (5) Timely performance notes (Target = 85%).

**Item 200**

To Legislature - Office of the Legislative Auditor General  
 From General Fund ..... 189,000  
 Schedule of Programs:  
     Administration ..... 189,000

The Legislature intends that the Legislative Auditor General report by October 31, 2020 to the Subcommittee on Oversight on the following performance measures: (1) Total audits completed each year (Target = 18); (2) Agency recommendations implemented (Target = 98%); and (3) Legislative recommendations implemented (Target = 100%).

**Item 201**

To Legislature - Legislative Support  
 From General Fund ..... (413,200)  
 From Beginning Nonlapsing Balances . (306,100)



From Closing Nonlapsing Balances . . . . . 306,100  
 Schedule of Programs:  
     Administration . . . . . (413,200)

**Item 202**

To Legislature - Legislative Services  
 From General Fund . . . . . 612,500  
 From General Fund, One-Time . . . . . 728,000  
 From Beginning Nonlapsing Balances . . . 306,100  
 From Closing Nonlapsing Balances . . . . (306,100)  
 Schedule of Programs:  
     Human Resources . . . . . 23,400  
     Administration . . . . . 1,317,100

**UTAH NATIONAL GUARD**

**Item 203**

To Utah National Guard  
 From Federal Funds . . . . . 314,100  
 From General Fund Restricted -  
     West Traverse Sentinel Landscape  
     Fund, One-Time . . . . . 1,200,000  
 Schedule of Programs:  
     Operations and Maintenance . . . . . 314,100  
     West Traverse Sentinel Landscape . . 1,200,000

The Legislature intends that the Utah National Guard report by October 31, 2020 to the Executive Appropriations Committee on the following performance measures for the National Guard line item: (1) Personnel readiness (Target = 100% assigned strength); (2) Individual training readiness (Target = 90% Military Occupational Specialty qualification); (3) Collective unit training readiness (Target = 100% fulfillment of every mission assigned by the Commander in Chief and, for units in training years 3 and 4 of the Sustainment Readiness Model, 80% attendance at unit annual training); and (4) Installation readiness (Target = Installation Status Report of category 2 or higher for each facility).

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing appropriations.

**DEPARTMENT OF VETERANS AND MILITARY AFFAIRS**

**Item 204**

To Department of Veterans and Military Affairs -  
     Veterans and Military Affairs  
 From General Fund, One-Time . . . . . 500,000  
 From Federal Funds . . . . . 2,400  
 Schedule of Programs:  
     Cemetery . . . . . 1,000  
     Outreach Services . . . . . 500,000  
     State Approving Agency . . . . . 1,400

The Legislature intends that the Department of Veterans and Military Affairs report by October 31, 2020 to the Executive Appropriations Committee on the following performance measures for the Veterans and

Military Affairs line item: (1) Provide programs that assist veterans with filing and receiving compensation, pension, and educational benefits administered by the U.S. Veterans Administration (Target = 5% annual growth); (2) Assist in ensuring veterans are employed in the Utah workforce (Target = Veterans unemployment rate no greater than the statewide unemployment rate); (3) Increase the number of current conflict veterans who are connected to appropriate services (Target = 10% annual increase); (4) Provide veterans with a full range of burial services and related benefits that reflect dignity, compassion, and respect (Target = 95% satisfaction); and (5) Identify, plan, and advise on military mission workload opportunities through engagement with federal and state parties and decision makers (Target = 95%).

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**GOVERNORS OFFICE**

**Item 205**

To Governors Office - State Elections Grant Fund  
 From General Fund . . . . . 500,000  
 Schedule of Programs:  
     State Elections Grant Fund . . . . . 500,000

**DEPARTMENT OF PUBLIC SAFETY**

**Item 206**

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund

The Legislature intends that the Department of Public Safety report on the following performance measures for their Alcoholic Beverage Control Act Enforcement Fund line item, whose mission is “to enforce the state laws and regulations governing the sale and use of alcoholic beverages in a manner that provides a safe and secure environment” (1) percentage of covert operations initiated by intelligence (Target = 80 percent), (2) percentage of licensees that did not sell to minors (Target = 90 percent), (3) rate of alcohol-related crash fatalities per 100 million vehicle miles traveled (Target = 0.10) by October 15, 2021 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**GOVERNOR'S OFFICE  
OF ECONOMIC DEVELOPMENT**

**Item 207**

To Governor's Office of Economic Development -  
Outdoor Recreation Infrastructure Account  
From Dedicated Credits Revenue ..... 2,400  
From Outdoor Recreation Infrastructure  
Account ..... (1,000,000)  
Schedule of Programs:  
Outdoor Recreation Infrastructure  
Account ..... (997,600)

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 208**

To Department of Health -  
Pediatric Neuro-Rehabilitation Fund  
From General Fund ..... 100,000  
Schedule of Programs:  
Pediatric Neuro-Rehabilitation Fund .. 100,000

The Legislature intends that the Department of Health report on the following performance measures for the Pediatric Neuro-Rehabilitation Fund, whose mission is to "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health.": (1) Number of children that received an intake assessment (Target = 30), (2) Percentage of children that had an increase in activity (Target = 70%), and (3) Percentage of children that had an increase in body/function (Target = 70%) by October 1, 2020 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 209**

To Department of Workforce Services - Individuals with Visual Impairment Fund  
From Dedicated Credits Revenue ..... 35,700  
Schedule of Programs:  
Individuals with Visual Impairment  
Fund ..... 35,700

**Item 210**

To Department of Workforce Services -  
Intermountain Weatherization Training Fund  
From Dedicated Credits Revenue ..... 60,000  
Schedule of Programs:  
Intermountain Weatherization Training  
Fund ..... 60,000

**Item 211**

To Department of Workforce Services -  
Navajo Revitalization Fund  
From Dedicated Credits Revenue ..... 115,800  
Schedule of Programs:  
Navajo Revitalization Fund ..... 115,800

**Item 212**

To Department of Workforce Services -  
Permanent Community Impact Bonus Fund  
From Interest Income ..... 800,000  
From General Fund Restricted -  
Mineral Bonus ..... 5,760,500  
Schedule of Programs:  
Permanent Community Impact  
Bonus Fund ..... 6,560,500

**Item 213**

To Department of Workforce Services -  
Permanent Community Impact Fund  
From General Fund Restricted -  
Mineral Lease ..... (8,245,100)  
From Gen. Fund Rest. - Land  
Exchange Distribution Account ..... (11,400)  
Schedule of Programs:  
Permanent Community Impact  
Fund ..... (8,256,500)

**Item 214**

To Department of Workforce Services -  
Uintah Basin Revitalization Fund  
From Dedicated Credits Revenue ..... 220,000  
Schedule of Programs:  
Uintah Basin Revitalization Fund ..... 220,000

**Item 215**

To Department of Workforce Services -  
Olene Walker Low Income Housing  
From Federal Funds ..... 1,223,600  
Schedule of Programs:  
Olene Walker Low Income  
Housing ..... 1,223,600

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF NATURAL RESOURCES**

**Item 216**

To Department of Natural Resources -  
Wildland Fire Suppression Fund  
From General Fund Restricted -  
Mineral Bonus ..... 723,400  
Schedule of Programs:  
Wildland Fire Suppression Fund ..... 723,400

The Legislature intends that, if the amount available in the Mineral Bonus Account from payments deposited in the previous fiscal year exceeds the amount appropriated, the Division of Finance distribute the excess according to the formula provided in UCA 59-21-2(1)(e).

**Item 217**

To Department of Natural Resources -  
Wildland Fire Preparedness Grants Fund  
From General Fund ..... 250,000  
Schedule of Programs:

Wildland Fire Preparedness  
 Grants Fund . . . . . 250,000

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 218**

To Capitol Preservation Board - State Capitol Fund  
 From Dedicated Credits Revenue . . . . . 29,100  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 109,600  
 Schedule of Programs:  
 State Capitol Fund . . . . . 138,700

**UTAH NATIONAL GUARD**

**Item 219**

To Utah National Guard - National  
 Guard MWR Fund  
 From Dedicated Credits Revenue . . . . . 1,500,000  
 Schedule of Programs:  
 National Guard MWR Fund . . . . . 1,500,000

The Legislature intends that the Utah National Guard report by October 31, 2020 to the Executive Appropriations Committee on the following performance measures for the Morale, Welfare, and Recreation Fund line item: (1) Sustainability (Target = Income equal to or greater than expenses); and (2) Enhanced morale (Target = 70% positive feedback).

**DEPARTMENT OF VETERANS AND MILITARY AFFAIRS**

**Item 220**

To Department of Veterans and Military Affairs -  
 Utah Veterans Nursing Home Fund  
 From Federal Funds . . . . . 1,300  
 Schedule of Programs:  
 Veterans Nursing Home Fund . . . . . 1,300

The Legislature intends that the Department of Veterans' and Military Affairs report by October 31, 2020 to the Executive Appropriations Committee on the following performance measures for the Veterans' Nursing Home Fund line item: (1) Occupancy rate (Target = 95% average); (2) Compliance with all state and federal regulations for operations, licensing, and payments (Target = 95%); (3) Best in class rating in all national customer satisfaction surveys (Target = 80%); and (4) Deviations in operations, safety, or payments are addressed within specified times (Target = 95%).

**Subsection 1(c). Business-like Activities.**

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees,

and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 221**

To Attorney General - ISF - Attorney General  
 From General Fund . . . . . 78,600  
 From General Fund, One-Time . . . . . (148,000)  
 From Dedicated Credits Revenue . . . . . 306,100  
 Schedule of Programs:  
 ISF - Attorney General . . . . . 236,700

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 222**

To Utah Department of Corrections -  
 Utah Correctional Industries

The Legislature intends that the Department of Corrections report on the following performance measures for the Utah Correctional Industries line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment": (1) Percentage of workers leaving UCI who are successfully completing the program (2) Percentage of work-eligible inmates employed by UCI in prison by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS**

**Item 223**

To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management  
 From Dedicated Credits Revenue . . . . . 1,980,100  
 Schedule of Programs:  
 ISF - Facilities Management . . . . . 1,980,100

**Item 224**

To Department of Administrative Services Internal Service Funds - Division of Fleet Operations  
 From Dedicated Credits Revenue . . . . . 4,034,600  
 Schedule of Programs:  
 ISF - Fuel Network . . . . . 3,722,100  
 ISF - Motor Pool . . . . . 231,800  
 ISF - Travel Office . . . . . 80,700

**Item 225**

To Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services  
 From Dedicated Credits Revenue ..... 42,000  
 Schedule of Programs:  
     ISF - Cooperative Contracting ..... 42,000  
     Budgeted FTE ..... 20.6

**Item 226**

To Department of Administrative Services Internal Service Funds - Risk Management  
 From Dedicated Credits Revenue ..... 205,800  
 From Premiums ..... 2,060,900  
 Schedule of Programs:  
     ISF - Risk Management  
         Administration ..... 205,800  
     ISF - Workers' Compensation ..... 511,700  
     Risk Management - Auto ..... 549,300  
     Risk Management - Property ..... 999,900

**DEPARTMENT OF TECHNOLOGY  
 SERVICES INTERNAL SERVICE FUNDS**

**Item 227**

To Department of Technology Services Internal Service Funds - Enterprise Technology Division  
 From Dedicated Credits Revenue ..... 5,335,600  
 Schedule of Programs:  
     ISF - Enterprise Technology  
         Division ..... 5,335,600

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 228**

To Department of Health - Qualified Patient Enterprise Fund  
 From Dedicated Credits Revenue ..... 8,000  
 Schedule of Programs:  
     Qualified Patient Enterprise Fund ..... 8,000

**DEPARTMENT OF  
 WORKFORCE SERVICES**

**Item 229**

To Department of Workforce Services - State Small Business Credit Initiative Program Fund  
 From Interest Income ..... 53,600  
 Schedule of Programs:  
     State Small Business Credit Initiative  
         Program Fund ..... 53,600

**Item 230**

To Department of Workforce Services - Unemployment Compensation Fund  
 From Federal Funds ..... 1,155,000  
 From Dedicated Credits Revenue ..... 351,600  
 From Trust and Agency Funds ..... 11,901,900  
 Schedule of Programs:  
     Unemployment Compensation  
         Fund ..... 13,408,500

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
 AGRICULTURE AND FOOD**

**Item 231**

To Department of Agriculture and Food - Qualified Production Enterprise Fund  
 From Dedicated Credits Revenue ..... 20,000  
 From Dedicated Credits Revenue,  
     One-Time ..... 64,000  
 Schedule of Programs:  
     Qualified Production Enterprise Fund .. 84,000

**Subsection 1(d). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**Item 232**

To General Fund Restricted - Indigent Defense Resources Account  
 From General Fund ..... 2,000,000  
 From Revenue Transfers ..... (2,000,000)

**BUSINESS, ECONOMIC  
 DEVELOPMENT, AND LABOR**

**Item 233**

To General Fund Restricted - Tourism Marketing Performance Fund  
 From General Fund ..... 24,000,000  
 Schedule of Programs:  
     General Fund Restricted - Tourism  
         Marketing Performance ..... 24,000,000

**SOCIAL SERVICES**

**Item 234**

To Medicaid Expansion Fund  
 From General Fund ..... 1,446,200  
 From Revenue Transfers ..... 1,446,200  
 Schedule of Programs:  
     Medicaid Expansion Fund ..... 2,892,400

**HIGHER EDUCATION**

**Item 235**

To Performance Funding Restricted Account  
 From Education Fund ..... 830,000  
 Schedule of Programs:  
     Performance Funding Restricted  
         Account ..... 830,000

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**Item 236**

To General Fund Restricted - Invasive Species Mitigation Account  
 From General Fund ..... 1,000,000  
 Schedule of Programs:

General Fund Restricted - Invasive  
Species Mitigation Account ..... 1,000,000

**Item 237**

To General Fund Restricted -  
Constitutional Defense Restricted Account  
From Gen. Fund Rest. - Land  
Exchange Distribution Account ..... (41,600)  
Schedule of Programs:  
General Fund Restricted -  
Constitutional Defense Restricted  
Account ..... (41,600)

**EXECUTIVE APPROPRIATIONS**

**Item 238**

To West Traverse Sentinel Landscape Fund  
From General Fund, One-Time ..... 1,200,000  
Schedule of Programs:  
West Traverse Sentinel Landscape  
Fund ..... 1,200,000

**Subsection 1(e). Transfers to Unrestricted Funds.**

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**Item 239**

To General Fund  
From Nonlapsing Balances - Build America  
Bond Subsidy ..... 10,610,500  
Schedule of Programs:  
General Fund, One-time ..... 10,610,500

**SOCIAL SERVICES**

**Item 240**

To General Fund  
From Qualified Patient Enterprise  
Fund, One-Time ..... 100,000  
Schedule of Programs:  
General Fund, One-time ..... 100,000

**Subsection 1(f). Fiduciary Funds.** The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**SOCIAL SERVICES**

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 241**

To Department of Workforce Services - Individuals  
with Visual Impairment Vendor Fund  
From Trust and Agency Funds ..... 6,700  
Schedule of Programs:  
Individuals with Visual Disabilities  
Vendor Fund ..... 6,700

**Subsection 1(g). Capital Project Funds.** The Legislature has reviewed the following capital project funds. The Legislature authorizes the

State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**CAPITAL BUDGET**

**Item 242**

To Capital Budget - Capital Development Fund  
From General Fund ..... 3,000,000  
From General Fund, One-Time ..... 7,525,700  
From Education Fund ..... 646,500  
From Education Fund, One-Time ... 185,080,900  
Schedule of Programs:  
Capital Development Fund ..... 196,253,100

The Legislature intends that, when preparing the Fiscal Year 2022 base budget bills, the Legislative Fiscal Analyst shall eliminate \$646,500 ongoing from the Education Fund to the Capital Development Fund and include \$646,500 one-time from the Education Fund to the Capital Development Fund; and include \$646,500 ongoing from the Education Fund reduced one-time to the University of Utah Operations and Maintenance line item.

The Legislature intends that during FY 2021 the Division of Facilities and Construction Management may use a portion of the \$30,800,600 appropriated from the Education Fund for the Salt Lake Community College Herriman Campus General Education Building and the \$60,000,000 appropriated from the Education Fund for the University of Utah Applied Sciences Building in this item for programming and design for these buildings, but that the division may not use the appropriations for construction of these buildings until FY 2022.

**Item 243**

To Capital Budget - Higher Education  
Capital Projects Fund  
From Education Fund, One-Time ... 22,680,000  
Schedule of Programs:  
Higher Education Capital Projects  
Fund ..... 22,680,000

**Item 244**

To Capital Budget - Technical Colleges  
Capital Projects Fund  
From Education Fund, One-Time ..... 4,320,000  
Schedule of Programs:  
Technical Colleges Capital  
Projects Fund ..... 4,320,000

**TRANSPORTATION**

**Item 245**

To Transportation - Transit  
Transportation Investment Fund  
From General Fund, One-Time ..... (6,000,000)  
From Designated Sales Tax ..... 9,687,000  
Schedule of Programs:  
Transit Transportation Investment  
Fund ..... 3,687,000

**Section 2. Effective Date.**

This bill takes effect on July 1, 2020.

**CHAPTER 417****H. B. 21**

Passed February 10, 2020

Approved March 31, 2020

Effective May 12, 2020

**INTERGENERATIONAL POVERTY  
PLAN IMPLEMENTATION  
PROGRAM EXTENSION**Chief Sponsor: Derrin R. Owens  
Senate Sponsor: Jacob L. Anderegg

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**LONG TITLE****General Description:**

This bill modifies the Legislative Oversight and Sunset Act.

**Highlighted Provisions:**

This bill:

- ▶ extends the sunset date for the Intergenerational Poverty Plan Implementation Pilot Program created in Section 35A-9-501.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-235, as last amended by Laws of Utah 2019, Chapters 89 and 246

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*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-1-235 is amended to read:****63I-1-235. Repeal dates, Title 35A.**

(1) Subsection 35A-1-109(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(2) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

(3) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

(4) Section 35A-9-501 is repealed January 1, ~~2024~~ 2023.

(5) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.

**CHAPTER 418****H. B. 40**

Passed March 11, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**WATER LOSS ACCOUNTING**

Chief Sponsor: Melissa G. Ballard  
 Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill addresses data related to water including water losses.

**Highlighted Provisions:**

This bill:

- ▶ requires the creation of a working group to address how to implement standardized water loss accounting practices;
- ▶ requires reporting and recommendations;
- ▶ lists concepts to be included in developing recommendations; and
- ▶ provides a repeal date.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

63I-2-273, Utah Code Annotated 1953  
 73-1-20, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-2-273 is enacted to read:****63I-2-273. Repeal dates -- Title 73.**

Section 73-1-20 is repealed on July 1, 2021.

**Section 2. Section 73-1-20 is enacted to read:****73-1-20. Study of water loss accounting.**

(1) As used in this section:

(a) "Commissioner" means the commissioner of agriculture and food.

(b) "Executive director" means the executive director of the Department of Natural Resources.

(c) "Utah Water Task Force" means a task force created by the Department of Natural Resources to review and make recommendations regarding water issues.

(2) (a) The executive director and the commissioner shall jointly form a working group from the water community with:

(i) expertise in the areas of:

(A) water utility service;

(B) water loss accounting and water loss control practices; or

(C) water infrastructure planning; or

(ii) other qualifying experience as considered appropriate by the executive director and commissioner.

(b) The executive director and commissioner shall jointly designate the working group chair from the members of the working group. The working group shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

(3) The working group shall investigate, study, and develop recommendations on how to implement standardized water loss accounting practices with reporting results and potentially incorporating the data into a water conservation plan.

(4) (a) The working group is to report the working group's findings and recommendations to the Utah Water Task Force and the Legislative Water Development Commission by October 1, 2020.

(b) The executive director and commissioner shall report the Utah Water Task Force's findings and recommendations to the Natural Resources, Agriculture, and Environment Interim Committee at either the October or November 2020 interim committee meeting, as determined by the chairs of the Natural Resources, Agriculture, and Environment Interim Committee.

(5) The concepts that the working group and the executive director and commissioner shall consider when developing recommendations for the Natural Resources, Agriculture, and Environment Interim Committee include:

(a) the promotion of improved understanding of water system losses, water delivery efficiency, and the conservation of water delivered by public retail water suppliers by the use of water loss accounting practices;

(b) the development of reliable information from consistent reporting requirements, and to recommend how the information may be used at state wholesale and retail levels;

(c) a recommendation of appropriate roles for the state wholesale and retail public water suppliers to encourage water delivery efficiency and water conservation from water loss accounting at each level;

(d) a recommendation of appropriate levels of funding for state wholesale and retail conservation measures and improved water delivery efficiency resulting from water loss accounting practices;

(e) a recommendation of potential changes to Section 73-10-32, to implement plans for water conservation from water loss accounting practices, including the authorization of rulemaking authority, if necessary, and water loss accounting reporting requirements, including a validity score on submitted data;

(f) a recommendation for the frequency of water loss accounting audits, as well as recommendation for the use of annual validated water use reports to the state engineer;

(g) a recommendation of which entities should be required to submit water loss accounting audits based on size, region, or both size and region;

(h) a potential recommendation of the appropriate role for a state technical advisory committee and whether this state technical advisory committee should have counterparts at the wholesale and retail levels; and

(i) estimating the amount of water losses and associated revenue losses that can reasonably be recovered through water loss control activities.



**CHAPTER 419****H. B. 46**

Passed February 10, 2020

Approved March 31, 2020

Effective May 12, 2020

**ARTS AND MUSEUMS REVISIONS**

Chief Sponsor: Suzanne Harrison

Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill modifies provisions related to the Department of Heritage and Arts.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies and describes the powers and duties of the Division of Arts and Museums within the Department of Heritage and Arts;
- ▶ describes the creation, membership, and duties of the Utah Arts Advisory Board and the Utah Museums Advisory Board;
- ▶ describes the requirements and purposes of the Utah Arts and Museums Endowment Fund, formerly known as the Utah Arts Endowment Fund;
- ▶ repeals provisions related to the State-Owned Collections Inventory Study Program Act and the Arts and Culture Business Alliance Act; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 9-6-102, as last amended by Laws of Utah 2017, Chapter 48
- 9-6-201, as last amended by Laws of Utah 2017, Chapter 48
- 9-6-202, as last amended by Laws of Utah 2015, Chapter 350
- 9-6-203, as last amended by Laws of Utah 2010, Chapter 378
- 9-6-501, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 9-6-502, as last amended by Laws of Utah 2013, Chapter 400
- 9-6-503, as last amended by Laws of Utah 2011, Chapter 342
- 9-6-504, as last amended by Laws of Utah 2010, Chapter 378
- 9-6-505, as last amended by Laws of Utah 2010, Chapter 324
- 9-6-506, as last amended by Laws of Utah 2011, Chapter 342
- 9-6-507, as last amended by Laws of Utah 2016, Chapter 348

9-6-508, as renumbered and amended by Laws of Utah 1992, Chapter 241

13-22-6, as last amended by Laws of Utah 2015, Chapter 120

59-12-701, as last amended by Laws of Utah 2003, Chapter 296

59-12-704, as last amended by Laws of Utah 2016, Chapter 344

63C-9-601, as last amended by Laws of Utah 2018, Chapter 65

**ENACTS:**

9-1-101, Utah Code Annotated 1953

9-6-101, Utah Code Annotated 1953

**REPEALS AND REENACTS:**

9-6-301, as last amended by Laws of Utah 2006, Chapter 24

9-6-302, as last amended by Laws of Utah 1993, Chapters 4 and 78

9-6-303, as renumbered and amended by Laws of Utah 1992, Chapter 241

9-6-304, as renumbered and amended by Laws of Utah 1992, Chapter 241

9-6-305, as last amended by Laws of Utah 2018, Chapter 65

9-6-306, as last amended by Laws of Utah 2018, Chapter 65

**REPEALS:**

9-6-204, as last amended by Laws of Utah 2012, Chapter 212

9-6-205, as last amended by Laws of Utah 2017, Chapter 48

9-6-307, as last amended by Laws of Utah 2006, Chapter 24

9-6-602, as renumbered and amended by Laws of Utah 2006, Chapter 24

9-6-603, as last amended by Laws of Utah 2017, Chapter 48

9-6-604, as last amended by Laws of Utah 2012, Chapter 212

9-6-605, as last amended by Laws of Utah 2017, Chapter 48

9-6-606, as renumbered and amended by Laws of Utah 2006, Chapter 24

9-6-701, as enacted by Laws of Utah 2006, Chapter 229

9-6-702, as enacted by Laws of Utah 2006, Chapter 229

9-6-703, as enacted by Laws of Utah 2006, Chapter 229

9-6-704, as last amended by Laws of Utah 2010, Chapter 286

9-6-801, as enacted by Laws of Utah 2015, Chapter 350

9-6-802, as enacted by Laws of Utah 2015, Chapter 350

9-6-803, as enacted by Laws of Utah 2015, Chapter 350

9-6-804, as enacted by Laws of Utah 2015, Chapter 350

9-6-805, as enacted by Laws of Utah 2015, Chapter 350

9-6-806, as enacted by Laws of Utah 2015, Chapter 350

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 9-1-101 is enacted to read:**

**CHAPTER 1. GENERAL POLICIES AND ADMINISTRATION OF THE DEPARTMENT OF HERITAGE AND ARTS**

**9-1-101. Title.**

(1) This title is known as "Heritage, Arts, Libraries, and Cultural Development."

(2) This chapter is known as "General Policies and Administration of the Department of Heritage and Arts."

**Section 2. Section 9-6-101 is enacted to read:**

**CHAPTER 6. ARTS AND MUSEUMS DEVELOPMENT**

**9-6-101. Title.**

This chapter is known as "Arts and Museums Development."

**Section 3. Section 9-6-102 is amended to read:**

**9-6-102. Definitions.**

As used in this chapter:

(1) ~~"Advisory board" means the Museum Services Advisory Board created in Section 9-6-604.~~

(1) "Arts" means the various branches of creative human activity, including visual arts, film, performing arts, sculpture, literature, music, theater, dance, digital arts, video-game arts, and cultural vitality.

(2) [~~"Board"~~] "Arts board" means the [~~Board of Directors of the~~] Utah Arts [~~Council~~] Advisory Board created in Section [~~9-6-204~~] 9-6-301.

(3) ~~"Council" means the Utah Arts Council created in Section 9-6-301.~~

(3) "Development" includes:

(a) constructing, expanding, or repairing a museum or other facility that houses arts or cultural presentations;

(b) providing for public information, preservation, and access to museums, the arts, and the cultural heritage of the state; and

(c) supporting the professional development of artists, cultural administrators, and cultural leaders within the state.

(4) "Director" means the director of the Division of Arts and Museums.

(5) "Division" means the Division of Arts and Museums.

(6) "Museum" means an organized and permanent institution that:

(a) is owned or controlled by the state, a county, or a municipality, or is a nonprofit organization;

(b) has an educational or aesthetic purpose;

(c) owns or curates a tangible collection; and

(d) exhibits the collection to the public on a regular schedule.

~~[(7) "Office" means the Office of Museum Services created in Section 9-6-602.]~~

(7) "Museums board" means the Utah Museums Advisory Board created in Section 9-6-305.

**Section 4. Section 9-6-201 is amended to read:**

**9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.**

(1) There is created within the department the Division of Arts and Museums under the administration and general supervision of the executive director or the designee of the executive director.

~~[(2) The division shall be under the policy direction of the board.]~~

~~[(3) The division shall advance the interests of the arts, in all their phases, within the state, and to that end shall:]~~

~~[(a) cooperate with and locally sponsor federal agencies and projects directed to similar undertakings;]~~

~~[(b) develop the influence of arts in education;]~~

~~[(c) involve the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in these endeavors;]~~

~~[(d) utilize broadcasting facilities and the power of the press in disseminating information; and]~~

~~[(e) foster, promote, encourage, and facilitate, not only a more general and lively study of the arts, but take all necessary and useful means to stimulate a more abundant production of an indigenous art in this state.]~~

~~[(4) The board shall set policy to guide the division in accomplishing the purposes set forth in Subsection (3).]~~

~~[(5) Except for arts development projects under Section 9-6-804, the division may not grant funds for the support of any arts project under this section unless the project has been first approved by the board.]~~

(2) The division shall:

(a) advance the interests of arts and museums in the state in all stages of development;

(b) promote and encourage the development of arts and culture in the state;

(c) support the efforts of state and local government and nonprofit arts, museums, and

cultural organizations to encourage the development of arts, museums, and culture in the state;

(d) provide assistance to museums in the state to improve museums' ability to:

(i) care for and manage collections;

(ii) develop quality educational resources such as exhibitions, collections, and publications;

(iii) provide access to collections for research; and

(iv) provide other services as needed;

(e) assist arts and museum organizations in the state in cultural development as needed;

(f) cooperate with federal agencies and locally sponsor federal projects directed to the development of arts, museums, and culture in the state;

(g) develop the influence of arts in education and life-long learning;

(h) cooperate with the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in arts, museums, and cultural endeavors;

(i) disseminate information related to arts, museums, and culture by utilizing broadcast media and print media;

(j) foster, promote, encourage, and facilitate the study, creation, and appreciation of the arts, museums, and culture in the state;

(k) foster, promote, encourage, and facilitate, the study, creation, and appreciation of the works of indigenous artists in the state;

(l) advise state and local government agencies and employees regarding arts and museums related issues, including arts and museums capital development projects;

(m) provide technical advice and information about sources of technical assistance to arts, museums, and cultural organizations in the state;

(n) develop, coordinate, and support programs, workshops, seminars, and similar activities that provide training for staff members of arts, museums, and cultural organizations in the state;

(o) undertake research to understand the training needs of the arts, museums, and cultural organizations community and assess how those needs can be met;

(p) administer grant programs to assist eligible arts, museums, and cultural organizations in the state; and

(q) create strategic partnerships to advance the development of arts, museums, and cultural organizations in the state.

**Section 5. Section 9-6-202 is amended to read:**

**9-6-202. Division director.**

(1) The chief administrative officer of the division shall be a director appointed by the executive director in consultation with the ~~[board and the advisory board]~~ arts board and the museums board.

(2) The director shall be a person experienced in administration and knowledgeable about the arts and museums.

(3) In addition to the division, the director is the chief administrative officer for:

(a) ~~[the Board of Directors of]~~ the Utah Arts ~~[Council]~~ Advisory Board created in Section ~~[9-6-204;]~~ 9-6-301; and

~~[(b) the Utah Arts Council created in Section 9-6-301;]~~

~~[(c) the Office of Museum Services created in Section 9-6-602;]~~

~~[(d) (b) the [Museum Services] Utah Museums Advisory Board created in Section [9-6-604; and] 9-6-305.~~

~~[(e) the Arts and Culture Business Alliance created in Section 9-6-803.]~~

**Section 6. Section 9-6-203 is amended to read:**

**9-6-203. Division powers relating to property.**

(1) The division may:

(a) take by purchase, grant, gift, donation, devise, or bequest, any property, real or personal, for any purpose appropriate to ~~[its objects]~~ the objectives of the division; and

(b) convert property received by gift, grant, donation, devise, or bequest ~~[and not suitable for its uses]~~ that is not suitable for the objectives of the division, into other ~~[property so]~~ available property or into money.

(2) The property received or converted under Subsection (1) shall be held, invested, and managed and ~~[its]~~ the proceeds used by the division for the purposes and under the conditions prescribed in the grant or donation.

(3) If by the terms of any grant, gift, donation, devise, or bequest, conditions are imposed that are impracticable under the law, the grant or donation does not fail but the unlawful or impracticable conditions shall be rejected and the intent of the grantor or donor shall be reasonably carried out as ~~[nearly as may be]~~ determined by the division.

(4) A grant, gift, donation, devise, or bequest for the benefit of the division may not be defeated or prejudiced by any misnomer, misdescription, or informality if the intention of the grantor or donor can be shown or ascertained with reasonable certainty as determined by the division.

**Section 7. Section 9-6-301 is repealed and reenacted to read:**

**Part 3. Advisory Boards**

**9-6-301. Utah Arts Advisory Board.**

(1) There is created within the division the Utah Arts Advisory Board.

(2) (a) Except as provided in Subsections (2)(b) and (2)(f), the arts board shall consist of 13 members appointed by the governor to four-year terms with the consent of the Senate.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of arts board members are staggered so that approximately half of the arts board is appointed every two years.

(c) The governor shall appoint eight members who are working artists or administrators, one from each of the following areas:

- (i) visual arts;
- (ii) architecture or design;
- (iii) literature;
- (iv) music;
- (v) folk, traditional, or native arts;
- (vi) theater;
- (vii) dance; and
- (viii) media arts.

(d) The governor shall appoint three members who are knowledgeable in or appreciative of the arts.

(e) The governor shall appoint two members who have expertise in technology, marketing, business, or finance.

(f) Before January 1, 2026, the governor may appoint up to three additional members who are knowledgeable in or appreciative of the arts:

- (i) for terms that shall end before January 1, 2026; and
- (ii) in which case the arts board may consist of up to 16 members until January 1, 2026.

(3) The governor shall appoint members from the state at large with due consideration for geographical representation.

(4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term within one month from the time of the vacancy.

(5) A simple majority of the voting members of the arts board constitutes a quorum for the transaction of business.

(6) (a) The arts board members shall elect a chair and a vice chair from among the arts board's members.

(b) The chair and the vice chair shall serve a term of two years.

(7) The arts board shall meet at least once each year.

(8) A member of the arts board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Sections 63A-3-106 and 63A-3-107; and
- (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) Except as provided in Subsection (8), a member may not receive any gifts, prizes, or awards of money from division funds during the member's term of office.

**Section 8. Section 9-6-302 is repealed and reenacted to read:**

**9-6-302. Arts board powers and duties.**

(1) The arts board may:

(a) with the concurrence of the director, make rules governing the conduct of the arts board's business in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) receive gifts, bequests, and property.

(2) The arts board shall:

(a) act in an advisory capacity for the division;

(b) appoint an arts collection committee as described in Section 9-6-303 to advise the division and the arts board regarding the works of art acquired and maintained under this part; and

(c) with the concurrence of the director, approve the allocation of arts grant money and State of Utah Alice Merrill Horne Art Collection acquisition funding.

**Section 9. Section 9-6-303 is repealed and reenacted to read:**

**9-6-303. Art collection committee.**

(1) (a) The arts board with the concurrence of the director shall appoint an arts collection committee composed of any combination of artists, art historians, gallery owners, knowledgeable art collectors, art appraisers, and judges of art.

(b) The arts collection committee shall make recommendations to the division and the arts board regarding the works of art acquired and maintained as part of the State of Utah Alice Merrill Horne Art Collection created in Section 9-6-304.

(2) (a) Except as provided in Subsection (2)(b), the arts board with the concurrence of the director shall appoint each member of the arts collection committee to a four-year term.

(b) The arts board shall, at the time of appointment or reappointment, adjust the length of the initial terms of arts collection committee members to ensure that the terms are staggered so that approximately half of the arts collection committee is appointed every two years.

(3) When a vacancy occurs in the membership of the arts collection committee, the replacement shall be recommended by the remaining members of the

art collection committee and then appointed by the arts board with the concurrence of the director for the unexpired term.

(4) A member of the arts collection committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 10. Section 9-6-304 is repealed and reenacted to read:**

**9-6-304. State of Utah Alice Merrill Horne Art Collection.**

(1) There is created the State of Utah Alice Merrill Horne Art Collection.

(2) The State of Utah Alice Merrill Horne Art Collection:

(a) consists of all works of art acquired under this part; and

(b) shall be held as the property of the state and under the control of the division.

(3) Works of art in the State of Utah Alice Merrill Horne Art Collection may be loaned for exhibition purposes in accordance with recommendations from the arts board and rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The division shall:

(a) take reasonable precautions to avoid damage or destruction to works of art in the State of Utah Alice Merrill Horne Art Collection;

(b) procure insurance coverage for the works of art in the State of Utah Alice Merrill Horne Art Collection; and

(c) ensure that all works of art shipped to and from any exhibition under this section are packed by an expert packer.

(5) (a) The division may only deaccession works of art in the State of Utah Alice Merrill Horne Art Collection in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A work of art in the State of Utah Alice Merrill Horne Art Collection that is to be deaccessioned in accordance with division rule is not state surplus property as that term is defined in Section 63A-2-101.5, and the division is not subject to the surplus property program described in Section 63A-2-401 for that work of art.

**Section 11. Section 9-6-305 is repealed and reenacted to read:**

**9-6-305. Utah Museums Advisory Board.**

(1) There is created within the division the Utah Museums Advisory Board.

(2) (a) Except as provided in Subsection (2)(b), the museums board shall consist of 11 members appointed by the governor to four-year terms.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of museums board members are staggered so that approximately half of the museums board is appointed every two years.

(3) The governor shall ensure that the museums board includes:

(a) three members who are qualified, trained, and experienced museum professionals, have a minimum of five years continuous paid work experience at a museum, and are selected from among recommendations proposed by the Utah Museums Association;

(b) at least three additional members who are qualified, trained, and experienced museum professionals; and

(c) remaining members who have demonstrated an active interest in Utah's museums.

(4) The governor shall appoint members from the state at large with due consideration for geographical representation.

(5) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term within one month from the time of the vacancy.

(6) A member of the museums board may only be reappointed for one additional term unless the governor determines that unusual circumstances warrant an additional term.

(7) (a) The museums board members shall elect a chair and a vice chair from among the museums board's members.

(b) The chair and the vice chair shall serve a term of two years.

(8) A simple majority of the voting members of the museums board constitutes a quorum for the transaction of business.

(9) The museums board shall meet at least once each year.

(10) A member of the museums board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) Except as provided in Subsection (10), a member may not receive a gift, prize, or award of money from division funds during the member's term of office.

**Section 12. Section 9-6-306 is repealed and reenacted to read:**

**9-6-306. Museums board power and duties.**

(1) The museums board may, with the concurrence of the director, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing:

(a) the museum grants program; and

(b) the awarding of grant money to assist Utah's eligible museums.

(2) The museums board shall:

(a) act in an advisory capacity for the division, including making recommendations regarding the museum grants program and the awarding of grant money; and

(b) with the concurrence of the director, approve the awarding of museum grant money to assist Utah's eligible museums.

**Section 13. Section 9-6-501 is amended to read:**

**9-6-501. Definitions.**

As used in this part:

(1) "Endowment fund" means any [arts] endowment fund created under this chapter by a qualifying organization.

(2) "Qualifying organization" means any Utah nonprofit arts or museum organization that qualifies under this chapter to create an endowment fund, receive state money into the endowment fund, match state money deposited into the endowment fund, and expend interest earned on the endowment fund.

(3) "State fund" means the Utah Arts and Museums Endowment Fund created [under] in Section 9-6-502.

**Section 14. Section 9-6-502 is amended to read:**

**9-6-502. Utah Arts and Museums Endowment Fund.**

(1) There is created an expendable special revenue fund known as the "Utah Arts and Museums Endowment Fund."

(2) The state fund shall be administered by the [board] division in accordance with applicable law.

(3) Any administrative costs incurred by the [board] division shall be reviewed by the appropriate appropriations committee of the Legislature.

(4) The state fund shall contain all money appropriated to [it] the state fund by the Legislature, all federal funds received for purposes of this part, plus interest and other income earned on [them] money in the state fund.

(5) [The purpose of the state fund is to provide money] The division shall distribute money in the state fund to qualifying arts and museum organizations to [enable them to create] assist those organizations in creating their own arts endowment funds [and to the board to administer the state fund].

(6) The division may use money in the state fund for expenses related to administering the state fund.

**Section 15. Section 9-6-503 is amended to read:**

**9-6-503. Arts and museums endowment funds.**

(1) Any Utah nonprofit arts or museum organization that meets the requirements described in this part may create an endowment fund into which there may be deposited money from the state fund.

(2) The principal of each endowment fund described in this section may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization [or by the council on behalf of the qualifying organization. Only interest].

(3) Interest income earned on the amount in each endowment fund described in this section may be expended by the qualifying organization.

(4) The principal of each endowment fund described in this section shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

[~~(2)~~] (5) If a qualifying organization that creates an endowment fund as described in this section receives:

(a) \$50,000 or more from the state fund, the money shall be administered by the qualifying organization's professional management in accordance with generally accepted accounting principles [by the qualifying organization's professional management. Amounts]; or

(b) less than \$50,000 from the state fund, the money shall be placed in a state trust and agency fund [invested by the state treasurer, who] under the direction of the state treasurer, and the state treasurer shall allocate interest income to the qualifying organization.

[~~(3)~~] (6) If an endowment fund is [invested by] under the direction of the state treasurer, the state treasurer [the costs for this administration shall be deducted from the interest income before allocations of interest income may be made] shall deduct administrative costs related to the endowment fund before allocating any interest income to the qualifying organization.

**Section 16. Section 9-6-504 is amended to read:**

**9-6-504. Duties of the division.**

The [board] division, in accordance with the provisions of this part, shall:

(1) allocate money from the state fund to the endowment fund created by a qualifying organization under Section 9-6-503;

(2) determine the eligibility of each qualifying organization to receive money from the state fund [into the endowment fund of the qualifying organization and be the final arbiter of eligibility];

(3) determine the matching amount each qualifying organization shall raise in order to qualify to receive money from the state fund;

(4) establish a date by which each qualifying organization shall provide its matching funds;

(5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and

(6) (a) in accordance with the provisions of this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may establish criteria by rule ~~[not otherwise prescribed in this chapter]~~ for determining the eligibility of qualifying organizations to receive money from the state fund~~[-]; and~~

(b) in making rules under this Subsection (6), the division may consider the recommendations of the arts board and the museums board.

**Section 17. Section 9-6-505 is amended to read:**

**9-6-505. Eligibility requirements of qualifying arts organizations -- Allocation limitations -- Matching requirements.**

(1) Any qualifying organization may apply to receive money from the state fund to be deposited in an endowment fund ~~[it]~~ the organization has created under ~~[Subsection]~~ Section 9-6-503~~[(4)]~~:

(a) if ~~[it]~~ the qualifying organization has received a grant from the ~~[board]~~ division during one of the three years immediately before making application for state fund money under this Subsection (1); or

(b) upon ~~[approval by the board if it]~~ recommendation of the arts board or the museums board if the qualifying organization has not received a grant from the board within the past three years.

(2) (a) The maximum amount that may be allocated to each qualifying organization from the state fund shall be determined by the ~~[board]~~ division by calculating the average cash income of the qualifying organization during the past three fiscal years as contained in the qualifying organization's final reports on file with the ~~[board]~~ division.

(b) The ~~[board]~~ division shall notify each qualifying organization of the maximum amount of money from the state fund for which ~~[it]~~ the qualifying organization qualifies.

~~[(b)]~~ (c) The minimum amount that may be allocated to each qualifying organization from the state fund is \$2,500.

~~[(e)]~~ (d) If the maximum amount for which the organization qualifies under the calculation described in Subsection (2)(a) is less than \$2,500, the organization may still apply for \$2,500.

(3) (a) After the ~~[board]~~ division determines that a qualifying organization is eligible to receive money from the state fund and before any money is allocated to the qualifying organization from the

state fund, the qualifying organization shall match the amount qualified for ~~[by]~~ with money raised and designated exclusively for that purpose.

(b) State money, in-kind contributions, and preexisting endowment gifts may not be used to match money from the state fund.

(4) ~~[Endowment match money]~~ The amount of match money described in Subsection (3) that a qualifying organization is required to provide shall be based on a sliding scale as follows:

(a) any amount requested not exceeding \$100,000 shall be matched one-to-one;

(b) any additional amount requested that makes the aggregate amount requested exceed \$100,000 but not exceed \$500,000 shall be matched two-to-one; and

(c) any additional amount requested that makes the aggregate amount requested exceed \$500,000 shall be matched three-to-one.

(5) (a) Qualifying organizations shall raise the matching amount within three years after applying for money from the state fund by a date determined by the ~~[board]~~ division.

(b) Money from the state fund shall be released to the qualifying organization only upon verification by the board that the matching money has been received on or before the date determined under Subsection (5)(a).

~~[(c)]~~ (c) Verification of matching funds shall be made by a certified public accountant.

~~[(e)]~~ (d) Money from the state fund shall be released to qualifying organizations with professional endowment management in increments not less than \$20,000 as audited confirmation of matching funds is received by the ~~[board]~~ division.

~~[(d)]~~ (e) Money from the state fund shall be granted to each qualifying organization on the basis of the matching funds ~~[it]~~ a qualifying organization has raised by the date determined under Subsection (5)(a).

**Section 18. Section 9-6-506 is amended to read:**

**9-6-506. Unallocated money.**

Money in the state fund that is unallocated shall be reallocated by the ~~[board]~~ division on a proportionate basis to qualifying organizations that raise 100% of their required match by the date determined under Subsection 9-6-505(5)(a).

**Section 19. Section 9-6-507 is amended to read:**

**9-6-507. Spending restrictions -- Return of endowment.**

(1) ~~[A qualifying organization, once it has received its endowment money from the state fund, may]~~ If a qualifying organization has received endowment money from the state fund, the qualifying organization may not expend any of that money or the required matching money in ~~[its]~~ the

qualifying organization's endowment fund, but may expend only the interest income earned on the money in ~~its~~ the endowment fund.

(2) If the ~~board~~ division determines that a qualifying organization has expended any amount of the endowment money received from the state fund or any amount of the required matching money~~, the qualifying organization shall~~:

(a) the qualifying organization shall return the amount ~~it~~ of money the qualifying organization received from the state fund~~, The board~~; and

(b) the division shall reallocate any such returned money to qualifying organizations in the manner as provided in Section 9-6-506.

**Section 20. Section 9-6-508 is amended to read:**

**9-6-508. Federal match.**

The creation of the state fund and the use of ~~its~~ state fund money to enable qualifying organizations to create ~~their own~~ endowment funds may be construed as a state match for any arts funding ~~from~~ provided by the federal government ~~that may be provided~~.

**Section 21. Section 13-22-6 is amended to read:**

**13-22-6. Application for registration.**

(1) An applicant for registration or renewal of registration as a charitable organization shall:

(a) pay an application fee as determined under Section 63J-1-504; and

(b) submit an application on a form approved by the division which shall include:

(i) the organization's name, address, telephone number, facsimile number, if any, and the names and addresses of any organizations or persons controlled by, controlling, or affiliated with the applicant;

(ii) the specific legal nature of the organization, that is, whether the organization is an individual, joint venture, partnership, limited liability company, corporation, association, or other entity;

(iii) the names and residence addresses of the officers and directors of the organization;

(iv) the name and address of the registered agent for service of process and a consent to service of process;

(v) the purpose of the solicitation and use of the contributions to be solicited;

(vi) the method by which the solicitation will be conducted and the projected length of time the solicitation is to be conducted;

(vii) the anticipated expenses of the solicitation, including all commissions, costs of collection, salaries, and any other items;

(viii) a statement of what percentage of the contributions collected as a result of the solicitation

are projected to remain available for application to the charitable purposes declared in the application, including a satisfactory statement of the factual basis for the projected percentage;

(ix) a statement of total contributions collected or received by the organization within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use made of the contributions;

(x) a copy of any written agreements with any professional fund raiser involved with the solicitation;

(xi) disclosure of any injunction, judgment, or administrative order or conviction of any crime involving moral turpitude with respect to any officer, director, manager, operator, or principal of the organization;

(xii) a copy of all agreements to which the applicant is, or proposes to be, a party regarding the use of proceeds for the solicitation or fundraising;

(xiii) a statement of whether the charitable organization, or the charitable organization's parent foundation, will be using the services of a professional fund raiser or of a professional fund raising counsel or consultant;

(xiv) if either the charitable organization or the charitable organization's parent foundation will be using the services of a professional fund raiser or a professional fund raising counsel or consultant:

(A) a copy of all agreements related to the services; and

(B) an acknowledgment that fund raising in the state will not commence until both the charitable organization, its parent foundation, if any, and the professional fund raiser or professional fund raising counsel or consultant are registered and in compliance with this chapter;

(xv) any documents required under Section 13-22-15; and

(xvi) any additional information the division may require by rule.

(2) If any information contained in the application for registration becomes incorrect or incomplete, the applicant or registrant shall, within 30 days after the information becomes incorrect or incomplete, correct the application or file the complete information required by the division.

(3) In addition to the registration fee, an organization failing to file a registration application or renewal by the due date or filing an incomplete registration application or renewal shall pay an additional fee of \$25 for each month or part of a month after the date on which the registration application or renewal were due to be filed.

~~[(4) Notwithstanding Subsection (1)(a), the registration fee for a certified local museum under Section 9-6-603 is \$25 less than the registration fee established under Subsection (1).]~~



**Section 22. Section 59-12-701 is amended to read:**

**59-12-701. Purpose statement.**

The Utah Legislature finds and declares that:

(1) Recreational and zoological facilities and the botanical, cultural, and zoological organizations of the state of Utah enhance the quality of life of Utah's citizens, as well as the continuing growth of Utah's tourist, convention, and recreational industries.

(2) Utah was the first state in this nation to create and financially support a state arts agency, ~~now the Utah Arts Council, which is~~ and remains committed to the nurturing and growth of cultural pursuits.

(3) Utah has provided, and intends to continue, the financial support of recreational and zoological facilities and the botanical, cultural, and zoological organizations of this state.

(4) The state's support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations has not been sufficient to assure the continuing existence and growth of these facilities and organizations, and the Legislature believes that local government may wish to play a greater role in the support of these organizations.

(5) Without jeopardizing the state's ongoing support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations, the Legislature intends to permit the counties of the state of Utah to enhance public financial support of Utah's publicly owned or operated recreational and zoological facilities, and botanical, cultural, and zoological organizations owned or operated by institutions or private nonprofit organizations, through the imposition of a county sales and use tax.

(6) In a county of the first class, it is necessary and appropriate to allocate a tax imposed under this part in a manner that provides adequate predictable support to a fixed number of botanical and cultural organizations and that gives the county legislative body discretion to allocate the tax revenues to other botanical and cultural organizations.

**Section 23. Section 59-12-704 is amended to read:**

**59-12-704. Distribution of revenues -- Advisory board creation -- Determining operating expenses -- Administrative charge.**

(1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of this section, any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body to support cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations within that first class county as follows:

(a) 30% of the revenue collected by the county under this section shall be distributed by the county legislative body to support cultural facilities and recreational facilities located within the county;

(b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii), 16% of the revenue collected by the county under this section shall be distributed by the county legislative body to support no more than three zoological facilities and zoological organizations located within the county, having average annual operating expenses of \$1,500,000 or more as determined under Subsection (3), with:

(A) 63.5% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of a zoological park, or a zoological facility that is part of or integrated with a zoological park;

(B) 28.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aquarium, or a zoological facility that is part of or integrated with an aquarium; and

(C) 8.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aviary, or a zoological facility that is part of or integrated with an aviary;

(ii) if more than one zoological organization or zoological facility qualifies to receive the money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which more than one zoological organization or zoological facility qualifies to whichever zoological organization or zoological facility the county legislative body determines is most appropriate, except that a zoological organization or zoological facility may not receive money under more than one subsection under Subsection (1)(b)(i); and

(iii) if no zoological organization or zoological facility qualifies to receive money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which no zoological organization or zoological facility qualifies among the zoological organizations or zoological facilities qualifying for and receiving money under the other subsections in proportion to the zoological organizations' or zoological facilities' average annual operating expenses as determined under Subsection (3);

(c) (i) 45% of the revenue collected by the county under this section shall be distributed to no more than 22 botanical organizations and cultural organizations with average annual operating expenses of more than \$250,000 as determined under Subsection (3);

(ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the money described in Subsection (1)(c)(i) among the botanical organizations and cultural organizations in proportion to their average annual operating expenses as determined under Subsection (3); and

(iii) the amount distributed to any botanical organization or cultural organization described in Subsection (1)(c)(i) may not exceed 35% of the botanical organization's or cultural organization's operating budget; and

(d) (i) 9% of the revenue collected by the county under this section shall be distributed to botanical organizations and cultural organizations that do not receive revenue under Subsection (1)(c)(i); and

(ii) the county legislative body shall determine how the money shall be distributed among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).

(2) (a) The county legislative body of each county shall create an advisory board to advise the county legislative body on disbursement of funds to botanical organizations and cultural organizations under Subsection (1)(c)(i).

(b) (i) The advisory board under Subsection (2)(a) shall consist of seven members appointed by the county legislative body.

(ii) In a county of the first class, two of the seven members of the advisory board under Subsection (2)(a) shall be appointed ~~[from the Utah Arts Council]~~ by the Division of Arts and Museums created in Section 9-6-201.

(3) (a) Except as provided in Subsection (3)(b), to be eligible to receive money collected by the county under this part, a botanical organization, cultural organization, zoological organization, and zoological facility located within a county of the first class shall, every year:

(i) calculate its average annual operating expenses based upon audited operating expenses for three preceding fiscal years; and

(ii) submit to the appropriate county legislative body:

(A) a verified audit of annual operating expenses for each of those three preceding fiscal years; and

(B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

(b) The county legislative body may waive the operating expenses reporting requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

(4) When calculating average annual operating expenses as described in Subsection (3), each botanical organization, cultural organization, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.

(5) (a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(c) and (d).

(b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

(6) (a) In a county except for a county of the first class, the county legislative body shall by ordinance

provide for the distribution of the entire amount of the revenues generated by the tax imposed by this section:

(i) as provided in this Subsection (6); and

(ii) as stated in the opinion question described in Subsection 59-12-703(1).

(b) Pursuant to an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute to a city, town, or political subdivision within the county revenues generated by a tax under this part.

(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the revenues are distributed:

(i) directly by the county described in Subsection (6)(a) to be used for an organization or facility defined in Section 59-12-702; or

(ii) in accordance with an interlocal agreement described in Subsection (6)(b).

(7) A county legislative body may retain up to 1.5% of the proceeds from a tax under this part for the cost of administering this part.

(8) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

**Section 24. Section 63C-9-601 is amended to read:**

**63C-9-601. Responsibility for items.**

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not subject to the custody or control of the State Library Board, the State Library Division, the Division of Archives and Records Service, the Division of State History, ~~[the Office of Museum Services, the Utah Arts Council,]~~ the Division of Arts and Museums, the arts collection committee of the State of Utah Alice Merrill Horne Art Collection ~~[Committee]~~, or any other state agency.

**Section 25. Repealer.**

This bill repeals:

**Section 9-6-204, Utah Arts Council Board of Directors.**

**Section 9-6-205, Board powers and duties.**

**Section 9-6-307, Application of funds received by council.**

**Section 9-6-602, Office of Museum Services created -- Purpose.**

**Section 9-6-603, Duties of office.**

**Section 9-6-604, Museum Services Advisory Board -- Membership.**

**Section 9-6-605, Advisory board -- Duties.**

**Section 9-6-606, Office limitations.**

**Section 9-6-701, Title.**

**Section 9-6-702, Definitions.**

**Section 9-6-703, State-Owned Art  
Collections Inventory Study Program --  
Division duties -- Funding for the study  
program.**

**Section 9-6-704, State-Owned Art  
Collections Inventory Program Committee  
-- Membership -- Chair -- Expenses --  
Duties.**

**Section 9-6-801, Title.**

**Section 9-6-802, Definitions.**

**Section 9-6-803, Arts and Culture Business  
Alliance -- Creation -- Members --  
Vacancies.**

**Section 9-6-804, Alliance duties.**

**Section 9-6-805, Staff support --  
Rulemaking.**

**Section 9-6-806, Arts and Culture Business  
Alliance Account -- Funding.**

**CHAPTER 420****H. B. 120**

Passed March 11, 2020  
Approved March 31, 2020  
Effective May 12, 2020

**TOWING FEE AMENDMENTS**

Chief Sponsor: A. Cory Maloy  
Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill amends provisions related to towing dispatch fees.

**Highlighted Provisions:**

This bill:

- ▶ allows a special service district to charge a dispatch fee on tow truck motor carriers in order to be part of the towing rotation of that special service district.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

72-9-604, as last amended by Laws of Utah 2019, Chapter 373

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 72-9-604 is amended to read:****72-9-604. Preemption of local authorities -- Tow trucks.**

(1) (a) Notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor carrier, tow truck operator, or tow truck that conflicts with:

- (i) any provision of this part;
- (ii) Section 41-6a-1401;
- (iii) Section 41-6a-1407; or
- (iv) rules made by the department under this part.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

- (i) is holding the vehicle, vessel, or outboard motor as evidence; and
- (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(2) A tow truck motor carrier that has a county or municipal business license for a place of business

located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a business location in the other county or municipality.

(3) A county or municipal legislative or governing body may not require a tow truck motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing certificate by the department, as described in Section 72-9-602, to obtain an additional towing certificate.

(4) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

- (a) no fee is charged for the inspection; and
- (b) the inspection complies with federal motor carrier safety regulations.

(5) A tow truck shall be subject to only one annual safety inspection under Subsection (4)(b). A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

(6) (a) (i) Beginning on July 1, 2021, a political subdivision or state agency may not charge an applicant a fee or charge related to dispatch costs in order to be part of the towing rotation of that political subdivision or state agency.

(ii) Notwithstanding Subsection (6)(a)(i), a special service district under Title 17D, Chapter 1, Special Service District Act, may charge an applicant a fee or charge related to dispatch costs in order to be part of the towing rotation of that special service district.

(b) In addition to the fees set by the department in rules made in accordance with Subsection 72-9-603(7), a tow truck motor carrier may charge a fee to cover the costs of a dispatch charge described in Subsection (6)(a).

(c) The amount of the fee described in Subsection (6)(b) may not exceed the amount charged to the tow truck motor carrier ~~[by the political subdivision or state agency]~~ for dispatch services under Subsection (6)(a).

(d) A political subdivision or state agency that does not charge a dispatch fee as of January 1, 2019, may not charge a dispatch fee described in Subsection (6)(a)(i).

(7) A towing entity may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information for inclusion of the tow truck motor carrier on a rotation.

(8) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck operator that responds may not respond to the location in a tow truck that is owned by a tow truck motor carrier that is different than the tow truck motor carrier that was dispatched.

**CHAPTER 421****H. B. 130**

Passed March 11, 2020  
Approved March 31, 2020  
Effective May 12, 2020

**WATER USE AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes  
Senate Sponsor: Jani Iwamoto

**LONG TITLE****General Description:**

This bill addresses regulation of the uses of water.

**Highlighted Provisions:**

This bill:

- ▶ addresses fees;
- ▶ modifies definition provisions;
- ▶ addresses references to changes;
- ▶ addresses the state engineer's actions related to split season or other potentially complicated changes;
- ▶ amends the exemption related to proof of appropriation or change;
- ▶ addresses change application for instream flow; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 73-2-14, as last amended by Laws of Utah 2017, Chapter 76
- 73-3-3, as last amended by Laws of Utah 2015, Chapters 245, 249, 251, 298 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 249
- 73-3-5, as last amended by Laws of Utah 2001, Chapter 136
- 73-3-8, as last amended by Laws of Utah 2019, Chapter 366
- 73-3-16, as last amended by Laws of Utah 2013, Chapter 221
- 73-3-30, as last amended by Laws of Utah 2013, Chapter 379

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 73-2-14 is amended to read:****73-2-14. Fees of state engineer -- Deposited as a dedicated credit.**

(1) The state engineer shall charge fees pursuant to Section 63J-1-504 for the following:

- (a) applications to appropriate water;
- (b) applications to temporarily appropriate water;
- (c) applications for ~~permanent or temporary~~ a change;
- (d) applications for exchange;

(e) applications for nonuse of water;

(f) applications to appropriate water, or make a ~~permanent or temporary~~ change, for use outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;

(g) groundwater recovery permits;

(h) diligence claims for surface or underground water filed pursuant to Section 73-5-13;

(i) republication of notice to water users after amendment of application where required by this title;

(j) applications to segregate;

(k) requests for an extension of time in which to submit proof of appropriation not to exceed 14 years after the date of approval of the application;

(l) requests for an extension of time in which to submit proof of appropriation 14 years or more after the date of approval of the application;

(m) groundwater recharge permits;

(n) applications for a well driller's license, annual renewal of a well driller's license, and late annual renewal of a well driller's license;

(o) certification of copies;

(p) preparing copies of documents;

(q) reports of water right conveyance; and

(r) requests for a livestock water use certificate under Section 73-3-31.

(2) Fees for the services specified in Subsections (1)(a) through (i) shall be based upon the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and storage, the fee shall be based upon either the rate of flow or annual volume of water stored, whichever fee is greater.

(3) Fees collected under this section:

(a) shall be deposited in the General Fund as a dedicated credit to be used by the Division of Water Rights; and

(b) may only be used by the Division of Water Rights to:

(i) meet the publication of notice requirements under this title;

(ii) process reports of water right conveyance;

(iii) process a request for a livestock water use certificate; and

(iv) hire an employee to assist with processing an application.

**Section 2. Section 73-3-3 is amended to read:****73-3-3. Changes to a water right.**

(1) For purposes of this section:

(a) "Change" means a change to the:

(i) point of diversion;

(ii) place of use;

(iii) period of use;

(iv) nature of use; or

(v) storage of water.

(b) “Fixed time change” means a change for a fixed period of time exceeding one year and not exceeding 10 years.

~~[(a)]~~ (c) “Permanent change” means a change, for an indefinite period of time, ~~to the:~~

~~[(i) point of diversion;]~~

~~[(ii) place of use;]~~

~~[(iii) period of use;]~~

~~[(iv) nature of use; or]~~

~~[(v) storage of water].~~

~~[(b)]~~ (d) “Person entitled to the use of water” means:

(i) the holder of an approved but unperfected application to appropriate water;

(ii) the record owner of a perfected water right;

(iii) a person who has written authorization from a person described in Subsection (1)~~[(b)]~~(d)(i) or (ii) to file a change application on that person’s behalf; or

(iv) a shareholder in a water company who is authorized to file a change application in accordance with Section 73-3-3.5.

~~[(e)]~~ (e) (i) “Quantity impairment” means any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from an action proposed in a change application, including:

(A) diminishing the quantity of water in the source of supply for the existing right;

(B) a change in the timing of availability of water from the source of supply for the existing right; or

(C) enlarging the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use.

(ii) “Quantity impairment” does not mean a decrease in the static level of water in an underground basin or aquifer that would result from an action proposed to be taken in a change application, if the volume of water necessary to satisfy an existing right otherwise remains reasonably available.

(f) “Split season change” means a change when the holder of a perfected right grants to a water user the right to make sequential use of a portion of the water right.

~~[(d)]~~ (g) “Temporary change” means a change for a [fixed] period of time, not exceeding one year, ~~to the:~~

~~[(i) point of diversion;]~~

~~[(ii) place of use;]~~

~~[(iii) period of use;]~~

~~[(iv) nature of use; or]~~

~~[(v) storage of water].~~

(2) (a) A person who proposes to file a ~~[permanent or temporary]~~ change application may request consultation with the state engineer, or the state engineer’s designee, before filing the application ~~[in order]~~ to review the requirements of the change application process, discuss potential issues related to the change, and provide the applicant with information.

(b) Statements made and information presented in the consultation are not binding on the applicant or the state engineer.

(c) The consultation described in Subsection (2)(a) may occur in the state engineer’s regional office for the region where the proposed change would occur.

(3) (a) A person entitled to the use of water may make a ~~[permanent or temporary]~~ change to an existing right to use water, including a right involved in a general determination of rights or other suit, if:

(i) the person makes the change in accordance with this section;

(ii) except as provided by Section 73-3-30, the change does not impair an existing right without just compensation or adequate mitigation; and

(iii) the state engineer approves the change application, consistent with ~~[the requirements of]~~ Section 73-3-8.

(b) A change application on a federal reclamation project water right shall be signed by:

(i) the local water users organization that is contractually responsible for:

(A) the operation and maintenance of the project; or

(B) the repayment of project costs; and

(ii) the record owner of the water right.

(c) A change application on a United States Indian Irrigation Service water right that is serving the needs of a township or municipality shall be signed by:

(i) the local public water supplier that is responsible for the operation and maintenance of the public water supply system; and

(ii) the record owner of the water right.

(4) (a) Before making a ~~[permanent or temporary]~~ change, a person entitled to the use of water shall submit a change application upon forms furnished by the state engineer.

(b) The application described in Subsection (4)(a) shall include:

(i) the applicant’s name;

(ii) the water right description, including the water right number;

- (iii) the water quantity;
- (iv) the stream or water source;
- (v) if applicable, the point on the stream or water source where the water is diverted;
- (vi) if applicable, the point to which it is proposed to change the diversion of the water;
- (vii) the place, nature, period, and extent of the currently approved use;
- (viii) the place, nature, period, and extent of the proposed use;
- (ix) if the change applicant is submitting a change application in accordance with Section 73-3-3.5, the information required by Section 73-3-3.5;
- (x) any proposed change to the storage of water; and
- (xi) any other information that the state engineer requires.

(c) A shareholder in a water company who seeks to make a ~~permanent or temporary~~ change to a water right to which the water company is the record owner shall file a change application in accordance with Section 73-3-3.5.

(5) In a proceeding before the state engineer, the applicant has the burden of producing evidence sufficient to support a reasonable belief that the change can be made in compliance with this section and Section 73-3-8, including evidence:

- (a) that the change will not cause a specific existing right to experience quantity impairment; or
- (b) if applicable, rebutting the presumption of quantity impairment described in Subsection 73-3-8(6)(c).

(6) A change of an approved application to appropriate water does not:

- (a) affect the priority of the original application to appropriate water; or
- (b) extend the time period within which the construction of work is to begin or be completed.

(7) Any person who makes a ~~permanent or temporary~~ change without first filing and obtaining approval of a change application providing for ~~such~~ the change:

- (a) obtains no right by the change;
- (b) is guilty of an offense punishable under Section 73-2-27 if the change is made knowingly or intentionally; and
- (c) shall comply with the change application process.

(8) (a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) ~~Any~~ A replacement well must be drilled in accordance with the requirements of Section 73-3-28.

**Section 3. Section 73-3-5 is amended to read:**

**73-3-5. Action by engineer on applications.**

(1) On receipt of ~~each~~ an application containing the information required by Section 73-3-2, and payment of the filing fee, ~~it shall be the duty of~~ the state engineer ~~to make an endorsement thereon of~~ shall endorse the application with the date of its receipt, ~~and~~ to make a record of ~~such~~ the receipt for that purpose.

(2) ~~It shall be the duty of the~~ The state engineer ~~to~~ shall examine the application and determine whether any corrections, amendments or changes are required for clarity and if so, see that such changes are made before further processing. The state engineer may not construe an application for a split season change or other potentially complicated change as incomplete or unacceptable if the application satisfies the filing requirements under Section 73-3-3 and payment of the respective filing fee is made.

(3) ~~All applications which shall comply~~ An application that complies with ~~the provisions of~~ this chapter and with the regulations of the state engineer shall be filed and recorded.

(4) The state engineer may issue a temporary receipt to drill a well at any time after the filing of an application to appropriate water ~~therefrom~~ from the well, as provided by this section if ~~all~~ the fees be advanced and if in ~~his~~ the state engineer's judgment there is unappropriated water available in the proposed source and there is no likelihood of impairment of existing rights; ~~provided, however,~~ except that the issuance of ~~such~~ a temporary ~~permits shall~~ receipt does not dispense with the publishing of notice and the final approval or rejection of ~~such~~ the application by the state engineer, as provided by this chapter.

(5) The state engineer may send the necessary notices and address ~~all~~ correspondence relating to ~~each~~ an application to the owner thereof as shown by the state engineer's records, or to ~~his~~ the owner's attorney in fact provided a written power of attorney is filed in the state engineer's office.

**Section 4. Section 73-3-8 is amended to read:**

**73-3-8. Approval or rejection of application**

**-- Requirements for approval --**

**Application for specified period of time --  
Filing of royalty contract for removal of  
salt or minerals -- Request for agency  
action.**

(1) (a) It shall be the duty of the state engineer to approve an application if there is reason to believe that:

- (i) for an application to appropriate, there is unappropriated water in the proposed source;
- (ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;

(iii) the proposed plan:

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works;

(v) the application was filed in good faith and not for purposes of speculation or monopoly; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application will interfere with the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, the state engineer shall withhold approval or rejection of the application until the state engineer has investigated the matter.

(c) If an application does not meet the requirements of this section, it shall be rejected.

(2) (a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

(i) the essential purpose of the original application has not been satisfied;

(ii) the need for an extension is not the result of any default or neglect by the applicant; and

(iii) the water is still available.

(e) ~~[No extension shall]~~ An extension may not exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3) (a) Before the approval of any application for the appropriation of water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals therefrom by precipitation or otherwise, the applicant shall file with the state engineer a copy of a contract for the payment of royalties to the state.

(b) The approval of an application shall be revoked ~~[in the event of the failure of the]~~ if the applicant fails to comply with terms of the royalty contract.

(4) (a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that ~~[it]~~ the temporary change will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe ~~[it]~~ the temporary change would impair an existing right.

(5) (a) With respect to a change application for a permanent or fixed time change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent or fixed time change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application to prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed.

(d) A condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent or fixed time change application if the person proposing to make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a ~~[permanent or temporary]~~ change



application upon one or more of the following conditions:

- (i) for part of the water involved;
  - (ii) that the applicant acquire a conflicting right;
- or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c) (i) There is a rebuttable presumption of quantity impairment, as defined in [Subsection 73-3-3(4)] Section 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion;

or

(B) beneficially used at the approved place of use.

(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:

(A) Subsection 73-1-4(2)(e);

(B) an approved nonuse application under Subsection 73-1-4(2)(b);

(C) Subsection 73-3-30(7); or

(D) the passage of time under Subsection 73-1-4(2)(c)(i).

(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:

(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or

(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, [a]ll the protestants, and [a]ll the persons identified by the state engineer under Subsection (6)(d)(ii) come to a written

agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

**Section 5. Section 73-3-16 is amended to read:**

**73-3-16. Proof of appropriation or change -- Notice -- Manner of proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement in lieu of proof of appropriation or change.**

(1) Sixty days before the date set for the proof of appropriation or proof of change to be made, the state engineer shall notify the applicant by mail when proof of completion of the works and application of the water to a beneficial use is due.

(2) On or before the date set for completing the proof in accordance with the application, the applicant shall file proof with the state engineer on forms furnished by the state engineer.

(3) Except as provided in Subsection (4), the applicant shall submit the following information:

(a) a description of the works constructed;

(b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;

(c) the method of applying the water to beneficial use; and

(d) (i) detailed measurements of water put to beneficial use;

(ii) the date the measurements were made; and

(iii) the name of the person making the measurements.

(4) (a) (i) On applications filed for appropriation or permanent change of use of water to provide a water supply for state projects constructed pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources, or for federal projects constructed by the United States Bureau of Reclamation for the use and benefit of the state, any of its agencies, its political subdivisions, public and quasi-municipal corporations, or water users' associations of which the state, its agencies, political subdivisions, or public and quasi-municipal corporations are stockholders, the proof shall include:

(A) a statement indicating construction of the project works has been completed;

(B) a description of the major features with appropriate maps, profiles, drawings, and reservoir area-capacity curves;

(C) a description of the point or points of diversion and redirection;

(D) project operation data;

(E) a map showing the place of use of water and a statement of the purpose and method of use;

(F) the project plan for beneficial use of water under the applications and the quantity of water required; and

(G) a statement indicating what type of measuring devices have been installed.

(ii) The director of the Division of Water Resources shall sign proofs for the state projects and an authorized official of the Bureau of Reclamation shall sign proofs for the federal projects specified in Subsection (4)(a)(i).

(b) Proof on an application for appropriation or permanent change for a surface storage facility in excess of 1,000 acre-feet constructed by a public water supplier to provide a water supply for the reasonable requirements of the public shall include:

(i) a description of the completed water storage facility;

(ii) a description of the major project features and appropriate maps, profiles, drawings, and reservoir area-capacity curves as required by the state engineer;

(iii) the quantity of water stored in acre-feet;

(iv) a description of the water distribution facility for the delivery of the water; and

(v) the project plan for beneficial use of water including any existing contracts for water delivery.

(5) The proof on all applications shall be sworn to by the applicant or the applicant's appointed representative.

(6) (a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall submit maps, profiles, and drawings made by a Utah licensed land surveyor or Utah licensed professional engineer that show:

(i) the location of the completed works;

(ii) the nature and extent of the completed works;

(iii) the natural stream or source from which and the point where the water is diverted and, in the case of a nonconsumptive use, the point where the water is returned; and

(iv) the place of use.

(b) The state engineer may waive the filing of maps, profiles, and drawings if in the state engineer's opinion the written proof adequately describes the works and the nature and extent of beneficial use.

(7) In those areas in which general determination proceedings are pending, or have been concluded, under Title 73, Chapter 4, Determination of Water Rights, the state engineer may petition the district court for permission to:

(a) waive the requirements of this section and Section 73-3-17; and

(b) permit each owner of an application to file a verified statement to the effect that the applicant has completed the appropriation or change and elects to file a statement of water users claim in the proposed determination of water rights or any supplement to it in accordance with Title 73,

Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or proof of change.

(8) This section does not apply to ~~[an instream flow water right authorized by Section 73-3-30]~~ a fixed time or temporary change application.

**Section 6. Section 73-3-30 is amended to read:**

**73-3-30. Change application for an instream flow.**

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources, created in Section 23-14-1, or the Division of Parks and Recreation, created in Section 79-4-201.

(b) "Fishing group" means an organization that:

(i) is exempt from taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) promotes fishing opportunities in the state.

~~[(e) "Fixed time change" means a change in a water right's point of diversion, place of use, or purpose of use for a fixed period of time longer than one year but not longer than 10 years.]~~

(2) (a) A division may file a ~~[permanent or temporary]~~ change application, as provided by Section 73-3-3, for the purpose of providing water for an instream flow, within a specified section of a natural or altered stream channel, necessary within the state for:

(i) the propagation of fish;

(ii) public recreation; or

(iii) the reasonable preservation or enhancement of the natural stream environment.

(b) A division may file a change application on:

(i) a perfected water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow, through funding provided for that purpose by legislative appropriation; or

(C) acquired by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

(c) A division may:

(i) purchase a water right for the purposes provided in Subsection (2)(a) only with funds specifically appropriated by the Legislature for water rights purchases; or

(ii) accept a donated water right without legislative approval.

(d) A division may not acquire water rights by eminent domain for an instream flow or for any other purpose.

(3) (a) A fishing group may file a fixed time change application on a perfected, consumptive water right

for the purpose of providing water for an instream flow, within a specified section of a natural or altered stream channel, to protect or restore habitat for three native trout:

- (i) the Bonneville cutthroat;
- (ii) the Colorado River cutthroat; or
- (iii) the Yellowstone cutthroat.

(b) Before filing an application authorized by Subsection (3)(a) to change a shareholder's proportionate share of water, the water company shall submit the decision to approve or deny the change request required by Subsection 73-3-3.5(3) to a vote of the shareholders:

(i) in a manner outlined in the water company's articles of incorporation or bylaws;

(ii) at an annual or regular meeting described in Section 16-6a-701; or

(iii) at a special meeting convened under Section 16-6a-702.

(c) The specified section of the natural or altered stream channel for the instream flow may not be further upstream than the water right's original point of diversion nor extend further downstream than the next physical point of diversion made by another person.

(d) The fishing group shall receive the Division of Wildlife Resources' director's approval of the proposed change before filing the fixed time change application with the state engineer.

(e) The director of the Division of Wildlife Resources may approve a proposed change if:

(i) the specified section of the stream channel is historic or current habitat for a species listed in Subsections (3)(a)(i) through (iii);

(ii) the proposed purpose of use is consistent with an existing state management or recovery plan for that species; and

(iii) the fishing group has:

(A) entered into a programmatic Candidate Conservation Agreement with Assurances with the United States Fish and Wildlife Service, as authorized by 16 U.S.C. Secs. 1531(a)(5) and 1536(a)(1), that gives the water right holder the option to receive an enhancement of survival permit, as authorized by 16 U.S.C. Sec. 1539(a)(1)(A), or a certificate of inclusion, for a fixed time change application that benefits a candidate species of trout; or

(B) until a programmatic Candidate Conservation Agreement with Assurances described in Subsection (3)(e)(iii)(A) becomes valid and enforceable, entered into a contract with the water right holder agreeing to defend and indemnify the water right holder for liability under Section 1538(a) of the Endangered Species Act, 16 U.S.C. Secs. 1531 through 1544, for an action taken by the water right holder under the terms of the

water right holder's agreement with the fishing group for a fixed time change application.

(f) The director may deny a proposed change if the proposed change would not be in the public's interest.

(g) (i) In considering a fixed time change application, the state engineer shall follow the same procedures as provided in this title for an application to appropriate water.

(ii) The rights and the duties of a fixed time change applicant are the same as provided in this title for an applicant to appropriate water.

(h) A fishing group may refile a fixed time change application by filing a written request with the state engineer no later than 60 days before the application expires.

(i) (i) The water right for which the state engineer has approved a fixed time change application will automatically revert to the point of diversion and place and purpose of use that existed before the approved fixed time change application when the fixed time change application expires or is terminated.

(ii) The applicant shall give written notice to the state engineer and the lessor, if applicable, if the applicant wishes to terminate a fixed time change application before the fixed time change application expires.

(4) In addition to the requirements of Section 73-3-3, an application authorized by this section shall:

(a) set forth the legal description of the points on the stream channel between which the instream flow will be provided by the change application; and

(b) include appropriate studies, reports, or other information required by the state engineer demonstrating the necessity for the instream flow in the specified section of the stream and the projected benefits to the public resulting from the change.

(5) (a) For a permanent change application or a fixed time change application filed according to this section, 60 days before the date on which proof of change for an instream flow is due, the state engineer shall notify the applicant by mail or by any form of communication through which receipt is verifiable of the date when proof of change is due.

(b) Before the date when proof of change is due, the applicant must either:

(i) file a verified statement with the state engineer that the instream flow uses have been perfected, setting forth:

(A) the legal description of the points on the stream channel between which the instream flow is provided;

(B) detailed measurements of the flow of water in second-feet changed;

(C) the period of use; and

(D) any additional information required by the state engineer; or

(ii) apply for a further extension of time as provided for in Section 73-3-12.

(c) (i) Upon acceptance of the verified statement required under Subsection (5)(b)(i), the state engineer shall issue a certificate of change for instream flow use in accordance with Section 73-3-17.

(ii) The certificate expires at the same time the fixed time change application expires.

(6) ~~[No]~~ A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow.

(7) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.

(8) A physical structure or physical diversion from the stream is not required to implement a change for instream flow use.

(9) This section does not allow enlargement of the water right that the applicant seeks to change.

(10) A change application authorized by this section may not impair a vested water right, including a water right used to generate hydroelectric power.

(11) The state engineer or the water commissioner shall distribute water under an approved or a certificated instream flow change application according to the change application's priority date relative to the other water rights located within the stream section specified in the change application for instream flow.

(12) An approved fixed time change application does not create a right of access across private property or allow any infringement of a private property right.

## CHAPTER 422

## H. B. 134

Passed February 28, 2020

Approved March 31, 2020

Effective May 12, 2020

## RAW MILK PRODUCTS AMENDMENTS

Chief Sponsor: Kim F. Coleman  
Senate Sponsor: David P. Hinkins

## LONG TITLE

## General Description:

This bill provides for the manufacturing, distribution, and sale of certain products produced from raw milk under certain circumstances.

## Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows the manufacturing, distribution, and sale of certain products produced from raw milk under certain circumstances; and
- ▶ makes technical changes.

## Monies Appropriated in this Bill:

None

## Other Special Clauses:

None

## Utah Code Sections Affected:

## AMENDS:

4-3-301, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-3-503, as last amended by Laws of Utah 2018, Chapter 279

*Be it enacted by the Legislature of the state of Utah:*

## Section 1. Section 4-3-301 is amended to read:

## 4-3-301. Licenses and permits -- Application -- Fee -- Expiration -- Renewal.

(1) Application for a license to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products shall be made to the department upon forms prescribed and furnished by ~~the~~ the department.

(2) Upon receipt of a proper application, compliance with ~~all~~ the applicable rules, and payment of a license fee determined by the department according to Subsection 4-2-103(2), the commissioner, if satisfied that the public convenience and necessity and the industry will be served, shall issue an appropriate license to the applicant subject to suspension or revocation for cause.

(3) ~~Each~~ A license issued under this section expires at midnight on December 31 of each year.

(4) A license to operate a plant, manufacture butter or cheese, pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products, is renewable for a

period of one year upon the payment of an annual license renewal fee determined by the department according to Subsection 4-2-103(2) on or before December 31 of each year.

(5) ~~Application~~ Notwithstanding the requirements of Subsection (1), application for a permit or certificate to produce milk or a raw milk product, as that term is defined in Section 4-3-503, shall be made to the department on forms prescribed and furnished by ~~it~~ the department.

(6) (a) Upon receipt of a proper application and compliance with ~~all~~ applicable rules, the commissioner shall issue a permit entitling the applicant to engage in the business of producer, subject to suspension or revocation for cause.

(b) ~~No~~ A fee may not be charged by the department for issuance of a permit or certificate.

## Section 2. Section 4-3-503 is amended to read:

## 4-3-503. Sale of raw milk products -- Suspension of producer's permit -- Severability not permitted.

(1) As used in this section:

(a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

(b) "Raw milk product" means raw milk, cream produced from raw milk, and butter produced from raw milk.

~~(b)~~ (c) "Self-owned retail store" means a retail store:

(i) of which the producer owns at least 51% of the value of the real property and tangible personal property used in the operations of the retail store; or

(ii) for which the producer has the power to vote at least 51% of any class of voting shares or ownership interest in the business entity that operates the retail store.

(2) Except as provided in Subsection (5), a raw milk product may be manufactured, distributed, sold, delivered, held, stored, or offered for sale if:

(a) the producer obtains a permit from the department to produce the raw milk product under Subsection 4-3-301~~(5)~~(6);

(b) the sale and delivery of the raw milk product is made upon the premises where the raw milk product is produced, except as provided by Subsection (3);

(c) the raw milk product is sold to consumers for household use and not for resale;

(d) the raw milk product is bottled or packaged under sanitary conditions and in sanitary containers on the premises where the raw milk product is produced;

(e) the raw milk product is labeled "raw milk product" and meets the labeling requirements under 21 C.F.R. Parts 101 and 131 and rules established by the department;

(f) the raw milk used to produce the raw milk product is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal;

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal; and

(iii) maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is delivered to the consumer or used to produce the raw milk product;

(g) the bacterial count of the raw milk used to produce the raw milk product does not exceed 20,000 colony forming units per milliliter;

(h) the coliform count of the raw milk used to produce the raw milk product does not exceed 10 colony forming units per milliliter;

(i) the production of the raw milk product conforms to departmental rules for the production of grade A milk products;

(j) ~~[all]~~ the dairy animals on the premises are:

(i) permanently and individually identifiable; and

(ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

(k) any person on the premises performing any work in connection with the production, bottling, packaging, handling, or sale of the raw milk product is free from communicable disease.

(3) A producer may distribute, sell, deliver, hold, store, or offer for sale a raw milk product at a self-owned retail store, ~~[which]~~ that is properly staffed, or from a mobile unit where the raw milk product is maintained through mechanical refrigeration at 41 degrees Fahrenheit or a lower temperature, if, in addition to the requirements of Subsection (2), the producer:

(a) transports the raw milk product from the premises where the raw milk product is produced to the self-owned retail store in a refrigerated truck where the raw milk product is maintained at 41 degrees Fahrenheit or a lower temperature;

(b) retains ownership of the raw milk product until it is sold to the final consumer, including transporting the raw milk product from the premises where the raw milk product is produced to the self-owned retail store without any:

(i) intervening storage;

(ii) change of ownership; or

(iii) loss of physical control;

(c) stores the raw milk product at 41 degrees Fahrenheit or a lower temperature in a display case equipped with a properly calibrated thermometer at the self-owned retail store;

(d) places a sign above each display case that contains a raw milk product at the self-owned retail store that:

(i) is prominent;

(ii) is easily readable by a consumer;

(iii) reads in print that is no smaller than .5 ~~[inches]~~ inch in bold type, "This milk product is raw and unpasteurized. Please keep refrigerated."; and

(iv) meets any other requirement established by the department by rule;

(e) labels the raw milk product with:

(i) a date, no more than nine days after the raw milk product is produced, by which the raw milk product should be sold;

(ii) the statement "Raw milk products, no matter how carefully produced, may be unsafe.";

(iii) handling instructions to preserve quality and avoid contamination or spoilage;

(iv) ~~[by January 1, 2017,]~~ a specific colored label as determined by the department by rule; and

(v) any other information required by rule;

(f) refrains from offering the raw milk product for sale until:

(i) the department or a third party certified by the department tests each batch of raw milk used to produce a raw milk product for standard plate count and coliform count; and

(ii) the test results meet the minimum standards established for those tests;

(g) (i) maintains a database of the raw milk product sales; and

(ii) makes the database available to the Department of Health during the self-owned retail store's business hours for purposes of epidemiological investigation;

(h) ensures that the plant and retail store complies with Chapter 5, Utah Wholesome Food Act, and the rules governing food establishments enacted under Section 4-5-301; and

(i) complies with ~~[all]~~ the applicable rules adopted as authorized by this chapter.

(4) A producer may distribute, sell, deliver, hold, store, or offer for sale a raw milk product and pasteurized milk at the same self-owned retail store if:

(a) the self-owned retail store is properly staffed; and

(b) the producer:

(i) meets the requirements of Subsections (2) and (3);

(ii) operates the self-owned retail store on the same property where the raw milk product is produced; and

(iii) maintains separate, labeled, refrigerated display cases for raw milk products and pasteurized milk.

(5) A producer may, without meeting the requirements of Subsection (2), sell up to 120 gallons of raw milk per month if:

(a) the sale is directly to an end consumer, for household use and not for resale;

(b) the sale and delivery of the raw milk is made upon the premises where the raw milk is produced;

(c) the producer labels the raw milk with:

(i) the producer's name and address;

(ii) a date, no more than nine days after the raw milk is produced, by which the raw milk should be sold;

(iii) the statement "This raw milk has not been licensed or inspected by the state of Utah. Raw milk, no matter how carefully produced, may be unsafe."; and

(iv) handling instructions to preserve quality and avoid contamination or spoilage;

(d) the raw milk is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal; and

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal;

(e) the producer conducts a monthly test ensuring the coliform count of the raw milk does not exceed 10 colony-forming units per milliliter;

(f) ~~all~~ the dairy animals on the producer's premises are free of tuberculosis, brucellosis, and other diseases carried through milk;

(g) the producer maintains records of tests and sales for a minimum of two years; and

(h) the producer notifies the department of the producer's intent to sell raw milk pursuant to this Subsection (5) and includes in the notification the producer's name and address.

(6) A person who conducts a test required by Subsection (3) shall send a copy of the test results to the department as soon as the test results are available.

(7) (a) The department shall adopt rules, as authorized by Section 4-3-201, governing the sale of raw milk products at a self-owned retail store.

(b) The rules adopted by the department shall include rules regarding:

(i) permits;

(ii) building and premises requirements;

(iii) sanitation and operating requirements, including bulk milk tanks requirements;

(iv) additional tests;

(v) frequency of inspections, including random cooler checks;

(vi) recordkeeping; and

(vii) packaging and labeling.

(c) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the standards of identity for a raw milk product.

~~(e)~~ (d) (i) The department shall establish and collect a fee for the tests and inspections required by this section and by rule in accordance with Section 63J-1-504.

(ii) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this section.

(8) (a) The department shall suspend a permit issued under Section 4-3-301 if:

(i) two out of four consecutive samples or two samples in a 30-day period violate sample limits established under this section; or

(ii) a producer violates ~~a provision of~~ this section or a rule adopted as authorized by this section.

(b) The department may reissue a permit that has been suspended under Subsection (8)(a) if the producer has complied with all of the requirements of this section and rules adopted as authorized by this section.

(9) (a) If any subsection of this section or the application of any subsection to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of the section may not be given effect without the invalid subsection or application.

(b) The provisions of this section may not be severed.

(10) Nothing in this chapter shall be construed to impede the Department of Health or the Department of Agriculture and Food in investigation of foodborne illness.

(11) The department shall issue a cease and desist order to a producer linked to a foodborne illness and shall stop sale ~~of~~ of a raw milk product currently being sold.

(12) The order shall remain in effect until the department verifies that the producer:

(a) adheres to ~~all of the provisions of~~ this section; and

(b) has three consecutive clean tests of the raw milk product.

(13) In addition to ~~the provisions of~~ Subsections (11) and (12), if a producer's raw milk product has been linked to a foodborne illness outbreak, and the department finds that the producer has violated the applicable provisions of this section, the department may impose upon the producer the following administrative penalties:

(a) upon the first violation, a penalty of no more than \$300;

(b) upon a second violation, a penalty of no more than \$750; and

(c) upon a third or subsequent violation a penalty of no more than \$1,500.



**CHAPTER 423****H. B. 154**

Passed March 11, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**AMUSEMENT RIDE SAFETY**

Chief Sponsor: Timothy D. Hawkes  
 Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill revises provisions in the Amusement Ride Safety Act.

**Highlighted Provisions:**

This bill:

- ▶ amends the definitions;
- ▶ amends provisions of the Utah Amusement Ride Safety Committee's rulemaking authority;
- ▶ provides clarification regarding the Utah Amusement Ride Safety Committee's membership;
- ▶ modifies provisions regarding the hiring of the committee's director;
- ▶ modifies the continuing education requirements for the renewal of a qualified safety inspector certification;
- ▶ allows the director to deny, suspend, or revoke an owner-operator's approval to operate an amusement ride under a multi-ride permit, upon a violation involving the amusement ride; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

72-16-102, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-201, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-202, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-203, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-301, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-302, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-303, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-304, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-305, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-306, as enacted by Laws of Utah 2019, Chapter 244  
 72-16-401, as enacted by Laws of Utah 2019, Chapter 244

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 72-16-102 is amended to read:****72-16-102. Definitions.**

As used in this chapter:

(1) "Account" means the Amusement Ride Safety Restricted Account created in Section 72-16-204.

(2) (a) "Amusement park" means a permanent indoor or outdoor facility or park where one or more amusement rides are available for use by the general public.

(b) "Amusement park" does not include a traveling show, carnival, or public fairground.

(3) (a) "Amusement ride" means a device or ~~attraction~~ combination of devices or elements that carries or conveys one or more riders along, around, or over a fixed or restricted route or course or allows the riders to steer or guide the device ~~or attraction~~ within an established area for the purpose of giving the riders amusement, pleasure, thrills, or excitement.

~~[(b) "Amusement ride" includes a roller coaster, whip, ferris wheel, merry-go-round, and zipline.]~~

[(e)] (b) "Amusement ride" does not include:

(i) a coin-operated ride that:

(A) is manually, mechanically, or electrically operated;

(B) is customarily placed in a public location; and

(C) does not normally require the supervision or services of an operator;

(ii) nonmechanized playground equipment, including a swing, seesaw, stationary spring-mounted animal feature, rider-propelled merry-go-round, climber, playground slide, trampoline, or physical fitness device;

(iii) an inflatable device;

(iv) a water-based recreational attraction where complete or partial immersion is intended, including a water slide, wave pool, or water park;

(v) a challenge, exercise, or obstacle course;

(vi) a passenger ropeway as defined in Section 72-11-102;

(vii) a device or attraction that involves one or more live animals; ~~or~~

(viii) a tractor ride or wagon ride~~[-]; or~~

(ix) motion seats in a movie theater for which the manufacturer does not require a restraint.

(4) "Committee" means the Utah Amusement Ride Safety Committee created in Section 72-16-201.

(5) "Director" means the director of the committee, ~~appointed~~ hired under Section 72-16-202.

(6) "Mobile amusement ride" means an amusement ride that is:

(a) designed or adapted to be moved from one location to another;

(b) not fixed at a single location; and

(c) relocated at least once each calendar year.

(7) "Operator" means the individual who controls the starting, stopping, or speed of an amusement ride.

(8) "Owner-operator" means the person who has control over and responsibility for the maintenance, setup, and operation of an amusement ride.

(9) "Permanent amusement ride" means an amusement ride that is not a mobile amusement ride.

(10) "Qualified safety inspector" means an individual who holds a valid qualified safety inspector certification.

(11) "Qualified safety inspector certification" means a certification issued by the director under Section 72-16-303.

(12) "Reportable serious injury" means an injury to a rider that:

(a) occurs when there is a failure or malfunction of an amusement ride; and

(b) results in death, dismemberment, permanent disfigurement, permanent loss of the use of a body organ, member, function, or system, or a compound fracture.

(13) "Safety inspection certification" means a written document that:

(a) is signed by a qualified safety inspector certifying that:

(i) the qualified safety inspector performed an in-person inspection of an amusement ride to check compliance with the safety standards described in Section 72-16-304 and established by rule; and

(ii) at the time the qualified safety inspector performed the in-person inspection, the amusement ride:

(A) was set up [~~in the state~~] for use by the general public; and

(B) satisfied the safety standards described in Section 72-16-304 and established by rule; and

(b) includes the date on which the qualified safety inspector performed the in-person inspection.

(14) "Serious injury" means an injury to a rider that:

(a) occurs when there is a failure or malfunction of an amusement ride; and

(b) requires immediate admission to a hospital and overnight hospitalization and observation by a licensed physician.

**Section 2. Section 72-16-201 is amended to read:**

**72-16-201. Creation of Utah Amusement Ride Safety Committee.**

(1) There is created within the department the Utah Amusement Ride Safety Committee.

(2) The committee is comprised of the following members:

(a) six members as follows, appointed by the governor:

(i) one member who represents fairs in the state that employ 25 or more employees;

(ii) one member who represents mobile ride operators;

(iii) one member who represents permanent ride operators;

(iv) one member who represents large amusement parks in the state;

(v) one member who represents the public at large; and

(vi) one member who represents a nationally recognized amusement ride safety or regulatory organization; and

(b) one [~~ex officio~~] nonvoting member appointed by the executive director.

(3) (a) Except as provided in Subsection (3)(b), the governor shall appoint each member described in Subsection (2)(a) to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of the committee members appointed under Subsection (2)(a) are staggered so that approximately half of the committee is appointed every two years.

(4) In making an appointment under Subsection (2)(a), the governor shall request and consider recommendations from:

(a) the membership of the interest from which the appointment is to be made; and

(b) the department.

(5) When a vacancy occurs in the membership of the committee, the governor shall appoint a replacement for the remainder of the unexpired term.

(6) A member of the committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The department shall supply the committee with office space, equipment, and staff the executive director finds appropriate.

(8) (a) The committee shall select a chair annually from the committee members.

(b) Four voting members constitute a quorum for conducting committee business.

(c) A majority vote of a quorum present at a meeting constitutes an action of the committee.

(9) The committee shall meet at least quarterly and at the call of the chair or of a majority of the members.

**Section 3. Section 72-16-202 is amended to read:**

**72-16-202. Hiring of director.**

(1) (a) The [~~committee~~] executive director, subject to approval by the [~~executive director~~] committee, shall [~~appoint~~] hire a director.

(b) The executive director may remove the director at the executive director's will.

(2) The director shall:

(a) be experienced in administration and possess additional qualifications as determined by the committee and the executive director; and

(b) receive compensation in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

**Section 4. Section 72-16-203 is amended to read:**

**72-16-203. Rulemaking.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter the committee may make rules:

(a) establishing:

(i) the form of an application and a renewal application for:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(ii) the procedure to apply for and renew:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(iii) standards for a daily inspection under Section 72-16-302;

(iv) the form of a report of a reportable serious injury to the director;

(v) the procedure for reporting a reportable serious injury to the director;

(vi) the procedure to suspend and revoke:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(vii) a retention schedule that applies to each qualified safety inspector for records related to a qualified safety inspector's duties under this chapter; [~~and~~]

(viii) a retention schedule that applies to each owner-operator for records related to an owner-operator's duties under this chapter;

(ix) fees;

(x) minimum insurance requirements for certified inspectors; and

(xi) fines or administrative penalties for lack of compliance with this chapter.

(b) regarding the experience required to obtain a qualified safety inspector certification under Subsection 72-16-303(3)(a); and

(c) adopting nationally recognized:

(i) amusement ride inspection standards; and

(ii) qualified safety inspector qualification standards.

(2) Notwithstanding Subsection 63G-3-301(13), the committee shall initiate rulemaking proceedings, as defined in Section 63G-3-301, to make rules under this section no later than December 1, 2020.

**Section 5. Section 72-16-301 is amended to read:**

**72-16-301. Requirements for amusement ride operation.**

(1) Beginning on April 1, [~~2021~~] 2022, a person may not operate an amusement ride in the state that is open to the public, unless the person obtains:

(a) an annual amusement ride permit for the amusement ride in accordance with this section; or

(b) a multi-ride annual amusement ride permit that includes the amusement ride, in accordance with this section.

(2) To obtain or renew an annual amusement ride permit for a mobile amusement ride, the owner-operator shall submit an application to the director that contains the following and is in a form prescribed by the director:

(a) the owner-operator's name and address;

(b) a description of the mobile amusement ride, including the manufacturer's name, the serial number, and the model number;

(c) each known location in the state where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual amusement ride permit is valid, updated in accordance with Subsection (5);

(d) for each location identified under Subsection (2)(c), the name and contact information of the fair, show, landlord, or property owner;

(e) the date on which the owner-operator intends to set up the mobile amusement ride at each location identified under Subsection (2)(c);

(f) the dates on which the owner-operator intends to operate the mobile amusement ride for use by the general public at each location identified under Subsection (2)(c);

(g) proof of compliance with the insurance requirement described in Section 72-16-305;

(h) a safety inspection certification dated no more than 30 days before the day on which the owner-operator submits the application; and

(i) a fee established by the committee in accordance with Section 63J-1-504.

(3) To obtain or renew an annual amusement ride permit for a permanent amusement ride, the owner-operator shall submit an application to the director that contains the following information and is in a form prescribed by the director:

(a) the owner-operator's name and address;

(b) a description of the permanent amusement ride, including the manufacturer's name, the serial number, and the model number;

(c) the location in the state where the owner-operator will operate the permanent amusement ride;

(d) the first date on which the owner-operator intends to operate the permanent amusement ride for use by the general public;

(e) proof of compliance with the insurance requirement described in Section 72-16-305;

(f) a safety inspection certification dated no more than 30 days before the day on which the owner-operator submits the application; and

(g) a fee established by the committee in accordance with Section 63J-1-504.

(4) To obtain or renew a multi-ride annual amusement ride permit for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year, the amusement park shall submit an application to the director that contains the following information and is in a form prescribed by the director:

(a) the amusement park's name and address;

(b) a list of each amusement ride located at the amusement park, including a description of each amusement ride;

(c) the first date on which the amusement park will operate each amusement ride identified in Subsection (4)(b);

(d) proof of compliance with the insurance requirement described in Section 72-16-305;

(e) a safety inspection certification for each amusement ride identified in Subsection (4)(b) that is dated no more than 30 days before the day on which the amusement park submits the application; and

(f) a fee for each amusement ride identified under Subsection (4)(b) established by the committee in accordance with Section 63J-1-504.

(5) (a) In accordance with committee rule, an owner-operator of a mobile amusement ride shall update the information described in Subsection (2)(c) if the owner-operator learns of a new location where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual amusement ride permit is valid.

(b) An owner-operator may not operate a mobile amusement ride that is open to the public at a location in the state, unless the owner-operator includes the location:

(i) in the owner-operator's application or renewal for an annual amusement ride permit for the mobile amusement ride in accordance with Subsection (2)(c); or

(ii) in an update described in Subsection (5)(a) that the owner-operator submits to the director at least 30 days before the day on which the owner-operator sets up the mobile amusement ride at the location.

(6) The director shall issue:

(a) an annual amusement ride permit for each amusement ride for which the owner-operator submits a complete application or renewal application that satisfies the requirements of this chapter and any applicable rules and fees; and

(b) a multi-ride annual amusement ride permit to each amusement park that employs more than 1,000 individuals in a calendar year and submits a complete application or renewal application that satisfies the requirements of this chapter and any applicable rules and fees.

(7) An annual amusement ride permit or a multi-ride annual amusement ride permit expires one year after the day on which the director issues the annual amusement ride permit or the multi-ride annual amusement ride permit.

(8) An owner-operator or amusement park shall maintain a copy of a current annual amusement ride permit or multi-ride annual amusement ride permit and upon request, reasonable notice, and payment of reasonable copying expense, if applicable:

(a) make the copy available for examination; or

(b) provide a copy of the annual amusement ride permit or multi-ride annual amusement ride permit.

**Section 6. Section 72-16-302 is amended to read:**

**72-16-302. Daily inspection required.**

(1) (a) Each day an owner-operator operates an amusement ride for use by the general public, the owner-operator or the owner-operator's designee shall inspect and operate the amusement ride in accordance with this section and rules established under this chapter.

(b) The owner-operator or the owner-operator's designee shall complete the inspection and operation described in Subsection (1)(a):

(i) before the owner-operator begins operation for use by the general public; and

(ii) in accordance with rule made under this chapter.

(2) The owner-operator shall:

(a) make a record of each daily inspection that is signed by the individual who performed the inspection; and

(b) maintain each record described in Subsection (2)(a) for at least ~~[90 days]~~ one year after the day on which the inspection is performed.

**Section 7. Section 72-16-303 is amended to read:**

**72-16-303. Certification of inspectors.**

(1) To become a qualified safety inspector, an individual shall obtain and maintain a qualified safety inspector certification from the director in accordance with this section.

(2) To obtain a qualified safety inspector certification from the director, an individual shall submit an application described in Subsection (3) and a fee established by the committee in accordance with Section 63J-1-504.

(3) An application for a qualified safety inspector certification shall be in a form prescribed by the director and include information that demonstrates the applicant:

(a) (i) (A) is a professional engineer, licensed in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an engineer with a comparable license from another state as determined by the committee; and

(B) has at least three years of experience in the amusement ride industry, at least two of which include actual inspection of amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer;

(ii) (A) has at least three years of experience inspecting amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; and

(B) is certified by a nationally recognized organization in the amusement ride safety industry approved by the committee; or

(iii) (A) has at least three years of experience inspecting amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; and

(B) is employed by an amusement park that employs more than 1,000 individuals in a calendar year;

(b) (i) has liability insurance for ~~[errors or omissions]~~ bodily injury and property damage in compliance with rules made by the committee; or

(ii) is an employee or authorized agent of an insurance company; and

(c) is a member of and actively participates in an entity that develops standards applicable to the operation of amusement rides.

(4) To obtain a renewal of a qualified safety inspector certification, a qualified safety inspector shall submit to the director a fee established by the committee in accordance with Section 63J-1-504 and a renewal application that demonstrates that the qualified safety inspector:

(a) satisfies the requirements described in Subsection (3); and

(b) during the previous ~~[12-month]~~ two-year period, completed at least ~~[six]~~ 12 hours of continuing education instruction provided by:

(i) a nationally recognized amusement industry organization;

(ii) a nationally recognized organization in a relevant technical field;

(iii) an owner-operator, through an owner-operator-run safety program approved by the committee; or

(iv) an amusement park that employs more than 1,000 individuals in a calendar year.

(5) The director shall issue a qualified safety inspector certification to each individual who submits an application or a renewal application that is in a form prescribed by the director and complies with the requirements of this section and any applicable rules and fees.

(6) A qualified safety inspector certification expires two years after the day on which the director issues the qualified inspector certification.

(7) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may deny, suspend, or revoke a qualified safety inspector certification if an individual fails to satisfy a requirement of this chapter or any applicable rule.

(8) A qualified safety inspector who is employed by the owner-operator of an amusement ride may complete an inspection of the amusement ride.

**Section 8. Section 72-16-304 is amended to read:**

**72-16-304. Safety standards.**

(1) Subject to Subsections (2) and (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee shall make rules adopting the relevant safety standards developed by the ASTM International Committee F24.

(2) The committee may modify or update the safety standards described in Subsection (1),

consistent with nationally recognized amusement ride standards.

(3) The committee may~~[, upon application,]~~ amend or exempt a safety standard adopted under this section based upon unique circumstances, if appropriate to ensure public safety.

**Section 9. Section 72-16-305 is amended to read:**

**72-16-305. Insurance required.**

(1) An owner-operator of an amusement ride shall carry liability insurance coverage in at least the following amounts:

- (a) \$1,000,000 for bodily injury per occurrence;
- (b) \$250,000 for property damage per occurrence; and
- (c) \$3,000,000 ~~[per occurrence combined single limit]~~ annual aggregate limit.

(2) An owner-operator of an amusement ride located in an amusement park that employs more than 1,000 individuals in a calendar year shall carry liability insurance coverage in at least the following amounts:

- (a) \$5,000,000 for bodily injury per occurrence;
- (b) \$1,000,000 for property damage per occurrence; and
- (c) \$10,000,000 ~~[per occurrence combined single limit]~~ annual aggregate limit.

**Section 10. Section 72-16-306 is amended to read:**

**72-16-306. Reporting and shutdown for certain injuries.**

(1) (a) An owner-operator shall report each known reportable serious injury to the director within eight hours after the owner-operator learns of the reportable serious injury.

(b) An owner-operator shall include the following information in a report described in Subsection (1)(a):

- (i) the owner-operator's name and contract information;
- (ii) the location of the amusement ride at the time the reportable serious injury occurred;
- (iii) a description of:
  - (A) the amusement ride; and
  - (B) the nature of the reportable serious injury; and
- (iv) any other information required by rule made under this chapter.

(2) (a) In addition to the requirement described in Subsection (1), an owner-operator of a mobile amusement ride shall report each known reportable serious injury and serious injury to the fair, show, landlord, or owner of the property upon

which the mobile amusement ride was located at the time the reportable serious injury or serious injury occurred.

(b) After a reportable serious injury, the owner-operator may not operate the mobile amusement ride until the owner-operator receives written authorization from~~[(i) the fair, show, landlord, or owner of the property upon which the amusement ride was located at the time the serious injury occurred; or (ii)]~~ the director or the director's designee as required by rule made in accordance with this chapter.

(3) For purposes of Title 63G, Chapter 2, Government Records Access and Management Act, a report to the director described in this section and any record related to the report is a protected record as defined in Section 63G-2-103, except the ride description, the owner-operator, the location of the amusement ride at the time the reportable serious injury occurred, and the general nature of the reportable serious injury.

**Section 11. Section 72-16-401 is amended to read:**

**72-16-401. Penalty for violation.**

(1) If an owner-operator or operator violates a provision of this chapter with respect to an amusement ride, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may:

(a) deny, suspend, or revoke, in whole or in part, the owner-operator's annual amusement ride permit or multi-ride permit for the amusement ride[;]; or

(b) impose fines or administrative penalties in accordance with rules made by the committee.

(2) Upon a violation of a provision of this chapter, the director may file an action in district court to enjoin the operation of an amusement ride.

**CHAPTER 424****H. B. 161**

Passed March 11, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**AUDIOLOGY AND SPEECH-LANGUAGE  
 PATHOLOGY INTERSTATE COMPACT**

Chief Sponsor: Derrin R. Owens  
 Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill enacts the Audiology and Speech-Language Pathology Interstate Compact.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Audiology and Speech-Language Pathology Interstate Compact with amendments;
- ▶ authorizes the Division of Occupational and Professional Licensing to make rules to implement the Audiology and Speech-Language Pathology Interstate Compact; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-41-2, as last amended by Laws of Utah 2017, Chapter 43  
 58-41-3, as last amended by Laws of Utah 1989, Chapter 207

**ENACTS:**

58-41a-101, Utah Code Annotated 1953  
 58-41a-102, Utah Code Annotated 1953  
 58-41a-103, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 58-41-2 is amended to read:**

**58-41-2. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "ASHA" means the American Speech-Language-Hearing Association.

(2) "Association" means the Utah Speech-Language-Hearing Association.

(3) "Audiologist" means a person who practices audiology or who holds himself out to the public directly or indirectly by any means, act, title, identification, performance, method, or procedure as one who nonmedically examines, measures, tests, interprets, evaluates, assesses, diagnoses, directs, instructs, treats, counsels, prescribes, and recommends for persons affected by or suspected of having disorders of or conditions of hearing loss, or assists persons in achieving the reception,

communication, and perception of sound and determines the range, nature, and degree of hearing function related to communication needs, or provides audiology services and uses audio electronic equipment and provides audiology services and consultation regarding noise control and hearing conservation, conducts tests and interpretation of vestibular function and nystagmus, prepares ear impressions and provides ear molds, aids, accessories, prescriptions, and prostheses for hearing, evaluates sound environment and equipment, and calibrates instruments used in testing and supplementing auditory function. A person is deemed to be an audiologist if [he] the person directly or indirectly provides or offers to provide these services or functions set forth in Subsection (4) or any related function.

(4) "Audiology" means the application of principles, methods, and procedures, and measuring, testing, examining, interpreting, diagnosing, predicting, evaluating, prescribing, consulting, treating, instructing, and researching, which is related to hearing, vestibular function, and the disorders of hearing, to related language and speech disorders and to aberrant behavior related to hearing loss or vestibular function, for the purpose of preventing and modifying disorders related to hearing loss or vestibular function, and planning, directing, managing, conducting, and participating in hearing conservation, evoked potentials evaluation, nonmedical tinnitus evaluation or treatment, noise control, habilitation, and rehabilitation programs, including hearing aid evaluation, assistive listening device evaluation, prescription, preparation, and dispensing, and auditory training and lip reading.

(5) "Audiology aide" means an individual who:

(a) meets the minimum qualifications established by the board for audiology aides. Those qualifications shall be substantial but less than those established by this chapter for licensing an audiologist;

(b) does not act independently; and

(c) works under the personal direction and direct supervision of a licensed audiologist who accepts responsibility for the acts and performance of that audiology aide under this chapter.

(6) "Board" means the Speech-language Pathology and Audiology Licensing Board created under Section 58-41-6.

(7) "CCC" means the certificate of clinical competence awarded by the American Speech-Language-Hearing Association.

(8) "CFY" means the clinical fellowship year prescribed by ASHA.

(9) "Disorder" means the condition of decreased, absent, or impaired auditory, speech, voice, or language function.

(10) "Hearing aid dealer" means one who sells, repairs, and adjusts hearing aids.

(11) “Licensed audiologist” means any individual to whom a license has been issued under this chapter or Chapter 41a, Audiology and Speech-Language Pathology Interstate Compact, if ~~that~~ the license is in force and has not been suspended or revoked.

(12) “Licensed speech-language pathologist” means any individual licensed under this chapter ~~whose~~ or Chapter 41a, Audiology and Speech-Language Pathology Interstate Compact, if the license is in force and has not been suspended or revoked.

(13) “Person” means any individual, group, organization, partnership, or corporate body, except that only an individual may be licensed under this chapter.

(14) “Practice of audiology” means rendering or offering to render to individuals, groups, agencies, organizations, industries, or the public any performance or service in audiology.

(15) “Practice of speech-language pathology” means rendering, prescribing, or offering to render to individuals, groups, agencies, organizations, industries or the public any service in speech-language pathology.

(16) “Prescribe” means to:

(a) determine, specify, and give the directions, procedures, or rules for a person to follow in determining and ordering the preparation, delivery, and use of specific mechanical, acoustic, or electronic aids to hearing or speech; and

(b) determine or designate a remedy for a person.

(17) “Prescription” means a written or oral order for the delivery or execution of that which has been prescribed.

(18) “Speech-language pathologist” means:

(a) a person who practices speech-language pathology or who holds himself out to the public by any means, or by any service or function ~~he~~ the person performs, directly or indirectly, or by using the terms “speech-language pathologist,” “speech-language therapist,” “language disability specialist,” or any variation, derivation, synonym, coinage, or whatever expresses, employs, or implies these terms, names, or functions; or

(b) a person who performs any of the functions described in Subsection (19) or any related functions.

(19) “Speech-language pathology” means the application of principles, methods, and procedures for the examination, measurement, prevention, testing, identification, evaluation, diagnosis, treatment, instruction, modification, prescription, restoration, counseling, habilitation, prediction, management, and research related to the development and the disorders or disabilities of human communication, speech, voice, language,

cognitive communication, or oral, pharyngeal, or laryngeal sensorimotor competencies, for the purpose of identifying, evaluating, diagnosing, prescribing, preventing, managing, correcting, ameliorating, or modifying those disorders and their effects in individuals or groups of individuals.

(20) “Speech-language pathology aide” means an individual who:

(a) meets the minimum qualifications established by the board for speech-language pathology aides. Those qualifications shall be substantial but less than those established by this chapter for licensing a speech-language pathologist;

(b) does not act independently; and

(c) works under the personal direction and direct supervision of a licensed speech-language pathologist who accepts the responsibility for the acts and performances of that speech-language pathology aide while working under this chapter.

(21) “Treatment” means the services of a speech-language pathologist or audiologist to examine, diagnose, correct, or ameliorate speech or hearing disorders, abnormalities, behavior, or their effects.

(22) “Unprofessional conduct” as defined in Section 58-1-501 and as may be further defined by rule includes:

(a) failing to maintain a level of professional practice consistent with all initial and subsequent requirements by which a license is achieved or maintained under this chapter;

(b) utilizing substandard or inappropriate facilities or equipment;

(c) treating any disorder for which the licensee has not had the necessary training and experience; or

(d) failing to comply with the requirements of Section 58-41-17.

**Section 2. Section 58-41-3 is amended to read:**

**58-41-3. Scope of licenses -- Practicing without license prohibited.**

(1) Licensing shall be granted independently either in speech-language pathology or audiology. A person shall be licensed in one or both areas when ~~he~~ the person meets the respective qualifications.

(2) ~~No~~ Except as provided in Section 58-41-4, no person may practice, represent ~~himself~~ themselves to be, consult, or perform as a speech-language pathologist or audiologist in this state unless ~~he~~ the person is licensed in accordance with:

(a) this chapter~~[-]~~; or

(b) Chapter 41a, Audiology and Speech-Language Pathology Interstate Compact.



**Section 3. Section 58-41a-101 is enacted to read:**

**CHAPTER 41a. AUDIOLOGY AND  
SPEECH-LANGUAGE PATHOLOGY  
INTERSTATE COMPACT**

**58-41a-101. Title.**

This chapter is known as the "Audiology and Speech-Language Pathology Interstate Compact."

**Section 4. Section 58-41a-102 is enacted to read:**

**58-41a-102. Audiology and  
Speech-Language Pathology Interstate  
Compact.**

**AUDIOLOGY AND SPEECH-LANGUAGE  
PATHOLOGY INTERSTATE COMPACT**

**SECTION 1: PURPOSE**

The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;
2. Enhance the states' ability to protect the public's health and safety;
3. Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;
4. Support spouses of relocating active duty military personnel;
5. Enhance the exchange of licensure, investigative and disciplinary information between member states;
6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and
7. Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

**SECTION 2: DEFINITIONS**

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard

and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

D. "Audiologist" means an individual who is licensed by a state to practice audiology.

E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.

F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

G. "Audiology and speech-language pathology licensing board," "audiology licensing board," "speech-language pathology licensing board," or "licensing board" means the agency of a state that is responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

H. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient/client/student is located at the time of the patient/client/student encounter.

I. "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

J. "Data system" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, compact privilege and adverse action.

K. "Encumbered license" means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and said adverse action has been reported to the National Practitioners Data Bank (NPDB).

L. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

M. “Home state” means the member state that is the licensee’s primary state of residence.

N. “Impaired practitioner” means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

O. “Licensee” means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

P. “Member state” means a state that has enacted the Compact.

Q. “Privilege to practice” means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

R. “Remote state” means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

S. “Rule” means a regulation, principle or directive promulgated by the Commission that has the force of law.

T. “Single-state license” means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

U. “Speech-language pathologist” means an individual who is licensed by a state to practice speech-language pathology.

V. “Speech-language pathology” means the care and services provided by a licensed speech-language pathologist as set forth in the member state’s statutes and rules.

W. “State” means any state, commonwealth, district or territory of the United States of America that regulates the practice of audiology and speech-language pathology.

X. “State practice laws” means a member state’s laws, rules and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.

Y. “Telehealth” means the application of electronic communication or information technology that meets the applicable standard of care to deliver audiology or speech-language pathology services or information at a distance for assessment, intervention and/or consultation.

### SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

B. A state must implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant’s criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state’s criminal records.

1. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

2. Communication between a member state, the Commission and among member states regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

C. Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, whether any adverse action has been taken against any license or privilege to practice held by the applicant.

D. Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state’s qualifications for licensure or renewal of licensure, as well as, all other applicable state laws.

E. For an audiologist:

1. Must meet one of the following educational requirements:

a. On or before, Dec. 31, 2007, has graduated with a master’s degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

c. Has graduated from an audiology program that is housed in an institution of higher education outside of the United States (a) for which the

program and institution have been approved by the authorized accrediting body in the applicable country and (b) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

2. Has completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the board;

3. Has successfully passed a national examination approved by the Commission;

4. Holds an active, unencumbered license;

5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law; and

6. Has a valid United States Social Security or National Practitioner Identification number.

F. For a speech-language pathologist:

1. Must meet one of the following educational requirements:

a. Has graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

b. Has graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States (a) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (b) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

2. Has completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the Commission;

3. Has completed a supervised postgraduate professional experience as required by the Commission;

4. Has successfully passed a national examination approved by the Commission;

5. Holds an active, unencumbered license;

6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology, under applicable state or federal criminal law; and

7. Has a valid United States Social Security or National Practitioner Identification number.

G. The privilege to practice is derived from the home state license.

H. An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts and the laws of the member state in which the client is located at the time service is provided.

I. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

J. Member states may charge a fee for granting a compact privilege.

K. Member states must comply with the bylaws and rules and regulations of the Commission.

#### SECTION 4. COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the audiologist or speech-language pathologist shall:

1. Hold an active license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with Section 3;

4. Have not had any adverse action against any license or compact privilege within the previous 2 years from date of application;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege; and

7. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall only hold one home state license at a time.

C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes primary state of residence by moving between two member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the Commission.

D. The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

E. A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

F. If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a non-member state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state, and the compact privilege in any member state is deactivated in accordance with rules promulgated by the Commission.

G. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of Section 4A to maintain the compact privilege in the remote state.

H. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

I. A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens.

J. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date of the adverse action.

K. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4A to obtain a compact privilege in any remote state.

L. Once the requirements of Section 4J have been met, the licensee must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

#### SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

A. Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a

privilege to practice as provided in the Compact and rules promulgated by the Commission.

B. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

#### SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state.

#### SECTION 7. ADVERSE ACTIONS

A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

1. Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

3. If otherwise permitted by state law, recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

4. Take adverse action based on the factual findings of the remote state, provided that the home state follows its own procedures for taking the adverse action.

B. Only the home state shall have the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

C. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

D. The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigations. The home

state shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.

#### E. Joint Investigations

1. In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

F. If adverse action is taken by the home state against an audiologist's or speech language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

G. If a member state takes adverse action against a license, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state and any remote states in which the licensee has the practice privilege of any adverse actions by the home state or remote states.

H. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

### SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

#### B. Membership, Voting and Meetings

1. Each member state shall have two (2) delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist.

2. An additional five (5) delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the Executive Committee from a pool of nominees provided by the Commission at Large.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring on the Commission, within 90 days.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Establish a Code of Ethics;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states to the extent and in the manner provided for in the Compact;

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's

personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members, and other interested persons as may be designated in this Compact and the bylaws;

17. Provide and receive information from, and cooperate with, law enforcement agencies;

18. Establish and elect an Executive Committee; and

19. Perform other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

D. The Commission shall have no authority to change or modify the laws of the member states which define the practice of audiology and speech-language pathology in the respective states.

#### E. The Executive Committee

The Executive Committee shall have the power to act on behalf of the Commission, within the powers of the Commission, according to the terms of this Compact:

1. The Executive Committee shall be composed of ten (10) members:

a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission;

b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

c. One (1) ex-officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

F. The ex-officio members shall be selected by their respective organizations.

1. The Commission may remove any member of the Executive Committee as provided in bylaws.

2. The Executive Committee shall meet at least annually.

3. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

#### 4. Meetings of the Commission

All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 10.

5. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or

for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

7. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in minutes. All minutes and documents of meetings, other than closed meetings, shall be made available to members of the public upon request. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

#### 8. Financing of the Commission

a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

b. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

c. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

9. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

10. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

#### G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

#### SECTION 9. DATA SYSTEM

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Non-confidential information related to alternative program participation;

5. Any denial of application for licensure, and the reason(s) for denial; and

6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state shall only be available to other member states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

#### SECTION 10. RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording shall be made available to any person upon request and at the requesting person's expense.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an



emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or member state funds; or
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

#### SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

##### A. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

##### B. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

#### SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

#### SECTION 13. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected

thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

B. All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

C. All lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

D. All agreements between the Commission and the member states are binding in accordance with their terms.

E. In the event any provision of the Compact exceeds the constitutional limits imposed on the Legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

**Section 5. Section 58-41a-103 is enacted to read:**

**58-41a-103. Rulemaking authority.**

The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Section 58-41a-102.

**CHAPTER 425****H. B. 169**

Passed February 28, 2020

Approved March 31, 2020

Effective May 12, 2020

**EXEMPTIONS AMENDMENTS**

Chief Sponsor: Kelly B. Miles  
Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill amends provisions related to property and assets exempted from execution of a judgment with regard to certain retirement, beneficiary, and similar accounts.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to property and assets that are exempted from execution of a judgment to include certain inherited funds or accounts described in the Internal Revenue Code;
- ▶ provides that certain exemptions do not terminate upon the death of the individual, or by reason of a direct transfer;
- ▶ amends provisions related to the tracing of property; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78B-5-505, as last amended by Laws of Utah 2019, Chapter 298

78B-5-507, as renumbered and amended by Laws of Utah 2008, Chapter 3

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 78B-5-505 is amended to read:****78B-5-505. Property exempt from execution.**

(1) (a) An individual is entitled to exemption of the following property:

- (i) a burial plot for the individual and the individual's family;
- (ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;
- (iii) benefits that the individual or the individual's dependent have received or are entitled to receive from any source because of:

- (A) disability;
- (B) illness; or
- (C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent [they] that the benefits are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and the debtor's resident family; or

(B) produced by the debtor or the debtor and the debtor's resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmaturing life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract

during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as ~~[a participant or beneficiary]~~ an owner, participant, or beneficiary from or an interest of the individual as ~~[a participant or beneficiary]~~ an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or otherwise;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

(xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

(xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b) (i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt

after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

(ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement accounts without regard to the date on which the account was created.

~~(4b)~~ (c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

~~(4)~~ (A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

~~(4ii)~~ (B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.

~~(2)~~ (ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

~~(3)~~ (2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a child victim if the person receiving the benefits has been convicted of a felony sex offense against a child and ordered by the convicting court to pay restitution to the victim.

(b) The exemption from execution under this section shall be reinstated upon payment of the restitution in full.

~~(4)~~ (3) Exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

**Section 2. Section 78B-5-507 is amended to read:**

**78B-5-507. Exemption of proceeds from property sold, taken by condemnation, lost, damaged, or destroyed -- Tracing exempt property and proceeds.**

(1) (a) An individual who owned property described in this Subsection (1) is entitled to an exemption of proceeds that are traceable for one year after the compensation for the property is received if:

(i) (A) the property, or a part of the property, could have been claimed exempt under Subsection 78B-5-505(1)(a)(i) or (ii); or

(B) the property is personal property subject to a value limitation under Subsection 78B-5-506(1)(a), (b), or (c); and

(ii) the property has been:

(A) sold or taken by condemnation; or

(B) lost, damaged, or destroyed; and

(C) the owner has been compensated for the property.

(b) The exemption of proceeds under this Subsection (1) does not entitle the individual to claim an aggregate exemption in excess of the value limitation otherwise allowable under Section 78B-5-503 or 78B-5-506.

(2) Money or other property exempt under Subsection 78B-5-505(1)(a)(iii), (iv), (v), (vi), (vii), (xiii), ~~(xiv)~~ (xiv), or (xviii) remains exempt after its receipt by, and while it is in the possession of, the individual or in any other form into which it is traceable.

(3) Money or other property and proceeds exempt under this chapter are traceable under this section by application of:

(a) the principle of:

(i) first-in first-out; or

(ii) last-in last-out; or

(b) any other reasonable basis for tracing selected by the individual.

**CHAPTER 426****H. B. 171**

Passed March 12, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**SCHOOL THREAT AMENDMENTS**

Chief Sponsor: Andrew Stoddard  
 Senate Sponsor: Kirk A. Cullimore  
 Cosponsor: Suzanne Harrison

**LONG TITLE****General Description:**

This bill creates the crime of threats against schools.

**Highlighted Provisions:**

This bill:

- ▶ creates the crime of threats against schools;
- ▶ defines schools as a preschool, elementary or secondary school;
- ▶ reduces the level if the perpetrator is a minor;
- ▶ provides that a threat against a school can be real or a hoax; and
- ▶ provides penalties and requires restitution.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****ENACTS:**

76-5-107.1, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 76-5-107.1 is enacted to read:****76-5-107.1. Threats against schools.**

(1) As used in this section, "school" means a preschool or a public or private elementary or secondary school.

(2) An individual is guilty of making a threat against a school if the individual threatens in person or via electronic means, either with real intent or as an intentional hoax, to commit any offense involving bodily injury, death, or substantial property damage, and:

(a) threatens the use of a firearm or weapon or hoax weapon of mass destruction, as defined in Section 76-10-401;

(b) acts with intent to:

(i) disrupt the regular schedule of the school or influence or affect the conduct of students, employees, or the general public at the school;

(ii) prevent or interrupt the occupancy of the school or a portion of the school, or a facility or vehicle used by the school; or

(iii) intimidate or coerce students or employees of the school; or

(c) causes an official or volunteer agency organized to deal with emergencies to take action due to the risk to the school or general public.

(3) (a) A violation of Subsection (2)(a), (b)(i), or (b)(iii) is a class A misdemeanor.

(b) A violation of Subsection (2)(b)(ii) is a class B misdemeanor.

(c) A violation of Subsection (2)(c) is a class C misdemeanor.

(4) Counseling for the minor and the minor's family may be made available through state and local health department programs.

(5) It is not a defense to this section that the individual did not attempt to carry out or was incapable of carrying out the threat.

(6) In addition to any other penalty authorized by law, a court shall order an individual convicted of a violation of this section to pay restitution to any federal, state, or local unit of government, or any private business, organization, individual, or entity for expenses and losses incurred in responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate. Restitution ordered in the case of a minor adjudicated for a violation of this section shall be determined in accordance with Subsection 78A-6-117(j).

(7) A violation of this section shall be reported to the local law enforcement agency. If the individual alleged to have violated this section is a minor, the minor may be referred to the juvenile court.

**CHAPTER 427****H. B. 174**

Passed March 11, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**RURAL COUNTY HEALTH CARE FACILITIES TAX AMENDMENTS**

Chief Sponsor: Phil Lyman  
 Senate Sponsor: David P. Hinkins

**LONG TITLE****General Description:**

This bill modifies provisions relating to the county sales and use tax for rural county health care facilities.

**Highlighted Provisions:**

This bill:

- ▶ modifies the purposes for which a county of the third or fourth class may use money collected from the rural county health care facilities tax; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

59-12-802, as last amended by Laws of Utah 2017, Chapter 422

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-12-802 is amended to read:**

**59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.**

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.

(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

~~[(i) for a county of the third or fourth class, rural county health care facilities in that county; or]~~

~~[(ii) for a county of the fifth or sixth class:]~~

~~[(A) (i) rural emergency medical services in that county;~~

~~[(B) (ii) federally qualified health centers in that county;~~

~~[(C) (iii) freestanding urgent care centers in that county;~~

~~[(D) (iv) rural county health care facilities in that county;~~

~~[(E) (v) rural health clinics in that county; or]~~

~~[(F) (vi) a combination of Subsections [(1)(b)(ii)(A)] (1)(b)(i) through [(E) (v)].~~

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

~~[(3) (a) The money collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third or fourth class may only be used for the financing of:]~~

~~[(i) ongoing operating expenses of a rural county health care facility within that county;]~~

~~[(ii) the acquisition of land for a rural county health care facility within that county; or]~~

~~[(iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.]~~

~~[(b) (3) The money collected from a tax imposed under Subsection (1) [by a county of the fifth or sixth class] may only be used to fund:~~

~~[(i) (a) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)[(ii)] within that county;~~

~~[(iii)]~~ (b) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)~~[(iii)]~~ within that county;

~~[(iii)]~~ (c) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b)~~[(iii)]~~ within that county; or

~~[(iv)]~~ (d) rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (6).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.



**CHAPTER 428****H. B. 183**

Passed March 11, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**DRIVER LICENSE RECORD AMENDMENTS**

Chief Sponsor: Karianne Lisonbee  
 Senate Sponsor: Daniel McCay

**LONG TITLE****General Description:**

This bill requires the Driver License Division to provide notification to each applicant for a driver license or an identification card regarding the disclosure of certain information.

**Highlighted Provisions:**

This bill:

- ▶ requires the Driver License Division to provide on each application for a driver license or an identification card information regarding the disclosure of personal identifying information;
- ▶ provides means for an individual to opt out of certain disclosures to the University of Utah for data collection in relation to genetic and epidemiologic research;
- ▶ provides means for an individual to remove certain personal identifying information from the database controlled by the University of Utah;
- ▶ requires reports to the Transportation Interim Committee;
- ▶ requires auditing of the security of the University of Utah database; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53-3-109, as last amended by Laws of Utah 2019, Chapter 380

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-3-109 is amended to read:****53-3-109. Records -- Access -- Fees -- Rulemaking.**

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may disclose personal identifying information in accordance with 18 U.S.C. Chapter 123:

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or

contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting for any person issued a license certificate under this chapter;

(iii) to a depository institution as that term is defined in Section 7-1-103;

(iv) to the State Tax Commission for the purposes of tax fraud detection and prevention and any other use required by law;

(v) subject to Subsection (7), to the University of Utah for data collection in relation to genetic and epidemiologic research; or

(vi) (A) to a government entity, including any court or law enforcement agency, to fulfill the government entity's functions[;]; or

(B) to a private person acting on behalf of a government entity to fulfill the government entity's functions, if the division determines disclosure of the information is in the interest of public safety.

(2) (a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person; or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection (1)(b)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders;

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) A disclosure under Subsection (3)(a)(i) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of

whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; and

(iii) be made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102, during the previous month;

(ii) be limited to the records of a current employee of an employer;

(iii) be made under a contract with the employer or a designee of an employer; and

(iv) include an indication of whether the driver has had a change reflected in the driver's:

(A) driving status;

(B) license class;

(C) medical self-certification status; or

(D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

(i) the criteria for searching and compiling the driving records being requested;

(ii) the frequency of the disclosures;

(iii) the format of the disclosures, which may be in bulk electronic form; and

(iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4) The division may charge fees:

(a) in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) for each document prepared under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee set in accordance with Section 63J-1-504 for each document authenticated; and

(c) established in accordance with the procedures and requirements of Section 63J-1-504 for disclosing personal identifying information under Subsection (1)(b).

(5) Each certified copy of a driving record furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

(6) (a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

(7) (a) The division shall include on each application for or renewal of a license or identification card under this chapter:

(i) the following notice: "The Driver License Division may disclose the information provided on this form to an entity described in Utah Code Ann. Subsection 53-3-109(1)(b)(v).";

(ii) a reference to the website described in Subsection (7)(b); and

(iii) a link to the division website for:

(A) information provided by the division, after consultation with the University of Utah, containing the explanation and description described in Subsection (7)(b); and

(B) an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v).

(b) On or before July 1, 2020, and in consultation with the division, the University of Utah shall create a website that provides an explanation and description of:

(i) what information may be disclosed by the division to the University of Utah under Subsection (1)(b)(v);

(ii) the methods and timing of anonymizing the information;

(iii) for situations where the information is not anonymized:

(A) how the information is used;

(B) how the information is secured;

(C) how long the information is retained; and

(D) who has access to the information;

(iv) research and statistical purposes for which the information is used; and

(v) other relevant details regarding the information.

(c) The website created by the University of Utah described in Subsection (7)(b) shall include the following:

(i) a link to the division website for an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v); and

(ii) a link to an online form for the individual to affirmatively choose to remove, subject to Subsection (7)(e)(ii), personal identifying information from the database controlled by the University of Utah that was disclosed pursuant to Subsection (1)(b)(v).

(d) In the course of business, the division shall provide information regarding the disclosure of personal identifying information, including providing on the division website:

(i) a link to the website created under Subsection (7)(b) to provide individuals with information regarding the disclosure of personal identifying information under Subsection (1)(b)(v); and

(ii) a link to the division website for:

(A) information provided by the division, after consultation with the University of Utah, containing the explanation and description described in Subsection (7)(b); and

(B) an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v).

(e) (i) The division may not disclose the personal identifying information under Subsection (1)(b)(v) if an individual opts out of the disclosure as described in Subsection (7)(a)(iii)(B) or (7)(c)(i).

(ii) (A) Except as provided in Subsection (7)(e)(ii)(B), if an individual makes a request as described in Subsection (7)(c)(ii), the University of Utah shall, within 90 days of receiving the request, remove and destroy the individual's personal identifying information received under Subsection (1)(b)(v) from a database controlled by the University of Utah.

(B) The University of Utah is not required to remove an individual's personal identifying information as described in Subsection (7)(e)(ii)(A) from data released to a research study before the date of the request described in Subsection (7)(c)(ii).

(f) (i) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General shall conduct an audit and issue a report on:

(A) procedures and safeguards utilized by the University of Utah related to the security of personal identifying information disclosed pursuant to Subsection (1)(b)(v); and

(B) potential risks of disclosure or breaches in the security of personal identifying information disclosed pursuant to Subsection (1)(b)(v).

(ii) The Office of the Legislative Auditor General shall provide the report described in Subsection (7)(f)(i) to the Transportation Interim Committee before October 31, 2021.

(g) (i) The University of Utah shall report to the Transportation Interim Committee before October 31, 2020, regarding the information described in Subsection (7)(b).

(ii) The University of Utah shall conduct a biennial internal information security audit of the information systems that store the data received pursuant to Subsection (1)(b)(v), and, beginning in the year 2023, provide a biennial report of the findings of the internal audit to the Transportation Interim Committee.

[~~(7)~~] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to designate:

(a) what information shall be included in a report on the driving record of a person;

(b) the form of a report or copy of the report which may include electronic format;

(c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;

(d) the form of a signature required under this chapter which may include electronic format;

(e) the form of written request to the division required under this chapter which may include electronic format;

(f) the procedures, requirements, and formats for disclosing personal identifying information under Subsection (1)(b); and

(g) the procedures, requirements, and formats necessary for the implementation of Subsection (3).

[~~(8)~~] (9) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the commissioner and the division director of the unauthorized use.

**CHAPTER 429****H. B. 220**

Passed March 10, 2020  
Approved March 31, 2020  
Effective May 12, 2020

**HEPATITIS C OUTREACH  
PILOT PROGRAM**

Chief Sponsor: Steve Eliason  
Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill creates the Hepatitis C Outreach Pilot Program within the Department of Health.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Hepatitis C Outreach Pilot Program;
- ▶ requires the department to make grants to Hepatitis C outreach organizations; and
- ▶ specifies how grant funds may be used.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Department of Health Disease Control and Prevention, as a one-time appropriation:
  - from the General Fund, One-time, \$300,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-1-226, as last amended by Laws of Utah 2019, Chapters 67, 136, 246, 289, 455 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 246

**ENACTS:**

26-7-10, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 26-7-10 is enacted to read:****26-7-10. Hepatitis C Outreach Pilot Program.**

(1) As used in this section, "Hepatitis C outreach organization" means a private nonprofit organization that:

(a) has an established relationship with individuals who are at risk of acquiring acute Hepatitis C;

(b) helps individuals who need Hepatitis C treatment, but who do not qualify for payment of the treatment by the Medicaid program or another health insurer, to obtain treatment;

(c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and diagnosis, including clinical staff with the training and ability to provide:

- (i) specimen collection for Hepatitis C testing;
- (ii) clinical assessments;

(iii) consultation regarding blood-borne diseases; and

(iv) case management services for patient support during Hepatitis C treatment; or

(d) has a partnership with a health care facility that can provide clinical follow-up and medical treatment following Hepatitis C rapid antibody testing and confirmatory testing.

(2) There is created within the department the Hepatitis C Outreach Pilot Program.

(3) Before September 1, 2020, the department shall, as funding permits, make grants to Hepatitis C outreach organizations in accordance with criteria established by the department under Subsection (4).

(4) Before July 1, 2020, the department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) create application requirements for a grant from the program;

(b) establish criteria for determining:

(i) whether a grant is awarded, including criteria that ensure grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and

(ii) the amount of a grant; and

(c) specify reporting requirements for the recipient of a grant under this section.

(5) Before October 1, 2021, and before October 1 every year thereafter, the department shall submit a report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee on the outcomes of the Hepatitis C Outreach Pilot Program.

**Section 2. Section 63I-1-226 is amended to read:****63I-1-226. Repeal dates, Title 26.**

(1) Section 26-1-40 is repealed July 1, 2022.

(2) Subsection 26-7-10(5), regarding reports to the Legislature, is repealed July 1, 2028.

[2] (3) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

[3] (4) Section 26-10-11 is repealed July 1, 2020.

[4] (5) Subsection 26-18-417(3) is repealed July 1, 2020.

[5] (6) Subsection 26-18-418(2), the language that states "and the Mental Health Crisis Line Commission created in Section 63C-18-202" is repealed July 1, 2023.

[6] Section 26-18-419.1 is repealed December 31, 2019.

(7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(9) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(10) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(11) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.

(12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

(13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

**Section 3. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health -- Disease Control and Prevention -- Hepatitis C Pilot Program:

<u>From General Fund, One-time</u>	<u>\$300,000</u>
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Schedule of Programs:

<u>Hepatitis C Pilot Program</u>	<u>\$300,000</u>
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The Legislature intends that the Department of Health use appropriations provided under this item to provide grants under Section 26-7-10 for the prevention, testing, and treatment of Hepatitis C.

**CHAPTER 430****H. B. 235**

Passed March 10, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**VOLUNTARY HOME ENERGY INFORMATION PILOT PROGRAM**

Chief Sponsor: Patrice M. Arent  
 Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill addresses a voluntary home energy information pilot program.

**Highlighted Provisions:**

This bill:

- ▶ provides for the creation of model rules by the Office of Energy Development for a voluntary home energy information pilot program;
- ▶ requires the Office of Energy Development to administer or contract for the administration of an advisory committee and the development of model rules;
- ▶ requires the Office of Energy Development to develop model rules for a home energy performance score system;
- ▶ creates the Home Energy Information Advisory Committee to consult on the development of model rules for a home energy information pilot program and the home energy performance score system;
- ▶ specifies advisory committee membership and duties; and
- ▶ provides for a sunset of provisions relating to the voluntary home energy information pilot program.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Governor's Office of Energy Development - Office of Energy Development, as a one-time appropriation:
  - from the General Fund, One-time, \$50,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

**ENACTS:**

63M-4-801, Utah Code Annotated 1953  
 63M-4-802, Utah Code Annotated 1953  
 63M-4-803, Utah Code Annotated 1953  
 63M-4-804, Utah Code Annotated 1953  
 63M-4-805, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-2-263 is amended to read:****63I-2-263. Repeal dates, Title 63A to Title 63N.**

- (1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(52) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

(9) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

**Section 2. Section 63M-4-801 is enacted to read:****Part 8. Voluntary Home Energy Information Pilot Program Act****63M-4-801. Title.**

This part is known as the "Voluntary Home Energy Information Pilot Program Act."

**Section 3. Section 63M-4-802 is enacted to read:****63M-4-802. Definitions.**

As used in this part:

(1) "Advisory committee" means the committee created in Subsection 63M-4-805(1).

(2) "Asset rating" means a representation of a residential building's energy efficiency or energy use generated by modeling under standardized weather and occupancy conditions.

(3) “Home” means a single-family detached or single-family attached enclosed structure created for permanent use as a residence.

(4) “Home energy assessment” means the evaluation or testing of components or systems in a residential building for the purpose of identifying options for increasing energy conservation and energy efficiency.

(5) “Home energy assessor” means a qualified person who:

(a) conducts home energy assessments on residential buildings;

(b) assigns residential buildings a home energy performance score; and

(c) prepares a home energy performance report for residential buildings.

(6) “Home energy performance report” means a report prepared by a home energy assessor that identifies a residential building’s home energy performance score, an explanation of the score, an estimate of the total energy used in the home, and other information required to be included in the report under Section 63M-4-804.

(7) “Home energy performance score” means a score assigned to a residential building using the home energy performance score system created by the office pursuant to Section 63M-4-804.

(8) “Home energy performance score system” means a technical and administrative framework for producing and reporting metrics that describe the energy consumption, generation, and efficiency of a building.

(9) “Program” means the voluntary home energy information pilot program for which model rules are created in Section 63M-4-803.

(10) “Residential building” means a home.

**Section 4. Section 63M-4-803 is enacted to read:**

**63M-4-803. Voluntary Home Energy Information Pilot Program.**

(1) The office shall develop model rules for a voluntary home energy information pilot program.

(2) The model rules shall be designed to:

(a) provide widespread information to home buyers and sellers about a home’s energy efficiency, cost savings, and air quality impacts; and

(b) empower consumers to ask about the energy efficiency performance of homes and increase market demand for energy efficient homes and home energy efficiency upgrades.

(3) The office may use appropriated funds to develop model rules for a home energy performance score system described in Section 63M-4-804 for homes.

(4) Model rules to implement the program may include:

(a) proposed application procedures to receive a reimbursement from the program for a home energy assessment and home energy performance report;

(b) the criteria used by the office to determine whether a reimbursement request is approved;

(c) the administratively best method and form for making a reimbursement;

(d) the criteria used by the office to determine the amount of a reimbursement;

(e) the information that an applicant or applicant’s designee will be required to report to the office to receive a reimbursement;

(f) specifications for the procedures and requirements for conducting a home energy assessment;

(g) the requirements for a home energy performance report; and

(h) the qualifications for home energy assessors.

(5) The office shall administer or contract for the administration of the advisory committee and the development of model rules.

(6) The office shall provide a report to the Legislature’s Business and Labor Interim Committee and Public Utilities, Energy, and Technology Interim Committee no later than November 30, 2020 on:

(a) the status of the model rules; and

(b) recommendations for implementing a pilot program based on the model rules.

**Section 5. Section 63M-4-804 is enacted to read:**

**63M-4-804. Home energy performance score system.**

(1) In consultation with the advisory committee, the office shall create a home energy performance score system that shall:

(a) have the capability to generate a home energy performance score that meets the requirements of Subsection (2);

(b) have the capability to generate a home energy performance report that meets the requirements of Subsection (3);

(c) have the capability to incorporate building energy assessment software, the output of which is to be used to derive the information presented on the home energy performance report; and

(d) specify training requirements for home energy assessors.

(2) A home energy performance score under Subsection (1)(a) shall:

(a) be an asset rating that is based on physical inspection of the home or design documents used for the home’s construction; and

(b) use one or a combination of the following approaches for home energy scoring:

(i) the issuance of a home energy score by the United States Department of Energy; or

(ii) the issuance of a home energy rating system by the Residential Energy Services Network.

(3) A home energy performance report described in Subsection (1)(b) shall include:

(a) the home energy performance score described in Subsection (1)(a) and an explanation of the score;

(b) an estimate of the total energy used in the home in retail units of energy, by fuel type;

(c) an estimate of the annual energy costs for operating the home;

(d) an estimate of the annual emissions resulting from energy used in the home;

(e) a list of recommended home improvements to reduce energy use in the home; and

(f) other information the office, in consultation with the advisory committee, determines is appropriate to include in the model rules.

**Section 6. Section 63M-4-805 is enacted to read:**

**63M-4-805. Home energy information advisory committee.**

(1) There is created a home energy information advisory committee.

(2) The advisory committee shall be composed of the following 12 members:

(a) an individual who is an expert in residential real estate, as recommended by the Utah Association of Realtors;

(b) an individual who is an expert in residential construction as recommended by the Utah Home Builders Association;

(c) an individual who is an expert in land development for residential communities but is not a home builder;

(d) an individual who is a nonprofit energy efficiency or air quality advocate;

(e) an individual who is an expert in residential home energy assessments;

(f) an individual who is an expert in residential home inspections;

(g) an individual who is an expert in public education and marketing;

(h) an individual who is an expert in residential appraisals, as recommended by the Utah Association of Appraisers;

(i) an individual who is an expert in electric utility energy efficiency programs;

(j) an individual who is an expert in natural gas utility energy efficiency programs;

(k) an individual who is an expert in residential architecture, as recommended by the Utah Chapter of the American Institute of Architects; and

(l) the director of the Governor's Office of Energy Development or the director's designee.

(3) The director of the office shall appoint the members of the advisory committee which shall assist the director in developing model rules for a home energy performance score system described in Section 63M-4-804.

(4) The director of the office, or the director's designee, shall act as chair of the advisory committee.

(5) An advisory committee member may not receive compensation or benefits for the member's service on the advisory committee.

**Section 7. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Governor's Office of Energy Development - Office of Energy Development

<u>From General Fund, One-time</u>	<u>\$50,000</u>
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Schedule of Programs:

<u>Home Energy Information Pilot Program</u>	<u>\$50,000</u>
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The Legislature intends that the money appropriated in this section be used for the development of model rules for the voluntary home energy information pilot program under Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act.



**CHAPTER 431**

**H. B. 246**

Passed March 10, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**MENTAL HEALTH  
 WORKFORCE AMENDMENTS**

Chief Sponsor: Susan Duckworth  
 Senate Sponsor: Ralph Okerlund  
 Cosponsor: Steve Eliason

**LONG TITLE**

**General Description:**

This bill amends provisions relating to the selection of psychiatry medical residents, creates a grant program and provides an appropriation.

**Highlighted Provisions:**

This bill:

- ▶ subject to legislative appropriations, requires the University of Utah Health Sciences to select two additional psychiatry residents in the 2021-22 academic year;
- ▶ creates a grant program for a training module for certain professionals who work with children and adolescents; and
- ▶ provides an appropriation.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the University of Utah - School of Medicine, as an ongoing appropriation:
  - from the Education Fund, \$807,700;
- ▶ to the University of Utah - School of Medicine, as a one-time appropriation:
  - from the Education Fund, (\$807,700); and
- ▶ to the University of Utah - School of Medicine, as a one-time appropriation:
  - from the Education Fund, \$600,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

53B-17-902, as enacted by Laws of Utah 2019, Chapter 442

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53B-17-902 is amended to read:**

**53B-17-902. Health Sciences -- Psychiatry medical residents selection -- Grant program.**

(1) As used in this section:

(a) "Psychiatry resident" means a medical resident practicing in any type of psychiatry specialty or subspecialty, as determined by the university.

(b) "University" means the University of Utah Health Sciences.

(2) (a) Subject to legislative appropriations, beginning with the 2020-21 academic year, the

university shall annually select up to four more first-year psychiatry residents than the number of first-year psychiatry residents the university selected for the 2018-19 academic year.

(b) Subject to legislative appropriations, beginning with the 2021-22 academic year, the university shall annually select up to two more first-year psychiatry residents than the number of first-year psychiatry residents the university selected for the 2019-2020 academic year.

~~[(b)]~~ (c) Nothing in this section prohibits the university from using money from a source other than legislative appropriations to select more than the total number of psychiatry residents described in Subsection (2)(a) or (b).

~~[(3)]~~ (d) The university may not use money appropriated for the purposes described in this ~~[section]~~ Subsection (2) to supplant existing money used for psychiatry residents.

(3) (a) Subject to legislative appropriations, the university shall award a grant to produce a certification in child and adolescent behavioral health primary care for primary care physicians and medical professionals, school counselors, social workers, and other professionals who work with children and adolescents.

(b) The university shall ensure that the amount of the grant awarded under Subsection (3)(a) is matched, at a minimum, by private gifts, grants, and bequests of personal property made to the grant.

**Section 2. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To University of Utah - School of Medicine

From Education Fund, Ongoing \$807,700

From Education Fund, One-time (\$807,700)

The Legislature intends that the appropriations provided under this item be used to fund two additional psychiatry residency positions at the University of Utah Health Sciences under Subsection 53B-17-902(2)(b).

ITEM 2

To University of Utah - School of Medicine

From Education Fund, One-time \$600,000

Schedule of Programs:

School of Medicine \$600,000

The Legislature intends that:

(1) the appropriations provided under this item be used to award a grant under Subsection 53B-17-902(3); and

(2) subject to Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2021 and the use of any nonlapsing funds is limited to the purpose described in Subsection (1) of this item.

**CHAPTER 432****H. B. 275**

Passed March 12, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**ELECTED OFFICIAL AND JUDICIAL  
 COMPENSATION COMMISSION  
 AMENDMENTS**

Chief Sponsor: V. Lowry Snow  
 Senate Sponsor: Don L. Ipson

**LONG TITLE****General Description:**

This bill modifies provisions related to the Elected Official and Judicial Compensation Commission.

**Highlighted Provisions:**

This bill:

- ▶ modifies the composition and duties of the Elected Official and Judicial Compensation Commission by:
  - removing the legislative fiscal analyst as an ex-officio, nonvoting member;
  - clarifying which individuals are eligible to serve as a member of the commission; and
  - amending the deadline and contents of the commission's required annual report;
- ▶ provides that a nonpartisan office of the Legislature shall staff the commission; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 67-8-4, as last amended by Laws of Utah 2010, Chapter 286  
 67-8-5, as last amended by Laws of Utah 2019, Chapter 319  
 67-22-1, as last amended by Laws of Utah 2015, Chapter 466

**REPEALS:**

- 67-8-6, as enacted by Laws of Utah 1981, Chapter 267

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 67-8-4 is amended to read:**

**67-8-4. State Elected Official and Judicial Compensation Commission created -- Composition -- Appointment -- Terms -- Organization -- Vacancies -- Quorum -- Compensation -- Staff.**

(1) There is created a state Elected Official and Judicial Compensation Commission comprised of six members, not more than three of whom may be from the same political party, appointed as follows:

- (a) one member appointed by the governor;
- (b) one member appointed by the president of the Senate;

(c) one member appointed by the speaker of the House of Representatives;

(d) two members appointed by the other three appointed members; and

(e) one member appointed by the State Bar Commission.

(2) (a) Except as required by Subsection (2)(b), all persons appointed to the commission shall serve four-year terms or until their successors are duly appointed and qualified.

(b) Notwithstanding the requirements of Subsection (2)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(3) (a) The commission shall select a chair and a vice chair from opposite political parties at its first meeting.

(b) Four members of the commission [shall] constitute a quorum.

~~[(c) The commission shall take no action nor make any determination without the concurrence of a majority of its members being present.]~~

(c) The action of a majority of a quorum constitutes the action of the commission.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

~~[(5) No member or employee of the legislative, judicial, or executive branch of government is eligible for appointment to the commission. The legislative fiscal analyst shall serve as an ex officio, nonvoting secretary of the commission.]~~

(5) An individual may not serve as a member of the commission if the individual is a member or employee of the legislative branch, judicial branch, or executive branch.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A nonpartisan office of the Legislature, selected by the president of the Senate and the speaker of the House of Representatives, shall staff the commission.

**Section 2. Section 67-8-5 is amended to read:**

**67-8-5. Duties of commission -- Salary recommendations.**

(1) The commission shall recommend to the Legislature:

- (a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer; and

(b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record.

~~[(2) The commission shall:]~~

~~[(a) in making recommendations on salaries described in Subsections (1)(a) and (b):]~~

~~[(i) make studies and formulate recommendations concerning the wage and salary classification plan based upon factors such as educational requirements, experience, responsibility, accountability for funds and staff, comparisons with wages paid in other comparable public and private employment within this state, and other states similarly situated, and any other factors generally used in similar comprehensive wage and salary classification plans so that the plan and its administration reflect current conditions at all times; and]~~

~~[(ii) consult and advise with, and make recommendation to, the Department of Human Resource Management regarding the plan, its administration, and the position of any elected official and judge covered by the plan;]~~

~~[(b) in making recommendations on compensation described in Subsection (1)(c), make studies and formulate recommendations concerning compensation of members of state boards of education in other states and other factors the commission determines to be relevant so that the commission reflects current conditions at all times;]~~

~~[(c) submit to the Executive Appropriations Committee not later than 60 days before commencement of each annual general session:]~~

~~[(i) a report briefly summarizing its activities during the calendar year immediately preceding the session;]~~

~~[(ii) recommendations concerning revisions, modifications, or changes, if any, that should be made in the plan, its administration, the classification of any elected official or judge under the plan, or the compensation of members of the State Board of Education; and]~~

~~[(iii) specific recommendations regarding the office of governor, lieutenant governor, attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be made in the salary or other emoluments of office so that all elected and judicial officials receive equitable and consistent treatment regardless of whether salaries are fixed by the Legislature or by the Department of Human Resource Management; and]~~

~~[(d) conduct a comprehensive review of judicial salary levels and make recommendations for judicial salaries in a report to the president of the Senate, the speaker of the House of Representatives, and the governor by November 1, prior to the convening of the general session of the Legislature in each odd-numbered year.]~~

~~[(3) (a) The recommendation under Subsection (2)(d) shall be based upon consultation with the~~

~~Judicial Council and upon consideration for the career status of judges. It shall be based upon comparisons with salaries paid in other states and in comparable public and private employment within this state.]~~

~~[(b) In even-numbered years, the commission shall update its prior report, based upon the Consumer Price Index and other relevant factors, and shall forward its updated recommendations as prescribed in this section.]~~

~~(2) In making the salary recommendations described in Subsection (1), the commission shall:~~

~~(a) consider:~~

~~(i) the education and experience required for the position;~~

~~(ii) the responsibility required of the position;~~

~~(iii) whether the position requires accountability for funds or staff;~~

~~(iv) wages paid for other comparable public and private employment in the state and in other similarly situated states;~~

~~(v) any increase in the Consumer Price Index since the commission's last recommendations; and~~

~~(vi) any other factors typically used to make similar recommendations;~~

~~(b) consult with the Department of Human Resource Management; and~~

~~(c) for the salary recommendations described in Subsection (1)(b), consult with the Judicial Council.~~

~~(3) No later than January 2, the commission shall submit an annual electronic report to the Executive Appropriations Committee, the president of the Senate, the speaker of the House of Representatives, and the governor that:~~

~~(a) briefly summarizes the commission's activities during the previous calendar year; and~~

~~(b) provides any recommendations to modify the salaries of:~~

~~(i) the governor, lieutenant governor, attorney general, state auditor, or state treasurer; or~~

~~(ii) the justices of the Supreme Court or judges of the constitutional and statutory courts of record.~~

~~(4) The Judicial Council shall cooperate with the commission in providing information [on the judicial branch of government and on the individual levels of court as requested. The director of personnel from the Administrative Office of the Courts shall provide the salary comparison data referred to in this section to the legislative fiscal analyst and shall provide other staff assistance and support as requested by the legislative fiscal analyst.] relevant to the duties of the commission.~~

**Section 3. Section 67-22-1 is amended to read:**

**67-22-1. Compensation -- Constitutional offices.**

~~[(1) (a) Beginning on June 28, 2008, and ending on December 31, 2016, the Legislature fixes salaries for the constitutional offices as follows:]~~

~~[(i) governor: \_\_\_\_\_ \$109,900;]~~  
~~[(ii) lieutenant governor: 95% of the governor's salary;]~~  
~~[(iii) attorney general: \_\_\_\_\_ 95% of the governor's salary;]~~  
~~[(iv) state auditor: \_\_\_\_\_ 95% of the governor's salary; and]~~  
~~[(v) state treasurer: \_\_\_\_\_ 95% of the governor's salary.]~~  
~~[(b) (i) Subject to Subsection (1)(b)(iii), beginning on January 1, 2017, the]~~

~~(1) (a) The salary for the governor shall be set annually by the Legislature in an appropriations act.~~

~~[(ii) Beginning on January 1, 2017, constitutional]~~

~~(b) Constitutional office salaries shall be based on the following percentages of the salary of the governor:~~

~~[(A) (i) lieutenant governor: 90% of the governor's salary;~~

~~[(B) (ii) attorney general: 95% of the governor's salary;~~

~~[(C) (iii) state auditor: 90% of the governor's salary; and]~~

~~[(D) (iv) state treasurer: 90% of the governor's salary.]~~

~~[(iii) Beginning on January 1, 2017, until the Legislature sets the salary of the governor in an appropriations act, the governor's salary is \$150,000 per year.]~~

~~(2) The Legislature fixes benefits for the constitutional offices as follows:~~

- ~~(a) governor:~~
  - ~~(i) a vehicle for official and personal use;~~
  - ~~(ii) housing;~~
  - ~~(iii) household and security staff;~~
  - ~~(iv) household expenses;~~
  - ~~(v) retirement benefits as provided in Title 49, Utah State Retirement and Insurance Benefit Act;~~
  - ~~(vi) health insurance;~~
  - ~~(vii) dental insurance;~~
  - ~~(viii) basic life insurance;~~
  - ~~(ix) workers' compensation;~~
  - ~~(x) required employer contribution to Social Security;~~
  - ~~(xi) long-term disability income insurance; and~~
  - ~~(xii) the same additional state paid life insurance available to other noncareer service employees; and~~

(b) lieutenant governor, attorney general, state auditor, and state treasurer:

- (i) a vehicle for official and personal use;
- (ii) the option of participating in a:

(A) state retirement system in accordance with Title 49, Utah State Retirement and Insurance Benefit Act:

(I) Chapter 12, Public Employees' Contributory Retirement Act;

(II) Chapter 13, Public Employees' Noncontributory Retirement Act; or

(III) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(B) deferred compensation plan administered by the State Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(iii) health insurance;

(iv) dental insurance;

(v) basic life insurance;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance; and

(ix) the same additional state paid life insurance available to other noncareer service employees.

(3) Each constitutional office shall pay the cost of the additional state-paid life insurance for its constitutional officer from its existing budget.

**Section 4. Repealer.**

This bill repeals:

**Section 67-8-6, Legislative fiscal analyst performing administrative functions for commission -- Employment of professional assistance -- Assistance of state agencies -- Publication of reports.**

**CHAPTER 433****H. B. 340**

Passed March 10, 2020  
Approved March 31, 2020  
Effective May 12, 2020

**RAMPAGE VIOLENCE  
PREVENTION STUDY**

Chief Sponsor: Lee B. Perry  
Senate Sponsor: Daniel W. Thatcher  
Cosponsors: Brad M. Daw  
Kelly B. Miles  
Val K. Potter  
Susan Pulsipher

**LONG TITLE****General Description:**

This bill requires the State Commission on Criminal and Juvenile Justice to conduct a study on rampage violence.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the State Commission on Criminal and Juvenile Justice to conduct a study on rampage violence;
- ▶ authorizes the State Commission on Criminal and Juvenile Justice to contract with a state agency, private entity, or research institution to assist in the study on rampage violence;
- ▶ requires the State Commission on Criminal and Juvenile Justice to report to the Law Enforcement and Criminal Justice Interim Committee regarding the study on rampage violence;
- ▶ creates the Rampage Violence Prevention Study Fund; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

**ENACTS:**

63M-7-213, Utah Code Annotated 1953  
63M-7-213.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-2-263 is amended to read:****63I-2-263. Repeal dates, Title 63A to Title 63N.**

- (1) On July 1, 2020:
  - (a) Subsection 63A-1-203(5)(a)(i) is repealed; and
  - (b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

~~[(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.]~~

~~[(3) (2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.~~

~~[(4) (3) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:~~

- (a) Section 63G-1-801;
- (b) Section 63G-1-802;
- (c) Section 63G-1-803; and
- (d) Section 63G-1-804.

~~[(5) (4) In relation to the State Fair Park Committee, on January 1, 2021:~~

- (a) Section 63H-6-104.5 is repealed; and
- (b) Subsections 63H-6-104(8) and (9) are repealed.

~~[(6) (5) Section 63H-7a-303 is repealed on July 1, 2022.~~

~~[(7) (6) In relation to the Employability to Careers Program Board, on July 1, 2022:~~

- (a) Subsection 63J-1-602.1(52) is repealed;
- (b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and
- (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

~~[(8) (7) Section 63J-4-708 is repealed January 1, 2023.~~

~~(8) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.~~

**Section 2. Section 63M-7-213 is enacted to read:****63M-7-213. Study on rampage violence -- Report.**

(1) As used in this section:

(a) "Perpetrator" means an individual responsible for a rampage violence incident.

(b) "Rampage violence incident" means a violent act or shooting that occurs in a place of public use and results in at least three fatalities.

(2) Before October 2022, the State Commission on Criminal and Juvenile Justice shall conduct a study on rampage violence incidents.

(3) The study described in Subsection (2) shall:

(a) evaluate rampage violence incidents that have occurred in the United States by researching, for each rampage violence incident evaluated:

(i) where the rampage violence incident took place;

(ii) the duration of the rampage violence incident;

(iii) the weapon used in the rampage violence incident;

(iv) whether the perpetrator:

(A) had any history of mental illness, substance abuse, criminal or domestic violence charges, or making violent threats; or

(B) experienced a significant life stressor before the rampage violence incident;

(v) the age and gender of the perpetrator; and

(vi) any apparent motive of the perpetrator for the rampage violence incident;

(b) evaluate rampage violence incidents that have occurred in the state in the manner described in Subsection (3)(a); and

(c) examine policies or legislation enacted in the United States in response to a rampage violence incident and the effectiveness of the policies or legislation.

(4) The State Commission on Criminal and Juvenile Justice shall ensure that the study described in Subsection (2) is conducted:

(a) in an unbiased manner with no preconceived notions about potential results; and

(b) by a multidisciplinary team comprised of individuals who represent the following disciplines:

(i) public health;

(ii) mental health;

(iii) social science; and

(iv) criminal science.

(5) The State Commission on Criminal and Juvenile Justice may contract with another state agency, private entity, or research institution to assist the State Commission on Criminal and Juvenile Justice with the study described in Subsection (2).

(6) (a) Before November 30, 2022, the State Commission on Criminal and Juvenile Justice shall submit to the Law Enforcement and Criminal Justice Interim Committee a final report regarding the study described in Subsection (2), including proposed legislation and recommendations for prevention of rampage violence incidents.

(b) The final report shall include references to all sources of information and data used in the final report and study.

**Section 3. Section 63M-7-213.5 is enacted to read:**

**63M-7-213.5. Rampage Violence Prevention Study Fund.**

(1) There is created an expendable special revenue fund known as the "Rampage Violence Prevention Study Fund."

(2) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and

(b) interest earned on money in the fund.

(3) The State Commission on Criminal and Juvenile Justice shall administer the fund in accordance with this section.

(4) (a) The State Commission on Criminal and Juvenile Justice shall award fund money to an entity or individual for the purpose of administering the study described in Section 63M-7-213.

(b) Fund money may only be used for the purposes described in this Subsection (4).

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest and other earnings derived from the fund shall be deposited into the fund.

(6) Before November 30, 2021, the State Commission on Criminal and Juvenile Justice shall submit to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report regarding the status of the fund, including the contributions received and expenditures made from the fund.

**CHAPTER 434****H. B. 388**

Passed March 12, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**LAND USE DEVELOPMENT  
AND MANAGEMENT REVISIONS**

Chief Sponsor: Logan Wilde  
 Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill revises provisions applicable to municipal and county land use development and management.

**Highlighted Provisions:**

This bill:

- ▶ defines and modifies terms;
- ▶ modifies requirements applicable to certain land use recommendations made by a planning commission;
- ▶ modifies provisions applicable to certain exemptions from local plat requirements;
- ▶ modifies provisions applicable to a petition for a subdivision amendment;
- ▶ clarifies the powers of certain public utilities;
- ▶ limits the right to appeal the decision of a land use authority to certain persons; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 10-9a-103, as last amended by Laws of Utah 2019, Chapters 327, 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384
- 10-9a-302, as last amended by Laws of Utah 2019, Chapter 384
- 10-9a-404, as last amended by Laws of Utah 2018, Chapter 218
- 10-9a-408, as last amended by Laws of Utah 2019, Chapter 327
- 10-9a-509, as last amended by Laws of Utah 2019, Chapter 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384
- 10-9a-603, as last amended by Laws of Utah 2019, Chapters 35 and 384
- 10-9a-604, as last amended by Laws of Utah 2019, Chapter 35
- 10-9a-605, as last amended by Laws of Utah 2019, Chapter 384
- 10-9a-608, as last amended by Laws of Utah 2019, Chapter 384
- 10-9a-609.5, as last amended by Laws of Utah 2019, Chapter 384
- 10-9a-611, as last amended by Laws of Utah 2016, Chapter 303
- 10-9a-701, as last amended by Laws of Utah 2019, Chapter 384

- 10-9a-703, as last amended by Laws of Utah 2017, Chapter 17
- 10-9a-704, as last amended by Laws of Utah 2017, Chapter 17
- 10-9a-801, as last amended by Laws of Utah 2019, Chapter 384
- 10-9a-802, as last amended by Laws of Utah 2019, Chapter 384
- 17-27a-103, as last amended by Laws of Utah 2019, Chapters 327, 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384
- 17-27a-302, as last amended by Laws of Utah 2019, Chapter 384
- 17-27a-404, as last amended by Laws of Utah 2018, Chapter 218
- 17-27a-408, as last amended by Laws of Utah 2019, Chapter 327
- 17-27a-603, as last amended by Laws of Utah 2019, Chapters 35 and 384
- 17-27a-604, as last amended by Laws of Utah 2019, Chapter 35
- 17-27a-605, as last amended by Laws of Utah 2019, Chapter 384
- 17-27a-608, as last amended by Laws of Utah 2019, Chapter 384
- 17-27a-609.5, as last amended by Laws of Utah 2019, Chapter 384
- 17-27a-611, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 17-27a-701, as last amended by Laws of Utah 2011, Chapter 92
- 17-27a-703, as last amended by Laws of Utah 2009, Chapter 356
- 17-27a-704, as last amended by Laws of Utah 2006, Chapter 240
- 17-27a-801, as last amended by Laws of Utah 2019, Chapter 384
- 17-27a-802, as last amended by Laws of Utah 2019, Chapter 384
- 63I-2-217, as last amended by Laws of Utah 2019, Chapters 136, 252, 327, 384, 510 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384
- 63J-4-607, as last amended by Laws of Utah 2019, Chapter 246

**ENACTS:**

- 10-9a-529, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 10-9a-103 is amended to read:****10-9a-103. Definitions.**

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or



(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(2) (3) “Affected entity” means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity’s services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity’s general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(3) (4) “Affected owner” means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

(4) (5) “Appeal authority” means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(5) (6) “Billboard” means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(6) (7) (a) “Charter school” means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) “Charter school” does not include a therapeutic school.

(7) (8) “Conditional use” means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

~~(8)~~ (9) “Constitutional taking” means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(9) (10) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

~~(10)~~ (11) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

~~(11)~~ (12) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

~~(12)~~ (13) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection ~~(12)~~ (13)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection ~~(12)~~ (13)(a)(i); and

(B) used in support of the purposes of a building described in Subsection ~~(12)~~ (13)(a)(i); or

(ii) a therapeutic school.

(13) (14) “Fire authority” means the department, agency, or public entity with

responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[(44)] (15) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[(45)] (16) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

[(46)] (17) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[(47)] (18) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

[(48)] (19) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

[(49)] (20) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

[(20)] (21) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[(21)] (22) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[(22)] (23) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[(23)] (24) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

[(24)] (25) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

~~[(25)]~~ (26) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

~~[(26)]~~ (27) “Land use applicant” means a property owner, or the property owner’s designee, who submits a land use application regarding the property owner’s land.

~~[(27)]~~ (28) “Land use application”:

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

~~[(28)]~~ (29) “Land use authority” means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

~~[(29)]~~ (30) “Land use decision” means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

~~[(30)]~~ (31) “Land use permit” means a permit issued by a land use authority.

~~[(31)]~~ (32) “Land use regulation”:

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant’s cost of development compared to the existing specification; or

(B) impact a land use applicant’s use of land.

~~[(32)]~~ (33) “Legislative body” means the municipal council.

~~[(33)]~~ (34) “Local district” means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(34)]~~ (35) “Local historic district or area” means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

~~[(35)]~~ (36) “Lot” means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(36)]~~ (37) (a) “Lot line adjustment” means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 10-9a-608, with the consent of the owners of record.

(b) “Lot line adjustment” does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

~~[(37)]~~ (38) “Major transit investment corridor” means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

~~[(38)] (39)~~ “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

~~[(39)] (40)~~ “Municipal utility easement” means an easement that:

(a) is created or depicted on a plat recorded in a county recorder’s office and is described as a municipal utility easement ~~[or otherwise as a utility easement]~~ granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

~~[(c) the municipality or the municipality’s affiliated governmental entity owns or creates; and]~~

~~[(d) (i) either:]~~

~~[(A) no person uses or occupies; or]~~

~~[(B)] (c)~~ the municipality or the municipality’s affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; [or]

~~[(ii) a person uses or occupies with or without an authorized franchise or other agreement with the municipality.]~~

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

~~[(40)] (41)~~ “Nominal fee” means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

~~[(41)] (42)~~ “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

~~[(42)] (43)~~ “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(43)] (44)~~ “Official map” means a map drawn by municipal authorities and recorded in a county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality’s general plan.

~~[(44)] (45)~~ “Parcel” means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

~~[(45)] (46)~~ (a) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

(i) none of the property identified in the agreement is subdivided land; or

(ii) the adjustment is to the boundaries of a single person’s parcels.

(b) “Parcel boundary adjustment” does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

~~[(46)] (47)~~ “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(47)] (48)~~ “Plan for moderate income housing” means a written document adopted by a municipality’s legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality’s program to encourage an adequate supply of moderate income housing.

~~[(48)] (49)~~ “Plat” means a map or other graphical representation of lands that a licensed professional

land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

~~[(49)]~~ (50) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(50)]~~ (51) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

~~[(51)]~~ (52) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(52)]~~ (53) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(53)]~~ (54) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, ~~[public trail or walk,]~~ public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

~~[(54)]~~ (55) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(55)]~~ (56) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

~~[(56)]~~ (57) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

~~[(57)]~~ (58) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(58)]~~ (59) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(59)]~~ (60) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(60)]~~ (61) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

~~[(61)]~~ (62) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(62)]~~ (63) "State" includes any department, division, or agency of the state.

~~[(63)]~~ (64) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

~~[(64)]~~ (65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection ~~[(64)]~~ (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) an agreement recorded with the county recorder's office between owners of adjoining unsubdivided properties adjusting the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) an agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat; or

(ix) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [(57)] (65) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

[(65)] (67) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[(66)] (68) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[(67)] (69) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[(68)] (70) "Unincorporated" means the area outside of the incorporated area of a city or town.

[(69)] (71) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[(70)] (72) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

**Section 2. Section 10-9a-302 is amended to read:**

**10-9a-302. Planning commission powers and duties.**

(1) The planning commission shall review and make a recommendation to the legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations[;], including:

(i) ordinances regarding the subdivision of land within the municipality; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and [third party] adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant[;] or adversely affected party[;] or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 10-9a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

~~(2)~~ (5) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

**Section 3. Section 10-9a-404 is amended to read:**

**10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.**

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.

~~(4) (a) The municipal legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision that the municipal legislative body considers appropriate.~~

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for ~~[its consideration]~~ the planning commission's review and recommendation.

~~(5)~~ (4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403(2)(a)(ii); and

(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.

**Section 4. Section 10-9a-408 is amended to read:**

**10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.**

(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;

(b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403(2)(b)(iii).

(3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404[(5)](4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

**Section 5. Section 10-9a-509 is amended to read:**

**10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.**

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

~~[(d)]~~ (e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

~~[(e)]~~ (f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

~~[(f)]~~ (g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

~~[(g)]~~ (h) Except as provided in Subsection (1)~~[(h)]~~(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

~~[(h)]~~ (i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:



(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)(a), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Section 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

**Section 6. Section 10-9a-529 is enacted to read:**

**10-9a-529. Specified public utility located in a municipal utility easement.**

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsection 10-9a-103(40)(a) through (e).

**Section 7. Section 10-9a-603 is amended to read:**

**10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**

**acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.**

(1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as

determined under Subsection (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

- (A) Section 10-9a-211;
- (B) Subsection 73-5-7(2); or
- (C) Subsection (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

- (A) access to the canal;
- (B) maintenance of the canal;
- (C) canal protection; and
- (D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

- (i) an electronic copy of the approved final plat; or
- (ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

(5) (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (5)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (5)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(6) (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

**Section 8. Section 10-9a-604 is amended to read:**

**10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 10-9a-603(5)(a);

(b) the plat has been approved by:

(i) the land use authority of the municipality in which the land described in the plat is located; and

(ii) other officers that the municipality designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) A subdivision plat recorded without the signatures required under this section is void.

(3) A transfer of land pursuant to a void plat is voidable by the land use authority.

**Section 9. Section 10-9a-605 is amended to read:**

**10-9a-605. Exemptions from plat requirement.**

~~[(1) Notwithstanding Sections 10-9a-603 and 10-9a-604, a municipality may establish a process to approve an administrative land use decision for a subdivision of 10 lots or less without a plat, by certifying in writing that:]~~

(1) Notwithstanding any other provision of law, a plat is not required if:

(a) a municipality establishes a process to approve an administrative land use decision for a subdivision of 10 or fewer lots without a plat; and

(b) the municipality provides in writing that:

~~[(a)]~~ (i) the municipality has provided notice as required by ordinance; and

~~[(b)]~~ (ii) the proposed subdivision:

~~[(4)]~~ (A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the municipality has approved the location and dedication of any public street, municipal utility easement, any other easement, or any other land for public purposes as the municipality's ordinance requires;

~~[(4)]~~ (B) has been approved by the culinary water authority and the sanitary sewer authority;

~~[(4)]~~ (C) is located in a zoned area; and

~~[(4)]~~ (D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:

(i) qualifies as land in agricultural use under Section 59-2-502;

(ii) meets the minimum size requirement of applicable land use ordinances; and

(iii) is not used and will not be used for any nonagricultural purpose.

(b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.

(c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the lot or parcel to comply with the requirements of Section 10-9a-603.

(3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

**Section 10. Section 10-9a-608 is amended to read:**

**10-9a-608. Subdivision amendments.**

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use

authority ~~[to have some or all of the plat vacated or amended]~~ to request a subdivision amendment.

~~(b)~~ Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

~~(b)~~ (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the ~~[vacation or amendment of the plat]~~ petition for a subdivision amendment.

~~(c)~~ (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)~~(c)~~(d) does not apply and a land use authority may consider at a public meeting an owner's petition ~~[to vacate or amend a subdivision plat if]~~ for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) ~~[Each request to vacate or amend a plat]~~ A petition under Subsection (1)(a) that contains a request to ~~[vacate or]~~ amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.

(4) ~~[Each]~~ A petition ~~[to vacate or]~~ under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and

(ii) a document of conveyance shall be recorded in the office of the county recorder.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

**Section 11. Section 10-9a-609.5 is amended to read:**

**10-9a-609.5. Petition to vacate a public street.**

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or municipal utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;

(b) proof of written notice to operators of utilities located within the bounds of the public street or municipal utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility easement, the legislative body shall ensure

that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or municipal utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; or

(ii) the rights of any public utility.

(7) (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a municipality submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

**Section 12. Section 10-9a-611 is amended to read:**

**10-9a-611. Prohibited acts.**

(1) (a) (i) ~~[Aa]~~ If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(ii) A violation of Subsection (1)(a)(i) is an infraction.

(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.

(2) (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction~~[-abatement, merger of title,]~~ or any other appropriate action or proceeding to prevent~~[,]~~ or enjoin~~[, or abate]~~ the violation.

(c) A municipality need only establish the violation to obtain the injunction.

**Section 13. Section 10-9a-701 is amended to read:**

**10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.**

(1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

(a) requests for variances from the terms of the land use ordinances;

(b) appeals from decisions applying the land use ordinances; and

(c) appeals from a fee charged in accordance with Section 10-9a-510.

(2) As a condition precedent to judicial review, each adversely affected ~~[person]~~ party shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances, except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require ~~[an]~~ a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of ~~[the adversely affected]~~ an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

**Section 14. Section 10-9a-703 is amended to read:**

**10-9a-703. Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions -- Automatic appeal for certain decisions.**

(1) The land use applicant, a board or officer of the municipality, or ~~[any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance]~~ an adversely affected party may, within the applicable time period, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

(2) (a) ~~[An]~~ A land use applicant who has appealed a decision of the land use authority administering or interpreting the municipality's geologic hazard ordinance may request the municipality to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(b) If ~~[an]~~ a land use applicant makes a request under Subsection (2)(a), the municipality shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant and municipality:

(i) one expert designated by the municipality;

(ii) one expert designated by the land use applicant; and

(iii) one expert chosen jointly by the municipality's designated expert and the land use applicant's designated expert.

(c) A member of the panel assembled by the municipality under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.

(d) The land use applicant shall pay:

- (i) 1/2 of the cost of the panel; and
- (ii) the municipality's published appeal fee.

**Section 15. Section 10-9a-704 is amended to read:**

**10-9a-704. Time to appeal.**

(1) The municipality shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.

(2) In the absence of an ordinance establishing a reasonable time to appeal, ~~an~~ a land use applicant or adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.

(3) Notwithstanding Subsections (1) and (2), for an appeal from a decision of a historic preservation authority regarding a land use application, the land use applicant may appeal the decision within 30 days after the day on which the historic preservation authority issues a written decision.

**Section 16. Section 10-9a-801 is amended to read:**

**10-9a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.**

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) ~~[Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter]~~ A land use applicant or adversely affected party may file a petition for review of the decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

- (A) the arbitrator issues a final award; or
- (B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue

that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final decision of a land use authority or an appeal authority is valid; and

(ii) uphold the decision unless the decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A decision is arbitrary and capricious if the decision is not supported by substantial evidence in the record.

(ii) A decision is illegal if the decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse the decision of a land use authority.

(ii) If the court reverses a land use authority's decision, the court shall remand the matter to the land use authority with instructions to issue a decision consistent with the court's ruling.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application ~~[for any adversely affected third party]~~, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or ~~authority~~ appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, ~~[the aggrieved party]~~ a land use applicant may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the municipality.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

(10) If the court determines that a party initiated or pursued a challenge to the decision on a land use application in bad faith, the court may award attorney fees.

**Section 17. Section 10-9a-802 is amended to read:**

**10-9a-802. Enforcement.**

(1) (a) A municipality ~~[or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur]~~ or an adversely affected party may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2) (a) A municipality may enforce the municipality's ordinance by withholding a building permit.

(b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit or certificate of occupancy under the building code and fire code; and

(ii) for which the municipality has accepted an improvement completion assurance for landscaping or infrastructure improvements for the development.

**Section 18. Section 17-27a-103 is amended to read:**

**17-27a-103. Definitions.**

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

~~(2)~~ (3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

~~(3)~~ (4) "Affected owner" means the owner of real property that is:

(a) a single project;



(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

[4] (5) “Appeal authority” means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

[5] (6) “Billboard” means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

[6] (7) (a) “Charter school” means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) “Charter school” does not include a therapeutic school.

[7] (8) “Chief executive officer” means the person or body that exercises the executive powers of the county.

[8] (9) “Conditional use” means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

[9] (10) “Constitutional taking” means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

[10] (11) “County utility easement” means an easement that:

(a) a plat recorded in a county recorder’s office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county’s affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county’s affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

[11] (12) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

[12] (13) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

[13] (14) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

[14] (15) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [(14)] (15)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection [(14)] (15)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [(14)] (15)(a)(i); or

(ii) a therapeutic school.

[15] (16) “Fire authority” means the department, agency, or public entity with

responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[46] (17) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[47] (18) "Gas corporation" has the same meaning as defined in Section 54-2-1.

[48] (19) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

[49] (20) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[20] (21) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

[21] (22) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

[22] (23) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[23] (24) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[24] (25) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[25] (26) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

[26] (27) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

~~[(27)]~~ (28) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

~~[(28)]~~ (29) “Interstate pipeline company” means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(29)]~~ (30) “Intrastate pipeline company” means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(30)]~~ (31) “Land use applicant” means a property owner, or the property owner’s designee, who submits a land use application regarding the property owner’s land.

~~[(31)]~~ (32) “Land use application”:

- (a) means an application that is:
  - (i) required by a county; and
  - (ii) submitted by a land use applicant to obtain a land use decision; and
- (b) does not mean an application to enact, amend, or repeal a land use regulation.

~~[(32)]~~ (33) “Land use authority” means:

- (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or
- (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

~~[(33)]~~ (34) “Land use decision” means an administrative decision of a land use authority or appeal authority regarding:

- (a) a land use permit;
- (b) a land use application; or
- (c) the enforcement of a land use regulation, land use permit, or development agreement.

~~[(34)]~~ (35) “Land use permit” means a permit issued by a land use authority.

~~[(35)]~~ (36) “Land use regulation”:

- (a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

- (i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or
- (ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant’s cost of development compared to the existing specification; or

(B) impact a land use applicant’s use of land.

~~[(36)]~~ (37) “Legislative body” means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

~~[(37)]~~ (38) “Local district” means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(38)]~~ (39) “Lot” means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(39)]~~ (40) (a) “Lot line adjustment” means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 17-27a-608, with the consent of the owners of record.

(b) “Lot line adjustment” does not mean a new boundary line that:

- (i) creates an additional lot; or
- (ii) constitutes a subdivision.

~~[(40)]~~ (41) “Major transit investment corridor” means public transit service that uses or occupies:

- (a) public transit rail right-of-way;
- (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- (c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

~~[(41)]~~ (42) “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

~~[(42)]~~ (43) “Mountainous planning district” means an area:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Section 10-9a-304.

~~[(43)]~~ (44) “Nominal fee” means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

~~[(44)]~~ (45) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

~~[(45)]~~ (46) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(46)]~~ (47) “Official map” means a map drawn by county authorities and recorded in the county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county’s general plan.

~~[(47)]~~ (48) “Parcel” means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

~~[(48)]~~ (49) (a) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

(i) none of the property identified in the agreement is subdivided land; or

(ii) the adjustment is to the boundaries of a single person’s parcels.

(b) “Parcel boundary adjustment” does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

~~[(49)]~~ (50) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(50)]~~ (51) “Plan for moderate income housing” means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county’s program to encourage an adequate supply of moderate income housing.

~~[(51)]~~ (52) “Planning advisory area” means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

~~[(52)]~~ (53) “Plat” means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

~~[(53)]~~ (54) “Potential geologic hazard area” means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area’s potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(54)]~~ (55) “Public agency” means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

~~[(55)]~~ (56) “Public hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(56)]~~ (57) “Public meeting” means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(57)]~~ (58) “Public street” means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, ~~[public trail or walk,]~~ public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

~~[(58)]~~ (59) “Receiving zone” means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(59)]~~ (60) “Record of survey map” means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

~~[(60)]~~ (61) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

~~[(61)]~~ (62) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(62)]~~ (63) “Sanitary sewer authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(63)]~~ (64) “Sending zone” means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(64)]~~ (65) “Site plan” means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner’s or developer’s proposed development activity meets a land use requirement.

~~[(65)]~~ (66) “Specified public agency” means:

(a) the state;

(b) a school district; or

(c) a charter school.

~~[(66)]~~ (67) “Specified public utility” means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(67)]~~ (68) “State” includes any department, division, or agency of the state.

~~[(68)]~~ (69) “Subdivided land” means the land, tract, or lot described in a recorded subdivision plat.

~~[(69)]~~ (70) (a) “Subdivision” means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) “Subdivision” includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection ~~[(69)]~~ (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) “Subdivision” does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) an agreement recorded with the county recorder’s office between owners of adjoining properties adjusting the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) an agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat; or

(x) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection ~~[(69)]~~ (70) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

[(70)] (72) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[(71)] (73) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[(72)] (74) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[(73)] (75) "Unincorporated" means the area outside of the incorporated area of a municipality.

[(74)] (76) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[(75)] (77) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

**Section 19. Section 17-27a-302 is amended to read:**

**17-27a-302. Planning commission powers and duties.**

(1) Each countywide planning advisory area or mountainous planning district planning commission shall, with respect to the unincorporated area of the county, the planning advisory area, or the mountainous planning district, review and make a recommendation to the county legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations[;], including:

(i) ordinances regarding the subdivision of land within the county; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and [third party] adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant[, or adversely affected party[, or county officer or employee]] to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 17-27a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

~~[(2)]~~ (5) Nothing in this section limits the right of a county to initiate or propose the actions described in this section.

**Section 20. Section 17-27a-404 is amended to read:**

**17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.**

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding

Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication:

(A) in at least one major Utah newspaper having broad general circulation in the state;

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

(C) on the Utah Public Notice Website created in Section 63F-1-701.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including:

(A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and

(B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

~~[(5) (a) The county legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.]~~

~~[(b) (c) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for [its consideration] the planning commission's review and recommendation.~~

~~[(6) (5) The legislative body shall adopt:~~

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(d) before August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

**Section 21. Section 17-27a-408 is amended to read:**

**17-27a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.**

(1) The legislative body of each county of the first, second, or third class, which has a population in the county's unincorporated areas of more than 5,000 residents, shall annually:

(a) review the moderate income housing plan element of the county's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the county's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the unincorporated areas of the county for the next five years;

(b) a description of progress made within the unincorporated areas of the county to provide moderate income housing demonstrated by analyzing and publishing data on the number of housing units in the county that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the county to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or a community development and renewal agency; and

(d) a description of how the county has implemented any of the recommendations related to moderate income housing described in Subsection 17-27a-403(2)(b)(ii).

(3) The legislative body of each county described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the county is located, and, if the unincorporated area of the county is located within the boundaries of a metropolitan planning

organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404[(6)](5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

**Section 22. Section 17-27a-603 is amended to read:**

**17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.**

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;



(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 17-27a-211 using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) Within 30 days after approving a final plat under this section, a county shall submit to the Automated Geographic Reference Center, created

in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a county that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

(5) (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (5)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (5)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(6) (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

**Section 23. Section 17-27a-604 is amended to read:**

**17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 17-27a-603(5)(a);

(b) the plat has been approved by:

(i) the land use authority of the:

(A) county in whose unincorporated area the land described in the plat is located; or

(B) mountainous planning district in whose area the land described in the plat is located; and

(ii) other officers that the county designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable by the land use authority.

**Section 24. Section 17-27a-605 is amended to read:**

**17-27a-605. Exemptions from plat requirement.**

~~[(1) Notwithstanding Sections 17-27a-603 and 17-27a-604, a county may establish a process to approve an administrative land use decision for the subdivision of unincorporated land or mountainous planning district land into 10 lots or less without a plat, by certifying in writing that:]~~

(1) Notwithstanding any other provision of law, a plat is not required if:

(a) a county establishes a process to approve an administrative land use decision for the subdivision of unincorporated land or mountainous planning district land into 10 or fewer lots without a plat; and

(b) the county provides in writing that:

~~[(a)]~~ (i) the county has provided notice as required by ordinance; and

~~[(b)]~~ (ii) the proposed subdivision:

~~[(i)]~~ (A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the county has approved the location and dedication of any public street, county utility easement, any other easement, or any other land for public purposes as the county's ordinance requires;

~~[(ii)]~~ (B) has been approved by the culinary water authority and the sanitary sewer authority;

~~[(iii)]~~ (C) is located in a zoned area; and

~~[(iv)]~~ (D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27a-603 if:

(i) the lot or parcel:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used and will not be used for any nonagricultural purpose; and

(ii) the new owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel by legal description; and

(B) stating that the lot or parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the lot or parcel to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

(3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds

description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that:

(A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

(B) has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that, after the division, is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

(iv) "Minor subdivision lot" means a lot created by a minor subdivision.

(b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision lot; and

(ii) a notice:

(A) indicating that the owner of the land to be divided is making a minor subdivision;

(B) referring specifically to this section as the authority for making the minor subdivision; and

(C) containing the legal description of:

(I) the land to be divided; and

(II) the minor subdivision lot.

(c) A minor subdivision lot:

(i) may not be less than one acre in size;

(ii) may not be within 1,000 feet of another minor subdivision lot; and

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located.

(d) Land to be divided by a minor subdivision may not include divided land.

(e) A county:

(i) may not deny a building permit to an owner of a minor subdivision lot based on:

(A) the lot's status as a minor subdivision lot; or

(B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor subdivision lot to reasonable health, safety, and access standards that the county has established and made public.

(5) (a) Notwithstanding Sections 17-27a-603 and 17-27a-604, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section 17-27a-603, if:

(i) the parcel contains an existing legal single family dwelling unit;

(ii) the subdivision results in two parcels, one of which is agricultural land;

(iii) the parcel of agricultural land:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used, and will not be used, for a nonagricultural purpose;

(iv) both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; and

(v) the owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel of agricultural land by legal description; and

(B) stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zoning change permits another use.

(b) If a parcel of agricultural land divided from another parcel under Subsection (5)(a) is later used for a nonagricultural purpose, the exemption provided in Subsection (5)(a) no longer applies, and the county shall require the owner of the parcel to:

(i) retroactively comply with the subdivision plat requirements of Section 17-27a-603; and

(ii) comply with all applicable land use ordinance requirements.

**Section 25. Section 17-27a-608 is amended to read:**

**17-27a-608. Subdivision amendments.**

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has

been laid out and platted as provided in this part may file a written petition with the land use authority ~~[to have some or all of the plat vacated or amended]~~ to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 17-27a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

~~[(b)]~~ (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being ~~[vacated or]~~ amended at least 10 calendar days before the land use authority may approve the ~~[vacation or amendment of the plat]~~ petition for a subdivision amendment.

~~[(e)]~~ (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)~~[(e)]~~(d) does not apply and a land use authority may consider at a public meeting an owner's petition ~~[to vacate or amend a subdivision plat if]~~ for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join the petition, regardless of whether the lots or parcels are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) ~~[Each request to vacate or amend a plat]~~ A petition under Subsection (1)(a) that contains a request to ~~[vacate or]~~ amend a public street or county utility easement is also subject to Section 17-27a-609.5.

(4) ~~[Each]~~ A petition ~~[to vacate or]~~ under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and

(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

**Section 26. Section 17-27a-609.5 is amended to read:**

**17-27a-609.5. Petition to vacate a public street.**

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 17-27a-603 through 17-27a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or county utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or county utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or county utility easement;

(b) proof of written notice to operators of utilities located within the bounds of the public street or county utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or county utility easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or county utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or county utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or county utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; or

(ii) the rights of any public utility.

(7) (a) A county may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a county submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

**Section 27. Section 17-27a-611 is amended to read:**

**17-27a-611. Prohibited acts.**

(1) (a) ~~An~~ If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable county ordinances on land use and development.

(2) (a) A county may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction ~~[, abatement, merger of title,]~~ or any other appropriate action or proceeding to prevent ~~[,]~~ or enjoin ~~[, or abate]~~ the violation.

(c) A county need only establish the violation to obtain the injunction.

**Section 28. Section 17-27a-701 is amended to read:**

**17-27a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.**

(1) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

(a) requests for variances from the terms of the land use ordinances;

(b) appeals from decisions applying the land use ordinances; and

(c) appeals from a fee abated in accordance with Section 17-27a-509.

(2) As a condition precedent to judicial review, each adversely affected ~~[person]~~ party shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require ~~[an]~~ a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of ~~[the adversely affected]~~ an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the county establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

**Section 29. Section 17-27a-703 is amended to read:**

**17-27a-703. Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions.**

(1) The land use applicant, a board or officer of the county, or ~~[any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance]~~ an adversely affected party may, within the time period provided by ordinance, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

(2) (a) ~~[An]~~ A land use applicant who has appealed a decision of the land use authority administering or interpreting the county's geologic hazard ordinance may request the county to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(b) If ~~[an]~~ a land use applicant makes a request under Subsection (2)(a), the county shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the land use applicant and county:

(i) one expert designated by the county;

(ii) one expert designated by the land use applicant; and

(iii) one expert chosen jointly by the county's designated expert and the applicant's land use designated expert.

(c) A member of the panel assembled by the county under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.

(d) The land use applicant shall pay:

(i) 1/2 of the cost of the panel; and

(ii) the county's published appeal fee.

**Section 30. Section 17-27a-704 is amended to read:**

**17-27a-704. Time to appeal.**

(1) The county shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.

(2) In the absence of an ordinance establishing a reasonable time to appeal, ~~an~~ a land use applicant or adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.

**Section 31. Section 17-27a-801 is amended to read:**

**17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.**

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) ~~[Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter]~~ A land use applicant or adversely affected party may file a petition for review of the decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final decision of a land use authority or an appeal authority is valid; and

(ii) uphold the decision unless the decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A decision is arbitrary and capricious if the decision is not supported by substantial evidence in the record.

(ii) A decision is illegal if the decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse the decision of a land use authority.

(ii) If the court reverses a denial of a land use application, the court shall remand the matter to the land use authority with instructions to issue an approval consistent with the court's decision.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application ~~[for any adversely affected third party]~~, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use

authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, ~~[the aggrieved party]~~ a land use applicant may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

(10) If the court determines that a party initiated or pursued a challenge to the decision on a land use application in bad faith, the court may award attorney fees.

**Section 32. Section 17-27a-802 is amended to read:**

**17-27a-802. Enforcement.**

(1) (a) A county ~~[or any adversely affected owner of real estate within the county in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur]~~ or an adversely affected party may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2) (a) A county may enforce the county's ordinance by withholding a building permit.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A county may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit or certificate of occupancy under the building code and fire code; and

(ii) for which the county has accepted an improvement completion assurance for landscaping or infrastructure improvements for the development.

**Section 33. Section 63I-2-217 is amended to read:**

**63I-2-217. Repeal dates -- Title 17.**

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

(3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

(4) (a) Subsection 17-27a-103(18)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103(42), regarding a mountainous planning district, is repealed June 1, 2021.

(5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.

(6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2021.

(7) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

(8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, 2021.

(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.



(c) Subsection 17-27a-403(2)(a)(iii), the language that states “or the mountainous planning district” is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states “or mountainous planning district” is repealed June 1, 2021.

(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(13) Subsection 17-27a-602(1)(b), the language that states “or, in the case of a mountainous planning district, the mountainous planning district” is repealed June 1, 2021.

(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(15) Subsection 17-27a-605(1)(a), the language that states “or mountainous planning district land” is repealed June 1, 2021.

(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s understanding of the Legislature’s intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

(19) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states “or under a provision described in Subsection 17-52a-104(2),” is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states “or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018,” is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states “or, for a county under a pending process

described in Section 17-52a-104, the attorney’s report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018,” is repealed.

(20) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

**Section 34. Section 63J-4-607 is amended to read:**

**63J-4-607. Resource management plan administration.**

(1) The office shall consult with the Federalism Commission before expending funds appropriated by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office may procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office’s responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county’s resource management plan by:

(i) consulting with the county on policy and legal issues related to the county’s resource management plan; and

(ii) helping the county ensure that the county’s resource management plan meets the requirements of Subsection 17-27a-401(3);

(b) promote quality standards among all counties’ resource management plans; and

(c) upon submission by a county, review and verify the county’s:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office’s responsibilities under Subsection (3).

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) \$25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than \$25,000.

(d) To the extent that the Legislature appropriates sufficient funding, the office shall provide funding to a county in the amount described in Subsection (4)(e) after:

(i) a county's resource management plan:

(A) meets the requirements described in Subsection 17-27a-401(3); and

(B) is adopted under Subsection 17-27a-404~~(6)~~(5)(d);

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

(e) The office shall provide funding to a county under Subsection (4)(d) in an amount equal to the difference between:

(i) the lesser of:

(A) the actual cost of completing the resource management plan, verified by the office; or

(B) \$50,000; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404~~(6)~~(5)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan;

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27a-401(3); and

(ii) to the extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Chapter 8, State of Utah Resource Management Plan for Federal Lands; and

(c) submit a copy of the statewide resource management plan to the Federalism Commission for review.

(6) Following review of the statewide resource management plan, the Federalism Commission shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.

(7) To the extent that the Legislature appropriates sufficient funding, the office shall

provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

(8) After the statewide resource management plan is approved, as described in Subsection (6), and to the extent that the Legislature appropriates sufficient funding, the office shall monitor the implementation of the statewide resource management plan at the federal, state, and local levels.

**CHAPTER 435****H. B. 455**

Passed March 10, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**VETERINARY TECHNICIAN  
 CERTIFICATION AMENDMENTS**

Chief Sponsor: Michael K. McKell  
 Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill addresses the state certification of veterinary technicians.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes the Division of Occupational and Professional Licensing to, in consultation with the Veterinary Board, establish credentialing criteria for a state certified veterinary technician;
- ▶ establishes renewal terms for state certified veterinary technicians;
- ▶ establishes unlawful and unprofessional conduct for state certified veterinary technicians; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

58-28-102, as last amended by Laws of Utah 2019, Chapter 177  
 58-28-501, as enacted by Laws of Utah 2006, Chapter 109  
 58-28-502, as last amended by Laws of Utah 2019, Chapter 177

**ENACTS:**

58-28-103, Utah Code Annotated 1953  
 58-28-309, Utah Code Annotated 1953  
 58-28-310, Utah Code Annotated 1953  
 58-28-311, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 58-28-102 is amended to read:****58-28-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Abandonment" means to forsake entirely or to refuse to provide care and support for an animal placed in the custody of a licensed veterinarian.

(2) "Administer" means:

(a) the direct application by a person of a prescription drug or device by injection, inhalation, ingestion, or by any other means, to the body of an animal that is a patient or is a research subject; or

(b) a veterinarian providing to the owner or caretaker of an animal a prescription drug for application by injection, inhalation, ingestion, or any other means to the body of the animal by the owner or caretaker in accordance with the veterinarian's written directions.

(3) "Animal" means any animal other than a human.

(4) "AVMA" means American Veterinary Medical Association.

(5) "Board" means the Veterinary Board established in Section 58-28-201.

(6) "Client" means the patient's owner, the owner's agent, or other person responsible for the patient.

(7) "Direct supervision" means a veterinarian licensed under this chapter is present and available for face-to-face contact with the patient and person being supervised, at the time the patient is receiving veterinary care.

(8) "Extra-label use" means actual use or intended use of a drug in an animal in a manner that is not in accordance with approved labeling.

(9) "Immediate supervision" means the veterinarian licensed under this chapter is present with the individual being supervised, while the individual is performing the delegated tasks.

(10) "Indirect supervision" means a veterinarian licensed under this chapter:

(a) has given either written or verbal instructions for veterinary care of a patient to the person being supervised; and

(b) is available to the person being supervised by telephone or other electronic means of communication during the period of time in which the veterinary care is given to the patient.

(11) "Practice of veterinary medicine, surgery, and dentistry" means to:

(a) diagnose, prognose, or treat any disease, defect, deformity, wound, injury, or physical condition of any animal;

(b) administer, prescribe or dispense any drug, medicine, treatment, method, or practice, perform any operation or manipulation, apply any apparatus or appliance for the cure, relief, or correction of any animal disease, deformity, defect, wound, or injury, or otherwise practice any veterinary medicine, dentistry, or surgery on any animal;

(c) represent by verbal or written claim, sign, word, title, letterhead, card, or any other manner that one is a licensed veterinarian or qualified to practice veterinary medicine, surgery, or dentistry;

(d) hold oneself out as able to practice veterinary medicine, surgery, or dentistry;

(e) solicit, sell, or furnish any parenterally administered animal disease cures, preventions, or treatments, with or without the necessary instruments for the administration of them, or any

and all worm and other internal parasitic remedies, upon any agreement, express or implied, to administer these cures, preventions, treatments, or remedies; or

(f) assume or use the title or designation, “veterinary,” “veterinarian,” “animal doctor,” “animal surgeon,” or any other title, designation, words, letters, abbreviations, sign, card, or device tending to indicate that such person is qualified to practice veterinary medicine, surgery, or dentistry.

(12) “Practice of veterinary technology” means to perform tasks that are:

(a) related to the care and treatment of animals;

(b) delegated by a veterinarian licensed under this chapter;

(c) performed under the direct or indirect supervision of a veterinarian licensed under this chapter; and

(d) permitted by administrative rule and performed in accordance with the standards of the profession.

(13) (a) “State certification” means a designation granted by the division on behalf of the state to an individual who has met the requirements for state certification as a veterinary technician related to the practice of veterinary technology.

(b) “State certification” does not grant a state certified veterinary technician the exclusive right to practice veterinary technology.

(14) “State certified” means, when used in conjunction with the occupation of veterinary technician, a title that:

(a) may be used by a person who has met state certification requirements related to the occupation of veterinary technician as described in this chapter; and

(b) may not be used by a person who has not met the state certification requirements related to the occupation of veterinary technician as described in this chapter.

[(42)] (15) (a) “Teeth floating” means the removal of enamel points and the smoothing, contouring, and leveling of dental arcades and incisors of equine and other farm animals.

(b) “Teeth floating” does not include a dental procedure on a canine or feline.

[(43)] (16) “Unlawful conduct” is defined in Sections 58-1-501 and 58-28-501.

[(44)] (17) “Unlicensed assistive personnel”:

(a) means any unlicensed person, regardless of title, to whom tasks are delegated by a veterinarian licensed under this chapter as permitted by administrative rule and in accordance with the standards of the profession; and

(b) includes:

(i) a veterinary assistant, if working under immediate supervision;

(ii) a state certified veterinary technician;

~~[(44)]~~ (iii) a veterinary technician who:

(A) has graduated from a program of veterinary technology accredited by the AVMA that is at least a two-year program; and

(B) ~~who~~ is working under direct supervision; and

~~[(44)]~~ (iv) a veterinary technologist who:

(A) has graduated from a four-year program of veterinary technology accredited by the AVMA; and

(B) is working under indirect supervision.

[(45)] (18) “Unprofessional conduct” is as defined in Sections 58-1-501 and 58-28-502 and may be further defined by rule.

[(46)] (19) “Veterinarian-client-patient relationship” means:

(a) a veterinarian licensed under this chapter has assumed responsibility for making clinical judgements regarding the health of an animal and the need for medical treatment of an animal, and the client has agreed to follow the veterinarian’s instructions;

(b) the veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, including knowledge of the keeping and care of the animal as a result of recent personal examination of the animal or by medically appropriate visits to the premises where the animal is housed; and

(c) the veterinarian has arranged for emergency coverage for follow-up evaluation in the event of adverse reaction or the failure of the treatment regimen.

**Section 2. Section 58-28-103 is enacted to read:**

**58-28-103. Rulemaking.**

When exercising rulemaking authority under this chapter, the division shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 3. Section 58-28-309 is enacted to read:**

**58-28-309. Qualifications for state certification.**

(1) The division shall grant state certification to a person who qualifies under this section to engage in the practice of veterinary technology as a state certified veterinary technician.

(2) Each applicant for state certification as a state certified veterinary technician shall:

(a) submit an application in a form prescribed by the division in consultation with the board;

(b) submit evidence of graduation from an AVMA-accredited program in veterinary technology that is at least two years, or an equivalent program as determined by division rule in consultation with the board;

(c) submit evidence of achieving a passing score, as determined by the division in consultation with the board, on the Veterinary Technician National Examination, or an equivalent examination as determined by division rule in consultation with the board;

(d) pay a fee determined by the department under Section 63J-1-504; and

(e) provide satisfactory documentation that the applicant meets other criteria determined by division rule in consultation with the board.

**Section 4. Section 58-28-310 is enacted to read:**

**58-28-310. Term of state certification.**

(1) The division shall grant state certification under this chapter in accordance with a two-year renewal cycle established in rule by the division in consultation with the board.

(2) At the time of renewal, an applicant for renewal shall provide proof of completion of any continuing education requirements established by the division in consultation with the board.

(3) If a state certified veterinary technician is placed on probation, the state certification is expired, or if the division revokes or suspends the state certification for an individual, the individual shall cease:

(a) using the title state certified veterinary technician in connection with the individual's name or business; and

(b) representing to others that the individual is a state certified veterinary technician.

(4) An individual whose certification ceases as described in Subsection (3) may reapply for state certification when the individual meets the requirements for state certification described in Section 58-28-309.

**Section 5. Section 58-28-311 is enacted to read:**

**58-28-311. Limitation of state certification.**

This chapter does not prevent a person from lawfully engaging in the practice of veterinary technology without state certification under the direct supervision of a veterinarian licensed under this chapter.

**Section 6. Section 58-28-501 is amended to read:**

**58-28-501. Unlawful conduct.**

Unlawful conduct includes, in addition to the definitions in Section 58-1-501:

(1) fraudulently issuing or using any health certificate, inspection certificate, vaccination certificate, test chart, or any other certificate relating to the existence of animal diseases or the sale of animal products for human consumption;

(2) willfully misrepresenting any findings in the inspection of foodstuffs of animal origin; ~~and~~

(3) fraudulently misapplying or reporting any intradermal, cutaneous, subcutaneous, serological, or chemical test[-];

(4) for an individual who is not a state certified veterinary technician, using the title state certified veterinary technician, or representing that the individual is a state certified veterinary technician, in connection with the individual's name or business; and

(5) for a state certified individual whose state certification is suspended, placed on probation, revoked, or has expired for any reason, using the title state certified veterinary technician in connection with the individual's name or business.

**Section 7. Section 58-28-502 is amended to read:**

**58-28-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definitions in Section 58-1-501:

(a) applying unsanitary methods or procedures in the treatment of any animal, contrary to rules adopted by the board and approved by the division;

(b) procuring any fee or recompense on the assurance that a manifestly incurable diseased condition of the body of an animal can be permanently cured;

(c) selling any biologics containing living or dead organisms or products or such organisms, except in a manner which will prevent indiscriminate use of such biologics;

(d) swearing falsely in any testimony or affidavit, relating to, or in the course of, the practice of veterinary medicine, surgery, or dentistry;

(e) willful failure to report any dangerous, infectious, or contagious disease, as required by law;

(f) willful failure to report the results of any medical tests, as required by law, or rule adopted pursuant to law;

(g) violating Chapter 37, Utah Controlled Substances Act;

(h) delegating tasks to unlicensed assistive personnel in violation of standards of the profession and in violation of Subsection (2); and

(i) making any unsubstantiated claim of superiority in training or skill as a veterinarian in the performance of professional services.

(2) (a) "Unprofessional conduct" does not include the following:

(i) delegating to a veterinary technologist, while under the indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technologist by the veterinarian;

(ii) delegating to a state certified veterinary technician, while under the direct or indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if the veterinarian provides written or oral instructions to the state certified veterinary technician;

~~[(iii)]~~ (iii) delegating to a veterinary technician, while under the direct supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technician by the veterinarian;

~~[(iii)]~~ (iv) delegating to a veterinary assistant, under the immediate supervision of a licensed veterinarian, tasks that are consistent with the standards and ethics of the profession; and

~~[(iv)]~~ (v) delegating to an individual described in Subsection 58-28-307(16), under the direct supervision of a licensed veterinarian, the administration of a sedative drug for teeth floating.

(b) The delegation of tasks permitted under Subsection (2)(a) does not include:

- (i) diagnosing;
- (ii) prognosing;
- (iii) surgery; or
- (iv) prescribing drugs, medicines, or appliances.

**CHAPTER 436**

**S. B. 3**

Passed March 10, 2020  
 Approved March 31, 2020  
 Effective May 12, 2020

**CURRENT FISCAL YEAR  
 SUPPLEMENTAL APPROPRIATIONS**

Chief Sponsor: Jerry W. Stevenson  
 House Sponsor: Bradley G. Last

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of higher education and certain state agencies;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

**Money Appropriated in this Bill:**

This bill appropriates \$657,616,300 in operating and capital budgets for fiscal year 2020, including:

- ▶ (\$36,967,000) from the General Fund;
- ▶ \$155,892,300 from the Education Fund; and
- ▶ \$538,691,000 from various sources as detailed in this bill.

This bill appropriates \$2,600 in expendable funds and accounts for fiscal year 2020, including:

- ▶ \$212,300 from the General Fund; and
- ▶ (\$209,700) from various sources as detailed in this bill.

This bill appropriates \$15,472,900 in business-like activities for fiscal year 2020.

This bill appropriates (\$37,900) in restricted fund and account transfers for fiscal year 2020.

This bill appropriates \$5,338,700 in transfers to unrestricted funds for fiscal year 2020.

This bill appropriates \$4,800 in fiduciary funds for fiscal year 2020.

This bill appropriates \$1,475,000 in capital project funds for fiscal year 2020.

**Other Special Clauses:**

This bill takes effect immediately.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act,

the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 1**

To Attorney General  
 From Federal Funds, One-Time . . . . . 260,500  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 1,357,700  
 Schedule of Programs:  
 Child Protection . . . . . 1,357,700  
 Criminal Prosecution . . . . . 260,500

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$3,000,000 to the Attorney General's Office provided for in Item 49 of Chapter 9 Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to purchase of computer hardware and software, specific program development/operation, pass-thru funds appropriated by the Legislature and other one-time operational and capital expenses.

The Legislature intends that the Attorney General's Office, Criminal Department, may purchase up to six (6) additional vehicles with department funds in Fiscal Year 2020 or Fiscal Year 2021.

**Item 2**

To Attorney General - Children's Justice Centers  
 From Federal Funds, One-Time . . . . . 207,500  
 Schedule of Programs:  
 Children's Justice Centers . . . . . 207,500

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$450,000 provided for contract expense in Item 50 of Chapter 9 Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to costs passed-thru to operate the local CJC's or for one-time operational expenses.

**Item 3**

To Attorney General - Contract Attorneys

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$60,000 provided for contract expense in Item 51 of Chapter Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to professional services for attorneys under contract with the Office of the Attorney General and other litigation expenses.

**Item 4**

To Attorney General - Prosecution Council

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$150,000 provided for

contract expense in Item 52 of Chapter 9 Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to expense associated with providing training and technical assistance to prosecutors. Funds set aside for training commitments and other agreements may cross fiscal years; thus, nonlapsing authority is requested to meet financial commitments.

**Item 5**

To Attorney General - State Settlement Agreements  
From General Fund, One-Time ..... 500,000  
Schedule of Programs:  
State Settlement Agreements ..... 500,000

**BOARD OF PARDONS AND PAROLE**

**Item 6**

To Board of Pardons and Parole  
From General Fund, One-Time ..... 449,000  
Schedule of Programs:  
Board of Pardons and Parole ..... 449,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$800,000 provided for the Board of Pardons and Parole in Item 53 of Chapter 9 Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any non-lapsing funds shall be limited to capital improvements, computer equipment/electronic records development, and employee training.

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 7**

To Utah Department of Corrections - Programs and Operations  
From General Fund, One-Time ..... 750,000  
From Federal Funds, One-Time ..... 550,900  
From Dedicated Credits Revenue, One-Time ..... 50,000  
From Revenue Transfers, One-Time .... 234,100  
Schedule of Programs:  
Adult Probation and Parole Programs ..... 750,000  
Prison Operations Administration ..... 835,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$10,000,000 for the Utah Department of Corrections - Programs and Operations in item 54 of chapter 9, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds shall be limited to the following items: stab & ballistic vests, uniforms, radio supplies & equipment, authorized vehicle purchases, inmate support & food costs, inmate programming, firearms & ammunition, computer equipment/software & support, equipment & supplies, employee training & development, building & office remodeling, furniture, and special projects.

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund

additional Adult Probation & Parole Agents, for every two agents hired, the Legislature grants the authority to purchase one vehicle with Department funds for FY 2020 and FY 2021.

**Item 8**

To Utah Department of Corrections - Department Medical Services  
From General Fund, One-Time ..... 2,659,000  
Schedule of Programs:  
Medical Services ..... 2,659,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$2,000,000 for the Utah Department of Corrections - Medical Services in item 55 of chapter 9, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds shall be limited to purchase pharmaceuticals, medical supplies & equipment, computer equipment/software, and employee training & development.

**Item 9**

To Utah Department of Corrections - Jail Contracting  
From General Fund, One-Time ..... (1,800,000)  
Schedule of Programs:  
Jail Contracting ..... (1,800,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$5,000,000 for the Utah Department of Corrections - Jail Contracting in item 56 of chapter 9, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds shall be limited to housing inmates, and treatment programming for inmates housed at the county jails.

**JUDICIAL COUNCIL/  
STATE COURT ADMINISTRATOR**

**Item 10**

To Judicial Council/State Court Administrator - Administration  
From Federal Funds, One-Time ..... (46,400)  
Schedule of Programs:  
Grants Program ..... (46,400)

To Judicial Council/State Court Administrator - Administration Under Section 63J-1-603(3) of the Utah Code, the Legislature intends that appropriations of up to \$2,500,000 provided to the Judicial Council/State Court Administrator - Administration in Laws of Utah 2019 Chapter 9, Item 57 and in Chapter 359, Item 7 and in Chapter 508, Items 75 and Items 78 through 92 shall not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to market comparability salary adjustments and career track advancement; employee retention, training, education assistance, and incentives; translation and interpreter services; IT programming and contracted support; computer equipment and software; courts security; special projects and studies; temporary employees (law clerks);



trial court program support and senior judge assistance; grant match; and purchase of Utah code and rules for judges.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any unspent funds donated or paid to the juvenile court by private sources for the purpose of compensatory service programs shall not lapse at the close of Fiscal Year 2020. Unused funds are to be used to benefit the community through juvenile community service programs such as graffiti removal and community service.

Under Sections 63J-1-603 and 63J-1-602.1(66) of the Utah Code, the Legislature intends that any unspent funds remaining in the Law Library (Budget Line BAAA, Appropriation Code BAB) shall not lapse at the close of Fiscal Year 2020. Unused funds are to be used to supplement the costs of the Courts Self-help Center.

**Item 11**

To Judicial Council/State Court Administrator - Contracts and Leases

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided to the Judicial Council/State Court Administrator-Contracts and Leases in Laws of Utah 2019 Chapter 9, Item 58 and in Chapter 359, Item 8 shall not lapse at the close of Fiscal Year 2020. The use of any non-lapsing funds is limited to lease cost increases, contractual obligations and support.

**Item 12**

To Judicial Council/State Court Administrator - Grand Jury

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$800 provided to the Judicial Council/State Court Administrator-Grand Jury in Laws of Utah 2019 Chapter 9, Item 59 shall not lapse at the close of Fiscal Year 2020. The use of any non-lapsing funds is limited to expenses related to the grand jury.

**Item 13**

To Judicial Council/State Court Administrator - Guardian ad Litem

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided to the Judicial Council/State Court Administrator-Guardian ad Litem in Laws of Utah 2019 Chapter 9, Item 60 and in Chapter 359, Item 9 shall not lapse at the close of Fiscal Year 2020. The use of any non-lapsing funds is limited to employee training, development, and incentives; computer equipment and software, special projects and studies, and temporary employees.

**Item 14**

To Judicial Council/State Court Administrator - Jury and Witness Fees

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$1,000,000 provided to the Judicial Council/State Court Administrator-Juror, Witness, Interpreter in Laws of Utah 2019 Chapter 9, Item 61 and in Chapter 359, Item 10 shall not lapse at the close of Fiscal Year 2020. The use of any non-lapsing funds is limited to expenses for jury, witness fees and interpretation services.

**GOVERNORS OFFICE**

**Item 15**

To Governors Office - CCJJ - Child Welfare Parental Defense

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$75,000 provided for the Parental Defense in Item 46 of Chapter 5 Laws of Utah 2019 not lapse at the close of fiscal year 2020. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2020.

**Item 16**

To Governors Office - CCJJ Factual Innocence Payments

From General Fund, One-Time . . . . . 759,500  
Schedule of Programs:

Factual Innocence Payments . . . . . 759,500

**Item 17**

To Governors Office - CCJJ Salt Lake County Jail Bed Housing

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$500,000 provided for the Commission on Criminal and Juvenile Justice in Item 64 of Chapter 9 Laws of Utah 2019 not lapse at the close of fiscal year 2020. The use of any unused funds is limited to contracts between Salt Lake County and other counties to house inmates or for housing Salt Lake County inmates in Oxbow.

The Legislature intends that any payments from the Commission on Criminal and Juvenile Justice for housing prisoners from Salt Lake County in other counties be limited to the rate of \$26 per day, per prisoner.

**Item 18**

To Governors Office - Commission on Criminal and Juvenile Justice

From Federal Funds, One-Time . . . . . 2,300,000  
Schedule of Programs:

Utah Office for Victims of Crime . . . . 2,300,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$1,700,000 provided for the Commission on Criminal and Juvenile Justice Commission in Item 66 of Chapter 9 Laws of Utah 2019 not lapse at the close of fiscal year 2020. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2020. The use of any unused funds is limited to employee incentives, one-time remodeling costs, equipment purchases,

one-time DTS projects, research and development contracts, one-time costs associated with H.B. 414, Restitution Reporting enacted during the 2019 General Session, extradition costs, meeting and travel costs, state pass through grant programs, and legal costs associated with deliberations required for judicial retention elections.

**Item 19**

To Governors Office - Constitutional Defense Council

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$14,000 provided for the Governor's Office - Constitutional Defense Council in Item 27 of Chapter 417 Laws of Utah 2012 not lapse at the close of Fiscal Year 2020. The use of any funds is limited to one-time expenditures authorized by the Constitutional Defense Council.

**Item 20**

To Governors Office - Emergency Fund

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$100,100 for the Governor's Office - Emergency Fund in in Item 67 of Chapter 9 Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any funds is limited to emergency expenditures.

**Item 21**

To Governors Office - Governor's Office

From Federal Funds, One-Time	.....	4,604,000
From Dedicated Credits Revenue, One-Time	.....	(11,300)

Schedule of Programs:

Literacy Projects	.....	(11,300)
Lt. Governor's Office	.....	4,604,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$2,000,000 provided for the Governor's Office in Item 69 of Chapter 9 Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to one-time expenditures of the Governor and Lieutenant Governors Offices.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$250,000 for the Governor's Office in Item 99 and up to \$1,500,000 for the Governor's Office in Item 107 of Chapter 508 Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any funds is limited to the same purposes as the original appropriations.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 for the Governor's Office in Item 97 of Chapter 463 Laws of Utah 2018 not lapse at the close of Fiscal Year 2020. The use of any funds is limited to the same purposes as the original appropriations.

**Item 22**

To Governors Office - Governor's Office of Management and Budget

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$1,300,000 provided for the Governor's Office - Governor's Office of Management and Budget in Item 70 of Chapter 9 Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any funds is limited to one-time expenditures of the Governors Office of Management and Budget.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$850,000 for the Governor's Office - Governor's Office of Management and Budget in Item 22 of Chapter 397 Laws of Utah 2018 not lapse at the close of Fiscal Year 2020. The use of any funds is limited to the same purposes as the original appropriations.

**Item 23**

To Governors Office - Indigent Defense Commission

From Federal Funds, One-Time	.....	106,300
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Schedule of Programs:

Indigent Defense Commission	.....	106,300
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**DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES**

**Item 24**

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations

From Federal Funds, One-Time	.....	100,000
From Dedicated Credits Revenue, One-Time	.....	129,500
From Revenue Transfers, One-Time	...	(93,500)

Schedule of Programs:

Correctional Facilities	.....	136,000
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Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$2,000,000 provided for the Department of Human Services - Division of Juvenile Justice Services Programs and Operations in Item 73 of Chapter 9, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to expenditures for data processing and technology-based expenditures; facility repairs, maintenance, and improvements; capital development; other charges and pass-through expenditures; and short-term projects and studies that promote efficiency and service improvement.

**Item 25**

To Department of Human Services - Division of Juvenile Justice Services - Community Providers

From General Fund Restricted - Juvenile Justice Reinvestment Account, One-Time	...	4,913,200
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Schedule of Programs:

Provider Payments	.....	4,913,200
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Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$2,500,000 provided for the Department of Human Services - Division of Juvenile Justice Services - Community Providers, in Item 74 of Chapter 9, Laws of Utah 2019 not lapse at the close of Fiscal Year

2020. The use of any unused funds is limited to expenditures for pass-through expenditures; and short-term projects that promote efficiency and service improvement.

**OFFICE OF THE STATE AUDITOR**

**Item 26**

To Office of the State Auditor - State Auditor

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided for the Office of the State Auditor in Item 75 of Chapter 9, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to the same purposes of the original appropriation including local government oversight, audit activities, and data analysis.

**DEPARTMENT OF PUBLIC SAFETY**

**Item 27**

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

From Expendable Receipts,  
One-Time ..... 1,000,000  
Schedule of Programs:  
Emergency and Disaster  
Management ..... 1,000,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$7,718,300 provided for The Department of Public Safety - Emergency Management - Emergency and Disaster Management not lapse at the close of Fiscal Year 2020. Funding will be used for reimbursement for emergency costs and loans that qualify as determined in statute.

**Item 28**

To Department of Public Safety - Driver License From Uninsured Motorist Identification Restricted Account, One-Time ..... 376,900  
Schedule of Programs:  
Uninsured Motorist ..... 376,900

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$1,000,000 provided for The Department of Public Safety - Driver License not lapse at the close of Fiscal Year 2020. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and 63J-1-602.2. Funding shall be used for one-time enhancements to the uninsured motorist program and other one-time operating expenses.

**Item 29**

To Department of Public Safety - Emergency Management

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided for The Department of Public Safety -Emergency Management not lapse at the close of Fiscal Year 2020. This amount excludes any

nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, technology, and emergencies or disasters.

**Item 30**

To Department of Public Safety - Emergency Management - National Guard Response

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$150,000 provided for the Department of Public Safety - National Guard Response line item not lapse at the close of Fiscal Year 2020. Funds shall be limited to reimbursement for emergency costs.

**Item 31**

To Department of Public Safety - Highway Safety

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$100,000 provided for The Department of Public Safety - Highway Safety not lapse at the close of Fiscal Year 2020. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, technology, and other one-time operating expenses.

**Item 32**

To Department of Public Safety - Peace Officers' Standards and Training

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$750,000 provided for The Department of Public Safety - Peace Officers' Standards and Training not lapse at the close of Fiscal Year 2020. Funding shall be used for equipment, technology, and other one-time operating expenses.

The Legislature intends that Peace Officer Standards and Training (POST) be able to utilize the funding it received to replace simulators or for other repair needs at POST such as the indoor shooting range or the EVO track.

**Item 33**

To Department of Public Safety - Programs & Operations  
From General Fund, One-Time ..... (179,800)  
Schedule of Programs:  
CITS State Crime Labs ..... (29,800)  
Highway Patrol - Field  
Operations ..... (1,150,000)  
Highway Patrol - Special  
Enforcement ..... 1,000,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$10,000,000 provided for The Department of Public Safety - Programs and Operations not lapse at the close of Fiscal Year 2020. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section

63J-1-602.2. Funding shall be used for equipment, technology, emergencies, and other one-time operating expenses. Under section 63J-1-603 of the Utah Code, the Legislature intends that PSAP dedicated credits of up to \$1,200,000 provided for the Department of Public Safety - Programs and Operations CITS Communications division not lapse at the close of Fiscal Year 2020.

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2020 and Fiscal Year 2021.

The Legislature intends that any proceeds from the sale of the salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations. The Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2020 and Fiscal Year 2021.

The Legislature intends that the State Bureau of Investigations within the Department of Public Safety be able to use \$107,738.03 of unclaimed and abandoned seized funds for purposes of public interest. Examples of public interest include payment of court awarded attorney fees and interest charges. Legislative authority is required under Section 24-3-103(7).

The Legislature intends that the Utah Department of Public Safety be able to purchase up to six vehicles for its centralized evidence management program.

**Item 34**

To Department of Public Safety - Bureau of Criminal Identification  
From General Fund, One-Time . . . . . (1,500,000)  
Schedule of Programs:  
Law Enforcement/Criminal Justice Services . . . . . (1,500,000)

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$2,500,000 provided for The Department of Public Safety - Bureau of Criminal Identification not lapse at the close of Fiscal Year 2020. Funding shall be used for training, equipment purchases, and other one-time operating expenses.

**STATE TREASURER**

**Item 35**

To State Treasurer

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$400,000 provided for the Office of the State Treasurer in Item 84 of Chapter 9, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to Computer

Equipment/Software, Equipment/Supplies, Special Projects and Unclaimed Property Outreach.

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 36**

To Department of Administrative Services - DFCM Administration  
From General Fund, One-Time . . . . . (50,000)  
Schedule of Programs:  
DFCM Administration . . . . . (50,000)

The Legislature intends that any excess DFCM Project Reserve Funds or Contingency Reserve Funds, as determined by DFCM's analysis of current balances and projected needs, will be transferred to the Utah State Correctional Facility project before any other uses of these funds for FY 2020.

**Item 37**

To Department of Administrative Services - Executive Director  
From General Fund, One-Time . . . . . (15,000)  
From Dedicated Credits Revenue, One-Time . . . . . 185,000  
Schedule of Programs:  
Executive Director . . . . . 170,000

**Item 38**

To Department of Administrative Services - Finance - Mandated  
From Gen. Fund Rest. - Land Exchange Distribution Account, One-Time . . . . . (276,300)  
Schedule of Programs:  
Land Exchange Distribution . . . . . (276,300)

**Item 39**

To Department of Administrative Services - Finance Administration  
From General Fund, One-Time . . . . . 2,500,000  
Schedule of Programs:  
Financial Information Systems . . . . . 2,500,000

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Finance Administration in this item shall not lapse at the close of FY 2020.

**Item 40**

To Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts  
From General Fund Restricted - Mineral Lease, One-Time . . . . . (4,495,200)  
Schedule of Programs:  
Mineral Lease Payments . . . . . (4,758,000)  
Mineral Lease Payments in Lieu . . . . . 262,800

**STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE**

**Item 41**

To State Board of Bonding Commissioners - Debt Service - Debt Service

From General Fund, One-Time ..... 47,000  
 From Transportation Investment  
     Fund of 2005, One-Time ..... 90,085,200  
 From Federal Funds, One-Time ..... (134,500)  
 From Dedicated Credits Revenue,  
     One-Time ..... 2,638,100  
 From County of First Class Highway  
     Projects Fund, One-Time ..... (900)  
 From Revenue Transfers, One-Time ... (41,600)  
 Schedule of Programs:  
     G.O. Bonds - State Govt ..... 5,400  
     G.O. Bonds - Transportation ..... 90,125,900  
     Revenue Bonds Debt Service ..... 2,462,000

**DEPARTMENT OF  
 TECHNOLOGY SERVICES**

**Item 42**

To Department of Technology Services -  
     Chief Information Officer  
 From General Fund, One-Time ..... (199,700)  
 From Closing Nonlapsing Balances ..... 199,700

**Item 43**

To Department of Technology Services -  
     Integrated Technology Division  
 From Federal Funds, One-Time ..... 299,800  
 Schedule of Programs:  
     Automated Geographic Reference  
         Center ..... 299,800

**TRANSPORTATION**

**Item 44**

To Transportation - Aeronautics  
 From Federal Funds, One-Time ..... 600,000  
 Schedule of Programs:  
     Airport Construction ..... 600,000

**Item 45**

To Transportation - Highway System  
     Construction From Transportation  
         Fund, One-Time ..... (18,008,000)  
 From Federal Funds, One-Time ... (39,718,000)  
 Schedule of Programs:  
     Federal Construction ..... (320,906,200)  
     Rehabilitation/Preservation ..... 260,180,200  
     State Construction ..... 3,000,000

**Item 46**

To Transportation - Cooperative Agreements  
 From Expendable Receipts,  
     One-Time ..... 5,000,000  
 Schedule of Programs:  
     Cooperative Agreements ..... 5,000,000

**Item 47**

To Transportation - Engineering Services  
 From Federal Funds, One-Time ..... 160,000  
 From Dedicated Credits Revenue,  
     One-Time ..... 2,135,600  
 Schedule of Programs:  
     Environmental ..... 400,000  
     Materials Lab ..... 2,135,600  
     Program Development ..... (400,000)  
     Research ..... 160,000

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Engineering Services in Item 139, Chapter

508, Laws of Utah 2019, and Item 158, Chapter 407, Laws of Utah 2019, shall not lapse at the close of FY 2020. Expenditures of these funds are limited to road usage charge program: \$300,000; and technical planning assistance: \$700,000.

**Item 48**

To Transportation - Operations/  
     Maintenance Management  
 From Transportation Fund,  
     One-Time ..... (18,400)  
 From Dedicated Credits Revenue,  
     One-Time ..... 6,700,000  
 Schedule of Programs:  
     Equipment Purchases ..... 6,000,000  
     Lands and Buildings ..... 700,000  
     Region 1 ..... (83,400)  
     Region 3 ..... 65,000

The Legislature intends that unexpended proceeds that are derived from the sale of real property or an interest in real property from a maintenance facility shall not lapse at the close FY 2020. Expenditures of these funds are limited to the purchase or improvement of another maintenance facility, including real property: \$1,500,000.

**Item 49**

To Transportation - Region Management  
 From Transportation Fund, One-Time ... 18,400  
 From Dedicated Credits Revenue,  
     One-Time ..... 2,186,000  
 Schedule of Programs:  
     Region 1 ..... 468,900  
     Region 2 ..... 700,200  
     Region 3 ..... 235,100  
     Region 4 ..... 800,200

**Item 50**

To Transportation - Share the Road  
 From General Fund Restricted - Share  
     the Road Bicycle Support, One-Time ... 10,000  
 Schedule of Programs:  
     Share the Road ..... 10,000

**Item 51**

To Transportation - Support Services  
 From Transportation Fund,  
     One-Time ..... 668,400  
 From Federal Funds, One-Time ..... (693,400)  
 Schedule of Programs:  
     Administrative Services ..... (25,000)

**Item 52**

To Transportation - Transportation  
     Investment Fund Capacity Program  
 From Transportation Investment  
     Fund of 2005, One-Time ..... 151,640,300  
 Schedule of Programs:  
     Transportation Investment  
         Fund Capacity Program ..... 151,640,300

**Item 53**

To Transportation - Amusement Ride Safety  
 Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Amusement Ride Safety in Item 144, Chapter 508, Laws of Utah 2019, shall not lapse at the

close of FY 2020. Expenditures of these funds are limited to amusement ride safety program: \$200,000.

**Item 54**

To Transportation - Transit  
Transportation Investment  
From Transit Transportation  
Investment Fund, One-Time ..... 6,575,200  
Schedule of Programs:  
Transit Transportation  
Investment ..... 6,575,200

**Item 55**

To Transportation - Transportation  
Safety Program  
From Transportation Safety Program  
Restricted Account, One-Time ..... 15,000  
Schedule of Programs:  
Transportation Safety Program ..... 15,000

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF  
ALCOHOLIC BEVERAGE CONTROL**

**Item 56**

To Department of Alcoholic Beverage Control -  
DABC Operations  
From Liquor Control Fund,  
One-Time ..... (1,276,000)  
Schedule of Programs:  
Stores and Agencies ..... (1,276,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that \$500,000 of the appropriation provided to the Department of Alcoholic Beverage Control shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to implementation of D365 (DABC automated system).

**Item 57**

To Department of Alcoholic Beverage Control -  
Parents Empowered

Under Section 63J-1-603 of the Utah Code, the Legislature intends that \$77,000 of the appropriation provided to the Underage Drinking Prevention Media and Education Campaign Restricted Account shall not lapse at the close of FY 2020.

**DEPARTMENT OF COMMERCE**

**Item 58**

To Department of Commerce - Building  
Inspector Training  
From Dedicated Credits Revenue,  
One-Time ..... 180,000  
Schedule of Programs:  
Building Inspector Training ..... 180,000

**Item 59**

To Department of Commerce - Commerce  
General Regulation

Under Section 63J-1-603 of the Utah Code, the Legislature intends that additional funds up to \$800,000 of the appropriations provided

to the Department of Commerce under Laws of Utah 2019 Chapter 3 Item 64, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds herein is limited to covering costs associated with opioid litigation undertaken by the state, including that contemplated by House Joint Resolution 12, "Joint Resolution Calling Upon the Attorney General to Sue Prescription Opioid Manufacturers."

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Building Codes and Land Use Education Funds received by the Commerce Building Inspector training in Laws of Utah 2019 Chapter 3 Item 63, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds shall be consistent with the statutory guidelines for this line item that is 100% dedicated credits estimated at up to \$1,400,000.

**GOVERNOR'S OFFICE  
OF ECONOMIC DEVELOPMENT**

**Item 60**

To Governor's Office of Economic Development -  
Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development - Administration in Laws of Utah 2019 shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is for: System Management Enhancements, \$350,000; Operations and Contractual Obligations, \$2,000,000; and Business Marketing, \$350,000.

**Item 61**

To Governor's Office of Economic Development -  
Business Development

From Federal Funds, One-Time ..... 199,900  
From Dedicated Credits

Revenue, One-Time ..... 50,000  
Schedule of Programs:

Corporate Recruitment and  
Business Services ..... 249,900

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development - Business Development in Laws of Utah 2019 shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to: Business Resource Centers \$175,000; Technology Commercialization and Innovation Program \$3,000,000; Business Cluster Support \$200,000; Procurement and Technical Assistance Center Contracts \$175,000; System Development \$500,000, Corporate Recruitment, Diplomacy and Compliance Contracts \$500,000; Rural Development Contracts and Support \$100,000.

**Item 62**

To Governor's Office of Economic Development -  
Office of Tourism

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development - Tourism in Laws of Utah 2019 shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to Contractual Obligations and Support General Fund, \$2,000,000; Motion Picture Incentive Fund Cash Incentives and/or General Fund, \$2,675,000; Tourism Marketing Performance Fund, \$5,500,000.

**Item 63**

To Governor’s Office of Economic Development - Pass-Through  
 From General Fund, One-Time . . . . . (1,000,000)  
 Schedule of Programs:  
 Pass-Through . . . . . (1,000,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development - Pass-Through in Laws of Utah 2019, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to contractual obligations and support, \$26,546,400.

**Item 64**

To Governor’s Office of Economic Development - Pete Suazo Utah Athletics Commission

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-Pete Suazo Athletic Commission in Laws of Utah 2019, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the Pete Suazo Utah Athletic Program: \$150,000 for: Development of Pete Suazo staff and Commission on best practices and systems integration.

**Item 65**

To Governor’s Office of Economic Development - Utah Office of Outdoor Recreation

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development - Office of Outdoor Recreation in Laws of Utah 2019, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing appropriated funds within the expendable special revenue fund is limited to contractual obligations and support, \$10,000,000.

**Item 66**

To Governor’s Office of Economic Development - Rural Employment Expansion Program

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development - Rural Economic Development Initiative in Laws of Utah 2019, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to contractual obligations and support, \$1,500,000.

**Item 67**

To Governor’s Office of Economic Development - Talent Ready Utah Center  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 50,000  
 Schedule of Programs:  
 Talent Ready Utah Center . . . . . 50,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development - Talent Ready Utah in Laws of Utah 2019 shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to contractual obligations and support, \$5,400,000.

**Item 68**

To Governor’s Office of Economic Development - Rural Coworking and Innovation Center Grant Program

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development- Rural Coworking and Innovation Center in Laws of Utah 2019, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to contractual obligations and support, \$500,000.

**Item 69**

To Governor’s Office of Economic Development - Rural Rapid Manufacturing Grant

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development - Rural Rapid Manufacturing Grant in Laws of Utah 2019, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to contractual obligations and support, \$500,000.

**Item 70**

To Governor’s Office of Economic Development - Inland Port Authority  
 From Pass-through, One-Time . . . . . 500,000  
 Schedule of Programs:  
 Inland Port Authority . . . . . 500,000

**Item 71**

To Governor’s Office of Economic Development - Point of the Mountain Authority  
 From Pass-through, One-Time . . . . . 900,000  
 Schedule of Programs:  
 Point of the Mountain Authority . . . . . 900,000

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 72**

To Department of Heritage and Arts - Administration  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 30,000  
 Schedule of Programs:  
 Information Technology . . . . . 30,000

**Item 73**

To Department of Heritage and Arts - Division of Arts and Museums  
 From Federal Funds, One-Time . . . . . 175,000

Schedule of Programs:

Community Arts Outreach . . . . . 175,000

The Legislature intends that the Department of Heritage and Arts has authority in FY 2021 to move carry over/nonlapsing dollars from FY 2020 from the Museum Services line item to the Arts and Museum line item as part of the merging process.

**Item 74**

To Department of Heritage and Arts - Indian Affairs

From General Fund, One-Time . . . . . 20,000

Schedule of Programs:

Indian Affairs . . . . . 20,000

**Item 75**

To Department of Heritage and Arts - Pass-Through

From General Fund, One-Time . . . . . 175,000

Schedule of Programs:

Pass-Through . . . . . 175,000

The Legislature intends that the Department of Heritage and Arts pass through \$175,000 appropriated in this item to the Martha Hughes Cannon Statue Oversight Committee for the sole purposes of a sendoff event held in the state and a ceremony and event for the installation of the statue of Martha Hughes Cannon in Washington, D.C.

**Item 76**

To Department of Heritage and Arts - State History

From Dedicated Credits Revenue, One-Time . . . . . 500,000

Schedule of Programs:

Historic Preservation and Antiquities . . . . . 500,000

**Item 77**

To Department of Heritage and Arts - Stem Action Center

From General Fund, One-Time . . . . . 1,000,000

From Federal Funds, One-Time . . . . . 280,000

From Beginning Nonlapsing Balances . . . 288,600

Schedule of Programs:

STEM Action Center . . . . . 1,568,600

**INSURANCE DEPARTMENT**

**Item 78**

To Insurance Department - Insurance Department Administration

From General Fund Restricted - Captive Insurance, One-Time . . . . . 401,900

From General Fund Restricted - Technology Development, One-Time . . . . . (438,900)

Schedule of Programs:

Captive Insurers . . . . . 401,900  
Electronic Commerce Fee . . . . . (438,900)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided from the Insurance Department Restricted Account for the Insurance

Department Administrative line item not lapse at the close of Fiscal Year 2020. The use of nonlapsing funds is limited to consolidation of the Department with their Fraud Division at a new building location, \$500,000.

**LABOR COMMISSION**

**Item 79**

To Labor Commission

From Federal Funds, One-Time . . . . . 113,300

Schedule of Programs:

Utah Occupational Safety and Health . . . . . 113,300

**UTAH STATE TAX COMMISSION**

**Item 80**

To Utah State Tax Commission - License Plates Production

From Dedicated Credits Revenue, One-Time . . . . . 171,800

Schedule of Programs:

License Plates Production . . . . . 171,800

**Item 81**

To Utah State Tax Commission - Tax Administration

From General Fund, One-Time . . . . . (60,000)

From General Fund Restricted -

Electronic Payment Fee Rest. Acct, One-Time . . . . . 500,000

Schedule of Programs:

Administration Division . . . . . (60,000)  
Motor Vehicles . . . . . 500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Tax Commission - Administration up to \$1 million not lapse at the close of FY 2020. The use of nonlapsing funds is limited to protecting and enhancing the State's tax and motor vehicle systems and processes; continuing to protect the State's revenues from tax fraud, identity theft, and security intrusions; and litigation and related costs, \$1,000,000.

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 82**

To Department of Health - Children's Health Insurance Program

From Revenue Transfers, One-Time . . . . 173,000

Schedule of Programs:

Children's Health Insurance Program . . . . . 173,000

The Department of Health may use up to a combined maximum of \$12,400,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2020 in all other items of appropriation within the respective line item are insufficient to pay appropriate Medicaid claims within the



respective line item for FY 2020 when combined with federal matching funds.

**Item 83**

To Department of Health - Disease Control and Prevention

From General Fund, One-Time .....	(76,300)
From Federal Funds, One-Time .....	7,739,200
From Expendable Receipts, One-Time .....	1,362,200
From General Fund Restricted - Cigarette Tax Restricted Account, One-Time .....	(9,700)
<b>Schedule of Programs:</b>	
Epidemiology .....	1,362,200
Health Promotion .....	7,653,200

The Legislature intends that the Department of Health report to the Social Services Appropriations Subcommittee by May 1, 2020 on what has been done to improve the accuracy of records in the Utah Statewide Immunization System for (1) youth for under reporting of Tdap (tetanus, diphtheria, and pertussis) and Td (tetanus and diphtheria) immunization, (2) adults over 65 years old for better links to death records, and (3) identifying how many medical providers are not enrolled.

Under Section 63J-1-603 of the Utah Code Item 175 of Chapter 508, Laws of Utah 2019, the Legislature intends up to \$100,000 General Fund provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to efforts to Utah produce incentives.

Notwithstanding the intent language passed in Item 3 of Chapter 10, Laws of Utah 2019, the Department of Health may use up to \$100,000 beginning nonlapsing on any purpose.

Notwithstanding the intent language passed on lines 98 through 104 in H.B. 7, Social Services Base Budget, under Section 63J-1-603 of the Utah Code Item 184 of Chapter 407, Laws of Utah 2019, the Legislature intends up to \$63,000 General Fund provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to Alzheimer's programs and outreach.

Notwithstanding the intent language passed on lines 105 through 110 in H.B. 7, Social Services Base Budget, under Section 63J-1-603 of the Utah Code Item 175 of Chapter 508, Laws of Utah 2019, the Legislature intends up to \$63,000 General Fund provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to efforts to prevent sexual assault.

The Legislature intends that the Departments of Health and Environmental Quality use the ongoing funding provided in

item 58 of Chapter 10, Laws of Utah 2019 to report to the Office of the Legislative Fiscal Analyst by June 15, 2020 on the pros and cons of changing the water testing relationship between the two departments as well as private sector alternatives to the Department of Health's laboratory testing services.

**Item 84**

To Department of Health - Executive Director's Operations

From General Fund, One-Time .....	20,100
From Federal Funds, One-Time .....	618,500
From Dedicated Credits Revenue, One-Time .....	9,300
<b>Schedule of Programs:</b>	
Adoption Records Access .....	1,800
Center for Health Data and Informatics .....	51,300
Executive Director .....	618,500
Program Operations .....	(100,000)
Center for Medical Cannabis .....	76,300

The Legislature intends that the Department of Health prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2020. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2020 items, the department shall provide a final report to the Office of the Legislative Fiscal Analyst by August 31, 2020.

The Legislature intends that the Department of Health provide an update on the status of all recommendations passed as part of the accountable base budget review during the 2019 Interim by June 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 85**

To Department of Health - Family Health and Preparedness

From General Fund, One-Time .....	(60,400)
From Federal Funds, One-Time .....	13,983,100
From Expendable Receipts, One-Time ...	135,000
From General Fund Restricted - Home Visiting Restricted Account, One-Time .....	(2,200)
From Beginning Nonlapsing Balances .....	(185,400)
<b>Schedule of Programs:</b>	
Child Development .....	(2,000)
Director's Office .....	(58,700)
Health Facility Licensing and Certification .....	(185,400)
Maternal and Child Health .....	14,116,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$125,000 of Item 60 of Chapter 10, Laws of Utah 2019 for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to Baby Watch

Early Intervention Program for Weber-Morgan Direct Services.

**Item 86**

To Department of Health - Medicaid and Health Financing  
 From Federal Funds, One-Time . . . . . 21,712,300  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 325,800  
 From Expendable Receipts,  
 One-Time . . . . . (201,600)  
 From Ambulance Service Provider Assess Exp Rev Fund, One-Time . . . . . 20,000  
 From Medicaid Expansion Fund,  
 One-Time . . . . . 713,900  
 From Revenue Transfers,  
 One-Time . . . . . 12,530,700  
 Schedule of Programs:  
 Financial Services . . . . . 124,200  
 Medicaid Operations . . . . . 34,976,900

**Item 87**

To Department of Health - Medicaid Sanctions  
 From Beginning Nonlapsing Balances . . . 185,400  
 From Closing Nonlapsing Balances . . . . (185,400)

**Item 88**

To Department of Health - Medicaid Services  
 From General Fund, One-Time . . . . . (605,300)  
 From Federal Funds, One-Time . . . . . 111,738,400  
 From Dedicated Credits Revenue,  
 One-Time . . . . . (11,676,100)  
 From Expendable Receipts,  
 One-Time . . . . . 32,059,400  
 From Expendable Receipts - Rebates, One-Time . . . . . 37,146,500  
 From Ambulance Service Provider Assess Exp Rev Fund, One-Time . . . . . 1,202,700  
 From General Fund Restricted - Cigarette Tax Restricted Account,  
 One-Time . . . . . 300  
 From Nursing Care Facilities Provider Assessment Fund, One-Time . . . . . 1,506,700  
 From Revenue Transfers,  
 One-Time . . . . . 19,702,800  
 From Pass-through, One-Time . . . . . 13,000  
 Schedule of Programs:  
 Expenditure Offsets from Collections . . . 13,000  
 Medicaid Expansion . . . . . (102,000)  
 Nursing Home . . . . . 1,506,700  
 Other Services . . . . . 41,185,600  
 Pharmacy . . . . . 148,485,100

Under Section 63J-1-603 of the Utah Code Item 64 of Chapter 10, Laws of Utah 2019, the Legislature intends up to \$350,000 provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to property improvements in intermediate care facilities for individuals with intellectual disabilities serving Utah Medicaid clients.

The Department of Health may use up to a combined maximum of \$12,400,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services and Children's Health Insurance

Program only in the case that non-federal fund appropriations provided for FY 2020 in all other items of appropriation within the respective line item are insufficient to pay appropriate Medicaid claims within the respective line item for FY 2020 when combined with federal matching funds.

The Legislature intends that all funding for the Health Insurance Fee required under Affordable Care Act Provision 9010 paid by Medicaid managed care plans be made contingent upon a reconciliation of the actual tax payments due.

**Item 89**

To Department of Health - Primary Care Workforce Financial Assistance  
 From Federal Funds, One-Time . . . . . 202,500  
 Schedule of Programs:  
 Primary Care Workforce Financial Assistance . . . . . 202,500

**Item 90**

To Department of Health - Emergency Disease Response  
 From General Fund, One-Time . . . . . 16,000,000  
 Schedule of Programs:  
 Emergency Disease Response . . . . . 16,000,000

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$16,000,000 General Fund provided in this line item for the Department of Health's Emergency Disease Response line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to state response to coronavirus.

**DEPARTMENT OF HUMAN SERVICES**

**Item 91**

To Department of Human Services - Division of Aging and Adult Services  
 From General Fund, One-Time . . . . . (231,400)  
 From Federal Funds, One-Time . . . . . 1,375,400  
 Schedule of Programs:  
 Administration - DAAS . . . . . 1,375,400  
 Aging Alternatives . . . . . (231,400)

**Item 92**

To Department of Human Services - Division of Child and Family Services  
 From General Fund, One-Time . . . . . (53,500)  
 From Federal Funds, One-Time . . . . . 5,690,400  
 From Dedicated Credits Revenue,  
 One-Time . . . . . (2,000)  
 From Expendable Receipts, One-Time . . . . . 2,000  
 From Gen. Fund Rest. - Victims of Domestic Violence Services Acct,  
 One-Time . . . . . 30,000  
 Schedule of Programs:  
 Administration - DCFS . . . . . 5,690,400  
 Child Welfare Management Information System . . . . . (53,500)  
 Domestic Violence . . . . . 30,000

**Item 93**

To Department of Human Services - Executive Director Operations  
 From General Fund, One-Time . . . . . (691,800)  
 From Federal Funds, One-Time . . . . . 715,500

Schedule of Programs:

Executive Director's Office ..... 23,700

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2020. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2020 items, the department shall provide a final report to the Office of the Legislative Fiscal Analyst by August 31, 2020.

The Legislature intends that the Department of Human Services provide an update on the status of all recommendations passed as part of the accountable base budget review during the 2019 Interim by June 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 94**

To Department of Human Services - Office of Public Guardian

From General Fund, One-Time ..... (58,000)  
From Revenue Transfers, One-Time ... (39,000)

Schedule of Programs:

Office of Public Guardian ..... (97,000)

**Item 95**

To Department of Human Services - Office of Recovery Services

From General Fund, One-Time ..... (83,100)  
From Federal Funds, One-Time ..... 1,973,200

Schedule of Programs:

Administration - ORS ..... 2,035,300  
Medical Collections ..... (145,200)

**Item 96**

To Department of Human Services - Division of Services for People with Disabilities

From General Fund, One-Time ..... 3,192,200  
From Expendable Receipts, One-Time .... 15,000  
From Revenue Transfers, One-Time .. 6,981,400

Schedule of Programs:

Community Supports Waiver ..... 10,196,400  
Utah State Developmental Center ..... (7,800)

The Legislature intends that the Division of Services for People with Disabilities (DSPD) may use funds originally appropriated for individuals transitioning from intermediate care facilities to community-based services in H.J.R. 28 (2019 General Session) for other DSPD services, such as civil commitments, emergency placements, and additional needs, in FY 2020 and FY 2021. The Legislature further intends that DSPD report on the use of these and any other funds appropriated in the 2020 General Session for the DSPD budget shortfall to the Office of the Legislative Fiscal Analyst by September 1, 2020 for FY 2020 funds and by September 1, 2021 for FY 2021 funds.

**Item 97**

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund, One-Time ..... 172,100  
From Federal Funds, One-Time ..... 16,072,600

From Dedicated Credits Revenue,

One-Time ..... 2,014,300  
From Expendable Receipts, One-Time ... 502,800

Schedule of Programs:

Administration - DSAMH ..... 16,072,600  
Community Mental Health  
Services ..... 1,044,900  
State Hospital ..... 1,644,300

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 98**

To Department of Workforce Services - Administration

From Expendable Receipts, One-Time .... 71,200  
From General Fund Restricted - School

Readiness Account, One-Time ..... 16,800

Schedule of Programs:

Administrative Support ..... 60,200  
Communications ..... 6,800  
Executive Director's Office ..... 5,000  
Human Resources ..... 10,300  
Internal Audit ..... 5,700

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2020. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2020 items, the department shall provide a final report to the Office of the Legislative Fiscal Analyst by August 31, 2020.

The Legislature intends that the Department of Workforce Services provide an update on the status of all recommendations passed as part of the accountable base budget review during the 2019 Interim by June 1, 2020 to the Social Services Appropriations Subcommittee.

**Item 99**

To Department of Workforce Services - General Assistance

From General Fund, One-Time ..... (1,626,500)

Schedule of Programs:

General Assistance ..... (1,626,500)

**Item 100**

To Department of Workforce Services - Housing and Community Development

From General Fund, One-Time ..... (55,000)  
From Expendable Receipts, One-Time ... 250,000

From Gen. Fund Rest. - Pamela

Atkinson Homeless Account,  
One-Time ..... 400,000

From Revenue Transfers, One-Time .... 500,000  
From Uintah Basin Revitalization

Fund, One-Time ..... 20,000

Schedule of Programs:

Community Development .....	20,000
Homeless Committee .....	345,000
Housing Development .....	500,000
Weatherization Assistance .....	250,000

The Legislature intends to increase by two the number of vehicles assigned to the Department of Workforce Services in Fiscal Year 2020. Approval of the increase in vehicles will allow for the purchase of two vehicles for the Weatherization Assistance Program to replace two vehicles which have reached their effective end of life. The vehicles being replaced were purchased with federal funds in 2009 and are not currently included in the number of vehicles assigned to the department.

Pursuant to passage of Senate Bill 159 in the 2019 General Session, the Legislature intends that the Division of Finance repeal the Youth Development Organization Restricted Account and the Youth Character Organization Restricted Account and close the balances to the General Fund at the time of repeal.

**Item 101**

To Department of Workforce Services - Operations and Policy	
From General Fund, One-Time .....	(442,400)
From Expendable Receipts, One-Time .....	(81,300)
From Navajo Revitalization Fund, One-Time .....	3,500
From OWHTF-Low Income Housing, One-Time .....	2,100
From Revenue Transfers, One-Time ..	2,000,000
From Uintah Basin Revitalization Fund, One-Time .....	1,800
Schedule of Programs:	
Eligibility Services .....	1,929,600
Facilities and Pass-Through .....	(2,700)
Information Technology .....	(100)
Utah Data Research Center .....	(442,400)
Workforce Development .....	(600)
Workforce Research and Analysis .....	(100)

The Legislature authorizes the Department of Workforce Services to spend all available money, as authorized by the Department of Health, in the Medicaid Expansion Fund (fund 2252) for FY 2020 regardless of the amount appropriated as allowed by the fund's authorizing statute.

**Item 102**

To Department of Workforce Services - Special Service Districts	
From General Fund Restricted - Mineral Lease, One-Time .....	(825,600)
Schedule of Programs:	
Special Service Districts .....	(825,600)

**Item 103**

To Department of Workforce Services - State Office of Rehabilitation	
From Expendable Receipts, One-Time .....	1,500
From Permanent Community Impact Loan Fund, One-Time .....	1,000

From General Fund Restricted - School Readiness Account, One-Time .....	400
Schedule of Programs:	
Deaf and Hard of Hearing .....	2,700
Executive Director .....	100
Rehabilitation Services .....	100

**Item 104**

To Department of Workforce Services - Unemployment Insurance	
From Expendable Receipts, One-Time .....	8,600
From Permanent Community Impact Loan Fund, One-Time .....	3,700
From General Fund Restricted - School Readiness Account, One-Time .....	1,200
Schedule of Programs:	
Adjudication .....	13,500

**HIGHER EDUCATION**

**UNIVERSITY OF UTAH**

**Item 105**

To University of Utah - Education and General	
From General Fund, One-Time .....	(75,000,000)
From Education Fund, One-Time .....	75,000,000

**Item 106**

To University of Utah - Public Service	
From Education Fund, One-Time .....	200,000
Schedule of Programs:	
Natural History Museum of Utah .....	200,000

**UTAH STATE UNIVERSITY**

**Item 107**

To Utah State University - Education and General	
From General Fund, One-Time .....	(74,994,100)
From Education Fund, One-Time .....	78,200,000
Schedule of Programs:	
Education and General .....	3,205,900

**WEBER STATE UNIVERSITY**

**Item 108**

To Weber State University - Education and General	
From General Fund, One-Time .....	(74,300)
Schedule of Programs:	
Education and General .....	(74,300)

**SOUTHERN UTAH UNIVERSITY**

**Item 109**

To Southern Utah University - Education and General	
From General Fund, One-Time .....	5,900
Schedule of Programs:	
Education and General .....	5,900

**UTAH VALLEY UNIVERSITY**

**Item 110**

To Utah Valley University - Education and General	
From General Fund, One-Time .....	(107,900)
From Education Fund, One-Time .....	300,300
Schedule of Programs:	
Education and General .....	192,400

**SNOW COLLEGE**

**Item 111**

To Snow College - Education and General	
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From General Fund, One-Time ..... 81,700  
 Schedule of Programs:  
     Education and General ..... 81,700

**DIXIE STATE UNIVERSITY**

**Item 112**

To Dixie State University - Education and General  
 From General Fund, One-Time ..... 386,300  
 Schedule of Programs:  
     Education and General ..... 386,300

**SALT LAKE COMMUNITY COLLEGE**

**Item 113**

To Salt Lake Community College - Education  
 and General  
 From General Fund, One-Time ..... 30,900  
 Schedule of Programs:  
     Education and General ..... 30,900

**STATE BOARD OF REGENTS**

**Item 114**

To State Board of Regents - Administration  
 From General Fund, One-Time ..... (28,500)  
 From Education Fund, One-Time ..... 2,692,000  
 Schedule of Programs:  
     Administration ..... 2,663,500

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
 AGRICULTURE AND FOOD**

**Item 115**

To Department of Agriculture and Food -  
 Administration  
 From General Fund, One-Time ..... (447,100)  
 From Dedicated Credits Revenue,  
     One-Time ..... (172,000)  
 From Closing Nonlapsing Balances ..... 447,100  
 Schedule of Programs:  
     Chemistry Laboratory ..... (172,000)

**Item 116**

To Department of Agriculture and Food -  
 Invasive Species Mitigation  
 From General Fund Restricted -  
     Invasive Species Mitigation Account,  
     One-Time ..... 1,000,000  
 Schedule of Programs:  
     Invasive Species Mitigation ..... 1,000,000

**Item 117**

To Department of Agriculture and Food -  
 Plant Industry  
 From General Fund, One-Time ..... (500,000)  
 From Dedicated Credits Revenue,  
     One-Time ..... 1,200,000  
 From Gen. Fund Rest. - Cannabinoid  
     Product Restricted Account,  
     One-Time ..... (506,600)  
 From Closing Nonlapsing Balances ..... 500,000  
 Schedule of Programs:  
     Plant Industry ..... 693,400

**Item 118**

To Department of Agriculture and  
 Food - Regulatory Services  
 From General Fund, One-Time ..... (527,700)  
 From Dedicated Credits Revenue,  
     One-Time ..... 236,000  
 From Closing Nonlapsing Balances ..... 527,700  
 Schedule of Programs:  
     Regulatory Services ..... 236,000

**Item 119**

To Department of Agriculture and Food -  
 Resource Conservation  
 From Dedicated Credits Revenue,  
     One-Time ..... 1,000  
 From Agriculture Resource  
     Development Fund, One-Time ..... 475,000  
 Schedule of Programs:  
     Resource Conservation ..... 476,000

**DEPARTMENT OF  
 ENVIRONMENTAL QUALITY**

**Item 120**

To Department of Environmental Quality -  
 Air Quality  
 From Federal Funds, One-Time ..... 1,400,500  
 Schedule of Programs:  
     Air Quality ..... 1,400,500

**Item 121**

To Department of Environmental Quality -  
 Drinking Water  
 From Federal Funds, One-Time ..... 295,000  
 From Dedicated Credits Revenue,  
     One-Time ..... 35,100  
 Schedule of Programs:  
     Drinking Water ..... 330,100

Under the terms of 63J-1-603 of the Utah  
 Code, the Legislature intends that  
 appropriations of up to \$200,000 provided in  
 Item 274, S.B. 2, 2019 General Session, to the  
 Division of Drinking Water shall not lapse at  
 the close of FY 2020. Expenditures of these  
 funds are limited to the Panguitch City Water  
 Restoration.

**Item 122**

To Department of Environmental Quality -  
 Environmental Response and Remediation  
 From Federal Funds, One-Time ..... 8,041,900  
 From Dedicated Credits Revenue,  
     One-Time ..... 15,200  
 From Expendable Receipts, One-Time .... 15,000  
 Schedule of Programs:  
     Environmental Response and  
     Remediation ..... 8,072,100

**Item 123**

To Department of Environmental Quality -  
 Executive Director's Office  
 From Federal Funds, One-Time ..... 17,500  
 Schedule of Programs:  
     Executive Director's Office ..... 17,500

**Item 124**

To Department of Environmental Quality -  
 Waste Management and Radiation Control  
 From Dedicated Credits Revenue,  
     One-Time ..... (162,600)

From Expendable Receipts, One-Time . . . 162,600

**Item 125**

To Department of Environmental Quality -  
 Water Quality  
 From General Fund, One-Time . . . . . (100,000)  
 From Federal Funds, One-Time . . . . . 58,000  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 372,100  
 Schedule of Programs:  
 Water Quality . . . . . 330,100

**GOVERNOR’S OFFICE**

**Item 126**

To Governor’s Office - Office of  
 Energy Development  
 From General Fund, One-Time . . . . . (24,400)  
 Schedule of Programs:  
 Office of Energy Development . . . . . (24,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$1,000,000 for the Isotopes Research Center provided in Item 43, S.B. 3, 2019 General Session, to the Office of Energy Development shall not lapse at the close of FY 2020.

**DEPARTMENT OF NATURAL RESOURCES**

**Item 127**

To Department of Natural Resources -  
 Contributed Research  
 From Expendable Receipts,  
 One-Time . . . . . 1,510,800  
 Schedule of Programs:  
 Contributed Research . . . . . 1,510,800

**Item 128**

To Department of Natural Resources -  
 Cooperative Agreements  
 From Federal Funds, One-Time . . . . . 2,000,000  
 From Dedicated Credits Revenue,  
 One-Time . . . . . 6,000,000  
 Schedule of Programs:  
 Cooperative Agreements . . . . . 8,000,000

**Item 129**

To Department of Natural Resources -  
 Forestry, Fire and State Lands  
 From General Fund, One-Time . . . . . 13,485,300  
 Schedule of Programs:  
 Fire Management . . . . . 500,000  
 Fire Suppression Emergencies . . . . . 12,885,300  
 Project Management . . . . . 100,000

The Legislature intends that the Utah Lake Eco System appropriation be used to fund treatment to mitigate harmful algal blooms (HABs) in Utah Lake and fund research identifying innovative nutrient management approaches that provide the greatest return on investment to local citizens and to Utah Lake through Scientific Peer Review of the Science Panel advising the Utah Lake Commission and Steering Committee. Specific research focuses would include investigation of constructed treatment wetlands and geochemical augmentation to reduce phosphorous loading, and finally

contribute to match funding that could also include in-lake experiments to investigate nutrient cycling and Utah Lake. A final portion of the funding would be used to investigate and address current warning thresholds used by state agencies and local health departments on HABs and appropriate alternatives.

**Item 130**

To Department of Natural Resources -  
 Parks and Recreation  
 From General Fund, One-Time . . . . . (280,100)  
 From Expendable Receipts, One-Time . . . 267,100  
 From General Fund Restricted -  
 State Park Fees, One-Time . . . . . 780,100  
 Schedule of Programs:  
 Park Operation Management . . . . . 767,100

**Item 131**

To Department of Natural Resources -  
 Parks and Recreation Capital Budget  
 From Expendable Receipts, One-Time . . . 175,000  
 From General Fund Restricted -  
 Off-highway Vehicle, One-Time . . . . . 2,500,000  
 Schedule of Programs:  
 Donated Capital Projects . . . . . 175,000  
 Off-highway Vehicle Grants . . . . . 2,500,000

**Item 132**

To Department of Natural Resources -  
 Utah Geological Survey  
 From Beginning Nonlapsing  
 Balances . . . . . (4,000,000)  
 Schedule of Programs:  
 Technical Services . . . . . (4,000,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that \$1 million appropriated for the Bonneville Salt Flats Restoration Project not lapse at the close of FY 2020.

**Item 133**

To Department of Natural Resources -  
 Water Resources  
 From Federal Funds, One-Time . . . . . 750,000  
 From Water Resources Conservation  
 and Development Fund, One-Time . . . . 145,700  
 Schedule of Programs:  
 Cloudseeding . . . . . 50,000  
 Construction . . . . . 845,700

**Item 134**

To Department of Natural Resources -  
 Wildlife Resources  
 From General Fund, One-Time . . . . . (299,900)  
 From Expendable Receipts, One-Time . . . 110,800  
 From General Fund Restricted -  
 Wildlife Resources, One-Time . . . . . 1,324,900  
 Schedule of Programs:  
 Administrative Services . . . . . 1,025,000  
 Director’s Office . . . . . 110,800

The Legislature intends that the Division of Water Resources use the \$750,000 appropriation to the Rebate Program for Water Reduction Devices to issue rebates. The Legislature further intends that the division develop a plan to issue fixed amount rebates and report to the Natural Resources, Agriculture, and Environmental Quality

Appropriations Subcommittee on their plan before July 1, 2020.

**Item 135**

To Department of Natural Resources -  
Wildlife Resources Capital Budget  
From General Fund, One-Time . . . . . (240,800)  
From General Fund Restricted -  
Wildlife Resources, One-Time . . . . . 240,800

**PUBLIC LANDS POLICY  
COORDINATING OFFICE**

**Item 136**

To Public Lands Policy Coordinating Office  
From General Fund, One-Time . . . . . (360,000)  
Schedule of Programs:  
Public Lands Policy Coordinating  
Office . . . . . (360,000)

**RETIREMENT AND  
INDEPENDENT ENTITIES**

**CAREER SERVICE REVIEW OFFICE**

**Item 137**

To Career Service Review Office  
  
Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that \$30,000 of appropriations provided for the Career Service Review Office in Laws of Utah 2019, Chapter 4, Item 3, shall not lapse at the close of fiscal year 2020. The use of any nonlapsing funds is limited to grievance resolution.

**UTAH EDUCATION AND  
TELEHEALTH NETWORK**

**Item 138**

To Utah Education and Telehealth Network  
From Education Fund, One-Time . . . . . (500,000)  
Schedule of Programs:  
Administration . . . . . (500,000)

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 139**

To Capitol Preservation Board  
From General Fund, One-Time . . . . . 82,500,000  
Schedule of Programs:  
Capitol Preservation Board . . . . . 82,500,000

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in item 15, Chapter 6, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. Use of any nonlapsing funds is limited to one-time operations costs.

**LEGISLATURE**

**Item 140**

To Legislature - Office of Legislative Research and General Counsel  
From General Fund, One-Time . . . . . (22,200)  
Schedule of Programs:  
Administration . . . . . (22,200)

**Item 141**

To Legislature - Office of the Legislative Fiscal Analyst  
From General Fund, One-Time . . . . . (48,500)  
Schedule of Programs:  
Administration and Research . . . . . (48,500)

**Item 142**

To Legislature - Legislative Support  
  
The Legislature intends that, at the close of fiscal year 2020 accounting, the Division of Finance transfer any fiscal year 2020 closing nonlapsing balances in the Legislative Support line item to the Legislative Services line item as fiscal year 2021 beginning nonlapsing balances.

**Item 143**

To Legislature - Legislative Services  
From General Fund, One-Time . . . . . 142,700  
Schedule of Programs:  
Human Resources . . . . . 48,500  
Administration . . . . . 94,200

The Legislature intends that, at the close of fiscal year 2020 accounting, the Division of Finance transfer any fiscal year 2020 closing nonlapsing balances in the Legislative Support line item to the Legislative Services line item as fiscal year 2021 beginning nonlapsing balances.

**DEPARTMENT OF VETERANS  
AND MILITARY AFFAIRS**

**Item 144**

To Department of Veterans and Military Affairs - Veterans and Military Affairs  
From Federal Funds, One-Time . . . . . 5,100  
Schedule of Programs:  
State Approving Agency . . . . . 5,100

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans and Military Affairs in Item 25, Chapter 6, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. Use of any nonlapsing funds is limited to veterans outreach, cemetery, and First Time Home Buyer Program one-time operations costs.

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further

legislative action, in accordance with statutory provisions relating to the funds or accounts.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE**

**GOVERNORS OFFICE**

**Item 145**

To Governors Office - Crime Victim  
Reparations Fund  
From General Fund, One-Time ..... 212,300  
Schedule of Programs:  
Crime Victim Reparations Fund ..... 212,300

**Item 146**

To Governors Office - State Elections Grant Fund  
From Federal Funds, One-Time ..... 635,000  
Schedule of Programs:  
State Elections Grant Fund ..... 635,000

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**GOVERNOR'S OFFICE OF  
ECONOMIC DEVELOPMENT**

**Item 147**

To Governor's Office of Economic Development -  
Outdoor Recreation Infrastructure Account  
From Outdoor Recreation Infrastructure  
Account, One-Time ..... (1,000,000)  
Schedule of Programs:  
Outdoor Recreation Infrastructure  
Account ..... (1,000,000)

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 148**

To Department of Health - Spinal Cord  
and Brain Injury Rehabilitation Fund  
From General Fund, One-Time ..... (50,000)  
Schedule of Programs:  
Spinal Cord and Brain Injury  
Rehabilitation Fund ..... (50,000)

**Item 149**

To Department of Health -  
Pediatric Neuro-Rehabilitation Fund  
From General Fund, One-Time ..... 50,000  
Schedule of Programs:  
Pediatric Neuro-Rehabilitation Fund ... 50,000

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 150**

To Department of Workforce Services -  
Individuals with Visual Impairment Fund  
From Dedicated Credits Revenue,  
One-Time ..... 35,700  
Schedule of Programs:  
Individuals with Visual Impairment  
Fund ..... 35,700

**Item 151**

To Department of Workforce Services -  
Intermountain Weatherization Training Fund

From Dedicated Credits Revenue,  
One-Time ..... 60,000  
Schedule of Programs:  
Intermountain Weatherization  
Training Fund ..... 60,000

**Item 152**

To Department of Workforce Services -  
Navajo Revitalization Fund  
From Dedicated Credits Revenue,  
One-Time ..... 125,500  
Schedule of Programs:  
Navajo Revitalization Fund ..... 125,500

**Item 153**

To Department of Workforce Services - Permanent  
Community Impact Bonus Fund  
From Interest Income, One-Time ..... 800,000  
From General Fund Restricted -  
Mineral Bonus, One-Time ..... 5,735,100  
Schedule of Programs:  
Permanent Community Impact  
Bonus Fund ..... 6,535,100

**Item 154**

To Department of Workforce Services - Permanent  
Community Impact Fund  
From General Fund Restricted -  
Mineral Lease, One-Time ..... (8,245,100)  
From Gen. Fund Rest. -  
Land Exchange Distribution Account,  
One-Time ..... (11,400)  
Schedule of Programs:  
Permanent Community Impact  
Fund ..... (8,256,500)

**Item 155**

To Department of Workforce Services -  
Uintah Basin Revitalization Fund  
From Dedicated Credits Revenue,  
One-Time ..... 220,000  
Schedule of Programs:  
Uintah Basin Revitalization Fund ..... 220,000

**Item 156**

To Department of Workforce Services -  
Olene Walker Low Income Housing  
From Federal Funds, One-Time ..... 1,223,600  
From Dedicated Credits Revenue,  
One-Time ..... 24,800  
From Interest Income, One-Time ..... 2,580,000  
From Restricted Revenue, One-Time ... 225,000  
From Revenue Transfers, One-Time .. (750,000)  
From Closing Fund Balance ..... (5,140,300)  
Schedule of Programs:  
Olene Walker Low Income  
Housing ..... (1,836,900)

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF NATURAL RESOURCES**

**Item 157**

To Department of Natural Resources -  
Wildland Fire Suppression Fund  
From General Fund Restricted -  
Mineral Bonus, One-Time ..... 743,300  
Schedule of Programs:  
Wildland Fire Suppression Fund ..... 743,300



**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 158**

To Capitol Preservation Board - State Capitol Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... 29,100  
 Schedule of Programs:  
 State Capitol Fund ..... 29,100

**UTAH NATIONAL GUARD**

**Item 159**

To Utah National Guard - National  
 Guard MWR Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... 2,500,000  
 Schedule of Programs:  
 National Guard MWR Fund ..... 2,500,000

**Subsection 1(c). Business-like Activities.**

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 160**

To Utah Department of Corrections -  
 Utah Correctional Industries

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriation for the Utah Department of Corrections - Utah Correctional Industries in item 92 of chapter 9, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. Any nonlapsing retained earnings would be used in the on-going operations of UCI.

**INFRASTRUCTURE AND  
 GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE  
 SERVICES INTERNAL SERVICE FUNDS**

**Item 161**

To Department of Administrative Services Internal  
 Service Funds - Division of Facilities  
 Construction and Management - Facilities  
 Management  
 From Dedicated Credits Revenue,  
 One-Time ..... 1,117,200  
 Schedule of Programs:  
 ISF - Facilities Management ..... 1,117,200

**Item 162**

To Department of Administrative Services Internal  
 Service Funds - Division of Fleet Operations  
 From Dedicated Credits Revenue,  
 One-Time ..... 3,030,300  
 Schedule of Programs:  
 ISF - Fuel Network ..... 2,744,300  
 ISF - Motor Pool ..... 286,000

**Item 163**

To Department of Administrative Services Internal  
 Service Funds - Division of Purchasing and  
 General Services  
 From Dedicated Credits Revenue,  
 One-Time ..... 34,000  
 Schedule of Programs:  
 ISF - Print Services ..... 34,000  
 Budgeted FTE ..... 20.6

**Item 164**

To Department of Administrative Services Internal  
 Service Funds - Risk Management  
 From Dedicated Credits Revenue,  
 One-Time ..... 150,300  
 From Premiums, One-Time ..... 364,600  
 From Risk Management - Workers  
 Compensation Fund, One-Time ..... 1,000,000  
 From Risk Management Internal  
 Service Fund, One-Time ..... 630,000  
 From Risk Management-Property,  
 One-Time ..... 3,000,000  
 Schedule of Programs:  
 ISF - Risk Management  
 Administration ..... 780,300  
 ISF - Workers' Compensation ..... 1,364,600  
 Risk Management - Property ..... 3,000,000

**DEPARTMENT OF TECHNOLOGY  
 SERVICES INTERNAL SERVICE FUNDS**

**Item 165**

To Department of Technology Services Internal  
 Service Funds - Enterprise Technology Division  
 From Dedicated Credits Revenue,  
 One-Time ..... 4,976,500  
 Schedule of Programs:  
 ISF - Enterprise Technology Division 4,976,500

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2019 and ending June 30, 2020: (1) SaaS/Cloud Hourly - \$96.78 per hour; and (2) Consultant Services - Direct cost + 3%.

**BUSINESS, ECONOMIC  
 DEVELOPMENT, AND LABOR**

**DEPARTMENT OF ALCOHOLIC  
 BEVERAGE CONTROL**

**Item 166**

To Department of Alcoholic Beverage Control -  
 State Store Land Acquisition Fund

Under section 63J-1-603 of the Utah Code, Legislature intends that up to \$5,000,000 of the General Fund provided for State Store

Land acquisition not lapse at the close of Fiscal Year 2020. These funds will be used for the acquisition of land for state liquor stores.

**SOCIAL SERVICES**

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 167**

To Department of Workforce Services - State Small Business Credit Initiative Program Fund  
From Interest Income, One-Time ..... 50,000  
Schedule of Programs:  
State Small Business Credit Initiative Program Fund ..... 50,000

**Item 168**

To Department of Workforce Services - Unemployment Compensation Fund  
From Federal Funds, One-Time ..... 1,120,000  
Schedule of Programs:  
Unemployment Compensation Fund ..... 1,120,000

**Subsection 1(d). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**Item 169**

To General Fund Restricted - Fire Academy Support Account  
From General Fund, One-Time ..... (1,000,000)  
Schedule of Programs:  
General Fund Restricted - Fire Academy Support Account ..... (1,000,000)

**SOCIAL SERVICES**

**Item 170**

To Medicaid Expansion Fund  
From General Fund, One-Time .... (20,800,000)  
Schedule of Programs:  
Medicaid Expansion Fund ..... (20,800,000)

**Item 171**

To General Fund Restricted - Medicaid Restricted Account  
From General Fund, One-Time ..... 20,800,000  
Schedule of Programs:  
Medicaid Restricted Account ..... 20,800,000

**NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY**

**Item 172**

To General Fund Restricted - Invasive Species Mitigation Account  
From General Fund, One-Time ..... 1,000,000  
Schedule of Programs:

General Fund Restricted - Invasive Species Mitigation Account 1,000,000

**Item 173**

To General Fund Restricted - Constitutional Defense Restricted Account  
From Gen. Fund Rest. - Land Exchange Distribution Account, One-Time ..... (37,900)  
Schedule of Programs:  
General Fund Restricted - Constitutional Defense Restricted Account ..... (37,900)

**Subsection 1(e). Transfers to Unrestricted Funds.** The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**Item 174**

To General Fund  
From General Fund Restricted - Employability to Careers Program Restricted Account, One-Time ..... 858,200  
Schedule of Programs:  
General Fund, One-time ..... 858,200

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**Item 175**

To General Fund  
From Nonlapsing Balances - Build America Bond Subsidy ..... 41,600  
Schedule of Programs:  
General Fund, One-time ..... 41,600

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**Item 176**

To General Fund  
From General Fund Restricted - Technology Development, One-Time .. 438,900  
Schedule of Programs:  
General Fund, One-time ..... 438,900

**NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY**

**Item 177**

To General Fund  
From Nonlapsing Balances - Utah Geological Survey ..... 4,000,000  
Schedule of Programs:  
General Fund, One-time ..... 4,000,000

**Subsection 1(f). Fiduciary Funds.** The Legislature has reviewed proposed revenues,

expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**SOCIAL SERVICES**

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 178**

To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund  
From Trust and Agency Funds,

One-Time .....	4,800
Schedule of Programs:	
Individuals with Visual Disabilities	
Vendor Fund .....	4,800

**Subsection 1(g). Capital Project Funds.** The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**TRANSPORTATION**

**Item 179**

To Transportation - Transit  
Transportation Investment Fund  
From Designated Sales Tax,

One-Time .....	1,475,000
Schedule of Programs:	
Transit Transportation Investment	
Fund .....	1,475,000

**Section 2. Effective Date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor’s signature, or in the case of a veto, the date of override.

**CHAPTER 437****S. B. 56**

Passed February 26, 2020

Approved March 31, 2020

Effective July 1, 2020

**PUBLIC SAFETY AND FIREFIGHTER  
TIER II RETIREMENT ENHANCEMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Lee B. Perry

**LONG TITLE****General Description:**

This bill modifies provisions relating to the New Public Safety and Firefighter Tier II Contributory Retirement System by amending certain retirement and death benefits.

**Highlighted Provisions:**

This bill:

- ▶ creates the New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account;
- ▶ provides that a portion of the revenues collected from the tax on the admitted insurers shall be deposited in the New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account;
- ▶ provides that funds in the New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account shall be used to fund state agency costs associated with the employer pick up for employees that are members of the New Public Safety and Firefighter Tier II Retirement System and the Public Safety and Firefighter Tier II Hybrid Retirement System;
- ▶ requires a participating employer to make an additional nonelective contribution to an employee that is a member of the Public Safety and Firefighter Tier II Defined Contribution Plan, if the participating employer elects to pay the required member contribution as an employer pick up for employees that are members of the Public Safety and Firefighter Tier II Hybrid Retirement System;
- ▶ amends the line-of-duty death benefits payable to the surviving spouse of an active member of the New Public Safety and Firefighter Tier II Contributory Retirement System; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 49-23-301 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 484  
 49-23-401 (Effective 07/01/20), as last amended by Laws of Utah 2019, Chapter 484  
 49-23-503, as last amended by Laws of Utah 2016, Chapter 84

**ENACTS:**

49-11-904, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 49-11-904 is enacted to read:****49-11-904. New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account -- Insurance premium tax revenues -- Distribution.**

(1) As used in this section, "account" means the New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account created in this section.

(2) There is created in the General Fund a restricted account known as the "New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account."

(3) The account shall be funded by:

(a) insurance premium tax revenues deposited into the account in accordance with this section; and

(b) interest and earnings on account money.

(4) (a) Subject to Subsection (6), and in accordance with this section for a fiscal year beginning on or after July 1, 2021, an amount equal to the growth in the amount of net revenue deposited in the General Fund in the current fiscal year from the annual tax levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, after all transfers required by state statute have been made, that exceeds the amount of net revenue deposited in the General Fund in the 2015-16 fiscal year from the annual tax levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, after all transfers required by state statute have been made, shall be deposited into the account.

(b) The amount described in Subsection (4)(a) shall be deposited annually.

(5) The Legislature may appropriate money in the account to fund:

(a) the contributions that state agencies make on behalf of members as an employer pick up under Subsection 49-23-301(2)(c); and

(b) nonelective contributions that state agencies make under Subsection 49-23-401(1)(b).

(6) The amount deposited into the account under Subsection (4) may not exceed the amount required to cover the contributions described in Subsection (5).

**Section 2. Section 49-23-301 (Effective 07/01/20) is amended to read:****49-23-301 (Effective 07/01/20).  
Contributions.**

(1) Participating employers and members shall pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).

(2) (a) A participating employer shall pay up to 14% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.

(b) [A] Except as provided in Subsection (2)(c), a member shall ~~[only]~~ pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).

(c) A participating employer may elect to pay all or part of the required member contribution under Subsection (2)(b) on behalf of the member as an employer pick up under 26 U.S.C. Sec. 414(h)(2), in addition to the required participating employer contribution under Subsection (2)(a).

[~~(e)~~] (d) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

[~~(3)~~] ~~A participating employer may elect to pay all or part of the required member contributions under Subsection (2)(b), in addition to the required participating employer contributions.]~~

[4] (3) (a) A member contribution is credited by the office to the account of the individual member.

(b) This amount, together with refund interest, is held in trust for the payment of benefits to the member or the member's beneficiaries.

(c) A member contribution is vested and nonforfeitable.

[~~(5)~~] (4) (a) Each member is considered to consent to payroll deductions of member contributions.

(b) The payment of compensation less these payroll deductions is considered full payment for services rendered by the member.

[~~(6)~~] (5) Except as provided under Subsection [~~(7)~~] (6), benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:

(a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%; and

(b) may be decreased only in accordance with the provisions of Section 49-23-309.

[~~(7)~~] (6) (a) The Legislature authorizes [~~an increase~~] increases to the death benefit provided to a Tier II public safety service employee or firefighter member's surviving spouse effective on May 12, 2015, and July 1, 2020, as provided in Section 49-23-503.

(b) (i) The Legislature authorizes an increase to the multiplier for the calculation of the retirement allowance provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system effective July 1, 2020, as provided in Section 49-23-304.

(ii) The requirements of Section 49-22-310 do not apply to the benefit adjustment described in this Subsection [~~(7)~~] (6)(b).

**Section 3. Section 49-23-401 (Effective 07/01/20) is amended to read:**

**49-23-401 (Effective 07/01/20).**

**Contributions -- Rates.**

(1) (a) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 14% of the participant's compensation to a defined contribution plan.

(b) In addition to the nonelective contribution described in Subsection (1)(a), if a participating employer elects under Subsection 49-23-301(2)(c) to pay all or part of the required member contribution on behalf of the participating employer's employees that are members covered under Part 3, Tier II Hybrid Retirement System, the participating employer shall make an additional nonelective contribution to an employee that is a member covered under this part at the same percentage rate of the participant's compensation as the participating employer's election to pay required member contributions on behalf of the participating employer's employees that are members covered under Part 3, Tier II Hybrid Retirement System.

(2) (a) The participating employer shall contribute the [~~14% nonelective contribution~~] contributions described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the [~~percent~~] contributions specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-23-203.

(d) (i) Years of service credit under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member under Subsection (2)(a), including associated investment gains and losses are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs of employer contributions made under this section.

(8) The office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The office may take any action which in its judgment is necessary to maintain the

tax-qualified status of its 401(k) defined contribution plan under federal law.

**Section 4. Section 49-23-503 is amended to read:**

**49-23-503. Death of active member in line of duty -- Payment of benefits.**

If an active member of this system dies, benefits are payable as follows:

(1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the surviving spouse shall receive:

(i) a lump sum equal to six months of the active member's final average salary; and

(ii) the greater of:

(A) an allowance equal to 30% of the member's final average monthly salary[-]; or

(B) an allowance equal to 2% of the member's final average monthly salary multiplied by the years of service credit accrued by the member.

(b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse shall receive the allowance that would have been payable to the member.

(2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.

(b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-23-102(13) to determine the eligibility for this benefit.

(3) (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the surviving spouse is not eligible for benefits under Section 49-23-502.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.

(4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

**Section 5. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 438****S. B. 114**

Passed March 12, 2020  
Approved March 31, 2020  
Effective July 1, 2020

**SALES AND USE TAX  
EXEMPTION AMENDMENTS**

Chief Sponsor: Kirk A. Cullimore  
House Sponsor: Mike Schultz

**LONG TITLE****General Description:**

This bill modifies the sales and use tax exemption related to certain data centers.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that an amount paid or charged for a lesson is not subject to sales tax as an admission or user fee;
- ▶ modifies the definition of a qualifying data center for purposes of the Sales and Use Tax Act;
- ▶ exempts a marketplace facilitator that contracts with a restaurant from the marketplace facilitator collection and remittance requirements; and
- ▶ provides a sales and use tax exemption for an occupant of a qualifying data center for the purchase of certain machinery, equipment, or parts.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

59-12-102, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486  
59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-12-102 is amended to read:****59-12-102. Definitions.**

As used in this chapter:

- (1) “800 service” means a telecommunications service that:
- (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
  - (b) is typically marketed:
    - (i) under the name 800 toll-free calling;
    - (ii) under the name 855 toll-free calling;
    - (iii) under the name 866 toll-free calling;
    - (iv) under the name 877 toll-free calling;
    - (v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) “900 service” means an inbound toll telecommunications service that:

- (i) a subscriber purchases;
- (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber’s:
  - (A) prerecorded announcement; or
  - (B) live service; and
- (iii) is typically marketed:
  - (A) under the name 900 service; or
  - (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) “900 service” does not include a charge for:

- (i) a collection service a seller of a telecommunications service provides to a subscriber; or
- (ii) the following a subscriber sells to the subscriber’s customer:
  - (A) a product; or
  - (B) a service.

(3) (a) “Admission or user fees” includes season passes.

(b) “Admission or user fees” does not include:

- (i) annual membership dues to private organizations[-]; or
- (ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) “Affiliate” or “affiliated person” means a person that, with respect to another person:

- (a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or
- (b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) “Agreement” means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) “Agreement combined tax rate” means the sum of the tax rates:

- (a) listed under Subsection (7); and
  - (b) that are imposed within a local taxing jurisdiction.
- (7) “Agreement sales and use tax” means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);



- (b) Subsection 59-12-103(2)(b)(i);
  - (c) Subsection 59-12-103(2)(c)(i);
  - (d) Subsection 59-12-103(2)(d)(i)(A)(I);
  - (e) Section 59-12-204;
  - (f) Section 59-12-401;
  - (g) Section 59-12-402;
  - (h) Section 59-12-402.1;
  - (i) Section 59-12-703;
  - (j) Section 59-12-802;
  - (k) Section 59-12-804;
  - (l) Section 59-12-1102;
  - (m) Section 59-12-1302;
  - (n) Section 59-12-1402;
  - (o) Section 59-12-1802;
  - (p) Section 59-12-2003;
  - (q) Section 59-12-2103;
  - (r) Section 59-12-2213;
  - (s) Section 59-12-2214;
  - (t) Section 59-12-2215;
  - (u) Section 59-12-2216;
  - (v) Section 59-12-2217;
  - (w) Section 59-12-2218;
  - (x) Section 59-12-2219; or
  - (y) Section 59-12-2220.
- (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
    - (i) an airline as defined in Section 59-2-102; or
    - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
  - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
    - (i) check, diagnose, overhaul, and repair:
      - (A) an onboard system of a fixed wing turbine powered aircraft; and
      - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
    - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
    - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

- (A) an inspection;
  - (B) a repair, including a structural repair or modification;
  - (C) changing landing gear; and
  - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
  - (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (10) "Alcoholic beverage" means a beverage that:
- (a) is suitable for human consumption; and
  - (b) contains .5% or more alcohol by volume.
- (11) "Alternative energy" means:
- (a) biomass energy;
  - (b) geothermal energy;
  - (c) hydroelectric energy;
  - (d) solar energy;
  - (e) wind energy; or
  - (f) energy that is derived from:
    - (i) coal-to-liquids;
    - (ii) nuclear fuel;
    - (iii) oil-impregnated diatomaceous earth;
    - (iv) oil sands;
    - (v) oil shale;
    - (vi) petroleum coke; or
    - (vii) waste heat from:
      - (A) an industrial facility; or
      - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:
- (i) uses alternative energy to produce electricity; and
  - (ii) has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
    - (i) connected to an electric grid; or
    - (ii) located on the premises of an electricity consumer.
- (13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

<p>(b) “Ancillary service” includes:</p> <ul style="list-style-type: none"> <li>(i) a conference bridging service;</li> <li>(ii) a detailed communications billing service;</li> <li>(iii) directory assistance;</li> <li>(iv) a vertical service; or</li> <li>(v) a voice mail service.</li> </ul> <p>(14) “Area agency on aging” means the same as that term is defined in Section 62A-3-101.</p> <p>(15) “Assisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by an individual:</p> <ul style="list-style-type: none"> <li>(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and</li> <li>(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.</li> </ul> <p>(16) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:</p> <ul style="list-style-type: none"> <li>(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and</li> <li>(b) at the direction of the seller of the cleaning or washing of the tangible personal property.</li> </ul> <p>(17) “Authorized carrier” means:</p> <ul style="list-style-type: none"> <li>(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;</li> <li>(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or</li> <li>(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.</li> </ul> <p>(18) (a) Except as provided in Subsection (18)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:</p> <ul style="list-style-type: none"> <li>(i) material from a plant or tree; or</li> <li>(ii) other organic matter that is available on a renewable basis, including: <ul style="list-style-type: none"> <li>(A) slash and brush from forests and woodlands;</li> <li>(B) animal waste;</li> <li>(C) waste vegetable oil;</li> <li>(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(E) aquatic plants; and</li> <li>(F) agricultural products.</li> </ul> <p>(b) “Biomass energy” does not include:</p> <ul style="list-style-type: none"> <li>(i) black liquor; or</li> <li>(ii) treated woods.</li> </ul> <p>(19) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:</p> <ul style="list-style-type: none"> <li>(i) distinct and identifiable; and</li> <li>(ii) sold for one nonitemized price.</li> </ul> <p>(b) “Bundled transaction” does not include:</p> <ul style="list-style-type: none"> <li>(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;</li> <li>(ii) the sale of real property;</li> <li>(iii) the sale of services to real property;</li> <li>(iv) the retail sale of tangible personal property and a service if: <ul style="list-style-type: none"> <li>(A) the tangible personal property: <ul style="list-style-type: none"> <li>(I) is essential to the use of the service; and</li> <li>(II) is provided exclusively in connection with the service; and</li> </ul> </li> <li>(B) the service is the true object of the transaction;</li> </ul> </li> <li>(v) the retail sale of two services if: <ul style="list-style-type: none"> <li>(A) one service is provided that is essential to the use or receipt of a second service;</li> <li>(B) the first service is provided exclusively in connection with the second service; and</li> <li>(C) the second service is the true object of the transaction;</li> </ul> </li> <li>(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the: <ul style="list-style-type: none"> <li>(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or</li> <li>(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and</li> </ul> </li> <li>(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if: <ul style="list-style-type: none"> <li>(A) that retail sale includes: <ul style="list-style-type: none"> <li>(I) food and food ingredients;</li> <li>(II) a drug;</li> </ul> </li> </ul> </li> </ul>
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- (III) durable medical equipment;
- (IV) mobility enhancing equipment;
- (V) an over-the-counter drug;
- (VI) a prosthetic device; or
- (VII) a medical supply; and
- (B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection ~~[(111)]~~(112).

(25) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(35) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(40) “Directory assistance” means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(41) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(42) “Drilling equipment manufacturer” means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(43) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) “Drug” does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(44) (a) Except as provided in Subsection (44)(c), “durable medical equipment” means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).

(c) “Durable medical equipment” does not include mobility enhancing equipment.

(45) “Electronic” means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (45)(b)(i) through (vi).

(46) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(47) “Employee” means the same as that term is defined in Section 59-10-401.

(48) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(49) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(50) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(51) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance’s:

(I) taste; or

(II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection [(95)](96)(b)(iii).

(c) “Food and food ingredients” does not include:

- (i) an alcoholic beverage;
- (ii) tobacco; or
- (iii) prepared food.

(52) (a) “Fundraising sales” means sales:

- (i) (A) made by a school; or
- (B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (52)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(53) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(54) “Governing board of the agreement” means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(55) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

- (i) a school;
- (ii) the State Board of Education;
- (iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(56) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(57) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
  - (i) commercial greenhouses;
  - (ii) irrigation pumps;
  - (iii) farm machinery;
  - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
  - (v) other farming activities;
- (c) in manufacturing tangible personal property at an establishment described in:
  - (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
  - (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(58) (a) Except as provided in Subsection (58)(b), “installation charge” means a charge for installing:

- (i) tangible personal property; or
- (ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

- (i) repairs or renovations of:
  - (A) tangible personal property; or
  - (B) a product transferred electronically; or
- (ii) attaching tangible personal property or a product transferred electronically:
  - (A) to other tangible personal property; and
  - (B) as part of a manufacturing or fabrication process.

(59) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(60) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) “Lease” or “rental” does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:
  - (I) \$100; or
  - (II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(61) “Lesson” means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

~~[(61)]~~ (62) “Life science establishment” means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

~~[(62)]~~ (63) “Life science research and development facility” means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

~~[(63)]~~ (64) “Load and leave” means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

~~[(64)]~~ (65) “Local taxing jurisdiction” means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

~~[(65)]~~ (66) “Manufactured home” means the same as that term is defined in Section 15A-1-302.

~~[(66)]~~ (67) “Manufacturing facility” means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:



- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (66)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

~~[(67)]~~ (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

~~[(68)]~~ (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity

described in this Subsection ~~[(68)]~~(69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services~~[-]~~; or

(ii) a person described in Subsection (69)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

~~[(69)]~~ (70) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the

seller is required to be registered to collect and remit the tax under this part.

[(70)] (71) “Member of the immediate family of the producer” means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;

(i) person who is the spouse of a person described in Subsections [(70)](71)(a) through (g); or

(j) person similar to a person described in Subsections [(70)](71)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[(71)] (72) “Mobile home” means the same as that term is defined in Section 15A-1-302.

[(72)] (73) “Mobile telecommunications service” means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[(73)] (74) (a) “Mobile wireless service” means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection [(73)](74)(a)(i) and the termination point described in Subsection [(73)](74)(a)(ii) are not fixed.

(b) “Mobile wireless service” includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define “commercial mobile radio service provider.”

[(74)] (75) (a) Except as provided in Subsection [(74)] (75)(c), “mobility enhancing equipment” means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) “Mobility enhancing equipment” includes parts used in the repair or replacement of the equipment described in Subsection [(74)] (75)(a).

(c) “Mobility enhancing equipment” does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

[(75)] (76) “Model 1 seller” means a seller registered under the agreement that has selected a certified service provider as the seller’s agent to perform the seller’s sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller’s obligation under Section 59-12-124 to remit a tax on the seller’s own purchases.

[(76)] (77) “Model 2 seller” means a seller registered under the agreement that:

(a) except as provided in Subsection [(76)] (77)(b), has selected a certified automated system to perform the seller’s sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

[(77)] (78) (a) Subject to Subsection [(77)] (78)(b), “model 3 seller” means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection [(77)] (78)(a), “model 3 seller” includes an affiliated group of sellers using the same proprietary system.

[(78)] (79) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

[~~79~~] (80) “Modular home” means a modular unit as defined in Section 15A-1-302.

[~~80~~] (81) “Motor vehicle” means the same as that term is defined in Section 41-1a-102.

[~~81~~] (82) “Oil sands” means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

[~~82~~] (83) “Oil shale” means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

[~~83~~] (84) “Optional computer software maintenance contract” means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

[~~84~~] (85) (a) “Other fuels” means products that burn independently to produce heat or energy.

(b) “Other fuels” includes oxygen when it is used in the manufacturing of tangible personal property.

[~~85~~] (86) (a) “Paging service” means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection [~~85~~] (86)(a), the transmission of a coded radio signal includes a transmission by message or sound.

[~~86~~] (87) “Pawnbroker” means the same as that term is defined in Section 13-32a-102.

[~~87~~] (88) “Pawn transaction” means the same as that term is defined in Section 13-32a-102.

[~~88~~] (89) (a) “Permanently attached to real property” means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) “Permanently attached to real property” includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection [~~88~~] (89)(c)(iii) or (iv).

(c) “Permanently attached to real property” does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection [~~88~~] (89)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections [~~88~~] (89)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [~~129~~] (130)(c).

[~~89~~] (90) “Person” includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

[~~90~~] (91) “Place of primary use”:

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the

customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[(91)] (92) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

[(92)] (93) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

[(93)] (94) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[(94)] (95) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[(95)] (96) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection [(95)] (96)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections [(95)] (96)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [(95)] (96)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

[(96)] (97) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

[(97)] (98) (a) Except as provided in Subsection [(97)] (98)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection [(97)] (98)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection [(97)] (98)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection [(97)] (98)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

[(98)] (99) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

- (i) an extension line;
- (ii) a station;
- (iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

~~[(99)]~~ (100) (a) Except as provided in Subsection ~~[(99)]~~ (100)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

~~[(400)]~~ (101) (a) "Prosthetic device" means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

~~[(401)]~~ (102) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
  - (A) designed as protection:
    - (I) to the wearer against injury or disease; or
    - (II) against damage or injury of other persons or property; and
  - (B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

~~[(402)]~~ (103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

- (A) characteristics;
- (B) copyright;
- (C) form;
- (D) format;
- (E) method of reproduction; or
- (F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

~~[(403)]~~ (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

- (A) sold;
- (B) leased; or
- (C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

- (A) the cost of materials used;
- (B) a labor cost;
- (C) a service cost;
- (D) interest;
- (E) a loss;
- (F) the cost of transportation to the seller; or
- (G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection [(103)] (104)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) “Purchase price” and “sales price” do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

[(104)] (105) “Purchaser” means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

[(105)] (106) “Qualifying ~~[enterprise]~~ data center” means ~~[an establishment that will: (a) own and operate]~~ a data center facility that ~~[will house]~~:

(a) ~~houses~~ a group of networked server computers in one physical location in order to ~~[centralize the dissemination, management, and storage of]~~ disseminate, manage, and store data and information;

(b) ~~[be]~~ is located in the state;

(c) ~~[be]~~ is a new operation constructed on or after July 1, 2016;

(d) ~~[consist]~~ consists of one or more buildings that total 150,000 or more square feet;

(e) ~~[be]~~ is owned or leased by:

(i) the ~~[establishment]~~ operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the ~~[establishment]~~ operator of the data center facility; and

(f) ~~[be]~~ is located on one or more parcels of land that are owned or leased by:

(i) the ~~[establishment]~~ operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the ~~[establishment]~~ operator of the data center facility.

[(106)] (107) “Regularly rented” means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

[(107)] (108) “Rental” means the same as that term is defined in Subsection (60).

[(108)] (109) (a) Except as provided in Subsection [(108)] (109)(b), “repairs or renovations of tangible personal property” means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal

property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) “Repairs or renovations of tangible personal property” does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

[(409)] (110) “Research and development” means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

[(410)] (111) (a) “Residential telecommunications services” means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection [(410)] (111)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

[(411)] (112) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

[(412)] (113) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

[(413)] (114) (a) “Retailer” means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

[(414)] (115) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

[(415)] (116) “Sale at retail” means the same as that term is defined in Subsection [(412)] (113).

[(416)] (117) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and



(B) account for the lease payments as payments made under a financing arrangement.

~~[(117)]~~ (118) “Sales price” means the same as that term is defined in Subsection ~~[(103)]~~ (104).

~~[(118)]~~ (119) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection ~~[(118)]~~ (119)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to

organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

~~[(119)]~~ (120) For purposes of this section and Section 59-12-104, “school” means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

~~[(120)]~~ (121) (a) “Seller” means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) “Seller” includes a marketplace facilitator.

~~[(121)]~~ (122) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection ~~[(121)]~~ (122)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

~~[(122)]~~ (123) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(123)]~~ (124) (a) Subject to Subsections ~~[(123)]~~ (124)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections ~~[(123)]~~ (124)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) “Short-term lodging consumable” does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

~~[(124)]~~ (125) “Simplified electronic return” means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

~~[(125)]~~ (126) “Solar energy” means the sun used as the sole source of energy for producing electricity.

~~[(126)]~~ (127) (a) “Sports or recreational equipment” means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “sports or recreational equipment”; and

(ii) that are consistent with the list of items that constitute “sports or recreational equipment” under the agreement.

~~[(127)]~~ (128) “State” means the state of Utah, its departments, and agencies.

~~[(128)]~~ (129) “Storage” means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(129)]~~ (130) (a) Except as provided in Subsection ~~[(129)]~~ (130)(d) or (e), “tangible personal property” means personal property that:

- (i) may be:
- (A) seen;
- (B) weighed;
- (C) measured;
- (D) felt; or
- (E) touched; or
- (ii) is in any manner perceptible to the senses.
- (b) “Tangible personal property” includes:
  - (i) electricity;
  - (ii) water;
  - (iii) gas;
  - (iv) steam; or
  - (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) “Tangible personal property” includes the following regardless of whether the item is attached to real property:

- (i) a dishwasher;
- (ii) a dryer;
- (iii) a freezer;
- (iv) a microwave;
- (v) a refrigerator;
- (vi) a stove;
- (vii) a washer; or
- (viii) an item similar to Subsections ~~(429)~~ (130)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) “Tangible personal property” does not include a product that is transferred electronically.

(e) “Tangible personal property” does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

~~(430)~~ (131) (a) “Telecommunications enabling or facilitating equipment, machinery, or software” means an item listed in Subsection ~~(430)~~ (131)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

- (i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection ~~(430)~~ (131)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~(430)~~ (131)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection ~~(430)~~ (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~(430)~~ (131)(b)(i) through (vi).

~~(431)~~ (132) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

~~(432)~~ (133) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

~~(433)~~ (134) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) “Telecommunications service” includes:

- (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
  - (A) on the code, form, or protocol of the content;
  - (B) for the purpose of electronic conveyance, routing, or transmission; and
  - (C) regardless of whether the service:
    - (I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

- (ii) an 800 service;
- (iii) a 900 service;
- (iv) a fixed wireless service;
- (v) a mobile wireless service;
- (vi) a postpaid calling service;
- (vii) a prepaid calling service;
- (viii) a prepaid wireless calling service; or
- (ix) a private communications service.

(c) "Telecommunications service" does not include:

- (i) advertising, including directory advertising;
- (ii) an ancillary service;
- (iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

- (I) (Aa) acquired;
- (Bb) generated;
- (Cc) processed;
- (Dd) retrieved; or
- (Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

- (A) equipment; or
- (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;

(viii) a product transferred electronically, including:

- (A) music;
- (B) reading material;
- (C) a ring tone;
- (D) software; or
- (E) video;

(ix) a radio and television audio and video programming service:

- (A) regardless of the medium; and
- (B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

[~~(134)~~] (135) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [~~(134)~~] (135)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [~~(134)~~] (135)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

[~~(135)~~] (136) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [~~(135)~~] (136)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(135)~~] (136)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(135)~~] (136)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(135)~~] (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(435)]~~ (136)(b)(i) through (ix).

~~[(436)]~~ (137) (a) “Telecommunications transmission equipment, machinery, or software” means an item listed in Subsection ~~[(436)]~~ (137)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection ~~[(436)]~~ (137)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(436)]~~ (137)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection ~~[(436)]~~ (137)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(436)]~~ (137)(b)(i) through (xxv).

~~[(437)]~~ (138) (a) “Textbook for a higher education course” means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
  - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) “Textbook for a higher education course” includes a textbook in electronic format.

~~[(438)]~~ (139) “Tobacco” means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

~~[(439)]~~ (140) “Unassisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

~~[(440)]~~ (141) (a) “Use” means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) “Use” does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

~~[(441)]~~ (142) “Value-added nonvoice data service” means a service:

- (a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and
- (b) with respect to which a computer processing application is used to act on data or information:
  - (i) code;
  - (ii) content;
  - (iii) form; or
  - (iv) protocol.

~~[(442)]~~ (143) (a) Subject to Subsection ~~[(442)]~~ (143)(b), “vehicle” means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection [(142)] (143)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

[(143)] (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [(142)] (143).

[(144)] (145) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[(145)] (146) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[(146)] (147) (a) Except as provided in Subsection [(146)] (147)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[(147)] (148) "Watercraft" means a vessel as defined in Section 73-18-2.

[(148)] (149) "Wind energy" means wind used as the sole source of energy to produce electricity.

[(149)] (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

**Section 2. Section 59-12-104 is amended to read:**

**59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;



(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption

described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

- (a) for use on or in a human; and
- (b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

- (A) "commercial distribution";
- (B) "live musical performance";
- (C) "live news program"; or
- (D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;

(F) lighting;  
 (G) fencing;  
 (H) pipes; or  
 (I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred

electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;
- (74) amounts paid or charged for:
- (a) a purchase or lease of machinery and equipment that:
- (i) are used in performing qualified research:
- (A) as defined in Section 41(d), Internal Revenue Code; and
- (B) in the state; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts:
- (i) for the machinery and equipment described in Subsection (74)(a); and
- (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- (a) for a sale:
- (i) the ownership of the seller and the ownership of the purchaser are identical; and
- (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter; and
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
- (b) not including amounts paid or charged for a:
- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;
- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in



Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying ~~[enterprise]~~ data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in ~~[the operation of the establishment; and]~~:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2);

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an

establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

### **Section 3. Effective date.**

This bill takes effect on July 1, 2020.

**CHAPTER 439****S. B. 220**

Passed March 12, 2020

Approved March 31, 2020

Effective May 12, 2020

**CONFESSION OF  
JUDGMENT AMENDMENTS**

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Michael K. McKell

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**LONG TITLE****General Description:**

This bill modifies the Agreements to Confess Judgments Act.

**Highlighted Provisions:**

This bill:

- ▶ allows parties to enter into a confession of judgment before a default except in employment contracts and certain consumer credit contracts; and
- ▶ provides that the default event for a confession of judgment is the default giving rise to the underlying action.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78B-23-102, as enacted by Laws of Utah 2019, Chapter 132

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*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 78B-23-102 is amended to read:****78B-23-102. Certain agreements to confess judgment void.**

(1) Except as provided in Subsection (2), parties may execute an agreement or stipulation to confess judgment before a default giving rise to an action.

~~[Aa]~~ (2) (a) In an employment contract or a consumer credit contract, an agreement or stipulation to confess judgment is void if the agreement or stipulation is executed:

~~[(4)]~~ (i) on or after May 14, 2019; and

~~[(2)]~~ (ii) before a default giving rise to an action in which the judgment under the agreement or stipulation is to be confessed.

(b) To satisfy the requirements of Subsection (2)(a)(ii), the parties need only execute the agreement or stipulation after the default giving rise to the underlying action and not after any subsequent default on the agreement or stipulation.

**CHAPTER 440  
H. B. 3**

Passed March 12, 2020  
Approved April 1, 2020  
Effective April 1, 2020

(Line Items 49, 82, 90, 92, 136, 187, 234, 236, 279, 287, 291, 292, and 310 were vetoed)

**APPROPRIATIONS ADJUSTMENTS**

Chief Sponsor: Bradley G. Last  
Senate Sponsor: Jerry W. Stevenson

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain public education programs;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides funds for the bills with fiscal impact passed in the 2020 General Session;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ provides a mathematical formula for the annual appropriations limit; and,
- ▶ provides intent language.

**Money Appropriated in this Bill:**

This bill appropriates \$24,663,100 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$5,324,000 from the General Fund;
- ▶ (\$3,000,000) from the Uniform School Fund;
- ▶ \$3,310,000 from the Education Fund; and
- ▶ \$19,029,100 from various sources as detailed in this bill.

This bill appropriates \$9,756,300 in expendable funds and accounts for fiscal year 2020.

This bill appropriates (\$4,403,300) in business-like activities for fiscal year 2020.

This bill appropriates \$11,353,100 in restricted fund and account transfers for fiscal year 2020, including:

- ▶ \$723,100 from the General Fund; and
- ▶ \$10,630,000 from various sources as detailed in this bill.

This bill appropriates \$12,943,600 in transfers to unrestricted funds for fiscal year 2020.

This bill appropriates \$213,180,700 in operating and capital budgets for fiscal year 2021, including:

- ▶ (\$13,403,600) from the General Fund;
- ▶ (\$7,000,000) from the Uniform School Fund;
- ▶ \$100,549,000 from the Education Fund; and

- ▶ \$133,035,300 from various sources as detailed in this bill.

This bill appropriates \$10,744,200 in expendable funds and accounts for fiscal year 2021.

This bill appropriates (\$458,800) in business-like activities for fiscal year 2021, including:

- ▶ (\$1,209,800) from the General Fund; and
- ▶ \$751,000 from various sources as detailed in this bill.

This bill appropriates \$47,116,500 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$19,088,200 from the General Fund;
- ▶ \$14,462,000 from the Education Fund; and
- ▶ \$13,566,300 from various sources as detailed in this bill.

This bill appropriates \$88,000 in fiduciary funds for fiscal year 2021.

This bill appropriates \$11,000,000 in capital project funds for fiscal year 2021, including:

- ▶ \$34,500,000 from the General Fund; and
- ▶ (\$23,500,000) from the Education Fund.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 1**

To Attorney General  
From General Fund, One-Time . . . . . 200,000  
Schedule of Programs:  
Administration . . . . . 200,000

**Item 2**

To Attorney General  
From General Fund, One-Time . . . . . 116,200  
Schedule of Programs:  
Administration . . . . . 116,200

To implement the provisions of Prosecutor Data Collection Amendments (House Bill 288, 2020 General Session).

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 3**

To Utah Department of Corrections - Programs and Operations

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$750,000 to the Department of Corrections provided for in S.B. 3, "Current Fiscal year Supplemental Appropriations", Item 7 for Community Case Management not lapse at the close of Fiscal Year 2020.

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund two additional Lieutenants in the Department's Division of Prison Operations Inmate Placement Program, the Legislature grants authority to purchase two vehicles with Department funds.

The Legislature intends that the Department of Corrections, Division of Prison Operations, be able to purchase one vehicle with Department funds.

**JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR**

**Item 4**

To Judicial Council/State Court Administrator - Administration  
From General Fund, One-Time ..... 20,500  
Schedule of Programs:  
District Courts ..... 20,500

To implement the provisions of Probate Notice Amendments (House Bill 343, 2020 General Session).

**GOVERNORS OFFICE**

**Item 5**

To Governors Office - Commission on Criminal and Juvenile Justice  
From General Fund, One-Time ..... 105,000  
Schedule of Programs:  
CCJJ Commission ..... 105,000

To implement the provisions of Prosecutor Data Collection Amendments (House Bill 288, 2020 General Session).

**Item 6**

To Governors Office - Indigent Defense Commission  
From Expendable Receipts, One-Time ... 150,000  
From Revenue Transfers, One-Time .... 150,000  
Schedule of Programs:  
Office of Indigent Defense Services .... 300,000

To implement the provisions of Defense Contracts Amendments (Senate Bill 175, 2020 General Session).

**DEPARTMENT OF PUBLIC SAFETY**

**Item 7**

To Department of Public Safety - Driver License

From Department of Public Safety Restricted Account, One-Time ..... 48,100  
Schedule of Programs:  
Driver Records ..... 48,100  
To implement the provisions of DUI Liability Amendments (House Bill 139, 2020 General Session).

**Item 8**

To Department of Public Safety - Driver License From Department of Public Safety Restricted Account, One-Time ..... 9,900  
Schedule of Programs:  
Driver Services ..... 9,900  
To implement the provisions of Driver License Record Amendments (House Bill 183, 2020 General Session).

**STATE TREASURER**

**Item 9**

To State Treasurer From Qualified Patient Enterprise Fund, One-Time ..... 4,000  
Schedule of Programs:  
Treasury and Investment ..... 4,000  
To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 10**

To Department of Administrative Services - Executive Director  
The Legislature intends that the Department of Administrative Services submit to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget a monthly accounting of any transfer or expenditure of the funds provided by 63J-1-206 (3) for the state's response to the coronavirus.

**Item 11**

To Department of Administrative Services - Finance - Mandated  
From General Fund, One-Time ..... 19,000,000  
From General Fund Restricted - State Disaster Recovery Restr Acct, One-Time ..... 4,000,000  
From General Fund Restricted - Public Safety Support, One-Time ..... 1,000,000  
Schedule of Programs:  
Emergency Disease Response ..... 24,000,000

The Legislature intends that the Division of Finance Mandated - Emergency Disease Response spend combined for FY 2020 and FY 2021 no more than a total of \$4.0 million from the State Disaster Recovery Restricted Account and no more than a total of \$1.0 million from the Department of Public Safety Restricted Account.

The Legislature intends that approximately \$3.0 million of the General

Fund appropriated in this item be used specifically to support seniors, through programs such as Meals on Wheels, food boxes similar to the federal Commodity Supplemental Food Program, in-home medical testing and care, Aging Alternatives, and coronavirus intensive response.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$19,000,000 General Fund provided for Public Health Emergency Response shall not lapse at the close of Fiscal Year 2020. The funding is to be used for the state's response to coronavirus.

**Item 12**

To Department of Administrative Services - Finance Administration  
 From Qualified Patient Enterprise Fund, One-Time ..... 3,000  
 Schedule of Programs:  
 Payables/Disbursing ..... 3,000  
 To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**DEPARTMENT OF COMMERCE**

**Item 13**

To Department of Commerce - Commerce General Regulation  
 From General Fund Restricted - Commerce Service Account, One-Time ..... 200  
 Schedule of Programs:  
 Occupational and Professional Licensing .. 200  
 To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**

**Item 14**

To Governor's Office of Economic Development - Utah Office of Outdoor Recreation  
 From Outdoor Recreation Infrastructure Account, One-Time ..... (1,000,000)  
 Schedule of Programs:  
 Outdoor Recreational Infrastructure Grant Program ..... (1,000,000)

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 15**

To Department of Heritage and Arts - Pass-Through  
 The Legislature intends that the pass-through dollars from the 2019 General Session in the amount of \$500,000 to Zion's National Park 100th Anniversary Celebration be given to KUED-TV (PBS Channel 7). The Legislature further intends that the full appropriation of \$500,000 be

used for direct costs and not administrative overhead.

**UTAH STATE TAX COMMISSION**

**Item 16**

To Utah State Tax Commission - Tax Administration  
 From General Fund Rest. - Sales and Use Tax Admin Fees, One-Time ..... 73,000  
 Schedule of Programs:  
 Technology Management ..... 73,000  
 To implement the provisions of Recreational Vehicle Tax Amendments (Senate Bill 216, 2020 General Session).

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 17**

To Department of Health - Children's Health Insurance Program  
 From Federal Funds, One-Time ..... (5,373,000)  
 From General Fund Restricted - Tobacco Settlement Account, One-Time ..... (472,300)  
 Schedule of Programs:  
 Children's Health Insurance Program ..... (5,845,300)

**Item 18**

To Department of Health - Disease Control and Prevention  
 From General Fund, One-Time ..... 23,400  
 Schedule of Programs:  
 Health Promotion ..... 23,400  
 To implement the provisions of Substance Use and Violence Prevention Reporting Amendments (House Bill 419, 2020 General Session).

**Item 19**

To Department of Health - Executive Director's Operations  
 Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$6,000 General Fund provided in this line item for the Department of Health's Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the implementation of H.B. 195.

**Item 20**

To Department of Health - Executive Director's Operations  
 From General Fund, One-Time ..... 6,000  
 Schedule of Programs:  
 Center for Health Data and Informatics ..... 6,000  
 To implement the provisions of Identifying Wasteful Health Care Spending (House Bill 195, 2020 General Session).

**Item 21**

To Department of Health - Family Health and Preparedness  
 From Federal Funds, One-Time ..... 15,000,000

Schedule of Programs:

Emergency Medical Services and Preparedness ..... 15,000,000  
 The Legislature intends that the Department of Health coordinate any spending including federal funds on the state's response to coronavirus with the Department of Administrative Services.

**Item 22**

To Department of Health - Family Health and Preparedness  
 From General Fund, One-Time ..... 2,400  
 Schedule of Programs:  
 Health Facility Licensing and Certification ..... 2,400  
 To implement the provisions of Birthing Facility Licensure Amendments (House Bill 428, 2020 General Session).

**Item 23**

To Department of Health - Family Health and Preparedness  
 From General Fund, One-Time ..... 8,200  
 Schedule of Programs:  
 Maternal and Child Health ..... 8,200  
 To implement the provisions of Disposition of Fetal Remains (Senate Bill 67, 2020 General Session).

**Item 24**

To Department of Health - Medicaid and Health Financing  
 From General Fund, One-Time ..... 3,000  
 From Federal Funds, One-Time ..... 3,000  
 Schedule of Programs:  
 Eligibility Policy ..... 6,000  
 Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,000 General Fund provided in this line item for the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the implementation of 12 month eligibility for children on Medicaid.

**Item 25**

To Department of Health - Medicaid and Health Financing  
 From General Fund, One-Time ..... 5,000  
 From Federal Funds, One-Time ..... 5,000  
 Schedule of Programs:  
 Managed Health Care ..... 10,000  
 To implement the provisions of Crisis Services Amendments (House Bill 32, 2020 General Session).

**Item 26**

To Department of Health - Medicaid Services  
 From General Fund, One-Time ..... 1,676,900  
 From Federal Funds, One-Time ..... 4,688,900  
 From General Fund Restricted - Tobacco Settlement Account, One-Time ..... 472,300  
 Schedule of Programs:  
 Other Services ..... 6,838,100

**Item 27**

To Department of Health - Emergency Disease Response  
 From General Fund, One-Time .... (16,000,000)  
 Schedule of Programs:  
 Emergency Disease Response .... (16,000,000)  
 The Legislature intends that the following intent language in S.B. 3, Item 90, 2020 General Session, is deleted: "Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$16,000,000 General Fund provided in this line item for the Department of Health's Emergency Disease Response line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to state response to coronavirus."

**DEPARTMENT OF HUMAN SERVICES**

**Item 28**

To Department of Human Services - Division of Child and Family Services  
 From Federal Funds, One-Time ..... 150,000  
 From Revenue Transfers, One-Time .. (150,000)  
 To implement the provisions of Defense Contracts Amendments (Senate Bill 175, 2020 General Session).

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 29**

To Department of Workforce Services - Operations and Policy  
 From General Fund, One-Time ..... 27,400  
 From Federal Funds, One-Time ..... 247,000  
 Schedule of Programs:  
 Eligibility Services ..... 274,400  
 Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$27,400 General Fund provided in this line item for the Department of Workforce Services' Operations and Policy line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to the implementation of 12 month eligibility for children on Medicaid.

**HIGHER EDUCATION**

**SOUTHERN UTAH UNIVERSITY**

**Item 30**

To Southern Utah University - Education and General  
 From Education Fund, One-Time ..... 310,000  
 Schedule of Programs:  
 Education and General ..... 310,000

**UTAH VALLEY UNIVERSITY**

**Item 31**

To Utah Valley University - Education and General  
 From General Fund, One-Time ..... 392,400  
 Schedule of Programs:  
 Education and General ..... 392,400  
 The Legislature intends that funds appropriated in this item to Utah Valley

University be used for the Federalism Index Project. The Legislature further intends that Utah Valley University report quarterly to the Federalism Commission on use of the funds.

**NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF AGRICULTURE AND FOOD**

**Item 32**

To Department of Agriculture and Food - Administration  
 From General Fund, One-Time ..... 447,100  
 From Closing Nonlapsing Balances .... (447,100)

**Item 33**

To Department of Agriculture and Food - Plant Industry  
 From General Fund, One-Time ..... (447,100)  
 From Closing Nonlapsing Balances ..... 447,100

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Item 34**

To Department of Environmental Quality - Water Quality  
 From General Fund, One-Time ..... 100,000  
 Schedule of Programs:  
 Water Quality ..... 100,000

Legislature intends that General Fund appropriations for the Lake Ecosystems funding item to the Division of Water Quality are limited to the treatment and monitoring of Harmful Algal Blooms in water bodies of the state of Utah. Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$100,000 shall not lapse at the close of FY 2020.

**DEPARTMENT OF NATURAL RESOURCES**

**Item 35**

To Department of Natural Resources - Forestry, Fire and State Lands  
 Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the \$100,000 appropriation for Utah Lake Ecosystems funded in S.B. 3, Item 129, 2020 General Session, shall not lapse at the close of FY 2020.

**Item 36**

To Department of Natural Resources - Water Resources  
 From Water Resources Conservation and Development Fund, One-Time ..... 20,000  
 Schedule of Programs:  
 Planning ..... 20,000  
 To implement the provisions of Watershed Councils (House Bill 166, 2020 General Session).

**PUBLIC EDUCATION**

**STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM**

**Item 37**

To State Board of Education - Minimum School Program - Basic School Program  
 From Education Fund, One-Time .... 15,000,000  
 From Uniform School Fund,  
 One-Time ..... (3,000,000)  
 From Revenue Transfers,  
 One-Time ..... (3,814,800)  
 From Closing Nonlapsing Balances .... 3,814,800  
 Schedule of Programs:  
 Grades 1 - 12 ..... 12,000,000

**Item 38**

To State Board of Education - Minimum School Program - Related to Basic School Programs  
 From Revenue Transfers,  
 One-Time ..... (8,985,200)  
 From Closing Nonlapsing Balances .... 8,985,200

**Item 39**

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs  
 From Education Fund,  
 One-Time ..... (12,000,000)  
 Schedule of Programs:  
 Voted Local Levy Program ..... (6,000,000)  
 Board Local Levy Program ..... (6,000,000)

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 40**

To Capitol Preservation Board  
 Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in Senate Bill 3, Item 139, 2020 General Session not lapse at the close of Fiscal Year 2020. Use of any nonlapsing funds is limited to capital projects and associated costs.

**LEGISLATURE**

**Item 41**

To Legislature - Senate  
 From General Fund, One-Time ..... 12,000  
 Schedule of Programs:  
 Administration ..... 12,000  
 To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 7, 2020 General Session).

**Item 42**

To Legislature - House of Representatives  
 From General Fund, One-Time ..... 18,000  
 Schedule of Programs:  
 Administration ..... 18,000  
 To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 7, 2020 General Session).

**Item 43**

To Legislature - Legislative Services  
From General Fund, One-Time ..... (392,400)  
Schedule of Programs:  
Pass-Through ..... (392,400)

**DEPARTMENT OF VETERANS  
AND MILITARY AFFAIRS**

**Item 44**

To Department of Veterans and Military Affairs -  
Veterans and Military Affairs

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans and Military Affairs in Item 25, Chapter 6, Laws of Utah 2019 not lapse at the close of Fiscal Year 2020. Use of any nonlapsing funds is limited to veterans outreach, cemetery, First Time Home Buyer Program, up to \$50,000 for USS Utah commissioning, and other one-time operations costs.

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**GOVERNOR'S OFFICE OF  
ECONOMIC DEVELOPMENT**

**Item 45**

To Governor's Office of Economic Development -  
Outdoor Recreation Infrastructure Account  
From Outdoor Recreation Infrastructure Account,  
One-Time ..... 1,000,000  
Schedule of Programs:  
Outdoor Recreation Infrastructure  
Account ..... 1,000,000

The Legislature intends that \$150,000 appropriated to the Outdoor Recreation Infrastructure Account be used one-time for a 2020 grant to parties working to secure the Oakley School, in Oakley, UT for the express purpose of providing an outdoor recreation educational facility.

**PUBLIC SERVICE COMMISSION**

**Item 46**

To Public Service Commission - Universal  
Public Telecom Service  
From Dedicated Credits Revenue,  
One-Time ..... 9,428,600  
From Closing Fund Balance ..... (672,300)  
Schedule of Programs:

Universal Public Telecommunications  
Service Support ..... 8,756,300

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF NATURAL RESOURCES**

**Item 47**

To Department of Natural Resources -  
Wildland Fire Suppression Fund

The Legislature intends that, if the amount available in the Mineral Bonus Account from payments deposited in the previous fiscal year exceeds the amount appropriated, the Division of Finance distribute the excess according to the formula provided in UCA 59-21-2(1)(e).

**Subsection 1(c). Business-like Activities.**

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE  
SERVICES INTERNAL SERVICE FUNDS**

**Item 48**

To Department of Administrative Services Internal  
Service Funds - Risk Management  
From Risk Management - Workers  
Compensation Fund, One-Time .... (1,000,000)  
From Risk Management Internal  
Service Fund, One-Time ..... (630,000)  
From Risk Management-Property,  
One-Time ..... (3,000,000)  
Schedule of Programs:  
ISF - Risk Management  
Administration ..... (630,000)  
ISF - Workers' Compensation ..... (1,000,000)  
Risk Management - Property ..... (3,000,000)

**TRANSPORTATION**

**Item 49**

To Transportation - State Infrastructure  
Bank Fund

The Legislature intends that the Department of Transportation not use \$10 million of the authorized \$24 million in bond proceeds to issue a State Infrastructure Bank loan for the purpose authorized in Section 63B-27-101(3)(a).



**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 50**

To Department of Health - Qualified Patient Enterprise Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... (47,100)  
 Schedule of Programs:  
 Qualified Patient Enterprise Fund ... (47,100)  
 To implement the provisions of Medical Cannabis Modifications (House Bill 425, 2020 General Session).

**Item 51**

To Department of Health - Qualified Patient Enterprise Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... 85,700  
 Schedule of Programs:  
 Qualified Patient Enterprise Fund ..... 85,700  
 To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF AGRICULTURE AND FOOD**

**Item 52**

To Department of Agriculture and Food - Qualified Production Enterprise Fund  
 From Dedicated Credits Revenue,  
 One-Time ..... 188,100  
 Schedule of Programs:  
 Qualified Production Enterprise Fund ..... 188,100  
 To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**Subsection 1(d). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**Item 53**

To Risk Management-Liability  
 From Risk Management - Workers Compensation Fund, One-Time ..... 1,000,000  
 From Risk Management Internal Service Fund, One-Time ..... 630,000  
 From Risk Management-Property,  
 One-Time ..... 3,000,000  
 Schedule of Programs:

Risk Management - Liability  
 Fund ..... 4,630,000

**SOCIAL SERVICES**

**Item 54**

To Medicaid Expansion Fund  
 From General Fund, One-Time ..... 723,100  
 Schedule of Programs:  
 Medicaid Expansion Fund ..... 723,100

**Item 55**

To General Fund Restricted - Homeless to Housing Reform Account  
 From Revenue Transfers, One-Time .. 6,000,000  
 Schedule of Programs:  
 General Fund Restricted - Homeless to Housing Reform Restricted Account ..... 6,000,000  
 To implement the provisions of Homeless Services Funding Amendments (House Bill 440, 2020 General Session).

**Subsection 1(e). Transfers to Unrestricted Funds.** The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

**NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY**

**Item 56**

To General Fund  
 From Waste Management and Radiation Control Expendable Special Revenue Fund, One-Time ..... 143,600  
 Schedule of Programs:  
 General Fund, One-time ..... 143,600

**PUBLIC EDUCATION**

**Item 57**

To Education Fund  
 From Nonlapsing Balances - MSP - Basic Program, One-Time ..... 3,814,800  
 From Nonlapsing Balances - MSP - Related to Basic Program,  
 One-Time ..... 8,985,200  
 Schedule of Programs:  
 Education Fund, One-time ..... 12,800,000

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

**Subsection 2(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES AND  
CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 58**

To Attorney General  
 From General Fund ..... 909,800  
 From General Fund, One-Time ..... 475,000  
 Schedule of Programs:  
     Administration ..... (300,000)  
     Civil ..... 1,209,800  
     Criminal Prosecution ..... 475,000

**Item 59**

To Attorney General  
 From General Fund, One-Time ..... 116,200  
 Schedule of Programs:  
     Administration ..... 116,200  
         To implement the provisions of Prosecutor  
         Data Collection Amendments (House Bill  
         288, 2020 General Session).

**Item 60**

To Attorney General  
 From General Fund Restricted -  
     Criminal Forfeiture Restricted  
     Account ..... 116,800  
 Schedule of Programs:  
     Criminal Prosecution ..... 116,800  
         To implement the provisions of Attorney  
         General Fund Amendments (House Bill 373,  
         2020 General Session).

**Item 61**

To Attorney General  
 From General Fund ..... 6,900  
 Schedule of Programs:  
     Criminal Prosecution ..... 6,900  
         To implement the provisions of Financial  
         Exploitation Prevention Act (House Bill 459,  
         2020 General Session).

**Item 62**

To Attorney General  
 From Dedicated Credits Revenue ..... 500,000  
 Schedule of Programs:  
     Criminal Prosecution ..... 500,000  
         To implement the provisions of Criminal  
         Justice Amendments (House Bill 461, 2020  
         General Session).

**Item 63**

To Attorney General  
 From Attorney General Crime &  
     Violence Prevention Fund ..... 17,000  
 From Attorney General Crime &  
     Violence Prevention Fund, One-Time ... 60,200  
 Schedule of Programs:  
     Criminal Prosecution ..... 77,200  
         To implement the provisions of Drug  
         Disposal Program (Senate Bill 29, 2020  
         General Session).

**Item 64**

To Attorney General - Prosecution Council

Notwithstanding the intent language in H.B. 2, Item 3, 2020 General Session, the Legislature intends that the Attorney General's Office report on the following performance measures for the Utah Prosecution Council (UPC), whose mission is "to provide training and continuing legal education and provide assistance for state and local prosecutors": (1) The percentage of prosecutors whose continuing legal education credits come solely from UPC conferences; (2) The number of prosecutors who use a trauma expert in a jury trial; (3) The number of prosecutors who proceed to trial in domestic violence cases without the cooperation of the victim by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

**Item 65**

To Attorney General - Prosecution Council  
 From General Fund Restricted - Public  
     Safety Support ..... (9,000)  
 From General Fund Restricted -  
     Public Safety Support, One-Time ..... (1,000)  
 Schedule of Programs:  
     Prosecution Council ..... (10,000)  
         To implement the provisions of  
         Amendments Related to Surcharge Fees  
         (House Bill 485, 2020 General Session).

**BOARD OF PARDONS AND PAROLE**

**Item 66**

To Board of Pardons and Parole  
 From General Fund ..... (300)  
 Schedule of Programs:  
     Board of Pardons and Parole ..... (300)  
         To implement the provisions of Crime  
         Enhancement Amendments (House Bill 238,  
         2020 General Session).

**Item 67**

To Board of Pardons and Parole  
 From General Fund ..... 9,900  
 From General Fund, One-Time ..... (8,100)  
 Schedule of Programs:  
     Board of Pardons and Parole ..... 1,800  
         To implement the provisions of Unlawful  
         Sexual Activity Statute of Limitations  
         Amendments (House Bill 247, 2020 General  
         Session).

**Item 68**

To Board of Pardons and Parole  
 From General Fund ..... 2,400  
 From General Fund, One-Time ..... (1,800)  
 Schedule of Programs:  
     Board of Pardons and Parole ..... 600  
         To implement the provisions of Criminal  
         Nonsupport Amendments (House Bill 367,  
         2020 General Session).

**Item 69**

To Board of Pardons and Parole  
 From General Fund ..... (400)

From General Fund, One-Time ..... 400  
 To implement the provisions of Juvenile Justice Amendments (House Bill 384, 2020 General Session).

**Item 70**

To Board of Pardons and Parole  
 From General Fund ..... 1,800  
 Schedule of Programs:  
 Board of Pardons and Parole ..... 1,800  
 To implement the provisions of Mail Theft Amendments (House Bill 433, 2020 General Session).

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 71**

To Utah Department of Corrections - Programs and Operations  
 From General Fund ..... 8,000,000  
 From General Fund, One-Time ..... (6,000,000)  
 Schedule of Programs:  
 Prison Operations Draper Facility ... 2,000,000

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2020 and ending June 30, 2021: Odd Size photocopies - Actual Cost; Document Certification - \$2; Local document faxing - \$0.50; Long distance document faxing - \$2; Staff time to search, compile, and otherwise prepare record - Actual Cost; Mail and ship preparation, plus actual postage costs - Actual Cost; CD Duplication - \$5; DVD Duplication - \$10; Other media - Actual Cost; Other services - Actual Cost; 8.5 x 11 photocopy - \$0.25; OSDC Supervision Collection - \$30; Resident Support - \$6; Restitution for Prisoner Damages - Actual Cost; False Information Fines - Range: \$1 to \$84,200; Sale of Services - Actual Cost; Inmate Leases & Concessions - \$11; Patient Social Security Benefits Collections - Amount Based on Actual Collected; Sale of Goods and Materials - Actual Cost; Buildings Rental - Contractual; Victim Rep Inmate Withheld - Range: \$1 to \$50,000; Sundry Revenue Collection - Miscellaneous Collections; Offender Tuition Payments - Actual Cost. The Legislature intends that the aforementioned fees apply for the entire Department of Corrections.

The Legislature intends that the following intent language in H.B. 2, Item 6, 2020 General Session, is deleted: "To the extent that funding is available, the Legislature intends to increase ongoing appropriations to fully fund the certified correctional staff pay plan to the amount of \$8,439,600 in yearly increments of \$2,813,200 over the next three years."

**Item 72**

To Utah Department of Corrections - Programs and Operations

From General Fund, One-Time ..... 4,000  
 Schedule of Programs:  
 Department Administrative Services .... 4,000  
 To implement the provisions of Inmate Expenses Amendments (House Bill 110, 2020 General Session).

**Item 73**

To Utah Department of Corrections - Programs and Operations  
 From General Fund ..... (17,600)  
 Schedule of Programs:  
 Prison Operations Draper Facility .... (17,600)  
 To implement the provisions of Crime Enhancement Amendments (House Bill 238, 2020 General Session).

**Item 74**

To Utah Department of Corrections - Programs and Operations  
 From General Fund ..... 429,800  
 From General Fund, One-Time ..... (309,800)  
 Schedule of Programs:  
 Adult Probation and Parole Administration ..... 15,000  
 Prison Operations Draper Facility .... 105,000  
 To implement the provisions of Unlawful Sexual Activity Statute of Limitations Amendments (House Bill 247, 2020 General Session).

**Item 75**

To Utah Department of Corrections - Programs and Operations  
 From General Fund ..... 50,000  
 From General Fund, One-Time ..... (10,000)  
 Schedule of Programs:  
 Adult Probation and Parole Programs .... 5,000  
 Prison Operations Draper Facility ..... 35,000  
 To implement the provisions of Criminal Nonsupport Amendments (House Bill 367, 2020 General Session).

**Item 76**

To Utah Department of Corrections - Programs and Operations  
 From General Fund ..... (35,000)  
 From General Fund, One-Time ..... 35,000  
 To implement the provisions of Juvenile Justice Amendments (House Bill 384, 2020 General Session).

**Item 77**

To Utah Department of Corrections - Programs and Operations  
 From General Fund ..... 105,000  
 Schedule of Programs:  
 Prison Operations Draper Facility .... 105,000  
 To implement the provisions of Mail Theft Amendments (House Bill 433, 2020 General Session).

**Item 78**

To Utah Department of Corrections - Programs and Operations  
 From Dedicated Credits Revenue, One-Time ..... 5,000  
 Schedule of Programs:  
 Prison Operations Draper Facility ..... 5,000

To implement the provisions of Sex Offender Registry Amendments (Senate Bill 34, 2020 General Session).

**Item 79**

To Utah Department of Corrections - Department Medical Services

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2020 and ending June 30, 2021: Prisoner Various Prostheses Copay - 1/2 Cost; Inmate Support Collections - Actual Cost.

**Item 80**

To Utah Department of Corrections - Jail Contracting

The Legislature intends that under Section 64-13e-105 that the final state daily incarceration rate be set at \$74.98 for FY 2021. If this H.B. 3 and S.B. 236 Jail Contracting and Reimbursement Amendments, both pass and become law, the Legislature intends that for FY 2021, the Actual County Daily Incarceration Rate be set at \$82.93 and the Actual State Daily Incarceration Rate be set at \$82.23 and that the state daily incarceration rate be set at \$74.98 for 2021 previously mentioned be deleted per the adjustments in S.B. 236.

**JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR**

**Item 81**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... 800  
 Schedule of Programs:  
 Juvenile Courts ..... 800

To implement the provisions of Abuse, Neglect, and Dependency Proceedings Amendments (House Bill 33, 2020 General Session).

**Item 82**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... 132,000  
 Schedule of Programs:  
 District Courts ..... 132,000

To implement the provisions of Distracted Driver Amendments (House Bill 101, 2020 General Session).

**Item 83**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... 1,400  
 Schedule of Programs:  
 District Courts ..... 1,400

To implement the provisions of DUI Liability Amendments (House Bill 139, 2020 General Session).

**Item 84**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... 44,300  
 Schedule of Programs:  
 District Courts ..... 44,300

To implement the provisions of Domestic Relations Debt (House Bill 196, 2020 General Session).

**Item 85**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... (13,000)  
 From General Fund, One-Time ..... 63,000  
 Schedule of Programs:  
 District Courts ..... 50,000

To implement the provisions of Bail and Pretrial Release Amendments (House Bill 206, 2020 General Session).

**Item 86**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... (500)  
 Schedule of Programs:  
 District Courts ..... (500)

To implement the provisions of Crime Enhancement Amendments (House Bill 238, 2020 General Session).

**Item 87**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... 200  
 Schedule of Programs:  
 District Courts ..... 200

To implement the provisions of Warning Labels Amendments (House Bill 243, 2020 General Session).

**Item 88**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... 8,300  
 Schedule of Programs:  
 District Courts ..... 8,300

To implement the provisions of Unlawful Sexual Activity Statute of Limitations Amendments (House Bill 247, 2020 General Session).

**Item 89**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... (55,000)  
 Schedule of Programs:  
 District Courts ..... (55,000)

To implement the provisions of Juvenile Delinquency Amendments (House Bill 262, 2020 General Session).

**Item 90**

To Judicial Council/State Court Administrator - Administration

From General Fund ..... 13,300  
 Schedule of Programs:  
 Administrative Office ..... 13,300

To implement the provisions of Prohibited Persons Amendments (House Bill 267, 2020 General Session).

**Item 91**

To Judicial Council/State Court Administrator - Administration  
 From General Fund ..... 2,400  
 From General Fund, One-Time ..... 33,000  
 Schedule of Programs:  
 Data Processing ..... 35,400

To implement the provisions of Prosecutor Data Collection Amendments (House Bill 288, 2020 General Session).

**Item 92**

To Judicial Council/State Court Administrator - Administration  
 From General Fund, One-Time ..... 12,000  
 Schedule of Programs:  
 Data Processing ..... 12,000

To implement the provisions of Restricted Status Amendments (House Bill 316, 2020 General Session).

**Item 93**

To Judicial Council/State Court Administrator - Administration  
 From General Fund ..... 1,500  
 Schedule of Programs:  
 District Courts ..... 1,500

To implement the provisions of Probate Notice Amendments (House Bill 343, 2020 General Session).

**Item 94**

To Judicial Council/State Court Administrator - Administration  
 From Surcharge Fines ..... 32,000  
 Schedule of Programs:  
 District Courts ..... 32,000

To implement the provisions of Mail Theft Amendments (House Bill 433, 2020 General Session).

**Item 95**

To Judicial Council/State Court Administrator - Administration  
 From General Fund, One-Time ..... 10,500  
 From General Fund Restricted - Substance Abuse Prevention ..... 200  
 Schedule of Programs:  
 District Courts ..... 10,500  
 Juvenile Courts ..... 200

To implement the provisions of Amendments Related to Surcharge Fees (House Bill 485, 2020 General Session).

**Item 96**

To Judicial Council/State Court Administrator - Administration  
 From General Fund ..... 3,000  
 Schedule of Programs:  
 District Courts ..... 3,000

To implement the provisions of Prisoner Offense Amendments (Senate Bill 32, 2020 General Session).

**Item 97**

To Judicial Council/State Court Administrator - Administration  
 From General Fund ..... 41,300  
 Schedule of Programs:  
 District Courts ..... 41,300

To implement the provisions of Disorderly Conduct Amendments (Senate Bill 173, 2020 General Session).

**GOVERNORS OFFICE**

**Item 98**

To Governors Office - CCJJ - Child Welfare Parental Defense  
 From General Fund ..... (95,200)  
 From Dedicated Credits Revenue ..... (45,000)  
 From Revenue Transfers ..... (9,000)  
 Schedule of Programs:

Child Welfare Parental Defense .... (149,200)

To implement the provisions of Defense Contracts Amendments (Senate Bill 175, 2020 General Session).

**Item 99**

To Governors Office - CCJJ Jail Reimbursement  
 From General Fund ..... 2,776,000  
 Schedule of Programs:  
 Jail Reimbursement ..... 2,776,000

To implement the provisions of Jail Contracting and Reimbursement Amendments (Senate Bill 236, 2020 General Session).

**Item 100**

To Governors Office - Commission on Criminal and Juvenile Justice  
 From Crime Victim Reparations Fund, One-Time ..... 50,000  
 Schedule of Programs:  
 Utah Office for Victims of Crime ..... 50,000

To implement the provisions of Warning Labels Amendments (House Bill 243, 2020 General Session).

**Item 101**

To Governors Office - Commission on Criminal and Juvenile Justice  
 From General Fund ..... 122,500  
 Schedule of Programs:  
 CCJJ Commission ..... 122,500

To implement the provisions of Prosecutor Data Collection Amendments (House Bill 288, 2020 General Session).

**Item 102**

To Governors Office - Commission on Criminal and Juvenile Justice  
 From General Fund, One-Time ..... 50,400  
 From Federal Funds, One-Time ..... 3,500  
 Schedule of Programs:  
 CCJJ Commission ..... 53,900

To implement the provisions of Rampage Violence Prevention Study (House Bill 340, 2020 General Session).

**Item 103**

To Governors Office - Commission on Criminal and Juvenile Justice

From General Fund . . . . . 477,600  
 From General Fund Restricted - Law  
   Enforcement Operations . . . . . (3,400)  
 From General Fund Restricted - Law  
   Enforcement Operations, One-Time . . . . . (100)  
 Schedule of Programs:  
   Law Enforcement Services Grants . . . . . 477,600  
   State Task Force Grants . . . . . (3,500)  
     To implement the provisions of  
     Amendments Related to Surcharge Fees  
     (House Bill 485, 2020 General Session).

**Item 104**

To Governors Office - Governor's Office  
 From General Fund, One-Time . . . . . 400,000  
 Schedule of Programs:  
   Lt. Governor's Office . . . . . 400,000

**Item 105**

To Governors Office - Governor's Office  
 From Lt Governor-Election File  
   Fee Fund . . . . . (2,700)  
 Schedule of Programs:  
   Lt. Governor's Office . . . . . (2,700)  
     To implement the provisions of Election  
     and Campaign Amendments (House Bill 19,  
     2020 General Session).

**Item 106**

To Governors Office - Governor's Office  
 From General Fund, One-Time . . . . . 4,400  
 Schedule of Programs:  
   Lt. Governor's Office . . . . . 4,400  
     To implement the provisions of Election  
     Amendments (House Bill 36, 2020 General  
     Session).

**Item 107**

To Governors Office - Governor's Office  
 From General Fund, One-Time . . . . . 13,000  
 Schedule of Programs:  
   Lt. Governor's Office . . . . . 13,000  
     To implement the provisions of Proposal to  
     Amend Utah Constitution -- Water  
     Resources of Municipalities (House Joint  
     Resolution 3, 2020 General Session).

**Item 108**

To Governors Office - Governor's Office  
 From General Fund, One-Time . . . . . 13,000  
 Schedule of Programs:  
   Lt. Governor's Office . . . . . 13,000  
     To implement the provisions of Proposal to  
     Amend Utah Constitution - The Right to  
     Hunt and Fish (House Joint Resolution 15,  
     2020 General Session).

**Item 109**

To Governors Office - Governor's Office  
 From General Fund . . . . . 3,300  
 From General Fund, One-Time . . . . . 6,100  
 Schedule of Programs:  
   Lt. Governor's Office . . . . . 9,400  
     To implement the provisions of Public  
     Document Signature Classification (Senate  
     Bill 47, 2020 General Session).

**Item 110**

To Governors Office - Governor's Office  
 From General Fund . . . . . 120,000  
 From General Fund, One-Time . . . . . 650,000  
 Schedule of Programs:  
   Administration . . . . . 770,000  
     To implement the provisions of Boards and  
     Commissions Modifications (Senate Bill 146,  
     2020 General Session).

**Item 111**

To Governors Office - Governor's Office  
 From General Fund, One-Time . . . . . 13,000  
 Schedule of Programs:  
   Lt. Governor's Office . . . . . 13,000  
     To implement the provisions of Proposal to  
     Amend Utah Constitution -- Annual General  
     Sessions of the Legislature (Senate Joint  
     Resolution 3, 2020 General Session).

**Item 112**

To Governors Office - Governor's Office  
 From General Fund, One-Time . . . . . 13,000  
 Schedule of Programs:  
   Lt. Governor's Office . . . . . 13,000  
     To implement the provisions of Proposal to  
     Amend Utah Constitution - Use of Tax  
     Revenue (Senate Joint Resolution 9, 2020  
     General Session).

**Item 113**

To Governors Office - Indigent  
   Defense Commission  
 From General Fund Restricted - Indigent  
   Defense Resources . . . . . 495,300  
 Schedule of Programs:  
   Office of Indigent Defense Services . . . . . (4,700)  
   Indigent Appellate Defense Division . . . . . 500,000  
     To implement the provisions of  
     Amendments to Indigent Defense (Senate  
     Bill 139, 2020 General Session).

**Item 114**

To Governors Office - Indigent  
   Defense Commission  
 From General Fund . . . . . 95,200  
 From Dedicated Credits Revenue . . . . . 45,000  
 From Expendable Receipts . . . . . 300,000  
 From Revenue Transfers . . . . . 309,000  
 Schedule of Programs:  
   Office of Indigent Defense Services . . . . . 600,000  
   Child Welfare Parental Defense  
   Program . . . . . 149,200  
     To implement the provisions of Defense  
     Contracts Amendments (Senate Bill 175,  
     2020 General Session).

**DEPARTMENT OF HUMAN SERVICES -  
 DIVISION OF JUVENILE JUSTICE  
 SERVICES**

**Item 115**

To Department of Human Services - Division of  
 Juvenile Justice Services - Programs and  
 Operations  
 From General Fund . . . . . (73,100)  
 Schedule of Programs:  
   Correctional Facilities . . . . . (73,100)

To implement the provisions of Juvenile Delinquency Amendments (House Bill 262, 2020 General Session).

**Item 116**

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations

From General Fund ..... (10,100)  
Schedule of Programs:

Early Intervention Services ..... (10,100)

To implement the provisions of Child Welfare Amendments (Senate Bill 65, 2020 General Session).

**DEPARTMENT OF PUBLIC SAFETY**

**Item 117**

To Department of Public Safety - Driver License  
From Department of Public Safety

Restricted Account, One-Time ..... (400,000)  
Schedule of Programs:

Driver Services ..... (400,000)

To implement the provisions of Electronic Driver License Amendments (Senate Bill 110, 2020 General Session).

**Item 118**

To Department of Public Safety -  
Emergency Management

From Dedicated Credits Revenue ..... 200,000  
Schedule of Programs:

Emergency Management ..... 200,000

To implement the provisions of Search and Rescue Funding Amendments (Senate Bill 152, 2020 General Session).

**Item 119**

To Department of Public Safety -  
Programs & Operations

From Department of Public Safety  
Restricted Account ..... (119,400)

From Department of Public Safety  
Restricted Account, One-Time ..... 59,700

Schedule of Programs:  
Highway Patrol - Safety Inspections .. (59,700)

To implement the provisions of School Bus Safety Inspection Amendments (House Bill 143, 2020 General Session).

**Item 120**

To Department of Public Safety -  
Programs & Operations

From General Fund ..... 7,300  
Schedule of Programs:

Highway Patrol - Safety Inspections ..... 7,300

To implement the provisions of Safety Inspections for Cited Vehicles (Senate Bill 31, 2020 General Session).

**Item 121**

To Department of Public Safety -  
Programs & Operations

From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account ..... 1,180,000

Schedule of Programs:

Department Commissioner's  
Office ..... 1,180,000

To implement the provisions of Electronic Cigarette and Other Nicotine Product Amendments (Senate Bill 37, 2020 General Session).

**Item 122**

To Department of Public Safety - Bureau of Criminal Identification

From Dedicated Credits Revenue ..... 300  
Schedule of Programs:

Non-Government/Other Services ..... 300

To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**STATE TREASURER**

**Item 123**

To State Treasurer

From Qualified Patient Enterprise Fund ... 2,000  
Schedule of Programs:

Treasury and Investment ..... 2,000

To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**UTAH COMMUNICATIONS AUTHORITY**

**Item 124**

To Utah Communications Authority -  
Administrative Services Division

From General Fund Restricted -  
Utah Statewide Radio System

Acct., One-Time ..... 50,000

Schedule of Programs:  
Radio Network Division ..... 50,000

To implement the provisions of 911 Communications Amendments (Senate Bill 130, 2020 General Session).

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**DEPARTMENT OF  
ADMINISTRATIVE SERVICES**

**Item 125**

To Department of Administrative Services - DFCM Administration

The Legislature intends that before commencing construction of any building funded during the 2020 General Session, the Division of Facilities Construction Management and partner higher education institution, where appropriate, report to the Executive Appropriations Committee and Infrastructure and General Government Appropriations Subcommittee on the status and cost of the project. DFCM and institutions shall seek feedback from at least one of these legislative committees before committing ongoing funds for demolition or construction.

**Item 126**

To Department of Administrative Services -  
Executive Director

The Legislature intends that the Department of Administrative Services submit to the Office of the Legislative Fiscal Analyst and the Governor’s Office of Management and Budget a monthly accounting of any transfer or expenditure of the funds provided by 63J-1-206 (3) for the state’s response to the coronavirus.

**Item 127**

To Department of Administrative Services - Finance - Mandated  
From General Fund Restricted - State Disaster Recovery Restr Act, One-Time . . . . . 4,000,000  
From General Fund Restricted - Public Safety Support, One-Time . . . 1,000,000  
Schedule of Programs:  
Emergency Disease Response . . . . . 5,000,000

The Legislature intends that the Division of Finance Mandated - Emergency Disease Response spend combined for FY 2020 and FY 2021 no more than a total of \$4.0 million from the State Disaster Recovery Restricted Account and no more than a total of \$1.0 million from the Department of Public Safety Restricted Account.

The Legislature intends that approximately \$3.0 million of the General Fund appropriated in this item be used specifically to support seniors, through programs such as Meals on Wheels, food boxes similar to the federal Commodity Supplemental Food Program, in-home medical testing and care, Aging Alternatives, and coronavirus intensive response.

**Item 128**

To Department of Administrative Services - Finance - Mandated  
From General Fund, One-Time . . . . . 1,015,500  
From Legislature -- Office of Legislative Research and General Counsel, One-Time . . . . . (1,000,000)  
Schedule of Programs:  
Redistricting Commission . . . . . 15,500

To implement the provisions of Redistricting Amendments (Senate Bill 200, 2020 General Session).

**Item 129**

To Department of Administrative Services - Finance Administration  
From General Fund, One-Time . . . . . 5,800  
Schedule of Programs:  
Payroll . . . . . 5,800

To implement the provisions of Phased Retirement Amendments (House Bill 225, 2020 General Session).

**Item 130**

To Department of Administrative Services - Finance Administration  
From Qualified Patient Enterprise Fund . . . 2,500  
Schedule of Programs:  
Payables/Disbursing . . . . . 2,500

To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**Item 131**

To Department of Administrative Services - Inspector General of Medicaid Services  
From General Fund . . . . . 8,000  
From General Fund, One-Time . . . . . (8,000)  
From Federal Funds . . . . . 8,000  
From Federal Funds, One-Time . . . . . (8,000)

To implement the provisions of Mental Health Amendments (House Bill 219, 2020 General Session).

**CAPITAL BUDGET**

**Item 132**

To Capital Budget - Capital Development - Other State Government  
From Capital Projects Fund, One-Time . . . . . 54,500,000  
Schedule of Programs:  
Taylorsville State Office Building . . . 43,500,000  
Behavioral Health Transition Facility . . . . . 11,000,000

**Item 133**

To Capital Budget - Capital Improvements  
From General Fund, One-Time . . . . . 5,850,000  
From Education Fund, One-Time . . . . . 5,850,000  
Schedule of Programs:  
Capital Improvements . . . . . 11,700,000

**TRANSPORTATION**

**Item 134**

To Transportation - Aeronautics  
From General Fund, One-Time . . . . . 2,000,000  
Schedule of Programs:  
Airplane Operations . . . . . 2,000,000

**Item 135**

To Transportation - Engineering Services  
From General Fund . . . . . 1,000,000  
From General Fund, One-Time . . . . . (400,000)  
Schedule of Programs:  
Planning and Investment . . . . . (400,000)  
Program Development . . . . . 1,000,000

**Item 136**

To Transportation - Operations/ Maintenance Management  
From Transportation Fund, One-Time . . . 22,000  
Schedule of Programs:  
Sign Operations . . . . . 22,000

To implement the provisions of Jordan River Amendments (House Bill 278, 2020 General Session).

**Item 137**

To Transportation - Operations/ Maintenance Management  
From Transportation Fund . . . . . 25,800  
Schedule of Programs:  
Maintenance Administration . . . . . 25,800

To implement the provisions of State Highway System Modifications (Senate Bill 25, 2020 General Session).

**Item 138**

To Transportation - Support Services



From Transportation Fund ..... (60,000)  
 Schedule of Programs:  
 Comptroller ..... (60,000)  
 To implement the provisions of Transportation Governance and Funding Amendments (Senate Bill 150, 2020 General Session).

**Item 139**

To Transportation - Transportation Investment Fund Capacity Program  
 The Legislature intends that as transportation projects are prioritized under Title 72 Chapter 1 Part 3, consideration be given to program beyond the normal programming horizon.

**Item 140**

To Transportation - Amusement Ride Safety  
 From General Fund, One-Time ..... 62,500  
 From General Fund Restricted - Amusement Ride Safety Restricted Account, One-Time ..... (62,500)  
 To implement the provisions of Amusement Ride Safety (House Bill 154, 2020 General Session).

**Item 141**

To Transportation - Pass-Through  
 From General Fund ..... (950,000)  
 From General Fund, One-Time ..... 2,000,000  
 Schedule of Programs:  
 Pass-Through ..... 1,050,000  
 The Legislature intends that the Department of Transportation report to the Infrastructure and General Government Appropriations Subcommittee by October 15, 2020 on its plan for spending \$2,000,000 one-time appropriated in this item for Rural Electric Vehicle Charging Infrastructure.

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

**Item 142**

To Department of Alcoholic Beverage Control - DABC Operations  
 From Liquor Control Fund ..... 662,200  
 From Liquor Control Fund, One-Time ... 428,400  
 Schedule of Programs:  
 Stores and Agencies ..... 1,090,600  
 To implement the provisions of Wine Services and Amendments (House Bill 157, 2020 General Session).

**Item 143**

To Department of Alcoholic Beverage Control - Parents Empowered  
 From General Fund Restricted - Underage Drinking Prevention Media and Education Campaign Restricted Account ..... 153,800  
 Schedule of Programs:  
 Parents Empowered ..... 153,800

**DEPARTMENT OF COMMERCE**

**Item 144**

To Department of Commerce - Commerce General Regulation  
 From General Fund Restricted - Commerce Service Account ..... 2,700  
 Schedule of Programs:  
 Consumer Protection ..... 2,700  
 To implement the provisions of Consumer Sales Practices Amendments (House Bill 113, 2020 General Session).

**Item 145**

To Department of Commerce - Commerce General Regulation  
 From General Fund Restricted - Commerce Service Account ..... 11,800  
 From General Fund Restricted - Commerce Service Account, One-Time ..... 11,100  
 Schedule of Programs:  
 Occupational and Professional Licensing ..... 22,900  
 To implement the provisions of Audiology and Speech-language Pathology Interstate Compact (House Bill 161, 2020 General Session).

**Item 146**

To Department of Commerce - Commerce General Regulation  
 From General Fund Restricted - Commerce Service Account ..... 5,000  
 Schedule of Programs:  
 Consumer Protection ..... 5,000  
 To implement the provisions of Telephone and Facsimile Solicitation Act Amendments (House Bill 165, 2020 General Session).

**Item 147**

To Department of Commerce - Commerce General Regulation  
 From General Fund Restricted - Commerce Service Account ..... 4,600  
 Schedule of Programs:  
 Occupational and Professional Licensing ..... 4,600  
 To implement the provisions of Prescription Revisions (House Bill 177, 2020 General Session).

**Item 148**

To Department of Commerce - Commerce General Regulation  
 From General Fund Restricted - Commerce Service Account ..... 800  
 From General Fund Restricted - Commerce Service Account, One-Time ... 1,900  
 Schedule of Programs:  
 Occupational and Professional Licensing ..... 2,700  
 To implement the provisions of Insulin Access Amendments (House Bill 207, 2020 General Session).

**Item 149**

To Department of Commerce - Commerce General Regulation  
 From General Fund Restricted - Commerce Service Account, One-Time ... 3,900

Schedule of Programs:  
 Occupational and Professional  
 Licensing . . . . . 3,900  
 To implement the provisions of Delegation  
 of Health Care Services Amendments (House  
 Bill 274, 2020 General Session).

**Item 150**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted -  
 Commerce Service Account . . . . . (2,400)  
 From General Fund Restricted - Commerce  
 Service Account, One-Time . . . . . 2,400  
 To implement the provisions of  
 Occupational Licensing Amendments (House  
 Bill 290, 2020 General Session).

**Item 151**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted -  
 Commerce Service Account . . . . . 4,100  
 From General Fund Restricted - Commerce  
 Service Account, One-Time . . . . . 1,400  
 Schedule of Programs:  
 Consumer Protection . . . . . 5,500  
 To implement the provisions of  
 Maintenance Funding Practices Act (House  
 Bill 312, 2020 General Session).

**Item 152**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted -  
 Commerce Service Account . . . . . 11,500  
 From General Fund Restricted - Commerce  
 Service Account, One-Time . . . . . 6,200  
 Schedule of Programs:  
 Occupational and Professional  
 Licensing . . . . . 17,700  
 To implement the provisions of Veterinary  
 Technician Certification Amendments  
 (House Bill 455, 2020 General Session).

**Item 153**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted -  
 Commerce Service Account . . . . . 3,600  
 From General Fund Restricted - Commerce  
 Service Account, One-Time . . . . . 20,800  
 Schedule of Programs:  
 Occupational and Professional  
 Licensing . . . . . 24,400  
 To implement the provisions of Division of  
 Occupational and Professional Licensing  
 Amendments (Senate Bill 23, 2020 General  
 Session).

**Item 154**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted -  
 Commerce Service Account, One-Time . . . 3,000  
 Schedule of Programs:

Occupational and Professional  
 Licensing . . . . . 3,000  
 To implement the provisions of Dental  
 Practice Act Amendments (Senate Bill 135,  
 2020 General Session).

**Item 155**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted - Commerce  
 Service Account, One-Time . . . . . 5,900  
 Schedule of Programs:  
 Occupational and Professional  
 Licensing . . . . . 5,900  
 To implement the provisions of Pharmacy  
 Practice Act Amendments (Senate Bill 145,  
 2020 General Session).

**Item 156**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted - Commerce  
 Service Account . . . . . (2,400)  
 Schedule of Programs:  
 Occupational and Professional  
 Licensing . . . . . (2,400)  
 To implement the provisions of  
 Occupational and Professional Licensing  
 Amendments (Senate Bill 149, 2020 General  
 Session).

**Item 157**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted -  
 Commerce Service Account . . . . . 77,000  
 Schedule of Programs:  
 Occupational and Professional  
 Licensing . . . . . 77,000  
 To implement the provisions of Business  
 Payroll Practices Amendments (Senate Bill  
 153, 2020 General Session).

**Item 158**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted - Commerce  
 Service Account, One-Time . . . . . 4,800  
 Schedule of Programs:  
 Occupational and Professional  
 Licensing . . . . . 4,800  
 To implement the provisions of Professional  
 Licensing Amendments (Senate Bill 201,  
 2020 General Session).

**Item 159**  
 To Department of Commerce - Commerce  
 General Regulation  
 From General Fund Restricted -  
 Latino Community Support  
 Restricted Account . . . . . 12,500  
 From General Fund Restricted -  
 Commerce Service Account . . . . . 2,200  
 Schedule of Programs:  
 Administration . . . . . 14,700  
 To implement the provisions of Special  
 Group License Plate Amendments (Senate  
 Bill 212, 2020 General Session).

**GOVERNOR'S OFFICE  
OF ECONOMIC DEVELOPMENT**

**Item 160**

To Governor's Office of Economic Development - Administration  
From General Fund ..... 25,000  
Schedule of Programs:  
Administration ..... 25,000  
To implement the provisions of Public-private Partnerships Amendments (Senate Bill 133, 2020 General Session).

**Item 161**

To Governor's Office of Economic Development - Business Development  
From Dedicated Credits Revenue ..... 150,000  
Schedule of Programs:  
Corporate Recruitment and Business Services ..... 150,000

**Item 162**

To Governor's Office of Economic Development - Business Development  
From General Fund ..... 225,000  
Schedule of Programs:  
Corporate Recruitment and Business Services ..... 225,000  
To implement the provisions of Public-private Partnerships Amendments (Senate Bill 133, 2020 General Session).

**Item 163**

To Governor's Office of Economic Development - Pass-Through  
From General Fund ..... (1,000,000)  
From General Fund, One-Time ..... 2,975,000  
From Education Fund, One-Time ..... 3,000,000  
Schedule of Programs:  
Pass-Through ..... 4,975,000

**Item 164**

To Governor's Office of Economic Development - Point of the Mountain Authority  
From General Fund, One-Time ..... 3,000,000  
From Transit Transportation Investment Fund, One-Time ..... 750,000  
Schedule of Programs:  
Point of the Mountain Authority .... 3,750,000  
The Legislature intends that the Department of Transportation use up to \$750,000, as revenue allows, from the Transit Transportation Investment Fund to begin subsequent environmental analysis for any locally preferred alternative identified. Use of funds by the department for an environmental analysis is contingent upon contribution of nonstate funds to the analysis.

**Item 165**

To Governor's Office of Economic Development - Economic Assistance Grants  
From General Fund, One-Time ..... 1,000,000  
Schedule of Programs:  
Economic Assistance Grants ..... 1,000,000  
The Legislature intends that \$1,000,000 provided one-time from the General Fund by this item be used for economic assistance

grants targeting conferences, summits, expos, and events that: 1. draw more than 10,000 participants; 2. have a significant regional and state-wide economic impact, and 3. support the tech industry, outdoor recreation, large fan-based expos and regional performing organizations that offer a wide variety of productions. The Legislature further intends for GOED to report to the Office of the Legislative Fiscal Analyst during the 2020 interim plans to efficiently allocate and administer such grants.

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 166**

To Department of Heritage and Arts - State History  
From General Fund ..... 115,000  
Schedule of Programs:  
Historic Preservation and Antiquities ..... 115,000  
To implement the provisions of Cultural Stewardship Amendments (House Bill 163, 2020 General Session).

**INSURANCE DEPARTMENT**

**Item 167**

To Insurance Department - Insurance Department Administration  
From General Fund Restricted - Insurance Department Act., One-Time ..... 2,500  
Schedule of Programs:  
Administration ..... 2,500  
To implement the provisions of Insurance Amendments (House Bill 37, 2020 General Session).

**Item 168**

To Insurance Department - Insurance Department Administration  
From General Fund Restricted - Insurance Department Act. .... 7,200  
From General Fund Restricted - Insurance Department Act., One-Time ..... 12,000  
Schedule of Programs:  
Administration ..... 19,200  
To implement the provisions of Insulin Access Amendments (House Bill 207, 2020 General Session).

**Item 169**

To Insurance Department - Insurance Department Administration  
From General Fund Restricted - Insurance Department Act. .... 163,100  
From General Fund Restricted - Technology Development ..... 10,000  
From General Fund Restricted - Technology Development, One-Time .. 200,000  
Schedule of Programs:  
Administration ..... 373,100  
To implement the provisions of Pharmacy Benefit Amendments (House Bill 272, 2020 General Session).

**Item 170**

To Insurance Department - Insurance  
 Department Administration  
 From General Fund Restricted -  
 Insurance Department Acct.,  
 One-Time ..... 8,300  
 Schedule of Programs:  
 Administration ..... 8,300  
 To implement the provisions of Insurance  
 Modifications (House Bill 349, 2020 General  
 Session).

**Item 171**

To Insurance Department - Insurance  
 Department Administration  
 From General Fund Restricted -  
 Insurance Department Acct.,  
 One-Time ..... 20,100  
 Schedule of Programs:  
 Administration ..... 20,100  
 To implement the provisions of Medical  
 Billing Amendments (Senate Bill 155, 2020  
 General Session).

**UTAH STATE TAX COMMISSION**

**Item 172**

To Utah State Tax Commission -  
 Tax Administration  
 From General Fund ..... (82,000)  
 From General Fund, One-Time ..... (26,000)  
 Schedule of Programs:  
 Administration Division ..... (192,000)  
 Auditing Division ..... 192,000  
 Tax Payer Services ..... (108,000)

**Item 173**

To Utah State Tax Commission -  
 Tax Administration  
 From Dedicated Credits Revenue,  
 One-Time ..... 7,500  
 Schedule of Programs:  
 Motor Vehicles ..... 7,500  
 To implement the provisions of Special  
 Group License Plate Amendments (Senate  
 Bill 212, 2020 General Session).

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 174**

To Department of Health - Disease Control  
 and Prevention  
 From General Fund, One-Time ..... 41,600  
 Schedule of Programs:  
 Health Promotion ..... 41,600  
 To implement the provisions of Hepatitis C  
 Outreach Pilot Program (House Bill 220, 2020  
 General Session).

**Item 175**

To Department of Health - Disease Control  
 and Prevention  
 From General Fund ..... 3,700  
 Schedule of Programs:  
 Health Promotion ..... 3,700

To implement the provisions of Fatality  
 Review Amendments (House Bill 295, 2020  
 General Session).

**Item 176**

To Department of Health - Disease Control  
 and Prevention  
 From General Fund ..... 40,300  
 Schedule of Programs:  
 Health Promotion ..... 40,300  
 To implement the provisions of Substance  
 Use and Violence Prevention Reporting  
 Amendments (House Bill 419, 2020 General  
 Session).

**Item 177**

To Department of Health - Disease Control  
 and Prevention  
 From General Fund Restricted - Electronic  
 Cigarette Substance and Nicotine Product Tax  
 Restricted Account ..... 7,000,000  
 Schedule of Programs:  
 Health Promotion ..... 7,000,000  
 To implement the provisions of Electronic  
 Cigarette and Other Nicotine Product  
 Amendments (Senate Bill 37, 2020 General  
 Session).

**Item 178**

To Department of Health - Executive Director's  
 Operations  
 The Legislature intends that the  
 Department of Health report by May 1, 2021  
 to the Health and Human Services Interim  
 Committee on the findings from the health  
 care waste calculator and recommended steps  
 that the State could take to reduce wasteful  
 spending and ways to bring duplicative  
 quality measurements into alignment.

**Item 179**

To Department of Health - Executive  
 Director's Operations  
 From General Fund ..... 100,000  
 From General Fund, One-Time ..... 25,000  
 Schedule of Programs:  
 Center for Health Data and  
 Informatics ..... 125,000  
 To implement the provisions of Identifying  
 Wasteful Health Care Spending (House Bill  
 195, 2020 General Session).

**Item 180**

To Department of Health - Executive  
 Director's Operations  
 From General Fund ..... 168,300  
 Schedule of Programs:  
 Executive Director ..... 168,300  
 To implement the provisions of American  
 Indian-alaska Native Related Amendments  
 (Senate Bill 22, 2020 General Session).

**Item 181**

To Department of Health - Family  
 Health and Preparedness  
 From General Fund, One-Time ..... 55,000  
 From Federal Funds, One-Time ..... 15,000,000  
 Schedule of Programs:  
 Emergency Medical Services and  
 Preparedness ..... 15,000,000

Primary Care ..... 55,000  
 The Legislature intends that the Department of Health coordinate any spending including federal funds on the state's response to coronavirus with the Department of Administrative Services.

**Item 182**

To Department of Health - Family Health and Preparedness  
 From General Fund Restricted - Adult Autism Treatment Account ..... 700,000  
 Schedule of Programs:  
 Children with Special Health Care Needs ..... 700,000  
 To implement the provisions of Adult Autism Treatment Program (House Bill 86, 2020 General Session).

**Item 183**

To Department of Health - Family Health and Preparedness  
 From General Fund ..... 18,000  
 From Federal Funds ..... 14,500  
 Schedule of Programs:  
 Maternal and Child Health ..... 32,500  
 To implement the provisions of Newborn Safe Haven Amendments (House Bill 97, 2020 General Session).

**Item 184**

To Department of Health - Family Health and Preparedness  
 From General Fund, One-Time ..... 41,700  
 Schedule of Programs:  
 Children with Special Health Care Needs ..... 41,700  
 To implement the provisions of Alcohol Education Amendments (House Bill 208, 2020 General Session).

**Item 185**

To Department of Health - Family Health and Preparedness  
 From General Fund ..... 8,500  
 Schedule of Programs:  
 Maternal and Child Health ..... 8,500  
 To implement the provisions of Fetal Exposure Reporting and Treatment Amendments (House Bill 244, 2020 General Session).

**Item 186**

To Department of Health - Family Health and Preparedness  
 From General Fund, One-Time ..... 1,400  
 Schedule of Programs:  
 Health Facility Licensing and Certification ..... 1,400  
 To implement the provisions of Delegation of Health Care Services Amendments (House Bill 274, 2020 General Session).

**Item 187**

To Department of Health - Family Health and Preparedness  
 From General Fund ..... 19,100  
 From Dedicated Credits Revenue ..... 7,500

Schedule of Programs:  
 Maternal and Child Health ..... 26,600  
 To implement the provisions of Abortion Revisions (House Bill 364, 2020 General Session).

**Item 188**

To Department of Health - Family Health and Preparedness  
 From Dedicated Credits Revenue, One-Time ..... 8,800  
 Schedule of Programs:  
 Health Facility Licensing and Certification ..... 8,800  
 To implement the provisions of Birthing Facility Licensure Amendments (House Bill 428, 2020 General Session).

**Item 189**

To Department of Health - Family Health and Preparedness  
 From Dedicated Credits Revenue ..... 200  
 Schedule of Programs:  
 Health Facility Licensing and Certification ..... 200  
 To implement the provisions of Disposition of Fetal Remains (Senate Bill 67, 2020 General Session).

**Item 190**

To Department of Health - Medicaid and Health Financing  
 From General Fund, One-Time ..... 6,600  
 From Federal Funds, One-Time ..... 21,700  
 From Expendable Receipts, One-Time ..... 500  
 From Medicaid Expansion Fund, One-Time ..... 100  
 From Nursing Care Facilities Provider Assessment Fund, One-Time ..... 100  
 From Revenue Transfers, One-Time ..... 200  
 Schedule of Programs:  
 Financial Services ..... 25,000  
 Medicaid Operations ..... 4,200  
 To implement the provisions of Crisis Services Amendments (House Bill 32, 2020 General Session).

**Item 191**

To Department of Health - Medicaid and Health Financing  
 From General Fund, One-Time ..... 4,900  
 From Federal Funds, One-Time ..... 14,000  
 From Medicaid Expansion Fund, One-Time ..... 9,100  
 Schedule of Programs:  
 Director's Office ..... 28,000  
 To implement the provisions of Substance Use and Health Care Amendments (House Bill 38, 2020 General Session).

**Item 192**

To Department of Health - Medicaid and Health Financing  
 From General Fund ..... 82,500  
 From General Fund, One-Time ..... (41,200)  
 From Federal Funds ..... 82,500  
 From Federal Funds, One-Time ..... (41,200)  
 Schedule of Programs:  
 Director's Office ..... 82,600

To implement the provisions of Insurance Coverage Modifications (House Bill 214, 2020 General Session).

**Item 193**

To Department of Health – Medicaid and

Health Financing

From General Fund . . . . . (56,300)

From General Fund, One-Time . . . . . 71,100

From Federal Funds . . . . . 152,200

From Federal Funds, One-Time . . . . . (12,200)

From Expendable Receipts . . . . . 158,000

From Expendable Receipts,

One-Time . . . . . (86,200)

From Medicaid Expansion Fund . . . . . 31,200

From Medicaid Expansion Fund,

One-Time . . . . . (4,700)

Schedule of Programs:

Contracts . . . . . 75,000

Coverage and Reimbursement Policy . . . 37,300

Eligibility Policy . . . . . 57,800

Financial Services . . . . . 83,000

To implement the provisions of Mental Health Amendments (House Bill 219, 2020 General Session).

**Item 194**

To Department of Health – Medicaid and

Health Financing

From General Fund, One-Time . . . . . 1,800

From Federal Funds, One-Time . . . . . 1,800

Schedule of Programs:

Director's Office . . . . . 3,600

To implement the provisions of Disability Act Compliance Amendments (House Bill 378, 2020 General Session).

**Item 195**

To Department of Health – Medicaid and

Health Financing

From General Fund . . . . . 58,200

From Federal Funds . . . . . 58,200

Schedule of Programs:

Authorization and Community Based

Services . . . . . 116,400

To implement the provisions of Limited Support Services Waiver Amendments (Senate Bill 44, 2020 General Session).

**Item 196**

To Department of Health – Medicaid Services

From General Fund . . . . . 2,405,000

From Federal Funds . . . . . 5,058,000

Schedule of Programs:

Accountable Care Organizations . . . . 6,844,000

Home and Community Based

Waivers . . . . . 619,000

**Item 197**

To Department of Health – Medicaid Services

From General Fund, One-Time . . . . . 25,000

From Federal Funds . . . . . 2,092,900

From Federal Funds, One-Time . . . . . (821,500)

From Expendable Receipts . . . . . 647,300

From Expendable Receipts,

One-Time . . . . . (323,700)

From Medicaid Expansion Fund . . . . . 81,800

From Medicaid Expansion Fund,

One-Time . . . . . (40,900)

Schedule of Programs:

Medicaid Expansion . . . . . 409,200

Mental Health and Substance

Abuse . . . . . 1,001,700

Provider Reimbursement Information

System for Medicaid . . . . . 250,000

To implement the provisions of Crisis

Services Amendments (House Bill 32, 2020

General Session).

**Item 198**

To Department of Health – Medicaid Services

From Federal Funds . . . . . 54,200

From Expendable Receipts . . . . . 25,800

Schedule of Programs:

Mental Health and Substance Abuse . . . 80,000

To implement the provisions of Mental

Health Treatment Access Amendments

(House Bill 35, 2020 General Session).

**Item 199**

To Department of Health – Medicaid Services

From General Fund, One-Time . . . . . 19,100

From Federal Funds . . . . . 15,030,000

From Federal Funds, One-Time . . . . . (7,975,000)

From Expendable Receipts . . . . . 5,130,000

From Expendable Receipts,

One-Time . . . . . (2,800,000)

From Medicaid Expansion Fund . . . . . 480,000

From Medicaid Expansion Fund,

One-Time . . . . . (254,100)

Schedule of Programs:

Medicaid Expansion . . . . . 2,200,000

Mental Health and Substance

Abuse . . . . . 7,180,000

Provider Reimbursement Information

System for Medicaid . . . . . 250,000

To implement the provisions of Mental

Health Amendments (House Bill 219, 2020

General Session).

**Item 200**

To Department of Health – Medicaid Services

From General Fund . . . . . 120,000

From Federal Funds . . . . . 250,000

Schedule of Programs:

Other Services . . . . . 370,000

To implement the provisions of Health and

Human Services Amendments (House Bill

436, 2020 General Session).

**Item 201**

To Department of Health – Medicaid Services

From General Fund . . . . . 80,700

From Federal Funds . . . . . 169,100

From Federal Funds, One-Time . . . . . 207,100

Schedule of Programs:

Other Services . . . . . 156,900

Provider Reimbursement Information

System for Medicaid . . . . . 300,000

To implement the provisions of Limited

Support Services Waiver Amendments

(Senate Bill 44, 2020 General Session).

**DEPARTMENT OF HUMAN SERVICES**

**Item 202**

To Department of Human Services - Division of Child and Family Services  
 From General Fund ..... 5,600  
 From Federal Funds ..... 700  
 Schedule of Programs:  
 Out-of-Home Care ..... 1,000  
 Selected Programs ..... 5,300  
 To implement the provisions of Abuse, Neglect, and Dependency Proceedings Amendments (House Bill 33, 2020 General Session).

**Item 203**

To Department of Human Services - Division of Child and Family Services  
 From General Fund ..... 1,000  
 From General Fund, One-Time ..... 200  
 From Gen. Fund Rest. - Victims of Domestic Violence Services Acct ..... (31,000)  
 From Gen. Fund Rest. - Victims of Domestic Violence Services Acct, One-Time ..... (200)  
 Schedule of Programs:  
 Domestic Violence ..... (30,000)  
 To implement the provisions of Amendments Related to Surcharge Fees (House Bill 485, 2020 General Session).

**Item 204**

To Department of Human Services - Division of Child and Family Services  
 From General Fund ..... 2,200  
 From Federal Funds ..... 1,400  
 Schedule of Programs:  
 Facility-Based Services ..... 10,100  
 Service Delivery ..... (6,500)  
 To implement the provisions of Child Welfare Amendments (Senate Bill 65, 2020 General Session).

**Item 205**

To Department of Human Services - Division of Child and Family Services  
 From Federal Funds ..... 300,000  
 From Revenue Transfers ..... (300,000)  
 To implement the provisions of Defense Contracts Amendments (Senate Bill 175, 2020 General Session).

**Item 206**

To Department of Human Services - Executive Director Operations  
 From General Fund, One-Time ..... 10,300  
 From Federal Funds, One-Time ..... 1,500  
 From Revenue Transfers, One-Time ..... 800  
 Schedule of Programs:  
 Legal Affairs ..... 12,600  
 To implement the provisions of Crisis Services Amendments (House Bill 32, 2020 General Session).

**Item 207**

To Department of Human Services - Executive Director Operations  
 From General Fund ..... 37,800

From Federal Funds ..... 5,500  
 From Revenue Transfers ..... 2,900  
 Schedule of Programs:  
 Legal Affairs ..... 46,200  
 To implement the provisions of Mental Health Treatment Access Amendments (House Bill 35, 2020 General Session).

**Item 208**

To Department of Human Services - Executive Director Operations  
 From General Fund ..... (4,000)  
 Schedule of Programs:  
 Office of Licensing ..... (4,000)  
 To implement the provisions of Child Placement Background Check Limits (House Bill 137, 2020 General Session).

**Item 209**

To Department of Human Services - Executive Director Operations  
 From General Fund, One-Time ..... 4,300  
 From Federal Funds, One-Time ..... 600  
 From Revenue Transfers, One-Time ..... 300  
 Schedule of Programs:  
 Legal Affairs ..... 5,200  
 To implement the provisions of Disability Act Compliance Amendments (House Bill 378, 2020 General Session).

**Item 210**

To Department of Human Services - Executive Director Operations  
 From General Fund ..... 8,000  
 Schedule of Programs:  
 Office of Licensing ..... 8,000  
 To implement the provisions of Health and Human Services Amendments (House Bill 436, 2020 General Session).

**Item 211**

To Department of Human Services - Division of Services for People with Disabilities  
 From General Fund ..... 260,000  
 From Revenue Transfers ..... 544,800  
 Schedule of Programs:  
 Community Supports Waiver ..... 773,800  
 Utah State Developmental Center ..... 31,000

**Item 212**

To Department of Human Services - Division of Services for People with Disabilities  
 From General Fund, One-Time ..... 12,000  
 Schedule of Programs:  
 Administration - DSPD ..... 12,000  
 To implement the provisions of Disability Act Compliance Amendments (House Bill 378, 2020 General Session).

**Item 213**

To Department of Human Services - Division of Services for People with Disabilities  
 From General Fund ..... 258,200  
 From General Fund, One-Time ..... (33,600)  
 From Revenue Transfers ..... 413,800  
 From Revenue Transfers, One-Time ... (70,400)  
 Schedule of Programs:  
 Service Delivery ..... 232,200  
 Limited Supports Waiver ..... 335,800

To implement the provisions of Limited Support Services Waiver Amendments (Senate Bill 44, 2020 General Session).

**Item 214**

To Department of Human Services - Division of Substance Abuse and Mental Health  
 From General Fund ..... (25,000)  
 From General Fund, One-Time ..... 100,000  
 Schedule of Programs:  
     Community Mental Health Services .... 75,000

**Item 215**

To Department of Human Services - Division of Substance Abuse and Mental Health  
 From General Fund ..... 1,350,000  
 Schedule of Programs:  
     Community Mental Health Services ..... 1,350,000

To implement the provisions of Mental Health Treatment Access Amendments (House Bill 35, 2020 General Session).

**Item 216**

To Department of Human Services - Division of Substance Abuse and Mental Health  
 From General Fund, One-Time ..... 500  
 From Dedicated Credits Revenue, One-Time ..... 100  
 Schedule of Programs:  
     Residential Mental Health Services ..... 600

To implement the provisions of Mental Health Amendments (House Bill 219, 2020 General Session).

**Item 217**

To Department of Human Services - Division of Substance Abuse and Mental Health  
 From Federal Funds ..... 306,000  
 Schedule of Programs:  
     State Substance Abuse Services ..... 306,000

To implement the provisions of Fetal Exposure Reporting and Treatment Amendments (House Bill 244, 2020 General Session).

**DEPARTMENT OF WORKFORCE SERVICES**

**Item 218**

To Department of Workforce Services - Housing and Community Development  
 From General Fund, One-Time ..... 175,000  
 From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct ..... 1,500,000  
 Schedule of Programs:  
     Community Development ..... 175,000  
     Homeless Committee ..... 1,500,000

The Legislature intends that \$1,500,000 appropriated from the Homeless to Housing Reform Restricted Account in this item be granted to one or more homeless shelters that began operations on or after January 1, 2019 for operational costs; a homeless shelter receiving a grant shall provide matching funds equal to the grant amount, in accordance with 35A-8-604(8)(a). The Legislature further intends that for entities

to qualify for matching funds for this funding amount for \$1,500,000, that entity funds also increase operational resource funding as opposed to bonding, in-kind, or other indirectly related resources.

**Item 219**

To Department of Workforce Services - Operations and Policy  
 From General Fund Restricted - School Readiness Account ..... 3,000,000  
 Schedule of Programs:  
     Workforce Development ..... 3,000,000

**Item 220**

To Department of Workforce Services - Operations and Policy  
 From General Fund ..... 2,900  
 From General Fund, One-Time ..... 33,600  
 From Revenue Transfers ..... 8,700  
 From Revenue Transfers, One-Time .... 302,400  
 Schedule of Programs:  
     Eligibility Services ..... 11,600  
     Information Technology ..... 336,000

To implement the provisions of Limited Support Services Waiver Amendments (Senate Bill 44, 2020 General Session).

**HIGHER EDUCATION**

**UNIVERSITY OF UTAH**

**Item 221**

To University of Utah - Education and General  
 From General Fund ..... (4,185,200)  
 From General Fund, One-Time .... (24,500,000)  
 From Education Fund ..... 5,000,000  
 From Education Fund, One-Time .... 25,300,000  
 Schedule of Programs:  
     Education and General ..... 1,614,800

The Legislature intends that \$300,000 one-time provided by this item be used by the University of Utah Center for Medical Innovation for a multi-dimensional educational experience showcasing Utah's world-class life sciences programs and Utah's dynamic biotech industries. It further intends that this be done in collaboration with the University of Utah and other Utah educational institutions and may be showcased at museums around the world. The appropriation must be combined with matching funds raised through private donations.

**Item 222**

To University of Utah - Education and General  
 From General Fund ..... 100,000  
 Schedule of Programs:  
     Education and General ..... 100,000

To implement the provisions of Mental Health Services Amendments (Senate Bill 89, 2020 General Session).

**Item 223**

To University of Utah - School of Medicine  
 From Education Fund ..... (1,500,000)  
 Schedule of Programs:  
     School of Medicine ..... (1,500,000)



**Item 224**

To University of Utah - SafeUT Crisis  
Text and Tip  
From Education Fund, One-Time . . . . . 250,000  
Schedule of Programs:  
SafeUT Operations . . . . . 250,000

**UTAH STATE UNIVERSITY**

**Item 225**

To Utah State University - Education and General  
From General Fund . . . . . 600,000  
From General Fund, One-Time . . . . . (3,000,000)  
From Education Fund . . . . . 250,000  
Schedule of Programs:  
Education and General . . . . . (2,150,000)

**Item 226**

To Utah State University - Blanding Campus  
From Education Fund . . . . . 200,000  
Schedule of Programs:  
Blanding Campus . . . . . 200,000

**SOUTHERN UTAH UNIVERSITY**

**Item 227**

To Southern Utah University -  
Shakespeare Festival  
From Education Fund, One-Time . . . . . 300,000  
Schedule of Programs:  
Shakespeare Festival . . . . . 300,000

**UTAH VALLEY UNIVERSITY**

**Item 228**

To Utah Valley University - Education and General  
From General Fund . . . . . 107,900  
From Education Fund . . . . . (107,900)

**SNOW COLLEGE**

**Item 229**

To Snow College - Career and Technical Education  
From Education Fund . . . . . 600,000  
Schedule of Programs:  
Career and Technical Education . . . . . 600,000

**DIXIE STATE UNIVERSITY**

**Item 230**

To Dixie State University - Education and General  
From Education Fund . . . . . 1,500,000  
Schedule of Programs:  
Education and General . . . . . 1,500,000

The Legislature intends that \$1,500,000 ongoing, from the Education Fund in the Dixie State University - Education and General Line Item be used for development of programs that will eventually be wholly operated by Dixie State University.

The Legislature further intends that Dixie State University annually approve a proposed program budget prior to disbursal of any of these funds for program development by the University of Utah.

**SALT LAKE COMMUNITY COLLEGE**

**Item 231**

To Salt Lake Community College - School  
of Applied Technology  
From Education Fund . . . . . 200,000  
Schedule of Programs:  
School of Applied Technology . . . . . 200,000

**STATE BOARD OF REGENTS**

**Item 232**

To State Board of Regents - Administration

The Legislature intends that all funds allocated in FY 2021 in the performance funding program be distributed to institutions using the Board of Regents performance funding allocation formula as defined in 53B-7-706 and that the funds may be used by the institutions to support institutional priorities. Any funds not earned by institutions may be utilized by the State Board of Regents on a one-time basis in FY 2021 for cyber security needs within the system as determined by the Regents. These ongoing funds will be available for performance funding allocation in the FY 2022 budget cycle.

**Item 233**

To State Board of Regents - Administration  
From General Fund . . . . . 100,000  
Schedule of Programs:  
Administration . . . . . 100,000

To implement the provisions of Emerging Technology Talent Initiative (Senate Bill 96, 2020 General Session).

**Item 234**

To State Board of Regents - Administration  
From Education Fund . . . . . 74,700  
Schedule of Programs:  
Administration . . . . . 74,700

To implement the provisions of Higher Education Amendments (Senate Bill 111, 2020 General Session).

**Item 235**

To State Board of Regents - Student Assistance  
From Education Fund . . . . . 200,000  
Schedule of Programs:  
T.H. Bell Teaching Incentive  
Loans Program . . . . . 200,000

**Item 236**

To State Board of Regents - Technology  
From Education Fund . . . . . (74,700)  
Schedule of Programs:  
Higher Education Technology  
Initiative . . . . . (74,700)

To implement the provisions of Higher Education Amendments (Senate Bill 111, 2020 General Session).

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
AGRICULTURE AND FOOD**

**Item 237**

To Department of Agriculture and Food -  
Administration  
From Dedicated Credits Revenue ..... 15,000  
Schedule of Programs:  
Chemistry Laboratory ..... 15,000  
To implement the provisions of Raw Milk  
Products Amendments (House Bill 134, 2020  
General Session).

**Item 238**

To Department of Agriculture and Food -  
Animal Health  
From General Fund ..... (700)  
From General Fund, One-Time ..... 800  
Schedule of Programs:  
Meat Inspection ..... 100  
To implement the provisions of Poultry  
Amendments (House Bill 358, 2020 General  
Session).

**Item 239**

To Department of Agriculture and Food -  
Plant Industry  
From Dedicated Credits Revenue ..... (824,700)  
From Beginning Nonlapsing  
Balances ..... (400,000)  
Schedule of Programs:  
Plant Industry ..... (1,224,700)

**Item 240**

To Department of Agriculture and Food -  
Regulatory Services  
From General Fund, One-Time ..... 1,500  
Schedule of Programs:  
Regulatory Services ..... 1,500  
To implement the provisions of  
Occupational Licensing Amendments (House  
Bill 290, 2020 General Session).

**Item 241**

To Department of Agriculture and Food -  
Medical Cannabis  
From Qualified Production Enterprise  
Fund ..... 768,000  
From Qualified Production  
Enterprise Fund, One-Time ..... 182,000  
Schedule of Programs:  
Medical Cannabis ..... 950,000

**Item 242**

To Department of Agriculture and Food -  
Industrial Hemp  
From Dedicated Credits Revenue ..... 824,700  
From Beginning Nonlapsing Balances ... 400,000  
Schedule of Programs:  
Industrial Hemp ..... 1,224,700

**Item 243**

To Department of Agriculture and Food -  
Industrial Hemp  
From Dedicated Credits Revenue ..... 84,400

From Dedicated Credits Revenue,  
One-Time ..... 30,000  
Schedule of Programs:  
Industrial Hemp ..... 114,400  
To implement the provisions of Industrial  
Hemp Program Amendments (House Bill 18,  
2020 General Session).

**DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

**Item 244**

To Department of Environmental Quality -  
Water Quality  
From General Fund, One-Time ..... 200,000  
Schedule of Programs:  
Water Quality ..... 200,000

**GOVERNOR'S OFFICE**

**Item 245**

To Governor's Office - Office of  
Energy Development  
From General Fund, One-Time ..... 2,000,000  
Schedule of Programs:  
Office of Energy Development ..... 2,000,000  
The Legislature intends that the  
Governor's Office of Energy Development is  
authorized to charge an application fee for the  
Well Recompletion Workover Tax Credit  
certificate in the amount of \$10 per  
application.

**DEPARTMENT OF NATURAL RESOURCES**

**Item 246**

To Department of Natural Resources -  
DNR Pass Through  
From General Fund, One-Time ..... (2,000,000)  
Schedule of Programs:  
DNR Pass Through ..... (2,000,000)

**Item 247**

To Department of Natural Resources -  
Forestry, Fire and State Lands  
From General Fund, One-Time ..... 190,000  
Schedule of Programs:  
Project Management ..... 190,000  
The Legislature intends that the \$190,000  
one-time provided by this item be used for the  
planning and development of the Wakara  
Way Park under the direction of the Utah  
Lake Commission.

**Item 248**

To Department of Natural Resources -  
Oil, Gas and Mining  
From Gen. Fund Rest. - Oil & Gas  
Conservation Account ..... 115,600  
Schedule of Programs:  
Board ..... 115,600  
To implement the provisions of Oil and Gas  
Modifications (Senate Bill 148, 2020 General  
Session).

**Item 249**

To Department of Natural Resources -  
Water Resources

From General Fund Restricted -  
 Agricultural Water Optimization  
 Restricted Account ..... 2,800  
 Schedule of Programs:  
 Funding Projects and Research ..... 2,800  
 To implement the provisions of  
 Agricultural Water Optimization Task Force  
 Amendments (House Bill 39, 2020 General  
 Session).

**Item 250**

To Department of Natural Resources -  
 Water Resources  
 From Water Resources Conservation  
 and Development Fund ..... 133,800  
 Schedule of Programs:  
 Planning ..... 133,800  
 To implement the provisions of Watershed  
 Councils (House Bill 166, 2020 General  
 Session).

**Item 251**

To Department of Natural Resources -  
 Water Resources  
 From Dedicated Credits Revenue ..... 5,000  
 From Water Resources Conservation  
 and Development Fund ..... 60,000  
 Schedule of Programs:  
 Planning ..... 65,000  
 To implement the provisions of Water  
 Banking Amendments (Senate Bill 26, 2020  
 General Session).

**Item 252**

To Department of Natural Resources -  
 Wildlife Resources  
 From General Fund ..... 24,000  
 From General Fund, One-Time ..... 113,200  
 Schedule of Programs:  
 Administrative Services ..... 137,200  
 To implement the provisions of Fishing and  
 Hunting Restrictions for Nonpayment of  
 Child Support (House Bill 197, 2020 General  
 Session).

**Item 253**

To Department of Natural Resources -  
 Wildlife Resources  
 From New Account Created By Bill  
 (FN Only) ..... 1,006,000  
 Schedule of Programs:  
 Aquatic Section ..... 1,006,000  
 To implement the provisions of Boat Fees  
 Amendments (House Bill 255, 2020 General  
 Session).

**SCHOOL AND INSTITUTIONAL  
 TRUST LANDS ADMINISTRATION**

**Item 254**

To School and Institutional Trust  
 Lands Administration  
 From Land Grant Management Fund ..... 1,100  
 From Trust and Agency Funds ..... (1,100)

**PUBLIC EDUCATION**

**STATE BOARD OF EDUCATION -  
 MINIMUM SCHOOL PROGRAM**

**Item 255**

To State Board of Education - Minimum School  
 Program - Basic School Program  
 From Education Fund ..... 7,000,000  
 From Uniform School Fund ..... (7,000,000)

**Item 256**

To State Board of Education - Minimum School  
 Program - Related to Basic School Programs  
 From Education Fund, One-Time .... 30,000,000  
 From Teacher and Student Success  
 Account ..... 20,600,000  
 Schedule of Programs:  
 Flexible Allocation - WPU  
 Distribution ..... 30,000,000  
 Teacher and Student Success  
 Program ..... 20,600,000

The Legislature intends that local  
 education agencies (LEAs) expend one-time  
 funding received through the Flexible  
 Allocation - WPU Distribution Program to  
 meet school level priorities, first to address  
 one-time student and school safety priorities  
 and second to meet other one-time school  
 level priorities. The Legislature further  
 intends that LEAs report expenditures to the  
 State Board of Education and the State Board  
 of Education report to the Public Education  
 Appropriations Subcommittee on these  
 expenditures by February 1, 2021.

The Legislature intends that the State  
 Board of Education use \$800,000 one-time  
 appropriated to Concurrent Enrollment to  
 support the Concurrent Enrollment  
 Certificate Pilot for two years beginning in  
 the 2021 academic year as provided in House  
 Bill 336, Concurrent Enrollment Certificate  
 Pilot Program from the 2020 General Session.

**Item 257**

To State Board of Education - Minimum School  
 Program - Related to Basic School Programs  
 From Education Fund ..... 428,200  
 Schedule of Programs:  
 Effective Teachers in High Poverty  
 Schools Incentive Program ..... 428,200  
 To implement the provisions of Effective  
 Teachers in High Poverty Schools Incentive  
 Program Amendments (House Bill 107, 2020  
 General Session).

**Item 258**

To State Board of Education - Minimum School  
 Program - Related to Basic School Programs  
 From Education Fund, One-Time ..... 800,000  
 Schedule of Programs:  
 Concurrent Enrollment ..... 800,000  
 To implement the provisions of Concurrent  
 Enrollment Certificate Pilot Program (House  
 Bill 336, 2020 General Session).

**Item 259**

To State Board of Education - Minimum School  
 Program - Related to Basic School Programs

From Education Fund . . . . . 979,400  
 Schedule of Programs:  
 Concurrent Enrollment . . . . . 979,400  
 To implement the provisions of Concurrent Enrollment Amendments (House Bill 409, 2020 General Session).

**Item 260**

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs  
 From Education Fund . . . . . (33,690,000)  
 From Education Fund, One-Time . . . . 33,690,000

**Item 261**

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs  
 From Education Fund . . . . . 19,000,000  
 Schedule of Programs:  
 Voted Local Levy Program . . . . . 19,000,000  
 To implement the provisions of Local Education Levy State Guarantee Amendments (Senate Bill 104, 2020 General Session).

**STATE BOARD OF EDUCATION**

**Item 262**

To State Board of Education - Child Nutrition  
 From Education Fund . . . . . (400)  
 From Federal Funds . . . . . (16,400)  
 From Federal Funds, One-Time . . . . . (2,800)  
 From Dedicated Credit - Liquor Tax . . . . 16,800  
 From Dedicated Credit - Liquor Tax, One-Time . . . . . 2,800

**Item 263**

To State Board of Education - Fine Arts Outreach  
 From Education Fund . . . . . 200,000  
 Schedule of Programs:  
 Professional Outreach Programs in the Schools . . . . . 200,000  
 The Legislature intends that the State Board of Education use \$200,000 appropriated to Professional Outreach Programs in the Schools (POPS) to increase participation of schools and students through a symphony in the schools outreach program.

**Item 264**

To State Board of Education - Initiative Programs  
 From Education Fund . . . . . (2,700,000)  
 From Education Fund, One-Time . . . . . 900,000  
 Schedule of Programs:  
 Contracts and Grants . . . . . 1,200,000  
 Kindergarten Supplement Enrichment Program . . . . . (3,000,000)  
 Under Item 8 in S.B. 2, Public Education Budget Amendments, the Legislature intends that the State Board of Education use \$500,000 one-time appropriated in FY 2021 to contract with a provider to offer an online course that meets the states financial literacy standards.

Under Item 8 in S.B. 2, Public Education Budget Amendments, 2020 General Session, the Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education

Appropriations Subcommittee on the following performance measures for the Intergenerational Poverty Interventions Grant Program: Improvement in the following areas for regularly participating afterschool students, as measured by appropriate assessment: reading proficiency rates (target = 8 points); math proficiency rates (target = 7 points); and science proficiency rates (target = 4 points).

Under Item 8 in S.B. 2, Public Education Budget Amendments, 2020 General Session, the Legislature intends that the State Board of Education report on or before September 30, 2020, to the Public Education Appropriations Subcommittee on the following performance measures for the Partnerships for Student Success Grant Program: Percentage of grade 3 students at Partnerships for Student Success schools who met reading benchmark at year end (target = 55%); percentage of grade 8 students at Partnerships for Student Success schools proficient in mathematics (target = 24%); and high school graduation rate for students at Partnerships for Student Success schools (target = 86%).

**Item 265**

To State Board of Education - Initiative Programs  
 From Education Fund . . . . . 1,700,000  
 Schedule of Programs:  
 Education Technology Management System . . . . . 1,700,000  
 To implement the provisions of Interactive Reading Software Amendments (House Bill 360, 2020 General Session).

**Item 266**

To State Board of Education - State Administrative Office  
 From Education Fund . . . . . 500,000  
 Schedule of Programs:  
 Student Support Services . . . . . 500,000  
 To implement the provisions of School Mental Health Funding Amendments (House Bill 323, 2020 General Session).

**Item 267**

To State Board of Education - State Administrative Office  
 From Education Fund . . . . . 147,300  
 From Education Fund, One-Time . . . . . 15,000  
 Schedule of Programs:  
 Teaching and Learning . . . . . 162,300  
 To implement the provisions of Civics Education Amendments (House Bill 334, 2020 General Session).

**Item 268**

To State Board of Education - State Administrative Office  
 From General Fund Restricted - Substance Abuse Prevention . . . . . (2,700)  
 From General Fund Restricted - Substance Abuse Prevention, One-Time . . . . . (300)  
 Schedule of Programs:  
 Student Support Services . . . . . (3,000)

To implement the provisions of Amendments Related to Surcharge Fees (House Bill 485, 2020 General Session).

**Item 269**

To State Board of Education - General System Support

From General Fund .....	(700)
From General Fund, One-Time .....	(100)
From Education Fund .....	101,100
From Education Fund, One-Time .....	11,300
From Federal Funds .....	(87,000)
From Federal Funds, One-Time .....	(9,700)
From Dedicated Credits Revenue .....	(12,300)
From Expendable Receipts, One-Time ...	(1,400)
From General Fund Restricted - Mineral Lease .....	(1,100)
From General Fund Restricted - Mineral Lease, One-Time .....	(100)

**Item 270**

To State Board of Education - State Charter School Board

From Education Fund .....	425,000
Schedule of Programs:	
State Charter School Board .....	425,000

To implement the provisions of Charter School Operations and School Accounting Amendments (House Bill 242, 2020 General Session).

**RETIREMENT AND INDEPENDENT ENTITIES**

**CAREER SERVICE REVIEW OFFICE**

**Item 271**

To Career Service Review Office

From General Fund .....	3,000
Schedule of Programs:	
Career Service Review Office .....	3,000

To implement the provisions of Abusive Conduct Reporting Amendments (House Bill 12, 2020 General Session).

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 272**

To Capitol Preservation Board

From General Fund .....	(14,000,000)
Schedule of Programs:	
Capitol Preservation Board .....	(14,000,000)

**LEGISLATURE**

**Item 273**

To Legislature - Senate

From General Fund .....	1,600
Schedule of Programs:	
Administration .....	1,600

To implement the provisions of Labor Commission Amendments (House Bill 15, 2020 General Session).

**Item 274**

To Legislature - Senate

From General Fund, One-Time .....	9,600
Schedule of Programs:	
Administration .....	9,600

To implement the provisions of Outdoor Adventure Commission Amendments (House Bill 283, 2020 General Session).

**Item 275**

To Legislature - Senate

From General Fund .....	3,200
Schedule of Programs:	
Administration .....	3,200

To implement the provisions of Fatality Review Amendments (House Bill 295, 2020 General Session).

**Item 276**

To Legislature - Senate

From General Fund .....	2,800
Schedule of Programs:	
Administration .....	2,800

To implement the provisions of Digital Wellness, Citizenship, and Safe Technology Commission (House Bill 372, 2020 General Session).

**Item 277**

To Legislature - Senate

From General Fund .....	800
Schedule of Programs:	
Administration .....	800

To implement the provisions of Native American Legislative Liaison Committee Amendments (Senate Bill 13, 2020 General Session).

**Item 278**

To Legislature - Senate

From General Fund .....	800
Schedule of Programs:	
Administration .....	800

To implement the provisions of Emerging Technology Talent Initiative (Senate Bill 96, 2020 General Session).

**Item 279**

To Legislature - Senate

From General Fund, One-Time .....	4,000
Schedule of Programs:	
Administration .....	4,000

To implement the provisions of Higher Education Amendments (Senate Bill 111, 2020 General Session).

**Item 280**

To Legislature - Senate

From General Fund .....	12,000
Schedule of Programs:	
Administration .....	12,000

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 7, 2020 General Session).

**Item 281**

To Legislature - House of Representatives

From General Fund .....	1,600
Schedule of Programs:	
Administration .....	1,600

To implement the provisions of Labor Commission Amendments (House Bill 15, 2020 General Session).

**Item 282**

To Legislature - House of Representatives  
From General Fund, One-Time . . . . . 9,600  
Schedule of Programs:  
Administration . . . . . 9,600

To implement the provisions of Outdoor Adventure Commission Amendments (House Bill 283, 2020 General Session).

**Item 283**

To Legislature - House of Representatives  
From General Fund . . . . . 3,200  
Schedule of Programs:  
Administration . . . . . 3,200

To implement the provisions of Fatality Review Amendments (House Bill 295, 2020 General Session).

**Item 284**

To Legislature - House of Representatives  
From General Fund . . . . . 2,800  
Schedule of Programs:  
Administration . . . . . 2,800

To implement the provisions of Digital Wellness, Citizenship, and Safe Technology Commission (House Bill 372, 2020 General Session).

**Item 285**

To Legislature - House of Representatives  
From General Fund . . . . . 1,600  
Schedule of Programs:  
Administration . . . . . 1,600

To implement the provisions of Native American Legislative Liaison Committee Amendments (Senate Bill 13, 2020 General Session).

**Item 286**

To Legislature - House of Representatives  
From General Fund . . . . . 800  
Schedule of Programs:  
Administration . . . . . 800

To implement the provisions of Emerging Technology Talent Initiative (Senate Bill 96, 2020 General Session).

**Item 287**

To Legislature - House of Representatives  
From General Fund, One-Time . . . . . 4,000  
Schedule of Programs:  
Administration . . . . . 4,000

To implement the provisions of Higher Education Amendments (Senate Bill 111, 2020 General Session).

**Item 288**

To Legislature - House of Representatives  
From General Fund . . . . . 18,000  
Schedule of Programs:  
Administration . . . . . 18,000

To implement the provisions of Joint Resolution Authorizing Pay of In-session

Employees (Senate Joint Resolution 7, 2020 General Session).

**Item 289**

To Legislature - Office of Legislative Research and General Counsel  
From General Fund, One-Time . . . . . 383,500  
Schedule of Programs:  
Administration . . . . . 383,500

To implement the provisions of Outdoor Adventure Commission Amendments (House Bill 283, 2020 General Session).

**Item 290**

To Legislature - Office of Legislative Research and General Counsel  
From General Fund . . . . . 4,200  
Schedule of Programs:  
Administration . . . . . 4,200

To implement the provisions of Digital Wellness, Citizenship, and Safe Technology Commission (House Bill 372, 2020 General Session).

**Item 291**

To Legislature - Office of Legislative Research and General Counsel  
From General Fund, One-Time . . . . . 30,000  
Schedule of Programs:  
Administration . . . . . 30,000

To implement the provisions of Concurrent Resolution for an Economic Study of the Deployment of State Resources in Underperforming Communities (House Concurrent Resolution 27, 2020 General Session).

**Item 292**

To Legislature - Office of Legislative Research and General Counsel  
From General Fund, One-Time . . . . . 1,200  
Schedule of Programs:  
Administration . . . . . 1,200

To implement the provisions of Higher Education Amendments (Senate Bill 111, 2020 General Session).

**Item 293**

To Legislature - Office of Legislative Research and General Counsel  
From General Fund, One-Time . . . . . (1,015,500)  
Schedule of Programs:  
Administration . . . . . (1,015,500)

To implement the provisions of Redistricting Amendments (Senate Bill 200, 2020 General Session).

**Item 294**

To Legislature - Legislative Services  
Digital Wellness Commission  
From General Fund . . . . . 300,000  
Schedule of Programs:  
Digital Wellness Commission . . . . . 300,000

**DEPARTMENT OF VETERANS  
AND MILITARY AFFAIRS**

**Item 295**

To Department of Veterans and Military Affairs - Veterans and Military Affairs

From General Fund, One-Time . . . . . 100,000  
 Schedule of Programs:  
     Administration . . . . . 100,000

**Subsection 2(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 296**  
 To Attorney General - Crime and Violence Prevention Fund  
 From Dedicated Credits Revenue . . . . . 116,800  
 Schedule of Programs:  
     Crime and Violence Prevention Fund . . . . . 116,800  
     To implement the provisions of Attorney General Fund Amendments (House Bill 373, 2020 General Session).

**GOVERNORS OFFICE**

**Item 297**  
 To Governors Office - Pretrial Release Programs Special Revenue Fund  
 From Dedicated Credits Revenue . . . . . 300,000  
 From Dedicated Credits Revenue, One-Time . . . . . (75,000)  
 Schedule of Programs:  
     Pretrial Release Programs Special Revenue Fund . . . . . 225,000  
     To implement the provisions of Bail and Pretrial Release Amendments (House Bill 206, 2020 General Session).

**Item 298**  
 To Governors Office - Rampage Violence Prevention Study Fund  
 From Dedicated Credits Revenue, One-Time . . . . . 150,000  
 Schedule of Programs:  
     Rampage Violence Prevention Study Fund . . . . . 150,000  
     To implement the provisions of Rampage Violence Prevention Study (House Bill 340, 2020 General Session).

**BUSINESS, ECONOMIC  
 DEVELOPMENT, AND LABOR**

**GOVERNOR'S OFFICE  
 OF ECONOMIC DEVELOPMENT**

**Item 299**  
 To Governor's Office of Economic Development - Outdoor Recreation Infrastructure Account

From Outdoor Recreation Infrastructure Account . . . . . 1,000,000  
 Schedule of Programs:  
     Outdoor Recreation Infrastructure Account . . . . . 1,000,000

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 300**  
 To Department of Heritage and Arts - Heritage and Arts Foundation Fund  
 From Dedicated Credits Revenue . . . . . 500,000  
 Schedule of Programs:  
     Heritage and Arts Foundation Fund . . . 500,000  
     To implement the provisions of Heritage and Arts Foundation Amendments (House Bill 302, 2020 General Session).

**PUBLIC SERVICE COMMISSION**

**Item 301**  
 To Public Service Commission - Universal Public Telecom Service  
 From Dedicated Credits Revenue . . . . . 9,421,700  
 From Beginning Fund Balance . . . . . 672,300  
 From Closing Fund Balance . . . . . (1,344,600)  
 Schedule of Programs:  
     Universal Public Telecommunications Service Support . . . . . 8,749,400

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
 ENVIRONMENTAL QUALITY**

**Item 302**  
 To Department of Environmental Quality - Waste Tire Recycling Fund  
 From Waste Tire Recycling Fund . . . . . 3,000  
 Schedule of Programs:  
     Waste Tire Recycling Fund . . . . . 3,000  
     To implement the provisions of Waste Tire Recycling Act Amendments (House Bill 27, 2020 General Session).

**Subsection 2(c). Business-like Activities.** The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 303**  
 To Attorney General - ISF - Attorney General From General Fund . . . . . (1,209,800)  
 Schedule of Programs:

ISF - Attorney General . . . . . (1,209,800)

**Item 304**

To Attorney General - ISF - Attorney General  
From Dedicated Credits Revenue,  
One-Time . . . . . 16,800  
Schedule of Programs:  
ISF - Attorney General . . . . . 16,800

To implement the provisions of Crisis Services Amendments (House Bill 32, 2020 General Session).

**Item 305**

To Attorney General - ISF - Attorney General  
From Dedicated Credits Revenue . . . . . 46,200  
Schedule of Programs:  
ISF - Attorney General . . . . . 46,200

To implement the provisions of Mental Health Treatment Access Amendments (House Bill 35, 2020 General Session).

**Item 306**

To Attorney General - ISF - Attorney General  
From Dedicated Credits Revenue,  
One-Time . . . . . 13,900  
Schedule of Programs:  
ISF - Attorney General . . . . . 13,900

To implement the provisions of Rampage Violence Prevention Study (House Bill 340, 2020 General Session).

**Item 307**

To Attorney General - ISF - Attorney General  
From Dedicated Credits Revenue,  
One-Time . . . . . 5,200  
Schedule of Programs:  
ISF - Attorney General . . . . . 5,200

To implement the provisions of Disability Act Compliance Amendments (House Bill 378, 2020 General Session).

**Item 308**

To Attorney General - ISF - Attorney General  
From Dedicated Credits Revenue . . . . . 115,600  
Schedule of Programs:  
ISF - Attorney General . . . . . 115,600

To implement the provisions of Oil and Gas Modifications (Senate Bill 148, 2020 General Session).

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 309**

To Utah Department of Corrections -  
Utah Correctional Industries

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2020 and ending June 30, 2021: Sale of Goods and Materials - Cost plus profit; Sale of Services - Cost plus profit.

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**TRANSPORTATION**

**Item 310**

To Transportation - State Infrastructure  
Bank Fund

The Legislature intends that the Department of Transportation not use \$10 million of the authorized \$24 million in bond proceeds to issue a State Infrastructure Bank loan for the purpose authorized in Section 63B-27-101(3)(a).

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 311**

To Department of Health - Qualified  
Patient Enterprise Fund  
From Dedicated Credits Revenue . . . . . (138,000)  
From Dedicated Credits Revenue,  
One-Time . . . . . 186,000  
Schedule of Programs:  
Qualified Patient Enterprise Fund . . . . . 48,000

To implement the provisions of Medical Cannabis Modifications (House Bill 425, 2020 General Session).

**Item 312**

To Department of Health - Qualified  
Patient Enterprise Fund  
From Dedicated Credits Revenue . . . . . 12,900  
Schedule of Programs:  
Qualified Patient Enterprise Fund . . . . . 12,900

To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
AGRICULTURE AND FOOD**

**Item 313**

To Department of Agriculture and Food - Qualified  
Production Enterprise Fund  
From Dedicated Credits Revenue . . . . . 2,500  
From Dedicated Credits Revenue,  
One-Time . . . . . 800  
Schedule of Programs:  
Qualified Production Enterprise Fund . . . 3,300

To implement the provisions of Medical Cannabis Modifications (House Bill 425, 2020 General Session).

**Item 314**

To Department of Agriculture and Food - Qualified  
Production Enterprise Fund  
From Dedicated Credits Revenue . . . . . 489,100  
Schedule of Programs:  
Qualified Production Enterprise  
Fund . . . . . 489,100

To implement the provisions of Medical Cannabis Amendments (Senate Bill 121, 2020 General Session).



**Subsection 2(d). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE**

**Item 315**

To General Fund Restricted - Indigent Defense Resources Account  
 From General Fund ..... 500,000  
 From Revenue Transfers ..... (500,000)  
 From Revenue Transfers, One-Time .... (9,100)  
 From Beginning Fund Balance ..... 9,100

To implement the provisions of Amendments to Indigent Defense (Senate Bill 139, 2020 General Session).

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**Item 316**

To Rail Transportation Restricted Account  
 The Legislature intends that the Department of Transportation use \$1,525,000 from the Transit Transportation Investment Fund - Rail Transportation Restricted Account to partner with Brigham City on engineering, design, and environmental analysis of a grade separated rail crossing project on Forest Street to make safety improvements and address traffic delays associated with railroad operations.

**Item 317**

To Education Budget Reserve Account  
 From Education Fund, One-Time .... 14,462,000  
 Schedule of Programs:  
 Education Budget Reserve  
 Account ..... 14,462,000

**Item 318**

To General Fund Budget Reserve Account  
 From General Fund, One-Time ..... 11,747,200  
 Schedule of Programs:  
 General Fund Budget Reserve  
 Account ..... 11,747,200

**Item 319**

To Electronic Cigarette Substance and Nicotine Product Tax Restricted Account  
 From Dedicated Credits Revenue .... 15,000,000  
 Schedule of Programs:  
 Electronic Cigarette Substance and Nicotine Product Tax Restricted  
 Account ..... 15,000,000

To implement the provisions of Electronic Cigarette and Other Nicotine Product Amendments (Senate Bill 37, 2020 General Session).

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**Item 320**

To Latino Community Support Restricted Account  
 From Dedicated Credits Revenue ..... 12,500  
 Schedule of Programs:  
 Latino Community Support Restricted  
 Account ..... 12,500  
 To implement the provisions of Special Group License Plate Amendments (Senate Bill 212, 2020 General Session).

**Item 321**

To General Fund Restricted - Industrial Assistance Account  
 The Legislature intends that up to \$2 million of the economic opportunities allocation under UCA 63N-3-103 be used to help fund a capital project or operations for a private nonprofit organization dedicated to the year-round discovery and development of independent artists and audiences.

**SOCIAL SERVICES**

**Item 322**

To Medicaid Expansion Fund  
 From Revenue Transfers ..... (1,446,200)  
 Schedule of Programs:  
 Medicaid Expansion Fund ..... (1,446,200)

**Item 323**

To General Fund Restricted - Medicaid Restricted Account  
 From General Fund ..... 56,630,200  
 From General Fund, One-Time .... (56,630,200)

**Item 324**

To Adult Autism Treatment Account  
 From General Fund ..... 200,000  
 From Dedicated Credits Revenue ..... 500,000  
 Schedule of Programs:  
 Adult Autism Treatment Account .... 700,000  
 To implement the provisions of Adult Autism Treatment Program (House Bill 86, 2020 General Session).

**Item 325**

To General Fund Restricted - Homeless to Housing Reform Account  
 From General Fund ..... 1,500,000  
 Schedule of Programs:  
 General Fund Restricted - Homeless to Housing Reform Restricted  
 Account ..... 1,500,000

**Item 326**

To General Fund Restricted - School Readiness Account  
 From General Fund ..... 3,000,000  
 Schedule of Programs:  
 General Fund Restricted - School Readiness Account ..... 3,000,000

**PUBLIC EDUCATION**

**Item 327**

To Uniform School Fund Restricted - Growth in Student Population Account  
 From Education Fund ..... 75,000,000

From Education Fund,  
 One-Time ..... (75,000,000)

The Legislature intends that if the Uniform School Fund Restricted - Growth in Student Population Account is renamed to the Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account, the Division of Finance retain all balances within the account through the renaming process.

**RETIREMENT AND INDEPENDENT ENTITIES**

**Item 328**

To New Public Safety and Firefighter tier II Retirements Benefits Restricted Account From General Fund, One-Time ..... 2,141,000  
 Schedule of Programs:

New Public Safety and Firefighter tier II Retirements Benefits Restricted Account ..... 2,141,000

To implement the provisions of Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions (House Concurrent Resolution 9, 2020 General Session).

**Subsection 2(e). Fiduciary Funds.** The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**GOVERNORS OFFICE**

**Item 329**

To Governors Office - Indigent Inmate Trust Fund From Dedicated Credits Revenue ..... 25,300  
 From Beginning Fund Balance ..... 897,600  
 From Closing Fund Balance ..... (834,900)  
 Schedule of Programs:

Indigent Inmate Trust Fund ..... 88,000

To implement the provisions of Indigent Defense Amendments (Senate Bill 170, 2020 General Session).

**Subsection 2(f). Capital Project Funds.** The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**CAPITAL BUDGET**

**Item 330**

To Capital Budget - Capital Development Fund From General Fund, One-Time ..... 34,500,000  
 From Education Fund,

One-Time ..... (23,500,000)

Schedule of Programs:

Capital Development Fund ..... 11,000,000

**Section 3. FY 2021 Appropriations. Limit Formula.**

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$AppropLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflate_{FY-2} \times SumAdjust_{FY}$$

, where:

$$(a) \quad Inflate_{Base} = \frac{GNPIndex_{int,qr,1983}}{GNPIndex_{int,qr,1989}} = \frac{(100.8+101.7+102.5+103.3)/4}{(121.9+123.3+124.5+125.9)/4} = \frac{102.075}{123.900}$$

$$(b) \quad Inflate_{FY-2} = \frac{GNPIndex_{FY-2}}{GNPIndex_{1983}} \times Inflate_{Base}$$

$$(c) \quad PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1983} \times Inflate_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900}\right)}$$

$$(d) \quad SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[ Adjust_i \times \left(\frac{Inflate_{FY-2}}{Inflate_{i-2}}\right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}}\right) \right]$$

(e) as used in the state appropriations limit formula:

(i) *i* is a variable representing a given fiscal year;

(ii) *Adjust<sub>i</sub>* is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J-3-203;

(iii) *Appropriations<sub>1985</sub>* is the state capital and operations appropriations from the General Fund and non-Uniform School fund in fiscal year 1985;

(iv) *Debt<sub>1985</sub>* is the amount the state paid in debt payments in fiscal year 1985;

(v) *GNPIndex<sub>FY-2</sub>* is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) *GNPIndex<sub>int,qr,i</sub>* is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) *Inflate<sub>-2</sub>* is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) *PerCapitaBase<sub>1985</sub>* is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) *Pop<sub>i-2</sub>* is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1

decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

**Section 4. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2020.

**CHAPTER 441****H. B. 29**

Passed February 14, 2020

Approved April 1, 2020

Effective May 12, 2020

**BUILDING CODE AMENDMENTS**

Chief Sponsor: Mike Schultz  
Senate Sponsor: Curtis S. Bramble

**LONG TITLE****General Description:**

This bill amends construction provisions in Title 10, Utah Municipal Code, Title 15A, State Construction and Fire Codes Act, and Title 17, Counties.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to construction plans for a town, city, and county;
- ▶ permits certain structures to be exempt from requirements of the State Construction Code;
- ▶ adopts and amends the residential provisions of the 2018 edition of the International Swimming Pool and Spa Code;
- ▶ under certain conditions, exempts airport hangars from having a fire-resistance exterior wall rating of not less than two hours;
- ▶ deletes a provision for an emergency elevator communication system;
- ▶ amends provisions in the International Residential Code;
- ▶ amends citations in amendments to the International Plumbing Code;
- ▶ amends a citation in an amendment to the International Mechanical Code;
- ▶ amends provisions in the International Existing Building Code; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 10-5-132, as last amended by Laws of Utah 2019, Chapter 20
- 10-6-160, as last amended by Laws of Utah 2018, Chapter 236
- 15A-1-202, as last amended by Laws of Utah 2019, Chapter 20
- 15A-1-204, as last amended by Laws of Utah 2017, Chapter 18
- 15A-2-102, as last amended by Laws of Utah 2016, Chapter 249
- 15A-2-103, as last amended by Laws of Utah 2019, Chapters 20 and 436
- 15A-3-103, as last amended by Laws of Utah 2019, Chapter 20
- 15A-3-112, as last amended by Laws of Utah 2019, Chapter 20
- 15A-3-202, as last amended by Laws of Utah 2019, Chapter 20

15A-3-304, as last amended by Laws of Utah 2019, Chapter 20

15A-3-313, as last amended by Laws of Utah 2016, Chapter 249

15A-3-402, as enacted by Laws of Utah 2017, Chapter 14

15A-3-801, as last amended by Laws of Utah 2019, Chapter 20

17-36-55, as last amended by Laws of Utah 2019, Chapter 20

**ENACTS:**

15A-3-1001, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 10-5-132 is amended to read:****10-5-132. Fees collected for construction approval -- Approval of plans.**

(1) As used in this section:

(a) "Construction project" means the same as that term is defined in Section 38-1a-102.

(b) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(c) "Planning review" means a review to verify that a town has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

(d) (i) "Plan review" means all of the reviews and approvals of a plan that a town requires to obtain a building permit from the town with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

(e) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(f) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(g) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(e)(g)(i), a review that a licensed engineer conducts.

(h) "Technical nature" means a characteristic that places an item outside the training and

expertise of an individual who regularly performs plan reviews.

(2) (a) If a town collects a fee for the inspection of a construction project, the town shall ensure that the construction project receives a prompt inspection.

(b) If a town cannot provide a building inspection within ~~a reasonable time~~ three business days after the day on which the town receives the request for the inspection, the town shall promptly engage an independent inspector with fees collected from the applicant.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, ~~on the day on which the inspection occurs,~~ the inspector shall give the permit holder written notification ~~of each violation~~ that:

~~(i) is delivered in hardcopy or by electronic means; and~~

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code[-]; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) A town shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the town.

(b) A town shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the town.

(c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the town complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the town's consent, establish an alternative plan review time requirement.

(4) (a) A town may not enforce a requirement to have a plan review if:

(i) the town does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

(ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) A town may attach to a reviewed plan a list that includes:

(i) items with which the town is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(c) A town may not require an applicant to redraft a plan if the town requests minor changes to the plan that the list described in Subsection (4)(b) identifies.

(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.

**Section 2. Section 10-6-160 is amended to read:**

**10-6-160. Fees collected for construction approval -- Approval of plans.**

(1) As used in this section:

(a) "Construction project" means the same as that term is defined in Section 38-1a-102.

(b) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(c) "Planning review" means a review to verify that a city has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

(d) (i) "Plan review" means all of the reviews and approvals of a plan that a city requires to obtain a building permit from the city with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review; ~~and~~

(H) the total square footage for each building level of finished, garage, and unfinished space~~[-];~~ and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

(e) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(f) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

~~[(e)]~~ (g) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(~~e~~)(g)(i), a review that a licensed engineer conducts.

~~(4)~~ (h) “Technical nature” means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection.

(b) If a city cannot provide a building inspection within three business days after the day on which the city receives the request for the inspection, the city shall promptly engage an independent inspector with fees collected from the applicant.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) A city shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the city.

(b) A city shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the city.

(c) (i) Subject to Subsection (3)(c)(ii), if a city does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the city complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the city shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the city’s consent, establish an alternative plan review time requirement.

(4) (a) A city may not enforce a requirement to have a plan review if:

(i) the city does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

(ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) A city may attach to a reviewed plan a list that includes:

(i) items with which the city is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(c) A city may not require an applicant to redraft a plan if the city requests minor changes to the plan that the list described in Subsection (4)(b) identifies.

(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.

**Section 3. Section 15A-1-202 is amended to read:**

**15A-1-202. Definitions.**

As used in this chapter:

(1) “Agricultural use” means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2) (a) “Approved code” means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) “Approved code” does not include the State Construction Code.

(3) “Building” means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) “Code” means:

(a) the State Construction Code; or

(b) an approved code.

(5) “Commission” means the Uniform Building Code Commission created in Section 15A-1-203.

(6) “Compliance agency” means:

(a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes; or

(c) any other state agency which chooses to enforce codes adopted under this chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

(7) “Construction code” means standards and specifications published by a nationally recognized

code authority for use in circumstances described in Subsection 15A-1-204(1), including:

- (a) a building code;
- (b) an electrical code;
- (c) a residential one and two family dwelling code;
- (d) a plumbing code;
- (e) a mechanical code;
- (f) a fuel gas code;
- (g) an energy conservation code; ~~and~~
- (h) a swimming pool and spa code; and

~~(4)~~ (i) a manufactured housing installation standard code.

(8) "Executive director" means the executive director of the Department of Commerce.

(9) "Legislative action" includes legislation that:

- (a) adopts a new State Construction Code;
- (b) amends the State Construction Code; or

(c) repeals one or more provisions of the State Construction Code.

(10) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes.

(11) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

- (a) maintenance and repair; and
- (b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

(12) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

(13) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

**Section 4. Section 15A-1-204 is amended to read:**

**15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.**

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

- (i) to the entire state; or
- (ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

(i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and

(ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare



and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with

Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the ~~permit~~ requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

**Section 5. Section 15A-2-102 is amended to read:**

**15A-2-102. Definitions.**

As used in this chapter and Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code:

(1) "HUD Code" means the Federal Manufactured Housing Construction and Safety Standards Act, as issued by the Department of Housing and Urban Development and published in 24 C.F.R. Parts 3280 and 3282 (as revised April 1, 1990).

(2) "IBC" means the edition of the International Building Code adopted under Section 15A-2-103.

(3) "IEBC" means the edition of the International Existing Building Code adopted under Section 15A-2-103.

(4) "IECC" means the edition of the International Energy Conservation Code adopted under Section 15A-2-103.

(5) "IFGC" means the edition of the International Fuel Gas Code adopted under Section 15A-2-103.

(6) "IMC" means the edition of the International Mechanical Code adopted under Section 15A-2-103.

(7) "IPC" means the edition of the International Plumbing Code adopted under Section 15A-2-103.

(8) "IRC" means the edition of the International Residential Code adopted under Section 15A-2-103.

(9) "ISpsc" means the edition of the International Swimming Pool and Spa Code adopted under Section 15A-2-103.

~~(9)~~ (10) "NEC" means the edition of the National Electrical Code adopted under Section 15A-2-103.

~~(10)~~ (11) "UWUI" means the edition of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103.

**Section 6. Section 15A-2-103 is amended to read:**

**15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.**

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2018 edition of the International Building Code, including Appendix J, issued by the International Code Council;

(b) the 2015 edition of the International Residential Code, issued by the International Code Council;

(c) Appendix Q of the 2018 edition of the International Residential Code, issued by the International Code Council;

(d) the 2018 edition of the International Plumbing Code, issued by the International Code Council;

(e) the 2018 edition of the International Mechanical Code, issued by the International Code Council;

(f) the 2018 edition of the International Fuel Gas Code, issued by the International Code Council;

(g) the 2017 edition of the National Electrical Code, issued by the National Fire Protection Association;

(h) the residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

(i) the commercial provisions of the 2018 edition of the International Energy Conservation Code, issued by the International Code Council;

(j) the 2018 edition of the International Existing Building Code, issued by the International Code Council;

(k) subject to Subsection 15A-2-104(2), the HUD Code;

(l) subject to Subsection 15A-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council;

(m) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association; ~~and~~

(n) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section 9-8-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings~~[-]; and~~

(o) the residential provisions of the 2018 edition of the International Swimming Pool and Spa Code, issued by the International Code Council.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection (1)(n) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

**Section 7. Section 15A-3-103 is amended to read:**

**15A-3-103. Amendments to Chapters 4 through 6 of IBC.**

(1) IBC Section 403.5.5 is deleted.

(2) In IBC, Section 407.2.5, the words "and assisted living facility" are added in the title and first sentence after the words "nursing home."

(3) In IBC, Section 407.2.6, the words "and assisted living facility" are added in the title after the words "nursing home."

(4) In IBC, Section 407.11, a new exception is added as follows: "Exception: An essential electrical system is not required in assisted living facilities."

(5) In IBC, Section 412.3.1, a new exception is added as follows: "Exception: Aircraft hangars of Type I or II construction that are less than 5,000 square feet (464.5m<sup>2</sup>) in area."

~~(5)~~ (6) A new IBC, Section 422.2.1 is added as follows: "422.2.1 Separations: Ambulatory care facilities licensed by the Department of Health shall be separated from adjacent tenants with a fire partition having a minimum one hour fire-resistance rating. Any level below the level of exit discharge shall be separated from the level of exit discharge by a horizontal assembly having a minimum one hour fire-resistance rating.

Exception: A fire barrier is not required to separate the level of exit discharge when:

1. Such levels are under the control of the Ambulatory Care Facility.

2. Any hazardous spaces are separated by horizontal assembly having a minimum one hour fire-resistance rating."

~~(6)~~ (7) A new IBC Section 429, Day Care, is added as follows:"

429.1 Detailed Requirements. In addition to the occupancy and construction requirements in this code, the additional provisions of this section shall apply to all Day Care in accordance with Utah Administrative Code R710-8 Day Care Rules.

429.2 Definitions.

429.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority code official.

429.2.2 Day Care Facility: Any building or structure occupied by clients of any age who receive custodial care for less than 24 hours by individuals other than parents, guardians, relatives by blood, marriage or adoption.

429.2.3 Day Care Center: Providing care for five or more clients in a place other than the home of the person cared for. This would also include Child Care Centers, Out of School Time or Hourly Child Care Centers licensed by the Department of Health.

429.2.4 Family Day Care: Providing care for clients listed in the following two groups:

429.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health as Residential Certificate Child Care or licensed as Family Child Care.

429.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient staffing.

This would also include a home that is licensed by the Department of Health as Family Child Care.

429.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

#### 429.3 Family Day Care.

429.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

429.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

429.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five to eight clients in a home, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section 1030.

429.3.3 Family Day Care units shall not be located above the second story.

429.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

429.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1011 or Section 1012 or Section 1027.

429.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

429.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

429.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

429.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

429.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall include the complete evacuation from the building of all clients and staff. At least annually, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if

one is used as a substitute for one of the required means of egress.

#### 429.4 Day Care Centers.

429.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

429.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4, Section 405.

429.4.3 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

429.4.3.1 Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

429.4.4 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1030.

429.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of School Time.429.5 Requirements for all Day Care.

429.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

429.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure."

~~[(7) In IBC, Section 504.4, a new section is added as follows: "504.4.1 Notwithstanding the exceptions to Section 504.2, Group I-2 Assisted Living Facilities shall be allowed on each level of a two-story building of Type V-A construction when all of the following apply:]~~

~~[1. All secured units are located at the level of exit discharge in compliance with Section 1010.1.9.3 as amended;]~~

~~[2. The total combined area of both stories shall not exceed the total allowable area for a one-story building; and]~~

~~[3. All other provisions that apply in Section 407 have been provided.]"~~

(8) In IBC, Section 504.4, a new section is added as follows: ["504.4.2] "504.4.1 Group I-2 Assisted Living Facilities. Notwithstanding the allowable number of stories permitted by Table 504.4 Group I-2 Assisted Living Facilities of type VA, construction shall be allowed on each level of a two-story building when all of the following apply:

1. The total combined area of both stories does not exceed the total allowable area for a one-story,

above grade plane building equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

2. All other provisions that apply in Section 407 have been provided.”

(9) A new IBC, Section 504.5, is added as follows: “504.5 Group 1-2 Secured areas in Assisted Living Facilities. In Type IIIB, IV, and V construction, all areas for the use and care of residents required to be secured shall be located on the level of exit discharge with door operations in compliance with Section 1010.1.9.7, as amended.”

**Section 8. Section 15A-3-112 is amended to read:**

**15A-3-112. Amendments to Chapters 29 through 31 of IBC.**

(1) In IBC [P] Table 2902.1 the following changes are made:

(a) In the row for “E” occupancy in the field for “OTHER” a new footnote i is added.

(b) In the row for “I-4” occupancy in the field for “OTHER” a new footnote i is added.

(c) A new footnote h is added as follows: “FOOTNOTE: g. When provided, subject to footnote i, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms.”

(d) A new footnote h is added to the table as follows: “FOOTNOTE h: Non-residential child care facilities shall comply with additional sink requirements of Utah Administrative Code, R381-60-9, Hourly Child Care Centers, R381-70-9, Out of School Time Child Care Programs, and R381-100-9, Child Care Centers.”

(e) A new footnote i is added to the table as follows: “FOOTNOTE i: A building owned by a state government entity or by a political subdivision of the state that allows access to the public shall provide diaper changing facilities in accordance with footnote h if:

1. the building is newly constructed; or
2. a bathroom in the building is renovated.”

(f) Footnote f is deleted and replaced with the following: “FOOTNOTE f: The required number and type of plumbing fixtures for outdoor public swimming pools shall be in accordance with Utah Administrative Code, R392-302, Design, Construction and Operation of Public Pools.”

(2) A new IBC, Section [P]2902.7, is added as follows:”

[P]2902.7 Toilet Facilities for Workers.

Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction worker toilet facilities of the nonsewer type shall conform to ANSI Z4.3.”

(3) IBC, Section 3001.2, is deleted.

[~~(3)~~] (4) In IBC, Section 3006.5, a new exception is added as follows: “Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less.”

(5) In IBC, Section 3109.1, the words “the International Swimming Pool and Spa Code” at the end of the section are deleted and replaced with the words “Utah Administrative Code, R392-302, Design, Construction and Operation of Public Pools.”

**Section 9. Section 15A-3-202 is amended to read:**

**15A-3-202. Amendments to Chapters 1 through 5 of IRC.**

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: “R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements.”

(2) In IRC, Section R108.3, the following sentence is added at the end of the section: “The building official shall not request proprietary information.”

[~~(2)~~] (3) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: “R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier.”

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

[~~(3)~~] (4) IRC, Section R114.1, is deleted and replaced with the following: “R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner’s agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume.”

[~~(4)~~] (5) In IRC, Section R202, the following definition is added: “CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority

having jurisdiction under Utah Code, Subsection 19-4-104(4).”

[~~(5)~~] (6) In IRC, Section R202, the definition of “Cross Connection” is deleted and replaced with the following: “CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see “Backflow, Water Distribution”).”

[~~(6)~~] (7) In IRC, Section 202, in the definition for gray water a comma is inserted after the word “washers”; the word “and” is deleted; and the following is added to the end: “and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility.”

[~~(7)~~] (8) In IRC, Section R202, the definition of “Potable Water” is deleted and replaced with the following: “POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction.”

[~~(8)~~] (9) IRC, Figure R301.2(5), is deleted and replaced with R301.2(5) as follows:

“TABLE NO. R301.2(5)  
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb.ft <sup>2</sup> )	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft<sup>2</sup> to kN/m<sup>2</sup>, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.
2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).
3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), “The Utah Snow Load Study,” Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, <http://utah-snowload.usu.edu/>, for ground snow load values.

~~(49)~~ (10) IRC, Section R301.6, is deleted and replaced with the following: “R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), “The Utah Snow Load Study,” Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, <http://utahsnowload.usu.edu/>, for ground snow load values.”

~~(40)~~ (11) In IRC, Section R302.2, the following sentence is added after the second sentence: “When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade.”

~~(41)~~ (12) In IRC, Section R302.5.1, the words “self-closing device” are deleted and replaced with “self-latching hardware.”

~~(42)~~ (13) IRC, Section R302.13, is deleted.

~~(43)~~ (14) In IRC, Section R303.4, the number “5” is changed to “3” in the first sentence.

~~(44)~~ (15) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with the following: “R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread’s leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open

risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.”

~~(45)~~ (16) IRC, Section R312.2, is deleted.

~~(46)~~ (17) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: “R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D.”

~~(47)~~ (18) In IRC, Section 315.3, the following words are added to the first sentence after the word “installed”: “on each level of the dwelling unit and.”

~~(48)~~ (19) In IRC, Section R315.5, a new exception, 3, is added as follows:

“3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes.”

~~(49)~~ (20) A new IRC, Section R315.7, is added as follows: “R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.”

(21) In IRC, Section R317.1.5, the period is deleted and the following language is added to the end of the paragraph: “or treated with a moisture resistant coating.”

(22) In IRC, Section 326.1, the words “residential provisions of the” are added after the words “pools and spas shall comply with”.

~~(20)~~ (23) In IRC, Section R403.1.6, a new Exception 3 is added as follows: “3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum



of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

[~~(21)~~] (24) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: “Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

[~~(22)~~] (25) In IRC, Section R404.1, a new exception is added as follows: “Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules.”

[~~(23)~~] (26) In IRC, Section R405.1, a new exception is added as follows: “Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geological report shall make a recommendation regarding a drainage system.”

**Section 10. Section 15A-3-304 is amended to read:**

**15A-3-304. Amendments to Chapter 4 of IPC.**

(1) In IPC, Table 403.1, the following changes are made:

(a) In row number “3”, for in the field for “OTHER”, a new footnote h is added.

(b) In row number “5”, for “Adult day care and child day care” occupancy, in the field for “OTHER”, a new footnote h is added.

(c) Footnote f is deleted and replaced with the following: “FOOTNOTE f: The required number and type of plumbing fixtures for outdoor public swimming pools shall be in accordance with Utah Administrative Code, R392-302 Design, Construction and Operation of Public Pools.”

(d) A new footnote g is added as follows: “FOOTNOTE g: When provided, in public toilet facilities, there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms. Diaper changing facilities shall meet the requirements of ASTM F2285-04 (2010) Standard Consumer Safety Performance Specifications for Diaper Changing Tables for Commercial Use.”

(e) A new footnote h is added to the table as follows: “FOOTNOTE h: Non-residential child care facilities shall comply with the additional sink requirements of Utah Administrative Code, R381-60-9, Hourly Child Care Centers,

R381-70-9, Out of School Time Child Care Programs, and R381-100-9, Child Care Centers.”

(2) A new IPC, Section 406.3, is added as follows: “406.3 Automatic clothes washer safe pans. Safe pans, when installed under automatic clothes washers, shall be installed in accordance with Section 504.7.”

(3) A new IPC, Section 413.5, is added as follows: “413.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one floor drain.”

(4) A new IPC, Section [~~412.6~~] 413.6, is added as follows: “Prohibition of motor vehicle waste disposal wells. New and existing motor vehicle waste disposal wells are prohibited. A motor vehicle waste disposal well associated with a single family residence is not subject to this prohibition.”

(5) IPC, Section 423.3, is deleted.

**Section 11. Section 15A-3-313 is amended to read:**

**15A-3-313. Amendments to Chapter 13 of IPC.**

(1) A new IPC, Section 1301.4.1, is added as follows:

“1301.4.1 Recording.

The existence of a nonpotable water system shall be recorded on the deed of ownership for the property. The certificate of occupancy shall not be issued until the documentation for the recording required under this section is completed by the property owner.”

(2) IPC, Section 1301.5, is deleted and replaced with the following:

“1301.5 Potable water connections.

Where a potable water system is connected to a nonpotable water system, the potable water supply shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 608.”

(3) IPC, Section [~~1301.9.5~~] 1301.9.4, is deleted and replaced with the following:

“[~~1301.9.5~~] 1301.9.4 Makeup water.

Where an uninterrupted supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 608. A full-open valve located on the makeup water supply line to the storage tank shall be provided. Inlets to the storage tank shall be controlled by fill valves or other automatic supply valves installed to prevent the tank from overflowing and to prevent the water level from dropping below a predetermined point. Where makeup water is provided, the water level shall not be permitted to drop below the source water inlet or the intake of any attached pump.”

(4) IPC, Section 1302.12.4, is deleted and replaced with the following: “1302.12.4 Inspection and testing of backflow prevention assemblies.

Testing of a backflow preventer shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3.”

(5) IPC, Section 1303.15.6, is deleted and replaced with the following:”1303.15.6 Inspection and testing of backflow prevention assemblies.

Testing of a backflow prevention assembly shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3.”

(6) IPC, Section 1304.4.2, is deleted and replaced with the following:

“1304.4.2 Inspection and testing of backflow prevention assemblies.

Testing of a backflow preventer or backwater valve shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3.”

**Section 12. Section 15A-3-402 is amended to read:**

**15A-3-402. Amendments to Chapters 1 through 5 of IMC.**

(1) In IMC, Table [403.3] 403.3.1.1, note h is deleted and replaced with the following:

“h. 1. A nail salon shall provide each manicure station where a nail technician files or shapes an acrylic nail, as defined by rule by the Division of Occupational and Professional Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with:

a. a source capture system equipped with, at minimum, a MERV 8 particulate filter and an activated carbon filter that is capable of filtering and recirculating air to inside space at a rate not less than 50 cfm per station; or

b. a source capture system capable of exhausting not less than 50 cfm per station.

c. A nail salon that complies with Note h.1.a or h.1.b is not required to comply with the labeling, listing, or testing requirements described in International Mechanical Code sections 301.7 or 301.8.

2. For a source capture system described in paragraph 1, the source capture system inlets for exhausting or recirculating air shall be located in accordance with Section 502.20.

3. Where one or more exhausting source capture systems described in paragraph 1 operate continuously during occupancy, the source capture system exhaust rate shall be permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.

4. The requirements of this note apply to:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020.”

(2) In IMC, Section 502.20 is deleted and rewritten as follows:

“502.20 Manicure stations. A nail salon that files or shapes an acrylic nail shall provide each manicure station with a source capture system in accordance with Table 403.3.1.1, note h. For a manicure table that does not have factory-installed source capture system inlets for recirculating or exhausting air, a nail salon shall provide the manicure table with inlets for recirculating or exhausting air located not more than 12 inches (305 mm) horizontally and vertically from the point of any acrylic chemical application.

Exception: Section 502.20 applies to a manicure station in:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020.”

**Section 13. Section 15A-3-801 is amended to read:**

**15A-3-801. General provisions. The following are adopted as amendments to the IEBC and are applicable statewide:**

(1) In Section 202, the following definition is added: “BUILDING OFFICIAL. See Code Official.”

(2) In Section 202, the definition for “code official” is deleted and replaced with the following:”

CODE OFFICIAL. The officer or other designated authority having jurisdiction (AHJ) charged with the administration and enforcement of this code.”

(3) In Section 202, the definition for existing buildings is deleted and replaced with the following:”

EXISTING BUILDING. A building that is not a dangerous building and that was either lawfully erected under a prior adopted code, or deemed a legal non-conforming building by the code official.”

(4) In Section 301.3, the exception is deleted.

(5) In Section 305.4.2, number 7 is added after number 6 as follows: “7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy, not less than 20% of the dwelling or sleeping units shall be Type-B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one unit, of the dwelling or sleeping units shall be Type-A dwelling units.”

[~~5~~] (6) Section 503.6 is deleted and replaced with the following:

“503.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E,

or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance of such items. Reduced seismic forces are permitted for design purposes.”

[~~(6)~~ (7) In Section 705.1, Exception number 3, the following is added at the end of the exception:

“This exception does not apply if the existing facility is undergoing a change of occupancy classification.”

[~~(7)~~ (8) Section 706.3.1 is deleted and replaced with the following:

“706.3.1 Bracing for unreinforced masonry bearing wall parapets and other appendages.

Where a permit is issued for reroofing more than 25 percent of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist the reduced International Building Code level seismic forces as specified in Section 303 of this code unless an evaluation demonstrates compliance of such items.”

[~~(8)~~ (9) Section 906.6 is deleted and replaced with the following:

“906.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance with such items. Reduced seismic forces are permitted for design purposes.”

[~~(9)~~ (10) (a) Section 1006.3 is deleted and replaced with the following:

“1006.3 Seismic Loads. Where a change of occupancy results in a building being assigned to a higher risk category, or when a change of occupancy results in a design occupant load increase of 100% or more, the building shall satisfy the requirements of Section 1613 of the International Building Code using full seismic forces.”

(b) Section 1006.3, exceptions 1 through 3 remain unchanged.

(c) In Section 1006.3, add a new exception 4 as follows:

“4. Where the design occupant load increase is less than 25 occupants and the occupancy category does not change.”

[~~(10)~~ (11) In Section 1012.7.3, exception 2 is deleted.

[~~(11)~~ In Section 1012.8.2, number 7 is added as follows:]]<sup>27</sup>. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy, not less than 20% of the dwelling or sleeping units shall be Type B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one unit, of the dwelling or sleeping units shall be Type A dwelling units.”]

**Section 14. Section 15A-3-1001 is enacted to read:**

**Part 10. Statewide Amendments to International Swimming Pool and Spa Code 15A-3-1001. General provisions.**

(1) In ISPSC, Section 202, the following definition is added for private residential swimming pool: “PRIVATE RESIDENTIAL SWIMMING POOL. A swimming pool, spa pool, or wading pool used only by an individual, family, or living unit members and guests, but not serving any type of multiple unit housing complex of four or more living units.”

(2) In ISPSC, Section 320.1, the following changes are made:

(a) the words “or storm” are deleted;

(b) the words “onsite waste water” are added before the word “disposal”; and

(c) the words “or shall be disposed of by other means approved by the state or local authority” are deleted.

**Section 15. Section 17-36-55 is amended to read:**

**17-36-55. Fees collected for construction approval -- Approval of plans.**

(1) As used in this section:

(a) “Construction project” means the same as that term is defined in Section 38-1a-102.

(b) “Lodging establishment” means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(c) “Planning review” means a review to verify that a county has approved the following elements of a construction project:

- (i) zoning;
- (ii) lot sizes;
- (iii) setbacks;
- (iv) easements;
- (v) curb and gutter elevations;
- (vi) grades and slopes;
- (vii) utilities;
- (viii) street names;
- (ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and
- (x) subdivision.
- (d) (i) “Plan review” means all of the reviews and approvals of a plan that a county requires to obtain a building permit from the county with a scope that may not exceed a review to verify:
- (A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;
- (B) that the construction project complies with the energy code adopted under Section 15A-2-103;
- (C) that the construction project received a planning review;
- (D) that the applicant paid any required fees;
- (E) that the applicant obtained final approvals from any other required reviewing agencies;
- (F) that the construction project complies with federal, state, and local storm water protection laws;
- (G) that the construction project received a structural review; ~~and~~
- (H) the total square footage for each building level of finished, garage, and unfinished space[-]; and
- (I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.
- (ii) “Plan review” does not mean a review of a document:
- (A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;
- (B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or
- (C) that, due to the document’s technical nature or on the request of the applicant, is reviewed by a third party.
- (e) “State Construction Code” means the same as that term is defined in Section 15A-1-102.
- (f) “State Fire Code” means the same as that term is defined in Section 15A-1-102.
- (g) “Structural review” means:
- (i) a review that verifies that a construction project complies with the following:
- (A) footing size and bar placement;
- (B) foundation thickness and bar placement;
- (C) beam and header sizes;
- (D) nailing patterns;
- (E) bearing points;
- (F) structural member size and span; and
- (G) sheathing; or
- (ii) if the review exceeds the scope of the review described in Subsection (1)(g)(i), a review that a licensed engineer conducts.
- (h) “Technical nature” means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.
- (2) (a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.
- (b) If a county cannot provide a building inspection within three business days after the day on which the county receives the request for the inspection, the county shall promptly engage an independent inspector with fees collected from the applicant.
- (c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, ~~[on the day on which the inspection occurs,]~~ the inspector shall give the permit holder written notification ~~[of each violation]~~ that:
- ~~[(i) is delivered in hardcopy or by electronic means; and]~~
- (i) identifies each violation;
- (ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code[-]; and
- ~~(iii) is delivered:~~
- (A) in hardcopy or by electronic means; and
- (B) the day on which the inspection occurs.
- (3) (a) A county shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the county.
- (b) A county shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the county.

(c) (i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the county complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the county's consent, establish an alternative plan review time requirement.

(4) (a) A county may not enforce a requirement to have a plan review if:

(i) the county does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

(ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) A county may attach to a reviewed plan a list that includes:

(i) items with which the county is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(c) A county may not require an applicant to redraft a plan if the county requests minor changes to the plan that the list described in Subsection (4)(b) identifies.

(5) An applicant shall ensure that each construction project plan submitted for a plan

review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.

**CHAPTER 442****H. B. 243**

Passed March 9, 2020

(Passed into law without governor's signature)

Effective May 12, 2020

**WARNING LABELS AMENDMENTS**

Chief Sponsor: Brady Brammer

Senate Sponsor: Todd Weiler

Cosponsors: Cheryl K. Acton

Carl R. Albrecht

Melissa G. Ballard

Kay J. Christofferson

Joel Ferry

Timothy D. Hawkes

Jon Hawkins

Dan N. Johnson

Marsha Judkins

Karianne Lisonbee

Calvin R. Musselman

Derrin R. Owens

Lee B. Perry

Val K. Potter

Travis M. Seegmiller

Steve Waldrip

**LONG TITLE****General Description:**

This bill creates a cause of action that may be brought against a person who distributes pornography without a visible warning.

**Highlighted Provisions:**

This bill:

- ▶ allows the attorney general or a member of the public to bring an action against a person who distributes pornography without a visible warning or specific searchable text for a website;
- ▶ requires an individual person to first notify the attorney general before bringing an action;
- ▶ allows for a civil penalty of up to \$2,500 for each violation;
- ▶ requires that a portion of any recovery be provided to the Crime Victims Reparations Fund;
- ▶ provides a process for curing the violation and paying a reduced penalty; and
- ▶ requires the Judicial Council to adjust the penalty every five years.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

78B-6-2103, as enacted by Laws of Utah 2017, Chapter 464

78B-6-2104, as enacted by Laws of Utah 2017, Chapter 464

**ENACTS:**

78B-6-2105, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 78B-6-2103 is amended to read:****78B-6-2103. Liability -- Safe harbor.**

(1) A person who is not exempt under Section 78B-6-2102, and who predominately distributes or otherwise predominately provides pornographic material to consumers is liable to a person if:

(a) at the time the pornographic material is viewed by the person, the person is a minor; and

(b) the pornographic material is the proximate cause for the person being harmed physically or psychologically, or by emotional or medical illnesses as a result of that pornographic material.

(2) Nothing in this part affects any private right of action existing under other law, including contract.

(3) Notwithstanding Subsection (1), a person who distributes or otherwise provides pornographic material is not liable under this section if the person who distributes or otherwise provides pornographic material:

(a) provides a warning that:

(i) is conspicuous;

(ii) appears before the pornographic material can be accessed; and

(iii) consists of a good faith effort to warn persons accessing the pornographic material that the pornographic material may be harmful to minors; and

(b) makes a good faith effort to verify the age of a person accessing the pornographic material.

(4) Subsection (3) may not be interpreted as exempting a person from complying with Title 13, Chapter 39, Child Protection Registry.

(5) (a) Notwithstanding Section 78B-6-2105, a person who is not exempt under Section 78B-6-2102, and who predominately distributes or otherwise predominately provides obscene material to consumers without a warning label or without the metadata described in Subsection 78B-6-2105(3)(b) is not liable if the person demonstrates reasonable efforts to determine the location of recipients of obscene material within the state and the placement of warning labels on material that enters the state. Reasonable efforts shall result in a compliance rate that exceeds 75% of the content believed to enter the state within the shorter of six months prior to any claim, or from May 12, 2020 to the time of the claim. Proof of reasonable efforts shall remove liability only for the type of compliance for which reasonable efforts have been proven.

(b) The use of virtual private networks or similar technology by the consumer to hide the consumer's location may not be included in a compliance rate calculation.

(6) Notwithstanding Section 78B-6-2105, a video game without a warning label is not liable if it has a

rating of the Entertainment Software Rating Board or equivalent, as long as it also explicitly provides notice of the content as part of the rating.

**Section 2. Section 78B-6-2104 is amended to read:**

**78B-6-2104. Damages -- Class action.**

(1) If a court finds that a person [violates] is violating Section 78B-6-2103, the court may award the plaintiff:

- (a) actual damages; and
- (b) punitive damages, if it is proven that the person targeted minors.

(2) A class action may be brought under this part in accordance with Utah Rules of Civil Procedure, Rule 23.

**Section 3. Section 78B-6-2105 is enacted to read:**

**78B-6-2105. Civil action for enforcement -- Penalties.**

(1) A person who predominately distributes or otherwise predominately provides pornographic material to consumers with the intent to earn revenue or profit directly or indirectly from the distribution may not distribute any obscene material or performance as defined in Section 76-10-1203 without first giving a clear and reasonable warning of the harmful impact of exposing minors to the material or performance. The warning of the harm shall be prominently displayed in the following form:

STATE OF UTAH WARNING

Exposing minors to obscene material may damage or negatively impact minors.

(2) (a) For print publications created after May 12, 2020, the warning in Subsection (1) shall be placed in clear, readable type on the cover of each publication which includes material as defined in Section 76-10-1201.

(b) For digital publications:

(i) the warning in Subsection (1) shall be displayed in searchable text format and for at least five seconds prior to the display of any video or each image which includes material as defined in Section 76-10-1201; or

(ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display the warning in Subsection (1) prior to each video or image contained on the website.

(3) A person who violates this section shall be liable for a civil penalty not to exceed \$2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty established by law, and enjoined from further violations. The civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction. Each of the following violations shall create a separate liability per violation:

(a) the sale or display of potentially harmful content without the warning required in Subsection (1), in accordance with Subsection (2); or

(b) the absence of the following searchable text within the website's metadata - utahobscenitywarning.

(4) The determination by a court as to whether a person is distributing material the state considers to be obscene material or performance as defined in Section 78B-6-1203 shall be proven by clear and convincing evidence. All other elements of proof shall be proven by a preponderance of the evidence.

(5) The court, in ordering payment, shall specify each amount for the civil penalty, filing fees, and attorney fees.

(6) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:

- (a) the nature and extent of the violation;
- (b) the number and severity of the violations;
- (c) the economic effect of the penalty on the violator;
- (d) whether the violator took good faith measures to comply with this chapter and when those measures were taken;
- (e) the willfulness of the violator's misconduct;
- (f) the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and
- (g) any other factor that the court determines justice requires.

(7) Actions pursuant to this section may be brought by the attorney general's office in the name of the people of the state or by a private person in accordance with Subsection (8).

(8) A private person may bring an action in the public interest pursuant to this section if:

(a) the person has served notice of an alleged violation of Section 78B-6-2103 on the alleged violator and the attorney general's office;

(b) the attorney general's office has not provided a letter to the noticing party within 60 days of receipt of the notice of an alleged violation indicating that:

(i) an action is currently being pursued or will be pursued by the attorney general's office regarding the violation; or

(ii) the attorney general believes that there is no merit to the action; and

(c) the alleged violator has not responded to the notice of alleged violation or returned the proof of compliance form provided in Subsection (14).

(9) If a lawsuit is commenced, the plaintiff may include additional violations in the claim that are discovered through the discovery process.

(10) Notice of the alleged violation shall be executed by the attorney for the noticing party, or by

the noticing party, if the noticing party is not represented by an attorney, and include a notice of alleged violation. The notice of alleged violation shall:

(a) state that the person executing the notice believes that there is a violation; and

(b) provide factual information sufficient to establish the basis for the alleged violation.

(11) A person who serves a notice of alleged violation identified in Subsection (10) shall complete and provide to the alleged violator at the time the notice of alleged violation is served, a notice of special compliance procedure and proof of compliance form pursuant to Subsection (14). The person may file an action against the alleged violator, or recover from the alleged violator if:

(a) the notice of alleged violation alleges that the alleged violator failed to provide a clear and reasonable warning as required under Subsection (1); and

(b) within 14 days after receipt of the notice of alleged violation, the alleged violator has not:

(i) corrected the alleged violation and all similar violations known to the alleged violator;

(ii) agreed to pay a penalty for the alleged violation in the amount of \$500 per violation; and

(iii) notified, in writing, the noticing party that the violation has been corrected.

(12) The written notice required in Subsection (11)(b)(iii) shall be the notice of special compliance procedure and proof of compliance form specified in Subsection (14). The alleged violator shall deliver the civil penalty to the noticing party within 30 days of receipt of the notice of alleged violation.

(13) The attorney general shall review the notice of alleged violation and may confer with the noticing party. If the attorney general believes there is no merit to the action, the attorney general shall, within 45 days of receipt of the notice of alleged violation, provide a letter to the noticing party and the alleged violator stating that the attorney general believes there is no merit to the action.

(14) The notice required to be provided to an alleged violator pursuant to Subsection (11) shall be presented as follows:

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are in violation of Utah Code Section 78B-6-2103.

The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:

(1) you have not actually taken the corrective steps that you have certified in this form;

(2) the Noticing Party has not received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice; and

(3) the Noticing Party does not receive the required \$500 penalty payment for each violation alleged from you at the address shown above postmarked within 30 days of your receiving this notice.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

This notice of alleged violation is for failure to warn against an exposure to minors of materials considered harmful to minors. (provide complete description of violation, including when and where observed)

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with Utah Code Section 78B-6-2103, for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of receipt of this notice, a penalty of \$500 for each violation alleged to the Noticing Party only and certify that I have complied with by (check only one of the following):

Posting a warning or warnings, and attaching a copy of that warning and a photograph accurately showing its placement on the print or digital publication.

Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

CERTIFICATION

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to



additional penalties under Utah Code Section 76-10-1206.

Signature of alleged violator or authorized representative:

Date:

Name and title of signatory:

(15) An alleged violator may satisfy the conditions set forth in Subsection (14) only one time for a specific violation.

(16) Notwithstanding Subsection (14), the attorney general may file an action pursuant to Subsection (7) against an alleged violator. In any action, the amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator to a private person in accordance with Subsection (14) for the same alleged violation.

(17) Payments shall be made in accordance with this section.

(a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the court.

(b) A penalty paid in accordance with the special compliance procedure in Subsection (14) shall be made directly to the noticing party.

(18) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in accordance with this section. Funds received shall be deposited in the Crime Victim Reparations Fund created in Section 51-9-404. The penalty amount upon which the 50% is calculated may not include attorney fees or costs awarded by the court.

(a) If the penalty is paid to a noticing party in accordance with Subsection (14), the noticing party shall remit the required amount along with a copy of the Special Compliance Procedure document.

(b) If a civil penalty is ordered by the court, the plaintiff shall remit the required amount along with a copy of the court order.

(19) The attorney general's office shall provide to the Utah Office for Victims of Crime a copy of all notices of alleged violations to which the attorney general's office did not respond with a letter of no merit in accordance with Subsection (13).

(20) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for payment.

(21) The Utah Office for Victims of Crime shall:

(a) maintain a record of documents and payments submitted pursuant to Subsections (18), (19), and (20);

(b) create and provide to the Legislature in odd-numbered years beginning November 2021, a report containing the following for the previous two years:

(i) the number of notices of alleged violations received from the attorney general's office;

(ii) the number of court orders received; and

(iii) the total amount received and deposited into the Crime Victim Reparations Fund.

(22) This section does not apply to:

(a) a person portrayed in obscene or pornographic material that is created, duplicated, or distributed without the person's knowledge or consent; or

(b) a person who is coerced or blackmailed into distributing obscene or pornographic material.

(23) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the civil penalty provided in Subsection (3) shall be adjusted by the Judicial Council based on the change in the annual Consumer Price Index for the most recent five-year period ending on December 31 of the previous year, and rounded to the nearest five dollars. The attorney general shall publish the dollar amount of the civil penalty together with the date of the next scheduled adjustment.

**CHAPTER 443****S. B. 29**

Passed March 12, 2020

Approved April 1, 2020

Effective May 12, 2020

**DRUG DISPOSAL PROGRAM**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill authorizes the attorney general, in coordination with the Department of Environmental Quality (DEQ), to implement and administer a program for the secure, environmentally friendly disposal of a lawfully possessed controlled substance.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes the attorney general, in coordination with the department, to implement and administer a program for the secure, environmentally friendly disposal of a lawfully possessed controlled substance;
- ▶ provides that, in implementing and administering the program, the attorney general:
  - may work with law enforcement, pharmacies, and other entities to establish a network of controlled substance disposal repositories or to distribute home controlled substance disposal receptacles;
  - may establish certain requirements for a controlled substance disposal repository and a home controlled substance disposal receptacle;
  - shall ensure that the program complies with Drug Enforcement Administration requirements; and
  - may publish a list of controlled substance disposal repositories or information on obtaining a home controlled substance disposal receptacle;
- ▶ amends provisions relating to the General Crime and Violence Prevention Fund for the administration of funds granted or donated for the program described in this bill; and
- ▶ preempts certain action by other state and local government entities in relation to the program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

67-5-24, as last amended by Laws of Utah 2013, Chapter 400

**ENACTS:**

67-5-36, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 67-5-24 is amended to read:****67-5-24. Attorney General Crime and Violence Prevention Fund -- Use of money -- Restrictions.**

(1) There is created an expendable special revenue fund known as the Attorney General Crime and Violence Prevention Fund.

(2) The fund shall consist of:

(a) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund[-]; and

(b) money granted by the federal government, or donated or granted by another person, for a purpose described in Subsection (4)(n).

(3) (a) If the donor designates a specific purpose or use for the gift, grant, devise, donation, or bequest, money from the fund shall be used solely for that purpose.

(b) Gifts, grants, devises, donations, and bequests not designated for a specific purpose under Subsection (3)(a) and that are not restricted to a specific use under federal law, shall be used in connection with the activities under Subsection (4).

(c) The attorney general or the attorney general's designee shall authorize the expenditure of fund money in accordance with this section.

(d) The money in the fund may not be used for administrative expenses of the Office of the Attorney General normally provided for by legislative appropriation.

(4) Except as provided under Subsection (3), the fund money shall be used for any of the following activities:

(a) the Amber Alert program;

(b) prevention of crime against seniors;

(c) prevention of domestic violence and dating violence;

(d) antidrug use programs;

(e) preventing gangs and gang violence;

(f) Internet safety programs;

(g) mentoring Utah partnerships;

(h) suicide prevention programs;

(i) underage drinking programs;

(j) antipornography programs;

(k) victims assistance programs;

(l) identity theft investigations and prosecutions; [or]

(m) identity theft reporting system database[-]; or

(n) in relation to the drug disposal program described in Section 67-5-36;

(i) the purchase, operation, or maintenance of a repository in the state;

(ii) the purchase or distribution of a home controlled substance disposal receptacle;

(iii) educating citizens on the lawful and environmentally friendly disposal of a controlled substance; or

(iv) notwithstanding Subsection (3)(d), if not prohibited by the grantor or donor described in Subsection (2)(b), the costs of administering the drug disposal program, in an amount that does not exceed 10% of the money provided by the grantor or donor.

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.

(6) The attorney general shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

**Section 2. Section 67-5-36 is enacted to read:**

**67-5-36. Drug Disposal Program.**

(1) As used in the section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Department" means the Department of Environmental Quality.

(c) "Environmentally friendly" means a controlled substance that is rendered:

(i) non-retrievable, as determined by the attorney general in consultation with the department;

(ii) non-hazardous, as determined by the department; and

(iii) permissible to dispose in a landfill in a manner that does not violate state or federal law relating to surface water or groundwater.

(d) "Home controlled substance disposal receptacle" means a receptacle provided by the program that can be used by an individual to render a small amount of controlled substances at an individual's residence non-retrievable and environmentally friendly.

(e) "Non-retrievable" means the same as that term is defined in 21 C.F.R. 1300.05.

(f) "Program" means the Drug Disposal Program described in this section.

(g) "Repository" means a controlled substance disposal repository described in Subsection (3).

(2) The attorney general may, in coordination with the department and within funds available for this purpose, administer a program, known as the

Drug Disposal Program, to provide for the safe, secure, and environmentally friendly disposal of controlled substances in the state.

(3) The attorney general and the department, in developing and implementing the program:

(a) may work with law enforcement agencies, pharmacies, hospitals, and other entities to ensure that one or more repositories are present in each county in the state;

(b) shall ensure that each repository:

(i) renders a controlled substance placed in the repository non-retrievable and environmentally friendly, onsite; and

(ii) is secure from tampering or unauthorized removal;

(c) may require verification that:

(i) a repository complies with Subsection (3)(b); and

(ii) a home controlled substance disposal receptacle renders a controlled substance non-retrievable and environmentally friendly;

(d) shall ensure that the program operates in accordance with Drug Enforcement

Administration rules; and

(e) may publish, on the websites of the attorney general's office and the department:

(i) a list of the location of each repository in the state; and

(ii) if home controlled substance disposal receptacles are used as part of the program, information on how to obtain a home controlled substance disposal receptacle.

(4) The attorney general may, instead of, or in addition to, establishing a repository in a county, establish a process for residents of the county to obtain a home controlled substance disposal receptacle.

(5) A state or local government entity, other than the attorney general's office, the department, or a designee of the department, may not:

(a) regulate the disposal of a controlled substance rendered non-retrievable in a repository or home controlled substance disposal receptacle differently, or more strictly, than disposal of non-hazardous household waste;

(b) regulate or restrict the location of a repository or the distribution of a home controlled substance disposal receptacle; or

(c) otherwise take action to regulate or interfere with administration of the program.

(6) This section does not prohibit the disposal of a controlled substance:

(a) in a receptacle that does not qualify as a repository if:

(i) the receptacle is located on the premises of an entity authorized by Drug Enforcement

Administration rules to accept a controlled substance for subsequent disposal; and

(ii) the entity described in Subsection (6)(a)(i) ensures that the controlled substance is managed in a manner permitted by Drug Enforcement Administration rule; or

(b) disposed at a facility that has received the approval required under Section 19-6-108.

(7) Unless otherwise agreed by the attorney general, an entity described in Subsection (3)(a) that permits the placement of a repository on property owned or controlled by the entity will dispose of a controlled substance placed in the repository after the controlled substance is rendered environmentally friendly.

**CHAPTER 444****S. B. 44**

Passed March 11, 2020

Approved April 1, 2020

Effective May 12, 2020

**LIMITED SUPPORT SERVICES  
WAIVER AMENDMENTS**Chief Sponsor: Daniel Hemmert  
House Sponsor: Norman K. Thurston**LONG TITLE****General Description:**

This bill relates to the provision of services for individuals with disabilities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions relating to the allocation of appropriations to the Division of Services for People with Disabilities; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

62A-5-101, as last amended by Laws of Utah 2018, Chapter 404

62A-5-102, as last amended by Laws of Utah 2019, Chapter 104

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 62A-5-101 is amended to read:****62A-5-101. Definitions.**

As used in this chapter:

(1) "Approved provider" means a person approved by the division to provide home-based services.

(2) "Board" means the Utah State Developmental Center Board created under Section 62A-5-202.5.

(3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.

(b) "Brain injury" does not include a deteriorating disease.

(4) "Designated intellectual disability professional" means:

(a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:

(i) (A) has at least one year of specialized training in working with persons with an intellectual disability; or

(B) has at least one year of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or

(b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:

(i) has at least two years of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.

(5) "Deteriorating disease" includes:

- (a) multiple sclerosis;
- (b) muscular dystrophy;
- (c) Huntington's chorea;
- (d) Alzheimer's disease;
- (e) ataxia; or
- (f) cancer.

(6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part 2, Utah State Developmental Center.

(7) "Director" means the director of the Division of Services for People with Disabilities.

(8) "Direct service worker" means a person who provides services to a person with a disability:

(a) when the services are rendered in:

(i) the physical presence of the person with a disability; or

(ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and

(b) (i) under a contract with the division;

(ii) under a grant agreement with the division; or

(iii) as an employee of the division.

(9) (a) "Disability" means a severe, chronic disability that:

(i) is attributable to:

(A) an intellectual disability;

(B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. 435.[1009]1010;

(C) a physical disability; or

(D) a brain injury;

(ii) is likely to continue indefinitely;

(iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity:

(I) self-care;

(II) receptive and expressive language;

(III) learning;

(IV) mobility;

(V) self-direction;

(VI) capacity for independent living; or

(VII) economic self-sufficiency; or

(B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas:

(I) memory or cognition;

(II) activities of daily life;

(III) judgment and self-protection;

(IV) control of emotions;

(V) communication;

(VI) physical health; or

(VII) employment; and

(iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:

(A) may continue throughout life; and

(B) must be individually planned and coordinated.

(b) "Disability" does not include a condition due solely to:

(i) mental illness;

(ii) personality disorder;

(iii) deafness or being hard of hearing;

(iv) visual impairment;

(v) learning disability;

(vi) behavior disorder;

(vii) substance abuse; or

(viii) the aging process.

(10) "Division" means the Division of Services for People with Disabilities.

(11) "Eligible to receive division services" or "eligibility" means qualification, based on criteria established by the division ~~[in accordance with Subsection 62A-5-102(4)]~~, to receive services that are administered by the division.

(12) "Endorsed program" means a facility or program that:

(a) is operated:

(i) by the division; or

(ii) under contract with the division; or

(b) provides services to a person committed to the division under Part 3, Admission to an

Intermediate Care Facility for People with an Intellectual Disability.

(13) "Licensed physician" means:

(a) an individual licensed to practice medicine under:

(i) Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(b) a medical officer of the United States Government while in this state in the performance of official duties.

(14) "Limited support services" means services that are administered by the division to individuals with a disability:

(a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for Medicare and Medicaid Services that permits the division to limit services to an individual who is eligible to receive division services; and

(b) through a program that:

(i) was not operated by the division on or before January 1, 2020; and

(ii) (A) limits the kinds of services that an individual may receive; or

(B) sets a maximum total dollar amount for program services provided to each individual.

~~[(14)]~~ (15) "Physical disability" means a medically determinable physical impairment that has resulted in the functional loss of two or more of a person's limbs.

~~[(15)]~~ (16) "Public funds" means state or federal funds that are disbursed by the division.

~~[(16)]~~ (17) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.

~~[(17)]~~ (18) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Section 62A-5-206.7.

**Section 2. Section 62A-5-102 is amended to read:**

**62A-5-102. Division of Services for People with Disabilities -- Creation -- Authority -- Direction -- Provision of services.**

(1) There is created within the department the Division of Services for People with Disabilities, under the administrative direction of the executive director of the department.

(2) In accordance with this chapter, the division has the responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities and their families in this state.

(3) Within appropriations from the Legislature, the division shall provide services to any ~~person~~

individual with a disability who is eligible to receive division services.

~~(4) (a) [Starting on July 1, 2013,] Except as provided in Subsection (4)(c), any new appropriations designated to serve eligible [persons] individuals waiting for services from the division shall be [allocated as set forth in this section. (b) Eighty-five percent of the money appropriated in Subsection (4)(a) shall be] allocated, as determined by the division by rule based on the:~~

- ~~(i) severity of the disability;~~
- ~~(ii) urgency of the need for services;~~
- ~~(iii) ability of a parent or guardian to provide the [person] individual with appropriate care and supervision; and~~
- ~~(iv) length of time during which the [person] individual has not received services from the division.~~

~~[(c) Fifteen percent of the money appropriated in Subsection (4)(a) shall be allocated for respite services, and the division shall:]~~

~~[(i) establish rules to identify a person whose only need is respite services;]~~

~~[(ii) allocate money under this Subsection (4)(c) to the people described in Subsection (4)(c)(i) based on random selection; and]~~

~~[(iii) if all persons described in Subsection (4)(c)(i) have been served and there is money remaining for respite care under this Subsection (4)(c), the division shall use the remaining money as described in Subsection (4)(b).]~~

~~[(d) (b) Funds from Subsection (4)(b)(a) that are not spent by the division at the end of the fiscal year may be used as set forth in Subsection (7).~~

(c) Subsections (4)(a) and (b) do not apply to any new appropriations designated to provide limited support services.

(5) The division:

(a) has the functions, powers, duties, rights, and responsibilities described in Section 62A-5-103; and

(b) is authorized to work in cooperation with other state, governmental, and private agencies to carry out the responsibilities described in Subsection (5)(a).

(6) Within appropriations authorized by the Legislature, and to the extent allowed under Title XIX of the Social Security Act, the division shall ensure that the services and support that the division provides to [any person] an individual with a disability:

(a) are provided in the least restrictive and most enabling environment;

(b) ensure opportunities to access employment; and

(c) enable reasonable personal choice in selecting services and support that:

- (i) best meet individual needs; and
- (ii) promote:
  - (A) independence;
  - (B) productivity; and
  - (C) integration in community life.

(7) (a) Appropriations to the division are nonlapsing.

(b) After an individual stops receiving services under this section, the division shall use the funds that paid for the individual's services to provide services under this section to another eligible individual in an intermediate care facility transitioning to division services, if the funds were allocated under a program established under Section 26-18-3 to transition individuals with intellectual disabilities from an intermediate care facility.

(c) Except as provided in Subsection (7)(b), if an individual receiving services under Subsection (4)[(b) or (e)](a) ceases to receive those services, the division shall use the funds that were allocated to that individual to provide services to another eligible individual waiting for services as described in Subsection (4)[(b)](a).

(d) Funds unexpended by the division at the end of the fiscal year may be used only for one-time expenditures unless otherwise authorized by the Legislature.

(e) A one-time expenditure under this section:

- (i) is not an entitlement;
- (ii) may be withdrawn at any time; and
- (iii) may provide short-term, limited services, including:

(A) respite care;

(B) service brokering;

(C) family skill building and preservation classes;

(D) after school group services; and

(E) other professional services.

**CHAPTER 445****S. B. 117**

Passed March 10, 2020

Approved April 1, 2020

Effective May 12, 2020

**HIGHER EDUCATION  
FINANCIAL AID AMENDMENTS**

Chief Sponsor: Daniel Hemmert

House Sponsor: Derrin R. Owens

**LONG TITLE****General Description:**

This bill allows for Regents' scholarships to be used at private, nonprofit colleges or universities within the state.

**Highlighted Provisions:**

This bill:

- ▶ allows for Regents' scholarships to be used at private, nonprofit colleges or universities within the state;
- ▶ limits the amount of scholarship funding available in the case of a private, nonprofit college or university; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the State Board of Regents - Student Assistance, as an ongoing appropriation:
  - from the Education Fund, \$5,000,000.

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53B-8-201, as last amended by Laws of Utah 2019, Chapter 444

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53B-8-201 is amended to read:****53B-8-201. Regents' Scholarship Program.**

(1) As used in this section:

(a) "Eligible institution" means ~~an~~:

(i) an institution of higher education within the state system of higher education described in Section 53B-1-102; or

(ii) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(b) "Eligible student" means a student who:

(i) applies to the board in accordance with the rules described in Subsection (6);

(ii) is enrolled in an eligible institution; and

(iii) meets the criteria established by the board in rules described in Subsection (6).

(c) "Fee" means:

(i) for an eligible institution that is part of the Utah System of Higher Education, a fee approved by the board; or

(ii) for an eligible institution that is a technical college, a fee approved by the eligible institution.

(d) "Program" means the Regents' Scholarship Program described in this section.

(2) (a) A student who graduates from high school after July 1, 2018:

(i) may receive a Regents' scholarship in accordance with this section; and

(ii) may not receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205.

(b) A student who graduates from high school on or before July 1, 2018:

(i) may receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205; and

(ii) may not receive a Regents' scholarship in accordance with this section.

(3) (a) Subject to legislative appropriations, beginning with an appropriation for fiscal year 2019, the board shall annually distribute money for the Regents' Scholarship Program described in this section to each eligible institution to award as Regents' scholarships to eligible students.

(b) The board shall annually determine the amount of a Regents' scholarship based on:

(i) the number of eligible students in the state; and

(ii) money available for the program.

(c) (i) ~~[The]~~ Subject to Subsection (3)(c)(ii), the board shall annually determine the total amount of money to distribute to an eligible institution based on the eligible institution's share of all eligible students in the state.

(ii) The board may not allocate a percentage of a legislative appropriation for Regents' scholarships to any one eligible institution described in Subsection (1)(a)(ii) that is greater than the highest percentage of the legislative appropriation that the board allocates to an eligible institution described in Subsection (1)(a)(i).

(4) (a) Except as provided in this Subsection ~~[(4)(b) or (e)]~~ (4), an eligible institution shall provide to an eligible student a Regents' scholarship in the amount determined by the board described in Subsection (3)(b).

(b) For a Regents' scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of the Regents' scholarship based on other state aid awarded to the eligible student for tuition and fees.

(c) For a Regents' scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the Regents' scholarship so that the total amount of state aid awarded to the eligible student,



including tuition or fee waivers and the Regents' scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the Regents' scholarship for tuition and fees.

(d) An institution described in Subsection (1)(a)(ii) may not award a Regents' scholarship to an eligible student in an amount that exceeds the average total cost of tuition and fees among the eligible institutions described in Subsection (1)(a)(i).

(e) If the allocation for an eligible institution described in Subsection (1)(a)(ii) is insufficient to provide the amount described in Subsection (3)(b) to each eligible student, the eligible institution may reduce the amount of a Regents' scholarship.

(5) The board may:

(a) audit an eligible institution's administration of Regents' scholarships; ~~and~~

(b) require an eligible institution to repay to the board money distributed to the eligible institution under this section that is not provided to an eligible student as a Regents' scholarship~~;~~; and

(c) require an eligible institution to enter into a written agreement with the board in which the eligible institution agrees to provide the board with access to information and data necessary for the purposes of the program.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(i) requirements related to an eligible institution's administration of Regents' scholarships;

(ii) a process for a student to apply to the board to determine the student's eligibility for a Regents' scholarship;

(iii) criteria to determine a student's eligibility for a Regents' scholarship, including:

(A) minimum secondary education academic performance standards;

(B) the completion of secondary core curriculum and graduation requirements;

(C) the completion of a Free Application for Federal Student Aid;

(D) need-based measures that address college affordability and access; and

(E) minimum enrollment requirements in an eligible institution; and

(iv) a requirement for each eligible institution to annually report to the board on all Regents' scholarships awarded by the eligible institution.

(b) In making rules described in Subsection (6)(a) that apply to a technical college, the board shall consult with the Utah System of Technical Colleges Board of Trustees.

(7) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

(8) (a) The State Board of Education, a school district, or a public high school shall cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

(b) The State Board of Education shall annually provide to the board a list of directory information, including name and address, for each grade 8 student in the state.

~~[(9) Notwithstanding the provisions in this section, a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities is an eligible institution for purposes of providing a Regents' scholarship to an eligible student who applies for a Regents' scholarship on or before July 1, 2019.]~~

~~[(10)]~~ (9) If money appropriated under this section is available after Regents' scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302.

**Section 2. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

<u>To State Board of Regents - Student Assistance</u>	
<u>From Education Fund</u>	<u>\$5,000,000</u>
<u>Schedule of Programs:</u>	
<u>Student Financial Aid</u>	<u>\$5,000,000</u>

**CHAPTER 446****S. B. 133**

Passed March 10, 2020

Approved April 1, 2020

Effective May 12, 2020

**PUBLIC-PRIVATE  
PARTNERSHIPS AMENDMENTS**

Chief Sponsor: Daniel Hemmert

House Sponsor: Joel Ferry

**LONG TITLE****General Description:**

This bill enacts provisions relating to public-private partnerships.

**Highlighted Provisions:**

This bill:

- ▶ requires the Governor's Office of Economic Development to engage a person to act as a facilitator for public-private partnerships in the state;
- ▶ provides for requirements for a facilitator under a contract with the Governor's Office of Economic Development; and
- ▶ provides a repeal date for the provisions relating to a facilitator.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63I-2-263, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370, and 483

**ENACTS:**

63N-13-301, Utah Code Annotated 1953

63N-13-302, Utah Code Annotated 1953

63N-13-303, Utah Code Annotated 1953

63N-13-304, Utah Code Annotated 1953

63N-13-305, Utah Code Annotated 1953

63N-13-306, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63I-2-263 is amended to read:****63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(5) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(6) Section 63H-7a-303 is repealed on July 1, 2022.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(52) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(8) Section 63J-4-708 is repealed January 1, 2023.

(9) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is repealed January 1, 2024.

**Section 2. Section 63N-13-301 is enacted to read:****Part 3. Facilitating Public-Private Partnerships Act****63N-13-301. Title.**

This part is known as the "Facilitating Public-Private Partnerships Act."

**Section 3. Section 63N-13-302 is enacted to read:****63N-13-302. Definitions.**

As used in this part:

(1) "Facilitator" means a person engaged by the office to perform the functions and responsibilities described in Section 63N-13-304.

(2) "Government entity" means:

(a) the state or any department, division, agency, or other instrumentality of the state; or

(b) a political subdivision of the state.

(3) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

**Section 4. Section 63N-13-303 is enacted to read:**

**63N-13-303. Contract with facilitator.**

(1) Within legislative appropriations, the office shall enter into a contract with a nonprofit entity or government entity to act as a facilitator.

(2) The office shall use a request for proposals process under Title 63G, Chapter 6a, Utah Procurement Code, to select a qualified person to act as facilitator.

(3) The term of a contract under Subsection (1) may not exceed three years.

(4) The office shall ensure that the contract with the facilitator includes a conflict-of-interest provision prohibiting the facilitator, or a principal, officer, or employee of the facilitator, from receiving a direct or indirect financial benefit from any public-private partnership that results from the facilitator's work under the contract.

**Section 5. Section 63N-13-304 is enacted to read:**

**63N-13-304. Contract requirements for a facilitator.**

In a contract under Section 63N-13-303, the office shall require a facilitator to:

(1) be a single point of contact and information on public-private partnerships in the state for:

(a) government entities exploring the possibility of filling a public need through a public-private partnership; and

(b) private persons exploring investment opportunities in a public project in the state through a public-private partnership;

(2) work throughout the state to identify government entities that may have an interest in seeking to fill a public need through a public-private partnership;

(3) work to identify private persons who may have an interest in investment opportunities in public projects in the state through a public-private partnership;

(4) facilitate the matching of government entities seeking to fill a public need through a public-private partnership with private persons seeking investment opportunities in public projects through a public-private partnership;

(5) facilitate and assist with the establishment of public-private partnerships for government entities who request the facilitator's assistance in establishing a public-private partnership; and

(6) make recommendations for the Legislature to consider at the 2021 legislative general session relating to public-private partnerships:

(a) to enhance the statutory framework for the establishment of public-private partnerships for public infrastructure projects; and

(b) with the goal of moving the state to the forefront throughout the country in the area of private participation in public infrastructure development.

**Section 6. Section 63N-13-305 is enacted to read:**

**63N-13-305. Office oversight over contract performance of facilitator.**

The office shall monitor and oversee a facilitator's performance under a contract under Section 63N-13-303 to ensure that the facilitator is fulfilling the requirements of Section 63N-13-304.

**Section 7. Section 63N-13-306 is enacted to read:**

**63N-13-306. Limits on application of this part.**

Nothing in this part:

(1) requires a government entity to use the facilitator to explore the possibility of filling a public need through a public-private partnership; or

(2) limits the ability of a government entity to directly:

(a) solicit a public-private partnership; or

(b) respond to a private person exploring an investment opportunity in a public project through a public-private partnership.

**CHAPTER 447****S. B. 141**

Passed March 12, 2020

Approved April 1, 2020

Effective May 12, 2020

(Retrospective operation to January 1, 2020)

**MULTICOUNTY ASSESSING AND COLLECTING LEVY AMENDMENTS**

Chief Sponsor: Daniel Hemmert

House Sponsor: Robert M. Spendlove

**LONG TITLE****General Description:**

This bill modifies provisions related to the multicounty assessing and collecting levy.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies the tax rate of the multicounty assessing and collecting levy;
- ▶ amends the allocation of revenue collected from the multicounty assessing and collecting levy; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

- 59-2-1601, as last amended by Laws of Utah 2014, Chapter 270  
 59-2-1602, as last amended by Laws of Utah 2014, Chapter 270  
 59-2-1606, as last amended by Laws of Utah 2016, Chapter 307

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-2-1601 is amended to read:****59-2-1601. Definitions.**

As used in this part:

- (1) "County additional property tax" means the property tax levy described in Subsection 59-2-1602(4).
- (2) "Fund" means the Property Tax Valuation Agency Fund created in Section 59-2-1602.
- (3) "Multicounty Appraisal Trust" means the Multicounty Appraisal Trust created by an agreement:
  - (a) entered into by all of the counties in the state; and
  - (b) authorized by Title 11, Chapter 13, Interlocal Cooperation Act.
- (4) "Multicounty assessing and collecting levy" means a property tax levied in accordance with Subsection 59-2-1602(2).

(5) "Statewide property tax system" means a computer assisted system for mass appraisal, equalization, collection, distribution, and administration related to property tax, created in accordance with Section 59-2-1606.

**Section 2. Section 59-2-1602 is amended to read:****59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy -- Additional county levy.**

(1) (a) There is created an agency fund known as the "Property Tax Valuation Agency Fund."

(b) The fund consists of:

(i) deposits made and penalties received under Subsection (3); and

(ii) interest on money deposited into the fund.

(c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed and used as provided in Section 59-2-1603.

(2) (a) Each county shall annually impose a multicounty assessing and collecting levy as provided in this Subsection (2).

(b) The tax rate of the multicounty assessing and collecting levy is:

~~[(i) for the calendar year beginning on January 1, 2014, .000013; and]~~

(i) for a calendar year beginning on or after January 1, 2020, and before January 1, 2025, .000012; and

(ii) for a calendar year beginning on or after January 1, ~~[2015]~~ 2025, the certified revenue levy.

~~[(e) The multicounty assessing and collecting levy may not exceed the certified revenue levy as defined in Section 59-2-102, unless:]~~

~~[(i) the Legislature authorizes a multicounty assessing and collecting levy that exceeds the certified revenue levy; and]~~

~~[(ii) the state complies with the notice requirements of Section 59-2-926.]~~

~~[(d) (c) [Revenue] The state treasurer shall allocate revenue collected from the multicounty assessing and collecting levy [shall be allocated] as follows:~~

~~[(i) 82% of the revenue collected shall be deposited into the Multicounty Appraisal Trust; and]~~

~~[(ii) (i) 18% of the revenue collected from the base rate shall be deposited into the Property Tax Valuation Agency Fund[, up to \$500,000 annually; and]~~

~~[(ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected from the multicounty assessing and collecting levy shall be deposited into the Multicounty Appraisal Trust.]~~

(3) (a) The multicounty assessing and collecting levy imposed under Subsection (2) shall be

separately stated on the tax notice as a multicounty assessing and collecting levy.

(b) The multicounty assessing and collecting levy is:

(i) exempt from Sections 17C-1-403 through 17C-1-406;

(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and

(iii) exempt from the notice and public hearing requirements of Section 59-2-919.

(c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected from the multicounty assessing and collecting levy.

(ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later than the tenth day of the month following the end of the quarter in which the revenue is collected.

(iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day of the month following the end of the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

(d) The state treasurer shall allocate the penalties received under this Subsection (3) in the same manner as revenue is allocated under Subsection (2)(d).

(4) (a) A county may levy a county additional property tax in accordance with this Subsection (4).

(b) The county additional property tax:

(i) shall be separately stated on the tax notice as a county assessing and collecting levy;

(ii) may not be incorporated into the rate of any other levy;

(iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

(iv) is in addition to and exempt from the maximum levies allowable under Section 59-2-908.

(c) Revenue collected from the county additional property tax shall be used to:

(i) promote the accurate valuation and uniform assessment levels of property as required by Section 59-2-103;

(ii) promote the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes;

(iii) fund state mandated actions to meet legislative mandates or judicial or administrative orders that relate to promoting:

(A) the accurate valuation of property; and

(B) the establishment and maintenance of uniform assessment levels within and among counties; and

(iv) establish reappraisal programs that:

(A) are adopted by a resolution or ordinance of the county legislative body; and

(B) conform to rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

**Section 3. Section 59-2-1606 is amended to read:**

**59-2-1606. Statewide property tax system funding for counties -- Disbursements to the Multicounty Appraisal Trust -- Use of funds.**

~~[(1) As used in this section, "CAMA" means computer-assisted mass appraisal.]~~

~~[(2)-(a)]~~ (1) The funds deposited into the Multicounty Appraisal Trust in accordance with Section 59-2-1602 shall be used to provide funding for a statewide ~~[CAMA]~~ property tax system that will promote:

~~[(4)]~~ (a) the accurate valuation of property;

~~[(4)]~~ (b) the establishment and maintenance of uniform assessment levels among counties within the state;

~~[(4)]~~ (c) efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes; and

~~[(4)]~~ (d) the uniform filing of a signed statement a county assessor requests under Section 59-2-306, including implementation of a statewide electronic filing system.

~~[(4)]~~ (2) The trustee of the Multicounty Appraisal Trust shall:

~~[(4)]~~ (a) determine which projects to fund; and

~~[(4)]~~ (b) oversee the administration of a statewide ~~[CAMA]~~ property tax system.

**Section 4. Retrospective operation.**

This bill has retrospective operation to January 1, 2020.

**CHAPTER 448****S. B. 161**

Passed March 12, 2020

Approved April 1, 2020

Effective May 12, 2020

**TITLE INSURANCE AMENDMENTS**

Chief Sponsor: Daniel Hemmert

House Sponsor: Mike Schultz

**LONG TITLE****General Description:**

This bill amends provisions related to affiliated business in title insurance.

**Highlighted Provisions:**

This bill:

- ▶ removes an unused definition;
- ▶ defines “producer”;
- ▶ amends a provision related to disciplinary action against a title entity or a person previously licensed as a title entity for an act the person committed while licensed;
- ▶ amends a provision related to adjudicative proceedings; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

31A-23a-1001, as enacted by Laws of Utah 2019, Chapter 475

31A-23a-1003, as enacted by Laws of Utah 2019, Chapter 475

31A-23a-1004, as enacted by Laws of Utah 2019, Chapter 475

31A-23a-1006, as enacted by Laws of Utah 2019, Chapter 475

31A-23a-1007, as enacted by Laws of Utah 2019, Chapter 475

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 31A-23a-1001 is amended to read:****31A-23a-1001. Definitions.**

As used in this part:

(1) “Affiliated business” means the gross transaction revenue of a title entity’s title insurance business in the state that is the result of an affiliated business arrangement.

(2) “Affiliated business arrangement” means the same as that term is defined in 12 U.S.C. Sec. 2602, except the services that are the subject of the arrangement do not need to involve a federally related mortgage loan.

(3) “Applicable percentage” means:

(a) on February 1, 2020, through January 31, 2021, 0.5%;

(b) on February 1, 2021, through January 31, 2022, 1%;

(c) on February 1, 2022, through January 31, 2023, 1.5%;

(d) on February 1, 2023, through January 31, 2024, 2%;

(e) on February 1, 2024, through January 31, 2025, 2.5%;

(f) on February 1, 2025, through January 31, 2026, 3%;

(g) on February 1, 2026, through January 31, 2027, 3.5%;

(h) on February 1, 2027, through January 31, 2028, 4%; and

(i) on February 1, 2028, through January 31, 2029, 4.5%.

(4) “Associate” means the same as that term is defined in 12 U.S.C. Sec. 2602.

(5) “Division” means the Division of Real Estate created in Section 61-2-201.

(6) “Essential function” means:

(a) examining and evaluating, based on relevant law and title insurance underwriting principles and guidelines, title evidence to determine the insurability of a title and which items to include or exclude in a title commitment or title insurance policy to be issued;

(b) preparing and issuing a title commitment or other document that:

(i) discloses the status of the title as the title is proposed to be insured;

(ii) identifies the conditions that must be met before a title insurance policy will be issued; and

(iii) obligates the insurer to issue a title insurance policy if the conditions described in Subsection (6)(b)(ii) are met;

(c) clearing underwriting objections and taking the necessary steps to satisfy any conditions to the issuance of a title insurance policy;

(d) preparing the issuance of a title insurance policy; or

(e) handling the closing or settlement of a real estate transaction when:

(i) it is customary for a title entity to handle the closing or settlement; and

(ii) the title entity’s compensation for handling the closing or settlement is customarily part of the payment or retention from the insurer.

(7) “New or newly affiliated title entity” means a title entity that:

(a) is licensed as a title entity for the first time on or after May 14, 2019; or

(b) (i) is licensed as a title entity before May 14, 2019; and

(ii) enters into an affiliated business arrangement for the first time on or after May 14, 2019.

~~[(8) “Ownership affiliated business arrangement” means an affiliated business arrangement based on a person or a person’s affiliate having a direct or beneficial ownership interest of more than 1% in a title entity.]~~

(8) “Producer” means the same as the term “person who is in a position to refer settlement service business” is defined in 12 C.F.R. Sec. 1024.15(c).

(9) “RESPA” means the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

(10) “Section 8 of RESPA” means 12 U.S.C. Sec. 2607 and any rules promulgated thereunder.

(11) “Sufficient capital and net worth” means:

(a) for a new or newly affiliated title entity:

(i) \$100,000 for the first five years after becoming a new or newly affiliated title entity; or

(ii) after the first five years after becoming a new or newly affiliated title entity, the greater of:

(A) \$50,000; or

(B) on February 1 of each year, an amount equal to 5% of the title entity’s average annual gross revenue over the preceding two calendar years, up to \$150,000; or

(b) for a title entity licensed before May 14, 2019, who is not a new or newly affiliated title entity:

(i) for the time period beginning on February 1, 2020, and ending on January 31, 2029, the lesser of:

(A) an amount equal to the applicable percentage of the title entity’s average annual gross revenue over the two calendar years immediately preceding the February 1 on which the applicable percentage first applies; or

(B) \$150,000; and

(ii) beginning on February 1, 2029, the greater of:

(A) \$50,000; or

(B) an amount equal to 5% of the title entity’s average annual gross revenue over the preceding two calendar years, up to \$150,000.

(12) “Title entity” means:

(a) a title licensee as defined in Section 31A-2-402; or

(b) a title insurer as defined in Section 31A-23a-415.

(13) (a) “Title evidence” means a written or electronic document that identifies and describes or compiles the documents, records, judgments, liens, and other information from the public records

relevant to the history and current condition of a title to be insured.

(b) “Title evidence” does not include a pro forma commitment.

**Section 2. Section 31A-23a-1003 is amended to read:**

**31A-23a-1003. Affiliated business arrangements.**

(1) An affiliated business arrangement between a person and a title entity violates Section 8 of RESPA for purposes of state law if:

(a) the title entity does not have sufficient capital and net worth in a reserve account in the title entity’s name; or

(b) more than 70% of the title entity’s annual title insurance business is affiliated business on or after the later of:

(i) two years after [a] the title entity begins an affiliated business arrangement; or

(ii) June 1, 2021.

(2) In addition to Subsection (1), the division may find that an affiliated business arrangement between a person and a title entity violates Section 8 of RESPA after evaluating and weighing the following factors in light of the specific facts before the division:

(a) whether the title entity:

(i) is staffed with [~~its~~] the title entity’s own employees to conduct title insurance business;

(ii) manages [~~its~~] the title entity’s own business affairs;

(iii) has a physical office for business that is separate from any producer’s or associate’s office and pays market rent;

(iv) provides the essential functions of title insurance business for a fee, including incurring the risks and receiving the rewards of any comparable title entity; and

(v) performs the essential functions of title insurance business itself;

(b) if the title entity contracts with another person to perform a portion of the title entity’s title insurance business, whether the contract:

(i) is with an independent third party; and

(ii) provides payment for the services that bears a reasonable relationship to the value of the services or goods received; and

(c) whether the person from whom the title entity receives referrals under the affiliated business arrangement also sends title insurance business to other title entities.

**Section 3. Section 31A-23a-1004 is amended to read:**

**31A-23a-1004. Annual affiliated business report.**

Before March 1 each year, each new or newly affiliated title entity shall submit a report to the division that:

(1) contains the following for the preceding calendar year:

(a) the name and address of any producer or associate that owns a financial interest in the new or newly affiliated title entity;

(b) for each producer and associate identified under Subsection (1)(a), the percentage of the new or newly affiliated title entity's affiliated business that is the result of an affiliated business arrangement with the producer or associate;

(c) a description of any affiliated business arrangement the new or newly affiliated title entity has with a person other than ~~an~~ a producer or associate identified under Subsection (1)(a);

(d) the percentage of the new or newly affiliated title entity's annual title insurance business that is affiliated business;

(e) proof of sufficient capital and net worth; and

(f) any other information required by the division by rule; and

(2) is certified by an officer of the new or newly affiliated title entity that the information contained in the report is true to the best of the officer's knowledge, information, and belief.

**Section 4. Section 31A-23a-1006 is amended to read:**

**31A-23a-1006. Disciplinary action.**

(1) Subject to the requirements of Section 31A-23a-1007, the division may impose a sanction described in Subsection (2) against a person if the person is:

(a) a title entity or a person previously licensed as a title entity for an act the person committed while licensed; and

(b) violates a provision of this part, including Section 8 of RESPA.

(2) The division may, against a person described in Subsection (1):

(a) impose an educational requirement;

(b) impose a civil penalty in an amount not to exceed \$5,000 for each violation;

(c) do any of the following to a title entity:

(i) suspend;

(ii) revoke; or

(iii) place on probation;

(d) issue a cease and desist order; ~~and~~ or

(e) impose any combination of sanctions described in this Subsection (2).

(3) (a) If the presiding officer in a disciplinary action under this part issues an order that orders a fine as part of a disciplinary action against a person,

including a stipulation and order, the presiding officer shall state in the order the deadline, that is no more than one year after the day on which the presiding officer issues the order, by which the person shall comply with the fine.

(b) If a person fails to comply with a stated deadline:

(i) the person's license is automatically suspended:

(A) beginning the day specified in the order as the deadline for compliance; and

(B) ending the day on which the person complies in full with the order; and

(ii) if the person fails to pay a fine required by an order, the division may begin a collection process:

(A) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(4) The division may delegate to an administrative law judge the authority to conduct a hearing under this part.

**Section 5. Section 31A-23a-1007 is amended to read:**

**31A-23a-1007. Adjudicative proceedings -- Review -- Coordination with department.**

(1) (a) Before an action described in Section 31A-23a-1006 may be taken, the division shall:

(i) give notice to the person against whom the action is brought; and

(ii) commence an adjudicative proceeding.

(b) If after the adjudicative proceeding is commenced under Subsection (1)(a) the presiding officer determines that a title entity has violated a provision of this part, including Section 8 of RESPA, the division may take an action described in Section 31A-23a-1006 by written order.

(2) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, a person against whom action is taken under this part may seek review of the action by the executive director of the Department of Commerce.

(3) If a person prevails in a judicial appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to that individual or entity as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.

(4) (a) An order issued under this section takes effect 30 days after the service of the order unless otherwise provided in the order.

(b) If a person appeals an order issued under this section, the division may stay enforcement of the order in accordance with Section 63G-4-405.

(5) (a) Except as provided in Subsection (5)(b), the division shall commence a disciplinary action under



this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) The division may commence a disciplinary action under this part after the time period described in Subsection (5)(a) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (5)(a).

(6) (a) Within two business days after the day on which a presiding officer issues an order under this part that suspends or revokes a title entity's license, the division shall deliver written notice to the department that states the action the presiding officer ordered against the title entity's license.

(b) Upon receipt of the notice described in Subsection (6)(a), the department shall implement the action ordered against the title entity's license.

~~[(7) Upon receipt of a notice described in Subsection (6), the department shall take the action described in the notice upon the title entity's license.]~~

**CHAPTER 449****S. B. 217**

Passed March 12, 2020

Approved April 1, 2020

Effective July 1, 2020

**STATE RETIREMENT AMENDMENTS**

Chief Sponsor: Daniel Hemmert

House Sponsor: Joel Ferry

**LONG TITLE****General Description:**

This bill modifies provisions of the Utah State Retirement and Insurance Benefit Act.

**Highlighted Provisions:**

This bill:

- ▶ provides that reemployment as a part-time appointed or elected board member is not subject to postretirement reemployment restrictions under certain circumstances;
- ▶ provides that a member is not required to cease service as a part-time appointed or elected board member of a participating employer under certain circumstances to be eligible to retire; and
- ▶ imposes minimum age requirements on certain retirees.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date of July 1, 2020.

**Utah Code Sections Affected:****AMENDS:**

- 49-11-1202, as enacted by Laws of Utah 2016, Chapter 310 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 310
- 49-11-1203, as enacted by Laws of Utah 2016, Chapter 310
- 49-11-1205, as last amended by Laws of Utah 2018, Chapter 328
- 49-12-401, as last amended by Laws of Utah 2016, Chapter 310
- 49-13-401, as last amended by Laws of Utah 2016, Chapter 310
- 49-14-401, as last amended by Laws of Utah 2016, Chapter 310
- 49-15-401, as last amended by Laws of Utah 2016, Chapter 310
- 49-16-401, as last amended by Laws of Utah 2016, Chapter 310
- 49-22-304, as last amended by Laws of Utah 2016, Chapter 310
- 49-23-303, as last amended by Laws of Utah 2016, Chapter 310

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 49-11-1202 is amended to read:****49-11-1202. Definitions.**

As used in this part:

(1) (a) "Affiliated emergency services worker" means a person who:

- (i) is employed by a participating employer;
- (ii) performs emergency services for another participating employer that is a different agency;
- (iii) is trained in techniques and skills required for the emergency service;
- (iv) continues to receive regular training required for the service;
- (v) is on the rolls as a trained affiliated emergency services worker of the participating employer; and
- (vi) provides ongoing service for a participating employer, which service may include service as a volunteer firefighter, reserve law enforcement officer, search and rescue worker, emergency medical technician, ambulance worker, park ranger, or public utilities worker.

(b) "Affiliated emergency services worker" does not include a person who performs work or service but does not meet the requirements of Subsection (1)(a).

(2) "Amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's reemployed position were deemed to be an eligible, full-time position within that system.

(3) "Part-time appointed or elected board member" means an individual who:

(a) serves in a position:

(i) as a member of a board, commission, council, committee, panel, or other body of a participating employer; and

(ii) that is designated in the participating employer's governing statute, charter, creation document, or similar document;

(b) is appointed or elected to the position for a definite and fixed term of office by official and duly recorded action of the participating employer;

(c) except for the service in the position, does not perform other work or service for compensation for the participating employer, whether as an employee or under a contract; and

(d) retires from a participating employer that is different than the participating employer with the position in which the person serves.

[~~3~~] (4) (a) "Reemployed," "reemploy," or "reemployment" means work or service performed for a participating employer after retirement, in exchange for compensation.

(b) Reemployment includes work or service performed on a contract for a participating employer if the retiree is:

(i) listed as the contractor; or

(ii) an owner, partner, or principal of the contractor.

[~~4~~] (5) "Retiree":

(a) means a person who:

(i) retired from a participating employer; and

(ii) begins reemployment on or after July 1, 2010, with a participating employer; and

(b) does not include a person:

(i) (A) who was reemployed by a participating employer before July 1, 2010; and

(B) whose participating employer that reemployed the person under Subsection (4)(b)(i)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 on or after July 1, 2010; or

(ii) who is working under a phased retirement agreement in accordance with Title 49, Chapter 11, Part 13, Phased Retirement.

**Section 2. Section 49-11-1203 is amended to read:**

**49-11-1203. Applicability.**

(1) (a) This part does not apply to employment as an elected official if the elected official's position is not full time as certified by the participating employer.

(b) The provisions of this part apply to an elected official whose elected position is full time as certified by the participating employer.

(2) (a) This part does not apply to employment as a part-time appointed board member who does not receive any remuneration, stipend, or other benefit for the part-time appointed board member's service.

(b) For purposes of this Subsection (2), remuneration, stipend, or other benefit does not include receipt of per diem and travel expenses up to the amounts established by the Division of Finance in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(3) This part does not apply to a person who is reemployed as an active senior judge or an active senior justice court judge as described by Utah State Court Rules, appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

(4) An exemption under this section from the provisions of this part is available only for a member who, at the time of retirement, is at least:

(a) 50 years old, if the member is retiring from a public safety system or firefighter retirement system; or

(b) 55 years old.

**Section 3. Section 49-11-1205 is amended to read:**

**49-11-1205. Postretirement reemployment restriction exceptions.**

(1) (a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree does not receive any employer paid benefits, including:

(A) retirement service credit or retirement-related contributions;

(B) medical benefits;

(C) dental benefits;

(D) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease Act, and withholdings required by federal or state law for social security, Medicare, and unemployment insurance; or

(E) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(b) Beginning January 1, 2013, the board shall adjust the amounts under Subsection (1)(a)(iii) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(2) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Section 49-11-1204, if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) and during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, and for which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; and

(iv) does not receive any long-term disability benefits from any participating employer; and

(b) is reemployed by a different participating employer.

(3) (a) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(ii) a length-of-service award;

(iii) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(iv) reimbursement of expenses incurred in the performance of duties.

(b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax credits, vouchers, and payments to an affiliated emergency services worker may not exceed \$500 per month.

(c) Beginning January 1, 2016, the board shall adjust the amount under Subsection (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(4) (a) The office may not cancel the retirement allowance of a retiree employed as a part-time appointed or elected board member within one year after the retiree's retirement date if the part-time appointed or elected board member does not receive any compensation exceeding the amount described in this Subsection (4).

(b) A retiree who is a part-time appointed or elected board member for one or more boards, commissions, councils, committees, panels, or other bodies of participating employers:

(i) may receive an aggregate amount of compensation, remuneration, a stipend, or other benefit for service on a single or multiple boards, commissions, councils, committees, panels, or other bodies of no more than \$5,000 per year; and

(ii) may not receive an employer paid retirement service credit or retirement-related contribution.

(c) For purposes of Subsection (4)(b)(i):

(i) a part-time appointed or elected board member's compensation includes:

(A) an amount paid for the part-time appointed or elected board member's coverage in a group insurance plan provided by the participating employer; and

(B) the part-time appointed or elected board member's receipt of any other benefit provided by the participating employer; and

(ii) the part-time appointed or elected board member's compensation does not include:

(A) an amount the participating employer pays for employer-matching employment taxes, if the participating employer treats the part-time appointed or elected board member as an employee for federal tax purposes; or

(B) an amount that the part-time appointed or elected board member receives for per diem and travel expenses for up to 12 approved meetings or activities of the government board per year, if the per diem and travel expenses do not exceed the amounts established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(d) Beginning January 1, 2021, the board shall adjust the amount under Subsection (4)(b)(i) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average, as determined by the board.

~~[(4)]~~ (5) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

(b) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (1)(a)(iii) ~~[or]~~, (3)(b), or (4)(b).

#### **Section 4. Section 49-12-401 is amended to read:**

##### **49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 30 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member, as described in Subsection 49-11-1203(2), is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

(d) A member who is employed by a participating employer and who is also a part-time appointed or elected board member, as defined in Section 49-11-1202, for a different agency is not required to cease service as a part-time appointed or elected board member to be qualified to receive an allowance under Subsection (1).

(4) An exemption from the requirement to cease service and remain qualified to receive an allowance as provided in Subsection (3) is available only for a member who, at the time of retirement, is at least:

(a) 50 years old, if the member is retiring from a public safety system or firefighter system; or

(b) 55 years old.

**Section 5. Section 49-13-401 is amended to read:**

**49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the

member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years;

(iv) the member has accrued at least 30 years of service credit; or

(v) the member has accrued at least 25 years of service credit, in which case the member shall be subject to the reduction under Subsection 49-13-402(2)(b).

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member, as described in Subsection 49-11-1203(2), is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

(d) A member who is employed by a participating employer and who is also a part-time appointed or elected board member, as defined in Section 49-11-1202, for a different agency is not required to cease service as a part-time appointed or elected board member to be qualified to receive an allowance under Subsection (1).

(4) An exemption from the requirement to cease service and remain qualified to receive an

allowance as provided in Subsection (3) is available only for a member who, at the time of retirement, is at least:

- (a) 50 years old, if the member is retiring from a public safety system or firefighter system; or
- (b) 55 years old.

**Section 6. Section 49-14-401 is amended to read:**

**49-14-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member, as described in Subsection 49-11-1203(2), is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease

service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

(d) A member who is employed by a participating employer and who is also a part-time appointed or elected board member, as defined in Section 49-11-1202, for a different agency is not required to cease service as a part-time appointed or elected board member to be qualified to receive an allowance under Subsection (1).

(4) An exemption from the requirement to cease service and remain qualified to receive an allowance as provided in Subsection (3) is available only for a member who, at the time of retirement, is at least:

(a) 50 years old, if the member is retiring from a public safety system or firefighter system; or

(b) 55 years old.

**Section 7. Section 49-15-401 is amended to read:**

**49-15-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member, as described in Subsection 49-11-1203(2), is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

(d) A member who is employed by a participating employer and who is also a part-time appointed or elected board member, as defined in Section 49-11-1202, for a different agency is not required to cease service as a part-time appointed or elected board member to be qualified to receive an allowance under Subsection (1).

(4) An exemption from the requirement to cease service and remain qualified to receive an allowance as provided in Subsection (3) is available only for a member who, at the time of retirement, is at least:

(a) 50 years old, if the member is retiring from a public safety system or firefighter system; or

(b) 55 years old.

**Section 8. Section 49-16-401 is amended to read:**

**49-16-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the firefighter service employee;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member, as described in Subsection 49-11-1203(2), is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

(d) A member who is employed by a participating employer and who is also a part-time appointed or elected board member, as defined in Section 49-11-1202, for a different agency is not required to cease service as a part-time appointed or elected board member to be qualified to receive an allowance under Subsection (1).

(4) An exemption from the requirement to cease service and remain qualified to receive an allowance as provided in Subsection (3) is available only for a member who, at the time of retirement, is at least:

(a) 50 years old, if the member is retiring from a public safety system or firefighter system; or

(b) 55 years old.

**Section 9. Section 49-22-304 is amended to read:**

**49-22-304. Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 35 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member, as described in Subsection 49-11-1203(2), is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

(d) A member who is employed by a participating employer and who is also a part-time appointed or elected board member, as defined in Section 49-11-1202, for a different agency is not required to cease service as a part-time appointed or elected board member to be qualified to receive an allowance under Subsection (1).

(4) An exemption from the requirement to cease service and remain qualified to receive an allowance as provided in Subsection (3) is available only for a member who, at the time of retirement, is at least:

(a) 50 years old, if the member is retiring from a public safety system or firefighter system; or

(b) 55 years old.

**Section 10. Section 49-23-303 is amended to read:**

**49-23-303. Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 25 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member, as described in Subsection 49-11-1203(2), is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

(d) A member who is employed by a participating employer and who is also a part-time appointed or elected board member, as defined in Section 49-11-1202, for a different agency is not required to cease service as a part-time appointed or elected board member to be qualified to receive an allowance under Subsection (1).

(4) An exemption from the requirement to cease service and remain qualified to receive an allowance as provided in Subsection (3) is available



only for a member who, at the time of retirement, is at least:

(a) 50 years old, if the member is retiring from a public safety system or firefighter system; or

(b) 55 years old.

**Section 11. Effective date.**

This bill takes effect on July 1, 2020.



# **Resolutions**

passed at the  
**General Session**  
of the  
**Sixty-Third Legislature**  
**2020**



**H. C. R. 1**

Passed February 13, 2020

Approved March 24, 2020

Effective March 24, 2020

**RESOLUTION RECOGNIZING THE 250TH ANNIVERSARY (SEMIQUINCENTENNIAL) OF THE UNITED STATES OF AMERICA**

Chief Sponsor: Mike Winder

Senate Sponsor: Kirk A. Cullimore

Cosponsor: Jefferson Moss

**LONG TITLE**

**General Description:**

This concurrent resolution recognizes and commemorates the 250th anniversary, or semiquincentennial, of the United States of America.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the foundational, historical, and political significance of the signing of the Declaration of Independence by the Second Continental Congress on July 4, 1776; and
- ▶ requests that the Governor organize a commission to plan, encourage, develop, and coordinate a statewide effort commemorating and celebrating the 250th anniversary of the adoption of the Declaration of Independence.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the United States Declaration of Independence from Great Britain was adopted by the Second Continental Congress in Philadelphia on July 4, 1776; and

WHEREAS, the Declaration of Independence was drafted by a committee of five representatives that included John Adams, a leader in the push for independence, and Thomas Jefferson, who did most of the original drafting of the document; and

WHEREAS, the purpose of the Declaration of Independence was to announce formally that the 13 American colonies were at war with the Kingdom of Great Britain and would henceforth regard themselves as 13 independent, sovereign states, no longer subject to British rule; and

WHEREAS, the Declaration of Independence justified the independence of the United States by listing the colonial grievances against King George III and asserting certain natural and legal rights, including the right of revolution; and

WHEREAS, John Adams wrote to his wife Abigail after the Declaration of Independence's signing that he believed that Independence Day "will be celebrated, by succeeding Generations as the great anniversary Festival. It ought to be commemorated as the Day of Deliverance by solemn Acts of Devotion to God Almighty. It ought to be solemnized with Pomp and Parade, with shows, Games, Sports, Guns, Bells, Bonfires and Illuminations from one

End of this Continent to the other from this Time forward forever more"; and

WHEREAS, after ratifying the text on July 4, 1776, the Second Continental Congress issued the Declaration of Independence in several forms, sending a copy to each colony, King George III of England, and General George Washington and ordering an official copy, which was eventually placed on display at the National Archives in Washington, D.C. in February of 1924; and

WHEREAS, one of the original copies of the Declaration of Independence was displayed in the Utah State Capitol in February and March of 2002, as a centerpiece to the Cultural Olympiad of the 2002 Utah Winter Olympics, and viewed by over 40,000 people; and

WHEREAS, the Declaration of Independence contained principles that are of major significance in the national heritage of the United States, including individual liberty, representative government, and the attainment of equal and inalienable rights; and

WHEREAS, perhaps the most memorable sentence in the Declaration of Independence, a sentence that was especially significant to President Abraham Lincoln during the American Civil War, states: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness"; and

WHEREAS, President Lincoln considered the Declaration of Independence to be the foundation of his political philosophy, calling it "a rebuke and stumbling block to tyranny and oppression," and explained that the Declaration of Independence is a statement of principles through which the United States Constitution should be interpreted; and

WHEREAS, the Declaration of Independence inspired many similar documents in other countries, including the Declaration of Flanders, issued during the Brabant Revolution in what is modern-day Belgium, and documents issued during other independence movements in Europe, Latin America, Africa, and New Zealand; and

WHEREAS, the lands that would become Utah were the homelands of Native American tribes, including the Utes, Shoshone, Paiute, Goshutes, and Diné at the time of the signing of the Declaration of Independence; and

WHEREAS, in the same year the Declaration of Independence was signed, the Spanish territory of New Spain sent two Franciscan priests, Atanasio Dominguez and Silvestre Velez de Escalante, to find an overland route from Santa Fe to central California, the two priests thereby becoming the first documented European explorers to travel through Utah; and

WHEREAS, all Utah citizens benefit from the principles espoused within the Declaration of Independence, as well as the United States Constitution and the Bill of Rights, and studies have found Utah is one of the most patriotic states in the nation; and

WHEREAS, the Utah Territory’s first governor, Brigham Young, stated regarding the Declaration: “We as a people have more reason to respect, honor, love and cherish the Government of the United States, and her Constitution and free institutions than any other people upon the face of the earth”; and

WHEREAS, Public Law 114–196, passed by the 114th United States Congress and signed by the President on July 22, 2016, establishes the United States Semiquincentennial Commission and encourages similar state and local efforts to coordinate with the national effort:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the foundational, historical, and political significance of the signing of the Declaration of Independence and requests that the Governor organize a commission to celebrate the 250th anniversary of the adoption of the Declaration of Independence on July 4, 2026, to be staffed and administered by the Department of Heritage and Arts.

BE IT FURTHER RESOLVED that the commission shall be inclusive and composed of members with an interest in the celebration, expertise in related fields, and who represent broad demographic and geographic diversity.

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**H.C.R. 2**

Passed February 27, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**CONCURRENT RESOLUTION CREATING THE OLD IRON TOWN STATE MONUMENT**

Chief Sponsor: Susan Duckworth  
Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This concurrent resolution creates the Old Iron Town State Monument.

**Highlighted Provisions:**

This resolution:

- ▶ outlines the general process for proposing the creation of the Old Iron Town State Monument;
- ▶ includes reasons for creating the Old Iron Town State Monument; and
- ▶ approves the creation of the Old Iron Town State Monument.

**Special Clauses:**

None

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*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, Utah Code Title 79, Chapter 4, Part 12, State Monuments Act, provides a process for the creation of a state monument proposed by the Division of Parks and Recreation within the Department of Natural Resources;

WHEREAS, the Division of Parks and Recreation proposed the creation of the Old Iron Town State Monument to the Natural Resources, Agriculture, and Environment Interim Committee;

WHEREAS, the Division of Parks and Recreation found that:

(1) the property of the Old Iron Town is already owned and managed by the Division of Parks and Recreation;

(2) Old Iron Town is symbolic of early Utah leadership’s efforts to remain independent of the United States by developing industrial centers after the transcontinental railroad connected the country from coast to coast;

(3) Old Iron Town was a thriving company community from 1868 to 1876, with several hundred residents, a school, a boarding house, a general store, and a post office, in addition to the iconic conical charcoal kilns, foundry, and iron works; and

(4) Old Iron Town operations supplied ore to the region for industrial and community projects;

WHEREAS, the Iron County Commission by resolution expressed support for the creation of the Old Iron Town State Monument; and

WHEREAS, the Natural Resources, Agriculture, and Environment Interim Committee recommends to the Legislature the creation of the Old Iron Town State Monument:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, approves the creation of the Old Iron Town State Monument consisting of structures and land located in Township 37 South, Range 14 West, Section 8, and described by a map and legal description on file with the Division of Parks and Recreation.

BE IT FURTHER RESOLVED that the Old Iron Town State Monument is to be managed in accordance with Utah Code Title 79, Chapter 4, Part 12, State Monuments Act.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to the Division of Parks and Recreation.

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**H C.R. 3**

Passed February 21, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**CONCURRENT RESOLUTION ENCOURAGING CONSIDERATION OF A LATER START TIME FOR HIGH SCHOOL**

Chief Sponsor: Suzanne Harrison  
Senate Sponsor: Ann Millner  
Cosponsors: Marsha Judkins  
Carol Spackman Moss  
Steve Waldrip

**LONG TITLE**

**General Description:**

This concurrent resolution encourages school districts and charter schools to consider the possible benefits and consequences of a later start to the school day for high schools.

**Highlighted Provisions:**

This resolution:

- ▶ encourages school districts, charter schools, and school community councils to consider the possible benefits and consequences of a later start to the school day for high schools.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the majority of adolescents are sleep deprived at school;

WHEREAS, research indicates that the natural biological rhythms of adolescents are a poor fit with early school start times and that most adolescents get their best sleep between the hours of 11:00 p.m. and 8:00 a.m.;

WHEREAS, only a few Utah high schools start the school day after 8:00 a.m.;

WHEREAS, the American Academy of Pediatrics, the American Medical Association, the Centers for Disease Control and Prevention, and over a dozen major medical organizations, including the American Psychological Association all recommend that high schools start no earlier than 8:30 a.m.;

WHEREAS, an average of only 10% of adolescents get the recommended 9.25 hours of sleep each night and the Center of Disease Control's 2017 Youth Risk Behavior Survey showed that 75.4% of U.S. high school students get fewer than 8 hours of sleep and 43% get less than 6 hours of sleep on school nights;

WHEREAS, environmental factors such as homework, extracurricular activities, social activities, part-time work, and technology exacerbate the tendency for adolescents to decrease sleep time;

WHEREAS, the National Sleep Foundation reports that 20 to 30% of high school students sleep at least once a week during class and 14% are tardy due to oversleeping;

WHEREAS, research identifies numerous consequences and impacts on adolescent brain development associated with sleep deprivation, including lack of attention to learning tasks, poor retention of information taught, low grades, increased risk of auto accidents, increased disciplinary problems, impaired judgment, increased suicidal thinking, increased levels of anxiety and depression, decreased motivation, increased substance abuse, and other negative consequences;

WHEREAS, sleep loss in adolescents has been associated with increased risk of obesity, eating disorders, and cardiovascular morbidity which are likely to lead to increasingly poor health as adolescents progress to adulthood;

WHEREAS, the need to start the high school day later is a public health concern;

WHEREAS, a comprehensive national study by the RAND Corporation on the economic impacts of delaying the start of school to at least 8:30 a.m. found that the benefits of a later start time far outweigh the immediate costs to implement later school start times and that a nation-wide delayed start time would generate an estimated economic gain of \$8.6 billion to the U.S. economy after just two years and potentially \$83 billion after just ten years resulting from improved academic performance and decreased mortality rates as a result of a decrease in the number of car crashes;

WHEREAS, research indicates that later school start times for high schools result in fewer car accidents, increased academic performance, fewer disciplinary referrals, improved mental health and athletic performance, reduced weekend oversleep, increased number of adolescents getting adequate sleep, and increased total sleep time;

WHEREAS, a major multi-state study conducted by researchers at the University of Minnesota and the U.S. Centers for Disease Control and Prevention linked later high school start times with significant decreases in adolescent substance abuse, depression, and consumption of caffeinated beverages;

WHEREAS, a study of secondary schools in Seattle found that delaying the school start time by an hour resulted in an increased daily median sleep time and an increase in the median grades among participating adolescents with a larger impact on adolescents from economically disadvantaged families;

WHEREAS, the Seattle study also found that later school start times resulted in increased punctuality and attendance, especially among economically disadvantaged students, and could have a significant impact on decreasing the learning gap between low and high socioeconomic groups;

WHEREAS, research indicates that later school start times have a minimal impact on participation rates by adolescents in extracurricular activities;

WHEREAS, the community can support parents and families to ensure that adolescents get appropriate sleep by adjusting school schedules;

WHEREAS, even small changes to the start time for high schools can result in significant improvements to the health and academic performance of adolescents; and

WHEREAS, the Legislature recognizes local control and that Utah's school districts and charter schools are responsible for school schedules and start times;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages school districts and charter schools, in consultation with their respective school community councils, to consider the possible benefits and consequences of a later start to the school day for high schools.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the State Board of Education, the State Charter School Board, and each school district and charter school in Utah that serves students in grades 9 through 12.

**H.C.R. 5**

Passed February 21, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**CONCURRENT RESOLUTION  
DESIGNATING UTAH EDUCATION  
SUPPORT PROFESSIONALS DAY**

Chief Sponsor: Lee B. Perry  
Senate Sponsor: Lyle W. Hillyard

**LONG TITLE**

**General Description:**

This concurrent resolution designates "Utah Education Support Professionals Day."

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the education support professionals who make a difference in the lives of students both in and out of the classroom; and
- ▶ designates the Wednesday during the week prior to the Thanksgiving holiday as "Utah Education Support Professionals Day."

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, education support professionals help in a variety of ways to create a positive learning environment across our school facilities and functions through:

- ▶ technical staff who enable students to use technology to develop critical skills for future careers;
- ▶ fostering a safe atmosphere during a bus ride to school;
- ▶ a friendly hello from a custodian;
- ▶ the care and compassion of a reading aide;
- ▶ the smile from a lunch lady;
- ▶ the intuitive instincts of a school secretary;
- ▶ the encouragement from an art, computer, or physical education specialist; and
- ▶ a warm and well lit facility that maintenance staff keep functioning;

WHEREAS, classified school employees play a vital role in providing for the welfare and safety of students;

WHEREAS, classified school employees strive for excellence in all areas of service to the education community;

WHEREAS, classified school employees provide essential services, such as transportation, facilities maintenance and operations, food service, safety, technology, and health care services; and

WHEREAS, exemplary classified school employees should be recognized for their outstanding contributions to quality education in Utah:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates the Wednesday during the week that precedes the Thanksgiving holiday of each year as "Utah Education Support Professionals Day."

BE IT FURTHER RESOLVED that a copy of this resolution be provided to each of Utah's school districts, charter schools, members of the Utah Parent Teacher Association, and the Utah State Board of Education.

**H.C.R. 6**

Passed February 7, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**CONCURRENT RESOLUTION  
RECOGNIZING LUANN ADAMS FOR  
HER SERVICE AS COMMISSIONER  
OF THE DEPARTMENT OF  
AGRICULTURE AND FOOD**

Chief Sponsor: Lee B. Perry  
Senate Sponsor: Jani Iwamoto  
Cosponsors: Cheryl K. Acton

- Carl R. Albrecht
- Kyle R. Andersen
- Patrice M. Arent
- Melissa G. Ballard
- Stewart E. Barlow
- Walt Brooks
- Scott H. Chew
- Steve R. Christiansen
- Kay J. Christofferson
- Kim F. Coleman
- Brad M. Daw
- Joel Ferry
- Craig Hall
- Stephen G. Handy
- Suzanne Harrison
- Timothy D. Hawkes
- Karen Kwan
- Bradley G. Last
- A. Cory Maloy
- Michael K. McKell
- Jefferson Moss
- Merrill F. Nelson
- Val L. Peterson
- Val K. Potter
- Susan Pulsipher
- Mike Schultz
- Rex P. Shipp



Casey Snider  
 Robert M. Spendlove  
 Jeffrey D. Stenquist  
 Keven J. Stratton  
 Steve Waldrip  
 Christine F. Watkins  
 Logan Wilde  
 Mike Winder

**LONG TITLE**

**General Description:**

This concurrent resolution recognizes LuAnn Adams for her service as the commissioner of the Department of Agriculture and Food.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the dedication and public service of LuAnn Adams; and
- ▶ expresses appreciation for LuAnn Adams' many contributions to the state of Utah.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, LuAnn Adams was the first woman to lead the Department of Agriculture and Food as the commissioner of agriculture and food and served in that capacity for more than five years;

WHEREAS, LuAnn Adams graduated from LDS Business College with an Associate's degree;

WHEREAS, LuAnn Adams served for 16 years as the Box Elder County Recorder and Clerk from 1995 through 2011;

WHEREAS, during her time as the Box Elder County Recorder and Clerk, LuAnn Adams designed the county's online Property Information System and led the Geographic Information Systems division after absorbing the duties of the county surveyor when the previous county surveyor retired;

WHEREAS, LuAnn Adams served on a number of state boards, including the Utah Association of Counties Board of Directors, the Utah Recorder's Association, the Utah State University Advisory Board, and the National Association of Counties Agriculture and Rural Affairs Steering Committee;

WHEREAS, LuAnn Adams served as a Box Elder County Commissioner from 2011 through 2013;

WHEREAS, during her service as a Box Elder County Commissioner, LuAnn Adams was instrumental in the creation of the state's first county-adopted sage grouse protection plan, which protected local agriculture and other economic interests by helping to keep the sage grouse off the federal Threatened and Endangered Species list;

WHEREAS, in her role as a Box Elder County Commissioner, LuAnn Adams also started a \$2.5 million improvement project at the Box Elder County Fairgrounds to help increase tourism;

WHEREAS, LuAnn Adams was appointed as Utah's seventh commissioner of agriculture and food on December 20, 2013, and took office in January, 2014, overseeing nearly 200 employees from eight divisions in the Department of Agriculture and Food that administer a wide variety of programs including food safety for consumers, livestock grazing, management of weeds and invasive plants, land and water conservation projects, and weights and measures which ensure that gas pumps provide accurate amounts of fuel purchased;

WHEREAS, in her role as the commissioner of agriculture and food, LuAnn Adams led the department's efforts to operate more efficiently and effectively;

WHEREAS, LuAnn Adams led the state's efforts to create Utah's Own, a unified brand and marketing campaign for gourmet food products from farmers across the state;

WHEREAS, LuAnn Adams has a reputation as a consensus builder who can bring together persons with different interests to realize goals and objectives; and

WHEREAS, LuAnn Adams' many significant state and local contributions merit recognition;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the dedication and public service of LuAnn Adams as commissioner of agriculture and food and expresses appreciation for her many contributions to the state.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to LuAnn Adams.

**H.C.R. 7**

Passed February 28, 2020

Approved March 28, 2020

Effective March 28, 2020

**CONCURRENT RESOLUTION  
 ENCOURAGING CONGRESSIONAL  
 ACTION ON PRESCRIPTION  
 DRUG PRICES**

Chief Sponsor: Suzanne Harrison

Senate Sponsor: Evan J. Vickers

**LONG TITLE**

**General Description:**

This concurrent resolution urges the United States Congress to address escalating prescription drug prices.

**Highlighted Provisions:**

This resolution:

- ▶ highlights the impacts of prescription drug prices on medication adherence and health outcomes;
- ▶ highlights the growth in prescription drug spending;
- ▶ highlights the difference between the prices paid for single-source brand name prescription drugs

in the United States and the prices paid for single-source brand name prescription drugs in other countries;

- ▶ highlights potential Medicare savings;
- ▶ highlights the inability of the secretary of the United States Department of Health and Human Services to influence Medicare prescription drug prices; and
- ▶ urges the United States Congress to promote innovative, market-based solutions and take specific steps to address escalating prescription drug prices.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, at least 49% of Utah adults worry they won't be able to afford the prescription drugs they need;

WHEREAS, 29% of Utah adults do not fill a prescription, cut prescribed pills in half, or skip doses;

WHEREAS, non-adherence to prescribed drug treatments leads to increased morbidity, mortality, and health system costs;

WHEREAS, spending on prescription drugs nationwide has recently grown at more than 2.5 times the rate of inflation;

WHEREAS, prices paid for prescription drugs in the United States are often higher than prices paid for prescription drugs in other countries;

WHEREAS, one recent study of 79 single-source brand name drugs accounting for 40% of Medicare Part D spending showed that the pre-rebate prices charged in the United States are 1.3 to 70.1 times the amounts charged in Canada, the United Kingdom, and Japan;

WHEREAS, the study concluded that the overall, post-rebate cost of those 79 drugs was 3.2 to 4.1 times higher in the United States than the three other countries;

WHEREAS, the study concluded that manufacturer discounts would have to more than double, to 78% of the wholesale acquisition cost, to eliminate the price differential between the United States and the other three countries;

WHEREAS, if post-rebate prices paid for those 79 drugs in the United States were reduced to equal the average post-rebate cost in two or more of the other three countries, Medicare spending on those drugs would be reduced by 67%, or \$37.9 billion in 2018;

WHEREAS, in many countries other than the United States, the prices paid to drug manufacturers are based on the prices paid in other countries;

WHEREAS, the 2003 Medicare Modernization Act, which established the Medicare Part D drug benefit, allows Medicare prescription drug plans to

individually negotiate with drug manufacturers and pharmacies but prohibits the secretary of the United States Department of Health and Human Services from becoming involved in negotiations, establishing formularies, or instituting price structures;

WHEREAS, Congress is considering multiple bills that would enable the secretary to engage in meaningful negotiations with drug manufacturers; and

WHEREAS, at least one of those bills has the potential to reduce Medicare prescription drug spending, which totaled nearly \$130 billion in 2016, by nearly \$80 billion annually by 2027:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the United States Congress to promote innovative, market-based solutions to escalating prescription drug prices.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge Congress to consider solutions like Civica Rx, a Utah-based nonprofit drug manufacturer providing a steady supply of generic drugs to over 1,200 hospitals nationwide at a fraction of the commercial cost.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge Congress to promote price transparency at all levels of the prescription drug supply chain, enact patent reform, safely accelerate the approval process for new drugs, promote competition, remove barriers to value-based purchasing, and provide Medicare with the policy tools necessary to negotiate significant reductions in the prices it pays for prescription drugs.

BE IT FURTHER RESOLVED that a copy of this resolution be provided to Utah's congressional delegation and the majority and minority leaders of the United States Senate and the United States House of Representatives.

**H.C.R. 8**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective March 24, 2020

**CONCURRENT RESOLUTION  
 COMMENDING SUCCESSFUL  
 PARTICIPATION IN THE MUNICIPAL  
 ALTERNATIVE VOTING METHODS  
 PILOT PROGRAM**

Chief Sponsor: Marc K. Roberts  
 Senate Sponsor: Daniel McCay

**LONG TITLE**

**General Description:**

This concurrent resolution commends the towns of Payson and Vineyard for their successful participation in the Municipal Alternate Voting Methods Pilot Project.

**Highlighted Provisions:**

This resolution:

- ▶ commends the towns of Payson and Vineyard, as well as the Utah County election officials, for successfully conducting the first instant runoff voting elections in the state of Utah; and
- ▶ encourages other municipalities to adopt instant runoff voting for municipal elections.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the Legislature enacted 2018 General Session H.B. 35 which created a pilot program allowing municipalities to conduct nonpartisan races using instant runoff voting during any odd-numbered year the pilot program is in effect;

WHEREAS, the towns of Payson and Vineyard opted to participate in the pilot program and conducted their 2019 elections for city council using instant runoff voting;

WHEREAS, Payson and Vineyard elected council members by a majority vote using instant runoff voting without the need for an August primary election;

WHEREAS, post-election polling of Payson and Vineyard residents found that 86% of respondents reported finding instant runoff voting “very much” or “somewhat” easy to use;

WHEREAS, post-election polling of Payson and Vineyard residents found that 82.5% of respondents said instant runoff voting should be used in future elections;

WHEREAS, 71.2% of Payson voters ranked all five candidates listed on the ballot, and 58.6% of Vineyard voters ranked all seven candidates on the ballot;

WHEREAS, post-election polling of candidates found that 87.5% of respondents reported a positive impression of instant runoff voting and all others reported a neutral impression, with no candidate reporting a negative impression; and

WHEREAS, post-election polling of candidates found that 75% of respondents reported thinking that their municipality should continue using instant runoff voting in municipal elections and all others expressed no opinion, with no candidate expressing an opinion that the municipality should not use instant runoff voting;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, commends the towns of Payson and Vineyard, as well as the Utah County election officials, for successfully conducting the first instant runoff voting elections in the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage other municipalities to adopt instant runoff voting for municipal elections so that they, too, may elect

municipal officers without the need for an August primary election.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Payson and Vineyard mayors and to the Utah County Clerk/Auditor’s office.

**H.C.R. 9**

Passed March 11, 2020  
 Approved March 31, 2020  
 Effective March 31, 2020  
 Exception clause

**CONCURRENT RESOLUTION  
 AUTHORIZING STATE PICKUP  
 OF PUBLIC SAFETY AND  
 FIREFIGHTER EMPLOYEE  
 RETIREMENT CONTRIBUTIONS**

Chief Sponsor: Lee B. Perry  
 Senate Sponsor: Wayne A. Harper

**LONG TITLE**

**General Description:**

This concurrent resolution addresses an employer pick up of certain required employee contributions of employees who are eligible for and participate as members in the New Public Safety and Firefighter Tier II Contributory Retirement System.

**Highlighted Provisions:**

This resolution:

- ▶ declares that the state, after a specified date, will pick up and pay a portion of the required employee contributions for all state employees who are members of the New Public Safety and Firefighter Tier II Contributory Retirement System; and
- ▶ includes provisions relating to the employer pick up.

**Special Clauses:**

This resolution provides a contingent effective date.

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, agencies of the state employ employees who are eligible for and participate as members in the New Public Safety and Firefighter Tier II Contributory Retirement System administered by the Utah Retirement Systems;

WHEREAS, in accordance with federal and state law, including Section 414(h)(2) of the Internal Revenue Code, employers may take formal action to pick up required employee contributions, which will be paid by the employer in lieu of employee contributions;

WHEREAS, the state desires to formally pick up a portion of the employee contributions required to be paid under Subsection 49-23-301(2)(c), as enacted in S.B. 56, Public Safety and Firefighter Tier II Retirement Enhancements (2020 General Session), for all state employees participating in the New Public Safety and Firefighter Tier II Contributory Retirement System; and

WHEREAS, the Legislature and Governor are duly authorized to take this formal action on behalf of the state as a participating employer with the Utah Retirement Systems:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, declares that beginning July 1, 2020, the state, on behalf of its agencies, shall prospectively pick up and pay required employee contributions for all state employees who are members of the New Public Safety and Firefighter Tier II Contributory Retirement System, subject to a maximum of 2% of compensation for each employee.

BE IT FURTHER RESOLVED that the picked up contributions paid by the employer, even though designated as employee contributions for state law purposes, are being paid by the state on behalf of its agencies in lieu of the required employee contributions.

BE IT FURTHER RESOLVED that the picked up contributions will not be included in the gross income of the employees for tax reporting purposes, that is, for federal or state income tax withholding taxes, until distributed from the Utah Retirements Systems, so that the contributions are treated as employer contributions pursuant to Section 414(h)(2) of the Internal Revenue Code.

BE IT FURTHER RESOLVED that the picked up contributions are a supplement and not a salary reduction to the state employees who are eligible for and participating members in the New Public Safety and Firefighter Tier II Contributory Retirement System.

BE IT FURTHER RESOLVED that from and after the date of this pick up, a state employee may not have a cash or deferred election right with respect to the designated employee contributions, including that the employees may not be permitted to opt out of the pick up and may not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the state on behalf of its employees to the Utah Retirement Systems.

Contingent effective date.

This resolution takes effect on July 1, 2020, only if S.B. 56, Public Safety and Firefighter Tier II Retirement Enhancements (2020 General Session), passes the Legislature and becomes law on July 1, 2020.

**H C.R. 10**

Passed February 27, 2020

Approved March 28, 2020

Effective March 28, 2020

**CONCURRENT RESOLUTION HONORING THE CAREER AND SERVICE OF PASTOR FRANCE A. DAVIS**

Chief Sponsor: Sandra Hollins

Senate Sponsor: Jani Iwamoto

**LONG TITLE**

**General Description:**

This concurrent resolution honors Pastor France A. Davis.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the 46-year career of Pastor France A. Davis at Calvary Baptist Church; and
- ▶ honors Pastor Davis's work as a pastor, teacher, and activist.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, Pastor France A. Davis was born in 1946 in Georgia;

WHEREAS, Pastor Davis participated in the civil rights campaigns of Dr. Martin Luther King Jr.;

WHEREAS, after participating in the March on Washington in 1963 and the Selma-to-Montgomery voting rights march in 1965, he decided to devote his life's work to ministry;

WHEREAS, in 1966 Pastor Davis joined the Air Force as an aircraft mechanic where he served, among other places, 18 months at Korat Air Force Base in Thailand, before receiving an honorable discharge as a Staff Sergeant in 1970;

WHEREAS, in 1971, Pastor Davis became an ordained minister;

WHEREAS, in 1972, Pastor Davis arrived in Salt Lake City and became an instructor in communications and ethnic studies at the University of Utah;

WHEREAS, Pastor Davis joined Calvary Baptist Church in 1972, became interim Pastor in 1973, and was appointed as the full time Pastor in 1974;

WHEREAS, Pastor Davis has led his congregation to emphasize the importance of education and supported education by granting thousands of dollars to local students for tuition and necessities;

WHEREAS, four scholarships have been established in honor of Pastor Davis's commitment to education;

WHEREAS, in 2007, Pastor Davis was appointed to the Salt Lake Community College Board of Trustees;

WHEREAS, in 2008 he was appointed as the first African American member to the Utah Board of Regents;

WHEREAS, in 2009–2014 he was appointed the fifth vice president of the National Baptist Congress of Christian Education;

WHEREAS, Pastor Davis served on the Utah Board of Corrections, where he worked to reduce racial profiling by the law enforcement agencies during his service of a decade;

WHEREAS, Pastor Davis has received numerous awards, including:

- an honorary Doctor of Humane Letters Degree from the University of Utah (1993);
- the Westminster College “Distinguished Alumni Award” (1997);
- the “Distinguished Teacher Award” from the Sigma Chi Fraternity, Beta Epsilon Chapter (2011);
- the Days of ‘47 “Pioneer of Progress Award” in Education, Health, and Humanitarian Assistance (2011);
- the FBI Director’s Community Leadership Award (2013);
- the Utah Valley University “Excellence in Ethics Award” (2014); and
- the “Lifetime Achievement Heroes Recognition” from the American Red Cross (2016);

WHEREAS, Pastor Davis has been supported and encouraged by Willene Davis, his wife of 47 years;

WHEREAS, Pastor Davis retired from Calvary Baptist Church in 2019 after 46 years of service; and

WHEREAS, Pastor Davis’s lifelong commitment to ministry, ethics, education, and civil rights activism merits recognition:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honor the 46-year career and service of Pastor France A. Davis.

BE IT FURTHER RESOLVED that the Legislature send a copy of this resolution to Pastor France A. Davis.

**H.C.R. 13**

Passed March 11, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**CONCURRENT RESOLUTION  
SUPPORTING THE PROTECTION AND  
RESTORATION OF WILDLIFE CORRIDORS**

Chief Sponsor: Mike Schultz  
Senate Sponsor: David P. Hinkins  
Cosponsors: Carl R. Albrecht  
Joel K. Briscoe  
Scott H. Chew  
Susan Duckworth  
Joel Ferry  
Timothy D. Hawkes  
Phil Lyman  
Michael K. McKell  
Derrin R. Owens  
Douglas V. Sagers  
Keven J. Stratton  
Christine F. Watkins  
Logan Wilde

**LONG TITLE**

**General Description:**

This resolution relates to protecting wildlife and improving motorist safety.

**Highlighted Provisions:**

This resolution:

- ▶ acknowledges that healthy wildlife and landscapes are crucial to Utah’s quality of life and economy;
- ▶ acknowledges that protecting fish and wildlife corridors will improve herd vitality of big game species and preserve connectivity of fisheries;
- ▶ acknowledges and respects the rights of private landowners;
- ▶ acknowledges that the United States is losing biodiversity;
- ▶ acknowledges that wildlife-vehicle collisions pose serious safety risks to motorists and wildlife and that states, including Utah, that implement wildlife crossings to improve motorist safety and protect wildlife corridors have seen a decrease in wildlife vehicle collisions;
- ▶ acknowledges current efforts to protect wildlife corridors and road safety;
- ▶ acknowledges the need for the protection and restoration of migratory routes for wildlife through the Division of Wildlife Resources’ Utah’s Wildlife Migration Initiative;
- ▶ acknowledges that the federal government has initiated programs and awarded grants to protect wildlife corridors for big game animals;
- ▶ expresses the state’s continued support for fish and wildlife corridors and road safety; and
- ▶ encourages studies related to wildlife migration corridors within the state.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, healthy plant and animal life are necessary to the quality of life in Utah and to maintain vibrant and balanced landscapes to

support outdoor recreational activities such as hunting, fishing, animal watching, and similar activities;

WHEREAS, the Office of Outdoor Recreation reports that outdoor recreation contributes more than \$5.5 billion to the economy, employs more than 75,000 people, and is the primary driver behind the tourism industry;

WHEREAS, protecting fish and wildlife migration corridors has been shown to improve herd vitality of big game species, and preserving connectivity is crucial to the long-term resiliency of Utah's fisheries, both being critical in supporting Utah's outdoor recreation economy;

WHEREAS, the rights of private landowners are recognized and respected and private landowners should not be forced to participate in any state or local initiatives regarding the protection of wildlife corridors, but instead the state and local governments should incentivize private landowners to participate;

WHEREAS, 1 in 5 species is at risk of extinction in the United States and Utah is home to many threatened or endangered species and to sensitive species;

WHEREAS, over the 14-year period from 1992 thru 2005, the Utah Highway Patrol reported to the Utah Department of Transportation's Traffic and Safety Office that:

- nearly 30,500 wildlife-vehicle collisions occurred during that period, most reported being deer, elk, and moose;
- the number of reported injury accidents during this period was 2,030; and
- the injury accidents include 18 reported deaths due to accidents with wildlife;

WHEREAS, states, including Utah, that implement wildlife crossings to improve motorist safety and protect wildlife corridors have seen a decrease in wildlife vehicle collisions by 40% to 90%;

WHEREAS, the Division of Wildlife Resources and the Utah Department of Transportation through the creation of a Wildlife Conflict Prevention Team are incorporating wildlife migration patterns, crash data, and wildlife carcass data in highway corridor planning to improve roadway safety for wildlife and motorists;

WHEREAS, the Utah Department of Transportation continues to install wildlife fencing, has constructed a wildlife overpass and 50 wildlife underpasses statewide, continues to identify potential locations for additional wildlife crossings, and has implemented new monitoring technology to assess the effectiveness of existing crossings and better warn motorists when wildlife is present;

WHEREAS, there is a need for the protection and restoration of migratory routes for wildlife through the Division of Wildlife Resources' Utah's Wildlife Migration Initiative; and

WHEREAS, the current administration has initiated programs and awarded grants to protect wildlife corridors for big game animals through United States Department of Interior, Secretarial Order 3362:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges continued state investment in wildlife connectivity and encourages state and local governments to adopt policies to protect and restore intact fish and wildlife connectivity and migration corridors and promote road safety.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage the Division of Wildlife Resources, universities, and others with expertise in the wildlife area to study where wildlife migration corridors exist within the state and how best to protect and enhance these corridors.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah League of Cities and Towns and the Utah Association of Counties and that these entities be requested to provide access to the resolution to the relevant planning commissions and highway authorities.

**H C.R. 14**

Passed February 28, 2020

Approved March 24, 2020

Effective March 24, 2020

**CONCURRENT RESOLUTION  
REAFFIRMING UTAH'S IMPORTANT  
RELATIONSHIP WITH TAIWAN**

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Jerry W. Stevenson

Cosponsors: Carl R. Albrecht

Kyle R. Andersen

Melissa G. Ballard

Walt Brooks

Steve R. Christiansen

Susan Duckworth

Joel Ferry

Francis D. Gibson

Suzanne Harrison

Dan N. Johnson

Marsha Judkins

Karen Kwan

Lee B. Perry

Val L. Peterson

Candice B. Pierucci

Marie H. Poulson

Angela Romero

Douglas V. Sagers

Mike Schultz

Rex P. Shipp

Robert M. Spendlove

Steve Waldrip

Christine F. Watkins

Elizabeth Weight

Brad R. Wilson

Mike Winder

**LONG TITLE**

**General Description:**

This resolution reaffirms the importance of the relationship between the state of Utah and Taiwan.

**Highlighted Provisions:**

This resolution:

- ▶ describes the close relationship Utah and Taiwan have had throughout the years;
- ▶ reaffirms the importance of the relationship between the state of Utah and Taiwan and the United States and Taiwan; and
- ▶ affirms that Utah continues to support the relationship between the United States and Taiwan.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the state of Utah is proud of the relationship that it has enjoyed with Taiwan over many years, which is characterized by strong bilateral religious, trade, educational, and cultural exchanges, scientific and technological development, and tourism;

WHEREAS, the United States and Taiwan share an important relationship supported by common values, including freedom, democracy, rule of law, and a free market economy;

WHEREAS, since 1956, the Church of Jesus Christ of Latter-day Saints has dispatched more than 43,000 missionaries, including former Utah governor Jon Huntsman, Jr., to Taiwan as a friendly exchange between our peoples;

WHEREAS, there are approximately 2,000 immigrants from Taiwan currently living and working in Utah and around 200 students from Taiwan studying at universities throughout the state;

WHEREAS, Utah and Taiwan maintain strong ties, including the establishment of a sister-state relationship between Utah and Taiwan in 1980, a sister-county relationship between Salt Lake County and Nantou County in 2008, and sister-city relationships between Salt Lake City and Keelung in 1979, between Murray City and Chiayi City in 1988, and between West Valley City and Nantou City in 2000;

WHEREAS, Governor Gary R. Herbert led a trade delegation to Taiwan in 2018 and met with Taiwan President Tsai Ing-wen to further strengthen economic and other ties between Utah and Taiwan;

WHEREAS, Taiwan is Utah's sixth-largest trading partner and sixth-largest export destination with Utah exporting more than \$712 million in goods to Taiwan annually, including computers, electronic products, food, chemicals, and machinery;

WHEREAS, the United States ranks as Taiwan's second-largest trading partner and Taiwan ranks as the United States' tenth-largest trading partner, with the United States and Taiwan trading approximately \$81 billion of goods and services in 2019;

WHEREAS, the Asia-Pacific region is the largest market in the world for American exports, many of Utah's exports go to markets in the Asia-Pacific region and, as of 2019, Taiwan is Utah's third-largest export market in Asia;

WHEREAS, for decades Taiwan has helped commemorate the hard work and sacrifices of Chinese railroad workers who helped build the first transcontinental railroad, completed at Promontory Summit Utah, on May 10, 1869;

WHEREAS, 2019 marked the 40th anniversary of the Taiwan Relations Act. On this foundation, the United States and Taiwan have steadily developed strong economic, cultural, and other cooperative relations;

WHEREAS, proximate to the time the United States passed the Taiwan Relations Act, it also established the American Institute in Taiwan. For 40 years, the institute has helped the United States and Taiwan establish and maintain positive and mutually beneficial relations. Today, the institute's director is W. Brent Christensen, who is a native of Provo, Utah, and a graduate of Brigham Young University;

WHEREAS, building on the foundation of the Taiwan Relations Act, the United States has recently reaffirmed the strength of its relationship with Taiwan:

- (1) through the Taiwan Travel Act;
- (2) by dedicating a new \$250 million compound for the American Institute in Taiwan in 2018; and
- (3) by including Taiwan in the Global Entry Program.

Each of these actions evidences that the partnership between the United States and Taiwan is as strong as it has ever been; and

WHEREAS, Taiwan is a member of the United States' Visa Waiver Program and the Global Entry Program, reflecting the mutual friendship, trust, and cooperation both share, making business and tourist travel between Taiwan and the United States more convenient:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, on behalf of the people of the state of Utah, reaffirms the friendship between the state of Utah and Taiwan.

BE IT FURTHER RESOLVED that the state of Utah continues to support efforts to further strengthen the United States' and Taiwan's religious, trade, educational, and cultural relationship.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States' secretary of

state, each member of the Utah Congressional delegation, and the Taipei Economic and Cultural Office in San Francisco.

**H.C.R. 15**

Passed March 4, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**CONCURRENT RESOLUTION URGING A STATE FUNERAL FOR THE LAST WWII MEDAL OF HONOR RECIPIENT**

- Chief Sponsor: Brad M. Daw
- Senate Sponsor: Deidre M. Henderson
- Cosponsors: Patrice M. Arent
- Stewart E. Barlow
- Walt Brooks
- Scott H. Chew
- Susan Duckworth
- Jon Hawkins
- Eric K. Hutchings
- Calvin R. Musselman
- Lee B. Perry
- Val L. Peterson
- Candice B. Pierucci
- Tim Quinn
- Paul Ray
- Douglas V. Sagers
- Travis M. Seegmiller
- Rex P. Shipp
- Jeffrey D. Stenquist
- Keven J. Stratton

**LONG TITLE**

**General Description:**

This concurrent resolution urges the President of the United States to designate a state funeral for the last surviving Medal of Honor recipient from World War II.

**Highlighted Provisions:**

This resolution:

- ▶ provides an overview of the significant service provided by American soldiers in World War II;
- ▶ recognizes the unique esteem of those who received the Medal of Honor for their service in World War II; and
- ▶ urges the President of the United States to designate a state funeral for the last surviving Medal of Honor recipient from World War II.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, World War II, the most widespread war in history, lasted from 1939 until 1945;

WHEREAS, the United States entered the war on December 7, 1941, and proved indispensable to the Allies in winning the war;

WHEREAS, over 16 million Americans served their country and the Allied powers over the course of the war;

WHEREAS, the generation of men and women who served our country in World War II has been called “the greatest generation” for their selfless sacrifice in the face of global tyranny;

WHEREAS, the Medal of Honor is the highest military decoration awarded by the United States government;

WHEREAS, the Medal of Honor is presented by the President of the United States, in the name of Congress;

WHEREAS, the Medal of Honor is only conferred upon members of the United States Armed Forces who distinguish themselves through conspicuous gallantry and intrepidity at the risk of their own lives above and beyond the call of duty while engaged in military operations involving conflict with an opposing foreign force;

WHEREAS, more than 3,400 Medals of Honor have been awarded to our nation’s bravest soldiers, sailors, airmen, marines, and coast guardsmen since the creation of the award in 1861;

WHEREAS, the Medal of Honor was awarded to 473 Americans during World War II;

WHEREAS, only two of those 473 Americans are alive today;

WHEREAS, Charles H. Coolidge of Tennessee and Hershel Woodrow Williams of West Virginia both served their country with conspicuous gallantry and intrepidity at the risk of their own lives and therefore deserve the gratitude of the American people;

WHEREAS, the President of the United States has the sole authority to designate a state funeral;

WHEREAS, historically, the President of the United States has designated state funerals for former presidents, generals, and other extraordinary Americans;

WHEREAS, our nation is currently divided and yearns for a unifying national event; and

WHEREAS, designating a state funeral when the last surviving World War II Medal of Honor recipient dies would be a wonderful way for the American people to unite and honor all 16 million soldiers, sailors, and airmen who served in our Armed Forces from 1941 to 1945:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, hereby urges the President of the United States to designate a state funeral for the last surviving Medal of Honor recipient from World War II.

BE IT FURTHER RESOLVED that the Legislature send a copy of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the United States



House of Representatives, and the President Pro Tempore of the United States Senate.

**H.C.R. 16**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective March 28, 2020

**CONCURRENT RESOLUTION CALLING FOR THE CREATION OF A NATIONAL FEDERALISM TASK FORCE**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: David P. Hinkins

Cosponsors: Cheryl K. Acton

- Carl R. Albrecht
- Kyle R. Andersen
- Melissa G. Ballard
- Stewart E. Barlow
- Brady Brammer
- Walt Brooks
- Scott H. Chew
- Steve R. Christiansen
- Kim F. Coleman
- Brad M. Daw
- Stephen G. Handy
- Timothy D. Hawkes
- Jon Hawkins
- Dan N. Johnson
- Marsha Judkins
- Karianne Lisonbee
- Phil Lyman
- A. Cory Maloy
- Kelly B. Miles
- Calvin R. Musselman
- Merrill F. Nelson
- Derrin R. Owens
- Lee B. Perry
- Val L. Peterson
- Candice B. Pierucci
- Val K. Potter
- Susan Pulsipher
- Paul Ray
- Marc K. Roberts
- Adam Robertson
- Douglas V. Sagers
- Mike Schultz
- Travis M. Seegmiller
- Rex P. Shipp
- V. Lowry Snow
- Robert M. Spendlove
- Keven J. Stratton
- Mark A. Strong
- Steve Waldrip
- Raymond P. Ward
- Christine F. Watkins
- Logan Wilde
- Mike Winder

**LONG TITLE**

**General Description:**

This concurrent resolution calls for the creation of a National Federalism Task Force for the purpose of convening a series of federalism summits.

**Highlighted Provisions:**

This resolution:

- ▶ highlights the framers of the United States Constitution's original intent regarding the different roles and responsibilities of state governments and the federal government;
- ▶ encourages the restoration and maintenance of clear, discernible divisions in the roles and responsibilities of state governments and the federal government; and
- ▶ calls for coordination in the creation of a National Federalism Task Force for the purpose of convening a series of federalism summits.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, our unique governing system in the United States was designed to federate diverse states and people for vital national concerns, while preserving to the American people the benefits of self-government - a form of government that is efficient, effective, and accountable - and amplifies their governing voice;

WHEREAS, to accomplish this objective, in the Federalist Papers No. 39, James Madison and the other framers of the constitution designed a new hybrid form of government that was part "national" (called the federal government today) and part "federal" (a federation of the states), with clear divisions in the roles and responsibilities assigned to the national government and to the state governments;

WHEREAS, in the Federalist Papers No. 51, James Madison specified that a clear division of governing responsibilities was essential to this new form of government to provide "a double security ... to the rights of the people," against overreach from either the state government or the federal government because "the different governments will control each other.";

WHEREAS, during the Pennsylvania Ratifying Convention of the United States Constitution, James Wilson marveled at "the accuracy with which the line is drawn between the powers of the general government and those of the particular state governments," observing "the powers are as minutely enumerated as was possible.";

WHEREAS, during the New York Ratifying Convention of the United States Constitution, Alexander Hamilton admonished that "this balance between the national and state governments ought to be dwelt on with peculiar attention, as it is of the utmost importance. It forms a double security to the people.";

WHEREAS, by all accounts, there is no clearly discernible division of roles and responsibilities between the federal government and the states today;

WHEREAS, many Americans feel frustrated that government is not efficient, effective, or

accountable, and sensing that something is wrong with our governing system, they increasingly disengage from government because they believe their voices do not matter anymore;

WHEREAS, in their joint dissent in *NFIB v. Sebelius*, Justices Kennedy, Scalia, Thomas, and Alito, warned of the consequences of allowing our system to atrophy, writing “the fragmentation of power produced by the structure of our Government is central to liberty, and when we destroy it, we place liberty at peril.”;

WHEREAS, in his farewell address, George Washington admonished all officers who are oath-bound under Article VI of the United States Constitution that “to preserve [this system of reciprocal checks] must be as important as to institute them.”;

WHEREAS, divisions, limits, and balance in the various governing roles and responsibilities, and the self-governing engagement of the people, are essential to the preservation of our system; and

WHEREAS, this singular system is the solution to securing the rights of the people to pursue their unique visions of happiness over an expansive and diverse nation:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, calls upon the National Conference of State Legislatures, the Council of State Governments, and the American Legislative Exchange Council to coordinate in the creation of a National Federalism Task Force for the purpose of convening a series of federalism summits to consider and develop plans for restoring and maintaining clearly discernible divisions in the roles and responsibilities of the national government and the states for the benefit and engagement of the American people.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the speaker of the House of Representatives, president of the Senate, and chairs of the federalism or federal-state relations committee in each state.

**H.C.R. 17**

Passed March 12, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**CONCURRENT RESOLUTION TO  
CREATE AWARENESS REGARDING  
THE VALUE OF BIRTH TISSUES**

Chief Sponsor: Brad M. Daw  
Senate Sponsor: Luz Escamilla  
Cosponsors: Cheryl K. Acton  
Melissa G. Ballard  
Brad R. Wilson

**LONG TITLE**

**General Description:**

This concurrent resolution of the Legislature and the Governor encourages Utah’s medical community to raise public awareness regarding the life-saving value of birth tissues.

**Highlighted Provisions:**

This resolution:

- ▶ encourages Utah’s medical community to raise public awareness regarding the life-saving value of birth tissues for the purposes of treatment and research; and
- ▶ encourages hospitals and birthing centers to educate a pregnant woman about her choice to store or donate her newborn child’s birth tissues.

**Other Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the placenta, umbilical cord, umbilical cord blood, amniotic fluid, chorionic membrane, and Wharton’s jelly are all birth tissues;

WHEREAS, birth tissues are commonly discarded as medical waste;

WHEREAS, the stem cells found in birth tissues can be used to treat over 80 diseases;

WHEREAS, a pregnant woman can choose to store her newborn child’s birth tissues for her family, or donate her newborn child’s birth tissues to help others or for research purposes; and

WHEREAS, there are no health risks to the mother or her newborn child if the mother chooses to store or donate her newborn child’s birth tissues:

NOW, THEREFORE BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages Utah’s medical community to raise public awareness regarding the life-saving value of birth tissues for the purposes of treatment and research.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage Utah’s hospitals and birthing centers to educate a pregnant woman on her choice to store her newborn child’s birth tissue for her family, or donate her newborn child’s birth tissue to help others or for research purposes.

**H.C.R. 18**

Passed February 28, 2020  
Approved March 24, 2020  
Effective March 24, 2020

**CONCURRENT RESOLUTION  
COMMEMORATING THE 400TH  
ANNIVERSARY OF THE HISTORIC  
VOYAGE OF THE MAYFLOWER AND THE  
SIGNING OF THE MAYFLOWER COMPACT**

Chief Sponsor: Marie H. Poulson  
 Senate Sponsor: Jerry W. Stevenson  
 Cosponsors: Carl R. Albrecht  
 Joel K. Briscoe  
 Susan Duckworth  
 Francis D. Gibson  
 Craig Hall  
 Stephen G. Handy  
 Brian S. King  
 Carol Spackman Moss  
 Lawanna Shurtliff  
 Norman K. Thurston  
 Elizabeth Weight  
 Mike Winder

**LONG TITLE**

**General Description:**

This concurrent resolution commemorates the 400th anniversary of the historic voyage of the Mayflower and the signing of the Mayflower Compact.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the historic significance of the passengers and crew who undertook a journey inspired by a desire for religious freedom;
- ▶ recognizes the 400th anniversary of the founding of Plymouth Colony;
- ▶ recognizes the 400th anniversary of the signing of the Mayflower Compact; and
- ▶ recognizes the Mayflower Compact as the beginning of democracy in the United States.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, in 1608, a group of men, women, and children fled from an English village in pursuit of a fresh start in the Netherlands;

WHEREAS, the group was known as religious Separatists from the Church of England;

WHEREAS, the group of religious Separatists would eventually be known as Pilgrims;

WHEREAS, in 1620, the Pilgrims set sail for the New World on September 6, on the Mayflower;

WHEREAS, after more than two months at sea, the Mayflower anchored at what is known today as Provincetown, Massachusetts;

WHEREAS, 41 men drafted and signed the Mayflower Compact;

WHEREAS, the Mayflower Compact formed Plymouth Colony, which was composed of a "civil body politic" that would be governed with just and equal laws;

WHEREAS, the Mayflower Compact is viewed as the genesis of democracy in the United States; and

WHEREAS, November 11, 2020, will be the 400th anniversary of the signing of the Mayflower Compact;

NOW, THEREFORE, BE IT RESOLVED, the Legislature, the Governor concurring therein, recognizes and expresses gratitude for the courage of the Pilgrim Separatists to seek freedom at a great cost to establish a colony in United States.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize principles of the Mayflower Compact as the initial attempt in what is now the United States at self-governance under democratic laws.

BE IT FURTHER RESOLVED that the Legislature and the Governor commemorate 2020 as the 400th anniversary of the voyage of the Mayflower and the signing of the Mayflower Compact.

**H.C.R. 19**

Passed March 12, 2020

Approved March 28, 2020

Effective March 28, 2020

**CONCURRENT RESOLUTION OPPOSING THE INTRODUCTION OF WOLVES**

Chief Sponsor: Logan Wilde  
 Senate Sponsor: David P. Hinkins

**LONG TITLE**

**General Description:**

This concurrent resolution addresses the introduction of wolves into the Southern Rockies.

**Highlighted Provisions:**

This resolution:

- ▶ acknowledges efforts to introduce wolves into the Southern Rockies;
- ▶ discusses the impacts of the introduction of wolves in Idaho and Wyoming;
- ▶ presents harms to the state should wolves travel into Utah;
- ▶ provides that the Legislature and Governor oppose the artificial human introduction of wolves into the Southern Rockies; and
- ▶ calls upon governmental entities to block efforts to force wolves on Utah.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, there are parties who are pursuing artificial human introduction of wolves into the Southern Rockies, specifically including Colorado, Utah, and other states;

WHEREAS, the artificial introduction of Canadian wolves into Idaho and Wyoming and the rapid expansion and growth of wolf populations outside of those introduction areas has resulted in significant harm to indigenous wildlife populations of shiras moose, elk, mule deer, and other wildlife species, and harm to livestock producers;

WHEREAS, wolf populations grow and travel outside areas of artificial introduction;

WHEREAS, a forced introduction of wolves could cost taxpayer dollars, redirect already limited wildlife management resources, and have a significant negative economic impact to the state; and

WHEREAS, the Legislature has struck a balance concerning wolf management that would be disturbed by a significant influx of wolves as a result of artificial introduction of wolves in surrounding states:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, opposes the artificial human introduction of wolves into the Southern Rockies, specifically including Colorado and any area where the wolves will travel into or within the state of Utah which will result in widespread regional impacts and harm in the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and Governor call upon the President of the United States, the United States Department of the Interior, and Congress, to block efforts to force wolves on the state of Utah to preserve the historical and conservation values of Utah, its wildlife, its family ranchers, its economy, its outdoor heritage, and its citizens.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Secretary of the United States Department of the Interior, and each member of Utah's congressional delegation.

**H.C.R. 20**

Passed March 3, 2020  
 Approved March 30, 2020  
 Effective March 30, 2020

**CONCURRENT RESOLUTION HONORING  
 THE UTAH HOSPITAL ASSOCIATION  
 FOR 100 YEARS OF SERVICE**

Chief Sponsor: Francis D. Gibson  
 Senate Sponsor: Jerry W. Stevenson

**LONG TITLE**

**General Description:**

This concurrent resolution recognizes the contributions of the Utah Hospital Association over the past 100 years.

**Highlighted Provisions:**

This resolution:

- ▶ describes the history of the Utah Hospital Association;
- ▶ notes the critical role of the Utah Hospital Association and its member hospitals in providing health care to all Utahns;
- ▶ describes the Utah Hospital Association's contributions to the community through health care advocacy and various programs; and

- ▶ recognizes and honors the Utah Hospital Association and its members for 100 years of service to the state.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the Utah Hospital Association was incorporated on April 20, 1920, by six Utah hospitals located in Salt Lake City, Provo, Ogden, and Logan;

WHEREAS, the Utah Hospital Association now represents all 62 of Utah's hospitals, who collectively provide quality acute and specialty care to all Utahns;

WHEREAS, the member hospitals of the Utah Hospital Association employ over 50,000 Utahns and have a direct economic impact to the state of over \$10 billion annually;

WHEREAS, the member hospitals of the Utah Hospital Association collectively provide over \$500 million of pure charity care to tens of thousands of Utahns annually;

WHEREAS, the member hospitals of the Utah Hospital Association regularly rank on many national measures and help the state of Utah rank as one of the highest quality and lowest cost states in healthcare in America;

WHEREAS, the Utah Hospital Association has been one of the trusted voices in healthcare policy in Utah for many decades;

WHEREAS, the member hospitals of the Utah Hospital Association have been the private sector backbone for the Medicaid program for many decades;

WHEREAS, the Utah Hospital Association has been a leading voice in improving health policy in Utah for Medicaid, medical education, preventive care, healthy living, and many other areas;

WHEREAS, the Utah Hospital Association is currently led by its President, Greg Bell, former Lieutenant Governor of Utah, and by its Executive Vice President, Dave Gessel, who has served as the legislative representative for the past 25 years; and

WHEREAS, on April 20, 2020, the Utah Hospital Association will celebrate 100 years of service to the state of Utah and its residents:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes and honors the Utah Hospital Association and its members for their 100 years of distinguished service to all Utahns.

**H.C.R. 22**

Passed March 12, 2020  
 Approved March 28, 2020  
 Effective March 28, 2020

**CONCURRENT RESOLUTION  
 CONCERNING THE PROTECTION,  
 DEVELOPMENT, AND BENEFICIAL  
 USE OF UTAH'S COLORADO RIVER  
 COMPACT ALLOCATION**

Chief Sponsor: Bradley G. Last  
 Senate Sponsor: Don L. Ipson  
 Cosponsors: Walt Brooks  
 V. Lowry Snow

**LONG TITLE**

**General Description:**

This concurrent resolution addresses Utah's use of its Colorado River compact allocation.

**Highlighted Provisions:**

This resolution:

- ▶ acknowledges Utah's status as signatory of certain Colorado River compacts and other documents;
- ▶ acknowledges the need for future use of Utah's Colorado River compact allocation;
- ▶ acknowledges Utah's efforts related to Drought Contingency Plans and Colorado River Interim Guidelines;
- ▶ encourages the state to expeditiously develop and place to beneficial use, the water apportioned to Utah under the Compacts, consistent with the Law of the River;
- ▶ encourages the state and local water users to continue to explore and implement practices that promote water efficiency; and
- ▶ encourages the state to coordinate and cooperate with the specified federal agency and the other Colorado River basin states to implement the Drought Control Plans and to engage in the re-consultation on the Colorado River Interim Guidelines.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, as used in this resolution, "Compact" means the following compacts to which Utah is a signatory, the Colorado River Compact of 1922 and the 1948 Upper Colorado River Compact;

WHEREAS, Utah is a signatory to numerous documents in addition to the 1922 and the 1948 Compacts commonly referred to as the Law of the River;

WHEREAS, pursuant to the terms of the Compacts, Utah is entitled to the beneficial consumptive use, wherever in the state the need may arise, of 23% of the Upper Basin's allocation under the 1922 Compact;

WHEREAS, to date, Utah has not fully developed and placed to beneficial consumptive use its portion of the Compact allocation;

WHEREAS, the future development and use by Utah of the state's portion of the Compact allocation will be necessary to meet the needs of an expanding economy and growing population;

WHEREAS, Utah intends to use both its currently available and future water supplies in an efficient and responsible manner;

WHEREAS, Utah is also aware of the need to account for, and adapt to, changing climatic conditions, including the impact of such conditions on future water supply availability within the Colorado River basin;

WHEREAS, Utah has worked cooperatively with the other Colorado River basin states in the drafting and recent adoption of the Drought Contingency Plan agreements and associated federal legislation;

WHEREAS, Utah intends to coordinate and cooperate with the other Colorado River basin states and the Department of the Interior, Bureau of Reclamation, in the implementation of the Drought Contingency Plans; and

WHEREAS, Utah also intends to coordinate and cooperate with the Department of the Interior, Bureau of Reclamation, and the other Colorado River basin states in the re-consultation on the Colorado River Interim Guidelines:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourage:

(1) the state, through its agencies with water supply responsibilities, including the Division of Water Resources and the Division of Water Rights, to expeditiously develop and place to beneficial use wherever within the state the need may arise, the water apportioned to Utah under the Compacts, consistent with the Law of the River;

(2) the state, through its agencies with water supply responsibilities, and local water users, to continue to explore and implement practices that promote water efficiency and water conservation; and

(3) the state, through its agencies with water supply responsibilities, to coordinate and cooperate with the Department of the Interior, Bureau of Reclamation, and the other Colorado River basin states in the timely implementation of the Drought Control Plans and the completion of the re-consultation on the Colorado River Interim Guidelines, while ensuring that the state's lawful interest in Colorado River waters is fully protected.

**H.C.R. 24**

Passed March 12, 2020  
 Approved March 24, 2020  
 Effective March 24, 2020

**CONCURRENT RESOLUTION  
 ON QUAGGA MUSSELS**

Chief Sponsor: Logan Wilde  
 Senate Sponsor: Allen M. Christensen

**LONG TITLE**

**General Description:**

This bill addresses quagga mussels in the state and efforts to contain the spread of quagga mussels.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the harm of quagga mussels within the state;
- ▶ recognizes the impact on Lake Powell and the need to restrict quagga mussels to Lake Powell;
- ▶ recognizes the need of partnerships with federal agencies; and
- ▶ urges continued cooperation by the federal government, in particular the National Park Service, to prevent the spread of invasive quagga mussels.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, invasive quagga mussels pose a severe economic and ecological threat to the citizens of Utah due to the invasive quagga mussels' detrimental impacts to water conveyance and delivery structures, water-based recreation, and natural resources;

WHEREAS, the presence of dead mussels at infested water bodies cause an unpleasant odor, are unsightly, and pose a risk to public safety at beaches and lake beds due to the mussels' sharp shells;

WHEREAS, Lake Powell is currently the only waterbody infested by quagga mussels in Utah;

WHEREAS, preventing the spread of invasive quagga mussels from Lake Powell is a priority for Utah;

WHEREAS, the quagga mussel population at Lake Powell continues to expand, and mussels can now be found lake-wide;

WHEREAS, watercraft that have been on Lake Powell for only a short period of time are now retrieved from the water with invasive quagga mussels inside their engine systems, attached to exterior areas, and attached to equipment that has been in the water;

WHEREAS, this increased mussel presence dramatically increases the risk of a future quagga mussel infestation in other Utah waters;

WHEREAS, Utah has invested millions of dollars and substantial resources in its watercraft inspection and decontamination programs, staff

training, public outreach, law enforcement, and biological monitoring efforts to address this growing problem;

WHEREAS, Lake Powell is an international destination for water-based recreation and is an important tourist attraction and economic driver for southern Utah communities;

WHEREAS, the decontamination process for watercraft leaving Lake Powell can be time consuming due to the high numbers of watercraft at the reservoir and limited state funding and resources;

WHEREAS, continued and improved partnerships between the state and its federal partners and stakeholders are essential to preventing the spread of invasive mussels;

WHEREAS, the National Park Service is the primary federal land manager for Lake Powell and the Glen Canyon National Recreation Area; and

WHEREAS, Utah believes that the National Park Service must support quagga mussel containment efforts that accommodate recreational needs at Lake Powell and prevent the spread of this dangerous invasive species, to include extending the hours of operation for ramp inspections and watercraft decontamination:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring herein, urges continued cooperation by the federal government, in particular the National Park Service, to prevent the spread of invasive quagga mussels, including allocation of funding and staff time dedicated to containment of quagga mussels and improving the inspection and decontamination processes for all watercraft leaving Lake Powell.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Secretary of the United States Department of the Interior, the Director of the National Park Service, the Superintendent of the Glen Canyon National Recreation Area, and each member of Utah's congressional delegation.

**H.J.R. 1**

Passed February 21, 2020  
 Effective February 21, 2020  
 Exception clause

**JOINT RULES RESOLUTION -  
 UNITED STATES SENATE VACANCY**

Chief Sponsor: Merrill F. Nelson  
 Senate Sponsor: Daniel W. Thatcher

**LONG TITLE**

**General Description:**

This joint resolution establishes a process for the Legislature to submit nominees to the governor to temporarily fill a vacancy in the office of United States senator.

**Highlighted Provisions:**

This resolution:

- ▶ establishes a process for the Legislature to submit nominees to the governor to temporarily fill a vacancy in the office of United States senator.

**Special Clauses:**

This joint resolution provides a special effective date.

**Legislative Rules Affected:**

**ENACTS:**  
JR1-4-401

*Be it resolved by the Legislature of the state of Utah:*

**Section 1. JR1-4-401 is enacted to read:  
Part 4. Congressional Vacancies**

JR1-4-401. Legislative recommendations to temporarily fill a vacancy in office of United States senator.

(1) If a vacancy occurs in the office of United States senator, the Legislature shall, in accordance with this rule and Utah Code Subsection 20A-1-502(4), nominate three individuals, one of whom the governor will appoint to temporarily fill the vacancy.

(2) The Legislative Management Committee shall:

(a) adopt a resolution proposing three or more names to the Legislature to consider for nomination;

(b) determine which house of the Legislature will first consider the resolution; and

(c) assign a floor sponsor for the resolution in each house.

(3) The Legislature shall, by majority vote of each house, submit a final resolution, containing the names of only three individuals, to the governor as the Legislature's nominees.

**Contingent effective date.**

This joint resolution takes effect on the day on which 2020 General Session, H.B. 17 passes and becomes law.

**H.J.R. 2**

Passed February 20, 2020  
Effective February 20, 2020

**JOINT RESOLUTION RECOGNIZING  
SCHOOL BUS DRIVERS**

Chief Sponsor: Elizabeth Weight  
Senate Sponsor: Kathleen Riebe

**LONG TITLE**

**General Description:**

This resolution recognizes school bus drivers for their skills, dedication, leadership, and efforts to foster student and parent relationships.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes school bus drivers for their exemplary work that includes:
  - driving a school bus while navigating road and weather hazards;
  - inspecting school buses to ensure the safety of the students who ride the bus;
  - identifying signs of sexual harassment, bullying, and other abuse;
  - communicating with the parents of students who ride the bus;
  - helping students with medical needs and disabilities; and
  - performing all of their duties and responsibilities while avoiding distractions.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, school buses are statistically the safest vehicles on the road;

WHEREAS, half of the nation's public school students depend on school bus drivers to get to and from school safely and many more students ride in school buses during educational and extracurricular activities;

WHEREAS, Utah's 2,987 school buses provide safe and environmentally friendly transportation to 195,000 students every day;

WHEREAS, the use of school buses in Utah saves approximately 11 million gallons of fuel and the associated costs each year;

WHEREAS, Utah school buses reduce the number of vehicles on the road by roughly 86,000 each year, with each school bus replacing about 36 vehicles, decreasing traffic congestion and thousands of pounds of harmful particulate matter that pollute our air;

WHEREAS, it is estimated that six Utah student lives are saved each year as a result of riding school buses;

WHEREAS, the unparalleled safety record of school buses is attributed to many factors, but the performance of school bus drivers and their attention to safety are the most important and critical factors in protecting student riders from harm;

WHEREAS, school bus drivers must meet significantly more stringent requirements for licensure and training than drivers of light vehicles; and

WHEREAS, Utah school bus drivers serve an important role in the Utah education system, not only in safely transporting students, but in their observation and management of various student needs, including by:

- being knowledgeable of individual student needs, especially for students with disabilities;
- helping to manage students with medical needs;
- recognizing and reporting signs of sexual harassment, bullying, and abuse;

- navigating road and weather hazards;
- performing pre- and post-trip inspections of the school bus to ensure the safety of the students who ride the bus;
- managing students;
- working to communicate effectively with the parents and guardians of students; and
- fulfilling all of these obligations while avoiding distractions:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah encourages and supports the recognition of Utah school bus drivers for their dedication, leadership, student and parent relationships, and technical skills.

BE IT FURTHER RESOLVED that a copy of this resolution be provided to each of Utah's school districts and charter schools, members of the Utah Parent Teacher Association and the Utah State Board of Education, and the Utah State Pupil Transportation Specialist with the Utah State Board of Education.

**H.J.R. 3**

Passed March 10, 2020

Effective date (if approved by voters)

January 1, 2021

**PROPOSAL TO AMEND UTAH  
CONSTITUTION -- WATER  
RESOURCES OF MUNICIPALITIES**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Ralph Okerlund

**LONG TITLE**

**General Description:**

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to municipal water rights and sources of water supply.

**Highlighted Provisions:**

This resolution proposes to amend the Utah Constitution to:

- ▶ rewrite a provision relating to municipal water rights and sources of water supply;
- ▶ eliminate references to municipal waterworks; and
- ▶ specify the circumstances under which a municipality may supply water outside its boundary or commit to supply water outside its water service area.

**Special Clauses:**

This resolution directs the lieutenant governor to submit this proposal to voters in the place of H.J.R. 1, Proposal to Amend Utah Constitution -- Municipal Water Resources, passed during the 2019 General Session.

This resolution provides a contingent effective date of January 1, 2021 for this proposal.

**Utah Constitution Sections Affected:**

**AMENDS:**

ARTICLE XI, SECTION 6

*Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:*

**Section 1. It is proposed to amend Utah Constitution Article XI, Section 6, to read:**

**Article XI, Section 6. [Municipal water rights and sources of water supply.]**

~~[No municipal corporation, shall directly or indirectly, lease, sell, alien or dispose of any waterworks, water rights, or sources of water supply now, or hereafter to be owned or controlled by it; but all such waterworks, water rights and sources of water supply now owned or hereafter to be acquired by any municipal corporation, shall be preserved, maintained and operated by it for supplying its inhabitants with water at reasonable charges: Provided, That nothing herein contained shall be construed to prevent any such municipal corporation from exchanging water rights, or sources of water supply, for other water rights or sources of water supply of equal value, and to be devoted in like manner to the public supply of its inhabitants.]~~

(1) A municipality that owns, acquires, or controls water rights or sources of water supply to supply water to the public:

(a) may not directly or indirectly lease, sell, alienate, or dispose of any of those water rights or sources of water supply;

(b) shall preserve and maintain those water rights and sources of water supply to supply water to the municipality's inhabitants and others within the municipality's designated water service area; and

(c) may by ordinance designate the geographic limits of the municipality's water service area and define the terms of service, including water service charges that are reasonable.

(2) Nothing in Subsection (1) may be construed to prevent a municipality from:

(a) supplying water to retail consumers outside the municipality's boundary but within the municipality's designated water service area for reasonable charges established by ordinance;

(b) contractually committing to supply water outside the municipality's designated water service area, if the water supplied is in excess of the water needed for the municipality's designated water service area; or

(c) exchanging water rights or sources of water supply for other water rights or sources of water supply that the municipality determines will equally enable the municipality to meet the needs of its designated water service area.

**Section 2. Replacing previous resolution -- Submittal to voters.**

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at



the next regular general election in the manner provided by law and to withdraw and not submit to voters H.J.R. 1, Proposal to Amend Utah Constitution -- Municipal Water Resources, passed during the 2019 General Session. This joint resolution replaces and supersedes H.J.R. 1, Proposal to Amend Utah Constitution -- Municipal Water Resources.

**Section 3. Effective date.**

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2021.

**H.J.R. 4**

Passed February 13, 2020  
Effective February 13, 2020

**JOINT RESOLUTION  
ESTABLISHING K9 VETERANS DAY**

Chief Sponsor: Karianne Lisonbee  
Senate Sponsor: Jani Iwamoto

**LONG TITLE**

**General Description:**

This joint resolution designates March 13 as “K9 Veterans Day.”

**Highlighted Provisions:**

This resolution:

- ▶ recognizes that the United States War Dog Program was established to utilize the unique skills of dogs;
- ▶ recognizes and describes military working dogs’ service to the United States Armed Forces; and
- ▶ calls for the designation of “K9 Veterans Day” to commemorate the lives of military working dogs that serve.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, during World War I, the United States employed sled dogs at military stations in Alaska where they were employed when snow and ice precluded horses, mules, and motorized transportation;

WHEREAS, because of the success of military working dogs in World War I, in January 1942, a private establishment called Dogs for Defense recruited dogs from the public for the United States military’s War Dog Program;

WHEREAS, during Dogs for Defense’s three years of operation, Dogs for Defense procured approximately 20,000 dogs that were trained for messenger, mine-detection, sentry, sled, and scout duties;

WHEREAS, more than 10,000 dogs from the Dogs for Defense procurement process finished training for some form of war work;

WHEREAS, in 1944, nearly 2,000 trained military working dogs were shipped overseas and approximately 8,500 were stationed in United States military stations;

WHEREAS, by the end of World War II, 1,600 military working dogs were trained to scout and deployed overseas;

WHEREAS, the United States Armed Forces employed around 1,500 military working dogs during the Korean War, 4,000 military working dogs during the Vietnam War, and 500 military working dog teams in the Iraq and Afghanistan conflicts;

WHEREAS, the presence of military working dogs lessens the danger of military ambush;

WHEREAS, the presence of military working dogs saves and protects service members’ lives;

WHEREAS, military working dogs selflessly serve and should be commemorated for their service;

WHEREAS, March 13, 1942, is the official birthday of the United States War Dog Program:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, designates March 13 of each year as “K9 Veterans Day.”

**H.J.R. 9**

Passed March 9, 2020  
Effective March 9, 2020

**JOINT RESOLUTION CALLING FOR AN  
APPLICATION RATINGS BOARD FOR  
INTERNET READY DEVICES**

Chief Sponsor: Susan Pulsipher  
Senate Sponsor: Todd Weiler

**LONG TITLE**

**General Description:**

This joint resolution calls on the United States Congress to make recommendations to vendors and distributors of applications and to leading technology companies.

**Highlighted Provisions:**

This resolution:

- ▶ calls on the United States Congress to recommend that vendors and distributors of applications establish an independent application ratings board, comprised of industry representatives, child development, child protection, and internet safety subject matter experts to:
  - establish new criteria for what types of application content and in-application risks result in specified age-appropriate application ratings;
  - review application ratings and descriptions of the most downloaded applications and the downloadable content of those applications; and
  - impose sanctions for noncompliance; and

- ▶ calls on leading technology companies to:
  - manufacture internet-ready devices with user-friendly parental controls;
  - close loopholes that permit the bypassing of parental controls;
  - build in age-based, default safety settings; and
  - provide selective application shutoff for bedtime and school hours.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, internet-ready devices, and the applications that run on such devices, are used by millions of minors daily;

WHEREAS, some downloaded applications often include content that is not consistent with the age rating, content descriptors, interactive elements, or description of such applications;

WHEREAS, clarity on the rating of applications is a critical part of social responsibility on the part of vendors and distributors of applications when including applications in their database for their users to download;

WHEREAS, parents of minors deserve transparency and accuracy on the ratings of applications and the meaning behind those ratings;

WHEREAS, no third-party organization is holding vendors and distributors of applications accountable to ensure that application age ratings are consistent and accurate across devices and that application descriptions adequately explain the content and advertising available to minors in such applications;

WHEREAS, no third-party organization has the authority to impose sanctions for nondisclosures related to application content and advertising;

WHEREAS, applications contain unique risks of both exposure to content and predators, so a specific application rating system that takes these unique risk factors into account is needed;

WHEREAS, social media is increasingly being used to recruit and sexually exploit young users for sexual abuse or sex trafficking;

WHEREAS, social media is increasingly used for sexual harassment and sexualized bullying, including sending unsolicited sexually explicit images, repeated requests for sexually explicit imagery, sexual images that are not consensually shared, and unwanted exposure to pornographic images;

WHEREAS, recent studies indicate that excessive use of social media, particularly in young girls, can lead to an increase in depressive symptoms;

WHEREAS, suicide rates, depression, and mental health issues among adolescents in the United States have been found to increase as social media use has surged within the same age group;

WHEREAS, popular applications often do not include parental controls or have inadequate parental controls;

WHEREAS, the parental controls provided on internet-ready devices are often insufficient, ignore the age of users, contain loopholes, and are difficult to implement, leaving minors unprotected from sexual abuse and exploitation; and

WHEREAS, the improper use of internet-ready devices during school hours contributes to student distraction and lower test scores and the use of such devices during bedtime hours can lead to sleep disturbance:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah:

(1) calls on the United States Congress to recommend that vendors and distributors of applications establish an independent application ratings board, comprised of industry representatives, child development, child protection, and internet safety subject matter experts to:

(a) establish new criteria for what types of application content and in-application risks result in specified age-appropriate application ratings;

(b) review application ratings and descriptions of the most downloaded applications and the downloadable content of those applications; and

(c) impose sanctions for noncompliance; and

(2) calls on leading technology companies to:

(a) manufacture internet-ready devices with user-friendly parental controls;

(b) close loopholes that permit the bypassing of parental controls;

(c) build in age-based, default safety settings; and

(d) provide selective application shutoff for bedtime and school hours.

**H.J.R. 11**

Passed March 5, 2020

Effective March 5, 2020

**JOINT RULES RESOLUTION - TECHNICAL AMENDMENTS**

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Lyle W. Hillyard

**LONG TITLE**

**General Description:**

This joint rules resolution makes technical changes to the joint legislative rules.

**Highlighted Provisions:**

This resolution:

- ▶ makes existing terms consistent in their use;
- ▶ provides cross-references for existing terms;
- ▶ corrects inconsistent terms; and

► repeals duplicate provisions.

**Special Clauses:**

None

**Legislative Rules Affected:**

**AMENDS:**

- JR3-2-806
- JR6-4-305
- JR7-1-411
- JR7-1-509
- JR7-1-611

**REPEALS:**

- JR4-5-203
- JR4-6-101
- JR4-6-201
- JR4-6-202

*Be it resolved by the Legislature of the state of Utah:*

**Section 1. JR3-2-806 is amended to read:**

**JR3-2-806. Point of order -- Appeal of chair's decision.**

(1) A point of order is not a motion and, except during a vote, may be made by a member of an appropriations committee at any time during a committee meeting.

(2) If a member of an appropriations committee is concerned that legislative rules or procedures are not being followed, the committee member may make a point of order.

(3) When a point of order is made, the chair shall immediately allow the committee member to state the member's point.

(4) A chair shall rule on the point of order without committee discussion or debate as provided in JR3-2-612.

(5) An appeal of the decision of the chair is not a motion and may be made by a committee member after the chair has ruled on a point of order.

(6) (a) An appropriations committee may, by majority vote, ~~override~~ override the decision of the chair on a point of order.

(b) If the committee ~~overrides~~ overrides the decision of the chair, the ruling of a committee is final.

(c) If a committee does not ~~override~~ override the decision of the chair, the ruling of a chair is final.

**Section 2. JR6-4-305 is amended to read:**

**JR6-4-305. Vote on allegations and recommendations -- Public meeting -- Standards -- Reconsideration.**

(1) After conclusion of the deliberations, the committee shall meet in public and, for each allegation reviewed by the committee, vote on whether the allegation is:

- (a) proven by clear and convincing evidence; or
- (b) not proven.

(2) For any count that has been voted as proven, the committee shall, by a motion approved by a

majority of the members of the committee, recommend one or more of the following actions:

- (a) censure;
- (b) expulsion;
- (c) denial or limitation of any right, power, or privilege of the respondent, if, under the Utah Constitution, the Senate or House may impose that denial or limitation, and if the violation bears upon the exercise or holding of any right, power, or privilege; or
- (d) any other action that the committee determines is appropriate.

(3) Votes shall be taken by verbal roll call and each member's vote shall be recorded.

(4) A count is not considered to be proven unless a majority of the committee votes that the count is proven.

(5) The committee, by a motion for reconsideration that is approved by a majority of the committee, may reconsider and hold a new vote provided that:

(a) a motion to reconsider a vote on whether an allegation was proven or not proven may only be made by a member of the committee who voted that the allegation was not proven; and

(b) a motion to reconsider a vote recommending an action against the respondent may only be made by a member of the committee who voted against the recommendation.

(6) A count that is not voted as "proven" by a majority of the members of the committee is dismissed.

(7) The committee may close the meeting for the purposes of further deliberations, subject to the requirements of JR6-4-304:

(a) at the direction of the chair, subject to ~~override~~ being overruled by the committee as provided in JR6-2-302; or

(b) upon a motion approved by a majority of the members of the committee.

(8) After a final vote has been cast on each allegation and recommendation, the committee shall prepare the finding and order as provided in JR6-4-306.

**Section 3. JR7-1-411 is amended to read:**

**JR7-1-411. Creation and organization of subcommittees.**

(1) A legislative committee may establish one or more subcommittees if approved by:

- (a) a majority vote of the legislative committee; and
- (b) the Legislative Management Committee.

(2) The legislative committee shall establish each study assignment of a subcommittee by majority vote.

(3) After a legislative committee establishes a subcommittee, the chairs of the legislative committee shall:

(a) appoint at least four members of the legislative committee to serve on the subcommittee;

(b) appoint at least one and no more than two additional members of the legislative committee as chair or cochair of the subcommittee; and

(c) establish the subcommittee's powers, duties, and reporting requirements.

(4) Each member of a subcommittee shall receive:

(a) compensation for attendance of a meeting of the subcommittee that is an authorized legislative day as defined in JR5-1-101; and

(b) reimbursement for expenses in accordance with Title 5, Legislative Compensation and Expenses.

**Section 4. JR7-1-509 is amended to read:**

**JR7-1-509. Point of order -- Appeal of chair's decision.**

(1) (a) If a member of a legislative committee is concerned that the chair is not following or enforcing legislative rule or procedure, the member may make a point of order.

(b) A point of order is not a motion.

(2) Except during a vote, a member of a legislative committee may make a point of order at any time during a meeting of the legislative committee without recognition by the chair.

(3) If a member of a legislative committee makes a point of order, the chair shall:

(a) immediately allow the member to state the member's point of order; and

(b) rule on the point of order without discussion or debate.

(4) (a) A member of the legislative committee may appeal the chair's ruling on a point of order.

(b) An appeal of the chair's ruling on a point of order is not a motion.

(5) Except during a vote, a member of a legislative committee may appeal the chair's ruling on a point of order at any time during a meeting of the legislative committee without recognition by the chair.

(6) (a) If a member of the legislative committee appeals the chair's ruling on a point of order, the chair shall place a vote asking the members of the legislative committee whether to [override] overrule the chair's ruling on the point of order.

(b) The legislative committee may overrule the chair's ruling by a majority vote.

(7) (a) If the legislative committee [overrides] overrules the chair's ruling, the ruling of the legislative committee is final.

(b) If the legislative committee does not [override] overrule the chair's ruling, the ruling of the chair is final.

**Section 5. JR7-1-611 is amended to read:**

**JR7-1-611. Assignment of committee bills -- Report on committee bills and study items.**

(1) The chairs of each legislative committee shall:

(a) assign each of the legislative committee's bills a chief sponsor and a floor sponsor from the opposite chamber; and

(b) deliver to the Senate Rules Committee and the House Rules Committee a report that includes, for each of the legislative committee's committee bills:

(i) the short title;

(ii) the chief sponsor;

(iii) the floor sponsor; and

(iv) how each member of the [interim] legislative committee voted when the [interim] legislative committee gave the committee bill a favorable recommendation, including whether a member was absent at the time of the vote.

(2) In addition to the items described in Subsection (1), the chairs of each interim committee shall deliver to the Legislative Management Committee:

(a) a copy of the report described in Subsection (1)(b); and

(b) the disposition of each issue assigned to or studied by the interim committee during the preceding calendar year.

(3) (a) The chairs of an interim committee shall comply with this rule on or before December 15.

(b) The chairs of a special committee shall comply with this rule as soon as practicable.

**Section 6. Repealer.**

This resolution repeals:

**JR4-5-203, Deadline for passing the final appropriations bill.**

**JR4-6-101, Certification and signature.**

**JR4-6-201, Recalling legislation before it is signed by the speaker and president.**

**JR4-6-202, Recalling legislation from the governor.**

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**H.J.R. 12**

Passed February 12, 2020

Effective February 12, 2020

**JOINT RESOLUTION CELEBRATING WOMEN'S SUFFRAGE IN UTAH**

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Deidre M. Henderson

Cosponsors: Cheryl K. Acton

Kim F. Coleman

Jennifer Dailey-Provost

Susan Duckworth

Suzanne Harrison

Sandra Hollins  
Marsha Judkins  
Karen Kwan  
Karianne Lisonbee  
Carol Spackman Moss  
Candice B. Pierucci  
Stephanie Pitcher  
Marie H. Poulson  
Susan Pulsipher  
Angela Romero  
Lawanna Shurtliff  
Christine F. Watkins  
Elizabeth Weight

**LONG TITLE**

**General Description:**

This resolution celebrates the history of women’s suffrage in Utah.

**Highlighted Provisions:**

This resolution:

- ▶ describes the history of women’s suffrage in Utah, including that Utah was the first place in the nation where a vote was cast and counted under a women’s suffrage law;
- ▶ acknowledges the Utah women who contributed to women’s suffrage;
- ▶ celebrates and honors Utah’s suffragists; and
- ▶ encourages Utah women to continue to participate in civic life.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, Salt Lake City, Utah was the first place in the United States where a vote was cast and counted under a women’s suffrage law;

WHEREAS, after unanimous passage by the Utah Territorial Legislature, on February 12, 1870, Governor Stephen Mann signed a bill into law granting voting rights to women citizens of the territory;

WHEREAS, on February 14, 1870, an election was held in Utah in which 25 women voted;

WHEREAS, Seraph Young, voting in a Salt Lake City municipal election, was the first woman to cast a vote in an election;

WHEREAS, thousands of women across the territory voted in Utah’s general election on August 1, 1870;

WHEREAS, in 2020, Utah celebrates the 150th anniversary of the first vote in Utah cast by a woman;

WHEREAS, Utah women voted for 17 years before federal legislation revoked their suffrage, and then organized and worked together to regain voting rights in Utah’s state constitution;

WHEREAS, Utah paved the way for women’s voting rights to spread across the United States;

WHEREAS, Emmeline B. Wells exercised unwavering leadership in the women’s rights movement, working with Susan B. Anthony and other national leaders to initiate women’s voting rights;

WHEREAS, Sarah M. Kimball promoted advancement for women politically, economically, and spiritually;

WHEREAS, Hannah Kaaepa, a resident of Iosepa, Utah, spoke to a national women’s convention to advocate for Hawaiian women’s voting rights;

WHEREAS, Emily S. Richards represented Utah women at national conventions and organized the Utah Woman’s Suffrage Association in 1889;

WHEREAS, Dr. Martha Hughes Cannon spoke in favor of women’s suffrage and was elected as the nation’s first female state senator in 1896;

WHEREAS, Elizabeth A. Taylor worked to help black women in Utah register to vote and participate in the political process in the early years of Utah’s statehood;

WHEREAS, women’s suffrage and political rights were made possible because of the leadership of visionary Utah women and men who understood that our nation prospers when each citizen has the opportunity to participate in the public sphere;

WHEREAS, after Utah’s statehood, Utah women continued to work to secure suffrage and citizenship rights for women of color and to break down barriers to their political participation;

WHEREAS, Utah women have worked on efforts related to an Equal Rights Amendment to the United States Constitution; and

WHEREAS, in 2019, Utah designated February 14 as Women’s Voter Registration Day and recognizes that day as a celebration of democracy, rights, and opportunities for all women in Utah:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that Utah celebrates being the first place in the nation where women voted under a women’s suffrage law.

BE IT FURTHER RESOLVED that the Legislature acknowledges the legacy of Utah’s strong influential female trailblazers who served in their families and communities and honors the Utah suffragists who advanced the rights of women and promoted the democratic values at the core of the United States.

BE IT FURTHER RESOLVED that the Legislature encourages Utah women to continue to participate in civic life.

**H.J.R. 14**

Passed March 11, 2020  
Effective March 11, 2020

**JOINT RESOLUTION REGARDING  
STUDY AND RECOMMENDATIONS  
FOR TELEGOVERNMENT**

Chief Sponsor: Phil Lyman  
Senate Sponsor: Ralph Okerlund

**LONG TITLE**

**General Description:**

This joint resolution of the Legislature requests a study and report on recommendations for telegovernment.

**Highlighted Provisions:**

This resolution:

- ▶ requests that legislative staff, working with the Utah Education and Telehealth Network, study best practices and policies related to expanding the state's current telegovernment services; and
- ▶ requires a report with recommendations for telegovernment be delivered to the Government Operations Interim Committee and the Public Utilities, Energy, and Technology Interim Committee no later than November 30, 2020.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, engagement between constituents and their legislators is a core aspect of representative democracy;

WHEREAS, providing online streaming of audio during legislative committee meetings for over 12 years and audio and video during legislative floor time for over 16 years has enhanced Utahns' access to the legislative process;

WHEREAS, the electronic posting of all audio, video, and legislative documents to the Legislature's website has resulted in the website's recognition by the National Conference of State Legislatures for the Online Democracy Award in 2005 and 2014 as a dependable resource for legislators, constituents, and professionals;

WHEREAS, improving access to the legislative process through technology for Arizona and Alaska citizens has proven beneficial in those states, by providing platforms for electronic interaction between constituents and legislators during committee meetings and floor time;

WHEREAS, according to the United States Census Bureau's 2017 data, 93.5% of Utahns reside outside of the state's capital city, and 83.7% of all Utah households possess a broadband Internet subscription; and

WHEREAS, expanding the Legislature's current telegovernment services through teleconferencing and other technological means would ensure greater participation in the legislative process for those residents living outside the capital city:

NOW, THEREFORE, BE IT RESOLVED that the Legislature requests a joint study be carried out by legislative information technology staff, Office of Legislative Research and General Counsel staff, and the Utah Education and Telehealth Network to determine:

(1) network connectivity and bandwidth capacity related to the expansion of audio and video teleconferencing;

(2) platforms for delivering the expanded services;

(3) whether a decentralized or centralized model for delivering the expanded services is most appropriate;

(4) the level of local government involvement by engaging with the Utah Association of Counties and the Utah League of Cities and Towns throughout the study;

(5) the amount of time and for which legislative meetings the expanded services will be offered throughout the year;

(6) the applicability of the expanded services to those citizen legislators who live great distances from the capital city;

(7) issues related to data privacy and security;

(8) best practices and policies related to accessibility issues due to disability;

(9) issues related to free speech;

(10) potential costs and staffing needs to implement the expanded services; and

(11) other relevant issues necessary in the consideration of expanding the Legislature's telegovernment services.

BE IT FURTHER RESOLVED that the aforementioned study:

(1) focus on whether expanding access to the legislative process through technology has implications regarding Title 52, Chapter 4, Open and Public Meetings Act, Title 63G, Chapter 2, Government Records Access and Management Act, and Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d; and

(2) be reported to the Government Operations Interim Committee and the Public Utilities, Energy, and Technology Interim Committee no later than November 30, 2020.

**H.J.R. 15**

Passed March 11, 2020  
Effective date (if approved by voters)  
January 1, 2021

**PROPOSAL TO AMEND UTAH  
CONSTITUTION - THE RIGHT  
TO HUNT AND FISH**

Chief Sponsor: Casey Snider  
Senate Sponsor: Allen M. Christensen  
Cosponsors: Carl R. Albrecht  
Scott H. Chew  
Joel Ferry  
Timothy D. Hawkes  
Dan N. Johnson  
Phil Lyman  
Derrin R. Owens  
Val L. Peterson  
Candice B. Pierucci  
Val K. Potter  
Paul Ray  
Adam Robertson  
Douglas V. Sagers  
Rex P. Shipp  
Keven J. Stratton  
Norman K. Thurston  
Christine F. Watkins  
Logan Wilde  
Mike Winder

**LONG TITLE**

**General Description:**

This joint resolution of the Legislature proposes to amend the Utah Constitution to enact language relating to a right to hunt and fish.

**Highlighted Provisions:**

This resolution proposes to amend the Utah Constitution to:

- ▶ enact a provision relating to the individual right of the people to hunt and to fish; and
- ▶ specify what that right includes and provide limits on the effect of the language articulating the right.

**Special Clauses:**

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2021 for this proposal.

**Utah Constitution Sections Affected:**

**ENACTS:**

ARTICLE I, SECTION 30

*Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:*

**Section 1. It is proposed to enact Utah  
Constitution Article I, Section 30, to read:**

**Article I, Section 30. [Right to hunt and fish.]**

(1) The individual right of the people to hunt and to fish is a valued part of the State's heritage and shall be forever preserved for the public good.

(2) The right under Subsection (1) includes the right to use traditional methods to hunt and to fish, subject only to statute, and rules and regulations adopted as provided by statute, to:

(a) promote wildlife conservation and management;

(b) provide reasonable regulation of hunting and fishing activities; and

(c) preserve the future of hunting and fishing.

(3) Public hunting and fishing shall be the preferred means of managing and controlling wildlife.

(4) This section does not affect:

(a) the law relating to trespass or property rights;

(b) the State's sovereign authority over the State's natural resources; or

(c) the State's obligation to manage lands granted to the State under the Enabling Act.

**Section 2. Submittal to voters.**

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

**Section 3. Effective date.**

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2021.

**H.J.R. 16**

Passed March 6, 2020  
Effective March 6, 2020

**JOINT RULES RESOLUTION -  
AMENDMENTS TO JOINT RULES**

Chief Sponsor: James A. Dunnigan  
Senate Sponsor: Lyle W. Hillyard

**LONG TITLE**

**General Description:**

This rules resolution makes changes to the joint legislative rules.

**Highlighted Provisions:**

This resolution:

- ▶ modifies the timing for when a newly elected legislator is considered eligible to request bill files;
- ▶ modifies the rules for determining when a non-returning legislator may no longer request bill files;
- ▶ consolidates rules relating to posting of bill-related information on the legislative website into a single section;
- ▶ changes the number of priority bill designations and modifies the deadlines for requesting priority bill designations;
- ▶ removes disused drafting deadline requirements;

- ▶ clarifies and modifies committee coverage and procedures related to:
  - the procedures for creating and the contents of interim committee notes placed on legislation; and
  - the display of draft legislation and committee note information on the legislature's website;
- ▶ requires certain information to be made available on the legislative website;
- ▶ modifies conflict of interest provisions;
- ▶ modifies and clarifies provisions related to adoption of interim committee study lists during the first yearly meeting of each interim committee;
- ▶ modifies provisions related to time periods when certain legislative committees are, with certain exceptions, prohibited from meeting;
- ▶ clarifies that legislators meeting remotely during an electronic meeting, are required to vote on motions, consistent with attendance in person;
- ▶ modifies provisions related to an interim committee electing to authorize chairs to independently open committee bill files;
- ▶ modifies requirements and procedures for the opening and drafting of committee bill files;
- ▶ requires draft legislation being considered in an interim meeting to be publicly posted on the Legislature's website for a certain period before the meeting time and provides that certain actions may not be taken if draft legislation fails to comply with the requirements;
- ▶ modifies provisions related to verbal amendments to draft legislation being reviewed in interim committees; and
- ▶ removes an outdated procurement rule.

**Special Clauses:**

None

**Legislative Rules Affected:**

**AMENDS:**

- JR2-1-101
- JR4-2-101
- JR4-2-102
- JR4-2-301
- JR4-2-401
- JR6-1-201
- JR7-1-401
- JR7-1-405
- JR7-1-407
- JR7-1-602
- JR7-1-609

**ENACTS:**

- JR4-2-505
- JR7-1-602.5

**REPEALS:**

- JR1-4-101

*Be it resolved by the Legislature of the state of Utah:*

**Section 1. JR2-1-101 is amended to read:**

**JR2-1-101. Annual general session rules apply.**

Except as otherwise provided in this chapter, rules adopted or amended by each house of the Legislature during the immediately preceding annual general session, and any intervening

session, apply to the conduct of that house during a special session.

**Section 2. JR4-2-101 is amended to read:**

**JR4-2-101. Requests for legislation -- Contents -- Timing.**

(1) (a) A legislator wishing to introduce a bill or resolution shall file a Request for Legislation with the Office of Legislative Research and General Counsel within the time limits established by this rule.

(b) The request for legislation shall:

(i) designate the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the legislation is drafted;

(ii) designate any supporting legislators from the same house as the chief sponsor who wish to cosponsor the legislation; and

(iii) (A) provide specific information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(B) identify the specific situation or concern that the legislator intends the legislation to address.

(2) (a) Any legislator may file a request for legislation beginning 60 days after the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for legislation beginning on:

(i) [the November 15 after the annual general election at which the legislator was elected] the day after the date the election canvass is completed; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the date the election results for the legislator-elect's race are finalized.

(c) (i) [If an] An incumbent legislator [does not file to run for reelection or is defeated in a political party convention, primary election, or general election, that legislator] may not file any requests for legislation as of [that date] the date that the legislator:

(A) fails to file to run for reelection;

(B) resigns or is removed from office; or

(C) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term.

(ii) Subsection (2)(c)(i) does not apply to a request for legislation for a special session that occurs before the legislator leaves office.

~~(iii)~~ (iii) The Office of Legislative Research and General Counsel shall abandon each request for legislation from the legislator that is pending on that date unless, within 30 days after that date, another member of the Legislature qualified to file a request for legislation assumes sponsorship of the legislation.

(d) (i) If, for any reason, a legislator who filed a request for legislation is unavailable to serve in the



next annual general session, the former legislator shall seek another legislator to assume sponsorship of each request for legislation filed by the legislator who is unavailable to serve.

(ii) If the former legislator is unable to find another legislator to sponsor the legislation within 30 days, the Office of Legislative Research and General Counsel shall abandon each pending request for legislation from the legislator who is unavailable to serve.

(3) (a) Except as provided in Subsection (3)(c), a legislator may not file a Request for Legislation with the Office of Legislative Research and General Counsel after noon on the 11th day of the annual general session.

(b) Except as provided in Subsection (3)(c), by noon on the 11th day of the annual general session, each legislator shall, for each Request for Legislation on file with the Office of Legislative Research and General Counsel, either approve the request for numbering or abandon the request.

(c) After the date established by this Subsection (3), a legislator may file a Request for Legislation and automatically approve the legislation for numbering if:

(i) for House legislation, the representative makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority of the House; or

(ii) for Senate legislation, the senator makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority vote of the Senate.

(4) A legislator wishing to obtain funding for a project, program, or entity, when that funding request does not require that a statute be enacted, repealed, or amended, may not file a Request for Legislation but instead shall file a request for appropriation by following the procedures and requirements of JR3-2-701.

~~(5) The Office of Legislative Research and General Counsel shall publicly provide, on the Legislature's website:~~

~~(a) a listing of each legislator's name and the number of bill files that are currently open in the name of that legislator for the current legislative session; and~~

~~(b) a listing, on the respective committee page, of the short title of each bill opened in the name of the committee, or adopted as a committee bill by the committee, during the interim, and for each bill listed;~~

~~(i) an indication as to whether the bill has been recommended by the committee or not; and~~

~~(ii) as applicable, the vote cast for the motion to recommend.~~

**Section 3. JR4-2-102 is amended to read:**

**JR4-2-102. Drafting and prioritizing legislation.**

(1) As used in this section, "interim committee" means a committee established under JR7-1-201.

(2) (a) Requests for legislation shall be drafted on a first-in, first-out basis, except for legislation that is prioritized under the provisions of this section.

(b) When sufficient drafting information is available, the following requests for legislation shall be drafted before other requests for legislation, in the following order of priority:

(i) a committee bill file, as defined in JR7-1-101; and

(ii) a request for legislation that is prioritized by a legislator under Subsection (3).

(3) (a) Beginning on the first day on which a request for legislation may be filed under JR4-2-101, a ~~legislator~~ member of the House of Representatives may designate up to ~~three~~ four requests for legislation as priority requests, and a member of the Senate may designate up to five requests for legislation as priority requests, subject to the following deadlines:

(i) priority request number one for representatives, and priority request numbers one and two for senators, must be requested on or before November 15, or the following regular business day if November 15 falls on a weekend or a holiday;

(ii) priority request number ~~one~~ two for representatives, and priority request number three for senators, must be requested on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

~~(iii)~~ (iii) priority request number ~~two~~ three for representatives, and four for senators must be requested on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

~~(iv)~~ (iv) priority request number ~~three~~ four for representatives, and five for senators must be requested on or before the first Thursday of the annual general session.

(b) A legislator who fails to make a priority request on or before a deadline loses that priority request. However, the legislator is not prohibited from using any remaining priority requests that are associated with a later deadline, if available.

(c) A legislator who begins serving or becomes eligible to request a bill file after a deadline has passed is entitled to use only those priority requests that are available under an unexpired deadline.

(d) A legislator may not designate a request for legislation as a priority request unless the request:

(i) provides specific or conceptual information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(ii) identifies the specific situation or concern that the legislator intends the legislation to address.

(4) A legislator may not:

(a) revoke a priority designation once it has been requested;

(b) transfer a priority designation to a different request for legislation; or

(c) transfer a priority designation to another legislator.

(5) Except as provided under JR4-2-502 or as otherwise provided in these rules, the Office of Legislative Research and General Counsel shall:

(a) reserve as many bill numbers as necessary to number the bills recommended by an interim committee; and

(b) number all other legislation in the order in which the legislation is approved by the sponsor for numbering.

**Section 4. JR4-2-301 is amended to read:**

**JR4-2-301. Drafting and sponsor approval of legislation.**

(1) After receiving a request for legislation, the Office of Legislative Research and General Counsel shall:

(a) review the request and any accompanying draft; and

(b) draft the legislation for approval by the sponsor in the order and priority set under JR4-2-102.

(2) In drafting the legislation, the Office of Legislative Research and General Counsel shall, when applicable:

(a) ensure that the legislation is in proper legal form;

(b) remove any ambiguities;

(c) avoid constitutional or statutory conflicts; and

(d) correct technical errors as provided in Utah Code Section 36-12-12.

~~[(3) (a) Any request for legislation filed directly with the Office of Legislative Research and General Counsel, with a complete accompanying draft, shall be reviewed and approved by the Office of Legislative Research and General Counsel within three legislative days.]~~

~~[(b) This three day deadline may be extended if the director of the Office of Legislative Research and General Counsel requests it and states the reasons for the delay.]~~

~~[(4)] (3) When the Office of Legislative Research and General Counsel has completed the legislation, the office shall:~~

~~(a) send the legislation to the chief sponsor for review and approval; and~~

~~(b) after the chief sponsor approves the legislation, number and distribute the legislation as provided in JR4-2-503.~~

**Section 5. JR4-2-401 is amended to read:**

**JR4-2-401. Committee notes -- Notations on bill.**

(1) As used in this rule:

(a) "Legislative committee" means a committee, commission, task force, or other policy or advisory body that is created by statute, legislation, or by the Legislative Management Committee and that is composed exclusively of legislators.

(b) (i) "Legislative committee" does not mean a standing committee or an appropriations subcommittee.

(ii) Notwithstanding Subsection (1)(b)(i), "legislative committee" includes each Rules Committee.

(c) "Mixed committee" means a committee, commission, task force, or other policy or advisory body that is:

(i) created by statute, legislation, or by the Legislative Management Committee;

(ii) composed of legislator members and nonlegislative members; and

(iii) staffed by the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst.

~~(2) [The Office of Legislative Research and General Counsel shall] When a legislative committee or mixed committee has reviewed and voted to recommend a piece of legislation, the Office of Legislative Research and General Counsel shall note the following on the legislation when the legislation is numbered for introduction as a bill:~~

~~(a) [note on any legislation reviewed by] that the committee recommended the legislation; and~~

~~(b) (i) for a legislative committee[; (i) that the committee recommends the legislation or has voted the legislation out without recommendation; and (ii)], the committee vote, listed by numbers of yeas, nays, and absent; or~~

~~[(b) note on any legislation reviewed by]~~

~~(ii) for a mixed committee:~~

~~[(i)] (A) the number of legislators and nonlegislators on the mixed committee[; and]~~

~~[(ii) the number of legislators who voted for and against recommending the legislation; and (c) ensure that the note is printed with the legislation.];~~

~~(B) the committee vote, listed by the number of yeas, nays, and absent; and~~

~~(C) the votes cast by legislators on the committee, listed by the number of yeas, nays, and absent.~~

**Section 6. JR4-2-505 is enacted to read:**

**JR4-2-505. Bill information requirements on legislative website.**

In addition to other requirements of rule and law, and procedures established by the office, the Office

of Legislative Research and General Counsel shall publicly provide the following information on the Legislature's website:

(1) a listing of each legislator's name and the number of bill files that are currently open in the name of that legislator for the current legislative session; and

(2) on the respective web page for each legislative committee or mixed committee, as those terms are defined in JR4-2-401:

(a) a listing of the short title of each piece of legislation that:

(i) is opened by the committee or the committee's chairs, as provided under JR7-1-602;

(ii) is adopted as a committee bill by the committee; or

(iii) is reviewed by the committee and receives a vote for committee recommendation; and

(b) if a vote to recommend a piece of legislation listed in Subsection (2)(a) was held:

(i) by a legislative committee:

(A) a notation as to whether the legislation was recommended by the committee or not; and

(B) a listing of the votes cast by the members of the committee, listed by name and vote; or

(ii) by a mixed committee:

(A) a listing of votes cast by the members of the committee as a whole, listed by name and vote; and

(B) a listing of only those votes cast by legislator members of the committee, listed by name and vote.

**Section 7. JR6-1-201 is amended to read:**

**JR6-1-201. Conflict of interest -- Filing requirements -- Verbal disclosure requirements.**

(1) As used in this section, "conflict of interest" means the same as that term is defined in Utah Code Section 20A-11-1602.

~~[(2) A legislator shall file a financial disclosure form in compliance with Utah Code Section 20A-11-1603 and according to the requirements of this section:]~~

~~[(a) on the first day of each general session of the Legislature; and]~~

~~[(b) each time the legislator changes employment.]~~

~~[(3) The financial disclosure form shall include the disclosures required by]~~

(2) A legislator shall file a conflict of interest disclosure by complying with the requirements of Utah Code Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures.

~~[(4) (a) The financial disclosure form shall be filed with:]~~

~~[(i) the secretary of the Senate, for a legislator that is a senator; or]~~

~~[(ii) the chief clerk of the House of Representatives, for a legislator that is a representative.]~~

~~[(b) The secretary of the Senate and the chief clerk of the House of Representatives shall ensure that:]~~

~~[(i) blank financial disclosure forms are made available on the Internet and at the offices of the Senate and the House of Representatives; and]~~

~~[(ii) financial disclosure forms filed under this rule are made available to the public on the Internet and at the offices of the Senate or the House of Representatives.]~~

~~[(5) (a) Before or during any vote on legislation or any legislative matter in which]~~

(3) If a legislator has actual knowledge that the legislator has a conflict of interest [which] that is not stated on the legislator's financial disclosure form filed under Subsection (2), that legislator shall, before or during a vote on legislation or any legislative matter, orally declare to the committee or [body before which the matter is pending] legislative body:

~~[(i)] (a) that the legislator may have a conflict of interest; and~~

~~[(ii)] (b) what that conflict is.~~

~~[(b) The]~~ (4) A verbal declaration of a conflict of interest under Subsection (3) shall be recorded:

(a) for a declaration made on the floor, in the Senate or House Journal by the secretary of the Senate or the chief clerk of the House of Representatives [shall.]; or

(b) for a declaration made in a committee or other meeting, in the minutes of the meeting.

~~[(i) direct committee secretaries to note the declaration of conflict of interest in the minutes of any committee meeting; and]~~

~~[(ii) ensure that each declaration of conflict declared on the floor is noted in the Senate Journal or House Journal.]~~

~~[(6) This requirement of disclosure of any conflict of interest does]~~

(5) The requirements of this rule do not prohibit a legislator from voting on any legislation or legislative matter.

**Section 8. JR7-1-401 is amended to read:**

**JR7-1-401. Interim committees to receive study assignments -- Adoption of study items.**

(1) Each interim committee shall:

(a) study issues assigned to the committee by:

(i) passed legislation; or

(ii) the Legislative Management Committee; and

(b) review programs and hear reports as required by statute.

(2) Each interim committee may:

(a) as provided in Utah Code Subsection 36-12-5(1)(d), investigate and study possibilities for improvement in government services within the interim committee's subject area;

(b) receive research reports from interim committee staff ~~[pertaining]~~ that relate to the interim committee's ~~[study agenda]~~ subject area;

(c) request testimony from government officials, private organizations, or members of the public on issues being studied by the interim committee;

(d) make recommendations to the Legislature for legislative action; or

(e) prepare one or more committee bills based on the interim committee's studies.

(3) ~~[During]~~ Each interim committee shall adopt a list of interim study items during the interim committee's first meeting of each calendar year~~[, the interim committee]~~ as follows:

(a) the interim committee shall review the ~~[interim committee's]~~ study items ~~[described in]~~ provided by the Legislative Management Committee under Subsection ~~[(1)(a)]~~ (1)(a)(ii);

(b) the interim committee may, by majority vote, modify or add to the list of study items described in Subsection ~~[(1)(a), provided any modification or addition is within the interim committee's subject area]~~ (3)(a), provided that any additional item adopted by the committee is consistent with the interim committee's duties as described in Subsection (1) or (2) of this rule; and

(c) the interim committee shall adopt the original or amended list of study items ~~[described in Subsection (1)(a), with any modifications or additions,]~~ by majority vote.

**Section 9. JR7-1-405 is amended to read:**

**JR7-1-405. Prohibited meeting times -- Exceptions.**

(1) ~~[A]~~ Except as provided in this rule, a legislative committee may not meet:

(a) while the Senate or the House of Representatives is in session~~[, unless the meeting is approved by: (i) the president of the Senate and the speaker of the House of Representatives; or (ii) (A) a majority vote of the Senate; and (B) a majority vote of the House of Representatives];~~ or

(b) ~~[except as provided in Subsection (2),]~~ during the period that begins ~~[January 1]~~ on the first Thursday in December and ends the day after the day on which the Legislature adjourns that year's general session sine die.

(2) Subsection ~~[(1)(b)]~~ (1) does not apply to:

(a) the Legislative Management Committee and its subcommittees;

(b) the Senate or House Management Committee;

(c) the Senate or House Rules Committee;

(d) the Senate or House Legislative Expenses Oversight Committee;

(e) a senate confirmation committee;

(f) a meeting of the Administrative Rules Review Committee for the purpose of considering draft legislation reauthorizing agency rules in accordance with Utah Code Section 63G-3-502; or

~~[(b)]~~ (g) the Legislative Process Committee.

(3) A meeting otherwise prohibited by this rule may be held if approved by:

(a) the president of the Senate and the speaker of the House of Representatives; or

(b) a majority vote of the Senate and a majority vote of the House of Representatives.

~~[(3)]~~ (4) ~~[An]~~ Any action of a legislative committee that occurs during a meeting that violates this rule is invalid.

**Section 10. JR7-1-407 is amended to read:**

**JR7-1-407. Electronic legislative committee meetings.**

(1) A chair may, by following the procedures and requirements of this rule, convene and conduct an electronic meeting of a legislative committee.

(2) (a) A member of a legislative committee who will be more than 50 miles away from the anchor location on the day and at the time of a scheduled meeting of the legislative committee may request that the chair allow the member to participate from a remote location.

(b) If a member of a legislative committee wishes to participate in a meeting of the legislative committee from a remote location, the member shall, at least three days before the meeting, contact the chair and request that the chair convene and conduct an electronic meeting.

(c) After receiving the request, the chair shall:

(i) determine whether the member will be more than 50 miles away from the anchor location on the day and at the time of the scheduled meeting;

(ii) if the chair determines that the member will be more than 50 miles away from the anchor location on that day and time, consult with committee staff to determine whether there are sufficient equipment and connections to allow the member to participate from a remote location; and

(iii) obtain permission from the president of the Senate and the speaker of the House of Representatives to conduct an electronic meeting.

(d) If the requirements of Subsection (2)(c) are satisfied, the chair may grant the member's request to participate from a remote location.

(3) A chair convening or conducting an electronic meeting shall, if necessary, establish and communicate protocols and procedures governing the electronic meeting to ensure order and fair opportunities for all members of the legislative committee to participate.

(4) A chair convening or conducting an electronic meeting shall ensure that:

(a) public notice of the meeting, as required by Utah Code Section 52-4-202, is given including posting written notice at the anchor location; and

(b) notice of the electronic meeting describing how the members will be connected to the electronic meeting is given to each member of the legislative committee at least 24 hours before the meeting.

(5) A member of a legislative committee participating from a remote location is included in calculating a quorum and ~~may~~ shall vote.

**Section 11. JR7-1-602 is amended to read:**

**JR7-1-602. Interim committee chairs' authority to open committee bill files.**

(1) [During an interim committee's first meeting of a calendar year, the] An interim committee may[, by motion and majority vote,] authorize the committee chairs to [do one of the following: (1) open one or more committee bill files related to any study item] independently open one or more committee bill files throughout the interim period if:

(a) that authority is granted by the interim committee to the chairs by means of a motion and majority vote;

(b) the motion and vote occur during the interim committee's first meeting of the calendar year;

(c) the subject matter of each committee bill file opened by the chairs is directly related to:

(i) a study item on the list adopted by the interim committee under JR7-1-401(3)[, as the chairs deem necessary; or (2) open one or more committee bill files related to one or more study items that are: (a) adopted by the interim committee under JR7-1-401(3); and (b) specified in the motion.]; or

(ii) a subject or issue that is expressly stated in the motion made under this rule; and

(d) the decision to open each committee bill file is made jointly by the chairs.

(2) No committee other than an interim committee may delegate the authority to independently open a committee bill file to the chair or chairs of a committee.

(3) In the next interim committee meeting after opening a bill file, the chairs shall give the committee members notice:

(a) that the chairs have opened the committee bill file; and

(b) of the short title and subject matter of the committee bill file.

**Section 12. JR7-1-602.5 is enacted to read:**

**JR7-1-602.5. Draft legislation presented to legislative committees during the interim.**

(1) Draft legislation that is presented to a legislative committee for the committee's review shall be:

(a) listed on the agenda of the committee's meeting in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) publicly posted on the Legislature's website at least 24 hours in advance of the time of commencement of the committee meeting.

(2) (a) A legislator seeking to present draft legislation to a legislative committee for review shall provide the drafting attorney with clear and final instructions for completing the draft legislation no later than three full working days before the commencement time of the committee meeting where the legislation will be reviewed, or at an earlier time if significant drafting time is required.

(b) Draft legislation will be drafted in the priority and order set forth under JR4-2-102.

(3) (a) Draft legislation that is recommended by a legislative committee but did not meet the posting requirements of Subsection (1)(b) may not be placed directly on the reading calendar by a rules committee under SR3-1-102 or HR3-1-102.

(b) This Subsection (3) does not apply to draft legislation that met the requirements of Subsection (1)(b) but was amended or substituted during the committee meeting.

**Section 13. JR7-1-609 is amended to read:**

**JR7-1-609. Amending draft legislation -- Verbal amendments -- Amendments must be germane and clear.**

(1) Subject to Subsection (2), when timely and when recognized by the chair, a member of a legislative committee may make a motion to amend the draft legislation under consideration.

(2) (a) A member of the legislative committee may make a motion to amend the draft legislation only if the subject of the proposed amendment is germane to the subject of the draft legislation.

(b) If a member of the legislative committee believes a proposed amendment is not germane to the subject of the draft legislation, the member may make a point of order in accordance with JR7-1-509.

(3) [During a legislative committee's last meeting before the start of a general session, a] A member of the legislative committee may make a motion for a verbal amendment only if the verbal amendment is sufficiently clear to allow the members of the legislative committee to know how the draft legislation will read when the verbal amendment is incorporated into the draft legislation.

**Section 14. Repealer.**

This resolution repeals:

**JR1-4-101, Request for proposals.**

**H.J.R. 18**

Passed March 9, 2020  
Effective March 9, 2020

**JOINT RESOLUTION REGARDING  
THE WINTER SPORTS PARK**

Chief Sponsor: Eric K. Hutchings  
Senate Sponsor: Ronald Winterton

**LONG TITLE**

**General Description:**

This joint resolution extends the approval of the negotiation of sales of portions of the Winter Sports Park under certain conditions.

**Highlighted Provisions:**

This resolution:

- ▶ extends the approval of the Utah Athletic Foundation's negotiation of sales of portions of the Winter Sports Park under certain conditions.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, as used in this resolution:

(1) "Foundation" means the Utah Athletic Foundation;

(2) "Sale," "sales," "sell," "sells," "selling," or "sold" means to transfer:

(a) ownership, title to, or possession of real property; and

(b) with or without consideration; and

(3) "Winter Sports Park" means the Foundation's winter sports park and access road from State Highway 224 located in Summit County, Utah, consisting of certain real property and all improvements thereon, including three separate venues, a nordic ski jump complex, a freestyle aerial jump and pool complex, and a bobsled and luge track together with associated facilities and all rights-of-way and other rights of ingress and egress that the Foundation owns;

WHEREAS, the state contributed in significant ways to the success of the Olympic Winter Games of 2002, including building winter sports facilities used in hosting the Olympic Winter Games of 2002;

WHEREAS, S.J.R. 17, Resolution Concerning Sale of Winter Sports Park and Associated Facilities, 1994 General Session, and subsequent joint resolutions of the Legislature govern the sale of the Winter Sports Park and payment of a Legacy Fund to the Foundation by the Salt Lake Organizing Committee for the operation and maintenance of certain Olympic venues operated by the Foundation;

WHEREAS, the citizens of Utah have an interest in the long-term financial and operational success

of the Foundation because of the importance of winter sports to the state and because of the reversionary interest the state has in the Winter Sports Park under specified circumstances;

WHEREAS, the Foundation believes that it has an obligation to the citizens of Utah to find creative and responsible means to operate, maintain, and run winter sports programs and related public activities long term at the Winter Sports Park;

WHEREAS, the Foundation desires to maintain and increase the amount of sport and public activities at the Winter Sports Park, and the sales of portions of the Winter Sports Park property would allow the Foundation to add complimentary development uses and reduce its annual financial assistance from the Legacy Fund;

WHEREAS, the Foundation may have opportunities to sell portions of the Winter Sports Park for real estate development;

WHEREAS, the Foundation believes that sales negotiated in accordance with relevant joint resolutions will help improve the long-term viability of the Winter Sports Park;

WHEREAS, legislative approval was previously granted to the Foundation by S.J.R. 1, Utah Athletic Foundation Resolution, 2007 General Session, to negotiate sales of any portion of the Winter Sports Park for a limited time;

WHEREAS, the time frame to negotiate sales of any portion of the Winter Sports Park was extended in S.J.R. 11, Utah Athletic Foundation Resolution, 2010 General Session, to April 1, 2020;

WHEREAS, the sales of portions of the Winter Sports Park have proven beneficial to the Foundation and as a consequence to the state; and

WHEREAS, legislative approval is required for the time period to be removed for the Foundation to negotiate the sale of any portion of the Winter Sports Park;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves the Foundation negotiating sales of portions of the property under the conditions set forth in S.J.R. 1, Utah Athletic Foundation Resolution, 2007 General Session, except that the time limitation is removed so that the Foundation may enter any negotiation, contract, or agreement that would result in the Foundation selling a portion of the Winter Sports Park at any time. The Legislature's approval terminates for any negotiation or sale occurring on and after the day on which the Foundation fails to comply with this resolution in negotiating any sale.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah approves the Foundation negotiating the sales of portions of the Winter Sports Park subject to the Governor taking the actions required of the Governor in S.J.R. 1, Utah Athletic Foundation Resolution, 2007 General Session. The Legislature's approval terminates if the Governor chooses not to take these actions required by S.J.R. 1, Utah Athletic

Foundation Resolution, 2007 General Session, in providing written approval and any other action required for real estate development on the portion of the Winter Sports Park that is subject to negotiation for sale.

BE IT FURTHER RESOLVED that S.J.R. 17, Resolution Concerning Sale of Winter Sports Park and Associated Facilities, 1994 General Session, and subsequent resolutions relating to the Winter Sports Park and the Foundation remain in full force and effect except to the extent that they are expressly superseded by this joint resolution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Foundation.

**H.J.R. 24**

Passed March 12, 2020  
Effective March 12, 2020

**JOINT RESOLUTION EXTENDING  
THE STATE OF EMERGENCY DUE  
TO INFECTIOUS DISEASE COVID-19  
NOVEL CORONAVIRUS**

Chief Sponsor: Paul Ray  
Senate Sponsor: Ann Millner

**LONG TITLE**

**General Description:**

This joint resolution extends the state of emergency due to infectious disease COVID-19 Novel Coronavirus.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the Governor’s executive order, issued on March 6, 2020, declaring a state of emergency due to infectious disease COVID-19 Novel Coronavirus;
- ▶ recognizes that the Governor has requested that the Legislature extend the state of emergency to June 30, 2020;
- ▶ finds that the extension is necessary to protect the health and welfare of the citizens of the state of Utah; and
- ▶ extends the state of emergency, due to infectious disease COVID-19 Novel Coronavirus, to June 30, 2020.

**Special Clauses:**

None.

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, on March 6, 2020, pursuant to Utah Code Section 53-2a-206, Governor Gary R. Herbert issued an executive order declaring a state of emergency due to infectious disease COVID-19 Novel Coronavirus;

WHEREAS, Utah Code Subsection 53-2a-206(3) provides that “[a] state of emergency may not continue for longer than 30 days unless extended by joint resolution of the Legislature”;

WHEREAS, the Governor issued the executive order as a proactive measure, before a confirmed case was diagnosed in the state;

WHEREAS, subsequent to the Governor’s order declaring an emergency, but on the same day, the first case of COVID-19 in Utah was confirmed;

WHEREAS, the Governor has requested that the Legislature extend the state of emergency, declared by the Governor, until June 30, 2020; and

WHEREAS, the Legislature finds that it is necessary to extend the state of emergency until June 30, 2020, to ensure that appropriate response and recovery action is taken to protect the health and welfare of the citizens of the state of Utah:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the state of emergency declared by the Governor on March 6, 2020, due to infectious disease COVID-19 Novel Coronavirus, is extended to June 30, 2020.

**H.R. 1**

Passed February 24, 2020  
Effective February 24, 2020

**HOUSE RESOLUTION REMEMBERING  
THE GENOCIDE AGAINST  
THE TUTSI IN RWANDA**

Chief Sponsor: Angela Romero

**LONG TITLE**

**General Description:**

This House resolution designates April 7 as the “Day of Remembrance for the Victims of the Genocide Against the Tutsi in Rwanda.”

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the hundreds of Tutsi refugees that fled from Rwanda to Utah as a result of the 1994 genocide;
- ▶ designates April 7 as the “Day of Remembrance for the Victims of the Genocide Against the Tutsi in Rwanda”;
- ▶ highlights the Day of Remembrance as:
  - an opportunity to reflect on the moral responsibilities of individuals, societies, and governments to respect all people regardless of their race, color, religion, ethnicity, culture, or nationality;
  - a day to remember the nearly one million Tutsi and some Hutu who were opposed to the Hutu-led government’s genocidal plan that were murdered in Rwanda; and
  - a day to help build bridges of understanding between different people and fortify commitments to human rights, protection against persecution and violence, individual liberty, and a free society for all people.

**Special Clauses:**

None

*Be it resolved by the House of Representatives of the state of Utah:*

WHEREAS, the 1994 genocide against the Tutsi in Rwanda has been internationally recognized as the massacre of nearly one million Tutsi within a four-month period by the nation's Hutu-led government and Hutu neighbors as part of a systematic program of genocide;

WHEREAS, moderate Hutu who were opposed to the Hutu-led government's genocidal plan were also murdered during this time;

WHEREAS, this atrocity constituted a grave violation of human rights and the rule of law, causing untold pain and suffering;

WHEREAS, hundreds of Tutsi refugees, who have been granted asylum by the United States, have relocated to the state of Utah and are rebuilding their lives and families in our great state as a growing and integral part of the community;

WHEREAS, the genocide against the Tutsi has left a solemn reminder that the United States and countries around the world must work together to protect the vulnerable, uphold human rights, and prevent genocide;

WHEREAS, since 1994, on April 7 we commemorate the genocide against the Tutsi to honor the memory of the men, women, and children who died and to express solidarity with the survivors;

WHEREAS, observing the Day of Remembrance offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments to respect all people regardless of their race, color, religion, ethnicity, culture, or nationality;

WHEREAS, our remembrance of the genocide against the Tutsi will serve to honor the dead and inspire the state of Utah to work towards a more tolerant and peaceful society; and

WHEREAS, we wish not only to remember the victims of the Tutsi genocide in Rwanda, but also help build bridges of understanding between different people and fortify our commitment to human rights, protection against persecution and violence, individual liberty, and a free society for all people:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah does hereby declare April 7 of each year as the "Day of Remembrance for the Victims of the Genocide Against the Tutsi in Rwanda."

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the members of the Utah congressional delegation.

**H.R. 2**

Passed February 24, 2020  
Effective February 24, 2020

**HOUSE RULES RESOLUTION - AMENDMENTS TO HOUSE RULES**

Chief Sponsor: James A. Dunnigan

**LONG TITLE**

**General Description:**

This rules resolution modifies House rules.

**Highlighted Provisions:**

This resolution:

- ▶ modifies the language of rules provisions for improved clarity;
- ▶ provides clarifying cross references with related rules provisions;
- ▶ modifies provisions governing the adoption of rules at the beginning of a session;
- ▶ modifies provisions governing conflicts of interest;
- ▶ modifies requirements for the rules committee relating to placement of certain bills directly on the third reading calendar;
- ▶ modifies language in the readings requirement made by the chief clerk at the commencement of legislative sessions; and
- ▶ removes duplicative provisions;
- ▶ amends a provision that conflicts with statute.

**Special Clauses:**

None

**Legislative Rules Affected:**

**AMENDS:**

- HR1-1-101
- HR2-3-101
- HR3-1-102
- HR3-1-105
- HR5-4-101

*Be it resolved by the House of Representatives of the state of Utah:*

**Section 1. HR1-1-101 is amended to read:**

**HR1-1-101. Adoption, amendment, or suspension of House Rules.**

(1) The House of Representatives shall adopt House rules, by a constitutional two-thirds vote, at the beginning of each [legislative session by a constitutional two-thirds vote] new Legislature convening in odd-numbered years.

(2) Except as provided in this section:

(a) (i) during an annual general session held in an even-numbered year, rules adopted by the House of Representatives during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the House; and

(ii) during any special session, House rules apply as provided in JR2-1-101.

(b) for a session described in this Subsection (2), the chief clerk shall announce to the House that the previously adopted rules apply to the newly convened session.



~~[(2)] (3) Except as provided in [this Subsection (2) and in Subsection (3), after the initial adoption of House rules] Subsection (4), additional rules may be adopted ~~[or]~~ and existing rules may be suspended, amended, or repealed by a majority vote, except the following, which require a two-thirds vote to adopt, suspend, amend, or repeal:~~

- (a) rules governing limitation of debate;
- (b) rules governing a motion to end debate (call the previous question);
- (c) rules governing motions for lifting tabled legislation from committee;
- (d) rules governing consideration of legislation during the last three days of a session; and
- (e) rules governing voting in Title 4, Chapter 7, Voting.

~~[(3)] (4) (a) A rule that includes a voting requirement of more than a constitutional majority must be adopted and may only be amended, suspended, or repealed by a constitutional two-thirds vote of all representatives.~~

(b) If the suspension of any House rule is governed by the Utah Constitution or Utah statutes, the House may suspend that rule only as provided by that constitutional or statutory provision.

(5) If a motion to adopt the rules under Subsection (1) meets or exceeds a majority vote but fails to reach a constitutional two-thirds vote:

(a) rules adopted by the House of Representatives during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the House; and

(b) the chief clerk shall announce to the House that the previously adopted rules apply to the newly convened Legislature.

**Section 2. HR2-3-101 is amended to read:**

**HR2-3-101. Conflicts of interest.**

~~[(1) (a) Except as provided in Subsection (1)(b), a representative satisfies the requirement of Utah Code Section 20A-11-1603 to disclose a conflict of interest by filing the declaration of conflict of interest form required by JR6-1-201 with the chief clerk of the House.]~~

~~[(b) (i) In addition to the declaration of conflict of interest form required by Utah Code Section 20A-11-1603 and JR6-1-201, before or during any vote on legislation or any legislative matter in which a representative has actual knowledge that the representative has a conflict of interest that is not stated on the conflict of interest form, that representative shall orally declare to the committee or body before which the matter is pending that the representative may have a conflict of interest and what that conflict is.]~~

~~[(ii) The declaration of conflict of interest shall be noted in the minutes of any committee meeting or in the Senate or House Journal.]~~

~~[(2) (a) Before speaking on the floor of the House on any legislation or legislative matter in which a representative reasonably believes that the representative may have a conflict of interest, the representative should orally disclose to the House that the representative may have a conflict of interest and what that conflict is.]~~

~~[(b) The chief clerk shall ensure that the declaration of the conflict of interest is noted in the House Journal.]~~

~~[(3) Nothing in this House rule requires a representative with a conflict of interest on legislation or a legislative matter pending before the House to orally disclose that conflict of interest if the representative does not speak on the legislation or legislative matter and the conflict has been disclosed on the representative's conflict of interest form.]~~

A House member shall comply with the conflict of interest requirements provided in:

(1) Utah Code Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures; and

(2) JR6-1-201.

**Section 3. HR3-1-102 is amended to read:**

**HR3-1-102. House Rules Committee -- Assignment duties.**

(1) The presiding officer shall submit all legislation introduced in the House of Representatives to the House Rules Committee.

(2) For all legislation not specified in HR3-1-103 that is referred to the House Rules Committee, the committee shall ~~[(a)]~~ examine the legislation referred to it for proper form, including fiscal note and ~~[interim]~~ committee note, if any ~~[(b)]~~ either, and either:

~~[(4)] (a) refer the legislation to the House with a recommendation that the legislation be:~~

~~[(A) (i) [that the legislation be] referred to a standing committee for consideration; or~~

~~[(B) (ii) [that the legislation be] read the second time and placed on the third reading calendar if [the legislation has received a favorable recommendation from:]~~

~~[(4)] (A) the bill has received a favorable recommendation from a House standing committee, ~~[except for those bills];~~~~

~~[(B) the bill is exempted from the House standing committee review requirements under HR3-2-401; ~~[or]~~~~

~~[(4)] (C) the bill has received a favorable recommendation from the House Rules Committee meeting as a standing committee as permitted under HR3-1-101; or~~

~~[(D) the legislation was approved by a unanimous vote of an interim committee and met the posting requirements of JR7-1-602.5; or~~

~~[(4)] (b) hold the legislation.~~

~~[(e)] (3) If the chair of the House Rules Committee receives a summary report from the Occupational~~

and Professional Licensure Review Committee related to newly regulating an occupation or profession within the two calendar years immediately preceding the session in which a piece of legislation is introduced related to the regulation by the Division of Occupational and Professional Licensing of that occupation or profession:

~~[(4)]~~ (a) the chair of the House Rules Committee shall ensure that the House Rules Committee is informed of the summary report before the House Rules Committee takes action on the legislation; and

~~[(ii)]~~ (b) if the House Rules Committee refers the legislation to the House as provided for in Subsection (2)~~[(b)]~~~~(i)]~~(a):

~~[(A)]~~ (i) the Office of Legislative Research and General Counsel shall make the summary report reasonably available to the public and to legislators; and

~~[(B)]~~ (ii) if the legislation is referred to a standing committee, the House Rules Committee shall forward the summary report to the standing committee.

~~[(3)]~~ (4) In carrying out its functions and responsibilities under this rule, the House Rules Committee may not:

(a) table legislation without the written consent of the sponsor;

(b) report out any legislation that has been tabled by a standing committee;

(c) amend legislation without the written consent of the sponsor; or

(d) substitute legislation without the written consent of the sponsor.

~~[(4)]~~ (5) The House Rules Committee may recommend a time certain for floor consideration of any legislation when it is reported out of the House Rules Committee, or at any other time.

~~[(5)]~~ (6) When the committee is carrying out its functions and responsibilities under this rule, the committee shall:

(a) ~~[during a legislative session]~~ when the Legislature is in session, give notice of its meetings ~~[by either:]~~ according to the requirements of HR3-1-106;

~~[(i)]~~ providing oral notice from the House floor of the time and place of its next meeting; or]

~~[(ii)]~~ when oral notice is impractical, post written notice of its next meeting;]

(b) when the Legislature is not in session, post a notice of meeting at least 24 hours before the meeting convenes;

(c) have as its agenda all legislation in its possession for assignment to committee or to the House calendars; and

(d) prepare minutes that include a record, by individual representative, of votes taken.

~~[(6)]~~ (7) ~~[Anyone may attend a meeting of the rules committee]~~ Rules committee meetings are open to the public, but comments and discussion are limited to members of the committee and the committee's staff.

**Section 4. HR3-1-105 is amended to read:**

**HR3-1-105. Motion to require committee review.**

~~[(1)]~~ The presiding officer shall have interim committee legislation that was approved by a majority vote of the interim committee members, read for the first time and referred to the House Rules Committee for calendaring.]

~~[(2)]~~ (a) The House Rules Committee may refer the legislation to the calendar without standing committee review, or it may recommend that the legislation be referred to a standing committee.]

~~[(b)]~~ (1) If the House Rules Committee recommends that ~~[the]~~ legislation be placed on the third reading calendar without standing committee review, the sponsor or any other representative may move that the legislation be reviewed by a standing committee before the legislation's consideration on the floor.

~~[(e)]~~ (2) If this motion is approved by a majority of the representatives present, the legislation shall be referred to a standing committee for consideration.

**Section 5. HR5-4-101 is amended to read:**

**HR5-4-101. Approved activities.**

(1) This rule governs the designation of an approved activity as authorized by Utah Code Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(2) Consistent with Utah Code Section 36-11-102, an "approved activity" means **[a] an event, a tour, or a meeting:**

(a) to which a representative is invited; and

(b) at which the representative's attendance is approved by the speaker of the House.

**H.R. 3**

Passed February 26, 2020  
Effective February 26, 2020

**HOUSE RESOLUTION URGING  
THE ACTIVATION OF CLOSED  
CAPTIONING IN PUBLIC VENUES**

Chief Sponsor: Dan N. Johnson  
Cosponsor: Patrice M. Arent

**LONG TITLE**

**General Description:**

This House resolution urges the activation of closed captioning on television monitors located in public venues.

**Highlighted Provisions:**

This resolution:

- ▶ acknowledges the many individuals in the United States who are deaf or hard of hearing;

- ▶ recognizes the value of closed captioning in providing important news and information to individuals who are deaf or hard of hearing; and
- ▶ urges the activation of closed captioning on television monitors located in public venues.

**Special Clauses:**

None

*Be it resolved by the House of Representatives of the state of Utah:*

WHEREAS, in the interest of eliminating isolation and segregation and encouraging the gathering and participation of all individuals, it is sound public policy to promote full and equal communication access to all;

WHEREAS, televisions are increasingly used in venues open to the general public, such as hospital waiting rooms, restaurants, small businesses, health clubs, social recreation facilities, airport lounges, and more;

WHEREAS, hearing loss is a part of life for many individuals in the United States;

WHEREAS, a 2011 study by Johns Hopkins researchers estimated that approximately one in five Americans 12 years or older have some type of hearing loss in one or both ears that affects their ability to communicate and receive information;

WHEREAS, hearing loss is one of the most common disabilities in the United States;

WHEREAS, closed captioning displays the audio portion of a television program as text on the television screen, providing access to news, entertainment, and information for individuals who are deaf or hard of hearing;

WHEREAS, the Federal Communications Commission requires video programming shown on television and over the internet after being shown on television to be closed captioned;

WHEREAS, all modern televisions are built to support closed captioning; and

WHEREAS, activating closed captioning on television monitors located in public venues:

- promotes full communication access for people who are deaf or hard of hearing;
- improves comprehension for viewers who are learning English as a second language;
- provides access to news and information for everyone in a noisy environment;
- improves comprehension of on-screen dialogue that is spoken very quickly, mumbled, or with accents, or when there is a lot of background noise; and
- assures full information is shared with all during times of emergencies:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah urges the activation of closed captioning on television monitors located in public venues during hours

when the venue is open to the general public and the monitors are in use.

**H.R. 4**

Passed March 9, 2020

Effective March 9, 2020

**HOUSE RULES RESOLUTION  
ON HOUSE PROCEDURE**

Chief Sponsor: James A. Dunnigan

**LONG TITLE**

**General Description:**

This rules resolution modifies House Rules.

**Highlighted Provisions:**

This resolution:

- ▶ modifies the requirements and procedures for issuing citations on behalf of a legislator, the House of Representatives, and the Utah Legislature;
- ▶ changes procedures related to the consent calendar;
- ▶ modifies House standing committee procedures for recommending that legislation be placed on the consent calendar;
- ▶ requires that nonbinding resolutions be placed on the consent calendar; and
- ▶ limits sponsor presentation time on nonbinding resolutions.

**Special Clauses:**

None

**Legislative Rules Affected:**

**AMENDS:**

- HR1-7-101
- HR1-7-102
- HR1-7-103
- HR1-7-104
- HR3-1-102
- HR3-1-105
- HR3-2-405
- HR4-4-301
- HR4-6-105

*Be it resolved by the House of Representatives of the state of Utah:*

**Section 1. HR1-7-101 is amended to read:**

**CHAPTER 7. CITATIONS**

**HR1-7-101. Citations -- Definitions -- Use of citations.**

(1) As used in this chapter:

(a) [(4)] "Citation" means a certificate [issued to honor or commend an individual who is a resident of Utah, or a group of individuals who are residents of Utah, or to express] for the purposes of:

(i) honoring or commending an individual who is a resident of Utah, or a group of individuals who are residents of Utah or have a substantial presence in or connection to Utah;

(ii) commemorating an event or the anniversary of an event that has significant relevance to Utah; or

(iii) expressing condolences to the family of a deceased individual who was a resident of Utah.

~~[(ii) A citation to honor or commend the same Utah resident should not be issued more than once every 10 years.]~~

~~[(iii) "Citation" includes a legislator citation, a House of Representatives citation, and a Utah Legislature citation.]~~

(b) "House of Representatives citation" means a citation issued on behalf of the Utah House of Representatives under HR1-7-103, that is signed by the representative sponsoring the citation and the speaker of the House of Representatives.

(c) "Legislator citation" means a citation issued on behalf of an individual representative under HR1-7-102.

(d) "Utah Legislature citation" means a citation issued on behalf of both houses of the Utah Legislature under HR1-7-104, that is signed by the representative sponsoring the citation, the speaker of the House of Representatives, and the president of the Senate.

~~(2) [Representatives shall use a citation to express the commendation or condolence of a representative, the Utah House of Representatives, or the Utah Legislature.] A citation honoring or commending the same individual or group of individuals, or recognizing the same event or anniversary, should not be issued more than once every 10 years.~~

(3) A representative may request only one House of Representatives citation or Utah Legislature citation during a calendar year.

**Section 2. HR1-7-102 is amended to read:**

**HR1-7-102. Obtaining a legislator citation.**

(1) With the approval of the presiding officer, a representative may request that the chief clerk of the House prepare a citation for the representative's own signature.

(2) A Legislator citation does not require any floor action by the House of Representatives.

(3) When the Legislature is not in session, a representative may request a citation for the representative's and the speaker of the House of Representative's signature, which the speaker may elect to sign at the speaker's discretion.

**Section 3. HR1-7-103 is amended to read:**

**HR1-7-103. Obtaining a House of Representatives citation.**

(1) During [any] a legislative session, a representative may issue a House of Representatives citation by:

(a) [request] requesting, in writing, that the chief clerk of the House prepare a citation for the representative's signature; and

~~[(b) after requesting and receiving permission for personal privilege, make a motion on the floor of the House to:]~~

~~[(i) approve the citation; and]~~

~~[(ii) (b) after receiving a copy of the citation prepared by the chief clerk of the House of Representatives, obtaining the approval of the House of Representatives, on the floor of the House of Representatives, by:~~

~~(i) requesting and receiving permission for a personal privilege; and~~

~~(ii) making a motion that the House of Representatives approve the citation and authorize the speaker of the House of Representatives to sign the citation on behalf of the House of Representatives, which must be approved by a majority vote.~~

~~[(2) When the Legislature is not in session, a representative may request a citation for the sponsor's and the speaker's signature.]~~

~~(2) Sponsor presentation for a House of Representatives citation is limited to a maximum of three minutes.~~

**Section 4. HR1-7-104 is amended to read:**

**HR1-7-104. Obtaining a Utah Legislature citation.**

(1) During [any] a legislative session, a representative may issue a Utah Legislature citation by:

(a) [request] requesting, in writing, that the chief clerk of the House prepare a citation for the representative's signature; and

(b) [after requesting and receiving permission for personal privilege, make] after receiving a copy of the citation prepared by the chief clerk of the House, obtaining the approval of the House of Representatives by, on the floor of the House:

(i) requesting and receiving permission for a personal privilege; and

(ii) making a motion [of the floor of the House to: ~~(i) approve the citation; (ii)~~] that the House of Representatives approve the citation and authorize the speaker of the House to sign the citation on behalf of the [House of Representatives] Utah Legislature after the citation is approved by the Senate; and

~~[(iii) present] (c) presenting the proposed citation to the Senate for [its approval] the Senate's approval of the citation and authorization for the president of the Senate to sign the citation on behalf of the Utah Legislature.~~

~~[(2) When the Legislature is not in session, a representative may request a citation for the sponsor's and the speaker's and the president's signature.]~~

~~(2) Sponsor presentation for a Utah Legislature citation is limited to a maximum of three minutes.~~

**Section 5. HR3-1-102 is amended to read:**

**HR3-1-102. House Rules Committee -- Assignment duties.**

(1) The presiding officer shall submit all legislation introduced in the House of Representatives to the House Rules Committee.

(2) For all legislation not specified in HR3-1-103 that is referred to the House Rules Committee, the committee shall:

(a) examine the legislation for proper form, including fiscal note and interim committee note, if any; and

(b) either:

(i) refer legislation to the House with a recommendation that the legislation be:

(A) ~~[that the legislation be]~~ referred to a standing committee for consideration; ~~[or]~~

(B) ~~[that the legislation be]~~ read the second time and placed on the third reading calendar if the legislation has received a favorable recommendation from:

(I) a House standing committee, except for those bills exempted from standing committee review requirements under HR3-2-401; or

(II) the House Rules Committee meeting as a standing committee as permitted under HR3-1-101; or

(C) if the legislation is a nonbinding resolution as defined in HR3-2-405, read the second time and placed on the consent calendar; or

(ii) hold the legislation.

(c) If the chair of the House Rules Committee receives a summary report from the Occupational and Professional Licensure Review Committee related to newly regulating an occupation or profession within the two calendar years immediately preceding the session in which a piece of legislation is introduced related to the regulation by the Division of Occupational and Professional Licensing of that occupation or profession:

(i) the chair of the House Rules Committee shall ensure that the House Rules Committee is informed of the summary report before the House Rules Committee takes action on the legislation; and

(ii) if the House Rules Committee refers the legislation to the House as provided for in Subsection (2)(b)(i):

(A) the Office of Legislative Research and General Counsel shall make the summary report reasonably available to the public and to legislators; and

(B) if the legislation is referred to a standing committee, the House Rules Committee shall forward the summary report to the standing committee.

(3) In carrying out its functions and responsibilities under this rule, the House Rules Committee may not:

(a) table legislation without the written consent of the sponsor;

(b) report out any legislation that has been tabled by a standing committee;

(c) amend legislation without the written consent of the sponsor; or

(d) substitute legislation without the written consent of the sponsor.

(4) The House Rules Committee may recommend a time certain for floor consideration of any legislation when it is reported out of the House Rules Committee, or at any other time.

(5) When the committee is carrying out its functions and responsibilities under this rule, the committee shall:

(a) during a legislative session, give notice of its meetings by either:

(i) providing oral notice from the House floor of the time and place of its next meeting; or

(ii) when oral notice is impractical, post written notice of its next meeting;

(b) when the Legislature is not in session, post a notice of meeting at least 24 hours before the meeting convenes;

(c) have as its agenda all legislation in its possession for assignment to committee or to the House calendars; and

(d) prepare minutes that include a record, by individual representative, of votes taken.

(6) Anyone may attend a meeting of the rules committee, but comments and discussion are limited to members of the committee and the committee's staff.

**Section 6. HR3-1-105 is amended to read:**

**HR3-1-105. Calendaring interim committee legislation.**

(1) The presiding officer shall have interim committee legislation that was approved by a majority vote of the interim committee members, read for the first time and referred to the House Rules Committee for calendaring according to the procedures of HR3-1-102.

(2) (a) The House Rules Committee may refer ~~[the]~~ interim committee legislation to the calendar without standing committee review, or it may recommend that the legislation be referred to a standing committee.

(b) If the House Rules Committee recommends that ~~[the]~~ interim committee legislation be placed on the third reading calendar without standing committee review, the sponsor or any other representative may move that the legislation be reviewed by a standing committee before the legislation's consideration on the floor.

(c) If this motion is approved by a majority of the representatives present, the legislation shall be referred to a standing committee for consideration.

**Section 7. HR3-2-405 is amended to read:**

**HR3-2-405. Consent calendar -- Nonbinding resolutions -- Committee recommendations -- Licensure review reports.**

(1) As used in this section, “nonbinding resolution”:

(a) means a resolution that:

(i) is primarily for the purpose of recognizing, honoring, or memorializing an individual, group, or event;

(ii) requests, rather than compels, action or awareness by an individual or group; or

(iii) is informational or promotional in nature; and

(b) does not mean:

(i) a rules resolution;

(ii) a resolution for a constitutional amendment; or

(iii) any resolution that approves or authorizes any action, requires any substantive action to be taken, or results in a change in law, policy, or funding.

(2) (a) A nonbinding resolution shall be placed on the consent calendar.

(b) A nonbinding resolution may be moved to the time certain calendar or other calendar by a majority vote of those present.

(3) A standing committee may recommend that legislation in its possession be placed on the consent calendar if:

(a) the committee approves a motion, by a unanimous vote of those present, [that] to give the legislation [be read a second time and placed on the third reading calendar] a favorable recommendation;

(b) immediately subsequent to that action, [the chief sponsor requests that the legislation be placed on the consent calendar; (c) in a separate motion and vote, the committee unanimously approves the sponsor’s request to place the legislation on the consent calendar instead of the second or third reading calendar] the committee approves a separate motion, by a unanimous vote of those present, to recommend that the legislation be placed on the consent calendar; and

(d) (c) the legislation [does not have a fiscal note of] has a fiscal note that is less than \$10,000 [or more].

(2) (4) If, in accordance with HR3-1-102, the House Rules Committee forwards a summary report from the Occupational and Professional Licensure Review Committee in conjunction with legislation referred to a standing committee, the chair shall ensure that the summary report is read orally to the committee before action is taken by the committee on the legislation that is related to the summary report.

**Section 8. HR4-4-301 is amended to read:  
HR4-4-301. Consent calendar.**

(1) [If] The chief clerk or the chief clerk’s designee shall place legislation on the consent calendar if:

(a) a standing committee report recommends that [a piece of] the legislation be placed on the consent calendar and the standing committee report is adopted by the House[; the chief clerk or the chief clerk’s designee shall place the legislation on the consent calendar.]; or

(b) the legislation is a nonbinding resolution as provided in HR3-2-405.

(2) If the chief clerk receives written objections to a piece of legislation from six or more representatives, the chief clerk shall:

(a) remove the legislation from the consent calendar;

(b) inform the sponsor that the legislation has been removed from the consent calendar; and

(c) place the legislation at the bottom of the third reading calendar.

(3) When legislation is removed from the consent calendar, the presiding officer shall inform the House of its removal.

(4) (a) If, after two calendar days, no more than five members have registered written objections to the legislation with the chief clerk:

(i) the legislation shall be read the third time;

(ii) the presiding officer shall grant the sponsor of the legislation two minutes to introduce and explain the legislation; and

(iii) the presiding officer shall pose the question and take the final vote on the legislation.

(b) The presiding officer may not allow debate on legislation on the consent calendar.

(5) (a) If the representative sponsoring the legislation on the consent calendar is absent from the floor when the legislation is ready to be read for the third time and considered for passage, a representative may make a motion to circle the legislation.

(b) If the motion to circle is successful and the representative sponsoring the legislation has not moved to uncircle the legislation before floor time is recessed or adjourned, the bill shall be placed on the bottom of the third reading calendar.

**Section 9. HR4-6-105 is amended to read:**

**HR4-6-105. Representatives not to speak more than twice -- Maximum speaking time -- Maximum time for debate on a piece of legislation.**

(1) (a) Without permission from the House, a representative may not speak more than twice on the same piece of legislation, substitute legislation, or amendment in any one debate on the same day and on the same reading of the legislation.

(b) (i) Except as provided in Subsection (1)(b)(ii), the presiding officer may not grant a representative who has spoken once permission to speak again on the same piece of legislation or substitute if any representative who has not spoken wishes to speak.

(ii) The presiding officer may grant a representative who has spoken once permission to

respond to a question if the representative consents to a request that the representative yield to a question under HR4-6-104.

(2) Sponsor presentation for a nonbinding resolution, as defined in HR3-2-405, is limited to a maximum of three minutes, or a shorter time as provided by rule.

~~(2)~~ (3) A representative may not speak longer than 10 minutes at any time, unless another representative yields that representative's time to the representative who has the floor.

~~(3)~~ (4) Unless extended by a majority vote, the presiding officer may not allow the House to debate a piece of legislation for more than:

(a) eight hours, during the first 38 calendar days of an annual general session~~[, the presiding officer may not allow the House to debate a piece of legislation for more than eight hours];~~ and

(b) two hours during the last seven calendar days of an annual general session~~[, the presiding officer may not allow the House to debate a piece of legislation for more than two hours].~~

**S.C.R. 1**

Passed February 5, 2020  
Approved March 30, 2020  
Effective March 30, 2020

**CONCURRENT RESOLUTION CREATING THE DANGER CAVE STATE MONUMENT**

Chief Sponsor: Scott D. Sandall  
House Sponsor: Keven J. Stratton

**LONG TITLE**

**General Description:**

This concurrent resolution creates the Danger Cave State Monument.

**Highlighted Provisions:**

This resolution:

- ▶ outlines the general process for proposing the creation of the Danger Cave State Monument;
- ▶ includes reasons for creating the Danger Cave State Monument; and
- ▶ approves the creation of the Danger Cave State Monument.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, Utah Code Title 79, Chapter 4, Part 12, State Monuments Act, provides a process for the creation of a state monument proposed by the Division of Parks and Recreation within the Department of Natural Resources;

WHEREAS, the Division of Parks and Recreation proposed the creation of the Danger Cave State Monument to the Natural Resources, Agriculture, and Environment Interim Committee;

WHEREAS, the Division of Parks and Recreation found that:

(1) the property is owned and managed by the Division of Parks and Recreation;

(2) Danger Cave is one of the most important and renowned archaeological sites in North America and was used to help set the timeline for Great Basin archaeology;

(3) archaeologists used some of the first radiocarbon dating techniques to test the age of artifacts the archaeologists uncovered in Danger Cave and found that people had successively occupied the site for over 11,000 years;

(4) Jukebox Cave should be included in the state monument cumulatively known as the Danger Cave State Monument;

(5) Jukebox Cave served as a dance hall for troops posted at the Wendover Field and Test Range;

(6) Jukebox Cave also contains artifacts showing occupation patterns similar to those of Danger Cave; and

(7) Jukebox Cave contains unusual black pictographs that show people riding horses and using weaponry;

WHEREAS, the Tooele County Commission by resolution expressed support for the creation of the Danger Cave State Monument; and

WHEREAS, the Natural Resources, Agriculture, and Environment Interim Committee recommends to the Legislature the creation of the Danger Cave State Monument:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, approves the creation of the Danger Cave State Monument consisting of approximately 22 acres located in Township 1 South, Range 19 West, Sections 8 and 9, and described by a map on file with the Division of Parks and Recreation.

BE IT FURTHER RESOLVED that the Danger Cave State Monument is to be managed in accordance with Utah Code Title 79, Chapter 4, Part 12, State Monuments Act.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to the Division of Parks and Recreation.

**S.C.R. 2**

Passed February 7, 2020  
Approved March 30, 2020  
Effective March 30, 2020

**CONCURRENT RESOLUTION HONORING MICHAEL R. STYLER**

Chief Sponsor: Jani Iwamoto  
House Sponsor: Lee B. Perry

**LONG TITLE**

**General Description:**

This concurrent resolution recognizes Michael Russell "Mike" Styler for his service as the

Executive Director of the Department of Natural Resources.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the dedication and public service of Mike Styler; and
- ▶ expresses appreciation for Mike Styler’s many contributions to the state of Utah.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, Michael Russell “Mike” Styler served as the Executive Director of the Department of Natural Resources for more than 14 years, making him the longest-serving executive director in the agency’s history;

WHEREAS, Mike Styler graduated from Brigham Young University with a Bachelor’s degree with a double major in Agricultural Economics and Business Education;

WHEREAS, Mike Styler served eight years as a Millard County commissioner from 1983 to 1990 serving as chairman during unprecedented economic and population growth arising from construction of the Intermountain Power Project 1900-megawatt generating station and related facilities in Millard County;

WHEREAS, Mike Styler served as the president of the Utah Association of County Commissioners;

WHEREAS, Mike Styler served the farming community as president of the Deseret Irrigation Company;

WHEREAS, Mike Styler taught United States History in the Millard School District from 1990 to 2005, generating great enthusiasm among his students;

WHEREAS, Mike Styler was appointed in 1993 to serve as a member of the Utah House of Representatives and continued to be elected to serve the state of Utah in that capacity until resigning in 2005 to accept the appointment as Executive Director of the Department of Natural Resources;

WHEREAS, while a member of the Utah House of Representatives, Mike Styler served on various committees and in various capacities, including as Assistant Majority Whip, as a member of the Executive Appropriations Committee, as a member of the Legislative Management Committee, as chair of the Legislative Water Issues Task Force, and as chair of the Natural Resources Appropriations Subcommittee;

WHEREAS, Mike Styler served as the Executive Director of the Department of Natural Resources, where he directed more than 1,300 employees across seven divisions, until his retirement in June 2019;

WHEREAS, in 2006, Mike Styler started the annual Department of Natural Resources employee appreciation corn and watermelon feast, which became so popular that the Governor and his entire staff have been known to rearrange their schedules to attend and which has been attended at various times by Senator Orrin Hatch, the Governor’s Cabinet members, Utah state legislators, congressional staffers, vendors, and friends of the state;

WHEREAS, Mike Styler provides all of the corn for the corn and watermelon feast from the 400 acres of irrigated land in Oasis, Utah, where he successfully farms at the end of the Styler Ditch at the end of the Sevier River;

WHEREAS, Mike Styler is known by many to have a keen eye for a good deal and has been known to shop at the local National Product Sales store on his lunch hour, bringing back expired sodas and cheese that he generously shares with his staff, which will be fondly remembered by many at the Department of Natural Resources, especially for the time that he bought a crate of bananas for 25 cents and brought it back to the office, along with 25 million fruit flies;

WHEREAS, Mike Styler is always up for a good lunch and is known to spend many lunch hours at “Tacos Danielle,” consuming the lingua tacos with their variety of salsas and spices, the hotter the better;

WHEREAS, Mike Styler is an avid hunter, fisherman, wildlife expert, and outdoor advocate for the state of Utah;

WHEREAS, under his leadership, the Department of Natural Resources launched the Watershed Restoration Initiative, a statewide collaborative effort among state and federal agencies, nonprofit organizations, and private contributors that has completed roughly 2,000 projects and improved approximately 1.6 million acres of watersheds;

WHEREAS, Mike Styler was instrumental in the formation of and chaired the Utah Water Task Force, that has proposed more than 90 enhancements to the Utah water statutes adopted by the Legislature and signed into law by the governor, the acceleration of the state’s water rights adjudication process, and the signing of hunter access agreements with the School and Institutional Trust Lands Administration;

WHEREAS, during his time with the Department of Natural Resources, Mike Styler has carefully and expertly navigated significant and sensitive issues such as wolves, the Lake Powell Pipeline, the greater sage grouse, wild horses, the Bear River Development Act, wildfire management, groundwater pumping in the Snake Valley, the Utah prairie dog, and management of water resources in one of the nation’s driest states;

WHEREAS, Mike Styler has been described as a problem solver who brings diverse groups together to develop practical solutions to complex natural resource issues, all the while lending a quick smile,



a pleasant sense of humor, and a gentle nature, yet with purpose and a firm sense of direction;

WHEREAS, during his service to the people of Utah, Mike Styler was also dedicated to his wife, LuAnn, and their children and grandchildren, has maintained and enlarged his grandfather's home as a place to raise children and host family gatherings, and has served in various other church and community leadership positions; and

WHEREAS, Mike Styler's many significant state and local contributions merit recognition:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the dedication and public service of Mike Styler during his tenure as Executive Director of the Department of Natural Resources, and expresses appreciation for his many contributions to the state.

BE IT FURTHER RESOLVED that a copy of this resolution is sent to Mike Styler.

**S.C.R. 3**

Passed February 20, 2020

Approved March 30, 2020

Effective March 30, 2020

**CONCURRENT RESOLUTION  
HONORING WATARU MISAKA**

Chief Sponsor: Jani Iwamoto

House Sponsor: Steve Eliason

**LONG TITLE**

**General Description:**

This concurrent resolution honors Wataru Misaka.

**Highlighted Provisions:**

This resolution:

- ▶ honors the late Wataru "Wat" Misaka, who was the first person of color to play in what is now the National Basketball Association; and
- ▶ recognizes Mr. Misaka's athletic abilities and contributions to college and professional basketball.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, Wataru "Wat" Misaka, who broke the color barrier by being the first person of color to play in what is now the National Basketball Association (NBA), died on November 21, 2019, in Salt Lake City at the age of 95;

WHEREAS, born and raised in Ogden, Wat Misaka was a 5-foot-7-inch tall Japanese American whose basketball career began at Ogden High School where he led his team to the 1940 state championship and regional championship in 1941;

WHEREAS, in 1942, his Weber Junior College basketball team won the Intermountain Collegiate

Athletic Conference (ICAC) junior college title and he was named "most valuable player" of that year's junior college post-season tournament;

WHEREAS, in 1943, the Weber Junior College team earned another ICAC title and the college named him "athlete of the year";

WHEREAS, Mr. Misaka enrolled at the University of Utah and helped lead the basketball team to win the 1944 National Collegiate Athletic Association championship over Dartmouth;

WHEREAS, his teammate and close friend Arnie Ferrin said in recognition of Mr. Misaka's humility and kindness in the face of racial taunts and pressures, "We achieved things that a lot of people never will. He made us a better team and made me a better person. I can't say I had anyone I enjoyed being around more than Wat.";

WHEREAS, while fellow Japanese Americans were interned in concentration camps, Mr. Misaka took a two-year pause from college and served in the United States Army during World War II;

WHEREAS, Mr. Misaka rose to the rank of staff sergeant and was assigned to the U.S. strategic bombing survey where his job was to interview the citizens of Hiroshima about their morale after the bombing;

WHEREAS, upon completing his military service, Mr. Misaka returned to the University of Utah basketball team and, by holding the Kentucky Wildcats' All-American and "player of the year" guard Ralph Beard to just one point, the University of Utah won the 1947 National Invitation Tournament championship;

WHEREAS, through his heart and exciting play, Wat won the support of the Madison Square Garden crowd, so much so that they booed when he was not named MVP for the tournament;

WHEREAS, his New York fame and fan base was such that the owner of the New York Knicks, Ned Irish, signed Mr. Misaka as the first ever collegiate draft pick of the New York Knicks for a salary of \$3,000 per year, making him the first person of color to start a game in what is now known as the NBA, preceding the first African American to play in the NBA by three years;

WHEREAS, Mr. Misaka was referred to as "Hawaiian American" to make his ethnicity more acceptable;

WHEREAS, after the Knicks cut Mr. Misaka, he declined an invitation to join the Harlem Globetrotters and returned to the University of Utah, earning a degree in engineering and subsequently working as a mechanical engineer;

WHEREAS, later in life, Mr. Misaka was honored for his athletic achievements through his induction into the Utah Sports Hall of Fame, the Japanese American Sports Hall of Fame, and the Weber State University Hall of Fame;

WHEREAS, Mr. Misaka was also included in the diversity display of Hoop Hall, the professional basketball Hall of Fame;

WHEREAS, in 2008, Mr. Misaka was the subject of a documentary, "Transcending: The Wat Misaka Story," permanently available at the Library of Congress;

WHEREAS, in 2009, President Obama invited Mr. Misaka to the White House to honor him for being the first player of color in the NBA;

WHEREAS, in December 2009, the New York Knicks honored Mr. Misaka at a Knicks' game in Madison Square Garden and presented him with an honorary No. 15 jersey;

WHEREAS, Mr. Misaka was recognized by the Japanese American Citizens League in 2011 for his championship spirit and leadership role in inspiring sports fans to look beyond race during the 1940's when anti-Japanese sentiment was at an all-time high;

WHEREAS, in addition to Mr. Misaka's basketball achievements, as an avid golfer he had two hole-in-ones and enjoyed backpacking in the Uinta Mountains and the Wind Rivers, with and without llamas;

WHEREAS, Mr. Misaka had a 189 bowling average and a high game of 299 in 2003 at the age of 80;

WHEREAS, Mr. Misaka was inducted into the Japanese American National Bowling Association Hall of Fame and the Salt Lake City Bowling Hall of Fame;

WHEREAS, Mr. Misaka's contribution to college and professional basketball as a Japanese American during times of racial discrimination merits recognition; and

WHEREAS, his accomplishments were covered in obituaries by the New York Times, the Washington Post, the Los Angeles Times, ESPN, Sports Illustrated, MSN Sports, NPR, and the NBA:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honors the memory of Wat "Kilowatt" Misaka and his legacy of being the first person of color to play professional basketball.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Mr. Misaka's family.

**S.C.R. 5**

Passed February 6, 2020

Approved March 28, 2020

Effective March 28, 2020

**CONCURRENT RESOLUTION  
RECOGNIZING UTAH'S NATIONAL  
BLUE RIBBON SCHOOLS**

Chief Sponsor: Lincoln Fillmore

House Sponsor: Jeffrey D. Stenquist

Cosponsors: Kirk A. Cullimore

Lyle W. Hillyard

Don L. Ipson

Daniel McCay

Kathleen Riebe

**LONG TITLE**

**General Description:**

This bill commends four Utah schools that received the National Blue Ribbon Schools award in 2019.

**Highlighted Provisions:**

This resolution:

- ▶ describes the criteria for high-performing schools to be eligible to apply for the National Blue Ribbon Schools award;
- ▶ recognizes the three public schools and one private school in Utah that received the National Blue Ribbon Schools award in 2019;
- ▶ encourages high-performing schools in Utah to apply for the award in future years;
- ▶ encourages the Legislature, Governor, and State Board of Education to recognize Utah schools that receive the National Blue Ribbon Schools award in the future.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the United States Department of Education's National Blue Ribbon Schools Program recognizes exceptional public and private elementary, middle, and high schools that have achieved academic excellence or exemplary success in closing academic achievement gaps;

WHEREAS, the Blue Ribbon Schools award affirms the diligence of students, educators, families, and communities in creating a safe and nurturing school environment where students and educators alike can thrive;

WHEREAS, to be eligible for the award, a high-performing public school must meet rigorous criteria based on the state's assessment and accountability system, with the school's student body performing in the top 15% and the school's student subgroups performing among the top 40% of schools in the state in both English language arts and mathematics;

WHEREAS, the Council for American Private Education nominates private schools with student achievement in English language arts and mathematics in the top 15% of schools nationally and, when applicable, in the state;

WHEREAS, in 2019 the United States Department of Education gave this prestigious

award to three public schools and one private school in Utah;

WHEREAS, the three Utah public elementary schools that received the National Blue Ribbon Schools award met rigorous academic performance criteria and also achieved exemplary or commendable academic growth results on their 2018–2019 Utah School Report Cards;

WHEREAS, Crimson View Elementary School in St. George, Utah has a STEM education focus - one of the few schools in Utah to receive a platinum STEM designation from the Utah STEM Action Center - and the school’s focus on staff professional learning helps staff work together cohesively and integrate new technologies in the classroom;

WHEREAS, at McMillan Elementary School in Murray, Utah, teachers and leaders work together on the Building Leadership Team and in professional learning communities to build a school community with a strong culture of student well-being, academic success, and community;

WHEREAS, North Rich Elementary in Laketown, Utah has become a model for reading instruction with the school’s focused, data-driven reading program, and school leaders took steps to improve school culture and students’ readiness to learn even further by incorporating civics and citizenship into instruction with a curriculum emphasizing mindfulness and the Three C’s: care about self, care about others, and care about community; and

WHEREAS, students in Juan Diego Catholic High School in Draper, Utah receive a rigorous education focused on the whole person, including a challenging curriculum driven by careful and thoughtful application of the ACCUPLACER subject proficiency and placement exam:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, commends Crimson View Elementary School, McMillan Elementary School, North Rich Elementary, and Juan Diego Catholic High School for their outstanding achievement as recipients of the National Blue Ribbon Schools award.

BE IT FURTHER RESOLVED that the Legislature and Governor recognize the exceptional honor of having four additional schools in Utah flying the National Blue Ribbon School flag over their school buildings.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the crucial role of the many exceptionally high-performing schools in Utah in both educating the youth of the state and setting high standards for other schools to follow and encourage these schools to apply for the National Blue Ribbon Schools award, and urge the Legislature, the Governor, and the State Board of Education to honor every school that receives this distinguished award in the future.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to Crimson View

Elementary School, McMillan Elementary School, North Rich Elementary, Juan Diego Catholic High School, and the State Board of Education.

**S.C.R. 6**

Passed March 4, 2020  
Approved March 30, 2020  
Effective March 30, 2020

**CONCURRENT RESOLUTION FOR STUDY OF LOCAL OPTION SALES TAX**

Chief Sponsor: Curtis S. Bramble  
House Sponsor: Steve Eliason

**LONG TITLE**

**General Description:**

This resolution requests that the Utah Association of Counties and the Utah League of Cities and Towns provide the Legislature with information regarding the impact of e-commerce and the point of sale associated with the various local option sales and use tax rates and, where applicable, possible changes to the distribution formulas.

**Highlighted Provisions:**

This resolution:

- ▶ highlights the changes in retail practices and market conditions that have emerged since the establishment of various local option sales and use taxes, rates, and distribution formulas; and
- ▶ requests that the Utah Association of Counties and the Utah League of Cities and Towns, working with the Utah Transit Authority and other local transit districts, provide the Legislature with research and possible recommendations regarding the inherent impact of changing point of sale due to e-commerce as well as possible changes to distribution formulas.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, there are 17 different local sales and use tax options, including specialized levies for the Utah Transit Authority and other local transit authorities, that Utah cities and counties are statutorily authorized to impose;

WHEREAS, the revenue from these taxes is tied to the physical location of a transaction and the local government imposing the tax primarily benefits only from completed transactions that take place within its geographic boundaries;

WHEREAS, there have been monumental changes in retail practices and market conditions, such as those resulting from the United States Supreme Court decision on South Dakota v. Wayfair, Inc.;

WHEREAS, Internet or e-commerce sales were not a consideration when the current sales and use tax methodologies, including distribution formulas, were established;

WHEREAS, the nature of Internet sales are expected to expand from everyday uses to include transactions such as motor vehicles and the home delivery of groceries and other purchases;

WHEREAS, the nature of Internet sales changes the traditional point of sale for goods from the retailer to the delivery location;

WHEREAS, market forces have always changed the dynamics of where goods are bought and sold, but the impact of Internet sales on the point of sale for goods will likely be on a much larger scale than many of these historic market forces;

WHEREAS, these changes in the point of sale have the potential to significantly shift or reduce sales and use tax revenue to the taxing entities imposing local option taxes;

WHEREAS, in order for Utah to compete in a modern economy and have a clear understanding of the fiscal impact of modernizing Utah’s sales and use taxes, including local option taxes, there is a need to review the impact of point of sale changes and distribution formulas;

WHEREAS, a knowledge of the impact of these changes is essential for local governments to adequately plan and budget for the future and base decisions on the overall best interests of the state and all of its communities; and

WHEREAS, any continued delay in analyzing these tax policy issues will only compound needed future adjustments:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, requests that the Utah Association of Counties and the Utah League of Cities and Towns provide the Legislature with research, information, and changes, if necessary, addressing the impact of the modern economy on the point of sale.

BE IT FURTHER RESOLVED that the Legislature and the Governor request that the Utah Association of Counties, the Utah League of Cities and Towns, the Utah Transit Authority, and other local transit districts work cooperatively to understand the nature and scope of these changes in the point of sale for local option taxes as well as possible impacts on distribution formulas.

**S.C.R. 7**

Passed March 12, 2020  
Approved March 30, 2020  
Effective March 30, 2020

**CONCURRENT RESOLUTION  
SUPPORTING THE SPORTS COMMISSION**

Chief Sponsor: J. Stuart Adams  
House Sponsor: Brad R. Wilson

**LONG TITLE**

**General Description:**

This bill recognizes the critical leadership role that the Utah Sports Commission has played over the past two decades in fostering, attracting, and hosting world-class sporting events throughout the state.

**Highlighted Provisions:**

This resolution:

- ▶ expresses appreciation and ongoing support for the Utah Sports Commission; and
- ▶ recognizes the vital role the Utah Sports Commission plays in making Utah the “State of Sport.”

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the Utah Sports Commission was created nearly 20 years ago to create and execute a statewide strategy to lead Utah’s efforts in promoting sports;

WHEREAS, for nearly 20 years the Utah Sports Commission has significantly benefitted Utah’s citizens, image, and economy;

WHEREAS, the Utah Sports Commission has spent nearly two decades investing significant time, effort, and resources to host world-class sporting events throughout the state;

WHEREAS, the Utah Sports Commission has leveraged Utah’s tremendous investment in sports to grow Utah’s sports brand and position in the national and international sports communities;

WHEREAS, the Utah Sports Commission created Utah’s sports brand, “Utah: The State of Sport,” to drive national and international branding to Utah’s sports industry;

WHEREAS, since its inception, the Utah Sports Commission has worked with its Team Utah partners to foster, attract, and host over 850 events throughout Utah, including almost 250 Olympic-related events;

WHEREAS, these events have generated significant economic impact and have garnered tremendous media value and global exposure to Utah;

WHEREAS, Utah and the Utah Sports Commission continue to invest in sports and Olympic legacy activities taking place at the highest levels;

WHEREAS, Utah has numerous world-class venues to attract and host major sporting events;

WHEREAS, the Utah sports community continues to be unified and supportive of the Utah Sports Commission, its Team Utah partners, and the significant, ongoing role the commission plays to help ensure Utah is ready, willing, and able to host Olympic and Paralympic Winter Games in the future; and

WHEREAS, the Utah Sports Commission’s extraordinary institutional knowledge keeps Utah

well positioned to continue to attract and host many major national and international sporting events of all types throughout the state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses sincere appreciation and continued support for the Utah Sports Commission's extraordinary efforts to unite Utah's sports community.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the Utah Sports Commission's ongoing leadership role in fostering, attracting, and hosting year-round sporting events throughout the state.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Utah's congressional delegation.

**S.C.R. 8**

Passed March 12, 2020

Governor declined to sign April 1, 2020

**CONCURRENT RESOLUTION IN SUPPORT OF THE CHINESE PEOPLE REGARDING THE CORONAVIRUS OUTBREAK**

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Eric K. Hutchings

**LONG TITLE**

**General Description:**

This concurrent resolution expresses support for the Chinese people regarding the coronavirus outbreak.

**Highlighted Provisions:**

This resolution:

- ▶ acknowledges the serious public health risk of COVID-19 acute respiratory disease (coronavirus);
- ▶ expresses solidarity and support for the Chinese people's efforts to contain the coronavirus;
- ▶ conveys sympathy for those affected with coronavirus around the world;
- ▶ urges Utahns to remain calm and adhere to normal flu-season precautions;
- ▶ calls upon the international community not to impose unnecessary restrictions that interfere with international travel and trade;
- ▶ encourages close collaboration between the public and private sectors to develop the diagnostics, medicines, and vaccines to help bring the outbreak under control; and
- ▶ urges Utah public institutions to remain calm, take precautions to prevent the spread of all communicable diseases, and focus efforts towards people who exhibit symptoms.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, Utah and the People's Republic of China (China) enjoy a friendly relationship and strong economic, cultural, and people-to-people ties;

WHEREAS, Utah is enriched by the presence of Chinese residents, educators, students, and enterprises;

WHEREAS, the unique, 14-year legislative relationship between Utah and Liaoning, China is the only one of its kind between the United States and China, and is responsible for opening a significant channel for people, businesses, and education organizations to conduct exchanges and cooperate;

WHEREAS, cooperation between Utah and China is evidenced by the following:

- China is a top trading partner for Utah;
- many Utah companies have business operations in China;
- Utah leads the nation in K-12 Chinese language study; and
- in 2019, Utah hosted Chinese government and business leaders during the Golden Spike Anniversary, which highlighted the contributions of Chinese and other immigrants in Utah's history;

WHEREAS, a global health threat such as COVID-19 acute respiratory disease (coronavirus) demands an empathetic global response in order to preserve the health, happiness, and prosperity of individuals within the global community;

WHEREAS, the state of Utah is closely monitoring the situation, engaging with United States and Chinese governments and health partners to respond to the health threat in China, and will issue further information and guidance as necessary;

WHEREAS, as global citizens, Utahns should take measures to assist those in need and work proactively to preserve global health and the stability of the global economy, which align with Utah values of industriousness, empathy, volunteerism, and cooperation;

WHEREAS, global health and the global economy are inextricably linked as evidenced by the World Bank estimate that 90% of economic losses during any pandemic outbreak arise from the uncoordinated and irrational efforts of the public to avoid infection;

WHEREAS, global health emergencies can cause fear among populations, and people's fear can be dispelled by rational, clear analysis and taking health advice from trusted information sources;

WHEREAS, Utahns should remain calm, use common sense, and adhere to normal flu-season precautions such as frequently washing hands, covering mouth and nose with a tissue when coughing or sneezing, or coughing or sneezing into one's elbow rather than hands;

WHEREAS, the CDC has advised United States citizens not to panic about the coronavirus and has warned against stereotyping people of Asian descent;

WHEREAS, in many places around the world, misinformation, false rumors, and media coverage about the coronavirus have stoked discriminatory sentiment toward Chinese and Asian people; and

WHEREAS, the World Health Organization says there currently is a “window of opportunity” to prevent the spread of the coronavirus by focusing prevention efforts near the epicenter in China, and Utah organizations such as The Church of Jesus Christ of Latter-day Saints, Intermountain Healthcare, and others have generously donated to China significant amounts of protective gear to assist in containing the virus:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses solidarity and support for the Chinese people’s efforts to contain the coronavirus.

BE IT FURTHER RESOLVED that the Legislature and the Governor convey sympathy for those affected around the world and urge Utahns to remain calm and adhere to normal flu-season precautions.

BE IT FURTHER RESOLVED that the Legislature and the Governor concur with the World Health Organization and call upon the international community not to impose restrictions relating to the coronavirus that unnecessarily interfere with international travel and trade and raise fear and stigma.

BE IT FURTHER RESOLVED that, where measures that restrict travel and trade have been implemented, the Legislature and the Governor urge that their duration be short, proportionate to the actual public health risks, and regularly be reconsidered as the situation evolves.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage close collaboration between the public and private sectors to develop the diagnostics, medicines, and vaccines to help bring the coronavirus outbreak under control.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge Utah government, medical facilities, school districts, and other public institutions to remain calm, take precautions to prevent the spread of all communicable diseases, and focus efforts towards people who exhibit symptoms.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge Utahns to use protective equipment judiciously according to public health recommendations.

**S.C.R. 9**

Passed March 11, 2020

Approved April 1, 2020

Effective April 1, 2020

**CONCURRENT RESOLUTION ADDRESSING OLYMPICS**

Chief Sponsor: Daniel Hemmert

House Sponsor: Steve Eliason

**LONG TITLE**

**General Description:**

This concurrent resolution of the Legislature and the Governor expresses comfort with the concepts and principles in the latest winter host agreement documents provided by the International Olympic Committee and would support the state of Utah signing similar host agreement documents for a future Olympic and Paralympic Winter Games.

**Highlighted Provisions:**

This resolution:

- ▶ expresses comfort with the concepts and principles in the latest winter host agreement documents provided by the International Olympic Committee; and
- ▶ supports the state of Utah signing similar host agreement documents for a future Olympic and Paralympic Winter Games.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, as highlighted in previous resolutions, Utah values the experience of Salt Lake City hosting the 2002 Olympic and Paralympic Winter Games, and the long-term importance of sports and the Olympic legacy to Utah;

WHEREAS, Utah invests in sports with the Utah Sports Commission, the Utah Olympic Legacy Foundation, and other key partners who are helping drive Utah’s Olympic legacy and sports activities by hosting major Olympic and non-Olympic sporting events, training, and other activities at world-class venues throughout the state since the 2002 Games;

WHEREAS, Utah actively partners with and supports the mission and charter of the United States Olympic and Paralympic Committee, the International Olympic Committee, and many other partners who are helping Utah enhance Utah’s sport and Olympic legacy;

WHEREAS, because of Utah’s and Salt Lake City’s excellence in hosting the 2002 Games and the hosting of many major national and international sporting events since 2002, extraordinary sport and institutional knowledge exist in Utah;

WHEREAS, Utah continues to use and leverage significant 2002 Games infrastructure and other infrastructure and assets, including sports, athletic, training, venues, transportation improvements, sustainability and green initiatives, and other key related strategic activities;

WHEREAS, these infrastructure and assets that could be used for future Olympic and Paralympic Winter Games are found throughout the state;

WHEREAS, due to the high level of Utah's Olympic legacy and ongoing sports efforts, venues, and institutional knowledge, Utah is ready, willing, and able to host future Olympic and Paralympic Winter Games; and

WHEREAS, as of 2019, the United States Olympic and Paralympic Committee and the International Olympic Committee now permit government entities other than a city to become parties to host agreement documents:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, is comfortable with the concepts and principles in the latest winter host agreement documents provided by the International Olympic Committee and would support the state of Utah signing similar host agreement documents for a future Olympic and Paralympic Winter Games.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the International Olympic Committee, the United States Olympic and Paralympic Committee, the Utah Sports Commission, the Utah Olympic Legacy Foundation, the Governor's Office of Economic Development, the Utah State Chamber of Commerce, and the members of Utah's congressional delegation.

**S.C.R. 10**

Passed March 10, 2020  
 Approved March 30, 2020  
 Effective March 30, 2020

**CONCURRENT RESOLUTION ON STATE  
 EMPLOYEE BENEFITS AND PROVIDING  
 A REFUND FROM THE STATE HEALTH  
 INSURANCE POOL**

Chief Sponsor: Lincoln Fillmore  
 House Sponsor: Norman K. Thurston

**LONG TITLE**

**General Description:**

This concurrent resolution directs the Public Employees' Benefit and Insurance Program to offer certain benefits with respect to employee health benefit packages and to reimburse the excess funds held in the state health insurance pool.

**Highlighted Provisions:**

This resolution:

- ▶ describes the state's philosophy on compensation and benefit design for state employees;
- ▶ acknowledges the excess money held in reserve in the state health insurance pool; and
- ▶ directs the Public Employees' Benefit and Insurance Program to:

- increase the salaries of employees that choose not to receive benefits under the Public Employees' Benefit and Insurance Program;
- allow employees who receive coverage under the Consumer Plus plan to elect to receive 100% of employer HSA contributions as cash;
- increase the premium share percentage for the STAR HSA plan for the 2020-2021 plan year;
- offer HSA dental plans; and
- reimburse the state and state employees the excess funds held in the state health insurance pool.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, the state offers a competitive compensation package for employees that generally provides a higher percentage of benefits compared to salary than other employers on the market;

WHEREAS, while many state employees prefer a higher level of benefits compared to salary, others may prefer more compensation in cash and less in benefits;

WHEREAS, the state has encouraged HSA adoption to foster greater consumerism which could be extended to dental plan options;

WHEREAS, some employees may value state-provided medical and dental benefits less because of access to such coverage through a spouse or other source;

WHEREAS, the Legislature, during the 2019 General Session, permitted state employees on HSA-eligible plans to take up to half of the state's HSA contributions in cash;

WHEREAS, to maintain benefit equity and cost neutrality, state employees who convert the state's HSA contribution to cash are responsible for all related taxes, including employer FICA, and the cash, as a converted benefit, is not included in compensation for other employee benefits;

WHEREAS, the state desires to extend the ability of state employees on the HSA-eligible Consumer Plus plan to convert up to 100% of the state's HSA contribution to cash, provided that the employee is responsible for all related taxes, including employer FICA, and no amount is included as compensation for other employee benefits;

WHEREAS, the state desires to differentiate the STAR HSA plan from the Consumer Plus plan by charging a premium to be offset by an HSA increase for Fiscal Year 2021;

WHEREAS, the state desires to make HSA-based plans available for dental benefits;

WHEREAS, the state is willing to pay more in salary to state employees who opt out of medical or dental benefits because it results in significant cost savings to the state;

WHEREAS, unlike an HSA contribution converted to cash, the increased salary paid to state

employees who opt out of coverage is taxed as income, with the state paying employer FICA, and counts toward other employee benefits, because the salary never takes the form of a medical or dental benefit and is paid from significant cost savings, eliminating equity and budgetary issues; and

WHEREAS, the state health insurance pool currently exceeds the recommended reserve level, making it possible for the state and its employees to receive a refund of \$25,460,000 from the pool with \$23,300,000, or 92%, of the refund going to the state and the remaining \$2,160,000, or 8%, going to state employees:

NOW, THEREFORE, BE IT RESOLVED, that the Legislature, the Governor concurring therein, directs:

(1) PEHP to notify State Finance of any state employee who opts out of medical or dental benefits upon proof of other insurance coverage during open enrollment or a special enrollment period;

(2) State Finance to increase the salary of a state employee who opts out of medical coverage as provided in Section (1) to a proportionate share of the following amounts each payroll period:

(a) \$2,000 per year for an employee eligible for single coverage; and

(b) \$4,000 per year for an employee eligible for double or family coverage;

(3) State Finance to increase the salary of a state employee who opts out of dental benefits as provided in Section (1) to a proportionate share of the following amounts each payroll period:

(a) \$400 per year for an employee eligible for family coverage;

(b) \$200 per year for an employee eligible for double coverage; and

(c) \$100 per year for an employee eligible for single coverage;

(4) State Finance to treat the amounts described in Sections (2) and (3) as income for purposes of employer FICA, retirement contributions, workers' compensation, long-term disability, and any other benefit;

(5) PEHP to assist State Finance in creating a cash-in-lieu of benefits flexible spending account to allow a state employee to opt out of medical or dental benefits as directed above;

(6) PEHP to give a state employee on Consumer Plus the option of electing up to 100% of the allocation sent to PEHP as an HSA contribution to be forwarded to that employee rather than be deposited into the employee's HSA, and to distribute that sum at the same time Health Savings Account contributions are dispersed;

(7) PEHP to require a state employee who requests any part of an HSA contribution in cash to agree to the following as a condition of receiving payment:

(a) that the sum is not compensation, but an employee benefit, and thus may not be counted toward retirement contributions, workers' compensation, long-term disability, or any other benefit; and

(b) that the sum paid is subject to all taxes related to that sum, including employer FICA;

(8) PEHP to charge state employees on the STAR HSA Plan a premium of 2% of the health plan costs on an ongoing basis and to increase the state's HSA contribution by the same amount as the 2% employee premium share for Fiscal Year 2021 only;

(9) PEHP to offer a new BASIC HSA Dental Plan with coverage for basic dental, no premium, and a state HSA contribution, paid at the same time as the medical HSA, of:

(a) \$255 for family coverage;

(b) \$140 for double coverage; and

(c) \$75 for single coverage;

(10) PEHP to offer a new DISCOUNT HSA Dental Plan with no premium and access to PEHP's dental network for discounted rates and a state HSA contribution, paid at the same time as the medical HSA, of:

(a) \$785 for family coverage;

(b) \$430 for double coverage; and

(c) \$235 for single coverage;

(11) PEHP to develop rules of eligibility for the options above to minimize adverse selection and address other insurance-related issues; and

(12) PEHP to refund \$25,460,000 from the state health insurance pool to the state and its employees before May 1, 2020, with \$23,300,000, or 92%, of the refund going to the state and the remaining \$2,160,000, or 8%, going to state employees.

**S.C.R. 11**

Passed March 12, 2020

Approved March 30, 2020

Effective March 30, 2020

**CONCURRENT RESOLUTION URGING THE ISSUANCE OF FEDERAL GUIDELINES TO PROTECT CONSUMERS OF CANNABIDIOL PRODUCTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Brad M. Daw

**LONG TITLE**

**General Description:**

This concurrent resolution urges the issuance of product quality and safe consumption guidelines for cannabidiol products.

**Highlighted Provisions:**

This resolution:

- ▶ highlights the absence of federal guidelines addressing product quality and safe consumption for cannabidiol products; and



- ▶ urges Congress and the President of the United States to require the United States Food and Drug Administration to issue product quality and safe consumption guidelines for cannabidiol products.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, cannabidiol (CBD) is a chemical prevalent in marijuana and hemp;

WHEREAS, the federal Agriculture Improvement Act of 2018 removed hemp meaning cannabis, or derivatives of cannabis, with a very low tetrahydrocannabinol (THC) content (not more than 0.3% by dry weight) from the federal Controlled Substances Act definition of marijuana;

WHEREAS, cannabidiol does not induce euphoria or reinforcing pleasure effects of tetrahydrocannabinol found in marijuana;

WHEREAS, a 2018 World Health Organization report on cannabidiol concluded that “there are no case reports of abuse or dependence relating to the use of pure CBD” and “there is no evidence of recreational use of CBD or any public health-related problems associated with the use of pure CBD”;

WHEREAS, the 2018 World Health Organization report also cited a human study (Martin-Santos, R., et al., Current Pharmaceutical Design, Volume 18, 2012) that “administered 600 mg of CBD to healthy participants and detected no THC and trace concentrations of THC metabolites”;

WHEREAS, a substantial market for cannabidiol-formulated drinks, cosmetics, foods, and other products has evolved, even in states that have not legalized medical or recreational cannabis;

WHEREAS, cannabidiol-formulated products are sold in major retail chains in the United States;

WHEREAS, within the past three years, more than 1,500 cannabidiol products have come to market while the United States Food and Drug Administration has had no clear approach to regulation, including balancing product access and consumer safety;

WHEREAS, the United States Food and Drug Administration states that food additives, dietary supplements, and other products containing cannabidiol are illegal under federal law and refuses to issue regulations or guidance to promote product quality and identify safe consumption levels;

WHEREAS, the conflict between the United States Food and Drug Administration’s policy and the Agriculture Improvement Act of 2018 has led to a patchwork of cannabidiol regulations by states that has failed to adequately protect consumers’ health and increased the complexity of the legal environment the cannabidiol product industry is required to navigate;

WHEREAS, the cannabidiol product industry is also hampered by the reticence of banks, insurance companies, and merchant service companies to put their reputations at risk by offering services to an industry threatened with regulatory action by the United States Food and Drug Administration; and

WHEREAS, enactment of federal legislation requiring the United States Food and Drug Administration to establish product quality and safe consumption guidelines for cannabidiol would do much to promote the availability and safety of cannabidiol products and generate significant interstate economic activity;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the United States Congress and the President of the United States to act quickly to protect American consumers by requiring the United States Food and Drug Administration to issue product quality and safe consumption guidelines for cannabidiol products.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President and Vice President of the United States, the Majority Leader and Minority Leader of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and each member of Utah’s congressional delegation.

**S.C R. 13**

Passed March 12, 2020

Approved April 1, 2020

Effective April 1, 2020

**CONCURRENT RESOLUTION  
ENCOURAGING MORE STUDY INTO  
EMOTIONAL SUPPORT ANIMALS**

Chief Sponsor: Daniel Hemmert  
House Sponsor: Brady Brammer

**LONG TITLE**

**General Description:**

This concurrent resolution urges the U.S. Department of Transportation and the U.S. Department of Housing and Urban Development to amend federal regulations related to emotional support animals.

**Highlighted Provisions:**

This resolution:

- ▶ defines “service animal” and “emotional support animal”;
- ▶ highlights the detrimental impact that abuse of emotional support animal and service animal laws have on individuals with a disability;
- ▶ supports the change to federal regulations recently proposed by the U.S. Department of Transportation regarding emotional support animals;
- ▶ supports guidelines recently developed by the U.S. Department of Housing and Urban Development that clarify federal regulations related to emotional support animals; and
- ▶ urges the President of the United States, Congress, and Utah’s congressional delegation

to work with the U.S. Department of Transportation and the U.S. Department of Housing and Urban Development to further amend federal regulations relating to emotional support animals.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, “service animal” means an animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or mental disability;

WHEREAS, “emotional support animal” means an animal that provides emotional support that alleviates one or more identified symptoms or effects of an individual’s disability;

WHEREAS, a service animal is a medical tool and not a pet;

WHEREAS, federal law requires an individual to obtain authorization from a licensed medical professional to have an emotional support animal, which, under federal regulation, may be obtained on the Internet;

WHEREAS, the misuse of current emotional support animal and service animal laws has increased over time and has detrimentally impacted the quality of life of individuals with a disability that depend on service animals;

WHEREAS, individuals with a disability are an important and contributing part of the population and deserve dignity, respect, and support;

WHEREAS, the U.S. Department of Transportation recently proposed changes to the federal regulations for the Air Carrier Access Act, 49 U.S.C. Sec. 41705, under 14 C.F.R. Part 382, that clarify the distinction between a service animal and an emotional support animal and provide that aircraft carriers are not required to recognize an emotional support animal as a service animal; and

WHEREAS, the U.S. Department of Housing and Urban Development recently provided guidance on federal regulations related to service animals and emotional support animals in the Fair Housing Act, 42 U.S.C. Sec. 3601 et seq., including best practices for housing providers to follow when determining an accommodation request for a service animal:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, support the change proposed by the U.S. Department of Transportation to the federal regulations for the Air Carrier Access Act, 49 U.S.C. Sec. 41705, under 14 C.F.R. Part 382, regarding emotional support animals.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, support the guidelines developed by the U.S. Department of Housing and Urban Development that clarify the federal

regulations related to emotional support animals in the Fair Housing Act, 42 U.S.C. Sec. 3601 et seq.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urge the President of the United States, Congress, and Utah’s congressional delegation to work with the U.S. Department of Transportation and the U.S. Department of Housing and Urban Development to further amend federal regulations relating to emotional support animals to require that authorization for an emotional support animal may only be obtained through an in-person visit or phone call with a licensed medical professional.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the members of Utah’s federal delegation, the Secretary of the U.S. Department of Housing and Urban Development, and the U.S. Secretary of Transportation.

**S.J.R. 1**

Passed February 26, 2020

Effective February 26, 2020

**JOINT RESOLUTION SUPPORTING COORDINATION OF CARE FOR OLDER ADULTS RECEIVING HOME HEALTH CARE SERVICES**

Chief Sponsor: Jani Iwamoto

House Sponsor: Stewart E. Barlow

**LONG TITLE**

**General Description:**

This joint resolution expresses support for programs that seek to coordinate transition of care for older adults and other patient populations receiving home health care services.

**Highlighted Provisions:**

This joint resolution:

- ▶ includes statistics about the number of older adult fall-related injuries in Utah;
- ▶ describes the actions taken by the Utah Falls Prevention Alliance to reduce the number of older adult falls in Utah and improve the coordination of care for older adults;
- ▶ acknowledges the benefit of efforts to develop and implement technology to assist with coordination of care for older adults and other patient populations receiving home health care services; and
- ▶ expresses support for the submission of a grant to the Centers for Medicare and Medicaid Services to develop and implement technology that will improve the coordination of care for older adults and potentially other patient populations receiving home health care services.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, falls are the leading cause of injury-related death and hospitalization for Utahns 65 years of age and older;

WHEREAS, every week an estimated 200 older adults in Utah seek treatment in an emergency department after a fall-related injury;

WHEREAS, older adult falls are preventable with appropriate evaluation, intervention, and coordination of care;

WHEREAS, the Utah Falls Prevention Alliance, a group of diverse stakeholders dedicated to reducing falls and fall-related injuries in Utah's older adult population, including the American Association of Retired Persons (AARP), the Utah Commission on Aging, the Utah Medical Association, the Utah Hospital Association, the Utah Association for Home Care, and the Division of Aging and Adult Services, first convened in 2017 after the passage of S.J.R. 8, Joint Resolution Encouraging Study to Reduce Fall-Related Injuries;

WHEREAS, the Utah Falls Prevention Alliance works to increase public awareness of older adult fall prevention and to improve coordination of care for older adults by building connections between health care providers, emergency medical services, aging agencies, and health insurers;

WHEREAS, the Utah Falls Prevention Alliance is the recipient of certain grants that support efforts to reduce the number of older adult falls in Utah;

WHEREAS, the Utah Falls Prevention Alliance developed and implemented a falls prevention program at an apartment complex that houses older adults that decreased 911 calls for falls;

WHEREAS, the Utah Falls Prevention Alliance identified that timeliness in initiating home health care services greatly reduces rehospitalization risk and downstream medical costs;

WHEREAS, the Utah Falls Prevention Alliance identified that the start of home health care services after an older adult's fall is often delayed due to challenges in contacting an older adult's primary care provider to gain approval to begin treatment;

WHEREAS, the Utah Falls Prevention Alliance identified that streamlining communication between a primary care provider and a home health care provider would reduce the wait time before treatment begins and improve coordination of care for older adults;

WHEREAS, the Utah Falls Prevention Alliance identified that streamlining communication between a primary care provider and other care providers may also be beneficial to patient populations other than older adults; and

WHEREAS, the Utah Falls Prevention Alliance identified that communication can be streamlined by creating a central electronic location where a primary care provider and a home health care provider can communicate, monitor patient status, and quickly adjust treatment as needed;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah supports programs

that improve the coordination of care for older adults receiving home health care services.

**S.J.R. 2**

Passed February 27, 2020

Effective February 27, 2020

**JOINT RESOLUTION ENCOURAGING ACTION TO REDUCE THE NUMBER OF UTAH CHILDREN WITH ELEVATED BLOOD LEAD LEVELS**

Chief Sponsor: Jani Iwamoto

House Sponsor: Stephen G. Handy

**LONG TITLE**

**General Description:**

This joint resolution of the Legislature highlights the pediatric health risks resulting from exposure to lead, the potential for early screening and testing to result in successful avoidance and interventions, and encourages screening and testing of Utah children.

**Highlighted Provisions:**

This resolution:

- ▶ describes the known adverse health effects and concerns of childhood lead exposure;
- ▶ describes the known benefits of avoidance and interventions resulting from early detection of childhood lead exposure;
- ▶ encourages Utah health care providers for children, pregnant women, and women of childbearing age to be knowledgeable about the risks of environmental lead exposure and the recommended federal and state guidelines for screening and testing children for lead exposure; and
- ▶ encourages the Utah Department of Health to provide primary prevention education and to promote awareness through the dissemination of information about the health risks of childhood lead exposure, lead exposure risk factors, recommendations for screening and testing children, and policies and practices to mitigate childhood lead exposure and health risks.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, naturally occurring lead is concentrated in properties formerly used for mining purposes;

WHEREAS, lead was historically used in gasoline, plumbing, paints, and other products used by people;

WHEREAS, lead is still used in many household products, hobbies, and occupations;

WHEREAS, residential areas located on sites of former mining operations or built before 1978 are shown to be population areas of higher exposure risk for children to lead;

WHEREAS, about 50,000 children are born in Utah each year;

WHEREAS, 132 pre-school age children that were tested in 2018 had elevated blood lead levels;

WHEREAS, only 3.6% of children ages 0 to 5 years were tested in 2018;

WHEREAS, there is no known safe blood lead level;

WHEREAS, lead absorbed into the blood is known to adversely affect every organ system in the body;

WHEREAS, the adverse health effects of lead on the nervous system are particularly harmful;

WHEREAS, prevention through lead awareness education is an important approach to reducing harm to children resulting from lead exposure;

WHEREAS, for those children who are exposed and have elevated blood lead levels, mitigating further exposure is critical to preventing further harm;

WHEREAS, national public health and pediatric health care professional associations recommend that a questionnaire be administered for children from 6 months to 6 years of age for possible lead exposure;

WHEREAS, testing is the only definitive way to know if a child has been exposed to lead and that testing is recommended at ages 1 and 2 years and under the age of 6 years if never tested;

WHEREAS, Utah Medicaid is a willing payer for the screening of Medicaid-enrolled Utah children;

WHEREAS, it is a federal mandate that all children on Medicaid are tested at 1 and 2 years of age; and

WHEREAS, the cost of testing children is modest:

NOW, THEREFORE, BE IT RESOLVED that the Legislature encourages pediatric health care providers and providers for pregnant women and women of child-bearing age to be knowledgeable about:

1. the risks of lead exposure among their served populations;
2. the recommended federal and state guidelines, including Medicaid lead screening and testing requirements;
3. the reporting requirements of blood lead test results to the state of Utah; and
4. the methods and advantages of exposure prevention, risk awareness education for parents, guardians, or caretakers, and early interventions for children with elevated blood lead levels.

BE IT FURTHER RESOLVED that the Legislature encourages the Environmental Epidemiology Program of the Utah Department of Health to collaborate with child health clinical professionals to develop screening plans responsive to local conditions using local data.

BE IT FURTHER RESOLVED that the Legislature encourages the Environmental

Epidemiology Program to provide and promote awareness through the dissemination of primary prevention education and information about the health risks of childhood lead exposure, lead exposure risk factors, recommendations for screening and testing children, and policies and practices to mitigate childhood lead exposure and health risks.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Health, the Utah Medical Association, the Utah Academy of Family Physicians, the Utah Chapter of the American Academy of Pediatrics, the Utah Academy of Physician Assistants, and Utah Nurse Practitioners.

**S.J.R. 3**

Passed March 11, 2020

Effective date (if approved by voters)

January 1, 2021

**PROPOSAL TO AMEND UTAH CONSTITUTION -- ANNUAL GENERAL SESSIONS OF THE LEGISLATURE**

Chief Sponsor: Ann Millner

House Sponsor: Michael K. McKell

**LONG TITLE**

**General Description:**

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify provisions relating to annual general sessions of the Legislature.

**Highlighted Provisions:**

This resolution proposes to amend the Utah Constitution to:

- ▶ move the beginning date of annual general sessions of the Legislature from the fourth Monday in January to a day in January designated by statute; and
- ▶ provide that state holidays, in addition to federal holidays, are excluded from the limit on the number of days of annual general sessions of the Legislature.

**Special Clauses:**

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2021 for this proposal.

**Utah Constitution Sections Affected:**

**AMENDS:**

ARTICLE VI, SECTION 2

ARTICLE VI, SECTION 16

*Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:*

**Section 1. It is proposed to amend Utah Constitution Article VI, Section 2, to read:**

**Article VI, Section 2. [Time and location of annual general sessions -- Location of sessions convened by the Governor or**

**Legislature -- Sessions convened by the Legislature.]**

(1) Annual general sessions of the Legislature shall be held at the seat of government and shall begin on ~~[the fourth Monday]~~ the day in January designated by statute.

(2) A session convened by the Governor under Article VII, Section 6 and a session convened by the Legislature under Subsection (3) shall be held at the seat of government, unless convening at the seat of government is not feasible due to epidemic, natural or human-caused disaster, enemy attack, or other public catastrophe.

(3) (a) The President of the Senate and Speaker of the House of Representatives shall by joint proclamation convene the Legislature into session if a poll conducted by the President and Speaker of their respective houses indicates that two-thirds of all members elected to each house are in favor of convening the Legislature into session because in their opinion a persistent fiscal crisis, war, natural disaster, or emergency in the affairs of the State necessitates convening the Legislature into session.

(b) The joint proclamation issued by the President and Speaker shall specify the business for which the Legislature is to be convened, and the Legislature may not transact any business other than that specified in the joint proclamation, except that the Legislature may provide for the expenses of the session and other matters incidental to the session.

(c) The Legislature may not be convened into session under this Subsection (3) during the 30 calendar days immediately following the adjournment sine die of an annual general session of the Legislature.

(d) In a session convened under this Subsection (3), the cumulative amount of appropriations that the Legislature makes may not exceed an amount equal to 1% of the total amount appropriated by the Legislature for the immediately preceding completed fiscal year.

(e) Nothing in this Subsection (3) affects the Governor's authority to convene the Legislature under Article VII, Section 6.

**Section 2. It is proposed to amend Utah Constitution Article VI, Section 16, to read:**

**Article VI, Section 16. [Duration of sessions.]**

Except in cases of impeachment:

(1) no annual general session of the Legislature may exceed 45 calendar days, excluding state holidays and federal holidays;

(2) no session of the Legislature convened by the Governor under Article VII, Section 6 may exceed 30 calendar days; and

(3) no session of the Legislature convened by the Legislature under Article VI, Section 2, Subsection (3) may exceed 10 calendar days.

**Section 3. Submittal to voters.**

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

**Section 4. Effective date.**

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2021.

**S.J.R. 6**

Passed February 27, 2020

Effective February 27, 2020

**JOINT RULES RESOLUTION - CONFLICT OF INTEREST DISCLOSURE**

Chief Sponsor: Jani Iwamoto

House Sponsor: Brad M. Daw

**LONG TITLE**

**General Description:**

This joint rules resolution modifies legislative rules governing disclosure of a conflict of interest.

**Highlighted Provisions:**

This resolution:

- ▶ modifies legislative rules governing conflict of interest disclosure to reflect statutory changes to the disclosure process; and
- ▶ makes technical changes.

**Special Clauses:**

None

**Legislative Rules Affected:**

AMENDS:  
JR6-1-201

*Be it resolved by the Legislature of the state of Utah:*

**Section 1. JR6-1-201 is amended to read:**

**JR6-1-201. Declaring and recording conflicts of interest.**

(1) As used in this section[, "~~conflict~~]:

(a) "Conflict of interest" means the same as that term is defined in Utah Code Section 20A-11-1602.

(b) "Conflict of interest disclosure" means the same as that term is defined in Utah Code Section 20A-11-1602.

~~[(2) A legislator shall file a financial disclosure form in compliance with Utah Code Section 20A-11-1603 and according to the requirements of this section:]~~

~~[(a) on the first day of each general session of the Legislature; and]~~

~~[(b) each time the legislator changes employment.]~~

~~[(3) The financial disclosure form shall include the disclosures required by]~~

(2) A legislator shall file a conflict of interest disclosure by complying with the requirements of

Utah Code Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures.

~~[(4) (a) The financial disclosure form shall be filed with:]~~

~~[(i) the secretary of the Senate, for a legislator that is a senator; or]~~

~~[(ii) the chief clerk of the House of Representatives, for a legislator that is a representative.]~~

~~[(b) The secretary of the Senate and the chief clerk of the House of Representatives shall ensure that: (i) blank financial disclosure forms are made available on the Internet and at the offices of the Senate and the House of Representatives; and (ii) financial disclosure forms filed under this rule are made available to the public on the Internet and at the offices of the Senate or the House of Representatives.]~~

~~[(5) (a) Before or during any vote on legislation or any legislative matter in which]~~

~~(3) (a) For a legislator who is a senator, the secretary of the Senate shall ensure that a link to the legislator's conflict of interest disclosure is available to the public on the Senate's website.~~

~~(b) For a legislator who is a representative, the chief clerk of the House of Representatives shall ensure that a link to the legislator's conflict of interest disclosure is available to the public on the House of Representative's website.~~

~~(4) If a legislator has actual knowledge that the legislator has a conflict of interest [which] that is not stated on the legislator's financial disclosure form filed under Subsection (2), that legislator shall, before or during a vote on legislation or any legislative matter, orally declare to the committee or [body before which the matter is pending] legislative body:~~

~~[(i) (a) that the legislator may have a conflict of interest; and~~

~~[(ii) (b) what that conflict is.~~

~~[(b) The] (5) A verbal declaration of a conflict of interest under Subsection (4) shall be recorded:~~

~~(a) for a declaration made on the floor, in the Senate or House Journal by the secretary of the Senate or the chief clerk of the House of Representatives [shall]; or~~

~~(b) for a declaration made in a committee or other meeting, in the minutes of the meeting.~~

~~[(i) direct committee secretaries to note the declaration of conflict of interest in the minutes of any committee meeting; and]~~

~~[(ii) ensure that each declaration of conflict declared on the floor is noted in the Senate Journal or House Journal.]~~

~~[(6) This requirement of disclosure of any conflict of interest does]~~

(6) The requirements of this rule do not prohibit a legislator from voting on any legislation or legislative matter.

**S.J.R. 7**

Passed February 24, 2020

Effective February 24, 2020

(Retrospective operation to January 1, 2020)

**JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES**

Chief Sponsor: Evan J. Vickers

House Sponsor: Francis D. Gibson

**LONG TITLE**

**General Description:**

This joint resolution of the Legislature sets the compensation for legislative in-session employees for 2020.

**Highlighted Provisions:**

This resolution:

- ▶ sets the compensation for legislative in-session employees for the 2020 Legislative Session.

**Special Clauses:**

This resolution provides retrospective operation to January 1, 2020.

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, the Legislature, acting under authority of Section 36-2-2, Utah Code Annotated 1953, is required to set the compensation of its in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of the legislative in-session employees for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

Senate employees are designated with an "S." House of Representatives employees are designated with an "H."

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**General Session - 2020**

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Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	\$13.90	\$14.25	\$14.59	\$14.87	\$14.97	\$15.75	\$16.13	\$16.54
Amending Clerk (H-S)	\$15.66	\$16.11	\$16.45	\$16.82	\$17.22	\$17.59	\$17.99	\$18.44
Assistant Page Supervisor (H-S)	\$13.56	\$13.90	\$14.25	\$14.62	\$14.97	\$15.34	\$15.75	\$16.13
Asst. Sergeant-at-Arms (H-S)	\$13.56	\$13.90	\$14.25	\$14.62	\$14.97	\$15.34	\$15.75	\$16.13
Calendar/Voting System Specialist (H)	\$13.86	\$14.25	\$14.62	\$14.97	\$15.34	\$15.36	\$16.13	\$16.54
Committee Secretary (H-S)	\$15.13	\$15.48	\$15.85	\$16.18	\$16.57	\$16.97	\$17.59	\$17.77
Docket Clerk/Legislative Aide (H-S)	\$17.03	\$17.47	\$17.93	\$18.39	\$18.87	\$19.38	\$19.89	\$20.40
Reading Clerk (S)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97
Kitchen Hostess (H-S)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97
IT Technician (S)	\$15.36	\$16.13	\$16.54	\$16.97	\$17.39	\$17.84	\$18.32	\$18.76
Page (H-S)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97
Page Supervisor (H-S)	\$15.36	\$16.13	\$16.54	\$16.97	\$17.39	\$17.84	\$18.32	\$18.76
Public Information Specialist (H-S)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97
Receptionist (H-S)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97
Receptionist and Legislative Aide (H-S)	\$13.90	\$14.25	\$14.59	\$14.87	\$14.97	\$15.75	\$16.13	\$16.54
Audio Specialist (H-S)	\$13.21	\$13.56	\$13.90	\$14.25	\$14.62	\$14.97	\$15.34	\$15.75
Rules Committee Secretary (H-S)	\$15.80	\$16.18	\$16.58	\$17.02	\$17.44	\$17.88	\$18.36	\$18.81
Security (H-S)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97
Sergeant-at-Arms (H-S)	\$15.36	\$16.13	\$16.54	\$16.97	\$17.39	\$17.84	\$18.32	\$18.76
Supply/Copy Room Specialist(H)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97
Tour Liaison (H-S)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97
Video Specialist (H-S)	\$12.60	\$12.90	\$13.24	\$13.55	\$13.90	\$14.25	\$14.62	\$14.97

The compensation schedule established by this resolution has retrospective operation to January 1, 2020.



**S.J.R. 9**

Passed March 11, 2020  
 Effective date (if approved by voters)  
 January 1, 2021

**PROPOSAL TO AMEND UTAH  
 CONSTITUTION - USE OF TAX REVENUE**

Chief Sponsor: Daniel McCay  
 House Sponsor: Mike Schultz

**LONG TITLE**

**General Description:**

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to the use of revenue from taxes on intangible property or from a tax on income.

**Highlighted Provisions:**

This resolution proposes to amend the Utah Constitution to:

- ▶ expand the uses for revenue from taxes on intangible property or from a tax on income to include supporting children and individuals with a disability.

**Special Clauses:**

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2021 for this proposal.

**Utah Constitution Sections Affected:**

**AMENDS:**

ARTICLE XIII, SECTION 5

*Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:*

**Section 1. It is proposed to amend Utah Constitution Article XIII, Section 5, to read:**

**Article XIII, Section 5. [Use and amount of taxes and expenditures.]**

(1) (a) The Legislature shall provide by statute for an annual tax sufficient, with other revenues, to defray the estimated ordinary expenses of the State for each fiscal year.

(b) If the ordinary expenses of the State will exceed revenues for a fiscal year, the Governor shall:

- (i) reduce all State expenditures on a pro rata basis, except for expenditures for debt of the State; or
- (ii) convene the Legislature into session under Article VII, Section 6 to address the deficiency.

(2) (a) For any fiscal year, the Legislature may not make an appropriation or authorize an expenditure if the State's expenditure exceeds the total tax provided for by statute and applicable to the particular appropriation or expenditure.

(b) Subsection (2)(a) does not apply to an appropriation or expenditure to suppress

insurrection, defend the State, or assist in defending the United States in time of war.

(3) For any debt of the State, the Legislature shall provide by statute for an annual tax sufficient to pay:

- (a) the annual interest; and
- (b) the principal within 20 years after the final passage of the statute creating the debt.

(4) Except as provided in Article X, Section 5, Subsection (5)(a), the Legislature may not impose a tax for the purpose of a political subdivision of the State, but may by statute authorize political subdivisions of the State to assess and collect taxes for their own purposes.

(5) All revenue from taxes on intangible property or from a tax on income shall be used:

(a) to support the systems of public education and higher education as defined in Article X, Section 2[.]; and

(b) to support children and to support individuals with a disability.

(6) Proceeds from fees, taxes, and other charges related to the operation of motor vehicles on public highways and proceeds from an excise tax on liquid motor fuel used to propel those motor vehicles shall be used for:

- (a) statutory refunds and adjustments and costs of collection and administration;
- (b) the construction, maintenance, and repair of State and local roads, including payment for property taken for or damaged by rights-of-way and for associated administrative costs;
- (c) driver education;
- (d) enforcement of state motor vehicle and traffic laws; and

(e) the payment of the principal of and interest on any obligation of the State or a city or county, issued for any of the purposes set forth in Subsection (6)(b) and to which any of the fees, taxes, or other charges described in this Subsection (6) have been pledged, including any paid to the State or a city or county, as provided by statute.

(7) Fees and taxes on tangible personal property imposed under Section 2, Subsection (6) of this article are not subject to Subsection (6) of this Section 5 and shall be distributed to the taxing districts in which the property is located in the same proportion as that in which the revenue collected from real property tax is distributed.

(8) A political subdivision of the State may share its tax and other revenues with another political subdivision of the State as provided by statute.

(9) Beginning July 1, 2016, the aggregate annual revenue from all severance taxes, as those taxes are defined by statute, except revenue that by statute is used for purposes related to any federally recognized Indian tribe, shall be deposited annually into the permanent State trust fund under Article XXII, Section 4, as follows:

- (a) 25% of the first \$50,000,000 of aggregate annual revenue;
- (b) 50% of the next \$50,000,000 of aggregate annual revenue; and
- (c) 75% of the aggregate annual revenue that exceeds \$100,000,000.

**Section 2. Submittal to voters.**

The lieutenant governor is directed to submit this proposed amendment to the voters of the state of Utah at the next regular general election in the manner provided by law.

**Section 3. Effective date.**

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2021.

**S.J.R. 11**

Passed February 26, 2020  
Effective February 26, 2020

**JOINT RULES RESOLUTION --  
WORKLOAD REPORTING**

Chief Sponsor: Ann Millner  
House Sponsor: Val L. Peterson

**LONG TITLE**

**General Description:**

This resolution amends the Legislature’s Joint Rules governing legislation that increases legislative workload.

**Highlighted Provisions:**

This resolution:

- ▶ modifies existing provisions governing reporting of legislation affecting legislative workload; and
- ▶ requires the Office of Legislative Research and General Counsel to report legislation that increases legislative workload to the president of the Senate, speaker of the House of Representatives, minority leaders, and Senate and House Rules Committee chairs.

**Special Clauses:**

None

**Legislative Rules Affected:**

**AMENDS:**

JR4-3-110

*Be it resolved by the Legislature of the state of Utah:*

**Section 1. JR4-3-110 is amended to read:**

**JR4-3-110. Legislation increasing legislative workload.**

(1) (a) As used in this section, “increases legislative workload” means to propose a statute, resolution, or rule that:

- (i) [place] places a member of the Legislature on a board, commission, task force, or other public body; [or]

(ii) [give] gives authority to a member of the Legislative Management Committee to appoint a member of a board, commission, task force, or other public body; or

(iii) requires a legislative staff office to staff a board, commission, task force, or other public body.

(b) “Increases legislative workload” includes reauthorizing an existing provision described in Subsection (1)(a).

(2) (a) The [Legislative Management Committee shall review] Office of Legislative Research and General Counsel shall:

(i) identify legislation that increases legislative workload[: (i) in accordance with Subsection (2)(b); and (ii) if practicable,] before the legislation passes both houses of the Legislature; and

(ii) report legislation that increases legislative workload to the president of the Senate, speaker of the House of Representatives, minority leaders, and the chairs of the Senate and House Rules Committees.

(b) [When reviewing legislation that increases legislative workload, the Legislative Management Committee shall consider] In making the report required by Subsection (2)(a)(ii), the Office of Legislative Research and General Counsel may provide information and make recommendations about:

(i) the funding required by the legislation;

(ii) the staffing resources required to implement the legislation;

(iii) the time legislators and legislative staff will be required to commit as a result of the legislation;

(iv) if the legislation creates or reauthorizes a board, commission, task force, or other public body, whether the responsibilities of that board, commission, task force, or other public body could reasonably be accomplished through an existing entity or without legislation; and

(v) whether the legislation [complies with Subsection (3)] sunsets or repeals the board, commission, task force, or other public body created by the legislation.

[The Office of Legislative Research and General Counsel shall assist the Legislative Management Committee in identifying:]

[i] legislation that increases legislative workload; and]

[ii] information described in Subsection (2)(b) related to legislation that increases legislative workload.]

[3] Legislation that increases legislative workload shall include a sunset or repeal date on the provision that creates the board, commission, task force, or other body that is related to the increase.]

**S.J.R. 12**

Passed March 12, 2020  
Effective March 12, 2020

**JOINT RESOLUTION  
REGARDING CONSTRUCTION  
OR DEMOLITION MATERIAL**

Chief Sponsor: Luz Escamilla  
House Sponsor: Stephen G. Handy

**LONG TITLE**

**General Description:**

This joint resolution requests the development of recommendations for ordinances related to construction or demolition material.

**Highlighted Provisions:**

This resolution:

- ▶ acknowledges the disposal of construction or demolition material;
- ▶ acknowledges that local ordinances could increase diversion rates; and
- ▶ requests the Utah League of Cities and Towns and the Utah Association of Counties to:
  - make recommendations as to local ordinances addressing diversion rates and reuse of construction or demolition materials available to their members;
  - make recommendations as to local ordinances that are reasonable; and
  - make available to their members a repository of existing local ordinances addressing diversion rates and reuse of construction or demolition materials.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, “construction or demolition material” includes building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing that may be recycled or converted to scrap that is processed material for use in new products;

WHEREAS, “diversion rate” means the percentage of construction or demolition material diverted from disposal through methods including waste prevention, recycling, or reuse;

WHEREAS, construction activities in the state generate construction or demolition material that is currently being disposed;

WHEREAS, counties or municipalities can by ordinance increase the diversion rate for construction or demolition material; and

WHEREAS, counties or municipalities are more likely to adopt ordinances to increase the diversion rate for construction or demolition material if there are recommendations for how these ordinances would work:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah requests that the

Utah League of Cities and Towns and the Utah Association of Counties make recommendations to their members by December 31, 2020, regarding ordinances that a county or municipality may adopt or modify to require:

(1) a range of diversion rates of construction or demolition materials from 50% to 75% as determined by the Utah League of Cities and Towns and the Utah Association of Counties; and

(2) a percentage of reuse of construction or demolition materials of 10%.

BE IT FURTHER RESOLVED that the Legislature requests that the recommendations for ordinances under this resolution be reasonable and take into account issues such as the availability in a geographic area of services for recycling.

BE IT FURTHER RESOLVED that the Legislature requests that the Utah League of Cities and Towns and the Utah Association of Counties make available to their members by December 31, 2020, a repository of existing local ordinances addressing diversion rates and reuse of construction or demolition materials.

BE IT FURTHER RESOLVED that a copy of the resolution be provided to the Utah League of Cities and Towns and the Utah Association of Counties.

**S.J.R. 16**

Passed March 12, 2020  
Effective March 12, 2020

**JOINT RULES RESOLUTION  
REGARDING ELECTRONIC MEETINGS**

Chief Sponsor: Daniel Hemmert  
House Sponsor: Mike Schultz

**LONG TITLE**

**General Description:**

This joint rules resolution modifies legislative rules relating to electronic meetings.

**Highlighted Provisions:**

This resolution:

- ▶ permits the Legislature to conduct electronic legislative sessions and legislative meetings under limited circumstances; and
- ▶ establishes procedures and requirements for electronic meetings pursuant to the requirements of the Open and Public Meetings Act.

**Special Clauses:**

None

**Legislative Rules Affected:**

**AMENDS:**

JR7-1-407

**ENACTS:**

JR1-4-401

JR1-4-402

JR1-4-403

*Be it resolved by the Legislature of the state of Utah:*

**Section 1. JR1-4-401 is enacted to read:**

**Part 4. Emergency Electronic Meetings**

**JR1-4-401. Definitions.**

**As used in this part:**

(1) "Anchor location" means the same as that term is defined in Utah Code Section 52-4-103.

(2) "Electronic meeting" means the same as that term is defined in Utah Code Section 52-4-103.

(3) "Public health emergency" means the same as that term is defined in Utah Code Section 26-23b-102.

**Section 2. JR1-4-402 is enacted to read:**

**JR1-4-402. Electronic meetings for session or committees during emergencies -- When authorized.**

(1) As authorized by Utah Code, Title 52, Chapter 4, Open and Public Meetings Act, the Legislature may convene and conduct an electronic meeting, where some or all of the members participate via electronic means, as provided in this part.

(2) The president of the Senate and the speaker of the House may jointly convene and conduct an annual general session, a special session called by the governor or the Legislature, or a veto override session, or may authorize a standing committee meeting, an interim committee meeting, a meeting of a special committee, or any other meeting of a committee of the Legislature to be conducted, by electronic means if:

(a) the governor has declared a state of emergency or the chief executive of a local government within which the seat of government is located has declared a local emergency, and the president and speaker jointly determine that physically convening the members of the public body at the seat of government is dangerous, unwise, impractical, or not permitted under the requirements of the declaration;

(b) the president and the speaker jointly determine that physically convening the public body at the seat of government is dangerous, unwise, or impractical due to a public health emergency, natural or human-caused disaster, enemy attack, or other public catastrophe;

(c) a natural or human-caused disaster, enemy attack, or other public catastrophe prevents 25 percent or more of the members of the public body from traveling to the seat of government; or

(d) the president and the speaker jointly determine that a physical convening, at any location, of the public body's members or staff presents a danger to the health or safety of the participants, is unwise, or is impractical because of a public health emergency, natural or human-caused disaster, enemy attack, or other public catastrophe.

(3) If the president of the Senate and the speaker of the House jointly convene an electronic meeting based on the circumstances described in Subsection (2)(c), only those members who are unable to travel to the seat of government because of the existing emergency shall be permitted to participate by electronic means.

**Section 3. JR1-4-403 is enacted to read:**

**JR1-4-403. Requirements of emergency electronic meetings.**

(1) (a) An electronic meeting convened and conducted under this part shall comply with the applicable requirements of Utah Code, Title 52, Chapter 4, Open and Public Meetings Act.

(b) A presiding officer or chair convening or conducting an electronic meeting under this part shall ensure that:

(i) public notice of the meeting, as required by Utah Code Section 52-4-202, is given, including posting written notice at the anchor location; and

(ii) notice of the electronic meeting describing how the members will be connected to the electronic meeting is given to each member of the public body:

(A) at least 24 hours before the meeting; or

(B) as soon as is practicable in the case of an emergency meeting, consistent with the requirements of Utah Code Section 52-4-202.

(2) The anchor location for an electronic meeting shall be located at:

(a) the seat of government; or

(b) another location publicly and jointly designated by the president of the Senate and speaker of the House of Representatives if a public emergency, natural or human-caused disaster, enemy attack, or other public catastrophe has made it dangerous, unwise, or impractical to use the seat of government as the anchor location for the electronic meeting.

(3) (a) A presiding officer or chair who is convening or conducting an electronic meeting shall, if necessary, establish and communicate protocols and procedures governing the electronic meeting to ensure order and fair opportunities for all members of the public body to participate.

(b) The Legislature may restrict the number of separate connections that are available for communicating in an electronic meeting based on the circumstances under which the electronic meeting is held, provided that a sufficient number of connections is available to connect each member of the public body who is eligible to participate in the meeting and a sufficient number of staff members required to conduct the meeting.

(4) (a) To the greatest extent practicable, procedures and requirements for an electronic meeting convened and conducted under this part shall be governed by legislative rules.

(b) A member is included when calculating a quorum for each vote if that member is:

- (i) present in person at the anchor location; or
- (ii) participating and able to communicate electronically.

**Section 4. JR7-1-407 is amended to read:**

**JR7-1-407. Electronic meetings for remote participation by a member.**

(1) A chair may ~~[, by following the procedures and requirements of this rule,]~~ convene and conduct an electronic meeting of a legislative committee by following the procedures and requirements of this rule, or Joint Rule Title 1, Part 4, Chapter 4, Emergency Electronic Meetings.

(2) (a) A member of a legislative committee who will be more than 50 miles away from the anchor location on the day and at the time of a scheduled meeting of the legislative committee may request that the chair allow the member to participate from a remote location.

(b) If a member of a legislative committee wishes to participate in a meeting of the legislative committee from a remote location, the member shall, at least three days before the meeting, contact the chair and request that the chair convene and conduct an electronic meeting.

(c) After receiving the request, the chair shall:

(i) determine whether the member will be more than 50 miles away from the anchor location on the day and at the time of the scheduled meeting;

(ii) if the chair determines that the member will be more than 50 miles away from the anchor location on that day and time, consult with committee staff to determine whether there are sufficient equipment and connections to allow the member to participate from a remote location; and

(iii) obtain permission from the president of the Senate and the speaker of the House of Representatives to conduct an electronic meeting.

(d) If the requirements of Subsection (2)(c) are satisfied, the chair may grant the member's request to participate from a remote location.

(3) A chair convening or conducting an electronic meeting under this rule shall, if necessary, establish and communicate protocols and procedures governing the electronic meeting to ensure order and fair opportunities for all members of the legislative committee to participate.

(4) A chair convening or conducting an electronic meeting under this rule shall ensure that:

(a) public notice of the meeting, as required by Utah Code Section 52-4-202, is given including posting written notice at the anchor location; and

(b) notice of the electronic meeting describing how the members will be connected to the electronic meeting is given to each member of the legislative committee at least 24 hours before the meeting.

(5) A member of a legislative committee participating from a remote location is included in calculating a quorum and may vote.

**S.R. 1**

Passed March 5, 2020  
Effective March 5, 2020

**SENATE RULES RESOLUTION --  
AMENDMENTS TO SENATE RULES**

Chief Sponsor: Lyle W. Hillyard

**LONG TITLE**

**General Description:**

This rules resolution modifies Senate rules.

**Highlighted Provisions:**

This resolution:

- ▶ modifies the language of rules provisions for improved clarity;
- ▶ moves language placement for consistency of structure between similar House and Senate rules;
- ▶ provides clarifying cross references with related rules provisions;
- ▶ modifies provisions governing the adoption of rules at the beginning of a session;
- ▶ modifies provisions governing conflicts of interest;
- ▶ modifies requirements for the rules committee to place certain bills directly on the second reading or consent calendars;
- ▶ modifies language in the readings requirements made by the secretary of the Senate at the commencement of legislative sessions; and
- ▶ removes duplicative provisions.

**Special Clauses:**

None

**Legislative Rules Affected:**

**AMENDS:**  
SR1-1-101  
SR2-3-101  
SR3-1-102  
SR3-1-104

*Be it resolved by the Senate of the state of Utah:*

**Section 1. SR1-1-101 is amended to read:**

**SR1-1-101. Adoption, amendment, or suspension of Senate rules.**

(1) (a) The Senate shall adopt Senate ~~[Rules]~~ rules, by a constitutional two-thirds vote, at the beginning of each ~~[legislative session by a constitutional two-thirds vote]~~ new Legislature convening in an odd-numbered year.

(b) If a motion to adopt the rules under Subsection (1)(a) meets or exceeds a majority vote but fails to reach a constitutional two-thirds vote:

- (i) rules adopted by the Senate during the immediately preceding annual general session, as amended during that general session and any intervening session, apply to the conduct of the Senate; and

(ii) the secretary of the Senate shall announce to the Senate that the previously adopted rules apply to the newly convened Legislature.

(2) (a) Except as provided in this section:

(i) during an annual general session held in an even-numbered year, rules adopted by the Senate during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the Senate; and

(ii) during any special session, Senate rules apply as provided in JR2-1-101.

(b) For a session described in Subsection (2)(a), the secretary of the Senate shall announce to the Senate that the previously adopted rules apply to the newly convened session.

[~~(2)~~] (3) Except as provided in [~~this Subsection (2) and in Subsection (3), after the initial adoption of Senate Rules]~~ Subsection (4), additional rules may be adopted [~~or~~] and existing rules may be suspended, amended, or repealed by a majority vote, except for those rules that require a two-thirds vote to adopt, suspend, amend, or repeal, including:

(a) rules governing motions for lifting tabled legislation from committee[~~, which require a two-thirds vote to adopt, suspend, amend, or repeal.~~] under SR4-3-104; and

(b) rules governing consideration of legislation during the last three days of a session.

(4) (a) A rule that includes a voting requirement of more than a constitutional majority must be adopted and may only be amended, suspended, or repealed by a constitutional two-thirds vote.

[~~(3)~~] (b) If the suspension of any Senate Rule is governed by the Utah Constitution or Utah statutes, the Senate may suspend that rule only as provided by that constitutional or statutory provision.

**Section 2. SR2-3-101 is amended to read:**

**SR2-3-101. Conflicts of interest.**

(1) A Senator shall comply with the conflict of interest requirements provided in:

(a) Utah Code Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures; and

(b) JR6-1-201.

[Immediately preceding or during the roll call, a]

(2) When on the Senate floor, a senator may make a brief statement explaining any conflict of interest during debate on legislation or immediately preceding or during the roll call.

**Section 3. SR3-1-102 is amended to read:**

**SR3-1-102. Senate Rules Committee -- Assignment duties.**

(1) (a) Subject to Subsection (1)(b), the presiding officer shall submit all legislation introduced in the Senate to the Senate Rules Committee.

(b) The president may direct legislation to be sent directly to a standing committee or to one of the Senate floor calendars.

~~(2) [For all legislation not specified in SR3-1-103 that is referred to the] The Senate Rules Committee[, the committee] shall:~~

(a) examine the legislation referred to it for proper form, including fiscal note and committee note, if any; and

~~[(b) either:]~~

~~[(i) hold the legislation; or]~~

~~[(ii)] (b) (i) refer the legislation to the Senate with a recommendation that the legislation be:~~

~~(A) [the legislation be] referred to a standing committee for consideration;~~

~~(B) [the legislation be] subject to Subsection (3), placed directly onto the second reading calendar;~~

~~(C) [the legislation be] subject to Subsection (3), read the second time and placed onto the consent calendar; or~~

~~(D) if during the last week of the legislative session, [the legislation be] read the second time and placed on the third reading calendar[.]; or~~

~~(ii) hold the legislation.~~

(3) During an annual general session, the Senate Rules Committee may not refer legislation to the Senate with a recommendation under Subsection (2)(b)(i)(B) or (2)(b)(i)(C) unless:

(a) (i) a Senate standing committee has given the legislation a favorable recommendation; or

(ii) the legislation is described in SR3-2-401(2); and

(b) as applicable, the legislation satisfies the posting requirements of JR7-1-602.5.

~~[(3) In carrying out its functions and responsibilities under this rule, the Senate Rules Committee may not amend, substitute, or table legislation without the written consent of the sponsor.]~~

(4) If the chair of the Senate Rules Committee receives a summary report from the Occupational and Professional Licensure Review Committee related to newly regulating an occupation or profession within the two calendar years immediately preceding the session in which a piece of legislation is introduced related to the regulation by the Division of Occupational and Professional Licensing of that occupation or profession:

(a) the chair of the Senate Rules Committee shall ensure that the Senate Rules Committee is informed of the summary report before the Senate Rules Committee takes action on the legislation; and

(b) if the Senate Rules Committee refers the legislation to the Senate as provided in Subsection ~~[(2)(b)]~~ (2)(b)(i):

(i) the Office of Legislative Research and General Counsel shall make the summary report reasonably available to the public and to legislators; and

(ii) if the legislation is referred to a standing committee, the Senate Rules Committee shall forward the summary report to the standing committee.

(5) In carrying out its functions and responsibilities under this rule, the Senate Rules Committee may not amend, substitute, or table legislation without the written consent of the sponsor.

**Section 4. SR3-1-104 is amended to read:**

**SR3-1-104. Request to require committee review.**

~~[(1) The presiding officer shall have a piece of interim committee legislation that was approved by a majority vote of the interim committee members read for the first time and referred to the Senate Rules Committee for calendaring.]~~

~~[(2) (a) The Senate Rules Committee may refer the legislation to the calendar without standing committee review, or it may recommend that the legislation be referred to a standing committee.]~~

~~[(b)] (1) If the Senate Rules Committee recommends that [the] legislation be placed on the second or third reading calendar without standing committee review, any three senators may[, within three working days,] request that the legislation be reviewed by a standing committee before the legislation's consideration on the floor.~~

~~[(e)] (2) If a request by three senators is received, the presiding officer may assign the bill to a standing committee.~~





**LEGISLATION, LAW WITHOUT  
SIGNATURE, AND LINE ITEMS VETOED  
BY THE GOVERNOR**

*H.B. 59, H.B. 269, H.B. 278, H.B. 332, and H.B. 356 were all vetoed by the Governor. See the letter outlining the vetoes on page 3721.*

*The Governor vetoed many line items in H.B. 3. See page 3801 for the Governor's letter that outlines the vetoed lines.*

*See Chapter 440, page 3569, for complete text.*

*H.B. 243 became a law without the Governor's signature. See Chapter 442, page 3620, for complete text.*





## STATE OF UTAH

GARY R. HERBERT  
GOVERNOR

OFFICE OF THE GOVERNOR  
SALT LAKE CITY, UTAH  
84114-2220

SPENCER J. COX  
LIEUTENANT GOVERNOR

April 1, 2020

The Honorable Brad Wilson  
Speaker of the House

and

The Honorable Stuart Adams  
President of the Senate

Dear Speaker Wilson and President Adams,

I have vetoed the following four bills that amend tax policy in a time of economic uncertainty. Rather than address policies like these individually, the State should continue its work on broad tax reform.

- HB 59, Alternative Fuel Tax Credit
- HB 269, Tax Credit Amendments
- HB 332, Special Needs Scholarship Amendments
- HB 356, Railroad Amendments

I have also vetoed HB 278, Jordan River Amendments. HB 278 has modest fiscal impact and will not have significant impact on the FY21 budget. Even so, I have vetoed the bill. In the best of economic circumstances, I would question the appropriateness of this type of expenditure of state funds. The signs mandated by HB 278, while nice, are not necessary. In the current environment, this kind of expenditure is not appropriate.

HB 59, HB269, and HB 332 create or extend tax credits. While the policy of those individual bills may be appropriate under normal circumstances, these are not normal circumstances. With the FY20 and FY21 budgets facing unprecedented uncertainties, we need to reconsider our tax policy in general and discuss tax credits in light of that larger discussion.

HB 59 narrows the income tax through tax credit extensions. This will result in negative impacts to state income tax revenues at a time of significant economic uncertainty. Additionally, alternative fuel heavy duty vehicles should compete on a more level playing field, similar to other alternative fuel commercial and passenger vehicles.

HB269 likewise narrows the income tax by establishing and expanding tax credits. These tax credits will negatively impact the Education Fund. This is unwise during a time of significant reform to the way Utah funds education and during this time of revenue instability.

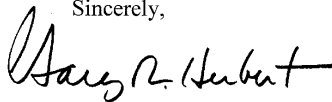
In addition to the tax revenue impacts associated with HB 332, I have additional concerns with the approach the bill takes to funding services for our students. Utah has a program in place that offers an option to address the needs of students with an Individualized Education Plan: the Carson Smith Scholarship Program. The Carson Smith Scholarship Program, which does not have a cap in admissions, nor a waiting list, is well-established and well-managed. It would be more appropriate to amend the existing Carson Smith Scholarship Program to meet any remaining needs of the state and Utah students, rather than create a new administrative burden and cost to taxpayers to duplicate an existing program.

I am concerned that the narrative surrounding this bill was about removing students with special needs out of the public education system, rather than supporting our students within their community schools. While it is helpful to provide options for students with special needs, special education federal law and best practice require that children with special needs be served whenever possible in an inclusive environment, alongside their typically developing peers. This is best not only for the students with special needs, but also for their peers.

I have vetoed HB 356, Railroad Amendments because it is contrary to principles of sound state tax policy. Sound sales tax policy does not tax business inputs when the output is taxed and that is precisely what HB 356 would do by removing the exemption from state sales tax for the sale of locomotive fuel. In doing so, HB 356 could create double taxation: both on the railroad and the ultimate consumer of the products transported by the railroad. At a time when leaders throughout the State recognize the need for tax reform, HB 356 complicates our efforts.

For these reasons, I have vetoed HB 59, Alternative Fuel Tax Credit; HB 269, Tax Credit Amendments; HB 278, Jordan River Amendments; and HB 332, Special Needs Scholarship Amendments; and HB 356, Railroad Amendments.

Sincerely,



Gary R. Herbert  
Governor

**H. B. 59**  
 Passed March 10, 2020  
 Vetoed April 1, 2020

**TAX CREDIT FOR ALTERNATIVE FUEL HEAVY DUTY VEHICLES**

Chief Sponsor: Andrew Stoddard  
 Senate Sponsor: Lincoln Fillmore  
 Cosponsors: Joel K. Briscoe  
 Suzanne Harrison

**LONG TITLE**

**General Description:**

This bill addresses the tax credit related to certain alternative fuel heavy duty vehicles.

**Highlighted Provisions:**

This bill:

- ▶ extends the availability of the income tax credit related to certain alternative fuel heavy duty vehicles; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

- 59-7-618, as last amended by Laws of Utah 2017, Chapter 265
- 59-10-1033, as last amended by Laws of Utah 2017, Chapter 265
- 63I-1-259, as last amended by Laws of Utah 2019, Chapters 29 and 479

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-7-618 is amended to read:**

**59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquefied natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a taxpayer that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single taxpayer.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act:

(a) in an amount equal to:

~~[(i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during calendar year 2015 or calendar year 2016;]~~

~~[(ii) \$25,000, if the qualified purchase occurs during calendar year 2017;]~~

~~[(iii) \$20,000, if the qualified purchase occurs during calendar year 2018;]~~

~~[(iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and]~~

~~[(v)]~~ (i) \$15,000, if the qualified purchase occurs during calendar year 2020; ~~[and]~~

(ii) \$13,500, if the qualified purchase occurs during calendar year 2021;

(iii) \$12,000, if the qualified purchase occurs during calendar year 2022;

(iv) \$10,500, if the qualified purchase occurs during calendar year 2023;

(v) \$9,000, if the qualified purchase occurs during calendar year 2024;

(vi) \$7,500, if the qualified purchase occurs during calendar year 2025;

(vii) \$6,000, if the qualified purchase occurs during calendar year 2026;

(viii) \$4,500, if the qualified purchase occurs during calendar year 2027;

(ix) \$3,000, if the qualified purchase occurs during calendar year 2028; and

(x) \$1,500, if the qualified purchase occurs during calendar year 2029; and

(b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an application for, and the director may not issue to the taxpayer, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already

issued tax credit certificates to the taxpayer for 10 qualified purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that taxpayer tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-10-1033 may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the taxpayer a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a taxpayer qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written tax credit certificate:

(A) stating that the taxpayer has qualified for a tax credit; and

(B) showing the amount of tax credit for which the taxpayer has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

~~[(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).]~~

**Section 2. Section 59-10-1033 is amended to read:**

**59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a claimant, estate, or trust that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to:

~~(i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during calendar year 2015 or calendar year 2016;~~

~~(ii) \$25,000, if the qualified purchase occurs during calendar year 2017;~~

~~(iii) \$20,000, if the qualified purchase occurs during calendar year 2018;~~

~~(iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and~~

~~(v) \$15,000, if the qualified purchase occurs during calendar year 2020; and~~

(ii) \$13,500, if the qualified purchase occurs during calendar year 2021;

(iii) \$12,000, if the qualified purchase occurs during calendar year 2022;

(iv) \$10,500, if the qualified purchase occurs during calendar year 2023;

(v) \$9,000, if the qualified purchase occurs during calendar year 2024;

(vi) \$7,500, if the qualified purchase occurs during calendar year 2025;

(vii) \$6,000, if the qualified purchase occurs during calendar year 2026;

(viii) \$4,500, if the qualified purchase occurs during calendar year 2027;

(ix) \$3,000, if the qualified purchase occurs during calendar year 2028; and

(x) \$1,500, if the qualified purchase occurs during calendar year 2029; and

(b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the director may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-7-618 may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the claimant, estate, or trust to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an application for a tax credit certificate.

(6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a claimant, estate, or trust qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written tax credit certificate:

(A) stating that the claimant, estate, or trust has qualified for a tax credit; and

(B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

~~[(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).]~~

**Section 3. Section 63I-1-259 is amended to read:**

**63I-1-259. Repeal dates, Title 59.**

(1) Section 59-1-213.1 is repealed on May 9, 2024.

(2) Section 59-1-213.2 is repealed on May 9, 2024.

(3) Subsection 59-1-405(1)(g) is repealed on May 9, 2024.

(4) Subsection 59-1-405(2)(b) is repealed on May 9, 2024.

(5) Section 59-7-618 is repealed July 1, [2020] 2029.

(6) Section 59-9-102.5 is repealed December 31, 2020.

(7) Section 59-10-1033 is repealed July 1, [2020] 2029.

(8) Subsection 59-12-2219(13), which addresses new revenue supplanting existing allocations, is repealed on June 30, 2020.

(9) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.



**H. B. 269**

Passed March 12, 2020

Vetoed April 1, 2020

**TAX CREDIT AMENDMENTS**

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Ralph Okerlund

**LONG TITLE**

**General Description:**

This bill creates tax credit provisions related to hydrogen.

**Highlighted Provisions:**

This bill:

- ▶ creates a nonrefundable gross receipts tax credit for certain commercial energy systems that use hydrogen electrolysis systems;
- ▶ provides a process for obtaining a written certification to claim the gross receipts tax credit;
- ▶ provides rulemaking authority to the Office of Energy Development and the State Tax Commission to administer the written certification process to claim the gross receipts tax credit;
- ▶ creates nonrefundable corporate and individual income tax credits for certain commercial energy systems that use hydrogen electrolysis energy systems;
- ▶ provides a process for a lessee or assignee assigned a renewable energy systems income tax credit to obtain a written certification;
- ▶ defines “infrastructure” to include hydrogen fuel production or distribution projects for purposes of qualifying for a high cost infrastructure development tax credit; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

This bill provides a special effective date.

**Utah Code Sections Affected:**

**AMENDS:**

59-7-614, as last amended by Laws of Utah 2019, Chapter 247

59-10-1014, as last amended by Laws of Utah 2019, Chapter 247

63M-4-602, as last amended by Laws of Utah 2019, Chapter 501

**ENACTS:**

59-8-301, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-7-614 is amended to read:**

**59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.**

(1) As used in this section:

(a) (i) “Active solar system” means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) “Active solar system” includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) “Biomass system” means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) “Commercial energy system” means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a hydrogen electrolysis system;

~~[(G)]~~ (H) a passive solar system; or

~~[(H)]~~ (I) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) “Commercial enterprise” means an entity, the purpose of which is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(e) (i) “Commercial unit” means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) “Direct use geothermal system” means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) “Geothermal electricity” means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) “Geothermal energy” means energy generated by heat that is contained in the earth.

(i) “Geothermal heat pump system” means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) “Hydrogen electrolysis system” means a system of apparatus and equipment that:

(i) is separate or in conjunction with a renewable energy source; and

(ii) uses electricity from a renewable energy source to create hydrogen gas from water.

~~[(4k)]~~ (l) “Office” means the Office of Energy Development created in Section 63M-4-401.

~~[(4)]~~ (m) (i) “Passive solar system” means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

~~[(4m)]~~ (n) “Photovoltaic system” means an active solar system that generates electricity from sunlight.

~~[(4n)]~~ (o) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) “Principal recovery portion” does not include:

(A) an interest charge; or

(B) a maintenance expense.

(p) “Renewable energy source” means the same as that term is defined in Section 54-17-601.

~~[(4o)]~~ (q) “Residential energy system” means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

~~[(4p)]~~ (r) (i) “Residential unit” means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) “Residential unit” does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

~~[(4q)]~~ (s) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the taxpayer obtains a written certification from the office in accordance with Subsection ~~[(7)]~~ (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the

residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability ~~[may be carried forward]~~ for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed \$2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and

(v) for a system installed on or after January 1, 2024, \$0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection ~~[(7)]~~ (8).

~~(b) (i) Subject to Subsections (4)(b)(ii) through [(v)] (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.~~

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

~~[(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.]~~

~~[(v)] (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed \$50,000 per commercial unit.~~

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in accordance with Subsection (8).

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the [date] day on which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection ~~[(7)]~~ (8).

(b) (i) Subject to ~~[Subsections]~~ Subsection (5)(b)(ii) ~~[and (iii)]~~, a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

~~[(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.]~~

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in accordance with Subsection (8).

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection ~~[(7)]~~ (8).

(b) (i) Subject to ~~[Subsections]~~ Subsection (6)(b)(ii) ~~[and (iii)]~~, a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the

commercial energy system is placed in commercial service.

~~[(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.]~~

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in accordance with Subsection (8).

(7) (a) A taxpayer may claim a nonrefundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a commercial energy system that uses a hydrogen electrolysis system having a rated capacity of two megawatts or greater;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a credit under Subsection (4);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (7)(b)(ii), a tax credit under this Subsection (7) is equal to the product of:

(A) 12 cents; and

(B) the kilograms of hydrogen produced and stored, used, or sold during the taxable year.

(ii) A taxpayer may claim a tax credit for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) If the amount of a tax credit under this Subsection (7) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(d) (i) Subject to Subsections (7)(d)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (7) if the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(ii) A taxpayer described in Subsection (7)(d)(i) may claim as a tax credit under this Subsection (7) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (7)(d)(i) may claim a tax credit under this Subsection (7) for a period that does not exceed seven taxable years

after the day on which the lease begins, as stated in the lease agreement.

[7] (8) (a) Before a taxpayer, including a lessee under Subsections (4) through (7), may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer that is not a lessee a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) The office shall issue a taxpayer that is a lessee under Subsections (4) through (7) a written certification if the office receives:

(i) a copy of the lessor's written certification or other proof, in a form established by the office, that the lessor qualified for a tax credit under Subsection (4), (5), (6), or (7); and

(ii) proof that the lessor irrevocably elects not to claim the tax credit for which the lessor qualified.

[(e)] (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection [(7)] (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

[(d)] (e) A taxpayer, including a lessee under Subsections (4) through (7), that obtains a written certification from the office shall retain the written certification for the same time period a person is required to keep books and records under Section 59-1-1406.

[(e)] (f) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer or lessee to which the office issues a written certification; and

(ii) for each taxpayer and lessee:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

[(8)] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

[(9)] (10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

**Section 2. Section 59-8-301 is enacted to read:**

**Part 3. Nonrefundable Tax Credits.**

**59-8-301. Nonrefundable renewable energy system tax credit.**

(1) As used in this section:

(a) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

(b) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

(c) "Commercial unit" means the same as that term is defined in Section 59-7-614.

(d) "Hydrogen electrolysis system" means the same as that term is defined in Section 59-7-614.

(e) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) (a) A taxpayer may claim a nonrefundable tax credit against a tax due under this chapter if:

(i) the taxpayer owns a commercial energy system that uses a hydrogen electrolysis system having a rated capacity of two megawatts or higher;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (3).

(b) (i) Subject to Subsection (2)(b)(ii), a tax credit under this Subsection (2) is equal to the product of:

(A) 12 cents; and

(B) the kilograms of hydrogen produced and stored, used, or sold during the taxable year.

(ii) A taxpayer may claim a tax credit for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) If the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(d) (i) Subject to Subsections (2)(d)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this section if the taxpayer obtains a written certification from the office in accordance with Subsection (3).

(ii) A taxpayer described in Subsection (2)(d)(i) may claim as a tax credit under this Subsection (2) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (2)(d)(i) may claim a tax credit under this Subsection (2) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(3) (a) Before a taxpayer, including a lessee, may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer that is not a lessee a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) The office shall issue a taxpayer that is a lessee a written certification if the office receives:

(i) a copy of the lessor's written certification or other proof, in a form established by the office, that the lessor qualified for a tax credit under this section; and

(ii) proof that the lessor irrevocably elects not to claim the tax credit for which the lessor qualified.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules for determining whether a commercial energy system meets the requirements of Subsection (3)(b)(ii).

(e) A taxpayer, including a lessee, that obtains a written certification from the office shall retain the written certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(4) The office shall submit to the commission an electronic list that includes:

(a) the name and identifying information of each taxpayer or lessee to which the office issues a written certification; and

(b) for each taxpayer and lessee:

(i) the amount of the tax credit listed on the written certification; and

(ii) the date the renewable energy system was installed.

**Section 3. Section 59-10-1014 is amended to read:**

**59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.**

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

(e) "Commercial unit" means the same as that term is defined in Section 59-7-614.

~~(e)~~ (f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

~~(d)~~ (g) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

~~(e)~~ (h) "Geothermal energy" means energy generated by heat that is contained in the earth.

~~(f)~~ (i) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

~~(g)~~ (j) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) “Hydrogen electrolysis system” means the same as that term is defined in Section 59-7-614.

~~(h)~~ (l) “Office” means the Office of Energy Development created in Section 63M-4-401.

~~(i)~~ (m) (i) “Passive solar system” means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

~~(j)~~ (n) “Photovoltaic system” means an active solar system that generates electricity from sunlight.

~~(k)~~ (o) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) “Principal recovery portion” does not include:

- (A) an interest charge; or
- (B) a maintenance expense.

~~(l)~~ (p) “Residential energy system” means the following used to supply energy to or for a residential unit:

- (i) an active solar system;
- (ii) a biomass system;
- (iii) a direct use geothermal system;
- (iv) a geothermal heat pump system;
- (v) a hydroenergy system;
- (vi) a passive solar system; or
- (vii) a wind system.

~~(m)~~ (q) (i) “Residential unit” means a house, condominium, apartment, or similar dwelling unit that:

- (A) is located in the state; and
- (B) serves as a dwelling for a person, group of persons, or a family.

(ii) “Residential unit” does not include property subject to a fee under:

- (A) Section 59-2-405;
- (B) Section 59-2-405.1;
- (C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

~~(n)~~ (r) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

~~(3) (a) [For a taxable year beginning on or after January 1, 2007, a]~~ A claimant, estate, or trust may claim a nonrefundable tax credit under this ~~[section]~~ Subsection (3) with respect to a residential unit the claimant, estate, or trust owns or uses if:

~~(a)~~ (i) the claimant, estate, or trust:

~~(i)~~ (A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

~~(ii)~~ (B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

~~(b)~~ (ii) the residential energy system is installed on or after January 1, 2007; and

~~(c)~~ (iii) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

~~(4) (a) (b)~~ For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

- (i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and
- (ii) \$2,000.

~~(b) Subject to Subsection (5)(d), for~~ (c) For a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, \$2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;

(C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;

(D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;

(E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and

(F) for a system installed on or after January 1, 2024, \$0.

~~(e)~~ (d) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

~~(d)~~ (e) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is installed.

~~(e)~~ (f) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

~~(f)~~ (g) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

~~(g)~~ (h) (i) Subject to Subsections (4)~~(g)~~(h)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust ~~confirms that the lessor irrevocably elects not to claim the tax credit~~ obtains a written certification from the office in accordance with Subsection (5).

(ii) A claimant, estate, or trust described in Subsection (4)~~(g)~~(h)(i) ~~[that leases a residential energy system]~~ may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)~~(g)~~(h)(i) ~~[that leases a residential energy system]~~ may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the ~~[date]~~ day on which the lease begins, as stated in the lease agreement.

~~(h)~~ (i) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under this Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the

other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(4) (a) A claimant, estate, or trust may claim a nonrefundable tax credit as provided in this Subsection (4) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses a hydrogen electrolysis system having a rated capacity of two megawatts or greater;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a credit under Subsection 59-10-1106(3);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:

(A) 12 cents; and

(B) the kilograms of hydrogen produced and stored, used, or sold during the taxable year.

(ii) A claimant, estate, or trust may claim a tax credit for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) If the amount of a tax credit under this Subsection (4) exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(d) (i) Subject to Subsections (4)(d)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(ii) A claimant, estate, or trust described in Subsection (4)(d)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(d)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed



seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(5) (a) Before a claimant, estate, or trust, including a lessee or assignee, may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification that is not a lessee or an assignee if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) The office shall issue a claimant, estate, or trust that is a lessee or an assignee a written certification if the office receives:

(i) a copy of the lessor's or assignor's written certification or other proof, in a form established by the office, that the lessor or assignor qualified for a tax credit under this section; and

(ii) proof that the lessor or assignor irrevocably elects not to claim the tax credit for which the lessor or assignor qualified.

~~(e)~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

~~(d)~~ (e) A claimant, estate, or trust, including a lessee or assignee, that obtains a written certification from the office shall retain the written certification for the same time period a person is required to keep books and records under Section 59-1-1406.

~~(e)~~ (f) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, ~~or~~ trust, lessee, or assignee to which the office issues a written certification; and

(ii) for each claimant, estate, ~~or~~ trust, lessee, or assignee:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

**Section 4. Section 63M-4-602 is amended to read:**

**63M-4-602. Definitions.**

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(3) "High cost infrastructure project" means a project:

(a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

(ii) that involves new investment of at least \$50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity; or

(iii) for the construction of a plant or other facility, including a fueling station, for the storage, production, or distribution of hydrogen fuel used for transportation, electricity generation, or industrial use;

(b) that requires or is directly facilitated by infrastructure construction; and

(c) for which the cost of infrastructure construction to the entity creating the project is greater than:

(i) 10% of the total cost of the project; or

(ii) \$10,000,000.

(4) "Infrastructure" means:

(a) an energy delivery project as defined in Section 63H-2-102;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

- (f) a water removal system project;
- (g) a solution-mined subsurface salt cavern; [øø]
- (h) a project that is designed to:
  - (i) increase the capacity for water delivery to a water user in the state; or
  - (ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state[.]; or
- (i) a hydrogen fuel production or distribution project.

(5) (a) “Infrastructure cost-burdened entity” means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) “Infrastructure cost-burdened entity” includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (5)(a).

(6) “Infrastructure-related revenue” means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

(7) “Office” means the Office of Energy Development created in Section 63M-4-401.

(8) “Tax credit” means a tax credit under Section 59-7-619 or 59-10-1034.

(9) “Tax credit certificate” means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity’s taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

**Section 5. Retrospective operation.**

The changes to Sections 59-7-614, 59-10-1014, and 63M-4-602 have retrospective operation for a taxable year beginning on or after January 1, 2020.

**Section 6. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

(2) The changes to Section 59-8-301 take effect for a taxable year beginning on or after July 1, 2020.

**H. B. 278**

Passed March 12, 2020

Vetoed April 1, 2020

**JORDAN RIVER AMENDMENTS**

Chief Sponsor: Cheryl K. Acton  
 Senate Sponsor: Wayne A. Harper  
 Cosponsor: Mike Winder

**LONG TITLE**

**General Description:**

This bill addresses the Jordan River.

**Highlighted Provisions:**

This bill:

- ▶ addresses signs, barriers, fencing, and alternative transportation facilities related to the Jordan River;
- ▶ requires posting of certain signs; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

65A-2-8, as last amended by Laws of Utah 2019, Chapter 113

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 65A-2-8 is amended to read:**

**65A-2-8. Jordan River improvement projects.**

(1) As used in this section:

(a) "Commission" means the Jordan River Commission created by interlocal agreement.

(b) "Zone" means the Jordan River Recreation Area, the area 250 yards on each side of the Jordan River from the edge of the river between SR-201 and 4800 South.

(2) The division, subject to applicable federal, state, and local laws and ordinances and Subsections (3) and (4), may:

(a) expend money for the following purposes:

(i) enhancing safety, recreation, and conservation in the zone;

(ii) capital improvements within the zone, including:

(A) lighting along the Jordan River and within the zone;

(B) completing construction of a paved pathway on both sides of the Jordan River within the zone;

(C) building a boat launch, picnic pavilion, bench, restroom, or other amenity within the zone; and

(D) supporting Tracy Aviary, a nature area, bike or boat rental concessionaire, or other partnerships to enhance recreation in the zone;

(iii) funding programs to clean the zone, remove invasive species, and restore riparian habitat;

(iv) hiring or contracting for personnel to perform tasks as directed by the commission;

(v) partnering or contracting with an urban ranger or conservation corp operated by a state institution of higher education or similar service-oriented organizations or programs:

(A) to provide trail, river, and parkway maintenance, invasive species removal and revegetation, emergency care, and environmental education for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(B) to report to the appropriate public official all health, safety, or law enforcement concerns that the organization encounters, as directed by the commission; ~~and~~

(vi) partnering or contracting with local law enforcement or a certified peace officer to provide patrol, security, and law enforcement for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(vii) work with state and local highway authorities to:

(A) post consistent, attractive signs, and work toward opportunities to build consistent, attractive barriers and fences where a highway, as defined in Section 72-1-102, crosses or runs adjacent to the Jordan River; and

(B) provide access from a highway to the trails along the Jordan River where the trail can be safely accessed; and

(b) purchase, lease, sell, or dispose of property or an easement within the zone to achieve the goals in Subsection (2)(a).

(3) (a) Before engaging in any activity described in Subsections (2)(a)(i) through (2)(a)(iii) or Subsection (2)(b), the division shall receive the approval of:

(i) the commission;

(ii) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone, including Salt Lake County Flood Control; and

(iii) the relevant municipality within the zone.

(b) Before engaging in any activity described in Subsections (2)(a)(iv) through (2)(a)(vi), the division shall:

(i) receive the approval of the commission; and

(ii) consult with:

(A) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone; and

(B) the relevant municipality within the zone.

(4) The programs described in this section may only be implemented as appropriations from the Legislature allow.

(5) On or before June 30, 2022, the Department of Transportation shall post signs developed under Subsection (2)(a)(vii)(A) on the state highway system that crosses the Jordan River.

**H.B. 332**

Passed March 11, 2020  
Vetoed April 1, 2020

**SPECIAL NEEDS  
SCHOLARSHIP AMENDMENTS**

Chief Sponsor: Mike Schultz  
Senate Sponsor: Lincoln Fillmore

**LONG TITLE**

**General Description:**

This bill creates the Special Needs Opportunity Scholarship Program and related income tax credits.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Special Needs Opportunity Scholarship Program (program);
- ▶ establishes requirements for a scholarship recipient and a private school that accepts scholarship money;
- ▶ requires the State Board of Education to oversee the program, including selection of a scholarship granting organization;
- ▶ establishes the duties of a scholarship granting organization, including:
  - accepting program donations;
  - awarding scholarships; and
  - issuing tax credit certificates;
- ▶ creates a nonrefundable corporate income tax credit and a nonrefundable individual income tax credit for certain program donations;
- ▶ prohibits a taxpayer from claiming more than one state income tax benefit from making the donation; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:**

**AMENDS:**

- 53-10-108, as last amended by Laws of Utah 2019, Chapters 136, 192, and 404
- 53E-1-202, as enacted by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 223
- 53E-8-403, as last amended by Laws of Utah 2019, Chapter 314
- 53F-4-303, as last amended by Laws of Utah 2019, Chapter 186
- 59-7-109, as last amended by Laws of Utah 1995, Chapter 311

**ENACTS:**

- 53E-7-401, Utah Code Annotated 1953
- 53E-7-402, Utah Code Annotated 1953
- 53E-7-403, Utah Code Annotated 1953
- 53E-7-404, Utah Code Annotated 1953
- 53E-7-405, Utah Code Annotated 1953
- 53E-7-406, Utah Code Annotated 1953
- 53E-7-407, Utah Code Annotated 1953

- 59-7-625, Utah Code Annotated 1953
- 59-10-1041, Utah Code Annotated 1953

**Utah Code Sections Affected by Coordination Clause:**

- 53E-1-202, as enacted by Laws of Utah 2019, Chapter 324 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 223

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-10-108 is amended to read:**

**53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.**

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

- (i) employees;
- (ii) applicants for employment;
- (iii) volunteers; and
- (iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

- (i) cabinet members;
- (ii) judicial applicants; and
- (iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3.

(k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; ~~and~~

(l) the State Board of Education for employment background checks of individuals in accordance with Section 53E-7-404; and

~~(4)~~ (m) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) and (2)(l) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

- (i) that a criminal history background check will be conducted;
- (ii) who will see the information; and
- (iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

- (i) personal identifying information for the subject of the background check;
- (ii) a fingerprint card for the subject of the background check; and
- (iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:

- (i) available to individuals involved in the hiring or background investigation of the job applicant, employee, or notary applicant;
- (ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and
- (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

- (i) review the information received as provided under Subsection (9); and
- (ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the

history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

- (a) that have been declined for prosecution;
- (b) that have been dismissed; or
- (c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

- (a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

- (i) the WIN Database rap back system, or any successor system;
- (ii) the FBI Rap Back System; or
- (iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

- (i) has the authority through state or federal statute or federal executive order;
- (ii) obtains a signed waiver from the individual whose fingerprints are being registered; and
- (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Department of Human Resource Management, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

**Section 2. Section 53E-1-202 is amended to read:**

**53E-1-202. Reports to and action required of the Public Education Appropriations Subcommittee.**

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:

(a) the report by the STEM Action Center Board described in Section 9-22-109, including the information described in Section 9-22-113 on the status of the computer science initiative;

~~[(a)]~~ (b) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(c) beginning in 2021, the report described in Section 53E-7-404 by the State Board of Education on the Special Needs Opportunity Scholarship Program; and

~~[(b)]~~ (d) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and.

~~[(c) the report by the STEM Action Center Board described in Section 63N-12-208, including the information described in Section 63N-12-213 on the status of the computer science initiative.]~~

(2) (a) The one-time report by the state board regarding cost centers and implementing activity based costing is due to the Public Education Appropriations Subcommittee in accordance with Section 53E-3-520.

(b) The occasional report, described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program, is due to the Public Education Appropriations Subcommittee and in accordance with Section 68-3-14.

(3) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete the following:

(a) the evaluation described in Section 53F-2-410 of funding for at-risk students;

(b) the reviews of related to basic school programs as described in Section 53F-2-414; and

(c) if required, the study described in Section 53F-4-304 of scholarship payments.

**Section 3. Section 53E-7-401 is enacted to read:**

**CHAPTER 7. STUDENTS WITH DISABILITIES**

**Part 4. Special Needs Opportunity Scholarship Program**

**53E-7-401. Definitions.**

As used in this part:

(1) "Eligible student" means a student who:

(a) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(b) is a resident of the state;

(c) (i) has an IEP;

(ii) has an individualized family service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., if entering kindergarten; or

(iii) is determined by a multidisciplinary evaluation team to be eligible for services under the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419; and

(d) during the school year for which the student is applying for the scholarship, is not:

(i) a scholarship student in the Carson Smith Scholarship Program created in Section 53F-4-302; or

(ii) a public school student.

(2) (a) "Employee" means an individual working in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from:

(i) program donations received by a scholarship granting organization; or

(ii) scholarship money allocated to a qualifying school by a scholarship granting organization under Section 53E-7-405.

(b) "Employee" does not include an individual who volunteers at the scholarship granting organization or qualifying school.

(3) "Officer" means:

(a) a member of the board of a scholarship granting organization or qualifying school; or

(b) the chief administrative officer of a scholarship granting organization or qualifying school.

(4) "Program donations" means donations to the program under Section 53E-7-405.

(5) "Qualifying school" means a private school that:

(a) provides kindergarten, elementary, or secondary education;

(b) is approved by the state board under Section 53F-4-303; and



(c) meets the requirements described in Section 53E-7-403.

(6) “Relative” means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(7) “Scholarship” means a grant awarded to an eligible student:

(a) by a scholarship granting organization out of program donations; and

(b) for the purpose of paying for a scholarship expense.

(8) “Scholarship expense” means:

(a) tuition, fees, or textbooks for a qualifying school;

(b) educational therapy, if the educational therapy is provided by a licensed physician or licensed practitioner, including occupational, behavioral, physical, or speech-language therapies;

(c) textbooks, curriculum, or other instructional materials, including supplemental materials or associated online instruction required by a curriculum;

(d) tuition and fees for an online learning course or program; or

(e) fees associated with a state-recognized industry certification exam, or any examination related to college or university admission.

(9) “Scholarship granting organization” means an organization that is:

(a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) recognized through an agreement with the state board as a scholarship granting organization, as described in Section 53E-7-404.

(10) “Special Needs Opportunity Scholarship Program” or “program” means the program established in Section 53E-7-402.

(11) “Value of the weighted pupil unit” means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

**Section 4. Section 53E-7-402 is enacted to read:**

**53E-7-402. Special Needs Opportunity Scholarship Program.**

(1) There is established the Special Needs Opportunity Scholarship Program under which a parent may apply to a scholarship granting organization on behalf of the parent’s student for a scholarship to help cover the cost of a scholarship expense.

(2) A scholarship granting organization shall:

(a) award, in accordance with this part, scholarships to eligible students; and

(b) determine the amount of a scholarship in accordance with Subsection (3).

(3) A scholarship granting organization shall determine a full-year scholarship award to pay for the cost of one or more scholarship expenses in an amount not more than:

(a) for an eligible student in grades 1 through 12 with an IEP, the value of the weighted pupil unit multiplied by two;

(b) for an eligible student in grades 1 through 12 who does not have an IEP, the value of the weighted pupil unit;

(c) for an eligible student in kindergarten with an IEP, the value of the weighted pupil unit; or

(d) for an eligible student in kindergarten who does not have an IEP, half the value of the weighted pupil unit.

(4) The state board shall prepare and disseminate to a scholarship granting organization for distribution to a parent applying for a scholarship on behalf of a student:

(a) information on the program; and

(b) information on how a parent may enroll the parent’s child in a public school.

(5) A scholarship granting organization shall distribute the information described in Subsection (4) to a parent who applies to the scholarship granting organization for a scholarship on behalf of the parent’s student.

**Section 5. Section 53E-7-403 is enacted to read:**

**53E-7-403. Qualifying school requirements.**

(1) A qualifying school shall:

(a) notify a scholarship granting organization of the qualifying school’s intention to participate in the program;

(b) submit evidence to the scholarship granting organization that the qualifying school has been approved by the state board under Section 53F-4-303; and

(c) submit a signed affidavit to the scholarship granting organization that the qualifying school will comply with the requirements of this part.

(2) A qualifying school shall comply with 42 U.S.C. Sec. 1981, and meet state and local health and safety laws and codes.

(3) Before the beginning of the school year immediately following a school year in which a qualifying school receives scholarship money equal to or more than \$100,000, the qualifying school shall file with a scholarship granting organization that allocates scholarship money to the qualifying school:

(a) a surety bond payable to the scholarship granting organization in an amount equal to the

aggregate amount of scholarship money expected to be received during the school year; or

(b) financial information that demonstrates the financial viability of the qualifying school, as required by the scholarship granting organization.

(4) If a scholarship granting organization determines that a qualifying school has violated a provision of this part, the scholarship granting organization may interrupt disbursement of or withhold scholarship money from the qualifying school.

(5) (a) If the state board determines that a qualifying school no longer meets the eligibility requirements described in Section 53F-4-303, the state board may withdraw the state board's approval of the school.

(b) A private school that does not have the state board's approval under Section 53F-4-303 may not accept scholarship money under this part.

(6) A qualifying school shall, when administering an annual assessment required under Section 53F-4-303, ensure that the qualifying school uses a norm-referenced assessment.

**Section 6. Section 53E-7-404 is enacted to read:**

**53E-7-404. Program administration by the state board.**

(1) The state board shall administer the program.

(2) The state board shall:

(a) provide a tax credit certificate form, for use by a scholarship granting organization as described in Section 53E-7-407, that includes:

(i) the name, address, and social security number or federal employer identification number of the person that makes a donation under Section 53E-7-405;

(ii) the date of the donation;

(iii) the amount of the donation;

(iv) the amount of the tax credit; and

(v) any other relevant information;

(b) conduct a financial review or audit of a scholarship granting organization, if the state board receives evidence of fraudulent practice by the scholarship granting organization;

(c) conduct a criminal background check on each scholarship granting organization employee and scholarship granting organization officer;

(d) establish uniform financial accounting standards for scholarship granting organizations;

(e) annually calculate the amount of the program donations cap described in Section 53E-7-407; and

(f) beginning in 2021, in accordance with Section 53E-1-202, annually report to the Public Education Appropriations Subcommittee on the program.

(3) (a) In accordance with Subsection (4) and Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals and enter into at least one agreement with an organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code, to be recognized by the state board as a scholarship granting organization.

(b) An organization that responds to a request for proposals described in Subsection (3)(a) shall submit the following information in the organization's response:

(i) a copy of the organization's incorporation documents;

(ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

(iii) a description of the methodology the organization will use to verify that a student is an eligible student under this part; and

(iv) a description of the organization's proposed scholarship application process.

(4) (a) The state board shall enter into an agreement described in Subsection (3)(a) with one scholarship granting organization on or before January 1, 2021.

(b) The state board may enter into an agreement described in Subsection (3)(a) with additional scholarship granting organizations after January 1, 2022, if the state board makes rules regarding how multiple scholarship granting organizations may issue tax credit certificates in accordance with Section 53E-7-407.

(c) (i) No later than 10 days after the day on which the state board enters into an agreement with a scholarship granting organization, the state board shall forward the name and contact information of the scholarship granting organization to the State Tax Commission.

(ii) If, under Subsection (5)(c)(i), the state board bars a scholarship granting organization from further participation in the program, the state board shall, no later than 10 days after the day on which the state board bars the scholarship granting organization, forward the name and contact information of the barred scholarship granting organization to the State Tax Commission.

(5) (a) If the state board determines that a scholarship granting organization has violated a provision of this part or state board rule, the state board shall send written notice to the scholarship granting organization explaining the violation and the remedial action required to correct the violation.

(b) A scholarship granting organization that receives a notice described in Subsection (5)(a) shall, no later than 60 days after the day on which the scholarship granting organization receives the notice, correct the violation and report the correction to the state board.

(c) (i) If a scholarship granting organization that receives a notice described in Subsection (5)(a) fails to correct a violation in the time period described in Subsection (5)(b), the state board may bar the scholarship granting organization from further participation in the program.

(ii) A scholarship granting organization may appeal a decision made by the state board under Subsection (5)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A scholarship granting organization may not accept program donations while the scholarship granting organization:

(i) is barred from participating in the program under Subsection (5)(c)(i); or

(ii) has an appeal pending under Subsection (5)(c)(ii).

(e) A scholarship granting organization that has an appeal pending under Subsection (5)(c)(ii) may continue to administer scholarships from previously donated program donations during the pending appeal.

(6) The state board shall provide for a process for a scholarship granting organization to report information as required under Section 53E-7-405.

(7) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules for:

(a) a scholarship granting organization's acceptance of program donations;

(b) the administration of scholarships to a qualifying school receiving scholarship money from a scholarship granting organization that is barred from participating in the program under Subsection (5)(c)(i);

(c) payment of scholarship money to qualifying schools by a scholarship granting organization;

(d) granting scholarship awards and disbursing scholarship money for nontuition scholarship expenses by a scholarship granting organization;

(e) if an eligible student does not continue in enrollment at a qualifying school:

(i) requiring the scholarship granting organization to:

(A) notify the state board; and

(B) obtain reimbursement of scholarship money from the qualifying school in which the eligible student is no longer enrolled; and

(ii) requiring the qualifying school in which the eligible student is no longer enrolled to reimburse scholarship money to the scholarship granting organization; and

(f) audit and report requirements as described in Section 53E-7-405.

**Section 7. Section 53E-7-405 is enacted to read:**

**53E-7-405. Program donations -- Scholarship granting organization requirements.**

(1) A person that makes a donation to a scholarship granting organization to help fund scholarships through the program may be eligible to receive a nonrefundable tax credit as described in Sections 59-7-624 and 59-10-1041.

(2) In accordance with Section 53E-7-404, an organization may enter into an agreement with the state board to be a scholarship granting organization.

(3) A scholarship granting organization shall:

(a) accept program donations;

(b) adopt an application process in accordance with Subsection (4);

(c) review scholarship applications and determine scholarship awards;

(d) allocate scholarship money to a scholarship recipient's parent or, on the parent's behalf, to a qualifying school in which the scholarship recipient is enrolled;

(e) adopt a process, with state board approval, that allows a parent to use a scholarship to pay for a nontuition scholarship expense for the scholarship recipient;

(f) ensure that:

(i) at least 90% of the scholarship granting organization's revenue from program donations is spent on scholarships;

(ii) no more than 5% of the scholarship granting organization's revenue from program donations is spent on administration of the program; and

(iii) all revenue from program donations' interest or investments is spent on scholarships;

(g) carry forward no more than 40% of the scholarship granting organization's program donations from the state fiscal year in which the scholarship granting organization received the program donations to the following state fiscal year;

(h) at the end of a fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g), who shall deposit the money into the Education Fund;

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations;

(j) ensure that a scholarship can be transferred during the school year to a different qualifying school that accepts the scholarship recipient;

(k) report to the state board on or before June 1 of each year the following information, prepared by a certified public accountant:

(i) the name and address of the scholarship granting organization;

(ii) the total number and total dollar amount of program donations that the scholarship granting organization received during the previous calendar year;

(iii) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous calendar year; and

(iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

(l) issue tax credit certificates as described in Section 53E-7-407; and

(m) require a parent to notify a scholarship granting organization if the parent's scholarship recipient:

(i) receives scholarship money for tuition expenses; and

(ii) does not have continuing enrollment and attendance at a qualifying school.

(4) (a) An application for a scholarship shall contain an acknowledgment by the applicant's parent that the qualifying school selected by the parent for the applicant to attend using a scholarship is capable of providing the level of disability services required for the student.

(b) A scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of disability services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship recipient if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to evaluation or services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(c) Upon acceptance of a scholarship, the parent assumes full financial responsibility for the education of the scholarship recipient.

(d) Acceptance of a scholarship has the same effect as a parental refusal to consent to evaluation or services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(5) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:

(a) complies with the uniform financial accounting standards described in Section 53E-7-404; and

(b) is prepared by a certified public accountant.

(6) (a) If a scholarship granting organization allocates \$500,000 or more in scholarships annually through the program, the scholarship organization shall:

(i) contract for an annual audit, conducted by a certified public accountant who is independent from:

(A) the scholarship granting organization; and

(B) the scholarship granting organization's accounts and records pertaining to program donations; and

(ii) in accordance with Subsection (6)(b), report the results of the audit to the state board for review.

(b) For the report described in Subsection (6)(a)(ii), the scholarship granting organization shall:

(i) include the scholarship granting organization's financial statements in a format that meets generally accepted accounting standards; and

(ii) submit the report to the state board no later than 180 days after the last day of a scholarship granting organization's fiscal year.

(c) The certified public accountant shall conduct an audit described in Subsection (6)(a)(i) in accordance with generally accepted auditing standards and rules made by the state board.

(d) (i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report is not in compliance with the provisions of this Subsection (6) or rules adopted by the state board.

(ii) A scholarship granting organization shall provide a revised report or supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (6)(d)(i).

(7) (a) A scholarship granting organization may not allocate scholarship money to a qualifying school if:

(i) the scholarship granting organization determines that the qualifying school intentionally

or substantially misrepresented information on overpayment;

(ii) the qualifying school fails to refund an overpayment in a timely manner; or

(iii) the qualifying school routinely fails to provide scholarship recipients with promised educational goods or services.

(b) A scholarship granting organization shall notify a scholarship recipient if the scholarship granting organization stops allocation of the recipient's scholarship money to a qualifying school under Subsection (7)(a).

(8) If a scholarship recipient transfers to another qualifying school during the school year, the scholarship granting organization may prorate scholarship money between the qualifying schools according to the time the scholarship recipient spends at each school.

(9) A scholarship granting organization may not:

(a) award a scholarship to a relative of the scholarship granting organization's officer or employee; or

(b) allocate scholarship money to a qualifying school at which the scholarship recipient has a relative who is an officer or an employee of the qualifying school.

**Section 8. Section 53E-7-406 is enacted to read:**

**53E-7-406. Private school regulation -- Student records.**

(1) Nothing in this part:

(a) grants additional authority to any state agency or LEA to regulate private schools except as expressly described in this part; or

(b) expands the regulatory authority of the state, a state office holder, or a local school district to impose any additional regulation of a qualifying school beyond those necessary to enforce the requirements of the program.

(2) A qualifying school shall be given the maximum freedom to provide for the educational needs of a scholarship recipient who attends the qualifying school without unlawful governmental control.

(3) Except as provided in Section 53E-7-403, a qualifying school may not be required to alter the qualifying school's creed, practices, admission policy, or curriculum in order to accept scholarship money.

(4) A local education agency or school in a local education agency in which a scholarship recipient was previously enrolled shall provide to a qualifying school in which the scholarship recipient is currently enrolled a copy of all requested school records relating to the scholarship recipient, subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

**Section 9. Section 53E-7-407 is enacted to read:**

**53E-7-407. Tax credit certificates issued by a scholarship granting organization.**

(1) In accordance with this section and subject to Subsection (3), a scholarship granting organization shall provide a tax credit certificate to a person that makes a donation as described in Section 53E-7-405.

(2) (a) The scholarship granting organization shall issue a tax credit certificate described in Subsection (1) on the tax credit certificate form described in Section 53E-7-404.

(b) The scholarship granting organization shall provide the information from a completed tax credit certificate to the State Tax Commission electronically and in a manner prescribed by the State Tax Commission.

(c) A scholarship granting organization shall issue a tax credit certificate within 30 days after the day on which a person makes a donation to the program.

(3) (a) A scholarship granting organization may not issue a tax credit certificate for a calendar year if issuing the tax credit certificate will cause the total amount of the tax credit certificates issued for the calendar year to exceed the program donations cap amount described in Subsection (4).

(b) Before accepting a donation to the program from a person, the scholarship granting organization shall provide the person with notice:

(i) that the donation may not be eligible for a tax credit;

(ii) of the process described in Subsection (3)(c); and

(iii) of the total amount of tax credit certificates that the scholarship granting organization has issued for the calendar year.

(c) During a calendar year, a scholarship granting organization shall:

(i) issue tax credit certificates in the order that the scholarship granting organization received a corresponding donation; and

(ii) track the total amount of program donations received during the year as corresponding tax credit certificates are issued.

(d) If a scholarship granting organization accepts a donation that, when added to the current total amount of program donations received that year, will exceed the program donations cap described in Subsection (4), the scholarship granting organization shall issue a tax credit certificate in the amount that is the difference between the program donations cap and the total amount of program donations received before the donation was received.

(4) (a) The program donations cap for the 2021 calendar year is \$6,000,000.

(b) For a calendar year after 2021, the state board shall calculate the program donations cap as follows:

(i) if the total program donations for the previous calendar year exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the cap amount for the previous calendar year increased by 10%; or

(ii) if the total program donations for the previous calendar year did not exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the same as the cap amount for the previous calendar year.

(5) A person that receives a tax credit certificate in accordance with this section shall retain the certificate for the same time period a person is required to keep books and records under Section 59-1-1406.

**Section 10. Section 53E-8-403 is amended to read:**

**53E-8-403. Educational programs.**

(1) The Utah Schools for the Deaf and the Blind shall provide an educational program for a student:

(a) based on assessments of the student's abilities; and

(b) in accordance with the student's IEP or Section 504 accommodation plan.

(2) If a student's ability to access the core curriculum is impaired primarily due to a severe sensory loss and requires intensive sensory-based instruction or services, the Utah Schools for the Deaf and the Blind shall provide an educational program that will enable the student, with accommodations, to access the core curriculum.

(3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to students who are blind [as required by Chapter 7, Part 3, Braille Requirements for Blind Students].

**Section 11. Section 53F-4-303 is amended to read:**

**53F-4-303. Eligible private schools.**

(1) As used in this section, "scholarship student" means:

(a) a student who receives a scholarship under this part; or

(b) an eligible student who receives a scholarship under Title 53E, Chapter 7, Part 4, Special Needs Opportunity Scholarship Program.

[~~(1)~~] (2) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(I) the audit shall be performed in accordance with generally accepted auditing standards;

(II) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(III) the audited financial statements shall be as of a period within the last 12 months; or

(B) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement, as adopted by the state board; and

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum that the student will be participating in;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment described in Subsection [~~(1)(f)(i)] (2)(f)(i) to the student's parent; and~~

(iii) for a student who receives a scholarship under this part, make the results available to the assessment team evaluating the student pursuant to Subsection 53F-4-302(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection [~~(1)(g)] (2)(g);~~

(i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as

authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(j) provide to parents the relevant credentials of the teachers who will be teaching their students.

~~[(2)]~~ (3) A private school is not eligible to enroll scholarship students if:

(a) the private school requires a student to sign a contract waiving the student's rights to transfer to another eligible private school during the school year;

(b) the audit report submitted under Subsection ~~[(1)(b)]~~ (2)(b) contains a going concern explanatory paragraph; or

(c) the report of the agreed upon procedure submitted under Subsection ~~[(1)(b)]~~ (2)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection ~~[(1)(b)]~~ (2)(b).

~~[(3)]~~ (4) A home school is not eligible to enroll scholarship students.

~~[(4)]~~ (5) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

~~[(5)]~~ (6) A private school intending to enroll scholarship students shall submit an application to the state board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

~~[(6)]~~ (7) The state board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools.

~~[(7)]~~ (8) An approved eligible private school that changes ownership shall submit a new application to the state board and demonstrate that it continues to meet the eligibility requirements of this section.

**Section 12. Section 59-7-109 is amended to read:**

**59-7-109. Charitable contributions.**

(1) Except as provided in ~~[Subsection]~~ Subsections (2) and (4), a subtraction is allowed for charitable contributions made within the taxable year to organizations described in Section 170(c), Internal Revenue Code.

(2) (a) The aggregate amount of charitable contributions deductible under this section may not exceed 10% of the taxpayer's apportionable income.

(b) The limitation imposed in this ~~[subsection]~~ Subsection (2) shall be calculated on a combined basis in a combined report.

(3) Any charitable contribution made in a taxable year ~~[beginning on or after January 1, 1994, which]~~ that is in excess of the amount allowed as a deduction under Subsection (2) may be carried over to the five succeeding taxable years in the same manner as allowed under federal law.

(4) A taxpayer may not subtract a charitable contribution that meets the requirements of this section to the extent that the taxpayer claims a tax credit under Section 59-7-625 for the same charitable contribution.

**Section 13. Section 59-7-625 is enacted to read:**

**59-7-625. Nonrefundable tax credit for donation to Special Needs Opportunity Scholarship Program.**

(1) A taxpayer that makes a donation to the Special Needs Opportunity Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.

(2) (a) If the amount of a tax credit listed on the tax credit certificate exceeds a taxpayer's liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(b) A taxpayer may not carry back the amount of the tax credit that exceeds the taxpayer's tax liability for the taxable year.

**Section 14. Section 59-10-1041 is enacted to read:**

**59-10-1041. Nonrefundable tax credit for donation to Special Needs Opportunity Scholarship Program.**

(1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a donation to the Special Needs Opportunity Scholarship Program established in Section 53E-7-402, may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.

(2) (a) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(b) A claimant, estate, or trust may not carry back the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability for the taxable year.

(3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized deduction on the claimant's, estate's, or trust's federal individual income tax return for that taxable year.

**Section 15. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2021.

(2) The amendments to Section 59-7-109 and the enactment of Sections 59-7-625 and 59-10-1041 take effect for a taxable year beginning on or after January 1, 2021.

**Section 16. Coordinating H.B. 332 with S.B. 72 -- Superseding technical and substantive amendments.**

If this H.B. 332 and S.B. 72, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that the amendments to Section 53E-1-202 in H.B. 332 supersede the amendments to Section 53E-1-202 in S.B. 72, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.



**H. B. 356**

Passed March 12, 2020

Vetoed April 1, 2020

**RAILROAD AMENDMENTS**

Chief Sponsor: Joel Ferry  
Senate Sponsor: Scott D. Sandall

**LONG TITLE**

**General Description:**

This bill modifies provisions related to railroads.

**Highlighted Provisions:**

This bill:

- ▶ repeals the state sales and use tax exemption for sales of fuel to a rail carrier for use in a locomotive engine;
- ▶ requires an approximate value of the resulting revenue be deposited into the General Fund;
- ▶ creates the Rail Transportation Restricted Account;
- ▶ provides that upon appropriation, the Department of Transportation shall use the money in the Rail Transportation Restricted Account for construction projects related to railroad crossings on class A, class B, and class C roads; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Transit Transportation Investment Fund -- Rail Transportation Restricted Account, as an ongoing appropriation:
  - from the General Fund, \$3,660,000.
- ▶ to the Transit Transportation Investment Fund -- Rail Transportation Restricted Account, as a one-time appropriation:
  - from the General Fund, (\$2,135,000).

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**AMENDS:**

- 11-41-102, as last amended by Laws of Utah 2016, Chapter 176
- 26-36b-208, as last amended by Laws of Utah 2019, Chapters 1 and 393
- 35A-8-308, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 35A-8-309, as last amended by Laws of Utah 2019, Chapter 493
- 59-1-401, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 59-12-102, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
- 59-12-103, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
- 59-12-104, as last amended by Laws of Utah 2019, Chapters 136 and 486
- 59-12-108, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

**ENACTS:**

72-2-131, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 11-41-102 is amended to read:**

**11-41-102. Definitions.**

As used in this chapter:

- (1) "Agreement" means an oral or written agreement between a:
  - (a) (i) county; or
  - (ii) municipality; and
  - (b) person.
- (2) "Municipality" means a:
  - (a) city;
  - (b) town; or
  - (c) metro township.
- (3) "Payment" includes:
  - (a) a payment;
  - (b) a rebate;
  - (c) a refund; or
  - (d) an amount similar to Subsections (3)(a) through (c).
- (4) "Regional retail business" means a:
  - (a) retail business that occupies a floor area of more than 80,000 square feet;
  - (b) dealer as defined in Section 41-1a-102;
  - (c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or
  - (d) grocery store that occupies a floor area of more than 30,000 square feet.
- (5) (a) "Sales and use tax" means a tax:
  - (i) imposed on transactions within a:
    - (A) county; or
    - (B) municipality; and
  - (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.
- (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax authorized under:
  - (i) Subsection 59-12-103(2)(a)(i);
  - (ii) Subsection 59-12-103(2)(b)(i);
  - (iii) Subsection 59-12-103(2)(c)(i);
  - (iv) Subsection 59-12-103(2)(d);
  - (v) ~~Subsection 59-12-103(2)(d)~~(e)(i)(A);
  - (vi) ~~Section 59-12-301;~~
  - (vii) ~~Section 59-12-352;~~
  - (viii) ~~Section 59-12-353;~~

~~[(viii)]~~ (ix) Section 59-12-603; or  
~~[(ix)]~~ (x) Section 59-12-1201.

(6) (a) "Sales and use tax incentive payment" means a payment of revenues:

- (i) to a person;
- (ii) by a:
  - (A) county; or
  - (B) municipality;
- (iii) to induce the person to locate or relocate a regional retail business within the:
  - (A) county; or
  - (B) municipality; and
- (iv) that are derived from a sales and use tax.

(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.

**Section 2. Section 26-36b-208 is amended to read:**

**26-36b-208. Medicaid Expansion Fund.**

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

- (a) assessments collected under this chapter;
- (b) intergovernmental transfers under Section 26-36b-206;
- (c) savings attributable to the health coverage improvement program as determined by the department;
- (d) savings attributable to the enhancement waiver program as determined by the department;
- (e) savings attributable to the Medicaid waiver expansion as determined by the department;
- (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;
- (g) revenues collected from the sales tax described in Subsection 59-12-103~~(13)~~(12);
- (h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;
  - (i) interest earned on money in the fund; and
  - (j) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

- (i) the health coverage improvement program;
- (ii) the enhancement waiver program;
- (iii) a Medicaid waiver expansion; and
- (iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

- (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or
- (ii) money in the fund for any purpose not described in Subsection (4)(a).

**Section 3. Section 35A-8-308 is amended to read:**

**35A-8-308. Throughput Infrastructure Fund.**

(1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

(2) The fund consists of money generated from the following revenue sources:

- (a) all amounts transferred to the fund ~~[under Subsection 59-12-103(12)]~~ by statute;
- (b) any voluntary contributions received;
- (c) appropriations made to the fund by the Legislature; and
- (d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.

(3) The state treasurer shall:

- (a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
- (b) deposit all interest or other earnings derived from those investments into the fund.

**Section 4. Section 35A-8-309 is amended to read:**

**35A-8-309. Throughput Infrastructure Fund administered by impact board -- Uses -- Review by board -- Annual report -- First project.**

(1) The impact board shall:

- (a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;
- (b) use money transferred to the Throughput Infrastructure Fund in accordance with ~~[Subsection 59-12-103(12)]~~ statute to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act;
- (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

- (d) determine provisions for repayment of loans;
- (e) establish criteria for awarding loans and grants; and
- (f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.

(4) To receive assistance under this section, a local political subdivision or an interlocal agency shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal agency; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal agencies that received assistance under this section.

(8) (a) The first throughput infrastructure project considered by the impact board shall be a bulk commodities ocean terminal project.

(b) Upon receipt of an application from an interlocal agency created for the sole purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean terminal project, the impact board shall:

(i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition of the throughput infrastructure project; and

(ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.

**Section 5. Section 59-1-401 is amended to read:**

**59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.**

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

(IX) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for

redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through [(d)] (e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through [(d)] (e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through [(d)] (e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through [(d)] (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede

administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than \$1,000; or

(B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or

the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

- (A) be less than \$1,500; or
- (B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

- (I) a return;
- (II) an affidavit;
- (III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

- (A) be less than \$1,500; or
- (B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

(B) fails to file the form.

(14) Upon making a record of its actions, and upon reasonable cause shown, the commission may



waive, reduce, or compromise any of the penalties or interest imposed under this part.

**Section 6. Section 59-12-102 is amended to read:**

**59-12-102. Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an

ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

~~[(d)]~~ (e) Subsection 59-12-103(2)~~[(d)]~~(e)(i)(A)(I);

~~[(e)]~~ (f) Section 59-12-204;

~~[(f)]~~ (g) Section 59-12-401;

~~[(g)]~~ (h) Section 59-12-402;

~~[(h)]~~ (i) Section 59-12-402.1;

~~[(i)]~~ (j) Section 59-12-703;

~~[(j)]~~ (k) Section 59-12-802;

~~[(k)]~~ (l) Section 59-12-804;

~~[(l)]~~ (m) Section 59-12-1102;

~~[(m)]~~ (n) Section 59-12-1302;

~~[(n)]~~ (o) Section 59-12-1402;

~~[(o)]~~ (p) Section 59-12-1802;

~~[(p)]~~ (q) Section 59-12-2003;

~~[(q)]~~ (r) Section 59-12-2103;

~~[(r)]~~ (s) Section 59-12-2213;

~~[(s)]~~ (t) Section 59-12-2214;

~~[(t)]~~ (u) Section 59-12-2215;

~~[(u)]~~ (v) Section 59-12-2216;

~~[(v)]~~ (w) Section 59-12-2217;

~~[(w)]~~ (x) Section 59-12-2218;

~~[(x)]~~ (y) Section 59-12-2219; or

~~[(y)]~~ (z) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a

corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

- (i) material from a plant or tree; or
- (ii) other organic matter that is available on a renewable basis, including:

- (A) slash and brush from forests and woodlands;
- (B) animal waste;
- (C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

- (E) aquatic plants; and
- (F) agricultural products.

(b) “Biomass energy” does not include:

- (i) black liquor; or
- (ii) treated woods.

(19) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

- (i) distinct and identifiable; and
- (ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

- (ii) the sale of real property;
- (iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

- (A) the tangible personal property:
  - (I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

- (I) food and food ingredients;
- (II) a drug;
- (III) durable medical equipment;
- (IV) mobility enhancing equipment;
- (V) an over-the-counter drug;
- (VI) a prosthetic device; or
- (VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or

(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of “purchase price.”

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase

of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (111).

(25) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(35) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(40) “Directory assistance” means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(41) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(42) “Drilling equipment manufacturer” means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(43) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) “Drug” does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(44) (a) Except as provided in Subsection (44)(c), “durable medical equipment” means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).

(c) “Durable medical equipment” does not include mobility enhancing equipment.

(45) “Electronic” means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (45)(b)(i) through (vi).

(46) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(47) “Employee” means the same as that term is defined in Section 59-10-401.

(48) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(49) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(50) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(51) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance’s:

(I) taste; or

(II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection (95)(b)(iii).

(c) “Food and food ingredients” does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(52) (a) “Fundraising sales” means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (52)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(53) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(54) “Governing board of the agreement” means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(55) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

- (i) a school;
- (ii) the State Board of Education;
- (iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(56) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(57) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(58) (a) Except as provided in Subsection (58)(b), “installation charge” means a charge for installing:

- (i) tangible personal property; or
- (ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

- (i) repairs or renovations of:
- (A) tangible personal property; or
- (B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

- (A) to other tangible personal property; and
- (B) as part of a manufacturing or fabrication process.

(59) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(60) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and



(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(61) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(62) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(63) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(64) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(65) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(66) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (66)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(67) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(68) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace

seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (68)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the

product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchaser for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include a person that only provides payment processing services.

(69) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(70) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (70)(a) through (g); or

(j) person similar to a person described in Subsections (70)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(71) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(72) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(73) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (73)(a)(i) and the termination point described in Subsection (73)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (74)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(75) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(76) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (76)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(78) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(79) "Modular home" means a modular unit as defined in Section 15A-1-302.

(80) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(81) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(82) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(83) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(84) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(85) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (85)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(86) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(88) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (88)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (88)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (129)(c).

(89) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(90) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(91) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(92) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(93) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(94) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(95) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (95)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

(96) “Prescription” means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), “prewritten computer software” means computer software that is not designed and developed:

- (i) by the author or other creator of the computer software; and
- (ii) to the specifications of a specific purchaser.

(b) “Prewritten computer software” includes:

- (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

  - (A) by the author or other creator of the computer software; and
  - (B) to the specifications of a specific purchaser;

- (ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or
- (iii) except as provided in Subsection (97)(c), prewritten computer software or a prewritten portion of prewritten computer software:

  - (A) that is modified or enhanced to any degree; and
  - (B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) “Prewritten computer software” does not include a modification or enhancement described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:

- (i) reasonable; and
- (ii) subject to Subsections 59-12-103(2)(~~e~~)(f)(ii) and (2)(~~f~~)(g)(i), separately stated on the invoice or

other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

- (A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;
- (B) a preponderance of the facts and circumstances at the time of the transaction; and
- (C) the understanding of all of the parties to the transaction.

(98) (a) “Private communications service” means a telecommunications service:

- (i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and
- (ii) regardless of the manner in which the one or more communications channels are connected.

(b) “Private communications service” includes the following provided in connection with the use of one or more communications channels:

- (i) an extension line;
- (ii) a station;
- (iii) switching capacity; or
- (iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(99) (a) Except as provided in Subsection (99)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

(100) (a) “Prosthetic device” means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) “Prosthetic device” includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(101) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(102) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(103) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(f)(ii) and 2)(f)(g)(i), the following if separately stated

on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(104) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(105) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(106) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(107) "Rental" means the same as that term is defined in Subsection (60).

(108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(109) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(110) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (110)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.



(111) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(112) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

(113) (a) “Retailer” means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(114) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(115) “Sale at retail” means the same as that term is defined in Subsection (112).

(116) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(117) “Sales price” means the same as that term is defined in Subsection (103).

(118) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

(A) the sale of:

- (I) textbooks;
- (II) textbook fees;
- (III) laboratory fees;
- (IV) laboratory supplies; or
- (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (118)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

(119) For purposes of this section and Section 59-12-104, “school” means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(120) (a) “Seller” means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) “Seller” includes a marketplace facilitator.

(121) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (121)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(122) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(123) (a) Subject to Subsections (123)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or

(xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(124) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(125) "Solar energy" means the sun used as the sole source of "Energy for producing electricity.

(126) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(127) "State" means the state of Utah, its departments, and agencies.

(128) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(130) (a) "Telecommunications enabling or facilitating equipment, machinery, or software"

means an item listed in Subsection (130)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (130)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

(131) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(132) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(133) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(134) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (134)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(135) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (135)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (135)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (135)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (135)(b)(i) through (ix).

(136) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (136)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections

(136)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

(137) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(138) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(139) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(140) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(141) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (142)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(143) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (142).

(144) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(145) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(147) "Watercraft" means a vessel as defined in Section 73-18-2.

(148) "Wind energy" means wind used as the sole source of energy to produce electricity.

(149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

**Section 7. Section 59-12-103 is amended to read:**

**59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

- (A) a right of permanent use of the product; or
- (B) a right to use the product that is less than a permanent use, including a right:

- (I) for a definite or specified length of time; and
- (II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through ~~[(e)]~~ (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

- (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

~~[(A) (I) through March 31, 2019, 4.70%; and]~~

~~[(II) beginning on April 1, 2019,]~~ (A) 4.70% plus the rate specified in Subsection ~~[(13)]~~ (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

- (i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

- (i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

~~[(d)]~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

- (I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)~~[(d)]~~(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)~~[(d)]~~(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property,



product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(~~(d)~~)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(~~(e)~~)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(~~(f)~~)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

~~(g)~~ (h) Subject to Subsections (2)(~~(h)~~ and (i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(~~(d)~~)(e)(i)(A)(I).

~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(~~(d)~~)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(~~(d)~~)(e)(i)(A)(I).

~~(i)~~ (j) (i) For a tax rate described in Subsection (2)(~~(i)~~)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(~~(i)~~)(j)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(~~(d)~~)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

commission may by rule define the term “catalogue sale.”

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); ~~(e)~~ and
- (iv) the tax imposed by Subsection (2)~~(d)~~~~(e)~~(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)~~(d)~~~~(e)~~(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state’s interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in

Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

~~[(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;]~~

~~[(b) for fiscal year 2017-18 only:]~~

~~[(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

~~[(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

~~[(c) for fiscal year 2018-19 only:]~~

~~[(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

~~[(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

~~[(d) for fiscal year 2019-20 only:]~~

~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~

Transportation Investment Fund of 2005 created by Section 72-2-124; and]

~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

[(e)] (a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

[(f)] (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(~~(d)~~)(~~(e)~~)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

~~[(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(e)-(i)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(~~(e)~~)(ii)(b), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

~~[(D)]~~ (iv) the tax imposed by Subsection (2)(~~(d)~~)(~~(e)~~)(i)(A)(I).

~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(~~(i)~~) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel

that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

~~[(iii)] (c) The commission shall annually deposit the amount described in Subsection (8)[(e)(ii)](b) into the Transit and Transportation Investment Fund created in Section 72-2-124.~~

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

~~[(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(e), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).]~~

~~[(b)] (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(e)](b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:~~

~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);]~~

~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);]~~

~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);]~~

~~[(iv)] (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and~~

~~[(v)] (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).~~

~~[(e)] (b) For purposes of [Subsections (10)(a) and (b)] Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)[(d)](e).~~

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the

taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

~~[(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

~~[(13)] (12) (a) The rate specified in this subsection is 0.15%.~~

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall: (i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and (ii), for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection [(13)] (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

**Section 8. Section 59-12-104 is amended to read:**

**59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

- (i) the proceeds of each sale do not exceed \$1; and
- (ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

- (i) food and food ingredients; or
- (ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

- (i) alcoholic beverages;
- (ii) food and food ingredients; or
- (iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

- (i) to a passenger;
- (ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

- (i) the item is intended for human use; and
- (ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

- (A) a drug;
- (B) a syringe; or
- (C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

- (A) “syringe”; or
- (B) “stoma supply”;

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

- (A) a church; or
- (B) a charitable institution; or
- (ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
  - (i) food and food ingredients;
  - (ii) prepared food; or
  - (iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

- (i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred



electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

- (I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

- (31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

- (33) sales, leases, or uses of the following:

- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
  - (i) sold or leased to or used by an authorized carrier; and
  - (ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

- (a) a person presents a prescription for the durable medical equipment; and
- (b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

- (38) sales to a ski resort of:

- (a) snowmaking equipment;
- (b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

- (41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

- (43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and  
(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing

turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts,

chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2);

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

**Section 9. Section 59-12-108 is amended to read:**

**59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain amounts allocated to local taxing jurisdictions.**

(1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of \$50,000 or more for the previous calendar year shall:

(i) file a return with the commission:

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the month for which the seller collects a tax under this chapter; and



(ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by electronic funds transfer.

(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:

(i) is required by Section 59-12-107 to file the return electronically; or

(ii) (A) is required to collect and remit a tax under Section 59-12-107; and

(B) files a simplified electronic return.

(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) a fee under Section 19-6-714;

(iii) a fee under Section 19-6-805;

(iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(v) a tax under this chapter.

(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).

(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:

(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):

(A) Subsection 59-12-103(2)(a);

(B) Subsection 59-12-103(2)(b); ~~and~~

(C) Subsection 59-12-103(2)(d); and

(D) Subsection 59-12-103(2)(e); and

(ii) for an agreement sales and use tax.

(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c).

(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:

(A) 1.31% of any amounts the seller is required to remit to the commission for:

(I) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(II) the month for which the seller is filing a return in accordance with Subsection (1); and

(III) an agreement sales and use tax; and

(B) 1.31% of the difference between:

(I) the amounts the seller would have been required to remit to the commission:

(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

(Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) for an agreement sales and use tax; and

(II) the amounts the seller is required to remit to the commission for:

(Aa) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(Bb) the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) an agreement sales and use tax.

(d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1% of any amounts the seller is required to remit to the commission:

(i) for the month for which the seller is filing a return in accordance with Subsection (1); and

(ii) under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Subsection 59-12-603(1)(a)(i)(A); or

(C) Subsection 59-12-603(1)(a)(i)(B).

(3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1) may not retain any amount under Subsection (2).

(4) A seller that has a tax liability under this chapter for the previous calendar year of less than \$50,000 may:

(a) voluntarily meet the requirements of Subsection (1); and

(b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2).

(5) Penalties for late payment shall be as provided in Section 59-1-401.

(6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:

(i) the total amount retained for that month by all sellers had the percentages listed under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

(ii) the total amount retained for that month by all sellers at the percentages listed under Subsections (2)(b) and (2)(c)(ii).

(b) The commission shall each month allocate the amount calculated under Subsection (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.

(c) The amount the commission calculates under Subsection (6)(a) may not include an amount collected from a tax that:

(i) the state imposes within a county, city, or town, including the unincorporated area of a county; and

(ii) is not imposed within the entire state.

**Section 10. Section 72-2-131 is enacted to read:**

**72-2-131. Rail Transportation Restricted Account.**

(1) There is created in the Transit Transportation Investment Fund, created in Section 72-2-124, the Rail Transportation Restricted Account.

(2) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest earned on money in the account.

(3) The Legislature shall appropriate funds in the account to the department.

(4) Upon appropriation, the department shall use the money in the account for construction,

reconstruction, or renovation projects related to railroad crossings on class A, class B, or class C roads.

**Section 11. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.

ITEM 1

To Transit Transportation Investment Fund - Rail Transportation Restricted Account

<u>From General Fund</u>	<u>\$3,660,000</u>
--------------------------	--------------------

<u>From General Fund,</u> <u>One-time</u>	<u>(\$2,135,000)</u>
--	----------------------

Schedule of Programs:

<u>Rail Transportation</u> <u>Restricted Account</u>	<u>\$1,525,000</u>
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**Section 12. Effective date.**

This bill takes effect on January 1, 2021.



## STATE OF UTAH

GARY R. HERBERT  
GOVERNOR

OFFICE OF THE GOVERNOR  
SALT LAKE CITY, UTAH  
84114-2220

SPENCER J. COX  
LIEUTENANT GOVERNOR

April 1, 2020

The Honorable Brad Wilson  
Speaker of the House

and

The Honorable Stuart Adams  
President of the Senate

Dear Speaker Wilson and President Adams,

This letter serves to inform you that on April 1, 2020, I signed HB 3, Appropriations Adjustments with the following vetoes.

- Item 49, lines 471-475. Passage of SB 115 made the intent language unnecessary.
- Item 82, lines 748-753. HB 101 did not pass.
- Item 90, lines 798-803. HB 267 did not pass.
- Item 92, lines 811-816. HB 316 did not pass.
- Item 136, lines 1135-1140. I vetoed HB 278.
- Item 187, lines 1502-1508. HB 364 did not pass.
- Item 234, lines 1892-1897. This is duplicative as it was funded in SB 111.
- Item 236, lines 1902-1907. This is duplicative as it was funded in SB 111.
- Item 279, lines 2236-2241. This is duplicative as it was funded in SB 111.
- Item 287, lines 2288-2293. This is duplicative as it was funded in SB 111.
- Item 291, lines 2317-2325. HCR 27 did not pass.
- Item 292, lines 2326-2332. This is duplicative as it was funded in SB 111.
- Item 310, lines 2462-2466. Passage of SB 115 made the intent language unnecessary.

Sincerely,

Gary R. Herbert  
Governor



## STATE OF UTAH

OFFICE OF THE GOVERNOR  
SALT LAKE CITY, UTAH  
84114-2220

GARY R. HERBERT  
GOVERNOR

SPENCER J. COX  
LIEUTENANT GOVERNOR

April 1, 2020

The Honorable Brad Wilson  
Speaker of the House

and

The Honorable Stuart Adams  
President of the Senate

Dear Speaker Wilson and President Adams,

I have allowed HB243, Warning Labels Amendments, to become law without my signature.

I appreciate the efforts of the Utah Legislature to combat pornography and the many problems in our society that are related to pornography. I likewise support the provisions in HB243 that require obscene material to include a warning of the harmful effects on minors.

I also have concerns about the enforcement provisions within the bill that permit a private person to bring an action in certain circumstances. While I recognize the need to enforce the bill, I believe that enforcement is best left in the hands of the Attorney General or a county attorney. Private enforcement of this kind of statute, which involves payment of penalties, may not always take place in a consistent and fair manner.

For these reasons, I have allowed HB243 to become law without my signature.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert  
Governor

**LAWS**  
of the  
**STATE OF UTAH, 2020**

Passed at the  
**THIRD SPECIAL SESSION**  
of the  
**SIXTY-THIRD LEGISLATURE**

**Convened at the State Capitol in the City of Salt Lake**  
**April 16, 2020 and Adjourned Sine Die**  
**April 23, 2020**

# STATE OF UTAH



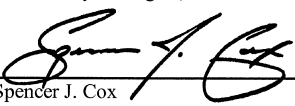
OFFICE OF THE LIEUTENANT GOVERNOR

## CERTIFICATE

**THIS IS TO CERTIFY** that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2020 Third Special Session of the Sixty-third Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2020 Third Special Session of the Sixty-third Legislature of the State of Utah convened at the Capitol in Salt Lake City on April 16, 2020 and adjourned on April 23, 2020.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 12<sup>th</sup> day of August, 2020.

  
\_\_\_\_\_  
Spencer J. Cox  
Lieutenant Governor

**CHAPTER 1**  
**S. B. 3004**

Passed April 17, 2020  
Approved April 17, 2020  
Effective April 17, 2020

**COVID-19 HEALTH AND  
ECONOMIC RESPONSE ACT**

Chief Sponsor: Daniel Hemmert  
House Sponsor: Mike Schultz

**LONG TITLE**

**General Description:**

This bill enacts the COVID-19 Health and Economic Response Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Public Health and Economic Emergency Commission (commission) to advise and make recommendations to the governor regarding the state's response to the COVID-19 emergency;
- ▶ establishes the membership and duties of the commission;
- ▶ requires the commission to provide a plan by a certain date to the governor that moves the state to a less urgent response level; and
- ▶ addresses the governor's response to the commission's plan.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**ENACTS:**

53-2c-101, Utah Code Annotated 1953  
53-2c-102, Utah Code Annotated 1953  
53-2c-103, Utah Code Annotated 1953  
53-2c-201, Utah Code Annotated 1953  
53-2c-202, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-2c-101 is enacted to read:**

**CHAPTER 2c. COVID-19 HEALTH AND  
ECONOMIC RESPONSE ACT**

**Part 1. General Provisions**

**53-2c-101. Title.**

This chapter is known as the "COVID-19 Health and Economic Response Act."

**Section 2. Section 53-2c-102 is enacted to read:**

**53-2c-102. Definitions.**

(1) "Commission" means the Public Health and Economic Emergency Commission created in Section 53-2c-201.

(2) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(3) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(4) "Elective surgery or procedure" means a surgery or procedure that is not medically necessary to correct a serious medical condition or preserve the life of a patient.

(5) "Epidemic or pandemic disease" means the same as that term is defined in Section 26-23b-102.

(6) "Local ordinance or order" means an ordinance, order, or other regulation enacted or issued by a local government entity.

(7) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition:

(a) that is caused by epidemic or pandemic disease;

(b) that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability; and

(c) for which the governor has declared a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

**Section 3. Section 53-2c-103 is enacted to read:**

**53-2c-103. Relation to other provisions.**

(1) This chapter supersedes any conflicting provisions of Utah law.

(2) (a) If the governor adopts, by order, a recommendation made by the commission, the adopted recommendation supersedes any portion of a local ordinance or order that is more restrictive than or in direct conflict with the adopted recommendation, unless the governor allows an exception at the time the governor adopts the recommendation or at anytime thereafter.

(b) If an adopted recommendation supersedes a portion of a local ordinance or order under Subsection (2)(a), the remaining portion of the local ordinance or order remains valid.

(3) The governor may not suspend the application or enforcement of any provision of this chapter.

**Section 4. Section 53-2c-201 is enacted to read:**

**Part 2. Health and Economic Response**

**53-2c-201. Public Health and Economic  
Emergency Commission -- Creation --  
Membership -- Quorum -- Per diem --  
Staff support -- Meetings.**

(1) There is created the Public Health and Economic Emergency Commission consisting of the following members:

(a) the executive director of the Department of Health, or the executive director's designee;

(b) four individuals, appointed by the governor, including:

(i) the chief executive of a for profit health care organization that operates at least one hospital in the state;

(ii) the chief executive of a not-for-profit health care organization that operates at least one hospital in the state; and

(iii) two other individuals;

(c) two individuals appointed by the president of the Senate;

(d) two individuals appointed by the speaker of the House of Representatives; and

(e) one individual appointed by the chief executive officer of the Utah Association of Counties.

(2) (a) The president of the Senate and the speaker of the House of Representatives shall jointly designate one of the members appointed under Subsection (1)(c) or (d) as chair of the commission.

(b) For an appointment under Subsection (1)(c) or (d), the president of the Senate or the speaker of the House of Representatives may appoint a legislator or a non-legislator.

(3) (a) If a vacancy occurs in the membership of the commission appointed under Subsection (1)(b), (c), (d), or (e), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member of the commission serves until the member's successor is appointed and qualified.

(4) (a) A majority of the commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The Governor's Office of Management and Budget shall:

(a) provide staff support to the commission; and

(b) coordinate with the Office of Legislative Research and General Counsel regarding the commission.

(7) A meeting of the commission that takes place during a public health emergency is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

**Section 5. Section 53-2c-202 is enacted to read:**

**53-2c-202. Commission duties -- Recommendations -- Governor's response.**

(1) The commission shall advise and make recommendations to the governor regarding the state's response to the COVID-19 emergency.

(2) As part of the commission's duties under Subsection (1), the commission shall:

(a) identify at least three economic and health guidance levels that may be used to:

(i) establish an overall risk assessment for the state; and

(ii) provide targeted risk assessments based on:

(A) geographic areas of the state;

(B) groups of individuals, based on each group's risk level of serious illness from COVID-19 due to demographic characteristics, including age or underlying health conditions;

(C) groups of individuals, based on each group's personal experience with COVID-19, including testing positive for, having symptoms of, or having recovered from COVID-19; or

(D) industries;

(b) establish criteria for assigning each economic and health guidance level described in Subsection (2)(a);

(c) identify the social and economic activities that the commission recommends take place or be restricted under each economic and health guidance level described in Subsection (2)(a);

(d) develop a plan to promote widespread testing of individuals for COVID-19;

(e) develop a plan to encourage individuals to use available technology to allow the state to identify and track the prevalence and transmission of COVID-19; and

(f) develop universal communication elements for governmental entities to use in messaging related to the COVID-19 emergency.

(3) (a) On or before April 22, 2020, the commission shall present a plan to the governor that:

(i) provides for the state to operate under an economic and health guidance level described in Subsection (2)(a)(i) that is immediately below the highest risk economic and health guidance level;

(ii) includes reasonable guidelines under which health care providers may perform elective surgeries and procedures and restaurants may resume or continue, subject to the reasonable guidelines, normal operations; and



(iii) is available to the public.

(b) If the governor does not implement the commission's plan described in Subsection (3)(a) on or before April 30, 2020, the governor shall, on or before April 30, 2020, issue a public statement that explains the governor's decision, including the generally accepted data the governor relied upon in reaching the decision.

(4) In conducting the commission's work, the commission shall:

(a) focus on the overall well-being of the state's residents by balancing economic and public health considerations and exploring all options to mitigate the impact of the COVID-19 emergency on daily life; and

(b) consult with local government officials, as appropriate.

**Section 6. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 2****H. B. 3001**

Passed April 16, 2020

Approved April 22, 2020

Effective April 22, 2020

Exception clause

**BOND AMENDMENTS**

Chief Sponsor: Bradley G. Last  
Senate Sponsor: Jerry W. Stevenson

**LONG TITLE****General Description:**

This bill addresses issuance of state general obligation bonds.

**Highlighted Provisions:**

This bill:

- ▶ allows the State Bonding Commission to issue certain general obligation bonds that would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution; and
- ▶ for purposes of revisor instructions, includes provisions passed during the 2020 Annual General Session that authorize the issuance of general obligation bonds for Department of Transportation projects.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:****ENACTS:**

63B-27-103, Utah Code Annotated 1953

63B-30-101, Utah Code Annotated 1953 Utah Code Sections Affected by Revisor Instructions:

63B-30-101, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 63B-27-103 is enacted to read:****63B-27-103. Highway bonds debt limitation.**

(1) Notwithstanding Subsection 63B-27-101(1)(c), the commission may issue a general obligation bond authorized under Section 63B-27-101 if the issuance of the general obligation bond would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) This section supersedes any conflicting provisions of Utah law.

**Section 2. Section 63B-30-101 is enacted to read:****Part 1. General Obligation Bonds****63B-30-101. General obligation bonds for transportation projects.**

(1) As used in this section, "transportation projects" means Department of Transportation projects described in Subsection 63B-27-101(2).

(2) (a) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the transportation projects for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt services reserve requirements, not to exceed 1% of the certified amount.

(b) The commission may issue general obligation bonds authorized under this section if the issuance of general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(3) The commission may issue general obligation bonds as provided in this section.

(4) The total amount of bonds to be issued under this section may not exceed \$89,510,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$92,000,000.

(5) The commission shall ensure that proceeds from the issuance of bonds under this section are provided to the Department of Transportation for use by the Department of Transportation to pay all or part of the cost of the transportation projects, including:

(a) interest estimated to accrue on the bonds authorized in this section until the completion of construction of the transportation project, plus a period of 12 months after the end of construction; and

(b) all related engineering, architectural, and legal fees.

(6) The Department of Transportation shall transfer \$20,000,000 of bond proceeds under this section to the Governor's Office of Economic Development for a transportation-related project in a project area created by the military installation development authority, created in Section 63H-1-201.

(7) (a) The Department of Transportation may enter into agreements related to the transportation projects before the receipt of proceeds of bonds issued under this section.

(b) The state intends to use proceeds of tax-exempt bonds to reimburse itself for expenditures for costs of the transportation projects.

(8) This section supersedes any conflicting provisions of Utah law.

**Section 3. Effective date.**

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If approved by two-thirds of all the members elected to each house, Section 63B-30-101 takes effect on May 12, 2020.

**Section 4. Revisor instructions.**

The Legislature intends that Section 63B-30-101 in this bill supersedes Section 63B-30-101 in S.B. 115, Bonding Amendments, 2020 Annual General Session, and the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace Section 63B-30-101 in S.B. 115, Bonding Amendments, 2020 Annual General Session, with Section 63B-30-101 in this bill.

**CHAPTER 3****H. B. 3002**

Passed April 16, 2020

Approved April 22, 2020

Effective April 22, 2020

**APPROPRIATIONS REVISIONS**

Chief Sponsor: Bradley G. Last  
Senate Sponsor: Jerry W. Stevenson

**LONG TITLE****General Description:**

This bill addresses provisions relating to state budget implementation and reporting requirements.

**Highlighted Provisions:**

This bill:

- ▶ provides that certain funds appropriated for the state plan for medical assistance and for the Division of Health Care Financing are nonlapsing for the fiscal year beginning July 1, 2019, and ending June 30, 2020, and the fiscal year beginning July 1, 2020, and ending June 30, 2021;
- ▶ for the fiscal year beginning July 1, 2020, and ending June 30, 2021, allows the Division of Finance to extend the date before which a department in the state is required to submit a budget execution plan to the Division of Finance; and
- ▶ exempts an agency from reporting to the Board of Examiners regarding certain overexpended line items for the fiscal year beginning July 1, 2019, and ending June 30, 2020.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

26-18-402.5, Utah Code Annotated 1953

63J-1-209.5, Utah Code Annotated 1953

63J-1-217.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 26-18-402.5 is enacted to read:****26-18-402.5. Nonlapsing Medicaid funds.**

(1) Notwithstanding Subsection 26-18-402(3), for fiscal years 2019-20 and 2020-21 the funds described in Subsections 26-18-402(3)(a) and 26-18-402(2)(a)(ii) are nonlapsing.

(2) This section supersedes any conflicting provisions of Utah law.

**Section 2. Section 63J-1-209.5 is enacted to read:****63J-1-209.5. Reporting requirements for budget execution plans for fiscal year 2021.**

(1) Notwithstanding Subsection 63J-1-209(2), for the fiscal year beginning July 1, 2020, and

ending June 30, 2021, the director of the Division of Finance may extend the deadline described in Subsection 63J-1-209(2)(a) for up to 45 days after the date described in Subsection 63J-1-209(2)(a).

(2) This section supersedes any conflicting provisions of Utah law.

**Section 3. Section 63J-1-217.5 is enacted to read:****63J-1-217.5. Reporting requirements for overexpenditure of budget by agency for fiscal year 2020.**

(1) Notwithstanding Section 63G-9-301 and Subsection 63J-1-217(2)(c), an agency with an overexpended line item for the fiscal year beginning July 1, 2019, and ending June 30, 2020, is not required to present a report to the Board of Examiners if the line item is overexpended as a result of the Legislature reducing the agency's nonlapsing appropriations for the fiscal year beginning July 1, 2019, and ending June 30, 2020, after the day on which the 2020 Annual General Session adjourns sine die and before the day on which the 2021 Annual General Session begins.

(2) This section supersedes any conflicting provisions of Utah law.

**Section 4. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 4**  
**H. B. 3003**

Passed April 16, 2020  
Approved April 22, 2020  
Effective April 22, 2020  
Exception clause

**INCOME TAX REVISIONS**

Chief Sponsor: Robert M. Spendlove  
Senate Sponsor: Curtis S. Bramble

**LONG TITLE**

**General Description:**

This bill modifies income tax provisions.

**Highlighted Provisions:**

This bill:

- ▶ modifies the due date for an installment payment of the tax on deferred foreign income;
- ▶ modifies the payment of the corporate estimated income tax due dates;
- ▶ modifies the corporate and individual return filing dates, extension dates and periods, and the return and extension requirements;
- ▶ provides for when interest accrues on a late payment;
- ▶ adds and modifies definitions;
- ▶ creates a subtraction from adjusted gross income for certain distributions from a qualified retirement plan; and
- ▶ provides the circumstances under which the State Tax Commission shall extend the time to pay an income tax for the 2019 taxable year.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides retrospective operation.

**Utah Code Sections Affected:**

**ENACTS:**

59-7-118.1, Utah Code Annotated 1953  
59-7-504.1, Utah Code Annotated 1953  
59-7-505.1, Utah Code Annotated 1953  
59-7-507.1, Utah Code Annotated 1953  
59-10-103.2, Utah Code Annotated 1953  
59-10-114.1, Utah Code Annotated 1953  
59-10-514.2, Utah Code Annotated 1953  
59-10-516.1, Utah Code Annotated 1953  
59-10-522.1, Utah Code Annotated 1953  
59-10-1403.4, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-7-118.1 is enacted to read:**

**59-7-118.1. Modification of installment due date for deferred foreign income tax.**

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection 59-7-118(3)(b); and

(b) the remaining subsections of Section 59-7-118 apply as written.

(2) A corporation shall make:

(a) the first installment of a tax described in Section 59-7-118 on or before the due date of the tax return filed under this chapter for the first taxable year in which the corporation reports deferred foreign income described in Section 965, Internal Revenue Code; and

(b) a subsequent installment of a tax described in Section 59-7-118 on or before the due date of the tax return filed under this chapter in each of the following seven years.

(3) This section supersedes any conflicting provisions of Utah law.

**Section 2. Section 59-7-504.1 is enacted to read:**

**59-7-504.1. Modification of estimated payment due date.**

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection 59-7-504(1);

(b) Subsection (3) replace Subsection 59-7-504(2); and

(c) the remaining subsections of Section 59-7-504 apply as written.

(2) Except as provided in Subsection (3), a corporation subject to taxation under this chapter that has a tax liability of \$3,000 or more in either the current taxable year or the previous taxable year shall make a payment of an estimated tax on or before the day on which the corporation is required to make a payment of an estimated tax for the same time period to the federal government.

(3) The provisions of Section 6655, Internal Revenue Code, shall govern the payment described in Subsection (2), except that:

(a) for the first year that a corporation is required to file a return in Utah, the corporation is not subject to Subsection (2) if the corporation makes a payment on or before the due date of the return, without extensions, equal to or greater than the minimum tax required under Section 59-7-104 or 59-7-201;

(b) the applicable percentage of the required annual payment, as defined in Section 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal installments, and those estimated tax payments based on the current year tax liability shall be:

<u>Installment</u>	<u>Percentage</u>
<u>1<sup>st</sup></u>	<u>22.5</u>
<u>2<sup>nd</sup></u>	<u>45.0</u>
<u>3<sup>rd</sup></u>	<u>67.5</u>
<u>4<sup>th</sup></u>	<u>90.0</u>

(c) a large corporation shall be treated as any other corporation for purposes of this section and Section 59-7-504;

(d) if a taxpayer elects a different annualization period than the one used for federal purposes, the taxpayer shall make an election with the commission at the same time as provided under Section 6655, Internal Revenue Code; and

(e) the due date shall be superseded by the due date for federal estimated payments if modified by other federal action.

(4) This section supersedes any conflicting provisions of Utah law.

**Section 3. Section 59-7-505.1 is enacted to read:**

**59-7-505.1. Modification of return due date and extension period.**

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection 59-7-505(2);

(b) Subsection (3) replace Subsection 59-7-505(3); and

(c) the remaining subsections of Section 59-7-505 apply as written.

(2) (a) A corporation shall make a return on or before the later of:

(i) the 15th day of the fourth month following the close of the taxable year; or

(ii) the day on which a corporation required to make a return under this chapter is required to file a federal income tax return.

(b) Interest accrues from the day on which a return is due under this Subsection (2).

(3) (a) The commission shall allow a taxpayer an extension of the time for filing a return.

(b) Except as provided in Subsection (3)(c), the extension described in Subsection (3)(a) may be for up to six months.

(c) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the time period that ends on the last day of the extension to file the taxpayer's federal income tax return.

(4) This section supersedes any conflicting provisions of Utah law.

**Section 4. Section 59-7-507.1 is enacted to read:**

**59-7-507.1. Modification of time for payment of tax.**

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection 59-7-507(1)(a);

(b) (i) Subsection (3)(a) replace Subsection 59-7-507(1)(b); and

(ii) Subsection (3)(b) replace Subsection 59-7-507(1)(c);

(c) Subsection (4) replace Subsection 59-7-507(2)(a) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019; and

(d) the remaining subsections of Section 59-7-507 apply as written.

(2) If an estimated payment is not made as provided in Section 59-7-504.1, the amount of the tax imposed by this chapter shall be paid no later than the due date of the return described in Subsection 59-7-505.1(2).

(3) (a) If a taxpayer needs an extension of time to file a return, as provided in Section 59-7-505.1 or 59-7-803, a taxpayer shall pay, no later than the due date of the return described in Subsection 59-7-505.1(2), an amount equal to the lesser of:

(i) the greater of:

(A) 90% of the total tax reported on the return for the current taxable year; or

(B) 100% of the minimum tax described in Section 59-7-104; or

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

(b) If payment is not made as provided in Subsection (3)(a), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.

(4) A taxpayer shall receive an extension of the time for the payment of the amount determined as the tax of the taxpayer, or any part of that amount, for the time period that ends on the last day of the extension to pay the taxpayer's federal income tax.

(5) This section supersedes any conflicting provisions of Utah law.

**Section 5. Section 59-10-103.2 is enacted to read:**

**59-10-103.2. Additional chapter definitions.**

(1) The Legislature intends:

(a) that the definitions in Subsections (2) and (3) supplement the definitions in Section 59-10-103;

(b) the definition in Subsection (4) replace the definition of "taxpayer" in Section 59-10-103; and

(c) the remaining subsections of Section 59-10-103 apply as written.

(2) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(3) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(4) "Taxpayer" means any of the following that has income subject in whole or in part to the tax imposed by this chapter:

(a) an individual;

(b) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through entity or a pass-through entity taxpayer;

(c) a pass-through entity; or

(d) a pass-through entity taxpayer.

(5) This section supersedes any conflicting provisions of Utah law.

**Section 6. Section 59-10-114.1 is enacted to read:**

**59-10-114.1. Additional subtraction from income.**

(1) The Legislature intends that the subtraction described in Subsection (2) be in addition to the subtractions described in Section 59-10-114.

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:

(a) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(b) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:

(i) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(ii) was taxed by another state of the United States, the District of Columbia, or a possession of the United States.

(3) This section supersedes any conflicting provisions of Utah law.

**Section 7. Section 59-10-514.2 is enacted to read:**

**59-10-514.2. Modification of return due date.**

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection 59-10-514(1); and

(b) the remaining subsections of Section 59-10-514 apply as written.

(2) (a) Subject to Subsection 59-10-514(3) and Section 59-10-518:

(i) an individual income tax return filed for a tax imposed in accordance with Part 1, Determination and Reporting of Tax Liability and Information, shall be filed with the commission on or before the day on which a federal individual income tax return is due;

(ii) a fiduciary income tax return filed for a tax imposed in accordance with Part 2, Trusts and Estates, shall be filed with the commission on or before the day on which a federal return for estates and trusts is due; and

(iii) a return filed in accordance with Section 59-10-507 shall be filed with the commission on or before the later of:

(A) the 15th day of the fourth month following the last day of the taxpayer's taxable year; or

(B) the day on which the taxpayer is required to file a federal income tax return.

(b) Interest accrues from the day on which a return is due under this Subsection (2).

(3) This section supersedes any conflicting provisions of Utah law.

**Section 8. Section 59-10-516.1 is enacted to read:**

**59-10-516.1. Modification of extension dates and requirements.**

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection 59-10-516(1);

(b) Subsections (3) and (4) replace Subsection 59-10-516(2); and

(c) the remaining subsections of Section 59-10-516 apply as written.

(2) (a) The commission shall allow a taxpayer an extension of the time for filing a return.

(b) Except as provided in Subsection (2)(c):

(i) for a return filed by a taxpayer other than a partnership, the extension described in Subsection (2)(a) may be for up to six months; and

(ii) for a return filed by a taxpayer that is a partnership, the extension described in Subsection (2)(a) may be for up to five months.

(c) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer may receive an extension described in Subsection (2)(a) for the time period that ends on the last day of the extension to file the taxpayer's federal income tax return.

(3) Except as provided in Subsection (4), the commission may not impose a penalty under Section 59-1-401 on:

(a) a pass-through entity during the extension period described under Subsection (2) if the pass-through entity, on or before the return due date, pays or withholds the tax on behalf of a pass-through entity taxpayer; or

(b) a taxpayer other than a taxpayer described in Subsection (3)(a) during the extension period described in Subsection (2) if the taxpayer pays, on or before the return due date described in Section 59-10-514.2, an amount equal to the lesser of:

(i) 90% of the total tax reported on the return for the current taxable year; or

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

(4) If a taxpayer fails to meet the requirements of Subsection (3), the commission may apply to the

total balance due a penalty as provided in Section 59-1-401.

(5) This section supersedes any conflicting provisions of Utah law.

**Section 9. Section 59-10-522.1 is enacted to read:**

**59-10-522.1. Limitation on commission authority to extend the time for payment of tax.**

(1) The Legislature intends that Subsection (2) replace Subsection 59-10-522(1) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019.

(2) A taxpayer shall receive an extension of the time for the payment of the amount determined as the tax of the taxpayer, or any part of that amount, for the time period that ends on the last day of the extension to pay the taxpayer's federal income tax.

(3) This section supersedes any conflicting provisions of Utah law.

**Section 10. Section 59-10-1403.4 is enacted to read:**

**59-10-1403.4. Modification of return filing requirements for pass-through entity.**

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection 59-10-1403(3); and

(b) the remaining subsections of Section 59-10-1403 apply as written.

(2) A pass-through entity is subject to the return filing requirements of Sections 59-10-507, 59-10-514, 59-10-514.2, 59-10-516, and 59-10-516.1.

(3) This section supersedes any conflicting provisions of Utah law.

**Section 11. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**Section 12. Retrospective operation.**

(1) Except as provided in Subsections (2) and (3), this bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

(2) The changes to Section 59-10-114.1 have retrospective operation for a taxable year beginning on or after January 1, 2020.

(3) The changes to Section 59-7-118.1 have retrospective operation for:

(a) the last taxable year of a taxpayer beginning on or before December 31, 2017; and

(b) a taxable year beginning on or after January 1, 2018.



**CHAPTER 5****H. B. 3006**

Passed April 16, 2020  
 Approved April 22, 2020  
 Effective April 22, 2020  
 Exception clause

**ELECTION AMENDMENTS**

Chief Sponsor: Jefferson Moss  
 Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill makes temporary changes to the Election Code and related provisions, as they relate to the 2020 regular primary election only, to conduct the election in a manner that protects the public health and safety in relation to the COVID-19 pandemic.

**Highlighted Provisions:**

This bill:

- ▶ preempts conflicts between this bill and other provisions of the Utah Code, emergency declarations, and other restrictions;
- ▶ requires the lieutenant governor's office to:
  - issue protocols to protect the health and safety of voters and government employees, including poll workers, in the conduct of the 2020 regular primary election; and
  - conduct a campaign to educate the public on the provisions of this bill;
- ▶ authorizes the lieutenant governor's office to make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular primary election to the extent the modifications are necessary to carry out the provisions of this bill;
- ▶ modifies election notice provisions to inform voters of changes applicable to the 2020 regular primary election;
- ▶ modifies multiple provisions relating to the 2020 regular primary election, including that:
  - except for a mobile voting county, the election will be conducted entirely by mail;
  - except for a mobile voting county, there will be no polling places on election day;
  - there will be no in person early voting;
  - there will be no in person voter registration;
  - there will be no voter registration by provisional ballot;
  - the voter registration deadline is 11 days before the day of the election; and
  - the postmark deadline for mailing a ballot is extended to the day of the election;
- ▶ lists several code provisions that are not in effect, or that are otherwise modified, for the 2020 regular primary election;
- ▶ establishes a process for a county to qualify as a mobile voting county that provides limited drive-up voting on election day; and
- ▶ provides for accessible voting options for a voter with a disability.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a repeal date.

This bill provides revisor instructions.

**Utah Code Sections Affected:****ENACTS:**

20A-1-309, Utah Code Annotated 1953 Utah Code Sections Affected by Revisor Instructions:  
 20A-1-309, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 20A-1-309 is enacted to read:****20A-1-309. Regular primary election, 2020 -- COVID-19 measures.**

(1) (a) As used in this section, "mobile voting county" means a county that opts in to drive-up voting on election day in accordance with Subsection (9).

(b) In relation to conducting the 2020 regular primary election, the Legislature takes the action described in this section to protect the public health and safety in relation to the COVID-19 pandemic.

(c) If any provision of the Utah Code conflicts with a provision of this section, this section prevails.

(2) Notwithstanding any emergency declaration issued under the authority of this state, or any other restriction imposed by the governor, the Department of Health, a local government, a local health department, or any other government entity of the state, and consistent with the requirements of this section, the conduct of the 2020 regular primary election:

(a) subject to the provisions of this section, is an essential service, including voting, voter registration, the mailing of ballots, the return of completed ballots, the processing of ballots, the counting and tallying of votes, and the release of election results; and

(b) except as expressly provided in this section, is not prohibited or affected by the emergency declaration or restriction.

(3) The lieutenant governor's office shall, in consultation with the county clerks and consistent with the provisions of this section and other applicable requirements of law, issue protocols to protect the health and safety of voters and government employees in the conduct of the 2020 regular primary election, including:

(a) requiring poll workers to use protective gear and to wash hands regularly;

(b) prohibiting ill poll workers from working; and

(c) promoting, to the extent practicable, social distancing between poll workers.

(4) The lieutenant governor's office shall conduct a campaign to educate the public on the provisions of this section, especially provisions relating to changes in the voter registration, voting methods, and voting process.

(5) The lieutenant governor's office may make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular primary election to the extent the modifications are necessary to carry out the provisions of this section.

(6) For the 2020 regular primary election only:

(a) the entire election will be conducted by mail, except that:

(i) a mobile voting county may provide drive-up voting, on election day only, in accordance with the requirements of this section;

(ii) a covered voter, as defined in Section 20A-16-102, may vote in any manner approved by the election officer;

(iii) an election officer shall:

(A) provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(B) include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (6)(a)(iii)(A) may vote;

(iv) a caretaker for a voter described in Subsection (6)(a)(iii) may vote at the same time and place as the voter;

(b) except as provided in Subsection (6)(c), the notice of election shall include the following statement: "To help prevent the spread of the coronavirus, for the 2020 regular primary election only:

- ▶ the election will be conducted entirely by mail;
- ▶ drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day;
- ▶ there will be no polling places on election day;
- ▶ there will be no in person voting, including no in person early voting;
- ▶ there will be no in person voter registration;
- ▶ there will be no voter registration by provisional ballot; and
- ▶ the voter registration deadline is 11 days before the day of the election.

An individual with a disability who is not able to vote a manual ballot by mail may obtain information on voting in an accessible manner from the county's website, by contacting the county clerk, or by reviewing the information included with a ballot mailed to the voter.;"

(c) the notice of election for a mobile voting county shall include the following statement: "To help prevent the spread of the coronavirus, for the 2020 regular primary election only:

- ▶ the election will be conducted primarily by mail;
- ▶ drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day;
- ▶ there will be no regular polling places on election day, but there will be limited drive-up voting on election day, unless the county clerk cancels drive-up voting based on public health concerns;

- ▶ if drive-up voting is cancelled based on public health concerns, voters will be required to vote by mail;
- ▶ except for drive-up voting on election day only, there will be no in person voting and no in person early voting;
- ▶ there will be no in person voter registration;
- ▶ there will be no voter registration by provisional ballot; and
- ▶ the voter registration deadline is 11 days before the day of the election.

An individual with a disability who is not able to vote a manual ballot by mail may obtain information on voting in an accessible manner from the county's website, by contacting the county clerk, or by reviewing the information included with a ballot mailed to the voter.;"

(d) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-5-403 is not in effect;

(e) the election officer shall mail to each active voter who is eligible to vote in the primary, regardless of whether the voter has requested that the election officer not send a ballot by mail to the voter:

(i) a manual ballot, if the voter is affiliated with a political party for which there is a primary election;

(ii) a notice to each unaffiliated active voter stating that the voter may request a primary election ballot; and

(iii) a manual ballot to each unaffiliated active voter who requests a primary election ballot;

(f) early voting will not take place;

(g) registration by provisional ballot will not take place and Section 20A-2-207 is not in effect;

(h) provisional ballots may only be cast:

(i) by mail;

(ii) for an individual with a disability, as otherwise authorized by the election officer; or

(iii) for a mobile voting county, at a drive-up voting station;

(i) the provisions of Section 20A-3a-205 will only be in effect to the extent they can be completed in accordance with Subsection (6)(h);

(j) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 11-14-202(3), (4)(a)(ii), (4)(a)(iv), (4)(b), and (6) are not in effect;

(k) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 11-14-202(4)(a)(iii) following the words "election officer's website" is not in effect;

(l) except for a registration completed before the effective date of this bill, in person voter registration is not in effect, including registration described in Section 20A-2-201 or Subsection 20A-2-304(1)(a);

- (m) Subsection 20A-2-307(2)(a) is not in effect;
- (n) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Sections 20A-4-101, 20A-4-102, and 20A-4-103 are not in effect;
- (o) Subsection 20A-4-202(2)(a) is not in effect;
- (p) the deadline for the canvas to be completed is 21 days after the election;
- (q) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-5-101(4)(b), (4)(c), (4)(e), and (6)(c)(iii) are not in effect;
- (r) the statement described in Subsections 20A-5-101(4)(d) and 20A-7-702(2)(m) and (2)(n) shall, instead of referring to polling places, refer to:
- (i) ballot drop boxes; and
- (ii) for a mobile voting county, drive-up voting stations;
- (s) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-7-702(3)(c) following the words "upon request" are not in effect;
- (t) Subsection 20A-7-801(3)(c) is not in effect;
- (u) (i) except as provided in Subsection (6)(u)(ii), the statement described in Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including ballot drop box locations, accessible options for voters with a disability, and qualifications of voters may be obtained from the following sources:";
- (ii) for a mobile voting county, the statement described in Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including ballot drop box locations, drive-up voting locations, accessible options for voters with a disability, and qualifications of voters may be obtained from the following sources:";
- (v) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k):
- (i) the portion of Subsection 20A-5-102(1)(c)(xiii) following the words "date of the election" are not in effect; and
- (ii) Subsection 20A-5-102(2) is not in effect;
- (w) the election officer may modify the number of poll workers to an amount that the election officer determines is appropriate and may alter or otherwise designate the duties of poll workers in general, and of each individual poll worker;
- (x) the election officer may reduce the number of watchers and alter or otherwise regulate the placement and conduct of watchers as the election officer determines is appropriate;
- (y) in Section 20A-6-203:
- (i) the provisions relating to voting booths are not in effect; and
- (ii) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the provisions relating to ballot boxes are not in effect; and
- (z) an election officer may not release any ballot counts or any other election results or updates to the public before 10 p.m. on election day.
- (7) For the 2020 regular primary election only, with respect to the version of the Utah Code otherwise in effect before May 12, 2020:
- (a) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsection 20A-3-202.3(3)(b)(ii) is not in effect;
- (b) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3-302(2)(a)(ii) and (v) and (6)(a), (b), and (c) are not in effect;
- (c) Subsection 20A-3-306.5(3)(a) is not in effect;
- (d) Chapter 3, Part 6, Early Voting, is not in effect;
- (e) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Chapter 3, Part 7, Election Day Voting Center, is not in effect;
- (f) Subsections 20A-5-101(4)(b), (c), and (e) are not in effect;
- (g) the portion of Subsection 20A-5-101(4)(d) that follows the words "election officer's website" is not in effect; and
- (h) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-5-101(6)(b) that states "polling places, polling place hours, and" is not in effect.
- (8) For the 2020 regular primary election only, with respect to the version of the Utah Code otherwise in effect beginning on May 12, 2020:
- (a) Subsections 20A-2-102.5(2)(a)(i), (2)(b), and (2)(c) are not in effect;
- (b) the portion of Subsection 20A-2-202(3)(b) following the words "pending election" is not in effect;
- (c) the portion of Subsection 20A-2-204(6)(c)(iii) following the words "pending election" is not in effect;
- (d) the portion of Subsection 20A-2-205(7)(b) following the words "pending election" is not in effect;
- (e) Subsection 20A-2-206(9)(b) is not in effect;
- (f) Section 20A-3a-105 is not in effect, except:
- (i) as it applies to an individual with a disability; or
- (ii) as it relates to drive-up voting for a mobile voting county, subject to Subsection (9)(k);

(g) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-201(1)(b) and (c) are not in effect;

(h) (i) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-202(2)(a)(iv) and (v), (8)(a), (b), and (c) are not in effect; and

(ii) Subsection 20A-3a-202(10) is not in effect;

(i) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-203 is not in effect;

(j) the deadline for a postmark or other mark described in Subsection 20A-3a-204(2)(a)(i) is extended to on or before election day;

(k) the words “in line at” in Subsection 20A-3a-204(2)(d) are replaced with the words “waiting in the vicinity of”;

(l) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-204(2)(b)(i), (3), (4), (7), (8), and (9) are not in effect;

(m) the words “enter a polling place” in Subsection 20A-3a-208(1) are replaced with the word “vote”;

(n) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-209(1) and (2) are not in effect;

(o) Section 20A-3a-301 is in effect only to the extent that the process can be completed:

(i) by mail;

(ii) for a mobile voting county, via a drive-up voting center; or

(iii) if approved by the lieutenant governor’s office, electronic means;

(p) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-402 is not in effect;

(q) Chapter 3a, Part 6, Early Voting, is not in effect;

(r) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Chapter 3a, Part 7, Election Day Voting Center, is not in effect;

(s) Subsection 20A-3a-804(1)(b) shall be completed by mail;

(t) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-3a-804(3)(b)(ii) following the words “provisional ballot” is not in effect;

(u) Subsection 20A-3a-804(4)(a) is not in effect, and the election officer is, instead, required to determine whether each challenged individual is eligible to vote before the day on which the canvass is held;

(v) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-805 is not in effect;

(w) the requirement in Subsection 20A-4-303(1)(b) regarding a public canvass may be fulfilled by recording the canvass and making the recording available to the public;

(x) Subsection 20A-5-403.5(3)(b) is not in effect;

(y) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-5-205(2) is not in effect;

(z) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-5-404 is not in effect;

(aa) (i) Subsections 20A-5-405(1)(h)(i) and (2)(c)(ii) are not in effect; and

(ii) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-5-405(1)(i) and (3)(b)(ii) are not in effect;

(bb) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Sections 20A-5-406 and 20A-5-407 are not in effect; and

(cc) the “in person” requirement in Subsection 20A-7-609.5(3)(a)(i) is not in effect.

(9) (a) A county is a mobile voting county if, before 5 p.m. on May 1, 2020, the county clerk notifies the lieutenant governor’s office that the county will be a mobile voting county.

(b) Except as provided in Subsection (9)(j), a mobile voting county shall operate one or more drive-up voting stations during normal polling hours on election day.

(c) Only a mobile voting county may operate a drive-up voting station.

(d) A mobile voting county may not operate a drive-up voting station at any time other than during normal polling hours on election day.

(e) Vehicles in line at a drive-up voting station at 8 p.m. may vote at the drive-up voting station.

(f) A mobile voting county shall:

(i) establish procedures and requirements to protect the health and welfare of voters and poll workers at a drive-up voting station, including the use of protective gear;

(ii) operate the drive-up voting station in a manner that permits a voter to vote while remaining in a vehicle;

(iii) take measures to ensure that a voter’s vote is secret and secure; and

(iv) conduct a campaign to encourage voters to vote by mail rather than at a drive-up voting station.

(g) Any duty of care owed by a government entity in relation to a drive-up voting station is the sole responsibility of the mobile voting county, not the state.

(h) This section does not impose a duty of care or other legal liability not already owed under the provisions of law.

(i) A drive-up voting station is a polling place.

(j) (i) The county clerk of a mobile voting county may cancel drive-up voting or close a drive-up voting station if the county clerk determines that cancellation is necessary to protect the public health and welfare.

(ii) If cancellation or closure occurs under Subsection (9)(j)(i), the county clerk shall give notice of the cancellation or closure as soon as reasonably possible, in the manner that the county clerk determines is best under the circumstances, and a voter must then vote by placing the ballot that the voter received by mail in a ballot box.

(iii) A voter who waits to vote until election day assumes the risk that a drive-up voting station may close at any time to protect the public health and welfare and that the voter may be required to vote by placing the ballot that the voter received by mail in a ballot box.

(k) A county clerk of a mobile voting county may, consistent with the provisions of this section and the other requirements of law that remain in effect for the 2020 regular primary election, alter requirements relating to a polling place to the extent necessary to address the practical differences between drive-up voting and voting in a building.

(10) This section does not supercede a federal court order entered in relation to elections in San Juan County.

### **Section 2. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

### **Section 3. Repeal date.**

This bill is repealed on August 1, 2020.

### **Section 4. Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the phrase "the effective date of this bill" with the actual effective date of this bill in Subsection 20A-1-309(6)(l).

**CHAPTER 6****H. B. 3007**

Passed April 16, 2020

Approved April 22, 2020

Effective April 22, 2020

**COVID-19 WORKERS' COMPENSATION AMENDMENTS FOR FIRST RESPONDERS**

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Kirk A. Cullimore

**LONG TITLE****General Description:**

This bill amends the Workers' Compensation Act to provide workers' compensation under certain circumstances to first responders who contract COVID-19.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes, under certain circumstances, a rebuttable presumption that a first responder who contracts COVID-19 contracted COVID-19 by accident during the course of performing the first responder's duties as a first responder;
- ▶ establishes a presumed date of accident for a first responder making a workers' compensation claim related to COVID-19;
- ▶ establishes an amount of benefits for a first responder who provides first responder services for minimal or no compensation or on a volunteer basis; and
- ▶ grants the Labor Commission rulemaking authority.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

34A-2-1101, Utah Code Annotated 1953

34A-2-1102, Utah Code Annotated 1953

34A-2-1103, Utah Code Annotated 1953

34A-2-1104, Utah Code Annotated 1953

34A-2-1105, Utah Code Annotated 1953

34A-2-1106, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 34A-2-1101 is enacted to read:****Part 11. Presumptions for First Responders****34A-2-1101. Definitions.**

(1) As used in this part:

(a) "COVID-19" means the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "First responder" means:

(i) an emergency responder as defined in 29 C.F.R. Part 826, Subpart C; or

(ii) a health care provider as defined in 29 C.F.R. Part 826, Subpart C.

(c) "Physician" means an individual licensed under:

(i) Title 58, Chapter 67, Utah Medical Practice Act;

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(iv) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.

(2) For purposes of this part, an individual is diagnosed with COVID-19 if the individual:

(a) through laboratory testing of a specimen the individual provides, tests positive for the virus that causes COVID-19; and

(b) is diagnosed with COVID-19 by a physician.

**Section 2. Section 34A-2-1102 is enacted to read:****34A-2-1102. Workers' compensation presumption for first responders.**

(1) A first responder who claims to have contracted COVID-19 during the performance of the first responder's duties as a first responder, is presumed to have contracted COVID-19 by accident during the course of performing the first responder's duties as a first responder if the first responder is diagnosed with COVID-19:

(a) while employed or serving as a first responder; or

(b) if the first responder's employment or service as a first responder terminates, within two weeks after the day on which the first responder's employment or service terminates.

(2) A first responder who makes a claim under this part shall provide a copy of the positive laboratory test or the written documentation of a physician's diagnosis to the first responder's employer or insurer.

**Section 3. Section 34A-2-1103 is enacted to read:****34A-2-1103. Workers' compensation claims.**

(1) This part applies to a claim resulting from an accident arising out of and in the course of a first responder's employment or service on or after March 21, 2020, and before June 1, 2021.

(2) For purposes of establishing a workers' compensation claim under this part, the "date of accident" is presumed to be the earlier of the day on which:

(a) the first responder is diagnosed with COVID-19;

(b) the first responder is unable to work because of a symptom of a disease that is later diagnosed as COVID-19; or

(c) the first responder's employment or service as a first responder terminates, if the first responder is diagnosed with COVID-19 within two weeks after

the day on which the first responder's employment or service as a first responder terminates.

(3) Death benefits payable under this chapter are payable only if a claimant establishes by competent evidence that death was a consequence of or a result of COVID-19.

**Section 4. Section 34A-2-1104 is enacted to read:**

**34A-2-1104. Failure to be tested -- Rebuttable presumption.**

(1) A first responder who refuses examination for COVID-19 or fails to be diagnosed with COVID-19 is not entitled to the presumption established under this part.

(2) The presumption established in this part may be rebutted by a preponderance of the evidence.

**Section 5. Section 34A-2-1105 is enacted to read:**

**34A-2-1105. Determining employers of first responders -- Volunteer first responders -- Workers' compensation premiums.**

(1) For purposes of receiving workers' compensation benefits, a first responder performing the services of a first responder is considered an employee of an entity for whom the first responder provides those services.

(2) (a) A first responder who only performs the services of a first responder for minimal or no compensation or on a volunteer basis receives an amount of workers' compensation:

(i) based on the first responder's primary employment, if the first responder is primarily employed other than as a first responder; or

(ii) that is the minimum benefit, if the first responder has no employment other than as a first responder.

(b) An entity for whom a first responder provides first responder services for minimal or no compensation or on a volunteer basis shall:

(i) pay any excess premium necessary for workers' compensation, if the first responder is primarily employed other than as a first responder; and

(ii) pay any premium necessary for workers' compensation, if the first responder has no employment other than as a first responder.

(3) A first responder is not precluded from utilizing insurance a primary employer provides, or any other insurance benefits, in addition to workers' compensation benefits.

**Section 6. Section 34A-2-1106 is enacted to read:**

**34A-2-1106. Construction -- Rulemaking authority.**

(1) This part supersedes any conflicting provisions of Utah law.

(2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this part.

**Section 7. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 7  
S. B. 3001**

Passed April 17, 2020  
Approved April 22, 2020  
Effective July 1, 2020

**PANDEMIC RESPONSE  
APPROPRIATIONS ADJUSTMENTS**

Sponsor: Jerry W. Stevenson  
House Sponsor: Bradley G. Last

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides budget increases and decreases for certain state agencies, public education programs, and higher education institutions;
- ▶ adjusts fiscal year 2020 and 2021 budgets for an extension of income tax payments from April 15, 2020 to July 15, 2020;
- ▶ appropriates federal funds provided for responses to COVID-19 and Coronavirus;
- ▶ makes technical corrections; and,
- ▶ provides intent language.

**Money Appropriated in this Bill:**

This bill appropriates \$95,394,200 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$274,801,600 from the General Fund;
- ▶ (\$459,179,100) from the Education Fund; and
- ▶ \$279,771,700 from various sources as detailed in this bill.

This bill appropriates \$0 in expendable funds and accounts for fiscal year 2020, including:

- ▶ (\$268,800) from the General Fund; and
- ▶ \$268,800 from various sources as detailed in this bill.

This bill appropriates (\$78,674,300) in restricted fund and account transfers for fiscal year 2020, including:

- ▶ (\$11,732,800) from the General Fund;
- ▶ (\$69,055,700) from the Education Fund; and
- ▶ \$2,114,200 from various sources as detailed in this bill.

This bill appropriates \$4,500,000 in transfers to unrestricted funds for fiscal year 2020.

This bill appropriates (\$159,395,100) in capital project funds for fiscal year 2020, including:

- ▶ (\$168,000,000) from the General Fund;
- ▶ (\$159,395,100) from the Education Fund; and
- ▶ \$168,000,000 from various sources as detailed in this bill.

This bill appropriates \$13,355,800 in operating and capital budgets for fiscal year 2021, including:

- ▶ (\$224,385,300) from the General Fund;
- ▶ \$413,262,800 from the Education Fund; and
- ▶ (\$175,521,700) from various sources as detailed in this bill.

This bill appropriates \$0 in expendable funds and accounts for fiscal year 2021, including:

- ▶ \$268,800 from the General Fund; and
- ▶ (\$268,800) from various sources as detailed in this bill.

This bill appropriates \$78,674,300 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$11,732,800 from the General Fund;
- ▶ \$69,055,700 from the Education Fund; and
- ▶ (\$2,114,200) from various sources as detailed in this bill.

This bill appropriates \$159,395,100 in capital project funds for fiscal year 2021, including:

- ▶ \$168,000,000 from the General Fund;
- ▶ \$159,395,100 from the Education Fund; and
- ▶ (\$168,000,000) from various sources as detailed in this bill.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020. Notwithstanding any restrictive intent language relating to the use of nonlapsing funds that is included in any appropriation for fiscal year 2019, the Legislature intends that an agency is not limited to the restrictive intent language and may also use the nonlapsing funds in fiscal year 2020 for general costs if the nonlapsing funds are increased in this bill.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES AND  
CRIMINAL JUSTICE**

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 1**

To Utah Department of Corrections – Programs and Operations

From General Fund, One-Time . . . . . (2,500,000)

Schedule of Programs:

Department Executive Director . . . . (2,500,000)

**Item 2**

To Utah Department of Corrections – Jail Contracting

From General Fund, One-Time . . . . . (500,000)

Schedule of Programs:

Jail Contracting . . . . . (500,000)

**GOVERNORS OFFICE**

**Item 3**

To Governors Office – CCJJ Factual Innocence Payments



From General Fund, One-Time . . . . . (171,200)  
 From Closing Nonlapsing Balances . . . . . 171,200

**Item 4**

To Governors Office - Governor's Office  
 From General Fund, One-Time . . . . . (190,000)  
 From Closing Nonlapsing Balances . . . . . 190,000

**Item 5**

To Governors Office - Office of Management  
 and Budget  
 From General Fund, One-Time . . . . . (500,000)  
 From Closing Nonlapsing Balances . . . . . 500,000

**OFFICE OF THE STATE AUDITOR**

**Item 6**

To Office of the State Auditor - State Auditor  
 From General Fund, One-Time . . . . . (200,000)  
 Schedule of Programs:  
     State Auditor . . . . . (200,000)

**DEPARTMENT OF PUBLIC SAFETY**

**Item 7**

To Department of Public Safety - Driver License  
 From General Fund, One-Time . . . . . (203,700)  
 Schedule of Programs:  
     Driver Services . . . . . (203,700)

**STATE TREASURER**

**Item 8**

To State Treasurer  
 From General Fund, One-Time . . . . . (50,000)  
 Schedule of Programs:  
     Treasury and Investment . . . . . (50,000)

**INFRASTRUCTURE AND  
 GENERAL GOVERNMENT**

**DEPARTMENT OF  
 ADMINISTRATIVE SERVICES**

**Item 9**

To Department of Administrative Services -  
 Administrative Rules  
 From General Fund, One-Time . . . . . (10,000)  
 From Closing Nonlapsing Balances . . . . . 5,000  
 Schedule of Programs:  
     DAR Administration . . . . . (5,000)

**Item 10**

To Department of Administrative Services -  
 Building Board Program  
 From General Fund, One-Time . . . . . (10,700)  
 From Closing Nonlapsing Balances . . . . . 10,700

**Item 11**

To Department of Administrative Services - DFCM  
 Administration  
 From General Fund, One-Time . . . . . (195,400)  
 From Education Fund, One-Time . . . . . (278,500)  
 From Closing Nonlapsing Balances . . . . . 473,900

**Item 12**

To Department of Administrative Services -  
 Executive Director  
 From General Fund, One-Time . . . . . (3,450,000)  
 From Closing Nonlapsing Balances . . . . . 3,450,000

**Item 13**

To Department of Administrative Services -  
 Finance - Mandated  
 From Federal Funds - Coronavirus  
 Relief Fund, One-Time . . . . . 107,750,000  
 From Expendable Receipts,  
     One-Time . . . . . 1,000,000  
 From Department of Public Safety  
     Restricted Account, One-Time . . . . . 1,000,000  
 From General Fund Restricted -  
     Public Safety Support, One-Time . . (1,000,000)  
 Schedule of Programs:  
     Emergency Disease Response . . . . . 108,750,000

The Legislature intends that the Division of  
 Finance and Governor's Office of  
 Management and Budget provide the  
 Legislature via the Legislative Fiscal Analyst  
 a weekly status report of budgets and  
 expenditures related to COVID-19 response  
 including but not limited to federal CARES  
 Act grants, the Families First Coronavirus  
 Response Act, and future federal pandemic  
 assistance.

**Item 14**

To Department of Administrative Services -  
 Finance - Mandated - Ethics Commissions  
 From General Fund, One-Time . . . . . (17,300)  
 From Closing Nonlapsing Balances . . . . . 17,300

**Item 15**

To Department of Administrative Services -  
 Finance Administration  
 From General Fund, One-Time . . . . . (3,000,000)  
 Schedule of Programs:  
     Financial Information Systems . . . . . (3,000,000)

**Item 16**

To Department of Administrative Services -  
 Judicial Conduct Commission  
 From General Fund, One-Time . . . . . (12,600)  
 From Closing Nonlapsing Balances . . . . . 12,600

**Item 17**

To Department of Administrative Services -  
 Post Conviction Indigent Defense  
 From General Fund, One-Time . . . . . (33,900)  
 From Closing Nonlapsing Balances . . . . . 33,900

**BUSINESS, ECONOMIC  
 DEVELOPMENT, AND LABOR**

**DEPARTMENT OF COMMERCE**

**Item 18**

To Department of Commerce - Commerce  
 General Regulation  
 From General Fund, One-Time . . . . . (71,400)  
 From Revenue Transfers, One-Time . . (130,000)  
 From Other Financing Sources,  
     One-Time . . . . . 130,000  
 From Closing Nonlapsing Balances . . . . . 71,400

**GOVERNOR'S OFFICE OF  
 ECONOMIC DEVELOPMENT**

**Item 19**

To Governor's Office of Economic Development -  
 Administration  
 From General Fund, One-Time . . . . . (1,516,700)

From Closing Nonlapsing Balances . . . . 1,516,700

**Item 20**

To Governor's Office of Economic Development -  
Business Development  
From General Fund, One-Time . . . . . (834,600)  
From Closing Nonlapsing Balances . . . . . 834,600

**Item 21**

To Governor's Office of Economic Development -  
Office of Tourism  
From General Fund Restricted -  
Tourism Marketing Performance,  
One-Time . . . . . (3,000,000)  
From Closing Nonlapsing Balances . . . . 3,000,000

**DEPARTMENT OF HERITAGE AND ARTS****Item 22**

To Department of Heritage and Arts -  
Administration  
From General Fund, One-Time . . . . . (650,000)  
From Closing Nonlapsing Balances . . . . . 403,000  
Schedule of Programs:  
Administrative Services . . . . . (247,000)

**Item 23**

To Department of Heritage and Arts -  
Division of Arts and Museums  
From General Fund, One-Time . . . . . (200,000)  
Schedule of Programs:  
Community Arts Outreach . . . . . (200,000)

**Item 24**

To Department of Heritage and Arts - State History  
From General Fund, One-Time . . . . . (50,000)  
Schedule of Programs:  
Administration . . . . . (50,000)

**Item 25**

To Department of Heritage and Arts - State Library  
From General Fund, One-Time . . . . . (200,000)  
From Closing Nonlapsing Balances . . . . . 200,000

**INSURANCE DEPARTMENT****Item 26**

To Insurance Department - Insurance Department  
Administration  
From General Fund, One-Time . . . . . (9,800)  
From Closing Nonlapsing Balances . . . . . 9,800

**Item 27**

To Insurance Department - Title  
Insurance Program  
From General Fund, One-Time . . . . . (4,400)  
From Closing Nonlapsing Balances . . . . . 4,400

**UTAH STATE TAX COMMISSION****Item 28**

To Utah State Tax Commission -  
Tax Administration  
From Education Fund, One-Time . . . . . (350,000)  
From Closing Nonlapsing Balances . . . . . 350,000

**UTAH SCIENCE TECHNOLOGY AND  
RESEARCH GOVERNING AUTHORITY****Item 29**

To Utah Science Technology and Research  
Governing Authority - Grant Programs  
From General Fund, One-Time . . . . . 4,500,000  
From Beginning Nonlapsing  
Balances . . . . . (4,500,000)  
Schedule of Programs:  
Industry Partnership Program . . . . . (856,500)  
Technology Acceleration Program . . . . . 856,500

**SOCIAL SERVICES****DEPARTMENT OF HEALTH****Item 30**

To Department of Health - Family Health  
and Preparedness  
From General Fund, One-Time . . . . . (600,000)  
From Closing Nonlapsing Balances . . . . . 600,000

**Item 31**

To Department of Health - Medicaid Services  
From General Fund, One-Time . . . . . (5,500,000)  
Schedule of Programs:  
Accountable Care Organizations . . . (5,500,000)

**Item 32**

To Department of Health - Rural Physicians  
Loan Repayment Assistance  
From General Fund, One-Time . . . . . (200,000)  
From Closing Nonlapsing Balances . . . . . 155,200  
Schedule of Programs:  
Rural Physicians Loan Repayment  
Program . . . . . (44,800)

**DEPARTMENT OF HUMAN SERVICES****Item 33**

To Department of Human Services - Division  
of Aging and Adult Services  
From General Fund, One-Time . . . . . (300,000)  
Schedule of Programs:  
Administration - DAAS . . . . . (300,000)

**Item 34**

To Department of Human Services - Division  
of Child and Family Services  
From General Fund, One-Time . . . . . (250,000)  
Schedule of Programs:  
Administration - DCFS . . . . . (250,000)

**Item 35**

To Department of Human Services -  
Executive Director Operations  
From General Fund, One-Time . . . . . (20,000)  
Schedule of Programs:  
Executive Director's Office . . . . . (20,000)

**Item 36**

To Department of Human Services - Division  
of Substance Abuse and Mental Health  
From General Fund, One-Time . . . . . (210,000)  
Schedule of Programs:  
Administration - DSAMH . . . . . (210,000)

**DEPARTMENT OF  
WORKFORCE SERVICES****Item 37**

To Department of Workforce Services - State Office  
of Rehabilitation

From General Fund, One-Time . . . . . (7,000,000)  
 From Closing Nonlapsing Balances . . . . . 7,000,000

**HIGHER EDUCATION**

**UNIVERSITY OF UTAH**

**Item 38**

To University of Utah - Education and General  
 From General Fund, One-Time . . . . . 72,797,300  
 From Education Fund,  
     One-Time . . . . . (80,797,300)  
 From Closing Nonlapsing Balances . . . . . 8,000,000

**Item 39**

To University of Utah -  
     Educationally Disadvantaged  
 From General Fund, One-Time . . . . . 476,600  
 From Education Fund, One-Time . . . . . (726,600)  
 From Closing Nonlapsing Balances . . . . . 250,000

**Item 40**

To University of Utah - School of Medicine  
 From General Fund, One-Time . . . . . 29,305,600  
 From Education Fund,  
     One-Time . . . . . (38,305,600)  
 From Closing Nonlapsing Balances . . . . . 9,000,000

**Item 41**

To University of Utah - Cancer Research  
     and Treatment  
 From General Fund, One-Time . . . . . 13,002,100  
 From Education Fund,  
     One-Time . . . . . (13,002,100)

**Item 42**

To University of Utah - University Hospital  
 From General Fund, One-Time . . . . . 5,749,400  
 From Education Fund, One-Time . . . . . (5,899,400)  
 From Closing Nonlapsing Balances . . . . . 143,100  
 Schedule of Programs:  
     University Hospital . . . . . (6,900)

**Item 43**

To University of Utah - School of Dentistry  
 From General Fund, One-Time . . . . . 2,730,700  
 From Education Fund, One-Time . . . . . (2,805,700)  
 From Closing Nonlapsing Balances . . . . . 75,000

**Item 44**

To University of Utah - Public Service  
 From General Fund, One-Time . . . . . 2,227,600  
 From Education Fund, One-Time . . . . . (2,477,600)  
 From Closing Nonlapsing Balances . . . . . 250,000

**Item 45**

To University of Utah - Statewide  
     TV Administration  
 From General Fund, One-Time . . . . . 2,684,700  
 From Education Fund, One-Time . . . . . (2,734,700)  
 From Closing Nonlapsing Balances . . . . . 50,000

**Item 46**

To University of Utah - Poison Control Center  
 From General Fund, One-Time . . . . . 2,915,100  
 From Education Fund, One-Time . . . . . (2,916,400)  
 From Closing Nonlapsing Balances . . . . . 1,300

**Item 47**

To University of Utah - Center on Aging  
 From General Fund, One-Time . . . . . 114,500

From Education Fund, One-Time . . . . . (114,500)

**Item 48**

To University of Utah - SafeUT Crisis  
     Text and Tip  
 From General Fund, One-Time . . . . . 1,770,000  
 From Education Fund, One-Time . . . . . (1,770,000)

**UTAH STATE UNIVERSITY**

**Item 49**

To Utah State University - Education  
     and General  
 From General Fund, One-Time . . . . . 171,973,100  
 From Education Fund,  
     One-Time . . . . . (188,673,100)  
 From Closing Nonlapsing Balances . . . . . 16,700,000

**Item 50**

To Utah State University - USU -  
     Eastern Education and General  
 From General Fund, One-Time . . . . . 40,000  
 From Education Fund, One-Time . . . . . (1,040,000)  
 From Closing Nonlapsing Balances . . . . . 1,000,000

**Item 51**

To Utah State University -  
     Educationally Disadvantaged  
 From General Fund, One-Time . . . . . 100,300  
 From Education Fund, One-Time . . . . . (100,300)

**Item 52**

To Utah State University - USU -  
     Eastern Educationally Disadvantaged  
 From General Fund, One-Time . . . . . 49,100  
 From Education Fund, One-Time . . . . . (89,100)  
 From Closing Nonlapsing Balances . . . . . 40,000

**Item 53**

To Utah State University - USU - Eastern  
     Career and Technical Education  
 From General Fund, One-Time . . . . . 3,435,100  
 From Education Fund, One-Time . . . . . (3,510,100)  
 From Closing Nonlapsing Balances . . . . . 75,000

**Item 54**

To Utah State University - Regional Campuses  
 From Education Fund, One-Time . . . . . (2,900,000)  
 From Closing Nonlapsing Balances . . . . . 2,900,000

**Item 55**

To Utah State University - Water  
     Research Laboratory  
 From General Fund, One-Time . . . . . 263,500  
 From Education Fund, One-Time . . . . . (2,263,500)  
 From Closing Nonlapsing Balances . . . . . 2,000,000

**Item 56**

To Utah State University - Agriculture  
     Experiment Station  
 From General Fund, One-Time . . . . . 14,004,700  
 From Education Fund, One-Time . . . . . (14,404,700)  
 From Closing Nonlapsing Balances . . . . . 400,000

**Item 57**

To Utah State University -  
     Cooperative Extension  
 From General Fund, One-Time . . . . . 16,012,400  
 From Education Fund,  
     One-Time . . . . . (17,212,400)  
 From Closing Nonlapsing Balances . . . . . 1,200,000

**Item 58**

To Utah State University - Prehistoric Museum

From Education Fund, One-Time . . . . . (10,000)  
From Closing Nonlapsing Balances . . . . . 10,000

**Item 59**

To Utah State University - Blanding Campus  
From General Fund, One-Time . . . . . 1,005,000  
From Education Fund, One-Time . . . . . (1,105,000)  
From Closing Nonlapsing Balances . . . . . 100,000

**WEBER STATE UNIVERSITY****Item 60**

To Weber State University - Education  
and General  
From General Fund, One-Time . . . . . 74,300  
From Education Fund, One-Time . . . . . (3,574,300)  
From Closing Nonlapsing Balances . . . . . 3,500,000

**Item 61**

To Weber State University -  
Educationally Disadvantaged  
From Education Fund, One-Time . . . . . (125,000)  
From Closing Nonlapsing Balances . . . . . 125,000

**SOUTHERN UTAH UNIVERSITY****Item 62**

To Southern Utah University - Education  
and General  
From Education Fund, One-Time . . . . . (3,000,000)  
From Closing Nonlapsing Balances . . . . . 3,000,000

**Item 63**

To Southern Utah University -  
Educationally Disadvantaged  
From Education Fund, One-Time . . . . . (5,000)  
From Closing Nonlapsing Balances . . . . . 5,000

**Item 64**

To Southern Utah University - Rural Development  
From Education Fund, One-Time . . . . . (30,000)  
From Closing Nonlapsing Balances . . . . . 30,000

**UTAH VALLEY UNIVERSITY****Item 65**

To Utah Valley University - Education and General  
From Education Fund, One-Time . . . . . (15,000,000)  
From Closing Nonlapsing Balances . . . . . 15,000,000

**Item 66**

To Utah Valley University -  
Educationally Disadvantaged  
From Education Fund, One-Time . . . . . (9,000)  
From Closing Nonlapsing Balances . . . . . 9,000

**SNOW COLLEGE****Item 67**

To Snow College - Education and General  
From Education Fund, One-Time . . . . . (750,000)  
From Closing Nonlapsing Balances . . . . . 750,000

**DIXIE STATE UNIVERSITY****Item 68**

To Dixie State University - Education and General  
From Education Fund, One-Time . . . . . (2,500,000)  
From Closing Nonlapsing Balances . . . . . 2,500,000

**SALT LAKE COMMUNITY COLLEGE****Item 69**

To Salt Lake Community College - Education  
and General  
From Education Fund, One-Time . . . . . (3,000,000)  
From Closing Nonlapsing Balances . . . . . 3,000,000

**Item 70**

To Salt Lake Community College -  
Educationally Disadvantaged  
From Beginning Nonlapsing Balances . . . . . 1,800  
From Closing Nonlapsing Balances . . . . . (1,800)

**Item 71**

To Salt Lake Community College -  
School of Applied Technology  
From Education Fund, One-Time . . . . . (250,000)  
From Closing Nonlapsing Balances . . . . . 250,000

**UTAH BOARD OF HIGHER EDUCATION****Item 72**

To Utah Board of Higher Education -  
Administration  
From General Fund, One-Time . . . . . 28,500  
From Education Fund, One-Time . . . . . (528,500)  
From Closing Nonlapsing Balances . . . . . 500,000

**Item 73**

To Utah Board of Higher Education -  
Math Competency Initiative  
From Education Fund, One-Time . . . . . (1,000,000)  
From Closing Nonlapsing Balances . . . . . 1,000,000

**UTAH SYSTEM OF TECHNICAL COLLEGES****Item 74**

To Utah System of Technical Colleges -  
Bridgerland Technical College  
From Education Fund, One-Time . . . . . (15,000)  
From Closing Nonlapsing Balances . . . . . 15,000

**Item 75**

To Utah System of Technical Colleges -  
Southwest Technical College  
From Education Fund, One-Time . . . . . (27,000)  
From Closing Nonlapsing Balances . . . . . 27,000

**Item 76**

To Utah System of Technical Colleges -  
USTC Administration  
From Education Fund, One-Time . . . . . (13,200)  
From Beginning Nonlapsing  
Balances . . . . . (13,200)  
From Closing Nonlapsing Balances . . . . . 13,200  
Schedule of Programs:  
Administration . . . . . (13,200)

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY****DEPARTMENT OF  
AGRICULTURE AND FOOD****Item 77**

To Department of Agriculture and Food -  
Administration  
From General Fund, One-Time . . . . . (100,000)  
From Closing Nonlapsing Balances . . . . . 100,000

**Item 78**

To Department of Agriculture and Food -  
Animal Health  
From General Fund, One-Time . . . . . (300,000)  
From Closing Nonlapsing Balances . . . . . 300,000

**Item 79**

To Department of Agriculture and Food -  
Invasive Species Mitigation  
From General Fund Restricted - Invasive Species  
Mitigation Account, One-Time . . . . . (750,000)  
From Closing Nonlapsing Balances . . . . . 750,000

**Item 80**

To Department of Agriculture and Food -  
Marketing and Development  
From General Fund, One-Time . . . . . (46,600)  
From Closing Nonlapsing Balances . . . . . 46,600

**Item 81**

To Department of Agriculture and Food -  
Rangeland Improvement  
From Gen. Fund Rest. - Rangeland  
Improvement Account, One-Time . . . (300,000)  
From Closing Nonlapsing Balances . . . . . 300,000

**Item 82**

To Department of Agriculture and Food -  
Resource Conservation  
From General Fund, One-Time . . . . . (1,500,000)  
From Closing Nonlapsing Balances . . . . . 1,500,000  
Schedule of Programs:  
Conservation Commission . . . . . (5,300)  
Resource Conservation . . . . . 392,100  
Resource Conservation  
Administration . . . . . (386,800)

**DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

**Item 83**

To Department of Environmental Quality -  
Air Quality  
From General Fund, One-Time . . . . . (9,330,000)  
From Closing Nonlapsing Balances . . . . . 9,330,000

**Item 84**

To Department of Environmental Quality -  
Drinking Water  
From General Fund, One-Time . . . . . (250,000)  
From Closing Nonlapsing Balances . . . . . 250,000

**Item 85**

To Department of Environmental Quality -  
Environmental Response and Remediation  
From General Fund, One-Time . . . . . (33,000)  
From Closing Nonlapsing Balances . . . . . 33,000

**Item 86**

To Department of Environmental Quality -  
Executive Director's Office  
From General Fund, One-Time . . . . . (385,500)  
From Closing Nonlapsing Balances . . . . . 385,500

**Item 87**

To Department of Environmental Quality - Waste  
Management and Radiation Control  
From General Fund, One-Time . . . . . (500,000)  
From Closing Nonlapsing Balances . . . . . 500,000

**Item 88**

To Department of Environmental Quality -  
Water Quality  
From General Fund, One-Time . . . . . (165,400)  
From Closing Nonlapsing Balances . . . . . 165,400

**Item 89**

To Department of Environmental Quality -  
Trip Reduction Program  
From General Fund, One-Time . . . . . (500,000)  
From Closing Nonlapsing Balances . . . . . 500,000

**DEPARTMENT OF NATURAL RESOURCES**

**Item 90**

To Department of Natural Resources -  
Administration  
From General Fund, One-Time . . . . . (200,000)  
From Closing Nonlapsing Balances . . . . . 200,000

**Item 91**

To Department of Natural Resources -  
DNR Pass Through  
From General Fund, One-Time . . . . . (2,608,400)  
From Closing Nonlapsing Balances . . . . . 2,608,400

**Item 92**

To Department of Natural Resources -  
Forestry, Fire and State Lands  
From General Fund, One-Time . . . . . (1,500,000)  
From Closing Nonlapsing Balances . . . . . 1,500,000

**Item 93**

To Department of Natural Resources -  
Oil, Gas and Mining  
From General Fund, One-Time . . . . . (200,000)  
From Closing Nonlapsing Balances . . . . . 200,000  
Schedule of Programs:  
Administration . . . . . (167,800)  
Coal Program . . . . . (38,800)  
OGM Misc. Nonlapsing . . . . . 200,000  
Oil and Gas Program . . . . . 6,600

**Item 94**

To Department of Natural Resources -  
Utah Geological Survey  
From General Fund, One-Time . . . . . (150,000)  
From Closing Nonlapsing Balances . . . . . 150,000

**Item 95**

To Department of Natural Resources -  
Water Resources  
From General Fund, One-Time . . . . . (850,000)  
From Closing Nonlapsing Balances . . . . . 850,000

**Item 96**

To Department of Natural Resources -  
Water Rights  
From General Fund, One-Time . . . . . (250,000)  
From Closing Nonlapsing Balances . . . . . 250,000

**Item 97**

To Department of Natural Resources - Watershed  
From General Fund, One-Time . . . . . (1,500,000)  
From Closing Nonlapsing Balances . . . . . 1,500,000

**Item 98**

To Department of Natural Resources -  
Wildlife Resources  
From General Fund, One-Time . . . . . (300,000)  
From Closing Nonlapsing Balances . . . . . 300,000

**PUBLIC LANDS POLICY  
COORDINATING OFFICE**

**Item 99**

To Public Lands Policy Coordinating Office  
From General Fund, One-Time . . . . . (600,000)  
From Closing Nonlapsing Balances . . . . . 600,000

**PUBLIC EDUCATION**

**STATE BOARD OF EDUCATION -  
MINIMUM SCHOOL PROGRAM**

**Item 100**

To State Board of Education - Minimum  
School Program - Basic School Program  
From Education Fund,  
One-Time . . . . . (20,000,000)  
From Closing Nonlapsing Balances . . . 20,000,000

**Item 101**

To State Board of Education - Minimum School  
Program - Related to Basic School Programs  
From Education Fund,  
One-Time . . . . . (10,600,000)  
From Closing Nonlapsing Balances . . . 10,600,000

**STATE BOARD OF EDUCATION**

**Item 102**

To State Board of Education - Educator Licensing  
From Education Fund, One-Time . . . . . (29,300)  
From Closing Nonlapsing Balances . . . . . 5,000  
Schedule of Programs:  
Educator Licensing . . . . . (24,300)

**Item 103**

To State Board of Education - Fine Arts Outreach  
From Education Fund, One-Time . . . . . (1,400)  
From Closing Nonlapsing Balances . . . . . 1,400

**Item 104**

To State Board of Education - Initiative Programs  
From Education Fund, One-Time . . . . (6,249,800)  
From Closing Nonlapsing Balances . . . . 6,249,800

**Item 105**

To State Board of Education - MSP  
Categorical Program Administration  
From Education Fund, One-Time . . . . . (885,200)  
From Closing Nonlapsing Balances . . . . . 885,200

**Item 106**

To State Board of Education - Science Outreach  
From Education Fund, One-Time . . . . . (17,200)  
From Closing Nonlapsing Balances . . . . . 17,200

**Item 107**

To State Board of Education - State Administrative  
Office  
From Education Fund, One-Time . . . . (3,416,400)  
From Closing Nonlapsing Balances . . . . 3,416,400

**Item 108**

To State Board of Education - General  
System Support  
From Education Fund, One-Time . . . . (2,470,200)  
From Closing Nonlapsing Balances . . . . 2,470,200

**Item 109**

To State Board of Education - State Charter  
School Board  
From Education Fund, One-Time . . . . . (804,900)  
From Closing Nonlapsing Balances . . . . . 804,900

**Item 110**

To State Board of Education - Teaching  
and Learning  
From Education Fund, One-Time . . . . . (51,700)  
From Closing Nonlapsing Balances . . . . . 20,800  
Schedule of Programs:  
Student Access to High Quality School  
Readiness Progs . . . . . (30,900)

**Item 111**

To State Board of Education - Utah Schools  
for the Deaf and the Blind  
From Education Fund, One-Time . . . . . (970,600)  
From Closing Nonlapsing Balances . . . . . 970,600

**RETIREMENT AND  
INDEPENDENT ENTITIES**

**CAREER SERVICE REVIEW OFFICE**

**Item 112**

To Career Service Review Office  
From General Fund, One-Time . . . . . (10,000)  
From Closing Nonlapsing Balances . . . . . 10,000

**DEPARTMENT OF  
HUMAN RESOURCE MANAGEMENT**

**Item 113**

To Department of Human Resource Management -  
Human Resource Management  
From General Fund, One-Time . . . . . (42,400)  
From Closing Nonlapsing Balances . . . . . 42,400

**UTAH EDUCATION AND  
TELEHEALTH NETWORK**

**Item 114**

To Utah Education and Telehealth Network -  
Digital Teaching and Learning Program  
From Education Fund, One-Time . . . . . (168,800)  
From Closing Nonlapsing Balances . . . . . 168,800

**Item 115**

To Utah Education and Telehealth Network  
From Education Fund, One-Time . . . . . (200,000)  
From Closing Nonlapsing Balances . . . . . 200,000

**EXECUTIVE APPROPRIATIONS**

**LEGISLATURE**

**Item 116**

To Legislature - Senate  
From General Fund, One-Time . . . . . (1,700,000)  
From Closing Nonlapsing Balances . . . . 1,700,000

**Item 117**

To Legislature - House of Representatives  
From General Fund, One-Time . . . . . (3,400,000)  
From Closing Nonlapsing Balances . . . . 3,400,000

**Item 118**

To Legislature - Office of Legislative Research and  
General Counsel

From General Fund, One-Time . . . . . (6,000,000)  
 From Closing Nonlapsing Balances . . . . 6,000,000

**Item 119**

To Legislature - Office of the Legislative  
 Fiscal Analyst

From General Fund, One-Time . . . . . (1,275,000)  
 From Closing Nonlapsing Balances . . . . 1,275,000

**Item 120**

To Legislature - Office of the Legislative  
 Auditor General

From General Fund, One-Time . . . . . (1,000,000)  
 From Closing Nonlapsing Balances . . . . 1,000,000

**Item 121**

To Legislature - Legislative Support

From General Fund, One-Time . . . . . (306,100)  
 From Closing Nonlapsing Balances . . . . . 306,100

**Item 122**

To Legislature - Legislative Services

From General Fund, One-Time . . . . . (1,593,900)  
 From Closing Nonlapsing Balances . . . . 1,593,900

**UTAH NATIONAL GUARD**

**Item 123**

To Utah National Guard

From General Fund, One-Time . . . . . (5,200,000)  
 From Closing Nonlapsing Balances . . . . 5,200,000

**Subsection 1(b). Expendable Funds and**

**Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**GOVERNORS OFFICE**

**Item 124**

To Governors Office - Crime Victim  
 Reparations Fund

From General Fund, One-Time . . . . . (212,300)  
 From Closing Fund Balance . . . . . 212,300

**Item 125**

To Governors Office - IDC - Child  
 Welfare Parental Defense Fund

From General Fund, One-Time . . . . . (6,500)  
 From Closing Fund Balance . . . . . 6,500

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 126**

To Department of Health - Traumatic  
 Brain Injury Fund

From General Fund, One-Time . . . . . (50,000)  
 From Closing Fund Balance . . . . . 50,000

**Subsection 1(c). Restricted Fund and  
 Account Transfers.** The Legislature

authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**INFRASTRUCTURE AND  
 GENERAL GOVERNMENT**

**Item 127**

To Education Budget Reserve Account  
 From Education Fund,

One-Time . . . . . (69,055,700)  
 Schedule of Programs:

Education Budget Reserve  
 Account . . . . . (69,055,700)

**Item 128**

To General Fund Budget Reserve Account  
 From General Fund, One-Time . . . . . (5,568,600)

Schedule of Programs:  
 General Fund Budget Reserve  
 Account . . . . . (5,568,600)

**BUSINESS, ECONOMIC  
 DEVELOPMENT, AND LABOR**

**Item 129**

To General Fund Restricted - Industrial  
 Assistance Account

From General Fund, One-Time . . . . . (250,000)  
 From Closing Fund Balance . . . . . 250,000

**Item 130**

To General Fund Restricted - Tourism  
 Marketing Performance Fund

From General Fund, One-Time . . . . . (3,000,000)  
 Schedule of Programs:

General Fund Restricted - Tourism  
 Marketing Performance . . . . . (3,000,000)

**SOCIAL SERVICES**

**Item 131**

To Medicaid Expansion Fund

From General Fund, One-Time . . . . . (1,864,200)  
 From Closing Fund Balance . . . . . 1,864,200

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**Item 132**

To General Fund Restricted - Invasive  
 Species Mitigation Account

From General Fund, One-Time . . . . . (750,000)  
 Schedule of Programs:

General Fund Restricted - Invasive  
 Species Mitigation Account . . . . . (750,000)

**Item 133**

To General Fund Restricted -  
 Rangeland Improvement Account

From General Fund, One-Time . . . . . (300,000)  
 Schedule of Programs:

General Fund Restricted -  
 Rangeland Improvement Account . . (300,000)

**Subsection 1(d). Transfers to Unrestricted  
 Funds.** The Legislature authorizes the State

Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**Item 134**

To General Fund  
From Nonlapsing Balances - USTAR - Grants Program ..... 4,500,000  
Schedule of Programs:  
General Fund, One-time ..... 4,500,000

**Subsection 1(e). Capital Project Funds.** The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**CAPITAL BUDGET**

**Item 135**

To Capital Budget - Capital Development Fund  
From Education Fund,  
One-Time ..... (159,395,100)  
Schedule of Programs:  
Capital Development Fund ..... (159,395,100)

**Item 136**

To Capital Budget - DFCM Prison Project Fund  
From General Fund, One-Time ... (168,000,000)  
From Closing Fund Balance ..... 168,000,000

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 137**

To Utah Department of Corrections - Programs and Operations  
From General Fund, One-Time ..... 2,500,000  
Schedule of Programs:  
Department Executive Director ..... 2,500,000

**Item 138**

To Utah Department of Corrections - Jail Contracting

From General Fund, One-Time ..... 500,000  
Schedule of Programs:  
Jail Contracting ..... 500,000

**GOVERNORS OFFICE**

**Item 139**

To Governors Office - CCJJ Factual Innocence Payments  
From General Fund, One-Time ..... 171,200  
From Beginning Nonlapsing Balances ..... (171,200)

**Item 140**

To Governors Office - Governor's Office  
From General Fund, One-Time ..... 190,000  
From Beginning Nonlapsing Balances ..... (190,000)

**Item 141**

To Governors Office - Office of Management and Budget  
From General Fund, One-Time ..... 500,000  
From Beginning Nonlapsing Balances ..... (500,000)

**OFFICE OF THE STATE AUDITOR**

**Item 142**

To Office of the State Auditor - State Auditor  
From General Fund, One-Time ..... 200,000  
Schedule of Programs:  
State Auditor ..... 200,000

**DEPARTMENT OF PUBLIC SAFETY**

**Item 143**

To Department of Public Safety - Driver License  
From General Fund, One-Time ..... 203,700  
Schedule of Programs:  
Driver Services ..... 203,700

**STATE TREASURER**

**Item 144**

To State Treasurer  
From General Fund, One-Time ..... 50,000  
Schedule of Programs:  
Treasury and Investment ..... 50,000

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**Item 145**

To Department of Administrative Services - Administrative Rules  
From General Fund, One-Time ..... 10,000  
From Beginning Nonlapsing Balances ... (5,000)  
Schedule of Programs:  
DAR Administration ..... 5,000

**Item 146**

To Department of Administrative Services - Building Board Program  
From General Fund, One-Time ..... 10,700  
From Beginning Nonlapsing Balances ..... (10,700)

**Item 147**

To Department of Administrative Services - DFCM Administration



From General Fund, One-Time . . . . . 195,400  
 From Education Fund, One-Time . . . . . 278,500  
 From Beginning Nonlapsing  
     Balances . . . . . (666,300)  
 From Closing Nonlapsing Balances . . . . . 192,400

**Item 148**

To Department of Administrative Services -  
     Executive Director  
 From General Fund, One-Time . . . . . 3,450,000  
 From Beginning Nonlapsing  
     Balances . . . . . (3,450,000)

**Item 149**

To Department of Administrative Services -  
     Finance - Mandated  
 From Department of Public Safety  
     Restricted Account, One-Time . . . . . 1,000,000  
 From General Fund Restricted -  
     Public Safety Support, One-Time . . (1,000,000)

**Item 150**

To Department of Administrative Services -  
     Finance - Mandated - Ethics Commissions  
 From General Fund, One-Time . . . . . 17,300  
 From Beginning Nonlapsing  
     Balances . . . . . (17,300)

**Item 151**

To Department of Administrative Services -  
     Finance Administration  
 From General Fund, One-Time . . . . . 3,000,000  
 Schedule of Programs:  
     Financial Information Systems . . . . . 3,000,000

**Item 152**

To Department of Administrative Services -  
     Judicial Conduct Commission  
 From General Fund, One-Time . . . . . 12,600  
 From Beginning Nonlapsing  
     Balances . . . . . (12,600)

**Item 153**

To Department of Administrative Services -  
     Post Conviction Indigent Defense  
 From General Fund, One-Time . . . . . 33,900  
 From Beginning Nonlapsing  
     Balances . . . . . (33,900)

**BUSINESS, ECONOMIC  
 DEVELOPMENT, AND LABOR**

**DEPARTMENT OF COMMERCE**

**Item 154**

To Department of Commerce - Commerce  
     General Regulation  
 From General Fund, One-Time . . . . . 71,400  
 From Beginning Nonlapsing  
     Balances . . . . . (71,400)

**GOVERNOR'S OFFICE  
 OF ECONOMIC DEVELOPMENT**

**Item 155**

To Governor's Office of Economic Development -  
     Administration  
 From General Fund, One-Time . . . . . 1,516,700

From Beginning Nonlapsing  
     Balances . . . . . (1,516,700)

**Item 156**

To Governor's Office of Economic Development -  
     Business Development  
 From General Fund, One-Time . . . . . 834,600  
 From Beginning Nonlapsing  
     Balances . . . . . (834,600)

**Item 157**

To Governor's Office of Economic Development -  
     Office of Tourism  
 From General Fund Restricted -  
     Tourism Marketing Performance,  
     One-Time . . . . . 3,000,000  
 From Beginning Nonlapsing  
     Balances . . . . . (3,000,000)

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 158**

To Department of Heritage and Arts -  
     Administration  
 From General Fund, One-Time . . . . . 650,000  
 From Beginning Nonlapsing  
     Balances . . . . . (403,000)  
 Schedule of Programs:  
     Administrative Services . . . . . 247,000

**Item 159**

To Department of Heritage and Arts -  
     Division of Arts and Museums  
 From General Fund, One-Time . . . . . 200,000  
 Schedule of Programs:  
     Community Arts Outreach . . . . . 200,000

**Item 160**

To Department of Heritage and Arts - State History  
 From General Fund, One-Time . . . . . 50,000  
 Schedule of Programs:  
     Administration . . . . . 50,000

**Item 161**

To Department of Heritage and Arts - State Library  
 From General Fund, One-Time . . . . . 200,000  
 From Beginning Nonlapsing  
     Balances . . . . . (200,000)

**INSURANCE DEPARTMENT**

**Item 162**

To Insurance Department - Insurance  
     Department Administration  
 From General Fund, One-Time . . . . . 9,800  
 From Beginning Nonlapsing Balances . . (9,800)

**Item 163**

To Insurance Department - Title  
     Insurance Program  
 From General Fund, One-Time . . . . . 4,400  
 From Beginning Nonlapsing Balances . . (4,400)

**UTAH STATE TAX COMMISSION**

**Item 164**

To Utah State Tax Commission -  
     Tax Administration  
 From Education Fund, One-Time . . . . . 350,000  
 From Beginning Nonlapsing  
     Balances . . . . . (350,000)

**SOCIAL SERVICES****DEPARTMENT OF HEALTH****Item 165**

To Department of Health - Family Health  
and Preparedness  
From General Fund, One-Time ..... 600,000  
From Beginning Nonlapsing  
Balances ..... (600,000)

**Item 166**

To Department of Health - Medicaid Services  
From General Fund, One-Time ..... 5,500,000  
Schedule of Programs:  
Accountable Care Organizations .... 5,500,000

**Item 167**

To Department of Health - Rural Physicians  
Loan Repayment Assistance  
From General Fund, One-Time ..... 200,000  
From Beginning Nonlapsing  
Balances ..... (155,200)  
Schedule of Programs:  
Rural Physicians Loan Repayment  
Program ..... 44,800

**DEPARTMENT OF HUMAN SERVICES****Item 168**

To Department of Human Services - Division  
of Aging and Adult Services  
From General Fund, One-Time ..... 300,000  
Schedule of Programs:  
Administration - DAAS ..... 300,000

**Item 169**

To Department of Human Services - Division  
of Child and Family Services  
From General Fund, One-Time ..... 250,000  
Schedule of Programs:  
Administration - DCFS ..... 250,000

**Item 170**

To Department of Human Services -  
Executive Director Operations  
From General Fund, One-Time ..... 20,000  
Schedule of Programs:  
Executive Director's Office ..... 20,000

**Item 171**

To Department of Human Services - Division  
of Substance Abuse and Mental Health  
From General Fund, One-Time ..... 210,000  
Schedule of Programs:  
Administration - DSAMH ..... 210,000

**DEPARTMENT OF  
WORKFORCE SERVICES****Item 172**

To Department of Workforce Services -  
State Office of Rehabilitation  
From General Fund, One-Time ..... 7,000,000  
From Beginning Nonlapsing  
Balances ..... (7,000,000)

**HIGHER EDUCATION****UNIVERSITY OF UTAH****Item 173**

To University of Utah - Education and General  
From General Fund, One-Time ... (252,835,400)  
From Education Fund, One-Time ... 260,835,400  
From Beginning Nonlapsing  
Balances ..... (8,000,000)

**Item 174**

To University of Utah -  
Educationally Disadvantaged  
From Education Fund, One-Time ..... 250,000  
From Beginning Nonlapsing  
Balances ..... (250,000)

**Item 175**

To University of Utah - School of Medicine  
From Education Fund, One-Time ..... 9,000,000  
From Beginning Nonlapsing  
Balances ..... (9,000,000)

**Item 176**

To University of Utah - University Hospital  
From Education Fund, One-Time ..... 150,000  
From Beginning Nonlapsing  
Balances ..... (143,100)  
Schedule of Programs:  
University Hospital ..... 6,900

**Item 177**

To University of Utah - School of Dentistry  
From Education Fund, One-Time ..... 75,000  
From Beginning Nonlapsing  
Balances ..... (75,000)

**Item 178**

To University of Utah - Public Service  
From Education Fund, One-Time ..... 250,000  
From Beginning Nonlapsing  
Balances ..... (250,000)

**Item 179**

To University of Utah -  
Statewide TV Administration  
From Education Fund, One-Time ..... 50,000  
From Beginning Nonlapsing  
Balances ..... (50,000)

**Item 180**

To University of Utah - Poison Control Center  
From Education Fund, One-Time ..... 1,300  
From Beginning Nonlapsing Balances ... (1,300)

**Item 181**

To University of Utah - SafeUT Crisis Text and Tip  
From General Fund, One-Time ..... (250,000)  
From Education Fund, One-Time ..... 250,000

**UTAH STATE UNIVERSITY****Item 182**

To Utah State University - Education and General  
From General Fund, One-Time .... (42,191,700)  
From Education Fund, One-Time .... 58,891,700  
From Beginning Nonlapsing  
Balances ..... (18,310,300)  
From Closing Nonlapsing Balances .... 1,610,300

**Item 183**

To Utah State University - USU -  
Eastern Education and General

From Education Fund, One-Time . . . . 1,000,000  
 From Beginning Nonlapsing  
 Balances . . . . . (1,000,000)

**Item 184**

To Utah State University -  
 Educationally Disadvantaged  
 From General Fund, One-Time . . . . . 300  
 From Education Fund, One-Time . . . . . (300)

**Item 185**

To Utah State University - USU -  
 Eastern Educationally Disadvantaged  
 From Education Fund, One-Time . . . . . 40,000  
 From Beginning Nonlapsing  
 Balances . . . . . (40,000)

**Item 186**

To Utah State University - USU - Eastern  
 Career and Technical Education  
 From Education Fund, One-Time . . . . . 75,000  
 From Beginning Nonlapsing  
 Balances . . . . . (75,000)

**Item 187**

To Utah State University - Regional Campuses  
 From Education Fund, One-Time . . . . 2,900,000  
 From Beginning Nonlapsing  
 Balances . . . . . (1,741,400)  
 From Closing Nonlapsing Balances . . . (1,158,600)

**Item 188**

To Utah State University - Water  
 Research Laboratory  
 From Education Fund, One-Time . . . . 2,000,000  
 From Beginning Nonlapsing  
 Balances . . . . . (2,000,000)

**Item 189**

To Utah State University - Agriculture  
 Experiment Station  
 From Education Fund, One-Time . . . . . 400,000  
 From Beginning Nonlapsing  
 Balances . . . . . (400,000)

**Item 190**

To Utah State University - Cooperative Extension  
 From Education Fund, One-Time . . . . 1,200,000  
 From Beginning Nonlapsing  
 Balances . . . . . (1,200,000)

**Item 191**

To Utah State University - Prehistoric Museum  
 From Education Fund, One-Time . . . . . 10,000  
 From Beginning Nonlapsing  
 Balances . . . . . (10,000)

**Item 192**

To Utah State University - Blanding Campus  
 From Education Fund, One-Time . . . . . 100,000  
 From Beginning Nonlapsing  
 Balances . . . . . (100,000)

**WEBER STATE UNIVERSITY**

**Item 193**

To Weber State University - Education  
 and General  
 From General Fund, One-Time . . . . . 761,000  
 From Education Fund, One-Time . . . . 2,739,000

From Beginning Nonlapsing  
 Balances . . . . . (3,500,000)

**Item 194**

To Weber State University -  
 Educationally Disadvantaged  
 From Education Fund, One-Time . . . . . 125,000  
 From Beginning Nonlapsing  
 Balances . . . . . (125,000)

**SOUTHERN UTAH UNIVERSITY**

**Item 195**

To Southern Utah University - Education  
 and General  
 From General Fund, One-Time . . . . . (20,100)  
 From Education Fund, One-Time . . . . 3,020,100  
 From Beginning Nonlapsing  
 Balances . . . . . (3,000,000)

**Item 196**

To Southern Utah University -  
 Educationally Disadvantaged  
 From Education Fund, One-Time . . . . . 5,000  
 From Beginning Nonlapsing Balances . . . (5,000)

**Item 197**

To Southern Utah University - Rural Development  
 From Education Fund, One-Time . . . . . 30,000  
 From Beginning Nonlapsing  
 Balances . . . . . (30,000)

**UTAH VALLEY UNIVERSITY**

**Item 198**

To Utah Valley University - Education and General  
 From General Fund, One-Time . . . . . (5,700)  
 From Education Fund, One-Time . . . . 15,005,700  
 From Beginning Nonlapsing  
 Balances . . . . . (15,000,000)

**Item 199**

To Utah Valley University -  
 Educationally Disadvantaged  
 From Education Fund, One-Time . . . . . 9,000  
 From Beginning Nonlapsing Balances . . . (9,000)

**SNOW COLLEGE**

**Item 200**

To Snow College - Education and General  
 From General Fund, One-Time . . . . . (90,200)  
 From Education Fund, One-Time . . . . . 840,200  
 From Beginning Nonlapsing  
 Balances . . . . . (750,000)

**DIXIE STATE UNIVERSITY**

**Item 201**

To Dixie State University - Education and General  
 From General Fund, One-Time . . . . . (100,500)  
 From Education Fund, One-Time . . . . 2,600,500  
 From Beginning Nonlapsing  
 Balances . . . . . (2,500,000)

**SALT LAKE COMMUNITY COLLEGE**

**Item 202**

To Salt Lake Community College -  
 Education and General  
 From General Fund, One-Time . . . . . (30,900)

From Education Fund, One-Time . . . . 3,030,900  
 From Beginning Nonlapsing  
 Balances . . . . . (1,147,100)  
 From Closing Nonlapsing Balances . . . (1,852,900)

**Item 203**

To Salt Lake Community College -  
 Educationally Disadvantaged  
 From Beginning Nonlapsing Balances . . . . 1,500  
 From Closing Nonlapsing Balances . . . . . (1,500)

**Item 204**

To Salt Lake Community College -  
 School of Applied Technology  
 From Education Fund, One-Time . . . . . 250,000  
 From Beginning Nonlapsing  
 Balances . . . . . (250,000)

**UTAH BOARD OF HIGHER EDUCATION****Item 205**

To Utah Board of Higher Education -  
 Administration  
 From General Fund, One-Time . . . . . (74,500)  
 From Education Fund, One-Time . . . . . 574,500  
 From Beginning Nonlapsing  
 Balances . . . . . (500,000)

**Item 206**

To Utah Board of Higher Education -  
 Math Competency Initiative  
 From Education Fund, One-Time . . . . . 1,000,000  
 From Beginning Nonlapsing  
 Balances . . . . . (1,000,000)

**UTAH SYSTEM OF TECHNICAL COLLEGES****Item 207**

To Utah System of Technical Colleges -  
 Bridgerland Technical College  
 From Education Fund, One-Time . . . . . 15,000  
 From Beginning Nonlapsing  
 Balances . . . . . (15,000)

**Item 208**

To Utah System of Technical Colleges -  
 Southwest Technical College  
 From General Fund, One-Time . . . . . 100  
 From Education Fund, One-Time . . . . . 26,900  
 From Beginning Nonlapsing  
 Balances . . . . . (27,000)

**Item 209**

To Utah System of Technical Colleges - USTC  
 Administration  
 From General Fund, One-Time . . . . . (5,700)  
 From Education Fund, One-Time . . . . . 18,900  
 Schedule of Programs:  
 Administration . . . . . 13,200

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY****DEPARTMENT OF  
AGRICULTURE AND FOOD****Item 210**

To Department of Agriculture and Food -  
 Administration  
 From General Fund, One-Time . . . . . 100,000

From Beginning Nonlapsing  
 Balances . . . . . (100,000)

**Item 211**

To Department of Agriculture and Food -  
 Animal Health  
 From General Fund, One-Time . . . . . 300,000  
 From Beginning Nonlapsing  
 Balances . . . . . (300,000)

**Item 212**

To Department of Agriculture and Food -  
 Invasive Species Mitigation  
 From General Fund Restricted -  
 Invasive Species Mitigation  
 Account, One-Time . . . . . 750,000  
 From Beginning Nonlapsing  
 Balances . . . . . (750,000)

**Item 213**

To Department of Agriculture and Food -  
 Marketing and Development  
 From General Fund, One-Time . . . . . 46,600  
 From Beginning Nonlapsing  
 Balances . . . . . (46,600)

**Item 214**

To Department of Agriculture and Food -  
 Rangeland Improvement  
 From Gen. Fund Rest. - Rangeland  
 Improvement Account, One-Time . . . . 300,000  
 From Beginning Nonlapsing  
 Balances . . . . . (300,000)

**Item 215**

To Department of Agriculture and Food -  
 Resource Conservation  
 From General Fund, One-Time . . . . . 1,500,000  
 From Beginning Nonlapsing  
 Balances . . . . . (1,500,000)

**DEPARTMENT OF  
ENVIRONMENTAL QUALITY****Item 216**

To Department of Environmental Quality -  
 Air Quality  
 From General Fund, One-Time . . . . . 9,330,000  
 From Beginning Nonlapsing  
 Balances . . . . . (9,330,000)

**Item 217**

To Department of Environmental Quality -  
 Drinking Water  
 From General Fund, One-Time . . . . . 250,000  
 From Beginning Nonlapsing  
 Balances . . . . . (250,000)

**Item 218**

To Department of Environmental Quality -  
 Environmental Response and Remediation  
 From General Fund, One-Time . . . . . 33,000  
 From Beginning Nonlapsing  
 Balances . . . . . (33,000)

**Item 219**

To Department of Environmental Quality -  
 Executive Director's Office  
 From General Fund, One-Time . . . . . 385,500  
 From Beginning Nonlapsing  
 Balances . . . . . (385,500)

**Item 220**

To Department of Environmental Quality -  
 Waste Management and Radiation Control

From General Fund, One-Time . . . . . 500,000  
 From Beginning Nonlapsing  
     Balances . . . . . (500,000)

**Item 221**

To Department of Environmental Quality -  
     Water Quality  
 From General Fund, One-Time . . . . . 165,400  
 From Beginning Nonlapsing  
     Balances . . . . . (165,400)

**Item 222**

To Department of Environmental Quality -  
     Trip Reduction Program  
 From General Fund, One-Time . . . . . 500,000  
 From Beginning Nonlapsing  
     Balances . . . . . (500,000)

**DEPARTMENT OF NATURAL RESOURCES**

**Item 223**

To Department of Natural Resources -  
     Administration  
 From General Fund, One-Time . . . . . 200,000  
 From Beginning Nonlapsing  
     Balances . . . . . (200,000)

**Item 224**

To Department of Natural Resources -  
     DNR Pass Through  
 From General Fund, One-Time . . . . . 2,608,400  
 From Beginning Nonlapsing  
     Balances . . . . . (2,608,400)

**Item 225**

To Department of Natural Resources -  
     Forestry, Fire and State Lands  
 From General Fund, One-Time . . . . . 1,500,000  
 From Beginning Nonlapsing  
     Balances . . . . . (1,500,000)

**Item 226**

To Department of Natural Resources -  
     Oil, Gas and Mining  
 From General Fund, One-Time . . . . . 200,000  
 From Beginning Nonlapsing  
     Balances . . . . . (200,000)  
 Schedule of Programs:  
     Administration . . . . . 167,800  
     Coal Program . . . . . 32,200  
     OGM Misc. Nonlapsing . . . . . (200,000)

**Item 227**

To Department of Natural Resources -  
     Utah Geological Survey  
 From General Fund, One-Time . . . . . 150,000  
 From Beginning Nonlapsing  
     Balances . . . . . (150,000)

**Item 228**

To Department of Natural Resources -  
     Water Resources  
 From General Fund, One-Time . . . . . 850,000  
 From Beginning Nonlapsing  
     Balances . . . . . (850,000)

**Item 229**

To Department of Natural Resources -  
     Water Rights  
 From General Fund, One-Time . . . . . 250,000

From Beginning Nonlapsing  
     Balances . . . . . (250,000)

**Item 230**

To Department of Natural Resources - Watershed  
 From General Fund, One-Time . . . . . 1,500,000  
 From Beginning Nonlapsing  
     Balances . . . . . (1,500,000)

**Item 231**

To Department of Natural Resources -  
     Wildlife Resources  
 From General Fund, One-Time . . . . . 300,000  
 From Beginning Nonlapsing  
     Balances . . . . . (300,000)

**PUBLIC LANDS POLICY  
 COORDINATING OFFICE**

**Item 232**

To Public Lands Policy Coordinating Office  
 From General Fund, One-Time . . . . . 600,000  
 From Beginning Nonlapsing  
     Balances . . . . . (600,000)

**PUBLIC EDUCATION**

**STATE BOARD OF EDUCATION -  
 MINIMUM SCHOOL PROGRAM**

**Item 233**

To State Board of Education - Minimum School  
 Program - Basic School Program  
 From Education Fund, One-Time . . . . . 20,000,000  
 From Beginning Nonlapsing  
     Balances . . . . . (20,000,000)

**Item 234**

To State Board of Education - Minimum School  
 Program - Related to Basic School Programs  
 From Education Fund, One-Time . . . . . 10,600,000  
 From Beginning Nonlapsing  
     Balances . . . . . (10,600,000)

**STATE BOARD OF EDUCATION**

**Item 235**

To State Board of Education - Educator Licensing  
 From Education Fund, One-Time . . . . . 29,300  
 From Beginning Nonlapsing Balances . . . . . (5,000)  
 Schedule of Programs:  
     Educator Licensing . . . . . 24,300

**Item 236**

To State Board of Education - Fine Arts Outreach  
 From Education Fund, One-Time . . . . . 1,400  
 From Beginning Nonlapsing Balances . . . . . (1,400)

**Item 237**

To State Board of Education - Initiative Programs  
 From Education Fund, One-Time . . . . . 6,249,800  
 From Beginning Nonlapsing  
     Balances . . . . . (6,249,800)

**Item 238**

To State Board of Education - MSP  
     Categorical Program Administration  
 From Education Fund, One-Time . . . . . 885,200  
 From Beginning Nonlapsing  
     Balances . . . . . (885,200)

**Item 239**

To State Board of Education - Science Outreach

From Education Fund, One-Time ..... 17,200  
 From Beginning Nonlapsing  
 Balances ..... (17,200)

**Item 240**

To State Board of Education - State Administrative Office  
 From Education Fund, One-Time ..... 3,416,400  
 From Beginning Nonlapsing  
 Balances ..... (3,416,400)

**Item 241**

To State Board of Education - General System Support  
 From Education Fund, One-Time ..... 2,470,200  
 From Beginning Nonlapsing  
 Balances ..... (2,470,200)

**Item 242**

To State Board of Education - State Charter School Board  
 From Education Fund, One-Time ..... 804,900  
 From Beginning Nonlapsing  
 Balances ..... (804,900)

**Item 243**

To State Board of Education - Teaching and Learning  
 From Education Fund, One-Time ..... 51,700  
 From Beginning Nonlapsing  
 Balances ..... (20,800)  
 Schedule of Programs:  
 Student Access to High Quality  
 School Readiness Progs ..... 30,900

**Item 244**

To State Board of Education - Utah Schools for the Deaf and the Blind  
 From Education Fund, One-Time ..... 970,600  
 From Beginning Nonlapsing  
 Balances ..... (970,600)

**RETIREMENT AND INDEPENDENT ENTITIES**

**CAREER SERVICE REVIEW OFFICE**

**Item 245**

To Career Service Review Office  
 From General Fund, One-Time ..... 10,000  
 From Beginning Nonlapsing  
 Balances ..... (10,000)

**DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

**Item 246**

To Department of Human Resource Management - Human Resource Management  
 From General Fund, One-Time ..... 42,400  
 From Beginning Nonlapsing  
 Balances ..... (42,400)

**UTAH EDUCATION AND TELEHEALTH NETWORK**

**Item 247**

To Utah Education and Telehealth Network - Digital Teaching and Learning Program  
 From Education Fund, One-Time ..... 168,800  
 From Beginning Nonlapsing  
 Balances ..... (168,800)

**Item 248**

To Utah Education and Telehealth Network  
 From Education Fund, One-Time ..... 200,000  
 From Beginning Nonlapsing  
 Balances ..... (200,000)

**EXECUTIVE APPROPRIATIONS**

**LEGISLATURE**

**Item 249**

To Legislature - Senate  
 From General Fund, One-Time ..... 1,700,000  
 From Beginning Nonlapsing  
 Balances ..... (1,700,000)

**Item 250**

To Legislature - House of Representatives  
 From General Fund, One-Time ..... 3,400,000  
 From Beginning Nonlapsing  
 Balances ..... (3,400,000)

**Item 251**

To Legislature - Office of Legislative Research and General Counsel  
 From General Fund, One-Time ..... 6,000,000  
 From Beginning Nonlapsing  
 Balances ..... (6,000,000)

**Item 252**

To Legislature - Office of the Legislative Fiscal Analyst  
 From General Fund, One-Time ..... 1,275,000  
 From Beginning Nonlapsing  
 Balances ..... (1,275,000)

**Item 253**

To Legislature - Office of the Legislative Auditor General  
 From General Fund, One-Time ..... 1,000,000  
 From Beginning Nonlapsing  
 Balances ..... (1,000,000)

**Item 254**

To Legislature - Legislative Services  
 From General Fund, One-Time ..... 1,900,000  
 From Beginning Nonlapsing  
 Balances ..... (1,900,000)

**UTAH NATIONAL GUARD**

**Item 255**

To Utah National Guard  
 From General Fund, One-Time ..... 5,200,000  
 From Beginning Nonlapsing  
 Balances ..... (5,200,000)

**Subsection 2(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature

authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

### EXECUTIVE OFFICES AND CRIMINAL JUSTICE

#### GOVERNORS OFFICE

##### Item 256

To Governors Office - Crime Victim  
Reparations Fund  
From General Fund, One-Time . . . . . 212,300  
From Beginning Fund Balance . . . . . (212,300)

##### Item 257

To Governors Office - IDC - Child Welfare  
Parental Defense Fund  
From General Fund, One-Time . . . . . 6,500  
From Beginning Fund Balance . . . . . (6,500)

#### SOCIAL SERVICES

#### DEPARTMENT OF HEALTH

##### Item 258

To Department of Health - Traumatic  
Brain Injury Fund  
From General Fund, One-Time . . . . . 50,000  
From Beginning Fund Balance . . . . . (50,000)

**Subsection 2(c). Restricted Fund and Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

#### INFRASTRUCTURE AND GENERAL GOVERNMENT

##### Item 259

To Education Budget Reserve Account  
From Education Fund, One-Time . . . . 69,055,700  
Schedule of Programs:  
Education Budget Reserve  
Account . . . . . 69,055,700

##### Item 260

To General Fund Budget Reserve Account  
From General Fund, One-Time . . . . . 5,568,600  
Schedule of Programs:  
General Fund Budget Reserve  
Account . . . . . 5,568,600

#### BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

##### Item 261

To General Fund Restricted - Industrial  
Assistance Account  
From General Fund, One-Time . . . . . 250,000

From Beginning Fund Balance . . . . . (250,000)

##### Item 262

To General Fund Restricted - Tourism  
Marketing Performance Fund  
From General Fund, One-Time . . . . . 3,000,000  
Schedule of Programs:  
General Fund Restricted - Tourism  
Marketing Performance . . . . . 3,000,000

#### SOCIAL SERVICES

##### Item 263

To Medicaid Expansion Fund  
From General Fund, One-Time . . . . . 1,864,200  
From Beginning Fund Balance . . . . . (1,864,200)

#### NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

##### Item 264

To General Fund Restricted - Invasive  
Species Mitigation Account  
From General Fund, One-Time . . . . . 750,000  
Schedule of Programs:  
General Fund Restricted - Invasive  
Species Mitigation Account . . . . . 750,000

##### Item 265

To General Fund Restricted -  
Rangeland Improvement Account  
From General Fund, One-Time . . . . . 300,000  
Schedule of Programs:  
General Fund Restricted -  
Rangeland Improvement Account . . . . 300,000

**Subsection 2(d). Capital Project Funds.** The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

#### INFRASTRUCTURE AND GENERAL GOVERNMENT

#### CAPITAL BUDGET

##### Item 266

To Capital Budget - Capital Development Fund  
From Education Fund, One-Time . . . 159,395,100  
Schedule of Programs:  
Capital Development Fund . . . . . 159,395,100

##### Item 267

To Capital Budget - DFCM Prison Project Fund  
From General Fund, One-Time . . . . . 168,000,000  
From Beginning Fund Balance . . . . (168,000,000)

#### Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2020.

**CHAPTER 8**  
**S. B. 3002**

Passed April 17, 2020  
Approved April 22, 2020  
Effective April 22, 2020

**EMERGENCY HEALTH CARE  
ACCESS AND IMMUNITY AMENDMENTS**

Chief Sponsor: Evan J. Vickers  
House Sponsor: Val L. Peterson

**LONG TITLE**

**General Description:**

This bill expands access to certain treatments and creates limited immunity for certain actions during a declared major public health emergency.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides limited immunity for health care, including the use of certain treatments, provided during a major public health emergency;
- ▶ amends the Utah Right to Try Act to permit the use of certain investigational drugs and devices during a major public health emergency; and
- ▶ creates limited immunity for health care providers who provide an investigational drug or device to a patient during a major public health emergency.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**ENACTS:**

58-13-2.7, Utah Code Annotated 1953  
58-85-106, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 58-13-2.7 is enacted to read:**

**58-13-2.7. Limited immunity during a declared major public health emergency.**

(1) As used in this section:

(a) “Declared major public health emergency” means the same as that term is defined in Section 58-85-106.

(b) “Health care” means the same as that term is defined in Section 78B-3-403.

(c) “Health care provider” means the same as that term is defined in Section 78B-3-403.

(d) “Prescription device” means the same as that term is defined in Section 58-17b-102.

(e) “Prescription drug” means the same as that term is defined in Section 58-17b-102.

(f) “Qualified treatment” means the use of a prescription drug or prescription device:

(i) during a declared major public health emergency;

(ii) to treat a patient who has been diagnosed with the illness or condition that resulted in the declared major public health emergency; and

(iii) that has been approved for sale but not indicated by the United States Food and Drug Administration to treat the illness or condition described in Subsection (1)(f)(ii).

(2) (a) A health care provider is immune from civil liability for any harm resulting from any act or omission in the course of providing health care during a declared major public health emergency if:

(i) (A) the health care is provided in good faith to treat a patient for the illness or condition that resulted in the declared major public health emergency; or

(B) the act or omission was the direct result of providing health care to a patient for the illness or condition that resulted in the declared major public health emergency; and

(ii) the acts or omissions of the health care provider were not:

(A) grossly negligent; or

(B) intentional or malicious misconduct.

(b) The immunity in Subsection (2)(a) applies:

(i) even if the health care provider has a duty to respond or an expectation of payment or remuneration; and

(ii) in addition to any immunity protections that may apply under state or federal law.

(c) During a declared major public health emergency, it is not a breach of the applicable standard of care for a health care provider to provide health care that is not within the health care provider’s education, training, or experience, if:

(i) the health care is within the applicable scope of practice for the type of license issued to the health care provider;

(ii) (A) the health care is provided in good faith to treat a patient for the illness or condition that resulted in the declared major public health emergency; or

(B) there is an urgent shortage of health care providers as a direct result of the declared major public health emergency; and

(iii) providing the health care is not:

(A) grossly negligent; or

(B) intentional or malicious misconduct.

(3) (a) A health care provider is not subject to civil liability, criminal liability, or sanctions against the health care provider’s license for providing a qualified treatment to a patient if:

(i) the qualified treatment is within the scope of the health care provider’s license;



(ii) if written recommendations have been issued by a federal government agency regarding the use of the qualified treatment for treatment of the illness or condition that resulted in the declared major public health emergency, the health care provider provides the qualified treatment in accordance with the most current written recommendations issued by the federal government agency;

(iii) the health care provider:

(A) describes to the patient or the patient's representative, based on the health care provider's knowledge of the qualified treatment, the possible positive and negative outcomes the patient could experience if the health care provider treats the patient with the qualified treatment; and

(B) documents in the patient's medical record the information provided to the patient or the patient's representative under Subsection (3)(a)(iii)(A) and whether the patient or the patient's representative consented to the treatment; and

(iv) the acts or omissions of the health care provider were not:

(A) grossly negligent; or

(B) intentional or malicious misconduct.

(b) If two or more written recommendations described in Subsection (3)(a)(ii) are issued by federal government agencies, a health care provider satisfies the requirement described in Subsection (3)(a)(ii) by providing the qualified treatment in accordance with the most current written recommendations of any one federal government agency.

**Section 2. Section 58-85-106 is enacted to read:**

**58-85-106. Use of investigational drugs and devices during a major public health emergency -- Limitations -- Immunity.**

(1) As used in this section:

(a) "Declared major public health emergency" means a state of emergency declared by the governor under Section 53-2a-206 as the result of a major public health emergency.

(b) "Health care provider" means the same as that term is defined in Section 76B-3-403.

(c) "Insurer" means the same as that term is defined in Section 31A-22-634.

(d) "Major public health emergency" means an occurrence of imminent threat of an illness or health condition that:

(i) is believed to be caused by:

(A) bioterrorism;

(B) the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin;

(C) a natural disaster;

(D) a chemical attack or accidental release; or

(E) a nuclear attack or accident; and

(ii) poses a high probability of:

(A) a large number of deaths in the affected population;

(B) a large number of serious or long-term disabilities in the affected population; or

(C) widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.

(e) "Physician" means the same as that term is defined in Section 58-67-102.

(f) "Qualified patient" means a patient who has been diagnosed with a condition that has resulted in a declared major public health emergency.

(2) (a) To the extent permitted under federal law, a qualified patient may obtain an investigational drug through an agreement with the investigational drug's manufacturer and the qualified patient's physician that provides:

(i) for the transfer of the investigational drug from the manufacturer to the physician; and

(ii) that the physician will administer the investigational drug to the qualified patient.

(b) To the extent permitted under federal law, a qualified patient may obtain an investigational device through an agreement with the investigational device's manufacturer and the qualified patient's physician that provides:

(i) for the transfer of the investigational device from the manufacturer to the physician; and

(ii) that the physician will use the investigational device to treat the qualified patient.

(c) The agreement described in Subsection (2)(a) or (b) shall include an informed consent document that, based on the physician's knowledge of the relevant investigational drug or investigational device:

(i) describes the possible positive and negative outcomes the qualified patient could experience if the physician treats the qualified patient with the investigational drug or investigational device;

(ii) states that an insurer is not required to cover the cost of providing the investigational drug or investigational device to the qualified patient;

(iii) states that, subject to Subsection (5), an insurer may deny coverage for the qualified patient; and

(iv) states that the qualified patient may be liable for all expenses caused by the physician treating the patient with the investigational drug or investigational device, unless the agreement provides otherwise.

(3) The physician of a qualified patient shall notify the qualified patient's insurer of:

(a) the day on which the physician treated the qualified patient with an investigational drug or investigational device; and

(b) the investigational drug or investigational device used under an agreement described in Subsection (2).

(4) (a) It is not a breach of the applicable standard of care for a health care provider to treat a qualified patient with an investigational drug or investigational device under this section.

(b) A health care provider that treats a qualified patient with an investigational drug or investigational device in accordance with this section is not subject to civil liability, criminal liability, or sanctions against the health care provider's license for any harm to the qualified patient resulting from the qualified patient's use of the investigational drug or device.

(5) (a) This section does not:

(i) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to a qualified patient or a qualified patient's physician;

(ii) require a physician to agree to:

(A) administer an investigational drug to a qualified patient under this section; or

(B) treat a qualified patient with an investigational device under this section;

(iii) create a private right of action for a qualified patient against a health care provider for the health care provider's refusal to:

(A) administer an investigational drug to a qualified patient under this section; or

(B) treat a qualified patient with an investigational device under this section; or

(iv) create a private right of action for a qualified patient against a manufacturer for the manufacturer's refusal to provide a qualified patient with an investigational drug or an investigational device under this section.

(b) This section does not:

(i) require an insurer to cover the cost of:

(A) administering an investigational drug under this section; or

(B) treating a patient with an investigational device under this section; or

(ii) prohibit an insurer from covering the cost of:

(A) administering an investigational drug under this section; or

(B) treating a patient with an investigational device under this section.

(c) Except as described in Subsection (5)(d), an insurer may deny coverage to a qualified patient who is treated with an investigational drug or investigational device for harm to the qualified patient caused by the investigational drug or investigational device.

(d) An insurer may not deny coverage to a qualified patient under Subsection (5)(c) for:

(i) the qualified patient's preexisting condition;

(ii) benefits that commenced before the day on which the qualified patient was treated with the investigational drug or investigational device; or

(iii) palliative or hospice care for a qualified patient that has been treated with an investigational drug or investigational device but is no longer receiving curative treatment with the investigational drug or investigational device.

### **Section 3. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 9****S. B. 3003**

Passed April 17, 2020  
 Approved April 22, 2020  
 Effective April 22, 2020

**UNEMPLOYMENT  
 BENEFITS AMENDMENTS**

Chief Sponsor: Ann Millner  
 House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill modifies provisions of Title 35A, Chapter 4, Employment Security Act.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Department of Workforce Services to waive the one-week waiting period for unemployment benefits and provide an unemployed individual with a benefit for that week if:
  - a state of emergency has been declared by the president of the United States or the governor; or
  - the federal government has agreed to pay for the benefit.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

35A-4-403.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 35A-4-403.5 is enacted to read:**

**35A-4-403.5. Waiver of one-week waiting period during emergency.**

For any week beginning on or after January 1, 2020, the department may waive the one-week waiting period described in Subsection 35A-4-403(1)(d) and pay a benefit to an unemployed individual for that week if:

(1) the unemployed individual otherwise qualifies for a benefit for that week; and

(2) (a) the president of the United States has issued an order declaring a national emergency that is effective in the state during that week;

(b) the governor has issued an executive order declaring a state of emergency as described in Title 53, Chapter 2a, Emergency Management Act, that is effective during that week; or

(c) the federal government has agreed to reimburse the department for the cost of paying the benefit for that week.

**Section 2. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 10****S. B. 3005**

Passed April 17, 2020

Approved April 22, 2020

Effective April 22, 2020

**EDUCATION MODIFICATIONS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: V. Lowry Snow

**LONG TITLE****General Description:**

This bill waives certain statutory requirements impacted by school closures in the 2019-20 school year.

**Highlighted Provisions:**

This bill:

- ▶ waives the requirement to pass a basic civics test or alternate assessment as a condition of graduation for certain students graduating between January 1, 2020, and September 30, 2020;
- ▶ waives the requirement for school districts to complete employee evaluations for the 2019-20 school year;
- ▶ waives statutory requirements to administer assessments not administered before school closures on March 16, 2020; and
- ▶ requires the State Board of Education (state board) to submit a report to the Education Interim Committee that:
  - identifies statutory requirements impacted by assessment waivers; and
  - provides an explanation for statutory requirements with which the state board or local education agencies will not fully comply due to the assessment waivers.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

53E-1-204, Utah Code Annotated 1953

53E-4-205.1, Utah Code Annotated 1953

53E-4-315, Utah Code Annotated 1953

53G-11-504.1, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-1-204 is enacted to read:****53E-1-204. State board report to Education Interim Committee on statutory requirements impacted by assessment waivers.**

(1) As used in this section, "assessment waiver" means the waiver of assessments described in Section 53E-4-315.

(2) On or before the Education Interim Committee's October 2020 meeting, the state board shall submit a written or oral report to the Education Interim Committee that:

(a) (i) identifies the statutory requirements, including programs, reports, evaluations, and accountability measures, impacted by the assessment waiver; and

(ii) describes how each statutory requirement described in Subsection (2)(a)(i) is impacted by the assessment waiver;

(b) (i) describes the data which the state board:

(A) has not collected or will not collect because of the assessment waiver; and

(B) has collected or will collect despite the assessment waiver; and

(ii) if the state board has collected or will collect data that it will not publish or report, explains why the state board will not publish or report the data;

(c) identifies the statutory requirements with which the state board or an LEA has not fully complied or will not fully comply because of the assessment waiver;

(d) describes the extent to which the state board or an LEA has complied or will comply with statutory requirements described in Subsection (2)(c); and

(e) explains why the state board or an LEA has not fully complied or will not fully comply with the requirements described in Subsection (2)(c).

(3) Notwithstanding anything to the contrary in Utah law, submission of the written or oral report described in Subsection (2) fulfills a statutory requirement:

(a) that the state board addresses in accordance with Subsection (2); and

(b) with which the state board or an LEA has not fully complied as described in Subsection (2)(c).

(4) This section supersedes any conflicting provisions of Utah law.

**Section 2. Section 53E-4-205.1 is enacted to read:****53E-4-205.1. Waiver of basic civics test graduation requirement.**

(1) As used in this section, "basic civics test" means the same as that term is defined in Section 53E-4-205 or an alternate assessment described in Subsection 53E-4-205(2)(b).

(2) A student who graduates high school between January 1, 2020, and September 30, 2020, is not required to meet the requirements of Section 53E-4-205 as a condition of receiving a high school diploma if:

(a) the student is unable to complete the basic civics test due to public health related school closures;

(b) the student's LEA submits an application to the state board for a waiver of the requirement to complete the basic civics test that includes an explanation for why the student was unable to complete the basic civics test due to public health related school closures; and

(c) the state board grants a waiver requested under Subsection (2)(b).

(3) The state board may grant a waiver under this section if the state board determines that a student who graduates between January 1, 2020, and September 30, 2020, was unable to complete the basic civics test due to public health related school closures.

(4) This section supersedes conflicting provisions of Utah law.

**Section 3. Section 53E-4-315 is enacted to read:**

**53E-4-315. Waiver of requirement to administer certain assessments.**

(1) A statutory requirement to administer an assessment with which an LEA or the state board has not fully complied at the time of statewide school closures beginning on March 16, 2020, is waived for the 2019-20 school year.

(2) Nothing in this section prohibits an LEA or the state board from administering an assessment.

(3) This section supersedes any conflicting provisions of Utah law.

**Section 4. Section 53G-11-504.1 is enacted to read:**

**53G-11-504.1. Waiver of employee evaluation requirement.**

(1) For the 2019-20 school year, a school district is not required to evaluate or report the performance of each school district employee in accordance with rules of the state board adopted in accordance with this part.

(2) This section supersedes any conflicting provisions of Utah law.

**Section 5. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 11****S. B. 3006**

Passed April 23, 2020

Approved April 30, 2020

Effective April 30, 2020

Exception clause

**COVID-19 FINANCIAL RELIEF FUNDING**

Chief Sponsor: Lincoln Fillmore

House Sponsor: Mike Schultz

**LONG TITLE****General Description:**

This bill funds new and existing programs and services related to relieving economic injury to individuals and businesses affected by COVID-19.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ directs the Conservation Commission to make grants to agricultural operations that are financially harmed as a result of measures taken to minimize the public's exposure to COVID-19;
- ▶ requires the Conservation Commission to report to the Natural Resources, Agriculture, and Environment Interim Committee regarding grants made to agricultural operations;
- ▶ directs the Department of Workforce Services to assist state residents financially harmed by COVID-19 to retain or obtain housing using certain funds;
- ▶ directs the Governor's Office of Economic Development to establish and administer a COVID-19 Commercial Rental Assistance Program that grants rental relief to certain businesses that have lost revenue as a result of measures taken to minimize the public's exposure to COVID-19;
- ▶ requires the Department of Workforce Services to report to the Economic Development and Workforce Services Interim Committee regarding funds spent to assist state residents; and
- ▶ requires the Governor's Office of Economic Development to report to the Legislature regarding the COVID-19 Commercial Rental Assistance Program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a repeal date.

**Utah Code Sections Affected:****ENACTS:**

4-18-106.1, Utah Code Annotated 1953  
 35A-8-2301, Utah Code Annotated 1953  
 35A-8-2302, Utah Code Annotated 1953  
 35A-8-2303, Utah Code Annotated 1953  
 63N-14-101, Utah Code Annotated 1953  
 63N-14-102, Utah Code Annotated 1953  
 63N-14-201, Utah Code Annotated 1953  
 63N-14-202, Utah Code Annotated 1953  
 63N-14-203, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 4-18-106.1 is enacted to read:****4-18-106.1. COVID-19 Agricultural Operations Grant Program.**

(1) As used in this section:

(a) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136.

(b) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(c) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(d) "Program" means the COVID-19 Agricultural Operations Grant Program established in Subsection (2).

(2) The commission shall establish and administer a COVID-19 Agricultural Operations Grant Program to ensure in this state the continuation of food and fiber production, the maintenance of product supply chains, and the ability to get products to market during and immediately following the COVID-19 emergency.

(3) (a) Under the program, the commission may make a grant:

(i) to an agricultural operation that:

(A) on or after March 1, 2020, but on or before December 30, 2020, is financially harmed as a result of federal, state, or local public health measures taken to minimize the public's exposure to COVID-19; and

(B) does not receive funds from the COVID-19 Commercial Rental Assistance Program established in Title 63N, Chapter 14, COVID-19 Commercial Rental Assistance Program;

(ii) for the purpose of assisting an agricultural operation with the financial harm described in Subsection (3)(a)(i), including measures to continue food and fiber production in the state, maintain the agricultural operation's supply chains, or deliver the agricultural operation's product to market; and

(iii) in an amount not to exceed \$40,000.

(b) The commission may utilize the board appointed in Section 4-18-106 to:

(i) oversee the award process for grants, as described in this section; and

(ii) approve grants.

(4) (a) Upon application for a grant described in this section, an agricultural operation shall disclose whether the agricultural operation has received or applied for funds from the Paycheck Protection Program described in the CARES Act.

(b) An agricultural operation that receives funds between February 15, 2020, and June 30, 2020,

from the Paycheck Protection Program described in the CARES Act, is only eligible to receive a grant under this section in an amount not to exceed \$20,000.

(c) An agricultural operation described in Subsection (4)(b) that receives more than the amount for which the agricultural operation is eligible under Subsection (4)(b) shall return to the commission any funds for which the agricultural operation is not eligible.

(5) Grants the commission makes in accordance with this section shall be made using funds:

(a) the state receives from the Coronavirus Relief Fund described in the CARES Act;

(b) the Legislature appropriates; and

(c) in a total amount not to exceed \$20,000,000.

(6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.

(7) This section supersedes any conflicting provisions of Utah law.

(8) The commission shall provide a report to the Natural Resources, Agriculture, and Environment Interim Committee before May 15, 2021, regarding grants made under this section, including:

(a) the number of applications submitted to receive a grant under the program;

(b) the number of grants awarded under the program;

(c) the amount of money granted under the program; and

(d) any other information the commission considers relevant to evaluating the success of the program.

**Section 2. Section 35A-8-2301 is enacted to read:**

**Part 23. COVID-19 Residential Housing Assistance**

**35A-8-2301. Definitions.**

As used in this part, "COVID-19" means:

(1) severe acute respiratory syndrome coronavirus 2; or

(2) the disease caused by severe acute respiratory syndrome coronavirus 2.

**Section 3. Section 35A-8-2302 is enacted to read:**

**35A-8-2302. COVID-19 residential housing assistance -- Rulemaking.**

(1) Beginning August 1, 2020, the division shall assist state residents financially harmed on or after March 1, 2020, but on or before December 30, 2020, by COVID-19 retain or obtain housing:

(a) through a new or existing housing-related program or service; and

(b) using funds:

(i) the state receives from the Coronavirus Relief Fund described in the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136;

(ii) the Legislature appropriates; and

(iii) in a total amount not to exceed \$20,000,000.

(2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for any new program or service the division establishes to carry out the provisions of this part.

**Section 4. Section 35A-8-2303 is enacted to read:**

**35A-8-2303. Reporting.**

The division shall provide a report to the Economic Development and Workforce Services Interim Committee before May 15, 2021, regarding money used under this part, including:

(1) the amount of money used to carry out the provisions of this part;

(2) the number of individuals and families served under this part;

(3) the programs and services used to serve state residents in accordance with this part; and

(4) any other information the division considers relevant to evaluating assistance provided to state residents in accordance with this part.

**Section 5. Section 63N-14-101 is enacted to read:**

**CHAPTER 14. COVID-19 COMMERCIAL RENTAL ASSISTANCE PROGRAM**

**Part 1. General Provisions**

**63N-14-101. Title.**

This chapter is known as "COVID-19 Commercial Rental Assistance Program."

**Section 6. Section 63N-14-102 is enacted to read:**

**63N-14-102. Definitions.**

As used in this chapter:

(1) "Business entity" means a business that:

(a) employs fewer than 100 employees;

(b) has the business's principal place of business in this state;

(c) was in operation on February 15, 2020; and

(d) (i) is properly registered with the Division of Corporations and Commercial Code;

(ii) is tax exempt under Section 501(c)(3) or (19) of the Internal Revenue Code;

(iii) is a Tribal business concern described in 15 U.S.C. Sec. 657a (b)(2)(C); or

(iv) is an individual who:

(A) operates under a sole proprietorship;

(B) operates as an independent contractor; or

(C) is self-employed.

(2) “CARES Act” means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136.

(3) “COVID-19” means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(4) “Program” means the COVID-19 Commercial Rental Assistance Program established in Section 63N-14-201.

(5) “Qualified business entity” means a business entity that:

(a) is a lessee of commercial property in the state for the purpose of conducting the business entity’s business on the property;

(b) demonstrates to the office that the business entity lost at least 50% of the business entity’s monthly gross revenue:

(i) for a four-week period:

(A) beginning on or after March 1, 2020; and

(B) ending on or before December 30, 2020; and

(ii) as a result of federal, state, or local public health measures taken to minimize the public’s exposure to COVID-19; and

(c) does not receive funds from the COVID-19 Agricultural Operations Grant Program established in Section 4-18-106.1.

(6) (a) “Rent” means the amount under a rental agreement that a business entity owes a lessor for the right to occupy commercial property.

(b) “Rent” does not include a charge or fee for a utility the lessor furnishes in accordance with a rental agreement.

**Section 7. Section 63N-14-201 is enacted to read:**

**Part 2. COVID-19 Commercial Rental Assistance**

**63N-14-201. Creation of the COVID-19 Commercial Rental Assistance Program.**

(1) The office shall establish and administer a COVID-19 Commercial Rental Assistance Program in accordance with this chapter.

(2) In administering the program, the office:

(a) shall accept applications for commercial rental assistance;

(b) shall determine whether an applicant for commercial rental assistance is a qualified business entity; and

(c) subject to Subsection (3), may grant a single month of rental assistance to an applicant that is a qualified business entity, in an amount not to exceed the lesser of:

(i) \$10,000; or

(ii) (A) if the qualified business entity demonstrates a monthly gross revenue loss of 50% or greater, but less than 71%, an amount equal to 50% of the qualified business entity’s monthly rent; or

(B) if the qualified business entity demonstrates a monthly gross revenue loss of 71% or greater, an amount equal to 100% of the qualified business entity’s monthly rent.

(3) (a) Upon application, a business entity shall disclose whether the business entity has received or applied for funds from the Paycheck Protection Program described in the CARES Act.

(b) A qualified business entity that receives funds between February 15, 2020, and June 30, 2020, from the Paycheck Protection Program described in the CARES Act, is only eligible under this chapter to receive a single month of rental assistance, in an amount not to exceed the lesser of:

(i) \$5,000; or

(ii) (A) if the qualified business entity demonstrates a monthly gross revenue loss of 50% or greater, but less than 71%, an amount equal to 25% of the qualified business entity’s monthly rent; or

(B) if the qualified business entity demonstrates a monthly gross revenue loss of 71% or greater, an amount equal to 50% of the qualified business entity’s monthly rent.

(c) A qualified business entity described in Subsection (3)(b) that receives more than the amount for which the qualified business entity is eligible under Subsection (3)(b) shall return to the office any funds for which the qualified business entity is not eligible.

(4) To demonstrate gross revenue loss, a business entity shall submit to the office:

(a) an affidavit that the business entity has lost at least 50% of the business entity’s monthly gross revenue as a result of federal, state, or local public health measures taken to minimize the public’s exposure to COVID-19;

(b) the business entity’s two most recent state or federal tax returns;

(c) revenue reports for 2019 and the four months immediately preceding the day on which the business entity submits an application under the program; and

(d) anything else the office requires.

(5) The office shall provide rental assistance in accordance with this chapter using funds:

(a) the state receives from the Coronavirus Relief Fund described in the CARES Act;

(b) the Legislature appropriates; and

(c) in a total amount not to exceed \$40,000,000.

**Section 8. Section 63N-14-202 is enacted to read:**

**63N-14-202. Conflicting provisions -- Rulemaking.**



(1) This chapter supersedes any conflicting provisions of Utah law.

(2) The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this chapter, including the method for determining a business entity's loss of gross revenue.

**Section 9. Section 63N-14-203 is enacted to read:**

**63N-14-203. Reporting.**

The office shall include the following in the office's annual report to the governor and the Legislature regarding the program established under this chapter:

(1) the number of applications submitted under the program;

(2) the number of grants awarded under the program;

(3) the amount of money granted under the program; and

(4) any other information the division considers relevant to evaluating the success of the program.

**Section 10. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**Section 11. Repeal date.**

This bill is repealed on May 31, 2021.

**CHAPTER 12****S. B. 3007**

Passed April 23, 2020

Approved May 4, 2020

Effective May 4, 2020

**COVID-19 PROVISIONS**

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Marc K. Roberts

**LONG TITLE****General Description:**

This bill addresses immunity related to COVID-19.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides civil immunity related to exposure to COVID-19; and
- ▶ addresses relationship of the provision to other laws.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

78B-4-517, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 78B-4-517 is enacted to read:****78B-4-517. Immunity related to COVID-19.**(1) As used in this section:(a) “COVID-19” means:(i) severe acute respiratory syndrome coronavirus 2; or(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.(b) “Person” means the same as that term is defined in Section 68-3-12.5.(c) “Premises” means real property and any appurtenant building or structure.(2) Subject to the other provisions of this section, a person is immune from civil liability for damages or an injury resulting from exposure of an individual to COVID-19 on the premises owned or operated by the person, or during an activity managed by the person. Immunity as described in this Subsection (2) does not apply to:(a) willful misconduct;(b) reckless infliction of harm; or(c) intentional infliction of harm.(3) This section does not modify the application of:(a) Title 34A, Chapter 2, Workers' Compensation Act;(b) Title 34A, Chapter 3, Utah Occupational Disease Act;(c) Title 34A, Chapter 6, Utah Occupational Safety and Health Act; or(d) Title 63G, Chapter 7, Governmental Immunity Act of Utah.(4) The immunity in Subsection (2) is in addition to any other immunity protections that may apply in state or federal law.**Section 2. Effective date.**If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 13****H. B. 3005**

Passed April 23, 2020  
 Approved May 11, 2020  
 Effective May 11, 2020

**PANDEMIC AND  
 EMERGENCY RESPONSE ACT**

Chief Sponsor: Francis D. Gibson  
 Senate Sponsor: Evan J. Vickers

**LONG TITLE****General Description:**

This bill requires the governor to notify certain legislative branch members in response to an epidemic or pandemic disease emergency.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ makes legislative findings;
- ▶ requires the governor to provide notice to certain legislative branch officers before issuing a declaration of a state of emergency or making other executive orders or actions in response to an epidemic or pandemic disease;
- ▶ provides an exemption to the notice requirement if there is an imminent threat of serious injury, loss of life, or harm to property;
- ▶ prohibits the governor from suspending the enforcement or application of certain provisions; and
- ▶ allows the Legislature to terminate by joint resolution certain executive actions during a state of emergency under certain circumstances.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

53-2a-215, Utah Code Annotated 1953  
 53-2a-216, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-2a-215 is enacted to read:**

**53-2a-215. Requirements for an epidemic or pandemic disease emergency response -- Notice.**

(1) As used in this section:

(a) “Epidemic or pandemic disease” means the same as that term is defined in Section 26-23b-102.

(b) “Executive action” means any of the following actions in response to an epidemic or pandemic disease:

(i) a declaration of a state of emergency as described in Section 53-2a-206;

(ii) an order, a rule, or a regulation made by the governor as described in Section 53-2a-209;

(iii) an action by the governor to suspend or modify a statute as described in Subsection 53-2a-204(1)(j); or

(iv) an action by the governor to suspend the enforcement of a statute as described in Subsection 53-2a-209(4).

(c) “Legislative pandemic response team” means:

(i) the speaker of the House of Representatives;

(ii) the president of the Senate;

(iii) the minority leader of the House of Representatives; and

(iv) the minority leader of the Senate.

(2) The Legislature finds and acknowledges that existing and increasing threats of the occurrence of an epidemic or pandemic disease emergency could greatly affect the health, safety, and welfare of the people of this state, and subject to provisions of this section, the Legislature recognizes the important role of the governor to respond to an epidemic or pandemic disease emergency through executive action.

(3) (a) (i) Except as provided in Subsection (4), and in accordance with Subsection (3)(b), the governor may not take an executive action in response to an epidemic or pandemic disease until the governor has provided notice of the proposed action to the legislative pandemic response team no later than 24 hours before the governor issues the executive action.

(ii) The governor:

(A) shall provide the notice required by Subsection (3)(a)(i) using the best available method under the circumstances as determined by the governor;

(B) may provide the notice required by Subsection (3)(a)(i) in electronic format; and

(C) shall provide the notice in written form, if practicable.

(b) Except for any conflicting provision in this section, the governor shall comply with the requirements of this chapter to take an executive action.

(c) If the governor takes executive action in response to an epidemic or pandemic disease as described in this Subsection (3), the governor is not required to provide:

(i) the notice described in Subsection 53-2a-209(4)(a)(v); or

(ii) the report described in Section 53-2a-210.

(4) (a) The governor may take executive action in response to an epidemic or pandemic disease without complying with Subsection (3) only if the governor finds that:

(i) there is an imminent threat of serious bodily injury, loss of life, or substantial harm to property; and

(ii) compliance with Subsection (3) would increase the threat of serious bodily injury, loss of life, or substantial harm to property.

(b) If the governor takes executive action in response to an epidemic or pandemic emergency without complying with the requirements of Subsection (3)(a), the governor shall provide in the executive action an explanation why the requirements of Subsection (3)(a) were not met.

(5) This section supersedes any conflicting provisions of Utah law.

(6) Notwithstanding any other provision of law, the governor may not suspend the application or enforcement of this section.

**Section 2. Section 53-2a-216 is enacted to read:**

**53-2a-216. Termination of an executive action or directive.**

(1) The Legislature may at any time terminate by joint resolution:

(a) an order, a rule, or a regulation made by the governor as described in Section 53-2a-209;

(b) an action by the governor to suspend the enforcement of a statute as described in Subsection 53-2a-209(4); or

(c) an executive action as described in Section 53-2a-215.

(2) Notwithstanding any other provision of law, the governor may not suspend the application or enforcement of this section.

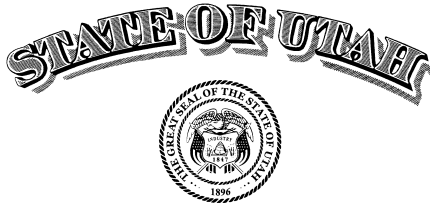
**Section 3. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**LAWS**  
**of the**  
**STATE OF UTAH, 2020**

**Passed at the**  
**FOURTH SPECIAL SESSION**  
**of the**  
**SIXTY-THIRD LEGISLATURE**

**Convened at the State Capitol in the City of Salt Lake**  
**and Adjourned Sine Die**  
**April 23, 2020**



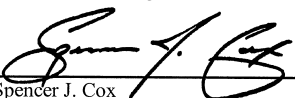
OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

**THIS IS TO CERTIFY** that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2020 Fourth Special Session of the Sixty-third Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2020 Fourth Special Session of the Sixty-third Legislature of the State of Utah convened at the Capitol in Salt Lake City on April 23, 2020 and adjourned on the same day.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 12<sup>th</sup> day of August, 2020.

  
\_\_\_\_\_  
Spencer J. Cox  
Lieutenant Governor

**CHAPTER 1  
H. B. 4001**

Passed April 23, 2020  
Approved April 28, 2020  
Effective July 1, 2020

**PANDEMIC RESPONSE  
FEDERAL FUNDS APPROPRIATIONS**

Chief Sponsor: Bradley G. Last  
Senate Sponsor: Jerry W. Stevenson

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides budget increases and decreases for certain state agencies, public education programs, and higher education institutions;
- ▶ appropriates federal funds provided for responses to COVID-19 and Coronavirus;
- ▶ makes technical corrections; and,
- ▶ provides intent language.

**Money Appropriated in this Bill:**

This bill appropriates \$1,010,262,300 in operating and capital budgets for fiscal year 2020.

This bill appropriates \$4,321,700 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$1,400,000,000 in business-like activities for fiscal year 2020.

This bill appropriates \$936,196,200 in operating and capital budgets for fiscal year 2021.

This bill appropriates \$4,321,700 in expendable funds and accounts for fiscal year 2021.

This bill appropriates \$1,400,000,000 in business-like activities for fiscal year 2021.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately.  
Section 2 of this bill takes effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES AND  
CRIMINAL JUSTICE**

**DEPARTMENT OF HUMAN SERVICES -  
DIVISION OF JUVENILE JUSTICE  
SERVICES**

**Item 1**

To Department of Human Services - Division of Juvenile Justice Services - Community Providers From Revenue Transfers - FMAP Enhancement, One-Time . . . . . 60,600  
 Schedule of Programs:  
 Provider Payments . . . . . 60,600

**DEPARTMENT OF PUBLIC SAFETY**

**Item 2**

To Department of Public Safety - Emergency Management From Federal Funds - CARES Act, One-Time . . . . . 101,422,000  
 Schedule of Programs:  
 Emergency Management . . . . . 101,422,000

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**DEPARTMENT OF  
ADMINISTRATIVE SERVICES**

**Item 3**

To Department of Administrative Services - Finance - Mandated From Federal Funds - Coronavirus Relief Fund, One-Time . . . . . 64,100,000  
 Schedule of Programs:  
 Emergency Disease Response . . . . . 64,100,000

**Item 4**

To Department of Administrative Services - Finance - Mandated From Federal Funds - Coronavirus Relief Fund, One-Time . . . . . 60,000,000  
 Schedule of Programs:  
 Emergency Disease Response . . . . . 60,000,000

To implement the provisions of COVID-19 Financial Relief Funding (Senate Bill 3006, 2020 Third Special Session).

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 5**

To Department of Heritage and Arts - Division of Arts and Museums From Federal Funds - CARES Act, One-Time . . . . . 443,900  
 Schedule of Programs:  
 Grants to Non-profits . . . . . 443,900

**Item 6**

To Department of Heritage and Arts - State Library From Federal Funds - CARES Act, One-Time . . . . . 500,000

Schedule of Programs:  
Library Development ..... 500,000

### SOCIAL SERVICES

#### DEPARTMENT OF HEALTH

##### Item 7

To Department of Health - Children's  
Health Insurance Program  
From Federal Funds - Enhanced FMAP,  
One-Time ..... 8,100,000  
Schedule of Programs:  
Children's Health Insurance  
Program ..... 8,100,000

##### Item 8

To Department of Health - Disease  
Control and Prevention  
From Federal Funds - CARES Act,  
One-Time ..... 291,900  
Schedule of Programs:  
Epidemiology ..... 291,900

##### Item 9

To Department of Health - Family  
Health and Preparedness  
From Federal Funds - CARES Act,  
One-Time ..... 897,600  
Schedule of Programs:  
Primary Care ..... 623,700  
Public Health and Health Care  
Preparedness ..... 273,900

##### Item 10

To Department of Health - Medicaid Services  
From Federal Funds - Enhanced  
FMAP, One-Time ..... 51,265,900  
Schedule of Programs:  
Accountable Care Organizations ... 51,265,900

#### DEPARTMENT OF HUMAN SERVICES

##### Item 11

To Department of Human Services - Division of  
Aging and Adult Services  
From Federal Funds - CARES Act,  
One-Time ..... 2,688,000  
Schedule of Programs:  
Local Government Grants -  
Formula Funds ..... 2,688,000

##### Item 12

To Department of Human Services - Division  
of Child and Family Services  
From Federal Funds - CARES Act,  
One-Time ..... 178,500  
From Federal Funds - Enhanced  
FMAP, One-Time ..... 730,800  
Schedule of Programs:  
Adoption Assistance ..... 466,300  
Domestic Violence ..... 85,500  
Out-of-Home Care ..... 255,300  
Service Delivery ..... 93,000  
Special Needs ..... 9,200

##### Item 13

To Department of Human Services -  
Executive Director Operations

From Federal Funds - CARES Act,  
One-Time ..... 7,000  
Schedule of Programs:  
Office of Quality and Design ..... 7,000

##### Item 14

To Department of Human Services - Division of  
Services for People with Disabilities  
From Revenue Transfers - FMAP  
Enhancement, One-Time ..... 43,083,400  
Schedule of Programs:  
Acquired Brain Injury Waiver ..... 324,500  
Administration - DSPD ..... 46,500  
Community Supports Waiver ..... 41,281,900  
Physical Disabilities Waiver ..... 78,200  
Utah State Developmental Center ... 1,352,300

##### Item 15

To Department of Human Services - Division of  
Substance Abuse and Mental Health  
From Federal Funds - CARES Act,  
One-Time ..... 150,000  
From Revenue Transfers - FMAP  
Enhancement, One-Time ..... 634,100  
Schedule of Programs:  
Mental Health Centers ..... 150,000  
State Hospital ..... 634,100

#### DEPARTMENT OF WORKFORCE SERVICES

##### Item 16

To Department of Workforce Services -  
Housing and Community Development  
From Federal Funds - CARES Act,  
One-Time ..... 18,179,300  
Schedule of Programs:  
Community Development ..... 3,266,100  
Community Services ..... 5,030,000  
HEAT ..... 5,213,000  
Homeless Committee ..... 4,670,200

##### Item 17

To Department of Workforce Services -  
Operations and Policy  
From Federal Funds - CARES Act,  
One-Time ..... 43,350,400  
Schedule of Programs:  
Eligibility Services ..... 1,500,000  
Workforce Development ..... 41,850,400

##### Item 18

To Department of Workforce Services -  
Unemployment Insurance  
From Federal Funds, One-Time ..... 9,809,900  
From Federal Funds - CARES Act,  
One-Time ..... 603,750,000  
Schedule of Programs:  
Unemployment Insurance  
Administration ..... 613,559,900

#### HIGHER EDUCATION

#### UNIVERSITY OF UTAH

##### Item 19

To University of Utah - Education and General  
From Federal Funds - CARES  
Act, One-Time ..... 575,000  
Schedule of Programs:



Education and General . . . . . 575,000

**Item 20**

To University of Utah - Poison Control Center  
From Federal Funds - CARES Act,  
One-Time . . . . . 44,000  
Schedule of Programs:  
Poison Control Center . . . . . 44,000

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE**

**GOVERNORS OFFICE**

**Item 21**

To Governors Office - State Elections Grant Fund  
From Federal Funds - CARES Act,  
One-Time . . . . . 4,321,700  
Schedule of Programs:  
State Elections Grant Fund . . . . . 4,321,700

**Subsection 1(c). Business-like Activities.** The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**SOCIAL SERVICES**

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 22**

To Department of Workforce Services -  
Unemployment Compensation Fund  
From Federal Funds - CARES Act,  
One-Time . . . . . 1,400,000,000  
Schedule of Programs:  
Unemployment Compensation  
Fund . . . . . 1,400,000,000

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE**

**GOVERNORS OFFICE**

**Item 23**

To Governors Office - Commission on Criminal and Juvenile Justice  
From Federal Funds - CARES Act,  
One-Time . . . . . 5,465,500  
Schedule of Programs:  
CCJJ Commission . . . . . 5,465,500

**DEPARTMENT OF PUBLIC SAFETY**

**Item 24**

To Department of Public Safety -  
Emergency Management  
From Federal Funds - CARES Act,  
One-Time . . . . . 101,329,700  
Schedule of Programs:  
Emergency Management . . . . . 101,329,700

**INFRASTRUCTURE  
AND GENERAL GOVERNMENT**

**DEPARTMENT OF  
ADMINISTRATIVE SERVICES**

**Item 25**

To Department of Administrative Services -  
Finance - Mandated  
From Federal Funds - Coronavirus  
Relief Fund, One-Time . . . . . 3,337,500  
Schedule of Programs:  
Emergency Disease Response . . . . . 3,337,500

**Item 26**

To Department of Administrative Services -  
Finance - Mandated  
From Federal Funds - Coronavirus  
Relief Fund, One-Time . . . . . 20,000,000  
Schedule of Programs:  
Emergency Disease Response . . . . . 20,000,000  
To implement the provisions of COVID-19  
Financial Relief Funding (Senate Bill 3006,  
2020 Third Special Session).

**TRANSPORTATION**

**Item 27**

To Transportation - Engineering Services  
From Federal Funds - CARES Act,  
One-Time . . . . . 22,313,100  
Schedule of Programs:  
Program Development . . . . . 22,313,100

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 28**

To Department of Health - Disease  
Control and Prevention  
From Federal Funds - CARES Act,  
One-Time . . . . . 875,600  
Schedule of Programs:

Epidemiology ..... 875,600

**Item 29**

To Department of Health - Family  
Health and Preparedness  
From Federal Funds, One-Time ..... 3,142,400  
From Federal Funds - CARES Act,  
One-Time ..... 1,266,300  
Schedule of Programs:  
Maternal and Child Health ..... 3,142,400  
Primary Care ..... 1,266,300

**DEPARTMENT OF HUMAN SERVICES****Item 30**

To Department of Human Services -  
Division of Aging and Adult Services  
From Federal Funds - CARES Act,  
One-Time ..... 4,032,000  
Schedule of Programs:  
Local Government Grants -  
Formula Funds ..... 4,032,000

**Item 31**

To Department of Human Services -  
Division of Child and Family Services  
From Federal Funds - CARES Act,  
One-Time ..... 759,500  
Schedule of Programs:  
Domestic Violence ..... 256,500  
Service Delivery ..... 503,000

**Item 32**

To Department of Human Services -  
Executive Director Operations  
From Federal Funds - CARES Act,  
One-Time ..... 35,000  
Schedule of Programs:  
Office of Quality and Design ..... 35,000

**Item 33**

To Department of Human Services - Division of  
Substance Abuse and Mental Health  
From Federal Funds - CARES Act,  
One-Time ..... 1,550,000  
Schedule of Programs:  
Mental Health Centers ..... 1,550,000

**DEPARTMENT OF  
WORKFORCE SERVICES****Item 34**

To Department of Workforce Services -  
Housing and Community Development  
From Federal Funds - CARES Act,  
One-Time ..... 18,179,300  
Schedule of Programs:  
Community Development ..... 3,266,100  
Community Services ..... 5,030,000  
HEAT ..... 5,213,000  
Homeless Committee ..... 4,670,200

**Item 35**

To Department of Workforce Services -  
Nutrition Assistance - SNAP  
From Federal Funds - CARES Act,  
One-Time ..... 100,000,000  
Schedule of Programs:  
Nutrition Assistance - SNAP ..... 100,000,000

**Item 36**

To Department of Workforce Services -  
Operations and Policy  
From Federal Funds - CARES Act,  
One-Time ..... 41,350,400  
Schedule of Programs:  
Eligibility Services ..... 500,000  
Workforce Development ..... 40,850,400

**Item 37**

To Department of Workforce Services -  
Unemployment Insurance  
From Federal Funds, One-Time ..... 9,809,900  
From Federal Funds - CARES Act,  
One-Time ..... 602,750,000  
Schedule of Programs:  
Unemployment Insurance  
Administration ..... 612,559,900

**PUBLIC EDUCATION****STATE BOARD OF EDUCATION -  
MINIMUM SCHOOL PROGRAM****Item 38**

To State Board of Education - Minimum School  
Program - Basic School Program  
From Education Fund, One-Time .... 10,600,000  
From Closing Nonlapsing  
Balances ..... (10,600,000)

**Item 39**

To State Board of Education - Minimum School  
Program - Related to Basic School Programs  
From Education Fund,  
One-Time ..... (10,600,000)  
From Closing Nonlapsing Balances ... 10,600,000

**Subsection 2(b). Expendable Funds and**

**Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE****GOVERNORS OFFICE****Item 40**

To Governors Office - State Elections Grant Fund  
From Federal Funds - CARES Act,  
One-Time ..... 4,321,700  
Schedule of Programs:  
State Elections Grant Fund ..... 4,321,700

**Subsection 2(c). Business-like Activities.**

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees,

and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**SOCIAL SERVICES**

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 41**

To Department of Workforce Services -  
 Unemployment Compensation Fund  
 From Federal Funds - CARES Act,  
 One-Time . . . . . 1,400,000,000  
 Schedule of Programs:  
 Unemployment Compensation  
 Fund . . . . . 1,400,000,000

**Section 3. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2020.

**CHAPTER 2****H. B. 4002**

Passed April 23, 2020

Approved April 28, 2020

Effective January 1, 2021

**RAIL FUEL SALES TAX AMENDMENTS**

Chief Sponsor: Joel Ferry  
Senate Sponsor: Scott D. Sandall

**LONG TITLE****General Description:**

This bill modifies provisions related to railroads.

**Highlighted Provisions:**

This bill:

- ▶ repeals the state sales and use tax exemption for sales of fuel to a rail carrier for use in a locomotive engine and deposits the resulting revenue into the General Fund;
- ▶ creates the Rail Transportation Restricted Account; and
- ▶ provides the purposes for which the Department of Transportation may use money in the account.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the Transit Transportation Investment Fund -- Rail Transportation Restricted Account, as an ongoing appropriation:
  - from the General Fund, \$3,660,000;
- ▶ to the Transit Transportation Investment Fund -- Rail Transportation Restricted Account, as a one-time appropriation:
  - from the General Fund, (\$2,135,000);
- ▶ to Transportation -- Railroad Crossing Safety Grants, as an ongoing appropriation:
  - from Rail Transportation Restricted Account, \$366,000; and
- ▶ to Transportation -- Railroad Crossing Safety Grants, as a one-time appropriation:
  - from Rail Transportation Restricted Account, (\$213,500).

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

59-12-103.3, Utah Code Annotated 1953

72-2-131, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 59-12-103.3 is enacted to read:****59-12-103.3. Sales and use tax base -- Rate for locomotive fuel.**

(1) (a) Notwithstanding Section 59-12-104 and except as provided in Subsection 59-12-103(2)(d) or (e), a state tax at a rate of 4.85% is imposed on amounts paid or charged for sales of fuel to a common carrier that is a railroad for use in a locomotive engine.

(b) The state tax imposed by Subsection (1)(a) shall be deposited into the General Fund.

(2) Except for the tax imposed by Subsection (1), in accordance with Section 59-12-104, sales of fuel to a common carrier that is a railroad for use in a locomotive engine are exempt from the taxes imposed by this chapter.

(3) For purposes of Subsection 11-41-102(5), "sales and use tax" does not include a tax imposed under Subsection (1).

(4) For purposes of Subsection 59-12-102(7), "agreement sales and use tax" includes a tax imposed under Subsection (1).

**Section 2. Section 72-2-131 is enacted to read:****72-2-131. Rail Transportation Restricted Account -- Grants for railroad crossing safety.**

(1) As used in this section, "eligible entity" means:

(a) a public entity; or

(b) a private entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(2) There is created in the Transit Transportation Investment Fund, created in Section 72-2-124, the Rail Transportation Restricted Account.

(3) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest earned on money in the account.

(4) Upon appropriation, the department shall:

(a) use an amount equal to 10% of the money deposited into the account to provide grants in accordance with Subsection (5);

(b) use an amount equal to 10% of the money deposited into the account to pay the costs of performing environmental impact studies in connection with construction, reconstruction, or renovation projects related to railroad crossings on class A, class B, or class C roads; and

(c) use the remaining money deposited into the account to pay:

(i) the costs of construction, reconstruction, or renovation projects related to railroad crossings on class A, class B, or class C roads; or

(ii) debt service related to a project described in Subsection (4)(b).

(5) (a) The department may award grants to one or more eligible entities to be used for the purpose of improving safety at railroad crossings on class A, class B, or class C roads.

(b) An eligible entity may use grant money for any expense related to improving safety at railroad crossings on class A, class B, or class C roads, including:

(i) signage; and

(ii) safety enhancements to a railroad crossing.

(c) The department shall prioritize, in the following order, grants to applicants that propose projects impacting railroad crossings that:

(i) have demonstrated safety concerns, including emergency services access; and

(ii) have high levels of vehicular and pedestrian traffic.

**Section 3. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.

ITEM 1

To Transit Transportation Investment Fund - Rail Transportation Restricted Account

From General Fund \$3,660,000

From General Fund, One-time (\$2,135,000)

Schedule of Programs:

Rail Transportation  
Restricted Account \$1,525,000

ITEM 2

To Transportation -- Railroad Crossing Safety Grants

From Rail Transportation  
Restricted Account \$366,000

From Rail Transportation Restricted  
Account, One-time (\$213,500)

Schedule of Programs:

Railroad Crossing Safety Grants \$152,500

The Legislature intends that appropriations under this item be used to award grants under Subsection 72-2-131(5).

**Section 4. Effective date.**

This bill takes effect on January 1, 2021.

**CHAPTER 3****H. B. 4003**

Passed April 23, 2020

Approved April 28, 2020

Effective January 1, 2021

**SPECIAL NEEDS OPPORTUNITY  
SCHOLARSHIP PROGRAM**Chief Sponsor: Mike Schultz  
Senate Sponsor: Lincoln Fillmore**LONG TITLE****General Description:**

This bill creates the Special Needs Opportunity Scholarship Program and related income tax credits.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Special Needs Opportunity Scholarship Program (program);
- ▶ establishes requirements for a scholarship recipient and a private school that accepts scholarship money;
- ▶ requires the State Board of Education to oversee the program, including:
  - selection of a scholarship granting organization; and
  - reporting to the Public Education Appropriations Subcommittee;
- ▶ establishes the duties of a scholarship granting organization, including:
  - accepting program donations;
  - awarding scholarships; and
  - issuing tax credit certificates;
- ▶ creates a nonrefundable corporate income tax credit and a nonrefundable individual income tax credit for certain program donations;
- ▶ prohibits a taxpayer from claiming more than one income tax benefit from making a program donation; and
- ▶ requires the Public Education Appropriations Subcommittee to study the feasibility of combining the program with the Carson Smith Scholarship Program.

**Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ to the State Board of Education - Initiative Programs:
  - from the Education Fund, \$60,000.

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****ENACTS:**

53E-1-202.1, Utah Code Annotated 1953  
 53E-7-401, Utah Code Annotated 1953  
 53E-7-402, Utah Code Annotated 1953  
 53E-7-403, Utah Code Annotated 1953  
 53E-7-404, Utah Code Annotated 1953  
 53E-7-405, Utah Code Annotated 1953  
 53E-7-406, Utah Code Annotated 1953  
 53E-7-407, Utah Code Annotated 1953  
 53E-7-408, Utah Code Annotated 1953  
 53E-7-409, Utah Code Annotated 1953

53E-7-410, Utah Code Annotated 1953  
 59-7-109.1, Utah Code Annotated 1953  
 59-7-625, Utah Code Annotated 1953  
 59-10-1041, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-1-202.1 is enacted to read:****53E-1-202.1. Report to the Public Education Appropriations Subcommittee on the Special Needs Opportunity Scholarship Program.**

(1) Beginning in 2021, the State Board of Education shall, in accordance with Section 68-3-14, annually submit the report described in Section 53E-7-404 to the Public Education Appropriations Subcommittee.

(2) This section supersedes any conflicting provisions of Utah law.

**Section 2. Section 53E-7-401 is enacted to read:****CHAPTER 7. STUDENTS WITH  
DISABILITIES****Part 4. Special Needs Opportunity  
Scholarship Program****53E-7-401. Definitions.**

As used in this part:

(1) "Eligible student" means a student who:

(a) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(b) is a resident of the state;

(c) (i) has an IEP; or

(ii) is determined by a multidisciplinary evaluation team to be eligible for services under the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419; and

(d) during the school year for which the student is applying for the scholarship, is not:

(i) a student who receives a scholarship under the Carson Smith Scholarship Program created in Section 53F-4-302; or

(ii) a public school student.

(2) (a) "Employee" means an individual working in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from:

(i) program donations to a scholarship granting organization; or

(ii) scholarship money allocated to a qualifying school by a scholarship granting organization under Section 53E-7-405.

(b) "Employee" does not include an individual who volunteers at the scholarship granting organization or qualifying school.

(3) "Family income" means the annual income of the parent, parents, legal guardian, or legal guardians with whom a scholarship student lives.

(4) “Federal poverty level” means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(5) “Officer” means:

(a) a member of the board of a scholarship granting organization or qualifying school; or

(b) the chief administrative officer of a scholarship granting organization or qualifying school.

(6) “Program donations” means donations to the program under Section 53E-7-405.

(7) “Qualifying school” means a private school that:

(a) provides kindergarten, elementary, or secondary education;

(b) is approved by the state board under Section 53E-7-408; and

(c) meets the requirements described in Section 53E-7-403.

(8) “Relative” means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(9) “Scholarship” means a grant awarded to an eligible student:

(a) by a scholarship granting organization out of program donations; and

(b) for the purpose of paying for a scholarship expense.

(10) “Scholarship expense” means:

(a) tuition, fees, or textbooks for a qualifying school;

(b) educational therapy, if the educational therapy is provided by a licensed physician or licensed practitioner, including occupational, behavioral, physical, or speech-language therapies;

(c) textbooks, curriculum, or other instructional materials, including supplemental materials or associated online instruction required by a curriculum;

(d) tuition and fees for an online learning course or program; or

(e) fees associated with a state-recognized industry certification examination or any examination related to college or university admission.

(11) “Scholarship granting organization” means an organization that is:

(a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) recognized through an agreement with the state board as a scholarship granting organization, as described in Section 53E-7-404.

(12) “Scholarship student” means an eligible student who receives a scholarship under this part.

(13) “Special Needs Opportunity Scholarship Program” or “program” means the program established in Section 53E-7-402.

(14) “Value of the weighted pupil unit” means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

**Section 3. Section 53E-7-402 is enacted to read:**

**53E-7-402. Special Needs Opportunity Scholarship Program.**

(1) There is established the Special Needs Opportunity Scholarship Program under which a parent may apply to a scholarship granting organization on behalf of the parent’s student for a scholarship to help cover the cost of a scholarship expense.

(2) A scholarship granting organization shall:

(a) award, in accordance with this part, scholarships to eligible students; and

(b) determine the amount of a scholarship in accordance with Subsection (3).

(3) A scholarship granting organization shall determine a full-year scholarship award to pay for the cost of one or more scholarship expenses in an amount not more than:

(a) for an eligible student in grades 1 through 12 with an IEP, whose family income is:

(i) at or below 185% of the federal poverty level, the value of the weighted pupil unit multiplied by 2.5;

(ii) between 185% and 555% of the federal poverty level, the value of the weighted pupil unit multiplied by two;

(iii) above 555% of the federal poverty level, the value of the weighted pupil unit multiplied by 1.5;

(b) for an eligible student in grades 1 through 12 who does not have an IEP, the value of the weighted pupil unit;

(c) for an eligible student in kindergarten with an IEP, the value of the weighted pupil unit; or

(d) for an eligible student in kindergarten who does not have an IEP, half the value of the weighted pupil unit.

(4) The state board shall prepare and disseminate to a scholarship granting organization for distribution to a parent applying for a scholarship on behalf of a student:

(a) information on the program; and

(b) information on how a parent may enroll the parent’s child in a public school.

(5) A scholarship granting organization shall distribute the information described in Subsection (4) to a parent who applies to the scholarship granting organization for a scholarship on behalf of the parent's student.

**Section 4. Section 53E-7-403 is enacted to read:**

**53E-7-403. Qualifying school requirements.**

(1) A qualifying school shall:

(a) notify a scholarship granting organization of the qualifying school's intention to participate in the program;

(b) submit evidence to the scholarship granting organization that the qualifying school has been approved by the state board under Section 53E-7-408; and

(c) submit a signed affidavit to the scholarship granting organization that the qualifying school will comply with the requirements of this part.

(2) A qualifying school shall comply with 42 U.S.C. Sec. 1981, and meet state and local health and safety laws and codes.

(3) Before the beginning of the school year immediately following a school year in which a qualifying school receives scholarship money equal to or more than \$100,000, the qualifying school shall file with a scholarship granting organization that allocates scholarship money to the qualifying school:

(a) a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of scholarship money expected to be received during the school year; or

(b) financial information that demonstrates the financial viability of the qualifying school, as required by the scholarship granting organization.

(4) If a scholarship granting organization determines that a qualifying school has violated a provision of this part, the scholarship granting organization may interrupt disbursement of or withhold scholarship money from the qualifying school.

(5) (a) If the state board determines that a qualifying school no longer meets the eligibility requirements described in Section 53E-7-408, the state board may withdraw the state board's approval of the school.

(b) A private school that does not have the state board's approval under Section 53E-7-408 may not accept scholarship money under this part.

(6) A qualifying school shall, when administering an annual assessment required under Section 53E-7-408, ensure that the qualifying school uses a norm-referenced assessment.

**Section 5. Section 53E-7-404 is enacted to read:**

**53E-7-404. State board to administer the program.**

(1) The state board shall administer the program.

(2) The state board shall:

(a) provide a tax credit certificate form, for use by a scholarship granting organization as described in Section 53E-7-407, that includes:

(i) the name, address, and social security number or federal employer identification number of the person that makes a donation under Section 53E-7-405;

(ii) the date of the donation;

(iii) the amount of the donation;

(iv) the amount of the tax credit; and

(v) any other relevant information;

(b) conduct a financial review or audit of a scholarship granting organization, if the state board receives evidence of fraudulent practice by the scholarship granting organization;

(c) conduct a criminal background check on each scholarship granting organization employee and scholarship granting organization officer;

(d) establish uniform financial accounting standards for scholarship granting organizations;

(e) annually calculate the amount of the program donations cap described in Section 53E-7-407; and

(f) beginning in 2021, in accordance with Section 53E-1-202.1, annually submit a report on the program to the Public Education Appropriations Subcommittee that includes:

(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of tuition and fees a qualifying school charges;

(ii) administrative costs of the program;

(iii) the number of scholarship students from each school district;

(iv) standards used by the scholarship granting organization to determine whether a student is an eligible student; and

(v) savings to the state and LEAs as a result of scholarship students exiting the public school system.

(3) (a) In accordance with Subsection (4) and Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals and enter into at least one agreement with an organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code, to be recognized by the state board as a scholarship granting organization.

(b) An organization that responds to a request for proposals described in Subsection (3)(a) shall submit the following information in the organization's response:



(i) a copy of the organization's incorporation documents;

(ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

(iii) a description of the methodology the organization will use to verify that a student is an eligible student under this part; and

(iv) a description of the organization's proposed scholarship application process.

(4) (a) The state board shall enter into an agreement described in Subsection (3)(a) with one scholarship granting organization on or before January 1, 2021.

(b) The state board may enter into an agreement described in Subsection (3)(a) with additional scholarship granting organizations after January 1, 2022, if the state board makes rules regarding how multiple scholarship granting organizations may issue tax credit certificates in accordance with Section 53E-7-407.

(c) (i) No later than 10 days after the day on which the state board enters into an agreement with a scholarship granting organization, the state board shall forward the name and contact information of the scholarship granting organization to the State Tax Commission.

(ii) If, under Subsection (5)(c)(i), the state board bars a scholarship granting organization from further participation in the program, the state board shall, no later than 10 days after the day on which the state board bars the scholarship granting organization, forward the name and contact information of the barred scholarship granting organization to the State Tax Commission.

(5) (a) If the state board determines that a scholarship granting organization has violated a provision of this part or state board rule, the state board shall send written notice to the scholarship granting organization explaining the violation and the remedial action required to correct the violation.

(b) A scholarship granting organization that receives a notice described in Subsection (5)(a) shall, no later than 60 days after the day on which the scholarship granting organization receives the notice, correct the violation and report the correction to the state board.

(c) (i) If a scholarship granting organization that receives a notice described in Subsection (5)(a) fails to correct a violation in the time period described in Subsection (5)(b), the state board may bar the scholarship granting organization from further participation in the program.

(ii) A scholarship granting organization may appeal a decision made by the state board under Subsection (5)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A scholarship granting organization may not accept program donations while the scholarship granting organization:

(i) is barred from participating in the program under Subsection (5)(c)(i); or

(ii) has an appeal pending under Subsection (5)(c)(ii).

(e) A scholarship granting organization that has an appeal pending under Subsection (5)(c)(ii) may continue to administer scholarships from previously donated program donations during the pending appeal.

(6) The state board shall provide for a process for a scholarship granting organization to report information as required under Section 53E-7-405.

(7) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules for:

(a) a scholarship granting organization's acceptance of program donations;

(b) the administration of scholarships to a qualifying school receiving scholarship money from a scholarship granting organization that is barred from participating in the program under Subsection (5)(c)(i);

(c) payment of scholarship money to qualifying schools by a scholarship granting organization;

(d) granting scholarship awards and disbursing scholarship money for nontuition scholarship expenses by a scholarship granting organization;

(e) when an eligible student does not continue in enrollment at a qualifying school:

(i) requiring the scholarship granting organization to:

(A) notify the state board; and

(B) obtain reimbursement of scholarship money from the qualifying school in which the eligible student is no longer enrolled; and

(ii) requiring the qualifying school in which the eligible student is no longer enrolled to reimburse scholarship money to the scholarship granting organization;

(f) audit and report requirements as described in Section 53E-7-405; and

(g) requiring the scholarship granting organization, in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, to submit to the state board:

(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of tuition and fees a qualifying school charges;

(ii) the number of scholarship students from each school district;

(iii) standards used to determine whether a student is an eligible student; and

(iv) any other information requested by the state board for the purpose of completing the annual report described in Section 53E-1-202.1.

**Section 6. Section 53E-7-405 is enacted to read:**

**53E-7-405. Program donations -- Scholarship granting organization requirements.**

(1) A person that makes a donation to a scholarship granting organization to help fund scholarships through the program may be eligible to receive a nonrefundable tax credit as described in Sections 59-7-625 and 59-10-1041.

(2) In accordance with Section 53E-7-404, an organization may enter into an agreement with the state board to be a scholarship granting organization.

(3) A scholarship granting organization shall:

(a) accept program donations;

(b) adopt an application process in accordance with Subsection (5);

(c) review scholarship applications and determine scholarship awards;

(d) allocate scholarship money to a scholarship student's parent or, on the parent's behalf, to a qualifying school in which the scholarship student is enrolled;

(e) adopt a process, with state board approval, that allows a parent to use a scholarship to pay for a nontuition scholarship expense for the scholarship student;

(f) ensure that:

(i) at least 92% of the scholarship granting organization's revenue from program donations is spent on scholarships;

(ii) up to 5% of the scholarship granting organization's revenue from program donations is spent on administration of the program;

(iii) up to 3% of the scholarship granting organization's revenue from program donations is spent on marketing and fundraising costs; and

(iv) all revenue from program donations' interest or investments is spent on scholarships;

(g) carry forward no more than 40% of the scholarship granting organization's program donations from the state fiscal year in which the scholarship granting organization received the program donations to the following state fiscal year;

(h) at the end of a fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g);

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as

posing a risk to the appropriate use of program donations;

(j) ensure that a scholarship can be transferred during the school year to a different qualifying school that accepts the scholarship student;

(k) report to the state board on or before June 1 of each year the following information, prepared by a certified public accountant:

(i) the name and address of the scholarship granting organization;

(ii) the total number and total dollar amount of program donations that the scholarship granting organization received during the previous calendar year;

(iii) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous calendar year; and

(iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

(l) issue tax credit certificates as described in Section 53E-7-407; and

(m) require a parent to notify a scholarship granting organization if the parent's scholarship recipient:

(i) receives scholarship money for tuition expenses; and

(ii) does not have continuing enrollment and attendance at a qualifying school.

(4) The state treasurer shall deposit the money described in Subsection (3)(h) into the Education Fund.

(5) (a) An application for a scholarship shall contain an acknowledgment by the applicant's parent that the qualifying school selected by the parent for the applicant to attend using a scholarship is capable of providing the level of disability services required for the student.

(b) A scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of disability services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship recipient if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(c) Upon acceptance of a scholarship, the parent assumes full financial responsibility for the education of the scholarship recipient.

(d) Acceptance of a scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:

(a) complies with the uniform financial accounting standards described in Section 53E-7-404; and

(b) is prepared by a certified public accountant.

(7) (a) If a scholarship granting organization allocates \$500,000 or more in scholarships annually through the program, the scholarship granting organization shall:

(i) contract for an annual audit, conducted by a certified public accountant who is independent from:

(A) the scholarship granting organization; and

(B) the scholarship granting organization's accounts and records pertaining to program donations; and

(ii) in accordance with Subsection (7)(b), report the results of the audit to the state board for review.

(b) For the report described in Subsection (7)(a)(ii), the scholarship granting organization shall:

(i) include the scholarship granting organization's financial statements in a format that meets generally accepted accounting standards; and

(ii) submit the report to the state board no later than 180 days after the last day of a scholarship granting organization's fiscal year.

(c) The certified public accountant shall conduct an audit described in Subsection (7)(a)(i) in accordance with generally accepted auditing standards and rules made by the state board.

(d) (i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report is not in compliance with the provisions of this Subsection (7) or rules adopted by the state board.

(ii) A scholarship granting organization shall provide a revised report or supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (7)(d)(i).

(8) (a) A scholarship granting organization may not allocate scholarship money to a qualifying school if:

(i) the scholarship granting organization determines that the qualifying school intentionally or substantially misrepresented information on overpayment;

(ii) the qualifying school fails to refund an overpayment in a timely manner; or

(iii) the qualifying school routinely fails to provide scholarship recipients with promised educational goods or services.

(b) A scholarship granting organization shall notify a scholarship recipient if the scholarship granting organization stops allocation of the recipient's scholarship money to a qualifying school under Subsection (8)(a).

(9) If a scholarship recipient transfers to another qualifying school during the school year, the scholarship granting organization may prorate scholarship money between the qualifying schools according to the time the scholarship recipient spends at each school.

(10) A scholarship granting organization may not:

(a) award a scholarship to a relative of the scholarship granting organization's officer or employee; or

(b) allocate scholarship money to a qualifying school at which the scholarship recipient has a relative who is an officer or an employee of the qualifying school.

**Section 7. Section 53E-7-406 is enacted to read:**

**53E-7-406. Private school regulation -- Student records.**

(1) Nothing in this part:

(a) grants additional authority to any state agency or LEA to regulate private schools except as expressly described in this part; or

(b) expands the regulatory authority of the state, a state office holder, or a local school district to impose any additional regulation of a qualifying school beyond those necessary to enforce the requirements of the program.

(2) A qualifying school shall be given the maximum freedom to provide for the educational needs of a scholarship recipient who attends the qualifying school without unlawful governmental control.

(3) Except as provided in Section 53E-7-403, a qualifying school may not be required to alter the qualifying school's creed, practices, admission policy, or curriculum in order to accept scholarship money.

(4) A local education agency or school in a local education agency in which a scholarship recipient was previously enrolled shall provide to a qualifying school in which the scholarship recipient

is currently enrolled a copy of all requested school records relating to the scholarship recipient, subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

**Section 8. Section 53E-7-407 is enacted to read:**

**53E-7-407. Tax credit certificates issued by a scholarship granting organization.**

(1) In accordance with this section and subject to Subsection (3), a scholarship granting organization shall provide a tax credit certificate to a person that makes a donation as described in Section 53E-7-405.

(2) (a) The scholarship granting organization shall issue a tax credit certificate described in Subsection (1) on the tax credit certificate form described in Section 53E-7-404.

(b) The scholarship granting organization shall provide the information from a completed tax credit certificate to the State Tax Commission electronically and in a manner prescribed by the State Tax Commission.

(c) A scholarship granting organization shall issue a tax credit certificate within 30 days after the day on which a person makes a donation to the program.

(3) (a) A scholarship granting organization may not issue a tax credit certificate for a calendar year if issuing the tax credit certificate will cause the total amount of the tax credit certificates issued for the calendar year to exceed the program donations cap amount described in Subsection (4).

(b) Before accepting a donation to the program from a person, the scholarship granting organization shall provide the person with notice:

(i) that the donation may not be eligible for a tax credit;

(ii) of the process described in Subsection (3)(c); and

(iii) of the total amount of tax credit certificates that the scholarship granting organization has issued for the calendar year.

(c) During a calendar year, a scholarship granting organization shall:

(i) issue tax credit certificates in the order that the scholarship granting organization received a corresponding donation; and

(ii) track the total amount of program donations received during the year as corresponding tax credit certificates are issued.

(d) If a scholarship granting organization accepts a donation that, when added to the current total amount of program donations received that year, will exceed the program donations cap described in

Subsection (4), the scholarship granting organization shall issue a tax credit certificate in the amount that is the difference between the program donations cap and the total amount of program donations received before the donation was received.

(4) (a) The program donations cap for the 2021 calendar year is \$5,940,000.

(b) For a calendar year after 2021, the state board shall calculate the program donations cap as follows:

(i) if the total program donations for the previous calendar year exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the cap amount for the previous calendar year increased by 10%; or

(ii) if the total program donations for the previous calendar year did not exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the same as the cap amount for the previous calendar year.

(5) A person that receives a tax credit certificate in accordance with this section shall retain the certificate for the same time period a person is required to keep books and records under Section 59-1-1406.

**Section 9. Section 53E-7-408 is enacted to read:**

**53E-7-408. Eligible private schools.**

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement as adopted by the state board, or obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(A) the audit shall be performed in accordance with generally accepted auditing standards;

(B) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(C) the audited financial statements shall be as of a period within the last 12 months; and

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled, of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum in which the prospective student will participate;

(f) (i) administer an annual assessment of each scholarship student's academic progress; and

(ii) report the results of the assessment described in Subsection (1)(f)(i) to the scholarship student's parent;

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to provide instruction:

(A) in the subject or subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);

(i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the state board under Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(j) provide to the parent of a scholarship student the relevant credentials of the teachers who will be teaching the scholarship student.

(2) A private school is not eligible to enroll scholarship students if:

(a) the private school requires a student to sign a contract waiving the student's rights to transfer to another qualifying school during the school year;

(b) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

(c) the report of the agreed upon procedures submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the state board by May 1 of the school year preceding the school year in which the private school intends to enroll scholarship students.

(6) The state board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of private schools approved under this section.

(7) A private school approved under this section that changes ownership shall:

(a) submit a new application to the state board; and

(b) demonstrate that the private school continues to meet the eligibility requirements of this section.

**Section 10. Section 53E-7-409 is enacted to read:**

**53E-7-409. Public Education**

**Appropriations Subcommittee to conduct feasibility study.**

The Public Education Appropriations Subcommittee shall:

(1) study the feasibility of combining the program with the Carson Smith Scholarship Program created in Section 53F-4-302;

(2) prepare a written report of the study's findings, including any legislative recommendations; and

(3) on or before the Executive Appropriations Committee's November 2023 meeting, submit the report to the Executive Appropriations Committee.

**Section 11. Section 53E-7-410 is enacted to read:**

**53E-7-410. Background checks for scholarship granting organizations -- State board responsibilities -- Bureau responsibilities -- Fees.**

(1) As used in this section:

(a) "Applicant" means an employee or officer of a scholarship granting organization.

(b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(c) "Department" means the Department of Public Safety.

(d) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(e) "FBI" means the Federal Bureau of Investigation.

(f) “FBI Rap Back System” means the rap back system maintained by the FBI.

(g) “Personal identifying information” means:

(i) current name;

(ii) former names;

(iii) nicknames;

(iv) aliases;

(v) date of birth;

(vi) address;

(vii) telephone number;

(viii) driver license number or other government-issued identification number;

(ix) social security number; and

(x) fingerprints.

(h) “Rap back system” means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(i) “WIN Database” means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) The state board shall:

(a) require an applicant to submit to a nationwide criminal background check and ongoing monitoring in accordance with Section 53E-7-404;

(b) collect the following from an applicant:

(i) personal identifying information;

(ii) a fee described in Subsection (4); and

(iii) consent, on a form specified by the state board, for:

(A) an initial fingerprint-based background check by the FBI and bureau;

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Subsection (3); and

(C) disclosure of any criminal history information to the state board;

(c) submit an applicant’s personal identifying information to the bureau for:

(i) an initial fingerprint-based background check by the FBI and bureau; and

(ii) ongoing monitoring through registration with the systems described in Subsection (3) if the results of the initial background check do not contain disqualifying criminal history information as determined by the state board in accordance with Section 53E-7-404;

(d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the state board only receives notifications for

individuals with whom the state board maintains an authorizing relationship; and

(e) submit the information to the bureau for ongoing monitoring through registration with the systems described in Subsection (3)(a).

(3) The bureau shall:

(a) upon request from the state board, register the fingerprints submitted by the state board as part of a background check with:

(i) the WIN Database rap back system, or any successor system; and

(ii) the FBI Rap Back System;

(b) notify the state board when a new entry is made against an individual whose fingerprints are registered with the rap back systems described in Subsection (3)(a) regarding:

(i) an alleged offense; or

(ii) a conviction, including a plea in abeyance;

(c) assist the state board to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the state board only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and

(d) collaborate with the state board to provide training to appropriate state board employees on the notification procedures and privacy risk mitigation strategies described in this section.

(4) (a) The division shall impose fees set in accordance with Section 63J-1-504 for an applicant fingerprint card, name check, and to register fingerprints under this section.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

**Section 12. Section 59-7-109.1 is enacted to read:**

**59-7-109.1. Charitable contributions to the Special Needs Opportunity Scholarship Program.**

(1) Notwithstanding anything to the contrary in Section 59-7-109, a taxpayer may not subtract a charitable contribution that meets the requirements of Section 59-7-109 to the extent that the taxpayer claims a tax credit under Section 59-7-625 for the same charitable contribution.

(2) This section supersedes any conflicting provisions of Utah law.

**Section 13. Section 59-7-625 is enacted to read:**

**59-7-625. Nonrefundable tax credit for donation to Special Needs Opportunity Scholarship Program.**

(1) A taxpayer that makes a donation to the Special Needs Opportunity Scholarship Program established in Section 53E-7-402 may claim a

nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.

(2) (a) If the amount of a tax credit listed on the tax credit certificate exceeds a taxpayer's liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(b) A taxpayer may not carry back the amount of the tax credit that exceeds the taxpayer's tax liability for the taxable year.

**Section 14. Section 59-10-1041 is enacted to read:**

**59-10-1041. Nonrefundable tax credit for donation to Special Needs Opportunity Scholarship Program.**

(1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a donation to the Special Needs Opportunity Scholarship Program established in Section 53E-7-402, may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.

(2) (a) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(b) A claimant, estate, or trust may not carry back the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability for the taxable year.

(3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized deduction on the claimant's, estate's, or trust's federal individual income tax return for that taxable year.

**Section 15. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- Initiative Programs

From Education Fund \$60,000

Schedule of Programs:

Special Needs Opportunity Scholarship Administration \$60,000

The Legislature intends that the State Board of Education use the appropriation under this section for costs associated with administering the Special Needs Opportunity Scholarship Program as described in Section 53E-7-404.

**Section 16. Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2021.

(2) The enactment of Sections 59-7-109.1, 59-7-625, and 59-10-1041 take effect for a taxable year beginning on or after January 1, 2021.

**CHAPTER 4****H. B. 4004**

Passed April 23, 2020

Approved April 28, 2020

Effective April 28, 2020

Exception clause

**BAR ESTABLISHMENT LICENSE  
RENEWAL AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Jerry W. Stevenson

**LONG TITLE****General Description:**

This bill amends the Alcoholic Beverage Control Act regarding license renewal for bar establishment licensees.

**Highlighted Provisions:**

This bill:

- ▶ permits a bar establishment licensee to delay payment of a license renewal fee in 2020 under certain conditions.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a repeal date.

**Utah Code Sections Affected:****ENACTS:**

32B-6-405.1, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 32B-6-405.1 is enacted to read:****32B-6-405.1. Delay of bar establishment renewal payment in 2020.**

(1) A person renewing a bar establishment license in the year 2020 may delay paying the \$2,000 license renewal fee described in Subsection 32B-6-405(4)(c) until no later than August 31, 2020, if the person complies with all other renewal requirements described in Section 32B-5-202 by no later than May 31, 2020.

(2) A bar establishment license expires on September 1, 2020, if the person holding the license:

(a) delays paying the license renewal fee in accordance with Subsection (1); and

(b) fails to pay the license renewal fee on or before August 31, 2020.

(3) A person who delays paying the license renewal fee in accordance with Subsection (1) may not transfer the person's bar establishment license, as otherwise permitted under this title, until the person pays the license renewal fee.

(4) This section supersedes any conflicting provision of Utah law.

**Section 2. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon

approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**Section 3. Repeal date.**

This bill is repealed on January 1, 2021.



**LAWS**  
of the  
**STATE OF UTAH, 2020**

Passed at the  
**FIFTH SPECIAL SESSION**  
of the  
**SIXTY-THIRD LEGISLATURE**

Convened at the State Capitol in the City of Salt Lake  
and Adjourned Sine Die  
June 18, 2020

STATE OF UTAH



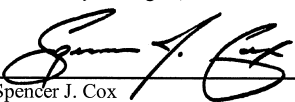
OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

**THIS IS TO CERTIFY** that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2020 Fifth Special Session of the Sixty-third Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2020 Fifth Special Session of the Sixty-third Legislature of the State of Utah convened at the Capitol in Salt Lake City on June 18, 2020 and adjourned on the same day.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 12<sup>th</sup> day of August, 2020.

  
\_\_\_\_\_  
Spencer J. Cox

Lieutenant Governor

**CHAPTER 1****H. B. 5002**

Passed June 18, 2020

Approved June 25, 2020

Effective June 25, 2020

**OPEN AND PUBLIC  
MEETINGS ACT AMENDMENTS**

Chief Sponsor: Val K. Potter

Senate Sponsor: Wayne A. Harper

**LONG TITLE****General Description:**

This bill amends provisions of the Open and Public Meetings Act in relation to an anchor location for an electronic meeting.

**Highlighted Provisions:**

This bill:

- ▶ modifies notice provisions relating to electronic meetings held without an anchor location;
- ▶ enacts requirements relating to the public's ability to view or hear, and make comments during, the open portion of an electronic meeting held without an anchor location; and
- ▶ permits a public body to hold an electronic meeting without an anchor location if the chair of the public body:
  - makes a written determination, supported by stated facts, that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location; and
  - complies with certain public notice requirements.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

52-4-202, as last amended by Laws of Utah 2016, Chapter 77

52-4-207, as last amended by Laws of Utah 2011, Chapter 31

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 52-4-202 is amended to read:****52-4-202. Public notice of meetings --  
Emergency meetings.**

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

- (i) agenda;
- (ii) date;

(iii) time; and

(iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) except for an electronic meeting held without an anchor location under Subsection 52-4-207(4), at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).

(c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(7) Except as provided in this section, this chapter does not apply to a specified body.

**Section 2. Section 52-4-207 is amended to read:**

**52-4-207. Electronic meetings -- Authorization -- Requirements.**

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or

(v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes or conducts an electronic meeting shall:

(a) give public notice of the meeting:

(i) in accordance with Section 52-4-202; and

(ii) except for an electronic meeting held without an anchor location under Subsection (4), post written notice at the anchor location;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting;

(c) except for an electronic meeting held without an anchor location under Subsection (4), establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;

(d) (i) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; or

(ii) for an electronic meeting held without an anchor location under Subsection (4), provide means by which the public may hear, or view and hear, the open portions of the meeting; and

(e) if comments from the public will be accepted during the electronic meeting[;];

(i) provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting[.]; or

(ii) for an electronic meeting held without an anchor location under Subsection (4), provide means by which members of the public may provide comments by electronic means to the public body.

(4) A public body may convene and conduct an electronic meeting without an anchor location if the chair of the public body:

(a) makes a written determination that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location;

(b) states in the written determination described in Subsection (4)(a) the facts upon which the determination is based;

(c) includes in the public notice for the meeting, and reads at the beginning of the meeting, the information described in Subsections (4)(a) and (b); and

(d) includes in the public notice information on how a member of the public may view or make a comment at the meeting.

(5) A written determination described in Subsections (4)(a) and (b) expires 30 days after the

day on which the chair of the public body makes the determination.

[~~(4)~~] (6) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

**Section 3. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 2****H. B. 5003**

Passed June 18, 2020

Approved June 25, 2020

Effective June 25, 2020

**SCHOOL DISTRICT USE  
OF PROPERTY TAX REVENUE**Chief Sponsor: V. Lowry Snow  
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill allows increased flexibility in a local school board's use of revenue from the capital local levy.

**Highlighted Provisions:**

This bill:

- ▶ allows increased flexibility in a local school board's use of revenue from the capital local levy;
- ▶ imposes notice, hearing, and approval requirements on the expanded use of capital local levy revenue; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53F-8-303 (Contingently Superseded 01/01/21), as last amended by Laws of Utah 2018, Chapters 281, 288, 456 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-8-303 (Contingently Effective 01/01/21), as last amended by Laws of Utah 2020, Chapter 207

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53F-8-303 (Contingently Superseded 01/01/21) is amended to read:****53F-8-303 (Contingently Superseded 01/01/21). Capital local levy.**

(1) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's:

- (a) capital projects; or
- (b) technology programs or projects.

(2) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(3) (a) For the fiscal years beginning on July 1, 2020, and July 1, 2021, a local school board may transfer revenue derived from a levy under this section from the school district's capital project fund to the school district's general fund for the local school board's school district for operational expenses.

(b) If a local school board transfers revenue for operational expenses under Subsection (3)(a), the local school board shall, in a public meeting:

(i) notify the public of the local school board's transfer of the funds for operational expenses, including describing how the local school board proposes to use the funds;

(ii) for the fiscal year beginning July 1, 2021, allow an opportunity for public comment during the board's budget hearing in accordance with the notice and hearing requirements described in Section 53G-7-303; and

(iii) approve the proposed use of the funds by majority vote of the local school board.

**Section 2. Section 53F-8-303 (Contingently Effective 01/01/21) is amended to read:****53F-8-303 (Contingently Effective 01/01/21). Capital local levy.**

(1) As used in this section:

(a) "Cost of the basic program" means the cost of the programs described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units) in a school district.

(b) "Low-revenue year" means a fiscal year for which the Legislature appropriates ongoing funding from the Public Education Economic Stabilization Restricted Account under Subsection 53F-9-204(3)(b).

(2) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's:

- (a) capital projects;
- (b) technology programs or projects; or
- (c) subject to Subsection (4), operational expenses for a low-revenue year.

(3) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(4) ~~[Føø]~~ Except as provided in Subsection (6), for a low-revenue year, a local school board may transfer an amount of revenue from the school district's capital project fund to the school district's general fund for the local school board's school district for operational expenses in an amount equal to:

(a) for a local school board in a county of the first, second, or third class, revenue generated by up to .0002 per dollar of taxable value of the capital local levy; or

(b) for a local school board in a county of the fourth, fifth, or sixth class, up to the lesser of:

- (i) 10% of the cost of the basic program; or
- (ii) 25% of the revenue that the school district's capital local levy generates.

(5) The state board shall notify local school boards, school district superintendents, and business administrators in the event of a low-revenue year.

(6) (a) For the fiscal years beginning on July 1, 2020, and July 1, 2021, a local school board may transfer revenue derived from a levy under this section from the school district's capital project fund to the school district's general fund for the local school board's school district for operational expenses.

(b) If a local school board transfers revenue for operational expenses under Subsection (6)(a), the local school board shall, in a public meeting:

(i) notify the public of the local school board's transfer of the funds for operational expenses, including describing how the local school board proposes to use the funds;

(ii) for the fiscal year beginning July 1, 2021, allow an opportunity for public comment during the board's budget hearing in accordance with the notice and hearing requirements described in Section 53G-7-303; and

(iii) approve the proposed use of the funds by majority vote of the local school board.

**Section 3. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 3**  
**H. B. 5004**

Passed June 18, 2020  
Approved June 25, 2020  
Effective June 25, 2020

**AIRPORT-RELATED  
ALCOHOL MODIFICATIONS**

Chief Sponsor: Timothy D. Hawkes  
Senate Sponsor: Jerry W. Stevenson

**LONG TITLE**

**General Description:**

This bill modifies provisions of the Alcoholic Beverage Control Act related to airports.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that provisions related to percentage lease agreements do not apply to a lease agreement in which the lessee is an airport lounge licensee;
- ▶ modifies the number of airport lounge licenses that the Alcoholic Beverage Control Commission may issue;
- ▶ allows a central receiving and distribution center that operates at an international airport to obtain a liquor transport license allowing the license holder to:
  - pickup liquor from a state store or package agency on behalf of an airport licensee and transport the liquor to the central receiving and distribution center's premises for screening and delivery;
  - receive, screen, and store alcoholic product purchased by airport licensees; and
  - deliver alcoholic product to airport licensees;
- ▶ addresses the operational requirements for a liquor transport licensee that is a central receiving and distribution center; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**AMENDS:**

- 32B-1-102, as last amended by Laws of Utah 2020, Chapter 219  
32B-1-208, as enacted by Laws of Utah 2020, Chapter 219  
32B-6-503, as last amended by Laws of Utah 2018, Chapter 249  
32B-17-201, as enacted by Laws of Utah 2019, Chapter 403  
32B-17-202, as enacted by Laws of Utah 2019, Chapter 403  
32B-17-203, as enacted by Laws of Utah 2019, Chapter 403  
32B-17-301, as enacted by Laws of Utah 2019, Chapter 403

**ENACTS:**

32B-17-102, Utah Code Annotated 1953

32B-17-301.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 32B-1-102 is amended to read:**

**32B-1-102. Definitions.**

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport [~~with a United States Customs office on the premises of the international airport~~].

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:



(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; or

(vi) an arena;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

(a) stored; or

(b) dispensed.

(10) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(11) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(12) (a) Subject to Subsection [(40)] (12)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by volume or 4% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Beer" may or may not contain hops or other vegetable products.

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (12)(a); and

(ii) is referred to as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager; or

(F) a malt or malted beverage.

(d) "Beer" does not include a flavored malt beverage.

(13) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(14) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(15) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(16) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.
- (17) “Brewer” means a person engaged in manufacturing:
- (a) beer;
- (b) heavy beer; or
- (c) a flavored malt beverage.
- (18) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (19) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.
- (20) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company’s tariff; and
- (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.
- (21) “Church” means a building:
- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.
- (22) “Commission” means the Alcoholic Beverage Control Commission created in Section 32B-2-201.
- (23) “Commissioner” means a member of the commission.
- (24) “Community location” means:
- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.
- (25) “Community location governing authority” means:
- (a) the governing body of the community location; or
- (b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.
- (26) “Container” means a receptacle that contains an alcoholic product, including:
- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.
- (27) “Convention center” means a facility that is:
- (a) in total at least 30,000 square feet; and
- (b) otherwise defined as a “convention center” by the commission by rule.
- (28) (a) “Counter” means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.
- (b) “Counter” does not include a dispensing structure.
- (29) “Crime involving moral turpitude” is as defined by the commission by rule.
- (30) “Department” means the Department of Alcoholic Beverage Control created in Section 32B-2-203.
- (31) “Department compliance officer” means an individual who is:
- (a) an auditor or inspector; and
- (b) employed by the department.
- (32) “Department sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling.
- (33) “Dining club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.
- (34) “Director,” unless the context requires otherwise, means the director of the department.
- (35) “Disciplinary proceeding” means an adjudicative proceeding permitted under this title:
- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.
- (36) (a) Subject to Subsection (36)(b), “dispense” means:
- (i) drawing an alcoholic product; and
- (ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.
- (b) The definition of “dispense” in this Subsection (36) applies only to:
- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license; ~~and~~
- (iv) a beer-only restaurant license~~[-];~~

- (v) a bar license;
- (vi) an on-premise beer retailer;
- (vii) an airport lounge license;
- (viii) an on-premise banquet license; and
- (ix) a hospitality amenity license.
- (37) “Dispensing structure” means a surface or structure on a licensed premises:
- where an alcoholic product is dispensed; or
  - from which an alcoholic product is served.
- (38) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.
- (39) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.
- (40) “Equity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.
- (41) “Event permit” means:
- a single event permit; or
  - a temporary beer event permit.
- (42) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.
- (43) (a) “Flavored malt beverage” means a beverage:
- that contains at least .5% alcohol by volume;
  - that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;
  - to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and
  - (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
- (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
- (b) “Flavored malt beverage” is considered liquor for purposes of this title.
- (44) “Fraternal license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.
- (45) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail

License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(46) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) “Furnish” includes to:

- serve;
- deliver; or
- otherwise make available.

(47) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).

(48) “Hard cider” means the same as that term is defined in 26 U.S.C. Sec. 5041.

(49) “Health care practitioner” means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(50) (a) “Heavy beer” means a product that:

- contains more than 5% alcohol by volume; and
- is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Heavy beer” is considered liquor for the purposes of this title.

(51) “Hospitality amenity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(52) “Hotel” means a commercial lodging establishment that:

(a) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(b) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(c) (i) has adequate kitchen or culinary facilities on the premises to provide complete meals; or

(ii) (A) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract and can accommodate at least 75 individuals; or

(B) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(53) “Hotel license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(54) “Identification card” means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(55) “Industry representative” means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(56) “Industry representative sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(57) “Interdicted person” means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(58) “International airport” means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

~~(58)~~ (59) “Intoxicated” means that a person:

(a) is significantly impaired as to the person’s mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections ~~(58)~~ (59)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

~~(59)~~ (60) “Investigator” means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

~~(60)~~ (61) “License” means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(d) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(f) a license issued in accordance with Chapter 17, Liquor Transport License Act.

~~(61)~~ (62) “Licensee” means a person who holds a license.

~~(62)~~ (63) “Limited-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

~~(63)~~ (64) “Limousine” means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity’s tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

~~(64)~~ (65) (a) (i) “Liquor” means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) “Liquor” includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

[~~65~~] (66) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

[~~66~~] (67) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

[~~67~~] (68) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

[~~68~~] (69) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section 63H-1-201 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

[~~69~~] (70) "Lounge or bar area" is as defined by rule made by the commission.

[~~70~~] (71) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

[~~71~~] (72) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

[~~72~~] (73) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

[~~73~~] (74) "Minibar" means an area of a hotel guest room where one or more alcoholic products

are kept and offered for self-service sale or consumption.

[~~74~~] (75) "Minor" means an individual under the age of 21 years.

[~~75~~] (76) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

[~~76~~] (77) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

[~~77~~] (78) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

[~~78~~] (79) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

[~~79~~] (80) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

[~~80~~] (81) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

[~~81~~] (82) "Opaque" means impenetrable to sight.

[~~82~~] (83) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

~~[(83)]~~ (84) “Package agent” means a person who holds a package agency.

~~[(84)]~~ (85) “Patron” means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

- (a) a customer;
- (b) a member;
- (c) a guest;
- (d) an attendee of a banquet or event;
- (e) an individual who receives room service;
- (f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

~~[(85)]~~ (86) (a) “Performing arts facility” means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) “Performing arts facility” does not include a space that is used to present sporting events or sporting competitions.

~~[(86)]~~ (87) “Permittee” means a person issued a permit under:

- (a) Chapter 9, Event Permit Act; or
- (b) Chapter 10, Special Use Permit Act.

~~[(87)]~~ (88) “Person subject to administrative action” means:

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:
  - (i) an out-of-state brewer;
  - (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
  - (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:

(i) a person listed in Subsections ~~[(87)]~~ (88)(a) through (f); or

(ii) a package agent.

~~[(88)]~~ (89) “Premises” means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

~~[(89)]~~ (90) “Prescription” means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner’s professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

~~[(90)]~~ (91) (a) “Primary spirituous liquor” means the main distilled spirit in a beverage.

(b) “Primary spirituous liquor” does not include a secondary flavoring ingredient.

~~[(91)]~~ (92) “Principal license” means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

~~[(92)]~~ (93) (a) “Private event” means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) “Private event” does not include an event to which the general public is invited, whether for an admission fee or not.

~~[(93)]~~ (94) “Privately sponsored event” means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

~~[(94)]~~ (95) (a) “Proof of age” means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

[~~(95)~~] (96) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer license;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a resort spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

[~~(96)~~] (97) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

[~~(97)~~] (98) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

[~~(98)~~] (99) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection [~~(98)~~] (99)(a) to a third party for the third party's event.

[~~(99)~~] (100) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

[~~(100)~~] (101) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

[~~(101)~~] (102) "Residence" means a person's principal place of abode within Utah.

[~~(102)~~] (103) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

[~~(103)~~] (104) "Resort" means the same as that term is defined in Section 32B-8-102.

[~~(104)~~] (105) "Resort facility" is as defined by the commission by rule.

[~~(105)~~] (106) "Resort spa sublicense" means a resort license sublicense issued in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

[~~(106)~~] (107) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

~~[(407)]~~ (108) “Responsible alcohol service plan” means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

~~[(408)]~~ (109) “Restaurant” means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

~~[(409)]~~ (110) “Restaurant license” means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

~~[(410)]~~ (111) “Retail license” means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

~~[(411)]~~ (112) “Room service” means furnishing an alcoholic product to a person in a guest room of a:

(a) hotel; or

(b) resort facility.

~~[(412)]~~ (113) (a) “School” means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) “School” does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool; or

(v) a home school.

~~[(413)]~~ (114) “Secondary flavoring ingredient” means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

~~[(414)]~~ (115) “Sell” or “offer for sale” means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~[(415)]~~ (116) “Serve” means to place an alcoholic product before an individual.

~~[(416)]~~ (117) “Sexually oriented entertainer” means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection ~~[(416)]~~ (117)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

~~[(417)]~~ (118) “Shared seating area” means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

~~[(418)]~~ (119) “Single event permit” means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~[(419)]~~ (120) “Small brewer” means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

~~[(420)]~~ (121) “Small or unincorporated locality” means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;



(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

~~[(121)]~~ (122) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(122)]~~ (123) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

~~[(123)]~~ (124) "Sports center" is as defined by the commission by rule.

~~[(124)]~~ (125) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

~~[(125)]~~ (126) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

~~[(126)]~~ (127) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

~~[(127)]~~ (128) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

~~[(128)]~~ (129) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

~~[(129)]~~ (130) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a resort spa sublicense.

~~[(130)]~~ (131) "Supplier" means a person who sells an alcoholic product to the department.

~~[(131)]~~ (132) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

~~[(132)]~~ (133) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~(133)~~ (134) “Temporary domicile” means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

~~(134)~~ (135) “Translucent” means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

~~(135)~~ (136) “Unsaleable liquor merchandise” means a container that:

- (a) is unsaleable because the container is:
  - (i) unlabeled;
  - (ii) leaky;
  - (iii) damaged;
  - (iv) difficult to open; or
  - (v) partly filled;
- (b) (i) has faded labels or defective caps or corks;
- (ii) has contents that are:
  - (A) cloudy;
  - (B) spoiled; or
  - (C) chemically determined to be impure; or
- (iii) contains:
  - (A) sediment; or
  - (B) a foreign substance; or
- (c) is otherwise considered by the department as unfit for sale.

~~(136)~~ (137) (a) “Wine” means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

- (b) “Wine” includes:
  - (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and
  - (ii) hard cider.

(c) “Wine” is considered liquor for purposes of this title, except as otherwise provided in this title.

~~(137)~~ (138) “Winery manufacturing license” means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

**Section 2. Section 32B-1-208 is amended to read:**

**32B-1-208. Percentage lease agreements.**

- (1) As used in this section:
  - (a) “Percentage lease agreement” means a lease agreement in which the lessee:
    - (i) is a retail licensee; and
    - (ii) pays the lessor:
      - (A) a base rent; and

(B) percentage rent.

(b) “Percentage rent” means a percentage:

- (i) agreed upon between a lessor and lessee; and
- (ii) of the total sales revenue that:

(A) exceed a fixed dollar amount of sales revenue; and

(B) the lessee earns while doing business on the rental premises.

(2) (a) The parties to a percentage lease agreement shall submit a copy of the percentage lease agreement to the department.

(b) If there is a material change to the percentage lease agreement submitted to the department under Subsection (2)(a), the parties to the percentage lease agreement shall promptly submit a copy of the changed percentage lease agreement to the department.

(3) If a percentage lease agreement requires a retail licensee to pay the lessor a percentage rent of 6% or less, the department may not conduct any further investigation into the percentage lease agreement.

(4) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(a) the maximum percentage of revenue from alcohol sales a percentage lease agreement may require; and

(b) the procedure for submitting a percentage lease agreement under Subsection (2).

(5) (a) The provisions of this section do not apply to a percentage lease agreement in which the lessee is an airport lounge licensee.

(b) Nothing in this title prohibits an airport lounge licensee from entering into a percentage lease agreement, regardless of the percentage rent specified in the percentage lease agreement.

**Section 3. Section 32B-6-503 is amended to read:**

**32B-6-503. Commission’s power to issue airport lounge license.**

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as an airport lounge licensee, the person shall first obtain an airport lounge license from the commission in accordance with this part.

(2) The commission may issue an airport lounge license to establish airport lounge licensed premises beyond the security point at an international airport and in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on licensed premises operated as an airport lounge.

(3) ~~(a)~~ The commission may not issue ~~a total number of~~ more than 13 airport lounge licenses for an international airport ~~that~~ at any time ~~exceed~~

one airport lounge license for each 1,750,000 of total passengers at the international airport].

~~[(b) Notwithstanding Subsection (3)(a), the commission may not reduce the total number of airport lounge licenses unless:]~~

~~[(i) the commission determines that the number of total passengers is reduced by more than 25% from the last day on which the commission determined the total number of airport lounge licenses allowed for that international airport under this Subsection (3); and]~~

~~[(ii) the reduction can be accomplished without the international airport terminating a lease for an airport lounge before:]~~

~~[(A) the expiration of the lease;]~~

~~[(B) the airport lounge undergoes a change of ownership; or]~~

~~[(C) the airport lounge ceases operations.]~~

**Section 4. Section 32B-17-102 is enacted to read:**

**32B-17-102. Definitions.**

As used in this chapter:

(1) "Airport licensee" means a person who holds a valid:

(a) retail license for premises located at an international airport; or

(b) special use permit for premises located at an international airport.

(2) "Central receiving and distribution center" means a facility that:

(a) operates at an international airport;

(b) receives goods and supplies delivered to the international airport for an airport licensee;

(c) screens the goods and supplies described in Subsection (2)(b) for security purposes; and

(d) distributes the goods and supplies described in Subsection (2)(b) to the airport licensee for whom the goods and supplies were delivered.

**Section 5. Section 32B-17-201 is amended to read:**

**32B-17-201. Commission's power to issue liquor transport license.**

(1) (a) ~~[Before a person other than the retail licensee may pick up and deliver liquor to a retail licensee, the person]~~ A person who is not a retail licensee shall obtain a liquor transport license issued by the commission in accordance with this chapter~~[-]~~ before the person may:

(i) pickup liquor on behalf of a retail licensee and deliver the liquor to a retail licensee or a central receiving and distribution center; or

(ii) if the person is a central receiving and distribution center:

(A) pickup liquor on behalf of an airport licensee and deliver the liquor to the central receiving and distribution center's premises; or

(B) receive, screen, store, or deliver alcoholic product as part of the central receiving and distribution center's operations.

(b) A violation of Subsection (1)(a) is a class A misdemeanor.

(2) The commission may issue a liquor transport license for ~~[the pickup and delivery of liquor to a retail licensee:]~~

(a) the pickup of liquor on behalf of a retail licensee and the delivery of the liquor to the retail licensee or a central receiving and distribution center; or

(b) the receipt, screening, storage, and distribution of alcoholic product by a central receiving and distribution center.

(3) [A] In accordance with this chapter, a liquor transport license entitles the holder to:

(a) (i) pickup liquor from a package agency or state store on behalf of a retail licensee using the retail licensee's funds; and

~~[(b)]~~ (ii) transport and deliver the liquor directly to [a]:

(A) the retail licensee~~[-]~~; or

(B) if the retail licensee is an airport licensee, a central receiving and distribution center; or

(b) if the holder is a central receiving and distribution center:

(i) (A) pickup liquor from a package agency or state store on behalf of an airport licensee using the airport licensee's funds; and

(B) transport the liquor directly to the central receiving and distribution center's premises for screening, storage, and delivery to the airport licensee;

(ii) receive at the central receiving and distribution center's premises:

(A) liquor purchased by or on behalf of an airport licensee and delivered to the central receiving and distribution center by the airport licensee or a liquor transport licensee; or

(B) beer delivered to the central receiving and distribution center for an airport licensee by a beer wholesaler licensee or a small brewer;

(iii) screen and store alcoholic product picked up or received by the central receiving and distribution center; and

(iv) transport and deliver the alcoholic product to the airport licensee.

(4) Nothing in this chapter prohibits a retail licensee from picking up liquor purchased by the retail licensee and transporting the liquor to the retail licensee's licensed premises in accordance with the other provisions of this title.

**Section 6. Section 32B-17-202 is amended to read:**

**32B-17-202. Application requirements for liquor transport license.**

To obtain a liquor transport license, a person shall submit to the department:

(1) a written application in a form prescribed by the department;

(2) a nonrefundable \$300 application fee;

(3) an initial license fee of \$2,300 that is refundable if the commission does not issue a liquor transport license;

(4) a copy of the person's current business license;

(5) a bond as specified in Section 32B-17-206;

(6) evidence that the person carries liability insurance in an amount and form satisfactory to the department; ~~and~~

(7) if the person is a central receiving and distribution center:

(a) a floor plan of each premises where the central receiving and distribution center proposes to receive, screen, store, or deliver alcoholic product;

(b) a statement of the number of airport licensees for which the central receiving and distribution center proposes to provide services under the liquor transport license; and

(c) a signed consent form stating that the central receiving and distribution center will permit any authorized representative of the commission or the department or a law enforcement officer to have unrestricted right to enter the central receiving and distribution center's premises, in compliance with applicable federal security procedures; and

~~[(7)]~~ (8) any other information the commission or department ~~[may require]~~ requires.

**Section 7. Section 32B-17-203 is amended to read:**

**32B-17-203. Renewal requirements for liquor transport license.**

(1) A liquor transport license expires on May 31 of each year.

(2) To renew a liquor transport license, a person shall submit to the department by no later than April 30 of the year in which the license expires:

(a) a completed renewal application in a form prescribed by the department;

(b) a copy of the person's current business license;

(c) a bond as specified in Section 32B-17-206;

(d) evidence that the person carries liability insurance in an amount and form satisfactory to the department;

(e) if the person is not a central receiving and distribution center, a report that includes the following information for the period since the liquor

transport licensee obtained or renewed a liquor transport license:

(i) the number of deliveries the liquor transport licensee made to each type of retail licensee; and

(ii) each state store and each package agency from which the liquor transport licensee picked up liquor as a liquor transport licensee;

~~[(iii) any breakage or shrinkage; and]~~

~~[(iv) any other information required by the department; and]~~

(f) if the person is a central receiving and distribution center, a report that includes the following information for the period since the liquor transport licensee obtained or renewed a liquor transport license:

(i) the number of times the liquor transport licensee picked up liquor on behalf of an airport licensee; and

(ii) each state store and each package agency from which the liquor transport licensee picked up liquor on behalf of an airport licensee;

(g) any other information the commission or department requires; and

~~[(f)]~~ (h) a \$1,200 renewal fee.

(3) Failure to meet the renewal requirements described in this section results in an automatic forfeiture of the liquor transport license effective on the date the existing liquor transport license expires.

**Section 8. Section 32B-17-301 is amended to read:**

**32B-17-301. General operational requirements for liquor transport license.**

(1) (a) A liquor transport licensee and staff of the liquor transport licensee shall comply with this title and the rules of the commission.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a liquor transport licensee;

(ii) individual staff of a liquor transport licensee; or

(iii) both a liquor transport licensee and staff of the liquor transport licensee.

(2) A liquor transport licensee may not employ a minor to handle an alcoholic product.

(3) A liquor transport licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the liquor transport license to a person, regardless of whether done for monetary gain.

(4) (a) A liquor transport licensee may not deliver ~~liquor~~ alcoholic product to a person within the state except to:

(i) a retail licensee[-];

(ii) a central receiving and distribution center; or

(iii) if the liquor transport licensee is a central receiving and distribution center, an airport licensee.

(b) A violation of this Subsection (4) is a class A misdemeanor.

(5) Alcoholic product in the possession or control of a liquor transport licensee is the property of the retail licensee or airport licensee whose funds were used to purchase the alcoholic product.

~~[(5)]~~ (6) The commission may prescribe by rule, consistent with this title, the general operational requirements of a liquor transport licensee.

**Section 9. Section 32B-17-301.5 is enacted to read:**

**32B-17-301.5. Additional operational requirements for liquor transport license held by a central receiving and distribution center.**

(1) A liquor transport licensee that is a central receiving and distribution center shall establish a secure process for:

(a) receiving alcoholic product from airport licensees, liquor transport licensees, beer wholesaler licensees, and small brewers at the central receiving and distribution center's premises;

(b) screening and storing alcoholic product the central receiving and distribution center receives or brings to the premises; and

(c) delivering alcoholic product to the airport licensee that owns the alcoholic product.

(2) As part of the secure process described in Subsection (1), the central receiving and distribution center shall:

(a) clearly identify and keep separate each airport licensee's alcoholic product;

(b) maintain alcoholic product in a locked storage area or container at all times except during:

(i) a security screening of the alcoholic product; or

(ii) transportation of the alcoholic product;

(c) notify the receiving airport licensee when screening is complete and alcoholic product is ready for delivery; and

(d) deliver the alcoholic product to the receiving airport licensee.

(3) The commission may prescribe by rule, consistent with this title, the operational requirements of a liquor transport licensee that is a central receiving and distribution center.

**Section 10. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's

signature, or in the case of a veto, the date of veto override.

**CHAPTER 4**  
**H. B. 5005**

Passed June 18, 2020  
Approved June 25, 2020  
Effective July 1, 2020  
Exception clause

**REVISOR'S TECHNICAL  
CORRECTIONS TO UTAH CODE**

Chief Sponsor: Francis D. Gibson  
Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill makes technical changes to provisions of the Utah Code.

**Highlighted Provisions:**

This bill:

- modifies provisions of the Utah Code to make technical corrections, including making minor wording changes, correcting cross-references, eliminating redundant or obsolete language, and correcting numbering and other errors.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides special effective dates.

**Utah Code Sections Affected:**

**AMENDS:**

10-9a-208, as last amended by Laws of Utah 2019, Chapter 384  
13-43-206, as last amended by Laws of Utah 2020, Chapter 313  
17B-2a-804, as last amended by Laws of Utah 2020, Chapter 377  
17D-3-304, as last amended by Laws of Utah 2020, Chapter 311  
19-3-103.1, as enacted by Laws of Utah 2020, Chapter 256  
19-5-108.5 (Effective 07/01/20), as enacted by Laws of Utah 2020, Chapter 99  
20A-7-308, as last amended by Laws of Utah 2010, Chapter 367  
20A-7-605, as last amended by Laws of Utah 2020, Chapter 349  
26-7-14, as enacted by Laws of Utah 2020, Chapter 221  
26-15b-102, as enacted by Laws of Utah 2020, Chapter 189  
26-15b-105, as enacted by Laws of Utah 2020, Chapter 189  
26-18-3.8, as last amended by Laws of Utah 2020, Chapter 225  
26-18-3.9, as last amended by Laws of Utah 2020, Chapter 225  
26-18-408, as last amended by Laws of Utah 2020, Chapter 225  
26-21-34, as enacted by Laws of Utah 2020, Chapter 251  
26-67-102, as enacted by Laws of Utah 2020, Chapter 169  
26-67-204, as enacted by Laws of Utah 2020, Chapter 169  
31A-22-626.5, as enacted by Laws of Utah 2020, Chapter 310

32B-1-102, as last amended by Laws of Utah 2020, Chapter 219  
41-6a-904, as last amended by Laws of Utah 2020, Chapter 74  
54-3-8, as last amended by Laws of Utah 2019, Chapter 460  
58-4a-107, as enacted by Laws of Utah 2020, Chapter 107  
58-17b-1004 (Effective 07/01/20), as enacted by Laws of Utah 2020, Chapter 372  
58-17b-1005 (Effective 07/01/20), as enacted by Laws of Utah 2020, Chapter 372  
58-31b-502, as last amended by Laws of Utah 2020, Chapter 25  
58-55-503, as last amended by Laws of Utah 2020, Chapters 339 and 380  
58-60-405, as last amended by Laws of Utah 2020, Chapters 252 and 339  
59-2-1101 (Effective 01/01/21), as last amended by Laws of Utah 2020, Chapters 38 and 305  
63G-2-302, as last amended by Laws of Utah 2020, Chapters 213 and 255  
63G-7-701, as last amended by Laws of Utah 2013, Chapter 278  
63I-2-215, as enacted by Laws of Utah 2019, Chapter 119  
63J-1-602.1 (Effective 10/15/20), as last amended by Laws of Utah 2020, Chapters 126, 186, 230, 322, 375, and 405  
63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20), as last amended by Laws of Utah 2020, Chapters 126, 186, 230, 322, 375, and 405  
72-10-205.5, as enacted by Laws of Utah 2020, Chapter 243  
73-10g-202, as last amended by Laws of Utah 2020, Chapter 33  
73-31-202, as enacted by Laws of Utah 2020, Chapter 342  
76-7-305, as last amended by Laws of Utah 2020, Chapter 251  
78A-6-602, as last amended by Laws of Utah 2020, Chapters 214, 312 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214  
78A-6-602.5, as enacted by Laws of Utah 2020, Chapter 312 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214  
78B-7-118 (Effective 07/01/20), as enacted by Laws of Utah 2020, Chapter 142

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*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 10-9a-208 is amended to read:**

**10-9a-208. Hearing and notice for petition to vacate a public street.**

(1) For any petition to vacate some or all of a public street or [municipality] municipal utility easement the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall

ensure that the notice required under Subsection (1)(b) is:

(a) mailed to the record owner of each parcel that is accessed by the public street or municipal utility easement;

(b) mailed to each affected entity;

(c) posted on or near the public street or municipal utility easement in a manner that is calculated to alert the public; and

(d) (i) published on the website of the municipality in which the land subject to the petition is located until the public hearing concludes; and

(ii) published on the Utah Public Notice Website created in Section 63F-1-701.

**Section 2. Section 13-43-206 is amended to read:**

**13-43-206. Advisory opinion -- Process.**

(1) A request for an advisory opinion under Section 13-43-205 shall be:

(a) filed with the Office of the Property Rights Ombudsman; and

(b) accompanied by a filing fee of \$150.

(2) The Office of the Property Rights Ombudsman may establish policies providing for partial fee waivers for a person who is financially unable to pay the entire fee.

(3) A person requesting an advisory opinion need not exhaust administrative remedies, including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an advisory opinion.

(4) The Office of the Property Rights Ombudsman shall:

(a) deliver notice of the request to opposing parties indicated in the request;

(b) inquire of all parties if there are other necessary parties to the dispute; and

(c) deliver notice to all necessary parties.

(5) If a governmental entity is an opposing party, the Office of the Property Rights Ombudsman shall deliver the request in the manner provided for in Section 63G-7-401.

(6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the parties can agree to a neutral third party to issue an advisory opinion.

(b) If no agreement can be reached within four business days after notice is delivered pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall appoint a neutral third party to issue an advisory opinion.

(7) All parties that are the subject of the request for advisory opinion shall:

(a) share equally in the cost of the advisory opinion; and

(b) provide financial assurance for payment that the neutral third party requires.

(8) The neutral third party shall comply with the provisions of Section 78B-11-109, and shall promptly:

(a) seek a response from all necessary parties to the issues raised in the request for advisory opinion;

(b) investigate and consider all responses; and

(c) issue a written advisory opinion within 15 business days after the appointment of the neutral third party under Subsection (6)(b), unless:

(i) the parties agree to extend the deadline; or

(ii) the neutral third party determines that the matter is complex and requires additional time to render an opinion, which may not exceed 30 calendar days.

(9) An advisory opinion shall include a statement of the facts and law supporting the opinion's conclusions.

(10) (a) Copies of any advisory opinion issued by the Office of the Property Rights Ombudsman shall be delivered as soon as practicable to all necessary parties.

(b) A copy of the advisory opinion shall be delivered to the government entity in the manner provided for in Section 63G-7-401.

(11) An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to, nor admissible as evidence in, a dispute involving land use law except as provided in Subsection (12).

(12) Subject to Subsection [(14)] (13), if a dispute involving land use law results in the issuance of an advisory opinion described in this section, if the same issue that is the subject of the advisory opinion is subsequently litigated on the same facts and circumstances at issue in the advisory opinion, and if the relevant issue is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect:

(a) reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and

(b) subject to Subsection (13), if the court finds that the opposing party knowingly and intentionally violated the law governing that cause of action, a civil penalty of \$250 per day:

(i) beginning on the later of:

(A) 30 days after the day on which the advisory opinion was delivered; or

(B) the day on which the action was filed; and

(ii) ending the day on which the court enters a final judgment.

(13) (a) Subsection (12) does not apply unless the resolution described in Subsection (12) is final.

(b) A court may not impose a civil penalty under Subsection (12)(b) against or in favor of a party

other than the land use applicant or a government entity.

(14) In addition to any amounts awarded under Subsection (12), if the dispute described in Subsection (12) in whole or in part concerns an impact fee, and if the result of the litigation requires that the political subdivision or private entity refund the impact fee in accordance with Section 11-36a-603, the political subdivision or private entity shall refund the impact fee in an amount that is based on the difference between the impact fee paid and what the impact fee should have been if the political subdivision or private entity had correctly calculated the impact fee.

(15) Nothing in this section is intended to create any new cause of action under land use law.

(16) Unless filed by the local government, a request for an advisory opinion under Section 13-43-205 does not stay the progress of a land use application, the effect of a land use decision, or the condemning entity's occupancy of a property.

**Section 3. Section 17B-2a-804 is amended to read:**

**17B-2a-804. Additional public transit district powers.**

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;

(o) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and

(p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the development of areas under Subsection (1)(p) that have been approved by the board of trustees, and in the manners described in Subsection (1)(p).



(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

(d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:

(a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:

- (i) service and ridership;
- (ii) regional plans made by the metropolitan planning agency;
- (iii) the local economy;
- (iv) the environment and air quality;
- (v) affordable housing; and
- (vi) integration with other modes of transportation; and

(b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service.

(4) A public transit district may not participate in a transit-oriented development if:

(a) the relevant municipality or county has not developed and adopted a station area plan; and

(b) (i) for a transit-oriented development involving a municipality, the municipality is not in compliance with Sections 10-9a-403 and 10-9a-408 regarding the inclusion of moderate income housing in the general plan and the required reporting requirements; or

(ii) for a transit-oriented development involving property in an unincorporated area of a county, the county is not in compliance with Sections

17-27a-403 and 17-27a-408 regarding inclusion of moderate income housing in the general plan and required reporting requirements.

(5) A public transit district may be funded from any combination of federal, state, local, or private funds.

(6) A public transit district may not acquire property by eminent domain.

**Section 4. Section 17D-3-304 is amended to read:**

**17D-3-304. Petition to nominate candidates for appointment to the board of supervisors.**

(1) In addition to the procedure in Section 17D-3-302, a person may be nominated to be a candidate for appointment as a member of a board of supervisors of a conservation district by a petition filed with the department no later than the date set by the commission as the close of nominations.

(2) A petition under Subsection (1) shall:

(a) state:

~~(a)~~ (i) the candidate's name;

~~(b)~~ (ii) that the candidate is at least 18 years [~~of age;~~ old]; and

~~(c)~~ (iii) that the candidate for appointment is a resident of the conservation district for which the nomination for candidacy is to be held; and

~~(d)~~ (b) contain the notarized signature of the candidate.

(3) The department shall forward a petition received under this section to the nominating committee for consideration under Sections 17D-3-302 and 17D-3-303.

**Section 5. Section 19-3-103.1 is amended to read:**

**19-3-103.1. Board authority and duties under this part.**

(1) The board may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this part;

(b) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint a hearing officer to conduct a hearing that is not an adjudicative proceeding;

(c) accept, receive, and administer grants or other money or gifts from public and private agencies, including the federal government, for the purpose of carrying out any function of this chapter;

(d) order the director to impound radioactive material in accordance with Section 19-3-111; or

(e) advise, consult, cooperate with, or provide technical assistance to another agency of the state or federal government, another state, an interstate agency, an affected group, an affected political

subdivision, an affected industry, or other person in carrying out the purposes of this part.

(2) The board shall:

(a) promote the planning and application of pollution prevention and radioactive waste minimization measures to prevent the unnecessary waste and depletion of natural resources;

(b) to ensure compliance with applicable statutes and rules:

(i) review a settlement negotiated by the director in accordance with Subsection 19-3-108.1(2)(c) that requires a civil penalty equal to or greater than \$25,000; and

(ii) approve or disapprove the settlement described in Subsection (2)(b)(i); and

(c) review the qualifications of, and issue certificates of approval to, individuals who:

(i) survey mammography equipment; or

(ii) oversee quality assurance practices at mammography facilities.

(3) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-3-108.1:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

**Section 6. Section 19-5-108.5 (Effective 07/01/20) is amended to read:**

**19-5-108.5 (Effective 07/01/20). Storm water permits.**

(1) As used in this section:

(a) "Applicant" means a person who is conducting or proposing to conduct a use of land and who a permittee requires or allows to use low impact development.

(b) "Independent review" is a review conducted:

(i) in accordance with this section; and

(ii) by an engineer, or engineering firm, designated by the division as having technical expertise in the area of storm water calculations.

(c) "Low impact development" means structural or natural engineered systems located close to the source of storm water that use or mimic natural processes to encourage infiltration, evapotranspiration, or reuse of the storm water.

(d) "Permittee" means a municipality, metro township, or county with a storm water permit

under the Utah Pollutant Discharge Elimination System.

(e) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

(f) "Storm water permit" means a permit issued to a permittee by the division for the permittee's municipal separate storm sewer system.

(g) "Utah Pollutant Discharge Elimination System" means the state-wide program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits under [~~the Utah Water Quality Act~~] this chapter.

(2) A permittee shall reduce any requirement for an applicant to manage or control storm water runoff rates or storm water runoff volumes for flood control purposes to account for the reduction in storm water associated with approved low impact development practices.

(3) The director shall create and maintain a list of engineers, including engineering firms, capable of providing independent review of low impact development designs and storm water calculations for use by an applicant and a permittee pursuant to an appeal described in Subsection (4).

(4) (a) An applicant who appeals a permittee's determination regarding post-construction retention requirements under the permittee's storm water permit may request the permittee to refer the appeal to independent review for purposes of determining the technical aspects of the appeal, including:

(i) the required size of any low impact development system;

(ii) the calculations of reductions in storm water runoff rates or storm water runoff volumes for flood control due to the use of low impact development; and

(iii) the feasibility of constructing low impact development practices required by the permittee.

(b) If an applicant makes a request under Subsection (4)(a):

(i) the permittee shall:

(A) select an engineer or engineering firm from the list described in Subsection (3); and

(B) pay one-half of the cost of the independent review.

(ii) An engineer or engineering firm selected by the permittee under Subsection (4)(b)(i) may not be:

(A) associated with the application that is the subject of the appeal; or

(B) employed by the permittee.

(iii) The applicant shall pay:

(A) one-half of the cost of the independent review; and

(B) the municipality's published appeal fee.

**Section 7. Section 20A-7-308 is amended to read:**

**20A-7-308. Ballot title -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.**

(1) Whenever a referendum petition is declared sufficient for submission to a vote of the people, the lieutenant governor shall deliver a copy of the petition and the proposed law to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each state referendum that has qualified for the ballot "Proposition Number \_\_\_" and give it a number as assigned under Section 20A-6-107;

(ii) prepare an impartial ballot title for the referendum summarizing the contents of the measure; and

(iii) return the petition and the ballot title to the lieutenant governor within 15 days after its receipt.

(b) The ballot title may be distinct from the title of the law that is the subject of the petition, and shall be not more than 100 words.

(c) The ballot title and the number of the measure as determined by the Office of Legislative Research and General Counsel shall be printed on the official ballot.

(3) Immediately after the Office of Legislative Research and General Counsel files a copy of the ballot title with the lieutenant governor, the lieutenant governor shall mail a copy of the ballot title to any of the sponsors of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, within 15 days of the date the lieutenant governor mails the ballot title, challenge the wording of the ballot title prepared by the Office of Legislative Research and General Counsel to the Supreme Court.

(ii) After receipt of the appeal, the Supreme Court shall direct the lieutenant governor to send notice of the appeal to:

(A) any person or group that has filed an argument for or against the measure that is the subject of the challenge; or

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the [initiative] referendum.

(b) (i) There is a presumption that the ballot title prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the referendum.

(ii) The Supreme Court may not revise the wording of the ballot title unless the plaintiffs rebut the presumption by clearly and convincingly

establishing that the ballot title is patently false or biased.

(c) The Supreme Court shall:

(i) examine the ballot title;

(ii) hear arguments; and

(iii) certify to the lieutenant governor a ballot title for the measure that meets the requirements of this section.

(d) The lieutenant governor shall certify the title verified by the Supreme Court to the county clerks to be printed on the official ballot.

**Section 8. Section 20A-7-605 is amended to read:**

**20A-7-605. Obtaining signatures -- Verification -- Removal of signature.**

(1) Any Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(2) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet.

(b) An individual may not sign the verification printed on the last page of the referendum packet if the individual signed a signature sheet in the referendum packet.

(3) (a) Any voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting a statement to that effect to the county clerk.

(b) Except as provided in Subsection (3)(c), upon receipt of the statement, the county clerk shall remove the signature of the individual submitting the statement from the referendum petition.

(c) A county clerk may not remove signatures from a referendum petition later than seven days after the day on which the sponsors timely submit the last signature packet to the county clerk.

(4) The sponsors of a referendum petition:

(a) shall, for each signature packet:

(i) within seven days after the day on which the first individual signs the signature packet, provide a clear, legible image of all signatures on the signature packet to the county clerk via email or other electronic means; and

(ii) immediately send a new image if the county clerk informs the sponsors that the image is not clear and legible;

(b) may not permit additional signatures on a signature packet of which the sponsors have sent an image under Subsection (4)(a); and

(c) may not submit a signature packet to the county clerk unless the sponsors timely comply

with the requirements of Subsection (4)(a) in relation to the signature packet.

(5) Each person who gathers a signature removal statement described in Subsection (3):

(a) shall, within seven days after the day on which the individual signs the signature removal statement, provide a clear, legible image of the statement to the county clerk via email or other electronic means; and

(b) shall, immediately send a new image if the local clerk informs the sender that the image is not clear and legible; and

(c) may not submit a signature removal statement to the county clerk, unless the sender timely complies with the requirements of Subsections (5)(a) and (b) in relation to the signature removal statement.

(6) (a) The county clerk shall provide to an individual, upon request, a document or electronic list containing the name and voter identification number of each individual who signed the [initiative] referendum packet.

(b) Subject to Subsection 20A-7-606.3(3), the local clerk may begin certifying, removing, and tallying signatures upon receipt of an image described in Subsection (4) or (5).

**Section 9. Section 26-7-14 is amended to read:**

**26-7-14. Study on violent incidents and fatalities involving substance abuse -- Report.**

(1) As used in this section:

(a) "Drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance or alcohol was combined, that results in an individual requiring medical assistance.

(b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(c) "Violent incident" means:

(i) aggravated assault as described in Section 76-5-103;

(ii) child abuse as described in Section 76-5-109;

(iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;

(vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

(vii) a domestic violence offense, as defined in Section 77-36-1; and

(viii) any other violent offense, as determined by the department.

(2) In 2021 and continuing every other year, the department shall provide a report before October 1 to the Health and Human Services Interim Committee regarding the number of:

(a) violent incidents and fatalities that occurred in the state during the preceding calendar year that, at the time of occurrence, involved substance abuse;

(b) drug overdose events in the state during the preceding calendar year; and

(c) recommendations for legislation, if any, to prevent the occurrence of the events described in Subsections (2)(a) and (b).

(3) Before October 1, 2020, the department shall:

(a) determine what information is necessary to complete the report described in Subsection (2) and from which local, state, and federal agencies the information may be obtained;

(b) determine the cost of any research or data collection that is necessary to complete the report described in Subsection (2);

(c) make recommendations for legislation, if any, that is necessary to facilitate the research or data collection described in Subsection (3)(b), including recommendations for legislation to assist with information sharing between local, state, federal, and private entities and the [division] department; and

(d) report the findings described in Subsections (3)(a) through (c) to the Health and Human Services Interim Committee.

(4) The department may contract with another state agency, private entity, or research institution to assist the [division] department with the report described in Subsection (2).

**Section 10. Section 26-15b-102 is amended to read:**

**26-15b-102. Definitions.**

As used in this chapter:

(1) "Agricultural tourism activity" means the same as that term is defined in Section 78B-4-512.

(2) "Agritourism" means the same as that term is defined in Section 78B-4-512.

(3) "Agritourism food establishment" means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an agricultural tourism activity.

(4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the [purposes] purpose of operating an agritourism food establishment.

(5) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(6) "Food" means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

(7) "Local health department" means the same as that term is defined in Section 26A-1-102.

(8) "Operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.

(9) "Time/temperature control food" means food that requires time/temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

**Section 11. Section 26-15b-105 is amended to read:**

**26-15b-105. Permit requirements -- Inspections.**

(1) A farm may qualify for an agritourism food establishment permit if:

(a) poultry products that are served at the agritourism food establishment are slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

(b) meat not described in Subsection (1)(a) that is served at the agritourism food establishment is slaughtered and processed in compliance with the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

(c) a kitchen facility used to prepare food for the agritourism food establishment meets the requirements established by the department;

(d) the farm operates the agritourism food establishment for no more than 14 consecutive days at a time; and

(e) the farm complies with the requirements of this section.

(2) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for agritourism food establishments.

(3) A local health department shall:

(a) ensure compliance with the rules described in Subsection (2) when inspecting a kitchen facility;

(b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that requests an agritourism food establishment permit only:

(i) for an initial inspection, no more than one week before the agritourism food establishment is scheduled to begin operation;

(ii) for an unscheduled inspection:

(A) of an event scheduled to last no more than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation; or

(B) of an event scheduled to last longer than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation, or conducts the inspection during operating hours of the agritourism food establishment; or

(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice about an inspection; or

(B) the local health department has a valid reason to suspect that the agritourism food establishment is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and

(c) document the reason for any inspection after the permitting inspection, keep a copy of that documentation on file with the agritourism food establishment's permit, and provide a copy of that documentation to the operator.

(4) An agritourism food establishment shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles; and

(b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

(i) symptoms associated with acute gastrointestinal illness; or

(ii) a communicable disease that is transmissible through food.

(5) When making the rules described in Subsection (2), the department may not make rules regarding:

(a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located;

(b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

(c) the individuals allowed access to the food preparation areas, food storage, and washing areas, except during food preparation;

(d) display guards, covers, or containers for display foods, except to require that any food on display that is not protected from the direct line of a consumer's mouth by an effective means is not served or sold to any subsequent consumer;

(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) reuse by an individual of drinking cups and tableware for multiple portions;

(g) utensils and equipment, except to require that utensils and equipment used in the home kitchen:

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(h) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;

(i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(j) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

(k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(l) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time/temperature control food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

(m) fixed floor-mounted and table-mounted equipment except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

(n) dedicated laundry facilities, except to require that linens used for the agritourism food establishment are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;

(o) water, plumbing, drainage, and waste, except to require that sinks be supplied with hot water;

(p) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;

(q) lighting, except to require that food [preparations] preparation areas are well lit by natural or artificial light whenever food is being prepared;

(r) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;

(s) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas during food service and food preparation;

(t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

(u) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;

(v) submission of plans and specifications before construction or remodel of a kitchen facility;

(w) the number and type of time/temperature controlled food offered for sale;

(x) approved food sources, except those required by 9 C.F.R. 303.1;

(y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

(z) food safety certification, except any individual who is involved in the preparation, storage, or service of food in the agritourism food establishment shall hold a food handler permit as defined in Section 26-15-5.

(6) An operator applying for an agritourism food establishment permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the agritourism food establishment; and

(b) written standard operating procedures that include:

(i) all food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining time/temperature controlled food at the appropriate temperatures for each time/temperature controlled food.

(7) In addition to a fee charged under Section 26-15b-103, if the local health department is required to inspect the farm as a source of an

adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the farm has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the farm a fee for that inspection.

(8) An agritourism food establishment permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

(c) is restricted to the location listed on the permit; and

(d) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.

(9) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

**Section 12. Section 26-18-3.8 is amended to read:**

**26-18-3.8. Maximizing use of premium assistance programs -- Utah's Premium Partnership for Health Insurance.**

(1) (a) The department shall seek to maximize the use of Medicaid and Children's Health Insurance Program funds for assistance in the purchase of private health insurance coverage for Medicaid-eligible and non-Medicaid-eligible individuals.

(b) The department's efforts to expand the use of premium assistance shall:

(i) include, as necessary, seeking federal approval under all Medicaid and Children's Health Insurance Program premium assistance provisions of federal law, including provisions of the Patient Protection and Affordable Care Act, Public Law 111-148;

(ii) give priority to, but not be limited to, expanding the state's Utah Premium Partnership for Health Insurance Program, including as required under Subsection (2); and

(iii) encourage the enrollment of all individuals within a household in the same plan, where possible, including enrollment in a plan that allows individuals within the household transitioning out of Medicaid to retain the same network and benefits they had while enrolled in Medicaid.

(2) The department shall seek federal approval of an amendment to the state's Utah Premium Partnership for Health Insurance program to adjust the eligibility determination for single adults and parents who have an offer of employer sponsored insurance. The amendment shall:

(a) be within existing appropriations for the Utah Premium Partnership for Health Insurance program; and

(b) provide that adults who are up to 200% of the federal poverty level are eligible for premium

subsidies in the Utah Premium Partnership for Health Insurance program.

(3) For fiscal year [~~2021-22~~] 2020-21, the department shall seek authority to increase the maximum premium subsidy per month for adults under the Utah Premium Partnership for Health Insurance program to \$300.

(4) Beginning with fiscal year 2021-22, and in each subsequent year, the department may increase premium subsidies for single adults and parents who have an offer of employer-sponsored insurance to keep pace with the increase in insurance premium costs subject to appropriation of additional funding.

**Section 13. Section 26-18-3.9 is amended to read:**

**26-18-3.9. Expanding the Medicaid program.**

(1) As used in this section:

(a) "CMS" means the Centers for Medicare and Medicaid Services in the United States Department of Health and Human Services.

(b) "Federal poverty level" means the same as that term is defined in Section 26-18-411.

(c) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.

(d) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section 26-36b-208.

(2) (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid program shall be expanded to cover additional low-income individuals.

(b) The department shall continue to seek approval from CMS to implement the Medicaid waiver expansion as defined in Section 26-18-415.

(c) The department may implement any provision described in Subsections 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval from CMS to implement that provision.

(3) The department shall expand the Medicaid program in accordance with this Subsection (3) if the department:

(a) receives approval from CMS to:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for enrolling an individual in the Medicaid expansion under this Subsection (3); and

(iii) permit the state to close enrollment in the Medicaid expansion under this Subsection (3) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (3);

(b) pays the state portion of costs for the Medicaid expansion under this Subsection (3) with funds from:

- (i) the Medicaid Expansion Fund;
- (ii) county contributions to the nonfederal share of Medicaid expenditures; or
- (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(c) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (3) if the department projects that the cost of the Medicaid expansion under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4) (a) The department shall expand the Medicaid program in accordance with this Subsection (4) if the department:

- (i) receives approval from CMS to:

(A) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid expansion under this Subsection (4); and

(C) permit the state to close enrollment in the Medicaid expansion under this Subsection (4) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (4);

(ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4) with funds from:

- (A) the Medicaid Expansion Fund;
- (B) county contributions to the nonfederal share of Medicaid expenditures; or
- (C) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(iii) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (4) if the department projects that the cost of the Medicaid expansion under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(b) The department shall submit a waiver, an amendment to an existing waiver, or a state plan amendment to CMS to:

(i) administer federal funds for the Medicaid expansion under this Subsection (4) according to a per capita cap developed by the department that

includes an annual inflationary adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees, and provides greater flexibility to the state than the current Medicaid payment model;

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (4);

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (4) violates certain program requirements as defined by the department;

(iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to remain in the Medicaid program for up to a 12-month certification period as defined by the department; and

(v) allow federal Medicaid funds to be used for housing support for eligible enrollees in the Medicaid expansion under this Subsection (4).

(5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop proposals to implement additional flexibilities and cost controls, including cost sharing tools, within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver or state plan amendment.

(ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i) shall include:

(A) a path to self-sufficiency for qualified adults in the Medicaid expansion that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and

(B) a requirement that an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan.

(iii) The department shall submit the request for a waiver or state plan amendment developed under Subsection (5)(a)(i) on or before March 15, 2020.

(b) Notwithstanding Sections 26-18-18 and 63J-5-204, and in accordance with this Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in the optional Medicaid expansion population under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance, on the earlier of:

(i) the day on which CMS approves a waiver to implement the provisions described in Subsections (5)(a)(ii)(A) and (B); or

(ii) July 1, 2020.

(c) The department shall seek a waiver, or an amendment to an existing waiver, from federal law to:



(i) implement each provision described in Subsections 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion under this Subsection (5);

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (5); and

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (5) violates certain program requirements as defined by the department.

(d) The eligibility criteria in this Subsection (5) shall be construed to include all individuals eligible for the health coverage improvement program under Section 26-18-411.

(e) The department shall pay the state portion of costs for a Medicaid expansion under this Subsection (5) entirely from:

(i) the Medicaid Expansion Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures.

(f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds available under Subsection (5)(e):

(i) the department may reduce or eliminate optional Medicaid services under this chapter; and

(ii) savings, as determined by the department, from the reduction or elimination of optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid Expansion Fund; and

(iii) the department may submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary to implement budget controls within the Medicaid program to address the deficiency.

(g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the department to exceed the funds available in the current fiscal year under Subsection (5)(e), including savings resulting from any action taken under Subsection (5)(f):

(i) the governor shall direct the Department of Health, Department of Human Services, and Department of Workforce Services to reduce commitments and expenditures by an amount sufficient to offset the deficiency:

(A) proportionate to the share of total current fiscal year General Fund appropriations for each of those agencies; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations;

(ii) the Division of Finance shall reduce allotments to the Department of Health, Department of Human Services, and Department of Workforce Services by a percentage:

(A) proportionate to the amount of the deficiency; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations; and

(iii) the Division of Finance shall deposit the total amount from the reduced allotments described in Subsection (5)(g)(ii) into the Medicaid Expansion Fund.

(6) The department shall maximize federal financial participation in implementing this section, including by seeking to obtain any necessary federal approvals or waivers.

(7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under a Medicaid expansion.

(8) The department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that a Medicaid expansion is operational:

(a) the number of individuals who enrolled in the Medicaid expansion;

(b) costs to the state for the Medicaid expansion;

(c) estimated costs to the state for the Medicaid expansion for the current and following fiscal years;

(d) recommendations to control costs of the Medicaid expansion; and

(e) as calculated in accordance with Subsections 26-36b-204(4) and 26-36c-204(2), the state's net cost of the qualified Medicaid expansion.

**Section 14. Section 26-18-408 is amended to read:**

**26-18-408. Incentives to appropriately use emergency department services.**

(1) (a) This section applies to the Medicaid program and to the Utah Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

(b) As used in this section:

(i) "Managed care organization" means a comprehensive full risk managed care delivery system that contracts with the Medicaid program or the Children's Health Insurance Program to deliver health care through a managed care plan.

(ii) "Managed care plan" means a risk-based delivery service model authorized by Section 26-18-405 and administered by a managed care organization.

(iii) "Non-emergent care":

(A) means use of the emergency department to receive health care that is non-emergent as defined by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the Emergency Medical Treatment and Active Labor Act; and

(B) does not mean the medical services provided to an individual required by the Emergency Medical Treatment and Active Labor Act, including services to conduct a medical screening examination to determine if the recipient has an emergent or non-emergent condition.

(iv) “Professional compensation” means payment made for services rendered to a Medicaid recipient by an individual licensed to provide health care services.

(v) “Super-utilizer” means a Medicaid recipient who has been identified by the recipient’s managed care organization as a person who uses the emergency department excessively, as defined by the managed care organization.

(2) (a) A managed care organization may, in accordance with Subsections (2)(b) and (c):

(i) audit emergency department services provided to a recipient enrolled in the managed care plan to determine if non-emergent care was provided to the recipient; and

(ii) establish differential payment for emergent and non-emergent care provided in an emergency department.

(b) (i) The differential payments under Subsection (2)(a)(ii) do not apply to professional compensation for services rendered in an emergency department.

(ii) Except in cases of suspected fraud, waste, and abuse, a managed care organization’s audit of payment under Subsection (2)(a)(i) is limited to the 18-month period of time after the date on which the medical services were provided to the recipient. If fraud, waste, or abuse is alleged, the managed care organization’s audit of payment under Subsection (2)(a)(i) is limited to three years after the date on which the medical services were provided to the recipient.

(c) The audits and differential payments under Subsections (2)(a) and (b) apply to services provided to a recipient on or after July 1, 2015.

(3) A managed care organization shall:

(a) use the savings under Subsection (2) to maintain and improve access to primary care and urgent care services for all Medicaid or CHIP recipients enrolled in the managed care plan;

(b) provide viable alternatives for increasing primary care provider reimbursement rates to incentivize after hours primary care access for recipients; and

(c) report to the department on how the managed care organization complied with this Subsection (3).

(4) The department may:

(a) through administrative rule adopted by the department, develop quality measurements that evaluate a managed care organization’s delivery of:

(i) appropriate emergency department services to recipients enrolled in the managed care plan;

(ii) expanded primary care and urgent care for recipients enrolled in the managed care plan, with consideration of the managed care organization’s:

(A) delivery of primary care, urgent care, and after hours care through means other than the emergency department;

(B) recipient access to primary care providers and community health centers including evening and weekend access; and

(C) other innovations for expanding access to primary care; and

(iii) quality of care for the managed care plan members;

(b) compare the quality measures developed under Subsection (4)(a) for each managed care organization; and

(c) develop, by administrative rule, an algorithm to determine assignment of new, unassigned recipients to specific managed care plans based on the plan’s performance in relation to the quality measures developed pursuant to Subsection (4)(a).

**Section 15. Section 26-21-34 is amended to read:**

**26-21-34. Treatment of miscarried remains.**

(1) As used in this section, “miscarried fetus” means a product of human conception, regardless of gestational age, that has died from a spontaneous or accidental death before expulsion or extraction from the mother, regardless of the duration of the pregnancy.

(2) (a) A health care facility having possession of a miscarried fetus shall provide for the final disposition of the miscarried fetus through:

(i) cremation as that term is defined in Section 58-9-102; or

(ii) interment.

(b) A health care facility may not conduct the final disposition of a miscarried fetus less than 72 hours after a woman has her miscarried fetus expelled or extracted in the health care facility unless:

(i) the parent authorizes the health care facility, in writing, to conduct the final disposition of the miscarried fetus less than 72 hours after the miscarriage occurs; or

(ii) immediate disposition is required under state or federal law.

(c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102 with respect to the final disposition of a miscarried fetus if:

(i) the parent provides written authorization for the health care facility to act as the authorizing agent; or

(ii) (A) more than 72 hours have passed since the miscarriage occurs; and

(B) the parent did not exercise their right to control the final disposition of the miscarried fetus under Subsection (4)(a).

(d) Within 120 business days after the day on which a miscarriage occurs, a health care facility possessing miscarried remains shall:

(i) conduct the final disposition of the miscarried remains in accordance with this section; or

(ii) ensure that the miscarried remains are preserved until final disposition.

(e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law.

(3) (a) No more than 24 hours after a woman has her miscarried fetus expelled or extracted in a health care facility, the health care facility shall provide information to the parent or parents of the miscarried fetus regarding:

(i) the parents' right to determine the final disposition of the miscarried fetus;

(ii) the available options for disposition of the miscarried fetus; and

(iii) counseling that may be available concerning the death of the miscarried fetus.

(b) A health care facility shall:

(i) provide the information described in Subsection (3)(a) through:

(A) a form approved by the department;

(B) an in-person consultation with a physician; or

(C) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and

(ii) if the parent or parents make a decision under Subsection (4)(b), document the parent's decision under Subsection (4)(b) in the parent's medical record.

(4) The parents of a miscarried fetus:

(a) have the right to control the final disposition of the miscarried fetus;

(b) if the parents have a preference for disposition of the miscarried fetus, shall inform the health care facility of the parents' decision for final disposition of the miscarried fetus; and

(c) are responsible for the costs related to the final disposition of the miscarried fetus at the chosen location if the parents choose a method or location for the final disposition of the miscarried fetus that is different from the method or location that is usual and customary for the health care facility.

(5) The form described in Subsection (3)(b)(i) shall include the following information:

"You have the right to decide what you would like to do with the miscarried fetus. You may decide for the provider to be responsible for disposition of the fetus. The provider may dispose of the miscarried fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition."

(6) (a) A health care facility may not include a miscarried fetus with other biological, infectious, or pathological waste.

(b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section.

(c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section.

(ii) The records described in Subsection (6)(c)(i) shall be:

(A) maintained for at least two years; and

(B) made available to the department for inspection upon request by the department.

**Section 16. Section 26-67-102 is amended to read:**

**26-67-102. Definitions.**

As used in this chapter:

(1) "Adult Autism Treatment Account" means the Adult Autism Treatment Account created in Section ~~26-67-204~~ 26-67-205.

(2) "Advisory committee" means the Adult Autism Treatment Program Advisory Committee created in Section 26-1-7.

(3) "Applied behavior analysis" means the same as that term is defined in Section 31A-22-642.

(4) "Autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.

(5) "Program" means the Adult Autism Treatment Program created in Section 26-67-201.

(6) "Qualified individual" means an individual who:

(a) is at least 22 years ~~of age~~ old;

(b) is a resident of the state;

(c) has been diagnosed by a qualified professional as having:

(i) an autism spectrum disorder; or

(ii) another neurodevelopmental disorder requiring significant supports through treatment using applied behavior analysis; and

(d) needs significant supports for a condition described in Subsection (6)(c), as demonstrated by formal assessments of the individual's:

(i) cognitive ability;

(ii) adaptive ability;

(iii) behavior; and

(iv) communication ability.

(7) "Qualified provider" means a provider that is qualified under Section 26-67-202 to provide services for the program.

**Section 17. Section 26-67-204 is amended to read:**

**26-67-204. Department rulemaking.**

The department, in collaboration with the advisory committee, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) specify assessment tools and outcomes that a qualified provider may use to determine the types of supports that a qualified [individuals] individual needs;

(2) define evidence-based treatments that a qualified individual may pay for with grant funding;

(3) establish criteria for awarding a grant under this chapter;

(4) specify the information that an individual shall submit to demonstrate that the individual is a qualified individual;

(5) specify the information a provider shall submit to demonstrate that the provider is a qualified provider; and

(6) specify the content and timing of reports required from a qualified provider, including a report on actual and projected treatment outcomes for a qualified individual.

**Section 18. Section 31A-22-626.5 is amended to read:**

**31A-22-626.5. Affordable insulin study.**

(1) As used in this section, "insulin" means a prescription drug that contains insulin.

(2) The department shall obtain funding through grants to fund a study on insulin costs.

(3) If the department obtains the funding described in Subsection (2), the department shall, on or before October 30, 2020, complete a study on the cost of insulin manufacturing and factors that determine the price of insulin.

(4) The department shall use public, readily available data accessible to the department to conduct the study described in Subsection (3).

(5) The study described in Subsection (3) shall investigate:

(a) current and historical trend information about the wholesale acquisition cost of insulin;

(b) the cost to produce insulin;

(c) explanations for increases in insulin costs;

(d) expenditures of drug manufacturers in marketing insulin;

(e) manufacturers' net profits from insulin;

(f) the portion of [a] drug manufacturers' total net profits that is composed of insulin net profits;

(g) financial assistance currently available to individuals who use insulin through patient prescription assistance programs;

(h) value to individuals who use insulin benefits including:

(i) coupons provided directly to individuals who use insulin; and

(ii) programs to assist individuals who use insulin in paying co-payments and coinsurance;

(i) costs to drug manufacturers of the programs described in Subsection (5)(h);

(j) total value of benefits manufacturers provide in the form of rebates for insulin to health plans or pharmacy benefit managers in Utah; and

(k) additional information that the department determines will aid the Legislature in developing policy to reduce insulin prices in Utah.

(6) (a) On or before October 30, 2020, the department shall submit a final report on the study described in Subsection (3) to the Health and Human Services Interim Committee and the Business and Labor Interim Committee.

(b) The department's report may include recommendations on legislation for:

(i) increased drug pricing transparency; and

(ii) programs that would meaningfully reduce the cost of insulin.

(c) The final report shall include references to all sources of information and data used in the report and study, except the department may not disclose information that is proprietary or protected under state law or federal law or regulation.

**Section 19. Section 32B-1-102 is amended to read:**

**32B-1-102. Definitions.**

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; or

(vi) an arena;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has

common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

(a) stored; or

(b) dispensed.

(10) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(11) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(12) (a) Subject to Subsection [(40)] (12)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by volume or 4% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Beer" may or may not contain hops or other vegetable products.

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (12)(a); and

(ii) is referred to as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager; or

(F) a malt or malted beverage.

(d) "Beer" does not include a flavored malt beverage.

(13) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(14) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(15) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(16) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(17) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(18) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(19) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(21) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(22) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

(23) "Commissioner" means a member of the commission.

(24) "Community location" means:

(a) a public or private school;

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(25) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(26) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(27) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(28) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(29) "Crime involving moral turpitude" is as defined by the commission by rule.

(30) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

(31) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(34) “Director,” unless the context requires otherwise, means the director of the department.

(35) “Disciplinary proceeding” means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(36) (a) Subject to Subsection (36)(b), “dispense” means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of “dispense” in this Subsection (36) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license; and

(iv) a beer-only restaurant license.

(37) “Dispensing structure” means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(38) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(39) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(40) “Equity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(41) “Event permit” means:

(a) a single event permit; or

(b) a temporary beer event permit.

(42) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(43) (a) “Flavored malt beverage” means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and

(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) “Flavored malt beverage” is considered liquor for purposes of this title.

(44) “Fraternal license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(45) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(46) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) “Furnish” includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(47) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).

(48) “Hard cider” means the same as that term is defined in 26 U.S.C. Sec. 5041.

(49) “Health care practitioner” means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(50) (a) "Heavy beer" means a product that:

(i) contains more than 5% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(51) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(52) "Hotel" means a commercial lodging establishment that:

(a) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(b) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(c) (i) has adequate kitchen or culinary facilities on the premises to provide complete meals; or

(ii) (A) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract and can accommodate at least 75 individuals; or

(B) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(53) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(54) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(55) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(56) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(58) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections (58)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(59) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(60) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(d) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(f) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(61) "Licensee" means a person who holds a license.

(62) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(63) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(64) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;



(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(65) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(66) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(67) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(68) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section [63H-1-201] 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(69) "Lounge or bar area" is as defined by rule made by the commission.

(70) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(71) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(72) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(73) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

(74) "Minor" means an individual under the age of 21 years.

(75) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

(76) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(77) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(78) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

(79) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(80) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(81) "Opaque" means impenetrable to sight.

(82) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(83) "Package agent" means a person who holds a package agency.

(84) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(85) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

(86) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(87) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (87)(a) through (f); or

(ii) a package agent.

(88) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(89) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(90) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(91) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

(92) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(93) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

(94) (a) "Proof of age" means:

- (i) an identification card;
- (ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(95) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer license;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant

license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a resort spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

(96) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(97) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(98) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (98)(a) to a third party for the third party's event.

(99) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(100) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(101) "Residence" means a person's principal place of abode within Utah.

(102) “Resident,” in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(103) “Resort” means the same as that term is defined in Section 32B-8-102.

(104) “Resort facility” is as defined by the commission by rule.

(105) “Resort spa sublicense” means a resort license sublicense issued in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

(106) “Resort license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(107) “Responsible alcohol service plan” means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(108) “Restaurant” means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(109) “Restaurant license” means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(110) “Retail license” means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(111) “Room service” means furnishing an alcoholic product to a person in a guest room of a:

(a) hotel; or

(b) resort facility.

(112) (a) “School” means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) “School” does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool; or

(v) a home school.

(113) “Secondary flavoring ingredient” means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(114) “Sell” or “offer for sale” means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(115) “Serve” means to place an alcoholic product before an individual.

(116) “Sexually oriented entertainer” means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (116)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(117) “Shared seating area” means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(118) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(119) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

(120) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

(121) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(122) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(123) "Sports center" is as defined by the commission by rule.

(124) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(125) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(126) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(127) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(128) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(129) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a resort spa sublicense.

(130) "Supplier" means a person who sells an alcoholic product to the department.

(131) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and

Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(132) “Temporary beer event permit” means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(133) “Temporary domicile” means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(134) “Translucent” means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(135) “Unsaleable liquor merchandise” means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(136) (a) “Wine” means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) “Wine” includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) “Wine” is considered liquor for purposes of this title, except as otherwise provided in this title.

(137) “Winery manufacturing license” means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

**Section 20. Section 41-6a-904 is amended to read:**

**41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary emergency vehicle -- Duties of respective operators.**

(1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon the immediate approach of an authorized emergency vehicle using audible or visual signals under Section 41-6a-212 or 41-6a-1625, shall:

(a) yield the right-of-way and immediately move to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway, clear of any intersection; and

(b) then stop and remain stopped until the authorized emergency vehicle has passed.

(2) (a) The operator of a vehicle, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:

(i) reduce the speed of the vehicle;

(ii) provide as much space as practical to the stationary authorized emergency vehicle; and

(iii) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if practical, with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the authorized emergency vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, the requirements in Subsection (2)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the authorized emergency vehicle.

(3) (a) The operator of a vehicle, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall:

(i) reduce the speed of the vehicle;

(ii) provide as much space as practical to the stationary tow truck or highway maintenance vehicle; and

(iii) if traveling in a lane adjacent to the stationary tow truck or highway maintenance vehicle, if practical and with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the tow truck or highway maintenance vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary tow truck

or highway maintenance vehicle that is displaying flashing amber lights, the requirements in Subsection (3)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the tow truck or highway maintenance vehicle.

(4) When an authorized emergency vehicle is using audible or visual signals under Section 41-6a-212 or 41-6a-1625, the operator of a vehicle may not:

(a) follow closer than 500 feet behind the authorized emergency vehicle;

(b) pass the authorized emergency vehicle, if the authorized emergency vehicle is moving; or

(c) stop the vehicle within 500 feet of a fire apparatus which has stopped in answer to a fire alarm.

(5) This section does not relieve the operator of an authorized emergency vehicle, tow truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all persons using the highway.

(6) (a) (i) In addition to the penalties prescribed under Subsection (8), a person who violates this section shall attend a four hour live classroom defensive driving course approved by:

(A) the Driver License Division; or

(B) a court in this state.

(ii) Upon completion of the four hour live classroom course under Subsection (6)(a)(i), the person shall provide to the Driver License Division a certificate of attendance of the classroom course.

(b) The Driver License Division shall suspend a person's driver license for a period of 90 days if the person:

(i) violates a provision of Subsections (1) through (3); and

(ii) fails to meet the requirements of Subsection (6)(a)(i) within 90 days of sentencing for or pleading guilty to a violation of this section.

(c) Notwithstanding the provisions of Subsection (6)(b), the Driver License Division shall shorten the 90-day suspension period imposed under Subsection (6)(b) effective immediately upon receiving a certificate of attendance of the four hour live classroom course required under Subsection (6)(a)(i) if the certificate of attendance is received before the completion of the suspension period.

(d) A person whose license is suspended under Subsection (6)(b) and a person whose suspension is shortened as described under Subsection (6)(c) shall pay the license reinstatement fees under Subsection 53-3-105(26).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Driver License Division shall make rules to implement the provisions of this part.

(8) A violation of Subsection (1), (2), ~~(3)~~, or (4) is an infraction.

**Section 21. Section 54-3-8 is amended to read:**

**54-3-8. Preferences forbidden -- Power of commission to determine facts -- Applicability of section.**

(1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility may not:

(a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; and

(b) establish or maintain any unreasonable difference as to rates, charges, service or facilities, or in any other respect, either as between localities or as between classes of service.

(2) The commission shall have power to determine any question of fact arising under this section.

(3) This section does not apply to, and the commission may not enforce this chapter concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection 54-2-1(8)(b)(iii) or (iv), (20), or (22)~~(h)~~(h), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

**Section 22. Section 58-4a-107 is amended to read:**

**58-4a-107. Violation of a program contract -- Adjudicative proceedings -- Penalties.**

(1) The division shall serve an order to show cause on the licensee if the licensee:

(a) violates any term or condition of the program contract or diversion agreement;

(b) makes an intentional, material misrepresentation of fact in the program contract or diversion agreement; or

(c) violates any rule or law governing the licensee's profession.

(2) The order to show cause described in Subsection (1) shall:

(a) describe the alleged misconduct;

(b) set a time and place for a hearing before an administrative law judge to determine whether the licensee's program contract should be terminated; and

(c) contain all of the information required by a notice of agency action in Subsection 63G-4-201(2).

(3) Proceedings to terminate a program contract shall comply with the rules for a formal proceeding

described in Title 63G, Chapter 4, Administrative Procedures Act, except the notice of agency action shall be in the form of the order to show cause described in Subsection (2).

(4) In accordance with Subsection 63G-4-205(1), the division shall make rules for discovery adequate to permit all parties to obtain all relevant information necessary to support their claims or defenses.

(5) During a proceeding to terminate a program contract, the licensee, the licensee's legal representative, and the division shall have access to information contained in the division's program file as permitted by law.

(6) The director shall terminate the program contract and place the licensee on probation for a period of five years, with probationary terms matching the terms of the program contract, if, during the administrative proceedings described in Subsection (3), the administrative law judge finds that the licensee has:

- (a) violated the program contract;
  - (b) made an intentional material misrepresentation of fact in the program contract; or
  - (c) violated a law or rule governing the licensee's profession.
- (7) If, during the proceedings described in Subsection (3), the administrative law judge finds that the licensee has engaged in especially egregious misconduct, the director may revoke the licensee's license.

(8) A licensee who is terminated from the program may have disciplinary action taken under Title 58, Chapter 1, Part 4, License Denial, for misconduct committed before, during, or after the licensee's participation in the program.

**Section 23. Section 58-17b-1004 (Effective 07/01/20) is amended to read:**

**58-17b-1004 (Effective 07/01/20).**

**Authorization to dispense an epinephrine auto-injector and stock albuterol pursuant to a standing order.**

(1) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy intern may dispense an epinephrine auto-injector:

- (a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency Response for Life-threatening Conditions; or
- (ii) to a qualified epinephrine auto-injector entity for use in accordance with Title 26, Chapter 41, Emergency Response for Life-threatening Conditions;

(b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;

(c) without any other prescription drug order from a person licensed to prescribe an epinephrine auto-injector; and

(d) in accordance with the dispensing guidelines in Section 58-17b-1006.

(2) Notwithstanding any other provision of this chapter, a pharmacist or ~~[pharmacist]~~ pharmacy intern may dispense stock albuterol:

- (a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency Response for Life-threatening Conditions; or
- (ii) to a qualified stock albuterol entity for use in accordance with Title 26, Chapter 41, Emergency Response for Life-threatening Conditions;
- (b) pursuant to a standing prescription drug order made in accordance with Section 58-17b-1005;
- (c) without any other prescription drug order from a person licensed to prescribe stock albuterol; and
- (d) in accordance with the dispensing guidelines in Section 58-17b-1006.

**Section 24. Section 58-17b-1005 (Effective 07/01/20) is amended to read:**

**58-17b-1005 (Effective 07/01/20). Standing prescription drug orders for epinephrine auto-injectors and stock albuterol.**

(1) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of an epinephrine auto-injector under Section 58-17b-1004 in accordance with a protocol that:

- (a) requires the physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;
- (b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the epinephrine auto-injector;

(c) requires those authorized by the physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:

- (i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;
- (ii) a description of the epinephrine auto-injector dispensed; and
- (iii) other relevant information; and

(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

(2) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of ~~[the]~~ stock albuterol



under Section 58-17b-1004 in accordance with a protocol that:

(a) requires the physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;

(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the stock albuterol;

(c) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:

(i) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;

(ii) a description of the stock albuterol dispensed; and

(iii) other relevant information; and

(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the board.

**Section 25. Section 58-31b-502 is amended to read:**

**58-31b-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

(o) violating Section 58-31b-801;

(p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; ~~and~~

(q) establishing or operating a pain clinic without a consultation and referral plan for Schedule II or III controlled substances; or

(r) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (q) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

**Section 26. Section 58-55-503 is amended to read:**

**58-55-503. Penalty for unlawful conduct -- Citations.**

(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

(3) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

(4) (a) (i) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person

according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(e), (18), [19], (20), (21), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2).

(iii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(f) The failure of an applicant for licensure to comply with a citation after the citation becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

(B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000; and

(C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(ii) Except as provided in Subsection (5), if a person violates Subsection 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

(B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$4,000; and

(C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$4,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2); or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection 58-55-504(2); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24) for each individual is considered a separate violation.

(5) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

(6) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

(7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

**Section 27. Section 58-60-405 is amended to read:**

**58-60-405. Qualifications for licensure.**

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(d)(i);

(d) have completed a minimum of 4,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;

(iii) obtained after completion of the education requirement in Subsection (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 4,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule; and

(f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a), (b), and (c).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of two years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

(3) (a) Notwithstanding Subsection (1)(d), an applicant [satisfied] satisfies the education requirement described in Subsection (1)(d) if the applicant submits documentation verifying:

(i) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(ii) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(d)(i); and

(iii) that the applicant received a passing score that is valid and in good standing on:

(A) the National Counselor Examination; and

(B) the National Clinical Mental Health Counseling Examination.

(b) During the 2021 interim, the division shall report to the Occupational and Professional Licensure Review Committee created in Section 36-23-102 on:

(i) the number of applicants who applied for licensure under this Subsection (3);

(ii) the number of applicants who were approved for licensure under this Subsection (3);

(iii) any changes to division rule after May 12, 2020, regarding the qualifications for licensure under this section; and

(iv) recommendations for legislation or other action that the division considers necessary to carry out the provisions of this Subsection (3).

**Section 28. Section 59-2-1101 (Effective 01/01/21) is amended to read:**

**59-2-1101 (Effective 01/01/21). Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.**

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in *Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc.*, 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United

States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(b)(ii).

(c) “Exclusive use exemption” means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

- (i) religious purposes;
- (ii) charitable purposes; or
- (iii) educational purposes.

(d) (i) “Farm machinery and equipment” means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) “Farm machinery and equipment” does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(e) “Gift to the community” means:

- (i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

(f) “Government exemption” means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(g) (i) “Nonprofit entity” means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity’s property to the entity’s nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity’s assets are distributable only for exempt purposes under state law or to the government for a public purpose;

(C) that does not receive income from any source, including gifts, donations, or payments from recipients of products or services, that produces a profit to the entity in the sense that the income exceeds operating and long-term maintenance expenses; and

(D) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) “Nonprofit entity” includes an entity:

~~(A) if the entity is:~~

~~(I) (A) if the entity is treated as a disregarded entity for federal income tax purposes; and (II) and wholly owned by, and controlled under the direction of, a nonprofit entity; and~~

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

(h) “Tax relief” means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(9) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

**Section 29. Section 63G-2-302 is amended to read:**

**63G-2-302. Private records.**

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

- (d) records received by or generated by or for:
- (i) the Independent Legislative Ethics Commission, except for:
- (A) the commission's summary data report that is required under legislative rule; and
- (B) any other document that is classified as public under legislative rule; or
- (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;
- (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;
- (f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:
- (i) if, prior to the meeting, the chair of the committee determines release of the records:
- (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or
- (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and
- (ii) after the meeting, if the meeting was closed to the public;
- (g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;
- (h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;
- (i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- (j) that part of a voter registration record identifying a voter's:
- (i) driver license or identification card number;
- (ii) social security number, or last four digits of the social security number;
- (iii) email address; or
- (iv) date of birth;
- (k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);
- (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;
- (n) a record that:
- (i) contains information about an individual;
- (ii) is voluntarily provided by the individual; and
- (iii) goes into an electronic database that:
- (A) is designated by and administered under the authority of the Chief Information Officer; and
- (B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;
- (o) information provided to the Commissioner of Insurance under:
- (i) Subsection 31A-23a-115(3)(a);
- (ii) Subsection 31A-23a-302(4); or
- (iii) Subsection 31A-26-210(4);
- (p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- (q) information provided by an offender that is:
- (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
- (ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);
- (r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
- (s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;
- (t) an email address provided by a military or overseas voter under Section 20A-16-501;
- (u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- (v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:
- (i) the commission's summary data report that is required in Section 63A-15-202; and
- (ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) the following portions of a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method; and

(aa) a record concerning an individual's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in

writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

**Section 30. Section 63G-7-701 is amended to read:**

**63G-7-701. Payment of claim or judgment against state -- Presentment for payment.**

(1) Each claim~~, as defined by Subsection 63G-7-102(1),~~ that is approved by the state or any final judgment obtained against the state shall be presented for payment to:

(a) the state risk manager; or

(b) the office, agency, institution, or other instrumentality involved, if payment by that instrumentality is otherwise permitted by law.



(2) If payment of the claim is not authorized by law, the judgment or claim shall be presented to the board of examiners for action as provided in Section 63G-9-301.

(3) If a judgment against the state is reduced by the operation of Section 63G-7-604, the claimant may submit the excess claim to the board of examiners.

**Section 31. Section 63I-2-215 is amended to read:**

**63I-2-215. Repeal dates -- Title 15A.**

[Subsection 15A-1-203(13), which addresses mass timber products, is repealed December 31, 2019.]

**Section 32. Section 63J-1-602.1 (Effective 10/15/20) is amended to read:**

**63J-1-602.1 (Effective 10/15/20). List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section [11-42a-302] 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(10) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(11) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(12) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(13) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(14) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(15) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(16) The Technology Development Restricted Account created in Section 31A-3-104.

(17) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(18) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(19) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(20) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(21) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(22) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(23) The School Readiness Restricted Account created in Section 35A-15-203.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(26) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(27) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(28) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(29) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(30) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(31) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(33) The DNA Specimen Restricted Account created in Section 53-10-407.

(34) The Canine Body Armor Restricted Account created in Section 53-16-201.

(35) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(36) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(37) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(38) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(40) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(44) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(45) The Relative Value Study Restricted Account created in Section 59-9-105.

(46) The Cigarette Tax Restricted Account created in Section 59-14-204.

(47) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(48) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(49) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(50) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(51) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(52) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(53) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(54) The Immigration Act Restricted Account created in Section 63G-12-103.

(55) Money received by the military installation development authority, as provided in Section 63H-1-504.

(56) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(57) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(58) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(59) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(60) The Motion Picture Incentive Account created in Section 63N-8-103.

(61) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(62) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(63) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(64) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(65) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(66) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(67) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(68) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(69) Fees for certificate of admission created under Section 78A-9-102.

(70) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(71) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(72) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(73) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(74) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

**Section 33. Section 63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20) is amended to read: 63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20). List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section ~~[11-42a-302]~~ 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(8) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent

that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-15-203.

(22) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(23) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(24) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(27) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(29) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(31) The DNA Specimen Restricted Account created in Section 53-10-407.

(32) The Canine Body Armor Restricted Account created in Section 53-16-201.

(33) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(34) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(35) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(36) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(38) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(42) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(43) The Relative Value Study Restricted Account created in Section 59-9-105.

(44) The Cigarette Tax Restricted Account created in Section 59-14-204.

(45) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(46) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(47) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(48) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(49) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(50) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(51) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(52) The Immigration Act Restricted Account created in Section 63G-12-103.

(53) Money received by the military installation development authority, as provided in Section 63H-1-504.

(54) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(55) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(56) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(57) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(58) The Motion Picture Incentive Account created in Section 63N-8-103.

(59) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(60) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(61) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(62) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(63) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(64) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(65) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(66) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(67) Fees for certificate of admission created under Section 78A-9-102.

(68) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(69) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(70) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(71) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(72) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

**Section 34. Section 72-10-205.5 is amended to read:**

**72-10-205.5. Abandoned aircraft on airport property -- Seizure and disposal.**

(1) (a) As used in this section, "abandoned aircraft" means an aircraft that:

(i) remains in an idle state on airport property for 45 consecutive calendar days;

(ii) is in a wrecked, inoperative, derelict, or partially dismantled condition; and

(iii) is not in the process of actively being repaired.

(b) "Abandoned aircraft" does not include an aircraft:

(i) that has current FAA registration;

(ii) that has current state registration; or

(iii) for which evidence is shown indicating repairs are in process, including:

(A) receipts for parts and labor; or

(B) a statement from a mechanic making the repairs.

(2) An airport operator may take possession and dispose of an abandoned aircraft in accordance with Subsections (3) through (5).

(3) Upon determining that an aircraft located on airport property is abandoned, the airport operator shall:

(a) send, by registered mail, a notice containing the information described in Subsection (4) to the last known address of the last registered owner of the aircraft; and

(b) publish a notice containing the information described in Subsection (4) in a newspaper of general circulation in the county where the airport is located if:

(i) the owner or the address of the owner of the aircraft is unknown; or

(ii) the mailed notice is returned to the airport operator without a forwarding address.

(4) The notice described in Subsection (3) shall include:

(a) the name, if known, and the last known address, if any, of the last registered owner of the aircraft;

(b) a description of the aircraft, including the identification number, the location of the aircraft, and the date the aircraft is determined abandoned;

(c) a statement describing the specific grounds for the determination that the aircraft is abandoned;

(d) the amount of any accrued or unpaid airport charges; and

(e) a statement indicating that the airport operator intends to take possession and dispose of the aircraft if the owner of the aircraft fails to remove the aircraft from airport property, after payment in full of any charges described in Subsection (4)(d), within the later of:

(i) 30 days after the day on which the notice is sent in accordance with Subsection (3)(a); or

(ii) 30 days after the day on which the notice is published in accordance with Subsection (3)(b), if applicable.

(5) If the owner of the abandoned aircraft fails to remove the aircraft from airport property, after payment in full of any charges described in

Subsection (4)(d), within the time specified in Subsection (4)(e):

(a) the abandoned aircraft becomes the property of the airport operator; and

(b) the airport operator may dispose of the abandoned aircraft:

(i) in the manner provided in Title 63A, Chapter 2, Part 4, Surplus Property Service; or

(ii) in accordance with any other lawful method or procedure established by rule or ordinance adopted by the airport operator.

(6) If an airport operator complies with the provisions of this section, the airport operator is immune from liability for the seizure and disposal of an abandoned aircraft in accordance with this section.

**Section 35. Section 73-10g-202 is amended to read:**

**73-10g-202. Agricultural Water Optimization Task Force.**

(1) There is created the Agricultural Water Optimization Task Force, consisting of:

(a) the following voting members:

(i) one individual representing the Department of Agriculture and Food;

(ii) one individual representing the board or division;

(iii) one individual representing the Division of Water Rights;

(iv) one individual representing the Division of Water Quality;

(v) one individual representing the interests of the agriculture industry;

(vi) one individual representing environmental interests;

(vii) one individual representing water conservancy districts; and

(viii) three individuals whose primary source of income comes from the production of agricultural commodities; and

(b) one nonvoting member from the higher education community with a background in research.

(2) (a) The commissioner of the Department of Agriculture and Food shall appoint the members described in Subsections (1)(a)(i), (v), (vii), and (viii).

(b) The executive director of the Department of Natural Resources shall appoint the members described in Subsections (1)(a)(ii), (iii), and (vi).

(c) The governor shall appoint the members described in Subsections (1)(a)(iv) and (1)(b).

(3) The division shall provide administrative support to the task force.

(4) The task force shall select a chair from among its membership.

(5) Six voting members present constitutes a quorum of the task force. Action by a majority of voting members when a quorum is present is an action of the task force.

(6) Service on the task force is voluntary and a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

**Section 36. Section 73-31-202 is amended to read:**

**73-31-202. Statutory water bank application.**

(1) A record holder, other than the United States or an agency of the United States, of a perfected water right or a valid diligence claim may request approval for a proposed statutory water bank if the place of use and point of diversion for the applicant's water right are encompassed within the proposed service area of the proposed statutory water bank and the applicant files an application with the board that includes the following:

(a) the name of the statutory water bank;

(b) the mailing address for the statutory water bank;

(c) the type of legal entity recognized under Utah law that constitutes the statutory water bank;

(d) a proposed service area map for the statutory water bank;

(e) whether the statutory water bank will accept deposits of surface water rights or groundwater rights, provided that:

(i) a statutory water bank may not accept deposits of both surface water rights and groundwater rights; and

(ii) the applicant's perfected water right or valid diligence claim is of the type accepted by the statutory water bank;

(f) a copy of the statutory water bank's governing documents that specify:

(i) the number of members of the governing body, which may not be an even number;

(ii) the qualifications for governing members, including terms and election or appointment procedures; and

(iii) the initial governing members' names, telephone numbers, and post office addresses;

(g) a confirmation that the applicant satisfies the criteria listed in Subsection (1)(e)(ii);

(h) procedures that describe how the statutory water bank will:

(i) determine and fund the water bank's administrative costs;

(ii) design, facilitate, and conduct transactions between borrowers and depositors for the use of a banked water right; and

(iii) accept, reject, and manage banked water rights, including:

(A) what information a depositor shall provide to inform the statutory water bank, the state engineer, or any other distributing entity regarding the feasibility of using the water right within the statutory water bank's designated service area;

(B) how a potential depositor is to work with the statutory water bank to jointly file a change application seeking authorization from the state engineer to deposit a water right within the statutory water bank;

(C) conditions for depositing a water right with the statutory water bank;

(D) how payments to depositors are determined; and

(E) under what conditions a depositor may use a water right at the heretofore place of use pursuant to Subsection 73-31-501(4);

(iv) accept, review, and approve delivery requests, including:

(A) deadlines for submitting a delivery request to the statutory water bank;

(B) a cost or fee associated with submitting a delivery request and how that cost or fee is to be applied or used by the statutory water bank;

(C) what information a borrower is to include on a delivery request to sufficiently inform the statutory water bank, state engineer, or another distributing entity whether the delivery request is feasible within the statutory water bank's designated service area;

(D) any notice and comment procedures for notifying other water users of the delivery request;

(E) the criteria the statutory water bank will use to evaluate delivery requests;

(F) how the statutory water bank will inform water users who have submitted a delivery request if the delivery request is approved or denied, the reasons for denial if denied, and any applicable conditions if approved;

(G) appeal or grievance procedures, if any, for a borrower seeking to challenge a denial of a delivery request, including identifying who has the burden in an appeal and the standards of review;

(H) how the statutory water bank will determine prices for the use of loaned water rights; and

(I) how the statutory water bank will coordinate with the state engineer to facilitate distribution of approved delivery requests;

(v) how the statutory water bank will ensure that the aggregate amount of loaned water rights during

a calendar year does not exceed the total sum of the banked water rights within the statutory water bank; and

(vi) how the statutory water bank will resolve complaints regarding the statutory water bank's operations;

(i) the process that the statutory water bank will follow if the statutory water bank terminates, dissolves, or if the board revokes the statutory water bank's permission to operate pursuant to this chapter, including how the statutory water bank will return banked water rights to depositors and how the [statute] statutory water bank will return any amounts owing to depositors; and

(j) a signed declaration or affidavit from at least two governing members of the statutory water bank affirming that:

(i) the information submitted is correct;

(ii) as a condition for permission to operate, the statutory water bank may not discriminate between the nature of use, depositors, or borrowers;

(iii) the statutory water bank shall comply with the conditions of an approved changed application for a banked water right; and

(iv) the statutory water bank shall report to the state engineer known violations of approved change applications.

(2) The board may prepare a form or online application for an applicant to use in submitting an application to the board under this part.

**Section 37. Section 76-7-305 is amended to read:**

**76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.**

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the

pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

(v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(vi) the medical risks associated with carrying her child to term;

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the Department of Health website containing the information described in Section 26-10-14, including the information on the informational support sheet; and

(e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website;

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman; and

(iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the disposition of the aborted fetus.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3);

(ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

(iii) ensure that:

(A) ~~described in Subsections 26-21-33(3) and (4),~~ the woman has received the information described in Subsections 26-21-33(3) and (4); and

(B) if the woman has a preference for the disposition of the aborted fetus, the woman has informed the health care facility of the woman's decision regarding the disposition of the aborted fetus.

(4) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(5) If an ultrasound is performed on a woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (5)(c), if the woman requests it.

(6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

(7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years of age or younger.



(9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(10) (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.

(11) A physician is not guilty of violating this section if:

(a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

**Section 38. Section 78A-6-602 is amended to read:**

**78A-6-602. Referrals -- Nonjudicial adjustments.**

(1) As used in this section, "referral" means a formal referral, a referral to the court under Section 53G-8-211 or Subsection 78A-6-601(2)(b), or a citation issued to a minor for which the court receives notice under Section 78A-6-603.

(2) (a) A peace officer, or a public official of the state, a county, city, or town charged with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral with the court within 10 days of a minor's arrest.

(b) If the arrested minor is taken to a detention facility, the peace officer, or public official, shall file the formal referral with the court within 24 hours.

(c) A peace officer, public official, school district, or school may only make a referral to the court under Section 53G-8-211 for an offense that is subject to referral under Section 53G-8-211.

(3) If the court receives a referral for a minor who is, or appears to be, within the court's jurisdiction, the court's probation department shall make a preliminary inquiry in accordance with Subsections (5), (6), and (7) to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(4) If a minor is referred to the court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the court's probation department shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(5) (a) The court's probation department may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Subsection (11) if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If a minor violates Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(6) Except as provided in Subsection (7)(b), the probation department shall request that a prosecuting attorney review a referral in accordance with Subsection (11) if:

(a) the referral involves:

(i) a felony offense; or

(ii) a violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(C) Section 76-5-206, negligent homicide;

(D) Section 76-9-702.1, sexual battery;

(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the dangerous weapon is a firearm;

(b) the minor has a current suspended order for custody under Subsection 78A-6-117(5)(a); or

(c) the referral involves an offense alleged to have occurred before an individual was 12 years old and the offense is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

- (vi) Section 76-6-103, aggravated arson;
- (vii) Section 76-6-203, aggravated burglary;
- (viii) Section 76-6-302, aggravated robbery; or
- (ix) Section 76-10-508.1, felony discharge of a firearm.

(7) (a) Except as provided in Subsections (5) and (6), the court's probation department shall offer a nonjudicial adjustment to a minor if the minor:

- (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
- (ii) has no more than two prior adjudications; and
- (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

(b) If the court receives a referral for an offense that is alleged to have occurred before an individual was 12 years old, the court's probation department shall offer a nonjudicial adjustment to the individual, unless the referral includes an offense described in Subsection (6)(c).

(c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (7), the court's probation department shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (7), the court's probation department shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(d) Except as provided in Subsection (6), the court's probation department may offer a nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection (7)(a).

(8) For a nonjudicial adjustment, the court's probation department may require a minor to:

- (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the terms established under Subsection (10)(c);
- (b) pay restitution to any victim;
- (c) complete community or compensatory service;
- (d) attend counseling or treatment with an appropriate provider;
- (e) attend ~~substantive~~ substance abuse treatment or counseling;
- (f) comply with specified restrictions on activities or associations;
- (g) attend victim-offender mediation if requested by the victim; and
- (h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

(9) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Subsection (7), the court's probation department shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the probation department upon request:

- (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;
- (ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and
- (iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available.

(10) (a) The court's probation department may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

(b) The court's probation department may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection (8).

(c) The court's probation department shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (8) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208 on or after July 1, 2018.

(d) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

(e) (i) Notwithstanding Subsection (10)(d), a juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (10)(d) for a minor who is offered a nonjudicial adjustment under Subsection (7)(b) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection (11)(b)(ii) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, if the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

(ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (10)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the treatment under this Subsection (10)(e), but the judge may only grant each extension for 90 days at a time.

(f) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

(11) If a prosecuting attorney is requested to review a referral in accordance with Subsection (5) or (6), a minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in accordance with Subsection (7), the prosecuting attorney shall:

(a) review the case; and

(b) (i) dismiss the case;

(ii) refer the case back to the probation department for a new attempt at nonjudicial adjustment; or

(iii) except as provided in Subsections (12)(b), (13), and 78A-6-602.5(2), file a petition with the court.

(12) (a) A prosecuting attorney may file a petition only upon reasonable belief that:

(i) the charges are supported by probable cause;

(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice.

(b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (11)(b)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (8) or conditions imposed through any other court diversion program.

(13) A prosecuting attorney may not file a petition against a minor unless:

(a) the prosecuting attorney has statutory authority to file the petition under Section 78A-6-602.5; and

(b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (7);

(ii) the minor declines a nonjudicial adjustment;

(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;

(iv) the minor fails to respond to the probation department's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or

(v) the prosecuting attorney is acting under Subsection (11).

(14) If the prosecuting attorney files a petition in court or a proceeding is commenced against a minor under Section 78A-6-603, the court may refer the case to the probation department for another offer of nonjudicial adjustment.

**Section 39. Section 78A-6-602.5 is amended to read:**

**78A-6-602.5. Petition for a delinquency proceeding.**

(1) A prosecuting attorney shall file a petition to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

(a) Subsection (2);

~~[(b) Subsection (3);]~~

~~[(e)]~~ (b) Section 78A-6-603;

~~[(d)]~~ (c) Section ~~[78A-6-701]~~ 78A-6-703.2; and

~~[(e)]~~ (d) Section ~~[78A-6-702]~~ 78A-6-703.3.

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

(a) the individual is alleged to have committed a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm; or

(b) an offer for a nonjudicial adjustment is made under Section 78A-6-602 and the minor:

(i) declines to accept the offer for the nonjudicial adjustment; or

(ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.

**Section 40. Section 78B-7-118 (Effective 07/01/20) is amended to read:**

**78B-7-118 (Effective 07/01/20). Construction with Utah Rules of Civil Procedure.**

To the extent the provisions of this ~~[part]~~ chapter are more specific than the Utah Rules of Civil Procedure regarding a civil protective order the provisions of this chapter govern.

**Section 41. Effective dates.**

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect:

(a) on July 1, 2020; or

(b) if later than July 1, 2020, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) (a) The amendments to Section 63J-1-602.1 (Effective 10/15/20) take effect on October 15, 2020.

(b) The amendments to Section 59-2-1101 (Effective 01/01/21) take effect on January 1, 2021.

**CHAPTER 5**  
**H. B. 5006**

Passed June 18, 2020  
Approved June 25, 2020  
Effective June 25, 2020

**COVID-19 WORKERS'**  
**COMPENSATION MODIFICATIONS**

Chief Sponsor: James A. Dunnigan  
Senate Sponsor: Kirk A. Cullimore

**LONG TITLE**

**General Description:**

This bill modifies provisions related to workers' compensation coverage for first responders.

**Highlighted Provisions:**

This bill:

- ▶ moves provisions related to coverage for first responders diagnosed with COVID-19 from the Workers' Compensation Act to the Utah Occupational Disease Act;
- ▶ modifies the definition of a first responder; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**RENUMBERS AND AMENDS:**

- 34A-3-201, (Renumbered from 34A-2-1101, as enacted by Laws of Utah 2020, Third Special Session, Chapter 6)
- 34A-3-202, (Renumbered from 34A-2-1102, as enacted by Laws of Utah 2020, Third Special Session, Chapter 6)
- 34A-3-203, (Renumbered from 34A-2-1103, as enacted by Laws of Utah 2020, Third Special Session, Chapter 6)
- 34A-3-204, (Renumbered from 34A-2-1104, as enacted by Laws of Utah 2020, Third Special Session, Chapter 6)
- 34A-3-205, (Renumbered from 34A-2-1105, as enacted by Laws of Utah 2020, Third Special Session, Chapter 6)
- 34A-3-206, (Renumbered from 34A-2-1106, as enacted by Laws of Utah 2020, Third Special Session, Chapter 6)

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 34A-3-201, which is renumbered from Section 34A-2-1101 is renumbered and amended to read:**

**Part 2. Presumptions for First Responders**

**[34A-2-1101]. 34A-3-201. Definitions.**

(1) As used in this part:

(a) "COVID-19" means the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "First responder" means:

~~[(i) an emergency responder as defined in 29 C.F.R. Part 826, Subpart C; or]~~

~~[(ii) a health care provider as defined in 29 C.F.R. Part 826, Subpart C.]~~

(i) a first responder as defined in Section 34A-2-102;

(ii) an individual employed by:

(A) a health care facility as defined in Section 26-21-2;

(B) an office of a physician, chiropractor, or dentist;

(C) a nursing home;

(D) a retirement facility;

(E) a home health care provider;

(F) a pharmacy;

(G) a facility that performs laboratory or medical testing on human specimens; or

(H) an entity similar to the entities listed in Subsections (1)(b)(ii)(A) through (G);

(iii) an individual employed by, working with, or working at the direction of a local health department; or

(iv) a volunteer, as defined in Section 67-20-2, providing services to a local health department in accordance with Title 67, Chapter 20, Volunteer Government Workers Act.

(c) "Physician" means an individual licensed under:

(i) Title 58, Chapter 67, Utah Medical Practice Act;

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(iv) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.

(d) "Utah minimum wage" means the highest wage designated as Utah's minimum wage under Title 34, Chapter 40, Utah Minimum Wage Act.

(2) For purposes of this part, an individual is diagnosed with COVID-19 if the individual:

(a) through laboratory testing of a specimen the individual provides, tests positive for the virus that causes COVID-19; and

(b) is diagnosed with COVID-19 by a physician.

**Section 2. Section 34A-3-202, which is renumbered from Section 34A-2-1102 is renumbered and amended to read:**

**[34A-2-1102]. 34A-3-202. Workers' compensation presumption for first responders.**

(1) A first responder who claims to have contracted COVID-19 during the performance of the first responder's duties as a first responder, is presumed to have contracted COVID-19 [by accident] during the course of performing the first

responder's duties as a first responder if the first responder is diagnosed with COVID-19:

(a) while employed or serving as a first responder; or

(b) if the first responder's employment or service as a first responder terminates, within two weeks after the day on which the first responder's employment or service terminates.

(2) A first responder who makes a claim under this part shall provide ~~a copy of the positive laboratory test or the~~ written documentation of a ~~physician's~~ COVID-19 diagnosis to the first responder's employer or insurer.

**Section 3. Section 34A-3-203, which is renumbered from Section 34A-2-1103 is renumbered and amended to read:**

**[34A-2-1103]. 34A-3-203. Workers' compensation claims.**

(1) This part applies to a claim resulting from an ~~accident~~ exposure arising out of and in the course of a first responder's employment or service on or after March 21, 2020, and before June 1, 2021.

(2) For purposes of establishing a workers' compensation claim under this part, the ~~date~~ date of ~~accident~~ exposure is presumed to be the earlier of the day on which:

(a) the first responder is diagnosed with COVID-19;

(b) the first responder is unable to work because of a symptom of a disease that is later diagnosed as COVID-19; or

(c) the first responder's employment or service as a first responder terminates, if the first responder is diagnosed with COVID-19 within two weeks after the day on which the first responder's employment or service as a first responder terminates.

(3) Death benefits payable under this chapter are payable only if a claimant establishes by competent evidence that death was a consequence of or a result of COVID-19.

**Section 4. Section 34A-3-204, which is renumbered from Section 34A-2-1104 is renumbered and amended to read:**

**[34A-2-1104]. 34A-3-204. Failure to be tested -- Rebuttable presumption.**

(1) A first responder who refuses examination for COVID-19 or fails to be diagnosed with COVID-19 is not entitled to the presumption established under this part.

(2) The presumption established ~~in~~ under this part may be rebutted by a preponderance of the evidence.

**Section 5. Section 34A-3-205, which is renumbered from Section 34A-2-1105 is renumbered and amended to read:**

**[34A-2-1105]. 34A-3-205. Determining employers of first responders -- Volunteer first responders -- Workers' compensation premiums.**

(1) For purposes of receiving workers' compensation benefits, a first responder performing the services of a first responder is considered an employee of an entity for whom the first responder provides those services.

(2) (a) A first responder who only performs the services of a first responder for minimal or no compensation or on a volunteer basis receives an amount of workers' compensation:

(i) calculated in accordance with Section 34A-2-409; and

~~(i)~~ (ii) (A) based on the first responder's primary employment, if the first responder is primarily employed other than as a first responder; or

~~(ii)~~ (B) ~~that is the minimum benefit~~ based on the Utah minimum wage, if the first responder has no employment other than as a first responder.

(b) An entity for whom a first responder provides first responder services for minimal or no compensation or on a volunteer basis shall:

(i) pay any excess premium necessary for workers' compensation, if the first responder is primarily employed other than as a first responder; and

(ii) pay any premium necessary for workers' compensation, if the first responder has no employment other than as a first responder.

(3) A first responder is not precluded from utilizing insurance a primary employer provides, or any other insurance benefits, in addition to workers' compensation benefits.

**Section 6. Section 34A-3-206, which is renumbered from Section 34A-2-1106 is renumbered and amended to read:**

**[34A-2-1106]. 34A-3-206. Rulemaking authority.**

~~(1) This part supersedes any conflicting provisions of Utah law.~~

~~(2)~~ The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this part.

**Section 7. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 6****H. B. 5007**

Passed June 18, 2020

Approved June 25, 2020

Effective June 25, 2020

**PEACE OFFICER AMENDMENTS**

Chief Sponsor: Sandra Hollins  
 Senate Sponsor: Evan J. Vickers  
 Cosponsors: Patrice M. Arent  
 Cheryl K. Acton  
 Brady Brammer  
 Joel K. Briscoe  
 Walt Brooks  
 Jennifer Dailey-Provost  
 James A. Dunnigan  
 Craig Hall  
 Stephen G. Handy  
 Suzanne Harrison  
 Timothy D. Hawkes  
 Eric K. Hutchings  
 Dan N. Johnson  
 Brian S. King  
 Carol Spackman Moss  
 Merrill F. Nelson  
 Lee B. Perry  
 Stephanie Pitcher  
 Val K. Potter  
 Marie H. Poulson  
 Angela Romero  
 Mike Schultz  
 Robert M. Spendlove  
 Jeffrey D. Stenquist  
 Andrew Stoddard  
 Steve Waldrip  
 Raymond P. Ward  
 Elizabeth Weight  
 Brad R. Wilson  
 Mike Winder  
 Brad M. Daw  
 Karen Kwan  
 Steve Eliason  
 Marsha Judkins  
 Melissa G. Ballard  
 Candice B. Pierucci  
 Keven J. Stratton  
 Mark A. Wheatley

**LONG TITLE****General Description:**

This bill prohibits training peace officers in the use of chokeholds or restraints that may cause unconsciousness and prohibits a peace officer's use of such a restraint.

**Highlighted Provisions:**

This bill:

- ▶ prohibits the approval of peace officer training curriculum which contains the use of chokeholds or other restraints that may cause unconsciousness;
- ▶ prohibits the inclusion of training of peace officers in the use of chokeholds, carotid restraints, or other methods of restraint that may impede breathing or blood circulation and cause unconsciousness;

- ▶ prohibits a peace officer from employing a "knee on the neck" method of restraint that may impede breathing or blood circulation and cause unconsciousness; and
- ▶ provides penalties.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53-6-105, as last amended by Laws of Utah 2010, Chapter 313

53-6-202, as last amended by Laws of Utah 2010, Chapter 313

**ENACTS:**

53-13-115, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-6-105 is amended to read:****53-6-105. Duties of director -- Powers -- Rulemaking.**

- (1) The director, with the advice of the council, shall:
  - (a) prescribe standards for the certification of a peace officer training academy, certify an academy that meets the prescribed standards, and prescribe standards for revocation of certification for cause;
  - (b) prescribe minimum qualifications for certification of peace officers appointed or elected to enforce the laws of this state and its subdivisions and prescribe standards for revocation of certification for cause;
  - (c) establish minimum requirements for the certification of training instructors and establish standards for revocation of certification;
  - (d) provide for the issuance of appropriate certificates to those peace officers completing the basic training programs offered by a certified academy or those persons who pass a certification examination as provided for in this chapter;
  - (e) consult and cooperate with certified academy administrators and instructors for the continued development and improvement of the basic training programs provided by the certified academy and for the further development and implementation of advanced in-service training programs;
  - (f) consult and cooperate with state institutions of higher education to develop specialized courses of study for peace officers in the areas of criminal justice, police administration, criminology, social sciences, and other related disciplines;
  - (g) consult and cooperate with other departments, agencies, and local governments concerned with peace officer training;
  - (h) perform any other acts necessary to develop peace officer training programs within the state;
  - (i) report to the council at regular meetings of the council and when the council requires;

(j) recommend peace officer standards and training requirements to the commissioner, governor, and the Legislature; and

(k) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall, with the advice of the council, make rules necessary to administer this chapter.

(2) With the permission of the commissioner, the director may execute contracts on behalf of the division with criminal justice agencies to provide training for employees of those agencies if:

(a) the employees or the employing agency pay a registration fee equivalent to the cost of the training; and

(b) the contract does not reduce the effectiveness of the division in its primary responsibility of providing training for peace officers of the state.

(3) The director may:

(a) revoke certification of a certified academy for cause; and

(b) make training aids and materials available to local law enforcement agencies.

(4) The director shall, with the advice of the council, make rules:

(a) establishing minimum requirements for the certification of dispatcher training instructors in a certified academy or interagency program and standards for revocation of this certification;

(b) establishing approved curriculum and a basic schedule for the basic dispatcher training course and the content of the dispatcher certification examination;

(c) providing for the issuance of appropriate certificates to a person who completes the basic dispatcher course or who passes a dispatcher certification examination as provided for in this chapter;

(d) establishing approved courses for certified dispatchers' annual training; and

(e) establishing a reinstatement procedure for a certified dispatcher who has not obtained the required annual training hours.

(5) The director may not, in approving and reviewing curriculum and training aids for academies, approve or recommend any curriculum which includes the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint.

**Section 2. Section 53-6-202 is amended to read:**

**53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.**

(1) (a) The director shall:

(i) (A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy:

(a) shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director[-]; and

(b) may not include the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint.

(4) (a) All peace officers must satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

**Section 3. Section 53-13-115 is enacted to read:**

**53-13-115. Peace officer restraint prohibition.**

(1) A peace officer may not restrain a person by the application of a knee applying pressure to the neck or throat of a person.

(2) A violation of this section shall be referred separately to the county or district attorney for review, and to the Peace Officer Standards and Training Council for investigation.

(3) A violation of this section is a third degree felony.

(4) If the violation results in:

(a) serious bodily injury or loss of consciousness, it is a second degree felony; or

(b) death, it is a first degree felony.

**Section 4. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.



**CHAPTER 7****H. B. 5009**

Passed June 18, 2020

Approved June 25, 2020

Effective June 25, 2020

**EMERGENCY MANAGEMENT ACT  
PROCUREMENT PROCESS AMENDMENTS**

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill requires the governor to provide notice to the Legislature after certain expenditures of federal funds received during an epidemic or pandemic disease emergency.

**Highlighted Provisions:**

This bill:

- ▶ requires the governor to provide notice to the Legislature after an expenditure that is over a certain amount that is made during an epidemic or pandemic disease emergency under emergency procurement processes;
- ▶ provides a sunset date of certain provisions; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53-2a-204, as last amended by Laws of Utah 2017, Chapter 18

63I-2-253 (Superseded 07/01/20), as last amended by Laws of Utah 2020, Chapters 216, 320, 321, and 354

63I-2-253 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapters 216, 320, 321, 354, and 365

**ENACTS:**

53-2a-217, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-2a-204 is amended to read:****53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful misstatement in application for financial assistance -- Penalty.**

(1) In addition to any other authorities conferred upon the governor, if the governor issues an executive order declaring a state of emergency, the governor may:

(a) utilize all available resources of state government as reasonably necessary to cope with a state of emergency;

(b) employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with the provisions of this part and with

orders, rules, and regulations made pursuant to this part;

(c) recommend and advise the evacuation of all or part of the population from any stricken or threatened area within the state if necessary for the preservation of life;

(d) recommend routes, modes of transportation, and destination in connection with evacuation;

(e) in connection with evacuation, suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful bearing of arms;

(f) control ingress and egress to and from a disaster area, the movement of persons within the area, and recommend the occupancy or evacuation of premises in a disaster area;

(g) clear or remove from publicly or privately owned land or water debris or wreckage that is an immediate threat to public health, public safety, or private property, including allowing an employee of a state department or agency designated by the governor to enter upon private land or waters and perform any tasks necessary for the removal or clearance operation if the political subdivision, corporation, organization, or individual that is affected by the removal of the debris or wreckage:

(i) presents an unconditional authorization for removal of the debris or wreckage from private property; and

(ii) agrees to indemnify the state against any claim arising from the removal of the debris or wreckage;

(h) enter into agreement with any agency of the United States:

(i) for temporary housing units to be occupied by victims of a state of emergency or persons who assist victims of a state of emergency; and

(ii) to make the housing units described in Subsection (1)(h)(i) available to a political subdivision of this state;

(i) assist any political subdivision of this state to acquire sites and utilities necessary for temporary housing units described in Subsection (1)(h)(i) by passing through any funds made available to the governor by an agency of the United States for this purpose;

(j) subject to Sections 53-2a-209 and 53-2a-214, temporarily suspend or modify by executive order, during the state of emergency, any public health, safety, zoning, transportation, or other requirement of a statute or administrative rule within this state if such action is essential to provide temporary housing described in Subsection (1)(h)(i);

(k) upon determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues because of a state of emergency and the political subdivision so affected has demonstrated a need for financial assistance to perform its governmental functions, in accordance

with Utah Constitution, Article XIV, Sections 3 and 4, and Section 10-8-6:

(i) apply to the federal government for a loan on behalf of the political subdivision if the amount of the loan that the governor applies for does not exceed 25% of the annual operating budget of the political subdivision for the fiscal year in which the state of emergency occurs; and

(ii) receive and disburse the amount of the loan to the political subdivision;

(l) accept funds from the federal government and make grants to any political subdivision for the purpose of removing debris or wreckage from publicly owned land or water;

(m) subject to Section 53-2a-217, upon determination that financial assistance is essential to meet expenses related to a state of emergency of individuals or families adversely affected by the state of emergency that cannot be sufficiently met from other means of assistance, apply for, accept, and expend a grant by the federal government to fund the financial assistance, subject to the terms and conditions imposed upon the grant;

(n) recommend to the Legislature other actions the governor considers to be necessary to address a state of emergency; or

(o) authorize the use of all water sources as necessary for fire suppression.

(2) A person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this section shall, upon conviction of each offense, be subject to a fine of not more than \$5,000 or imprisonment for not more than one year, or both.

**Section 2. Section 53-2a-217 is enacted to read:**

**53-2a-217. Procurement process during an epidemic or pandemic emergency.**

(1) As used in this section, “epidemic or pandemic disease” means the same as that term is defined in Section 53-2a-215.

(2) (a) During a state of emergency declared as described in Section 53-2a-206 that is in response or related to an epidemic or pandemic disease emergency, or during a national epidemic or pandemic emergency, the governor shall provide notice to the Legislature within 24 hours after an expenditure or procurement, if the expenditure or procurement:

(i) uses federal funds received as described in Subsection 53-2a-204(1)(m);

(ii) totals more than \$2,000,000 or includes a line item of more than \$2,000,000; and

(iii) is made using emergency procurement processes as described in Section 63G-6a-803.

(b) The governor may not divide an expenditure or procurement into multiple expenditures or

procurements to fall below the \$2,000,000 threshold described in Subsection (2)(a)(ii).

**Section 3. Section 63I-2-253 (Superseded 07/01/20) is amended to read:**

**63I-2-253 (Superseded 07/01/20). Repeal dates -- Titles 53 through 53G.**

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(4)]~~ (2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of directors, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(2)]~~ (3) Section 53B-6-105.7 is repealed July 1, 2024.

~~[(3)]~~ (4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states “Except as provided in Subsection (6)(b)(ii)(B),” is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college’s change in performance with the technical college’s average performance, is repealed July 1, 2021.

~~[(4)]~~ (5) (a) Subsection 53B-7-707(3)(a)(ii), the language that states “Except as provided in Subsection (3)(b),” is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

~~[(5)]~~ (6) Section 53B-8-112 is repealed July 1, 2024.

~~[(6)]~~ (7) Section 53B-8-114 is repealed July 1, 2024.

~~[(7)]~~ (8) (a) The following sections, regarding the Regents’ scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents’ scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under

Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~(8)~~ (9) Section 53B-10-101 is repealed on July 1, 2027.

~~(9)~~ (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

~~(10)~~ (11) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

~~(11)~~ (12) Section 53E-3-520 is repealed July 1, 2021.

~~(12)~~ (13) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

~~(13)~~ (14) Section 53E-5-307 is repealed July 1, 2020.

~~(14)~~ (15) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

~~(15)~~ (16) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(16)~~ (17) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

~~(17)~~ (18) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(18)~~ (19) Section 53F-4-207 is repealed July 1, 2022.

~~(19)~~ (20) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(20)~~ (21) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(21)~~ (22) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(22)~~ (23) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(23)~~ (24) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

~~(24)~~ (25) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete

sentences and accurately reflect the office's perception of the Legislature's intent.

**Section 4. Section 63I-2-253 (Effective 07/01/20) is amended to read:**

**63I-2-253 (Effective 07/01/20). Repeal dates -- Titles 53 through 53G.**

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~(4)~~ (2) Section 53B-2a-103 is repealed July 1, 2021.

~~(2)~~ (3) Section 53B-2a-104 is repealed July 1, 2021.

~~(3)~~ (4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~(4)~~ (5) Section 53B-6-105.7 is repealed July 1, 2024.

~~(5)~~ (6) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

~~(6)~~ (7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

~~(7)~~ (8) Section 53B-8-112 is repealed July 1, 2024.

~~(8)~~ (9) Section 53B-8-114 is repealed July 1, 2024.

~~(9)~~ (10) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who

graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(10)]~~ (11) Section 53B-10-101 is repealed on July 1, 2027.

~~[(11)]~~ (12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

~~[(12)]~~ (13) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

~~[(13)]~~ (14) Section 53E-3-520 is repealed July 1, 2021.

~~[(14)]~~ (15) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

~~[(15)]~~ (16) Section 53E-5-307 is repealed July 1, 2020.

~~[(16)]~~ (17) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

~~[(17)]~~ (18) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(18)]~~ (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

~~[(19)]~~ (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(20)]~~ (21) Section 53F-4-207 is repealed July 1, 2022.

~~[(21)]~~ (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(22)]~~ (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(23)]~~ (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(24)]~~ (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(25)]~~ (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

~~[(26)]~~ (27) On July 1, 2023, when making changes in this section, the Office of Legislative Research

and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

#### Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 8  
S. B. 5001**

Passed June 18, 2020  
Approved June 25, 2020  
Effective August 18, 2020

**BUDGET BALANCING AND  
CORONAVIRUS RELIEF  
APPROPRIATIONS ADJUSTMENTS**

Sponsor: Jerry W. Stevenson  
House Sponsor: Bradley G. Last

**LONG TITLE**

**General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020 and for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides budget increases and decreases for certain state agencies and higher education institutions;
- ▶ rolls-back most funding increases anticipated in the 2020 General Session;
- ▶ reduces fiscal year 2021 base budgets by approximately four percent;
- ▶ restores funding for high-priority cost increases like economic development and social services;
- ▶ accesses budget reserves to assure sufficient revenue in fiscal year 2020;
- ▶ appropriates federal funds provided for responses to COVID-19 and Coronavirus;
- ▶ makes technical corrections;
- ▶ changes fees and rates charged by state agencies; and,
- ▶ provides intent language.

**Money Appropriated in this Bill:**

This bill appropriates (\$386,204,500) in operating and capital budgets for fiscal year 2020, including:

- ▶ (\$142,289,300) from the General Fund;
- ▶ \$6,497,700 from the Education Fund; and
- ▶ (\$250,412,900) from various sources as detailed in this bill.

This bill appropriates (\$490,190,100) in business-like activities for fiscal year 2020.

This bill appropriates \$3,289,200 in restricted fund and account transfers for fiscal year 2020, including:

- ▶ (\$1,000,000) from the General Fund; and
- ▶ \$4,289,200 from various sources as detailed in this bill.

This bill appropriates \$157,848,100 in transfers to unrestricted funds for fiscal year 2020.

This bill appropriates \$118,270,800 in operating and capital budgets for fiscal year 2021, including:

- ▶ (\$133,487,600) from the General Fund;
- ▶ (\$209,602,600) from the Education Fund; and
- ▶ \$461,361,000 from various sources as detailed in this bill.

This bill appropriates (\$1,497,400) in expendable funds and accounts for fiscal year 2021, including:

- ▶ (\$5,450,000) from the General Fund; and
- ▶ \$3,952,600 from various sources as detailed in this bill.

This bill appropriates \$9,762,500 in business-like activities for fiscal year 2021.

This bill appropriates \$5,302,600 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$3,628,000 from the General Fund;
- ▶ (\$830,000) from the Education Fund; and
- ▶ \$2,504,600 from various sources as detailed in this bill.

This bill appropriates \$461,100 in transfers to unrestricted funds for fiscal year 2021.

This bill appropriates (\$900) in fiduciary funds for fiscal year 2021.

This bill appropriates (\$154,675,700) in capital project funds for fiscal year 2021, including:

- ▶ \$81,551,700 from the General Fund; and
- ▶ (\$236,227,400) from the Education Fund.

**Other Special Clauses:**

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2020.

**Utah Code Sections Affected:**

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. FY 2020 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

**Subsection 1(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES AND  
CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 1**

To Attorney General  
From General Fund, One-Time . . . . . (316,200)  
Schedule of Programs:  
Administration . . . . . (316,200)

**Item 2**

To Attorney General - Children's Justice Centers  
From Dedicated Credits Revenue,  
One-Time . . . . . (380,000)  
From Expendable Receipts, One-Time . . . 380,000

**BOARD OF PARDONS AND PAROLE**

**Item 3**

To Board of Pardons and Parole  
From General Fund, One-Time . . . . . (361,300)  
Schedule of Programs:  
Board of Pardons and Parole . . . . . (361,300)

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 4**

To Utah Department of Corrections – Programs and Operations

From General Fund, One-Time . . . . . (750,000)

Schedule of Programs:

Adult Probation and Parole Programs . . . . . (750,000)

**Item 5**

To Utah Department of Corrections – Department Medical Services

From General Fund, One-Time . . . . . (150,000)

Schedule of Programs:

Medical Services . . . . . (150,000)

**JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR**

**Item 6**

To Judicial Council/State Court Administrator – Administration

From General Fund, One-Time . . . . . (20,500)

Schedule of Programs:

District Courts . . . . . (20,500)

The Legislature intends that the following language in Senate Bill 3, Item 10 from the 2020 General Session is deleted: “To Judicial Council/State Court Administrator – Administration Under Section 63J-1-603(3) of the Utah Code, the Legislature intends that appropriations of up to \$2,500,000 provided to the Judicial Council/State Court Administrator – Administration in Laws of Utah 2019 Chapter 9, Item 57 and in Chapter 359, Item 7 and in Chapter 508, Items 75 and Items 78 through 92 shall not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to market comparability salary adjustments and career track advancement; employee retention, training, education assistance, and incentives; translation and interpreter services; IT programming and contracted support; computer equipment and software; courts security; special projects and studies; temporary employees (law clerks); trial court program support and senior judge assistance; grant match; and purchase of Utah code and rules for judges.” The Legislature further intends to replace it with the following: The Legislature intends that appropriations of up to \$3,200,000 provided to the Judicial Council/State Court Administrator – Administration in Laws of Utah 2019 Chapter 9, Item 57 and in Chapter 359, Item 7 and in Chapter 508, Items 75 and Items 78 through 92 shall not lapse at the close of Fiscal Year 2020. The use of any unused funds is limited to market comparability salary adjustments and career track advancement; employee retention, training, education assistance, and incentives; translation and interpreter services; IT programming and contracted support; computer equipment and software; courts security; special projects and studies; temporary employees (ex., law

clerks, public outreach); trial court program support and senior judge assistance; grant match; and purchase of Utah code and rules for judges.

**GOVERNORS OFFICE**

**Item 7**

To Governors Office – Commission on Criminal and Juvenile Justice

From General Fund, One-Time . . . . . (105,000)

Schedule of Programs:

CCJJ Commission . . . . . (105,000)

**DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES**

**Item 8**

To Department of Human Services – Division of Juvenile Justice Services – Community Providers

From General Fund, One-Time . . . . . (145,300)

From Federal Funds, One-Time . . . . . 145,300

**DEPARTMENT OF PUBLIC SAFETY**

**Item 9**

To Department of Public Safety – Driver License From Department of Public Safety Restricted Account, One-Time . . . . . (48,100)

Schedule of Programs:

Driver Records . . . . . (48,100)

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 10**

To Department of Heritage and Arts – Pass-Through

From General Fund, One-Time . . . . . (175,000)

Schedule of Programs:

Pass-Through . . . . . (175,000)

**INSURANCE DEPARTMENT**

**Item 11**

To Insurance Department – Insurance Department Administration

From General Fund Restricted –

Captive Insurance, One-Time . . . . . (401,900)

Schedule of Programs:

Captive Insurers . . . . . (401,900)

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 12**

To Department of Health – Children’s Health Insurance Program

From Federal Funds, One-Time . . . . 131,900,000

From General Fund Restricted –

Medicaid Restricted Account, One-Time . . . . . 12,400,000

From General Fund Restricted –

Tobacco Settlement Account, One-Time . . . . . (2,600,000)

Schedule of Programs:  
 Children's Health Insurance  
 Program ..... 141,700,000

**Item 13**

To Department of Health - Disease  
 Control and Prevention  
 From General Fund, One-Time ..... (150,900)  
 From Federal Funds, One-Time ..... 533,200  
 From Federal Funds - CARES Act,  
 One-Time ..... 506,200  
 From Expendable Receipts,  
 One-Time ..... 1,000,000

Schedule of Programs:  
 Epidemiology ..... 1,998,900  
 General Administration ..... (4,000)  
 Health Promotion ..... (23,400)  
 Utah Public Health Laboratory ..... (39,000)  
 Office of the Medical Examiner ..... (44,000)

**Item 14**

To Department of Health - Executive  
 Director's Operations  
 From General Fund, One-Time ..... (90,900)  
 From Federal Funds, One-Time ..... 275,000  
 From Revenue Transfers, One-Time .... 100,000

Schedule of Programs:  
 Center for Health Data and  
 Informatics ..... (12,000)  
 Executive Director ..... (6,900)  
 Program Operations ..... 303,000

**Item 15**

To Department of Health - Family Health and  
 Preparedness  
 From General Fund, One-Time ..... (93,100)

Schedule of Programs:  
 Child Development ..... 2,000  
 Children with Special Health  
 Care Needs ..... (2,000)  
 Director's Office ..... (25,000)  
 Health Facility Licensing and  
 Certification ..... (59,900)  
 Maternal and Child Health ..... (8,200)

**Item 16**

To Department of Health - Medicaid and  
 Health Financing  
 From General Fund, One-Time ..... (8,100)  
 From Federal Funds, One-Time ..... (3,000)  
 From Dedicated Credits Revenue,  
 One-Time ..... 5,000

Schedule of Programs:  
 Contracts ..... 5,000  
 Director's Office ..... (5,100)  
 Eligibility Policy ..... (6,000)

**Item 17**

To Department of Health - Medicaid Services  
 From General Fund, One-Time .... (42,660,000)  
 From Federal Funds, One-Time .... 45,581,300  
 From General Fund Restricted -  
 Medicaid Restricted Account,  
 One-Time ..... 12,400,000  
 From General Fund Restricted -  
 Tobacco Settlement Account,  
 One-Time ..... 2,600,000

Schedule of Programs:

Accountable Care Organizations ... 18,895,700  
 Medical Transportation ..... (3,200)  
 Other Services ..... (10,000)  
 Outpatient Hospital ..... (102,300)  
 Pharmacy ..... (858,900)

The Legislature intends that the following intent language in Item 6 of Chapter 5, Laws of Utah 2020 is deleted: Under Section 63J-1-603 of the Utah Code Item 188 of Chapter 407, Laws of Utah 2019, the Legislature intends up to \$4,000,000 General Fund provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds is limited to dental provider reimbursement rates.

**DEPARTMENT OF HUMAN SERVICES**

**Item 18**

To Department of Human Services - Division  
 of Aging and Adult Services  
 From General Fund, One-Time ..... (151,200)  
 Schedule of Programs:  
 Aging Waiver Services ..... (151,200)

**Item 19**

To Department of Human Services - Division  
 of Child and Family Services  
 From General Fund, One-Time ..... (233,300)  
 Schedule of Programs:  
 Adoption Assistance ..... (694,300)  
 Out-of-Home Care ..... 471,700  
 Special Needs ..... (10,700)

**Item 20**

To Department of Human Services -  
 Office of Recovery Services  
 From General Fund, One-Time ..... (2,300)  
 Schedule of Programs:  
 Children in Care Collections ..... (2,300)

**Item 21**

To Department of Human Services - Division  
 of Services for People with Disabilities  
 From General Fund, One-Time ..... (3,227,700)  
 Schedule of Programs:  
 Acquired Brain Injury Waiver ..... (209,700)  
 Community Supports Waiver ..... (1,691,400)  
 Physical Disabilities Waiver ..... (85,600)  
 Utah State Developmental  
 Center ..... (1,241,000)

**Item 22**

To Department of Human Services - Division  
 of Substance Abuse and Mental Health  
 From General Fund, One-Time ..... (158,100)  
 Schedule of Programs:  
 State Hospital ..... (158,100)

**DEPARTMENT OF  
 WORKFORCE SERVICES**

**Item 23**

To Department of Workforce Services -  
 Housing and Community Development  
 From General Fund, One-Time ..... (354,700)  
 Schedule of Programs:  
 Homeless Committee ..... (354,700)

**Item 24**

To Department of Workforce Services -  
 Operation Rio Grande  
 From Beginning Nonlapsing  
 Balances ..... (58,900)  
 Schedule of Programs:  
 Operation Rio Grande ..... (58,900)

**Item 25**

To Department of Workforce Services -  
 Operations and Policy  
 From General Fund, One-Time ..... (133,700)  
 From Federal Funds, One-Time ..... (247,000)  
 Schedule of Programs:  
 Eligibility Services ..... (274,400)  
 Workforce Development ..... (106,300)

**Item 26**

To Department of Workforce Services - State  
 Office of Rehabilitation  
 From General Fund, One-Time ..... (100,000)  
 Schedule of Programs:  
 Rehabilitation Services ..... (100,000)

**Item 27**

To Department of Workforce Services -  
 Unemployment Insurance  
 From Federal Funds, One-Time ..... (9,809,900)  
 From Federal Funds - CARES Act,  
 One-Time ..... (400,000,000)  
 From Unemployment Compensation  
 Fund, One-Time ..... 9,809,900  
 Schedule of Programs:  
 Unemployment Insurance  
 Administration ..... (400,000,000)

**HIGHER EDUCATION****UNIVERSITY OF UTAH****Item 28**

To University of Utah - Public Service  
 From General Fund, One-Time ..... (200,000)  
 Schedule of Programs:  
 Natural History Museum of Utah ... (200,000)

**UTAH STATE UNIVERSITY****Item 29**

To Utah State University - Education and General  
 From General Fund, One-Time .... (10,000,000)  
 From Education Fund, One-Time ..... 9,800,000  
 Schedule of Programs:  
 Education and General ..... (200,000)

**SOUTHERN UTAH UNIVERSITY****Item 30**

To Southern Utah University - Education  
 and General  
 From Education Fund, One-Time ..... (310,000)  
 Schedule of Programs:  
 Education and General ..... (310,000)

**UTAH VALLEY UNIVERSITY****Item 31**

To Utah Valley University - Education and General  
 From Education Fund, One-Time ..... (300,300)

## Schedule of Programs:

Education and General ..... (300,300)

**UTAH BOARD OF HIGHER EDUCATION****Item 32**

To Utah Board of Higher Education -  
 Administration  
 From Education Fund, One-Time .... (2,692,000)  
 Schedule of Programs:  
 Administration ..... (2,692,000)

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY****DEPARTMENT OF  
AGRICULTURE AND FOOD****Item 33**

To Department of Agriculture and Food - Invasive  
 Species Mitigation  
 From General Fund Restricted - Invasive  
 Species Mitigation Account,  
 One-Time ..... (1,000,000)  
 Schedule of Programs:  
 Invasive Species Mitigation ..... (1,000,000)

**DEPARTMENT OF  
ENVIRONMENTAL QUALITY****Item 34**

To Department of Environmental Quality -  
 Water Quality  
 From General Fund, One-Time ..... (100,000)  
 Schedule of Programs:  
 Water Quality ..... (100,000)

**GOVERNOR'S OFFICE****Item 35**

To Governor's Office - Office of  
 Energy Development  
 Under the terms of 63J-1-603 of the Utah  
 Code, the Legislature intends that the  
 \$250,000 one-time General Fund  
 appropriated for the Transmission Line  
 Study in Item 87, S.B. 2, 2019 General  
 Session, to the Office of Energy Development  
 shall not lapse at the close of FY 2020.

**EXECUTIVE APPROPRIATIONS****CAPITOL PRESERVATION BOARD****Item 36**

To Capitol Preservation Board  
 From General Fund, One-Time .... (82,500,000)  
 From Beginning Nonlapsing  
 Balances ..... (53,500,000)  
 Schedule of Programs:  
 Capitol Preservation Board ..... (136,000,000)

**LEGISLATURE****Item 37**

To Legislature - Senate  
 From General Fund, One-Time ..... (12,000)  
 Schedule of Programs:  
 Administration ..... (12,000)

**Item 38**

To Legislature - House of Representatives



From General Fund, One-Time . . . . . (18,000)  
 Schedule of Programs:  
     Administration . . . . . (18,000)

**Item 39**

To Legislature - Office of Legislative Research  
 and General Counsel  
 From General Fund, One-Time . . . . . (72,000)  
 Schedule of Programs:  
     Administration . . . . . (72,000)

**Subsection 1(b). Expendable Funds and Accounts.** The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**SOCIAL SERVICES**

**DEPARTMENT OF  
 WORKFORCE SERVICES**

**Item 40**

To Department of Workforce Services - Permanent  
 Community Impact Bonus Fund  
 From Interest Income, One-Time . . . . . (30,000)  
 From Restricted Revenue, One-Time . . . . . 30,000

**Item 41**

To Department of Workforce Services -  
 Permanent Community Impact Fund  
 From Dedicated Credits Revenue,  
     One-Time . . . . . 200,000  
 From Restricted Revenue,  
     One-Time . . . . . (200,000)

**Item 42**

To Department of Workforce Services - Qualified  
 Emergency Food Agencies Fund  
 From Restricted Revenue,  
     One-Time . . . . . (540,000)  
 From Designated Sales Tax,  
     One-Time . . . . . 540,000

**Item 43**

To Department of Workforce Services -  
 Olene Walker Low Income Housing  
 From Interest Income, One-Time . . . . . 225,000  
 From Restricted Revenue,  
     One-Time . . . . . (225,000)

**Subsection 1(c). Business-like Activities.**

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer

amounts between funds and accounts as indicated.

**SOCIAL SERVICES**

**DEPARTMENT OF  
 WORKFORCE SERVICES**

**Item 44**

To Department of Workforce Services -  
 Unemployment Compensation Fund  
 From Federal Funds, One-Time . . . . . 9,809,900  
 From Federal Funds - CARES Act,  
     One-Time . . . . . (500,000,000)  
 From Dedicated Credits Revenue,  
     One-Time . . . . . 363,600  
 From Restricted Revenue,  
     One-Time . . . . . (363,600)  
 Schedule of Programs:  
     Unemployment Compensation  
         Fund . . . . . (490,190,100)

**Subsection 1(d). Restricted Fund and**

**Account Transfers.** The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**SOCIAL SERVICES**

**Item 45**

To Ambulance Service Provider  
 Assessment Expendable Revenue Fund  
 From Closing Fund Balance . . . . . 250,600  
 Schedule of Programs:  
     Ambulance Service Provider  
         Assessment Expendable  
         Revenue Fund . . . . . 250,600

**Item 46**

To Hospital Provider Assessment Fund  
 From Closing Fund Balance . . . . . 4,038,600  
 Schedule of Programs:  
     Hospital Provider Assessment  
         Expendable Special  
         Revenue Fund . . . . . 4,038,600

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**Item 47**

To General Fund Restricted - Invasive  
 Species Mitigation Account  
 From General Fund, One-Time . . . . . (1,000,000)  
 Schedule of Programs:  
     General Fund Restricted - Invasive  
         Species Mitigation Account . . . . . (1,000,000)

**Subsection 1(e). Transfers to Unrestricted**

**Funds.** The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an

appropriation.

**INFRASTRUCTURE AND GENERAL GOVERNMENT**

**Item 48**

To Education Fund  
From Education Fund Restricted - Education Budget Reserve Account,  
One-Time ..... 70,000,000  
Schedule of Programs:  
Education Fund, One-time ..... 70,000,000

The Legislature intends that, should Education Fund revenue collections alone in fiscal year 2020 result in an Education Fund deficit, the Division of Finance shall transfer from the Education Budget Reserve Account to the Education Fund in FY 2020 the amount necessary to eliminate the deficit, or \$70 million, which ever is less.

**Item 49**

To General Fund  
From General Fund Restricted - General Fund Budget Reserve Account,  
One-Time ..... 30,000,000  
Schedule of Programs:  
General Fund, One-time ..... 30,000,000

The Legislature intends that, should General Fund revenue collections alone in fiscal year 2020 result in a General Fund deficit, the Division of Finance shall transfer from the General Fund Budget Reserve Account to the General Fund in FY 2020 the amount necessary to eliminate the deficit, or \$30 million, which ever is less.

**SOCIAL SERVICES**

**Item 50**

To General Fund  
From Ambulance Service Provider Assess  
Exp Rev Fund, One-Time ..... 250,600  
From Hospital Provider  
Assessment Fund, One-Time ..... 4,038,600  
From Nonlapsing Balances -  
From Workforce Services - Operation  
Rio Grande ..... 58,900  
Schedule of Programs:  
General Fund, One-time ..... 4,348,100

**EXECUTIVE APPROPRIATIONS**

**Item 51**

To General Fund - EAC  
From Nonlapsing Balances - From  
Capitol Preservation Board ..... 53,500,000  
Schedule of Programs:  
General Fund, One-time ..... 53,500,000

**Section 2. FY 2021 Appropriations.** The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

**Subsection 2(a). Operating and Capital Budgets.** Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums

of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 52**

To Attorney General  
From General Fund ..... (3,758,500)  
From General Fund, One-Time ..... (491,200)  
From Federal Funds ..... (77,400)  
From Dedicated Credits Revenue ..... (156,500)  
From Dedicated Credits Revenue,  
One-Time ..... (6,100)  
From Attorney General Litigation Fund ... (300)  
From General Fund Restricted -  
Criminal Forfeiture Restricted  
Account ..... (116,800)  
From Revenue Transfers ..... (23,700)  
Schedule of Programs:  
Administration ..... (2,499,200)  
Child Protection ..... (215,100)  
Civil ..... (325,800)  
Criminal Prosecution ..... (1,590,400)

**Item 53**

To Attorney General - Children's Justice Centers  
From General Fund ..... (162,600)  
From General Fund, One-Time ..... (250,000)  
From Dedicated Credits Revenue ..... (381,500)  
From Expendable Receipts ..... 380,000  
Schedule of Programs:  
Children's Justice Centers ..... (414,100)

**Item 54**

To Attorney General - Prosecution Council  
From General Fund ..... (26,900)  
From Dedicated Credits Revenue ..... (4,200)  
From Revenue Transfers ..... (3,900)  
Schedule of Programs:  
Prosecution Council ..... (35,000)

**Item 55**

To Attorney General - State  
Settlement Agreements  
From General Fund, One-Time ..... (2,150,000)  
Schedule of Programs:  
State Settlement Agreements ..... (2,150,000)

**BOARD OF PARDONS AND PAROLE**

**Item 56**

To Board of Pardons and Parole  
From General Fund ..... (520,700)  
From General Fund, One-Time ..... 9,900  
Schedule of Programs:  
Board of Pardons and Parole ..... (510,800)

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 57**

To Utah Department of Corrections -  
Programs and Operations  
From General Fund ..... (15,858,100)  
From General Fund, One-Time ..... (884,200)  
Schedule of Programs:  
Adult Probation and Parole  
Administration ..... (71,100)

Adult Probation and Parole Programs	(4,359,900)
Department Administrative Services	(723,300)
Department Executive Director	(1,141,300)
Department Training	(45,900)
Prison Operations Administration	(1,123,800)
Prison Operations Central Utah/Gunnison	(867,300)
Prison Operations Draper Facility	(7,591,000)
Prison Operations Inmate Placement	(84,900)
Programming Administration	(143,800)
Programming Education	(97,000)
Programming Skill Enhancement	(364,600)
Programming Treatment	(128,400)

**Item 58**

To Utah Department of Corrections - Department Medical Services	
From General Fund	970,500
Schedule of Programs:	
Medical Services	970,500

**Item 59**

To Utah Department of Corrections - Jail Contracting	
From General Fund	(851,300)
Schedule of Programs:	
Jail Contracting	(851,300)

**JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR**

**Item 60**

To Judicial Council/State Court Administrator - Administration	
From General Fund	(7,527,200)
From General Fund, One-Time	(4,546,000)
From Federal Funds	(13,000)
From Dedicated Credits Revenue	316,000
From Surcharge Fines	(32,000)
From Revenue Transfers	(1,900)
Schedule of Programs:	
Administrative Office	(644,900)
Court of Appeals	(167,400)
Courts Security	(507,400)
Data Processing	(1,603,300)
District Courts	(7,273,900)
Grants Program	(14,900)
Judicial Education	(20,200)
Justice Courts	(6,400)
Juvenile Courts	(1,410,400)
Law Library	(28,900)
Supreme Court	(126,400)

The Legislature intends that the following language passed in Senate Bill 8, Item 7 from the 2020 General Session is deleted: "The Legislature intends that salaries for District Court judges be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature, the salary for a District Court judge for the fiscal year beginning July 1, 2020 and ending June 30, 2021 shall be \$175,550. The Legislature intends that other

judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest \$50." The Legislature further intends that the salary for a District Court judge for the fiscal year beginning July 1, 2020 and ending June 30, 2021 shall remain at \$170,450. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest \$50.

**Item 61**

To Judicial Council/State Court Administrator - Contracts and Leases	
From General Fund	(482,200)
Schedule of Programs:	
Contracts and Leases	(482,200)

**Item 62**

To Judicial Council/State Court Administrator - Guardian ad Litem	
From General Fund	(494,700)
Schedule of Programs:	
Guardian ad Litem	(494,700)

**Item 63**

To Judicial Council/State Court Administrator - Jury and Witness Fees	
From General Fund	(118,300)
Schedule of Programs:	
Jury, Witness, and Interpreter	(118,300)

**GOVERNORS OFFICE**

**Item 64**

To Governors Office - CCJJ Jail Reimbursement	
From General Fund	(3,376,000)
Schedule of Programs:	
Jail Reimbursement	(3,376,000)

**Item 65**

To Governors Office - Commission on Criminal and Juvenile Justice	
From General Fund	(1,215,000)
From General Fund, One-Time	(400,400)
From Federal Funds	(62,700)
From Federal Funds, One-Time	(3,500)
From Dedicated Credits Revenue	(1,200)
From Crime Victim Reparations Fund	(49,100)
From Crime Victim Reparations Fund, One-Time	(50,000)
From General Fund Restricted - Criminal Forfeiture Restricted Account	(1,100)
Schedule of Programs:	
CCJJ Commission	(1,246,200)
County Incentive Grant Program	(362,000)
Extraditions	(800)
Judicial Performance Evaluation Commission	(13,400)
Sentencing Commission	(4,900)
State Asset Forfeiture Grant Program	(1,100)
Substance Use and Mental Health Advisory Council	(5,700)
Utah Office for Victims of Crime	(148,900)

**Item 66**

To Governors Office – Emergency Fund  
 From General Fund Restricted – State  
 Disaster Recovery Restr Acct ..... 500,000  
 From Beginning Nonlapsing  
 Balances ..... (100,100)  
 Schedule of Programs:  
 Governor’s Emergency Fund ..... 399,900

**Item 67**

To Governors Office – Governor’s Office  
 From General Fund ..... (1,294,400)  
 From General Fund, One-Time ..... (712,500)  
 From Federal Funds, One-Time ..... (4,604,000)  
 From Dedicated Credits Revenue ..... (16,100)  
 From Expendable Receipts ..... (300)  
 From Lt Governor-Election File  
 Fee Fund ..... 2,700  
 Schedule of Programs:  
 Administration ..... (936,700)  
 Governor’s Residence ..... (7,300)  
 Literacy Projects ..... (2,800)  
 Lt. Governor’s Office ..... (5,670,100)  
 Washington Funding ..... (7,700)

The Legislature intends that the following language in Senate Bill 8, Item 12 from the 2020 General Session be deleted: “Under provisions of Section 67-22-1, Utah Code Annotated, the Legislature intends that salaries for Governor be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature the Governors salary for the fiscal year beginning July 1, 2020 and ending June 30, 2021 shall be \$165,600. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67-22-1.” The Legislature further intends that the salary for the Governor for the fiscal year beginning July 1, 2020 and ending June 30, 2021 shall remain at \$160,750. The Legislature intends that other constitutional offices shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 22 Section 1 and rounded to the nearest \$50.

**Item 68**

To Governors Office – Office of Management and Budget  
 From General Fund ..... (681,000)  
 Schedule of Programs:  
 Administration ..... (396,300)  
 Operational Excellence ..... (24,300)  
 Planning and Budget Analysis ..... (260,400)

**Item 69**

To Governors Office – Indigent Defense Commission  
 From General Fund Restricted –  
 Indigent Defense Resources ..... (2,518,400)  
 Schedule of Programs:  
 Office of Indigent Defense  
 Services ..... (2,018,400)  
 Indigent Appellate Defense  
 Division ..... (500,000)

**Item 70**

To Governors Office – Quality Growth  
 Commission – LeRay McAllister Program  
 From General Fund, One-Time ..... (2,000,000)  
 Schedule of Programs:  
 LeRay McAllister Critical Land  
 Conservation Program ..... (2,000,000)

**DEPARTMENT OF HUMAN SERVICES -  
 DIVISION OF JUVENILE JUSTICE  
 SERVICES**

**Item 71**

To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations  
 From General Fund ..... 12,564,200  
 From General Fund, One-Time ..... (40,800)  
 From Federal Funds ..... 1,406,300  
 From Federal Funds, One-Time ..... (40,800)  
 From Dedicated Credits Revenue ..... 646,200  
 From Expendable Receipts ..... (1,500)  
 From General Fund Restricted – Juvenile Justice Reinvestment Account ..... 4,913,200  
 From Revenue Transfers ..... (1,218,100)  
 From Revenue Transfers, One-Time ... (31,900)  
 Schedule of Programs:  
 Administration ..... (748,100)  
 Community Programs ..... (95,400)  
 Correctional Facilities ..... (1,548,000)  
 Early Intervention Services ..... (341,700)  
 Rural Programs ..... (476,100)  
 Youth Parole Authority ..... (8,100)  
 Case Management ..... (116,400)  
 Community Provider  
 Administration ..... 3,105,000  
 Community Provider  
 Payments ..... 18,425,600

**Item 72**

To Department of Human Services – Division of Juvenile Justice Services – Community Providers  
 From General Fund ..... (18,094,900)  
 From Federal Funds ..... (1,438,400)  
 From Dedicated Credits Revenue ..... (652,000)  
 From General Fund Restricted – Juvenile Justice Reinvestment Account ..... (4,913,200)  
 From Revenue Transfers ..... 1,204,400  
 From Revenue Transfers, One-Time ..... 31,900  
 Schedule of Programs:  
 Administration ..... (3,105,000)  
 Provider Payments ..... (20,757,200)

**OFFICE OF THE STATE AUDITOR**

**Item 73**

To Office of the State Auditor – State Auditor  
 From General Fund ..... (330,400)  
 From Dedicated Credits Revenue ..... 363,500  
 Schedule of Programs:  
 State Auditor ..... 33,100

**DEPARTMENT OF PUBLIC SAFETY**

**Item 74**

To Department of Public Safety – Driver License  
 From General Fund ..... (207,300)  
 From Dedicated Credits Revenue ..... (300)  
 From Department of Public Safety Restricted Account ..... (492,000)

From Public Safety Motorcycle  
 Education Fund ..... (1,800)  
 From Pass-through ..... (1,200)  
 Schedule of Programs:  
     Driver License Administration ..... (27,600)  
     Driver Records ..... (110,700)  
     Driver Services ..... (562,500)  
     Motorcycle Safety ..... (1,800)

**Item 75**

To Department of Public Safety -  
 Emergency Management  
 From General Fund ..... (91,800)  
 From General Fund, One-Time ..... (500,000)  
 From Dedicated Credits Revenue ..... (31,200)  
 Schedule of Programs:  
     Emergency Management ..... (623,000)

**Item 76**

To Department of Public Safety - Highway Safety  
 From General Fund ..... (58,100)  
 From Federal Funds ..... (30,900)  
 From Public Safety Motorcycle  
     Education Fund ..... 57,800  
 Schedule of Programs:  
     Highway Safety ..... (31,200)

**Item 77**

To Department of Public Safety - Peace  
 Officers' Standards and Training  
 From General Fund ..... (549,500)  
 From Dedicated Credits Revenue ..... (27,600)  
 From Uninsured Motorist Identification  
     Restricted Account ..... 500,000  
 Schedule of Programs:  
     Basic Training ..... (43,500)  
     POST Administration ..... (17,100)  
     Regional/Inservice Training ..... (16,500)

**Item 78**

To Department of Public Safety -  
 Programs & Operations  
 From General Fund ..... (8,610,200)  
 From General Fund, One-Time ..... (6,750,800)  
 From Federal Funds ..... (18,900)  
 From Dedicated Credits Revenue ..... (145,200)  
 From Department of Public  
     Safety Restricted Account ..... (192,900)  
 From General Fund Restricted -  
     Fire Academy Support ..... 4,529,700  
 From Gen. Fund Rest. - Motor  
     Vehicle Safety Impact Acct. .... (51,600)  
 From General Fund Restricted -  
     Reduced Cigarette Ignition  
     Propensity & Firefighter Protection  
     Account ..... (1,200)  
 From Revenue Transfers ..... (9,600)  
 From Gen. Fund Rest. - Utah Highway  
     Patrol Aero Bureau ..... (3,000)  
 Schedule of Programs:  
     Aero Bureau ..... (5,214,700)  
     CITS Administration ..... (11,400)  
     CITS Communications ..... (781,800)  
     CITS State Bureau of  
         Investigation ..... (330,500)  
     CITS State Crime Labs ..... (1,373,900)  
     Department Commissioner's  
         Office ..... (555,400)  
     Department Fleet Management ..... (2,400)

Department Grants ..... (24,300)  
 Department Intelligence Center ..... (30,600)  
 Fire Marshall - Fire Fighter  
     Training ..... 4,260,400  
 Fire Marshall - Fire Operations ..... (52,700)  
 Highway Patrol - Administration .... (23,400)  
 Highway Patrol - Commercial  
     Vehicle ..... (105,600)  
 Highway Patrol - Field  
     Operations ..... (5,006,500)  
 Highway Patrol - Protective  
     Services ..... (139,200)  
 Highway Patrol - Safety  
     Inspections ..... (26,200)  
 Highway Patrol - Special  
     Enforcement ..... (1,723,600)  
 Highway Patrol - Special Services .... (93,900)  
 Highway Patrol - Technology  
     Services ..... (18,000)

**Item 79**

To Department of Public Safety -  
 Bureau of Criminal Identification  
 From General Fund ..... (293,700)  
 From Dedicated Credits Revenue ..... (106,200)  
 From General Fund Restricted -  
     Concealed Weapons Account ..... 226,500  
 From Revenue Transfers ..... (600)  
 Schedule of Programs:  
     Non-Government/Other Services .... (174,000)

**STATE TREASURER**

**Item 80**

To State Treasurer  
 From General Fund ..... (82,800)  
 From Dedicated Credits Revenue ..... (21,700)  
 From Land Trusts Protection and  
     Advocacy Account ..... (10,200)  
 From Unclaimed Property Trust ..... (41,800)  
 Schedule of Programs:  
     Advocacy Office ..... (10,200)  
     Money Management Council ..... (2,900)  
     Treasury and Investment ..... (101,600)  
     Unclaimed Property ..... (41,800)

**INFRASTRUCTURE AND  
 GENERAL GOVERNMENT**

**DEPARTMENT OF  
 ADMINISTRATIVE SERVICES**

**Item 81**

To Department of Administrative Services -  
 Administrative Rules  
 From General Fund ..... (24,500)  
 Schedule of Programs:  
     DAR Administration ..... (24,500)

**Item 82**

To Department of Administrative Services - DFCM  
 Administration  
 From General Fund ..... (141,000)  
 From Education Fund ..... (15,000)  
 From Dedicated Credits Revenue ..... (20,400)  
 From Capital Projects Fund ..... (51,900)  
 Schedule of Programs:  
     DFCM Administration ..... (218,100)  
     Energy Program ..... (10,200)

**Item 83**

To Department of Administrative Services -  
 Finance - Elected Official Post-  
 Retirement Benefits Contribution  
 From General Fund ..... (138,800)  
 Schedule of Programs:  
 Elected Official Post-Retirement  
 Trust Fund ..... (138,800)

**Item 84**

To Department of Administrative Services -  
 Executive Director  
 From General Fund ..... (37,800)  
 Schedule of Programs:  
 Executive Director ..... (37,800)

**Item 85**

To Department of Administrative Services -  
 Finance - Mandated  
 From Federal Funds - Coronavirus  
 Relief Fund, One-Time ..... 465,900,000  
 Schedule of Programs:  
 Emergency Disease Response ..... 465,900,000

The Legislature intends that the Division of Finance distribute this appropriation as follows: \$3,000,000 for the Utah Industry Resource Alliance; \$52,000,000 for additional State COVID-19 related costs; \$125,000,000 for the Public and Higher Education Initiative at Utah Education and Telehealth Network; \$5,000,000 for optional extended day kindergarten; \$4,000,000 for UPSTART; \$8,000,000 for behavioral health; \$900,000 for family support centers; \$1,000,000 for domestic violence services; \$20,000,000 for hospital grants; and \$247,000,000 to local governments. The Legislature further intends that the \$3,000,000 for Utah Industry Resource Alliance (the Alliance) be distributed to Utah State University on behalf of the Alliance and that Utah State University distribute the funds to the Alliance members according to the budget created by the Alliance. Funds are to be used according to the budget detail created by the Alliance. These funds are to support Utah manufacturers adversely effected by COVID-19.

**Item 86**

To Department of Administrative Services -  
 Finance Administration  
 From General Fund ..... (1,681,500)  
 From General Fund, One-Time ..... (6,505,800)  
 From Dedicated Credits Revenue ..... (29,300)  
 From Gen. Fund Rest. - Internal  
 Service Fund Overhead ..... (12,900)  
 Schedule of Programs:  
 Finance Director's Office ..... (18,100)  
 Financial Information Systems ..... (8,052,100)  
 Financial Reporting ..... (53,600)  
 Payables/Disbursing ..... (79,600)  
 Payroll ..... (26,600)  
 Technical Services ..... 500

**Item 87**

To Department of Administrative Services -  
 Inspector General of Medicaid Services  
 From General Fund ..... (52,000)

From Medicaid Expansion Fund ..... (900)  
 From Revenue Transfers ..... (52,500)  
 Schedule of Programs:  
 Inspector General of Medicaid  
 Services ..... (105,400)

**Item 88**

To Department of Administrative Services -  
 Judicial Conduct Commission  
 From General Fund ..... (6,600)  
 Schedule of Programs:  
 Judicial Conduct Commission ..... (6,600)

**Item 89**

To Department of Administrative Services -  
 Purchasing  
 From General Fund ..... (24,300)  
 Schedule of Programs:  
 Purchasing and General Services ..... (24,300)

**Item 90**

To Department of Administrative Services -  
 State Archives  
 From General Fund ..... (64,500)  
 From General Fund, One-Time ..... (100,000)  
 From Federal Funds ..... (600)  
 From Dedicated Credits Revenue ..... (3,600)  
 Schedule of Programs:  
 Archives Administration ..... (124,900)  
 Patron Services ..... (10,200)  
 Preservation Services ..... (19,500)  
 Records Analysis ..... (14,100)

**Item 91**

To Department of Administrative Services -  
 Finance Mandated - Paid Postpartum Recovery  
 Leave Program  
 From General Fund ..... (507,000)  
 Schedule of Programs:  
 Paid Postpartum Recovery  
 Leave Program ..... (507,000)

**CAPITAL BUDGET****Item 92**

To Capital Budget - Capital Development -  
 Higher Education  
 From Capital Projects Fund,  
 One-Time ..... (95,573,300)  
 Schedule of Programs:  
 Bridgerland Technical College  
 Health Science and Technology  
 Building ..... (38,059,600)  
 SUU Academic Classroom  
 Building ..... (43,013,700)  
 USU Heravi Global Teaching  
 and Learning Center ..... (14,500,000)

**Item 93**

To Capital Budget - Capital Development -  
 Other State Government  
 From Capital Projects Fund ..... (922,600)  
 From Capital Projects Fund,  
 One-Time ..... (7,525,700)  
 Schedule of Programs:  
 Brigham City Consolidated  
 Public Safety Building ..... (7,525,700)  
 Offender Housing ..... (922,600)

**Item 94**

To Capital Budget - Capital Improvements

From General Fund . . . . . (1,787,700)  
 From General Fund, One-Time . . . . . (5,850,000)  
 From Education Fund . . . . . (1,787,600)  
 From Education Fund, One-Time . . . . . (5,850,000)  
 Schedule of Programs:  
     Capital Improvements . . . . . (15,275,300)

**Item 95**

To Capital Budget - Pass-Through  
 From General Fund, One-Time . . . . . (3,000,000)  
 Schedule of Programs:  
     Olympic Park Improvement . . . . . (3,000,000)

**Item 96**

To Capital Budget - Property Acquisition  
 From Education Fund,  
     One-Time . . . . . (15,075,000)  
 Schedule of Programs:  
     Dixie State University  
         Land Bank . . . . . (15,075,000)

**STATE BOARD OF BONDING  
 COMMISSIONERS - DEBT SERVICE**

**Item 97**

To State Board of Bonding Commissioners -  
     Debt Service - Debt Service  
 From General Fund . . . . . 12,000,000  
 Schedule of Programs:  
     G.O. Bonds - State Govt . . . . . 12,000,000

**DEPARTMENT OF  
 TECHNOLOGY SERVICES**

**Item 98**

To Department of Technology Services -  
     Chief Information Officer  
 From General Fund . . . . . (161,000)  
 Schedule of Programs:  
     Chief Information Officer . . . . . (161,000)

**Item 99**

To Department of Technology Services - Integrated  
     Technology Division  
 From General Fund . . . . . (195,300)  
 From Federal Funds . . . . . (6,000)  
 From Dedicated Credits Revenue . . . . . (16,400)  
 From Gen. Fund Rest. - Statewide  
     Unified E-911 Emerg. Acct. . . . . (4,400)  
 Schedule of Programs:  
     Automated Geographic Reference  
         Center . . . . . (222,100)

**TRANSPORTATION**

**Item 100**

To Transportation - Aeronautics  
 From General Fund, One-Time . . . . . (8,000,000)  
 From Dedicated Credits Revenue . . . . . (9,300)  
 From Aeronautics Restricted Account . . . . . (35,100)  
 Schedule of Programs:  
     Administration . . . . . (19,800)  
     Airplane Operations . . . . . (2,024,600)  
     Airport Construction . . . . . (6,000,000)

**Item 101**

To Transportation - Engineering Services  
 From General Fund . . . . . (100,000)  
 From General Fund, One-Time . . . . . (1,600,000)  
 From Transportation Fund . . . . . (588,900)

From Federal Funds . . . . . (225,500)  
 From Dedicated Credits Revenue . . . . . (900)  
 Schedule of Programs:  
     Civil Rights . . . . . (5,700)  
     Construction Management . . . . . (48,900)  
     Engineer Development Pool . . . . . (49,200)  
     Engineering Services . . . . . (73,800)  
     Environmental . . . . . (53,700)  
     Highway Project Management Team . . . . . (9,900)  
     Planning and Investment . . . . . (1,600,000)  
     Materials Lab . . . . . (120,600)  
     Preconstruction Admin . . . . . (65,700)  
     Program Development . . . . . (285,000)  
     Research . . . . . (39,000)  
     Right-of-Way . . . . . (69,600)  
     Structures . . . . . (94,200)

**Item 102**

To Transportation - Operations/  
     Maintenance Management  
 From Transportation Fund . . . . . (3,760,500)  
 From Transportation Fund,  
     One-Time . . . . . 675,000  
 From Federal Funds . . . . . (168,600)  
 From Dedicated Credits Revenue . . . . . (32,400)  
 Schedule of Programs:  
     Field Crews . . . . . (345,000)  
     Maintenance Planning . . . . . (74,600)  
     Region 1 . . . . . (234,900)  
     Region 2 . . . . . (836,500)  
     Region 3 . . . . . (612,100)  
     Region 4 . . . . . (444,000)  
     Seasonal Pools . . . . . (83,100)  
     Shops . . . . . (274,400)  
     Traffic Operations Center . . . . . (241,200)  
     Traffic Safety/Tramway . . . . . (140,700)

**Item 103**

To Transportation - Region Management  
 From Transportation Fund . . . . . (725,500)  
 From Federal Funds . . . . . (84,600)  
 From Dedicated Credits Revenue . . . . . (900)  
 Schedule of Programs:  
     Cedar City . . . . . (5,400)  
     Price . . . . . (9,900)  
     Region 1 . . . . . (178,400)  
     Region 2 . . . . . (252,600)  
     Region 3 . . . . . (160,300)  
     Region 4 . . . . . (198,700)  
     Richfield . . . . . (5,700)

**Item 104**

To Transportation - Support Services  
 From Transportation Fund . . . . . (637,500)  
 From Federal Funds . . . . . (98,700)  
 Schedule of Programs:  
     Administrative Services . . . . . (109,300)  
     Building and Grounds . . . . . (19,800)  
     Community Relations . . . . . (32,100)  
     Comptroller . . . . . (208,500)  
     Data Processing . . . . . (3,900)  
     Human Resources Management . . . . . (31,800)  
     Internal Auditor . . . . . (29,100)  
     Ports of Entry . . . . . (257,000)  
     Procurement . . . . . (29,700)  
     Risk Management . . . . . (15,000)

**Item 105**

To Transportation - Transportation Investment  
     Fund Capacity Program

From Transportation Fund ..... 1,813,400  
 From Transportation Investment  
 Fund of 2005 ..... (1,813,400)

**Item 106**

To Transportation - Amusement Ride Safety  
 From General Fund, One-Time ..... (62,500)  
 From General Fund Restricted -  
 Amusement Ride Safety  
 Restricted Account, One-Time ..... 62,500

**Item 107**

To Transportation - Pass-Through  
 From General Fund ..... (643,300)  
 From General Fund, One-Time ..... (2,250,000)  
 Schedule of Programs:  
 Pass-Through ..... (2,893,300)

**BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR**

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

**Item 108**

To Department of Alcoholic Beverage Control -  
 DABC Operations  
 From Liquor Control Fund ..... (2,845,200)  
 From Liquor Control Fund,  
 One-Time ..... (435,600)  
 Schedule of Programs:  
 Administration ..... (14,400)  
 Executive Director ..... (355,200)  
 Stores and Agencies ..... (2,708,700)  
 Warehouse and Distribution ..... (202,500)

**Item 109**

To Department of Alcoholic Beverage Control -  
 Parents Empowered  
 From General Fund Restricted -  
 Underage Drinking Prevention  
 Media and Education Campaign  
 Restricted Account ..... (632,000)  
 Schedule of Programs:  
 Parents Empowered ..... (632,000)

**DEPARTMENT OF COMMERCE**

**Item 110**

To Department of Commerce - Building  
 Inspector Training  
 From Dedicated Credits Revenue ..... (1,800)  
 Schedule of Programs:  
 Building Inspector Training ..... (1,800)

**Item 111**

To Department of Commerce - Commerce  
 General Regulation  
 From General Fund ..... (72,200)  
 From Federal Funds ..... (6,900)  
 From Dedicated Credits Revenue ..... (33,000)  
 From General Fund Restricted -  
 Commerce Service Account ..... (1,830,500)  
 From General Fund Restricted - Commerce  
 Service Account, One-Time ..... (59,000)  
 From General Fund Restricted -  
 Factory Built Housing Fees ..... (1,500)  
 From Gen. Fund Rest. - Geologist  
 Education and Enforcement ..... (300)

From General Fund Restricted -  
 Latino Community Support  
 Restricted Account ..... (12,500)  
 From Gen. Fund Rest. - Nurse  
 Education & Enforcement Acct. .... (900)  
 From General Fund Restricted -  
 Pawnbroker Operations ..... (3,000)  
 From General Fund Restricted -  
 Public Utility Restricted Acct. .... (90,600)  
 From Revenue Transfers ..... (133,300)  
 From Other Financing Sources ..... 130,000  
 From Pass-through ..... (2,100)  
 Schedule of Programs:  
 Administration ..... (192,200)  
 Consumer Protection ..... (66,300)  
 Corporations and Commercial Code ... (51,600)  
 Occupational and Professional  
 Licensing ..... (1,608,900)  
 Office of Consumer Services ..... (15,900)  
 Public Utilities ..... (83,700)  
 Real Estate ..... (43,200)  
 Securities ..... (54,000)

**GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**

**Item 112**

To Governor's Office of Economic Development -  
 Administration  
 From General Fund ..... (203,100)  
 Schedule of Programs:  
 Administration ..... (203,100)

**Item 113**

To Governor's Office of Economic Development -  
 Business Development  
 From General Fund ..... (770,300)  
 From Federal Funds ..... (8,500)  
 From Dedicated Credits Revenue ..... (3,000)  
 From General Fund Restricted -  
 Industrial Assistance Account ..... (3,500)  
 Schedule of Programs:  
 Corporate Recruitment and Business  
 Services ..... (488,000)  
 Outreach and International Trade .... (47,300)  
 Rural Speculative Industrial  
 Building Program ..... (250,000)

**Item 114**

To Governor's Office of Economic Development -  
 Office of Tourism  
 From General Fund ..... (142,200)  
 From Dedicated Credits Revenue ..... (7,700)  
 From General Fund Rest. -  
 Motion Picture Incentive Acct. .... (89,400)  
 From General Fund Restricted -  
 Tourism Marketing Performance ... (1,177,200)  
 From General Fund Restricted -  
 Tourism Marketing Performance,  
 One-Time ..... (11,411,400)  
 Schedule of Programs:  
 Administration ..... (33,400)  
 Film Commission ..... (99,800)  
 Marketing and Advertising ..... (12,588,600)  
 Operations and Fulfillment ..... (106,100)

**Item 115**

To Governor's Office of Economic Development -  
 Pass-Through  
 From General Fund ..... (3,443,400)



From General Fund, One-Time . . . . . (2,941,100)  
 Schedule of Programs:  
     Pass-Through . . . . . (6,384,500)

**Item 116**

To Governor’s Office of Economic Development -  
     Pete Suazo Utah Athletics Commission  
 From General Fund . . . . . (4,100)  
 From Dedicated Credits Revenue . . . . . (1,400)  
 Schedule of Programs:  
     Pete Suazo Utah Athletics  
         Commission . . . . . (5,500)

**Item 117**

To Governor’s Office of Economic Development -  
     Talent Ready Utah Center  
 From General Fund . . . . . (13,200)  
 From Education Fund . . . . . (2,000,000)  
 Schedule of Programs:  
     Talent Ready Utah Center . . . . . (2,010,000)  
     Utah Works Program . . . . . (3,200)

**Item 118**

To Governor’s Office of Economic Development -  
     Rural Coworking and Innovation  
     Center Grant Program  
 From General Fund, One-Time . . . . . (2,000,000)  
 Schedule of Programs:  
     Rural Coworking and Innovation  
         Center Grant Program . . . . . (2,000,000)

**Item 119**

To Governor’s Office of Economic Development -  
     Inland Port Authority  
 From General Fund . . . . . (250,000)  
 Schedule of Programs:  
     Inland Port Authority . . . . . (250,000)

**Item 120**

To Governor’s Office of Economic Development -  
     Point of the Mountain Authority  
 From General Fund . . . . . (50,000)  
 Schedule of Programs:  
     Point of the Mountain Authority . . . . . (50,000)

**Item 121**

To Governor’s Office of Economic Development -  
     Rural County Grants Program  
 From General Fund . . . . . (2,300,000)  
 From General Fund, One-Time . . . . . (3,400,000)  
 Schedule of Programs:  
     Rural County Grants Program . . . . . (5,700,000)

**Item 122**

To Governor’s Office of Economic Development -  
     Economic Assistance Grants  
 From General Fund, One-Time . . . . . (1,000,000)  
 Schedule of Programs:  
     Economic Assistance Grants . . . . . (1,000,000)

**FINANCIAL INSTITUTIONS**

**Item 123**

To Financial Institutions - Financial Institutions  
     Administration  
 From General Fund Restricted -  
     Financial Institutions . . . . . (554,300)  
 Schedule of Programs:  
     Administration . . . . . (554,300)

**DEPARTMENT OF HERITAGE AND ARTS**

**Item 124**

To Department of Heritage and Arts -  
     Administration  
 From General Fund . . . . . (367,400)  
 From Dedicated Credits Revenue . . . . . 900  
 Schedule of Programs:  
     Administrative Services . . . . . (216,000)  
     Executive Director’s Office . . . . . (136,100)  
     Information Technology . . . . . (35,400)  
     Utah Multicultural Affairs Office . . . . . 21,000

**Item 125**

To Department of Heritage and Arts -  
     Division of Arts and Museums  
 From General Fund . . . . . (229,300)  
 From General Fund, One-Time . . . . . (1,000,000)  
 From Dedicated Credits Revenue . . . . . (4,000)  
 Schedule of Programs:  
     Administration . . . . . (8,400)  
     Community Arts Outreach . . . . . (224,900)  
     Grants to Non-profits . . . . . (1,000,000)

If HB 5010, COVID-19 Economic Recovery Programs passes, the Legislature intends that the Division of Arts and Museums FY 21 general operating support grants be redirected to nonprofit, cultural organizations that would otherwise have been eligible for a grant under Title 9, Chapter 6, Part 9, except that they did not meet the eligibility requirement described in Subsection 9-6-902(2)(c).

**Item 126**

To Department of Heritage and Arts -  
     Commission on Service and Volunteerism  
 From General Fund . . . . . (10,400)  
 From Federal Funds . . . . . (15,600)  
 Schedule of Programs:  
     Commission on Service and  
     Volunteerism . . . . . (26,000)

**Item 127**

To Department of Heritage and Arts -  
     Indian Affairs  
 From General Fund . . . . . (21,100)  
 From Dedicated Credits Revenue . . . . . (2,200)  
 Schedule of Programs:  
     Indian Affairs . . . . . (23,300)

**Item 128**

To Department of Heritage and Arts -  
     Pass-Through  
 From General Fund . . . . . (211,400)  
 From General Fund, One-Time . . . . . (500,000)  
 Schedule of Programs:  
     Pass-Through . . . . . (711,400)

**Item 129**

To Department of Heritage and Arts - State History  
 From General Fund . . . . . (290,700)  
 From Federal Funds . . . . . (20,100)  
 From Dedicated Credits Revenue . . . . . (2,400)  
 Schedule of Programs:  
     Administration . . . . . (7,800)  
     Historic Preservation and  
         Antiquities . . . . . (278,400)  
     Library and Collections . . . . . (14,100)  
     Public History, Communication and  
     Information . . . . . (12,900)

**Item 130**

To Department of Heritage and Arts - State Library  
 From General Fund ..... (242,800)  
 From Federal Funds ..... (10,500)  
 From Dedicated Credits Revenue ..... (32,700)  
 Schedule of Programs:  
   Administration ..... (6,900)  
   Blind and Disabled ..... (37,200)  
   Bookmobile ..... (16,500)  
   Library Development ..... (15,600)  
   Library Resources ..... (209,800)

**Item 131**

To Department of Heritage and Arts -  
 Stem Action Center  
 From General Fund ..... (310,000)  
 From Dedicated Credits Revenue ..... (9,600)  
 Schedule of Programs:  
   STEM Action Center ..... (62,400)  
   STEM Action Center - Grades 6-8 .. (257,200)

**INSURANCE DEPARTMENT****Item 132**

To Insurance Department - Bail Bond Program  
 From General Fund Restricted - Bail  
   Bond Surety Administration ..... (3,200)  
 Schedule of Programs:  
   Bail Bond Program ..... (3,200)

**Item 133**

To Insurance Department - Health  
 Insurance Actuary  
 From General Fund Rest. - Health  
   Insurance Actuarial Review ..... (4,800)  
 Schedule of Programs:  
   Health Insurance Actuary ..... (4,800)

**Item 134**

To Insurance Department - Insurance  
 Department Administration  
 From General Fund ..... (400)  
 From Federal Funds ..... (7,600)  
 From General Fund Restricted -  
   Captive Insurance ..... (431,000)  
 From General Fund Restricted -  
   Insurance Department Acct. .... (902,600)  
 From General Fund Restricted -  
   Insurance Department Acct.,  
   One-Time ..... (42,900)  
 From General Fund Rest. -  
   Insurance Fraud Investigation Acct. .. (35,700)  
 From General Fund Restricted -  
   Technology Development ..... (10,000)  
 From General Fund Restricted -  
   Technology Development,  
   One-Time ..... (200,000)  
 Schedule of Programs:  
   Administration ..... (1,162,600)  
   Captive Insurers ..... (431,000)  
   Insurance Fraud Program ..... (36,600)

**Item 135**

To Insurance Department - Title  
 Insurance Program  
 From General Fund ..... (4,400)

From General Fund Rest. -  
 Title Licensee Enforcement Acct. .... (16,500)  
 Schedule of Programs:  
   Title Insurance Program ..... (20,900)  
**LABOR COMMISSION**

**Item 136**

To Labor Commission  
 From General Fund ..... (472,900)  
 From Federal Funds ..... (64,800)  
 From Dedicated Credits Revenue ..... (2,700)  
 From Employers' Reinsurance Fund ..... (1,500)  
 From General Fund Restricted -  
   Industrial Accident Account ..... (71,400)  
 From General Fund Restricted -  
   Workplace Safety Account ..... (11,100)  
 Schedule of Programs:  
   Adjudication ..... (36,300)  
   Administration ..... (192,300)  
   Antidiscrimination and Labor ..... (194,700)  
   Boiler, Elevator and Coal Mine  
     Safety Division ..... (39,900)  
   Industrial Accidents ..... (36,900)  
   Utah Occupational Safety  
     and Health ..... (122,800)  
   Workplace Safety ..... (1,500)

**PUBLIC SERVICE COMMISSION****Item 137**

To Public Service Commission  
 From General Fund Restricted -  
   Public Utility Restricted Acct. .... (58,500)  
 From Revenue Transfers ..... (300)  
 Schedule of Programs:  
   Administration ..... (58,800)

**UTAH STATE TAX COMMISSION****Item 138**

To Utah State Tax Commission -  
 Tax Administration  
 From General Fund ..... (3,617,000)  
 From Education Fund ..... (447,800)  
 From Federal Funds ..... (21,600)  
 From Dedicated Credits Revenue ..... (139,800)  
 From Dedicated Credits Revenue,  
   One-Time ..... (7,500)  
 From General Fund Restricted -  
   Motor Vehicle Enforcement Division  
     Temporary Permit Account ..... (73,500)  
 From General Fund Rest. - Sales  
   and Use Tax Admin Fees ..... (247,100)  
 From Revenue Transfers ..... (5,800)  
 From Uninsured Motorist Identification  
   Restricted Account ..... (2,700)  
 Schedule of Programs:  
   Administration Division ..... (273,600)  
   Auditing Division ..... (1,299,100)  
   Motor Vehicle Enforcement  
     Division ..... (76,200)  
   Motor Vehicles ..... (805,300)  
   Property Tax Division ..... (263,100)  
   Seasonal Employees ..... (83,200)  
   Tax Payer Services ..... (651,600)  
   Tax Processing Division ..... (717,800)

Technology Management ..... (392,900)

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 139**

To Department of Health -  
 Children's Health Insurance Program  
 From General Fund ..... 3,579,800  
 From General Fund, One-Time ..... 2,620,200  
 From Federal Funds ..... 12,261,300  
 From Federal Funds, One-Time ..... 8,879,800  
 From Federal Funds - Enhanced  
 FMAP, One-Time ..... 1,500,000  
 Schedule of Programs:  
 Children's Health Insurance  
 Program ..... 28,841,100

**Item 140**

To Department of Health - Disease  
 Control and Prevention  
 From General Fund ..... (1,087,000)  
 From General Fund, One-Time ..... (466,000)  
 From Federal Funds ..... (370,600)  
 From Federal Funds, One-Time ..... 51,707,300  
 From Federal Funds - CARES Act,  
 One-Time ..... 4,891,100  
 From Dedicated Credits Revenue ..... (204,100)  
 From Expendable Receipts ..... (3,900)  
 From Expendable Receipts - Rebates ... (31,000)  
 From General Fund Restricted -  
 Cigarette Tax Restricted Account ..... (400)  
 From Department of Public  
 Safety Restricted Account ..... 215,200  
 From General Fund Restricted -  
 Electronic Cigarette Substance  
 and Nicotine Product Tax  
 Restricted Account ..... 2,000,000  
 From Gen. Fund Rest. - State Lab  
 Drug Testing Account ..... (19,300)  
 From General Fund Restricted -  
 Tobacco Settlement Account ..... (570,300)  
 From Revenue Transfers ..... (31,200)  
 Schedule of Programs:  
 Clinical and Environmental Lab  
 Certification Programs ..... (12,600)  
 Epidemiology ..... 56,358,500  
 General Administration ..... (85,000)  
 Health Promotion ..... 949,300  
 Utah Public Health Laboratory ..... (306,300)  
 Office of the Medical Examiner ..... (574,100)  
 Hepatitis C Pilot Program ..... (300,000)

Notwithstanding the fee amount authorized in Chapter 300 of Laws of Utah 2020, for "Copies to immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)-(b)", the Legislature intends that this fee be set at \$10 for FY 2021.

**Item 141**

To Department of Health - Executive  
 Director's Operations  
 From General Fund ..... (394,300)  
 From General Fund, One-Time ..... (25,000)  
 From Federal Funds ..... (142,100)  
 From Federal Funds, One-Time ..... 1,817,400  
 From Dedicated Credits Revenue ..... (49,900)

From Revenue Transfers ..... 112,700  
 Schedule of Programs:  
 Center for Health Data and  
 Informatics ..... (259,900)  
 Executive Director ..... (73,800)  
 Office of Internal Audit ..... (20,100)  
 Program Operations ..... 1,672,600

**Item 142**

To Department of Health - Family  
 Health and Preparedness  
 From General Fund ..... (2,188,700)  
 From General Fund, One-Time ..... (43,100)  
 From Federal Funds ..... (332,600)  
 From Dedicated Credits Revenue ..... (74,000)  
 From Dedicated Credits Revenue,  
 One-Time ..... (8,800)  
 From General Fund Restricted -  
 Adult Autism Treatment Account ... (200,000)  
 From Gen. Fund Rest. - Children's  
 Hearing Aid Pilot Program Account .... (1,800)  
 From Gen. Fund Rest. - K. Oscarson  
 Children's Organ Transp. .... (600)  
 From General Fund Restricted -  
 Emergency Medical Services  
 System Account ..... (1,500,000)  
 From Revenue Transfers ..... (88,800)  
 From Revenue Transfers,  
 One-Time ..... 5,000,000  
 Schedule of Programs:  
 Child Development ..... 4,600  
 Children with Special Health  
 Care Needs ..... (2,078,500)  
 Director's Office ..... (316,800)  
 Emergency Medical Services and  
 Preparedness ..... (1,574,900)  
 Health Facility Licensing and  
 Certification ..... 4,796,400  
 Maternal and Child Health ..... (195,800)  
 Primary Care ..... (15,600)  
 Public Health and Health Care  
 Preparedness ..... (57,800)

Notwithstanding the fee amounts authorized in Chapter 300 of Laws of Utah 2020, for "Initial Clearance" and "Background checks initial or annual renewal (not in Direct Access Clearance System)", the Legislature intends that these fees be set at \$20 for FY 2021.

**Item 143**

To Department of Health - Medicaid  
 and Health Financing  
 From General Fund ..... (174,700)  
 From General Fund, One-Time ..... 34,500  
 From Federal Funds ..... (518,600)  
 From Federal Funds, One-Time ..... 25,400  
 From Dedicated Credits Revenue ..... 5,000  
 From Expendable Receipts ..... (118,300)  
 From Medicaid Expansion Fund ..... (39,900)  
 From Medicaid Expansion Fund,  
 One-Time ..... (9,100)  
 From Nursing Care Facilities  
 Provider Assessment Fund ..... (19,900)  
 From Revenue Transfers ..... (48,400)  
 Schedule of Programs:  
 Authorization and Community  
 Based Services ..... (99,600)  
 Contracts ..... 5,000

Coverage and Reimbursement	
Policy .....	(100,700)
Director's Office .....	(178,100)
Eligibility Policy .....	(68,400)
Financial Services .....	(167,800)
Managed Health Care .....	(156,600)
Medicaid Operations .....	(97,800)

**Item 144**

To Department of Health - Medicaid Services	
From General Fund .....	16,029,900
From General Fund, One-Time .....	(13,425,600)
From Federal Funds .....	37,737,100
From Federal Funds, One-Time .....	3,046,600
From Federal Funds - Enhanced	
FMAP, One-Time .....	17,200,000
From Dedicated Credits Revenue .....	971,000
From Dedicated Credits Revenue,	
One-Time .....	(252,000)
From Expendable Receipts .....	(25,800)
From Medicaid Expansion Fund .....	(550,000)
From Medicaid Expansion Fund,	
One-Time .....	50,000
From General Fund Restricted -	
Tobacco Settlement Account .....	570,000
From Revenue Transfers .....	(1,160,700)
Schedule of Programs:	
Accountable Care Organizations .....	89,961,900
Home and Community Based	
Waivers .....	(798,000)
Intermediate Care Facilities for	
the Intellectually Disabled .....	(6,465,000)
Medicaid Expansion .....	(5,000,000)
Mental Health and Substance	
Abuse .....	(2,384,600)
Other Services .....	(4,219,000)
Outpatient Hospital .....	(3,977,700)
Pharmacy .....	(6,700,000)
Provider Reimbursement Information	
System for Medicaid .....	(227,100)

The Legislature intends that the Department of Health decouple Medicaid from Medicare outpatient hospital rates effective October 1, 2020 and only increase rates based on legislative appropriations. Starting October 1, 2020 the Medicaid outpatient hospital rates should be set to pre-January 2020 levels.

The Legislature intends that the Department of Health start a statewide preferred drug list in Medicaid beginning no sooner than October 1, 2020.

**Item 145**

To Department of Health - Primary	
Care Workforce Financial Assistance	
From General Fund .....	(9,700)
From Federal Funds .....	(300)
Schedule of Programs:	
Primary Care Workforce Financial	
Assistance .....	(10,000)

**Item 146**

To Department of Health - Rural Physicians	
Loan Repayment Assistance	
From General Fund .....	(900)
Schedule of Programs:	

Rural Physicians Loan Repayment	
Program .....	(900)

**DEPARTMENT OF HUMAN SERVICES****Item 147**

To Department of Human Services - Division	
of Aging and Adult Services	
From General Fund .....	(106,800)
From General Fund, One-Time .....	(10,700)
From Federal Funds .....	(16,800)
Schedule of Programs:	
Administration - DAAS .....	(35,100)
Adult Protective Services .....	(75,800)
Aging Alternatives .....	(2,400)
Aging Waiver Services .....	(21,000)

**Item 148**

To Department of Human Services - Division	
of Child and Family Services	
From General Fund .....	(7,257,400)
From General Fund, One-Time .....	(2,408,600)
From Federal Funds .....	(1,286,000)
From Federal Funds, One-Time .....	2,000,000
From Federal Funds - Enhanced	
FMAP, One-Time .....	222,600
From Expendable Receipts .....	(1,500)
Schedule of Programs:	
Administration - DCFS .....	(121,700)
Adoption Assistance .....	(269,500)
Child Welfare Management	
Information System .....	(29,500)
Domestic Violence .....	(6,300)
Facility-Based Services .....	(515,900)
Minor Grants .....	(30,500)
Out-of-Home Care .....	(467,500)
Selected Programs .....	(5,300)
Service Delivery .....	(5,140,900)
Provider Payments .....	(2,143,800)

**Item 149**

To Department of Human Services -	
Executive Director Operations	
From General Fund .....	(519,400)
From General Fund, One-Time .....	(4,300)
From Federal Funds .....	(165,800)
From Federal Funds, One-Time .....	(600)
From Dedicated Credits Revenue .....	88,700
From Revenue Transfers .....	(68,300)
From Revenue Transfers, One-Time .....	(300)
Schedule of Programs:	
Executive Director's Office .....	(200,900)
Fiscal Operations .....	(91,900)
Information Technology .....	(26,600)
Legal Affairs .....	(80,600)
Office of Licensing .....	(151,900)
Office of Quality and Design .....	(109,700)
Utah Developmental Disabilities	
Council .....	(8,400)

Notwithstanding the fee amount authorized in House Bill 8, 2020 General Session, line 5876 for "Online Background Check Application Fee," the Legislature intends that this fee be set at \$9 for FY 2021.

**Item 150**

To Department of Human Services - Office	
of Public Guardian	
From General Fund .....	(14,200)
From Federal Funds .....	(600)

From Revenue Transfers ..... (8,100)  
 Schedule of Programs:  
     Office of Public Guardian ..... (22,900)

**Item 151**

To Department of Human Services -  
     Office of Recovery Services  
 From General Fund ..... (480,200)  
 From Federal Funds ..... (768,500)  
 From Dedicated Credits Revenue ..... (159,300)  
 From Medicaid Expansion Fund ..... (900)  
 From Revenue Transfers ..... (43,500)  
 Schedule of Programs:  
     Administration - ORS ..... (256,500)  
     Child Support Services ..... (1,010,900)  
     Children in Care Collections ..... (20,900)  
     Electronic Technology ..... (58,400)  
     Financial Services ..... (41,100)  
     Medical Collections ..... (64,600)

**Item 152**

To Department of Human Services - Division of  
     Services for People with Disabilities  
 From General Fund ..... (4,688,000)  
 From General Fund, One-Time ..... 328,600  
 From Federal Funds ..... (9,300)  
 From Dedicated Credits Revenue ..... (33,000)  
 From Revenue Transfers ..... (9,591,600)  
 From Revenue Transfers -  
     FMAP Enhancement, One-Time ... 16,020,200  
 Schedule of Programs:  
     Administration - DSPD ..... (116,000)  
     Community Supports Waiver ..... 3,245,300  
     Service Delivery ..... (144,600)  
     Utah State Developmental Center ... (957,800)

**Item 153**

To Department of Human Services - Division of  
     Substance Abuse and Mental Health  
 From General Fund ..... (9,866,200)  
 From General Fund, One-Time ..... 741,500  
 From Federal Funds ..... (361,200)  
 From Dedicated Credits Revenue ..... (143,200)  
 From Expendable Receipts ..... (300)  
 From General Fund Restricted -  
     Electronic Cigarette Substance  
     and Nicotine Product Tax  
     Restricted Account ..... 261,400  
 From Revenue Transfers ..... (425,600)  
 From Revenue Transfers -  
     FMAP Enhancement, One-Time ..... 202,400  
 Schedule of Programs:  
     Administration - DSAMH ..... (85,200)  
     Community Mental Health  
     Services ..... (1,710,300)  
     Local Substance Abuse Services ..... (540,000)  
     State Hospital ..... (6,923,600)  
     State Substance Abuse Services ..... (332,100)

**DEPARTMENT OF  
 WORKFORCE SERVICES**

**Item 154**

To Department of Workforce Services -  
     Administration  
 From General Fund ..... (61,200)  
 From Federal Funds ..... (145,500)  
 From Dedicated Credits Revenue ..... (2,400)

From Gen. Fund Rest. - Homeless  
     Housing Reform Rest. Acct ..... (300)  
 From Navajo Revitalization Fund ..... (300)  
 From Permanent Community  
     Impact Loan Fund ..... (2,100)  
 From Revenue Transfers ..... (37,200)  
 Schedule of Programs:  
     Administrative Support ..... (174,300)  
     Communications ..... (29,100)  
     Executive Director's Office ..... (21,600)  
     Internal Audit ..... (24,000)

**Item 155**

To Department of Workforce Services -  
     General Assistance  
 From General Fund ..... (18,000)  
 From Revenue Transfers ..... (900)  
 Schedule of Programs:  
     General Assistance ..... (18,900)

**Item 156**

To Department of Workforce Services -  
     Housing and Community Development  
 From General Fund ..... (9,900)  
 From General Fund, One-Time ..... (2,100,000)  
 From Federal Funds ..... (56,700)  
 From Dedicated Credits Revenue ..... (3,000)  
 From Expendable Receipts ..... (900)  
 From Gen. Fund Rest. -  
     Pamela Atkinson Homeless Account ... (1,800)  
 From General Fund Restricted -  
     Homeless Shelter Cities Mitigation  
     Restricted Account ..... (4,200)  
 From Housing Opportunities for  
     Low Income Households ..... (4,200)  
 From Navajo Revitalization Fund ..... (600)  
 From Olene Walker Housing  
     Loan Fund ..... (4,200)  
 From OWHT-Fed Home ..... (4,200)  
 From OWHTF-Low Income Housing ... (4,200)  
 From Permanent Community  
     Impact Loan Fund ..... (13,500)  
 From Qualified Emergency Food  
     Agencies Fund ..... (300)  
 From Uintah Basin Revitalization Fund ... (300)  
 Schedule of Programs:  
     Community Development ..... (2,129,400)  
     Community Development  
         Administration ..... (30,000)  
         Community Services ..... (3,300)  
         HEAT ..... (5,400)  
         Homeless Committee ..... (10,800)  
         Housing Development ..... (18,300)  
         Weatherization Assistance ..... (10,800)

**Item 157**

To Department of Workforce Services -  
     Operations and Policy  
 From General Fund ..... (6,822,300)  
 From Federal Funds ..... 4,916,100  
 From Federal Funds, One-Time ..... 1,500,000  
 From Dedicated Credits Revenue ..... (8,100)  
 From Expendable Receipts ..... (13,500)  
 From Medicaid Expansion Fund ..... (67,200)  
 From General Fund Restricted -  
     School Readiness Account ..... (3,033,000)  
 From Revenue Transfers ..... (481,500)  
 Schedule of Programs:  
     Eligibility Services ..... (1,304,100)  
     Utah Data Research Center ..... (13,500)

Workforce Development ..... (2,633,100)  
 Workforce Research and Analysis .... (58,800)

The Legislature intends that the Department of Workforce Services use federal CCDF Grants to replace the General Fund reduction of \$6,000,000 for “DWS - Replace General Fund for School Readiness Awards and Grants to Preschools with CCDF Grants.”

**Item 158**

To Department of Workforce Services -  
 State Office of Rehabilitation

From General Fund ..... (247,500)  
 From Federal Funds ..... (541,500)  
 From Dedicated Credits Revenue ..... (6,000)  
 From Expendable Receipts ..... (7,800)  
 From Revenue Transfers ..... (600)  
 Schedule of Programs:  
 Blind and Visually Impaired ..... (69,600)  
 Deaf and Hard of Hearing ..... (61,500)  
 Disability Determination ..... (206,100)  
 Executive Director ..... (6,600)  
 Rehabilitation Services ..... (459,600)

**Item 159**

To Department of Workforce Services -  
 Unemployment Insurance

From General Fund ..... (17,400)  
 From Federal Funds ..... (390,000)  
 From Federal Funds, One-Time ..... (9,809,900)  
 From Dedicated Credits Revenue ..... (9,900)  
 From Expendable Receipts ..... (600)  
 From Revenue Transfers ..... (2,400)  
 From Unemployment Compensation  
 Fund, One-Time ..... 9,809,900  
 Schedule of Programs:  
 Adjudication ..... (74,700)  
 Unemployment Insurance  
 Administration ..... (345,600)

**HIGHER EDUCATION****UNIVERSITY OF UTAH****Item 160**

To University of Utah - Education and General  
 From General Fund ..... (23,944,900)  
 From General Fund, One-Time ..... 23,944,900  
 From Education Fund ..... 4,965,000  
 From Education Fund,  
 One-Time ..... (26,319,900)  
 From Dedicated Credits Revenue .... (2,814,500)  
 Schedule of Programs:  
 Education and General ..... (23,936,000)  
 Operations and Maintenance ..... (233,400)

**Item 161**

To University of Utah -  
 Educationally Disadvantaged  
 From Education Fund ..... (9,700)  
 Schedule of Programs:  
 Educationally Disadvantaged ..... (9,700)

**Item 162**

To University of Utah - School of Medicine  
 From Education Fund ..... (931,500)  
 From Dedicated Credits Revenue ..... (310,500)  
 Schedule of Programs:

School of Medicine ..... (1,242,000)

**Item 163**

To University of Utah - University Hospital  
 From Education Fund ..... (138,400)  
 Schedule of Programs:  
 University Hospital ..... (129,700)  
 Miners' Hospital ..... (8,700)

**Item 164**

To University of Utah - School of Dentistry  
 From Education Fund ..... (87,300)  
 From Dedicated Credits Revenue ..... (29,000)  
 Schedule of Programs:  
 School of Dentistry ..... (116,300)

**Item 165**

To University of Utah - Public Service  
 From Education Fund ..... (36,400)  
 Schedule of Programs:  
 Seismograph Stations ..... (14,700)  
 Natural History Museum of Utah .... (18,700)  
 State Arboretum ..... (3,000)

**Item 166**

To University of Utah -  
 Statewide TV Administration  
 From Education Fund ..... (52,700)  
 Schedule of Programs:  
 Public Broadcasting ..... (52,700)

**Item 167**

To University of Utah - Poison Control Center  
 From Education Fund ..... (64,500)  
 Schedule of Programs:  
 Poison Control Center ..... (64,500)

**Item 168**

To University of Utah - Center on Aging  
 From Education Fund ..... (2,500)  
 Schedule of Programs:  
 Center on Aging ..... (2,500)

**Item 169**

To University of Utah - Rocky Mountain Center for  
 Occupational and Environmental Health  
 From Education Fund ..... (3,700)  
 Schedule of Programs:  
 Center for Occupational and  
 Environmental Health ..... (3,700)

**Item 170**

To University of Utah - SafeUT Crisis  
 Text and Tip  
 From Education Fund, One-Time ..... (250,000)  
 Schedule of Programs:  
 SafeUT Operations ..... (250,000)

**UTAH STATE UNIVERSITY****Item 171**

To Utah State University - Education and General  
 From General Fund ..... 75,000,000  
 From General Fund, One-Time .... (70,000,000)  
 From Education Fund ..... (85,976,000)  
 From Education Fund, One-Time .... 69,782,100  
 From Dedicated Credits Revenue .... (1,205,500)  
 Schedule of Programs:  
 Education and General ..... (12,110,600)  
 USU - School of Veterinary  
 Medicine ..... (58,200)  
 Operations and Maintenance ..... (230,600)

**Item 172**

To Utah State University - USU -  
 Eastern Education and General  
 From Education Fund ..... (341,100)  
 From Education Fund, One-Time ..... (84,900)  
 From Dedicated Credits Revenue ..... (61,500)  
 Schedule of Programs:  
 USU - Eastern Education and  
 General ..... (487,500)

**Item 173**

To Utah State University -  
 Educationally Disadvantaged  
 From General Fund ..... 300  
 From General Fund, One-Time ..... (300)  
 From Education Fund ..... (600)  
 From Education Fund, One-Time ..... 300  
 Schedule of Programs:  
 Educationally Disadvantaged ..... (300)

**Item 174**

To Utah State University - USU - Eastern Career  
 and Technical Education  
 From Education Fund ..... (19,700)  
 Schedule of Programs:  
 USU - Eastern Career and Technical  
 Education ..... (19,700)

**Item 175**

To Utah State University - Uintah  
 Basin Regional Campus  
 From Education Fund ..... (144,400)  
 From Dedicated Credits Revenue ..... (48,100)  
 Schedule of Programs:  
 Uintah Basin Regional Campus ..... (192,500)

**Item 176**

To Utah State University - Regional Campuses  
 From Education Fund ..... 15,500  
 From Dedicated Credits Revenue ..... 34,100  
 Schedule of Programs:  
 Administration ..... (87,000)  
 Uintah Basin Regional Campus ..... 40,500  
 Brigham City Regional Campus ..... 46,100  
 Tooele Regional Campus ..... 50,000

**Item 177**

To Utah State University - Brigham  
 City Regional Campus  
 From Education Fund ..... (179,600)  
 From Dedicated Credits Revenue ..... (59,800)  
 Schedule of Programs:  
 Brigham City Regional Campus ..... (239,400)

**Item 178**

To Utah State University -  
 Tooele Regional Campus  
 From Education Fund ..... (183,500)  
 From Dedicated Credits Revenue ..... (61,200)  
 Schedule of Programs:  
 Tooele Regional Campus ..... (244,700)

**Item 179**

To Utah State University -  
 Water Research Laboratory  
 From Education Fund ..... (86,700)  
 Schedule of Programs:  
 Water Research Laboratory ..... (86,700)

**Item 180**

To Utah State University - Agriculture  
 Experiment Station  
 From Education Fund ..... (274,300)  
 Schedule of Programs:  
 Agriculture Experiment Station ..... (274,300)

**Item 181**

To Utah State University - Cooperative Extension  
 From Education Fund ..... (368,500)  
 Schedule of Programs:  
 Cooperative Extension ..... (368,500)

**Item 182**

To Utah State University - Prehistoric Museum  
 From Education Fund ..... (9,700)  
 Schedule of Programs:  
 Prehistoric Museum ..... (9,700)

**Item 183**

To Utah State University - Blanding Campus  
 From Education Fund ..... (258,300)  
 From Dedicated Credits Revenue ..... (19,500)  
 Schedule of Programs:  
 Blanding Campus ..... (277,800)

**WEBER STATE UNIVERSITY**

**Item 184**

To Weber State University - Education  
 and General  
 From General Fund ..... 68,600  
 From General Fund, One-Time ..... (68,600)  
 From Education Fund ..... (5,281,700)  
 From Education Fund, One-Time ..... 68,600  
 From Dedicated Credits Revenue ..... (713,000)  
 Schedule of Programs:  
 Education and General ..... (5,904,100)  
 Operations and Maintenance ..... (22,000)

**Item 185**

To Weber State University -  
 Educationally Disadvantaged  
 From Education Fund ..... (7,300)  
 Schedule of Programs:  
 Educationally Disadvantaged ..... (7,300)

**SOUTHERN UTAH UNIVERSITY**

**Item 186**

To Southern Utah University - Education  
 and General  
 From Education Fund ..... (3,847,200)  
 From Education Fund, One-Time ..... 442,200  
 From Dedicated Credits Revenue ..... (394,700)  
 Schedule of Programs:  
 Education and General ..... (3,792,500)  
 Operations and Maintenance ..... (7,200)

**Item 187**

To Southern Utah University -  
 Educationally Disadvantaged  
 From Education Fund ..... (1,000)  
 Schedule of Programs:  
 Educationally Disadvantaged ..... (1,000)

**Item 188**

To Southern Utah University -  
 Shakespeare Festival  
 From Education Fund, One-Time ..... (300,000)  
 Schedule of Programs:

Shakespeare Festival ..... (300,000)

**Item 189**

To Southern Utah University - Rural Development  
From Education Fund ..... (2,000)  
Schedule of Programs:  
Rural Development ..... (2,000)

**UTAH VALLEY UNIVERSITY****Item 190**

To Utah Valley University - Education and General  
From General Fund ..... 100,000,000  
From General Fund, One-Time .... (55,000,000)  
From Education Fund ..... (109,522,500)  
From Education Fund, One-Time .... 55,000,000  
From Dedicated Credits Revenue .... (1,138,000)  
Schedule of Programs:  
Education and General ..... (10,610,300)  
Operations and Maintenance ..... (50,200)

**Item 191**

To Utah Valley University -  
Educationally Disadvantaged  
From Education Fund ..... (3,700)  
Schedule of Programs:  
Educationally Disadvantaged ..... (3,700)

**SNOW COLLEGE****Item 193**

To Snow College - Education and General  
From Education Fund ..... (1,525,400)  
From Education Fund, One-Time .... (12,000)  
From Dedicated Credits Revenue .... (165,500)  
Schedule of Programs:  
Education and General ..... (1,685,100)  
Operations and Maintenance ..... (17,800)

**Item 194**

To Snow College - Career and Technical Education  
From Education Fund ..... (230,000)  
Schedule of Programs:  
Career and Technical Education ..... (230,000)

**DIXIE STATE UNIVERSITY****Item 195**

To Dixie State University - Education and General  
From Education Fund ..... (3,761,100)  
From Education Fund, One-Time .... (300,000)  
From Dedicated Credits Revenue .... (311,500)  
Schedule of Programs:  
Education and General ..... (4,356,900)  
Operations and Maintenance ..... (15,700)

**Item 196**

To Dixie State University -  
Zion Park Amphitheater  
From Education Fund ..... (700)  
From Dedicated Credits Revenue ..... (300)  
Schedule of Programs:  
Zion Park Amphitheater ..... (1,000)

**SALT LAKE COMMUNITY COLLEGE****Item 197**

To Salt Lake Community College - Education  
and General  
From Education Fund ..... (5,292,500)  
From Dedicated Credits Revenue .... (686,700)

## Schedule of Programs:

Education and General ..... (5,643,100)  
Operations and Maintenance ..... (336,100)

**Item 198**

To Salt Lake Community College -  
School of Applied Technology  
From Education Fund ..... (355,700)  
Schedule of Programs:  
School of Applied Technology ..... (355,700)

**UTAH BOARD OF HIGHER EDUCATION****Item 199**

To Utah Board of Higher Education -  
Administration  
From General Fund ..... (74,500)  
From General Fund, One-Time ..... 74,500  
From Education Fund ..... (3,258,500)  
From Education Fund, One-Time .... (74,500)  
Schedule of Programs:  
Administration ..... (3,333,000)

**Item 200**

To Utah Board of Higher Education -  
Student Assistance  
From Education Fund ..... (5,207,300)  
Schedule of Programs:  
Regents' Scholarship ..... (5,004,300)  
Western Interstate Commission  
for Higher Education ..... (300)  
T.H. Bell Teaching Incentive  
Loans Program ..... (200,000)  
Talent Development Incentive  
Loan Program ..... (2,700)

**Item 201**

To Utah Board of Higher Education -  
Student Support  
From Education Fund ..... (17,500)  
Schedule of Programs:  
Concurrent Enrollment ..... (10,500)  
Articulation Support ..... (7,000)

**Item 202**

To Utah Board of Higher Education -  
Economic Development  
From Education Fund ..... (7,000)  
From Education Fund, One-Time .... (500,000)  
From General Fund Restricted -  
Workforce Development Restricted  
Account ..... (5,000,000)  
Schedule of Programs:  
Economic Development  
Initiatives ..... (5,507,000)

**Item 203**

To Utah Board of Higher Education -  
Education Excellence  
From Education Fund ..... (29,510,700)  
Schedule of Programs:  
Education Excellence ..... (10,700)  
Performance Funding ..... (29,500,000)

**Item 204**

To Utah Board of Higher Education -  
Math Competency Initiative  
From Education Fund ..... (1,000)  
Schedule of Programs:  
Math Competency Initiative ..... (1,000)



**Item 205**

To Utah Board of Higher Education -  
 Medical Education Council  
 From Education Fund ..... (13,500)  
 Schedule of Programs:  
 Medical Education Council ..... (13,500)

**UTAH SYSTEM OF TECHNICAL COLLEGES**

**Item 206**

To Utah System of Technical Colleges -  
 Bridgerland Technical College  
 From Education Fund ..... (2,093,700)  
 From Education Fund, One-Time ..... 283,100  
 Schedule of Programs:  
 Bridgerland Tech Equipment ..... (462,600)  
 Bridgerland Technical College ..... (1,348,000)

**Item 207**

To Utah System of Technical Colleges -  
 Davis Technical College  
 From Education Fund ..... (1,967,400)  
 From Education Fund, One-Time ..... (597,800)  
 Schedule of Programs:  
 Davis Tech Equipment ..... (527,600)  
 Davis Technical College ..... (2,037,600)

**Item 208**

To Utah System of Technical Colleges -  
 Dixie Technical College  
 From Education Fund ..... (992,100)  
 From Education Fund, One-Time ..... (185,000)  
 Schedule of Programs:  
 Dixie Tech Equipment ..... (273,700)  
 Dixie Technical College ..... (903,400)

**Item 209**

To Utah System of Technical Colleges -  
 Mountainland Technical College  
 From Education Fund ..... (2,376,100)  
 From Education Fund, One-Time ..... (562,000)  
 Schedule of Programs:  
 Mountainland Tech Equipment ..... (481,600)  
 Mountainland Technical College ... (2,456,500)

**Item 210**

To Utah System of Technical Colleges -  
 Ogden-Weber Technical College  
 From Education Fund ..... (2,172,600)  
 From Education Fund, One-Time ..... (413,800)  
 Schedule of Programs:  
 Ogden-Weber Tech Equipment ..... (470,800)  
 Ogden-Weber Technical College .... (2,115,600)

**Item 211**

To Utah System of Technical Colleges -  
 Southwest Technical College  
 From General Fund ..... 100  
 From General Fund, One-Time ..... (100)  
 From Education Fund ..... (479,100)  
 From Education Fund, One-Time ..... (168,200)  
 Schedule of Programs:  
 Southwest Tech Equipment ..... (253,200)  
 Southwest Technical College ..... (394,100)

**Item 212**

To Utah System of Technical Colleges -  
 Tooele Technical College  
 From Education Fund ..... (563,400)  
 From Education Fund, One-Time ..... (159,500)

Schedule of Programs:

Tooele Tech Equipment ..... (235,600)  
 Tooele Technical College ..... (487,300)

**Item 213**

To Utah System of Technical Colleges -  
 Uintah Basin Technical College  
 From Education Fund ..... (1,290,100)  
 From Education Fund, One-Time ..... (195,200)  
 Schedule of Programs:  
 Uintah Basin Tech Equipment ..... (294,900)  
 Uintah Basin Technical College .... (1,190,400)

**Item 214**

To Utah System of Technical Colleges -  
 USTC Administration  
 From Education Fund ..... (4,783,000)  
 From Education Fund Restricted -  
 Performance Funding Rest. Acct. .... (830,000)  
 Schedule of Programs:  
 Administration ..... (538,000)  
 Custom Fit ..... (245,000)  
 Performance Funding ..... (4,830,000)

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
 AGRICULTURE AND FOOD**

**Item 215**

To Department of Agriculture and Food -  
 Administration  
 From General Fund ..... (394,600)  
 From Federal Funds ..... (8,100)  
 From Dedicated Credits Revenue ..... (11,700)  
 From General Fund Restricted -  
 Cat and Dog Community Spay  
 and Neuter Program Restricted  
 Account ..... (37,200)  
 From General Fund Restricted -  
 Cat and Dog Community Spay  
 and Neuter Program  
 Restricted Account, One-Time ..... (100)  
 From Revenue Transfers ..... (1,200)  
 Schedule of Programs:  
 Chemistry Laboratory ..... (5,400)  
 General Administration ..... (422,200)  
 Utah Horse Commission ..... (25,300)

**Item 216**

To Department of Agriculture and Food -  
 Animal Health  
 From General Fund ..... (133,600)  
 From Federal Funds ..... (34,500)  
 From Dedicated Credits Revenue ..... (1,500)  
 From General Fund Restricted -  
 Livestock Brand ..... (20,100)  
 Schedule of Programs:  
 Animal Health ..... (99,400)  
 Brand Inspection ..... (42,600)  
 Meat Inspection ..... (47,700)

**Item 217**

To Department of Agriculture and Food -  
 Invasive Species Mitigation  
 From General Fund Restricted - Invasive  
 Species Mitigation Account ..... (1,005,700)  
 Schedule of Programs:  
 Invasive Species Mitigation ..... (1,005,700)

**Item 218**

To Department of Agriculture and Food - Marketing and Development	
From General Fund .....	(33,800)
From Dedicated Credits Revenue .....	(300)
Schedule of Programs:	
Marketing and Development .....	(34,100)

**Item 219**

To Department of Agriculture and Food - Plant Industry	
From General Fund .....	(182,000)
From Federal Funds .....	(50,400)
From Dedicated Credits Revenue .....	(57,900)
From Agriculture Resource Development Fund .....	(1,800)
From Revenue Transfers .....	(3,900)
From Pass-through .....	(3,600)
Schedule of Programs:	
Environmental Quality .....	(3,300)
Grain Inspection .....	(6,600)
Grazing Improvement Program .....	(18,600)
Insect Infestation .....	(12,600)
Plant Industry .....	(258,500)

**Item 220**

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund .....	(13,500)
From General Fund, One-Time .....	(90,000)
From Revenue Transfers .....	(9,300)
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention .....	(8,700)
Schedule of Programs:	
Predatory Animal Control .....	(121,500)

**Item 221**

To Department of Agriculture and Food - Rangeland Improvement	
From Gen. Fund Rest. - Rangeland Improvement Account .....	(3,900)
Schedule of Programs:	
Rangeland Improvement .....	(3,900)

**Item 222**

To Department of Agriculture and Food - Regulatory Services	
From General Fund .....	(184,100)
From Federal Funds .....	(33,800)
From Dedicated Credits Revenue .....	(70,900)
From Pass-through .....	(1,800)
Schedule of Programs:	
Regulatory Services .....	(290,600)

**Item 223**

To Department of Agriculture and Food - Resource Conservation	
From General Fund .....	(88,600)
From Federal Funds .....	(10,800)
From Agriculture Resource Development Fund .....	(12,600)
From Revenue Transfers .....	(5,100)
From Utah Rural Rehabilitation Loan State Fund .....	(2,100)
Schedule of Programs:	
Resource Conservation .....	(110,800)
Resource Conservation Administration .....	(8,400)

**Item 224**

To Department of Agriculture and Food - Utah State Fair Corporation	
From General Fund, One-Time .....	(550,000)
Schedule of Programs:	
State Fair Corporation .....	(550,000)

**DEPARTMENT OF  
ENVIRONMENTAL QUALITY****Item 225**

To Department of Environmental Quality - Air Quality	
From General Fund .....	(473,700)
From Federal Funds .....	(229,300)
From Dedicated Credits Revenue .....	(176,200)
From Clean Fuel Conversion Fund .....	(3,900)
Schedule of Programs:	
Air Quality .....	(883,100)

**Item 226**

To Department of Environmental Quality - Drinking Water	
From General Fund .....	(79,800)
From General Fund, One-Time .....	(10,000,000)
From Federal Funds .....	(120,200)
From Dedicated Credits Revenue .....	(2,509,100)
From Dedicated Credits Revenue, One-Time .....	2,500,000
From Revenue Transfers .....	(400)
From Water Dev. Security Fund - Drinking Water Loan Prog. ....	(29,400)
From Water Dev. Security Fund - Drinking Water Orig. Fee .....	(6,600)
Schedule of Programs:	
Drinking Water .....	(10,245,500)

**Item 227**

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund .....	(73,100)
From Federal Funds .....	(157,400)
From Dedicated Credits Revenue .....	(23,300)
From General Fund Restricted - Petroleum Storage Tank .....	(1,800)
From Petroleum Storage Tank Cleanup Fund .....	(19,100)
From Petroleum Storage Tank Trust Fund .....	(58,700)
From General Fund Restricted - Voluntary Cleanup .....	(21,900)
Schedule of Programs:	
Environmental Response and Remediation .....	(355,300)

**Item 228**

To Department of Environmental Quality - Executive Director's Office	
From General Fund .....	(50,100)
From Federal Funds .....	(5,700)
From General Fund Restricted - Environmental Quality .....	(18,600)
Schedule of Programs:	
Executive Director's Office .....	(74,400)

**Item 229**

To Department of Environmental Quality - Waste Management and Radiation Control	
From General Fund .....	(182,500)
From Federal Funds .....	(53,600)

From Dedicated Credits Revenue	(99,600)
From General Fund Restricted -	
Environmental Quality	(230,800)
From Gen. Fund Rest. - Used	
Oil Collection Administration	(31,700)
From Waste Tire Recycling Fund	144,200
Schedule of Programs:	
Waste Management and Radiation	
Control	(454,000)

**Item 230**

To Department of Environmental Quality -	
Water Quality	
From General Fund	(229,500)
From General Fund, One-Time	(200,000)
From Federal Funds	(182,400)
From Dedicated Credits Revenue	(73,700)
From Revenue Transfers	(7,000)
From Gen. Fund Rest. - Underground	
Wastewater System	(3,100)
From Water Dev. Security Fund -	
Utah Wastewater Loan Prog.	(57,800)
From Water Dev. Security Fund -	
Water Quality Orig. Fee	(3,800)
Schedule of Programs:	
Water Quality	(757,300)

**GOVERNOR'S OFFICE**

**Item 231**

To Governor's Office - Office of	
Energy Development	
From General Fund	(109,600)
From General Fund, One-Time	(2,500,000)
From Federal Funds	(15,900)
From Dedicated Credits Revenue	(4,500)
From Ut. S. Energy Program Rev.	
Loan Fund (ARRA)	(4,500)
Schedule of Programs:	
Office of Energy Development	(2,634,500)

**DEPARTMENT OF NATURAL RESOURCES**

**Item 232**

To Department of Natural Resources -	
Administration	
From General Fund	(166,200)
From General Fund Restricted -	
Sovereign Lands Management	(2,100)
Schedule of Programs:	
Administrative Services	(27,300)
Executive Director	(77,500)
Lake Commissions	(53,600)
Law Enforcement	(4,200)
Public Information Office	(5,700)

**Item 233**

To Department of Natural Resources -	
Building Operations	
From General Fund	(342,900)
Schedule of Programs:	
Building Operations	(342,900)

**Item 234**

To Department of Natural Resources -	
Contributed Research	
From Dedicated Credits Revenue	(300)
Schedule of Programs:	
Contributed Research	(300)

**Item 235**

To Department of Natural Resources -	
Cooperative Agreements	
From Federal Funds	(64,900)
From Dedicated Credits Revenue	(6,900)
From Revenue Transfers	(29,600)
Schedule of Programs:	
Cooperative Agreements	(101,400)

**Item 236**

To Department of Natural Resources -	
DNR Pass Through	
From General Fund	(100,000)
Schedule of Programs:	
DNR Pass Through	(100,000)

**Item 237**

To Department of Natural Resources -	
Forestry, Fire and State Lands	
From General Fund	(188,800)
From General Fund, One-Time	(690,000)
From Federal Funds	(82,900)
From Dedicated Credits Revenue	(128,200)
From General Fund Restricted -	
Sovereign Lands Management	2,900
Schedule of Programs:	
Division Administration	(26,400)
Fire Management	(17,100)
Fire Suppression Emergencies	(3,600)
Forest Management	(9,600)
Lands Management	(24,300)
Lone Peak Center	(112,100)
Program Delivery	(133,900)
Project Management	(760,000)

**Item 238**

To Department of Natural Resources -	
Oil, Gas and Mining	
From General Fund	(64,000)
From Federal Funds	(77,000)
From Dedicated Credits Revenue	(5,700)
From Gen. Fund Rest. - Oil &	
Gas Conservation Account	(73,700)
Schedule of Programs:	
Abandoned Mine	(36,700)
Administration	(53,800)
Coal Program	(38,800)
Minerals Reclamation	(26,400)
Oil and Gas Program	(64,700)

**Item 239**

To Department of Natural Resources -	
Parks and Recreation	
From General Fund	(298,100)
From Federal Funds	(16,800)
From Dedicated Credits Revenue	(12,800)
From General Fund Restricted -	
Boating	(61,600)
From Gen. Fund Rest. - Off-highway	
Access and Education	(300)
From General Fund Restricted -	
Off-highway Vehicle	(80,400)
From General Fund Restricted -	
State Park Fees	(35,300)
From Revenue Transfers	(300)
Schedule of Programs:	
Executive Management	(22,000)
Park Operation Management	(426,800)
Planning and Design	(5,100)
Recreation Services	(23,600)

Support Services .....	(28,100)
<b>Item 240</b>	
To Department of Natural Resources - Parks and Recreation Capital Budget	
From General Fund .....	(39,700)
From General Fund Restricted - State Park Fees .....	39,700
<b>Item 241</b>	
To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection .....	(9,300)
Schedule of Programs: Species Protection .....	(9,300)
<b>Item 242</b>	
To Department of Natural Resources - Utah Geological Survey	
From General Fund .....	(111,600)
From Federal Funds .....	(17,100)
From Dedicated Credits Revenue .....	(13,200)
From General Fund Restricted - Mineral Lease .....	(38,100)
From Gen. Fund Rest. - Land Exchange Distribution Account .....	(600)
Schedule of Programs: Administration .....	(16,300)
Energy and Minerals .....	(33,900)
Geologic Hazards .....	(27,900)
Geologic Information and Outreach ...	(37,200)
Geologic Mapping .....	(38,600)
Ground Water .....	(26,700)
<b>Item 243</b>	
To Department of Natural Resources - Water Resources	
From General Fund .....	(391,500)
From Federal Funds .....	(18,300)
From Water Resources Conservation and Development Fund .....	(56,800)
Schedule of Programs: Administration .....	(214,100)
Construction .....	(58,800)
Interstate Streams .....	(16,000)
Planning .....	(177,700)
<b>Item 244</b>	
To Department of Natural Resources - Water Rights	
From General Fund .....	(387,000)
From General Fund, One-Time .....	143,600
From Federal Funds .....	(3,000)
From Dedicated Credits Revenue .....	(69,500)
Schedule of Programs: Adjudication .....	(32,100)
Administration .....	(24,900)
Applications and Records .....	(179,600)
Canal Safety .....	(300)
Dam Safety .....	(26,700)
Field Services .....	(30,300)
Technical Services .....	(22,000)
<b>Item 245</b>	
To Department of Natural Resources - Watershed	
From General Fund .....	(102,400)
Schedule of Programs: Watershed .....	(102,400)

<b>Item 246</b>	
To Department of Natural Resources - Wildlife Resources	
From General Fund .....	(353,400)
From General Fund, One-Time .....	(113,200)
From Federal Funds .....	(327,000)
From Dedicated Credits Revenue .....	(2,100)
From General Fund Restricted - Boating .....	(25,400)
From General Fund Restricted - Predator Control Account .....	(7,600)
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account .....	(300)
From Revenue Transfers .....	(2,100)
From General Fund Restricted - Wildlife Habitat .....	(14,100)
From General Fund Restricted - Wildlife Resources .....	(380,500)
Schedule of Programs: Administrative Services .....	(242,200)
Aquatic Section .....	(233,400)
Conservation Outreach .....	(91,000)
Director's Office .....	(51,200)
Habitat Council .....	(14,100)
Habitat Section .....	(135,000)
Law Enforcement .....	(231,900)
Wildlife Section .....	(226,900)
<b>Item 247</b>	
To Department of Natural Resources - Wildlife Resources Capital Budget	
From General Fund .....	(50,000)
Schedule of Programs: Fisheries .....	(50,000)

### PUBLIC LANDS POLICY COORDINATING OFFICE

<b>Item 248</b>	
To Public Lands Policy Coordinating Office	
From General Fund .....	(296,600)
From General Fund, One-Time .....	(900,000)
From General Fund Restricted - Constitutional Defense .....	(20,000)
Schedule of Programs: Public Lands Policy Coordinating Office .....	(1,216,600)

### SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

<b>Item 249</b>	
To School and Institutional Trust Lands Administration	
From Land Grant Management Fund .....	(286,200)
Schedule of Programs: Accounting .....	(15,700)
Administration .....	(12,400)
Auditing .....	(9,600)
Board .....	(2,000)
Development - Operating .....	(42,600)
Director .....	(16,100)
External Relations .....	(8,400)
Grazing and Forestry .....	(16,900)
Information Technology Group .....	(37,600)
Legal/Contracts .....	(25,900)
Mining .....	(17,200)
Oil and Gas .....	(25,700)

Surface ..... (56,100)

**RETIREMENT AND  
INDEPENDENT ENTITIES**

**CAREER SERVICE REVIEW OFFICE**

**Item 250**

To Career Service Review Office  
From General Fund ..... (9,300)  
From General Fund, One-Time ..... (10,000)  
From Closing Nonlapsing Balances ..... 10,000  
Schedule of Programs:  
Career Service Review Office ..... (9,300)

**UTAH EDUCATION  
AND TELEHEALTH NETWORK**

**Item 251**

To Utah Education and Telehealth Network -  
Digital Teaching and Learning Program  
From Education Fund ..... (3,600)  
Schedule of Programs:  
Digital Teaching and Learning  
Program ..... (3,600)

**Item 252**

To Utah Education and Telehealth Network  
From General Fund ..... (2,617,100)  
From Education Fund ..... (5,354,700)  
From Education Fund, One-Time ... (1,270,000)  
From Federal Funds ..... (72,300)  
From Dedicated Credits Revenue ..... (21,600)  
Schedule of Programs:  
Administration ..... (68,400)  
Course Management Systems ..... (2,600,000)  
Instructional Support ..... (66,300)  
KUEN Broadcast ..... (7,500)  
Public Information ..... (7,200)  
Technical Services ..... (6,554,800)  
Utah Telehealth Network ..... (31,500)

**EXECUTIVE APPROPRIATIONS**

**CAPITOL PRESERVATION BOARD**

**Item 253**

To Capitol Preservation Board  
From General Fund ..... (12,127,200)  
Schedule of Programs:  
Capitol Preservation Board ..... (12,127,200)

**LEGISLATURE**

**Item 254**

To Legislature - Senate  
From General Fund ..... (214,300)  
From General Fund, One-Time ..... (165,800)  
Schedule of Programs:  
Administration ..... (380,100)

**Item 255**

To Legislature - House of Representatives  
From General Fund ..... (296,100)  
From General Fund, One-Time ..... (11,000)  
Schedule of Programs:  
Administration ..... (307,100)

**Item 256**

To Legislature - Office of Legislative  
Research and General Counsel  
From General Fund ..... (977,300)  
From General Fund, One-Time ..... (427,500)  
Schedule of Programs:  
Administration ..... (1,404,800)

**Item 257**

To Legislature - Office of the  
Legislative Fiscal Analyst  
From General Fund ..... (498,800)  
Schedule of Programs:  
Administration and Research ..... (498,800)

**Item 258**

To Legislature - Office of the  
Legislative Auditor General  
From General Fund ..... (395,100)  
Schedule of Programs:  
Administration ..... (395,100)

**Item 259**

To Legislature - Legislative Services  
From General Fund ..... (442,400)  
From General Fund, One-Time ..... (728,000)  
Schedule of Programs:  
Administration ..... (45,900)  
Pass-Through ..... (1,124,500)

**UTAH NATIONAL GUARD**

**Item 260**

To Utah National Guard  
From General Fund ..... (99,800)  
From Federal Funds ..... (540,000)  
From Dedicated Credits Revenue ..... (300)  
Schedule of Programs:  
Administration ..... (53,900)  
Operations and Maintenance ..... (586,200)

**DEPARTMENT OF VETERANS  
AND MILITARY AFFAIRS**

**Item 261**

To Department of Veterans and Military Affairs -  
Veterans and Military Affairs  
From General Fund ..... (47,100)  
From General Fund, One-Time ..... (620,000)  
From Federal Funds ..... (9,300)  
From Dedicated Credits Revenue ..... (1,500)  
Schedule of Programs:  
Administration ..... (115,000)  
Cemetery ..... (10,500)  
Military Affairs ..... (4,200)  
Outreach Services ..... (544,000)  
State Approving Agency ..... (4,200)

**Subsection 2(b). Expendable Funds and  
Accounts.** The Legislature has reviewed the  
following expendable funds. The Legislature  
authorizes the State Division of Finance to  
transfer amounts between funds and accounts  
as indicated. Outlays and expenditures from the  
funds or accounts to which the money is  
transferred may be made without further  
legislative action, in accordance with statutory

provisions relating to the funds or accounts.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 262**

To Attorney General - Crime and  
Violence Prevention Fund  
From General Fund ..... (100,000)  
From Dedicated Credits Revenue ..... (116,800)  
Schedule of Programs:  
Crime and Violence Prevention Fund (216,800)

**GOVERNORS OFFICE**

**Item 263**

To Governors Office - State Elections Grant Fund  
From Federal Funds, One-Time ..... 4,604,000  
Schedule of Programs:  
State Elections Grant Fund ..... 4,604,000

**Item 264**

To Governors Office - Pretrial Release  
Programs Special Revenue Fund  
From Dedicated Credits Revenue ..... (300,000)  
From Dedicated Credits Revenue,  
One-Time ..... 75,000  
Schedule of Programs:  
Pretrial Release Programs Special  
Revenue Fund ..... (225,000)

**Item 265**

To Governors Office - Rampage  
Violence Prevention Study Fund  
From Dedicated Credits Revenue,  
One-Time ..... (150,000)  
Schedule of Programs:  
Rampage Violence Prevention  
Study Fund ..... (150,000)

**DEPARTMENT OF PUBLIC SAFETY**

**Item 266**

To Department of Public Safety - Alcoholic  
Beverage Control Act Enforcement Fund  
From Dedicated Credits Revenue ..... (687,200)  
From Closing Fund Balance ..... 612,500  
Schedule of Programs:  
Alcoholic Beverage Control Act  
Enforcement Fund ..... (74,700)

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**DEPARTMENT OF  
ADMINISTRATIVE SERVICES**

**Item 267**

To Department of Administrative Services -  
State Debt Collection Fund  
From Dedicated Credits Revenue ..... (21,600)  
Schedule of Programs:  
State Debt Collection Fund ..... (21,600)

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF COMMERCE**

**Item 268**

To Department of Commerce -  
Cosmetologist/Barber, Esthetician,  
Electrologist Fund  
From Licenses/Fees ..... (1,500)  
Schedule of Programs:  
Cosmetologist/Barber, Esthetician,  
Electrologist Fund ..... (1,500)

**Item 269**

To Department of Commerce - Real  
Estate Education, Research, and  
Recovery Fund  
From Dedicated Credits Revenue ..... (4,200)  
Schedule of Programs:  
Real Estate Education, Research,  
and Recovery Fund ..... (4,200)

**Item 270**

To Department of Commerce -  
Residential Mortgage Loan Education,  
Research, and Recovery Fund  
From Licenses/Fees ..... (2,400)  
From Interest Income ..... (300)  
Schedule of Programs:  
RMLERR Fund ..... (2,700)

**Item 271**

To Department of Commerce - Securities  
Investor Education/Training/Enforcement Fund  
From Licenses/Fees ..... (1,800)  
Schedule of Programs:  
Securities Investor Education/  
Training/Enforcement Fund ..... (1,800)

**GOVERNOR'S OFFICE  
OF ECONOMIC DEVELOPMENT**

**Item 272**

To Governor's Office of Economic Development -  
Outdoor Recreation Infrastructure Account  
From Dedicated Credits Revenue ..... (9,600)  
Schedule of Programs:  
Outdoor Recreation Infrastructure  
Account ..... (9,600)

**PUBLIC SERVICE COMMISSION**

**Item 273**

To Public Service Commission - Universal  
Public Telecom Service  
From Dedicated Credits Revenue ..... (5,400)  
Schedule of Programs:  
Universal Public Telecommunications  
Service Support ..... (5,400)

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 274**

To Department of Health -  
Pediatric Neuro-Rehabilitation Fund  
From General Fund ..... (100,000)  
Schedule of Programs:

Pediatric Neuro-Rehabilitation  
Fund ..... (100,000)

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 275**

To Department of Workforce Services - Permanent  
Community Impact Bonus Fund

From Interest Income ..... (30,000)  
From Restricted Revenue ..... 30,000

**Item 276**

To Department of Workforce Services - Permanent  
Community Impact Fund

From Dedicated Credits Revenue ..... 200,000  
From Restricted Revenue ..... (200,000)

**Item 277**

To Department of Workforce Services - Qualified  
Emergency Food Agencies Fund

From Restricted Revenue ..... (540,000)  
From Designated Sales Tax ..... 540,000

**Item 278**

To Department of Workforce Services -  
Olene Walker Low Income Housing

From General Fund, One-Time ..... (5,000,000)  
From Interest Income ..... 80,000

From Restricted Revenue ..... (80,000)  
Schedule of Programs:

Olene Walker Low Income  
Housing ..... (5,000,000)

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF NATURAL RESOURCES**

**Item 279**

To Department of Natural Resources -  
Wildland Fire Preparedness Grants Fund

From General Fund ..... (250,000)  
Schedule of Programs:

Wildland Fire Preparedness  
Grants Fund ..... (250,000)

**EXECUTIVE APPROPRIATIONS**

**UTAH NATIONAL GUARD**

**Item 280**

To Utah National Guard - National  
Guard MWR Fund

From Dedicated Credits Revenue ..... (19,200)  
Schedule of Programs:

National Guard MWR Fund ..... (19,200)

**DEPARTMENT OF VETERANS  
AND MILITARY AFFAIRS**

**Item 281**

To Department of Veterans and Military Affairs -  
Utah Veterans Nursing Home Fund

From Federal Funds ..... (18,900)  
Schedule of Programs:

Veterans Nursing Home Fund ..... (18,900)

**Subsection 2(c). Business-like Activities.**

The Legislature has reviewed the following  
proprietary funds. Under the terms and

conditions of Utah Code 63J-1-410, for any  
included Internal Service Fund, the Legislature  
approves budgets, full-time permanent  
positions, and capital acquisition amounts as  
indicated, and appropriates to the funds, as  
indicated, estimated revenue from rates, fees,  
and other charges. The Legislature authorizes  
the State Division of Finance to transfer  
amounts between funds and accounts as  
indicated.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE**

**ATTORNEY GENERAL**

**Item 282**

To Attorney General - ISF - Attorney General  
From Dedicated Credits Revenue ..... (46,200)

From Dedicated Credits Revenue,  
One-Time ..... (19,100)

Schedule of Programs:  
ISF - Attorney General ..... (65,300)

**UTAH DEPARTMENT OF CORRECTIONS**

**Item 283**

To Utah Department of Corrections -  
Utah Correctional Industries

From Dedicated Credits Revenue ..... (188,700)  
Schedule of Programs:

Utah Correctional Industries ..... (188,700)

**INFRASTRUCTURE AND  
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE  
SERVICES INTERNAL SERVICE FUNDS**

**Item 284**

To Department of Administrative Services  
Internal Service Funds - Division of  
Facilities Construction and

Management - Facilities Management

From Dedicated Credits Revenue ..... (19,500)  
Schedule of Programs:

ISF - Facilities Management ..... (19,500)

**Item 285**

To Department of Administrative Services Internal  
Service Funds - Division of Fleet Operations

From Fleet Operations-Motor Pool,  
One-Time ..... 650,000

Schedule of Programs:  
ISF - Fuel Network ..... 650,000

The Legislature intends that the \$650,000  
one-time from the Fleet Operations - Motor  
Pool Fund (State Only Retained Earnings) for  
purchase of the land contaminated by fuel  
spill be used only after the completion of  
negotiations and obtaining legislative  
approval.

**DEPARTMENT OF TECHNOLOGY  
SERVICES INTERNAL SERVICE FUNDS**

**Item 286**

To Department of Technology Services Internal  
Service Funds - Enterprise Technology Division

From Dedicated Credits Revenue ..... (386,500)

Schedule of Programs:  
 ISF - Enterprise Technology  
 Division ..... (386,500)

**SOCIAL SERVICES**

**DEPARTMENT OF HEALTH**

**Item 287**  
 To Department of Health - Qualified  
 Patient Enterprise Fund  
 From Dedicated Credits Revenue ..... (31,400)  
 Schedule of Programs:  
 Qualified Patient Enterprise Fund ... (31,400)

**DEPARTMENT OF  
WORKFORCE SERVICES**

**Item 288**  
 To Department of Workforce Services -  
 Unemployment Compensation Fund  
 From Federal Funds, One-Time ..... 9,809,900  
 From Dedicated Credits Revenue ..... 381,700  
 From Restricted Revenue ..... (381,700)  
 Schedule of Programs:  
 Unemployment Compensation  
 Fund ..... 9,809,900

**NATURAL RESOURCES, AGRICULTURE,  
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF  
AGRICULTURE AND FOOD**

**Item 289**  
 To Department of Agriculture and Food -  
 Agriculture Loan Programs  
 From Agriculture Resource Development  
 Fund ..... (3,900)  
 From Utah Rural Rehabilitation  
 Loan State Fund ..... (2,100)  
 Schedule of Programs:  
 Agriculture Loan Program ..... (6,000)

**Subsection 2(d). Restricted Fund and  
Account Transfers.** The Legislature  
 authorizes the State Division of Finance to  
 transfer the following amounts between the  
 following funds or accounts as indicated.  
 Expenditures and outlays from the funds to  
 which the money is transferred must be  
 authorized by an appropriation.

**EXECUTIVE OFFICES  
AND CRIMINAL JUSTICE**

**Item 290**  
 To General Fund Restricted - Indigent  
 Defense Resources Account  
 From General Fund ..... (2,517,100)  
 From Revenue Transfers ..... 2,517,100  
 From Revenue Transfers, One-Time ..... 9,100  
 From Beginning Fund Balance ..... (9,100)

**Item 291**  
 To General Fund Restricted -  
 Fire Academy Support Account  
 From General Fund ..... 4,200,000  
 Schedule of Programs:

General Fund Restricted - Fire  
 Academy Support Account ..... 4,200,000

**Item 292**  
 To Post Disaster Recovery and Mitigation  
 Rest Account  
 From General Fund ..... (300,000)  
 Schedule of Programs:  
 Post Disaster Recovery and  
 Mitigation Rest Account ..... (300,000)

**BUSINESS, ECONOMIC  
DEVELOPMENT, AND LABOR**

**Item 293**  
 To Latino Community Support Restricted Account  
 From Dedicated Credits Revenue ..... (12,500)  
 Schedule of Programs:  
 Latino Community Support  
 Restricted Account ..... (12,500)

**Item 294**  
 To General Fund Restricted -  
 Motion Picture Incentive Fund  
 From General Fund ..... (79,500)  
 Schedule of Programs:  
 General Fund Restricted -  
 Motion Picture Incentive Fund ..... (79,500)

**Item 295**  
 To General Fund Restricted - Tourism  
 Marketing Performance Fund  
 From General Fund ..... (1,177,200)  
 From General Fund, One-Time .... (11,411,400)  
 Schedule of Programs:  
 General Fund Restricted - Tourism  
 Marketing Performance ..... (12,588,600)

**SOCIAL SERVICES**

**Item 296**  
 To Ambulance Service Provider  
 Assessment Expendable Revenue Fund  
 From Beginning Fund Balance ..... (250,600)  
 From Closing Fund Balance ..... 250,600

**Item 297**  
 To Hospital Provider Assessment Fund  
 From Beginning Fund Balance ..... (4,038,600)  
 From Closing Fund Balance ..... 4,038,600

**Item 298**  
 To General Fund Restricted - Medicaid  
 Restricted Account  
 From General Fund ..... (56,630,200)  
 From General Fund, One-Time ..... 79,755,100  
 Schedule of Programs:  
 Medicaid Restricted Account ..... 23,124,900

**Item 299**  
 To Adult Autism Treatment Account  
 From General Fund ..... (200,000)  
 Schedule of Programs:  
 Adult Autism Treatment Account ... (200,000)

**Item 300**  
 To Emergency Medical Services System  
 Account  
 From General Fund ..... (1,500,000)  
 Schedule of Programs:  
 Emergency Medical Services  
 System Account ..... (1,500,000)



**Item 301**

To General Fund Restricted – School  
 Readiness Account  
 From General Fund . . . . . (3,000,000)  
 From General Fund, One-Time . . . . . (1,500,000)  
 Schedule of Programs:  
 General Fund Restricted – School  
 Readiness Account . . . . . (4,500,000)  
 The Legislature intends that the Department of Workforce Services use federal CCDF Grants to replace the General Fund reduction of \$1,500,000 for “DWS – Replace General Fund Appropriation to the School Readiness Fund with CCDF Grants.”

**HIGHER EDUCATION**

**Item 302**

To Performance Funding Restricted Account  
 From Education Fund . . . . . (830,000)  
 Schedule of Programs:  
 Performance Funding Restricted  
 Account . . . . . (830,000)

**NATURAL RESOURCES, AGRICULTURE,  
 AND ENVIRONMENTAL QUALITY**

**Item 303**

To General Fund Restricted – Invasive  
 Species Mitigation Account  
 From General Fund . . . . . (1,000,000)  
 From General Fund, One-Time . . . . . (500,000)  
 Schedule of Programs:  
 General Fund Restricted – Invasive  
 Species Mitigation Account . . . . . (1,500,000)

**Item 304**

To General Fund Restricted –  
 Environmental Quality  
 From General Fund . . . . . (172,400)  
 Schedule of Programs:  
 GFR – Environmental Quality . . . . . (172,400)

**Item 305**

To General Fund Restricted – Mule Deer  
 Protection Account  
 From General Fund . . . . . (250,000)  
 Schedule of Programs:  
 General Fund Restricted – Mule Deer  
 Protection . . . . . (250,000)

**Item 306**

To General Fund Restricted – Wildlife Resources  
 From General Fund . . . . . (89,300)  
 Schedule of Programs:  
 General Fund Restricted – Wildlife  
 Resources . . . . . (89,300)

**Subsection 2(e). Transfers to Unrestricted Funds.** The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an

appropriation.

**EXECUTIVE OFFICES  
 AND CRIMINAL JUSTICE**

**Item 307**

To General Fund  
 From Nonlapsing Balances – From  
 Governors Office – Emergency Fund . . . 100,100  
 Schedule of Programs:  
 General Fund, One-time . . . . . 100,100

**SOCIAL SERVICES**

**Item 308**

To General Fund  
 From Dedicated Credits Revenue – From Health –  
 Family Health and Preparedness . . . . . 75,000  
 Schedule of Programs:  
 General Fund, One-time . . . . . 75,000

**RETIREMENT AND  
 INDEPENDENT ENTITIES**

**Item 309**

To General Fund – RIE  
 From Human Resource Management  
 ISF, One-Time . . . . . 286,000  
 Schedule of Programs:  
 General Fund, One-time . . . . . 286,000

**Subsection 2(f). Fiduciary Funds.** The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**BUSINESS, ECONOMIC  
 DEVELOPMENT, AND LABOR**

**LABOR COMMISSION**

**Item 310**

To Labor Commission – Uninsured  
 Employers Fund  
 From Dedicated Credits Revenue . . . . . (600)  
 From Trust and Agency Funds . . . . . (300)  
 Schedule of Programs:  
 Uninsured Employers Fund . . . . . (900)

**Subsection 2(g). Capital Project Funds.** The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND  
 GENERAL GOVERNMENT**

**CAPITAL BUDGET**

**Item 311**

To Capital Budget – Capital Development Fund  
 From General Fund . . . . . (922,600)  
 From General Fund, One-Time . . . . . (7,525,700)  
 From Education Fund . . . . . (646,500)  
 From Education Fund,  
 One-Time . . . . . (185,080,900)  
 Schedule of Programs:  
 Capital Development Fund . . . . . (194,175,700)

**Item 312**

To Capital Budget – DFCM Prison Project Fund

From General Fund . . . . . (110,000,000)  
 From General Fund, One-Time . . . . . 220,000,000  
 Schedule of Programs:  
   DFCM Prison Project Fund . . . . . 110,000,000

**Item 313**

To Capital Budget - Higher Education  
 Capital Projects Fund  
 From General Fund . . . . . (26,000,000)  
 From General Fund, One-Time . . . . . 13,000,000  
 From Education Fund . . . . . (47,000,000)  
 From Education Fund, One-Time . . . . . 820,000  
 Schedule of Programs:  
   Higher Education Capital  
     Projects Fund . . . . . (59,180,000)

**Item 314**

To Capital Budget - Technical Colleges  
 Capital Projects Fund  
 From General Fund . . . . . (14,000,000)  
 From General Fund, One-Time . . . . . 7,000,000  
 From Education Fund, One-Time . . . . . (4,320,000)  
 Schedule of Programs:  
   Technical Colleges Capital  
     Projects Fund . . . . . (11,320,000)

**Section 3. Effective Date.**

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2020.

**CHAPTER 9****S. B. 5002**

Passed June 18, 2020

Approved June 25, 2020

Effective June 25, 2020

**CHANGES TO PROCUREMENT CODE**

Chief Sponsor: David G. Buxton

House Sponsor: Val L. Peterson

**LONG TITLE****General Description:**

This bill modifies the Utah Procurement Code.

**Highlighted Provisions:**

This bill:

- ▶ modifies a provision relating to an evaluation committee's authority to change scores after having been submitted to the procurement unit.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

63G-6a-707, as last amended by Laws of Utah 2020, Chapter 365

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 63G-6a-707 is amended to read:****63G-6a-707. Evaluation committee -- Evaluation of proposals.**

(1) A procurement unit shall appoint an evaluation committee of at least three members to evaluate proposals received in response to a request for proposals issued by the procurement unit.

(2) The evaluation committee shall evaluate proposals in accordance with the process described in the request for proposals.

(3) To determine which proposal provides the best value to the procurement unit, the evaluation committee shall evaluate each responsible offeror's responsive proposal that has not been disqualified from consideration under the provisions of this chapter, using the evaluation criteria described in the request for proposals.

(4) Criteria not described in the request for proposals may not be used to evaluate a proposal.

(5) A procurement unit shall:

(a) appoint evaluation committee members who have at least a general familiarity with or basic understanding of:

(i) the technical requirements relating to the type of procurement item that is the subject of the procurement; or

(ii) the need that the procurement item is intended to address; and

(b) ensure that the evaluation committee and each individual participating in the evaluation committee process:

(i) does not have a conflict of interest with any of the offerors;

(ii) can fairly evaluate each proposal;

(iii) does not contact or communicate with an offeror concerning the procurement outside the official evaluation committee process; and

(iv) conducts or participates in the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

(6) A procurement unit may authorize an evaluation committee to receive assistance from an expert or consultant to better understand a technical issue involved in the procurement.

(7) (a) Except as provided in Subsection (7)(b), an evaluation committee member is prohibited from knowing or having access to information relating to the cost of a proposal until after the evaluation committee submits its recommendation to the procurement unit based on the scores of all criteria other than cost.

(b) A procurement official may waive the prohibition of Subsection (7)(a) by signing a written statement indicating why waiving the prohibition is in the best interests of the procurement unit.

(8) An evaluation committee may not change its final recommended scores after the evaluation committee has submitted those scores to the procurement unit.

(9) (a) The deliberations and other proceedings of an evaluation committee may be held in private.

(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations and other proceedings.

(10) (a) At the conclusion of the evaluation process, an evaluation committee shall prepare and submit to the procurement unit a written statement that:

(i) recommends a proposal for an award of a contract, if the evaluation committee decides to recommend a proposal;

(ii) contains the score awarded to the recommended proposal based on the criteria stated in the request for proposals; and

(iii) explains how the recommended proposal provides the best value to the procurement unit.

(b) A procurement unit is not required to comply with Subsection (10)(a) for a contract with a construction manager/general contractor if the contract is awarded based solely on:

(i) the qualifications of the construction manager/general contractor; and

(ii) the management fee to be paid to the construction manager/general contractor.

**Section 2. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 10****S. B. 5003**

Passed June 18, 2020

Approved June 25, 2020

Effective August 18, 2020

**COVID-19 IMMUNITY PROVISIONS**

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Marc K. Roberts

**LONG TITLE****General Description:**

This bill addresses immunity related to COVID-19.

**Highlighted Provisions:**

This bill:

- ▶ addresses the relationship between the governmental immunity act and immunity related to exposure to COVID-19; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

63G-7-201, as last amended by Laws of Utah 2020, Chapter 288

63G-8-201, as last amended by Laws of Utah 2016, Chapter 181

78B-4-517, as enacted by Laws of Utah 2020, Third Special Session, Chapter 12

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 63G-7-201 is amended to read:****63G-7-201. Immunity of governmental entities and employees from suit.**

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

~~(a)~~ (i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

~~(b)~~ (ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

~~(c)~~ (iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

~~(d)~~ (A) an emergency shelter;

~~(e)~~ (B) housing;

~~(f)~~ (C) a staging place; or

~~(g)~~ (D) a medical facility; and

~~(h)~~ (iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

- (h) the collection or assessment of taxes;
- (i) an activity of the Utah National Guard;
- (j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;
- (k) a natural condition on publicly owned or controlled land;
- (l) a condition existing in connection with an abandoned mine or mining operation;
- (m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;
- (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:
  - (i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;
  - (ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:
    - (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and
    - (B) the municipality or county where the trail is located; and
  - (iii) the written agreement:
    - (A) contains a plan for operation and maintenance of the trail; and
    - (B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;
  - (o) research or implementation of cloud management or seeding for the clearing of fog;
  - (p) the management of flood waters, earthquakes, or natural disasters;
  - (q) the construction, repair, or operation of flood or storm systems;
  - (r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;
  - (s) the activity of:
    - (i) providing emergency medical assistance;
    - (ii) fighting fire;
    - (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
    - (iv) an emergency evacuation;
    - (v) transporting or removing an injured person to a place where emergency medical assistance can be

rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity; or

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road.

**Section 2. Section 63G-8-201 is amended to read:**

**63G-8-201. Voluntary services -- Immunity from liability -- Exceptions.**

(1) A person performing services on a voluntary basis, without compensation, under the general supervision of, and on behalf of any public entity, is immune from liability with respect to any decisions or actions, other than in connection with the operation of a motor vehicle, taken during the course of those services, unless it is established that such decisions or actions were grossly negligent, not made in good faith, or were made maliciously.

(2) A volunteer facilitator is immune from liability to the extent provided in Subsection 67-20-3(4).

(3) A person or entity owning a building or other facility and an operator of or an employee in a building or facility is immune from liability with respect to any decisions or actions related to emergency or public health conditions, as described in Subsection 63G-7-201(2)(e)(b)(iii), while acting under the general supervision of or on behalf of any public entity.

**Section 3. Section 78B-4-517 is amended to read:**

**78B-4-517. Immunity related to COVID-19.**

(1) As used in this section:

(a) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "Person" means the same as that term is defined in Section 68-3-12.5.

(c) "Premises" means real property and any appurtenant building or structure.

(2) Subject to the other provisions of this section, a person is immune from civil liability for damages or an injury resulting from exposure of an individual to COVID-19 on the premises owned or operated by the person, or during an activity managed by the person. Immunity as described in this Subsection (2) does not apply to:

- (a) willful misconduct;
- (b) reckless infliction of harm; or
- (c) intentional infliction of harm.
- (3) This section does not modify the application of:
- (a) Title 34A, Chapter 2, Workers' Compensation Act;
- (b) Title 34A, Chapter 3, Utah Occupational Disease Act; or
- (c) Title 34A, Chapter 6, Utah Occupational Safety and Health Act~~[; or]~~.
- ~~[(d) Title 63G, Chapter 7, Governmental Immunity Act of Utah.]~~
- (4) The immunity in Subsection (2) is in addition to any other immunity protections that may apply in state or federal law.

## CHAPTER 11

## S. B. 5005

Passed June 18, 2020

Approved June 25, 2020

Effective June 25, 2020

**RENT AND MORTGAGE  
ASSISTANCE AMENDMENTS**

Chief Sponsor: Lincoln Fillmore

House Sponsor: Mike Schultz

**LONG TITLE****General Description:**

This bill modifies provisions related to residential housing assistance and commercial rental assistance.

**Highlighted Provisions:**

This bill:

- ▶ modifies the date when the Housing and Community Development Division may provide certain residential housing assistance for state residents financially harmed as a result of the COVID-19 pandemic;
- ▶ modifies provisions of the COVID-19 Commercial Rental Assistance Program administered by the Governor's Office of Economic Development, including:
  - modifying definitions; and
  - modifying the requirements to receive assistance under the program and the amounts of rental assistance that may be provided; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

35A-8-2302 (Repealed 05/31/21), as enacted by Laws of Utah 2020, Third Special Session, Chapter 11

63N-14-102 (Repealed 05/31/21), as enacted by Laws of Utah 2020, Third Special Session, Chapter 11

63N-14-201 (Repealed 05/31/21), as enacted by Laws of Utah 2020, Third Special Session, Chapter 11

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 35A-8-2302 (Repealed 05/31/21) is amended to read:****35A-8-2302 (Repealed 05/31/21). COVID-19 residential housing assistance -- Rulemaking.**

(1) ~~[Beginning August 1, 2020, the]~~ The division shall assist qualifying state residents financially harmed on or after March 1, 2020, but on or before December 30, 2020, by COVID-19 to retain or obtain housing:

- (a) through a new or existing housing-related program or service; and

- (b) using funds:

(i) the state receives from the Coronavirus Relief Fund described in the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136;

- (ii) the Legislature appropriates; and

(iii) in a total amount not to exceed \$20,000,000.

(2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for any ~~[new]~~ program or service the division establishes or modifies to carry out the provisions of this part, including rules related to the application process and requirements for a state resident to qualify for assistance under this part.

**Section 2. Section 63N-14-102 (Repealed 05/31/21) is amended to read:****63N-14-102 (Repealed 05/31/21). Definitions.**

As used in this chapter:

- (1) "Business entity" means a business that:

(a) employs fewer than the equivalent of 100 full-time employees;

(b) has the business's principal place of business in this state; and

~~[(e) was in operation on February 15, 2020; and]~~

~~[(d)]~~ (c) (i) is properly registered with the Division of Corporations and Commercial Code;

(ii) is tax exempt under Section 501(c)(3) or (19) of the Internal Revenue Code;

(iii) is a Tribal business concern described in 15 U.S.C. Sec. 657a (b)(2)(C); or

- (iv) is an individual who:

(A) operates under a sole proprietorship;

(B) operates as an independent contractor; or

(C) is self-employed.

(2) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136.

- (3) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(4) "Program" means the COVID-19 Commercial Rental Assistance Program established in Section 63N-14-201.

(5) "Qualified business entity" means a business entity that:

(a) is a lessee of commercial property in the state for the purpose of conducting the business entity's business on the property;

(b) demonstrates to the office that the business entity lost at least ~~[50%]~~ 30% of the business entity's monthly gross revenue:

- (i) for a four-week period:



- (A) beginning on or after March 1, 2020; and
- (B) ending on or before December 30, 2020; and
- (ii) as a result of federal, state, or local public health measures taken to minimize the public's exposure to COVID-19; and
- (c) does not receive funds from the COVID-19 Agricultural Operations Grant Program established in Section 4-18-106.1.

(6) (a) "Rent" means the amount under a rental agreement that a business entity owes a lessor for the right to occupy commercial property.

(b) "Rent" does not include a charge or fee for a utility the lessor furnishes in accordance with a rental agreement.

**Section 3. Section 63N-14-201 (Repealed 05/31/21) is amended to read:**

**63N-14-201 (Repealed 05/31/21). Creation of the COVID-19 Commercial Rental Assistance Program.**

(1) The office shall establish and administer a COVID-19 Commercial Rental Assistance Program in accordance with this chapter.

(2) In administering the program, the office:

(a) shall accept applications beginning on or after May 11, 2020, for commercial rental assistance;

(b) shall determine whether an applicant for commercial rental assistance is a qualified business entity; and

~~[(c) subject to Subsection (3), may grant a single month of rental assistance to an applicant that is a qualified business entity, in an amount not to exceed the lesser of:]~~

~~[(i) \$10,000; or]~~

~~[(ii) (A) if the qualified business entity demonstrates a monthly gross revenue loss of 50% or greater, but less than 71%, an amount equal to 50% of the qualified business entity's monthly rent; or]~~

~~[(B) if the qualified business entity demonstrates a monthly gross revenue loss of 71% or greater, an amount equal to 100% of the qualified business entity's monthly rent.]~~

~~[(3) (a) Upon application, a business entity shall disclose whether the business entity has received or applied for funds from the Paycheck Protection Program described in the CARES Act.]~~

~~[(b) A qualified business entity that receives funds between February 15, 2020, and June 30, 2020, from the Paycheck Protection Program described in the CARES Act, is only eligible under this chapter to receive a single month of rental assistance, in an amount not to exceed the lesser of:]~~

~~[(i) \$5,000; or]~~

~~[(ii) (A) if the qualified business entity demonstrates a monthly gross revenue loss of 50%~~

~~or greater, but less than 71%, an amount equal to 25% of the qualified business entity's monthly rent; or]~~

~~[(B) if the qualified business entity demonstrates a monthly gross revenue loss of 71% or greater, an amount equal to 50% of the qualified business entity's monthly rent.]~~

~~[(c) A qualified business entity described in Subsection (3)(b) that receives more than the amount for which the qualified business entity is eligible under Subsection (3)(b) shall return to the office any funds for which the qualified business entity is not eligible.]~~

~~(c) subject to Subsection (3), may grant up to two months of rental assistance per location for an applicant that is a qualified business entity in the following amounts:~~

~~(i) if the qualified business entity demonstrates a monthly gross revenue loss of 30% or greater, but less than 45%, an amount equal to 50% of the qualified business entity's monthly rent; or~~

~~(ii) if the qualified business entity demonstrates a monthly gross revenue loss of 45% or greater, an amount equal to 100% of the qualified business entity's monthly rent.~~

~~(3) Notwithstanding the amounts described in Subsection (2)(c), the total maximum amount of rental assistance that may be provided for rental assistance under the program may be no more than:~~

~~(a) \$15,000 for a qualified business entity with one location; or~~

~~(b) \$30,000 for a qualified business entity with more than one location, with no more than \$5,000 awarded per month for any one location.~~

~~(4) To demonstrate gross revenue loss, a business entity shall submit to the office:~~

~~(a) [an affidavit] a signed attestation that the business entity has lost at least [50%] 30% of the business entity's monthly gross revenue as a result of federal, state, or local public health measures taken to minimize the public's exposure to COVID-19; and~~

~~[(b) the business entity's two most recent state or federal tax returns;]~~

~~[(c) revenue reports for 2019 and the four months immediately preceding the day on which the business entity submits an application under the program; and]~~

~~[(d) anything else the office requires.]~~

~~(b) any additional information or documentation required by the office as determined by the office.~~

~~(5) The office shall provide rental assistance in accordance with this chapter using funds:~~

~~(a) the state receives from the Coronavirus Relief Fund described in the CARES Act;~~

~~(b) the Legislature appropriates; and~~

~~(c) in a total amount not to exceed \$40,000,000.~~

**Section 4. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 12****H. B. 5010**

Passed June 18, 2020  
 Approved June 29, 2020  
 Effective June 29, 2020  
 Exception clause

**COVID-19 ECONOMIC RECOVERY PROGRAM**

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Daniel Hemmert

**LONG TITLE****General Description:**

This bill creates economic recovery programs in response to COVID-19.

**Highlighted Provisions:**

This bill:

- ▶ creates grant programs (the grant programs) for:
  - certain entities eligible to receive funding from county Botanical, Cultural, Recreational, and Zoological Organizations or Facilities sales tax revenue and their for-profit equivalents if the entity provides activities to encourage travel and tourism in the state to benefit communities or artists affected by COVID-19;
  - institutions of higher education to provide education to employees displaced by COVID-19;
  - business entities with revenue declines due to COVID-19 if the business entity provides a financial incentive to customers; and
  - business entities to purchase supplies and materials to follow COVID-19 public health guidelines on safely returning employees to work;
- ▶ creates a public outreach and education program to encourage compliance with COVID-19 health guidelines and receipt of medical care;
- ▶ grants rulemaking authority to the Division of Arts and Museums and the Governor's Office of Economic Development to administer the grant programs;
- ▶ requires the Division of Arts and Museums, the Governor's Office of Economic Development, and the Division of Finance to report information about the grant programs to certain members of the Legislature;
- ▶ creates a subtraction from state income for funds received from the grant programs for state income tax purposes;
- ▶ provides for the repealer of the grant programs and the public outreach and education program; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ To Department of Administrative Services -- Finance Mandated, as a one-time appropriation:
  - from Federal Funds -- Coronavirus Relief Fund, \$62,000,000.

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides retrospective operation.

**Utah Code Sections Affected:****AMENDS:**

- 59-7-106, as last amended by Laws of Utah 2019, Chapter 412
- 59-10-114, as last amended by Laws of Utah 2019, Chapter 412
- 63I-2-259, as last amended by Laws of Utah 2020, Chapters 46 and 354
- 63I-2-263 (Effective 10/15/20), as last amended by Laws of Utah 2020, Chapters 116, 230, 231, 286, 322, 325, 354, 365, 368, 375, 405, 430, 433, 446 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 231
- 63N-12-508 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapters 340 and 365
- 63N-12-508 (Superseded 07/01/20), as last amended by Laws of Utah 2020, Chapter 340

**ENACTS:**

- 9-6-901, Utah Code Annotated 1953
- 9-6-902, Utah Code Annotated 1953
- 9-6-903, Utah Code Annotated 1953
- 9-6-904, Utah Code Annotated 1953
- 63A-3-111, Utah Code Annotated 1953
- 63I-2-209, Utah Code Annotated 1953
- 63N-15-101, Utah Code Annotated 1953
- 63N-15-102, Utah Code Annotated 1953
- 63N-15-103, Utah Code Annotated 1953
- 63N-15-201, Utah Code Annotated 1953
- 63N-15-202, Utah Code Annotated 1953
- 63N-15-301, Utah Code Annotated 1953
- 63N-15-302, Utah Code Annotated 1953
- 63N-15-401, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 9-6-901 is enacted to read:****Part 9. COVID-19 Cultural Assistance Grant Program****9-6-901. Definitions.**

As used in this part:

(1) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(2) "Legislative committee" means:

(a) the president of the Senate;

(b) the speaker of the House of Representatives;

(c) the minority leader of the Senate; and

(d) the minority leader of the House of Representatives.

(3) "Qualified organization" means:

(a) an entity that is eligible to receive funding from the tax authorized under Title 59, Chapter 12, Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, regardless of whether the entity receives any funding; or

(b) a for-profit equivalent of an entity described in Subsection (3)(a).

**Section 2. Section 9-6-902 is enacted to read:**

**9-6-902. COVID-19 Cultural Assistance Grant Program -- Eligibility -- Grant limit.**

(1) There is established a grant program known as COVID-19 Cultural Assistance Grant Program that is administered by the division in accordance with this part.

(2) To be eligible to apply for a grant under this part, a qualified organization:

(a) shall offer or propose to offer, on or before December 30, 2020, a cultural, artistic, botanical, recreational, or zoological activity in this state that:

(i) promotes travel and tourism in this state; and

(ii) in aggregate has a cost that is estimated to equal or exceed 50% of the grant amount that the qualified organization requests;

(b) shall describe to the division how receipt of grant funds will benefit the communities or artists in this state affected by COVID-19;

(c) shall have an average three-year operational expenditure of \$5,000,000 or more per year; and

(d) may not receive grant funds under Title 63N, Chapter 15, Part 2, COVID-19 Impacted Businesses Grant Program.

(3) The amount of a grant that the division awards to a qualified organization under this part may not exceed two times the net cost of the cultural, artistic, botanical, recreational, or zoological activity that the qualified organization offers or proposes to offer.

**Section 3. Section 9-6-903 is enacted to read:**

**9-6-903. Duties of the division.**

(1) As soon as is practicable but on or before July 31, 2020, the division shall:

(a) establish an application process by which a qualified organization may apply for a grant under this part, which application shall include:

(i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct and any estimates about the net costs to provide the cultural, artistic, botanical, recreational, or zoological activity are made in good faith;

(ii) an acknowledgment that the qualified organization is subject to audit; and

(iii) a plan for providing the activity described in Subsection 9-6-902(2)(a);

(b) establish a method for the office, in consultation with the Governor's Office of Economic Development for recreational applicants, to determine which applicants are eligible to receive a grant;

(c) establish a formula to award grant funds; and

(d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.

(2) The division shall:

(a) participate in the presentation that the director of the Division of Finance provides to the legislative committee under Section 63A-3-111; and

(b) consider any recommendations for adjustments to the grant program from the legislative committee.

(3) Subject to appropriation, beginning on August 5, 2020, the division shall:

(a) collect applications for grant funds from qualified organizations;

(b) determine, in consultation with the Governor's Office of Economic Development for recreational applicants, which applicants meet the eligibility requirements for receiving a grant; and

(c) award the grant funds:

(i) (A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and

(ii) in accordance with the process established under Subsection (1) and the limit described in Subsection 9-6-902(3).

(4) The division shall encourage any qualified organization that receives grant funds to commit to following best practices to protect the health and safety of the qualified organization's employees and customers.

(5) (a) The division may audit a qualified organization's reported net cost to provide a cultural, artistic, botanical, recreational, or zoological activity.

(b) The division may recapture grant funds if, after audit, the division determines that:

(i) if a qualified organization made representations about the qualified organization's actual net cost to provide the cultural, artistic, botanical, recreational, or zoological activity, the representations are not complete, true, and correct; or

(ii) if a qualified organization made representations about the qualified organization's estimated net cost to provide the cultural, artistic, botanical, recreational, or zoological activity, the representations are not made in good faith.

(c) (i) A qualified organization that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.

(ii) The Division of Finance shall deposit the penalty into the Education Fund.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to administer the grant program.

**Section 4. Section 9-6-904 is enacted to read:**

**9-6-904. Reporting.**

(1) The division shall report the following information to the Economic Development and Workforce Services Interim Committee:

(a) the number of applications submitted under the grant program;

(b) the number of grants awarded under the grant program;

(c) the aggregate amount of grant funds awarded under the grant program; and

(d) any other information the division considers relevant to evaluating the success of the grant program.

(2) The division shall submit the report described in Subsection (1) in electronic format on or before October 1, 2020, and provide an update in electronic format on or before June 30, 2021.

**Section 5. Section 59-7-106 is amended to read:**

**59-7-106. Subtractions from unadjusted income.**

(1) In computing adjusted income, the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

(i) an amortization expense;

(ii) a depreciation expense;

(iii) a gain;

(iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section 53B-8a-102.5:

(i) that the corporation or a person other than the corporation makes into an account owned by the corporation during the taxable year;

(ii) to the extent that neither the corporation nor the person other than the corporation described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax return; and

(iii) to the extent the qualified investment does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

(s) for a corporation that makes a donation, as that term is defined in Section 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the amount of the donation to the extent that the corporation did not deduct the donation on a federal income tax return;

(t) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust;

(u) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code;

(v) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; ~~and~~

(w) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium

paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year[-]; and

(x) for a taxable year beginning on or after January 1, 2020, but beginning on or before December 31, 2020, the amount of any grant funds the taxpayer receives under Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, Subsection 63N-12-508(3), or Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, to the extent that the grant funds are included in unadjusted income.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

**Section 6. Section 59-10-114 is amended to read:**

**59-10-114. Additions to and subtractions from adjusted gross income of an individual.**

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the

taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired

on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return.

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:



(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

(h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; ~~and~~

(i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year[-]; and

(j) for a taxable year beginning on or after January 1, 2020, but beginning on or before December 31, 2020, the amount of any grant funds the resident or nonresident individual receives under Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, Subsection 63N-12-508(3), or Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, to the extent that the grant funds are included in adjusted gross income.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

**Section 7. Section 63A-3-111 is enacted to read:**

**63A-3-111. COVID-19 economic recovery programs reports.**

(1) As used in this section:

(a) “COVID-19 economic recovery programs” means the programs created in:

(i) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program;

(ii) Subsection 63N-12-508(3); and

(iii) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs.

(b) “Legislative committee” means:

(i) the president of the Senate;

(ii) the speaker of the House of Representatives;

(iii) the minority leader of the Senate; and

(iv) the minority leader of the House of Representatives.

(2) Upon receiving the reports required by Sections 9-6-903, 63N-15-202, and 63N-15-302 and Subsection 63N-12-508(3), the director, in conjunction with the Division of Arts and Museums and the Governor’s Office of Economic Development, shall present to the legislative committee the COVID-19 economic recovery programs.

(3) The legislative committee may make recommendations for adjustments to the COVID-19 economic recovery programs.

**Section 8. Section 63I-2-209 is enacted to read:**

**63I-2-209. Repeal dates -- Title 9.**

Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.

**Section 9. Section 63I-2-259 is amended to read:**

**63I-2-259. Repeal dates -- Title 59.**

(1) In Section 59-2-926, the language that states “applicable” and “or 53F-2-301.5” is repealed July 1, 2023.

(2) Subsection 59-7-106(1)(x) is repealed December 31, 2021.

(3) Section 59-7-620 is repealed December 31, 2021.

(4) Subsection 59-10-114(2)(j) is repealed December 31, 2021.

**Section 10. Section 63I-2-263 (Effective 10/15/20) is amended to read:**

**63I-2-263 (Effective 10/15/20). Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.

(2) Section 63A-3-111 is repealed June 30, 2021.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(4) Title 63C, Chapter 21, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

(7) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(8) Section 63H-7a-303 is repealed July 1, 2024.

[48] (9) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed [on] July 1, 2021.

[49] (10) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1 (57) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

[40] (11) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

[41] (12) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

(13) Subsection 63N-12-508(3) is repealed December 31, 2021.

[42] (14) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is repealed January 1, 2024.

(15) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

**Section 11. Section 63N-12-508 (Superseded 07/01/20) is amended to read:**

**63N-12-508 (Superseded 07/01/20). Utah Works.**

(1) There is created within the center the Utah Works Program.

(2) The program, under the direction of the center and the talent ready board, shall coordinate and partner with the entities described below to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, the Utah System of Higher Education, and the Utah System of Technical Colleges;

(b) partnering with businesses that have significant hiring demands for primarily newly created jobs in the state;

(c) coordinating with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the Utah System of Higher Education and the Utah System of Technical Colleges to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training

resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) (a) Subject to appropriation, beginning on August 5, 2020, the office, in consultation with the talent ready board, may respond to the COVID-19 pandemic by directing financial grants to institutions of higher education described in Section 53B-2-101 to offer short-term programs to:

(i) provide training to furloughed, laid off, dislocated, underserved, or other populations affected by COVID-19 to fill employment gaps in the state;

(ii) provide training and education related to industry needs; and

(iii) provide students with certificates or other recognition after completion of training.

(b) (i) As soon as is practicable but on or before July 31, 2020, the office shall report to the director of the Division of Finance about the grant program under this Subsection (3), including:

(A) the process by which the office shall determine which institutions of public education shall receive financial grants; and

(B) the formula for awarding financial grants.

(ii) The office shall:

(A) participate in the presentation that the director of the Division of Finance provides to the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives under Section 63A-3-111; and

(B) consider any recommendations for adjustments to the grant program from the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

(c) To implement Subsection (3)(a), an institution of higher education that receives grant funds:

(i) may use grant funds for:

(A) costs associated with developing a new program; or

(B) costs associated with expanding an existing program; and

(ii) shall demonstrate industry needs and opportunities for partnership with industry.

(d) (i) The office shall award grant funds:

(A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or November 30, 2020.

(ii) An institution of higher education that receives grant funds shall expend the grant funds on or before December 1, 2020.

(e) The center shall conduct outreach, including education about career guidance, training, and workforce programs, to the targeted populations.

[3] (4) The office, in consultation with the talent ready board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

[4] (5) The center shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1-301:

- (a) the number of participants in the program;
- (b) how program participants learned about or were referred to the program, including the number of participants who learned about or were referred to the program by:
  - (i) the Department of Workforce Services;
  - (ii) marketing efforts of the center or talent ready board;
  - (iii) a school counselor; and
  - (iv) other methods;
- (c) the number of participants who have completed training offered by the program; and
- (d) the number of participants who have been hired by a business participating in the program.

**Section 12. Section 63N-12-508 (Effective 07/01/20) is amended to read:**

**63N-12-508 (Effective 07/01/20). Utah Works.**

- (1) There is created within the center the Utah Works Program.
- (2) The program, under the direction of the center and the talent ready board, shall coordinate and partner with the entities described below to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state by:
  - (a) partnering with the office, the Department of Workforce Services, and the Utah system of higher education;
  - (b) partnering with businesses that have significant hiring demands for primarily newly created jobs in the state;
  - (c) coordinating with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;
  - (d) coordinating with the Utah system of higher education to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and
  - (e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training

resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) (a) Subject to appropriation, beginning on August 5, 2020, the office, in consultation with the talent ready board, may respond to the COVID-19 pandemic by directing financial grants to institutions of higher education described in Section 53B-2-101 to offer short-term programs to:

(i) provide training to furloughed, laid off, dislocated, underserved, or other populations affected by COVID-19 to fill employment gaps in the state;

(ii) provide training and education related to industry needs; and

(iii) provide students with certificates or other recognition after completion of training.

(b) (i) As soon as is practicable but on or before July 31, 2020, the office shall report to the director of the Division of Finance about the grant program under this Subsection (3), including:

(A) the process by which the office shall determine which institutions of public education shall receive financial grants; and

(B) the formula for awarding financial grants.

(ii) The office shall:

(A) participate in the presentation that the director of the Division of Finance provides to the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives under Section 63A-3-111; and

(B) consider any recommendations for adjustments to the grant program from the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

(c) To implement Subsection (3)(a), an institution of higher education that receives grant funds:

(i) may use grant funds for:

(A) costs associated with developing a new program; or

(B) costs associated with expanding an existing program; and

(ii) shall demonstrate industry needs and opportunities for partnership with industry.

(d) (i) The office shall award grant funds:

(A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or November 30, 2020.

(ii) An institution of higher education that receives grant funds shall expend the grant funds on or before December 1, 2020.

(e) The center shall conduct outreach, including education about career guidance, training, and workforce programs, to the targeted populations.

~~[(3)]~~ (4) The office, in consultation with the talent ready board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

[(4)] (5) The center shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1-301:

- (a) the number of participants in the program;
- (b) how program participants learned about or were referred to the program, including the number of participants who learned about or were referred to the program by:
  - (i) the Department of Workforce Services;
  - (ii) marketing efforts of the center or talent ready board;
  - (iii) a school counselor; and
  - (iv) other methods;
- (c) the number of participants who have completed training offered by the program; and
- (d) the number of participants who have been hired by a business participating in the program.

**Section 13. Section 63N-15-101 is enacted to read:**

#### CHAPTER 15. COVID-19 ECONOMIC RECOVERY PROGRAMS

##### Part 1. General Provisions

##### **63N-15-101. Title.**

This chapter is known as "COVID-19 Economic Recovery Programs."

**Section 14. Section 63N-15-102 is enacted to read:**

##### **63N-15-102. Definitions.**

As used in this chapter:

- (1) (a) "Business entity" means a business that:
  - (i) was in operation in this state on March 1, 2020;
  - (ii) has employees who report to a physical location in this state; and
  - (iii) (A) is properly registered with the Division of Corporations and Commercial Code;
  - (B) is tax exempt under Section 501(c)(3), (6), or (19) of the Internal Revenue Code;
  - (C) is a Tribal business concern described in 15 U.S.C. Sec. 657a (b)(2)(C); or
  - (D) is an individual who operates under a sole proprietorship, operates as an independent contractor, or is self-employed.
- (b) "Business entity" does not include a marketplace that connects travelers with private property owners offering accommodation for compensation.

(2) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(3) (a) "COVID-19 expenses" means the costs incurred by a business entity:

(i) on or after March 1, 2020, but on or before December 30, 2020; and

(ii) to comply with COVID-19 public health guidelines on safely returning employees to work.

(b) "COVID-19 expenses" includes:

(i) personal protection equipment for employees and customers;

(ii) cleaning and sanitizing supplies;

(iii) signage providing public health guidelines;

(iv) technology upgrades related to teleworking;

(v) costs for office redesign to provide adequate separation between employees or between employees and customers; or

(vi) other costs that the office approves as complying with Subsection (3)(a)(ii).

(4) "Legislative committee" means:

(a) the president of the Senate;

(b) the speaker of the House of Representatives;

(c) the minority leader of the Senate; and

(d) the minority leader of the House of Representatives.

(5) "Monthly revenue decline" means the amount of the business entity's revenue loss in this state for the month calculated by subtracting the month's revenue from:

(a) for a business entity that began operating in this state before July 1, 2019, the business entity's revenue for the same month in 2019; and

(b) for a business entity that began operating in this state on or after July 1, 2019, the business entity's revenue in this state for February 2020.

(6) "Revenue decline" means the sum of the monthly revenue declines for the months of March through June 2020.

(7) "Small business" means a business entity with 250 or fewer full-time equivalent employees.

**Section 15. Section 63N-15-103 is enacted to read:**

##### **63N-15-103. Reporting.**

The office shall include in the office's 2020 and 2021 annual reports to the governor and the Legislature under Section 63N-1-301 the following information about each of the grant programs established under this chapter:

- (1) the number of applications submitted under the grant program;

(2) the number of grants awarded under the grant program;

(3) the aggregate amount of grant funds awarded under the grant program; and

(4) any other information the office considers relevant to evaluating the success of the grant program.

**Section 16. Section 63N-15-201 is enacted to read:**

**Part 2. COVID-19 Impacted Businesses Grant Program**

**63N-15-201. Creation of COVID-19 Impacted Businesses Grant Program -- Eligibility - Grant limits.**

(1) There is established a grant program known as COVID-19 Impacted Businesses Grant Program that is administered by the office in accordance with this part.

(2) To be eligible to apply for a grant under this part, a business entity:

(a) shall have experienced a revenue decline in this state due to the public health emergency related to COVID-19;

(b) shall offer a financial incentive:

(i) for individuals or businesses to make purchases from the business entity; and

(ii) that in aggregate is estimated to equal or exceed 50% of the grant amount that the business entity requests;

(c) shall describe to the office how receipt of grant funds will benefit the state economy; and

(d) may not have received grant funds under Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program.

(3) (a) The amount of a grant that the office awards to a business entity under this part may not exceed the amount of the business entity's revenue decline.

(b) For applications received on or before August 31, 2020, the office shall award at least 75% of the grant funds to small businesses that meet the eligibility requirements.

**Section 17. Section 63N-15-202 is enacted to read:**

**63N-15-202. Duties of the office.**

(1) As soon as is practicable but on or before July 31, 2020, the office shall:

(a) establish an application process by which a business entity may apply for a grant under this part, which application shall include:

(i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct;

(ii) an acknowledgment that the business entity is subject to audit; and

(iii) a plan for providing the financial incentive described in Subsection 63N-15-201(2)(b);

(b) establish a method for the office to determine which applicants are eligible to receive a grant;

(c) establish a formula to award grant funds; and

(d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.

(2) The office shall:

(a) participate in the presentation that the director of the Division of Finance provides to the legislative committee under Section 63A-3-111; and

(b) consider any recommendations for adjustments to the grant program from the legislative committee.

(3) Subject to appropriation, beginning on August 5, 2020, the office shall:

(a) collect applications for grant funds from business entities;

(b) determine which applicants meet the eligibility requirements for receiving a grant; and

(c) award the grant funds:

(i) (A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and

(ii) in accordance with the process established under Subsection (1) and the limits described in Subsection 63N-15-201(3).

(4) (a) The office may audit a business entity to ensure that a business entity experienced the revenue decline reported in the application.

(b) The office may recapture grant funds if, after audit, the office determines that a business entity made representations to the office about the business entity's revenue decline that are not complete, true, and correct.

(c) (i) A business entity that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.

(ii) The Division of Finance shall deposit the penalty into the Education Fund.

(5) The office shall encourage any business entity that receives grant funds to commit to following best practices to protect the health and safety of the business entity's employees and customers.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.

(7) As part of any advertisement of the COVID-19 Impacted Businesses Grant Program, the office:

(a) shall encourage economically disadvantaged business entities, including minority-owned and woman-owned business entities, that meet the eligibility requirements to apply for grant funds; and

(b) may feature any business entity that:

(i) shows evidence of a commitment to following best practices to protect the health and safety of the business entity's employees and customers; and

(ii) consents to being featured.

**Section 18. Section 63N-15-301 is enacted to read:**

**Part 3. COVID-19 PPE Support Grant Program**

**63N-15-301. Creation of COVID-19 PPE Support Grant Program -- Eligibility - Grant limits.**

(1) There is established a grant program known as COVID-19 PPE Support Grant Program that is administered by the office in accordance with this part.

(2) To be eligible to apply for a grant under this part, the business entity shall:

(a) (i) demonstrate that the business entity has incurred COVID-19 expenses; or

(ii) certify that the business entity will spend grant funds on COVID-19 expenses; and

(b) describe to the office the business entity's actual or anticipated cost to comply with public health guidelines on safely returning employees to work.

(3) (a) The amount of a grant that the office awards to a business entity under this part may not exceed the lesser of:

(i) the amount of the business entity's COVID-19 expenses; or

(ii) \$100 per full-time equivalent employee.

(b) For applications received on or before August 31, 2020, the office shall award at least 75% of grant funds to small businesses that meet the eligibility requirements.

**Section 19. Section 63N-15-302 is enacted to read:**

**63N-15-302. Duties of the office.**

(1) As soon as is practicable but on or before July 31, 2020, the office shall:

(a) establish an application process by which a business entity may apply for a grant under this part, which application shall include:

(i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct and any estimates about COVID-19 expenses are made in good faith; and

(ii) an acknowledgment that the business entity is subject to audit;

(b) establish a method for the office to determine which applicants are eligible to receive a grant;

(c) establish a formula to award grant funds;

(d) establish requirements for grant recipients to retain records of COVID-19 expenses; and

(e) report the information described in Subsections (1)(a) through (d) to the director of the Division of Finance.

(2) The office shall:

(a) participate in the presentation that the director of the Division of Finance provides to the legislative committee under Section 63A-3-111; and

(b) consider any recommendations for adjustments to the grant program from the legislative committee.

(3) Subject to appropriation, beginning on August 5, 2020, the office shall:

(a) collect applications for grant funds from business entities;

(b) determine which applicants meet the eligibility requirements for receiving a grant; and

(c) award the grant funds:

(i) (A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and

(ii) in accordance with the process established under Subsection (1) and the limits described in Subsection 63N-15-301(3).

(4) (a) The office may audit a business entity to ensure that the business entity incurred COVID-19 expenses reported or estimated in the application.

(b) The office may recapture grant funds if, after audit, the office determines that:

(i) if the business entity made representations about incurred COVID-19 expenses, the representations are not complete, true, and correct; or

(ii) if the business entity made representations about estimated COVID-19 expenses, the representations are not made in good faith.

(c) (i) A business entity that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.

(ii) The Division of Finance shall deposit the penalty into the Education Fund.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.

(6) As part of any advertisement of the COVID-19 PPE Support Grant Program, the office shall encourage economically disadvantaged

business entities, including minority-owned and woman-owned business entities, that meet the eligibility requirements to apply for grant funds.

**Section 20. Section 63N-15-401 is enacted to read:**

**Part 4. COVID-19 Outreach and Education Program**

**63N-15-401. COVID-19 Outreach and Education Program.**

(1) The office shall develop and implement for the state a public outreach and education program regarding health related to COVID-19.

(2) The outreach and education program shall:

(a) emphasize that, to keep themselves and others healthy, Utah residents should follow recommended COVID-19 related health guidelines, including, when applicable:

- (i) physical distancing;
- (ii) mask wearing; and
- (iii) increased hygiene practices;

(b) explain the precautions that Utah medical providers have taken to provide safe medical care in light of the COVID-19 pandemic; and

(c) encourage Utah residents during the COVID-19 pandemic not to defer treatment from medical providers, including:

- (i) urgent care;
- (ii) preventative care; and
- (iii) vaccinations.

**Section 21. Appropriation.**

FY 2021 Appropriations. Operating and Capital Budgets.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Administrative Services -- Finance Mandated

<u>From Federal Funds -- Coronavirus Relief</u>	
<u>Fund, One-time</u>	<u>\$62,000,000</u>

Schedule of Programs:

<u>Emergency Disease Response</u>	<u>\$62,000,000</u>
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The Legislature intends that the Division of Finance partner with state agencies and institutions of higher education to implement the programs authorized in this bill as follows: COVID-19 Cultural Assistance Grant Program, with the Division of Arts and Museums, \$9,000,000;

COVID-19 Displaced Worker Grant Program: with the Utah System of Higher Education, \$4,462,500; the Department of Workforce Services, \$75,000; and the Governor's Office of Economic Development, \$4,462,500; COVID-19 Impacted Businesses Grant Program, with the Governor's Office of Economic Development, \$25,000,000; COVID-19 PPE Support Grant Program, with the Governor's Office of Economic Development, \$5,000,000; and COVID-19 Outreach and Education Program, with the Governor's Office of Economic Development, \$1,000,000.

The Legislature further intends that the Division of Finance use \$1,000,000 to partner with the Department of Heritage and Arts - Pass Through to provide for digital equipment and basic needs assistance grants, including needs such as utilities, rent, transportation, and food assistance, as identified by the Multicultural Subcommittee of the COVID-19 Task Force, and for translation services related to providing information and guidance about COVID-19.

The Legislature further intends that the Division of Finance use \$12,000,000 to partner with the Governor's Office of Economic Development -- Office of Tourism to respond to the COVID-19 health emergency through:

- (1) state and regional marketing intended to increase tourism to national parks in the state and the surrounding communities;
- (2) transportation to and within national parks in the state to facilitate visitor access; and
- (3) other costs intended to stimulate tourism throughout the state.

**Section 22. Effective date.**

(1) Except as provided in Subsections (2) and (3), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) Section 63N-12-508 (Effective 07/01/20) takes effect on July 1, 2020.

(3) Section 63I-2-263 (Effective 10/15/20) takes effect on October 15, 2020.

**Section 23. Retrospective operation.**

The amendments to Sections 59-7-106 and 59-10-114 have retrospective operation for a taxable year beginning on or after January 1, 2020.



**CHAPTER 13****H. B. 5011**

Passed June 18, 2020

Approved June 29, 2020

Effective August 18, 2020

**WPU VALUE INCREASE GUARANTEE**

Chief Sponsor: Mike Schultz

Senate Sponsor: Ann Millner

**LONG TITLE****General Description:**

This bill provides for an annual increase in the value of the weighted pupil unit.

**Highlighted Provisions:**

This bill:

- ▶ provides for an annual increase in the value of the weighted pupil unit in the Public Education Base Budget until a certain cumulative amount; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

53F-9-201.1 (Contingently Effective 01/01/21), as enacted by Laws of Utah 2020, Chapter 207

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53F-9-201.1 (Contingently Effective 01/01/21) is amended to read:**

**53F-9-201.1 (Contingently Effective 01/01/21). Appropriations to the Minimum School Program from the Uniform School Fund.**

(1) As used in this section:

(a) "Base budget" means the same as that term is defined in legislative rule.

(b) "Enrollment growth and inflation estimates" means the cost estimates regarding enrollment growth and inflation described in Section 53F-2-208.

(2) Except as provided in Subsection 53F-9-204(3), for a fiscal year beginning on or after July 1, 2021, when preparing the Public Education Base Budget, the Office of the Legislative Fiscal Analyst shall:

(a) include appropriations to the Minimum School Program from the Uniform School Fund, and, subject to Subsection 53F-9-204(3), the Public Education Economic Stabilization Restricted Account, in an amount that is greater than or equal to the sum of:

~~(a)~~ (i) the ongoing Education Fund and Uniform School Fund appropriations to the Minimum School Program in the current fiscal year; and

~~(b)~~ (ii) subject to Subsection 53F-9-204(3)(b), enrollment growth and inflation estimates~~[-]; and~~

(b) except as provided in Subsection (4), an appropriation to increase the value of the weighted pupil unit that is greater than or equal to 10% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(i) the estimated amount of ongoing Education Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(ii) the amount of ongoing appropriations from the Education Fund and Uniform School Fund in the current fiscal year.

(3) The total annual amount deposited into the Uniform School Fund, including the deposits through the distributions described in Sections 59-7-532 and 59-10-544, for a given fiscal year may not exceed the amount appropriated from the Uniform School Fund for that fiscal year.

(4) (a) If an appropriation to increase the value of the weighted pupil unit described in Subsection (2)(b) would cause the cumulative amount of increases to the value of the weighted pupil unit, beginning for fiscal year 2022, to exceed \$140,500,000, the Office of the Legislative Fiscal Analyst:

(i) shall include in the Public Education Base Budget an appropriation to increase the value of the weighted pupil unit that would cause the cumulative amount of increases to equal \$140,500,000; and

(ii) is exempt from future application of Subsection (2)(b).

(b) Nothing in this section limits the Legislature's ability to appropriate additional amounts to increase the value of the weighted pupil unit.

**CHAPTER 14****H. B. 5012**

Passed June 18, 2020  
 Approved June 29, 2020  
 Effective July 1, 2020

**PUBLIC EDUCATION  
 BUDGET AMENDMENTS**

Chief Sponsor: Steve Eliason  
 Senate Sponsor: Lyle W. Hillyard

**LONG TITLE****General Description:**

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2019, and ending June 30, 2020, and for the fiscal year beginning July 1, 2020, and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ▶ increases the value of the weighted pupil unit (WPU) by 1.8% over the value of the WPU for fiscal year 2020 to set the value at \$3,596 for fiscal year 2021;
- ▶ repeals uncodified sections containing all appropriations and intent language in S.B. 2, Chapter 330, Laws of Utah 2020, General Session;
- ▶ repeals certain programs for which funding has been eliminated;
- ▶ amends and enacts provisions related to certain appropriations for public education, including:
  - a requirement for a reading benchmark assessment;
  - a requirement for a mathematics benchmark assessment;
  - foreign exchange student weighted pupil units;
  - small district base funding;
  - small charter school base funding; and
  - additional amounts related to state guaranteed local levy increments;
- ▶ makes technical and conforming changes; and
- ▶ provides intent language.

**Monies Appropriated in this Bill:**

This bill appropriates \$3,820,200 in operating and capital budgets for fiscal year 2020, all of which is from the Education Fund.

This bill appropriates \$58,114,600 in operating and capital budgets for fiscal year 2021, including:

- ▶ (\$236,300) from the General Fund;
- ▶ (\$45,511,600) from the Education Fund; and
- ▶ \$100,862,500 from various sources as detailed in this bill.

This bill appropriates \$34,050,000 in restricted fund and account transfers for fiscal year 2021, including:

- ▶ \$32,300,000 from the Education Fund; and

- ▶ \$1,750,000 from various sources as detailed in this bill.

This bill appropriates \$213,000 in transfers to unrestricted funds for fiscal year 2021.

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 53E-4-307, as last amended by Laws of Utah 2020, Chapter 355
- 53E-4-307.5, as enacted by Laws of Utah 2020, Chapter 174
- 53F-2-203, as last amended by Laws of Utah 2020, Chapter 359
- 53F-2-208 (Contingently Effective 01/01/21), as enacted by Laws of Utah 2020, Chapter 207
- 53F-2-301.5 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapters 167 and 330
- 53F-2-303, as last amended by Laws of Utah 2020, Chapter 408
- 53F-2-304 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapters 224, 330, and 408
- 53F-2-601, as last amended by Laws of Utah 2020, Chapter 364
- 53F-4-201, as last amended by Laws of Utah 2020, Chapter 355
- 53G-6-204, as last amended by Laws of Utah 2020, Chapter 20

**ENACTS:**

- 53F-2-706, Utah Code Annotated 1953

**REPEALS:**

- 53F-2-306 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapter 330
- 53F-2-309, as last amended by Laws of Utah 2020, Chapter 408
- 53F-2-501 (Superseded 07/01/20), as last amended by Laws of Utah 2019, Chapter 186
- 53F-2-501 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapter 365
- 53F-2-505, as last amended by Laws of Utah 2020, Chapter 359 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 359
- 53F-2-521, as enacted by Laws of Utah 2019, Chapter 283
- 53F-5-216, as enacted by Laws of Utah 2020, Chapter 224

**Uncodified Material Affected:****REPEALS UNCODIFIED MATERIAL:**

**Uncodified Section 11, Fiscal Year 2020  
 Appropriations, Laws of Utah 2020,  
 Chapter 330**

**Uncodified Section 11 (a), Operating and  
 Capital Budgets, Laws of Utah 2020,  
 Chapter 330**

**Uncodified Section 12, Fiscal Year 2021  
 Appropriations, Laws of Utah 2020,  
 Chapter 330**

**Uncodified Section 12 (a), Operating and  
 Capital Budgets, Laws of Utah 2020,  
 Chapter 330**

**Uncodified Section 12 (b), Restricted Fund and Account Transfers, Laws of Utah 2020, Chapter 330**

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53E-4-307 is amended to read:**

**53E-4-307. Benchmark assessments in reading -- Report to parent.**

(1) As used in this section, “competency” means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(2) The state board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades 1 through 6 as provided by this section.

(3) A school district or charter school shall:

(a) administer benchmark assessments to students in grades 1, 2, and 3 at the beginning, middle, and end of the school year using the benchmark assessment approved by the state board; and

(b) after administering a benchmark assessment, report the results to a student’s parent.

(4) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, or is lagging behind other students in the student’s grade in acquiring a reading skill, the school district or charter school shall:

(a) provide focused individualized intervention to develop the reading skill;

(b) administer formative assessments to measure the success of the focused intervention;

(c) inform the student’s parent of activities that the parent may engage in with the student to assist the student in improving reading proficiency; and

(d) provide information to the parent regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school.

(5) (a) In accordance with Section 53F-4-201 and except as provided in Subsection (5)(b), the state board shall contract with one or more educational technology providers for a benchmark assessment system for reading for students in kindergarten through grade 6.

(b) If revenue is insufficient for the benchmark assessment system for the grades described in Subsection (5)(a), the state board shall first prioritize funding a benchmark assessment for students in kindergarten through grade 3.

**Section 2. Section 53E-4-307.5 is amended to read:**

**53E-4-307.5. Mathematics benchmark assessment.**

(1) As used in this section, “early mathematics benchmark assessment” or “benchmark assessment” means a standardized assessment to measure the acquisition of mathematics skills in kindergarten and grades 1 through 3 that includes predictive indicators of academic achievement based on measures of early mathematics, computation, and problem solving.

(2) The state board [~~shall~~] may approve a benchmark assessment for use statewide by LEAs to assess the mathematics competency of students in kindergarten and grades 1 through 3.

(3) [~~An~~] If the state board approves a benchmark assessment for statewide use under Subsection (2), an LEA shall:

(a) administer benchmark assessments to students at the beginning, middle, and end of the school year using the mathematics benchmark assessment in:

(i) kindergarten, as an optional assessment; and  
(ii) grades 1 through 3, as a required assessment; and

(b) after administering a benchmark assessment described in Subsection (3)(a) to a student, report the results to the student’s parent.

(4) In making the approval described in Subsection (2), the state board shall:

(a) prioritize the assessment’s reliability, validity, speed, and efficiency; and

(b) ensure the mathematics benchmark assessment’s ability to:

(i) identify students who may be at risk for mathematics difficulties; and  
(ii) measure students’ progress through data.

**Section 3. Section 53F-2-203 is amended to read:**

**53F-2-203. Reduction of LEA governing board allocation based on insufficient revenues.**

(1) As used in this section, “Minimum School Program funds” means the total of state and local funds appropriated for the Minimum School Program, excluding:

(a) an appropriation for a state guaranteed local levy increment as described in Section 53F-2-601; and

(b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the state

board, after consultation with each LEA governing board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), an LEA governing board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) An LEA governing board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

(a) educator salary adjustments provided in Section 53F-2-405;

(b) the Teacher Salary Supplement Program provided in Section 53F-2-504;

(c) the extended year for special educators provided in Section 53F-2-310;

~~[(d) the Math and Science Opportunities for Students and Teachers Program provided in Section 53F-2-505;]~~

~~[(e)]~~ (d) the School LAND Trust Program described in Sections 53F-2-404 and 53G-7-1206; or

~~[(f)]~~ (e) a special education program within the basic school program.

(6) An LEA governing board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) An LEA governing board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the state board as part of the school district or charter school's Annual Financial and Program report.

**Section 4. Section 53F-2-208 (Contingently Effective 01/01/21) is amended to read:**

**53F-2-208 (Contingently Effective 01/01/21).  
Cost of adjustments for growth and inflation.**

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units)~~], except for charter school administration described in Section 53F-2-306];~~

(iii) the Adult Education Program, described in Section 53F-2-401;

(iv) state support of pupil transportation, described in Section 53F-4-402;

(v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vi) the Concurrent Enrollment Program, described in Section 53F-2-409; and

(vii) the Enhancement for At-Risk Students Program, described in Section 53F-2-410; and

~~[(viii) Centennial Scholarships, described in Section 53F-2-501; and]~~

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a)~~], including charter school administration described in Section 53F-2-306];~~

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Management and Budget.

**Section 5. Section 53F-2-301.5 (Effective 07/01/20) is amended to read:**

**53F-2-301.5 (Effective 07/01/20). Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.**

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(b) “Combined basic rate” means a rate that is the sum of:

- (i) the rate floor; and
- (ii) the WPU value rate.

(c) “Commission” means the State Tax Commission.

(d) “Equity pupil tax rate” means the tax rate that is:

(i) calculated by subtracting the minimum basic tax rate from the rate floor; or

(ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) “Minimum basic local amount” means an amount that is:

- (i) equal to the sum of:

(A) the school districts’ contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) “Minimum basic tax rate” means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

- (g) “Rate floor” means a rate that is the greater of:

- (i) a .0016 tax rate; or

- (ii) the minimum basic tax rate.

(h) “Weighted pupil unit value” or “WPU value” means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) “WPU value amount” means an amount that is:

- (i) equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) “WPU value increase limit” means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(k) “WPU value rate” means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2020, is \$547,951,600 in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, 2020, is .001576.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, 2020, is [~~\$20,600,000~~] \$9,300,000 in revenue statewide.

(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, 2020, is [~~-000060~~] .000027.

(5) (a) On or before June 22, the commission shall certify for the year:

- (i) the minimum basic tax rate; and
- (ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district’s contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district’s basic school program and the sum of the revenue generated by the school district by the following:

- (i) the minimum basic tax rate;
- (ii) the basic levy increment rate;
- (iii) the equity pupil tax rate; and

(iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

**Section 6. Section 53F-2-303 is amended to read:**

**53F-2-303. Foreign exchange student weighted pupil units.**

(1) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2) through ~~[(4)]~~ (5).

(2) (a) Notwithstanding Section 53F-2-302, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(b) Subject to the limitation in Subsection (3), and except as provided in Subsection (5), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(i) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(ii) sponsored by an agency approved by the district's local school board or charter school's governing board.

(3) (a) ~~[The]~~ Except as provided in Subsection (5), the total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2) shall be the lesser of:

(i) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(ii) 328 foreign exchange students.

(b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2).

(4) Notwithstanding Section 53F-2-601, weighted pupil units in the grades 1-12 basic program for foreign exchange students, as determined by Subsections (2) and (3), may not be included for the purposes of determining a school district's state guarantee money under Section 53F-2-601.

(5) This section does not apply to the 2020-2021 academic year.

**Section 7. Section 53F-2-304 (Effective 07/01/20) is amended to read:**

**53F-2-304 (Effective 07/01/20). Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.**

(1) As used in this section, "necessarily existent small schools funding balance" means the difference between:

(a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

(4) The state board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(5) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using distribution formulas adopted by the state board.

(b) The distribution formulas establish the following maximum sizes for funding under the necessarily existent small school program:

- |   |     |
|---|-----|
| (i) an elementary school                | 160 |
| (ii) a one or two-year secondary school | 300 |
| (iii) a three-year secondary school     | 450 |
| (iv) a four-year secondary school       | 500 |
| (v) a six-year secondary school         | 600 |

(c) An elementary school with fewer than 10 students shall receive the same add-on weighted pupil units as an elementary school with 10 students.

(d) A secondary school with fewer than 15 students shall receive the same add-on weighted pupil units as a secondary school with 15 students.

(e) If a necessarily existent small school generates ADM in both elementary and secondary grades, the state board may divide the school's ADM between an elementary and secondary distribution formula.

(f) The state board shall prepare and distribute an allocation table based on the distribution formula to each school district.

(6) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

(7) (a) The state board may allocate up to ~~200~~ 208 weighted pupil units to support schools that:

(i) have isolating conditions, as defined by the state board, including geographic isolation; and

(ii) do not qualify for necessarily existent small schools funding due to formula limitations.

(b) The state board shall review funding allocations under this Subsection ~~[(8)]~~ (7) at least once every five calendar years.

(8) If the state board classifies a school as a necessarily existent small school in accordance with this section, the state board shall, subject to legislative appropriation, distribute small district base funding to the relevant school district in the following amounts:

(a) for a district with 250 students or less, 83 additional weighted pupil units;

(b) for a district with 251 to 500 students, 56 additional weighted pupil units;

(c) for a district with 501 to 1,000 students, 28 additional weighted pupil units; and

(d) for a district with 1,001 to 2,000 students, 14 additional weighted pupil units.

~~[(8)]~~ (9) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding an expense approved by the state board as described in Subsection 53G-6-305(3)(a).

~~[(9)]~~ (10) (a) Subject to Subsection ~~[(9)]~~ (10)(b) and after a distribution made under Subsection ~~[(8)]~~ (9), the state board may distribute a portion of necessarily existent small schools funding:

(i) in accordance with a formula adopted by the state board that considers the tax effort of a local school board; or

(ii) to isolated small schools, as identified by the state board.

(b) The amount distributed in accordance with Subsection ~~[(9)]~~ (10)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

~~[(10)]~~ (11) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the state board.

**Section 8. Section 53F-2-601 is amended to read:**

**53F-2-601. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.**

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) (i) "Voted and board local levy funding balance" means the difference between:

(A) the amount appropriated for the guaranteed local levy increments in a fiscal year; and

(B) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a voted local levy or a board local

levy, the state shall guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee for a fiscal year that begins on July 1, 2018, \$43.10 per weighted pupil unit.

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The state board shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

~~[(d) (i) As used in this Subsection (2)(d), "cost for the guarantee" means the total cost for the guarantee described in this section, excluding the cost of the adjustments described in Subsection (2)(b)(ii).]~~

~~[(ii) In addition to an appropriation for the adjustment described in Subsection (2)(b)(ii), if the state cost for the guarantee for the upcoming fiscal year is less than the amount appropriated for the cost for the guarantee for the current fiscal year, the Legislature may appropriate an additional amount to fund all or part of the difference.]~~

~~[(iii) The state board shall allocate an appropriation described in Subsection (2)(d)(ii) to increase the guarantee amount for each guaranteed local levy increment.]~~

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the

weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each year subject to the Legislature appropriating funds for an increase in the guarantee.

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (4)(a) applies for a period of five years following a change in the certified tax rate as described in Subsection (4)(a).

(5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the state board shall:

(i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (3)(a) in the current fiscal year; and

(ii) distribute guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (6)(a)(i).

(b) The state board shall report action taken under Subsection (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

**Section 9. Section 53F-2-706 is enacted to read:**

**53F-2-706. Small Charter School Base Funding.**

(1) Subject to legislative appropriation, the state board shall distribute small charter school base funding in the following amounts to charter schools with 2,000 or less students:

(a) for a charter school with 300 students or less, \$40,000;

(b) for a charter school with 301 to 400 students, \$35,000;

(c) for a charter school with 401 to 500 students, \$30,000;



(d) for a charter school with 501 to 600 students, \$25,000;

(e) for a charter school with 601 to 1,000 students, \$20,000; and

(f) for a charter school with 1,001 to 2,000 students, \$15,000.

(2) A charter school's eligibility for small charter school base funding is determined by the charter school's student enrollment on October 1 of a given year.

**Section 10. Section 53F-4-201 is amended to read:**

**53F-4-201. State board required to contract for a benchmark assessment system for reading.**

(1) (a) As described in Section 53E-4-307, the state board shall approve a benchmark assessment for use statewide by school districts and charter schools.

(b) The state board shall contract with one or more educational technology providers, selected through a request for proposals process, for a benchmark assessment system for reading ~~[for students in kindergarten through grade 6]~~ described in Section 53E-4-307 that meets the requirements of this section.

(2) Subject to legislative appropriations, a benchmark assessment system for reading shall be made available to school districts and charter schools that apply to use a benchmark assessment for reading beginning in the 2011-12 school year.

(3) A benchmark assessment system for reading for students ~~[in kindergarten through grade 6]~~ described in Subsection (1) shall:

(a) be in a digital format;

(b) include benchmark assessments of reading proficiency to be administered at the beginning, in the middle, and at the end of kindergarten and ~~[grades 1 through 6]~~ the grades for which the state board approves the benchmark assessment;

(c) include formative assessments to be administered every two to four weeks for students who are at high risk of not attaining proficiency in reading;

(d) align with the language arts core standards for Utah public schools adopted by the state board; and

(e) include a data analysis component hosted by the provider that:

(i) has the capacity to generate electronic information immediately and produce individualized student progress reports, class summaries, and class groupings for instruction;

(ii) may have the capability of identifying lesson plans that may be used to develop reading skills;

(iii) enables teachers, administrators, and designated supervisors to access reports through a secured password system;

(iv) produces electronic printable reports for parents and administrators; and

(v) has the capability for principals to monitor usage by teachers.

**Section 11. Section 53G-6-204 is amended to read:**

**53G-6-204. School-age children exempt from school attendance.**

(1) (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school; ~~or has demonstrated mastery of required skills and competencies in accordance with Subsection 53F-2-501(1);~~

(B) the school-age child is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2) (a) A local school board shall excuse a school-age child from attendance, if the school-age

child's parent files a signed and notarized affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(i) the school-age child will attend a home school; and

(ii) the parent assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school; and

(ii) the school district where the affidavit was filed remains the school-age child's district of residence.

(c) A parent of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age child's parent pursuant to this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent notifies the school district that the school-age child's school district of residence has changed.

(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent of a child attending a home school.

### **Section 12. Repealer.**

This bill repeals:

**Section 53F-2-306 (Effective 07/01/20), Weighted pupil units for small school district administrative costs -- Appropriation for charter school administrative costs.**

**Section 53F-2-309, Appropriation for intensive special education costs.**

**Section 53F-2-501 (Superseded 07/01/20), Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.**

**Section 53F-2-501 (Effective 07/01/20), Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.**

**Section 53F-2-505, Math and Science Opportunities for Students and Teachers Program.**

**Section 53F-2-521, Salary supplement for National Board certified teachers.**

**Section 53F-5-216, Rural school extracurricular activities reimbursement.**

### **Section 13. Repeal of uncodified sections in S.B. 2, Chapter 330, Laws of Utah 2020, General Session.**

The following uncodified sections of S.B. 2, Chapter 330, Laws of Utah 2020, General Session are repealed:

(1) Section 11, Fiscal Year 2020 Appropriations;

(2) Section 11 (a), Operating and Capital Budgets;

(3) Section 12, Fiscal Year 2021 Appropriations;

(4) Section 12 (a), Operating and Capital Budgets; and

(5) Section 12 (b), Restricted Fund and Account Transfers.

### **Section 14. Fiscal Year 2020 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts otherwise appropriated for fiscal year 2020.

Notwithstanding any restrictive intent language relating to the use of nonlapsing funds that is included in any appropriation for fiscal year 2019, the Legislature intends that an agency is not limited to the restrictive intent language and may also use the nonlapsing funds in fiscal year 2020 for general costs if the nonlapsing funds are increased in this bill.

#### **Section 14(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

##### Public Education

#### State Board of Education - Minimum School Program

##### Item 1 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-Time      \$3,500,200

##### Schedule of Programs:

Teacher Salary Supplement      \$3,820,200

Student Health and Counseling Support Program      \$(320,000)

##### State Board of Education

##### Item 2 To State Board of Education - MSP Categorical Program Administration

From Education Fund, One-Time      \$320,000

##### Schedule of Programs:

Student Health and Counseling Support Program      \$320,000

#### **Section 15. Fiscal Year 2021 Appropriations.**

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021.

(2) The value of each weighted pupil unit (WPU) for fiscal year 2021 is increased from the value of the WPU for fiscal year 2021 established in H.B. 1, Chapter 2, Laws of Utah 2020, General Session, and set at \$3,596.

#### **Section 15(a). Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

##### Public Education

#### State Board of Education - Minimum School Program

##### Item 3 To State Board of Education - Minimum School Program - Basic School Program

From Education Fund \$42,361,200

From Education Fund, One-Time      \$(1,179,500)

From Local Revenue      \$9,300,000

##### Schedule of Programs:

Kindergarten      \$1,747,700

Grades 1 - 12      \$38,785,000

Foreign Exchange (-328 WPUs)      \$(1,158,500)

Necessarily Existent Small Schools (847 WPUs)      \$3,668,600

Professional Staff \$3,620,700

Administrative Costs (-1,515 WPUs)      \$(5,262,700)

Special Education - Add-on      \$5,524,300

Special Education - Self-Contained      \$846,700

Special Education - Preschool      \$724,000

Special Education - Extended School Year      \$29,300

Special Education - Impact Aid      \$131,800

Special Education - Intensive Services (-795 WPUs)      \$(2,807,900)

Special Education - Extended Year for Special Educators      \$58,200

Career and Technical Education - Add-on      \$1,862,400

Class Size Reduction      \$2,712,100

##### Item 4 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund      \$(17,450,900)

From Education Fund, One-Time      \$(35,800,000)

From Teacher and Student Success Account      \$(11,300,000)

From Uniform School Fund Rest. - Trust Distribution Account      \$6,166,000

##### Schedule of Programs:

Pupil Transportation To and From School      \$1,793,300

Flexible Allocation - WPU Distribution      \$(37,788,000)

Enhancement for At-Risk Students      \$852,400

Youth in Custody      \$25,681,900

Adult Education      \$258,200

<u>Enhancement for Accelerated Students</u>	<u>\$99,900</u>
<u>Centennial Scholarship Program</u>	<u>\$(272,500)</u>
<u>Concurrent Enrollment</u>	<u>\$(1,565,300)</u>
<u>School Land Trust Program</u>	<u>\$6,166,000</u>
<u>Charter School Local Replacement</u>	<u>\$(18,426,100)</u>
<u>Charter School Administration</u>	<u>\$(8,014,500)</u>
<u>Teacher Salary Supplement</u>	<u>\$3,300,000</u>
<u>School Library Books and Electronic Resources</u>	<u>\$(85,000)</u>
<u>Math &amp; Science Opportunities for Students and Teachers (MOST)</u>	<u>\$(7,100,000)</u>
<u>Early Intervention</u>	<u>\$(5,000,000)</u>
<u>Effective Teachers in High Poverty Schools Incentive Program</u>	<u>\$(428,200)</u>
<u>Early Graduation from Competency-Based Education</u>	<u>\$(55,700)</u>
<u>Teacher and Student Success Program</u>	<u>\$(11,300,000)</u>
<u>Student Health and Counseling Support Program</u>	<u>\$(520,000)</u>
<u>National Board Certified Teacher Program</u>	<u>\$(246,300)</u>
<u>Grants for New and Aspiring Principals</u>	<u>\$(4,800,000)</u>
<u>Grants for Professional Learning</u>	<u>\$(3,935,000)</u>
<u>Rural School Extracurricular Activities Reimbursement</u>	<u>\$(100,000)</u>
<u>Charter School Funding Base Program</u>	<u>\$3,100,000</u>
<u>Item 5 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs</u>	
<u>From Education Fund</u>	<u>\$(19,000,000)</u>
<u>Schedule of Programs:</u>	
<u>Voted Local Levy Program</u>	<u>\$(19,000,000)</u>
<u>State Board of Education - School Building Programs</u>	
<u>Item 6 To State Board of Education - School Building Programs - Capital Outlay Programs</u>	
<u>Under Item 48 in H.B. 1, Chapter 2, Laws of Utah 2020, General Session, the Legislature intends that the State Board of Education:</u>	
<u>(1) study the distribution formulas for the Capital Outlay Foundation Program created in Section 53F-3-202 and Capital Outlay Enrollment Growth Program created in Section 53F-3-203, including:</u>	
<u>(a) the impact on the Capital Outlay Foundation Program formula distribution associated with the</u>	

equal weighting of local property tax revenues from district Capital and Debt Service levies, including whether adjusting the balance would provide for a broader distribution among districts;

(b) addressing how to adjust distribution formulas to improve equity and distribution to a wider array of school districts;

(c) addressing whether using a WPU-based formula like the Voted & Board Local Levy Guarantee could improve distributional equity among districts; and

(d) making recommendations on potential statutory changes; and

(2) report to the Public Education Appropriations Subcommittee on the study described in Subsection (1):

(a) preliminarily before February 1, 2021; and

(b) finally on recommendations before September 30, 2021.State Board of Education

Item 7 To State Board of Education - Child Nutrition

From Education Fund \$144,200

From Federal Funds \$(48,700)

From Federal Funds, One-Time \$2,800

From Dedicated Credit - Liquor Tax \$127,200

From Dedicated Credit - Liquor Tax, One-Time \$(2,800)

Schedule of Programs:

Child Nutrition \$(65,700)

Item 8 To State Board of Education - Educator Licensing

From Education Fund \$(3,836,600)

From Education Fund, One-Time (1,200,000)

Schedule of Programs:

Educator Licensing \$(36,600)

STEM Endorsement Incentives \$(5,000,000)

Item 9 To State Board of Education - Fine Arts Outreach

From Education Fund \$(200,000)

Schedule of Programs:

Professional Outreach Programs in the Schools \$(200,000)

Item 10 To State Board of Education - Initiative Programs

From General Fund \$(2,700)

From Education Fund \$2,686,200

From Education Fund, One-Time \$(7,539,100)

Schedule of Programs:

Carson Smith Scholarships \$(2,400)

<u>Contracts and Grants</u>	<u>\$(375,000)</u>
<u>Early Warning Pilot Program</u>	<u>\$(125,000)</u>
<u>Electronic Elementary Reading Tool</u>	<u>\$(1,500,000)</u>
<u>ELL Software Licenses</u>	<u>\$(3,000,000)</u>
<u>General Financial Literacy</u>	<u>\$498,200</u>
<u>Intergenerational Poverty Interventions</u>	<u>\$1,000,500</u>
<u>Kindergarten Supplement Enrichment Program</u>	<u>\$3,000,000</u>
<u>Partnerships for Student Success</u>	<u>\$3,005,500</u>
<u>ProStart Culinary Arts Program</u>	<u>\$(201,600)</u>
<u>School Turnaround and Leadership Development Act</u>	<u>\$(7,018,600)</u>
<u>UPSTART</u>	<u>\$(2,400)</u>
<u>ULEAD</u>	<u>\$(4,500)</u>
<u>Educational Improvement Opportunities Outside of the Regular School Day Grant Program</u>	<u>\$(300)</u>
<u>Competency-Based Education Grants</u>	<u>\$(230,000)</u>
<u>Education Technology Management System</u>	<u>\$100,000</u>
<u>Item 11 To State Board of Education - MSP Categorical Program Administration</u>	
<u>From Education Fund</u>	<u>\$(884,300)</u>
<u>Schedule of Programs:</u>	
<u>Adult Education</u>	<u>\$(3,300)</u>
<u>Beverly Taylor Sorenson Elem. Arts Learning Program</u>	<u>\$(3,000)</u>
<u>CTE Comprehensive Guidance</u>	<u>\$(3,300)</u>
<u>Digital Teaching and Learning</u>	<u>\$(8,400)</u>
<u>Dual Immersion</u>	<u>\$(2,700)</u>
<u>Enhancement for At-Risk Students</u>	<u>\$(6,300)</u>
<u>Special Education State Programs</u>	<u>\$(3,300)</u>
<u>Youth-in-Custody</u>	<u>\$(6,600)</u>
<u>State Safety and Support Program</u>	<u>\$(2,400)</u>
<u>Student Health and Counseling Support Program</u>	<u>\$320,000</u>
<u>Early Learning Training and Assessment</u>	<u>\$(1,065,000)</u>
<u>Math and Science Opportunities for Students and Teachers</u>	<u>\$(100,000)</u>
<u>Item 12 To State Board of Education - State Administrative Office</u>	

<u>From General Fund</u>	<u>\$(31,600)</u>
<u>From Education Fund</u>	<u>\$(70,200)</u>
<u>From Education Fund, One-Time</u>	<u>\$(15,000)</u>
<u>From Federal Funds</u>	<u>\$(142,200)</u>
<u>From Federal Funds, One-Time</u>	<u>\$97,011,500</u>
<u>From General Fund Restricted - Mineral Lease</u>	<u>\$(9,600)</u>
<u>From General Fund Restricted - School Readiness Account</u>	<u>\$(900)</u>
<u>From Revenue Transfers</u>	<u>\$(121,500)</u>
<u>From Uniform School Fund Rest. - Trust Distribution Account</u>	<u>\$(8,400)</u>
<u>Schedule of Programs:</u>	
<u>Board and Administration</u>	<u>\$(52,300)</u>
<u>Data and Statistics</u>	<u>\$(18,300)</u>
<u>Financial Operations</u>	<u>\$594,000</u>
<u>Indirect Cost Pool</u>	<u>\$328,500</u>
<u>Information Technology</u>	<u>\$(92,100)</u>
<u>Policy and Communication</u>	<u>\$(33,300)</u>
<u>School Trust</u>	<u>\$(8,400)</u>
<u>Special Education</u>	<u>\$(89,700)</u>
<u>Statewide Online Education Program</u>	<u>\$3,211,600</u>
<u>Student Support Services</u>	<u>\$96,934,400</u>
<u>Teaching and Learning</u>	<u>\$(162,300)</u>
<u>Statewide Financial Management System Grants</u>	<u>\$(4,000,000)</u>
<u>The Legislature intends that the State Board of Education:</u>	
<u>(1) evaluate the participation of home school and private school students in the Statewide Online Education Program, including:</u>	
<u>(a) ongoing funding levels;</u>	
<u>(b) the mix between home and private school students;</u>	
<u>(c) how to best manage future growth needs within appropriated funding; and</u>	
<u>(d) the potential of using mechanisms to control costs, including implementing a fee structure or requiring private and home school students to enroll in a local education agency; and</u>	
<u>(2) report to the Public Education Appropriations Subcommittee:</u>	
<u>(a) preliminarily before February 1, 2021; and</u>	
<u>(b) finally on recommendations before August 30, 2021.</u>	
<u>Item 13 To State Board of Education - General System Support</u>	

<u>From General Fund</u>	<u>\$(202,100)</u>
<u>From General Fund, One-Time</u>	<u>\$100</u>
<u>From Education Fund</u>	<u>\$(1,053,600)</u>
<u>From Education Fund, One-Time</u>	<u>\$(11,300)</u>
<u>From Federal Funds</u>	<u>\$(19,200)</u>
<u>From Federal Funds, One-Time</u>	<u>\$9,700</u>
<u>From Dedicated Credits Revenue</u>	<u>\$(1,200)</u>
<u>From Expendable Receipts, One-Time</u>	<u>\$1,400</u>
<u>From General Fund Restricted - Mineral Lease</u>	<u>\$200</u>
<u>From General Fund Restricted - Mineral Lease, One-Time</u>	<u>\$100</u>
<u>Schedule of Programs:</u>	
<u>Teaching and Learning</u>	<u>\$(1,174,600)</u>
<u>Assessment and Accountability</u>	<u>\$(46,800)</u>
<u>Career and Technical Education</u>	<u>\$(54,500)</u>
<u>The Legislature intends that the State Board of Education use any revenue or nonlapsing balances generated from the licensing of Readiness Improvement Success Empowerment (RISE) questions:</u>	
<u>(1) to develop additional assessment questions for all state assessments;</u>	
<u>(2) to provide professional learning for Utah educators; and</u>	
<u>(3) for risk mitigation expenditures.</u>	
<u>Item 14 To State Board of Education - State Charter School Board</u>	
<u>From Education Fund</u>	<u>\$(531,900)</u>
<u>Schedule of Programs:</u>	
<u>State Charter School Board</u>	<u>\$(531,900)</u>
<u>Item 15 To State Board of Education - Teaching and Learning</u>	
<u>From Education Fund</u>	<u>\$(900)</u>
<u>From Revenue Transfers</u>	<u>\$(900)</u>
<u>Schedule of Programs:</u>	
<u>Student Access to High Quality School Readiness Programs</u>	<u>\$(1,800)</u>
<u>Item 16 To State Board of Education - Utah Schools for the Deaf and the Blind</u>	
<u>From Education Fund</u>	<u>\$(1,641,500)</u>
<u>From Federal Funds</u>	<u>\$(1,500)</u>
<u>From Dedicated Credits Revenue</u>	<u>\$(22,200)</u>
<u>From Revenue Transfers</u>	<u>\$(227,700)</u>
<u>Schedule of Programs:</u>	
<u>Administration</u>	<u>\$(1,275,200)</u>

<u>Transportation and Support Services</u>	<u>\$(206,100)</u>
<u>Utah State Instructional Materials Access Center</u>	<u>\$(29,700)</u>
<u>School for the Deaf</u>	<u>\$(199,200)</u>
<u>School for the Blind</u>	<u>\$(182,700)</u>
<u>School and Institutional Trust Fund Office</u>	
<u>Item 17 To School and Institutional Trust Fund Office</u>	
<u>From School and Institutional Trust Fund Management Account</u>	<u>\$150,400</u>
<u>Schedule of Programs:</u>	
<u>School and Institutional Trust Fund Office</u>	<u>\$150,400</u>

### **Section 15(b). Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

#### Public Education

#### Item 18 To Uniform School Fund Restricted - Growth in Student Population Account

<u>From Education Fund</u>	<u>\$(52,000,000)</u>
<u>From Education Fund, One-Time</u>	<u>\$75,000,000</u>

#### Schedule of Programs:

<u>Growth in Student Population Account</u>	<u>\$23,000,000</u>
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#### Item 19 To Underage Drinking Prevention Program Restricted Account

<u>From Liquor Control Fund</u>	<u>\$1,750,000</u>
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#### Schedule of Programs:

<u>Underage Drinking Prevention Program Restricted Account</u>	<u>\$1,750,000</u>
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#### Item 20 To Teacher and Student Success Account

<u>From Education Fund</u>	<u>\$9,300,000</u>
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#### Schedule of Programs:

<u>Teacher and Student Success Account</u>	<u>\$9,300,000</u>
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### **Section 15(c). Transfers to Unrestricted Funds.**

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

Public EducationItem 21 To Education FundFrom Nonlapsing Balances - From State

<u>Board of Education - Initiatives Programs</u>	<u>\$213,000</u>
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Schedule of Programs:

<u>Education Fund, One-time</u>	<u>\$213,000</u>
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**Section 16. Effective date.**

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect on July 1, 2020.

(2) If approved by two-thirds of all the members elected to each house, Section 14, Fiscal Year 2020 Appropriations, and Section 14(a), Operating and Capital Budgets, take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 15****S. B. 5004**

Passed June 18, 2020

Approved June 29, 2020

Effective June 29, 2020

**MUNICIPAL ANNEXATION AMENDMENTS**

Chief Sponsor: David G. Buxton

House Sponsor: Steve Waldrip

**LONG TITLE****General Description:**

This bill amends provisions related to municipal annexation.

**Highlighted Provisions:**

This bill:

- ▶ allows a person to file a notice of intent to file a petition for annexation within a certain time period;
- ▶ clarifies the applicability of certain limitations regarding the annexation of an area proposed for incorporation; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

- 10-2-401.5, as enacted by Laws of Utah 2001, Chapter 206
- 10-2-402, as last amended by Laws of Utah 2020, Chapters 113 and 208
- 10-2-403, as last amended by Laws of Utah 2020, Chapter 139
- 10-2-418, as last amended by Laws of Utah 2020, Chapters 139 and 208

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 10-2-401.5 is amended to read:****10-2-401.5. Annexation policy plan.**

(1) After December 31, 2002, no municipality may annex an unincorporated area located within a specified county unless the municipality has adopted an annexation policy plan as provided in this section.

(2) To adopt an annexation policy plan:

(a) the planning commission shall:

(i) prepare a proposed annexation policy plan that complies with Subsection (3);

(ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;

(iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;

(iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);

(v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);

(vi) hold a public hearing on the proposed annexation policy plan;

(vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;

(viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and

(ix) submit its recommended annexation policy plan to the municipal legislative body; and

(b) the municipal legislative body shall:

(i) hold a public hearing on the annexation policy plan recommended by the planning commission;

(ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;

(iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and

(iv) adopt the recommended annexation policy plan, with or without modifications.

(3) Each annexation policy plan shall include:

(a) a map of the expansion area which may include territory located outside the county in which the municipality is located;

(b) a statement of the specific criteria that will guide the municipality's decision whether or not to grant future annexation petitions, addressing matters relevant to those criteria including:

(i) the character of the community;

(ii) the need for municipal services in developed and undeveloped unincorporated areas;

(iii) the municipality's plans for extension of municipal services;

(iv) how the services will be financed;

(v) an estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area; and

(vi) the interests of all affected entities;

(c) justification for excluding from the expansion area any area containing urban development within 1/2 mile of the municipality's boundary; and

(d) a statement addressing any comments made by affected entities at or within 10 days after the public meeting under Subsection (2)(a)(ii).



(4) In developing, considering, and adopting an annexation policy plan, the planning commission and municipal legislative body shall:

(a) attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;

(b) consider population growth projections for the municipality and adjoining areas for the next 20 years;

(c) consider current and projected costs of infrastructure, urban services, and public facilities necessary:

(i) to facilitate full development of the area within the municipality; and

(ii) to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area;

(d) consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;

(e) consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and

(f) be guided by the principles set forth in Subsection 10-2-403~~(5)~~(6).

(5) Within 30 days after adopting an annexation policy plan, the municipal legislative body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located.

(6) Nothing in this chapter may be construed to prohibit or restrict two or more municipalities in specified counties from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.

**Section 2. Section 10-2-402 is amended to read:**

**10-2-402. Annexation -- Limitations.**

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless:

(i) it is a contiguous area;

(ii) it is contiguous to the municipality;

(iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:

(A) except as provided in Subsection 10-2-418(3) or (4); or

(B) unless the county and municipality have otherwise agreed; and

(iv) for an area located in a specified county with respect to an annexation that occurs after

December 31, 2002, the area is within the proposed annexing municipality's expansion area.

(c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if:

(i) the area is within the annexing municipality's expansion area;

(ii) the specified county in which the area is located and the annexing municipality agree to the annexation;

(iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and

(iv) the annexation is for the purpose of providing municipal services to the area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) (a) As used in this subsection, "expansion area urban development" means:

(i) for a specified county, urban development within a city or town's expansion area; or

(ii) for a county of the first class, urban development within a city or town's expansion area that:

(A) consists of 50 or more acres;

(B) requires the county to change the zoning designation of the land on which the urban development is located; and

(C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.

(b) A county legislative body may not approve expansion area urban development unless:

(i) the county notifies the city or town of the proposed development; and

(ii) (A) the city or town consents in writing to the development;

(B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or

(C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.

(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.

(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.

(7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

(8) (a) As used in this subsection, "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) A municipality may not annex an unincorporated area located within a project area without the authority's approval.

(c) (i) Except as provided in Subsection (8)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if it was the sole private property owner within the area:

(A) an area within a project area;

(B) an area that is contiguous to a project area and within the boundaries of a military installation;

(C) an area owned by the Military Installation Development Authority; and

(D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.

(ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:

(A) the annexation process shall follow the requirements for a specified county; and

(B) the provisions of Subsection 10-2-402(6) do not apply.

**Section 3. Section 10-2-403 is amended to read:**

**10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an area located in a county of the first class, the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

“Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality).”; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the

proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property as that term is defined in Section 17B-2a-1107 within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

“Notice:

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

• If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the

proposed annexing municipality) receives notice that the petition has been certified.”;

(e) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) (a) ~~[A]~~ Except as provided in Subsection (5)(b), an annexation petition under Subsection (1) may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 if:

~~[(a)]~~ (i) the request was filed before the filing of the annexation petition; and

~~[(b)]~~ (ii) the request, or a petition under Section 10-2a-208 based on that request, is still pending on the date the annexation petition is filed.

(b) Subsection (5)(a) does not apply to an annexation petition if:

(i) the annexation petition proposes the annexation of an area included in a notice of intent described in Subsection (5)(c); or

(ii) the annexation petition:

(A) is filed on or after November 15, 2020; and

(B) proposes the annexation of an area located in a county other than the first class.

(c) (i) A person intending to file a petition for annexation of an area located in a county other than a first class county may, on or before August 5, 2020, file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition for annexation.

(ii) The notice of intent described in Subsection (5)(c)(i) shall include an accurate map of the area that is proposed to be annexed.

(6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(7) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

#### **Section 4. Section 10-2-418 is amended to read:**

##### **10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.**

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, “municipal-type services” does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as “political subdivision” is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), (2), or (6), a municipality may annex an unincorporated area without an annexation petition or the consent of the county in which the area proposed for annexation is located, if:

(a) the area proposed for annexation:

(i) is located within a specified county;

(ii) includes private real property that is located within a county that is not the county in which the proposed annexing municipality is located;

(iii) includes real property that is:

(A) owned by a public entity; and

(B) located in the county in which the proposed annexing municipality is located; and

(iv) does not include urban development;

(b) any portion of the private real property described in Subsection (3)(a)(ii) is located within two miles of the proposed annexing municipality's boundary; and

(c) each owner of private real property within the area proposed for annexation consents in writing to the proposed annexation.

(4) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (6)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

(5) (a) This subsection applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (5)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (5)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least ~~one half~~ 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(5)(d)."

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (6)(b).

(6) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (6)(a).

(7) A legislative body described in Subsection (6) shall publish notice of a public hearing described in Subsection (6)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection (7)(a)(i), at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

(8) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (7):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (6)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection (9)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection (6)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (7)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (6)(a).

(9) (a) Except as provided in Subsections (9)(b)(i) and (9)(c)(i), upon conclusion of the public hearing described in Subsection (6)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (9)(a), upon conclusion of the public hearing described in Subsection (6)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (9)(a) if:

(A) the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation; or

(B) the annexation meets the requirements of Subsection (3).

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (9)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (9)(a), upon conclusion of the public hearing described in Subsection (6)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (9)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (9)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (9)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (9)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (9)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(10) (a) Except as provided in Subsections (9)(b)(i) and (9)(c)(i), if protests are timely filed under Subsection (9)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (10)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (4) to annex some or all of the remaining portion of the unincorporated island.

#### **Section 5. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

## CHAPTER 16

## S. B. 5006

Passed June 18, 2020

Approved June 29, 2020

Effective June 29, 2020

**PUBLIC SAFETY WORKER  
PROTECTION AMENDMENTS**

Chief Sponsor: Karen Mayne

House Sponsor: Eric K. Hutchings

**LONG TITLE****General Description:**

This bill modifies testing requirements and procedures in relation to public safety workers who have been exposed to a communicable disease.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies definitions and procedures to authorize a court to order an individual to submit to medical testing for COVID-19 under certain circumstances; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

78B-8-401, as last amended by Laws of Utah 2017, Chapters 185 and 326

78B-8-402, as last amended by Laws of Utah 2019, Chapter 400

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 78B-8-401 is amended to read:****78B-8-401. Definitions.**

~~[For purposes of]~~ As used in this part:

(1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.

(2) "COVID-19" means the same as that term is defined in Section 78B-4-517.

~~[(2)]~~ (3) "Disease" means Human Immunodeficiency Virus infection, acute or chronic Hepatitis B infection, Hepatitis C infection, COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome, and any other infectious disease specifically designated by the Labor Commission, in consultation with the Department of Health, for the purposes of this part.

~~[(3)]~~ (4) "Emergency services provider" means:

(a) an individual licensed under Section 26-8a-302, a peace officer, local fire department personnel, or personnel employed by the

Department of Corrections or by a county jail, who provide prehospital emergency care for an emergency services provider either as an employee or as a volunteer; or

(b) an individual who provides for the care, control, support, or transport of a prisoner.

~~[(4)]~~ (5) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or peace officer.

~~[(5)]~~ (6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(7) "Medical testing procedure" means a nasopharyngeal swab, a nasal swab, a capillary blood sample, a saliva test, or a blood draw.

~~[(6)]~~ (8) "Peace officer" means the same as that term is defined in Section 53-1-102.

~~[(7)]~~ (9) "Prisoner" means the same as that term is defined in Section 76-5-101.

~~[(8)]~~ (10) "Significant exposure" and "significantly exposed" mean:

(a) exposure of the body of one ~~person~~ individual to the blood or body fluids of another ~~person~~ individual by:

(i) percutaneous injury, including a needle stick, cut with a sharp object or instrument, or a wound resulting from a human bite, scratch, or similar force; or

(ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage; ~~or~~

(b) exposure of the body of one individual to the body fluids, including airborne droplets, of another individual if:

(i) the other individual displays symptoms known to be associated with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or

(ii) other evidence exists that would lead a reasonable person to believe that the other individual may be infected with COVID-19 or another infectious disease that may cause Severe Acute Respiratory Syndrome; or

~~[(b)]~~ (c) exposure that occurs by any other method of transmission defined by the Labor Commission, in consultation with the Department of Health, as a significant exposure.

**Section 2. Section 78B-8-402 is amended to read:****78B-8-402. Petition -- Disease testing --  
Notice -- Payment for testing.**

(1) An emergency services provider or first aid volunteer who is significantly exposed during the course of performing the emergency services provider's duties or during the course of performing emergency assistance or first aid, or a health care



provider acting in the course and scope of the health care provider's duties as a health care provider may:

(a) request that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed voluntarily submit to testing; or

(b) petition the district court or a magistrate for an order requiring that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed submit to testing to determine the presence of a disease[, as defined in Section 78B-8-401,] and that the results of that test be disclosed to the petitioner by the Department of Health.

(2) (a) A law enforcement agency may submit on behalf of the petitioner by electronic or other means an ex parte request for a warrant ordering a ~~blood draw from~~ medical testing procedure of the respondent.

(b) The court or magistrate shall issue a warrant ordering the respondent to ~~provide a specimen of the respondent's blood~~ submit to a medical testing procedure within two hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that:

(i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services provider, first aid volunteer, or health care provider;

(ii) the respondent ~~has~~ refused to give consent to the ~~blood draw~~ medical testing procedure or is unable to give consent;

(iii) there may not be an opportunity to obtain a sample at a later date; and

(iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.

(c) (i) [The] If the petitioner requests that the court order the respondent to submit to a blood draw, the petitioner shall request a person authorized under Section 41-6a-523 to perform the blood draw.

(ii) If the petitioner requests that the court order the respondent to submit to a medical testing procedure, other than a blood draw, the petitioner shall request that a qualified medical professional, including a physician, a physician's assistant, a registered nurse, a licensed practical nurse, or a paramedic, perform the medical testing procedure.

(d) (i) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of Health for testing.

(ii) If the Department of Health is unable to perform a medical testing procedure ordered by the court under this section, a qualified medical laboratory may perform the medical testing procedure if:

(A) the Department of Health requests that the medical laboratory perform the medical testing procedure; and

(B) the result of the medical testing procedure is provided to the Department of Health.

(3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the petitioner may file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with this section.

(4) (a) The petition described in Subsection (3) shall be accompanied by an affidavit in which the petitioner certifies that the petitioner has been significantly exposed to the individual who is the subject of the petition and describes that exposure.

(b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed.

(5) The petitioner shall cause the petition required under this section to be served on the person who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that person.

(6) (a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing.

(b) The individual who is the subject of the petition shall also be notified that the individual may have an attorney present at the hearing and that the individual's attorney may examine and cross-examine witnesses.

(c) The hearing shall be conducted in camera.

(7) The district court may enter an order requiring that an individual submit to testing, including ~~blood testing~~ a medical testing procedure, for a disease if the court finds probable cause to believe:

(a) the petitioner was significantly exposed; and

(b) the exposure occurred during the course of the emergency services provider's duties, the provision of emergency assistance or first aid by a first aid volunteer, or the health care provider acting in the course and scope of the provider's duties as a health care provider.

(8) The court may order that the ~~blood specimen be obtained by the use of reasonable force~~ use of reasonable force is permitted to complete an ordered test if the individual who is the subject of the petition is a prisoner.

(9) The court may order that additional, follow-up testing be conducted and that the individual submit to that testing, as it determines to be necessary and appropriate.

(10) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order.

(11) (a) Upon order of the district court that ~~[a person]~~ an individual submit to testing for a disease, that ~~[person]~~ individual shall report to the designated local health department to ~~[have the person's blood drawn within 10 days from the issuance of]~~ provide the ordered specimen within five days after the day on which the court issues the order, and thereafter as designated by the court, or be held in contempt of court.

(b) The court shall send the order to the Department of Health and to the local health department ordered to ~~[draw the blood]~~ conduct or oversee the test.

(c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department may disclose the test results pursuant to a court order as provided in this section.

(d) Under this section, anonymous testing as provided under Section 26-6-3.5 may not satisfy the requirements of the court order.

(12) The local health department or the Department of Health shall inform the subject of the petition and the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.

(13) The court, the court's personnel, the process server, the Department of Health, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.

(14) (a) Except as provided in Subsection (14)(b), the petitioner shall remit payment for ~~[the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood]~~ each test performed in accordance with this section to the entity that performs the procedure.

(b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for ~~[the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood]~~ each test performed in accordance with this section to the entity that performs the procedure.

(15) The entity that ~~[draws the blood]~~ obtains a specimen for a test ordered under this section shall cause the ~~[blood]~~ specimen and the payment for the analysis of the specimen to be delivered to the Department of Health for analysis.

(16) If the individual is incarcerated, the incarcerating authority shall either ~~[draw the blood specimen]~~ obtain a specimen for a test ordered under this section or shall pay the expenses of having the ~~[individual's blood drawn]~~ specimen obtained by a qualified individual who is not employed by the incarcerating authority.

(17) The ex parte request or petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.

### Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 17****S. B. 5007**

Passed June 18, 2020

Approved June 29, 2020

Effective June 29, 2020

**UNEMPLOYMENT  
INSURANCE RATES AMENDMENTS**Chief Sponsor: Daniel McCay  
House Sponsor: Karianne Lisonbee**LONG TITLE****General Description:**

This bill modifies provisions related to the Employment Security Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to the Unemployment Compensation Fund, including the Unemployment Insurance Division's calculation of employer contribution rates to the Unemployment Compensation Fund for the 2021 calendar year; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

35A-4-303, as last amended by Laws of Utah 2013, Chapter 26

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 35A-4-303 is amended to read:****35A-4-303. Determination of contribution rates.**

(1) (a) An employer's basic contribution rate is the same as the employer's benefit ratio and is determined by dividing the total benefit costs charged back to an employer during the immediately preceding four fiscal years by the total taxable wages of the employer for the same time period, calculated to four decimal places, disregarding any remaining fraction.

(b) In calculating the basic contribution rate under Subsection (1)(a), if four fiscal years of data are not available:

(i) the data of the number of complete fiscal years that is available shall be divided by the total taxable wages for the same time period; or

(ii) if the employer is a new employer, the basic contribution rate shall be determined as described in Subsection (5).

(2) (a) Subject to Subsection (2)(b), the division shall determine the social contribution rate by dividing all social costs as defined in Subsection 35A-4-307(1) applicable to the preceding four fiscal years by the total taxable wages of all employers subject to contributions for the same period,

calculated to four decimal places, disregarding any remaining fraction, and rounding the result to three decimal places as follows:

(i) if the fourth decimal place is four or less, the third decimal place does not change; or

(ii) if the fourth decimal place is five or more, rounding the third decimal place up.

(b) For calendar years 2012 and 2013 only, if the calculation of the social contribution rate under Subsection (2)(a) is greater than 0.004, the social contribution rate for that calendar year is 0.004.

(c) For calendar year 2021 only, if the calculation of the social contribution rate under Subsection (2)(a) is greater than 0.002, the social contribution rate for that calendar year is 0.002.

(3) (a) The division shall set the reserve factor at a rate that sustains an adequate reserve.

(b) For the purpose of setting the reserve factor:

(i) the adequate reserve is defined as between 18 and 24 months of benefits at the average of the five highest benefit cost rates in the last 25 years;

(ii) the division shall set the reserve factor at 1.0000 if the actual reserve fund balance as of June 30 preceding the computation date is determined to be an adequate reserve;

(iii) the division shall set the reserve factor between 0.5000 and 1.0000 if the actual reserve fund balance as of June 30 preceding the computation date is greater than the adequate reserve;

(iv) the division shall set the reserve factor between 1.0000 and 1.5000 if the actual reserve fund balance as of June 30 prior to the computation date is less than the adequate reserve;

(v) if the actual reserve fund balance as of June 30 preceding the computation date is insolvent or negative or if there is an outstanding loan from the Federal Unemployment Account or other lending institution, the division shall set the reserve factor at 2.0000 until the actual reserve fund balance as of June 30 preceding the computation date is determined by the division to be solvent or positive and there is no outstanding loan;

(vi) the division shall set the reserve factor on or before January 1 of each year; ~~and~~

(vii) money made available to the state under Section 903 of the Social Security Act, 42 U.S.C. 1103, as amended, which is received on or after January 1, 2004, may not be considered in establishing the reserve factor under this section for the rate year 2005 or any following rate year[-]; and

(viii) for calendar year 2021 only, the division may not set the reserve factor to be more than 1.0500.

(4) (a) Beginning January 1, 2009, an employer's overall contribution rate is:

(i) except as provided in Subsection (4)(a)(ii) or (iii), the employer's basic contribution rate multiplied by the reserve factor established under

Subsection (3)(b), calculated to four decimal places, disregarding any remaining fraction, plus the social contribution rate established under Subsection (2), and the result calculated to three decimal places, disregarding any remaining fraction;

(ii) if under Subsection (4)(a)(i), the overall contribution rate calculation for an employer is greater than 9% plus the applicable social contribution rate, the overall contribution rate for the employer shall be reduced to 9% plus the applicable social contribution rate; or

(iii) if under Subsection (4)(a)(i), the overall contribution rate calculation for a new employer is less than 1.1%, the overall contribution rate for the new employer shall be increased to 1.1%.

(b) Beginning January 1, 2012, an employer's overall contribution rate is:

(i) except as provided in Subsection (4)(b)(ii) or (iii), the employer's basic contribution rate multiplied by the reserve factor established under Subsection (3)(b), calculated to four decimal places, disregarding any remaining fraction, plus the social contribution rate established under Subsection (2), and the result calculated to three decimal places, disregarding any remaining fraction;

(ii) if under Subsection (4)(b)(i), the overall contribution rate calculation for an employer is greater than 7% plus the applicable social contribution rate, the overall contribution rate for the employer shall be reduced to 7% plus the applicable social contribution rate; or

(iii) if under Subsection (4)(b)(i), the overall contribution rate calculation for a new employer is less than 1.1%, the overall contribution rate for the new employer shall be increased to 1.1%.

(c) The overall contribution rate described under this Subsection (4) does not include the addition of any penalty applicable to an employer:

(i) as a result of delinquency in the payment of contributions as provided in Subsection (9); or

(ii) that is assessed a penalty rate under Subsection 35A-4-304(5)(a).

(5) (a) Except as otherwise provided in this section, the basic contribution rate for a new employer is based on the average benefit cost rate experienced by employers of the major industry, as defined by department rule, to which the new employer belongs.

(b) Except as provided in Subsection (5)(c), by January 1 of each year, the basic contribution rate to be used in computing a new employer's overall contribution rate under Subsection (4) is the benefit cost rate that is the greater of:

(i) the amount calculated by dividing the total benefit costs charged back to both active and inactive employers of the same major industry for the last two fiscal years by the total taxable wages paid by those employers that were paid during the same time period, computed to four decimal places, disregarding any remaining fraction; or

(ii) 1%.

(c) If the major industrial classification assigned to a new employer is an industry for which a benefit cost rate does not exist because the industry has not operated in the state or has not been covered under this chapter, the employer's basic contribution rate is 5.4%. This basic contribution rate is used in computing the employer's overall contribution rate under Subsection (4).

(6) Notwithstanding any other provision of this chapter, and except as provided in Subsection (7), if an employing unit that moves into this state is declared to be a qualified employer because it has sufficient payroll and benefit cost experience under another state, a rate shall be computed on the same basis as a rate is computed for all other employers subject to this chapter if that unit furnishes adequate records on which to compute the rate.

(7) An employer who begins to operate in this state after having operated in another state shall be assigned the maximum overall contribution rate until the employer acquires sufficient experience in this state to be considered a "qualified employer" if the employer is:

(a) regularly engaged as a contractor in the construction, improvement, or repair of buildings, roads, or other structures on lands;

(b) generally regarded as being a construction contractor or a subcontractor specialized in some aspect of construction; or

(c) required to have a contractor's license or similar qualification under Title 58, Chapter 55, Utah Construction Trades Licensing Act, or the equivalent in laws of another state.

(8) (a) If an employer acquires the business or all or substantially all the assets of another employer and the other employer had discontinued operations upon the acquisition or transfers its trade or business, or a portion of its trade or business, under Subsection 35A-4-304(3)(a):

(i) for purposes of determining and establishing the acquiring party's qualifications for an experience rating classification, the payrolls of both employers during the qualifying period shall be jointly considered in determining the period of liability with respect to:

(A) the filing of contribution reports;

(B) the payment of contributions; and

(C) the benefit costs of both employers;

(ii) the transferring employer shall be divested of the transferring employer's unemployment experience provided the transferring employer had discontinued operations, but only to the extent as defined under Subsection 35A-4-304(3)(c); and

(iii) if an employer transfers its trade or business, or a portion of its trade or business, as defined under Subsection 35A-4-304(3), the transferring employer may not be divested of its employer's unemployment experience.

(b) An employing unit or prospective employing unit that acquires the unemployment experience of

an employer shall, for all purposes of this chapter, be an employer as of the date of acquisition.

(c) Notwithstanding Section 35A-4-310, when a transferring employer, as provided in Subsection (8)(a), is divested of the employer's unemployment experience by transferring all of the employer's business to another and by ceasing operations as of the date of the transfer, the transferring employer shall cease to be an employer, as defined by this chapter, as of the date of transfer.

(9) (a) A rate of less than the maximum overall contribution rate is effective only for new employers and to those qualified employers who, except for amounts due under division determinations that have not become final, paid all contributions prescribed by the division for the four consecutive calendar quarters in the fiscal year immediately preceding the computation date.

(b) Notwithstanding Subsections (1), (5), (6), and (8), an employer who fails to pay all contributions prescribed by the division for the four consecutive calendar quarters in the fiscal year immediately preceding the computation date, except for amounts due under determinations that have not become final, shall pay a contribution rate equal to the overall contribution rate determined under the experience rating provisions of this chapter, plus a surcharge of 1% of wages.

(c) An employer who pays all required contributions shall, for the current contribution year, be assigned a rate based upon the employer's own experience as provided under the experience rating provisions of this chapter effective the first day of the calendar quarter in which the payment was made.

(d) Delinquency in filing contribution reports may not be the basis for denial of a rate less than the maximum contribution rate.

(10) If an employer makes a contribution payment based on the overall contribution rate in effect at the time the payment was made and a provision of this section retroactively reduces the overall contribution rate for that payment, the division:

(a) may not directly refund the difference between what the employer paid and what the employer would have paid under the new rate; and

(b) shall allow the employer to make an adjustment to a future contribution payment to offset the difference between what the employer paid and what the employer would have paid under the new rate.

## **Section 2. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 18****S. B. 5008**

Passed June 18, 2020

Approved June 29, 2020

Effective June 29, 2020

**PRIVATE INVESTIGATOR  
LICENSE QUALIFICATIONS**

Chief Sponsor: Todd Weiler

House Sponsor: V. Lowry Snow

**LONG TITLE****General Description:**

This bill modifies provisions of the Private Investigator Regulation Act.

**Highlighted Provisions:**

This bill:

- ▶ removes the state residency requirements related to obtaining or renewing a license under the Private Investigator Regulation Act; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

53-9-108, as last amended by Laws of Utah 2018, Chapter 287

53-9-111, as last amended by Laws of Utah 2018, Chapter 417

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 53-9-108 is amended to read:****53-9-108. Qualifications for licensure.**

(1) (a) An applicant under this chapter shall be [a legal resident of the state and] at least:

(i) 21 years of age to apply for an agency license or a registrant license; or

(ii) 18 years of age to apply for an apprentice license.

(b) An applicant may not have been:

(i) convicted of a felony;

(ii) convicted of an act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) convicted of an act of personal violence or force on any person or convicted of threatening to commit an act of personal violence or force against another person;

(iv) convicted of an act constituting dishonesty or fraud;

(v) convicted of an act involving moral turpitude within the past 10 years unless the conviction has been expunged under the provisions of Title 77, Chapter 40, Utah Expungement Act;

(vi) placed on probation or parole;

(vii) named in an outstanding arrest warrant; or

(viii) convicted of illegally obtaining or disclosing private, controlled, or protected records as provided in Section 63G-2-801.

(c) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(2) In assessing if an applicant meets the requirements under Subsection (1)(b), the board shall consider mitigating circumstances presented by an applicant.

(3) (a) An applicant for an agency license shall have:

(i) a minimum of 5,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government; or

(ii) if the applicant held a registrant license or an apprentice license under this chapter on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government.

(b) An applicant for a registrant license shall have a minimum of 2,000 hours of investigative experience that consists of actual investigative work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, an investigator for a state, county, or municipal government, or a process server.

(c) At least 1,000 hours of the investigative experience required under this Subsection (3) shall have been performed within 10 years immediately prior to the application.

(d) An applicant shall substantiate investigative work experience required under this Subsection (3) by providing:

(i) the exact details as to the character and nature of the investigative work on a form prescribed by the bureau and certified by the applicant's employers; or

(ii) if the applicant is applying for the reinstatement of an agency license, internal records of the applicant that demonstrate the investigative work experience requirement has previously been met.

(e) (i) The applicant shall prove completion of the investigative experience required under this Subsection (3) to the satisfaction of the board and the board may independently verify the certification offered on behalf of the applicant.

(ii) The board may independently confirm the claimed investigative experience and the verification of the applicant's employers.

(4) An applicant for an apprentice license, lacking the investigative experience required for a registrant license, shall meet all of the qualification standards in Subsection (1), and shall complete an apprentice application.

(5) An applicant for an agency or registrant license may receive credit toward the hours of investigative experience required under Subsection (3) as follows:

(a) an applicant may receive credit for 2,000 hours of investigative experience if the applicant:

(i) has an associate's degree in criminal justice or police science from an accredited college or university; or

(ii) is certified as a peace officer; and

(b) an applicant may receive credit for 4,000 hours of investigative experience if the applicant has a bachelor's degree in criminal justice or police science from an accredited college or university.

(6) The board shall determine if the applicant may receive credit under Subsection (5) toward the investigative and educational experience requirements under Subsection (3).

~~[(7) An applicant for the renewal of a license under this chapter shall be a legal resident of this state.]~~

**Section 2. Section 53-9-111 is amended to read:**

**53-9-111. License and registration fees -- Deposit in General Fund.**

(1) Fees for individual and agency licensure and renewal shall be in accordance with Section 63J-1-504.

(2) (a) The bureau may renew a license granted under this chapter upon receipt of:

~~[(i) to a resident of the state;]~~

~~[(ii) upon receipt of]~~ (i) a renewal application on forms as prescribed by the bureau; and

~~[(iii) upon receipt of]~~ (ii) the fees prescribed in Subsection (1).

(b) (i) The renewal of a license requires the filing of all certificates of insurance or proof of surety bond as required by this chapter.

(ii) Renewal of a license may not be granted more than 180 days after expiration.

(c) A licensee may not engage in activity subject to this chapter during the period between the date of expiration of the license and the renewal of the license.

(3) (a) The bureau shall renew a suspended license if:

(i) the period of suspension has been completed;

(ii) the bureau has received a renewal application from the applicant on forms prescribed by the bureau; and

(iii) the applicant has:

(A) filed all certificates of insurance or proof of surety bond as required by this chapter; and

(B) paid the fees required by this section for renewal, including a delinquency fee if the application is not received by the bureau within 30 days of the termination of the suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in activity regulated by this chapter, or in other activity or conduct in violation of the order or judgment by which the license was suspended.

(4) The bureau may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year from the date of revocation.

(5) All fees, except the fingerprint processing fee, collected by the bureau under this section shall be deposited in the General Fund.

**Section 3. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 19**  
**S. B. 5009**

Passed June 18, 2020  
Approved June 29, 2020  
Effective June 29, 2020

**MARTHA HUGHES CANNON**  
**STATUE AMENDMENTS**

Chief Sponsor: Deidre M. Henderson  
House Sponsor: Candice B. Pierucci

**LONG TITLE**

**General Description:**

This bill amends provisions of the code relating to the unveiling of the statue of Martha Hughes Cannon in the United States Capitol and extends the repeal date of the Martha Hughes Cannon Capitol Statue Oversight Committee.

**Highlighted Provisions:**

This bill:

- ▶ removes a requirement that the statue of Martha Hughes Cannon be placed in the National Statuary Hall;
- ▶ removes a timing requirement for the unveiling of the statue of Martha Hughes Cannon; and
- ▶ extends the repeal date for the Martha Hughes Cannon Capitol Statue Oversight Committee.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**AMENDS:**

36-31-104, as last amended by Laws of Utah 2020, Chapter 154  
36-31-105, as enacted by Laws of Utah 2019, Chapter 261  
63I-1-236, as last amended by Laws of Utah 2020, Chapter 232

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 36-31-104 is amended to read:**

**36-31-104. Committee duties.**

- (1) The committee shall:
  - (a) coordinate efforts to place a statue of Martha Hughes Cannon in the ~~[National Statuary Hall in the]~~ United States Capitol to replace the statue of Philo Farnsworth;
  - (b) ensure that efforts to place the statue of Martha Hughes Cannon conform with the requirements of 2 U.S.C. Chapter 30, Subchapter V, Part D, Miscellaneous;
  - (c) represent the state in interactions with the following in relation to the placement of the statue of Martha Hughes Cannon:
    - (i) the Joint Committee on the Library of Congress described in 2 U.S.C. Sec. 2132;

(ii) the architect of the capitol described in 2 U.S.C. Sec. 2132; and

(iii) any other federal entity;

(d) select a sculptor for the statue of Martha Hughes Cannon;

(e) ensure that the statue of Martha Hughes Cannon is created in marble or bronze, as required under 2 U.S.C. Sec. 2131;

(f) approve the final design of the statue of Martha Hughes Cannon; and

~~[(g) ensure that the statue of Martha Hughes Cannon is unveiled in the National Statuary Hall in August of 2020, in commemoration of the month of the 100th anniversary of the ratification of the Nineteenth Amendment to the United States Constitution; and]~~

~~[(h)]~~ (g) determine, in coordination with appropriate community leaders and local elected officials, an appropriate location for placement of the statue of Philo Farnsworth that is currently on display in the National Statuary Hall in the United States Capitol.

(2) The committee shall facilitate the creation of a nonprofit entity that is exempt from federal income tax under Section 501(c), Internal Revenue Code, to:

(a) collect contributions to cover costs associated with:

(i) the creation and placement of the statue of Martha Hughes Cannon in the ~~[National Statuary Hall in the]~~ United States Capitol;

(ii) the removal of the statue of Philo Farnsworth that is currently on display in the National Statuary Hall in the United States Capitol; and

(iii) the placement of the statue described in Subsection (2)(a)(ii) for display in a location designated by the committee under Subsection (1)~~[(h)]~~(g); and

(b) comply with the requirements of 2 U.S.C. Sec. 2132 regarding the cost of replacing a state's statue in the National Statuary Hall.

**Section 2. Section 36-31-105 is amended to read:**

**36-31-105. Martha Hughes Cannon Capitol Statue ownership.**

The statue of Martha Hughes Cannon, along with all funds donated for its creation, maintenance, and transportation, belong to Utah. The state is entitled to transfer the statue to the United States Capitol for purposes of display ~~[in the National Statuary Hall].~~

**Section 3. Section 63I-1-236 is amended to read:**

**63I-1-236. Repeal dates, Title 36.**

- (1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2023.
- (2) Section 36-12-20 is repealed June 30, 2023.



(3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

(4) Section 36-29-105 is repealed on December 31, 2020.

(5) Section 36-29-106 is repealed June 1, 2021.

(6) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, [2021] 2022.

**Section 4. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 20**  
**S. B. 5012**

Passed June 18, 2020  
Approved June 29, 2020  
Effective June 29, 2020  
Exception clause

**STATUTORY ADJUSTMENTS**  
**RELATED TO BUDGET CHANGES**

Chief Sponsor: Jerry W. Stevenson  
House Sponsor: Bradley G. Last

**LONG TITLE**

**General Description:**

This bill modifies provisions necessary to facilitate modifications made during the 2020 Fifth Special Session to the budgets for the fiscal year beginning July 1, 2019, and ending June 30, 2020, and the fiscal year beginning July 1, 2020, and ending June 30, 2021.

**Highlighted Provisions:**

This bill:

- ▶ to facilitate modifications made during the 2020 Fifth Special Session to the budgets for the fiscal year beginning July 1, 2019, and ending June 30, 2020, and the fiscal year beginning July 1, 2020, and ending June 30, 2021:
  - allows funds in the Waste Tire Recycling Fund to be used for Department of Environmental Quality operational costs under certain circumstances;
  - deletes provisions requiring the lieutenant governor to print and distribute the Voter Information Pamphlet and requires the lieutenant governor to publish the Voter Information Pamphlet online;
  - deletes provisions relating to the Department of Health's increase in premium subsidies under the Utah Premium Partnership for Health Insurance Program for the fiscal year beginning July 1, 2020, and ending June 30, 2021;
  - allows certain funds in the Hospital Provider Assessment Expendable Revenue Fund to be transferred to the General Fund during the fiscal year beginning July 1, 2019, and ending June 30, 2020;
  - allows certain funds in the Ambulance Service Provider Assessment Expendable Revenue Fund to be transferred to the General Fund during the fiscal year beginning July 1, 2019, and ending June 30, 2020;
  - modifies the purposes for which the Liquor Control Fund may be used and the percentage of revenue from the sale of liquor that is credited to the Liquor Control Fund;
  - modifies the percentage of revenue from the sale of liquor that is credited to the Alcoholic Beverage Control Act Enforcement Fund;
  - modifies the percentage of revenue from the sale of liquor that is credited to the Underage

Drinking Prevention Media and Education Campaign Restricted Account;

- increases the total legislative appropriations that may be made annually from the Uninsured Motorist Identification Restricted Account to the Peace Officer Standards and Training Division;
  - increases the total legislative appropriations that may be made annually to the Department of Health from the Tobacco Settlement Restricted Account for certain child dental and health benefits;
  - reduces the total legislative appropriations that may be made annually to the Department of Health from the Tobacco Settlement Restricted Account for certain drug prevention programs;
  - allows the transfer of a certain amount from the State Disaster Recovery Restricted Account to the governor's emergency appropriations;
  - requires the Division of Finance to transfer a certain portion of sales and use tax revenue allocated to the Transportation Investment Fund of 2005 to the General Fund;
  - increases the total legislative appropriations that may be made annually to the Department of Health from the Electronic Cigarette Substance and Nicotine Product Restricted Account for certain drug prevention programs;
  - requires law enforcement to provide a final investigatory report regarding child abuse or neglect to the Division of Child and Family Services upon request and modifies provisions relating to the division's coordination with a law enforcement investigation of child abuse or neglect;
  - modifies the circumstances under which the Division of Child and Family Services is required to conduct a prerule investigation of alleged child abuse or neglect;
  - modifies the county reimbursement rate for housing a state probationary or parole inmate;
  - delays the effective date of the postpartum recovery leave program for certain state employees;
  - extends the date before which the Department of Transportation is required to transfer certain funds relating to the County of the First Class Highway Projects Fund to the Transportation Fund; and
  - modifies the circumstances under which a court may vest legal custody of a minor to address the minor's ungovernable or other behavior, mental health, or disability; and
- ▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

**AMENDS:**

19-6-807, as last amended by Laws of Utah 2013,

Chapter 400  
 20A-1-309 (Repealed 08/01/20), as enacted by Laws of Utah 2020, Third Special Session, Chapter 5  
 20A-5-403, as last amended by Laws of Utah 2020, Chapter 31  
 20A-7-103, as last amended by Laws of Utah 2011, Chapter 327  
 20A-7-202.5, as last amended by Laws of Utah 2020, Chapter 277  
 20A-7-203, as last amended by Laws of Utah 2020, Chapter 277  
 20A-7-204.1, as last amended by Laws of Utah 2019, Chapters 255, 275 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 275  
 20A-7-701, as last amended by Laws of Utah 2008, Chapter 225  
 20A-7-702, as last amended by Laws of Utah 2020, Chapter 31  
 26-18-3.8, as last amended by Laws of Utah 2020, Chapter 225  
 26-36d-207, as repealed and reenacted by Laws of Utah 2019, Chapter 455  
 26-37a-107, as enacted by Laws of Utah 2015, Chapter 440  
 32B-2-301, as last amended by Laws of Utah 2018, Chapter 329  
 32B-2-305, as last amended by Laws of Utah 2013, Chapter 400  
 32B-2-306, as last amended by Laws of Utah 2017, Chapter 163  
 41-12a-806, as last amended by Laws of Utah 2019, Chapter 55  
 51-9-201 (Superseded 07/01/20), as last amended by Laws of Utah 2014, Chapter 96  
 51-9-201 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapter 365  
 53-2a-603, as last amended by Laws of Utah 2019, Chapter 396  
 59-12-103, as last amended by Laws of Utah 2020, Chapters 44 and 379  
 59-14-807 (Effective 07/01/20), as enacted by Laws of Utah 2020, Chapter 347 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 161  
 62A-4a-403, as last amended by Laws of Utah 2018, Chapter 91  
 62A-4a-409, as last amended by Laws of Utah 2020, Chapter 193  
 63J-1-602.2 (Superseded 07/01/20), as last amended by Laws of Utah 2020, Chapters 152, 157, and 330  
 63J-1-602.2 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapters 152, 157, 230, 330, 360, and 365  
 64-13e-104, as last amended by Laws of Utah 2020, Chapter 410  
 67-19-14.7 (Superseded 07/01/20), as enacted by Laws of Utah 2020, Chapter 402  
 67-19-14.7 (Effective 07/01/20), as enacted by Laws of Utah 2020, Chapter 402  
 72-2-121, as last amended by Laws of Utah 2020, Chapter 366  
 78A-6-117 (Superseded 07/01/20), as last amended by Laws of Utah 2020, Chapter 214 and last amended by Coordination Clause,

Laws of Utah 2020, Chapter 214  
 78A-6-117 (Effective 07/01/20), as last amended by Laws of Utah 2020, Chapters 214, 230 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 19-6-807 is amended to read:**

**19-6-807. Special revenue fund -- Creation -- Deposits.**

(1) There is created an expendable special revenue fund entitled the "Waste Tire Recycling Fund."

(2) The fund shall consist of:

(a) the proceeds of the fee imposed under Section 19-6-805; and

(b) penalties collected under this part.

(3) Money in the fund shall be used for:

(a) partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires as provided in this part; and

(b) payment of administrative costs of local health departments as provided in Section 19-6-817.

(4) The Legislature may appropriate money from the fund to pay for:

(a) the costs of the Department of Environmental Quality in administering and enforcing this part[-]; and

(b) other operational costs of the Department of Environmental Quality, if the Legislature estimates there is a deficit in the Department of Environmental Quality's budget for the current or next fiscal year.

**Section 2. Section 20A-1-309 (Repealed 08/01/20) is amended to read:**

**20A-1-309 (Repealed 08/01/20). Regular primary election, 2020 -- COVID-19 measures.**

(1) (a) As used in this section, "mobile voting county" means a county that opts in to drive-up voting on election day in accordance with Subsection (9).

(b) In relation to conducting the 2020 regular primary election, the Legislature takes the action described in this section to protect the public health and safety in relation to the COVID-19 pandemic.

(c) If any provision of the Utah Code conflicts with a provision of this section, this section prevails.

(2) Notwithstanding any emergency declaration issued under the authority of this state, or any other restriction imposed by the governor, the Department of Health, a local government, a local health department, or any other government entity of the state, and consistent with the requirements of this section, the conduct of the 2020 regular primary election:

(a) subject to the provisions of this section, is an essential service, including voting, voter registration, the mailing of ballots, the return of completed ballots, the processing of ballots, the counting and tallying of votes, and the release of election results; and

(b) except as expressly provided in this section, is not prohibited or affected by the emergency declaration or restriction.

(3) The lieutenant governor's office shall, in consultation with the county clerks and consistent with the provisions of this section and other applicable requirements of law, issue protocols to protect the health and safety of voters and government employees in the conduct of the 2020 regular primary election, including:

(a) requiring poll workers to use protective gear and to wash hands regularly;

(b) prohibiting ill poll workers from working; and

(c) promoting, to the extent practicable, social distancing between poll workers.

(4) The lieutenant governor's office shall conduct a campaign to educate the public on the provisions of this section, especially provisions relating to changes in the voter registration, voting methods, and voting process.

(5) The lieutenant governor's office may make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular primary election to the extent the modifications are necessary to carry out the provisions of this section.

(6) For the 2020 regular primary election only:

(a) the entire election will be conducted by mail, except that:

(i) a mobile voting county may provide drive-up voting, on election day only, in accordance with the requirements of this section;

(ii) a covered voter, as defined in Section 20A-16-102, may vote in any manner approved by the election officer;

(iii) an election officer shall:

(A) provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(B) include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (6)(a)(iii)(A) may vote;

(iv) a caretaker for a voter described in Subsection (6)(a)(iii) may vote at the same time and place as the voter;

(b) except as provided in Subsection (6)(c), the notice of election shall include the following statement: "To help prevent the spread of the coronavirus, for the 2020 regular primary election only:

▶ the election will be conducted entirely by mail;

- ▶ drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day;
- ▶ there will be no polling places on election day;
- ▶ there will be no in person voting, including no in person early voting;
- ▶ there will be no in person voter registration;
- ▶ there will be no voter registration by provisional ballot; and
- ▶ the voter registration deadline is 11 days before the day of the election.

An individual with a disability who is not able to vote a manual ballot by mail may obtain information on voting in an accessible manner from the county's website, by contacting the county clerk, or by reviewing the information included with a ballot mailed to the voter.:";

(c) the notice of election for a mobile voting county shall include the following statement: "To help prevent the spread of the coronavirus, for the 2020 regular primary election only:

- ▶ the election will be conducted primarily by mail;
- ▶ drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day;
- ▶ there will be no regular polling places on election day, but there will be limited drive-up voting on election day, unless the county clerk cancels drive-up voting based on public health concerns;
- ▶ if drive-up voting is cancelled based on public health concerns, voters will be required to vote by mail;
- ▶ except for drive-up voting on election day only, there will be no in person voting and no in person early voting;
- ▶ there will be no in person voter registration;
- ▶ there will be no voter registration by provisional ballot; and
- ▶ the voter registration deadline is 11 days before the day of the election.

An individual with a disability who is not able to vote a manual ballot by mail may obtain information on voting in an accessible manner from the county's website, by contacting the county clerk, or by reviewing the information included with a ballot mailed to the voter.:";

(d) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-5-403 is not in effect;

(e) the election officer shall mail to each active voter who is eligible to vote in the primary, regardless of whether the voter has requested that the election officer not send a ballot by mail to the voter:

(i) a manual ballot, if the voter is affiliated with a political party for which there is a primary election;

(ii) a notice to each unaffiliated active voter stating that the voter may request a primary election ballot; and

(iii) a manual ballot to each unaffiliated active voter who requests a primary election ballot;

(f) early voting will not take place;

(g) registration by provisional ballot will not take place and Section 20A-2-207 is not in effect;

(h) provisional ballots may only be cast:

(i) by mail;

(ii) for an individual with a disability, as otherwise authorized by the election officer; or

(iii) for a mobile voting county, at a drive-up voting station;

(i) the provisions of Section 20A-3a-205 will only be in effect to the extent they can be completed in accordance with Subsection (6)(h);

(j) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 11-14-202(3), (4)(a)(ii), (4)(a)(iv), (4)(b), and (6) are not in effect;

(k) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 11-14-202(4)(a)(iii) following the words "election officer's website" is not in effect;

(l) except for a registration completed before April 22, 2020, in person voter registration is not in effect, including registration described in Section 20A-2-201 or Subsection 20A-2-304(1)(a);

(m) Subsection 20A-2-307(2)(a) is not in effect;

(n) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Sections 20A-4-101, 20A-4-102, and 20A-4-103 are not in effect;

(o) Subsection 20A-4-202(2)(a) is not in effect;

(p) the deadline for the canvas to be completed is 21 days after the election;

(q) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-5-101(4)(b), (4)(c), (4)(e), and (6)(c)(iii) are not in effect;

(r) the statement described in Subsections 20A-5-101(4)(d) and 20A-7-702[(2)](1)(m) and [(2)] (1)(n) shall, instead of referring to polling places, refer to:

(i) ballot drop boxes; and

(ii) for a mobile voting county, drive-up voting stations;

~~[(s) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-7-702(3)(e) following the words "upon request" are not in effect;]~~

[(+) (s)] Subsection 20A-7-801(3)(c) is not in effect;

[(+) (t) (i)] except as provided in Subsection (6)(u)(ii), the statement described in Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including ballot drop box locations, accessible options for voters with a disability, and qualifications of voters may be obtained from the following sources:";

(ii) for a mobile voting county, the statement described in Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including ballot drop box locations, drive-up voting locations, accessible options for voters with a disability, and qualifications of voters may be obtained from the following sources:";

~~[(+)] (u)~~ except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k):

(i) the portion of Subsection 20A-5-102(1)(c)(xiii) following the words "date of the election" are not in effect; and

(ii) Subsection 20A-5-102(2) is not in effect;

~~[(+)] (v)~~ the election officer may modify the number of poll workers to an amount that the election officer determines is appropriate and may alter or otherwise designate the duties of poll workers in general, and of each individual poll worker;

~~[(x)] (w)~~ the election officer may reduce the number of watchers and alter or otherwise regulate the placement and conduct of watchers as the election officer determines is appropriate;

~~[(y)] (x)~~ in Section 20A-6-203:

(i) the provisions relating to voting booths are not in effect; and

(ii) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the provisions relating to ballot boxes are not in effect; and

~~[(z)] (y)~~ an election officer may not release any ballot counts or any other election results or updates to the public before 10 p.m. on election day.

(7) For the 2020 regular primary election only, with respect to the version of the Utah Code otherwise in effect before May 12, 2020:

(a) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsection 20A-3-202.3(3)(b)(ii) is not in effect;

(b) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3-302(2)(a)(ii) and (v) and (6)(a), (b), and (c) are not in effect;

~~[(c) Subsection 20A-3-306.5(3)(a) is not in effect;]~~

~~[(d) (c)]~~ Chapter 3a, Part 6, Early Voting, is not in effect;

~~[(e)] (d)~~ except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Chapter 3a, Part 7, Election Day Voting Center, is not in effect;

~~[(f)] (e)~~ Subsections 20A-5-101(4)(b), (c), and (e) are not in effect;

~~[(g)] (f)~~ the portion of Subsection 20A-5-101(4)(d) that follows the words "election officer's website" is not in effect; and

~~(h)~~ (g) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-5-101(6)(b) that states “polling places, polling place hours, and” is not in effect.

(8) For the 2020 regular primary election only, with respect to the version of the Utah Code otherwise in effect beginning on May 12, 2020:

(a) Subsections 20A-2-102.5(2)(a)(i), (2)(b), and (2)(c) are not in effect;

(b) the portion of Subsection 20A-2-202(3)(b) following the words “pending election” is not in effect;

(c) the portion of Subsection 20A-2-204(6)(c)(iii) following the words “pending election” is not in effect;

(d) the portion of Subsection 20A-2-205(7)(b) following the words “pending election” is not in effect;

(e) Subsection 20A-2-206(9)(b) is not in effect;

(f) Section 20A-3a-105 is not in effect, except:

(i) as it applies to an individual with a disability; or

(ii) as it relates to drive-up voting for a mobile voting county, subject to Subsection (9)(k);

(g) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-201(1)(b) and (c) are not in effect;

(h) (i) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-202(2)(a)(iv) and (v), (8)(a), (b), and (c) are not in effect; and

(ii) Subsection 20A-3a-202(10) is not in effect;

(i) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-203 is not in effect;

(j) the deadline for a postmark or other mark described in Subsection 20A-3a-204(2)(a)(i) is extended to on or before election day;

(k) the words “in line at” in Subsection 20A-3a-204(2)(d) are replaced with the words “waiting in the vicinity of”;

(l) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-204(2)(b)(i), (3), (4), (7), (8), and (9) are not in effect;

(m) the words “enter a polling place” in Subsection 20A-3a-208(1) are replaced with the word “vote”;

(n) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-3a-209(1) and (2) are not in effect;

(o) Section 20A-3a-301 is in effect only to the extent that the process can be completed:

(i) by mail;

(ii) for a mobile voting county, via a drive-up voting center; or

(iii) if approved by the lieutenant governor’s office, electronic means;

(p) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-402 is not in effect;

(q) Chapter 3a, Part 6, Early Voting, is not in effect;

(r) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Chapter 3a, Part 7, Election Day Voting Center, is not in effect;

(s) Subsection 20A-3a-804(1)(b) shall be completed by mail;

(t) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), the portion of Subsection 20A-3a-804(3)(b)(ii) following the words “provisional ballot” is not in effect;

(u) Subsection 20A-3a-804(4)(a) is not in effect, and the election officer is, instead, required to determine whether each challenged individual is eligible to vote before the day on which the canvass is held;

(v) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-3a-805 is not in effect;

(w) the requirement in Subsection 20A-4-303(1)(b) regarding a public canvass may be fulfilled by recording the canvass and making the recording available to the public;

(x) Subsection 20A-5-403.5(3)(b) is not in effect;

(y) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsection 20A-5-205(2) is not in effect;

(z) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Section 20A-5-404 is not in effect;

(aa) (i) Subsections 20A-5-405(1)(h)(i) and (2)(c)(ii) are not in effect; and

(ii) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Subsections 20A-5-405(1)(i) and (3)(b)(ii) are not in effect;

(bb) except as it relates to drive-up voting for a mobile voting county, and subject to Subsection (9)(k), Sections 20A-5-406 and 20A-5-407 are not in effect; and

(cc) the “in person” requirement in Subsection 20A-7-609.5(3)(a)(i) is not in effect.

(9) (a) A county is a mobile voting county if, before 5 p.m. on May 1, 2020, the county clerk notifies the lieutenant governor’s office that the county will be a mobile voting county.

(b) Except as provided in Subsection (9)(j), a mobile voting county shall operate one or more

drive-up voting stations during normal polling hours on election day.

(c) Only a mobile voting county may operate a drive-up voting station.

(d) A mobile voting county may not operate a drive-up voting station at any time other than during normal polling hours on election day.

(e) Vehicles in line at a drive-up voting station at 8 p.m. may vote at the drive-up voting station.

(f) A mobile voting county shall:

(i) establish procedures and requirements to protect the health and welfare of voters and poll workers at a drive-up voting station, including the use of protective gear;

(ii) operate the drive-up voting station in a manner that permits a voter to vote while remaining in a vehicle;

(iii) take measures to ensure that a voter's vote is secret and secure; and

(iv) conduct a campaign to encourage voters to vote by mail rather than at a drive-up voting station.

(g) Any duty of care owed by a government entity in relation to a drive-up voting station is the sole responsibility of the mobile voting county, not the state.

(h) This section does not impose a duty of care or other legal liability not already owed under the provisions of law.

(i) A drive-up voting station is a polling place.

(j) (i) The county clerk of a mobile voting county may cancel drive-up voting or close a drive-up voting station if the county clerk determines that cancellation is necessary to protect the public health and welfare.

(ii) If cancellation or closure occurs under Subsection (9)(j)(i), the county clerk shall give notice of the cancellation or closure as soon as reasonably possible, in the manner that the county clerk determines is best under the circumstances, and a voter must then vote by placing the ballot that the voter received by mail in a ballot box.

(iii) A voter who waits to vote until election day assumes the risk that a drive-up voting station may close at any time to protect the public health and welfare and that the voter may be required to vote by placing the ballot that the voter received by mail in a ballot box.

(k) A county clerk of a mobile voting county may, consistent with the provisions of this section and the other requirements of law that remain in effect for the 2020 regular primary election, alter requirements relating to a polling place to the extent necessary to address the practical differences between drive-up voting and voting in a building.

(10) This section does not supercede a federal court order entered in relation to elections in San Juan County.

**Section 3. Section 20A-5-403 is amended to read:**

**20A-5-403. Polling places -- Booths -- Ballot boxes -- Inspections -- Arrangements.**

(1) Except as provided in Section 20A-7-609.5, each election officer shall:

(a) designate polling places for each voting precinct in the jurisdiction; and

(b) obtain the approval of the county or municipal legislative body or local district governing board for those polling places.

(2) (a) For each polling place, the election officer shall provide:

(i) an American flag;

(ii) a sufficient number of voting booths or compartments;

(iii) the voting devices, voting booths, ballots, ballot boxes, and any other records and supplies necessary to enable a voter to vote;

(iv) the constitutional amendment cards required by Part 1, Election Notices and Instructions;

~~[(v) voter information pamphlets required by Chapter 7, Part 7, Voter Information Pamphlet;]~~

~~[(vi)]~~ (v) the instructions required by Section 20A-5-102; and

~~[(vii)]~~ (vi) a sign, to be prominently displayed in the polling place, indicating that valid voter identification is required for every voter before the voter may vote and listing the forms of identification that constitute valid voter identification.

(b) Each election officer shall ensure that:

(i) each voting booth is at a convenient height for writing, and is arranged so that the voter can prepare the voter's ballot screened from observation;

(ii) there are a sufficient number of voting booths or voting devices to accommodate the voters at that polling place; and

(iii) there is at least one voting booth or voting device that is configured to accommodate persons with disabilities.

(c) Each county clerk shall provide a ballot box for each polling place that is large enough to properly receive and hold the ballots to be cast.

(3) (a) All polling places shall be physically inspected by each county clerk to ensure access by a person with a disability.

(b) Any issues concerning inaccessibility to polling places by a person with a disability discovered during the inspections referred to in Subsection (3)(a) or reported to the county clerk shall be:

(i) forwarded to the Office of the Lieutenant Governor; and

(ii) within six months of the time of the complaint, the issue of inaccessibility shall be either:

(A) remedied at the particular location by the county clerk;

(B) the county clerk shall designate an alternative accessible location for the particular precinct; or

(C) if no practical solution can be identified, file with the Office of the Lieutenant Governor a written explanation identifying the reasons compliance cannot reasonably be met.

(4) (a) The municipality in which the election is held shall pay the cost of conducting each municipal election, including the cost of printing and supplies.

(b) (i) Costs assessed by a county clerk to a municipality under this section may not exceed the actual costs incurred by the county clerk.

(ii) The actual costs shall include:

(A) costs of or rental fees associated with the use of election equipment and supplies; and

(B) reasonable and necessary administrative costs.

(5) The county clerk shall make detailed entries of all proceedings had under this chapter.

(6) (a) Each county clerk shall, to the extent possible, ensure that the amount of time that an individual waits in line before the individual can vote at a polling location in the county does not exceed 30 minutes.

(b) The lieutenant governor may require a county clerk to submit a line management plan before the next election if an individual waits in line at a polling location in the county longer than 30 minutes before the individual can vote.

(c) The lieutenant governor may consider extenuating circumstances in deciding whether to require the county clerk to submit a plan described in Subsection (6)(b).

(d) The lieutenant governor shall review each plan submitted under Subsection (6)(b) and consult with the county clerk submitting the plan to ensure, to the extent possible, that the amount of time an individual waits in line before the individual can vote at a polling location in the county does not exceed 30 minutes.

**Section 4. Section 20A-7-103 is amended to read:**

**20A-7-103. Constitutional amendments and other questions submitted by the Legislature -- Publication -- Ballot title -- Procedures for submission to popular vote.**

(1) The procedures contained in this section govern when the Legislature submits a proposed

constitutional amendment or other question to the voters.

(2) ~~[In addition to the publication in the voter information pamphlet required by Section 20A-7-702, the]~~ The lieutenant governor shall, not more than 60 days or less than 14 days before the date of the election, publish the full text of the amendment, question, or statute in at least one newspaper in every county of the state where a newspaper is published.

(3) The legislative general counsel shall:

(a) entitle each proposed constitutional amendment "Constitutional Amendment \_\_" and assign it a letter according to the requirements of Section 20A-6-107;

(b) entitle each proposed question "Proposition Number \_\_" with the number assigned to the proposition under Section 20A-6-107 placed in the blank;

(c) draft and designate a ballot title for each proposed amendment or question submitted by the Legislature that summarizes the subject matter of the amendment or question; and

(d) deliver each number and title to the lieutenant governor.

(4) The lieutenant governor shall certify the number and ballot title of each amendment or question to the county clerk of each county no later than 65 days before the date of the election.

(5) The county clerk of each county shall:

(a) ensure that both the number and title of each amendment and question is printed on the sample ballots and official ballots; and

(b) publish them as provided by law.

**Section 5. Section 20A-7-202.5 is amended to read:**

**20A-7-202.5. Initial fiscal impact estimate -- Preparation of estimate -- Challenge to estimate.**

(1) Within three working days after the day on which the lieutenant governor receives an application for an initiative petition, the lieutenant governor shall submit a copy of the application to the Office of the Legislative Fiscal Analyst.

(2) (a) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith initial fiscal impact estimate of the law proposed by the initiative, not exceeding 100 words plus 100 words per revenue source created or impacted by the proposed law, that contains:

(i) a description of the total estimated fiscal impact of the proposed law over the time period or time periods determined by the Office of the Legislative Fiscal Analyst to be most useful in understanding the estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase taxes, decrease taxes, or impose a new tax, a dollar amount representing the total estimated increase



or decrease for each type of tax affected under the proposed law, a dollar amount showing the estimated amount of a new tax, and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase a particular tax or tax rate, the tax percentage difference and the tax percentage increase for each tax or tax rate increased;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a dollar amount representing the estimated cost or savings, if any, to state or local government entities under the proposed law;

(vi) if the proposed law would increase costs to state government, a listing of all sources of funding for the estimated costs; and

(vii) a concise description and analysis titled "Funding Source," not to exceed 100 words for each funding source, of the funding source information described in Subsection 20A-7-202(2)(d)(ii).

(b) If the proposed law is estimated to have no fiscal impact, the Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

~~[(3) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith estimate of the cost of printing and distributing information related to the initiative petition in:]~~

~~[(a) the voter information pamphlet as required by Chapter 7, Part 7, Voter Information Pamphlet; or]~~

~~[(b) the newspaper, as required by Section 20A-7-702.]~~

~~[(4)] (3) Within 25 calendar days after the day on which the lieutenant governor delivers a copy of the application, the Office of the Legislative Fiscal Analyst shall:~~

~~(a) deliver a copy of the initial fiscal impact estimate to the lieutenant governor's office; and~~

~~(b) mail a copy of the initial fiscal impact estimate to the first five sponsors named in the initiative application.~~

~~[(5)] (4) (a) (i) Three or more of the sponsors of the petition may, within 20 calendar days after the day on which the Office of the Legislative Fiscal Analyst delivers the initial fiscal impact estimate to the lieutenant governor's office, file a petition with the appropriate court, alleging that the initial fiscal~~

impact estimate, taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the petition to:

(A) any person or group that has filed an argument with the lieutenant governor's office for or against the measure that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the initial fiscal impact estimate prepared by the Office of the Legislative Fiscal Analyst is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal impact of the initiative.

(ii) The court may not revise the contents of, or direct the revision of, the initial fiscal impact estimate unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the initial fiscal estimate, taken as a whole, is an inaccurate statement of the estimated fiscal impact of the initiative.

(iii) The court may refer an issue related to the initial fiscal impact estimate to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The court shall certify to the lieutenant governor a fiscal impact estimate for the measure that meets the requirements of this section.

**Section 6. Section 20A-7-203 is amended to read:**

**20A-7-203. Form of initiative petition and signature sheets.**

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable \_\_\_\_, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/beginning on \_\_\_\_\_(month \day \year);

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)”

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14–point, bold type, immediately following the information described in Subsection (1)(a):

“This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(c) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8–1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three–fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line, in at least 14–point, bold type;

(d) be vertically divided into columns as follows:

(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be .25 inch wide, and be headed, together with the second column, “For Office Use Only”;

(ii) the second column shall be .25 inch wide;

(iii) the third column shall be 2.5 inches wide, headed “Registered Voter’s Printed Name (must be legible to be counted)”;

(iv) the fourth column shall be 2.5 inches wide, headed “Signature of Registered Voter”;

(v) the fifth column shall be .75 inch wide, headed “Date Signed”;

(vi) the sixth column shall be three inches wide, headed “Street Address, City, Zip Code”; and

(vii) the seventh column shall be .75 inch wide, headed “Birth Date or Age (Optional)”;

(e) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(d), shall be .5 inch high;

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than 12–point type:

”By signing this petition, you are stating that you have read and understand the law proposed by this petition.”; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(f); and

(f) at the bottom of the sheet, contain in the following order:

(i) the title of the initiative, in at least 14–point, bold type;

(ii) except as provided in Subsection (4), the initial fiscal impact estimate’s summary statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A–7–202.5(2)(a), including any update in accordance with Subsection 20A–7–204.1(5), [~~and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A–7–202.5(3),~~] in not less than 12–point, bold type;

(iii) the word “Warning,” followed by the following statement in not less than eight–point type:

“It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual’s own name, or to knowingly sign the individual’s name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.”;

(iv) the following statement: “Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records.”; and

(v) if the initiative petition proposes a tax increase, spanning the bottom of the sheet, horizontally, in not less than 14–point, bold type, the following statement:

“This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(3) The final page of each initiative packet shall contain the following printed or typed statement:

“Verification

State of Utah, County of \_\_\_\_

I, \_\_\_\_\_, of \_\_\_\_\_, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual’s name on it in my presence;

I believe that each individual has printed and signed the individual’s name and written the individual’s post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and

that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

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(Name) (Residence Address) (Date)"

(4) If the initial fiscal impact estimate described in Subsection (2)(f), as updated in accordance with Subsection 20A-7-204.1(5), exceeds 200 words, the Office of the Legislative Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on a signature sheet, that does not exceed 200 words.

(5) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

**Section 7. Section 20A-7-204.1 is amended to read:**

**20A-7-204.1. Public hearings to be held before initiative petitions are circulated -- Changes to an initiative and initial fiscal impact estimate.**

(1) (a) After issuance of the initial fiscal impact estimate by the Office of the Legislative Fiscal Analyst and before circulating initiative petitions for signature statewide, sponsors of the initiative petition shall hold at least seven public hearings throughout Utah as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

(iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;

(v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

(vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

(vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) Of the seven public hearings, the sponsors of the initiative shall hold at least two of the public hearings in a first or second class county, but not in the same county.

(c) The sponsors may not hold a public hearing described in this section until the later of:

(i) one day after the day on which a sponsor receives a copy of the initial fiscal impact estimate under Subsection 20A-7-202.5(4)(3)(b); or

(ii) if three or more sponsors file a petition challenging the accuracy of the initial fiscal impact statement under Section 20A-7-202.5, the day after the day on which the action is final.

(2) The sponsors shall:

(a) before 5 p.m. at least three calendar days before the date of the public hearing, provide written notice of the public hearing to:

(i) the lieutenant governor for posting on the state's website; and

(ii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

(b) publish written notice of the public hearing, including the time, date, and location of the public hearing, in each county in the region where the public hearing will be held:

(i) (A) at least three calendar days before the day of the public hearing, in a newspaper of general circulation in the county;

(B) if there is no newspaper of general circulation in the county, at least three calendar days before the day of the public hearing, by posting one copy of the notice, and at least one additional copy of the notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents of the county; or

(C) at least seven days before the day of the public hearing, by mailing notice to each residence in the county;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for at least three calendar days before the day of the public hearing;

(iii) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing; and

(iv) on the county's website for at least three calendar days before the day of the public hearing.

(3) If the initiative petition proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(4) (a) During the public hearing, the sponsors shall either:

(i) video tape or audio tape the public hearing and, when the hearing is complete, deposit the complete audio or video tape of the meeting with the lieutenant governor; or

(ii) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.

(b) The lieutenant governor shall make copies of the tapes or minutes available to the public.

(c) For each public hearing, the sponsors shall:

(i) during the entire time that the public hearing is held, post a copy of the initial fiscal impact statement in a conspicuous location at the entrance to the room where the sponsors hold the public hearing; and

(ii) place at least 50 copies of the initial fiscal impact statement, for distribution to public hearing attendees, in a conspicuous location at the entrance to the room where the sponsors hold the public hearing.

(5) (a) Before 5 p.m. within 14 days after the day on which the sponsors conduct the seventh public hearing described in Subsection (1)(a), and before circulating an initiative petition for signatures, the sponsors of the initiative petition may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.

(b) (i) Within three working days after the day on which the lieutenant governor receives an application addendum to change the text of the proposed law in an initiative petition, the lieutenant governor shall submit a copy of the application addendum to the Office of the Legislative Fiscal Analyst.

(ii) The Office of the Legislative Fiscal Analyst shall update the initial fiscal impact estimate by following the procedures and requirements of Section 20A-7-202.5 to reflect a change to the text of the proposed law.

**Section 8. Section 20A-7-701 is amended to read:**

**20A-7-701. Voter information pamphlet to be prepared.**

(1) The lieutenant governor shall cause to be ~~printed~~ prepared a voter information pamphlet designed to inform the voters of the state of the content, effect, operation, fiscal impact, and the supporting and opposing arguments of any measure submitted to the voters by the Legislature or by a statewide initiative or referendum petition.

(2) The pamphlet shall also include a separate section prepared, analyzed, and submitted by the

Judicial Council describing the judicial selection and retention process.

~~[(3) The lieutenant governor shall cause to be printed as many voter information pamphlets as needed to comply with the provisions of this chapter.]~~

~~[(4)] (3)~~ Voter information pamphlets prepared in association with a local initiative or a local referendum shall be prepared in accordance with the procedures and requirements of Section 20A-7-402.

**Section 9. Section 20A-7-702 is amended to read:**

**20A-7-702. Voter information pamphlet -- Form -- Contents.**

~~[(1) The lieutenant governor shall ensure that all information submitted for publication in the voter information pamphlet is:]~~

~~[(a) printed and bound in a single pamphlet;]~~

~~[(b) printed in clear readable type, no less than 10 point, except that the text of any measure may be set forth in eight-point type; and]~~

~~[(c) printed on a quality and weight of paper that best serves the voters.]~~

~~[(2)] (1)~~ The voter information pamphlet shall contain the following items in this order:

(a) a cover title page;

(b) an introduction to the pamphlet by the lieutenant governor;

(c) a table of contents;

(d) a list of all candidates for constitutional offices;

(e) a list of candidates for each legislative district;

(f) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before 5 p.m. on the first business day in August before the date of the election;

(g) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:

(i) a copy of the number and ballot title of the measure;

(ii) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;

(iii) the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel;

(iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure,

with the name and title of the authors at the end of each argument or rebuttal;

(v) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets;

(vi) for each initiative qualified for the ballot:

(A) a copy of the measure as certified by the lieutenant governor and a copy of the fiscal impact estimate prepared according to Section 20A-7-202.5; and

(B) if the initiative proposes a tax increase, the following statement in bold type:

“This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”; and

(vii) for each referendum qualified for the ballot, a complete copy of the text of the law being submitted to the voters for their approval or rejection, with all new language underlined and all deleted language placed within brackets, as applicable;

(h) a description provided by the Judicial Performance Evaluation Commission of the selection and retention process for judges, including, in the following order:

(i) a description of the judicial selection process;

(ii) a description of the judicial performance evaluation process;

(iii) a description of the judicial retention election process;

(iv) a list of the criteria of the judicial performance evaluation and the minimum performance standards;

(v) the names of the judges standing for retention election; and

(vi) for each judge:

(A) a list of the counties in which the judge is subject to retention election;

(B) a short biography of professional qualifications and a recent photograph;

(C) a narrative concerning the judge’s performance;

(D) for each standard of performance, a statement identifying whether or not the judge met the standard and, if not, the manner in which the judge failed to meet the standard;

(E) a statement identifying whether or not the Judicial Performance Evaluation Commission recommends the judge be retained or declines to make a recommendation and the number of votes for and against the commission’s recommendation;

(F) any statement provided by a judge who is not recommended for retention by the Judicial

Performance Evaluation Commission under Section 78A-12-203;

(G) in a bar graph, the average of responses to each survey category, displayed with an identification of the minimum acceptable score as set by Section 78A-12-205 and the average score of all judges of the same court level; and

(H) a website address that contains the Judicial Performance Evaluation Commission’s report on the judge’s performance evaluation;

(i) for each judge, a statement provided by the Utah Supreme Court identifying the cumulative number of informal reprimands, when consented to by the judge in accordance with Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders of censure and suspension issued by the Utah Supreme Court under Utah Constitution, Article VIII, Section 13, during the judge’s current term and the immediately preceding term, and a detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct that the judge has received;

(j) an explanation of ballot marking procedures prepared by the lieutenant governor, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

(k) voter registration information, including information on how to obtain a ballot;

(l) a list of all county clerks’ offices and phone numbers;

(m) the address of the Statewide Electronic Voter Information Website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(n) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(o) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

“I, \_\_\_\_\_ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout the state on \_\_\_\_ (date of election), and that this pamphlet is complete and correct according to law.

SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this \_\_\_\_ day of \_\_\_\_ (month), \_\_\_\_ (year)

(signed) \_\_\_\_\_  
Lieutenant Governor”

[~~(3)~~] (2) No earlier than 75 days, and no later than 15 days, before the day on which voting commences, the lieutenant governor shall[:] make all information provided in the voter information pamphlet available on the Statewide Electronic

Voter Information Website Program described in Section 20A-7-801.

~~[(a) (i) distribute one copy of the voter information pamphlet to each household within the state;]~~

~~[(ii) distribute to each household within the state a notice;]~~

~~[(A) printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail;]~~

~~[(B) that states the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and]~~

~~[(C) that states the phone number a voter may call to request delivery of a voter information pamphlet by mail; or]~~

~~[(iii) ensure that one copy of the voter information pamphlet is placed in one issue of every newspaper of general circulation in the state;]~~

~~[(b) ensure that a sufficient number of printed voter information pamphlets are available for distribution as required by this section;]~~

~~[(c) provide voter information pamphlets to each county clerk for free distribution upon request and for placement at polling places; and]~~

~~[(d) ensure that the distribution of the voter information pamphlets is completed 15 days before the election.]~~

~~[(4)] (3) The lieutenant governor may distribute a voter information pamphlet at a location frequented by a person who cannot easily access the Statewide Electronic Voter Information Website authorized by Section 20A-7-801.~~

**Section 10. Section 26-18-3.8 is amended to read:**

**26-18-3.8. Maximizing use of premium assistance programs -- Utah's Premium Partnership for Health Insurance.**

(1) (a) The department shall seek to maximize the use of Medicaid and Children's Health Insurance Program funds for assistance in the purchase of private health insurance coverage for Medicaid-eligible and non-Medicaid-eligible individuals.

(b) The department's efforts to expand the use of premium assistance shall:

(i) include, as necessary, seeking federal approval under all Medicaid and Children's Health Insurance Program premium assistance provisions of federal law, including provisions of the Patient Protection and Affordable Care Act, Public Law 111-148;

(ii) give priority to, but not be limited to, expanding the state's Utah Premium Partnership for Health Insurance Program, including as required under Subsection (2); and

(iii) encourage the enrollment of all individuals within a household in the same plan, where

possible, including enrollment in a plan that allows individuals within the household transitioning out of Medicaid to retain the same network and benefits they had while enrolled in Medicaid.

(2) The department shall seek federal approval of an amendment to the state's Utah Premium Partnership for Health Insurance program to adjust the eligibility determination for single adults and parents who have an offer of employer sponsored insurance. The amendment shall:

(a) be within existing appropriations for the Utah Premium Partnership for Health Insurance program; and

(b) provide that adults who are up to 200% of the federal poverty level are eligible for premium subsidies in the Utah Premium Partnership for Health Insurance program.

~~[(3) For fiscal year 2021-22, the department shall seek authority to increase the maximum premium subsidy per month for adults under the Utah Premium Partnership for Health Insurance program to \$300.]~~

~~[(4) Beginning with fiscal year 2021-22, and in each subsequent year, the department may increase premium subsidies for single adults and parents who have an offer of employer sponsored insurance to keep pace with the increase in insurance premium costs subject to appropriation of additional funding.]~~

**Section 11. Section 26-36d-207 is amended to read:**

**26-36d-207. Hospital Provider Assessment Expendable Revenue Fund.**

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under this chapter;

(b) any interest and penalties levied with the administration of this chapter; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection 26-36d-203(1)(d) for accountable care organizations; and

(b) to reimburse money collected by the division from a hospital through a mistake made under this chapter.

(4) (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.

(b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the

General Fund to the fund and the interest and penalties deposited into the fund under Subsection (2)(b).

**Section 12. Section 26-37a-107 is amended to read:**

**26-37a-107. Ambulance Service Provider Assessment Expendable Revenue Fund.**

(1) There is created an expendable special revenue fund known as the "Ambulance Service Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the division under this chapter;

(b) the penalties collected by the division under this chapter;

(c) donations to the fund; and

(d) appropriations by the Legislature.

(3) Money in the fund shall be used:

(a) to support fee-for-service rates; and

(b) to reimburse money to an ambulance service provider that is collected by the division from the ambulance service provider through a mistake made under this chapter.

(4) (a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.

(b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the penalties deposited into the fund under Subsection (2)(b).

**Section 13. Section 32B-2-301 is amended to read:**

**32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.**

(1) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) Except as provided in Section 32B-2-304, the department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title; ~~and~~

(ii) money received from the markup described in Section 32B-2-304~~[-];~~ and

(iii) money credited under Subsection (3).

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

(3) (a) The department shall deposit 0.125% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the Liquor Control Fund.

(b) The department shall deposit 0.27% of the total gross revenue from the sale of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the Liquor Control Fund.

~~[(3)]~~ (4) (a) Notwithstanding Subsection (2)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.

~~[(4)]~~ (5) (a) As used in this Subsection ~~[(4)]~~ (5), "base budget" means the same as that term is defined in legislative rule.

(b) The department's base budget shall include as an appropriation from the Liquor Control Fund:

(i) credit card related fees paid by the department;

(ii) package agency compensation; and

(iii) the department's costs of shipping and warehousing alcoholic products.

~~[(5)]~~ (6) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection ~~[(5)]~~ (6).

(b) After each fiscal year, the Division of Finance shall calculate the amount for the transfer on or before September 1 and the Division of Finance shall make the transfer on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

~~[(6)]~~ (7) (a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

[(7)] (8) Before the Division of Finance makes the transfer described in Subsection [(5)] (6), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the department may use for:

(a) capital equipment purchases;

(b) salary increases for department employees;

(c) performance awards for department employees; or

(d) information technology enhancements because of changes or trends in technology.

**Section 14. Section 32B-2-305 is amended to read:**

**32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.

(b) "Enforcement ratio" is as defined in Section 32B-1-201.

(c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3) (a) The fund consists of:

(i) deposits made under Subsection (4); and

(ii) interest earned on the fund.

(b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.

(4) After the deposit made under Section 32B-2-304 for the school lunch program, the department shall deposit [~~1%~~] 0.875% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be used by the Department of Public Safety as provided in Subsection (5).

(5) (a) The Department of Public Safety shall expend money from the fund to supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201.

(b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as a primary focus the enforcement of this title in relationship to restaurants.

**Section 15. Section 32B-2-306 is amended to read:**

**32B-2-306. Underage drinking prevention media and education campaign.**

(1) As used in this section:

(a) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(b) "Restricted account" means the Underage Drinking Prevention Media and Education Campaign Restricted Account created in this section.

(2) (a) There is created a restricted account within the General Fund known as the "Underage Drinking Prevention Media and Education Campaign Restricted Account."

(b) The restricted account consists of:

(i) deposits made under Subsection (3); and

(ii) interest earned on the restricted account.

(3) The department shall deposit [~~0.6%~~] 0.468% of the total gross revenue from sales of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the restricted account and to be used by the department as provided in Subsection (5).

(4) The advisory council shall:

(a) provide ongoing oversight of a media and education campaign funded under this section;

(b) create an underage drinking prevention workgroup consistent with guidelines proposed by the advisory council related to the membership and duties of the underage drinking prevention workgroup;

(c) create guidelines for how money appropriated for a media and education campaign can be used;

(d) include in the guidelines established pursuant to this Subsection (4) that a media and education campaign funded under this section is carefully researched and developed, and appropriate for target groups; and

(e) approve plans submitted by the department in accordance with Subsection (5).

(5) (a) Subject to appropriation from the Legislature, the department shall expend money from the restricted account to direct one or more media and education campaigns designed to reduce underage drinking in cooperation with the advisory council.

(b) The department shall:

(i) in cooperation with the underage drinking prevention workgroup created under Subsection



(4), prepare and submit a plan to the advisory council detailing the intended use of the money appropriated under this section;

(ii) upon approval of the plan by the advisory council, conduct the media and education campaign in accordance with the guidelines made by the advisory council; and

(iii) submit to the advisory council annually by no later than October 1, a written report detailing the use of the money for the media and education campaigns conducted under this Subsection (5) and the impact and results of the use of the money during the prior fiscal year ending June 30.

**Section 16. Section 41-12a-806 is amended to read:**

**41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

(c) appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(d) the department to reimburse a person for the costs of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) The Legislature may appropriate not more than [~~\$1,000,000~~] \$1,500,000 annually from the account to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use in law enforcement training, including training on the use of the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

**Section 17. Section 51-9-201 (Superseded 07/01/20) is amended to read:**

**51-9-201 (Superseded 07/01/20). Creation of Tobacco Settlement Restricted Account.**

(1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."

(2) The account shall earn interest.

(3) The account shall consist of:

(a) on and after July 1, 2007, 60% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and

(b) interest earned on the account.

(4) To the extent that funds will be available for appropriation in a given fiscal year, those funds shall be appropriated from the account in the following order:

(a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense of the Tobacco Settlement Agreement;

(b) \$18,500 to the State Tax Commission for ongoing enforcement of business compliance with the Tobacco Tax Settlement Agreement;

(c) [~~\$10,452,900~~] \$11,022,900 to the Department of Health for:

(i) children in the Medicaid program created in Title 26, Chapter 18, Medical Assistance Act, and the Children's Health Insurance Program created in Section 26-40-103; and

(ii) for restoration of dental benefits in the Children's Health Insurance Program;

(d) [~~\$3,847,100~~] \$3,277,100 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television, and with a preference in funding given to tobacco-related programs;

(e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the Department of Human Services for the statewide expansion of the drug court program;

(f) \$4,000,000 to the State Board of Regents for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and

(g) any remaining funds as directed by the Legislature through appropriation.

**Section 18. Section 51-9-201 (Effective 07/01/20) is amended to read:**

**51-9-201 (Effective 07/01/20). Creation of Tobacco Settlement Restricted Account.**

(1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."

(2) The account shall earn interest.

(3) The account shall consist of:

(a) on and after July 1, 2007, 60% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and

(b) interest earned on the account.

(4) To the extent that funds will be available for appropriation in a given fiscal year, those funds shall be appropriated from the account in the following order:

(a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense of the Tobacco Settlement Agreement;

(b) \$18,500 to the State Tax Commission for ongoing enforcement of business compliance with the Tobacco Tax Settlement Agreement;

(c) [~~\$10,452,900~~] \$11,022,900 to the Department of Health for:

(i) children in the Medicaid program created in Title 26, Chapter 18, Medical Assistance Act, and the Children's Health Insurance Program created in Section 26-40-103; and

(ii) for restoration of dental benefits in the Children's Health Insurance Program;

(d) [~~\$3,847,100~~] \$3,277,100 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper,

billboards, and television, and with a preference in funding given to tobacco-related programs;

(e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the Department of Human Services for the statewide expansion of the drug court program;

(f) \$4,000,000 to the Utah Board of Higher Education for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and

(g) any remaining funds as directed by the Legislature through appropriation.

**Section 19. Section 53-2a-603 is amended to read:**

**53-2a-603. State Disaster Recovery Restricted Account.**

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) Subject to being appropriated by the Legislature, money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed \$500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$500,000, but does not exceed \$3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$3,000,000, but does not exceed \$5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); and

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed \$150,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39-1-5, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;

(c) to fund the Local Government Emergency Response Loan Fund created in Section 53-2a-607;

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of \$10,000,000; ~~and~~

(e) the division may expend up to \$3,200,000 during fiscal year 2019 to fund operational costs incurred by the division during fiscal year 2019[-]; and

(f) to fund up to \$500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4).

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

**Section 20. Section 59-12-103 is amended to read:**

**59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) (I) through March 31, 2019, 4.70%; and

(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use

Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not

separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

- (A) a commercial use;
- (B) an industrial use; or
- (C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation

and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year

by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in

Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.



(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7),

and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under

Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and

(ii) for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (13)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(14) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(15) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

**Section 21. Section 59-14-807 (Effective 07/01/20) is amended to read:**

**59-14-807 (Effective 07/01/20). Electronic Cigarette Substance and Nicotine Product Tax Restricted Account.**

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account consists of:

(a) revenues collected from the tax imposed by Section 59-14-804; and

(b) amounts appropriated by the Legislature.

(3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:

(a) \$2,000,000 which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;

(b) \$2,000,000 to the Department of Health for statewide cessation programs and prevention education;

(c) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting

organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

(d) \$3,000,000 which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116; ~~and~~

(e) \$5,084,200 to the State Board of Education for school-based prevention programs~~[-]; and~~

(f) \$2,000,000 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26-57-103;

(ii) the labeling requirement described in Section 26-57-104; and

(iii) the penalty provisions described in Section 26-62-305.

(b) The Department of Health shall use the money received in accordance with Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26-7-10.

(c) The local health departments shall use the money received in accordance with Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(e) to distribute to local education agencies to pay for:

(i) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(ii) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).

(5) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account after the distribution described in Subsection (3) may only be used for programs and activities related to

the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

**Section 22. Section 62A-4a-403 is amended to read:**

**62A-4a-403. Reporting requirements.**

(1) (a) Except as provided in Subsection (2), when any individual, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child has been subjected to abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, that individual shall immediately report the alleged abuse or neglect to the nearest peace officer, law enforcement agency, or office of the division.

(b) (i) Upon receipt of a report described in Subsection (1)(a), the peace officer or law enforcement agency shall immediately notify the nearest office of the division.

(ii) If an initial report of abuse or neglect is made to the division, the division shall immediately notify the appropriate local law enforcement agency.

(c) (i) The division shall, in addition to [its] the division's own investigation~~[-, comply with and lend support to]~~ in accordance with Section 62A-4a-409, coordinate with law enforcement on investigations by law enforcement undertaken to investigate a report described in Subsection (1)(a).

(ii) If law enforcement undertakes an investigation of a report described in Subsection (1)(a), the law enforcement agency undertaking the investigation shall provide a final investigatory report to the division upon request.

(2) Subject to Subsection (3), the notification requirement described in Subsection (1)(a) does not apply to a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(a) the perpetrator made the confession directly to the member of the clergy; and

(b) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.

(3) (a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse or neglect from the confession of the perpetrator.

(b) Exemption of the reporting requirement for a member of the clergy does not exempt the member of the clergy from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

**Section 23. Section 62A-4a-409 is amended to read:**

**62A-4a-409. Investigation by division --  
Temporary protective custody --  
Preremoval interviews of children.**

(1) (a) [The] Except as provided in Subsection (1)(c), the division shall [make] conduct a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse or neglect, or an oral or written report under Subsection 62A-4a-404(2), when there is reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described under Subsection 62A-4a-404(2) exist.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

(c) The division is not required to conduct an investigation under Subsection (1)(a) if the division determines the person responsible for the child's care:

(i) is not the alleged perpetrator; and

(ii) is willing and able to ensure the alleged perpetrator does not have access to the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include members of a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services.

(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to

verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.

(6) When the division completes the division's initial investigation under this part, the division shall give notice of that completion to the person who made the initial report.

(7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview;

(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);

(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and

(f) the child shall be allowed to have a support person of the child's choice present, who:

(i) may include:

(A) a school teacher;

(B) an administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate; or

(G) a member of the clergy; and

(ii) may not be an individual who is alleged to be, or potentially may be, the perpetrator.

(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement

officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act, and as otherwise provided by law.

(10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) With regard to a mutual case in which a child protection unit was involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection unit before closing the case.

**Section 24. Section 63J-1-602.2**

**(Superseded 07/01/20) is amended to read:**

**63J-1-602.2 (Superseded 07/01/20). List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

- (1) The Legislature and its committees.
- (2) The Percent-for-Art Program created in Section 9-6-404.
- (3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.
- (4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).
- (5) The Trip Reduction Program created in Section 19-2a-104.
- (6) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.
- (7) The primary care grant program created in Section 26-10b-102.
- (8) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).
- (9) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.
- (10) The Rural Physician Loan Repayment Program created in Section 26-46a-103.
- (11) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(12) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(8)(a) or (b).

(13) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(14) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(15) The Utah National Guard, created in Title 39, Militia and Armories.

(16) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(17) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(19) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(20) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(21) The State Board of Education, as provided in Section 53F-2-205.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(35) A state rehabilitative employment program, as provided in Section 78A-6-210.

(36) The Utah Geological Survey, as provided in Section 79-3-401.

(37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(40) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

**Section 25. Section 63J-1-602.2 (Effective 07/01/20) is amended to read:**

**63J-1-602.2 (Effective 07/01/20). List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(~~7~~)(8)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N,

Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(35) A state rehabilitative employment program, as provided in Section 78A-6-210.

(36) The Utah Geological Survey, as provided in Section 79-3-401.

(37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(40) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

**Section 26. Section 64-13e-104 is amended to read:**

**64-13e-104. Housing of state probationary inmates or state parole inmates -- Payments.**

(1) (a) A county shall accept and house a state probationary inmate or a state parole inmate in a county correctional facility, subject to available resources.

(b) A county may release a number of inmates from a county correctional facility, but not to exceed the number of state probationary inmates in excess of the number of inmates funded by the appropriation authorized in Subsection (2) if:

(i) the state does not fully comply with the provisions of Subsection (9) for the most current fiscal year; or

(ii) funds appropriated by the Legislature for this purpose are less than 50% of the actual county daily incarceration rate.

(2) Within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary inmate or a state parole inmate at a rate of [~~56.88%~~ 47.89%] of the actual county daily incarceration rate.

(3) Funds appropriated by the Legislature under Subsection (2):

(a) are nonlapsing;

(b) may only be used for the purposes described in Subsection (2) and Subsection (10); and

(c) may not be used for:

(i) the costs of administering the payment described in this section; or

(ii) payment of contract costs under Section 64-13e-103.

(4) The costs described in Subsection (3)(c)(i) shall be covered by legislative appropriation.

(5) (a) The Division of Finance shall administer the payment described in Subsection (2) and Subsection (10).

(b) In accordance with Subsection (9), CCJJ shall, by rule made pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for collecting data from counties for the purpose of completing the calculations described in this section.

(c) Notwithstanding any other provision of this section, CCJJ shall adjust the amount of the payments described in Subsection (7)(b), on a pro rata basis, to ensure that the total amount of the payments made does not exceed the amount appropriated by the Legislature for the payments.

(6) Each county that receives the payment described in Subsection (2) and Subsection (10) shall:

(a) on at least a monthly basis, submit a report to CCJJ that includes:

(i) the number of state probationary inmates and state parole inmates the county housed under this section;

(ii) the total number of state probationary inmate days of incarceration and state parole inmate days of incarceration that were provided by the county;

(iii) the total number of offenders housed pursuant to Subsection 64-13-21(2)(b); and

(iv) the total number of days of incarceration of offenders housed pursuant to Subsection 64-13-21(2)(b); and

(b) before September 15 of every third year beginning in 2022, calculate and inform CCJJ of the county's jail daily incarceration costs for the preceding fiscal year.

(7) (a) On or before September 30 of each year, CCJJ shall:

(i) compile the information from the reports described in Subsection (6)(a) that relate to the

preceding state fiscal year and provide a copy of the compilation to each county that submitted a report; and

(ii) calculate:

(A) the actual county incarceration rate, based on the most recent year that data was reported in accordance with Subsection (6)(b); and

(B) the final county incarceration rate.

(b) On or before October 15 of each year, CCJJ shall inform the Division of Finance and each county of:

(i) the actual county incarceration rate;

(ii) the final county incarceration rate; and

(iii) the exact amount of the payment described in this section that shall be made to each county.

(8) On or before December 15 of each year, the Division of Finance shall distribute the payment described in Subsection (7)(b) in a single payment to each county.

(9) (a) The amount paid to each county under Subsection (8) shall be calculated on a pro rata basis, based on the average number of state probationary inmate days of incarceration and the average state parole inmate days of incarceration that were provided by each county for the preceding five state fiscal years; and

(b) if funds are available, the total number of days of incarceration of offenders housed pursuant to Subsection 64-13-21(2)(b).

(10) If funds appropriated under Subsection (2) remain after payments are made pursuant to Subsection (8), the Division of Finance shall pay a county that houses in its jail a person convicted of a felony who is on probation or parole and who is incarcerated pursuant to Subsection 64-13-21(2)(b) on a pro rata basis not to exceed 50% of the actual county daily incarceration rate.

**Section 27. Section 67-19-14.7 (Superseded 07/01/20) is amended to read:**

**67-19-14.7 (Superseded 07/01/20).  
Postpartum recovery leave.**

(1) As used in this section:

(a) "Eligible employee" means an employee who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

(iv) gives birth to a child.

(b) "Postpartum recovery leave" means leave hours a state employer provides to an eligible employee to recover from childbirth.

(c) "Retaliatory action" means to do any of the following to an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections ~~(1)(f)(i)~~ (1)(c)(i) through (iv).

(d) (i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;

(B) the legislative branch of the state; or

(C) the judicial branch of the state.

(ii) "State employer" does not include:

(A) an institute of higher education;

(B) the ~~Board of Regents~~ Utah Board of Higher Education;

(C) the State Board of Education;

(D) an independent entity as defined in Section 63E-1-102;

(E) the Attorney General's Office;

(F) the State Auditor's Office; or

(G) the State Treasurer's Office.

(2) (a) Except as provided in Subsection (3), a state employer shall allow an eligible employee to use up to 120 hours of paid postpartum recovery leave based on a 40-hour work week for recovery from childbirth.

(b) A state employer shall allow an eligible employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of postpartum recovery leave available to the eligible employee under this section on a pro rata basis as adopted by rule by the department under Subsection (11).

(3) (a) Postpartum recovery leave described in Subsection (2):

(i) shall be used starting on the day on which the eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;

(ii) shall be used in a single continuous period; and

(iii) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.

(b) The amount of postpartum recovery leave authorized under Subsection (2) does not increase if an eligible employee has more than one child born from the same pregnancy.



(4) (a) Except as provided in Subsection (4)(b), an eligible employee shall give the state employer notice at least 30 days before the day on which the eligible employee plans to:

(i) begin using postpartum recovery leave under this section; and

(ii) stop using postpartum recovery leave under this section.

(b) If circumstances beyond the eligible employee's control prevent the eligible employee from giving notice in accordance with Subsection (4)(a), the eligible employee shall give each notice described in Subsection (4)(a) as soon as reasonably practicable.

(5) A state employer may not charge postpartum recovery leave under this section against sick, annual, or other leave.

(6) A state employer may not compensate an eligible employee for any unused postpartum recovery leave upon termination of employment.

(7) (a) Following the expiration of an eligible employee's postpartum recovery leave under this section, the state employer shall ensure that the eligible employee may return to:

(i) the position that the eligible employee held before using postpartum recovery leave; or

(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the eligible employee held before using postpartum recovery leave.

(b) If during the time an eligible employee uses postpartum recovery leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the eligible employee would have been separated had the eligible employee not been using the postpartum recovery leave, the state employer may separate the eligible employee in accordance with any applicable process or procedure as if the eligible employee were not using the postpartum recovery leave.

(8) During the time an eligible employee uses postpartum recovery leave under this section, the eligible employee shall continue to receive all employment related benefits and payments at the same level that the eligible employee received immediately before beginning the postpartum leave, provided that the eligible employee pays any required employee contributions.

(9) A state employer may not:

(a) interfere with or otherwise restrain an eligible employee from using postpartum recovery leave in accordance with this section; or

(b) take retaliatory action against an eligible employee for using postpartum recovery leave in accordance with this section.

(10) A state employer shall provide each employee written information regarding an eligible employee's right to use postpartum recovery leave under this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall, by July 1, [2020] 2021, make rules for the use and administration of postpartum recovery leave under this section, including a schedule that provides paid or postpartum recovery leave for an eligible employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

**Section 28. Section 67-19-14.7 (Effective 07/01/20) is amended to read:**

**67-19-14.7 (Effective 07/01/20). Postpartum recovery leave.**

(1) As used in this section:

(a) "Eligible employee" means an employee who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

(iv) gives birth to a child.

(b) "Postpartum recovery leave" means leave hours a state employer provides to an eligible employee to recover from childbirth.

(c) "Retaliatory action" means to do any of the following to an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections ~~(1)(f)(i)~~ (1)(c)(i) through (iv).

(d) (i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;

(B) the legislative branch of the state; or

(C) the judicial branch of the state.

(ii) "State employer" does not include:

(A) an institute of higher education;

(B) the Utah Board of Higher Education;

(C) the State Board of Education;

(D) an independent entity as defined in Section 63E-1-102;

(E) the Attorney General's Office;

(F) the State Auditor's Office; or

(G) the State Treasurer's Office.

(2) (a) Except as provided in Subsection (3), a state employer shall allow an eligible employee to use up to 120 hours of paid postpartum recovery leave based on a 40-hour work week for recovery from childbirth.

(b) A state employer shall allow an eligible employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of postpartum recovery leave available to the eligible employee under this section on a pro rata basis as adopted by rule by the department under Subsection (11).

(3) (a) Postpartum recovery leave described in Subsection (2):

(i) shall be used starting on the day on which the eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;

(ii) shall be used in a single continuous period; and

(iii) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.

(b) The amount of postpartum recovery leave authorized under Subsection (2) does not increase if an eligible employee has more than one child born from the same pregnancy.

(4) (a) Except as provided in Subsection (4)(b), an eligible employee shall give the state employer notice at least 30 days before the day on which the eligible employee plans to:

(i) begin using postpartum recovery leave under this section; and

(ii) stop using postpartum recovery leave under this section.

(b) If circumstances beyond the eligible employee's control prevent the eligible employee from giving notice in accordance with Subsection (4)(a), the eligible employee shall give each notice described in Subsection (4)(a) as soon as reasonably practicable.

(5) A state employer may not charge postpartum recovery leave under this section against sick, annual, or other leave.

(6) A state employer may not compensate an eligible employee for any unused postpartum recovery leave upon termination of employment.

(7) (a) Following the expiration of an eligible employee's postpartum recovery leave under this section, the state employer shall ensure that the eligible employee may return to:

(i) the position that the eligible employee held before using postpartum recovery leave; or

(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the eligible employee held before using postpartum recovery leave.

(b) If during the time an eligible employee uses postpartum recovery leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the eligible employee would have been separated had the eligible employee not been using the postpartum recovery leave, the state employer may separate the eligible employee in accordance with any applicable process or procedure as if the eligible employee were not using the postpartum recovery leave.

(8) During the time an eligible employee uses postpartum recovery leave under this section, the eligible employee shall continue to receive all employment related benefits and payments at the same level that the eligible employee received immediately before beginning the postpartum leave, provided that the eligible employee pays any required employee contributions.

(9) A state employer may not:

(a) interfere with or otherwise restrain an eligible employee from using postpartum recovery leave in accordance with this section; or

(b) take retaliatory action against an eligible employee for using postpartum recovery leave in accordance with this section.

(10) A state employer shall provide each employee written information regarding an eligible employee's right to use postpartum recovery leave under this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall, by July 1, [2020] 2021, make rules for the use and administration of postpartum recovery leave under this section, including a schedule that provides paid or postpartum recovery leave for an eligible employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

**Section 29. Section 72-2-121 is amended to read:**

**72-2-121. County of the First Class Highway Projects Fund.**

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first

class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(h) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the Transportation Fund created in Section 72-2-102 until \$28,079,000 has been deposited into the Transportation Fund;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b) to a public transit district in a county of the first class to fund a system for public transit;

(j) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(k) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h), (i), and (j) have been made, to transfer \$12,000,000 to the department to distribute for the following projects:

(i) \$2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) \$1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) \$1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) \$1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) \$1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) \$1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) \$1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) \$900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) \$1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) \$700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) \$500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

(l) for a fiscal year beginning after the amount described in Subsection (4)(h) has been repaid to the Transportation Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)(h)(ii) has been repaid, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on [July] November 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection (4)(j)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (8).

(9) (a) Any revenue in the fund that is not specifically allocated and obligated under Subsections (4) through (8) is subject to the review process described in this Subsection (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory council of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

- (i) employment;
- (ii) recreation;
- (iii) commerce; and
- (iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (9)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

- (i) the amount of revenue received into the fund during the past year;
- (ii) any funds available for allocation;
- (iii) funds obligated for debt service; and
- (iv) the outstanding balance of transportation-related debt.

(10) As resources allow, the department shall study in 2020 transportation connectivity in the southwest valley of Salt Lake County, including the feasibility of connecting major east-west corridors to U-111.

**Section 30. Section 78A-6-117 (Superseded 07/01/20) is amended to read:**

**78A-6-117 (Superseded 07/01/20).  
Adjudication of jurisdiction of juvenile court -- Disposition of cases --  
Enumeration of possible court orders --  
Considerations of court.**

(1) (a) Except as provided in Subsection (1)(b), when a minor is found to come within Section 78A-6-103, the court shall adjudicate the case and make findings of fact upon which the court bases the court's jurisdiction over the case.

(b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary.

(c) If the court adjudicates a minor for an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

- (i) the specific offenses for which the minor was adjudicated; and
- (ii) if available, whether the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(d) (i) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment.

(ii) Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including community or compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection (1)(d);

(C) if the court orders substance abuse treatment or an educational series, shall be based on a validated risk and needs assessment conducted under Subsection (1)(d); and

(D) if the court orders protective supervision, may not designate the division as the provider of protective supervision unless there is a petition regarding abuse, neglect, or dependency before the court requesting that the division provide protective supervision;

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to

designated individuals in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated individuals may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable individual, with or without probation or other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:

(i) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(ii) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

(d) (i) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

(A) contempt of court except to the extent permitted under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(ii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the division if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or

guardian agreeing that the minor should be removed from the custody of the division.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the division if the minor and the minor's parent or guardian have met the requirements described in Subsections (2)(d)(ii)(B) and (C) and if the court finds, based on input from the division, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(d)(ii)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the division.

(G) Upon receiving a petition under Subsection (2)(d)(ii)(F), the court shall order the division to take custody of the minor based on the findings the court entered when the court originally vested custody in the division.

(e) The court shall only commit a minor to the Division of Juvenile Justice Services for secure confinement if the court finds that:

(i) (A) the minor poses a risk of harm to others; or

(B) the minor's conduct resulted in the victim's death; and

(ii) the minor is adjudicated under this section for:

(A) a felony offense;

(B) a misdemeanor if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

(C) a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.

(f) (i) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.

(ii) The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:

(A) contempt of court;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(g) The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.

(h) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the minor's case. This commitment may not be suspended upon conditions ordered by the court.

(ii) This Subsection (2)(h) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(iii) The court may not commit a minor to a place of detention for:

(A) contempt of court except to the extent allowed under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (2)(h)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)(h)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c). Only the seven days under this Subsection (2)(h)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)(v), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c).

(i) [The] (i) Except as provided in Subsection (2)(i)(ii), the court may vest legal custody of an abused, neglected, or dependent minor in the division or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(ii) The court may not vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability unless the division:

(A) engages other relevant divisions within the department in conducting an assessment of the minor's and the minor's family's needs;

(B) based on the assessment described in Subsection (2)(i)(ii)(A), determines that vesting custody of the minor in the division is the least

restrictive intervention for the minor that meets the minor's needs; and

(C) consents to legal custody of the minor being vested in the division.

(j) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay;

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed; and

(D) the length of the presumptive term of supervision shall be taken into account in determining the minor's ability to satisfy the restitution order within the presumptive term.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(viii) Within seven days after the day on which a petition is filed under Section 78A-6-602.5, the prosecuting attorney or the court's probation department shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

(ix) A victim that receives notice under Subsection (2)(j)(viii) is responsible for providing the prosecutor with:

(A) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(B) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(C) if applicable, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(D) the victim's contact information, including the victim's current home and work address and telephone number.

(x) A prosecutor or victim shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within 90 days after disposition.

(xi) The court shall order a financial disposition that prioritizes the payment of restitution.

(k) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

(l) (i) The court may through the court's probation department encourage the development of nonresidential employment or work programs to enable a minor to fulfill the minor's obligations under Subsection (2)(j) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered collectively to ensure that the order:

(A) is reasonable;

(B) prioritizes restitution; and

(C) takes into account the minor's ability to satisfy the order within the presumptive term of supervision.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for a minor younger than 16 years old at adjudication, the court may impose up to \$180 or up to 24 hours of service; and

(B) for a minor 16 years old or older at adjudication, the court may impose up to \$270 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)(l)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

(m) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) (A) The court may enter any other eligible disposition under Subsection (2)(m)(i) except for a disposition under Subsection (2)(c), (d), (e), or (f).

(B) The suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(n) (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2)(l)(iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor commits an offense involving the use of graffiti under Section 76-6-106 or 76-6-206, the court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2)(j).

(o) (i) Subject to Subsection (2)(o)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(o)(i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(o)(i), the court shall consider:

(A) the desires of the minor;



(B) if the minor is younger than 18 years old, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The division shall:

(A) take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child;

(B) include the parent or guardian as fully as possible in making health care decisions for the child; and

(C) defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The division shall notify the parent or guardian of a child within five business days after a child in the custody of the division receives emergency health care or treatment.

(vi) The division shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(o).

(p) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(q) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(r) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(s) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(s)(i).

(t) The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(u) The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c), (d), (e), and (f).

(v) The court may combine the dispositions listed in this section if it is permissible and they are compatible.

(w) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. [The] Except as provided in Subsection (2)(i)(ii), the court may transfer custody of a minor to another individual, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(x) Except as provided in Subsection (2)(z)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section 62A-7-404.5. A new date shall be set upon each review.

(y) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(z) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(z)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) If a court adjudicates a minor for an offense, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions described in Subsection (2) if:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the offense:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor's case under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

(5) (a) A disposition made by the court in accordance with this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection (2)(e), the court may suspend a custody order in accordance with Subsection (2)(c) in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i):

(A) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii);

(B) if a new assessment or evaluation has been completed and recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or

(C) if, after a notice and a hearing, the court finds a new or previous evaluation recommends a higher level of treatment, and the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(iv) A suspended custody order may not be imposed without notice to the minor, notice to counsel, and a hearing.

(b) The court in accordance with Subsection (5)(a) shall terminate continuing jurisdiction over a minor's case at the end of the presumptive time frame unless at least one the following circumstances exists:

(i) termination in accordance with Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the court shall do so for a defined period of time in accordance with this section.

(a) In placing a minor on probation under Subsection (2)(a), the court shall establish a presumptive term of probation as specified in this Subsection (6):

(i) the presumptive length of intake probation may not exceed three months; and

(ii) the presumptive length of formal probation may not exceed four to six months.

(b) In vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court in accordance with Subsections (6)(a) and (b), and the Youth Parole Authority in accordance with Subsection (6)(b), shall terminate continuing jurisdiction over a minor's case at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider or facilitator of court ordered treatment or intervention program on the basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the court or Youth Parole Authority after considering the recommendation of a licensed service provider or facilitator of court ordered treatment or intervention program;

(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed;

(v) there is an outstanding fine; or

(vi) there is a failure to pay restitution in full.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record

or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (7)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (7)(a) through (p) and the minor has been previously committed to the custody of the Division of Juvenile Justice Services for secure confinement.

**Section 31. Section 78A-6-117 (Effective 07/01/20) is amended to read:**

**78A-6-117 (Effective 07/01/20). Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.**

(1) (a) Except as provided in Subsection (1)(b), when a minor is found to come within Section 78A-6-103, the court shall adjudicate the case and make findings of fact upon which the court bases the court's jurisdiction over the case.

(b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary.

(c) If the court adjudicates a minor for an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

(i) the specific offenses for which the minor was adjudicated; and

(ii) if available, whether the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(d) (i) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment.

(ii) Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including community or compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection (1)(d);

(C) if the court orders substance abuse treatment or an educational series, shall be based on a validated risk and needs assessment conducted under Subsection (1)(d); and

(D) if the court orders protective supervision, may not designate the division as the provider of protective supervision unless there is a petition regarding abuse, neglect, or dependency before the

court requesting that the division provide protective supervision;

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to designated individuals in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated individuals may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable individual, with or without probation or other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:

(i) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(ii) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

(d) (i) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

(A) contempt of court except to the extent permitted under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(ii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to

express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the division if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the division.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the division if the minor and the minor's parent or guardian have met the requirements described in Subsections (2)(d)(ii)(B) and (C) and if the court finds, based on input from the division, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(d)(ii)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the division.

(G) Upon receiving a petition under Subsection (2)(d)(ii)(F), the court shall order the division to take custody of the minor based on the findings the court entered when the court originally vested custody in the division.

(e) The court shall only commit a minor to the Division of Juvenile Justice Services for secure confinement if the court finds that:

(i) (A) the minor poses a risk of harm to others; or

(B) the minor's conduct resulted in the victim's death; and

(ii) the minor is adjudicated under this section for:

(A) a felony offense;

(B) a misdemeanor if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

(C) a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.

(f) (i) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.

(ii) The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:

(A) contempt of court;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(g) The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.

(h) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the minor's case. This commitment may not be suspended upon conditions ordered by the court.

(ii) This Subsection (2)(h) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(iii) The court may not commit a minor to a place of detention for:

(A) contempt of court except to the extent allowed under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (2)(h)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)(h)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c). Only the seven days under this Subsection (2)(h)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)(v), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c).

(i) [The] (i) Except as provided in Subsection (2)(i)(ii), the court may vest legal custody of an abused, neglected, or dependent minor in the division or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(ii) The court may not vest legal custody of an abused, neglected, or dependent minor in the

division to primarily address the minor's ungovernable or other behavior, mental health, or disability unless the division:

(A) engages other relevant divisions within the department in conducting an assessment of the minor's and the minor's family's needs;

(B) based on the assessment described in Subsection (2)(i)(ii)(A), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(C) consents to legal custody of the minor being vested in the division.

(j) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay;

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed; and

(D) the length of the presumptive term of supervision shall be taken into account in determining the minor's ability to satisfy the restitution order within the presumptive term.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(viii) Within seven days after the day on which a petition is filed under Section 78A-6-602.5, the prosecuting attorney or the court's probation department shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

(ix) A victim that receives notice under Subsection (2)(j)(viii) is responsible for providing the prosecutor with:

(A) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(B) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(C) if applicable, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(D) the victim's contact information, including the victim's current home and work address and telephone number.

(x) A prosecutor or victim shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within 90 days after disposition.

(xi) The court shall order a financial disposition that prioritizes the payment of restitution.

(k) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

(l) (i) The court may through the court's probation department encourage the development of nonresidential employment or work programs to enable a minor to fulfill the minor's obligations under Subsection (2)(j) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered collectively to ensure that the order:

(A) is reasonable;

(B) prioritizes restitution; and

(C) takes into account the minor's ability to satisfy the order within the presumptive term of supervision.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for a minor younger than 16 years old at adjudication, the court may impose up to \$190 or up to 24 hours of service; and

(B) for a minor 16 years old or older at adjudication, the court may impose up to \$280 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)(1)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

(m) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) (A) The court may enter any other eligible disposition under Subsection (2)(m)(i) except for a disposition under Subsection (2)(c), (d), (e), or (f).

(B) The suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(n) (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2)(1)(iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor commits an offense involving the use of graffiti under Section 76-6-106 or 76-6-206, the court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2)(j).

(o) (i) Subject to Subsection (2)(o)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(o)(i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(o)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is younger than 18 years old, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The division shall:

(A) take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child;

(B) include the parent or guardian as fully as possible in making health care decisions for the child; and

(C) defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The division shall notify the parent or guardian of a child within five business days after a child in the custody of the division receives emergency health care or treatment.

(vi) The division shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(o).

(p) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(q) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(r) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(s) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(s)(i).

(t) The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(u) The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c), (d), (e), and (f).

(v) The court may combine the dispositions listed in this section if it is permissible and they are compatible.

(w) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. [The] Except as provided in Subsection (2)(i)(ii), the court may transfer custody of a minor to another individual, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(x) Except as provided in Subsection (2)(z)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section 62A-7-404.5. A new date shall be set upon each review.

(y) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(z) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(z)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) If a court adjudicates a minor for an offense, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions described in Subsection (2) if:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the offense:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor's case under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.



(5) (a) A disposition made by the court in accordance with this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection (2)(e), the court may suspend a custody order in accordance with Subsection (2)(c) in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i):

(A) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii);

(B) if a new assessment or evaluation has been completed and recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or

(C) if, after a notice and a hearing, the court finds a new or previous evaluation recommends a higher level of treatment, and the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(iv) A suspended custody order may not be imposed without notice to the minor, notice to counsel, and a hearing.

(b) The court in accordance with Subsection (5)(a) shall terminate continuing jurisdiction over a minor's case at the end of the presumptive time frame unless at least one the following circumstances exists:

(i) termination in accordance with Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the court shall do so for a defined period of time in accordance with this section.

(a) In placing a minor on probation under Subsection (2)(a), the court shall establish a

presumptive term of probation as specified in this Subsection (6):

(i) the presumptive length of intake probation may not exceed three months; and

(ii) the presumptive length of formal probation may not exceed four to six months.

(b) In vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court in accordance with Subsections (6)(a) and (b), and the Youth Parole Authority in accordance with Subsection (6)(b), shall terminate continuing jurisdiction over a minor's case at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider or facilitator of court ordered treatment or intervention program on the basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the court or Youth Parole Authority after considering the recommendation of a licensed service provider or facilitator of court ordered treatment or intervention program;

(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed;

(v) there is an outstanding fine; or

(vi) there is a failure to pay restitution in full.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for

the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (7)(a) through (o) involving the use of a

dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (7)(a) through (p) and the minor has been previously committed to the custody of the Division of Juvenile Justice Services for secure confinement.

### Section 32. Effective date.

(1) Except as provided in Subsections (2) and (3), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If approved by two-thirds of all members elected to each house, the changes to the following sections take effect on July 1, 2020:

(a) Section 51-9-201 (Effective 07/01/20);

(b) Section 59-14-807 (Effective 07/01/20);

(c) Section 63J-1-602.2 (Effective 07/01/20);

(d) Section 67-19-14.7 (Superseded 07/01/20);  
and

(e) Section 78A-6-117 (Effective 07/01/20).

(3) Section 67-19-14.7 (Effective 07/01/20), takes effect on July 1, 2021.

**CHAPTER 21****S. B. 5011**

Passed June 18, 2020

Approved July 7, 2020

Effective July 7, 2020

**HIGH RISK POPULATION  
PROTECTION AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Mike Schultz

**LONG TITLE****General Description:**

This bill enacts provisions related to testing and the collection and use of data relating to populations at high risk for COVID-19.

**Highlighted Provisions:**

This bill:

- ▶ allows the Department of Health and local health departments to share certain data regarding COVID-19 patients with state agencies for analysis;
- ▶ enacts provisions relating to COVID-19 testing of certain individuals at care facilities; and
- ▶ requires the Department of Health to collect and publish information relating to risk factors for COVID-19.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:****AMENDS:**

26-6-27, as last amended by Laws of Utah 2012, Chapters 150 and 391

**ENACTS:**

26-6-32, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

**Section 1. Section 26-6-27 is amended to read:****26-6-27. Information regarding communicable or reportable diseases confidentiality -- Exceptions.**

(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:

(a) specific medical or epidemiological information may be released with the written

consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the age of 18, the information may be released to the Division of Child and Family Services within the Department of Human Services in accordance with Section 62A-4a-403. If that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Person, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Occupational and

Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care; ~~and~~

(j) specific medical or epidemiological information may be released in accordance with Section 26-6-31 if an individual is not identifiable[-]; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section 67-25-102, to perform the analysis described in Subsection 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

**Section 2. Section 26-6-32 is enacted to read:**

**26-6-32. Testing for COVID-19 for high-risk individuals at care facilities -- Collection and release of information regarding risk factors and comorbidities for COVID-19.**

(1) As used in this section:

(a) “Care facility” means a facility described in Subsections 26-6-6(2) through (6).

(b) “COVID-19” means the same as that term is defined in Section 78B-4-517.

(2) (a) At the request of the department or a local health department, an individual who meets the criteria established by the department under Subsection (2)(b) shall submit to testing for COVID-19.

(b) The department:

(i) shall establish protocols to identify and test individuals who are present at a care facility and are at high risk for contracting COVID-19;

(ii) may establish criteria to identify care facilities where individuals are at high risk for COVID-19; and

(iii) may establish who is responsible for the costs of the testing.

(c) (i) The protocols described in Subsection (2)(b)(i) shall:

(A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care facility to refuse testing; and

(B) specify criteria for when an individual’s refusal to submit to testing under Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

(ii) Notwithstanding any other provision of state law, a care facility may discharge a resident who declines testing requested by the department under Subsection (2)(a) if:

(A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the resident’s refusal to submit to testing endangers the health or safety of other individuals at the care facility; and

(B) discharging the resident does not violate federal law.

(3) The department may establish protocols to collect information regarding the individual’s age and relevant comorbidities from an individual who receives a positive test result for COVID-19.

(4) (a) The department shall publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public.

(b) The department may work with a state agency as defined in Section 67-25-102, to perform the analysis or publish the information described in Subsection (4)(a).

**Section 3. Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor’s signature, or in the case of a veto, the date of veto override.

**H.J.R. 501**  
 Passed June 18, 2020  
 Effective June 18, 2020

**JOINT RESOLUTION APPROVING UTAH  
 DEPARTMENT OF CORRECTIONS  
 SETTLEMENT AGREEMENT**

Chief Sponsor: V. Lowry Snow  
 Senate Sponsor: Todd Weiler

**LONG TITLE**

**General Description:**

This joint resolution of the Legislature approves the negotiated settlement agreement for Ronald May et al. v. Utah Department of Corrections regarding Chronic Hepatitis C treatment for Utah Department of Corrections inmates.

**Highlighted Provisions:**

This resolution:

- ▶ approves the negotiated settlement agreement for Ronald May et al. v. Utah Department of Corrections regarding Chronic Hepatitis C treatment for Utah Department of Corrections inmates.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, the Utah Department of Corrections (UDC) was sued by Ronald May and others representing a class of inmates suffering from Chronic Hepatitis C, alleging that UDC denied necessary medical care by failing to use direct-acting antiviral drugs in Chronic Hepatitis C treatments, in Ronald May et al. v. Utah Department of Corrections;

WHEREAS, plaintiffs and UDC have negotiated a settlement agreement;

WHEREAS, by entering into this settlement agreement, UDC agrees to screen and treat inmates for Chronic Hepatitis C using direct-acting antivirals, in accordance with the terms set forth in the settlement agreement;

WHEREAS, by entering into this agreement, UDC also agrees to provide preventative health education and notice of the settlement to inmates, in accordance with the terms set forth in the settlement agreement;

WHEREAS, by entering into this agreement, UDC agrees to pay a sum of \$4,500--inclusive of all costs and fees in complete and final settlement of Ronald May et al. v. Utah Department of Corrections--to each class representative plaintiff;

WHEREAS, by entering into this agreement, UDC agrees to pay a sum of \$181,999 in attorney fees and costs;

WHEREAS, the settlement agreement provides flexibility to UDC in treating inmates based on the severity of their illness and phases in treatment plans;

WHEREAS, the settlement agreement shall be terminated as of June 30, 2024; and

WHEREAS, as per Section 63G-10-303, the Legislature and governor must approve settlements of more than \$1,000,000 before a governmental entity may sign such an agreement:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves the settlement agreement for Ronald May et al. v. Utah Department of Corrections.

**H.J.R. 502**

Passed June 18, 2020  
 Effective June 18, 2020

**JOINT RESOLUTION ON  
 LEGISLATIVE COMPENSATION**

Chief Sponsor: Paul Ray  
 Senate Sponsor: David P. Hinkins  
 Cosponsors: Cheryl K. Acton

Carl R. Albrecht  
 Kyle R. Andersen  
 Patrice M. Arent  
 Melissa G. Ballard  
 Stewart E. Barlow  
 Kera Birkeland  
 Joel K. Briscoe  
 Walt Brooks

Kay J. Christofferson  
 Steve R. Christiansen  
 Kim F. Coleman  
 Brad M. Daw  
 James A. Dunnigan  
 Steve Eliason  
 Joel Ferry  
 Craig Hall

Stephen G. Handy  
 Suzanne Harrison  
 Jon Hawkins  
 Sandra Hollins  
 Eric K. Hutchings  
 Dan N. Johnson  
 Marsha Judkins  
 Brian S. King  
 Karen Kwan

Karianne Lisonbee  
 A. Cory Maloy  
 Michael K. McKell  
 Carol Spackman Moss  
 Calvin R. Musselman  
 Merrill F. Nelson

Lee B. Perry  
 Marie H. Poulson  
 Susan Pulsipher  
 Adam Robertson  
 Angela Romero  
 Douglas V. Sagers  
 Travis M. Seegmiller

Rex P. Shipp  
 Lawanna Shurtliff  
 V. Lowry Snow  
 Robert M. Spendlove  
 Andrew Stoddard  
 Keven J. Stratton  
 Steve Waldrip

Raymond P. Ward  
Christine F. Watkins  
Elizabeth Weight  
Mark A. Wheatley  
Brad R. Wilson  
Mike Winder

**H.J.R. 503**  
Passed June 18, 2020  
Effective June 18, 2020

**JOINT RESOLUTION APPROVING  
PURCHASE OF PROPERTIES**

Chief Sponsor: Jon Hawkins  
Senate Sponsor: Kirk A. Cullimore

**LONG TITLE**

**General Description:**

This joint resolution responds to the recommendations of the Legislative Compensation Commission.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the findings of the Legislative Compensation Commission; and
- ▶ responds to the findings of the commission in relation to a recommended increase in the daily salary rate for legislators.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, on November 19, 2019, the Legislative Compensation Commission presented its 2020 report, which contains the commission’s bi-annual review of legislative compensation and presents a list of findings that relate to that compensation and legislator’s salary for their service in elected office;

WHEREAS, the Legislative Compensation Commission’s 2020 report recommended, among other matters, that beginning with fiscal year 2020, the daily salary rate for legislators increase from the current rate of \$285 per day to \$292 per day;

WHEREAS, the Legislature thanks the Legislative Compensation Commission for their efforts; and

WHEREAS, in the interest of fiscal responsibility and consistent with budget cuts that have been necessitated by the COVID-19 pandemic, it is best to forgo the recommended increase in the daily salary rate for legislators:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, according to the procedures of Utah Code Annotated Section 36-2-3, hereby elects to reject the increase in the daily salary rate for legislators that was recommended by the Legislative Compensation Commission’s 2020 report.

**LONG TITLE**

**General Description:**

This joint resolution approves a purchase of specific real properties.

**Highlighted Provisions:**

This resolution:

- ▶ approves the purchase by the Division of Facilities Construction and Management of certain real properties.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, gasoline from a state fuel network site at the Salt Lake Community College leaked into the aquifer and affected two adjoining real properties identified by the Department of Environmental Quality;

WHEREAS, attempts to coordinate cleanup with the various parties have failed;

WHEREAS, the Department of Administrative Services proposes that the Division of Facilities Construction and Management (DFCM) purchase the two real properties affected with money from the Division of Fleet Operations and coordinate the cleanup;

WHEREAS, once DFCM cleans up the real properties of the hazardous materials, the real properties could be sold and the proceeds returned to the Division of Fleet Operations, minus any costs to DFCM for the remediation;

WHEREAS, pursuant to Section 63A-5b-303, the DFCM may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed \$250,000; and

WHEREAS, the purchase of the real properties would cost approximately \$650,000 and therefore require legislative approval:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves the purchase by DFCM of the two real properties affected by gasoline from a state fuel network site at Salt Lake Community College that leaked into the aquifer for approximately \$650,000.

**H.J.R. 504**

Passed June 18, 2020  
Effective June 18, 2020

**JOINT RESOLUTION FURTHER  
EXTENDING THE STATE OF EMERGENCY  
DUE TO THE INFECTIOUS DISEASE  
COVID-19 NOVEL CORONAVIRUS**

Chief Sponsor: Val L. Peterson  
Senate Sponsor: Ann Millner

**LONG TITLE**

**General Description:**

This joint resolution extends the state of emergency due to infectious disease COVID-19 Novel Coronavirus.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes the Governor’s executive order, issued on March 6, 2020, declaring a state of emergency due to infectious disease COVID-19 Novel Coronavirus;
- ▶ recognizes that the Governor requested and the Legislature extended the state of emergency to June 30, 2020;
- ▶ recognizes that the Governor has requested that the Legislature extend the state of emergency to August 31, 2020;
- ▶ finds that the extension is necessary to protect the health and welfare of the citizens of the state of Utah; and
- ▶ extends the state of emergency, due to infectious disease COVID-19 Novel Coronavirus, to August 20, 2020.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, on March 6, 2020, pursuant to Utah Code Section 53-2a-206, Governor Gary R. Herbert issued an executive order declaring a state of emergency due to infectious disease COVID-19 Novel Coronavirus;

WHEREAS, Utah Code Subsection 53-2a-206(3) provides that “[a] state of emergency may not continue for longer than 30 days unless extended by joint resolution of the Legislature”;

WHEREAS, the Governor issued the executive order as a proactive measure, before a confirmed case was diagnosed in the state;

WHEREAS, subsequent to the Governor’s order declaring an emergency, but on the same day, the first case of COVID-19 Novel Coronavirus in Utah was confirmed;

WHEREAS, the Governor requested that the Legislature extend the state of emergency, declared by the Governor, until June 30, 2020;

WHEREAS, the Legislature extended the state of emergency declared by the Governor until June 30, 2020;

WHEREAS, the Governor requested that the Legislature further extend the state of emergency,

declared by the Governor, until August 31, 2020; and

WHEREAS, the Legislature finds that it is necessary to extend the state of emergency until August 20, 2020, to ensure that appropriate response and recovery action is taken to protect the health and welfare of the citizens of the state of Utah:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the state of emergency declared by Governor Gary R. Herbert on March 6, 2020, due to infectious disease COVID-19 Novel Coronavirus, which was extended by the Legislature of the state of Utah by House Joint Resolution 24, is further extended to August 20, 2020.

**S.C.R. 501**

Passed June 18, 2020  
Approved June 29, 2020  
Effective June 29, 2020

**CONCURRENT RESOLUTION HONORING  
THE GRADUATING CLASS OF 2020**

Chief Sponsor: Lincoln Fillmore  
House Sponsor: Lee B. Perry

**LONG TITLE**

**General Description:**

This resolution recognizes the students graduating from high school and institutions of higher education in 2020.

**Highlighted Provisions:**

This resolution:

- ▶ recognizes students expected to graduate from high school, colleges, and universities in 2020 during unusual circumstances; and
- ▶ acknowledges the creative and meaningful efforts of schools and families to mark the achievement of Utah’s 2020 graduates.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, a student’s senior year of high school is the culmination of more than a decade of hard work;

WHEREAS, approximately 42,000 to 43,000 students were expected to graduate from public high schools in Utah’s 2020 graduating class during unusual circumstances;

WHEREAS, high school seniors typically have an opportunity to participate in cultural milestones during their senior year, including senior prom and high school graduation;

WHEREAS, at the time of school closures in the 2019-2020 school year, high school students, including seniors, were participating in a variety of extracurricular activities, with over 28,000 students participating in athletics -- such as

baseball, track and field, and lacrosse -- and over 27,000 students participating in music, theatre, and debate;

WHEREAS, because of school closures in the 2019–2020 school year due to the spread of the novel coronavirus disease 2019 (COVID–19), Utah’s high school graduating class of 2020 had a senior year unlike any other and missed out on opportunities that prior generations have not;

WHEREAS, during the spring and summer of 2020, thousands of students were expected to graduate from Utah’s eight public colleges and universities and eight technical colleges, and thousands more students were expected to graduate from private colleges and universities in the state;

WHEREAS, students graduating from colleges and universities have invested considerable time and resources to obtain certificates and degrees from these institutions, and many students worked to achieve this laudable goal with significant personal and familial sacrifices;

WHEREAS, Utah’s high school seniors and students graduating from the state’s public and private colleges and universities have demonstrated resilience and determination while turning the challenges of the 2019–2020 school year into opportunities; and

WHEREAS, state leaders have confidence that students in Utah’s 2020 high school graduating class and graduates from Utah’s public and private colleges and universities will use what they have learned in their education as they continue in their path to future leadership;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, hereby congratulates every student from the 2020 graduating class of every high school in Utah and every student graduating from every college and university in Utah for this significant achievement.

BE IT FURTHER RESOLVED that the Legislature and Governor hereby praise public and private schools for their efforts to recognize 2020 graduates through thoughtful and resourceful activities and graduation ceremonies, acknowledging the time and work teachers and school leaders invested in making these activities meaningful and memorable for graduates and their families.

BE IT FURTHER RESOLVED that the Legislature and Governor hereby acknowledge the outstanding creativity of the families and friends of Utah’s high school and college graduates to mark these students’ achievements.

**S.C.R. 502**

Passed June 18, 2020  
Approved June 29, 2020  
Effective June 29, 2020

**CONCURRENT RESOLUTION ON REFUNDING EXCESS RESERVES FROM THE STATE INSURANCE RISK POOLS**

Chief Sponsor: Ronald Winterton  
House Sponsor: Norman K. Thurston

**LONG TITLE**

**General Description:**

This concurrent resolution directs the Public Employees’ Benefit and Insurance Program to reimburse to the state and state employees excess reserves held in the state insurance risk pools.

**Highlighted Provisions:**

This resolution:

- ▶ directs the Public Employees’ Benefit and Insurance Program to reimburse to the state and state employees excess reserves held in the state insurance risk pools; and
- ▶ finds that the reason for the reimbursement is the emergency created by the COVID–19 Novel Coronavirus.

**Special Clauses:**

None

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, Utah Code Section 49–20–402 directs the Public Employees’ Benefit and Insurance Program on the process to follow if substantial excess reserves are accrued;

WHEREAS, on March 6, 2020, Governor Herbert issued an executive order declaring a state of emergency due to the COVID–19 Novel Coronavirus outbreak;

WHEREAS, the Legislature passed a joint resolution extending the state of emergency, due to the infectious disease COVID–19 Novel Coronavirus, to June 30, 2020;

WHEREAS, in April 2020, during its third special session, the Legislature passed H.J.R. 301 urging fiscal responsibility and urging state and local government entities to limit expenditures and avoid unnecessary spending;

WHEREAS, on May 20, 2020, the Utah Economic Response Task Force released Utah Leads Together III, which acknowledges that the state faces massive economic challenges; and

WHEREAS, the state insurance risk pools currently contain excess reserves:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, directs the Public Employees’ Benefit and Insurance Program to refund \$11,720,000 from the state insurance risk pools to the state before July 1, 2020, and its employees by July 15, 2020.



BE IT FURTHER RESOLVED that \$8,090,000 of the \$11,720,000 shall come from the state health insurance risk pool, with at least \$7,370,000 going to the state and approximately \$720,000 going to state employees.

BE IT FURTHER RESOLVED that \$3,630,000 of the \$11,720,000 shall come from the long-term disability risk pool.

BE IT FURTHER RESOLVED that the refund of excess reserves is directed due to the emergency resulting from the COVID-19 Novel Coronavirus.



# UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2020 General Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 4115) for explanations and clarifications of sections that were technically renumbered.



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4-41a-205	A	SB1002		5
4-41a-301	A	SB1002		5
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4-41a-903	E	SB1002		5
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20A-1-503	A	SB1001		4
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26-61a-604	X	SB1002		5
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58-17b-502	A	SB1002		5
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78A-6-115	A	SB1002		5

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26-36b-208	A	SB2001		1
32B-2-301	A	SB2001		1
32B-2-304	A	SB2001		1
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35A-8-308	A	SB2001		1
35A-8-309	A	SB2001		1
35A-9-214	E	SB2001		1
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41-6a-505	A	SB2001		1
41-6a-1406	A	SB2001		1
41-6a-1642	A	SB2001		1
41-12a-806	A	SB2001		1
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53G-10-406	A	SB2001		1
59-1-1503	A	SB2001		1
59-7-104	A	SB2001		1
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78B-22-201	A	SB0175		395	JR4-6-201	R	HJR011		
78B-22-301	A	SB0170		392	JR4-6-202	R	HJR011		
78B-22-301	A	SB0139		371	JR6-1-201	A	HJR016		
78B-22-401	A	SB0139		371	JR6-1-201	A	SJR006		
78B-22-401	A	SB0170		392	JR6-4-305	A	HJR011		
78B-22-401	A	SB0175		395	JR7-1-401	A	HJR016		
78B-22-402	A	SB0175		395	JR7-1-405	A	HJR016		
78B-22-402	A	SB0170		392	JR7-1-407	A	HJR016		
78B-22-402	A	SB0139		371	JR7-1-407	A	SJR016		
78B-22-402	A	SB0146		373	JR7-1-411	A	HJR011		
78B-22-402	A	SB0060		352	JR7-1-509	A	HJR011		
78B-22-403	N	SB0139	78B-22-453	371	JR7-1-602	A	HJR016		
78B-22-403	N	SB0170	78B-22-453	392	JR7-1-602.5	E	HJR016		
78B-22-403	N	SB0175	78B-22-453	395	JR7-1-609	A	HJR016		
78B-22-404	A	SB0175		395	JR7-1-611	A	HJR011		
78B-22-404	A	SB0170		392	SR1-1-101	A	SR0001		
78B-22-404	A	SB0139		371	SR2-3-101	A	SR0001		
78B-22-405	A	SB0170		392	SR3-1-102	A	SR0001		
78B-22-406	A	SB0170		392	SR3-1-104	A	SR0001		
78B-22-406	A	SB0175		395					
78B-22-406	A	SB0139		371					
78B-22-451	E	SB0139		371					
78B-22-451	E	SB0175		395					
78B-22-451	E	SB0170		392					
78B-22-452	E	SB0170		392					
78B-22-452	E	SB0175		395					
78B-22-452	E	SB0139		371	4-18-106.1	E	SB3006		11
78B-22-453	F	SB0175	78B-22-403	395	20A-1-309	E	HB3006		5
78B-22-453	F	SB0170	78B-22-403	392	26-18-402.5	E	HB3002		3
78B-22-453	F	SB0139	78B-22-403	371	34A-2-1101	E	HB3007		6
78B-22-454	F	SB0170	78B-22-601	392	34A-2-1102	E	HB3007		6
78B-22-455	F	SB0170	78B-22-602	392	34A-2-1103	E	HB3007		6
78B-22-501	A	SB0170		392	34A-2-1104	E	HB3007		6
78B-22-502	A	SB0170		392	34A-2-1105	E	HB3007		6
78B-22-601	N	SB0170	78B-22-454	392	34A-2-1106	E	HB3007		6
78B-22-601	A	SB0139		371	35A-4-403.5	E	SB3003		9
78B-22-602	N	SB0170	78B-22-455	392	35A-8-2301	E	SB3006		11
78B-22-801	E	SB0175		395	35A-8-2302	E	SB3006		11
78B-22-801	E	SB0139		371	35A-8-2303	E	SB3006		11
78B-22-802	E	SB0139		371	53-2a-215	E	HB3005		13
78B-22-802	F	SB0175	63M-7-211	395	53-2a-216	E	HB3005		13
78B-22-803	F	SB0175	63M-7-211.1	395	53-2c-101	E	SB3004		1
78B-22-803	E	SB0139		371	53-2c-102	E	SB3004		1
78B-22-804	E	SB0139		371	53-2c-103	E	SB3004		1
78B-22-804	F	SB0175	63M-7-211.2	395	53-2c-201	E	SB3004		1
78B-22-901	T	SB0139	78B-22-801	371	53-2c-202	E	SB3004		1
78B-22-902	T	SB0139	78B-22-802	371	53E-1-204	E	SB3005		10
78B-22-903	T	SB0139	78B-22-803	371	53E-4-205.1	E	SB3005		10
78B-22-904	T	SB0139	78B-22-804	371	53E-4-315	E	SB3005		10
78B-23-102	A	SB0220		439	53G-11-504.1	E	SB3005		10
79-2-201	A	HB0233		190	58-13-2.7	E	SB3002		8
79-2-201	A	HB0166		309	58-85-106	E	SB3002		8
					59-7-118.1	E	HB3003		4

2020 Third Special Session

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Section	Action	Bill Number	Former/ Renumber	Chapter Number
59-7-504.1	E	HB3003		4
59-7-505.1	E	HB3003		4
59-7-507.1	E	HB3003		4
59-10-103.2	E	HB3003		4
59-10-114.1	E	HB3003		4
59-10-514.2	E	HB3003		4
59-10-516.1	E	HB3003		4
59-10-522.1	E	HB3003		4
59-10-1403.4	E	HB3003		4
63B-27-103	E	HB3001		2
63B-30-101	E	HB3001		2
63J-1-209.5	E	HB3002		3
63J-1-217.5	E	HB3002		3
63N-14-101	E	SB3006		11
63N-14-102	E	SB3006		11
63N-14-201	E	SB3006		11
63N-14-202	E	SB3006		11
63N-14-203	E	SB3006		11
78B-4-517	E	SB3007		12

2020 Fourth Special Session

32B-6-405.1	E	HB4004		4
53E-1-202.1	E	HB4003		3
53E-7-401	E	HB4003		3
53E-7-402	E	HB4003		3
53E-7-403	E	HB4003		3
53E-7-404	E	HB4003		3
53E-7-405	E	HB4003		3
53E-7-406	E	HB4003		3
53E-7-407	E	HB4003		3
53E-7-408	E	HB4003		3
53E-7-409	E	HB4003		3
53E-7-410	E	HB4003		3
59-7-109.1	E	HB4003		3
59-7-625	E	HB4003		3
59-10-1041	E	HB4003		3
59-12-103.3	E	HB4002		2
72-2-131	E	HB4002		2

2020 Fifth Special Session

9-6-901	E	HB5010		12
9-6-902	E	HB5010		12
9-6-903	E	HB5010		12
9-6-904	E	HB5010		12
10-2-401.5	A	SB5004		15
10-2-402	A	SB5004		15
10-2-403	A	SB5004		15
10-2-418	A	SB5004		15
10-9a-208	A	HB5005		4
13-43-206	A	HB5005		4
17B-2a-804	A	HB5005		4
17D-3-304	A	HB5005		4
19-3-103.1	A	HB5005		4
19-5-108.5	A	HB5005		4
19-6-807	A	SB5012		20
20A-1-309	A	SB5012		20
20A-5-403	A	SB5012		20
20A-7-103	A	SB5012		20
20A-7-202.5	A	SB5012		20
20A-7-203	A	SB5012		20
20A-7-204.1	A	SB5012		20
20A-7-308	A	HB5005		4
20A-7-605	A	HB5005		4
20A-7-701	A	SB5012		20
20A-7-702	A	SB5012		20
26-6-27	A	SB5011		21
26-6-32	E	SB5011		21
26-7-14	A	HB5005		4
26-15b-102	A	HB5005		4
26-15b-105	A	HB5005		4
26-18-3.8	A	HB5005		4
26-18-3.8	A	SB5012		20
26-18-3.9	A	HB5005		4
26-18-408	A	HB5005		4
26-21-34	A	HB5005		4
26-36d-207	A	SB5012		20
26-37a-107	A	SB5012		20
26-67-102	A	HB5005		4
26-67-204	A	HB5005		4
31A-22-626.5	A	HB5005		4

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32B-1-102	A	HB5005		4
32B-1-102	A	HB5004		3
32B-1-208	A	HB5004		3
32B-2-301	A	SB5012		20
32B-2-305	A	SB5012		20
32B-2-306	A	SB5012		20
32B-6-503	A	HB5004		3
32B-17-102	E	HB5004		3
32B-17-201	A	HB5004		3
32B-17-202	A	HB5004		3
32B-17-203	A	HB5004		3
32B-17-301	A	HB5004		3
32B-17-301.5	E	HB5004		3
34A-2-1101	N	HB5006	34A-3-201	5
34A-2-1102	N	HB5006	34A-3-202	5
34A-2-1103	N	HB5006	34A-3-203	5
34A-2-1104	N	HB5006	34A-3-204	5
34A-2-1105	N	HB5006	34A-3-205	5
34A-2-1106	N	HB5006	34A-3-206	5
34A-3-201	F	HB5006	34A-2-1101	5
34A-3-202	F	HB5006	34A-2-1102	5
34A-3-203	F	HB5006	34A-2-1103	5
34A-3-204	F	HB5006	34A-2-1104	5
34A-3-205	F	HB5006	34A-2-1105	5
34A-3-206	F	HB5006	34A-2-1106	5
35A-4-303	A	SB5007		17
35A-8-2302	A	SB5005		11
36-31-104	A	SB5009		19
36-31-105	A	SB5009		19
41-6a-904	A	HB5005		4
41-12a-806	A	SB5012		20
51-9-201	A	SB5012		20
51-9-201	A	SB5012		20
52-4-202	A	HB5002		1
52-4-207	A	HB5002		1
53-2a-204	A	HB5009		7
53-2a-217	E	HB5009		7
53-2a-603	A	SB5012		20
53-6-105	A	HB5007		6
53-6-202	A	HB5007		6
53-9-108	A	SB5008		18
53-9-111	A	SB5008		18
53-13-115	E	HB5007		6
53E-4-307	A	HB5012		14
53E-4-307.5	A	HB5012		14
53F-2-203	A	HB5012		14
53F-2-208	A	HB5012		14
53F-2-301.5	A	HB5012		14
53F-2-303	A	HB5012		14
53F-2-304	A	HB5012		14
53F-2-306	R	HB5012		14
53F-2-309	R	HB5012		14
53F-2-501	R	HB5012		14
53F-2-501	R	HB5012		14
53F-2-505	R	HB5012		14
53F-2-521	R	HB5012		14
53F-2-601	A	HB5012		14
53F-2-706	E	HB5012		14
53F-4-201	A	HB5012		14
53F-5-216	R	HB5012		14
53F-8-303	A	HB5003		2
53F-8-303	A	HB5003		2
53F-9-201.1	A	HB5011		13
53G-6-204	A	HB5012		14
54-3-8	A	HB5005		4
58-4a-107	A	HB5005		4
58-17b-1004	A	HB5005		4
58-17b-1005	A	HB5005		4
58-31b-502	A	HB5005		4
58-55-503	A	HB5005		4
58-60-405	A	HB5005		4
59-2-1101	A	HB5005		4
59-7-106	A	HB5010		12
59-10-114	A	HB5010		12
59-12-103	A	SB5012		20
59-14-807	A	SB5012		20
62A-4a-403	A	SB5012		20
62A-4a-409	A	SB5012		20
63A-3-111	E	HB5010		12
63G-2-302	A	HB5005		4
63G-6a-707	A	SB5002		9
63G-7-201	A	SB5003		10
63G-7-701	A	HB5005		4
63G-8-201	A	SB5003		10
63I-1-236	A	SB5009		19
63I-2-209	E	HB5010		12
63I-2-215	A	HB5005		4
63I-2-253	A	HB5009		7
63I-2-253	A	HB5009		7

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63I-2-259	A	HB5010		12	63N-15-401	E	HB5010		12
63I-2-263	A	HB5010		12	64-13e-104	A	SB5012		20
63J-1-602.1	A	HB5005		4	67-19-14.7	A	SB5012		20
63J-1-602.1	A	HB5005		4	67-19-14.7	A	SB5012		20
63J-1-602.2	A	SB5012		20	72-2-121	A	SB5012		20
63J-1-602.2	A	SB5012		20	72-10-205.5	A	HB5005		4
63N-12-508	A	HB5010		12	73-10g-202	A	HB5005		4
63N-12-508	A	HB5010		12	73-31-202	A	HB5005		4
63N-14-102	A	SB5005		11	76-7-305	A	HB5005		4
63N-14-201	A	SB5005		11	78A-6-117	A	SB5012		20
63N-15-101	E	HB5010		12	78A-6-117	A	SB5012		20
63N-15-102	E	HB5010		12	78A-6-602	A	HB5005		4
63n-15-103	E	HB5010		12	78A-6-602.5	A	HB5005		4
63N-15-201	E	HB5010		12	78B-4-517	A	SB5003		10
63N-15-202	E	HB5010		12	78B-7-118	A	HB5005		4
63N-15-301	E	HB5010		12	78B-8-401	A	SB5006		16
63N-15-302	E	HB5010		12	78B-8-402	A	SB5006		16

# **TECHNICAL ACTION INDEX**

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to “correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication; . . . .” The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2020 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.



Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
17-52a-103		A	H.B. 61	47	Revisor instructions to modify language.
17-52a-104		A	H.B. 61	47	Revisor instructions to modify language.
20A-2-205		A	H.B. 36	31	Coordination clause direction to modify language.
26-1-41	26-1-42	T	H.B. 377	211	Technically renumbered to avoid duplication of section number also enacted in HB106, Chapter 172.
26-7-10	26-7-11	T	H.B. 220	429	Technically renumbered to avoid duplication of section number also enacted in SB37, Chapter 347, HB208, Chapter 186, HB295, Chapter 201, and HB419, Chapter 221.
26-7-10	26-7-12	T	H.B. 208	186	Technically renumbered to avoid duplication of section number also enacted in SB37, Chapter 347, HB220, Chapter 429, HB295, Chapter 201, and HB419, Chapter 221.
26-7-10	26-7-13	T	H.B. 295	201	Technically renumbered to avoid duplication of section number also enacted in SB37, Chapter 347, HB220, Chapter 429, HB208, Chapter 186, and HB419, Chapter 221.
26-7-10	26-7-14	T	H.B. 419	221	Technically renumbered to avoid duplication of section number also enacted in SB37, Chapter 347, HB220, Chapter 429, HB208, Chapter 186, and HB295, Chapter 201.
26-18-420	26-18-421	T	H.B. 38	159	Technically renumbered to avoid duplication of section number also enacted in HB214, Chapter 187, HB219, Chapter 188, and HB32, Chapter 303.
26-18-420	26-18-422	T	H.B. 219	188	Technically renumbered to avoid duplication of section number also enacted in HB214, Chapter 187, HB38, Chapter 159, and HB32, Chapter 303.
26-18-420	26-18-423	T	H.B. 32	303	Technically renumbered to avoid duplication of section number also enacted in HB214, Chapter 187, HB38, Chapter 159, and HB219, Chapter 188.
26-62-206	26-62-207	T	H.B. 23	302	Technically renumbered to avoid duplication of section number also enacted in SB37, Chapter 347.

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<b>Section Number Used In Bill</b>	<b>Codified as Section Number</b>	<b>Action</b>	<b>Bill Number</b>	<b>Chapter Number</b>	<b>Additional Information</b>
31A-22-430	31A-22-431	T	H.B. 349	128	Technically renumbered to avoid duplication of section number also enacted in HB37, Chapter 32.
31A-22-653	31A-22-654	T	H.B. 214	187	Technically renumbered to avoid duplication of section number also enacted in SB155, Chapter 382 and HB349, Chapter 128.
31A-22-653	31A-22-655	T	H.B. 349	128	Technically renumbered to avoid duplication of section number also enacted in SB155, Chapter 382 and HB214, Chapter 187.
31A-46-305		N	S.B. 145	372	Section 58-17b-619 was renumbered and amended to 31A-46-305 and 31A-46-308 with identical language. Section 31A-46-305 in SB145 will not be updated since it is the same as 31A-46-308.
31A-46-305	31A-46-309	T	S.B. 138	275	Technically renumbered to avoid duplication of section number also enacted in HB272, Chapter 198.
31A-47-101	31A-48-101	T	H.B. 272	198	Technically renumbered to avoid duplication of section number also enacted in HB402, Chapter 141.
31A-47-102	31A-48-102	T	H.B. 272	198	Technically renumbered to avoid duplication of section number also enacted in HB402, Chapter 141.
31A-47-103	31A-48-103	T	H.B. 272	198	Technically renumbered to avoid duplication of section number also enacted in HB402, Chapter 141.
49-20-420	49-20-421	T	H.B. 207	310	Technically renumbered to avoid duplication of section number also enacted in HB214, Chapter 187.
53B-1-501		A	S.B. 111	365	Coordination clause direction to modify language.
53E-3-521	53E-3-522	T	H.B. 485	230	Technically renumbered to avoid duplication of section number also enacted in HB114, Chapter 174.
53F-5-214	53F-5-216	T	H.B. 434	224	Technically renumbered to avoid duplication of section number also enacted in HB114, Chapter 174 and SB99, Chapter 362.
53F-5-214	53F-5-217	T	S.B. 99	362	Technically renumbered to avoid duplication of section number also enacted in HB114, Chapter 174 and HB434, Chapter 224.
53G-1-103		A	H.B. 58	161	Coordination clause direction to modify language.



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<b>Section Number Used In Bill</b>	<b>Codified as Section Number</b>	<b>Action</b>	<b>Bill Number</b>	<b>Chapter Number</b>	<b>Additional Information</b>
53G-7-218	53G-7-219	T	H.B. 108	307	Technically renumbered to avoid duplication of section number also enacted in HB114, Chapter 174.
59-14-807		A	S.B. 37	347	Coordination clause direction to modify language.
62A-15-118	62A-15-119	T	H.B. 30	29	Technically renumbered to avoid duplication of section number also enacted in HB32, Chapter 303.
62A-15-1701	62A-15-1801	T	H.B. 35	304	Technically renumbered to avoid duplication of section number also enacted in SB89, Chapter 358.
62A-15-1702	62A-15-1802	T	H.B. 35	304	Technically renumbered to avoid duplication of section number also enacted in SB89, Chapter 358.
63B-30-101		E	S.B. 115	366	This enacted section did not go into effect because Revisor Instructions from HB3001, 2020 Third Special Session, supersedes the language of SB115, 2020 General Session for this section.
63B-30-101	63B-30-201	T	H.B. 9	301	Technically renumbered for proper placement in Title 63B, Chapter 30.
63B-30-201	63B-30-301	T	H.B. 9	301	Technically renumbered for proper placement in Title 63B, Chapter 30.
63C-21-101	63C-22-101	T	H.B. 372	325	Technically renumbered to avoid duplication of section number also enacted in HB283, Chapter 199.
63C-21-102	63C-22-102	T	H.B. 372	325	Technically renumbered to avoid duplication of section number also enacted in HB283, Chapter 199.
63C-21-201	63C-22-201	T	H.B. 372	325	Technically renumbered to avoid duplication of section number also enacted in HB283, Chapter 199.
63C-21-202	63C-22-202	T	H.B. 372	325	Technically renumbered to avoid duplication of section number also enacted in HB283, Chapter 199.
63G-24-101	63G-25-101	T	H.B. 304	319	Technically renumbered to avoid duplication of section number also enacted in SB146, Chapter 373 and SB171, Chapter 393.
63G-24-101	63G-26-101	T	S.B. 171	393	Technically renumbered to avoid duplication of section number also enacted in SB146, Chapter 373 and HB304, Chapter 319.
63G-24-102	63G-26-102	T	S.B. 171	393	Technically renumbered to avoid duplication of section number also enacted in SB146, Chapter 373.

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<b>Section Number Used In Bill</b>	<b>Codified as Section Number</b>	<b>Action</b>	<b>Bill Number</b>	<b>Chapter Number</b>	<b>Additional Information</b>
63G-24-103	63G-26-103	T	S.B. 171	393	Technically renumbered to avoid duplication of section number also enacted in SB146, Chapter 373.
63G-24-201	63G-25-201	T	H.B. 304	319	Technically renumbered to avoid duplication of section number also enacted in SB146, Chapter 373.
63G-24-202	63G-25-202	T	H.B. 304	319	Technically renumbered to avoid duplication of section number also enacted in SB146, Chapter 373.
63M-7-213	63M-7-214	T	H.B. 485	230	Technically renumbered to avoid duplication of section number also enacted in HB340, Chapter 433, HB206, Chapter 185, and HB288, Chapter 200.
63M-7-213	63M-7-215	T	H.B. 206	185	Technically renumbered to avoid duplication of section number also enacted in HB340, Chapter 433, HB485, Chapter 230, and HB288, Chapter 200.
63M-7-213	63M-7-216	T	H.B. 288	200	Technically renumbered to avoid duplication of section number also enacted in HB340, Chapter 433, HB206, Chapter 185, and HB206, Chapter 185.
63N-12-507		A	H.B. 68	164	Coordination clause direction to modify language.
67-5-36	67-5-37	T	H.B. 461	229	Technically renumbered to avoid duplication of section number also enacted in SB29, Chapter 443.
72-1-215	72-1-216	T	H.B. 259	104	Technically renumbered to avoid duplication of section number also enacted in SB122, Chapter 268.
78A-6-602.5		A	H.B. 262	312	Coordination clause direction to modify language.
78B-22-801	78B-22-901	T	S.B. 139	371	Technically renumbered to avoid duplication of section number also enacted in SB175, Chapter 395.
78B-22-802	78B-22-902	T	S.B. 139	371	Technically renumbered to avoid duplication of section number also enacted in SB175, Chapter 395.
78B-22-803	78B-22-903	T	S.B. 139	371	Technically renumbered to avoid duplication of section number also enacted in SB175, Chapter 395.
78B-22-804	78B-22-904	T	S.B. 139	371	Technically renumbered to avoid duplication of section number also enacted in SB175, Chapter 395.
JR1-4-401	JR1-4-501	T	H.J.R. 1		Technically renumbered to avoid duplication of section number also enacted in SJR016.

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